

NOTICE OF RESCHEDULED PUBLIC HEARING

Designation and Regulation of  
Geothermal Resource Subzones  
Board of Land and Natural Resources

Pursuant to Chapters 205-5.1 and 205-5.2, HRS, as amended by Act 151, SLH 1984, and Title 13, Chapter 184, Administrative Rule, as amended, the Board of Land and Natural Resources, State of Hawaii, has rescheduled the August 7, 8, and 9, 1984 public hearings previously announced to the following new dates, places and times to receive testimony on the Board's proposal to designate geothermal resource subzones. The rescheduled dates are:

- September 10, 1984, Monday, 7:00 p.m., Kula Elementary School Cafetorium, Maui - see Kathleen at office - pickup key before 4 pm. -- arrange return of key
- September 11, 1984, Tuesday, 7:00 p.m., Pahoa Elementary School Cafetorium, Hawaii - see Francis - pickup key before 4 pm Return key next morning - District office in Hilo State Off Bldg.
- September 12, 1984, Wednesday, 9:00 a.m., Rooms 306-307, Campus Center, University of Hawaii, Hilo - rooms will be open - no need to check in at office
- September 12, 1984, Wednesday, 7:00 p.m., Visitor Center Auditorium, Volcanoes National Park, Hawaii - John Erickson has arranged for someone to be there during meeting

The Board of Land and Natural Resources has proposed three areas in the State of Hawaii as candidate areas for designation as geothermal resource subzones. Interested persons may provide oral or written testimonies on the following proposed subzone areas:

- Kilauea Lower East Rift, Island of Hawaii
- Kilauea Upper East Rift, Island of Hawaii
- Haleakala Southwest Rift, Island of Maui

Information on the proposed subzones may be obtained from the Division of Water and Land Development, Department of Land and Natural Resources, Room 227, 1151 Punchbowl Street, Kalanimoku Building, Honolulu, Hawaii 96813, (telephone 548-7539) or at the following locations.

Division of Land Management, Dept. of Land & Natural Resources:  
State Office Building, 75 Aupuni Street, Hilo, Hawaii 96720.  
State Office Building, 54 High Street, Wailuku, Maui 96793.  
State Office Building, 3060 Eiwa Street, Lihue, Kauai 96766.

State of Hawaii  
BOARD OF LAND & NATURAL RESOURCES

*Eegawa Haman*  
for SUSUMU ONO  
Chairperson

Dated: August 2, 1984

*Kati -  
to arrange a  
trip.*

PUBLIC HEARINGS - July - August 1984

AMENDMENTS TO GEOTHERMAL RULES

*5312 -*

July 31	7:00 pm	DLNR Board Room	Susan - pickup keys
July 31	7:00 pm	Kauai State Office, 2nd floor Conference Room	Sam Lee
Aug. 1	7:00 pm	Hawaii County Council Rm	Glen Taguchi
Aug. 2	7:00 pm	Kahului Library	Mary MacMullen Pickup keys by 4 pm Return keys in book drop, front entrance

*Handwritten notes:*  
only bus  
5:30

*5312/1563743*

PROPOSED GEOTHERMAL SUBZONES

Aug. 7	7:00 pm	Pahoa Elementary School Cafetorium P.O. Box 3, Pahoa, HI 96708	Elaine - will send application--fill out and return by mail
Aug. 8	9:00 am	Hilo State Office Conf. Rm.	Glen Taguchi
Aug. 8	7:00 pm	Hawaii Volcanoes Nat'l Park Visitor Center Conf. Rm	Thelma Machado or John <i>someone will be there to open &amp; close</i>
Aug. 9	7:00 pm	Kula Elementary School P.O. Box 299, Kula 96790	will send application fill out & return 10 days before hearing.

*Handwritten notes:*  
Kula  
11:05  
Bun  
Kula

*5312/1565518*

8/7	MT + RTC	(Hon → Hilo)	7:50 am (#42)	8/11	MT + Dean	(Hon → Hilo)	7:50 am (#42)
8/9	MT + RTC	(Hilo → Maui)	10:10 am (#43)	8/12	MT	(Hilo → Hon)	7:00 am (#41)
8/10	MT + RTC	(Maui → Hon)	10:20 am (#161)	8/12	Dean	(Hilo → Maui)	9:35 am (#161)
				8/12	MT	(Hon → Maui)	5:30 pm (#76)
				8/13	MT + Dean	(Maui → Hon)	4:05 pm (#75)

*5312/1565517*

## NOTICE OF PUBLIC HEARING

### Designation and Regulation of Geothermal Resource Subzones Board of Land and Natural Resources

The Board of Land and Natural Resources will hold a public hearing on its proposal to designate geothermal resource subzones at the following dates, places and time:

- August 7, 1984 - Pahoehoe Elementary School Cafetorium, Pahoehoe, Hawaii - 7:00 pm.
- August 8, 1984 - Hilo State Office Conference Room, Hilo, Hawaii - 9:00 am.
- August 8, 1984 - Hawaii Volcanoes National Park, Visitor Center Auditorium - 7:00 pm.
- August 9, 1984 - Kula Elementary School, Kula Highway, Maui - 7:00 pm.

Act 296, Session Laws of Hawaii 1983, and Act 151, Session Laws of Hawaii 1984, have authorized the Board of Land and Natural Resources to conduct county-by-county assessments of potential geothermal resource development areas and to examine factors to include but not be limited to potential geothermal energy production use of the geothermal energy geologic hazards social and environmental impacts compatibility with present and planned use potential economic benefits compatibility with conservation principles.

The Board of Land and Natural Resources is proposing three areas in the State of Hawaii as potential areas for designation as geothermal resource subzones. Interested persons are urged to provide comments on the proposed subzone areas identified at the following sites:

- o Lower Kilauea East Rift, Hawaii
- o Upper Kilauea East Rift, Hawaii
- o Haleakala Southwest Rift, Maui

Information on the proposed subzones may be obtained from the Division of Water and Land Development, Department of Land and Natural Resources, Room 227, 1151 Punchbowl Street, Kalanimoku Building, Honolulu, Hawaii 96813, (telephone 548-7539) or at the following locations.

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State Office Building, 54 High Street, Wailuku, Maui 96793.

State Office Building, 3060 Eiwa Street, Lihue, Kauai 96766.

State of Hawaii  
BOARD OF LAND & NATURAL RESOURCES

SUSUMU ONO  
Chairperson

Dated: July 12, 1984

Publish in Hon. Star Bulletin, issue of July 18, 1984.

" " Hawaii Tribune Herald, issue of July 18, 1984

" " Maui News, issue of July 18, 1984

NOTICE OF PUBLIC HEARING

Proposed Amendments to the Rules for the Designation and Regulation of Geothermal Resource Subzones

In accordance with Act 151, Session Laws of Hawaii 1984, public hearings will be held by the State Department of Land and Natural Resources to receive testimony on the proposed amendments to the rules for the designation and regulation of geothermal resource subzones.

The proposed amendments provide for the provisions of Act 151, SLH 1984, which amended Act 296, SLH 1983.

The public hearings will be held at the following dates, places, and times:

- OK - pickup  
Keys from Carol* July 31, 1984 - Department of Land and Natural Resources Board Room, Kalanimoku Building, Room 132, 1151 Punchbowl Street, Honolulu, Hawaii, 7:00 pm.
- OK - Sam Lee  
all set* July 31, 1984 - Second floor Conference Room, State Office Building, 3060 Eiwa Street, Lihue, Kauai, 7:00 pm.
- OK - Schiye  
will have* August 1, 1984 - County Council Room, Hawaii County Building, 25 Aupuni Street, Hilo, Hawaii, 7:00 pm. -- *then to sign for conf. room + pickup keys*
- OK - pickup  
keys before 4:00 - return  
keys thru book drop, front entrance.* August 2, 1984 - Kahului Public Library, Kamehameha and School Streets, Kahului, Maui, 7:00 pm.

Interested persons are urged to attend the hearings and submit comments, orally or in writing. Copies of the proposed amendments to the rules may be obtained from the Division of Water and Land Development, Department of Land and Natural Resources, Room 227, 1151 Punchbowl Street, Kalanimoku Building, Honolulu, Hawaii 96813 (phone 548-7539) or the following locations.

Division of Land Management, Dept. of Land & Natural Resources:

State Office Building, 75 Aupuni Street, Hilo, Hawaii 96720.

State Office Building, 54 High Street, Wailuku, Maui 96793.

State Office Building, 3060 Eiwa Street, Lihue, Kauai 96766.

State of Hawaii  
BOARD OF LAND AND NATURAL RESOURCES

18/SUSUMUONO

SUSUMU ONO  
Chairperson

Dated: July 6, 1984

Publish in Honolulu Star Bulletin, issue of July 11, 1984  
Hawaii Tribune Herald, issue of July 11, 1984  
Maui News, issue of July 11, 1984  
The Garden Island, issue of July 11, 1984

NOTICE OF PUBLIC HEARING

Designation and Regulation of Geothermal Resource Subzones Board of Land and Natural Resources

The Board of Land and Natural Resources will hold a public hearing on its proposal to designate geothermal resource subzones at the following dates, places and time:

- OK August 7, 1984 - Pahoa Elementary School Cafetorium, Pahoa, Hawaii - 7:00 pm.
OK August 8, 1984 - Hilo State Office Conference Room; Hilo, Hawaii - 9:00 am.
OK August 8, 1984 - Hawaii Volcanoes National Park, Visitor Center Auditorium - 7:00 pm. -- custodian will open + close facilities.
OK August 9, 1984 - Kula Elementary School, Kula Highway, Maui - 7:00 pm.

Act 296, Session Laws of Hawaii 1983, and Act 151, Session Laws of Hawaii 1984, have authorized the Board of Land and Natural Resources to conduct county-by-county assessments of potential geothermal resource development areas and potential geothermal energy geologic hazards social present and planned u conservation principles. not be limited to thermal energy patibility with mpatibility with

For Pahoa + Kula schools -- pickup keys before 4:00 pm.

The Board of Land in the State of Hawaii resource subzones. Int the proposed subzone a
o Lower Kilauea E
o Upper Kilauea E
o Haleakala South

For Pahoa - keys may be returned to DOE, 2nd floor, State Office Bldg in Hilo

sing three areas as geothermal vide comments on es:

Information on the Division of Water and L Resources, Room 227, Honolulu, Hawaii 96813,

For Kula - pls make arrangements when keys are picked up.

ained from the Land and Natural Resources Building, Honolulu, Hawaii 96813, at the following locations.

- Division of Land Management, Dept. of Land & Natural Resources:
State Office Building, 75 Aupuni Street, Hilo, Hawaii 96720.
State Office Building, 54 High Street, Wailuku, Maui 96793.
State Office Building, 3060 Eiwa Street, Lihue, Kauai 96766.

State of Hawaii BOARD OF LAND & NATURAL RESOURCES

SUSUMU ONO Chairperson

Dated: July 12, 1984
Publish in Hon. Star Bulletin, issue of July 18, 1984.
" " Hawaii Tribune Herald, issue of July 18, 1984
" " Maui News, issue of July 18, 1984

AUGUST 2, 1984  
KAHALUI, MAUI  
RIOLE HEARNE  
CITY 184

SIGN IN SHEET  
(GENERAL ATTENDANCE)

NAME

ORGANIZATION

*Paul Goodman*  
*Tom Sato*

*PRIVATE*  
*Maui Electric*

## NOTICE OF PUBLIC HEARING

### Proposed Amendments to the Rules for the Designation and Regulation of Geothermal Resource Subzones

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The proposed amendments provide for the provisions of Act 151, SLH 1984, which amended Act 296, SLH 1983. \*

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**July 31, 1984**—Department of Land and Natural Resources Board Room Kalanimoku Building, Room 132, 1151 Punchbowl Street, Honolulu, Hawaii, 7:00 pm.

**July 31, 1984**—Second floor Conference Room, State Office Building, 3060 Eiwa Street, Lihue, Kauai, 7:00 pm.

**August 1, 1984**—County Council room, Hawaii County Building, 25 Aupuni Street, Hilo, Hawaii, 7:00 pm.

**August 2, 1984**—Kahului Public Library, Kamehameha and School Streets, Kahului, Maui, 7:00 pm.

Interested persons are urged to attend the hearings and submit comments, orally or in writing. Copies of the proposed amendments to the rules may be obtained from the Division of Water and Land Development, Department of Land and Natural Resources, Room 227, 1151 Punchbowl Street, Kalanimoku Building, Honolulu, Hawaii 96813 (phone 548-7539) or the following locations.

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State Office Building, 54 High Street, Wailuku, Maui 96793.

State Office Building, 3060 Eiwa Street, Lihue, Kauai 96766.

State of Hawaii  
BOARD OF LAND AND NATURAL RESOURCES  
SUSUMU ONO  
Chairperson

Dated: July 6, 1984

(934—Hawaii Tribune-Herald; July 11, 1984) \*

August 1, 1964  
Hilo, Hawaii  
Public Hearing  
Chap 184

SIGN IN SHEET  
(GENERAL ATTENDANCE)

<u>NAME</u>	<u>ORGANIZATION</u>
Wallace Hirai	Japanese Chamber of Com. & Indus.
Dennis Shigeki	Hawaii Island Chamber of Com.
Rodney Nakano	Planning Dept.
Mark Dougherty	Tribune Herald
AL NAKAJI	HAWAII ISLE CHAMBER
Joe Halbig	Univ. of Hawaii @ Hilo
Allen Lourda	The Geothermal Energy Co
Glenn Taguchi	DLNR - DLM.
Les Brown	Self.
ROLAND HIGASHI	BOARD MEMBER

SIGN IN SHEET

(FOR THOSE WANTING TO SUBMIT ORAL OR WRITTEN TESTIMONY)

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Wallace Hirai	476 A Hinano St.	Japanese Chamber of Commerce & Ind.
Dennis Shigeda	250 Naniaka St.	Hawaii Island Chamber of C.



# Hawaii Island Chamber of Commerce

Established in 1897 • 180 Kinoole St. Suite 203 • Hilo, Hawaii 96720 • Phone (808) 935-7178

August 1, 1984

Susumu Ono, Chairman and Members  
of Land and Natural Resources

Testimony Relating To: Designation and Regulation of Geothermal Resource Subzones: Title 13, Subtitle 7, Chapter 184

My name is Dennis Shigeoka. I am a member and Director of the Hawaii Island Chamber of Commerce and I am speaking on behalf of the Chamber's Board of Directors.

As you know, the Hawaii Island Chamber of Commerce is in favor of the orderly development of Hawaii's geothermal resources as we believe it will yield many good opportunities for our island. We further believe that although progress of this new industry has been slower than some of us would like to see, the passage of Acts 296, SLH 1983, and 151, SLH 1984, and now the work being done to promulgate geothermal subzone designation rules, are important to the establishing of clear direction regarding the governmental procedures involved in permitting geothermal activities.

In the past, primarily because it was such a new activity, there was a great deal of uncertainty as to what the appropriate and necessary permits and procedures for allowing development of the resource were. Not that developers were unwilling to follow the proper steps, the problems revolved around identifying what those steps were and what level of government and agency had jurisdiction over the different aspects involved. There was too much uncertainty about the roles of the different sectors of government.

In an attempt to deal with this situation Act 296 and 151 were passed to delineate the appropriate roles of State and County governments. The administrative rules which are being heard, presently, reflect the attempt to describe, more clearly, the geothermal permitting process, and we are in support of that effort.

In keeping with the basic intent and purpose of both Acts 296 and 151, we believe the proposed amendments are acceptable with one exception in Section 12. Since one of the major objectives is the clarification of procedure, criteria, etc., it becomes apparent that Subsection 2 may lead to confusion. For example, the

second to the last paragraph states that unless a mutual agreement is reached to extend, a decision must be made on a geothermal resource permit application either within six or nine months. The first question is how is a month to be interpreted? Is it 30 days, 31 days, or a calendar month? More importantly, what will result should a decision not be reached within a prescribed time? Does the application automatically become approved or denied or neither? Since Subsection 2 deals with geothermal resource permits within urban, rural, and agricultural districts it is quite possible for there to be differences of interpretation between the Counties and State, and in that case the developer would be caught in the kind of situation which these efforts of enacting laws and promulgating regulations are attempting to resolve.

It is our position, that in the interest of clarity, and in conformance with the intent of Act 296, the original Subsection 2 language be retained and another sentence be added such that the entire subsection would read:

"The appropriate county authority shall regulate the use of geothermal resource subzones that lie within urban, agricultural, or rural districts. Land use commission approval or special use permit procedures which are provided for in Section 205-6 shall not be required for the use of such subzones for geothermal development activities"

Using this language, the regulation of subzones within non-conservation lands would clearly be a county responsibility. Further, since Subsection 1 establishes the BLNR's jurisdiction over conservation lands there would be clarity of the respective agency's roles, and the intent of Act 296 would be carried out.

Thank you for the opportunity to speak on this matter, we urge the expeditious approval of these rules and regulations.

*Japanese Chamber of Commerce and Industry of Hawaii*

HILO, HAWAII 96720

July 27, 1984

TESTIMONY BEFORE THE BOARD OF LAND AND NATURAL RESOURCES RELATING TO TITLE 13, SUBTITLE 7, CHAPTER 184, DESIGNATIONS AND REGULATIONS OF GEOTHERMAL RESOURCE SUBZONES.

The Japanese Chamber of Commerce and Industry of Hawaii is in support of the responsible commercialization of Hawaii's geothermal resources. As such, we are in general agreement with the promulgation of the subject regulations as it represents a step in the eventual harnessing of this energy source for the benefit of our community.

There is, however, one proposed amendment which we would like to offer additional comments on, and that amendment is contained in Section 13-184-12, dealing with the administration of sub-zones. Act 296, SLH 1983, provided that the BLNR have jurisdiction over sub-zones which are in Conservation Districts, while empowering the counties to have jurisdiction over uses in sub-zones within urban, rural and agricultural districts. The original language of sub-section 2 of Section 13-184-12 reflected this statutory mandate.

The proposed amendment to Section 2, however, goes beyond simply stating the statutorial delineation of authority and, in fact, iterates conditions and provisions which should really be part of the rules promulgated by the counties for their geothermal resources permits. Such provisions as the criteria upon which the geothermal resource permit application must be examined (ie., "The desired uses would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property", etc.), for example, clearly are more appropriate for consideration at the county level. To include language which directs the administration of county level geothermal resources permits immediately raises confusion over which set of rules a developer must abide by should there be any discrepancies between chapter 184 and the counties' geothermal resources permit. Further, it is not in keeping with the intent of Act 296, SLH 1983, wherein a clear delineation of authority was sought.

August 1, 1984

Page 2

It is our recommendation that the original language in Section 13-184-12, sub-section 2 be retained and that the sentence, "Land Use Commission approval or Special Use Permit procedures which are provided for in Section 205-6, HRS, shall not be required for the use of such sub-zones for geothermal development activities" be added. By making this change, the intent of Act 296, SLH 1983, will be preserved and there will be a clear delineation of the jurisdiction.

Thank you for consideration of this testimony.

Respectfully submitted,

JAPANESE CHAMBER OF COMMERCE  
AND INDUSTRY OF HAWAII



Wallace Hirai  
Economic Development  
Sub-Committee Chairman

July 31, 1984  
Honolulu, HI  
Public Hearing  
Chap. 184

SIGN IN SHEET

(FOR THOSE WANTING TO SUBMIT ORAL OR WRITTEN TESTIMONY)

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
R. A. Patterson	1600 Kapiolani Suite 808	Pineapple Leatherman Venture
Rod Moss	1600 Kapiolani Blvd Suite 1300 Hon - 96814	MID-PACIFIC GEOTHERMAL
Stan Tanno	P.O. Box 2750 Hon. 96840	Hawaiian Elect. Co.

---

GENERAL ATTENDANCE ONLY

KIMO VINCENT

KAM SCHOOL / BISHOP  
ESTATE

SAM KEENA JR.

CAMPBELL ESTATE

**Testimony on Proposed Amendments to the  
Rules for the Designation and Regulation of  
Geothermal Resource Subzones**

**July 31, 1984**

Mr. Chairman, members of the board;

My name is Ralph Patterson. I am the manager of the Puna Geothermal Venture which is one of the developers of Hawaii's geothermal resources. The area that the Venture has been developing includes the lower east rift zone of Kilauea in the district of Puna.

We have carefully examined the proposed amendments, and generally find them to be clear and reasonable in view of the recent changes to the State law on the subzoning of geothermal resource areas. However, we have found a number of specific sections where we have some suggested changes. These areas are outlined below.

§13-184-2 Definitions

- We believe the definition for the term "operator" should be retained in the rules, as it is used in §13-184-6 [1].
  
- The term "geothermal mining lease" should be added to the definitions section, specifying that it means a State lease approved and issued by the board in accordance with Chapter 182 of the Hawaii Revised Statutes, and Chapter 183 of Title 13, Administrative Rules entitled "Rules on Leasing and Drilling of Geothermal Resources."  
The term is used in §13-184-3 and §13-184-6.
  
- The term "Special Use Permit" should be defined. It is used in §13-184-3.

§13-184-3 Geothermal Resource Subzones

- In the first paragraph, the phrase "rules of the appropriate county authority," should be inserted in the last sentence, after "Statutes".
- In the third added paragraph, there is a reference to "this chapter." We believe this is a reference to Chapter 205, Hawaii Revised Statutes, as set forth in Act 151. The reference to an exception to these proposed rules does not make sense.
- We believe that the last paragraph should be deleted. In the first place, these rules do conflict in some ways with the Chapter 183, Title 13 rules; to simply state that the proposed rules do not "abrogate nor supercede" these rules is incorrect and could be confusing. In addition, these administrative rules cannot affect the cited chapters of the Hawaii Revised Statutes.

§13-184-4 Subzone Objectives

- In the sixth line, the referenced section should be §13-184-7 rather than -6.

§13-184-6 Landowner Initiated Subzone Designation

- The list of qualified persons here should include an applicant for a state mining lease, and the term "person with an interest in real property" should be more specific to include that the real property be in the proposed subzone.
- In subparagraph [2], the requirement for "certification" of an applicant should be made clearer; what will constitute "certification" of an applicant?

- The number of copies of an application should be specified if the DLNR will require more than an original copy, in order to have enough maps and other materials available to the staff.

§13-184-7 Criteria for Designation of Subzones

- Subparagraphs [1] and [2] seem to say the same thing. In addition, the word "plausible" in the first subparagraph is the wrong word - it has a definite negative connotation that I am sure was not intended.  
Recommend that these two subparagraphs be worded as they are in Act 151, in the section on subzone criteria.

§13-184-9 Notice and Public Hearings

- The reference to "a landowner" in the first sentence should be clarified to include all those qualified to apply for subzone status under §13-184-6 above.

§13-184-10 Decision of the Board

- The last sentence should be ended after the word "decision," and this sentence should follow the second sentence of the paragraph.

§13-184-11 Modification and Withdrawal of Existing Subzones

- Those authorized to apply for withdrawal should be the same as those qualified to apply for designation under §13-184-6 above.
- The criteria for the withdrawal of subzone designation should be specified. This rule should match the statute as regards the level of proof required for a board decision to withdraw a designation.

§13-184-12 Administration of Subzones

- Subparagraph [2] could be confusing. The wording of this paragraph may not match the rules and regulations that are being drafted by the Counties and thus some questions could arise as to which rules are applicable.

Recommend that subparagraph [2] be left as it is in the present rules.

Thank you very much, gentlemen. I will be happy to answer any questions.

RAP/crn

Revised 7/3]/84

NOTICE OF PUBLIC HEARING

RECV TESTIMONY WITHIN 15 DAY

BY 6/6/84

RESPONSE WILL BE MADE TO

Proposed Rules for the  
Designation and Regulation of Geothermal Resource Subzones

ALL SUBMITTIONS

In accordance with Chapters 91 and 205, Hawaii Revised Statutes, and Act 296, Session Laws of Hawaii 1983, public hearings will be held by the State Department of Land and Natural Resources to receive testimony on the proposed rules for the designation and regulation of geothermal resource subzones.

\*

The proposed rules describe the procedure for initiating the designation of subzones, establishing criteria, providing for the modification and withdrawal of existing subzones, and providing for the regulation of geothermal resource subzones.

Four separate hearings will be held simultaneously on May 22, 1984 beginning at 7:00 p.m. at the following locations:

- Department of Land and Natural Resources Board Room, Kalanimoku Building, Room 132, 1151 Punchbowl Street, Honolulu, Hawaii.
- County Council Room, Hawaii County Building, 25 Aupuni Street, Hilo, Hawaii.
- Maui Community College, 310 Kaahumanu Ave., Building 208, Room 21, Kahului, Maui.
- Conference Room A-C, State Office Building, 3060 Eiwa Street, Lihue, Kauai.

All interested persons are urged to attend the hearings and submit comments, orally or in writing. Copies of the proposed rules may be obtained from the Division of Water and Land Development, Department of Land and Natural Resources, Room 227, 1151 Punchbowl Street, Kalanimoku Building, Honolulu, Hawaii 96813 (phone 548-7539) or the following locations.

Division of Land Management, Dept. of Land & Natural Resources:

State Office Building, 75 Aupuni Street, Hilo, Hawaii 96720.

State Office Building, 54 High Street, Wailuku, Maui 96793.

State Office Building, 3060 Eiwa Street, Lihue, Kauai 96766.

BOARD OF LAND & NATURAL RESOURCES



SUSUMU ONO, Chairperson of the Board

Dated: April 19, 1984

NOTICE OF PUBLIC HEARING

Proposed Rules for the Designation and  
Regulation of Geothermal Resource Subzones

In accordance with Chapters 91 and 205, Hawaii Revised Statutes, and Act 296, Session Laws of Hawaii 1983, public hearings will be held by the State Department of Land and Natural Resources to receive testimony on the proposed rules for the designation and regulation of geothermal resource subzones.

The proposed rules describe the procedure for initiating the designation of subzones, establishing criteria, providing for the modification and withdrawal of existing subzones, and providing for the regulation of geothermal resource subzones.

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State Office Building, 3060 Eiwa Street, Lihue, Kauai 96766.

BOARD OF LAND & NATURAL RESOURCES  
SUSUMU ONO, Chairperson of the Board

Dated: April 19, 1984

(April 25, 1984)

STATE OF HAWAII  
**REQUISITION & PURCHASE ORDER**

AMOUNT: 017747

Date: 04/19/84

Deliver Before: \_\_\_\_\_

**DELIVERY ADDRESS**

\_\_\_\_\_

**BILLING ADDRESS**

\_\_\_\_\_

**DEPARTMENT OF LAND & NATURAL RESOURCES**  
 ORGANIZATION

**DOW/LS**  
 FUNCTION AND ACTIVITY

**NOTICE TO VENDORS**  
 Conditions of purchase are listed on the back side of this purchase order. Please read carefully. Payments may be delayed if all steps are not followed.

**Hawaii Newspaper Agency**

**Honolulu Star Bulletin**

**605 Kapiolani Blvd.**

**Honolulu, Hawaii 96813 Attn: local**

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QUAN	UNIT	DESCRIPTION	OBJECT	UNIT PRICE	AMOUNT
		Publication of Public Notice attached herewith.  "Rules of Designation and Regulation of Geothermal Resource Subzones" 20column format  Publish in Hon. Star Bulletin Issue of April 26, 1984  (Please call 548-7619 if any questions)			Estima  120.0

REQUISITIONER: **k** TELEPHONE: \_\_\_\_\_

GOODS/SERVICES RECEIVED IN GOOD ORDER AND CONDITION BY: \_\_\_\_\_ DATE: \_\_\_\_\_

VOUCHER NUMBER: \_\_\_\_\_ AUTHENTICATED BY: **A. FURUUCHI**

AUTHORIZED SIGNATURE

REQUISITION NO. **14961**

VENDOR NUMBER: **14728** SFX: **00**

FOR DEPARTMENT USE ONLY

SFX	TC	F	YR	APP	D	OBJECT	CC	PROJ NO.	PH	ACT	ESTIMATED COST	ACTUAL COST	M	R	OPT DEPT DA
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STATE OF HAWAII  
**REQUISITION & PURCHASE ORDER**

**DEPARTMENT OF LAND & NATURAL RESOURCES**

**DONALD**

ORGANIZATION

FUNCTION AND ACTIVITY

**NOTICE TO VENDORS**

Conditions of purchase are listed on the back side of this purchase order. Please read carefully. Payments may be delayed if all steps are not followed

Maui News

P.O. Box 550

Wailuku, Hawaii 96793

Attn: Legal

Date: 04/19/84

Deliver Before \_\_\_\_\_

**DELIVERY ADDRESS**

**BILLING ADDRESS**

The State of Hawaii is an EQUAL EMPLOYMENT OPPORTUNITY and AFFIRMATIVE ACTION employer. We encourage the participation of women and minorities in all phases of employment.

QUAN.	UNIT	DESCRIPTION	OBJECT	UNIT PRICE	AMOUNT
		<b>Publication of Public Notice                      attached herewith</b>  <b>"Rules on Designation and Regulation of                      Geothermal Resource Subzones"</b> 2-column format  26 Publish in Maui News issue of April 25, 1984  (Please call 548-7619 if any questions)			<b>Estimate</b>  50.00

**k** REQUISITIONER TELEPHONE \_\_\_\_\_

VOUCHER NUMBER \_\_\_\_\_

AUTHENTICATED BY

**A. FURUUCHI**

AUTHORIZED SIGNATURE

GOODS/SERVICES RECEIVED IN GOOD ORDER AND CONDITION BY \_\_\_\_\_ DATE \_\_\_\_\_

REQUISITION NO  
**14957**

VENDOR  
 NUMBER SFX  
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**00023 00**

FOR DEPARTMENT USE ONLY

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**DEPARTMENT OF LAND & NATURAL RESOURCES**

ORGANIZATION

**DONALD**

FUNCTION AND ACTIVITY

**NOTICE TO VENDORS**

Conditions of purchase are listed on the back side of this purchase order. Please read carefully. Payments may be delayed if all steps are not followed.

Date 04/19/84

Deliver Before \_\_\_\_\_

**DELIVERY ADDRESS**

**BILLING ADDRESS**

The Garden Island

P.O. Box 231

Lihue, Hawaii 96766

Attn: Legal

The State of Hawaii is an EQUAL EMPLOYMENT OPPORTUNITY and AFFIRMATIVE ACTION employer. We encourage the participation of women and minorities in all phases of employment.

QUAN.	UNIT	DESCRIPTION	OBJECT	UNIT PRICE	AMOUNT
		<p><del>*****</del>                      Publication of Public Notice                      attached herewith</p> <p>"Rules on Designation and Regulation of                      Geothermal Resource Subzones"                      2-column format</p> <p>Publish in The Garden Island issue of                      April 23, 1984                      25</p> <p>(Please call 548-7619 if any questions)</p>			<p>Estimate                      65.00</p>

**k** REQUISITIONER TELEPHONE \_\_\_\_\_

VOUCHER NUMBER \_\_\_\_\_

AUTHENTICATED BY:

**A. FURUUCHI**

AUTHORIZED SIGNATURE

GOODS/SERVICES RECEIVED IN GOOD ORDER AND CONDITION BY \_\_\_\_\_ DATE \_\_\_\_\_

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**14959**

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FOR DEPARTMENT USE ONLY

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MINUTES

Public Hearing on the Proposed Rules for the  
Designation and Regulation of Geothermal Resource Subzones

DATE: May 22, 1984  
TIME: 7:00 p.m.  
PLACE: Maui Community College

At 7:15 p.m., the Public Hearing was formally called to order by Dean Nakano, who stated that tonight's public hearing was being held by DLNR to receive testimony on the proposed administrative rules.

In attendance were 20 people, whose names are noted on the sign-in sheet that is attached.

Written testimony was received from Mr. Tom Sato, Manager, Engineering Department of Maui Electric Co., Ltd.

The following seven people gave oral testimony that was recorded:

Rochell Domenick	Christoper Bab
John Bose, II	Aerie Waters
Paul Schraps	Ned Goodness
	Jennifer Vockrodt

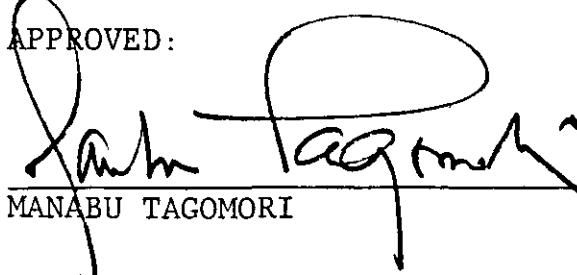
The oral testimony concerned Subchapter 2, Section 13-184-6, under criteria for designation of subzones, sub-paragraph 4. The general consensus was that the criteria regarding social and environmental impacts should be more clearly defined. It was requested that the impact analysis should be outlined, specifically stating the issues that are to be addressed, such as air quality, archeological site preservation and so forth.

Upon submittal of all testimony, the hearing was adjourned at 8:30 p.m.

  
DEAN NAKANO

DN:ko  
Attach.

APPROVED:

  
MANABU TAGOMORI

STATEMENT OF

TOMMY SATO

Manager, Engineering Department  
Maui Electric Company, Ltd.

Before The

DIVISION OF WATER AND LAND DEVELOPMENT  
STATE BOARD OF NATURAL RESOURCES

on

May 22, 1984

in consideration of the

PROPOSED RULES FOR THE  
DESIGNATION AND REGULATION OF GEOTHERMAL RESOURCE SUBZONES

We strongly support the expeditious adoption of the proposed rules for the designation and regulation of geothermal resource subzones. Your adoption of the proposed rules will help expedite the development of geothermal resources throughout the State of Hawaii. Maui Electric Company, Ltd. encourages geothermal development since its energy can provide reliable, base-load generation with today's technology.

We are concerned, however, with the length of time the regulatory process will take to complete this designation process and to approve applications for its development and use. Delays in the regulatory process may cause MECO to be forced to install oil-fired generating units in lieu of geothermal plants being planned. This would be contrary to the State's goal of reducing our dependence on imported oil by developing indigenous alternate sources of energy.

Therefore, we urge you to expeditiously adopt these rules for the designation of geothermal resource subzones. Once geothermal resource subzones are established and rules for their use are in place, applications for their development must be acted upon as soon as possible so as to not economically jeopardize the geothermal developers who must take the risk of investing large sums of money for their developments.

Act 296 provides the means for developing our geothermal resources in order to reduce our dependence on imported oil. At the same time, the regulations will provide the necessary controls to insure that the environment is adequately protected.

We recommend that you add the words "upon request" in the second sentence of Article 13-184-12 "Contested Case Hearings". This article should then read:

"...A contested case hearing shall, upon request, be conducted by the board....."

Thank you for the opportunity to provide these comments.

SIGN IN SHEET  
(GENERAL ATTENDANCE)

NAME

ORGANIZATION

- |                       |  |
|-----------------------|--|
| 1. Gary Tubete        | The Maui News                              |
| 2. Jerald M. Suarez   | —  |
| 3. Barry Helle        | county of Maui                             |
| 4 - Montra Anak       | a concerned citizen of Maui                |
| 5. Rochelle Domeneck  | resident of Ulupalakua                     |
| 6. Hugo H. Hutzinger  | Haleakala Nat'l. Park,                     |
| 7. John Bose, II      | Conservation choir, Maui                   |
| 8. Mary Evanson       | Group, Sierra Club                         |
| 9. Paul Schrap        | Sierra Club                                |
| 10. Jeff Muñoz        | Resident of Maui and                       |
| 11. Tom SATO          | Expert on Geothermal Dev.                  |
| 12. Roy T. Uemura     | Kauiyü Detchen Hermitage                   |
| 13. Jennifer Vockrodt | MAUI ELECTRIC Co                           |
| 14. Ned I. Goodness   | HAWAIIAN Elec. Co., INC                    |
| 15. Christopher Baz   | Resident of Ulupalakua                     |
| 16. Charles Waters    | FARMER                                     |
| 17. Martha Vockrodt   | ULUPALAKUA FARMER                          |
| 18. Bob Schmidt       | Citizen concerned @ <del>environment</del> |
| 19. Barbara Bose      | Puumahoe Aboretum for indigenous           |
| 20. Warren Bose       | Hawaiian trees & Ulupalakua                |
|                       | Resident                                   |
|                       | ULUPALAKUA RESIDENT &                      |
|                       | FARMER                                     |

SIGN IN SHEET

(FOR THOSE WANTING TO SUBMIT ORAL OR WRITTEN TESTIMONY)

	<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
for environment	<del>Marshall Drake</del>	<del>S.R. 1 Box 7 Ulupalakua</del>	<del>Ulupalakua</del>
5/20	Rachelle Domenick	S.R. 1 Box 70 Ulupalakua 96790	resident of Ulupalakua
*	John Bose, II	P.O. Box 688 Haiku, Maui, HI 96708	Sierra Club
Dr.	* Paul Schreps N.D.	701 Kupulou Dr. Kihei Maui	
	Tommy M. Sato	210 KAM A KAHULU	MAUI ELECTRIC
	Jennifer Voelkerdt	S.R. 1 Ulupalakua	resident of Ulupalakua
	Christopher Bae	PO Box 906 Ulupalakua	Ulupalakua Council
	John H. H. H.	Box 1000 Ulupalakua	Ulupalakua lover
	Ned I. Goodness	369 Leleiohoku St 96793	

## MINUTES

### Public Hearing on the Proposed Rules for the Designation & Regulation of Geothermal Resource Subzones

Date: May 22, 1984  
Time: 7:00 p.m.  
Place: County Council Room, Hilo, Hawaii

Manabu Tagomori called the Public Hearing to order at 7:10 pm, May 22, 1984.

Attending the session were 18 persons whose names are attached to these minutes.

Written testimonies were submitted by Mr. Sidney Fuke of the Hawaii Planning Department and Mr. Alva Nakamura of Hawaii Electric Light Company. Copies are attached.

Oral testimonies were presented by Alex Smyko, Linda Lyerly, Honey Davis, Rep. Andy Levin, Nelson Ho, Bonnie Govdell, and Kathleen Ing. With the exception of Rep. Andy Levin and Nelson Ho all testimonies were general in nature and did not specifically address the proposed rules.

Mr. Nelson Ho objected to Section 184-7 where an EIS is not required for subzoning purposes. The filing fee should be raised 5-10 times the \$150 proposed. He also objected to the last sentence of Section 184-5 where an applicant is automatically appointed if the Board does not act within 180 days. Mr. Ho prefers the reverse, where the application is automatically denied.

Representative Andy Levine's major concerns were in the following areas: (1) suggested we draft rules beyond language of the law since Act 296 is a poor law (2) "Available information" should provide for new and developing information (3) the seven criteria for designation should not be applied equally but weighted towards social and environmental concerns (4) the landowner initiated subzones should provide for public notice and (5) limit the subzone areas to anticipated needs and establish a priority listing for exploration. Conditions should also be explained.

The meeting was closed at 9:00 pm.

The audience was reminded that the deadline for submittional of additional comments is June 6, 1984. All comments should be addressed to DOWALD, P.O. Box 373, Honolulu, Hawaii 96809.

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Manabu Tagomori

NOTICE OF PUBLIC HEARING

Designation and Regulation of  
Geothermal Resource Subzones

The Board of Land and Natural Resources is proposing two areas in the State of Hawaii as potential areas for designation as geothermal resource subzones. Public hearings will be held for the following two areas:

Proposed Kilauea Middle East Rift Geothermal Resource Subzone  
(Puna Forest Reserve)

Thursday, September 26, 1985, 1:30 - 3:30 pm  
Pahoa Neighborhood Center, Pahoa, Hawaii

Proposed Kilauea Southwest Rift Geothermal Resource Subzone (Pahala)

Thursday, September 26, 1985, 6:30 - 8:30 pm  
Kau High & Pahala Elem. School Cafeteria, Pahala, Hawaii

Interested persons are urged to provide comments on the proposed subzone areas.

Act 296, Session Laws of Hawaii 1983, and Act 151, Session Laws of Hawaii 1984, have authorized the Board of Land and Natural Resources to conduct county-by-county assessments of potential geothermal resource development areas, and to examine factors including but not limited to, potential geothermal energy production, use of the geothermal energy, geologic hazards, social and environmental impacts, compatibility with present and planned land use, potential economic benefits, and compatibility with conservation principles.

Information on the proposed subzones may be obtained from the Division of Water and Land Development, Department of Land and Natural Resources, Room 227, 1151 Punchbowl Street, Kalanimoku Building, Honolulu, Hawaii 96813, (telephone 548-7539) or at the following locations:

Division of Land Management, Dept. of Land & Natural Resources:

State Office Building, 75 Aupuni Street, Hilo, Hawaii 96720.

State Office Building, 54 High Street, Wailuku, Maui 96793.

State Office Building, 3060 Eiwa Street, Lihue, Kauai 96766.

State of Hawaii  
BOARD OF LAND AND NATURAL RESOURCES

  
SUSUMU ONO  
Chairperson

Dated: August 27, 1985

Publish in:

Honolulu Star Bulletin, issues of  
September 5, 11, and 16, 1985

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Water and Land Development  
Honolulu, Hawaii

November 16, 1984

Chairperson and Members  
Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Gentlemen:

Designation of Geothermal Resource Subzone  
Haleakala Southwest Rift Zone, Island of Maui

Pursuant to Act 296, Session Laws of Hawaii 1983, and Act 151, Session Laws of Hawaii 1984, the Department of Land and Natural Resources initiated staff work in early 1983 for the designation of geothermal resource subzones in the State of Hawaii by the Board of Land and Natural Resources. The objective of establishing subzones is to allow geothermal resource exploration, development, and production of electrical energy to take place in areas having low impacts to social, economic, environmental, geological hazards, compatibility with surrounding land uses and other related aspects of interest to the communities, the County, and the State.

The Department's staff with assistance from a geothermal resource technical committee and a consultant completed the following work tasks: assessment of available information on geothermal resources in Hawaii; promulgated the Administrative Rules on geothermal resource subzones; assessment of geothermal resources in the State of Hawaii on a county-by-county basis; conducted impact analysis on social, economic, environmental, geologic hazards, compatibility to existing and planned land uses, and the relationship to other State and County programs.

The staff conducted several community meetings to discuss those areas identified as having potential geothermal resources to produce electrical energy and the various components relating to impacts to the communities, County and the State. The staff presented the information to the Board and subsequently a "Proposal for Designating Geothermal Resource Subzones" was issued by the Board in July 1984.

The Board proposed that the Haleakala Southwest Rift Zone, Island of Maui covering an area of 4154 acres be a candidate for designation as a geothermal resource subzone. Public hearings on the proposal was conducted by the Board on September 10, 1984. The majority of testimonies received were in support of the Board's proposal and are summarized as follows:

- Increased energy self-sufficiency for the State of Hawaii and less dependence on foreign fuel imports.
- The creation of new jobs and added revenue to the State.
- Development of additional industries which could utilize geothermal by-products and energy.
- Recommendation that the Board move with great urgency in the designation of geothermal resource subzones. Eliminating delays will

The testimonies submitted that were in opposition to the proposal are summarized below:

- Potential health hazards and adverse effects resulting from geothermal emissions, such as air, noise and water catchment pollution.
- Potential destruction of native forests and impacts on endangered flora and fauna.
- Incompatibility with existing land uses and community setting including scenic and aesthetic qualities.

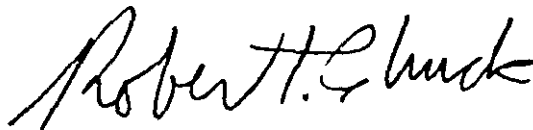
Upon review of all submitted testimonies, the staff concluded that all environmental concerns related to the designation of geothermal resource subzones can be readily mitigated through proper planning and current technology. The use of abatement systems and compliance with existing and proposed Department of Health Standards can insure public safety. In addition, appropriate mitigation measures can be required during subsequent State and County permitting to be imposed on a case-by-case basis to eliminate or minimize potential adverse effects.

The staff reviewed two testimonies as having merit for consideration in adjusting the Board's proposed area. Seibu Hawaii, Inc. recommended that the lower portion below the Kula Highway be deleted from subzone designation due to the proximity to their resort development area located approximately 2.5 miles west of the area. Mid-Pacific Geothermal Inc. recommended that the south and east boundaries of the lower portion below the Kula Highway be adjusted to include an additional area. The staff concludes that both recommendations have merit and suggests that the area below the Kula Highway be modified by deleting a portion of lands lying to the northwest and adding a portion of lands lying to the southeast. The net acreage generally remains the same by the adjustment in boundaries in the lower portion of the proposed subzone area.

RECOMMENDATION:

That the Board designate the Haleakala Southwest Rift Zone, Island of Maui, containing 4441 acres of land as a geothermal resource subzone. The boundaries of the subzone are shown on the attached Exhibit "A" and further identified by Tax Map Key in Exhibit "B".

Respectfully submitted,



ROBERT T. CHUCK  
Manager-Chief Engineer

Attach.

APPROVED FOR SUBMITTAL:



HALEAKALA SOUTHWEST RIFT  
Island of Maui

<u>TMK</u>	<u>Owner/Lessor Lessee</u>	<u>Area (acre)</u>
Portion of 2-1-03-32	Goodness, Stanley K. etal Ulupalakua Ranch Inc.	1.07*
Portion of 2-1-03-50	State of Hawaii Ulupalakua Ranch Inc.	152.86*
Portion of 2-1-04-6	Ulupalakua Ranch Inc.	523.60*
2-1-04-7	Ulupalakua Ranch Inc.	24.60
2-1-04-8	Goodness, Guy S. Hew, Joseph T.  Ulupalakua Ranch Inc.	110.00
2-1-04-9	Ulupalakua Ranch Inc.	57.61
2-1-04-11	Haake, Richard etal  Jacintho, William etal	28.95
2-1-04-12	Ulupalakua Ranch Inc.	1.43
2-1-04-14	Page-Papazian John H/Dale L.	12.27
2-1-04-15	State of Hawaii Ulupalakua Ranch Inc.	21.34
2-1-04-16	Ulupakakua Ranch Inc.	2.22
2-1-04-17	Ulupalakua Ranch Inc.	6.98
2-1-04-18	Goodness, Stanley K. etal Hew, Joseph T. Ulupalakua Ranch Inc.	22.64
2-1-04-19	Goodness, Stanley K. etal Ulupalakua Ranch Inc.	8.21
2-1-04-20	Ulupalakua Ranch Inc.	4.22
2-1-04-21	Ulupalakua Ranch Inc.	16.10
2-1-04-22	Ulupalakua Ranch Inc.	13.38
2-1-04-23	Ulupalakua Ranch Inc.	49.27
Portion of 2-1-04-49	State of Hawaii Ulupalakua Ranch Inc.	450.79*
2-1-04-71	Ulupalakua Ranch Inc.	19.72
2-1-04-80	Fleming, Wray D. etal	6.78

<u>TMK</u>	<u>Owner/Lessor Lessee</u>	<u>Area (acre)</u>
2-1-04-94	State of Hawaii Texeira, Walter F. Aki, Charles Jr.	20.82
2-1-04-109	State of Hawaii	1.94
Portion of 2-1-08-1	Ulupalakua Ranch Inc.	25.00*
Portion of 2-1-09-1	Ulupalakua Ranch Inc.	2600.00*
2-1-09-17	Vockrodt, Jack E. etal Trust	16.87
2-1-09-19	Ulupalakua Ranch Inc. Hawn Telephone Co.	.56
Portion of 2-2-01-1	Ulupalakua Ranch Inc.	<u>22.00*</u>
	Total	4,108.00*

\_\_\_\_\_  
\*Approximate acreage.

NOTICE OF PUBLIC HEARING

Designation and Regulation of  
Geothermal Resource Subzones

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Pahoa Neighborhood Center, Pahoa, Hawaii

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Kau High & Pahala Elem. School Cafeteria, Pahala, Hawaii

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State Office Building, 54 High Street, Wailuku, Maui 96793.

State Office Building, 3060 Eiwa Street, Lihue, Kauai 96766.

State of Hawaii  
BOARD OF LAND AND NATURAL RESOURCES

  
SUSUMU ONO  
Chairperson

Dated: August 27, 1985

Publish in:

Honolulu Star Bulletin, issues of  
September 5, 11, and 16, 1985

Kilauea Middle East Rift Geothermal Resource Subzone  
September 26, 1985

PUBLIC HEARING AGENDA

- 1:30 pm - Chairperson opening remarks
- Presentation by Manabu Tagomori
  - Receive testimony from public
  - Advise public of 15 day (by Oct. 11, 1985) period  
to submit written testimony to BLNR  
P.O. Box 373, Honolulu, Hawaii 96809
  - Closing remarks
  - Adjournment

NOTICE OF PUBLIC HEARING

Proposed Withdrawal of Puna Forest Reserve Lands

Pursuant to Chapters 91 and 92, Hawaii Revised Statutes, and other applicable laws notice is hereby given that the Board of Land and Natural Resources will hold a Public Hearing beginning at 7:00 p.m., Tuesday, November 12, 1985 at the State Office Building, Conference Rooms A, B, and C, 75 Aupuni Street, Hilo, Hawaii, for the purpose of considering a proposed withdrawal of 8,890.275 acres from the Puna Forest Reserve, Tax Map Key 1-2-10:02, Puna, Hawaii,

The subject land is set aside by Governor's Proclamation dated December 22, 1928, as part of the Puna Forest Reserve. Pursuant to the Decision and Order of the Board of Land and Natural Resources dated December 28, 1984, the parcel consisting of 8,890.275 acres is proposed to be exchanged with Campbell Estate for Campbell's Kahaualea lands. The land exchange is being proposed for the purpose of exploration and development of geothermal energy pursuant to Act 296, SLH 1983, and Act 151, SLH 1984, providing for the designation of geothermal resource subzones. In addition, the land exchange will permit the acquisition of lands by the State of Hawaii to be set aside for Natural Area Reserve purposes. In order for the exchange to proceed, the land must be withdrawn from forest reserve status.

Persons wishing to offer comments or testimony are invited to appear at the public hearing on the date and at the time and place specified above.

State of Hawaii  
BOARD OF LAND AND NATURAL RESOURCES

  
SUSUMU ONO  
Chairperson

Dated: October 21, 1985  
Publish in the Honolulu Star Bulletin  
and Hawaii Tribune Herald, issue  
of October 27, 1985

Kilauea Southwest Rift Geothermal Resource Subzone  
September 26, 1985

PUBLIC HEARING AGENDA

- 6:30 pm - Chairperson opening remarks
- Presentation by Manabu Tagomori
  - Receive testimony from public
  - Advise public of 15 day (by Oct. 11, 1985) period  
to submit written testimony to BLNR  
P.O. Box 373, Honolulu, Hawaii 96809
  - Closing remarks
  - Adjournment

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PROponents

OPponents

- 1) JOE HALBIG (No comment)
- 2) DONALD TONG  
DR. KID McLOY
- 3) ~~Ms. Linda Lyerly~~
- 4) MR. O.K. STENDER
- 5) ROD MOSS
- 6) Victor BUCKNER
- 7) <sup>JOE</sup> John BOCKRATH
- 8) GEORGE JENKINS
- 9) ~~Various chapters (in favor  
generally, except for Lakeview)~~

- 1) LINDA LYERLY
- 2) MARY FINLEY
- 3) LANI STEMMERMAN
- 4) RUSS A. APPLE
- 5) MARK COLLINS
- 6) DON KING
- 7) RICK WARSHAUER
- 8) MAE MULL

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PROPOSERS

OPPONENTS

- 1) George Pai
- 2) Joe Ioventini
- 3) Sydney Keliipuleole
- 4) Ralph Patterson
- 5) Victor Becker
- 6) John Giesen
- 7) Norman Oss

- 1) Ms. Lucrezia Oddie
- 2) Ms. Barbara Bell
- 3) Greg Owen
- 4) Aaron ~~Israel~~ Israel  
(half for and half against)
- 5) Aiana Holmes

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PROponents

OPponents

- 1) Rep. Richard Matsuda
- 2) Mr. Elroy Osorio
- 3) Mr. Vern Yamamoto
- 4) Mr. Lemasa Kubo
- 5) Mr. Charles Smith
- 6) Mr. William A. Knutson
- 7) Mrs. H. Stuart Kearns Jr.
- 8) Mr. Herman H.K. Akyo
- 9) Mr. David Blyth
- 10) Mr. Randolph Ahuna for  
Mr. Francis Isumizumi
- 11) Mr. Joseph W. Andrews
- 12) Mr. Anais Aguiar
- 13) Mr. Harold Asada
- 14) Mr. Rankin Curtis Jr. (?)
- 15) Mr. Fred<sup>E.</sup> Trotter
- 16) Mr. Allan Kawada
- 17) Mrs. Lynn Nishida
- 18) Mr. William Y. Thompson
- 19) Mr. Henry Otani
- 20) Mr. Norman A. OSS
- 21) Mr. George S. Jenkins
- 22) Mr. William Pendered
- 23) Mr. Michael B. White

- 1) Mr. Nelson Ho

Hilo Public Hearing  
9-12-84

PROponents

OPponents

- 24) Councilman Tomio Fujii
- 25) Mr. Richard N. West
- 26) Mr. Patrick Takahashi
- 27) Mr. Akisuke Kuwahara (?)
- 28) Mr. William Sewake
- 29) Mrs. Donna Delorm
- 30) Rev. Walter Kai
- 31) Mr. Victor Becker
- 32) Mr. Gary Yoshijama

oral and written depositions  
arbitration & hearing transcripts

Notary Public  
State of Hawaii

**SUSAN S. HEASSLER**  
*Shorthand Reporter*

**Island Professional Reporting**  
1268 Moku Place  
Hilo, Hawaii 96720

Telephone:  
(808) 935-9141

DRAFT (19245)

September 20, 1984



Ms. Susan Heassler  
Island Professional Reporting  
1268 Moku Place  
Hilo, Hawaii 96720

Dear Ms. Heassler:

Thank you for your assistance during the recent geothermal subzone public hearing held on the island of Hawaii. Enclosed are copies of the written testimonies that were orally presented during the two hearings held on September 11, 1984 at Pahoa Elementary School, and September 12, 1984 at the Volcano Visitor Center Auditorium. In addition, a name list for those who testified is attached.

Should you have any questions, please contact Mr. Manabu Tagomori at the Division of Water and Land Development, P.O. Box 373, Honolulu, Hawaii 96809; phone (808) 548-7619. Your attention on this matter is greatly appreciated.

Very truly yours,

ROBERT T. CHUCK  
Manager-Chief Manager

DN:ko  
Enc.

Deposition Room Available

**Teri L. Andreasen**

**McMANUS COURT REPORTERS**

2180 Main St. Rm. 510

P. O. Box 1225

Wailuku, Maui, HI 96793

Bus: (808) 242-4702

Res: (808) 878-6355

DRAFT

September 20, 1984

Ms. Teri Andreasen  
McManus Court Reporters  
2180 Main St., Rm. 510  
Wailuku, Maui, HI 96793

Dear Ms. Andreasen:

Thank you for your assistance during the recent geothermal subzone public hearings held on the islands of Maui and Hawaii. Enclosed are copies of the written testimonies that were orally presented during the two hearings held on September 10, 1984 at Kula Elementary School, and September 12, 1984 at the University of Hawaii, Hilo Campus. In addition, a name list for those who testified is attached.

Should you have any questions, please contact Mr. Manabu Tagomori at the Division of Water and Land Development, P.O. Box 373, Honolulu 96809; phone (808) 548-7619. Your attention on this matter is greatly appreciated.

Very truly yours,

ROBERT T. CHUCK  
Manager-Chief Engineer

DN:ko  
Enc.

Rules Amending Title 13, Administrative Rules

August 24, 1984

SUMMARY

Chapter 184 is amended

TITLE 13  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
SUB-TITLE 7. WATER AND LAND DEVELOPMENT

Chapter 184

Designation and Regulation of  
Geothermal Resource Subzones

Subchapter 1. General

- §13-184-1 Purpose
- §13-184-2 Definitions
- §13-184-2.1 Geothermal resource subzone
- §13-184-3 Subzone objectives

Subchapter 2. Designation of Geothermal Resource Subzones

- §13-184-4 Board initiated subzone designations
- §13-184-5 Landowner initiated subzone designations
- §13-184-6 Criteria for designation of subzones
- §13-184-7 Environmental impact statement not required
- §13-184-8 Notice and public hearings
- §13-184-9 Decision of the board
- §13-184-10 Modification and withdrawal of existing subzones

Subchapter 3. Regulation of Geothermal Resource Subzones

- §13-184-11 Administration of subzones

Subchapter 1

General

§13-184-1 Purpose. The purpose of this chapter is to establish guidelines and procedures for the designation and regulation of geothermal resource subzones for the exploration, discovery, development, and production of geothermal resources for electrical energy production and distribution within conservation, agricultural, rural, and urban districts. These guidelines and procedures are intended to assist in designating areas which have potential for geothermal resource development for electrical energy production and which have an acceptable balance of the relationships of geothermal development to uses allowed in the land use classifications, to present uses of surrounding lands, to potential benefits and impacts. [Eff. SEP 6 1994 ] (Auth: HRS §205-5.1) (Imp: HRS §205-5.1)

§13-184-2 Definitions. As used in this chapter:

"Appropriate county authority" means the county planning commission unless some other agency or body is designated by ordinance of the county council.

"Board" means the board of land and natural resources.

"Chairperson" means the chairperson of the board of land and natural resources or a designated representative.

"Department" means the department of land and natural resources.

"Geothermal development activities" means the exploration, development, or production of electrical energy from geothermal resources.

"Geothermal resource" means the natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from such natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, steam and associated gases, in whatever form, found below the surface of the earth.

"Geothermal resource subzone" means any area designated by the board as provided in this chapter for use of geothermal resource exploration, development, or production, of electrical energy from geothermal resources in addition to those uses permitted in each land district under chapter 205 of the Hawaii Revised Statutes.

"Operator" means any person as defined herein engaged in drilling, maintaining, operating, producing or managing any geothermal well and appurtenances, geothermal research facility, and geothermal production or utilization facility including electric power plant.

"Geothermal mining lease" means a State lease approved and issued by the board in accordance with chapter 182, Hawaii Revised Statutes, and chapter 183 of title 13, Administrative Rules entitled "Rules on Leasing and Drilling of Geothermal Resources".

"Special use permit" means a permit issued by the county planning commission for certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified. [Eff. SEP 6 1984 ] (Auth: HRS §205-5.1) (Imp: HRS §205-5.1)

§13-184-2.1 Geothermal resource subzones. Geothermal resource subzones may be designated within the urban, rural, agricultural and conservation land use districts established under section 205-2, Hawaii Revised Statutes. Only those areas designated as geothermal resources subzones may be utilized for geothermal development activities in addition to those uses permitted in each land use district under chapter 205, Hawaii Revised Statutes. Geothermal development activities may be permitted within urban, rural, agricultural, and conservation land use districts in accordance with chapter 205, Hawaii Revised Statutes, rules of the appropriate county authority, and these administrative rules.

The board shall have the responsibility for designating areas as geothermal resource subzones, except that the total area within an agricultural district which is the subject of a geothermal mining lease approved by the board, and any part or all of which area is the subject of a special use permit issued by the county for geothermal development activities, on or before May 25, 1984, is hereby designated as a geothermal resource subzone for the duration of the lease.

The authority of the board to designate geothermal resource subzones shall be an exception to those provisions of chapter 205, Hawaii Revised Statutes, and of section 46-4, Hawaii Revised Statutes, authorizing the land use commission and the counties to establish and modify land use districts and to regulate uses therein.

The provisions of these administrative rules shall not abrogate nor supersede the provisions of chapters 182, entitled "reservation and disposition of government mineral rights" and 183, entitled "forest reservations, water development, zoning", Hawaii Revised Statutes, and chapter 183 of title 13, department administrative rules entitled "rules on leasing and drilling of geothermal resources". [Eff. SEP 6 1984 ] (Auth: HRS §205-5.1) (Imp: HRS §205-5.1)

§13-184-3 Subzone objectives. The establishment and regulation of geothermal resource subzones is intended to facilitate geothermal development activities in those areas of the

State where such activities will serve, in overall perspective, the best interest of the State, premised upon the criteria set forth in section 13-184-6. The major objectives are:

- (1) To allow geothermal development activities to help achieve the State's goal of energy self-sufficiency and broaden the State's economic base through development of a natural resource;
- (2) To allow geothermal development activities in areas where such activities would be of greater benefit to the State than the existing or future use of such areas; and
- (3) To allow geothermal development activities in areas of the State which best demonstrate an acceptable balance among the criteria set forth in §13-184-6.  
[Eff. SEP 6 1984 ] (Auth: HRS §205-5.1)  
(Imp: HRS §205-5.1)

## Subchapter 2

### Designation of Geothermal Resource Subzones

§13-184-4 Board initiated subzone designation. Beginning in 1983, and prior to the designation of any area as a geothermal resource subzone, the board shall first make or cause to be made a county-by-county assessment of those areas within the State which have potential for geothermal development activities. The methods to be used for making the assessments shall be left to the discretion of the board, provided that the board shall as a minimum consider the criteria set forth in section 13-184-6. The board may in its discretion base its methods for assessment on currently available public information. Where applicable, the board shall consider the objectives, policies and guidelines set forth in part I of chapter 205A, Hawaii Revised Statutes, and the provisions of chapter 226, Hawaii Revised Statutes.

The initial county-by-county assessments of areas with geothermal potential shall be revised or updated by the board at least once every five years beginning in 1988, or at any lesser interval of years at the discretion of the board. [Eff. SEP 6 1984 (Auth: HRS §205-5.1) (Imp: HRS §205-5.1)]

§13-184-5 Landowner initiated subzone designation. In addition to designations initiated by the board, any property owner, State mining lease applicant, geothermal mining lessee, or person with an interest in real property may initiate an application for designation of any area with geothermal potential as a geothermal resource subzone by specifying the area to the

board. The application and three copies shall be accompanied by the following information:

- (1) Names and addresses of the applicant, operator, owner of the geothermal mineral rights, landowner if not the same as the applicant, and the geothermal lease number, if applicable;
- (2) Evidence that the applicant is qualified to submit such a petition;
- (3) An accurate description and map of the area desired to be designated as a geothermal resource subzone;
- (4) A statement by applicant of the purpose, justification, and need for designation; and
- (5) An assessment report based on the criteria set forth in section 13-184-6 and any other information to support the proposed designation.

Applications for geothermal resource subzones shall be submitted to the department for approval by the board. Each application shall be accompanied by a filing fee of \$100.00. The chairperson shall review the application for completeness and may request additional information deemed necessary to process the application for board approval. The chairperson shall notify the applicant in writing of the acceptance of the completed application. Within 180 days of the written notification of acceptance of the application, the board shall publish notice of and hold public hearings and render a decision on designating any part or all of the area requested for designation as a geothermal resource subzone. If the request for geothermal resource subzone is denied, the board shall state its reason for its decision. If the board fails to hold a hearing and render a decision within 180 days after issuance of the notice of acceptance of the application, the application is deemed approved subject to the conditions of section 13-184-11. [Eff. <sup>SCP</sup> 6 1984 ] (Auth: HRS §205-5.2) (Imp: HRS §205-5.2)

§13-184-6 Criteria for designation of subzones. The board, in designating an area as a geothermal resource subzone, shall be guided by the selection of those areas that can demonstrate an acceptable balance among the criteria set forth below:

- (1) That the area has potential for geothermal development activities;
- (2) That there is a known or likely prospect for the utilization of geothermal resources for electrical energy production;
- (3) That any potential geologic hazards to geothermal production or use in the proposed area are examined;
- (4) That any environmental or social impacts of the development of geothermal resources within the proposed area be considered;

- (5) That the compatibility of development and utilization of geothermal resources within the proposed area is considered with other allowed uses within the area and within the surrounding lands; and
- (6) That the potential benefits to be derived from geothermal development and utilization in the proposed area be in the interest of the county or counties involved and the State as a whole. [Eff. SEP 6 1984 ] (Auth: HRS §205-5.2) (Imp: HRS §205-5.2)

§13-184-7 Environmental impact statement not required.  
An environmental impact statement as defined under chapter 343, Hawaii Revised Statutes, shall not be required in assessing any area proposed for designation as a geothermal resource subzone. [Eff. SEP 6 1984 ] (Auth: HRS §205-5.2) (Imp: HRS §205-5.2)

§13-184-8 Notice and public hearings. When the board or a qualified applicant proposes an area for designation as a geothermal resource subzone, the board shall hold a public hearing in reasonably close proximity to the proposed area and publish a notice of the public hearing setting forth:

- (1) A description of the proposed area;
- (2) An invitation for public comment; and
- (3) The date, time, and place of the public hearing where written or oral testimony may be submitted or heard.

Such notice shall be published on three separate days in a newspaper of general circulation statewide and in the county in which the public hearing is to be held. The first publication shall be not less than twenty days before the date set for the hearing. Copies of the notice shall be mailed to the State department of planning and economic development and the planning commission and planning department of the county in which the proposed area is located. Publication of the notice of public hearing shall be considered sufficient notice to all landowners and persons who might be affected by the proposed designation.

The public hearing shall be held before the board and the conduct of the public hearing shall not be delegated to any agent or representative of the board. All persons and agencies shall be afforded the opportunity to submit data, views, and arguments whether orally or in writing. The department of planning and economic development and the affected county planning department shall be permitted to appear at the public hearing and make recommendations concerning the proposal to designate an area. [Eff. SEP 6 1984 ] (Auth: HRS §205-5.2) (Imp: HRS §205-5.2)

§13-184-9 Decision of the board. At the close of the public hearing, the board shall consider all the testimony and after deliberation make a decision to designate any portion, all or none of the proposed area or announce the date on which it will render its decision. The board may designate a proposed area as a geothermal resource subzone only if it finds the proposed area possesses an acceptable balance of the criteria set forth in section 13-184-6. If the board designates an area as a geothermal resource subzone it shall cause a notice of its decision to be published in a newspaper of general circulation statewide and in a newspaper of general circulation in the county in which the area is located and when so published its decision shall be final unless otherwise ruled invalid by a court of appropriate jurisdiction. Upon request, the board shall issue a concise statement of its findings and the principal reasons for its decision to designate a particular area. [Eff. SEP 6 1934 ] (Auth: HRS §205-5.2) (Imp: HRS §205-5.2)

§13-184-10 Modification and withdrawal of existing subzones. Modification of the boundaries or the withdrawal of an existing designated geothermal resource subzone may be initiated by the board or by any property owner, State mining lease applicant, geothermal mining lessee, or person with an interest in real property that is within the designated subzone. The procedure for modifying the boundaries or withdrawal of an existing designated geothermal resource subzone shall be conducted pursuant to the provisions of chapter 91, Hawaii Revised Statutes. The board shall withdraw a designation only upon finding by a preponderance of the evidence that the area is no longer suited for designation; provided, however, that within an existing subzone with active geothermal development activities, the area may not be modified or withdrawn. An environmental impact statement as defined under chapter 343, Hawaii Revised Statutes, shall not be required in assessing any modification of the boundaries or withdrawal of subzones. [Eff. SEP 6 1934 ] (Auth: HRS §205-5.2) (Imp: HRS §205-5.2)

### Subchapter 3

#### Regulation of Geothermal Resource Subzones

§13-184-11 Administration of subzones. Geothermal development activities within a geothermal resource subzone shall be administered as follows:

- (1) The use of an area for geothermal development activities within a geothermal resource subzone shall be governed by the board, if such activities lie within a conservation use district. If geothermal development activities are proposed within a conservation district, then, after receipt of a properly filed and completed application, the board shall conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91, Hawaii Revised Statutes, to determine whether, pursuant to board regulations, a conservation district use permit shall be granted to authorize the geothermal development activities described in the application.
- (2) The use of an area for geothermal development activities within a geothermal resource subzone shall be governed by both state and county statutes, ordinances, and rules, if such activities lie within an agricultural, rural, or urban use district; except that land use commission approval or special use permit procedures which are provided for in section 205-6, Hawaii Revised Statutes, shall not be required for the use of such subzones for geothermal development activities.

In the absence of provisions in the county general plan and zoning ordinances specifically relating to the use and location of geothermal development activities in an agricultural, rural, or urban district, the appropriate county authority may issue a geothermal resource permit to allow geothermal development activities. Such uses as are permitted by county general plan and zoning ordinances by the appropriate county authority shall be deemed to be reasonable and to promote the effectiveness and objectives of chapter 205, Hawaii Revised Statutes.

If provisions in the county general plan and zoning ordinances specifically relate to the use and location of geothermal development activities in an agricultural, rural, or urban district, the provisions shall require the appropriate county authority to conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91, Hawaii Revised Statutes, on any application for a geothermal resource permit to determine whether the use is in conformity with the criteria specified in section 205-5.1(e), Hawaii Revised Statutes, for granting geothermal resource permits.

If geothermal development activities are proposed within agricultural, rural, or urban districts and such proposed activities are not permitted uses pursuant to county general plan and zoning ordinances, then after receipt of a properly filed and completed application,

the appropriate county authority shall conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91, Hawaii Revised Statutes, to determine whether a geothermal resource permit shall be granted to authorize the geothermal development activities described in the application. The appropriate county authority shall grant a geothermal resource permit if it finds that applicant has demonstrated by a preponderance of the evidence that:

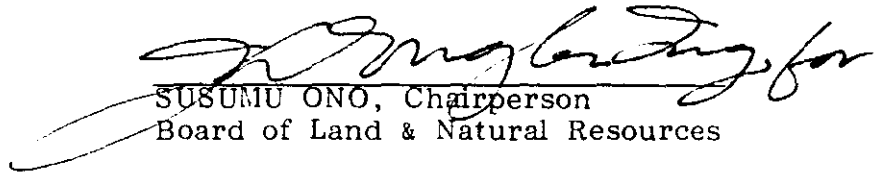
- (a) The desired uses would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property; and
- (b) The desired uses would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection; and
- (c) That there are reasonable measures available to mitigate the unreasonable adverse effects or burdens referred to above.


Unless there is a mutual agreement to extend, a decision shall be made on the application by the appropriate county authority within 180 days of the date a complete application was filed; provided that if a contested case hearing is held, the final permit decision shall be made within 270 days of the date a complete application was filed.


County issued geothermal resource permits shall not abrogate nor supersede the provisions of chapters 177, 178, 182, 183, 205A, 226, 342, and 343, Hawaii Revised Statutes, and administrative rules promulgated thereunder shall apply as appropriate. [Eff. SEP 6 1984 ] (Auth: HRS §205-5.2) (Imp: HRS §205-5.2)

The amendment to Title 13, Administrative Rules, on the Summary Page dated August 24, 1984, was adopted on August 24, 1984, following public hearings held on Oahu and Kauai on July 31, 1984; on Hawaii on August 1, 1984; and on Maui on August 2, 1984; after public notice was given in The Honolulu Star Bulletin, Hawaii Tribune Herald, Maui News, and The Garden Island on July 11, 1984.

These rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

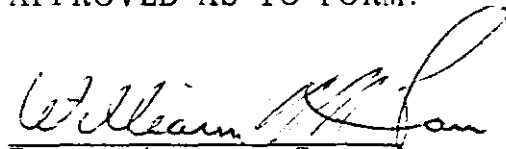
  
SUSUMU ONO, Chairperson  
Board of Land & Natural Resources

  
Member  
Board of Land & Natural Resources

  
GEORGE R. ARIYOSHI  
Governor  
State of Hawaii

Dated: 8-26-84

APPROVED AS TO FORM:

  
Deputy Attorney General

Dated: 8/24/84

Filed

REC'D. BY

10 19 01

1. GOVERNOR'S OFFICE

DRAFT  
7/11/84

TITLE 13  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
SUB-TITLE 7. WATER AND LAND DEVELOPMENT

Chapter 184

Designation and Regulation of  
Geothermal Resource Subzones

Subchapter 1. General

§13-184-1	Purpose
§13-184-2	Definitions
§13-184-3	[Subzone objectives] <u>Geothermal resource subzone</u>
<u>§13-184-4</u>	<u>Subzone objectives</u>

Subchapter 2. Designation of Geothermal Resource Subzones

§13-184-[4]5	Board initiated subzone designations
§13-184-[5]6	Landowner initiated subzone designations
§13-184-[6]7	Criteria for designation of subzones
§13-184-[7]8	Environmental impact statement not required
§13-184-[8]9	Notice and public hearings
§13-184-[9]10	Decision of the board
§13-184-[10]11	Modification and withdrawal of existing subzones

Subchapter 3. Regulation of Geothermal Resource Subzones

§13-184-[11]12	Administration of subzones
[§13-184-12	Contested case hearings
§13-184-13	Effective date and applicability]

Subchapter 1  
General

§13-184-1 Purpose. The purpose of this chapter is to establish guidelines and procedures for the designation and regulation of geothermal resource subzones for the exploration, discovery, development, and production of geothermal resources for electrical energy production and distribution? within conservation, agricultural, rural, and urban districts. These guidelines and procedures are intended to assist in designating areas which have potential for geothermal resource development for electrical energy production and which have an acceptable balance of the relationships of geothermal development to uses allowed in the land use classifications, to present uses of surrounding lands, to potential benefits and [to] impacts.  
[Eff. ] (Auth: HRS §205-14) (Imp: HRS §205-14)

§13-184-2 Definitions. As used in this chapter:

"Appropriate county authority" means the county planning commission unless some other agency or body is designated by ordinance of the county council.

"Board" means the board of land and natural resources.

"Chairperson" means the chairperson of the board of land and natural resources or a designated representative.

"Department" means the department of land and natural resources.

"Geothermal development activities" means the exploration, development, or production of electrical energy from geothermal resources.

"Geothermal resource" means the natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from such natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, steam and associated gases, in whatever form, found below the surface of the earth.

"Geothermal resource subzone" means any area designated by the board as provided in this chapter for use of geothermal resource exploration, ~~{discovery,}~~ development, or production, [and distribution for useful purposes] of electrical energy from geothermal resources in addition to those uses permitted in each land district under chapter 205 of the Hawaii Revised Statutes.

~~{"GRS" means geothermal resource subzone.}~~

? [{"Operator"} means any person as defined herein engaged in drilling, maintaining, operating, producing or managing any geothermal well and appurtenances, geothermal research facility, and geothermal production or utilization facility including electric

power plant.] [Eff. ] (Auth: HRS §205-14)  
 (Imp: HRS §205-14)

§13-184-3 Geothermal resource subzones. Geothermal resource subzones may be designated within the urban, rural, agricultural and conservation land use districts established under section 205-2, Hawaii Revised Statutes. Only those areas designated as geothermal resources subzones may be utilized for geothermal development activities in addition to those uses permitted in each land use district under chapter 205, Hawaii Revised Statutes. Geothermal development activities may be permitted within urban, rural, agricultural, and conservation land use districts in accordance with chapter 205, Hawaii Revised Statutes, and these administrative rules.

The board shall have the responsibility for designating areas as geothermal resources subzones, except that the total area within an agricultural district which is the subject of a geothermal mining lease approved by the board, and any part or all of which area is the subject of a special use permit issued by the county for geothermal development activities, on or before May 25, 1984, is hereby designated as a geothermal resource subzone for the duration of the lease."

The authority of the board to designate geothermal resource subzones shall be an exception to those provisions of this chapter and of section 46-4, Hawaii Revised Statutes, authorizing the land use commission and the counties to establish and modify land use districts and to regulate uses therein.

The provisions of these administrative rules shall not abrogate nor supersede the provisions of chapters 182, entitled "reservation and disposition of government mineral rights" and 183, entitled "forest reservations, water development, zoning", Hawaii Revised Statutes, and chapter 183 of title 13, department administrative rules entitled "rules on leasing and drilling of geothermal resources".

§13-184-[3]4 Subzone objectives. The establishment and regulation of geothermal resource subzones is intended to facilitate the exploration, development, and use of geothermal resources in those areas of the State where such activities will serve, in overall perspective, the best interest of the State, premised upon the criteria set forth in section 13-184-~~3~~(1) The major objectives are:

- (1) To allow [the utilization of geothermal energy for beneficial purposes, particularly electrical power generation, which would] geothermal development activities to help achieve the State's goal of energy self-sufficiency [and broaden the State's economic base through development of a natural resource];

- (2) To allow geothermal [~~exploration, discovery,~~] development[, ~~production and utilization~~] activities [~~to potential or known geothermal~~] in areas of the State where such activities would be of [~~greater~~] economic and overall benefit to the state [~~than the existing or reasonably foreseeable future use of such areas~~]; and
- (3) To allow geothermal [~~exploration, discovery,~~] development[, ~~production and utilization~~] activities [~~to potential or known geothermal~~] in areas of the State which best demonstrate an acceptable balance among the criteria set forth in §13-184-~~7~~ 7.  
[Eff. \_\_\_\_\_ ] (Auth: HRS §205-\_\_) (Imp: HRS §205-\_\_)

## Subchapter 2

### Designation of Geothermal Resource Subzones

§13-184-[4] 5 Board initiated subzone designation. Beginning in 1983, and prior to the designation of any area as a geothermal resource subzone, the board shall first make or cause to be made a county-by-county assessment of those areas within the State which have potential for geothermal [~~exploration, discovery,~~] development [~~for production~~] activities. The methods to be used for making the assessments shall be left to the discretion of the board, provided that the board shall as a minimum consider the criteria set forth in section 13-184-~~7~~ 7. The board may in its discretion base its methods for assessment on currently available public information. Where applicable, the board shall consider the objectives, policies and guidelines set forth in part I of chapter 205A, HRS and the provisions of chapter 226, HRS.

The initial county-by-county assessments of areas with geothermal potential shall be revised or updated by the board at least once every five years beginning in 1988, or at any lesser interval of years at the discretion of the board.  
[Eff. \_\_\_\_\_ ] (Auth: HRS §205-\_\_) (Imp: HRS §205-\_\_)

§13-184-[5] 6 Landowner initiated subzone designation. In addition to designations initiated by the board, any property owner, geothermal mining lessee, or person with an interest in real property may initiate an application for designation of any area with geothermal potential as a geothermal resource subzone by specifying the area to the board. The application shall be accompanied by the following information:

- (1) Names and addresses of the applicant, operator, owner of the geothermal mineral rights, landowner if not the same as the applicant, and the geothermal lease number, if applicable;
- (2) Evidence and certification that the applicant is qualified to submit such a petition.
- (3) An accurate description and map of the area desired to be designated as a geothermal resource subzone;
- (4) A statement by applicant of the purpose, justification, and need for designation; and
- (5) An assessment report based on the criteria set forth in section 13-184-[6] 7 and any other information to support the proposed designation.

Applications for geothermal resource subzones shall be submitted to the department for approval by the board. Each application shall be accompanied by a filing fee of \$100.00. The chairperson shall review the application for completeness and may request additional information deemed necessary to process the application for board approval. The chairperson shall notify the applicant in writing of the acceptance of the completed application. Within 180 days of the written notification of acceptance of the application, the board shall publish notice of and hold public hearings and render a decision on designating any part or all of the area requested for designation as a geothermal resource subzone. If the request for geothermal resource subzone is denied, the board shall state its reason for its decision. If the board fails to hold a hearing and render a decision within 180 days after issuance of the notice of acceptance of the application, the application is deemed approved subject to the conditions of section 13-184-[11] 12.

[Eff. \_\_\_\_\_] (Auth: HRS §205-\_\_\_\_) (Imp: \_\_\_\_\_ HRS §205-\_\_\_\_)

§13-184-[6] 7 Criteria for designation of subzones. The board, in designating an area as a geothermal resource subzone, shall be guided by the selection of those areas that can demonstrate an acceptable balance among the criteria set forth below:

- (1) That the area has known or plausible potential for the exploration, discovery, or production of geothermal resource;
- (2) That there is a known or likely prospect for the production and utilization of geothermal resources for electrical energy production and distribution.
- (3) That any potential geologic hazards to geothermal production or use in the proposed area are examined.
- (4) That any environmental or social impacts of the development of geothermal resources within the proposed area be considered;

- (5) That the compatibility of development and utilization of geothermal resources within the proposed area is considered with other allowed uses within the area and within the surrounding lands;
- (6) That the potential benefits to be derived from geothermal development and utilization in the proposed area be in the interest of the county or counties involved and the State as a whole.  
[Eff. \_\_\_\_\_] (Auth: HRS §205-\_\_) (Imp: HRS §205-\_\_)

§13-184-[7] 8 Environmental impact statement not required. An environmental impact statement as defined under chapter 343, Hawaii Revised Statutes, shall not be required in assessing any area proposed for designation as a geothermal resource subzone.  
[Eff. \_\_\_\_\_] (Auth: HRS §205-\_\_) (Imp: HRS §205-\_\_)

§13-184-[8] 9 Notice and public hearings. When the board or a landowner proposes an area for designation as a geothermal resource subzone, the board shall hold a public hearing in reasonably close proximity to the proposed area and publish a notice of the public hearing setting forth:

- (1) A description of the proposed area;
- (2) An invitation for public comment; and
- (3) The date, time, and place of the public hearing where written or oral testimony may be submitted or heard.

Such notice shall be published on three separate days in a newspaper of general circulation statewide and in the county in which the public hearing is to be held. The first publication shall be not less than twenty nor more than thirty days before the date set for the hearing. Copies of the notice shall be mailed to the state department of planning and economic development and the planning commission and planning department of the county in which the proposed area is located. Publication of the notice of public hearing shall be considered sufficient notice to all landowners and persons who might be affected by the proposed designation.

The public hearing shall be held before the board and the conduct of the public hearing shall not be delegated to any agent or representative of the board. All persons and agencies shall be afforded the opportunity to submit data, views, and arguments whether orally or in writing. The department of planning and economic development and the affected county planning department shall be permitted to appear at the public hearing and make recommendations concerning the proposal to designate an area. [Eff. \_\_\_\_\_] (Auth: HRS §205-\_\_)  
(Imp: HRS §205-\_\_)

§13-184-[9] 10 Decision of the board. At the close of the public hearing, the board shall consider all the testimony and after deliberation make a decision to designate any portion, all or none of the proposed area or announce the date on which it will render its decision. The board may designate a proposed area as a geothermal resource subzone only if it finds the proposed area possesses an acceptable balance of the criteria set forth in section 13-184-[6] 7. If the board designates an area as a geothermal resource subzone it shall cause a notice of its decision to be published in a newspaper of general circulation statewide and in a newspaper of general circulation in the county in which the area is located and when so published its decision shall be final unless otherwise ruled invalid by a court of appropriate jurisdiction. Upon request, the board shall issue a concise statement of its findings and the principal reasons for its decision to designate a particular area. [Eff. ]  
 (Auth: HRS §205-\_\_ ) (Imp: HRS §205-\_\_ )

§13-184-[10] 11 Modification and withdrawal of existing subzones. Modification of the boundaries or the withdrawal of an existing designated geothermal resource subzone by the board may be initiated by the board or by application of the appropriate County, landowner or person having a geothermal mining interest in the land. The procedure for modifying the boundaries or withdrawal of an existing designated geothermal resource subzone shall be conducted pursuant to the provisions of chapter 91, HRS; provided, however, that within an existing subzone with active geothermal exploration, development, production or use, the area may not be modified or withdrawn. An environmental impact statement as defined under chapter 343, HRS, shall not be required in assessing any modification of the boundaries or withdrawal of subzones.  
 [Eff. ] (Auth: HRS §205-\_\_ ) (Imp: HRS §205-\_\_ )

### Subchapter 3

#### Regulation of Geothermal Resource Subzones

§13-184-[11] 12 Administration of subzones. Geothermal [resource subzones designated by the board in any of the four land use districts; conservation, agricultural, rural, and urban] development activities within a geothermal resource subzone shall be administered as follows:

- (1) [The board shall regulate the use of lands designated as geothermal resource subzones for geothermal resource activities that lie within conservation districts

in accordance with chapter 205, Hawaii Revised Statutes and chapter 13-2, Administrative Rules of the department of land and natural resources.] The use of an area for geothermal development activities within a geothermal resource subzone shall be governed by the board, if such activities lie within a conservation use district. If geothermal development activities are proposed within a conservation district, then, after receipt of a properly filed and completed application, the board shall conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91, Hawaii Revised Statutes, to determine whether, pursuant to board regulations, a conservation district use permit shall be granted to authorize the geothermal development activities described in the application.

- (2) [The appropriate county authority shall regulate the use of geothermal resource subzones that lie within urban, agricultural, or rural districts.] The use of an area for geothermal development activities within a geothermal resource subzone shall be governed by both state and county statutes, ordinances, and rules, if such activities lie within an agricultural, rural, or urban use district; except that land use commission approval or special use permit procedures which are provided for in section 205-6, Hawaii Revised Statutes, shall not be required for the use of such subzones for geothermal development activities.

In the absence of provisions in the county general plan and zoning ordinances specifically relating to the use and location of geothermal development activities in an agricultural, rural, or urban district, the appropriate county authority may issue a geothermal resource permit to allow geothermal development activities. Such uses as are permitted by county general plan and zoning ordinances by the appropriate county authority shall be deemed to be reasonable and to promote the effectiveness and objectives of chapter 205, Hawaii Revised Statutes.

If provisions in the county general plan and zoning ordinances specifically relate to the use and location of geothermal development activities in an agricultural, rural, or urban district, the provisions shall require the appropriate county authority to conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91, Hawaii Revised Statutes, on any application for a geothermal resource permit to determine whether the use is in conformity with the criteria specified in section 205-5.1(e), Hawaii Revised Statutes, for granting geothermal resource permits.

If geothermal development activities are proposed within agricultural, rural, or urban districts and such proposed activities are not permitted uses pursuant to county general plan and zoning ordinances, then after receipt of a properly filed and completed application, the appropriate county authority shall conduct a public hearing and, upon appropriate request, a contested casing hearing pursuant to chapter 91, Hawaii Revised Statutes, to determine whether a geothermal resource permit shall be granted to authorize the geothermal development activities described in the application. The appropriate county authority shall grant a geothermal resource permit if it finds that applicant has demonstrated by a preponderance of the evidence that:

- (a) The desired uses would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property; and
- (b) The desired uses would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection; and
- (c) That there are reasonable measures available to mitigate the unreasonable adverse effects or burdens referred to above.

Unless there is a mutual agreement to extend, a decision shall be made on the application by the appropriate county authority within six months of the date a complete application was filed; provided that if a contested case hearing is held, the final permit decision shall be made within nine months of the date a complete application was filed.

County issued geothermal resource permits shall not abrogate nor supersede the provisions of chapters 177, 178, 182, 183, 205A, 226, 342, and 343, Hawaii Revised Statutes, and administrative rules promulgated thereunder shall apply as appropriate.

[§13-184-12 Contested case hearings. A contested case hearing shall, upon request, be conducted by the board or the appropriate county agency pursuant to chapter 91 of the Hawaii Revised Statutes.] [Eff. \_\_\_\_\_]  
(Auth: HRS §205-\_\_) (Imp: HRS §205-\_\_)

[§13-184-13 Effective date and applicability. This chapter shall not apply to any active exploration, development or production of electrical energy from geothermal sources taking place on June 14, 1983, the effective date of Act 296, SLH 1983; provided further that any expansion of activities shall be carried out in compliance with the provisions of this chapter. Active

§13-184- 12

exploration, development or production of electrical energy from geothermal sources on the effective date of Act 296, SLH 1983 includes those activities relating to exploration, development or production of electrical energy from geothermal sources permitted and approved on or before June 14, 1983. [Eff. ]  
(Auth: HRS §205-\_\_ ) (Imp: HRS §205-\_\_ )]

296  
AMENDMENTS

Joe Kubacki  
65-84

CONFERENCE COMMITTEE REPORT NO. 65-84

Honolulu, Hawaii

April 16, 1984

RE: S.B. NO. 2184-84  
S.D. 1  
H.D. 1  
C.D. 1

The Honorable Henry Haalilio Peters  
Speaker, House of Representatives  
Twelfth State Legislature  
Regular Session of 1984  
State of Hawaii

Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2184-84, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GEOTHERMAL ENERGY", having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this bill is to clarify the rights of lessees holding geothermal mining leases issued by the State and the respective roles of the State and county governments in connection with the control of geothermal development within geothermal resource subzones.

Act 296, Session Laws of Hawaii 1983, established a process for the Department of Land and Natural Resources to designate geothermal resource subzones prior to geothermal development. This process is presently underway, but is not expected to be completed for another nine months. This means a delay in development of geothermal resources for companies which have already drilled wells and may result in their withdrawal from geothermal development.

This bill specifically designates as geothermal resource subzones, any area of land within an agricultural district covered by a geothermal mining lease approved by the Board of Land and Natural Resources (BLNR), any part or all of which area is the subject of a special use permit issued by the county for geothermal development activities, on or before the effective date of this bill.

"no like" requirements  
properties

This bill further specifies that if geothermal development activities are proposed within an agricultural, urban or rural district, but such development is not a permitted use under the

who is going to determine this?

applicable county general plan and zoning ordinances, the appropriate county authority is required to conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91, Hawaii Revised Statutes, to determine if the granting of a geothermal resource permit would not result in unreasonable adverse effects or burdens.

This bill further provides that if geothermal activities are proposed within a conservation district, the BLNR is required to conduct a public hearing and upon an appropriate request, a contested case hearing pursuant to Chapter 91, Hawaii Revised Statutes, to determine whether a conservation district use permit shall be granted to authorize geothermal development activities applied for.

Your Committee amended the bill by inserting language in section 205-5.1, Hawaii Revised Statutes, to specify that if geothermal development activities are permitted in agricultural, rural or urban districts under the county general plan and zoning ordinance, the appropriate county authority shall conduct a public hearing and upon an appropriate request, a contested case hearing, pursuant to Chapter 91, Hawaii Revised Statutes, to determine if specific requests for approval of geothermal development activities would not result in unreasonable adverse effects or burdens.

Your Committee finds that the development and use of Hawaii's geothermal energy resources is of critical importance to the energy security of this State, and important to its economic future. Geothermal energy represents a realistic option in the near future for a major source of baseload power, locally produced in an environmentally acceptable manner. Significant progress has been made by the three developers in the State who have committed considerable financial resources to their efforts, and who have demonstrated their concern for conducting their activities in a responsible way.

Your Committee further amended the bill by making technical changes to conform to recommended drafting format and which have no substantive effect.


Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2184-84, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2184-84, S.D. 1, H.D. 1, C.D. 1.

*Expanding scope of committee*

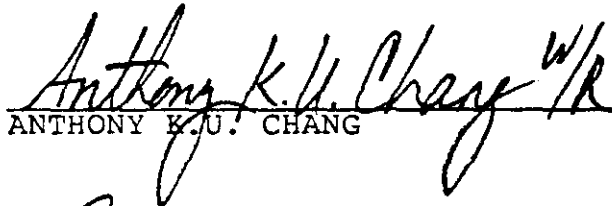
Respectfully submitted,

MANAGERS ON THE PART OF THE SENATE

MANAGERS ON THE PART OF THE HOUSE

  
JAMES AKI, Chairman

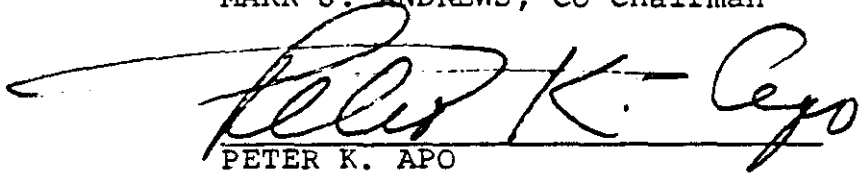
  
CALVIN K.Y. SAY, Co-Chairman

  
ANTHONY K.U. CHANG

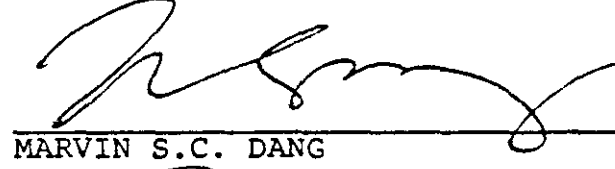
  
TOM OKAMURA, Co-Chairman

  
ANN KOBAYASHI

  
MARK J. ANDREWS, Co-Chairman

  
PETER K. APO

  
RICHARD M. MATSUURA

  
MARVIN S.C. DANG

  
RICHARD A. KAWAKAMI

84  
[REDACTED]

# A BILL FOR AN ACT

[REDACTED]

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

1           SECTION 1. The legislature finds that the rights of  
2           lessees holding geothermal mining leases issued by the state  
3           or geothermal developers holding exploratory and/or  
4           development permits from either the state or county  
5           government need to be clarified. The legislature finds that  
6           the respective roles of the state and county governments in  
7           connection with the control of geothermal development within  
8           geothermal resource subzones need to be clarified also. The  
9           purpose of this Act is to provide such further  
10          clarification.

11          SECTION 2. Section 205-5.1, Hawaii Revised Statutes,  
12          is amended to read as follows:

13          "[[[]\$205-5.1[]] Geothermal resource subzones. (a)  
14          Geothermal resource subzones may be designated within [each  
15          of] the urban, rural, agricultural and conservation land use  
16          districts established under section 205-2. Only those areas  
17  
18

1 designated as geothermal resource subzones may be utilized  
 2 for [the exploration, development, production, and  
 3 distribution of electrical energy from geothermal sources,]  
 4 geothermal development activities in addition to those uses  
 5 permitted in each land use district under this chapter.  
 6 Geothermal development activities may be permitted within  
 7 urban, rural, agricultural, and conservation land use  
 8 districts in accordance with this chapter. "Geothermal  
 9 development activities" means the exploration, development  
 10 or production of electrical energy from geothermal  
 11 resources.

12 (b) The board of land and natural resources shall have  
 13 the responsibility for designating areas as geothermal  
 14 resource subzones as provided under section 205-5.2[.];  
 15 except that the total area within an agricultural district  
 16 which is the subject of a geothermal mining lease approved  
 17 by the board of land and natural resources, any part or all  
 18 of which area is the subject of a special use permit issued  
 19 by the county for geothermal development activities, on or  
 20 before the effective date of this Act is hereby designated  
 21 as a geothermal resource subzone for the duration of the  
 22 lease. The designation of geothermal resource subzones  
 23 shall be governed exclusively by this section and  
 24

*Amended  
 as  
 Subzone.*

1 section 205-5.2, except as provided therein. The board  
2 shall adopt, amend, or repeal rules related to its authority  
3 to designate and regulate the use of geothermal resource  
4 subzones in the manner provided under chapter 91.

5 The authority of the board to designate geothermal  
6 resource subzones shall be an exception to those provisions  
7 of this chapter and of section 46-4 authorizing the land use  
8 commission and the counties to establish and modify land use  
9 districts and to regulate uses therein. The provisions of  
10 this section shall not abrogate nor supersede the provisions  
11 of chapters 182 and 183.

12 (c) The use of an area for [the exploration,]  
13 geothermal development [, production and/or distribution of  
14 electrical energy from geothermal sources] activities within  
15 a geothermal resource subzone shall be governed by the board  
16 within the conservation district and, except as herein  
17 provided, by [existing] state and county statutes,  
18 ordinances, and rules not inconsistent herewith within [the]  
19 agricultural, rural, and urban districts, except that no  
20 land use commission approval or special use permit  
21 procedures under section 205-6 shall be required for the use  
22 of such subzones. [The board and/or appropriate county  
23 agency shall, upon request, conduct a contested case hearing  
24

Complaints

1 pursuant to chapter 91 prior to the issuance of a geothermal  
2 resource permit relating to the exploration, development,  
3 production, and distribution of electrical energy from  
4 geothermal resources. The standard for determining the  
5 weight of the evidence in a contested case proceeding shall  
6 be by a preponderance of evidence.] In the absence of  
7 provisions in the county general plan and zoning ordinances  
8 specifically relating to the use and location of geothermal  
9 development activities in an agricultural, rural, or urban  
10 district, the appropriate county authority may issue a  
11 geothermal resource permit to allow geothermal development  
12 activities. "Appropriate county authority" means the county  
13 planning commission unless some other agency or body is  
14 designated by ordinance of the county council. Such uses as  
15 are permitted by county general plan and zoning ordinances,  
16 by the appropriate county authority, shall be deemed to be  
17 reasonable and to promote the effectiveness and objectives  
18 of this chapter. Chapters 177, 178, 182, 183, 205A, 226,  
19 342, and 343 shall apply as appropriate. If provisions in  
20 the county general plan and zoning ordinances specifically  
21 relate to the use and location of geothermal development  
22 activities in an agricultural, rural, or urban district,  
23 the provisions shall require the appropriate county  
24

SUP.?

authority to conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91, on any application for a geothermal resource permit to determine whether the use is in conformity with the criteria specified in section 205-5.1(e) for granting geothermal resource permits.

*difference vs. SUP  
no more? for permit*

(d) If geothermal development activities are proposed within a conservation district, then, after receipt of a properly filed and completed application, the board of land and natural resources shall conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91 to determine whether, pursuant to board regulations, a conservation district use permit shall be granted to authorize the geothermal development activities described in the application.

*Contested case by for CDUP*

(e) If geothermal development activities are proposed within agricultural, rural, or urban districts and such proposed activities are not permitted uses pursuant to county general plan and zoning ordinances, then after receipt of a properly filed and completed application, the appropriate county authority shall conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91 to determine whether a geothermal resource permit shall be granted to authorize the geothermal

*geoth resource permit*

*only after subzones are finally designated*

1 development activities described in the application. The  
2 appropriate county authority shall grant a geothermal  
3 resource permit if it finds that applicant has demonstrated  
4 by a preponderance of the evidence that:

5 (1) The desired uses would not have unreasonable  
6 adverse health, environmental, or socio-economic  
7 effects on residents or surrounding property; and

8 (2) The desired uses would not unreasonably burden  
9 public agencies to provide roads and streets,  
10 sewers, water, drainage, school improvements, and  
11 police and fire protection; and

12 (3) That there are reasonable measures available to  
13 mitigate the unreasonable adverse effects or  
14 burdens referred to above.

15 Unless there is a mutual agreement to extend, a  
16 decision shall be made on the application by the appropriate  
17 county authority within six months of the date a complete  
18 application was filed; provided that if a contested case  
19 hearing is held, the final permit decision shall be made  
20 within nine months of the date a complete application was  
21 filed."

22 SECTION 3. Notwithstanding the provisions of  
23 section 205-5.2, Hawaii Revised Statutes, regarding  
24

*Environment*  
*Community*

1 county-by-county assessment of areas with geothermal  
2 potential, the board of land and natural resources shall  
3 separately conduct an assessment of the area described on  
4 maps attached to the board of land and natural resources  
5 decision and order, dated February 25, 1983, which was the  
6 subject of a conservation district use permit. The  
7 assessment shall be in accordance with all provisions of  
8 Act 296, Session Laws of Hawaii 1983, regarding the  
9 procedures and standards for designation of an area as a  
10 geothermal resource subzone. The board of land and natural  
11 resources shall make its determination regarding the  
12 designation of all or any portion of the abovementioned  
13 area, as a geothermal resource subzone, on or before  
14 December 31, 1984.

15 SECTION 4. If any provision of this Act or the  
16 application thereof to any person or circumstance is held  
17 invalid, the invalidity does not affect other provisions or  
18 applications of the Act which can be given effect without  
19 the invalid provision or application, and to this end the  
20 provisions of this Act are severable.

21 SECTION 5. Statutory material to be repealed is  
22 bracketed. New material is underscored.

23 SECTION 6. This Act shall take effect upon its  
24 approval.

COMMENTS AND RECOMMENDATIONS ON BILLS PASSED

DEPARTMENT: LAND AND NATURAL RESOURCES

BILL NO. AND TITLE:

S.B. 2184-84

BRIEF SUMMARY OF PURPOSE:

The bill clarifies the rights of lessees holding geothermal mining licenses and the respective rules of the State & Counties in the administration of their respective functional land use responsibilities relating to geothermal subzones and development.

APPROPRIATION:

None

COMMENTS:

The Department of Land and Natural Resources has no objections to this bill and stands ready to implement the provisions upon its passage.

RECOMMENDATIONS:

Approval

LEGALITY:

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SUSUMU ONO, Chairperson  
Board of Land and Natural Resources

DATE: \_\_\_\_\_

Brief Summary of Purpose:

This bill clarifies the rights of lessees holding geothermal mining leases issued by the State, and the respective roles of the State and County agencies in the administration of geothermal development within geothermal resource subzones.

In addition, this bill <sup>specifically</sup> ~~specifically~~ designates <sup>as a geothermal resource subzone,</sup> any existing BLM approved geothermal mining lease issued within an agricultural district ~~and~~ ~~was specifically designated~~ for which a special use permit has been issued by the County for geothermal development, ~~as a geothermal resource subzone.~~

This bill further specifies that if geothermal development is proposed within an agricultural, urban, rural or conservation district, the appropriate county agency or the Board of Land & Natural Resources is required to conduct public hearings and upon appropriate request, a contested case hearing pursuant to Chapter 91, Hawaii Revised Statutes, to determine if a county geothermal resource permit or a conservation district use permit shall be granted.

Comments 8

The Department of Land and Natural Resources has no objections to this bill and stands ready to implement the provisions upon its passage.

To date, this bill will "grandfather" the following geothermal resource mining leases:

GRML R-2, issued to Kapoho Land Partnership and subleased to Puna Geothermal Venture.

effective date: 3-1-81; Term: 10 years primary  
65 years maximum

County special use permit no. SP 463, issued for approximately 816 acres.

effective date: 10-15-80; expiration date: 10-15-86

Wells drilled to date: Kapoho State No. 1

Kapoho State No. 2.

GRML R-3, issued to Burnwell Geothermal Corp.

effective date: 9-1-81; Term: 10 years primary  
65 years maximum

County special use permit no. SP 471, issued for approximately 769 acres.

effective date: 12-16-80; expiration date: 12-31-87

Wells drilled to date: Lanipuna No. 1

Lanipuna No. 6

Public Hearing  
*CONCERNING THE*  
*PROPOSED* Rules on Designation and Regulation of  
Geothermal Resource Subzones

I. Introduction

- Act 296, SLH 1983 provided for the designation of geothermal resource development areas or geothermal resource subzones by the BLNR.
- Implementation of the Act requires that Administrative Rules be adopted by the BLNR.
- The staff of the Department of Land and Natural Resources has drafted the Administrative Rules for public review and comments.
- I am \_\_\_\_\_ (name), \_\_\_\_\_ (title), with the DOWALD, DLNR, designated to conduct tonight's public hearing to receive testimonies on the draft Rules.

*April 26, 1984 (Public Notice Issued)*

II. Prior Notice and Arrangement

- Highlight "Notice of Public Hearing" \*

III. Amendments to Act 296, SLH 1983

- The recently concluded 1984 Legislature enacted SB 2184-84 amending Act 296. The Act is yet to be signed into law by the Governor.
- The DLNR will be amending the proposed rules at a later date should SB 2184 become law.

IV. Hearing Procedure

- We will hear testimony according to the sign-up sheet.
- Those having written testimony may summarize your presentation highlighting major points.
- Oral testimonies will be recorded on tape.
- We will confine testimonies <sup>to</sup> on the proposed Administrative Rules.

- Informal discussion on any provision of Rules may be held after the public hearing is concluded.
- Testimonies will be recorded by the Department until June 6, 1984, 15 days after tonight's hearing.
- Are there any questions on the format or on the general background information presented before we begin receiving testimonies?

V. Begin Receiving Testimonies

VI. Conclusion

- Repeat that testimonies may still be submitted to the Department until June 6, 1984. Comments should be sent to the DOWALD, DLNR, P.O. Box 373, Honolulu, Hawaii 96809.
- Thank those participating and others for attending tonight's hearing.
- Formally close the hearing by saying, "This concludes the public hearing on the Rules on designation and regulation of geothermal resource subzones."

TITLE 13  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
SUB-TITLE 7. WATER AND LAND DEVELOPMENT

Chapter 184

Designation and Regulation of  
Geothermal Resource Subzones

Subchapter 1. General

- §13-184-1 Purpose
- §13-184-2 Definitions
- §13-184-3 Subzone objectives

Subchapter 2. Designation of Geothermal Resource Subzones

- §13-184-4 Board initiated subzone designations
- §13-184-5 Landowner initiated subzone designations
- §13-184-6 Criteria for designation of subzones
- §13-184-7 Environmental impact statement not required
- §13-184-8 Notice and public hearings
- §13-184-9 Decision of the board
- §13-184-10 Modification and withdrawal of existing subzones

Subchapter 3. Regulation of Geothermal Resource Subzones

- §13-184-11 Administration of subzones
- §13-184-12 Contested case hearings
- §13-184-13 Effective date and applicability

Subchapter 1

General

§13-184-1 Purpose. The purpose of this chapter is to establish guidelines and procedures for the designation and regulation of geothermal resource subzones for geothermal resource exploration, discovery, development, production, and distribution for useful purposes within conservation, agricultural, rural, and urban districts. These guidelines and procedures are intended to assist in the location of geothermal resource development in areas having the least environmental impact. [Eff. ] (Auth: HRS §205-14) (Imp: HRS §205-14)

§13-184-2 Definitions. As used in this chapter:

"Board" means the board of land and natural resources.

"Chairperson" means the chairperson of the board of land and natural resources or a designated representative.

"Department" means the department of land and natural resources.

"Geothermal resource" means the natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from such natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, steam and associated gases, in whatever form, found below the surface of the earth.

"Geothermal resource subzone" means any area designated by the board as provided in this chapter for use of geothermal resource exploration, discovery, development, production, and distribution for useful purposes in addition to those uses permitted in each land district under chapter 205 of the Hawaii Revised Statutes.

"GRS" means geothermal resource subzone.

"Operator" means any person as defined herein engaged in drilling, maintaining, operating, producing or managing any geothermal well and appurtenances, geothermal research facility, and geothermal production or utilization facility including electric power plant. [Eff. ] (Auth: HRS §205-14)  
(Imp: HRS §205-14)

§13-184-3 Subzone objectives. The establishment and regulation of geothermal resource subzones is intended to facilitate the exploration, development, and use of geothermal resources in those areas of the State where such activities will serve, in overall perspective, the best interest of the State,

premised upon the criteria set forth in section 13-184-12. These major objectives are:

- (1) To allow the utilization of geothermal energy for beneficial purposes, particularly electrical power generation, which would help achieve the State's goal of energy self-sufficiency and broaden the State's economic base through development of a natural resource;
- (2) To confine geothermal exploration, discovery, development, production and utilization activities to potential or known geothermal areas of the State where such activities would be of greater benefit to the state than the existing or reasonably foreseeable future use of such areas; and
- (3) To confine geothermal exploration, discovery, development, production and utilization activities to potential or known geothermal areas of the State where they would have the lowest environmental impact.  
[Eff. \_\_\_\_\_] (Auth: HRS §205-\_\_) (Imp: HRS §205-\_\_)

## Subchapter 2

### Designation of Geothermal Resource Subzones

§13-184-4 Board initiated subzone designation. Beginning in 1983, and prior to the designation of any area as a geothermal resource subzone, the board shall first make or cause to be made a county-by-county assessment of those areas within the State which have potential for geothermal exploration, discovery, development or production. The methods to be used for making the assessments shall be left to the discretion of the board, provided that the board shall as a minimum consider the criteria set forth in section 13-184-6. The board may in its discretion base its methods for assessment on currently available public information. Where applicable, the board shall consider the objectives, policies and guidelines set forth in part I of chapter 205A, HRS and the provisions of chapter 226, HRS.

The initial county-by-county assessments of areas with geothermal potential shall be revised or updated by the board at least once every five years beginning in 1988, or at any lesser interval of years at the discretion of the board.  
[Eff. \_\_\_\_\_] (Auth: HRS §205-\_\_) (Imp: HRS §205-\_\_)

§13-184-5 Landowner initiated subzone designation. In addition to designations initiated by the board, any property

owner, geothermal mining lessee, or person with an interest in real property may initiate an application for designation of any area with geothermal potential as a geothermal resource subzone by specifying the area to the board. The application shall be accompanied by the following information:

- (1) Names and addresses of the applicant, operator, owner of the geothermal mineral rights, landowner if not the same as the applicant, and the geothermal lease number, if applicable;
- (2) Evidence and certification that the applicant is qualified to submit such a petition.
- (3) An accurate description and map of the area desired to be designated as a geothermal resource subzone;
- (4) A statement by applicant of the purpose, justification, and need for designation; and
- (5) An assessment report based on the criteria set forth in section 13-184-6 and any other information to support the proposed designation.

Applications for geothermal resource subzones shall be submitted to the department for approval by the board. Each application shall be accompanied by a filing fee of \$100.00. The chairperson shall review the application for completeness and may request additional information deemed necessary to process the application for board approval. The chairperson shall notify the applicant in writing of the acceptance of the completed application. Within 180 days of the written notification of acceptance of the application, the board shall hold public hearings and render a decision on designating any part or all of the area requested for designation as a geothermal resource subzone. If the request for geothermal resource subzone is denied, the board shall state its reason for its decision. If the board fails to hold a hearing and render a decision within 180 days after issuance of the notice of acceptance of the application, the application is deemed approved subject to the conditions of section 13-184-11. [Eff. ] (Auth: HRS §205-\_\_ ) (Imp: HRS §205-\_\_ )

§13-184-6 Criteria for designation of subzones. The board, in designating an area as a geothermal resource subzone, shall be guided in its decision by the policy to locate geothermal resource development areas having the lowest potential environmental impact and the following criteria.

- (1) That the area has known or plausible potential for the exploration, discovery, or production of geothermal resource;
- (2) That there is a known or likely prospect for the utilization of geothermal resources for direct use within the area proposed for designation or for indirect use to produce and distribute electrical energy from a

- power plant located within the area proposed for designation;
- (3) That potential or existing geologic hazards to any geothermal use or facility in the proposed area do not exist or can be reasonably alleviated by appropriate location and geologic engineering design of geothermal wells and related facilities;
  - (4) That social and environmental impacts of the development of geothermal resources within the proposed area would be minimal;
  - (5) That the development of geothermal resources within the proposed area must be compatible with existing uses of the surrounding land and permitted uses under the general plan or land use policies of the county in which the area is located;
  - (6) That the potential economic benefits to be derived from geothermal development in the proposed area would be in the best interest of the county or counties involved and the State as a whole; and
  - (7) That geothermal and related use of the area proposed for designation would be of greater benefit to the State than the existing or reasonably foreseeable future use of the land. [Eff. \_\_\_\_\_] (Auth: HRS §205-\_\_\_\_) (Imp: HRS §205-\_\_\_\_)

§13-184-7 Environmental impact statement not required.

An environmental impact statement as defined under chapter 343, Hawaii Revised Statutes, shall not be required in assessing any area proposed for designation as a geothermal resource subzone. [Eff. \_\_\_\_\_] (Auth: HRS §205-\_\_\_\_) (Imp: HRS §205-\_\_\_\_)

§13-184-8 Notice and public hearings. When the board or a landowner proposes an area for designation as a geothermal resource subzone, the board shall hold a public hearing in reasonably close proximity to the proposed area and publish a notice of the public hearing setting forth:

- (1) A description of the proposed area;
- (2) An invitation for public comment; and
- (3) The date, time, and place of the public hearing where written or oral testimony may be submitted or heard.

Such notice shall be published on three separate days in a newspaper of general circulation statewide and in the county in which the public hearing is to be held. The first publication shall be not less than twenty nor more than thirty days before the date set for the hearing. Copies of the notice shall be mailed to the state department of planning and economic development and the planning commission and planning department of the county in which the proposed area is located.

Publication of the notice of public hearing shall be considered sufficient notice to all landowners and persons who might be affected by the proposed designation.

The public hearing shall be held before the board and the conduct of the public hearing shall not be delegated to any agent or representative of the board. All persons and agencies shall be afforded the opportunity to submit data, views, and arguments whether orally or in writing. The department of planning and economic development and the affected county planning department shall be permitted to appear at the public hearing and make recommendations concerning the proposal to designate an area. [Eff. \_\_\_\_\_] (Auth: HRS §205-\_\_\_\_)  
(Imp: HRS §205-\_\_\_\_)

§13-184-9 Decision of the board. At the close of the public hearing, the board shall consider all the testimony and after deliberation make a decision to designate any portion, all or none of the proposed area or announce the date on which it will render its decision. The board may designate a proposed area as a geothermal resource subzone only if it finds the proposed area possesses an acceptable balance of the criteria set forth in section 13-184-6. If the board designates an area as a geothermal resource subzone it shall cause a notice of its decision to be published in a newspaper of general circulation statewide and in a newspaper of general circulation in the county in which the area is located and when so published its decision shall be final unless judicially appealed in the appropriate circuit court. Upon request, the board shall issue a concise statement of its findings and the principal reasons for its decision to designate a particular area. [Eff. \_\_\_\_\_] (Auth: HRS §205-\_\_\_\_)  
(Imp: HRS §205-\_\_\_\_)

§13-184-10 Modification and withdrawal of existing subzones. Modification of the boundaries or the withdrawal of an existing designated geothermal resource subzone by the board may be initiated by the board or by application of the landowner or person having a geothermal mining lease or other interest in the land. The procedure for modifying the boundaries or withdrawal of an existing designated geothermal resource subzone shall be conducted pursuant to the provisions of chapter 91, HRS; provided, however, that within an existing subzone with active geothermal exploration, development, production or use, the area may not be modified or withdrawn. An environmental impact statement as defined under chapter 343, HRS, shall not be required in assessing any modification of the boundaries or withdrawal of subzones.  
[Eff. \_\_\_\_\_] (Auth: HRS §205-\_\_\_\_) (Imp: HRS §205-\_\_\_\_)

## Subchapter 3

## Regulation of Geothermal Resource Subzones

§13-184-11 Administration of subzones. Geothermal resource subzones designated by the board in any of the four land use districts; conservation, agricultural, rural, and urban shall be administered as follows:

- (1) The board shall regulate the use of lands designated as geothermal resource subzones for geothermal resource activities that lie within conservation districts in accordance with chapter 205, Hawaii Revised Statutes and chapter 13-2, Administrative Rules of the department of land and natural resources.
- (2) The appropriate agency of the respective counties shall regulate the use of lands designated in geothermal resource subzones for geothermal resource activities that lie within urban, agricultural or rural districts in accordance with existing state and county statutes, ordinances and rules.

§13-184-12 Contested case hearings. All permits for the use of lands designated as geothermal resource subzones shall be processed in accordance with chapter 91, Hawaii Revised Statutes. A contested case hearing shall be conducted by the board or the appropriate county agency pursuant to chapter 91 of the Hawaii Revised Statutes. [Eff. ]  
(Auth: HRS §205-\_\_ ) (Imp: HRS §205-\_\_ )

§13-184-13 Effective date and applicability. This chapter shall not apply to any active exploration, development or production of electrical energy from geothermal sources taking place on June 14, 1983, the effective date of Act 296, SLH 1983; provided further that any expansion of activities shall be carried out in compliance with the provisions of this chapter. Active exploration, development or production of electrical energy from geothermal sources on the effective date of Act 296, SLH 1983 includes those activities relating to exploration, development or production of electrical energy from geothermal sources permitted and approved on or before June 14, 1983. [Eff. ]  
(Auth: HRS §205-\_\_ ) (Imp: HRS §205-\_\_ )

## HIGHLIGHTS OF ACT 296, SLH 1983

- Amends Chapter 205, Land Use Commission
- Provides for the designation of Geothermal Resource Subzones in each of the four State land use districts--conservation, agriculture, urban, and rural.
- Geothermal resource exploration, development, production, and distribution of electrical energy may be conducted only in designated geothermal resource subzones.
- The Board of Land and Natural Resources is charged with the responsibility of designating geothermal resource subzones.
- The Board of Land and Natural Resources shall adopt administrative rules to designate geothermal resources subzones.
- The administration of the use of subzones for exploration, development, production and/or distribution of electrical energy shall be governed as follows:
  - \* BLNR for conservation districts.
  - \* Existing State and County laws for agricultural, urban, and rural districts.
- No land Use Commission approval is necessary for the use of subzones.
- Provides for contested case hearing. Upon request, the hearing shall be conducted by the BLNR or County agency prior to the issuance of a geothermal resource permit.
- The BLNR beginning in 1983 shall conduct a county-by-county assessment of potential geothermal resource development areas. The assessment shall be revised or updated at the discretion of the BLNR once every 5 years beginning in 1988.
- Any property owner may petition the BLNR to have an area designated as a geothermal resource subzone.
- An EIS is not required for the assessment of areas.
- The assessment of potential geothermal resource subzones shall examine factors to include but not be limited to:
  - \* Potential geothermal energy production.
  - \* Use of the geothermal energy in the area.
  - \* Geologic hazards.

- \* Social and environmental impacts.
  - \* Compatibility with present and planned use.
  - \* Potential economic benefits.
  - \* Compatibility with conservation principles where a subzone falls within a conservation district.
- The assessment may be based on currently available public information.
  - The BLNR shall propose potential areas for designation based upon assessment factors and hold public hearings in close proximity to the proposed area. The hearings shall be held before the Board and not be conducted by any agent or representative.
  - At the close of the hearing, the BLNR may designate the subzones. Upon request, the BLNR shall issue its findings and principal reasons for its decision.
  - Designated areas may be withdrawn by the BLNR.
  - The Act shall not apply to active exploration, development, or production of electrical energy taking place on the effective date of the Act. Expansion of such activities however are subject to the provisions of the Act.
  - The Governor signed Act 296 into law, effective June 14, 1983.

## STUDY APPROACH

Based upon the provisions of Act 296, SLH 1983, the following four-phase study approach has been developed for designating geothermal resource subzones.

### Phase I. Statewide Geothermal Resource Assessment

This phase will focus upon geotechnical information, its interpretation and analysis of potential geothermal resources on all of the major islands. Due to the time constraint of completing the work by December 1984, available studies will be heavily used with minimal new studies and data gathering. First-cut subzones based only on the availability of geothermal resources will be mapped to conclude Phase I work.

### Phase II. Social, Economic, Environmental, and Hazard Impact Analysis

Impact analysis of social, economic, environmental, and hazard will be conducted on the first-cut subzones completed in Phase I. Several disciplines are expected to participate in this phase. Overlay mapping of the impacts will be extensively used to identify highly sensitive impact areas. Adjustments to the first-cut subzones will be made to conclude Phase II work.

### Phase III. Public Participation and Information

This phase will extensively involve communities located in close proximity to the identified subzones. Informational meetings will be conducted to explain the technical work and the impact analyses. Comments from the public will be solicited and the further adjustments to the subzone are expected to be made.

### Phase IV. BLNR Designation of Geothermal Resource Subzones

This phase is expected to involve the Board of Land and Natural Resources. Briefing sessions will be conducted by the staff on both the technical analysis and the impact analysis. Public input will be described and documented.

The BLNR is expected to hold public hearings and formally designate the geothermal resource subzones.

## ADMINISTRATIVE RULES

Following is a preliminary outline of the Administrative Rules for the designation of geothermal resource subzones in the State of Hawaii. The legal authority is Act 296, SLH 1983.

### TITLE 13

#### DEPARTMENT OF LAND AND NATURAL RESOURCES SUB-TITLE 7. WATER AND LAND DEVELOPMENT

#### Chapter 184

#### Rules on Designation and Regulation of Geothermal Resource Subzones

##### Subchapter 1. General

- §13-184-1 Purpose
- §13-184-2 Definitions
- §13-184-3 Geothermal resource subzones
- §13-184-4 Effective date and applicability
- §13-184-5 Severability
- §13-184-6 (Reserved)
- §13-184-7 (Reserved)

##### Subchapter 2. Designation of Geothermal Resource Subzones

- §13-184-8 Procedures for designation
- §13-184-9 Initial and 5-year assessments by Board
- §13-184-10 Petition by landowner
- §13-184-11 Criteria for designation of subzones
- §13-184-12 Public hearings
- §13-184-13 Findings of fact report
- §13-184-14 Designation of subzones by Board
- §13-184-15 Amendment and withdrawal of subzones by Board

##### Subchapter 3. Regulation of Geothermal Resource Subzones

- §13-184-16 Geothermal Uses of subzones
- §13-184-17 Administration of subzones in Conservation Districts
- §13-184-18 Administration of subzones in Agricultural, Rural and Urban Districts
- §13-184-19 Application for permits to drill and test, use for injection, use for production, and abandon geothermal wells
- §13-184-20 Application for permits to construct and operate power plants and related facilities
- §13-184-21 Term of permits
- §13-184-22 Contested case hearings
- §13-184-23 (Reserved)
- §13-184-24 (Reserved)