

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 Committees on
ENERGY & ENVIRONMENTAL PROTECTION
and
WATER & LAND**

**Thursday, February 13, 2014
8:40 A.M.
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 2639, HOUSE DRAFT 1
RELATING TO GEOTHERMAL RESOURCE DEVELOPMENT**

House Bill 2639, House Draft 1 proposes to revise statutory provisions relating to the regulation of mineral resources under Chapters 171 and 182, Hawaii Revised Statutes, to include geothermal within the definition of a "renewable energy producer" and to provide clarity, eliminate ambiguities, and incorporate technical, non-substantive changes in accordance with Act 97, Session Laws of Hawaii (SLH) 2012, and restores geothermal resource permits issued by the counties. **The Department of Land and Natural Resources (Department) supports this measure.**

The Department is responsible for the regulation of geothermal resources in the State. Through the issuance of geothermal resource mining leases and regulatory permits, the Department is tasked to manage the resource and its development to protect the health and safety of the public and to ensure the continued viability of this public trust resource for future generations.

Departmental statutes currently do not classify geothermal resources as part of the definition of "renewable energy producer". Adding this designation would provide geothermal resources equity to other renewable energy sources such as wind, solar, hydropower, or biomass.

Statutes pertaining to the regulation and management of mineral resources need updating to provide clarity, reduce ambiguities, and to correlate changes in accordance with Act 97, SLH 2012. These updates will reduce potential delays to geothermal exploration and development. The updates will also facilitate the regulation and management of mineral resources. Such

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

clarification and update will assist the Department in working toward meeting goals of the Hawaii Clean Energy Initiative.

The Department does not oppose restoring home rule authority through the issuance of geothermal resource permits, as we believe each individual county should maintain its authority to regulate use that occurs within its appropriate land use districts.

The Department also understands that changing the definition of “geothermal resources” may have unintended consequences with regard to direct use applications. As such, the Department will develop administrative rules to clarify this process.

Thank you for the opportunity to testify on this measure.

COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Rep. Chris Lee, Chair

Rep. Cynthia Thielen, Vice Chair

COMMITTEE ON WATER AND LAND

Rep. Cindy Evans, Chair

Rep. Nicole E. Lowen, Vice Chair

Thursday February 13, 2014

Conference Room 325

8:40 AM

Testimony in Support of HB 2639

Relating to Geothermal Resource Development

Submitted by:

Donald Thomas

I am a member of the research faculty at the University of Hawaii and have conducted applied and basic research on Hawaii's geology, groundwater, and geothermal systems for more than 40 years. I present the following testimony in support of **HB 2639**.

HB 2639 restores county authority over permitting related to geothermal development on Rural, Agricultural and other land classifications over which County governments have traditionally had land use authority. Act 97 inadvertently eliminated that authority with the repeal of the geothermal subzone requirements and this bill will rectify that oversight.

HB 2639 also clarifies permitting requirements for geothermal development and appropriately defines geothermal development as a renewable energy source. It also clarifies requirements for geothermal exploration and mining which will facilitate further development of this renewable, indigenous energy resource in a way that will be affordable for all Hawaii's residents.

I would, however, request one modification in the statute: as currently written and interpreted, any geophysical, geological or geochemical measurement made in Hawaii, if it can in any way "contact" or sense a geothermal resource, whether done for geothermal exploration, groundwater assessment, or even for basic research, triggers a requirement for a geothermal exploration permit. If enforced, this interpretation could both unnecessarily increase the administrative load on the Department of Land and Natural Resources, and substantially increase delays and costs of conducting earth sciences research in Hawaii. I would request that the language be modified to clarify permit requirements that are specific

to exploration for geothermal development purposes. Suggested revisions (on pages 10 and 11 of HB2639_HD1) are as follows:

SECTION 4. Section 182-1 Hawaii Revised Statutes is amended as follows: ...2. By amending the definitions of... "Geothermal resources exploration" means either of the following:

- (1) Conducting non-invasive geophysical operations including geochemical operations, remote sensing, and other similar techniques; to determine the economic viability of geothermal resources; or
- (2) Drilling exploration wells for, but not limited to, the extraction and removal of minerals of types and quantities that are reasonably required for testing and analysis to provide ground truth or determine the economic viability of a geothermal resources;

~~that are reasonably required for testing and analysis to provide ground truth or determine the economic viability of geothermal resources. The term does not include "geothermal resources development".~~

This revision will clarify the intent of the permit requirements for conducting assessments of geothermal resources for development purposes and avoid unnecessary delays in conducting basic research and gathering basic earth sciences data in Hawaii.

Thank you for this opportunity to offer testimony.

This testimony reflects my views alone and is not an official statement of the University of Hawaii.



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

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
RICHARD C. LIM
Director

Department of Business, Economic Development, and Tourism
before the

**HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
AND
HOUSE COMMITTEE ON WATER AND LAND**

Thursday, February 13, 2014
8:40 a.m.

State Capitol, Conference Room 325

in consideration of
HB 2639 HD 1

RELATING TO GEOTHERMAL DEVELOPMENT.

Chairs Lee and Evans, Vice Chairs Thielen and Lowen, and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) supports HB 2639 HD 1, which includes geothermal within the definition of a renewable energy producer for public land leasing purposes, reauthorizes Counties' Geothermal Resource Permits (GRPs), and clarifies Department of Land and Natural Resources' administration of the State's mineral leasing program.

DBEDT defers to the Department of Land and Natural Resources regarding the provisions of this measure impacting the administration of the State's mineral leasing program.

Thank you for the opportunity to offer these comments in support of HB 2639 HD1.



HB2639 HD1
RELATING TO NATURAL RESOURCES
House Committee on Energy & Environmental Protection
House Committee on Water & Land

February 13, 2014

8:40 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB2639 HD1, which would return some permitting procedures to geothermal resource development and reinstate opportunities for public input.

In Act 97, Session Laws of Hawai‘i 2012, the Legislature repealed the long-established geothermal resource subzone designation process as well as the permitting framework for geothermal exploration and development, without providing any regulatory alternatives. In doing so, Act 97 also eliminated the county review and approval process for geothermal proposals, which included an evaluation of county-specific social, health, environmental and cultural issues, and provided important opportunities for local community input.

OHA understands the potential value of a streamlined process for the exploration of alternative energy options. However, Act 97 eliminated important layers of substantive and procedural safeguards that recognized the need for public involvement and input from those most likely to be affected by geothermal projects. **By restoring county and state permitting and establishing standards to prohibit unreasonable socioeconomic, environmental and public health impacts, this bill will ensure a more open and transparent process for evaluating geothermal proposals, and mitigate potential impacts to Hawai‘i’s most fragile lands and communities.**

OHA expresses concerns regarding this measure’s attempt to expand the public auction exceptions in HRS section 171-95, by allowing the direct lease or grant of public lands to private geothermal producers and developers for up to sixty-five years. Long-term leases such as those allowed under section 171-95 may restrict the state from making the best use of leased public lands for over a generation, and lead to a sense of entitlement that can and has resulted in the loss of public lands. Skipping over the public auction process may also result in significant lost revenue opportunities for the state. **Accordingly, adding geothermal producers and private developers to the list of entities eligible for direct, 65-year leases may compromise the state’s fiduciary duty to ensure that public trust lands are used to the maximum public benefit.**

Mahalo nui for the opportunity to testify.

HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Julie Chen	Paradise Action Womens Alliance	Oppose	No

Comments: You've got to be kidding me! You want to override and allow geothermal permits on districts even when the development is not considered a permissible use?! Geothermal is NOT clean energy and we don't want it polluting our families, communities and 'aina!!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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William P. Kenoi
Mayor



Walter K.M. Lau
Managing Director

Randall M. Kurohara
Deputy Managing Director

County of Hawai'i Office of the Mayor

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February 13, 2014

The Honorable Chris Lee, Chair
and Members of the House Committee on Energy
& Environmental Protection

The Honorable Cindy Evans, Chair
And Members of House Committee on Water & Land
Hawai'i State Capitol, Room 325
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: House Bill 2639, RELATING TO GEOTHERMAL RESOURCE DEVELOPMENT

Aloha, Chair Lee, Chair Evans and Committee Members:

Mahalo for this opportunity to express our support of the intent of this bill, which among other things clarifies the permitting procedures for regulators and renewable energy developers considering geothermal development and authorizes certain county authorities to issue geothermal resource permits to allow geothermal resources development in an agricultural, rural, or urban district even if the development is not considered a permissible use under the applicable county zoning ordinances or general plan. As we have said in previous testimony, we support repeal of Act 97.

The county believes oversight of geothermal permits belongs in the county in which such activity takes place. Placing the permitting authority with county government supports home rule and assures that those people most impacted by any geothermal-related activities have a reasonable opportunity to participate in hearings and voice their concerns or support for such projects.

Mahalo for your consideration.

Aloha,

William P. Kenoi
MAYOR



KAPOLEI
COMMUNITY
DEVELOPMENT
CORPORATION

P.O. Box 700911 Kapolei, HI 96709

Bill: HB2639

Committees: EEP/WAL

Hearing Date: Thursday, Feb. 13, 2014

Location: Room 325

Time: 8:40am

Testimony in Support

Aloha Legislators:

Kapolei Community Development Corporation (KCDC) is a Federal tax exempt organization serving the Kapolei homestead region. Our purpose is to strengthen families and preserve culture. Our intention is to partner with the marketplace in the development of community-based projects. The projects we work on will allow area developers to assist in establishing and sustaining community goals and, therefore, forego dependence on government funding.

Support for HB2639 (Geothermal Development)

HB2639 defines geothermal development procedures, cost, fees and penalties. Passage of this bill is important to native Hawaiian homesteaders.

KCDC understands geothermal energy is recognized as a mineral and its development as a revenue source for the State. This mineral resource is also located in lands within the DHHL inventory and its development would produce a new revenue source for the DHHL. In turn, the revenue would promote DHHL's mission of providing affordable homes to more native Hawaiians.

Additionally, homesteaders are leading the way with low level geothermal development as an agricultural method which could further food sustainability. Members of Waimanalo Hawaiian Homestead Association won the support of the Neighborhood Board in its work to explore and develop a venue as a geothermal hot-house or food processing facility which will help to support food sustainability in farm producing areas.

Mahalo for the opportunity to Support HB2639.

Shirley S. Swinney
President, KCDC

HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jim Albertini	Malu 'Aina	Oppose	No

Comments: Our organization opposes geothermal energy in Hawaii as a violation of native Hawaiian spiritual beliefs that drilling into the deity Pele is sacrilegious. Decentralized solar is the way to go. Mahalo. Jim Albertini, president

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Puna Pono Alliance
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February 10, 2014

To: House Committee on Energy & Environmental Protection

Rep. Chris Lee, Chair
Rep. Cynthia Thielen, Vice Chair

House Committee on Water & Land

Rep. Cindy Evans, Chair
Rep. Nicole E. Lowen, Vice Chair

Re: Hearing on Thursday, February 13, 2014, at 8:40 a.m. in Conference Room 325 –

HB1766 (providing for geothermal permitting) – **strongly support** and
HB2639 (providing for geothermal permitting, only¹) – **strongly oppose** because:

- * it perpetuates mandatory mediation in geothermal permitting
- * it fails to restore geothermal resource subzones (as repealed by Act 97 in 2012)
- * it fails to assure appropriate geothermal environmental review
- * it ignores Hawai`i County's recent Geothermal Public Health Assessment

Encl: One proposed amendment to HB1766, HD1 (housekeeping) and

Four proposed amendments to HB2639, HD1:

1. to remove mandatory mediation from geothermal permitting
2. to restore the geothermal resource subzones repealed by Act 97, *nunc pro tunc*
3. to assure appropriate geothermal environmental review
4. to include Geothermal Public Health Assessment recommendations

Aloha Representatives,

The first geothermal permitting law created by Act 296 in 1983 provided for a *contested case*² in permit applications. In 1987 Act 378 removed contested case provisions and substituted mandatory mediation (“to provide for a simpler procedure to consider and act on permits for geothermal development” Senate Committee Report 1118.). In 2012, Act 97 repealed *all of*

¹ Please note that this testimony addresses only Section 2 of HB2639.

² Act 296 (1986) said, in relevant part, “[t]he board and/or appropriate county agency shall, upon request, conduct a contested case hearing pursuant to chapter 91 prior to the issuance of a geothermal resource permit....” *Contested case* is defined by HRS § 91-1 as “a proceeding in which the legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for agency hearing.”

the laws relating to geothermal permitting and geothermal resource subzones, apparently with an intent of eliminating a so-called ‘go-slow’ approach to geothermal development.³

Early thoughts regarding streamlining geothermal permits to make the process simpler (and easier for developers) weakened the process to the point where it failed to appropriately consider public health and safety. Those thoughts eventually reached the ultimate absurdity of simply wiping out all geothermal regulatory statutes in 2012 by Act 97. Obviously, the resulting vacuum provides for no consideration of public health and safety. Now, for the second year in a row, the Legislature is re-visiting that elimination of laws governing geothermal development. A final step in the unsuccessful efforts to restore geothermal laws in 2013 saw a rare Senate floor amendment that removed mandatory meditation from HB252 (the last bill geothermal still standing in 2013 before it died in a conference committee.)

Before you now is HB2639 that would restore only part of the minimal and insufficient streamlined geothermal permitting procedure that was repealed by Act 97. We strongly oppose HB2639 in its present form. On the other hand, we strongly support HB1766 that would restore improved permitting procedures, including lessons learned from the Geothermal Public Health Assessment Final Report that resulted from a working group funded by the County of Hawai`i. The County’s pro-geothermal mayor has embraced the report and promised to implement its recommendations. Puna is the only community in the State with actual geothermal experience. The report offers some hope that future geothermal development in Hawai`i could come closer to assuring the health and safety of affected communities. It is a misfortune for our optimism that *HB2639 disregards Hawai`i County’s recent assessment report*. Our community’s support for HB1766 *could extend to supporting HB2639 if it is duly amended*.

The report, validating a number of community concerns expressed over the years, states that risks from geothermal energy production and harmful effects require better monitoring and reliable health data. The report includes several valuable recommendations, such as establishing a better toxic emission monitoring system based upon a finding of risks that relate to geothermal energy production’s hazardous chemicals escaping to the air, water, or at surface level. Also, the report recommends evaluation of the effects on drinking water and the near-ocean environment (including baseline studies prior to further geothermal development.) Those recommendations could – after thirty years, finally – better assure the health and safety of affected communities.

³ A draft report, *Senate Energy and Environment Committee Accomplishments* for 2012, said Act 97 “relaxes the restrictions on geothermal development by: requiring geothermal resources exploration and development, as defined in the Act, to be permissible uses in all state land use districts; and repealing provisions relating to geothermal resource subzones ... the provisions that mandated a ‘go-slow’ approach to geothermal energy....”

From the report it can be seen that streamlined geothermal permitting methods first put in place in 1983 and trimmed even further in subsequent years (before being eliminated altogether by Act 97 in 2012) *were not sufficient to prevent community risks and harm*. The County of Hawai`i, as a result of actual experience with geothermal development, has formally recognized the existence of community risks and harm. That reality needs to become part of the discussion of laws pertaining to geothermal exploration and development. A formerly widespread thought that geothermal is inherently clean and safe is no longer reasonably acceptable as a given.

HB2639 reinstates part of the former geothermal permitting law repealed by Act 97, but without restoring geothermal resource subzones and without including an awareness of Hawai`i County's report. The bill perpetuates mandatory mediation as a substitute for contested cases, despite last year's Senate floor amendment to HB252 that rejected such provisions. HB2639 does not address recognized public health and safety concerns and fails to include permitting standards in that regard. New geothermal legislation should not only restore the essential vehicle of geothermal permitting as it existed before Act 97, including reinstatement of the designated geothermal resource subzones. In keeping with last year's Senate floor amendment, mediation requirements should be removed from the HB2639. Permitting standards addressing recognized public health and safety concerns based on the report – and the recommendations of the report – should be included as elements of the new geothermal permitting process.

In other words, the new law should show concern for the community's experience with geothermal development as studied, analyzed and reported in Hawai`i County's Geothermal Public Health Assessment Final Report. It may be difficult for some proponents of geothermal energy to accommodate the County's report in their views, but it is a responsibility and duty of the Legislature to enact laws in the light of day.

The report recommends a community health study, particularly looking at toxic effects of the hydrogen sulfide (H₂S) emitted by geothermal plants (and many other industrial sources.) If you want an illustration of the strong lobbying that supports disregard of perils associated with chronic exposure to H₂S, please take a look at industry positions as described in the publication by the federal Environmental Protection Agency (EPA) titled *Hydrogen Sulfide; Community Right-to-Know Toxic Chemical Release Reporting* (page 64022 of the Federal Register, Volume 76, No. 200, Monday, October 17, 2011.) It says that the “*EPA has determined that hydrogen sulfide can reasonably be anticipated to cause serious or irreversible chronic human health effects at relatively low doses and thus is considered to have moderately high to high chronic toxicity.*” The main substance of the publication is a chronicle of how H₂S emitting industrial lobbies succeeded in delaying the publication for *eighteen years*, after it was initially proposed by the EPA in 1993.

Geothermal resource subzones were a principal part of the first geothermal permitting laws created by Act 296 in 1983. Those subzones – part of the State's comprehensive zoning

statutes – were designated by the Board of Land and Natural Resources based upon scientific studies that were followed by public hearings. Criteria for establishing the subzones included the presence of geological factors necessary for geothermal development (*i.e.*, hot geothermal brine that could be accessed from the surface to transfer energy to electric generators) and also certain community-related considerations. As a result, potential developers and homeowners were informed that particular, designated locales could be suitable for geothermal development.⁴

Last year, testimony on behalf of the BLNR lamented the costs associated with the effort of recreating geothermal resource subzones. That lament is not unfounded, but it is also not such an obstacle since the work has already been done in designating previously existing subzones. It is therefore appropriate in remedying Act 97 to restore the geothermal resource subzones *nunc pro tunc* (meaning literally *now for then*, to retroactively correct their repeal under Act 97) and simply reinstate them as if they had never been repealed (without additional cost or effort.)

The 2013 legislature passed Act 284 creating Hawai'i Revised Statutes (HRS) Chapter 658H, the Uniform Mediation Act. Mediation is defined in HRS § 658H-2 as “a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a *voluntary agreement* regarding their dispute.”⁵ The legal definition of the term thus seeks to mediate voluntary agreements regarding disputes. Contested case is defined by HRS § 91-1 as “a proceeding in which the legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for agency hearing.” A quasi-judicial contested case is intended to formally consider disputes on the basis of due process, evidence

⁴ “HRS § 205-5.1 authorizes the issuance of geothermal resource permits to allow geothermal development activities in geothermal resource subzones established within urban, rural, agricultural, and conservation districts by the Board of Land and Natural Resources in accordance with the procedures set forth in HRS 205-5.2. The purpose of HRS § 205-5.1 and -5.2 is to ‘assist in the location of geothermal resources development in areas of the lowest potential environmental impact.’” *Medeiros v. Hawaii County Planning Comm'n*, 8 Haw. App. 183, 184, 797 P.2d 59, 60 (1990). “[T]he statutory scheme explicitly contemplates the Boards use of its discretion in determining the appropriate boundaries for designation of the geothermal resource subzone.” *Dedman v. Board. of Land & Natural Resources*, 69 Haw. 255, 264, 74 P.2d 28, 34 (1987).

⁵ In written testimony dated March 14, 2013, addressed to the House Committee on Judiciary, the Director of the Center for Alternative Dispute Resolution wrote on behalf of the State Judiciary that a purpose of the Uniform Mediation Act was to “advance the policy that the decision-making authority in the mediation process rests with the parties.” That purpose is not compatible with using mediation as a prelude to a decision that will be made by a third party (in this case the government entity considering a geothermal resources development permit.)

and a reasoned decision. Mandatory mediation (as first required in 1987 in former geothermal permitting laws) is inconsistent with the statutory definition of mediation's purpose as voluntary agreements regarding disputes – especially if mediation is imposed as a substitute for contested case proceedings. Mandatory mediation is not appropriate element for geothermal permitting procedures. That is not to say mediation is entirely inappropriate in geothermal permitting, as HRS § 91-8.5 provides that *as part of a contested case proceeding* the partes may be referred to a mediator to see if some issues can be voluntarily narrowed or resolved. The appropriate use of mediation is an existing part of the statutes governing contested cases.

In sum, this testimony strongly opposes HB2639 because it it perpetuates mandatory mediation in geothermal permitting, it fails to restore geothermal resource subzones (as repealed by Act 97 in 2012), it fails to assure appropriate geothermal environmental review and it ignores Hawai'i County's recent Geothermal Public Health Assessment. In that regard, please consider the four proposed amendments to HB2639 SD1 addressing each of the four objections separately. If HB2639 is appropriately amended, we could support the bill.

Please amend HB2639 pursuant to the proposed amendments. If you are unable to do so, then please do not let HB2639 advance beyond these committees and instead take up, consider and advance amended HB1766.⁶ Thank you for considering these thoughts.

Aloha,



Robert Petricci, President
Puna Pono Alliance

⁶ The enclosed amendment for HB1766 corrects a drafting error.

Proposed AMENDMENT

TO: House Bill 1766, H.D. 1

SECTION 1. House Bill No. 1766, H.D. 1, is amended in Section 2, §205-F(a):

§205-F Designation of areas as geothermal resource subzones; assessment and updates; hearings. (a) ~~[Beginning in 2014, the board shall conduct a county-by-county assessment of areas with geothermal potential for the purpose of designating geothermal resource subzones. The assessment shall be revised or updated at the discretion of the board, but at least once each five years beginning in 2019.]~~ Beginning in 1983, the board of land and natural resources conducted a county-by-county assessment of areas with geothermal potential for the purpose of designating geothermal resource subzones. Those assessments 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 seeking 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 adopted by the board. An environmental impact statement as defined in section 343-2 shall not be required for the assessment of areas under this section.

Proposed AMENDMENT #1

TO: House Bill 2639, H.D. 1

The purpose of this proposed amendment is to remove mandatory mediation from the geothermal resource development permitting provisions of SB2663, restoring contested cases.

Material to be removed is bracketed and stricken. New material is underscored.

SECTION 1. House Bill 2639, H.D. 1, Section 2 (b) through (f) are amended to read as follows:

SECTION __. Chapter _____, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

(b) If geothermal resources development is proposed within a conservation district in an application containing all required data, the board shall conduct a public hearing. The public hearing shall be held on the island where 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, where the legal rights, duties, or privileges of affected parties may be determined. No later than twenty days prior to the hearing, the board shall provide public notice to affected county agencies and owners of land within three thousand feet of the proposed geothermal resources development.~~[, and upon appropriate request for mediation from any party who submitted written comments at the public hearing, the board shall appoint a mediator within fourteen days. The board shall require the parties to participate in mediation. The mediator shall not be a member of the board or its staff. The mediation period shall not extend beyond sixty days after the date mediation starts, except by order of the board. Mediation shall be confined to the issues raised at the public hearing by the party requesting mediation].~~

~~[If there is no mediation agreement on all the issues raised at the public hearing, the board may conduct a second public hearing to receive additional comments related to the unresolved mediation issues. Within ten days after the second public hearing, the board may~~

~~continue to receive additional written comments from any party on the unresolved issues raised at the second public hearing. The board shall consider all such comments before rendering its final decision.]~~ The board shall then determine whether a conservation district use permit shall be granted to authorize the geothermal resources development described in the application. The board ~~[shall]~~ may grant a conservation district use permit if it finds that:

(1) The desired uses would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property;

(2) The desired uses would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection; ~~[or~~

~~—————(3) There are reasonable measures available to mitigate the unreasonable adverse effects or burdens referred to in paragraphs (1) and (2), which the board shall have the authority to prescribe as conditions for the proposed geothermal resources development.]~~
provided that the board may further prescribe mitigating actions to be taken by the applicant to address any 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.

A decision shall be made by the board within six months of the date a complete application is filed; provided that the time limit may be extended by agreement between the applicant and the board. ~~[The board shall have the exclusive authority to impose reasonable conditions and restrictions upon the proposed use in support of its findings, except to the extent that the department of health and other state and federal agencies have jurisdiction to regulate such activities.]~~

(c) If geothermal resources development is proposed within agricultural, rural, or urban

districts and the proposed activities are not expressly permitted uses pursuant to the applicable county general plan and zoning ordinances, then after receipt of a properly filed and completed application including all required supporting data, the appropriate county authority shall conduct a public hearing. The public hearing shall be held on the island where 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, where the legal rights, duties, or privileges of affected parties may be determined. 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 three thousand feet of the proposed geothermal resources development.~~[Upon appropriate request for mediation from any party who submitted written comments at the public hearing, the appropriate county authority shall appoint a mediator within fourteen days. The appropriate county authority shall require the parties to participate in mediation. The mediator shall not be an employee of any county agency or its staff. The mediation period shall not extend beyond sixty days after mediation starts, except by order of the appropriate county authority. Mediation shall be confined to the issues raised at the public hearing by the party requesting mediation. If there is no mediation agreement on the issues raised during the public hearing, the appropriate county authority may conduct a second public hearing to receive additional comments related to the unresolved mediation issues. Within ten days after the second public hearing, the appropriate county authority may continue to receive additional written comments from any party on the unresolved issues raised at the second public hearing.]~~

~~[The appropriate county authority shall consider all such comments before rendering its final decision.]~~ The appropriate county authority shall then determine whether a geothermal resource permit shall be granted to authorize the geothermal resources development described in

the application. The appropriate county authority [~~shall~~] may grant a geothermal resource permit if it finds that the applicant has demonstrated that:

(1) The desired uses would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property;

(2) The desired uses would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection; [~~or~~

~~—————(3) There are reasonable measures available to mitigate the unreasonable adverse effects or burdens referred to in paragraphs (1) and (2), which the county authority may prescribe as conditions for the proposed geothermal resources development.]~~

provided that the appropriate county authority may further prescribe mitigating actions to be taken by the applicant to address any 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.

Unless there is a mutual agreement to extend the proceeding, a decision shall be made on the application by the appropriate county authority within six months of the date a complete application is filed; provided that the time limit may be extended by agreement between the applicant and the appropriate county authority. [~~The appropriate county authority shall have exclusive authority to impose reasonable restrictions and conditions for the geothermal development in support of its findings, except to the extent that the department of health and other federal and state agencies have jurisdiction to regulate such activities.]~~

(d) 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.

~~[(d) Requests for mediation shall be received by the board or appropriate county authority within five days after the close of the initial public hearing. Any person submitting an appropriate request for mediation shall be notified by the board or appropriate county authority of the date, time, and place of the mediation conference. The board or county authority shall deposit the notice in the mail to the return address stated on the request for mediation. The notice shall be mailed no later than ten days before the start of the mediation conference. The conference shall be held on the island where the public hearing is held.]~~

~~[(e) Any decision made by an appropriate county authority or the board pursuant to a public hearing or hearings under this section may be appealed directly on the record to the intermediate appellate court for review and shall not be subject to a contested case hearing. Section 91-14 shall apply to judicial reviews, notwithstanding the lack of a contested case hearing on the matter. The appropriate county authority or the board shall provide a court reporter to produce a transcript of the proceedings at all public hearings under this section for purposes of an appeal.]~~

~~[(f) For the purposes of an appeal from a decision from a public hearing, the record shall include:~~

- ~~—— (1) The application for the permit and all accompanying supporting documents, including but not limited to reports, studies, affidavits, statements, and exhibits;~~
- ~~—— (2) Staff recommendations submitted to the members of the agency in consideration of the application;~~
- ~~—— (3) Oral and written public testimony received at the public hearings;~~
- ~~—— (4) Written transcripts of the proceedings at the public hearings;~~

~~——(5) A statement of relevant matters noticed by the agency members at the public hearings;~~

~~——(6) The written decision of the agency issued in connection with the application and public hearings; and~~

~~——(7) Any other documents as may be required by the board or appropriate county authority.]~~

Proposed AMENDMENT #2

TO: House Bill 2639, H.D. 1

The purpose of this proposed amendment is to restore geothermal resource subzones (as repealed by Act 97 in 2012) *nunc pro tunc*.

SECTION 1. House Bill No. 2639, H.D. 1, is amended by adding new Sections to read as follows:

SECTION __. Sections 5, 6, 7 and 8 of Act 97, Session Laws of Hawai'i 2012, designating "geothermal resources exploration" and "geothermal resources development" as permissible uses in all zones of the conservation district and in all districts are repealed.

SECTION __. Geothermal resource subzones previously 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.

SECTION __. Chapter 205, Hawai'i Revised Statutes, is amended by adding a new part to be appropriately designated and read as follows:

“PART . GEOTHERMAL RESOURCES

“§205-A Definitions. As used in this part, unless the context clearly requires otherwise:

"Board" means the board of land and natural resources.

"Geothermal resources" has the same meaning as in section 182-1.

"Geothermal resources development" has the same meaning as in section 182-1.

§205-B Geothermal Resource Subzones. (a) Geothermal resource subzones may be designated within the urban, rural, agricultural, and conservation land use districts. Only those areas designated as geothermal resource subzones may be utilized for geothermal resources

development activities, in addition to those uses permitted in each land use district under this chapter.

(b) Geothermal resources development may be permitted within urban, rural, agricultural, and conservation land use districts in accordance with this chapter; 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-C if such direct use applications are in conformance with all other applicable state and county land use regulations and this chapter.

(c) The board shall have the responsibility for designating areas as geothermal resource subzones as provided under section 205-C; except that the total area within an agricultural district which is the subject of a geothermal mining lease approved by the board of land and natural resources, any part or all of which area is the subject of a special use permit issued by the county for geothermal development activities, on or before May 25, 1984, is designated as a geothermal resource subzone for the duration of the lease. The designation of geothermal resource subzones shall be governed exclusively by this section and section 205-C, except as provided therein. The board shall adopt, amend, or repeal rules related to its authority to designate and regulate the use of geothermal resource subzones in the manner provided under chapter 91.

(d) The authority of the board to designate geothermal resource subzones shall be an exception to those provisions of this chapter and of section 46-4 authorizing the land use commission and the counties to establish and modify land use districts and to regulate uses therein. The provisions of this section shall not abrogate nor supersede the provisions of chapters 182, 183, and 183C.

§205-C Designation of areas as geothermal resource subzones; assessment and

updates; hearings. (a) Beginning in 1983, the board of land and natural resources conducted a county-by-county assessment of areas with geothermal potential for the purpose of designating geothermal resource subzones. Those assessments 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. An environmental impact statement as defined under chapter 343 shall not be required for the assessment of areas under this section.

(b) 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) Cultural, social and environmental impacts of the proposed geothermal resources development, including the potential for health, safety and nuisance impacts on surrounding land;
- (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.

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

(d) After the board has completed a county-by-county assessment of all areas with geothermal potential or after any subsequent 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). When a proposal is made, the board shall conduct public hearings as follows:

- (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.

(e) 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.

(f) This section shall not apply to any active exploration, development or production of electrical energy from geothermal sources or direct use applications of geothermal resources taking place on June 14, 1983, provided that this section shall apply to any expansion of such activities.

§205-D Exploratory wells. Any exploratory well drilled for scientific purposes or to determine the economic viability of a geothermal resource, may be permitted outside of a designated geothermal resource subzone, regardless of land use classification, provided that the activity is limited to exploration only. All applicable state and county permits shall be required to drill such exploratory wells which shall not be exempt from the requirements of the environmental impact statement law, chapter 343.”

Proposed AMENDMENT #3

TO: House Bill 2639, H.D. 1

The purpose of this proposed amendment is to assure appropriate environmental review in geothermal permitting proceedings.

SECTION 1. House Bill No. 2639, H.D. 1, is amended by adding a new Section to read as follows:

SECTION __. Chapter 205, Hawai`i Revised Statutes, is amended by adding a new section to read as follows:

“§ 205-A Geothermal environmental review. (a) To ensure that prospective geothermal resources development activity will have minimal detrimental impacts, any application to obtain a geothermal resources development permit from any government entity shall be accompanied by an appropriate environmental review document providing, at a minimum, in addition to the requirements of Chapter 333 and related regulations, the following:

- (1) An assessment of any potential geologic hazards relating to geothermal production or use in the proposed area;
- (2) An assessment of any environmental, cultural or social impacts within the proposed area;
- (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;
- (4) A description of the proposed geothermal resources development, including the potential for health, safety and nuisance impacts upon surrounding properties and establishment of an appropriate buffer zone between the proposed geothermal resources development and abutting land;
- (5) an assessment of whether the potential benefits to be derived from the

proposed geothermal resources development and potential related industries in the area are in the interests of the resident population, the county involved and the State; and

(6) An assessment of the potential for geothermal resources development in the proposed area and the known or likely prospect for utilization of new electrical energy production in the area.

Proposed AMENDMENT #4

TO: House Bill 2639, H.D. 1

The purpose of this proposed amendment is to include recommendations of the Hawai'i County-funded Geothermal Public Health Assessment in geothermal permitting.

SECTION 1. House Bill No. 2639, H.D. 1, is amended by adding new Sections to read as follows:

SECTION __. Chapter 205, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

SECTION __. The legislature finds that geothermal resource development can affect public health, safety and well-being, as shown by the Geothermal Public Health Assessment Study Group's *Final Report, Geothermal Public Health Assessment* funded by the County of Hawai'i and completed in 2013. The Report developed a set of recommendations about the priorities and preferred methods for future scientific and monitoring studies that will assist government authorities in making informed decisions that protect the long-term health of the neighboring communities that surround geothermal energy development on Hawaii Island. The Report provides specific recommendations that include the use of baseline studies to establish the magnitude of potential health effects from geothermal resources development. The Report recommends that the county should require future geothermal developers to fund and assure baseline studies prior to development. The Report also refers to the prevention of air and water pollution and excessive noise resulting from geothermal development and says that related monitoring systems and protocols must be competent. The legislature finds that establishing competent monitoring systems pursuant to the recommendations of the Report would help protect the health and welfare of citizens. Further, geothermal development may affect water wells downstream from the development area as well as the coastal basal brackish groundwater and the ocean near the geothermal plant. By establishing a baseline using the methodology from

the final report recommendations, future water studies can more easily establish the environmental impact from geothermal development.

The purpose of this part is to protect communities located in the vicinity of geothermal resources development by requiring the board of land and natural resources and each county to:

(1) Implement, as applicable, the recommendations of the 2013 final report of the geothermal public health assessment study group, including the creation of baseline studies as well as competent monitoring resources and protocols, prior to issuing new geothermal resources development permits under this Act; and

(2) Ensure that permitted noise for geothermal resources development does not exceed levels that are appropriate in view of nearby residential properties and zoning.

SECTION __. The board of land and natural resources and each county shall:

(1) To the extent applicable, implement the specific recommendations of the geothermal public health assessment study group as set forth in part V of its final Report dated September 9, 2013; and

(2) Establish limits on permitted noise levels for geothermal resources development activities to ensure that noise levels are appropriate for residential properties and residential zoning located in or near the area where the activity will occur.

No geothermal resources development permit shall be issued under this Act until the board or the pertinent county, as the case may be, has fully complied with this section.

HU'ENA



POWER

Bill #: HB 2639

Committees: EEP/WAL

Hearing Date: Thursday, February 13, 2014

Time: 8:40 am

Location: 325

Monday, February 10, 2014

Testimony in SUPPORT

Aloha Legislators:

Hu'ena Power is a Hawaii based geothermal development company majority owned by Native Hawaiians. The company was created to bring affordable electricity to the ratepayers of Hawaii Island via renewable, clean geothermal energy production utilizing an abundant, indigenous fuel source. Hu'ena Power has worked with industry experts from all over the world to assess both the transmission and generation of electricity here in Hawaii.

Hu'ena power is one of several bidders seeking to be awarded under the RFP posted by HECO for geothermal energy development.

Hu'ena Power supports and appreciates this measure because it provides a clear streamlined process for energy producers to follow when pursuing geothermal exploration &/or development. When development proceeds, energy producers as well as ratepayers need to know that which governmental body (State & County) is involved in the permitting process and what the process is. This Bill clarifies this and imposes fines for those who do not adhere to the law.

In addition, it is important to Hu'ena that there is a procedure that includes public hearings and in the event there is a disagreement, a fair process for conflict resolution & court review. The process included for county review includes 2 public hearings, mediation if disagreements arise & an appeal to the State ICA. This protects everyone, developers, consumers & agencies and it also ensures that judicial review is available in the event of a dispute. Hawaii is facing a growing energy crisis that is driving our economic crisis. We must stop exporting capitol (\$5 million USD annually) for fossil fuel and we must expedite renewable energy development while respecting & accommodating conflicts. This measure accomplishes these goals in a fair & equitable manner.

HU'ENA



POWER

Please pass this Bill as drafted,

Aloha,

A handwritten signature in black ink, reading "Roberta Cabral". The signature is fluid and cursive, with a large initial 'R'.

Roberta Cabral, Huena Power



Indigenous Consultants, LLC

Mililani B. Trask, Principal

P.O.Box 6377 ❖ Hilo, HI 96720

Mililani.trask@gmail.com



Bill: **HB 2639**

Committee(s): EEP/WAL

Date: Thursday, February 13th, 2014

Time: 8:40 am

Room: 325

Monday, February 10, 2014

TESTIMONY IN SUPPORT

Aloha Legislators:

Indigenous Consultants (IC) is a Hawaii based, indigenous LLC owned and operated by Native Hawaiians. It was created to assist indigenous peoples in developing their renewable energy resources in ways that are: culturally appropriate, environmentally green and sustainable, socially responsible and economically equitable and affordable. For several years the IC has worked with Innovations Development Group in New Zealand and indigenous Maori developing geothermal resources, which are trust assets of Maori Land Trusts. In addition, the IC has acted as a consultant to other indigenous people in Hawaii and Asia who are addressing development of their trust renewable energy resources in ways that; directly benefit their people, bring in revenues, create small business opportunities and ensure fair & affordable rates to consumers, including themselves and their communities.

IC strongly supports this measure because it addresses many areas of the law that need clarification and it restores home rule authority to Counties involved w geothermal development.

1. RESTORES HOME RULE TO COUNTY:

This measure restores the procedure for County permitting that was law in our State for over 20 years until it was inadvertently deleted when the Legislature deleted geothermal subzones. On Hawaii Island, the designation of subzones was made in order to accommodate political powers that wanted to have their private land holdings designated for geothermal development. This was done without complete scientific testing and verification that the resource could be safely explored. This action resulted in hundreds of miles of the island (the entire East Rift zone) becoming a geothermal subzone. Everything within the East Rift Zone was considered an area suitable for geothermal exploration & development. This put residential & commercial areas into a subzone along with all parks & schools! The legislature wisely did away with the subzones, but in the process the County



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Mililani.trask@gmail.com



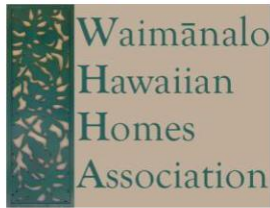
permitting procedures were also deleted. This measure restores to the County a HOME RULE process that provides for County hearings, mediation and direct appeal to the ICA (Intermediate Court of Appeals) if mediation fails. Geothermal is moving forward & we need a tested & proven process for County permitting.

2. STRENGTHENS & CLARIFIES GEOTHERMAL EXPLORATION & MINING PROCEDURES:

IC also supports this Bill because it includes geothermal resources within the definition of a renewable energy producer and clarifies the permitting procedures for regulators and renewable energy developers considering geothermal development. It requires persons wishing to conduct geothermal resources exploration on reserved lands to apply to BLNR for exploration permits, and it redefines "mining lease" to include lease of the right to conduct mining operations on reserved lands. This protects the resources of our State's reserved lands, including all minerals in, on, or under reserved lands to the State. Geothermal is a valuable energy resource of our public trust and it is a 'mineral.'

Please pass this measure:

Mililani B. Trask, Indigenous Consultants LLC



P.O. Box 353, Waimānalo, Hawaii 96795-0353

TESTIMONY IN SUPPORT OF HB 2639

RELATING TO GEOTHERMAL RESOURCE DEVELOPMENT

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Chris Lee, Chair

Rep. Cynthia Thielen, Vice Chair

COMMITTEE ON WATER & LAND

Rep. Cindy Evans, Chair

Rep. Nicole E. Lowen, Vice Chair

HEARING NOTICE

Thursday, February 13, 2014

8:40 a.m. – Conference Room 325

Hawaii State Capitol Building

Honorable Chairs Rep. Lee, Rep. Evans and Vice Chairs Rep. Thielen, Rep. Lowen and Committee Members, Aloha!

We submit our testimony in *strong support* of HB2639 in its un-amended version relating to Geothermal Resource Development and the definitions' inclusion of the receipts later to be defined with respect to the amount of the general excise tax collected to be deposited into the Hawaiian homes administration account for operational expenses.

We appreciate the opportunity to submit this testimony and willing to be called upon as needed.

Mahalo nui loa,

A handwritten signature in black ink, appearing to read "Paul P. Richards".

Paul P. Richards
President

Bill: HB 2639

Committees: EEP/WAL

Hearing Date: Thursday, February 13th, 2014

Location: Room 325

Time: 8:40 am

Monday, February 10, 2014

Testimony in SUPPORT

Aloha Legislators,

The Innovations Development Group (IDG) is a Hawaii based renewable energy Development Corporation owned by Native Hawaiians. It was created to facilitate the development of renewable energy resources of native people, and in summer 2011 presented its development model to legislators of the Energy & Land Committees.

IDG supports this measure because it provides for a workable & comprehensive scheme of regulation for geothermal resource exploration & development. Geothermal energy development has not been pursued for over 25 years in Hawaii.

Because of this, the procedures & processes in our State have not been updated & need to be streamlined. Important deficiencies in our laws need to be 'clarified' in order to ensure that there is appropriate State oversight for every step of the geothermal assessment & development process.

This measure addresses these State needs. For Example, the Bill makes clear that no exploration can be undertaken without an exploration permit from DLNR. Another critical element of this measure is the inclusion of the County permitting processes that were deleted when subzones were eradicated. County authority needs to be supported and this requires that the initial procedures enacted into law be restored.

HECO has posted an RFP for 50 MWTS on Hawaii Island and it has given notice that it anticipates geothermal development on Maui as well. Passage of this bill will ensure that geothermal development is undertaken in a safe & responsible manner, and it imposes penalties on those who ignore these protections.

Please pass this measure,

Mahalo,



Patricia K. Brandt

HB2639

Submitted on: 2/8/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Prentiss	Individual	Oppose	No

Comments: The provision to bypass county zoning is particularly disturbing, especially as it would allow industrial type Geothermal plants in residential areas. Also, the bypass proposal may prove to be very disruptive because of its similarity to the PLDC procedures. This provision should be removed from the bill.

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Martinez	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/8/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jan Murray	Individual	Oppose	No

Comments: Oppose HB2639

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
alicia morrier	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Theodore Banta	Individual	Oppose	No

Comments: I am in opposition to HB2639, because HB1766 is a much stronger bill.

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

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

Comments:

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dana G. Moss	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/11/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Pua Kamaoa	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dena Smith	Individual	Oppose	No

Comments: I strongly oppose any legislation that supports and encourages geothermal energy. We need to be putting our focus and resources on SAFE, reliable, non-toxic, sustainable energy resources such as solar energy. Please oppose this bill. Mahalo!

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Davis	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
John Gelert	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

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

Comments: I oppose this poorly written bill. It will not protect the people of Hawaii and the land from poor development. Please oppose this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Support of SB2940
Support of HB2359
Support of HB1766/Repeal 97
Oppose HB2639/HD1
Oppose SB2663
Oppose HB1584

Helene Love 982-6433
Helene Love 982-6433

Helene Love 982-6433
Helene Love 982-6433
Helene Love 982-6422

NO TO FRACKING IN HAWAII (don't let Big \$\$ decide—this is our home; our world). When you push this paperwork around, give special numbers, sign and file, be sure you are doing what is right for our environment and don't accept corporation lies—seek the truth and keep Hawaii, Hawaii. Just because governments sign papers doesn't make any of it law to me; we all are responsible for each other and our lands on earth. We know we have plenty of sun to work with.

Are the risks worth the gains? *Fracking* has too many risks and our small land mass and weak rift zones won't handle the *fracking* impacts. *Fracking* uses more intensity, chemicals, and there's greater risks to water and land. And don't ruin the Big Island for the sake of power for other islands.

Has Big Island ever had beginning to end “Standards of Operating Procedures” with input from professionals from all fields, even when **drilling** straight down into a volcano on Zone 1, yet alone, *fracking*. Even today, after hundreds of thousands of *fracking* sites around the world, there are still unforgivable mistakes made to environments and humans and **drilling** in Hawaii will be “hits and misses” that no scientist can predict on our porous hot lands. Check Pele lately?????!!!!

All the risks with **any type** of drillings should be identified, first, with “what if plans” in place!!! What can go wrong during earthquakes, eruptions, or blowouts? Who's responsible?

The *corporate fracking industry* lies to property owners, drills more holes and closer to homes than told, drills *under* private properties, destroys the land and entire towns, rivers, lakes, fish, livestock, soils for planting, water, air, and forces generations of family-owned property owners out of town, (while having to pay for and deal with major health issues caused by *fracking*).

Corps don't care about lives being destroyed. *Fracking* in Hawaii won't be any different. Look how long Puna residents have been trying to protect their mental and physical health and their proudly-owned properties, while having no laws in place. Again, *fracking* corps. run our gov. and changed the environmental laws to suit their toxic money, even to the point of talking BLM to give up millions of acres of Federally protected lands to this, presumably, “safe renewable energy.”

When was the last time the water/aquifers and soil was checked for all contaminants at existing PGV? Do so now, before any new drilling may take place.

Who's responsible for the total “clean-up/over-sight” of the existing PGV plant—when? If PUC/HELCO insists on drilling, can the existing plant be up-graded with more MW enhancement, instead of more drill sites having to take place? **Drilling** or *fracking* in the wrong place or too close to any existing fractures may cause much bigger impacts than anybody can predict.

No *fracking* for electricity; no *fracking* or **drillings** for electricity used by other islands. Elect. for B.I. only.

The *fracking* process includes hundreds of toxic chemicals; some chemicals new and unknown to science.

Fracking won't keep Hawaii's land, water, aquifers unaffected; **no matter what type of drilling**, there are toxins involved.

Know all chemicals used and being brought into Hawaii for any type of geothermal methods.

No *fracking* or **drilling** that involves drilling underneath others properties

Drilling company finances (up-front) a fund to be used for any damages incurred to area and our roads. Safe *fracking* methods proposed by President Obama are not safe and they either lied to the public or

were being lied to while mainland drill sites were put in at an “unimaginable” alarming speed. Hawaii has no *fracking-trained* engineers/environmentalists and didn't even have their own hydrogen-sulfide meters to protect the citizens forced to live with this worry. What pre-planning has been completed for the six geothermal contracts sitting with HELCO; shouldn't this be categorized as “Industrial,” versus residential, agriculture, and recreational? What will the drilling method be, certainly no newly disguised “proprietary” *fracking* name. There can be no *fracking or drilling* involving the collection of any other earth elements. City and County departments should receive monies from fracking company for water used, disposal of any environmental toxins (even tho' we know there won't be any), tearing down and cleaning site after use, payment for lawyers needed by residents if issues occur.

Drill in specific “Industrial Site” area far away from any housing areas; no more drilling in Puna (how about at the military PTA site, instead of preparing for killing wars). Better yet, contractors can pour their money and invent sun and wind energy at PTA and show a new positive direction for military use.

Harry Kim
471 Ho`okina Place
Hilo, Hawaii 96720

February 10, 2014

Testimony to:

House Committee on Energy & Environmental Protection

Rep. Chris Lee, Chair
Rep. Cynthia Thielen, Vice Chair

House Committee on Water & Land

Rep. Cindy Evans, Chair
Rep. Nicole E. Lowen, Vice Chair

Thursday, February 13, 2014, 8:40 a.m., Conference Room 325

In consideration of

**HB1766, RELATING TO GEOTHERMAL RESOURCES and
HB2639, HD1, RELATING TO GEOTHERMAL RESOURCE DEVELOPMENT**

Position: HB1766, strong support; HB2639, oppose (or support with amendments)

I ask for your support for HB1766 (with an amendment proposed by Puna Pono Alliance) and the four proposed Puna Pono Alliance amendments to HB2639, HD1. If HB2639, HD1, cannot be so amended then I ask that you not pass it out of your committees.¹

I believe geothermal subzones are an important concept and should be restored. Under the law that was repealed by Act 97, the board of land and natural resources had conducted a county-by-county assessment beginning in 1983, examining areas with the potential for development as designated geothermal resource subzones. The board assessed geological factors that are necessary for geothermal development. After the assessment, the board held public hearings in areas proposed for designation based on preliminary findings that the areas demonstrated an acceptable balance between both the potential for geothermal development and community impact.

As a result of those efforts and procedures, the designated geothermal resource subzones gave developers and homeowners notice of locales that could be suitable for geothermal development. Geology allows geothermal development only in areas with the necessary subsurface heat and water. The subzones allowed development in areas balancing that

¹ This testimony addresses only Section 2 of HB2639.

geological requirement with the lowest potential for adverse impacts. The second of the proposed amendments to HB2639, HD1, restores geothermal resource subzones as they were before their repeal in 2012 by Act 97, without any further effort or cost.

I believe that a review of the records of Act 97 will clearly show that the only identified purpose of the sponsors and supporters of Act 97 was to expedite geothermal development and remove all barriers.

While geothermal energy may prove to be a part of Hawaii's energy future, because of potential negative impact on people and our fragile environment, it must be done right, with sensitivity to health, environmental, social, and cultural concerns. HB1766 and the amended HB2639, HD1, could be steps toward restoring balance between development for energy needs and respect for people's lifestyle, the environment, health, cultural concerns, and home rule for the counties.

Much Aloha,

Harry Kim

HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
fred hofer	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mitsuko Hayakawa	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Margaret Maupin	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
janice palma-glenie	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
roger strong	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lyn Howe	Individual	Oppose	No

Comments: HB 1766 is a much stronger bill than this one. I support a stronger bill and oppose this one.

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HB2639

Submitted on: 2/11/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Kirbin	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Rosanoff	Individual	Oppose	No

Comments: I trust that the committee will oppose HB2639 in favor of the superior bill HB1766. Doing this legislation correctly means proper future energy development in the whole State of Hawaii. Andrea Rosanoff Pahoia, HI 96778 808-965-7061

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Brad Parsons	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
jw nalda	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

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

Comments: Please pass bill HB1766 instead of this one it is a much stronger bill. Thank you

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Norris Thomlinson	Individual	Oppose	No

Comments: Please abandon this bill in favor of HB1766. We need a full repeal of Act 97, not half measures. Mahalo!

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Avi Okin	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Robert ortman	Individual	Comments Only	No

Comments: I oppose HB2639. Instead, I believe HB1766 is a much stronger bill and needs your support. Act 97 needs to be repealed.

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HB2639

Submitted on: 2/11/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
penny s	Individual	Oppose	No

Comments: HB1766 is a much stronger bill

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
claudia rice	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/11/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
daniel susott	Individual	Oppose	No

Comments: Fracking is Very dangerous to health of people and environment. Earthquakes are increased with Fracking and communities harmed.

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

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

Comments: Strongly oppose because: it perpetuates mandatory mediation in geothermal permitting; it fails to restore geothermal resource subzones (as repealed by Act 97 in 2012); it fails to assure appropriate geothermal environmental review; and it ignores Hawai'i County's recent Geothermal Public Health Assessment.

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Allan Reaves	Individual	Oppose	No

Comments: STOP GEOTHERMAL GO SOLAR INSTEAD

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Matson	Individual	Oppose	No

Comments: I strongly oppose this bill, which A) Requires the use of an area or site within the conservation district for geothermal resources development to be governed by the BLNR; and B) Authorizes certain county authorities to issue geothermal resource permits to allow geothermal resources development in an agricultural, rural, or urban district even if the development is not considered a permissible use under the applicable county zoning ordinances or general plan !!! This is PLDC all over again. Kill this bill.

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HB2639

Submitted on: 2/11/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Barb Cuttance	Individual	Oppose	No

Comments: HB2639 -RELATING TO GEOTHERMAL RESOURCE DEVELOPMENT. I strongly appose HB2639. Please hold this bill and pass HB1766 instead. HB1766 is a much better bill than HB2639. Barbara Cuttance 14/266 Papaya Farms Road, Paho, HI 96778

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HB2639

Submitted on: 2/11/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Benjamin Marantz	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Paul A. komara, Jr.	Individual	Oppose	No

Comments: I oppose this because we the people will not have a say about how the ceded land of the Hawaii Kingdom will be used and or sold. I believe it is the right of each County to decide.

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Gina Franchini	Individual	Oppose	No

Comments: I oppose this bill as HB1766 is a much stronger bill

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HB2639

Submitted on: 2/9/2014

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Submitted By	Organization	Testifier Position	Present at Hearing
Graham Ellis	Individual	Oppose	No

Comments:

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HB2639

Submitted on: 2/9/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

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

Comments:

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HB2639

Submitted on: 2/10/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Carlton York	Individual	Oppose	No

Comments:

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I laud the use of mediation for energy, health, and natural resource conflicts and encourage public officials to find ways to bring parties to the table. However, I oppose the wholesale substitution of mediation for evidentiary hearings such as contested case proceedings. Mediation must remain as a "complement" to our systems of rule making, not as an alternative to it.

I would, over the coming year, be most happy to help you and your colleagues to improve the use of mediation for geothermal disputes so that greater success can be achieved. I am convinced there are better ways to do mediation for cantankerous public policy problems. Regardless, I believe contested case procedures should be reinstated for the disputes that will inevitably arise as State of Hawaii searches for stronger energy solutions. Those procedures can also be streamlined in ways that still allow for due process.

Respectfully submitted,

PETER S. ADLER, PhD

Peter S. Adler PhD
The ACCORD_{3.0} Network
2471 Manoa Road
Honolulu, Hawaii 96822

808-888-0215
padleraccord@gmail.com

**TESTIMONY ON SENATE BILL 2663
RELATING TO NATURAL RESOURCES**

February 12, 2014
Room 225

Dear Senator Solomon and Members of the Senate Committee on Water and Land:

Forgive me that I am not able to appear before you in person but please accept my written testimony on those certain portions of SB 2663 that deal with mediation. I take no position on other aspects of the bill, nor on the further development of geothermal energy resources in Hawaii. My sole interest in this testimony is the effective application of good dispute resolution processes that help prevent, manage, or resolve unnecessary conflict.

Background

As you know, I have worked as a mediator for many years both with the ADR office at the State of Hawaii Judiciary, as Executive Director of The Hawaii Justice Foundation, as CEO of The Keystone Center in Colorado and Washington DC, and in private practice. I continue to work as a planner and mediator, primarily on public policy challenges dealing with energy, health, public health, and public finances.

I believe strongly that mediation, especially mediation processes that focus on "joint fact-finding," are one of the keys to resolving important public policy issues that

I laud the use of mediation for energy, health, and natural resource conflicts and encourage public officials to find ways to bring parties to the table. However, I oppose the wholesale substitution of mediation for evidentiary hearings such as contested case proceedings. Mediation must remain as a "complement" to our systems of rule making, not as an alternative to it.

I would, over the coming year, be most happy to help you and your colleagues to improve the use of mediation for geothermal disputes so that greater success can be achieved. I am convinced there are better ways to do mediation for cantankerous public policy problems. Regardless, I believe contested case procedures should be reinstated for the disputes that will inevitably arise as State of Hawaii searches for stronger energy solutions. Those procedures can also be streamlined in ways that still allow for due process.

Respectfully submitted,

PETER S. ADLER, PhD

Geothermal Public Health Assessment Final Report

Aloha,

The attached report describes geothermal issues that have been brewing in Puna, on the Island of Hawai'i, for nearly forty years. The report resulted from a working group funded by the County of Hawai'i. The County's pro-geothermal mayor has embraced the report and has promised to implement its recommendations. Puna is the only community in the State with actual geothermal experience. The report validates many of the community's concerns expressed over the years.

"Risks from geothermal energy production in Lower Puna exist... Harmful effects can only be understood through better monitoring and reliable health data." The report's analysis has led to several recommendations – first is for a comprehensive health effects study (in view of the evidence of health effects.) A second recommendation is to establish a better toxic emission monitoring system (relating to a finding of risks from geothermal energy production that relate to hazardous chemicals escaping to air, water, or at surface level.) Also recommended were an evaluation of geothermal effects on drinking water and the near-ocean environment (including baseline studies prior to any further development) and the improvement of emergency notifications and response. There are additional report recommendations and plenty of supporting data.

From the report it can be seen that the streamlined geothermal permitting method first put in place in 1983 and then trimmed even further in subsequent years (before being eliminated altogether by Act 97 in 2012) *was not adequate to prevent community risks and harm*. The County of Hawai'i now has recognized the existence of community risks and harm resulting from actual experience with geothermal development. That reality needs to be part of the discussion of future laws pertaining to geothermal exploration and development. The formerly accepted idea that geothermal is inherently clean and safe is no longer a given. The risks from geothermal energy production are real.

Among the geothermal bills now pending in the 2014 Hawai'i Legislature, HB2639 and SB2663 would restore a part of the minimal and insufficient streamlined geothermal permitting that was repealed by Act 97. On the other hand, HB1766 and SB3021 provide improved permitting and incorporate the lessons of the *Geothermal Public Health Assessment Final Report* with the hope that in future geothermal development the statutes will better assure the health and safety of neighboring communities.

- If you have questions about the report or would like further information, please contact Robert Petricci, President of the Puna Pono Alliance and a member of the *Geothermal Public Health Assessment* working group. Bob can be reached by phone at 808-936-5239 and by email at nimo1767@gmail.com – and he will be available for office visits.

HB2639

Submitted on: 2/11/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Suzanne Wakelin	Individual	Oppose	No

Comments: STRONGLY OPPOSE HB2639 HD1 HB1766 is a much better and stronger bill that will reinstate Contested Cases and County Permitting. Mandatory mediation has proven to be an unworkable solution.

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Thomas Lee Travis

RR 2 Box 3317

Pahoa, Hi 96778

email: ttravis12@mac.com

mobile: (757) 639-7364

February 10, 2014

Testimony on HB2639 on February 13, 2014

To: House Committees on Energy and Environmental Protection and Water and Land

I strongly oppose HB 2639. I urge you to stop HB 2639 and support HB 1776.

As a member of the Mayor of Hawaii's Geothermal Public Health Assessment Working Group, I am keenly aware that much of the controversy concerning geothermal development in lower Puna has occurred because the placement procedures for the geothermal plant (a major industrial facility) have sorely disenfranchised the community. In short those procedures ignored community planning, paid little attention to concerns over economic impact, ignored cultural objections, were silent as to potential health effects, and left the community feeling powerless over its future direction.

HB 2369 is wrong-headed because:

- It perpetuates mandatory mediation in geothermal permitting, depriving the community of contested case, a process that can be used if one disagrees with the placement of a small school, but not placement of a geothermal plant.
- It fails to assure appropriate geothermal community review, providing for no mandatory consideration of economic, social, cultural, health, and community planning concerns
- It ignores Hawaii County's recent Geothermal Public Health Assessment, a document that recommends actions that most appropriately should be done as part of the permitting process.

Please vote against forwarding HB 2639, instead supporting HB 1766.

/S/ Thomas L Travis

BIG ISLAND COMMUNITY COALITION



STEERING COMMITTEE

DAVE DeLUZ

JOHN E.K. DILL

ROCKNE FREITAS

MICHELLE GALIMBA

RICHARD HA

WALLACE ISHIBASHI

KU'ULEI KEALOHA COOPER

D. NOELANI KALIPI

KA'IU KIMURA

ROBERT LINDSEY

H.M. "MONTY" RICHARDS

KUMU LEHUA VEINCENT

BILL WALTER

Aloha Chair Lee and Chair Evans,

The Big Island Community Coalition (BICC) <http://www.bigislandcommunitycoalition.com> strongly opposes HB1766, but supports HB2639.

There are adequate safety provisions in HB2639. It is a matter of risk assessment.

On the mainland, the people own the mineral rights. This gave land owners incentive to pursue shale oil and gas projects on their land. That is why there are thousands of oil and gas wells around Dallas and Ft Worth. And, that is why the shale oil and gas boom proceeded so rapidly.

In Hawaii, mineral rights are owned by the state. There is little individual incentive to support geothermal projects.

One of the greatest risks Hawaii faces is the danger of rising electricity rates. We are more dependent on oil for our electricity than most places in the world. Folks on fixed incomes are especially vulnerable -- kupuna, single mothers, the working homeless, etc.

The average shale oil/gas well is 90+ percent depleted in five years. This is based on analysis of 16,000 wells. This is clearly not sustainable and cannot continue at its present rate and affordability for very long--five to ten years max. Time is not on our side.

The Pahoehoe School complex, which is close to the geothermal site, has the highest percent participation in the free/reduced school lunch program in the ENTIRE state. Eighty-nine percent of the students participate in the free/reduced school lunch program. Participation is based on family income.

HB1766 anticipates contested case hearings for its dispute resolution. HB 1766 can be dragged on and on for those who want to kill geothermal. These provisions result in unneeded delays. The rate payer will pay for any inefficiency. This bill requires geothermal sub zones. This is not needed; there are adequate checks and balances via the provision in HB2639, which we prefer.

I went to the Phillipines to visit geothermal operations there. We visited a geothermal plant that was located on the slopes of a volcano that last erupted 100,000 years ago. By contrast, Mauna Kea last erupted 4,000 years ago. We should not add cost to a potential developer to find what out what most of us already know-- there is heat under Mauna Kea. What happens if the developer that funds the development of a new geothermal resource zone designation and loses the bid? No one would voluntarily spend money for a project someone else could win.

Defeat HB1766. Approve HB2639.

Richard Ha

Chairman
Big Island Community Coalition

LATE

HB2639

Submitted on: 2/12/2014

Testimony for EEP/WAL on Feb 13, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Carol A. VanCamp	Japanese Chamber of Commerce & Industry	Support	No

Comments: Alternative energy such as geothermal must continue to be develop to help reduce electrical costs on our island. High rates are discouraging businesses to come here and provide jobs for our people.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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