



LATE

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

Testimony of **Nani Medeiros**
Chief Housing Officer, Office of the Governor

Before the
Senate Committees on Judiciary and Ways and Means
Wednesday, March 1, 2023
10:05 a.m.
Conference Room 211

In consideration of
Senate Bill No. 507
RELATING TO WETLAND PRESERVATION

Aloha Chair Roads, Chair Dela Cruz, Vice-Chairs Gabbard and Keith-Agaran, and members of the committees.

Thank you for the opportunity to testify in **opposition to Senate Bill 507**.

Hawai'i's housing crisis has reached a state of emergency resulting in local people spending more than 40% of their income on housing, unsheltered homelessness, housing instability, multi-generational households, median home prices over \$1 million dollars, an outmigration of Native Hawaiians, and the inability to recruit and retain essential workers for our communities including teachers and health care professionals.

During this unprecedented crisis of housing costs and homelessness, SB 507 blatantly targets 201H affordable housing projects and aims to delay, impede, increase housing costs, and prevent the state and counties from providing affordable rental and for sale homes our people can afford. Aside from targeting government sponsored affordable housing projects, the bill is overly broad, will likely result in confusion, and creates another pathway for NIMBY mindsets to stop affordable housing, including within the primary urban core of Honolulu as well as other developed parts of the state where infrastructure exists, and redevelopment of affordable housing makes sense.

We would like to see the data to demonstrate there is a legitimate need for this regulation, as well as maps of the lands across the state that would be affected and fall under the definitions

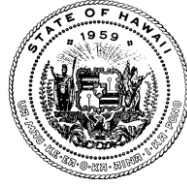
Senate Committees on Judiciary and Ways and Means
March 1, 2023
Page Two of Two

of “floodway,” “natural stormwater infrastructure,” and “wetlands.” We also would like to see a cost-benefit analysis on the effect this measure will have on affordable housing projects.

We request for this measure to be deferred or held.

Mahalo,

Nani Medeiros



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. BOX 3378
HONOLULU, HI 96801-3378
doh.testimony@doh.hawaii.gov

WRITTEN
TESTIMONY
ONLY

**Testimony COMMENTING on SB0507
RELATING TO WETLAND PRESERVATION**

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY
SENATOR DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: 3/1/2023

Room Number: 211

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department of Health (Department) offers the following
3 comments to provide clarification on the proposed measure which adds definitions for
4 “floodway,” “natural stormwater infrastructure,” and “wetlands” to section 343-2, Hawaii
5 Revised Statutes (HRS). Since chapter 342D, HRS, does not define “wetlands,” the Department
6 is concerned that a third party may argue that the section 343-2 definition should apply the
7 chapter 342D.

8 Thank you for the opportunity to testify.

9 **Offered Amendments:**

10 The Department recommends revising the section 343-2 definition of “wetlands” to include a
11 statement that the definition of “wetlands” does not apply for the purposes of chapter 342D,
12 HRS, to avoid confusion between the proposed housing projects requirements and water
13 pollution control measures in chapter 342D, HRS, and Hawaii Administrative Rules chapters
14 11-53, 11-54, and 11-55.

JOSH GREEN, M.D.
GOVERNOR



DENISE ISERI-MATSUBARA
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

IN REPLY PLEASE REFER TO:

677 QUEEN STREET, SUITE 300
HONOLULU, HAWAII 96813
PHONE: (808) 587-0620
FAX: (808) 587-0600

Statement of
DENISE ISERI-MATSUBARA
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON JUDICIARY
AND
SENATE COMMITTEE ON WAYS AND MEANS

March 01, 2023 at 10:05 a.m.
State Capitol, Room 211

In consideration of
S.B. 507
RELATING TO WETLAND PRESERVATION.

HHFDC offers comments on S.B. 507, which requires a proposed housing project of HHFDC that is exempt from all statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, and construction standards to ensure that the proposed project does not impact wetlands or natural stormwater infrastructure.

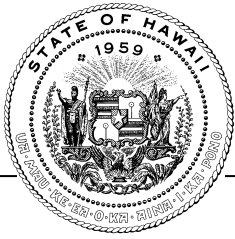
While HHFDC respects the need for wetland preservation, HHFDC is concerned that this measure will unnecessarily restrict the use of 201H-38 for affordable housing projects, as all developments generate stormwater runoff, which is conveyed to stormwater drainage systems. Most stormwater drainage systems eventually discharge into the ocean or a stream, which fall within the definition of "natural stormwater infrastructure" in the bill. Consequently, all development projects have some impact on natural stormwater infrastructure although, in most cases, the impact is negligible.

HHFDC suggests amending section 3, page 9, lines 3-5 as follows:

(3) The development of the proposed housing project does not have a significant adverse impact wetlands or natural stormwater infrastructure as defined in section 343-2;

This way, HHFDC would have the ability to determine if a project has a significant impact on wetlands or natural stormwater infrastructure. This would also allow HHFDC to implement mitigation measures to lessen the impact to wetlands or natural stormwater infrastructure if there are any impacts and still have projects use 201H-38.

Thank you for the opportunity to provide testimony.



**STATE OF HAWAII
OFFICE OF PLANNING
& SUSTAINABLE DEVELOPMENT**

LATE

JOSH GREEN, M.D.
GOVERNOR

SCOTT J. GLENN
DIRECTOR

235 South Beretania Street, 6th Floor, Honolulu, Hawaii'i 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii'i 96804

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Statement of
SCOTT GLENN, Director

before the
**SENATE COMMITTEE ON JUDICIARY
and
SENATE COMMITTEE ON WAYS AND MEANS**
Tuesday, March 1, 2023, 10:05 AM
State Capitol, Conference Room 211

in consideration of
**SB 507
RELATING TO WETLAND PRESERVATION.**

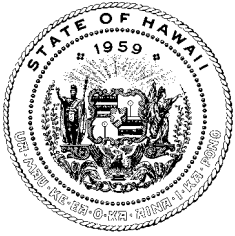
Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Keith-Agaran, and members of the Committees on Judiciary and Ways and Means:

The Office of Planning and Sustainable Development (OPSD) offers the following comments on SB 507, which encourages the preservation of wetlands by, among other things, 1) adding definitions for "floodway", "natural stormwater infrastructure", and "wetlands" to section 343-2, Hawaii Revised Statutes (HRS), 2) amending 201H, HRS to add these definitions to affordable housing development provisions, and 3) requiring an environmental assessment (EA) for actions that impact wetlands or natural stormwater infrastructure. OPSD appreciates the prior committee's acknowledgement of OPSD's comments.

The bill adds a new trigger (page 14) to Chapter 343, HRS: "Propose any development that would impact wetlands or natural stormwater infrastructure." This language introduces the undefined term "development". Confusion could result from differing opinions on the meaning of "development" as defined in other laws and intersection with Chapter 343, HRS.

We are concerned that the definitions of wetlands and natural stormwater infrastructure in the bill, which includes a long list of situations, are sufficiently broad to potentially capture a very large number of activities that currently are not considered actions throughout the state. The tenth element of the new "wetlands" definition (page 7) includes areas that formerly had wetland characteristics or functions, but have since been urbanized. An EA or environmental impact statement (EIS) could be required for many typical private urban uses that currently do not trigger Chapter 343, HRS. OPSD recommends consultation with the state and county proposing and approving agencies to ascertain their ability to process this potential increase in Chapter 343, HRS applicability. If this bill is advanced, OPSD also recommends to carefully determine the geographic and jurisdictional extents of each category of the definitions of wetlands and natural stormwater infrastructure and to more focus the applicability of this measure.

Thank you for the opportunity to testify on this measure.



STATE ENVIRONMENTAL ADVISORY COUNCIL

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM,
OFFICE OF PLANNING & SUSTAINABLE DEVELOPMENT, STATE OF HAWAII
235 SOUTH BERETANIA STREET, SUITE 702, HONOLULU, HI 96813

Phone: (808) 586-4185
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Testimony of the Environmental Advisory Council on SB507
Before the Senate Committees on Judiciary and Ways and Means
Conference Room 211 & Videoconference
March 1, 2023 at 10:05 am

Josh Green, M.D.
Governor

Chairperson
Puananionaona Thoene

Vice Chair
Mary Begier

Members
Roy Abe
Stephanie Dunbar-Co
Dawn Hegger-Nordblom
Makaala Kaaumoana
Ian Robin Kaye
Theresita Kinnaman
Michele Lefebvre
Gordon Scruton, Jr.
Rachel Sprague
Ron Terry
Michael Tulang
N. Mahina Tuteur

Aloha Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Judiciary, and Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Senate Committee on Ways and Means:

The State of Hawai'i Environmental Advisory Council (EAC) submits the following **COMMENTS** on Senate Bill 507:

First, the EAC concurs with the language of the first three pages of Section 1 of the bill, which describes the value of wetlands and natural stormwater infrastructure in protecting natural and cultural resources and public health and safety. Additional protections should be provided to these resources, given their value and the sometimes incomplete protection provided by the current provisions within existing laws and regulations. We thank the Senate for also expressing its concern and exploring legislative means to provide additional protection.

The EAC has substantial concerns, however, that the bill is overly broad and may have unintended consequences that will entail very significant additional expenses for citizens and government agencies alike, without an equivalent environmental benefit.

A major feature of the bill is to add another category of action entitled *Impact to wetlands or natural stormwater infrastructure* to the nine actions that trigger environmental review under Hawai'i Revised Statutes (HRS) § 343-5. Unlike the other HRS Chapter 343 "triggers," such as use of land in the Conservation District or use of county or state lands or funds, the terms "wetlands" and "natural stormwater infrastructure" vary widely in meaning in common use and for academics and agencies as well. The bill thus takes the added step of defining these terms and adding these to the Definitions section of HRS Chapter 343.

It bears noting that the bill does not distinguish between applicant and agency actions and is presumed to include applicant actions. Agency actions that might impact a wetlands or natural stormwater infrastructure are actually already covered by the use of county or state lands or funds trigger. This new Chapter 343 trigger would apply to a very large subset of private actions including subdivisions, planned unit developments, many commercial structures, construction or expansion of single-family homes in the Special Management Area ((SMA), which on certain islands includes extensive, populated inland areas), farming, and many other activities. We presume that the determination of whether a wetlands or natural stormwater infrastructure meeting the definition in the bill would be "impacted" would normally occur when an agency processes some sort of approval as defined in Chapter 343 for the action: e.g., SMA permit,

special permit, use permit, special use permit, change of zone, and certain subdivision, planned unit development, building, recreational, well water, temporary use, and other types of permits and approvals. As determination of the presence or absence of these wetlands or natural stormwater infrastructure is highly technical, we would assume that an applicant would need to submit rigorous evidence, usually involving a report by an environmental specialist, to allow the agency to make the determination with confidence. Studies of wetlands and hydrology are highly technical and often require many hours or even days in the field by highly trained specialists and can be very expensive. In the interest of practicality, it may be important to consider limiting the applicability of a new Chapter 343 trigger to only those situations where a risk of substantial harm to these resources exists.

We are concerned that the definitions of wetlands and natural stormwater infrastructure in the bill, which includes a long list of situations, are so broad as to potentially capture a very large number of actions in most if not all of the land in the State. The most extreme example of overly broad definitions is natural stormwater infrastructure, which is defined in the bill as:

...all naturally-occurring streams, ephemeral streams, gulches, drainage corridors, wetlands, floodways, and other areas where water naturally collects or drains to the ocean. (Emphasis added.)

This is essentially the definition of a watershed. All land in Hawai'i is within one watershed or another. **There is almost no land that is outside a watershed that connects to the ocean** (a few, tiny inland draining basins are present). **If the bill is adopted as law and includes this definition, there would be virtually no applicant projects subject to agency approvals that would not be subject to Chapter 343.** Making determinations on these projects and processing and reviewing exemption notices, environmental assessments (EAs), or environmental impact statements (EISs) would be a very large additional effort for agencies. The greatest burden would fall on county planning and public works departments, but many other agencies including but not limited to the State Department of Land and Natural Resources, Commission on Water Resource Management, Department of Health, and Department of Transportation would very likely also have their duties significantly expanded.

Even if the natural stormwater infrastructure definition was substantially modified or eliminated, other definitions that define "wetlands" for the purposes of the bill are similarly overly broad. Among the categories of this novel definition of wetlands are the following:

*1) Land that is transitional between terrestrial and aquatic ecosystems where water is the primary factor controlling the environment and the associated animal and plant life, where for **any duration of time, including non-consecutive years**, the water table is at or near the surface **and the land is covered by water or saturated** . . .*

During rainy years, many pastures, farm fields and even front yards meet this extreme definition.

2) Areas where hydric soils are present...

There are more than 85,000 acres of fully hydric soils in the State, many of them located in urban/suburban areas where minor private projects would be located. Over half of the South Hilo and Puna Districts contain soils that are classified as fully or partially hydric. Soil by itself is not a reliable indicator of conditions that most researchers or regulators would consider to define a wetlands. The definition of wetlands used in the federal Clean Water Act, which has been refined through more than 40 years of intensive study, legislation, protracted rule making procedures, and litigation including U.S. Supreme Court decisions, wisely utilizes not just a soil factor but also vegetation and inundation/saturation tests. Relying on one single factor is overly broad and inappropriate for parts of the country and State that have significant rainfall.

3) Areas that formerly had wetland characteristics or functions but have been altered or degraded by channelization, filling, draining, dredging, grading grubbing, deep ripping, groundwater pumping, hardening of surfaces, or introduction of non—native or aggressive—invasive plant and animal species.

This would include large areas of Honolulu, Hilo and other urban areas that were long ago transformed. Determining the geographic boundaries of such areas would in itself be an intensive, expensive multi-year study. It is unclear whether any environmental benefit would accrue from this enormous investment.

4) Subsurface water that is hydrologically connected to wetlands.

It is difficult to determine the exact connection of aquifer waters to wetlands in even simple situations without extensive dye tracing or similar methods. Because of the presence of both upland and coastal wetlands as defined by most jurisdictions, it can be presumed that there is some hydrological connection, however faint, between most groundwater bodies and a wetlands. This could make many if not all private wells subject to Chapter 343.

If this bill is advanced, it would be advisable to carefully determine the geographic and jurisdictional extents of each category of the definitions of wetlands and natural stormwater infrastructure and limit applicability to situations where a genuine and substantial risk is present. In reality, the Clean Water Act Sections 401, 402 and 404 processes regulated by the U.S. Environmental Protection Agency (EPA) along with floodplain regulations already require permits involving extensive study and mitigation for most major projects that have the potential to adversely affect erosion, sedimentation and pollution within Section 404-regulatory wetlands and FEMA-identified floodplains. The EPA regulatory processes include concurrence with impacts and mitigation. To be effective, this bill would need to clarify how the state-level protection of wetlands differs from federal regulation and protection of these resources. The EAC is concerned that this bill will create another wetland regulatory process that will conflict with existing processes.

There are many ways to encourage protection of wetlands, drainages and watersheds. While expansion of Chapter 343 applicability could have some merit, the bill appears to over-reach and could have unintended consequences that could unnecessarily require hundreds or even thousands more EAs or EISs for applicant actions. The cost to applicants as well as agencies

burdened with reviewing and processing these submittals needs to be quantified and carefully considered by the Legislature. The broader the definitions, the higher these costs would be, without necessarily any corresponding environmental benefit. The preparation of an EA or an EIS would not necessarily result in minimization of project effects to wetlands, drainages, or watersheds. Without a state-level regulatory framework for how to identify these resources, or a state-level agency with jurisdiction to concur on impacts or appropriate mitigation, there is essentially no teeth to the Chapter 343 trigger identified in the bill.

Far more value to the environment might be achieved by reinforcing existing processes. For example: addressing ungulate populations in upland areas (ungulates cause sedimentation that overwhelms upland areas and travels to wetlands); modifying the county's grading regulations; the State could fund positions for enforcement of grading permits; more frequent and broader collection events for household and business hazardous materials could be instituted; and lands with substantial value as wetlands could be purchased by the State or counties and dedicated to open space.

Section 1 of the bill reads that one of its purposes is to preserve wetlands by:

*Requiring a proposed housing project of the Hawaii housing finance and development Corporation that is exempt from all statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, and construction standards to **ensure that the proposed project does not impact wetlands or natural stormwater infrastructure**;...*

Given the definitions of wetlands and natural stormwater infrastructure in the bill, this is an extremely high bar. There are virtually no actions that could occur that would not have some form of impact. If adopted, this bolded language in the section above should be amended to read "does not have a significant impact" to match the analysis that must be undertaken under HRS Chapter 343.

Thank you for the opportunity to testify on this measure.

Puananionaona Thoene
Chair
Environmental Advisory Council

Robin Kaye
Chair
EAC Legislative Committee

Ron Terry
EAC Member



March 1, 2023
10:05 a.m.
Conference Room 211
Via Videoconference

To: Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

RE: SB507 — RELATING TO WETLAND PRESERVATION

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [SB507](#), which would require the Hawaii Housing Finance and Development Corp. to ensure that any of its housing projects that are otherwise exempt from statutes, ordinances and rules governing planning, zoning and construction standards would not impact wetlands or natural stormwater infrastructure.

The bill further requires an environmental assessment under the environmental impact statements law for any development that would impact wetlands or natural stormwater infrastructure.

This bill exemplifies how good intentions have contributed to the lack of affordable housing in Hawaii. This is because good intentions that result in additional regulations, permits and approvals are the most significant barrier to housing growth.

Recently, the Economic Research Organization at the University of Hawai'i studied Hawaii's housing regulations using the Wharton Land Use Regulatory Index as a way to measure the impact of government regulation on housing in Hawaii relative to other states and municipalities. Its report found that Hawaii had the worst score in the nation, with three Hawaii counties among the 10 U.S. counties with the most restrictive regulations.¹

Unsurprisingly, a high Wharton Index score indicating heavy regulation was associated with significant delays for construction and permitting. The average length of approval delays in Hawaii was three times the national mean.²

The study also found a strong correlation between regulation and home prices, leading the researchers to suggest that cutting regulation would help make housing more affordable in Hawaii.³

No one disputes the importance of protecting the environment. However, this bill would handcuff the HHFDC and frustrate efforts to build affordable homes. It is difficult to imagine any homebuilding development that would not arguably affect natural stormwater infrastructure or wetlands in some way, thereby making this bill's requirements a significant barrier to new construction.

We suggest that the bill be altered so as to give HHFDC greater flexibility to proceed with homebuilding projects absent evidence that the project will have a significant adverse effect on wetlands or natural stormwater infrastructure.

Such a compromise would address concerns about environmental protection without frustrating efforts to build affordable housing.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

¹ Rachel Inafuku, Justin Tyndall, and Carl Bonham, "[Measuring the Burden of Housing Regulation in Hawaii](#)," The Economic Research Organization at the University of Hawai'i, April 14, 2022, pp. 2-4.

² Ibid, p. 7.

³ Ibid, pp. 7-8.



Aloha Committee Members,

My name is Arwen Revere and I am a high school student from Kailua. Today, I am representing the student-run environmental organization Wild Kids. We are testifying in strong support of SB507. Wetlands are some of the most productive and biodiverse habitats on the planet and protect beaches against erosion, recharge aquifers, provide flood alleviation, support endangered species, and sequester carbon. According to the United States EPA, just a single acre of wetland can store 1–1.5 million gallons of floodwater.

The destruction of wetlands and waterways is a major concern because development in these areas leads to excessive flooding and inhibits the natural processes that filter sediments and nutrients from stormwater runoff before reaching coral reefs. The United Nations Millennium Ecosystem Assessment determined that environmental degradation is more prominent within wetlands than any other ecosystem on Earth and, therefore wetlands deserve greater protection.

In Hawai'i, more than 31% of our coastal wetlands have been lost. Wetlands, by virtue of the functions and ecosystem services they provide, are far more precious than mere market values or commercial profits. Without wetlands, Hawai'i would have to spend exorbitant amounts of money to replace wetland functions that protect the water supply, ocean water quality, and coral reefs; provide flood attenuation and storage; sequester carbon; and provide habitat for native plants and animals.

Furthermore, without wetlands to provide these ecosystem services, drinking and irrigation water will require more treatment, floods will become more devastating, storm surges from hurricanes will penetrate further mauka, coral reefs, and fisheries will be damaged or destroyed, animals and plants will face disruption and extinction, climate change mitigation will be reduced, and food security and livelihoods will be threatened.

Surface water, groundwater, floodplains, wetlands, and other features do not function as separate and isolated components of the watershed, but rather as a single, integrated natural system.

Disruption of any part of this system can have long-term and far-reaching consequences on the functioning of the entire system as evidenced by disastrous recent flooding events. This Act will establish ahupua'a-based protection of wetlands and watersheds, and protect natural stormwater infrastructure. Please support this bill.

Please pass this vital legislation and help protect our planet for future generations.

Thank you for hearing our testimony,
Arwen Revere on behalf of Wild Kids

**Testimony of The Nature Conservancy
Supporting SB 507, Relating to Wetland Preservation.**

**Committee on Judiciary
Committee on Ways and Means
March 1, 2023, 10:05 am
Conference Room 211 and via Videoconference**

Aloha Chair Rhoads, Chair Dela Cruz, Vice Chair Gabbard, Vice Chair Keith-Agaran, and Members of the Committees:

The Nature Conservancy (TNC) supports SB 507, Relating to Wetland Preservation, which would add definitions for “floodway,” “natural stormwater infrastructure,” and “wetlands” to the Hawai'i Environmental Policy Act, and requires a proposed housing project of the Hawaii Housing Finance and Development Corporation that is exempt from all statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, and construction standards to ensure that the proposed project does not impact wetlands or natural stormwater infrastructure. The bill also requires an environmental assessment for actions under the environmental impact statements law that propose any development that would impact wetlands or natural stormwater infrastructure.

Wetlands are a vital ecosystem that provides numerous benefits in Hawai'i, including minimizing flood damage, reducing sediments and nutrients flowing out onto the reefs, reducing erosion, sequestering carbon, and helping provide healthy food and clean water for local communities. Wetlands also provide habitat for native species, including endangered birds like ae'o (Hawaiian stilt) and 'alae 'ula (Hawaiian moorhen).

Including wetlands, floodways, and natural stormwater infrastructure in the Hawai'i Environmental Policy Act (Hawai'i Revised Statutes Chapter 343) will help to ensure that projects that affect these important natural systems are not overlooked and damaged by development. Our island communities cannot afford to lose the services provided by wetlands and the proposed bill will help to ensure their protection.

Mahalo for the opportunity to provide comments on SB 507.

The Nature Conservancy of Hawai'i and Palmyra is a non-profit organization dedicated to the preservation of the lands and waters upon which all life depends. The Conservancy has helped protect more than 200,000 acres of natural lands in Hawai'i and Palmyra Atoll. We manage 40,000 acres in 13 nature preserves and work in over 50 coastal communities to help protect and restore the nearshore reefs and fisheries of the main Hawaiian Islands. We forge partnerships with government, private parties, and communities to protect forests and coral reefs for their ecological values and for the many benefits they provide to people.

BOARD OF TRUSTEES

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Duncan MacNaughton Jean E. Rolles Crystal K. Rose Nathan E. Smith

Founders: Samuel A. Cooke Herbert C. Cornuelle

Tuesday February 28, 2023

LATE

Aloha Chairs, Vice Chairs, and Members of the Committees,

I'm writing to express Hawai'i YIMBY's strong opposition to SB 507 as written. We join the HHFDC in identifying serious drafting oversights that would jeopardize affordable housing development and are not relevant to protecting wetlands.

Problems with this bill include:

- The definition of "Natural stormwater infrastructure:" ***"All naturally-occurring streams, ephemeral streams, gulches, drainage corridors, wetlands, floodways, and other areas where water naturally collects or drains to the ocean"***. This is unnecessarily overbroad, encompassing anywhere rain falls and then moves toward the ocean. This definition applies to the entire state of Hawai'i.
- One definition of "Wetlands:" ***"Areas that formerly had wetland characteristics or functions but have been altered or degraded by channelization, filling, draining, dredging, grading, grubbing, deep ripping, groundwater pumping, hardening of surfaces, or introduction of non-native or aggressive-invasive plant and animal species"***. This is also unnecessarily overbroad, encompassing many long-urbanized areas like Waikiki.
- It's unclear why there's a separate section further defining "Wetlands" as ***"Areas that provide wetland functions"***. A concrete lot that rain flows from is not reasonably a wetland, but would qualify under this section. Most land in the state falls under one of these categories.

There is no question that wetlands are a critically important natural resource and must be protected. If amended to actually do that, we would absolutely support this bill. But this bill goes far beyond wetlands.

Please either amend it to use less dangerously broad language or give the HHFDC the discretion they're requesting.

NIMBYs have been known to intentionally kill projects by demanding excessive environmental reviews for projects in alleged flood risk areas, even if independent authorities rate those areas in the lowest flood risk category. They would no doubt seize upon this bill's ambiguities to force such reviews on every project, since no land is free from stormwater conveyance.

If we don't want to see the Star-Advertiser headline "NIMBY Abuse of Wetlands Law Kills Another Affordable Housing Project" a year from now, we need to fix this bill now.

Thank you for the opportunity to testify.

Mahalo,
Damien Waikoloa, Hawai'i YIMBY
hawaiiyimby.com | admin@hawaiiyimby.com

SB-507

Submitted on: 2/25/2023 4:40:22 PM

Testimony for JDC on 3/1/2023 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Wetlands are some of the most productive and biodiverse habitats on the planet. Wetlands protect beaches against erosion, recharge aquifers, provide flood alleviation, support endangered species, and sequester carbon. According to the United States Environmental Protection Agency, an acre of wetland can store 1–1.5 million gallons of floodwater.

The destruction of wetlands and waterways is a major concern because development in these areas leads to excessive flooding and inhibits the natural processes that filter sediments and nutrients from stormwater runoff before reaching coral reefs. The United Nations Millennium Ecosystem Assessment determined that environmental degradation is more prominent within wetlands than any other ecosystem on Earth and, therefore wetlands deserve greater protection.

In Hawai‘i, more than 31% of our coastal wetlands have been lost. Wetlands, by virtue of the functions and ecosystem services they provide, are far more precious than mere market values or commercial profits. Without wetlands, Hawai‘i would have to spend exorbitant amounts of money to replace wetland functions that protect the water supply, ocean water quality, and coral reefs; provide flood attenuation and storage; sequester carbon; and provide habitat for native plants and animals.

Furthermore, without wetlands to provide these ecosystem services, drinking and irrigation water will require more treatment, floods will become more devastating, storm surges from hurricanes will penetrate further mauka, coral reefs and fisheries will be damaged or destroyed, animals and plants will face disruption and extinction, climate change mitigation will be reduced, and food security and livelihoods will be threatened.

Surface water, ground water, floodplains, wetlands, and other features do not function as separate and isolated components of the watershed, but rather as a single, integrated natural system. Disruption of any part of this system can have long-term and far-reaching consequences on the functioning of the entire system as evidenced by disastrous recent flooding events. This Act will establish an ahupua‘a-based protection of wetlands and watersheds, and protect natural stormwater infrastructure. Please support this bill.

SB-507

Submitted on: 2/25/2023 10:58:11 PM

Testimony for JDC on 3/1/2023 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Richard Furst	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am writing to express my support for SB507. I believe that wetlands are critical to the health of our oceans and need better protections.

Thank you,

Richard Furst

Honolulu, HI

LATE

SB-507

Submitted on: 2/28/2023 12:40:46 PM
Testimony for JDC on 3/1/2023 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Samuel Peck	Individual	Support	Written Testimony Only

Comments:

Honorable members of the committee,

I am testifying in support of SB507. Our wetlands are the heart of our watersheds, and we must take as many steps as possible towards their protection. While incomplete, this bill is a step in that direction and should be passed unamended.

Mahalo,

Sam