

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

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

**Before the House Committees on  
OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS  
and  
WATER & LAND**

**Friday, February 8, 2013  
10AM  
State Capitol, Conference Room 325**

**In consideration of  
HOUSE BILL 662  
RELATING TO KANAKA MAOLI FISHPONDS**

House Bill 662 proposes to amend Chapter 171, Hawaii Revised Statutes (HRS), to require the Board of Land and Natural Resources (Board) to provide preference for the reconstruction, restoration, repair or use of kanaka maoli fishponds when issuing leases for public land suitable for such use. In addition, the bill also proposes to require the Board to adopt administrative rules achieve this end, including rules to streamline the application approval process for lease applicants. **The Department of Land and Natural Resources (Department) opposes this bill to the extent it imposes rulemaking requirements on the Department with regard to the permitting and leasing of fishponds.**

The Department is already actively working in support of these goals. In August 12, 2011 amendments to Chapter 13-5, Hawai'i Administrative Rules, went into effect that reduced the permitting requirements for many of the activities relating to fishpond repair and maintenance. Furthermore, the Department is working with the practitioners, state and federal agencies, Honua Consulting, and Conservation International to further streamline the process. To this end, the Department has testified in strong support of House Bill 710, a measure designed to address these issues.

However, with regard to the leasing of public lands for fishponds, Chapters 171 and 190D, HRS, already are very thorough on the processes and procedures for the issuance of leases to qualified nonprofit and for-profit entities, government agencies...for a variety of purposes such as commercial, industrial, resort, agriculture, aquaculture, mariculture, renewables, etc. To require the Department and Board to expend resources and adopt new rules in addition to what is already statutory law would result in an unnecessary, duplicative and circular bureaucracy.

**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

Finally, the Department opposes this bill to the extent it requires the Department and Board to issue a lease of lands for fishpond purposes that would result in private or exclusive use of state land that are within the shoreline area or submerged. These lands are held in trust by the State for the use and enjoyment by the general public.

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Unity, Equality, Aloha for All

To: OMH/WAL  
From: Kenneth R. Conklin, Ph.D.  
Re: HB662  
Date: February 6, 2013

#### TESTIMONY IN OPPOSITION

It is reprehensible to use language suggesting that the fishponds belong to a racial group today or in the future. It is true that the fishponds were originally built by native Hawaiians before Captain Cook arrived in 1778. However, the Kingdom founded by Kamehameha The Great was created and sustained as a multiracial nation. The fishponds belonged to the multiracial government on behalf of the multiracial citizenry, and continue to belong to the multiracial citizenry of the State of Hawaii today.

For example, Englishman John Young was so important as a battlefield leader and military advisor that Kamehameha named Young as Governor of Hawaii Island and member of the ruling council of chiefs, and gave him land and a house immediately next to the great Pu'ukohola Heiau. John Young's bones are the oldest bones buried at Mauna Ala (Royal Mausoleum in Nu'uau), in a tomb designed to look like a miniature heiau and guarded with a pair of pulo'ulo'u (sacred taboo sticks).

Throughout the Kingdom most members of the cabinet, nearly all the department heads, and perhaps 1/4 of all the legislators (both Nobles and Representatives, both appointed and elected) were Caucasians. Beginning in the 1890s the majority of Hawaii's people were Asians, who acquired sweat-equity in the Kingdom, Republic, Territory, and State by working as plantation laborers and then rising to become business owners and professionals.

One purpose of this bill appears to be to establish fishpond restoration as a

preference or priority when allocating resources for public lands where fishponds currently or formerly exist(ed). It's questionable in any particular situation whether fishpond restoration is more or less important than using the land for agricultural crops, pasturage, or housing. It would seem inadvisable to declare arbitrarily that fishponds are always more important than cultivating plants or livestock as food sources in every ahupua'a. But at least that's an issue for race-neutral rational decision-making based on specific information about the land, the water, and the type of food needed by the people.

The primary purpose of this bill seems to be to change the name from "Hawaiian fishpond" to "kanaka maoli fishpond." That is clearly an attempt to remove a descriptive label designating Hawaii as a place and "Hawaiian" as an architectural style, and replace that descriptive label with a racial label asserting ownership by a racial group. Such a concept is contrary to historical fact and also insulting to the heritage of Hawaii as a multiracial society throughout the 19th, 20th, and 21st Centuries.