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DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
DIRECTOR
OFFICE OF PLANNING

Statement of
LEO R. ASUNCION
Director, Office of Planning
before the
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Thursday, February 4, 2016
8:00 AM
State Capitol, Conference Room 325

in consideration of
HB 2636
RELATING TO SOLAR ENERGY FACILITIES.

Chair Lee, Vice Chair Lowen, and Members of the House Committee on Energy and Environmental Protection.

The Office of Planning (OP) respectfully opposes HB 2636, which proposes to restrict solar energy facilities in residential housing areas in agricultural districts to no more than twenty-five kilowatts in capacity. The intent and associated impacts of this bill are unclear. The bill could imply the allowance of lot subdivisions for residential housing in the State Agricultural District. OP is concerned about the proliferation of permissible non-agricultural uses in the Agricultural District, as such uses threaten the viability of agricultural land for future agricultural activity.

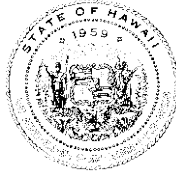
Thank you for the opportunity to testify on this matter.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lieutenant Governor

LUIS P. SALAVERIA
Director

MARY ALICE EVANS
Acting Deputy Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

DANIEL ORODENKER
Executive Officer

Bert K. Saruwatari
Planner
SCOTT A.K. DERRICKSON AICP
Planner

RILEY K. HAKODA
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FRED A. TALON
Drafting Technician

Statement of
Daniel E. Orodenker
Executive Officer
Land Use Commission
Before the
House Committee on Energy & Environmental Protection
Thursday February 4, 2016
8:00 AM
State Capitol, Conference Room 325

In consideration of
HB 2636
RELATING TO SOLAR ENERGY FACILITIES

Chair Lee, Vice Chair Lowen, and members of the Committee on Energy & Environmental Protection:

The Land Use Commission takes no position on HB2636. The intent of this measure, we gather, is to allow future residential subdivisions to be self powered by private solar facilities. However, we would point out the measure seems to be focused on State Agricultural District lands.

Residential subdivisions are not allowed in the State Agricultural District under Chapter 205, HRS. If residential subdivisions are the intended focus of this measure then such lands should be appropriately re-classified to the Urban or Rural Districts. Solar facilities of the type described are allowed in those State Land Use districts. As such, the measure may be unnecessary.

Thank you for the opportunity to testify on this matter.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
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SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

**TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL
PROTECTION**

February 4, 2016
8:00 A.M.
CONFERENCE ROOM 325

**HOUSE BILL NO. 2636
RELATING TO SOLAR ENERGY FACILITIES**

Chairperson Lee and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2636 that amends Section 205-2 to restrict solar energy production equipment in residential housing areas in the Agricultural District to no more than 25 kilowatts in capacity. The Department of Agriculture has very strong concerns about the impact this measure will have on Agricultural District lands.

The term "solar energy production equipment" (page 2, line 12) is not defined, "residential housing" (page 3, line 1) is not an allowed use on Agricultural District lands, the Department does not support the creation of "non-conforming subdivisions" (page 3, line 2) on Agricultural District lands without the presence of agricultural activity.

Thank you for the opportunity to submit our testimony.





HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 4, 2016, 8 A.M.

Room 325

(Testimony is 2 pages long)

TESTIMONY OPPOSING HB 2636

Aloha Chair Lee, Vice Chair Lowen, and Committee members:

Blue Planet Foundation opposes HB 2636 as written. It is unclear what the present draft of HB attempts to accomplish. It appears that it may be targeted at the limited scenario in which agricultural lands have been subdivided and developed primarily for residential use; and in that scenario, HB 2636 intends to prevent the use of subdivided “residential” lots for utility-scale solar energy production.

Although we understand the need to promote smart development and avoid incompatible land uses on neighboring lots, we don’t believe that HB 2636 would accomplish that goal. Moreover, we can envision likely scenarios in which HB 2636 would have the unintended consequence of *limiting* the ability of residential households to utilize solar energy. For example:

- (1) A typical household rooftop solar energy installation may be sized at approximately 5 to 7 kW. It would take only 3 to 5 such household rooftop installations to meet the 25 kW aggregate capacity limit specified in HB 2636. Other households in a “residential” development might therefore be precluded from installing solar power.
- (2) A community, such as one described in HB 2636, may choose to gather together to participate in a community solar program. Given that each household may typically utilize approximately 5 to 7 kW of the capacity of a community solar facility, a 25 kW limit would mean that only 3 to 5 such households could participate.

For these reasons, we must oppose HB 2636 as written. **If the Committee is considering approving the measure, we believe that it should be substantially amended to:**

- (i) define the applicable “residential” neighborhoods more clearly and precisely;
- (ii) clarify that it does *not* impose any restrictions on solar installations designed to serve a single lot/household (which could potentially exceed 25 kW in the aggregate or individually); and

- (iii) (iii) include appropriate carve-outs to ensure that communities could choose to utilize a community solar-type installation, even if such installation substantially exceeds 25 kW. We also believe it may be appropriate for the measure to provide a mechanism by which a community could choose to exempt itself from the type of restriction contained in HB 2636, if the majority of residents in that community chose to do so.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 02, 2016 11:47 PM
To: EEPtestimony
Cc: frwvolcano@hotmail.com
Subject: Submitted testimony for HB2636 on Feb 4, 2016 08:00AM

HB2636

Submitted on: 2/2/2016

Testimony for EEP on Feb 4, 2016 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Rick Warshauer	Individual	Support	No

Comments: Please amend bill to take effect upon signature of Governor.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 02, 2016 12:03 PM
To: EEPtestimony
Cc: phsharkey@gmail.com
Subject: Submitted testimony for HB2636 on Feb 4, 2016 08:00AM

HB2636

Submitted on: 2/2/2016

Testimony for EEP on Feb 4, 2016 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Phillip I Stuart-Sharkey	Individual	Support	No

Comments: Passing HB2636 is essential if we are to correct what Governor Ige described as an "unintended consequence" of poorly drafted legislation.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 02, 2016 4:36 AM
To: EEPtestimony
Cc: starmer@hawaii.edu
Subject: *Submitted testimony for HB2636 on Feb 4, 2016 08:00AM*

HB2636

Submitted on: 2/2/2016

Testimony for EEP on Feb 4, 2016 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kaelan	Individual	Oppose	No

Comments:

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2 February, 2016

Ms. Nicole E. Lowen
Vice Chair
Energy & Environmental Protection
Hawai'i State Capitol

Aloha Ms. Lowen,

REQUEST FOR SUPPORT FOR HB 2636

We are writing to request that you support HB 2636 that amends HRS 205-2.

On Thursday morning our State Representative, Dr. Richard Creagan, will be presenting an amendment to legislation that allows solar installations to be built on land zoned agricultural. While this would appear to be a good measure, especially to those of us who appreciate the many benefits of solar energy, it threatens all non-conforming (old) subdivisions that are zoned ag. even though they are clearly used for homes. For example, a large overseas corporation, SPI Solar, wants to build 25 solar installations, each with a capacity of 250kW, on 25 three-acre lots, among homes, in three subdivisions in Ocean View on the Big Island. 30,000 panels will be installed, with a combined output of 8.75 megawatts. Each array will cover more than two acres and will be surrounded by six-foot wire fences with cameras and security lights added. This corporation is able to industrialize our rural neighborhood by taking advantage of a loophole in this law. The law does not make allowances for housing subdivisions that are zoned agricultural.

In June of 2015 there was community meeting in Ocean View called by Hawai'i Electric Light Company (HELCO). At this meeting the residents of Ocean View were informed that a new sub station would be built to serve the 25 solar farms planned for the town.

The audience was angered and dismayed. Since then

- . Over 600 residents have signed a petition against the installations
- . Over 300 residents of the largest subdivision, Ranchos, wrote comments and voted against the farms
- . The Ranchos CC&R's have been amended to stop more than 25 kW being generated on any lot
- . *West Hawai'i Today* has published eight articles, many quoting notable energy and conservation professionals who condemn this boondoggle project as being bad for the island.

We have many concerns about this project, but the ones that support the unsuitability of housing land for solar installations include:

1. PUBLIC SAFETY. A 2006 study commissioned by Hawai'i Volcanoes National Park rated Ocean View as an EXTREME fire hazard, due to the terrain, strong winds,

desert climate and lack of preparedness. Ocean View has a complete have a lack of infrastructure. We have TWO fire fighters who have to respond to a wide variety of emergencies over a very large area. Our station is the busiest on the island. Our professionals would require significant additional manpower, training and equipment to be prepared for this kind of fire. In spite of our requests, the County of Hawai'i has refused to consider expanding the town's fire-fighting capability. We need another water tank and a fire hydrant outside each of the 25 properties to protect us from a fire originating on these high-voltage installations. There have been notable fires originating on solar farms in California and Texas, but as the installations there were in the uninhabited desert, the consequences were not disastrous.

2. **LIABILITY.** The State of Hawaii will share the bulk of the costs if HRS 205 is not amended and property owners are forced to sue the state when their homes loose value because of the provisions of the law. We estimate that there are about 350 homes in Ranchos, and we conservatively estimate each is worth an average of \$200,000. Thus the home-owning community has about \$70 million invested. If the homes loose half their value due to solar installations making the neighborhood undesirable, there would be a loss of \$35 million on homes alone. Approving this bill may avoid a law suit. This law, though well-intentioned, has had unforeseen consequences, including

- a. No public hearings/comment
- b. No fire mitigation plan
- c. No EIS or archeological study
- d. No plan for the decommissioning of the abandoned project
- e. No plan for toxic clean-up
- f. No consideration of diminished property values

3. **AESTHETICS.** Solar farms are industrial installations in terms of appearance and function and are completely incompatible with homes in a residential neighborhood. We take enormous pride in our homes and ranch-like environment. We enjoy uninterrupted ocean views, extensive 'Ohi'a forests, nature and the clear night sky. These industrial installations will cover over two acres on each three-acre lot, which means each lot will be stripped of trees and bulldozed flat from edge to edge. Eash lot will then be surrounded by a six-foot chain link fence and cameras, alarms, and security lights will be installed. This is the opposite of how our neighborhood is currently developped. At present the homes are typically tucked away among trees or blend in with their surroundings. How would you like to have a two-acre solar farm built next door to you?

We urge you to support HB 2636 when it is presented on Thursday

Respectfully,

Peter and Ann Bosted
(808) 315-2196

EEPttestimony

From: Sandra shelton <sandysaloha@gmail.com>
Sent: Wednesday, February 03, 2016 3:02 PM
To: EEPttestimony
Subject: HB 2636

I'm a resident of Hawaiian Ocean View Ranchos (HOVR), in the Ka'u district of the Big Island of Hawaii. I am also secretary for Hawaiian Ranchos Community Association (HRCA). We are an established subdivision on AG land with over 270 homes.

SPI's solar project is exploiting loopholes in the law by splitting a 52-acre project into 26 parts, locating each part on 26 residential lots scattered throughout the neighborhood. It is unsafe, unsightly, insecure, economically disastrous, dangerous, harmful and will cause extreme hardship to over 100 families living in the area. Our homes and property will lose value, and as we are designated a high fire hazard risk (on catchment and one fire engine covering a large area of Ka'u), it is a public safety issue as well.

600 residents have signed petitions against industrial solar in Ranchos, as well as nearly 400 Ranchos property owners responding negatively to industrial solar installations in Ranchos in a survey sent out by HRCA in August, 2015.

While we are in favor of solar because it is relatively clean and renewable, these farms are very dangerous, even when surrounded by unsightly industrial security fences, because of their proximity to homes and people. It may be legal, but it is wrong. There are often unintentional bad consequences of well-intentioned laws and this is a prime example.

Location of industrial solar installations in town of Ocean View among homes violates basic planning rules, is extremely unpopular, and dangerous. An energy professional would not have located the installations so far from load, or spread them over a large area making connections to the grid problematic.

The Big Island currently has a surplus of daytime energy. If these projects were built the power would be severely curtailed, due to the fact the load has been considerably reduced by other large PV projects and roof top solar on a large number of homes. HELCO is already curtailing power from the wind farms located at South Point close to Ocean View.

We would like your support in amending HRS 205 to stop industrial scale solar farms, such as this one using 30,000 solar panels, from being installed in housing subdivisions. In addition we expect you to do the right thing and help protect the safety and beauty of our communities.

Regards,

Sandra Shelton,BSN, M Ed
Secretary, HRCA (Hawaiian Ranchos Community Association)

Sent from my iPad

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 03, 2016 6:52 PM
To: EEPtestimony
Cc: gcline_46@msn.com
Subject: Submitted testimony for HB2636 on Feb 4, 2016 08:00AM

HB2636

Submitted on: 2/3/2016

Testimony for EEP on Feb 4, 2016 08:00AM in Conferen

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
George Cline	Individual	Comments Only	No

Comments: Why am I against this solar project when I have installed solar on my roof and a solar hot water system? I was paying Helco \$350 t\$400 per month and now I pay \$20 to \$30 . I am spending what I am saving in my community to better my life. Where will the money go if this solar project is built? Helco will still charge the same, the solar company will take their share back to California / out off Hawaii, how is this going to help our state or the "PEOPLE of HAWAII"? This needs to be stopped now! Go green with the people you were elected to protect and serve. George Cline Ocean View Hawaii

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LATE

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 03, 2016 5:42 PM
To: EEPtestimony
Cc: rnblw@aol.com
Subject: Submitted testimony for HB2636 on Feb 4, 2016 08:00AM

HB2636

Submitted on: 2/3/2016

Testimony for EEP on Feb 4, 2016 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Winch	Individual	Comments Only	No

Comments: There was a loop hole in the law to allow an individual into a residential area for industrial solar installations . Our area in Hawaii County was declared an extremely high fire hazardous area due to the dry conditions. We are required as homeowners to keep a 4000 gallon tank on our property. This is a safety issue for the homeowners here. In our Ohia trees is where the Hoary bat(an endangered species) nests. It has already affected property values, which in turn will affect the revenue the state receives. Please do not allow our community life be compromised.

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Christopher J. Yuen
P.O. Box 5
Ninole, HI 96773

Feb. 3, 2016

LATE

TESTIMONY IN OPPOSITION TO HB2636

Rep. Lee and Members of the House Committee on Energy and Environmental Policy:

HB2636, which would ban solar PV arrays larger than 25 kilowatts in certain agricultural areas, would be a step backwards in Hawai'i's quest toward renewable energy.

Global warming is the world's most serious environmental problem, and we have to do our part to cut down our use of fossil fuels. All renewable energy sources can have some negative effects, but solar PV is probably the most benign. A PV array doesn't make noise, cause smells, or emit pollutants. Its visual impact is much less, and confined to a smaller radius, than wind turbines. It just sits there pumping out electricity.

This bill is probably inspired by the opposition to a project planned for the Hawaiian Ranchos area which would consist of solar PV arrays covering about 26 scattered 2 acre lots, and generating about 250 kilowatts per lot. I can understand why a neighbor of a project like this might rather see a vacant lot next door rather than a solar array protected by a fence. It is not visually appealing. But it is not significantly less attractive than many other uses that can be made of that same lot in the ag district. For example, the lot could be covered in shade cloth structures. And I don't see why the government, in balancing the various interests involved, would change the laws allowing a solar development like this, which would, on each lot, generate enough electricity for 50-100 homes.

Sometimes we focus so much on potential negatives that we ignore the positives. For this project, a reasonable estimate is that it will prevent about 8,000 tons per year of carbon dioxide that would otherwise go into the atmosphere if the power was generated by burning fossil fuels.

I don't have any personal involvement in this project, and I hope the developers, like anybody, try to be good neighbors and accommodate the reasonable concerns and wishes of their community. But the Legislature should not ban PV projects like this and others that can help reduce global warming. HB2636 should be held.

From: bobbigirl1099@gmail.com
Sent: Wednesday, February 03, 2016 4:31
To: EEPttestimony
Subject: Subject hb2636

LATE

Aloha from Hawaiian Ranchos, Kau District, Hawaii (big island)

I am writing to you with the hope you will hear our simply words of concerns. These concerns are of the destruction of a subdivision, neighborhood, the community in which it supports are all at risk...after 40years!! We may be a small community 10k or less but, these projects that you have approved are very "loopeholeish"....with no benefits for the community....power that will not be purchased! The idea of solar farms is to help areas that have load problems....and lower fossil fuel...I voted for it

!!!! Having been a resident for almost 20 years of this wonderful state....in the preservation of our community...I ask you to vote for a change that will save all small communities. SOLAR FARMS next door was not the housing developementwhat of the property values that we could lose? Where is the fire protection? I hope for your support on amending the 205 because I am sure you did not have this destruction of 1200 lots of a subdivision.

you Bobbi Wood

thank