



**SB1309**  
**RELATING TO LAND EXCHANGE**  
Senate Committee on Water and Land  
Senate Committee on Agriculture and Environment

**LATE**

February 13, 2017

2:45 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **COMMENT** on SB1309. While OHA appreciates the intent of this measure to prioritize agricultural, while simultaneously attempting to mitigate the severity of the housing crisis through the development of affordable housing, **OHA recommends specific provisions be included to ensure public participation, address public trust interests, protect traditional and customary practices, and ensure affordable housing.**

Public scrutiny and input can provide an important check against political and other pressure on State negotiators, which may otherwise result in offers less than fair to the State, the public, and Native Hawaiians. It can also discourage the use of political pressure to procure favorable deals in the exchange of public lands. Agreements on high-value public land exchanges made with the opportunity for public scrutiny may also reduce questions and speculation of favoritism and the erosion of public confidence in the State's administration of our public land base. Finally, it can minimize potential legal challenges post-factum. **With the State's recognition that its "ultimate decision-making power" is vested in the people,<sup>1</sup> OHA respectfully recommends consideration of the overwhelming weight of public interest in the disposition and exchange of our public lands, by providing specific provisions that allow for public participation and review.**

Public and agency review and input would also assist the governor in fulfilling the State's public trust obligations in negotiating land exchanges – and could serve to mitigate negative impacts to Hawai'i's natural and cultural resources. In *Ka Pa'akai*, the Hawai'i Supreme Court stated that the LUC must at a minimum make specific findings and conclusions as to 1) the identity and scope of "valued, cultural, historical, or natural resources," 2) the extent to which those resources – including Native Hawaiian traditional customary rights – will be affected, and 3) the feasible action that the LUC can take to reasonably protect Native Hawaiian rights. Through the *Ka Pa'akai* analysis, the LUC is able to place conditions on district boundary amendments to mitigate impacts to Native Hawaiian traditional and customary practices and the resources they rely upon. SB1309's grant of authority to the governor to negotiate land exchanges may, albeit inadvertently,

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<sup>1</sup> HRS § 92-1.

not adequately take into consideration the potential impact of negotiated land exchanges on the valued, cultural, historical, or natural resources of those lands and the extent to which those resources, including Native Hawaiian traditional customary rights, can be protected. **OHA recommends that the LUC, county planning directors, and public be given sufficient opportunity to review and comment on proposed reclassifications and appraisals, including with regards to potential impacts to Native Hawaiian traditional and customary practices, as part of the State's due diligence in ensuring exchanges are fair and reflect the interests of the public and Native Hawaiians.**

In addition to the general public's interest in the disposition of its public resources, the Native Hawaiian community also has a particular interest in the disposition and exchange of our public lands, much of which are "ceded" lands acquired without the consent of the Native Hawaiian people, and to which Native Hawaiians have never relinquished their claims. **OHA requests express provisions affirming that private lands exchanged for ceded or public land trust lands assume the ceded or public land trust lands character of the exchanged lands.**

Finally, OHA notes that Sb1309 would offer incentives to developers in the form of highly valuable land exchanges; OHA suggests that express minimum affordability standards be required to more adequately meet the demand of our residents.

Mahalo for the opportunity to testify.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 13, 2017 12:04 PM  
**To:** WTL Testimony  
**Cc:** bigwavetomatoes@gmail.com  
**Subject:** \*Submitted testimony for SB1309 on Feb 13, 2017 14:45PM\*

**LATE**

**SB1309**

Submitted on: 2/13/2017

Testimony for WTL/AEN on Feb 13, 2017 14:45PM in Conference Room 224

| <b>Submitted By</b> | <b>Organization</b>          | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|------------------------------|---------------------------|---------------------------|
| Jeanne Vana         | West Oahu County Farm Bureau | Support                   | No                        |

Comments:

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**Senate Committee on Water & Land and Senate Committee on Agriculture & Environment**

February 13<sup>th</sup>, 2017 2:45pm

**Testimony IN SUPPORT of SB 1309 by Anthony Aalto**

Aloha Chair Rhoads, Chair Gabbard, Vice Chair Riviere and Members of the Committees.

I am testifying in my capacity as Chair of the O'ahu Group of the Sierra Club and on behalf of our 8,000 members and supporters in whose name I urge you to pass this bill out of your committees.

In addition to the goals of securing ag land for farming and promoting the construction of affordable housing, both of which the Sierra Club supports, this bill would help leverage the investment in the HART rail project to promote smart growth.

The Sierra Club has supported the rail project for one reason above all – for the opportunity it provides to change our development patterns.

By facilitating walkable and bikeable neighborhoods along the rail route the HART project will allow the construction of dense housing with much-reduced needs for car parking – which could reduce the construction cost per apartment by as much as \$40,000. The rail project will allow families to get rid of at least one car, helping them realize savings of thousands of dollars a year. Above all, it will reduce the demand for single-family homes that has been driving the frenzy to build large-scale suburban sprawl projects such as Ho'opili and Koa Ridge on some of our most productive farmland. And that, in turn, will make our society less car-dependent and thereby reduce the demand for imported oil.

We note that some of the elected representatives of the Neighbor Islands have been amongst those most reluctant to support the HART project. This is doubtless because they see little benefit to their own constituents. This bill provides an opportunity for residents of all the islands to participate in the benefits of rail without having to pay a penny for it. And in return the residents of O'ahu will be able to help preserve farmland across the state that is vital to achieving our goal of doubling the amount of locally grown food by 2020. There should not be any division between the islands on this issue: we are all paddling the same canoe.

Mahalo.



P.O. Box 253, Kunia, Hawai'i 96759  
Phone: (808) 848-2074; Fax: (808) 848-1921  
e-mail [info@hfbf.org](mailto:info@hfbf.org); [www.hfbf.org](http://www.hfbf.org)

February 13, 2017

HEARING BEFORE THE  
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT  
SENATE COMMITTEE ON WATER AND LAND

**TESTIMONY ON SB 1309**  
RELATING TO LAND EXCHANGE

Room 224  
2:45 PM

Aloha Chairs Gabbard and Rhoads, Vice Chair Riviere, and Members of the Committees:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

**HFB strongly support SB1 309** providing a mechanism for land exchange to stabilize agriculture's access to land.

Tenured access to lands is important for viable agricultural operations. Assurance of access to lands encourages investment and commitment to long term operations. Hawaii has many multigenerational farm operations. Expansion of these types of operations will require assurance to land and water.

This measure addresses one of these needs – land. The exchange process proposed is a good use of resources. Actual cash expenditures can be used for infrastructure improvements and other incentives that are inevitable. Land alone will not ensure a viable agricultural enterprise.

HFB respectfully requests your strong support of SB 1309 to advance agriculture into the next generation.

Thank you for the opportunity to provide testimony on this measure.



**Food Company Hawaii**  
1116 Whitmore Avenue • Wahiawa, Hawaii 96786



February 13, 2017

*Via Email Transmittal: [TRATestimony@capitol.hawaii.gov](mailto:TRATestimony@capitol.hawaii.gov)*

Written Testimony of Daniel X. Nellis, General Manager of Dole Food Company Hawaii

IN SUPPORT OF S.B. 1309 RELATING TO AGRICULTURAL LAND EXCHANGE

SENATE COMMITTEES ON

AGRICULTURE AND ENVIRONMENT

and

WATER AND LAND

February 13, 2017

2:45 pm, Room 224

Dear Chair Gabbard and Members of the Senate Committee on Agriculture and Environment, & Chair Rhoads and Members of the Senate Committee on Water and Land:

Dole Food Company supports this bill, which facilitates achievement of the State of Hawaii's goals for promotion of diversified agriculture and agricultural self-sufficiency.

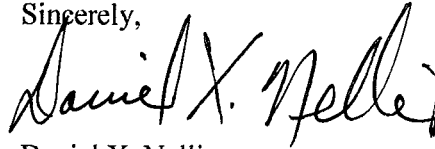
Dole has conducted extensive agricultural operations in Hawaii for over 150 years and is one of the world's largest producers of food products. While it is common to hear romantic phrases about sustainability and farm to table agricultural bounty, we know that agriculture is a difficult business, especially for small farmers. Dole maintains one of the last two pineapple plantations in Hawaii, and as a local company that has been facing the challenges of sustaining viable diversified agriculture and pineapple operations in Hawaii, we appreciate the premise of this bill for the State to play an active role in supporting and subsidizing local farming.

Sincere efforts to achieve the Constitutional obligation to promote diversified agriculture and food security for the benefit of Hawaii residents, must include bold and creative initiatives and subsidies, beyond regulatory and zoning restrictions which do not grow crops. State acquisition of large tracts of prime agricultural lands for leasing to farmers would promote agriculture and mitigate some of the high costs of operations for local farmers.

Dole Food Company is currently marketing close to 20 thousand acres of agricultural lands in Central Oahu and the North Shore. While purchase and sale of ag lands for cash at fair market value is normal and customary, we understand the realities of budgetary constraints and balancing that is a part of allocating limited State funds among many mandates and important, competing priorities. Exchanges of State lands for desired agricultural lands increases the tools and ability of the State to achieve its purpose of promoting diversified agriculture. Dole Food Company would be very open to and interested in considering fair exchanges of zoned lands for Dole ag land, and urban designation of the State lands, with appropriate infrastructure, would maximize their exchange value to significantly increase the agricultural land acreage obtained by the State. It is unlikely that we would be interested in acquiring other ag lands through an exchange of Dole ag lands.

For these reasons, we urge these Committees to support this bill as a creative initiative supporting Hawaii's important diversified agriculture goals.

Sincerely,

A handwritten signature in black ink that reads "Daniel X. Nellis". The signature is written in a cursive, flowing style.

Daniel X. Nellis  
General Manager  
Dole Food Company Hawaii



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Bennette Misalucha

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**OUR MISSION**  
HCIA is a Hawaii-based non-profit organization that promotes modern agriculture to help farmers and communities succeed. Through education, collaboration and advocacy, we work to ensure a safe and sustainable food supply, support responsible farming practices and build a healthy economy.

**TESTIMONY FROM BENNETTE MISALUCHA, EXECUTIVE DIRECTOR**

**In Support of SB 1309  
Relating to Land Exchange  
Allows the governor to negotiate land exchanges to acquire lands that are suitable  
for long-term diversified agricultural production**

**SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT AND  
SENATE COMMITTEE ON WATER AND LAND**

February 13, 2017, 2:45 p.m.  
Conference Room 224



Chairs Gabbard and Rhoads and members of the committees:

The Hawaii Crop Improvement Association (HCIA) is a Hawaii-based non-profit organization that promotes modern agriculture to help farmers and communities succeed. Through education, collaboration, and advocacy, we work to ensure a safe and sustainable food supply, support responsible farming practices, and build a healthy economy.

**HCIA supports SB 1309**, which seeks to allow the governor to negotiate land exchanges to acquire lands that are suitable for long-term diversified agricultural production.

This bill will support the goal to double local food production by 2020. Additionally, it offers a vehicle for the State to address Hawaii's need for workforce and affordable housing.

We encourage the committee to pass SB 1309. Thank you for your consideration of our comments

Respectfully submitted,

Bennette Misalucha  
Executive Director





**LATE**

February 12, 2017

Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair  
Senate Committee on Water and Land

Senator Gabbard, Chair  
Senator Gil Riviere, Chair  
Senate Committee on Agriculture and Environment

**Support of SB 1309 Relating to Land Exchange. (Allows the Governor to negotiate land exchanges to acquire lands that are suitable for long-term diversified agricultural production. Requires a report to the legislature.)**

**WTL/AEN Hrg: Monday, February 13, 2017, 2:45 p.m., Conf. Rm. 224**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF **supports SB 1309**, which will facilitate land exchanges, for the purpose of State acquisition of private lands that are suitable for long-term diversified agricultural production by the State or its lessees, in exchange for state lands to be acquired by private parties for building affordable, workforce, and other housing for Hawaii residents, and other mixed-use developments.

**SB 1309.** The purpose of this measure is to allow the Governor to negotiate land exchanges, in accordance with Chapter 171, Hawaii Revised Statutes; and submit a report to the Legislature of the negotiated land exchanges for final Legislative approval. It is the intent of this bill is to enable land exchanges which address both the State's agricultural and housing crises by: (1) Obtaining large tracts of private agricultural lands, which are suitable for the State to lease to farmers for diversified agriculture; and (2) Providing suitable urban lands to private parties for expeditious development of affordable housing, workforce housing, and market housing units for Hawaii residents, and mixed use commercial and accessory uses within areas already designated for transit-oriented development and other appropriate urbanized areas.

**LURF's Position.** LURF understands that land exchanges in other states, including exchanges of state lands for privately owned lands, have been successfully implemented to meet the needs of, and mutually benefit both government and private parties, in areas of conservation, economic growth, ecology, and recreation.

Currently, there are unique opportunities for the State to acquire more agricultural lands. Large tracts of agricultural land, including those formerly used for pineapple and sugar cane, are now fallow, and provide exceptional opportunities for the State to fulfill the intent of the Hawaii State Constitution regarding diversified agriculture and agricultural self-sufficiency through acquisition of suitable agricultural land for long-term State leases for diversified, bona fide agricultural operations to increase agricultural production.

At the same time, the development of more housing for Hawaii residents is constrained by the lack of available, entitled urban lands for housing and mixed-use projects. Various State studies have confirmed that the lack of suitable, entitled lands for development of appropriate housing is a major contributing factor to the housing crisis; and substantial obstacles and delays in entitling such lands result in discouraging or delaying housing and mixed-use developments, resulting in reduced available housing supply, which increases housing prices and the lack of affordable housing.

Under the circumstances, the land exchanges as proposed in this measure, present a unique and viable opportunity to address the many agricultural and housing issues facing the State and a win-win situation where the State will be able to negotiate a mutually beneficial exchange of its developable state lands for housing in exchange for privately owned agricultural lands which would allow the state to control and provide access for more farming and agricultural operations.

LURF would respectfully recommend a further amendment to this measure, which would allow the Governor and the Department of Planning and Permitting to consult so that the county zoning of the urban lands to be exchanged shall be consistent with the planned future housing and/or mixed use of the property.

**Conclusion.** SB 1309 facilitates land exchanges to be negotiated by the Governor and approved by the Legislature; which ideally addresses the State's agricultural and housing needs, goals, objectives and purposes. The exchange of state and private lands, will make more agricultural lands available to farmers; and will utilize private expertise in housing and mixed use development to provide more housing for Hawaii's residents.

For the above reasons, LURF **supports SB 1309** and respectfully urges your favorable consideration.

Thank you for the opportunity to present testimony regarding this measure.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 13, 2017 9:04 AM  
**To:** WTL Testimony  
**Cc:** alan@prloffice.com  
**Subject:** \*Submitted testimony for SB1309 on Feb 13, 2017 14:45PM\*

**LATE**

**SB1309**

Submitted on: 2/13/2017

Testimony for WTL/AEN on Feb 13, 2017 14:45PM in Conference Room 224

| <b>Submitted By</b> | <b>Organization</b>    | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|------------------------|---------------------------|---------------------------|
| Alan Gottlieb       | Ponoholo Ranch Limited | Support                   | No                        |

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 13, 2017 8:53 AM  
**To:** WTL Testimony  
**Cc:** jerryo@hawaii.edu  
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**LATE**

**SB1309**

Submitted on: 2/13/2017

Testimony for WTL/AEN on Feb 13, 2017 14:45PM in Conference Room 224

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Jerry Ornellas      | Individual          | Support                   | No                        |

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 12, 2017 3:42 PM  
**To:** WTL Testimony  
**Cc:** pahinuik001@hawaii.rr.com  
**Subject:** Submitted testimony for SB1309 on Feb 13, 2017 14:45PM

**SB1309**

Submitted on: 2/12/2017  
Testimony for WTL/AEN on Feb 13, 2017 14:45PM in Conference Room 224

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Kathleen M. Pahinui | Individual          | Support                   | No                        |

Comments: Oahu is in desperate need of leasing ag lands to small and medium -sized farmers. And we are in desperate need of affordable housing. This will allow the state to swap out state lands for lands held by private companies and individuals to serve the greater good. This will help us get to food security and provide housing for our residents. Mahalo, Kathleen M. Pahinui

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