

SB3108

Measure Title: RELATING TO UNDERGROUND STORAGE TANKS.

Report Title: Underground Storage Tanks; Shoreline; Prohibition

Description: Bans new underground storage tanks within one hundred yards of the shoreline, as of 7/1/2016. Prohibits operation of and renewal of a permit for an underground storage tank within one hundred yards of the shoreline, as of 1/1/2030.

Companion:

Package: None

Current Referral: EET/WLA, CPH

Introducer(s): WAKAI, CHUN OAKLAND, ESPERO, HARIMOTO, INOUYE, KEITH-AGARAN, NISHIHARA, RIVIERE, SHIMABUKURO, Kidani, Kim, Slom, Taniguchi



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Written
Testimony
Only**

**Testimony in SUPPORT of S.B. 3108
RELATING TO UNDERGROUND STORAGE TANKS**

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Hearing Date: February 26, 2016
Time: 10:30am

Room Number: 229

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department supports the intent of S.B. 3108. 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 within one hundred yards of the
5 shoreline, this measure will require tank owners and operators to terminate operation by
6 January 2030.

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 26, 2016

KIRK CALDWELL, MAYOR

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FORD N. FUCHIGAMI, Ex-Officio

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

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

The Honorable Rosalyn H. Baker, Chair
and Members
Committee on Commerce, Consumer Protection, and Health
State Senate
Hawaii State Capitol, Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Baker and Members:

Subject: Senate Bill 3108 Relating to Underground Storage Tanks

We support Senate Bill 3108 which bans new underground storage tanks within one hundred yards of the shoreline, as of July 1, 2016, and prohibits the operation of and renewal of a permit for an underground storage tank within one hundred yards of the shoreline, beginning 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 written testimony on Senate Bill 3108.

Very truly yours,

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



**Conservation Council
for Hawai'i**

Hawai'i's voice for wildlife

Kō Hawai'i leo no nā holoholona lōhiu



Testimony Submitted to the Senate Committee on Commerce, Consumer Protection, and Health

Hearing: Friday, February 26, 2016 10:30 am
Conference Room 229

In Support of the Intent of SB 3108 Relating to Underground Storage Tanks

Chair Baker, Vice Chair Kidani, and Members of the Committee.

Aloha. Conservation Council for Hawai'i supports the intent of SB 3108, which bans new underground storage tanks within 100 yards of the shoreline, as of July 1, 2016, and prohibits operation of and renewal of a permit for an underground storage tank within one hundred yards of the shoreline, as of January 1, 2030.

However, we question whether 100 yards from the shoreline is far enough to protect our neashore marine environment.

We also question the effective date of January 1, 2030. Fourteen years is more than enough time to relocate any underground storage tank currently within 100 yard of the shoreline. Is this date included in the bill for the purpose of continuing discussion on the bill, or do any current operators actually need 14 years to relocate their tanks?

Mahalo nui loa for the opportunity to testify.

Sincerely,

Marjorie Ziegler

Telephone/Fax: 808.593.0255 | email: info@conservehi.org | web: www.conservehi.org
P.O. Box 2923 | Honolulu, HI 96802 | Office: 250 Ward Ave., Suite 220 | Honolulu, HI 96814

President: Julie Leialoha | Vice President: Koalani Kaulukukui | Secretary: Wayne Tanaka

Treasurer: Ryan Belcher | Directors: Rick Barboza | Anne Huggins Walton

Executive Director: Marjorie Ziegler | Administrator: Jonnetta Peters





TO: SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION,
AND HEALTH
Senator Rosalyn H. Baker, Chair
Senator Michelle N. Kidani, Vice Chair

FROM: Kimo Haynes
President of Hawaii Petroleum, Inc.

HEARING

DATE: Friday, February 26, 2016
TIME: 10:30 a.m.
PLACE: State Capitol, Conference Room 229

RE: Testimony on S.B. No. 3108 Relating to Underground Storage Tanks

Chair Baker, Vice Chair Kidani, and Members of the Senate Committee on Commerce, Consumer Protection, and Health, I am Kimo 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 14 Ohana Fuels retail stations, and seven HFN cardlocks on the islands of Maui and 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.

S.B. No. 3108 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 S.B. No. 3108 since it is an unconstitutional regulatory taking which impairs the value of property without payment of just compensation to the property's owner. S.B. No. 3018 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.

S.B. No. 3108 states that the inundation of underground storage tanks poses risks to the aquifer as well as coastal water quality and marine ecosystems. However,

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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.

If S.B. No.3108 passes, many rural communities along the coastline on all islands will be adversely affected due to the elimination of gas stations in their local communities. In some areas, especially on the Island of Hawaii, residents will be forced to drive long distances to purchase fuel.

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, and many residents in rural communities will be unfairly burdened.

Thank you for the opportunity to testify in opposition to S.B. No. 3108.



TO: SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Senator Rosalyn H. Baker, Chair
Senator Michelle N. Kidani, Vice Chair

FROM: Richard Parry
President of Hawaii Petroleum Marketers Association

HEARING

DATE: Friday, February 26, 2016
TIME: 10:30 a.m.
PLACE: State Capitol, Conference Room 229

RE: Testimony on S.B. No. 3108 Relating to Underground Storage Tanks

Chair Baker, Vice Chair Kidani, and Members of the Senate Committee on Commerce, Consumer Protection and Health, 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.

S.B. No. 3108 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 S.B. No. 3108 since it is an unconstitutional regulatory taking which impairs the value of property without payment of just compensation to the property's owner. S.B. No. 3108 will effectively wipe out almost all existing gasoline stations along the coastline of all the major islands; the Waianae coast would be 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.

S.B. 3108 justifies the UST ban near the shoreline based on claims that the sea level will rise, however, most scientists forecast that the sea level will rise by no more

S.B. No. 3108 Relating to Underground Storage Tanks
Hearing Date: Friday, February 26, 2016 at 10:30 a.m.

than a few feet by the year 2100. The ban imposed by S.B. 3108 is extremely premature, and does not correlate with existing hard scientific evidence. Again, this bill puts the State at risk for the taking of property without just compensation.

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.

We agree with and support the approach in H.B. 2626 HD1 Relating to Underground Storage Tanks. Instead of an outright ban, only new USTs are banned within 100 yards from the shoreline, and existing gas stations near the shoreline are grandfathered and expressly allowed to renew their permits. More importantly, this approach removes the threat of class action litigation based on the unconstitutional regulatory taking of property without just compensation, and will allow existing owners to make critical repairs and properly maintain existing USTs near the shoreline.

Thank you for the opportunity to testify in opposition to S.B. No. 3108.

JAMES J.C. HAYNES II

385 Hukilike St., Suite 201
Kahului, Hawai'i 96732
Phone: (808) 270-2820
jimhaynes@mauienergy.com

February 17, 2016

Senate Committee on Economic Development, Environment & Technology
The Honorable Glenn Wakai, Chair
The Honorable Sam Slom, Vice Chair

Senate Committee on Water, Land & Agriculture
The Honorable Mike Gabbard, Chair
The Honorable Clarence Nishihara, Vice Chair

Subject: Testimony in Opposition to Senate Bill 3108, Relating to Underground Storage Tanks

Chairs Wakai and Gabbard and members of the Committees,

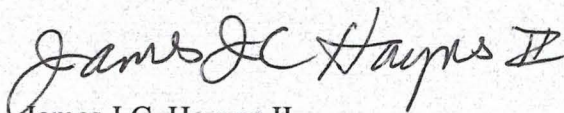
I'm writing to strongly request subject bill be rejected in committee and not be voted on the Senate floor.

I'm an owner of a convenience store in Kawaihae, Hawaii which may be affected by this bill. The logic is specious and based on opinion, conjecture and faulty scientific conclusions.

Hawaii State Department of Health regulations strictly enforce rules which mitigate hydrocarbon releases through leak detection monitoring and double wall containment on all underground tanks. If this bill is passed the impact on underground fueling facilities at all harbors would be eliminated creating a much larger potential pollution exposure when all vessels are fueled by fuel tank wagons.

I respectfully request the defeat of Senate Bill 3108.

Very truly yours,


James J.C. Haynes II



February 26, 2016

**TESTIMONY OFFERING AMENDMENTS TO SENATE BILL 3108, RELATING TO
UNDERGROUND STORAGE TANKS**

Senate Committee on Commerce, Consumer Protection & Health
The Honorable Rosalyn Baker, Chair
The Honorable Michelle Kidani, Vice Chair

Friday, February 26, 2016 – 10:30 a.m.
State Capitol, Room 229

Chair Baker, Vice Chair Kidani and members of the Committee,

Thank you for this opportunity to testify on Senate Bill 3108, 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.

The purpose of this bill is to ban new underground storage tanks within one hundred yards of the shoreline, as of July 1, 2016, and prohibit the operation and renewal of a permit for an underground storage tank within one hundred yards of the shoreline, as of January 1, 2030.

Par Hawaii opposes SB 3108 as proposed and recommends adopting language from HB 2626, HD 1 for clarity:

~~“§342L-_____ [Underground storage tanks near shoreline; prohibition; permits renewal.] Permits near shoreline prohibited; exception.~~

(a) ~~[Beginning July 1, 2016, no new underground storage tank shall be permitted within one hundred yards of the shoreline.]~~The department shall not issue a permit for a new underground storage tank within one hundred yards of the shoreline.

(b) ~~[Beginning January 1, 2030, no person shall operate an underground storage tank within one hundred yards of the shoreline, and no permit for an underground storage tank within one hundred yards of the shoreline shall be renewed.]~~The holder of a permit for an existing underground storage tank within one hundred yards of the shoreline may renew the permit.

Par Hawaii testimony in opposition to Senate Bill 3108
Senate Committee on Commerce, Consumer Protection & Health
Hawaii State Capitol, Room 229
Friday, February 26, 2016 – 10:30 a.m.
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The amendment would disallow additional underground storage tanks from being built within one hundred yards of the shoreline upon the bill's enactment. Existing underground storage tanks would be grandfathered, and permit holders would be allowed to renew permits to perform repairs and maintenance.

The amendment also eliminates a contentious issue, whereby we believe the outright ban on operating existing underground storage tanks within one hundred yards of the shoreline past January 1, 2030 constitutes a regulatory taking of property.

Thank you for allowing Par Hawaii the opportunity to present this testimony recommending amendments to Senate Bill 3108.

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