



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
P. O. BOX 621  
HONOLULU, HAWAII 96809

S.B. 3182  
WILLIAM W. PATY, CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES

LIBERT K. LANDGRAF  
DEPUTY

AQUACULTURE DEVELOPMENT  
PROGRAM  
AQUATIC RESOURCES  
CONSERVATION AND  
ENVIRONMENTAL AFFAIRS  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

FEB 12 1986

MEMORANDUM

TO: Honorable Richard M. Matsuura, Chairman  
Committee on Agriculture, Energy & Ocean Resources

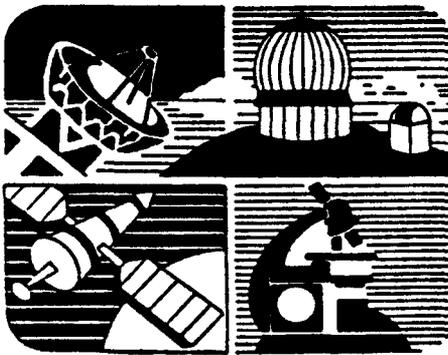
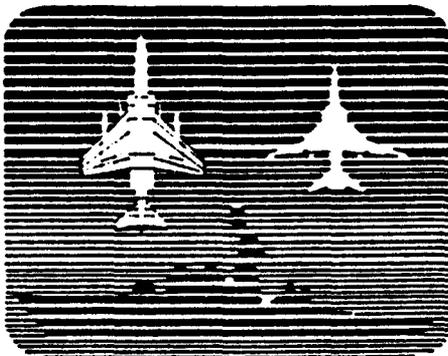
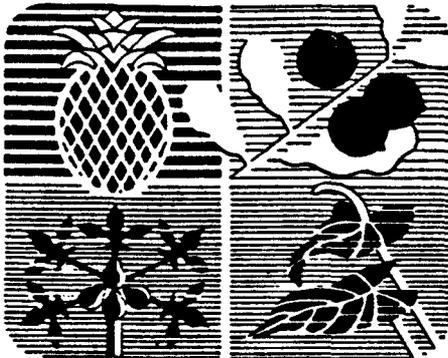
FROM: William W. Paty, Chairperson  
Board of land and Natural Resources

SUBJECT: Senate Bill No. 3182, Relating to the Development and  
Use of Geothermal Energy

Senate Bill No. 3182 establishes a comprehensive permit system for the geothermal/cable system project.

The Department currently is responsible for permitting activities such as conservation district use, geothermal leases, subzones and drilling, and several other natural resource programs.

The Department supports the bill to streamline the existing permit procedures to ensure that the geothermal/cable project be accomplished with due consideration for the environment.



*Envision Hawaii!*

**dbed**

DEPARTMENT OF BUSINESS  
AND ECONOMIC DEVELOPMENT

STATEMENT OF  
**ROGER A. ULVELING**  
DIRECTOR OF BUSINESS AND ECONOMIC DEVELOPMENT

BEFORE THE  
SENATE COMMITTEE ON AGRICULTURE,  
ENERGY AND OCEAN RESOURCES

ON

February 12, 1988

IN CONSIDERATION OF

S. B. No. 3182 Relating to the Development and  
Use of Geothermal Energy.



The Department of Business and Economic Development strongly supports the intent of S.B. No. 3182 which would establish a special comprehensive permit system relating to geothermal and inter-island cable development. This is an Administration Bill. It was prepared under the auspices of the Governor's Advisory Board on the Underwater Cable Transmission Project. This bill was coordinated with affected State department heads.

DBED concurs with the findings of the Board that the geothermal and cable development should be undertaken as a single enterprise, and that this project faces a ponderous assortment of Federal, State and County land use, planning and other related laws and regulations. The regulations tend to be repetitive, duplicative and uncoordinated. Experience has shown they consume unreasonable amounts of time, effort and expense. A project like the one under consideration has never been attempted in Hawaii. Because it is first-of-a-kind, the regulatory process could be even more repetitive and uncoordinated than, say, the permitting for a hotel. Because of its magnitude and geographical spread, this project will require a great number of permits and face overlapping jurisdiction by a number of agencies. For instance, three counties will be involved.

We provided the 1987 Session of the Legislature with the study, Alternative approaches to the Legal, Institutional and Financial Aspects of Developing an Inter-Island Electrical Transmission Cable System. Section VII of that report discusses, in detail, an approach to fast-track permitting for the integrated development of a cable system and Hawaii's geothermal resources. That approach has evolved into the bill which you are now considering.

We need to emphasize that the comprehensive permit system proposed in this bill does not intend to avoid processes that allow for public input to the permitting process. Further, we anticipate that an Environmental Impact Statement for the combined project will be prepared. In fact we have completed an Environmental Assessment for the inter-island cable system and are now performing an EA for large-scale geothermal development.

In the past six months we have talked to several international consortia who are willing to consider undertaking the combined project with private funding. They were unanimous in their concern about the regulatory process and asked that the State take the lead in facilitating the permitting.

There is a strong need to establish a comprehensive and unified permitting system for the cable and geothermal project which can minimize the time, effort and expense involved for such a large and complicated undertaking while at the same time providing adequate protection to the various public interests involved.

My written testimony includes a statement prepared by the attorney who drafted this bill. That statement discusses the bill in more detail and suggests some technical corrections to the bill.

Thank you for the opportunity to provide these remarks.

Senate Bill No. 3182 is an Administration Bill, and was prepared under the auspices of the Governor's Advisory Board on the Underwater Cable Transmission Project ("Board"). This Bill was coordinated with the affected State Department heads. This Board has reviewed the feasibility of developing Hawaii's geothermal resources and transmitting electric energy generated from such resources from the Island of Hawaii to the Island of Oahu. Its report has earlier been transmitted by the Governor to this Legislature.

As we know, Hawaii's most significant renewable energy resource is the geothermal resources located in the Puna area on the Big Island, which has been estimated to be approximately 500 megawatts of geothermal energy. If developed this resource could greatly further the State's goals of developing its renewable energy resources, on the one hand, and diminishing our almost complete dependency upon imported fossil fuels, on the other hand.

However, these geothermal resources are located on the Big Island, while the State's greatest electric energy demand is on Oahu. We must therefore determine how best to develop these geothermal resources to their fullest potential to generate electric energy and how to deliver that energy from the Big Island to Oahu.

These challenges have been extensively studied for several years. Concurrently, initial development of the

geothermal resources has continued, involving both scientific exploration as well as initial commercial development by two major private sector companies. In addition, the State is critically examining the feasibility of an inter-island deep water cable system to transmit the electric energy generated by the geothermal resources from the Big Island to Oahu. Indeed, for the past several years the State and Federal Governments have undertaken the Hawaii Deep Water Cable Program to explore the feasibility of such a cable system. That program, which is in its final stages, will be substantially completed in 1989.

The net result of all of these studies, including the recent study by the Board, is that the development of the State's geothermal resources on the Big Island and the inter-island cable system are each feasible, but as interdependent parts of a single comprehensive project.

Further, within recent months, several major international private groups have expressed substantial interest in undertaking this combined geothermal/cable system project. This is very much in accord with the State's interest, which is to encourage the private sector to undertake this combined project. Of course, it is equally important that the State provide the leadership in overseeing this substantial development as well as the appropriate public oversight to ensure that the project is accomplished consistent with the State's policies and objectives.

Each of the geothermal and the cable system aspects of this project is itself a very substantial undertaking. The present total estimated cost of this combined project would be some \$1.5 billion. It would be the largest project ever undertaken in our State, and it would also provide the greatest renewable energy source that to date has been developed.

Before summarizing the major provisions of the proposed Bill, I would again note that the Federal/State Hawaii Deep Water Program will be completed in 1989. This program has created substantial worldwide private sector interest in undertaking this combined geothermal/cable system project. It is thus very crucial that the momentum created by this interest continue beyond the completion of this program in 1989. We would like to ensure that the commercial development of this combined project, under the State's leadership, begin as soon as possible to ensure that the interest, momentum and results created by this program are not lost, to the detriment of the State.

One of the major and fundamental aspects to the development of this combined geothermal/cable system project is the diverse array of Federal, State and County land use, planning, environmental and other related laws and regulations that currently control the undertaking of all commercial projects in the State. While many of these controls attempt to ensure that commercial development projects in general are

undertaken in a manner consistent with land use, planning, environmental and other public policies, at the same time many of these specific laws, regulations and controls oftentimes are, or tend to be, repetitive, duplicative and uncoordinated. They thus consume unnecessary amounts of time, effort and expense, and result at best in increases in the cost of new projects and at worst in the abandonment of needed projects.

To a limited extent, the State and the Counties have sought to alleviate certain of these impediments through enacting or adopting measures to improve the coordination and efficiency of land use and planning controls and specifically to facilitate the development of geothermal resources. Nonetheless, despite these efforts, the complexities, the magnitude in scope and cost, the fundamental interrelationship between the development of the geothermal resources and the cable system, the inherent requirement for the coordinated development of the geothermal resources and the cable system, the substantial length of time required to undertake and complete both developments, and the requirements for private and possibly public financing for both projects cannot be effectively handled and accommodated by existing laws, regulations and controls.

This Bill seeks to alleviate many of these difficulties by establishing a comprehensive permit system

designed specifically, and only, for the geothermal/cable system project. Its scope does not extend beyond this project.

The Bill would establish a comprehensive and consolidated permit system for the development of combined geothermal/cable system project.

The Bill would also establish the Department of Land and Natural Resources ("DLNR") as the lead agency to establish and administer this comprehensive and consolidated permit system. The DLNR is well-suited for this role because it currently has jurisdiction over most aspects of geothermal resource development and would also have jurisdiction over most aspects of the cable system. The DLNR can thus readily serve to facilitate the permitting process for this project.

These permitting issues have been discussed in detail in the DBED studies on Report to the Thirteenth State Legislature in Response to Senate Resolution No. 140 Requesting the Department of Planning and Economic Development to Expedite Geothermal Development (December, 1985), and Alternative Approaches to the Legal, Institutional and Financial Aspects of Developing an Inter-Island Electrical Transmission Cable System, which was provided to the 1987 session of the Legislature, as well as in the Board's report. Section VII of the second study discusses in detail an approach to the comprehensive permitting program for the integrated development

of the geothermal/cable system project, and suggests an approach similar to that set forth in Senate Bill No. 3182.

In summary, the proposed Bill contains, among other provisions, the following:

1. Its findings and declaration of purposes set forth the rationale for the comprehensive permit system.

2. It provides for the establishment of a comprehensive permit system, which shall include (i) a master consolidated permit application and review process for the project as well as (ii) a master coordinated permit application form to be used for the project for all permitting purposes.

3. It provides that the DLNR shall have primary jurisdiction over the permitting requirements and procedures for the project, and shall perform both its current permitting functions as well as those functions which are transferred to it by this proposed Bill for purposes of the project. The DLNR shall also coordinate and consolidate all required permit reviews by other agencies, including, as much as possible, by all Federal agencies.

4. It sets forth in detail the consolidated permit application and review process, including the procedure to ensure the fullest possible coordination and consolidation of the various permitting functions. All State and County agencies whose permitting functions are not transferred by this

Bill to the DLNR for purposes of the project are required to participate in this process.

5. It provides that the DLNR shall establish an inter-agency group comprised of those State and County agencies involved in the permitting process and, to the extent possible, the appropriate Federal agencies. This inter-agency group is to provide liaison and assisting functions in order to expedite the permitting process.

6. It transfers to the DLNR for purposes of this project only certain permitting functions relating primarily to district boundary amendments, zoning changes, shoreline setback approvals, special management area use permits and permits relating to activities affecting the shore waters and shores.

However, the Bill also provides that any permitting functions not specifically transferred to the DLNR shall remain with their existing agencies (e.g., permitting functions of the Department of Health and approval functions of the Public Utilities Commission). It should be noted that the provision for the transfer of these specific permitting functions to the DLNR shall be effective one year from the date of enactment of the proposed Bill. This will provide any needed transmittal time.

7. The Bill also provides for certain other matters, including an appropriation to carry out its purposes.

Finally, there are several technical corrections that should be made to the Bill:

1. On page 4, line 14, substitute "duplicative" for "duplicate";
2. On page 8, line 16, the sentence starting with "Department" should be a separate paragraph;
3. On page 16, line 13, delete the hyphen in the word "thereafter";
4. On page 19, line 13, provide a space before the word "operate"; and
5. On page 22, line 11, delete the period before the word "such" and capitalize "such".

The State considers Senate Bill No. 3182 to be a vital step forward needed to facilitate the development of our greatest renewable energy resource, and an essential measure to mobilize the private sector to undertake this important and substantial project.

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THE SENATE  
THE FOURTEENTH LEGISLATURE  
REGULAR SESSION 1988

Chair <sup>7/1</sup>  
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COMMITTEE ON AGRICULTURE, ENERGY & OCEAN RESOURCES

Senator Richard M. Matsuura, Chairman  
Senator James Aki, Vice-Chairman

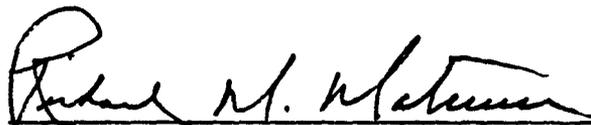
NOTICE OF PUBLIC HEARING

DATE: Friday, February 12, 1988  
TIME: 3:00 p.m. to completion  
PLACE: Senate Conference Room 2

A G E N D A

- RECEIVED  
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STATE OF HAWAII  
AGRICULTURE, ENERGY & OCEAN RESOURCES
- |                      |  |                        |
|----------------------|--|------------------------|
| S.B. 3047            | Relating to Marine Affairs   | AEO, WAM               |
| S.B. 2357            | Making an Appropriation for a Geothermal Awareness Project   | AEO, WAM               |
| S.B. 2358            | Making an Appropriation for a Consortium to Stimulate Geothermal Resource Development  | AEO, WAM               |
| S.B. 2363            | Relating to the Issuance of Special Purpose Revenue Bonds to Assist Manufacturing Enterprises  | AEO, WAM               |
| S.B. 2480            | Relating to Income Taxes   | AEO, WAM               |
| S.B. 2482            | Relating to Taxes  | AEO, WAM               |
| S.B. 2506            | Relating to the Honolulu Program of Waste Energy Recovery  | AEO, WAM               |
| S.B. 2507            | Relating to the Honolulu Program of Waste Energy Recovery  | AEO, WAM               |
| S.B. 3161            | Relating to Management of State Funds  | AEO, WAM               |
| S.B. 3180            | Relating to Energy Conservation Incentives Through Income Tax Credits  | AEO, WAM               |
| <del>S.B. 3181</del> | <del>Relating to the Establishment of a Geothermal and Cable System Authority</del>  | <del>AEO, WAM WL</del> |
| <del>S.B. 3182</del> | <del>Relating to the Development and Use of Geothermal Energy</del>  | <del>AEO, WAM WL</del> |
| S.B. 3185            | Relating to the Exemption of Sales of Alcohol Fuels  | AEO, WAM               |
| S.E. 2237            | Making an Appropriation for Agricultural Activities  | AEO, WAM               |
| S.B. 2498            | Authorizing the Issuance of General Obligation Bonds and Making an Appropriation for the Purchase of Waiki'i Ranch on the Island of Hawaii | AEO, WAM WL            |

S.B. 2605	Making an Appropriation to Subsidize the Cultural Quantity Rate of the Board of Water Supply of the City and County of Honolulu	AEO, WAM
S.B. 2904	Relating to the Kula Vacuum Cooling Plant, Maui	AEO, WAM
S.B. 3042	Making an Appropriation for a Demonstration Shrimp Project with the Sugar Industry	AEO, WAM <sup>AR</sup> <sub>ADP</sub>
S.B. 3152	Relating to Agriculture	AEO, WAM
S.B. 3095	Relating to Special Purpose Revenue Bonds for Manufacturing Agricultural Products	AEO, WAM

  
RICHARD M. MATSUURA, CHAIRMAN

It is requested that all testimony be in writing on 8½" x 11" paper (one-sided), with a top margin of 1". Thirty (30) copies should be submitted to Room 201 at least 24 hours prior to the hearing. For further information, please call 548-6291.

A BILL FOR AN ACT

RELATING TO THE DEVELOPMENT AND USE OF GEOTHERMAL ENERGY

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

GEOTHERMAL AND CABLE SYSTEM

DEVELOPMENT PERMITTING ACT OF 1988

§ -1 This chapter shall be known and may be cited as the "Geothermal and Cable System Development Permitting Act of 1988."

§ -2 Findings and declaration of purpose. The legislature hereby finds and declares that:

- a) the development of Hawaii's geothermal resources, principally located on the Island of Hawaii,

1 represents a substantial and long-term source of  
2 indigenous renewable alternate energy that could be used  
3 to generate electric energy to meet the State's electric  
4 energy needs and concurrently help to reduce the State's  
5 need for imported fossil fuels;

6 (b) the State has deemed it appropriate that the  
7 private sector should develop such geothermal resources,  
8 and, to that end, has sought to encourage private sector  
9 exploration and development of such geothermal resources;

10 (c) the private sector companies seeking to develop  
11 such geothermal resources are, however, unable or  
12 unwilling to expend the substantial amounts of funds  
13 needed to develop these resources to their full extent  
14 without an assured and sufficiently large market for the  
15 electric energy to be generated therefrom, and the present  
16 and projected electric energy demand on the Island of  
17 Hawaii does not provide such an assured and sufficiently  
18 large market;

19 (d) the greatest present and projected demand for  
20 such geothermally-generated electric energy is located on  
21 the Island of Oahu;

22 (e) the State, with the support and assistance of the  
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1 Federal and County of Hawaii governments, has been  
2 exploring for several years the technical, engineering,  
3 economic and financial feasibility of an inter-island deep  
4 water electrical transmission cable system that would be  
5 capable of transmitting such geothermally-generated  
6 electric energy from the Island of Hawaii to the Island of  
7 Oahu, and has concluded that such a cable system is both  
8 feasible and desirable;

9 (f) the development of such a cable system will not  
10 be undertaken without the firm assurance that a sufficient  
11 amount of geothermally-generated electric energy will be  
12 continuously available to be transmitted through a cable  
13 system once it becomes operational;

14 (g) the fundamental interrelationship between the  
15 development of such geothermal resources and a cable  
16 system and the magnitude of the cost to undertake each of  
17 these developments clearly indicate that neither will be  
18 undertaken without the firm assurance that the other will  
19 also be undertaken in a synchronized and coordinated  
20 manner to enable both developments to be completed  
21 substantially concurrently, thereby ensuring that revenues  
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1 will be available to begin amortizing the costs of each of  
2 these developments;

3 (h) a major and fundamental impediment to the  
4 development of each of such geothermal resources and a  
5 cable system is the diverse array of Federal, State and  
6 County land use, planning, environmental and other related  
7 laws and regulations that currently control the  
8 undertaking of all commercial projects in the State;

9 (i) while many of these controls attempt to ensure  
10 that commercial development projects in general are  
11 undertaken in a manner consistent with land use, planning,  
12 environmental and other public policies, many of these  
13 specific laws, regulations and controls in most instances  
14 are, or tend to be, repetitive, duplicate and  
15 uncoordinated, and thus consume unnecessary amounts of  
16 time, effort and expense and result at best in increases  
17 in the cost of new projects and at worst in abandonment of  
18 needed projects;

19 (j) the State and counties have, to a limited extent,  
20 sought to ameliorate certain of these impediments through  
21 the enactment or adoption of measures to improve the  
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Page 5

1 coordination and efficiency of land use and planning  
2 controls and specifically to facilitate the development of  
3 such geothermal resources;

4 (k) notwithstanding these efforts, the complexities,  
5 the magnitude in scope and cost, the fundamental  
6 interrelationship between the development of such  
7 geothermal resources and a cable system, the inherent  
8 requirement for the coordinated development of the  
9 geothermal resources and a cable system, the substantial  
10 length of time required to undertake and complete both  
11 developments, and the requirements for private and  
12 possibly public financing for both developments cannot be  
13 effectively handled and accommodated by these existing  
14 laws, regulations and controls;

15 (l) the development of such geothermal resources and  
16 a cable system, both individually and collectively, would  
17 represent the largest and most complex development ever  
18 undertaken in the State;

19 (m) the private sector companies that have been  
20 engaged in developing the State's geothermal resources and  
21 other such companies that have expressed strong interest  
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1  
2 in developing a cable system have all emphasized the need  
3 for a comprehensive permitting system that can provide for  
4 and facilitate the coordinated development of both such  
5 geothermal resources and a cable system, thus providing  
6 such companies with the firm assurances that they require  
7 to commit the substantial amounts of funds, time and  
8 effort necessary to undertake such developments, while at  
9 the same time ensuring the fulfillment of fundamental  
10 State and county land use and planning policies;

11 (n) several of such private sector companies have  
12 expressed an interest in undertaking, through a consortium  
13 of private companies or otherwise, the development of the  
14 geothermal resources and a cable system as a combined  
15 single project and have further expressed the desire that  
16 a comprehensive permitting system be established that  
17 could accommodate this development of a combined single  
18 project;

19 (o) the development of such geothermal resources and  
20 a cable system are in furtherance of the State's policies,  
21 as expressed in the State Plan and elsewhere, to develop  
22 the State's indigenous renewable alternate energy  
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1 resources and to decrease the State's dependency on  
2 imported fossil fuels; and

3 (p) it is declared as a matter of legislative  
4 determination that the development of the State's  
5 geothermal resources and the related cable system cannot  
6 effectively be undertaken and accomplished under existing  
7 laws, regulations and controls, and that the development  
8 of such geothermal resources and the cable system being  
9 necessary to and proper to attain the public policies of  
10 the State heretofore recited, a comprehensive permitting  
11 system for the development of the State's geothermal  
12 resources and the cable system should be established by an  
13 act of the legislature.

14 § -3 Definitions. As used in this chapter when  
15 the context otherwise requires:

16 "Agency" means any department, office, board or  
17 commission of the State or a county government which is a  
18 part of the executive branch of that government, but does  
19 not include any public corporation or authority that may  
20 be established by the legislature for the purposes of the  
21 project.  
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"Applicant" means any person who, pursuant to statute, ordinance, rule or regulation requests approval or a permit for the proposed project.

"Approval" means a discretionary consent required from an agency prior to the actual implementation of the project. "Department" means the department of land and natural resources or any successor thereto.

"Discretionary consent" means a consent, sanction or recommendation from an agency for which judgment and free will may be exercised by the issuing agency, as distinguished from a ministerial consent.

"Environmental impact statement" means an informational document prepared in compliance with chapter 343.

"Inter-agency group" means the body established pursuant to §       -7       of this chapter.

"Lead agency" means the department.

"Permit" means any license, permit, certificate, certification, approval, compliance schedule or other similar document or decision pertaining to any regulatory or management program which is related to the protection,

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conservation, use of, or interference with the natural resources of land, air or water in the State, and which is required prior to or in connection with the undertaking of the project.

"Person" includes any individual, partnership, firm, association, trust, estate, corporation, joint venture, consortium, any public corporation or authority that may be established by the legislature for the purposes of the project, or other legal entity other than an agency.

"Project" means the commercial development, construction, installation, financing, operation, maintenance, repair and replacement, including without limitation all applicable exploratory, testing and predevelopment activities related to the foregoing, of (i) a geothermal power plant or plants, including all associated equipment, facilities, wells and transmission lines, on the Island of Hawaii for the primary purpose of generating electric energy for transmission to the Island of Oahu through the cable system, and (ii) an inter-island deep water electrical transmission cable system, including

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all land-based transmission lines and other ancillary facilities, to transmit geothermally-generated electric energy from the Island of Hawaii to the Island of Oahu, whether or not the cable system is used to deliver electric energy to any intervening point. Nothing in this definition shall preclude the sale of a portion of the electric energy generated by the geothermal plant or plants to the electric utility serving any one or more of the Islands of Hawaii, Maui, Molokai or Lanai.

§       -4 Comprehensive permit system. (a) The department is designated as the lead agency for the purposes of this chapter and, in addition to its existing functions, shall establish and administer the comprehensive permit system provided for in this chapter, which shall incorporate all State and county permitting functions involved in the development of the project which are transferred by this chapter to the department to effectuate the purposes of this chapter.

(b) The comprehensive permit system shall include:  
(1) a master consolidated permit application and review process for the project, which shall

1 incorporate a list of all permits required for the  
2 project; the role and functions of the department as the  
3 lead agency and the inter-agency group; all permit review  
4 and approval deadlines; a schedule for meetings and  
5 actions of the inter-agency group; a mechanism to resolve  
6 any conflicts that may arise between or among the  
7 department and any other agencies, including any Federal  
8 agencies, as a result of conflicting permit, approval or  
9 other requirements, procedures or agency perspectives; and  
10 any other desirable or necessary administrative or  
11 legislative actions; and

12 (2) a master consolidated permit application  
13 form to be used for the project for all permitting  
14 purposes.

15 (c) The department shall have primary jurisdiction  
16 over the permitting requirements and procedures for the  
17 project; shall perform all of the permitting functions for  
18 which it is currently responsible and which are  
19 transferred to it by this chapter for the purposes of the  
20 project; and shall coordinate and consolidate all required  
21 permit reviews by other agencies, and to the fullest  
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1 extent possible by all Federal agencies, having  
2 jurisdiction over any aspect of the project.

3 § -5 Consolidated permit application and review  
4 process. (a) The department shall serve as the lead

5 agency for the consolidated permit application and review  
6 process established pursuant to section 4(b)(1) of this  
7 chapter and as set forth in this section 5 for the  
8 project. All agencies whose permitting functions are not  
9 transferred by this chapter to the department for the  
10 purposes of the project are required to participate in the  
11 master consolidated permit application and review process.

12 (b) Notwithstanding any other law, ordinance, rule  
13 or regulation to the contrary, the department and each  
14 State and county agency whose permitting functions are not  
15 transferred by this chapter to the department for the  
16 purposes of the project shall complete all of their  
17 respective permitting functions for the purposes of the  
18 project, pursuant to the provisions of this chapter,  
19 within sixty days of the receipt of the master  
20 consolidated permit application for the proposed project;  
21 except that the department or any such agency shall have  
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1 good cause to exceed such sixty-day time limit if the  
2 permit-issuing agency must rely on another agency,  
3 including any Federal agency, for all or part of the  
4 permit processing and the delay is caused by such other  
5 agency.

6 (c) The procedure shall be as follows:

7 (1) The applicant shall submit the master  
8 consolidated permit application using the master  
9 consolidated permit application form, which shall include  
10 such data about the proposed project that the department  
11 deems necessary to fulfil the purposes of this chapter and  
12 to determine which other agencies may have jurisdiction  
13 over any aspect of the proposed project.

14 (2) Upon receipt of the master consolidated  
15 permit application, the department shall notify all State  
16 and county agencies whose permitting functions are not  
17 transferred by this chapter to the department for the  
18 purposes of the project, as well as all Federal agencies,  
19 which the department determines may have jurisdiction over  
20 any aspect of the proposed project as set forth in such  
21 application, and shall invite the Federal agencies so  
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1 notified to participate in the consolidated application  
2 process. Such State and county agencies, and those  
3 Federal agencies which accept such invitation, shall  
4 thereafter participate in the master consolidated permit  
5 application and review process.

6 (3) The applicant shall designate its  
7 representative to serve on the master consolidated permit  
8 application and review team, and the representatives of  
9 such State, county and Federal agencies shall be those  
10 representatives in the inter-agency group.

11 (4) The representatives of the department and  
12 such State, county and Federal agencies and the applicant  
13 shall develop and sign a joint agreement among themselves  
14 which shall identify the members of the master  
15 consolidated permit application and review team, specify  
16 the regulatory and review responsibilities of the  
17 department and each such State, county and Federal agency  
18 and set forth the responsibilities of the applicant, and  
19 establish a timetable for regulatory review, the conduct  
20 of necessary hearings, the preparation of an  
21 environ-mental impact statement if necessary, and other  
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actions required to minimize duplication and coordinate and consolidate the activities of the applicant, the department and such State, county and Federal agencies.

(5) The department, each such State and county agency whose permitting functions are not transferred by this chapter to the department for the purposes of the project and each Federal agency shall issue its own permit or approval based upon its own jurisdiction. The consolidated application process shall not affect or invalidate the jurisdiction or authority of any agency under existing law, except to the extent that the permitting functions of any State or county agency are transferred by this chapter to the department for the purposes of the project.

(6) The applicant must apply directly to each Federal agency which does not participate in the master consolidated permit application and review process.

(7) The department shall review for completeness and thereafter process each master consolidated permit application submitted by an applicant for the project, and shall monitor the processing of the

1 permit application by such State and county agencies whose  
2 permitting functions are not transferred by this chapter  
3 to the department for the purposes of the project. The  
4 department shall coordinate, and seek to consolidate where  
5 possible, the permitting functions, and monitor and assist  
6 in the permitting functions conducted by all such  
7 agencies, and to the fullest extent possible the Federal  
8 agencies, in accordance with the comprehensive permit  
9 system.

10 (8) Once the processing of each master  
11 consolidated permit application has been completed and the  
12 permit requested has been issued to the applicant, the  
13 department shall there-after monitor the applicant's work  
14 undertaken pursuant to such permit to ensure the  
15 applicant's compliance with the terms and conditions of  
16 such permit and to assist, as appropriate, the applicant  
17 in its project.

18 § -6 Inter-agency group. (a) The department  
19 shall establish an inter-agency group comprised of those  
20 State and county agencies whose permitting functions are  
21 not transferred by this chapter to the department for the  
22

1 purposes of the project and which have jurisdiction over  
2 any aspect of the project. Each such agency shall  
3 designate an appropriate representative to serve on the  
4 inter-agency group as part of such representative's  
5 official responsibilities. The inter-agency group shall  
6 perform liaison and assisting functions as required by  
7 this chapter and the department. The department shall  
8 invite and encourage the appropriate Federal agencies  
9 having jurisdiction over any aspect of the project to  
-0 participate in the inter-agency group.

11 (b) The department and such agencies shall cooperate  
12 with such Federal agencies to the fullest extent possible  
13 to minimize duplication between and, where possible,  
14 promote consolidation of Federal and State requirements.  
15 Such cooperation, to the fullest extent possible, shall  
16 include, among other things, joint environmental impact  
17 statements with concurrent public review and processing at  
18 both levels of government. Where Federal law has  
19 requirements that are in addition to but not in conflict  
20 with State law requirements, the department and the  
21 agencies shall cooperate in fulfilling, to the fullest  
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1 extent possible, their requirements such that all  
2 documents shall comply with all applicable laws.

3 (c) If the legislature establishes any public  
4 corporation or authority for the purposes of the project,  
5 then such public corporation or authority shall, upon its  
6 establishment, be a member of the inter-agency group.

7 & -7 Streamlining activities. In administering  
8 the comprehensive permit system, the department shall:

9 (a) monitor all permit applications submitted under  
10 this chapter and the processing thereof on an ongoing  
11 basis to determine the source of any inefficiencies,  
12 delays and duplications encountered and the status of such  
13 permits in process;

14 (b) adopt and implement needed streamlining measures  
15 including, but not limited to, measures defined by the  
16 department and/or the inter-agency group in consultation  
17 with those agencies whose permitting functions are not  
18 transferred by this chapter to the department for the  
19 purposes of the project and with members of the public;

20 (c) design, in addition to the master consolidated  
21 permit application form, applications, checklists and  
22

1 other forms essential to the implementation of the  
2 comprehensive permit process;

3 (d) seek by legislative or administrative action the  
4 elimination of duplicative or redundant permit  
5 requirements, including any hearing procedures, and  
6 consolidate them where possible;

7 (e) ensure that all standards used in any agency  
8 decision-making for any required permits are clear,  
9 explicit and precise; and

10 (f) incorporate, where possible, rebuttable  
11 presumptions into the comprehensive permit process.

12 § -8 Information services. The department  
13 shall: (a) operate a permit information and coordination  
14 center during normal working hours, which would provide  
15 guidance to potential applicants for the project with  
16 regard to the permits and procedures that may apply to the  
17 project; and

18 (b) maintain and update a repository of the laws,  
19 rules and regulations, procedures, permit requirements and  
20 criteria of State and county agencies whose permitting  
21 functions are not transferred by this chapter to the  
22

1 department for the purposes of the project and which have  
2 control or regulatory power over any aspect of the project  
3 and of Federal agencies having jurisdiction over any  
4 aspect of the project.

5 § -9 Construction of the chapter; rules. This  
6 chapter shall be construed liberally to effectuate its  
7 purposes, and the department shall have all powers which  
8 may be necessary to carry out the purposes of this  
9 chapter, including the authority to make, amend and repeal  
10 rules to implement this chapter. The adoption, amendment  
11 and repeal of all rules shall be subject to chapter 91.

12 § -10 Transfer of functions. (a) Those  
13 functions identified below insofar as they relate to the  
14 permit application, review, processing, issuance and  
15 monitoring of State and county laws, ordinances, rules and  
16 regulations and to the enforcement of terms, conditions  
17 and stipulations of permits as defined in section 3 of  
18 this chapter and other authorizations issued by State and  
19 county agencies with respect to the development,  
20 construction, installation, operation, maintenance, repair  
21 and replacement of the project, or any portion or portions  
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1           thereof, are transferred to the department. This transfer  
2 shall vest in the department exclusive responsibility for  
3 the permit and enforcement functions described above of  
4 all State and county laws, ordinances, rules and  
5 regulations relevant in any manner to the development,  
6 construction, installation, operation, maintenance, repair  
7 and replacement of the project, or any portion or portions  
8 thereof. With respect to each of the statutory  
9 authorities cited below, the transferred functions include  
10 all enforcement functions of the given agencies or their  
11 officials under the statute cited as may be related to the  
12 enforcement of such terms, conditions and stipulations of  
13 permits, including but not limited to the specific  
14 sections of the statute cited. "Enforcement", for  
15 purposes of this transfer of functions, includes  
16 monitoring and any other compliance or oversight  
17 activities reasonably related to the enforcement process.  
18 These transferred functions include:

19           (1) such functions of the land use commission  
20 related to: district boundary amendments as set forth in  
21 sections 205-3.1 et seq.; changes in zoning as set forth  
22

1 in section 205.5; and shoreline setback approvals as set  
2 forth in part II of chapter 205;

3 (2) such functions of a county or counties  
4 related to: changes in zoning as set forth in sections  
5 205-5 and 46-4 et seq.; and shoreline setback approvals as  
6 set forth in part II of chapter 205;

7 (3) such approval and enforcement functions of  
8 the authority or other appropriate official or entity  
9 related to special management area use permits issued  
10 under part II of chapter 205A; and

11 (4) such permit approval and enforcement  
12 functions of the director of transportation or other  
13 appropriate official or entity in the department of  
14 transportation related to permits or approvals issued for  
15 the use of and/or commercial activities in or affecting  
16 the shore waters and shores of the State under chapter 266.

17 (b) In performing the functions transferred to it by  
18 the section, the department shall follow existing laws,  
19 ordinances, rules and regulations as closely as is  
20 consistent with standards meeting minimum requirements of  
21 good design, health, safety and coordinated development.  
22

1 (c) Nothing in this section 10 shall be construed to  
2 relieve an applicant from the laws, ordinances, rules and  
3 regulations of any agency whose functions are not  
4 transferred by this chapter to the department for the  
5 purposes of the project.

6 (d) The provisions of this section 10 shall not apply  
7 to any permit issued by the public utilities commission  
8 under chapter 269.

9 (e) Notwithstanding section 14 of this chapter, the  
10 provisions of this section 10 shall take effect on a date  
11 that is one year from the date of the enactment of this  
12 chapter.

13 § -11 Annual report. The department shall  
14 submit an annual report to the governor and the  
15 legislature on its work during the preceding year, the  
16 development status of the project, any problems  
17 encountered and any legislative actions that may be needed  
18 further to improve the comprehensive permit process and/or  
19 implement the intent of this chapter.

20 § -12 Severability. If any provision of this  
21 chapter or the application thereof to any person or  
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1 circumstances is held invalid, such invalidity shall not  
2 affect other provisions or applications of this chapter  
3 which can be given effect without the invalid provision or  
4 application, and to this end the provisions of this  
5 chapter are declared to be severable.

6 § -13 Exemptions from certain State laws. In  
7 order to promote the purposes of this chapter all persons  
8 hired by the department to effectuate this chapter are  
9 excepted from provisions of chapters 76, 77, and 89."

10 SECTION 2. Appropriations. (a) There is  
11 appropriated out of the general revenues of the State of  
12 Hawaii the sum of \$ \_\_\_\_\_, or so much thereof as may be  
13 necessary for fiscal year 1988-1989, to carry out the  
14 purposes of this chapter.

15 (b) Any unexpended or unencumbered balance of any  
16 appropriation made by this chapter as of the close of  
17 business on June 30, 1989, shall lapse into the general  
18 fund.

1                   SECTION 3. This chapter shall take effect upon its  
2 approval, but shall not apply to any applications filed  
3 prior to the effective date.  
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6                   INTRODUCED BY: Paul S. H. King  
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UNITED STATES  
DEPARTMENT OF JUSTICE



1 State's electric energy needs and concurrently  
2 help to reduce the State's need for imported  
3 fossil fuels;

4 (2) The State has deemed it appropriate that the private  
5 sector should develop such geothermal resources, and,  
6 to that end, has sought to encourage private sector  
7 exploration and development of such geothermal  
8 resources;

9 (3) The private sector companies seeking to develop such  
10 geothermal resources are, however, unable or unwilling  
11 to expend the substantial amounts of funds needed to  
12 develop these resources to their full extent without an  
13 assured and sufficiently large market for the electric  
14 energy to be generated therefrom, and the present and  
15 projected electric energy demand on the Island of  
16 Hawaii does not provide such an assured and  
17 sufficiently large market;

18 (4) The greatest present and projected demand for such  
19 geothermally-generated electric energy is located on  
20 the Island of Oahu;

21 (5) The State, with the support and assistance of the  
22 Federal and County of Hawaii governments, has been  
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1 exploring for several years the technical, engineering,  
2 economic and financial feasibility of an inter-island  
3 deep water electrical transmission cable system that  
4 would be capable of transmitting such geothermally-  
5 generated electric energy from the Island of Hawaii to  
6 the Island of Maui and Oahu, and has concluded that  
7 such a cable system is both feasible and desirable;

8 (6) The development of such a cable system will not be  
9 undertaken without the firm assurance that a sufficient  
10 amount of geothermally-generated electric energy will  
11 be continuously available to be transmitted through a  
12 cable system once it becomes operational;

13 (7) The fundamental interrelationship between the  
14 development of such geothermal resources and a cable  
15 system and the magnitude of the cost to undertake each  
16 of these developments clearly indicate that neither  
17 will be undertaken without the firm assurance that the  
18 other will also be undertaken in a synchronized and  
19 coordinated manner to enable both developments to be  
20 completed substantially concurrently, thereby ensuring  
21 that revenues will be available to begin amortizing the  
22 costs of each of these developments;

1 (8) A major and fundamental impediment to the development  
2 of each of such geothermal resources and a cable system  
3 is the diverse array of Federal, State and County land  
4 use, planning, environmental and other related laws and  
5 regulations that currently control the undertaking of  
6 all commercial projects in the State;

7 (9) While many of these controls attempt to ensure that  
8 commercial development projects in general are  
9 undertaken in a manner consistent with land use,  
10 planning, environmental and other public policies, many  
11 of these specific laws, regulations and controls in  
12 most instances are, or tend to be, repetitive,  
13 duplicate and uncoordinated, and thus consume  
14 unnecessary amounts of time, effort and expense and  
15 result at best in increases in the cost of new projects  
16 and at worst in abandonment of needed projects;

17 (10) The State and counties have, to a limited extent,  
18 sought to ameliorate certain of these impediments  
19 through the enactment or adoption of measures to  
20 improve the coordination and efficiency of land use and  
21 planning controls and specifically to facilitate the  
22 development of such geothermal resources;

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1 (11) Notwithstanding these efforts, the complexities, the  
2 magnitude in scope and cost, the fundamental  
3 interrelationship between the development of such  
4 geothermal resources and a cable system, the inherent  
5 requirement for the coordinated development of the  
6 geothermal resources and a cable system, the  
7 substantial length of time required to undertake and  
8 complete both developments, and the requirements for  
9 private and possibly public financing for both  
10 developments cannot be effectively handled and  
11 accommodated by these existing laws, regulations and  
12 controls;

13 (12) The development of such geothermal resources and a  
14 cable system, both individually and collectively, would  
15 represent the largest and most complex development ever  
16 undertaken in the State;

17 (13) The private sector companies that have been engaged in  
18 developing the State's geothermal resources and other  
19 such companies that have expressed strong interest in  
20 developing a cable system have all emphasized the need  
21 for a comprehensive permitting system that can provide  
22 for and facilitate the coordinated development of both  
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1 such geothermal resources and a cable system, thus  
2 providing such companies with the firm assurances that  
3 they require to commit the substantial amounts of  
4 funds, time and effort necessary to undertake such  
5 developments, while at the same time ensuring the  
6 fulfillment of fundamental State and county land use  
7 and planning policies;

8 (14) Several of such private sector companies have expressed  
9 an interest in undertaking, through a consortium of  
10 private companies or otherwise, the development of the  
11 geothermal resources and a cable system as a combined  
12 single project and have further expressed the desire  
13 that a comprehensive permitting system be established  
14 that could accommodate this development of a combined  
15 single project;

16 (15) The development of such geothermal resources and a  
17 cable system are in furtherance of the State's  
18 policies, as expressed in the State Plan and elsewhere,  
19 to develop the State's indigenous renewable alternate  
20 energy resources and to decrease the State's dependency  
21 on imported fossil fuels; and  
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1 (16) It is declared as a matter of legislative determination  
2 that the development of the State's geothermal  
3 resources and the related cable system cannot  
4 effectively be undertaken and accomplished under  
5 existing laws, regulations and controls, and that the  
6 development of such geothermal resources and the cable  
7 system being necessary to and proper to attain the  
8 public policies of the State heretofore recited, a  
9 comprehensive permitting system for the development of  
10 the State's geothermal resources and the cable system  
11 should be established by an act of the legislature.

12 § -3 Definitions. As used in this chapter when the  
13 context otherwise requires:

14 "Agency" means any department, office, board or commission  
15 of the State or a county government which is a part of the  
16 executive branch of that government, but does not include any  
17 public corporation or authority that may be established by the  
18 legislature for the purposes of the project.

19 "Applicant" means any person who, pursuant to statute,  
20 ordinance, rule or regulation requests approval or a permit for  
21 the proposed project.

22 "Approval" means a discretionary consent required from an  
23 agency prior to the actual implementation of the project.

1 "Department" means the department of land and natural  
2 resources or any successor thereto.

3 "Discretionary consent" means a consent, sanction or  
4 recommendation from an agency for which judgment and free will  
5 may be exercised by the issuing agency, as distinguished from a  
6 ministerial consent.

7 "Environmental impact statement" means an informational  
8 document prepared in compliance with chapter 343.

9 "Inter-agency group" means the body established pursuant to  
10 § -6 of this chapter.

11 "Lead agency" means the department.

12 "Permit" means any license, permit, certificate,  
13 certification, approval, compliance schedule or other similar  
14 document or decision pertaining to any regulatory or management  
15 program which is related to the protection, conservation, use of,  
16 or interference with the natural resources of land, air or water  
17 in the State, and which is required prior to or in connection  
18 with the undertaking of the project.

19 "Person" includes any individual, partnership, firm,  
20 association, trust, estate, corporation, joint venture,  
21 consortium, any public corporation or authority that may be  
22 established by the legislature for the purposes of the project,  
23 or other legal entity other than an agency.

1 "Project" means the commercial development, construction,  
2 installation, financing, operation, maintenance, repair and  
3 replacement, including without limitation all applicable  
4 exploratory, testing and predevelopment activities related to the  
5 foregoing, of (i) a geothermal power plant or plants, including  
6 all associated equipment, facilities, wells and transmission  
7 lines, on the Island of Hawaii for the primary purpose of  
8 generating electric energy for transmission to the Island of Oahu  
9 through the cable system, and (ii) an inter-island deep water  
10 electrical transmission cable system, including all land-based  
11 transmission lines and other ancillary facilities, to transmit  
12 geothermally-generated electric energy from the Island of Hawaii  
13 to the Island of Oahu, whether or not the cable system is used to  
14 deliver electric energy to any intervening point. Nothing in  
15 this definition shall preclude the sale of a portion of the  
16 electric energy generated by the geothermal plant or plants to  
17 the electric utility serving any one or more of the Islands of  
18 Hawaii, Maui, Molokai or Lanai.

19 § -4 Comprehensive permit system. (a) The department is  
20 designated as the lead agency for the purposes of this chapter  
21 and, in addition to its existing functions, shall establish and  
22 administer the comprehensive permit system provided for in this  
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1 chapter, which shall incorporate all State and county permitting  
2 functions involved in the development of the project which are  
3 transferred by this chapter to the department to effectuate the  
4 purposes of this chapter.

5 (b) The comprehensive permit system shall include:

6 (1) A master consolidated permit application and review  
7 process for the project, which shall incorporate a list  
8 of all permits required for the project; the role and  
9 functions of the department as the lead agency and the  
10 inter-agency group; all permit review and approval  
11 deadlines; a schedule for meetings and actions of the  
12 inter-agency group; a mechanism to resolve any  
13 conflicts that may arise between or among the  
14 department and any other agencies, including any  
15 Federal agencies, as a result of conflicting permit,  
16 approval or other requirements, procedures or agency  
17 perspectives; and any other desirable or necessary  
18 administrative or legislative actions; and

19 (2) A master consolidated permit application form to be  
20 used for the project for all permitting purposes.

21 (c) The department shall have primary jurisdiction over the  
22 permitting requirements and procedures for the project; shall  
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1 perform all of the permitting functions for which it is currently  
2 responsible and which are transferred to it by this chapter for  
3 the purposes of the project; and shall coordinate and consolidate  
4 all required permit reviews by other agencies, and to the fullest  
5 extent possible by all Federal agencies, having jurisdiction over  
6 any aspect of the project.

7 **§ -5 Consolidated permit application and review process.**

8 (a) The department shall serve as the lead agency for the  
9 consolidated permit application and review process established  
10 pursuant to section -4(b)(1) and as set forth in this section for  
11 the project. All agencies whose permitting functions are not  
12 transferred by this chapter to the department for the purposes of  
13 the project are required to participate in the master  
14 consolidated permit application and review process.

15 (b) Notwithstanding any other law, ordinance, rule or  
16 regulation to the contrary, the department and each State and  
17 county agency whose permitting functions are not transferred by  
18 this chapter to the department for the purposes of the project  
19 shall complete all of their respective permitting functions for  
20 the purposes of the project, pursuant to the provisions of this  
21 chapter, within sixty days of the receipt of the master  
22 consolidated permit application for the proposed project; except  
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1 that the department or any such agency shall have good cause to  
2 exceed such sixty-day time limit if the permit-issuing agency  
3 must rely on another agency, including any Federal agency, for  
4 all or part of the permit processing and the delay is caused by  
5 such other agency.

6 (c) The procedure shall be as follows:

7 (1) The applicant shall submit the master consolidated  
8 permit application using the master consolidated permit  
9 application form, which shall include such data about  
10 the proposed project that the department deems  
11 necessary to fulfil the purposes of this chapter and to  
12 determine which other agencies may have jurisdiction  
13 over any aspect of the proposed project.

14 (2) Upon receipt of the master consolidated permit  
15 application, the department shall notify all State and  
16 county agencies whose permitting functions are not  
17 transferred by this chapter to the department for the  
18 purposes of the project, as well as all Federal  
19 agencies, which the department determines may have  
20 jurisdiction over any aspect of the proposed project as  
21 set forth in such application, and shall invite the  
22 Federal agencies so notified to participate in the  
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1 consolidated application process. Such State and  
2 county agencies, and those Federal agencies which  
3 accept such invitation, shall thereafter participate in  
4 the master consolidated permit application and review  
5 process.

6 (3) The applicant shall designate its representative to  
7 serve on the master consolidated permit application and  
8 review team, and the representatives of such State,  
9 county and Federal agencies shall be those  
10 representatives in the inter-agency group.

11 (4) The representatives of the department and such State,  
12 county and Federal agencies and the applicant shall  
13 develop and sign a joint agreement among themselves  
14 which shall identify the members of the master  
15 consolidated permit application and review team,  
16 specify the regulatory and review responsibilities of  
17 the department and each such State, county and Federal  
18 agency and set forth the responsibilities of the  
19 applicant, and establish a timetable for regulatory  
20 review, the conduct of necessary hearings, the  
21 preparation of an environ-mental impact statement if  
22 necessary, and other actions required to minimize  
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1 duplication and coordinate and consolidate the  
2 activities of the applicant, the department and such  
3 State, county and Federal agencies.

4 (5) The department, each such State and county agency whose  
5 permitting functions are not transferred by this  
6 chapter to the department for the purposes of the  
7 project and each Federal agency shall issue its own  
8 permit or approval based upon its own jurisdiction.  
9 The consolidated application process shall not affect  
10 or invalidate the jurisdiction or authority of any  
11 agency under existing law, except to the extent that  
12 the permitting functions of any State or county agency  
13 are transferred by this chapter to the department for  
14 the purposes of the project.

15 (6) The applicant must apply directly to each Federal  
16 agency which does not participate in the master  
17 consolidated permit application and review process.

18 (7) The department shall review for completeness and  
19 thereafter process each master consolidated permit  
20 application submitted by an applicant for the project,  
21 and shall monitor the processing of the permit  
22 application by such State and county agencies whose  
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1           permitting functions are not transferred by this  
2           chapter to the department for the purposes of the  
3           project. The department shall coordinate, and seek to  
4           consolidate where possible, the permitting functions,  
5           and monitor and assist in the permitting functions  
6           conducted by all such agencies, and to the fullest  
7           extent possible the Federal agencies, in accordance  
8           with the comprehensive permit system.

9           (8) Once the processing of each master consolidated permit  
10          application has been completed and the permit requested  
11          has been issued to the applicant, the department shall  
12          there-after monitor the applicant's work undertaken  
13          pursuant to such permit to ensure the applicant's  
14          compliance with the terms and conditions of such permit  
15          and to assist, as appropriate, the applicant in its  
16          project.

17          §   -6 Inter-agency group. (a) The department shall  
18          establish an inter-agency group comprised of those State and  
19          county agencies whose permitting functions are not transferred by  
20          this chapter to the department for the purposes of the project  
21          and which have jurisdiction over any aspect of the project. Each  
22          such agency shall designate an appropriate representative to  
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1 serve on the inter-agency group as part of such representative's  
2 official responsibilities. The inter-agency group shall perform  
3 liaison and assisting functions as required by this chapter and  
4 the department. The department shall invite and encourage the  
5 appropriate Federal agencies having jurisdiction over any aspect  
6 of the project to participate in the inter-agency group.

7 (b) The department and such agencies shall cooperate with  
8 such Federal agencies to the fullest extent possible to minimize  
9 duplication between and, where possible, promote consolidation of  
10 Federal and State requirements. Such cooperation, to the fullest  
11 extent possible, shall include, among other things, joint  
12 environmental impact statements with concurrent public review and  
13 processing at both levels of government. Where Federal law has  
14 requirements that are in addition to but not in conflict with  
15 State law requirements, the department and the agencies shall  
16 cooperate in fulfilling, to the fullest extent possible, their  
17 requirements such that all documents shall comply with all  
18 applicable laws.

19 (c) If the legislature establishes any public corporation  
20 or authority for the purposes of the project, then such public  
21 corporation or authority shall, upon its establishment, be a  
22 member of the inter-agency group.

1           §    -7 Streamlining activities. In administering the  
2 comprehensive permit system, the department shall:

- 3           (1) Monitor all permit applications submitted under this  
4 chapter and the processing thereof on an ongoing basis  
5 to determine the source of any inefficiencies, delays  
6 and duplications encountered and the status of such  
7 permits in process;
- 8           (2) Adopt and implement needed streamlining measures  
9 including, but not limited to, measures defined by the  
10 department and/or the inter-agency group in  
11 consultation with those agencies whose permitting  
12 functions are not transferred by this chapter to the  
13 department for the purposes of the project and with  
14 members of the public;
- 15           (3) Design, in addition to the master consolidated permit  
16 application form, applications, checklists and other  
17 forms essential to the implementation of the  
18 comprehensive permit process;
- 19           (4) Seek by legislative or administrative action the  
20 elimination of duplicative or redundant permit  
21 requirements, including any hearing procedures, and  
22 consolidate them where possible;
- 23  
24

1 (5) Ensure that all standards used in any agency decision-  
2 making for any required permits are clear, explicit and  
3 precise; and

4 (6) Incorporate, where possible, rebuttable presumptions  
5 into the comprehensive permit process.

6 **§ -8 Information services.** The department shall:

7 (1) Operate a permit information and coordination center  
8 during normal working hours, which would provide  
9 guidance to potential applicants for the project with  
10 regard to the permits and procedures that may apply to  
11 the project; and

12 (2) Maintain and update a repository of the laws, rules and  
13 regulations, procedures, permit requirements and  
14 criteria of State and county agencies whose permitting  
15 functions are not transferred by this chapter to the  
16 department for the purposes of the project and which  
17 have control or regulatory power over any aspect of the  
18 project and of Federal agencies having jurisdiction  
19 over any aspect of the project.

20 **§ -9 Construction of the chapter; rules.** This chapter  
21 shall be construed liberally to effectuate its purposes, and the  
22 department shall have all powers which may be necessary to carry  
23 out the purposes of this chapter, including the authority to  
24

1 make, amend and repeal rules to implement this chapter. The  
2 adoption, amendment and repeal of all rules shall be subject to  
3 chapter 91.

4       **§ -10 Transfer of functions.** (a) Those functions  
5 identified below insofar as they relate to the permit  
6 application, review, processing, issuance and monitoring of State  
7 and county laws, ordinances, rules and regulations and to the  
8 enforcement of terms, conditions and stipulations of permits as  
9 defined in section -3 and other authorizations issued by State  
10 and county agencies with respect to the development,  
11 construction, installation, operation, maintenance, repair and  
12 replacement of the project, or any portion or portions thereof,  
13 are transferred to the department. This transfer shall vest in  
14 the department exclusive responsibility for the permit and  
15 enforcement functions described above of all State and county  
16 laws, ordinances, rules and regulations relevant in any manner to  
17 the development, construction, installation, operation,  
18 maintenance, repair and replacement of the project, or any  
19 portion or portions thereof. With respect to each of the  
20 statutory authorities cited below, the transferred functions  
21 include all enforcement functions of the given agencies or their  
22 officials under the statute cited as may be related to the

1 enforcement of such terms, conditions and stipulations of  
2 permits, including but not limited to the specific sections of  
3 the statute cited. "Enforcement", for purposes of this transfer  
4 of functions, includes monitoring and any other compliance or  
5 oversight activities reasonably related to the enforcement  
6 process. These transferred functions include:

- 7 (1) Such functions of the land use commission related to:  
8 district boundary amendments as set forth in sections  
9 205-3.1 et seq.; changes in zoning as set forth in  
10 section 205.5; and shoreline setback approvals as set  
11 forth in part II of chapter 205; and
- 12 (2) Such permit approval and enforcement functions of the  
13 director of transportation or other appropriate  
14 official or entity in the department of transportation  
15 related to permits or approvals issued for the use of  
16 commercial activities in or affecting the shore waters  
17 and shores of the State under chapter 266.

18 (b) In performing the functions transferred to it by the  
19 section, the department shall follow existing laws, ordinances,  
20 rules and regulations as closely as is consistent with standards  
21 meeting minimum requirements of good design, health, safety and  
22 coordinated development.

1 (c) Nothing in this section 10 shall be construed to  
2 relieve an applicant from the laws, ordinances, rules and  
3 regulations of any agency whose functions are not transferred by  
4 this chapter to the department for the purposes of the project.

5 (d) The provisions of this section shall not apply to any  
6 permit issued by the public utilities commission under chapter  
7 269.

8 (e) Notwithstanding any other provision of this chapter,  
9 the provisions of this section shall take effect on a date that  
10 is one year from the date of the enactment of this chapter.

11 **§ -11 Annual report.** The department shall submit an  
12 annual report to the governor and the legislature on its work  
13 during the preceding year, the development status of the project,  
14 any problems encountered and any legislative actions that may be  
15 needed further to improve the comprehensive permit process and  
16 implement the intent of this chapter.

17 **§ -12 Severability.** If any provision of this chapter or  
18 the application thereof to any person or circumstances is held  
19 invalid, such invalidity shall not affect other provisions or  
20 applications of this chapter which can be given effect without  
21 the invalid provision or application, and to this end the  
22 provisions of this chapter are declared to be severable.

S.B. NO. 3182  
S.D. 1

1           §     -13 Exemptions from certain State laws. In order to  
2 promote the purposes of this chapter all persons hired by the  
3 department to effectuate this chapter are excepted from  
4 provisions of chapters 76, 77, and 89."

5           SECTION 2. Appropriations. There is appropriated out of  
6 the general revenues of the State of Hawaii the sum of \$275,000,  
7 or so much thereof as may be necessary for fiscal year 1988-1989,  
8 to carry out the purposes of this chapter. The sum appropriated  
9 shall be expended by the department of land and natural resources  
10 for the purposes of this Act. Any unexpended or unencumbered  
11 balance of any appropriation made by this chapter as of the close  
12 of business on June 30, 1989, shall lapse into the general fund.

13           SECTION 3. This chapter shall take effect upon its  
14 approval, but shall not apply to any applications filed prior to  
15 the effective date.  
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30 MAR 4 11:33

THE SENATE  
THE FOURTEENTH LEGISLATURE DIV. OF WATER &  
REGULAR SESSION 1988 LAND DEPARTMENT

RECEIVED  
10 APR 4 10 19  
STATE OF HAWAII

COMMITTEE ON AGRICULTURE, ENERGY & OCEAN RESOURCES

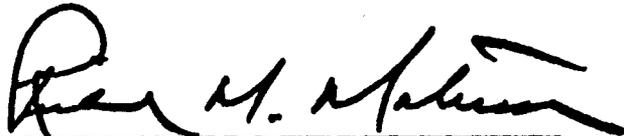
Senator Richard M. Matsuura, Chairman  
Senator James Aki, Vice-Chairman

INFORMATIONAL BRIEFING

DATE: Wednesday, April 6, 1988  
TIME: 1:30 p.m.  
PLACE: Senate Conference Room 2

A G E N D A

SB 3182, SD 2 RELATING TO THE DEVELOPMENT AND USE OF  
SSCR 1996 GEOTHERMAL ENERGY



SENATOR RICHARD M. MATSUURA  
CHAIRMAN

FOR FURTHER INFORMATION, PLEASE CALL THE COMMITTEE CLERK AT  
548-6291.

RECEIVED

FOURTEENTH STATE LEGISLATURE  
REGULAR SESSION 1988

*Chair 4/13*  
*Deputy*  
*Jny*  
*SXS*  
*lee*  
*WL*  
*7082*

30 APR 14 P 2:01

NOTICE OF CONFERENCE COMMITTEE MEETINGS

DATE: Friday, April 15, 1988  
TIME: 2:30 p.m.  
PLACE: Senate Conference Room 2, State Capitol

A G E N D A

05

COPIES  
MAILED

SENATE COMMITTEE ON AGRICULTURE, ENERGY AND OCEAN RESOURCES

Senator Richard M. Matsuura, Chairman *R. m m*

SENATE COMMITTEE ON WAYS AND MEANS

Senator Mamoru Yamasaki, Chairman *Yamasaki*

HOUSE COMMITTEE ON PLANNING, ENERGY AND ENVIRONMENTAL PROTECTION

Representative Mark J. Andrews, Chairman *MA*

HOUSE COMMITTEE ON FINANCE

Representative Joseph M. Souki, Chairman *JMS*

- S.B. 2363, S.D. 2, H.D. 2      Relating to the issuance of special purpose revenue bonds to manufacturing enterprises
- S.B. 3161, S.D. 1, H.D. 2      Relating to management of state funds
- S.B. 3182, S.D. 2, H.D. 2      Relating to the development and use of geothermal energy *lee WL*
- H.B. 2068, H.D. 1, S.D. 2      Making an appropriation for a methanol-from-biomass program

*Chair 4/13*  
*Deputy*  
*Jny*  
*OXO*  
*lee*  
*W*  
*7082*

30 APR 14 P 2:01  
NOTICE OF CONFERENCE COMMITTEE MEETINGS

DATE: Friday, April 15, 1988  
TIME: 2:30 p.m.  
PLACE: Senate Conference Room 2, State Capitol

A G E N D A

SENATE COMMITTEE ON AGRICULTURE, ENERGY AND OCEAN RESOURCES

Senator Richard M. Matsuura, Chairman *R. m m*

SENATE COMMITTEE ON WAYS AND MEANS

Senator Mamoru Yamasaki, Chairman *M. Y.*

HOUSE COMMITTEE ON PLANNING, ENERGY AND ENVIRONMENTAL PROTECTION

Representative Mark J. Andrews, Chairman *M. J. A.*

HOUSE COMMITTEE ON FINANCE

Representative Joseph M. Souki, Chairman *J. M. S.*

- S.B. 2363, S.D. 2, H.D. 2      Relating to the issuance of special purpose revenue bonds to manufacturing enterprises
- S.B. 3161, S.D. 1, H.D. 2      Relating to management of state funds
- S.B. 3182, S.D. 2, H.D. 2      Relating to the development and use of geothermal energy *CEO*  
*WL*
- H.B. 2068, H.D. 1, S.D. 2      Making an appropriation for a methanol-from-biomass program

A BILL FOR AN ACT

RELATING TO THE DEVELOPMENT AND USE OF GEOTHERMAL ENERGY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The legislature hereby finds and declares that:

- 2 (1) The development of Hawaii's geothermal resources,  
3 principally located on the island of Hawaii, represents  
4 a substantial and long-term source of indigenous  
5 renewable alternate energy that could be used to  
6 generate electric energy to meet the State's electric  
7 energy needs and concurrently help to reduce the  
8 State's need for imported fossil fuels;
- 9 (2) The State has deemed it appropriate that the private  
10 sector should develop these geothermal resources, and,  
11 to that end, has sought to encourage private sector  
12 exploration and development of geothermal resources;
- 13 (3) The private sector companies seeking to develop  
14 geothermal resources are, however, unable or unwilling  
15 to expend the substantial amounts of funds needed to  
16 develop these resources to their full extent without an

S.B. NO.

1 assured and sufficiently large market for the electric  
2 energy to be generated therefrom, and the present and  
3 projected electric energy demand on the island of  
4 Hawaii does not provide an assured and sufficiently  
5 large market;

- 6 (4) The greatest present and projected demand for  
7 geothermally generated electric energy is located on  
8 the island of Oahu;
- 9 (5) The State, with the support and assistance of the  
10 federal and county of Hawaii governments, has been  
11 exploring for several years the technical, engineering,  
12 economic, and financial feasibility of an interisland  
13 deep water electrical transmission cable system that  
14 would be capable of transmitting geothermally generated  
15 electric energy from the island of Hawaii to the  
16 islands of Maui and Oahu;
- 17 (6) The development of this cable system will not be  
18 undertaken without the firm assurance that a sufficient  
19 amount of geothermally generated electric energy will  
20 be continuously available to be transmitted through a  
21 cable system once it becomes operational;
- 22 (7) The fundamental interrelationship between the  
23 development of geothermal resources and a cable system

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1 and the magnitude of the cost to undertake each of  
2 these developments clearly indicate that neither will  
3 be undertaken without the firm assurance that the other  
4 also will be undertaken in a synchronized and  
5 coordinated manner to enable both developments in  
6 substance to be completed concurrently, thereby  
7 ensuring that revenues will be available to begin  
8 amortizing the costs of each of these developments;

9 (8) A major and fundamental impediment to the development  
10 of both geothermal resources and a cable system is the  
11 diverse array of federal, state, and county land use,  
12 planning, environmental, and other related laws and  
13 regulations that currently control the undertaking of  
14 all commercial projects in the State;

15 (9) While many of these controls attempt to ensure that  
16 commercial development projects in general are  
17 undertaken in a manner consistent with land use,  
18 planning, environmental, and other public policies,  
19 many of these specific laws, regulations, and controls  
20 may be repetitive, duplicative, and uncoordinated, and  
21 thus consume unnecessary amounts of time, effort, and  
22 expense and result at best in increases in the cost of  
23

S.B. NO.

1 new projects and at worst in abandonment of needed  
2 projects;

3 (10) To a limited extent, the State and counties have sought  
4 to ameliorate certain of these impediments through the  
5 enactment or adoption of measures to improve the  
6 coordination and efficiency of land use and planning  
7 controls and specifically to facilitate the development  
8 of geothermal resources;

9 (11) Notwithstanding these efforts, the complexities, the  
10 magnitude in scope and cost, the fundamental  
11 interrelationship between the development of geothermal  
12 resources and a cable system, the inherent requirement  
13 for the coordinated development of the geothermal  
14 resources and a cable system, the substantial length of  
15 time required to undertake and complete both  
16 developments, and the requirements for private and  
17 possibly public financing for both developments cannot  
18 effectively be handled and accommodated by these  
19 existing laws, regulations, and controls;

20 (12) The development of geothermal resources and a cable  
21 system, both individually and collectively, would  
22 represent the largest and most complex development ever  
23 undertaken in the State;

S.B. NO.

1 (13) The private sector companies that have been engaged in  
2 developing the State's geothermal resources and other  
3 companies that have expressed strong interest in  
4 developing a cable system all have emphasized the need  
5 for a comprehensive permitting system that can provide  
6 for and facilitate the coordinated development of both  
7 geothermal resources and a cable system, thus providing  
8 these companies with the firm assurances that they  
9 require to commit the substantial amounts of funds,  
10 time, and effort necessary to undertake these  
11 developments, while at the same time ensuring the  
12 fulfillment of fundamental state and county land use  
13 and planning policies;

14 (14) Several of these private sector companies have  
15 expressed an interest in undertaking, through a  
16 consortium of private companies or otherwise, the  
17 development of the geothermal resources and a cable  
18 system as a combined single project and have further  
19 expressed the desire that a comprehensive permitting  
20 system be established that could accommodate this  
21 development of a combined single project;

22 (15) The development of geothermal resources and a cable  
23 system are in furtherance of the State's policies, as  
24

S.B. NO.

1 expressed in the state plan and elsewhere, to develop  
2 the State's indigenous renewable alternate energy  
3 resources and to decrease the State's dependency on  
4 imported fossil fuels; and

5 (16) It is declared as a matter of legislative determination  
6 that the development of geothermal resources and the  
7 cable system being necessary and proper to attain the  
8 public policies of the State previously recited, a  
9 comprehensive permitting system for the development of  
10 the State's geothermal resources and the related cable  
11 system should be established by an act of the  
12 legislature.

13 SECTION 2. The governor's advisory board on the underwater  
14 cable transmission shall develop legislation for the  
15 establishment of a comprehensive permit system relating to  
16 geothermal and cable system development as recommended by the  
17 board in its January 15, 1988 progress report to the legislature.  
18 The board shall submit a written report to the legislature of  
19 findings and recommendations not later than twenty days prior to  
20 the convening of the Regular Session of 1989. The report shall  
21 include but not be limited to:

22 (1) Specific identification of the streamlining measures to  
23 be included in the permit consolidation process.

S.B. NO.

- 1 (2) Enumeration of the permit requirements, including any  
2 hearing procedures, needed to complete geothermal  
3 development and the undersea cable project, identifying  
4 those that appear to be redundant or duplicative and  
5 thus have the potential to be consolidated.
- 6 (3) Identification and discussion of the purpose and  
7 rationale for the existence of each of the requirements  
8 in paragraph (2) and an explanation of how the concerns  
9 addressed by these requirements will be addressed if  
any of these requirements are consolidated.

11 In the formulation of its report, the board shall consult  
12 with each of the affected counties and members of the public.

13 SECTION 3. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$100,000, or so much  
15 thereof as may be necessary for fiscal year 1988-1989, to carry  
16 out the purposes of this Act. The sum appropriated shall be  
17 expended by the department of business and economic development  
18 for the purposes of this Act.

19 SECTION 4. This Act shall take effect on July 1, 1988.  
20  
21  
22  
24

WA 4/5/88

STAND. COM. REP. NO. 1084-88

Honolulu, Hawaii  
March 31, 1988

RE: S.B. No. 3182  
S.D. 2  
H.D. 2

Honorable Daniel J. Kihano  
Speaker, House of Representatives  
Fourteenth State Legislature  
Regular Session of 1988  
State of Hawaii

Sir:

Your Committee on Finance, to which was referred S.B. No. 3182, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEVELOPMENT AND USE OF GEOTHERMAL ENERGY", begs leave to report as follows:

The purpose of this bill is to mandate the Governor's Advisory Board on the Underwater Cable Transmission to develop legislation to establish a comprehensive permit system relating to geothermal and cable system development.

One of the major and fundamental elements of the development of a combined geothermal/cable system project is the diverse array of federal, state and county land use, planning, environmental and other related laws, regulations, and permits that currently control the undertaking of all commercial projects in the State. Many of these controls attempt to ensure that commercial development projects are undertaken in a manner consistent with land use, planning, environmental, and other public policies. At the same time many of these specific laws, regulations, and controls overlap in jurisdiction.

This bill seeks to establish a comprehensive permit system designed specifically to facilitate the implementation of a geothermal/cable system project.

Your Committee made technical, nonsubstantive amendments to this bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 3182, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3182, S.D. 2, H.D. 2.

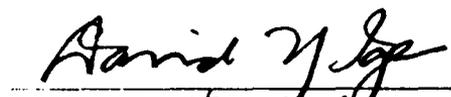
Respectfully submitted,

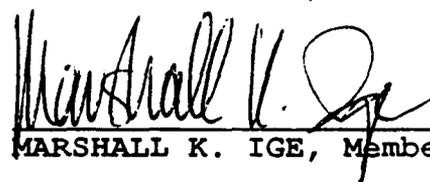
  
JOSEPH M. SOUKI, Chairman

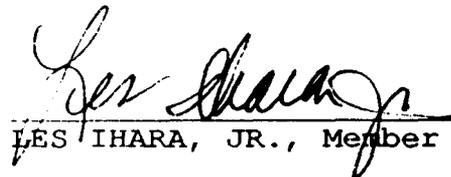
  
CAROL A. FUKUNAGA,  
Vice Chairman

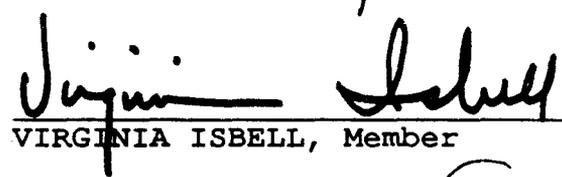
  
DENNIS A. ARAKAKI, Member

  
KAREN K. HORITA, Member

  
DAVID Y. IGE, Member

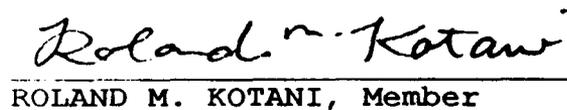
  
MARSHALL K. IGE, Member

  
LES IHARA, JR., Member

  
VIRGINIA ISBELL, Member

  
EZRA R. KANOHO, Member

  
BERTHA C. KAWAKAMI, Member

  
ROLAND M. KOTANI, Member

  
JOSEPH P. LEONG, Member

  
HARVEY S. TAJIRI, Member

  
CAM CAVASSO, Member

  
BARBARA MARUMOTO, Member

  
PATRICK A. RIBELLIA, Member



3158E

*C.B. Please  
ask OCHA to  
Coordinate with  
with WPAH.  
4/14*

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
P. O. BOX 621  
HONOLULU, HAWAII 96809

- DIVISIONS:
- AQUACULTURE DEVELOPMENT PROGRAM
  - AQUATIC RESOURCES CONSERVATION AND RESOURCES ENFORCEMENT
  - CONVEYANCES
  - FORESTRY AND WILDLIFE LAND MANAGEMENT
  - STATE PARKS
  - WATER AND LAND DEVELOPMENT

**DRAFT**

MEMORANDUM

TO: Honorable \_\_\_\_\_, Chairman  
Committee on \_\_\_\_\_

FROM: William W. Paty, Chairperson  
Board of Land and Natural Resources

SUBJECT: Senate Bill No. 3182, S.D. 2, H.D. 2, C.D. 1 Proposed  
Draft Relating to the Development and Use of Geothermal  
Energy

We agree with the purpose and intent of the bill with the following comments:

1. On page 10 lines 10-11, we suggest a modification in the language so that permits may be consolidated even if they require sequential approval provided however, that any required sequential action be taken in proper sequence.
2. On page 10 line 19, we suggest wording to the effect that ensures a hearing is held in each [community] county which the permit action requested are located.
3. On page 10 line 23 to page 11 line 2, we suggest wording to the effect that "the agency shall issue a consolidated [permit] decision to the applicant if the consolidated permit application has met all necessary requirements.

*W.H.K. 1/13*

A BILL FOR AN ACT

DRAFT

RELATING TO THE DEVELOPMENT AND USE OF GEOTHERMAL ENERGY.

*Rush  
Comments  
This Conf  
Draft.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by adding  
2 a new chapter to be appropriately designated and to read as  
3 follows:

"CHAPTER

GEOTHERMAL AND CABLE SYSTEM

DEVELOPMENT PERMITTING ACT OF 1988

7 § -1 Short title. This chapter shall be known and may be  
8 cited as the "Geothermal and Cable System Development Permitting  
9 Act of 1988".

10 § -2 Findings and declaration of purpose. The  
11 legislature hereby finds and declares that:

- 12 (1) The development of Hawaii's geothermal resources
- 13 represents a substantial and long-term source of
- 14 indigenous renewable alternate energy that could be
- 15 used to generate electric energy to meet the State's
- 16 electric energy needs and concurrently help to reduce
- 17 the State's need for imported fossil fuels;
- 18

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3182  
S.D. 2  
H.D. 2  
C.D. 1  
PROPOSED  
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- 1           (2) The State has deemed it appropriate that the private  
2           sector should develop these geothermal resources, and,  
3           to that end, has sought to encourage private sector  
4           exploration and development of geothermal resources;
- 5           (3) The private sector companies seeking to develop  
6           geothermal resources are, however, unable or unwilling  
7           to expend the substantial amounts of funds needed to  
8           develop these resources to their full extent without an  
9           assured and sufficiently large market for the electric  
10          energy to be generated therefrom, and the present and  
11          projected electric energy demand on the island of  
12          Hawaii does not provide an assured and sufficiently  
13          large market;
- 14          (4) The greatest present and projected demand for  
15          geothermally generated electric energy is located on  
16          the island of Oahu;
- 17          (5) The State, with the support and assistance of the  
18          federal and county of Hawaii governments, has been  
19          exploring for several years the technical, engineering,  
20          economic, and financial feasibility of an interisland  
21          deep water electrical transmission cable system that  
22          would be capable of transmitting geothermally generated  
23          electric energy from the islands of Hawaii or Maui to

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S.D. 2  
H.D. 2  
C.D. 1  
PROPOSED  
DRAFT

1 the island of Oahu.;

2 (6) The development of such a cable system will not be  
3 undertaken without the firm assurance that a sufficient  
4 amount of geothermally generated electric energy will  
5 be continuously available to be transmitted through a  
6 cable system once it becomes operational;

7 (7) The fundamental interrelationship between the  
8 development of geothermal resources and a cable system  
9 and the magnitude of the cost to undertake each of  
10 these developments clearly indicate that neither will  
11 be undertaken without the firm assurance that the other  
12 also will be undertaken in a synchronized and  
13 coordinated manner to enable both developments in  
14 substance to be completed concurrently, thereby  
15 ensuring that revenues will be available to begin  
16 amortizing the costs of each of these developments;

17 (8) A major and fundamental impediment to the development  
18 of both geothermal resources and a cable system is the  
19 diverse array of federal, state, and county land use,  
20 planning, environmental, and other related laws and  
21 regulations that currently control the undertaking of  
22 all commercial projects in the State;

23 (9) While these controls are to ensure that commercial  
24  
25

S.B. NO.

3182  
S.D. 2  
H.D. 2  
C.D. 1  
PROPOSED  
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1 development projects in general are undertaken in a  
2 manner consistent with land use, planning,  
3 environmental, and other public policies, some of the  
4 specific laws, regulations, and controls may be  
5 repetitive, duplicative, and uncoordinated, and thus  
6 may consume unnecessary amounts of time, effort, and  
7 expense, and result at best in increases in the cost of  
8 new projects and at worst in abandonment of needed  
9 projects;

10 (10) To a limited extent, the State and counties have sought  
11 to ameliorate certain of these impediments through the  
12 enactment or adoption of measures to improve the  
13 coordination and efficiency of land use and planning  
14 controls and specifically to facilitate the development  
15 of geothermal resources;

16 (11) Notwithstanding these efforts, the complexities, the  
17 magnitude in scope and cost, the fundamental  
18 interrelationship between the development of geothermal  
19 resources and a cable system, the inherent requirement  
20 for the coordinated development of the geothermal  
21 resources and a cable system, the substantial length of  
22 time required to undertake and complete both  
23 developments, and the requirements for private and  
24

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3182  
S.D. 2  
H.D. 2  
C.D. 1  
PROPOSED  
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1 possibly public financing for both developments cannot  
2 be effectively handled and accommodated by these  
3 existing laws, regulations, and controls;

4 (12) The development of geothermal resources and a cable  
5 system, both individually and collectively, would  
6 represent the largest and most complex development ever  
7 undertaken in the State;

8 (13) The private sector companies that have been engaged in  
9 developing the State's geothermal resources and other  
10 companies that have expressed strong interest in  
11 developing a cable system all have emphasized the need  
12 for a consolidated permitting system that can provide  
13 for and facilitate the coordinated development of both  
14 geothermal resources and a cable system, thus providing  
15 these companies with the firm assurances that they  
16 require to commit the substantial amounts of funds,  
17 time, and effort necessary to undertake these  
18 developments, while at the same time ensuring the  
19 fulfillment of fundamental state and county land use  
20 and planning policies;

21 (14) Several of these private sector companies have  
22 expressed an interest in undertaking, through a  
23 consortium of private companies or otherwise, the  
24  
25

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3182  
S.D. 2  
H.D. 2  
C.D. 1  
PROPOSED  
DRAFT

1 development of the geothermal resources and a cable  
2 system as a combined single project and have further  
3 expressed the desire that a consolidated permitting  
4 system be established that could accommodate this  
5 development of a combined single project;

6 (15) The development of geothermal resources and a cable  
7 system are in furtherance of the State's policies, as  
8 expressed in the state plan and elsewhere, to develop  
9 the State's indigenous renewable alternate energy  
10 resources and to decrease the State's dependency on  
11 imported fossil fuels; and

12 (16) A consolidated permitting system for the development of  
13 the State's geothermal resources and the cable system  
14 should be established by an act of the legislature.

15 § -3 Definitions. As used in this chapter unless the  
16 context clearly requires otherwise:

17 "Agency" means any department, office, board, or commission  
18 of the State or a county government which is a part of the  
19 executive branch of that government, but does not include any  
20 public corporation or authority that may be established by the  
21 legislature for the purposes of the project.

22 "Applicant" means any person who, pursuant to statute,  
23 ordinance, rule, or regulation requests approval or a permit for

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1 the proposed project.

2 "Approval" means a discretionary consent required from an  
3 agency prior to the actual implementation of the project.

4 "Department" means the department of land and natural  
5 resources or any successor agency.

6 "Discretionary consent" means a consent, sanction, or  
7 recommendation from an agency for which judgment and free will  
8 may be exercised by the issuing agency, as distinguished from a  
9 ministerial consent.

10 "Environmental impact statement" means an informational  
11 document prepared in compliance with chapter 343.

12 "Interagency group" means the body established in section  
13 -5.

14 "Permit" means any license, permit, certificate,  
15 certification, approval, compliance schedule, or other similar  
16 document or decision pertaining to any regulatory or management  
17 program which is related to the protection, conservation, use of,  
18 or interference with the natural resources of land, air, or water  
19 in the State and which is required prior to or in connection with  
20 the undertaking of the project.

21 "Person" includes any individual, partnership, firm,  
22 association, trust, estate, corporation, joint venture,  
23 consortium, any public corporation or authority that may be

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1 established by the legislature for the purposes of the project,  
2 or other legal entity other than an agency.

3 "Project" means the commercial development, construction,  
4 installation, financing, operation, maintenance, repair, and  
5 replacement, including without limitation all applicable  
6 exploratory, testing, and predevelopment activities related to  
7 the foregoing, of:

8 (1) A geothermal power plant or plants, including all  
9 associated equipment, facilities, wells, and  
10 transmission lines, on the island of Hawaii or Maui for  
11 the primary purpose of generating electric energy for  
12 transmission to the island of Oahu through the cable  
13 system for sale to any public or private entity on  
14 Oahu; and

15 (2) An interisland deep water electrical transmission cable  
16 system, including all land-based transmission lines and  
17 other ancillary facilities, to transmit geothermally  
18 generated electric energy from the island of Hawaii or  
19 Maui to the island of Oahu, regardless of whether the  
20 cable system is used to deliver electric energy to any  
21 intervening point. Nothing in this definition shall  
22 preclude the sale of a portion of the electric energy  
23 generated by the geothermal plant or plants to a public  
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1 or private entity located on any one or more of the  
2 islands of Hawaii, Maui, Molokai, or Lanai.

3 § -4 Consolidated permit application and review process.

4 An applicant for a proposed project may submit to the department  
5 a master consolidated permit application on a form provided by  
6 the department which shall contain sufficient data about the  
7 proposed project for the department to determine which other  
8 agencies may have jurisdiction over permits required by the  
9 proposed project. Upon receipt of such master consolidated  
10 permit application, the department shall notify all federal,  
11 state, and county agencies which the department determines may  
12 have jurisdiction over part or all of the proposed project. The  
13 federal agencies shall be invited to participate, and all state  
14 and county agencies so notified shall be required to participate,  
15 in the consolidated permit application and review process as  
16 follows:

17 (1) Where an applicant is required to obtain more than one  
18 permit from the same agency for a proposed project, the  
19 applicant may submit a request in writing to that  
20 agency for a consolidated permit application and review  
21 process.

22 (2) The applicant shall apply directly to each federal  
23 agency that does not participate in the consolidated  
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1 permit application and review process for the required  
2 federal permits.

3 (3) Upon receipt of a request for consolidation, the agency  
4 shall consolidate all the permits required for the  
5 proposed project over which it has jurisdiction for  
6 concurrent processing and review, unless the agency can  
7 demonstrate a legal reason why any permit cannot be  
8 consolidated; provided that the agency shall not  
9 consolidate permits of different subject categories,  
10 i.e., inland, ocean, coastal zone, air, or water, or  
11 any permits requiring sequential approval.

12 (4) The agency shall hold a consolidated hearing on the  
13 consolidated permit application; provided that, where  
14 the interagency group established under section -5  
15 determines it is feasible, the agency shall participate  
16 in joint hearings with other agencies which have  
17 jurisdiction over other permits required for the same  
18 proposed project; and provided further that the agency  
19 ensures that a hearing is held in each community in  
20 which the permitted actions requested are located.

21 (5) Upon completion of the consolidated or joint hearing  
22 and proper technical review of the consolidated permit  
23 application, the agency shall issue a consolidated  
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- 1 permit to the applicant if the consolidated permit  
2 application has met all necessary requirements.
- 3 (6) Where the contested case provisions under chapter 91  
4 apply to any one or more of the permits included in the  
5 consolidated permit issued by the agency, the agency  
6 shall be required to conduct only one contested case  
7 hearing on the consolidated permit in the event of any  
8 contested cases involving any permit consolidated  
9 therein.
- 10 (7) The consolidated permit application and review process  
11 shall not affect or invalidate the jurisdiction or  
12 authority of any agency under existing laws and rules  
13 and the department shall not issue any consolidated  
14 permits or provide for the enforcement of such  
15 consolidated permits on criteria that are less  
16 stringent than the criteria established for the  
17 issuance of each individual permit.
- 18 (8) The department and agencies shall cooperate with the  
19 federal agencies to the fullest extent possible to  
20 minimize duplication. To the fullest extent possible,  
21 this cooperation shall include, among other things,  
22 environmental impact statements with concurrent public  
23 review and processing at both levels of government.
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1           Where federal law has requirements that are in addition  
2           to but not in conflict with state law requirements, the  
3           department and the agencies shall cooperate to the  
4           fullest extent possible in fulfilling their  
5           requirements so that all documents shall comply with  
6           all applicable laws.

7           (9) The department shall monitor the processing of the  
8           permit applications by those state and county agencies  
9           to which the applicant has submitted a consolidated  
10          permit request. The department shall coordinate and  
11          assist in the permitting procedures conducted by all of  
12          the agencies included in the proposed project, and to  
13          the fullest extent possible the federal agencies.

14          § -5 Interagency group. The department shall establish an  
15          interagency group comprised of those state and county agencies  
16          having jurisdiction over any aspect of the proposed project. The  
17          department shall also include all those federal agencies which  
18          have accepted an invitation to participate in the consolidated  
19          permit application and review process. If the legislature  
20          establishes any public corporation or authority for the purpose  
21          of a project, such corporation or authority shall designate a  
22          representative to serve on the interagency group. Each of these  
23          agencies and the applicant shall designate an appropriate

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1 representative to serve on the interagency group; provided that  
2 the applicant representative shall not have the right to vote on  
3 any decisions made by the interagency group. The members of the  
4 interagency group shall develop and sign an agreement which:

- 5 (1) Identifies the members of the interagency group;
- 6 (2) Identifies all the permits required for the project;
- 7 (3) Specifies the regulatory and review responsibilities of  
8 each government agency and sets forth the  
9 responsibilities of the applicant;
- 10 (4) Establishes a timetable for regulatory review, the  
11 conduct of necessary hearings, preparation of an  
12 environmental impact statement, if necessary, and other  
13 actions required to minimize duplication and coordinate  
14 the activities of the applicant and agencies; and
- 15 (5) Establishes a mechanism to resolve any conflicts that  
16 may arise between or among the department and any  
17 agency, including any federal agencies, as a result of  
18 conflicting permit, approval, or other requirements,  
19 procedures, or agency perspectives.

20 The interagency group shall also act as a liaison group in  
21 determining and coordinating any joint interagency hearings on  
22 consolidated applications.

23 § -6 Streamlining activities. In administering the  
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1 comprehensive permit system, the department shall:

- 2 (1) Monitor all permit applications submitted under this  
3 chapter and the processing thereof on an ongoing basis  
4 to determine the source of any inefficiencies, delays,  
5 and duplications encountered and the status of all  
6 permits in process;
- 7 (2) Pursue the implementation of streamlining measures  
8 identified by the interagency group;
- 9 (3) Design, in addition to the master consolidated permit  
10 application form, other applications, checklists, and  
11 forms essential to the implementation of the  
12 consolidated permit process and;
- 13 (4) Ensure that all standards used in any agency decision-  
14 making for any required permits are clear, explicit,  
15 and precise.

16 **§ -7 Information services.** The department shall:

- 17 (1) Operate a permit information and coordination center  
18 during normal working hours, which will provide  
19 guidance to potential applicants for a project with  
20 regard to the permits and procedures that may apply to  
21 the project; and
- 22 (2) Maintain and update a repository of the laws, rules,  
23 procedures, permit requirements, and criteria of state  
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1           and county agencies which have control or regulatory  
2           power over any aspect of the project and of federal  
3           agencies having jurisdiction over any aspect of the  
4           project.

5           § -8 Construction of the chapter; rules. This chapter  
6           shall be construed liberally to effectuate its purposes, and the  
7           department shall have all powers which may be necessary to carry  
8           out the purposes of this chapter, including the authority to  
9           adopt, amend, and repeal rules to implement this chapter. The  
10          adoption, amendment, and repeal of all rules shall be subject to  
11          chapter 91.

12          § -9 Annual report. The department shall submit an  
13          annual report to the governor and the legislature on its work  
14          during the preceding year, the development status of the project,  
15          any problems encountered, and any legislative actions that may be  
16          needed further to improve the comprehensive permit process and  
17          implement the intent of this chapter.

18          § -10 Severability. If any provision of this chapter or  
19          the application thereof to any person or circumstances is held  
20          invalid, the invalidity shall not affect other provisions or  
21          applications of this chapter that can be given effect without the  
22          invalid provision or application, and to this end the provisions  
23          of this chapter are declared severable.

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§ -11 Exemptions from certain state laws. In order to promote the purposes of this chapter, all persons hired by the department to effectuate this chapter are excepted from chapters 76, 77, and 89."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$275,000, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this chapter. The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act. Any unexpended or unencumbered balance of any appropriation made by this chapter as of the close of business on June 30, 1989, shall lapse into the general fund.

SECTION 3. This chapter shall take effect on July 1, 1988, but shall not apply to any applications filed prior to the effective date.