



O`ahu County Committee on Legislative Priorities (OCCLP)

LEGISLATIVE PRIORITIES REPORT

December 22, 2018

- I. **Fri., Nov. 30, 2018, 6:00-8:00, Protect Red Hill Aquifer Forum**, Option 3, Double-lined stainless steel tanks as opposed to Option 1, patchwork Ernest Lau, BWS Chief Engineer, Erwin Kawata, Division Head, Quality Water Branch

- II. **Thurs., Dec. 6 , 2018, 5:00-7:00, 2nd Meeting for OCC Legislative Priorities**

- III. **Thurs., Dec. 6, 2016, 7:00-9:00, w/ADA, PATSY MINK’S BD**, screening of Patsy Mink Documentary “Ahead of the Majority.” John Bickel, former staffer, provided a detailed introduction to the life and accomplishments of our formidable, trailblazing first woman of color to serve in the U.S. Congress and author of Title IX against gender discrimination practices, especially in female athletic facilities in the public schools.

- IV. **Thurs. Dec. 20, 2016, Hu Honua Bioenergy Plant Forum**, Henry Curtis, Life of the Land (LOL), Lance Collins, Attorney for LOL, Hu Honua proposes to release 288,920 tons of CO2 (Carbon Dioxide), 22 tons of methane, and 11 tons of nitrous oxide annually and draw 21 million gallons of water per day from the Hakalau aquifer and then mix hazardous chemicals into the water before heating and daily disposing of it via injection wells located just 400 feet above the aquifer and only 100 feet from the shoreline. Hu Honua will be clearing 5 acres of eucalyptus trees per day to burn to create steam.

Fri.	Jan. 11, 2019	LRB Training, Drafting 6:00-8:00	DPH HQs
Mon.	Jan. 14, 2019	Red Hill Infor. Briefing 9:00-3:30	Auditorium
Mon.	Jan. 14, 2019	LRB Training, Drafting 6:00-8:00	DPH HQs
Weds.	Jan. 16, 2019	Opening of the Legislative Session	
Fri.	Jan. 18, 2019	Non-Admin. Bill Package Cutoff	
Mon.	Jan. 21, 2019	Martin Luther King, Jr. Day	
Tues.	Jan. 22, 2019	State of the State Address	
		Admin. Bill Package Cutoff, 5B/day	
Weds.	Jan. 23, 2019	Recess	
Thurs.	Jan. 24, 2019	State of the Judiciary Address	
		Bill Intro. Cutoff	



O`ahu County Committee on Legislative Priorities (OCCLP)

LAND, AGRICULTURE AND HAWAIIAN AFFAIRS

Agriculture: Rep. Richard P. Creagan

Agriculture & Environment

Sen. Mike Gabbard

Energy & Environmental Protection

Rep. Nicole E. Lowen

Hawaiian Affairs

Sen. Maile S.L. Shimabukuro

Water, Land & Hawaiian Affairs

Rep. Ryan I. Yamane

Sen. Kaiali`I Kahela

Transportation

Rep. Henry J.C. Aquino

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Sen. Donna Mercado

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Sen. Glenn Wakai

Technology Sen. Jarrett Keohokaloke

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Rep. Joy A. San Buenaventura			
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Ways and Means			
Sen. Donovan M. Dela Cruz			

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Public Safety, Veterans & Military Affairs			
Rep. Gregg Takayama			
Public Safety, Intergovernmental & Government Operations			
Sen. Laura H. Thielen			

DEMOCRATIC PARTY OF HAWAII
2019 Legislation Committee Report
State Central Committee Meeting November 10, 2018

Members of the SCC,

On behalf of the entire Legislation Committee, herein is our plan for the 2019 legislative session. Included in this report is:

1. Current Committee Members
2. Legislative Priority List
3. Procedure Agreed Upon

As of the drafting of this report, the Committee is comprised of the following members:

- Josh Frost (Co-Chair)
- Zavaha Zaidoff (Co-Chair)
- Melodie Aduja
- Jason Bradshaw
- Rebecca Gardner
- Jennifer Kagiwada
- Jeff McKnight

Over the course of several meetings, and after reviewing Resolutions and Platform planks approved at the State Convention, the Committee has identified 10 issues to take up as priorities. To further identify priority issues within the list, these 10 issues have been broken up into three tiers:

TIER I

- \$15 MINIMUM WAGE/LIVING WAGE

Increasing the Minimum Wage to at least \$15 an hour was universally agreed upon by the Committee as a critically important issue. Though the last increase to the Minimum Wage was January 2018 (\$10.10), all available data indicates this is still too low for workers in Hawaii to live on. The Committee strongly supports a living wage in Hawaii, but believes \$15 might be the best we can hope for at this stage.

- INCREASED FUNDING FOR PUBLIC EDUCATION

The Committee strongly supported the proposed Constitutional Amendment, which has been invalidated by the State Supreme Court. Nonetheless, this remains a critical issue for the State and one that needs to be addressed. Without a specific proposal, the Committee's confidence in passage of a robust education funding mechanism has waned.

- MARIJUANA LEGALIZATION

In the wake of the State Supreme Court's invalidation of the Constitutional Amendment, the Committee feels strongly that this might be an option to fund public education. With the success of marijuana legalization now proven in several

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2019 Legislation Committee Report

jurisdictions, it is time for a major push to Hawaii to join the growing number of states that has legalized marijuana for use by responsible adults.

Tier one issues are considered to be “top” priorities for the Democratic Party of Hawaii as pursued by this Committee. These are issues for which the Committee believes there is substantial support both at the Legislature and among the Party membership.

For bills covered by these topics, the Committee will endeavor to leverage the full breadth and depth of the Party’s membership and engage the grassroots.

Testimony and other types of support will be solicited from the membership via emails from the Membership Database and social media. When possible testimony will be submitted by the Party Chair both in writing and in person.

TIER II

- COLLECTIVE BARGAINING FOR GRADUATE ASSISTANTS

Two years ago, the Governor vetoed a bill that would allow Graduate Assistants at the University of Hawaii to organize themselves into a Union. Graduate Assistants are significantly under-paid and over-utilized as lecturers. Taken advantage of, they haven’t received a significant increase in their salaries for years. The right to collectively bargain is a core tenant of the Democratic Party and in light of the ongoing strike by Unite Here Local 5 we see the power and importance of workers’ ability to organize.

- VETERANS COURT

A veterans court currently exists and thrives in some areas of the state. It allows for veterans to be referred to treatment and receive help instead of going to jail for misdemeanor convictions. Veterans court is used all over the United States to recognize the service that our veterans have done for citizens of our country. It acknowledges the behavioral health issues that some of our veterans have returned with from their service. The veterans court needs to be expanded to all counties in our state and requires increased funding. Our veterans went to war to protect freedoms that we enjoy. It should be a priority that we take care of them and recognize the toll war has taken on them. The veterans court is a way to do that.

- NEIGHBOR ISLAND VIDEO CONFERENCING FOR PUBLIC HEARINGS

This is an issue that has been on the Party’s priority list for several years (it was on the list when I Chaired this committee three years ago). While neighbor island residents can submit written testimony on issues of concern, they cannot watch or participate directly in legislative hearings. Our neighbor island friends and family should be given the same opportunity to engage in the legislative process as those of us on Oahu.

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- SINGLE-PAYER HEALTH CARE (MEDICARE FOR ALL)

Despite the relative success of the Affordable Care Act (ACA) and Hawaii's landmark Prepaid Health Care Act, health care costs continue to rise. Access to quality care is an ongoing problem for too many in Hawaii. A State "Medicare for All" system would very likely reduce costs for both workers and employers while increasing access to care.

Tier two issues are those which the Committee believes are important issues that may or may not require substantial education of legislators and the broader public. These issues are considered very important by the Committee, but which may not necessarily be in a position to pass the legislature during the 2019 session. Testimony for bills relating to these issues will be drafted and submitted by the Committee as a whole, or by individual members. Committee members may or may not testify in person.

TIER III

- ACCESS TO BEHAVIORAL HEALTH SERVICES

Access to behavioral health is lacking in Hawaii. Several of our counties do not have even one residential facility which accepts Quest insurance available for men, women, or youth to receive help. This forces families to send their loved ones to a different island than where they live. Evidence has shown that people who receive help in the community in which they live are more successful with long-term recovery goals. Lack of access to behavioral health treatment contributes to homelessness, domestic violence, sexual assault, poverty, and a myriad of other issues.

- CRIMINAL JUSTICE REFORM, BAIL REFORM

With the prospect of construction of a new jail on Oahu, now is the time to talk seriously about creative and sensible ways to reduce prison populations in Hawaii. A comprehensive approach to reforming criminal justice has garnered considerable discussion in the last few years. The Committee believes the Party should support these efforts, beginning with bail reform. Reducing or eliminating the requirement of bail for non-violent offenders is an easy and compassionate way to begin to address this.

- PUBLICLY FUNDED ELECTIONS

Since 2010, money has been an ever-increasing corrupting influence in local and national elections. While a reversal of SCOTUS's Citizen's United ruling is necessary to truly reverse this troubling trend, a viable alternative solution is to increase the ability of candidates to access public funds for elections. Across the nation we have seen creative solutions and the Committee feels the Legislature needs to improve citizens' ability to run for public office, despite financial obstacles.

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Tier three issues are those that the Committee believes are important to address, but which are not likely to gain much traction during the 2019 session. These are issues that the Committee believes require additional education and organizing efforts before the Party should commit substantial effort or resources.

For bills relating to these issues, written testimony will be submitted, either by the Committee as a whole, or by individual members. Committee members may or may not testify in person.

If anyone is interested in helping on any of these issues, please get in touch with me so we can discuss ways you can be the most effective working with our committee. On behalf of the Legislation Committee, we submit this report to the SCC for its consideration and approval.

Mahalo,
Josh Frost
Zahava "Z" Zaidoff
Co-Chairs

**HU HONUA BIOENERGY POWER PLANT FORUM
HENRY CURTIS, LIFE OF THE LAND
LANCE COLLINS, ESQ.**

THURS., DEC. 20, 2018, 6:00-8:00 p.m.
Democratic Party Headquarters, 627 South Street, Suite 105

<https://www.kitv.com/clip/14720850/oahu-politicians-meet-about-big-island-bioenergy-power-plant>

Learn the facts about the proposed \$250M Hu Honua Bioenergy Power Plant on the Hamakua Coast of Hawai'i Island by Environmental Activists Henry Curtis, Founder of Life of the Land, and Lance Collins, Esq., who represents the of Life of the Land before the Hawai'i Supreme Court.

Hu Honua Bioenergy, LLC, proposes to draw 21 million gallons of water per day from the Hakalau Aquifer. It will then heat the 21 million gallons of water and combine it with over two dozen chemicals recognized by the EPA and OSHA as "HAZARDOUS CHEMICALS" and 11 million gallons of wastewater will be returned to the Hakalau Aquifer via injection wells that are 400 feet deep above the Hakalau Aquifer, 100 feet from the edge of unstable cliffs and a mere 100 feet from the shoreline. This heated contaminated water will percolate into coastal waters where endangered Hawksbill turtles and other marine life will be at-risk thus not only adversely affecting the fragile marine ecosystem but also the livelihood and subsistence of the surrounding fishing community.

An air pollution control permit from the DOH Clear Air Branch should be required given the substantial amount of greenhouse gas emissions that Hu Honua will emit annually. The proposed amount includes 288,920 tons of CO₂, 22 tons of methane gas, and 11 tons of nitrous oxide on an annual basis. The Plant will emit three times more CO₂ than natural gas and 1.5 times more CO₂ than coal. For this reason, the renewable energy source, i.e., steam, will not reduce the carbon footprint by avoiding fossil fuel as it still emits a substantial amount of greenhouse gas emissions thus failing in carbon neutrality.

Given the excessive amount of greenhouse gas emissions that will be emitted annually, an air pollution control permit would be a means to assure that the amount of greenhouse gas emissions is within acceptable EPA and DOH standards pursuant to the Hawai'i Constitution, the Hawaii Environmental Policy Act, and applicable Hawai'i statutes and Administrative Rules and relevant Hawai'i and Federal case law.

The O'ahu County Democrats Committee on Legislative Priorities urges that Hu Honua Bioenergy Plant be compelled under the Hawai'i State Constitution Public Trust Doctrine and Precautionary Principle to complete an Environmental Impact Statement and obtain an NDPES Permit pursuant to the Federal Clean Water Act and an air pollution control permit pursuant to the Federal Clean Air Act.

The O`ahu County Committee on Legislative Priorities remains steadfast in strongly urging that an Environmental Assessment be conducted prior to the issuance of any DOH Permits pursuant to Article 11, Section 1 of the Hawai`i State Constitution and the Precautionary Principle to argue in favor of an Environmental Assessment.

Article 11, Section 1 of the Hawai`i State Constitution provides:

For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawai`i's natural beauty and all-natural resources, including land, water, air, minerals, and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State. All public natural resources are held in trust by the State for the benefit of the people.

The Hawai`i Supreme Court has declared that this section makes the Public Trust Doctrine (PTD) a fundamental element of Constitutional Law in the State of Hawai`i.

Specifically, under Article 11, Section 1, of the Hawai`i State Constitution, the State has an obligation to protect, control, and regulate the use of Hawai`i's water resources for the benefit of its people. The Hawai`i Supreme Court has declared that this Constitutional provision created a duty for the State to protect public trust purposes. The Public Trust Doctrine, therefore, seeks to protect the following Public Trust Purposes:

1. Domestic water use of the general public, particularly drinking water,
2. The exercise of Native Hawaiian and traditional and customary rights including appurtenant rights,
3. Reservations of water for Hawaiian Home Land allotments, and
4. Maintenance of waters in their natural state. (Water Resource Protection Plan (2008), Commission on Water Resource Management)

Both the Hawai`i Supreme Court and the Commission on Water Resource Management have declared that the Public Trust Doctrine applies with equal force to groundwater as it does to surface water.

The Precautionary Principle is a duty under the Public Trust Doctrine. The PTD is a preventative doctrine, not a remedial one, as the Hawai`i Supreme Court recognized when it found that the Precautionary Principle was an inherent attribute of the PTD. In endorsing the Precautionary Principle, the Hawai`i Supreme Court rejected the requirement of scientific certainty before acting to protect Public Trust Purposes, noting that to do so will often allow for only reactive, not preventive regulation.

The Commission on Water Resource Management has espoused that "where scientific evidence is preliminary and not yet conclusive regarding the management of freshwater resources which are part of the public trust, it is prudent to adopt 'Precautionary Principles' in protecting the resource."

Protecting Oahu's Red Hill Aquifer

JOINT HOUSE-SENATE LEGISLATIVE AND O`AHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES INFORMATIONAL BRIEFING

Monday, Jan. 14, 2019, 9:00-3:30, Capitol Auditorium

Ernest Y. W. Lau, P.E, Manager and Chief Engineer and Erwin Kawata, Head of the Water Quality Division of the Board of Water Supply

In January 2014, there was a 27,000-gallon leak of jet fuel from Tank 5 at the U.S. Navy's Red Hill Bulk Fuel Storage Facility. This underground storage tank (UST) – along with 19 others like it in the Red Hill area – is able to contain up to 12.5 million gallons of fuel for the U.S. Navy. These tanks are located 100 feet above the groundwater aquifer, which the BWS uses to provide water to residents from Moanalua to Hawaii Kai.

The Red Hill Bulk Fuel Facility continuously stores 187 million gallons of fuel in 70+ year-old tanks that are located just 100 feet above a State designated drinking water aquifer. The BWS uses water from this aquifer to serve residents from Moanalua to Hawaii Kai. Navy studies show the groundwater underneath and within close proximity to the tanks is already contaminated with petroleum chemicals. These studies also document leaks dating back to 1947, continuing corrosion of the tank liners, and the risk of a large catastrophic fuel release. If such a release occurred, it could pollute the aquifer and our water supply for many years. A catastrophic fuel release could occur as the result of structural failure of the tanks caused by an earthquake. This could result in more than a million gallons of fuel released into the groundwater and potentially several million gallons to Halawa Stream and Pearl Harbor.

To protect the aquifer's long-term ability to provide safe drinking water, the BWS urges the Navy, EPA, and Hawaii DOH to:

- double line the tanks (Option 3). If not, then relocate away from the potable water aquifer;
- meet the same regulatory requirements as all other USTs; and
- clean up the fuel that is already underneath the tanks to reduce the long-term threat to other wells in the area.

Hawaii State Legislature
Joint House and Senate Legislative and
O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i
Informational Briefing
on the
Red Hill Underground Fuel Storage Facility

January 14, 2019
State Capitol Auditorium

Agenda

8:00 Call to Order and Introductory Remarks

Presentations. 40-minute presentation followed by 20-minute question and answer for each speaker.

8:00-8:40

Admiral Brian Fort, Commander, Navy Region Hawai`i. Topics to discuss.

1. Red Hill tank upgrade preferred way forward
2. Interim groundwater model conclusions
3. Laboratory results on Tank 14 coupons summary
4. Timeline for submitting Red Hill UST permit application to Hawaii Department of Health
5. Presidential exemption of Red Hill pursuant to 42 U.S.C. § 6961(a)

8:40-9:00 Questions, Answers, Public Testimony RE U.S. Navy

9:00-9:40

Dr. Bruce Anderson, Director, Hawai`i Department of Health (DOH). Topics to discuss.

1. DOH statement on operation and location of large underground storage tanks (USTs) such as Red Hill over the potable water aquifer
2. DOH UST permit review and approval process

9:40-10:00 Questions, Answers, Public Testimony RE Hawai`i Department of Health

10:00-10:40

Mr. Omer Shalev, United States Environmental Protection Agency (EPA). Topics to discuss.

1. Navy proposed tank upgrade alternative (TUA) review and approval process pursuant to Red Hill Administrative Order on Consent (AOC)
2. EPA comments to Navy interim groundwater model including review and comment process
3. Red Hill AOC dispute resolution process

10:40-11:00 Questions, Answers, Public Testimony RE EPA

11:00-11:40

Office of the Attorney General

11:40-12:00 Questions, Answers, Public Testimony RE AG's Office

12:00 – 1:00 Lunch

1:00- 2:00

Mr. Ernest Y.W. Lau, P.E., Manager and Chief Engineer, and Erwin Kawata, Head, Water Quality Division, Honolulu Board of Water Supply (BWS). Topics to discuss.

1. Navy tank upgrade preferred way forward
2. Interim groundwater model report
3. Tank 14 coupons

2:00-2:30 Questions, Answers, Public Testimony RE BWS

2:30-3:10

Ms. Marti Townsend, Executive Director, Sierra Club of Hawaii. Topics to discuss.

1. Sierra Club position, statement and concerns with Red Hill

3:10-4:00 Questions, Answers, Public Testimony RE Sierra Club

Adjourn

