HAWAII STATE ENERGY OFFICE
STATE OF HAWAII

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GOVERNOR

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Testimony of
MARK B. GLICK, Chief Energy Officer

before the
HOUSE COMMITTEES ON
AGRICULTURE & FOOD SYSTEMS
AND
ENERGY & ENVIRONMENTAL PROTECTION

Wednesday, March 19, 2025
10:30 AM
State Capitol, Conference Room 325 and Videoconference

Providing Comments on
SB 443, SD1

RELATING TO AGRICULTURAL LANDS.

Chairs Kahaloa and Lowen, Vice Chairs Kusch and Perruso, and Members of the Committees, the Hawai‘i State Energy Office (HSEO) respectfully offers comments on SB 443, SD1, which would require proposed solar energy projects that are applying for a special use permit on lands with soil classified by the Land Study Bureau (LSB) with productivity rating of “B and C” to obtain an additional certification from the Department of Agriculture stating that the lands are also used for a farming operation.

HSEO understands the importance of preserving agricultural productivity and emphasizes that the potential synergies between energy and agriculture must be encouraged when appropriate. However, HSEO raises concerns that the statutory change proposed by this bill would add complexity to an intricate and rigorous land use process, which already requires County Planning Commission and State Land Use Commission approval and could raise questions regarding jurisdictional oversight and procedural requirements.

HSEO stresses that without a bill preamble, it is difficult to assess the specific problem the bill intends to address. Further, it has been noted that a soil classification of “B” or “C” does not necessarily mean that the parcel has all the necessary attributes for successful use in commercial agriculture. As pointed out in the *Soil Classification*

Systems and Use in Regulating Agricultural Lands Study Final Report recently filed with the Legislature:

> "...The current Land Study Bureau (LSB) model is based on data and methodologies from the 1960s and 1970s, which fail to reflect Hawai‘i's contemporary agricultural landscape, economic conditions, and soil science advancements. This limits the model's effectiveness in supporting accurate, data-driven agricultural policy and land-use decisions".[1]

For agricultural lands that have remained fallow and unproductive for extended periods, renewable energy development could immediately bring mixed-use opportunities, adding employment and revenue opportunities while also allowing for agricultural production. Further, energy development can provide vegetation management to mitigate wildfire risk. It is possible that infrastructure supported by the energy projects – irrigation water and security, for example – could improve the agricultural productivity of such lands.

Currently, under Hawai‘i Revised Statutes (HRS) section 205-2(d)(6), solar energy facilities placed on class B or C land are permissible uses if they occupy less than ten percent of the land or less than 20 acres, whichever is less. If the solar energy facility is to occupy more land, a special use permit is required:

> (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;[2]

In HRS section 205-4.5 (Permissible Uses within the agricultural districts), subparagraphs (a) (20) and (21) reiterate the requirements listed above regarding land coverage and special use permits. In addition, projects exceeding twenty acres or ten percent of the land have an additional requirement—they must make the area occupied by the solar energy facility available for compatible agricultural activities.

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[1] *Soil Classification Systems & Use in Regulating Agricultural Lands Study Final Report*, DBEDT, December 18, 2024, https://www.capitol.hawaii.gov/sessions/session2025/bills/DC174_.pdf
[2] Hawai‘i Revised Statutes §205-2, https://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0205/HRS_0205-0002.htm

(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 special use permit is granted pursuant to section 205-6; provided that 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;

(21) Solar energy facilities on lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating B or C for which a special use permit is granted pursuant to section 205-6; provided that:

(A) 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...[3]

In HRS section 206 (Special permit), the requirements for county planning commission permits and, in some cases, additional approval by the State Land Use Commission, are set forth:

(a) Subject to this section, the county planning commission may permit certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified. Any person who desires to use the person's land within an agricultural or rural district other than for an agricultural or rural use, as the case may be, may petition the planning commission of the county within which the person's land is located for permission to use the person's land in the manner desired. Each county may establish the appropriate fee for processing the special permit petition. Copies of the special permit petition shall be forwarded to the land use commission, the office of planning and sustainable development, and the department of agriculture for their review and comment.

(b) The planning commission, upon consultation with the central coordinating agency, except in counties where the planning commission is advisory only in which case the central coordinating agency, shall establish by rule or regulation, the time within which the hearing and action on petition for special permit shall occur. The county planning commission shall notify the land use commission and such persons and agencies that may have an interest in the subject matter of the time and place of the hearing.

[3] Hawai‘i Revised Statutes §204-4.5, https://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0205/HRS_0205-0004_0005.htm

> (c) The county planning commission may, under such protective restrictions as may be deemed necessary, permit the desired use, but only when the use would promote the effectiveness and objectives of this chapter; provided that a use proposed for designated important agricultural lands shall not conflict with any part of this chapter. A decision in favor of the applicant shall require a majority vote of the total membership of the county planning commission.
>
> (d) Special permits for land the area of which is greater than fifteen acres or for lands designated as important agricultural lands shall be subject to approval by the land use commission. The land use commission may impose additional restrictions as may be necessary or appropriate in granting the approval, including the adherence to representations made by the applicant.
>
> (e) A copy of the decision, together with the complete record of the proceeding before the county planning commission on all special permit requests involving a land area greater than fifteen acres or for lands designated as important agricultural lands, shall be transmitted to the land use commission within sixty days after the decision is rendered.
>
> Within forty-five days after receipt of the complete record from the county planning commission, the land use commission shall act to approve, approve with modification, or deny the petition. A denial either by the county planning commission or by the land use commission, or a modification by the land use commission, as the case may be, of the desired use shall be appealable to the circuit court of the circuit in which the land is situated and shall be made pursuant to the Hawaii rules of civil procedure... [4]

HSEO appreciates the opportunity to highlight the current protections, requirements, and oversight already in place. We respectfully ask the committee's careful consideration of potential adverse impacts of SB 443, SD1 on existing processes, including questions regarding jurisdiction and potential unintended consequences in frustrating the addition of renewable projects that serve the public interest. HSEO continues to support initiatives that promote the synergy between dual-use agriculture and energy but cautions against this approach.

Thank you for the opportunity to testify.

[4] Hawai'i Revised Statutes §206, https://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0205/HRS_0205-0006.htm

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor

SHARON HURD
Chairperson, Board of Agriculture

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TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEES ON AGRICULTURE AND FOOD SYSTEMS AND ENERGY AND ENVIRONMENTAL PROTECTION

WEDNESDAY, MARCH 19, 2025
10:30 AM
CONFERENCE ROOM 325

SENATE BILL NO. 443, SENATE DRAFT 1
RELATING TO AGRICULTURAL LANDS.

Chairs Kahaloa and Lowen, Vice Chairs Kusch and Perruso and Members of the Committees:

Thank you for the opportunity to provide testimony on Senate Bill No. 443, Senate Draft 1 that requires that lands within the Agricultural District that have solar energy facilities must also obtain certification from the Department of Agriculture that the lands are also used for a farming operation as defined under Section 165-2. The Department of Agriculture (Department) offers comments.

The Department supports the concept of certifying the agricultural activity for a solar energy facility approved under Section 205-4.5(a)(21)(A) (emphasis added) The current statutory language follows:

"(21) Solar energy facilities on lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating B or C for which a special use permit is granted pursuant to section 205-6; provided that:
(A) <u>The area occupied by the solar energy facilities is also made available for compatible agricultural activities</u> at a lease rate that is at least fifty per cent below the fair market rent for comparable properties;"

To date, the primary "compatible agricultural activity" employed by solar energy facilities has been sheep grazing meant to control grass and shrubs. There is no explicit requirement that the sheep or any other agricultural use on land used for a solar energy facility have to be sold. Selling what is grown or raised is an obviously common practice for a commercial farming operation.

This weak existing requirement will change as the proposed amendment requires certification that the solar energy facility lands be used for a “farming operation” as defined under Section 165-2 (Hawaii Right to Farm Act):

“”Farming operation” means a commercial agricultural, silvicultural, or aquacultural facility or pursuit conducted, in whole or in part, including the care and production of livestock and livestock products, poultry and poultry products, apiary products, and plant and animal production for nonfood uses; the planting, cultivating, harvesting, and processing of crops; and the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment.” (emphasis added) This suggests that the term “commercial” that conditions the term “farming operation” has to be defined to allow the Department to objectively determine what qualifies as a commercial farming operation.

Further, the Department defers to the Land Use Commission and the Department of the Attorney General as to how this certification authority can be established within the Department of Agriculture.

Thank you for the opportunity to present our testimony.

Email: communications@ulupono.com

HOUSE COMMITTEES ON AGRICULTURE AND FOOD SYSTEMS
& ENERGY AND ENVIRONMENTAL PROTECTION
Wednesday, March 19, 2025 — 10:30 a.m.

Ulupono Initiative supports SB 443 SD 1, Relating to Agricultural Lands.

Dear Chair Kahaloa, Chair Lowen, and Members of the Committees:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food, renewable energy and clean transportation choices, and better management of freshwater resources.

Ulupono supports SB 443 SD 1, which requires that lands within the agricultural district that have solar energy facilities must also obtain certification from the Department of Agriculture that the lands are also used for a farming operation.

This bill strikes an important balance between Hawai'i's renewable energy goals and the preservation of productive agricultural land. By ensuring that solar facilities on class B or C agricultural lands maintain active farming operations, we protect food security while also allowing for clean energy development. The requirement that 90% of the total acreage of agricultural-energy enterprises be devoted to agricultural activity helps prevent the loss of valuable farmland to energy production alone.

Clear expectations and requirements for the use of class B and C agricultural lands are essential. Once diverted from agricultural use to other development, these lands can face significant barriers to returning to food production. The Department of Agriculture serving as the appropriate certification authority helps verify proper agricultural use and preserves these important lands.

This thoughtful approach to dual land use will benefit Hawai'i's agricultural community while supporting the state's transition to renewable energy sources.

Thank you for the opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs

To: The House Committee on Agriculture & Food Systems (AGR)
and
The House Committee on Energy and Environmental Protection (EEP)
From: Sherry Pollack, 350Hawaii.org
Date: Wednesday, March 19, 2025, 10:30am

In support of SB443 SD1 with proposed amendments

Aloha Chairs Kahaloa and Lowen, Vice Chairs Kusch and Perruso, and Committee members,

I am Co-Founder of the Hawaii chapter of 350.org, the largest international organization dedicated to fighting climate change. 350Hawaii.org **supports SB443 SD1** that requires that lands within the agricultural district that have solar energy facilities must also obtain certification from the Department of Agriculture that the lands are also used for a farming operation. 350Hawaii urges the Committees to adopt suggested amendments proposed by Hawaii Farmers Union United in their February 7, 2025 testimony to strengthen the objective of this measure toward preserving Hawaii's agricultural lands.

With the very limited amount of farmland available, it is important to ensure these lands are used properly. Protecting agricultural land means reducing our reliance on food imports and increasing food security. This is an effective strategy Hawaii must follow if we are to successfully tackle the climate crisis.

Agrivoltaics is an innovative approach that balances agricultural and renewable energy production goals. Incorporating solar arrays into farmland can be done successfully without sacrificing that farmland's arability, effectively allowing landowners to cultivate crops and generate clean energy harmoniously at the same time. Supporting these types of policies toward innovative partnerships, done correctly, and that both address protecting our climate and environment and enhancing our food security and resiliency, are a win:win for all.

Mahalo for the opportunity to testify in support of **SB443 SD1** with the proposed amendments from the Hawaii Farmers Union United that will strengthen the objective of this measure.

Sherry Pollack
Co-Founder, 350Hawaii.org

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March 19, 2025

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE & FOOD SYSTEMS
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

TESTIMONY ON SB 443, SD1
RELATING TO IMPORTANT AGRICULTURAL LANDS

Conference Room 325 & Videoconference
10:30 AM

Aloha Chairs Kahaloa and Lowen, Vice-Chairs Kusch and Perruso, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaiʻi Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaiʻi's voice of agriculture to protect, advocate, and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawaiʻi Farm Bureau supports SB 443, SD1, which requires that lands within the agricultural district that have solar energy facilities must also obtain certification from the Department of Agriculture (DOA) that the lands are used for a farming operation.

The loss of productive agricultural land to non-agricultural uses is a growing concern. Renewable energy development is an important priority, but it must be balanced with the need to preserve Hawaiʻi's limited farmland for food production. The state has set ambitious goals for both food and energy sustainability, and careful land use planning is necessary to ensure that agricultural lands continue to support local food production.

Farmland is often targeted for solar energy development because it meets many of the ideal criteria for solar installations, such as flat terrain, dry conditions, and proximity to infrastructure. However, once land is developed for large-scale solar projects, it is unlikely to return to agricultural use. This is especially concerning when high-quality agricultural lands are converted, as they are essential for Hawaiʻi's ability to increase food production and reduce reliance on imported food.

SB 443, SD1 seeks to address this issue by requiring certification that lands with solar energy facilities are also being used for farming. The Department of Agriculture is well suited as the certifying entity, given its expertise in agricultural production and its existing

programs for monitoring agricultural activity. Clear and measurable standards must also be established to ensure that farming operations are legitimate and not just nominal agricultural activity to meet compliance requirements.

We encourage further discussion to determine the best approach to ensuring that agricultural lands remain in active production while also accommodating renewable energy development, such as Agrivoltaics. Balancing these priorities is critical to the long-term sustainability of Hawai‘i’s agriculture and energy systems.

Thank you for the opportunity to testify on this measure.

HAWAI'I FOOD+ POLICY
Honolulu, HI 96813
food@purplemaia.org

March 18 2025

To: Chair Kirstin Kahaloa, Vice Chair Matthias Kusch, Chair Nicole Lowen, and Vice Chair Amy Perruso, and the House Committee on Agriculture & Food Systems and Energy & Environmental Protection

Subject: **SB 433**, Relating to Agricultural Lands

Aloha,

I am writing in **support** of SB 443 SD 1 which asks to seek permits on solar facilities on certain classified lands and requires an additional certification from the Hawai'i Department of Agriculture (HDOA) in order to ensure that farming activities are being conducted.

In 2021, the Ulupono Initiative published a white paper analyzed the impact of agricultural land when adding more renewable energy. A key finding was that if no action is taken to protect Class B and C agricultural lands, O'ahu will lose 50% of Class B and an estimated 20% of Class C lands. With the growing housing shortages, concerns about unsustainable agricultural practices and their impact on our environment, and climate change, Agrivoltaic Systems is a transition towards renewable energy and food production on the **same** lands.

Residing in one of the most isolated places in the World, land and agriculture in Hawai'i have far-reaching socio-economic, political, and cultural impacts. The development of solar facilities on agricultural lands does not need to displace agricultural activities, negatively impact agricultural lands where it is no longer productive for food, or limit community and stakeholder feedback at the State and County level.

The Food+ Policy internship develops student advocates who learn work skills while increasing civic engagement to become emerging leaders. We focus on good food systems policy because we see the importance and potential of the food system in combating climate change and increasing the health, equity, and resiliency of Hawai'i communities.

In 2025, the cohort of interns are undergraduate and graduate students and young professionals working in the food system. They are a mix of traditional and nontraditional students, including parents and veterans, who have backgrounds in education, farming, public health, nutrition, and Hawaiian culture.

https://www.ulupono.com/project-list/white-paper-switching-the-paradigm/

https://files.hawaii.gov/dbedt/op/lud/LUD%20website/SoilClassificationSystems&UseinRegulatingAgriculturalLandsStudy-FinalReport_12-2024ada.pdf

https://www.capitol.hawaii.gov/sessions/session2025/Testimony/SB443_TESTIMONY_WTL-EIG_02-07-25_.PDF

HAWAI'I FOOD+ POLICY
Honolulu, HI 96813
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I respectfully urge this committee to review and consider the amendments outlined by the Hawai'i Farmers Union United testimony on 02-07-25 based on the concluding remarks of the 2024 final legislature report :

"In closing, it is clear that embedding classification systems into regulatory structures is a political activity as it governs land use and can have significant economic impacts. A prime example is the current use of the LSB systems to regulate solar energy development, a purpose for which it was not designed." (2024, Soil Classification Systems & Use in Regulating Agricultural Lands Study Final Report)

I urge this committee to pass SB 443 SD 1.

Mahalo,
Lea iaea & the Food+ Policy Team
#fixourfoodsystem

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