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Deputy to the Chairperson

**TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE

**FEBRUARY 3, 2017
8:30 A.M.
CONFERENCE ROOMN 312**

**HOUSE BILL NO. 1270
RELATING TO LAND ACQUISITION**

Chairperson Creagan and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 1270 relating to land acquisition. This measure requires BLNR to enter into negotiations to acquire the property identified as Tax Map Kay (3) 6-8-001:030 and make an appropriation. The department supports this bill provided it does not impact the Department's priorities in the Executive Budget.

This parcel is approximately ten acres in size and located in a prime agricultural region. It appears to be fully developed with several structures. Its primary use seems to be nursery related; however, use in diversified agriculture seems to be likely. Unfortunately, the department does not have the expertise required to appraise the fair market value of this parcel.

Thank you for the opportunity to testify.



DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
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JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
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BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
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LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
AGRICULTURE

Friday, February 3, 2017
8:30 AM
State Capitol, Conference Room 312

In consideration of
HOUSE BILL 1270
RELATING TO LAND ACQUISITION

House Bill 1270 proposes to require that the Board of Land and Natural Resources (BLNR) enter into negotiations to acquire a parcel of agricultural land in Kamuela, Hawai'i from a private domestic profit corporation, and to appropriate money out of the Land Conservation Fund for the purchase. **The Department of Land and Natural Resources (Department) supports the intent of this bill because it furthers the achievement of goals and objectives shared by the Department and the Department of Agriculture (DOA), as long as it does not replace our priorities requested in the Executive Budget, and offers the following comments and amendments.**

The Department notes it is not suited to acquire the subject agricultural land for its own use, and defers to DOA regarding DOA priorities for land acquisition. The Department expects that the property, if acquired, would be set-aside to DOA.

The Department respectfully requests that an alternative funding source be used. The Legacy Land Conservation Program follows an extensive public process for reviewing, vetting, and prioritizing projects, which generally takes several years and includes numerous carefully reviewed projects that are pending acquisition based on available funding. The Executive Budget request includes two increases in the Land Conservation Fund (LCF) spending ceiling for the Legacy Land Conservation Program (LLCP) – a one-time increase of \$2,228,250 and a recurring increase \$1,700,000. In order to avoid replacement of or adverse impact to these established priorities, the Department requests that a legislative appropriation from the LCF for purchasing the subject property, if any, is allotted from above the spending ceiling for the LLCP. In order to maintain liquidity in the LCF, the Department requests that a legislative appropriation

from the LCF for purchasing the subject property, if any, include a deadline for completing the transaction and expending the appropriated funds.

House Bill 1270 proposes that BLNR “exercise its authority pursuant to section 173A-4 . . . to acquire the land” (page 2, lines 13-15), “[n]otwithstanding the acquisition and application provisions set forth in section 173A-5(h) and (i)” (page 2, lines 9-10, the Land Conservation Fund application process). The Department suggests that it may be problematic, legally, for the BLNR to complete a land acquisition pursuant to Section 173A-4, Hawaii Revised Statutes (HRS), that is “notwithstanding” the provisions of Section 173A-5(h), HRS, and that it may be inappropriate, programmatically, to bypass the application process that the Department conducts pursuant to Section 173A-5(i), HRS.

Section 173A-4(a), HRS, authorizes BLNR to acquire “land having value as a resource to the state,” and Section 173A-5(h), HRS, restricts the use of the LCF to four purposes, including “(1) [t]he acquisition of interests or rights in land having value as a resource to the State.” Section 173A-5(g)(8), HRS, provides that the acquisition of land having value as a resource to the state for the preservation of agricultural production constitutes a public purpose for which public funds may be expended. The Department requests that future versions of this bill, if any, explicitly confirm that the subject property, if acquired, is “land having value as a resource to the state” that is subject to the disposition requirements of Chapter 173A, HRS.

Section 173A-5(i), HRS, establishes an application and approval process for grants from the Land Conservation Fund. The Department’s implementation of this process incorporates the advice and recommendations of the Legacy Land Conservation Commission, pursuant to Sections 173A-2.5 and 2.6, HRS. Thus, the Department urges the proponents of the subject acquisition to seek funding through the Legacy Land Conservation Program grant application process or other means of financing, such as the Executive Budget CIP request, rather than through a legislative appropriation from the Land Conservation Fund.

Thank you for the opportunity to testify on this measure.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 2, 2017 7:28 PM
To: AGRtestimony
Cc: blawaiianlvr@icloud.com
Subject: Submitted testimony for HB1270 on Feb 3, 2017 08:30AM



HB1270

Submitted on: 2/2/2017

Testimony for AGR on Feb 3, 2017 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omana Pono, LLC.	Oppose	Yes

Comments: As a native Hawaiian Advocacy Corporation, any lands that come up for "sale", the State should exercise its POWERS OF EMINENT DOMAIN, confiscate such property & return them to native Hawaiians, via our trusts under the Department of Hawaiian Home Lands. This De Facto Government has already acknowledged the illegal overthrow of our Hawaiian Kingdom & made apologies along with the U.S.Government. Now the State can do more than just lip service, by actually using its inherent powers to exercise such eminent domain and return these stolen lands to native Hawaiians via DHHL.

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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