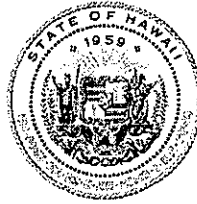


NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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CONSERVATION AND COASTAL LANDS  
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ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the Senate Committee on  
WATER, LAND AND HOUSING**

**Tuesday, February 8, 2011  
1:15 P.M.  
State Capitol, Conference Room 225**

**In consideration of  
SENATE BILL 142  
RELATING TO DAMS AND RESERVOIRS**

Senate Bill 142 proposes to revise various sections of Chapter 179D, Hawaii Revised Statutes (HRS), to: (1) Declare dams and reservoirs as important water resources that provide certain public benefits; (2) Add to the annual reporting requirements initiatives implemented by the Department of Land and Natural Resource (Department) to sustain dams and reservoirs as important water resources and; (3) Consider establishing or designating a lower hazard potential classification for dams or reservoirs with an operations system that enables that direct control of water inflow to those dams or reservoirs.

The Department acknowledges the intent of this bill, and that dams and reservoirs could serve as important water resources for the State in providing public benefits and also recognize that certain dams and reservoirs should be rehabilitated and maintained in a safe manner to sustain certain beneficial uses, nonetheless, the Department does have the following concerns with this measure:

The Dam and Reservoir Safety Act of 2007 (Chapter 179D, HRS) had revised the Department's authority for dam safety after the 2006 Ka Loko Reservoir breach resulted in the loss of seven lives. The intent of the new dam safety law is to provide for the inspection and regulation of dams and reservoirs to protect the health, safety and welfare of the citizens of the State by reducing the risk of a dam failure. Senate Bill 142 proposes revisions to the law that requires the Department to take into consideration "uses" of the resource of a dam or reservoir, but the Department's authority does not extend to dictating use or function, and instead is limited to monitoring dam owner's maintenance and operations to ensure that they are consistent with

current dam safety practices. Therefore, the Department is neither supporting nor opposing this portion of the measure. Similarly for the reasons stated above, reporting requirements of the annual report should be limited to the Program's effectiveness with respect to dam safety. The Department will support this portion of the measure if such limitation of the reporting requirement is noted in the bill.

The measure also requires the Department to consider the need to consistently maintain and operate dams and reservoirs in a feasible manner that sustains their roles as important water resources for the State. The Department is unclear as to the statutory definition of an "important water resource", and declines to offer testimony on this portion of the measure.

The Department opposes the creation of a lower hazard classification for structures that have operation systems that enable the direct control of water inflow to those dam or reservoirs. The hazard potential classification is based solely on the potential of the stored water in the reservoir to impact the downstream community and does not take into account the spillway size, dam construction or operation of the structure. The majority of dams in Hawaii are earthen embankment dams that are primarily constructed of soil material. Earthen embankment dams are typically susceptible to failures that occur from overtopping, piping (leaks through the structure), or slope failures. Controlling the inflow only partially mitigates an overtopping failure. It does not address piping issues, slope failures and overtopping due to misoperation.

Thank you for the opportunity to comment.

NEIL ABERCROMBIE  
Governor



RUSSELL S. KOKUBUN  
Chairperson, Board of Agriculture

JAMES J. NAKATANI  
Deputy to the Chairperson

State of Hawaii  
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TESTIMONY OF RUSSELL S. KOKUBUN  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON  
WATER, LAND, AND HOUSING

FEBRUARY 8, 2011  
1:15 P.M.  
ROOM 225

SENATE BILL NO. 142  
RELATING TO DAMS AND RESERVOIRS

Chairperson Dela Cruz and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 142. The purpose of this bill is to amend recent dam safety legislation to adjust the fee structure and create a new lower hazard classification. The department supports the intent of this bill.

Dams and reservoirs are critical components of a functional irrigation system. Without these structures, agricultural production in Hawaii would greatly diminish and the goal of a sustainable agricultural community would never be realized. While recognizing the need for health and safety of Hawaii's residents and visitors, we believe a need for reasonable policy also exists. Recent discussions with various agricultural operators have expressed serious concern that the current fee structure implemented by the revised dam safety rules make the necessary capital improvements and maintenance costs untenable to those responsible for the structures. Even within the irrigation systems operated and maintained by the Department, there is recognition that existing staff and resources are inadequate to deal with the maintenance requirements and, therefore, external options are being reviewed. The language changes proposed in this bill may help to lower the costs of necessary improvements and future maintenance.



Thank you for the opportunity to testify on this measure.



## **Hawaii Cattlemen's Council, Inc.**

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### **COMMITTEE ON WATER, LAND, & HOUSING**

Tuesday February 8, 2011 1:15 p.m. Room 225

#### **SB 142 RELATING TO DAMS AND RESERVOIRS**

Declares dams and reservoirs as important water resources that provide certain 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; requires board to consider a lower hazard potential classification for operating systems that enable direct control of water inflow; 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 resource.

Chairman Dela Cruz and Members of the Committee:

My name is Alan Gottlieb, and I am a rancher and the Government Affairs Chair for the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ members anchor represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council **strongly supports** SB 142.

After the tragedy at Kaloko, this legislature passed new laws to improve the safety of our State's Dams and Reservoirs. Late last year, the Board of Land & Natural Resources approved new regulations which in part requires dam and reservoir owners to do extensive engineering studies and requires significant upgrades to dams and reservoirs built in the past under best management practices (many over engineered by plantations) and requiring that they be brought up to current engineering standards. No one argues that public safety should be taken lightly, and we agree that protection of life and property be the first priority. While we might argue that many of these dams and reservoirs have met the safety "test of time", some regulators argue that the passage of time has made them unsafe. As an analogy, what would happen if we required all buildings in downtown Honolulu to be retrofitted to today's building standards to withstand a large earthquake, for the safety of the public. Of course that would be impractical and impossible, but this is what is being asked of our State's Dams and Reservoirs. Furthermore the new rules and regs use a "one size fits all" mentality, imposing on dams that barely exceed the regulatory threshold the same requirements as for the largest dams in our State (in some cases over 250 times the size).

A major part of the concern in the Dam Safety Office specifications is overfilling during a major storm event, which could lead to a dam failing. What the regulations fail to consider is that some of the reservoirs which would be regulated due to the overfilling concern are filled by a pipe, which can be turned off during a storm event. In these cases, storm waters cannot in significant quantity overfill the reservoir. The provisions of this bill requires "*.....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 to those dams or reservoirs.*" We strongly support this new language.

So far, The governor has wisely not signed the new rules, regulations and fees into law. We do not believe that the intent of the Dam and Reservoir safety law is to put farmers and ranchers out of business with annual fees, but that is exactly what might happen. We believe these new rules and fees would lead to the closure of many dams and reservoirs, the opposite of what we need in this State if we want to increase our agricultural self sufficiency and improve our food security.

Thank you for giving me the opportunity to testify in favor of this very important issue.