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March 28, 2023

HEARING BEFORE THE
HOUSE COMMITTEE ON WATER & LAND

TESTIMONY ON HCR 126/HR 127
URGING THE DEPARTMENT OF HEALTH TO TAKE CERTAIN ACTIONS
REGARDING FUGITIVE DUST

Conference Room 430 & Videoconference
9:30 AM

Aloha Chair Ichiyama, Vice-Chair Poepoe, and Members of the Committee:

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

The Hawai'i Farm Bureau respectfully opposes HCR 126/HR 127 and offers the following comments.

The resolutions are unnecessary and partially duplicate rules, procedures, and requirements already in place to regulate fugitive dust.

- Hawai'i Administrative Rules, 11-60.1 through 33 already regulate fugitive dust. These rules are enforceable by the Hawai'i Department of Health (HDOH) and prohibit *anyone* from causing or permitting fugitive dust to become airborne without taking reasonable precautions.
 - HDOH provides examples of reasonable precautions and under what circumstances they may be used. In fact, HDOH publicizes an informational fact sheet that includes examples of "reasonable precautions" that can be utilized during various activities, <https://health.hawaii.gov/cab/files/2019/04/Hawaii-Fugitive-Dust-Fact-Sheet-April-2019.pdf>.
 - Reasonable precautions to control fugitive dust are extremely site and circumstance-specific and are determined by HDOH on a case-by-case basis. All of these factors must be considered: the site topography and surroundings, soil conditions, meteorological conditions, site activities, site equipment, and types of material involved. Just because a particular example or even all of the examples are used does not necessarily mean

that HDOH will deem the operator to be in compliance with the fugitive dust requirements.

- Violation of these rules can result in civil and administrative fines of up to \$25,000 per day, per violation (these fines may currently be undergoing a substantial increase).

In addition to these HDOH rules, each county requires a grading permit for soil disturbance over a very small threshold amount. Exemptions are made for farmers who work with the Soil and Water Conservation Districts to develop and implement a conservation plan specific to their parcel and agricultural activities. Part of the conservation plan is to ensure that soil is not lost to air dispersal or runoff.

For these reasons, HFB does not believe that these resolutions are necessary. If this Committee disagrees, we respectfully suggest that the experts within the U.S. Department of Agriculture Natural Resource Conservation Service (NRCS) be requested to review calculations for dust impacts during fallow periods of crop production and recommend best practices to minimize impacts to downwind communities.

On behalf of Hawai'i's farmers and ranchers statewide, HFB asks that you do not add another layer of burdensome regulations that duplicate what is already required.

Thank you for the opportunity to provide testimony on these measures.