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Testimony of The Nature Conservancy of Hawai'i
Supporting H.B. 2593 HD1 Relating to Emergency Rules for Threats
to Natural Resources or the Health of the Environment
House Committee on Judiciary
Thursday, March 1, 2012, 2:01PM, Room 325

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawaii's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 10 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy supports H.B. 2593 HD1 to provide emergency rulemaking authority to the Department of Land and Natural Resources (DLNR) to address issues of imminent peril to natural resources or the environment.

Invasive animals, weeds, insects, diseases, and other pests are one of the greatest threats to Hawaii's economy, agriculture, natural environment, and the health and lifestyle of its people. Evidence from Hawai'i and around the world shows that preventing new pest establishment is exponentially more economical than eradicating a pest or, even worse, controlling it indefinitely once it becomes established.

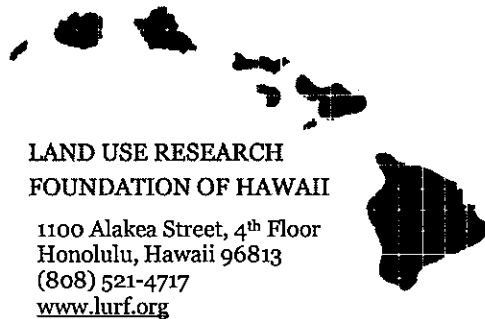
Where established in Maui county, Axis deer are causing great damage to native habitat and agricultural crops, and are a danger to vehicle traffic on roadways. Unfortunately, the DLNR and the Department of Agriculture have not had the legal tools and authorities necessary to rapidly respond to the recent discovery of Axis deer on Hawai'i island.

For these reasons, we support this measure. Thank you for the opportunity to testify.

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February 23, 2012

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Committee on the Judiciary

Comments and Concerns Relating to HB 2593, H.D. 1 - Emergency Rules for Threats to Natural Resources or the Health of the Environment. (Broadens the conditions under which emergency rules may be adopted to include instances of imminent peril to natural resources or the health of the environment.)

Thursday, March 1, 2012, 2:01 p.m., in House Conference Room 325

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), 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 supports the intent of **HB 2593, H.D. 1**; however, we have **comments and concerns** related to the current language of the bill, which appears to provide state agencies with overly broad powers to change rules with little or no public notice or input, thereby impacting private land owners, agricultural operators and others who are affected by Hawaii's natural resources.

HB 2593, H.D. 1. The purpose of this bill is to provide a means for agencies to adopt emergency rules related to imminent peril to natural resources or to the health or environment, in order that departments may respond rapidly to such environmental hazards.

LURF's Position. LURF members include private land owners, farmers, ranchers, and other agricultural stakeholders who own, maintain, and utilize natural resources and livestock which are critical to conduct their operations and to sustain their businesses.

While HB 2593, H.D. 1 may greatly assist these land owners and agricultural stakeholders in the event of emergency endangering these resources or the public health and safety, LURF has concerns regarding the current language of the bill, which appears to provide state agencies with overly broad powers to change rules with little or no public notice or input, thereby impacting those affected by Hawaii's natural resources. In particular, the unilateral rule changes without public hearings by the Department of Land and Natural Resources (DLNR) would have a major adverse impact on farmers and agricultural operations, fishermen, hunters, and ocean recreation, etc.

Given the potential adverse impact on local stakeholders despite the valid purpose underlying this measure, LURF requests that HB 2593, H.D. 1 be amended to address the concerns of all parties. Since it appears that this measure was prompted by the imminent peril to Hawaii's environment specifically caused by the axis deer (which is an "alien invasive species"), LURF recommends that the language of the proposed bill be amended so as not to broadly address imminent peril which may be caused generally to "natural resources or the health of the environment," and to limit the rulemaking authority to instances of imminent peril specifically caused by "alien invasive species."

LURF understands that in the past, the subject legislation has been similarly amended to include "livestock" to specifically address concerns resulting from the "mad cow disease" scare; and also to include "poultry health" in response to specific concerns relating to the "Asian bird flu" outbreaks. Since the sole justification for the current measure is the peril caused by the axis deer, which is an "invasive alien species," LURF believes that it would be reasonable and consistent with past practice for the Legislature to amend this measure to limit the rulemaking authority afforded by this bill to situations of imminent peril **specifically caused by "invasive alien species."**

Public health and safety, as well as health of the environment are critical concerns of land owners and agricultural stakeholders, and the ability of agencies and departments to adopt emergency rules to aid in quick response to environmental peril provide much comfort and assurance, and directly address ongoing issues relating to environmental health and to food safety and security. LURF and its members appreciate this measure being taken which may greatly assist these stakeholders and the public, and the acknowledgement of these vital natural resources for the State, however, respectfully urge this Committee to consider the above concerns and recommendations relating to the current language of this bill.

Thank you for the opportunity to present testimony regarding this matter.