SB506

DUANE K. OKAMOTO Deputy to the Chairperson



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

TESTIMONY OF SANDRA LEE KUNIMOTO CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS WEDNESDAY, FEBRUARY 11, 2009 9:00 A.M. ROOM 016

SENATE BILL NO. 506 RELATING TO PROCUREMENT

Chairperson Taniguchi and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 506 that eliminates several Procurement Exemptions from Chapter 103D, HRS. The Hawaii Department of Agriculture (HDOA) strongly opposes this bill as it circumvents the administrative rule process and eliminates exemptions supported by HDOA that have been fully vetted by the Procurement Policy Board over the last two years. Specifically, HDOA strongly advocated to retain the 103D exemption under Number 9 "Food and Fodder for Animals" for dog and cat foods as elimination of this provision would adversely impact its operation of the Animal Quarantine Station and Airport Animal Quarantine Holding Facility that inspects, processes and quarantines dogs and cats transiting through and entering Hawaii.

In December 2006, the Department provided information justifying retaining the exemption in a letter to the State Procurement Office (SPO) (refer to attachment 1). Concerns from a technical perspective and the Division's past experience with feeding different foods is covered in the transmittal. In addition, the Department has provided written (refer to attachments 2 - 4) and/or oral testimony and/or information at

Procurement Policy Board (PPB) meetings held in May 2008, June 2008, July 2008 and December 2008 and we testified in support of retaining Exemption No. 9, Food and Fodder for Animals. The Board decided to retain the exemptions.

Labeled analyses for different dog and cat foods do not quantify certain factors such as palatability and other qualities that may not be measured or specified in a procurement solicitation. In addition, feeding trials are not required to evaluate all pet foods prior to production and label analyses may not accurately reflect a diet's performance when fed, further rendering specifications problematic.

Furthermore, it is not feasible for the department to utilize a Qualified Products List of Pre-approved Products because it is not practicable to conduct feeding trials on quarantined animals for different products submitted by vendors to ascertain their suitability. It is also not desirable to experiment with foods on privately owned pets without an existing problem to justify such action. Moreover, adverse consequences or inadequate performance due to a food at a pet's expense should not be required to eliminate a product.

The Animal Quarantine Station feeds several types of dog and cat foods. In addition to maintenance diets for each species, the Station also feeds several specialty diets designed to assist and treat common conditions in kenneled animals such as gastrointestinal disease, inappetance and weight loss. In addition, there are additional specialty foods that the Station does not currently use but may be needed in the future. Optimum pet care dictates that different foods be utilized for different animals and conditions.

Flexibility afforded under the exemption for dog and cat food allows the Station to rapidly procure different diets to optimize animal care by addressing existing or emergent animal health situations in the population. Additionally, the procurement objective of minimizing purchase price is still addressed through quotations.

It is important to note that no testimony was received by the PPB or SPO that opposed retaining Exemption No. 9 during the period when meetings were held on this subject. Furthermore, with the information presented by the Department and other agencies at these meetings, the State Procurement Office has recommended retaining Exemption Number 9 and the exemption was voted on and not eliminated at the December 2008 meeting of the Procurement Policy Board.

The department believes that given the extensive history of deliberations conducted by the Procurement Policy Board regarding this exemption that it is inappropriate to eliminate it when various state and county agencies have expressed serious concerns and its elimination is not supported by the State Procurement Office and Procurement Policy Board.

Regarding raising the Hawaii products preference to 15%, we support this provision and have proposed this same change in the administration bill, SB829.

LINDA LINGLE Governor



SANDRA LEE KUNIMOTO Chairperson, Board of Agriculture

> DUANE K. OKAMOTO Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
Animal Industry Division
99-941 Halawa Valley Street
Alea, HI 96701-5602
Phone: (808) 483-7161 Fax: (808) 483-7100

December 11, 2006

TO:

Aaron S. Fujioka, Administrator

State Procurement Office

SUBJECT:

Exemption for Dog and Cat Foods

We request that the 103D exemption be retained and not eliminated for dog and cat foods.

Although the labeled analyses for different dog and cat foods may appear identical, there are other factors and product qualities that cannot be quantified by label analysis or objectively specified in a procurement solicitation. Therein lies some of the problems created by removing all food and fodder from exemption.

The Association of American Feed Control officials (AAFCO) develops recommended standards for the nutrient content of dog and cat foods. Manufacturers can show their food meets AAFCO standards for nutritional adequacy by calculations or by feeding trials (Bren, 2001). However, previous studies have demonstrated that AAFCO approved feeding trials are valid to assess pet food quality whereas chemical analysis or calculated values may not be (Huber et al., 1991). In other words, guaranteed labeled chemical analysis is not as meaningful as results of feeding tests.

One of the major qualities of a dog or cat food product is palatability. It is common for different foods to have identical or relatively similar labels yet have vastly different qualities of acceptance by animals. Conversely, a food may be highly palatable but be undesirable due to its ingredients although the nutritional analyses are similar. Nonetheless, palatability cannot be, and is not, quantified on pet food labels. In a quarantine situation where animals may be confined for up to four months, adding an unpalatable diet as an additional stressor is undesirable and will have adverse effects.

Digestibility is another quality that is not easily determined without actual feeding trials. Depending on the biological availability of the ingredients, the digestibility of products can vary (Earl et al., 1998). For example, cooked carbohydrates (starches) are generally more easily digested than uncooked starch (ISU, AnS320). The bioavailability of other nutrients such as protein is similarly affected by the source. Due to this, less digestible nutrients may pass through the digestive tract without being absorbed and consequently larger volumes of food are required. This in turn creates larger volumes of animal waste to clean and increases potential for gastrointestinal upset. Pet food industry labeling standards do not adequately address digestibility and bioavailability (Michel, 2001).

Food additives such as dyes, colorants and preservative may affect the solid waste produced by an animal. Since the Animal Quarantine Station dog kennel floors are constructed of concrete, certain foods fed in the past have caused staining of the floor that was not easily removed. Those dog foods are no longer used for that reason. This aspect is also difficult to specify and confirm without actually feeding the product.

Memo to Mr. Aaron Fujioka December 11, 2006 Page 2

In addition, the Station has the need to purchase specific specialized veterinary diets to meet the health or medical issues of dogs and cats at the Station. These issues include cardiac, metabolic, gastrointestinal and others. Highly digestible and high caloric foods are two examples used to treat animals with intestinal disease and weight loss respectively. Although the program can require the owner to provide the food, experience has shown that many pet owners do not and the program needs the capability to purchase and provide these and other specialized diets within 24 hours or less.

It is recommended that the selection of foods for the dogs and cats at the Animal Quarantine Station remain flexible by keeping the exemption from 103D to minimize animal health and operational problems and minimize pet owner complaints.

Please contact Dr. Isaac Maeda, Animal Quarantine Branch Manager, at (808) 483-7144 with any questions.

James Foppoli, DVM, PhD, Administrator

James Appoli

Division of Animal Industry

c: Elaine Abe, ASO
Dr. Isaac Maeda, AQB

References

Bren, L., (2001). FDA, Center for Veterinary Medicine, Pet food: the Lowdown on labels, May-June 2001.

Huber, T.L., Laflamme, D.P., Medleau, L., Comer, K.M. & Rakich, P.M., (1991) CVM, UGA, Comparison for assessing adequacy of dog foods, JAVMA, Sept. 15, 199(6):731-4.

Iowa State University, Animal Science Lab; AnS320 presentation, <u>Pet food labels</u>.

Earle, K. E., Kienzle, E., Opitz, B., Smith, P.M. & Maskell, I.E., Fiber affects digestibility of organic matter and energy in pet foods, Journal of Nutrition, 128;12/2798.

Michel, K., (2001). World Small Animal Veterinary Association, WC Vancouver 2001, Pet food labels: What reading a label will and won't tell you about the food.



LINDA LINGLE



SANDRA LEE KUNINOTO Chairperson, Board of Agriculture

> DUANE K. OKAMOTO Deputy to the Chairperson

State of Hawaii DEPARTMENT OF AGRICULTURE 1428 South King Street Honolulu, Hawaii 96814-2512 Phone: (808) 973-9800 Fax: (808) 973-9813

May 12, 2008

Procurement Policy Board State Procurement Office Honolulu, HI 96810

Subject: Testimony to Procurement Exemption No. 9, Chapter 3-120, HAR

The Hawaii Department of Agriculture requests that the 103D exemption number 9 "Food and Fodder for Animals" be retained for dog and cat foods. It is likely the Department will be the primary agency affected by this provision and its elimination will have adverse effects on the Animal Quarantine Station.

The Department manages and operates the Animal Quarantine Station and Airport Animal Quarantine Holding Facility that inspects, processes and quarantines dogs and cats transiting through and entering Hawaii. I have attached a letter dated December 11, 2006 from Dr. James Foppoli, Administrator, Division of Animal Industry to Mr. Aaron Fujioka, Administrator, State Procurement Office. Dr. Foppoli's letter contains the concerns with the elimination of this exemption from a technical perspective. In addition, the Division's past experience with feeding different foods is explained. As detailed in his letter, labeled analyses for different dog and cat foods does not quantify certain factors such as palatability and other qualities that may not be measured or specified in a procurement solicitation. For example, because feeding trials are not required to evaluate all pet foods, label analyses may not accurately reflect a diet's performance when fed.

Therefore, flexibility afforded under the exemption for dog and cat food optimizes animal care while minimizing animal health issues and pet owner complaints. Furthermore, requesting exemption on a case by case basis from the Chief Procurement Officer is cumbersome and may not be timely in certain circumstances.

It is strongly recommended that the exemption from 103D regarding the procurement of foods for dogs and cats at the Animal Quarantine Station and Airport Animal Quarantine Holding Facility be retained.

Sincerely,

Sandra Lee Kunimoto

Chairperson, Board of Agriculture

Attachment

c: Animal Industry Elaine Abe, ASO

LINDA LINGLE Governor



SANDRA LEE KUNIMOTO Chairperson, Board of Agriculture

> DUANE K. OKAMOTO Deputy to the Chalmerson

State of Hawali DEPARTMENT OF AGRICULTURE 1428 South King Street Honolulu, Hawaii 96814-2512 Phone: (808) 973-9600 Fax; (808) 973-9613

May 30, 2008

Procurement Policy Board State Procurement Office Honolulu, HI 96810

Subject: Testimony in Support of Retaining Procurement Exemption No. 9, Chapter 3-120, HAR

The Hawaii Department of Agriculture strongly recommends that the exemption from 103D exemption number 9 "Food and Fodder for Animals" be retained for dog and cat foods

In response to comments from Procurement Policy Board members at the meeting on May 15, 2008, the Department has requested a determination from the State Procurement Office on whether Restricted Specification Requests for various dog and cat food products is feasible. However, the Department opposes deleting exemption 103D No. 9, Food and Fodder for Animals as it has not been determined that restrictive specifications are a viable alternative.

The Animal Quarantine Station (Station) feeds several types of dog and cat foods. In addition to maintenance diets for each species, the Station also feeds several specialty diets designed to assist and treat common conditions in kenneled animals such as gastrointestinal disease, inappetance and weight loss. In addition, there are additional specialty foods that the Station does not currently use but may be needed in the future. Optimum pet care dictates that different foods may be utilized for different animals and conditions.

Flexibility afforded under the exemption for dog and cat food allows the Station to rapidly procure different diets to address existing or emergent animal health situations in the population.

Sincerely.

Sandra Lee Kunimoto

Chairperson, Board of Agriculture

Attachments

c: Animal industry Elaine Abe, ASO

SANDRA LEE KUNIMOTO

Chairperson, Board of Agriculture

LINDA LINGLE



DUANE K. OKAMOTO Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
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Phona: (808) 973-9600 Fax: (808) 973-9613

November 10, 2008

Procurement Policy Board State Procurement Office Honolulu, HI 96810

Subject: Testimony to Procurement Exemption No. 9, Chapter 3-120, HAR

The Hawaii Department of Agriculture strongly requests that the 103D exemption number 9 "Food and Fodder for Animals" be retained for dog and cat foods. The Department will be adversely affected by the elimination of this provision in its operation of the Animal Quarantine Station.

The Department manages and operates the Animal Quarantine Station and Airport Animal Quarantine Holding Facility that inspects, processes and quarantines dogs and cats transiting through and entering Hawaii. I have attached a letter dated December 11, 2006 from Dr. James Foppoli, Administrator, Division of Animal Industry to Mr. Aaron Fujioka, Administrator, State Procurement Office and copies of prior testimonies submitted to the Procurement Policy Board requesting continuance of the exemption for food and fodder for animals. The concerns with the elimination of this exemption from a technical perspective and the Division's past experience with feeding different foods is covered in Dr. Foppoli's letter. For example, labeled analyses for different dog and cat foods do not quantify certain factors such as palatability and other qualities that may not be measured or specified in a procurement solicitation. In addition, feeding trials are not required to evaluate all pet foods and label analyses may not accurately reflect a diet's performance when fed.

The Animal Quarantine Station feeds several types of dog and cat foods. In addition to maintenance diets for each species, the Station also feeds several specialty diets designed to assist and treat common conditions in kenneled animals such as gastrointestinal disease, inappetance and weight loss. In addition, there are additional specialty foods that the Station does not currently use but may be needed in the future. Optimum pet care dictates that different foods be utilized for different animals and conditions.

Flexibility afforded under the exemption for dog and cat food allows the Station to rapidly procure different diets to optimize animal care by addressing existing or emergent animal health situations in the population.

In response to comments from Procurement Policy Board members at the May 15, 2008 meeting, the Department requested a determination from the State Procurement Office (SPO) on whether Restricted Specification Requests for various dog and cat food products is feasible. The SPO has

Memo to Procurement Policy Board November 10, 2008 Page 2

since concluded that restrictive specifications are not possible with pet foods. Furthermore, requesting exemption on a case by case basis from the Chief Procurement Officer is cumbersome and may not be a viable alternative. Therefore, the Department opposes deleting exemption 103D No. 9, Food and Fodder for Animals and strongly recommends that the exemption be retained for the Animal Quarantine Station and Airport Animal Quarantine Holding Facility.

Sincerely,

Sandra Lee Kunimoto

Chairperson, Board of Agriculture

Attachment

c: Animal Industry Div.Keith Aragaki, ASO



County of Hawaii

DEPARTMENT OF RESEARCH AND DEVELOPMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252 (808) 961-8366 • Fax (808) 935-1205 E-mail: chresdev@co.hawaii,hi.us

February 11, 2009

The Honorable Brian Taniguchi, Chairman and Committee Members Senate Committee on Judiciary & Government Operations Hawaii State Capitol, Room 016 415 South Beretania Street Honolulu, HI 96813

RE: S.B. No. 506 Relating to Procurement

Dear Chairman Taniguchi and Committee Members:

The County of Hawaii Department of Research and Development strongly supports Senate Bill No. 506, relating to procurement. This bill will provide enhanced opportunities for Hawai'i's agricultural producers to access in a timely fashion fresh and value-added produce markets within the State's institutional facilities.

Currently 85-90% of our food is imported from out of state; hence, the County of Hawai'i supports policies and programs that afford expanded food security for our island in particular and in the state in general. This bill is a step in the right direction by providing policies that can directly reverse this trend through displacement of food imports.

Enhanced access to reliable markets for locally produced products will support expanded production, as farmers are more inclined to either increase their current production and/or venture to produce new products when they can be assured a level playing field with mainland and foreign competition.

Expanded production and sales of local products will result in significant economic benefits to the State, for dollars spent on local products will be retained in the state and reinvested in communities through the purchase of farm supplies and employment of farm workers. As shown in a December 2008 study published by the College of Tropical Agriculture and Human Resources and the Hawai`i Department of Agriculture entitled, *Economic Impacts of Increasing Hawai`i's Food Self-Sufficiency*, the multiplier or ripple effect is estimated to be 2.0 for every dollar increase in sales at the farm gate.

Honorable Brian Taniguchi, Chairman and Committee Members Senate Committee on Judiciary & Government Operations Senate Bill No. 506, Relating to Procurement February 11, 2009

Your favorable consideration of Senate Bill No. 506 is respectfully requested.

Sincerely,

Diane L. Ley

Diane Ly

Interim Deputy Director



HAWAII FARM BUREAU FEDERATION

2343 ROSE STREET HONOLULU, HI 96819

Committee on Judiciary & Government Operations

Hearing Date & Time: Wednesday, 2-11-09 @ 9:00am in Senate Conference Room 016

SB 506; Relating to Procurement, Hawaii Products Preference

Chairman Taniguchi; Members of the Committee,

The Hawaii Farm Bureau Federation is the largest general agriculture organization in the State of Hawaii with over 1600 members Statewide and we "Strongly Support SB 506".

Hawaii's geographic isolation is a natural barrier for island farmers in a global economy; this bill seeks to bring fairness to Hawaii's Agricultural producers by clarifying the Procurement process, removing the exemptions and giving Hawaii's producers a preference in the States purchases.

In past years the Hawaii Farm Bureau Federation has favored the exemptions from the procurement process due to the higher cost of production of locally grown products. The fear was that inclusion in the procurement process would not allow entities to buy products that were priced beyond the allowed limits.

Recently, it has come to our attention that *the reverse is true*. Hawaii's agricultural industry is not allowed to utilize the preferential purchase programs within the procurement code due to the exemptions as identified in HAR §3-120-4(b). Under the current rules, "agricultural products" (fresh meats, produce, plants and animals) are exempt from the procurement code. Therefore, there are no set guidelines or standards to purchase these products. We are also concerned this non-competitive process may disqualify Hawaii's schools from participating in the Farm/School Lunch program, as it does not comply with the Federal Nutrition Program rules.

We strongly support this bill, as we believe it will benefit our Farmers and Ranchers by providing opportunities and protections of the procurement code to sell agricultural products to government agencies. In addition, in 2008 the State Procurement Office issued a directive which implements the rules regarding Small Business preference and geographic set-asides. As some of you recall in 2005; Act 50 became law, requiring the State Procurement Office to adopt the Small Business Administration's Guidelines for small business size determinations. Unfortunately this preference is in exactly the same predicament as the Hawaii Products preference as it "Only applies to goods purchased through the State procurement procedure" In exhibit "A" you will see that all fresh meat, produce, animals & plants are exempted from the State procurement process.

Hawaii's agricultural products are exempt from the procurement code; any preference provided by statute provides no benefit to the agricultural community unless the administrative rules are also changed. If the agricultural products are removed from the exemption list then the

standard procurement rules apply. In addition, agencies can then use all (6) methods of the source selection to purchase agricultural products: Small purchase, Sole source, Emergency, Competitive sealed bid, professional services.

We ask that you amend SB 506 by allowing exemption # 9, Animal Food & Fodder to remain on the exemption list. The State Department of Agriculture Animal Quarantine Program has indicated it prefers those types of purchases to remain exempt from the procurement code. .

The State, as the largest consumer of goods has a tremendous opportunity; to show Hawaii's consumers they truly believe in Hawaii's sustainability and are willing to support Hawaii's agriculture community with a clear objective "Buy Fresh ~ Buy Local". We believe that the State's clear statement of a sustainability and purchasing Hawaii Grown products will play a significant and important role in setting a policy example for Hawaii's consumers.

During these uncertain times, there is much concern about self sufficiency and sustainability. This bill provides for the immediate implementation upon signing thereby producing a win-win for all; Hawaii's agricultural producers immediately get to take part in the procurement system and are afforded its protection & preferences. The State Procurement Office is not burdened by setting new rules and the implementation of a new program allowing them to become part of the solution.

Thank you for the opportunity to provide testimony in this matter. By adopting SB 506 the procurement code can play its rightful role as a critical player in enhancing agricultural viability in Hawaii

Respectfully submitted,

Dean Okimoto, President Hawaii Farm Bureau

BIG ISLAND FARM BUREAU



P.O. Box 1630 Kamuela, HI. 96743

Phone: 808-885-5580 Fax: 808-885-5582

E-mail: bifb@hawaiiantel.net

Re: SB 506 Relating to Procurement; Hawaii Product Preference

Hearing Date: Feb. 11th, 2009 @ 9:00 AM

JGO: Senate Conference Room 016

Position: Strongly Support

Senator Brian Taniguchi Committee on Judiciary & Government Operations

Chair Taniguichi; Members of the Committees,

My name is Lorie Farrell; I am the executive director for the Big Island Farm Bureau. We are the largest general agriculture organization on the Big Island; representing over 650 agricultural members/producers on the Island of Hawaii. We are unique in representing all agricultural commodities & utilize our diverse membership base to direct our policies. The Big Island Farm Bureau is comprised of the individual farm bureau chapters on the Big Island and we are directly related to the Hawaii Farm Bureau Federation and affiliated with the American Farm Bureau Federation.

We have struggled with the procurement issue and why despite passing legislation affording Hawaii's producers preferences we have seen very little increase in the States consumption of Hawaii Grown products. We recognize that the State Procurement Office quoted that 99% of its contracts are awarded to local vendors; Local vendor does not equal purchase of local products.

We have spent the last 6 months getting educated on the procurement process & speaking to our producers and have come to the conclusion that Hawaii's agricultural producers are not able to utilize the preferential purchase programs within the procurement code due to the exemptions. The current procurement code exempts all fresh products not just Hawaii grown & produced.

In today's economy combined with Hawaii's geographic isolation we must support are local agricultural producers; if we do not support and purchase from them today we will not have the luxury of purchasing from them in the future.

We strongly support SB 506 and although we are not sure that a 10% price preference will be enough; it is a start. Exemptions # 5 & 7 must be removed from the administrative law as it "Only applies to goods purchased through the State procurement procedure" In exhibit "A" you will see that all fresh meat, produce, animals & plants are exempted from the State procurement process.

We ask that you consider amending SB 506 by allowing exemption # 9, Animal Food & Fodder to remain; as the Hawaii Dept. of Agriculture has indicated that they feel it is necessary for their Animal Quarantine Program.

We realize this is a difficult issue and our goal is to increase the States purchases of Hawaii Grown Products and increase consumer demand for Hawaii Grown.

We do not want to jeopardize the current providers of Hawaii grown goods to the State system or force our producers into selling only to distributors; as these are marketing solutions that only each individual producer can decide.

The State, as the largest consumer of goods has a tremendous opportunity; to show Hawaii's consumers they truly support Hawaii's agriculture community with a clear statement "Buy Fresh ~ Buy Local ". We believe that the State's clear statement of purchasing Hawaii Grown products will play a important role in setting a positive policy example for Hawaii's consumers.

We respectfully ask for your support. Thank you for the opportunity to present testimony in this matter.

Respectfully, Lorie Farrell

Lorie Farrell, Executive Director Big Island Farm Bureau



KONA COUNTY FARM BUREAU

P.O. Box 2341 • Kealakekua, Hawaii 96750 Phone: 324-6011

February 9, 2008

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Taniguchi, Chair

Testimony on SB 506 (RELATING TO PROCUREMENT)

Chairman Taniguchi and Committee Members:

The Kona County Farm Bureau respectfully submits testimony in support of SB 506.

As the sponsors of the three-year old Keauhou Farmers Market, the Kona County Farm Bureau Board of Directors feel very strongly that we need to encourage the "Buy Local" campaign as a means of reducing our dependence on imported food and developing our local agriculture industry.

In 1994, Act 186 created a "preference" for purchase of Hawaii products, which was codified into part X of chapter 103D, Hawaii Revised Statutes. The purpose was to provide Hawaii businesses a procurement preference similar to the federal government's "Buy American Act" under Federal Acquisition Regulation 52.225-1.

The amendments proposed in SB 506 will increase the effectiveness of Act 186, serving the original intended purpose in support of Hawaii-grown products. In addition, new programs such as the Farm to School program may not be utilized due to the exemption status, our Keiki deserve the freshest products available.

Availability of locally grown agricultural products is important to an island State. Everyone has experienced concern as grocery shelves empty during crisis such as strikes and other catastrophic disasters stopping planes and ships from coming to our ports. This supply of locally grown products can only happen due to consistent production which in turn is dependent upon purchase policies by consumers. The State government is a significant consumer and can play an important role in setting a policy example of consumer behavior.

	providing							

Sincerely yours,

Nancy Pisicchio President