

HB 834

**Measure
Title:**

**RELATING TO WATER
QUALITY STANDARDS.**

**Report
Title:**

Water Quality Standards

Description:

Amends state water quality standards for marine waters to conform to federal standards. (HB834 HD2)

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

COMMITTEE ON HEALTH
COMMITTEE ON ENERGY & ENVIRONMENT
HB 834, HD2 Relating to Water Quality Standards

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

March 18, 2009

3:30 p.m.

1 **Department's Position:** The Department supports this bill with amendments.

2 **Fiscal Implications:** None for the Department.

3 **Purpose and Justification:** This bill revises by statute the water quality standards for bacteria in
4 marine waters and the water quality standards for toxic pollutants in all waters.

5 **Toxic pollutants.** The Department agrees with the concept of changing the state water quality
6 standards for most toxic pollutants by tying them to the national criteria currently recommended by the
7 U.S. Environmental Protection Agency (EPA). The Department also agrees with amending state water
8 quality standards for bacteria indicators for recreational water to be consistent with latest EPA standards,
9 with changes to the identification of recreational waters, also explained below. The only changes we
10 suggest in this bill are a correction in Section 2.(a)(1), replacing "chromium IV" with "chromium VI,"
11 and the addition of a Section 2.(c) that consists of a table specifying the toxic pollutants and specific
12 numeric criteria to be adopted pursuant to Sections 2.(a) and 2.(b), as attached to the rationale document
13 that accompanies this testimony and will be provided to the Committees at this hearing.

1 **Rules and statutes.** The Department has been working on amendments to its water quality
2 standards rules, Hawaii Administrative Rules (HAR) chapter 11-54. The first set of amendments is
3 narrower than this bill, and is scheduled for public hearing on April 27, 2009. These amendments,
4 targeted for completion by June 2009, will correct a typographical error in the chlordane standard
5 (human health criteria for fish consumption) and provide conformance to federal standards for bacterial
6 indicators within 300 meters of shore. A second set of amendments to adopt the current EPA
7 recommended human health criteria (fish consumption only) for chlordane and dieldrin is in peer review
8 and should be completed shortly after the first set. We plan to have the second set heard on April 27,
9 2009, also. In October 2008, we announced our intention to update the state criteria for all the toxic
10 pollutants to meet 2006 EPA criteria (aquatic life criteria and human health criteria), which might take
11 several additional months. This third set of amendments includes, but is not limited to the same changes
12 as today's bill. We do support excluding for now new standards for certain named metals, certain new
13 "non-priority" toxic pollutants, and insuring that the lack of a 2006 EPA criterion does not impliedly
14 repeal an existing state standard. A rationale document supporting these changes will be provided to the
15 Committees as an attachment to this testimony at the hearing. If there are public concerns about the
16 criteria that would be adopted for specific pollutants, we encourage them to be brought forward as soon
17 as possible during this legislative process.

18 **Indicator bacteria.** The Department supports Section 3 of this bill, which proposes essentially
19 the same changes as our stalled 2005 administrative revision package. The most notable changes are to
20 use the national standard geometric mean of 35 colony forming units (CFU) of enterococcus per 100
21 milliliters (ml) of water, instead of the state geometric mean of 7 cfu/100 ml., and a depth limit on the
22 marine recreational waters. These changes were developed with the assistance of the Sierra Club and
23 the Surfrider Foundation and were previously supported by these groups. Section 3 of the bill includes a
24 new 33 meter depth limit designation for coastal recreational waters, creates a class of infrequent use

1 recreational waters and sets its shore most boundary 500 meters from shore, and its outer boundary is the
2 3 mile limit of state waters, and changes bacterial indicator criteria within these coastal recreational
3 waters to match federal regulatory levels. Through the efforts of our departmental Indicator Bacteria
4 Working Group in 2004-2005, we understand that most recreational diving activity occurs within thirty-
5 three meters of the surface, and that most recreational surfing and swimming takes place within five
6 hundred meters of shore.

7 Given the low degree of scientific confidence in the validity of federal indicator bacteria criteria
8 in general, State of Hawaii participation in nationwide efforts to improve these criteria, and the structure
9 of State and EPA standards for adjacent waters, it is in the best interests of the State, EPA, and the
10 scientific community for Hawaii to maintain consistency with the current national criteria, until new
11 indicators or approaches can be promulgated by EPA as a result of its current development efforts.

12 Raising the geometric mean standard to 35 CFU per 100 ml will allow the DOH lab to use faster
13 analytical methods that are not suitable for our current standard of 7 CFU per 100 ml. Because most if
14 not all coastal states use 35 CFU per 100 ml as their coastal waters standard, new analytical methods are
15 under development for counts in the range of 35 CFU per 100 ml, and not for lower counts.

16 Using a 35 CFU per 100 ml geometric mean standard will also reduce inconsistency. Upstream
17 from the marine waters where our current standard of 7 CFU per 100 ml applies, the inland water
18 standard, per EPA recommendation, is 33 CFU per 100 ml. In ocean waters beyond the coastal waters
19 where our current standard of 7 CFU per 100 ml applies, the EPA standard of 35 CFU per 100 ml
20 applies. This checkerboard of standards creates a confusing situation that is more difficult to implement.

21 **Public health.** The attached rationale document explains why the 2006 EPA criteria for toxic
22 pollutants amply protect Hawaii's health and the environment.

23 For bacteria, in the nineteen years since the current state criteria were adopted, the Department
24 has not seen any reliable scientific evidence to suggest that public health will be compromised by these

1 proposed changes. The epidemiological research from the 1970s and 1980s on sewage tainted waters
2 that informed the establishment of the EPA standard of 35 CFU/100 ml was extrapolated by DOH in
3 1990 to establish the current criteria of 7 CFU per 100 ml. It was believed that the standard of 7 CFU
4 corresponds with 10 cases of gastroenteritis per 1000 swimmers who swallow a mouthful of ocean water
5 that is contaminated with treated sewage, compared with 19 such cases under the national standard of 35
6 CFU per 100 ml. We now know that in Hawaii's waters we can have high indicator counts even in the
7 absence of human sewage, because of enterococcus from soils and animals. A large epidemiological
8 study by California in San Diego showed that the use various indicator bacteria had little power to
9 predict illness in the absence of human sewage. Over twenty years of new scientific knowledge about
10 the limitations of the original epidemiological research and the indicator upon which it relies, lead us to
11 conclude that the difference between 7 and 35 CFU/100 ml is not a significant public health concern.

12 In practice, we require or post warnings of known sewage spills and do not wait for test results,
13 which now take at least a day. We will continue our current practice used for the 7 CFU per 100 ml
14 standard, for any future chronic exceedances of the proposed 35 CFU per 100 ml standard, and our
15 practice is to investigate to confirm or rule out sewage influences and issue advisories when we
16 determine that the source of enterococcus is likely to be human, or otherwise threatening to public
17 health.

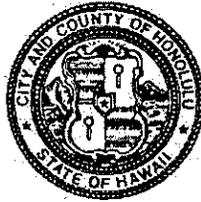
18 **Federal requirements.** Under federal law, EPA must approve state water quality standards
19 before they can be implemented by states and EPA to meet federal requirements. EPA requirements
20 appear at 40 C.F.R. Parts 130 and 131. The Department will work with EPA following the passage of
21 this bill to achieve an approval agreement.

22 Thank you for the opportunity to testify.

DEPARTMENT OF ENVIRONMENTAL SERVICES
CITY AND COUNTY OF HONOLULU

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MAYOR



TIMOTHY E. STEINBERGER, P.E.
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MANUEL S. LANUEVO, P.E., LEED AP
DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.
DEPUTY DIRECTOR

IN REPLY REFER TO:
WAS 09-80

March 16, 2009

The Honorable David Y. Ige, Chair
and Members of the Committee on Health
The Honorable Mike Gabbard, Chair
and Members of the Committee on Energy and Environment
State Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Ige and Gabbard and Members:

Subject: House Bill 834, HD 2, Relating to Water Quality Standards

The City and County of Honolulu's Department of Environmental Services supports HB 834, HD 2, relating to water quality standards. This version incorporates language that is agreeable to both the City and the State Department of Health, consistent with that provided to the Senate in our testimony related to SB 1008.

Revision of the water quality standards is very important and must be done in the best manner possible.

Your support of appropriately revising water quality standards is appreciated and we hope that you will approve HB 834, HD 2, to meet that goal.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Steinberger", is written over a faint, larger version of the signature.

Timothy E. Steinberger, P.E.
Director



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.537.9019 hawaii.chapter@sierraclub.org

HOUSE COMMITTEE ON HEALTH HEALTH COMMITTEE ON ENERGY AND ENVIRONMENT

March 2, 2009, 10:30 A.M.

(Testimony is 4 pages long)

TESTIMONY IN STRONG OPPOSITION TO HB 834, HD2

Aloha Chair Ige, Chair Gabbard, and Members of the Committee:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, strongly opposes HB 834, HD2, which reduces pollution standards *to the lowest possible limit allowed under the law*. To have the legislature consider reduced pollution standards -- without scientific evidence or studies establishing the effects this will have on Hawai'i waters -- is troubling, particularly when the standards contemplated have never been presented to the public, nor considered by experts in the field.

Further, establishing waters 500 meters out as "infrequently used coastal recreational waters" or waters that are rarely used, is not only arbitrary but blatantly wrong. This proposal could adversely impact scores of surfers, paddlers, and snorkelers.

A. *The Impact on Public Health and Our Fragile Habitat.*

Why should the legislature enter into the complex field of water standards -- evaluating the impacts of contaminants (pesticides, heavy metals, bacteria, pathogens, and particulates) on freshwater and marine life -- without any scientific application in Hawai'i? Federal standards, based on East Coast studies, have previously been rejected because residents of Hawai'i consume more fish and utilize our sub-tropical beaches year-round.

Further, fragile coral reefs around the state are disappearing. Remember, the federal standards have not been applied to subtropical coral reefs, of which Hawaii possesses 85% of the coral reefs in the nation. Do we really want to take a step that may expand this process, rather than waiting to have scientific certainty?

Hawai'i is also famously known as the endangered species capitol of the world. Do we know what the impacts of increasing pesticides in our wetlands will be on endangered species like the Ae'o, the Hawaiian Coot, the Hawaiian Moorhen, the Hawaiian Stilt, or the Hawaiian Duck? Egg shells of birds have shown tremendous sensitivity to pesticides in the past. Has DOH made any outreach to experts in the field?

B. Fixing the City and County of Honolulu's Sewer System.

The City and County of Honolulu previously argued the water quality standards must be lowered so as to minimize the fines imposed for years of neglect to Honolulu's sewer system. What the City failed to mention, however, is that the Sierra Club and other environmental groups has publicly stated -- and the federal judge has agreed -- that *every penny in fines imposed should be spent fixing Honolulu's sewer system*. In other words, if the sole basis for rushing to reduce the water quality standards is because of the ongoing litigation, then such a move will only reduce efforts to improve Honolulu's wastewater system.

C. No Evidence the Lowered Standards Offer Sufficient Protection.

Looking at Section 1 and 2 of HB 834, there is no evidence that lowering our water quality standards would offer sufficient protection to human and marine health. These federal standards were developed based on national models -- infrequent use of marine waters, reduced fish consumption, and no tropical reefs or fish -- and no study has been presented establishing these standards are applicable to Hawai'i. These federal studies also have specific statistics demonstrating the impact on human health and marine organisms. These standards have never been extrapolated with regard to the impact they would have on Hawai'i residents. For example, if a federal standard calculated that "X" number of deaths would occur with certain pesticide levels based on the amount of water usage or fish consumption, shouldn't a toxicologist establish how those standards apply in Hawai'i?

To proceed with this measure, this Committee must determine that it has been presented with enough scientific analysis to state that, among other things, raising the Chlordane limit by *five times* will have *no impact*.¹ Or that raising the Dieldrin standard by *two times* will be harmless.² To that end, you should ask Department of Health:

- What impact would this have on endangered birds and animals in Hawai'i? Has DOH consulted with experts in the field on how increased pesticide levels would impact these unique species?
- What impact would this have on coral reefs? Has the federal data considered the impacts on subtropical waters?

¹ This assumes the proposed chlordane standard of 0.00080 divided by the corrected standard for fish consumption of 0.00016 established in Hawai'i Administrative Rules § 11-54-4, dated August 31, 2004. Utilizing the uncorrected current Hawai'i Standard results in a standard *fifty times lower* than the current standard.

² Based on the proposed dieldrin standard of 0.000052 micrograms per liter divided by the 0.000025 current standard.

- What is the impact of consuming more fish, particularly fish known for bioaccumulation of contaminants such as tuna? Didn't we previously determine Hawai'i residents consume 3.1 times more fish than the national average?³
- Why have many states established stricter standards than the EPA guidelines? Why should Hawai'i adopt the lowest possible standard?
- Has DOH circulated these standards to the Water Quality Standards group created for this very purpose and explained the justification for the changes? Has the DOH received any input from this group? Has DOH made any effort to circulate the current form of this bill -- a wholesale adoption of the lowest contaminant standards allowed -- to the public before this hearing?

D. Recreational Use of Waters Five Hundred Meters from Shore.

Turning to Section 3, it is unclear how someone could conclude "waters between five hundred meters and three miles from shore [are] infrequent use coastal recreation waters" "Infrequent use coastal recreation waters" are defined under federal regulations as "coastal recreation waters that are rarely or occasionally used." Doesn't this definition require a beach by beach analysis? Surfers frequently paddle out five hundred meters or more along the south and east coasts of Oahu (like Waikiki). Paddlers go out even further and frequently swim in the water during relays and races. This list could go on.

Coastal boundaries should be set through a process of thorough data collection and analysis. Each beach has seasonable changes in stratification and upwelling, which can bring deep offshore waters to the surface as a function of temperature gradients, wind speeds, and tidal direction. Each beach is used differently by recreational users. Each beach has different marine ecosystems. The proposed boundary, however, is finite and arbitrary.

Water boundary definitions have their own independent legal meaning. They allow for relaxed standards for all federally regulated contaminants. Similar to the discussion noted below, it is possible this definition would stand even if the water quality standards are not approved by the EPA.

E. No Water Quality Standards?

As currently phrased, Section 4 could result in the elimination of all "inconsistent" regulations. Under the Federal Clean Water Act, no water quality standards can be adopted until they are approved by the EPA. Section 4 voids all inconsistent standards, meaning the current standards, boundaries, and other regulated matters would be void if the EPA takes time to review the proposed lowered standards or denies the request.

³ As noted in a recent Declaration of Laurence K. Lau, the Deputy Director of Health for the State of Hawai'i Department of Health, Hawai'i's Water Quality Standards for "fish consumption standards are 3.1 times more stringent than the EPA Criteria, because the average daily consumption of fish locally was estimated to be approximately 3.1 times higher than the average underlying the EPA Criteria."

F. No Scientific Evidence or Public Review.

It should also be noted that no scientific analysis has been made available to the public justifying the lowered water quality standards stated in SB 1008. *See* 40 C.F.R. § 131.20(b) (“The proposed water quality standards revision and supporting analyses shall be made available to the public prior to the hearing.”). Nor can the legislative process establish a factual record sufficient for federal review. *See* 40 C.F.R. § 131.10. As such, the process for adopting HB 834 violates federal regulations. The EPA cannot approve these water quality standards.

G. No Reason to Rush.

Before we rush to amend the State’s water quality standards, we should allow the administrative process to proceed. To this end, the administrative rules governing this area were just amended in 2004 -- is there really a rush to act on standards that were last considered five years ago? Particularly when the Department of Health has committed to amending these rules? There is, quite simply, no reason to rush to arbitrary and unscientific standards. If the administrative process is not proceeding expeditiously enough, then there are other methods to follow aside from putting our public health and our marine ecosystems at risk.

Thank you for this opportunity to provide testimony.



Hawaii Chapter AMERICAN PUBLIC WORKS ASSOCIATION

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HDR/Hawaii Pacific Engineers

Past President
Chandra Tanaka
Acme Land Lease

March 16, 2009

EMAILED TESTIMONY TO: HTHTestimony@Capitol.hawaii.gov

Hearing: Wednesday, March 18, 2009; 3:30 pm, CR 016

Senate Committee on Health
Senate Committee on Energy and Environment

Honorable Senator David Ige, and Senator Mike Gabbard, Chairs

Subject: HB 834, HD-2 - Relating to Water Quality Standards

The American Public Works Association Hawaii Chapter represents over one hundred engineering design professionals in public and private sector. **We urge you to Support HB 834, HD-2 - Relating to Water Quality Standards.** This bill proposes to amend the State water quality standards for marine waters to conform to Federal Standards. We support this effort to make the State Water Quality Standards in conformance with the current Federal Water Quality Standards and to end confusion relating to having differing standards.

Thank you for an opportunity to express our views regarding this bill (**IN SUPPORT**).

Sincerely,
American Public Works Association, Hawaii Chapter

Lester H. Fukuda, P.E., FACEC

Hawaiian Thousand Friends

25 Maluluu Ave., Suite 102, P.O. Box 282 • Kailua, HI 96734 • Phone/Fax: (808) 262-0682 E-mail: htf@hava.net

**THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009**

COMMITTEE ON HEALTH
Senator David Y. Ige, Chair
Senator Josh Green, M.D., Vice Chair

COMMITTEE ON ENERGY AND ENVIRONMENT
Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

NOTICE OF HEARING

DATE: 03-18-09 3:30 PM:
TIME: 3:30 PM
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

AGENDA

HB 834 HD2

RELATING TO WATER QUALITY STANDARDS.
Amends state water quality standards for marine waters to conform to federal standards.

HIFWENE

Testimony

Status

**Hawaii's Thousand Friends' Testimony on
Fred Madlener, Board Member**

HB834 HD2

Committee Chairs and Members:

This Legislature is being asked to change a standard that is part of a national effort to clean up the nation's beaches and rivers.

In the first place, changing the allowable concentration of *Enterococcus coli* from 7 clumps per 100 milliliters to 35 clumps per 100 milliliters is a terrible idea when our Hawaiian economy is dependent on a tourism industry that must be afforded clean near-shore water to swim in, a quality that must be real and not faked. This initiative to degrade the Hawaiian standard of 7 clumps per 100 milliliters is so counterintuitive that no reasonable individual or group could be for it. The fact that this initiative is still alive today throws into question our understanding of the virulent nature of human sewage and the damage it can do to our health and our economics. A few cases of cholera could clear the beaches of Waikiki in a matter of hours.

Already there are parts of our Waikiki beaches that have *Enterococcus* counts thousands of clumps per 100 milliliters, rather than the 7 allowed by current law or the 35 to be allowed by the proposed law. The Hawaii State Department of Health has known about this for years but has not acted. Instead it has suggested that the high counts of *Enterococcus* at Waikiki originate not from sewage but from other sources that it suspects but is not prepared to deal with. Nor has the Department posted the affected beaches as is required by law, when, for whatever reason, the *Enterococcus* counts go above State and Federal law.

The Health Department has, instead, introduced a new bacterial marker, *Clostridium perfringens*, in its state evaluation of contamination, and even when *Enterococcus* goes sky high but *C. perfringens* does not, the matter is taken no further. And all this despite the fact that *C. perfringens* is not an EPA standard, nor does it have a use throughout the country that establishes its reliability.

The Health Department has taken a position regarding high *Enterococcus* counts in our near shore waters that *Enterococcus* is an unreliable marker organism because it is endemic to the land. The Hawai'i State Department of Health has argued, without any evidence, that if it is endemic to the land only, it is free to do nothing about it. Nevertheless, there is evidence that in unpopulated upper levels of our mountainous land, there is little *Enterococcus* in the ground or in stream water and that its presence in streams grows in proportion to the density of human habitation as habitation approaches the shore.

So on the basis of nothing the Department chooses *C. perfringens* over the legal *Enterococcus* and so writes off a horrid problem of massive *Enterococcus* numbers in our near shore waters; and, again on the basis of nothing, the Department writes off the numbers because it asserts they do not originate from sewage contamination. These are all unproven notions that have been cultivated to explain a very unpleasant fact, that there are some high bacterial counts on our beaches that threaten public health.

Now, at last, the Department of Health writes off its own State standards of 7 clumps of *Enterococcus* per 100 milliliters in favor of a 35 clump standard on the basis that *Enterococcus* is an unreliable standard and that nothing more rigorous is needed than a general EPA standard of a lax 35 clumps, a standard that does not contemplate the concentrations of tourists, surfers, canoe paddlers and Hawaiian families we have on Hawaiian beaches. This whole write-off reasoning is without merit. Has the Health Department such a big staff that it can put its resources into this dubious initiative? How about cleaning up Hawai'i's domestic and public sewage disposal systems whose cesspools and septic tanks are leaching into our porous ground? How about dealing with water re-use? How about instituting a careful sewage monitoring system? How about enforcing the requirement that sewage pipes everywhere hold their content safe instead of admitting rain water and then overflowing? The Department has a lot to do and relaxing its standards for water quality in our near shore waters is not one of the many things the Department should be doing. Sewage is dangerous stuff and it must be properly handled. It is not a political football to be punted around by the uninformed. Its handling requires careful, ethical standards and best available technology. The Hawai'i State Department of Health's job is to keep us all safe, not go second guessing our water quality standards when they become inconvenient or inconveniently expensive to deal with.

We are not saying that the Department of Health brought you this bill and wants to institute these changes. But they have testified to you that they are themselves working on a plan to degrade the current standards, and they have themselves called for testimony on this subject from the wider community. This puts them in the position of abetting prematurely a City initiative (this bill), that is motivated by the high costs of cleaning up the City's act while ignoring the down side of provoking health problems among beachgoers. We don't think that passage of this bill puts the Legislature in a precautionary down-to-earth position.

We just don't see why you should be asked to bail the City out. The City knows this issue very well, while the Legislature can only, in the short time it has available, apply its years of common sense to a complicated matter that has not been fully discussed in its presence.

The basic problem is that treating sewage so that it doesn't hurt us is a complicated and expensive proposition, and the City and County of Honolulu not only does not want to take the matter one inch farther than it must under the rules, but it wants you to change the rules so that it does not even have to go that far. Furthermore, the City is blaming everyone but itself for its failure to meet EPA and State standards. We recognize that neither mayor Frank Fasi nor mayor Jeremy Harris would upgrade the City's sewage effluent, and that Mayor Hanneman is now to deal with an old and intractable problem, but in this Bill his solution is to change the standards rather than upgrade the effluent.

March 18, 2009

March 16, 2009

Senate Committee on Health
The Honorable Senator David Y. Ige, Chair,
The Honorable Senator Josh Green, M.D., Vice Chair

Senate Committee on Energy and Environment
The Honorable Senator Mike Gabbard, Chair,
The Honorable Senator J. Kalani English, Vice Chair

SUBJECT: Recommendation of Hawaii Water Environment Association on H.B. 834, H.D. 2
Relating to Water Quality Standards

The Hawaii Water Environment Association (HWEA) supports H.B. 834, H.D. 2. The proposed bill would amend the Department of Health (DOH) Hawaii Administrative Rules (HAR) Title 11, Chapter 54, Water Quality Standards. HWEA supports H.B. 834, H.D. 2 for the following reasons:

DOH water quality standards are outdated. Chapter 11-54 is still largely based on baseline water quality studies conducted in a limited number of shoreline areas almost 40 years ago (Water Quality Program for Oahu, 1971). Other than the incorporation of subsequent mandatory federal provisions or minor corrections, the DOH has not substantially refined this rule since its inception. The DOH has repeatedly justified its inaction on the lack of funding to conduct the necessary studies to substantiate ongoing revisions and improvements.

These outdated water quality standards have had adverse consequences. On January 6, 2009, the U.S. Environmental Protection Agency (EPA) issued final decisions that deny continued Clean Water Act Section 301(h) secondary treatment waivers for the City and County of Honolulu's Sand Island Wastewater Treatment Plant (WWTP) and Honouliuli WWTP. HWEA and numerous scientists from the University of Hawaii testified in favor of continuing the treatment waivers, as the higher level of treatment for wastewater disposed of through deep ocean outfalls 1.5 to 2 miles off-shore would produce almost no benefits to water quality or recreational water users. The EPA cited the lack of full compliance with Chapter 11-54 as its primary reason for the denial. One example is that computer models predict that when extreme oceanographic conditions limit the rise of the wastewater plume from the Honouliuli WWTP ocean outfall at a depth of more than 100 feet below the surface (beyond safe air-breathing

March 16, 2009
Senate Committee on Health
The Honorable Senator David Y. Ige, Chair,
The Honorable Senator Josh Green, M.D., Vice Chair
Senate Committee on Energy and Environment
The Honorable Senator Mike Gabbard, Chair,
The Honorable Senator J. Kalani English, Vice Chair

SCUBA depth), 1.5 miles off-shore directly over the outfall discharge, DOH recreational water quality standards will be exceeded. DOH had not made the effort to exclude these nearly inaccessible waters from its definition of "recreational waters," the City will need to spend an estimated \$1.2 billion on treatment upgrades that will result in almost no detectable improvements to water quality. Since the City's environmental department is almost solely funded by user fees, this is an unnecessary and regressive tax that hurts the poorest members of our society.

There is an alternative. Congress passed the Beaches Environmental Assessment and Coastal Health (BEACH) Act in 2000 to improve the uniformity of state water quality standards and monitoring programs. EPA has conducted pathogen and human health studies to establish several model water quality criteria, while some work is still ongoing. The standards proposed in H.B. 834, H.D. 2 are consistent with current EPA BEACH water quality standards.

We recommend the adoption of H.B. 834, H.D. 2 to protect the welfare of recreational water users and the taxpayers of Hawaii.

The HWEA is a non-profit organization comprised of approximately 450 environmental and sanitary engineers, government officials, scientists, treatment plant operators and other water quality specialists. HWEA is a member organization of the international 40,000-member Water Environment Federation (WEF) that was founded in 1928 as a technical and educational organization. The mission of WEF is to preserve and enhance the global water environment. We would be pleased to serve as a technical resource for you and your committee members.

Sincerely yours,



Mark Goodrowe

President
Hawaii Water Environment Association

**DOWLING
COMPANY, INC**

March 18, 2009

**Senate Committees on Health and Energy & Environment
Hearing Date: Wednesday, March 18, 2009, at 3:30 PM in Conference Room 016**

Testimony in Opposition of HB834, HD2 relating to Water Quality Standards (Amends state water quality standards for marine waters to conform to federal standards).

Honorable Chairs David Y. Ige and Mike Gabbard, Vice-Chairs Josh Green and Kalani English and Committee Members:

My name is Jennifer Stites and I am the Green Development Manager for Dowling Company, Inc. ("DCI"). DCI is a Maui-based real estate development company that is committed to sustainable development.

DCI opposes HB834, HD2. The bill amends water quality standards in Hawaii to put them in conformance with federal standards. We understand that the current state water quality standards are more stringent than the EPA federal levels; and we are opposed to legislation that weakens these standards in Hawaii, which conforming to EPA regulations does.

The EPA standards that this bill proposes to adopt are standards created based on and for the East Coast shoreline and are not appropriate for Hawaii's subtropical waters. The data supporting these standards was collected in locations where marine waters are infrequently used and fewer fish are caught and consumed. In Hawaii, people swim, surf, paddle, and fish year-round. Hawaii's marine systems contribute substantially to the state's attractiveness as a tourist destination; an industry that represents the backbone of the state's economy. Federalizing water pollution laws reduces Hawaii's water quality standards to the lowest legal limit when, given the economic and aesthetic value of Hawaii's coastlines the only legislation being brought to the table should be that which mandates greater stringency and protection of this precious resource.

As a leading green developer in Hawaii, we are continuously seeking out best practices to reduce the building sector's impact on our coastal water. Hawaii should be a leader in sustainability and by weakening our water quality standards to make them consistent with federal regulations, we are not living up this responsibility. Hawaii is host to some of the most precious marine life on the planet and we should continuously strive to reduce our human impact on these ecosystems to ensure that they are here for generations to come.

Thank you for the opportunity to testify in opposition of HB834, HD2.

Testimony for House Bill: HB834

I oppose the movement of HB834 to lower bacterial standards to the current standard of the Environmental Protection Agency. The EPA is currently seeking new microbial standards and has compiled a list of at least 10 new fecal indicator possibilities that are being researched for their potential roles as the new indicator species (EPA Workgroup, 2007). The standards are going to change, so why not wait until the EPA has concluded the appropriate standards in terms of which microbe to sample for and how many colony forming units (cfu) are allowable for the entire country including the State of Hawaii, instead of lowering them now only to likely raise them again in the near future.

Meghan Dailer
3/17/09

Testimony of Robin S. Knox
March 17, 2009
RE: HB 834 and SB 1008
Regarding revisions to Hawaii State Water Quality Standards

I URGE YOU TO VOTE NO ON HB 834 and SB 1008.

Qualification of Testifier:

I am a water quality professional with 25 years experience in Clean Water Act regulation. My experience includes five years as a regulator for the Louisiana Department of Environmental Quality as a National Pollutant Discharge Elimination Program permit writer, and as a planner in the Water Quality Standards section. I have 20 years experience as a consultant assisting industrial /commercial clients; and municipal, state, and federal government agencies with Clean Water Act compliance. My credentials include graduate coursework in Civil Engineering in wastewater treatment unit operations, and experience assessing compliance with Clean Water Act 301(h) waivers.). **I am a well-informed member of the public who anticipated and was actively tracking these issues with the Department of Health, and I was not allowed adequate opportunity for public participation in these revisions to the water quality standards.**

Testimony:

As a water quality professional, I realize that revisions to water quality standards over time are expected and allowed for by the Clean Water Act. The revisions proposed by the referenced Acts may or may not be appropriate. The public participation aspects of this legislation have been insufficient for me or anyone else including the State Department of Health or the legislature to make that determination. The proposed measures and legislative process being enacted **has not complied with the public participation requirements of state and federal regulations** governing water quality standards revisions, including but not limited to the following (See Attachment 1 for details):

- **Public Participation Requirements found at Code of Federal Regulations Chapter 40 (40CFR) Part 25;**
- **Procedures for review and revision of Water Quality Standards at 40 CFR Part 131, Subpart C;**
- **Requirements for revisions of water quality standards at Hawaii Administrative Rules (HAR) Chapter 11-54-11.**
- **Public participation requirements of Chapter 91 Hawaii Revised Statutes;**
- **General policy of water quality anti-degradation at HAR §11-54-1.1.**

Changing the effective date to 2050 does not comply with these requirements. Public consultation must be preceded by timely distribution of information and must occur sufficiently in advance of decision-making to allow the agency to assimilate public views

into agency action. **Merely conferring with the public after an agency decision does not meet this requirement. (40CFR Part 25.4**

There are significant issues associated with the standards revisions that warrant full public participation.

- This legislation will not correct the technical shortcomings of the current state criteria for marine recreational waters ; it simply raises the concentration allowed of an inadequate bacterial indicator (*Enterococcus*)
- The practical effect of raising the concentration of the bacterial criteria will be to allow less sewage treatment and more discharge of sewage containing human enteric bacteria, including those that cause disease.
- By allowing lower levels of treatment, this legislation will allow greater discharge of other pollutants as well.
- There has been no evidence presented that the proposed standard will be equally protective or more protective than the current standards;
- Greater discharges of pollutants will cause degradation of water quality; and
- Degradation of water quality is only allowed when there is socio-economic justification and there has been full public participation.

Requested Actions

- ***Vote No on this legislation***
- ***Defer this action until public participation requirements have been met, including provision of adequate technical information.***

If you vote yes on this legislation, you will be acting irresponsibly and in violation of applicable state and federal regulations. This type of governance has proven to be a waste of your time, and our taxpayer money, not to mention potentially causing irreparable harm to the environment.

Detailed Comments

Public Participation Requirements have not been met

The public notice, public information, and opportunity for public comment have not been sufficient to satisfy the public participation requirements of state and federal law. Water quality standards are the state's goals for individual waterbodies and provide the basis for control decisions under the Clean Water Act (40CFR Part 130.0(b)). Increasing the enterococcus standard will contribute to further degradation of water quality by lawfully allowing greater discharge of fecal contaminants than is currently allowed. Allowing a greater level of fecal contaminants will allow a lesser degree of sewage treatment prior to discharge. Less treatment will mean not only more discharge of fecal contaminants

including human pathogens, but also of other pollutants including oxygen demanding and toxic substances.

State (HAR §11-54-1.1) and federal antidegradation policies only allow such degradation after full public participation in a process to determine that the socio-economic benefits are worth the cost of degraded water quality. **The testimony provided by the Director of the Department of Health has not provided any water quality or socio-economic justification for changing the standard, and has in fact only cited a lack of evidence that the proposed standard is less protective than the current standard.**

The Federal standard is under protective and inappropriate

Testimony of Chiyo Leinaala Fukino, M.D., Director of Health, (February 10, 2009) expressed a "... low degree of scientific confidence in the validity of federal indicator bacteria criteria in general..."

This low degree of confidence is primarily due to two shortcomings of the existing criteria that will not be addressed by changing the current state standard to be consistent with the federal standard:

- 1) The current federal standard was derived based on risk of gastrointestinal illness only and does not address risk to swimmers from infections of skin, eyes, ears, and respiratory tract;
- 2) Enterococcus may grow in tropical soils and therefore when detected in the water column does not always represent a source of human fecal contamination.

EPA, Natural Resources Defense Council, the National Association of Clean Water Agencies, and Los Angeles County have entered into a Consent Decree and Settlement Agreement to conduct critical science and research in order to publish new or revised criteria for protection of recreational uses of water. The critical science and research projects will address these technical issues and are scheduled to be completed by December 2010.

The proposed measure simply provides a less stringent version of an inadequate indicator as a water quality standard. While it is true that some exceedances of water quality standards that are observed in marine waters may reflect the presence of soil borne enterococcus, **there has been no evidence provided to the legislature or the public that human pathogens are not associated with such exceedances. ONLY A STATEMENT THAT EVIDENCE IS LACKING HAS BEEN PROVIDED.** Some of the elevated levels of enterococcus may include bacteria from soil sources but we cannot exclude the presence of sewage sources. Because storm events also cause greater groundwater flow and surface runoff, the elevated levels of enterococcus may also indicate sewage sources (injection wells, cesspools, septic tanks) and potential presence of pathogens. The problem is with enterococcus we just can't discern clearly enough. This is why the department of health uses a second indicator *Clostridium perfringens*, to help them discern sewage sources. Many believe this would be a better indicator to use in a tropical climate than Enterococcus.

Comments on Water Quality Standards revisions for conventional, non-conventional and toxic pollutants, and changes to waterbody classifications affecting decision units

The public notice, public information, and opportunity for public comment has not been sufficient to allow develop of comments on the control of toxic substances, conventional and nonconventional pollutants, definition of decision units and other aspects of the regulation that have been are referred to, but not fully explained in testimony before you. I reserve the right to submit those comments when the state allows adequate public participation.

ATTACHMENT 1

Applicable Federal and State Regulations

- 1) **The measure is not compliant with Public Participation Requirements found at Code of Federal Regulations Chapter 40 (40CFR) Part 25** which regulates state rulemaking under the Clean Water Act, and development of standards supported with EPA financial assistance. State agencies carrying out these activities are required to provide for, encourage, and assist the participation of the public, meaning the people as a whole, the general populace, as well as identifiable segments of the public which may have a particular interest in the decision. Public participation is that part of the decision-making process through which **responsible officials** become aware of public attitudes by providing ample opportunity for interested and affected parties to communicate their views. Public participation includes providing access to the decision-making process, seeking input from and conducting dialogue with the public, assimilating public viewpoints and preferences, and demonstrating that those viewpoints and preferences have been considered by the decision-making official. Disagreement on significant issues is to be expected among government agencies and the diverse groups interested in and affected by public policy decisions. Public agencies should encourage full presentation of issues at an early stage so that they can be resolved and timely decisions can be made. In the course of this process, responsible officials should make special efforts to encourage and assist participation by citizens representing themselves and by others whose resources and access to decision-making may be relatively limited. (40 CFR Part 25.3)
 - a. **The state has not fulfilled the Public Information, Notification, and Consultation responsibilities required by 40CFR Part 25.4**
 - i. **Information and assistance requirements**
 1. **Providing information to the public is a necessary prerequisite to meaningful, active public involvement.** Agencies shall design informational activities to encourage and facilitate the public's participation in all significant decisions covered by §25.2(a), particularly where alternative courses of action are proposed.
 2. Each agency shall provide the public with continuing policy, program, and technical information and assistance beginning at the earliest practicable time. **Informational materials shall highlight significant issues that will be the subject of decision-making.** Whenever possible, consistent with applicable statutory requirements, **the social, economic, and environmental consequences of proposed decisions shall be clearly stated in such material.** Each agency shall **identify segments of the public likely to be affected by agency decisions and should consider targeting informational materials**

toward them (in addition to the materials directed toward the general public). **Lengthy documents and complex technical materials that relate to significant decisions should be summarized for public and media uses. Fact sheets, news releases, newsletters, and other similar publications may be used to provide notice that materials are available and to facilitate public understanding of more complex documents, but shall not be a substitute for public access to the full documents.**

3. Each agency shall **provide one or more central collections of reports, studies, plans, and other documents relating to controversial issues or significant decisions in a convenient location or locations**, for example, in public libraries. Examples of such documents are catalogs of documents available from the agency, grant applications, fact sheets on permits and permit applications, permits, effluent discharge information, and compliance schedule reports. Copying facilities at reasonable cost should be available at the depositories.
4. Whenever possible, agencies shall provide copies of documents of interest to the public free of charge. Charges for copies should not exceed prevailing commercial copying costs. EPA requirements governing charges for information and documents provided to the public in response to requests made under the Freedom of Information Act are set forth in part 2 of this chapter. Consistent with the objectives of §25.3(b), agencies may reserve their supply of free copies for private citizens and others whose resources are limited.
5. Each agency shall **develop and maintain a list of persons and organizations who have expressed an interest in or may, by the nature of their purposes, activities or members, be affected by or have an interest in any covered activity**. Generally, this list will be most useful where subdivided by area of interest or geographic area. Whenever possible, the list should include representatives of the several categories of interests listed under §25.3(a). **Those on the list, or relevant portions if the list is subdivided, shall receive timely and periodic notification of the availability of materials under §25.4(b)(2).**

ii. Public Notification

1. Each agency shall **notify interested and affected parties**, including appropriate portions of the list required by paragraph (b)(5) of this section, and the media in advance of times at which major decisions not covered by notice

requirements for public meetings or public hearings are being considered. **Generally, notices should include the timetable in which a decision will be reached, the issues under consideration, any alternative courses of action or tentative determinations which the agency has made, a brief listing of the applicable laws or regulations, the location where relevant documents may be reviewed or obtained, identification of any associated public participation opportunities such as workshops or meetings, the name of an individual to contact for additional information, and any other appropriate information. All advance notifications under this paragraph must be provided far enough in advance of agency action to permit time for public response; generally this should not be less than 30 days.**

iii. Public Consultation.

1. For the purposes of this part, “public consultation” means an exchange of views between governmental agencies and interested or affected persons and organizations in order to meet the objectives set forth in §25.3. Requirements for three common forms of public consultation (public hearings, public meetings, and advisory groups) are set forth in §§25.5, 25.6, and 25.7. Other less formal consultation mechanisms may include but are not limited to review groups, ad hoc committees, task forces, workshops, seminars and informal personal communications with individuals and groups. **Public consultation must be preceded by timely distribution of information and must occur sufficiently in advance of decision-making to allow the agency to assimilate public views into agency action.** EPA, State, interstate, and substate agencies shall provide for early and continuing public consultation in any significant action covered by this part. **Merely conferring with the public after an agency decision does not meet this requirement.** In addition to holding hearings and meetings as specifically required in this chapter, a hearing or meeting shall be held if EPA, the State, interstate, or substate agency determines that there is significant public interest or that a hearing or meeting would be useful.

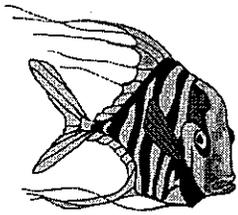
2) The measure is not compliant with 40 CFR Part 131, Subpart C – Procedures for review and revision of Water Quality Standards.

a. §131.20 requires the state to hold a **public hearing** once every three years for the purpose of reviewing state water quality standards, and as appropriate modifying and adopting standards. Public participation is required as outlined in 40CFR Part 25, above.

- b. §131.21 Requires EPA review and approval of water quality standards. EPA's approval must meet requirements of §131.5 and §131.6.
 - i. §131.5 includes a determination of whether the state has followed its legal procedures for revising or adopting standards

3) The measure is not compliant with Hawaii State Water Quality Standards at Hawaii Administrative Rules Chapter 11-54.

- a. **Hawaii state regulations (§11-54-11 and Chapter 91 HRS, by reference) require 30 day notice. The bill status page for 2/10/09 states a Public Hearing was scheduled for 2/23/09.**
 - i. **§11-54-11** "Revision. These water quality criteria are based upon the best currently available data. Studies made in connection with the implementation program may suggest improvements to this chapter. For this reason, the chapter will be subject to periodic review and, where necessary, to change. **Any change will be made only after public hearing, held in compliance with chapter 91, HRS and the rules of practice and procedures of the department.** [Eff 11/12/82; am and comp 10/6/84; am and comp 04/14/88; am and comp 01/18/90; am and comp 10/29/92, §11-54-12 am and comp 04/17/00; am and comp **OCT 02 2004**] (Auth: HRS §§342D-1, 342D-4, 342D-5) (Imp: HRS §§342D-4, 342D"
- b. **General policy of water quality anti-degradation (§11-54-1.1) requires that existing levels of water quality be maintained and protected unless the director (of the State Department of Health) finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the state's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located.**



Darla J. White

Marine Research / Scientific Diver
755 Kupulau Dr. Kihei, HI 96753 Cell: (808) 345-2312
E-mail: onareef@yahoo.com

March 17, 2009

Regarding HB 834 HD2
Water Quality Standards

Honorable Senate Committee Chair,

I would like to state my vehement opposition to the proposed HB 834 which seeks to reduce water quality standards in Hawai'i by adopting current Federal standards. I am a marine scientist with the University of Hawaii and the Division of Aquatic Resources, though I am testifying on behalf of my own person. I would like to reiterate my intense opposition to this proposed bill as it is irresponsible and likely damaging to the health of Hawaii's natural resources and health of the public.

The current EPA Federal Water Quality Standards were challenged last September (2008) in court by the Natural Resources Defense Council successfully as insufficient for ensuring beachgoer health (<http://www.nrdc.org/media/2008/080910.asp>). The settlement stimulated new scientific research to be finished by 2010, with new standards recommendations by 2012 by the EPA (http://www.werf.org/AM/Template.cfm?Section=Program_Area_Meetings&Template=/CM/ContentDisplay.cfm&ContentID=8751.0).

It is in the best interest of the State to wait for the new standards, instead of lowering our current standards to allow more pollution. There are many different types of bacteria and pathogens associated with wastewater that the current standards do not even test for, therefore better assessment methods are needed, not added pollution. As someone who works in the marine environment, I have had frequent occurrences of Staph, including multiple MRSA infections. This is common among my friends and colleagues who are also marine researchers, surfers, lifeguards, beachgoers, & divers. I am also aware that wastewater is reaching our nearshore waters.

I would like to point out Hawai'i's own environmental policy:

http://www.capitol.hawaii.gov/hrscurrent/Vol106_Ch0321-0344/H_R_S0344/H_R_S_0344-0003.htm

[S344-3] **Environmental policy.** It shall be the policy of the State, through its programs, authorities, and resources to:

(1) Conserve the natural resources, so that land, water, mineral, visual, air and other natural resources are protected by controlling pollution, by preserving or augmenting natural resources, and by safeguarding the State's unique natural environmental characteristics in a manner which will foster and promote the general welfare, create and maintain conditions under which humanity and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of the people of Hawaii.

(2) Enhance the quality of life by:

(A) Setting population limits so that the interaction between the natural and artificial environments and the population is mutually beneficial;

(B) Creating opportunities for the residents of Hawaii to improve their quality of life through diverse economic activities which are stable and in balance with the physical and social environments;

(C) Establishing communities which provide a sense of identity, wise use of land, efficient transportation, and aesthetic and social satisfaction in harmony with the natural environment which is uniquely Hawaiian; and

(D) Establishing a commitment on the part of each person to protect and enhance Hawaii 's environment and reduce the drain on nonrenewable resources. [L 1974, c 247, pt of §1; gen ch 1993]

[Previous](#)

[Vol06_Ch0321-0344](#)

[Next](#)

The State government has the responsibility over the health and welfare of its people and nature in harmony. If the pollution load is too great, then it would be wise to reduce it and/or treat it. The technologies exist. It would also be worthwhile to calculate what a sustainable population for each island actually is, especially in the face of climate change and sea level rise.

The best part about this whole endeavor is that the EPA is already in the process of doing the research and making appropriate changes to the water quality standards based on the best and most current science...they are doing the legwork, so we should wait.

Thank you for your time and consideration. Please do the best thing for our fragile and unique islands.

Best regards,

Darla White

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2009 3:02 PM
To: HTHTestimony
Cc: puako69@aol.com
Subject: Testimony for HB834 on 3/18/2009 3:30:00 PM

Categories: Green Category, Blue Category

Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Wendy Jones
Organization: Individual
Address: 69-1777 Puako Beach Dr Kamuela, HI 96743
Phone: 808-882-7048
E-mail: puako69@aol.com
Submitted on: 3/17/2009

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2009 3:00 PM
To: HTHTestimony
Cc: mdionne@hawaii.edu
Subject: Testimony for HB834 on 3/18/2009 3:30:00 PM

Categories: Green Category, Blue Category

Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Michael Dionne
Organization: Individual
Address: 15-2692 Aweoweo Street Pahoa
Phone: 808-965-7283
E-mail: mdionne@hawaii.edu
Submitted on: 3/17/2009

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2009 11:13 PM
To: HTHTestimony
Cc: chelsettlemier@hotmail.com
Subject: Testimony for HB834 on 3/18/2009 3:30:00 PM

Categories: Green Category, Blue Category

Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Chelsie Settlemier
Organization: Individual
Address:
Phone:
E-mail: chelsettlemier@hotmail.com
Submitted on: 3/17/2009

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2009 6:21 PM
To: HTHTestimony
Cc: nharter@hotmail.com
Subject: Testimony for HB834 on 3/18/2009 3:30:00 PM

Categories: Green Category, Blue Category

Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: nancy harter
Organization: Individual
Address: 1627 Lokia Street Lahaina, HI 96761
Phone: 808-661-0701
E-mail: nharter@hotmail.com
Submitted on: 3/17/2009

Comments:

Please protect the quality of our water, our lifestyle and the marine creatures here in Hawaii depend on it...

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2009 5:54 PM
To: HTHTestimony
Cc: maui_jewels@yahoo.com
Subject: Testimony for HB834 on 3/18/2009 3:30:00 PM

Categories: Green Category, Blue Category

Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Helen anne Schonwalter
Organization: Individual
Address:
Phone:
E-mail: maui_jewels@yahoo.com
Submitted on: 3/17/2009

Comments:

Don't each of you know at least two people with MRSA staph infection? Haven't your children come home from the beach feeling sick to their stomach? Itching and complaining of diarrhea? We all are suffering from polluted water that is dangerously high in enterococcus, e.coliform, and other fecal-borne bacteria. Since we now know that the source is not only human waste from cruise ship discharge, injection well effluent etc. but from agricultural waste products runoff to the ocean, isn't it time to strengthen legislation NOT DILUTE IT? Is this yet another political scam to get a campaign funds provider (old boy network) off the hook?

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2009 5:09 PM
To: HTHTestimony
Cc: palilalehua13@yahoo.com
Subject: Testimony for HB834 on 3/18/2009 3:30:00 PM

Categories: Green Category, Blue Category

Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Lisa Wandzell
Organization: Individual
Address:
Phone:
E-mail: palilalehua13@yahoo.com
Submitted on: 3/17/2009

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2009 4:20 PM
To: HTHTestimony
Cc: a_povilitis@yahoo.com
Subject: Testimony for HB834 on 3/18/2009 3:30:00 PM

Categories: Green Category, Blue Category

Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Anthony Povilitis
Organization: Individual
Address: Makawao, HI
Phone:
E-mail: a_povilitis@yahoo.com
Submitted on: 3/17/2009

Comments:

We need to improve -- not degrade -- water quality in Hawaii. Please do not pass this bill.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2009 7:19 AM
To: HTHTestimony
Cc: anitabanana@hawaiiantel.net
Subject: Testimony for HB834 on 3/18/2009 3:30:00 PM

Categories: Green Category, Blue Category

Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: anita Wintner
Organization: Individual
Address: Kihei, Hi
Phone: 8088748407
E-mail: anitabanana@hawaiiantel.net
Submitted on: 3/17/2009

Comments:
Do NOT lower bacterial standards.!!!

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2009 8:29 AM
To: HTHTestimony
Cc: nharter@hotmail.com
Subject: Testimony for HB834 on 3/18/2009 3:30:00 PM

Categories: Green Category, Blue Category

Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Nancy Harter
Organization: Individual
Address: 1627 Lokia Street Lahaina, HI 96761
Phone: 808-661-0701
E-mail: nharter@hotmail.com
Submitted on: 3/17/2009

Comments:

Please help to insure the quality of the water our island lifestyle depends upon...lowering standards of water quality will have an extreme negative impact, with ramifications not only for humans but for marine species. We must protect and strengthen the standards of our states's water quality, not diminish them.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2009 6:28 PM
To: HTHTestimony
Cc: dhsc6411@hotmail.com
Subject: Testimony for HB834 on 3/18/2009 3:30:00 PM

Categories: Green Category, Blue Category

Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Rick Long
Organization: Individual
Address: 120 Manino Circle, #202 Kihei, HI
Phone:
E-mail: dhsc6411@hotmail.com
Submitted on: 3/16/2009

Comments:
Re: HB834 and SB1008

I am opposed to Hawai`i legislation that would lower the state water quality standards for our coastal waters.

I am writing this letter as a private citizen and I do not speak for any department in state government.

I am a clinical social worker and I am not an expert on water quality. But, I work with the poor and undomiciled.

I am aware of the increasing public health problems from staph infections being experienced by residents and visitors.

The current federal water quality standard only addresses gastrointestinal disease, and ignores skin diseases.

Nearly everyone of the undomiciled and homeless population living on our beaches and in the kiawe trees has a staph infection.

And, the ranks of the homeless are increasing, not decreasing, as local residents find themselves without work and homes, and as state government relentlessly cuts back on health, mental health, and social service programs.

On Maui, I volunteer on reef surveys several times a week.

I see my friends, who work in the ocean, being treated for staph infections several times a year.

Our local media ignores the increasing risk of infection to protect the business of promoting our beautiful beaches.

The sad fact is that we are going to have to spend money: federal, state, local, and private to make our water clean.

We need new scientific studies that can guide policymakers and allow government leaders to set standards of excellence.

I am only hearing Hawaii state leaders say we need "adequate" standards.

The public is asking for "change", not adequate leadership.

Don't lower water quality standards, because it is the expedient thing to do. Hold off making policy changes, until more research is available. Do what is pono, not "adequate";.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2009 12:32 PM
To: HTHTestimony
Cc: sasha.r108@gmail.com
Subject: Testimony for HB834 on 3/18/2009 3:30:00 PM

Categories: Green Category, Blue Category

Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Susan Ratcliffe
Organization: Member of the Human Race on Maui
Address: 16 Ipu Wai Lane, Apt 103 Lahaina, HI
Phone: 808/280-7320
E-mail: sasha.r108@gmail.com
Submitted on: 3/17/2009

Comments:

Please do not lower the standards for fecal matter leaking into our ocean. We and our children swim here, live here and make our living hosting the tourists who want to come here. But none of us will prosper or benefit if you lower the standards for this contaminant. Do what we elected you to do and KEEP OUR OCEAN CLEAN AND SAFE FOR ALL (this includes our marine life also).

If our trust is misplaced in our elected officials, then we will NOT ELECT YOU AGAIN. WE ARE WATCHING YOU AND YOUR VOTES TO KEEP OUR ISLAND WATERS SAFE FOR ALL.

Namaste,
Susan Ratcliffe

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2009 12:33 PM
To: HTHTestimony
Cc: sasha.r108@gmail.com
Subject: Testimony for HB834 on 3/18/2009 3:30:00 PM

Categories: Green Category, Blue Category

Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Susan Ratcliffe
Organization: Individual
Address: 16 Ipu Wai Lane, Apt 103 Lahaina, HI
Phone: 808/280-7320
E-mail: sasha.r108@gmail.com
Submitted on: 3/17/2009

Comments:

Please do not lower the standards for fecal matter leaking into our ocean. We and our children swim here, live here and make our living hosting the tourists who want to come here. But none of us will prosper or benefit if you lower the standards for this contaminant. Do what we elected you to do and KEEP OUR OCEAN CLEAN AND SAFE FOR ALL (this includes our marine life also).

If our trust is misplaced in our elected officials, then we will NOT ELECT YOU AGAIN. WE ARE WATCHING YOU AND YOUR VOTES TO KEEP OUR ISLAND WATERS SAFE FOR ALL.

Namaste,
Susan Ratcliffe

From: Mailing List
Sent: Tuesday, March 17, 2009 5:57 PM
To: HTHTestimony; ENETestimony
Subject: FW: Testimony for HB834 on 3/18/2009 3:30:00 PM

Forwarding email to HTH and ENE

From: Katie Minkus [katie@katieminkus.com]
Sent: Tuesday, March 17, 2009 4:42 PM
To: Mailing List
Subject: Re: Testimony for HB834 on 3/18/2009 3:30:00 PM

I meant to say OPPOSE, sorry!!! Can you please change??

thanks!
km

On Tue, Mar 17, 2009 at 12:33 PM, <mailinglist@capitol.hawaii.gov> wrote:
Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Katie Minkus
Organization: Individual
Address: 35 Puako Beach Drive Kamuela, HI 96743
Phone: 808.895.4327
E-mail: katie@katieminkus.com
Submitted on: 3/17/2009

Comments:

The Clean Water Act was put in place to protect us from pollution. Why on earth have we (as a people) worked so hard and spent so much taxpayer money to come this far...only to take three steps backward? I live in Puako and clean, pristine water is the KEY to a living reef. Our tourism dollars have been hurt enough from the general economy lately, why would we make it worse for ourselves? I visited Bora Bora about 4 years ago and while above the water it is beautiful, below the water the reef was dead and grey and made me never want to visit Tahiti again. Why would we want or even consider allowing that to happen to one of our state's greatest resources, the ocean?

--
Da kine in '09
Katie Minkus, Realtor (BIC), MA, ABR, TRC
A Member of the Council of Residential Specialists
2008-2010 Kona Board of Realtors, Board Secretary
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Live the Hawaii Life!

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 18, 2009 9:12 AM
To: HTHTestimony
Cc: wild@aloha.net
Subject: Testimony for HB834 on 3/18/2009 3:30:00 PM

Categories: Green Category, Blue Category

Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: hannah Bernard
Organization: Hawai'i Wildlife Fund
Address: 2626 Alohia Pl Haiku HI
Phone: (808) 575-2046
E-mail: wild@aloha.net
Submitted on: 3/18/2009

Comments:

There has not been adequate public participation - the state is not following state and federal requirements for public participation when revising water quality standards; even parts of this regulation that improve water quality cannot be supported because these requirements were not followed.

The proposed legislation may be less protective of public and environmental health - no testimony has been provided to show that the proposed bacterial (Enterococcus) standard is equally or more protective than the current standard; only lack of evidence that it is less protective.

We should wait for EPA to propose new criteria before changing our bacterial standard - The state is proposing allowing higher level of Enterococcus to be consistent with the EPA standard. EPA standard is currently under review and revision because it is inadequate.. EPA, Natural Resources Defense Council, the National Association of Clean Water Agencies, and Los Angeles County have entered into a Consent Decree and Settlement Agreement to conduct critical science and research in order to publish new or revised criteria for protection of recreational uses of water. The critical science and research projects will address these technical issues and are scheduled to be completed by December 2010.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 18, 2009 9:11 AM
To: HTHTestimony
Cc: wild@aloha.net
Subject: Testimony for HB834 on 3/18/2009 3:30:00 PM

Categories: Green Category, Blue Category

Testimony for HTH/ENE 3/18/2009 3:30:00 PM HB834

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: hannah Bernard
Organization: Hawai'i Wildlife Fund
Address: 2626 Alohia Pl Haiku HI
Phone: (808) 575-2046
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Submitted on: 3/18/2009

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