

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 2681
RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR
WAILUKU RESERVOIR #6**

House Bill 2681 proposes to authorize the issuance of special purpose revenue bonds to assist the owner of Wailuku Reservoir No. 6 (Reservoir), 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 to the surrounding community.**

Wailuku Reservoir No. 6 is an off-stream reservoir located in the Waikapu Gardens Subdivision in the town of Wailuku on the island of Maui. The reservoir is owned by the developer of the subdivision, Spencer Homes, Inc. The reservoir was part of the agricultural irrigation system that was originally owned and operated by the Wailuku Water Co. Use of the reservoir as a water storage facility has been discounted. The reservoir is now surrounded by residential developments and functions as a storm water retention structure. The Reservoir has a height of 33 feet and storage capacity of 56 acre-feet which meets the Department's jurisdictional size criteria for inclusion as a regulated dam per Hawaii Revised Statutes Chapter 179D (Dam Safety Act of 2007). Due to its location within a subdivision, the Reservoir is classified as a high hazard structure. A high hazard structure is defined as a dam or reservoir whose failure will result in probable loss of human life.

Although the Department has not ordered the Reservoir to be removed, the Department does concur that a properly designed breach or filling-in of the reservoir would be sufficient to

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

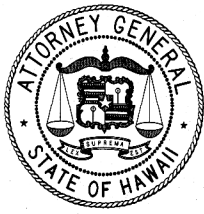
AQUATIC RESOURCES
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

remove the structure from regulatory jurisdiction and remove the risk of dam failure to the surrounding community.

We suggest the following revisions to Section 2 of the bill:

“Pursuant to Act , Session Laws of Hawaii 2016, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$800,000 in one or more series, for the purpose of providing financing to Spencer Homes, Inc., a Hawaii corporation, to properly breach, modify or provide improvements to Wailuku Reservoir #6, subsequent to all applicable permit requirements. ~~fill in and decommission Wailuku water reservoir 6.~~ “

Thank you for the opportunity to testify on this measure.



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

ON THE FOLLOWING MEASURE:

H.B. NO. 2681, RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR WAILUKU RESERVOIR #6.

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 \$800,000 in one or more series, for the purpose of providing financing to Spencer Homes, Inc., a Hawaii corporation, to fill in and decommission Wailuku water reservoir #6.

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 1, line 13; and
3. Section 3, page 2, lines 1-2.

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. 2681

February 8, 2016
9:00 A.M.

RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR
WAILUKU RESERVOIR #6

House Bill No. 2681 authorizes the issuance of Special Purpose Revenue Bonds (SPRB) up to \$800,000 to provide financing to assist Spencer Homes, Inc. with Wailuku Reservoir 6.

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.

Our company is the Managing Agent for Waikapu Gardens Association. Our association has been paying the permit fees and care and maintenance for Wailuku Reservoir No. 6. Even though the reservoir is empty, it is classified as a high risk dam. We did a Hydrology and Hydraulics Study in 2014 at a high cost to the members of the association. This study pointed out two options, leave as a dam and do the upgrades or take out of dam status. Both options have a starting price tag of \$500,000.00. This is money the homeowners of this affordable subdivision cannot afford.

The original entity leasing the dam site, stopped using the reservoir and the homeowners are now stuck with a dry six acre hole in the ground.

Please take the time to consider our situation, as over 400 homeowners are just working class people on Maui.

Joe Blackburn, Managing Agent for Waikapu Gardens. Ph. 808.442.3063 or email at mlb@mauiproperty4you.com

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