

# **TESTIMONY**

**SB 633**

**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 COMMITTEE ON  
WATER, LAND, AGRICULTURE AND HAWAIIAN AFFAIRS  
FRIDAY, FEBRUARY 27, 2009  
2:45 PM  
ROOM 229**

**SENATE BILL NO. 633  
RELATING TO WATER**

Chairperson Hee and Members of the Committee:

Thank you for the opportunity to testify expressing concerns on Senate Bill No. 633 which requires that at least four members of the Molokai irrigation system water users advisory board be Hawaiian homestead farmers who are MIS water users, residents of the island of Molokai and active general excise tax licensees. The Hawaii Department of Agriculture acknowledges the merit to increase homestead representation, but believes this proposed bill is not the best manner to proceed.

SB 633 proposes that an additional homestead farmer seat be created, the non-homesteader seat be retained and that each of the four currently named organizations continue to have a representative. We agree that an expanded board will better serve the needs of the water users, we agree that board members should be active system users, and we agree that board members should be engaging in commercial agriculture requiring an active general excise tax license. We differ on the requirement that at least four of the board members be homesteader farmers. This requirement would remove the right of the named organizations to choose their own candidate based on their own established qualifications. We believe that the four organizations currently designating representatives to the Board should continue to do so in the manner they choose. They have been part of the Advisory Board since its inception in 1992, represent a broad spectrum of water users, both homesteaders and non-homesteaders, and as information resources add a great deal of value to the MIS Advisory Board. If the

organizations themselves establish their own preference for a homestead farmer representative they should have that right and the department would respect their decision.

The 2008 Legislative Auditor's Report on the Molokai Irrigation System made a number of specific recommendations for the department to address. It was much less specific in addressing the role of the Advisory Board in that it only asked the department to "consider" adding additional homestead farmer seat(s) and to "Define homestead farmer as it relates to the advisory board..." **There was no mention in the audit recommendations of establishing a fixed percentage or number of homestead seats.** However, based upon our communications with the current Advisory Board members, the department decided that we would undertake a fact-finding effort and based on the results, we would propose creating an additional seat for a homesteader and further define the composition of the Advisory Board.

We developed and mailed out a survey to 130 homestead and non-homestead water users. Forty-five surveys were returned (34.6%). Thirty-three surveys were returned by homesteaders and 12 by non-homesteaders. In-person or telephone interviews were conducted by the Deputy Director with 8 of the largest homestead and 8 of the largest non-homestead water users about their thoughts on expanding the Advisory Board and factors that should be considered.

While a minority of homestead and non-homestead water users among the 45 respondents felt there should be no changes to the present Advisory Board, a majority of water users felt: 1) there should be an additional homestead seat on the Advisory Board; 2) representatives should have no conflicts of interest; 3) DHHL should have a greater role on the Advisory Board; and 4) representatives need to be fair and objective. We would like to offer these findings as amendments to SB 633.

"SECTION 1. Section 167-2, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

"Homestead farmer user" means an individual who meets the requirements set forth in the department of Hawaiian home lands rules, specifically sections 10-3-2 and 10-3-24, and who is farming on lands that are owned by the department of Hawaiian home lands and served by the Molokai irrigation system.

"Kupuna homestead farmer user" means an individual who is a fair-minded, elder homesteader possessing knowledge, wisdom, and experience, widely respected within the Molokai native Hawaiian community, and residing on a homestead parcel with a Molokai irrigation system water meter. The individual shall be a former or current farmer who is working or has worked in the agricultural industry on Molokai."

SECTION 2. Section 167-23, Hawaii Revised Statutes, is amended to read as follows:

**"[+]§167-23[+] Molokai irrigation system water users advisory board; establishment; meetings.** (a) There is established a Molokai irrigation system water users advisory board, consisting of seven members including a chairperson, all of whom are to be appointed by the governor under section 26-34. The [~~advisory board~~] seven appointed members shall [~~consist of six members, as follows:~~] be comprised of:

- (1) A homestead farmer user on Molokai;
- (2) A nonhomestead farmer user on Molokai;

- (3) [~~The designee (by name rather than office)~~] A nominee of the Molokai County Farm Bureau;
- (4) [~~The designee (by name rather than office)~~] A nominee of Hikiola Cooperative, Inc.;
- (5) [~~The designee (by name rather than office)~~] A nominee of the Molokai-Lanai soil and water conservation district; [and]
- (6) [~~The designee (by name rather than office) of the department of Hawaiian home lands.~~] A kupuna homestead farmer user on Molokai whose nomination has been recommended by the commissioner for Molokai of the department of Hawaiian home lands and approved for submittal to the Governor by majority vote of all homesteaders then serving on the advisory board; and
- (7) The district supervisor of the Molokai district office of the department of Hawaiian home lands who shall serve as an ex officio voting member.

All MIS board members shall be:

- (A) Molokai irrigation system users;
- (B) Residents of the island of Molokai; and
- (C) Active general excise tax licensees.

The members of the advisory board shall serve without compensation, but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of their duties. For administrative purposes, and

pursuant to section 26-35, the advisory board shall be placed within the department of agriculture.

(b) The advisory board shall meet with the department of agriculture at least six times each year. The meetings shall be held on Molokai, whenever possible.

(c) Four members of the board shall constitute a quorum at any meeting. No member of the board shall be qualified to act in matters directly involving a company or organization of which the board member is an officer, director, member, or full-time employee, or to which the board member is indebted.

(d) The advisory board's duties and responsibilities shall be to advise the department on matters of concern to all of the users of the system, to provide support for improvements to the irrigation facilities, to participate in the long-range planning of the system, and to act as liaison between all of the users and the department."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval."

***Puakala Farms***  
*Producers of Quality Fruits and Vegetables*  
**P.O. Box 261, Kualapuu, Molokai, HI 96757**

February 25, 2009

**Hawaii State Legislature**

**State Senate Committee on Water, Land, Agriculture and Hawaiian Affairs**

***Testimony to Amend SB 633***

Relating to the Molokai Irrigation System

My name is Glenn Teves and I'm a Hawaiian Homestead Farmer in Hoolehua, Molokai. I've been growing taro and banana for over 20 years now and utilize the Molokai Irrigation as my irrigation water source.

***I STRONGLY SUPPORT A CHANGE IN COMPOSITION OF THE MOLOKAI IRRIGATION SYSTEM ADVISORY TO 2/3 HOMESTEAD FARMER AND 1/3 NON-HOMESTEAD FARMER.***

The Hawaiian Homes Act states that homesteaders have 2/3's prior right to water from the Molokai Irrigation System. The State of Hawaii, including the Department of Agriculture and the State Legislature, has an obligation to uphold provisions of the Hawaiian Homes Act as a condition of statehood. The Legislature has been a party to this issue of non-enforcement of the Hawaiian Homes Act by continuing to allow the State Department of Agriculture to violate the intent of the law in the management of the Molokai Irrigation System.

The basic question that needs to be answered is this: If the Hawaiian Homesteaders have 2/3's prior right to water from the Molokai Irrigation System, shouldn't they have 2/3's of the seats on the Molokai Irrigation System Advisory? The answer should be an unequivocal YES!

The MIS Advisory does more than advise the DOA. In only one instance has the DOA gone against the decision of this advisory, and this decision related to an audit of the MIS. Therefore, for all intents and purposes, this is a decision making body.

For several years now, there has been collusion between the DOA and a member of this advisory to deny homestead farmers of this right. Several years ago, Mr. Adolph Helm was appointed by the Governor to fill the Hawaiian Homestead farmer seat on the MIS Advisory. Unfortunately, Mr Helm did not meet the requirements for this seat because he didn't farm his land, and was in conflict of interest because he was employed by one of the corn biotech companies, Mycogen Seed, and was in competition for this limited water resource. The legislature, knowing this, still approved his appointment.

Moreover, concurrent to his term on the MIS Advisory, Mr. Helm serves as president for Hawaii Crop Improvement Association, the lobbying arm of the corn industry, and has been their chief lobbyist. He's clearly in conflict of interest and DOA has been aware of this. Mr. Helm has gone out of his way to deny homesteaders this right to these seats by blocking bills favorable to the homesteaders through his clout as lobbyist for the corn companies. Mr. Helm has recommended to DOA new members to the MIS Advisory, and as a result, three members of the corn companies serve on the MIS Advisory. There are no Hawaiian Homestead farmers representing the interests of the native Hawaiian farmers serving on this advisory, while the corn interests now have three seats.

The poor relationship between the Hawaiian Homestead farmers and the DOA continues to fester. The DOA is partly to blame for this, having used Mr. Helm to push the DOA agenda forward at all expense. Contrary to what Legislature is being led to believe, the relationship between Hawaiian Homesteaders and the DOA has not improved since the audit was conducted because DOA continues to deny Hawaiian Homesteaders their right to govern their water.

The DOA has since focused their energies in collecting delinquent accounts, most of which are Hawaiian Homesteaders. The Homesteaders look at this as payback for supporting and pushing for the MIS audit that has put DOA in a bad light. This vindictive attitude cannot be allowed to continue and is unprofessional. There have already been physical threats made on DOA workers by homestead farmers, and DOA has to take the lead to make things right.

At the same time, DOA has not paid lease rental to DHHL for their Molokai office for over 18 years! This amounts to tens of thousands of dollars owed to DHHL for their programs. DOA has recanted that DHHL waived this payment. When approached, the DHHL Land Management Administrator Linda Chinn stated that DOA "helps the homestead farmers" and moreover, "they don't have money". How can you expect the homestead farmers to pay their bills if DOA doesn't pay their bills, and this is one of the reasons for the ongoing contentious relationship.

If DOA forces the homestead farmers to pay their delinquent accounts, then DOA should do the same and pay up. Otherwise, they should forgive the homesteaders for the same amount starting with the oldest homestead farmer delinquencies. Most of the present farmers will not benefit from this action, but it would show good faith effort on the part of DOA and set the example.

To fuel the fire, DHHL has stated that those homesteaders who don't pay their water bills will have their leases revoked. Shouldn't they first revoke DOA's lease? Why should DOA have special treatment while DHHL lessees are being targeted for revocation of their leases? The Legislature needs to question DHHL about this issue of waiving rent leases, especially when they approach the Legislature for funding.



DOA is denying water to homesteaders because they're being told their lots are too small (<2 acres) and have thrown up roadblocks such as having them purchase 2" water meters for \$2000. The Act states that all homesteaders, both subsistence and commercial, have rights to the utilization of this water. This issue was brought up in DOA's long range planning meeting and there's still no movement on this.

The Hawaiian Homesteader must be given 2/3's of the seats on this advisory, and the entire advisory needs to be revamped to accomplish this. One way is to have six voting members of this advisory, four of which are Hawaiian Homestead farmers selected by the Hoolehua Homestead Association and the Molokai Homestead Farmers Alliance collectively; and two non-homestead farmer users of the Molokai Irrigation System. Any organization representatives presently serving on the MIS Advisory would continue to serve, but only in a non-voting capacity. This would be the best solution to the lack of enforcement of the Hawaiian Homes Act as it relates to the MIS.

This proposed format is acceptable to the present MIS advisory, since it was a point of discussion at one of their meetings, and met with the approval of all members present. This change in make-up of the MIS Advisory would go far in rectifying past injustices and would take us one step closer to community-based management of the Molokai Irrigation System. It has been shown that DOA cannot manage this system; according to the MIS audit, they couldn't even produce three years of financial records. DOA should defer to the Homestead farmers instead of continuing to fight them.

This is the future direction we should be taking, and an example of this is the Waipio Valley Stream Initiative where taro farmers, in coordination with state and federal agencies are coming up with a plan and implementation strategy to manage their water from the community level.

In closing, please support changing the make-up of the MIS Advisory to reflect the Hawaiian Homesteaders 2/3's prior right to this water. This will be an important step in making things PONO and would be one step in bringing all parties together to better manage this water for the future. Mahalo.

THE SENATE  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS  
Senator Clayton Hee, Chair  
Senator Jill N. Tokuda, Vice Chair

DATE:  
Friday, February 27, 2009  
TIME: 2:45 p.m.  
PLACE: Conference Room 229  
State Capitol  
415 South Beretania Street

Senate Chair Hee and Members of the Senate Committees on Water Land Agriculture and Hawaiian Affairs:

My name is George Mokuau and I SUPPORT Senate Bill 633. I have been a farmer for over 30 years on the island of Molokai. I have seen managers come and go and farms profitable going out of business. Still today DOA continues to run MIS to the ground not upholding homesteaders legal rights to this water. Like a company that owns stock in a business, you own votes in that company. The same goes for the MIS if the homesteader legally have 2/3's of this water than they should have 2/3's of those votes.

I would like to propose to see 4 homestead farmer MIS user recommended by its Hoolehua Homestead Asscoiation and also The Molokai Homestead Farmers Alliance, and 2 nonhomestead farmers MIS user in any sector to be on that board to make it simple enough to comprehend in those voting rights. Anything less is not upholding The Hawaiian Homestead Act and should be considered a breech of that trust with the State of Hawaii.

Doing this would acknowledge a major point brought forward by the MIS audit recommendations on that of Marion Higa.

For that reason I support Senate Bill 633.

Sincerely,

  
George Mokuau, Homesteader

**THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009**

**COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN  
AFFAIRS**

**Senator Clayton Hee, Chair  
Senator Jill N. Tokuda, Vice Chair**

**DATE:** Friday, February 27, 2009  
**TIME:** 2:45 p.m.  
**PLACE:** Conference Room 229  
State Capitol  
415 South Beretania Street

**Testimony in  
SUPPORT  
Of Senate Bill 633**

**Relating to the Molokai Irrigation System**

**My name is Lynn DeCoite and I'm the President of the Molokai Homestead Farmers Alliance. We have over 20 members actively engaged in farming our homestead lots. We have over 350 acres of production of row crops, including sweetpotato, organic papaya, taro, banana, tongan yam, and assorted fruits and vegetables.**

**WE STRONGLY SUPPORT A CHANGE IN MAKE-UP OF THE MOLOKAI IRRIGATION SYSTEM TO 2/3 HOMESTEAD FARMER AND 1/3 NON-HOMESTEAD FARMERS.**

**The Hawaiian Homes Act states that homesteaders have 2/3's prior right to water from the Molokai Irrigation System, and the State of Hawaii, including the Department of Agriculture and the State Legislature, has an obligation to uphold provisions of the Hawaiian Homes Act as a condition of statehood.**

**The basic question that needs to be answered is this: If the Hawaiian Homesteaders have 2/3's prior right to water from the Molokai Irrigation System, shouldn't they have 2/3's of the seats on the Molokai Irrigation System Advisory? The answer should be an unequivocal YES!**

**DOA is still not in compliance with the Hawaiian Homes Act. Many homesteaders are being denied water because they're being told their lots are too small (<2 acres). The Act states that all homesteaders, both subsistence and commercial, have rights to the utilization of this water. This issue was brought up in DOA's long range planning meeting and there's still no movement on this.**

**The Hawaiian Homesteader must be given 2/3's of the seats on this advisory, and the entire advisory needs to be revamped to accomplish this. One way is to have six voting members of this advisory, four of which are Hawaiian Homestead farmers selected by the Hoolehua Homestead Association and the Molokai Homestead Farmers Alliance collectively; and two non-homestead farmer users of the Molokai Irrigation System. Any organization representatives presently serving on the MIS Advisory would continue to serve, but only in a non-voting capacity.**

**This proposed format is acceptable to the present MIS advisory, since it was a point of discussion at one of their meetings, and met with the approval of all members present. I would recommend to the Legislature that they seriously consider this request to uphold provisions of the Hawaiian Homes Act and avoid any future litigation related to a breach of law.**

**In closing, please support changing the make-up of the MIS Advisory to reflect the Hawaiian Homesteaders 2/3's prior right to this water. This will be an important step in making things PONO and would be one step in bringing all parties together to better manage this water for the future.**

**Mahalo,**

**Lynn DeCoite,  
Molokai Homestead Farmers Alliance, President**

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**From:** walter ritte [rittew@hotmail.com]  
**Sent:** Thursday, February 26, 2009 1:15 PM  
**To:** WTLTestimony  
**Subject:** Testimony

Hearing Friday Feb. 27, 2009 2:45pm Committee on Water Land Agr. and Hawaiian Affairs

SB 633

My Name is Walter Ritte, and I am in strong support of this Bill. The purpose of the Molokai Irrigation System was to serve Native Hawaiian Homesteaders. The vast majority of the water is being used by non homesteaders. The advisory board is stacked against homesteaders and the last two years have seen the board go against homesteader interest and leadership, Even the department of Ag. has been at odds with homesteaders on legislative issues regarding the MIS.

SB1199

I am in strong support of this bill. Fishing pressure, sediment run off, global warming and other factors has depleted the food resources in the ocean. Management plans for the shoreline of all islands is needed to change this trend. Molokai would like to begin that process to insure food security for their future generations.

SCR44 and SR26

I am in strong support of these resolutions. This is a very good report, it is well done and accurate. It has excellent recommendations for solutions to many problems facing the reef system of Molokai. The recommendations will increase the food security for Molokai, create many green jobs and protect the land and sea.

SB 709, SD1

I am in strong support of this bill. Taro is not just a plant to Hawaiians, it is important to understand the sacredness and family ties Hawaiians have with the taro. To not understand this relationship will translate into major future problems in agriculture. The Hawaiians are united in their responsibility to protect Haloa the taro, and we do not want our family member genetically modified.

Mahalo for this opportunity to testify on these important bills. Walter Ritte

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# Molokai Irrigation System Water Users Advisory Board

Adolph Helm, Chairman  
PO Box 391  
Hoolehua, Hi 96729  
Phone: 808 - 567-6580

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## Senate Committee on Water, Land, Agriculture and Hawaiian Affairs SB 633 Relating to Water

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FEBRUARY 27, 2000  
2:45 PM  
ROOM 229

Chairman Hee, Vice Chair Tokuda and fellow committee members;

My name is Adolph Helm. I am a Molokai resident and Chairman of the Molokai Irrigation System Water Users Advisory Board (MISWUAB). Thank you for the opportunity to testify on Senate Bill No. 633 which requires that at least four members of the Molokai Irrigation system water users advisory board be Hawaiian homestead farmers who are MIS water users, residents of the island of Molokai and active general excise tax licensees.

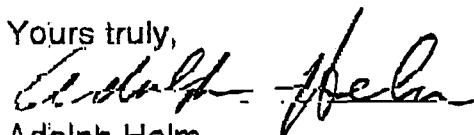
The MISWUAB acknowledges the intent of this measure but would like to support the Hawaii Department of Agriculture's (HDOA) amended recommendations to SB 633.

The HDOA in collaboration with the MISWUAB and the Molokai Irrigation System (MIS) users participated in a road map to improvement process that included addressing the state auditors findings and recommendations. In particular a system wide user survey was conducted to inquiry from the MIS users their thoughts on how best to address the auditors recommendation to "consider" adding additional homestead farmer seat(s) and to "Define homestead farmer as it relates to the advisory board.

The survey responses were used as the content and framework in which the HDOA developed their recommendations. The MISWUAB reviewed and supports those recommendations and recognizes the methodology used to gather the information was one of inclusion and represented all of the users.

Please support the HDOA recommendation to amend SB 633. The MISWUAB wishes to thank you for your continued support in sustaining agriculture on Molokai.

Yours truly,



Adolph Helm

Chairman of the Molokai Irrigation System Water Users Advisory Board

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**From:** FOSTER, RAY [AG/2004] [ray.foster@monsanto.com]  
**Sent:** Thursday, February 26, 2009 2:06 PM  
**To:** WTLTestimony  
**Subject:** SB 633 Molokai Farm Bureau Supports HDOA Amendments

## Molokai Farm Bureau

Raymond Foster

Government Affairs Chairman

HC01 Box 104

Kaunakakai, HI 96748

Phone: 808 – 553 - 5070

### **Senate Committee on Water, Land, Agriculture and Hawaiian Affairs**

#### **SB 633 Relating to Water**

FEBRUARY 27, 2009

2:45 PM

ROOM 229

Chairman Hee, Vice Chair Tokuda and fellow committee members;

My name is Raymond Foster. I am a Molokai resident and Government Affairs Chairman for the Molokai Farm Bureau (MFB). Thank you for the opportunity to testify on Senate Bill No. 633 which requires that at least four members of the Molokai irrigation system water users advisory board be Hawaiian homestead farmers who are MIS water users, residents of the island of Molokai and active general excise tax licensees.

The MFB acknowledges the intent of SB633 but we prefer to **support recommendations for amendment provided by the Hawaii Department of Agriculture's (HDOA).**

The HDOA has lived up to the obligations defined in the findings and recommendations of HI state auditors. They have cooperated with the MIS users and the MIS User's Advisory Board (MISUAB) to implement much needed improvements. The HDOA suggested amendments are a product of this process and a system wide user survey to gain consensus on the future make up of the MISUAB.

The Molokai Farm Bureau supports the HDOA recommendations and recognizes the methodology used to gather the information was inclusive and represented all of the MIS users.

Please support the HDOA recommendation to amend SB 633. The MISWUAB wishes to thank you for your continued support in sustaining agriculture on Molokai.

Respectfully submitted

Raymond Foster, Molokai Farm Bureau Government Affairs

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**TESTIMONY**

**SB 633**

**(END)**