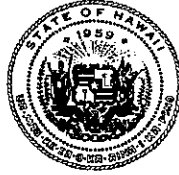


NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



GARY L. HOOSER  
DIRECTOR

**STATE OF HAWAII**  
OFFICE OF ENVIRONMENTAL QUALITY  
CONTROL

235 S BERETANIA ST. SUITE 702  
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**COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION**  
**COMMITTEE ON WATER, LAND, & OCEAN RESOURCES**

**HB 2690, RELATING TO GEOTHERMAL RESOURCES**

**Testimony of Gary Hooser**  
**Director of the Office of Environmental Quality Control**

**February 2, 2012**

1 **Office's Position:** OPPOSED

2 **Fiscal Implications:** NONE

3 **Purpose and Justification:** HB 2690 proposes exempting geothermal resources exploration  
4 from environmental review under Chapter 343, HRS.

5 The Office of Environmental Quality Control opposes HB2690 as it circumvents the  
6 fundamental intent of Chapter 343 which is to base decisions on probable or expected impacts of  
7 specific actions in specific set of circumstances rather than broad classes of "one size fits all"  
8 actions that govern all situations regardless of circumstances.

9 For example it may be perfectly logical to exempt from environmental review geothermal  
10 exploration planned for an area that has already been urbanized or perhaps "plowed under", or  
11 otherwise obviously would have no significant environmental impacts. However, conducting the  
12 same activity in an area where endangered species, burials or perhaps other factors present –  
13 might warrant a closer look and an environmental assessment to determine impacts.

1           While “geothermal resources exploration” as defined seems relatively unobtrusive, the  
2 location in which this exploration is conducted is a factor, ingress and egress to those locations  
3 may be a consideration, and the total scale of the exploration and operation are factors, just to  
4 name a few considerations.

5           These “other factors” are such an important consideration that all exemptions and the  
6 current approved exemption process under Chapter 343 and Section 11-200-8, Hawaii  
7 Administrative Rules, include a caveat that states, “All exemptions under the classes in this  
8 section are inapplicable when the cumulative impact of planned successive actions in the same  
9 place, over time, is significant, or when an action that is normally insignificant in its impact on  
10 the environment may be significant in a particularly sensitive environment.”

11           The OEQC encourages the Committee to amend the measure to include a similar  
12 requirement should this Bill continue to move forward.

13           Finally, the OEQC is concerned that this measure requesting a statutory exemption  
14 circumvents the established process that requires by law the Environmental Council to review  
15 and approve exemption requests such as this. The Department of Land and Natural Resources  
16 has recently requested that exemptions targeting geothermal activities be placed on the agenda of  
17 the Environmental Councils Exemption Committee which is being done. The Environmental  
18 Council is fully engaged in fulfilling its duties, there is no back-log on exemption requests at the  
19 present time, this is a public and fully sun-shined process, and we ask that this process be  
20 honored and allowed to run its course.

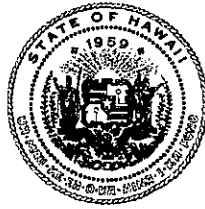
21           In conclusion, it is important to point out also that under existing law, the DLNR and or  
22 the Land Use Commission may exempt from Chapter 343 any action or activity if they believe  
23 there will be no or negligible environmental impacts. The important distinction is that the

1 exemption option that presently exists under law requires someone to actually look at the project  
2 closely, make a decision and be accountable. When utilizing statutory exemptions such as are  
3 being proposed, it allows decisions to be made without accountability – No one actually has to  
4 look at the project closely, no one has to make a decision and no one has to take responsibility.

5 For these reasons the OEQC is opposed to HB 2690.

6 Thank you.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**WILLIAM J. AILA, JR.**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**GUY H. KAULUKUKUI**  
FIRST DEPUTY

**WILLIAM M. TAM**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
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

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

**Before the House Committees on**  
**ENERGY & ENVIRONMENTAL PROTECTION**  
**and**  
**WATER, LAND & OCEAN RESOURCES**

**Thursday, February 2, 2012**  
**9:00 A.M.**  
**State Capitol, Conference Room 325**

**In consideration of**  
**HOUSE BILL 2690**  
**RELATING TO GEOTHERMAL RESOURCES**

HB 2690 differentiates between “geothermal resources exploration” and “geothermal resources development” for the purposes of mining leases and exploration permits; designates “geothermal resources exploration” and “geothermal resources development” as permitted uses in all state land use districts and conservation district zones; repeals geothermal resource subzone provisions under state land use law; and exempts geothermal resources exploration and issuing of leases and permits from an environmental assessment or environmental impact statement. The Department of Land and Natural Resources (Department) strongly supports this measure.

The Department is tasked with the management of geothermal resources and its development to protect the health and safety of the public and to ensure continued viability of the resource. Geothermal resources development in Hawaii is a priority and has contributed to energy diversification in the State. Geothermal energy has been proven as a viable component to meet the State’s renewable energy goals and reduce the dependence on imported fossil fuels.

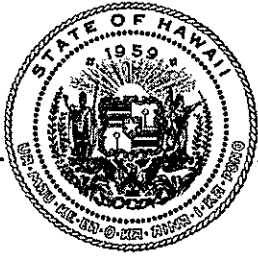
This measure would streamline the existing regulatory process to assist developers in reducing their cost, risk, and time needed to explore for geothermal resources. Facilitating exploration will lead to expanded production which is consistent with our energy goals and will benefit the environment and the rate payers in the State of Hawaii.

The Department recommends clarifying language in Part II, SECTION 2 to define “lease” to include either a mining lease issued in accordance with Sections 182-4 and 182-5, Hawaii Revised Statutes (HRS) or a surface lease issued in accordance with Section 171-13, HRS. We request the revision of proposed language on page 2, lines 12-14 to read: “§182- No environmental assessment or environmental impact statement required for geothermal resources exploration, or issuance of mining or surface leases on State or reserved lands for purposes of conducting geothermal resources exploration.”

Geothermal resources exploration would allow testing and analysis to determine the economic viability of a geothermal resource and must occur prior to the commencement of any development activities. The Department believes that no anticipated significant impacts will result from exploration activities and sufficient safeguards and mitigation requirements exist within current rules, regulations and permitting conditions to ensure protection of the environment, public health and safety, and the resource. This bill will not eliminate the consultation process and the public will maintain their right and ample opportunity to provide input throughout various stages of the development process.

The Department believes House Bill 2690 strikes a balance to advance geothermal exploration without significantly impacting the environment or compromising the public input process.

Thank you for the opportunity to comment.



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

**NEIL ABERCROMBIE**  
GOVERNOR

**RICHARD C. LIM**  
DIRECTOR

**MARY ALICE EVANS**  
DEPUTY DIRECTOR

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Fax: (808) 586-2377

Statement of  
**RICHARD C. LIM**  
Director  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEES ON  
ENERGY & ENVIRONMENTAL PROTECTION  
AND  
WATER, LAND, & OCEAN RESOURCES**

Thursday, February 02, 2011  
9:00 AM  
State Capitol, Conference Room 325

in consideration of  
**HB 2690**  
**RELATING TO GEOTHERMAL RESOURCES**

Chairs Coffman and Chang, Vice Chairs Kawakami and Har, and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) supports HB 2690 and defers to the Department of Land and Natural Resources (DLNR) on the specifics of the bill. DLNR is the agency directly affected by the provisions of this bill.

DBEDT would like to offer this testimony in support of HB 2690. This bill encompasses several measures which will significantly reduce major regulatory barriers to geothermal exploration. These barriers cost state agencies, landowners, and geothermal developers both time and money.

Presently, exploration is a major risk to geothermal developers since a significant amount of costly effort is required to determine if a geothermal resource is likely to be found in a

particular location and since most exploration activities do not result in the identification of a commercially viable resource. Reducing this risk will encourage geothermal exploration and increase the likelihood that geothermal will increase its contribution to Hawaii's renewable energy portfolio. The State can reduce developers' risk by taking actions such as those described in HB 2690. Another way to reduce risk is to engage in publicly-funded geothermal exploration, as the research the University of Hawaii is doing and hopes to continue.

The measures suggested in HB 2690 can take years off the present process which regulates the exploration of geothermal resources. Furthermore, the amendments suggested by HB 2690 do not reduce protections to landowners, the environment, or the general public.

Thank you for the opportunity to offer these comments in support of HB 2690.



Date: Thursday, February 2, 2012  
Time: 9:00 am  
Place: Conference Room 325  
Committees: Senate – EEP & WLO

Re: HB 2690 – Relating to Geothermal Resources – Testimony in Strong Support

Aloha Legislators,

The Innovations Development Group (IDG) is a Hawaii based renewable energy Development Corporation owned by Native Hawaiians. It was created to facilitate the development of renewable energy resources of native people, and in summer 2011 presented its development model to legislators of the Energy & Land Committees.

The IDG strongly supports this measure.

This measure differentiates between "geothermal resources exploration" and "geothermal resources development" for purposes of mining leases and exploration permits. It designates "geothermal resources exploration" and "geothermal resources development" as permitted uses in all state land use districts and conservation district zones and repeals geothermal resource subzone provisions under state land use law. In addition, it exempts geothermal resources exploration from environmental assessment and environmental impact statement requirement while ensuring that geothermal resource development conforms to all requirements of Chapter 343.

This bill is badly needed in order to facilitate the immediate exploration of the States geothermal public trust assets in light of the energy & fiscal crisis Hawaii is facing. Exploration for energy is not the same thing as development of energy for production.

Thirty years ago, Hawaii's statutes anticipated that the Sate of Hawaii would expend millions of dollars testing the viability of our geothermal resources so that the State could then determine which lands were suitable for geothermal development, and thereafter designate these areas as 'geothermal sub-zones' for private sector development.

Today, we know that geothermal resources are not explored or developed in this manner, (ie. with the State picking up the cost for exploration and sub-zone designation in order to facilitate development of the resources by private parties.) Today, industry practice requires that the private sector undertake exploration in order to determine whether development is feasible, and if the data indicates it is, our Hawaii statutes favor



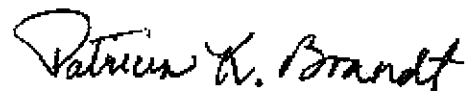
public/private partnerships working together to develop firm power for an energy secure future for our State. Exploration is a business expense for the private sector, but it may not lead to development.

This measure brings State policy in line with industry practice and ensures that exploration will be undertaken, and critical data needed for geothermal resource assessment will be provided to the State, without the State being required to pay for the cost of exploration. It also ensures that all categories of State public trust lands (land use & conservation districts) are available for exploration & data assessment without designating these lands for development. This approach allows the State trustee to obtain data needed to locate & assess its geothermal resources, thereby fulfilling its fiduciary obligation to inventory its geothermal renewable energy assets before any geothermal development is approved or undertaken.

Most importantly, this measure does not allow any exemption from Chapter 343 for geothermal development. The clear language of the Bill allows an exemption only for exploration. Any activity that would result in development or production of electricity is still squarely under the provisions of chapter 343.

Passage of this measure is critical if Hawaii is to address the current energy & fiscal crisis in an expedient and responsible way.

Kind Regards,



Patricia K. Brandt  
CEO, IDG



Date: Thursday Feb 2  
Time: 9:00 am  
Place: Conference Room 325  
Committees: Senate – EEP & WLO

### Testimony in Strong Support of HB 2690- Relating to Geothermal Resources

Aloha Legislators,

Indigenous Consultants (IC) is a Hawaii based, indigenous LLC owned and operated by Native Hawaiians. It was created to assist indigenous peoples in developing their renewable energy resources in ways that are: Culturally appropriate, environmentally green and sustainable, socially responsible and economically equitable and affordable. For several years the IC has worked with Innovations Development Group in New Zealand and indigenous Maori developing geothermal resources, which are trust assets of Maori Land Trusts. In addition, the IC has acted as a consultant to other indigenous people in Hawaii and Asia who are addressing development of their trust renewable energy resources in ways that; directly benefit their people, bring in revenues, create small business opportunities and ensure fair & affordable rates to consumers, including themselves and their communities.

Indigenous Consultants strongly supports this Bill and urges its prompt passage.

This measure differentiates between "geothermal resources exploration" and "geothermal resources development" for purposes of mining leases and exploration permits. It designates "geothermal resources exploration" and "geothermal resources development" as permitted uses in all state land use districts and conservation district zones and repeals geothermal resource subzone provisions under state land use law. In addition, it exempts geothermal resources exploration from environmental assessment and environmental impact statement requirement while ensuring that geothermal resource development conforms to all requirements of Chapter 343.

This bill is badly needed in order to facilitate the immediate exploration of the States geothermal public trust assets in light of the energy & fiscal crisis Hawaii is facing. Exploration for energy is not the same thing as development of energy for production.

Thirty years ago, Hawaii's statutes anticipated that the Sate of Hawaii would expend millions of dollars testing the viability of our geothermal resources so that the State could then determine which lands were suitable for geothermal

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Email: [mililani.trask@gmail.com](mailto:mililani.trask@gmail.com)  
Phone: 808 990 0529

development, and thereafter designate these areas as 'geothermal sub-zones' for private sector development.

Today, we know that geothermal resources are not explored or developed in this manner, (ie. with the State picking up the cost for exploration and sub-zone designation in order to facilitate development of the resources by private parties.) Today, industry practice requires that the private sector undertake exploration in order to determine whether development is feasible, and if the data indicates it is, our Hawaii statutes favor public/private partnerships working together to develop firm power for an energy secure future for our State. Exploration is a business expense for the private sector, but it may not lead to development.

This measure brings State policy in line with industry practice and ensures that exploration will be undertaken, and critical data needed for geothermal resource assessment will be provided to the State, without the State being required to pay for the cost of exploration. It also ensures that all categories of State public trust lands (land use & conservation districts) are available for exploration & data assessment without designating these lands for development. This approach allows the State the State trustee to obtain data needed to locate & assess its geothermal resources, thereby fulfilling its fiduciary obligation to inventory its geothermal renewable energy assets before any geothermal development is approved or undertaken.

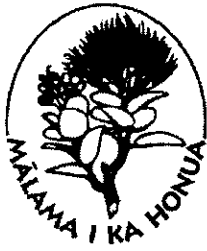
Most importantly, this measure does not allow any exemption from Chapter 343 for geothermal development. The clear language of the Bill allows an exemption only for exploration. Any activity that would result in development or production of electricity is still squarely under the provisions of chapter 343.

Passage of this measure is critical if Hawaii is to address the current energy & fiscal crisis in an expedient and responsible way.

Regards,



Mililani B. Trask  
Principal,  
Indigenous Consultants



# Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803  
808.538.6616 hawaii.chapter@sierraclub.org

## HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

February 2, 2012, 9:00 A.M.  
(*Testimony is 1 page long*)

### TESTIMONY IN OPPOSITION TO HB 2690

Aloha Chair Coffman, Chair Chang, and Committee Members -

The Sierra Club, Hawai'i Chapter, with over 9,000 members and supporters, *opposes* HB 2690. This bill, like HB 2689, eliminates environmental review processes and attempts to clarify that geothermal exploration and development can occur in a variety of land classifications.

With respect to the environmental review exemptions, we incorporate the comments made to HB 2689. Removing environmental review for projects likely to have a significant impact on our natural or recreational resources is ill-advised. If the impacts are not significant, then an exemption should apply.

Aside from eliminating environmental review, it is unclear what this bill accomplishes. Geothermal is already allowed under a conservation district use permit on conservation lands. See H.A.R. §13-5-22 (P-12) (D-1) (recognizing geothermal use, noting it shall minimize impacts to natural, cultural, and recreational resources and that it shall be expedited in the application review and decision-making process).

Although the bill adds geothermal use under rural, agriculture, and urban land use classifications as a "permitted use," it is unclear what that actually means. Who is responsible for permitting and how should it be permitted? Does this add additional regulation for geothermal development?

If the intent of the bill is to exclude geothermal from permitting (allowing the use as a matter of right), then this approach should be reconsidered. Mining is an intensive activity requiring special conditions to deal with noise, dust, traffic, explosives, and other potential negative impacts. These issues would need to be addressed if residents live nearby—a situation the existing special use permit process addresses. But if mining is made simply a right, this decision making and public input process would not occur.

Mahalo for the opportunity to testify.





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COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Denny Coffman, Chair  
Rep. Derek S.K. Kawakami, Vice Chair

COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

Rep. Jerry L. Chang, Chair  
Rep. Sharon E. Har, Vice Chair

DATE: Thursday, February 02, 2012  
TIME: 9:00 a.m.  
PLACE: Conference Room 325  
BILL: HB 2690 Geothermal                      COMMENTS

Aloha Chairs Coffman, Chang, Vice Chairs Kawakami, Har and Members of the Committees:

My name is Henry Curtis and I am the Executive Director of Life of the Land, Hawai`i's own energy, environmental and community action group advocating for the people and `aina for four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

There appears to be a shift towards greater acceptance of geothermal energy especially due to the replacement of open cycles with closed cycles (that is where geothermal gas returns into the ground rather than being emitted into communities) and with greater cultural sensitivities by geothermal proponents.

HB2690 removed the requirement for environmental review of exploratory wells but not commercial wells. There are no restrictions on the type of conservation land for which this lack of environmental review is proper. Only a statement that it will be allowed. There is no mention of alternative, non-invasive, measures for detecting underground deposits. There is no discussion about the environmental impacts associated with exploratory wells.

Mahalo

## kawakami1 - Marissa

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 01, 2012 5:11 AM  
**To:** EEPtestimony  
**Cc:** whipmkealoha@aol.com  
**Subject:** Testimony for HB2690 on 2/2/2012 9:00:00 AM  
**Attachments:** HECO - RFI Letter.wps

Testimony for EEP/WLO 2/2/2012 9:00:00 AM HB2690

Conference room: 325  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Kuulei Kealoha Cooper-Springer  
Organization: Individual  
E-mail: [whipmkealoha@aol.com](mailto:whipmkealoha@aol.com)  
Submitted on: 2/1/2012

**Comments:**

We fully support this bill as it pertains to geothermal development and the process that permits are obtained. The language in this bill is what we need in Hawaii to expedite further development of our natural resource and meet the time frame put forth to be less dependent on oil. I have also attached our letter to HELCO during their RFI process which reflects the Kealoha estate's position on geothermal as a whole. Thank you for your consideration.

**kawakami1 - Marissa**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 01, 2012 1:32 PM  
**To:** EEPtestimony  
**Cc:** ndavlantes@aol.com  
**Subject:** Testimony for HB2690 on 2/2/2012 9:00:00 AM

Testimony for EEP/WLO 2/2/2012 9:00:00 AM HB2690

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Nancy Davlantes  
Organization: Individual  
E-mail: [ndavlantes@aol.com](mailto:ndavlantes@aol.com)  
Submitted on: 2/1/2012

**Comments:**

While I have no objection to an increase in the development of geothermal energy, I oppose any lessening of the environmental review required for any project, be it exploration or mining. I am also opposed to allowing geothermal exploration and development in all zones of the conservation district, and urban and rural districts and to repealing geothermal resource subzone provisions under state land use law.