

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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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 2680
RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR
KALOKO RESERVOIR

House Bill 2680 proposes to authorize the issuance of special purpose revenue bonds to assist the Mary N. Lucas Estate, owner of the Kaloko Reservoir, to make safety improvements to the facility which would benefit the public's health, safety and general welfare. **The Department of Land and Natural Resources (Department) supports this measure as it would assist the dam owner with an economic means to bring their facilities in compliance with current safety standards and reduce the risk of a dam failure.**

Kaloko Reservoir is an earthen dam constructed in 1890 for the irrigation of sugarcane fields, with a reservoir storage capacity of about 400 million gallons. The dam is owned by multiple owners and was operated by an independent water company, Kilauea Irrigation Company (KICO). On March 14, 2006 after an extended period of heavy rainfall, the dam failed disastrously due to a breach of its embankment. The breach killed seven (7) people, destroyed several homes and critical infrastructure, and devastated the forested area downstream. The facility has not been repaired to date and is under a water storage restriction by the Department to minimize the risk of another failure. This past year, KICO ceased operations due to costs for infrastructure improvements. KICO serviced approximately 20 customers downstream.

The Department has been in contact with a representative of the Mary N. Lucas Estate regarding the potential rehabilitation of the dam and associated irrigation system improvements. The Department concurs that improvements to the facility could bring the structure into compliance with current dam safety standards, which would reduce the risk of another dam failure and restore the facility to provide a water resource that will benefit the surrounding community.

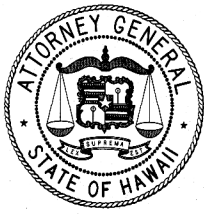
Thank you for the opportunity to testify on this measure.

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



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

H.B. NO. 2680, RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR KALOKO RESERVOIR.

BEFORE THE:

HOUSE COMMITTEE ON WATER AND LAND

DATE: Monday, February 8, 2016 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Randall S. Nishiyama, Deputy Attorney General

Chair Yamane and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

This bill proposes to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$ 10,000,000 in one or more series, for the purpose of providing financing to Mary N. Lucas Estate for the Kaloko reservoir for planning, permitting, designing, constructing, and equipping the reservoir's dam, upgrading the infrastructure associated with the dam, and acquiring the neighboring properties and appurtenant water system rights and assets necessary to restore and operate the appurtenant water system.

We have two comments regarding this bill.

First, this bill references Act ____, Session Laws of Hawaii 2016 ("Act ____"), as the enabling statutory language for chapter 39A, Hawaii Revised Statutes, to issue special purpose revenue bonds to assist dam and reservoir owners. We note that H.B. No. 2058, Relating to Special Purpose Revenue Bonds, provides the enabling statutory language to issue special purpose revenue bonds to assist dam and reservoir owners under chapter 39A. It appears that Act ____ was used so that the Revisor of Statutes could insert the appropriate act number if H.B. No. 2058 was passed by the 2016 Legislature. Instead of using Act ____, we believe that the bill should reference H.B. 2058 so that there is no question regarding the intent of the Legislature to have H.B. No. 2058 serve as the governing statutory framework. This action is necessary because the enabling statutory language for chapter 39A to issue special purpose revenue bonds

to assist dam and reservoir owners, while passed in 2012, was deemed void because the corresponding implementing constitutional amendment failed to be ratified in 2012. While the Hawaii State Constitution was successfully amended in 2014 to authorize the issuance of special purpose revenue bonds to assist dam and reservoir owners, no enabling statutory language to permit the issuance of special purpose revenue bonds to assist dam and reservoir owners was passed by the Legislature in 2014 to implement this constitutional provision.

Consequently, we suggest that the following references to Act ___ be replaced with H.B. No. 2058:

1. Section 2, page 1, lines 5-6;
2. Section 2, page 2, line 1; and
3. Section 3, page 2, lines 5-6.

Thank you for the opportunity to testify on this bill.

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON WATER & LAND
ON
HOUSE BILL NO. 2680

February 8, 2016
9:00 A.M.

RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR
KALOKO RESERVOIR

House Bill No. 2680 authorizes the issuance of Special Purpose Revenue Bonds (SPRB) up to \$10,000,000 to provide financing to assist Mary N. Lucas Estate with Kaloko reservoir.

The Department is providing comments only to advise the Legislature and prospective SPRB parties that should the legislation be approved, approval of SPRB issuance will require further discussion and satisfactory credit underwriting review of the financing components with respect to any proposed financing.

Thank you for the opportunity to provide testimony on this measure.

Paul R. Cassidy Jr.
Trustee, Mary N. Lucas Estate

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February 6, 2016

To: House Committee on Water & Land
Testimony in support of HB2680

My name is Paul Cassidy Jr. (Ricky), and I am one of the two trustees for the Mary Lucas Trust. I am writing in that capacity to show my support of HB2680, RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR KALOKO RESERVOIR. This financing in the total amount of \$10,000,000 will restore and expand the supply of Ag water to past, present and new farm and other water users. This reservoir is located on the north shore of Kauai, and the appurtenant water system is currently owned by Kilauea Irrigation Company (KICO) and operated by the Mary Lucas Trust.

The proceeds in the amount of \$10,000,000 would be applied as follows:

- Up to half of these monies would be applied to planning, permitting, designing, constructing, and equipping the dam, as well as to upgrading the infrastructure associated to the dam and water system; and
- Up to half of these monies would be applied to acquiring the assets needed to restore the system. These include the lands in and around the reservoir and dam that the trust doesn't own from the current landowner, as well as the 50% of the water rights and associated assets and infrastructure that the trust would need to own and operate the water system from the past operator.

We note the trust has had discussions with the parties of interest, and encountered universal support, to date. This includes the Kauai legislative delegation, the regulating authority at the state DLNR, the current owner of the affiliated water utility, KICO, and past users of this resources and potential users. We note that KICO, the current operator, has ceased delivery of water to users earlier this year, as a result of a serious and expensive break in the pipeline serving his users. Since then, the trust has accepted the responsibility for maintaining the integrity and safety of this system, with the encouragement of DLNR dam safety division and the owner of the utility.

My hope here is to engage you at the legislature in order to obtain your support for restoring this resource the farming community.

Thank you for your consideration,



Paul R Cassidy Jr.
TRUSTEE, MARY N. LUCAS ESTATE

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 06, 2016 3:25 PM
To: waltestimony
Cc: dylanarm@hawaii.edu
Subject: *Submitted testimony for HB2680 on Feb 8, 2016 09:00AM*

HB2680

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:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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