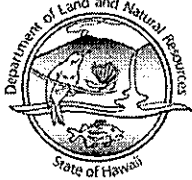


# SCR171

**URGING THE GOVERNOR TO WITHDRAW CERTAIN EXECUTIVE ORDERS SETTING ASIDE PUBLIC LANDS WHERE THE RECEIVING AGENCY HAS FAILED TO USE OR HAS UNDERUTILIZED THE LANDS FOR THE PURPOSE SPECIFIED.**

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

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

**Before the Senate Committees on  
WATER, LAND, AND HOUSING  
and  
PUBLIC SAFETY, GOVERNMENT OPERATIONS AND MILITARY AFFAIRS**

**Thursday, April, 07, 2011  
1:15 PM  
State Capitol, Conference Room 225**

**In consideration of  
SENATE CONCURRENT RESOLUTION 171  
URGING THE GOVERNOR TO WITHDRAW CERTAIN EXECUTIVE  
ORDERS SETTING ASIDE PUBLIC LANDS WHERE THE RECEIVING  
AGENCY HAS FAILED TO USE OR HAS UNDERUTILIZED THE LANDS FOR  
THE PURPOSE SPECIFIED**

Senate Concurrent Resolution 171 urges the Governor of the State of Hawaii to withdraw certain executive orders setting aside public lands where the receiving agency has failed to use or has underutilized the lands for the purpose specified. While the Department of Land and Natural Resources (Department) supports this concurrent resolution as written, the Department however asks for your favorable consideration to amend the concurrent resolution to include certain other executive orders where the receiving agency has failed to use or has underutilized the lands for the purpose specified.

Pursuant to Section 5(f) of the Admissions Act, public lands are held by the State in public trust. The Department, as the manager of the public trust, has a fiduciary duty to manage these public lands for the benefit of the trust beneficiaries.

Under Section 171-11, Hawaii Revised Statutes (HRS), the Governor may set aside public lands to other government agencies for public uses or purposes. However, Section 171-11, HRS, also mandates that whenever lands set aside to a department or agency are not being utilized or required for the public purpose stated, the order setting aside the lands shall be withdrawn and the lands shall be returned to the Department. The purpose of this provision is to ensure that public lands are being properly and effectively utilized, and that agencies do not land bank public lands to the detriment of the State, other agencies, and the trust beneficiaries. If lands are not

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AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
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COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

used for the purpose they were set aside, the public and other agencies should have the opportunity to use those lands.

For example, in 1981, Executive Order No. 3074 set aside over 4,200 acres in Keahole, North Kona, Island of Hawaii to the Department of Transportation. However, 30 years later, large tracts of those lands remain vacant and unused. Those lands should be returned.

The Department has identified certain other executive orders where the receiving agency has failed to use or has underutilized the lands for the purpose specified. As such, the Department respectfully asks that this concurrent resolution be amended to include the following executive orders and unused or underutilized lands:

Executive Order No. 2427, and that 5 acres in Kahului, Maui, currently set aside to the Department of Transportation;

Executive Order No. 3586, and that 2.5 acres in Kahului, Maui, currently set aside to the Department of Accounting and General Services;

Executive Order No. 2903, and that 15,000 square feet in Iwilei, Honolulu, Oahu, currently set aside to the Department of Transportation;

Executive Order No. 4039, and that 2.254 acres in Aiea, Ewa, Oahu, currently set aside to the Department of Education, Hawaii State Public Library System;

Executive Order No. 4170, and that 6.702 acres in Mokauea and Kaholaloa, Sand Island, Honolulu, Oahu, currently set aside to the Department of Transportation

For the reasons stated above, the Department strongly supports this concurrent resolution as amended.