



OFFICE OF HAWAIIAN AFFAIRS

**TESTIMONY IN SUPPORT TO SENATE BILL 438 SD2 HD2
RELATING TO WASTE DISPOSAL FACILITIES**

House Committee on Judiciary and Hawaiian Affairs
Hawai'i State Capitol

April 2, 2025

2:00 PM

Room 325

Aloha e Chair Tarnas, Vice Chair Poepoe and Members of Committee:

The Office of Hawaiian Affairs strongly **supports SB 438 SD2 HD2**, which seeks to protect Hawai'i's water resources and prime agricultural lands by prohibiting landfill units on Class A and B agricultural lands, restricting the construction, modification, or expansion of waste or disposal facilities for solid or hazardous waste near or above significant aquifers, clarifying the application of buffer zones beginning July 1, 2025, to municipal solid waste landfill units and construction and demolition landfill units, and prohibiting landfill units inland of the underground injection control line in counties with populations exceeding 500,000. **This measure aligns with the Native Hawaiian values of mālama 'āina and mālama wai, ensuring that Hawai'i's fragile ecosystem, agricultural productivity, and public health remain safeguarded for generations to come.**

OHA has advocated for the protection of Hawai'i's natural and cultural resources, recognizing that water and 'āina are essential to the survival and well-being of the Native Hawaiian people. Historically, Native Hawaiians have maintained a reciprocal relationship with the environment, understanding that the health of the land and water is directly tied to the health of our communities. This bill upholds this ancestral wisdom by implementing critical safeguards against contamination and environmental degradation.

The current version of SB 438 SD2 HD2 includes several amendments made in prior committees that strengthen the bill's purpose and effectiveness, while others raise concerns. The clarification that landfill units, rather than all waste or disposal facilities, are prohibited on Class A and B agricultural lands ensures that the focus remains on large-scale waste management operations that pose the greatest risk to critical resources. This amendment strengthens the bill by preserving the most productive agricultural lands for farming and food security rather than industrial waste use. The added prohibition on landfill units inland of the underground injection control line in counties with populations exceeding 500,000 is another key improvement, as it provides additional safeguards against contamination of drinking water in highly populated areas. These changes

reinforce the intent of the bill by ensuring that landfills are not placed in areas where they could pose significant risks to aquifers and drinking water supplies.

The removal of the prohibition on the use of fly ash and bottom ash in road building, construction, or as alternative daily cover material on landfills weakens the bill's ability to prevent the spread of potentially hazardous materials into the environment. Ash residue from municipal waste combustors often contains heavy metals and other toxic substances that can leach into surrounding soils and water sources if not handled properly. By eliminating this prohibition, the bill misses an opportunity to set stronger safeguards against pollution and contamination.

Despite this concerning change, the bill remains an important step toward ensuring that landfill placement decisions prioritize the protection of Hawai'i's water and land resources. **The existing buffer zone clarifications and landfill siting prohibitions provide necessary long-term protections to prevent environmental disasters like the Red Hill fuel leaks, which demonstrated the devastating consequences of allowing hazardous materials to be stored above aquifers.** The continued operation of existing waste facilities without physical expansion is a practical compromise, allowing time for proper waste management planning while preventing further encroachment into environmentally sensitive areas.

OHA urges the Committee to **pass SB 438 SD2 HD2**, to uphold the integrity of Hawai'i's land and water resources and protect the health and well-being of all residents. While certain amendments could be strengthened to ensure greater environmental protections, the bill as a whole remains an important step toward safeguarding Hawai'i's future. Mahalo for the opportunity to testify.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the House Committee on
JUDICIARY & HAWAIIAN AFFAIRS

Wednesday, April 2, 2025
2:00 PM

State Capitol, Conference Room 325 & Videoconference

In consideration of
SENATE BILL 438 SD2 HD2
RELATING TO WASTE DISPOSAL FACILITIES

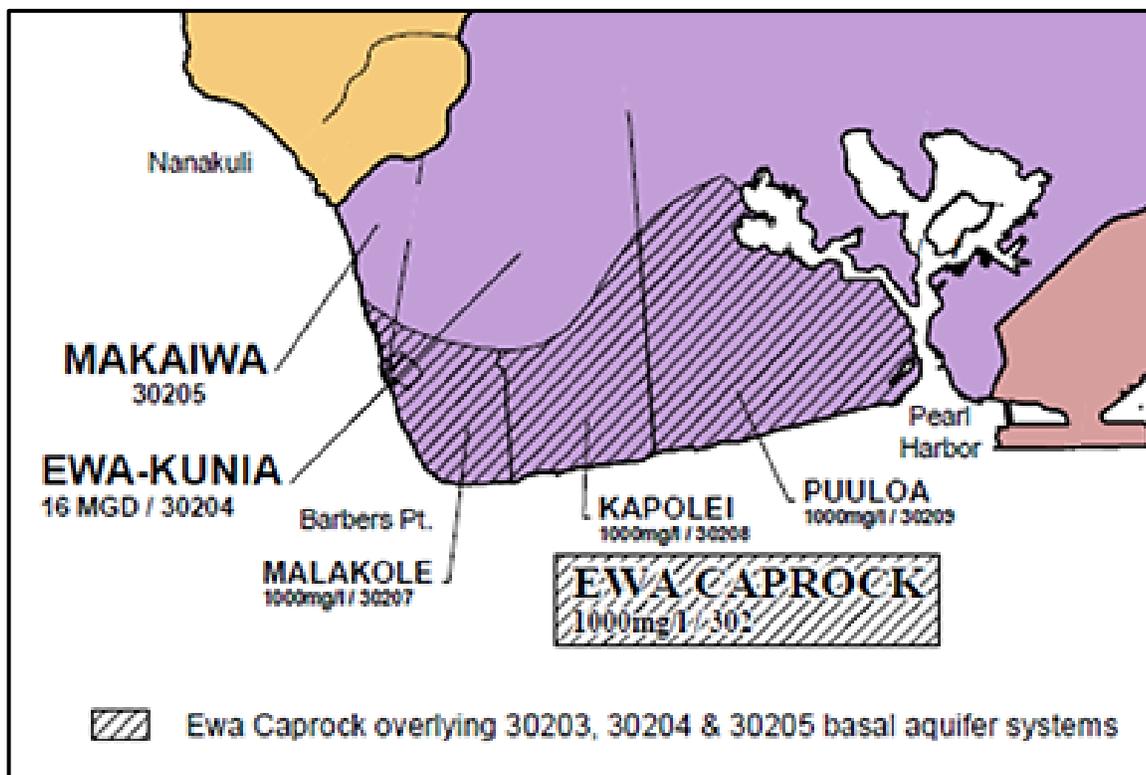
Senate Bill 438 SD2 HD2 proposes to prohibit the construction, modification, or expansion of any waste or disposal facility for hazardous waste or solid waste on land that is near or above a significant aquifer as determined by the Department of Health, in consultation with the Commission on Water Resource Management; and prohibits waste or disposal facilities on class A and B agricultural land. **The Department of Land and Natural Resources (Department) offers comments.**

The Commission on Water Resource Management (Commission) was established by the Hawai'i State Legislature in 1987 to implement and administer the State Water Code (HRS chapter 174C). Under the laws and constitution of the State of Hawai'i, the Commission has a dual mandate of protecting and preserving the state's fresh water resources while providing for the maximum reasonable and beneficial use of water by present and future generations. The Commission allocates water to support needs like affordable housing, agriculture, and other important uses. Under the Hawai'i Constitution and the State Water Code, the Commission must ensure the protection of public trust uses—maintenance of waters in their natural state, domestic uses, traditional and customary practices of Native Hawaiians, and adequate reservations of water for the Department of Hawaiian Home Lands—and appurtenant rights.

While the Department understands that the proposed measure will protect potable drinking water and agricultural uses, the Commission's statutory obligation to protect the public trust also includes the protection of water for the public trust uses described above.

Based on the language on page 16, lines 5-6 of this bill defining a "significant aquifer" as "a freshwater aquifer with the potential for use as a drinking water source," the only aquifer systems on

the island of O‘ahu that would be available for siting waste or disposal facilities, in the opinion of Commission staff, would be those within the ‘Ewa Caprock. The ‘Ewa Caprock, which includes the Malakole, Kapolei, and Pu‘uloa Aquifer Systems, is depicted below as a shaded area.



Mahalo for the opportunity to testify on this measure.



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
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**Testimony in OPPOSITION to SB0438 SD2 HD2
RELATING TO WASTE DISPOSAL FACILITIES.**

REPRESENTATIVE DAVID A. TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

April 2, 2025, 2:00 PM, Conference Room 325

1 **Fiscal Implications:** Potentially significant costs by and for counties to manage municipal solid
2 waste.

3 **Department Position:** The Department of Health (Department) opposes the measure.

4 **Department Testimony:** The Environmental Management Division Solid and Hazardous Waste
5 Branch (EMD-SHWB) provides the following testimony on behalf of the Department.

6 This measure proposes to: (1) prohibit landfill units as defined in section 342H-52,
7 Hawaii Revised Statutes (HRS), on land in an agricultural district having soil classification as
8 overall (master) productivity rating class A; (2) prohibit the construction, modification, or
9 expansion of any waste or disposal facility for solid or hazardous waste on land that is near or
10 above a significant aquifer as determined by the Department in consultation with the
11 Commission on Water Resource Management (CWRM) and defines a significant aquifer as a
12 freshwater aquifer with the potential for use as a drinking water aquifer, (3) require that
13 beginning July 1, 2025 that the existing landfill buffer zone apply to landfill units which include
14 both municipal solid waste (MSW) and construction demolition landfill units, (4) prohibits
15 landfill units in a county-defined no pass zone in counties with populations of greater than
16 500,000, and 5) prohibit fly ash, bottom ash, or a combination from a municipal waste

1 combustor from being recycled for road building, construction, or used as alternative daily
2 landfill cover and must be disposed of in a licensed, double-lined MSW or hazardous waste
3 landfill.

4 We oppose this measure based on: (1) an increase in landfill siting restrictions that will
5 likely prevent future landfill siting and lead to a public health threat, (2) the Department's
6 inability to enforce the measure as currently proposed, (3) an added restriction to prevent any
7 exploration for recycling of incinerator ash, and (4) the requirement to place this ash in a
8 double-lined landfill despite competing provisions of the measure making landfill siting more
9 difficult, and which, if made effective promptly, would put the City and County of Honolulu
10 (City) in immediate violation of any in-state disposal as there are currently no double-lined
11 landfills in Hawai'i.

12 Solid Waste Management a Necessary Function

13 The Department supports the protection of our drinking water resources as the
14 measure intends to address. However, we also see a potential public health crisis looming.
15 Based on their submitted annual reports, the County of Kauai currently has less than three
16 years and the City currently has about seven years of permitted landfill capacity remaining (not
17 considering the closure date set by their Special Use Permit). Both counties have spent many
18 years, if not a decade or more, trying to site their next municipal solid waste landfill, and given
19 the proposed measure and current restrictions, will likely be unable to do so.

20 If landfill sites are not available, costs for proper management of waste will significantly
21 increase, and we will likely see increased illegal dumping as a cost avoidance. The impact of
22 illegal dumping will create a greater environmental impact than what this measure is trying to
23 prevent.

24 To see the effects of what could occur if this measure passes, we provide Figures 1-4 in
25 which we have estimated the location of the uppermost freshwater (up to 5,000 milligrams per

1 liter salinity) aquifers with the potential use for drinking water based the Aquifer Identification
2 and Classification report series that the University of Hawaii, Water Resources Research
3 Center (WRRC), Technical Reports 179, 185, 186, 187, 190 and 191¹ developed. These maps are
4 rough estimates as we did not have time to confirm the accuracy of our maps. Some of the
5 current siting restrictions (conservation district, ½-mile buffer, airport safety, tsunami
6 evacuation zone) are in red and areas inland over which the estimated freshwater aquifers are
7 in yellow; combinations of both areas are colored orange. Based on this, we believe that new
8 landfills or landfill expansions will be severely restricted in the State, especially on Kauaʻi,
9 Oʻahu, and Hawaiʻi Islands.

10 We encourage the Legislature to allow the counties greater flexibility to look at landfill
11 siting more holistically, because given the current restrictions there is no one good location to
12 site a landfill. The counties, being both responsible for providing waste management services
13 and for ensuring that the future water needs of their counties are met, they are in the best
14 position to make this evaluation.

15 The City's testimony for SB0438 SD2 HD1 states that "if SB438, SD2, HD1 were to
16 become law, the state could amend Act 73 [SLH 2020] to reduce or eliminate several of its
17 restrictions in order to make potential landfill sites available. Alternatively, if SB438, SD2, HD1
18 were to become law and Act 73 was not amended, the City would have no choice but to pursue
19 a legally prohibited expansion at WGSL [Waimanalo Gulch Sanitary Landfill]." The Department
20 cannot support legislation that will force the City to violate environmental laws for actions that
21 are necessary to protect public health.

¹ <https://www.wrrc.hawaii.edu/publications/technical-reports/>

1 Significant Aquifer Criteria

2 The Department is unable to immediately enforce Section 4 as currently proposed. In
3 testimony for previous versions of this measure², we asked the Legislature to provide
4 clarification and specific criteria for the definition of significant aquifer, including what
5 constitutes a potential for use as a drinking water aquifer, e.g. is potential based on economic
6 feasibility, is treatment allowed, what types of treatment are allowed, etc. In addition, the
7 measure currently states, “near or above a significant aquifer.” What is meant by “near?” Ten
8 feet, one hundred feet, one thousand feet, one mile? Without these determinations, we cannot
9 ascertain the locations with which to apply the landfill restriction.

10 Although we continue to await direction and clarity from the Legislature on this
11 language, if the legislature wishes to utilize a source that may assist in developing the needed
12 criteria, we recommend the WRRRC technical reports referenced earlier that identify and
13 characterize aquifers statewide³. Development (current, potential, no potential use), salinity,
14 utility (drinking, ecological, none) are some of the characteristics provided.. However, if these
15 boundary lines are not incorporated in statute, the Department will require time to go through
16 rulemaking to implement this section, thus immediate implementation is not possible.

17 No Pass Zone

18 The measure’s proposed language for subsection 342H-52(d) to prohibit landfills within
19 a county-specified No Pass Zone seems redundant with the proposed subsection 342H-52(b)
20 which prohibits landfills above significant aquifers, for counties with a population greater than
21 500,000. Being that only the City has a population greater than 500,000, this section would only

² https://www.capitol.hawaii.gov/sessions/session2025/Testimony/SB438_TESTIMONY_WTL-HHS_02-10-25_.PDF
https://www.capitol.hawaii.gov/sessions/session2025/Testimony/SB438_SD2_TESTIMONY_EEP_03-13-25_.PDF
https://www.capitol.hawaii.gov/sessions/session2025/Testimony/SB438_HD1_TESTIMONY_WAL_03-20-25_.PDF

³ <https://www.wrrc.hawaii.edu/publications/technical-reports/>

1 apply to the City. It is important to note that the Board of Water Supply has referenced the No
2 Pass Zone on O'ahu in previous testimony, however, we have not been able to locate an official
3 version of the No Pass Zone. The Department developed an unofficial version of this map for
4 our own reference but have recently determined that the version we have is not based on an
5 official Board of Water Supply map, thus should not be used as a county-developed criterion.
6 Thus, before we can enforce, we would need a map that could be used for this purpose. This
7 would require sufficient detail of whatever metes and bounds and/or geospatial coordinates to
8 be used in determining compliance, preferably, one that is promulgated by the City for this
9 purpose.

10 Municipal Solid Waste Combustion Ash Recycling and Disposal

11 While we agree that HPOWER combined ash in its current form should be properly
12 disposed and not recycled, as currently specified in the City's solid waste management permit,
13 the Department opposes the proposed addition of subsection (c) (Page 15, Lines 4-12).

14 First, this provision does not consider the application of treatment or recycling
15 technologies that may be applied to the ash now or at some point in the future. The strict
16 prohibition of recycling and requirement of landfilling will prevent the future development of
17 possible reuse options. While we have not yet fully evaluated the City's current proposal, we
18 recognize that there are existing technologies that could potentially address public health and
19 environmental concerns but have yet to be demonstrated that they can be upscaled, reliable,
20 and cost-effective.

21 Second, this provision could potentially apply to other incinerator units that may not be
22 burning all types of municipal solid waste but are limited to waste such as invasive species
23 infested green waste.

24 Third, placement of this ash under this proposed measure is limited to a double-lined
25 landfill. Depending on the effective date of the measure, the City may not have an immediate

1 place for disposal of the ash, as the City does not currently operate a double-lined landfill. In
2 addition, we do not have data to support that a double liner system is needed over the current
3 lined landfill that City is using. Lastly, given decades worth of data, HPOWER combined ash is
4 not a hazardous waste, and thus, is not required by existing state and federal laws and
5 regulations to be disposed in a hazardous waste landfill. If the City is required to dispose of this
6 waste at a hazardous waste landfill, then this waste must be shipped out of state because
7 Hawai'i does not have a hazardous waste landfill. Being that the City generates on the order of
8 130,000 tons of ash per year, this will be a significant cost.

9 Regulatory Implementation

10 Given the need to further develop the regulatory instruments (establish criteria,
11 produce county-developed No Pass Zone, etc.) required to carry out the proposed language in
12 the measure, it is important to note that if the prohibitions to site landfills with reference to
13 significant aquifers and no pass zones goes into effect promptly, the Department will need to
14 halt any landfill permitting until those instruments are finalized, or in the case of developing a
15 No Pass Zone, the City may not be able to site or prepare a permit application until one is
16 developed. The counties put considerable effort into the production of their permitting
17 documents, which includes design of the liner and leachate collection and removal system,
18 analysis for stability and to withstand earthquakes, etc., so it is not likely they would pursue any
19 landfill development until site compliance is known. Therefore, landfills which are close to
20 reaching capacity in the near future would have to delay any new proposed landfill
21 development or expansion and given the average 10-year process to site new landfills, the
22 County of Kauai and the City may not have sufficient time to do so.

23 **Offered Amendments:**

24 We have included proposed amendments to remove a discrepancy in the definition and
25 application of "buffer zones" in the existing statute. We do not want to prohibit landfill facilities

1 from obtaining more land to secure buffer zone distances. Note that we created a new
2 definition of “landfill unit” to only apply to the listed subsections. Being that this part is specific
3 to Municipal Solid Waste Landfill Criteria, subsection 342H-52(b), HRS, expands to construction
4 and demolition landfills, we want to be careful to not affect the definitions intended for the
5 remainder of the Part. The state relies on Part IV of chapter 342H, HRS, to ensure compliance
6 with federal regulations so that we may maintain our state program approval. These offered
7 amendments are meant to replace the entirety of SECTION 1 of the measure.

8 “SECTION 4. Section 342H-52, Hawaii Revised Statutes, is amended to read as follows:

9 “**§342H-52 Prohibitions; buffer zones.** (a) No person, including any federal agency, the
10 State, or any county, shall construct, operate, modify, expand, or close a municipal solid waste
11 landfill unit, or any component of a municipal solid waste landfill unit, without first obtaining a
12 permit from the director. All permits for municipal solid waste landfill units shall be subject to
13 any terms and conditions that the director determines are necessary to protect human health
14 or the environment.

15 (b) ~~[No]~~Beginning July 1, 2025, no person, including the State or any county, shall
16 construct, modify, or expand a ~~[waste or disposal facility including a municipal solid waste~~
17 ~~landfill unit, any component of a municipal solid waste landfill unit, a construction and~~
18 ~~demolition landfill unit, or any component of a construction and demolition]~~ landfill unit or
19 component of a landfill unit without first establishing a buffer zone of no less than one-half mile
20 around the ~~[waste or disposal facility]~~ landfill unit. This subsection shall not apply to the
21 continued operation of an existing ~~[waste or disposal facility]~~ landfill unit that is properly
22 permitted; provided that continued operation does not require physical expansion, elevated
23 vertically from the above ground surface or horizontal, of the ~~[facility]~~ landfill unit or component
24 of the landfill unit, requiring additional permitting review and a permit modification.

25 For the purposes of this subsection:

1 “Buffer zone” means the distance between the edge of waste or waste disposal activity
2 and the nearest residential, school, or hospital property line.

3 “Landfill unit” means a municipal solid waste landfill unit or a construction and
4 demolition landfill unit.

5 ~~[“Waste or disposal facility” excludes individual, state certified, non-industrial~~
6 ~~redemption centers.]”~~

7 Thank you for the opportunity to testify on this measure.

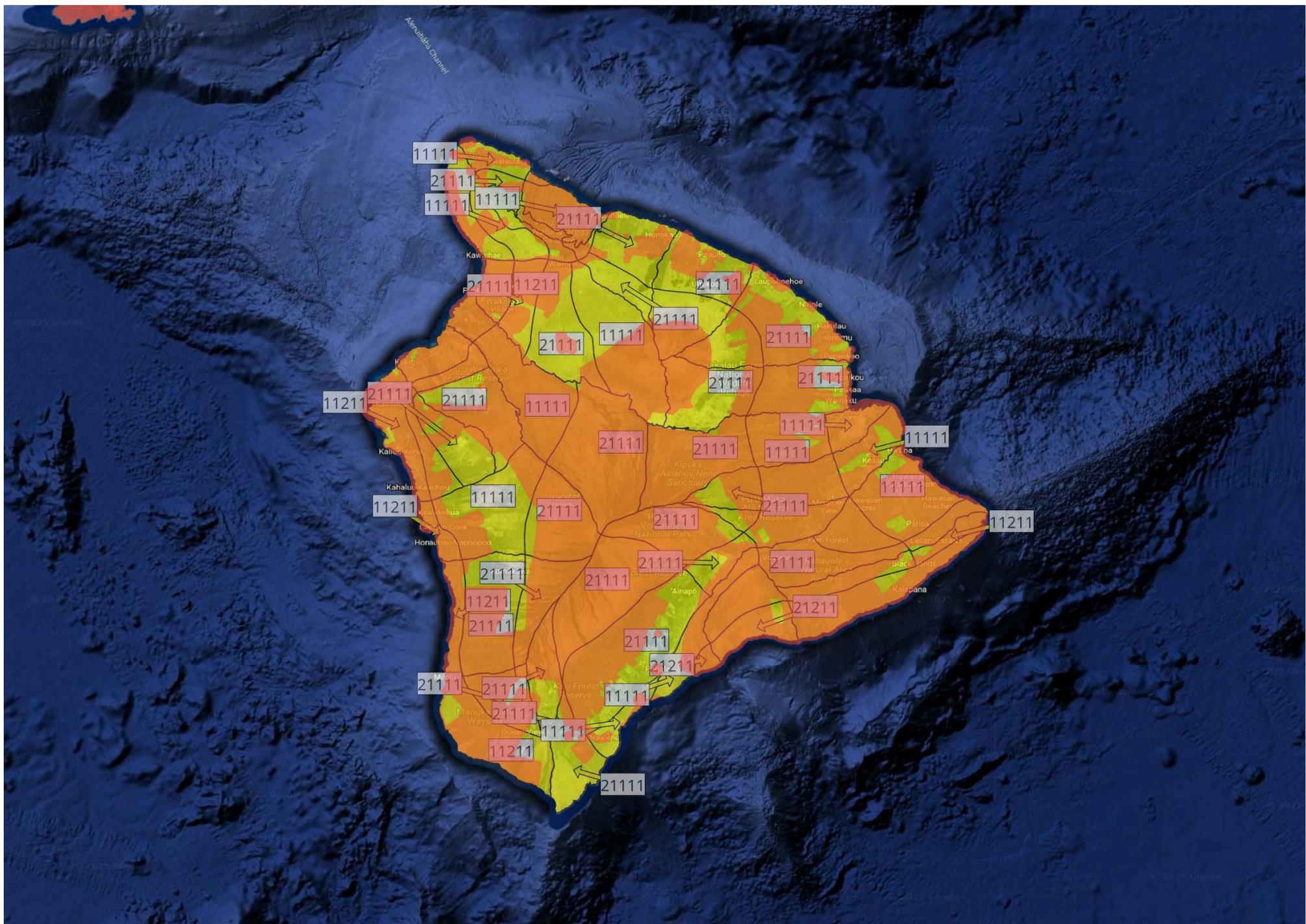


Figure 1. County of Hawaii. Yellow = freshwater aquifers, Red = current landfill siting restrictions, Orange = combination of freshwater aquifers and current landfill siting restrictions. [SB438 SD2 HD2]

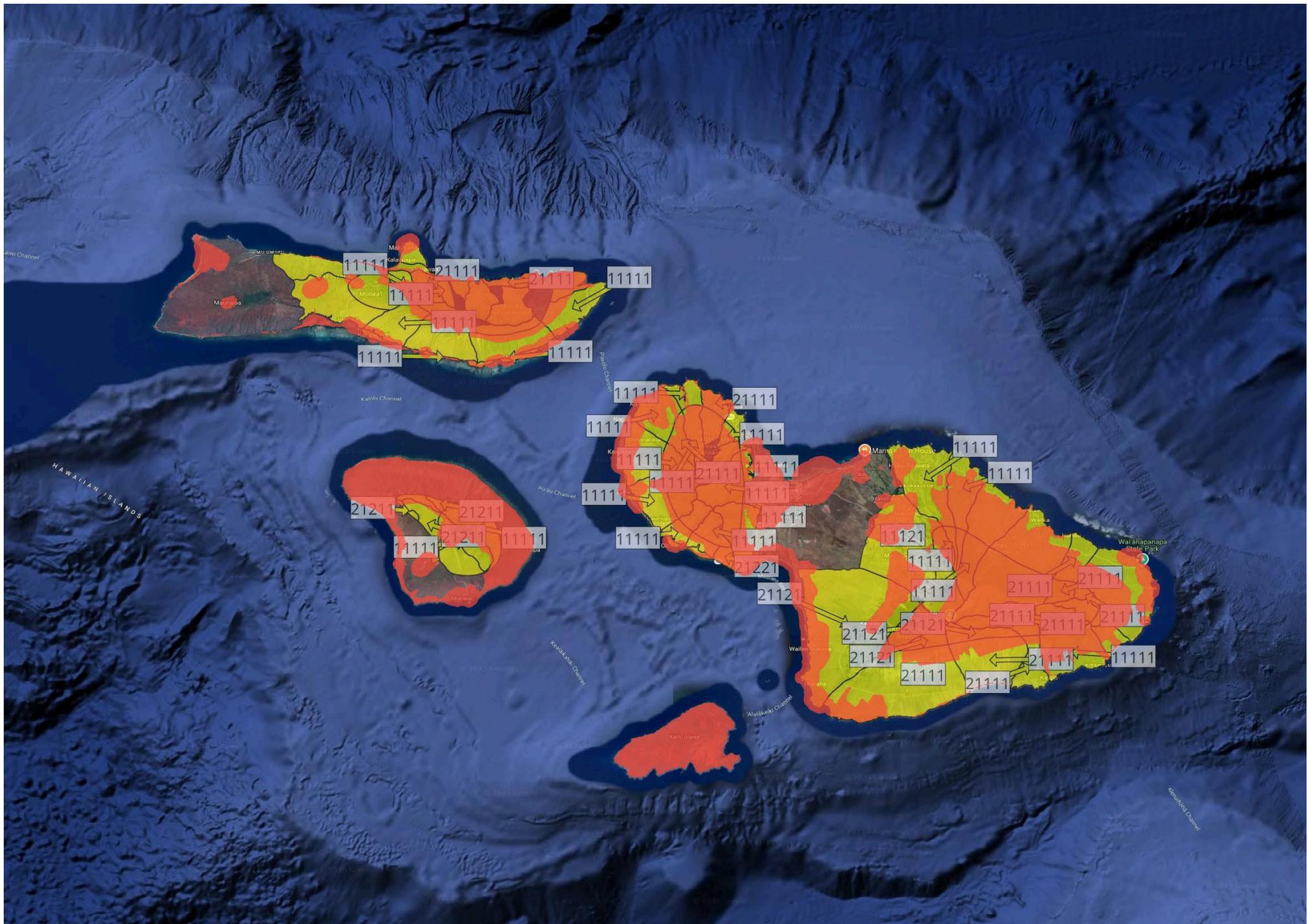


Figure 2. County of Maui. Yellow = freshwater aquifers, Red = current landfill siting restrictions, Orange = combination of freshwater aquifers and current landfill siting restrictions. [SB438 SD2 HD2]

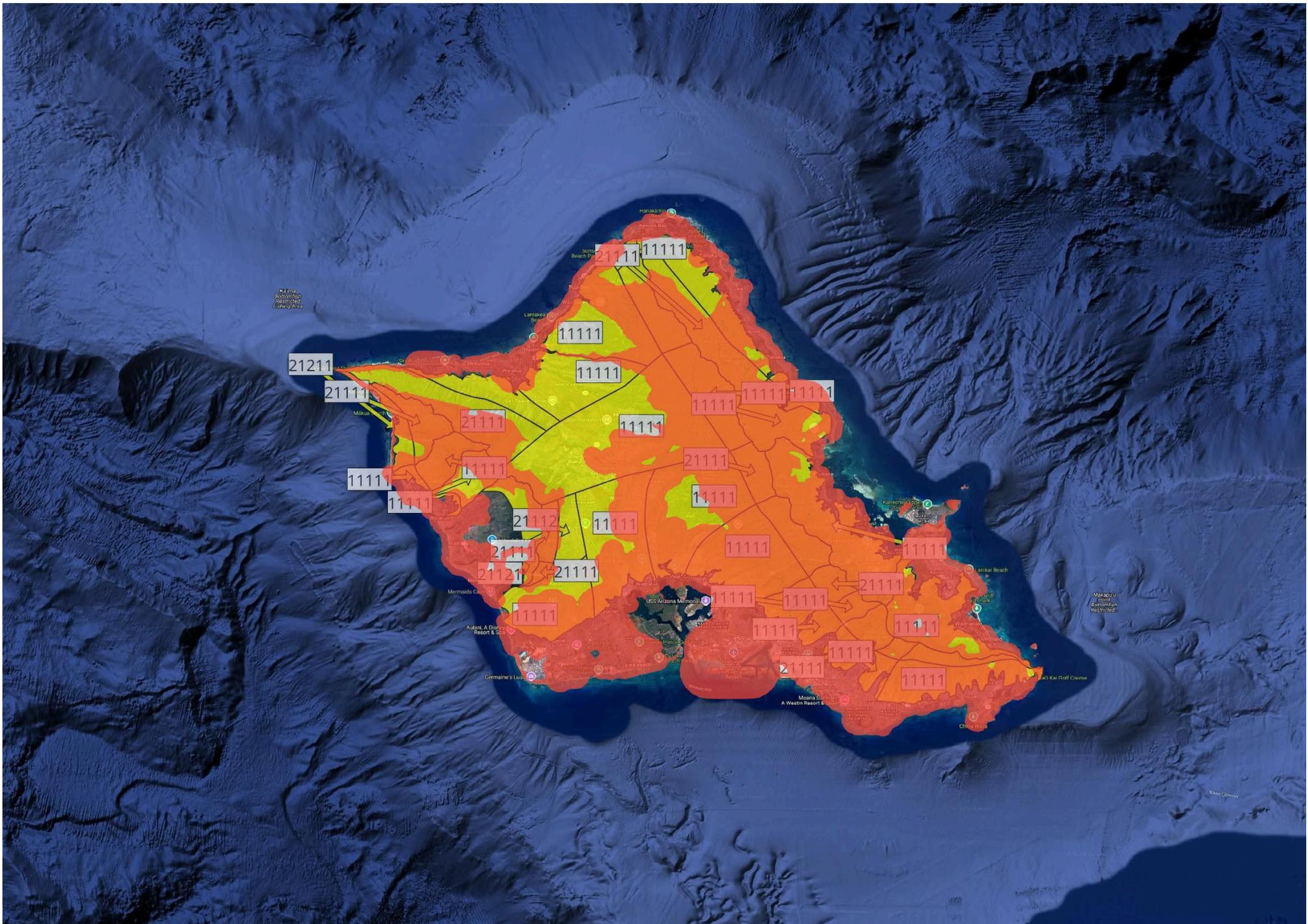


Figure 3. City and County of Honolulu. Yellow = freshwater aquifers, Red = current landfill siting restrictions, Orange = combination of freshwater aquifers and current landfill siting restrictions. [SB438 SD2 HD2]

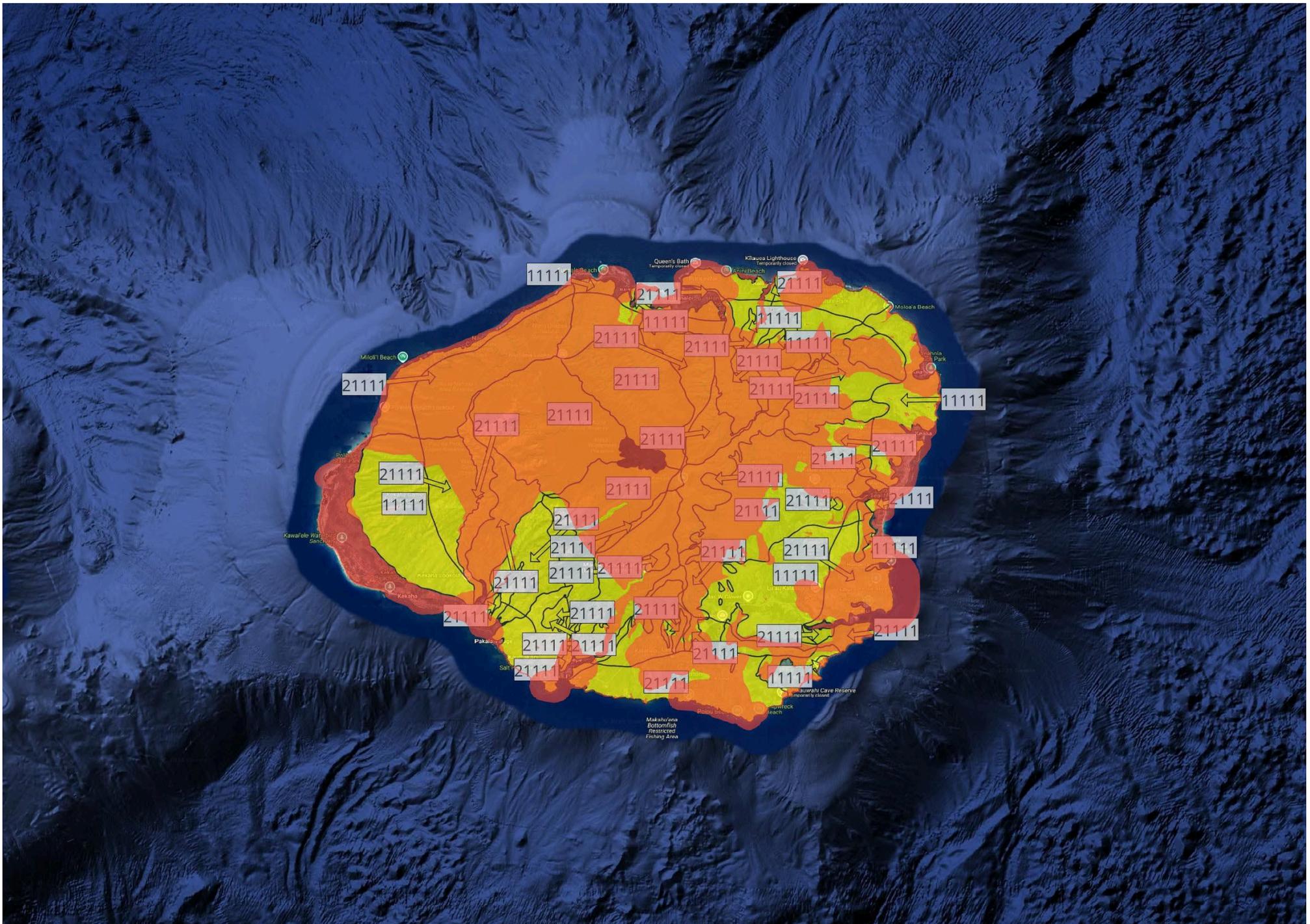


Figure 4. County of Kauai. Yellow = freshwater aquifers, Red = current landfill siting restrictions, Orange = combination of freshwater aquifers and current landfill siting restrictions. [SB438 SD2 HD2]

**BOARD OF WATER SUPPLY
KA 'OIHANA WAI
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April 2, 2025

The Honorable David A. Tarnas, Chair
and Members
House Committee on Judiciary and Hawaiian Affairs
Hawai'i State Capitol, Room 325
Honolulu, Hawai'i 96813

Dear Chair Tarnas and Members:

Subject: Senate Bill 438, SD2, HD2: Relating to Waste Disposal Facilities

The Honolulu Board of Water Supply (BWS) strongly supports Senate Bill (SB) 438, Senate Draft (SD) 2, House Draft (HD) 2. This bill proposes to prohibit landfill units on land in an agricultural district having soil classified as productivity rating class A, including to prohibit the construction, modification, or expansion of any waste or disposal facility on land that is near or above a significant aquifer as determined by the Department of Health (DOH).

The BWS is opposed to any proposed waste, including municipal solid waste combustor ash, or disposal facility to be placed over O'ahu's sole source aquifer, where the island's drinking water is not protected. Historically, the BWS had to treat the drinking water for pesticides and herbicides used in the pineapple plantations. Forty years later, the BWS is still treating for some of these contaminants.

In Article VII of the Revised Charter of the City and County of Honolulu ("City") 1973 (Revised 2017 Edition), as amended, Section 7-105(j)(2) states the BWS shall "prescribe and enforce rules and regulations having the force and effect of law to carry out the provisions of this article of the charter, including the prevention of waste and pollution of water." Thus, in 1982, the BWS Board adopted Resolution No. 502, amending its Rules and Regulations by defining and establishing a "No Pass Zone" and outlined an appeals procedure from decisions of the BWS Manager. The No Pass Zone was established to protect O'ahu's drinking water from underground sources of contamination and there is a compelling basis upon which to expect that a landfill

The Honorable David A. Tarnas, Chair
and Members
April 2, 2025
Page 2

situated over the aquifer may impact the quality and/or quantity of the water resources used or expected to be used as drinking water.

Safeguarding O'ahu's water supply from source of potential contamination is not a matter of discretion; it is constitutionally mandated. The Hawai'i Constitution guarantees that "[a]ll public natural resources are held in trust for the benefit of the people" and directs the State, and by extension the BWS, "to protect, control and regulate the use of Hawai'i's water resources for the benefit of its people." Haw. Const. art, XI, §§ 1, 7. As the largest municipal drinking water utility in Hawai'i, the BWS has a constitutional public trust responsibility to protect the water resources it manages and to preserve the rights of present and future generations of Hawai'i.

The No Pass Zone was derived from the review of geologic maps and borings that define the areas of thick caprock around O'ahu. The caprock serves as a barrier to prevent surface contamination from reaching the underlying geology. Since O'ahu's groundwater is hydrogeologically connected and groundwater is always moving, contamination in one part of the aquifer can spread to and impact other parts of the aquifer. The groundwater flow can be unpredictable and can move relatively quickly (greater than ten feet per day in some instances). Contamination from landfill leachate poses a considerable risk to both O'ahu's groundwater aquifer and drinking water resources. If such contamination were to occur, it could – as was the case for Red Hill – eventually cause the BWS to shut down its water supply wells in the vicinity of the source of contamination at the landfill.

Thank you for the opportunity to provide testimony in support of SB 438, SD 2, HD 2.

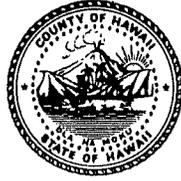
Very truly yours,

A handwritten signature in blue ink, appearing to read 'Ernest Y. W. Lau', written in a cursive style.

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

C. Kimo Alameda, Ph.D.
Mayor

William V. Brilhante Jr.
Managing Director



Wesley R. Segawa
Director

Craig Kawaguchi
Deputy Director

County of Hawai'i

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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April 1, 2025

COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Rep. David A. Tarnas, Chair
Rep. Poepoe Mahina, Vice Chair
Hawai'i State Capitol
Honolulu, HI 96813

Re: Testimony in Opposition of Senate Bill (SB) 438 SD2 HD2 Relating to Waste or Disposal Facilities, which Prohibits the construction, modification, or expansion of any waste or disposal facility for hazardous waste or solid waste on land that is near or above a significant aquifer as determined by the Department of Health, in consultation with the Commission on Water Resource Management; Prohibits waste or disposal facility on class A and B agricultural land.

Dear Chair Tarnas, Vice Chair Poepoe and Committee Members,

The County of Hawai'i Department of Environmental Management submits this testimony in opposition to SB 438 SD2 HD2. While we share the bill's goal of protecting aquifers and agricultural lands, the current draft presents flaws that will impede our ability to manage solid waste sustainably.

Key Concerns and Impacts:

1. Effective Landfill Ban via UIC Line Restriction (Section 342H-52(b)):
 - o The proposed use of the Underground Injection Control (UIC) line as a landfill boundary will effectively ban future landfills on the majority of Hawai'i Island (See attached map).
 - o This restriction eliminates vast areas crucial for future waste disposal, creating an unmanageable constraint on our long-term planning.
2. Unworkable Buffer Zones (Section 342H-52(c)):
 - o Even with a reduced buffer zone (¼-mile), combined with the UIC line and agricultural land restrictions, viable landfill siting becomes virtually impossible.
 - o The existing ½-mile buffer in Act 73, further solidified in this bill, exacerbates this problem.
3. Lack of Adequate "Grandfather Clause" (Section 342H-52(c)):
 - o The bill fails to provide a robust "grandfather clause" to protect existing, properly permitted landfills with proven safe operation.
 - o This creates regulatory uncertainty and could jeopardize the continued operation of essential facilities, despite their environmental compliance.
4. Increased Regulatory Burden and Impaired Waste Management:
 - o The combined restrictions will significantly increase the regulatory burden, hindering development and discouraging investment in critical waste management infrastructure.

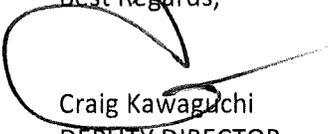
- This directly threatens the County's ability to manage solid waste effectively and protect public health.
- 5. Concerns regarding the UIC line use.
 - Using the UIC line as a boundary creates very limited space for future landfills, especially in conjunction with the other restrictions.
 - The figure provided shows how limiting these restrictions are.

Proposed Solutions:

- Reconsider the UIC line restriction: Explore alternative methods for aquifer protection that do not eliminate vast land areas.
- Provide a strong Grandfather clause: Protect existing landfills that are operating correctly.
- Refine Buffer Zone Requirements: Reevaluate buffer zones to ensure they are scientifically justified and do not create impractical siting constraints.
- Clarify Agricultural Land Prohibitions: Narrow the scope of prohibitions to focus on high-risk waste disposal activities, allowing for essential recycling and composting facilities.
- Collaborative Approach: Engage in a collaborative process with the County to develop effective and sustainable waste management solutions.

Thank you for your careful consideration.

Best Regards,



Craig Kawaguchi
DEPUTY DIRECTOR

cc: Mayor Kimo Alameda
Gene Quiamas, Acting Hawai'i County Solid Waste Division Chief

SOLID WASTE DIVISION

DEPARTMENT OF PUBLIC WORKS

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

BOYD GAYAGAS, DEPUTY COUNTY ENGINEER



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

Testimony of Allison Fraley
Solid Waste Division Chief
County of Kaua'i, Department of Public Works

Before the
Committee on Judiciary & Hawaiian Affairs
Wednesday, April 2, 2025, 2:00 PM
Conference Room 325 and Videoconference

In consideration of
Senate Bill 438 SD2 HD2
Relating to Waste or Disposal Facilities

Honorable Chair Tarnas, and Vice Chair Poepoe, and Members of the Committees:

The County of Kaua'i Department of Public Works **offers comments** on Senate Bill 438 SD2 HD2 relating to waste disposal facilities. We appreciate the Legislature's dedication to protecting Hawai'i's water and agricultural resources and respectfully offer points for consideration.

We support preserving Class B agricultural lands from any blanket prohibition. Kaua'i's limited land availability makes omitting Class B land essential for identifying feasible landfill sites. Existing county and state special permit processes already require public notice and hearings, thorough reviews, and location-specific conditions, ensuring that only justified uses are allowed. We therefore request that you retain the current language that excludes Class B lands from the landfill prohibition, preserving prime Class A soils for agriculture while enabling smaller counties to responsibly manage waste disposal needs.

Regarding the definition of a "significant aquifer," as currently defined, a significant aquifer is any freshwater aquifer that has the potential for use as a drinking water source. Advances in water treatment could render almost any aquifer a potential source of potable water. This broad definition may effectively prohibit expansions or new landfills—even those that are fully engineered and regulated to protect groundwater. Modern landfills incorporate liners, leak detection systems, and continuous monitoring, thereby reducing risks to underlying aquifers.

We respectfully request that the committee consider allowing a County-specific exemption process overseen by the Department of Health (DOH) to offer a balanced path forward, protecting water resources while recognizing that counties such as Kaua'i face unique geographic and resource constraints. An exemption could be considered if Counties can demonstrate the following:

1. Engineering Controls: Use of modern landfill liners, leachate collection systems, and sophisticated groundwater monitoring technologies that meet State and Federal standards.

2. Hydrological and Geological Assessments: Comprehensive studies verifying that the risk of aquifer contamination can be mitigated through robust design and operational safeguards.
3. Emergency or Critical Needs: Documentation showing the County's urgent need for safe waste disposal alternatives in light of limited landfill space elsewhere.

We further recommend that the final version of this legislation include a grandfather clause to allow existing landfills that have demonstrated compliance with environmental regulations to be permitted for expansion, provided they undergo the appropriate permitting processes. This approach ensures that current, responsibly managed facilities can maintain critically needed disposal capacity. The Kekaha Landfill is Kaua'i's only active landfill and is scheduled to reach capacity in 2030. We are pursuing a vertical expansion on Cell 3, which will provide a minimum of 16 years of landfill capacity. This expansion is critical as we explore options for a new landfill site.

Kaua'i County, like others in the State, has critical waste management challenges. By refining the definition of "significant aquifer," retaining the exclusion of Class B agricultural lands, adopting an exemption or variance process, and grandfathering compliant facilities, we can protect Hawai'i's vital water and agricultural resources without hindering essential public health services.

Thank you for the opportunity to submit comments on this measure.

OFFICE OF THE MAYOR

DEREK S.K. KAWAKAMI, MAYOR

REIKO MATSUYAMA, MANAGING DIRECTOR



Testimony of Derek S.K. Kawakami

Mayor, County of Kaua'i

Before the

Committee on Judiciary & Hawaiian Affairs

Wednesday, April 2, 2025, 2:00 PM

Conference Room 325 and Videoconference

In consideration of

Senate Bill 438 SD2 HD2

Relating to Waste or Disposal Facilities

Honorable Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

On behalf of the County of Kaua'i, I respectfully provide **comments** on Senate Bill 438 SD2 HD2 relating to waste disposal facilities, and which prohibits landfill units on land in an agricultural district with class A soils; prohibits the construction, modification, or expansion of any waste or disposal facility near a significant aquifer; expands where buffer zones applies; and prohibits the use of ash from a municipal waste combustor for certain purposes and imposes requirements on their disposal.

First, many thanks to the Chair and Committee on Water & Land for implementing the suggestion to remove the prohibition of landfill units on land in an agricultural district having soil classified by the land study bureau's detailed land classification as overall productivity rating class B in the latest draft measure. I ask that this removal of class B soils remain should you amend this measure.

Understanding the utmost importance of providing safe drinking water to the public, and recognizing the vagueness of the term "significant aquifer" please consider including an exemption if Counties demonstrate the following:

1. Engineering Controls: Use of modern landfill liners, leachate collection systems, and sophisticated groundwater monitoring technologies that meet State and Federal standards.
2. Hydrological and Geological Assessments: Comprehensive studies verifying that the risk of aquifer contamination can be mitigated through robust design and operational safeguards.
3. Emergency or Critical Needs: Documentation showing the County's urgent need for safe waste disposal alternatives in light of limited landfill space elsewhere.

As we continue to actively search for a new landfill site on Kaua'i, we have commenced work to expand our current and sole landfill site in Kekaha which will reach capacity in 2030. This vertical expansion will provide an additional sixteen years to our current landfill providing the time to properly site a new

landfill location. I ask that you consider a grandfather clause for existing landfills to expand under an appropriate permitting process.

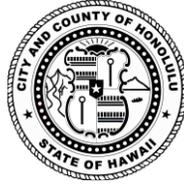
I recognize the well-meaning intentions of this measure and applaud the Legislature's efforts to protect our precious water sources. But I ask you to consider the uniqueness of each island's geology, topography, and land area and allow for flexibility for each county to safely balance the management of their solid waste.

Thank you for the opportunity to provide testimony with comments on SB438 SD2 HD2.

DEPARTMENT OF ENVIRONMENTAL SERVICES
KA 'OIHANA LAWELawe KAIĀPUNI
CITY AND COUNTY OF HONOLULU

1000 ULU'ŌHI'A STREET, SUITE 308 • KAPOLEI, HAWAII 96707
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RICK BLANGIARDI
MAYOR
MEIA



ROGER BABCOCK, JR., Ph.D., P.E.
DIRECTOR
PO'O

MICHAEL O'KEEFE
DEPUTY DIRECTOR
HOPE PO'O

IN REPLY REFER TO:
WAS 25-54

March 31, 2025

The Honorable David A. Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
and Members of the Committee on Judiciary & Hawaiian Affairs
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Chair Tarnas and Vice Chair Poepoe:

SUBJECT: SB438, SD2, HD2 - Relating to Waste Disposal Facilities

The City and County of Honolulu's (City) Department of Environmental Services (ENV) submits the following testimony in opposition to SB438, SD2, HD2, Relating to Waste Disposal Facilities.

In accordance with ENV's Special Use Permit for the Waimānalo Gulch Sanitary Landfill (WGSL), which provides that the WGSL shall close no later than March 2, 2028, and shall not accept any form of waste after March 2, 2028, on December 10, 2024, ENV identified an area northwest of Wahiawā as the site of the City's next landfill. The identified site is above an aquifer. ENV named this site because, after extensive evaluation of all possible alternative sites, it was determined to be one of the only legally available and feasible options. The only legally available and feasible options are above aquifers and on class A or B agricultural land. Mayor Blangiardi has also stated that the City's next landfill will not be on the Leeward Coast.

By way of background, in 2020, the Hawai'i State Legislature passed SB 2386 SD 2 HD 2, known as Act 73, which placed several restrictions on where a landfill could be located. Act 73 prohibits landfills from being located within one-half mile of residential, school or hospital property lines, or within a conservation district. In addition to Act 73, state law restricts landfills in tsunami evacuation zones and federal law prohibits landfills from being located within 10,000 feet of an airport. Combined, these restrictions drastically reduce the number of feasible sites for a landfill to a few small areas above O'ahu's aquifers. Additionally, following extensive discussions between 2023 and 2024, the Navy informed the City it was unable to offer federal land for a City landfill, including land on the Waipi'o Peninsula that the City had previously identified as a viable landfill site.

The Honorable David A. Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
and Members of the Committee on Judiciary & Hawaiian Affairs
March 31, 2025
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It is important to note that if SB438, SD2, HD2 were to become law and locating a landfill near or above an aquifer, on class A or B agricultural land, or inland of the underground injection control line, were legally prohibited, given the restrictions imposed by Act 73, other state and federal laws, decisions and orders and permits, the City and ENV would be left with no legally permissible and feasible options to site a landfill on O'ahu without further action to change existing legal limitations on siting an alternative landfill to WGS� outside the aquifer and not on class A or B agricultural land.

If SB438, SD2, HD2 were to become law, the state could amend Act 73 to reduce or eliminate several of its restrictions in order to make potential landfill sites available. Alternatively, if SB438, SD2, HD2 were to become law and Act 73 was not amended, the City would have no choice but to pursue a legally prohibited expansion at WGS�.

Lastly, ENV strongly opposes the language added via the HD2 regarding the reuse of ash for road building or construction, and the disposal of ash in a "double-lined" landfill. ENV sends approximately 170,000 tons of H-POWER ash to the WGS� every year. Ash typically accounts for 60-70% of all landfilled materials. ENV has contracted with a private company to design, build and operate a facility that would extensively process H-POWER bottom ash to recover additional metals for recycling and produce a sand product that can be safely and responsibly used for construction purposes, thereby diverting that material from landfill disposal and reducing or eliminating the need for road paving companies, for example, to import sand from distant overseas markets. Local sand is not available for use in construction activities – it is imported, mostly from Canada. ENV's ash recycling project will produce approximately 85,000 tons of recycled sand product per year. Local companies import about 250,000 to 300,000 tons of sand to Honolulu each year.

It is also unclear what is meant by the requirement that ash only be disposed in a "double-lined" landfill. According to federal law, a RCRA Subtitle D solid waste landfill must have a single liner system, and a RCRA Subtitle C hazardous waste landfill must have two (2) liner systems. The WGS� is a Subtitle D landfill that has a single liner system and it is suitable for ash disposal under all existing laws. Is the intent of the requirement to prohibit H-POWER ash disposal at WGS�? Does this mean that the intention is to force the shut-down of the H-POWER facility at least until a double-lined landfill is constructed? ENV notes the WGS� has been accepting H-POWER ash since H-POWER opened in 1990 and its liner system has never leaked into the underlying soil.

ENV's ash recycling project, which has been designed and is currently pursuing the requisite permits from the State Department of Health regulators, has the potential to reduce the amount of ash going to the landfill by 60% or more. The receipt of a permit for this project is contingent upon ENV demonstrating through extensive testing and analysis that the recycled material will not pollute the environment or adversely impact public health.

The Honorable David A. Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
and Members of the Committee on Judiciary & Hawaiian Affairs
March 31, 2025
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Waste recycling is good practice, especially when it facilitates local production of a commodity that is 100% imported. This is known as a circular economy, is a pillar of sustainability and resilience, and is just plain smart. I urge you to remove the language prohibiting ash reuse and allow the State Department of Health to determine, on a case-by-case basis, if recycled ash poses environmental or health risks.

Should you have any questions, please contact me at (808) 768-3486.

Sincerely,

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

RICHARD T. BISSEN, JR.
Mayor

JOSIAH K. NISHITA
Managing Director



OFFICE OF THE MAYOR
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov

TO: Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair
Committee on Judiciary & Hawaiian Affairs

FROM: Richard T. Bissen, Jr., Mayor
Shayne Agawa, Director of Environmental Management

DATE: April 1, 2025

SUBJECT: **OPPOSITION OF SB438, RELATING TO LANDFILLS**

Thank you for the opportunity to testify in **OPPOSITION** of this important measure. The Act prohibits landfill units on land in an agricultural district with class A soils. Prohibits the construction, modification, or expansion of any waste or disposal facility for solid waste or hazardous waste on land that is near or above a significant aquifer. Clarifies that beginning July 1, 2025, the existing buffer zone between waste or disposal facilities and residential, school, or hospital property lines applies to municipal solid waste landfill units or components, construction and demolition landfill units, and their components. Prohibits the construction, modification, or expansion of a landfill unit within a no pass zone in a county with a population greater than five hundred thousand, with certain exemptions. Prohibits the use of fly ash, bottom ash, or a combination of fly ash and bottom ash from a municipal waste combustor for certain purposes and imposes requirements on the disposal of these materials.

We do not oppose protecting drinking water, but do **OPPOSE** this Bill for the following reasons:

1. This Act would unfairly limit siting a solid waste disposal facility by linking the leak at Red Hill to a landfill, two different types of operations and with different environmental regulatory requirements and controls.
2. The Resource Conservation and Recovery Act (RCRA), Hawaii Environmental Policy, and Hawaii Administrative Rules Title 11, Section 58.1 were specifically developed to protect groundwater and already consider environmental, health and safety risks to nearby communities and eco systems. The Commission on Water Resource will always have an opportunity to submit comments and testimony to any landfill being sited or expanded.
3. The existing half-mile buffer already impacts current and future landfills within the County, limiting future expansion or requiring the County to site new landfills at a greater expense. Prohibiting locating landfills on Class A agricultural lands reduces the ability to locate a solid waste facility away from populated areas. As the LSB studies classifying the Agricultural

Lands has not been updated since its inception, the classifications do not reflect the current conditions. This bill would limit any further expansion of needed facilities.

4. Landfilling is a proven and cost-effective option to manage municipal solid waste. If siting a landfill is impossible in the future, then waste will need to be managed another way or shipped off island for disposal. Other solid waste management processes may have unintended negative impacts to the environment that may not be easily controlled or tracked.

The County of Maui has several well-established areas currently located for its landfills that meet permitting requirements and environmental regulations. We respectfully request that the committee consider additional language in the legislation to allow existing landfills that continue to meet permitting requirements and environmental regulations to be allowed to expand upon the existing landfill footprint to provide for additional landfill space in the future.

Mahalo for your consideration.



SIERRA CLUB OF HAWAI'I

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

April 2, 2025

2:00 PM

Conference Room 325

In **SUPPORT** of **SB438 SD2 HD2**: RELATING TO WASTE DISPOSAL FACILITIES

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

On behalf of our over 20,000 members and supporters, the Sierra Club **STRONGLY SUPPORTS** SB438 SD2 HD2, which will help to keep us from failing in our kuleana to safeguard our precious and limited drinking water aquifers from irreparable contamination.

Deciding where to place a landfill, particularly in an island setting such as ours, will always be a difficult choice. No matter what location is selected, a landfill will inevitably create a range of painful burdens based on the location selected. However, as this measure recognizes, siting a landfill over one of our precious and pure drinking water aquifers is by far the worst choice that can be made.

For example, the proposed new landfill for O'ahu will store extremely toxic ash containing heavy metals, cancer-causing PFAS "forever chemicals," and other compounds not easily broken down through incineration, such as PCBs, asbestos, and others. This ash, when combined with rainwater, will create millions of gallons of toxic "leachate" per year. While the City and County of Honolulu administration has assured the public that this leachate will be continually pumped out, transported, and treated at a wastewater facility, it is next to impossible to prevent leachate leakage; the EPA itself has concluded that all landfills inevitably leak.

Any released leachate from this proposed landfill, whether through chronic small leaks and/or sudden mass discharges due to fire, flooding, human error, deferred maintenance, or other causes, will slowly but surely percolate into the underlying groundwater table, eventually foreclosing another source of water that our children and grandchildren will need more than ever before.

Accordingly, by siting a landfill over one of O'ahu's remaining precious and pure drinking water aquifers, the City will accordingly all but guarantee another "Red Hill" situation if not for O'ahu residents today, then for our future generations. Clearly, this must not be allowed to happen.

Accordingly, the Sierra Club strongly supports this measure, as a means to ensure that landfills now and in the future are never to be placed in a location that will threaten the water security of future generations.

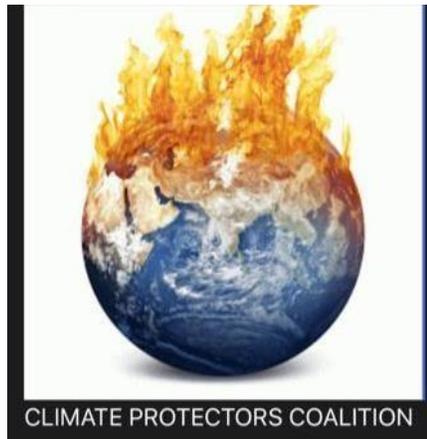


SIERRA CLUB OF HAWAI'I

As a final note, with respect to the situation on O'ahu, the Sierra Club notes that there are other potential options, with and without legislative action, for a new landfill that would not burden West O'ahu with the intergenerational harms associated with Waimānalo Gulch and the PVT Integrated Solid Waste Management Facility. These options could include petitioning the Land Use Commission to redistrict potential sites, such as golf courses, rejected from consideration due to their location in the conservation district. **Most notably, prevailing upon the Navy to reconsider allowing the City to use its lands – especially after it has caused the current water crisis for O'ahu – is another option worth pursuing.** These and other potential remedies merit further exploration, given the potentially existential impacts that would arise from the City's currently proposed landfill site.

With the ongoing Red Hill water crisis still unfolding, we must remember the importance of protecting our remaining clean water sources throughout the islands, if we wish to do right by our children, grandchildren, and all future generations who will call Hawai'i home. As our climate continues to destabilize and water and other natural resources become ever more scarce, we have a heightened kuleana to safeguard what resources we still have, to provide our islands' future residents and communities with the best chance of a hopeful existence that we can give them. SB438 SD2 HD2 is one step to ensuring that we do not fail in this existential duty.

Accordingly, the Sierra Club urges the Committee to **PASS** SB438 SD2 HD2. Mahalo nui for the opportunity to testify.



To: The Honorable Representative David Tarnas, Chair, the Honorable Representative Mahina Poepoe, Vice Chair, and Members of the Judiciary and Hawaiian Affairs Committee.

From: Hawai'i Reef and Ocean Coalition and Climate Protectors Hawai'i (by Ted Bohlen)

Re: **Hearing SB438 SD2 HD2 RELATING TO WASTE DISPOSAL FACILITIES**

Hearing: Wednesday April 2, 2025 2:00 p.m. CR325

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Judiciary and Hawaiian Affairs Committee!

The Hawai'i Reef and Ocean Coalition (HIROC) is a group of scientists, educators, filmmakers and environmental advocates who have been working since 2017 to protect Hawaii's coral reefs and ocean. The mission of the Climate Protectors Hawai'i is to educate and engage the local community in climate change action, to help Hawai'i show the world the way back to a safe and stable climate.

Hawai'i Reef and Ocean Coalition and Climate Protectors Hawai'i **STRONGLY SUPPORT SB438 SD2 HD2 but propose an amendment!**

In particular, we strongly support the provisions in Sections 3 and 4 of this bill that would prohibit siting a solid or hazardous waste facility near or over a significant aquifer (as determined by the Department of Health in consultation with the Commission on Water Resources Management), within a "no pass zone" on Oahu, or on land with Class A soil. **It is critical that we prohibit such siting to protect our drinking water sources!**

Hawai'i Reef and Ocean Coalition and Climate Protectors Hawai'i also **SUPPORT** this bill's **requirement that toxic incinerator ash not be used in road building, construction, or as alternative daily cover, but must be disposed of in a double-lined and duly licensed solid or hazardous waste landfill.**

An amendment is required to this provision: an exception is needed at this time to allow continued placement of incinerator ash in the existing single-lined cells of Waimanalo Gulch Sanitary Landfill:

On page 15 line 9, replace "Fly ash," with Notwithstanding use of Waimanalo Gulch Landfill cells constructed as of July 1, 2025, fly ash,".

Please protect the environment by passing this bill with these restrictions and this amendment on placement of toxic incinerator ash!

Mahalo!

Hawai'i Reef and Ocean Coalition and Climate Protectors Hawai'i (by Ted Bohlen)



MAKAKILO/KAPOLEI/HONOKAI HALE NEIGHBORHOOD BOARD NO. 34

c/o NEIGHBORHOOD COMMISSION • 925 DILLINGHAM BLVD SUITE 160 • HONOLULU, HAWAII, 96817
PHONE (808) 768-3710 • FAX (808) 768-3711 • INTERNET: <http://www.honolulu.gov>

RESOLUTION

**SUPPORTING EFFORTS TO DIVERT WASTE FROM LANDFILLS, INCLUDING RECYCLING TO
CREATE FUEL AND CONSTRUCTION MATERIALS**

Whereas, the Makakilo/Kapolei/Honokai Hale Neighborhood Board No. 34 (“Board”) is a citizens’ advisory board whose purpose is to “increase and assure effective citizen participation in the decisions of government” per the City and County of Honolulu’s Neighborhood Plan of 2008; and

Whereas, every community in Hawai‘i deserves a “clean and healthful environment” as guaranteed by the Hawaii State Constitution (Article XI, Section 9; In re Maui Elec. Co., 2017 Haw.); and

Whereas, in 2021, the total waste generated on O‘ahu was 1,692,840 tons, with significant portions being recycled or diverted through various waste-to-energy initiatives, but still a substantial portion of waste ended up in landfills, including Construction and Demolition landfilling, general material recycling, and the H-Power Ash and Residuals; and

Whereas, nearly all landfilling, waste-to-energy processing, and recycling of O‘ahu’s waste occurs in West O‘ahu at the City-owned Waimanalo Gulch Sanitary Landfill (WGSL) in Kahe Valley, adjacent to the Honokai Hale and Makakilo communities, and the City-owned H-POWER facility near Kapolei, where waste, including Construction and Demolition materials, passes through Makakilo, Kapolei, and Honokai Hale before being landfilled at WGSL or transported to PVT Land Company, Ltd. in Nānākuli; and

Whereas, the State of Hawaii has made significant strides in addressing climate change, including the declaration of a climate emergency in 2021, and the adoption of the Hawaii Clean Energy Initiative aiming for 100% renewable energy by 2045, and the adoption of Act 238, Session Laws of Hawaii 2022, to explore decarbonization pathways, including sustainable fuel production; and

Whereas, Hawaii’s heavy reliance on imported fossil fuels continues to pose challenges to energy security, economic growth, and efforts to reduce greenhouse gas emissions, leading to the exploration of alternatives such as sustainable aviation fuel, renewable gas, and waste diversion through recycling as fuel; and

Whereas, the state’s current waste disposal practices, particularly landfilling, have been associated with harmful public health risks, including respiratory, neurological, and gastrointestinal issues for nearby communities, as well as environmental hazards from landfill gases like hydrogen sulfide (H₂S), which are linked to serious health problems; and

Whereas, studies have shown that communities within a 3.1-mile radius of landfills, including the PVT landfill and Waimanalo Gulch Sanitary Landfill in West Oahu, are potentially exposed to harmful pollutants, which have been linked to lung cancer, respiratory illnesses, and other health issues; and

Whereas, the residents within the Nanakuli Census tracks (15003009608 & 15003940002), in which PVT landfill resides, suffer 10 years less in their life expectancy than the state average (U.S. Small-Area Life Expectancy Estimates Project, Center for Disease Control, US Department of Health, 2020); and

Whereas, to mitigate these risks and improve the quality of life for residents, it is essential to adopt measures that promote waste diversion from landfills, including the recycling of waste materials into renewable fuels, which aligns with the state's decarbonization goals and reduces dependence on imported petroleum; and

Whereas, the City and County of Honolulu executed a contract with Covanta to evaluate and pursue recycling a portion of the ash, which may significantly reduce the amount of ash disposed at the Waimanalo Gulch Sanitary Landfill; and

Whereas, the Aloha Sustainable Materials Recycling & Fertilizer Facility (SMRFF), currently under development in Kapolei, Hawaii, will serve as a waste recycling facility for local solid-organic wastes, including construction and demolition (C&D) debris, which will be sorted into recyclable and unrecyclable materials, with organic C&D waste components such as lumber, cardboard, fabric, and plastic film converted to energy using a fluidized-bed gasification system to self-power the facility, while inorganic C&D waste, including concrete and window glass, will be recycled into building materials, and landscaping waste, greenwaste from invasive species eradication, and wildfire prevention projects will also be converted to energy, with the resulting ash, along with other local nutrient-containing wastes, formulated into organic and potash fertilizers for use in Hawaii, all of which is expected to reduce waste sent to landfills on O'ahu by half, with ongoing efforts to innovate further; and

Whereas, the adoption of renewable energy practices, such as recycling waste as fuel and producing sustainable aviation fuel locally, would not only improve environmental health but also stimulate local job creation and investment in clean energy infrastructure, contributing to Hawaii's energy independence and long-term sustainability; now, therefore be it

Resolved, that the Makakilo/Kapolei/Honokai Hale Neighborhood Board No. 34 supports efforts to divert waste from landfills, including recycling to create fuel and construction materials; and be it

Resolved, that the board supports the efforts of the City and County of Honolulu to recycle H-Power Ash for use in construction materials safely, and further supports the safe diversion of waste materials to the Aloha Sustainable Materials Recycling & Fertilizer Facility for recycling, including the creation of fuel; and be it

Resolved, the board supports efforts to divert waste from landfills, including recycling initiatives, provided that these efforts are implemented in a manner that minimizes and mitigates any negative effects on public health and safety; and be it

Resolved, the board supports the intent of bills [SB1220 \(2025\)](#) Relating to Renewable Gas Tariff and [HB976 \(2025\)](#) Relating to Renewable Fuel, and [SB764/HB750 \(2025\)](#) Relating to the Environment; and

Ordered, that copies of this resolution be transmitted to the Mayor of the City and County of Honolulu, Honolulu Council Members, Area Legislators, and all Neighborhood Boards.

Adopted by the Makakilo/Kapolei/Honokai Hale Neighborhood Board No. 34 at its February 26, 2025 Regular Board Meeting, 8-0-0 (**Aye:** Dudley, Ferreira, Khan, Lidstone, Moon, Singleton, Taala, Paris; **Nay:** None; **Abstain:** None)



April 2, 2025

Re: Commenting on [SB438 SD2 HD2](#) Relating to Waste or Disposal Facilities

Aloha e Chair Tarnas, Vice Chair Poepoe, and Members of the Judiciary and Hawaiian Affairs Committee,

The Prince Kūhiō Hawaiian Civic Club submits this testimony concerning SB438 SD2 HD2 Relating to Waste Disposal Facilities, which seeks to prohibit various activities, including landfill units on prime agricultural land and waste facilities near significant aquifers, while maintaining the 1/2 mile landfill buffer zone.

We stand with the Association of Hawaiian Civic Clubs in supporting the **1/2 mile landfill buffer** zone and the prohibition of landfills in conservation districts, both established in Act 73, SLH 2020 and that landfills should not be situated over significant aquifers and may only be placed within conservation districts in exceptional circumstances.

However, we note that the bills current form also restricts the use of ash materials from Oahu's H-Power even if it was remediated.

If passed, this bill could jeopardize public health and exacerbate environmental injustices, particularly for Native Hawaiian communities in West Oahu, who have been disproportionately affected by the presence of landfills and waste facilities for generations. These communities have long borne the brunt of the negative impacts associated with waste disposal, including health risks and environmental degradation. The proposed outright ban on the reuse of fly ash and bottom ash, even when appropriately treated, would only increase the burden on our landfills, further entrenching the inequities faced by these communities.

It is crucial that we consider the historical context and ongoing challenges faced by Native Hawaiian and rural populations, ensuring that their voices are heard and their rights are protected in any legislation concerning waste management.

1. Support The Half-Mile Buffer Zone: It's Essential for Public Health

The current half-mile buffer zone was established to provide a reasonable level of protection for families, schools, and farms. Scientific studies show that living near landfills is linked to:

- Higher rates of respiratory illness, birth defects, and certain cancers
- Exposure to toxic gases such as hydrogen sulfide, which can cause neurological and respiratory damage
- Long-term air and water quality degradation

Reducing the buffer zone to one-quarter mile would increase these health risks, disproportionately affecting Native Hawaiian, low-income, and rural communities. Protecting our people should take precedence over landfill siting convenience.

2. Support Environmental Justice: Stop Policies that Target Native Hawaiian and Rural Communities

Hawai'i has a long history of situating landfills near Native Hawaiian communities, despite clear evidence of the associated health risks and environmental harm:

- In Nānākuli, the PVT landfill, which receives 42% of all O'ahu's waste, is located alarmingly close to Hawaiian Homesteads and schools, within 0.5 to 2 miles of homes that abut the landfill. Residents in this area suffer from some of the shortest life expectancies in the state due to the cumulative impacts of pollution.
- In Kekaha, Native Hawaiian families live within 1.5 miles of the old landfill and near the Hilo Airport, enduring decades of exposure to environmental degradation and health risks.
- H-Power, the only Municipal Solid Waste combustor in Hawaii, is situated in Campbell Industrial Park, adjacent to the highest concentration of Homesteads in the state in Kapolei, as well as more of the Department of Hawaiian Home Lands aina in Kalaeloa.

The bill proposes to ban the remediation and reuse of ash from H-Power, yet it does nothing to address the fact that this ash is already being transported through our communities to the Waimanalo Gulch Sanitary Landfill without being treated for any of the contaminants beyond those currently being regulated. This transportation affects all commuters driving to the Waianae Coast, especially when the winds pick up, as the ash can become airborne. Additionally, during heavy rains, waste and leachate from the Waimanalo Gulch Sanitary Landfill have been known to flow out into the ocean, ultimately washing up along our beaches.

We are deeply concerned about the proposed ban on the remediation and reuse of ash due to its potential impact on our water sources. This regulation suggests that we cannot trust the Department of Health to ensure our water is protected if ash is used, even with proper mitigation measures in place. Yet, we are expected to trust the same agency regarding the transportation of this ash to the Waimanalo Gulch Sanitary Landfill and the management of landfill leachate, waste, and ash during heavy winds and rains in our communities. This inconsistency raises serious questions about the effectiveness of oversight and the commitment to protecting the health and well-being of Native Hawaiians and residents of West Oahu from environmental harm.

Further, if the buffer zone were reduced, it would exacerbate these injustices. Further compromising the health and safety of our communities. This is not just an issue of waste management; it is a matter of equity, health, and human dignity. Our communities deserve better than to be treated as dumping grounds for waste. We must prioritize the protection of Native Hawaiian communities and ensure that their voices are heard in decisions that impact their health and environment.

3. Support Protecting Groundwater: Prohibit Landfills Near Critical Aquifers

We strongly support proactive measures to protect Hawai'i's limited and vulnerable aquifers. Specifically, we recommend:

- Funding the Department of Health, in collaboration with the Commission on Water Resource Management, to conduct a comprehensive study identifying significant aquifers across Hawai‘i.
- Prohibiting the establishment of waste or disposal facilities near or above critical aquifers, except for transfer stations, which only serve as temporary waste-holding sites.
- Empowering the Department of Health to conduct case-by-case reviews only for proposed landfills located above the UIC Line, where the risk to significant aquifers is greatest. Landfills proposed below the UIC Line should not require this additional review.
- Allowing transfer stations near aquifers only if strict environmental safeguards are met, ensuring no groundwater contamination risk.

Hawai‘i’s drinking water is too precious to risk contamination from landfill pollution.

4. Protecting Communities First — Not Just Agricultural Lands

In SB446 SD2, a similar vehicle trying to address protection of wai, adds protections for Hawai‘i’s most valuable agricultural lands with A and B rated soils — and we support the effort to preserve these lands for future generations. However, these protections must not come at the expense of protecting our homes, hospitals, and schools or to stifle innovation in reusing and recycling our ‘opala.

Our kūpuna, keiki, and working families—especially in Native Hawaiian homestead communities like Nānākuli and Kekaha—deserve the same level of protection as conservation lands currently have and what this bill proposes to provide to Ag land with A and B rated soil. Protecting land is important, but protecting people is essential. Our health, safety, and future should never be sacrificed for administrative convenience or quick fixes.

5. Support Responsible Recycling and Reuse of Fly Ash and Bottom Ash

We oppose the blanket prohibition in SB438 SD2 on the reuse of fly ash and bottom ash, as this would restrict its beneficial use in concrete mixes, flowable fill, and road construction. Instead, we support a case-by-case evaluation by the Department of Health.

A total ban on recycling these materials would:

- Eliminate sustainable reuse opportunities, forcing more materials into landfills;
- Increase landfill waste volume, creating permanent waste streams from waste-to-energy plants, including those burning invasive species, hemp, jatropha, switchgrass, and algae;
- Ignore potential advances in recycling technologies, which could safely repurpose these materials in the future;
- Overlook the potential for innovation in managing leaching profiles associated with recycled materials.

While it is true that roads or construction materials made with recycled MSW incineration ash aggregate may present different leaching profiles compared to traditional aggregates, current and future advancements in material science, chemistry, and engineering could lead to the development of effective treatments that mitigate these concerns.

Instead of a total ban, we advocate for establishing additional contamination standards not already covered under existing groundwater protection or solid waste reuse regulations to be integrated into the Department of Health’s permitting process and annual reviews.

We recommend allowing the Department of Health to assess the environmental impacts of fly ash and bottom ash reuse on a case-by-case basis for each project, ensuring both public health and sustainability. This approach would enable the responsible use of recycled materials while safeguarding environmental quality.

6. Support Community Benefits Packages for Landfill Host Communities

If a landfill is sited near a residential area, impacted communities must receive compensation. We call for the mandatory establishment of Community Benefits Packages that include:

- Free ongoing health screenings and medical care for affected residents
- Independent environmental monitoring (air, water, and soil quality)
- Financial compensation for decreased property values
- Investments in infrastructure, education, and cultural programs
- Long-term environmental restoration funding post-landfill closure

Landfill host communities should not bear the burden alone—they must receive meaningful benefits.

7. Conclusion: Protect Public Health, Preserve Water Resources, and Promote Sustainable Waste Management

The Prince Kūhiō Hawaiian Civic Club urges this committee to:

- Reject the reduction of the landfill buffer zone—leave it at one-half mile;
- Fund a comprehensive aquifer study and prohibit landfills near critical groundwater resources and allow the Department of Health to review landfill permits over significant aquifers on a case-by-case basis;
- Evaluate fly ash and bottom ash reuse on a case-by-case basis, rather than imposing a blanket prohibition;
- Ensure impacted communities receive compensation through Community Benefits Packages.

Hawai'i deserves waste policies that prioritize people over profits, health over convenience, and environmental justice over short-term gains.

Founded in 1964, the Prince Kuhio Hawaiian Civic Club (PKHCC) was established to promote the education and social welfare of people of Hawaiian ancestry. Its objectives include supporting high ethical standards in business, industry, and professional fields. PKHCC urges the committee to hold [SB438 SD2 HD2](#) Relating to Waste Disposal Facilities Mahalo for the opportunity to provide our comments.

Me ke aloha,

Norman Llanos
Pelekikena
president@pkhcc.org

SB-438-HD-2

Submitted on: 3/29/2025 12:12:20 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Susan B Roberts Emery	Green Party of Hawai'i	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the Judiciary & Hawaiian Affairs Committee,

My name is Susan RobertsEmery, I am co chair of the Green Party and we **strongly support SB438 SD2 HD2**, which would prohibit the construction, modification, or expansion of waste and disposal facilities above significant aquifers.

This bill is crucial for protecting our vital groundwater resources. Our aquifers are irreplaceable sources of freshwater that sustain our communities and 'āina. Once contaminated, these water sources can be permanently damaged, putting public health and our environment at risk.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai'i home.

Green Party of Hawai'i urges you to **PASS SB438 SD2 HD2**

Sincerely,

Suasn RobertsEmery
Green Party of Hawai'i
Paauilo

SB-438-HD-2

Submitted on: 3/29/2025 12:56:11 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Daniel Nellis	Dole Food Company Hawaii	Support	Written Testimony Only

Comments:

I am Daniel Nellis, General Manager Dole Food Company Hawaii, and we respectfully submit this testimony that we are in full support of SB438 that is being considered by your committee. Dole strongly agrees that landfills should not be located above drinking water aquifers or on productive agricultural land, both of which are scarce resources in Hawaii. Please pass this bill and save our water and our agriculture production. Thank You.

SB-438-HD-2

Submitted on: 3/30/2025 9:04:31 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ruta Jordans	Zero Waste Kauai	Support	Written Testimony Only

Comments:

Please support this bill with the prohibition on ash recycling intact. To be sure that the bill does not accidentally ban proper disposal of incinerator ash from existing cells at the landfill where it is already going, which is not double-lined, please incorporate the following amendment:

Page 15, line 9, replace "Fly ash," with "Notwithstanding use of Waimanalo Gulch Landfill cells constructed as of July 1, 2025, fly ash,"

Without this amendment, there will be no place for the ash to go on O‘ahu until new double-lined cells are built. This could force O‘ahu to have to export the ash to Hawai‘i Island to be dumped in the West Hawaii Sanitary Landfill near Waikoloa Village, which is double-lined. Inter-island waste shipping has been explored by both counties and it would be environmentally wrong to accidentally trigger that practice.



Environmental Caucus of The Democratic Party of Hawai'i

March 30, 2025

TESTIMONY IN SUPPORT OF SB438, SD2, HD2: RELATING TO WASTE DISPOSAL FACILITIES

TO: Chair David A. Tarnas, Vice Chair Mahina Poepoe, Members of the Committee on Judiciary & Hawaiian Affairs

DATE: Wednesday, April 2, 2025 **TIME:** 2:00 p.m. **PLACE:** Conference Room 325, via videoconference

FROM: Environmental Caucus of Hawaii

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

The Environmental Caucus of Hawaii strongly supports SB438, SD2, HD2, which enhances environmental and public health protections by addressing critical waste management issues. This measure takes proactive steps to safeguard Hawaii's natural resources, public health, and communities.

Key Points in Support:

- **Preserving Agricultural Land:** The prohibition of landfill units on Class A agricultural soil ensures the protection of Hawaii's most productive agricultural lands.
- **Safeguarding Water Resources:** Restricting waste facility construction near or above significant aquifers is essential for protecting our state's vital drinking water supplies.
- **Expanding Buffer Zones:** Strengthening existing buffer zone requirements provides greater protection for residential areas, schools, and hospitals from waste facility impacts.
- **Managing Hazardous Byproducts:** Prohibiting the use of fly ash, bottom ash, or their combination for certain purposes, and imposing stringent disposal requirements, reduces the risks associated with hazardous waste.
- **Addressing Urban Landfill Expansion:** Limiting landfill construction or expansion in no-pass zones of densely populated counties helps mitigate environmental and public health risks in urban communities.
- **Promoting Sustainability:** Together, these provisions promote sustainable waste management practices that protect Hawaii's environment for future generations.

Proposed Amendment: We respectfully propose an amendment to clarify the language regarding landfill operations:

- On **Page 15, line 9**, replace “Fly ash,” with “Notwithstanding use of Waimanalo Gulch Sanitary Landfill cells constructed as of July 1, 2025, fly ash,”

This amendment ensures clarity while upholding the strong regulatory framework for waste byproduct management.

SB438, SD2, HD2, is a pivotal measure that balances the need for effective waste management with the imperative to protect Hawaii’s natural resources and communities. For these reasons, we urge the Committee to pass this bill with the proposed amendment.

Thank you for the opportunity to provide testimony in strong support of this important legislation.

Mahalo nui loa,

Melodie Aduja and Alan Burdick
Co-Chairs, Environmental Caucus of Hawaii

Comments before
April 2, 2025
House Committee on Judiciary and Hawaiian
Affairs

IN SUPPORT OF
Senate Bill 438
Relating to Landfill Siting

Mike Ewall, Esq.
Founder & Director
Energy Justice Network
215-436-9511
mike@energyjustice.net
www.EnergyJustice.net

Aloha Honorable Committee members. Energy Justice Network is a national organization supporting grassroots groups working to transition their communities from polluting and harmful energy and waste management practices to clean energy and zero waste solutions. In Hawai'i, we've been working with residents who first sought our support in 2015. Since mid-2022, we have supported residents in forming the Hawai'i Clean Power Task Force and Kōkua nā 'Āina to address numerous energy and waste issues in the state.

We support this bill to prevent building landfills over the aquifer. The Honolulu Board of Water Supply has rightfully spoken up against putting this ash over our aquifer, whether in a landfill or in road-building, and we concur.

We urge you to retain the language relating to proper disposal of incinerator ash. If it is too dangerous to have the same ash in a double-lined landfill over O'ahu's aquifer, it is surely too dangerous to put in roads all over the aquifer with no liners.

To ensure that the bill does not accidentally ban proper disposal of incinerator ash from existing cells at the landfill where it is already going, which is not double-lined, please incorporate the following amendment:

Page 15, line 9, replace "Fly ash," with "Notwithstanding use of Waimanalo Gulch Landfill cells constructed as of July 1, 2025, fly ash,"

Without this amendment, there will be no place for the ash to go on O'ahu until new double-lined cells are built. This could force O'ahu to have to export the ash to Hawai'i Island to be dumped in the double-lined West Hawaii Sanitary Landfill near Waikoloa Village. Inter-island waste shipping has been explored by both counties and we don't want to accidentally trigger that practice.

The landfill currently proposed for Wahiawa is primarily for the toxic ash from H-POWER's trash incinerator. The concern driving this and other bills is that a new double-lined landfill will eventually leak and poison the aquifer. The U.S. Environmental Protection Agency has stated multiple times over the years that all landfills eventually leak. Concern over the aquifer is well-warranted.

The plan to use ash to build roads all over the island is even more concerning. Doing so will turn roads into linear unlined landfills with no groundwater protection that can pollute the aquifer from many directions. It will also expose road workers, everyone who drives over the roads, and

all who lives near roads where the road surface will erode over time, releasing tiny particles with toxic metals, dioxins, and other harmful chemicals.

Due to these concerns, the Democratic Party of Hawai'i adopted resolution 2024-11 (attached) opposing the use of ash in roads unless it can be "remediated" so that toxic chemicals are removed to the point where they are not detectable. Such remediation technology does not exist, and were it possible, it would not be affordable, and is not what is being proposed by the city.

The City and County of Honolulu ("city") is pursuing permits from the Department of Health to build a facility near the H-POWER trash incinerator in Campbell Industrial Park in Kapolei. This facility would be owned by the city and operated by Reworld (formerly Covanta) – the same owner/operator relationship that they have for the H-POWER incinerator. These proponents of ash "recycling" into roads have been spreading misinformation that needs to be corrected.

This facility would pull metals out of the incinerator's ash for recycling, then use the remaining ash to build roads or for other construction purposes. This is unproven and unsafe, and would be a greater threat to human health, the aquifer and the environment in general than simply placing this ash in a double-lined landfill.

Department of Health would not be regulating ash reuse "case-by-case." DOH would be permitting the ash recycling facility, enabling the county to then mix the toxic ash into asphalt at which point it is deregulated and not subject to case-by-case determinations.

Ash cannot be cleaned. There is no technology that would be applied which can remove dioxins/furans, lead, mercury, cadmium, arsenic, PFAS, and other toxic constituents out of the incinerator ash before allowing workers to handle it for roadbuilding and other construction purposes.

It is not just bottom ash. Incinerators produce fly ash (small particles caught in pollution controls... about 10% of the ash, and very toxic) and bottom ash (about 90% of the ash and less toxic, but still full of many toxic chemicals). Reworld claimed in testimony that they only handle bottom ash, but several of their own documents from their Bucks County, Pennsylvania plant (the model for the one proposed by the City and County of Honolulu) contradict their statement and show that they are taking "combined" ash, which means fly ash mixed with bottom ash.

They are not "removing aggregate" from the bottom ash. Reworld also claims that they're removing "aggregate" from the ash as if that is separate from the ash. The City and County of Honolulu and Reworld claim that they'd be diverting 60% of the ash from the landfill. If this is the case, it is the ash itself that they want to put into roads, not just some rocks they pull out of the ash. It will be the same ash that research shows will leach arsenic and other toxic metals in real-world landfill conditions over time.

It is NOT like sand. Sand does not require tests for whether it's hazardous waste, and disposal in lined landfills. Sand has a neutral pH while ash is far more basic, enabling toxic metals to leach out

over time. Roger Babcock has been making false claims to the legislature and neighborhood boards about how it's just like sand. This is not true.

Ash recycling into roads is failed technology. Schemes to “recycle” toxic incinerator ash into roads have failed across the country, in Tennessee, Maine, Oregon, York County, Pennsylvania – and most recently, Bucks County, Pennsylvania, which is the model that the City and County of Honolulu is holding up as the project they want to copy. That plant, owned and operated by Reworld (Covanta) removes metals from trash incinerator ash, and used to provide the remaining ash to a nearby asphalt company to use in roads. They stopped doing this in September 2022 and were going to restart in 2023, but never did. That project apparently failed, and ash is now going back to landfills, anyway.

Ash is not safe as daily landfill cover. Ash should never be used as alternative daily cover material for itself at a landfill. Daily cover is required to prevent harmful wastes from blowing into the community at night, and the idea of “alternative daily cover material” is a ploy by the landfill industry to save money by not putting soil on top of the landfill each day while making money taking waste instead. However, ash is fine material and there are examples from across the country where this has blown off of the landfill into communities. It's better to require tarps for daily cover than to allow ash to be “cover” for itself, risking exposure to wind-blown ash particles.

Reworld cannot be trusted. Reworld (formerly Covanta) – the operator of the H-POWER trash incinerator that makes this ash – was just fined \$878,000 in New York for having failed to mix their fly and bottom ash properly, and having illegally dumped hazardous incinerator ash in a landfill not permitted to take hazardous waste. See: <https://dec.ny.gov/news/press-releases/2025/2/dec-orders-reworld-hempstead-to-pay-878500-in-penalties-and-environmental-benefit-funds> and <https://law.justia.com/cases/new-york/other-courts/2024/2024-ny-slip-op-24080.html> The company also has a decades-long track record of thousands of violations.

EPA's test does saying ash is “non-hazardous” does not mean it's safe, non-toxic, or inert. EPA's test for whether ash is hazardous does not account for exposure to ash by inhalation, ingestion, or even by touching it, as they now admit on their [website](#).

EPA's test only looks at what leaches out under short-term lab conditions under a certain pH, where toxic chemicals like lead and cadmium do not leach out. Scientific experts have documented that this does not represent real-life conditions and that actual leaching of toxic chemicals from incinerator ash happens in real-life, even if not in EPA's test to determine whether the ash is technically and legally “hazardous.” It is clear that passing this test does NOT mean that incinerator ash is “non-toxic” or “inert.” It is far from that.

In December 2024, the U.S. Environmental Protection Agency admitted on their [website](#) that incinerator ash, even if it tests legally “non-hazardous” based on tests that only look at what leaches out of ash, can still be harmful if people are exposed in other ways, including inhalation, ingestion, or touching it. Ash can blow off of trucks, blow off of the top of landfills when used as alternative daily cover at a landfill, and would be handled by road workers. Roads will also erode over time with tiny toxic particles exposing people.

EPA's statement says:

6. What risks are associated with management, disposal or reuse of MSW incinerator ash?

If MSW combustor ash exceeds the toxicity characteristic regulatory limit at Title 40 of the Code of Federal Regulations Section 261.24 using the Toxicity Characteristic Leaching Procedure (TCLP), it is identified as a hazardous waste due to the risks it poses to groundwater contamination under a worst-case mismanagement scenario. Non-hazardous MSW combustor ash may still present potential risks via other pathways, such as through inhalation, ingestion, or dermal (skin) contact. These risks should also be considered during transport, disposal and/or beneficial reuse of the ash as a non-hazardous secondary material.

Communities are being told that municipal solid waste incinerator ash is “non-toxic” and “[inert](#)” as a means to dismiss concerns about toxicity of ash. This is a misinterpretation of the results of the Toxicity Characteristic Leaching Procedure (TCLP) test that is used to determine whether ash is legally hazardous. EPA's statement now makes that clear. Incinerator ash was never “non-toxic” or biologically inert.

In a 2/23/2022 meeting we had with key staff at the U.S. Environmental Protection Agency's Office of Land and Emergency Management (the office that handles solid waste), EPA staff confirmed that the TCLP test is based solely on what leaches out of ash, not on exposure pathways involving inhalation or ingestion. This is a concern because there are exposure pathways not being considered. Incinerator workers are the first to be exposed. I've toured incinerators where you can write your name in the layer of ash dust that has settled and built up on the floor, yet workers are not wearing respiratory protection. There are anecdotes from communities where ash has blown off of trucks. When ash is dumped from trucks on the surface of landfills, there can be clouds of ash dust blowing away during that activity, which has been video documented by workers in one case I've seen. Incinerator ash is typically used as alternative daily cover material at landfills, which risks ash blowing into communities.¹ There are several examples of this that we're aware of. One – at the City of Baltimore's Quarantine Road Landfill – was noticed by the Maryland Department of the Environment and the city was ordered in 2010 to stop the practice since ash was blowing off-site (we believe that they have continued the practice). See the bottom of page 2 in this [memo](#). Off-site wind-blown ash has also been documented at an ash monofill in New England. Some landfills, like Old Dominion Landfill in Monroe (Henrico County), VA, use ash to build internal roads in landfills where trucks drive over the ash and can kick it up and track it off-site. The potentials for inhalation and ingestion are significant.

¹ Historically, landfills are required to use soil as daily cover at the end of each day to prevent waste blowing into communities at night. However, the industry has learned that they can save money by not paying to fill their air space with clean soil, and *make* money taking waste in place of soil. The practice of using waste as “alternative daily cover material” (ADCM) has become commonplace, even though it can involve exposing the community to wind-blown incinerator ash or other wastes permitted to be used as ADCM. There are numerous cases of incinerator ash blowing off of landfills when ash is used as cover material for itself.

Incinerator ash used to be considered to be categorically non-hazardous by EPA until a May 1994 Supreme Court decision that required that, if ash tests hazardous, it must be regulated as hazardous waste. Testing with the EP Tox test used to find fly ash hazardous 91% percent of the time based on lead and 97% of the time based on cadmium; bottom ash 36% of the time based on lead and 2% of the time based on cadmium; and combined ash 40% of the time based on lead and 14% of the time based on cadmium. Find more on the legal history [here](#), as well as additional history of the Supreme Court ruling, testing changes, the above results, and how EPA's TCLP test was chemically designed to prevent a hazardous waste designation [here](#).

In the wake of the Supreme Court ruling, EPA changed the test method to TCLP, where the testing now takes place at a higher pH where ash doesn't test hazardous. The mixing of fly and bottom ash prior to testing also enables the industry to dilute the toxicity of the fly ash while the lime in fly ash where lime scrubbers are used helps protect the bottom ash by increasing the pH. Lead and cadmium have U-shaped solubility curves where they'll leach at a high or low pH, but not in the range where the test is done. In long-term landfill conditions, changing pH can cause ash to leach lead, cadmium, arsenic, and probably other toxic chemicals. A [2004 study](#) found that TCLP fails to simulate landfill conditions and underestimates arsenic leaching from ash, stating "[u]p to tenfold greater arsenic concentration is extracted by an actual landfill leachate than by the TCLP."

Municipal waste combustor ash passing a TCLP test does not mean that ash is non-toxic or biologically inert. The test is based solely on the content of liquids that leach out of ash at a certain pH during an 18-hour laboratory test. A TCLP determination of whether ash must be handled as hazardous waste does not account for exposures via inhalation, ingestion, or dermal (skin) contact. These exposures are possible if ash blows off of trucks during transportation, blows into the air when dumped at a landfill, blows off of the surface of a landfill (which is more possible where ash is used as daily cover material), is kicked up by trucks where ash is used to make internal roads in a landfill, or where workers handle ash to recycle it into roads or other reuse applications where it can erode or leach over time outside of a lined landfill.

Democratic Party of Hawai'i Resolution Adopted May 18, 2024

2024-11: Supporting Safe Management of Incinerator Ash

Whereas, Waste incineration facilities reduce every 100 tons of trash to about 30 tons of ash; and

Whereas, H-POWER—Hawai'i's only trash incinerator—operates in O'ahu's Campbell Industrial Park and burns up to 2,600 tons of waste per day, making it one of the nation's largest waste incinerators, with its ash currently dumped in the Waimanalo Gulch Landfill in Honokai Hale; and

Whereas, While fly ash from trash incinerators is regulated as hazardous waste in several other nations, the U.S. Environmental Protection Agency (EPA) used to categorically define incinerator ash as non-hazardous, even though tests showed that fly ash qualified as hazardous over 90% of the time and even though bottom ash would test hazardous 36% of the time due to leaching of toxic lead or cadmium; and

Whereas, Since a 1994 U.S. Supreme Court ruling that incinerator ash must be handled as hazardous waste if it tests hazardous, the EPA changed the test, allowed mixing of fly and bottom ashes, and changed the test methods to enable incinerator ash to pass the test; and

Whereas, EPA staff admit that the ash testing regulations (which require testing only for what leaches out of incinerator ash at a certain pH in short-term lab tests) are based solely on whether people will be exposed by consuming water that has passed through ash and leached into groundwater and, ultimately, to drinking water supplies—and that ash testing regulations are not based on exposures from touching incinerator ash, or inhaling or ingesting ash particles; and

Whereas, Testing “non-hazardous” does not mean that ash is safe, “non-toxic” or biologically “inert”; and

Whereas, Incinerator ash is typically handled by workers with no respiratory protection, trucked to a landfill in trucks where some ash can blow or spill during transit, dumped from trucks where ash dust usually rises in a cloud that wind can carry, and is finally used as daily cover material for itself, instead of a tarp or clean soil to prevent wind from blowing ash into the community; and

Whereas, The City & County of Honolulu (the city) is currently working with Covanta to develop an ash “recycling” facility at Campbell Industrial Park, where incinerator ash would be exempted from being handled as waste, and would be used to build roads or for other purposes that can put workers, the public, and the environment in more contact with incinerator ash than would occur if it were properly contained and responsibly landfilled; and

Whereas, Roads and other construction materials do not last forever, and will erode and eventually be broken up, releasing more ash particles with no cautionary warnings about toxicity or special handling appropriate for material containing fine particles of highly toxic dioxins and furans, and toxic metals like arsenic, cadmium, chromium, lead and mercury; therefore be it

Resolved, That the Democratic Party of Hawai'i urges the Hawai'i State Department of Health and the city to: 1) Appropriately handle the incinerator ash (a type of “solid waste” as per HRS Section 342H-30) only through proper containment in a landfill, unless the ash is remediated to such a level that it does not pose a risk to public health and safety by first treating the ash to remove dioxins/furans, PFAS, mercury and other toxic contaminants to the point where the remaining ash has no detectable levels of the toxic chemicals, for which there is no known safe dose; 2) Ensure that trucking and landfilling uses secure tarps to prevent ash from being blown by wind into the community; and 3) Cease all activities in pursuit of any effort to “recycle” or “reuse” H-POWER incinerator ash unless it is properly remediated as described above; and be it

Ordered, That copies of this resolution shall be transmitted to the offices of the Governor and Lieutenant Governor of the State of Hawai'i, the Director of the Hawai'i State Department of Health, all members of the Hawai'i State Legislature and Honolulu City Council who are Democrats, the Mayor of the City & County of Honolulu, and the Director of the Honolulu Department of Environmental Services.

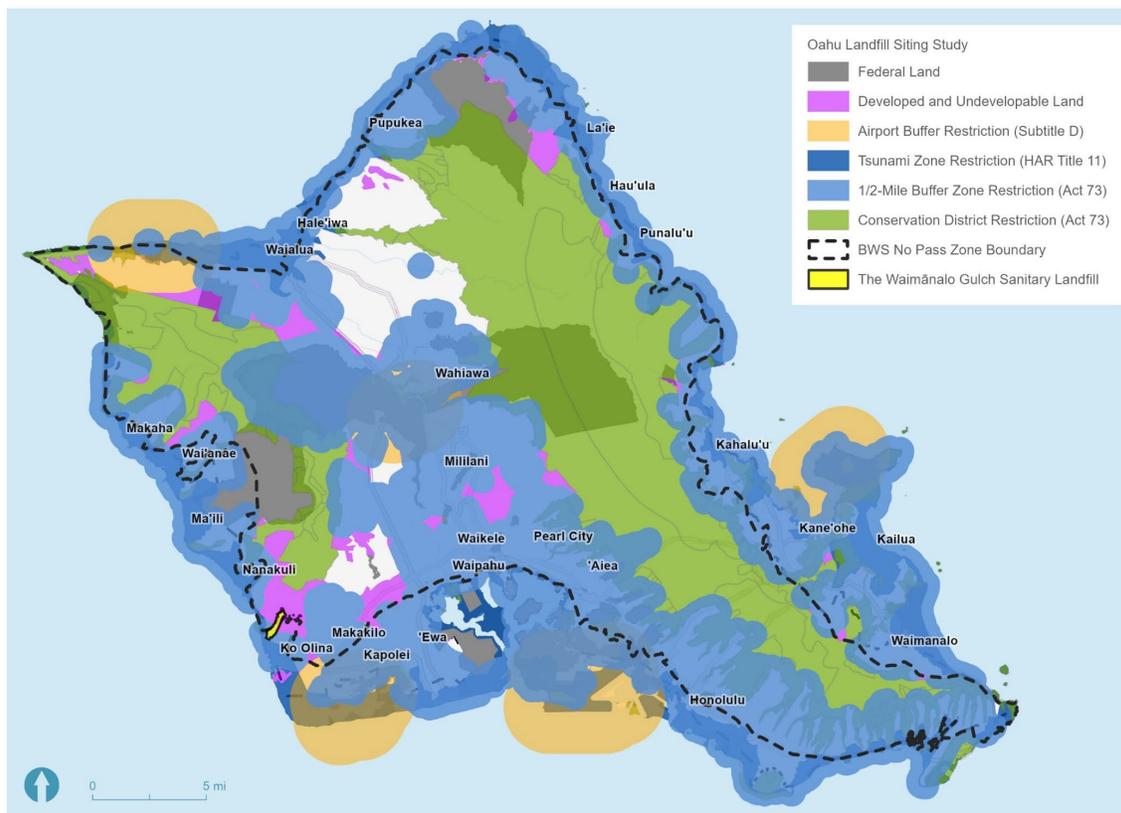
BACKGROUND INFORMATION IN SUPPORT OF SENATE BILL 438

This, and other bills aiming to reopen Act 73 of 2020, aim to impact the effort to site a new landfill on O‘ahu. Waimanalo Gulch Landfill is supposed to close by 3/2/2028, although EPA data shows that it has many more years of capacity remaining... enough for it to last until somewhere between 2032 and 2060 depending on waste generation and composition.

The siting effort for a new landfill was supposed to be completed by the end of 2022, but was delayed for two years after not being able to find suitable land other than over the aquifer. After a failed effort to secure federal land, the City and County of Honolulu returned to one of their original proposed locations – over the aquifer – and now claims that modern double-lined landfills never leak, which is not supported by the track record of landfills across the country.

The Honolulu Board of Water Supply has testified in opposition to siting a new landfill over the aquifer out of concern for the fact that all landfills eventually leak, as has been affirmed multiple times over the years by the U.S. Environmental Protection Agency. They recommend that any new landfill be on the outside of the “no pass zone” boundary, over the caprock, which protects the aquifer from contamination.

As is evident on the map below, there is no area outside of this “no pass zone” where there is land to build a landfill because the half-mile buffer zone in Act 73 already eliminates that entire area. To enable Waimanalo Gulch Landfill to be replaced with a landfill that is not sited over the aquifer, the half-mile buffer zone would have to be reduced.



Furthermore, there are some important considerations for a landfill no matter where is it sited, in order to have the safest possible landfill:

1. Reduce toxicity by ending incineration

There are two things that make landfills particularly harmful: toxicity (from leachate and landfill gas releases) and climate impacts from gas generation. The toxicity is made far worse when burning waste and landfilling ash. The proposed landfill on O’ahu is primarily for the toxic ash from the H-POWER trash incinerator.² The landfill will be far less dangerous if trash is placed there without burning it first, which makes it more possible for toxic chemicals in waste to get out and to blow off of trucks and off of the top of the landfill (especially when ash is used as daily cover material). The City and County of Honolulu is pursuing an even more dangerous plan – to take this toxic ash and build roads with it, which would essentially be linear unlined landfills all over the island, exposing people (and the aquifer) much more than placing the ash in one place in a double-lined landfill. The H-POWER trash incinerator will not last forever, and the older two burners (that are missing two of the four air pollution control systems that most incinerators have) are now 35 years old and should be retired in the next five years. No community has chosen to bear the incredible cost of building a new incinerator in over a decade, and many communities have abandoned such pursuits after finding it politically and financially impossible. The City and County of Honolulu must plan for a future without trash incineration, and invest in Zero Waste solutions that rely on landfilling residuals in the most responsible way, which means not burning waste first.

2. Reduce gasses, odors and leakage by source separating clean organic materials (food scraps and yard waste) to compost it and build soils

The other main impact of landfills is from organic materials breaking down and forming leachate and landfill gas (and odors that go with it). Much of this can be avoided with a robust composting system that accepts food scraps as well as yard waste for curbside collection with economic incentives and proper education and enforcement.

3. Stabilize the organic fraction of trash with digestion before landfilling, so you’ll have a small, safer landfill

For the dirty organic materials like sewage sludge and the organic fraction of municipal solid waste (including the food scraps that should have been source separated for composting), these materials should be digested to stabilize them before landfilling so that the methane generating

² As multiple life cycle assessments have demonstrated, burning trash and landfilling ash is 2-3 times more harmful than directly landfilling trash without burning first. See <https://www.energyjustice.net/files/incineration/LCA.pdf> for summary slides from two studies of this sort on incinerators run by the same company operating H-POWER. A study conducted for Hawai’i County in 2023 demonstrated the same when looking at the health and environmental costs of landfilling paper and plastics on Hawai’i Island vs. burning them at H-POWER on O’ahu vs. shipping them to Asia or North America for recycling. It turned out that incineration was the worst impact by far, while landfilling was less harmful, and recycling was a major benefit. See: <https://drive.google.com/file/d/1tdhufZvfYXM64OnU7Z9Bdfts-xoptaq/view>

potential is removed, and the gases are produced in an enclosed system where they're easier to capture than in an open air landfill system. This is discussed in the report by EcoCycle on what to do with the "leftovers" on the path to Zero Waste: <https://ecocycle.org/resources/report-zero-waste-system-leftovers/>

4. Do not use landfill gas for energy (minimize gas formation, maximize collection)

Contrary to popular understanding, it's actually not beneficial to use landfills as energy facilities by burning captured gas for energy. This is because such projects generally involve deliberately generating more gas and manipulating the landfill in ways that are designed to increase the proportion of methane in the gas, though these manipulations tend to cause more gas to escape, which makes climate and community health impacts worse. There are strategies to best manage landfills by minimizing gas formation and maximizing collection which are discussed in the back end of the Zero Waste Hierarchy described on these pages: <https://www.energyjustice.net/zerowaste/hierarchy> and <https://www.zwia.org/zwh>.

SB-438-HD-2

Submitted on: 3/31/2025 10:36:07 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Country Talk Story	CountryTalkStory	Support	Written Testimony Only

Comments:

SUPPORT

SB-438-HD-2

Submitted on: 3/31/2025 7:07:53 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joseph Kohn MD	We Are One, Inc. - www.WeAreOne.cc - WAO	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the Judiciary & Hawaiian Affairs Committee,

I strongly support SB438 SD2 HD2, which would prohibit the construction, modification, or expansion of waste and disposal facilities above significant aquifers.

This bill is crucial for protecting our vital groundwater resources. Our aquifers are irreplaceable sources of freshwater that sustain our communities and ‘āina. Once contaminated, these water sources can be permanently damaged, putting public health and our environment at risk.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to **PASS SB438 SD2 HD2**.



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

April 2, 2025

HEARING BEFORE THE
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

TESTIMONY ON SB 438, SD2, HD2
RELATING TO WASTE DISPOSAL FACILITIES

Conference Room 325 & Videoconference
2:00 PM

Aloha Chair Tarnas, Vice-Chair Poepoe, and Members of the Committee:

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

The Hawai'i Farm Bureau offers comments on SB 438, SD2, HD2, which prohibits landfill units on land in an agricultural district with class A soil and the construction, modification, or expansion of any waste or disposal facility for hazardous or solid waste on land near or above a significant aquifer. Protecting Hawai'i's water resources and prime agricultural lands is essential for the long-term sustainability of both agriculture and public health.

Hawai'i's farmers and ranchers depend on clean and reliable water sources for irrigation, livestock, and food production. Groundwater contamination from landfills and waste facilities poses a serious threat to agriculture, drinking water, and public health. The recent crisis at Red Hill highlighted the long-term consequences of groundwater contamination, reinforcing the need for proactive measures to prevent similar risks in the future.

HFB supported earlier versions of this bill, including SB 438, SD2, HD1, because of their strong protections for both Hawai'i's drinking water and prime agricultural lands. However, we respectfully oppose the HD2 version in its current form because it removes Class B lands from protection—lands that are highly productive and critical to the future of Hawai'i agriculture.

We urge the committee to reinstate the ban on landfills in both Class A and Class B agricultural lands. These areas are crucial for food production and the

sustainability of farming operations, especially on neighbor islands where agriculture is a vital component of local economies.

At the same time, we recognize the unique challenges faced by smaller counties in siting essential public infrastructure such as landfills. To address this, **we suggest the committee consider amending the bill to exempt counties with populations under 500,000**, which would allow Kaua'i County to move forward with its efforts to site a new landfill without undermining protections statewide. This population-based exemption would apply only to Kaua'i, Maui, and Hawai'i Counties and would not affect O'ahu, where the population exceeds the threshold.

We want to be clear: our support for this exemption is based on the different land use pressures and needs in neighbor island counties. Our position opposing the siting of the proposed new landfill on O'ahu agricultural land remains unchanged. The circumstances and risks on O'ahu are not the same as those in the other counties.

HFB continues to advocate for responsible land use policies that balance the need for critical infrastructure with the long-term protection of agricultural lands and water resources. We believe these changes will strengthen the bill while allowing necessary flexibility for counties with limited options.

Thank you for the opportunity to testify on this measure.



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Honolulu, O'ahu

Natalie Urminska
Kaua'i

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the House Judiciary & Hawaiian Affairs Committee,

The Hawai'i Farmers Union is a 501(c)(5) agricultural advocacy nonprofit representing a network of over 2,500 family farmers and their supporters across the Hawaiian Islands. **HFU supports SB438.**

SB438 holds significant promise for ensuring the long-term health of Hawaii's agricultural lands and natural resources. By prohibiting landfill units on land designated as agricultural districts with class A soils, the bill prioritizes the protection of Hawaii's most fertile grounds. Preserving these lands for agricultural purposes aligns with the commitment to bolster local food production and sustainability. This initiative ensures that prime farming areas remain untouched and undisturbed by landfill operations, allowing farmers to continue to produce high-quality crops essential for both local consumption and export.

Furthermore, SB438's measures to safeguard significant aquifers from potential contamination demonstrate foresight in protecting Hawaii's vital water resources. By preventing waste facility construction or expansion in areas near or above these aquifers, the bill helps to secure clean and safe drinking water for current and future generations. This, combined with updated buffer zone regulations that ensure landfill facilities are kept at a safe distance from residential and sensitive areas, underscores a comprehensive approach to public health and environmental preservation. Implementing these measures not only champions Hawaii's agricultural potential but also the health and well-being of its communities and ecological systems.

Mahalo for the opportunity to testify.

Hunter Heavilin
Advocacy Director
Hawai'i Farmers Union

April 1, 2025

Honorable David Tarnas, Chair
Honorable Mahina Poepoe, Vice Chair
Committee on Judiciary and Hawaiian Affairs

Re: SB 438, SD2, HD2 - RELATING TO WASTE DISPOSAL FACILITIES
SUBMITTING COMMENTS

Dear Chair Tarnas, Vice Chair Poepoe and Members of the Committee:

My name is Joseph Shacat, and I submit this testimony as an independent consultant working for Reworld. Reworld is the operator of the H-POWER waste-to-energy facility owned by the City and County of Honolulu. The City and Reworld are working in partnership on a project to move up the waste hierarchy and reduce the amount of waste sent to the landfill.

I respectfully request that the committee remove the amendment made in SB 438 SD2 HD2 that bans the use of municipal waste combustion ash for the purposes of road building, construction, or as alternative daily cover material for a landfill. The ash amendment in the HD2 is premature because a comprehensive permit process on aggregate recovery and recycling is still being reviewed and analyzed by the Hawai'i Department of Health (DOH).

I am working with Reworld on the proposed aggregate recovery and recycling facility at H-POWER. I have nearly 20 years of experience focused on sustainability and environmental compliance in the construction materials industry and have worked at the National Asphalt Pavement Association and Grace Pacific LLC. I am also a past chair of the State of Hawai'i Environmental Council (2014-2018). I am specifically working on the environmental and engineering tests needed to safely and economically use the recovered aggregates that will be produced at the aggregate recovery and recycling facility.

The primary purpose of SB 438 SD2 HD2 is to protect Oahu's drinking water aquifers by prohibiting a solid waste disposal facility from operating on land near or above a significant aquifer or on agriculturally zoned land. However, the HD2 version of the bill added an amendment to prohibit incinerator ash recycling and require landfill disposal of ash from waste-to-energy facilities.

The City & County of Honolulu's proposed aggregate recovery and recycling facility was designed by Reworld to produce high-quality, construction grade aggregate sand for Hawai'i's construction industry. Construction grade sand is the most expensive aggregate material produced by Oahu's quarries, indicating its value in the market. The ability to supplement Oahu's aggregate industry through the use of locally produced aggregates recovered from H-POWER bottom ash will have multiple benefits:

1. Reducing the cost of construction materials on Oahu by offering a lower cost construction-grade sand that meets agency material specifications.
2. Extending the life of Oahu's quarries by reducing demand for virgin aggregates while also reducing the construction industry's reliance on aggregates imported from Canada.
3. Reducing the volume of waste materials sent to the Waimanalo Gulch sanitary landfill, thereby reducing truck traffic on Farrington Highway.
4. Reducing the cost for the City & County of Honolulu to operate the H-POWER facility by recovering a valuable commodity rather than paying for its disposal at Waimanalo Gulch or any future landfill on Oahu. The project would reduce the amount of ash sent to the landfill by up to 60%.

Ash derived from waste-to-energy facilities has been successfully used as a construction material in Europe for decades and, more recently, has been approved for use in other US states including Pennsylvania and Florida. The bottom ash-derived aggregates from the advanced processing operations at the proposed aggregate recovery and recycling facility are expected to be significantly cleaner than the ash that has been approved in other states.

DOH is currently reviewing a comprehensive non-hazardous solid waste management permit application and environmental testing process required by DOH to determine whether bottom ash-derived aggregates from the H-POWER facility pose any threat to human health or the environment. This is part of DOH's responsibility for enforcing HRS 342Gⁱ and HAR 11-58.1ⁱⁱ. The application process includes a comprehensive sampling and analysis plan to evaluate the environmental risk associated with metals, PFAS, and other potential contaminants prior to using the aggregate as a construction material. DOH is the regulatory lead agency, which allows it to enforce more stringent recycling requirements than the EPA.

The City and County of Honolulu has conducted significant research on this issue in the past, when it studied the use of combined ash as an aggregate replacement for asphalt pavements through laboratory testing and a field trial from 1998 to 2002. This research was largely funded by the National Renewable Energy Laboratory under the oversight of DOH. A test section of asphalt pavement containing approximately 5% H-POWER ash was constructed by Grace Pacific in 1998. The environmental testing included aquatic toxicity tests and laboratory analysis of runoff and leachable metals from asphalt pavements amended with H-POWER ash. The test results indicated no statistically significant increase in leaching or runoff of metals from ash-amended pavements relative to conventional asphalt pavements with no ash. The assessment of dust generation during roadway demolition concluded that worker exposure to dust and metals was significantly below the OSHA Permissible Exposure Level (PEL).ⁱⁱⁱ Engineering tests also demonstrated that the ash-amended asphalt met or exceeded all of the Hawai'i Department of Transportation material specifications for asphalt pavements.^{iv}

While these past studies are promising, the City & County of Honolulu and Reworld plan to conduct an additional comprehensive suite of engineering and environmental testing plans to ensure that its ash-derived aggregates meet DOH requirements for preventing harm to human

health and the environment. This analysis will be conducted under the oversight of DOH and will address concerns related to leachability of metals, PFAS, and other potential contaminants.

Given the potential benefits of using bottom ash-derived aggregates as a construction material, it would be premature to ban the use of municipal waste combustion ash for the purposes of road building, construction, or as alternative daily cover material for a landfill. The most prudent course of action is to allow this material to be evaluated through a transparent, scientifically defensible permitting process under the oversight of the DOH through its existing, robust regulatory framework.

Thank you for the opportunity to testify on this measure.

Joseph Shacat, MS, MBA

ⁱ Hawai'i Revised Statutes (HRS) Chapter 342G, the Integrated Solid Waste Management Act.

ⁱⁱ Hawai'i Administrative Rules (HAR) Chapter 11-58.1, Solid Waste Management Control.

ⁱⁱⁱ Magee, B., R. Okoji, C. Jones, and J. Hahn (2004). Environmental Monitoring During Resource Recovery Combustion Ash Reuse Demonstration Projects (on file at the City and County of Honolulu, available upon request).

^{iv} Jones, C.M., J.L. Hahn, B.H. Magee, N.Q.S. Yuen, K. Sandefur, J.N. Tom, and C. Yap (1999). Utilization of Ash from Municipal Solid Waste Combustion: Final Report Phase II. National Renewable Energy Laboratory, Golden, Colorado. Report No. NREL/SR-570-26068. <https://www.osti.gov/biblio/757056>.



April 2, 2025

TESTIMONY OF THE ASSOCIATION OF HAWAIIAN CIVIC CLUBS
To the House Committee on Judiciary and Hawaiian Affairs
Comments On

SB438 SD2 HD2 – RELATING TO WASTE DISPOSAL FACILITIES

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the committee.

The Association of Hawaiian Civic Clubs **comments on** SB438 SD2, HD2 Relating to Waste Disposal Facilities, which prohibits landfill units on land in an agricultural district with class A soils. Prohibits the construction, modification, or expansion of any waste or disposal facility for solid waste or hazardous waste on land that is near or above a significant aquifer. Clarifies that beginning July 1, 2025, the existing buffer zone between waste or disposal facilities and residential, school, or hospital property lines applies to municipal solid waste landfill units or components, construction and demolition landfill units, and their components. Prohibits the construction, modification, or expansion of a landfill unit within a no pass zone in a county with a population greater than five hundred thousand, with certain exemptions. Prohibits the use of fly ash, bottom ash, or a combination of fly ash and bottom ash from a municipal waste combustor for certain purposes and imposes requirements on the disposal of these materials. Our wai is critical to life and it is critical to protect our freshwater aquifers.

The mission of the Association of Hawaiian Civic Clubs is to effectively advocate for the educational, civic, health, cultural, economic, and social well-being of our lāhui.

The Association of Hawaiian Civic Clubs supported the prohibition of constructing landfills in conservation districts and establishment of the ½ mile “buffer zones” enacted in Act 73, Session Laws of Hawaii, 2020 given its 2019-52 Resolution (See attached). At the January 2025 board meeting, the Association reaffirmed its longstanding commitment to protecting wai by formally adopting the position that landfills should not be situated over aquifers and may only be placed within conservation districts in exceptional circumstances.

We **support** the ½ mile “buffer zones” reinstated in this current draft bill. No community should suffer the negative health impacts and decrease in quality of life from a landfill. It is critical that

landfills or components of landfill units be sited a safe distance of at least ½ mile from the public.

Hawai‘i deserves waste policies that prioritize people over profits, health over convenience, and environmental justice over short-term gains.

Founded by Prince Kūhiō in 1918, the Hawaiian Civic Club movement is the oldest Native Hawaiian community-based advocacy movement. The Association of Hawaiian Civic Clubs is a not-for-profit organization that is a confederation of 61 individual and autonomous Hawaiian Civic Clubs and 3,000 members located across Hawai‘i and across the continental United States.

We appreciate the opportunity to testify.

SB-438-HD-2

Submitted on: 3/28/2025 6:08:02 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lorna Holmes	Individual	Support	Written Testimony Only

Comments:

I write in strong support of SB 438. As Ernie Lau has correctly pointed out, it is nothing short of suicidal to locate a landfill over a significant aquifer. Please pass this bill.

Mahalo for your attention,

Dr. Lorna Holmes

Honolulu 96817

SB-438-HD-2

Submitted on: 3/28/2025 8:18:45 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Henrietta Paris	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chair Tarnas and fellow committee members,

Our ohana lived on Mohihi St. and Auyoung Homestead Rd. in Nanakuli for many years. During that time, we witnessed the growing mound of trash behind our yard, just under a football field away from our home. We, along with our neighbors, had to cope with constant dust and the litter that would spill into our streets during heavy rainstorms, not to mention the runoff that made its way into Ulehawa stream. Many of our friends and neighbors, including ourselves, made frequent trips to the doctor due to health conditions, and we know that others on our street faced similar struggles. No one should have to live next to a landfill. We kindly ask that you maintain the 1/2 mile buffer zone and encourage all efforts to recycle and reuse materials, including the ash from H-Power, to prevent them from ending up in Nanakuli, Waimanalo Gulch, or any other future landfills.

Mahalo for your time.

Sincerely,

Henrietta K. Paris

SB-438-HD-2

Submitted on: 3/28/2025 8:19:43 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Melvin Paris	Individual	Oppose	Written Testimony Only

Comments:

Aloha legislators:

Please do not touch the 1/2 mile buffer zone and keep opala out of our communities backyards and let the City recycle the ash from H-Power. Better than putting it in a landfill next to people's homes on the West side of Oahu. Mahalo.

Melvin Paris

Kapolei, O'ahu

SB-438-HD-2

Submitted on: 3/29/2025 10:09:08 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shay Chan Hodges	Individual	Support	Written Testimony Only

Comments:

I strongly support SB438 SD2 HD2, which would prohibit the construction, modification, or expansion of waste and disposal facilities above significant aquifers.

This bill is crucial for protecting our vital groundwater resources. Our aquifers are irreplaceable sources of freshwater that sustain our communities and ‘āina. Once contaminated, these water sources can be permanently damaged, putting public health and our environment at risk.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to **PASS SB438 SD2 HD2**.

SB-438-HD-2

Submitted on: 3/29/2025 10:45:59 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jodi Rodar	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Lowen, Vice Chair Perruso, and members of the Energy & Environmental Protection Committee,

My name is Jodi Rodar and I **strongly support HCR28/HR27**, which would reconvene a working group to address air and water contamination that may be putting residents and visitors in ‘Ewa Beach - including keiki - at risk of toxic lead exposure.

The Pu‘uloa Range Training Facility (PRTF) poses significant environmental and public health risks due to lead contamination in its impact berms, which border residential neighborhoods and a busy beach park. Soil sampling has revealed elevated lead levels on the beach side of the facility, raising concerns about lead and heavy metals leaching into the ocean, contamination of nearshore waters and marine life, and airborne dispersion into nearby communities.

A working group established in 2024, set to dissolve on June 30, 2025, has been tasked with addressing these urgent threats, yet it has never convened a meeting. Meanwhile, despite finding elevated levels of lead in its own soil testing, and notwithstanding the urging of the Hawai‘i Department of Health, the Marine Corps Base Hawai‘i (MCBH) has taken the position that no further action is needed.

By urging the reconvening of this working group, this resolution will hopefully serve to finally bring together experts and stakeholders to address community concerns surrounding the PRTF, such as additional testing and monitoring needs (including downwind residential areas and in the nearshore environment), and the need for remediation strategies that can help mitigate the public health and environmental impacts of lead contamination.

The health and safety of ‘Ewa Beach residents - including our keiki - marine ecosystems, and public spaces like Pu‘uloa Beach Park, will remain at risk without sustained collaboration among stakeholders, including the Department of Health, MCBH, community representatives, and environmental experts. HCR28 and HR27 would provide a framework to bring these key stakeholders together to address this risk, and protect our environment and people from significant generational harms.

Accordingly, I urge the Committee to **PASS HCR28/HR27**.

Sincerely,

Dr. Jodi Rodar

SB-438-HD-2

Submitted on: 3/29/2025 10:48:36 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Diane Ware	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the Judiciary & Hawaiian Affairs Committee,

My name is Diane Ware and I **strongly support SB438 SD2 HD2**, which would prohibit the construction, modification, or expansion of waste and disposal facilities above significant aquifers.

This bill is crucial for protecting our vital groundwater resources. Our aquifers are irreplaceable sources of freshwater that sustain our communities and ‘āina. Once contaminated, these water sources can be permanently damaged, putting public health and our environment at risk.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to **PASS SB438 SD2 HD2**.

Sincerely,
Diane Ware, Volcano 96785

SB-438-HD-2

Submitted on: 3/29/2025 11:07:52 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Katherine Fryer	Individual	Support	Written Testimony Only

Comments:

Please support this bill with the prohibition on ash recycling intact. To ensure that the bill does not accidentally ban proper disposal of incinerator ash from existing cells at the landfill where it is already going, which is not double-lined, please incorporate the following amendment:

Page 15, line 9, replace "Fly ash," with "Notwithstanding use of Waimanalo Gulch Landfill cells constructed as of July 1, 2025, fly ash,"

Without this amendment, there will be no place for the ash to go on O‘ahu until new double-lined cells are built. This could force O‘ahu to export ash to Hawai‘i Island to be dumped in the West Hawaii Sanitary Landfill near Waikoloa Village, which is double-lined. Inter-island waste shipping has been explored by both counties and we don't want to accidentally trigger that practice.

SB-438-HD-2

Submitted on: 3/29/2025 1:48:50 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
fred hofer	Individual	Support	Written Testimony Only

Comments:

Aquifer Protection Bill (SB 438)

Please support this bill with the prohibition on ash recycling intact. To ensure that the bill does not accidentally ban proper disposal of incinerator ash from existing cells at the landfill where it is already going, which is not double-lined, please incorporate the following amendment:

Page e 15, line 9, replace "Fly ash," with "Notwithstanding use of Waimanalo Gulch

Landfill cells constructed as of July 1, 2025, fly ash,"

Without this amendment, there will be no place for the ash to go on O‘ahu until new double-lined cells are built. This could force O‘ahu to have to export the ash to Hawai‘i Island to be dumped in the West Hawaii Sanitary Landfill near Waikoloa Village, which is double-lined. Inter-island waste shipping has been explored by both counties and we don't want to accidentally trigger that pr

actice.

Fred Hofer

Hilo

SB-438-HD-2

Submitted on: 3/29/2025 4:11:04 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Laura Leonberger	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the Judiciary & Hawaiian Affairs Committee,

My name is Laura Leonberger and I **strongly support SB438 SD2 HD2**, which would prohibit the construction, modification, or expansion of waste and disposal facilities above significant aquifers.

This bill is crucial for protecting our vital groundwater resources. Our aquifers are irreplaceable sources of freshwater that sustain our communities and ‘āina. Once contaminated, these water sources can be permanently damaged, putting public health and our environment at risk.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to **PASS SB438 SD2 HD2**.

Sincerely,
Laura Leonberger

SB-438-HD-2

Submitted on: 3/29/2025 7:15:36 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Robert Culbertson	Individual	Support	Written Testimony Only

Comments:

Aloha Senators!

I support this bill with the prohibition on ash recycling intact. To ensure that the bill does not accidentally ban proper disposal of incinerator ash from existing cells at the landfill where it is already going, which is not double-lined, please incorporate the following amendment:

Page 15, line 9, replace "Fly ash," with "Notwithstanding use of Waimanalo Gulch Landfill cells constructed as of July 1, 2025, fly ash,"

Without this amendment, there will be no place for the ash to go on O‘ahu until new double-lined cells are built. This could force O‘ahu to have to export the ash to Hawai‘i Island to be dumped in the West Hawaii Sanitary Landfill near Waikoloa Village, which is double-lined. Inter-island waste shipping has been explored by both counties and we don't want to accidentally trigger that practice.

Mahalo nui loa,

R A Culbertson

Honokaa

SB-438-HD-2

Submitted on: 3/29/2025 7:59:40 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Malia Marquez	Individual	Support	Written Testimony Only

Comments:

Aloha Kākou,

STOP the insanity of putting toxic waste over our water aquifer! Have we NOT learned from Red Hill? I strongly urge you to support SB 438 for 'āina, for us. Enough is enough.

Mahalo,

Malia Marquez

SB-438-HD-2

Submitted on: 3/29/2025 9:00:23 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tamra Hayden	Individual	Support	Written Testimony Only

Comments:

Please support this resolution with Senator Gabbard's amendments to remove recommendations of specific technologies and to expand it with the six people with zero waste and landfill leakage experience. Please also add a representative of the military who can provide insights into potential use of military land for a new landfill on O'ahu.

Mahalo

Tamra Hayden

SB-438-HD-2

Submitted on: 3/29/2025 11:07:43 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bo Breda	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the Judiciary & Hawaiian Affairs Committee,

My name is Bo Breda and I **strongly support SB438 SD2 HD2**, which would prohibit the construction, modification, or expansion of waste and disposal facilities above significant aquifers.

This bill is crucial for protecting our vital groundwater resources. Our aquifers are irreplaceable sources of freshwater that sustain our communities and ‘āina. Once contaminated, these water sources can be permanently damaged, putting public health and our environment at risk.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to **PASS SB438 SD2 HD2**.

Sincerely,
Bo Breda

SB-438-HD-2

Submitted on: 3/29/2025 11:08:58 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Peter Wilson	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the Judiciary & Hawaiian Affairs Committee,

My name is Peter Wilson and I **strongly support SB438 SD2 HD2**, which would prohibit the construction, modification, or expansion of waste and disposal facilities above significant aquifers.

This bill is crucial for protecting our vital groundwater resources. Our aquifers are irreplaceable sources of freshwater that sustain our communities and ‘āina. Once contaminated, these water sources can be permanently damaged, putting public health and our environment at risk.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to **PASS SB438 SD2 HD2**.

Sincerely,
Peter Wilson

SB-438-HD-2

Submitted on: 3/30/2025 8:04:56 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
cheryl hendrickson	Individual	Support	Written Testimony Only

Comments:

This bill is crucial for protecting our vital groundwater resources. Our aquifers are irreplaceable sources of freshwater that sustain our communities and ‘āina. Once contaminated, these water sources can be permanently damaged, putting public health and our environment at risk.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

SB-438-HD-2

Submitted on: 3/30/2025 8:47:31 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ruta Jordans	Individual	Support	Written Testimony Only

Comments:

Please support this bill with the prohibition on ash recycling intact. To ensure that the bill does not accidentally ban proper disposal of incinerator ash from existing cells at the landfill where it is already going, which is not double-lined, please incorporate the following amendment:

Page 15, line 9, replace "Fly ash," with "Notwithstanding use of Waimanalo Gulch Landfill cells constructed as of July 1, 2025, fly ash,"

Without this amendment, there will be no place for the ash to go on O‘ahu until new double-lined cells are built. This could force O‘ahu to have to export the ash to Hawai‘i Island to be dumped in the West Hawaii Sanitary Landfill near Waikoloa Village, which is double-lined. Inter-island waste shipping has been explored by both counties and we don't want to accidentally trigger that practice.

SB-438-HD-2

Submitted on: 3/30/2025 10:14:50 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michele Mitsumori	Individual	Support	Written Testimony Only

Comments:

Aloha,

I'm writing in support of SB 438 SD2 HD2 relating to waste disposal facilities.

Please pass this bill with the ash recycling prohibition intact. If incinerator ash is too dangerous to be placed over O'ahu's aquifer in a double-lined landfill, it is too dangerous to use to build roads with, as roads have no liners to prevent leakage into our drinking water.

However, to ensure that the bill does not accidentally ban proper disposal of incinerator ash from existing cells at the landfill where it is already going, which is not double-lined, please incorporate the following amendment:

Page 15, line 9, replace "Fly ash," with "Notwithstanding use of Waimanalo Gulch Landfill cells constructed as of July 1, 2025, fly ash,"

Without this amendment, there will be no place for the ash to go on O'ahu until new double-lined cells are built. This could force O'ahu to have to export the ash to our landfill here on Hawai'i Island, which is double lined but also nearing capacity. Let us avoid the bandaid of shipping one county's waste to another country's landfill.

Mahalo for the opportunity to testify in support of SB438 SD2 HD2 with an amendment,

Michele Mitsumori
Hilo

Wednesday, April 2, 2025

Judiciary and Hawaiian Affairs Committee
House of Representatives
State of Hawaii
Honolulu, HI 96813

OPPOSING SB438 SD2 HD2 - RELATING TO WASTE AND DISPOSAL FACILITIES

Aloha Chair David Tarnas, Vice Chair Mahina Poepoe and members of the committee:

I oppose [SB438 SD2](#) HD2 Relating to Waste Disposal Facilities as written. Please do not undo the monumental environmental justice legislation that created a ½ mile “buffer zone” between ‘opala and people in 2020. Please keep the ½ mile “buffer zone” to protect everyone from the ills of trash and allow for the responsible recycling of ash to lessen the load on our landfills.

From Mā‘ili, my name is Kamuela Werner. I graduated from Nānākuli High School, hold a Bachelors of Science in Natural Resource and Environmental Management as well as a Masters in Public Health from the University of Hawai‘i. I have worked at the Department of Native Hawaiian Health at the John A. Burns School of Medicine as a Native Hawaiian and Pacific Islander health disparities researcher, as a Native Hawaiian Congressional fellow for Senator Mazie Hirono in D.C., and now I am a full time teacher at Nānākuli Middle School.

Before moving to Mā‘ili, I grew up in a multi-generational Native Hawaiian household on Mōhihi street in Nānākuli. The Lualualei plain was my backyard where, at the time, you could see straight through to the base of Pu‘u Heleakalā, the sacred and storied place of our ancestor Māui. But no more, now we see “mauna ‘ōpala” as the keiki call it, created by the PVT Land Company. The same company who is proposing to relocate across the street from its current operations on Lualualei Naval Road in Nānākuli for another 30 years—yards away from our community and land recently aquired by Ma‘o Organic Farms. We now tell stories about trash and sickness rather than the accomplishments of our ancestors. Today, I speak on behalf of my ‘ohana that live, work, or go to school in Nānākuli, Mā‘ili, and Lualualei.

The ongoing operation and proposed expansion of the PVT landfill in Nānākuli exemplify environmental racism, as over 42% of O‘ahu’s waste is directed to a predominantly Native Hawaiian community. This situation is exacerbated by the outright prohibition of exploring safe methods to reuse and recycle waste-to-energy ash, which continues to perpetuate injustice for those living in our area. The ash produced by the H-Power facility can only be sent to Waimanalo Gulch Sanitary Landfill or PVT Landfill, or shipped off-island, limiting our options for sustainable waste management.

Recycling this ash into construction materials or roadways could provide a safer alternative, provided it meets or exceeds the leaching profiles of current aggregate materials. This is essential

to prevent the introduction of harmful pollutants, such as heavy metals like lead, cadmium, mercury, and arsenic, as well as dioxins and furans, into our environment. The health risks associated with living near landfills are well-documented, with studies linking proximity to adverse pregnancy outcomes, respiratory illnesses, and other serious health issues. Yet, the Hawai‘i Department of Health has failed to clarify the risks posed by the current and proposed landfill operations, leaving our communities vulnerable.

According to the Center for Disease Control and Prevention/National Center for Health Statistics in the U.S. Small-Area Life Expectancy Estimates Project based in part on U.S. census data, the census tracts that include Nānākuli Homestead and the neighborhoods of Auyoung Homestead Road and Mōhihi Street have the 2nd and 3rd lowest life expectancies in the State. Our communities’ life expectancy is 8 to 10 years less than the State average of 82 years. Immediately surrounding these communities, the life expectancy jumps between 4 and 6 years from backside Lualualei Valley behind the Wai‘anae Coast Comprehensive Center, to Ko‘olina, Honokai Hale, and Makakilo. Something is not pono.

From a public health perspective, the operation of a landfill in the current and proposed areas by PVT Land Company should be avoided for the following reasons: First, for landfills in general, the current and available public health studies associate living in close proximity of 1 to 4 miles away with adverse pregnancy outcomes, increases in infant low birth weights, increases in the risk of birth defects, self-reported headaches, sleepiness, respiratory and central nervous system problems, psychological conditions, and gastrointestinal issues. (See *Health effects of residence near hazardous waste landfill sites: a review of epidemiologic literature*, Environmental Health Perspectives, 2000; *Health effects associated with the disposal of solid waste in landfills and incinerators in populations living in surrounding areas: a systematic review*, The International Journal of Public Health, 2013). As a Construction and Demolition landfill in specific, the current PVT landfill contains tons of gypsum drywall which breaks down to produce hydrogen sulfide (H₂S) gas (See *Hydrogen sulfide generation in simulated construction and demolition debris landfills: impact of waste composition*, The Journal of the Air & Waste Management Association, 2006). Residential exposure to H₂S within 3.1 miles of a landfill is associated with lung cancer deaths as well as with death, disease and hospitalizations from respiratory illnesses (*Morbidity and mortality of people who live close to municipal waste landfills: a multisite cohort study*, International Journal of Epidemiology, 2016). Using the US Census 2017 ACS 5-Year Population Estimates for Nānākuli and Mā‘ili, it is estimated that over 18,000 residents live within 3.1 miles of the PVT landfill and are potentially exposed daily to H₂S in specific, and other landfill gasses and debris. In emergency situations, the State and City and County of Honolulu governments can place, and have placed, materials from disaster cleanups into PVT landfill.

Secondly, the Hawai‘i Department of Health (HDOH) has never clarified that there is no risk to the public for living in proximity to landfills in general, or the current or proposed PVT landfill in specific, especially within 3.1 miles. Further, HDOH has never reviewed the findings of independent studies which say that there is no risk to public health from landfills in general or from the current or proposed PVT landfills in specific, especially to the thousands of people that live, work, and play within a 3.1-mile radius of landfill operations. In fact, according to the PVT

2019 Final Environmental Impact Statement, the only HDOH air monitoring station that measures H₂S is located in Puna on Hawai‘i Island. HDOH given the current regulations for landfills, has been unable to adequately protect the public health, despite kama‘āina testimony presented since the 1980s, voicing concerns over the adverse health impacts of living and working in close proximity to landfills both in general and with regard to the operations and plans of PVT in specific. Lastly, it is not clear if the permit requirements issued by HDOH or the Department of Planning and Permitting of the City and County of Honolulu are being enforced given the current regulations for landfills. HDOH and the City and County of Honolulu have been unable to adequately protect the public health, despite the scientific studies that suggest adverse health effects for living within proximity of a landfill up to 4 miles away.

Nānākuli has over 9,000 Native Hawaiians, representing the highest per capita population of Native Hawaiians in the state at 72%. The disproportionate burden of over 42% of all Oahu’s waste ending up in a predominately Native Hawaiian community is environmental racism at its core. Hawaiian lives matters, and *all* our families in Nānākuli are suffering.

As a Native Hawaiian Congressional fellow who worked in the Office of Sen. Mazie Hirono, I gained a greater understanding of the purpose and value of governmental policies, which are in part, to protect the health and safety of the public. The policies that regulate our landfills and waste-to-energy facilities today are incomplete, because communities are still at risk, our communities of Nānākuli, Mā‘ili, Honokai Hale, Ko‘olina, Kapolei, Makakilo, and Lualualei are at risk.

We must advocate for policies that prioritize the health of our families and the environment, rather than perpetuating a system that disproportionately burdens Native Hawaiians and low-income families.

Environmental justice means fair treatment and meaningful involvement for all people, regardless of race or income. The current waste management practices in West O‘ahu are a clear violation of this principle. We must not undo the progress made in recent years; instead, we must uphold the ½ mile buffer zone and explore innovative solutions for recycling waste-to-energy ash, ensuring a healthier future for our communities. Hawaiian lives matter, and it is time to address the environmental injustices that have long plagued our home

Therefore, I urge the committee to keep the ½ mile “buffer zone” and remove the prohibition from recycling and reusing ash.

Mahalo.

Ke aloha ‘āina,

Kamuela Werner, MPH

SB-438-HD-2

Submitted on: 3/30/2025 3:21:24 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
William South	Individual	Support	Written Testimony Only

Comments:

This is a common sense bill that will benefit the island ecology and health.

SB-438-HD-2

Submitted on: 3/30/2025 7:57:27 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
William Reese Liggett	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the Judiciary & Hawaiian Affairs Committee,

My name is William Reese Liggett and I **strongly support SB438 SD2 HD2**, which would prohibit the construction, modification, or expansion of waste and disposal facilities above significant aquifers.

This bill is crucial for protecting our vital groundwater resources. Our aquifers are irreplaceable sources of freshwater that sustain our communities and ‘āina. Once contaminated, these water sources can be permanently damaged, putting public health and our environment at risk.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to **PASS SB438 SD2 HD2**.

Sincerely,
William Reese Liggett

SB-438-HD-2

Submitted on: 3/30/2025 7:57:35 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Monica Morris	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

I strongly support SB438 SD2 HD2, which would prohibit the construction, modification, or expansion of waste and disposal facilities above “significant” aquifers on islands with a population greater than 500,000.

This bill is crucial for protecting our vital groundwater resources, particularly on O‘ahu, and especially in light of a short-sighted proposal to site a landfill over a drinking water aquifer serving Central and North O‘ahu. Landfills inevitably leak, and placing one above a drinking water aquifer will only result in the further contamination of our islands’ most precious resource, by highly toxic landfill leachate. This measure accordingly ensures that we do not threaten the water security of our children and future generations by siting landfills above their drinking water sources.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to PASS SB438 SD2 HD2.

Thank you, Monica Morris

SB-438-HD-2

Submitted on: 3/30/2025 9:44:27 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nanea Lo	Individual	Support	Written Testimony Only

Comments:

Hello Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

I strongly support SB438 SD2 HD2, which would prohibit the construction, modification, or expansion of waste and disposal facilities above “significant” aquifers on islands with a population greater than 500,000.

This bill is crucial for protecting our vital groundwater resources, particularly on O‘ahu, and especially in light of a short-sighted proposal to site a landfill over a drinking water aquifer serving Central and North O‘ahu. Landfills inevitably leak, and placing one above a drinking water aquifer will only result in the further contamination of our islands’ most precious resource, by highly toxic landfill leachate. This measure accordingly ensures that we do not threaten the water security of our children and future generations by siting landfills above their drinking water sources.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to PASS SB438 SD2 HD2.

me ke aloha ‘āina,
Nanea Lo
Mō‘ili‘ili, HI 96826
Sierra Club of Hawai‘i Executive Committee Member
Board Member, Hawai‘i Workers Center
Kanaka Maoli/Lineal Descendant of the Hawaiian Kingdom

SB-438-HD-2

Submitted on: 3/30/2025 10:35:17 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sharde Freitas	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

I strongly support SB438 SD2 HD2, which would prohibit the construction, modification, or expansion of waste and disposal facilities above “significant” aquifers on islands with a population greater than 500,000.

This bill is crucial for protecting our vital groundwater resources, particularly on O‘ahu, and especially in light of a short-sighted proposal to site a landfill over a drinking water aquifer serving Central and North O‘ahu. Landfills inevitably leak, and placing one above a drinking water aquifer will only result in the further contamination of our islands’ most precious resource, by highly toxic landfill leachate. This measure accordingly ensures that we do not threaten the water security of our children and future generations by siting landfills above their drinking water sources.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to PASS SB438 SD2 HD2.

SB-438-HD-2

Submitted on: 3/31/2025 12:03:39 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Patrice Choy	Individual	Support	Written Testimony Only

Comments:

I strongly support SB438 SD2 HD2 because every single human being on this island must work together to protect our groundwater resources and never allow landfills to be sited over our drinking water aquifer.

I urge you to PASS SB438 SD2 HD2.

Thank you.

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

*I **strongly support SB438 SD2 HD2**, which would prohibit the construction, modification, or expansion of waste and disposal facilities above “significant” aquifers on islands with a population greater than 500,000.*

This bill is crucial for protecting our vital groundwater resources, particularly on O‘ahu, and especially in light of a short-sighted proposal to site a landfill over a drinking water aquifer serving Central and North O‘ahu. Landfills inevitably leak, and placing one above a drinking water aquifer will only result in the further contamination of our islands’ most precious resource, by highly toxic landfill leachate. This measure accordingly ensures that we do not threaten the water security of our children and future generations by siting landfills above their drinking water sources.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

*I urge you to **PASS SB438 SD2 HD2**.*

Michael Plowman

‘Ewa Beach

SB-438-HD-2

Submitted on: 3/31/2025 4:19:53 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
David Hunt	Individual	Support	Written Testimony Only

Comments:

Please support this SB438 SD2 HD2 (with the prohibition on ash recycling intact).

To ensure that the bill does not accidentally ban proper disposal of incinerator ash from existing cells at the landfill where it is already going, which is not double-lined, please incorporate the following amendment:

Page 15, line 9, replace "Fly ash," with "Notwithstanding use of Waimanalo Gulch Landfill cells constructed as of July 1, 2025, fly ash,"

Without this amendment, there will be no place for the ash to go on O‘ahu until new double-lined cells are built. This could force O‘ahu to have to export the ash to Hawai‘i Island to be dumped in the West Hawaii Sanitary Landfill near Waikoloa Village, which is double-lined.

Inter-island waste shipping has been explored by both counties and we don't want to accidentally trigger that practice.

And I and my community do not believe that it is wise, just, or economically justifiable to dump Oahu's toxic waste on Hawaii Island.

SB-438-HD-2

Submitted on: 3/31/2025 6:13:01 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Noel Shaw	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

I strongly support SB438 SD2 HD2, which would prohibit the construction, modification, or expansion of waste and disposal facilities above “significant” aquifers on islands with a population greater than 500,000.

This bill is crucial for protecting our vital groundwater resources, particularly on O‘ahu, and especially in light of a short-sighted proposal to site a landfill over a drinking water aquifer serving Central and North O‘ahu. Landfills inevitably leak, and placing one above a drinking water aquifer will only result in the further contamination of our islands’ most precious resource, by highly toxic landfill leachate. This measure accordingly ensures that we do not threaten the water security of our children and future generations by siting landfills above their drinking water sources.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to PASS SB438 SD2 HD2.

SB-438-HD-2

Submitted on: 3/31/2025 7:43:46 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Benton Kealii Pang, Ph.D.	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

I write in **strong support** of SB438 SD2 HD2. As someone who has dedicated my life to protecting Hawai'i's ecosystems, I can think of no more critical issue than safeguarding our freshwater aquifers.

Our aquifers are the lifeblood of our communities. Proposals to site landfills over significant aquifers are reckless and short-sighted. We know that landfills leak. Toxic leachate in our groundwater would be a public health disaster and an environmental tragedy.

This bill reflects the wisdom of mālama 'āina—of protecting our natural systems for future generations. It ensures that our keiki, kūpuna, and communities are not burdened by contamination and poor planning decisions.

I urge you to pass SB438 and prevent irreversible harm to our drinking water sources.

Mahalo nui loa for your time.

Benton Kealii Pang, Ph.D.

SB-438-HD-2

Submitted on: 3/31/2025 9:27:55 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

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

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the Judiciary & Hawaiian Affairs Committee,

My name is Samuel Lee and I strongly support SB438 SD2 HD2, which would prohibit the construction, modification, or expansion of waste and disposal facilities above significant aquifers.

This bill is crucial for protecting our vital groundwater resources. Our aquifers are irreplaceable sources of freshwater that sustain our communities and ‘āina. Once contaminated, these water sources can be permanently damaged, putting public health and our environment at risk.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to pass SB438 SD2 HD2.

Sincerely,
Samuel

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

I **strongly support SB438 SD2 HD2**, which would prohibit the construction, modification, or expansion of waste and disposal facilities above “significant” aquifers on islands with a population greater than 500,000.

This bill is crucial for protecting our vital groundwater resources, particularly on O‘ahu, and especially in light of a short-sighted proposal to site a landfill over a drinking water aquifer serving Central and North O‘ahu. Landfills inevitably leak, and placing one above a drinking water aquifer will only result in the further contamination of our islands’ most precious resource, by highly toxic landfill leachate. This measure accordingly ensures that we do not threaten the water security of our children and future generations by siting landfills above their drinking water sources.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to **PASS SB438 SD2 HD2**.

Sincerely,


Marshall Hung

SB-438-HD-2

Submitted on: 3/31/2025 11:46:13 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tuyet Nguyen	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

I strongly support SB438 SD2 HD2, which would prohibit the construction, modification, or expansion of waste and disposal facilities above “significant” aquifers on islands with a population greater than 500,000.

This bill is crucial for protecting our vital groundwater resources, particularly on O‘ahu, and especially in light of a short-sighted proposal to site a landfill over a drinking water aquifer serving Central and North O‘ahu. Landfills inevitably leak, and placing one above a drinking water aquifer will only result in the further contamination of our islands’ most precious resource, by highly toxic landfill leachate. This measure accordingly ensures that we do not threaten the water security of our children and future generations by siting landfills above their drinking water sources.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to **PASS SB438 SD2 HD2**.

SB-438-HD-2

Submitted on: 3/31/2025 12:19:10 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Samantha Nelson	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

I strongly support SB438 SD2 HD2, which would prohibit the construction, modification, or expansion of waste and disposal facilities above “significant” aquifers on islands with a population greater than 500,000.

This bill is crucial for protecting our vital groundwater resources, particularly on O‘ahu, and especially in light of a short-sighted proposal to site a landfill over a drinking water aquifer serving Central and North O‘ahu. Landfills inevitably leak, and placing one above a drinking water aquifer will only result in the further contamination of our islands’ most precious resource, by highly toxic landfill leachate. This measure accordingly ensures that we do not threaten the water security of our children and future generations by siting landfills above their drinking water sources.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to PASS SB438 SD2 HD2.

SB-438-HD-2

Submitted on: 3/31/2025 1:09:26 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cory Harden	Individual	Support	Written Testimony Only

Comments:

Aloha legislators,

Please support this bill with the prohibition on ash recycling intact. To ensure that the bill does not accidentally ban proper disposal of incinerator ash from existing cells at the landfill where it is already going, which is not double-lined, please incorporate the following amendment:

Page 15, line 9, replace "Fly ash," with "Notwithstanding use of Waimanalo Gulch Landfill cells constructed as of July 1, 2025, fly ash,"

Without this amendment, there will be no place for the ash to go on O‘ahu until new double-lined cells are built. This could force O‘ahu to have to export the ash to Hawai‘i Island to be dumped in the West Hawaii Sanitary Landfill near Waikoloa Village, which is double-lined. Inter-island waste shipping has been explored by both counties and we don't want to accidentally trigger that practice.

mahalo, Cory

SB-438-HD-2

Submitted on: 3/31/2025 1:41:39 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Janice Toma Shiira	Shimanchu wai protectors	Support	Written Testimony Only

Comments:

We support SB438 SD2 HD2

SB-438-HD-2

Submitted on: 3/31/2025 2:09:41 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Denise Boisvert	Individual	Support	Written Testimony Only

Comments:

To be blunt, it is hard to believe that this bill is even needed!!!

There is no logical reason why anyone would want a landfill ABOVE a major aquifer; let alone, seriously think it would be safe over the future decades.

There have been too many very questionable (read: *ridiculously idiotic*) decisions made over the past dozens of decades in Hawai‘i that have had DEVASTATING RESULTS to the environment and native species.

Let's not give future generations yet another opportunity to wonder, "*What the heck were they thinking???*"

Please PASS this bill. Mahalo.

SB-438-HD-2

Submitted on: 3/31/2025 2:13:12 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kim Jorgensen	Individual	Support	Written Testimony Only

Comments:

Please PASS this bill.

Those saying that a landfill over an aquifer will always be safe are talking with their fingers crossed behind their backs.

SB-438-HD-2

Submitted on: 3/31/2025 2:24:32 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
emily gambino	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the Judiciary & Hawaiian Affairs Committee,

My name is Emily Gambino and I **strongly support SB438 SD2 HD2**, which would prohibit the construction, modification, or expansion of waste and disposal facilities above significant aquifers.

This bill is crucial for protecting our vital groundwater resources. Our aquifers are irreplaceable sources of freshwater that sustain our communities and ‘āina. Once contaminated, these water sources can be permanently damaged, putting public health and our environment at risk.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to **PASS SB438 SD2 HD2**.

Sincerely,
Emily Gambino

SB-438-HD-2

Submitted on: 3/31/2025 4:23:40 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kylie Hopkins	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

My name is Kylie Hopkins and I **STRONGLY SUPPORT** SB438 SD2 HD2, which would prohibit the construction, modification, or expansion of waste and disposal facilities above “significant” aquifers on islands with a population greater than 500,000.

This bill is crucial for protecting our vital groundwater resources, particularly on O‘ahu, and especially in light of a short-sighted proposal to site a landfill over a drinking water aquifer serving Central and North O‘ahu. Landfills inevitably leak, and placing one above a drinking water aquifer will only result in the further contamination of our islands’ most precious resource, by highly toxic landfill leachate. This measure accordingly ensures that we do not threaten the water security of our children and future generations by siting landfills above their drinking water sources.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to **PASS SB438 SD2 HD2**.

Kylie Hopkins

SB-438-HD-2

Submitted on: 3/31/2025 10:32:03 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sherry Pollack	Individual	Support	Written Testimony Only

Comments:

I strongly support this measure that would protect our precious and limited drinking water resources from the threat of landfills. Water is life, and the protection of our precious drinking water should always be the highest priority. Once contaminated, these water sources can be permanently damaged, posing a significant threat to public health and the environment.

With the limited options available on our island for appropriately siting a landfill, the military should be made to offer some of the lands that are currently under their control to be used for this purpose, especially considering our current drinking water crisis is the result of the Navy's negligence at Red Hill.

I urge the Committee to pass this important measure

SB-438-HD-2

Submitted on: 3/31/2025 10:33:50 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Manawaiakea	Individual	Support	Written Testimony Only

Comments:

Testimony in Support of SB438 SD2 HD2

Submitted Under Exclusive Equity Jurisdiction – Ko Hawai‘i Pae ‘Āina

Common Law | Rule of Law | Rule of Evidence

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the Judiciary & Hawaiian Affairs Committee,

My name is Roslyn Manawaiakea Cummings, and I submit this testimony as a lawful ho‘oilina and mālama of Ko Hawai‘i Pae ‘Āina. I stand under exclusive equity jurisdiction, guided by the common law, and invoke both the rule of law and rule of evidence to affirm my support for SB438 SD2 HD2.

This bill affirms a principle that predates this legislature and any political construction: that wai is sacred, sovereign, and non-transferable. The proposed prohibition against constructing or expanding toxic landfills above aquifers is more than policy—it is a step toward restoring lawful stewardship over what God has created and what our ancestors protected.

The aquifers of Hawai‘i are not property—they are covenant.

They sustain more than human life—they sustain culture, genealogy, and creation itself.

As evidence confirms, aquifers once contaminated by landfill toxins may never be restored. And yet, despite decades of scientific data, toxic infrastructure continues to be built and expanded

over wahi wai kapu. This is not merely poor planning—it is a breach of trust, a fraudulent administration of public lands, and a direct violation of the public’s lawful rights under both Hawaiian Kingdom law and customary international law.

Let the record show:

- The rule of law demands protection of the commons and prohibits irreversible harm.
- The rule of evidence proves that toxins leach into wai through landfill lining failures, ground saturation, and environmental degradation.
- The common law requires that equity—not political expedience—govern decisions affecting life and legacy.

And let it be heard:

“Tell them not to sell it. It’s worth more than gold.”

“Guiltiness will get them in the end.”

These are not poetic metaphors—they are legal and spiritual truths. You are not only legislating for now—you are legislating for eternity.

Therefore, I urge this Committee to PASS SB438 SD2 HD2 without delay, and to uphold the law that precedes all human construction:

Protect the wai. Honor the covenant. Uphold the truth.

With utmost aloha and lawful duty,

Roslyn Manawaiakea Cummings

Mālama: Cummings ‘Ohana GodTrust

Ho‘oilina of Ko Hawai‘i Pae ‘Āina

Under Exclusive Equity Jurisdiction | Common Law | Rule of Law

SB-438-HD-2

Submitted on: 4/1/2025 9:11:39 AM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Madison Owens	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the Judiciary & Hawaiian Affairs Committee,

My name is Madison Owens and I **strongly support SB438 SD2 HD2**, which would prohibit the construction, modification, or expansion of waste and disposal facilities above significant aquifers.

This bill is crucial for protecting our vital groundwater resources. Our aquifers are irreplaceable sources of freshwater that sustain our communities and ‘āina. Once contaminated, these water sources can be permanently damaged, putting public health and our environment at risk.

Protecting our water is about protecting our health, our environment, and the future of everyone who calls Hawai‘i home.

I urge you to **PASS SB438 SD2 HD2**.

Sincerely,
Madison Owens

SB-438-HD-2

Submitted on: 4/1/2025 12:54:20 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Janice Palma-Glennie	Individual	Support	Written Testimony Only

Comments:

aloha,

another no-brainer.

please give your FULL SUPPORT.

mahalo and best,

janice palma-glennie

kailua-kona

SB-438-HD-2

Submitted on: 4/1/2025 3:17:35 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Koster	Individual	Support	Written Testimony Only

Comments:

My family and I strongly support this bill, which prohibits landfills from being constructed above drinking water aquifers. This seems like basic common sense. Mahalo.

SB-438-HD-2

Submitted on: 4/1/2025 10:55:14 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Aiko Yamashiro	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

I strongly support SB438 SD2 HD2, which would prohibit the construction, modification, or expansion of waste and disposal facilities above “significant” aquifers on islands with a population greater than 500,000.

As a mother to a two-year-old, I acutely feel the importance and responsibility of stewarding clean fresh water for our future generations. I am very grateful for all those generations who came before me, who worked to safeguard the clean water we depend on today.

Thank you for your consideration and for being a part of this unbroken line of kuleana.