



## LIFE OF THE LAND

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### **ENERGY AND ENVIRONMENT COMMITTEE**

Senator Mike Gabbard, Chair

Senator Kalani English, Vice Chair

Thursday, October 1, 2009

1:00 p.m. – Room 016

Re: Environmental Council

Aloha Chair Gabbard, Vice Chair English and Members of the Committee:

Mahalo for this opportunity to share Life of the Land's experiences with the Environmental Council, the agency housed in the Office of Environmental Quality Control (OEQC) responsible for the implementation of Chapter 343, the Environmental Impact Statement Law.

Life of the Land reviews and comments on environmental assessments and impact statements and has interacted with OEQC for more than a decade. We see the function of this office as integral to thoughtful planning for the preservation and protection of the Hawaiian Islands for future generations, just as the Council on Environmental Quality helps federal projects identify issues up front.

To our disappointment, OEQC has been consistently understaffed and underfunded. Now that has resulted in a crisis situation at that agency. This is hindering thoughtful review of proposals that impact communities as well as the important work of the Environmental Council, where citizens can raise issues related to Chapter 343. We wonder why this is happening. Why would anyone want to open the door to rampant development that runs amok over communities?

As Thomas Jefferson said, *'All tyranny needs to gain a foothold is for people of good conscience to remain silent.'*

Life of the Land has attended meetings of the Environmental Council and has directly interacted with the Council on several occasions over the years.

The Environmental Council and their committees have addressed many important issues over the years. Life of the Land has testified before the Council or worked on the following issues with the Council:

- **Cultural Impact Statements:** The discussion on how to assess the impacts on cultural properties started in the mid 90's and after much debate and many years, eventually became part of Chapter 343.
- **Voluminous and Repetitious Public Comments (called 'comment bombing' by HECO):** VRPC was defined to mean comments with 'substantially identical text'. The Council convened a group of stakeholders, chaired by a member of the Rules Committee, to discuss this issue. In May 2004 the Environmental Council passed an amendment to the EC Rules. In August 2004, the Council required the Rules Committee to convene a discussion group (After HECO's attorney filed a complaint).
- **Environmental Justice:** In 2006 the Legislature passed SB 2145 SD2,HD2,CD1 that was signed into law as Act 294. The law appropriated funding for a review by UH of Chapter 343, the environmental impact statement law. The law also appropriated funding for a consultant 'to facilitate and coordinate the State's environmental justice activities and for related administrative and operational costs. The Environmental Council was the body that worked on the issue. Life of the Land participated in those discussions and worked with the Council in developing this process. The Council worked earnestly to fulfill the requirements of the law.
- **The Superferry Mess:** The Environmental Council became involved in the Superferry issue to address a letter from Senator Hooser asking for clarification on the environmental impact statement controversy. The Council, which has been somewhat neutered over the years, held a public hearing at which several groups and individuals testified.

I personally think that this is what started the attack on the Environmental Council. It was obvious that the Governor was pushing this project and I knew from first-hand conversations that agencies were gagged because I called several agencies to ask why they were not saying commenting. It was clear that there was a gag order on state employees.

Despite the Governor's promise to '*restore integrity*' and '*to share information openly with the public so the people of Hawai'i will know the true condition of state government*' the public was kept in the dark about the Superferry. None of the impacts were allowed to be discussed. The public meetings were shibai as they talked about uniting families, while their real intent was for military application, as stated in their PUC filing. None of this was ever mentioned at a public hearing.

- **Department of Public Safety's (PSD) Tent Structure Proposal:** In 2008, I wrote to the Environmental Council regarding my prison work. PSD issued an environmental assessment for tent structures at facilities in Hawai'i for housing and programming. In my review of this proposal I found many flaws that I asked the Council to investigate. Among those flaws were non-compliance with NEPA