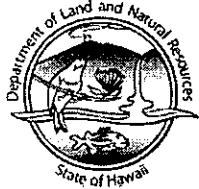


NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

**Before the House Committee on
FINANCE**

**Tuesday, February 15, 2011
2:00 PM
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 744
RELATING TO DAM SAFETY**

House Bill 744 establishes a dam safety task force to review applicable state laws, administrative rules, and county ordinances and recommend actions to be taken by the Engineering Division of the Department of Land and Natural Resources (Department) in its administration of the Dam Safety Program. The Task Force shall report its finding and recommendations, including any proposed legislation to the Legislature prior to the 2012 Regular Session and would terminate on June 30, 2012.

The Department does not support this measure for the reasons noted below:

- The current Hawaii Dam and Reservoir Safety Act of 2007 (Chapter 179D, Hawaii Revised Statutes) and a significant portion of the proposed administrative rules were primarily based on an independent attorney general's report commissioned by the 2007 legislature after the Kaloko Dam Breach that killed 7, prompted a change to the dam safety laws. The recommendations from this report were based off of model dam safety law, a comparison of 48 other states' regulations and input from the United States Army Corps of Engineers, the Association of State Dam Safety Officials, and the Federal Emergency Management Agency (FEMA). Any deviation in the existing statutes should be reevaluated from a national perspective. If this is not done, revisions may not be in the best interest of dam safety and the Act's intent to protect public safety and minimize the risk of a dam failure. A copy of this report is available upon request.
- The Task Force is primarily comprised of members from the agriculture, water resources and ranching industries, who will have competing interests to those of the dam safety program and recommendations may conflict with statutory public safety mandates.

WILLIAM J. AILA, JR.
INTERIM 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

- The measure's intent is unclear to the authority of the recommendations made by the Task Force. Although the Task Force is administered by the Department, recommendations from the Task Force may not represent the Department's best interest with respect to dam safety.
- The TASK FORCE tends to be comprised of members from the water resources, agriculture and ranching industries and may not represent all users or beneficiaries of dams, reservoirs, and their resources. The measure lacks representation by members with experience in the dam safety field.
- The bill does not provide a funding source for the Task Force to be reimbursed expenses. Without a funding source, resources will be taken away from dam safety's operating expenses and will distract from the dam safety program's mission to protect public safety.
- The Department does not have any authority over county ordinances;
- Recommended changes to the statutes or administrative rules would require processing and public hearings through the State Legislature and the Board of Land and Natural Resources; and
- The Board of Land and Natural Resources is the administrating body for the Dam Safety Program.

Thank you for the opportunity to comment.



Hawaii Farm Bureau
F E D E R A T I O N

2343 Rose Street, Honolulu, HI 96819
PH: (808)848-2074; Fax: (808) 848-1921

February 14, 2011

TESTIMONY

Re: HB 744 RELATING TO DAM SAFETY

Chair Marcus Oshiro and Members of Committee:

Hawaii Farm Bureau Federation on behalf of commercial farm and ranch families and organizations in the State supports HB744, establishes a Dam Safety Task Force to review applicable State Laws, Administrative Rules, and County Ordinances and recommend actions to be taken by DLNR in its administration of the Hawaii Dam Safety Program.

As proposed rules associated with the Dam and Safety Program was available, many unintended consequences became apparent. During this Session, several proposals are in consideration to address the immediate needs. This measure takes it another step to explore the interrelationships between other State and County laws along with the Hawaii Dam Safety Program. This is important as dams and reservoirs serve many purposes and we must ensure that various needs are addressed as we focus on safety.

The measure addresses compensation for direct expenditures associated with this measure. Consideration should also be given to the staff of the agency responsible for coordinating the activities and preparation of the final report. During these times of budgetary constraints, added burdens on strained agency budgets will not result in the quality of reports desired.

We **support this measure with staff budgetary needs addressed**. Thank you for this opportunity to provide our opinion on this matter. If there are questions, please contact Warren Watanabe at 2819718.



Hawaii Cattlemen's Council, Inc.

P O Box 437199 Kamuela HI 96743
Phone (808) 885-5599 • Fax (808) 887-1607
e-mail: HCattlemens@hawaii.rr.com

HOUSE COMMITTEE ON FINANCE
Tuesday February 15, 2011 2:00 p.m. Room 308

HB 744 RELATING TO DAM SAFETY.

Establishes a dam safety task force to recommend safety actions to be included in the Hawaii dam safety program. Sunsets 6/30/12.

Chairman Oshiro, Vice Chair Lee 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+ member ranchers 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** HB 744.

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 States 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).

As an example, 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 overflow the reservoir.

We do not believe that the intent of the Dam and Reservoir safety law is to put farmers and ranchers out of business or to encourage them to decommission existing water resources. 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.



822 Bishop Street
Honolulu, Hawaii 96813
P.O. Box 3440
Honolulu, HI 96801-3440
www.alexanderbaldwin.com
Tel (808) 525-6611
Fax (808) 525-6652

**HB 744
RELATING TO DAM SAFETY**

**PAUL OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

FEBRUARY 15, 2011

Chair Marcus Oshiro and Members of the House Committee on Finance:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B), Hawaiian Commercial & Sugar Company (a division of A&B) and Kauai Coffee Company (a subsidiary of A&B), on HB 744, "A BILL FOR AN ACT RELATING TO DAM SAFETY."

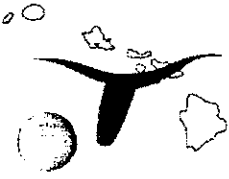
Alexander & Baldwin and its agricultural companies Hawaiian Commercial & Sugar Company (HC&S) and Kauai Coffee Company, have 18 regulated reservoirs on Kauai and 30 on Maui, the majority of which are in active use by HC&S and Kauai Coffee Company. Because these dams and reservoirs are a vital part of our agricultural operations, they are operated, monitored, and maintained on an on-going basis. These facilities enable the storage of water so that HC&S and Kauai Coffee can better weather periods of drought. These facilities also enable us to make optimum use of water resources—by capturing waters during heavy rainfall periods, less has to be used from surface water sources and wells during other times. They are absolutely integral to our ability to continue to keep tens of thousands of acres in agriculture in this state.

In addition to serving as a valuable water resource for Hawaii's agricultural industry, dams and reservoirs also provide several other significant benefits to the

general public. Many of these facilities also provide drinking water for residential communities, renewable energy by way of hydropower, and flood control and drainage for public safety.

This bill establishes a Dam Safety Task Force to review applicable State Laws, Administrative Rules, and County Ordinances and recommend actions to be taken by DLNR in its administration of the Hawaii Dam Safety Program. We welcome the opportunity to participate in the work of this task force on this very important topic.

Thank you for the opportunity to testify.



Hawaii Cattlemen's Council, Inc.

P O Box 437199 Kamuela HI 96743

Phone (808) 885-5599 • Fax (808) 887-1607

e-mail: HICattlemens@hawaii.rr.com

HOUSE COMMITTEE ON FINANCE

Tuesday February 15, 2011 2:00 p.m. Room 308

HB 744 RELATING TO DAM SAFETY.

Establishes a dam safety task force to recommend safety actions to be included in the Hawaii dam safety program. Sunsets 6/30/12.

Chairman Oshiro, Vice Chair Lee and Members of the Committee:

My name is Herbert M. "Tim" Richards III DVM. I am a rancher, veterinarian, and President of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) our Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards 1 million of the approximately 4 million acres of the State's total land mass.

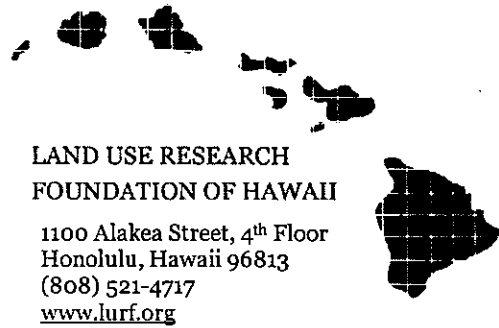
The Hawaii Cattlemen's Council **strongly supports** **HB 744.**

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 States 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).

As an example, 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 overflow the reservoir.

We do not believe that the intent of the Dam and Reservoir safety law is to put farmers and ranchers out of business or to encourage them to decommission existing water resources. Temperance is needed. 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.



LAND USE RESEARCH
FOUNDATION OF HAWAII

1100 Alakea Street, 4th Floor
Honolulu, Hawaii 96813
(808) 521-4717
www.lurf.org

February 15, 2011

Representative Marcus R. Oshiro, Chair and Representative Marilyn B. Lee, Vice Chair
House Committee on Finance

Support for HB 744 Relating to Dam Safety; Dam Safety Task Force

Tuesday, February 15, 2011 at 2:00 p.m. in CR 308

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 our testimony **in support of HB 744**, which establishes a dam safety task force to recommend safety actions to be included in the Hawaii dam safety program. Sunsets 6/30/12.

HB 744. This bill establishes a dam safety task force which shall consist of members including various agricultural stakeholders representing the public and private sectors, as well as persons with specialized knowledge and experience in water resource management and engineering. The task force shall be placed within the State Department of Land and Natural Resources (DLNR) for administrative purposes only. The role and responsibility of the task force shall be to review applicable laws, rules and ordinances, and recommend actions to be taken by the DLNR in its administration of the Hawaii dam safety program.

LURF's Position. While LURF supports the establishment of the dam safety task force, it strongly believes and respectfully suggests that LURF be considered for inclusion as a task force member and identified as such in HB 744, based on the following:

- Over the past seven years, LURF worked closely with the Board of Agriculture, the Hawaii Cattlemen's Council and the Hawaii Farm Bureau Federation (all of which organizations are proposed by the bill to appoint representatives as members of the task force), and was instrumental in passing the Important Agricultural Lands (IAL) law.
- LURF represents numerous large agricultural land owners who have many dams and reservoirs located on their properties.
- LURF actively and consistently participated, commented and testified at the DLNR hearings regarding dam safety rules and regulations.

Given its extensive experience and involvement with agricultural lands and organizations, as well as the IAL laws, LURF possesses the qualifications and experience to identify and address safety concerns and other issues relating to agricultural irrigation water systems necessary to promote agricultural production, including dams and reservoirs, and respectfully suggests that it be included as a member of the dam safety task force.

LURF is in **support of HB 744**, and respectfully urges your favorable consideration of its request to be a member of the dam safety task force. The opportunity to present our testimony regarding this matter is greatly appreciated.



Hawaii Agriculture Research Center

Administration: P.O. Box 100, Kunia, HI 96759

Ph: 808-621-1350/Fax: 808-621-1359

TESTIMONY BEFORE THE HOUSE COMMITTEE ON FINANCE

HB 744

RELATING TO DAM SAFETY

February 15, 2011

Chairman Marcus Oshiro and Members of the Committee:

My name is Stephanie Whalen. I am Executive Director of the Hawaii Agriculture Research Center (HARC). I am testifying today on behalf of the center and our research and support staff.

HARC supports House Bill 744 which establishes a dam safety task force to recommend safety actions to be included in the Hawaii dam safety program.

HARC supports measures to ensure the safety of Hawaii's citizenry with respect to the operation of the state's dams and believes that the suggested task force will help in ensuring the continued economic viability and efficiency of reservoirs for water storage for agriculture.

Thank you for the opportunity to testify in support of Hawaii's agricultural needs.

TESTIMONY OF DAVID TARNAS
IN SUPPORT OF HB 744: RELATING TO DAM SAFETY
HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE
TUESDAY, FEBRUARY 15, 2011 AT 2:00 PM IN
CONFERENCE ROOM 308

Aloha,

My name is David Tarnas and I assist the owners of Hualua Land LLC in developing an agricultural park in North Kohala. There is an old reservoir (Hawi No. 5 Reservoir) located in the middle of a large area of pasture, partially on land owned by Hualua Land LLC and partially on land owned by Hawaii Department of Agriculture. This reservoir was used by the former Kohala Sugar Company, abandoned in the mid-1970s when the plantation shut down, and has not been used since. Cows graze in the reservoir, which is now pasture since it hasn't had water in it for over thirty years. There are no homes or structures around, and yet the reservoir has been deemed "HIGH RISK" by the DLNR Dam Safety Office.

Under the new rules proposed by DLNR, the reservoir owners are being faced with substantial costs and requirements that are not realistic for such an abandoned reservoir. I hope that the Governor does not sign the pending regulations at this time, and instead waits for the recommendations of the task force this bill would create.

I support HB 744 and strongly encourage the committee to pass the bill so that a dam safety task force can look at the situation of these old reservoirs in the state and figure out a reasonable way for the owners to proceed that still protects public safety, but is not unduly burdensome to the reservoir owners.

Thank you for your consideration.

David Tarnas
Hoea Agricultural Park
Hawi, Hawaii

Testimony Opposing HB 774: Relating to State Funds

HOUSE COMMITTEE ON FINANCE HEARING

DATE: Tuesday, February 15, 2011
TIME: 2:00 PM
PLACE: Conference Room 308

Testimony Opposing HB 744

Dear Chair Oshiro, Vice Chair Lee and Members of the House Committee on Finance,

My name is Mike Tamanaha and I have been a part of the collaborative effort of individuals with Neurotrauma, their families, public organizations and the Department of Health along with strong Legislative support to establish the Neurotrauma Fund. I have grave concerns over HB 774's intent to transfer the balance of funds in the Neurotrauma Fund and deflect any deposits into the Fund over the next 2 years. The result of such action will result in the depletion of monies in the Fund to continue multi-year contracts over the next 2 years. Having been involved in the establishment of the Fund, it is feared that contracts which have met: (1) the legislative specifications for use of the funds and (2) public approval through the Neurotrauma Advisory Board will be terminated due to the lack of funds.

It is suggested that a one-time transfer of funds be deposited into the EMS Special Fund and the surcharges from traffic violations continue to be deposited into the Neurotrauma Fund to fund multi-year contracts in accordance with §321H-4. This alternative will serve to provide funds into the EMS Special Fund while preserving the intent and purpose of the Neurotrauma Fund for persons with traumatic brain injury, spinal cord injury and stroke.

Thank you for the opportunity to testify on this bill.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 14, 2011 7:33 PM
To: FINTestimony
Cc: pono@ponoholo.com
Subject: Testimony for HB744 on 2/15/2011 2:00:00 PM

Testimony for FIN 2/15/2011 2:00:00 PM HB744

Conference room: 308
Testifier position: support
Testifier will be present: No
Submitted by: Pono von Holt
Organization: Individual
Address:
Phone:
E-mail: pono@ponoholo.com
Submitted on: 2/14/2011

Comments:
As a rancher and manager of Ponoholo Ranch, Ltd, I support the HB744 and the position of the Hawaii Cattlemen's Council.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 14, 2011 6:16 PM
To: FINTestimony
Cc: karinguest@hawaii.rr.com
Subject: Testimony for HB744 on 2/15/2011 2:00:00 PM

Testimony for FIN 2/15/2011 2:00:00 PM HB744

Conference room: 308
Testifier position: support
Testifier will be present: No
Submitted by: Karin Carswell Guest
Organization: Individual
Address:
Phone:
E-mail: karinguest@hawaii.rr.com
Submitted on: 2/14/2011

Comments:

Testimony for HB744 on 2/15/2011 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Monday, February 14, 2011 2:17 PM

To: FINTestimony

Cc: kwood@parkerranch.com

Testimony for FIN 2/15/2011 2:00:00 PM HB744

Conference room: 308

Testifier position: support

Testifier will be present: No

Submitted by: Keoki Wood

Organization: Individual

Address:

Phone:

E-mail: kwood@parkerranch.com

Submitted on: 2/14/2011

Comments: