

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

NEIL ABERCROMBIE
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Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
**HOUSE COMMITTEE ON WATER AND LAND
AND
HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, AND
HAWAIIAN AFFAIRS**
Friday, February 1, 2013
8:00 AM
State Capitol, Conference Room 325

in consideration of
**HB 710
RELATING TO FISHPONDS.**

Chairs Evans and Hanohano, Vice Chairs Lowen and Cullen, and Members of the House Committees on Water and Land and Ocean, Marine Resources, and Hawaiian Affairs.

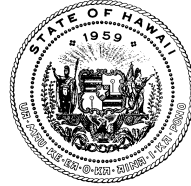
House Bill 710, Relating to Fishponds, directs the Department of Land and Natural Resources, Department of Health, and Office of Planning, in collaboration with community organizations and Native Hawaiian aquaculturalists, to streamline the permitting process and facilitate the restoration of Hawaiian fishponds.

The intent and language of HB 710 is similar to Senate Resolution No. 86 (SR86), which was adopted by the Senate on April 10, 2012. In response to SR86 and in accordance with federal regulations, the Hawaii Coastal Zone Management (CZM) Program is currently in the process of obtaining federal approval of a general concurrence for minor federal permit activities for Hawaiian fishpond restoration, repair, maintenance and reconstruction. Coastal Zone

Management Act federal consistency regulations (15 CFR Part 930) establish procedures for States to issue general concurrences (15 CFR §930.53(b)) allowing similar minor work in the same geographic area to avoid repeated review of minor federal license or permit activities which, while individually inconsequential, cumulatively affect any coastal use or resource. Federal permit activities which satisfy the conditions of the general concurrence are not subject to the consistency certification and review requirements of 15 CFR Part 930, Subpart D - Consistency for Activities Requiring a Federal License or Permit.

The Office of Planning reported to Senate President Mercado Kim, by letter dated January 22, 2013, as requested by SR86, our recommendations regarding regulatory streamlining for Hawaiian fishpond restoration. Based on our experience in dealing with the regulatory requirements for Hawaiian fishpond restoration, we do not believe that permit requirements are, or have been, a deterrent. Factors such as cost, economic viability, and labor, have been impediments to the widespread restoration and reuse of Hawaiian fishponds. We recommend that an existing agency with expertise in fisheries be utilized to coordinate fishpond restoration statewide. The coordinator would facilitate permitting and promote the economic benefits to ensure the viability of the restored fishponds. The coordinator or coordinating agency would not have to be newly created but could be assigned to an existing agency in this matter, such as the Aquaculture Development Program within the Department of Agriculture.

Thank you for the opportunity to provide testimony on this measure.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

**COMMITTEE ON WATER & LAND
COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS**

H.B. 710 Relating To Fishponds

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

**February 1, 2013
8:00 a.m.**

1 **Department's Position:** Department of Health supports this bill.

2 **Fiscal Implications:** None

3 **Purpose and Justification:** This measure requires the Department of Land and Natural Resources,
4 Department of Health, and Office of Planning, in collaboration with community organizations and
5 Native Hawaiian aquaculturalists, to streamline the permitting process and facilitate the restoration of
6 Hawaiian fishponds.

7 Hawaiian fishponds are specifically addressed in Hawaii Administrative Rules, Chapter 11-54,
8 Water Quality Standards. Section 11-54-9.1.01(c) requires that the Department of Health process
9 applications for water quality certification for the reconstruction, restoration, repair, or reuse of any
10 Hawaiian fishpond that meets the requirements of Hawaii Revised Statutes, Chapter 183B, before all
11 other permits and certifications. In addition, it imposes strict deadlines for determining the
12 completeness of these applications and for issuing or denying a water quality certification for a fishpond.

1 The Department of Health is committed to working with the Department of Land and Natural
2 Resources, Office of Planning and applicants to streamline the permitting process for the restoration of
3 Hawaiian fishponds.

4 Thank you for the opportunity to testify on this measure.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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HONOLULU, HAWAII 96809

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

ESTHER KIAAINA
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

Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the House Committees on
WATER & LAND
and
OCEAN MARINE RESOURCE & HAWAIIAN AFFAIRS

Friday, February 1, 2013
8:00am
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 710
RELATING TO FISHPONDS

House Bill 710 proposes to require the Department of Land and Natural Resources (Department), Department of Health (DOH), and Office of Planning to streamline the permitting process and facilitate the restoration of Hawaiian fishponds (loko i`a), and requires the Department to submit a report of findings and recommendations. Specifically, the bill calls for: 1) The development of one master conservation district use application process, 2) A coastal zone management consistency statement, 3) A water quality certification, 4) A general permit that conforms to the requirements for a fishpond pollution discharge system, and 5) For administrative rules to be applied consistently throughout the State. The Department strongly supports House Bill 710.

The Department concurs with the Legislature's findings that the State has the ability to streamline the permitting request. The Department also notes that these are similar action items that were called for in Senate Resolution 86, Senate Draft 1 from the 2012 Legislative Session.

The Department has been working actively 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.

The Department is working with the practitioners, state and federal agencies, Honua Consulting, and Conservation International to further streamline the process by:

1. Developing a three-tiered system of permitting for loko i`a maintenance, repair, and restoration that incorporates as many applicable, current, permits as possible;
2. Developing a State Programmatic General Permit with the United States Army Corps of Engineers; and
3. Securing a blanket water quality certification permit from DOH.

Honua Consulting is currently developing an Environmental Assessment in support of this initiative, and anticipates that it will be released in the spring of 2013. More details on the process can be found in the report, “Status Update of the Streamlined Permit Process for the Restoration of Hawaiian Fishponds” that Honua Consulting prepared on behalf of the Department’s Office of Conservation and Coastal Lands in response to Senate Resolution 86, Senate Draft 1. The report is available at: <http://files.hawaii.gov/dlnr/reports-to-the-legislature/2013/OCCL13-Streamedline-Fish-Pond-Permit-Rpt.pdf>

The Report contains a declaration of support for the development of the General Permit signed by over fifty cultural practitioners (the “Declaration of Hui Mālama Loko I`a”), and a letter of support for the Declaration by the Office of Hawaiian Affairs.

The Department intends that the language, terms, and conditions of any general permit will be consistent with the Hawai`i Coastal Zone Management Program’s General Concurrence for Minor Federal Permit Activities for Hawaiian Fishpond Restoration, Repair, Maintenance, and Reconstruction.

The Department shares the legislature’s desire to facilitate the restoration of loko i`a by streamlining of the permitting process, and thus strongly supports House Bill 710. Thank you for introducing this measure.

HISTORIC HAWAII FOUNDATION

To: Rep. Cindy Evans, Chair
Rep. Nicole E. Lowen, Vice Chair
Committee on Water & Land
Rep. Faye P. Hanohano, Chair
Rep. Ty J.K. Cullen, Vice Chair
Committee on Ocean, Marine Resources & Hawaiian Affairs

From: Kiersten Faulkner
Executive Director, Historic Hawai'i Foundation

Committee Date: Friday, February 1, 2013
8:00 a.m.
Conference Room 325

Subject: **HB 710, Relating to Fishponds**

On behalf of Historic Hawai'i Foundation (HHF), I am writing in support of HB 710, which requires the Department of Land and Natural Resources, Department of Health, and Office of Planning to streamline the permitting process and facilitate the restoration of Hawaiian fishponds, and requires DLNR to submit a report of findings and recommendations.

Since 1974, Historic Hawai'i Foundation has been a statewide leader for historic preservation. HHF's 850 members and numerous additional supporters work to preserve Hawaii's unique architectural and cultural heritage and believe that historic preservation is an important element in the present and future quality of life, economic viability and environmental sustainability of the state.

Hawaiian fishponds are a significant cultural resource related to traditional and customary practices, and are necessary to preserve as the physical locations that support those practices. Hawaiian fishponds are also historically significant as embodying distinctive characteristics of a type, period or method of construction. Fishponds provide a strong example of engineering ingenuity based on an understanding of water resources and ecosystems, as a way to take advantage of natural systems to support populations and their sustenance. As such they are community resources and inherently valuable to the culture and people of Hawai'i.

While some individuals and organizations have worked to preserve and restore these sites, and to perpetuate the practice of aquaculture and associated cultural practices, they have experienced institutional barriers from a lack of consistent regulations and coordinated reviews. HHF supports the intent of restoring and appropriately using fishponds, and also the need for appropriate regulations for protecting water quality, limiting commercial uses in conservation or preservation zones, and protecting public health. HHF finds that HB 710 would establish a framework for exploring and reconciling points of conflict between these public benefits and community goods.

Therefore, Historic Hawai'i Foundation supports HB 710.

Historic Hawai'i Foundation

680 Iwilei Road, Suite 690 • Honolulu, HI 96817 • Tel: 808-523-2900 • FAX: 808-523-0800 • www.historichawaii.org

Historic Hawai'i Foundation was established in 1974 to encourage the preservation of historic buildings, sites and communities on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability, and economic viability of the state.

lowen1-Kyli

From: Trisha Kehaulani Watson [watson@honuaconsulting.com]
Sent: Thursday, January 31, 2013 2:41 PM
To: omhtestimony; waltestimony
Subject: Testimony on HB710
Attachments: HB710 Final Testimony .pdf

Aloha,

Please find testimony for HB 710 attached. We will be present at the hearing tomorrow.

Mahalo

Trisha Kehaulani Watson, JD, PhD
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**COMMITTEE ON LAND AND WATER /
COMMITTEE ON OCEAN, MARINE RESOURCES AND HAWAIIAN AFFAIRS**

**Friday, February 1, 2013 - 8:00 am
Conference Room 325**

HB 710: RELATION TO FISHPONDS

TESTIMONY

**HONU CONSULTING
Trisha Kehaulani Watson, JD, PhD
Owner**

January 31, 2013

Position

We are providing comments.

Statement

Through the support of Conservation International (Hawai'i Fish Trust) Honua Consulting has been contracted to complete a number of the actions set forth in SB 86 (2012). Those actions mirror the mandates in HB 701 (2013). We have made significant progress in our work and appreciate the legislature's continued interest in and support of this effort. We are very proud of this project.

We also appreciate the steps the Office of Planning took in supporting this overall effort. They took key steps towards addressing the concerns regarding permitting as specific to their Office.

Our collective team took a slightly different approach, waiting until we had the opportunity to meet with fishpond practitioners at their conference in Waipā in November 2012 so we could fully understand their needs. We are committed to ensure that our efforts are transparent and have the support of the practitioners and community. Our goal is to use the team's time and resources effectively to thoroughly address all the concerns outlined in this thoughtful and important bill. We are determined to see this succeed and believe that a collective, community approach is necessary to make this happen. We further believe that the Declaration signed by the practitioners in Waipā and the support from the Office of Hawaiian Affairs is a powerful reflection of the community's support for our team's efforts.

We want it noted that we at Honua Consulting feel the Department of Land and Natural Resources, Office of Coastal and Conservation Lands has shown extraordinary leadership and dedication throughout this effort. We have unwavering confidence in their ability to carry this program forward. Additionally, it has been through the support and cooperation of NOAA NMFS Pacific Islands Regional Office and NOAA NOS Hawaiian Islands Humpback Whale National Marine Sanctuary, Conservation International and most recently the US Army Corps of Engineers that the progress we have made, as identified in Status Update on SB 86, available at <http://files.hawaii.gov/dlnr/reports-to-the-legislature/2013/OCCL13-Streamedline-Fish-Pond-Permit-Rpt.pdf>, has been possible.

We hope to soon enjoy this same successful working relationship with the Office of Planning and Department of Health.

Thank you for the opportunity to testify.

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