

The Judiciary, State of Hawai'i
Ka 'Oihana Ho'okolokolo, Moku'āina 'o Hawai'i

Testimony to the Thirty-Third Legislature, 2026 Regular Session

House Committee on Energy & Environmental Protection

Representative Nicole E. Lowen, Chair

Representative Amy A. Perruso, Vice Chair

Tuesday, February 3, 2026, 9:30 a.m.
Conference Room 325 & Videoconference

by:
Thomas J. Berger
Staff Attorney for the Hawai'i Supreme Court

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 1979, Relating to Environmental Review

Purpose: Shortens the period within which certain judicial proceedings involving environmental assessments and environmental impact statements for actions that propose the use of land for, or construction of, affordable housing or clean energy projects must be initiated. Requires judicial proceedings involving actions that propose the use of land for, or construction of, affordable housing or clean energy projects to be filed directly with the Supreme Court and prohibits the Supreme Court from awarding attorneys' fees in these judicial proceedings.

Judiciary's Position:

The Judiciary respectfully opposes this bill to the extent that it requires proceedings to be initiated directly in the Hawai'i Supreme Court instead of the Environmental Courts. We offer the following comments for consideration.

HB 1979 would remove certain cases involving environmental assessments and environmental impact statements from the jurisdiction of the Environmental Courts established by the Legislature in 2014. Under this measure, qualifying cases regarding affordable housing would have to be initiated directly in the Hawai'i Supreme Court. Act 218 (2014) created the Environmental Courts to "promote and protect Hawai'i's natural environment through consistent and uniform application of environmental laws[.]" See Act 218, § 1 (2014). Consistent with that



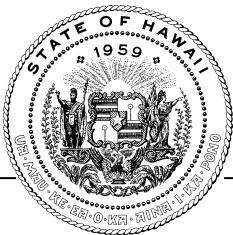
House Bill No. 1979, Relating to Environmental Review
House Committee on Energy & Environmental Protection
Tuesday, February 3, 2026
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legislative intent, both the parties and the public benefit when the Environmental Courts address these types of cases in the first instance. In addition, the Judiciary is concerned about the operational impact of requiring cases to be initiated directly in the Hawai'i Supreme Court.

As a possible solution, the Judiciary supports amending HB 1979 to require matters covered by the bill to be initiated first in the Environmental Courts by deleting paragraphs (d)-(e) on page 4, lines 1-10.

With these changes, any appeal of the Environmental Court's decision would follow the ordinary appellate process. For cases involving matters of imperative or fundamental public importance, expedited review by the Hawai'i Supreme Court is available through an application to transfer the appeal from the Intermediate Court of Appeals. See Hawai'i Revised Statutes § 602-58(a)(1). The bill could specifically provide that these appeals would constitute such matters.

Thank you for the opportunity to testify on this matter.



JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

MARY ALICE EVANS
DIRECTOR

Statement of
MARY ALICE EVANS, Director

before the
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Tuesday, February 3, 2026, 9:30 AM
State Capitol, Conference Room 325

in consideration of
HB 1979
RELATING TO ENVIRONMENTAL REVIEW

Chair Lowen, Vice Chair Perruso and Members of the House Committee on Energy & Environmental Protection, the Office of Planning and Sustainable Development (OPSD) offers the following comments with amendments on HB 1979, which amends HRS Section 343-7.

HB 1979 shortens the period to initiate certain judicial proceedings (appeals of agency determinations) involving environmental assessments (EAs) and environmental impact statements (EISs) for actions that propose the use of land for, or construction of, affordable housing or clean energy projects. The bill also requires judicial proceedings involving actions that propose the use of land for, or construction of, affordable housing or clean energy projects to be filed directly with the Supreme Court and prohibits the Supreme Court from awarding attorneys' fees in these judicial proceedings.

The bill proposes to amend paragraph (a) of HRS Section 343-7, which addresses the scenario of judicial proceedings over the lack of an EA, i.e., when an agency determines that a proposed action is exempt from the erstwhile requirement of preparing an EA. Currently, such judicial proceedings must be initiated within one hundred twenty (120) days of either 1) the formal decision to carry out or approve the proposed action or 2) if the agency does not make a formal determination, after the proposed action is started. The bill would shorten this period to thirty (30) days for actions that propose the use of land for, or construction of, an affordable housing or clean energy project.

The current one hundred twenty (120) day period was established years ago to provide a lengthy period for discovery since exemptions were not required to be published pursuant to HRS Section 343-3. Under the current administrative rules established in 2019, lists of formal exemption determinations are required to be submitted by agencies monthly and published in the OPSD's periodic bulletin, so discovery is much easier than it had been prior to 2019.

HB 1979 RELATING TO ENVIRONMENTAL REVIEW - COMMENT

State Office of Planning and Sustainable Development

February 3, 2026

Accordingly, to be consistent with the length of the thirty (30) day judicial challenge period for the standard Finding of No Significant Impact (FONSI) determination made by agencies for most EAs and published in the OPSD's periodic bulletin, we believe that all agency exemption determinations, not only exemption determinations for actions that propose the use of land for, or construction of, an affordable housing or clean energy project, should have this thirty (30) day window to initiate judicial proceedings. To effectuate this, none of the bill's proposed statutory text on pages 1 and 2 is necessary; only the two current references to one hundred twenty (120) days would need to be **amended** to thirty (30) days

The bill does not propose to amend the periods established in HRS Section 343-7(b) to initiate judicial proceedings for FONSI determinations that an EIS is not required, or for EIS Preparation Notice determinations that an EIS is required.

The bill does propose to shorten the period established in HRS Section 343-7(c) to initiate judicial proceedings over the acceptance or nonacceptance of EISs, from sixty (60) days to thirty (30) days, only for actions that propose the use of land for, or construction of, an affordable housing or clean energy project. We are not opposed to this proposal.

We are also not opposed to the bill's other proposed amendments that 1) requires judicial proceedings involving actions that propose the use of land for, or construction of, an affordable housing or clean energy project to be filed directly with the Supreme Court and 2) prohibits the Supreme Court from awarding attorneys' fees in these judicial proceedings.

Thank you for the opportunity to testify on this measure.



HAWAII COMMUNITY DEVELOPMENT AUTHORITY

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JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

STERLING HIGA
CHAIRPERSON

CRAIG K. NAKAMOTO
EXECUTIVE DIRECTOR

Statement of
CRAIG K. NAKAMOTO
Executive Director
Hawai'i Community Development Authority
before the
COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Tuesday, February 3, 2026
9:30 a.m.

State Capitol, Conference Room 325 & Videoconference

In consideration of
H.B. 1979
RELATING TO ENVIRONMENTAL REVIEW.

Chair Lowen, Vice Chair Perruso, and Members of the Committee:

The Hawai'i Community Development Authority (HCDA) **supports the intent of H.B. 1979 and respectfully offers comments** for the Committee's consideration. This testimony is being submitted by the HCDA because the HCDA is developing affordable housing projects within its Kaka'ako Community Development District and is also responsible for developing transit-oriented development infrastructure pursuant to Chapter 206E, Part X, *Hawaii Revised Statutes*.

HCDA offers the following comments:

1. **Adopt the Testimony of the Office of Planning and Sustainable Development (“OPSD”).** HCDA adopts the testimony of Mary Alice Evans, Director of the OPSD, as HCDA's testimony; and

2. **Amend the Definition of “Affordable Housing Project”.** An affordable housing project could include programmed space for ancillary uses that complement and support the primary housing use, such as a convenience retail store or other commercial uses. In addition, the construction of an affordable housing project could necessitate the construction of on- or off-site infrastructure, such as road improvements

or utilities. HCDA therefore recommends clarifying the definition of “affordable housing project” as follows:

- a. On page 4, line 12, delete the entire text on line 12 and replace it with:
“Affordable housing project” means a housing project, including other ancillary on-site mixed-uses and any necessary on- and/or off-site infrastructure:

Thank you for the opportunity to provide testimony in support and offer comments.



Testimony Before the House Committee on Energy and Environmental Protection

By Beth Amaro

Member Services and Communications Manager

Kaua'i Island Utility Cooperative

4463 Pahe'e Street, Suite 1, Līhu'e, Hawai'i, 96766-2000

Tuesday, February 3, 2026; 9:30 am

Conference Room #325 & Videoconference

House Bill No. 1979 - RELATING TO ENVIRONMENTAL REVIEW

To the Honorable Chair Nicole E. Lowen, Vice Chair Amy A. Perruso, and Members of the Committee:

Kaua'i Island Utility Cooperative (KIUC) is a not-for-profit utility providing electrical service to more than 34,000 commercial and residential members.

KIUC supports this measure.

This bill seeks to amend section 343-7, Hawai'i Revised Statutes, to provide clearer and more predictable timelines for judicial review of environmental determinations involving clean energy projects.

Over the past 10 years, KIUC has significantly increased its renewable generation. In 2010, KIUC's energy mix included 10% renewable. Renewable production now stands at roughly 50%. For the past five years, KIUC has operated the Kaua'i electric grid at 100% renewable for thousands of hours on sunny days. KIUC's renewable mix currently includes biomass, hydropower, utility-scale solar, utility-scale paired with battery energy storage systems, and distributed (rooftop) solar. We believe this bill supports Hawai'i's clean energy objectives while maintaining the essential environmental protections of Chapter 343.

Supporting Timely Development of Clean Energy Resources

Hawai'i's statutory clean energy goals require the continued development of renewable energy projects which involve significant capital investment and long-term planning. This measure improves predictability by establishing defined and expedited timeframes for legal challenges related to environmental review for clean energy projects. Clear timelines are critical for utilities to plan generation resources, coordinate grid upgrades, and manage costs that ultimately affect ratepayers.

Maintaining Environmental Review While Reducing Unnecessary Delay

This bill does not diminish environmental review requirements or limit public participation. Environmental assessments and environmental impact statements remain subject to notice, comment, agency review, and judicial oversight.

Instead, the measure promotes procedural efficiency by requiring that challenges be brought within a reasonable and clearly defined period. This helps avoid prolonged uncertainty that can delay projects after environmental review is complete, increasing costs without providing additional environmental benefit.

Benefits to Ratepayers and Grid Reliability

Delays in clean energy development can result in higher project costs, missed funding opportunities, and continued reliance on imported fossil fuels. Streamlining the timing and forum for judicial review helps reduce these risks and supports the timely deployment of renewable resources that enhance long-term affordability, energy security, and grid reliability for Hawai‘i’s communities.

We encourage you to support this measure.



To: The House Committee on Energy and Environmental Protection
From: Sherry Pollack, 350Hawaii.org
Date: Tuesday, February 3, 2026, 9:30am

In opposition to HB1979

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

I am Co-Founder of the Hawaii chapter of 350.org, the largest international organization dedicated to fighting climate change. 350Hawaii.org **opposes HB1979** due to concerns that, if implemented, there may be unintended negative impacts to the protection of our natural resources.

HB1979 would require judicial proceedings involving actions that propose the use of land for, or construction of, affordable housing or clean energy projects to be filed directly with the Supreme Court. Similar to HB366 HD1, which was filed in the 2025 legislative session, this measure operates to remove certain cases from the jurisdiction of the environmental courts created and established by the legislature in 2014, as qualifying contested cases could be directly appealed to the Hawaii Supreme Court from the agency.

In the opposition testimony to HB366 HD1 that was submitted by Thomas J. Berger, Staff Attorney for the Hawaii Supreme Court, he asserted "This measure wholly undermines the intent of the legislature in creating the environmental courts."

Mr. Berger further states:

Consistent with the intent of the legislature set forth in Act 218, the parties and public benefit from having the environmental court resolve, in the first instance, an agency appeal of the type covered by House Bill No. 366, H.D. 1. The types of contested cases covered by House Bill No. 366, i.e., a challenge related to environmental impact statements, are generally fact intensive. The legislature by virtue of Act 218 previously decided to funnel complex environmental cases to a specialized trial court. As the legislature indicated in Act 218, having a specialized environmental court to resolve environmental disputes would operate "to promote and protect Hawaii's natural environment through consistent and uniform application of environmental laws".

Second, expedited appellate review of a final decision by the environmental court is currently available under Hawai'i Revised Statutes (HRS) § 602-58, "Application for transfer to the supreme court." Under that law an appeal can be transferred to the supreme court to allow for an expedited resolution where it presents "a question of imperative or fundamental public importance," among other grounds. As such, the environmental court should be the first court to evaluate a challenge of the type contemplated by House Bill No. 366 with that party then having the right to seek transfer of the subsequent appeal to the supreme court under HRS § 602-58.

Bottom line, today's decisions should consider the environmental and social impacts on future generations, and promote sustainable, long-term stewardship. While transitioning rapidly to clean energy and providing affordable

housing are both critical to meet the needs of our Hawaii residents, **we can and should do so in a way that is sustainable, ensuring ecological protection is not sidelined.**

If passed, this measure would likely result in serious negative consequences, as the number of potential issues and cases the Supreme Court would have to take on would significantly grow, including PUC decisions, BLNR and CWRM decisions. This will undoubtably create a serious backlog and anyone else who wants expeditious Supreme Court review, including environmental and public trust cases not involving those stipulated in this measure, may be impacted. **A better solution would be to properly resource the regulatory agencies so they stop taking shortcuts and prevent controversies from arising in the first place.**

Hawaii's environmental court provides **specialized judicial knowledge** to ensure the consistent and informed application of unique state environmental laws, upholding the state's constitutional duty to protect natural resources for present and future generations. And importantly, the Hawaii Supreme Court is already managing an impossible workload. Wait times for appeals are significant as is. Adding this would be counterproductive to the goal of timely administration of justice.

We urge the Committee to **HOLD** this measure.

Mahalo for the opportunity to testify.

Sherry Pollack
Co-Founder, 350Hawaii.org

**Terri Napeahi
1787 Auwae Rd
Hilo, Hawai'i
tnapeahi@yahoo.com
January 31, 2026**

**House Committee: EEP
Energy and Environmental Protection**

BILL NUMBER: HB 1981, HB 1982, HB 1979, & HB 1650

POSITION: STRONG OPPOSITION

RE: STRONG OPPOSITION RELATING TO GEOTHERMAL ENERGY EXPLORATION ON DHHL LANDS AND ENVIRONMENTAL REVIEWS

House Bill HB1981: RELATING TO A PROGRAM TO CHARACTERIZE CARBON SEQUESTRATION POTENTIAL AND GEOTHERMAL AND UNDERGROUND WATER RESOURCES STATEWIDE.

Establishes a Geothermal, Carbon Sequestration, and Underground Water Resource Characterization Program via slim hole bores and a related statewide environmental assessment. Appropriates funds for the program and positions to support the program.

House Bill HB1982: RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

Appropriates funds to the Department of Hawaiian Home Lands for certain geothermal resource exploration and development activities and the hiring of consultants.

House Bill HB1979: RELATING TO ENVIRONMENTAL REVIEW.

Shortens the period within which certain judicial proceedings involving environmental assessments and environmental impact statements for actions that propose the use of land for, or construction of, affordable housing or clean energy projects must be initiated. Requires judicial proceedings involving actions that propose the use of land for, or construction of, affordable housing or clean energy projects to be filed directly with the Supreme Court and prohibits the Supreme Court from awarding attorneys' fees in these judicial proceedings.

House Bill HB 1650: RELATING TO ENVIRONMENTAL ASSESSMENTS.

Removes historic sites and the Waikiki special district from the requirement for environmental assessments under section 343-5, HRS.

Title: RELATING TO GEOTHERMAL ENERGY EXPLORATION ON DHHL LANDS

Aloha Chair Nicole Lowen, Vice Chair Amy Perruso, and Members of the Committee,

I submit this testimony in **Strong Opposition** to the above-referenced measures, which requires the Hawai'i State Energy Office to conduct a statewide environmental assessment for, and subsequently administer, a Geothermal Resources Characterization Program under the direction of the University of Hawai'i Groundwater and Geothermal Resources Center, and appropriates funds for that purpose.

These Bills represent a fundamental shift toward institutionalizing geothermal exploration under the guise of research while simultaneously weakening environmental protections and public oversight. Of particular concern is the University of Hawai'i Groundwater and Geothermal Resources Center has been actively advancing legislative proposals that would override or shortcut existing environmental review requirements, including those involving seismic monitoring related to groundwater and geothermal exploration on Department of Hawaiian Home Lands (DHHL) and public trust lands.

Geothermal exploration is not a neutral scientific activity. It involves intrusive testing, drilling, and seismic monitoring that directly affect subsurface water systems, geologic stability, and culturally significant landscapes. Framing these activities as "characterization" does not change their physical impact or their legal implications. Authorizing such activities without full environmental review violates the precautionary principles embedded in Hawai'i law and undermines long-standing protections for trust resources. We strongly oppose, shortening "the period within which certain judicial proceedings involving environmental assessments and environmental impact statements for actions that propose the use of land for, or construction of, affordable housing or clean energy projects must be initiated. We strongly oppose amendments that will require judicial proceedings involving actions that propose the use of land for, or construction of, affordable housing or clean energy projects to be filed

directly with the Supreme Court and prohibits the Supreme Court from awarding attorneys' fees in these judicial proceedings.

Public trust lands and DHHL lands are not appropriate sites for experimental or exploratory geothermal programs. These lands are held in trust for specific Native Hawaiian beneficiaries and purposes, and any activity that risks contamination of groundwater, destabilization of geologic formations, or disruption of cultural sites constitutes a breach of fiduciary duty.

It is deeply concerning that the Department of Hawaiian Homes Lands proposing and administering the industrialization of Geothermal which is a violation of the State Constitution Article XII Section 7. The exclusion of Beneficiary consultation eliminates community input and oversight and creates a closed loop in which project proponents are empowered to define, implement, and evaluate their own impacts. Such an arrangement is incompatible with transparent governance and public accountability. Appropriation of State and/or Federal Funds with the intent of sponsoring statewide geothermal exploration threatens both the integrity of our trust land.

Furthermore, Industrialized geothermal development and drilling into **Kūpuna Pele** further endanger interconnected trust resources, including groundwater, air quality, and geologic stability. These risks are especially acute on the Moku O Keawe, where volcanic and aquifer systems are inseparable from subsistence practices, burial grounds, and ceremonial sites. **The State cannot lawfully authorize degradation of these resources under Article XI, Section 7 of the Hawai'i State Constitution or under the fiduciary standards imposed by the Admissions Act of 1959 in the name of speculative energy benefit.**

With respect to DHHL lands, the breach is even more severe. **These lands are held in trust under the Hawaiian Homes Commission Act for the exclusive benefit of Native Hawaiian beneficiaries. Legislation proposing industrialized geothermal exploration or development that authorizes drilling into Kūpuna Pele on DHHL lands without prior beneficiary authorization already constitutes a violation of fiduciary duty. Beneficiary consultation cannot be treated as a procedural afterthought or a remedy for an unlawful act.**

Furthermore, consultation does not cure desecration. The proposal of industrialized geothermal exploration, development and **drilling into Kūpuna Pele** on trust lands without consent reflects a failure to honor both the cultural foundations of these lands and the legal obligations established to protect them. Beneficiaries are not merely stakeholders; we are Lineal Descendants of our Hawai'i, trust beneficiaries whose rights must guide, not follow, legislative action.

Accordingly, I urge this Committee to reject this measure because it:

1. Authorizes geothermal exploration under the guise of research while weakening environmental review;
2. Undermines protections for groundwater, seismic stability, and culturally significant lands;
3. Threatens DHHL and public trust lands with intrusive exploration activities; and
4. Prioritizes energy policy over environmental law and trust obligations.

Energy planning must not come at the expense of environmental integrity, public trust responsibilities, or Native Hawaiian rights. Any geothermal-related activity must remain subject to full, site-specific environmental review and meaningful community consent, particularly where trust lands are concerned.

Mahalo for the opportunity to submit this testimony.
Respectfully,

Terri L. Napeahi
Truth for the People



LATE

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Representative Nicole E. Lowen, Chair

Representative Amy A. Perruso, Vice-Chair

TESTIMONY REGARDING HOUSE BILL 1979

Tuesday, February 3, 2026, 9:30 a.m.

Conference Room 325 & Videoconference

State Capitol

415 South Beretania Street

Aloha Chair Lowen, Vice-Chair Perruso, and Committee Members:

Based on our decades of familiarity and experience with Hawai'i Revised Statutes chapter 343, also known as the Hawai'i Environmental Policy Act or HEPA, Earthjustice expresses concerns about HB 1979. While we support genuine affordable housing projects and have an extensive track record of promoting clean energy projects and representing clean energy industry interests, we do not believe HB 1979's proposed amendments offer effective and meaningful benefits for such projects.

Reducing the statute of limitations for HEPA challenges across the board to only 30 days—even when, for example, a project disregards HEPA compliance and fails to do even the first step of an environmental assessment—does not save much time in the overall scheme and is not fair to the public and communities who may not have been properly informed because of deficient compliance. Indeed, it may perversely result in more litigation and delay by forcing communities to preemptively file rushed lawsuits just to preserve their rights.

In contrast, providing that HEPA challenges shall be filed directly with the supreme court may meaningfully streamline such challenges by bypassing several potential layers of review and appeal. We defer to the judiciary as to whether it believes this arrangement is advisable.

Prohibiting the award of attorneys' fees, however, is unnecessarily punitive. In cases where the court awards attorneys' fees, it is because it has determined that the defendant has violated the law. Prohibiting such awards will not effectively dissuade challenges, but it will unduly punish those who have legitimate and successful claims.

If the legislature is looking for ways to facilitate preferred projects, it should consider measures that appreciably save time and constructively promote efficiencies. In the HEPA context, the categorical exemption for affordable housing projects that was adopted in the HEPA regulation is one already existing example. *See* Hawai'i Administrative Rules § []. In

February 3, 2026

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general, it does not appear that the HEPA law and process is a priority concern for these projects that would warrant the law being singled out for such changes.

Mahalo for the opportunity to testify. Please do not hesitate to contact us with any questions or for futher information.

Isaac H. Moriwake, Esq.
Managing Attorney
Earthjustice, Mid-Pacific Office

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LATE

February 2, 2026

Testimony of The Outdoor Circle Opposing HB1979 (2026) as Drafted; Supporting Proposed Amendments Relating to Environmental Review

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

Thank you for the opportunity to submit testimony on HB1979 on behalf of The Outdoor Circle, a statewide, non-profit organization founded in 1912 and dedicated to protecting Hawai‘i’s natural beauty, scenic resources, and environmental quality for the benefit of present and future generations.

The Outdoor Circle recognizes and supports goals of affordable housing and expanding clean energy infrastructure in Hawai‘i. These are essential priorities, and delays caused by inefficiency, uncertainty, or lack of coordination should be addressed.

However, as currently drafted, HB1979 does not simply streamline environmental review. Its combined procedural changes have the potential to dramatically reduce public oversight and judicial accountability under Chapter 343, in ways that are neither necessary to achieve the bill’s stated goals nor advisable from a long-term policy perspective. Therefore we oppose this HB1979 in its current form and offer some suggested amendments to address these concerns.

Cumulative Impact on Oversight and Accountability

HB1979 shortens the statute of limitations for certain environmental review challenges to an impractically short thirty days, restricts venue exclusively to the Hawai‘i Supreme Court, eliminates the availability of attorneys’ fees, and applies these constraints to broadly defined categories of development.

Individually, each of these changes would meaningfully limit public participation and enforcement. Taken together, they significantly constrain the ability of communities, nonprofit organizations, and the public to ensure that environmental review requirements are followed as intended by law.

Environmental review under Chapter 343 is not a discretionary hurdle; it is a core accountability mechanism designed to ensure agencies take a hard look at environmental impacts before decisions are finalized and irreversible actions occur. Reducing access to review does not improve compliance—it reduces the likelihood that noncompliance will be identified and corrected.

Practical Consequences

In practice, HB1979 would:

- Require communities to identify and respond to deficiencies in complex environmental determinations within an impractically short timeframe, even when documents are technical, voluminous, or released with minimal notice;
- Disproportionately burden neighborhood groups, Native Hawaiian organizations, and public-interest nonprofits that lack immediate access to Supreme Court counsel or the resources to litigate without the possibility of recovering attorneys' fees;
- Increase the risk that inadequate environmental determinations go uncorrected, including failures to properly assess impacts to water resources, cultural sites, traffic systems, or public trust lands; and
- Create incentives for minimal or rushed compliance, rather than careful, defensible environmental analysis.

These outcomes do not advance housing or clean energy goals. Instead, they undermine public involvement and confidence, increase the risk of later conflict, and may ultimately delay projects through heightened opposition from perceived rushed or inadequate assessments.

A Better Path Forward

The Outdoor Circle supports the proposed amendments (See Attachment A) submitted alongside this testimony. These amendments preserve the Legislature's goal of expediting critical projects while restoring balance by:

- providing realistic timelines tied to actual public notice,
- maintaining access to circuit courts and factual record development,
- allowing courts to award reasonable attorneys' fees in actions enforcing Chapter 343,
- preserving long-standing public-interest standing, and
- clarifying that agency obligations under Chapter 343 are not diminished.

Importantly, these amendments do not weaken environmental review—they strengthen project certainty by reinforcing lawful, transparent decision-making.

Hawai'i does not face a choice between building housing, advancing clean energy, and maintaining environmental accountability. We can—and must—do all three. For these reasons, The Outdoor Circle respectfully opposes HB1979 as drafted, but urges the Committee to adopt the proposed amendments and move forward with a bill that accelerates development without sacrificing transparency, public participation, or the integrity of Hawai'i's environmental review process.

Thank you for your consideration of this testimony.



Winston Welch, Executive Director

Attachment A

Suggested Amendments to HB1979 (2026): Rationale and Policy Basis

The following amendments are offered to ensure that HB1979 is able to advance affordable housing and clean energy goals without unintentionally weakening Hawai‘i’s environmental review framework or limiting meaningful public oversight. These recommendations focus on preserving enforceability, fairness, and legal defensibility. The following points explain why each suggested amendment matters in practice and what is at risk if it is not adopted.

1. Allow Courts to Award Attorneys’ Fees

What the amendment does:

Restores the court’s discretion to award reasonable attorneys’ fees and costs to prevailing parties in actions enforcing Chapter 343.

Why this matters:

Environmental review laws rely on public enforcement. Unlike private disputes, Chapter 343 cases are typically brought to ensure lawful agency decision-making, not to obtain damages. Without the possibility of recovering attorneys’ fees, only parties with substantial financial resources can realistically bring these cases.

Hawai‘i courts already:

- limit fees to what is reasonable,
- deny fees in frivolous or marginal cases, and
- exercise broad discretion.

HB1979’s elimination of fees does not prevent abuse; it **eliminates enforcement**. This amendment simply preserves existing judicial tools and the status quo.

What breaks without it:

Chapter 343 becomes functionally unenforceable by the public, particularly for community groups and nonprofits. Oversight shifts almost entirely to agencies and project proponents.

2. Preserve Access to Circuit Courts, which includes the Environmental Court

What the amendment does:

Allows challenges to be filed in circuit court, with the option for expedited Supreme Court review.

Why this matters:

Circuit courts are where factual records are developed. They are more accessible, less costly, and designed to handle evidentiary disputes. Supreme Court-only jurisdiction:

- raises costs dramatically,
- eliminates fact-finding,
- and limits access to specialized counsel.

Direct Supreme Court filing should be the exception, not the rule.

What breaks without it:

Judicial review becomes impractical for most of the public, and courts lose the factual foundation needed for sound decisions.

3. Tie Filing Deadlines to Actual Public Notice

What the amendment does:

Clarifies that the statute of limitations begins only once final environmental determinations and supporting documents are publicly available.

Why this matters:

A shortened filing deadline is only fair if the public actually has access to the relevant information. Without this clarification, agencies could effectively start the clock before documents are reasonably discoverable.

This amendment does not extend deadlines arbitrarily; it aligns them with transparency and due process.

What breaks without it:

The public can lose its right to challenge agency action before it even knows a decision has been made.

4. Lengthen the Filing Deadline (Important, but Negotiable)

What the amendment does:

Replaces the proposed 30-day filing period with a more workable 90-day period.

Why this matters:

Environmental determinations are often technical, lengthy, and released without clear notice. Thirty days is insufficient for communities to:

- locate documents,
- consult experts or counsel,
- and make informed decisions.

A longer window reduces rushed litigation and improves case quality.

What happens if compromised:

A shorter period (e.g., 60 days) may be acceptable **only if** notice, venue, and fee provisions are preserved.

5. Preserve Public-Interest Standing

What the amendment does:

Clarifies that HB1979 does not narrow who has standing to enforce Chapter 343.

Why this matters:

Hawai‘i has a long tradition of broad public-interest standing in environmental cases. While HB1979 does not explicitly narrow standing, its combined restrictions could invite arguments that only directly affected parties may sue. This language prevents unintended erosion through interpretation.

6. Preserve Judicial Authority to Order Corrective Action

What the amendment does:

Confirms that courts retain authority to order corrective action where environmental review was improperly bypassed.

Why this matters:

Expedited timelines should not be read as limiting courts’ equitable powers. This amendment ensures that agencies remain accountable even when timelines are shortened.

7. Narrow the Definition of “Clean Energy Project”

What the amendment does:

Prevents expedited treatment from applying to projects with significant land use, shoreline, or public trust impacts unless environmental review is completed.

Why this matters:

“Clean energy” can encompass projects with substantial environmental and cultural impacts. Narrowing the definition avoids misuse of expedited procedures and reduces conflict.

Political reality:

This provision may warrant serious consideration.

END

In Support of HB 1979

“Requires judicial proceedings involving actions that propose the use of land for, or construction of, affordable housing or clean energy projects to be filed directly with the Supreme Court and prohibits the Supreme Court from awarding attorneys' fees in these judicial proceedings”.

From Ron Tubbs, B.S.N.D. UHM

Lawyers for Environmental Groups have been awarded attorneys' fees in lawsuits that were based on misinformation! Please do not reward these lawyers with attorneys fee for user group conflict and lies!

Court injunction halts commercial ocean permitting in Kā'anapali; hundreds to lose jobs. Exemptions by DOBAR and DLNR are being sought regarding this EIS court requirement (based on new EIS laws), but it appears to me that the Supreme Court will not allow them to stand on legal appeal.

What do the Super Ferry, Thirty Meter Telescope, Aquarium Fishery, and now all Commercial Fisheries and All Ocean-based Tourism Permits have in common?

Act 343 is shutting them down solely due to user conflict, not environmental concerns.

Whereas Chapter 343 HRS does not imply anywhere in its statutes that ocean-based permits apply. This law was intended for land-based construction.

Recent Kā'anapali Court decision: Hundred without Jobs After many of them Lost Their Homes to the Lahaina Wildfire, permits are likely to be removed before expiring. The Lahaina harbor still needs 34 million in renovations before tour companies can use it for business, leaving these companies shut down.

Act 343 Supreme Court Interpretation Flawed; all DLNR-issued ocean permits now apply to 343 environmental laws, and the pro-Hawaiian BLNR biased

decisions will not likely allow permits for some, even if HEPA laws are adhered to (for example, the aquarium fishery was denied permits even with Act 343 HEPA EIS passage).

“Earth Justice Lies”

Lying under oath at a Hawaii legislative hearing, or to legislators to introduce legislation based on false claims, constitutes perjury, a serious Class C felony, because legislative hearings are official proceedings in which statements are made under oath; false, material statements are punishable by imprisonment and fines. It's a crime of dishonesty that undermines official processes, akin to lying in court, and may result in severe penalties, including up to 5 years in prison.

Known lies are frequently used by the anti-aquarium-fish coalition, led by Earthjustice and a few tourist groups. Hawaiians are being duped into believing these lies.

How does a proven sustainable fishery with increasing fish counts lose its permits? Why would they need to conduct an EIS, given that they are highly regulated and have decades of fish counts and proven sustainability data? User group conflict led to widespread misinformation and lies, which were used to close the fishery. Is that justice?

Researchers have sought to correct this misinformation campaign by sending letters and emails and even contacting Earth Justice, but have received no response. Efforts by the fishery to engage with these anti-fishery groups have resulted in no reconciliation or compromise. The false information continues, with only a complete shutdown acceptable to these anti-sustainable fishing groups.

Earth Justice lawyers continue to earn record fees, supported by billionaire Michael Dell, The Four Seasons Resort, and other wealthy anti-fishing, tourist-based user-conflict interests.

No scientific study supports a loss of income for ocean-based tourist businesses due to the aquarium fishery; in fact, a review of the economics shows a decline in tourism when the fishery was closed.

To remedy this grave miscarriage of justice, we ask you, as the legislator, not to introduce any anti-aquarium fish legislation and to allow the BLMR's recent 7-0 ruling in favor of the fishery to continue.

On October 24, 2025, the BLMR voted 7-0 to approve the rules package permitting aquarium fishing in West Hawaii.

This rulemaking process now moves forward and should result in the issuance of EIS-approved permits for the aquarium fishery in West Hawaii.

The West Hawaii Aquarium Fishery Environmental Impact Statement (EIS) was approved in June 25, 2021. A legal battle over commercial fish collection culminated in the Hawaii Supreme Court upholding the pet industry's EIS in August 2024, finding it legally sufficient and allowing the state to potentially issue permits for sustainable collection in the [West Hawaii Regional Fishery Management Area](#) (WHRFMA).

Even with the 2021 EIS approval, no permits were issued. This is not only a great travesty to fishers and fisheries, but also to ecology, as sustainable fisheries are the most renewable and valuable in the state, providing sustainable jobs.

Allowing these unconstitutional actions to occur in Hawaii sends a message to other businesses considering doing business in Hawaii. **Hawaii's EIS process will shut you down, no matter the ecological impacts, unconstitutionally, and cost you hundreds of thousands of dollars and years of litigation with no permits!**

The aquarium fishery has been treated unconstitutionally. Allowing misinformation perjury in the courts to require this fishery to do an EIS while every other DLNR ocean use permit does not have to do an EIS.

Systemic injustices against groups involve advocating fairness in legal processes. The EIS process is a nest for weaponizing user conflict.

We need to address this official misconduct (such as obstruction of justice under HRS § 710-1072.5) and seek reform to prevent future judicial and legislative misconduct and misuse of the EIS process for personal and group gain, as well as EIS legal blackmail.

“The Lies”

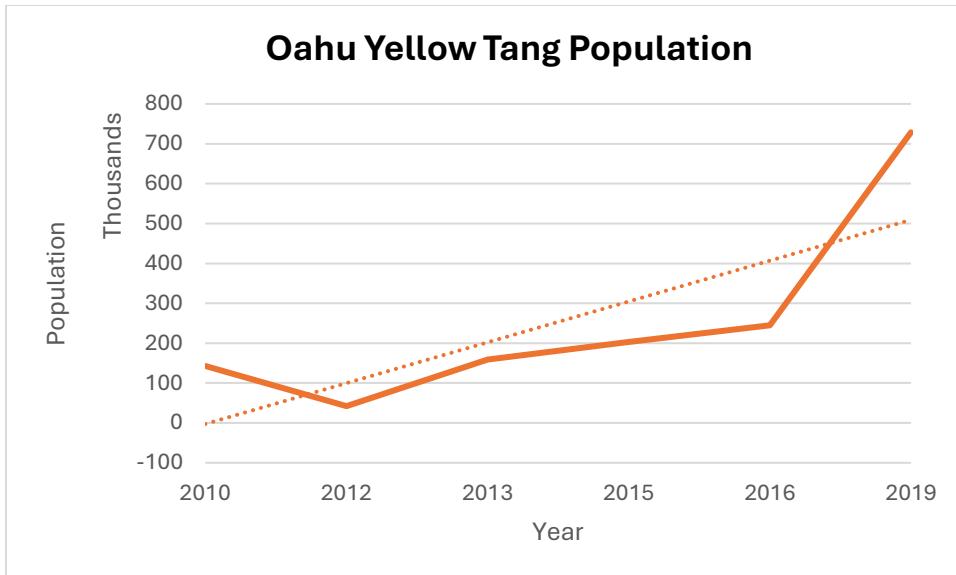
The 2017 ruling to ban the fishery was based on testimony from individual tourist group business owners who stated that the fishery reduced fish populations, damaged coral reefs, disrupted algal-coral symbiosis, allowed unlimited catch, and affected their businesses. Every single one of these statements has no scientific validity. In fact, every single one of these statements was untrue. 25 years of fishery counts, coral monitoring, and many research studies disproved every single statement!

In the 2017 Supreme Court Ruling, the Justices held that the fishery, at least on Oahu, could continue under the CML Commercial Martine License. Yet Earth Justice Lawyers in many news interviews stated, “The fishery is closed and turn in fishers if you see them to enforcement.”

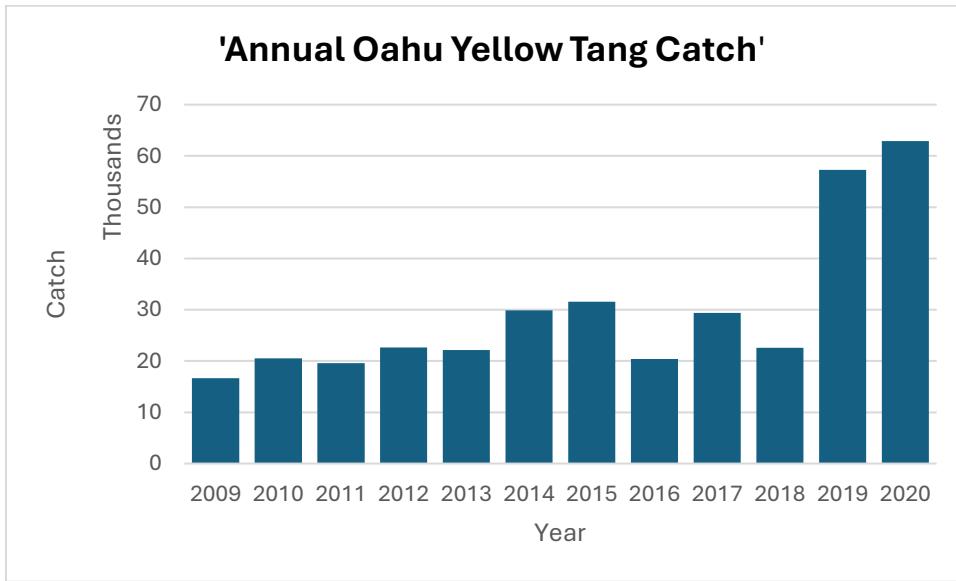
DLNR continued to issue CML permits to the fishery until Jan. 2021. Earth Justice again lied to the courts to obtain the CML permit's removal, claiming that the fishery was taking unlimited fish from Oahu because West Hawaii was closed. They used DLNR fish catch data. But what does it really show? Why was that a lie?

The Facts Oahu Yellow Tang CML take stats:

Oahu Yellow Tang, ***Zebrasoma flavescens***, **DAR** Catch Report Data for the Aquarium Fishery between 2009 to 2020, comparison to Fish Populations 2010 to 2019 done by **PIFSC**, Pacific Islands Fisheries Science Center (PIFSC). One would expect to see an inverse relationship in these charts if the fishery were not sustainable. The Oahu Aquarium Fishery's most targeted species, Yellow Tangs, from 2009 to 2020, has the following data that supports the fishery despite increased take being done at a sustainable level.



2010 to 2019 done by PIFSC, Pacific Islands Fisheries Science Center (PIFSC)
 Yellow Tangs *Zebrasoma flavescens* 2010-2019 Oahu Population Hard Bottom
 0-98 ft only. Currently done only every three years. Data is only available for the
 years of surveys listed above



DAR Catch Report Stats Yellow Tangs *Zebrasoma flavescens* 2009-2020

Clearly, Fish Counts and all available data show a Sustainable Fishery!

Due to the West Hawaii closure in 2017, the yellow tang catches for Oahu increased, but the fish populations also increased (2017-2019 above). It is important to note that the Oahu Aquarium fishery operated between 2010, the first year of the fish surveys, and 2020. The above fish population data shows an increase in fish populations during the fisheries' activities from 2010 to 2020. Notably, the greatest increase in the yellow tang population occurred during the highest catch years of the Oahu fishery. After the Courts ordered the EIS requirement, the fishery on Oahu continued under CML licenses from 2017 to the end of 2020. Data from West Hawaii also show no significant declines in fish counts attributable to fishing catches across decades of surveys, indicating stable populations during the fisheries' open years. This stability also continues even in higher catch years.

As you can see above and now below, facts and letters substantiating the continued lies of the fishery opposition, please support the sustainable aquarium fishery!

Enough with the Misinformation about the Aquarium Fishery-

The Lies Exposed Scientist Speak

Dr. DAN A. POLHEMUS : “ This serves to point out that undue focus and hyperbole about aquarium collecting and its impact on the reefs is dangerously shortsighted and counterproductive. We need to think and act holistically.” Dr. DAN A. POLHEMUS Division of Aquatic Resources State of Hawaii DLNR 1151 Punchbowl St. Honolulu, HI 96813 Real important ecological issues have been left by the wayside anti aquarium fish propaganda has hurt the environment!

ROBERT E. HUETER, Ph.D.: “I see that TIRN is now taking credit for legislation to stop the Hawaiian aquarium trade. This is not something I would've necessarily supported and, given the chance, would have discussed the sustainability of this trade with you. Please see the attached editorial on this issue by my respected friend and aquarium expert, Dr. Bruce Carlson. **If TIRN is going to continue to operate like this, taking semi-scientific positions without consulting its own Science Advisors, then I wish for you to remove me from your list of advisors.**” ROBERT E. HUETER, Ph.D. Senior Scientist &

Director, Center for Shark Research

Perry W. Gilbert Chair in Shark Research Manager, Sharks & Rays

Conservation Research Program Mote Marine Laboratory 1600 Ken Thompson Parkway Sarasota, FL 34236 USA

Dr. Bruce Carlson, PHD: “You can now see how the misuse of science and scientists (**ROBERT E. HUETER**) has resulted in the present situation in Hawaii, where one of **the best studied inshore (and most highly regulated) fisheries has been trashed by passionate and very misguided individuals**. They are led here by a **few master manipulators of disinformation spewing forth wild accusations based on anecdotal evidence**. Brian Tissot and Leon Hallacher (2002 *Cons. Biol.* 17(6): 1759-1768) went out in the field and actually did the hard work to collect data and found no significant differences (algal cover, coral damage) in areas where fish are collected compared to protected areas nearby (DLNR has similar data). They DID report a “significant” difference in the populations of aquarium fishes in the two areas (no one disputes that there should be fewer fishes in areas where they are being collected). But to show you how scientific terms are corrupted by opponents, they equate “significant” with “damaging” (it’s reminiscent of the issue we have with the public misunderstanding the concept of “theory” used in a scientific context). For 17 years, DLNR biologists have conducted extensive underwater surveys, nearly 7000, to monitor the populations of aquarium fish species on the Kona coast, where the major aquarium fishery is located. The result is the fishery is stable and sustainable. **There is no evidence of ecological harm to the reefs. In fact, the populations of yellow tang and kole on the Kona coast, even in areas that are fished, are significantly higher than marine protected areas on Maui and even Papahanaumokuakea.**” Dr. Bruce Carlson PHD, former director, Waikiki Aquarium, Atlanta Aquarium

Tina Owens executive director of the LOST FISH Coalition: “A great deal of the “sky is falling” news you’ve heard about the reef recently is just **plain not true. Clearly if the goal is to get rid of the industry and management prevents that goal being reached, then discrediting the benefits and successes of management would seem the only way left to go.** And so they have taken that path. They have held community meetings and displayed a lot of false or twisted data, quoting from papers outdated by more than 15 years,

and “re-interpreting” data from scientific papers. They have been telling people that “there are no fish left,” which is patently untrue. I once had a woman tell me with great passion and assurance that there are no fish left anywhere in West Hawaii. I asked her why she thought that, and she replied that everyone knew it. I asked if she swam in the ocean. No. Did she dive? No. Did she know anything about the management strategies in place? No. She had, however, just come from an “information session” in which she heard these things from Wintner’s frontman Rene Umberger and Inga Gibson.”

William Walsh Ph.D., Ivor Williams Ph.D., Brian Tissot Ph.D.; Leon Hallacher Ph.D.; Bruce Carlson Ph.D.; Charles Birkeland Ph.D.; Jeremy Claisse Ph.D.; Mark Christie Ph.D.; Richard Pyle Ph.D.; Leighton Taylor Ph.D.; Randy Kosaki Ph.D.; Cynthia Hunter Ph.D.; Brian Bowen Ph.D.; Brian Zgliczynski Ph.D.; Jeff Ebel Ph.D.; Alan Friedlander Ph.D.; Kosta Stamoulis Ph.D.; Delisse Ortiz Ph.D.; Jan Dierking Ph.D.; Rob Toonen Ph.D.; and Jim Beets Ph.D. letter: “What is particularly **distressing and demoralizing about the BLNR decision was that it clearly was not based on the best available science** and relevant monitoring data. “Relating to the West Hawaii Regional Fishery Management Area.” The 2015 and 2020 Report found that the **“The Hawaii marine aquarium fishery is currently the most economically valuable commercial inshore fishery** in the State with FY 2014 reported landings greater than \$2.3 million.” 15. This actually understates the overall economic impact of the aquarium trade, as it includes only the sales of the fish themselves. It does not account for the sales of boats, equipment, fuel, packaging or the related services such as repairs cargo handling, inspectors, or shipping associated with aquarium fish collection. Misinformation about the Environmental Impact of Aquarium Fish Collection 16. There is a **great deal of public misinformation about the effects of the aquarium fishery in Hawai‘i**. In support of and as part of the public record of the Governor’s veto this summer of SB 1240, twelve PhD fisheries scientists signed the letter attached as Exhibit 1 to my declaration. Rather than rely on anecdotal reports of citizens who feel like fish populations have declined, they cited to peer-reviewed scientific reports demonstrating: · Data collected from 1999 to date from over 6,700 underwater

surveys show that populations of the most heavily collected aquarium fish species (yellow tang and DECLARATION OF MICHAEL F. BOBER IN SUPPORT OF INTERVENTION- 5 kole) are increasing, not declining. **This clearly indicates that the fishery is sustainable.”**

· “Adult populations of these species are *no different* in fished areas than they are in reserve areas (adult fish are not collected). Adult female yellow tang produce up to 20,000 eggs in each of multiple spawning events during the year, **ensuring a sustainable fishery**. Yearly one pair produces 1.14 million fry. “

.” The data and scientific reports show so **no significant differences in the health of the coral systems in collection areas as opposed to the system of protected Fish Replenishment Areas where no collection is allowed.** 17. The signatories to this letter are some of the most respected fisheries scientists in Hawai‘i and on the mainland. “

- Brian Bowen, Ph.D., Research Professor, Hawai‘i Institute of Marine Biology, U.H.
- Bruce Carlson, Ph.D., former Director, Waikiki Aquarium (retired)
- Michael Domeier, Ph.D., Director, Marine Conservation Science Institute (Kona)
- Cynthia Hunter, Ph.D., Director, Marine Option Program & Assoc. Prof., Dept. of Biology, U.H.
- Randall Kosaki, Ph.D., Hawai‘i Coral Reef Biologist
- Richard Pyle, Ph.D. Associate Zoologist, Bernice P. Bishop Museum
- John E. Randall, Ph.D., Senior Ichthyologist, Bernice P. Bishop Museum (retired)
- Andrew Rossiter, Ph.D., Director, Waikiki Aquarium, U.H.
- Andrew Rhyne, Ph.D., Assoc. Professor, Roger Williams University
- Leighton Taylor, Ph.D., former Director, Waikiki Aquarium (retired)

Brian Tissot, Ph.D., · Rob Toonen, Ph.D., : “The Aquarium Fishery, especially in West Hawai‘i, is an example of community involvement working with government to create a fishery management system that is a model for other fisheries. We are concerned with the level of **false information and lack of data these individuals have used to support their assertions**, and the **havoc they have created over a well-managed fishery** that has benefited from the aforementioned good-will partnerships. It is not possible to provide a detailed analysis of all the

scientific methods, data, and conclusions available on this issue in this brief letter, but these peer-reviewed findings have been independently checked by researchers at multiple Universities across the country and have subsequently been supported by additional independent surveys performed by the Coral Reef Ecosystem Division of the federal National Oceanic and Atmospheric Administration (NOAA).

They concluded:

There were no significant differences in damaged coral between control and collected sites to indicate the presence of destructive fishing practices. In addition, there were no increases in the abundance of macroalgae where the abundance of herbivores was reduced by aquarium collecting. DLNR has more recent data showing no significant differences in herbivore biomass or macroalgal cover between Fish Replenishment Areas and open areas.

Amazing Videos Must Watch: Educational

[West Hawaii Commercial Aquarium Fishery Presentations Department Of Land and Natural Resources](#) DAR State of Hawaii presentation confirming the low impact of the fishery on April 12th, 2024, presentation. DAR Researchers recommend giving out aquarium fish permits.

Non-embedded hyperlink: <https://www.youtube.com/watch?v=djtlsvg7qs&t=11s>

[Aquarium Fishery; Scientists Hawaii Speak Out](#) Researchers explain how Earth justice lies in closing the fishery and expose Rene Umber and Snorkel Bob's misinformation campaign against it. The DAR head explained decades of research on the fishery.

Non-embedded hyperlink: https://www.youtube.com/watch?v=AU_WZOyJzqk&t=9s

[Fishery Sustainable Dr. Bill Walsh, Richard Pyle and NOAA Video](#)

Non-embedded hyperlink: <https://www.youtube.com/watch?v=50L6JcMOVLQ&t=219s>

Please change Act 343 Laws to protect, not shut down, Hawaii Businesses!

Ron Tubbs, B.S. N.D. UHM

HB-1979

Submitted on: 1/30/2026 5:43:45 PM
Testimony for EEP on 2/3/2026 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacob Wiencek	Individual	Support	Written Testimony Only

Comments:

Aloha Committeemembers,

Our state is being crushed by an intense regulatory burden. We are **UNABLE** to build the necessary housing or renewable energy infrastructure to provide sustainable economic development and opportunity for working- and middle-class families. HB1979 moves us in the **RIGHT** direction, by reducing these regulatory burdens. I **STRONGLY URGE** this committee to **SUPPORT** bill!

HB-1979

Submitted on: 1/30/2026 8:42:51 PM
Testimony for EEP on 2/3/2026 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Glen Kagamida	Individual	Support	Written Testimony Only

Comments:

SUPPORT. WORTH TRYING.

HB-1979

Submitted on: 1/31/2026 9:54:16 PM
Testimony for EEP on 2/3/2026 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Oppose	Written Testimony Only

Comments:

Dana Keawe

Strongly Oppose HB 1979

House Committee: EEP

Energy and Environmental Protection

BILL NUMBER: HB 1981, HB 1982, HB 1979, HB 1650, & HB 1543

POSITION: STRONG OPPOSITION

RE: STRONG OPPOSITION RELATING TO GEOTHERMAL ENERGY EXPLORATION ON DHHL LANDS AND ENVIRONMENTAL REVIEWS

House Bill HB1981: RELATING TO A PROGRAM TO CHARACTERIZE CARBON SEQUESTRATION POTENTIAL AND GEOTHERMAL AND UNDERGROUND WATER RESOURCES STATEWIDE.

Establishes a Geothermal, Carbon Sequestration, and Underground Water Resource Characterization Program via slim hole bores and a related statewide environmental assessment. Appropriates funds for the program and positions to support the program.

House Bill HB1982: RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

Appropriates funds to the Department of Hawaiian Home Lands for certain geothermal resource exploration and development activities and the hiring of consultants.

House Bill HB1979: RELATING TO ENVIRONMENTAL REVIEW.

Shortens the period within which certain judicial proceedings involving environmental assessments and environmental impact statements for actions that propose the use of land for, or construction of, affordable housing or clean energy projects must be initiated. Requires judicial proceedings involving actions that propose the use of land for, or construction of, affordable housing or clean energy projects to be filed directly with the Supreme Court and prohibits the Supreme Court from awarding attorneys' fees in these judicial proceedings.

House Bill HB 1650: RELATING TO ENVIRONMENTAL ASSESSMENTS.

Removes historic sites and the Waikiki special district from the requirement for environmental assessments under section 343-5, HRS.

House Bill HB 1543: RELATING TO ENVIRONMENTAL REVIEW.

Specifies a time limit for the validity of a finding of no significant impact of a final environmental assessment or acceptance of a final environmental impact statement for a proposed action. Requires an agency or applicant to commence a new environmental review process for the proposed action if the validity expires.

SAMPLE TESTIMONY:

Title: RELATING TO GEOTHERMAL ENERGY EXPLORATION ON DHHL LANDS

Aloha Chair Nicole Lowen, Vice Chair Amy Perruso, and Members of the Committee,

I submit this testimony in Strong Opposition to the above-referenced measures, which requires the Hawai‘i State Energy Office to conduct a statewide environmental assessment for, and subsequently administer, a Geothermal Resources Characterization Program under the direction of the University of Hawai‘i Groundwater and Geothermal Resources Center, and appropriates funds for that purpose.

These Bills represent a fundamental shift toward institutionalizing geothermal exploration under the guise of research while simultaneously weakening environmental protections and public oversight. Of particular concern is the University of Hawai‘i Groundwater and Geothermal Resources Center has been actively advancing legislative proposals that would override or shortcut existing environmental review requirements, including those involving seismic monitoring related to groundwater and geothermal exploration on Department of Hawaiian Home Lands (DHHL) and public trust lands.

Geothermal exploration is not a neutral scientific activity. It involves intrusive testing, drilling, and seismic monitoring that directly affect subsurface water systems, geologic stability, and culturally significant landscapes. Framing these activities as “characterization” does not change their physical impact or their legal implications. Authorizing such activities without full environmental review violates the precautionary principles embedded in Hawai‘i law and undermines long-standing protections for trust resources. We strongly oppose, shortening “the period within which certain judicial proceedings involving environmental assessments and environmental impact statements for actions that propose the use of land for, or construction of, affordable housing or clean energy projects must be initiated. We strongly oppose amendments that will require judicial proceedings involving actions that propose the use of land for, or construction of, affordable housing or clean energy projects to be filed directly with the Supreme Court and prohibits the Supreme Court from awarding attorneys' fees in these judicial proceedings.

Public trust lands and DHHL lands are not appropriate sites for experimental or exploratory geothermal programs. These lands are held in trust for specific Native Hawaiian beneficiaries and purposes, and any activity that risks contamination of groundwater, destabilization of geologic formations, or disruption of cultural sites constitutes a breach of fiduciary

duty.

It is deeply concerning that the Department of Hawaiian Homes Lands proposing and administering the industrialization of Geothermal which is a violation of the State Constitution Article XII Section 7. The exclusion of Beneficiary consultation eliminates community input and oversight and creates a closed loop in which project proponents are empowered to define, implement, and evaluate their own impacts. Such an arrangement is incompatible with transparent governance and public accountability.

Appropriation of State and/or Federal Funds with the intent of sponsoring statewide geothermal exploration threatens both the integrity of our trust land.

Furthermore, Industrialized geothermal development and drilling into Kūpuna Pele further endanger interconnected trust resources, including groundwater, air quality, and geologic stability. These risks are especially acute on the Moku O Keawe, where volcanic and aquifer systems are inseparable from subsistence practices, burial grounds, and ceremonial sites. The State cannot lawfully authorize degradation of these resources under Article XI, Section 7 of the Hawai‘i State Constitution or under the fiduciary standards imposed by the Admissions Act of 1959 in the name of speculative energy benefit.

With respect to DHHL lands, the breach is even more severe. These lands are held in trust under the Hawaiian Homes Commission Act for the exclusive benefit of Native Hawaiian beneficiaries. Legislation proposing industrialized geothermal exploration or development that authorizes drilling into Kūpuna Pele on DHHL lands without prior beneficiary authorization already constitutes a violation of fiduciary duty. Beneficiary consultation cannot be treated as a procedural afterthought or a remedy for an unlawful act.

Furthermore, consultation does not cure desecration. The proposal of industrialized geothermal exploration, development and drilling into Kūpuna Pele on trust lands without consent reflects a failure to honor both the cultural foundations of these lands and the legal obligations established to protect them. Beneficiaries are not merely stakeholders; we are Lineal Descendants of our Hawai‘i, trust beneficiaries whose rights must guide, not follow, legislative action.

Accordingly, I urge this Committee to reject this measure because it:

1. Authorizes geothermal exploration under the guise of research while weakening environmental review;
2. Undermines protections for groundwater, seismic stability, and culturally significant lands;
3. Threatens DHHL and public trust lands with intrusive exploration activities; and
4. Prioritizes energy policy over environmental law and trust obligations.

Energy planning must not come at the expense of environmental integrity, public trust responsibilities, or Native Hawaiian rights. Any

geothermal-related activity must remain subject to full, site-specific environmental review and meaningful community consent, particularly where trust lands are concerned.

Mahalo for the opportunity to submit this testimony.

Respectfully,
Dana Keawe

HB-1979

Submitted on: 1/31/2026 10:03:39 PM
Testimony for EEP on 2/3/2026 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kanoeuluwehianuhea Case	Truth For the People	Oppose	In Person

Comments:

Kanoeuluwehianuhea Case

Kanoesc@gmail.com

01/31/2026

House Committee: EEP

Energy and Environmental Protection

BILL NUMBER: HB 1981, HB 1982, HB 1979, HB 1650, & HB 1543

POSITION: STRONG OPPOSITION

RE: STRONG OPPOSITION RELATING TO GEOTHERMAL ENERGY EXPLORATION
ON DHHL LANDS AND ENVIRONMENTAL REVIEWS

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SEQUESTRATION POTENTIAL AND GEOTHERMAL AND UNDERGROUND WATER
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It is deeply concerning that the Department of Hawaiian Homes Lands proposing and administering the industrialization of Geothermal which is a violation of the State Constitution Article XII Section 7. The exclusion of Beneficiary consultation eliminates community input and oversight and creates a closed loop in which project proponents are empowered to define, implement, and evaluate their own impacts. Such an arrangement is incompatible with transparent governance and public accountability. Appropriation of State and/or Federal Funds with the intent of sponsoring statewide geothermal exploration threatens both the integrity of our trust land.

Furthermore, Industrialized geothermal development and drilling into Kūpuna Pele further endanger interconnected trust resources, including groundwater, air quality, and geologic stability. These risks are especially acute on the Moku O Keawe, where volcanic and aquifer systems are inseparable from subsistence practices, burial grounds, and ceremonial sites. The State cannot lawfully authorize degradation of these resources under Article XI, Section 7 of the Hawai‘i State Constitution or under the fiduciary standards imposed by the Admissions Act of 1959 in the name of speculative energy benefit.

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3. Threatens DHHL and public trust lands with intrusive exploration activities; and
4. Prioritizes energy policy over environmental law and trust obligations.

Energy planning must not come at the expense of environmental integrity, public trust responsibilities, or Native Hawaiian rights. Any geothermal-related activity must remain subject to full, site-specific environmental review and meaningful community consent, particularly where trust lands are concerned.

Mahalo for the opportunity to submit this testimony.

Respectfully,

Kanoeuluwehianuhea Case

HB-1979

Submitted on: 2/1/2026 1:23:00 PM
Testimony for EEP on 2/3/2026 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Shannon Rudolph	Individual	Oppose	Written Testimony Only

Comments:

Oppose.

Whittling down an E.I.S. to 'Environmental Assessment' and now to an "Environmental Review' is unacceptable.

Weakening the rules is not protecting us or the aina.

Oppose. Wind & solar, better, cheaper, greener.

The FURTHER you live from toxic geothermal, the better it sounds - not so much for nearby residents.

HB-1979

Submitted on: 2/1/2026 11:26:05 PM
Testimony for EEP on 2/3/2026 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Mar Ortaleza	Individual	Oppose	Written Testimony Only

Comments:

Mar Ortaleza

13-926 Kahukai Street

Pahoa HI 96778

Bongbongortaleza@gmail.com

February 1, 2026

BILL NUMBER: HB 1981, HB 1982, HB 1979, & HB 1650

POSITION: STRONG OPPOSITION

RE: STRONG OPPOSITION RELATING TO GEOTHERMAL ENERGY EXPLORATION ON DHHL LANDS AND ENVIRONMENTAL REVIEWS

House Bill HB1981: RELATING TO A PROGRAM TO CHARACTERIZE CARBON SEQUESTRATION POTENTIAL AND GEOTHERMAL AND UNDERGROUND WATER RESOURCES STATEWIDE.

Establishes a Geothermal, Carbon Sequestration, and Underground Water Resource Characterization Program via slim hole bores and a related statewide environmental assessment. Appropriates funds for the program and positions to support the program.

House Bill HB1982: RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

Appropriates funds to the Department of Hawaiian Home Lands for certain geothermal resource exploration and development activities and the hiring of consultants.

House Bill HB1979: RELATING TO ENVIRONMENTAL REVIEW.

Shortens the period within which certain judicial proceedings involving environmental assessments and environmental impact statements for actions that propose the use of land for, or construction of, affordable housing or clean energy projects must be initiated. Requires judicial proceedings involving actions that propose the use of land for, or construction of, affordable housing or clean energy projects to be filed directly with the Supreme Court and prohibits the Supreme Court from awarding attorneys' fees in these judicial proceedings.

House Bill HB 1650: RELATING TO ENVIRONMENTAL ASSESSMENTS.

Removes historic sites and the Waikiki special district from the requirement for environmental assessments under section 343-5, HRS.

Title: RELATING TO GEOTHERMAL ENERGY EXPLORATION ON DHHL LANDS

Aloha Chair Nicole Lowen, Vice Chair Amy Perruso, and Members of the Committee,

I submit this testimony in **Strong Opposition** to the above-referenced measures, which requires the Hawai‘i State Energy Office to conduct a statewide environmental assessment for, and subsequently administer, a Geothermal Resources Characterization Program under the direction of the University of Hawai‘i Groundwater and Geothermal Resources Center, and appropriates funds for that purpose.

These Bills represent a fundamental shift toward institutionalizing geothermal exploration under the guise of research while simultaneously weakening environmental protections and public oversight. Of particular concern is the University of Hawai‘i Groundwater and Geothermal Resources Center has been actively advancing legislative proposals that would override or shortcut existing environmental review requirements, including those involving seismic monitoring related to groundwater and geothermal exploration on Department of Hawaiian Home Lands (DHHL) and public trust lands.

Geothermal exploration is not a neutral scientific activity. It involves intrusive testing, drilling, and seismic monitoring that directly affect subsurface water systems, geologic stability, and culturally significant landscapes. Framing these activities as “characterization” does not change their physical impact or their legal implications. Authorizing such activities without full environmental review violates the precautionary principles embedded in Hawai‘i law and undermines long-standing protections for trust resources. We strongly oppose, shortening “the period within which certain judicial proceedings involving environmental assessments and environmental impact statements for actions that propose the use of land for, or construction of, affordable housing or clean energy projects must be initiated. We strongly oppose amendments that will require judicial proceedings involving actions that propose the use of land for, or construction of, affordable housing or clean energy projects to be filed directly with the Supreme Court and prohibits the Supreme Court from awarding attorneys' fees in these judicial proceedings.

Public trust lands and DHHL lands are not appropriate sites for experimental or exploratory geothermal programs. These lands are held in trust for specific Native Hawaiian beneficiaries and purposes, and any activity that risks contamination of groundwater, destabilization of geologic formations, or disruption of cultural sites constitutes a breach of fiduciary duty.

It is deeply concerning that the Department of Hawaiian Homes Lands proposing and administering the industrialization of Geothermal which is a violation of the State Constitution Article XII Section 7. The exclusion of Beneficiary consultation eliminates community input and oversight and creates a closed loop in which project proponents are empowered to define, implement, and evaluate their own impacts. Such an arrangement is incompatible with transparent governance and public accountability. Appropriation of State and/or Federal Funds with the intent of sponsoring statewide geothermal exploration threatens both the integrity of our trust land.

Furthermore, Industrialized geothermal development and drilling into **Kūpuna Pele** further endanger interconnected trust resources, including groundwater, air quality, and geologic stability. These risks are especially acute on the Moku O Keawe, where volcanic and aquifer systems are inseparable from subsistence practices, burial grounds, and ceremonial sites. **The State cannot lawfully authorize degradation of these resources under Article XI, Section 7 of the Hawai‘i State Constitution or under the fiduciary standards imposed by the Admissions Act of 1959 in the name of speculative energy benefit.**

With respect to DHHL lands, the breach is even more severe. **These lands are held in trust under the Hawaiian Homes Commission Act for the exclusive benefit of Native Hawaiian beneficiaries. Legislation proposing industrialized geothermal exploration or development that authorizes drilling into Kūpuna Pele on DHHL lands without prior beneficiary authorization already constitutes a violation of fiduciary duty. Beneficiary consultation cannot be treated as a procedural afterthought or a remedy for an unlawful act.**

Furthermore, consultation does not cure desecration. The proposal of industrialized geothermal exploration, development and **drilling into Kūpuna Pele** on trust lands without consent reflects a failure to honor both the cultural foundations of these lands and the legal obligations established to protect them. Beneficiaries are not merely stakeholders; we are Lineal Descendants of our Hawai'i, trust beneficiaries whose rights must guide, not follow, legislative action.

Accordingly, I urge this Committee to reject this measure because it:

1. Authorizes geothermal exploration under the guise of research while weakening environmental review;
2. Undermines protections for groundwater, seismic stability, and culturally significant lands;
3. Threatens DHHL and public trust lands with intrusive exploration activities; and
4. Prioritizes energy policy over environmental law and trust obligations.

Energy planning must not come at the expense of environmental integrity, public trust responsibilities, or Native Hawaiian rights. Any geothermal-related activity must remain subject to full, site-specific environmental review and meaningful community consent, particularly where trust lands are concerned.

Mahalo for the opportunity to submit this testimony.

Respectfully,

Mar Ortaleza

Resident, Leilani Estates

HB-1979

Submitted on: 2/1/2026 11:41:49 PM
Testimony for EEP on 2/3/2026 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Robert Petricci	Individual	Oppose	Written Testimony Only

Comments:

Aloha
Robert Petricci
in opposition to HB1979

This bill creates a slippery slope other developers will point to in arguing for the same exclusion of community and public being allowed to bring legitimate concerns to the table. It will impact poor people and communities who do not have law corporations on retainer like the developers who want these changes do, disproportionately. Areas like Keaukaha are examples of hazardous industries being dumped in poor communities. This is the reason these laws exist....

The dumping of toxic industries in poor communities is a longstanding issue that has been exacerbated by historical and systemic injustices. This practice has led to significant health risks and environmental degradation, particularly affecting marginalized racial and ethnic communities. The U.S. has seen a significant concentration of hazardous waste sites in areas with lower income and higher racial diversity, often without proper oversight or environmental protection measures.

Forbids the Supreme Court from awarding attorney fees? Meaning only rich people can participate? Is that who you represent? Is that even constitutionally legal? It is hard to believe you are serious, but I know you are. From here in the community that sounds just like something out of Donald Trump's playbook. There needs to be checks and balances on his and your power, IMO.

Shortens the period within which certain judicial proceedings involving environmental assessments and environmental impact statements for actions that propose the use of land for, or construction of, affordable housing or clean energy projects must be initiated. Requires judicial proceedings involving actions that propose the use of land for, or construction of, affordable housing or clean energy projects to be filed directly with the Supreme Court and prohibits the Supreme Court from awarding attorneys' fees in these judicial proceedings.

Mahalo for considering my objection

Robert Petricci

HB-1979

Submitted on: 2/2/2026 8:53:44 AM
Testimony for EEP on 2/3/2026 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Justine Kamelamela	Individual	Oppose	Written Testimony Only

Comments:

Strongly Oppose

HB-1979

Submitted on: 2/2/2026 9:14:22 AM
Testimony for EEP on 2/3/2026 9:30:00 AM

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

Comments:

I support the intent of this bill. Time is of the essence when considering both housing and clean energy deployment. Process has been used by the few to hinder the needs of the many. This bill seeks to mitigate that condition.

HB-1979

Submitted on: 2/2/2026 9:58:38 AM
Testimony for EEP on 2/3/2026 9:30:00 AM

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

Comments:

The state should facilitate affordable housing and energy project development for the betterment of Hawaii.

HB-1979

Submitted on: 2/2/2026 6:15:08 PM
Testimony for EEP on 2/3/2026 9:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Testify
Pua Case	Individual	Oppose	In Person

Comments:

I respectfully oppose HB1979.

This bill weakens Hawai‘i’s environmental review law by limiting public oversight and access to the courts, especially for projects labeled as affordable housing or clean energy. While these types of projects are important, they should not be exempt from full and fair environmental review.

HB1979 shortens the time the public has to challenge inadequate or missing environmental review to just 30 days. Environmental documents are often long and technical, and this timeline makes it unrealistic for community members to understand the impacts, consult experts, and seek legal help.

The bill also creates unequal treatment under the law by giving certain projects special protections, even though their environmental and cultural impacts may be significant. Environmental harm isn’t reduced by branding a project a certain way.

Requiring these cases to be filed directly in the Hawai‘i Supreme Court and prohibiting the awarding of attorneys’ fees further discourages legitimate legal challenges. These provisions favor well-funded developers and agencies while making it harder for residents and community groups to hold decision-makers accountable.

Environmental review exists to ensure informed decisions, transparency, and public participation. HB1979 moves Hawai‘i in the wrong direction by prioritizing speed over stewardship.

For these reasons, I urge you to oppose HB1979.

Pua Case

HB-1979

Submitted on: 2/2/2026 7:51:53 PM
Testimony for EEP on 2/3/2026 9:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Testify
Selah levine	Individual	Oppose	Written Testimony Only

Comments:

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Energy planning must not come at the expense of environmental integrity, public trust responsibilities, or Native Hawaiian rights. Any geothermal-related activity must remain subject to full, site-specific environmental review and meaningful community consent, particularly where trust lands are concerned.

HB-1979

Submitted on: 2/2/2026 11:14:50 PM
Testimony for EEP on 2/3/2026 9:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Testify
Pi'ikea Loa	Individual	Oppose	Written Testimony Only

Comments:

Strongly oppose HB1979 . While housing and clean energy are surely important, the solutions should not come from cutting corners in the process and at the expense of our environment. Further more, the Supreme Court should not be overburdened with cases that belong in lower/other courts.

Pono Kealoha
1107 Acacia Rd #113
Pearl City, HI 96782
ponosize808@gmail.com
2/2/26

LATE

House Committee: EEP

Energy and Environmental Protection

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RE: STRONG OPPOSITION RELATING TO GEOTHERMAL ENERGY EXPLORATION ON DHHL LANDS AND ENVIRONMENTAL REVIEWS

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Mahalo for the opportunity to submit this testimony.

Respectfully,
Pono Kealoha

HB-1979

Submitted on: 2/3/2026 12:08:26 AM
Testimony for EEP on 2/3/2026 9:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Testify
Gregory Misakian	Individual	Oppose	Remotely Via Zoom

Comments:

Aloha Chair, Vice Chair, and Members of the EEP Committee,

I am submitting testimony as an individual.

I currently serve as the President of the Kokua Council, Vice President of the Hawaii Alliance for Retired Americans (HARA), and was formerly a Waikiki Neighborhood Board Member from Jan. 2023 until June 2025.

I am in opposition to HB1979 as written. While I believe there may have been good intentions, HB1979 does more to harm the rights of those who have valid environmental concerns, and would also circumvent the Environmental Court, which is not good for the residents of Hawaii.

I ask that you please vote no on HB1979.

Respectfully,

Gregory Misakian