

STATE OF HAWAII
DEPARTMENT OF HEALTH
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Testimony COMMENTING on SB2046 HD1
RELATING TO UNDERGROUND STORAGE TANKS

REPRESENTATIVE MARK J. HASHEM, CHAIR
HOUSE COMMITTEE ON WATER & LAND

1 Hearing Date, Time and Room Number: 3/24/2026, 9:00am, 411

2 **Fiscal Implications:** Undetermined

3 **Department Position:** The Department of Health (Department) provides comments with strong
4 reservations on this measure.

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

7 The Department appreciates and supports the intent of this measure, to hold polluters
8 accountable and require cleanup of the environment, however, in reviewing this measure, we
9 find that this measure is not necessary as the Department already has the authority necessary
10 to do this work. The Department already has ample authority to identify the source of releases
11 from UST systems, whether the release is in the form of jet fuel or another petroleum product,
12 and hold those responsible for these releases fully accountable for the restoration of the
13 environment. The Department's existing rules, in chapter 11-280.1, Hawaii Administrative
14 Rules (HAR), which allow a release to be "confirmed" also then require the responsible party to
15 clean up the release, including any petroleum-derived contamination associated with that
16 release. The Department's ability to restore the environment will not benefit from the addition

1 (from an early draft of this bill) of the mandate to amend its rules to require the removal of jet
2 fuel to “levels below the detection limits of the best and most sensitive technology and
3 methods available” [S.B. 2046 p.4, lines 1-3], nor does it need the addition of a statutory
4 “rebuttable presumption” [p. 4, lines 4-10].

5 The Department’s remediation authority for releases from underground storage tank
6 (UST) systems in chapter 11-280.1, Hawaii Administrative Rules (HAR), already enables the
7 Department to require the cleanup of confirmed releases to the extent and in a manner that is
8 “protective of human health and the environment” [11-280.1-65.3, HAR]. In the case of total
9 petroleum hydrocarbons, middle-distillate range (where jet fuel falls), the existing Tier 1
10 screening levels, found in Table 1 of chapter 11-280.1, HAR, are already very close to what the
11 standard analytical method is capable of reliably detecting without conducting additional
12 forensics testing (even with forensics testing, sometimes it may still be difficult to discern
13 whether the detection is petroleum or other natural organic material, such as plant waxes and
14 algae). If for any reason, however, the Department determines that the levels in Tier 1 are not
15 low enough to protect human health and the environment, the responsible party can be
16 required to go further and “implement necessary changes to the cleanup activities in response
17 to the department’s notice” [11-280.1-65.3(c), HAR].

18 With respect to the creation of a “rebuttable presumption,” as referenced in previous
19 versions of this measure and House Standing Committee Report 1222-26, the Department
20 already has the authority it needs to require responsible parties to clean up contamination
21 related to a release. Existing subchapter 5 already places the burden upon owners and
22 operators of UST systems to investigate suspected releases, take all steps necessary to confirm
23 a release and remediate the contamination from that release, a process that is functionally
24 equivalent to a rebuttable presumption an early draft of this bill appears to have been designed
25 to introduce but which is already embodied in the Department’s existing regulatory framework.

1 Once a release from the UST is confirmed, existing subchapter 6 requires that the full extent
2 and location of the release be determined, including off-site locations.

3 Consequently, the limitation on the cleanup of releases is not any specific number,
4 attribution of responsibility, or other legal consideration, rather, this limitation is more typically
5 a consequence of what is scientifically or physically possible under a specific set of geologic and
6 hydrogeologic circumstances.

7 The Department respectfully conveys its strong reservations with this measure because
8 it does not contribute to the overall effectiveness of its regulation of UST systems or releases of
9 jet fuel. The Department asks that this measure be held because its advancement only adds
10 further confusion to the question of what the Department's authority actually is to require
11 specific remediation efforts. The Department's difficulty in complex release response scenarios
12 is not its authority to require the response nor its ability to assign responsibility to the
13 appropriate owner and operator, rather, it is the scientific and practical challenges that a
14 particular site presents to effective remediation goals.

15 **Offered Amendments:** None.

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



‘Ōlelo Hō‘ike ‘Aha Kau Kānāwai

COMMENTS ON SENATE BILL 2046 SD2 HD1
RELATING TO UNDERGROUND STORAGE TANKS

Ke Kōmike Hale o ka Wai a me ka ‘Āina
(House Committee on Water and Land)

Ke Kapikala o Hawai‘i
(Hawai‘i State Capitol)

Malaki 24, 2026

9:00 AM

Lumi 411

Aloha e Chair Hashem, Vice Chair Morikawa, and Members of the House Committee on Water and Land:

The Office of Hawaiian Affairs (OHA) offers **COMMENTS** on **SB2046 SD2 HD1**, which sets environmental restoration standards for the release of jet fuel from underground storage tanks. This measure is critical to safeguarding wai, our most vital natural and cultural resource, from contamination by jet fuel.

Since time immemorial, Native Hawaiians have understood wai as the foundation of life and wellbeing. The Hawai‘i State Constitution’s public trust doctrine enshrines and advances this principle by mandating the state manage Hawai‘i’s water resources for the benefit of present and *future* generations. See Art. XI, § 1.

The catastrophic November 2021 Red Hill fuel leak demonstrated the devastating consequences of regulatory failures that have allowed numerous fuel leaks to threaten O‘ahu’s precious sole-source aquifer. The Navy’s water system, which serves over 93,000 residents on O‘ahu, was contaminated by jet fuel that poisoned thousands of families—including Native Hawaiian households. To this day, families who drink from the contaminated water or who live in homes on the Navy’s water system experience severe health effects ranging from skin rashes and nausea to chronic illnesses.

These types of dire health effects threaten to extend across the island if contaminated water spreads throughout O‘ahu’s sole source aquifer. It is for this reason that the original version of SB2046 required complete clean up of contamination; to

protect present and future generations from the harmful effects of drinking jet fuel and related contaminants.

Accordingly, OHA is concerned by amendments made to subsection (b), removing language that required the cleanup and removal of jet fuel “to levels below the detection limits of the best and most sensitive technology and methods available, with the goal of complete remediation.” Surrendering a commitment to restore our precious, irreplaceable wai is an unacceptable compromise that shirks the state’s duty to protect wai as a public trust resource, and uphold the principle of mālama ‘āina that reflects our kuleana to future generations.

Additionally, the removal of “rebuttable presumption” language compromises timely clean up of potential fuel leaks. Without rebuttable presumption, time is spent investigating all potential underground storage tank owners and operators in the area to discover who is at fault before implementing clean up instead of all owners and operators of tanks immediately taking action to clean up and investigate the leak. This inversion of the response to leaks that delay clean up increases the potential spread of the contamination.

OHA respectfully requests the committee amend page 3, lines 11-16, to read as follows:

"(b) Restoration of the environment from a release of jet fuel from an underground storage tank or tank system with a storage capacity greater than one million gallons, as described in subsection (a)(3), shall require the cleanup and removal of jet fuel, including jet fuel additives and compounds resulting from the degradation of jet fuel or jet fuel additives, or the reaction of jet fuel or jet fuel additives with water or other chemicals, to levels below the detectable limit of the best available detection technology.

(c) For the purposes of subsection (b), it shall be a rebuttable presumption that the detection of any amount of jet fuel, jet fuel additives, or compounds derived from jet fuel or jet fuel additives in the environment or groundwater in the vicinity of an underground storage tank or tank system, after a confirmed release from an underground storage tank or tank system, is the result of the confirmed release."

Mahalo nui for the opportunity to testify on this critical issue. For the reasons stated above, OHA respectfully urges this committee to consider our concerns and **PASS SB2046 SD2 HD1 WITH THE AMENDMENTS described above.**

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

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EDWIN H. SNIFFEN, Ex-Officio
GENE C. ALBANO, P.E., Ex-Officio

March 24, 2026

The Honorable Mark J. Hashem, Chair
and Members
House Committee on Water and Land
Hawaii State Capitol, Room 411
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Hashem and Members:

Subject: Senate Bill 2046 SD 2, HD 1: Relating to Underground Storage Tanks

The Honolulu Board of Water Supply (BWS) strongly opposes Senate Bill (SB) 2046, Senate Draft (SD) 2, House Draft (HD) 1. The BWS favors the original SB 2046.

This bill proposes to amend Hawaii Revised Statutes (HRS) Section 342L-30 to add a new paragraph 3(b) that requires the cleanup and removal of jet fuel, including jet fuel additives and compounds resulting from the degradation of jet fuel or jet fuel additives, or the reaction of jet fuel or jet fuel additives with water or other chemicals, as much as practicable. When performing cleanup, the effectiveness will need to be verified by collecting samples and testing them for any jet fuels and additives that remain after cleanup.

The Environmental Protection Agency (EPA) specifies testing methods used to measure contaminants present in environmental samples. Some of these test methods are very sensitive and can measure contaminants to very low levels. Others are less sensitive but still able to give reliable results. Given the proposed section specifies cleanup "as much as practicable", we cannot be assured that the most sensitive test method will be used to ensure cleanup effectiveness. Contaminants present at the cleanup site could go undetected if the statute does not require using the most sensitive test method. This condition does not remove all of jet fuel and additives present and restore the environment to the condition before the jet fuel was released.

The Merriam-Webster Dictionary defines the word "practicable" as capable of being into practice or of being done or accomplished. The use of this word in the proposed new


The Honorable Mark J. Hashem, Chair
and Members
March 24, 2026
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section in HRS 342L-30 does not assure that cleanup is accomplished to completely clean and restore the environment to pre-release conditions.

For these reasons we urge replacing the proposed section in SB 2046, SD2 with the language in SB2046 which states cleanup will be done to “levels below the detection limits of the best and most sensitive technology and methods available, with the goal of complete remediation.”

Thank you for the opportunity to testify in strong opposition to SB 2046, SD 2, HD 1.

Very truly yours,



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



HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

March 24, 2026

9:00 AM

Conference Room 411

Offering **COMMENTS** on **SB2046 SD2 HD1**: RELATING TO THE FUEL TANK ADVISORY COMMITTEE

Aloha Chair Hashem, Vice Chair Morikawa, and Members of the Committee,

On behalf of our over 20,000 members and supporters, the Sierra Club of Hawai'i **offers COMMENTS on SB2046 SD2 HD1**, which seeks to set a standard for remediation of jet fuel released into the environment from an underground storage tank system, including but not limited to the Red Hill Bulk Fuel Underground Storage Facility. The Sierra Club strongly urges to Committee to follow the calls of the Red Hill Water Alliance Initiative and the O'ahu community, to ensure that this measure actually imposes a meaningful standard of full remediation for the contamination of our aquifer and environment from the Navy's reckless disregard of our island's most precious resource.

Over four years since the Red Hill catastrophe, the Navy has still provided no meaningful strategy or specific plans for the remediation of the harm it has inflicted upon our water - and that of our children, grandchildren, and future generations. The Red Hill WAI Policy Coordinator has only identified an unpublished, unreviewed study on bacteria found in O'ahu's soil that could biodegrade – but not necessarily bioremediate - JP-5 (and none of the other compounds released from the Red Hill Facility), without any investigation into the continued toxicity of the degraded fuel or strategy for using such bacteria for groundwater remediation; meanwhile, the “soil vapor extraction” pilot program put forward by the Navy will have no effect the contamination plume in O'ahu's sole-source aquifer. It is far past time for the legislature to intervene and take a stand for our 'āina, wai, and people – including generations yet unborn, who may otherwise inherit an aquifer that was contaminated on our generation's watch.

To be clear: there should be no jet fuel in the precious, sacred, and pure (or once pure) wai that our islands have blessed us with. **Unfortunately, the Department of Health's continual resistance to this reasonable expectation has resulted in this measure being amended to the point of being practically unenforceable.** The “as much as practicable” standard in the current draft of this measure, incorporated at the behest of the Department, is so ambiguous that both the Department of Health and Navy could allow any amount of contamination to remain in our environment, and in our water, for generations – claiming that any further cleanup would be “impracticable” for any number of reasons (lack of funding, failure to invest in remediation research, etc.). **Both this ambiguous and unenforceable standard as well as the removal of the rebuttable presumption in the original draft of this measure would also allow the Navy to hide behind a legal system that has already excused it from true accountability for the**



physical, emotional, and professional harms suffered by thousands of Red Hill-impacted individuals, including children.

Accordingly, the Sierra Club urges the Committee to stand with the elected and agency leaders in the Red Hill Water Alliance Initiative, the Hawai'i community as a whole, and our home and 'āina itself, by adopting a clear, simple, and common sense standard for the clean up of the Navy's mess, as described below:

By amending page 3, lines 11-16, to read as follows:

"(b) Restoration of the environment from a release of jet fuel from an underground storage tank or tank system with a storage capacity greater than one million gallons, as described in subsection (a)(3), shall require the cleanup and removal of jet fuel, including jet fuel additives and compounds resulting from the degradation of jet fuel or jet fuel additives, or the reaction of jet fuel or jet fuel additives with water or other chemicals, to levels below the detectable limit of the best available detection technology.

(c) For the purposes of subsection (b), it shall be a rebuttable presumption that the detection of any amount of jet fuel, jet fuel additives, or compounds derived from jet fuel or jet fuel additives in the environment or groundwater in the vicinity of an underground storage tank or tank system, after a confirmed release from an underground storage tank or tank system, is the result of the confirmed release."

Accordingly, the Sierra Club of Hawai'i respectfully but strongly urges the Committee to **AMEND SB2046 SD2 HD1** as described above. Mahalo nui for the opportunity to testify.



Environmental Caucus of The Democratic Party of Hawai'i

Testimony of the Environmental Caucus of the Democratic Party of Hawai'i

SUPPORT WITH AMENDMENTS SB 2046 SD2 HD1 — RELATING TO UNDERGROUND STORAGE TANKS

Hearing: House Water and Land (WAL),
Tuesday, March 24, 2026, 9:00 a.m. Room 411 & Video

Aloha, Chair Hashem, Vice Chair Morikawa, and Members of the Committee,

The Environmental Caucus of the Democratic Party of Hawai'i supports SB 2046 SD2 HD1 with amendments and respectfully requests restoration of the strong, science-based cleanup standard contained in the original version of the bill.

SB 2046 SD2 HD1 establishes requirements for environmental restoration following a confirmed release from an underground storage tank.

However, the current draft replaces the original, enforceable cleanup standard with the substantially weaker phrase “as much as practicable.” This change undermines both the timing and the quality of remediation and creates a loophole that allows contamination to remain in the environment indefinitely.

The original bill language required a clear, measurable, and protective standard:

“Restoration of the environment, as described in subsection (a)(3), shall require the cleanup and removal of jet fuel, including jet fuel additives and compounds resulting from the degradation of jet fuel or jet fuel additives, or the reaction of jet fuel or jet fuel additives with water or other chemicals, *as soon as practicable, to levels below the detection limits of the best and most sensitive technology and methods available, with the goal of complete remediation.*”

This standard is essential for Hawai'i's aquifers, which supply drinking water to hundreds of thousands of residents and cannot be replaced once contaminated. The weakened SD2 HD1 language — “as much as practicable” — is subjective, unenforceable, and inconsistent with the State's obligation to protect public health and natural resources.



Testimony on SB 2046 SD2 HD1 re Underground Storage Tanks

Hearing: March 24, 2026

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For these reasons, the Environmental Caucus respectfully requests that the Committee restore the original cleanup language to ensure:

1. Clear timing requirements (“as soon as practicable”)
2. Science-based cleanup thresholds (“below detection limits”)
3. Use of the best available technology
4. A goal of complete remediation, not partial or discretionary cleanup.

With these amendments, SB 2046 will once again reflect the strong protections necessary to safeguard Hawai'i's drinking water and groundwater resources.

Thank you very much for the opportunity to testify on this critically important bill!

Alan B. Burdick, Co-chair burdick808@gmail.com

Mike Ewall, Co-chair mike@energyjustice.net

Melodie Aduja, Co-chair *emerita* legislativepriorities@gmail.com

Environmental Caucus Democratic Party of Hawai'i



To: The House Committee on Water & Land
From: Sherry Pollack, Co-Founder, 350Hawaii.org
Date: Tuesday, March 24, 2026, 9am

In support of SB2046 SD2 HD1 if amended

Aloha Chair Hashem, Vice Chair Morikawa, and members of the Water & Land committee,

I am Co-Founder of the Hawaii chapter of 350.org, the largest international organization dedicated to fighting climate change. 350Hawaii.org **was** in **strong support** of this measure that required an owner or operator of an underground storage tank or tank system with a confirmed release to meet certain standards for the restoration of the environment. The amended version of this measure, based on recommendations by the Department of Health (DOH), seriously weakens the intent of this critical legislation, and as such, this measure should be amended back to its original form.

It is very disappointing that the DOH, whose mission is to “protect and improve the health and environment for all people in Hawai‘i” would suggest such a vague and practically unenforceable “as much as practicable” standard for the remediation of our precious wai. The irony is not lost that it was the DOH that issued the permit to the Navy to begin with, allowing them to store jet fuel 100 feet above our sole-source aquifer until the inevitable spill occurred.

It’s been over four years now since that catastrophic spill from the fuel storage tanks at Red Hill. In all this time, the Navy has failed to make any meaningful investments in remediation efforts. This is unacceptable.

Passage of this measure in its original language is essential as it would finally establish a common-sense legal standard that will also be binding on the federal government. Hawai‘i **had** been blessed with some of the purest water on Earth, until the Navy, by their criminal recklessness and negligence, contaminated our sole source aquifer with jet fuel, PFAS, simple green, and we don’t know what else. Bottom line: there should be NO jet fuel or any other contaminant in our precious drinking water or in our environment. Period.

Hawai‘i's drinking water supply was already at risk because of climate change. All the more reason to ensure we take great care in protecting our aquifer, keeping it safe for current and future generations. We welcome legislation that will lead to the complete and full remediation of our aquifer. Nothing less should be acceptable.

We urge you to **amend SB2046 HD1 back to its original form.**

Thank you for the opportunity to testify on this very important bill.
Sherry Pollack
Co-Founder, 350Hawaii.org

SB-2046-HD-1

Submitted on: 3/20/2026 4:29:37 PM

Testimony for WAL on 3/24/2026 9:00:00 AM

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

Comments:

This bill was originally supposed to get us cleaner water, but instead, the revisions have watered down the Navy's accountability!

The Navy lied to us for decades:

- by omission - not immediately disclosing all the leaks; and more often, denying that they existed;**
- during their testimonies at State and City & County hearings; and**
- at Fuel Tank Advisory Committee meetings.**

Based on its dubious history with the truth, we know the Navy will NOT 'do its best' to clean up their mess; but, like the oily water they created, will take the path of least resistance.

This bill needs to go forward, BUT with the strongest possible text to hold them fulluy accountable and to do a thorough cleanup of the mess they caused with deceit, denial and neglect.

We're only getting one shot here; make it count for Hawai'i!

SB-2046-HD-1

Submitted on: 3/20/2026 4:33:22 PM

Testimony for WAL on 3/24/2026 9:00:00 AM

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

Comments:

I SUPPORT this bill, but with the ORIGINAL text that held the Navy responsible for a very thorough cleanup of their mess. Not the 'free pass' they are getting with the revised text.

The Navy needs to clean up every drop of fuel they put in our island's water.

Why on Earth would the Department of HEALTH want otherwise?

SB-2046-HD-1

Submitted on: 3/20/2026 7:53:26 PM

Testimony for WAL on 3/24/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Keoni Shizuma	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am testifying in support of SB2046.

This seems pretty straight forward and makes the most sense. If there is a release in the area, that contaminants from the release that are detected are presumed from the confirmed release. If there is reasons to believe otherwise, than that point can be proven, but it should be presumed from the confirmed release.

Mahalo for your consideration,
Keoni Shizuma

SB-2046-HD-1

Submitted on: 3/20/2026 9:09:19 PM

Testimony for WAL on 3/24/2026 9:00:00 AM

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

Comments:

Aloha Chair, Vice Chair, and members of the Committee,

I am writing in **support of SB2046**, but with a critical concern: the bill's core enforcement standard has been dangerously weakened. As amended at the behest of the Department of Health, this measure now only requires the Navy to clean up jet fuel contamination **"to the extent practicable."** This vague, subjective language must be corrected before this bill moves forward.

The original premise of SB2046 was common sense and moral clarity: jet fuel released from underground storage tanks—including the Red Hill facility—must be fully cleaned up. Period. After the 2021 catastrophe that poisoned the drinking water of thousands of O‘ahu families, after years of Navy delay and denial, and after repeated assurances that contamination would simply "go away naturally" over decades, the state has a responsibility to establish an **enforceable, measurable cleanup standard.**

Unfortunately, the current language does not meet that standard.

"To the extent practicable" is a loophole, not a requirement. It invites delay, dispute, and deflection. It allows the Navy to argue that full remediation is too difficult, too expensive, or simply inconvenient. It leaves the door open for the same kind of inaction we have witnessed for over four years. Meanwhile, our aquifer—the sole source of drinking water for generations of Hawai‘i's families—remains at risk.

We need this bill to keep moving. But we also need the House to recognize that the bill's current form is now so vague as to be practically unenforceable. I urge your committee to restore language requiring cleanup to **below-detectable levels using the most sensitive technology available**, as originally intended.

Hawai‘i's people cannot afford more studies, more delays, or more corporate loopholes. We cannot afford to let the Navy off the hook with feel-good language that lacks teeth. The state must insist that the ultra-wealthy and powerful interests responsible for this mess—including the U.S. Navy—pay their fair share and clean up their mess fully.

I urge the committee to **advance SB2046, but to revert its enforcement language to a clear, measurable, and enforceable standard.** No more practicability. No more delay. Full cleanup, now.

Mahalo for the opportunity to testify.

SB-2046-HD-1

Submitted on: 3/21/2026 10:56:12 AM

Testimony for WAL on 3/24/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Johnnie-Mae L. Perry	Individual	Support	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry, Support

2046 SB RELATING TO UNDERGROUND STORAGE TANKS.