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**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
www.mauicounty.gov/council

January 19, 2010

The Honorable Danny A. Mateo, Chair  
and Members of the Council  
County of Maui  
Wailuku, Hawaii 96793

RECEIVED  
9:19 JAN 19 PM 2:55  
OFFICE OF THE  
COUNTY CLERK

Dear Chair Mateo and Members:

**SUBJECT: AGRICULTURAL IMPACT FEES (PAF 09-160)**

May I request that the matter relating to agricultural impact fees be referred to the appropriate standing committee for discussion and action.

The conversion of agricultural land to nonagricultural uses presents the following negative impacts:

- **Loss of food security.** With less land being utilized for farming, Maui County becomes even more reliant on the importation of food, which raises basic living expenses and creates public-health risks in the event of a disaster.
- **Failure to fulfill the State Constitution's mandate for the conservation and preservation of agricultural lands.** Article XI, Section 3 of the Hawaii Constitution states: "The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands." As a political subdivision of the State, the County of Maui needs to undertake good-faith efforts to implement this provision.
- **Failure to fulfill General Plan mandates.** Numerous policies in the various community plans promote the use of agriculturally zoned land for agricultural purposes. In addition, the draft Countywide Policy Plan, now pending before the Council, includes the following policy: "Prioritize the use of agricultural land to feed the local population, and promote the use of agricultural lands for sustainable and diversified agricultural activities".
- **Increased infrastructure costs and environmental impacts.** The conversion of agricultural land to non-agricultural purposes typically results in increased demands on the County to provide physical infrastructure for the subject property and increased ecological hazards that the County must address on and near the subject property.

**COUNTY COMMUNICATION NO. 10-30**

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The County should consider steps to mitigate these impacts. State law provides for the imposition of impact fees by county governments. Section 46-141, Hawaii Revised Statutes, establishes the process for establishing impact fees. First, an enabling ordinance is required to authorize and define the scope of a study regarding the impacts of particular kinds of development-related actions within a localized area, with the goal of assisting the county government in determining the appropriate level of fees. Second, after receipt and review of the relevant study, another ordinance is necessary to establish an appropriate fee schedule. Third, a budget ordinance is needed to formally authorize the receipt and use of fee revenues.

I intend to work with Council staff and the Department of the Corporation Counsel to prepare proposed bills to establish enabling ordinances for agricultural impact fees in each of Maui County's eight populated community plan areas. The purpose of the legislation would be to require an applicant seeking to convert agricultural land to non-agricultural purposes to pay the County an agricultural impact fee as a condition of a State District Boundary Amendment, General Plan Amendment, Community Plan Amendment, or Change in Zoning. Revenues from the agricultural impact fees would be used to fund agricultural infrastructure and to purchase agricultural easements, conservation easements, or other property interests to conserve and preserve agricultural land. After obtaining such interests, the County would convey them to an appropriate land trust or conservation entity.

I will transmit the legislation to the appropriate committee once the bills have been approved as to form and legality by the Corporation Counsel.

Please notify the following when this matter is scheduled for discussion by the committee:

Jon Scholl, President  
American Farmland Trust  
1200 18th Street NW, Suite 800  
Washington, D.C. 20036

Thank you for your consideration.

Sincerely,



SOL P. KAHO`OHALAHALA  
Council Member