



**HB866 HD1**  
**RELATING TO SEWER SYSTEMS SERVICING ON HAWAIIAN HOME LANDS**  
House Committee on Ocean, Marine Resources, & Hawaiian Affairs

February 15, 2013

8:30 a.m.

Room 325

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The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB866 HD1, which requires counties to accept dedication of sewer systems servicing Hawaiian home lands.

Communities like Papakolea suffer from poorly working sewer systems and unhealthy conditions because the City and County of Honolulu has not accepted dedication of their sewer system. This is of concern for two reasons.

First, dysfunctional sewers will pose a public health risk. Second, future developments by DHHL will be hindered because the department will have to take on even more infrastructure costs. In short, the management of sewers is properly handled by the experts, our county governments.

Therefore, OHA urges the committee to **PASS** HB866 HD1. Mahalo for the opportunity to testify on this important measure.

DEPARTMENT OF ENVIRONMENTAL SERVICES  
**CITY AND COUNTY OF HONOLULU**

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February 14, 2013

The Honorable Faye P. Hanohano, Chair  
and Members of the Committee on  
Ocean, Marine Resources, & Hawaiian Affairs  
House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Hanohano and Members:

**Subject: House Bill 866, HD1, Relating To Sewer Systems  
Servicing On Hawaiian Home Lands**

The City and County of Honolulu's Department of Environmental Services (ENV) has significant concerns regarding House Bill (HB) 866, HD1, Relating to Sewer Systems Servicing On Hawaiian Home Lands and opposes the bill in its current form, although the HD1 is an improvement from the original bill.

HB 866, HD1, has two components.

First, HB 866, HD1, suggests to confirm that sewer lines existing on the effective date of the bill, that were developed, constructed, operated, improved, or maintained by the counties or which the counties have existing obligations to operate, improve, repair, or maintain, including those facilities on Hawaiian home lands, are owned by the county. ENV fully accepts responsibility to operate and maintain sewer lines that are owned by the City and County of Honolulu or for which there are intergovernmental agreements for the City and County of Honolulu to operate and maintain. An intergovernmental agreement may provide for certain responsibilities to operate and maintain a system, but it does not transfer ownership. It is unclear that the Legislature may transfer ownership as suggested in the bill just by a declaratory statement. See, e.g., Dep't of the Attorney General, Opinion No. 86-15 (June 10, 1986) ("Hawaiian Home Lands are not transferable by state legislation, pursuant to sections 2 and 3 of article XII [designated as article XI in 1965] of the Hawaii State Constitution.").

Second, HB 866, HD 1, would mandate that the City and County of Honolulu take ownership, through dedication or license, of sewer lines within Hawaiian home lands

The Honorable Faye P. Hanohano, Chair  
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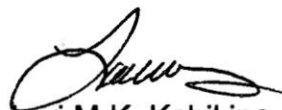
upon the demand of the Department of Hawaiian Home Lands (DHHL), provided that they are in substantial compliance with environmental laws and regulations pertaining to the dedication or license of the sewers to the counties at the time of construction. This provision fails to address the fact that most such lines on Oahu are from ten to seventy years old and without maintenance are no longer in their original condition. Further, it remains unclear that there exists an ability to transfer the assets of the DHHL. Many of the sewer lines on Hawaiian home lands and owned by the DHHL were not built to City standards and/or have not been routinely maintained during their life. The City and County of Honolulu has indicated for many years the willingness to take responsibility for these lines provided that they are brought up to City standards and repaired prior to such a transfer in operation and maintenance responsibility. It is not appropriate for other City sewer rate payers to accept the burden of upgrading Hawaiian home lands sewer systems when that has long been the responsibility of the owner, the DHHL. We would apply this same standard to any other developer.

The DHHL has indicated that the sewer system on Hawaiian home lands in the Papakolea area of Oahu was licensed to the City and County of Honolulu. Our records indicate that the City and County of Honolulu may have been involved in construction of the initial phases of these sewers in the 1940s, but that DHHL had not provided the City an easement/license to access the entire system for maintenance.

It is correct that those properties connected indirectly, to include through Hawaiian home lands sewer systems, do have to pay City sewer service charges. Sewer service charges pay for operation and maintenance of the City-owned sewer lines that transmit wastewater to the City's wastewater treatment plants and for the treatment and disposal of that wastewater.

We urge the committee not to pass HB 866, HD1, in its current form and to not place the burden of upgrading sewer systems within Hawaiian home lands on other City rate payers.

Sincerely,



Lori M.K. Kahikina, P.E.  
Director Designate

**omhtestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 14, 2013 8:41 AM  
**To:** omhtestimony  
**Cc:** 8753e0ea@opayq.com  
**Subject:** \*Submitted testimony for HB866 on Feb 15, 2013 08:30AM\*

**HB866**

Submitted on: 2/14/2013

Testimony for OMH on Feb 15, 2013 08:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Troy Abraham	Individual	Support	No

Comments:

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