



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

**Tuesday, March 18, 2014
8:30 A.M.
State Capitol, Conference Room 325**

**In consideration of
SENATE BILL 2663, SENATE DRAFT 2
RELATING TO NATURAL RESOURCES**

Senate Bill 2663, Senate Draft 2, proposes to revise statutory provisions relating to the regulation of mineral resources under Chapters 171 and 182, Hawaii Revised Statutes (HRS), 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 resources permits issued by the Counties and the Board of Land and Natural Resources (Board). **The Department of Land and Natural Resources (Department) supports this measure and suggests an amendment.**

Prior to the passage of Act 97, SLH 2012, the Counties and the Board were afforded the authority to issue land use permits for geothermal development in the various land use districts. This measure restores that authority to the Counties (for Agricultural, Rural and Urban Districts) and the Board (for Conservation District).

The Department, through consultation with the Department of the Attorney General, is suggesting a change to clarify the process for the issuance of land use permits for geothermal development within the Conservation District. This preferred language is provided in Attachment 1, and is intended to replace 'SECTION 2' of Senate Bill 2663, Senate Draft 2, in its entirety.

The changes made to 'SECTION 2' are recommended because any land use within the Conservation District is already regulated under Chapter 183C HRS, and Hawaii Administrative

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

JESSE K. SOUKI
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

Rules Title 13 Chapter 5. Any geothermal development occurring in the Conservation District will require a Conservation District Use Permit (CDUP), authorized by the Board. As such, the Department would prefer to defer to the existing authority to avoid duplication and potential conflict.

Thank you for the opportunity to testify on this measure.

Attachment 1

SECTION 2. Chapter 205, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§205- Geothermal resource permits. (a) The use of an area or site for geothermal resources development within the conservation district shall be governed by the board pursuant to chapter 183C; provided that the appropriate county authority may issue a geothermal resource permit pursuant to subsection (c) to allow geothermal resources development in an agricultural, rural, or urban district if the geothermal resources development is not considered a permissible use under the applicable county zoning ordinances or general plan.

(b) If geothermal resources development is proposed within a conservation district, the board shall conduct a public hearing to receive testimony on the application. 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 grant a conservation district use permit upon the requirements of chapter 183C, and if it finds that:

(1) The desired uses would not:

(A) Have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property; and

(B) Impose an unreasonable burden on public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection; or

(2) Despite the unreasonable adverse effects or burdens referred to in paragraph (1) (A) or (B), there are reasonable measures available to mitigate the unreasonable adverse effects or burdens, which the board may prescribe as conditions for the proposed geothermal resources development.

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 geothermal resources development in support of its findings, except to the extent that the department of health and other state and federal agencies have jurisdiction to regulate the 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

Attachment 1

shall conduct a public hearing. 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 receive additional written comments on the unresolved issues raised at the second public hearing from any party.

The appropriate county authority shall consider the comments raised at the second hearing 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 grant a

geothermal resource permit if it finds that the applicant has demonstrated that:

- (1) The desired uses would not:
 - (A) Have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property; and
 - (B) Impose an unreasonable burden on public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection; or
- (2) Despite the unreasonable adverse effects or burdens referred to in paragraph (1) (A) or (B), there are reasonable measures available to mitigate the unreasonable adverse effects or burdens, which the appropriate county authority may prescribe as conditions for the proposed geothermal resources development.

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 upon the geothermal resources development in

Attachment 1

support of its findings, except to the extent that the department of health and other federal and state agencies have jurisdiction to regulate the activities.

(d) Requests for mediation shall be received by the 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 appropriate county authority of the date, time, and place of the mediation conference. The appropriate 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) An appeal of a decision made by an appropriate county authority under this section or the board pursuant to a contested case hearing under chapter 183C, shall be taken directly on the record to the intermediate appellate court for review. The appropriate county authority 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 appropriate county authority.

(g) For purposes of this section:

"Appropriate county authority" means the county planning commission or, if applicable, the respective county agency or body designated by county charter or ordinance to issue development permits.

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



**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**

Tuesday, March 18, 2014

8:30 a.m.

State Capitol, Conference Room 325

in consideration of

SB 2663, SD2

RELATING TO NATURAL RESOURCES.

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

The Department of Business, Economic Development, and Tourism (DBEDT) supports SB 2663, SD2 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 and geothermal permitting programs.

Thank you for the opportunity to offer these comments in support of SB 2663, SD2.

Position: Strong support for Puna Pono Alliance amendments to SB2663

Representing: Sierra Club

Senate Bill 2663 SD2 Needs Amendments

Aloha Members of the House Comm. on Energy and Environmental Protection,

My name is Nelson Ho. I am an appointed member of your Legislative Geothermal Working Group created by Senator Russell Kokubun's Senate Concur. Reso 99-2010.

Since 1982 I have been an active proponent of careful land management when a highly industrial activity like geothermal exploration comes into a rural area or undeveloped Hawaiian forest landscape.

County agencies deal directly with the impacts of industrial levels of geothermal activity. County government must be able to meaningfully participate in geothermal decision making. Please remove the limitations on county agency's authority to establish reasonable permit conditions and enforce local ordinances.

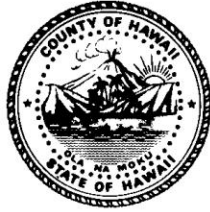
Finally please amend the bill to ban fracking in Hawaii. If geothermal development is to proceed, do not deprive affected county agencies and impacted residents, necessary means to condition an intrusive industrial activity.

Thank you for your consideration.

Nelson Ho

Member, Senate Concur. Reso 99-2010 Legislative Geothermal Working Group
Sierra Club Representative

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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March 18, 2014

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

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

RE: Senate Bill 2663, SD2 RELATING TO NATURAL RESOURCES

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



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16 March 2014

James Takamine, Chair
Hawaii Community Federal Credit Union

Michael Kaleikini, Secretary
PGV/ORMAT

David Honma, Treasurer
First Hawaiian Bank

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HMSA

Jacqui Hoover, COO
Executive Director

**Testimony for the House Committees on
Energy & Environmental Protection
and
Water and Land**

**Regarding Senate Bill No. 2663, SD2
Relating to Natural Resources
Hearing on March 18th 2014 at 8:30 a.m.
Hawai`i State Capitol, 415 South Beretania Street,
Conference Room 325**

The Honorable Representative Lee Choy, Chair, Vice Chair Thielen, and Members of the House Committee on Energy & Environmental Protection; and The Honorable Representative Evans, Chair, Vice Chair Lowen, and Members of the House Committee on Water & Land:

I am Jacqui Hoover, Executive Director of the Hawai`i Island Economic Development Board (HIEDB) and President of Hawai`i Leeward Planning Conference (HLPC).

Members and affiliates of HIEDB numbering in excess of one hundred (100) Hawai`i Island stakeholders humbly request your support of [SB2663](#), [SD2](#). HIEDB supports the intent and purpose of SB2663 including and not limited to, the geothermal resources permit (GRP), mediation, and home rule.

Mahalo for allowing me this opportunity to speak in support of and request your support of SB2663, SD2. Please do not hesitate to contact me with any questions or concerns.

/Jacqui L. Hoover
E-mail: jhoover@hiedb.org



Puna Pono Alliance
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March 15, 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 Tuesday, March 18, 2014, at 8:30 a.m., Conference Room 325
SB2663 SD2 § 2 (providing for geothermal permitting)

Encl: Four proposed amendments for SB2663, SD2 § 2:

1. to **remove the prohibition of contested cases**
2. to **add a prohibition of geothermal fracking**
3. to include Geothermal Public Health Assessment recommendations
4. to restore geothermal resource subzones repealed by Act 97, *nunc pro tunc*

Aloha Representatives,

SB2663 SD2 § 2 contains essentially the same language as HB2639 § 2, a bill heard by your committees on Thursday, February 13, 2014. This, then, is like a second bite at the apple. We sincerely appreciate your past response to our proposed HB2639 amendments: you removed mandatory mediation and added important standards to help assess applications for geothermal development permits. We ask you to please accomplish those same forward steps with regard to SB2663 SD2 § 2 – and then to progress a few steps further forward toward an amended bill that can be strongly supported by the state’s only geothermal-impacted community.

First, please agree that the prohibition of contested cases is an unreasonable aspect of SB2663. In addition to removing mandatory mediation – as you did with HB 2639 previously – please remove the contested case prohibition. Contested cases are an ordinary part of virtually all significant permitting procedures in the State, whenever “the legal rights, duties, or privileges of affected parties are to be determined” (to quote HRS Chapter 91.) The modern contested case procedure includes a mediation provision to help reduce time and difficulty in obtaining a focus on the issues (*see* HRS § 91-8.5.) Despite the hyperbole of a few geothermal proponents, there really is no reason to exclude the ordinary process from this bill.

The first geothermal permitting law created by Act 296 in 1983 provided contested cases¹ in permit applications, but Act 378 in 1987 removed those provisions and substituted mandatory mediation. In 2012, Act 97 repealed *all of the laws* relating to geothermal development with the intent of eliminating a so-called ‘go-slow’ approach to geothermal development.²

Inadequate regulatory oversight resulting in public health and safety issues is one finding of a recent Hawai`i County sponsored Geothermal Public Health Assessment Study Group (that examined the Puna community’s experience with geothermal development):

Geothermal energy development and production is overseen by a variety of agencies. Most of these agencies are without sufficient resources and wherewithal to enforce proper oversight.

Final Report at page 69 (September 2013)

Interestingly, Report 2397 of the Senate Committees on Water and Land and Energy and Environment, after their hearing of SB2663, spoke in the same terms about regulatory resources:

Your Committees find that geothermal energy development and production is overseen by a variety of agencies. Most of these agencies are without sufficient resources and wherewithal to enforce proper oversight.

Report 2397 at page 2 (February 14, 2014)

The Geothermal Public Health Assessment Study Group and the Senate Committees that reported on SB2663 plainly agree regulation of geothermal development is presently in a relaxed condition. Contested case procedures allow interested persons to bring focus to matters before a permitting agency and thereby augment and support the expertise of the agency in its analysis.

¹ Act 296 (1986) provided “[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...” HRS § 91-1 defines *contested case* 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.”

² A draft report titled *Senate Energy and Environment Committee Accomplishments* for 2012, said that 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....”

Peter Adler, Project Director for the Hawai`i County Funded Study Group and mediator for the permit issued to Puna Geothermal Venture, stated in his written testimony to the Senate Committees hearing SB2663, “I oppose the wholesale substitution of mediation for evidentiary hearings such as contested case proceedings. ... I believe contested case procedures should be reinstated for the disputes that will inevitably arise....”

HB2639 died (in the Finance Committee on February 20th) containing language close to the threshold of community support. The step needed to reach that threshold is to **remove the prohibition of contested cases** from geothermal permitting. Our amendment 1 proposes *the same amended language from HB2639 HD2 Section 2 that was previously approved by the EEP/WAL Committees* and further:

- deletes provisions relating to prohibition of contested cases – specifically, subsections (f) and (g) from amended HB2639 – and adds this language regarding notice: “where the legal rights, duties, or privileges of affected parties are to be determined” – to give emphasis to the contested case aspect; and
- deletes the phrase “if the geothermal resources development is not considered a permissible use under the applicable county zoning ordinances or general plan” from subsection (c) – thereby requiring geothermal development permits in all situations.

Second, we ask you to please agree to **add a prohibition of geothermal fracking**, as you did previously when HB2359 was recommended in your report 496-14 after a hearing February 13, 2014 (with an added specification that it did not affect drilling ordinary water wells and with a three year sunset provision.) SB2940, introduced for the same purpose, was heard on February 12, 2014, by the Senate Committees on Water and Land and on Energy and Environment (where it also was recommending that it be passed.) However, neither bill was scheduling for the next committee hearing. The unilateral procedural demise of both bills – contrary to their widespread public support and recommendations by the initial committees – can be remedied by adding the language in our second proposed amendment (a straightforward geothermal fracking ban with an added citizen enforcement provision) to SB2663.

Finally, two additional steps were previously proposed by the Puna Pono Alliance for the several geothermal permitting bills: one is to affirm and incorporate the recommendations of the Hawai`i County sponsored Geothermal Public Health Assessment Study Group’s Final Report (amendment 3) and the second is to restore former geothermal resource subzones (amendment 4) that were removed by Act 97 in 2012. We believe these amendments are still important, but the opportunities to have SB2663 allow contested cases and ban fracking are foremost in our minds at this time. Last September’s Geothermal Public Health Assessment report provides a diligent, in-depth and competent study of public health and safety issues experienced in lower Puna, the

House Committee on Energy &
Environmental Protection and
Committee on Water & Land
March 15, 2014, Page 4

only community in the State to have actually lived with geothermal development. Geothermal resources subzones were an integral part of the former geothermal laws, providing a foundation for related laws on permitting and exploratory drilling. They can be restored now at no cost, having already been designated, and thus continue to serve their intended purpose.

Again, thank you for your previous favorable response to our proposed amendments on HB2359 (the twin of SB2663) when you adopted the amendment proposing added standards for permit applications and a part of the proposed amendment to remove mandatory mediation. It is now possible to achieve legislation acknowledging the public health and safety issues that have been recognized to affect the Puna community – a step that will be of benefit in all areas of the State where future geothermal development may occur.

Aloha,

A handwritten signature in black ink, appearing to read 'Robert Petricci', with a stylized flourish at the end.

Robert Petricci, President
Puna Pono Alliance

Proposed AMENDMENT #1

TO: Senate Bill No. 2663, S.D. 2

The purpose of this proposed amendment is to remove mandatory mediation (allowing contested cases) and to add certain standards to geothermal development permitting procedures.

SECTION 1. Senate Bill No. 2663, S.D. 2, Section 2, is amended as follows:

SECTION 2. Chapter 205, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§205- Geothermal [resource permits. (a)]resources development permits; objectives. (a) The establishment and regulation of geothermal permitting is intended to facilitate geothermal development activities in those areas in which the potential benefits to be derived from geothermal development and utilization in the proposed area are in the best interest of the county or counties involved and the State as a whole. The major objectives are to:

(1) Allow geothermal development activities to help achieve the State's goal of energy self-sufficiency and broaden the State's economic base through development of a natural resource;

(2) Allow geothermal development activities in areas where such activities would be of greater benefit to the State than the existing or future use of such areas; and

(3) Allow geothermal development activities in areas of the State that best demonstrate an acceptable balance among the criteria set forth in subsection (b).

(b) No geothermal resources development activity may be undertaken without a geothermal resources development permit issued pursuant to this section. To ensure that prospective geothermal resources development activity has the least detrimental environmental and social impact, any application to obtain a geothermal resources development permit from a government entity shall provide, at a minimum, 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 pertinent county, 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.

Within 60 days of receiving the application, the government entity shall determine whether the application is complete and inform the applicant of any deficiency in the application.

(c) The use of an area or site for geothermal resources development within [the] a conservation district shall be governed by the board [- T]; provided that the appropriate county authority may issue a geothermal [resource] resources development permit pursuant to subsection ([e]d) to allow geothermal resources development in an agricultural, rural, or urban district[if the geothermal resources development is not considered a permissible use under the applicable county zoning ordinances or general plan].

([b]d) If geothermal resources development is proposed within a conservation district in an application containing all required data, the board shall conduct a public hearing [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] on the same island and in reasonably close proximity to the proposed permit area that would be affected by the proposed geothermal resources development, and publish a notice of [the] a public hearing [by the party requesting mediation where the legal rights, duties, or privileges of affected parties are to be determined.

— If there is no mediation agreement on all the issues raised at] setting forth:

(1) A description of the proposed project and area for permitting;

(2) An invitation for public comment; and

(3) The date, time, and place of the public hearing [- the board may conduct a second] where written or oral testimony may be submitted or heard.

The notice shall be published on three separate days in a newspaper of general circulation in the county in which the public hearing [to receive additional comments related to the unresolved

mediation issues. ~~Within ten days after the second public hearing, the board may receive additional written comments on the unresolved issues raised at the second public hearing from any party. The board shall consider the comments at the second hearing before rendering its final decision. The board shall then determine whether a conservation district use permit shall be granted to authorize the]~~ is to be held. The first publication shall be not less than twenty days before the date set for the hearing. The notice shall also be mailed to all owners of land within three thousand feet of the proposed geothermal resources development [described in the application] not less than twenty days before the date set for the hearing. Copies of the notice shall be submitted to the department of land and natural resources, department of business, economic development, and tourism, and the planning commission and planning department of the county in which the proposed area is located.

(e) At the close of the public hearing pursuant to subsection (d), the board shall consider all the testimony and after deliberation make a decision to approve or disapprove the permit, or announce the date on which it will render its decision. 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 authority to impose reasonable conditions and restrictions upon the proposed use in support of its findings. The board shall grant a geothermal resources development permit in a conservation district [use permit] if it finds that:

(1) The ~~[desired uses would not:~~

~~— (A) Have a]~~ area has potential for geothermal development activities;

(2) There is a known or likely prospect for the utilization of geothermal resources for electrical energy production;

(3) Any potential geologic hazards to geothermal production or use in the area are examined;

(4) Any environmental or social impacts of the development of geothermal resources within the area be considered;

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

~~— (B) Impose an unreasonable burden on]~~

(6) The compatibility of development and utilization of geothermal resources within the area is considered with other allowed uses within the area and within the surrounding lands;

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

~~— (2) Despite the unreasonable adverse effects or burdens referred to in paragraph (1)(A) or (B), there]~~

(8) There are reasonable measures available to mitigate the unreasonable adverse effects or burdens referred to in paragraphs (1) and (2), which the board [may] shall have the authority to prescribe as conditions for the proposed geothermal resources development [;

~~— 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 geothermal resources development in support]; and~~

(9) The potential benefits to be derived from geothermal development and utilization in the proposed area be in the interest of the county or counties involved and the State as a whole.

Upon request, the board shall issue a concise statement of its findings [;~~except to the extent that the department of health and other state and federal agencies have jurisdiction to regulate the 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. 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 receive additional written comments on the unresolved issues raised at the second public hearing from any party.~~

~~— The appropriate county authority shall consider the comments raised at the second hearing 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 grant a geothermal resource permit if it finds that the applicant has demonstrated that:~~

~~— (1) The desired uses would not:~~

~~— (A) Have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property; and~~

~~— (B) Impose an unreasonable burden on public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection; or~~

~~—(2) Despite the unreasonable adverse effects or burdens referred to in paragraph (1)(A) or (B), there are reasonable measures available to mitigate the unreasonable adverse effects or burdens, which the county authority may prescribe as conditions for the proposed geothermal resources development.~~

~~—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 upon the geothermal resources 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 the activities.~~

~~—(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) and the principal reasons for its decision to approve a permit.~~

~~(f) For purposes of this section:~~

~~"Appropriate county authority" means the county planning commission or, if applicable, the respective county agency or body designated by county charter or ordinance to issue geothermal resources development permits.~~

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

Proposed AMENDMENT #2

TO: Senate Bill No. 2663, S.D. 2

The purpose of this proposed amendment is to prohibit hydraulic fracturing in Hawai`i.

SECTION 1. Senate Bill No. 2663, S.D. 1, S.D. 2, 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 Hydraulic Fracturing. (a) Definitions. As used in this section, unless the context otherwise requires:

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

"Fluid" means any material or substance which flows or moves whether in semi-solid, liquid, sludge, gas, or any other form or state.

"Hydraulic fracturing" means a drilling operation into an underground geologic formation and the injection of fluids, gases, chemicals, sand, or any other substance with the intention to cause or enhance fractures in the geologic formation for the purpose of instigating or increasing the porosity or permeability of the geologic formation to initiate or increase the production of a desired commodity from a well. Hydraulic fracturing is also known as "fracking", "hydro-fracking", "hydro-fracturing", "hydro-shearing", "hydraulic shearing", "hydro-stimulation", or "enhanced geothermal drilling". It does not include the drilling of ordinary water wells.

(b) Hydraulic fracturing; prohibited. (1) It shall be unlawful for any person, corporation, or other business entity to engage in hydraulic fracturing within the State.

(2) It shall be unlawful for any person, corporation, or other business entity to collect, transport, store, process, or discharge waste fluid from hydraulic fracturing within the State without first obtaining a permit to do so.

(c) Penalty; injunction. Any person, corporation, or other business entity that violates subpart (b) shall be fined not more than \$100,000 for every violation.

Any person, corporation, or other business entity that violates subpart (b) also may be enjoined by the circuit court from continuing the violation.

The penalty and remedy provided by this section shall be in addition to any criminal or civil penalty provided by any other law.

(d) The board or its authorized representative is authorized to charge and collect the fines set forth pursuant to section subpart (c); the board or its authorized representative and any person or entity may bring legal action to enjoin conduct prohibited by this section."

Proposed AMENDMENT #3

TO: Senate Bill No. 2663, S.D. 2

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. Senate Bill No. 2663, S.D. 2, 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.

Proposed AMENDMENT #4

TO: Senate Bill No. 2663, S.D. 2

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

SECTION 1. Senate Bill No. 2663, S.D. 2, 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.”

SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
derek brewer	eco hostel hawaii	Oppose	No

Comments: "Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development. "

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: Our nearly 300-member organization supports this bill , as it will help reduce dependency on fossil fuels, reduce energy costs and ensure Home Rule participation/oversight, which is integral to the process. Please pass this bill.

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Testimony of Cindy McMillan
The Pacific Resource Partnership

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Representative Chris Lee, Chair
Representative Cynthia Thielen, Vice Chair

COMMITTEE ON WATER & LAND
Representative Cindy Evans, Chair
Representative Nicole E. Lowen, Vice Chair

SB 2663, SD2 – Relating to Natural Resources
Tuesday, March 18, 2014
8:30 AM
Conference Room 325

Aloha Chairs Lee and Evans, Vice Chairs Thielen and Lowen and members of the Committees:

The Pacific Resource Partnership (PRP) is a labor-management consortium representing over 240 signatory contractors and the Hawaii Regional Council of Carpenters.

PRP supports SB 2663, SD2, which establishes a framework to regulate geothermal resources development through a permitting process administered by the BLNR and the appropriate county authority and requires penalties, fees, and costs collected pursuant to chapter 182, HRS, to be deposited into the special land and development fund.

We support this bill for the following reasons:

- The mediation process is a fair and proven method for allowing interested parties the opportunity to resolve differences in a neutral setting.
- The bill provides ample opportunity for persons to testify and present information in a public hearing context that will allow the public and agencies a fair opportunity to identify issues and present information concerning a proposed development.
- This bill provides the county authority to prescribe conditions to mitigate adverse effects, and by adopting this bill, the counties will have the ability to exercise “home rule” in the GRP context.

Thank you for the opportunity to share our views with you and we kindly ask for your favorable consideration of SB 2663, SD2.

SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Paul P Richards	Waimanalo Hawaiian Homes Association	Support	No

Comments: Honorable Chairs and Committee Members, Please accept this testimony in strong support and ask for mediation relating to SB 2663 SD2 which will have a positive long-term effect to local businesses once allowed relating to natural sustainable energy in the State of Hawaii. We urge and ask for the committee's full support. Mahalo nui loa, Paul P. Richards, President, Waimanalo Hawaiian Homes Association.

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SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
William Braham	Malama Ki Buddha Wisdom Garden	Support	No

Comments: RE: SB2663 SD2 Position: Strong support for Puna Pono Alliance amendments to SB2663 Representing: William Braham, Director/Konohiki, Malama Ki Buddha Wisdom Garden Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members: Chairwoman Evans, vice Chair, Lowen, and WAL committee members: Thank you for the opportunity to testify on: SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and: Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure designed for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it. Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today. Thank you for your consideration. Sincerely, William Braham, Director/Konohiki, Malama Ki Buddha Wisdom Garden

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Testimony for Senate Bill 2663 SD2

My name is Malia DeVincent and I am testifying to oppose Senate Bill 2663 SD2 which offends home rule. In the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation.

In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases.

Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development. "

Thank you,

Malia DeVincent

SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Koob	Kalani Oceanside Retreat Village	Support	No

Comments: Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members: Chairwoman Evans, vice Chair, Lowen, and WAL committee members: Thank you for the opportunity to testify on: SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and: Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it. Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today. Thank you for your consideration. Richard Koob

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: Our organization supports SB 2663 SD2 but encourages some amendments. Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former Hawaii County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development. Mahalo. Jim Albertini

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Amara Karuna	Laakea community LLC	Support	No

Comments: Position: Strong support for Puna Pono Alliance amendments to SB2663 SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and: Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking.

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PUNA GEOTHERMAL VENTURE



HAWAII

**THE HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014
Tuesday, March 18 2014, 8:30 a.m.
Conference Room 325 State Capitol
415 South Beretania Street, Honolulu, Hawai'i 96813
Hearing on SB 2663, SD2**

Representative Chris Lee, Chair, COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION (EEP)

Representative Cindy Evans, Chair, COMMITTEE ON WATER & LAND (WAL)

Aloha Chairs Lee and Evans and respected committee members of EEP and WAL:

Thank you for the opportunity to provide this testimony on SB 2663, SD 2. Ormat Technologies, Inc. supports the purpose and intent of this bill.

The primary purpose of the bill requires that geothermal resource permits (GRP) be issued before geothermal resource development can be engaged in, and requires that such permits be issued by county authority for lands within the agricultural, rural, and urban districts, and by the board of land and natural resources for lands within the conservation district.

The procedures for the issuance of a GRP are similar to the procedures which existed prior to the adoption of Act 97, SLH 2012, which repealed the GRP procedures that had been contained in HRS 205-5.1. These procedures included the mediation of issues as between interested parties, which are contained in Section 2 of the bill. The mediation process is a fair and proven method for allowing interested parties the opportunity to resolve differences in a neutral setting. Experience has shown that the mediation procedure provides interested parties the opportunity to arrive at a consensus for dealing with terms and conditions which considers their respective interests, without placing the parties in an all or nothing context as contested case hearings can often lead to. For example, when Puna Geothermal Venture applied for an amendment to its GRP to allow an increase of production capability at its Kapoho plant from a 30 MW facility to a 60 MW facility, the mediation process considered the issues raised by members of the public as well as how conditions under a GRP could address these issues.

Even if interested parties cannot agree upon all of the issues, the mediation process encourages dialog between interested parties, and for the parties to address unresolved issues before a decision is made. It should be noted here that the counties of Hawaii and Maui have GRP rules in place which are consistent with the procedures set forth in SB 2663, SD2, rules which have already been adopted after public hearing pursuant to Chapter 91.

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Pāhoa, Hawai'i 96778
Tel (808) 965-6233 • Fax (808) 965-7254
PunaGeothermalVenture.com

an ORMAT  company

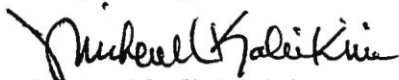
While there has been some concern that the GRP process should include a contested case hearing process, the bill provides ample opportunity for persons to testify and present information in a public hearing context that will allow the public and agencies a fair opportunity to identify issues and present information concerning a proposed development. Right of appeal directly to the intermediate court of appeals will also afford interested persons immediate appellate recourse, and will assist in streamlining procedures.

This bill provides the county authority to prescribe conditions to mitigate adverse effects, and by adopting this bill, the counties will have the ability to exercise "home rule" in the GRP context.

As to the proposed amendments in Section 182-4, Hawaii Revised Statutes, regarding Mining Leases, Ormat is supportive of these provisions. Section 6 of SB 2663 SD2 clearly defines BLNR's fiduciary requirement to determine "greater benefit to the State" whether an auction is held or not. We appreciate your due consideration of these comments.

We appreciate the continued support from our State legislators and want to express our gratitude for the opportunity to provide the aforementioned testimony. Mahalo a nui loa.

Respectfully,



Michael L. Kaleikini
Senior Director for Hawaiian Affairs
Puna Geothermal Venture - Ormat



Indigenous Consultants, LLC

Mililani B. Trask, Principal

P.O.Box 6377 ❖ Hilo, HI 96720

mililani.trask@icllchawaii.com



Bill: SB2663 Relating to Natural Resources

Committees: EEP/WAL

Hearing Date: Tuesday, March 18th 2014

Location: Room 325

Time: 8:30 am

TESTIMONY IN SUPPORT

Date: March 17th, 2014

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 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



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(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.'

3. OPPOSITION TO CONTESTED CASE PROCESS & SUPPORT FOR MEDIATION

Puna Pono Alliance, convicted drug grower Robert Petricci and Harry Kim are lobbying to change the County Home Rule process—they want a contested case process instead of MEDIATION.

Cost Ramifications to State, County & DLNR

Contested case procedures may take years. The contested case for Maunakea took 6 years and cost the County and DLNR an estimated 1 million dollars.

MEDIATION allows for resolution of conflict, public hearings, and direct appeal to the State intermediate Court of Appeals. MEDIATION is what our County Home Rule process provided for and it is supported by the Community, State, and County.

PLEASE PASS THIS MEASURE AS DRAFTED.

Please support County Home Rule and MEDIATION.

Sincerely,

Mililani B. Trask, Indigenous Consultants LLC

Bill: SB2663 Relating to Natural Resources

Committees: EEP/WAL

Hearing Date: March 18th, 2014

Location: Room 325

Time: 8:30 am

Testimony in Support

Date: March 17th, 2014

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.

Opposition to Contested Case Process and Support for Mediation

Puna Pono Alliance, convicted drug grower Robert Petricci and Harry Kim are lobbying to change the County Home Rule process—they want a contested case process instead of mediation.

Cost Ramifications to State, County & DLNR:

Contested case procedures may take years. For example, the contested case for Maunakea took 6 years and cost the County and DLNR an estimated 1 million dollars.

MEDIATION allows for resolution of conflict, public hearings, and direct appeal to the State intermediate Court of Appeals. MEDIATION is what our County Home Rule process provided for and it is supported by the Community, State, and County.

Please support County Home Rule and mediation. Please pass this bill as drafted.

Mahalo,

A handwritten signature in black ink that reads "Patricia K. Brandt". The signature is written in a cursive style with a large initial 'P' and 'B'.

Pat Brandt, CEO
Innovations Development Group Inc.

SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Leslie Wingate	Puna Pono Alliance	Comments Only	No

Comments: Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development

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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lowen2-Nga

From: Tim Lui-Kwan <tluikwan@carlsmith.com>
Sent: Monday, March 17, 2014 9:03 AM
To: EEPtestimony; waltestimony
Subject: Testimony in Support of S.B. No. 2663, S.D. 2

Aloha Chairpersons and Members of the Joint EEP and WAL Committees of the State House of Representatives:

I support the intent and purpose of HB 2663, SD 2 which requires that geothermal resource permits be issued by the appropriate county authority for lands within the agricultural, rural, and urban districts, or by the BLNR for conservation district lands in which a geothermal energy project is proposed. This bill provides the several counties with the authority to impose conditions for the mitigation of any adverse impact to lands within the county's jurisdiction. I strongly support the restoration of "home rule" to the several counties over geothermal energy projects on lands under their zoning jurisdiction. As a former deputy Planning Director of the County of Hawaii during the initial adoption of the geothermal resource permit statutes in the 1980's, I understand the need for such controls on the local level which provides for a much greater level of participation for residents of the impacted counties. Thank you for your favorable consideration and the opportunity to submit these comments. Tim Lui-Kwan

Timothy J. Lui-Kwan
Partner | Carlsmith Ball LLP

ASB TOWER 1001 BISHOP STREET, SUITE 2200, HONOLULU, HI 96813
DIRECT: (808) 523-2511 FAX: (808) 523-0842 WEB: www.carlsmith.com EMAIL: tluikwan@carlsmith.com

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Margaret Wille	Hi County Councilmember- Dist 9	Oppose	No

Comments: Oppose as written -- Strong support for Puna Pono Alliance proposed amendments. See Testimony of Robert Petricci. Please pass with its proposed amendments. Margaret Wille, Hawaii County Council Dist. 9

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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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
JARED SAM	Kalani Oceanside Retreat Village	Support	No

Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members: Chairwoman Evans, vice Chair, Lowen, and WAL committee members:

Thank you for the opportunity to testify on: SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and:

Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles.

Our community does not want fracking happening where we live, so please ban it. Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today.

Thank you for your consideration.

~jaRed

Jared Owen Sam

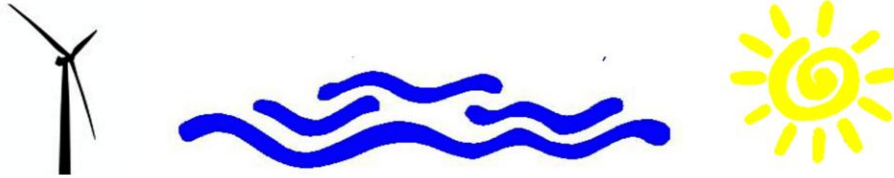
Workshops Manager

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LIFE OF THE LAND

P.O. Box 37158, Honolulu, Hawai`i 96837-0158
Phone: 927-0709; E: henry.lifeoftheland@gmail.com

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

DATE: Tuesday, March 18, 2014

TIME: 8:30 A.M.

PLACE: Conference Room 325

SB 2663, SD2 & SB 2664, SD2 Relating To Natural Resources

Aloha Chairs Lee and Evans and Members of the Committees,

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

Life of the Land supports responsible geothermal development.

The geothermal heat recovery process or electricity generation process

- * Must be closed loop
- * Minimize accidental emissions
- * Have working emission monitoring equipment in place
- * Be located in places where there is a demand for geothermal heat/electricity
- * Located where there have been advanced community meetings and where the community has accepted the need for the project, and
- * Where there are not alternatives which offer greater reliability at lower costs and with smaller footprints.

The proposed geothermal in Puna fails on a number of accounts.

Three fifths of existing Big Island generation is on the east side while three fifths of the demand is on the west side of the island. The west side's population is growing faster.

The Kohala-Waikoloa area has more than 2/3 of the land-based recoverable wind resources of the entire Hawai'i archipelago. The west side has enormous solar opportunities and geothermal potential. None of these have been part of any comparative analysis.

The limited cost analysis appearing in the recently filed HECO Companies Integrated Resource Planning (IRP) process was not subject to review or critique.

There are inadequate warning systems for accidental emissions in Puna.

Geothermal developers and HELCO have been reluctant to discuss plans with the Puna community.

One bidder, Innovations Development Group (IDG) and their affiliate Indigenous Consultants (IC) have openly attacked people who disagree with them. They presented both written and oral testimony on geothermal bills in the Legislature. Their testimony referred to Dr. Sadiq Zarrouk and a paper he wrote countering "*fracking hysteria*." IDG did not mention that Dr. Sadiq Zarrouk is an IDG consultant. They also did not mention his research on enhanced coal bed methane extraction.

The background on the current geothermal regulatory proceeding is quite relevant.

On May 1, 2012 the Public Utilities Commission (PUC) opened a regulatory proceeding regarding the Hawaii Electric Light Company (HELCO) Geothermal Request for Proposal (RFP).

On December 20, 2014 the PUC approved the HELCO-Hu Honua Power Purchase Agreement (PPA). The intervenors admitted into the regulatory proceeding by the PUC were Hamakua Energy Partners, L.P.; Tawhiri Power LLC; and Life of the Land.

The Hu Honua decision stated that HELCO had 120 days to file a Power Supply Improvement Plan (PSIP) with the PUC. The filing must consist of four components: (1) Fossil Generation Retirement Plan, (2) Generation Flexibility Plan, (3) Must-Run Generation Reduction Plan, and (4) Generation Commitment and Economic Dispatch Review.

In January 2014 Energy and Environmental Economics, Inc. (**E3**) filed an "Evaluation of Hawaii's Renewable Energy Policy and Procurement." San Francisco based E3 had been hired by the National Association of Regulatory Commissioners (NARUC) and the Hawaii Public Utilities Commission (PUC). E3 found that "*HELCO does not need new capacity resources until 2035.*"

On March 5, 2014 HELCO wrote a letter to the Public Utilities Commission

"The megawatts obtained through the Geothermal RFP are anticipated to substitute for megawatts generated by fossil fuel conventional facilities, which may lead to the decommitment, retirement, or displacement of one or more of Hawai'i Electric Light's fossil-fueled conventional facilities in the future as a result of the Geothermal RFP. ...

Therefore, a new geothermal facility will be required to meet the Performance Standards in order to maintain Hawai'i Electric Light's system reliability and stability and to enable the continued integration and management of intermittent renewable resources, such as wind and solar power."

On March 6, 2014 HELCO wrote a letter to Hu'ena Power, LLLP (Innovations Development Group)

The Commission gave HELCO 120 days to file a PSIP. The PUC also stated that HELCO should ensure that *"curtailments of renewable energy resources, where necessary, are accomplished in cost-effective manner from the perspective of ratepayers."*

Furthermore HELCO asked Geothermal Bidders to provide additional information regarding their bids.

Eligible Bidders should *"confirm that their Bids take into consideration the impacts of Hawai'i County Code Article 19 relating to geothermal drilling (Ord. No. 12-151, sec. 1, 2012) and the potential impacts of recently enacted Hawai'i County Code Article 21 relating to hydraulic fracturing (Ord. No. 13- 115, sec. 2, 2013).*

An important aspect of the Geothermal RFP is the requirement that all Bidders identify a detailed plan for community outreach and communications with respect to the proposed geothermal facility. Hawai'i Electric Light would like to emphasize the importance of continuing this outreach process to include and address issues such as hydraulic fracturing and geothermal drilling."

There is time to get the proper geothermal regulatory process enacted into law. Due process and contested case proceedings must be part of the process.

There have been regulatory battles where developers have abused the regulatory process, sought to cut corners, failed to follow rules, and caused long delays. To reference the length of these proceedings as reasons to do away with due process is absurd.

Please pass responsible geothermal legislation

Mahalo

Henry Curtis
Executive Director



Hawai'i Island Chamber of Commerce

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Hilo, Hawai'i 96720-2851
Phone: (808) 935-7178
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E-mail: admin@hicc.biz
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March 17, 2014

Executive Officer
Miles Yoshioka

The House Energy & Environmental Protection and House Water & Land Committee

2013 -2014 Board

SB2663 S.D. 2 Hearing, March 18, 2014 8:30am

President
Judith Fox-Goldstein

My name is Judith Fox-Goldstein and, as the President of the Hawaii Island Chamber of Commerce (HICC), I am submitting this testimony on behalf of our organization.

President-Elect
Chuck Erskine

Vice President
Ka'iu Kimura

The HICC is the "Voice of Small Business" on Hawaii Island and represents an estimated 250 businesses and approximately 600+ members and supporting small business has been our priority for as long as we have existed. On behalf of the HICC, we are asking you to please pass this bill for the following reasons:

Treasurer
Jon Miyata

Immediate Past President
Vaughn Cook

1. Restores County Home Rule to Planning Commission and Planning Department
2. Does not restore geothermal sub zoning requirements (Planning Commission and BLNR to oversee land use)
3. Incorporates Mediation and note Contested Case Hearing
4. Allows BLNR to make decisions if an auction for State lands is performed based on "greater benefit" to the state determination.

Directors

Howard Ainsley
Russell Chin

Jackie De Luz Watanabe

Jay Ignacio
Mike Kaleikini
Randy Kurohara
Kapena Lum
Keith Marrack
Tani Matsubara
Stephanie Nagata

Mediation is an invaluable tool we have at our disposal and conflict resolution should be a vital part of decision making especially when the issues are so important to our future. Mediation has proven to be an excellent methodology for achieving viable consensus. Even if all the interested parties are in disagreement, the process of mediation brings everyone to the table to address the unresolved issues prior to making an arbitrary decision.

Spencer Oliver
Glenn Santos
Wesley Segawa
Donald Straney
Gordon Takaki
Craig Takamine
Barry Taniguchi
Misti Tyrin
Steve Ueda
Carol VanCamp
William Walter
Noreen Yamane

This bill provides the county authority to prescribe conditions to mitigate adverse effects, and by adopting this bill, the counties will have the ability to exercise "home rule" in the GRP context.

On behalf of HICC, Mahalo for the opportunity to submit testimony in support of passing SB2663.

Respectfully Submitted,

Judith Fox-Goldstein, President,
Hawaii Island Chamber of Commerce



Hawai'i Island Chamber of Commerce

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HAWAII LEEWARD PLANNING CONFERENCE
P.O. BOX 2159 • KAMUELA, HAWAII 96743-2159

HLPC INCORPORATED 1974

16 March 2014

**Testimony for the House Committees on
Energy & Environmental Protection
and
Water and Land**

**Regarding Senate Bill No. 2663, SD2
Relating to Natural Resources
Hearing on March 18th 2014 at 8:30 a.m.
Hawai'i State Capitol, 415 South Beretania Street,
Conference Room 325**

The Honorable Representative Lee Choy, Chair, Vice Chair Thielen, and Members of the House Committee on Energy & Environmental Protection; and The Honorable Representative Evans, Chair, Vice Chair Lowen, and Members of the House Committee on Water & Land:

I am Jacqui Hoover, President of Hawai'i Leeward Planning Conference (HLPC) and Executive Director of the Hawai'i Island Economic Development Board (HIEDB).

As a long-time proponent of renewable energy resources including geothermal, HLPC is fully supportive of the intent and purpose of SB2663, and we humbly request your support and approval of SB2663.

Mahalo for allowing me this opportunity to speak in support of and request your support of SB2663, SD2. Please do not hesitate to contact me with any questions or concerns.

Sincerely,

Email: jacqui_hlpc@yahoo.com

FIRST HAWAIIAN BANK, Charter Member
KAMEHAMEHA INVESTMENT CORP., Charter Member
KAMEHAMEHA SCHOOLS, Charter Member
KEALAKEKUA RANCH, Charter Member
LANIHAU PROPERTIES, Charter Member
QUEEN EMMA LAND COMPANY, Charter Member
QUEEN LILL'UOKALANI TRUST, Charter Member
L'ORANGE & ASSOC.
BANK OF HAWAII, 1975
HAWAII LAND COMPANY, 1976
MAUNA KEA RESORT SERVICES, LLC, 1980
R. M. TOWILL CORPORATION, 1983
WEST HAWAII CONCRETE, 1983
KAUPULEHU DEVELOPMENTS, 1985
HELCO, 1988
KAHUA RANCH, 1988
PARKER RANCH, 1988
PONOHOLO RANCH, 1992
WAIMEA WATER SERVICES, LLC 1992
HUALALAI RESORT, 1994
MOOERS ENTERPRISES, 1995
RIEHM OWENSBY PLANNERS ARCHITECTS, 1995
AKINAKA & ASSOCIATES, LIMITED, 1997
CADES SCHUTTE, LLP, 1997
WATER RESOURCES INTERNATIONAL, 1997
ASHFORD & WRISTON, 1999
GREENWELL FARMS, 1999
KAI HAWAII, INC., 2000
KOHALA RANCH DEVELOPMENT CORP., 2000
KTA SUPER STORES, 2000
HPM BUILDING SUPPLY, 2001
SAM O. HIROTA, INC., 2001
IMANAKA KUDO & FUJIMOTO, 2002
McCORRISTON MILLER MUKAI MacKINNON, 2002
BELT COLLINS HAWAII, LIMITED, 2003
PACIFIC RESOURCE PARTNERSHIP, 2003
PBR HAWAII & ASSOCIATES, 2003
TITLE GUARANTY ESCROW SERVICES, 2003
TSA INTERNATIONAL, 2003
WASTE MANAGEMENT HAWAII, 2003
WILSON OKAMOTO CORPORATION, 2003
DE LUZ ENTERPRISES, INC., 2004
JARDINE INVESTMENT PROPERTIES, LLC 2005
D.R. HORTON, INC., SHULER DIVISON, 2005
BAYS DEEVER LUNG ROSE & HOLMA, 2006
PA'AHANA ENTERPRISES, 2006
RYAN ASSOCIATES, 2006
NORTH HAWAII COMMUNITY HOSPITAL, 2007
W.H. SHIPMAN, LTD., 2007
DE REUS ARCHITECTS, 2008
FERRARO CHOI & ASSOCIATES, LTD., 2008
HUNT COMPANIES, INC., 2009
FOREST CITY HAWAII, 2009
HAWAII WATER SERVICE COMPANY, 2009
LOWNEY CONTRACTING COMPANY, INC., 2009
PUNA GEOTHERMAL VENTURE, 2009
TINGUELY DEVELOPMENT, INC., 2009
HAWAII GAS, 2010
MLC, INC., 2011
RIDER LEVETT BUCKNALL, 2011
ENGINEERING PARTNERS, INC., 2011
GOODSIGN, 2012
SSFM INTERNATIONAL, 2012
KOHANA'IKI SHORES, LLC, 2012
FLEMING & ASSOCIATES, LLC, 2012
SETTLE LAW, LLC 2012
YAMAMOTO CALIBOSO, LLLC, 2012
HILTON WORLDWIDE, 2013
TIM BOSTOCK PRODUCTIONS, LLC 2013
W.M. KECK OBSERVATORY, 2013

Jacqui L. Hoover, President
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March 16, 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 Tuesday, March 18, 2014, at 8:30 a.m. in Conference Room 325, Hawaii State Capital, 415 South Beretania Street, Honolulu.
SB2663 SD2 § 2 (providing for geothermal permitting)

Position: Strongly support Puna Pono Alliance amendments to SB2663

Representing: C. William Chikasuye, Retired Attorney at Law

Aloha Representative Chris Lee, Representative Cynthia Thielen, and ENE committee members. Aloha Representative Cynthia Evans, Representative Nicole Lowen, and WAL committee members.

Dear representatives, Mahalo for this opportunity to testify in writing. I regret that I will not be able to testify in person for this bill, as I feel strongly about the issues at hand. I was able to come to O'ahu to testify last year on contested cases, and if this bill does not make it, I think you will be seeing more of me. I write you this testimony with 35 years of experience as an attorney in the State of Hawai'i. My father, Clesson Y. Chikasuye, was also an attorney and state politician in Honolulu.

This testimony is to urge you to support SB2663, with the following four proposed amendments for SB2663, SD2 § 2:

1. To remove the prohibition of contested cases.
2. To add a prohibition of geothermal fracking.
3. To include Geothermal Public Health Assessment recommendations.
4. To restore geothermal resource subzones repealed by Act 97.

While all of these amendments are very important, as a retired attorney, I cannot more deeply impress upon you the necessity for the restoration of contested cases. The right to the court system is the single most important right in our great nation, and should be a given. Contested cases should NEVER have been replaced with mandatory mediation. There is absolutely no comparison. Mediation is something that could be performed alongside contested cases... but when the state removed the people of Puna's right to contested cases in 1987, they removed an entire locale's voice - with a diverse array of communities in it. This is shocking and outrageous. President Obama would be appalled if he knew just what is happening here. To remove an entire population's voice and their right to legal action is a strong form of social violence, usually performed in dictatorships. It is not a democratic form of governance, or law. Furthermore, when I

was in law Peter Adler had a known reputation for being a legal bully and the state's hired gun. There is no mediation taking place here - only the on-paper appearance of mediation and democratic proceedings. I stand with Harry Kim, Senator Russell Ruderman, and Puna Pono Alliance's Bob Petricci on this and the other issues concerning geothermal. With all of the proposed PPA amendments, SB2663 would furthermore ban fracking.

Banning fracking is the only prudent thing to do at this point. If a developer wants to frack in the future, let them bring that to the legislature out in the open instead of trying to slide fracking in under the existing conventional geothermal permitting. This conventional geothermal permitting itself has already produced the controversy and division that we see today between our communities, the state, and developers. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite serious protests and court battles, and will definitely ignite more national and international attention through modern social media and networking.

Please do your job as our elected officials and represent Puna and its peoples - not the big business interests of HELCO, HICO, and Puna Geothermal Venture. Restore contested cases, county permitting, and over-site authority; and please, ban fracking.

If you are looking for energy solutions for the future, look no further than solar. Our family has had solar hot water for over a decade, and partial solar power for many years as well. However, in 2012 our family installed new solar panels right before New Year's. We now produce OVER 100% of the energy that we need with solar. We are on the grid, and are expecting a nice rebate this year from HELCO. We should all be converting to solar in Hawai'i. If we can do it so easily in very rainy Mountain View in Upper Puna, imagine what Lower Puna - or Honolulu - could produce. Our family will eventually buy solar storage batteries to be off-grid; once the technology improves, and lithium is more easily recyclable.

There is no need to frack. We do not need to destroy any more native forests of Hawai'i over further geothermal development, or create deeper community controversy over the unknown health effects of geothermal to get us fully sustainable. It is up to YOU, our representatives, to set a new sustainable precedent for the entire US, without fracking and environmental destruction.

Thank you, Representatives, for your time.

Sincerely,

C. William Chikasuye

PO Box 98
Mountain View, HI
96771

(808)-968-8007

March 16, 2014

House Committee on Energy & Environmental Protection
Chris Lee, Chair
Cynthia Thielen, Vice Chair

House Committee on Water & Land
Cindy Evans, Chair
Nicole E. Lowen, Vice Chair

Re: Hearing on Tuesday, March 18, 2014, at 8:30 a.m., Conference Room 325
SB2663 SD2

Position: Strong support for PPA amendments to SB2663
Representing: Patricia J Chikasuye

Aloha Representative Chris Lee, Representative Cynthia Thielen, ENE committee members, and Representative Cynthia Evans, Representative Nicole Lowen, and WAL committee members.

This is a testimony in favor of SB2663 and the adoption of the PPA proposed amendments that would restore county permitting, over-site authority, and would furthermore restore contested cases. The implementation of these well thought out amendments would allow both sides - developers and impacted communities (and potentially impacted communities) - to bring experts, evidence, and facts, to the table without bias of special interests. It would also allow both sides to create a record, which is a right that has been denied us since 1987 with the institution of mandatory 'mediation'. With the proposed PPA amendments, SB2663 would furthermore ban fracking.

No one here in Puna, or in Hawai'i, likes fracking, so please ban it! This is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature out in the open instead of trying to slide fracking in under the existing conventional geothermal permitting. This conventional geothermal permitting itself has already produced the controversy and division that we see today between our communities, the state, and developers. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite serious protests and court battles, and will definitely ignite more national and international attention.

The rainforest here in Puna protects species found **nowhere else in the world**. Please do your job as our elected officials and protect us. Restore contested cases, county permitting, and over-site authority; and please, ban fracking. Since last year, our household produces OVER 100% of the energy that we need - with solar. We are on the grid for now, so we are expecting a rebate this year from HELCO. We are all blessed that this is a non-invasive, non-toxic, non rainforest-destroying option here in Hawaii.

We will eventually buy batteries and be off-grid, once the technology improves, and lithium is more easily recycleable.

There is no need to frack. And no need to fret over fracking! Look at corrupt money and monopoly hungry energy companies and see them for what they are. They do not need to destroy Hawai'i to get us fully sustainable. It is up to YOU, our representatives, to protect us and our 'aina, and to set a new sustainable precedent for the entire United States to model after. If Germany, which is at the same latitude as the Canadian border, has 30% renewable power with solar and wind, we can do even **better!**

Sincerely,

Patricia J. Chikasuye

Delia Montgomery
14-601 Lehua Circle
Pahoa, Big Island, Hawaii
96778-7777 U.S.A.

Date: March 16, 2014

RE: SB2663 SD2

Position: **Strong support for Puna Pono Alliance amendments to SB2663**

Thank you for the opportunity to testify on SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and add restoration of contested cases, allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose.

With the PPA amendments SB 2663 would ban fracking. It allows both sides to create a record that is designed to produce the best result.

Please ban fracking!

Respectfully submitted,
Delia Montgomery

-----Original Message-----

From: Ross Wilson [<mailto:rossw@current-events.com>]

Sent: Monday, March 17, 2014 7:10 AM

To: ENETestimony

Subject: SB 2663 SD 2

Aloha from Kona!

I am sending in testimony to support SB 2663 SD2.

I am supportive that geothermal resource permits be issued before any geothermal resource development can occur and I am a strong proponent of home rule and these permits should be issued by the County of Hawaii for its lands under the ag, rural and urban designations.

Permits should be issued by the State through the BLNR for any conservation district lands.

Mahalo for your consideration and kokua!

Ross Wilson Jr.

Kailua-Kona

808-937-3678

From: Bruce Meyers [<mailto:bkunio88@gmail.com>]

Sent: Monday, March 17, 2014 8:01 AM

To: ENETestimony

Subject: Support of SB2662

I am writing in support of SB2662 to streamline the approval process for geothermal expansion. Let's get off fossil fuel!

Thank you,

Bruce Meyers

485 F Kaumana Dr.

Hilo, Hawaii 96720

From: Richard Weiner [<mailto:aum108om@gmail.com>]

Sent: Monday, March 17, 2014 7:03 AM

To: AGL Testimony

Subject: testimony for bill #2663 sd2

Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction.

Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation.

In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases.

I ask that you similarly amend Senate Bill 2663 but allow contested cases.

Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate.

I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

Richard Weiner
Pahoa

SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Pauline Mac Neil	Individual	Comments Only	No

Comments: SB2663 SD2 Relating to Natural Resources BLNR; Mineral Resources; Geothermal Resources Hearing: 3/18/14 Testimony: Comments Chairs Lee & Evans, Vice Chairs Thielen and Lowen and Members of the Committees, Regarding SB2663 SD2, please: 1. Include wording that bans "fracking" as a method of geothermal resource extraction. 2. Remove geothermal development as a permissible use in agricultural districts. 3. Change "may" to "shall" in additions reading: "provided that a geothermal resource permit may be required for geothermal resource development in accordance with section 205- ." 4. Allow for contested cases. 5. Enforce local ordinances and assure home rule in geothermal development decision making. Mahalo, Pauline Mac Neil Kailua, HI

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Hearing in EEP/WAL rm 325 Mar 18, 2014 8:30 AM

RE: SB2663 SD2

Position: Strong support for Puna Pono Alliance amendments to SB2663

Representing: R.C. Leimana Pelton

Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members:

Chairwoman Evans, vice Chair, Lowen, and WAL committee members:

Thank you for the opportunity to testify on:

SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and:

Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result.

With the PPA amendments SB 2663 would ban fracking.

With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it.

Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today.

We are also seeing unnatural dieback of Ohia forest in Puna area especially in area surrounding geothermal, which I believe be a side affect of geothermal reinjection which has no oversight. Even though this is not addressed in this bill directly it is a relevant matter that can be addressed with the above changes.

Thank you for your consideration.

<Leimana Pelton>

March 16, 2014

House Committee on Energy & Environmental Protection
Chris Lee, Chair
Cynthia Thielen, Vice Chair

House Committee on Water & Land
Cindy Evans, Chair
Nicole E. Lowen, Vice Chair

Re: Hearing on Tuesday, March 18, 2014, at 8:30 a.m., Conference Room 325
SB2663 SD2

Position: Strong support for Puna Pono Alliance amendments to SB2663
Representing: Jenna R. O. Chikasuye

Aloha Representative Chris Lee, Representative Cynthia Thielen, and ENE committee members. Aloha Representative Cynthia Evans, Representative Nicole Lowen, and WAL committee members.

Dear representatives my name is Jenna Oen Chikasuye. I am 5th generation Go-sei: Japanese on the Island of Hawai'i. This is 'aina is my home. Please hear me. I am not a 'Punatic'. I am not a statistic. I am an educated, 100% sober and contributing member of our community and the global community as well. I want you to know that PPA represents many very amazing individuals and families here on the Big Island, and especially in the Puna community, before I proceed in my communication and requests of you. I went to UCLA on partial scholarship after graduating from Hilo High in 2000. I stayed away for a decade for education but I am home now. I am full local as local gets. Please understand that Puna is a diverse group, and that Harry Kim, Bob Petricci, Sen. Russell Ruderman, and others that come from PPA to Honolulu are speaking one voice, unified, on our behalf.

Mahalo for this opportunity to testify on SB2663 and the adoption of the PPA proposed amendments that would restore county permitting, over-site authority, and **restore contested cases**. The implementation of these very well-thought out amendments would allow both sides - developers and impacted communities (and potentially impacted communities) - to bring experts, evidence, and facts, with equal voice. It would also allow both sides to create a record, which is a right that has been denied us since 1987 with the institution of mandatory 'mediation'. I could speak half an hour on what Peter Adler and the state calls 'mediation' but I hope you will take Harry's, Bob's and Puna Pono's word for it. With all of the proposed PPA amendments, SB2663 would furthermore ban fracking.

I want you to know that this is already becoming a national issue and beginning to gain international attention and coverage. Last year I was in Europe for 6 months. I was shocked to discover that Germany is well aware of our issues with geothermal here, and

does not support it. Switzerland is in the same boat. They even knew the details of geothermal fracking! Germany is a truly environmentally conscientious county. Everyone here says they do not want to frack, so this should be a no-brainer: Let's ban it! This is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature out in the open instead of trying to slide fracking in under the existing conventional geothermal permitting. This conventional geothermal permitting itself has already produced the controversy and division between community, state, and developers we see before us today. Why create more? With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles, and will definitely ignite more international coverage. We have already sparked the interest of multiple documentarians who have approached us. Please take action now and heed our call before we have to take this to another level and make this a very well documented and widely-seen issue. I am sure you want to do good, and be known as progressive, awesome politicians, more closely aligned with Obama and his legacy of taking care of the people who are treated as minorities - those who are unseen, due to race, color, demographic, socio-economic status; those who have less money and power, less voice, and less ability to fight for themselves as a result. He has done much for the Native American communities, and now for black and Hispanic communities - bringing to light the engine of the prison industrial complex and its operating forces of racism and classism, and making clear that environmental racism is also part in parcel with this kind of oppression. The story of industry moving into beautiful, nature-rich, and less socio-economically powerful communities and ruining them is an age-old one. The rainforest here in Puna protects species found **nowhere else in the world**. And its people and their ways of life are also very unique and unlike anywhere I've traveled. Please do your job as our elected officials and protect us. Restore contested cases, county permitting, and over-site authority; and please, ban fracking. Let our legacies sing together and make the music of harmony, not the cacophonous hammering and drilling of fracking.

If you have not been reminded recently of this fact, please look into it:
If all of the existing buildings in Honolulu had solar panels on them, it would generate enough energy to power the entire state of Hawai'i ten times over.

There is no need for fracking. Look at your corrupt money-hungry power companies and see them for what they are. They do not need to destroy Hawai'i to get us fully sustainable. It is up to YOU, our representatives, to protect us and our 'aina, and to set a new sustainable precedent for our whole nation to model themselves after. If Germany, which is at the same latitude as the Canadian border, can be 30% renewable with solar and wind, we can do **better!**

Mahalo for your time and kokua.

Sincerely,

Jenna R Chikasuye

SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Maria Steele	Individual	Comments Only	No

Comments: I support this bill with the Puna Pono Alliance suggested amendments.

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Johnson	Individual	Comments Only	No

Comments: I support this bill with Puna Pono Alliances proposed amendments.

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Senate Bill 2663 SD2 does not contain any provisions for protection of the environment. It was discovered after construction of the currently existing Puna Geothermal Facility that Newell's Shearwater, a species listed as threatened under the Endangered Species Act, was nesting in the adjacent crater. Seabirds are known to suffer injury and mortality directly because of lights on drilling rigs. Further, these birds travel from their nesting sites along valley corridors to the ocean. It is along these corridors that further geothermal exploration is expected to occur. The endangered Hawaiian Hawk and Hawaiian Hoary Bat are also known to use this area. In addition to species protected under the Endangered Species Act, there are also native birds (e.g. Apapane, Amakihi, Pacific Golden Plover) in the Puna district that are protected under the Migratory Bird Treaty Act. It is a violation of MBTA to kill or harm these birds or their nests, eggs, or young. There is no provision in this bill that calls for assessment of environmental resources or consultation with the U.S. Fish and Wildlife Service prior to exploration or production of geothermal resources.

I respectfully request that, at a minimum, you add the following language: In SECTION 9. Section 182-7. (2) (e) regarding the regarding the rights of a lessee to mine and remove minerals, including use of the the land to erect transportation facilities, construct plants, process minerals, etc....."provided that the lessee shall comply with all water and air pollution control laws, federal environmental protection laws (e.g. ESA, MBTA), and rules of the State or its political subdivisions."

I further submit that, Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction.

Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation.

In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases.

I ask that you similarly amend Senate Bill 2663 but allow contested cases.

Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate.

I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

March 16, 2014

Re: Hearing on Tuesday, March 18, 2014, at 8:30 a.m., Conference Room 325
SB2663 SD2

Position: Strong support for PPA amendments to SB2663
Representing: Kate A. Chikasuye

Aloha and Mahalo for the opportunity to testify, Representative Chris Lee, Representative Cynthia Thielen, ENE committee members; and Representative Cynthia Evans, Representative Nicole Lowen, and WAL committee members.

My name is Kate Chikasuye. I was born in upper Puna, and my family goes back five generations here on the Big Island and O'ahu. I have a degree from the University of San Francisco in Environmental Studies, and am an enrolled student at UHH in preliminary coursework for grad school in Environmental Science. I write to you from the standpoint of someone who was born on this land and loves it, as well as someone who is educated and up-to-date in my awareness of environmental impact issues.

This is a testimony in favor of SB2663 and the adoption of the Puna Pono Alliance proposed amendments that would restore county permitting, over-site authority, and would furthermore restore contested cases with regard to geothermal. These amendments would allow both sides - developers and impacted communities (and potentially impacted communities) - to bring experts, evidence, and facts to the table. It would also allow both sides to create a record, which is a right that has been denied the people of Puna since 1987(before I was born!), when mandatory mediation was instigated. With the proposed PPA amendments, SB2663 would furthermore ban fracking.

No one with any environmental awareness at all, likes fracking. Please ban it. This is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature out in the open instead of trying to slide fracking in under the existing conventional geothermal permitting. This conventional geothermal permitting itself has already produced the controversy and division that we see today between our communities, the state, and developers. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite serious protests and court battles, and will definitely ignite more national and international attention. I live here, and I want my right to contested cases, especially if fracking may be brought to the table in the future. I am too young to have had the opportunity to contest. There are many other young people of Puna like me - who want a voice.

The rainforest here in Puna protects species found **nowhere else in the world**. Please do your job as our elected officials and **represent** us. Restore contested cases, county permitting, and over-site authority; and please, ban fracking. Since last year, our household produces OVER 100% of the energy that we need - with solar. We are on the grid for now, so we are expecting a rebate this year from HELCO. We should be using

this non-invasive, non rainforest-destroying option here in Hawaii. Our family will eventually buy solar storage batteries and be off-grid - once the technology improves, and lithium is more easily recyclable.

There is no need to frack. And no need to fret over fracking! We do not need to destroy any rainforests in Hawai'i or create community controversy over the unknown health effects of geothermal to get us fully sustainable. It is up to YOU, our representatives, to protect us and our 'aina, and to set a new sustainable precedent for the entire US. If Germany, which is at the same latitude as the Canadian border, has 30% renewable power with solar and wind, we can do even **better!**

Thank you, Representatives, for your time and consideration.

Sincerely,

Kate A. Chikasuye

PO Box 98
Mountain View, HI
96771

(808)-443-3374

HARRY KIM
471 HO'OKINA PLACE
HILO, HAWAII 96720

March 16, 2014

House Committee on Energy and 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: SB2663 SD2

Hearing: Tuesday, March 18, 2014

Dear Chairs Lee and Evans, and Committee Members:

Thank you for your courtesy in once again reading and considering my testimony. I regret that prior obligations prevent me from attending this hearing in person to speak with you directly; the issues are important enough that I would do so if I possibly could.

I ask for your support for four amendments to the second section of SB2663 SD2. These requested changes are:

1. Remove the prohibition of contested cases;
2. Restore geothermal resource subzones that were repealed by Act 97 in 2012;
3. Add a provision to prohibit geothermal fracking ("enhanced geothermal");
and
4. Include recommendations made by the Geothermal Public Health Assessment.

You have had my prior testimony and the testimony of many others to cover the details of why these four provisions must be made to this bill. We support a geothermal permitting process that is acceptable to the community and that will protect our special lands from development that could jeopardize the environment and our people.

Please, please, please, please—I urge committee members to add the four amendments for the sake of the people's trust of their government.

Aloha,

Harry Kim
808-933-9208

March 16, 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 Tuesday, March 18, 2014, at 8:30a.m., Conference Room 325

SB2663 SD2 (providing for geothermal permitting)

Position: support with amendments (will not attend the hearing)

Aloha Representatives,

I live within one mile of Puna Geothermal Venture, Hawaii's only current geothermal power plant. Based upon my family's and my community's experience of the plant and the state and county regulation of the plant, I request that you amend SB2663 SD2 to contain the same language as HB2639 heard by your committee on Thursday, February 13, 2014 and in addition: to remove the prohibition of contested cases and to add a prohibition of geothermal fracking.

Our community's experience of the mediation process as a substitute for contested cases has resulted in a poorly-regulated industrial plant in close proximity to residential neighborhoods. This process, coupled with the 24-hour industrial noise from turbines and fans and numerous releases of hydrogen sulfide and heavy metals into the air, have galvanized resistance to geothermal development in our neighborhood and in our region.

Please heed the lessons of Puna and provide administrative protections to community well being by restoring contested cases.

Banning fracking for the time being is the prudent thing to do. Everyone, including developers, says they do not intend to frack, so please ban it.

If a developer wants to frack in the future, let them bring that to the legislature and to the public in the open instead of trying to hide it under existing conventional geothermal permitting.

Mahalo for your consideration.

Aloha,

Paul Kuykendall
PO Box 160
Pahoa, Hawaii 96778

Suzanne Wakelin, Ph.D.

P.O. BOX 160
Pahoa,
Hawai'i 96778

March 16, 2014

House Committee on Energy & Environmental Protection

Representative Chris Lee, Chair

Representative Cynthia Thielen, Vice Chair

House Committee on Water & Land

Representative Cindy Evans, Chair

Representative Nicole E. Lowen, Vice Chair

Re: SB2663 SD2 § 2 (providing for geothermal permitting)

Hearing on Tuesday, March 18, 2014, at 8:30 a.m., Conference Room 325

Position: **Support with amendments**

Aloha Representatives,

I am writing this testimony to express both my support and concerns about the present version of SB2663. I live one mile away from Puna Geothermal Venture (PGV) here on the Island of Hawai'i. I have learned by first-hand experience the numerous issues and problems that arise from this type of industrial facility being in close proximity to the residential neighborhoods and farming community in this area. Many of these problems exist because of the poor planning and regulation that has occurred from even prior to the start of the plant's commercial operation. In addition, Act 97 that was passed by the legislature in 2012 resulted in elimination of the County authority to regulate geothermal development, apparently an "oversight" by law-makers, and made geothermal development permissible in any land-use category.

SB2663 goes part way to restoring County authority to regulate, however in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. This addition in itself rules out the County authority to set standards that are specific to the needs of the residents and locale in which development is to occur. Please revise the bill to properly establish County authority without this limitation.

Many of the problems that are known by the community have been highlighted in Mayor Kenoi's Geothermal Public Health Assessment, which attributes much of this to the lack of proper regulatory oversight. In addition, the group leader, Peter Adler, Ph.D., selected by the Mayor, has even testified himself that "*mediation must remain as a "complement" to our systems of rule making, not as an alternative to it*" and that he "*believe(s) contested case procedures should be re-instated*". I hold these statements by Dr. Adler in high regard due to the fact that he himself was the initial proponent of the original geothermal mediation process that occurred in Puna during the

establishment of PGV's original permitting conditions. Certainly those in the community who were also involved in these proceedings during those years ago have plenty to say about the extremely poor outcome of an albeit in-good-faith process. In most ordinary permitting procedures, contested case is an important part of the process, vital for addressing the inevitable issues that arise. As such, geothermal permitting should also include the capacity for contested case procedures. Your committees rightly addressed this issue in your amendments of HB2639 HD2 Section 2 that was previously approved by the EEP/WAL. Please ensure that this gets properly addressed in this remaining geothermal permitting bill.

As a member of Puna Pono Alliance, I appreciate all of the work that has been done by individuals, community members and professionals who were involved in the Study Group and as a community member myself, hope that the recommendations made in the final report of the Geothermal Public Health Assessment are addressed by the legislature. Only then can we properly move forwards to address Hawaii's energy needs.

Lastly, I request that you will take this opportunity to address the issue of geothermal hydraulic fracturing in an amendment to this bill. All the testifiers who were opposed to the banning of hydraulic fracturing in HB2359 also said that there were no plans to use geothermal hydraulic fracturing technology, however they seemed to want to keep the door open – just in-case. Due to the very real technical risks of such experimental technologies, it only makes sense to ban the use of them until such time, if any, that the risks can be properly addressed and mitigated.

I appreciate your willingness to act on behalf of the residents of Hawai'i to enact proper legislation that will protect the environment and the community from unregulated and improper development.

Mahalo for the opportunity to testify.

(/s) Suzanne Wakelin, Ph.D.
Hawai'i Resident

SB2663

Submitted on: 3/14/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Katarina Culina	Individual	Comments Only	No

Comments: Dear Committee Chair, Vice-Chair and Members, Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development. Mahalo, Katarina Culina P.O. Box 2142 Pahoa, HI 96778

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HU'ENA



POWER

Bill #: **SB 2663 Relating to Natural Resources**

Committees: EEP/WAL

Hearing Date: March 18th, 2014

Time: 8:30 am

Location: Room 325

Date: March 17th, 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.

Opposition to Contested Case Process and Support for Mediation

Puna Pono Alliance, convicted drug grower Robert Petricci and Harry Kim are lobbying to change the County Home Rule process—they want a contested case process instead of mediation.

HU'ENA



POWER

Cost Ramifications to State, County & DLNR:

Contested case procedures may take years. For example, the contested case for Maunakea took 6 years and cost the County and DLNR an estimated 1 million dollars.

MEDIATION allows for resolution of conflict, public hearings, and direct appeal to the State intermediate Court of Appeals. MEDIATION is what our County Home Rule process provided for and it is supported by the Community, State, and County.

Please pass this Bill as drafted,

Aloha,

A handwritten signature in black ink that reads "Roberta Cabral". The signature is written in a cursive, flowing style.

Roberta Cabral, Hu'ena Power

SB2663

Submitted on: 3/14/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Regina Miller	Individual	Comments Only	No

Comments: First, I IMPLORE my representatives to NEVER place profits above public health and the health of our ecosystems, and to do all they can to fight against any such attempts by corporations or any other profit-driven entity. Secondly, I believe the bill needs further amending. Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. Please also amend Senate Bill 2663 to allow for "contested cases." Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to BAN fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development. Respectfully submitted, Mary Regina Miller, Keaau

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: I oppose SB 2663, SD1 for the following reasons: This measure does not protect county home rule. Subsections (b) and (c) limit local permitting agencies' authority to establish reasonable permit conditions where federal and state agencies may have regulatory jurisdiction. This can also prevent Hawai'i's counties from enforcing local ordinances. Geothermal development carries with it potential environmental and public health and safety impacts. This measure does not ensure contested case hearings and judicial review. Geothermal development also has been associated with the implementation of hydraulic fracturing (fracking). Fracking is known to cause seismic instability and introduce toxins into ground water. Hawai'i's fragile ecosystems and island environment cannot risk these hazardous impacts. Many states and other nations have outlawed fracking. Where fracking remains allowed major lawsuits follow in its path. Fracking must be banned from ever happening in Hawai'i.

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: Thank you for the opportunity to testify on SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it. Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today. Thank you for your consideration.

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SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kenneth R Hunt	Individual	Support	No

Comments: Hearing in EEP/WAL rm 325 Mar 18, 2014 8:30 AM RE: SB2663 SD2
Position: Strong support for Puna Pono Alliance amendments to SB2663 Representing: Kenneth R. Hunt Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members: Chairwoman Evans, vice Chair, Lowen, and WAL committee members: Thank you for the opportunity to testify on: SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and: Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it. Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today. Thank you for your consideration. Kenneth R. Hunt 15-1719 25th Avenue Keaau, Hi 96749

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dana Keawe	Individual	Support	No

Comments:

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jack Weber	Individual	Support	No

Comments: I support the bill ONLY with Puna Pono Alliances proposed amendments, which summarized are: 1) Removing the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. 2) amend Senate Bill 2663 to allow contested cases 3) For an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development. Thank you...Jack Adam Weber

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SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: Dear Representatives serving on the EEP and Water & Land Committees: I am in favor of your passing SB2663, but only with the amendments that will do the following: Four proposed amendments for SB2663, SD2 § 2: 1. to remove the prohibition of contested cases 2. to add a prohibition of geothermal fracking 3. to include Geothermal Public Health Assessment recommendations 4. to restore geothermal resource subzones repealed by Act 97, nunc pro tunc The right and best legislation for Geothermal in Hawaii is almost there!!! Just these amendments and you have it!! It will be a really good job of thorough legislation you can be proud of. Sincerely, A. Rosanoff, Ph.D. Paho, HI 96778 808-965-7061

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: Hearing in EEP/WAL rm 325 Mar 18, 2014 8:30 AM RE: SB2663 SD2
Position: Strong support for Puna Pono Alliance amendments to SB2663 Representing: Carlton York Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members: Chairwoman Evans, vice Chair, Lowen, and WAL committee members: Thank you for the opportunity to testify on: SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and: Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it. Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today. Thank you for your consideration. Carlton York

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Vicki Vierra	Individual	Support	No

Comments: Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members: Chairwoman Evans, vice Chair, Lowen, and WAL committee members: Thank you for the opportunity to testify on SB2663 and adoption of the Puna Pono Alliance proposed amendments that would restore county permitting, oversight authority, and add restoration of contested case hearings - allowing developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi-judicial procedure designed for that very purpose. It allows both sides to create a record that is designed to produce the best results. With the Puna Pono Alliance amendments SB 2663 would ban fracking. Our fragile islands are already earthquake prone - fracking can trigger larger quakes with catastrophic consequences for all islands. We can already witness the increased seismicity throughout the mainland U.S. now, as a result of fracking and re-injection of waste water. Thank you for your consideration, Vicki Vierra Keaau, Hawaii

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SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: Please amend SB 2663 to ban fracking, allow contested case hearings, and remove limitations that give counties their legal authority of Home Rule to enforce local ordinances. Thank you Tom McCarroll

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ralph Brydges	Individual	Comments Only	No

Comments: Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
C. Conda	Individual	Support	No

Comments: Position: strong support for Puna Pono Alliance amendment to SB2663. Aloha rep Chris Lee, Rep Cynthia Thiel and ENE committee members. Thank you for hearing of my strongly supporting the amendment SB2663.

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SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Bidleman	Individual	Support	No

Comments: Return control of this matter to the counties. It is such a controversial issue and should be negotiated at the local level. Mahalo

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Steve Dailey	Individual	Comments Only	No

Comments: Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members: Chairwoman Evans, vice Chair, Lowen, and WAL committee members: Thank you for the opportunity to testify on: SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and: Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it. Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today. Thank you for your consideration.

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Carey Lillis Tinsley	Individual	Support	No

Comments: PEACE.

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Oppose	No

Comments: Oppose, but.. Allow counties to enforce their own local ordinances. Allow contested case hearings. Amend to ban fracking in all of Hawaii. Protect night time drilling ban.

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Stoddard	Individual	Support	No

Comments:

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Diane Brucato-Thomas	Individual	Support	No

Comments: Dear Honorable Representatives Lee and Evans, Chairs, Honorable Representatives Theilen and Evans, Vice Chairs, and Honorable Members of the Committees, This testimony is written in strong support of SB 2663 SD2 with amendments suggested by Puna Pono Alliance. I have lived within one mile of Puna Geothermal Ventures for well over twenty years. Nighttime noise from the plant is always an issue, and it is greatly magnified during drilling. Drilling noise is nerve wracking and detrimental to the health of nearby residents. I am deaf in one ear and still, it is impossible to sleep through the night! In addition, within the one mile boundary is the Pu'ulena Crater with four endangered species, and documented as the largest of three nesting sites on the Big Island for the A'o or Newell's Shearwaters; seabirds that navigate by the moon. As it is, PGV has never complied with terms of their permit stating they must shade their lights, so as not to interfere with residents or sensitive biological habitat. According to the US Biological Service Dept. of the DLNR, the lights are disorienting for the Newell's and power lines are an invisible threat to them as well. Add the disturbing screeching noises of nighttime drilling and I doubt these birds can ever thrive again. I would humbly ask that the nighttime drilling ban be maintained and protected; that the contested case process be restored; and that Hawaii County's ban on fracking be expanded to include the entire state. Thank you for your attention. Sincerely, Diane Brucato-Thomas, RDH, EF, BS, FAADH, OMT

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SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Laura Travis	Individual	Comments Only	No

Comments: Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.y

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Steven Jacquier	Individual	Comments Only	No

Comments: I oppose this bill in its current form but would support it with these amendments. Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development. Thank you.

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SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Bonnie McCarroll	Individual	Comments Only	No

Comments: Please amend SB 2663 to allow the right to contested case hearings and also remove limitations that may prevent the County from enforcing local ordinances and give permitting agencies authority to establish reasonable permit conditions. Please add an amendment to protect the County's ban on nighttime drilling . Please add an amendment to SB 2663 to ban fracking in Hawaii. Fracking could pose serious threats to local water supplies and is not suitable for geologically unstable earth. The County of Hawaii has already passed an ordinance to prohibit fracking on the Big Island. Our county commissioners did the right thing and listened to the people. Please respect the legitimacy of Home Rule and pass a bill that protects the people you represent. I live within 1-2 miles of a potential drilling site and fear this will irrevocably change my families quality of life. I believe there is no place for geothermal exploration in populated areas. Please protect me and my family and the aina.

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Christy Ceraso	Individual	Support	No

Comments: Hearing in EEP/WAL rm 325 Mar 18, 2014 8:30 AM RE: SB2663 SD2
Position: Strong support for Puna Pono Alliance amendments to SB2663 Representing: Christy Ceraso Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members: Chairwoman Evans, vice Chair, Lowen, and WAL committee members: Thank you for the opportunity to testify on: SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and: Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it. Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today. Thank you for your consideration. Christy Ceraso

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Douglas	Individual	Support	No

Comments: My Position: Strong support for Puna Pono Alliance amendments to SB2663. Mahalo!

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Rosemarie Patronette	Individual	Support	No

Comments:

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SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Wayne Wilkinson	Individual	Oppose	No

Comments: Thank you for all your hard work. Aloha!

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SB2663

Submitted on: 3/14/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Geoffrey Shaw	Individual	Comments Only	No

Comments: This bill must protect the rights of the community to be involved in the regulation and sighting process

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ursula Snover	Individual	Support	No

Comments: I am supporting this bill with Puna Pono Alliances proposed amendments. Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: Counties rights to to enforce their own local ordinances needs to be protected and preserved. Allowing contested case hearings is a must. Amend to ban fracking in all of Hawaii. Protect night time drilling ban. This is the will of the people. Thank you.

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: Aloha Senators, We support SB 2663 with Puna Pono Alliance's proposed amendments. We need to ban fracking as Kauai and Hawaii Islands have already done so. Please support this bill with amendments. Mahalo, Rob and Kim Ortman

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Chroman	Individual	Support	No

Comments:

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
robert bogle	Individual	Support	No

Comments: Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/14/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dave Kisor	Individual	Oppose	No

Comments: SB2663 SD2 as written is unacceptable, as it cuts home rule off at the knees, which is egregiously unsatisfactory. The part that mentions state and federal agencies may have regulatory jurisdiction and are exempt from county regulation, must be stricken! Contested case for geothermal must be added and fracking or anything else it is called must be banned at all cost. Fracking has been called a tool, but in this case, it would be like deer hunting with an M-61/A1 20MM Gattling gun set on gun high, as the adverse effects would far outweigh any benefits and any other geothermal operation is definitely not intended to reduce the state sanctioned monopoly's grip on the rate payer. I'd be perfectly happy if you were to frack Honolulu. If they want this electricity to power their big screen televisions, more power to them (sic)! 13 March 2013, HELCO tree trimmers knocked out a PGV line, the HELCO computer, owing to some very bizarre programming which we have been assured has been corrected, turned off the redundant power line, forcing PGV to shut down, releasing H2S. Some living close to the facility unaware of what happened, developed severe respiratory symptoms with no idea why. After the 1991 blowout, many called for a health study regarding the H2S (hydrogen sulfide) that came out of that facility, and other than studies to study the study, not much has happened; however, there is a rumor in effect that a health study will be done, but in a maneuver designed to osculate industry derriere, the study will concentrate on SO2 (sulfur dioxide / vog) and not H2S, which is a neurotoxin, while SO2 is an irritant. If a health study were to prove H2S caused many health problems from the blowout, all producers of H2S could be sued, something they will avoid at any cost, ours if necessary. In all probability, outside of very narrow areas mapped by the USGS, they would have to frack (enhanced geothermal systems / EGS), which uses twelve times as much water as regular fracking and is known to cause severe earthquakes and water contamination, just like regular fracking. Whatever they call it, say NO to fracking!

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Christopher Lawinski	Individual	Support	No

Comments: Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members: Chairwoman Evans, vice Chair, Lowen, and WAL committee members: Thank you for the opportunity to testify on: SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and: Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it. Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today. Thank you for your consideration.

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Luella Nohea Crutcher	Individual	Comments Only	No

Comments: I am in strong support for Puna Pono Alliance amendments to SB2663 That
- Restores the contested case process -Allows both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts forward and allows both sides to create a record that is designed to produce the best result. - Protect night time drilling ban - Expand Hawaii counties tracking ban to the whole state Mahalo for your time, Luella Nohea Crutcher

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lee Eisenstein	Individual	Support	No

Comments: I am supporting PPA's positions and amendments. SB2663 would if amended, will restore the contested case process, protect our night time drilling ban, and expand Hawaii counties fracking ban to the whole state. If politicians want fracking in Hawaii and night time drilling, let them have it on their own properties of residence. We, the people of Hawaii, want no part of it.

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ronald S. Fujiyoshi	Individual	Oppose	No

Comments: I feel strongly that S.B. 2663 S.D. 2 should not be passed. Geothermal has not proven to be clean nor renewable. As a Christian who graduated with a degree in Theology from the Chicago Theological Seminary, and one who served as a missionary in Asia for twenty years, I feel strongly that geothermal drilling is an affront to native Hawaiians who believe in a spiritual connection to Pele. The public hearings have gone through the motions, and even when a majority of testimonies are in opposition to geothermal, the results have allowed for further exploration and drilling. This is a shibai. The Board of Land and Natural Resources has not been a good steward of the natural resources of Hawai`i but has time and time again allowed for development that destroys the natural resources. This bill attempts to take away decision-making from the counties and does not allow for contested case hearings. I am in total opposition to this bill. Mahalo for the opportunity to share this testimony! Aloha.

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
tj simms	Individual	Support	No

Comments: support the bill with Puna Pono Alliances proposed amendments

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Randall Shipp	Individual	Comments Only	No

Comments: Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Gemma Buell	Individual	Oppose	No

Comments:

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Rimer	Individual	Comments Only	No

Comments: I support the bill with Puna Pono Alliances proposed amendments Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Fracking should be banned in HAWAII

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SB2663

Submitted on: 3/14/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dephlia Rackley	Individual	Oppose	No

Comments:

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SB2663

Submitted on: 3/14/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: Please amend this Bill! Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Beth McCormick	Individual	Comments Only	No

Comments: Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
James Hedgecock	Individual	Support	No

Comments: Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members: Chairwoman Evans, vice Chair, Lowen, and WAL committee members: Thank you for the opportunity to testify on: SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and: Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it. Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today. Thank you for your consideration. James T. Hedgecock

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Carol A. VanCamp	Individual	Support	No

Comments: Please pass this bill for the reasons noted below: 1. Restores County Home Rule (GRP) to Planning Commission and Planning Department 2. Does not restore geothermal subzoning requirements (Planning Commission and BLNR to oversee land use) 3. Incorporates Mediation and not Contested Case Hearing 4. Allows BLNR to make decision if an auction for State lands is performed based on “greater benefit to the State” determination.

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Doran Vaughan	Individual	Comments Only	No

Comments: To the Energy and Environmental Protection Committee and Water and Land Committee: As a citizen and registered voter in Hawaii, I request that the joint committees support the following amendments to SB2663. I would then be willing to support the amended bill. Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development. Sincerely, Doran Vaughan

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Submitted on: 3/14/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Bryan Brey	Individual	Comments Only	No

Comments: I'm fully aligned with this testimony: Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: From Nick Conti 13-649 Pohoiki rd Pahoa Hi As you can see by my address Puna Geothermal ventures is very close to my home. I have real experience in what it is like to live next to this industry. PVG has not shown concern for the health and well being of residents, and has also not provided any cost benefit or for that matter any benefit to consumers at all. In a recent news article Senator Solomon was quoted as saying, in part, "consumers on Hawaii Island have sought to expedite the production of affordable renewable geothermal energy", this statement is very misleading, consumers are not trying to expedite geothermal energy, consumer may want affordable renewable energy , but so far geothermal energy is not proving itself to be the solution. Why would consumers want to lose home rule, and the ability to have contested case hearings? Why would consumers want the agencies that establish reasonable permitting conditions in their own counties to be limited when their purpose is to protect those consumers and the environment? It is clear that these are not things that consumer want but rather these are the things wanted by geothermal industry. It is also quite clear that residents of the islands of Hawaii do not want or support unregulated industry. I ask that you amend SB2663 to more closely mirror the amended HB 2369, in addition I ask that you further amend SB2663 to include contested case hearings and to ban fracking in the State of Hawaii, thereby adding real and needed protections for the residents of our Islands. Thank you for your time and consideration , Nicki Conti

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ninu-Alexandri Quirk, MD	Individual	Oppose	No

Comments: I oppose Senate Bill 2663 SD2 because it limits home rule of County governments. In the last sentences of subsections (b) and (c), limits are put on permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. The far, there is no state bill that prevents fracking, a practice that Hawaii is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, thereby making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Nadia Ranne	Individual	Support	No

Comments: I strongly support SB2663 SD2 with Puna Pono Alliance amendments. This is critical for the health and safety of our community and future generations. Mahalo!

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: I strongly urge you to support this bill only if the following amendments are made. Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sara Steiner	Individual	Support	No

Comments: Dear Legislators: As a 30-year resident within a mile or two of the geothermal development in Puna, I can ask you to please pass this SB2663 SD2 version. We residents need the protection of contested case hearings and night-time drilling bans. There should be no question of "Fracking" here in Hawaii Nei. You all can see the damage fracking has done to the mainland, there is no possible way it would work in Hawaii with our fractured ground and earthquakes. Thank you for your attention, courtesy and cooperation in these regards.

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Cory Harden	Individual	Comments Only	No

Comments: Aloha Senators, Please revise SB 2663. 1-Please remove language in the last sentences of subsections (b) and (c) that limits permitting agencies' authority to establish reasonable permit conditions when federal and state agencies may have regulatory jurisdiction. This language may prevent the County from enforcing local ordinances. 2-Please allow contested cases. Puna's experience shows we need strong oversight over geothermal. mahalo, Cory Harden, Hilo Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

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Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: Induced seimology or induced earthquakes is simply not rational thinking. My friend, Norrie Robbins, has been a geologist for more than 30 yrs. agrees with no fracking, especially in an earthquake prone zone. We, here in Hawaii, cannot afford fracking for 3 reasons: Increased earthquake activity, toxic chemicals attending fracking activities, poisoning of our water sources.

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
John NAYLOR	Individual	Support	No

Comments: Aloha, I have strong support for Puna Pono Alliance amendments to SB 2663 SD2. Forget the Frack ! Sincerely, John Naylor

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Barry Mizuno	Individual	Support	No

Comments: I support SB2663 SD2. I am a resident of Hawaii Island and former consultant for PGV, with no current ties. This bill allows County homerule and I support passage. Thank you.

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Linda Penn	Individual	Comments Only	No

Comments: Hearing in EEP/WAL rm 325 Mar 18, 2014 8:30 AM RE: SB2663 SD2
Position: Strong support for Puna Pono Alliance amendments to SB2663 Representing: Linda Penn Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committe members: Chairwoman Evans, vice Chair, Lowen, and WAL committe members: Thank you for the opportunity to testify on: SB2663 and addoption of the PPA proposed amendments that would restore county permitting, over site authority, and: add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impated communities to bring experts, evidance, and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it. Banning fracking for the time being is the prudant thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today. Thank you for your consideration. Linda Penn

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Natalia Chambers	Individual	Support	No

Comments: For the health of my family and our entire community, please consider this bill.

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Middlekauff	Individual	Oppose	No

Comments: Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Richard	Individual	Support	No

Comments: Hearing in EEP/WAL rm 325 Mar 18, 2014 8:30 AM RE: SB2663 SD2
Position: Strong support for Puna Pono Alliance amendments to SB2663 Representing: Richard Schwager Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members: Chairwoman Evans, vice Chair, Lowen, and WAL committee members: Thank you for the opportunity to testify on: SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and: Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it. Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today. One additional note: Is the effective date on this proposal actually 2050!?!? This should be effective TWENTY FIFTEEN!! I hope this is just a typo, or there will be nothing left to legislate for... Thank you for your consideration. Dr. Richard Schwager

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
David Snover	Individual	Support	No

Comments: I support the bill with Puna Pono Alliances' amendments. Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Amara Karuna	Laakea community LLC	Support	No

Comments: Position: Strong support for Puna Pono Alliance amendments to SB2663 SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and: Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking.

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SB2663

Submitted on: 3/15/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: Thank you for the opportunity to testify on SB2663. I strongly oppose this bill unless it is amended. Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Geoffrey Lasr	Individual	Oppose	No

Comments: I oppose this bill as written I WOULD SUPPORT THIS BILL IF PUNA PONO ALLIANCE AMENDMENTS WERE ADOPTED 1. It offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. The county and the communities of the big Island should decide their own policies we live here. 2. In House bill 2369 mediation was deleted from the geothermal process. I SINCERELY WOULD LIKE TO HAVE CONTESTED CASE HEARINGS REINSTATED SO INDIVIDUALS AND COMMUNITIES THAT ARE IMPACTED GET THEIR DAY IN COURT ON THE RECORD ONLY CONSTITUTIONAL 3. AN ANTI FRACKING MEASURE SHOULD ALSO BE IN THIS BILL. The developers say they are not going to frack the state says it has no protocol for fracking regulations. SO PUT MEASURE IN AND IF FRACKING COMES UP LET THE DEVELOPER MAKE A PROPOSAL IN THE OPEN AIR SO TO SPEAK THANK YOU FOR YOU TIME SINCERLY GEOFFREY LAST

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SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sheryl Palmer	Individual	Support	No

Comments: RE: SB2663 SD2 Position: Strong support for Puna Pono Alliance amendments to SB2663

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**JON Y. MIYATA
483 MAKANAA STREET
HILO, HAWAII 96720**

March 17, 2014

Representative Chris Lee, Chair
Representative Cindy Evans, Chair
Hawaii State Capital
415 S. Beretania Street, Room443
Honolulu, HI 96813

Re: In Support of SB 2663, SD2

I am writing in support of SB 2663, SD2 and feel it is important that the counties have the authority to issue geothermal resource permits for lands within agricultural, rural and urban districts, and by the Board of Land and Natural Resources for lands within the state conservation districts.

It's also important that that a permit is issued prior to any work related to geothermal resource development or any other type of project be approved, which will provide safeguards and ensure compliance with safety and building code provisions.

While there are some concerns that the legislation should include a contested case hearing provision, I feel this will just add needless costs, delays and may prevent needed projects from being built. The legislation, as proposed, provides the public the opportunity to share and have their concerns heard and considered.

Hawaii is in need of more affordable, reliable and consistent energy sources of power. Your approving this bill will go a long way in making this a reality while decreasing our dependency on fossil fuels.

Very truly yours,

Jon Y. Miyata

SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Blake WATson	Individual	Comments Only	No

Comments: Aloha Senators, Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development. Mahalo, Blake Watson

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Tracy Matfin	Individual	Support	No

Comments: Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members: Chairwoman Evans, vice Chair, Lowen, and WAL committee members: Thank you for the opportunity to testify on: SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and: Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it. Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today. Thank you for your consideration. Tracy Matfin

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Kahn-Langer	Individual	Support	No

Comments: Senators: We support SB2663 SD2 with PUNA PONO ALLIANCE proposed amendments. Barbara Kahn-Langer James W. Brown 15-2070 5th Ave Keaau

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Julia Paul	Individual	Support	No

Comments: Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Cynthia Marlin	Individual	Comments Only	No

Comments: Hearing in EEP/WAL rm 325 Mar 18, 2014 8:30 AM RE: SB2663 SD2
Position: Strong support for Puna Pono Alliance amendments to SB2663 Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members: Chairwoman Evans, vice Chair, Lowen, and WAL committee members: Thank you for the opportunity to testify on: SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and: Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. Banning fracking for the time being is prudent. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today. Thank you for your consideration. Cynthia Lahilahi Marlin

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SB2663

Submitted on: 3/15/2014


Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
LJ Bates III	Individual	Comments Only	No

Comments: Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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 Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction.

Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation.

In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases.

I ask that you similarly amend Senate Bill 2663 but allow contested cases.

Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate.

I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

Dr. Roy Lozano D.C. Pahoā, Hawaii

Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members:

Chairwoman Evans, vice Chair, Lowen, and WAL committee members:

Thank you for the opportunity to testify on:

SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and:

Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result.

With the PPA amendments SB 2663 would ban fracking.

With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Most people who understand the issues with fracking do not want fracking, so please ban it.

Banning fracking for the time being is the prudent thing to do. If a developer wants to do fracking in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today.

Thank you for your consideration.

Sylvia Dolena, owner

Pele Lani Farm, LLC

SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Martin Blackwell	Individual	Comments Only	No

Comments: Aloha, We can not optimize our future outcomes without optimum awareness that naturally optimizes resource management. Unfortunately, it appears that some people in power are operating on a lack of awareness that leaves all of the community vulnerable to threats to their health and safety, do to poor decisions with potential major negative consequences. All individual counties must have input and control over the resources in their area as they will be the most aware of those resources and impact issues. To limit their input and control is a ridiculous unaware, self-serving dangerous oversight, that must be prevented at all costs, just by the use of mere common sense. Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development. The only blunder humans make is unaware decisions in the present that jeopardize their futures. It leads to nuclear meltdowns and civilization collapses, from reckless unaware resource management. I hope you will all be part of the solution, not the problem. Sincerely and with aloha, Martin Blackwell, Optimum Resource Management 808-989-9849

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Bambara	Individual	Support	No

Comments: RE: SB2663 SD2 Position: Strong support for Puna Pono Alliance amendments to SB2663 Representing: Susan Bambara Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members: Chairwoman Evans, vice Chair, Lowen, and WAL committee members: Thank you for the opportunity to testify on: SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and: >Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result. With the PPA amendments SB 2663 would ban fracking. With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it. Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today. Thank you for your consideration, Susan Bambara

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Thomas Lee Travis

RR 2 Box 3317

Pahoa, HI 96778

email: ttravis12@mac.com

mobile: (757) 639-7364

Sunday, March 16, 2014

Testimony on SB 2663 Before the House Committees on Energy and Environmental Protection and Water and Land.

Chair Lee, Chair Evans, Representatives:

Senate Bill 2663 restores County permitting for geothermal plants, but, as written, is actually a frontal attack on home rule.

Regardless of decisions about the need for geothermal power, the County needs a voice in locating and regulating geothermal plants. SB 2663 makes an effort to restore county permitting, but, as written, is a wolf in sheep's clothing. While it would restore permitting, it would also prevent the County from passing ordinances in areas under the jurisdiction of Federal and State agencies. As Chris Yuen, former Planning Director for Hawai'i County put it:

One interpretation would be that the planning commission could not impose conditions that were more stringent than those of state or federal agencies. For example, the conditions couldn't require noise levels quieter than DOH rules. This wouldn't be a good idea.

I suggest amending SB 2663 as you amended HB 2639 except to add the right to contested case. Citizens can question decisions about placement of schools, coffee stands, or small stores using contested case proceedings to ensure that decision making government bodies follow legislative guidance and their own regulations. Those questioning a decision about where to place a geothermal plant—a major industrial facility—should have the same recourse.

Finally, I ask you to support an amendment to ban hydraulic fracturing or fracking. This is the process by which permeability through a rock formation is enhanced by high pressure. Although there is no oil and gas in Hawai'i, fracking to enhance development of geothermal resources is a possibility. Experts are calling on geothermal developers to more quickly embrace fracking techniques developed in the oil and gas industry, including horizontal drilling.

Experience in California—where unregulated fracking and acidizing were practiced for many years before the State established a regulatory framework—would indicate that regulation should proceed fracking, not follow it.

Finally there are lessons learned from the Gulf Oil Spill that have application to the question of fracking in Hawai'i. These lessons include:

- Regulatory capability fell short of industry capability. In the end, the regulators had to rely on industry to know what was happening, because regulators were less technically competent.
- Regulatory capture became a problem. As the regulators had to rely more on industry, the regulatory agency shouldered up to industry. Regulators became much more comfortable with those from industry than with those who raised questions about risk in industry actions.
- Regulatory compromise occurred. The regulatory agency had the second task of collecting fees and taxes from industry, important money used in governmental budgets. As a consequence the regulatory agency became more concerned with collecting fees and taxes rather than challenging practices that might lower developer profits and reduce the fees and taxes collected.

Lessons from the Gulf Oil Spill and from lack of regulation in California demonstrate the importance of the State getting ahead of technological processes that may be used. If the state is unwilling or unable to establish a forward-looking regulatory framework with technologically competent regulators, the state should ban the industrial process in question.

I strongly support an amendment that would ban fracking.

Attached is a short description, using a case study, of geothermal fracking, its opportunities and risks.

Thomas Lee Travis

Geothermal Fracking, Hydro Shearing, and Hydraulic Fracturing

Enhanced Geothermal Systems (EGS)

- ❖ A conventional geothermal resource requires hot rock, permeability to allow flow, and water. Conventional geothermal resource sites are difficult to find.... there is one proven site in all of the State of Hawai'i
- ❖ Enhanced Geothermal Systems make geothermal possible at many more sites. Dozens may be possible in the State of Hawai'i
- ❖ According to 2007 MIT study for the National Research Council, EGS plants could produce 15 % of the US electrical power by 2050. To take advantage of this opportunity the study encourages the federal government to invest billions in research and risk mitigation financing for geothermal companies. DOE is executing that recommendation

EGS Technology

- ❖ Enhanced geothermal uses geothermal fracking (sometimes called hydraulic shearing or hydraulic fracturing) to break up the hot rock, or to spread pre-existing cracks, in order to increase its permeability.. After cold water cracks the hot rock, high-pressure water propagates the cracks to create a reservoir in the hot rock.
- ❖ Enhanced geothermal can provide water to the hot rock, if necessary, by bringing the water from the ocean or from nearby water wells. Thus instead of a site that combines permeability, water, and hot rock, EGS allows geothermal development at locations where only hot rock can be found.

Is Geothermal Fracking Really Fracking? A Lawyer's Point of View

What follows is a quote from Sandra Tvarian Stevens, a Washington D.C. lawyer:

In sum, due to the similarity of the basic fracking process utilized by both natural gas and geothermal companies, the likelihood for comparable claims and lawsuits being asserted against these industries is high, most notably with respect to claims arising out of earthquake damage and well blowouts. While both natural gas and geothermal companies alike face the potential for pollution claims, the kinds of allegations asserted may differ, at least in so far as geothermal companies reportedly rely more on saltwater injection and less on chemical additives in their fracking operations than natural gas companies. (Sandra Tvarian Stevens, August 31, 2011 | Coverage Insights)

A Case Study to Identify Issues with EGS

- ❖ Currently, a premiere EGS project is one at the Newberry Volcano National Monument (NVNM) near Bend, Oregon
- ❖ At this site EGS methods are being used to reinvigorate an existing geothermal resource so that it can make greater power.
- ❖ AltaRock (an EGS company that is exploring opportunities in the State of Hawai'i) will use geothermal fracking to increase the permeability of the resource
- ❖ What follows concerning challenges to geothermal fracking is based on the NVNM project's environmental assessment

What Are the Differences Between Oil/gas and Geothermal Fracking? (Based on the NVNM Project)

- ❖ Most advocates claim geothermal uses fewer and less toxic chemicals, but:
 - ❖ Oil and gas companies use chemicals that are proprietary
 - ❖ AltaRock uses chemicals that are proprietary
- ❖ Some have said that geothermal companies will use salt water rather than fresh water
 - ❖ AltaRock is using normal well water
- ❖ In geothermal fracking, cracking of rock is done by cold water against hot rock, but
 - ❖ Alta Rock uses water at an over pressure of ~ 2000 psi to propagate the cracks throughout the rock. The exact pressure is determined by in-well testing that finds what pressure is needed.

AltaRock's Effort in Oregon--Water Use (Based on the NVNM Project)

- ❖ AltaRock anticipates the fracking effort will use 24,000,000 million gallons of high pressure water over three weeks (24,000,000 gallons) (240 trips of the largest tanker trucks)(a home uses 400 gallons a day)
- ❖ AltaRock anticipates using 124,000,000 gallons of water to support the experimental project over two years (124,000,000 gallons) (1,240 tankers)

AltaRock's Effort in Oregon--Water Contamination (Based on the NVNM Project)

- ❖ Direction of cracks
 - ❖ A network of seismometers is supposed to determine which way and how far the hydraulically induced cracks propagate.
 - ❖ If the cracks propagate toward the fresh water layer risking contamination, it is assumed operations can be stopped with adequate buffer for safety.
- ❖ Blowouts
 - ❖ Wells to insert the fracking water are similar to injection wells at Puna Geothermal Venture (PGV), but overpressure will be higher than PGV's by ~1500 psi.

- ❖ PGV had a piping failure on an injection well in November 2012. The well pressure at the time of the PGV failure was considerably less than the pressure that will be used for fracking by AltaRock.

AltaRock's Efforts--History of Earthquakes

- ❖ An effort in Basel, Switzerland, was terminated when earthquakes caused \$9M damage. A NY Times investigative report questioned whether AltaRock was forthcoming with data.
- ❖ Germany stopped development on several geothermal plants over concerns with earthquakes
- ❖ A fracking effort at Geysers in California was terminated shortly after problems with Basel became public.
- ❖ Near Middleton, California, a committee mediation process has settled 19 damage claims from small earthquakes.

AltaRock's Effort in Oregon Earthquakes (Based on the NVNM Project)

- ❖ In Oregon, AltaRock will monitor cracks in a nearby dam to ensure they do not worsen as a result of induced earthquakes.
- ❖ In case improbable, but possible earthquakes start to occur around the NVNM site, AltaRock plans to depressurize the geothermal reservoir by dumping water over a period of days. First the water would be dumped to empty storage tanks specified for that purpose and, if that were insufficient, then there is a contingency to dump the water to the ground

AltaRock's Efforts--Environment and Lifestyle Considerations

- ❖ Other issues that need to be considered include:
 - ❖ Truck and other traffic on narrow roads
 - ❖ Noise to neighbors
 - ❖ Environmental issues with clearing of land for plant development and for water transport
 - ❖ Local water shortages or degradation of water quality from "over-use"
 - ❖ Unabated or abated release of steam during flow testing (H₂S release)
 - ❖ Potential 930 foot steam and chemical plume during flow testing
 - ❖ Access to public trails and paths
 - ❖ Road building

Hawai'i Legislative Issues for Consideration

- ❖ Before allowing EGS projects the State should consider:
 - ❖ How to protect the environment and water resources
 - ❖ How to estimate, control, and regulate risks of induced seismicity

Senate Bill 2663 SD2 testimony

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 982-6433

Helene Love 982-6422

Amend to ban fracking in Hawaii and add this to Senate Bill 2663 SD2. Senate Bill 2663 SD2 offends home rule in the last sentences of sub-sections (b) and (c) that limit permitting agencies authority to establish reasonable permit conditions in matter where Federal and State agencies may have regulatory jurisdiction. As former County Planning Director Chris Yeun pointed out, that limitation is not part of former laws and may prevent the Co. from enforcing local ordinances. Please remove that limitation. In February, committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments, House Bill 2369 became a more positive bill in need of some improvements. One amendment removed mediation from geothermal permitting, but prohibited contested cases.

I ask that you similarly amend Senate Bill 2663, but allow contested cases. There is no state bill that prevents fracking, a practice that the State of Hawaii is not prepared to regulate. Pls. educate yourselves how disastrous these fracking situations are for other states on the mainland; Hawaii has sun and wind other methods to support herself. It's not about making big money anymore, it's about saving our earth, literally, and Hawaii is it's own small nation in the middle of the ocean with it's live active volcano in charge—don't mess with cracking holes in her; she is too volatile. I ask you similarly amend Senate Bill 2663, but allow contested cases. Just as the existing geothermal plant/s, the State of Hawaii is not prepared to regulate the disasters fracking creates.

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 poor their money and invent sun and wind energy at PTA and show a new positive direction for military use.

Testimony on SB2663

February 19, 2014

Aloha Honorable Representatives, Aloha Kakou,

I am Luana Jones. I have lived in Pohoiki for over 30 years. Before moving to Puna, back in the 80's, I was familiar with the vision that geothermal can provide Hawai'i's energy needs and make us less dependent on fossil fuels; I thought "well, that would be great for Hawai'i." As fate would have it, we bought a vacant lot at the top of Pohoiki road near the HGP-A experimental geothermal power plant.

We are one of the homes within 2,500 feet of the power plant. We not only have had to endure the effects of the original smelly, corrosive, noisy, pilau plant until they finally shut it down; we have endured decades of intrusions from the current geothermal development – gas leaks, noise, ground vibration, "trips", "kicks", and the worst case scenario, the original manager (there have been several) assured us would never happen - a "blow out!" If you've ever been on a runway when a 747 jet is taking off - -that's how it was at our house for 31 hours. In addition to nerve damage, I believe I still suffer from PTSD, secondary to the geothermal blow-out in 1991.

Now, the idea of having more geothermal power plants in Puna makes me cringe! And I'm not the only one. Geothermal production does not belong in neighborhoods! The Kupuna (who are the correct traditional authority) say, "If they like make more geothermal, tell them go in the national park, where no more people."

Plus, geothermal is not clean! Done near volcanic activity, it could be disastrous (recent geologists report)! Other cleaner, renewable energy sources are emerging! The Hawaiian islands, being very finite (small), and surrounded by water, has yet to articulate ocean-generated-energy production, just as sure as the cell phone in your pocket was not even in your imagination a few decades ago! I believe the next generations of indigenous engineers will invent the technology! Until then, it is our "Kuleana" as stewards of the land, to malama (care for) the land, as well as the people to the best of our ability!

Please amend this bill to include the rights of, and safeguards for, the people and environment of this very sacred place in Hawai'i. Namely, the recommendations of the Adler Report, which was contracted by Mayor Billy Kenoi out of concern for the people and Puna, and restoring citizen's rights to contested case hearings. I WOULD SUPPORT SB2663 WITH AMENDMENTS.

Thankyou for your this opportunity to share my mana'o, my testimony. Your kind consideration is requested and appreciated.

Mahalo Nui Loa,

Luana Jones

14-3784 Pohoiki Road

Pahoa, HI 96778

Phone: (808)938-0021

SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Nicolette Douvris	Individual	Support	No

Comments: Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development. Thank you

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ido Kek	Individual	Comments Only	No

Comments: Senate Bill 2663 SD2 offends home rule in the last sentences of subsections (b) and (c) that limit permitting agencies' authority to establish reasonable permit conditions in matters where federal and state agencies may have regulatory jurisdiction. Former County Planning Director Chris Yeun pointed out how that limitation, not part of former laws, may prevent the County from enforcing local ordinances. Please remove that limitation. In February your committees heard and amended a bill with the same language as Senate Bill 2663, and by your amendments House Bill 2369 became a more positive bill in need of only minor improvement: one amendment removed mediation from geothermal permitting, but prohibited contested cases. I ask that you similarly amend Senate Bill 2663 but allow contested cases. Finally, there is no state bill that prevents fracking, a practice that the state is not prepared to regulate. I ask that an amendment to ban fracking in Hawaii be added to Senate Bill 2663, making it a comprehensive bill concerning geothermal development.

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

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

Comments: support the bill with Puna Pono Alliances proposed amendments

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SB2663

Submitted on: 3/16/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Seifers	Individual	Support	No

Comments: I support bill SB2663 with Puna Pono Alliance's proposed amendments.
Thank you!

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Hearing in EEP/WAL rm 325 Mar 18, 2014 8:30 AM

RE: SB2663 SD2

Position: Strong support for Puna Pono Alliance amendments to SB2663

Representing: James Grazzini

Aloha Rep. Chris Lee, Chair, Rep. Cynthia Thielen, Vice Chair, and ENE committee members:

Chairwoman Evans, vice Chair, Lowen, and WAL committee members:

Thank you for the opportunity to testify on:

SB2663 and adoption of the PPA proposed amendments that would restore county permitting, over site authority, and:

Add, - restoration of contested cases, - allowing both sides, developers and impacted communities or potentially impacted communities to bring experts, evidence and facts to a quasi judicial procedure design for that very purpose. It allows both sides to create a record that is designed to produce the best result.

With the PPA amendments SB 2663 would ban fracking.

With conventional geothermal remaining so controversial in the surrounding communities, fracking could easily ignite massive protest and court battles. Everyone says they do not want to frack, so please ban it.

Banning fracking for the time being is the prudent thing to do. If a developer wants to frack in the future, let them bring that to the legislature in the open instead of trying to slide in under existing conventional geothermal permitting, that has produced the controversy and division between community, state, and developer we see before us today.

Thank you for your consideration.

James Grazzini

SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Bernard A Balsis Jr Jr	Individual	Support	No

Comments: Thank you for the opportunity to provide this testimony on HB 2663, SD 2. Ormat Technologies, Inc. supports the purpose and intent of this bill. The primary purpose of the bill requires that geothermal resource permits (GRP) be issued before geothermal resource development can be engaged in, and requires that such permits be issued by county authority for lands within the agricultural, rural, and urban districts, and by the board of land and natural resources for lands within the conservation district. The procedures for the issuance of a GRP are similar to the procedures which existed prior to the adoption of Act 97, SLH 2012, which repealed the GRP procedures that had been contained in HRS 205-5.1. These procedures included the mediation of issues as between interested parties, which are contained in Section 2 of the bill. The mediation process is a fair and proven method for allowing interested parties the opportunity to resolve differences in a neutral setting. Experience has shown that the mediation procedure provides interested parties the opportunity to arrive at a consensus for dealing with terms and conditions which considers their respective interests, without placing the parties in an all or nothing context as contested case hearings can often lead to. For example, when Puna Geothermal Venture applied for an amendment to its GRP to allow an increase of production capability at its Kapoho plant from a 30 MW facility to a 60 MW facility, the mediation process considered the issues raised by members of the public as well as how conditions under a GRP could address these issues. Even if interested parties cannot agree upon all of the issues, the mediation process encourages dialog between interested parties, and for the parties to address unresolved issues before a decision is made. It should be noted here that the counties of Hawaii and Maui have GRP rules in place which are consistent with the procedures set forth in SB 2663, SD2, rules which have already been adopted after public hearing pursuant to Chapter 91. While there has been some concern that the GRP process should include a contested case hearing process, the bill provides ample opportunity for persons to testify and present information in a public hearing context that will allow the public and agencies a fair opportunity to identify issues and present information concerning a proposed development. Right of appeal directly to the intermediate court of appeals will also afford interested persons immediate appellate recourse, and will assist in streamlining procedures. This bill provides the county authority to prescribe conditions to mitigate adverse effects, and by adopting this bill, the counties will have the ability to exercise "home rule" in the GRP context. As to the proposed amendments in Section 182-4, Hawaii Revised Statutes, regarding Mining Leases, Ormat is supportive of these provisions. Section 6 of SB 2663 SD2 clearly defines BLNR's fiduciary requirement to determine "greater benefit to the State" whether an auction is held or not. We appreciate your due consideration of these comments. Thank you,

Bernard Balsis Hilo, Hawaii bbalsisjr@yahoo.com 808-938-7396

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SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
David S. De Luz, Jr.	David S. De Luz, Sr., Enterprises, Inc.	Support	No

Comments: RE: Testimony in SUPPORT of SB 2663, S.D. 2 Aloha Chair's Lee & Evans: Thank you for allowing me/us the opportunity to provide this testimony on HB 2663, SD 2. I/we supports the purpose and intent of this bill. The primary purpose of the bill requires that geothermal resource permits (GRP) be issued before geothermal resource development can be engaged in, and requires that such permits be issued by county authority for lands within the agricultural, rural, and urban districts, and by the board of land and natural resources for lands within the conservation district. The procedures for the issuance of a GRP are similar to the procedures which existed prior to the adoption of Act 97, SLH 2012, which repealed the GRP procedures that had been contained in HRS 205-5.1. These procedures included the mediation of issues as between interested parties, which are contained in Section 2 of the bill. The mediation process is a fair and proven method for allowing interested parties the opportunity to resolve differences in a neutral setting. Experience has shown that the mediation procedure provides interested parties the opportunity to arrive at a consensus for dealing with terms and conditions which considers their respective interests, without placing the parties in an all or nothing context as contested case hearings can often lead to. For example, when Puna Geothermal Venture applied for an amendment to its GRP to allow an increase of production capability at its Kapoho plant from a 30 MW facility to a 60 MW facility, the mediation process considered the issues raised by members of the public as well as how conditions under a GRP could address these issues. Even if interested parties cannot agree upon all of the issues, the mediation process encourages dialog between interested parties, and for the parties to address unresolved issues before a decision is made. It should be noted here that the counties of Hawaii and Maui have GRP rules in place which are consistent with the procedures set forth in SB 2663, SD2, rules which have already been adopted after public hearing pursuant to Chapter 91. While there has been some concern that the GRP process should include a contested case hearing process, the bill provides ample opportunity for persons to testify and present information in a public hearing context that will allow the public and agencies a fair opportunity to identify issues and present information concerning a proposed development. Right of appeal directly to the intermediate court of appeals will also afford interested persons immediate appellate recourse, and will assist in streamlining procedures. This bill provides the county authority to prescribe conditions to mitigate adverse effects, and by adopting this bill, the counties will have the ability to exercise "home rule" in the GRP context. As to the proposed amendments in Section 182-4, Hawaii Revised Statutes, regarding Mining Leases, I/we are supportive of these provisions. Section 6 of SB 2663 SD2 clearly defines BLNR's

fiduciary requirement to determine “greater benefit to the State” whether an auction is held or not. I/We appreciate your due consideration of these comments. Respectfully
Submitted by: David S. De Luz, Jr. David S. De Luz, Sr. Enterprises, Inc. 811
Kanoelehua Avenue Hilo, HI 96720 (C) 808-895-4284 email: djr@teamdeluz.com

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SB2663 SD2
RELATING TO NATURAL RESOURCES
House Committee on Energy & Environmental Protection
House Committee on Water & Land

March 18, 2014

8:30 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB2663 SD2, which would provide state- and county- permitting processes for geothermal resource exploration and development, reinstate opportunities for public input on geothermal proposals, and expand exceptions for the direct lease of public lands,

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 which 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 substantive 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.**

Finally, OHA expresses concerns regarding this measure's expansion of the public auction exceptions in HRS section 171-95, by allowing the direct lease or grant of public lands to geothermal producers and developers for up to sixty-five years. Providing exceptions to the public auction process may remove an important mechanism for public transparency and accountability, which could result in significant lost revenue opportunities from such lands for over a generation. **Accordingly, adding geothermal producers and developers to the list of entities eligible for direct, 65-year leases may compromise the state's ability to ensure that public lands best serve the public interest.**

Mahalo nui for the opportunity to testify.

CHRISTOPHER J. YUEN
ATTORNEY AT LAW

P.O. Box 5
Ninole, HI 96773
Telephone: (808)963-6966
e-mail: chrisyuenz@hotmail.com

March 17, 2014

Testimony re SB2663 SD2

LATE

House Committees on Water and Land, and Energy and Environmental Protection

Dear Committee Chairs Rep. Evans and Rep. Lee, and members of the Committees:

This testimony is in support of sec. 2 of SB2663, with suggested amendments.

I was Planning Director of Hawai'i County from Dec. 2000 to Dec. 2008. While I was director, Puna Geothermal Venture applied for and received an amendment to its geothermal resource permit (GRP), which allowed it to expand from 30 MW to 60 MW, so I am familiar with the GRP process.

Sec. 2 of SB2663 SD2 would essentially restore the GRP process which existed prior to Act 97, SLH 2012. Under the old GRP process, the county planning commission would determine whether or not a geothermal power plant could be built in the agricultural or rural districts. (In urban districts, it would depend upon the specific county zoning, but it is unlikely that such a plant would be built in an urban district because of the location of geothermal resources.)

Act 97 was an attempt to streamline the process by repealing the GRP, but there can be too much streamlining. The GRP was a necessary safeguard so that the local planning commission could review the application, hear from the public, decide whether or not it was right for the area, and impose reasonable conditions if it decided to grant the permit. Our laws should require this kind of scrutiny for a major industrial facility like a geothermal power plant in the agricultural or rural district. This is especially true in Hawai'i County, because so many people live in the agricultural district.

The GRP process had also been upheld by Hawai'i courts—Medeiros vs. Hawai'i County Planning Commission, 8 Haw. App. 183, 797 P.2d 59 (1990). On the other hand, Act 97 has created uncertainty about the proper procedure at the county level.

I would suggest one amendment, to this sentence in SB2663 SD2 that was not in the original GRP process: "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."

It's not clear what this sentence is supposed to do. One interpretation would be that the planning commission could not impose conditions that were more stringent than those of state or federal agencies. For example, the conditions couldn't require noise levels quieter than DOH rules. This wouldn't be a good idea.

Such rules are usually meant to apply across-the-board and are sometimes not adequate for a local situation. For example, the DoH noise rules for agricultural districts allow noise levels of 70 dBA day and night. This is very noisy—the residential standards are 55 dBA days and 45 dBA nights. The GRP for Puna Geothermal Venture has a noise condition that is much quieter than would be allowed under DoH rules, because it is near many homes. That’s reasonable: the company’s original application stated that it could operate within the kinds of limits eventually set by the planning commission. It will be even harder to win community acceptance for geothermal facilities if the specific needs of the neighboring area can’t be protected in the permit process.

Or the sentence may be intended only to allow the planning commission to impose conditions, but not to override other state and federal regulations. This would be fine, and could easily be accomplished by deleting the word “exclusive”, and deleting the clause beginning with the word “except.”

One more minor technical amendment: the bill defines “appropriate county authority” as the planning commission, but Maui County now has three planning commissions; Hawaii County has two. It should say “the county planning commission with jurisdiction over the area.”

Discussion on this bill at the Senate focused mostly on whether to restore the mediation clause in the original GRP process, or whether to allow contested case hearings.

I’m not going to take a position, because last year, a similar bill died because agreement couldn’t be reached on this point, and I think it’s important that some bill pass restoring the GRP, with mediation or with the contested case.

The opportunity for a contested case would be the more normal procedure for a discretionary land use permit like the GRP. I am not sure why the mediation process was substituted, but there may have been a hope that it could result in a negotiated win-win solution. This can happen if the concerns of opponents can be satisfied by better conditions, but if they are completely opposed to the project, mediation will not succeed.

Let me summarize some pros and cons of a formal contested case hearing procedure. In either procedure, proponents and opponents can present testimony and written materials on the application, but in the contested case, the opponents would also have the right to cross-examine the witnesses on the other side, which can be valuable for pointing out weaknesses. A contested case results in a decision with more formal findings of fact, which can assist the court reviewing the decision on appeal, and also forces the planning commission to more thoroughly and exactly state the reason for the decision. Finally, if there is no contested case, there are usually time limits on individual public testimony, although in my experience if a testifier has technical or other information the planning commissions often extend the time limits.

On the other hand, contested case hearings tend to be quite slow and take much longer, partially because of cross-examination, and partially because they are lawyer-driven. As a result, it becomes very difficult to actually conduct the contested case in front of the membership of the planning commission or BLNR, who are volunteers and often cannot devote enough time for special hearings. In recent years, it’s become very common for such hearings to be delegated to a hearing officer, who prepares a recommended decision for the commission or board. While they can go against the hearing officer, it’s difficult because they did not hear the testimony themselves. The end result is that the decision is made by the hearing officer, who is usually an attorney, rather than by a planning commission or BLNR, with a broader membership.

Thank you for considering my testimony on this bill.

Yours truly,

Chris Yuen

LATE

SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Marvin Porter	Individual	Support	No

Comments: Support for: SB2663 SD2 Aloha, I strongly support Puna Pono Alliance amendments to SB2663. As you surely know fracking around the world has had many bad results in the surrounding communities. As a Puna resident of Hawaiian Paradise Park I don't want this happening in my neighborhood. I also strongly support the PPA amendments that would restore county over-site authority and permitting, and also support the restoration of contested cases in a judicial procedure that would allow both side to present their evidence. Thank you for your concern in this matter, Mary Marvin Porter Island Eyes Video Keaau, Hawaii 96749

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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SB2663

Submitted on: 3/17/2014

Testimony for EEP/WAL on Mar 18, 2014

LATE

Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Riley Smith	Individual	Support	No

Comments:

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