

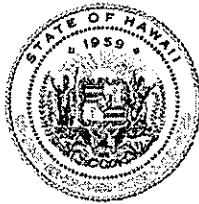
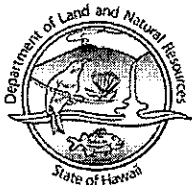
HB106, HD2

RELATING TO GEOTHERMAL RESOURCES.

Establishes a permitting process for geothermal resources development within agricultural, rural, and urban districts.

Establishes application requirements for geothermal resources development within conservation districts. Effective 07/01/2020.
(HD2)

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 Committees on
ENERGY AND ENVIRONMENT
and
WATER AND LAND
and
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

Thursday, March 21, 2013
3:15 P.M.
State Capitol, Conference Room 225

In consideration of
HOUSE BILL 106, HOUSE DRAFT 2
RELATING TO GEOTHERMAL RESOURCES

House Bill 106, House Draft 2 proposes to establish a permitting process for geothermal resources development within agricultural, rural, and urban districts, and establishes application requirements for geothermal resources development within conservation districts. **The Department of Land and Natural Resources (Department) supports this measure in its current form and offers the following comments:**

This measure provides the regulatory framework that restores home rule authority and considers the input of the local communities to address environmental, socio-economic, and cultural impacts of a geothermal resources development project on a project/site specific basis. Evaluating these impacts at the project level is the most practicable and effective approach, which minimizes risks and costs for both geothermal developers and the State. Creating a clear permitting process for developers will assist the State in meeting our clean energy goals, which will ultimately create jobs, generate revenue, and reduce our dependence on fossil fuels.

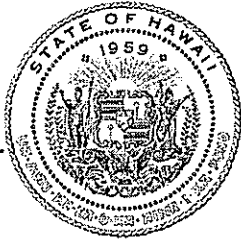
One of the criteria for a geothermal resources development permit application specified in Section 205-A(a)(4), Hawaii Revised Statutes, of this measure, is the establishment of an "...appropriate, industry recognized buffer zone between the proposed geothermal resources development and abutting land." The Department is unaware of such "industry recognized" buffer zones. However, we recognize that existing rules and/or ordinances may specify "setback" requirements, and noise and emission levels are regulated by the Department of Health. As such, the Department suggests either defining or removing reference to the term "buffer zone" to avoid conflict or duplication of regulations as the intent of this provision may already be covered under a separate authority.

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

ESTHER KIA'AINA
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
KAIHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



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

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
**SENATE COMMITTEES ON ENERGY AND ENVIRONMENT,
WATER AND LAND, AND
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS**

Thursday, March 21, 2013
3:15 p.m.
State Capitol, Conference Room 225

in consideration of
HB 106, HD 2
RELATING TO GEOTHERMAL RESOURCES.

Chairs Gabbard, Solomon, and Espero, Vice Chairs Ruderman, Shimabukuro, and Baker,
and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) supports,
with amendments, HB 106, HD 2, which amends Act 97 by reauthorizing County Geothermal
Resource Permits (GRPs) and requiring State and County agencies to assess additional factors in
the geothermal resource development permitting and siting processes.

We respectfully offer the following comments:

- The elimination of statutory County authority to issue GRPs was an inadvertent consequence of Act 97. DBEDT strongly supports restoring home rule by reauthorizing the Counties' Geothermal Resource Permit authority.
- Regarding section §205-A(a)(4), we recommend the deletion of the following language: "including the establishment of an appropriate, industry recognized

buffer zone between the proposed geothermal resources development and abutting land.” To our knowledge, no such buffer zones for geothermal exist in any U.S. jurisdiction or in other countries; there are no “industry recognized” buffers. In addition, we note that in 2012 the Hawaii County Council considered creating a one-mile buffer zone around the Puna Geothermal Venture plant; this proposal stimulated strenuous objections from neighboring residential landowners and small businesses whose enterprises would have been negatively affected.

- DBEDT does not support reinstating subzones. The subzone designation process can be lengthy, open ended, and costly to the State and private petitioners. Additionally, we are concerned that the cost to designate a subzone by a private petitioner will be ultimately passed onto ratepayers as part of overall facility development cost. Also, regarding geothermal facility development without the subzone process, multiple opportunities for environmental mitigation measures and public input remain in place in the State permitting processes and will be restored at the County level if the GRPs are reauthorized as intended by HB 106, HD 2.
- We defer to the appropriate permitting agencies regarding the additional factors—geologic hazards, environmental or social impacts, and compatibility—to be taken into consideration by the Department of Land and Natural Resources in issuing a Conservation District Use Permit (CDUP) for geothermal and by the Counties in issuing a GRP.

Thank you for the opportunity to offer these comments.

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Amara Karuna	Hawaii Sustainable Communities Alliance	Support	No

Comments: Please support this bill I support the following amendments to HB 106 HD2:
1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. thank you Amara Karuna

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Jim Albertini		Support	No

Comments: Aloha kakou, Our organization supports the following amendments to HB 106 HD2: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. But, in addition, our organization stands in solidarity with the Pele Defense Fund and others in opposing Geothermal energy in Hawaii because it desecrates Hawaiian spiritual beliefs. Drilling into Pele is sacrilegious. In addition, there are serious health and safety issues that have not been addressed, including a major earthquake shearing off the well heads causing permanent evacuation zones with a real estate value far beyond the \$25 million liability policy of PGV. The tax payer will be stuck holding the bag. Jim Albertini --Malu Aina

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Henry Curtis	Life of the Land	Support	Yes

Comments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Luana Jones	Geothermal Neighbors	Support	No

Comments: Geothermal development in Hawaii is very hazardous, and not compatible in neighborhoods. I have been a neighbor to PGV since before they started operations, and I believe they would agree. What I can't understand is, "If good government formulates regulations (and permits) for appropriate business standards to ensure public safety, why would we/they/gov. not implement the standards and processes?" I support this bill; the people's well-being should come first, not business' Please pass this bill. Mahalo for generations!

Carlton Saito

From: Robert Petricci [nimo1767@gmail.com]
Sent: Wednesday, March 20, 2013 12:33 PM
To: ENETestimony; WTLTestimony; PSMTTestimony
Subject: Testimony RE: HB106 SD2 ENE/WTL/PSM Mar 21, 2013 3:15 PM
Attachments: B proposed HB106 SD1.pdf

ENE/WTL/PSM 225 Mar 21, 2013 3:15 PM

March 20, 2013

RE: HB106

Position: support with amendments outlined below.

From: Robert Petricci

Representing: Puna Pono Alliance

To the Senate Committee on Energy and Environment

Senator Mike Gabbard, Chair, Senator Russell E. Ruderman, Vice Chair, and Committee on Water and Land

Senator Malama Solomon, Chair, Senator Maile S.L. Shimabukuro, Vice Chair, and Committee on Public Safety,

Intergovernmental and Military Affairs. Senator Will Espero, Chair, Senator Rosalyn H. Baker, Vice Chair.

With regard to the hearing on Thursday, March 21, 2013, at 3:15 p.m. in Conference Room 225 addressing HB 106, HD2 Relating to Geothermal Resources:

Puna Pono Alliance submits the attached proposed amendment of HB106 HD2 and, with said amendment, supports passage of HB106 in the Senate.

Our position is based on respect for the legislative process and concern for fair treatment of the community where we live and desires of geothermal developers. HB106 was introduced to restore three statutes that regulated geothermal activity in Hawai'i for nearly thirty years:

HRS § 205-5.1 regulated permitting of geothermal development
HRS § 205-5.2 provided for and governed geothermal resource subzones
HRS § 205-5.3 governed geothermal exploration

Act 97 repealed those laws and provided that geothermal exploration and development could take place in all land use districts (conservation, agricultural, rural and urban.) That left a vacuum in the regulation of geothermal activities in Hawai'i that was a cause of concern.

The Hawai'i and Maui County Councils passed resolutions calling for the repeal of Act 97. That position obtained widespread support, including even the mayor of Hawai'i County and local organizations that had previously been in conflict on geothermal issues.

HB106 was approved by the House Committee on Energy & Environmental Protection as HB106 HD1 with minor changes. HB106 HD1 was then heard by the Water & Land Committee, and received testimony from the Department of Land and Natural Resources saying that DLNR “strongly opposes the entire repeal of Act 97 and offers the following suggestions.”

Geothermal Resource Subzones:

DLNR’s WAL testimony said it “does not oppose restoring home rule authority in issuing land use permits” but “strongly opposes the restoration of geothermal resource subzones” for reasons including the contention that the assessment process required to recreate the subzones “would be very difficult and cost prohibitive.”

Recognizing some validity in that position, the attached proposed amendment specifies that previously existing subzones are restored retroactively to the date of Act 97, so there is no need to recreate them and therefore no associated difficulty or costs.

Decades ago, geothermal resources subzones were designated by BLNR after extensive research and evaluation of numerous factors, not the least being geology. As DLNR said in its WAL testimony, the developers of geothermal sites “are going to seek geothermal development where there is a high probability of potential.” That is a reference to geology, and the subzone assessment efforts began with the scientific analysis of geology.

In 1983 the Legislature enacted the Geothermal Resource Subzone Assessment and Designation Law (Act 296-83) saying development and exploration of geothermal resources must be balanced with preserving the State’s unique social and natural environment. The laws on permitting and geothermal subzones were coordinated and interrelated parts of that statutory scheme. A county by county assessment of areas with geothermal potential preceded the steps taken to designate geothermal resource subzone boundaries.

The August 1985 edition of the Geothermal Resources Council’s Transactions (Volume 9, Part I, pages 237-41) published an article titled The Designation of Geothermal Subzones in Hawaii authored by Takeshi Yoshihara, Energy Program Administrator of Hawai`i’s Department of Planning and Economic Development. The article begins by saying “maintaining a balance between economic development and preservation of the environment is a major concern in Hawaii.” The article describes how science governed the designation of subzone, in terms of making sure they were areas where with a high probability of potential geothermal resources. The Yoshihara article tells how BLNR obtained funding from the U.S. Department of Energy and the Department of Planning and Economic Development and assistance from local physical and social scientists to review the merits of each potential subzone. An assessment of the geothermal potential in each county was conducted by a Geothermal Resource Technical Committee that reviewed regional surveys conducted in Hawai`i during the past 20 years. “In all, 20 geographical areas showed some previously documented indication of a geothermal resource ... The assessment process resulted in the identification of seven areas with a probability of at least 25 percent of having” a likely resource. The assessment resulted in the identification by the BLNR of several areas as proposed geothermal subzones.

The designation of subzones not only identified geological potential for developers, but also gave notice to residents of the areas that geothermal development could take place there. For nearly thirty years that was the settled situation, until Act 97.

Restoration of geothermal resource subzones makes sense not only in identifying areas of a high probability of potential resources for developers but in continuing the situation of notice to residents of potential geothermal development.

The proposed amendment retroactively reinstates the subzones and also restores the laws related to their management, while omitting the provisions of the 1983 Geothermal Resource Subzone Assessment and Designation Law that required DLNR to undertake the process of initial assessment and designation of subzones. The amendment also restores to subzone management laws the opportunity for contested cases that was removed by amendments after the 1983 law was first enacted.

Permitting:

When HB106 HD1 was heard by the Water & Land Committee, DLNR testimony noted above led to removal of the subzones provision this amendment addresses. HB106 HD2 came out of Water & Land with its permitting provisions also changed by the committee's staff in a few details. After a hearing in the finance committee HB106 HD2 was sent over to the Senate and assigned to this joint ENE/WTL/PSM hearing (and then to WAM.)

We respect the legislative process that brought the proposed legislation to this point and we address the permitting provisions in that context. Some antagonists of HD2 have argued we manipulated the House Water & Land Committee to obtain changes there, but that is plainly not true. Changes that were made in Water & Land resulted from DLNR testimony against subzones and provisions written by the WAL committee's staff.

Now, taking HB106 HD2 as it arrived, we propose the following changes:

1. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws;
2. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mandatory mediation;
3. Provide for an appropriate buffer zone (but delete the term industry recognized);
4. Include review of the applicant's assessment statements in deciding the application;
5. Extend the permitting provisions to DLNR for conservation land;
6. Change the public notice requirement from two to three thousand feet.
7. Refer to judicial review instead of appeal; and
8. Delete former Sections 3-5 as superfluous.

The proposed amendment removes a mandatory mediation provision. Elimination of mandatory mediation will fix an original problem with geothermal permitting and provide that the permitting process will be subject to ordinary judicial review, the same as most comparable situations. Mediation is actually a voluntary effort used by people trying to settle a dispute, it is not an appropriate substitute for administratively adjudicating controversies.

While critics of HB106 HD2 may be correct in saying there is no geothermal industry standard buffer zone, the idea of a buffer zone is nonetheless a recognized and appropriate precaution in permitting. (A buffer zone ordinance widely supported by the affected community was passed by the Hawai'i County Council in 2012, but it was then vetoed by the mayor.)

HB932:

We are aware of an attempt to circumvent HB106, or bully it out of the picture, by some proposed amendments to HB932, and we very strongly object to that effort as disrespectful of the legislative process. HB106 was introduced as a geothermal permitting bill and followed the ordinary path through the House with public notice, testimony and hearings. While changes were made in the House that some may find disagreeable, there is now the ample and appropriate opportunity to address those matters in the Senate's hearing of HB106. Our testimony and our proposed amendment does just that with regard to matters we find important. Why should there be some side door effort with a proposed amendment of HB932 to address geothermal permitting matters others find important?

The proposed amendment of HB932 was unknown to the public (at this time it is still not posted on the Legislature's site) or committee members until just before the hearing, meaning there was no public notice or opportunity for comment on the proposed amendment. It attempts to make general changes to zoning law by amending a mining and mineral resources bill. That is contrary to the intent of Hawaii Constitution Article 3 Section 14 (requiring "[e]ach law shall embrace but one subject, which shall be expressed in its title.") Relevant case law says Section 14 is intended to prevent logrolling legislation, to prevent surprise or fraud on the legislature and to reasonably apprise people of legislative proceedings.

The attempt to bully HB106 out of the way was unnecessary as the amendment can well, appropriately and easily be offered for HB106. The effort instead seems to run over HB106 with an attempt to gain some perceived advantage at the expense of respect for the legislative process. We urge you to reject the attempt to hijack ordinary legislative procedures and require that parties interested in geothermal permitting legislation give their testimony and propose what they wish to amend in relation to HB106. Isn't that how it is supposed to be done?

Thank you for your consideration.

Robert Petricci
President Puna Pono Alliance

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Biko Rob Long	Laakea Community LLC	Support	No

Comments: Dear Senators, Please support this bill with these amendments: supporting the following amendments to HB 106 HD2: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. thank you, Biko Long

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Hank Fergerstrom	Na Kupuna Moku O Keawe	Support	No

Comments: We support HB106 as amended ...HB106 HD2

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Clive Cheetham	Koa'e Community Association	Support	No

Comments: Amend as follows: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

Carlton Saito

From: Richard Ha [richard@hamakuasprings.com]
Sent: Wednesday, March 20, 2013 3:35 PM
To: ENETestimony
Subject: HB106, HD2

Aloha Chair Gabbard and Vice Chair Ruderman

The Big Island Community Coalition (BICC) is strongly in favor of hb106, HD2.

The BICC steering committee members are Dave DeLuz jr- Pres of Big Island Toyota; John E K Dill, chair of the Ethics Commissions; Rockne Freitas, Michelle Galimba, Rancher and Board of Ag; Richard Ha, farmer Hamakua Springs; Wallace Ishibashi, Royal Order of Kamehameha; Kuulei Kealoha Cooper, Trustee Kealoha Estate; D. Noelani Kalipi, helped write Akaka Bill; Ka'iu Kimura, Director Imiloa; Robert Lindsey, OHA; H M (Monty) Richards, Rancher; Marcia Sakai, Vice Chancellor UH Hilo; Kumu Lehua Veincent, Principal Kamehameha High School, Kea'au; William Walter, Pres Shipman Estate

Our mission is to drive the cost of electricity down on the Big Island. The cost of electricity has been 25% higher than Oahu as long as we can remember. The Big Island has the lowest median family income in the state. Three school complexes in East Hawaii lead the state in free and subsidized school lunches, they are Pahoa at 89%, Ka'u at 87% and Kea'au at 86%.

Education is the best predictor of family income. But, because the Big Island electricity rate is 25% higher than Oahu, we waste more than \$250,000 annually in some of our school complexes.

The cost to generate electricity from geothermal is less than half that of oil. And, because the Big Island will be over the hot spot for more than 500,000 years that cost will be relatively stable, unlike oil which will rise in the not too distant future.

I asked Carl Bonham, exec Director of the UH Economic Research Organization if it was fair to conclude that if geothermal was the primary base power for the Big Island, that the Big Island would become more competitive to the rest of the world as oil prices rose? He said, yes we would become more competitive. I concluded and he agreed that our standard of living would rise. And, our working homeless could get off the streets.

We all need to work together to make things work. Get thousand reasons why no can! We only looking for the one reason why CAN!!

Richard
BICC Steering Committee representative.

Cell 960 1057

Sent from my iPad

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Cynthia Frith	Hawaii Alliance	Support	No

Comments: I respectfully request that the ENE/WTL/PSM committees support and pass HB106 with the following six amendments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource sub zones as they existed prior to Act 97 and reinstate sub zone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. Mahalo for your thoughtful consideration of this request from me as a member of the Hawaii Alliance. Cynthia Frith Kailua, Oahu resident

March 15, 2013

Dear Senators

My name is Beverly Tuaolo and I am writing this letter to respectfully ask you to pass HB 106 to repeal Act 97. As residents of Puna, my husband Afa and I have owned and operated an orchid nursery in the Kama'ili/Opihikao area for 25 plus years. In an area known for high unemployment we currently have eight employees on our payroll. Since the Kama'ili area is off the grid we have made the necessary investments in solar energy vital to run our business. I am mentioning this to highlight that like many of our neighbors and friends in Puna we make significant contributions to the local economy.

The nursery is also our residence. We chose this location assuming that the Kama'ili area would remain rural. However the effects of Act 97 and Act 55 now threaten our investment and livelihood. Geothermal can be a beneficial resource, but it does not belong in areas zoned residential or agricultural.

For my husband and I this is personal. One of the areas being considered for geothermal development is Kama'ili. The effect of this on our quality of life will be fundamental. Also, our property values and long term business investment will be jeopardized. The final irony is that we could potentially have a geothermal power plant in our backyard but would still be off-power. The electric companies have proposed sending geothermal power to Oahu while many areas in Puna still do not even have the basic infra-structure necessary to get electricity. It does not appear to be in economic interests of the power companies to make this basic investment in our community. Yet the very people who will benefit the least from geothermal development are expected to compromise their safety and lifestyle.

Please allow the residents of the Big Island and all the other counties to have control over their own zoning and safety. I am sure that if your constituents were facing major industrial developments in their community you would be listening to their concerns. Please listen to our concerns as well and help repeal Acts 97.

Aloha

Beverly and Afa Tuaolo

Kama'ili Nursery

P.O. Box 2161

Pahoa, Hi 96778

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Choon James	Country Talk Story	Support	Yes

Comments: We support former Mayor Harry Kim in his efforts to protect the public good. His record of trustworthiness speaks for itself. Please make decisions made for the public's best interests and not lobbyists. We support this bill with the following amendments": 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. Mahalo!



Indigenous Consultants, LLC

Mililani B. Trask, Principal

P.O.Box 6377 ❖ Hilo, HI 96720

Mililani.trask@gmail.com



Bill: HB 106 HD 2
Committee: ENE/WL/ PSIM
Hearing Date: Thursday March 21st
Hearing Time: 3:15 pm
Room: 225

TESTIMONY IN STRONG OPPOSITION

The 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 in New Zealand with Innovations Development Group 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.

IC is strongly in opposition to this measure because it is bad for business and for Hawaii's energy security.

1) Opposition to Restoring Geothermal Subzones:

Over 25 years ago a decision was made to establish 'geothermal development sub-zones' on Hawaii Island. This decision was not the result of public hearings, nor was it based on scientific exploration and geothermal data. Instead, the selection of the sub-zones was a political decision based on an agreement worked out in Honolulu with environmentalists interested in 'conservation' and a few powerful landowners who wanted to develop geothermal on their private lands. Mount Hualalai, which is iconic to native Hawaiians, was put into a subzone because the powerful owners of the mountain (KS/Bishop Estate & Greenwell ohana) wanted to develop it. The Lyman property in Puna was designated a subzone because Papa Lyman, a powerful KS/BE Trustee wanted his family lands developed. Wao Kele O Puna, a sacred forest to Hawaiians was placed in a subzone for these reasons despite the fact that the Geothermix report indicated there as LESS than a 35% chance that geo resources in the area would produce electricity!

As a result of this “political deal” thousands of acres of Hawaii Island and the entire East Rift Zone (hundreds of miles) were designated for geothermal development. THIS IS NOT THE WAY TO DEVELOP GEOTHERMAL RESOURCES.

Geothermal resources should be developed with caution & restraint. There is only 1 geothermal RFP posted by HECO, there is only 1 project approved by the PUC. The geothermal project now being pursued on Hawaii Island should be restricted to THE FOOTPRINT OF THE PROJECT.

PLEASE DO NOT REPPEAT HISTORY BY BRINGING BACK GEO SUBZONES ON HAWAIIAN SACRED LANDS, FORESTS & MOUNTAINS. Development of Geothermal energy does not require thousands of acres, it can be & should be limited to the area needed for the footprint of the project only in areas & on lands where science determines development is appropriate & safe.

2) Opposition to Buffer Zones: THERE ARE NO INDUSTRY STANDARDS!

This measure is not a home-rule measure to restore a permitting process under the County. This measure is an effort to allow the County to impose “buffer zones” around geothermal developments without any justification or reason. As such, this measure is BAD for business & our economy.

A similar measure was vetoed by the Mayor of Hawaii County last year because it was an unconstitutional “taking” of private property without compensation. (page 2 sec. 205-A(b)). It was vetoed by the mayor after several landowners in Puna came together to sue the County for “illegally restricting their use of their lands”.

Throughout the world (in places like Japan, New Zealand & Iceland) geothermal development supports agricultural developments on abutting lands through the use of steam. There is no “INDUSTRY STANDARD” for buffer zones. This is a deliberate misrepresentation by the environmentalists who used the old “GUT & REPLACE” tactic to insert this language after 2 House hearings. .

To insert restrictions on geothermal development to hinder its use as a renewable energy resource for electricity and FOOD PROPAGATION is against the State policy in the HCEI and does not make economic sense. Steam from geothermal development is channeled to abutting Ag lands for food propagation (hot house ag), food drying & timber drying, & food washing & packaging. These businesses support & strengthen our food security as well as small business.

In addition, there are huge industries in the health & wellness sector that utilize geothermal steam for its healing properties. These industries can be found in Japan (Onsen), Iceland (Blue Lagoon) & Rotorua (Steam Spas). Hawaii could & should be developing these ancillary economic businesses to strengthen its economy instead of imposing restrictions based on non-existent ‘industry standards’.

3) Opposition to the “Compatibility test?”

This measure imposes a new test for geothermal development without any criteria or justification. This bill is create a new “compatibility test” for geothermal development, but the test has no justification or criteria. (page 1 sec. 205-A (3)).

Last session, the DLNR went to the OEQC requesting that DLNR be allowed to address geo standards for exploration through its DLNR process. HAWAIIAN HOMESTEADERS FROM WAIMANALO ALSO CAME IN AND INFORMED OEQC THAT THEY WANTED TO USE THEIR LOW LEVEL GEO RESOURCES FOR HOT HOUSE AGRICULTURE.

The OEQC refused to meet with the Homesteaders & instead opined that any use of geothermal steam in Waimanalo could not be supported because it failed the “INCOMPATIBILITY TEST”. There is no such test on our statutes in Hawaii. OEQC & Gary Hooser, in the following OEQC hearing stated that any development of geothermal energy in areas where people live or work was “incompatible”. Homesteaders objected an requested a consultation with OEQC, but were denied.

The “incompatibility test” was also used by Hawaii County in 1012 to justify a County Resolution & Ordinance imposing buffer zones on geothermal development projects. This restricted abutting property owners use of their lads for small business & would have closed several Bed & Breakfast Inns close to the PGV plant. These businesses have been in existence for years, they have supported small but growing enterprises run by families in Puna, an area that is economically depressed with high unemployment. The Mayor vetoed that County ordinance, and now the same proponents of that county bill are supporting this measure.

4) Opposition to “more stringent ordnances regarding geothermal resources”.

Section 205 (b) of this measure allows the County to “adopt more stringent ordinances regarding geothermal resources development” without requiring that there be any rational basis for these unidentified restrictions.

This measure grants unrestricted authority to the County to supersede any State law regardless of whether the County has jurisdiction over the area. (sec. 205-B (b)).

The sweeping grant of authority in this provision allows the County to adopt “more stringent ordinances” than permitting requirements imposed by the State under State jurisdiction. The Counties authority in this section is not limited to areas within its jurisdiction such as building codes & standards, instead it is an open invitation for the County to legislate in areas under State authority such as through the imposition of standards relating to drilling protocols etc.

The Counties do not have unlimited power to legislate the use of private property or of private enterprise.

PLEASE DO NOT PASS THIS MEASURE. IF YOU WANT TO HELP HAWAII COUNTY, USE THEIR LANGUAGE & RESTORE THEIR PROCESS FROM HB 380 WHICH WAS NOT GIVEN A HEARING BECAUSE OF OPPOSITION FROM THE ENVIRONMENTALISTS WHO DRAFTED THIS ("gut & replace") LANGUAGE.

Regards,

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

Mililani B. Trask – Indigenous Consultants LLC

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
DONALD M BARKER	BIG ISLAND BAMBOO LLC	Support	No

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Beverly Frederick	Individual	Support	No

Comments: I supporting the following amendments to HB 106 HD2: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. Attached is a draft accomplishing the steps described above as a proposed amendment,

A BILL FOR AN ACT

RELATING TO GEOTHERMAL RESOURCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The geothermal resource subzones designated by the board of land and natural resources pursuant to former Hawai'i Revised Statutes § 205-5.2 are reinstated retroactively to April 30, 2011 (the date of repeal of § 205-5.2 by Act 97, SLH 2012) such that there shall be no discontinuity in their existence from after the time they first were designated until the effective date of this Act, and thereafter.

SECTION [±]2. Chapter 205, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Part . GEOTHERMAL RESOURCES

§205-A Geothermal Resource Subzones. (a) Geothermal resource subzones may be designated within the urban, rural, agricultural, and conservation land use districts established under section 205-2. Only those areas designated as geothermal resource subzones may be utilized for geothermal development activities in addition to those uses permitted in each land use district under this chapter. Geothermal development activities may be permitted within urban, rural, agricultural, and conservation land use districts in accordance with this chapter. "Geothermal development activities" means the

exploration, development, or production of electrical energy from geothermal resources and direct use applications of geothermal resources; provided that within the urban, rural, and agricultural land use districts, direct use applications of geothermal resources are permitted both within and outside of areas designated as geothermal resource subzones pursuant to section 205-B if such direct use applications are in conformance with all other applicable state and county land use regulations and are in conformance with this chapter.

(b) Geothermal resource subzones designated by the board of land and natural resources shall be revised or updated at the discretion of the board, but at least once each five years. Any property owner or person with an interest in real property wishing to have an area designated as a geothermal resource subzone may submit a petition for a geothermal resource subzone designation in the form and manner established by rules and regulations adopted by the board.

(c) The board's assessment of each potential geothermal resource subzone area shall examine factors to include, but not be limited to:

- (1) The area's potential for the production of geothermal energy;
- (2) The prospects for the utilization of geothermal energy in the area;
- (3) The geologic hazards that potential geothermal projects would encounter;
- (4) Social and environmental impacts;
- (5) The compatibility of geothermal development and potential related industries with present uses of surrounding land and those uses permitted under the general plan or land use policies

of the county in which the area is located;

(6) The potential economic benefits to be derived from geothermal development and potential related industries; and

(7) The compatibility of geothermal development and potential related industries with the uses permitted under chapter 183C and section 205-2, where the area falls within a conservation district.

In addition, the board shall consider, if applicable, objectives, policies, and guidelines set forth in part I of chapter 205A, and chapter 226.

(d) Methods for assessing the factors in subsection (c) shall be left to the discretion of the board and may be based on currently available public information.

(e) After the board has completed any update or review, the board shall compare all areas showing geothermal potential within each county, and shall propose areas for potential designation as geothermal resource subzones based upon a preliminary finding that the areas are those sites which best demonstrate an acceptable balance between the factors set forth in subsection (b). Once a proposal is made, the board shall conduct public hearings pursuant to this subsection, notwithstanding any contrary provision related to public hearing procedures.

(1) Hearings shall be held at locations which are in close proximity to those areas proposed for designation. A public notice of hearing, including a description of the proposed areas, an invitation for public comment, and a statement of the date, time, and place where persons may be heard shall be given and

mailed no less than twenty days before the hearing. The notice shall be given on three separate days statewide and in the county in which the hearing is to be held. Copies of the notice shall be mailed to the department of business, economic development, and tourism, to the planning commission and planning department of the county in which the proposed areas are located, and to all owners of record of real estate within, and within one thousand feet of, the area being proposed for designation as a geothermal resource subzone. The notification shall be mailed to the owners and addresses as shown on the current real property tax rolls at the county real property tax office. Upon that action, the requirement for notification of owners of land is completed. For the purposes of this subsection, notice to one co-owner shall be sufficient notice to all co-owners;

(2) The hearing shall be held before the board, and the authority to conduct hearings shall not be delegated to any agent or representative of the board. All persons and agencies shall be afforded the opportunity to submit data, views, and arguments either orally or in writing. The department of business, economic development, and tourism and the county planning department shall be permitted to appear at every hearing and make recommendations concerning each proposal by the board; and

(3) At the close of the hearing, the board may designate areas as geothermal resource subzones or announce the date on which it will render its decision. The board may designate areas as geothermal resource subzones only upon finding that the areas are those sites which best demonstrate an acceptable balance between

the factors set forth in subsection (b). Upon request, the board shall issue a concise statement of its findings and the principal reasons for its decision to designate a particular area.

(f) The designation of any geothermal resource subzone may be withdrawn by the board of land and natural resources after proceedings conducted pursuant to chapter 91. The board shall withdraw a designation only upon finding by a preponderance of the evidence that the area is no longer suited for designation; provided that the designation shall not be withdrawn for areas in which active exploration, development, production or distribution of electrical energy from geothermal sources or direct use applications of geothermal resources are taking place.

205-[A]B Geothermal resources development permits; applications.

(a) To ensure that prospective geothermal resources development will have the least detrimental environmental impact, any application to obtain a geothermal resources development permit from a government entity shall provide, at a minimum, the following:

- (1) An assessment of any potential geologic hazards to geothermal production or use in the proposed area or site;
- (2) An assessment of any environmental or social impacts within the proposed area or site;
- (3) An assessment of the compatibility of development and utilization of geothermal resources with other allowed uses within the proposed area or site and within the surrounding area; and
- (4) A description of the proposed geothermal resources development, including the establishment of an appropriate[7

~~industry-recognized~~] buffer zone between the proposed geothermal resources development and abutting land.

(b) Within forty-five days of receiving the application, the government entity shall determine whether the application is complete, and if not, inform the applicant of the deficiency.

§205-[B]C Geothermal resources development permits; agricultural, rural, and urban districts; county authority. (a) A permit for geothermal resources development or the operation of a geothermal energy facility within an agricultural, rural, or urban district shall be issued by the appropriate county authority.

(b) In addition to the requirements of this part and the powers pursuant to sections 46-1.5 and 46-4, each county may adopt more stringent ordinances regarding geothermal resources development permits within agricultural, rural, or urban districts.

(c) For the purposes of this part, "appropriate county authority" means the county entity that issues development permits.

§205-[E]D Geothermal resources development permits; agricultural, rural, and urban districts; unpermitted use; public hearing. (a) If, after receipt of a properly filed and completed application, including all supporting data required under section 205-A, the appropriate county authority determines that the proposed geothermal resources development is not an expressly permitted use pursuant to the county general plan and zoning ordinances, the appropriate county authority shall conduct a public hearing.

(b) The public hearing shall be held on the island on which the geothermal resources development is being proposed and as close as practicable to the area that would be affected by the proposed

geothermal resources development.

(c) No later than twenty days prior to the hearing, the appropriate county authority shall provide public notice to affected state agencies and owners of land within [two] three thousand feet of the proposed geothermal resources development.

~~§205-D Request for mediation. (a) Any party who submits written comments at the public hearing shall have standing to request mediation between the aggrieved party and the applicant, provided that the request for mediation and a self-addressed postage prepaid envelope are received by the appropriate county authority no later than five days after the close of the initial public hearing.~~

~~(b) The appropriate county authority shall notify any person who submitted an appropriate request for mediation of the date, time, and place of the mediation conference by mailing the notice in the self-addressed postage prepaid envelope no later than ten days prior to the date of the mediation conference, provided that the mediation conference shall be held on the island where the initial public hearing was held.~~

~~§205-E Mediation. (a) The appropriate county authority shall appoint a mediator no later than fourteen days after receipt of an appropriate request for mediation under section 205-D, provided that the mediator shall not be an employee of any county agency.~~

~~(b) The appropriate county authority shall require the aggrieved party and the applicant to participate in mediation.~~

~~(c) The mediation period shall not extend beyond sixty days, except by order of the appropriate county authority, and shall be limited to the issues raised in the written comments submitted by the~~

~~aggrieved party at the initial public hearing.~~

~~(d) If the parties cannot reach agreement on all of the disputed issues, the county authority may conduct a second public hearing at the same place as the initial public hearing to receive additional written comments from any party on any unresolved issues, provided that written comments received more than ten days after the second public hearing shall not be accepted.~~

~~(e) The appropriate county authority shall consider the comments submitted at the second public hearing prior to rendering a final decision.~~

§205-~~[F]~~E Final decisions. (a) Unless an extension is agreed to by the applicant and the ~~[appropriate county authority]~~ government entity, the ~~[appropriate county authority]~~ government entity shall issue a final decision no later than six months after receipt of a properly filed and completed application under section 205-A.

(b) A geothermal resources development permit shall be issued if the ~~[appropriate county authority]~~ government entity finds that the assessments provided by the applicant are reasonable and the proposed geothermal resources development would not:

- (1) Have unreasonable adverse health, environmental, or socioeconomic effects on residents and surrounding property; and
- (2) Unreasonably burden public agencies to provide roads, streets, sewers, water, drainage, school improvements, and police and fire protection;

provided that the ~~[appropriate county authority]~~ government entity may prescribe mitigating actions to be taken by the applicant to address any unreasonable effects or burdens, including the establishment of an

appropriate buffer zone between the proposed geothermal resources development and abutting land, as a condition of the permit approval.

~~§205-G Final decisions; appeal. (a) A final decision under section 205-F may be appealed on the record directly to the intermediate appellate court for final decision and shall not be subject to a contested case hearing under chapter 91. Section 91-14(b) and (g) shall govern the appeal, notwithstanding the lack of a contested case hearing on the matter.~~

~~(b) The record shall include:~~

~~(1) The application and all supporting documents, including reports, studies, affidavits, statements, and exhibits, if any;~~

~~(2) Staff recommendations submitted to the appropriate county authority in consideration of the application;~~

~~(3) Oral and written comments submitted at the public hearings;~~

~~(4) Written transcripts of the public hearings;~~

~~(5) A statement of relevant matters noticed by the members of the appropriate county authority at the public hearings;~~

~~(6) Any written decision of the appropriate county authority related to the application and public hearings; and~~

~~(7) Other documents required by the appropriate county authority of the applicant.~~

§205-[H]F Public hearings; transcript. To ensure a complete record for [appeal] judicial review, the [appropriate county authority] government entity shall provide a court reporter to produce a transcript of all public hearings under this part."

SECTION 3. Section 183C-6, Hawaii Revised Statutes, is amended

by amending subsection (a) to read as follows:

"§183C-6 Permits and site plan approvals. (a) The department shall regulate land use in the conservation district by the issuance of permits[.]; provided that any application for a geothermal resources development permit shall be in accordance with section 205-~~[A]~~B, -E and -F."

SECTION ~~[6]~~ 4. In codifying the new part and sections added by section 1 of this Act, the revisor of statutes shall substitute an appropriate part number and section numbers for the letters used in designating the new sections in this Act.

SECTION ~~[7]~~ 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION ~~[8]~~ 6. This Act shall take effect on July 1, ~~[2020]~~ 2013.

Report Title:

Geothermal Resources Development; Permits

Description:

Establishes a permitting process for geothermal resources development within agricultural, rural, and urban districts. Establishes application and criteria for geothermal resources development within conservation districts. Restores geothermal resources subzones that were repealed by Act 97 (SLH 2012) and related laws. Effective 07/01/13. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
joy cash	Individual	Support	No

Comments: Do the right thing & support this bill to protect our people.

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Dea Rackley	Individual	Support	No

Comments: Protect the Aina and people from the poisons from GEOTHERMAL.

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Yen Chin	Individual	Support	No

Comments: I do not understand why Hawai'i needs to rush to develop its geothermal resources in order to produce electricity. Therefore, I do not understand why the Legislature would pass Act 97 and thereby strip away reasonable safeguards for the general public good. Pass HB 106 in a form that simply repeals Act 97 and restores those reasonable safeguards. An example of one such reasonable safeguards was the establishment of geothermal resource subzones. These subzones got defined using good science to determine the best locations for developing a geothermal plant, and they were meant to both inform the public and to assist in worthwhile geothermal development. Restoring the definition of subzones costs nothing and would serve to focus the efforts of entities truly wanting to help Hawai'i lessen its dependence of imported petroleum.

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Stacey Tucker	Individual	Support	No

Comments: I would very much like to see this bill get passed. However I propose the following amendments to HB 106 HD2: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. Mahalo for your time, Stacey Tucker Puna, Big Island

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Douglas Orton	Individual	Support	No

Comments: supporting the following amendments to HB 106 HD2: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. Attached is a draft accomplishing the steps described above that can be submitted with your testimony as a proposed amendment,

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exploration, development, or production of electrical energy from geothermal resources and direct use applications of geothermal resources; provided that within the urban, rural, and agricultural land use districts, direct use applications of geothermal resources are permitted both within and outside of areas designated as geothermal resource subzones pursuant to section 205-B if such direct use applications are in conformance with all other applicable state and county land use regulations and are in conformance with this chapter.

(b) Geothermal resource subzones designated by the board of land and natural resources shall be revised or updated at the discretion of the board, but at least once each five years. Any property owner or person with an interest in real property wishing to have an area designated as a geothermal resource subzone may submit a petition for a geothermal resource subzone designation in the form and manner established by rules and regulations adopted by the board.

(c) The board's assessment of each potential geothermal resource subzone area shall examine factors to include, but not be limited to:

- (1) The area's potential for the production of geothermal energy;
- (2) The prospects for the utilization of geothermal energy in the area;
- (3) The geologic hazards that potential geothermal projects would encounter;
- (4) Social and environmental impacts;
- (5) The compatibility of geothermal development and potential related industries with present uses of surrounding land and those uses permitted under the general plan or land use policies

of the county in which the area is located;

(6) The potential economic benefits to be derived from geothermal development and potential related industries; and

(7) The compatibility of geothermal development and potential related industries with the uses permitted under chapter 183C and section 205-2, where the area falls within a conservation district.

In addition, the board shall consider, if applicable, objectives, policies, and guidelines set forth in part I of chapter 205A, and chapter 226.

(d) Methods for assessing the factors in subsection (c) shall be left to the discretion of the board and may be based on currently available public information.

(e) After the board has completed any update or review, the board shall compare all areas showing geothermal potential within each county, and shall propose areas for potential designation as geothermal resource subzones based upon a preliminary finding that the areas are those sites which best demonstrate an acceptable balance between the factors set forth in subsection (b). Once a proposal is made, the board shall conduct public hearings pursuant to this subsection, notwithstanding any contrary provision related to public hearing procedures.

(1) Hearings shall be held at locations which are in close proximity to those areas proposed for designation. A public notice of hearing, including a description of the proposed areas, an invitation for public comment, and a statement of the date, time, and place where persons may be heard shall be given and

mailed no less than twenty days before the hearing. The notice shall be given on three separate days statewide and in the county in which the hearing is to be held. Copies of the notice shall be mailed to the department of business, economic development, and tourism, to the planning commission and planning department of the county in which the proposed areas are located, and to all owners of record of real estate within, and within one thousand feet of, the area being proposed for designation as a geothermal resource subzone. The notification shall be mailed to the owners and addresses as shown on the current real property tax rolls at the county real property tax office. Upon that action, the requirement for notification of owners of land is completed. For the purposes of this subsection, notice to one co-owner shall be sufficient notice to all co-owners;

(2) The hearing shall be held before the board, and the authority to conduct hearings shall not be delegated to any agent or representative of the board. All persons and agencies shall be afforded the opportunity to submit data, views, and arguments either orally or in writing. The department of business, economic development, and tourism and the county planning department shall be permitted to appear at every hearing and make recommendations concerning each proposal by the board; and

(3) At the close of the hearing, the board may designate areas as geothermal resource subzones or announce the date on which it will render its decision. The board may designate areas as geothermal resource subzones only upon finding that the areas are those sites which best demonstrate an acceptable balance between

the factors set forth in subsection (b). Upon request, the board shall issue a concise statement of its findings and the principal reasons for its decision to designate a particular area.

(f) The designation of any geothermal resource subzone may be withdrawn by the board of land and natural resources after proceedings conducted pursuant to chapter 91. The board shall withdraw a designation only upon finding by a preponderance of the evidence that the area is no longer suited for designation; provided that the designation shall not be withdrawn for areas in which active exploration, development, production or distribution of electrical energy from geothermal sources or direct use applications of geothermal resources are taking place.

205-[*]B Geothermal resources development permits; applications.

(a) To ensure that prospective geothermal resources development will have the least detrimental environmental impact, any application to obtain a geothermal resources development permit from a government entity shall provide, at a minimum, the following:

- (1) An assessment of any potential geologic hazards to geothermal production or use in the proposed area or site;
- (2) An assessment of any environmental or social impacts within the proposed area or site;
- (3) An assessment of the compatibility of development and utilization of geothermal resources with other allowed uses within the proposed area or site and within the surrounding area; and
- (4) A description of the proposed geothermal resources development, including the establishment of an appropriate[7

~~industry-recognized~~] buffer zone between the proposed geothermal resources development and abutting land.

(b) Within forty-five days of receiving the application, the government entity shall determine whether the application is complete, and if not, inform the applicant of the deficiency.

§205-[B]C Geothermal resources development permits; agricultural, rural, and urban districts; county authority. (a) A permit for geothermal resources development or the operation of a geothermal energy facility within an agricultural, rural, or urban district shall be issued by the appropriate county authority.

(b) In addition to the requirements of this part and the powers pursuant to sections 46-1.5 and 46-4, each county may adopt more stringent ordinances regarding geothermal resources development permits within agricultural, rural, or urban districts.

(c) For the purposes of this part, "appropriate county authority" means the county entity that issues development permits.

§205-[E]D Geothermal resources development permits; agricultural, rural, and urban districts; unpermitted use; public hearing. (a) If, after receipt of a properly filed and completed application, including all supporting data required under section 205-A, the appropriate county authority determines that the proposed geothermal resources development is not an expressly permitted use pursuant to the county general plan and zoning ordinances, the appropriate county authority shall conduct a public hearing.

(b) The public hearing shall be held on the island on which the geothermal resources development is being proposed and as close as practicable to the area that would be affected by the proposed

geothermal resources development.

(c) No later than twenty days prior to the hearing, the appropriate county authority shall provide public notice to affected state agencies and owners of land within ~~[two]~~ three thousand feet of the proposed geothermal resources development.

~~§205-D Request for mediation. (a) Any party who submits written comments at the public hearing shall have standing to request mediation between the aggrieved party and the applicant, provided that the request for mediation and a self-addressed postage prepaid envelope are received by the appropriate county authority no later than five days after the close of the initial public hearing.~~

~~————(b) The appropriate county authority shall notify any person who submitted an appropriate request for mediation of the date, time, and place of the mediation conference by mailing the notice in the self-addressed postage prepaid envelope no later than ten days prior to the date of the mediation conference, provided that the mediation conference shall be held on the island where the initial public hearing was held.~~

~~————§205-E Mediation. (a) The appropriate county authority shall appoint a mediator no later than fourteen days after receipt of an appropriate request for mediation under section 205-D, provided that the mediator shall not be an employee of any county agency.~~

~~————(b) The appropriate county authority shall require the aggrieved party and the applicant to participate in mediation.~~

~~————(c) The mediation period shall not extend beyond sixty days, except by order of the appropriate county authority, and shall be limited to the issues raised in the written comments submitted by the~~

aggrieved party at the initial public hearing.

~~(d) If the parties cannot reach agreement on all of the disputed issues, the county authority may conduct a second public hearing at the same place as the initial public hearing to receive additional written comments from any party on any unresolved issues, provided that written comments received more than ten days after the second public hearing shall not be accepted.~~

~~(e) The appropriate county authority shall consider the comments submitted at the second public hearing prior to rendering a final decision.~~

§205-[F]E Final decisions. (a) Unless an extension is agreed to by the applicant and the ~~[appropriate county authority]~~ government entity, the ~~[appropriate county authority]~~ government entity shall issue a final decision no later than six months after receipt of a properly filed and completed application under section 205-A.

(b) A geothermal resources development permit shall be issued if the ~~[appropriate county authority]~~ government entity finds that the assessments provided by the applicant are reasonable and the proposed geothermal resources development would not:

- (1) Have unreasonable adverse health, environmental, or socioeconomic effects on residents and surrounding property; and
- (2) Unreasonably burden public agencies to provide roads, streets, sewers, water, drainage, school improvements, and police and fire protection;

provided that the ~~[appropriate county authority]~~ government entity may prescribe mitigating actions to be taken by the applicant to address any unreasonable effects or burdens, including the establishment of an

appropriate buffer zone between the proposed geothermal resources development and abutting land, as a condition of the permit approval.

~~§205-G Final decisions; appeal. (a) A final decision under section 205-F may be appealed on the record directly to the intermediate appellate court for final decision and shall not be subject to a contested case hearing under chapter 91. Section 91-14(b) and (g) shall govern the appeal, notwithstanding the lack of a contested case hearing on the matter.~~

~~(b) The record shall include:~~

~~(1) The application and all supporting documents, including reports, studies, affidavits, statements, and exhibits, if any;~~

~~(2) Staff recommendations submitted to the appropriate county authority in consideration of the application;~~

~~(3) Oral and written comments submitted at the public hearings;~~

~~(4) Written transcripts of the public hearings;~~

~~(5) A statement of relevant matters noticed by the members of the appropriate county authority at the public hearings;~~

~~(6) Any written decision of the appropriate county authority related to the application and public hearings; and~~

~~(7) Other documents required by the appropriate county authority of the applicant.~~

§205-[H]F Public hearings; transcript. To ensure a complete record for [appeal] judicial review, the [appropriate county authority] government entity shall provide a court reporter to produce a transcript of all public hearings under this part."

SECTION 3. Section 183C-6, Hawaii Revised Statutes, is amended

by amending subsection (a) to read as follows:

"§183C-6 Permits and site plan approvals. (a) The department shall regulate land use in the conservation district by the issuance of permits[.]; provided that any application for a geothermal resources development permit shall be in accordance with section 205-~~[A]~~B, -E and -F."

SECTION ~~[6]~~ 4. In codifying the new part and sections added by section 1 of this Act, the revisor of statutes shall substitute an appropriate part number and section numbers for the letters used in designating the new sections in this Act.

SECTION ~~[7]~~ 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION ~~[8]~~ 6. This Act shall take effect on July 1, ~~[2020]~~ 2013.

Report Title:

Geothermal Resources Development; Permits

Description:

Establishes a permitting process for geothermal resources development within agricultural, rural, and urban districts. E establishes application and criteria for geothermal resources development within conservation districts. Restores geothermal resources subzones that were repealed by Act 97 (SLH 2012) and related laws. Effective 07/01/13. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Nicki Conti	Individual	Support	No

Comments: I am writing to support these following amendments to hb106 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. We live within one mile of Puna Geothermal Venture (PGV) facility. When lightning struck the facility in November 2011 we had no idea why our house suddenly smelled like rotten eggs. It was not until the next day that we learned what had happened. We were not informed by PVG of the event or possible dangers to our health. In the 10 years we have lived here we have never been contacted by anyone from PVG for any reason. The risks to nearby residents are well illustrated by the history of the PGV facility, and the instances where emergency community evacuations were required. Puna is the fastest growing population in the entire state of Hawaii not only is direct human impact of geothermal development a future concern it is already occurring. Removing the hard won protections created for the benefit of the people of Hawaii with the passing of act 97 serves only one purpose and that purpose is clear , it is to streamline development , increase profit for corporate interest and marginalize the residents who live within these future development areas . Please use your positions as elected officials to do what is right for the people and lands of Hawaii . We deserve a buffer zone of protection. We deserve to be heard . We deserve a protection from well failures and blowouts . Thank you Nicki Conti

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Aniko Willoughby	Individual	Support	No

Comments: I support the following amendments to HB 106 HD2: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet thanks, Aniko Willoughby

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Nadia Ranne	Individual	Support	No

Comments: I support HB 106 with the following ammendments: Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; Provide for an appropriate buffer zone (but delete the term industry recognized); Include review of the applicant's assessment statements in deciding the application; Extend the permitting provisions to DLNR for conservation land; Change the public notice requirement from two to three thousand feet.

Aloha,

Please find attachment which contains a revised proposed amendment to HD106 that addresses some of the issues I outlined in my earlier email.

Mahalo,

Suzanne Wakelin, Ph.D.

On Tue, Mar 19, 2013 at 9:36 PM, Suzanne Wakelin <malamatree@gmail.com> wrote:

Aloha Representatives,

While I SUPPORT the original intent of HB106, the current version of HB106 SD2 has removed the restitution of geothermal subzones from the original version of HB106. The laws associated with geothermal subzones addressed the issues of land-use in Hawai'i, providing some protections to the social, cultural and environmental aspects of the areas of development. Without the subzones, as defined by Act 97, geothermal power plant can be developed anywhere in Hawai'i. In addition, the requirement for mediation that is propagated in HB106 is inappropriate; the permitting process should be subject to ordinary judicial review, the same as in other comparable situations. Mediation is a voluntary effort used by people trying to settle a dispute, it is not an appropriate substitute for contested cases.

I live a mile from Puna Geothermal Ventures (PGV) , currently Hawai'i's only production geothermal power plant. I am affected by the ongoing noise from the plants as well as their accidental emissions. PGV has a "closed system" however they have had multiple incidents in which hydrogen sulphide is vented into the atmosphere as well as other contaminants from the brine. I would like to assume that their operation is safe but the truth is, there are negative effects and the proximity is worrisome. Had I known about these facts, I would not have purchased property so close to the power plant. We should have been better informed. An appropriate buffer zone should be implemented on all geothermal development going forward along with a public notice requirement to property owners up to a mile from new developments.

I respectfully request that HB106 be amended to include the following changes:

- 1) Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases;
- 2) Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws;
- 3) Provide for an appropriate buffer zone
- 4) Include review of the applicant's assessment statements in deciding the application;
- 5) Change the public notice requirement from two to five thousand feet;
- 6) Extend the permitting provisions to DLNR for conservation land.

Mahalo for your attention,

Suzanne Wakelin, Ph.D.

Puna Resident

A BILL FOR AN ACT

RELATING TO GEOTHERMAL RESOURCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The geothermal resource subzones designated by the board of land and natural resources pursuant to former Hawai`i Revised Statutes § 205-5.2 are reinstated retroactively to April 30, 2011 (the date of repeal of § 205-5.2 by Act 97, SLH 2012) such that there shall be no discontinuity in their existence from after the time they first were designated until the effective date of this Act, and thereafter.

SECTION [±]2. Chapter 205, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Part . GEOTHERMAL RESOURCES

§205-A Geothermal Resource Subzones. (a) Geothermal resource subzones may be designated within the urban, rural, agricultural, and conservation land use districts established under section 205-2. Only those areas designated as geothermal resource subzones may be utilized for geothermal development activities in addition to those uses permitted in each land use district under this chapter. Geothermal development activities may be permitted within urban, rural, agricultural, and conservation land use districts in accordance with this chapter. "Geothermal development activities" means the

exploration, development, or production of electrical energy from geothermal resources and direct use applications of geothermal resources; provided that within the urban, rural, and agricultural land use districts, direct use applications of geothermal resources are permitted both within and outside of areas designated as geothermal resource subzones pursuant to section 205-B if such direct use applications are in conformance with all other applicable state and county land use regulations and are in conformance with this chapter.

(b) Geothermal resource subzones designated by the board of land and natural resources shall be revised or updated at the discretion of the board, but at least once each five years. Any property owner or person with an interest in real property wishing to have an area designated as a geothermal resource subzone may submit a petition for a geothermal resource subzone designation in the form and manner established by rules and regulations adopted by the board.

(c) The board's assessment of each potential geothermal resource subzone area shall examine factors to include, but not be limited to:

- (1) The area's potential for the production of geothermal energy;
- (2) The prospects for the utilization of geothermal energy in the area;
- (3) The geologic hazards that potential geothermal projects would encounter;
- (4) Social and environmental impacts;
- (5) The compatibility of geothermal development and potential related industries with present uses of surrounding land and those uses permitted under the general plan or land use policies

of the county in which the area is located;

(6) The potential economic benefits to be derived from geothermal development and potential related industries; and

(7) The compatibility of geothermal development and potential related industries with the uses permitted under chapter 183C and section 205-2, where the area falls within a conservation district.

In addition, the board shall consider, if applicable, objectives, policies, and guidelines set forth in part I of chapter 205A, and chapter 226.

(d) Methods for assessing the factors in subsection (c) shall be left to the discretion of the board and may be based on currently available public information.

(e) After the board has completed any update or review, the board shall compare all areas showing geothermal potential within each county, and shall propose areas for potential designation as geothermal resource subzones based upon a preliminary finding that the areas are those sites which best demonstrate an acceptable balance between the factors set forth in subsection (b). Once a proposal is made, the board shall conduct public hearings pursuant to this subsection, notwithstanding any contrary provision related to public hearing procedures.

(1) Hearings shall be held at locations which are in close proximity to those areas proposed for designation. A public notice of hearing, including a description of the proposed areas, an invitation for public comment, and a statement of the date, time, and place where persons may be heard shall be given and

mailed no less than twenty days before the hearing. The notice shall be given on three separate days statewide and in the county in which the hearing is to be held. Copies of the notice shall be mailed to the department of business, economic development, and tourism, to the planning commission and planning department of the county in which the proposed areas are located, and to all owners of record of real estate within, and within one thousand feet of, the area being proposed for designation as a geothermal resource subzone. The notification shall be mailed to the owners and addresses as shown on the current real property tax rolls at the county real property tax office. Upon that action, the requirement for notification of owners of land is completed. For the purposes of this subsection, notice to one co-owner shall be sufficient notice to all co-owners;

(2) The hearing shall be held before the board, and the authority to conduct hearings shall not be delegated to any agent or representative of the board. All persons and agencies shall be afforded the opportunity to submit data, views, and arguments either orally or in writing. The department of business, economic development, and tourism and the county planning department shall be permitted to appear at every hearing and make recommendations concerning each proposal by the board; and

(3) At the close of the hearing, the board may designate areas as geothermal resource subzones or announce the date on which it will render its decision. The board may designate areas as geothermal resource subzones only upon finding that the areas are those sites which best demonstrate an acceptable balance between

the factors set forth in subsection (b). Upon request, the board shall issue a concise statement of its findings and the principal reasons for its decision to designate a particular area.

(f) The designation of any geothermal resource subzone may be withdrawn by the board of land and natural resources after proceedings conducted pursuant to chapter 91. The board shall withdraw a designation only upon finding by a preponderance of the evidence that the area is no longer suited for designation; provided that the designation shall not be withdrawn for areas in which active exploration, development, production or distribution of electrical energy from geothermal sources or direct use applications of geothermal resources are taking place.

205-~~[A]~~B Geothermal resources development permits; applications.

(a) To ensure that prospective geothermal resources development will have the least detrimental environmental impact, any application to obtain a geothermal resources development permit from a government entity shall provide, at a minimum, the following:

- (1) An assessment of any potential geologic hazards to geothermal production or use in the proposed area or site;
- (2) An assessment of any environmental or social impacts within the proposed area or site;
- (3) An assessment of the compatibility of development and utilization of geothermal resources with other allowed uses within the proposed area or site and within the surrounding area; and
- (4) A description of the proposed geothermal resources development, including the establishment of an appropriate[7

~~industry-recognized~~] buffer zone between the proposed geothermal resources development and abutting land.

(b) Within forty-five days of receiving the application, the government entity shall determine whether the application is complete, and if not, inform the applicant of the deficiency.

§205-[B]C Geothermal resources development permits; agricultural, rural, and urban districts; county authority. (a) A permit for geothermal resources development or the operation of a geothermal energy facility within an agricultural, rural, or urban district ~~[shall]~~ may be issued by the appropriate county authority.

(b) In addition to the requirements of this part and the powers pursuant to sections 46-1.5 and 46-4, each county may adopt more stringent ordinances regarding geothermal resources development permits within agricultural, rural, or urban districts.

(c) For the purposes of this part, "appropriate county authority" means the county entity that issues development permits.

§205-[E]D Geothermal resources development permits; agricultural, rural, and urban districts; unpermitted use; public hearing. (a) If, after receipt of a properly filed and completed application, including all supporting data required under section 205-A, the appropriate county authority determines that the proposed geothermal resources development is not an expressly permitted use pursuant to the county general plan and zoning ordinances, the appropriate county authority shall conduct a public hearing.

(b) The public hearing shall be held on the island on which the geothermal resources development is being proposed and as close as practicable to the area that would be affected by the proposed

geothermal resources development.

(c) No later than twenty days prior to the hearing, the appropriate county authority shall provide public notice to affected state agencies and owners of land within ~~[two]~~ three thousand feet of the proposed geothermal resources development.

~~§205-D Request for mediation. (a) Any party who submits written comments at the public hearing shall have standing to request mediation between the aggrieved party and the applicant, provided that the request for mediation and a self-addressed postage prepaid envelope are received by the appropriate county authority no later than five days after the close of the initial public hearing.~~

~~(b) The appropriate county authority shall notify any person who submitted an appropriate request for mediation of the date, time, and place of the mediation conference by mailing the notice in the self-addressed postage prepaid envelope no later than ten days prior to the date of the mediation conference, provided that the mediation conference shall be held on the island where the initial public hearing was held.~~

~~§205-E Mediation. (a) The appropriate county authority shall appoint a mediator no later than fourteen days after receipt of an appropriate request for mediation under section 205-D, provided that the mediator shall not be an employee of any county agency.~~

~~(b) The appropriate county authority shall require the aggrieved party and the applicant to participate in mediation.~~

~~(c) The mediation period shall not extend beyond sixty days, except by order of the appropriate county authority, and shall be limited to the issues raised in the written comments submitted by the~~

aggrieved party at the initial public hearing.

~~(d) If the parties cannot reach agreement on all of the disputed issues, the county authority may conduct a second public hearing at the same place as the initial public hearing to receive additional written comments from any party on any unresolved issues, provided that written comments received more than ten days after the second public hearing shall not be accepted.~~

~~(e) The appropriate county authority shall consider the comments submitted at the second public hearing prior to rendering a final decision.~~

§205-~~[F]~~E Final decisions. (a) Unless an extension is agreed to by the applicant and the ~~[appropriate county authority]~~ government entity, the ~~[appropriate county authority]~~ government entity shall issue a final decision no later than six months after receipt of a properly filed and completed application under section 205-A.

(b) A geothermal resources development permit ~~{shall}~~ may be issued if the ~~[appropriate county authority]~~ government entity finds that the assessments provided by the applicant are reasonable and the proposed geothermal resources development would not:

(1) Have unreasonable adverse health, environmental, or socioeconomic effects on residents and surrounding property; and

(2) Unreasonably burden public agencies to provide roads, streets, sewers, water, drainage, school improvements, and police and fire protection;

provided that the ~~[appropriate county authority]~~ government entity may prescribe mitigating actions to be taken by the applicant to address any unreasonable effects or burdens, including the establishment of an

appropriate buffer zone between the proposed geothermal resources development and abutting land, as a condition of the permit approval.

~~§205-G Final decisions; appeal. (a) A final decision under section 205-F may be appealed on the record directly to the intermediate appellate court for final decision and shall not be subject to a contested case hearing under chapter 91. Section 91-14(b) and (g) shall govern the appeal, notwithstanding the lack of a contested case hearing on the matter.~~

~~(b) The record shall include:~~

~~(1) The application and all supporting documents, including reports, studies, affidavits, statements, and exhibits, if any;~~

~~(2) Staff recommendations submitted to the appropriate county authority in consideration of the application;~~

~~(3) Oral and written comments submitted at the public hearings;~~

~~(4) Written transcripts of the public hearings;~~

~~(5) A statement of relevant matters noticed by the members of the appropriate county authority at the public hearings;~~

~~(6) Any written decision of the appropriate county authority related to the application and public hearings; and~~

~~(7) Other documents required by the appropriate county authority of the applicant.~~

§205-[H]F Public hearings; transcript. To ensure a complete record for [appeal] judicial review, the [appropriate county authority] government entity shall provide a court reporter to produce a transcript of all public hearings under this part."

SECTION 3. Section 183C-6, Hawaii Revised Statutes, is amended

by amending subsection (a) to read as follows:

"§183C-6 Permits and site plan approvals. (a) The department shall regulate land use in the conservation district by the issuance of permits[.]; provided that any application for a geothermal resources development permit shall be in accordance with section 205- ~~[A]B, -E and -F.~~"

SECTION ~~[6]~~ 4. In codifying the new part and sections added by section 1 of this Act, the revisor of statutes shall substitute an appropriate part number and section numbers for the letters used in designating the new sections in this Act.

SECTION ~~[7]~~ 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION ~~[8]~~ 6. This Act shall take effect on July 1, ~~[2020]~~ 2013.

H.B. NO.

106
H.D.2
S.D.1

Report Title:

Geothermal Resources Development; Permits

Description:

Establishes a permitting process for geothermal resources development within agricultural, rural, and urban districts. Establishes application and criteria for geothermal resources development within conservation districts. Restores geothermal resources subzones that were repealed by Act 97 (SLH 2012) and related laws. Effective 07/01/13. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

Lorn Douglas

RR2 4544
12-7045 Kekainehe St.
Pahoa, Hawaii 96778
(808) 965-8421
lornd@yahoo.com

All Hawaii Representatives

Re: In Support of HB 106 with amendments

Aloha,

I am a retired businessman and 29 year resident of the Big Island. I live in Lower Puna, a rural district the is a jewel in many ways. There is not a day when I don't stop at some point to thank God for the priviledge of living in such a beautiful place.


I choose to live a sustainable lifestyle, growing lots of food, generating enough solar power to fuel my two houses and two electric cars. I also heat my water with solar power.

As an engineer I appreciate the potential of safe geothermal energy as a renewable resource. However this is NOT what has been implemented and a smoke screen has been attempted to make it appear safe and economical. As soon as last week there was a leak and as the air was fouled with the smell of rotten eggs the safety officer was walking around with an apparent faulty meter trying to convince people that there was no problem. Its obvious to our community that this industry cannot be self regulating. Also if this is abundant and 'free' energy why are our power bills even higher than the other islands?

I urge you to support this legislation with the following amendments:

1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested case
2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws;
3. Provide for an appropriate buffer zone (but delete the term *industry recognized*);
4. Include review of the applicant's assessment statements in deciding the application
5. Extend the permitting provisions to DLNR for conservation land;
6. Change the public notice requirement from two to three thousand feet.

Mahalo for your considertion,



Lorn Douglas

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
bernie Riechelmann	Individual	Support	No

Comments: Please support this important bill. thank you, Bernie Riechelmann

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
William Belcher	Individual	Support	No

Comments: Being born and raised in Hilo, I firmly believe that county oversight is required for Geothermal to be done safely.

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Frederic Kotowitz	Individual	Support	No

Comments: Please support this bill with these amendments: support the following amendments to HB 106 HD2: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. thank you Fred Kotowitz

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Dona Willoughby	Individual	Support	No

Comments: Please support this bill, with these amendments: supporting the following amendments to HB 106 HD2: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. Mahalo, Dona Willoughby

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Tracy Matfin	Individual	Support	No

Comments: I support the following amendments to HB 106 HD2: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. thank you, Tracy Matfin

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Prasad Ditman	Individual	Support	No

Comments: Please support this bill. I support the following amendments to HB 106 HD2: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. Mahalo, Prasad Ditman

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225.

Submitted By	Organization	Testifier Position	Present at Hearing
Paul Kuykendall	Individual	Support	No

Comments: I am writing to request that you help us in repealing Act 97 and am requesting that you support HB106 HD2 with the following additions: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. Mahalo for your support of this bill and for helping to restore trust in our state government.

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Anne Nuttall	Individual	Support	No

Comments: My name is Anne Nuttall. I've been living on the Big Island in the Puna area since 2003, almost 10 years. This island is my home and I care very much for it! I support HB 106! I support the following amendments to HB 106 HD2: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. Please help us save Puna!!! Mahalo!

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Cynthia Bettencourt	Individual	Support	No

Comments: I support this bill with the following amendments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/19/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Smith	Individual	Support	No

Comments: i support the amendments proposed by the Puna Pono Alliance: 1. delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. provide for an appropriate buffer zone (but delete the term industry recognized); 4. include review of the applicant's assessment statements in deciding the application; 5. extend the permitting provisions to DLNR for conservation land; 6. change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Andrews	Individual	Support	No

Comments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Terry J Walker	Individual	Support	No

Comments: I support HB 106 with the following ammendments: Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; Provide for an appropriate buffer zone (but delete the term industry recognized); Include review of the applicant's assessment statements in deciding the application; Extend the permitting provisions to DLNR for conservation land; Change the public notice requirement from two to three thousand feet.

Dear Senator(s),

I am a working citizen of the County of Hawai'i. I live in the upper Puna district in the town of Mountain View.

I am an employed kitchen manager at The Exclusive Addiction Treatment Center on the Hamakua Coast.

I want the senate to support HB106 and repeal Act97

It is very important to me that we establish home rule for what goes on our island and to first consider the health and safety of the thousands of homeowners who live within less than one mile of the PVG geothermal facility and those that may follow.

I would also like to ask you to support the following amendments to HB106 HD2:

1. Please delete sections § 205-D, § 205-E, §205-G (I want to remove mediation and restore the citizens power to make contested cases)
2. Restore geothermal resource subzones and reinstate subzone laws
3. Have the bill provide for an appropriate buffer zone and delete the term *industry recognized*
4. Include a review of the applicant's assessment statements in deciding the application
5. Extend the permitting provisions to DLNR for conservation land
6. Change the public notice requirement from two thousand feet to three thousand feet.

Thank you very much for your time and service in office!

Mahalo nui loa

Stephen Settanni

TESTIMONY OF THOMAS E. LUEBBEN ON HB 106 HD2
BEFORE THE HAWAII STATE SENATE ENERGY AND
ENVIRONMENT (ENE), WATER AND LAND (WTL) AND
PUBLIC SAFETY (PSM) COMMITTEES

March 19, 2013

I. INTRODUCTION

My name is Thomas E. Luebben. I am a graduate of the New York University Law School Root-Tilden-Kern public interest law program. I also have an undergraduate degree in geophysical engineering and geology from the Colorado School of Mines. I am currently of counsel with the law firm of Luebben, Johnson & Barnhouse in Albuquerque, NM. I have experience working as both an attorney and a geophysicist and geologist in the oil and gas and mining industries. I have focused my law practice primarily on indigenous peoples' rights and Native American tribal representation for the last 40 years, primarily in the areas of land, water, natural resources and environmental protection. I represent Native American tribes and individuals throughout the western United States. In the late 1980s and early 1990s I represented the Pele Defense Fund, as well as individual non-native residents of Puna and Big Island in their opposition to geothermal development on the Kilauea East Rift Zone. I represented some of the plaintiffs in *Medeiros v. Hawaii County Planning Commission*, 797 P.2d 59, decided by the Hawaii Intermediate Court of Appeals on September 11, 1990. I am testifying today on my own behalf as a Big Island property owner concerned about the impacts of geothermal energy development on Big Island and throughout Hawaii.

II. GEOTHERMAL DEVELOPMENT

As a result of my past representation of Pele Defense Fund and individual residents of Puna and Big Island, I have considerable familiarity with Hawaii geothermal development issues, including technical geologic issues associated with geothermal development. I have great concerns about the motivations for geothermal energy development in Hawaii and its potential impacts, especially the industrialization of Puna as a result of geothermal development. I attended the federal Department of Energy and Hawaii Clean Energy Initiative Programmatic Environmental Impact Statement scoping hearing in Hilo in September of last year.

It is important to emphasize that opposition to geothermal energy development in Puna and elsewhere in Hawaii is not simply gratuitous opposition to economic development or energy development. Opponents have real concerns based on real experiences with, and understandings of, what has happened in connection with past and present geothermal energy development in Puna. Setting aside the powerful critique of the political and economic forces that problematically allowed the establishment of large subdivisions in volcanic hazard zone 1 on the Lower East Rift Zone in the first place, now that those communities have been established, it is inappropriate to force geothermal industrialization within those communities. It is one thing to develop geothermal energy in largely unpopulated desert valleys in Nevada, and entirely another to do it in the populous agricultural, rural and suburban communities of Puna. I am here today as an advocate of the rights of individuals and communities to protect themselves against unwanted geothermal industrialization, environmental contamination and adverse health effects.

As I am sure you are aware, many residents of Puna have suffered and complained of the adverse impacts of geothermal development on their health, psychological well-being, rural life-styles and property values ever since the state built and operated the first geothermal project in Puna, HGPA, in [BILL – DATES?]. In all good conscience, this legislature must recognize that Puna residents, and residents of Hawaii in general, are entitled to the full protection of state law and state agencies as a matter of good governance and good public policy when geothermal development is involved, just as they are with respect to all other areas of private and state activity. As a matter of public policy, it is unconscionable that the state legislature in the past has endeavored to grease the skids for geothermal development at the expense of the physical and economic well-being of Hawaii's citizens who are directly impacted. Over the last thirty years I have observed the very strange phenomenon of the Hawaii state government seemingly at war with a large constituent community over geothermal development. It is critically important that HB 106 be enacted in a form that restores the substantive and procedural rights under state law and administrative procedure for geothermal energy development that all Hawaii residents enjoy with respect to all other state and local government activities and actions.

III. HB 106

HB 106 in its original form was intended to restore some rights and protection for residents and landowners in areas potentially impacted by geothermal energy development. It included restoration of the right to a contested case hearing to challenge administrative decisions on geothermal permitting. HB 106 HD 2 does not

restore the right to a contested case hearing originally provided by Act 151, § 2, 1984 Haw. Sess. Laws 278, 280 in 1984.

In 1987, the legislature deleted the provisions for contested case hearings and substituted public hearings and a mediation process. Act 378, § 1, 1987 Haw. Sess. Laws 1198, 1200-01 ostensibly "to provide for a simpler procedure to consider and act on permits for geothermal development before state and county agencies." Sen.Stand.Comm.Rep. No. 1118, in 1987 Senate Journal, at 1387. I am convinced that the real purpose of Act 378 was simply to make it easier for geothermal developers to acquire whatever state and county permits are needed, and more difficult for the affected communities and individuals to oppose such development. It has indisputably served that purpose.

HB 106 2D should do the following:

- 1) Repeal Act 97;
- 2) Restore county geothermal permitting authority;
- 3) Restore geothermal subzones;
- 4) Restore contested case hearings for all state and county actions permitting geothermal development where contested case hearings would otherwise be permitted by the Hawaii Administrative Procedures Act, but for the enactment of statutes excepting geothermal permitting.

IV. THE IMPORTANCE OF CONTESTED CASE PROCEEDINGS

The Hawaii Administrative Procedures Act provides for contest case challenges to state and county administrative decisions for very good reasons. Contested case proceedings provide ordinary citizens adversely impacted by such decisions with ordinary due process of law including the right to discovery, the right to present witnesses, including expert witnesses, and the right to cross-examination of proponents. These should be viewed as essential substantive and procedural protections for individual and community rights consistent with American principles of democracy and good governance, not as gratuitous obstacles to geothermal developers' economic ambitions.

V. MEDIATION

Act 378 of 1987 substituted a misbegotten "mediation" process for the substantive and procedural protections of contested case hearings. Mediation, properly understood, is entered into voluntarily by motivated parties when both have something to lose by continuing to fight and something to gain by agreement. The mediator must be mutually acceptable and not simply imposed upon the parties. The "mediation" provided by Act 378 is a perversion of the function of mediation properly understood. An analogy might be to an individual convicted of a capital crime, who is then given the "right" to negotiate

with a mediator about whether the sentence will be administered by hanging, firing squad or lethal injection. The outcome is predetermined. The "right" to mediate is illusory. In the case of geothermal mediation under Act 378, the aggrieved party who requests mediation has no leverage to affect the ultimate outcome, only a forum to complain. The permit applicant has no compelling motivation to agree to anything, and the permitting agency (presumably the County) is not obligated to implement any agreement reached by the parties, or even to hold a second hearing if no agreement is reached. This can be viewed as an "exhaustion of the aggrieved" requirement. The aggrieved party expends time and energy on the "mediation" process with no ordinary due process protections and no likelihood of any benefit. The aggrieved party will ordinarily be given a very few minutes to address the decision maker(s), and no opportunity to develop an adequate record for purposes of appeal as would be the case in a contested case hearing where the aggrieved party may conduct discovery, present witnesses and cross-examine the permit applicant. The "mediation" provisions should be deleted from HB 106 HD 2 and the right to a contested case restored.

VI. GEOTHERMAL SUBZONES

Decades ago Hawaii wisely adopted the most comprehensive laws regulating land use of any state. These laws are particularly appropriate for the unique circumstances of Hawaii with a limited land base, a growing population, a sensitive environment and a need to strike a careful and informed balance between public and private interests in land use. Geothermal subzones, as required by Hawaii Revised Statutes (HRS) § 205-5.1 (Supp. 1989) [**BILL – IS THIS THE CORRECT CITATION?**], are an important and appropriate part of Hawaii's land use regulatory scheme. The process of creating geothermal subzones gives the residents and landowners who will be affected by geothermal development notice of the possibility of geothermal development in their area, and an opportunity to be fully informed, to protect their health and property values, and to oppose the designation of a geothermal subzone if they conclude it will threaten their physical or economic well-being. The rights of discovery, opportunity to present witnesses and right of cross-examination are essential to developing an adequate record of the circumstances and consequences of geothermal development in a particular area and adequately informing the decision maker(s). HB 106 HD2 should restore geothermal subzones.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Support	No

Comments:

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
carley fonville	Individual	Oppose	No

Comments: I oppose the bill unless the the following amendments are made: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Doran Vaughan	Individual	Support	No

Comments: I support HB 106 with the following amendments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

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Submitted By	Organization	Testifier Position	Present at Hearing
Luella Crutcher	Individual	Oppose	No

Comments: Please, we live on an island! There is not enough room for geothermal plants where people live or play! There should be a ten mile buffer, which is near impossible! Also Hawaii county is already having to pay for moving families that live near the existing plant. So there must be danger to human beings and the birds, bees, lehua treea are dead close to plant. County is lucky they pay for only those living close. They should pay to move everyone within 10 miles. So better to not put in any geo. The cost to this state would be horrendous. Go photovoltaic, etc.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Felicia Cowden	Individual	Support	No

Comments: I support this bill with the following ammendments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

Testimony opposing HB 106, HD2

Please, more consideration is necessary before adding another new regulation that contains language specifically to appease a small number of constituents rather than the general public. Geothermal development should be considered a viable option to produce power for Hawaii. More research is necessary before we create this type of legislation, especially before legislation requires the non-existent "industry standard buffer zone". Hawaii mayor Billy Kenoi has commissioned starting this process. Current and real world data is much more relevant to moving foreword with energy production than taking some action based on twenty year old grievances. Put the effort into doing this right rather than doing this quickly.

Jay Bondesen
Leilani Estates
Pahoa, HI

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Janeel Hew	Individual	Support	No

Comments: Aloha, Greetings with the utmost respect for the seats that you hold and the great responsibility which you uphold. I strongly implore you to pass HB106. May it go on record, that I stand in support of HB106 for the repeal of ACT 97. ACT 97 denies the County(s) and the public the right of a constructive and protective voice. The repeal of ACT 97 will give back to the County government authority to regulate development, and the community the opportunity for input to evaluate social, environmental, and scientific issues. In order to protect against unreasonable adverse health, environmental, or socio-economic effects on residents and/or property; County review, permitting, zoning and the highest regard to EIS and EA requirements are essential. All of which ACT 97 will deny the requirement of. Thank you for your time and consideration in the passing of HB106. This is our state and our government, working together can only build a better future. Mahalo, Janeel Hew

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Rosemarie Patronette	Individual	Support	No

Comments: I support this bill with the following amendments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

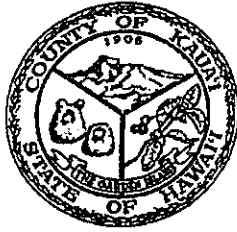
Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Beverly Tuaolo	Individual	Support	No

Comments: Please consider the following admendments as well. 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet

COUNTY COUNCIL

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Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

March 20, 2013

**TESTIMONY OF GARY L. HOOSER
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON**

**H.B. NO. 106, HD 2, RELATING TO GEOTHERMAL RESOURCES
Senate Committee on Energy and Environment /
Senate Committee on Water and Land /
Senate Committee on Public Safety, Intergovernmental and Military Affairs
March 21, 2013
3:15 p.m.
Conference Room 225**

Dear Chairpersons Gabbard, Solomon, and Espero, and Members of the Senate Committees on Energy and Environment, Water and Land, and Public Safety, Intergovernmental and Military Affairs:

TESTIMONY IN STRONG SUPPORT

Aloha Friends and Former Senate Colleagues:

In 2011, Act 97 eliminated three (3) Statutes that regulated geothermal resources in Hawai'i for nearly thirty (30) years. H.B. No. 106 was introduced to repeal Act 97 and restore those laws.

Act 97 took away County oversight of this important issue, repeating a disturbing trend of legislation that attempts to bypass local oversight. The impacts of these operations have the potential to affect the local county and the local community dramatically. Thus, the County should retain strong input and participation in the site selection process, and the authority to guide their development.

I support H.B. No. 106, HD2, with the amendments detailed below.

1. Delete three sections (§205-D Request for mediation, §205-E Mediation, and §205-G Final decisions) to remove mediation and to restore contested cases;
2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws;

AN EQUAL OPPORTUNITY EMPLOYER

Senate Committees on Energy and Environment / Water and Land /
Public Safety, Intergovernmental Military Affairs
March 21, 2013
RE: H.B. No.106, HD 2
Page 2

3. Provide for an appropriate buffer zone (but delete the term industry recognized);
4. Include review of the applicant's assessment statements in deciding the application;
5. Extend the permitting provisions to DLNR for conservation land; and
6. Change the public notice requirement from two thousand (2,000) to three thousand (3,000) feet.

Thank you for this opportunity to provide testimony in strong support of H.B. 106, HD 2.

Respectfully,



GARY L. HOOSER
Councilmember, Kaua'i County Council

AO:lc

Captain Thomas Lee Travis, USN (Retired)

RR 2 Box 3317

Pahoa, Hi 96778

email: ttravis12@mac.com

mobile: (757) 639-7364

My position is simple. **Repeal Act 97**. Regardless of how strongly one supports geothermal power, no one can deny that geothermal power plants are major industrial activities that create noise and hazardous waste, cause traffic, create environmental challenges, present risk of accidents, use precious resources, and effect local culture, lifestyle and economy. As such, how we decide their location is a critical decision.

Act 97 robbed the local community of an effective voice in placement and regulation of these major industrial activities. Act 97 did away with:

- The county permitting process, leaving all permitting and regulation at the state level or above, and
- Geothermal subzones, a tool that both enabled community planning and allowed a community voice in an orderly process.

Passage of Act 97 did away with a useful framework that balanced meeting state energy goals with the social, cultural, economic, and environmental impact on the community. Act 97 also removed a framework that provided developers a clear path and level playing field, emphasizing the need to work with the community.

As currently written, HB 106 does not fully repeal Act 97. Even though HB 106 HD2 implements an even stronger county permitting process than existed before Act 97, it does not restore geothermal subzones. I propose it be amended to restore geothermal subzones.

Restoration of subzones had been removed from HB 106 partly as a consequence of DLNR's testimony which said that the agency "strongly opposes the restoration of geothermal resource subzones" because restoring subzones "would be very difficult and cost prohibitive."

To mitigate that objection, it has been proposed that the subzones existing prior to passage of Act 97 be restored retroactively to the date of Act 97, so there will be no need to recreate them.

The law as it existed before passage of Act 97 was not without its problems. For one, "forced" mediation provided an unnecessary and unpopular venue for public input. Why geothermal permitting and subzone stakeholders should not use the "contested case" procedures used in every other permitting and administrative process is unclear. Restoring "contested case" procedures in lieu of "forced" mediation would further improve HB 106.

With amendment to restore geothermal subzones, I strongly support HB 106 and urge its passage.

//S// Thomas Lee Travis

HARRY KIM
471 HO'OKINA PLACE
HILO, HAWAII 96720

March 20, 2013

Senator Mike Gabbard, Chair, and Members of the Committee on Energy and Environment
Senator Malama Solomon, Chair and Members of the Committee on Water and Land
Senator Will Espero, Chair and Members of the Committee on Public Safety, Intergovernmental
and Military Affairs

The Senate
State Capitol
Honolulu, Hawaii

Regarding: HB106 HD2

Position: Support the Repeal of Act 97 SLH 2012

Dear Chairs Gabbard, Solomon, Espero, and Committee Members:

This is to appeal to all committee members to support the repeal of Act 97 (2012) by approving HB106 with the geothermal subzone requirement reinstated. It is understood that information may have been presented that concerns about Act 97 could be addressed by amendments that would return permitting authority to the counties but still eliminate the subzone requirements. **This is not true.**

You are asked to please review former sections of the law beginning with HRS 205-5.2 that created the subzones. This section of law was created in 1983 by the legislature in Act 296. In adopting this Act, 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."

The purpose of Act 296 in 1983 was to provide policies that "will assist in the location of geothermal resources development in areas of the **lowest potential environmental impact.**" This was to be done by requiring:

- That any potential geologic hazards to geothermal production or use in the proposed area are examined.
- That any environmental or social impacts or 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.

How do we ensure these commitments if the subzone section is eliminated and geothermal exploration and development are allowed by law in all state land use categories of

conservation, urban, rural, and agricultural districts? How do we ensure these commitments when geothermal power plants are to be allowed in all of these land districts?

The Department of Land and Natural Resources testimony to the House Committee on Water and Land stated that it “does not oppose restoring home rule authority in issuing land use permits” but strongly opposes the restoration of geothermal resource subzones for reasons including the contention that the assessment process required to recreate the subzones would be very difficult and cost prohibitive.

This is a valid concern by the DLNR, and it can be mitigated by specifying that previously existing subzones be restored as they existed prior to Act 97 and the reinstatement of subzone laws. This will ensure that there will be no need to recreate subzones and the cost and time associated with that effort.

May I close with a statement made by Dr. Takeshi Yoshihara from a paper presented in the development of the geothermal subzones in 1985. Dr. Yoshihara was at the time serving with the State Department of Planning and Economic Development:

“In closing, the designation of geothermal resources subzones together with other established regulations and statutes, are intended to facilitate the orderly development of geothermal energy in Hawaii, whereby exploration, development, and production of electricity from geothermal resources may take place in consonance with the State’s energy goals and our interest in preserving Hawaii’s unique social and natural environment.”

These are commitments made to the people of Hawaii in the development of geothermal by the state legislature of Hawaii, and signed into law by the governor. These policies regulated geothermal activity in Hawaii for nearly 30 years. I ask that Act 97 be repealed, and that this state keep and honor those commitments made to the people of Hawaii. I ask that Act 97 be repealed and restore HRS 205-5.2 that provided for and governed geothermal resource subzones.

Harry Kim
933-9208

Aloha Senators,

I am writing today to relay how important it is that you pass HB106, and also to note important aspects that need to be taken into consideration.

A) Why was Act 97 ever passed, and how can this be rectified? For one thing, please re-instate geothermal resource subzones as they existed before that act, and re-instate subzone laws.

B) Please DO provide for an appropriate buffer zone and DELETE the term "industry recognized." Why would we, who deeply care about the natural beauty here, be okay with the industry determining this?

C) Please include a review of the applicant's assessment statements in deciding the application.

D) Please delete three sections – 205-D, 205-E, and 205-G, to give us back our right of being able to have contested cases instead of mediation.

And E) Please change the public notice requirement from 2- to 3000 feet as this is more appropriate.

Thank you for serving the people, and the 'aina.

Aloha,
Kristen O'Guin

Dear Senators,

My name is Adrian Farrell and I am a long time resident of Puna. When I found out the Act 97 was passed it brought tears to my eyes. I could not believe the such legislation could be passed the power away from the local people and local government to make the decisions necessary to our land, our health and way of life. Please, please, please, repeal Act 97.

Please repeal Act 97. I strongly support the following amendments to HB 106 HD2, esp. article 1 below:

1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases;
2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws;
3. Provide for an appropriate buffer zone (but delete the term "industry recognized");
4. Include review of the applicant's assessment statements in deciding the application;
5. Extend the permitting provisions to DLNR for conservation land;
6. Change the public notice requirement from two to three thousand feet.

Thank you for your care and consideration,
Sincerely,
Adrian Farrell

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
John Renauer	Individual	Support	No

Comments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

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Submitted By	Organization	Testifier Position	Present at Hearing
Noelani Bouchard	Individual	Support	No

HB106

Submitted on: 3/20/2013

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Submitted By	Organization	Testifier Position	Present at Hearing
Ann Wolfe	Individual	Support	No

Comments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

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Submitted By	Organization	Testifier Position	Present at Hearing
D. Corcoran	Individual	Support	No

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Leanne Budlong	Individual	Comments Only	No

Comments: I support this bill with the following amendments 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

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Submitted By	Organization	Testifier Position	Present at Hearing
Melissa Cardwell	Individual	Comments Only	No

Comments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

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Submitted on: 3/20/2013

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Submitted By	Organization	Testifier Position	Present at Hearing
Chris Walker	Individual	Support	No

Comments: Please support the following amendments to HB 106 HD2, esp. article 1 below: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term "industry recognized"); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. thanks Chris Walker

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
greg self	Individual	Comments Only	No

Comments: Aloha I live here in Puna and know we can make Puna a role model for the World by going truly green and activating the land in balance with the real law: Land Air Water Please do whats best for the Aina, bless you for the decisions you make, it will effect the entire world.

HB106

Submitted on: 3/20/2013

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Submitted By	Organization	Testifier Position	Present at Hearing
Steven Jacquier	Individual	Support	No

Comments: I support this bill with the following amendments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

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Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Maria Taylor	Individual	Support	No

Comments: Please to support HB106 and repeal Act 97. I support the following amendments to HB 106 HD2, esp. article 1 below: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term "industry recognized"); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

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Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Beth McCormick	Individual	Support	No

Comments: I support this bill with the following amendments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Zachary Mermel	Individual	Support	No

Comments: I support the repealing of Act 97, and the creation of a final draft of HB106 before it goes to final vote. Following are my suggested changes to the current draft of HB106: 1. Delete § 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions (to remove mediation and restore contested cases); 2. Change § 205-A (a) to say appropriate buffer zone, deleting industry recognized, and also include the appropriate buffer zone requirement in § 205-D (b); 3. Change § 205-D to include review of the applicant's assessment statements; 4. Change § 205-D and -E to say government entity instead of appropriate county authority to extend those provisions to conservation land under the DLNR; 5. Change the notice requirement of § 205-C from two to three thousand feet; 6. Change § 205-E to refer to judicial review instead of appeal. Thank you for your time.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
hannique ruder	Individual	Comments Only	No

Comments: I support HB 106 with the following ammendments: Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; Provide for an appropriate buffer zone (but delete the term industry recognized); Include review of the applicant's assessment statements in deciding the application; Extend the permitting provisions to DLNR for conservation land; Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Gary Petrison	Individual	Support	No

Comments: I support this bill with the following amendments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
dana russell	Individual	Support	No

Comments: I support this bill with the following amendments 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Pono Kealoha	Individual	Oppose	No

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
sharon willeford	Individual	Support	No

Comments: From The Big Island (Kona side) : SUPPORT support this bill with the following amendments": 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
jessica mitchell	Individual	Support	No

Comments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. — with Andy Parx and 19 others.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Jeremy Lutes	Individual	Support	No

Comments: Please know that I support HB106 but only with the following changes: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. Thank you

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Kerri Marks	Individual	Support	No

Comments: I support this measure and suggest the following amendments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. Mahalo for your consideration, Kerri Marks Hawaii Island

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Craig Takamine	Individual	Oppose	No

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
frederic kotowitz	Individual	Support	No

Comments: I am in full support of this bill with the following amendments only: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Bidleman	Individual	Support	No

Comments: This is about local control. Would you like someone coming into your "backyard" without permission?

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Kristina Anapau	Individual	Support	No

Comments: I am a celebrity in the film industry (True Blood, Black Swan), who was born and raised on the Big Island of Hawaii. I support HB106 HD2, but with the revisions of removing sections D, E, and G to remove mediation and restore contested cases. I would also like the state to provide for an appropriate buffer zone (but delete the term "industry recognized"), and to restore geothermal resource subzones as they existed prior to Act 97; reinstating subzone laws. Mahalo, Kristina Anapau

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Paul f. Geary	Individual	Oppose	No

Comments: I support this bill with the following amendments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Bond	Individual	Support	No

Comments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Aaron Wade	Individual	Support	Yes

Comments: Honorable Senators, Despite how special interest groups like to pave their way by slandering residents of Puna, Hawaii, I can assure you that I am not a derelict drug dealer. In fact, the State of Hawaii Tourism Board has valued me enough to pay me \$98,000 for three weeks of my time in order to shoot several commercials and print ads. In scouting locations for those spots, after shooting in 40 countries and nearly every state in the union, I found Puna to be a remarkably beautiful and pristine setting, and have made it my home. I have several well-healed, well-traveled and well-educated neighbors moving in who adamantly share this sentiment. I think it is time that State Government's Oahu-centric view of Hawaii grew up to face the reality that their fastest growing voter base is in Puna. We respectfully demand fair representation and consideration in planning for our future energy security. As a member of the community most immediately impacted by geothermal development I urge you to Repeal Act 97 and support HB 106 HD2 with the amendments outlined below. 1. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 2. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mandatory mediation; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. 7. Refer to judicial review instead of appeal; and 8. Delete former Sections 3-5 as superfluous. Thank you for your time and consideration. Respectfully, Aaron Wade

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Simsarian	Individual	Support	No

Comments: 1. Eliminate mandatory mediation and restore contested cases 2. Increase public notice requirement from 2,000 ft to 3,000 ft.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Steve Hirakami	Individual	Support	No

Comments: I am in support of this measure only if it protects the health and safety of our residents and the environment, most importantly our water table and offshore waters. In light of the history of geothermal development, thus far only in a small portion of Puna, we have experienced a lack of accountability not only from the developers, but from our State and County governments. One glaring omission in government responsibility has been the lack of adequate buffer zones. The existing geothermal plant sits right on the border of two subdivisions with four schools in close proximity. We need County oversight because State government is too far removed from the permitted areas to weigh in on the impacts of this heavy industry on its residents. There has been inadequate monitoring of hydrogen sulfide, a lack of a comprehensive emergency response plans coupled with an evacuation plan, little or no information on the effects on our water table nor offshore ocean waters. The reinstatement of the subzone will restore the subzone laws and will give more authority to the County to look after the health and safety of its residents

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Damian Klosowski	Individual	Support	Yes

Comments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Kanoelani Puuohau	Individual	Support	No

Comments: Aloha Chairs and Members of the respective committees, The geothermal subzone designation process was originally created in 1983 in recognition of the impact of development on the surrounding committee. The original laws repealed by Act 97 provided for both State and County oversight over the geothermal development process. Although the State's renewable energy goals are admirable and beneficial to the public, they should not be allowed to overcome the consideration of community and environment. The concerns expressed by the members of the Puna community are real and important. There must be some form of oversight over the geothermal development industry. An ideal regulatory scheme would provide for meaningful input from the community, consideration of cultural interests, location and compatibility with the existing uses of land in the surrounding area, impacts to environment and community, impact of the total scale of the project including ingress and egress to the area. HB 106 in its current form (HD 2) restores County oversight, which is the least that must be done in regulating geothermal development in Hawai'i. By passing this bill you are helping to ensure safe and sustainable development of renewable energy in our State. Thank you for the opportunity to testify in support of HB106

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Spinoza	Individual	Support	No

Comments: I strongly support HB106 and urge its passage for the well-being of my/our community. Below are changes I want to see made before passage of bill. 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. Thank you, Patricia Spinoza

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
vincent callagher	Individual	Comments Only	No

Comments: I stongly support HB 106 with these provisions: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. Thank you for your time

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Karl Mauzey	Individual	Comments Only	No

Comments: I support this bill with the following amendments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

Trayce Pjirrou
14/266 Papaya Farms Road
Kapoho
Hawaii 96778

March 20, 2013

Aloha Senator Mike Gabbard, Chair, and Members of the Committee on Energy and Environment
Senator Malama Solomon, Chair and Members of the Committee on Water and Land
Senator Will Espero, Chair and Members of the Committee on Public Safety, Intergovernmental
and Military Affairs

The Senate
State Capitol
Honolulu, Hawaii

Regarding: HB106 HD2

Position: Support with the following changes.

1. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws;
2. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mandatory mediation;
3. Provide for an appropriate buffer zone (but delete the term industry recognized);
4. Include review of the applicant's assessment statements in deciding the application;
5. Extend the permitting provisions to DLNR for conservation land;
6. Change the public notice requirement from two to three thousand feet.
7. Refer to judicial review instead of appeal; and
8. Delete former Sections 3-5 as superfluous.

Barb Cuttance
14/266 Papaya Farms Road
Kapoho
Hawaii 96778

March 20, 2013

Aloha Senator Mike Gabbard, Chair, and Members of the Committee on Energy and Environment
Senator Malama Solomon, Chair and Members of the Committee on Water and Land
Senator Will Espero, Chair and Members of the Committee on Public Safety, Intergovernmental
and Military Affairs

The Senate
State Capitol
Honolulu, Hawaii

Regarding: HB106 HD2

Position: Support with the following changes.

1. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws;
2. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mandatory mediation;
3. Provide for an appropriate buffer zone (but delete the term industry recognized);
4. Include review of the applicant's assessment statements in deciding the application;
5. Extend the permitting provisions to DLNR for conservation land;
6. Change the public notice requirement from two to three thousand feet.
7. Refer to judicial review instead of appeal; and
8. Delete former Sections 3-5 as superfluous.

CLESSON WILLIAM CHIKASUYE

P.O. Box 98
Mountain View, Hawaii 96771
telephone (808) 968-8007

March 20, 2013

Hon. Donna Mercado Kim, President
State of Hawaii Senate
Hawaii State Capitol
Honolulu, Hawaii

Re: HB 106 Relating to Geothermal Development

Aloha President Kim and Honorable Senators of the State of Hawaii:

Mahalo for this opportunity to submit written testimony regarding HB 106. I know that this is not the only item before the legislature, but to many of us it is the most crucial item now pending before you, so while I will try to be brief, I will not be overly brief.

My Background:

born and raised on Oahu [30 year resident of Oahu, 1947-1978]

35 year resident of East Hawaii [Mountain View 1978-present]

Caucasion/Japanese ancestry [3rd generation/San Se]
Father, Clesson Y. Chikasuye, was Honolulu Councilman for 18 years.

Over 35 years experience as a practicing attorney in the State of Hawaii which includes public service of 1 year as a Deputy Prosecuting Attorney for the City & County of Honolulu, 2 years as a Deputy Corporation Counsel for the City & County of Honolulu, and 1 year as Grand Jury Counsel for Hawaii County.

Retired from the private practice of law in good standing, 2010-2011

Presently growing cymbidium orchids and managing family properties including 2 commerical leases on Oahu and 7 residential rentals on the Big Island.

My Position:

I support geothermal development in Hawaii as long as there are adequate public protections in place, and for this reason, I support the repeal of Act 97, SLH 2012, and the reinstatement of HRS 205-5.

Facts:

For almost 30 years Hawaii law had a comprehensive statute dealing with geothermal development that seemed satisfactory to all concerned, until it was recently repealed in 2012. [Act 296, SLH 1983, codified by HRS 205-5; repealed by Act 96 in 2012]

The key provisions of Act 296 which protected the public were (1) the permitting process which allowed some local oversight of geothermal development, (2) the designation of geothermal subzones as areas identified by the State for geothermal development which made development predictable, and (3) allowed the normal chapter 90 contested case hearing procedure for settling disputes with the final decision resting with the courts.

Due to the lack of geothermal expansion during the 30 years Act 296 was law, there was little need to use Act 296. It is noteworthy that just as the geothermal industry is gearing up for its first major expansion in the State of Hawaii in 30 years, the industry sought the repeal of Act 296 by pushing Act 97.

In repealing Act 296, Act 97 eliminated all public protection by the elimination of local permitting, the elimination of geothermal subzones and the elimination of contested case hearings. Instead, Act 97 substituted binding mediation as the sole public protection for setting disputes.

The present status of Hawaii law allows unlimited and unregulated geothermal development in the State of Hawaii subject only to binding mediation of any disputes.

Hawaii is a state that retains ownership of all subsurface resources such as water, minerals and geothermal. You have only to read any Hawaii deed and you will see a "subject to" section where the rights to all mineral and metallic

mines is reserved unto the State of Hawaii. Recently, mainland states that have similar laws giving the state the retention of ownership of subsurface resources, has resulted in controversial actions by drillers using fracking to find oil who have literally moved onto privately owned lands without the permission of the owner to set up drilling and pumping rigs. The drillers have taken the position that the State owns the resource and the State had given permission for exploration and development in State statutes [sound familiar?] and that the concerns of the private landowner were of no legal standing, even if the landowners' livestock and water were poisoned because the landowner had the burden to prove that the fracking resulted in the poisoning of the animals and water. In other words, the "Big Guys" making the money and doing the drilling using experimental methods did not have the burden of showing what they were doing was not harmful to the environment and public, but rather the "Little Guy" like farmers and citizens who did not profit from the drilling had to come up with the money to fund costly scientific studies. These mainland states sold their citizens out by putting the shoe on the wrong foot. It made clear that these states were controlled by the "Big Guys" and the "Little Guys" just didn't count. Of course the lawsuits are now wending their way through the courts as a last resort by the aggrieved public because the courts are the only protection when the public is not protected by their own government. And I understand that there are movements afoot in several states to cast out legislators who were the recipients of contributions from drillers.

This has great significance for Hawaii. Under the current state of Hawaii law, there are absolutely no protections against unbridled geothermal development except binding mediation. Anyone who declares himself a geothermal developer and who is willing to spend the money can move onto your land and drill exploratory wells that could poison you and those on your land, and your only resort is binding mediation. And if you think binding mediation is a solution, please think again. Mediation usually results in a monetary award to compensate the aggrieved parties, but it rarely results in a cease and desist order requiring the guilty party to restore the land to its former condition.

I am guilty of ignorance and complacency in failing to see the harm engendered by Act 97. Most of us, did not realize what was happening. But now that I and many others are

aware of Act 97, we are all asking the same questions: WHY IS THE HAWAII LEGISLATURE GIVING GEOTHERMAL DEVELOPERS SUCH A SWEATHEART DEAL IN ACT 97? WHY ARE GEOTHERMAL DEVELOPERS EXEMPT FROM DESIGNATING THE SUBZONES LIMITING WHERE EXPLORATION CAN TAKE PLACE SO THAT EXPLORATION IS PREDICTABLE FOR INDIVIDUALS, LANDOWNERS AND BUSINESSES? WHY ARE GEOTHERMAL DEVELOPERS EXEMPT FROM CONTESTED CASE HEARINGS AND JUDICIAL OVERSIGHT OF DISPUTES WHEN OTHER INDUSTRIES ARE NOT EXEMPT? AND FINALLY, WHY ARE GEOTHERMAL DEVELOPERS EXEMPT FROM ANY PERMITTING PROCESS AND THE CONCERNS OF THE LOCAL PUBLIC?

Argument

Renewable energy is good so long as it is clean. Solar is by far the cleanest. I have just installed a 10 KW photovoltaic panel array and I am generating enough power to supply my individual and business needs. Hawaii has the highest per capita use of solar energy in the nation. Hawaii could supply all of its power needs with photovoltaics and the economics are such that there should be a solar array on every rooftop in Hawaii.

However, we need to recognize that wind may be problematic because windmills are so large and may be visually destructive of the environment in addition to carrying high electro-magnetic radiation dangers.

And we have to also recognize that geothermal as renewable energy has a long history of controversy as to whether or not it is clean. In point of fact, there are numerous instances where geothermal is problematic at best and carries the potential for disaster at worst. Here is an excerpt from How Stuff Works:

"The severity of these threats really depends on whom you ask, but that's where the risks of artificial geothermal energy differ from everything else. Enhanced geothermal systems (EGSs) actually have produced earthquakes. On Dec. 8, 2006, Geothermal Explorers International managed to set off an earthquake in Basel, Switzerland, damaging buildings and terrifying the population. And while it only measured a 3.4 on the Richter scale, the quake was followed by 60 aftershocks in the weeks to follow.

Earthquakes typically occur around unstable areas such as volcanoes, fault lines and geothermal regions. So, any area ripe for enhanced geothermal tinkering is already prone to get the shakes. On top of that, pumping water down to subteranian regions of heated bedrock causes the rock to expand and contract, fracturing the rock. As such, seismic activity isn't just a side effect of the process, it's a part of the process. The deeper the shaft, the greater the chance that increased levels of seismic activity could reach nearby fault lines, generating an even more powerful earthquake.

Geothermal Explorers International and the Swiss government both attributed the earthquake in Basel to artificial geothermal energy, so operations there ceased. "

In addition to serious environmental disasters geothermal also carries the potential for poisoning our artesian well water. Oahu is particularly susceptible because a large lpercentage of Honolulu's water comes from artesian wells. And Honolulu has already experienced problems in its artesian wells with atrazine poisoning from the pineapple industry. Wait a minute, you say. Pineapples haven't been grown in quantity on Oahu for decades. And we are still getting some effects from chemicals used above ground years ago? Yes! So what about pumping literally millions of gallons of water into the ground to frack hot volcanic pockets? These pockets are known to contain hot water, steam and other gasses that have large amounts of sulfuric acid, hydrogen sulfide, lead, mercury and other heavy metals. What happens if Honolulu's artesian well water is poisoned by geothermal developers? Well at present state of Hawaii law, nothing happens. The developers may legally pursue drilling anywhere, and they are insulated from any liability by Act 97. The public would have to pay for the expensive studies and the public and the public alone which would lose its most precious resource—pure drinking water.

Testimony of: Patricia Chikasuye
PO Box 98
Mountain View, HI
96771

March 20, 2013

To: THE HAWAII STATE SENATE:

- 1) Senator Mike Gabbard, Chair, and members of the COMMITTEE ON ENERGY AND ENVIRONMENT
- 2) Senator Malama Solomon, Chair, and Members of the COMMITTEE ON WATER AND LAND.
- 3) Senator Will Espero, Chair, and Members of the COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS.

The Senate
State Capitol
Honolulu, Hawaii

Regarding: HB106 HD2

Position: I Support the full repeal of Act 97 SLH 2012, and support the following amendments to HB106.

I request that you please repeal Act 97 and pass HB106 HD2 with the following Amendments, in order of priority:

1. **Delete § 205-D *Request for mediation*, § 205-E *Mediation* and §205-G *Final decisions* to remove mediation and restore contested cases.**
2. **If you do not delete the above, please at least change § 205-D to include review of the applicant's assessment statements; Change § 205-D and -E to say "government entity" instead of "appropriate county authority" to extend those provisions to conservation land under the DLNR; and Change § 205-E to refer to "judicial review" instead of "appeal."**
3. **Change § 205-A (a) to say "appropriate buffer zone", deleting the wording "industry recognized", and also include the appropriate buffer zone requirement in § 205-D (b).**
4. **Change the notice requirement of § 205-C from two thousand feet to three thousand feet.**
5. **Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws.**

Patricia Chikasuye

The main thing that we are truly asking for from you is our right to contested case hearings through the judicial system. Mediation is not an appropriate substitute in this case of ongoing controversy. There have been over thirty years of controversy concerning geothermal in Puna. Twenty-three of those years have allowed no right for contested cases. We would like our right to be heard in court back.

Mahalo for your time and for the opportunity to testify. I thank you for your genuine consideration in this matter, on behalf of all of Hawai'i.

Sincerely,

Patricia J. Chikasuye

Testimony of: Jenna Chikasuye
PO Box 98
Mountain View, HI
96771

March 20, 2013

To: THE HAWAII STATE SENATE:

- 1) Senator Mike Gabbard, Chair, and members of the COMMITTEE ON ENERGY AND ENVIRONMENT
- 2) Senator Malama Solomon, Chair, and Members of the COMMITTEE ON WATER AND LAND.
- 3) Senator Will Espero, Chair, and Members of the COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS.

The Senate
State Capitol
Honolulu, Hawaii

Regarding: HB106 HD2

Position: I Support the Repeal of Act 97 SLH 2012, and Support Amendments to HB106 Original Draft. Amendments Supported are Listed on Page 4.

Dear Chairs Gabbard, Solomon, Espero, and Committee Members:

I write this testimony as a native of upper Puna District. I would like to dispel some of the seeming confusion around the demographic of Puna that opposes the way that geothermal is currently conducted within Puna, as well as its proposed future expansion both statewide and within Puna. I believe some of this confusion is due to false testimony by Ms. Trask and Richard Ha wherein they made grand diminutizing generalizations to the House Committees, saying that there are only "seven or eight 'Punatics' jumping up and down," opposing geothermal, and that we "are all drug dealers and drug addicts."

Personal Background:

Now first of all, let me tell you something. I have never been into substances. I drink half a glass of red wine a year on special occasions, and that's it. I've never smoked cigarettes or substances of any other kind, nor do I take any kind of recreational or pharmaceutical drugs. I was born in Hilo and raised in Upper Puna on Big Island of Hawai'i. I am daughter to William Chikasuye, retired attorney at law, and Patricia Chikasuye, retired Hawaiian Airlines employee. My paternal grandfather was Clesson Chikasuye, who was a Honolulu City Councilman, and also on the board of Aloha Airlines. When I was 11 Doctors first started to figure out that there was something

Jenna Chikasuye

wrong with the way my kidneys were filtering, but they didn't know what. Please save that note for later. When I was 14 I was the youngest student who had ever been admitted

to UH-Hilo, where I attended university part-time and Hilo High part-time, and at 17 years old, I left Hawai'i with scholarships to attend UCLA. After only two years of straight A's at UCLA, I left due to illness. I had problems that not even the UCLA Medical Center could figure out. Years of chronic bronchitis and chronic bladder infections left me debilitated, weak. All they could do for me was prescribe antibiotics, a new round once or twice a month! This, ultimately, made me a lot sicker. I later completed BAs from Naropa University in Psychology, Religious Studies with an emphasis in Buddhist Studies, and Writing and Poetics. I became a meditation instructor and led groups in Boulder, Colorado, as well as in Crestone, Colorado, and have also taught in Massachusetts, Oregon, and California. The largest groups I have had the pleasure of leading is 150. I am blessed to have completed many month-long meditation retreats. It has been my dream since I was 21 to open a remote meditation retreat center in Hawaii for longer retreats of up to three months or longer.

I have also worked as an audio archivist at University, and have completed many courses and certifications in natural health and wellness in various traditions ranging from Native Hawaiian Herbalism, to Western nutrition, to Tibetan Ayurveda and Chinese Medicine. I am part of a film crew that made a documentary on the role of meditation in modern Western life. I am a 300-hour yoga instructor. With the help of a team of MDs, naturopaths, acupuncturists, and a wonderfully supportive family, I have cured myself of many chronic and debilitating health problems and disease over the past 10 years. The root of these, I believe is in my heavy metal levels. Five years ago, one of my many doctors finally figured out that I had tremendous heavy metal and radioactive metal poisoning. My M.D. went so far as to ask, "Did your parents work in a nuclear facility before they had you?" I was shocked. My M.D. told me at that time that there was no doubt in his mind that I had been exposed to these environmental pollutants while I was in the developmental phases of my life - as a child, if not a fetus in utero. I immediately thought of the vog, but had no concept that geothermal exploration and drilling existed at the time.

I later discovered that the first experimental geothermal drill sites that were drilled **before I was born**, are just a mile from my family's home, where I grew up. Last year, I discovered that the same heavy metal, radioactive metal, and chemical soup that pours forth from Puna Geothermal Venture's plant, is the very same composition that showed up in my tests. **When I asked how it was possible that I could have such high levels of these metals my doctor told me that more tests need to be done in this emergent field of medicine, but that there is a percentage of the population whose bodies are unable to naturally chelate these metals from their liver and kidneys, and therefore get sick.** Remember, that I was told you on page 1 that when I was 11, Hilo M.D.s found that my kidneys had a problem with filtering? **We do not yet know what the percentage of that population is. However, we do know that there are steeply rising**

Jenna Chikasuye

autism rates, and that autistics also lack the ability to chelate or to remove heavy metals without assistance. We also know that in utero and childhood developmental damage by heavy metals can actually create this problem in kidneys and livers.

It may be that the percentage of people who are full of metals is also on the rise. Science now tells us that metals are transferred from mother to child in-utero, and also through breastmilk. After several hundred years of industrialization, burning leaded gasoline, lead oil, and using lead paint, and mercury from industrial waste and factory and power plant smoke stacks, not to mention the host of other metals and chemical onslaught, it isn't surprising that we may be reaching a heavy metal and chemical saturation in our global population, and that our bodies have not adapted swiftly enough to deal with these changes.

While still living in Boulder, I attempted to go through chelation therapy - the process of removing these heavy metals and radionuclides from my body. However, while undergoing chelation I often become so sick that it was like having the flu on steroids. Sometimes I could barely crawl to the bathroom, and would be bedridden for days. I couldn't hold a normal job while doing this. So I moved home a little over two years ago to be near my family, to be in the land that I love, and to complete chelating heavy metals from my system, something that proved impossible without a tremendous amount of support.

Now that you can see that I am not a "Punatic" or a "drug dealer," let me continue.

COMMUNITY AND ENVIRONMENTAL POSITIONS AND APPEAL:

I want you to first know that I do not think I am an exception to the local demographic of Puna. We have a lot of very amazing and incredible people here. I want you to know that. You may not see them here in Honolulu because it is far for them to travel, and it costs quite a lot for a flight nowadays. **We are hoping that we will be able to electronically testify by digital video next year; then you will see and hear much more of us, for we will be able to speak for ourselves, and not be subject to misrepresentation by special interest parties.** That is the only truly democratic potentiality that I can see for state legislature in the immediate future.

I want to tell you, I care about our 'aina, I care about the future of Hawai'i, and I am completely aware of Peak Oil and the potential for Hawai'i to become a model state for sustainability - not only for the US, but for the world. I have that vision and dream for Hawai'i just as much as, if not more, than you do. Since I was a keiki, I was a leader in recycling and environmental clean-up in community service. And now, as Hawai'i's young adult generation, I really want to see us completely sustainable, and swiftly. And I can tell you, Senators, that geothermal done in the way that it's been done since before I was born, and the way it continues to be done, is truly not an authentically sustainable way.

Jenna Chikasuye

Is it sustainable to subject a people to environmental pollutants that little is known about? Remember, if you had gone to MDs, State Legislature in any state, and also to paint manufacturers even 40 years ago and told them that Lead is toxic, they would have scoffed at you. Similarly, when I have contacted the Department of Health *repeatedly* and requested information regarding the vog and its basic elemental make-up, as well as information regarding what comes out of PGV, I have faced nothing but scoffs, refusal to provide information, and denial of the potentiality of airborne and water-borne contaminants.

It is also not sustainable to marginalize a community in which you want to do business. I am sure PGV, HELCO, HICO, and the State Legislation can see the truth of that statement. The people of Puna have been asking for health studies, Environmental Impact Studies and Environmental Assessments **for almost thirty years.** Furthermore, they have asked for studies of their water. The USGS stated in the conclusion of their 1994 report on water in Puna that “Contamination of freshwater aquifers could occur from accidental release of geothermal fluids and gases either through well blowouts or casing breaks.” **It is not unconscionable nor unreasonable to request more hard science for a community that has suffered, and continues to suffer tremendous health problems that we believe are linked to geothermal pollution.** There are members in our community who have died, who have suffered emphysema, pneumonia, terrible allergies, chronic fatigue, and a long list of maladies that may be linked to pollutants and H₂S from the plant. I doubt you are aware, but one mother lost both of her two young children to respiratory problems in Puna, right near PGV. It is a very delicate subject, but we are asking her to come forth, and hope that you may hear from her in the near future.

There are members of the community currently conducting **their own health studies** using methodologies of authoritative M.D.s in the field - all because of the legislation’s negligence and refusal to help after years of repeated requests for more science and deeper studies. You know that there are also many people who have sought relocation due to the plant - these people would not be leaving their homes and the place that they love if there was not a problem, or if they had been appropriately informed while shopping for their home.

Now that you know a little bit about who I am, where I come from, our communities on big island, please let me address the most immediate business at hand regarding all this: **I request that you please Repeal Act 97 and pass HB106 HD2 with the following amendments.**

AMENDMENTS:

- 1. Delete § 205-D *Request for mediation*, § 205-E *Mediation* and §205-G *Final decisions* to remove mediation and restore contested cases.**

Jenna Chikasuye

Mediation is a voluntary method used by people trying to settle a dispute, it is not an appropriate substitute for contested cases when there is an on-going controversy. It is our basic civil right to be able to seek justice and due process through the court system, especially with regard to our own homes and land. "Mediation" has removed our rights to contested case hearings. Therefore, "mediation" in this case is not a happy term. Peter Adler, our 'mediator,' is a majority of one, and he has brought a lot of anger, sorrow and confusion to the people of Puna.

2. If you do not delete the above, please change § 205-D to include review of the applicant's assessment statements; Change § 205-D and -E to say "government entity" instead of "appropriate county authority" to extend those provisions to conservation land under the DLNR; and Change § 205-E to refer to "judicial review" instead of "appeal".

3. Change § 205-A (a) to say "appropriate buffer zone", deleting the wording "industry recognized", and also include the appropriate buffer zone requirement in § 205-D (b).

A buffer zone ordinance supported by the affected community was passed by the Hawai'i County Council in 2012, but it was then vetoed by the mayor. Instating a buffer zone is a recognized and appropriate process in permitting.

4. Change the notice requirement of § 205-C from two thousand feet to three thousand feet.

5. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws.

So that no one else in Hawai'i need to go through the same strife that Puna community is currently in until more scientific studies on health, water contamination and potential contamination, and land contamination are completed.

On my own behalf, and on behalf of the people of Puna, the future generations of Hawai'i, our keiki, and our 'aina, I thank you, Senators, for your time, kokua and consideration.

Mahalo Nui Loa.

Sincerely,

Jenna Chikasuye

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Judith R. Eppersin	Individual	Support	No

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Al Inoue	Individual	Oppose	No

Comments: Ladies and Gentlemen: The content of HB106 is somewhat duplicated by HB932. HB932, however, is a better bill and reduces the processing time to obtain approval. Thank you for your consideration.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
royal rivera	Individual	Support	No

Comments: no more geothermal. its destroying/polluting our land our community!!

Energy and Environment Committee,

House Bill 106 (HB106) would restore county oversight in future geothermal planning, which was removed in Act 97.

We need your conscientious review and strong leadership now to assure this bill is passed.

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Our Aloha,
Kathleen and Peter Golden

Kathleen & Peter Golden
Volcano, HI
Volcano Rainforest Retreat
www.volcanoretreat.com
golden.kathleen@gmail.com

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
James Hedgecock	Individual	Support	No

Comments: I support this bill with the following amendments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Diehl	Individual	Support	No

Comments: Please support HB 106, for the future of our islands, to ensure that the Counties and Communities have a say in the future developments of the land on which they live. Mahalo.

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Tracy W. Hedgecock	Individual	Support	No

Comments: I support HB 106 with the following amendments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

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Submitted on: 3/20/2013

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Submitted By	Organization	Testifier Position	Present at Hearing
Leonard Sussman	Individual	Support	No

Comments: I support this bill with the following changes: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

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Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
chauncy domin	Individual	Support	No

Comments:

HB106

Submitted on: 3/20/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
John and Karla Tobey	Individual	Comments Only	No

Comments: I do not want any Geothermal in Puna!! None of my family or friends will support any elected official who supports geothermal in Puna. The health risks are too high. Negative environmental impact is a given with this type of venture. The thought of turning such a beautiful place into an industrial, and potentially hazerdous area is apauling. Do not be pressured to promote something that can have a horrendous impact for many generations to come

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Cotu Connors	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Cotu Connors	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Tia Kent	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Tatiana Rocks	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Tram Quen	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
penny silva	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
sue phalen	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
sam cresanto	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
michael hawthorne	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
missy kouma	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Mondiau Simmons	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Julian Jiman	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
ylva nyberg	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
John connors	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Jamie Schwartz	Individual	Support	No

Comments:

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
durwin wong	Individual	Support	No

Comments: I support this bill with the following amendments: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Carl York	Individual	Support	No

Comments: support HB 106 repeal act 97 please support these amendments 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term "industry recognized"); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Janet Murray	Individual	Support	No

Comments: Thank you! We support HB106. Please support HB106 and repeal Act 97. Please support the following amendments to HB 106 HD2, esp. article 1 below: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term "industry recognized"); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Tim Finn	Individual	Support	No

Comments: I recommend passage with THESE AMENDMENTS 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term "industry recognized"); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet.

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Darla Cash	Individual	Comments Only	No

Comments: Regarding 106 HB: Its is of grave concern for the welfare of the people and environment of Puna that I testify today. Geothermal is neither a safe or economical option for energy production. In the evening after the recent accident at the existing geothermal plant, I smelled what I thought was a serious propane leak in my home in Pahoa. When I checked all my lines, I found no leak. The smell dissipated. This is not the first time. About four years ago, I reported the same and found there was an accident at the geothermal plant. I urge a hearing of 106 HB with the following considerations: 1. Delete three sections (§ 205-D Request for mediation, § 205-E Mediation and §205-G Final decisions) to remove mediation and restore contested cases; 2. Restore geothermal resource subzones as they existed prior to Act 97 and reinstate subzone laws; 3. Provide for an appropriate buffer zone (but delete the term industry recognized); 4. Include review of the applicant's assessment statements in deciding the application; 5. Extend the permitting provisions to DLNR for conservation land; 6. Change the public notice requirement from two to three thousand feet. We have so many viable options to safely and effectively provide energy to our district and beyond. Geothermal is a failed experiment. We can do better. Thank you, Darla Cash

HB106

Submitted on: 3/21/2013

Testimony for ENE/WTL/PSM on Mar 21, 2013 15:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
sherrian witt	Individual	Support	No

Comments: