



**In strong support of SB559**

January 27, 2025

Members of the Committee on Agriculture and Environment,

We, the undersigned 19 organizations, are writing in strong support of SB559, the proposal to add environmental rights to the Bill of Rights of the Hawaii Constitution. Currently Pennsylvania, Montana and New York provide this highest constitutional recognition and protection for the inalienable human right of all people to a clean, safe and healthy environment. But nationwide people know of Hawaii’s leadership when it comes to environmental protection, and for honoring the values of protecting mother nature for present and future generations. With the passage of SB559, Hawaii would be the 4<sup>th</sup> state in the nation to pass a constitutional Green Amendment giving highest recognition for the environmental rights of all people – but we would also be the 1<sup>st</sup> state in the nation to explicitly give constitutional Bill of Rights protection for the right to a safe climate (providing powerful complement and strength to Hawaii’s leadership in protecting a safe climate for all generations) and for healthy native ecosystems including our beaches.

While Hawaii’s constitution Article XI Section 9 speaks to the importance of having environmental rights protection for the people of Hawaii, it fails to put those rights on par with the other fundamental rights such as speech, religious freedom and due process right. Instead, it leaves environmental rights

protection to the political process, to be defined by laws that can be subject to the politics of the day, easily undermined by a legislature that fails to fully appreciate the importance of protecting the environmental rights of all our people, and a legislative system that by its nature can be subject to gaps in protection or result in disproportionate harms for environmental justice communities that can be left without a remedy when they find themselves the victims of devastating levels of environmental pollution or degradation. The proposed Hawaii Green Amendment will provide a mechanism to fill the gaps, address inequities in interpretation and implementation of existing laws, and strengthen environmental protection by raising environmental rights up so they are given highest constitutional recognition and protection.

The proposed amendment reflects the rooted traditions and collective cultural conscience of the State's people, and exemplifies the fundamental Native Hawaiian notion of Aloha Aina, which translates to "love of the land" and is central to Native Hawaiian values and beliefs.

The proposed Hawaii Green Amendment will be a valuable complement to Hawaii's commitment and obligation to serve as a trustee of our state's natural resources and to protect those resources generationally that is found in Article XI Section 1 of our state constitution. The proposed environmental rights language will neither displace nor compete with this existing constitutional language. To the contrary, it will complement it by adding environmental rights protection to the natural resources trustee obligations of the state. This complementary approach of protection and values has proven helpful in other states. The proposed environmental rights language will also help to protect the legacy of environmental protection advanced by our current and previous legislators; ensuring strong protections already in place are not rolled back by any future legislative, regulatory or executive government officials who fail to hold the same environmental protection values.

The proposed Bill of Rights amendment will raise up our environmental rights so they become part of the guiding obligations and principles for all government action and legislation and, as with other Article I rights, are protected from government overreach and infringement. Article 1 placement also ensures that all state government, including branches, agencies and subdivisions, are constitutionally bound to protect our environmental rights, the obligation is not limited to the state legislature. Adding environmental rights to our Hawaii Bill of Rights will ensure that environmental protection and environmental justice are given high priority and that there is a focus on preventing environmental pollution and degradation throughout government decisionmaking when there is the best opportunity for preventing harm.

Bill of Rights protection will also ensure that when there are competing interests, environmental protection and rights will be part of the balancing of rights to be protected, rather than becoming subservient to other asserted rights, goals and needs. For example, if there is a tension between property rights and protecting the environmental rights of neighboring communities, the two will have to be balanced and both protected. Ensuring environmental rights protection will also, by its nature, strengthen property rights protection because too often the property of some (or even many) is invaded by the pollution of another, the complement of property rights with environmental rights will allow us to better protect the sanctity of our property, family and homes. PFAS contamination is a sad example of how pollution emanating from the property of some has invaded the water, air and bodies of those on

neighboring properties, bringing devastating consequences – contaminating drinking water, fish, food and the bodies of neighbors.

Securing Bill of Rights protection for our environmental rights is not intended to, nor would it be expected to, prevent industry, development or economic growth in our state. But it will ensure that business, industry and economic development advance sustainably and in ways that protect environmental interests, justice and rights. Environmental protection and economic development are not mutually exclusive, in fact they are inextricably connected – a healthy economy depends on a healthy environment, healthy communities and healthy people. The proposed environmental rights amendment will ensure that as we grow jobs and our economy, we also protect the environment for the health and safety of present and future generations.

In addition to helping protect our communities from damaging actions and decisions, the amendment will provide a powerful foundation on which our Hawaii government officials can conceive and advance protection laws, policies, programs and decisions.

We all need and deserve clean water and air, healthy native ecosystems and beaches, a healthful climate and environment. We need and deserve recognition and protection of our inalienable human rights to a clean and healthy environment so we can live healthy, long and good quality lives. And so it is just and right that we should ensure our environmental rights are protected as firmly and powerfully as the other fundamental rights we hold dear.

With Respect and Appreciation,

Signed:

Sherry Pollack, Co-Founder, 350Hawaii

Tanya Yamanaka Aynessazian, Principal Contractor, Chamber of Sustainable Commerce

Melodie Aduja & Alan Burdick, Co-Chairs, Environmental Caucus of the Democratic Party

Cara Oba, Climate Protectors Hawaii

Lisa Bishop, President, Friends of Hanauma Bay

Maya van Rossum, Founder, Green Amendments for the Generation

Dave Mulinix, Co-Founder, Greenpeace Hawaii

Anne Frederick, Executive Director, Hawaii Alliance for Progressive Action

Travis Idol, Hawaii Interfaith Power and Light

Ted Bohlen, Co-Founder, Hawaii Reef and Ocean Coalition

Perry Dye, Executive Director, Hawaii Youth Climate Coalition

Helen Cox, Chair, Kauai Climate Action Coalition

Laurel Brier, Kauai Women's Caucus

Don May, Our Revolution Hawaii

Hanna Lilley, Hawaii Regional Manager, Surfrider Foundation

Rob Brower, Chair, Surfrider Foundation, Kauai Chapter

Susan Gorman-Chang, Trinity United Methodist Church

Stuart Coleman, Executive Director, WAI – Wastewater Alternatives & Innovations

Ruta Jordans, Zero Waste Kauai



To: The Senate Committee on Agriculture and Environment (AEN)  
From: Sherry Pollack, Co-Founder, 350Hawaii.org  
Date: Monday, January 27, 2025, 1:00 pm

### **In strong support of SB559**

Aloha Chair Gabbard, Vice Chair Richards, and AEN Committee members;

I am Co-Founder of the Hawaii chapter of 350.org, the largest international organization dedicated to fighting climate change. 350Hawaii.org is in **strong support of SB559** which proposes a constitutional amendment to ensure that the inherent and inalienable right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed.

The Green Amendment will serve to strengthen the environmental protections currently recognized in our Hawaii Constitution. This is needed now more than ever in these times where ecosystems and our climate are facing destruction. 350Hawaii welcomes the inclusion of a Green Amendment in which environmental rights are given highest constitutional recognition and protection, on par with other fundamental rights such as speech.

The amendment would be a tool to help put a focus on the prevention of environmental harm, as well as provide legislators and regulators constitutional grounding upon which to advance positive and strengthened environmental protections. Environmental threats are growing worse and we are facing a climate crisis. Because healthy environments, including climate, are currently not recognized and protected as inalienable rights and given constitutional recognition and protection, protecting these basic human needs becomes an afterthought in government decision making, and sometimes is not considered at all. The health of the environment and environmental impacts should be considered first, at the start of planning, decision making, and regulating. Our constitution should recognize and protect the rights of all people, **including future generations**.

We all need clean water and air, a healthy environment and climate to live healthy, long and good quality lives. And so it is just and right that we should ensure our environmental rights are protected as firmly and powerfully as the other fundamental rights we hold dear.

Opponents of this measure have cited a concern that it will create increased litigation and that “administrative agencies are already swamped by contested cases.” Such concerns are unsupported by

the law or facts. Green Amendments do not support frivolous litigation. In Pennsylvania, New York, and Montana, where Green Amendments now exist, there has not been an onslaught of frivolous litigation relying on constitutional environmental rights. Rather, the lawsuits brought have been reasonable and helped to shape the understanding of the constitutional requirement.

The Green Amendments in force in Pennsylvania, Montana and New York have not only been relied upon by communities to secure essential environmental protections otherwise being overlooked, **but have also been used by state regulatory agencies, attorneys general, and local government bodies to protect their own environmental authority and their ability to pursue environmental protections they have identified as being of primary importance.** In fact, there is no litigation that has been dismissed as frivolous because of a Green Amendment claim. Most often, the Green Amendment protections have been brought forth to help government officials and the courts properly interpret, apply and enforce the environmental laws and regulations that are already on the books, as opposed to being free-standing challenges to government overreach.

With a Green Amendment, government agencies would need to consider our environmental rights when executing their duties, it would not be an afterthought as it is now. **We all need clean water, clean air, a healthful environment and climate.** Having the Green Amendment would support and secure better government decision-making that avoids environmental pollution and degradation.

The sooner these rights are recognized, the better off the future will be for our children.

Mahalo for the opportunity to testify in **strong support** of this very important legislation.

Sherry Pollack  
Co-Founder, 350Hawaii.org