

# HB 1713, HD2

**Measure Title:**

RELATING TO HAZARDS

**Report Title:**

Hazard Mitigation; Private Property

**Description:**

Allows Civil Defense, when no emergency exists, to enter on private property to mitigate hazardous situations after giving the landowner notice. May seek recovery and reimbursement of costs and expenses. (HB1713 HD2)

STATE OF HAWAII  
DEPARTMENT OF DEFENSE

TESTIMONY ON HOUSE BILL 1713 HD2  
A BILL RELATING TO HAZARDS

PRESENTATION TO THE  
COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

BY

EDWARD T. TEIXEIRA  
ACTING DIRECTOR OF CIVIL DEFENSE

March 19, 2009

Chair Espero and Committee Members:

I am Ed Teixeira, Acting Director of Civil Defense, State Department of Defense. I am providing written testimony supporting the intent of House Bill 1713 HD2.

We appreciate the intent of the proposed bill. We also appreciate that respective Legislative committees to date have acted on our recommendations and made amendments to the bill as reflected in HD2.

Thank you for the opportunity to provide testimony that supports the intent of this measure.

Are there any questions?

TO: Will Espero, Chairperson  
Robert Bunda, Vice Chair  
Senate Committee on Public Safety and Military Affairs

FROM: D. Keala Naluai, President  
Malama O Kamali'i Makamae  
PO Box 4982  
Kaneohe, HI 96744  
808.386.2216

DATE: March 19, 2009 @ 1:30 pm. Rm. 229

SUBJECT: SUPPORT for HB1713 HD 2 – Relating to Hazards

Aloha e Kakou,

My name is D. Keala Naluai and I respectfully request that your committee support this measure for the safety of our windward community and citizens in imminent danger at their residences and all of Hawaii's citizens in similar situations.

Negligence by various property owners throughout Hawaii, in the last few of year, have resulted in danger, property damages, including tragic deaths and severe injuries to innocent neighbors and visitors, due to the lack of property owners' up-keep and maintenance of their "next-door" properties.

Such negligence by careless residence and agencies (e.g. Pflueger on Kauai, State/City agencies, property owners in Manoa, Nu'uauu, Kalihi, etc.) caused devastating effects to human lives and families unnecessarily.

In this New Year 2009, with the continuance of inclement weather and natural disasters, which may cause more man-made and/or natural erosions, shifting of earth on hillsides, and toppling of huge trees to further cause devastation to human lives, please make an end to such irresponsible conduct by property owners. Please do your duties to assist Hawaii residents, pursuant to appropriate statues, which govern the safety of your public tax-paying constituents and citizens, by enforcing actions and cost reimbursements on negligent property owners, who are endangering their neighbors' lives and properties.

If this should be happening to you and your family, would you sit back and KNOWINGLY RISK your spouse, children, family and friends' lives that live on or visit your property? You have the laws to protect your citizens from such behaviors of negligent individuals, use them to impose sanctions, mitigations, costs clean-up reimbursements and others actions deemed necessary to protect and save lives and properties in all of Hawaii. Let us not have our people suffer more-over than economic and natural disasters already plaguing us all at present.

Thank you for this opportunity to testify.

Dale & Susan Hebel

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Kaneohe, HI 96744  
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March 17, 2009

**RE: Support House Bill 1713 Regarding Hazards**

Dear Senate Committee Members

We are property owners at 47-156 Iuiu St. Kaneohe, HI. Above our property there are 2 large monkey pod type trees with branches that overhang our property. These trees are situated on property owned by Genshiro Kawamoto. The trees are very large and sit on the edge of a steep precipice, overlooking the rear of our property. This area is experiencing erosion due to rain runoff from Kawamoto's property. Over the years this has exposed the tree's roots and it is apparent that a safety issue has developed. If one or more of these trees falls in the direction of our property it would certainly cause considerable damage and possibly bodily injury or death.

Periodically, we receive very high south winds (upwards of 80 mph), caused by storms and enhanced by the mountain effect. These winds are potentially the most dangerous since it blows towards properties that line the hill; however any strong winds could pose a threat coupled with heavy rain.

We have tried to contact Mr. Kawamoto since 2004 with no success. He is a "non-responsive" property owner. Further he prohibits access onto his property thereby limiting action by property owners.

Our concerns cover three primary areas:

- trimming of overhanging branches (minimum action)
- possible removal of the trees
- maintenance of drainage swale on Kawamoto's property to reduce runoff onto downhill properties

These trees have become a safety issue and therefore we support HB 1713 introduced by Representative Jessica Wooley to address this dangerous situation. We are not the only ones in this position. There are other residents, in the area that would benefit from passage of this bill. Many of these residents (especially those on fixed incomes), do not have the monetary means to address this problem so help would be greatly appreciated.

At this time we do not know if we will be able to attend your meeting. However, we want to be on record that we support HB 1713.

We appreciate the opportunity to comment on HB1713 and look forward to a favorable decision to provide protection for Hawaii residents.

Mahalo,



Dale & Susan Hebel

# Testimony in Favor of House Bill 1713

By: Kenneth W. LeVasseur 47-389 Ahaolelo Road, Kaneohe, HI 96744  
Phone: 239-5875

HB 1713 is potentially a life-saving bill but one of its most important components has been removed. Trees are one of the most dangerous problems facing Hawai'i residents. Mitigating tree dangers has been removed from HB 1713. The acting Director of Civil Defense asked for trees to be removed from the bill because he was concerned that,

"A reference to removing trees that may pose a risk to people could be taken out of context resulting in an adverse impact on limited civil defense resources."

Rather than removing trees from the bill and allowing our citizenry to remain endangered, it would appear to be a better approach to;

- Return tree mitigation into the bill
- Improve the context of the bill to protect the resources of Civil Defense
- Section 2d. includes means to recoup the consumed resources and could be strengthened
- Add a section 2 (a) 3. that includes removing trees when the Governor concludes that removal will eliminate an imminent danger and the landowner is non-responsive to a state request to remove the danger of the tree.

This bill was introduced to address the danger trees pose. Eighty years ago Albesia trees were introduced to Hawai'i because they are fast growing trees but it has not been realized until now that when they mature, these giant trees drop tons of branches in benign conditions. Other trees are also maturing and have dead or rotting branches that extend over neighbor's houses. The cost of removal of these branches and in some cases trees is \$20,000 per acre. One tree could easily cover an acre. The normal senior citizens, and most of our citizenry, do not have such resources available to remove the offending branch and send the bill to the landowner if the land owner will not remove the tree or branch when requested. Renters are by definition lacking in funds to take on such an economic juggernaut. Hawai'i needs the state to protect us by taking on non-responsive land owners like Genshiro Kawamoto who has many trees endangering neighbors. Genshiro Kawamoto will kill one or more of our citizens if the state does not create a mechanism to keep our citizens safe from this danger. Do we have to wait until someone is killed as happened with the rock removal problem. Earlier testimony in the House showed some of our imminent dangers from non-responsive landowners like Kawamoto.

Please return tree and branch mitigation to HB 1713 so our citizens, who cannot remove the danger themselves, can live in safety. This was the primary purpose of this bill. Mahalo for your help!

FROM: ALIKA LAMBERT  
41-14Y IULU ST.  
KANEHOE 96744  
887-9684

ATTENTION: SENATE SET  
OF ARMS  
3-18-09

TO: SENATE COMMITTEE ON PUBLIC  
SAFETY AND MILITARY AFFAIRS  
CONF RM 279

RE: WRITTEN TESTIMONY IN FAVOR OF HB 1713 HD2  
TO BE HELD ON MARCH 19, 2009 1:30PM

SIR:

DURING THE PAST SEVERAL YEARS I'VE BEEN UNSUCCESSFUL IN COMMUNICATING WITH MR. GENSHIRO KAWAMOTO REGARDING SAFETY ISSUES BETWEEN US THAT ARE ORIGINATING FROM HIS PROPERTY. THERE ARE AT LEAST TWO ISSUES THAT EXIST AT THIS TIME.

1. ENCROACHING TREES WHICH ARE A DANGER TO MY FAMILY AND HOUSE. THEIR MASSIVE OVERHANGS ARE PROVING TO BE A HAZARD DURING HIGH WINDS.

2. DRAINAGE ISSUES, FLOODING AND RUNOFFS. OLD LAYMENTS SWALES AND CULVERTS ON HIS PROPERTY HAVE NEVER BEEN MAINTAINED, AND CREATE ANXIOUS MOMENTS TO ME AND MY FAMILY DURING HEAVY RAINING.

MOST OR ALL NEIGHBORS WHO LIVE MAKA ON IULU ST. AND MAKAI OF HIS PROPERTY ARE AFFECTED IN THESE TWO MAJOR WAYS. OUR NEIGHBORHOOD BOARD HAS NOT BEEN SUCCESSFUL IN HELPING US. WE NEED YOUR SUPPORT, AS THIS IS A PUBLIC SAFETY ISSUE.

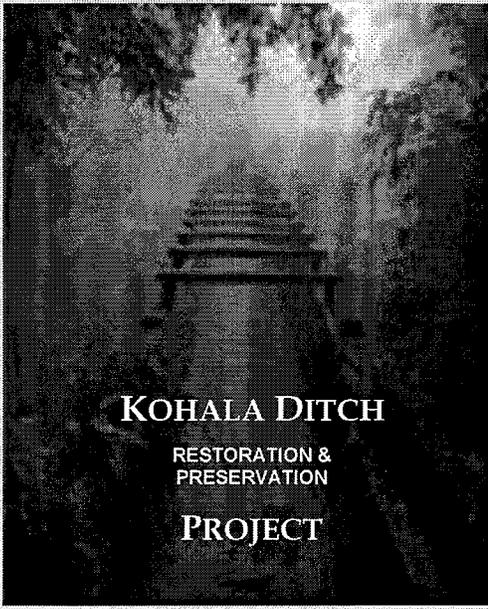
SINCERELY

ALIKA LAMBERT

**From:** jim cain [mailto:kinglaulau@hotmail.com]  
**Sent:** Wednesday, March 18, 2009 7:41 PM  
**To:** PSM Testimony  
**Subject:** hb1713

Aloha Chairman Espero and committee members,

My name is Jim Cain, my family and I live and farm taro in Waipi'o Valley on the Big Island. We also operate a family run poi shop, providing poi for our Big Island Community. I am writing in support of hb1713 and would like to include amendments to extend Act 78, from sessions law 2007, which is due to expire this year. Please extend the deadline for this Act to July 30, 2010. Our Waipi'o community has been working with State Civil Defense, NRCS, and other agencies to mitigate flooding concerns that threaten our farms and homes. Instead of waiting until disaster strikes we are being proactive in looking for solutions to flooding problems. To this end, we have developed the Waipi'o Stream Management Plan (can be viewed by going to the USDA website and searching for Waipi'o Stream Management Plan.) The earthquake of Oct. 15, 2006, caused huge landslides to occur in the back of Waipi'o Valley, covering the intakes to the Lower Hamakua Ditch. Monies from Act 78 were used for the recently completed repair work. It has taken some time for the incredible amount of baseload of rocks, sand and gravel to make its way into the front part of the valley, and now we are experiencing increased flooding of our farms and homes as a result. Having access to Act 78 monies would allow the community to mitigate these flooding problems. Please support the taro farmers of Waipi'o, as we work hard to supply our community with poi. Mahalo for you support, Jim Cain, Waipi'o Stream Management Council Community Representative 775-9001



**KOHALA DITCH**  
RESTORATION &  
PRESERVATION  
**PROJECT**

A project to restore and preserve the historic Kohala Ditch to provide water security for farms, ranches, dairies, aquaculture, recreation and ecological stewardship throughout the 21<sup>st</sup> century; and to sustain the community traditions of the people of Kohala.

**COMMUNITY PARTNERS**

- USDA Rural Development Office
- State of Hawaii Civil Defense
- North Kohala Community Resource Center
- Surety Kohala Corporation
- Kamehameha Schools
- AT&T Foundation

**STEERING COMMITTEE**

- Ed Botelho
- Stephen P. Bowles
- Joe Carvalho
- Lance Caspary
- Kaeo Duarte
- Kama Dancil
- Kirk & Lani Eubank
- Cheri Gallo
- Gary Greenly
- Marc Kinoshita
- Ted Matsuda
- Herbert M. "Monty" Richards, Jr.
- Bill Shontell
- Shiro Takata

**STAFF**

- Rory Flynn

**THE KOHALA DITCH PROJECT**  
c/o 65-1230 Mamalahoa Hwy., Suite A21  
Kamuela, Hawaii 96743  
Cell 808.895.0211

March 18, 2009

**RE: HB 1713, HD2, RELATING TO HAZARDS**

Hearing: Committee on Public Safety and Military Affairs  
Senator Will Espero, Chair  
Thursday, March 19, 2009 – 1:30 p.m.  
State Capitol, Conference Room 229

Dear Senator Espero and Committee Members:

We are writing to request your committee to amend HB 1713, HD2 to extend the authority for emergency expenditures under Act 78, SLH 2007, throughout the fiscal year ending June 30, 2010.

As you know, Act 78 was adopted in response to the disastrous Kiholo Earthquake of October 15, 2006. One of the most destructive consequences of the earthquake was severe damage to the Kohala Ditch irrigation system, including the structural collapse of several flumes and much landslide debris. Flow of the Kohala Ditch providing 8-10mgd was suspended, causing severe losses to crops and livestock operations in North Kohala, including the Cloverleaf Dairy, one of the last two remaining dairies in Hawaii.

Since the earthquake, Hawaii State Civil Defense has performed ably to oversee the expenditure of Act 78 funds, as well as USDA funds and other private contributions supporting the Kohala Ditch restoration effort. Remarkable progress has been made to rebuild the Kohala Ditch. Tunnels have been cleared of landslide debris, flumes rebuilt and repaired, and a new dam/intake installed in the backcountry valley of Honokane Nui. However, the crisis is not over. Work remains to be done to prevent seepage loss in open ditch extending from the Kahei Road to the Hawi #3 Reservoir. Installation of a 24" pipeline will assure that water will reliably reach the dairy and other farmers in Kohala.

Accordingly, we beseech your committee to extend the timeline for remaining, unspent Act 78 funds until June 30, 2010 to assist in these critical repairs to the Kohala Ditch irrigation system.

Provision of state funds may assist also in obtaining matching federal funds. In his letter dated January 13, 2009 to our committee, Senator Daniel K. Inouye stated: "While I am delighted with the progress to date, I am fully aware that there is much more to be done... I remain committed to assisting the community in a full restoration of the Kohala Ditch so as to spur the long term well-being of the entire community."

Thank you for your faithful consideration of our ongoing emergency.

**KOHALA DITCH PROJECT STEERING COMMITTEE**