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ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
ABBEY SETH MEYER
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON WATER, LAND AND OCEAN RESOURCES
Monday, February 9, 2009
9:00 AM
State Capitol, Conference Room 325

in consideration of
HB 127
RELATING TO LAND USE.

Chair Ito, Vice Chair Har, and Members of the House Committee on Water, Land and Ocean Resources.

Our office has no substantive issue with the proposed inclusion of the word "including" in Section 205-2(d)(1), Hawaii Revised Statutes (HRS). However, our office does not support the proposed addition of Section 205-2(d)(13), HRS, that makes mining activities a permissible use on all agricultural lands. Under the current statute, mining activities require a Special Permit in the State Agricultural District.

The State Special Permit process allows consideration of "unusual and reasonable" uses proposed in either the agricultural or the rural district that are not permissible by right. The Special Permit is the most appropriate mechanism where a proposed use that might directly conflict with existing or potential agricultural activity can be allowed through a public process. Extractive mining activities have the potential to impact large areas and could result in the loss or reduction of those areas for

agricultural uses. The State Special Permit process allows decision-makers and the public the opportunity to balance proposed activities with the potential loss or reduction of agricultural land.

Another approach would be to amend the law to state that if the County adopted a quarry or mining site ordinance, with full public input, which identified the location of specific sites, quarries or mines located on these sites would be permissible uses in the Agricultural District.

Thank you for the opportunity to testify.

LINDA LINGLE
Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

**TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON
WATER, LAND, AND OCEAN RESOURCES
MONDAY, FEBRUARY 9, 2009
9:00 a.m.
Room 325**

**HOUSE BILL NO. 127
RELATING TO LAND USE**

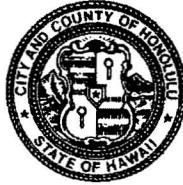
Chairperson Ito and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 127 that proposes to amend Section 205-2(d) (districting and classification of lands) and Section 205-4.5 (permissible uses within the agricultural districts) to include as a permissible use in the Agricultural District mining, processing, and storing of sand, rock, gravel, and other material for use in construction and agriculture. The bill also proposes to amend Section 205-5 (zoning) to exclude mining and ancillary activities from the uses for which counties have authority to further define and govern by zoning in the Agricultural District and transfers this authority to the State Land Use Commission. The Department of Agriculture opposes this measure. We believe the special permit process as defined in Section 205-6, HRS is the appropriate vehicle for reviewing applications for mining operations on a case-by-case basis in the Agricultural District and that, for proposed mining operations less than fifteen acres, the counties are the most appropriate zoning and regulating authority for these uses.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR



DAVID K. TANOUE
ACTING DIRECTOR
ROBERT M. SUMITOMO
DEPUTY DIRECTOR

February 9, 2009

The Honorable Ken Ito, Chair
and Members of the Committee on Water,
Land & Ocean Resources
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Ito and Members:

**Subject: House Bill 127
Relating to Land Use (Mining)**

The Department of Planning and Permitting **opposes** HB 127, which allows mining as a permitted use in the state agricultural district, and transfers county zoning powers for such mining operations to the state land use commission.

We are opposed on the basis of home rule, and because the bill lacks adequate controls. The counties are in charge of land use zoning. Currently, mining operations, including ancillary activities, are permitted in the state agricultural district only by special use permit. We just approved the permit for Makakilo Quarry. Issues reviewed under this permit process includes impacts to adjoining uses, dust and noise control, impacts to natural landmarks, reuse of land once the mining is exhausted, and traffic impacts.

As you know, Chapter 205 of the Hawaii Revised Statutes (HRS), sets forth minimum standards in the state agricultural district, and allows the counties to further define zoning requirements. Through the special use permit and conditional use permit processes, we evaluate each proposal on its specific circumstances, and can require modifications. At least one public hearing is involved allowing for community input. In contrast, this bill would allow mining as a permitted use in the state agricultural district with no allowances on conditions or restrictions are imposed.

Section 3 of the bill amending Section 205-5(a) of the HRS, states that the counties would no longer have zoning responsibility for mining in the state agricultural district; therefore, county zoning standards would be inapplicable. What process would the Land Use Commission (LUC) use to review, take action, and perhaps approve with conditions, any mining proposals?

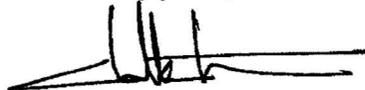
The Honorable Ken Ito, Chair
and Members of the Committee on Water,
Land & Ocean Resources
House of Representatives
Re: House Bill 127
February 9, 2009
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Lastly, mining is not a use that promotes agriculture. We are not convinced that mining and crop production are inherently compatible.

In short, we oppose this bill and recommend the filing of HB 127.

Thank you for the opportunity to testify.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'David K. Tanoue', with a horizontal line extending to the right.

David K. Tanoue, Acting Director
Department of Planning and Permitting

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hb127-kst.doc



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HB 127
RELATING TO LAND USE

House Committee on Water, Land and Ocean Resources

Public Hearing – February 9, 2009
900 a.m., State Capitol, Conference Room 325

By
David Callies, Richardson School of Law
Kem Lowry, Urban and Regional Planning
Peter Rappa, Environmental Center

HB 127 allows mining as a permitted use in the agricultural district. We emphasize that our testimony on this measure does not represent an official position of the University of Hawaii.

Within the four districts created by the State Land Use Law, there is no district specifically designated for mining. This bill would designate mining as an agricultural use and allow it in the agricultural district. We think that this designation is more appropriate here than in any of the other districts. Minerals are found where you find them and if you need them they should be extractable. With nearly half the land in agriculture, much of it not actually suitable for agriculture, it would be okay to allow mining. However, any mining in the agricultural district needs to be subject to some sort of impact assessment and mitigation. At a minimum, it should be subject to the county's grading and grubbing ordinance to insure at least some control over sediment that would be generated and perhaps to the state's EIS law, chapter 343.

Thank you for the opportunity to comment on this bill

**HB 127
RELATING TO LAND USE**

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

FEBRUARY 9, 2009

Chair Ito and Members of the House Committee on Water, Land & Ocean

Resources:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HB 127, "A BILL FOR AN ACT RELATING TO LAND USE." We support this bill.

The availability of sand, rock, gravel, and other materials are essential in the construction of public and private infrastructure throughout our island State. Hawaii's roads and highways, buildings, and other structures all rely on materials and aggregate from quarries for their construction. Should an adequate supply of these materials not be available locally, the cost to import these items will significantly increase the cost of constructing much needed infrastructure and other facilities.

This bill will streamline the regulatory process for the identification and development of quarries within the State Agricultural Districts. We believe that this measure represents a positive step towards enhancing the availability of these essential materials for the construction of both public and private infrastructure throughout Hawaii.

Based on the aforementioned, we respectfully request your favorable consideration on this bill. Thank you for the opportunity to testify.

TESTIMONY

House Committee on Water, Land and Ocean Resources
Re: HB 127 Relating to Mining

Chair Ito and Members of the Committee:

Hawaii Farm Bureau Federation on behalf of its farm and ranch families and organizations supports with amendments, HB127 including mining as a permissible use on agricultural lands.

HFBF recognizes the value of mining. Our industry utilizes the products of the mining industry in various ways including making of roads and other infrastructure on our farms and ranches. We also recognize the limited resource and the need to identify new sources of rock, gravel and other mining products and that many exist in lands classified as agriculture.

We also see the operation as one that can turn a problem to a valuable resource. Many of the lands are classified as C and D due to the rockiness of the land making it difficult to cultivate. Removal of the rocks can make these lands productive ..perhaps not just for conventional row crops but for orchards, pastures or other uses after the mining is complete.

Leaving these lands in a usable form is an important aspect to making best use of our land resources. In some cases, the lands may end up as a County Landfill. We accept such uses as a beneficial use of the land.

We respectfully request the bill be amended by adding a provision stating:

Mining for sand, rock, gravel, and other materials suitable for use and used in agriculture or construction, and activities ancillary to mining, including processing and storage, provided that a beneficial use of the area post-mining operation is identified and implemented.

We request your support of this measure with amendments as proposed. Thank you for this opportunity to provide our comments on this matter.



Via Capitol Website

February 5, 2009

House Committee on Water, Land and Ocean Resources
Hearing Date: Monday, February 9, 2009, 9:00 a.m., House Conference
Room 325

Testimony in Support of HB 127 – Relating to Land Use
(Allows mining as a permitted use in the agricultural district)

Honorable Chair Ken Ito, Vice-Chair Sharon Har and
Water, Land and Ocean Resources Committee Members:

My name is Michael Tresler, and I am the Senior Vice President of Grove Farm Company, Inc. Grove Farm is headquartered in Lihue, and owns approximately 40,000 acres on Kaua'i, making it one of Kaua'i's largest private landowners. Throughout our transition from a sugar plantation to a sustainable community development and economic development company, we have remained committed to our island community.

Grove Farm appreciates this opportunity to testify and is **in strong support** of HB 127, which allows mining as a permitted use in the agricultural district. Grove Farm's support is based on the fact that mining for sand, rock, gravel and other materials suitable for use and used in agricultural or construction allows the building of much-needed infrastructure within our island and throughout the state. Activities ancillary to mining, including processing and storage allows companies the opportunity to lower production and delivery costs to the end user as well. In our current shaky economic footing, it would be extremely unfavorable to limit the existing supply of infrastructure materials, many of which are currently found in the agricultural district.

Grove Farm's Position. As a longtime kama'aina company, Grove Farm is committed to continue being a responsible steward of our aina. We believe that sand, rock, gravel and other materials are a valuable and critical natural resource for many projects, ranging from residential home construction to massive infrastructure projects.

The economics to private businesses, government and employees is substantial. It is logical to note that the less resources that are available, the more expensive the existing resources become. By not allowing mining as a permitted use on agricultural lands, a significant negative impact will be felt as such materials are a necessity for the survival of numerous local businesses that depend on such resources.

Grove Farm is in **strong support to HB 127**, which would allow mining as a permitted use in the agricultural district.

Thank you for the opportunity to express our support for this matter.