

SB632

SD1

LATE

TESTIMONY

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Honolulu, HI 96819
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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

February 20, 2014

TO: HONORABLE CLAYTON HEE, CHAIR, HONORABLE MAILE SHIMABUKURO,
VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON JUDICIARY
AND LABOR

SUBJECT: OPPOSITION TO S.B. 632, SD1, Relating to the Environmental Courts. Establishes
environmental courts as divisions within the circuit courts to preside over
proceedings arising from environmental laws. Requires the Judiciary to report to
the Legislature on the total number of environmental-related cases filed in the last
five years.

HEARING

DATE: Thursday, February 20, 2014
TIME: 10:00 a.m.
PLACE: Conference Room 016

Dear Chair Hee, Vice Chair Shimabukuro and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over approximately hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

S.B. 2260, SD1 proposes to establish an environmental court within each circuit court to preside over matters related to environmental laws. GCA is in opposition to S.B. 632 SD1 because it is not necessary.

GCA believes that this measure is not necessary because most Environmental-Related Cases are Resolved by Administrative Proceedings and not by the Courts. Furthermore, there is no evidence that the State Courts' System of handling environmental cases is below standard and that such environmental courts would actually improve the outcome of such cases, in fact the creation of such a court could spur an increase of litigious actions filed in this area. Also, the State Judiciary does not support the establishment of environmental courts.

For these reasons, GCA opposes S.B. 632, SD1 and respectfully requests that this bill be deferred.



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February 20, 2014

HEARING BEFORE THE SENATE COMMITTEE ON JUDICIARY AND LABOR

TESTIMONY ON SB 632 SD1
RELATING TO THE ENVIRONMENTAL COURTS
Room 16
10:30 AM

Aloha Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

I am Christopher Manfredi, President of the Hawaii Farm Bureau Federation (HFB). Organized since 1948, the HFB is comprised of 1,832 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

HFB **opposes SB 632 SD1** that would establish environmental courts to hear all proceedings arising from certain environmental laws. Our members, farmers and ranchers throughout the State, believe that funding for this effort would be better spent in prevention; helping businesses comply with the extremely complex and difficult to interpret environmental laws and regulations already in place.

This bill is concerning for the following reasons:

- **Study First**
Section 6 of the bill instructs the judiciary to conduct a study to determine the number of environmental-related cases filed in the circuit courts in each of the past five years and report findings to the legislature no later than twenty days prior to the convening of the regular session of 2015. The study should not be limited to determination of the number of cases, but should include whether such a system is needed and whether it would produce significant benefits. Furthermore, this measure requires the environmental court system to take effect on Jan 1, 2015, **before** the results of any study can be analyzed and evaluated. The study should come first.
- **Necessity?**
Nationally respected UH Law Professor David Callies noted that environmental plaintiffs have been extremely successful in the Hawaii Supreme Court, which "has managed to find in favor of Sierra Club, Friends of the Earth, Earthjustice (I'm probably leaving out some) 90% of the time..."

The Judiciary itself believes that it has processes in place to ensure consistency in all cases, including environmental ones. And because the trial courts must follow the

appellate court decisions, the process insures consistent application of environmental laws.

- **Inefficient use of funds**

HFB urges this body to consider better utilizing the funds that would be needed for an entirely new court system. Hawaii businesses are extremely regulated with regard to environmental matters, but are not offered any kind of assistance in complying with these complex regulations. While it is true that some states have established environmental courts, we do not have the same issues or volume of cases here that warrant creation of a new system of this kind. Instead, funds could be used to increase awareness of the current environmental regulations and through educational programs, assist businesses in compliance with them.

Please **oppose SB 632 SD1**.

Thank you.



**Testimony to the Senate Committee on Judiciary and Labor
Thursday, February 20, 2014 at 10:30 A.M.
Conference Room 016, State Capitol**

**RE: SENATE BILL 632, SD1 RELATING TO THE ENVIRONMENTAL COURTS
(Revised Testimony)**

Chair Hee and Vice Chair Shimabukuro, and members of the committees:

The Chamber **opposes** S.B. 632 SD1 which proposes to establish environmental courts as divisions within the circuit courts to hear all proceedings, including judicial review of administrative proceedings and proceedings for declaratory judgment on the validity of agency rules authorized under chapter 91, arising under chapters 128D (Environmental Response Law, 339 (Litter Control), 339D (Electronic Waste and Television Recycling and Recovery Act) 340A, (Solid Waste) 340E (Safe Drinking Water), 342B (Air Pollution), 342C (Ozone Layer Protection), 342D (Water Pollution), 342E (Nonpoint Source Pollution Management and Control), 342F (Noise Pollution), 342G (Integrated Solid Waste Management), 342H (Solid Waste Pollution), 342I (Special Waste Recycling), 342J (Hazardous Waste), 342L (Underground Storage Tanks), 342P (Asbestos and Lead), 343 (Environmental Impact Statements), and 508C (Uniform Environmental Covenants Act).

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the “Voice of Business” in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state’s economic climate and to foster positive action on issues of common concern.

The bill provides the following justification for the bill: “The legislature finds that environmental disputes are currently dealt with in a variety of courts. This organizational structure inadvertently promotes inconsistent application of the wide variety of environmental laws.

The legislature also finds that the continued maintenance and improvement of Hawaii's environment requires constant vigilance and continued stewardship to ensure its lasting beauty, cleanliness, and uniqueness and the stability of its natural systems, all of which enhance the mental and physical well-being of Hawaii's people.

The purpose of this Act is to promote and protect Hawaii's natural environment through consistent and uniform application of environmental laws by establishing environmental courts.”

It is not clear from the information provided in the Bill why only certain types of environmental laws were identified to be under the jurisdiction of the proposed Environmental



Chamber of Commerce HAWAII

The Voice of Business

Courts. It is also unclear if the intent is to have the proposed Environmental Court oversee ALL types of environmental laws and permits. For example, the environmental laws administered by the State Department of Land and Natural Resources (i.e. Chapter 183C HRS) are not proposed to be included in the oversight of the proposed Environmental Courts.

In the past, we were under the impression that the Courts considered whether or not the responsible agency complied with the processes established in the environmental laws when agencies decisions were challenged in court. If the bill proposes that now the Environmental Courts would be making judgments on the substance of the facts considered by the agency in rendering its decision, then it would beg the question as to whether or not we should eliminate agency discretion in issuing permits/approvals on environmental laws and simply refer all actions to the Environmental Courts.

Thank you for the opportunity to express our views on this matter.



Get The Drift & Bag It!

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

NOTICE OF HEARING

DATE: Thursday, February 20, 2014
TIME: 10:30 am
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

Ref: SB 632 SD1

Good Morning,

My name is Chris Woolaway and I serve as the Hawai'i State Coordinator of the International Coastal Cleanup (ICC) which in Hawai'i is called "Get The Drift and Bag It!". "Get the Drift" is a program under the Statewide non-profit "Keep the Hawaiian Islands Beautiful" and it is also part of the largest global volunteer effort.

"Get The Drift and Bag It!" has been held in Hawaii since 1988 and since that time the problems such as illegal dumping have been well documented in our community. This Illegal dumping, littering, along with other community environmental health and safety problems, have brought neighbors against neighbors and communities against communities-It is most divisive!

Many of these community problems already have governmental actions addressed through State/County laws and zoning but the enforcement and/or fines are difficult to implement for our law enforcement professionals. Those in our communities trying to take responsibility for the environmental health around them find enforcement of the existing laws/zoning frustrating and with unequal treatment. The Environmental Court has been successfully addressing these and other health and safety problems in other communities on the mainland since 1979.

As with the other testimony being presented, our economy is our environment for our residents and for our visitors. Our hope is that you will pass Senate Bill 632 SD1, which will provide the tools to improve our neighborhoods and sustain long-term better health and safety in our communities statewide.

Mahalo, Chris

Chris Woolaway
Hawai'i State Coordinator
International Coastal Cleanup
P.O. Box 25008
Honolulu, HI 96825
www.getthedriftandbagit.com

The ICC is sponsored nationally and internationally by the Ocean Conservancy.
Ocean Conservancy promotes healthy and diverse ocean ecosystems and opposes practices that threaten ocean life and human life. Through research, education, and science-based advocacy, Ocean Conservancy informs, inspires, and empowers people to speak and act on behalf of the oceans. In all its work, Ocean Conservancy strives to be the world's foremost advocate for the oceans.

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

NOTICE OF HEARING

DATE: Thursday, February 20, 2014
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PLACE: Conference Room 016
State Capitol
415 South Beretania Street

In Hawaii, the Environment is the Economy.

Keep America Beautiful's (KAB) role in the area of environmental courts is a direct result of the community affiliates longstanding involvement in local effort to reduce litter and improve community waste handling practices.

The nation's first environmental court was established in 1978. As the concept for a special court to hear environmental cases focused on changing people's attitudes and behaviors, the benefits and environmental safeguards that these courts are now providing have created a KAB national resource initiative that is being proposed for Hawaii.

It was at the national KAB conference that I first heard Judge Larry Potter discuss the Memphis Shelby County (TN) Division 14 Environmental Courts. Judge Potter visited Hawaii and spoke at the statewide Laulima conference of 2008. His analysis of our judicial system, legislative process, and citizen's involvement indicated the concept of environmental court could be initiated without prohibitive costs administratively or legislatively and discussed this with Chief Justice Moon; he spoke before a legislative group and the University of Hawaii at Manoa William S. Richardson School of Law Environmental Law Program.

In 2012, Judge Potter returned to keynote the Laulima Conference held on Maui and a Senate Bill was proposed by Senator Gil Keith-Agaran and others to further advance this initiative into a judicial commitment which benefits our communities statewide.

Passage of SB632 SD1 this session can begin the necessary docket that compliments our Hawaiian environmental law and that continues to keep the Hawaiian Islands beautiful.

Mahalo, Jan Dapitan
Executive Director (KAB)
Keep the Hawaiian Islands Beautiful

Senator Clayton Hee
Committee on Judiciary and Labor

Keep the Hawaiian Islands Beautiful (KHIB) strongly supports SB 632 SD 1, and asks that the Committee on Judiciary and Labor, under your leadership, express its commitment to keeping Hawaii in the forefront of advances in environmental justice nationwide by passing SB 632 SD 1 out of committee to further consideration by the Senate.

Keep the Hawaiian Islands Beautiful is a local 501(c) (3) non-profit, serving as the Hawaii State affiliate of the national Keep America Beautiful organization. KHIB provides support to a wide variety of environmentally active groups, organizations, and agencies, including volunteers, the environmentally active, involved, and concerned citizens of this State number in the thousands.

There are those in our community who may not be actively participating in the various beach cleanups, graffiti removal efforts, roadside trash removal, beautification, and other “hands-on” activities, but nevertheless show their interest and concern by donating to these efforts. They also take the time and effort to voluntarily recycle everything from cell phones to appliances and these number in the tens of thousands.

These are your constituents, and they are looking for leadership from you in those areas that directly impact on their quality of life, and without doubt, one of these more significant areas is the environment.

As outlined in SB 632 SD 1, the establishment of an environmental court in Hawaii will bring significant benefits to the State in both the short- and long-term. It gives visibility and presence to Hawaii’s commitment to environmental stewardship, and will help ensure fair and equal application of our rapidly evolving environmental laws, with both direct and indirect benefits to our economy.

Keep the Hawaiian Islands Beautiful asks for your leadership and support for SB 632 SD 1. Mahalo, Mike

Michael C. Owens, President

Keep the Hawaiian Islands Beautiful

743 Waiakamilo Rd Ste H, Honolulu HI 96817-4336 USA

Ph: (808) 383-8177 Fax: (808) 847-5301

mowens@khib.org **www.khib.org**

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: notpono@yahoo.com
Subject: Submitted testimony for SB632 on Feb 20, 2014 10:30AM
Date: Wednesday, February 19, 2014 6:13:21 PM
Attachments: [24demandletter.pdf](#)

SB632

Submitted on: 2/19/2014

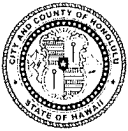
Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Johnnie-Mae L. Perry	Waianae Coast NB #24	Support	No

Comments: Please add: WE DEMAND: #6 WAIANAE COAST BECOME A "FEDERAL PROTECTED ENVIRONMENTAL JUSTICE ZONE." WE PROPOSE: #5 CORRECTION SHOULD BE "SPOILS" AND NOT SOILS. ON BEHALF OF THE WAIANAE COAST COMMUNITY, ITS RESIDENTS, CITIZENS, AND ENVIRONMENTAL GROUP SUPPORT SB 632,SD1. SINCERELY YOURS, JOHNNIE-MAE L. PERRY, CHAIR WAIANAE COAST NB #24

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



WAIANAЕ COAST NEIGHBORHOOD BOARD NO. 24

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 406 • HONOLULU, HAWAII, 96813
PHONE (808) 768-3710 • FAX (808) 768-3711 • INTERNET: <http://www.honolulu.gov>

January 6, 2014

RE: Hawaii Kai Marina Dredging Project
Hawaii Kai Marina Community Association/American Marina Corporation
and SER Trucking, Inc.

Dear Honorable Congressmembers, Federal, State and City:

Between the years of 2010-2013, the Hawaii Kai Marina Community Association/American Marina Corporation have gone through the necessary steps to get their dredging project underway, one, of which securing the necessary approvals and permits by the U. S. Corp of Engineer, Dep`t. of Health, Dep`t. of Land and Natural Resources, Hawai`i State of Dep`t. of Transportation, and the City and County of Honolulu, Dep`t. of Planning & Permitting and so forth.

In August of 2013, a constitute alerted our elected officials and the community leaders that some illegal dumping was occurring on Ag land in upper Wai`anae Valley Road. Few days later a spill of marina sludge occurred on the H-1 freeway by SER Trucking, Inc. When the public was informed by the news media that the sludge was being trucked to upper Wai`anae Valley Road, the community became outraged! As a result the community became vigilant of finding out more about the sludge and its origin.

As Chair of the Wai`anae Coast Neighborhood Board No. 24, I read the draft environmental assessment and more. In reading the DEA on the dredging project, it mentioned five (5) depository sites all located in Hawaii Kai. Furthermore, a traffic study was not requested, so why was the sludge trucked to the Wai`anae community? But more importantly, I have learned that all the permits that were issued or not were **breached on all levels of government, and Ms. Silva**, the owner of the trucking company! For your information, the state and city have two (2) approved landfills both located along the Leeward Coast. This incident led me to call two (2) special meetings in September and October 2013. The community was informed of my findings and other resident's findings. No doubt, they were outraged! In addition, I was the lone volunteer that attended the Hawaii Kai Neighborhood Board #01 twice to express my frustration and disappointment of this incident! Robert Clark, the president of the Hawaii Kai Marina Community Association is a member of the Hawaii Kai Neighborhood Board #01.

Enclosed, for your review, support, and immediate action are the residents, citizens, and the environmental group demands and proposals which was approved by the Wai`anae Coast Neighborhood Board No. 24 on December 3, 2013. Additional points to consider.

- POINT ONE: All the approved permits were "breached."
- POINT TWO: The approved agencies lack of enforcement.
- POINT THREE: Public trust and confidence in government diminished.
- POINT FOUR: Return the 'sludge or spoils" back to Hawaii Kai now!
- POINT FIVE: Safety of the "sludge or spoils" should never be the issue.

The Wai`anae Coast Neighborhood Board #24, and Senator Shimabukuro are in receipt of confirmation from Mr. George Atta, Director of DPP, Mr. Gary Gill, Director of Dep`t. of Health, and U. S. Army Corps of Engineer to attend the WCNB #24 on February 4th. Unconfirmed as of this writing are Mr. Glenn Okimoto, Director of HDOT and Mr. William J. Aila, Director of DLNR/BLNR. Your assistance in getting a confirmation from both gentlemen would be appreciated, especially from Mr. Glenn Okimoto, HDOT.

Honorable U. S. Senator Mazie Hirono and Brian Schatz, and Honorable U. S. House of Representative Tulsi Gabbard and Colleen Hanabusa, if you are in town during the meeting, we would be honored to have you attend.

In conclusion, if the "sludge or spoils" from the Hawaii Kai Marina was dumped in an undesignated site in Hawaii Kai or Kailua what actions, measurements, or proceedings would the city/state/federal agencies would have taken? It's been five (5) months since the spilled occurred, and we, the Wai`anae community have become impatient on an update and resolution to this environmental injustice! If this incident happened in the Hawaii Kai or Kailua communities, would they be still waiting?



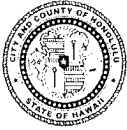
Please do not hesitate to contact me at waianaeb24@yahoo.com, if you have questions.

Sincerely yours,

Johnnie-Mae L. Perry, Chair
Wai`anae Coast Neighborhood Board #24

Attachment

CC: Neighborhood Commission Office



WAIANAЕ COAST NEIGHBORHOOD BOARD NO. 24

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 406 • HONOLULU, HAWAII, 96813
PHONE (808) 768-3710 • FAX (808) 768-3711 • INTERNET: <http://www.honolulu.gov>

December 3, 2013

TO: Wai'anae Coast Neighborhood Board #24, Chair

Mayor Kirk Caldwell

Councilmember Kymberly Pine, District 1

Governor Neil Abercrombie

Senator Maile Shimabukuro, District 21

Representative Jo Jordan, District 44

Representative Karen Awana, District 43

The Honorable Mazie Hirono, U. S. Senate

The Honorable Brian Schatz, U. S. Senate

The Honorable Tulsi Gabbard, U. S. House of Representative, District 1

The Honorable Colleen Hanabusa, U. S. House of Representative, District 2

FROM RESIDENTS: Concerned residents, concerned citizens and the environmental working group.

It has been established and reported in both print and broadcast news that a substantial amount of dredged materials from the Hawai'i Kai Marina have been transported and deposited in Wai'anae Valley. Based on publicly acknowledged information, there is no disagreement that the depositing of such materials was not properly permitted by city, state, and federal agencies. Despite this public knowledge, the Waianae community within the boundaries of the Waianae Coast Neighborhood Board #24 has yet to receive information on any progress regarding this issue. In light of this situation, we demand and expect community dialogue with public officials. The following demands incorporate our grassroots vision for a healthy environment where we can live, work, play, and learn.

We Demand:

1. The Department of Health Solid and Hazardous Waste branch update Wai'anae Coast Neighborhood Board #24 on their findings and progress to date AND enforce HRS (Hawai'i Revised Statute) 342, particularly section H on Solid Waste Pollution, regarding the presence of approximately 313 cubic yards of "spoil" that was transported from Hawaii Kai Marina to 85-1383C Waianae Valley Road, TMK 8-5-004:004.
2. The Department of Planning and Permitting update Wai'anae Coast Neighborhood Board #24 on progress to date on Notice of Violation of grading permit for "spoil" materials originating at Hawaii Kai Marina that was deposited at 85-1383C Waianae Valley Road, TMK 8-5-004:004. The Notice of Violation deadline was November 7, 2013. We also demand that when attending the Wai'anae Coast Neighborhood Board #24 meeting, the DPP explain the scope of their authority to order the removal of grading material that was not a permissible activity. This is a concern should the DOH determine to leave the spoil in place, given that the material has been deemed "nontoxic" and "nonpolluting."
3. Dialogue with the U. S. Army Corps of Engineers about why the South Oahu Ocean Dredge Material Disposal (SOODMD) site was not used to deposit the material, and whether there was criteria and reasoning for the rejection of this site.
4. Public Utilities Commission revoke the SER Trucking, Inc. license to operate as a motor carrier in the State of Hawai'i.
5. Wai'anae's elected state legislators invite DLNR, DOH, HDOT, and U.S. Army Corp of Engineers to the February 4, 2014 Wai'anae Coast Neighborhood Board #24 meeting to speak to the issues outlined in this document.



We Propose:

1. Waianae State and City elected officials work with Wai`anae Coast Neighborhood Board #24 Transportation Committee and the Waianae Moku trucking businesses to examine the feasibility of creating a central base yard for small trucking companies in Waianae.
2. The Department of Transportation establish a mobile weigh station at or near Kahe on the Leeward Coast of O`ahu, Hawai`i.
3. Senator Shimabukuro, Representatives Jordan and Awana introduce a legislative bill determining that the Chief Justice assign an existing Judge to preside over an environmental justice court in the next legislative session onward until a Bill is passed.
4. Senator Shimabukuro, Representatives Jordan and Awana introduce a legislative bill determining that the Department of Health appropriate state funds to further existing, ongoing community efforts that advocate and ensure environmental justice and equity and create programs that develop the next generation of leaders, stewards, and keepers of the `aina. Such efforts should necessarily address the over 100 year history of environmental degradation, dispossession, disruption of subsistence practices, and desecration of sacred sites in Waianae
5. The Hawaii Kai Marina Community Association work with Hawaii Kai Neighborhood Board #01, city and state to develop a management plan for how they propose to dispose future soils in their ahupua`a.



**Testimony of
Martha Townsend, Executive Director
The Outdoor Circle**

**Before the Senate Committee on
Judiciary and Labor**

Regarding SB632, SD1 relating to the Environmental Courts

**Thursday, February 20, 2014
10:30 am in room 16**

Aloha Chairman Hee and members of the Committee on Judiciary and Labor,

The Outdoor Circle **strongly supports the passage of SB632, SD1**. Protecting the natural environment is fundamental to the laws of State of Hawai'i. In Article XI, section 1, the Hawai'i Constitution mandates "the state and its political subdivision shall conserve and protect Hawai'i's natural beauty and all natural resources." It further provides in Article XI, section 9 that "each person has the right to a clean and healthful environment... including control of pollution and conservation, protection and enhancement of natural resources. Any person may enforce this right against any party, public or private, through appropriate legal proceedings." These protections are echoed in state statutes and county ordinances that seek to protect Hawai'i's unique natural and cultural resources.

Yet, compliance with these laws are lax, at best. Illegal dumping, auto-repair in residential neighborhoods, contamination in state wildlife refuges, harassment of state protected species, litter along streams and beaches, noise pollution, sludge released into our neighborhoods, medical waste in our ocean, repeated violation of state-issued environmental permits -- these have all become common experiences in our islands. As it is now, many of these violations do not even make it into a court room. This lack of enforcement cultivates a culture of crime against the environment for which there is no apparent punishment.

If our environmental laws are to mean anything, then we must act to enforcement them.

Establishing an Environmental Court is a key mechanism for enforcing our environmental laws. In the same way that Family Court has helped to raise awareness of and address issues related to domestic violence and youth criminal activity, the Environmental Court can help to raise awareness of and encourage protection of Hawai'i's imperiled natural environment.

Environmental Courts are used in 340 countries around the world and 34 Environmental Courts are found in the United States. In these jurisdictions, the rates of both enforcement of and compliance with environmental laws is higher than in jurisdictions without an Environmental Court. Unlike Hawai'i, these jurisdictions are tracking environmental cases and their evidence documents the trends in improved citizen reporting, timely action by enforcement officers, greater attention from prosecuting agencies, and consistency in case outcomes. We encourage the Committee to review "Greening Justice: Creating and Improving Environmental Courts and Tribunals" by George Pring and Catherine Pring, published for The Access Initiative by the World Resources Institute.

We note the support of state agencies like the Department of Land and Natural Resources and the Office of Hawai'ian Affairs. We support implementing the Environmental Court at the District or Circuit Court level. It is true that many environmental enforcement cases are adjudicated at the District Court level, while appeals from administrative agency hearings are handled at the Circuit Court level. A pilot project at either level of the court system would help to demonstrate the effectiveness of an environmental court system.

We also note the support of key advocacy organizations like the Conservation Council of Hawai'i, the Hawai'i Wildlife Fund, Keep the Hawai'ian Islands Beautiful, the Hawai'i Chapter of Americans for Democratic Action. The Outdoor Circle agrees that the concept of an environmental court should extend to the administrative level of agency action, as well. A notion even the Department of Health and the Land Use Research Foundation support, in order to improve adjudication of environmental laws from the administrative level through to the court system.

In addition, many key individuals submitted testimony in support of SB632, including Councilwoman Ann Kobayashi. These constituents all echoed the same concern for Hawai'i's beloved environment and the State's abysmal track record for enforcing the laws designed to protect that environment.

While the Judiciary submitted testimony opposing the formation of an Environmental Court, its argument against the need for this specialty court is overcome by its own admission that it does not track environmental cases in the court system. One's own experience of our islands documents the widespread disregard for the layers of environmental laws enacted to protect the public's health and maintain our quality of life. The **lack of enforcement of environmental laws also means it is likely that the State of Hawai'i forgoes considerable revenue from the collection of fines** in environmental cases.

With this bill we are seeking a change in the attitudes and culture of Hawai'i. We want a Hawai'i where our laws are respected and our environment is protected, where grand proclamations of a clean and healthy environment are not undercut by lax enforcement. If these laws are to mean anything, then they must be enforced, consistently. Passing SB632 is the first step towards ensuring fair and consistent enforcement of our environmental laws.

Thank you for the opportunity to provide testimony. I am available to answer questions, if there are any.

From: [Mary King](#)
To: [JDL Testimony](#)
Subject: SB 632
Date: Wednesday, February 19, 2014 12:22:53 PM

We have lived in Hawaii more than 60 years and each year the environmental laws are broken with no consequences: hopefully this bill will help with enforcement! Thank you. Mary and Harvey King, Kailua, Hawaii

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: aavery@hawaii.rr.com
Subject: Submitted testimony for SB632 on Feb 20, 2014 10:30AM
Date: Wednesday, February 19, 2014 12:56:31 PM

SB632

Submitted on: 2/19/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Alexandra Avery	The Outdoor Circle	Support	No

Comments: Dear Senator Hee and Committee Members, Mahalo for taking the time to review this important Senate Bill 632 at a second reading. Our state wide membership feels it is time this bill be activated into law so that we can all do a better job of preserving the health and value of our environment. It makes sense that Hawaii would benefit with an Environmental Court because after all, it is the hand that feeds us through tourism, for one. Please pass this measure of efficacy into state law. Alexandra Avery President, The Outdoor Circle

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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From: [Diane Harding](#)
To: [JDLTestimony](#)
Subject: SB632 Establishing an Environmental Court
Date: Wednesday, February 19, 2014 2:04:34 PM

Please support this bill that will promote consistent and uniform application of the environmental laws of Hawaii, through a system that allows cases to be heard by a court well-versed in those laws.
Thank you,

Diane Harding
167 Ainoni Street
Kailua, HI 96734
(808)262-1826

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: drjlam@aol.com
Subject: Submitted testimony for SB632 on Feb 20, 2014 10:30AM
Date: Wednesday, February 19, 2014 3:14:46 PM
Attachments: [SB 632 Environmental Court.html](#)

SB632

Submitted on: 2/19/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
jerry lam	Individual	Support	No

Comments: support of Senate Bill 632 SD 1. The assaults on Hawaii's beauty and environment laws are continuous and our community needs a focused, specialized group of judges who are experts in environmental law. The purpose of this Act is to promote and protect Hawaii's natural environment through consistent and uniform application of environmental laws by establishing environmental courts. Actions which break environmental laws can be dealt with efficiently and competently. Environmental statutes and regulations are sometimes very technical and require considerable study before judges are equipped to rule in these cases. Criminal wrongdoing can be quickly enforced to collect fines and further sustain this Environmental Court. Other States have found success with an Environmental Court and a pilot project would be advantageous to show its costs and benefits. Please vote YES on SB 632!

I am testifying in strong support of Senate Bill 632 SD 1. The assaults on Hawaii's beauty and environment laws are continuous and our community needs a focused, specialized group of judges who are experts in environmental law. The purpose of this Act is to promote and protect Hawaii's natural environment through consistent and uniform application of environmental laws by establishing environmental courts. Actions which break environmental laws can be dealt with efficiently and competently. Environmental statutes and regulations are sometimes very technical and require considerable study before judges are equipped to rule in these cases. Criminal wrongdoing can be quickly enforced to collect fines and further sustain this Environmental Court. Other States have found success with an Environmental Court and a pilot project would be advantageous to show its costs and benefits. Please vote YES on SB 632!

Jeremy Lam, M.D.
2230 Kamehameha Avenue
Honolulu, HI 906822
drjlam@aol.com

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Testimony for SB 632 SD1

Committee on Judiciary and Labor

February 20, 2014

Room 016

SUBJECT: SB 632 SD1 - RELATING TO THE ENVIRONMENTAL COURTS

POSITION: Support

Aloha Senator Hee, Shimabukuro and members of the Committee on Judiciary and Labor,

I am in support of the intent of this bill.

As the complexities become more and more evident as we enter into new arenas for environmental concerns, i.e. undersea cable, landfills running out of space, etc. throughout the State, an Environmental Court with specific judges assigned to cases should provide a better learned process regarding the national and international concerns that are facing our future land uses and livability for all with respect to how lands and other resources are utilized for the benefit of all, residents and visitors alike.

As has also been evidenced recently, environmental justice is becoming a major item of concern as it relates to injustices done, whether knowingly or unknowingly. An example of this is the current case as being experienced in West Virginia with the spillage of the chemical MCHM affecting over 300,000 people who are still wondering about the safety of the water that “officials” say is okay to use unless you are a pregnant woman. An experienced judge who understands the environmental requirements of containment of spillages of chemicals and other environmental laws would be in a position to more easily understand the nuances of these laws with relationship to the health and safety of human being along with our natural resources, plants and animals.

I am requesting your favorable consideration of this bill.

Mahalo,

Cynthia K.L. Rezentes

Testimony In Support of SB632 SD1 - Relating to the Environmental Courts
February 19, 2014

A beautiful, clean, and healthy environment is fundamental to the quality of life for Hawai'i's residents and the foundation of a visitor industry that brought \$1,339 million in expenditure to the state in 2013.

The cost of establishing the Environmental Courts is a small price to pay to ensure the continuing protection and preservation of the environment that sustains us.

I strongly support the passage of SB632 SD1.

Mahalo,
Pauline Mac Neil
Kailua, HI 96734

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: blockard@iname.com
Subject: *Submitted testimony for SB632 on Feb 20, 2014 10:30AM*
Date: Wednesday, February 19, 2014 4:03:35 PM

SB632

Submitted on: 2/19/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Brodie Lockard	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: capletr001@hawaii.rr.com
Subject: Submitted testimony for SB632 on Feb 20, 2014 10:30AM
Date: Wednesday, February 19, 2014 5:51:09 PM

SB632

Submitted on: 2/19/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

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

Comments: Aloha Senator Hee and members of the Judiciary Committee, Thank you for this opportunity to testify in strong support of SB 632, SD1 to establish an Environmental Court in the State of Hawaii. As a society, we in Hawaii value our natural environment above most other things. We enshrined in our constitution that all residents have a right to a "clean and healthful environment." We have departments at the state and county levels entrusted with protecting our natural resources for use now and forever into the future. Yet, enforcement against violations of our environmental laws is often inconsistent between courts and within agencies. This fosters confusion, undermines compliance, and fuels further litigation. Environmental statutes and regulations are sometimes very technical and require considerable study before judges are equipped to rule in these cases. Establishing a section of our state court system to adjudicate violations of our environmental laws will help to improve enforcement of these laws. Improved enforcement will lead to reliability in the interpretation of and better compliance with environmental laws. This will lead to a clearer environment and better public health for all residents of Hawaii. This is why I urge you to pass SB 632, SD1. Thank you, Richard Caplett Honolulu, Hawaii

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From: [Elaine and Sarge](#)
To: [JDLTestimony](#)
Subject: SB 632 testimony
Date: Wednesday, February 19, 2014 9:52:41 PM

Aloha Senator Gabbard and members of the Energy and Environmental Committee,

Thank you for this opportunity to testify in strong support of **SB 632 to establish an Environmental Court in the State of Hawaii.**

Judge Larry E. Potter of Memphis, Tennessee, created the third environmental court in the United States in 1982. "Many of the concepts that are now standard to this type of court in America were designed and developed under his leadership. CNN described him as a "national role model". Judge Potter travels and consults frequently working in major cities in America helping establish environmental courts". Two years ago, Judge Potter visited Hawaii at the request of Keep Hawaiian Islands Beautiful, an affiliate of Keep America Beautiful, to share the importance of establishing an environmental court in State of Hawaii.

It is overdue for Hawaii to establish its own environmental court to protect the priceless natural environment of our islands. Our State constitution states that all residents have a right to a "clean and healthful environment". We have departments in the State and County levels protecting our natural resources but enforcement against violations are not always clear enough which causes confusion and because of environmental statutes and regulations are sometimes technical and require considerable study.

Establishing a section of our state court system to address violations of our environmental laws will help to improve enforcement of these laws which would lead to better interpretation of the laws and better compliance with environmental laws. The result is a cleaner and healthier environment for the people of Hawaii and for our future generations.

This is why I urge you to pass SB 632.

Mahalo nui loa,
Elaine Malina
Kihei, Maui, Hawaii

Maui Outdoor Circle President

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: k.m.watson@earthlink.net
Subject: Submitted testimony for SB632 on Feb 20, 2014 10:30AM
Date: Thursday, February 20, 2014 10:02:54 AM

SB632

Submitted on: 2/20/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Kathleen Watson	Individual	Support	No

Comments: REVISED: Please consider the establishment of an Environmental Court in Hawaii to make law enforcement more consistent and help protect our unique islands. Thank you.

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