



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

January 31, 2013

H.B. 633
RELATING TO THE ENVIRONMENT

House Committee on Energy and Environmental Protection

The Department of Transportation (DOT) has serious concerns about the practical aspects of implementing this bill.

United States Coast Guard (USCG) regulations already are in place for fuel transfer operations. Vessel to vessel fuel transfer operations already require booming operations above certain volumes. There are significant operational costs associated with implementing the practice of booming on vessel to shore operations and those significant costs will be passed on to the neighbor island communities in their cost for fuel and energy. We believe that the legislature should proceed cautiously with this bill and seek input from the USCG and fuel transfer operators. In some cases, such as gasoline, containing that type of volatile fuel within a boom is not a good practice. The significant added cost may not warrant the risk.

Thank you for the opportunity to provide testimony.





HB633
RELATING TO THE ENVIRONMENT
House Committee on Energy and Environmental Protection

January 31, 2013

8:30 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment (BAE) **SUPPORTS** HB633, which requires the preemptive deployment of containment booms for oil, petroleum, and other hazardous material transfers in or about state harbor facilities.

This bill provides equal protection to our neighbor island harbors and nearshore waters from potentially devastating oil spills. Hawai'i's nearly exclusive reliance on imported oil and petroleum for our energy needs necessarily requires the continuous, waterborne transfer of oil, petroleum, and petroleum products in or near harbors throughout these islands. Not surprisingly, the potential for spills of these hazardous substances has already been realized on multiple occasions over the last few decades.¹ As a result, OHA understands that O'ahu already requires the predeployment of containment booms prior to the transfer of oil at Honolulu facilities.² However, such preventative measures are not yet required of transfers occurring on or near the neighbor islands.

This bill will ensure that our neighbor island harbors and waters are equally protected from the potentially devastating impacts of oil spills outside of O'ahu. The

¹ On February 23, 1977, a crack in the hull of the Hawaiian Patriot resulted in the release of approximately 50,000 tonnes of crude oil in waters 300 miles west of Hawai'i, which fortunately was carried away from the islands by prevailing currents at the time. On March 2, 1989, the Exxon Houston spilled approximately 2,200 barrels of oil after breaking off from its mooring during offloading operations 0.7 miles off of Barber's Point. May 14, 1996, a Chevron Product Company pipeline ruptured, releasing bunker fuel oil that moved throughout the East Loch of Pearl Harbor, fouling shorelines and closing harbors and vessel traffic throughout Pearl Harbor. On August 24, 1998, a hose failure during oil transfer operations to Tesoro's Oversea New York resulted in a spill of what was eventually estimated to be nearly 5,000 gallons of oil one-half mile off of Barber's Point, eventually coming ashore in the form of tarballs and oiled birds at Barking Sands, Polihale, Nukoli, Fiji, and Kīpukai beaches on the island of Kaua'i. Most recently, on May 19, 2006, Tesoro's Front Sunda released approximately 1,000 to 2,000 gallons of light crude oil 1.5 miles off of Barber's Point. *See, e.g.*, International Tanker Owners Pollution Federation Limited, Case Histories: Hawaiian Patriot, <http://www.itopf.com/information-services/data-and-statistics/case-histories/hlist.html> (last accessed Jan. 29, 2013); NOAA National Ocean Service, Incident News: Exxon Houston, <http://www.incidentnews.gov/incident/6674> (last accessed Jan. 29, 2013); NOAA Damage Assessment, Restoration, and Remediation Program, Southwest Region, <http://www.darrp.noaa.gov/southwest/chevron/index.html> (last accessed Jan. 29, 2013); Helen Altonn, Oil Spill Recovery Halted, HONOLULU STAR-BULLETIN, May 21, 2006, available at <http://archives.starbulletin.com/2006/05/21/news/story04.html>.

² Interview, Department of Transportation Harbors Division, O'ahu District Commercial Harbors (Jan. 29, 2013).

nearshore waters of our neighbor islands are particularly critical for Native Hawaiian and other subsistence communities, and the fouling of our neighbor island shorelines may significantly impact both subsistence and traditional and customary cultural practices. Oil spills may also impact ocean recreation activities, including surfing, boating, fishing, and diving, that are key to our neighbor island residents' lifestyle, health, and connection to the marine environment. Finally, fouled shorelines or nearshore water areas may critically endanger the tourism economy of the entire state, as visitors will not be able to appreciate the clean waters and beaches that they travel thousands of miles to enjoy. Accordingly, OHA believes that the potential costs of remediating the impacts of uncontained oil spills may far outweigh the relatively nominal costs of predeploying containment booms prior to oil transfers on or near our neighbor islands.³

Therefore, OHA urges the Committee to **PASS** HB 633. Thank you for the opportunity to testify.

³ While the full range of costs of an oil spill affecting Hawai'i's nearshore waters may be beyond monetary evaluation, OHA notes that a 1997 study funded by the University of Hawai'i Sea Grant program found that the potential economic impacts of a catastrophic oil spill to tourism alone could range from \$640 million to \$6.8 billion dollars. Estimates have not been adjusted for inflation. See JACQUELIN N. MILLER, ET. AL., HAWAI'I'S READINESS TO PREVENT AND RESPOND TO OIL SPILLS APPENDIX 3: ANALYSIS OF STATES' OIL SPILL MANAGEMENT PROGRAMS 3-3 (1997); available at http://nsgl.gso.uri.edu/hawau/hawaut97001/hawaut97001_part_2.pdf

TESTIMONY BEFORE THE HOUSE COMMITTEE ON
ENERGY AND ENVIRONMENTAL PROTECTION

Thursday, January 31, 2013
8:30 am
Conference Room 325, State Capital
H.B. 633

By Kim Beasley
General Manager
Clean Islands Council

My name is Kim Beasley and I am the General Manager of the Clean Islands Council, a non-profit organization that is the primary response organization for oil spills throughout the State of Hawaii. Although we understand the intent of this legislation we feel the current United States Coast Guard policy as defined in Captain of the Port Order 41-95 (Revised 6/2001) is both adequate and successful in protecting Hawaii waters from oil spills. This Order was produced by a community effort to find the most beneficial and cost effective approach to effective environmental stewardship. In my opinion it has been highly successful.

This Order is based on a risk management approach that properly recognizes that the loading of vessels is a riskier operation than unloading them. The Order directs all loading activities involving vessels of over 250 barrels capacity to be pre-boomed. There are only two loading ports in Hawaii. Honolulu and Kalaeloa Deep Draft Harbor. Each is equipped with fixed under pier boom, and 1,400 ft. of “working” boom that remains in the water and is “nested” and available for loading operations. This is an expensive proposition and can only occur in Harbors with adequate navigational space. Neighbor island ports such as Kaunakakai, Kaunapali, Kawaihae, Port Allen and even Kahului and Nawiliwili don’t have the luxury of being able to nest boom in the water. That means after every transfer boom will have to be physically removed from the water and stored on precious pier space. This will take up pier face use time, require labor and cost money. The cost of these activities will have to be passed on to consumers.

Finally, I would like to point out that in many ways Hawaii is a national leader in oil spill response preparedness. We are one of only a handful of communities worldwide that has a dedicated and fully funded Oil Spill Response Center. This facility is funded entirely by industry and is an ICS based management and training facility that is used year round to train for prevention and response. We have response equipment staged at every port in immediate proximity to transfer activities. We train transfer operations personnel and responders twice a year on every island. We work diligently with the United States Coast Guard. The State of Hawaii and County Fire Departments statewide.

I am confident that the current Coast Guard policies are effective and community efforts for proper stewardship are responsible. I do not agree that the imagined benefits of universal pre-booming are commensurate with the cost.

I would urge you to not pass this legislation.



Western States Petroleum Association

House Committee on Energy & Environmental Protection

DATE: Thursday, January 31, 2013
TIME: 8:30 AM
PLACE: Conference Room 325
RE: HB 633, Relating to the Environment

I am Melissa Pavlicek, testifying on behalf of the Western States Petroleum Association (known as WSPA). WSPA is a non-profit trade association representing a broad spectrum of petroleum industry companies in Hawaii and five other western states.

WSPA respectfully opposes HB 633, Relating to the Environment, which requires (subject to weather and other conditions) that loading operations of oil petroleum, petroleum products and other non-miscible lighter-than-water substances in any state harbor must be surrounded by containment devices.

Fuel transfers are conducted under the auspices of the United States Coast Guard (USCG) in accordance with rules outlined in USCG Captain of the Port of Honolulu Order 41-95 (COTP Order), revised 6/2001. The Order was established through a negotiated process with the industry and represents a balanced and cost-effective approach to environmental stewardship.

The requirements in HB 633 would add time to fuel transfer operations, thereby increasing the pier time for fueling ships and impacting other dock operations. Moreover, it would stand to reason that requiring "working boom" at all state harbors – in addition to boom that is dedicated towards spill response at deepwater harbors – would increase the cost of fuel transfer operations.

There are also provisions being proposed in HB 633 that are in conflict with the COTP Order, such as booming during transfers of certain kinds of fuel in harbors and the absence of an exemption for booming while transferring oil at the Chevron and Tesoro offshore moorings.

WSPA believes that amendments to fuel transfer operations should be conducted through the collaborative process established by the USCG in bringing the industry together to reach consensus. Therefore, we request that this bill be held.



January 31, 2013

HOUSE COMMITTEE ON ENERGY, ENVIRONMENT PROTECTION

Chair Chris Lee, Vice Chair Cynthia Thielen, and Committee Members
Public Hearing, January 31, 2013, 8:30 a.m., Conference Room 325, State Capitol

TESTIMONY OF WILLIAM F. ANONSEN
THE MARITIME GROUP
OFFERING POINTS OF CLARIFICATION
HB 633 (REQUIRING OIL BOOMING, CONTAINMENT DEVICES)

My name is William F. Anonsen, the Managing Partner/Principal of The Maritime Group, Chair of the Kalaeloa Barbers Point Advisory Council, and the Chair of the State Civil Defense Advisory Council. I would like to for consideration the following series of comments as points of clarification regarding HB 633, which requires that all loading operations of oil petroleum, petroleum products, and other non-miscible lighter-than-water substances in any state harbor must be surrounded by containment devices.

The intent and basic premise for this legislation is sound, as the booming of bunkering barges and fuel transfers "when appropriate" is a good marine practice. Some of the technical procedures and nomenclature exceed the initial concept without realizing the potential impact and their practical applications. It is recommended that a short study of some level be undertaken to determine where, when and how best to implement such a procedure system wide to address a myriad of applications. Hawaii has many unique challenges that are different from the states of California, Oregon and Washington. To ensure appropriate measures are in place, it is essential that these be taken into account prior to any mandated legislation.

Some of the points of clarification and concerns are, but not limited to the following:

- 1.) The first part of the legislation discusses barges but then delves into all vessels. This is unclear.
- 2.) The document speaks first to preventing the spread of oil but then uses the term "hazardous material" which is an extremely large portion of materials many of which are not boomable.
- 3.) The cost of having standby boats and personnel at each Hawaii port will greatly increase the cost to all residents within the State, without the mitigation of the respective potential environment and safety risk.
- 4.) There is no mention of how to deal with offshore transfers for fueling or at the offshore moorings.
- 5.) The document does not make a distinction between fueling (bunkers) and cargo transfers.

- 6.) There are occasions when it is not beneficial or required to encircle both vessels during a transfer. The boom placed around the lightering vessel is made off to the bow and stern of the ship which "encircles the transfer".
- 7.) There are some locations and times when placing a boom around a vessel causes a hazardous condition in that the vessels are unable to move in an emergency and this places a high risk on the environment and the local population. Transfers such as this need to be identified and allowances made.
- 8.) In the high energy situations mentioned (high surf, flooding, tsunami) it would be extremely hazardous to have small boats standing by. This becomes a life threatening situation to the crew and is not recommended.
- 9.) The legislation is encroaching upon the authorities of the United States Coast Guard and Unified Command in dictating the response measures, the decontamination requirements, and movement of boom. These areas have been worked out in the existing response plans and should be "cast" into legal jargon. This will only complicate the response.
- 10.) The document "requires" the boom to be quickly disconnected in the event of an emergency. There is no such thing as a quick disconnect and removal of a boom. It is a hazardous operation to begin with and stating this as a requirement goes against all safety precautions.
- 11.) We would disagree with using the manufacturer's recommendations for boom selection. Hawaii has a great existing response plan with much of this information already contained. Manufacturers typically do not know the conditions upon which their boom is being deployed and could in no means provide deployment advice.
- 12.) The legislation in section K, begins to speak to "operators of marine transfer facilities" which Hawaii has very few of and most all of the docks (facilities) are State owned. Does this mean that State DOT Harbors Division will have to provide this service?
- 13.) The definition of hazardous substances is too broad and includes cargos such as LNG, propane, butane, and many chemicals which a boom would not be appropriate.

Regrettably I'm not able to personally testify at this morning's hearing; however I will be pleased to make myself available to assist in amending this legislation to ensure it appropriately mitigates associated practical risks.

Mahalo for the opportunity to offer these comments of concern regarding HB 633

Sincerely,

William F. Anonsen

William F. Anonsen
Managing Partner/Principal