

LATE



SB 142, Proposed SD1
RELATING TO DAMS AND RESERVOIRS
Senate Committee on Ways and Means

March 1, 2011

9:20 a.m.

Room 211

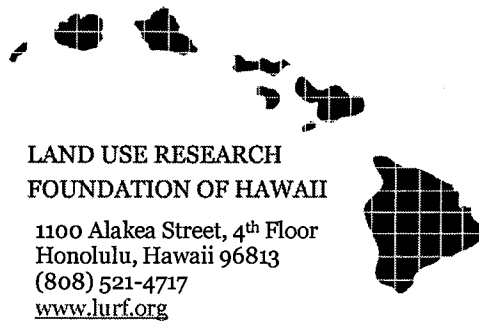
The Office of Hawaiian Affairs offers **COMMENTS** on SB 142. Although OHA recognizes the benefits provided by existing dams and reservoirs, particularly as components in water distribution systems, OHA previously commented that SB 142 suggested a legislative intent of promoting certain uses for our water resources above other beneficial uses. Accordingly, OHA favors SB 142, SD 1, as proposed, which has largely removed the language of concern.

Dams and diversions in streams can create significant negative impacts to instream and coastal environments by altering water and sediment flows, in some cases cutting these flows off completely. By creating reservoirs where particulate matter can settle out of suspension, dams cut off crucial nutrient transport pathways, which provide important inputs to downstream farmers and marine environments. Instream structures also interrupt migration patterns of stream life, many of which are endemic or indigenous to Hawai'i. Given the many potential impacts of stream alteration, the State Water Code, Chapter 174C, Hawai'i Revised Statutes, charges the Water Commission with protecting streams from alteration whenever practicable in order to support beneficial instream uses, including fisheries, wildlife habitat, and recreation, among others.

SB 142, Proposed SD1, introduces language, which identifies the benefits of dams and reservoirs, into a statute about dam and reservoir safety. SB 142, Proposed SD 1, still recognizes that dams and reservoirs provide public benefits, but removes specific references to uses, such as hydropower, which could be misconstrued as promoting one beneficial use over other beneficial uses that are not listed. We appreciate this change. The proposed SD1 language, however, still does not reference the full range of beneficial instream uses enumerated in the State Water Code that are considered when reviewing a stream alteration proposal, particularly those instream uses disfavoring stream alteration.

Mahalo for the opportunity to testify on this measure.

LATE



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Senator David Y. Ige, Chair and Senator Michelle N. Kidani, Vice Chair
Senate Committee on Ways and Means

Support of, and Revisions to SB 142, Relating to Dams and Reservoirs (Declares dams and reservoirs as important water resources that provide benefits to the public; requires board of land and natural resources to consider the need to consistently maintain and operate dams and reservoirs in a feasible manner; requires fees to cover a portion of the board's costs; and requires DLNR to include in its annual report initiatives implemented to ensure dams and reservoirs continue to be retained and operated in a feasible manner to sustain their role as important water resources.)

Tuesday, March 1, 2011 at 9:20 a.m. in CR 211

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide testimony **in support of the intent of SB 142**, which recognizes the importance of dams and reservoirs as important water resources and the need to consistently maintain and operate these facilities in a feasible manner; and respectfully urges **amendment of the bill** by reinserting language directing the Board to consider lowering the hazard potential classification for dams and reservoirs with an operations system that enables the direct control of water inflow.

SB 142. This bill declares dams and reservoirs as important water resources that provide benefits to the public; requires board of land and natural resources to consider the need to consistently maintain and operate dams and reservoirs in a feasible manner; requires fees to cover a portion of the board's costs; and requires the Department of Land and Natural Resources (DLNR) to include in its annual report initiatives

implemented to ensure dams and reservoirs continue to be retained and operated in a feasible manner to sustain their role as important water resources.

LURF's Position. SB142 expressly acknowledges and codifies Hawaii's dams and reservoirs as vital water resources for the State, and the need for consistent and feasible maintenance and operation of the systems.

LURF members include private land owners, farmers and ranchers who own, maintain, or utilize dams and reservoirs, and consider such resources critical to conduct their agricultural operations and sustain their businesses. These land owners and agricultural stakeholders believe SB 142 will enable the DLNR to better understand and more strongly consider the importance of dams and reservoirs to the State with respect to its administration of the dam and reservoir safety program, particularly new safety requirements for dams and reservoirs imposed by the DLNR thereunder, including the costs which must be incurred for maintenance and upgrade of structures pursuant thereto, which are currently considered untenable by those responsible for complying with the requirements.

As this Committee has already been made aware, the unsustainable costs cast upon land owners and agricultural stakeholders by the safety program are a serious concern as the enactment of overly burdensome regulations relating to maintenance and operation of dams and reservoirs may be counterproductive to the long-term objective of preserving these facilities as valuable water resources.

LURF also notes that its members had expressed strong support of the provision previously contained in this bill which directed the Board to "consider establishing or designating a lower hazard potential classification for dams or reservoirs with an operations system that enables the direct control of water inflow..." and that said language has been deleted from draft #3 of this bill without explanation.

For the above reasons, LURF is in **support of the intent of SB 142**, and respectfully urges your favorable consideration of an **amendment of the bill** to reinsert language directing the Board to consider lowering the hazard potential classification for dams and reservoirs with an operations system that enables the direct control of water inflow.

Thank you for the opportunity to present testimony regarding this matter.