

SCR 104 / SR 52

REQUESTING THE SEVERAL COUNTIES TO REEVALUATE AND IF NECESSARY, UPDATE THEIR BEST MANAGEMENT PRACTICES FOR CONSTRUCTION TO MINIMIZE SOIL EROSION AND SEDIMENT RUN-OFF.



hui o ko'olaupoko

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Kailua, HI 96734
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www.huihawaii.org*

Name: Todd Cullison, Executive Director

Date/Time: Monday, March 24, 2014

Title: Testimony in support of SCR104 and SR52, Relating to Updating Best Management Practices requirements for construction to minimize soil erosion and sediment run-off

Submitted to: The Senate Committees – PSM and ENE

Ladies and Gentlemen of the Committee,

I support SCR104 and SR52 to further strengthen water quality Best Management Practices (BMPs) and current National Pollutant Discharge Elimination System (NPDES) regulations that work to protect our stream and ocean health.

Hui o Ko'olaupoko (HOK) is a 501(c) 3 non-profit organization working on protecting ocean health through ecosystem restoration practices. As Executive Director, I focus on storm water management and water quality issues on a daily basis and implement on-the-ground projects to mitigate the effects of storm water pollution on our aquatic and marine environments. In 2007, as part of the Kailua Bay Advisory Council, I completed extensive research and co-authored the Ko'olaupoko Watershed Restoration Action Strategy which provided direction for the implementation of storm water BMPs across windward O'ahu. HOK is currently implementing many of these recommended projects within Ko'olaupoko as well as various sites across the State. These projects work to capture and infiltrate storm water into the ground, thus filtering out contaminants, setting sediments, reducing the amount of runoff that is polluting our streams and ocean. HOK has become an expert in the field of storm water BMPs and strongly supports the use of storm water BMPs in both pre- and post- construction design.

In order to protect our waters, States, municipalities and private companies must comply with increasingly strict permit requirements enforced by the federal Environmental Protection Agency and State of Hawai'i Department of Health. Storm water BMPs, if used effectively and diligently in both pre- and post- construction activities, have the potential to greatly protect water quality and the health of our natural resources. Therefore, re-examination of construction BMPs may be necessary to ensure that design plans are achieving effective storm water management on their project sites. However, with many regulations already in place, it is extremely important that the State and municipalities ensure proper oversight and monitoring of construction contractors and BMPs site plans. It is evident through our observations that many construction projects are not meeting even basic requirements for storm water management and need to be

hok *Protecting ocean health by restoring the 'āina: mauka to makai*



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held to a high standard in order to protect Hawai'i's valuable water resources. Therefore, please consider SCR104 and SF52 as a means of addressing erosion and sediment run-off issues that have been demonstrated on numerous construction projects in windward O'ahu and across the State of Hawai'i.

Currently, HOK has several restoration projects including riparian restoration, a residential rain garden program and a large project at Windward Community College to install 6,000 square feet of rain gardens and native vegetation. Since our staff is working at these various project sites please accept this written testimony in lieu oral testimony.

Thank you for your time and consideration.

Todd Cullison
Executive Director

Written Testimony Presented Before the Joint
Senate Committee on Energy and Environment
and
Senate Committee on Public Safety, Intergovernmental and Military Affairs

Wednesday, March 25, 2014, 3:45 p.m
Conference Room 225

by
Donald B. Young
Personal Testimony

SCR 104/SR 52 REQUESTING THE SEVERAL COUNTIES TO REEVALUATE AND, IF
NECESSARY, UPDATE THEIR BEST MANAGEMENT PRACTICES FOR CONSTRUCTION TO MINIMIZE
SOIL EROSION AND SEDIMENT RUN-OFF

Chair Gabbard, Vice Chair Ruderman, and Members of the Senate Committee on Energy and
Environment;
Chair Espero, Vice Chair Baker, and Members of the Senate Committee on Public Safety,
Intergovernmental and Military Affairs

My name is Donald Young. I am resident of Kailua, Enchanted Lake area, and strongly support
SCR 104/SR 52.

Despite current law, rules and policy, my neighborhood, my property and those of my neighbors
have been severally impacted by insufficiently contained runoff from hillside development into
Enchanted Lake. As a result tons of silt and nutrients have been dumped in our backyards
resulting in severe algal blooms and fish kills and devaluation of properties. Clearly current rules
are insufficient to protect homeowners and natural environments downslope from developments/
construction practices that result in uncontrolled contamination. It is time to reexamine current
best management practices and update them accordingly.

As SCR 104/SR 52 clearly points out, with the increasing rate of climate change such damaging
runoff can be expected to increase in amount and frequency in the future. We need reevaluation
now and enforceable policies to protect us all.

Thank you for the opportunity to testify.

23 March 2014

Leroy Perry
579 Keolu Drive Apt. D
Kailua, HI 96734

“Testimony in support of SCR104 and SR52, Relating to Updating BMP requirements for Construction to minimize soil erosion and sediment run-off
Submitted to: The Senate Committees - PSM and ENE”

I support SCR 104 and SR52 because, I live on Enchanted Lake in Kailua, and have witnessed too many ill effects of runoff pollution to our Lake after heavy rains.

Present Best Management Practices need to be reevaluated to minimize soil erosion and sediment run-off that may damage our waters.

Respectfully Submitted
Leroy Perry

Jane Carlile
1188 Akuila Place
Kailua, Hi 96734

Testimony in support of SCR104 and SR52, Relating to Updating BMP requirements for Construction to minimize soil erosion and sediment run-off

Submitted to: The Senate Committees - PSM and ENE"

I support SCR104 and SR52 and strongly urge you to approve this Resolution.

It is essential that run off from construction projects and other changes to the landscape be mitigated so that water pollution and other adverse side-effects do not occur or at the very least are minimized. Heavy winter rains, or any heavy rain at any time, is a dangerous threat to the ecosystem that surrounds us and is responsible for much of the beauty of the islands and the reason that we all enjoy living here so much not to mention the reason that so many other people wish to visit Hawaii and thus produce the economic driving engine of the islands. We cannot abandon the responsibility to protect our environment and must not let lax attentiveness to construction site preparation produce run-off that causes deadly algae bloom and pollutes our lakes, streams and other water sources. This occurred in Kaelepulu Pond/Enchanted Lake in recent years and is now in the courts for resolution. This problem should be strongly prevented by law and not allowed to kill fish and pollute our natural water resources.

Please support SCR104 and SR52.

Jane A. Carlile
Kaelepulu Pond Shore Resident

- a. Margaret N Novack
- b. Mar 23, 2014
- c. Title: "Testimony in support of SCR104 and SR52, Relating to Updating BMP requirements for Construction to minimize soil erosion and sediment run-off"

Submitted to: The Senate Committees - PSM and ENE"

I support SCR104 and SR52 because my family and I have observed the results of having ineffective BMP requirements for Construction to minimize soil erosion and sediment run-off. We live lake-side of Enchanted Lake (Kaelepulu Pond) and have seen repeated mud/sediment flows into the lake over these last few years.

When BMP are ineffective or simply not observed, the lake receives all the run-off and the residents must contend with fish kills (large and small), overwhelming algae growth, and decreased depth of water.

It must be noted that Enchanted Lake is only part of a complex system whose waters flow out of the lake, through Kaelepulu Canal, and directly into Kailua Bay. A brown-water Kailua Beach event is inevitable.

Enchanted Lake is maintained by the Enchanted Lake Residents Association (ELRA), a 501c(3). As a 501c(3), ELRA has no enforcement authority and is dependent on the variable good-graces of the several construction firms that are operating on the sides of the hills surrounding the lake. ELRA simply does not have the manpower, equipment or funding for the repeated cleanups and dredging that is necessary to maintain the health of the lake, the canal, the beach.

Byron D. & Sharon F. Hendrix
1379 Kahili St.
Kailua, HI 96734
Tele: 808-261-4986
Email: snbhendrix@yahoo.com
March 24, 2014

Testimony in support of SCR104 and SR52, Relating to Updating BMP requirements for Construction to minimize soil erosion and sediment run-off.

Submitted to: The Senate Committees - PSM and ENE

We support SCR 104 and SR52 because it is the right thing to do!

We live on Enchanted Lake and we see the DEAD FISH and MUD in the lake. You must tighten up the BMP requirements if you expect to have clean water in any of our lakes or streams or wetlands or even the ocean. We know its "all about the money" but you must do the right and just thing here.

March 23, 2014

Hawaii State Capitol

"Testimony in support of SCR104 and SR52, Relating to Updating BMP requirements for Construction to minimize soil erosion and sediment run-off Submitted to: The Senate Committees - PSM and ENE"

I support SCR 104 and SR52 because without it the progression of environmental deterioration will continue to degrade the important waterways of our beloved community.

Overzealous construction in the areas overlying the Enchanted Lake basin has resulted in numerous problematic runoffs and responsibility has been denied by the very culprits causing them and the existing outdated legislation in place does nothing to diminish the damaging continued onslaught. In short, current requirements for the builders are inadequate for large scale projects, projects on steep slopes, and grading and grubbing during seasonal periods of higher rainfall such as the winter months.

Please pass the legislation necessary to help support the preservation of our precious waterways and their interrelated correlation which will guarantee our future stewardship and the public's continued enjoyment of our aina.

Most sincerely yours,

Dr. Stephen M. Kofsky
453 Keolu Drive
Kailua, HI. 96734

Good afternoon Representatives and Members of the Committee,

My name is Vignesh Rathnam. I am a senior political science student at the University of Hawaii at Manoa, and I am writing to urge your support of SCR104. This resolution is an important protective measure which must be addressed in order to preserve and improve Hawaii's environment and ecosystem.

Uncontrolled sediment runoff from construction sites can significantly impact Hawaii's natural water sources, oceans and water reservoirs. Sediment in water bodies from construction sites can reduce the amount of sunlight reaching aquatic plants, clog fish gills, smother aquatic habitat and spawning areas, and impede navigation. As storm water flows over a construction site, it can pick up pollutants like sediment, debris, and chemicals and transport these to a nearby storm sewer system or directly to coastal water. Polluted storm water runoff can harm or kill wildlife. Sedimentation can destroy aquatic habitats, and high volumes of runoff can cause bio erosion. Debris can clog waterways and reach the ocean where it can kill various species of marine wildlife impacting their ecosystem.

National Pollutant Discharge Elimination System regulations for storm water discharges address the national problem associated with polluted runoff. Local governments should ensure residents and business on ways to keep waters clean. Paint thinner and paint products, motor oil, pesticides, foam cups, paper products of all kinds, animal feces, antifreeze, golf balls, dirty diapers and dead animals are but a few of the pollutants found in the storm drains.

This issue does not require construction agencies to halt their current projects on improve state's infrastructure and housing developments. However, a safer practice of disposing building materials would be favorable to ensure safe environmental consequences. Organizations such as Re-Use Hawaii primarily focus on re-using their left over material from new and re-construction projects. This way harmful chemicals and building debris are carefully stored and not wasted, as well as having major financial cut backs.

Hawaii's tropical climate also plays as a contributing factor to ensure safe disposal of constructions materials. Hawaii experiences several situations of extreme flash events characterized by high flows of short duration. These temporal variations in stream flow are due to frequent storms of intense rainfall, small watersheds, steep topography, and limited channel storage. Consequently, if our waterways and drain systems are blocked with waste material, we could face a rise in reseeded rainfall water on our roads which will cause major infrastructural damages

Members of the committee, the necessity of new infrastructural and housing projects is definitely inevitable especially with the rapid population increase we are facing. However, I believe we should take into account the reciprocal effect we are having on the environment. We are continuously covering plateaus of green land with roads and buildings which in effect is already harming the environment. Why can't we at least do the very minimum and take responsibility for our avoidable and improper practices of safe disposal. Let's protect our home and keep it healthy and clean.

Sincerely,

Vignesh Rathnam

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 23, 2014 9:40 AM
To: PSMTestimony
Cc: slowviper@juno.com
Subject: Submitted testimony for SR52 on Mar 25, 2014 15:45PM

SR52

Submitted on: 3/23/2014

Testimony for PSM/ENE on Mar 25, 2014 15:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Compton	Individual	Support	No

Comments: I am in strong support of this measure to protect our streams and wetlands from the effects of construction run off. Numerous projects on the windward side have used minimal control measures that are regularly overwhelmed by the normal, heavy rains very common on the windward side. The control measures should be adequate to protect our environment from the run-off from a 10 or 50 year event. Also the contractor should be required to pay for the removal of the run-off and clean-up of the pollution caused by inadequate measures. A small fine unfortunately rewards the contractor; it is simply cheaper to pay the fine than prepare an adequate run-off control measure.

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

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 24, 2014 8:47 AM
To: PSMTestimony
Cc: jbsestak@prodigy.net
Subject: Submitted testimony for SR52 on Mar 25, 2014 15:45PM

SR52

Submitted on: 3/24/2014

Testimony for PSM/ENE on Mar 25, 2014 15:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Betty Sestak	Individual	Support	No

Comments: Obviously some construction companies are not using best practices and causing excessive runoffs that result in brown water and excessive algae growth.

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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March 24, 2014

RE: Testimony in support of SCR104 and SR52, Relating to Updating BMP requirements for Construction to minimize soil erosion and sediment run-off

Submitted to: The Senate Committees - PSM and ENE

Dear Senators,

My name is Doug Kroll. I am a small business owner in, and a lifelong resident of, Kailua. I attended Enchanted Lake Elementary School and have lived on the lake for nearly 20 years.

I fully support SCR104 and SR52 because I believe it is critical that we find ways to better protect our waterways from sediment runoff and protect our hillsides from soil erosion during construction projects. I am a firsthand witness to the damage caused to Kaeleupulu Pond and the near shore waters off Kailua Beach after this last round of development on the hillsides above Kaeleupulu Elementary. All our oyster beds have been destroyed, we have seen weird fluorescent green algae blooms and fish die offs to an extent never seen before.

This is reminiscent of what we saw in the 70's of Kaneohe bay nearly being destroyed by development run off. Kaeleupulu is much smaller body of water with very limited circulation compared to Kaneohe Bay. We have to have strong laws to protect our waters like this, where many of the our fish spawn and the babies thrive before going to the ocean

I want to see my children and their children enjoy our waters like I did as a child. Under current best management practices, that is unlikely to happen. I urge you to pass this resolution so we can take a close look and find ways to improve Hawaii's policies regarding BMP's for construction sites.

Sincerely,

Dr. Douglas Kroll, DC

March 24, 2014

RE: Testimony in support of SCR104 and SR52, Relating to Updating BMP requirements for Construction to minimize soil erosion and sediment run-off

Submitted to: The Senate Committees - PSM and ENE

Dear Senators,

My name is Evan Kroll. I am fifteen years old, was born in Kailua and have lived all my life at my family home on Kaelepulu pond. I have been passionate about all things fish related for as long as I can remember. In three years, I hope to attend the University of Hawaii as both a volleyball player and marine biology student.

I fully support SCR104 and SR52 because Hawaii's waterways and ocean deserve the best protection we can offer. I remember when the lakefront of my home had an abundance of oysters. I have assisted in lake clean ups where we hauled out tons of invasive algae and dead fish. The quality of the water in our oceans, streams and canals is essential to healthy fish.

Please pass the resolution. If you do, maybe someday we will once again have oysters in our lake and healthy fish populations.

Sincerely,

Evan Kroll

Le Jardin Academy, 9th grade

Cindy Turner
March 24, 2014

Testimony in support of SCR104 and SR52, Relating to Updating BMP requirements for Construction to minimize soil erosion and sediment run-off

Submitted to: The Senate Committees - PSM and ENE

I support SCR104 and SR52 because current regulations and enforcement are inadequate and ineffective – resulting in numerous serious runoff incidents from construction sites that cause long-term damage to streams, lakes and bays in Hawaii.

I have seen first-hand the devastating impact of these construction-related pollution events – events that could have been prevented.

I am one of the owners and managers of Kaelepulu Wetland located in Enchanted Lake. When we first took over management of the wetland, we had no idea that the muddy storm-water runoff from construction sites was anything more than a temporary eyesore.

Now I know the horrible, long-lasting effects. Silt-laden runoff brings “nutrients” into a delicate ecosystem. This causes algae and seaweed to grow exponentially. This growth pulls oxygen out of the water and if conditions are “right”, fish literally suffocate in the water and die... in vast numbers. We have picked up more than 900 lbs of dead tilapia during just one of these die-offs – that’s a lot of big, heavy, and very smelly, black trash bags full of dead fish.

If we did not remove these thousands of dead fish, they would decay and start the process that causes avian botulism... with the ability to kill most, if not all, of the endangered Hawaiian waterbirds in the wetland.

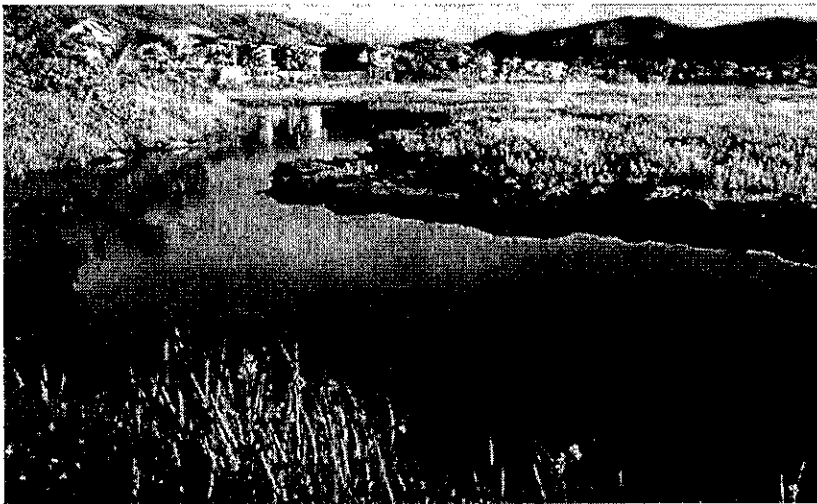
Current regulations regarding grubbing and grading on large areas or sloping lots must be revised to be effective. Rules must be in place to prevent acres of land from being scraped and exposed during the wettest months of the year.

Current rules do not require grassing or stabilizing bare dirt until all the grading is complete... these rules encourage developers to postpone re-grassing and sets the stage for massive muddy run-offs when a storm hits.

Attached are photos of the Kaelepulu Wetland before and after a storm in November 2013. Also attached are photos of the development that caused this. We asked the C & C building inspector to look at the construction site that caused the muddy run-off, as it seemed to us that there must be a violation. His email response to me was that he found that “the BMPs installed are as per plans.” Which means the contractor was doing what he was required to do to control runoff, and that everything was right in the city’s eyes... *but, in our eyes, this is clearly not right!*

Contractors and developers can control muddy-runoff from construction sites – but the current rules do not make them do it.

Please vote to approve these two resolutions.



Kaelepulu Wetland under normal conditions.



The same area of Kaelepulu Wetland on November 11, 2013, after a rain storm brought muddy runoff from the Olomana Heights construction site through storm-drains and into Enchanted Lake and the wetland.



The entrance to Olomana Heights, after the storm. The BMPs for this construction site were installed as approved by the City Planning and Permitting department and to the building inspector's satisfaction.

Hugo de Vries
March 24, 2014

Testimony in support of SCR104 and SR52, Relating to Updating BMP requirements for Construction to minimize soil erosion and sediment run-off

Submitted to: The Senate Committees - PSM and ENE

When loggers in the Pacific Northwest clear-cut the forests, the resulting soil run-off silted in the salmon streams that the entire salmon industry depends on. This fact is no longer disputed. The north western states learned a very expensive financial as well as ecological lesson.

Here in Hawaii, with the dubious distinction of being the extinction capitol of the world, we have been making this same mistake, and it is allowed to continue unchecked. A developer recently cleared 40 acres of very steep hillsides, at the beginning of winter. When the rains came, the resulting run-off traveled through Kaelepulu Wetland, which houses three species of endangered Hawaiian water birds. No efforts have been made to re-grass any of the bare hillsides and slow the erosion.

The oysters in Kaelepulu Pond used to help keep our water clean. Now they have been smothered by the silt, and several acres of oyster beds have died as a direct result of the silt.

From the pond, the silt continues to Kailua Beach, where it plumes out into the bay, and threatens the reef ecosystem. The Department of Health has regularly put up "Pollution Warning" signs, advising people to stay out of the water. Not great for tourism.

This is not the fault of the wetland, and not the fault of the lake. The polluters are upstream, and we have hundreds of pictures of supporting evidence.

Our wetland islands provide an essential feeding and breeding area for the ground-nesting birds. The protective moats that surround the islands are designed to keep predators out.

As the co-owner and manager of Kaelepulu Wetland, we are required by the Army Corps of Engineers, Federal Fish and Wildlife, and Hawaii Department of Fish and Wildlife (DOWFA) to maintain the moats. In 1991, these moats were six feet deep. In 2008, they were only several inches deep in places. All this siltation came through storm drains from construction and development sites that were upstream of our wetland. Most of these sites had some level of BMPs in place, but this has not prevented the devastation of our bird preserve. The BMPs were grossly inadequate.

To date, we have spent nearly \$100,000 of our own money to dredge this illegal run-off, and have it hauled away. We are not paid or reimbursed for this work.

The long-reach excavator only had access to certain areas of the wetland, and we've used a barge with a small excavator to reach some of the other areas. It is slow, expensive work, and getting rid of the dredge spoils remains the biggest problem. And once again, we bear the total expense.

Unfortunately, this is not an isolated incident, or even just an annual event. This happens many times each winter, year after year. And every year it a different developer. And although we can only speak with certainty of our own situation, we've talked to other wetland manages and know it is happening state-wide.

If Hawaii is ever going to halt the decline in biodiversity, we need to stop these pollution violators. The only way to do that is to develop construction site BMPs that are adequate – and enforce them!