



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
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**Testimony COMMENTING on H.B. 2165, H.D. 1
RELATING TO PUBLIC HEALTH**

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: February 25, 2016
Time: 1:00 PM

Room Number: 308

Fiscal Implications: The bill proposes funding to hire five full-time Department of Health employees for one year. Also, it allocates funds to hire consultants with expertise in hydrology, geology, underground storage tanks or other areas relevant to the storage of fuel, public health or environmental health and to fund the installation of two additional groundwater wells to monitor the U.S. Navy and the U.S. Defense Logistics Agency's compliance with the Administrative Order on Consent (AOC).

Department Testimony: The Department appreciates the intent of this bill but defers to the Governor's Executive Budget request for the Department's appropriations and personnel priorities. The Department's proposed budget includes three new positions (an Engineer, a Geologist and an Environmental Health Specialist) to oversee the implementation of the AOC over the next 22 years.

The Department agrees to the proposed allocation of funds to contract with consultants who have expertise in hydrology, geology and underground storage tanks provided the U.S. Navy and U.S. Defense Logistics Agency will reimburse all of the expended amount.

Section 6 of the bill proposes to allocate funds to the Department to site and install two additional monitoring wells at the Red Hill Bulk Fuel Storage Facility. As a responsible party, the U.S. Navy is already committed to installing at least four more monitoring wells. The

1 Department is working within the parameters of the AOC to require the U.S. Navy to install
2 additional monitoring wells as necessary. Therefore, this section is not necessary.

3 It should be emphasized that over the next two years, the U.S. Navy and U.S. Defense
4 Logistics Agency will develop improved tank inspection, repair and maintenance procedures,
5 and identify new release detection systems and tank upgrade alternatives.

6 **Offered Amendments:** Page 2, line 19, should be amended to read, "The work table for the
7 Administrative Order on Consent, however, does not explicitly provide a specific due date by
8 which all fuel tanks shall be upgraded."

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

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843



February 25, 2016

KIRK CALDWELL, MAYOR

DUANE R. MIYASHIRO, Chair
ADAM C. WONG, Vice Chair
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FORD N. FUCHIGAMI, Ex-Officio

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

ELLEN E. KITAMURA, P.E.
Deputy Manager and Chief Engineer

The Honorable Sylvia Luke, Chair
and Members
Committee on Finance
House of Representatives
Hawaii State Capitol, Room 308
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Luke and Members:

Subject: House Bill 2165, HD 1: Relating to Public Health

We strongly support House Bill 2165, HD 1. This bill will help protect our drinking water by providing the Department of Health resources to monitor the Navy and the Defense Logistics Agency's compliance with the Red Hill Fuel Facility Administrative Order on Consent (AOC). This agreement was created to ensure the long-term protection of groundwater in the area of the Red Hill Bulk Fuel Storage Facility. However the timetable under the AOC, as the Bill's preamble correctly states, does not explicitly provide specific due dates by which all leaks to the fuel tanks shall be repaired. Instead, the AOC establishes deadlines that are relative to other unspecified deadlines for approvals and meetings and gives the Navy 22-27 years to fix the facility. This unspecified timeframe is not in the best interest of public health.

The Board of Water Supply is very concerned about the threats of leaking underground fuel tank releases on Oahu's irreplaceable groundwater aquifer. Studies on the Red Hill Fuel Storage Facility indicate past fuel releases have already contaminated the groundwater and soil underneath the Facility with petroleum hydrocarbons. Providing the state with resources to ensure the AOC provisions are implemented immediately is in the best interest of our state to save our most precious resource – the groundwater aquifer – now and into the future.

Thank you for the opportunity to testify on this matter.

Very truly yours,

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

COMMITTEE ON FINANCE

Testimony on House Bill No. 2165 H.D. 1, Relating to Public Health

Hearing Date and Time: February 25, 2016, 1:00PM; Conference Room 308

**Testimony by Captain Mark S. Manfredi, USN, on behalf of Navy Region Hawaii,
at Joint Base Pearl Harbor-Hickam**

Chair Luke, Vice-Chair Nishimoto, and Representatives:

Good afternoon and thank you for the opportunity to testify. My name is Captain Mark S. Manfredi, representing Navy Region Hawaii. The Navy does not have an opinion with respect to the State funding of several full-time equivalent positions for the Department of Health to monitor compliance with the Red Hill Administrative Order on Consent ("Order"). However, the Navy would like to inform the Committee of three matters that are relevant to this bill.

First, the bill currently states that the State Department of Health shall seek reimbursement from the Navy or the Defense Logistics Agency (DLA) for expenditures related to monitoring our compliance with the Order. While the Navy and DLA are fully committed to fulfilling our obligations under the Order, the scope and terms of the reimbursement provisions of the Order are limited and are the result of extensive negotiations between the parties. Under the terms of the Order, the Navy and DLA have committed to paying the Department of Health reasonable service charges up to fifty thousand dollars (\$50,000) per calendar year, unless otherwise agreed to in writing.

Second, the Navy believes that some of the language of bill does not accurately capture the purpose of the Order or the possible effects of historical fuel releases from the Red Hill Facility. For example, Section 1 of the bill suggests that there is an urgent public health threat to the population. While we acknowledge that historical fuel releases have occurred, the Navy is unaware of any evidence of gross groundwater contamination that is likely to impact public health. In fact, the Navy has routinely tested the drinking water from the Red Hill Drinking Water Shaft since 2002, and it has always been within Federal and State Safe Drinking Water standards. In addition, samples from our monitoring wells have never revealed any fuel in its original state floating on groundwater, nor do we have any data to indicate that fuel constituents are likely to reach drinking water in any quantities as to make drinking water unsafe for consumption. We therefore propose alternative language for Section 1 of this bill that better describes the effect on the groundwater near the Facility and the nature of the work to be accomplished in the Administrative Order on Consent. The proposed changes to Section 1 are identified as Exhibit "A", attached to this written testimony.

Third, Section 6 of the bill appropriates State funds for the siting and installation of two monitoring wells to test the condition of the ground water aquifer near Red Hill. The Navy believes that this may be an unnecessary expenditure for the State because

the Navy and DLA currently have ten groundwater sampling points near Red Hill and we have already agreed to install four additional monitoring wells in the area. Last December, after comprehensive discussions with subject matter experts, these four additional wells were agreed upon by the parties to the Order. However, if the parties to the Order later decide that additional monitoring wells would be advantageous and not present a risk of creating migration pathways, the Navy and DLA will in all likelihood pursue the funding and installation of those wells.

Thank you for the opportunity to testify on this bill.

Exhibit "A"
To Navy Written Testimony for H.B. 2165 H.D. 1

HOUSE OF REPRESENTATIVES
TWENTY-EIGHTH LEGISLATURE, 2016
STATE OF HAWAII

H.B. NO. 2165
H.D. 1

A BILL FOR AN ACT

RELATING TO PUBLIC HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the Red Hill bulk fuel storage facility is an important symbol of Hawaii's integral role in United States military operations. The facility is under the sole control of the United States Navy and has held fuel for the United States Navy since the 1940s. Recognized as a National Historic Civil Engineering Landmark, the Red Hill fuel storage facility consists of twenty underground fuel storage tanks and is capable of holding more than two hundred and fifty million gallons of fuel.

The legislature further finds that the facility over its 70-year history, releases of fuel have occurred ~~has a history of fuel being released through leaks~~ from the storage tanks. Underground sources of drinking water are located near the facility. These releases of fuel can affect the ~~nearby~~ groundwater near the facility. ~~and the health of the population in the area.~~

The legislature further finds that in response to releases from the facility, the United States Navy, the United States Defense

Exhibit "A"
To Navy Written Testimony for H.B. 2165 H.D. 1

Logistics Agency, the United States Environmental Protection Agency, and the department of health began negotiating an enforceable agreement. After a period of public comment, the final version of this agreement, Administrative Order on Consent, EPA Docket No. RCRA 7003-R9-2015-01, DOH Docket No. 15-UST-EA-01, became effective on September 28, 2015. The Administrative Order on Consent establishes a timeframe for the Navy and the Defense Logistics Agency to evaluate and remediate existing contamination to the extent practicable in the vicinity of the Red Hill bulk fuel storage facility, as well as to evaluate and implement measures to prevent future releases.

The legislature further finds that the primary goal of the Administrative Order on Consent is to ensure the long-term protection of groundwater resources in the vicinity of the Red Hill bulk fuel storage facility and to ensure that the Facility is operated and maintained in an environmentally protective manner. The initial phases of the Administrative Order on Consent focus on accomplishing the extremely complex and critical work of identifying and evaluating current tank inspection, repair, and maintenance procedures to ensure the continued integrity of the tanks at the facility. Identification and evaluation of various tank upgrade alternatives will also commence. In addition, an Investigation and Remediation of Releases Report is being developed as well as an update to the existing Groundwater Protection Plan. A Groundwater Flow Model Report and Contaminant Fate and Transport Model Report will be prepared to improve the understanding of the potential fate and transport,

Exhibit "A"
To Navy Written Testimony for H.B. 2165 H.D. 1

degradation and transformation of contaminants that have been and could be released from the facility. ~~evaluating, designing, and selecting cleanup specifics and upgrade technologies for the massive, uniquely engineered tanks, which are believed to be the largest underground fuel tanks in the world. The work table for the Administrative Order on Consent, however, does not explicitly provide a specific due date by which all leaks to the fuel tanks shall be repaired. Rather, the work table establishes deadlines that are relative to other unspecified deadlines for approvals and meetings.~~

The legislature further finds that due to the lack of certainty inherent in the Administrative Order on Consent's schedule of work, the State has and will have an ~~urgent public health~~on-going interest in monitoring the Navy and the Defense Logistics Agency's compliance with the Administrative Order on Consent.

The purpose of this Act is to protect the State's interests in human health and the environment ~~public health~~ by:

- (1) Appropriating funds to the department of health to:
 - (A) Establish five full-time positions (5.0 FTE); and
 - (B) Contract with consultants with expertise in hydrology, geology, underground storage tanks, or other areas relevant to the storage of fuel, public health, or environmental health, as necessary,to monitor the Navy and the Defense Logistics Agency's compliance with the Administrative Order on Consent;

Exhibit "A"
To Navy Written Testimony for H.B. 2165 H.D. 1

- (2) Requiring the department of health to seek reimbursement from the Navy and the Defense Logistics Agency for the foregoing appropriated moneys;
- (3) Appropriating funds for the siting and installation of two monitor wells to test the condition of the groundwater aquifer under and surrounding the Red Hill bulk fuel storage facility; and
- (4) Requiring the department of health to submit annual reports to the legislature regarding the Navy and the Defense Logistics Agency's compliance with the Administrative Order on Consent.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2016-2017 for the department of health to hire two full-time equivalent geologist I employees (2.0 FTE) to monitor the United States Navy and the United States Defense Logistics Agency's compliance with Administrative Order on Consent, EPA Docket No. RCRA 7003-R9-2015-01, DOH Docket No. 15-UST-EA-01.

The sum appropriated shall be expended by the department of health for the purposes of this Act; provided that the department of health shall seek reimbursement from the United

Exhibit "A"
To Navy Written Testimony for H.B. 2165 H.D. 1

States Navy and the United States Defense Logistics Agency for this expenditure.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2016-2017 for the department of health to hire two full-time equivalent engineer IV employees (2.0 FTE) to monitor the United States Navy and the United States Defense Logistics Agency's compliance with Administrative Order on Consent, EPA Docket No. RCRA 7003-R9-2015-01, DOH Docket No. 15-UST-EA-01.

The sum appropriated shall be expended by the department of health for the purposes of this Act; provided that the department of health shall seek reimbursement from the United States Navy and the United States Defense Logistics Agency for this expenditure.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2016-2017 for the department of health to hire one full-time equivalent environmental health specialist IV employee (1.0 FTE) to monitor the United States Navy and the United States Defense Logistics Agency's compliance with Administrative Order on Consent, EPA Docket No. RCRA 7003-R9-2015-01, DOH Docket No. 15-UST-EA-01.

Exhibit "A"
To Navy Written Testimony for H.B. 2165 H.D. 1

The sum appropriated shall be expended by the department of health for the purposes of this Act; provided that the department of health shall seek reimbursement from the United States Navy and the United States Defense Logistics Agency for this expenditure.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2016-2017 for the department of health to contract with consultants with expertise in hydrology, geology, underground storage tanks, or other areas relevant to the storage of fuel, public health, or environmental health to monitor the United States Navy and the United States Defense Logistics Agency's compliance with Administrative Order on Consent, EPA Docket No. RCRA 7003-R9-2015-01, DOH Docket No. 15-UST-EA-01.

The sum appropriated shall be expended by the department of health for the purposes of this Act; provided that the department of health shall seek reimbursement from the United States Navy and the United States Defense Logistics Agency for this expenditure.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2016-2017 for the

Exhibit "A"
To Navy Written Testimony for H.B. 2165 H.D. 1

siting and installation of two monitor wells to test the condition of the groundwater aquifer underneath and surrounding the Red Hill bulk fuel storage facility.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 7. The department of health, at least twenty days before the convening of each regular session, beginning with the regular session of 2017, shall report annually to the legislature on the status of the United States Navy and the United States Defense Logistics Agency's compliance with Administrative Order on Consent, EPA Docket No. RCRA 7003-R9-2015-01, DOH Docket No. 15-UST-EA-01, until the United States Navy and the United States Defense Logistics Agency have fulfilled all of their obligations under the Administrative Order on Consent.

SECTION 8. This Act shall take effect on July 1, 2016.

Report Title:

United States Navy; United States Defense Logistics Agency; Department of Health; Red Hill Fuel Storage Facility; Appropriation

Description:

Appropriates moneys to the Department of Health to hire five full-time employees (5.0 FTE) and retain consultants to monitor the United States Navy and the United States Defense Logistics Agency's compliance with an Administrative Order on Consent regarding leaks of fuel at the Red Hill Fuel Storage Facility. Appropriates funds to site and install two monitor wells near Red Hill Bulk Fuel Storage Facility to test groundwater. (HB2165 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



SIERRA CLUB OF HAWAI'I

MĀLAMA I KA HONUA. *Cherish the Earth.*

House COMMITTEE ON FINANCE

Thursday February 25, 2016 1PM Room 308

In Support HB2165, HD1 Relating to Public Health

LATE

Aloha Chairman Lee and members of the House EEP Committee,

On behalf of our 12,000 members and supporters, the Sierra Club of Hawai'i **strongly supports** HB2165 to improve oversight of the Red Hill Bulk Fuel Storage Tanks by the Hawai'i Department of Health by creating five new positions in the Department.

What HB2165 does

This bill seeks to improve transparency over the management of jet fuel leaks from the Red Hill Bulk Fuel Storage Facility and build public confidence in the long-term safety of our water by:

- appropriating funds to the Department of Health for 5 specific positions,
- appropriating funds for the installation and management of additional monitoring wells,
- requiring the Department of Health to seek reimbursement from federal agencies for these expenditures,
- requiring Department of Health to submit annual reports to the Legislature.

Why this is needed: Red Hill Fuel Tanks threaten our water

The Navy's 70-year-old fuel tanks store thousands of gallons of jet fuel 100-feet above the primary drinking water source for the majority of O'ahu. All of the original 20 tanks installed in the 1940's have evidence of leaking jet fuel. Jet fuel contamination has been detected in the aquifer, though not near to the public drinking water pump station. The amount of jet fuel that has leaked, its location, and the options for remediating the contamination remain unknown.

Additional staff and monitoring wells are essential for ensuring that the full potential of this disaster is avoided through proper attention and oversight at the state level.

Department of Health is responsible for protecting Hawai'i's water

It is clear that the state has an interest and obligation to protect Hawai'i's drinking water resources. Haw. Const. Art. XI, sec. 7. The Hawai'i Department of Health is the state agency responsible for ensuring the safety of our drinking water. Hawai'i Revised Statutes §340 enables the Department to protect our drinking water against contamination and to take legal action against entities that contaminate drinking water supplies. And, the Department is a signatory to the Agreement on Consent which governs remediation of the Red Hill site.

[MORE]

However, the Red Hill situation presents a frustrating challenge because the entity introducing contaminants into the drinking water supply is the federal government. Federal agencies are not subject to state governance. Moreover, the Department's authority to protect state drinking water supplies is based on delegated authority from the federal Environmental Protection Agency.

While the line between federal and state authority might be confusing in this situation, what is clear is the Department is not set up to effectively engage in the oversight required by the AOC. The Department needs additional staff to provide the oversight necessary to ensure the state's interest are fully upheld in this unique tri-agency agreement. Ensuring compliance with the calendar of deliverables outlined in the AOC, as well as interfacing with the public and fellow state agencies like the Water Commission are essential tasks that need specific attention.

By establishing positions, appropriating funds, and clarifying authority, HB2165 improves the Department's ability to provide oversight, ensure transparency, and ultimately build public trust in the remediation of this on-going threat to O'ahu's primary drinking water source.

For these reasons, the Sierra Club urges this Committee to move this measure forward. Thank you for the opportunity to testify on this measure.

Mahalo,

A handwritten signature in black ink, appearing to read "M. J. d.", is written over a light gray rectangular background.

Martha Townsend
Director

DAVID Y. IGE
GOVERNOR OF HAWAII



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LATE

VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

**Testimony in SUPPORT of H.B. 2165, H.D. 1
RELATING TO PUBLIC HEALTH**

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: February 25, 2016
Time: 1:00 PM

Room Number: 308

1 **Fiscal Implications:** As originally drafted, approximately \$300,000 in general funds for staff,
2 and \$800,000 for contracts and services procurement. The department supports a minimum of
3 3.0 FTE as described the in Governor's Supplemental Budget Request.

4 **Department Testimony:** The Department of Health (DOH) supports the intent of HB2165
5 HD1. The safety of Oahu's drinking water supply is a priority for the department and additional
6 resources are required to assure compliance the Administrative Order of Consent over the next
7 22 years. A minimum of three FTE is needed and has been requested through the Governor's
8 Supplemental Budget Request: an Engineer, a Geologist and an Environmental Health Specialist.

9 The Department concurs to the proposed allocation of funds to contract with consultants who
10 have expertise in hydrology, geology and underground storage tanks provided the U.S. Navy and
11 U.S. Defense Logistics Agency will reimburse all of the expended amount.

12 Section 6 of the bill proposes to allocate funds to the Department to site and install two
13 additional monitoring wells at the Red Hill Bulk Fuel Storage Facility. As a responsible party,
14 the U.S. Navy is already committed to installing at least four more monitoring wells. The
15 Department is working within the parameters of the AOC to require the U.S. Navy to install
16 additional monitoring wells as necessary. Therefore, this section is not necessary.

1 It should be emphasized that over the next two years, the U.S. Navy and U.S. Defense Logistics
2 Agency will develop improved tank inspection, repair and maintenance procedures, and identify
3 new release detection systems and tank upgrade alternatives.

4 **Offered Amendments:** Page 2, line 19, should be amended to read, “The work table for the
5 Administrative Order on Consent, however, does not explicitly provide a specific due date by
6 which all fuel tanks shall be upgraded.”

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



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Department Testimony: The Department supports the intent of H.B. 2165, H.D. 1. The safety of Oahu's drinking water supply is a priority for the Department and additional resources are required to assure compliance with the Administrative Order of Consent (AOC) over the next 22 years. A minimum of 3.0 FTE is needed and has been requested through the Governor's Supplemental Budget Request: an Engineer, a Geologist and an Environmental Health Specialist.

The Department concurs with the proposed allocation of funds to contract with consultants who have expertise in hydrology, geology and underground storage tanks provided the U.S. Navy and U.S. Defense Logistics Agency will reimburse all of the expended amount.

Section 6 of the bill proposes to allocate funds to the Department to site and install two additional monitoring wells at the Red Hill Bulk Fuel Storage Facility. As a responsible party, the U.S. Navy is already committed to installing at least four more monitoring wells. The Department is working within the parameters of the AOC to require the U.S. Navy to install additional monitoring wells as necessary. Therefore, this section is not necessary.

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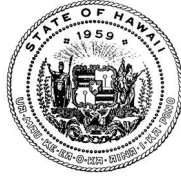
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DAVID Y. IGE
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