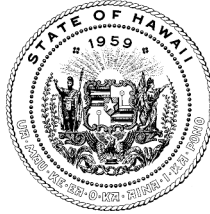


SB 2923, SD 1

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 Senate Committee on
JUDICIARY AND LABOR**

**Friday, February 24, 2012
10:00 AM
State Capitol, Conference Room 016**

**In consideration of
SENATE BILL 2923, SENATE DRAFT1
RELATING TO OPIHI HARVESTING AND POSSESSION RESTRICTIONS**

Senate Bill 2923, Senate Draft 1 proposes to establish new harvest control rules for protecting all opihi species by prohibiting its take during closed seasons, from certain areas and from underwater. It would also require the monitoring of the proposed rules effectiveness as well as prohibit the take of opihi on Oahu for 5 years and allow for an exemption for native Hawaiian gathering rights. The Department of Land and Natural Resources (Department) supports the intent of the bill and offers the following comments.

The Department appreciates the Legislature's support to protect valuable stocks like the opihi. The Department has concerns with an exemption for anyone who takes opihi by the exercising of native Hawaiian gathering rights. This is not defined and there is no criteria offered for distinguishing those who would qualify.

The Department could support no opihi taking areas, provided enforcement of this provision is feasible. For example, all marine life conservation districts already prohibit the take of opihi. But prohibiting the take of opihi from breakwaters and jetties would seem to prohibit the take of opihi where it is likely to be the safest and most accessible areas for pickers.

Finally, there may be support for a take moratorium for Oahu, but with the proposed exemption for traditional take, there is a concern that it would not be enough of a protective effect to meet the goals of the bill.

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



SB 2923 SD1
RELATING TO OPIHI HARVESTING AND POSSESSION RESTRICTIONS
Committee on Judiciary and Labor

February 24, 2012

10:00 a.m.

Room 016

The Office of Hawaiian Affairs (OHA) **SUPPORTS WITH AMENDMENTS** SB 2923 SD1, which would establish a five-year moratorium on harvesting 'opihi from anywhere on O'ahu and a statewide ban on harvesting 'opihi from below the waterline, coastal areas of off-shore islets, man-made jetties and breakwaters, fishery management areas, fisheries replenishment areas, natural area reserves, refuges, and marine life conservation districts, subject to open and closed seasons and the traditional rights of Native Hawaiians. We suggest that the legislature consider amending the bill to include a baseline study to be conducted at the start of the ban, and regular review of the status of the various fisheries.

The State has a constitutional responsibility to "conserve and protect Hawai'i's natural beauty and all natural resources, including land, water, air, minerals and energy sources All public natural resources are held in trust by the State for the benefit of the people." (Hawai'i State Constitution, Art. XI, Section 1.)

The State also has a constitutional responsibility to "protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes" possessed by Native Hawaiians. (Hawai'i State Constitution, Art. XII, Section 7.) This constitutional mandate has been reaffirmed by the Supreme Court of the State of Hawai'i in a series of landmark decisions which provide clarifications and outline a framework to effectuate this affirmative duty to protect these important Hawaiian rights. OHA notes and appreciates the consideration for these rights in Section 2.

SB 2923 SD1 appropriately balances the needs of the people and of the sea while such a balance can still be struck. OHA agrees that Hawai'i's 'opihi populations have declined dramatically. We appreciate that the legislature has taken such a responsible stance on protecting some of Hawai'i's special natural and cultural resources from continued over-harvesting, while still providing access to appropriately sized 'opihi, above the water line, for Native Hawaiian subsistence, cultural and religious purposes.

We respectfully suggest that Section 2 also include a baseline study of existing stocks of the various 'opihi throughout Hawai'i and a requirement of regular inventory

of those stocks - on a biannual basis, perhaps - which would allow for the potential re-opening of some of the fisheries if the stocks warrant it.

OHA urges the Committee to PASS SB 2923 SD1, with the above suggested amendments. Mahalo for the opportunity to provide testimony on this important measure.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Judiciary and Labor
Friday, February 24, 2012 at 10:00 am

By

Virginia Hinshaw, Chancellor

And

Christopher E. Bird, Postdoctoral Research Fellow

And

Robert J. Toonen, Associate Research Professor

Hawai'i Institute of Marine Biology

School of Ocean and Earth Science and Technology

University of Hawai'i at Mānoa

SB 2923 SD1 Relating to Opihi Harvesting and Possession Restrictions

Chair Hee, Vice Chair Shimabukuro and Members of the Committee, as marine scientists who have studied Hawaiian 'Opihi for the past 13 years, we would like to express our strong support for SB 2923 SD1.

'Opihi is a delicacy that is part of Hawai'i's culture, and, as such, there is universal agreement that the resource must be preserved for future generations to enjoy. We have visited almost every coastline that harbors 'Opihi in the Hawaiian Islands. In so doing, we have had the opportunity to speak with numerous 'Opihi harvesters and citizens of Hawai'i regarding 'Opihi, cultural harvesting practices, and general ideas on what can be done to sustainably harvest 'Opihi.

There is no doubt that 'Opihi populations have declined in Hawai'i over the past 112 years and continue to decline presently. SB2923 proposes to address the decline of 'Opihi populations by delineating spatial and temporal limitations on the harvest of 'Opihi in Hawaiian waters. The proposed limitations on 'Opihi harvests are driven by science, management concerns, existing cultural practices, enforceability and common sense. It is our expert scientific opinion that SB 2923 will result in (1) increased population size for all three species, (2) an increase in the number of 'Opihi that can be sustainably harvested, and (3) a decrease in the rate at which 'Opihi prices are rising.

We are sensitive to the concerns of the citizens of Kaua'i, Moloka'i, Maui, Lana'i, and the Big Island of Hawai'i, that O'ahu is draining neighbor island 'Opihi stocks. Neighbor islands can expect that a new direction in 'Opihi management outlined in SB2923 will lead to O'ahu producing more of its own 'Opihi. Neighbor islands can rest assured that closing O'ahu to 'Opihi harvest will not create a run on neighbor island 'Opihi because O'ahu's shores currently yield very few 'Opihi and make no significant contribution to the commercial harvest of 'Opihi.

In the future, a revitalized O‘ahu ‘Opihi population will help to ensure that fewer neighbor island ‘Opihi end up in Honolulu markets and at luaus on O‘ahu.

Here we review SB2923 section by section:

Section 1. Support

Section 1 is factually correct and emphasizes that the goal is to rehabilitate both ‘Opihi populations and the fishery. The most important point is that breeding adults must be protected to ensure that ‘Opihi populations will replenish themselves. This is a key issue in the science and practice of fisheries management.

Section 2a. Support

Section 2a is focused on protecting breeding adult ‘Opihi by establishing “no take” areas. This is a valid method for managing the ‘Opihi fishery as evidenced by numerous peer reviewed manuscripts and the numerous “no take” areas already established by the State of Hawai‘i’s DLNR Division of Aquatic Resources. Of particular note, the Hawai‘i Division of Aquatic Resources’ aquarium fish protected areas on the Kona coast of Hawai‘i have experienced large increases in targeted fish populations (see attached peer reviewed publication). In the no take areas, ‘Opihi are allowed to breed throughout their entire lives. Adult ‘Opihi tend to stay in the same area, returning to their home scar periodically throughout the day, and are extremely unlikely to leave the no take area, where they might be harvested. ‘Opihi have free swimming larvae (earliest life stage) that can disperse from the no take areas into areas where harvest is legal. There probably need to be more no take areas for ‘Opihi, but the proposed locations (man-made shorelines, offshore islets, and State Managed Areas) are a good start and can be used to evaluate the effectiveness of this strategy. If proven effective, an adequate number of “no take” areas can be established to revitalize ‘Opihi populations across the State. We cannot stress enough that this management strategy is PERFECT for ‘Opihi because the adults stay in one place, the larvae disperse into the surrounding areas, and ‘Opihi typically grow to legal size within 7 months. It is a proven strategy that has been and is currently being successfully implemented by Hawai‘i DLNR’s DAR and management agencies around the world.

Section 2b. Support

Section 2b is focused on protecting the breeding adult ‘Opihi koele (*Cellana talcosa*) by prohibiting their harvest below the low tide line and is based on traditional Hawaiian practices. ‘Opihi ko‘ele exists both above and below the water line. By making the subtidal environment a “no take” zone, a portion of the ‘Opihi ko‘ele population is allowed to grow old and breed. Some of the larvae of these subtidal “breeders” will settle above the water line, providing a stable source of ‘Opihi ko‘ele to shorelines. It is likely that this single measure will allow ‘Opihi ko‘ele to recover and remain a permanently sustainable fishery species. The most promising aspect of this provision is that it is highly likely to be self-enforced. In the past, OHA specifically requested that Native Hawaiians NOT be exempt from this provision. It is currently self-enforced at the community level in certain areas of Moloka‘i and Maui. Given the consistently low level of funding for the enforcement of fishery rules, especially with the current recession, it is more important than ever to establish rules that don’t require constant enforcement because those that do will surely fail to have an impact on our fishery resources.

Section 2c.

Section 2c restricts the harvesting of all ‘Opihi to 5.5 months per year across the entire state. It is possible that this will reduce the harvest pressure on ‘Opihi, because there will be 62.5% fewer days upon which ‘Opihi can be harvested. Alternatively, closed seasons could initiate a run on ‘Opihi when the season opens. It has been proven and published that this happens with fish in the Waikīkī-Natatorium revolving closed area. The closed dates of April 15 - July 15 and Nov 1- Feb 15 encapsulate the typical spawning seasons for *C. exarata*/‘Opihi makai‘aui.

Section 2 188-B. Support

Section 2 188-B states that ‘Opihi harvesting will be temporarily banned on O‘ahu for 5 years. This section is enforceable - if you are seen picking ‘Opihi on O‘ahu, you are in violation. This section adequately reflects that ‘Opihi populations have been decimated on O‘ahu, relative to the other Hawaiian Islands (50 fold decrease relative to other Hawaiian Islands despite adequate habitat), thus O‘ahu requires more drastic actions to rehabilitate its ‘Opihi populations. It is very telling that fish markets have not expressed much opposition to the stoppage of ‘Opihi harvest on O‘ahu, indicating that ‘Opihi sold in Honolulu markets is not harvested on O‘ahu. O‘ahu has the highest ratio of people to suitable ‘Opihi habitat, and it is likely that what has happened is that harvesting pressure is so intense that most ‘Opihi don’t get a chance to reproduce on O‘ahu. Offshore islets with dense populations of ‘Opihi, such as Manana off the coast of Waimanalo where ‘Opihi harvesting is illegal, indicate that if harvesting is stopped, ‘Opihi populations can recover. ‘Opihi grow very quickly, reaching reproductive age in as few as six or seven months. ‘Opihi also have swimming larvae that disperse well within islands. Stopping the harvest of ‘Opihi on O‘ahu should allow some level of recovery and replenishment. The reopening of the ‘Opihi fishery on O‘ahu should be accompanied by aggressive harvest regulations, implementing more “no take” areas than proposed in Section 2a.

We believe that SB2923 S.D. 1 establishes guidelines that are effective and sound. Thank you for the opportunity to offer testimony in support on this bill.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: tamashiromarket@hawaii.rr.com
Subject: Testimony for SB2923 on 2/24/2012 10:00:00 AM
Date: Wednesday, February 22, 2012 2:42:17 PM

Testimony for JDL 2/24/2012 10:00:00 AM SB2923

Conference room: 016
Testifier position: Oppose
Testifier will be present: No
Submitted by: Guy Tamashiro
Organization: Tamashiro Market, Inc.
E-mail: tamashiromarket@hawaii.rr.com
Submitted on: 2/22/2012

Comments:

Boyd's Fish Market
87-1784 Farrington Hwy. B4
Nanakuli, Hawaii 96792

Testimony of Boyd Kaneshiro
Owner

Before the Senate Committees on
Water, Land and Housing
and
Hawaiian Affairs

Wednesday, February 15, 2012
2:45 PM
State Capitol, Conference Room 224

S.B.2923
Opihi Harvesting and Possession Restrictions

To all committee members, attached you will see a copy of the Annual Commercial Opihi Harvest by Fiscal Year report provided by the Division of Aquatic Resources, DLNR, State of Hawaii from the years 1948 to 2010. Keep in mind when looking at these figures, that the population in Hawaii over these 62 years has increased tremendously, yet the amount of opihi harvested on average has not declined substantially as has been declared in the opening paragraph of S.B. 2923. Granted, this report does not provide conclusive evidence about the overall health of the opihi stock population in our state, but for now it does illustrate, in general, our opihi population is still doing quite well.

Although I can appreciate the intent of this bill in its effort to create conservation measures to help perpetuate the availability of the opihi, I am opposed to S.B. 2923. There is too much ambiguity within this bill.

These questions come to mind:

1. What is this below water line, above waterline thing?
2. How do you determine areas of closure?
3. How was it determined when to open and close seasons?
4. How do you justify who is a Native Hawaiian?
5. How will it be possible to enforce this law to make this law effective?

Further data and clarification is much needed before this bill can be enacted. A better solution would be to simplify this whole bill .

Annual Commercial Opihi Harvest by Fiscal Year

Fiscal year	No. licenses	Lbs. harvested	Lbs. sold	Nominal Value	Adjusted Value	Honolulu CPI ¹
1948	27	8,141	7,992	\$4,158	\$38,005	25.7
1949	56	17,842	17,581	\$7,535	\$70,241	25.2
1950	18	9,191	8,974	\$3,899	\$37,693	24.3
1951	11	3,999	3,991	\$1,376	\$12,579	25.7
1952	7	2,835	2,571	\$1,080	\$9,572	26.5
1953	7	3,769	3,594	\$1,449	\$12,746	26.7
1954	5	1,567	1,567	\$587	\$5,122	26.9
1955	11	1,831	1,830	\$732	\$6,301	27.3
1956	24	17,085	17,055	\$2,822	\$23,932	27.7
1957	21	22,902	22,758	\$3,762	\$30,898	28.6
1958	15	11,794	11,794	\$4,266	\$33,406	30.0
1959	8	9,092	9,092	\$3,613	\$27,827	30.5
1960	11	18,274	18,249	\$7,722	\$57,949	31.3
1961	7	10,293	10,283	\$4,266	\$31,217	32.1
1962	10	7,297	6,997	\$3,629	\$25,987	32.8
1963	17	18,800	17,862	\$7,933	\$55,624	33.5
1964	18	19,211	19,072	\$8,862	\$61,769	33.7
1965	14	16,651	16,487	\$7,973	\$54,444	34.4
1966	13	13,989	13,907	\$6,819	\$45,375	35.3
1967	40	36,000	35,788	\$23,126	\$149,653	36.3
1968	26	23,185	22,936	\$15,606	\$97,235	37.7
1969	36	23,818	23,752	\$18,345	\$109,374	39.4
1970	41	20,446	20,196	\$18,623	\$105,409	41.5
1971	46	17,229	17,206	\$17,084	\$92,893	43.2
1972	44	16,739	15,677	\$16,071	\$84,642	44.6
1973	46	17,169	17,154	\$18,418	\$92,841	46.6
1974	51	19,558	19,330	\$23,424	\$106,843	51.5
1975	46	14,512	14,224	\$20,207	\$84,309	56.3
1976	52	19,052	17,957	\$29,852	\$118,650	59.1
1977	60	13,969	13,067	\$27,727	\$104,879	62.1
1978	54	15,119	13,590	\$25,815	\$90,643	66.9
1979	51	14,146	12,717	\$25,049	\$79,193	74.3

Fiscal year	No. licenses	Lbs. harvested	Lbs. sold	Nominal Value	Adjusted Value
1980	49	10,617	9,696	\$20,730	\$58,005
1981	36	7,889	7,281	\$16,281	\$41,005
1982	36	7,725	6,937	\$17,492	\$42,005
1983	38	6,675	6,120	\$14,908	\$35,005
1984	40	8,548	7,638	\$18,301	\$41,005
1985	36	13,512	12,730	\$30,548	\$67,005
1986	64	12,426	11,796	\$31,810	\$68,005
1987	91	17,949	15,292	\$40,769	\$83,005
1988	71	12,285	11,590	\$30,004	\$57,005
1989	68	12,675	10,441	\$27,923	\$50,005
1990	56	7,848	7,035	\$21,002	\$35,005
1991	58	7,680	6,160	\$20,209	\$32,005
1992	55	9,271	7,315	\$25,748	\$38,005
1993	39	5,672	4,741	\$18,915	\$27,005
1994	41	9,898	8,055	\$35,552	\$50,005
1995	50	13,462	11,947	\$56,129	\$78,005
1996	52	14,012	11,785	\$42,448	\$58,005
1997	46	10,326	9,011	\$33,936	\$46,005
1998	55	11,886	10,308	\$43,249	\$59,005
1999	43	12,028	10,710	\$48,787	\$66,005
2000	35	10,338	9,134	\$41,936	\$55,005
2001	31	12,385	11,684	\$58,927	\$77,005
2002*	28	12,847	11,745	\$56,384	\$73,005
2003*	26	12,705	12,175	\$63,034	\$80,005
2004*	21	10,637	8,983	\$53,164	\$65,005
2005*	11	8,522	5,565	\$46,784	\$55,005
2006*	17	8,957	4,171	\$44,616	\$50,005
2007*	19	7,435	6,220	\$64,914	\$69,005
2008*	27	7,867	6,271	\$56,346	\$57,005
2009*	22	17,956	9,661	\$69,557	\$71,005
2010*	33	25,241	10,821	\$66,869	\$66,005

Annual commercial opihi harvest information are compiled from monthly fishing reports submitted by licensed commercial fishers.

* Lbs sold & Value are compiled from commercial marine dealer reports since October 2002 when the Fish Report was revised and implemented.

¹ Consumer Price Index for all urban consumers for Honolulu, *The State of Hawaii Data Book*, Dept. Business Economic Development and Tourism

Source: Division of Aquatic Resources, Dept. Land & Natural Resources, State of Hawaii

Regarding SB2923. Relating to Opihi harvesting and possession restrictions.

Have you ever watched “Deadliest Catch” on TV? These people risk their lives to go out and catch king crab so us local people can enjoy king crab legs. I personally wouldn’t risk my life to catch king crab, but I love to eat those king crab legs.

But if they couldn’t go out to catch the crabs, we don’t get to eat them.

Legitimate Opihi Pickers go out into the dangerous surf regularly and pick opihi for a living. Opihi thrive where the waves are pounding against the rocks, this area is called the “spray zone”, Opihi also like to be up to 10 feet underwater. This is not the job for the normal person.

To tie their hands and say you can only pick 1 quart per day is not reasonable. It is like telling a farmer, drive out to your acres of pineapples, but you can only harvest 10 pineapple per day.

Legitimate Opihi Pickers are self regulating to keep their crop viable. They rotate their harvesting areas just like any farmer would to care for their crop.

Legitimate Opihi Pickers lawfully turn in catch reports detailing the location and amount of their catch.

Legitimate Opihi Pickers sell their opihi to stores like Yama’s Fish Market and Tamashiro Market paying their fair share of taxes.

The outcome of this bill will be to put Legitimate Opihi Pickers out of a job. This bill basically makes criminals of all the Legitimate Opihi Pickers. This bill will force the Legitimate Opihi Pickers underground and will open up a “Black Market” for opihi. You would only be able to get opihi if you “know somebody”. Is this the spirit of the bill? If the DLNR thinks they have poor data now, they won’t have any data if this bill gets passed. The state will lose out on tax revenue from the pickers to the retailers.

The normal person does not go out into the dangerous surf to pick opihi. They go to Yama’s Fish Market to buy it.

The end result of this bill is NO OPIHI FOR THE LOCAL PEOPLE.

Is this the spirit of the bill?

Thank you for your time,

Brian K. Yamamoto
President
Yama’s Fish Market, Inc.

February 20, 2012

TESTIMONY TO: SENATE COMMITTEE ON JUDICIARY AND LABOR
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

SUBJECT: SB 2923, SD1

RELATING TO OPIHI HARVESTING AND POSSESSION RESTRICTIONS

February 24, 2012
10:00 a.m.
Conf. Rm. 016
State Capitol
415 South Beretania Street

Honorable Chair and Members of the Committee:

Thank you for this opportunity to provide testimony on SB 2923, SD1. I am Jennifer Lopez Reavis, small business owner/operator on the Big Island of Hawaii. I'm submitting testimony against SB 2923, SD1 relating to opihi harvesting and possession restrictions.

As a native of the islands and owner of a small business, I'm well aware of the resources from the ocean, and express the need to conserve. I educate my family and friends about this. I realize there are some people that pick opihi for limited family consumption. However, those of us who work with DLNR regulations, know the legal size to pick is 1 ¼" and greater in diameter due to the fact that they need to reproduce. When we pick, we never take more than is ordered and never go to the same location in a 4 month period. The amount we pick is reported to DLNR on a monthly basis.

The possession limits and seasonal constraints recommended by this bill would make it impossible to operate our small business. There is an abundant supply of opihi here on the Big Island year round. The areas we pick are very dangerous, and there are a lot of risks involved. These areas consist of 3/4th's of the Island and are mainly full of opihi because of the rough terrain. If you ever have the chance, you will see that our shores around the entire Island are covered with opihi. The size of our Island alone is so big, you can put the other Hawaiian Islands together and it won't cover the size of our Island. Our opihi picking is not done on a daily basis, not even a weekly basis. It is done 2 – 4 times a month at an average.

Opihi is considered a delicacy that is enjoyed on a special occasion. We want to be able to continue to share this delicacy with others.

Thank you for providing me the opportunity to testify.

Jennifer Lopez Reavis
Small Business Owner
P.O. Box 13
Kurtistown, HI 96760
808-640-9263

Testimony of The Nature Conservancy of Hawai'i
Supporting the Intent of S.B. 2923 SD1 Relating to 'Opihi Harvesting and Possession Restrictions
Senate Committee on Judiciary and Labor
Friday, February 24, 2012, 10:00AM, Rm. 016

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawai'i's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 10 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy supports the intent of S.B. 2923 SD1. We believe this measure is an important step toward the recovery of over-harvested 'opihī species in Hawai'i.

We are concerned that the bag limit in the SD1 version of the bill now only applies to non-commercial harvests, with no bag limits whatsoever for commercial harvesting. If the committee is not inclined to reinstate the bag limits for everyone, then you might consider eliminating them entirely and subjecting everyone to the same closed areas and seasons.

Although limpets grow throughout the world, Hawai'i's 'opihī are only found here, evolving over thousands of years in isolation to become unique species. 'Opihī shells in archaeological layers are some of the earliest evidence of human habitation in the Hawaiian Islands. Indeed, 'opihī have been an important and prized food source for Hawaiians for centuries.

Sadly, Hawaiian 'opihī have been severely depleted and are becoming increasingly difficult to find in the main islands, especially the larger sized 'opihī. We are in danger of losing not only a marine animal that is unique in the world, but also losing an important direct connection to Hawaiian history and culture. We need to sustain the 'opihī population for future generations.

Thank you for the opportunity to testify on this bill

BOARD OF TRUSTEES

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Thomas T. Shirai Jr.
P O Box 601
Waialua, HI 96791
Email: Kawaihapai@hawaii.rr.com

February 10, 2012

SENATE COMMITTEE ON JUDICIARY & LABOR
Senator Clayton Hee, Chair
Senator Malie Shimabukuro, Vice Chair

Notice of Hearing

DATE: Friday, February 24, 2012
TIME: 10:00AM
PLACE: Conference Room 015
State Capitol
415 South Beretania Street

RE: Testimony SUPPORTING SB 2923 SD1 (Relating To Opihi And Possession Restrictions)

Aloha Chair Hee, Vice Chair Shimabukuro & Committee Members,

Before proceeding, I like to send a heartfelt thanks to Senator Hee for his diligence for continuing to introduce this measure as done in the past 2-3 Legislative Sessions.

My name is Thomas T Shirai Jr and testifying as an individual. I serve on current Community and Cultural entities such as the *North Shore Neighborhood Board 27 (Sub-District 1 – Mokule'ia to Ka'ena)*, *Ka'ena Point Advisory Group (Cultural Delegate)* and *Mokule'ia Community Association (MCA)* as *Cultural Advisor*. Most noteworthy is recognition by the *State Historic Preservation Division (SHPD)* as a *Lineal Descendant* twice (*Ahupua'a of Kawaihapai and Paalaa-Kai*) along with other *Cultural Descendancy* for specific geographical areas within *Waialua Moku*. These recognitions are for caring of specific matters regarding *Malama Iwi Kupuna*. Lastly my *Kupuna* were *Cultural Informants of Waialua Moku for Bishop Museum*. They were featured in *Bishop Museum Publications* entitled *Archeology of Oahu (McAllister-1933)* and *The Hawaiian Planter (Handy-1940)*.

The *Ahupua'a of Kawaihapai* and *Ka'ena* are situated on the *Northwest Coastline of Waialua Moku* here on the *Island of Oahu*. This testimony strongly supporting SB 2923 SD1 has an emphasis and applicable to the *Ahupua'a of Ka'ena* where the *Ka'ena Natural Area Reserve (NAR)* is situated.

A portion of *Ka'ena Natural Area Reserve (NAR)* was once owned by my *Grandfather's (David Peahi Keao Jr) Ohana* dating back as original *Patent Owners* known as *Grant 1665 (Kaailau & Keino)* which started with my *Grandfather's Great-*

Great Grandparents Kane & Mamala Kalauohaena (Widow of Keahipaka Keahilele) to Joh Keahipaka who deeded it Clara Napuakekau Kakulu who is my Grandfather's Mother and being my Great Grandmother. This Aina has an extremely sentimental essence of my family's legacy of stewardship that includes subsistence gathering and resource management. I've attached an article I wrote and featured in Hawaii Fishing News (December 2009). This area eventually became the Ka'ena Natural Area Reserve (NAR) where recently a Predator Proof Fence (<http://restorekaena.org/gallery-videos.html>) was built to protect fauna, flora along with cultural and historical sites. Additionally, last week Interpreted Signs were installed for education and protection of the most significant cultural site within the NARS called Leina Ka Uhane.

Offshore is an established Bottom Fish Restricted Fishing Area (BRAFA) however, there is no protection for shoreline and near shore waters. This SB 2923 SD1 would greatly contribute to the optimum of Malama Ka'ena whereby defining a Complete Ahupua'a System for that section of Ka'ena.

An example of ongoing restoration for Ka'ena State Park and the Ka'ena Natural Area Reserve (NAR). The Mokule'ia Community Association (MCA) along with support from the North Shore Neighborhood Board 27 was able to coordinate participation from the US Army 25th Infantry Division stationed at Schofield Barracks to successfully remove numerous derelict vehicles and trash debris resulting in large tonnage. This was accomplished thru usage of the Army's Chinook Helicopters, flatbed trucks and workforce of garrison working alongside our community members.

In conclusion, SB 2923 SD1 is greatly needed and language in this measure should be preserved and applicable to Natural Area Reserve System (NARS) such as Ka'ena Natural Area Reserve. Thank you for your time to provide testimony strongly supporting SB 2923 SD1. Malama Pono.

*Thomas T Shirai Jr
Mokule'ia, Waialua*

Honolulu Advertiser

Letter to Editor

August 20, 2004

Don't build Ka'ena Point road

We are writing in response to the letters by Mr. Hans Kealoha Wedemeyer (June 24) and Mr. Bradley A. Coates (July 6) advocating that a road be built around Ka'ena Point. We would like to make several points in opposition to this recommendation:

From the Office of State Planning Land Use Division's Subregional Land Use Plan: Mokule'ia to Ka'ena: "All shorefront lands from the western end of the Crozier Drive urban district to Ka'ena, all foothills mauka to the top of the cliffs, and all lands westward from Dillingham (Kawaihapai) airfield. These lands would be used for park purposes, forest recreation, or preserved for their natural values and wildland and scenic qualities. ... Uses in this zone should be compatible with the wildland character. Any structures or clearings should be related to enhancing outdoor recreation uses in a natural or wildland setting. Urban uses would not be compatible in this zone and should not be expanded. A paved highway around Ka'ena Point would not be allowed."

The Central O'ahu/North Shore Regional Plan also states that a paved highway around Ka'ena Point would not be allowed

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From the North Shore Sustainable Communities Plan: "Protect the natural resources of Ka'ena Point from potentially damaging vehicular traffic and roadway development."

From the Wai'anae Sustainable Communities Plan: "Preservation of lands north of Kepuhi Point as open-space lands." In addition, while the plan acknowledges the need for another access road, it never suggests a road around Ka'ena Point as an option.

Ka'ena Point is culturally sacred to the Hawaiian people as the place where souls leave this world and enter the next. There are many cultural remains in the cliffsides and down toward the beach. To build a road in this area would amount to sacrilege and desecration.

Ka'ena Point is a federally recognized and protected natural reserve and, as such, is part of the the Hawai'i Natural Areas Reserve System. It is also a state park. Any road would endanger the area's ecosystem.

In the 2000 legislative session (SCR 160), it was determined by the Department of Transportation that it would cost at least \$500 million to build such a road around Ka'ena Point. Four years later, the cost probably would be at least a third higher. Bottom line: It could cost at least half the entire state operating budget to build such a road.

There is an entire community on the other side of Ka'ena Point that both letter writers have failed to take into consideration with their support of this idea. They never asked the Mokule'ia community what we think of this idea, which would have a major impact on our agricultural, conservation and open-land policies, as well as our country lifestyle and quality of life. For all the foregoing reasons, we strongly oppose the recommendation for a road around Ka'ena Point, and we will be monitoring this issue very carefully in the future.

Mike Dailey, Vicky and Kimo Lyman, Kathleen M. Pahinui, Lloyd O'Sullivan, Stewart Ring and Thomas Shirai

Mokule'ia residents



Aloha Chuck,

In the December 2006 issue, Hawaii Fishing News featured an article I wrote about Ka'ena Point and my family's legacy. Included are pictures from my photo album taken in 1968 when my Grandparents (David & Abigail Keao) and I were also accompanied by my Father (Thomas Shirai) on this holoholo to Ka'ena. The primary seafood subsistence area that my Grandparents would go to was located on Ohana Aina situated at the tip of Ka'ena. That parcel dates back to *The Mahele* (Grant 1665) when my Grandpa's Kupuna owned a portion of it and continued until World War II when the US Military condemned parcels such as this one to established their installations and training areas. After WWII ended *aina* (land) such as this was to revert back to owners however, many never did.

Regardless of this, my Grandparents continued to frequent there for subsistence purposes after my birth. These photos were taken in 1968 and a few years later, we stopped going to Ka'ena due to increased recreational and subsistence usage and along with the lack of stewardship such as conservation that defeating the concept of *Malama Aina*. Among the subsistence affected is gathering and making *paakai* (sea salt). In recent years entities such as the *Mokule'ia Community Association* have been a tremendous part of clearing *Opala* from this *Wahi Pana*.

Today this parcel is now known as the Ka'ena Natural Area Reserve (NAR) where *Wildlife* (Flora and Fauna) are protected. Gone are those memoirs of abundant seafood subsistence and vehicular transiting to *Keawaula* and the *Waianae Coastline* due to erosion of the road years ago which was part of the *OR & L* train track. The *Natural Area Reserve* also protects several cultural sites within it which includes *Leina Ka Uhane* and *Fishing Ko'a* (shrines) for the once abundant subsistence. Off Shore of the NARS, is an established *Bottom Fish Restricted Fishing Area* (BFRA - A). The Ka'ena Natural Area Reserve *Predator-Proof Fencing Project* will give this area of Ka'ena *Ahupua'a* the afforded protection it is highly deserving of.



Information including a video about this project can be found on the *Department of Land & Natural Resources* (DLNR) website: <<http://www.restorekaena.org/gallery-videos.html>>

Thank you for the opportunity to share some of my *Ohana legacy* and *mana'o*.
 Malama Ka'ena. Thomas T Shirai Jr.
 Mokule'ia, Waialua

