



DAVID Y. IGE
GOVERNOR

MIKE MCCARTNEY
DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
MIKE MCCARTNEY
Director

Department of Business, Economic Development, and Tourism
before the

**SENATE COMMITTEES ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM
AND
COMMERCE, CONSUMER PROTECION, AND HEALTH**

Monday, March 18, 2019
3:00 pm
State Capitol, Conference Room 414

In consideration of
HB 1229, HD1
RELATING TO FOOD SAFETY.

Chairs Wakai and Baker, Vice Chairs Taniguchi and Chang, and Members of the Committees.

The Department of Business, Economic Development and Tourism (DBEDT) **offers comments** on HB 1229, HD1, which seeks to ensure the continued viability of the State's sea salt manufacturing industry by providing education and support to local businesses regarding the Food and Drug Administration's industry guidance on colored sea salt.

DBEDT believes that to obtain FDA approval of the color additives used by Hawaii sea salt companies will be a lengthy and costly endeavor. Detailed research, studies and analysis by science and industry experts must be conducted and submitted to the FDA for review. DBEDT estimates the cost of engaging in this process would be a minimum of \$150,000. DBEDT also does not have the technical expertise to assess what is required of a study or evaluate its findings.

Thank you for the opportunity to testify.

Testimony for the Legislative Bill of State of Hawaii

HB 1229

Our company, H.K. Enterprise Group, Inc. (dba: Hawaii Kai Corporation), 100 Ulili Street, Kaunakakai, Molokai, HI 96748, is one of the largest producers of premium quality and traditional Hawaiian Black and Red sea salts. We started our operation on Molokai in 2004 and very quickly gained national and international repute and recognition, and we grow our business every year. This huge success of premium Hawaiian Black and Red sea salt created employment opportunities for many businesses in the State of Hawaii:

- (1) many jobs in Molokai
- (2) many jobs Kuai
- (3) many jobs in Oahu
- (4) successful many other distribution, retail, co-packing, restaurant and ingredient business within the state of Hawaii.

These businesses serve Hawaii's tourism, export and mainland markets, and have built up a very loyal customer base for the genuine Hawaiian Black and Hawaiian Red sea salt products.

In November 2015, FDA issued a guideline requiring the two colorants in Hawaiian black sea salt and Red sea salt (Activated Charcoal & Hawaiian Red Alaea clay) to be added to the list of approved colorants, which requires filing the Color Additive Petition (CAP) application with the FDA by the sea salt producers & suppliers. This will involve extensive FDA required lab tests and analysis, which are very expensive.

Note: These colorants have been used by consumers for centuries without any harmful effects to human consumption and were considered Generally Recognized as Safe.

FDA in their above-mentioned guidelines specifically called for "colorants" for "Hawaiian Black & Red sea salts", and specifically requires approval for coloring Hawaiian sea salts.

FDA's own tests conducted on many samples of our black & red sea salts showed no harmful elements present. However, we have to go through the long and expensive process of approval.

Since 2015, when the FDA guidance was first issued, the Hawaiian Black and Red sea salt business has suffered a gradual decline. If we do not comply with the FDA requirements this business will be completely destroyed in time, resulting in adversely affecting employments and export business for the state of Hawaii. (for all the opportunities mentioned in the first paragraph)

Everyone is waiting for the approval by the FDA so that they can continue buying genuine Hawaiian Black and Red sea salt - including influential retailers such as Amazon, Whole Foods, and many others who doesn't want to get in trouble with FDA.

Hawaii Kai Corporation itself has suffered substantial drop in its revenue and hence reduced its employment in Hawaii and also abandoned future plans for expansion and additional employments.

The cost of a successful CAP application process with FDA is very expensive. For small businesses such huge cash outlay will be very impractical and destructive, especially with the major revenue drop that the Hawaiian salt industry is suffering resulting from the current restrictive guidelines by FDA on the Black and Red Hawaiian sea salts.

Thank you for your kind consideration and approval of this bill to save two of Hawaii's popular and traditionally important products.

Following is our contact information, if you need clarification any points or need more explanation.

CONTACT INFORMATION:

George Joseph
Mobile: (858) 405-8284
gjoseph@hawaiiikaico.com

Molokai Operations
100 Ulili Street, Kaunakakai, HI 96748

Attachments:

1. Estimated Cost of CAP Application Process and Comments
2. Another Testimony from one of the influential distributors

**Hawaiian Red and Black Sea Salt
Color Additive Petition (CAP) Application
Estimated Expense**

As of Feb 27, 2019

Detailed Lab testing of Activated Charcoal and Red Alaea (as specified by FDA)	\$128,894
CAP application fees to FDA (\$3,000 per application)	\$6,000
Review, study, evaluation and submission	\$15,000
Approximate Total	\$149,894

Note:

This is the estimated total cost to have Hawaiian Red Alaea and Activated Charcoal listed as approved colorants for Hawaiian Black and Red sea salts. Even though these items have been consumed safely by humans for centuries without any known adverse health issues, FDA insists these items to be added to the approved colorants, **specifically referring to Hawaiian Black and Red Sea salts**, by going through a very expensive and tedious CAP process.

If we fail to take care of this now, it is possible that Hawaiian Red and Black sea salts will be banned from usage by the FDA forever. Consumers in Hawaii and in other places will be deprived of two of their favorite products.

Consequently, it will adversely affect a few businesses and employments, which each business will overcome in time.

However, the traditionally and culturally important two Hawaiian products will become prohibited items, and will disappear from the culture forever.



Testimony for the Legislative Bill of State of Hawaii

HB 1229

Year 2019

Our company, Woodland Foods, 3751 Sunset Ave, Waukegan, IL 60087, is one of the largest suppliers and distributors of premium dry agricultural product, spices and herbs to the US markets in the food service and retail food markets. We have been buying genuine Hawaiian Black and Hawaiian Red sea salt products from Hawaiian manufacturers and suppliers and has been an important part of our portfolio of products from around the globe.

However, due to the sensitivity to the FDA guideline issued in 2015 we started feeling the impact of losing large and promising opportunities to sell Hawaiian Black and Red sea salts. A recent such loss was a large long-term opportunity to sell to one of the largest retailers in the world. The FDA guideline issued in November 2015 requires the two colorants in Hawaiian black sea salt and Red sea salt (Activated Charcoal & Hawaiian Red Alaea) to be added to the list of approved food colors. This process requires filing the Color Additive Petition (CAP) application with the FDA by the manufacturer and suppliers. This process requires extensive and expensive lab tests and analysis, which are specified by FDA policies.

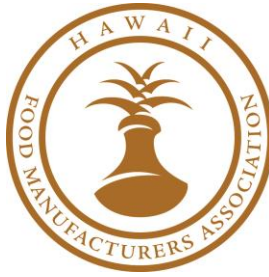
Hawaiian sea salts are very popular in the USA and around the world, which markets we serve. The Hawaiian Black Sea Salt and Hawaiian Red Sea Salt are two most popular sea salt products.

This large, popular retailer influences trends around the world and are reluctant to buy these two very popular Hawaiian products due to a procedural technical requirement from FDA. This is an indication that if we do not comply with FDA's requirements, these two products will be soon banned forever. We will lose these very safe, excellent and consumer accepted products, and it will definitely be replaced by other sea salt products from a different region or country.

We do see opportunities for the Hawaiian Black and Red sea salt products, and, we do encourage and support this FDA process, and very much looking forward to continuing and to increasing our business with Hawaiian Black sea salt and Hawaiian red sea salt.

If you need to contact us, please feel free to do so.

Name: Paul Nagy, VP Supply Chain, Phone: 1-847-693-7575



Testimony to the Senate Committee on Energy, Economic Development & Tourism and
Committee on Commerce, Consumer Protection & Health
Monday, March 18, 2019 at 3:00 PM
Conference Room 414, State Capitol

RE: HOUSE BILL 1229 HD1 RELATING TO FOOD SAFETY

Aloha Chairs Wakai and Baker, Vice Chairs Taniguchi and Chang, and Members of the
Committees:

The Hawaii Food Manufacturer's Association (HFMA) **supports** HB 1229 HD1. HFMA is a non-profit organization of approximately 150 members that have been promoting Hawaiian grown or manufactured products since 1977. HFMA works to increase the understanding and appreciation of the unique flavors, quality, and care that go into the production of Hawaii's fine foods and beverages represented by our membership.

FDA mandates for required testing of an already established food safe product will put a number of Hawaii's small businesses, their employees, and Hawaii's economy at risk for loss of income. It is likely that many of the HFMA members affected will likely not survive without financial assistance as the cost of \$150,000 for the required testing is not something most businesses would be able to endure. HFMA members like Hawaii Kai Corporation and For J's Hawaii and Salty Wahine help account for millions in revenue. This bill provides necessary support to keep these sustain these companies in Hawaii – it is imperative that Hawaii does not lose another industry to foreign competition.

Thank you for the opportunity to testify.



1928 Republican Street Honolulu, HI 96819 Phone: (808) 845-9868 Fax: (808) 848-7848

Chairs Wakai and Baker, Vice Chairs Taniguchi and Chang, and Members of the Committees

My name is Jimmy Chan and I own and operate the Hawaiian Chip Company. I support HB 1229 because funding to assist with the testing made mandatory by the FDA will help many Hawaii companies. The manufacturers of the Red and Black Hawaiian salts have the opportunity to generate millions in export revenue as it is a superior product to a similar product from Himalaya, that is infiltrating our stores around the world and even in Hawaii.

Not having the funding to have the Red and Black clays tested for FDA approval will eliminate companies like the Salty Wahine, Hawaii Kai, and For J's to name a few. While my company does not use this product it will suffer indirectly because the aforementioned companies generate a lot of traffic for the Hawaii food sections in many of the national and international trade shows I attend with them. Neal Arakaki of Jaxie Corporation organizes many of the trade shows in Japan to promote Hawaii export opportunities to a market with huge potential for sales. He feels that there are millions of dollars in export revenue for just the Red and Black Hawaiian Salts alone. He also recognizes the importance and sees the benefit of having such high demand products in the Hawaii pavilions that have been set up.

Thank you for the opportunity to testify.

Testimony for the Legislative Bill of State of Hawaii HB1229 HD1

Year 2019

I currently work for H.K. Enterprise Group, Inc. (dba: Hawaii Kai Corporation), 100 Ulili St, Kaunakakai, HI 96748 as the Operations Manager. I started with the company back in 2004.

I also wear the hat of an independent salt farmer for our business called Psalty Acres which was set up by Hawaii Kai Corporation under the Salt Master Guild program. The idea was to help equip and train those with large parcels of lands not being utilized, for example leased land from Department of Hawaiian Homelands, to start a salt farm business and diversify their land use and income. Because we had homestead lands, my wife and I decided to sign up for the program. With the approval of DHHL we now have 200 salt boxes (evaporators) on our property that produced about 1000#s of salt a month on sunny months.

In the past we'd normally hire about 2 workers to help us on the salt farm when production was in full swing. Later as the demand grew, we expanded to about 500 salt boxes that would yield about 2500#s a month and hired about 4 workers.

A company that hires 2-4 workers may not seem like a lot but everything is relative. With Molokai's oppressed economic state, with a high percentage on government assistance, limited job opportunities and limited small businesses, every job counts and has an impact on people's lives.

In the past several years the salt demand has become less and less largely due to the FDA requirement for the Black and Red salts of Hawaii Kai Corp. These two salts are the leading sales for the company.

As of today, we are not producing any salts at all for Hawaii Kai Corporation. All 500 boxes have been put on hold and shut down for

production. We are basically in a maintenance mode which is unfortunate.

As a side note, 2 of my brothers and I just recently opened up a restaurant called Hiro's Ohana Grill on the grounds of Hotel Molokai on July 17, 2017. We currently employ about 40 employees at the restaurant, mostly part time and I am able to see firsthand the kind of impact it has on people's lives, especially in Molokai. By the way, we also use Hawaii Kai Corporation salts at our restaurant.

All that to say, one job lost on Molokai is way too much to begin with and that we cannot afford.

I strongly urge the State to consider helping to fund this FDA application process. I believe it will benefit us and the many other businesses impacted because of this.

Thank you for your consideration and approval of this bill.

Below is my contact information:

Cameron K. Hiro
PO Box 414, Hoolehua, Molokai, HI 96729
808-658-0433

Testimony for the Legislative Bill of State of Hawaii

SB 1497

Year 2019

My name is Pamela Brousseau, I have been an Independent Sales Representative to the spice and seasoning food Industry for over ten years. My customers are suppliers and distributors of premium spice and herb products to Hawaiian, US markets and export markets. I have been selling genuine Hawaiian Black and Hawaiian Red sea salt products to Hawaiian manufacturers and suppliers. Our customers love the products.

However, due to the FDA guideline issued in 2015 I have lost significant and promising opportunities to sell Hawaiian Black and Red sea salts. And the FDA Guidance has caused my Hawaiian customers; retailers, distributors, food service, ingredient co-packers, to also loose income and the ability to sell a much loved local Hawaiian sea salt product.

The FDA guideline issued in November 2015 requires the two colorants in Hawaiian black sea salt and Red sea salt (Activated Charcoal & Hawaiian Red Alaea Clay) to be added to the list of approved food colors. This process requires filing the Color Additive Petition (CAP) application with the FDA by the manufacturer and suppliers. This process requires extensive and expensive lab tests and analysis, which are specified by FDA policies.

Hawaiian sea salts are very popular in Hawaii and around the world, which are markets I serve. The Hawaiian Black Sea Salt and Hawaiian Red Sea Salt are the two most popular sea salt products I represent.

Due to the Guidance many of my Hawaiian customers are reluctant to buy these two very popular Hawaiian products due to a procedural technical requirement from FDA. This is an indication that if we do not comply with FDA's requirements, these two products will be soon banned forever. We will lose these very safe, excellent and consumer accepted products, and it will definitely be replaced by other sea salt products from a different region.

I do see great demand and opportunity for the Hawaiian Black and Red sea salt products, and, I do encourage and support this FDA process, and very much looking forward to continuing and increasing my business with Hawaiian Black sea salt and Hawaiian red sea salt.

If you need to contact us, please feel free to do so.

Name: Pamela Brousseau Phone: 1-619-246-3259



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the Senate Committees on Energy, Economic Development &
Tourism and Commerce, Consumer Protection & Health
Monday, March 18, 2019 at 3:00 P.M.
Conference Room 414 State Capitol**

RE: HB1229 HD1, RELATED TO FOOD SAFETY

Chairs Wakai and Baker, Vice Chairs Taniguchi and Chang, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **supports** H.B. 1229 HD1 which appropriates funds to the Department of Business, Economic Development, and Tourism to provide education and support to local businesses regarding the Food and Drug Administration (FDA)'s industry guidance on colored sea salt.

The Chamber is Hawaii's leading statewide business advocacy organization, representing 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Additionally, as the exclusive representative in Hawaii for the National Association of Manufacturers, the Chamber has created the Manufacturing in Hawaii Initiative. This initiative is led by the Manufacturing in Hawaii Group and made up of business leaders from various fields and industries. Its mission is to enhance the opportunities and competitiveness of doing business in Hawaii by becoming an advocate and voice for the manufacturing industry in the State of Hawaii.

Back in 2015, the FDA issued a guideline that required the two colorants in Hawaiian black sea salt and red sea salt to be added to the list of approved colorants. However, this also includes having to file out the Color Additive Petition application with the FDA, a process which can be very expensive, especially for small manufacturers of sea salt here in Hawaii.

Since this guideline was issued, the Hawaiian black and red sea salt business has suffered a gradual decline, and some companies, have had to resort to developing non-Hawaiian related products to insure continued growth of their companies. HB1229 HD1 would be a first step in helping these companies return to selling these two very important products at their stores.

Thank you for the opportunity to testify.

Testimony for the Legislative Bill of State of Hawaii HB1229 Year 2019

Our company, Salty Wahine Gourmet Hawaiian Sea Salts LLC, 1-3529 Kaumualii Highway, Hanapepe, Hawaii 96716, is a producer of premium quality Hawaiian Sea Salt products and traditional Hawaiian Black and Red sea salts. We started our operation on Kauai in 2008 and very quickly gained national and international recognition and 33 international product awards. Our business continues to grow every year and the success of premium Hawaiian Black and Red Alaea salt created employment opportunities for many businesses in the state of Hawaii. Salty Wahine lost her Black Salt and Red Alaea Salt orders from the Kauai Costco in 2016 due to the new requirement to get a Color Additive Petition for Red Alaea and pharmaceutical grade charcoal. The Costco Lihue salt shelves are packed with Himalayan Salt now. Salty Wahine has participated in Hawaii on the Hill for the last five years and kept all Hawaii Senators and Congressional representative apprised of the situation with Red Alaea and Hawaiian Black Sea Salt each year.

- FDA issued a list of approved colorants in November 2015. Pharmaceutical grade bamboo and coconut charcoal and Red Alaea clay were not added to the list. Previously the FDA had a list of colorants not allowed to be used. Pharmaceutical grade bamboo and coconut charcoal and Red Alaea Clay were not on the list of not approved colorants.
- Prior to November 2015 pharmaceutical grade bamboo and coconut charcoal and Red Alaea Clay were not on the list of banned colorants.
- Per FDA regulations a Color Additive Petition (CAP) is required for Charcoal and Red Alaea Clay. The fee for submitting a CAP is \$3000. \$6000 required for the two petitions.
- Hawaii Kai started the testing the Charcoal and Red Alaea clay and working with the FDA to get a CAP submitted.
- The FDA went to Hawaii Kai's Factory to test their pharmaceutical grade charcoal and red Alaea clay and found the product was fit for human consumption.
- The requirements for the color additive petition (CAP) can be found under Title 21 of the U.S. Code of Federal Regulations par 71.1 (21 CFR 71.1)
- Salty Wahine attended a meeting at the FDA offices in June 2017 at the University of Maryland. Salty Wahine was in Washington, attending Senator Hirono's Hawaii of the Hill, Manufacturing event.
- The FDA at that meeting reviewed for whatever reason the oversight where pharmaceutical charcoal and Red Alaea were excluded from the approved colorant list. The FDA recommend we submit a FOIA to get a copy of a similar CAP 4C0299.
- Salty Wahine submitted the FOIA and we received CAP 4C0299 in July 2017 a sample colorant additive petition to use as an example.
- Hawaii Kai encountered numerous problems in trying to find a company to conduct the multiple testing requirements of the charcoal and red Alaea Clay to submit for the two required CAP's.

- The University of Hilo Geology Department was utilized to conduct analysis of Hawaii Kai red Alaea samples in March 2018.
- Salty Wahine submitted all data collected by Hawaii Kai and University of Hilo analysis for the pre-CAP "Color Master File" in June 2018.
- The FDA required further information: per the FDA chemistry guidance, PAH exposure, and dietary exposure. The Salt Works chemical analysis submitted with the Color Master file was considered inadequate due to the lack of detailed data and analysis.
- We found ourselves not even close to having the required detailed requirements to submit a CAP petition for pharmaceutical grade charcoal and red Alaea.
- George Joseph, Hawaii Kai, continued searching for a company to complete all the required testing, analysis, and dietary exposure FDA requirements June 2018.
- George Joseph, Hawaii Kai, found a company, Intertek in Champaign, IL, that was willing to submit an invoice to conduct the required testing. A proposed invoice quote NM20181211-121 was received in Oct 2018. The invoice will be included with this testimony to show the list of testing required. The cost for the pharmaceutical charcoal testing is \$88,622 and red Alaea testing \$40,272 with a total of \$128,894.
- Salty Wahine and Hawaii Kai will receive no competitive advantage in manufacturing Black Salt and Red Alaea Salt when the CAP is approved. All companies will be able to make and sell black and red salt.
- Intertek is working with the FDA to determine the number of tests required – Feb 2019. The cost for the testing could be reduced if fewer tests are required.
- Salty Wahine and Hawaii Kai is requesting that a company familiar with FDA CAP petitions be contracted to receive the Intertek analysis and complete the two CAP's per FDA CFR 71.1.
- Our best estimate to compete the two Caps' would cost at least \$150,000.
- A copy of Intertek's most current quote will be submitted for the committee to review.
- The Hawaii House and Senate's review of this issue is greatly appreciated. The State's assistance is required to continue the availability of Black and Red Alaea Salt for Hawaiian Culture and Religious experience.

HAWAIIAN PA'AKAI, INC.
1718 HOE STREET
HONOLULU, HI., 96819-3124
PHONE: (808) 841-3511 FAX: (808) 841-3522
Email: dio@hnpaakai.com

LATE

March 15, 2019

Dear Sirs/Mamm,

Hawaiian Pa'akai Inc. was founded by Mr. Joe Lee in the early 1960's. The original salt ponds at Keehi Lagoon, location still exists today but was shut down years ago due to water quality. Through the years Mr. Lee with his know how, continues to provide sea salt using his brand name which still is in the market throughout the U.S.A and Internationally. With his knowledge of sea salt, he found a way to combine Alaea clay and sea salt. Alaea sea salt, popular in Hawai'i, is also known worldwide!

The alaea clay is harvested on the mountains of the island of Kaua'i, where it has never been touched by any agricultural or industrial material / chemicals. The process started in 1970 which today has improved. Hawaiian Pa'akai Inc. is not the only producers of Alaea sea salt,, which will affect Hawaii's economy and well being.

In 2009 the State of Hawai'i Board of Health (Food) was provided samples of Alaea Clay and Sea Salt to be tested for metals and chemicals. Results were negative.

Today we produce in excess of 10,000 lbs/month of Alaea Sea Salt which is distributed to distributors throughout the state and mainland. We supply local stores, mainland restaurants and individuals who continue to use Alaea Sea Salt. The Old Time Brand Alaea Sea Salt appears on Amazon, world Market and Cost Plus what a good way to spread the "Aloha".

With your help we (all makers of Alaea Sea Salt) can remain on the shelf where it belongs.

This bill affects us all; Alaea Sea Salt has been in Hawaii forever, so let's share it!

Thank you,



Alfred G. Agbayani
Operations Supervisor
Hawaiian Pa'akai, Inc.