

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

**Testimony COMMENTING on SB0438**  
**RELATING TO WASTE DISPOSAL FACILITIES.**

SENATOR LORRAINE R. INOUE, CHAIR  
SENATE COMMITTEE ON WATER AND LAND

SENATOR JOY A. SAN BUENAVENTURA, CHAIR  
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

February 10, 2025, 1:05 PM, Conference Room 229

1 **Fiscal Implications:** Undetermined.

2 **Department Position:** The Department of Health (Department) offers the following comments.

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

5 This measure proposes to (1) prohibit the use of select agricultural land from waste or  
6 disposal facilities as defined in section 183C-4 Hawai'i Revised Statutes (HRS); and (2) prohibit  
7 the construction, modification, or expansion of a waste or disposal facility including a municipal  
8 solid waste or construction demolition waste landfill unit or component from land that is above  
9 a significant aquifer as determined by the Department in consultation with the Commission on  
10 Water Resource Management.

11 Regarding the prohibition of waste or disposal facilities defined in section 183C-4, HRS,  
12 the Department notes that this section defines waste or disposal facility to also include a solid  
13 waste reduction facility or waste reduction facility as defined in section 342G-1, HRS. The term  
14 solid waste reduction facility or waste reduction facility in section 342G-1, HRS, includes

1 composting, bioconversion, or recycling sites utilized for the reduction, consolidation,  
2 conversion, processing, or disposal of solid waste. Thus, this measure appears to propose the  
3 prohibition of all solid waste activities on select agricultural lands, not just landfills as Section 1  
4 states.

5 Regarding the second proposed prohibition, the Department believes that depending on  
6 the criteria applied, any aquifer may be considered as significant. The Department and the  
7 Commission must be given a criteria to apply to this determination.

8 Based on testimony presented for HB0969, the Department notes that there are many  
9 interpretations of “significant” among the testifiers, however, based on the preamble to this  
10 measure it appears that the Legislature’s intent is to consider significant aquifers to be  
11 freshwater aquifers with potential as a drinking water source. The Department notes that the  
12 Honolulu Board of Water Supply has proposed to use the saline aquifer beneath James  
13 Campbell Industrial Park to install an extraction well for desalination and treatment for use as  
14 drinking water. Thus, we respectfully ask the Legislature to define the term “significant” in the  
15 measure.

16 If the Legislature is asking the Department to define what a “significant aquifer” is, we  
17 cannot ignore other aquifer uses such as irrigation or native Hawaiian cultural practices as less  
18 significant than drinking water. Therefore, if this measure passes as it is currently drafted, new  
19 landfills or landfill expansions will be effectively prohibited in the state as there is no practical  
20 land under which a significant aquifer lies.

21 Properly designed landfills are still required as part of our overall waste management  
22 system to manage our waste and protect public health. Landfills are necessary because they  
23 provide a designated, controlled area for solid waste that cannot be recycled, helping to  
24 prevent environmental contamination and protect public health. Without them, the counties  
25 will be forced to find more costly alternatives for waste management, including off-island

1 shipment. The City and County of Honolulu has already tried this, and even after constructing a  
2 facility to bale and wrap the waste, a federal agency withdrew its permit due to public  
3 opposition from the receiving community, and Honolulu now manages its own waste on island.  
4 The inability to accommodate responsible management of solid waste in Hawai'i could lead to a  
5 rise in illegal dumping which will compromise the environment and public health that this  
6 measure seeks to protect. Several studies have corroborated the relationship between a  
7 decrease in waste management facilities and an increase in illegal dumping. Illegal dumping  
8 may also have a disproportional impact to underserved communities.

9 **Offered Amendments:** None.

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

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

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAI'I | KA MOKUAĀINA 'Ō HAWAI'I  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621  
HONOLULU, HAWAII 96809

DAWN N.S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

RYAN K.P. KANAKA'OLE  
FIRST DEPUTY

CIARA W.K. KAHAHANE  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE  
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ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Testimony of  
DAWN N. S. CHANG  
Chairperson**

**Before the Senate Committees on  
HEALTH AND HUMAN SERVICES, and  
WATER AND LAND**

**Monday, February 10, 2025  
1:05 PM**

**State Capitol, Conference Room 229 & Videoconference**

**In consideration of  
SENATE BILL 438  
RELATING TO WASTE DISPOSAL FACILITIES**

Senate Bill 438 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. Accordingly, the Commission respectfully recommends that the Legislature define the term "significant aquifer" at page 12, line 15 of this bill so that the Commission can opine on the attributes of aquifers that meet this definition. As

presently worded, it is possible that the Commission would define all aquifers in the state as “significant,” as all support important uses of some kind.

Mahalo for the opportunity to testify on this measure.

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

1000 ULU'ŌHI'A STREET, SUITE 308 • KAPOLEI, HAWAII 96707  
PHONE: (808) 768-3486 • FAX: (808) 768-3487 • WEBSITE: honolulu.gov

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 25-19

February 6, 2025

The Honorable Lorraine R. Inouye, Chair  
The Honorable Brandon J.C. Elefante, Vice Chair  
and Members of the Committee on Water and Land  
The Honorable Joy A. San Buenaventura, Chair  
The Honorable Henry J.C. Aquino, Vice Chair  
and Members of the Committee on Health and Human Services  
415 South Beretania Street  
Honolulu, Hawai'i 96813

Dear Chairs Inouye and San Buenaventura, and Vice Chairs Elefante and Aquino:

SUBJECT: Senate Bill 438 - Relating to Waste or Disposal Facilities

The City and County of Honolulu's (City) Department of Environmental Services (ENV) submits the following comments on SB 438, Relating to Waste or 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, including an exhaustive review of federal lands on O'ahu, it was determined to be one of the only legally available and feasible options. For the record, there was military land along the Wai'anae coast, but Mayor Blangiardi, for social justice and operational reasons, eliminated any potential site outside the aquifer along the Wai'anae coast. As such, the only legally available and feasible options are sites above aquifers and on class A or B agricultural land.

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

The Honorable Lorraine R. Inouye, Chair  
The Honorable Brandon J.C. Elefante, Vice Chair  
and Members of the Committee on Water and Land  
The Honorable Joy A. San Buenaventura, Chair  
The Honorable Henry J.C. Aquino, Vice Chair  
and Members of the Committee on Health and Human Services  
February 6, 2025  
Page 2

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.

It is important to note that if SB 438 were to become law and locating a landfill above an aquifer or on class A or B agricultural land 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 SB 438 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 SB 438 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�.

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

Sincerely,

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

**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](http://www.mauicounty.gov)

**LATE**

TO: Senator Lorraine Inouye, Chair  
Senator Brandon Elefante, Vice Chair  
Committee on Water and Land

Senator Joy San Buenaventura, Chair  
Senator Henry Aquino, Vice Chair  
Committee on Health and Human Services

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

DATE: February 10, 2025

SUBJECT: **OPPOSITION OF SB438, RELATING TO WASTE DISPOSAL FACILITIES**

Thank you for the opportunity to testify in **OPPOSITION** of this measure. The Act would 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; Prohibits waste or disposal facility on class A and B agricultural land.

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

1. This Act would unfairly limit siting a solid waste 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 Acts (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 or B agricultural lands greatly reduces the ability to locate a solid waste facility away from populated areas.

Mahalo for your consideration.

**BOARD OF WATER SUPPLY  
KA 'OIHANA WAI  
CITY AND COUNTY OF HONOLULU**

630 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96843  
Phone: (808) 748-5000 • www.boardofwatersupply.com

RICK BLANGIARDI  
MAYOR  
MEIA

ERNEST Y. W. LAU, P.E.  
MANAGER AND CHIEF ENGINEER  
MANAKIA A ME KAHU WILIKI

ERWIN KAWATA  
DEPUTY MANAGER  
HOPE MANAKIA



NĀ'ĀLEHU ANTHONY, Chair  
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GENE C. ALBANO, P.E., Ex-Officio

February 10, 2025

The Honorable Lorraine R. Inouye, Chair  
and Members  
Senate Committee on Water and Land  
Hawaii'i State Capitol, Room 229  
Honolulu, Hawaii'i 96813

The Honorable Joy A. San Buenaventura, Chair  
and Members  
Senate Committee on Health and Human Services  
Hawaii'i State Capitol, Room 229  
Honolulu, Hawaii'i 96813

Dear Chair Inouye, Chair San Buenaventura and Members:

Subject: Senate Bill 438: Relating to Waste Disposal Facilities

The Honolulu Board of Water Supply (BWS) strongly supports Senate Bill (SB) 438. This bill proposes 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 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

The Honorable Lorraine R. Inouye, Chair  
The Honorable Joy A. San Buenaventura, Chair  
and Members  
February 10, 2025  
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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 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.

Very truly yours,



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

C. Kimo Alameda, Ph.D.  
*Mayor*

William V. Brillhante Jr.  
*Managing Director*



Wesley R. Segawa  
*Director*

Craig Kawaguchi  
*Deputy Director*

# County of Hawai'i

## DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

345 Kekūanāo'a Street, Suite 41 · Hilo, Hawai'i 96720 · cohdem@hawaiicounty.gov

Ph: (808) 961-8083 · Fax: (808) 961-8086

February 6, 2025

### COMMITTEE ON WATER and LAND

Sen. Lorraine R. Inouye, Chair

Sen. Brandon J.C. Elefante, Vice Chair

### COMMITTEE ON HEALTH and HUMAN SERVICES

Sen. Joy A, San Buenaventura, Chair

Sen. Henry J.C. Aquino, Vice Chair

Hawai'i State Capitol

Honolulu, HI 96813

**Re: Testimony in Opposition of Senate Bill (SB) 438 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 Inouye, Chair San Buenaventura and Committee Members,

The County of Hawai'i Department of Environmental Management (DEM) respectfully submits this testimony in opposition to SB 438. While we share the bill's overarching goal of protecting our precious aquifer resources, the bill as currently drafted presents several significant concerns:

- **Subjective and Unclear Definitions:**

- The bill relies heavily on subjective terms such as "near" and "significant" when defining the proximity to aquifers and the level of impact required for a "no pass zone" designation.
- This ambiguity creates significant uncertainty for landfill operators and the potential for arbitrary and inconsistent application across the state.
- The lack of clear, objective criteria for determining "no pass zones" leaves significant discretion to the State, which could lead to unintended consequences and potential challenges to existing permitted facilities.

- **Potential for Disruptive "Grandfather Clause" Issues:**

- The bill lacks a clear "grandfather clause" for existing, properly permitted landfills that have a history of safe operation and pose no significant threat to groundwater.
- The introduction of stringent new restrictions on these facilities could create undue burdens and potentially jeopardize their continued operation, even if they have consistently demonstrated responsible environmental stewardship.

- This could lead to unnecessary disruptions to waste management services and potentially increase disposal costs for communities.
- **Increased Regulatory Burden and Uncertainty:**
  - The new restrictions imposed by SB 438 will significantly increase the regulatory burden on landfill operators.
  - This added layer of complexity and uncertainty will hinder future landfill development and potentially discourage investment in necessary waste management infrastructure.
  - These challenges could ultimately impact the ability of counties to effectively manage solid waste and protect public health.

**Recommendations:**

To mitigate these concerns, we urge the legislature to:

- **Provide Clear and Objective Definitions:** Amend the bill to include clear, quantitative definitions for terms such as "near" and "significant" when determining the proximity to aquifers and the level of potential impact. This could include specific distance thresholds, aquifer vulnerability assessments, and other objective criteria.
- **Include a Robust Grandfather Clause:** Incorporate a clear and comprehensive grandfather clause to protect existing, properly permitted landfills that have a history of safe operation and pose no significant threat to groundwater.
- **Minimize Unnecessary Burdens:**
  - Explore alternative approaches to protect aquifers while minimizing the potential for unintended consequences for existing landfill operators.
  - Consider incorporating provisions for phased implementation to allow for a gradual transition to the new requirements.

By addressing these concerns, the legislature can ensure that SB 438 effectively protects our vital aquifer resources while minimizing the potential for unintended negative consequences for the waste management industry and the communities they serve.

Thank you for your consideration.

Best Regards,

Craig Kawaguchi  
DEPUTY DIRECTOR

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



# SIERRA CLUB OF HAWAI'I

## SENATE COMMITTEE ON WATER AND LAND SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

February 10, 2025

1:05 PM

Conference Room 229

### In **SUPPORT** of **SB438**: RELATING TO WASTE DISPOSAL FACILITIES

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Aloha Chair Inouye, Chair San Buenaventura, Vice Chair Elefante, Vice Chair Aquino, and Members of the Committees,

On behalf of our over 20,000 members and supporters, the Sierra Club **STRONGLY SUPPORTS** SB438, 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.



# SIERRA CLUB OF HAWAI'I

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 on any island that will threaten the water security of future generations.

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. Alternatively, 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 – could also provide another option. 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. 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 is one step to ensuring that we do not fail in this existential duty.

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

Comments before  
February 10, 2025 Senate Committees on Water  
and Land and Health and Human Services

**COMMENTS ON  
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 urge you to **amend SB 438** by inserting the following language on Page 13, Line 12, under §342H-52 Prohibitions; buffer zones.

**(d) No person shall utilize in road building, other construction, or as alternative daily cover material on a landfill, fly ash, bottom ash, or combined fly and bottom ash from a municipal waste combustor, including any ash residue that remains after removal of metals for recycling into new metal products. Such material shall be disposed of only in a double lined and duly licensed municipal solid waste or hazardous waste landfill.**

The need for this language is spelled out starting on page 4. First, on this bill generally:

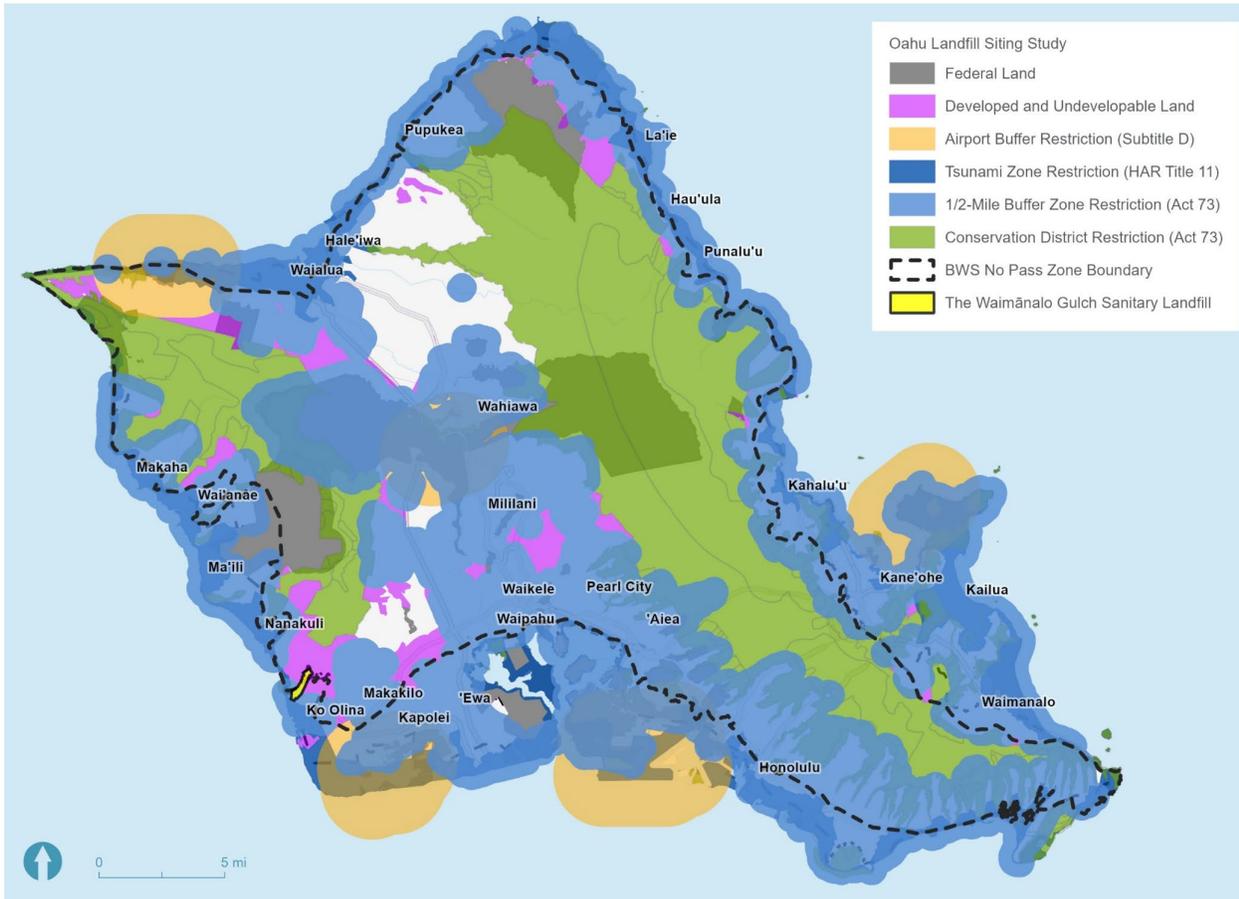
This, and other bills aiming to reopen Act 73 of 2020, aim to impact the effort to site a new landfill on O'ahu. Waimanalo Gulch Landfill is supposed to close by 3/2/2028, although EPA data shows that it has many more years of capacity remaining... enough for it to last until somewhere between 2032 and 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 on the next page, 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.<sup>1</sup> 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

<sup>1</sup> 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>

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 possible, 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 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>.

## **Why incinerator ash that is unsafe in a double-lined landfill over an aquifer is even more dangerous used in construction or road-building over the aquifer with no liner system**

The City and County of Honolulu (“city”) is pursuing permits 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.

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.

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 facility that the city is using as a model is located in Bucks County, Pennsylvania. That plant, owned and operated by Reworld (Covanta) removes metals from trash incinerator ash, and used 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. Similar projects failed in Tennessee, Maine, and York County, Pennsylvania. Making roads out of incinerator ash is dangerous and unproven.

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.<sup>2</sup> 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.

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<sup>2</sup> 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.



# INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL UNION 1260 EMPOWERING THE PACIFIC

**THIRTY-THIRD LEGISLATURE, 2025,**

**Senate Committee on Water and Land and Health and Human Services**

**HEARING DATE:** Monday, February 10, 2025

**TIME:** 1:05 p.m.

**PLACE:** Committee Room 229

**RE:** Seante Bill 438 Related to Waste Disposal Facilities- IN STRONG SUPPORT

Aloha Honorable Chair(s) Inouye and San Buenaventura, Vice-Chair(s) Elefante and Aquino, and Joint Committee Members;

The International Brotherhood of Electrical Workers Local 1260 (IBEW 1260) would like to offer the following testimony in STRONG SUPPORT of Senate Bill 438.

IBEW 1260, is comprised of approximately 3,000 members throughout Hawaii and Guam and consists of a diverse and highly-skilled workforce that supports the electric utility infrastructure across our state as well as government service contracts and broadcasting. It's our duty to serve and to protect the well-being of our members, but beyond that, it is incumbent upon all of us to serve and protect the well-being of our island home.

SB438 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, and prohibits waste or disposal facility(ies) on class A and B agricultural land.

Water like energy, is a critical aspect of society that we must protect. Studies have indicated that despite advanced technology in landfill management, liners may over time become compromised and leak its harmful components into the ground upon which the landfill sits.<sup>1</sup> IBEW 1260 supported recently adopted Honolulu City Council Resolution 25-3, which reaffirmed Resolution 03-09, FD1, adopted on April 16, 2003, that Municipal Solid Waste landfills should not be located in proximity to the city's underground drinking water sources.<sup>2</sup>

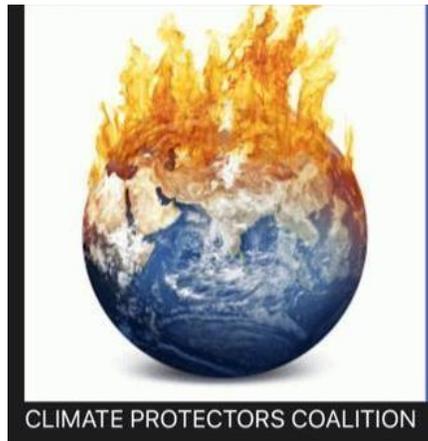
Siting a landfill over a water source or aquifer risks irreparable harm, impacts future generations use of this precious resource, which far outweighs any perceived benefit. We should take note and learn from recent above-ground water contamination events. The impact to under-ground water resources should a leachate leak event occur over an aquifer is virtually irreversible.

Mahalo for this opportunity to testify on this measure.

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<sup>1</sup> The Norman Landfill Environmental Research Site: What Happens to the Waste in Landfills? By Scott C. Christenson and Isabelle M. Cozzarelli; U.S. Geological Survey; August 2003; <https://pubs.usgs.gov/fs/fs-040-03/pdf/fs-040-03.pdf>

<sup>2</sup> Honolulu City Council; Resolution 25-003, CD1; January 29, 2025; <https://hnlidoc.hawaii.gov/hnlidoc/measure/3168>



To: The Honorable Chairs Lorraine Inouye and Joy San Buenaventura, the Honorable Vice Chairs Brandon Elefante and Henry Aquino, and Members of the Committees on Water and Land and Health and Human Services

From: Climate Protectors Hawai'i (by Ted Bohlen)

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

Hearing: Monday, February 10 2025, 1:05 p.m., room 229

Aloha Chairs Inouye and San Buenaventura, Vice Chairs Elefante and Aquino, and Members of the Committees on Water and Land and Health and Human Services!

The Climate Protectors Hawai'i seek 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.

**The Climate Protectors Hawaii SUPPORT SB438 and PROPOSE AN AMENDMENT**

**Landfills and incinerator ash contain toxic materials that should not be placed over an aquifer!**

This bill wisely prevents constructing, modifying, or expanding a hazardous or solid waste landfill above or near a significant aquifer.

**The bill should also address risks from toxic incinerator ash.**

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. Ash would be used to build roads or for other purposes that could put workers, the public, and the environment in more contact with incinerator ash than with landfilling. H-POWER incinerator ash is currently sent to Waimanalo Gulch Sanitary Landfill.

**Using incinerator ash in roads is not safe!** Roads and other construction materials do not last forever and will erode and eventually be broken up. Broken up roads will in time release ash particles, with no cautionary warnings to the public about toxicity. **Special handling is needed for ash material that contains fine particles of highly toxic dioxins and furans, and toxic metals**

**like arsenic, cadmium, chromium, lead and mercury. There is currently NO “recycling” process where toxic metals, dioxins, PFAS or other harmful chemicals are removed.**

**Incinerator ash is too dangerous to spread all over the island in roads that have no liners to protect the land and aquifer. Please amend this bill to protect against unsafe uses of incinerator ash.**

**AMENDMENT**

Please amend the bill on Page 13, Line 12, to include the following language under §342H-52 Prohibitions; buffer zones.

**(d) No person shall utilize in road building, other construction, or as alternative daily cover material on a landfill, fly ash, bottom ash, or combined fly and bottom ash from a municipal waste combustor, including any ash residue that remains after removal of metals for recycling into new metal products. Such material shall be disposed of only in a double lined and duly licensed municipal solid waste or hazardous waste landfill.**

**Please pass this bill with this amendment!**

Mahalo!

Climate Protectors Hawaii (by Ted Bohlen)



# Environmental Caucus of The Democratic Party of Hawai'i

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February 10, 2025

## Testimony in Support of SB438: Relating to Waste Disposal Facilities

**To:** Chair Lorraine R. Inouye, Chair Joy A. San Buenaventura, Vice Chair Brandon J.C. Elefante, Vice Chair Henry J.C. Aquino, and Members of the Committees on Water and Land and Health and Human Services

**From:** The Environmental Caucus of the Democratic Party of Hawai'i

**Date:** Monday, February 10, 2025, 1:05 p.m.

**Subject:** Support for SB438: Relating to Waste Disposal Facilities

**Aloha Honorable Inouye, Honorable San Buenaventura, Honorable Elefante, Honorable Aquino, and Members of the Committees on Water and Land and Health and Human Services,**

The Environmental Caucus of the Democratic Party of Hawai'i strongly supports SB438, which aims to prohibit the construction, modification, or expansion of waste disposal facilities on land near or above significant aquifers. This bill is crucial for protecting our precious water resources and ensuring the health and safety of our communities.

### Key Points:

- 1. Protection of Aquifers:** SB438 mandates that waste disposal facilities cannot be constructed, modified, or expanded near or above significant aquifers. This is essential to safeguard our drinking water sources from contamination.
- 2. Preservation of Agricultural Land:** The bill also prohibits waste disposal facilities on Class A and B agricultural land, ensuring that our valuable agricultural resources are preserved for food production and other uses.
- 3. Environmental Impact:** Waste disposal facilities can have significant adverse effects on the environment, including soil and water contamination. SB438 aims to minimize these impacts by restricting their placement.

### Arguments in Support:

- 1. Protecting Public Health:** Contaminants from waste disposal facilities can leach into groundwater and surface water, posing serious health risks to the community. SB438 helps to prevent such contamination, ensuring safe and clean drinking water for all residents.

2. **Environmental Preservation:** By prohibiting waste disposal facilities near aquifers and agricultural land, SB438 promotes the conservation of natural resources and the protection of ecosystems.
3. **Sustainable Land Use:** The bill supports sustainable land use practices by prioritizing the protection of water resources and agricultural land over the placement of waste disposal facilities. This aligns with Hawaii's long-term goals of sustainability and environmental stewardship.
4. **Community Well-being:** Ensuring that waste disposal facilities are located away from critical water resources and agricultural areas contributes to the overall well-being and quality of life for Hawaii's residents.

The Environmental Caucus believes that SB438 aligns with our commitment to preserving and restoring the environment for current and future generations. We urge the Committees to support this important legislation and take a stand for the protection of our water resources and agricultural land.

Thank you for considering our testimony.

Mahalo nui loa,

Melodie Aduja and Alan Burdick, Co-chairs Environmental Caucus of the Democratic Party of Hawai'i

**SB-438**

Submitted on: 2/8/2025 8:22:03 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

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

Comments:

*Aloha Chair Inouye, Vice Chair Elefante, and members of the Water and Land Committee,*

*My name is Susan RobertsEmery , as Co Chair of the Green Party of Hawai'i, I am writing to offer our **strong support SB438**, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land above significant aquifers.*

*The facts speak for themselves, with recent history of RedHill contamination, we see that protecting our precious groundwater is up to the people and our legislators to set up these protections. 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.*

On behalf of the Green Party of Hawai'i, we humbly ask for your Support for SB438.

Mahalo Nui,

Susan RobertsEmery  
Co Chair GPH  
Green Party of Hawai'i  
Paauilo

**SB-438**

Submitted on: 2/8/2025 2:03:39 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
John & Rita Shockley	Testifying for Free Access Coalition	Support	Written Testimony Only

Comments:

Aloha!

The public needs to be guaranteed of free access to drinking water on O'ahu and the Outer Islands too. We strongly support SB438 which will prevent construction and use of land-fills and other pollution causing structures over any major aquafer.

Mahalo for your time.



Date: February 9th, 2025

**To:** Chair Inouye, Vice Chair Elefante, Chair San Buenaventura, Vice Chair Aquino, and Members of the Senate Water and Land Committee and Senate Health and Human Services Committee

**From:** Hawai'i Environmental Change Agents (HECA) - Solid Waste Reduction Task Force

**Re:** SB 438 - Relating to Waste Management

Chair Inouye, Vice Chair Elefante, Chair San Buenaventura, Vice Chair Aquino, and Members of the Committees,

Hawai'i Environmental Change Agents (HECA) - Solid Waste Reduction Task Force

**respectfully submits comments on SB 438**, which establishes buffer zones around waste management facilities to protect public health and the environment. While we support efforts to strengthen waste management regulations, we urge the committees to amend the bill to further prohibit the use of incinerator ash in roadbuilding, construction, or as landfill cover.

### **Proposed Amendment**

We respectfully request that the following language be added under **§342H-52**

#### **Prohibitions; buffer zones:**

**(d) No person shall utilize in roadbuilding, other construction, or as alternative daily cover material on a landfill, fly ash, bottom ash, or combined fly and bottom ash from a municipal waste combustor, including any ash residue that remains after removal of metals for recycling into new metal products. Such material shall be disposed of only in a lined municipal solid waste or hazardous waste landfill.**

#### **Rationale for the Amendment**

- **Precedent Against Ash in Roads:** In May 2024, the Democratic Party of Hawai'i adopted a resolution opposing the use of toxic incinerator ash in roads.
- **Failed Attempts Elsewhere:** Honolulu is considering a model similar to one in Bucks County, Pennsylvania, where incinerator ash was used in roads. That project failed in 2022 and was never restarted. Similar failures occurred in Tennessee, Maine, and York County, Pennsylvania.

- **EPA Warnings on Incinerator Ash:** In December 2024, the U.S. Environmental Protection Agency (EPA) acknowledged that incinerator ash can still be harmful even if it tests “non-hazardous.” Exposure through inhalation, ingestion, or direct contact poses risks to public health and the environment.
- **Risk of Exposure:** Ash used in roads can become airborne during transport, handling, and construction. Over time, road erosion may release toxic particles into the environment, exposing workers and the public.

We appreciate the committee’s attention to this critical issue and respectfully request the inclusion of this amendment to ensure that waste management practices prioritize public health and environmental safety.

Thank you for the opportunity to testify.

A handwritten signature in black ink, appearing to read 'J Navarra', with a stylized flourish at the end.

~HECA Solid Waste Reduction Task Force  
Jennifer Navarra



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

February 10, 2025

HEARING BEFORE THE  
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES  
SENATE COMMITTEE ON WATER AND LAND

**TESTIMONY ON SB 438**  
RELATING TO WASTE DISPOSAL FACILITIES

Conference Room 229 & Videoconference  
1:05 PM

Aloha Chairs San Buenaventura and Inouye, Vice-Chairs Aquino and Elefante, and Members of the Committees:

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 supports SB 438**, which prohibits the construction, modification, or expansion of any waste or disposal facility for hazardous or solid waste on land near or above a significant aquifer, as determined by the Department of Health, in consultation with the Commission on Water Resource Management. The bill also prohibits waste or disposal facilities on Class A and B agricultural lands. 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 rely 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 demonstrated the long-term consequences of groundwater contamination, reinforcing the need for proactive measures to prevent similar risks in the future. SB 438 ensures that Hawai'i's aquifers, which serve as the primary drinking water source for residents and agricultural users, remain protected from potential leachate contamination.

In addition to safeguarding aquifers, SB 438 protects Class A and B agricultural lands from being used for waste disposal facilities. These lands represent Hawai'i's most productive farmland, essential for food security and reducing reliance on imports. Preserving these lands for farming rather than industrial uses aligns with the state's

commitment to increasing local food production and supporting the agricultural economy. Agricultural lands should be prioritized for farming, not waste disposal, to ensure a thriving and resilient agricultural sector.

Hawai'i's waste management needs must be met without compromising essential resources. Waste and disposal facilities should be located in areas that do not endanger groundwater or displace critical agricultural lands. Proper site selection for these facilities is key to balancing the state's environmental, agricultural, and public health priorities.

We urge the committee to pass SB 438 to protect Hawai'i's vital water sources and agricultural lands while ensuring responsible waste management practices.

Thank you for the opportunity to testify on this measure.

**LATE**

**SB-438**

Submitted on: 2/9/2025 7:30:57 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
HN Warrington	Testifying for Kupuna for the Moopuna	Support	Written Testimony Only

Comments:

Kupuna for the Moopuna is in **STRONG SUPPORT of SB438** which would prohibit the construction, modification, or expansion of waste and disposal facilities on land 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, now and for the next generations to come. **Please SUPPORT AND PASS SB438.** Mahalo.

**LATE**

**SB-438**

Submitted on: 2/9/2025 3:45:16 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kristen Young	Testifying for Faith Action for Community Equity	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Vice Chair Elefante, and members of the Water and Land Committee,

My name is Kristen Young and I am a member of Faith Action for Community Equity, but more importantly I, like you, depend on clean water. I am in strong support SB438, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land above significant aquifers.

Especially after the ongoing Red Hill disaster which contaminated the water of thousands of O‘ahu residents, leaving us in a water crisis and threatening our lives and future, we should be doing all we can to ensure the protection of our water.

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 trust that you will support this bill to be a good steward of the resources we all depend on.

I urge you to PASS SB438.

Sincerely,  
Kristen Young  
Honolulu, HI 96813

**LATE**

**SB-438**

Submitted on: 2/10/2025 7:31:17 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jamie Simic	Individual	Support	Remotely Via Zoom

Comments:

Aloha Chair Inouye, Vice Chair Elefante, and members of the Water and Land Committee,

My name is Jamie Simic and I strongly support SB438, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land 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.

Sincerely,

Jamie Simic

**SB-438**

Submitted on: 2/6/2025 8:15:57 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Paul Bernstein	Individual	Support	Written Testimony Only

Comments:

Aloha Chair San Beunaventura, Chair Inouye, and members of the HHS and WTL committees,

I'm writing in support of SB438. We need look no further than Red Hill to recognize the importance of protecting our water supply. Please support this bill in an effort to protect our water for years to come.

Mahalo,

Paul Bernstein

Aina Haina

**SB-438**

Submitted on: 2/5/2025 8:40:07 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
lynne matusow	Individual	Support	Written Testimony Only

Comments:

I am in full suport. After the Red Hill water disaster, I cannot believe that anyone of sound, or even unsound, mind would consider risking our wai by putting waste disposal over an aquifer. In addition prime ag land should not be lost because it is turned into waste disposal. We import almost all the food we consume. We must do more to grow our food at home. We are in the middle of the ocean and if calamities strike we might not be able to get food delivered. What then, we starve?

I urge you to move this bill forward.

**SB-438**

Submitted on: 2/5/2025 8:03:46 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Rick Ramirez	Individual	Support	Written Testimony Only

Comments:

Aloha committee,

AS a healthcare provider I cannot be more excited about this bill. Hawaii is already in a useable water disparity. Placing a landfill above a water aquafier is ludacris. Please support this measre, as water is necessary for all individuals, even more so when they are ill and need hospuitalization. As a healthcare provider I fully support the measures of this bill. Please do the same.

Thanks,

Rick Ramirez, DNP, ARPN, FNP-BC, AG/ACNP-BC, ENP-C

**SB-438**

Submitted on: 2/7/2025 4:37:55 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Patricia Blair	Individual	Support	Written Testimony Only

Comments:

Please pass

**SB-438**

Submitted on: 2/7/2025 5:00:42 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Mary True	Individual	Support	Written Testimony Only

Comments:

*Aloha Chair Inouye, Vice Chair Elefante, and members of the Water and Land Committee,*

*My name is Mary True and I **strongly support SB438**, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land 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**.*

*Sincerely,  
Mary True, Pepekeo*

**SB-438**

Submitted on: 2/7/2025 5:14:29 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Sherry Pollack	Individual	Support	Written Testimony Only

Comments:

I strongly support SB438 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 you to pass this important measure.

**SB-438**

Submitted on: 2/7/2025 5:43:19 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Sarah Biggs	Individual	Support	Written Testimony Only

Comments:

Prevent contamination of our ground water. Pass SB438. Thank you.

**SB-438**

Submitted on: 2/7/2025 6:44:01 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

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

Comments:

*I strongly support SB438, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land 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**.*

**SB-438**

Submitted on: 2/8/2025 4:51:18 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

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

Comments:

*Aloha Chair Inouye, Vice Chair Elefante, and members of the Water and Land Committee,*

*My name is [Your name] and I **strongly support SB438**, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land 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**.*

*Sincerely,  
Dr. Jodi Rodar*

**SB-438**

Submitted on: 2/8/2025 7:27:08 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

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

Comments:

*My name is Diane Ware and I **strongly support SB438**, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land 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**.*

*Sincerely,*

*Diane Ware, Volcano 96785*

**SB-438**

Submitted on: 2/8/2025 9:01:55 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

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

Comments:

*Aloha Chair Inouye, Vice Chair Elefante, and members of the Water and Land Committee,*

*My name is Peter Wilson and I **strongly support SB438**, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land 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**.*

*Sincerely,  
Peter Wilson*

**SB-438**

Submitted on: 2/8/2025 9:23:47 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

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

Comments:

*Aloha Chair Inouye, Vice Chair Elefante, and members of the Water and Land Committee,*

*My name is Bo Breda and I **strongly support SB438**, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land 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**.*

*Sincerely,  
Bo Breda*

**SB-438**

Submitted on: 2/8/2025 9:36:40 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

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

Comments:

*I strongly support SB438, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land 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**.*

*Sincerely,*

*Shay Chan Hodges*

*Haiku, Maui*

**SB-438**

Submitted on: 2/8/2025 3:41:44 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Victor T Kimura	Individual	Support	Written Testimony Only

Comments:

Senator Joy A. San Buenaventura

Chair- Health and Human Services Committee

Senator Henry J.C. Aquino

Vice Chair-Health and Human Services Committee

Senator Lorraine Inouye

Chair-Water and Land Committee

Senator Brandon Elephante

Vice Chair-Water and Land

Aloha,

My name is Victor Kimura and I am in strong favor of SB 438 which further strenghtens Act 73 specifically regarding to having any waste disposal site on land that is near or above a significant aquifer and of equal importance using land in an agricultural district. Act 73, in place since 2020, was a major milestone to protect our precious water supply for the people of Hawaii. Recent issues of contamination of our prescious water supply and the search for new wells, has placed water sources on the priority list. There is no man-made products which will last the lifetime requirements, as evident in the Pearl Harbor-Red Hill example.

I strongly ask the consideration of both Committees to pass SB 438.

Mahalo and Aloha for your consideration.

Victor T. Kimura

95-1085 Ala Oki Street

Mililani, Hawaii 96789



**SB-438**

Submitted on: 2/8/2025 7:26:56 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
ANDREW ISODA	Individual	Support	Written Testimony Only

Comments:

*Aloha Chair Inouye, Vice Chair Elefante, and members of the Water and Land Committee,*

*My name is [Your name] and I **strongly support SB438**, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land 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**.*

*Sincerely,  
Andrew Isoda  
Lahaina, Mau'i*

**SB-438**

Submitted on: 2/8/2025 8:49:00 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kathryn Takakuwa	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Vice Chair Elefante, and members of the Water and Land Committee,

My name is Kathryn Takakuwa and I strongly support SB438, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land above significant aquifers.

This bill is crucial for protecting the vital and irreplaceable groundwater resource that supports all life in our ‘āina. We are already experiencing a fresh water crisis and cannot risk contaminating our significant aquifers. Once contaminated, these water sources can be permanently damaged, endangering public health and our environment.

To protect our water is to protect the health of the land and people of Hawai‘i, and to ensure the sustainability of life in our islands.

I urge you to PASS SB438.

Sincerely,  
Kathryn Takakuwa

**SB-438**

Submitted on: 2/8/2025 10:56:35 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Patrice Choy	Individual	Support	Written Testimony Only

Comments:

Please pass SB438. We must learn a lesson from our Red Hill disaster and not create more poisonings of our water by allowing landfills to be sited over our aquifers.

**SB-438**

Submitted on: 2/9/2025 7:50:54 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
David Hunt	Individual	Oppose	Written Testimony Only

Comments:

SB438 is unacceptable as written,

Please amend the bill to include the following language under §342H-52 Prohibitions; buffer zones.

(d) No person shall utilize in roadbuilding, other construction, or as alternative daily cover material on a landfill, fly ash, bottom ash, or combined fly and bottom ash from a municipal waste combustor, including any ash residue that remains after removal of metals for recycling into new metal products. Such material shall be disposed of only in a lined municipal solid waste or hazardous waste landfill.

If incinerator ash is too dangerous to be above the aquifer in a double-lined landfill, it's too dangerous to spread all over the island to build roads with it that have no liners to protect the land and aquifer. Please amend this to include the language from SB 538 to protect against unsafe uses of ash.

The model plant that Honolulu is looking at is one in Bucks County, Pennsylvania where the plant was taking incinerator ash and (after pulling out metals to recycle) providing it to an 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. Similar projects failed in Tennessee, Maine, and York County, Pennsylvania. Making roads out of incinerator ash is dangerous and unproven.

Do not risk our health and our precious drinking water - especially based upon FAILED policy and past bad decisions that also failed.

**SB-438**

Submitted on: 2/9/2025 12:35:32 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Seyna M	Individual	Support	Written Testimony Only

Comments:

Enough jeopardizing our water aquifers and limited water resources already.

**SB-438**

Submitted on: 2/9/2025 8:48:24 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Keith Neal	Individual	Support	Written Testimony Only

Comments:

Support

The long term priority and stewardship of precious fresh water aquifers must not be trumped by the short term problems of waste management.

Water is life.

Keith Neal

Waimea

**SB-438**

Submitted on: 2/9/2025 11:10:21 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kanoelehua Hook	Individual	Support	Written Testimony Only

Comments:

Testimony in Support of SB438

Dear Chairperson and Members of the Committee,

I am writing to express my strong support for Senate Bill 438. I believe this legislation represents a critical step forward for our state by addressing key challenges and laying the foundation for a safer, healthier, and more resilient Hawai‘i.

Key Reasons for My Support:

1. Advancing Public Welfare and Safety:

SB438 is designed to protect the well-being of Hawai‘i's residents by establishing clear, evidence-based policies that address issues of public concern. The bill's provisions ensure that our communities are better safeguarded against risks that threaten our health and safety. By adopting SB438, our state will demonstrate its commitment to proactive governance that prioritizes the interests of its people.

2. Promoting Transparency and Accountability:

One of the most commendable aspects of SB438 is its emphasis on transparency. The bill mandates regular reporting and oversight, which will help ensure that government agencies and other stakeholders remain accountable. This level of transparency not only builds public trust but also allows our communities to be informed partners in the decision-making process.

3. Enhancing Stakeholder Engagement and Public Education:

SB438 provides for robust public information programs and stakeholder involvement. By establishing mechanisms for ongoing dialogue and information sharing, the bill empowers residents with the knowledge they need to understand and actively participate in efforts that

directly affect their lives. This commitment to public education is essential for building a more inclusive and engaged community.

#### 4. Building on Hawai'i's Unique Values and Priorities:

Our state is renowned for its commitment to environmental stewardship, community resilience, and sustainable development. SB438 reflects these core values by crafting policies that are both forward-looking and responsive to local needs. In doing so, the bill not only addresses current challenges but also helps ensure a prosperous future for generations to come.

#### Conclusion:

In conclusion, I urge the members of the Committee to support SB438. Its thoughtful approach balancing necessary safeguards with transparency, public engagement, and accountability embodies the best interests of our state and its people. Passing SB438 will demonstrate our collective commitment to creating a safer, more informed, and more resilient Hawai'i.

Thank you for considering my testimony.

Sincerely,

Kanoelehua Hook

**SB-438**

Submitted on: 2/9/2025 12:43:42 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Michele Mitsumori	Individual	Comments	Written Testimony Only

Comments:

Aloha,

If incinerator ash is too dangerous to be above the aquifer in a double-lined landfill, it's too dangerous to spread all over the island to build roads with it that have no liners to protect the land and aquifer. Please amend this to include the language from SB538 to protect against unsafe uses of ash.

Last May, the Democratic Party of Hawai'i adopted a 1-page resolution opposing the use of toxic incinerator ash in roads. Let us not have to learn the hard way, at the cost of our people's health and the vitality of the 'aina we all depend on, that toxic ash is toxic.

Mahalo for this opportunity to submit comment on SB438.

Michele Mitsumori, Hilo

**LATE**

**SB-438**

Submitted on: 2/9/2025 4:10:42 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
fred hofer	Individual	Support	Written Testimony Only

Comments:

I, Fred Hofer strongly support this bill, yet I ask that you further strengthen the same.

Please do prohibit toxic ash "recycling!!

Yes, the City and County of Honolulu is pursuing building an ash "recycling" plant to take the toxic ash from the H-POWER trash incinerator and use that ash to build roads.

There is a lot of controversy right now over the city's plan to eventually close the Waimanalo Gulch Landfill (they promised to close it by 3/2/2028) and to build a new landfill over the island's aquifer in Wahiawa. The landfill is for the toxic ash from H-POWER's trash incinerator in Kapolei. The concern is that a new double-lined landfill will eventually leak (they all eventually do) and poison the aquifer. WHY, then would the county use the same toxic ash and put it into roads all over the island -- and neighbor islands when they find they have too much? This would turn roads into linear unlined landfills with no groundwater protection that can pollute aquifers all over, not to mention exposing road workers and everyone who drives over or lives near roads where toxic metals and dioxins will erode over time.

I strongly support this bill as it says not to build a new landfill on agricultural land, over an aquifer, or in the aquifer "no pass zone" on O'ahu, respectively -- all generally good ideas, though by ruling out most of the island, it pushes the possible sites back to the coastal areas, likely on the Waianae Coast which has already suffered the most from landfills, the incinerator, and power plant pollution.

Please do amended the language of this bill to include the language from SB 538 which would prohibit toxic ash "recycling."

Mahalo for listening

Fred Hofer

Hilo



**LATE**

**SB-438**

Submitted on: 2/9/2025 6:23:20 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Janice Palma-Glennie	Individual	Oppose	Written Testimony Only

Comments:

aloha,

please oppose the use of toxic ash as a component of new roadways. Those roads will eventually decompose and toxify our water, land and people. This is kicking the can down the road. As a resident of the state, i see this as a potential and poor precedent for the rest of the counties.

mahalo and sincerely,

janice palma-glennie

kailua-kona

**LATE**

**SB-438**

Submitted on: 2/9/2025 6:35:23 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Ellison Montgomery	Individual	Support	Written Testimony Only

Comments:

*Aloha Chair Inouye, Vice Chair Elefante, and members of the Water and Land Committee,*

*My name is Ellison Montgomery and I **strongly support SB438**, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land 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**.*

*Sincerely,  
Ellison Montgomery*

**LATE**

**SB-438**

Submitted on: 2/9/2025 10:25:08 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Carmela Resuma	Individual	Support	Written Testimony Only

Comments:

I support this measure.

February 10, 2025

**LATE**

Thank you to the Committee Chairs and members for the opportunity to submit testimony.

Our opposition to placing the landfill on prime Dole Pineapple land over the aquifer in my home community of Wahiawa is not a NIMBY matter. Because of the geology, the landfill would actually affect Waialua and the North Shore. We are against poisoning the aquifer anywhere.

FYI, a January 15 town hall on this subject drew 250 angry people.

Most of the waste will be HPower ashes with high levels of toxic metals. City officials say that they will monitor and remove the thousands of gallons a day of leachate that will drain from the site. But the Board of Water Supply has testified that all landfills eventually leak. At some point after we are gone, the toxins will leak into the aquifer.

When we asked City officials what they would do in 50 years when the dump was full, they said they would find another site, presumably with the same recipe. So, we will have multiple sites leaking into the aquifer - Red Hill on steroids.

In addition, this is an area with heavy rainfall. This means that periodically the site would flood and dump huge amounts of toxic runoff, as already happened at Waimanalo Gulch.

We have a responsibility to preserve the aquifer and prime agricultural land for seven generations and more.

We also have a responsibility to suggest an alternative.

Kalaeloa was rejected as a site because of the proximity of a lightly-used airport. However, the original legislation bans landfills near residences, schools and hospitals. It does not mention airports.

Therefore, I respectfully suggest amending the pertinent statutes to allow a landfill at Kalaeloa, "to mitigate significant risks to public safety and health." (SB 2386, 2020). This would only be the beginning of the process. But at least it would offer a possible alternative to poisoning our water.

Mahalo for the opportunity to testify.

Larry Meacham, 306B Lehua St, Wahiawa, HI 96786. meacham.hawaii@gmail.com

**LATE**

**SB-438**

Submitted on: 2/10/2025 7:08:05 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ellen Okuma	Individual	Comments	Written Testimony Only

Comments:

If incinerator waste is so toxic to put in a landfill with liners why would anyone consider spreading the toxic waste on any of our islands by using it on roadways? It makes no sense! All of the rain would create runoff that would distribute the toxic waste into areas adjacent to roads--backyards, water ways (marine and fresh), aquifers for drinking water, and farmland. Please amend this bill to include the language from SB 538 to protect against unsafe uses of ash.

**LATE**

**SB-438**

Submitted on: 2/10/2025 9:45:48 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Diliaur Tellei	Individual	Support	Written Testimony Only

Comments:

I strongly support and urge the committee to pass this bill. We are on an island with limited resources, of which water is the most precious. This is an existential problem, as we have seen from the drastic fallout of the Red Hill fuel leak. We should do everything we can to avoid another catastrophe of this sort--and the best time to start is before any new projects are built.

**LATE**

**SB-438**

Submitted on: 2/10/2025 10:04:04 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Carli Gardner-Lomont	Individual	Support	Written Testimony Only

Comments:

*Aloha Chair Inouye, Vice Chair Elefante, and members of the Water and Land Committee,*

*My name is Carli Gardner-Lomont and I **strongly support SB438**, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land 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**.*

*Sincerely,  
Carli Gardner-Lomont*

**LATE**

**SB-438**

Submitted on: 2/10/2025 10:46:03 AM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Sierra Dew	Individual	Support	Written Testimony Only

Comments:

**Dear Committee Members,**

I am writing in **strong support of SB 438.**

This bill is essential to **protecting Hawai'i's limited and precious drinking water resources** from the threats posed by landfills. Landfills **can and do leak toxins**, contaminating underlying aquifers and jeopardizing the water security of future generations.

SB 438 provides necessary safeguards to ensure that our drinking water remains clean, safe, and protected for years to come. I urge you to **pass this bill** to prioritize the health and sustainability of our islands.

**Mahalo for your time and consideration.**

**Sierra Dew**

**LATE**

**SB-438**

Submitted on: 2/10/2025 12:11:00 PM  
Testimony for HHS on 2/10/2025 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Kimmer Horsen	Individual	Support	In Person

Comments:

[SB438](#), like HB969 below, would protect our precious and limited drinking water resources from the [threat of landfills](#), which can and will leak extremely toxic leachate that would inevitably contaminate any underlying drinking water aquifer, and jeopardize the water security of our future generations.

*Aloha Chair Inouye, Vice Chair Elefante, and members of the Water and Land Committee,*

*My name is Kimmer Nahonu Bighorse and I **strongly support SB438**, which would prohibit the construction, modification, or expansion of waste and disposal facilities on land 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**.*

*Sincerely,*

*Kimmer Horsen*

*Nahonu*

**LATE**

**SB-438**

Submitted on: 2/10/2025 1:19:44 PM

Testimony for HHS on 2/10/2025 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Eileen Cain	Individual	Support	Written Testimony Only

Comments:

I support this bill. Mahalo!