



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 Fax: (808) 973-9613

TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEES ON
WATER, LAND AND OCEAN RESOURCES
AND
AGRICULTURE

FRIDAY, FEBRUARY 5, 2010
11:00 AM.
ROOM 325

HOUSE BILL NO. 2689
RELATING TO AGRICULTURAL WATER SYSTEMS

Chairpersons Ito and Tsuji, and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 2689. The purpose of this bill is to allow the conveyance of an agricultural water system to the Board of Agriculture without complying with county subdivision rules. The Department opposes this bill and has the following concerns.

Our primary concern with this bill is that it does not provide the Department with the opportunity to refuse the "gift." Due to the intense scrutiny and high costs associated with reservoirs, private landowners have approached the department to take over their systems so they don't have to spend the millions of dollars necessary to rehabilitate their systems into a safe condition and to maintain them once brought up to the necessary standards. Other landowners may wish to "get rid" of the old systems to remove the liability that these systems present. Some of these systems may have been abandoned for decades and have no agricultural use due to urbanization or other reasons.

Our second concern is that this bill does not require that an irrigation system be transferred contiguous and intact. Due to their length, most irrigation systems traverse many parcels with many landowners. We do not see language that would prohibit a partial gifting of a system to the department. A particular landowner may want to gift the portion of an abandoned irrigation system that crosses their land to the department because it has a reservoir that needs to be either formally abandoned or rebuilt. If the rest of the landowners, up and downstream, do not gift their portions of the system, the department would own a strip of land in the middle of nowhere with no purpose that it would now have to pay millions of dollars to decommission.

Third, there should be some discussion of keeping the land served by a system gifted to the state in agriculture for the long term. If the state spends millions rehabilitating an irrigation system, what is the obligation or commitment of the landowners to assure their lands served stay in agriculture.

Finally, the department is unsure how this land grant would affect future transactions of the parent parcel (and the irrigation system parcel for that matter). As there is now an unsubdivided interest on the land, if the owner of the parent parcel or the state were to sell their interest, they may have problems with title insurance as clear title may be difficult to establish thereby decreasing the potential value of the land.

The department understands the intent of this bill and sees its potential to benefit the agricultural industry; however, due to the significant potential liability (financial as well as legal) of being forced to accept all "gifts", we must oppose this bill as written.



STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION
235 S. Beretania Street, Room 205
Honolulu, HI 96813
Phone: (808) 586-0186 Fax: (808) 586-0189

**TESTIMONY OF ALFREDO LEE
EXECUTIVE DIRECTOR
AGRIBUSINESS DEVELOPMENT CORPORATION**

**BEFORE THE HOUSE COMMITTEES ON AGRICULTURE AND
WATER, LAND & OCEAN RESOURCES**

Friday, February 5, 2010
11:00 am
Room 325

**HOUSE BILL NO. 2689
RELATING TO AGRICULTURAL WATER SYSTEMS**

Chairpersons Tsuji, Ito and Members of the Committees:

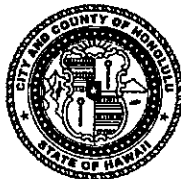
Thank you for the opportunity to testify on House Bill 2689. The Agribusiness Development Corporation (ADC) opposes this bill and defers to the counties regarding subdivision requirements.

The bill as written does not address the potential liabilities and costs to the state by accepting deteriorated water systems. Many of these irrigation systems are old and in need of serious repair in order to maintain proper conveyance of water. In addition, these systems often come with substandard or poorly maintained dams and reservoirs. Dam and reservoir rehabilitation would cost millions of dollars. There needs to be a mechanism for the Board of Agriculture to negotiate with the landowner regarding cost and liability with the acceptance of gifted systems being an option rather than a requirement.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

850 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8000 • FAX: (808) 768-8041
DEPT. WEB SITE: www.honolulu.gov • CITY WEB SITE: www.honolulu.gov

MUFI HANNEMANN
MAYOR



DAVID K. TANQUE
DIRECTOR

ROBERT M. SUMITOMO
DEPUTY DIRECTOR

February 5, 2010

The Honorable Ken Ito, Chair
and Members of the Committee on Water,
Land & Ocean Resources
The Honorable Clift Tsuji, Chair
and Members of the Committee on Agriculture
State House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Ito, Tsuji, and Members:

**Subject: House Bill No. 2689
Relating to Agricultural Water Systems**

The Department of Planning and Permitting **disagrees** with House Bill No. 2689, which exempts State acquisition of private agricultural water systems from the requirements of the county subdivision regulations.

The bill as written appears to be flawed since land being divided to create property boundaries for a water system would likely create additional remainder lots that are cause for concern.

Our concern is based on two reasons. First, the purpose of the county subdivision regulations is to ensure that any lots that are subdivided will be provided with adequate access, and the necessary utilities for the intended use or development. Additionally, the proposed lots must be shown to be suitable and not prone to flooding, bad drainage, slides, rockfall, or other conditions likely to be harmful or dangerous to health, safety or welfare of residents or the surrounding community. Without review for compliance with these county subdivision requirements, lands may be subdivided in ways that do not meet the preceding criteria and may become a liability to the State. Also, once subdivided without county approval, the remainder portions of lands retained by the private owner or grantor may be further developed or sold without the facilities necessary to support such development and without mitigating or rectifying conditions likely to be harmful to health, safety or welfare.

Second, lots that are subdivided and recorded without county approval will lack an official record with the county and may not be recognized. The absence of records with the county will also hinder the issuance of future building or other development permits.

The Honorable Ken Ito, Chair
and Members of the Committee on Water,
Land & Ocean Resources
The Honorable Clift Tsuji, Chair
and Members of the Committee on Agriculture
State House of Representatives
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Accordingly, we respectfully request that House Bill No. 2689 be amended or filed.

Thank you for the opportunity to testify.

Very truly yours,


for David K. Tanoue, Director
Department of Planning and Permitting

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hb2689-ms.doc



Hawaii Farm Bureau
F E D E R A T I O N

2343 Rose Street, Honolulu, HI 96819

Phone: (808) 848-2074; Neighbor Islands: 1-800-482-1272

Fax: (808) 848-1921; e-mail: info@hfbf.org

TESTIMONY

HB 2689 RELATING TO AGRICULTURAL WATER SYSTEMS

Chair Ito, Chair Tsuji and Members of the Committees:

Hawaii Farm Bureau Federation on behalf of our farmer and ranch families and organizations **OPPOSES** HB2689 .

The intent of this bill was difficult to understand. However, it appears that the intent is to allow the transfer of certain agricultural water systems to the State. Many agricultural water systems are in poor condition. The HDOA is already struggling to maintain the systems it already has. During these times of fiscal difficulty, additional transfers and their associated liability does not seem reasonable.

If the intent of the measure is as stated above, we respectfully request that this measure be held. If there are any questions, please contact Luella Costales at 848 2074. Thank you



KAMEHAMEHA SCHOOLS

February 5, 2010

TESTIMONY TO THE HOUSE COMMITTEE ON WATER, LAND & OCEAN RESOURCES AND THE
HOUSE COMMITTEE ON AGRICULTURE

By

Kapu C. Smith, Senior Land Asset Manager
Endowment/ Land Assets Division
Kamehameha Schools

Hearing Date: Friday, February 5, 2010
11:00 a.m., Conference Room 325

Dear Chair Ito, Chair Tsuji, Vice Chairs and Committee Members:

Testimony in Support of House Bill No. 2689 Relating to Agricultural Water Systems

I am Kapu C. Smith, Senior Land Asset Manager for Kamehameha Schools' Kawaihoa Plantation in Waialua, Oahu. I am here to testify in support of H.B. 2689 because it enables the conveyance of agricultural water systems to the Department of Agriculture (DOA) without the requirement of county subdivision. The bill does not require DOA to take any agricultural water system but provides the ability to do so without the costly and time consuming obstacle of county subdivision.

Thank you for the opportunity to express our views on this matter.