

SB 1154

SD 1

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the Senate Committee on
WAYS AND MEANS**

**Tuesday, March 1, 2011
9:20 AM
State Capitol, Conference Room 211**

**In consideration of
SENATE BILL 1154, SENATE DRAFT 1
RELATING TO HISTORIC PRESERVATION**

Senate Bill 1154, Senate Draft 1 establishes the South Kona Wilderness Area, a primitive, wilderness area from Honomalino to Manuka, a concept that was initially proposed in 1971 by the Association of Hawaiian Civic Clubs with the support of the Bishop Museum. Approximately 22,000 acres are proposed for designation as a wilderness area, including portions of the shoreline consisting of five ahupua'a: Honomalino, Okoe, Kaulanamauna, Kapu'a, and Manukā. Except for the privately-owned lands in Kapu'a, and several inholdings in Honomalino, most of the other lands are owned by the State.

The South Kona Wilderness Area was established under Act 59, of the 2003 Legislature. This Act however, was repealed in 2007 when the Kapua land acquisition did not take place. The Department notes that there may be legal implications associated with this designation and the portion of the proposed wilderness area that is private land.

The Department supports the this measure as it will preserve a 13 mile long coastline from urban/resort development and preserve the area's important historic, cultural, scenic, environmental and biological resources. Thank you for the opportunity to provide written testimony.

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

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



The Nature Conservancy of Hawai'i
923 Nu'uauu Avenue
Honolulu, Hawai'i 96817

Tel (808) 537-4508
Fax (808) 545-2019

nature.org/hawaii

Testimony of The Nature Conservancy of Hawai'i
Commenting on S.B. 1154 SD 1 Relating to Historic Preservation
Senate Committee on Ways and Means
Tuesday, March 1, 2011, 9:20AM, Rm. 211

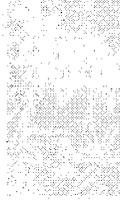
The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawaii's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 11 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy of Hawai'i submits the following comments on S.B. 1154 SD 1:

The lands proposed under this bill to become the South Kona Wilderness Area include cultural resources as well native dry land forest cover, which is becoming increasingly rare throughout the state. The Nature Conservancy is available to continue to work with the State, the landowners, and other interested parties to help achieve appropriate protection for the resources in this land area.

BOARD OF TRUSTEES

S. Haunani Apoliona Christopher J. Benjamin Anne S. Carter Richard A. Cooke III Peter H. Ehrman Kenton T. Eldridge
Thomas M. Gottlieb Donald G. Horner J. Douglas Ing Mark L. Johnson Dr. Kenneth Y. Kaneshiro Bert A. Kobayashi, Jr.
Faye Watanabe Kurren Eiichiro Kuwana Duncan MacNaughton Bonnie P. McCloskey Bill D. Mills Wayne K. Minami Michael T. Pfeffer
James C. Polk H. Monty Richards Jean E. Rolles Scott C. Rolles Crystal K. Rose Nathan E. Smith Eric K. Yeaman



THE RESORT GROUP

TO THE SENATE COMMITTEE ON WAYS & MEANS

**TWENTY SIXTH LEGISLATURE
Regular Session of 2011**

**Testimony of Abbey S. Mayer, Vice President, Government Relations
THE RESORT GROUP**

Supporting the INTENT of SB 1154, SD1, Relating to Historic Preservation

Tuesday, March 1, 2011, 9:20 AM -- Room 211

Aloha Chair Ige, Vice-Chair Kidani, and Members of the Committee,

The Honolulu-based The Resort Group (TRG) acquires, master develops, repositions and markets domestic and international mixed use and master-planned resort communities. Led by Jeffrey R. Stone, TRG's resort development projects are carefully designed to balance resident, visitor and employee needs with community interests, local cultural values and adjacent land use requirements. Current projects include Ko Olina Resort & Marina and Makaha Valley Country Club on O'ahu, Princeville at Hanalei (Kaua'i), Lands of Kapu'a (Big Island), the Newport Beach Hotel in California and Cape Eleuthera, Bahamas.

BACKGROUND

In 2003, Act 59 Session Laws established a South Kona Wilderness Area and provided for the creation of a management plan for the area. Act 59 was subsequently repealed in 2007 by Act 215, Session Laws of 2006.

Named in both Act 59 and this current proposal, SB 1154, SD1 (§6E-B(a)), are the lands of Kapu'a, approximately 7,780 total acres, including four TMK's that are designated as Lots D-2-1, 2, 3 & 4 (TMK's 8-9-06-03, 19, 28 & 35). Approximately 902 acres in Lot D-2-1 are currently in the State Conservation District, while the remaining 6,878 acres are in the State Agricultural District.

Approximately 70% of the interest in the Kapu'a parcels noted above are owned by TRG-controlled companies. The remaining 30% are owned by other partners.

SB 1154, SD1:

TRG has long supported, and continues to support the inclusion of the lands of Kapu‘a in the South Kona Wilderness Area. We will work cooperatively with the State and other interested partners in the sale of these lands.

TRG opposes only one aspect of this proposal, **§6E-E Designation of Lands within the Conservation District**. Section §6E-E proposes to reclassify all lands described in §6E-B(a), including the lands of Kapu‘a, automatically and immediately into the State Conservation District, without any proceedings before the State Land Use Commission (LUC), upon the effective date of this measure.

Like the State Attorney General’s previous testimony dated February 12, 2011, before the Joint Committee on Water, Lands & Housing and Hawaiian Affairs, TRG believes that this provision of SB 1154, SD1 would be considered a **regulatory taking**. TRG believes that the State should only act to redistrict Kapu‘a **AFTER** purchasing the lands.

SB 1154, SD1 authorizes the State to purchase the lands of Kapu‘a, but until the closing these lands will remain in private ownership. TRG believes the down-zoning and subsequent devaluation of these lands is not a just manner in which to open negotiations, and **could increase the ultimate cost of this measure to the State**. TRG believes that retaining Agricultural Classification of the approximately 6,878 acres of Kapu‘a will not adversely impact the State’s ability to acquire these lands for preservation. **TRG humbly requests that the Committee delete §6E-E of SB 1154, SD1, especially inasmuch as it applies to the Kapu‘a parcels.**

TRG would also like to note that Hawaii Revised Statutes, Chapter 205, gives sole authority for the redistricting of parcels greater than 15 acres in size to the State Land Use Commission (LUC), whose Administrative Rules provides a system of due process for all land owners seeking redistricting of their lands. This process allows for a comprehensive and holistic consideration of multiple, complex and often competing interests prior to deciding the appropriate disposition of the State Land Use Classification. Section §6E-E of SB 1154, SD1 would deprive private land owners, immediate neighbors, other affected parties and the general public of the due process rights afforded by the LUC and its procedures.

TRG thanks the Committee for the opportunity to provide comments, and looks forward to partnering with the State on the protection of these precious lands.