



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
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Testimony in SUPPORT of H.B. 2626
RELATING TO UNDERGROUND STORAGE TANKS

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

REPRESENTATIVE RYAN I. YAMANE, CHAIR
HOUSE COMMITTEE ON WATER AND LAND

Hearing Date: February 16, 2016
Time: 10:00 am

Room Number: 325

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department supports the intent of H.B. 2626. This measure
3 prohibits the permitting of new underground storage tanks (USTs) within one hundred yards of
4 the shoreline. For those USTs that are currently in use, we would need further evaluation for
5 better understanding of the threat to USTs and the appropriate timeline for closing and/or
6 upgrading the USTs.

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

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BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843



February 16, 2016

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

ELLEN E. KITAMURA, P.E.
Deputy Manager and Chief Engineer

The Honorable Chris Lee, Chair
and Members
Committee on Energy and Environmental Protection

and

The Honorable Ryan I. Yamane, Chair
and Members
Committee on Water and Land
House of Representatives
Hawaii State Capitol, Room 325
Honolulu, Hawaii 96813

LATE

Dear Chairs Lee and Yamane and Members:

Subject: House Bill 2626 Relating to Underground Storage Tanks

We support House Bill 2626 which prohibits the issuance of permits for new underground storage tanks within one hundred yards of the shoreline and phases out the use of all such tanks by January 1, 2030. This measure will help protect our marine environment and underground aquifers from risks posed by the inundation of underground storage tanks caused by climate change.

Thank you for your consideration of our testimony on House Bill 2626.

Very truly yours,

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

TO: HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Representative Chris Lee, Chair
Representative Nicole E. Lowen, Vice Chair

HOUSE COMMITTEE ON WATER & LAND
Representative Ryan I. Yamane, Chair
Representative Ty J.K. Cullen, Vice Chair

FROM: James Haynes
President of Hawaii Petroleum, Inc.

HEARING

DATE: Tuesday, February 16, 2016
TIME: 10:00 a.m.
PLACE: State Capitol, Conference Room 325

RE: Testimony on H.B. No. 2626 Relating to Underground Storage Tanks

Chair Lee, Vice Chair Lowen, and Members of the House Committee on Energy & Environmental Protection, Chair Yamane, Vice Chair Cullen, and Members of the House Committee on Water and Land, I am James Haynes, President of Hawaii Petroleum, Inc. ("HPI"). HPI is an independent petroleum marketer operating on the islands of Maui and Hawaii. HPI owns and operate seven Ohana Fuels retail stations on Maui, and seven Ohana Fuels stations on Hawaii. In addition, HPI supplies gasoline and diesel to a number of independent retail gas stations. The majority of these stations are located in small, rural communities with usually one or two stations serving a large geographic area.

H.B. No. 2626 bans new underground storage tanks within one hundred yards of the shoreline effective immediately, and prohibits continued operation of an existing underground storage tank within one hundred yards of the shoreline beginning on 1/1/2030.

HPI opposes H.B. No. 2626 since it is an unconstitutional regulatory taking which impairs the value of property without payment of just compensation to the property's owner. H.B. No. 2626 will effectively wipe out almost all existing gasoline stations along the coastline of all the major islands. If the outright ban in year 2030 is passed, this bill also has the adverse unintended consequence of dissuading the replacement of aging underground storage tanks along the coastline between now and year 2030.

Underground storage tanks have been regulated effectively and safely for decades by the U.S. Environmental Protection Agency ("EPA") and the State Department of Health. Since 1984, the EPA has developed and established operating requirements and technical standards for double-wall tank design and installation, leak

detection monitoring, spill and overflow control, corrective action, and tank closure, including annual inspections. The EPA and DOH recently further strengthened regulations of these fuel systems. The modern technology for underground storage tanks is very safe, and the EPA has also established rigorous operator training, inspections, delivery prohibition, secondary containment and financial responsibility requirements for all owners and operators of underground storage tanks.

For USTs located in a flood zone or near the shoreline, we strictly follow industry installation standards such as Recommended Practice 100 from the Petroleum Equipment Institute (PEI) and Recommended Practice 1615 from the American Petroleum Institute (API) by (1) burying USTs deeper and/or increasing the amount of backfill/pavement to anchor the system, including anchoring USTs using deadman anchors and hold-down straps or a concrete collar to add extra weight, and (2) equipping fuel lines with automatic shutoff valves and adding vent pipe extensions.

Instead of an outright ban, any concerns for public health and safety should be considered and implemented by the local zoning authorities in conjunction with the EPA, and existing gas stations near the shoreline should be grandfathered. If not, the state risks the threat of class action litigation based on the unconstitutional regulatory taking of property without just compensation. More importantly, the residents in many rural areas throughout Hawaii will be adversely affected by limiting access to gasoline and diesel in their local communities.

Thank you for the opportunity to testify in opposition to H.B. No. 2626.



February 16, 2016

**TESTIMONY IN OPPOSITION TO HOUSE BILL 2626,
RELATING TO UNDERGROUND STORAGE TANKS**

House Committee on Energy & Environmental Protection

The Honorable Chris Lee, Chair

The Honorable Nicole Lowen, Vice Chair

House Committee on Water & Land

The Honorable Ryan Yamane, Chair

The Honorable Ty Cullen, Vice Chair

Tuesday, February 16, 2016 – 10:00 a.m.

State Capitol, Room 325

Chairs Lee and Yamane and members of both Committees,

Thank you for this opportunity to testify on House Bill 2626, Relating to Underground Storage Tanks. My name is Lance Tanaka, director of government and public affairs for Par Hawaii. Par Hawaii, Inc., formerly Mid Pac Petroleum, and Par Hawaii Refining, LLC, formerly Hawaii Independent Energy, are subsidiaries of Texas-based Par Pacific Holdings, Inc., formerly known as Par Petroleum Corporation.

Par Hawaii requests that HB 2626 be deferred.

The purpose of this bill is to prohibit the permitting of new underground storage tanks within one hundred yards of the shoreline and phases out all such tanks by January 1, 2030. HB 2626 differs slightly from SB 3108 in that the House version will allow holders of permits for existing underground storage tanks (USTs) to renew permits until January 1, 2029. The Senate version does not.

We appreciate the House's acknowledgement that renewing permits for existing USTs is necessary in order for operators to properly maintain their tanks over time. Not allowing the renewal of permits on existing tanks could send the wrong message dissuading operators and owners from replacing old USTs situated along Hawaii's shorelines.

Beyond that, we are concerned that this bill is an unconstitutional taking of property without proper analysis of the mitigating circumstances that are causing the State to ban the use of USTs. As a responsible operator that maintains its underground storage tanks in strict accordance to U.S. Environmental Protection Agency and state

Testimony by Par Hawaii in opposition to House Bill 2626
House Committee on Energy & Environmental Protection
House Committee on Water & Land
Hawaii State Capitol, Room 325
Tuesday, February 16, 2016 – 10:00 a.m.
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Department of Health regulations, Par Hawaii ensures that its USTs – regardless of how far they are from Hawaii’s shorelines – are not in danger of being immediately inundated by the sea. Should USTs require removal for any legitimate reason, the company will take the appropriate and necessary steps.

Thank you for allowing Par Hawaii the opportunity to present this testimony on House Bill 2626.

A handwritten signature in black ink, appearing to read "Lance N. Tanaka". The signature is fluid and cursive, with a long horizontal stroke at the end.

Lance N. Tanaka
Director, Government & Public Affairs
Par Hawaii



TO: HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Representative Chris Lee, Chair
Representative Nicole E. Lowen, Vice Chair

HOUSE COMMITTEE ON WATER & LAND
Representative Ryan I. Yamane, Chair
Representative Ty J.K. Cullen, Vice Chair

FROM: Richard Parry
President of Hawaii Petroleum Marketers Association

HEARING

DATE: Tuesday, February 16, 2016
TIME: 10:00 a.m.
PLACE: State Capitol, Conference Room 325

RE: Testimony on H.B. No. 2626 Relating to Underground Storage Tanks

Chair Lee, Vice Chair Lowen, and Members of the House Committee on Energy & Environmental Protection, Chair Yamane, Vice Chair Cullen, and Members of the House Committee on Water and Land, I am Richard Parry, President of Hawaii Petroleum Marketers Association (“HPMA”). HPMA is a non-profit trade association comprised of members directly marketing petroleum products across the Hawaiian Islands. Our membership includes individuals or companies who operate as either independent marketers, jobbers or distributors of petroleum products and who buy petroleum products at the wholesale level and sells or distributes such products to all classes of trades. HPMA’s primary purpose is to protect and advance its members’ legislative and regulatory interests in the Hawaiian Islands and Washington, D.C.

H.B. No. 2626 bans new underground storage tanks within one hundred yards of the shoreline effective immediately, and prohibits continued operation of an existing underground storage tank within one hundred yards of the shoreline beginning on 1/1/2030.

HPMA opposes H.B. No. 2626 since it is an unconstitutional regulatory taking which impairs the value of property without payment of just compensation to the property's owner. H.B. No. 2626 will effectively wipe out almost all existing gasoline stations along the coastline of all the major islands; the Waianae coast would be

H.B. No. 2626 Relating to Underground Storage Tanks
Hearing Date: Tuesday, February 16, 2016 at 10:00 a.m.

particularly hard hit. If the outright ban in year 2030 is passed, this bill also has the adverse unintended consequence of dissuading the replacement of aging underground storage tanks along the coastline between now and year 2030.

Underground storage tanks have been regulated effectively and safely for decades by the U.S. Environmental Protection Agency (“EPA”) and the State Department of Health. Since 1984, the EPA has developed and established operating requirements and technical standards for double-wall tank design and installation, leak detection monitoring, spill and overfill control, corrective action, and tank closure, including annual inspections. The EPA and DOH recently further strengthened regulations of these fuel systems. The modern technology for underground storage tanks is very safe, and the EPA has also established rigorous operator training, inspections, delivery prohibition, secondary containment and financial responsibility requirements for all owners and operators of underground storage tanks.

For USTs located in a flood zone or near the shoreline, we strictly follow industry installation standards such as Recommended Practice 100 from the Petroleum Equipment Institute (PEI) and Recommended Practice 1615 from the American Petroleum Institute (API) by (1) burying USTs deeper and/or increasing the amount of backfill/pavement to anchor the system, including anchoring USTs using deadman anchors and hold-down straps or a concrete collar to add extra weight, and (2) equipping fuel lines with automatic shutoff valves and adding vent pipe extensions.

Instead of an outright ban, any concerns for public health and safety should be considered and implemented by the local zoning authorities in conjunction with the EPA, and existing gas stations near the shoreline should be grandfathered. If not, the state risks the threat of class action litigation based on the unconstitutional regulatory taking of property without just compensation.

Thank you for the opportunity to testify in opposition to H.B. No. 2626.



SIERRA CLUB OF HAWAII

MĀLAMA I KA HONUA. *Cherish the Earth.*

LATE

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

HOUSE COMMITTEE ON WATER AND LAND

Tuesday February 16, 2016 10AM Room 325

In Support HB2626 Relating to Underground Storage Tanks

Aloha Chairmen Lee and Yamane, and Members of the EEP and WAL Committees:

On behalf of our 12,000 members and supporters, the Sierra Club of Hawai'i strongly supports HB2626 to protect freshwater and nearshore ocean resources from underground storage tanks exposed to saltwater.

This bill limits the risks posed by saltwater intrusion to underground storage tanks by directing that no new tanks be built within 100 yards of the shoreline, and that all existing tanks within 100-yards of the shoreline be relocated by 2030. This is a prudent, long-term approach to reducing the harm of erosion on underground storage tanks caused by exposure to saltwater.

Saltwater Intrusion is a Risk

California policymakers have already identified saltwater intrusion from sea level as an actionable concern. In its 4th Climate Change Assessment, the California Natural Resources Agency identified saltwater intrusion as a risk to coastal resources, fresh water, transportation, and energy. Their "Safeguarding California Plan" directs policymakers to use planning, siting, and other similar tools to reduce saltwater erosion risks to underground storage tanks in coastal areas.

Hawai'i faces many of the same risks from climate change as California. It is prudent for our policymakers to use a long planning horizon to make similar choices to safeguard our own resources.

Federal law does not address saltwater erosion

It is true that underground storage tanks are highly regulated by the federal Environmental Protection Agency. These regulations, however, do not directly address the issue of saltwater intrusion. These regulations also do not prevent the states from taking more protective actions to minimize foreseeable risks.

This is an important step towards improving Hawai'i's readiness in the face of climate change. Thank you for the opportunity to testify on this measure.

Martha Townsend
Director