



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

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

Tuesday, March 25, 2014
8:30 a.m.

State Capitol, Conference Room 325

in consideration of
SB 2658, SD3, HD1
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 SB 2658, SD3, HD1, which permits solar energy facilities on Land Study Bureau (LSB) Class B or C agricultural lands in excess of 10% of the parcel acreage or 20 acres, whichever is lesser, if a State Special Use Permit (SUP) is obtained and the area occupied by the solar energy facilities is also made available for compatible agricultural activities at a lease rate at least 50% below market value. The measure also requires that solar energy facilities that obtain a SUP 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 supports the advancement of renewable energy development that benefits and encourages on-site agricultural activities, and the mandated removal of such development at the end of its operational lifetime.

We support the amendment that a SUP should be required prior to placing solar energy facilities on agricultural lands in excess of the allowed limits. We also support the Office of Planning's comments on the need to balance the complex and often competing policy objectives promoting both agriculture and renewable energy for current and future generations.

Thank you for the opportunity to provide these comments.

NEIL ABERCROMBIE
Governor



SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

KEN H. KAKESAKO
Deputy to the Chairperson

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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, MARCH 25, 2014
8:30 A.M.
Room 325**

**SENATE BILL NO. 2658, SENATE DRAFT 3, HOUSE DRAFT 1
RELATING TO SOLAR ENERGY**

Chairpersons Lee and Evans and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill No. 2658, House Draft 1. The Department of Agriculture supports the concept of solar energy facilities that are coexistent with 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. Existing State law does not impose acreage limits or require related agricultural activity on "D" and "E" rated lands 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.





**OFFICE OF PLANNING
STATE OF HAWAII**

NEIL ABERCROMBIE
GOVERNOR

LEO R. ASUNCION
ACTING DIRECTOR
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Statement of
LEO R. ASUNCION
Acting Director, Office of Planning
before the
**HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
AND
HOUSE COMMITTEE ON WATER AND LAND**

Tuesday, March 25, 2014
8:30 AM
State Capitol, Conference Room 325

in consideration of
SB 2658 SD3 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.

The Office of Planning respectfully offers the following comments on Senate Bill 2658, SD 3, HD1, which 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 District on soils rated by the Land Study Bureau’s (LSB) Overall Productivity Rating as “B” and “C.”

HRS § 205-2 and HRS § 205-4.5 currently allow solar energy facilities in the State Agricultural District, with certain restrictions. This bill would do the following:

- (1) expand the land coverage of solar energy facilities greater than ten percent of the acreage of the parcel or twenty acres of land, whichever is less, to an unrestricted amount of acreage with a Special Use Permit; and
- (2) require that a Special Use Permit not be granted for the facility unless the area occupied by the solar energy facility is also made available for compatible agricultural activities at a lease rate that is at least fifty percent below the fair market rent for comparable properties.

The 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 development of renewable energy for current and future generations. As the Committee balances these complex and often competing policy objectives, we provide the following comments for your consideration:

1. Statewide, LSBs soil productivity ratings of lands within the State Agricultural District are distributed as follows:
 - a. 3.1%, LSB “A”
 - b. 6.2%, LSB “B”
 - c. 14.9%, LSB “C”
 - d. 24.9%, LSB “D”
 - e. 50.9%, LSB “E”

The current statutory allowances of solar energy facilities on agricultural lands (prohibited on A soils, permitted on B and C soils up to 10% or 20 acres whichever is less) in HRS §§ 205-2 and 205-4.5 are appropriate given the limited amount of A and B lands in the State of Hawaii. Within the State Agricultural District, only 3.1% (56,000 acres) are rated as A, and only 6.2% (114,000 acres) are rated as B. Unless planned for urban growth by the county, these highly rated lands should remain available for agricultural production in the interests of agricultural food security and self-sufficiency.

2. 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[.]” 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. Allowing non-agricultural uses in the State Agricultural District may contribute to the impermanence syndrome, whereby agricultural uses decline 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.

4. The list of non-agricultural uses on class B or C agricultural 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.
5. This amendment requires the area occupied by solar energy facilities be made available for compatible agricultural activities at a lease rate that is at least fifty percent below fair market rent for comparable properties. Clarity on what “compatible agricultural activities” and “comparable properties” constitute would be beneficial for appropriate interpretation of the provision.

Thank you for the opportunity to testify on this measure.

NEIL ABERCROMBIE
Governor

SHAN S. TSUTSUI
Lieutenant Governor

RICHARD LIM
Director

MARY ALICE EVANS
Deputy Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
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Statement of
Daniel E. Orodenker
Executive Officer
Land Use Commission
Before the
House Committees on
Energy and Environmental Protection
and
Water and Land
March 25, 2014
8:30 AM
State Capitol, Conference Room 325

In consideration of
SB 2658 SD3 HD1
RELATING TO SOLAR ENERGY

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

The Land Use Commission takes no position with regard to the policy considerations raised by this measure. We do, however, offer the following comments regarding SB 2658 SD3 HD1 that seeks to make utility scale solar energy facilities a permissible use within the State Agricultural District on lands classified by the Land Study Bureau (LSB) as class B and C.

We believe the language currently contained in HD1 provides for a public process, a State Special Permit pursuant to section 205-6, that allows government agencies to balance competing uses on our best agricultural lands. In addition, we suggest inclusion of language that makes the enforcement of any conditions placed on such State Special Permits clear.

We recommend amending the currently proposed language in the bill to also add a new subsection to section 205-6, to read:

“(g) Any other provision of the laws to the contrary notwithstanding, the land use commission may vacate, void, modify or amend any special permit if it reasonably finds that there has been a failure to substantially conform with the conditions or requirements of the order granting the special permit.”

Thank you for the opportunity to testify on this matter.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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DEPUTY DIRECTOR

March 25, 2014

The Honorable Chris Lee, Chair
and Members of the Committee on Energy &
Environmental Protection
The Honorable Cindy Evans, Chair
and Members of the Committee on Water & Land
Hawaii State House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Lee and Evans and Committee Members:

SUBJECT: Senate Bill No. 2658, SD2, HD1
Relating to Solar Energy

The Department of Planning and Permitting (DPP) **supports the intent of** Senate Bill No. 2658, SD2, HD1, which addresses solar energy facilities in the State agricultural district. It further defines conditions under which these facilities, including offering agricultural uses with rents at half the fair market rate.

We support the use of some types of lands in the State agricultural district for uses such as photovoltaic farms. However, we do not believe that State law should itemize conditions that are so specific that similar types of conditions could not be considered simply because of omission in State law. Recent experience also shows that complete dependence on Land Study Bureau (LSB) land use classifications can lead to unreasonable results.

Thus, as mentioned in our testimony on Senate Bill No. 2775, SD1, HD1, LSB classifications should be dropped as a screening mechanism that cannot be appealed. Also, the seemingly arbitrary percentages on use occupancies should be dropped. We believe that Sec. 205-6, HRS should be amended to reflect performance standards, rather than delineating specific circumstances, as suggested below:

"g) Solar energy facilities that are not accessory to a permitted use may be permitted by special permit on lands designated by the LSB's detailed land classification as overall (master) productivity rating as Class A or B, provided the following are met:

- (1) Use of the land for solar energy generation does not question the viability of the agricultural district classification of the land;
- (2) The lands, either occupied by the solar energy facility, on remainder lands within the same property, shall be used for agricultural purposes, if only for livestock grazing, as confirmed by annual photo documentation;

The Honorable Chris Lee, Chair
and Members of the Committee on Energy &
Environmental Protection
The Honorable Cindy Evans, Chair
and Members of the Committee on Water & Land
Hawaii State House of Representatives
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March 25, 2014
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- (3) It can be demonstrated that lands can be returned to in-ground crop cultivation or livestock production once solar energy generation ceases;
- (4) Facilities do not negatively impact adjoining agricultural uses;
- (5) Facilities are appropriately buffered or screened to reduce visual impacts to a rural landscape, particularly as viewed from public highways."

Given the above amendment, lands designated by the LSB's detailed land classification as overall (master) productivity rating Class C, D, E, or unclassified, shall be allowed solar energy facilities as permitted uses, and do not need special permits. Further, this strategy should be considered an interim response to balancing energy needs with agricultural needs until Important Agricultural Lands have been designated, and more comprehensive approaches can be studied to better define the balance between these two important public policies.

Lastly, the City cannot administer the restriction on lease rents. We do not monitor fair market lease rents. Therefore, we ask that this condition be deleted, or assigned to another agency for administration.

Thank you for the opportunity to testify.

Very truly yours,



George I. Atta, FAICP
Director

GIA:cl
SB2658SD3HD1-ks



TESTIMONY OF
CRYSTAL KUA, DIRECTOR OF EXTERNAL AFFAIRS – HAWAII
FIRST WIND SOLAR GROUP
BEFORE THE
HOUSE COMMITTEES ON
ENERGY AND ENVIRONMENTAL PROTECTION &
WATER AND LAND

TESTIMONY IN SUPPORT OF S.B. 2658 SD3 HD1 WITH AMENDMENTS

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

Mahalo for this opportunity to provide testimony in support of S.B. 2658 SD3 HD1 with amendments.

This bill allows 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.

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 are requesting an HD2 with the attached amendments. The proposed HD2 is designed to clarify that the bill provides a process for transparency and accountability through the special use permit for solar energy projects larger than 20 acres. The bill also provides a benefit to agriculture with the availability of lease rent at least 50% below market value. The suggested amendments reflect the assistance we have received throughout the legislative process from the Land Use Commission and the Sierra Club.

For all these reasons, we respectfully request that the committees approve S.B. 2658 SD3 HD1 with the proposed amendments.

Mahalo.

A BILL FOR AN ACT

RELATING TO SOLAR ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The purpose of this Act is to enable the complementary uses of utility scale solar energy generation and local food production on agricultural land with an overall productivity rating of class B or C.

SECTION 2. Section 205-2, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

- "(d) Agricultural districts shall include:
- (1) Activities or uses as characterized by the cultivation of crops, crops for bioenergy, orchards, forage, and forestry;
 - (2) Farming activities or uses related to animal husbandry and game and fish propagation;

PROPOSED HD2

- (3) Aquaculture, which means the production of aquatic plant and animal life within ponds and other bodies of water;
- (4) Wind generated energy production for public, private, and commercial use;
- (5) Biofuel production, as described in section 205-4.5(a)(16), for public, private, and commercial use;
- (6) Solar energy facilities; provided that:
 - (A) This paragraph shall apply only to land with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class B, C, D, or E; and
For Section 205-2 (d) (6)
 - (B) Solar energy facilities placed within land with soil classified as overall productivity rating class B or C shall not occupy more than ten per cent of the acreage of the parcel, or twenty acres of land, whichever is lesser~~[+]~~, unless a special use permit is granted pursuant to section 205-6 and the area occupied by the solar energy facilities is also made available for compatible agricultural activities at a lease rate that is at least fifty per cent below the fair market

PROPOSED HD2

rent for comparable properties; provided further that solar energy facilities for which a special use permit has been granted shall be decommissioned and removed within twelve months of the conclusion of operation.

For the purposes of this paragraph, "agricultural activities" means the activities described in paragraphs (1) to (3);

- (7) Bona fide agricultural services and uses that support the agricultural activities of the fee or leasehold owner of the property and accessory to any of the above activities, regardless of whether conducted on the same premises as the agricultural activities to which they are accessory, including farm dwellings as defined in section 205-4.5(a) (4), employee housing, farm buildings, mills, storage facilities, processing facilities, photovoltaic, biogas, and other small-scale renewable energy systems producing energy solely for use in the agricultural activities of the fee or leasehold owner of the property, agricultural-energy facilities as defined in section 205-4.5(a) (17), vehicle and equipment storage areas, and plantation community subdivisions as defined in section 205-4.5(a) (12);

PROPOSED HD2

- (8) Wind machines and wind farms;
- (9) Small-scale meteorological, air quality, noise, and other scientific and environmental data collection and monitoring facilities occupying less than one-half acre of land; provided that these facilities shall not be used as or equipped for use as living quarters or dwellings;
- (10) Agricultural parks;
- (11) Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5;
- (12) Agricultural tourism activities, including overnight accommodations of twenty-one days or less, for any one stay within a county; provided that this paragraph shall apply only to a county that includes at least three islands and has adopted ordinances regulating agricultural tourism activities pursuant to section

PROPOSED HD2

205-5; provided further that the agricultural tourism activities coexist with a bona fide agricultural activity. For the purposes of this paragraph, "bona fide agricultural activity" means a farming operation as defined in section 165-2;

(13) Open area recreational facilities;

[+] (14) [+] Geothermal resources exploration and geothermal resources development, as defined under section 182-1; and

[+] (15) [+] Agricultural-based commercial operations, including:

- (A) A roadside stand that is not an enclosed structure, owned and operated by a producer for the display and sale of agricultural products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii;
- (B) Retail activities in an enclosed structure owned and operated by a producer for the display and sale of agricultural products grown in Hawaii, value-added products that were produced using agricultural products grown in Hawaii, logo items related to the producer's agricultural operations, and other food items; and

PROPOSED HD2

(C) A retail food establishment owned and operated by a producer and permitted under [+]title 11, [+] chapter 12 of the rules of the department of health that prepares and serves food at retail using products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii.

The owner of an agricultural-based commercial operation shall certify, upon request of an officer or agent charged with enforcement of this chapter under section 205-12, that the agricultural products displayed or sold by the operation meet the requirements of this paragraph.

Agricultural districts shall not include golf courses and golf driving ranges, except as provided in section 205-4.5(d). Agricultural districts include areas that are not used for, or that are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics."

SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Within the agricultural district, all lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A or B shall be restricted to the following permitted uses:

PROPOSED HD2

- (1) Cultivation of crops, including crops for bioenergy, flowers, vegetables, foliage, fruits, forage, and timber;
- (2) Game and fish propagation;
- (3) Raising of livestock, including poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use;
- (4) Farm dwellings, employee housing, farm buildings, or activities or uses related to farming and animal husbandry. "Farm dwelling", as used in this paragraph, means a single-family dwelling located on and used in connection with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling;
- (5) Public institutions and buildings that are necessary for agricultural practices;
- (6) Public and private open area types of recreational uses, including day camps, picnic grounds, parks, and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;

PROPOSED HD2

- (7) Public, private, and quasi-public utility lines and roadways, transformer stations, communications equipment buildings, solid waste transfer stations, major water storage tanks, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, treatment plants, corporation yards, or other similar structures;
- (8) Retention, restoration, rehabilitation, or improvement of buildings or sites of historic or scenic interest;
- (9) Agricultural-based commercial operations as described in section [+]205-2(d)(15)[+];
- (10) Buildings and uses, including mills, storage, and processing facilities, maintenance facilities, photovoltaic, biogas, and other small-scale renewable energy systems producing energy solely for use in the agricultural activities of the fee or leasehold owner of the property, and vehicle and equipment storage areas that are normally considered directly accessory to the above-mentioned uses and are permitted under section 205-2(d);
- (11) Agricultural parks;

PROPOSED HD2

- (12) Plantation community subdivisions, which as used in this chapter means an established subdivision or cluster of employee housing, community buildings, and agricultural support buildings on land currently or formerly owned, leased, or operated by a sugar or pineapple plantation; provided that the existing structures may be used or rehabilitated for use, and new employee housing and agricultural support buildings may be allowed on land within the subdivision as follows:
- (A) The employee housing is occupied by employees or former employees of the plantation who have a property interest in the land;
 - (B) The employee housing units not owned by their occupants shall be rented or leased at affordable rates for agricultural workers; or
 - (C) The agricultural support buildings shall be rented or leased to agricultural business operators or agricultural support services;
- (13) Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural

PROPOSED HD2

use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5;

- (14) Agricultural tourism activities, including overnight accommodations of twenty-one days or less, for any one stay within a county; provided that this paragraph shall apply only to a county that includes at least three islands and has adopted ordinances regulating agricultural tourism activities pursuant to section 205-5; provided further that the agricultural tourism activities coexist with a bona fide agricultural activity. For the purposes of this paragraph, "bona fide agricultural activity" means a farming operation as defined in section 165-2;
- (15) Wind energy facilities, including the appurtenances associated with the production and transmission of wind generated energy; provided that the wind energy facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land;
- (16) Biofuel processing facilities, including the appurtenances associated with the production and

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refining of biofuels that is normally considered directly accessory and secondary to the growing of the energy feedstock; provided that biofuel processing facilities and appurtenances do not adversely impact agricultural land and other agricultural uses in the vicinity.

For the purposes of this paragraph:

"Appurtenances" means operational infrastructure of the appropriate type and scale for economic commercial storage and distribution, and other similar handling of feedstock, fuels, and other products of biofuel processing facilities.

"Biofuel processing facility" means a facility that produces liquid or gaseous fuels from organic sources such as biomass crops, agricultural residues, and oil crops, including palm, canola, soybean, and waste cooking oils; grease; food wastes; and animal residues and wastes that can be used to generate energy;

- (17) Agricultural-energy facilities, including appurtenances necessary for an agricultural-energy enterprise; provided that the primary activity of the agricultural-energy enterprise is agricultural activity. To be considered the primary activity of an

PROPOSED HD2

agricultural-energy enterprise, the total acreage devoted to agricultural activity shall be not less than ninety per cent of the total acreage of the agricultural-energy enterprise. The agricultural-energy facility shall be limited to lands owned, leased, licensed, or operated by the entity conducting the agricultural activity.

As used in this paragraph:

"Agricultural activity" means any activity described in paragraphs (1) to (3) of this subsection.

"Agricultural-energy enterprise" means an enterprise that integrally incorporates an agricultural activity with an agricultural-energy facility.

"Agricultural-energy facility" means a facility that generates, stores, or distributes renewable energy as defined in section 269-91 or renewable fuel including electrical or thermal energy or liquid or gaseous fuels from products of agricultural activities from agricultural lands located in the State.

"Appurtenances" means operational infrastructure of the appropriate type and scale for the economic commercial generation, storage, distribution, and other similar handling of energy, including equipment,

PROPOSED HD2

feedstock, fuels, and other products of agricultural-energy facilities;

- (18) Construction and operation of wireless communication antennas; provided that, for the purposes of this paragraph, "wireless communication antenna" means communications equipment that is either freestanding or placed upon or attached to an already existing structure and that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services; provided further that nothing in this paragraph shall be construed to permit the construction of any new structure that is not deemed a permitted use under this subsection;
- (19) Agricultural education programs conducted on a farming operation as defined in section 165-2, for the education and participation of the general public; provided that the agricultural education programs are accessory and secondary to the principal agricultural use of the parcels or lots on which the agricultural education programs are to occur and do not interfere with surrounding farm operations. For the purposes of this section, "agricultural education programs" means activities or events designed to promote knowledge and

PROPOSED HD2

understanding of agricultural activities and practices conducted on a farming operation as defined in section 165-2;

(20) Solar energy facilities that do not occupy more than ten per cent of the acreage of the parcel, or twenty acres of land, whichever is lesser~~[+]~~, or for which:

(A) A special use permit is granted pursuant to section 205-6; [~~provided that this~~]

(B) The area occupied by the solar energy facilities is also made available for compatible agricultural activities at a lease rate that is at least fifty per cent below the fair market rent for comparable properties; and

(C) Solar energy facilities for which a special use permit has been granted shall be decommissioned and removed within twelve months of the conclusion of operation.

This use shall not be permitted on lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A~~[+]~~.

For the purposes of this subparagraph, "agricultural activities" means the activities described in paragraphs (1) to (3); or

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[+] (21) [+] Geothermal resources exploration and geothermal resources development, as defined under section 182-1."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.



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

SB 2658 SD3 HD1, RELATING TO SOLAR ENERGY

March 25, 2014

Chairs Lee and Evans, Vice-Chairs Thielen and Lowen and members of the Committee, 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 SB 2658 SD3 HD1 are to: (i) require a special use permit for solar energy facilities on class B or C land, (ii) require solar energy facilities placed within land with soil classified as overall productivity rating class B or C to occupy not more than thirty per cent of the acreage of the parcel, or twenty acres of land, whichever is lesser, or in the alternative, of two or more adjacent parcels having met the applicable county requirements for the joint development or joint lot use of those parcels, (iii) require the area occupied by the solar energy facility to also be made available for compatible agricultural activities at a lease rate that is at least fifty per cent below fair market rent for comparable properties, (iv) require the area occupied by the solar energy facility to also be made available for compatible agricultural activities, (v) define "agricultural activities", (vi) require that 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.

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

TESTIMONY **IN SUPPORT** OF SENATE BILL 2658 SD3 HD1 – RELATING TO SOLAR ENERGY

Dear Chair Lee, Chair Evans and members of the Committees,

We continue to support efforts to provide an incentive for large agricultural landowners to open up more land on Oahu for sheep farming. We believe S.B. 2658 SD3 HD1 is a way to achieve that goal. As we have testified previously, the solar energy operation could help to subsidize segments of the sheep farming operation including lease rent, fencing and water production making farming more cost-effective for the farmer. We like that the current version mentions below market lease rents.

Making more agricultural land affordable for sheep farming will help to meet the high demand for lamb on Oahu and on the neighbor islands with sheep raised locally. The demand for locally-grown lamb is so great it is not possible for our small farming operation to keep up with orders.

Having renewable energy and sheep coexist on agriculture land creates a model for sustainable living and practices and this bill would make that possible.

We respectfully request that you approve S.B. 2658 SD3 HD1 as a show of support for renewable energy and sheep farming.

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



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

March 25, 2014, 8:30 A.M., Room 325

(Testimony is 3 pages long)

TESTIMONY IN SUPPORT OF SB 2658 SD3 HD1

Chair Lee, Chair Evans, Vice Chair Thielen, Vice Chair Lowen, and committee members:

The Blue Planet Foundation supports SB 2658 DS3 HD1, 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 that 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.

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 SB 2658 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 it is unlikely to be renewed. This measure will help clear the path for some projects to be built before the credit's expiration, saving ratepayers hundreds of millions over the life of the project. Allowing solar projects to proceed on class B & C lands without having to obtain a special use permit will help to enable timely construction so ratepayers can enjoy the benefits of low-cost renewable energy.

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 concurrent agricultural activities. 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, SB 2658 requires that the solar facilities be removed at the end of their 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 (when compared to other operations or 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 co-existing ag operations) 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, SB 2658 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 SB 2658 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, SB 2658 will likely increase the 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.