



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

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON ENVIRONMENTAL PROTECTION
And
HOUSE COMMITTEE ON WATER & LAND

Tuesday, February 18, 2014
11:00 AM
State Capitol, Conference Room 325
in consideration of
HB 2203 HD 1
RELATING TO SOLAR ENERGY.

Chairs Lee and Evans, Vice Chairs Thielen and Lowen, and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of HB 2203 HD 1, which would permit solar energy facilities on class B or C agricultural lands in excess of 10% of the parcel acreage or 20 acres, whichever is lesser, if a special use permit is obtained, provided the area occupied by the solar energy facilities is also made available for compatible agricultural activities at a lease rate 50% below market value. The measure also requires that solar energy facilities be removed within twelve (12) months of the conclusion of the operation.

Our state Energy Policy seeks to make the best use of Hawaii's land and resources by balancing technical, economic, environmental, and cultural considerations. DBEDT is supportive of the advancement of renewable energy development which simultaneously benefits and encourages on-site agricultural activities.

DBEDT supports the mandated decommissioning and removal of solar energy facilities within twelve (12) months of the conclusion of the operation.

We defer to the appropriate agencies regarding whether a State Special Use Permit (SUP) should be required prior to placing solar energy facilities on agricultural lands.

Thank you for the opportunity to provide these comments.



State of Hawaii
DEPARTMENT OF AGRICULTURE
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**TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEES ON ENERGY AND ENVIRONMENTAL
PROTECTION AND WATER AND LAND
TUESDAY, FEBRUARY 18, 2014
11:00 A.M.
Room 325
HOUSE BILL NO. 2203, HOUSE DRAFT 1
RELATING TO SOLAR ENERGY**

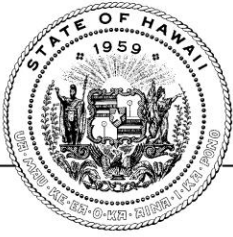
Chairpersons Lee and Evans and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 2203, House Draft 1. The Department of Agriculture supports the intent to have solar energy facilities that are compatible to agricultural activities and provides comments on this bill.

According to Office of Planning statistics, about 75 percent of the 1.9 million-acre Agricultural District has "D" or "E" ratings. We strongly believe that these poorer-quality agricultural lands be considered first for siting solar energy facilities. As we stated earlier, existing State law does not impose limits on the acreage of "D" and "E" rated lands that can be used for solar energy facilities. On the other hand, "B" and "C" rated agricultural lands comprise 21 percent of Hawaii's agricultural lands, have fair to good capacity for intensive agricultural production, and are more likely to be considered and designated as Important Agricultural Lands.

Thank you for the opportunity to present our testimony.





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Statement of
JESSE K. SOUKI
Director, Office of Planning
before the
**HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
AND
HOUSE COMMITTEE ON WATER AND LAND**

Tuesday, February 18, 2014
11:00 AM
State Capitol, Conference Room 325

in consideration of
HB 2203 HD1
RELATING TO SOLAR ENERGY.

Chairs Lee and Evans, Vice Chairs Thielen and Lowen, and Members of the House Committees on Energy and Environmental Protection and Water and Land.

House Bill 2203, HD1 amends the State Land Use Law at Hawaii Revised Statutes (HRS) §§ 205-2 and 205-4.5, to allow “solar energy facilities” within the State Agricultural Land Use District¹ on soils rated by the Land Study Bureau's Overall Productivity Rating (LSB) as “B” and “C.”²

¹ See HRS § 205-2 (“There shall be four major land use districts in which all lands in the State shall be placed: urban, rural, agricultural, and conservation.” As of November 12, 2013, approximately 49% of lands in the state are in the Conservation District and 46% is in the Agricultural District.)

² See *Land Study Bureau (LSB) Detailed Land Classification*, Office of Planning, at <http://files.hawaii.gov/dbedt/op/gis/data/lsb.pdf> (The Land Study Bureau of the University of Hawaii prepared an inventory and evaluation of the State's land resources during the 1960's and 1970's. The Bureau grouped all lands in the State, except those in the urban district, into homogeneous units of land types; described their condition and environment; rated the land on its over-all quality in terms of agricultural productivity; appraised its performance for selected alternative crops; and delineated the various land types and groupings based on soil properties and productive capabilities. A five-class productivity rating system was developed with “A” representing the class of highest productivity and “E” the lowest. Ratings were developed for both over-all productivity, and for specific crops. HRS Chapter 205 uses over-all productivity ratings.)

Currently, these statutory provisions allow solar energy facilities within the State Agricultural District. However, the amendment to HRS § 205-2 would expand the land coverage of solar energy facilities on LSB “B” and “C” lands from 10 percent or 20 acres (whichever is lesser) to any amount of land so long as “the area occupied by the solar energy facilities is also devoted to agricultural activities.” We note favorably the HD 1 amendments which require a special permit under HRS § 205-6 and leave rates at 50 percent below fair market value for comparable lands. These statutory provisions would continue to prohibit solar energy facilities on LSB “A” lands within the State Agricultural District.

The Hawaii State Plan, passed by the legislature in 1978 and subsequently amended, promotes both agriculture and the promotion and development of renewable energy for current and future generations.³ As the Committee balances these complex, often competing policy objectives, we provide the following comments for your consideration:

- Statewide, LSB soil productivity ratings of lands within the State Agricultural District are distributed as follows:
 - 3.1%, LSB “A”
 - 6.2%, LSB “B”
 - 14.9%, LSB “C”
 - 24.9%, LSB “D”
 - 50.9%, LSB “E”
- The counties and the State have not completed the process of identifying important agricultural lands (IAL) to the State of Hawaii. The intent of the IAL law is to “conser[ve] the State's agricultural land resource base and assur[e] the long-term availability of agricultural lands for agricultural use[.]”⁴ The IAL law, passed in 2005, implements Article XI, Section 3, of the Hawaii State Constitution, which directs the State to “conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.”

³ See HRS §§ 226-7 and 226-18 (relating to the State’s “Objectives and policies for the economy—agriculture” and “Objectives and policies for facility systems—energy,” respectively).

⁴ HRS § 205-41.

- Allowing non-agricultural uses in the State Agricultural District may contribute to the impermanence syndrome, whereby agricultural use declines due to farmers’ disinvestment in their farm operations in anticipation of development. This has been observed to occur where competing uses are allowed in areas designed for agricultural uses.⁵
- The list of non-agricultural uses on LSB “B” and “C” lands has grown over time. Currently, HRS § 205-2 allows the following non-agricultural uses: wind generated energy production; biofuel production; limited solar energy facilities; wind machines and wind farms; small-scale meteorological, air quality, noise, and other scientific and environmental data collection and monitoring facilities; open area recreational facilities; and geothermal resources exploration and geothermal resources development. The list of non-food related uses is longer still.
- The State Special Permit under HRS § 205-6 grants counties the authority to allow “certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified[.]” In other words, the Special Permit process allows uses in the State Agricultural District that are not agricultural uses or related to agricultural uses on a case-by-case basis. Although we do not advocate for allowing non-agricultural uses within the State Agricultural District, this established process allows counties to review non-agricultural uses to mitigate impacts on the State Agricultural District. As HRS §§ 205-2 and 205-4.5 are currently drafted, Special Permits are not allowed for solar energy facilities on (1) LSB “A” lands, or (2) LSB “B” and “C” lands for more than 10 acres or 20 percent of a parcel (whichever is lesser).

Thank you for the opportunity to testify on this measure.

⁵ *Impermanence Syndrome – Have you got it?*, Rutgers, at <http://njsustainingfarms.rutgers.edu/farmlandissues.html> (last visited, Feb. 3, 2014).

Rep. Chris Lee, Chair, House Committee on Energy and Environmental Protection
Rep. Cindy Evans, Chair, House Committee on Water and Land
Members of House Committees on
Energy and Environmental Protection & Water and Land
Hawaii State Legislature
State Capitol
415 S. Beretania Street
Honolulu, HI 96813

TESTIMONY **IN SUPPORT** OF HOUSE BILL 2203 HD1 – RELATING TO SOLAR ENERGY

Dear Chairs Lee and Evans and members of the House Committees on Energy and Environmental Protection and Water and Land,

We own and operate Tin Roof Ranch, an environmentally-friendly, organic, and sustainable farm located on the North Shore of O‘ahu in beautiful Haleiwa.

Tin Roof Ranch produces organic, free range chickens and eggs and other organic produce for purchase at local farmers’ market.

We also raise sheep and lambs that we sell to local butchers, stores and restaurants. Demand for lamb and sheep products is so high we cannot keep up with the requests and many times we have to turn down offers to buy our lamb and sheep products.

We support H.B. 2203 HD1 because it will provide an incentive for large agricultural landowners to open up more land on O‘ahu for sheep farming.

The solar energy operation could also help to subsidize segments of the sheep farming operation including lease rent, fencing and water production making farming more cost-effective for the farmer.

Sheep farming needs large tracts of land to be successful because sheep forage in herds within blocks of pasture and then are moved through cross fencing to other sections of the land to allow for regrowth of grass.

Because we pride ourselves on running a farm that utilizes sustainable practices, we also like the idea that our sheep operations would coexist with renewable energy and our sheep could help with grass maintenance for the solar panels.

We respectfully request that you approve H.B. 2203 HD1 as a show of support for renewable energy and sheep farming.

Aloha,
Luann Casey and Gary Gunder
Tin Roof Ranch
Haleiwa, Hawaii



TESTIMONY OF
CRYSTAL KUA, DIRECTOR OF EXTERNAL AFFAIRS – HAWAI‘I
FIRST WIND SOLAR GROUP
BEFORE THE HOUSE COMMITTEES ON
ENERGY AND ENVIRONMENTAL PROTECTION
AND
WATER AND LAND
Tuesday, February 18, 2014
11:00 a.m.
Hawai‘i State Capitol Room 325

TESTIMONY IN SUPPORT OF H.B. 2203 HD1 – RELATING TO SOLAR ENERGY

Aloha Chair Lee, Chair Evans, Vice Chair Thielen, Vice Chair Lowen and members of the House Committees on Energy and Environmental Protection and Water and Land.

Mahalo for this opportunity to testify in support of H.B. 2203 HD1.

First Wind develops, finances, builds and operates utility-scale renewable energy projects throughout the United States and is the largest producer of clean energy in Hawai‘i with 150 megawatts generated by our four wind projects on O‘ahu and Maui.

In 2013, First Wind formed the First Wind Solar Group to explore potential development opportunities near the company’s wind projects in the Northeast, the West and Hawai‘i.

In Hawai‘i, First Wind is developing four utility-scale solar projects on O‘ahu for a total of 132 megawatts of new renewable energy. These projects will produce enough energy to:

- Power the equivalent of 40,000 homes on O‘ahu.
- Save O‘ahu residents approximately \$400 million over the 20-year life of the projects compared to Hawaiian Electric Company’s current avoided cost of energy, if the projects are completed by the 2016 deadline for federal tax credits in 2016.
- Avoid using approximately 500,000 barrels of oil a year.

Our solar projects in Waiawa and Kawailoa are being proposed on agricultural land with a Land Study Bureau soil rating of Class B. These locations provide the right conditions to set up solar panels – relatively flat terrain with significant solar energy potential.

Currently, HRS Chapter 205 limits solar energy projects on class B and C agricultural land to 20 acres. In order to be financially viable and achieve the kind of clean energy production and cost-savings described earlier, utility-scale solar facilities will take up more than 20 acres. Our Waiawa project is proposed for 228 acres and Kawailoa is planned for 327 acres.

First Wind understands and is sensitive to the recent public conversations surrounding the use of agricultural land which is why First Wind supports H.B. 2203 HD1.

This bill will allow for utility-scale solar projects on B- and C-rated agricultural land larger than 20 acres if the project also makes the land available for compatible agricultural activity. Sheep ranching has proven compatible with solar projects in Europe and on the mainland U.S. We are, however, also open to other recommendations for a compatible agricultural activity.

This dual use of the land is a win for renewable energy, a win for local agriculture, and a win for Hawai'i residents for the following reasons:

- The solar project could help provide affordable pasture land and infrastructure (e.g. fencing and roads) for the farmer or rancher, lowering costs and helping to promote local agribusiness.
- Sheep grazing could provide a sustainable way to manage vegetation, keeping the grass and weeds from shading the solar panels; and
- The combined use could provide local residents with both lower-cost clean energy and locally-raised agricultural products.

We support the provisions in the HD1 that call for a special use permit process and for making available agriculture lease rent at least 50 percent below market value. We believe these provisions will secure a benefit to agriculture and a process to ensure transparency and accountability. We thank and appreciate the assistance of the Land Use Commission and the Sierra Club in working with us toward the draft before you.

For all these reasons, we respectfully request that the committee approve H.B. 2203 HD1.
Mahalo.



**HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
HOUSE COMMITTEE ON WATER AND LAND**

February 18, 2014, 11 A.M., Room 325

(Testimony is 4 pages long)

TESTIMONY IN SUPPORT OF HB 2203 HD1, SUGGESTED AMENDMENTS

Chair Lee, Chair Evans, and members of the committees:

The Blue Planet Foundation supports HB 2203, allowing the dual use of solar energy generation with farming or ranching on agricultural lands with Land Study Bureau ratings of B & C. We believe passage of this measure will enable greater amounts of low-cost, clean, indigenous energy to power our islands, while simultaneously preserving and expanding the opportunity to provide local food and other agricultural products.

For the reasons described below, Blue Planet believes that the language in HD1 imposing the additional hurdle of a special use permit is unnecessary and potentially counter-productive. By injecting an element of ad hoc decision-making, for projects that satisfy the dual-use protective criteria established under HB 2203 and H.R.S. § 205-2, this language threatens to delay proposed projects beyond the 2016 deadline for federal tax benefits. Such a delay could cost Hawai'i ratepayers millions of dollars.

This policy is timely and necessary to expand the amount of affordable renewable energy

Solar energy is currently a bright spot in Hawai'i's progress toward energy independence, with increasing amounts of affordable renewable solar powering our lifestyles and economy. The cost of solar energy equipment has dropped some 50% over the past four years, making it more affordable than oil-fired electricity generation. In fact, in responses to an invitation from Hawaiian Electric Company last year for utility scale renewable projects fitting certain criteria, the proposed electricity prices from projects (which were mostly solar) averaged 15.8 cents per kilowatt-hour—far below the 23 to 25 cents per kilowatt-hour for oil-fired generation. These proposed photovoltaic farms can provide the lowest cost solar energy currently available, and those savings are shared with all ratepayers—not just those who can access solar on their own

rooftop. Further, when we shift our energy dollars away from foreign oil and to local clean energy sources, those dollars circulate in Hawai'i's economy to the benefit of everyone.

Solar energy has widespread support and is typically easier to site than other forms of renewable energy, such as wind and geothermal. A recent poll of Hawai'i residents conducted by the Pacific Resource Partnership found that solar has broad acceptance and support, with 96% of respondents in favor of solar. On O'ahu in particular, much of the available land is more suitable for solar energy than wind. Solar energy's low profile, silent operation, and lack of significant moving parts make it less likely to encounter community concerns than other clean energy sources.

The timing of HB 2203 is critical to provide the opportunity for projects to come online that will make use of the existing 30% federal tax credit for solar—further lowering costs to ratepayers. This 30% federal credit expires at the end of 2016 and appears unlikely to be renewed. This measure will help eliminate uncertainties about whether projects can be sited, in time for them to be built before the credit's expiration. This can save ratepayers hundreds of millions over the life of the project.

This policy is limited in scope and contains provisions to protect—and increase—farming

This measure contains a number of provisions to protect the long-term value and possible uses of farmland.

First, the measure requires that the land be made available for compatible agricultural activities (Section 2: the eligible land shall be “made available for compatible agricultural activities at a lease rate that is at least fifty per cent below the fair market rent...”). This dual use of the agricultural lands—which may include the growing of some crops or grazing of livestock—provides double value from land that is likely currently unused. Further, energy generation can improve the viability of land for agriculture by providing infrastructure and subsidizing land costs for complementary agricultural uses. Revenue from the solar operations can help make farming operations pencil out for the entire agricultural operation.

Second, HB 2203 requires that the solar facilities be removed at the end of their operation. Specifically, “the solar energy facilities shall be decommissioned and removed within twelve months of the conclusion of operation....” This ensures that the farmland can be later used for other agricultural purposes at the end of the solar facilities operations. Since solar farms have a relatively small footprint (especially when compared housing development or other urban uses), the use of the land for a solar farm is really a form of land banking where the land is essentially protected for later use.

Third, this policy enables solar projects (with compatible agriculture) to proceed without seeking a change in zoning. The land remains as agriculture and will remain similarly protected at the end of the solar facilities operations.

Finally, HB 2203 only relates to agricultural lands with LSB classifications of B & C—it does not include class A lands, the most productive and valuable farmlands.

Blue Planet believes that HB 2203 is an appropriate approach to support both energy and food sustainability. The legislature previously found that allowing solar energy facilities within the agricultural district furthers and is consistent with the purposes, standards, and criteria of uses within agricultural lands, and that renewable energy facilities increase both the State's energy self-sufficiency and food security. Many of the LSB class B & C agricultural lands currently are not being farmed. Because of the requirements in this measure, HB 2203 can increase the net acreage of agricultural lands that are actively being farmed or ranched, while providing timely access to harvest the low-cost, indigenous, renewable solar energy to power our islands.

SUGGESTED AMENDMENTS

Blue Planet believes that the original draft of HB 2203 was well suited to achieving the dual policy goals of indigenous clean energy and local agriculture. In particular, HD1 was amended to require that solar generation with compatible agricultural activities must obtain a special use permit pursuant to H.R.S. § 205-6, *in addition to* satisfying the protective provisions in HB 2203 and H.R.S. § 205-2. This additional procedural hurdle will increase the likelihood that projects will be delayed, thus denying Hawai'i ratepayers the benefits of the federal tax credit (expiring at the end of 2016). The protective provisions described above are adequate to ensure that eligible projects do not infringe upon the use of LSB class B & C lands for agricultural purposes.

H.R.S. § 205-6 allows the county planning commissions to issue a special use permit for “unusual and reasonable uses” within agricultural districts. However, concurrent use of lands for clean energy generation and compatible agriculture is not an “unusual” use of agricultural lands. Presently, under H.R.S. § 205-2 agricultural districts are eligible for cultivation, farming, aquaculture, wind farms, biofuel production, and solar generation (up to 10% or 20 acres, whichever is less). By making larger solar projects subject to a “dual use” requirement, HB 2203 promotes the already-approved uses.

Moreover, even for “unusual” uses, H.R.S. § 205-6 allows special use permits with “such protective restrictions as may be deemed necessary” when the use “would promote the effectiveness and objectives of this chapter.” These safeguards are already inherently adopted in HB 2203, via the protective provisions described above.

Based on these observations about the intent and effectiveness of H.R.S. § 205-2 and -6, we suggest that the language in HD1 requiring a special use permit be removed, as was reflected in the original draft of HB 2203.

Mahalo for the opportunity to testify.



Directors

Jody Allione
Silver Ridge

Joe Boivin
Hawaii Gas

Kelly King
Pacific Biodiesel

Warren S. Bollmeier II
WSB-Hawaii

TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE
HAWAII RENEWABLE ENERGY ALLIANCE BEFORE THE
HOUSE COMMITTEES ON ENERGY & ENVIRONMENTAL PROTECTION
AND WATER & LAND

HB 2203 HD1 RELATING TO SOLAR ENERGY

February 18, 2014

Chairs Lee and Evans, Vice-Chairs Thielen and Lowen and members of the Committees, I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (“HREA”). HREA is an industry-based, nonprofit corporation in Hawaii established in 1995. Our mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically- sound future for Hawaii. One of our goals is to support appropriate policy changes in state and local government, the Public Utilities Commission and the electric utilities to encourage increased use of renewables in Hawaii.

The purposes of HB 2203 HD1 are to: (i) allow solar energy facilities to be placed within agricultural lands with soil classified as overall productivity rating class B or C if a special use permit has been granted and the area occupied by the solar energy facilities is also made available for compatible agricultural activities, and (ii) require that the solar energy facilities be decommissioned and removed within twelve months of the conclusion of operation.

HREA **supports** this measure with the following comments and recommendations:

- 1) Comments. The intent of the measure clear, as the measure:
 - a) would promote the concept of dual use of Class B & C agricultural lands for agricultural activities and solar energy facilities.
 - b) represents a creative approach to making the best use of available resources to meet Hawaii’s clean energy goals and support a strong agricultural industry, i.e., this is at the heart of increasing both our Food and Energy Security.
 - c) does not propose a permanent use of the land for solar, e.g., this measure requires the removal of the solar energy facilities at the conclusion of operation and restoration of the site to its pre-solar facility condition.

- 2) Recommendations: We recommend that you pass this measure out.

Mahalo for this opportunity to testify.



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February 18, 2014

HEARING BEFORE THE
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
HOUSE COMMITTEE ON WATER & LAND

TESTIMONY ON HB 2203, HD1
RELATING TO SOLAR ENERGY

Room 325
11:00 AM

Aloha Chair Lee, Chair Evans, Vice Chair Thielen, Vice Chair Lowen, and Members of the Committees:

I am Christopher Manfredi, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,832 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

HFBF is in strong support of HB2203, HD1 supporting solar energy facilities in conjunction with agricultural operations.

Energy costs have been one of the biggest uncontrolled expenses on the farm and ranch. This proposal allows for the farmer or rancher to install a facility to stabilize his long term energy expenditures while possibly expanding his revenue base. Unlike other bills that tend to "use" ag lands for energy but with minimal returns to the farm and ranch this is a measure that truly complements agricultural operations. It requires that units be removed when agriculture ceases, further emphasizing the linkage between operations.

Synergistic opportunities such as this is needed to help farmers stabilize expenses and increase revenues. We respectfully request your strong support of this measure in the interest of Hawaii's increased self sufficiency and sustainability.

Thank you for the opportunity to comment on this measure.

HB2203

Submitted on: 2/14/2014

Testimony for AGR on Feb 18, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Carl	Individual	Support	No

Comments: Aloha Representatives, I appreciate the opportunity to provide testimony on this bill. I am in favor of this as it will allow for opportunities of increased RE as well as a hybrid of Renewable Energy and Agricultural development. I would even go so far as to suggest linking the ideas via incentive. These ideas combined with Community-based PV integration can support many families and businesses, specifically the local farmers. Mahalo for your consideration.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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