

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 2598
RELATING TO DROUGHT MITIGATION**

House Bill 2598 proposes to allow for a reduction or waiver of fees for critical dams and reservoirs and provides funding to implement drought mitigation measures across the State. **The Department of Land and Natural Resources (Department) strongly opposes the provision in the bill that provides for a reduction or waiver of fees for its Dam Safety Program.**

While the Department acknowledges the bill's intent to address drought and maintain a dependable water supply for agriculture, food security and sustainability, it should not come at the expense of reducing resources to a program that is intended to ensure the public's health, safety and general welfare.

The Kaloko Dam breach that occurred on March 14, 2006 killed seven people, caused massive flooding, extensive property damage, and devastation to the environment downstream. To this date, the dam has been unable to serve at its fullest capacity, further hindering the public benefits it once provided (i.e. water supply for agriculture, recharge for the aquifer, flood control)

Pursuant to House Concurrent Resolution 192 House Draft (HD) 1 Senate Draft (SD) 1 (2006), former Attorney General Mark Bennett appointed Special Deputy Attorney General Robert Godbey to independently investigate the Kaloko Dam failure and recommend legislation or government actions that could help prevent another tragedy. The current Dam Safety Law (Hawaii Revised Statutes Chapter 179D) that was enacted in 2007 was based on the recommendations from Godbey's Report which conducted a comprehensive review of dam safety laws in 48 other states and a review of the Association of State Dam Safety Officials (ASDSO) Model Dam Safety Program (FEMA Publication 316/July 2007).

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFERY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

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

Godbey's Report also identified that the State of Hawaii inadequately funded its dam inspection program which on page 19 of the Report states:

"There simply are not enough trained inspectors to fulfill the required statutory mandate. DLNR has only 1.5 FTE funded for the State's dam inspection program. The ASDSO recommendation, based on the number of dams in Hawaii is 6.5 FTE. Hawaii's aging system of antique dams will require more vigilant inspections as time passes. The statutory mandate to conduct such inspections must be adequately staffed and funded. One issue this raises is the appropriate source for the necessary funding."

Attached to this testimony are additional excerpts from Godbey's Report highlighting recommendations regarding funding for the Dam Safety Program.

The 2007 Legislature approved an additional 3 FTE positions resulting in a total of 4.5 FTE positions for the Dam Safety Program. The 2009 Legislature eliminated all general funds for the program, making it solely reliant on special funds and fees. Any further reduction in fees will jeopardize the program's critical core functions which include conducting regular dam safety inspections, reviewing and issuing of permits, conducting/updating statewide hazard analyses, conducting enforcement actions and monitoring, and providing training and technical assistance.

The Department notes that this bill also appropriates funds into the Dam and Reservoir Safety Special Fund to offset potential losses resulting from the reduction or waiver of fees. We appreciate the Legislature's intent to make the program whole, however, a one-time appropriation for Fiscal Year 2017 would not offset a reduction or waiver of fees in the future years.

The bill allows for a reduction or waiver of fees for critical dams and reservoirs, which the term "critical" is undefined and ambiguous. The majority of dams in Hawaii have deficiencies that need to be addressed and if these dams are not maintained or inspected on a regular basis, would pose a greater risk of failure that may result in the loss of lives similar to the Kaloko disaster. If all of the deficient dams in the state were to request a waiver or reduction in fees, that would deplete a significant amount of resources for the program. The real solution to ensure a sustainable water supply is addressing the inadequate funding for maintenance and improvements of dams and reservoirs. Therefore, the Department recommends that funding through the issuance of Special Purpose Revenue Bonds to dam owners is a better option in lieu of reducing or waiving fees for the Dam Safety Program.

While the Department supports and recognizes that addressing drought conditions and water sustainability is important for Hawaii's future, funding for these initiatives should be addressed through a separate vehicle (House Bill 503 HD1 SD1 or House Bill 1700) and should not be tied to the reduction or waiver of fees for the Dam Safety Program. Allowing for the reduction or waiver of fees is contrary to the intent of House Concurrent Resolution 192 HD1 SD1 (2006) and the recommendations in the Godbey Report and could increase the risk of another dam failure.

Thank you for the opportunity to testify on this measure

The State of Hawai‘i inadequately funded its dam inspection program. There simply are not enough trained inspectors to fulfill the required statutory mandate. DLNR has only 1.5 FTE funded for the State’s dam inspection program. The ASDSO recommendation, based on the number of dams in Hawai‘i is 6.5 FTE. Hawai‘i’s aging system of antique dams will require more vigilant inspections as time passes. The statutory mandate to conduct such inspections must be adequately staffed and funded. One issue this raises is the appropriate source for the necessary funding.

Other State inspectors noticed nothing amiss at Ka Loko Dam. The area around Ka Loko Dam and Reservoir was inspected on numerous occasions by other State inspectors. No one ever noticed anything amiss. In particular, inspectors from the PUC and DOH-CWB simply did not notice any problems with the emergency spillway. Presumably they had no training in identifying such problems. While not all inspectors can be trained as dam safety inspectors, all inspectors could receive at least some basic training in this area.

1.3.2 The Role and Possible Culpability of the County of Kaua‘i

The 1997 Notice of Violation at Ka Loko Reservoir was not enforced. The County sent a notice to stop all work at Ka Loko Dam when it found unlawful grading occurring. This was before the spillway had been filled in. Had this notice to stop work been enforced, the spillway might never have been filled in. But the engineer involved was called into the office of the Mayor, questioned, and told to “stop all actions involving Mr. Pflueger.” This should not have happened. No further enforcement action was taken for the next five years.

4 Recommendations

One primary goal of the investigation was to “recommend legislation or government actions that could help prevent another tragedy” like the Ka Loko Dam breach, and report such “other recommendations and relevant considerations” believed to be appropriate. The purpose of this section is to integrate the insights from the factual findings and the best practices learned from the analysis of the dam safety programs of other states and to make appropriate recommendations. There are general recommendations and also specific recommendations for a potential modification of the current Hawai‘i Dam Safety Act and related regulations.

Specific proposed statutory language for amendments to the Hawai‘i Dam Safety Act, as well as proposed amendments to the Administrative Rules, is included in Section 5 below. The proposed language is intended to reflect general concepts discussed in this section. The particular language used in the proposed legislation is not essential, and there may be good reason to choose to use other language instead. Most, if not all of the concepts, have been borrowed from other state laws. In many instances, the actual language is also the same or is substantially similar to that of other state laws.

4.1 General Recommendations

There are certain clear lessons from the facts surrounding the tragic breach of Ka Loko Dam:

- Dam safety inspections must be conducted regularly.
- The safety inspection program must be adequately funded.
- The classification of dams must be reviewed regularly

- Education of other State and County inspectors regarding dam safety could be helpful.

Each of these points is discussed below. Each of these points is also reflected in the analysis and recommendations of Dr. Lelio Mejia.

In his engineering assessment of the breaching failure of Ka Loko Dam, Dr. Mejia emphasizes the importance of safety inspections:

In my opinion, it is likely that a visual safety inspection of [Ka Loko] dam and its appurtenant facilities by qualified persons would have identified the lack of a spillway in the reservoir. Furthermore, because of the limited discharge capacity of the outlet works and the need for human intervention to operate them, it is likely that the lack of a spillway would have been recognized as a safety deficiency. It also seems that such recognition could have triggered action on the part of the State to require the owner to implement modifications to the dam and reservoir facilities or to implement other actions that may well have prevented the failure.⁴⁸³

He also notes that visual inspections alone are not sufficient. And he acknowledges the budgetary constraints on Hawai'i's dam safety program at the time. "The lack of funding has apparently led to difficulties in management of the program and in implementation and enforcement of the program's requirements." But he concludes:

Notwithstanding the above questions, in my opinion, a more aggressive program of dam inspections under HRS 179D that would have included regular safety inspections of Ka Loko Dam, would probably have allowed for early identification of the potential for failure of the dam and allowed correction of the deficiencies leading to such failure.⁴⁸⁴

With regard to the issue of educating other State and County inspectors to identify basic issues of dam safety, Dr. Mejia observes the following:

It is noteworthy that government representatives had visited the area of the reservoir several days before the failure and at other times in connection with grading and/or environmental violations in the area immediately east of the reservoir. However, the records reviewed indicate that the persons conducting those visits either did not observe the reservoir and the area of the dam, or did not

⁴⁸³ See Appendix B, Report of Dr. Mejia at 11

⁴⁸⁴ *Id.*

note the lack of a spillway, or did not raise the absence of a spillway as a safety issue. Thus, those circumstances indicate that, to be effective as a safety management tool, visual inspections of dams must focus specifically on dam safety issues and must be conducted by qualified persons with proper dam safety training.⁴⁸⁵

Dr. Mejia also expressed his concern regarding the hazard classification of

Hawai'i's dams:

One aspect of the program that does not seem to have received an adequate level of attention is that of maintaining an updated State dam inventory including an up-to-date hazard classification of each dam. Between 1978 and 1981, the ACE conducted inspections of "high hazard" category dams throughout the State, in accordance with the National Dam Inspection Act of 1972. The dam was not inspected at that time because it was not considered to be a "high hazard" dam, and the dam's classification appears to have remained in that status thereafter. However, in view of the loss of life and considerable property damage caused by the dam failure, it may be surmised that the dam's classification should have been higher at the time of the failure, and thus, should have been revised beforehand. This situation highlights the need for the program to allow for timely updating of the State's dam inventory including dam hazard classifications. The process for updating of the inventory should include periodic review of a dam's hazard classification, possibly as part of each safety inspection, to account for changes in downstream land use and economic development.

He then concludes:

Thus, it appears that the main issue associated with the State's dam safety program is the lack of funding necessary to facilitate implementation and enforcement of the program's requirements. In addition, funding appears to be required to increase efforts in education of dam owners on their responsibilities regarding public safety.

One technical aspect of the dam safety statute, HRS 179D-4(b), that merits further review and consideration is the apparent exemption of owners from liability for damages resulting from natural causes such as earthquakes, hurricanes, or extraordinary rains with recurrence intervals greater than 250 years. Such recurrence interval seems inconsistent with intervals considered in dam engineering practice in other states and internationally in developing design loads representing natural events for the safety evaluation of "high hazard" dams. Generally, recurrence intervals longer than 1,000 years would be considered for developing design earthquake loads for such dams, and even longer recurrence intervals would be considered for developing design precipitation and inflow flood loads.

⁴⁸⁵ *Id.*

Another aspect of the program that merits review and further consideration is the requirement in HAR 13-190-40 to conduct dam inspections not less than once every five years. That required frequency of inspections seems reasonable for comprehensive safety reviews including assessment of possible failure modes. However, it does not seem adequate for visual inspections, particularly of high hazard dams. In view of Hawaii's climatic conditions (which promote rapid vegetation growth and are associated with a high potential for hurricanes, episodes of intense precipitation, high rates of erosion, and weathering of man-made materials), significant and high hazard dams should be visually inspected at least once every two years. Additional funding for the program is likely to be required to increase the frequency of dam visual inspections and for updating of the State's dam inventory on a periodic basis.

Based upon the foregoing analysis, Dr. Mejia has the following specific recommendations:

- The level of funding for the State's dam safety program should be increased to allow for effective implementation and enforcement of the program's requirements including regular dam safety inspections and periodic updating of the State's dam inventory to accommodate changes in the hazard classification of dams. Funding should also allow for increased efforts in education of dam owners regarding their responsibilities to public safety.
- The process for updating of the State's dam inventory should allow for periodic review of the hazard classification of dams and for timely updating of such classification to reflect changes in a dam's physical and ambient conditions. Changes in physical and ambient conditions to be considered include physical changes to the dam and reservoir facilities, watershed and climatic changes affecting potential reservoir inflows, changes in downstream conditions affecting the extent of potential inundation areas, and changes in downstream land use and economic development. To allow efficient evaluation of possible changes in downstream conditions, inundation maps will be required for all dams within the State's jurisdiction. Such maps are required as part of the emergency preparedness plan required of dam owners by HAR 13-190-42.
- Dam safety inspections should include comprehensive safety reviews and visual inspections. Comprehensive safety reviews should consider design, construction, operations, and maintenance aspects of dam safety, and should include thorough assessments of potential failure modes. Visual inspections of dams should focus on dam safety issues and should be conducted by qualified personnel with adequate dam safety training. Visual inspections of "significant and high hazard" dams should be conducted at least once every two years. Comprehensive safety reviews of "significant and high hazard" dams should be conducted once every five years.

- The guidelines for safety inspection of dams published by DLNR in 1992 are a suitable general reference for dam safety inspections in the State. Nonetheless, it is recommended that those guidelines be reviewed with a view to develop more streamlined dam inspection procedures that are better fit to the budgetary constraints of the State's dam safety program. Such procedures should allow for periodic comprehensive safety reviews and visual inspections, as discussed above, within the framework of dam safety inspections called for by HAR 13-190.
- It is recommended that consideration be given to developing guidelines for instrumentation monitoring of "high hazard", and perhaps "significant hazard", dams. Instrumentation monitoring should be required to the extent needed for comprehensive safety review and assessment of potential failure modes of such dams.
- The dam safety statute, HRS 179D-4(b), should be reviewed to re-consider the recurrence interval of natural events for which owners are exempt from liability for damages resulting thereof. Such recurrence interval, currently stated as 250 years, seems inconsistent with intervals considered in dam engineering practice elsewhere for developing design loads used to represent natural events for the safety evaluation of "high hazard" dams.

In addition, the factual findings would suggest the following:

- All State and County inspectors should receive proper basic dam safety training, as should all dam owners.

These recommendations are incorporated in the discussion below, and in the proposed amendments to the Hawai'i Dam Safety Act and Administrative Rules that follow. In addition, the analysis of the dam safety programs of other states has suggested certain other recommended changes to Hawai'i's dam safety program, and they are also incorporated in the proposed changes below.

In addition to the foregoing, the review of the dam safety programs of other states to determine the best practices to follow suggests there are three critical areas where Hawai'i's dam safety laws and regulations could be improved. The three areas are:

- Tougher enforcement provisions, including stricter penalties for non-compliance with the law.
- A specific funding mechanism to provide funds necessary to administer the program, some collected from dam or reservoir owners to help cover BLNR and DLNR's costs.

- More thorough provisions that specifically grant BLNR and DLNR certain authority to administer the dam safety program.

Each of these three areas of concern is discussed in more detail below.

4.2 Proposed Changes to Hawai'i Dam Safety Statute

Hawai'i's current Dam Safety Act lacks a tough enforcement mechanism that provides BLNR and DLNR with authority to levy heavy fines and other penalties in the event someone does not comply with an administrative order or fails to obey the dam safety laws. Currently, anyone who violates a provision of the Hawai'i dam safety laws can be charged a civil penalty not exceeding \$500 per day, which is a small penalty in comparison with other State laws. Some states set the maximum at \$25,000. In addition, many states make it a criminal offense to intentionally or knowingly violate any provision of the dam safety laws, punishable by fines of up to \$10,000 or 1-year imprisonment, or both.

The current Hawai'i dam safety laws do not make it a criminal offense to knowingly or intentionally violate a provision of the dam safety laws. It is highly recommended that the law include increased civil penalties as well as criminal offenses so that the enforcement provisions have more bite. Unpaid fines should constitute a lien against the owner's property, giving more leverage to the State to be able to collect the penalties. Increasing the civil penalties alone, however, may not be enough to deter someone from violating the law, particularly if the violator is wealthy and can afford to pay the civil penalties. Therefore, criminal offenses, and the possibility of jail time, need to be included so that potential violators, even those with money, would think twice about violating the law.

Provisions authorizing BLNR or DLNR to seek injunctions and subpoenas are also recommended, particularly when an owner fails to comply with an administrative order, fails to provide records regarding the maintenance and operation of the dam or reservoir, or fails to provide access to private property to allow the State to conduct an inspection or investigation of the dam or reservoir. There is otherwise no provision in the current legislation granting this authority to the State.

This investigation has also revealed that the level of funding for the State's dam safety program needs to be increased. Currently, Hawai'i's dam safety program is funded by appropriations from the Hawai'i Legislature (\$164,000 in 2005), and from federal grants through FEMA (total of \$92,928 from 2000-2002). This money is principally used to employ 1.5 FTEs, with \$2,000 left over for costs and expenses. According to the ASDSO, Hawai'i requires 6.5 FTEs to effectively administer its dam safety program. The current appropriations are insufficient to employ 6.5 FTEs or even 1.5 FTEs, and is certainly not enough to pay for equipment and other expenses and costs.

To help rectify this problem, some states set a minimum amount by statute that the legislature must appropriate for the state dam safety program. A revised Hawai'i Dam Safety Act should include such a provision so that the dam safety program has a minimum amount of funds every year that it can depend on to cover its administration costs and expenses. The funds required by statute, however, must be substantially greater than the amount appropriated to the program in 2005. The funds set aside must be sufficient to pay for administrative costs and expenses, additional staffing and equipment, training for State and County inspectors, with some additional funds available for periodic updates of the State's inventory of dams and for emergencies.

Another area that is deficient in the current dam safety act is an internal funding mechanism whereby BLNR and/or DLNR can recover from dam and reservoir owners some or all of its costs and expenses in administering the dam safety program. An internal funding mechanism could be particularly useful if the Legislature ever decreases the program's budget and/or federal money (through FEMA) is no longer available, which is what appears to have happened over the years prior to the Kaloko disaster.

The only money the program collects from dam or reservoir owners under the current laws and regulations is a one-time \$25 application fee that is submitted with an application to construct, enlarge, alter, repair or remove a dam or reservoir. There are no annual fees and no other fees to maintain, operate or inspect a dam. Accordingly, if no one submits an application to construct, enlarge, alter, repair or remove a dam or reservoir, no money is collected by the program from sources other than the state and federal governments.

Many states collect higher application fees to construct, enlarge, alter, repair or remove a dam or reservoir, plus annual fees to maintain and operate a dam or reservoir, fees to conduct inspections, and penalties for non-compliance with the rules and regulations. These funds help to cover the lead agency's costs in administering the dam safety program, particularly with respect to conducting inspections. If the lead agency does not have staffing to conduct an inspection, the lead agency can retain outside engineers to assist with the inspection and then bill the dam or reservoir owner for those costs. It is highly recommended that new dam safety legislation revamp the current funding scheme so that at the very least, inspection costs can be charged to the dam or reservoir owner. It is also preferable to include higher filing fees, annual fees and civil

penalties to maintain or operate a dam or reservoir so that the program has additional funds to pay for equipment, cover its costs to periodically update the State's inventory of dams particularly with respect to changes in the hazard classification of dams (discussed below), and to pay for other costs necessary to administer the dam safety program such as training for State and County inspectors.

Another recommendation is to set up a revolving, non-expiring dam safety fund to which government appropriations, filing fees, annual fees, inspection fees and penalties are deposited for use only by the dam safety program. Money that is not used in any given fiscal year stays in the fund to be used for emergencies and costs such as updating the State's inventory of dams. Money in the fund can also be loaned to dam or reservoir owners to help them afford necessary repairs. Interest collected from the loans goes back into the fund to pay for emergencies and program costs or to make further loans.

The current Hawai'i Dam Safety Act can also be improved by adding more specific provisions. One area that can be narrowed is the owner's requirement to conduct inspections. Currently, there is no specific frequency that owners must inspect their dams, only that owners must conduct "timely inspections." There is also no requirement that owners submit inspection reports to DLNR. A revised Hawai'i Dam Safety Act should require annual or periodic inspections of dams depending on the hazard classification. Having a minimum frequency that owners must inspect their dams leaves no room for doubt as to how often owners must inspect their dams. The State could conduct the inspections and bill the owner for its costs in conducting the inspections and writing a report, or the State can require the owner to retain a qualified engineer authorized by DLNR to conduct the inspection and submit a report to DLNR.



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 2598: RELATING TO DROUGHT MITIGATION

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 2598, allowing for waiver of fees from critical dams and reservoirs and funding of drought mitigation measures across the state.

The time to prepare for a drought is when it is raining. Hawaii has had increased rainfall during the past few years and a sense of complacency to drought has developed. Yet forecasters predict prolonged droughts in the near future.

Recent reports on Maui, the island most dependent on surface water is dire:

The U.S. Geological Survey's gauge on Puu Kukui in the West Maui Mountains, **one of the wettest places in the world, logged its lowest January since 1977** and its lowest total for any month since May 1989, according to the weather service. **Only 1.08 inches - or 3 percent of normal rainfall - fell in January. The average rainfall for the month is 31 inches.**

Ulupalakua in Upcountry also was dry with **only 0.2 inch of rain; 4.71 inches** fall on average.

Maui News: February 5, 2016

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.

This measure seeks to waive fees for critical dams and reservoirs to provide an incentive to landowners to keep them in good condition for future use. We hope that this along with other measures introduced this session will stop the decommissioning of reservoirs.

Section 6 of this measure seeks to fund projects identified by County Drought Committees as important to help counties withstand droughts. These projects are good investments with long term results. For example, Maui County lined the reservoir at the Kula Ag park with funding received from this program when it was last available. The benefits continue with reduced water losses due to seepage. A portion of the monies was also used for a stormwater reclamation proposal. The preliminary recommendations are completed and we are ready to seek funding to implement the project.

We request your **support of HB2598**, urgently needed to increase Hawaii's tolerance and resiliency to drought event. Thank you.

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 06, 2016 11:33 PM
To: waltestimony
Cc: warrenmcfb@gmail.com
Subject: *Submitted testimony for HB2598 on Feb 8, 2016 09:00AM*

HB2598

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:

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**HB 2598
RELATING TO DROUGHT MITIGATION**

**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 2598, “A BILL FOR AN ACT RELATING TO DROUGHT MITIGATION.” We support this bill.

The purpose of this bill is to provide funding to implement drought mitigation measures across the State.

To address the potential negative impact of droughts, comprehensive mitigation measures should be implemented statewide, including coordinated emergency response mechanisms while at the same time outlining steps towards alleviating the effects of future drought occurrences. The establishment of clear policies and the identification of response entities to implement immediate short-term and long-term response measures to mitigate the impact of droughts are essential. There is a great need to develop and maintain a dependable water supply to sustain agriculture and move closer toward food security and sustainability. Water storage should be enhanced by keeping existing reservoirs in active operation, renovating and modernizing existing water systems to increase source intake and reduce distribution losses, and continuing the planning and development of new water systems and reservoirs.

We support this bill as it will provide much needed funding to implement drought mitigation plans and initiatives. We also support provisions in the bill to provide the Board of Land & Natural Resources with the option to reduce or waive fees for dams and reservoirs in critical need, when appropriate, as we believe that such incentives may assist owners of critical need dams and reservoirs to keep their facilities in active operation.

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

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 06, 2016 6:50 PM
To: waltestimony
Cc: dale@hicattle.org
Subject: *Submitted testimony for HB2598 on Feb 8, 2016 09:00AM*

HB2598

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
Dale Sandlin	Hawaii Cattlemens Council	Support	Yes

Comments:

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Sent: Saturday, February 06, 2016 3:22 PM
To: waltestimony
Cc: dylanarm@hawaii.edu
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HB2598

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
Dylan Armstrong	Individual	Oppose	No

Comments:

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To: waltestimony
Cc: mnakahata@gmail.com
Subject: *Submitted testimony for HB2598 on Feb 8, 2016 09:00AM*

HB2598

Submitted on: 2/7/2016

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

Submitted By	Organization	Testifier Position	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

SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

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. 2598
RELATING TO DROUGHT MITIGATION

Chairperson Yamane and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2598. The purpose of this measure is to allow a reduction or waiver of fees for critical dams and reservoirs and provide funding to implement drought mitigation measures across the state. The Department of Agriculture supports the intent of this bill provided that it does not impact the priorities submitted in the department's executive budget

Act 154 was passed in the 2011 legislative session. This act clarified that fees charged to dam owners were meant to cover a portion of the Board of Land and Natural Resources' costs. It also inserted language that states "In the performance of its duties, the board shall: (10) Consider dams and reservoirs as important water resources for the State that provide significant benefits to the general public...." This bill adds a provision that clearly allows the BLNR to reduce or waive fees for dams or reservoirs in critical need. The Department of Agriculture respectfully requests that "critical need" be defined.

Dams and reservoirs are critical components of a functional irrigation system. Without these structures, agricultural production in Hawaii would greatly diminish and the goal of a sustainable agricultural community would never be realized. While recognizing the need for health and safety of Hawaii's residents and visitors, we believe a need for reasonable policy also exists. Discussions with various agricultural operators have expressed serious concern that the current fee structure implemented by the revised dam safety rules make the necessary capital improvements and maintenance costs untenable to those responsible for the structures. Even within the irrigation systems operated and maintained by the department, there is recognition that existing



Page 2

staff and resources are inadequate to deal with the maintenance requirements and, therefore, external options are being reviewed. The language changes proposed in this bill may help lower the costs of necessary improvements and future maintenance.

Section 6 of this bill seeks an appropriation for drought mitigation projects. The effects of drought on agriculture can be devastating. Last year's record El Nino presents a possibility of a coming multi-year drought leading to a decrease in crop yields and subsequent farm closures. In 2004, the Commission on Water Resource Management and the Department of Agriculture helped create drought committees in each county. The committees then came up with prioritized, potential projects to mitigate the effects of drought. This request recognizes the importance and need for these projects.

Thank you for the opportunity to testify on this measure.