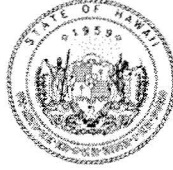


LINDA LINGLE
Governor



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 HOUSE COMMITTEES ON
WATER, LAND, OCEAN RESOURCES, AND HAWAIIAN AFFAIRS
AND
AGRICULTURE
MONDAY, MARCH 24, 2008
11:00 a.m.
Room 312**

**SENATE BILL 2849, SENATE DRAFT 1, HOUSE DRAFT 1
RELATING TO AGRICULTURAL LANDS**

Chairs Ito and Tsuji and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill No. 2849, Senate Draft 1, House Draft 1. The Department of Agriculture supports this bill and the efforts to increase the development and use of agriculture-based renewable energy resources in as broad a manner as possible. This bill proposes to establish "agricultural-energy facilities" operated by "agricultural-energy enterprises" as a permissible use in the Agricultural District on class "A" and "B" lands with the condition that "...the total acreage devoted to agricultural activity by an agricultural-energy enterprise shall not be less than ninety per cent of the total acreage owned, leased, licensed, or operated by the agricultural-energy enterprise." An agricultural-energy enterprise is defined as a business that "...integrally incorporates an agricultural activity with an agricultural-energy facility." An "agricultural-energy facility" is defined as a facility that generates, stores or distributes renewable energy or fuel derived from products of agricultural activities from agricultural lands located in Hawaii. The "agricultural activity" can be located anywhere in the State and is limited to:

- “(1) Cultivation of crops, including but not limited to crops for bioenergy, flowers, vegetables, foliage, fruits, forage, and timber;
- (2) Game and fish propagation;
- (3) Raising of livestock, including but not limited to poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use;”

This bill also amends Section 205-4.5(a)(12) relating to plantation community subdivisions, by providing for the rehabilitation and use of employee housing for rental to agricultural workers at affordable rates and use of agricultural support buildings for rental to agricultural business operators or agricultural support services. This amendment expands the utility of employee housing in plantation community subdivisions such as Kunia Village to allow rental by current agricultural workers that are not former plantation employees but work on farms in the area. To assist the counties in their enforcement of the provisions of this section, there may be need to specify who qualifies as agricultural workers, agricultural business operators, and agricultural support services.

The bill requires agricultural production to be the primary use of qualified agricultural land. It does not appear to preclude or impede “agricultural-energy enterprises” of different scales of operation, crop types, and acreage. We would like to note that this bill and other similar vehicles must recognize and establish a balance between the desire to increase Hawaii’s agriculture-based renewable energy resources and other agricultural production needs such as food production.



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

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR
ABBEY SETH MAYER
INTERIM DIRECTOR
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Statement of
ABBEY SETH MAYER
Interim Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
**HOUSE COMMITTEE ON WATER, LAND, OCEAN RESOURCES
AND HAWAIIAN AFFAIRS**

**And
HOUSE COMMITTEE ON AGRICULTURE**

Monday, March 24, 2008

11:00 AM

State Capitol, Conference Room 312

in consideration of
SB 2849, SD1, HD1
RELATING TO AGRICULTURAL LANDS.

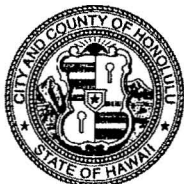
Chairs Ito and Tsuji, Vice Chairs Karamatsu and Brower, and Members of the House Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture.

HD1 contains amendments pertaining to plantation community subdivisions (PCS) that were recommended by the Office of Planning, i.e. the deletion of language that allows existing structures on PCS to be increased in size and scope. Therefore, we have no objections to these sections.

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. TANOUÉ
DEPUTY DIRECTOR

March 24, 2008

The Honorable Ken Ito, Chair
and Members of the Committee on Water, Land
Ocean Resources & Hawaiian Affairs

The Honorable Clift Tsuji, Chair
and Members of the Committee on Agriculture
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Ito, Tsuji and Members:

**Subject: SENATE BILL 2849 SD1 HD1
Relating to Agricultural Lands**

The Department of Planning and Permitting has **comments** on Senate Bill 2849, SD1, HD1 which allows agricultural-energy facilities on lands in the state agricultural district. It also amends provisions for plantation community subdivisions.

We support increased energy efficiency and use of renewable energy resources. We have no objections to allowing facilities that generate, store or distribute renewable energy or fuel as an accessory use to agriculture.

However, there appears to be a bill-drafting issue in that the bill addresses an accessory use as if it were a principal use. The bill stipulates that 90 percent of the agricultural-energy enterprise must be involved in agriculture; which means the principal use is agriculture, with an accessory component being agricultural-energy processing.

And yet, recognizing that the ten percent of land devoted to agricultural-energy facilities can involve significant buffering, visual, traffic, safety and odor issues, outright allowance may not be appropriate, especially if residences are located nearby.

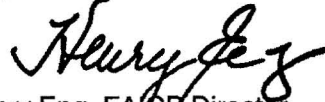
Therefore, consideration should be given to amending Senate Bill 2849, SD1, HD1 to allow agricultural-energy facilities as an accessory use under the special permit process to allow for discretionary review. Under the special permit process, there can be public input, and conditions of approval adopted to address concerns related to case-specific impacts.

The Honorable Ken Ito, Chair
and Members of the Committee on Water, Land
Ocean Resources & Hawaiian Affairs

The Honorable Clift Tsuji, Chair
and Members of the Committee on Agriculture
House of Representatives
Re: Senate Bill 2849, SD1, HD1
March 24, 2008
Page 2

Thank you for this opportunity to comment.

Very truly yours,

A handwritten signature in black ink, appearing to read "Henry Eng". The signature is fluid and cursive, with a large initial "H" and a stylized "E".

Henry Eng, FAICP Director
Department of Planning and Permitting

HE: jmf
sb2849sd1hd1-kh.doc

PACIFIC WEST ENERGY LLC
1 KAUMAKANI AVENUE
PO Box 220
KAUMAKANI, KAUAI, HI 96747

March 20, 2008

The Honorable Ken Ito, Chair and Members of the
Committee on Water, Land Ocean Resources & Hawaiian Affairs
The Honorable Clift Tsuji, Chair and Members of the
Committee on Agriculture

RE: SB 2849, SD1, HD1 Relating to Agricultural Lands

Chairpersons Ito, Tsuji and members of your committees, my name is William Maloney and I am President and Chief Executive Officer of Pacific West Energy, LLC. Pacific West Energy, a developer of renewable energy projects, in partnership with Gay and Robinson, Inc., has formed G&R Ag-Energy and is developing an integrated, renewable energy facility on Kauai, featuring the state's first ethanol plant.

G&R Ag-Energy supports SB 2849's intent to balance the interests of agriculture and energy production on agriculturally designated lands. This bill seeks to provide an incentive for owners of agricultural land to examine uses for agricultural lands that will provide needed revenues to enhance the production of agricultural crops for market or further energy production or both.

G&R Ag-Energy believes that this bill will assist in our ability to enhance our sugar operations and ethanol production for further business stabilization. This will also enhance the Island of Kauai's renewable energy production thru the use of local feedstocks, thus lowering the islands dependence on imported oil.

We do understand that the bill, in its present form, may inadvertently exclude other similar but non-qualifying agriculture-based renewable energy concepts from consideration as permissible uses, however, we believe that the key element of this concept is "a renewable energy facility that is integrated with an agricultural activity." We believe that this paramount in maintaining a "balance" between crop and energy production on agricultural lands.

We welcome the opportunity to work with this Committee or others in an effort to fully develop and enhance agriculture in Hawaii.

Thank you for this opportunity to support SB 2849, SD1, HD1.

Sincerely,

William M. Maloney
President
Pacific West Energy LLC