

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Testimony on House Bill No. 1087, Relating to Environmental Protection

Hearing Date and Time: February 12, 2015 8:30 a.m.

Chair Lee, Vice-Chair Lowen, and Representatives:

Good morning and thank you for the opportunity to testify. My name is Aaron Poentis and I am the Navy Region Hawaii environmental program director. We do not oppose or support it, but only wish to testify as to certain statements in Section 1 of the bill.

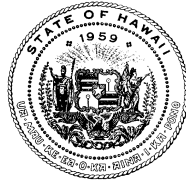
In coordination with the State Department of Health (DOH), we have numerous monitoring wells installed around the Red Hill facility and began long-term monitoring since 2005 to detect migration of any fuel releases – two additional wells were installed last fall and we are continuing to sample these wells in accordance with procedures developed with the DOH.

To address concerns regarding protection of drinking water sources, we test the groundwater at 10 different locations around the Red Hill facility, including eight groundwater monitoring wells, the Red Hill shaft, and the State's Halawa deep monitoring well. This past October, we installed two groundwater monitoring wells to the north of the Facility. In 2008, the Navy developed and implemented a Groundwater Protection Plan which the DOH approved. The plan was updated in 2009, 2010 and 2014, each time with reviews by the DOH. The Navy is in consultation with the DOH and the U.S. Environmental Protection Agency (EPA) to update an existing Groundwater Flow Model and Contaminant Fate and Transport Model which will be incorporated into the Groundwater Protection Plan. As indicated in this bill, the Navy continues to operate other field constructed underground bulk fuel storage tanks. Twenty-five are the responsibility of the U.S. Navy. However, four tanks are officially out of service, drained and those sites are being restored under DOH's review. The remaining twenty-one tanks are situated down gradient of the State of Hawaii's Underground Injection Control line and are not located over groundwater resources. Eight of these twenty-one remaining tanks are closed and are currently under planning for removal. All of this information has been provided to the DOH.

The Red Hill Bulk Fuel Storage Facility continues to receive upgrades. We are constantly seeking out and evaluating the best available technologies that would be effective at the facility. Between 2006 and 2014, over \$138 million was spent to improve the pipelines, install ground water and soil vapor monitoring, structurally reinforce the tunnels and passageways, improve the ventilation, upgrade the fire suppression system and make other improvements.

With EPA and DOH, we are collaboratively working an Administrative Order on Consent and associated Statement of Work (AOC/SOW) which will include a holistic plan to further improve the Red Hill tanks. Included in the plan is a study specifically looking at new technologies to deploy in the tanks, and we believe the results of the study would be useful in crafting any future regulatory changes.

Again, I appreciate the opportunity to testify on this bill.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of H.B. 1087
Relating to Environmental Protection**

REPRESENTATIVE CHRIS LEE, CHAIR
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Hearing Date: **February 12, 2015**
8:30 a.m.

Room Number: 325

1 **Fiscal Implications:** May reduce the amount of barrel tax money that is diverted into the
2 general fund by approximately \$2,200,000 per year.

3

4 **Department Testimony:** The Department of Health **SUPPORTS** H.B. 1087, with one
5 suggested amendment that would change the deadline for the Department to submit a task force
6 report to the Legislature (see lines 3-5 on page 2, below). This measure proposes to reallocate
7 the amount of the Environmental Response, Energy, and Food Security Tax ("Barrel Tax")
8 deposited into the Department's Environmental Response Revolving Fund (ERRF) from five to
9 fifteen cents per barrel, which the Department strongly supports, although its preferred vehicles
10 for this increase are its administrative bills (H.B. 941/S.B. 1110), which also request a 15 cent
11 allocation for the ERRF. The ERRF's current five-cent-per-barrel allocation is insufficient to
12 sustain the 41 positions (31 filled positions) that depend on it for funding. These include
13 positions that respond to oil spills and hazardous material releases, as well as positions that work
14 on environmental issues, like State water quality monitoring, contaminated site remediation, and
15 management of solid and hazardous waste.

16 The Department has also requested a one-time Emergency Appropriation of \$1,050,000 in the
17 Governor's Package (H.B. 949/S.B. 1118), which would help it to meet its financial obligations
18 and cover payroll through the end of FY 2015, and a \$1 million loan from the State Treasury,
19 which the Department of Budget and Finance and the Governor's Office are currently
20 considering.

21 This measure also proposes to convene a task force to assess the conditions of all field-
22 constructed underground fuel storage tanks in Hawaii that are older than seventy years. The
23 Department supports convening a task force to examine whether these older tanks pose a risk to
24 the environment or public health. Since the fuel release from tanks at the Red Hill Underground
25 Storage Facility in 2014, the Department and the U.S. Environmental Protection Agency have

1 worked with the Navy to determine the extent of the release and to employ the best available
2 practicable technologies to prevent future releases. The ERRF has provided much-needed
3 financial support for the Department's employees as they do this work.

4 **Offered Amendments:** The measure proposes a November 30, 2015 task force report deadline.
5 The Department respectfully requests to move the date to December 31, 2015 to allow it ample
6 time to draft the report.

7 Thank you for the opportunity to testify on this measure.

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CITY AND COUNTY OF HONOLULU
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February 12, 2015

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Deputy Manager and Chief Engineer

The Honorable Chris Lee, Chair
and Members
Committee on Energy and Environmental Protection
House of Representatives
Hawaii State Capitol, Room 325
Honolulu, Hawaii 96813

Dear Chair and Members:

Subject: House Bill 1087: Relating to Environmental Protection

We strongly support House Bill 1087 which raises the amount deposited into the Environmental Response Revolving Fund from the Environmental Response, Energy, and Food Security Tax from 5 to 15 cents. The change provides the state with the resources needed to insure proper regulatory oversight and protection of our environment and groundwater aquifers from the impacts of leaking underground fuel storage tanks.

We also support the bill's formation of a task force to assess the impacts of leaking underground fuel tanks on our environment and groundwater aquifers and extending the groundwork established by S.C.R. 73, H.D.1. We recommend the task force's existence continue at least until June 30, 2020 instead of ending it June 20, 2016 as proposed in the bill. One year is insufficient time for the taskforce to properly analyze and discuss all of the many complex and technical issues on Red Hill. We also support the preparation of an annual taskforce report to the Legislature and recommend it be submitted no later than twenty-days prior to the convening of the following year's Regular Session.

The Board of Water Supply is very concerned about the impacts of leaking underground storage tank facilities on Oahu's irreplaceable groundwater aquifer. Studies on the largest UST in Hawaii, the Red Hill Fuel Storage Facility, indicate past fuel releases from Red Hill have already contaminated the groundwater and soil underneath the Facility with petroleum hydrocarbons. Providing the state with greater resources to regulate and manage large facilities like Red Hill and establishing a task force to study and quantify the impacts will help us to insure our environment and our most precious resource – the groundwater aquifer – is protected now and into the future.

Thank you for the opportunity to testify.

Very truly yours,

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

Testimony of The Nature Conservancy of Hawai'i
Supporting H.B. 1087 Relating to Environmental Protection
House Committee on Energy and Environmental Protection
Thursday, February 12, 2015, 8:30AM, Room 325

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of the lands and waters upon which life in these islands depends. The Conservancy has helped to protect nearly 200,000 acres of natural lands in Hawai'i. Today, we actively manage more than 35,000 acres in 11 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy supports H.B. 1087 to provide additional barrel tax revenue to the Environmental Response Revolving Fund. We also urge the Legislature to redistribute the general fund share of the barrel tax revenue to the Energy Security Special Fund and the Agricultural Development and Food Security Special Fund. We believe this is effective policy for investing in the State's oil response capacity, as well as clean energy and local agriculture initiatives that reduce our dependence on imported fossil fuel and imported food.

Climate change caused by burning fossil fuels is an imminent and unprecedented threat to every person in Hawai'i. It is our responsibility to do what we can and what is necessary reduce our own carbon emissions, however small on a global scale, to contribute to the worldwide effort needed to mitigate the growing effects of climate change.

Even if we drastically reduce CO2 emissions now, however, we will still feel certain effects of climate change. In Hawai'i, science indicates that this will likely include:

- More frequent and more severe storms that can increase runoff and siltation;
- Overall, less rainfall and therefore less fresh water;
- Higher temperatures that affect watershed and agricultural health, while being beneficial to invasive species;
- Sea level rise and high waves that will harm coastal areas and groundwater systems;
- Ocean acidification that will inhibit the growth of protective coral reefs.

In response, we must plan and implement mitigative and adaptive measures to ensure the resilience of our natural and human systems. Protecting and enhancing the health and function of our forested watersheds as proposed by the Department of Land and Natural Resources is one critically important initiative. Likewise, investing in local energy and agriculture security are essential components of building self-reliance and resilience here in the middle of the Pacific Ocean.

Using the barrel tax revenue for its originally intended purposes is a wise investment in our future. We urge your support.

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**Testimony of Hawai'i Green Growth in Support of HB1087
Relating to the Environmental Protection
House Committee on Energy and Environmental Protection
12 February 2015, 8:30am, Room 325**

Audrey Newman
Hawai'i Green Growth
P.O. Box 535 Ho'olehua, Hawai'i 96729

Hawai'i Green Growth is a voluntary partnership of more than 70 state, county, federal, business, and non-governmental leaders from energy, food production, natural resources, waste reduction, planning, green jobs, and other sectors who have come together to support a shared statewide commitment and tangible actions toward sustainability and a model green economy.

Aloha Chair Lee, Vice Chair Lowen, and Members of the Committee:

Hawai'i Green Growth (HGG) supports HB1087 which raises the amount of the tax deposited into the Environmental Response Revolving Fund from \$.05 per barrel to \$.15 per barrel to support environmental activities and programs. This will support critical environmental preparedness and response and solid waste reduction by the Hawai'i Department of Health (DOH). HGG also supports increases in the Environmental Response, Energy and Food Security Tax allocations for clean energy transformation (\$0.40), food security programs (\$0.40), and Hawai'i Natural Energy Institute (\$0.10).

The Environmental Response, Energy and Food Security Tax is critical to maintain basic and existing functions of the Department of Health's emergency environmental response programs. It also provides important, ongoing support for the development and implementation of actions that will achieve the Hawai'i Clean Energy Initiative's goal to reduce the State's dependence on imported fossil fuels by 70% in 2030, and the Department of Agriculture programs aimed to at least double local food production by 2030.

This strategic funding help the State advance action on the *Aloha+ Challenge: A Culture of Sustainability – He Nohona 'Ae'oi'a*, a joint leadership commitment to achieve six sustainability targets by 2030 in the areas of clean energy, local food production, natural resource management, solid waste reduction, smart growth and climate resilience, green jobs and education. The *Aloha+ Challenge* was unanimously endorsed by the 2014 Legislature (SCR 69) and signed by Hawai'i's Governor, Mayors and Office of Hawaiian Affairs. It was also internationally recognized as a model of integrated sustainability at the UN Conference on Small Island Developing States in Samoa.

We ask you to support of **HB1087** to provide strategic, long-term funding to ensure Hawai'i is ready to respond to environmental emergencies.

Mahalo,

A handwritten signature in black ink that reads "Audrey Newman". The signature is written in a cursive style.

Audrey Newman

Senior Advisor, Hawai'i Green Growth (HGG)

Bringing leaders together to achieve sustainability in Hawai'i & be a model for a green economy

<http://www.hawaiigreengrowth.org>

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: FUEL, Increase tax to environmental response revolving fund

BILL NUMBER: HB 1087

INTRODUCED BY: C. Lee, Johanson, Nishimoto, Ohno, Rhoads, Saiki

EXECUTIVE SUMMARY: Initially, the 5 cents per barrel environmental response tax was established to address oil spills in state waters. It was temporarily increased to \$1.05, much of which was earmarked to numerous special funds, and was scheduled to sunset on 6/30/30. The tax has taken on a life of its own and lacks transparency, and the special funds it feeds do not come under close scrutiny by either lawmakers or the public. The barrel tax should be repealed and all programs funded out of the environmental response tax should be funded through the general fund.

BRIEF SUMMARY: Amends HRS section 243-3.5 to increase the amount deposited into the environmental response revolving fund from 5 cents to 15 cents.

Requires the director of health to convene and serve as chairperson of a task force to: (1) establish a reasonable time frame within which to assess the condition of all field-constructed underground storage tanks in Hawaii that are older than seventy years; and (2) take appropriate steps to ensure that the underground storage tanks do not present an unacceptable risk to the environment and freshwater supplies of Hawaii. Delineates the relevant stakeholders who shall serve as members of the task force. Directs the director of health to submit a report of the task force's findings and recommendations to the legislature by 11/30/15. The task force shall cease to exist on 6/30/16.

EFFECTIVE DATE: July 1, 2015

STAFF COMMENTS: The legislature by Act 300, SLH 1993, enacted an environmental response tax of 5 cents per barrel on petroleum products sold by a distributor to any retail dealer or end user. The collections of the tax were deposited into the environmental response revolving fund until such time the balance in the fund reached \$7 million at which time the imposition of tax was suspended until the balance in the fund declined to less than \$3 million, at which time the imposition would be reinstated.

The legislature by Act 73, SLH 2010, increased the amount of the tax to \$1.05 per barrel and provided that 5 cents of the tax shall be deposited into a newly established environmental response revolving fund; 15 cents shall be deposited into a newly established energy security special fund, 10 cents shall be deposited into a newly established energy systems development special fund; 15 cents shall be deposited into the newly established agricultural development and food security special fund; and the residual of 60 cents shall be deposited into the general fund between 7/1/10 and 6/30/15. Act 107, SLH 2014, extended the sunset date of the \$1.05 environmental response, energy, and food security tax from 6/30/15 to 6/30/30. This measure would increase the amount deposited into the environmental response revolving fund from 5 cents to 15 cents.

The environmental response tax was initially adopted for the purpose of setting up a reserve should an oil spill occur on the ocean waters that would affect Hawaii's shoreline. The nexus was between the oil importers and the possibility that a spill might occur as the oil product was being imported into the state. Now that the fund has become a cash cow, lawmakers have placed other responsibilities on the fund, including environmental protection, food security, and natural resource protection programs, energy conservation and alternative energy development, air quality, global warming, clean water, polluted runoff, solid and hazardous waste, drinking water, and underground storage tanks, including support for the underground storage tank program of the department of health.

The basic problem with the barrel tax is that it lacks transparency, and because the funds are earmarked they do not come under close scrutiny by either lawmakers or the public. Rather than perpetuating the problems of the barrel tax, it should be repealed and all programs that are funded out of the environmental response fund should be funded through the general fund. At least program managers would then have to justify their need for these funds. If general funds are insufficient to underwrite all the essential programs and programs such as those funded through the barrel tax, then lawmakers need to justify any increase in taxes which underwrite the general fund or lawmakers will be forced to set priorities for those precious general funds. Currently, lawmakers are able to side step that difficult task by creating these hidden taxes and earmarked funds like the barrel tax. By continuing to special fund these programs, it makes a statement that such programs are not a high priority for state government. This sort of proliferation of public programs needs to be checked as it appears to be growing out of hand and at the expense of the taxpayer.

Digested 2/10/15



**Conservation Council
for Hawai'i**

Hawai'i's voice for wildlife

Kō Hawai'i leo no nā holoholona lōhiu



Testimony Submitted to the

House Committee on Energy and Environmental Protection

Hearing: Thursday, February 12, 2015 8:30 am, Room 325

In Support of HB 1087 Relating to Environmental Protection

Aloha, Chair Lee, Vice Chair Lowen, and Members of the Committee. The Conservation Council for Hawai'i supports HB 1087, which raises the amount of the tax deposited into the Environmental Response Revolving Fund from five cents per barrel to fifteen cents per barrel to support environmental activities and programs. Establishes a task force regarding field-constructed underground storage tanks in Hawai'i.

We need economic incentives, or in this case, disincentives to encourage all of us to use less fossil fuel and more clean energy. The barrel tax is used to help protect the environment programs. We cannot think of a more important use of this tax. We ask you to also consider using some of the tax to support the few wildlife facilities in Hawai'i today that are set up to treat animals in the event of an oil spill or leak. Such facilities include the Waikiki Aquarium, Sea Life Park Hawai'i in Waimanalo, Hawai'i Wildlife Center (birds and bats) in Kapa'au, and Ke Kai Ola (monk seals) at Keahole Point in North Kona.

We also support increased focus and oversight on underground storage tanks in the islands. The oil leaks from the U.S. Navy's Red Hill Underground Fuel Storage Facility was a wake up call. We would like to know what the Navy is doing to prevent such spills in the future and whether it is providing any funds to the State to clean up the Navy's mess.

Here is a photo of bird killed by an oil spill on the mainland. We hope this never happens in Hawai'i. Please kokua. Hold the Navy accountable for the Red Hill spill, get the Navy to fund oil spill response actions, and be proactive by raising the barrel tax and assessing the condition and threats associated with existing underground storage tanks.



Mahalo nui loa for the opportunity to testify.

Sincerely,

Marjorie Ziegler

Marjorie Ziegler

Conservation Council for Hawai'i is a nonprofit, environmental membership organization dedicated to protecting native Hawaiian plants, animals, and ecosystems for future generations.

Established in 1950 and based in Honolulu, CCH is one of the largest and most effective wildlife organizations in Hawai'i with more than 5,000 members and supporters, including concerned citizens, educators, scientists, government agencies, and elected officials.

Through research, education, service, organizing, and legal advocacy, CCH works to stop the destruction of native wildlife and wild places in Hawai'i.

Since 1973, CCH has served as the Hawai'i state affiliate of the National Wildlife Federation.

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