



# NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY

An Authority of the State of Hawaii attached to the Department of Business, Economic Development & Tourism



Written Statement of  
**Gregory P. Barbour**  
**Executive Director**

Natural Energy Laboratory of Hawaii Authority  
before the

## **HOUSE COMMITTEE TRANSPORTATION**

Friday, February 12, 2021  
10:00 am  
State Capitol, Conference Room 423

in consideration of  
**H.B. 1052**

## **RELATING TO THE RELATING TO THE AIRPORT ZONING ACT**

The Natural Energy Laboratory of Hawaii Authority (NELHA) is pleased to comment on H.B. 1052 which would amend the definition of "airport hazard"; provide police powers to the State Department of Transportation (DOT) to enforce airport zoning regulations for airport hazard areas which will extend shall extend five statute miles from each airport operating area in the State; and, require State and county agencies to consult with DOT prior to the issuance of land use or building permit approvals within these areas. We strongly support the need to maintain aviation safety for the general public; however, the administrative capability of State and County agencies to engage in added land use control implementation aspects of this measure without supplementary resources is unclear.

NELHA administers the very successful 900-acre Hawaii Ocean Science and Technology Park (HOST Park) which surrounds the Kailua Kona airport on the south and west sides. This

measure includes a definition of airport hazard that includes “fish farms” and could have a very significant negative impact on our clients. We have coordinated our development over the past 45 years with DOT very closely and believe the current arrangement works very well.

The measure does not mention the supplemental resources for agencies necessary to ensure that these powers are implemented in a timely manner. It is well documented that new land use control programs impose additional implementation and development costs. This measure would provide buffer zones for 15 airports and cover approximately 1,200 square miles or 750,000 acres within the State. This is approximately ten percent of all the land and water area in the State. We note it is recognized that many agencies within the State are already overwhelmed with implementing existing land use regulations in a timely manner.

Thank you for the opportunity to offer these comments.

Testimony of Ku'uhaku Park  
On Behalf of Matson Navigation Company, Inc.  
Opposition to HB1052  
Before the Committee on Transportation  
February 12, 2021

Dear Chair Aquino, Vice Chair Ilagan, and Members of the Committee,

Matson Navigation Company, Inc. ("Matson") respectfully opposes HB1052, Relating to the Airport Zoning Act. This measure establishes a five-mile airport hazard area and requires state and county agencies to coordinate land uses and permit approvals with the Department of Transportation for this area.

As an island state, Hawaii is very dependent upon our commercial harbors to ensure the continued and unimpeded flow of cargo in and out of our State. It is estimated that over 90 percent Hawaii's imported goods pass through our commercial harbors, including food, consumer goods, motor vehicles, construction materials, and fuel. Given the critical role of our commercial harbors, it is imperative that the State support dependable and efficient cargo transportation and handling to service our residents and businesses.

Honolulu Harbor is in the middle of a massive, long-overdue upgrade, which will ensure our goods continue to arrive in the State on time. Matson has invested over \$60,000,000 in new, more efficient gantry cranes and other infrastructure. We understand the importance of airport safety. The Federal Aviation Administration notified us that our terminal upgrades at Honolulu Harbor do not pose safety hazards to our airport. We believe that this measure will unnecessarily impede the next phase of expanding terminal and pier space into the Kapalama Military Reserve area. This project has been well publicized throughout its lifespan, and so should not come as a surprise to anyone.

To pass this bill without clearly delineating an exemption for commercial harbors would be to throw away thirteen years of planning and construction and waste over a half-billion dollars that the Department of Transportation Harbors Division has already invested into it. Although Matson will not occupy the Kapalama Military Reserve area, all transpacific commercial shipping carriers who call on Honolulu Harbor will benefit from this expansion.

We ask that you defer this measure or amend it to specifically exclude commercial harbor land use and permits. If your Committee chooses to advance this measure, we request the following amendments:

- Page 2, lines 10 to 12: "The airport hazard area shall extend five statute miles from the airport property boundary as depicted in the airport layout plan; **provided that this area shall exclude all land currently in use as commercial harbors or planned to be used as commercial harbors.**"
- Page 2, lines 14 to 19: "State and county agencies shall consult with and receive comment from the department prior to the issuance of land use or building permit approvals for applications filed for land, or any portion thereof, within five statute miles of the airport operating area when a proposed[+] land use or action may cause an airport hazard[+]; **provided that this requirement shall not apply to land currently in use as commercial harbors or planned to be used as commercial harbors.**"

- Page 3, lines 9 to 14: “County general plans, community plans, development plans, and other appropriate long-range planning documents shall acknowledge and map airport hazard zone areas for state airports located within its county and in its text shall acknowledge the need for coordination with the department for the prevention of airport hazards in text[?]; **provided that this shall not apply to plans relating to commercial harbors.**”

Thank you for considering this testimony in opposition.

**HB-1052**

Submitted on: 2/10/2021 3:59:01 PM

Testimony for TRN on 2/12/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Caswell	Hawaii Stevedores, Inc.	Oppose	No

Comments:

Dear Chair Aquino, Vice Chair Ilgan, and Members of the Committee,

On behalf of Hawaii Stevedores, Inc., we respectfully oppose HB1052, as it relates to the proposed Airport Zoning Act, which would potentially establish a five (5) mile airport hazard area.

The measure directly impacts not only the current State of Hawaii port infrastructure in Honolulu that ensures the required continued flow of goods for **all** islands of Hawaii, both inbound and outbound cargoes, but also significantly impacts the single largest planned harbor development project in the State of Hawaii, well known known as the New Kapalama Container Terminal.

Hawaii Stevedores, Inc., is committed to invest invest over \$100,000,000, in the new KCT port facility infrastructure for new buildings, stat of the art technologies and extremely efficient ship to shore gantry cranes.

It is also important to note that the new gantry cranes for KCT are contained in the stated Environmental Impact Study (EIS), and have been approved by the Federal Aviation Administration (FAA) in both permits issued/received for the project in 2017 and 2020 respectively. This has been confirmed by our consultants, Capitol Airspace Group, as follows, "We have received notificcation from the Federal Aviation Administration that the most recent filings submitted on April 24, 2020 have been terminated by FAA and that previous FAA Determinations of **No Hazard** from 2017 remain valid and in affect for the Kapalama Container Project".

We would request that this measure be deferred, or amended to specifically exclude commercial harbor land use and permits.

Thank you for your consideration of our testimony in oppostion of this measure.

Respectfully yours,

**Michael D. Caswell, Senior Vice President, Hawaii Stevedores, Inc.**



MICHAEL P. VICTORINO  
Mayor

ERIC A. NAKAGAWA, P.E.  
Director

SHAYNE R. AGAWA, P.E.  
Deputy Director

MICHAEL P. RATTE  
Solid Waste Division

SCOTT R. ROLLINS, P.E.  
Wastewater Reclamation Division

TAMARA L. FARNSWORTH  
Environmental Protection &  
Sustainability Division



**COUNTY OF MAUI  
DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

2050 MAIN STREET, SUITE 2B  
WAILUKU, MAUI, HAWAII 96793

February 10, 2021

TESTIMONY OF ERIC A. NAKAGAWA  
MAUI COUNTY, DIRECTOR OF ENVIRONMENTAL MANAGEMENT

BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION  
Friday, February 12, 2021, 10:00 a.m.  
Conference Room 423

**HB1052 RELATING TO THE AIRPORT ZONING ACT**

Honorable Henry J.C. Aquino, Chair  
Honorable Greggory Ilagan, Vice Chair  
Honorable members of the Committee on Transportation

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Thank you for the opportunity to testify in **OPPOSITION to HB1052.**

This bill will impact all of our wastewater facilities in the Central Maui Region (one (1) regional facility and fifteen (15) pump stations) as well as the regional facility on the island of Lana'i within the County of Maui which will require our Department to obtain additional approvals for zoning, applications for building permits and other construction permits for needed infrastructure and wastewater treatment facilities (new or upgrades). This increases the time and cost required to process a project and is a huge unfunded mandate that the Department cannot support, nor accommodate in the future without an increase in manpower and resources.

Currently, the use of County of Maui (County) funds for new infrastructure triggers the Environmental Review Process where agencies can review and comment on the project. Additionally, DOT Airports could become a partner with the County in the review of building permit applications and other documents and negate the need for an additional avenue of processing.

We respectfully request that "wastewater treatment facilities" be removed from the language of this bill.

In addition, our Department operates four active landfills within the County of Maui which all will be impacted by HB1052. All four landfills are the only disposal sites for their respective communities. As the Bill does not specify any grandfathering of existing facilities, should these landfills be shut down due to HB1052, municipal solid waste may need to be shipped to neighboring Counties or overseas to the contiguous United States for disposal at exorbitant expense and environmental risk.

TESTIMONY OF ERIC A. NAKAGAWA  
HB1052  
February 10, 2021  
Page 2 of 2

If the County is expected to site new landfills outside the 5-mile restriction, the County requests landfills to be grandfathered under current regulations for a period of 15 years, as development for a new landfill is a very lengthy process.

Long term plans and industry standard for County landfills are to laterally expand. The County has invested hundreds of millions of dollars to acquire landfill adjacent properties, develop engineering plans, obtain land entitlements and obtain permitting from the State Department of Health.

The current environmental review process governing establishment of landfill facilities already include wildlife studies and include best management practices to mitigate wildlife attraction. The County of Maui believes that existing regulations governing landfill proximity to airports is sufficient.

The County of Maui also seeks clarification whether the opportunity to apply for variances will be provided.

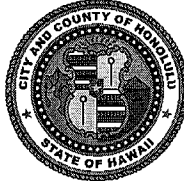
Thank you for allowing me to testify in **OPPOSITION to HB1052.**



DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honoluluodpp.org](http://www.honoluluodpp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

RICK BLANGIARDI  
MAYOR



DEAN UCHIDA  
DIRECTOR DESIGNATE  
DAWN TAKEUCHI APUNA  
DEPUTY DIRECTOR  
EUGENE H. TAKAHASHI  
DEPUTY DIRECTOR

February 12, 2021

The Honorable Henry J. C. Aquino, Chair  
and Members of the Committee on Transportation  
Hawaii House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Aquino and Committee Members:

**Subject: House Bill No. 1052  
Relating to the Airport Zoning Act**

The Department of Planning and Permitting (DPP) **opposes** House Bill No. 1052.

This Bill would expand the airport hazard area to five miles from the property boundary of all state airports. For the Daniel K. Inouye International Airport, this gives the director of transportation zoning authority for an area extending from Pearl City to Ala Moana. The expanded jurisdiction extends into seven out of nine of the City's Transit-Oriented Development (TOD) Neighborhood Plan areas and would result in conflicts with the City and State's coordinated planning efforts to concentrate higher densities along the rail corridor. The City's TOD areas are already subject to Federal Aviation Administration (FAA) requirements, such as height restrictions. Any construction within the runway horizontal plane that has an obstruction height ceiling of 163 feet mean sea level must file for FAA approval. Furthermore, the expanded airport hazard area may severely limit the location options of necessary public facilities, such as composting or recycling facilities and wastewater treatment facilities.

The proposed amendments to Section 262-1, Hawaii Revised Statutes, are not necessary for the prevention of potentially hazardous conditions that may be caused by certain land uses or actions. These land use issues have been, and should continue to be, resolved at the county level. Federal, state and county agencies are already consulted during the environmental review process and for all discretionary land use permits, often resulting in the requirement of mitigative measures as a condition of approval. Requiring consultation with state and county agencies for ministerial permits, specifically the issuance of building permits, would result in longer permit processing time and ultimately having a negative impact on the construction industry.

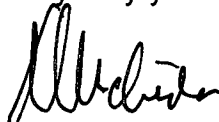
The Honorable Henry J. C. Aquino, Chair  
and Members of the Committee on Transportation  
Hawaii House of Representatives  
House Bill No. 1052  
February 12, 2021  
Page 2

Lastly, county general plans and long-range development plans are policy documents, not regulatory tools, and thus not the appropriate vehicle to include a state airport hazard zoning map

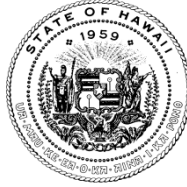
Accordingly, we ask that this Bill be held in Committee.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "D. Uchida", written in a cursive style.

Dean Uchida  
Director Designate



JADE T. BUTAY  
DIRECTOR

Deputy Directors  
LYNN A.S. ARAKI-REGAN  
DEREK J. CHOW  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

Friday, February 12, 2021  
10:00 AM  
State Capitol, Teleconference

**H.B. 1052**  
**RELATING TO THE AIRPORT ZONING ACT**

House Committee on Transportation

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The Department of Transportation (DOT) **strongly supports** H.B. 1052. This bill amends Chapter 262, Hawaii Revised Statutes, by updating and revising the definition of "airport hazard" to address the potential of wildlife strikes to aircrafts, extends the airport hazard area, and formalizes the current process of collaboration and consultation between the DOT and county agencies.

The danger of wildlife and wildlife attractants near airports was brought to national attention when US Air Flight 1549 crash landed in the Hudson River in New York, on January 15, 2009. Since 2009, bird strikes have continued to occur throughout the country, including DOT airports in our state. The Federal Aviation Administration (FAA) responded by directing the focus on potential problem sites around airports and required stricter wildlife management by airport sponsors.

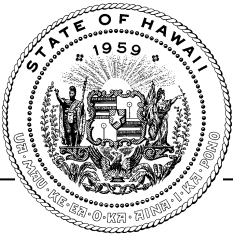
During this same period, DOT was dealing with our own wildlife issues at Lihue Airport (LIH). In 2009, a resort adjacent to LIH was a bustling habitat for nene, or Hawaiian goose. FAA required DOT to address the threat of a bird strike to flights. DOT responded by translocating over 600 nene to neighbor islands, at the cost of \$5 million to the State. DOT is also a participant in the Kauai Seabird Habitat Conservation Plan, which requires thousands to fund seabird habitat management. DOT now spends \$3.2 annually to manage wildlife at airports.

In the first three quarters of 2019 (January to August), 131 bird strikes were reported at DOT airports. Fortunately, none of the bird strikes was fatal. However, the presence of wildlife attractants near airports compounds DOT's efforts to prevent the hazard of wildlife strikes.

H.B. 1052 creates a five mile buffer zones to manage potential wildlife attractants around DOT airports and requires counties to consider airport hazards in all relevant county plans and provided that this area shall exclude all land currently in use as commercial harbors or planned to be used as commercial harbors.

Your approval of this measure will help the State in ensuring flight safety and public safety, and provide clear wildlife management guidance to county planners and developments surrounding DOT airports.

Thank you for the opportunity to testify.



# OFFICE OF PLANNING STATE OF HAWAII

DAVID Y. IGE  
GOVERNOR

MARY ALICE EVANS  
DIRECTOR  
OFFICE OF PLANNING

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813  
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Statement of  
**MARY ALICE EVANS**  
Director, Office of Planning  
before the  
**HOUSE COMMITTEE ON TRANSPORTATION**  
Friday, February 12, 2021  
10:00 AM  
Via Teleconference

in consideration of  
**HB 1052**  
**RELATING TO THE AIRPORT ZONING ACT**

Chair Aquino, Vice Chair Ilagan, and Members of the House Committee on Transportation.

The Office of Planning (OP) would like to submit **comments** with concerns on HB 1052. The proposal establishes a five-mile airport hazard area for prevention of potentially hazardous conditions that may be caused by certain land uses or actions. It requires State and County agencies to coordinate land uses and permit approvals with the Hawaii Department of Transportation for land located in the airport hazard area.

OP understands the concerns that the Department of Transportation (DOT) has around airports and the need to protect airspace from various hazards. Under the current regulations, any construction or alteration must file notice with the Federal Aviation Administration (FAA) if it meets certain minimum requirements. Also, when a landowner in the vicinity of the airport pursues redevelopment of a property, the landowner must grant an aviation and noise easement to the DOT-Airports to ensure compatible land use in the vicinity of the airport. Further, the terms of the easement must satisfy DOT-Airports requirements.

If this bill is approved, it will add another layer and complexity to the lengthy approval process for permits. Of particular concern are future Transit-Oriented Development projects which are anticipated to be higher density developments occurring in the very broad five-mile radius surrounding the State airports, which number 15 airports Statewide, including Honolulu International Airport, Kalaeloa Airport and Dillingham Airfield on Oahu. We would encourage and are willing to assist the DOT with providing State and county planning departments, agencies and private development interests with clear guidance on airspace restrictions including ideally, maps depicting building height restrictions that can be incorporated in their respective development plans.

Thank you for this opportunity to testify.

# SOLID WASTE MANAGEMENT DIVISION

## DEPARTMENT OF PUBLIC WORKS

TROY TANIGAWA, ACTING COUNTY ENGINEER

MICHAEL H. TRESLER, ACTING DEPUTY COUNTY ENGINEER



DEREK S.K. KAWAKAMI, MAYOR  
MICHAEL A. DAHLIG, MANAGING DIRECTOR

### Testimony of Allison Fraley

Acting Solid Waste Chief  
County of Kaua'i  
Department of Public Works

Before the  
**Committee on Transportation**  
Friday, February 12, 2021  
Via Videoconference

In consideration of  
**House Bill 1052**  
**Relating to Waste Management**

Honorable Chair Aquino and Vice Chair Ilagan and Members of the Committee:

The County of Kaua'i Department of Public Works has concerns and submits testimony **with comments** on House Bill 1052 which amends the definition of "Airport hazard" to include the construction or expansion of landfills and specifies a five mile boundary for airport hazards.

The inclusion of landfills into the definition of airport hazards could severely impact the ability of the County of Kaua'i to safely manage solid waste, which could cause health and safety concerns for our residents and the environment as it imbues the Director of Transportation with the unilateral power to specify the land use permitted in airport hazard area maps in regards to landfill creation. The County understands the impacts landfills may pose to air transportation and we support a comprehensive, cooperative, and prudent process that engages all agencies involved and allows for immediate as well as future needs to be addressed.

The current process for landfill siting requires an Environmental Impact Statement (EIS) which already includes input from the Department of Transportation (DOT), and if concerns are still brought forward, the County has the option of performing a supplemental Landfill Wildlife Hazard Assessment (LWHA). The combination of an EIS and a LWHA for a landfill provides all-inclusive documentation that covers a multitude of impacts the facility might have on the environment, residents, businesses, transportation logistics, as well as specific issues related to airport functions. We feel this process ensures that all parties have their say in the construction of this vital infrastructure that is imperative for the wellbeing for those living on Kaua'i.

To unilaterally restrict the creation of a landfill without investigation and study of the specific locations impacts and possible mitigating options including possible future technology that may address any concerns is not prudent. We understand that the restriction of landfill creation is only an option and at this time the bill stipulates that County agencies shall consult with and receive comment with the department prior to the issuance of land use or building permit approvals, but per the original language the DOT has the full authority to specify land uses for airport hazards.

Kaua'i County has limited land availability, increasing populations, and high cost for proper disposal options and we currently have less than seven years of available airspace. It takes approximately ten years to site and construct a landfill. By reducing the available land for construction, we may be faced with a major cost barrier for local disposal.

We are willing to work hand in hand with the DOT to come to an option that's agreeable for all parties. This bill could prevent this partnership and deny the Counties an equitable path to sustainable and safe solid waste disposal in Hawai'i.

We urge the Committees to consider the full impact House Bill 1052 would have and thank you for allowing us to submit this testimony.

## WASTEWATER MANAGEMENT DIVISION

DEPARTMENT OF PUBLIC WORKS

TROY K. TANIGAWA, P.E., ACTING COUNTY ENGINEER

MICHAEL H. TRESLER, ACTING DEPUTY COUNTY ENGINEER



DEREK S.K. KAWAKAMI, MAYOR  
MICHAEL A. DAHLIG, MANAGING DIRECTOR

**Testimony of Jason Kagimoto**  
Chief, Wastewater Management Division  
County of Kauai  
Department of Public Works

### Before the House Committee on Transportation

Friday, February 12, 2021

Conference Room 423

In consideration of  
**House Bill 1052**  
**Relating to the Airport Zoning Act**

Honorable Chair Aquino, Vice Chair Ilagan and Members of the Committee:

Thank you for the opportunity to express our concern and **submit comments** on HB1052.

This bill amends the definition of an "airport hazard" to include the creation or expansion of waste water treatment facilities. Additionally, the airport hazard area shall extend five statute miles from the airport property boundary.

The bill will impact two of the County of Kauai, Department of Public Works, Wastewater Management Division's wastewater treatment plants (WWTPs) along with a minimum of six (6) sewage pump stations (SPSs). Additionally, there are two other private WWTPs and numerous private SPSs that will be affected.

At a minimum, this will require the County and private entities to obtain additional approvals for zoning, building and other construction permits needed for the ongoing operation and maintenance of these existing facilities. While this is another task that would need to be done and would likely delay capital improvement projects from being implemented, the real concern is that this bill could prevent the County and private entities from being able to continue to operate and maintain the existing facilities. Wastewater is continuously produced and as such, wastewater needs to continuously be conveyed through the sewer collection system and SPSs and ultimately treated at the WWTPs. The WWTPs and SPSs have buildings and structures that are a necessary part of the ability to operate. For instance, the Lihu'e WWTP has trickling filters and anaerobic digesters that are an integral and essential part of the ability to treat wastewater. In the event that the Department of Transportation (DOT) does not allow the rehabilitation of these existing structures, the County will be unable to continue to operate the Lihu'e WWTP to meet State of Hawaii, Department of Health (DOH) guidelines. Further, the County would not have the ability to stop customers from creating and discharging waste and this would lead to regulatory violations and major health and safety issues for the public and the environment. Although it is not economically impossible to relocate the Lihu'e WWTP, it is not feasible as this would burden the County's sewer customers with an expense in the tens of millions of dollars.



Unless the County and DOH would prefer the transition of a municipal sewer system back to more individual wastewater systems (IWSs) such as septic systems, the County will need to be able to rehabilitate the existing SPSs.

We respectfully request that “waste water treatment facilities” be removed from the language of this bill.

Mahalo for allowing me the opportunity to submit this testimony on HB1052.