NEIL ABERCROMBIE
GOVERNOR OF HAWAII

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

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the Senate Committee on
WAYS AND MEANS

Thursday, February 27, 2014
9:00 A.M.
State Capitol, Conference Room 211

In consideration of
SENATE BILL 2663, SENATE DRAFT 1
RELATING TO NATURAL RESOURCES

Senate Bill 2663, Senate Draft 1, 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 resource permits issued by the counties. **The Department of Land and Natural Resources (Department) supports this measure.**

The Department is responsible for the regulation of geothermal resources in the State. Through the issuance of geothermal resource mining leases and regulatory permits, the Department is tasked to manage the resource and its development to protect the health and safety of the public and to ensure the continued viability of this Public Trust Resource for future generations.

The Department supports the restoration of home rule authority through the issuance of geothermal resource permits, as each individual county should maintain its authority to regulate use that occurs within its appropriate land use districts.

Prior to the passage of Act 97, SLH 2012, the Counties and the Board of Land and Natural Resources (Board) had authority to regulate use that occurs within its appropriate land use district. The Counties and the Board were also afforded mediation in lieu of a contested case hearing to resolve conflicts. The Department supports the restoration of mediation, as contested case hearings will cost the State significantly more than the mediation process and could impose delays that could impact the State's ability to meet its clean energy goals.

The Department also notes that its statutes currently do not classify geothermal resources as part of the definition of "renewable energy producer". Adding this designation would provide geothermal resources equity to other renewable energy sources such as wind, solar, hydropower, or biomass, as defined in Section §171-95, HRS. Additionally, existing statutes regulating the use of mineral resources are in need of updating to provide clarity, reduce ambiguities, and to correlate changes in accordance with Act 97, SLH 2012. These updates will provide the Department with the necessary authorities to properly regulate geothermal exploration and development.

Thank you for the opportunity to testify on this measure.

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON WAYS AND MEANS

Thursday, February 27, 2014
9 a.m.
State Capitol, Conference Room 211

in consideration of
SB 2663, SD1, RELATING TO NATURAL RESOURCES.

Chair Ige, Vice Chair Kidani, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports SB 2663, SD1, 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 sees no negative financial impact to the State of Hawaii attributable to the reauthorization of the Counties' GRP processes. Indeed, we anticipate that having the GRPs in place, which stipulate a clear process and timeline for county-level permitting, will encourage geothermal developers and possibly result in additional income to the State from payroll taxes, royalties, and increased economic activity.

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.

Thank you for the opportunity to offer these comments in support of SB 2663, SD1.

OFFICE OF HAWAIIAN AFFAIRS
Legislative Testimony

SB2663 SD1
RELATING TO NATURAL RESOURCES
Senate Committee on Ways and Means

February 27, 2014 9:00 a.m. Room 211

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB2663 SD1, which would provide state- and county- permitting processes for geothermal resource exploration and development, and reinstate opportunities for public input on geothermal-related proposals.

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.**

OHA expresses concerns regarding this measure's attempt to expand 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. Long-term leases such as those allowed under section 171-95 may restrict the state from making the best use of such lands for over a generation, and lead to a sense of entitlement that can and has resulted in the loss of public lands. Skipping over the public auction process may also result in significant lost revenue opportunities for the state. **Accordingly, adding geothermal producers and developers to the list of entities eligible for direct, 65-year leases may compromise the state's fiduciary duty to ensure that public trust lands are used to the maximum public benefit.**

Mahalo nui for the opportunity to testify.

DENNIS "FRESH" ONISHI
Council Member
District 3

PHONE: (808) 961-8396
FAX: (808) 961-8912
EMAIL: *donishi@co.hawaii.hi.us*

HAWAI'I COUNTY COUNCIL
25 Aupuni Street, Hilo, Hawai'i 96720

February 25, 2014

The Honorable David Y. Ige
And Members of the Committee on Ways and Means

Dear Senator Ige and Members of the Committee,

Thank you for the opportunity to provide testimony in support of Senate Bill 2663.

This bill restores a section of the law that had been deleted by Act 97 (2012) relating to county authority in the geothermal permitting process. It grants the appropriate county planning commission the authority to issue a geothermal resource development permit in agricultural, rural or urban districts where geothermal uses are not allowed under the county's zoning ordinance or general plan.

It spells out the process by which mediation, public hearings and conditional approval of the permit may be granted, and it avoids the lengthy process of a contested case hearing and Circuit Court litigation. This process will restore local government oversight for the residents who will be most affected by a geothermal energy facility.

In Hawai'i County, the members of the Windward Planning Commission and the Leeward Planning Commission live in the communities that will be most directly affected by a decision to grant a geothermal permit and they will have firsthand knowledge of what is best for their neighbors' health and safety.

Please recommend approval of this bill.

Sincerely,

Dennis "Fresh" Onishi
Hawai'i County Council Member

Indigenous Consultants, LLC

Mililani B. Trask, Principal

P.O.Box 6377 ❖ Hilo, HI 96720

Mililani.trask@gmail.com

Bill: SB2663 Relating to Natural Resources
Committees: WAM
Hearing Date: Thursday, February 27th 2014
Location: Room 211
Time: 9:00 am

TESTIMONY IN SUPPORT Date: February 25th, 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

(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: WAM
Hearing Date: February 27th, 2014
Location: Room 211
Time: 9:00 am

Date: February 25th, 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.

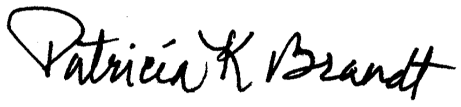
Opposition to Contested Case Process and Support for Mediation
Puna Pono Alliance, convicted drug grower Robert Petricci and Harry Kim are lobbying to change the County Home Rule process—they want a contested case process instead of mediation.

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,



Pat Brandt, CEO
Innovations Development Group Inc.

Waimānalo Hawaiian Homes Association

P.O. Box 353, Waimānalo, Hawaii 96795-0353

LATE

TESTIMONY ***IN STRONG SUPPORT TO*** SB 2663 RELATING TO

NATURAL RESOURCES

COMMITTEE ON WAYS AND MEANS

Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair

NOTICE OF HEARING
Thursday, February 27, 2014
9:00 a.m.
Conference Room 211

Chairs Sen. David Ige and Vice Chair Sen. Michelle Kidani and

Committee Members, Aloha!

We *strongly support* SB 2663 relating to the Natural Resources by adding the new section to Chapter 182, Hawaii Revised Statutes with its more specific sections which will oversee the processes needed relative to geothermal activities within the State of Hawai'i.

However, we oppose the "contested case" process which would expose the counties in our State to a prolong methodology and increased expenses *and strongly support* the "mediation" process. WHHA has been in the mediation process during the extent of our work in building our community center and the overall expenses and time was a benefit to all concerned and *primarily* the community at large.

We appreciate the opportunity to submit this testimony and willing to be called upon as needed.

Mahalo nui loa,

Paul P. Richards
President

Puna Pono Alliance
PO Box 492668
Kea`au, HI 96749

web: http://punapono.com
email: info@punapono.com

February 25, 2014

To: **Senate Committee on Ways and Means**
Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair

Re: Hearing on Thursday, February 27, 2014, 9:00 a.m., Conference Room 211
SB2663 SD1 (providing for geothermal permitting, only[1]) – **strongly oppose** because**:**

1. it perpetuates mandatory mediation in geothermal permitting and, in doing so, it preempts County home rule authority
2. it fails to restore geothermal resource subzones (as repealed by Act 97 in 2012)
3. it fails to assure appropriate geothermal environmental review
4. it ignores Hawai`i County's recent Geothermal Public Health Assessment

Encl: Four proposed amendments for SB2663, SD2:

1. to remove mandatory mediation from geothermal permitting
2. to restore the geothermal resource subzones repealed by Act 97, *nunc pro tunc*
3. to assure appropriate geothermal environmental review
4. to include Geothermal Public Health Assessment recommendations

Aloha Senators,

The first geothermal permitting law created by Act 296 in 1983 provided for a *contested case*[2] in permit applications. In 1987 Act 378 removed contested case provisions and substituted mandatory mediation ("to provide for a simpler procedure to consider and act on permits for geothermal development ...." Senate Committee Report 1118.). In 2012, Act 97 repealed *all of the laws* relating to geothermal permitting and geothermal resource subzones, apparently with an intent of eliminating a so-called 'go-slow' approach to geothermal development.[3]

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[1] Please note that this testimony addresses only Section 2 of SB2663 – all the other sections of the bill were addressed by these committees in their hearing on February 6, 2014, at 2:45 p.m. with regard to SB2664 (a bill with the same language except for the permitting part.)

[2] Act 296 (1986) said, in relevant part, "[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...." *Contested case* is defined by HRS § 91-1 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."

[3] A draft report, *Senate Energy and Environment Committee Accomplishments* for 2012, said Act 97 "relaxes the restrictions on geothermal development by: requiring geothermal

Early thoughts regarding streamlining geothermal permits to make the process simpler (and easier for developers) weakened the process to the point where it failed to appropriately consider public health and safety. Those thoughts eventually reached the ultimate absurdity of simply wiping out all geothermal regulatory statutes in 2012 by Act 97. Obviously, the resulting vacuum provides for no consideration of public health and safety. Now, for the second year in a row, the Legislature is re-visiting that elimination of laws governing geothermal development. A final step in the unsuccessful efforts to restore geothermal laws in 2013 saw a rare Senate floor amendment that removed mandatory meditation from HB252 (the last bill geothermal still standing in 2013 before it died in a conference committee.)

Before you now is SB2663 SD1 that would restore part of the minimal and insufficient streamlined geothermal permitting procedure that was repealed by Act 97. The language of the former statute, HRS § 205-5.1, has had added to it in this bill new terms that would preempt home rule provisions such as the fracking and night drilling bans passed by the Hawai`i County Council. The bill also ignores lessons learned from the Geothermal Public Health Assessment Final Report that resulted from a working group funded by the County of Hawai`i. The County's pro-geothermal mayor has embraced the report and promised to implement its recommendations. Puna is the only community in the State with actual geothermal experience. The report offers some hope that future geothermal development in Hawai`i could come closer to assuring the health and safety of affected communities. It is a misfortune for our optimism that *SB2663 SD1 disregards Hawai`i County's recent assessment report*. Our community *could support this bill if it is duly amended as recommended by this testimony*.

The report, validating a number of community concerns expressed over the years, states that risks from geothermal energy production and harmful effects require better monitoring and reliable health data. The report includes several valuable recommendations, such as establishing a better toxic emission monitoring system based upon a finding of risks that relate to geothermal energy production's hazardous chemicals escaping to the air, water, or at surface level. Also, the report recommends evaluation of the effects on drinking water and the near-ocean environment (including baseline studies prior to further geothermal development.) Those recommendations could – after thirty years, finally – better assure the health and safety of affected communities.

From the report it can be seen that streamlined geothermal permitting methods first put in place in 1983 and trimmed even further in subsequent years (before being eliminated altogether by Act 97 in 2012) *were not sufficient to prevent community risks and harm*. The County of Hawai`i, as a result of actual experience with geothermal development, has formally recognized

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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...."

the existence of community risks and harm. That reality needs to become part of the discussion of laws pertaining to geothermal exploration and development.

A formerly widespread thought that geothermal is inherently clean and safe is no longer reasonably acceptable as a given.

SB2663 SD1 perpetuates mandatory mediation as a substitute for contested cases, despite last year's Senate floor amendment to HB252 that rejected such provisions. SB2663 does not address recognized public health and safety concerns and fails to include permitting standards in that regard. New geothermal legislation also should restore the designated geothermal resource subzones. In keeping with last year's Senate floor amendment, mediation requirements should be removed from the SB2663. Permitting standards addressing recognized public health and safety concerns based on the report – and the recommendations of the report – should be included as elements of the new geothermal permitting process.

In other words, the new law should show concern for the community's experience with geothermal development as studied, analyzed and reported in Hawai`i County's Geothermal Public Health Assessment Final Report. It may be difficult for some proponents of geothermal energy to accommodate the County's report in their views, but it is a responsibility and duty of the Legislature to enact laws in the light of day.

The report recommends a community health study, particularly looking at toxic effects of the hydrogen sulfide (H2S) emitted by geothermal plants (and many other industrial sources.) If you want an illustration of the strong lobbying that supports disregard of perils associated with chronic exposure to H2S, please take a look at industry positions as described in the publication by the federal Environmental Protection Agency (EPA) titled *Hydrogen Sulfide; Community Right-to-Know Toxic Chemical Release Reporting* (page 64022 of the Federal Register, Volume 76, No. 200, Monday, October 17, 2011.) It says that the "*EPA has determined that hydrogen sulfide can reasonably be anticipated to cause serious or irreversible chronic human health effects at relatively low doses and thus is considered to have moderately high to high chronic toxicity.*" The main substance of the publication is a chronicle of how H2S emitting industrial lobbies succeeded in delaying the publication *for eighteen years*, after it was initially proposed by the EPA in 1993.

Geothermal resource subzones were a principal part of the first geothermal permitting laws created by Act 296 in 1983. Those subzones – part of the State's comprehensive zoning statutes – were designated by the Board of Land and Natural Resources based upon scientific studies that were followed by public hearings. Criteria for establishing the subzones included the presence of geological factors necessary for geothermal development (*i.e.*, hot geothermal brine that could be accessed from the surface to transfer energy to electric generators) and also

certain community-related considerations. As a result, potential developers and homeowners were informed that particular, designated locales could be suitable for geothermal development.[4]

Last year, testimony on behalf of the BLNR lamented the costs associated with the effort of recreating geothermal resource subzones. That lament is not unfounded, but it is also not such an obstacle since the work has already been done in designating previously existing subzones. It is therefore appropriate in remedying Act 97 to restore the geothermal resource subzones *nunc pro tunc* (meaning literally *now for then*, to retroactively correct their repeal under Act 97) and simply reinstate them as if they had never been repealed (without additional cost or effort.)

The 2013 legislature passed Act 284 creating Hawai`i Revised Stautes (HRS) Chapter 658H, the Uniform Mediation Act. Mediation is defined in HRS § 658H-2 as "a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a *voluntary agreement* regarding their dispute."[5] The legal definition of the term thus seeks to mediate voluntary agreements regarding disputes. Contested case is defined by HRS § 91-1 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." A quasi-judicial contested case is intended to formally consider disputes on the basis of due process, evidence and a reasoned decision. Mandatory mediation (as first required in 1987 in former geothermal permitting laws) is inconsistent with the statutory definition of mediation's purpose as voluntary agreements regarding disputes – especially if mediation is imposed as a substitute for contested case proceedings. Mandatory mediation is not appropriate element for geothermal permitting procedures. That is not to say mediation is entirely inappropriate in geothermal permitting, as

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[4] "HRS § 205-5.1 authorizes the issuance of geothermal resource permits to allow geothermal development activities in geothermal resource subzones established within urban, rural, agricultural, and conservation districts by the Board of Land and Natural Resources in accordance with the procedures set forth in HRS 205-5.2. The purpose of HRS § 205-5.1 and -5.2 is to 'assist in the location of geothermal resources development in areas of the lowest potential environmental impact.'" *Medeiros v. Hawaii County Planning Comm'n*, 8 Haw. App. 183, 184, 797 P.2d 59, 60 (1990). "[T]he statutory scheme explicitly contemplates the Boards use of its discretion in determining the appropriate boundaries for designation of the geothermal resource subzone." *Dedman v. Board. of Land & Natural Resouorces*, 69 Haw. 255, 264, 74 P.2d 28, 34 (1987).

[5] In written testimony dated March 14, 2013, addressed to the House Committee on Judiciary, the Director of the Center for Alternative Dispute Resolution wrote on behalf of the State Judiciary that a purpose of the Uniform Mediation Act was to "advance the policy that the decision-making authority in the mediation process rests with the parties." That purpose is not compatible with using mediation as a prelude to a decision that will be made by a third party (in this case the government entity considering a geothermal resources development permit.)

HRS § 91-8.5 provides that *as part of a contested case proceeding* the partes may be referred to a mediator to see if some issues can be voluntarily narrowed or resolved. The appropriate use of mediation is an existing part of the statutes governing contested cases.

In sum, this testimony strongly opposes SB2663 SD1 because it perpetuates mandatory mediation in geothermal permitting, it preempts County home rule, it fails to restore geothermal resource subzones (repealed by Act 97), it fails to assure appropriate geothermal environmental review and it ignores Hawai`i County's recent Geothermal Public Health Assessment. In that regard, please consider the four proposed amendments for SB2663 SD2 addressing each of the four objections separately. If SB2663 is appropriately amended, we could support the bill.

Thank you for considering these thoughts.

Aloha,

Robert Petricci, President
Puna Pono Alliance

HU'ENA POWER

Bill #: **SB 2663 Relating to Natural Resources**
Committees: WAM
Hearing Date: February 27th, 2014
Time: 9:00 am
Location: Room 211 Date: February 25th, 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.

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,

_____
Roberta Cabral, Huena Power

2990 Pacific Heights Road Honolulu, Hawai'i 96813 • Office (808) 536-0434 • Fax (808)536-0274