

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 Committee on
FINANCE**

**Wednesday, February 29, 2012
2:20 PM
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 2820, HOUSE DRAFT 2
RELATING TO HAWAIIAN FISHPONDS**

House Bill 2820, House Draft 2 proposes to amend Chapters 171 and 183B, Hawaii Revised Statutes (HRS), to require the Department of Land and Natural Resources (DLNR) to establish the east Honolulu fishpond heritage area. The purposes of the area would be to preserve existing cultural and historical sites; preserve existing native Hawaii fish, plants and endangered birds in the area; and preserve existing spring water sources. The bill also provides state lease preferences for the reconstruction, restoration, repair, or use of Hawaiian and kanaka maoli fishponds and creates a preference for the use of traditional names of Hawaiian fishponds. The Department offers the following comments.

The bill requires the Department to come up with new rules for the leasing of public lands for Hawaiian fishponds. However, existing law¹ is already very thorough and more than adequate on the processes and procedures for the issuance of leases of Hawaiian fishponds on public lands. Therefore, it is absolutely unnecessary for the Department expend its limited resources to adopt any such new rules for leasing purposes.²

The properties identified in the bill are owned in fee by the State Department of Transportation (DOT), and not DLNR. The properties were acquired in condemnation proceedings with federal highway funds in connection with DOT's Kalaniana'ole Highway road widening project. Please be aware that in the event the properties are offered to be transferred by DOT to DLNR at gratis³, DLNR would still need to conduct the necessary due diligence prior to a recommendation and

¹ Hawaii Revised Statutes Section 171-28 and Chapter 183B.

² To the extent the rule making requirement was intended to streamline or exempt applicants from permitting requirements (other than leasing), such as the special management area or conservation district requirements, any subsequent attempts to do so by rules would not be successful as the proposed legislation does not provide for that authority.

³ DLNR is in no position to compensate DOT for the lands, and certainly unable to pay fair market value.

final decision by the Board of Land and Natural Resources on any acquisition. Thank you for the opportunity to provide testimony on this measure.



HB2820 HD2
RELATING TO HAWAIIAN FISHPONDS
House Committee on Finance

February 29, 2012

2:30 p.m.

Room 308

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB2820 HD2, which would require the Department of Land and Natural Resources (DLNR) to establish the east Honolulu fishpond heritage area, provide state lease preferences for the restoration of Hawaiian and kanaka maoli fishponds, and create a preference for the use of traditional names of Hawaiian fishponds.

From historic times to the present, fishponds have been an important cultural resource for Native Hawaiians. Today, fishponds not only serve as a source of sustenance for communities, they also offer a wide range of educational opportunities in the areas of math, science and Hawaiian culture. In addition, fishpond restoration has become a major part of the Hawaiian cultural revival movement, with a number of groups across Hawai'i taking on the kuleana of bringing once-forgotten fishponds back to life. Providing lease preferences to fishpond restoration on public land will streamline the permitting and approval processes which have previously hindered efforts to revive these cultural treasures.

Specifically, Kalauha'iha'i and Kanewai are two of the very few remaining intact Hawaiian fishponds in Honolulu. Kalauha'iha'i fishpond was actively used up until the 1990s, when the spring that fed it was damaged during the Kalani'ana'ole Highway widening project. Although Kanewai fishpond has not been used since it came under state care, its historic value is so great that it has been recognized in the State Historic Register. The restoration of these ponds holds great potential to impact the future health of the surrounding region and to improve cultural and educational opportunities for the surrounding community.

OHA also respectfully requests that subsections (a)(4) and (a)(5) from the original version of HB2820—which provide for a site for future interpretation of the cultural and historical significance of fishponds and rehabilitation of the fishpond areas—be retained, as these provisions allow the bill to have meaningful physical and educational impact on the community surrounding the fishpond area. Mahalo for the opportunity to testify on this important measure.

NEIL ABERCROMBIE
GOVERNOR



GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
FORD N. FUCHIGAMI
JADE BUTAY
RANDY GRUNE
JADINE URASAKI

IN REPLY REFER TO:

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 29 2012

HB 2820 HD2
RELATING TO HAWAIIAN FISHPONDS

HOUSE COMMITTEE ON FINANCE

The Department of Transportation supports HB 2820 HD2. This bill proposes to change Hawaii Revised Statutes (HRS) 183B- (Forest Reserves, Water Development, Zoning) to preserve cultural and historical sites, native Hawaiian fish, plants and endangered birds that inhabit the area, protect spring water sources, on the surface and underground, from harmful alterations or development, provide site for future public interpretation of the cultural, biological and historical areas at the fishponds, and provide for the reconstruction, rehabilitation, improvement and stocking of the fishponds.

Lands outside the Right of Way (HRS 264) are currently under the jurisdiction of the Board of Land and Natural Resources (BLNR) pursuant to HRS 171 and we would support the transfer of these lands to the Department of Land and Natural Resources.

Thank you for the opportunity to provide testimony.



Jeannine Johnson, Legislative Sub-Committee Chair

Kuli'ou'ou / Kalani Iki Neighborhood Board #2

5648 Pia Street, Honolulu, Hawai'i 96821

Phone: 373-2874 (h) / 691-7261 (w)

February 28, 2012

COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro, Chair

Rep. Marilyn B. Lee, Vice Chair

Re: HB 2820, HD2 - Relating to Hawaiian Fishponds

Hrg: Wednesday, February 29, 2012 at 2:30 pm in Conf. Room 308

Aloha mai kākou,

Under Section 2-14-125 of the Neighborhood Board Plan, I have been appointed as a Delegate with responsibilities to represent the **Kuli'ou'ou / Kalani Iki Neighborhood Board #2** on matters approved by the Board. As Committee Chair of the **Kuli'ou'ou / Kalani Iki Neighborhood Board #2** Legislative Sub-Committee, I am pleased to inform you **Neighborhood Board #2** supports HB 2820, HD2 which directs the Department of Land and Natural Resources (DLNR) to establish the east Honolulu fishpond heritage area. HB 2820, HD2 also provides state lease preferences for the reconstruction, restoration, repair, or use of Hawaiian and kanaka maoli fishponds as well as creates a preference for the use of traditional names of Hawaiian fishponds. **Neighborhood Board #2** represents over 6,000 households, with a population of almost 20,000 people (State of Hawaii Data Book 2002) in East Honolulu.

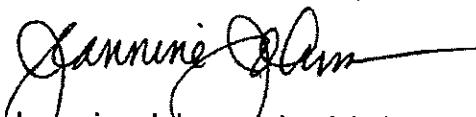
Before Westerners arrived in Hawai'i, native Hawaiians lived a life of self-subsistence and harmony with the land and sea. Native Hawaiians understood that by caring for the land and sea, they too, would be cared for by the land and sea. A great example of this is a native Hawaiian fishpond (loko i'a or loko kuapā) which were first built around the fifteenth century. Hawaiians built 488 fishponds statewide, however only about 60 fishponds remain recognizable today. O'ahu alone had 97 fishponds, but only six accessible ponds remain today. Thirteen fishponds have been restored statewide, with six ponds currently in use: three on Moloka'i, one on the island of Hawai'i, and two on O'ahu.

Currently, the Maunalua Fishpond Heritage Center is working to stop the sale of two remaining fishponds at auction by the Department of Transportation and obtain the leases. They are Kānewai Fishpond, a royal pond assessed to have the properties that make it eligible for listing on the National Historic Register, and Kalauha'iha'i (Luças Spring and Fishpond) reported to be the location of a summer home of Kamehameha I and where Queen Ka'ahumanu was said to have renounced the ancient kapu system at the Kalauha'iha'i Assembly. Kalauha'iha'i refers to the scattering of the leaves and breaking of the ancient kapu.

Recognizing the important cultural significance these fishponds represent, at its November 6, 2008 meeting, **Neighborhood Board #2** voted to support preventing any governmental entity from selling culturally significant Native Hawaiian treasurers such as fishponds. Directing the DLNR to establish the east Honolulu fishpond heritage area that contains the state-owned parcels with Kānewai Fishpond and Kalauha'iha'i Spring and Fishpond will safeguard Maunaloa's last remaining fishponds for future generations.

Your support of HB 2820, HD2 is respectfully requested.

'O au iho nō me ke aloha,



Jeannine Johnson, Legislative Sub-Committee Chair
Kuli'ou'ou / Kalani Iki Neighborhood Board #2
5648 Pia Street, Honolulu, HI 96821
Phone: 373-2874 / 691-7261 (work)
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MAUNALUA FISHPOND HERITAGE CENTER

February 28, 2012

BOARD OF DIRECTORS:

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In Support of HB2820 HD2 with suggested amendments

Aloha Chair Oshiro, Vice Chair Lee and Committee members,

On behalf of the Maunalua Fishpond Heritage Center I want to thank you for hearing this important bill. HB 2820 HD2 requires the DLNR to establish the East Honolulu Fishpond Heritage area on state property at Kalauha'ihai Fishpond and nearby Kanewai Fishpond. We are in strong support of this and ask that the language be clarified to allow for traditional management practices such as fish harvesting. This entails adding the word "habitat" after the phrase "preserve fish". We also ask that the term "Hawaiian fishpond" be added in the language for the heritage area. Our suggested amendments are attached below our testimony.

For centuries East Honolulu has been known for massive fishponds. The 523 acre Keahupua-o-Maunalua, was the largest in the Hawaiian Islands. The 41 acre Wailupe Fishpond and numerous others were all located in the region. These ponds supplied hundreds of pounds daily of mullet and awa that fed our island. The destruction of these fishponds over the last fifty years has damaged the fishery and overall ecosystem considerably.

With this bill the legislature has the opportunity to recognize the importance of our last remaining shoreline fishponds in East Honolulu by establishing a fishpond heritage area for their protection and revival. Our community 501(c)(3) organization has been working since 2007 to educate the public regarding these sites and would like to provide stewardship and restoration for these neglected sites.

Through our restoration project at Kanewai Spring adjacent to Kanewai Fishpond we have seen how ecosystems and traditional practices can rebound once proper care is provided by the community. These ponds were designed to feed the people of Hawai'i. To continue to lock them up from the community while they deteriorate is not beneficial to anyone. Your passage of HB2820 is critical in preserving these fishponds for the future.

Mahalo nui loa ,

Chris Cramer

Chris Cramer
President
Maunalua Fishpond Heritage Center

HB 2820 Proposed Amendments:

Part I

(Specify Hawaiian fishponds in the language and clarify so as not to prevent fish harvesting)

- 1) Preserve existing "Hawaiian fishponds" and historical sites, including traditional fishpond structures while making it permissible and desirable for repair, strengthening and maintenance of these structures
- 2) Preserve existing native Hawaiian fish habitat, plant habitat and endangered birds that presently inhabit the area

(Add new line)

- 4) Preserve customary and traditional uses of fishponds in the fishpond heritage area

(Amend line c for clarity)

- (c) For purposes of this section, "east Honolulu fishpond heritage area" encompasses parcels:

Part IV (Comments)

- 1) While we take no position on the merits of Part IV, the wording that it applies to "all Hawaiian fishponds held as public lands under the jurisdiction of the department of land and natural resources" may be beyond the scope of the East Honolulu Fishpond area.



Sierra Club Hawai'i Chapter

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

HOUSE COMMITTEE ON FINANCE

February 29, 2012, 2:30 P.M.
(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF HB 2820 HD2

Aloha Chair Oshiro and Members of the Committee:

The Hawai'i Chapter of the Sierra Club, with 10,000 dues-paying members and supporters, *supports* HB 2820 (HD2). This measure would, among other things, give state lease preference to Hawaiian fishponds.

Techniques for establishing and maintaining aquaculture have been increasingly criticized for their environmental impacts, including erosion, coastal degradation, and increased occurrence of harmful algal blooms (Maso & Garces 2006, Jayappa et al. 2006, Pergent-Martini et al. 2006). These environmental conditions have caused numerous ecological (i.e. fish die-offs, marine mammal strandings) as well as human health concerns, namely the consumption of infected fish and crustaceans and the ingestion of contaminated water (Sapkota et al. 2007, Vasas et al. 2007, Lopez-Rodas et al. 2006, Maso & Garces 2006).

Ironically, Hawai'i is cited as the home of an environmentally sensitive method to raise food for human consumption. Internationally, Hawaiian fishponds are being actively studied as a successful model for adoption (Chopin 2006, Troell et al. 2003). These systems were built to be self-sufficient, and used to grow a variety of fish, invertebrates, and algae. Fishponds, besides being steeped in cultural tradition and offering the potential of an environmentally sensitive source of food, can be a home to endangered marsh birds and other birds, fish and aquatic animals.

In short, we believe the state could encourage the preservation and restoration of new Hawaiian fishponds by giving preference to these projects when leasing state land.

We respectfully request this committee advance this measure. Mahalo for this opportunity to provide testimony.

HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

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NOTICE OF HEARING

DATE: Wednesday, February 29, 2012
TIME: 2:30 P.M.
PLACE: Conference Room 308
State Capitol
415 South Beretania Street

: TESTIMONY IN SUPPORT OF OF INTENT WITH SUGGESTED AMENDMENTS AND RESERVATIONS
REGARDING SECTION 4.

From: Tony Costa
Hawaii Nearshore Fishermen
Honolulu, Hawaii
540-1308 office

Testimony

Hawaii Nearshore Fishermen are in support of HB 2820HD2 with amendments.

In the 2010, Twenty-fifth Legislative Session, HB1665 – Preventing the sale of Government owned fishponds passed. The passage of this bill effectively took a historic fishpond, the Lucas Spring Fishpond otherwise known as Kalauhaihai, off the auction block but more importantly initiated a process to begin the preservation and rehabilitation of a great and historic Hawaiian Fishpond.

Critical to the successful restoration of fishponds are both the ability and feasibility for NGO groups or Government agencies to access and follow through with their work, and also the careful restoration, reconnection and revival of the fresh water source that percolates through the subterranean lateral crevices into the ponds and onward into the nearshore environment.

Of the many impediments one faces in such work of property acquisitions and leases and management, particularly with fishponds, are the many State and Federal requirements and permits and certifications needed.

HB 2820hd2 would establish three historic fish pond areas in East Oahu by preserving their geographic boundaries and physical stone structures, their water source, and the bill also makes reference to preserving fish, plants, and birds in the area.

HB2820hd2 would also allow a preference specific to the reconstruction, restoration, repair, or use of Hawaiian fishponds by streamlining the permitting process hopefully to lesson some of the many onerous requirements.

HB2820hd2 also establishes that all Hawaiian Fishponds in DLNR public lands are transferred to a Native Hawaiian Government when established.

The Fishermen's position is firm and clear. In light of the importance that fresh water plays with respect to nearshore habitat and healthy recruitment levels for various nearshore species, we support any effort that helps to encourage the health and regeneration of our nearshore environment such as this bill promotes.

However, we note that the bill has a few added items that detract from its original intent:

Initially, we would suggest a slight amendment in Section183B- (a) (2) *"Preserve existing native Hawaiian fish, plants, and endangered birds that presently inhabit the area.."*

We would suggest the addition of the word "habitat" following the word "existing" so it would read:

(2) "Preserve existing habitat for native Hawaiian fish, plants, and endangered birds that presently inhabit the area.."

This way, it is clear that pond operators may harvest or clear fauna for educational or pond purposes as customary and/or necessary for maintenance or cultural use.

Secondly, we would suggest deleting the newly added section 4 which states:

All Hawaiian fishponds held as public lands under the jurisdiction of the department of land and natural resources shall be held in trust and transferred to a Native Hawaiian government upon the establishment of such a government.

Hawaii Nearshore Fishermen are not qualified to hold a position in Native Hawaiian Government and State Land issues in this instance - but are of the opinion that Section 4 clearly departs from the intention of this bill and its specificity in preserving these three historic areas.

Thank you very much for allowing me to testify and for your positive consideration in passing HB 2820 only with these suggested amendments.

Respectfully submitted,

Tony Costa
Hawaii Nearshore Fishermen

February 29, 2012

The Honorable Marcus Oshiro, Chair
Finance Committee
State Capitol
Honolulu, Hawaii 96813

Dear Chair Oshiro and Committee Members:

RE: TESTIMONY IN OPPOSITION TO HB 2820, HD2

We are testifying in strong opposition to House Bill 2820, HD2. This bill proposes to create the East Honolulu fishpond heritage area encompassing State-owned parcels in Kuliouou.

We are a cozy little neighborhood of homes surrounding a small 3-acre lagoon which we call Kuliwai Lagoon (referred to as "Kanewai fishpond" in HB 2820). The Kuliwai/Kanewai Lagoon is privately and jointly owned by the surrounding property owners. The Committee should know that in our deeds (including the State parcel identified as TMK 3-8-002:027 that is included in HB 2820), there is a restrictive covenant which requires that the Lagoon only be used in a manner as approved by the surrounding lagoon owners.

In 2008, the Maunalua Fishpond Heritage Center (MFHC) approached the surrounding lagoon owners to assess whether we would support MFHC's desire to access and work in the Kuliwai/Kanewai Lagoon, including conducting research, educational and community activities. Our Kuliwai Lagoon Association met and unanimously agreed that while we are interested in discussing ecological issues, we deeply treasure our privacy and would not allow any public or non-public uses of the lagoon including the activities contemplated by MFHC. Our Association's position was communicated to MFHC in writing.

Please accept our apology for the tardiness of our testimony on this bill as we only recently found out about it by chance.

Thank you for your consideration of our testimony.

Sincerely,

Dr. Richard T. Mamiya
Richard, Kirsten and Michael Melcher
James and Michelle Trans
Akemi Shimomura and Marco Murillo
Dennis Yeomans