HB 66
RELATING TO ACCRETED LANDS

House Committee on Water and Land Use Planning

Public Hearing - February 7, 1995
8:30 A.M., Room 1310 SOT

By
John T. Harrison, Environmental Center
Jacquelin N. Miller, Environmental Center
Suzanne Tiapula, School of Law

HB 66 would amend Sections 501-33 and 669-1, HRS, to provide that any lands accreted along the ocean shoreline shall belong to the state.

Our statement on this measure does not constitute an institutional position of the University of Hawaii.

Ownership of accreted lands remains controversial despite decades of debate in Hawaii. Part of the difficulty arises from the distinctly different modes of accretion which state policy attempts to treat generically. Coastal land may accrete gradually by processes of coastal sediment transport and deposition, or precipitously through the influx of lava. Similarly, the shoreline may be gradually eroded or precipitously avulsed. The sole reliable generality is that shorelines are dynamic, and natural forces must be accommodated by human systems of property definition. A major analysis of this subject was prepared in 1980 by Doak Cox, founder and former director of the Environmental Center, entitled "Shoreline Property Boundaries in Hawaii".

It seems useful to consider the cases of gradual sedimentary accretion and sudden lava deposition separately. Large amounts of new land which accrete due to the incursion of a state-owned resource (lava) seem appropriately designated as state property. However, in the case of a gradual, annual accretion, it does not seem unreasonable to permit the property owner to claim ownership, particularly since the individual property owner will lose the land should it erode. However, we strongly urge that the bill be amended to prohibit construction of any seawall on accreted land.