DAVID Y. IGE GOVERNOR OF HAWAII





### STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621 HONOLULU, HAWAII 96809

Testimony of SUZANNE D. CASE Chairperson

**Before the House Committee on** WATER & LAND

Monday, February 8, 2016 9:00 A.M. **State Capitol, Conference Room 325** 

### In consideration of **HOUSE BILL 2054** RELATING TO INFRASTRUCTURE

House Bill 2054 proposes to establish a dam and reservoir working group to review applicable state laws, administrative rules, and operational policies and recommended amendments, modifications, or actions to be taken to ensure and enhance the continued availability and operation of dams and reservoirs in the State of Hawaii. The Department of Land and Natural Resources (Department) acknowledges the intent of this bill, however does not believe establishing a dam and reservoir working group is necessary for the following reasons:

Act 154 (2011) amended the Dam and Reservoir Safety Act of 2007 (Hawaii Revised Statutes (HRS) Chapter 179D) to provide the Board of Land and Natural Resources the authority to consider dams and reservoirs as important water resources for the State that provide significant benefits to the general public, including irrigation for agriculture and other important uses, and acknowledge the need for dams and reservoirs to be consistently maintained and operated in a safe and feasible manner that sustains their roles as important water resources; provided that public safety concerns are addressed". Therefore, the intent and purpose of this proposed working group is already codified in HRS Chapter 179D-6(10).

Since the enactment of Act 154 (2011) the Department has successfully proposed several initiatives, which includes amending the State Constitution to allow for the issuance of Special Purpose Revenue Bonds for Dams and Reservoirs specifically to "offer loans to assist dam and reservoir owners to improve their facilities to protect public safety and provide significant benefits to the general public as important water sources." An incentive program was also initiated to reduce permitting fees for owners who submitted applications for improvements to their facilities within three years of the adoption date of the Dam Safety Administrative Rules.

### SUZANNE D. CASE

CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA

JEFFERY T. PEARSON, P.E.

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

This working group would duplicate the work that has been done by the Department and the Legislature over the past decade in response to the 2006 Kaloko Dam breach, which killed seven (7) people and prompted a change to the dam safety laws. The Hawaii Dam and Reservoir Safety Act of 2007 (HRS Chapter 179D) was based on an independent report conducted by Special Deputy Attorney General Robert Godbey who was appointed by the former State Attorney General, Mark J. Bennett, pursuant to House Concurrent Resolution 192 HD1 SD1 (2006). The current dam safety law is a result of the recommendations from that report which was based on a comprehensive review of dam safety laws in 48 other states, the Federal Emergency Management Agency's model dam safety program, and discussions with the United States Army Corps of Engineers, and the Association of State Dam Safety Officials.

Any proposed change to the existing dam safety laws should be evaluated against these national standards and regulations. The key purpose of the dam safety law is primarily to protect public safety and minimize the risk of a dam failure. Any provision to deviate from these commonly accepted standards could result in reduced maintenance of dams, which will further increase the risk to public safety and decrease the chances these dams will continue to operate, which the Department believes is contrary to the intent of this working group.

Upon enactment of the Hawaii Dam and Reservoir Safety Act of 2007, the Department spent nearly five (5) years developing and soliciting comments for its current set of Administrative Rules, which became effective in 2012. The Department has also had regular informal conversations with landowners, certain members of the Hawaii Farm Bureau, the Department of Agriculture, the Hawaii Cattleman's Association, and other users about the actual implementation of the proposed administrative rules to address procedural, timing, and cost issues. The Department has been consistently willing to listen, educate and work with Dam Owner's regarding their concerns and does not believe a formal working group is necessary to facilitate or mandate this communication.

The Department would also like to note that the Dam Safety Program does not receive any general funds and solely relies on special funds and user fees to fulfill its mandate. The bill provides no funding for the working group yet imposes new tasks and expenses that can only be undertaken by diverting existing resources from the Department's Dam Safety Program.

It is in the core mission of the Department to preserve our precious water resources while at the same time ensuring that these dams and reservoirs are managed and operated safely for the benefit of the environment and the public.

Thank you for the opportunity to testify on this measure.



P.O. Box 253, Kunia, Hawai'i 96759 Phone: (808) 848-2074; Fax: (808) 848-1921 e-mail info@hfbf.org; www.hfbf.org

February 8, 2016

## HEARING BEFORE THE HOUSE COMMITTEE ON WATER AND LAND

## TESTIMONY ON HB 2054: RELATING TO INFRASTRUCTURE

Room 325 9:00 AM

Aloha Chair Yamane, Vice Chair Cullen, and Members of the Committee:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

The Hawaii Farm Bureau strongly supports HB 2054, establishing a Dam and Reservoir Working group to address issues associated with the operations of Dam and Reservoirs.

An unintended consequence of the Dam and Reservoir Safety program has been the decommissioning of reservoirs as landowners found the cost of inspection and maintenance excessive, especially in cases where active agriculture was no longer occurring. This does not mean agriculture may not start again in the future, but the absence of beneficial use of the reservoir resulted in the maintenance viewed as just an expense. This has been disturbing as new agricultural ventures will be difficult to start as water sources may no longer be readily available. In addition reservoirs serve as critical water storage for use during wildfires and other similar emergencies. When we live during a time of prolonged droughts, these sources may be extremely critical.

Some time has passed since the implementation of the program. An evaluation of the program, its' effectiveness and ways for improvement is in order.

We request your **support of HB2054**, creating a mechanism to review the dam and reservoir safety program and recommend improvements as needed.. Thank you.



## HCIA 2014-2016 Board of Directors

## **President**Kirby Kester

Vice President
Alan Takemoto

**Secretary** Dawn Bicoy

**Treasurer**Keith Horton

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Immediate Past President

Mark Phillipson

**Executive Director**Bennette Misalucha

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admin@hciaonline.com
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### **Hawaii Crop Improvement Association**

Growing the Future of Worldwide Agriculture in Hawaii

## In Strong Support of HB 2054 Relating to Infrastructure

HOUSE COMMITTEE ON WATER AND LAND Monday, 02-08-16 9:00AM in House conference room 325.

Aloha Chair Yamane, Vice Chair Cullen, and Members of the Committee,

My name is Bennette Misalucha, Executive Director of the Hawaii Crop Improvement Association (HCIA). HCIA is a Hawaii-based non-profit organization promoting agricultural bio tech to help farmers and communities succeed. Through education, collaboration, and advocacy, we work to ensure a safe and sustainable food supply, support responsible farming practices, and build a healthy state economy.

HCIA is in strong support of HB2054.

Dams and reservoirs are critical assets for the continued wellbeing of Hawaii's communities and agriculture industry. Ensuring the availability and operation of these facilities is a top of mind priority for HCIA and its member companies.

Due to Hawaii's isolated geographic location, proper oversight and stewardship of the State of Hawaii's water table is an absolute must. HCIA stead heartily supports legislation that protects and ensures the future of this resource.

Dams and reservoirs hold an essential role in storing and transporting water for agriculture during dry periods, assisting with flood control during large storms, mitigating erosion, and providing drinking water for Hawaii residents. A dam and reservoir working group will safeguard the continued availability and operation of dams and reservoirs in the State.

In closing, HB2054 is not only a step in the right direction to secure Hawaii's most valuable resource; it serves as a commitment to the safety of Hawaii's residents and future generations.

We thank you for your time and hope that you will vote in favor of HB2054.

Bennette Misalucha Executive Director, Hawaii Crop Improvement Association



### HOUSE COMMITTEE ON WATER & LAND REPRESENTATIVE RYAN I. YAMANE, CHAIR REPRESENTATIVE TY J.K. CULLEN, VICE CHAIR

DATE: Monday, February 8, 2016

TIME: 9:00 AM

PLACE: Conference Room 325

#### **HB 2054 - RELATING TO INFRASTRUCTURE.**

Establishes a Dam and Reservoir Working Group to ensure and enhance the continued availability and operation of dams and reservoirs in the State of Hawaii.

Chair Yamane, Vice Chair Cullen, and Members of the Committee:

My name is Dale Sandlin, and I am Managing Director of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 140+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council **supports** HB 2054 as this working group will help to ensure the future of Hawaii's greatest resource, water.

Many of the water systems that provide collection and delivery of fresh water in the state, are in need of updates to continue to perform. The working group will help to determine recommendations in providing for the future of water collection and storage infrastructure.

Often well-meaning policies can cause delays and even disruption of catchment and delivery of fresh water to residents and industry. This group will help to review and recommend changes to the policies that may hinder the enhancement of our water systems and their delivery.

We respectfully ask this committee to pass HB 2054 and we appreciate the opportunity to serve in this capacity, as well as testify on this important matter.









From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 07, 2016 7:29 AM

To: waltestimony
Cc: jkimof@msn.com

**Subject:** Submitted testimony for HB2054 on Feb 8, 2016 09:00AM

### **HB2054**

Submitted on: 2/7/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

Submitted By	Organization	<b>Testifier Position</b>	Present at Hearing	
james Kimo Falconer	MauiGrown Coffee, Inc	Support	No	

Comments: Please support this Bill. Hawaii needs it's water reserves and cannot allow more irrigation systems to degrade and be lost therefore making the environment for agriculture to thrive even more difficult. Thank you. James Kimo Falconer President MauiGrown Coffee, Inc.

Please note that testimony submitted <u>less than 24 hours prior to the hearing</u>, 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.

Sent: Saturday, February 06, 2016 11:31 PM

**To:** waltestimony

**Cc:** warrenmcfb@gmail.com

**Subject:** \*Submitted testimony for HB2054 on Feb 8, 2016 09:00AM\*

**HB2054** 

Submitted on: 2/6/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Warren Watanabe	Maui County Farm Bureau	Support	No

### Comments:

Please note that testimony submitted <u>less than 24 hours prior to the hearing</u>, 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.



822 Bishop Street Honolulu, Hawaii 96813 P.O. Box 3440 Honolulu, HI 96801-3440 www.alexanderbaldwin.com Tel (808) 525-6611 Fax (808) 525-6652

## HB 2054 RELATING TO INFRASTRUCTURE

# PAUL T. OSHIRO MANAGER – GOVERNMENT RELATIONS ALEXANDER & BALDWIN, INC.

### **FEBRUARY 8, 2016**

Chair Yamane and Members of the House Committee on Water & Land:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin (A&B) on HB 2054, "A BILL FOR AN ACT RELATING TO INFRASTRUCTURE." We support this bill.

In addition to serving as a valuable water resource for Hawaii's agricultural industry, dams and reservoirs also provide several other significant benefits to the general public. Several of these facilities provide drinking water for residential communities, renewable energy by way of hydropower, and flood control and drainage for public safety.

Alexander & Baldwin presently has a total of 46 regulated reservoirs statewide, 17 on Kauai and 29 on Maui, the vast majority of which are in active operation supporting various agricultural operations. These reservoirs are absolutely integral to our ability to continue to keep tens of thousands of acres in agriculture, particularly during periods of water shortages.

This bill establishes a Dam & Reservoir Working Group to review applicable State Laws, Administrative Rules, and Operational Procedures and recommend amendments, modifications, or actions to enhance the continued availability and

operation of dams and reservoirs throughout the State of Hawaii. Dam and reservoir owners are often faced with on-going challenges in keeping their dam and reservoir facilities in active operation. The evaluation and implementation of repair and maintenance requirements, periodic inspections and structural assessments, along with making payment on required regulatory fees and other assessments are a few of the items and issues which confront owners of dams and reservoirs. We support this bill, as we believe that it will provide a forum for interested stakeholders to discuss and collaborate on initiatives to sustain and retain dam and reservoir facilities throughout the State of Hawaii.

Based on the aforementioned, we respectfully request your favorable consideration on this bill.



February 5, 2016

Representative Ryan I. Yamane, Chair Representative Ty J.K. Cullen, Vice Chair House Committee on Water and Land

Testimony in Support of HB 2054, Relating to Infrastructure (Establishes a Dam and Reservoir Working Group to ensure and enhance the continued availability and operation of dams and reservoirs in the State of Hawaii.)

### Monday, February 8, 2016 at 9:00 a.m. in CR 325

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

LURF appreciates the opportunity to provide testimony in support of this measure.

HB 2054. This bill establishes a Dam and Reservoir Working Group ("Working Group") to ensure and enhance the continued availability and operation of dams and reservoirs in Hawaii. The Working Group shall consist of members including agricultural stakeholders representing the public and private sectors, as well as individuals with specialized knowledge and experience in water resource management. The Working Group shall be placed within the State Department of Land and Natural Resources (DLNR) for administrative purposes only. The role and responsibility of the Working Group shall be to review applicable state laws, administrative rules and operational policies, and recommend amendments or actions to be taken to ensure and enhance the continued availability and operation of dams and reservoirs in the State.

<u>LURF's Position</u>. Dams and reservoirs are recognized as being critical to the conduct of agricultural operations and businesses, as well as for their vital contributions to the community such as providing drinking water, renewable energy, and flood control, which are extremely important functions necessary to sustain the State's water resources and to promote public safety.

House Committee on Water and Land February 5, 2016 Page 2

LURF strongly supports the establishment of the Working Group and respectfully requests this Committee's consideration to appoint LURF as a member of the Group, based on the following:

- 1. For more than a decade, LURF has worked closely with the Board of Agriculture, the Hawaii Cattlemen's Council and the Hawaii Farm Bureau Federation (other organizations whose designees or representatives are proposed for inclusion as members of the Working Group), and was instrumental in passing the Important Agricultural Lands law.
- 2. LURF represents many large agricultural land owners with a number of dams and reservoirs located on their respective properties.
- 3. LURF has actively and consistently participated, commented and testified at the DLNR hearings regarding dam safety rules and regulations.
- 4. LURF is qualified to undertake and accomplish the responsibilities of the Working Group, including review of applicable state laws, administrative rules and operational policies, and recommending actions to be taken, including legislation.

Given its extensive experience and involvement with agricultural lands and organizations, as well as the IAL laws, LURF possesses the qualifications and experience to identify and address safety concerns and other issues relating to agricultural irrigation water systems necessary to promote agricultural production, including dams and reservoirs, and would appreciate the opportunity to be involved in the Working Group.

For the reasons set forth above, LURF is in **support of HB 2054**, and respectfully requests this Committee's favorable consideration to designate LURF as a member of the Working Group.

Thank you for the opportunity to present testimony regarding this matter.

# Testimony to the House Committee on Water & Land Monday, February 8, 2016 at 9:00 A.M. Conference Room 325, State Capitol

### RE: HOUSE BILL 2054 RELATING TO INFRASTRUCTURE

Chair Yamane, Vice Chair Cullen, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **expresses concern** regarding the need for HB 2054, which establishes a Dam and Reservoir Working Group to ensure and enhance the continued availability and operation of dams and reservoirs in the State of Hawaii.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 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 members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Chapter 179D HRS provides the statutory authority to regulate Dams and Reservoirs under the Department of Land and Natural Resources. Rather than adding more oversight to the program, perhaps providing more specificity on what information or actions must be contained in the Annual Report to the Legislature will address the concerns raised in HB 2054.

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

Sent: Saturday, February 06, 2016 11:59 PM

**To:** waltestimony

**Cc:** jonikamiya@gmail.com

**Subject:** Submitted testimony for HB2054 on Feb 8, 2016 09:00AM

**HB2054** 

Submitted on: 2/6/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

Submitted By	Organization	<b>Testifier Position</b>	Present at Hearing	
Joni Kamiya	Individual	Support	No	

Comments: Please support bills that help farmers.

Please note that testimony submitted <u>less than 24 hours prior to the hearing</u>, 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.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 07, 2016 7:05 AM

**To:** waltestimony

**Cc:** gordines@kauaiflowers.com

**Subject:** \*Submitted testimony for HB2054 on Feb 8, 2016 09:00AM\*

**HB2054** 

Submitted on: 2/7/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

Submitted By	Organization	<b>Testifier Position</b>	Present at Hearing
John R. Gordines	Individual	Support	No

### Comments:

Please note that testimony submitted <u>less than 24 hours prior to the hearing</u>, 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.

Sent: Sunday, February 07, 2016 11:48 AM

**To:** waltestimony

Cc: diamondbranchhi@aol.com

**Subject:** Submitted testimony for HB2054 on Feb 8, 2016 09:00AM

**HB2054** 

Submitted on: 2/7/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

Submitted By	Organization	<b>Testifier Position</b>	Present at Hearing
Brendan Balthazar	Individual	Support	No

Comments: It is about time there is someone with common sense. Gray water should be used for plants and not put in the sewer. That will save a lot of portable water. Those that made the original law not to use it must have come from a place where there is limitless water. This is not the case here.

Please note that testimony submitted <u>less than 24 hours prior to the hearing</u>, 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.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 07, 2016 1:02 PM

**To:** waltestimony

**Cc:** mnakahata@gmail.com

**Subject:** \*Submitted testimony for HB2054 on Feb 8, 2016 09:00AM\*

**HB2054** 

Submitted on: 2/7/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

Submitted By	Organization	<b>Testifier Position</b>	Present at Hearing
Mae Nakahata	Individual	Support	No

### Comments:

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DAVID Y. IGE Governor

SHAN S. TSUTSUI Lt. Governor



### State of Hawaii DEPARTMENT OF AGRICULTURE

1428 South King Street Honolulu, Hawaii 96814-2512 Phone: (808) 973-9600 FAX: (808) 973-9613



PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson



## TESTIMONY OF SCOTT E. ENRIGHT CHAIRPERSON, BOARD OF AGRICULTURE

### BEFORE THE HOUSE COMMITTEE ON WATER AND LAND

February 8, 2016 9:00 A.M. CONFERENCE ROOM 325

### HOUSE BILL NO. 2054 RELATING TO INFRASTRUCTURE

Chairperson Yamane and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2054. The purpose of this measure is to establish a Dam and Reservoir Working Group to ensure and enhance the continued availability and operation of dams and reservoirs in the State of Hawaii. The Department of Agriculture supports this measure.

The department manages seven of its own reservoirs and provides engineering consultation for six Agribusiness Development Corporation reservoirs. The establishment of a working group of reservoir owners and operators to review existing laws and policies and recommend amendments, modifications, or actions to be taken to ensure and enhance the continued availability and operation of dams and reservoirs in the State of Hawaii provides a formal venue to address issues that are hindering the continued operation and existence of many of these structures.

Thank you for the opportunity to testify on this measure.



Sent: Monday, February 08, 2016 6:49 AM

To: waltestimony

Cc: Robelloj@gmail.com

**Subject:** Submitted testimony for HB2054 on Feb 8, 2016 09:00AM

**HB2054** 

Submitted on: 2/8/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

Submitted By	Organization	<b>Testifier Position</b>	Present at Hearing
JAMES ROBELLO	Individual	Support	No

Comments: I support HB 2054. The proposed bill will help sustain Hawaii's dam and reservoir systems.

Please note that testimony submitted <u>less than 24 hours prior to the hearing</u>, 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.



LATE

From: mailinglist@capitol.hawaii.gov

Sent: Monday, February 08, 2016 6:05 AM

**To:** waltestimony

**Cc:** gregf@haleakalaranch.com

**Subject:** \*Submitted testimony for HB2054 on Feb 8, 2016 09:00AM\*

**HB2054** 

Submitted on: 2/8/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

Submitted By	Organization	<b>Testifier Position</b>	Present at Hearing
Gregory Friel	Individual	Support	No

### Comments:

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mailinglist@capitol.hawaii.gov Sunday, February 07, 2016 9:49 PM

**To:** waltestimony

**Cc:** wmitno@hawaii.rr.com

**Subject:** \*Submitted testimony for HB2054 on Feb 8, 2016 09:00AM\*

**HB2054** 

From:

Sent:

Submitted on: 2/7/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

Submitted By	Organization	<b>Testifier Position</b>	Present at Hearing
Wesley M Nohara	Individual	Support	No

### Comments:

Please note that testimony submitted <u>less than 24 hours prior to the hearing</u>, 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.



Sent: Monday, February 08, 2016 8:29 AM

**To:** waltestimony

**Cc:** mck0714@yahoo.com

**Subject:** \*Submitted testimony for HB2054 on Feb 8, 2016 09:00AM\*

**HB2054** 

Submitted on: 2/8/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Maggie Kramp	Individual	Support	No

### Comments:

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