

HB 3286 HD1

LINDA LINGLE
Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

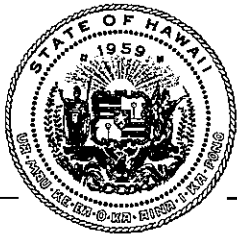
**TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEES ON AGRICULTURE AND HAWAIIAN AFFAIRS
AND
INTERGOVERNMENTAL AND MILITARY AFFAIRS
MONDAY, MARCH 24, 2008
1:30 P.M.
ROOM 229**

**HOUSE BILL 3286, HOUSE DRAFT 1
RELATING TO MINING**

Chairpersons Tokuda and Inouye and Members of the Committees:

Thank you for the opportunity to testify in opposition to House Bill No. 3286, House Draft 1 that proposes to amend Section 205-2(d) (districting and classification of lands) to include as a permissible use in the Agricultural District mining, processing, and storing of sand, rock, gravel, and other material for use in construction. The bill also proposes to amend Section 205-5 (zoning) to exclude mining and ancillary activities from the uses for which counties have authority to further define and govern by zoning in the Agricultural District and transfers this authority to the State Land Use Commission. The Department of Agriculture believes that the special permit process as defined in Section 205-6, HRS is the appropriate vehicle for reviewing applications for mining operations on a case-by-case basis in the Agricultural District and that for proposals under 15 acres, each county is the most appropriate zoning and regulating authority for these uses.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
ABBEY SETH MEYER
Interim Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
**SENATE COMMITTEE ON AGRICULTURE AND HAWAIIAN AFFAIRS
AND
SENATE COMMITTEE ON INTERGOVERNMENTAL
AND MILITARY AFFAIRS**
Monday, March 24, 2008
1:30 PM
State Capitol, Conference Room 229

in consideration of
**HB 3286, HD1
RELATING TO MINING.**

Chairs Tokuda and Inouye, Vice Chairs English and Tsutsui, and Members of the Senate Committees on Agriculture and Hawaiian Affairs and Intergovernmental and Military Affairs.

Our office does not support the proposed addition of Section 205-2(d)(12), Hawai'i Revised Statutes (HRS), that makes mining activities a permissible use on all agricultural lands. Under the current statute, mining activities require a Special Permit in the State Agricultural District.

The State Special Permit process allows consideration of "unusual and reasonable" uses proposed in either the agricultural or the rural district that are not permissible by right. The Special Permit is the most appropriate mechanism where a proposed use that might directly conflict with existing or potential agricultural activity

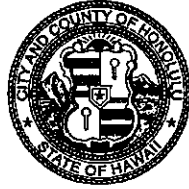
can be allowed through a public process. Mining activities have the potential to impact large areas and could result in the loss or reduction of those areas for agricultural uses. The State Special Permit process allows decision-makers and the public the opportunity to balance proposed activities with the potential loss or reduction of agricultural land.

Another approach would be to amend the law to state that if the county adopted a quarry or mining site ordinance, with full public input, which identified the location of specific sites, quarries or mines located on these sites would be permissible uses in the Agricultural District.

Thank you for the opportunity to testify.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR

HENRY ENG, FAICP
DIRECTOR

DAVID K. TANOUE
DEPUTY DIRECTOR

March 24, 2008

The Honorable Jill N. Tokuda, Chair
and Members of the Committee on Agriculture
and Hawaiian Affairs

The Honorable Lorraine R. Inouye, Chair
and Members of the Committee on
Intergovernmental and Military Affairs
The Senate
State Capital
Honolulu, Hawaii 96813

Dear Chairs Tokuda, Inouye and Members:

**Subject: House Bill 3286 HD1
Relating to Mining**

The Department of Planning and Permitting **opposes** HB 3286 HD1 which would authorize the state land use commission as the sole permitting agency of mining operations in the state agricultural district.

We are opposed on the basis of home rule, and because the bill lacks clarity. The counties are in charge of land use zoning. Currently, mining operations, including ancillary activities, are permitted in the state agricultural district only by special permit. The department is currently processing one such application for a quarry in Ewa. It also requires a county conditional use permit. Issues under review include impacts to adjoining uses, dust control, impacts to natural landmarks, reuse of land once the mining is exhausted, and traffic impacts.

As you know, Chapter 205, HRS, sets forth permitted uses in the state agricultural district, and allows the counties to further define zoning requirements. Thus, while Chapter 205 outlines permitted uses, it is county zoning that determines other development standards such as maximum height limits, lot coverage, parking, setbacks, etc. Through the special permit and conditional use permit processes, we evaluate each proposal on its specific circumstances, and can require modifications. We can also require public hearings, if community impacts of a particular use may be significant. This bill would allow mining as a permitted use in the state agricultural district. Except to address ancillary uses, no other conditions or restrictions are placed. Section 2 of the bill states that the counties would no longer have zoning responsibility for mining in the state agricultural district; therefore, county zoning standards would be inapplicable. What process would the state land use commission use to review, take action, and perhaps approve with conditions any mining proposals? Please be aware that all special permit

The Honorable Jill N. Tokuda, Chair
and Members of the Committee on Agriculture
and Hawaiian Affairs

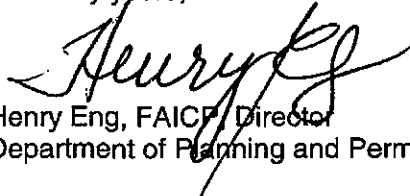
The Honorable Lorraine R. Inouye, Chair
and Members of the Committee on
Intergovernmental and Military Affairs
Re: House Bill 3286 HD1
March 24, 2008
Page 2

applications have the benefit of originating with the counties and being reviewed by the county planning commissions, before being considered by the state land use commission. This process not only provides an opportunity for county governments to evaluate the requests in relation to local and regional issues and impacts, but gives the general public opportunities to comment on the requests.

We would have no objections to retaining Section 1 of the bill, and deleting Section 2. This would eliminate the need for a special permit, but allow the counties to continue to regulate mining as each county deems appropriate. This proposal would streamline the entitlement process, but not sacrifice issues of public health, safety and welfare.

Thank you for the opportunity to testify.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Henry Eng", written in a cursive style.

Henry Eng, FAICP, Director
Department of Planning and Permitting

HE: jmf
hb3286hd1-kh.doc



HAWAII FARM BUREAU FEDERATION
2343 ROSE STREET
HONOLULU, HI 96819

TESTIMONY

HB3286 HD1

HEARING BEFORE THE
COMMITTEE ON AGRICULTURE AND HAWAIIAN AFFAIRS AND
COMMITTEE ON INTERGOVERNMENTAL AND MILITARY AFFAIRS

Chair Tokuda, Chair Inouye and Members of the Committees

My name is Alan Takemoto, Executive Director, of the Hawaii Farm Bureau Federation, which is the largest non-profit general agriculture organization representing approximately 1,600 farm and ranch family members statewide.

The Hawaii Farm Bureau Federation is in **STRONG SUPPORT OF THE INTENT** of HB3286, permitting mining on agricultural lands, and **recommends amendments for clarification.**

Development which includes highways and roads all require rock, gravel and sand. The introduction to this measure speaks to the difficulties encountered in obtaining this raw material. In agriculture, these very same items are a problem ...they make for difficulties in growing crops and most often characterize lands that are least suitable for farming. At the same time, we have lands in Kona as well as Puna on the Big Island, that is mostly rocky yet grow crops important to Hawaii ...coffee and papaya. We do not want an unintended consequence of farmers competing for lands with mining interests.

HFBF is also very concerned about the alternative if mining interests were not provided a timely and cost effective way to obtain these resources locally. The alternative is import. Importation means risk of bringing in invasive species. Little fire ant can be introduced hidden among crevices in the rock. HDOA reports lizards in import shipments received todate. This could mean major costs to the State to control these pests ...the coqui frog is a good example.

We therefore, strongly support a streamlined process to allow removal of rocks and other non-soil material from agricultural lands. If, when the process is complete, the lands can be returned to productive farmlands, then it is a win-win for everyone --- development is able to get rocks locally, invasive species are not introduced and productive farmland is created. It is important that the subsequent use of the land after mining activity is completed be addressed to prevent unintended consequences.

Therefore we strongly urge the following changes:

- **Add to permissible uses:** Mining for sand, rock, gravel and other materials suitable for use and used in construction and activities ancillary to mining including processing and storage; ~~provided that the person is engaged in mining.~~ Provided that the operation is secondary and accessory to the farming operation.
- Mining for sand, rock, gravel and other materials suitable for use and used in construction and activities ancillary to mining including processing and storage not secondary and accessory to the farming operation to be permitted following a conditional use process.
 - ◊ It is important that this conditional use permit process be streamlined to allow for timely decisions. County land use permitting procedures must facilitate this process rather than cause delays that could force importation decisions as well as increased costs, ultimately borne by all of us.

We respectfully request your support of this Bill with the proposed changes above. Thank you for this opportunity to provide our comments on this matter.

The Difference Between Farm and Rural

03/16/2008



By Gary Truitt

There is a new buzzword across the countryside; it is "rural lifestyle". Simply put, this refers to people who live in the country but aren't farmers. Farm folks call them "city slickers", "outsiders," or just "those people who moved here from..." Now the marketing and advertising industry has decided these people are a demographic segment and are researching them to death. The reason for this is because there are more of them than ever before. In the past decade, a large numbers of people have left the city looking for that perfect plot of ground they can call their own. They brought with them a different set of values and expectations and a different culture. And this, in turn, is changing rural America.

It has been estimated that there are 27 million households that make up the rural lifestyle group. One in four households in the US is not located in a city or town. For the most part, these are not the urbanites who move into the new housing development that last year was a corn field. Only 12% of rural residents live on an acre or less.

The true rural lifestyle begins with the land. Thirteen percent live on 3 to 5 acres, and eighteen percent live on 10 to 49 acres. The majority are employed as professionals or management, and most are in their 40s and 50s. Sixty percent own dogs, while forty percent are cat people. They are also big into horses, owning an average of 4 horses. Seventy percent own a pickup truck, and over half own a tractor under 18HP. They are also well armed with 70% owning shotguns.

While this group has many things in common with farmers, they also have some significant differences. Primarily, they see the countryside as a place to live and play while for farmers it is a place to work. This difference in worldview can result in conflicts when local land use and development issues are considered. While most rural lifestylers were raised in the city, most farmers were raised in the country. This has resulted in two very different cultures.

I noticed this when I attended my first rural lifestyle trade show last week. A veteran of many farm shows, I was struck by the differences at this show. First, it did not start until afternoon and ran late into the evening. Most farm shows start early and farmers are always the first to arrive. The PA system was playing Bill Joel instead of George Strait.

The trade show was much different with only one John Deere display and several western wear and saddle booths. People were wearing more leather than denim, and cowboy hats outnumbered seed hats.

While some long time aggies may resent the new lifestyle, these newcomers have brought new energy and, most notably, more money to rural communities. These folks have come in large enough numbers that they can not be dismissed, and, since the vast majority owns their land, they have come to stay. Rural America in the future will be significantly different than it has been in the past, and both farmers and their rural lifestyle neighbors will play a part in shaping this new community.