



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

**Testimony COMMENTING on HB1968
RELATING TO WASTE OR DISPOSAL FACILITIES.**

REPRESENTATIVE NICOLE E. LOWEN, CHAIR
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
Hearing Date: 2/3/2022 Room Number: 325

1 **Fiscal Implications:** Unknown

2 **Department Testimony:** The Department of Health (Department) offers comments on HB1968.
3 This bill proposes to prohibit the construction, modification, or expansion of a waste or disposal
4 facility on land that covers a significant aquifer as determined by the Department of Health. The
5 Department is in agreement with the intent of the bill, however, we are concerned that the
6 individual landfill siting bills are not being considered together.

7 Under Chapter 11-58.1, Hawaii Administrative Rules, which generally mirrors federal
8 regulations, the Department already requires that municipal solid waste landfills be sited with
9 regards to airport safety, floodplains, wetlands, fault areas, seismic impact zones, unstable areas,
10 tsunami zones, and consistency with local zoning ordinances.

11 During the 2020 legislative session, Act 73 was passed and, under language amended in Section
12 183C-4, prohibits waste or disposal facilities, including landfills, from being constructed in
13 conservation districts. The Act also, under language amended in Section 342H-52, states that to
14 construct, modify, or expand, a landfill must provide a ½ mile buffer zone from waste or waste
15 activity to the nearest residential, school, or hospital property line.

16 The Department understands that there are several bills being introduced in the current
17 legislative session that intend to further restrict landfill siting including prohibitions in or near
18 agricultural districts. These potential restrictions, either individually or in total, severely restrict

1 or may effectively eliminate potential future municipal solid waste landfill sites on Oahu when
2 combined with other existing restrictions.

3 Figure 1 shows a map of Oahu from a 2012 City and County of Honolulu (City) landfill site
4 selection report that provides proposed future landfill site locations. Note that this report was
5 developed prior to the passage of Act 73.

6 Figure 2 shows a map of Oahu from the City showing Conservations District lands.

7 Figure 3 shows a map of Oahu from the Department with areas above the UIC Line in light blue
8 and outlined in white. This area generally illustrates drinking water sources and significant
9 aquifers.

10 Figure 4 shows a map of Oahu from the City with areas restricted by the ½ mile buffer
11 requirement.

12 Comparing Figures 1 through 4, all of the City's proposed future landfill sites are eliminated
13 when existing and proposed restrictions are combined.

14 It is unclear whether any additional locations, not proposed in the 2012 City report, can be
15 considered for future landfill siting were this bill to pass.

16 We recommend that all of these concerns be considered holistically when owners and operators,
17 primarily counties, select a landfill site so that appropriate priorities may be placed when there
18 are various concerns.

19 Landfill permit applications undergo a risk-based evaluation by the Department. Under Chapter
20 11-58.1, Hawaii Administrative Rules, in addition to the siting criteria mentioned earlier,
21 landfills are designed with liner systems to contain leachate and leachate collection systems to
22 allow for leachate removal. Groundwater monitoring wells are typically installed and a
23 groundwater monitoring plan implemented to determine any impacts to groundwater resources,
24 regardless of whether the groundwater is a drinking water source or not. Landfills are required to

- 1 incorporate these and several other measures to protect human health and the environment and
- 2 mitigate nuisances.
- 3 **Offered Amendments:** None
- 4 Thank you for the opportunity to testify on this measure.

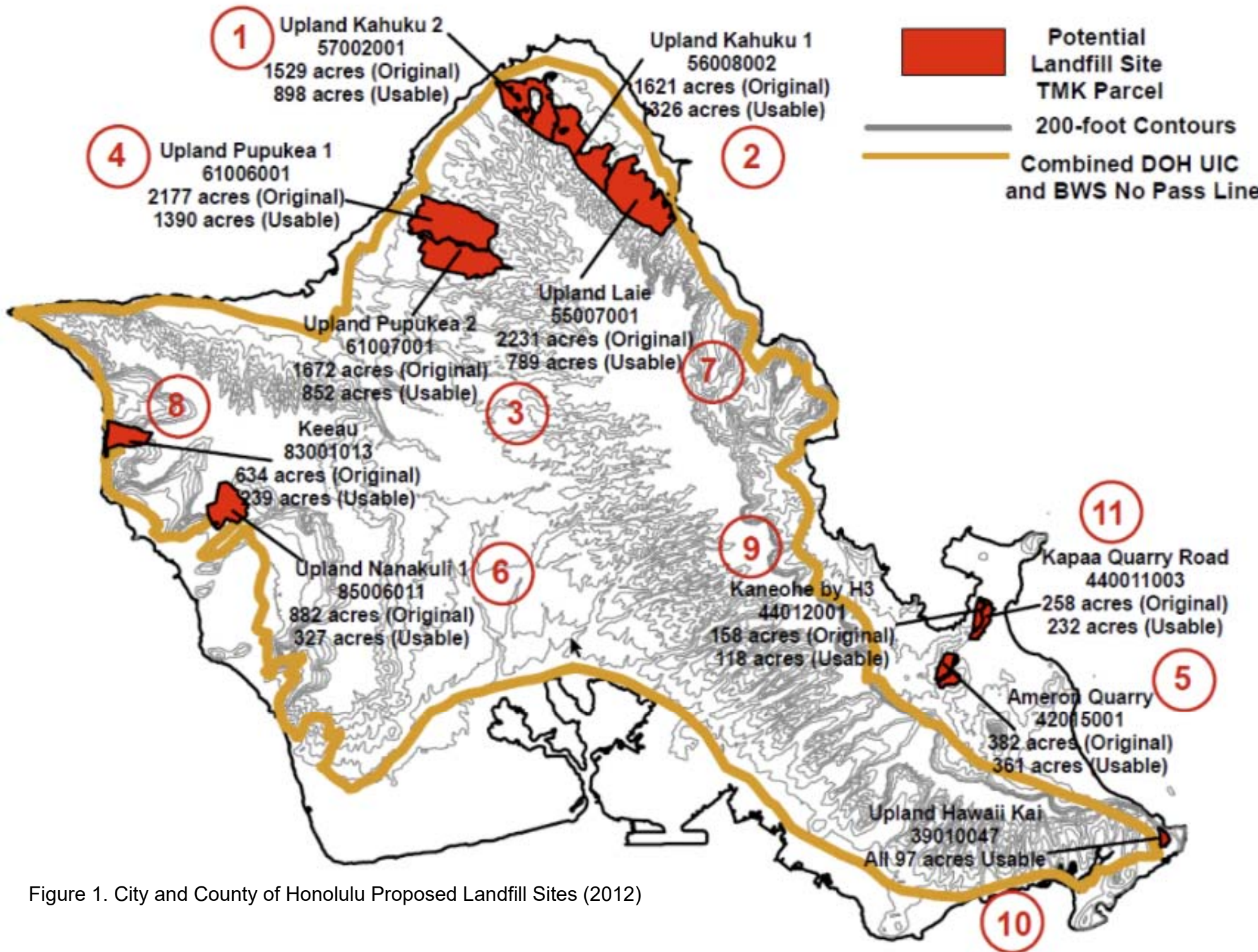


Figure 1. City and County of Honolulu Proposed Landfill Sites (2012)

Landfill Siting Interactive Map

- Combined Restrictions
- Residential Restriction
- Conservation Restriction
- Airport Restriction
- Tsunami Zone Restriction
- Federal Lands
- Developed/Undevelopable Lands
- Current Landfill

Conservation District Land Restriction
Act 73, State of Hawaii legislation, was passed in September 2020 that prohibits permitting and construction of a solid waste disposal facility located on conservation district land except in emergency circumstances.



LEGEND

Conservation District Land Restriction

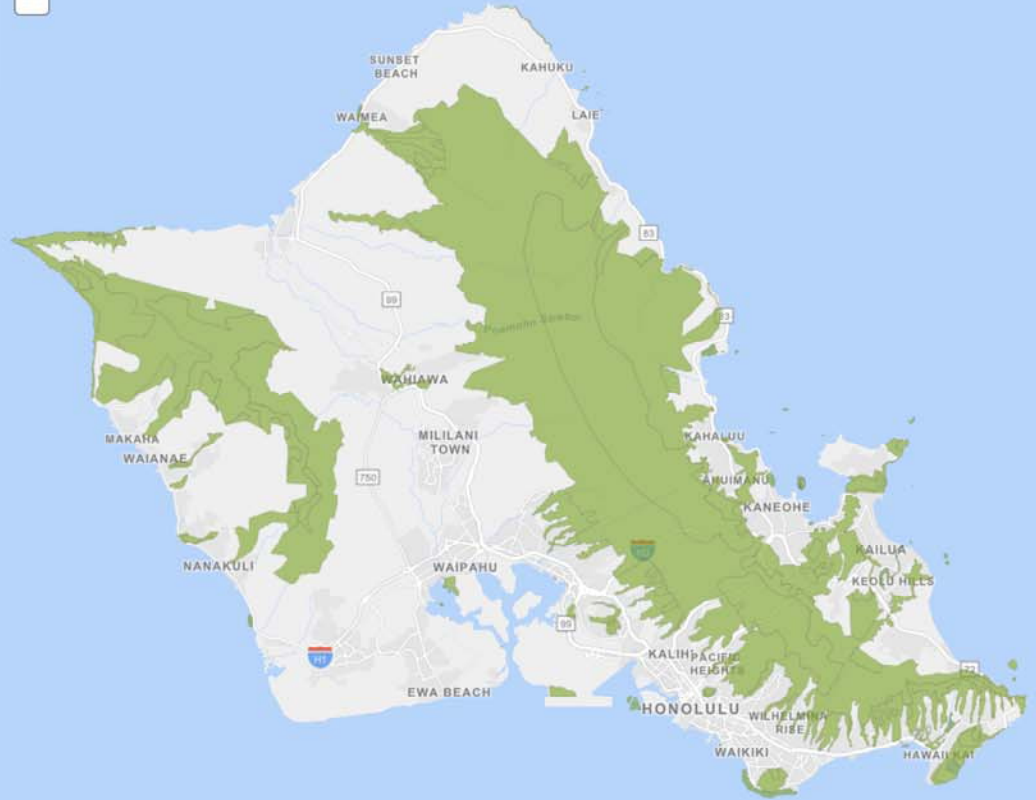


Figure 2. Conservation District Map - Oahu

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

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
ENERGY & ENVIRONMENTAL PROTECTION**

**Thursday, February 3, 2022
9:05 AM
State Capitol, Conference Room 325, Via Videoconference**

**In consideration of
HOUSE BILL 1968
RELATING TO WASTE OR DISPOSAL FACILITIES**

House Bill 1968 proposes to amend Section 342H-52, Hawaii Revised Statutes, to prohibit the construction, modification, or expansion of a waste or disposal facility on land that covers a significant aquifer as determined by the Department of Health. **The Department of Land and Natural Resources (Department) offers comments on this measure.**

The Department is concerned about the risks of contamination to an aquifer due to the construction, modification or expansion of a waste or disposal facility near or above an aquifer. The Department would like to see the Department of Health consult and coordinate with the Department's Commission on Water Resource Management when making their determination of a "significant aquifer," and suggests that the proposed language in the bill be modified to reflect this coordination.

The Department defers to the Department of Health regarding possible consequences of this measure, when considered with existing and proposed landfill siting restrictions, affecting the siting of future proposed landfills.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
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The Department defers to the Department of Health regarding possible consequences of this measure, when considered with existing and proposed landfill siting restrictions, affecting the siting of future proposed landfills.

Thank you for the opportunity to comment on this measure.

COUNTY COUNCIL

Arryl Kaneshiro, Chair
Mason K. Chock, Vice Chair
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
Luke A. Evslin
KipuKai Kualii



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Scott K. Sato, Deputy County Clerk

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Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

February 1, 2022

**TESTIMONY OF FELICIA COWDEN
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
HB 1968, RELATING TO WASTE OR DISPOSAL FACILITIES
House Committee on Energy & Environmental Protection
Thursday, February 3, 2022
9:05 a.m.
Via Videoconference
Conference Room 325**

Dear Chair Lowen and Members of the Committee:

Thank you for the opportunity to provide COMMENTS regarding HB 1968 Relating to Waste or Disposal Facilities. This testimony is submitted in my individual capacity as a Councilmember on the Kaua'i County Council.

The County of Kaua'i is currently in the process of siting a new landfill and in exploring opportunities for expansion of our current landfill. I would respectfully like to ask that the State Legislature recognize the impact that any new restrictions placed on landfill siting could have on a small, island community like Kaua'i. We are currently in the untenable situation of having nowhere to site an urgently needed landfill because of a convergence of restrictions from all levels of government. This has placed the County in crisis-mode to find a suitable location that will meet all necessary requirements and overcome the added restrictions on an island with finite suitable land and resources to address this public health and safety need. I ask that you please keep this consideration in mind when acting upon any additional restrictions for landfill siting.

Thank you very much for your time and attention to these pressing matters of our state, and for allowing me to submit testimony on this matter. Should you have any questions, please feel to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

FELICIA COWDEN
Councilmember, Kaua'i County Council

DEPARTMENT OF ENVIRONMENTAL SERVICES
CITY AND COUNTY OF HONOLULU

1000 ULUOHIA STREET, SUITE 308, KAPOLEI, HAWAII 96707
TELEPHONE: (808) 768-3486 • FAX: (808) 768-3487 • WEBSITE: <http://envhonolulu.org>



RICK BLANGIARDI
MAYOR

ROGER BABCOCK, JR., Ph.D., P.E.
DIRECTOR DESIGNATE

MICHAEL O'KEEFE
DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.
DEPUTY DIRECTOR

IN REPLY REFER TO:
DIR 22-21

February 2, 2022

The Honorable Nicole E. Lowen, Chair
The Honorable Lisa Marten, Vice Chair
and Members of the Committee on Energy & Environmental Protection
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Lowen and Vice Chair Marten:

SUBJECT: House Bill 1968, Relating to Waste or Disposal Facilities

The City and County of Honolulu's Department of Environmental Services ("ENV") opposes HB 1968 because it will further reduce the already severely limited number of locations on Oahu to site a landfill.

In case you are not aware, in November 2019 the Hawaii State Land Use Commission issued a Decision and Order that, among other things, requires the City and County of Honolulu ("City") to identify an alternative landfill site that is not the Waimanalo Gulch Sanitary Landfill ("WGSL") by no later than December 31, 2022, and to close the WGSL by no later than March 2, 2028.

Then, in 2020, Governor Ige signed Act 73 (SB2386, SD2, HD2) into law. Act 73 added the following requirement to Hawaii Revised Statutes Section 342-52.

(b) No person, including the State or any county, shall construct, modify, or expand a waste or disposal facility including a municipal solid waste landfill unit, any component of a municipal solid waste landfill unit, a construction and demolition landfill unit, or any component of a construction and demolition landfill unit **without first establishing a buffer zone of no less than one-half mile around the waste or disposal facility.** This subsection shall not apply to the continued operation of an existing waste or disposal facility that is properly permitted; provided that continued operation does not require physical expansion, vertical or horizontal, of the facility requiring additional permitting review and a permit modification.

Act 73 also defined a "buffer zone" as, "the distance between the edge of waste or waste activity and the nearest residential, school, or hospital property line." Additionally, Act 73 prohibits siting a landfill in a conservation district except in emergency circumstances.

The Honorable Nicole E. Lowen, Chair
The Honorable Lisa Marten, Vice Chair
and Members of the Committee on Energy & Environmental Protection
February 2, 2022
Page 2

Act 73 significantly reduced the amount of land on Oahu where a landfill is able to be located. Furthermore, when other landfill siting restrictions are applied along with Act 73, including a federally required 10,000 foot buffer around airports and a State Department of Health restriction on siting landfills in tsunami inundation areas, the amount of available land is reduced even more. "Attachment A" to this testimony shows the impact of the Act 73, airport and tsunami restrictions on a map of Oahu. The uncolored white areas of the map show the only areas that are not impacted by these restrictions.

The City is required to have an active solid waste landfill that is capable of receiving ash and residue from its waste-to-energy facility, H-POWER. An active landfill is also needed to accept non-combustible material that is unable to be processed at H-POWER, as well as wastes diverted from H-POWER during required annual maintenance shut-downs. Additionally, the City needs a landfill in order to receive and/or store large amounts of debris that could be generated in a natural disaster. The land area required for the new landfill site is estimated to be approximately 80 acres. This does not include the required landfill buffer zone, which could add approximately 400 hundred acres, depending on the location.

Although we are unsure what land the Department of Health will determine covers a "significant aquifer," it is possible that land will be both extensive and located in the only remaining areas of Oahu that are able to host a landfill.

ENV recognizes the critical need to protect and preserve our island's natural resources, especially its drinking water, which is why the City's next landfill will incorporate all Federal and State required protective measures to protect underlying groundwater, including but not limited to a double base liner system that will exceed Environmental Protection Agency requirements for a municipal solid waste landfill, and robust leachate (water collected inside the liner at the base of the landfill) and stormwater collection systems. Additionally, ENV will implement a required, extensive groundwater and leachate monitoring system in the areas underneath and surrounding the landfill.

It is also important to note that City will likely not commence operations at its next landfill until at least 2028, by which point advances in modern sanitary landfill technology will have improved landfill operators' already strong capacity to effectively manage all landfill waste on site.

The City is under a deadline to identify a site for its new landfill before the end of 2022. Act 73 already prohibits the use of several sites that would otherwise be well-suited to accommodate a landfill, and HB 1968 would further reduce remaining available sites, possibly forcing the City to site its next landfill in a less desirable location.

The Honorable Nicole E. Lowen, Chair
The Honorable Lisa Marten, Vice Chair
and Members of the Committee on Energy & Environmental Protection
February 2, 2022
Page 3

ENV respectfully requests that HB1968 be deferred.

Thank you for your consideration. Please feel free to contact me with any questions at 768-3486.

Sincerely,

Roger Babcock, Jr., Ph.D., P.E.
Director Designate

Attachment

ATTACHMENT A

Landfill Siting Interactive Map

Residential Restriction

Conservation Restriction

Airport Restriction

Tsunami Zone Restriction

Federal Lands

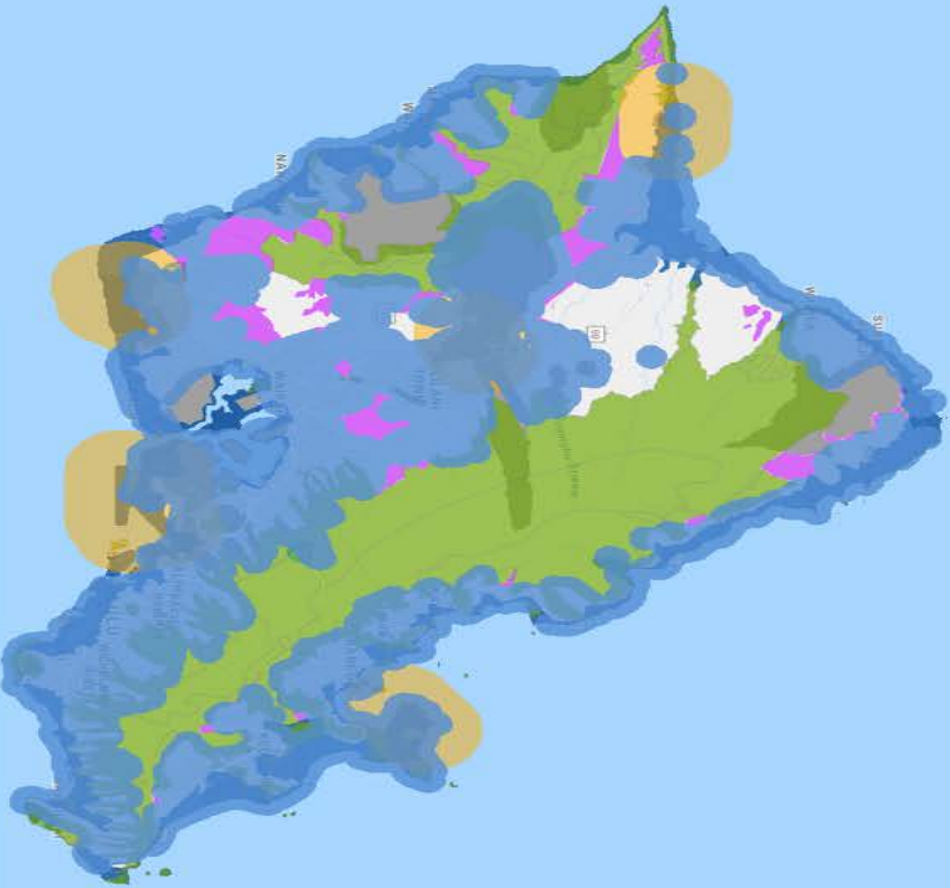
Developed/Undevelopable Lands

Current Landfill

Combined Restrictions

Combined Restrictions

- 1/2 Mile Residential/School/Hospital Buffer Restriction
- Conservation District Land Restriction
- Airport Buffer Restriction
- Tsunami Evacuation Zone Restriction
- Developed and Undevelopable Lands
- Federal Lands



LEGEND

- 1/2 Mile Residential/School/Hospital Buffer Restriction
- Airport Buffer Restrictions
- Conservation District Land Restriction
- Tsunami Evacuation Zone Restriction

ESRI, HERE, Garmin, SafeGraph, MET/NASA, USGS, EPA, USDA | Honolulu Land Information System (HLIS), Department of and Permitting, Cl...





R O Y A L K U N I A

COMMUNITY ASSOCIATION

94-750 Anoiki Street • Waipahu • Hawaii • 96797 • Tel. No. 688-9000 • Fax No. 688-9003

February 1, 2022

H.B. No. 1968 Testimony

To the Honorable Chair and Committee members,

TESTIMONY IN SUPPORT OF H.B. No. 1968

Royal Kunia is a master planned community located on the plains of Central O'ahu and nestled between the rugged Wai'anae and Ko'olau mountains, high above the Ewa plain. There are 1,929 units within Phase I (existing) of the Royal Kunia Subdivision, which was completed in 2006. Phase II of the development is anticipated to consist of 1,800 additional units, a school and State AG Park. Our community is a direct neighbor of the sites being considered for landfill use.

The Royal Kuia Community Association is in strong support of H.B. No 1968, given Kunia's prime agriculture land designation and active aquifers.

We humbly ask for your ardent support.

Sincerely,

ROYAL KUNIA COMMUNITY ASSOCIATION

//signed//

Wayne Nakamoto

Its President



HAWAII CROP IMPROVEMENT ASSOCIATION

In Support of HB1968
Relating to Waste or Disposal Facilities

House Committee on Energy & Environmental Protection

Date: Thursday, February 3, 2022

Time: 9:05 a.m.

Place: Videoconference

Chair Lowen, Vice Chair Marten, and members of the committee:

Thank you for allowing the Hawaii Crop Improvement Association the opportunity to provide testimony in **support** of HB1968, which prohibits the construction, modification, or expansion of any waste or disposal facility on land that covers a significant aquifer as determined by the department of health.

Having a waste and disposal facilities above an aquifer presents many potential problems. In addition to the potential impact on our drinking water, having a landfill site near or on agricultural lands present safety and compliance problems for farm owners and the public. Farmers must comply with food and safety regulations to ensure they produce and sell quality crops. It is a complex regulatory compliance program that has created added expenses for local farmers. Having a landfill on or near farmland jeopardizes crop safety because it may contaminate with dust, soil runoff, or water quality. Farm owners are then forced to pull back and reduce productive farm acres, move operations elsewhere, or, worst of all, close down all operations. Agriculture is an important part of Hawaii's economy and sustainability strategy. For these reasons, we support this measure to prohibit waste disposal on land that covers a significant aquifer, as this would ensure our agricultural lands are protected.

Mahalo for this opportunity to testify in support of HB1968. If you have any questions, please contact me at your convenience.

Sincerely,

Pono Chong
Hawaii Crop Improvement Association

The Hawaii Crop Improvement Association is a Hawaii-based non-profit organization that promotes modern agriculture to help farmers and communities succeed. Through education, collaboration, and advocacy, we work to ensure a safe and sustainable food supply, support responsible farming practices, and build a healthy economy.



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

February 3, 2022

HEARING BEFORE THE
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

TESTIMONY ON HB 1968
RELATING TO WASTE OR DISPOSAL FACILITIES

Conference Room 325 & Videoconference
9:05 AM

Aloha Chair Lowen, Vice-Chair Marten, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau supports HB 1968, which would prohibit the construction, modification, or expansion of any waste or disposal facility on land that covers a significant aquifer, as determined by the department of health.

HFB recognizes the need for future landfill locations, however, we have serious concerns about future waste or disposal facilities being sited on lands that provide groundwater for agriculture, drinking water, irrigation, and domestic, commercial, and industrial needs. To avoid potential health risks, our precious aquifers need to be protected, and preventing contaminants from reaching these waters in the first place is the best way to accomplish that.

Thank you for the opportunity to provide our comments and thank you for your continued support of Hawaii's agricultural community.

HB-1968

Submitted on: 1/31/2022 5:03:38 PM

Testimony for EEP on 2/3/2022 9:05:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lois Crozer	Individual	Support	No

Comments:

We do need to protect our valuable water resource!

HB-1968

Submitted on: 2/1/2022 12:03:50 PM

Testimony for EEP on 2/3/2022 9:05:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Joseph Hammond	Individual	Support	No

Comments:

I am in support of this bill to prohibit construction, modification or expansion of waste disposal facilities. Water is Hawai'i's most important natural resource and we cannot risk having our drinking water contaminated. Let's do all that we can to take preventative measures to ensure our the safety of our health.

HB-1968

Submitted on: 2/1/2022 8:29:51 PM

Testimony for EEP on 2/3/2022 9:05:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Barbara Barry	Individual	Support	No

Comments:

Aloha,

I absolutely support HB 1968. Protecting our aquifers is imperative, especially since we are watching in real time the disaster at Red Hill.

Mahalo,

Barbara Barry



VILLAGE PARK COMMUNITY ASSOCIATION

February 2, 2022

H.B. No. 1968 Testimony

To the Honorable Chair and Committee Members,

TESTIMONY IN SUPPORT OF H.B. No. 1968

Village Park Community Association is a master planned community located in the Waipahu district. There is 1813 single family homes located in Village Park. Our community is a direct neighbor of the sites being considered for landfill use.

On behalf of the Village Park Community Association we are in favor of HB1968.

We humbly ask for your support.

Sincerely,

Laure Ann Hodges

Laurie Ann Hodges
Management Executive
Cadmus Properties
Agent for Village Park Community Association
Phone: 808-531-6847 x 23
Fax: 808-528-2804
Email: laurie@cadmusproperties.com

HB-1968

Submitted on: 2/3/2022 5:06:04 AM

Testimony for EEP on 2/3/2022 9:05:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Johnnie-Mae L. Perry	Individual	Support	No

Comments:

The 4Rs

RESPONSIBLE GOVERNMENT, MANUFACTURERS, CONSUMERS

REDUCE

RECYCLE

REFUSE