



# Sierra Club Hawai'i Chapter

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## HOUSE COMMITTEE ON WATER & LAND

February 11, 2013, 8:30 A.M.  
(Testimony is 1 page long)

## TESTIMONY IN SUPPORT OF HB 106 HD1

Aloha Chair Evans and Members of the Committee:

The Sierra Club, Hawai'i Chapter, with 10,000 dues-paying members and supporters, **supports** HB 106 HD1. This measure ensures a process to determine the best areas to site geothermal activity.

The Sierra Club recognizes that, among the potential energy sources available to Hawaii, geothermal energy represents an important resource. The Club supports the diversification of Hawaii's energy options for our island communities and supports the careful utilization of a local resource.

It should be noted that exploitation of geothermal resources can result in detrimental impacts on the environment and public health. Among these are the emissions of toxic gases and chemical substances that could result in the degradation of air quality, pollution of surface waters and groundwater, damage to living organisms, and hazards to public health. Additional problems arise from the heavily industrial character of geothermal operations for electrical generation, and the frequent occurrence of exceptional natural, scenic, cultural and archaeological values in geothermal resource areas.

To this end, we support HB 106 HD1 as it ensures communities and concerned citizens have an early and direct role in the planning and decision-making processes associated with geothermal development. Subzones would assist with the adoption of appropriate environmental and social safeguards, including appropriate buffer zones, for proposed geothermal projects. Further, a more holistic approach could restrict development from lands included in or adjacent to federal, state, or local park systems; in wildlife refuges and management areas; or in areas known to provide habitat for rare or endangered species.

Mahalo for the opportunity to testify.

## lowen2-Anosh

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 10, 2013 8:09 PM  
**To:** waltestimony  
**Cc:** bjbleonard@yahoo.com  
**Subject:** Submitted testimony for HB106 on Feb 11, 2013 08:30AM

### HB106

Submitted on: 2/10/2013

Testimony for WAL on Feb 11, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Leonard, Ph.D.	Individual	Support	No

Comments: February 4, 2013 Representative Chris Lee, Chair Committee on Energy & Environmental Protection State of Hawaii House of Representatives State Capitol Honolulu, Hawaii  
Re: HB 106 Relating to Geothermal Resources Purpose of HB 106 • Repeal Act 97 of 2012 I support former Mayor Harry Kim's comments below: • I support the repeal of Act 97, SLH 2012 • With the repeal of Act 97, I support the reinstatement of HRS 205-5 Background of Geothermal Resource Subzones (HRS 205-5) • Geothermal subzones were required by Act 296, passed in 1983 by the state legislature. Act 296 added new sections of HRS as HRS 205-5. • In adopting Act 296, the legislature found that the development and exploration of Hawaii's geothermal resources is of "statewide concern" and "must be balanced with interests in preserving Hawaii's unique social and natural environment." (Section 1, Act 296) • The purpose of Act 296 was to provide policies that "will assist in the location of geothermal resources development in areas of the lowest potential environmental impact." (Section 1, Act 296) • Established the permitting process for geothermal resource permits. This authority was assigned to County government. The following are the legislative guidelines directing the Board of Land and Natural Resources in the designation of geothermal subzones (HAR 13-184-6): (1) That the area has potential for geothermal development activities; (2) That there is a known or likely prospect for the utilization of geothermal resources for electrical energy production; (3) That any potential geologic hazards to geothermal production or use in the proposed area are examined; (4) That any environmental or social impacts of the development of geothermal resources within the proposed area be considered; (5) That the compatibility of development and utilization of geothermal resources within the proposed area is considered with other allowed uses within the area and within the surrounding lands; (6) That the potential benefits to be derived from geothermal development and utilization in the proposed area be in the interest of the county or counties involved and the state as a whole. Permitting Process Act 296 SLH 1983 (HRS 205-5) provided for local control and provided an opportunity for people's input about affected areas by giving the County government the authority in the permitting process. The geothermal resource permit process was under the total auspices of the County government. Act 97 SLH 2012 It is surprising to note that Act 97 contains sweeping legislative changes that did not explain why these changes were being made. Those changes were mainly of exempting geothermal resource exploration and development from the existing processes (HRS 205-5) for land use designation and environmental review. This concern was also echoed by the University of Hawaii Environmental Center in its review and comment on this proposal. The only reasoning given by the supporters of this sweeping change of Act 97 was that it eliminated geothermal subzone designation requirements and streamlined portions of the regulatory processes and reduced layers of state regulation concerning geothermal development. These positions were made by the DBEDT and DLNR in testimony

presented to committee. Serious concerns about Act 97: • Act 97 eliminates an entire area of law created to respond to the unique hazards created by geothermal exploration and development, and to ensure opportunity for public comment in the affected communities. • Eliminates the subzone provisions which completely controverts the intent of the legislature to ensure that geothermal development would only occur in areas of the “lowest potential environmental impact.” • Completely disregards the compatibility of the development of geothermal resources with other uses within the area and within the surrounding lands. • It allows for a geothermal power plant to be built anywhere in agricultural and rural districts without a County land use permit or public hearing because it is a right by law. This is so because Act 97 states this is a permitted use in those districts. Bear in mind that this is a major industrial plant. • It allows geothermal exploration and development in all state land use categories: conservation, urban, rural, and agricultural (including ceded lands.) • It removed all meaningful input opportunity by the community and its people who are most affected. This was done by stripping the County government of its land use control over geothermal development. Conclusion It is strongly felt that the commitments made to the people of this state in the development of geothermal resources through 1983’s Act 296 are good and well thought out. The Act emphasized the importance of environment, of people, of hazards, of land use planning, and provided for people’s involvement and opportunity for meaningful input. It is also noted here that extensive work was done by the DLNR in identifying geothermal subzones. Additionally, provisions were made for property owners to add or remove their land from geothermal subzone designation after the initial DLNR actions. There is one major factor that has come to light in the past year that all should be concerned about; it is the possible direction that this state moving towards, which is geothermal development using a “fracking” process (also known as an “enhanced geothermal process”). This was brought into focus because of a recent \$2 million state contract to review and explore this method of geothermal development on Oahu. We all should be very concerned about this process because of its possible impact to this precious place. I find it very difficult to understand that Act 97 of 2012 passed with no mention and no concern about very important factors. These factors were those of concerns of environment, of people, of hazards, of people’s input, and of land use planning. The only purpose mentioned in this sweeping Act was to expedite the geothermal process by the removal of layers of government regulation. Surely the priority of culture, health, environmental concerns, and spiritual care must be of importance and not be completely ignored for the sake of expediting the development of geothermal. This is on the hope that government will be fair and do what is right by law and sense of what is right. This Act should not have been, it cannot be fixed. Sincerely, Barbara Leonard, Ph.D.

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## lowen2-Anosh

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 10, 2013 8:34 PM  
**To:** waltestimony  
**Cc:** inunyabus@gmail.com  
**Subject:** Submitted testimony for HB106 on Feb 11, 2013 08:30AM

### **HB106**

Submitted on: 2/10/2013

Testimony for WAL on Feb 11, 2013 08:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Elaine D.	Individual	Comments Only	No

Comments: Aloha Chair and Committee Members, It is important that we do not reduce ANY layers of regulation concerning Geothermal. Act 97 must be repealed. This is serious business. If anything, more layers are needed and especially the modest request of affording of sub zones; which does not really protect the people of Hawaii from rampant blasting frenzies for energy sources, through geothermal methods, which are already known to be unreliable, short-lived and dangerous. It is documented. The residents of Hawaii have a right to a clean, safe and toxin free environment. Geothermal is known to have adverse health, environmental, and socio-economic effects on people and surrounding property and there is nothing provided in Act 97 to ensure or mitigate in the likely event of a disaster. That is unacceptable. It is irresponsible. Take a step back and envision thousands of applications to blast the Hawaiian Islands to the core. At the same time try, to imagine perfunctory administrative permitting processes (probably handled by 3-5 conflicted board members) to address and investigate the expertise and integrity of applicants. Who in their right mind thinks this is sane? A hand shake and a thumbs up won 't cut it for assurances. Geo thermal developers will be on the next plane out to the next region they can exploit the minute there 's a disaster. This is hardly the same as approving a permit to build a house. You will be entrusting strangers, multi-nationals with no loyalty to Hawaii to blast into lava tubes and completely shatter already fragile islands with little to no regulations for protection in place. All for the purpose of avoiding the mandated carrying capacities and cumulative impact concerns with the intent of crowding even more people into a finite area in a fever to fulfill their energy 'demands'. PLEASE Repeal of Act 97.

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## lowen2-Anosh

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 10, 2013 6:31 PM  
**To:** waltestimony  
**Cc:** ellenswenson@yahoo.com  
**Subject:** Submitted testimony for HB106 on Feb 11, 2013 08:30AM

**Follow Up Flag:** Follow up  
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### **HB106**

Submitted on: 2/10/2013

Testimony for WAL on Feb 11, 2013 08:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
ellen schomer	Individual	Support	No

Comments: please repeal act 97

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Councilmember Gary Hooser  
Kauai County Council  
Lihue, Kauai 96766

February 9, 2013

Representative Cindy Evans, Chair  
Committee on Water and Land  
State of Hawaii House of Representatives  
State Capitol  
Honolulu, Hawaii

Re: HB 106HD1 Relating to Geothermal Resources

Purpose of HB 106 - Repeal Act 97 of 2012

Position : **Strong Support**

My name is Gary Hooser. I am an elected member of the Kauai County Council and am testifying in strong support of HB106HD1 which repeals Act 97. And with the repeal of Act 97, I support the reinstatement of HRS 205-5

Act 97 eliminates the participation of County government and thus eliminates the participation and voice of local residents in this very, very local issue.

In their zeal to develop new energy sources proponents of geothermal development are choosing expediency over a deliberate thoughtful process that includes the meaningful input of local residents and county government.

Geothermal represents a valuable energy source but its development should be done in a manner that respects the community in which it will be placed, and proper protections must be included to protect the health and welfare of local residents and the natural environment. This can only be done via a genuine engagement of the local community and the local government and Act 97 eliminated that opportunity and trust at the same time.

For these reasons and the many other presented by the residents and leadership of Hawaii County and by people from through-out our State concerned about those statewide implications, I strongly support the passage of HB106HD1 and the repeal of Act 97

**lowen2-Anosh**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 11, 2013 10:40 PM  
**To:** waltestimony  
**Cc:** juggler@aloha.net  
**Subject:** Submitted testimony for HB106 on Feb 11, 2013 08:30AM

**HB106**

Submitted on: 2/11/2013

Testimony for WAL on Feb 11, 2013 08:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Graham Ellis	Individual	Support	No

Comments: I support HB 106 because Act 97 took away geothermal zoning decisions FROM counties and gave that right to the State and also allows "geothermal fracking anywhere in the state.

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# Indigenous Consultants, LLC

Mililani B. Trask, Principal

P.O.Box 6377 ❖ Hilo, HI 96720

[Mililani.trask@gmail.com](mailto:Mililani.trask@gmail.com)



Bill #: HB 106 HD1

Date and Time: Monday, February 11, 2013 at 8:30 am

Location: Conference Room 325

Committee: EEP, WAL, FIN

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.

## Opposition to the Inclusion of Geothermal Subzones:

The IC does not support restoring language relating to geothermal subzones.

Today, geothermal resources are being developed all over the world. Scientific & Industry standards exist today that were not in existence 30 years ago when geothermal development first came to Hawaii.

Today, Geothermal testing, exploration and assessment precedes the designation of areas for geothermal development. In today's world, when areas are designated for geothermal development, the practice is to identify an area for the project footprint.

This was not done in Hawaii 30 years ago when huge areas of the Big Island were put into subzones for political reasons rather than scientific reasons. Thirty years ago environmentalist groups decided that they wanted to conserve some areas & agreed to "sacrifice & give up" the east rift zone, Puna & Hualalai. This fact is reflected in the law itself that says the designation of geothermal subzones was based on the need to preserve other areas for conservation.

Thirty years ago powerful political entities & personalities wanted their lands to be designated so that the value of their lands would greatly increase. The Bishop Estate & politically affiliated Greenwell families owned Hualalai & wanted to increase the value of their lands. Hualalai was designated despite the fact that the science data indicated a poor chance of success for electrical generation (< 35% chance). Because Papa Lyman (a powerful KS/BE Trustee) wanted his family lands developed, & the family developer had already acquired rights to the abutting



10,000 acres, a huge area of Puna became a “subzone”.

The PGV plant in Puna sits on Lyman family land, & until last year, thousands of acres abutting the plant belonging to Ormat were still in a ‘subzone’. This is neither responsible nor necessary.

GEOHERMAL DEVELOPMENT SHOULD ONLY BE PURSUED IN A RESPONSIBLE & SAFE WAY, BASED ON SCIENCE & EXPLORATION THAT DEMONSTRATES THAT THE RESOURCE IS PRESENT IN THAT LOCATION.

DO NOT RESTORE GETHERMAL SUBZONES, LIMIT ALL PROJECTS TO THE AREA NEEDED FOR THE DEVELOPMENT.

LIMIT DEVELOPMENT TO THE PROJECT FOOTPRINT.

Regards,

A handwritten signature in black ink, appearing to read "Mililani B. Trask". The signature is written in a cursive style with a horizontal line extending to the right.

Mililani B. Trask – Indigenous Consultants LLC

## lowen2-Anosh

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 10, 2013 6:35 PM  
**To:** waltestimony  
**Cc:** mojo@hedonisiahawaii.com  
**Subject:** Submitted testimony for HB106 on Feb 11, 2013 08:30AM

### **HB106**

Submitted on: 2/10/2013

Testimony for WAL on Feb 11, 2013 08:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mojo Mustapha	Individual	Support	No

Comments: Big business should not be able to have different laws than the rest of us. Our tiny sustainable community has to go through very bureaucratic and expensive process to get a Special Use Permit. And we are actually trying to conserve and protect the natural flora of Hawaii! As Mayor Harry Kim says, there are serious concerns about Act 97: • Act 97 eliminates an entire area of law created to respond to the unique hazards created by geothermal exploration and development, and to ensure opportunity for public comment in the affected communities. • Eliminates the subzone provisions which completely controverts the intent of the legislature to ensure that geothermal development would only occur in areas of the “lowest potential environmental impact.” • Completely disregards the compatibility of the development of geothermal resources with other uses within the area and within the surrounding lands. • It allows for a geothermal power plant to be built anywhere in agricultural and rural districts without a County land use permit or public hearing because it is a right by law. This is so because Act 97 states this is a permitted use in those districts.

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**HOUSE COMMITTEE on WATER & LAND**

**February 11, 2013 Public Hearing  
Conference Room 325  
8:30 AM**

**HOUSE BILL 106, HD1  
RELATING TO GEOTHERMAL RESOURCES**

Testimony in STRONG SUPPORT by Michelle S. Matson

Aloha Committee Chair Evans, Vice Chair Lowen and Committee Members:

PLEASE REPEAL ACT 97, 2012.

Act 97 eliminates the significant law created by the legislature in its wisdom to respond to the hazards of geothermal exploration and exploitation. Similar to the PLDC, Act 97 exempts geothermal resource exploration and development from established processes for land use designation and environmental review.

Act 97 eliminates the subzone safeguard provisions clearly intended by the Legislature to ensure that geothermal development would only occur in areas of the “lowest potential environmental impact.” **This should not be compromised in any way as it is an undisputable matter of public health, safety and welfare.**

Geothermal subzones were required by HRS 205-5 (Act 296, 1983). Act 296 emphasized the importance of protecting Hawaii's environment and people; respecting established land use policies and principles; recognizing proven as well as potential hazards; and providing for the involvement and meaningful input by the affected community.

The legislature found that exploration and development of geothermal resources is of “statewide concern” and “must be balanced with interests in preserving Hawaii’s unique social and natural environment.” (Section 1, Act 296.) The following legislative guidelines directed the Board of Land and Natural Resources in the designation of geothermal subzones (HAR 13-184-6), which the DLNR worked extensively to identify:

- That the area has potential for geothermal development activities;
- That there is a known or likely prospect for the utilization of geothermal resources for electrical energy production;
- That any potential geologic hazards to geothermal production or use in the proposed area are examined;
- That any environmental or social impacts of the development of geothermal resources within the proposed area be considered;
- That the compatibility of development and utilization of geothermal resources within the proposed area is considered with other allowed uses within the area and within the surrounding lands

- That the potential benefits to be derived from geothermal development and utilization in the proposed area be in the interest of the county or counties involved and the state as a whole.

Similar to the PLDC, Act 97 now allows geothermal exploitation of all state land use categories: conservation, urban, rural, and agricultural.

Similar to the PLDC, Act 97 fully disregards compatibility of industrial geothermal development with other uses within the immediate area and surrounding lands.

Similar to the PLDC, Act 97 allows geothermal power plants to be built anywhere in agricultural and rural districts without a County land use permit or public hearing.

Act 296 provided that the geothermal resource permitting process authority would be the County government to ensure local control and public comment. Yet Act 97 strips County government of rightful land use control over geothermal development, and removes all meaningful opportunity for affected communities to respond. **The established opportunities for public comment on undertakings of such magnitude must be ensured at both the state and county levels, especially in any and all affected communities.**

Most recently, it has become known that certain untoward influences in the state are promoting a so-called "enhanced geothermal process" - otherwise known as hydraulic fracturing ("fracking"). This controversial and dangerous process has been outlawed in France, Vermont and New York, and has been met with strong legal challenges now in California.

See:

<http://www.acwa.com/news/groundwater/new-lawsuit-filed-over-fracking-california>

[http://www.huffingtonpost.com/2012/10/16/california-fracking-lawsuit-2012\\_n\\_1971415.html](http://www.huffingtonpost.com/2012/10/16/california-fracking-lawsuit-2012_n_1971415.html)

<http://www.bloomberg.com/news/2013-01-24/california-sued-for-allegedly-failing-to-regulate-fracking-1-.html>

<http://www.californiaprogressreport.com/site/lawsuit-filed-against-fracking-oil-lobbyist-says-its-safe>

It would behoove this committee to **most seriously consider** the ultimately destructive effects of geothermal exploration and exploitation under Act 97, which, like the PLDC, merely serves to expedite the geothermal process by the removal of layers of government regulation; and the associated potentially disastrous effects of "fracking": drinking water poisoned by toxic chemicals; enormous consumption of finite domestic and agricultural water resources; polluted air and wildlife deaths; industrial disasters and explosions; and earthquakes.

**Like the PLDC, Act 97 cannot be "fixed." Act 97 must be repealed.**

Bill #: HB 106 HD1

Date: Monday, February 11, 2013

Time: 8:30 am

Location: Conference Room 325

Committee: EEP,WAL, FIN

The Innovations Development Group (IDG) is a Hawaii based corporation with a focus on the development of native owned lands & energy resources in a manner that is culturally appropriate, environmentally clean & sustainable, socially responsible and economically equitable. For over 10 years, the IDG has worked with indigenous peoples, not only as consultants but also as joint venture partners, to develop geothermal energy in New Zealand. IDG's board members are residents of the State of Hawaii who were born and raised in our State, many board members are native Hawaiians.

**Opposition to Geothermal Subzones – Why Subzone designation is dangerous**

The IDG is strongly opposed to resurrecting 'geothermal subzones' because the designation of subzones exposes huge areas of land to development without science to verify that development of the resource is safe for the project, the land and the abutting landowners as well as the community.

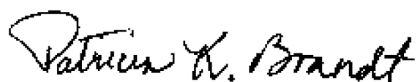
**Geothermal development areas are designated only after scientific testing demonstrates that the resource is present & can safely be developed.**

**If this is demonstrated by science & exploration, development proceeds & is limited to the footprint of the project.**

A sterling example of the problems with geothermal subzone designation is what happened on Hawaii Island 30 years ago. Developers wanted to move forward and some landowners wanted their islands to increase in value. Circles were drawn on a map for political reasons & thousands of acres & miles of lands, public & private, became areas 'available for geothermal development without scientific testing. Terrible mistakes were made. Hualalai was designated a development area despite the fact that science indicated there was a poor chance of finding geothermal resources sufficient for electrical generation. Thousands of acres in Puna & the entire East Rift Zone including public & private lands, residential areas, schools & even an evacuation route all became available for development without scientific justification demonstrating that development in those areas was safe for the project & the community. Huge explosions occurred, Civil Defense had to evacuate Puna twice & a child died when a pregnant mother inhaled sulphur from the discharge. This did not have to happen, but it did because the appropriate protocols for safe geothermal development were ignored.

Lets not repeat historical mistakes, let science & exploration proceed, and limit development to the footprint of the project.

Mahalo,



Patricia Brandt,  
CEO, Innovations Development Group

**lowen2-Anosh**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 11, 2013 8:17 PM  
**To:** waltestimony  
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**HB106**

Submitted on: 2/11/2013

Testimony for WAL on Feb 11, 2013 08:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shannon Rudolph	Individual	Oppose	No

Comments:

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