



# UNIVERSITY OF HAWAI'I SYSTEM

## TESTIMONY

SCR 140 / SR 78

REQUESTING THE DEPARTMENT OF HEALTH TO DEVELOP, ADOPT, AND ISSUE A GUIDANCE DOCUMENT ON ENVIRONMENTAL JUSTICE POLICY APPLICABLE TO ALL LEVELS OF THE ENVIRONMENTAL REVIEW PROCESS

Testimony Presented Before the  
Senate Committee on Energy, Environment & International Affairs

March 29, 2005

By

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Testimony Presented Before the  
House Committee on Energy, Environmental & International Affairs

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SCR 140 / SR 78 Requesting the Department of Health to develop, adopt, and issue a guidance document on environmental justice policy applicable to all levels of the environmental review process.

Chair English, Vice Chair Kokubun, and Members of the Committee:

Thank you for this opportunity to testify on SCR 140 / SR 78. Concerns regarding the issue of Environmental Justice (EJ) are widespread and have been recognized Federally in Executive Order 12898, issued in 1997. SB 1298, introduced in the Regular Session of the 2005 Hawai'i State Legislature, proposed to address these concerns by amending Chapter 343, Hawai'i Revised Statutes (HRS) to change the definition of "statement" to reflect specific aspects of environmental justice group identification. In prior testimony, the Center noted that applying EJ awareness to statements alone misses 90% of environmental reviews, and we further suggested that existing language in both Chapters 343 and 341, HRS, as well as in the EIS Rules, clearly requires attention to these concerns during review of any proposed action triggering Chapter 343. The referenced resolutions reflect an appropriate compromise solution, which provides for promulgation by the Department of Health of a guidance document that addresses EJ concerns. Use of guidance documents in this instance both reflects the Federal process undertaken to infuse EJ consideration into the environmental review process, and it also expands upon existing practice for guidance on specific issues in the Hawai'i environmental review system.

While these resolutions correspond closely to language in the Federal Guidance Document on Environmental Justice promulgated by the President's Council on Environmental Quality, we note that the conceptual framework of Environmental Justice in the Federal guidance and in these resolutions more precisely reflects the concept of Environmental Equity, in the sense described by Professor Leonard Ortolano in his writings on the subject. Given the correspondence between the Federal language and that in these resolutions, this framing issue poses little practical concern, other than pointing out the need for a more vigorous national discussion on these issues.

We note that The Office of Environmental Quality Control (OEQC) and the Environmental Council are placed administratively within the Department of Health, and given their collective responsibility for oversight and management of the State EIS system, the task of preparing the required guidance document most likely will be delegated to them. The UH Environmental Center has

collaborated frequently in the past in preparation of documents and reports relating to the State EIS system. The Center's expertise in this area is recognized, and a collaborative process of guidance preparation as proposed in this resolution is consistent with the mission of the Center as reflected in §341-5(b), HRS.

A comparable resolution, HR 200/HCR 271, draws attention to the need for an updated scholarly review of the State EIS system, noting that the last such review occurred in 1991. Since resolutions cannot be used for funding allocations, the stated purpose is to articulate legislative intent to include the required funding for such a study in a measure to be introduced during the Regular Session of 2006. As noted in these resolutions, the Center has received funding on two prior occasions to conduct research into the status and efficacy of the State EIS system, and in view of the long interval since completion of the last such study, an updated evaluation in the light of changing socioeconomic and legal environments is entirely appropriate.