

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 03, 2014 11:05 PM
To: waltestimony
Cc: wctanaka@gmail.com
Subject: Submitted testimony for HB1617 on Feb 5, 2014 09:15AM

HB1617

Submitted on: 2/3/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Wayne	Individual	Support	No

Comments: The exception (remnants) should not swallow the (Act 176) rule, especially when that rule protects the ceded lands corpus! Mahalo for your support of this important measure.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 03, 2014 11:45 PM
To: waltestimony
Cc: joakim@hawaii.edu
Subject: Submitted testimony for HB1617 on Feb 5, 2014 09:15AM

HB1617

Submitted on: 2/3/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Joakim Jojo Peter	Individual	Support	No

Comments: I believe it is no morality right for the government to continue denying the Hawaiians the stewardship of their own aina. Government has not done justice for Hawaiian people for long time, but enough to deal away these people's land. morally irresponsible.

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HB1617
RELATING TO THE DEFINITION OF REMNANTS
House Committee on Water & Land

February 5, 2014

9:15 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) **STRONGLY SUPPORTS** HB1617, which is a bill in OHA's 2014 legislative package. HB1617 would restore transparency, accountability and legislative oversight over the alienation of public lands, including "ceded" lands and public land trust lands, by clarifying which public lands qualify as "remnants" exempt from public auction and legislative approval requirements otherwise applicable to the sale of such lands. HB1617 brings the practice of using the remnants provision to sell public lands inline with the purpose of Act 176 (Reg. Sess. 2009), which settled a decade-long lawsuit brought by OHA over the State of Hawai'i's attempt to sell "ceded" lands.¹

As described in the purpose section of this bill, several procedural mechanisms exist in the alienation of public lands. As clearly stated in its preamble, Act 176 was enacted to "establish a more comprehensive process for the sale of state-owned land, and to reserve a larger oversight role for the legislature to assure that key information about certain sales or exchanges of land is shared with the legislature." In recognition of the finality and permanence of the sale of Hawai'i's most precious and limited resource, the legislature established procedural mechanisms to provide transparency and accountability, namely the prior approval by a super majority of the Hawai'i State Legislature, "before **most** state-owned land [can] be sold[.]" Act 176 (Reg. Sess. 2009) (emphasis added). Additionally, a public auction process is also required for the sale of most public lands.

The only exception to these procedural safeguards exists for those lands classified as "remnants," which are arguably limited to formerly condemned lands that are no longer needed, or abandoned roads, ditches, or other similar rights-of-way. HRS § 171-52. In such circumstances, remnants must also be found unsuitable or undesirable for development. If the state determines a parcel of land

¹ On November 4, 1994, OHA filed a lawsuit, *OHA v. Hawaii Finance and Development Corporation* [later renamed *OHA v. Housing and Community Development Corporation of Hawai'i (HCDCH)*], to seek a moratorium on the sale of ceded lands by the State of Hawai'i in order to implement its policy to protect the ceded lands corpus until the unrelinquished claims of Native Hawaiians are resolved.

to be a “remnant,” then it may sell the parcel without going through a public bidding process, and without a super majority approval of the Legislature.

A review of remnant sales over the last five years indicates that remnants have almost invariably been limited to formerly condemned lands, or abandoned ditches, roads or similar rights-of-way. However, the state has recently used a selectively broad interpretation of the remnant definition to sell multiple parcels, including a five-acre parcel of ceded, public land trust lands, without public auction or legislative approval. This parcel of land included a stream and waterfall in East Maui, and was not condemned lands, nor an abandoned right-of-way. However, the state determined this parcel to be a remnant based solely on a finding that it was “unsuitable for development.” In a subsequent decision, a seven-acre parcel of non-ceded, non-public land trust, undeveloped lands was also approved for sale as a “remnant”; again, the only criterion applied was that this land was considered “unsuitable for development.” These broad interpretations effectively eliminate the legislature’s desire to have a “larger oversight role[,]” as envisioned by Act 176.

Similar applications of the “remnant” definition, should this trend continue, could allow a significant proportion of the state’s public lands to be classified as “remnants,” due to their “unsuitability for development.” As illustrated in the recent land sales, such a trend would undermine the procedural mechanisms used to safeguard our limited land assets, and open the door for our public lands base to be gradually diminished through land sales without the opportunity for meaningful public scrutiny or financial accountability. Further remnant sales may also impact the state’s commitments to a reconciliation process with Native Hawaiians and the health and well-being of the Native Hawaiian people, which is intrinsically tied to their connection and attachment to the ‘āina.

By clarifying that “remnants” should either constitute formerly condemned lands or abandoned rights-of-way, as already suggested by statutory language and the past practices of the state, this bill will better ensure the transparency and accountability mechanisms that otherwise govern the disposal of public lands, avoid future conflicts and misunderstandings, and prevent sales of convenience that may chip away at our very finite public lands corpus. It also serves to respect what **U.S. Congress, the State of Hawai’i (via its administration, legislature, and judiciary), and OHA all recognize—that the “ceded lands were illegally taken from the native Hawaiian monarchy[,]” and “once any ceded lands are alienated [], they will be gone forever[.]”**

Therefore, OHA urges the committee to **PASS** HB1617. Mahalo for the opportunity to testify on this important measure.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 9:28 AM
To: waltestimony
Cc: miwa.tamanaha@gmail.com
Subject: *Submitted testimony for HB1617 on Feb 5, 2014 09:15AM*

HB1617

Submitted on: 2/4/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Miwa Tamanaha	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 9:37 AM
To: waltestimony
Cc: amysojot@hawaii.edu
Subject: *Submitted testimony for HB1617 on Feb 5, 2014 09:15AM*

HB1617

Submitted on: 2/4/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Sojot	Individual	Support	No

Comments:

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NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

**Before the House Committee on
WATER & LAND**

**Wednesday, February 5, 2014
9:15 A.M.
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 1617
RELATING TO THE DEFINITION OF REMNANTS**

House Bill 1617 proposes to amend the definition of “remnant” to restrict it to the categories listed in Section 171-52(a), Hawaii Revised Statutes. **The Department of Land and Natural Resources (Department) opposes this bill.**

As presently defined under the statute, the term “remnant” means a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics.” The statute goes on to list two general categories of land that may constitute a remnant: “(1) Land acquired by condemnation which is in excess of the needs for which condemned; (2) Vacated, closed, abandoned, or discontinued road, street or alley or walk, railroad, ditch, or other right-of-way.”

House Bill 1617 would change the definition so that only lands that fall within the two general categories above could be considered remnants and sold. In most cases, the remnants that the Board of Land and Natural Resources authorizes to sell fit these categories. However, there are times that it is in the State’s best interest to dispose of lands outside of the categories. One example of this is the situation where private lands were developed at the base of a steep hill, leaving the State with ownership of the hillside and liability for falling rocks and landslides. Such lands are unsuitable for development or utilization, but do not fit within the two general categories in the statute. However, it may be in the best interests of the State to dispose of the land and the liability in such a case. The proposed legislation would prevent the Board from taking such action, and the Department therefore opposes the bill.

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
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 10:01 AM
To: waltestimony
Cc: tina.aiu@gmail.com
Subject: *Submitted testimony for HB1617 on Feb 5, 2014 09:15AM*

HB1617

Submitted on: 2/4/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Christina Aiu	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 10:07 AM
To: waltestimony
Cc: alika.maikau@gmail.com
Subject: *Submitted testimony for HB1617 on Feb 5, 2014 09:15AM*

HB1617

Submitted on: 2/4/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
alika pfaltzgraff	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 10:08 AM
To: waltestimony
Cc: alx.connelly@gmail.com
Subject: *Submitted testimony for HB1617 on Feb 5, 2014 09:15AM*

HB1617

Submitted on: 2/4/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Alex Connelly	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 10:28 AM
To: waltestimony
Cc: randyc.09@gmail.com
Subject: Submitted testimony for HB1617 on Feb 5, 2014 09:15AM

HB1617

Submitted on: 2/4/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
	Individual	Support	No

Comments: I support this bill to restrain the State's inclination to allow privatization of the public good, particularly without legislative oversight. Such unmonitored and unpublicized privatization allows the few powerful to bypass democratic processes and protections, while the general public majority has no way to see their land, assets, and power being slowly and sneakily taken away. This is why I support this bill.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 10:42 AM
To: waltestimony
Cc: lukesarvis@gmail.com
Subject: *Submitted testimony for HB1617 on Feb 5, 2014 09:15AM*

HB1617

Submitted on: 2/4/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Luke Sarvis	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 10:04 AM
To: waltestimony
Cc: alicia.greene@hi.usda.gov
Subject: Submitted testimony for HB1916 on Feb 5, 2014 09:15AM

HB1916

Submitted on: 2/4/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Alicia Greene	NRCS	Support	No

Comments: The conservation districts provide a valued and respected service to Hawaii farmers and ranchers as well as support for the Natural Resource Conservation Service.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 10:50 AM
To: waltestimony
Cc: mail@kealiaranch.com
Subject: *Submitted testimony for HB1916 on Feb 5, 2014 09:15AM*

HB1916

Submitted on: 2/4/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sara Moore	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 10:58 AM
To: waltestimony
Cc: jenny@hiappleseed.org
Subject: *Submitted testimony for HB1617 on Feb 5, 2014 09:15AM*

HB1617

Submitted on: 2/4/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jenny Lee	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 11:20 AM
To: waltestimony
Cc: kamailem@oha.org
Subject: Submitted testimony for HB1617 on Feb 5, 2014 09:15AM

HB1617

Submitted on: 2/4/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kamaile Maldonado	Individual	Support	No

Comments: This bill is necessary to help maintain the integrity of Native Hawaiian claims to their ancestral lands. The remnant exception to Act 176 has been applied far too broadly in recent years and is causing the further erosion of the public land trust and regressing our steps toward reconciliation with the Native Hawaiian people. Please ensure greater accountability and transparency with regard to our public lands and protect the assets to which Native Hawaiians have rightful claims. Please pass HB1617. Mahalo for the opportunity to testify.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 12:03 PM
To: waltestimony
Cc: mminn811@gmail.com
Subject: Submitted testimony for HB1617 on Feb 5, 2014 09:15AM

HB1617

Submitted on: 2/4/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
M. Minn	Individual	Support	No

Comments: Please stop selling ceded lands. It isn't yours to sell.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 3:06 PM
To: waltestimony
Cc: dejamarie@gmail.com
Subject: Submitted testimony for HB1617 on Feb 5, 2014 09:15AM

HB1617

Submitted on: 2/4/2014

Testimony for WAL on Feb 5, 2014 09:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Deja	Individual	Support	No

Comments: This bill restores meaning to the state recognition of Native Hawaiian claims to their ancestral lands. Act 176 reflected an agreement between the State and the Office of Hawaiian Affairs that state public lands, most of which were “ceded” lands acquired through the unlawful overthrow of the Hawaiian Kingdom, would not be alienated except in the most exigent circumstances, with super majority (two-thirds) approval by the state Legislature. This represented a significant acknowledgement by the state of the claims that Native Hawaiians continue to maintain with respect to ancestral lands that were taken without their consent or legal process. However, the recent, overly-broad application of the “remnant” exception to the Act 176 agreement now threatens to erode away at the progress towards reconciliation it embodied, in addition to threatening our very finite public lands base. Clarifying what lands may constitute “remnants” eligible to be sold without legislative oversight will restore meaning to the state’s recognition of Native Hawaiian claims to their ancestral lands, as a critical step towards reconciliation with and self-determination for the Hawaiian people.

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:: Leanne Kealoha Fox ::

94-1118 Ho'ohale Street
Waipahu, Hawai'i 96797

Email:
kealohafox@gmail.com

February 4, 2014

HB1617/SB2104

Relating to the definition of remnants

House Committee on Water & Land

Aloha a welina mai nei e na alaka'i:

It is with great enthusiasm that I write testimony to **SUPPORT** HB1617/SB2104 relating to the definition of remnants to clarify that the definition of "remnant" shall only apply to those categories of land already envisioned in the remnant statute, namely, condemned property no longer needed by the state, or abandoned roads, ditches or other rights-of-way. This would restore meaning to the procedural safeguards that would otherwise provide transparency and accountability in the disposal of public lands, including "ceded" lands.

Act 176 reflected an agreement between the State and the Office of Hawaiian Affairs that state public lands, most of which were "ceded" lands acquired through the unlawful overthrow of the Hawaiian Kingdom, would not be alienated except in the most exigent circumstances, with super majority (two-thirds) approval by the state Legislature. This represented a significant acknowledgement by the state of the claims that Native Hawaiians continue to maintain with respect to ancestral lands that were taken without their consent or legal process. However, the recent, overly-broad application of the "remnant" exception to the Act 176 agreement now threatens to erode away at the progress towards reconciliation it embodied, in addition to threatening our very finite public lands base.

Clarifying what lands may constitute "remnants" eligible to be sold without legislative oversight will restore meaning to the state's recognition of Native Hawaiian claims to their ancestral lands, as a critical step towards reconciliation with and self-determination for the Hawaiian people.

Mahalo nui loa for the opportunity to provide testimony in **SUPPORT** HB1617/SB2104 relating to the definition of remnants.

Respectfully, me ka `oia`i`o.

Letter of Support for HB1617/SB2104