



OFFICE OF HAWAIIAN AFFAIRS

‘Ōlelo Hō‘ike ‘Aha Kau Kānāwai

**COMMENTS ON SENATE BILL 2169 SD1 HD1**

RELATING TO THE AGRIBUSINESS DEVELOPMENT CORPORATION

Ke Kōmike Hale o ka Ho‘okolokolo a me ke Kuleana Hawai‘i  
(House Committee on Judiciary and Hawaiian Affairs)  
Ke Kapikala o Hawai‘i  
(Hawai‘i State Capitol)

‘Apelila 2, 2026

2:00PM

Lumi 325

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Aloha e Chair Tarnas, Vice Chair Poepoe, and Members of the House Committee on Judiciary and Hawaiian Affairs:

The Office of Hawaiian Affairs (OHA) offers **COMMENTS on SB2169 SD1 HD1**, which authorizes the Agribusiness Development Corporation (ADC) to acquire by condemnation any real property or interest in real property.

OHA supports policies that strengthen agricultural productivity, Hawai‘i’s food security, and economic self-sufficiency for locally-based farmers including Native Hawaiian owned businesses and subsistence farmers. At the same time, protection of the public trust lands corpus, comprised primarily of former crown and government land of the Hawaiian Kingdom seized during the illegal overthrow, is a core trust duty that OHA owes to its beneficiaries. Thus, OHA has advocated over the years to ensure that HRS chapter 171 includes protective measures that limit alienation of public trust lands without legislative oversight, and advance notice to OHA. *See, e.g.*, HRS §§ 171-50, -64.7. Leasing of public lands includes additional procedural guardrails including public auction and term (duration of years) limitation. *See, e.g.* HRS §§ 171-14, -36, -59.

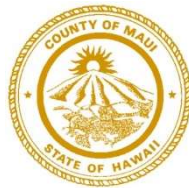
Accordingly, OHA supports amendments made in the last committee to exempt public trust lands from the proposed condemnation powers by amending the language at page 5 line 5 to read: “any interest in real property, except public lands as defined in section 171- 2, Hawaii Revised Statutes, for the purposes of this chapter. It is critical that this exemption remain in place to protect public trust lands from improper disposition and potential alienation.

Both OHA and the State of Hawai‘i have a fiduciary duty to ensure that public trust lands and revenues derived from them are protected and used in a manner consistent with trust purposes, one of which being the betterment of the conditions of Native Hawaiians. Any expansion of condemnation authority that includes the public trust lands raises serious concerns about potential impacts to the trust corpus, beneficiary rights, and the State’s trust obligations.

Mahalo nui for the opportunity to testify on this critical issue.

**RICHARD T. BISSEN, JR.**  
Mayor

**JOSIAH K. NISHITA**  
Managing Director



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TO: Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair  
Committee on Judiciary and Hawaiian Affair

FROM: Richard T. Bissen, Jr., Mayor  
John Stufflebean, P.E. & Director for Department of Water Supply

DATE: April 1, 2026

SUBJECT: **COMMENTS on SB2169 SD1 HD1 RELATING TO THE AGRIBUSINESS DEVELOPMENT CORPORATION.**

Thank you for the opportunity to provide **COMMENTS** on this measure which authorizes the Agribusiness Development Corporation to acquire by condemnation any real property or interest in real property, except public lands, under certain conditions. Prohibits any real property acquired by the Corporation by condemnation from subsequently being transferred or taken for any other public use without the Corporation's consent. Effective 7/1/3000. (HD1)

The County supports efforts to strengthen and expand agricultural production across the State. However, we respectfully request that this measure be amended to include explicit protections for critical drinking water resources. Specifically, we urge the inclusion of language prohibiting the initiation of any condemnation proceedings on lands that contain water resources currently utilized for potable (drinking) water purposes.

Such an amendment is necessary to safeguard the integrity, availability, and long-term stewardship of vital water resources serving Maui Nui. Ensuring that lands supporting existing drinking water systems are protected from condemnation will help prevent unintended disruptions to public water supply and preserve the County's ability to effectively manage and protect these essential resources.

Mahalo for your consideration.



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March 18, 2026

HEARING BEFORE THE  
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

**TESTIMONY ON SB 2169, SD1, HD1**  
RELATING TO THE AGRIBUSINESS DEVELOPMENT CORPORATION

Conference Room 325 & Videoconference  
2:00 PM

Aloha Chair Tarnas, 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 supports SB 2169, SD1, HD1**, which authorizes the Agribusiness Development Corporation (ADC) to acquire certain real property or interests in real property, including through condemnation, for public agricultural purposes. Ensuring that agricultural lands remain dedicated to farming and are not lost to non-agricultural uses is essential to Hawai'i's long-term food security and agricultural sustainability.

ADC plays a critical role in developing and managing agricultural lands, irrigation systems, and other infrastructure necessary for farming and ranching in Hawai'i. In certain limited circumstances, the inability to assemble land or property interests can delay or prevent the development of essential agricultural infrastructure that serves a clear public purpose. HFB believes it is important to equip ADC with appropriate and limited authority to effectively carry out its statutory role in developing agricultural infrastructure and supporting agricultural production statewide.

We recognize that condemnation authority is a significant power and should be exercised sparingly and with appropriate safeguards. SB 2169, SD1, HD1 appropriately limits the use of this authority to public agricultural purposes and preserves existing protections, including the exclusion of public lands, requirements for just compensation, due process, and respect for Native Hawaiian customary and traditional practices.

HFB believes that granting ADC this authority, when coupled with the safeguards included in the bill, will help facilitate the development of agricultural infrastructure that benefits farmers, ranchers, and the broader agricultural community. This authority is not intended for routine use, but rather as a tool of last resort when necessary to advance legitimate public agricultural projects.

Thank you for the opportunity to provide testimony.



# EARTHJUSTICE

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair

TESTIMONY IN **STRONG OPPOSITION** TO SENATE BILL 2169, SD1, HD1

Thursday, April 2, 2026, 2:00 p.m.  
Conference Room 325 & Videoconference  
State Capitol  
415 South Beretania Street

Aloha Chair Tarnas, Vice Chair Poepoe, and Committee Members:

Earthjustice **strongly opposes Senate Bill 2169, SD1, HD1**, “Relating to the Agribusiness Development Corporation.” This bill would grant the Agribusiness Development Corporation (“ADC”) the extraordinary power of eminent domain—while uniquely insulating any lands it acquires from being repurposed for other public uses without ADC’s consent. No agency with ADC’s deficient track record should be given such sweeping authority.

For more than 30 years, ADC has demonstrated a pattern of mismanagement. It has been sued for violating the federal Clean Water Act, it has mismanaged public lands and water systems, and it has failed to meaningfully support local, sustainable agricultural development after the decline of plantation agriculture. Rather than steward the public resources under its control for the benefit of the people of Hawai‘i, ADC’s lack of oversight and accountability has resulted in detrimental impacts for local communities.

In West Kaua‘i, for example, ADC leased thousands of acres of land to GMO seed corn companies, which used thousands of pounds of Restricted Use Pesticides, leaving lands in environmental justice communities unfit for other traditional types of farming. The run-off from these lands poisoned groundwater, streams, and ocean reefs. Moreover, ADC has effectively ceded control of West Kauai public lands and water infrastructure to private entities. This resulted in years of delay in completing necessary repairs and restoring stream flows required under a 2017 settlement and order by the state water commission. This is not stewardship—it is an abdication and absenteeism.

ADC lacks the leadership, staffing, and resources to manage even its current, limited portfolio on Kaua‘i and O‘ahu. Expanding its authority statewide would only magnify these failures. If ADC were to bring its modus operandi of mismanaging public lands and water systems to Maui, this could significantly set back Lahaina wildfire recovery efforts.

In 2021, the Legislature was considering a bill to dissolve ADC and transfer its lands and staff to the Department of Agriculture. *See* HB 1271 (2021 Legislative Session). Now, just five years later, SB 2169 proposes that this Legislature entrust more lands, water systems, and broad, unchecked power to an agency that has forfeited that trust. The risks to our public trust resources and local communities are too great. Earthjustice thus urges this committee to defer this measure.

Mahalo for the opportunity to testify. Please do not hesitate to contact us with any questions or for further information.

Respectfully submitted,

/s/ Elena Bryant

Elena Bryant, Esq.

Senior Associate Attorney

Earthjustice, Mid-Pacific Office



## House Committee on Judiciary and Hawaiian Affairs

### Hawai'i Alliance for Progressive Action (HAPA) Strongly Opposes: SB2169 SD1 HD1

Thursday, April 2nd, 2026 2:00 p.m. Conference Room 325

Aloha Chair Tarnas, Vice Chair Poepoe and Members of the Committee,

Hawaii Alliance for Progressive Action (HAPA) **strongly opposes SB2169** which seeks to authorize the Agribusiness Development Corporation (ADC) to acquire by condemnation any real property or interest in real property, except public lands, under certain conditions.

While HAPA supports the goal of increasing local food production the ADC's poor track record of stewarding Hawaii's lands and waters raises serious concerns about further extending the already extensive powers of the agency. To date the ADC has largely facilitated the growth of pesticide intensive large agribusiness, but has failed to provide access for smaller food producers who demonstrate environmentally sound land and water management, prioritizing regenerative practices which support soil and water conservation.

Starting around the beginning of 2013 a groundswell of community engagement on Kaua'i arose when local residents became concerned about their exposure to pesticide drift from agrochemical tenants on ADC lands on Kaua'i's west side. A multi-year advocacy effort to provide basic public health protections from pesticide drift ensued. The state released a scathing audit of the agency in 2021 has highlighted many failings of the ADC<sup>1</sup>. Many of those concerns remain today, in addition to concerns about heavy pesticide use by their tenants revealed by recent reporting data.<sup>2</sup>

#### Farmers Identify Access to Affordable Land as a Major Barrier:

Multiple farmer surveys have been conducted which consistently find access to affordable land as the primary barrier that farmers face<sup>3,4</sup>. The ADC could be leading the way in ensuring that farmers have access to the ADC inventory of lands, however the agency consistently demonstrates a preference for large agribusiness, leaving behind a large portion of the sector in Hawaii.

<sup>1</sup>State Audit of the Agribusiness Development Corporation, Report No. 21-01 Jan 14th 2021 <https://files.hawaii.gov/auditor/Reports/2021/21-01.pdf>

<sup>2</sup> <https://storymaps.arcgis.com/stories/1fbfb09ad12746be8df6df082fe61886>

<sup>3</sup> Malama Kaua'i Farmer Survey

<https://secureservercdn.net/45.40.148.147/i79.5c3.myftpupload.com/wp-content/uploads/2019/06/2017-Kauai-Farmer-Survey-Report.pdf>

<sup>4</sup> Hawaii Farmers Survey <https://www.hawaiifarmersurvey.com/>



### Public Lands Should Serve the Public Good:

Considering that ADC lands represent the largest swath of public (ceded) agricultural lands on Kaua'i, lawmakers should consider the highest and best use of those lands, for the public good.

As a “public-private corporation”, in the name of bypassing “bureaucratic red tape” the legislature granted the ADC broad powers to buy, own, and develop public lands. In other words, a partly privatized entity has been granted significant control over “public” lands. Without a clear mandate as to how to serve its purpose, in practice the ADC has functioned to redistribute public lands and resources for narrow private gain through an entirely non-democratic process.

The ADC controls some of the most fertile agricultural lands on Kaua'i, equipped with irrigation and road infrastructure from sugar days. Rather than being made available to meet State goals of local food production, they have mostly been handed over to the largest agrochemical companies in the world for research facilities. This is a huge subsidy to already extremely wealthy and heavily subsidized corporations<sup>5</sup>.

### ADC Lands Are Home To Some of the Heaviest Pesticide Usage in the Hawaii:

The ADC lands leased to agrochemical tenants and large agribusiness have been associated with heavy pesticide usage and toxic drift into adjacent communities<sup>6 7</sup>. The 2016 Joint Fact Finding Group report *Pesticide Use by Large Agribusinesses on Kaua'i* showed that agrochemical tenants in Kekaha directly adjacent to Hawaiian Homes purchased and likely applied three times the national average of chlorpyrifos, a dangerous neurotoxin insecticide now banned by the State of Hawai'i and several other states<sup>8</sup>. The Hawaiian Homes development in Kekaha formerly occupied by BASF and later Becks is approximately 100 feet from the ADC fields. Chlorpyrifos (which is now banned in Hawai'i) and other organophosphates (a certain class of insecticide) are known to drift up to a mile at harmful levels.<sup>9 10 11</sup> Several studies have shown that proximity to agricultural fields at distances up to 0.9 mile results in maternal exposure to pesticides that is associated with neurological deficits in children, including autism, autism spectrum disorders,

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<sup>5</sup> Corn Subsidies in the United States totaled \$116.6 billion from 1995-2020†. <https://farm.ewg.org/progdetail.php?fips=00000&progcode=com>

<sup>6</sup> 2016 Joint Fact Finding Group Report on Crops and Pesticides on Kaua'i <https://www.accord3.com/crops-and-pesticides-on-kauai/>

<sup>7</sup> <https://storymaps.arcgis.com/stories/1fbfb09ad12746be8df6df082fe61886>

<sup>8</sup> 2016 Joint Fact Finding Group Report on Crops and Pesticides on Kaua'i <https://www.accord3.com/crops-and-pesticides-on-kauai/>

<sup>9</sup> Deziel NC et al. A Review of Nonoccupational Pathways for Pesticide Exposure in Women Living in Agricultural Areas. *Environ Health Perspect.* 2015. 123 (6) 515-524. <http://ehp.niehs.nih.gov/1408273/>

<sup>10</sup> Simcox NJ Pesticides in household dust and soil: exposure pathways for children of agricultural families. *Environ Health Perspect.* 1995. 103:1126–1134. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1519258/>

<sup>11</sup> Waimea Community Dust Impacts, Preliminary Evaluation Report, Knox Hoversland Architects LTD. Jim A'Ana et al. v. Pioneer HiBred International, Inc. Feb 24, 2014.

and cognitive impairments<sup>12 13 14 15 16 17 18 19 20 21 22 23</sup>. The science is especially strong that children living within ¼ mile of agricultural fields show neurological impacts.

Additionally, the review of restricted use pesticide (RUP) usage data (2019-2021) made available pursuant to the passage of Act 45 reveals ADC parcels to be home to some of the heaviest applications of RUP's in Hawai'i.

### Mismanagement of ADC Lands and Water

ADC's lack of oversight and mismanagement has led to water hoarding and wasting in Kekaha, ultimately leading to a contested case at the Water Commission.

Beginning in the early 1900s, the Kekaha Sugar Plantation built the Kekaha and Kōke'e ditch systems, which diverted much of the water flowing down the Waimea River and its tributaries to grow sugar. When the plantation went out of business in 2001, the State of Hawai'i took over the ditch network. The ADC leased the ditch network and lands to the Kekaha Agriculture Association (KAA). But, although the association was cultivating only a fraction of the previous plantation land, and growing much less water-intensive crops, the diversions remained at plantation-era levels, leaving vast stretches of dry stream bed in the Waimea River and headwater streams.

Proceedings before the Water Commission revealed that the association (KAA) was diverting far more water than was needed for agriculture and, instead, was using this public trust

<sup>12</sup> Shelton J et al. Neurodevelopmental Disorders and Prenatal Residential Proximity to Agricultural Pesticides: The CHARGE Study. *Environ Health Perspect.* 2014 122(10): 1103-1109. <http://ehp.niehs.nih.gov/1307044/>

<sup>13</sup> Shelton J and I Hertz-Picciotto. Neurodevelopmental Disorders and Agricultural Pesticide Exposures: Shelton and Hertz-Picciotto Respond. *Environ Health Perspect.* 2015. 123(4): A79-A80. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4384207/>

<sup>14</sup> Eskenazi B et al. Organophosphate Pesticide Exposure and Neurodevelopment in Young Mexican-American Children. *Environ Health Perspect.* 2007. 115(5): 792-798. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1867968/>

<sup>15</sup> Marks AR et al. Organophosphate pesticide exposure and attention in young Mexican-American children: the CHAMACOS Study. *Environ Health Perspect.* 2010. 118(12):1768-1774. <http://www.ncbi.nlm.nih.gov/pubmed/21126939>

<sup>16</sup> Gonzalez-ALzaga B. A systematic review of neurodevelopmental effects of prenatal and postnatal organophosphate pesticide exposure. *Toxicol Lett.* 2014. 230(2):104-21 <http://www.ncbi.nlm.nih.gov/pubmed/24291036>

<sup>17</sup> Roberts EM, et al. Maternal residence near agricultural pesticide applications and autism spectrum disorders among children in the California Central Valley. *Environ Health Perspect.* 2007. 115(10):1482-9. <http://www.ncbi.nlm.nih.gov/pubmed/17938740>

<sup>18</sup> Bouchard, MR et al. Prenatal Exposure to Organophosphate Pesticides and IQ in 7-Year-Old Children. *Environ. Health Perspect.* 2011. 119(8): 1189-1195. <https://www.ncbi.nlm.nih.gov/pubmed/21507776>

<sup>19</sup> Marks, A, et al. Organophosphate Pesticide Exposure and Attention in Young Mexican-American Children: The CHAMACOS Study. *Environ Health Perspect.* 2010. 118(12): 1768-1774. <https://www.ncbi.nlm.nih.gov/pubmed/21126939>

<sup>20</sup> Eskenazi B et al. Exposures of children to organophosphate pesticides and their potential adverse health effects. *Environ Health Perspect.* 107 Supplement 3, June 1999. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1566222/pdf/envhper00520-0027.pdf>

<sup>21</sup> Gunier RB et al. "Determinants of Agricultural Pesticide Concentrations in Carpet Dust" *Environ Health Perspect.*, July, 2011.

<sup>22</sup> Deziel, NC et al. "Relative contributions of agricultural drift, para-occupational, and residential use exposure pathways to house dust pesticide concentrations: meta-regression of published data" *Environ. Health Perspect.*, March, 2017. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5332194/>

<sup>23</sup> Gunier RB et al. "Prenatal Residential Proximity to Agricultural Pesticide Use and IQ in 7-Year-Old Children." *Environ Health Perspect.*, June, 2016. <https://ehp.niehs.nih.gov/doi/full/10.1289/EHP504>



resource to feed an antiquated hydropower system that helped subsidize its operations. And much of the water was simply wasted<sup>24</sup>.”

The ADC has facilitated agrochemical companies’ exemption from compliance with Clean Water Act standards by extending a decades-old sugar plantation permit to discharge toxic chemicals into the water. The exemption was recommended by the ADC because the Clean Water Act criteria would “likely be extremely difficult to meet” with more stringent federal limits for pesticide discharge now enforced <sup>25</sup>(pg 46-47). This is yet another form of subsidy granted by the ADC to some of the largest corporations in the world at the expense of public health.

In 2019 the ADC was ruled to have polluted waters of West Kaua’i without a permit since 2015 by a federal judge, violating a federal Clean Water Act<sup>26</sup>. The ruling stems from the ADC lacking a permit to drain polluted waters since its permit expired in 2015. The water was found to contain the herbicide Glyphosate, which has been linked to cancer and 2 billion dollars in lawsuit winnings over the use of popular Glyphosate-based herbicide Roundup<sup>27,28</sup>.

In conclusion, The ADC’s longstanding poor track record of mismanagement led the legislature to consider a bill to dissolve the entity in 2021 and transfer its land and staff to the Department of Agriculture. See HB 1271 (2021 Legislative Session). This history certainly does not justify providing the agency with greater powers and oversight of more of Hawaii’s lands and waters.

HAPA strongly urges this committee to defer this measure.

Mahalo for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anne Frederick', is written over a horizontal line.

Anne Frederick,  
Executive Director

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<sup>24</sup> Earthjustice: Flows Restored to Waimea and Grand Canyon of the Pacific April 18th

2017 <https://earthjustice.org/news/press/2017/flows-restored-to-waimea-river-and-grand-canyon-of-the-pacific>

<sup>25</sup> 2016 Joint Fact Finding Group Report on Crops and Pesticides on Kaua’i <https://www.accord3.com/crops-and-pesticides-on-kauai/>

<sup>26</sup> United States District Court CIVIL NO. 18-00005 DKW-RLP

[https://earthjustice.org/sites/default/files/files/Order\\_Summary-Judgment-and-Dismissal\\_2019-07-09.pdf](https://earthjustice.org/sites/default/files/files/Order_Summary-Judgment-and-Dismissal_2019-07-09.pdf)

<sup>27</sup> Jury orders Monsanto to pay 2 billion in roundup weed killer cancer case

<https://www.usatoday.com/story/money/2019/05/13/weed-killer-cancer-case-jury-orders-monsanto-pay-2-billion/1194572001/>

<sup>28</sup> KHON: State guilty of violating Clean Water Act on Kauai with cancer-linked Glyphosate, other pesticides July 15, 2019

<https://www.khon2.com/news/state-guilty-of-violating-clean-water-act-on-kauai-with-cancer-linked-glyphosate-other-pesticides/>