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**THE TRUST FOR PUBLIC LAND'S TESTIMONY  
REGARDING SB 2378 SD 1 RELATING TO LEGACY LANDS  
Senate Committee on Ways & Means  
Tuesday, February 28, 2012, 9:00 a.m., Room 211**

At the request of Senator Donovan Dela Cruz, The Trust for Public Land's Hawaiian Islands Program and the State Division of Forestry and Wildlife collaborated on different versions of amendments to SB 2378, which were combined by Senator Donovan Dela Cruz's staff, resulting in SB 2378 SD 1.

In general, the Trust for Public Land supports the changes made: (a) the four public agencies identified in the original bill are no longer the only eligible applicants for Legacy funding (counties, other state agencies like the Office of Hawaiian Affairs, and non-profit land conservation organizations remain eligible to apply); and (b) language in the original bill allowing expenditures on undefined "regulatory functions" has been deleted. We appreciate the Division's, committees' (Agriculture and Water, Land & Housing), and Senator Dela Cruz's efforts.

The SD 1 now requires:

- That the State record a conservation easement against land acquired by county or state agencies using Legacy funds. We note that this requirement, while intended to protect the State's investment in Legacy lands, would require that State-owned lands be burdened with a conservation easement. This may not be what the State or the Department of Land and Natural Resources intended.
- That the State record a conservation easement against land acquired by a non-profit organizations using Legacy funds. We do not oppose this requirement, but note that Department of Land and Natural Resources staff will likely be burdened with the easement monitoring requirements. DLNR staff may lack training or

sufficient staff to adequately implement an effective easement-monitoring program. This requirement was also being worked through in administrative rule-making monitored by Senator Pohai Ryan.

- That the Board retain the authority to grant an exemption to these easement requirements. This provision was added because every project is different, with different matching funding sources. Certain sources of federal or other funding may prohibit the type of conservation easement envisioned by the State, but may provide sufficient safeguards to protect the State's investment in keeping land in agriculture or conservation. In those types of cases, the State's relative contribution may be so small that monitoring the conservation easement may be more expensive than the State's financial contribution to the land or easement acquisition. The Board should have the flexibility to grant exemptions where there is good cause.
- That applicants for Legacy funding articulate the public benefits of the project, and specifically, whether public access will be required, and if not, why not. The Legacy applications already require applicants to articulate public benefits, however, this clearly states that requirement and emphasizes public access. This provision was added to address Senator Dela Cruz's concerns regarding maximizing public benefits like public access in all Legacy projects.
- That applicants for Legacy funding consult with the Department of Land and Natural Resources, the Department of Agriculture, the Agribusiness Development Corporation, and the Public Land Development Corporation to maximize public benefits. This was added to address Senator Dela Cruz's concern that there seemed to be little coordination between applicants for Legacy funding and related agencies that could help to maximize public benefits on the land.

Mahalo for this opportunity to testify -



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