

**SB**

**1073**

**SD1**

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**Subject:** Submitted testimony for SB1073 on Feb 25, 2015 14:45PM  
**Date:** Tuesday, February 24, 2015 1:38:56 PM  
**Attachments:** [SB 1073 SD1 AGR 2-25-15 WTL.pdf](#)

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**SB1073**

Submitted on: 2/24/2015

Testimony for WTL on Feb 25, 2015 14:45PM in Conference Room 224

| Submitted By  | Organization                    | Testifier Position | Present at Hearing |
|---------------|---------------------------------|--------------------|--------------------|
| Scott Enright | State Department of Agriculture | Support            | Yes                |

Comments:

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DAVID Y. IGE  
Governor

SHAN S. TSUTSUI  
Lt. Governor



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

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 SENATE COMMITTEE ON WATER AND LAND**

February 25, 2015  
2:45 P.M.  
Room 224

**SENATE BILL NO. 1073 SD1  
RELATING TO LAND USE**

Chairperson Thielen and Members of the Committee:

Thank for the opportunity to testify on Senate Bill No. 1073 SD1 which is an Administration measure. The Department of Agriculture strongly supports this measure that allows bona fide farmers the opportunity to generate additional income by offering agricultural tourism activities including overnight accommodations.

Under this measure, agricultural tourism and overnight accommodations would be allowed if they are clearly secondary and accessory to "bona fide farming operations" and requires the counties to enact ordinances to regulate it. This measure promotes a concise definition of "bona fide farming operations" based on income from sales of crops or livestock grown on the property for which agricultural tourism is proposed. This ensures that agricultural tourism activities are properly established and abuse is reduced, particularly when overnight accommodations are included.

Thank you for the opportunity to present our testimony on this important measure.



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**Subject:** Submitted testimony for SB1073 on Feb 25, 2015 14:45PM  
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**SB1073**

Submitted on: 2/23/2015

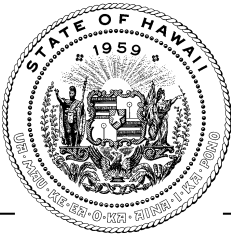
Testimony for WTL on Feb 25, 2015 14:45PM in Conference Room 224

| Submitted By | Organization       | Testifier<br>Position | Present at<br>Hearing |
|--------------|--------------------|-----------------------|-----------------------|
| Debra Mendes | Office of Planning | Support               | Yes                   |

Comments: Please see attached testimony.

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DAVID Y. IGE  
GOVERNOR

LEO R. ASUNCION  
ACTING DIRECTOR  
OFFICE OF PLANNING

Statement of  
**LEO R. ASUNCION**  
Acting Director, Office of Planning  
before the  
**SENATE COMMITTEE ON WATER AND LAND**

Wednesday, February 25, 2015  
2:45 PM  
State Capitol, Conference Room 224

in consideration of  
**SB 1073, SD1**  
**RELATING TO LAND USE.**

Chair Thielen, Vice Chair Galuteria and Members of the Senate Committee on Water and Land.

The Office of Planning (OP) strongly supports SB 1073, SD1, an Administration bill. SB1073, SD1 would amend Hawaii Revised Statutes (HRS) Chapter 205 to (1) clarify the provisions for agricultural tourism activities, including overnight accommodations, as a permissible use for a bona fide farming operation in the State Agricultural District; and (2) set uniform standards for defining a bona fide farming operation for the purposes of regulating agricultural tourism statewide.

A major objective of HRS Chapter 205 is to protect agricultural lands and ensure their continued availability for agricultural use. This is a priority for this Administration; so is increasing farm viability for legitimate farmers. This bill would help bona fide farmers statewide to incorporate this kind of value-added revenue generating activity within their farming operations, and ensure that no bona fide farmer is unduly barred from doing so simply because of geography.

County planning departments were consulted in development of the final bill, and the bill reflects the feedback and concerns raised by individual county representatives. Under SB 1073, SD1, the counties would be able to apply a uniform standard for eligible farmer applicants and

process these permits using their existing codes, as amended to conform to the bill's standards. The proposed income standards in SB 1073, SD1 are based on the threshold adopted for an additional farm labor dwelling under Maui County code and the threshold adopted for agricultural tourism activities under Hawaii County code. The permissible length of stay conforms to that contained in county codes.

The bill strives to find a balance between ease of administration—through the requirement for documentation of agricultural income—and setting appropriate standards for defining and regulating agricultural tourism and overnight accommodations in the State Agricultural District.

We recommend the following minor revisions for clarity and consistency:

- Page 9, Line 8: insert after "or", "activity requires permanent enclosed".
- Page 17, Line 5: delete "that".

Thank you for the opportunity to testify on this measure.

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**SB1073**

Submitted on: 2/23/2015

Testimony for WTL on Feb 25, 2015 14:45PM in Conference Room 224

| Submitted By  | Organization | Testifier Position | Present at Hearing |
|---------------|--------------|--------------------|--------------------|
| Jill Sugihara | DBEDT        | Support            | Yes                |

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## DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

DAVID Y. IGE  
GOVERNOR

LUIS P. SALAVERIA  
DIRECTOR

MARY ALICE EVANS  
DEPUTY DIRECTOR

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Statement of  
**LUIS P. SALAVERIA**  
Director, Department of Business, Economic Development and Tourism  
before the  
**SENATE COMMITTEE ON WATER AND LAND**

Wednesday, February 25, 2015  
2:45 PM  
State Capitol, Conference Room 224

in consideration of  
**SB 1073, SD 1**  
**RELATING TO LAND USE.**

Chair Thielen, Vice Chair Galuteria, and Members of the Senate Committee on Water and Land.

The Department of Business, Economic Development and Tourism strongly supports SB 1073, SD 1, an Administration bill. SB 1073, SD 1 would amend Hawaii Revised Statutes (HRS) Chapter 205 to allow for agricultural tourism activities, including overnight accommodations, for bona fide farming operations without requiring county ordinance changes.

The bill would make it easier for bona fide farming operations to consider and undertake agricultural tourism activities, thereby increasing the agricultural-related income of those operations and promoting the sustainability and potential expansion of their agricultural operations.

Importantly, there has long been a need for a clear statutory definition of what constitutes a bona fide farming operation. This bill also allows counties to impose more restrictive requirements, but eliminates the requirement for county ordinances. Consequently, agricultural tourism may then occur in all counties, subject to any additional restrictions which the counties may affirmatively choose to create.

Supporting agricultural tourism and the offering of overnight accommodations as part of an agricultural tourism operation is fully consistent with the promotion of economic development advocated by this department and contributes to the goals of increased food security and food self-sufficiency for the State of Hawaii.

Thank you for the opportunity to testify on this measure.



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**SB1073**

Submitted on: 2/24/2015

Testimony for WTL on Feb 25, 2015 14:45PM in Conference Room 224

| Submitted By | Organization                          | Testifier Position | Present at Hearing |
|--------------|---------------------------------------|--------------------|--------------------|
| Curtis Lum   | Department of Planning and Permitting | Oppose             | No                 |

**Comments:**

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DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL  
MAYOR



GEORGE I. ATTA, FAICP  
DIRECTOR

ARTHUR D. CHALLACOMBE  
DEPUTY DIRECTOR

February 25, 2015

The Honorable Laura H. Thielen, Chair  
and Members of the Committee on Water  
and Land  
Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Thielen and Members:

Subject: Senate Bill No. 1073, SD1  
Relating to Land Use

The Department of Planning and Permitting (DPP) **opposes** Senate Bill No. 1073, SD1. This Bill would amend Chapter 205, Hawaii Revised Statutes, to expand agricultural tourism activities to include overnight accommodations. They would be an accessory use to a "bona fide" farming operation within the State Agricultural District, providing the farm meets certain minimum criteria. We opposed a 2014 version of this Bill for similar reasons, as stated below.

While we appreciate proposals that would assist with administering the Bill, the City and County of Honolulu is not equipped to conduct the proposed monitoring and enforcement provisions, including the review of each farmer's tax records to determine whether they meet the provisions of the Bill. Is a "farming operation" limited to one property, or can it be located on multiple properties? If on multiple properties, can they be geographically separated from each other to qualify for overnight accommodations? If tax records are filed covering multiple properties, how will the counties be able to disaggregate the records to attribute the income and gross sales information for the particular property? We would not be opposed to a counter provision that the State will provide the counties with a declaration that a particular business on a specified property is a bona fide farming operation.

In addition to challenges with administering this Bill, it would continue the "slippery slope" of recent amendments to Chapter 205 that relax the types of non-agricultural uses allowed in the State agricultural district. We continue to be challenged with maintaining agricultural lands primarily for agricultural uses, when other, seemingly minor uses, are added on an incremental basis. Cumulatively, these ancillary uses can become the financial foundation and dominant physical element on the lands. Our experience with accessory agricultural tourism activities have proved them very difficult to monitor, and unsuitably raises expectations about "highest and best use" of land. In this case, the Bill does not set a maximum number of "accommodations," and could be interpreted to allow full-service hotels, which may not be the intent of the Bill.

The Honorable Laura H. Thielen, Chair  
and Members of the Committee on Water and Land  
Hawaii State Senate  
Hawaii State Capitol  
Re: Senate Bill No. 1073, SD1  
February 25, 2015  
Page 2

The allowance of overnight accommodations, even as an accessory use, would be contrary to the purpose and intent of retaining agricultural lands to support agricultural activities and services. Please note that the DPP has no plans to change our zoning ordinance to allow overnight accommodations or short-term rentals on agricultural lands.

Lastly, the City is preparing maps to designate important agricultural lands (IAL), as mandated by the State Constitution. Community meetings are planned later this year. We suggest that IAL be first designated before any further amendments to Chapter 205 are considered. Once we know where the IAL are, we can better tailor regulations to foster their continued use as an economic and self-sufficiency resource.

In short, please file Bill No. 2073, SD1, for three reasons: 1) it adds administrative burdens to the counties; 2) it increases speculation in the value of agricultural land due to the increasing number of non-agricultural uses that are allowed on them; and 3) it is premature to adjust uses in the agricultural district, when we are in the midst of designating IAL.

Thank you for this opportunity to testify.

Very truly yours,



George I. Atta, FAICP  
Director

GIA:ks

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**SB1073**

Submitted on: 2/20/2015

Testimony for WTL on Feb 25, 2015 14:45PM in Conference Room 224

| Submitted By     | Organization              | Testifier Position | Present at Hearing |
|------------------|---------------------------|--------------------|--------------------|
| Scott Derrickson | State Land Use Commission | Support            | Yes                |

Comments: Staff from the Land Use Commission will be at hearing to answer any questions

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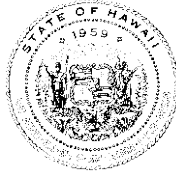
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Governor

**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**  
Chief Clerk/Planner

**FRED A. TALON**  
Drafting Technician

---

Statement of  
**Daniel E. Orodenker**  
**Executive Officer**  
Land Use Commission  
Before the  
**SENATE COMMITTEE ON WATER AND LAND**  
February 25, 2015  
2:45 PM  
State Capitol, Conference Room 224

in consideration of  
**SB1073 SD1**  
**RELATING TO LAND USE**

Chair Thielen, Vice Chair Galuteria and Members of the Senate Committee on Water and Land.

The Land Use Commission (LUC) supports SB 1073 SD1, an Administration bill. SB 1073 SD1 would amend Chapter 205, Hawai'i Revised Statutes (HRS) to: clarify the provisions for agricultural tourism activities for bona fide farming operations in the State Agricultural District; and set uniform standards for defining bona fide farming operations for the purposes of regulating agricultural tourism statewide.

This bill provides a uniform standard and process for eligible farmer applicants and counties. The bill balances ease of administration—through the requirement for documentation of agricultural income—with setting appropriate standards for defining and regulating agricultural tourism and overnight accommodations in the State Agricultural District.

Thank you for the opportunity to testify on this matter.

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**SB1073**

Submitted on: 2/23/2015

Testimony for WTL on Feb 25, 2015 14:45PM in Conference Room 224

| Submitted By   | Organization       | Testifier Position | Present at Hearing |
|----------------|--------------------|--------------------|--------------------|
| Chris Manfredi | Hawaii Farm Bureau | Support            | No                 |

Comments:

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February 25, 2015

HEARING BEFORE THE  
SENATE COMMITTEE ON WATER & LAND

TESTIMONY ON SB 1073 SD 1  
RELATING TO LAND USE

Room 224  
2:45 PM

Aloha Chair Thielen, Vice Chair Galuteria, and Members of the Committee:

I am Christopher Manfredi, President of the Hawaii Farm Bureau Federation (HFB). Organized since 1948, the HFB is comprised of 1,932 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

**HFB supports the intent SB 1073 SD 1**, which allows for overnight accommodations for bona fide farming operations and defines bona fide farming operations.

We support the strong position of ensuring that agricultural tourism operations are subordinate to bona fide agricultural operations. We continue to believe that other loosely-related activities that merely use agriculture as a justification belong in the rural district. Moreover, Counties should be encouraged to move in this direction, thereby protecting agricultural lands. This measure also seeks to define "bona fide farming operations" to insure that agricultural tourism operations are subordinate to legitimate agricultural production.

We believe that the details of agritourism is a Home Rule issue and we request that the requirement that a County adopt ordinances regulating agricultural tourism operations remain in statute. Counties may differ in their opinions of what they allow. This should be duly respected and falls within the purview of County zoning code.

Thank you for this opportunity to provide comments on this measure.

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**SB1073**

Submitted on: 2/24/2015

Testimony for WTL on Feb 25, 2015 14:45PM in Conference Room 224

| Submitted By     | Organization                           | Testifier Position | Present at Hearing |
|------------------|--|--------------------|--------------------|
| David Z. Arakawa | Land Use Research Foundation of Hawaii | Support            | No                 |

**Comments:**

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February 23, 2015

Senator Laura H. Thielen, Chair  
Senator Brickwood Galuteria, Vice-Chair  
Senate Committee on Water and Land

**Comments, Suggested Amendments and Support of SB 1073, SD1, Relating to Land Use; Agricultural Tourism; Overnight Accommodations; Bona Fide Farming Operation; Agricultural District (Allows agricultural tourism uses or activities, including certain overnight accommodations, conducted in conjunction with a bona fide farming operation, in the agricultural district. Defines bona fide farming operations.)**

**WTL Hearing: Wednesday, February 25, 2015, 2:45 p.m., in Conference Room 224**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide its **comments, suggested amendments and support for SB 1073, SD1**. The current language of this measure will exclude existing *bona fide farming operations* that have recently changed locations, developed new farming operations, or created new companies. The current bill will also exclude other legitimate new start-up agricultural operations with prior *bona fide farming* experience outside of that particular county.

Thus, **LURF respectfully recommends an amendment** to allow county officials to grant an exemption to the minimum criteria and standards of "*bona fide farming operations*," including requirements relating to "*Has been in operation for not less than two years*" requirement; and "*...annual gross sales...for a minimum two of the preceding five years...*"

**SB 1073, SD1**. This bill allows agricultural tourism uses or activities, including certain overnight accommodations, as long as the agricultural tourism activities are conducted in conjunction with a *bona fide farming operation*, in the Agricultural District.

The purpose of this measure is to allow for agricultural tourism activities, including overnight accommodations for stays of less than thirty consecutive days, as a permissible use for a bona fide farming operation in the state agricultural district in all counties, without the necessity of a specific enabling county ordinance.

The intent of this SB 1073, SD1 is to ensure that *bona fide farming operations* that meet the statutory criteria would not be required to obtain a special permit pursuant to section 205-6, Hawaii Revised Statutes (HRS), for accessory agricultural tourism activities.

This measure also includes a definition of “*bona fide farming operations*,” as an effort to better ensure that agricultural tourism activities are properly constrained and abuse is reduced, particularly when overnight accommodations are included. The definition for “*bona fide farming operation*” and minimum criteria and standards are as follows:

“...bona fide farming operation” means a farming operation as defined in section 165-2 that meets the following minimum criteria and standards and any additional criteria and standards adopted by county ordinance pursuant to section 205-5(b):

- (A) Has been in operation for **not less than two years**:
- (B) Receives the majority of its annual gross income from the sale of agricultural products grown by the farming operation on the property for which an agricultural tourism use is proposed; and
- (C) Has annual gross sales of agricultural products grown on the property for a **minimum of two of the preceding five years** of no less than:
  - (i) \$35,000 if the agricultural tourism use or structures or includes overnight accommodations; or
  - (ii) \$10,000 if the agricultural tourism use or activity does not require permanent enclosed structures and does not include overnight accommodations;

Thus, depending on the existing county permit ordinance, an applicant could apply for a ministerial permit for an agricultural tourism use, if the applicant satisfies the minimum “two years” criteria and standards. LURF understands that legitimate and farmers who do not meet the above criteria and standards would be prohibited from conducting agricultural tourism activities, including overnight accommodations.

This bill also increases the duration of an overnight accommodation stay from twenty-one days to less than thirty consecutive days.

As explained above, this measure would allow agricultural tourism and overnight accommodations to occur in all counties; eliminates the requirement for county ordinances for agricultural tourism; but also allows the counties to further regulate agricultural tourism activities by imposing more restrictive requirements as the counties may affirmatively choose to create by ordinance.

**Background.** This measure is part of the Governor’s 2015 Legislative Package, and the the Department of Business, Economic Development and Tourism (DBEDT) has provided the following facts as justification for this bill.

According to DBEDT, even though eight years have passed since the Legislature first allowed agricultural tourism, such agricultural tourism activities in the counties of Kauai, Honolulu, and Maui is still prohibited.

In 2006, the Legislature passed a law to allow farmers the opportunity to generate additional income by offering agricultural tourism activities to visitors to their farms. Agricultural tourism is to be secondary and accessory to the principal agricultural use and requires the counties to enact ordinances to regulate it.

Act 329, Session Laws of Hawaii 2012, amended the agricultural tourism statute by adding overnight accommodations of twenty-one days or less as a permissible agricultural tourism activity, but again limits these activities to counties with an agricultural tourism ordinance.

The current law allowing agricultural tourism includes the following:

- (1) Requires that counties to enact an ordinance allowing agricultural tourism;
- (2) Restricts agricultural tourism activities, including overnight accommodations, to a *“working farm”* or a *“farming operation,”* requires that the agricultural tourism activities coexist with *“bona fide agricultural activity,”* and provides that *“bona fide farming operation”* means a *“farming operation”* as defined in Section 165-2, HRS (Right to Farm Act); and
- (3) Limits overnight accommodations to twenty-one days.

Despite the legislative efforts to encourage agricultural tourism, to date, only Hawaii County has an agricultural tourism ordinance. Farmers in the counties of Kauai, Honolulu, and Maui do not have the same opportunities.

**LURF’s Position.** LURF members include private property owners, farmers and ranchers who own, maintain, and engage in agricultural enterprises, and who consider measures such as SB 1073, SD1, as critical to sustain agricultural operations and businesses. These land owners and agricultural stakeholders believe that the right kind of agricultural tourism will assist in providing additional revenue for bona fide farming operations, and could help revitalize the **State’s** agricultural industry.

As an advocate for the various agricultural stakeholder groups who defend the goals of viable agricultural operations and the conservation and protection of agriculture, LURF **supports** this measure, which encourages economic development and agricultural tourism by allowing offering overnight accommodations, and contributes to the State’s goals of increased food security and food self-sufficiency.

As this Committee may already be aware, **Hawaii’s** agricultural industry faces numerous challenges, including drought, unpredictable storms, increased costs of land, labor, processing, and transportation, which threaten crop production and the viability of Hawaii’s agricultural industry. Alternatives such as agricultural tourism could support existing and future agricultural operations, **reduce the State’s reliance on the importation of food**, and support the **State’s food security**. As the financial viability agricultural operations continue to be a significant concern, LURF and its members appreciate this measure being taken to assist agricultural stakeholders by providing another alternative to keep agricultural operations.

For the reasons stated above, LURF is **in support of SB 1073, SD1**, and respectfully urges your favorable consideration of this measure, as well as an **amendment to allow county officials to grant an exemption to the minimum criteria and standards in the bill.**

Thank you for the opportunity to present testimony relating to this measure.

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**Subject:** \*Submitted testimony for SB1073 on Feb 25, 2015 14:45PM\*  
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**SB1073**

Submitted on: 2/22/2015

Testimony for WTL on Feb 25, 2015 14:45PM in Conference Room 224

| Submitted By | Organization | Testifier<br>Position | Present at<br>Hearing |
|--------------|--------------|-----------------------|-----------------------|
| Amy Brinker  | Individual   | Support               | No                    |

Comments:

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**From:** [Mark Brasher](#)  
**To:** [Sen. Laura Thielen](#)  
**Subject:** Please oppose Carleton Ching for DLNR  
**Date:** Monday, February 23, 2015 10:26:28 AM

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Dear Senator Thielen,

I am emailing to strongly urge you to oppose the appointment of Carleton Ching for DLNR.

While Carleton Ching might make an effective director for DBEDT or other business related positions in the government he does not have experience, education or training in the conservation and protection of Hawaii's most valuable and irreplaceable resource: the land itself.

If you are able to join in the request to Gov. Ige that he withdraw his nomination of Ching, that would be great, too.

Thank you,

Dr. Mark Brasher

1214 Kina Street

Kailua, HI  
(808) 381-6080