

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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CONSERVATION AND COASTAL LANDS
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ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the House Committee on
ENERGY & ENVIRONMENTAL PROTECTION

Thursday, March 21, 2013
8:30 A.M.
State Capitol, Conference Room 325

In consideration of
HOUSE CONCURRENT RESOLUTION 96/HOUSE RESOLUTION 73
RELATING TO REQUESTING THE UNITED STATES DEPARTMENT OF THE
INTERIOR FISH AND WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS
AND COUNTIES TO ESTABLISH REASONABLE CRITICAL HABITAT
DESIGNATIONS FOR ENDANGERED SPECIES IN THE STATE

House Concurrent Resolution 96 and House Resolution 73 request the United States Department of the Interior Fish and Wildlife Service (USFWS) to work with affected persons and counties to establish reasonable critical habitat designations for endangered species in the State. The Department of Land and Natural Resources (Department) supports these resolutions.

When a species is proposed for listing as endangered or threatened under the Endangered Species Act, USFWS must consider whether there are areas of habitat that the Department believes are essential to the species' conservation. Critical habitat is a specific geographic area(s) that contains features essential for the conservation of a threatened or endangered species and that may require special management and protection. An area is designated as critical habitat after USFWS publishes a proposed federal regulation in the Federal Register and considers public comments on the proposal. The final boundaries of the critical habitat area are also published in the Federal Register.

USFWS must take into consideration the potential economic impact, as well as any other benefits or impacts, of specifying any particular area as critical habitat. USFWS may exclude any area from critical habitat if it is determined that the benefits of excluding it outweigh the benefits of specifying the area as part of critical habitat, unless we determine that the failure to designate the area as critical habitat will result in the extinction of the species.

Through the above mentioned processes, USFWS currently works with affected persons and counties to establish reasonable critical habitat designations for endangered species in the state. Therefore, the Department supports these resolutions.

NEIL ABERCROMBIE
Governor



RUSSELL S. KOKUBUN
Chairperson, Board of Agriculture

SCOTT E. ENRIGHT
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF RUSSELL KOKUBUN
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL
PROTECTION
March, 21, 2013
Room 325
8:30 A.M.**

**HOUSE COMMITTEE RESOLUTION NO. 96
RELATING TO CRITICAL HABITAT DESIGNATION**

Chairperson Lee and Members of the Committee:

Thank you for this opportunity to provide testimony on HCR 96. The Department of Agriculture supports this resolution that requests the U.S. Fish and Wildlife Service to work with private and public entities that are affected by critical habitat designations of endangered species in the State.

This resolution will help to ensure that Hawaii's private and public agricultural businesses, programs, projects, and resources found within or near proposed critical habitat units are not unduly burdened or pre-empted, and that the economic impacts upon the agricultural economy be thoroughly investigated and given due consideration, pursuant to Section 4(b)(2) of the Endangered Species Act.

Thank you for the opportunity to testify.



Council Chair
Gladys C. Baisa

Vice-Chair
Robert Carroll

Council Members
Elle Cochran
Donald G. Couch, Jr.
Stacy Crivello
Don S. Guzman
G. Riki Hokama
Michael P. Victorino
Mike White

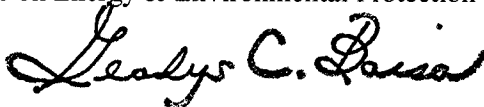


Director of Council Services
David M. Raatz, Jr., Esq.

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

March 19, 2013

TO: The Honorable Chris Lee, Chair
House Committee on Energy & Environmental Protection

FROM: Gladys C. Baisa
Council Chair 

SUBJECT: **HEARING OF MARCH 21, 2013; TESTIMONY IN SUPPORT OF HCR 96 AND HR 73, RELATING TO THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE CRITICAL HABITAT DESIGNATIONS IN MAUI COUNTY**

Thank you for the opportunity to testify in strong support of these important measures. The purpose of these measures is to request the United States Department of the Interior Fish and Wildlife Service ("U.S. Fish and Wildlife Service") to work with affected persons and Counties to establish reasonable critical habitat designations for endangered species in the State.

The Maui County Council has not had the opportunity to take a formal position on these measures. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

On February 21, 2013, the U.S. Fish and Wildlife Service held a public hearing on Maui to receive comments on the proposed critical habitat designations. I testified at this public hearing to request that the U.S. Fish and Wildlife Service reevaluate the proposed critical habitat designations based on the potential economic impact and community concerns. I have attached my comments to the U.S. Fish and Wildlife Service.

For the reasons outlined in my attached comments, I support reconsideration of the proposed critical habitat designations and thus, am in strong support of HCR 96 and HR 73.

**COMMENTS ON PROPOSAL BY THE U.S. FISH AND WILDLIFE SERVICE
TO DESIGNATE CRITICAL HABITAT AREAS ON MOLOKAI, LANAI,
KAHOOLAWE, AND MAUI**

Public Hearing of February 21, 2013

Good evening and thank you for taking the time to hear our community's input on the proposed classification of lands in Maui County as critical habitat areas. My name is Gladys Baisa and I am the Chair of the Maui County Council. I offer my comments tonight as an individual member of the Council as the Council has not had the opportunity to formally consider this proposal.

While I am in strong support of preserving our County's natural resources and protecting our threatened or endangered species, I also want to ensure that the potential impacts to the community are taken into consideration.

One of the arguments in support of the designation of lands as critical habitat areas is that the designation will only impact permits and funding at the Federal level and not at the State and County levels. Maui County farmers and ranchers who currently depend on Federal funds for their operations or who may seek Federal funds in the near future will be affected by this proposal. In addition, there may be indirect consequences to landowners resulting from the designation of critical habitat areas. For example, critical habitat designations on lands within the State agricultural district may cause the State to reclassify those areas as conservation districts. A conservation district land use classification would subject landowners to additional permitting requirements and restrictions on the use of their land.

In 2003, the County of Kauai underwent a similar critical habitat classification proceeding. At that time, the U.S. Fish and Wildlife Service received testimony from many concerned individuals. Your Department's final report stated, "The critical habitat initiative is generating an unwelcome degree of rift between the State Department of Land and Natural Resources and the Service, and may erode public support for needed recovery efforts. The Service should withdraw their plans for critical habitat designation on Kauai, and instead, work with existing agencies on their current efforts at conservation and preservation."

Therefore, it is extremely important that the designation process involve all policy-making entities, including the Hawaii State Legislature, State and County departments, and the Maui County Council, to determine the areas that would properly address and most effectively respond to the preservation of threatened or endangered species. The preamble to the current regulations notes that the procedures for addressing impacts "must vary according to the specific area under review. Impacts should not be expected to remain static or to apply uniformly in all cases".

The State and County of Maui are already pursuing ways to preserve critical areas for plants, animals, and watershed protection, and partnerships would help to further these efforts. For example, Chapter 195D, Hawaii Revised Statutes, known as the Hawaii's Endangered Species Act, takes into account recommendations made by your Department. Additional actions our State has taken to protect and preserve threatened or endangered species include, but are not

limited to, statutory provisions concerning conservation districts, conservation programs, habitat conservation plans, safe harbor agreements, the Endangered Species Recovery Committee, an Endangered Species Trust Fund, and the Forest Stewardship Program, Fund and Management Plan.

Concerns have also been raised on the economic analysis used during the critical habitat designation process. Economic analyses used in previous critical habitat determinations attempt to measure the aggregate economic impacts of proposed designations. An analysis of the total cost of designation does not help to determine which parcels should be included in a critical habitat area and which should be excluded. To better understand the impacts of these designations, a more detailed approach to economic analysis is needed that recognizes the differences in the opportunity cost of land.

Finally, economic considerations need to be given to consumers who will ultimately bear the costs for compliance with or adherence to critical habitat areas rules and regulations. Hawaii has strived towards food sustainability, and potential price increases could jeopardize these initiatives.

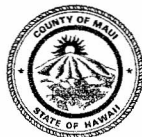
Again, thank you very much for your consideration and I look forward to working with all of you for the betterment of Maui County.

paf:jkn:13-072a

Council Chair
Gladys C. Baisa

Vice-Chair
Robert Carroll

Council Members
Elle Cochran
Donald G. Couch, Jr.
Stacy Crivello
Don S. Guzman, Esq.
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
COUNTY OF MAUI
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WAILUKU, MAUI, HAWAII 96793
www.maui-county.gov/council

March 19, 2013

TO: The Honorable Chris Lee, Chair
The Honorable Laura Thielen, Vice Chair
House Committee on Energy & Environmental Protection

FROM: G. Riki Hokama *GRH*
Maui County Councilmember/Lanai seat

SUBJECT: Testimony in Support of HCR 96 and HR 73 requesting the United States Department of the Interior Fish and Wildlife Service to work with affected persons and Counties to establish reasonable Critical Habitat Designations for endangered species in the State (Public Hearing: Thursday, March 21, 2013 at 8:30 am in House Conference Room 325)

As the Lanai member on the Maui County Council and chair of the Council's Policy Committee, I offer testimony in support of the subject resolutions.

At our meeting of February 25, 2013, the Policy Committee received testimony on the proposal for critical habitat designations by the U.S. Fish and Wildlife Service. Farmers, ranchers, and private landowners expressed strong concerns over the potential for lawsuits, reduced property values, loss of business, and adverse impacts on farming and agriculture. About 271,062 acres of privately owned and state, county and federal land in Maui County is proposed for Critical Habitat Designation. Of this total area, approximately 53 percent of the lands are privately owned.

I support the subject resolutions to request the U.S. Department of the Interior Fish and Wildlife Service to work with affected persons and counties to establish reasonable Critical Habitat Designations for endangered species in the State. It was apparent at the recent public meeting on Maui that further discussion and review is needed to address valid public concerns on this matter.

I concur with testimony in support submitted by Maui County Council Chair Gladys C. Baisa.

Thank you for the opportunity to offer this testimony.

cc: Maui County Council Chair Gladys C. Baisa

HR 73/ HCR 96

REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES TO ESTABLISH REASONABLE CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED SPECIES IN THE STATE

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

MARCH 21, 2013

Chair Lee and Members of the House Committee on Energy & Environmental Protection:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HR 73/HCR 96, “REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES TO ESTABLISH REASONABLE CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED SPECIES IN THE STATE.” We support these resolutions.

The purpose of these resolutions is to request that the U. S. Department of Fish & Wildlife work with affected persons and Counties to establish reasonable Critical Habitat Designations for endangered species.

The U.S. Fish & Wildlife Service has proposed to designate approximately 271,062 acres in Maui County as critical habitat for endangered species. We understand that if designated, this would more than double the extent of critical habitat

in Maui County, and would result in over 40% of all the land on the island of Maui being designated as critical habitat for endangered species.

The designation of critical habitat plays an important role in the recovery of endangered species. Nevertheless, we believe that such designations should be firmly supported by sound science, including careful consideration of the recovery needs of the species and a thorough evaluation of the characteristics of the land proposed for designation to ensure that all such lands, particularly those that are privately owned and those that are not presently occupied by endangered species, truly provide habitat that is essential to the recovery of the species.

Based on the aforementioned, we respectfully request your favorable consideration on these resolutions. Thank you for the opportunity to testify.



March 20, 2013

Hon. Chair Lee and Vice Chair Thielen and Committee Members
COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Hearing: Hawaii State Capitol Room 325, Thursday, March 21, 2013 at 8:30 am

Re: Opposing HCR 96 and HR 73 Regarding Critical Habitat Designations by the Department of Interior

On behalf of the Center for Biological Diversity and our 500,000 members and online activists, including hundreds in Hawaii; I am writing to ask the Committee not to pass HCR 96 and HR 73 which misconstrues the federal Endangered Species Act and is redundant of existing requirements for public participation.

These resolutions are both flawed and unnecessary, and therefore the Committee should reject them. The request that the United States Fish and Wildlife Service work with private property owners when designating critical habitat under the Endangered Species Act is based on a misunderstanding of the law and facts here. I will address the following reasons why these resolutions should not be passed: (1) the resolution misconstrues the requirements of the Endangered Species Act; (2) the Endangered Species Act already provides a public process that is duplicative of the request in this resolution; (2) the resolution contains factual misinformation about the Maui Nui critical habitat proposed rule; and (4) the resolution fails to discuss the many benefits of critical habitat designation.

HCR 96 and HR 73 Misconstrue the Endangered Species Act

First, the resolutions are founded on a faulty premise that private landowners are automatically restricted by the designation of critical habitat. Contrary to the resolutions' assumptions, agriculture and other land use activities may occur on lands that are designated as critical habitat. Activities occurring on private lands do not trigger consultation under section 7 of the Endangered Species Act unless they involve a *federal action* that may affect listed species. 16 U.S.C. § 1356(a)(2). Thus, for the most part land owners may continue to engage in the activities they have always enjoyed on their lands. Access is not restricted, nor is there a takings.

Second, the Ninth Circuit has rejected the contention in the resolutions that critical habitat designations require and environmental impact statement under the National Environmental Policy Act. *Douglas Cnty. v. Babbitt*, 48 F.3d 1495, 1505 (9th Cir. 1995).

Third, it would be unlawful for the Fish and Wildlife Service to exclude private lands from a critical habitat designation as suggested by the resolutions. The Endangered Species Act and its regulations set forth the factors in making a critical habitat designation. Critical habitat is defined to include the areas that are “essential to the conservation of the species.” 16 U.S.C. § 1532(5)(A). Section 4(b)(2) states that:

The Secretary shall designate critical habitat . . . on the basis of the best scientific data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species concerned.

16 U.S.C. § 1533(b)(2). Therefore, critical habitat is a scientific determination that must be based on the best available science. The Fish and Wildlife Service then has discretion to exclude areas only if “the benefits of exclusion outweigh the benefits of [inclusion]” unless it will result in extinction. *Id.* The law does not provide for the exclusion of an area on the basis of it being under private ownership.

The Resolution Is Unnecessary Because There Is Already a Statutory Public Process That Compels the Fish and Wildlife Service to Seek Public Input and Consider Economic Impacts for Critical Habitat Designations

The resolution should be opposed because it serves no purpose. The Endangered Species Act requires that the Service issue public notices of its proposed rules. 16 U.S.C. § 1533(b)(5). It further requires public comment. *Id.* These public process requirements are statutory and guarantee that the public has an opportunity to participate in the decisionmaking process for critical habitat. Accordingly, this resolution is redundant.

The Maui Nui critical habitat proposal, for example, was noticed in the Federal Register. 77 Fed. Reg. 34463 (June 11, 2012). The Service sought public comment through September 2012. After receiving comments, the Service reopened the public comment period and provided for public review the draft economic analysis and amended determinations section until March 4, 2013. 78 Fed. Reg. 6785 (Jan. 31, 2013). It also held a public meeting and hearing in Maui on February 21, 2013, where it accepted public comment. This process has been completely transparent, issued with press releases, and widely reported in the mass media. Thus, claims that landowners were not adequately notified are overstated.

Finally, the Endangered Species Act also requires that economic considerations be taken into account in designating critical habitat, which should assuage the concerns raised in the resolutions. Section 4(b)(2) provides that the Fish and Wildlife Service must designate critical habitat after taking economic and other relevant impacts into consideration. 16 U.S.C. § 1533(b)(2). Indeed, the Supreme Court has affirmed that the Service must “consider” economic impacts. *See Bennett v. Spear*, 520 U.S. 154, 172 (1997) (acknowledging the Secretary’s

nondiscretionary duty to consider economic impacts resulting from the designation of critical habitat).

In summary, there are already procedural safeguards in place that cure the complaints raised in these resolutions, and anyone-- including landowners, local government, and other affected persons-- may avail themselves of these opportunities to participate in the decisionmaking process.

The Description of the Maui Nui Critical Habitat Is in Error

The resolution inaccurately describes the critical habitat proposal for Maui Nui. First, about half of the critical habitat proposal includes lands that are already designated as critical habitat, and many of protected species require cliffs where land use activities are nonetheless limited by nature. 77 Fed. Reg. 34463 (June 11, 2012). Second, the proposed critical habitat in Maui concerns 135 species, and about 96% of those are listed plants, and the take prohibition of the Endangered Species Act has been construed to not apply to plants on private lands. *Northern California River Watch v. Wilcox*, Case No. 08-15780 (9th Cir. August 25, 2010).

Contrary to the assertion that the Fish and Wildlife Service “has acknowledged that it did not make specific determinations as to whether endangered species are located on the properties or whether the properties have the biological elements necessary to support endangered species,” the Service made findings that directly contradict this statement:

In this proposed rule, we are proposing critical habitat in areas occupied by the species at the time of listing as well as areas currently unoccupied by the species but determined to be essential for their conservation (i.e., areas necessary to bring the species to the point at which the measures provided under the Act are no longer necessary). *The physical or biological features have now been more precisely identified for these 85 plant species*, and now include elevation, precipitation, substrate, canopy, subcanopy, and understory characteristics.

77 Fed. Reg. at 34527. Additionally Tables 4 and 5 in the proposed rule specifically define the primary constituent elements required by each of the 135 species. *Id.* Accordingly, contrary to the resolutions, the Service made these specific findings for this rule and others in proposing critical habitat.

Benefits of Critical Habitat Are Glaringly Absent From the Resolution

Critical habitat protections are at the heart of the Endangered Species Act. Critical habitat includes areas with features that are essential for the conservation of a listed species. 16 U.S.C. §1532(5). Government data show that endangered species with critical habitat are twice as likely to be recovering as those without.

Designation provides clear and early notification of areas that are essential to endangered species, which can be good for land owners so they have no surprises. It can also cause land-owners to voluntarily modify their activities to be more environmentally sound even without government intervention. Critical habitat creates awareness and can focus federal, state and private management efforts in designated areas. The improved habitat quality will also benefit people who use Hawai`i's lands.

Opposing critical habitat frustrates Congress's intent to provide habitat protections for listed species to promote their recovery. Critical habitat designation is a "central component of the legal scheme developed by Congress to prevent the permanent loss of species." *N. Spotted Owl v. Lujan*, 758 F. Supp. 621, 629 (W.D. Wash. 1991). The legislative history of the Endangered Species Act shows Congress recognized the importance of habitat protection in conserving and recovering species:

classifying a species as endangered or threatened is only the first step in insuring its survival. Of equal or more importance is the determination of the habitat necessary for that species' continued existence. . . . If the protection of endangered and threatened species depends in large measure on the preservation of the species' habitat, then *the ultimate effectiveness of the Endangered Species Act will depend on the designation of critical habitat.*

H.R. Rep. No. 94-887 at 3 (1976) (emphasis added). There are significant benefits for species that are on the brink of extinction as well as all people who are working to take care of Hawai`i and its land.

I appreciate your consideration of this testimony and again ask you to reject HCR 96 and HR 73.

Sincerely,

/s/ Miyoko Sakashita

Miyoko Sakashita, Oceans Director

thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 19, 2013 9:56 AM
To: EEPtestimony
Cc: Don.Couch@mauicounty.us
Subject: *Submitted testimony for HR73 on Mar 21, 2013 08:30AM*

HR73

Submitted on: 3/19/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Councilmember Don Couch	Individual	Support	No

Comments:

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 2:54 PM
To: EEPtestimony
Cc: jmorgan@kualoa.com
Subject: Submitted testimony for HCR96 on Mar 21, 2013 08:30AM

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
John Morgan	Kualoa Ranch	Support	No

Comments: Please support this concurrent resolution. Having the effected parties and landowners part of the critical habitat designation process is vital. It is not only smart and right, it is required to avoid a possible "taking" by the government, without due process. Mahalo

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Hawaii's Agricultural Partnership

HCR 96 – HR 73

REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES TO ESTABLISH REASONABLE CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED SPECIES IN THE STATE

4 Ag Hawaii strongly supports HCR 96 & HR 73

The US Fish and Wildlife Service is currently designating critical habitat for endangered species on all the islands.

Some of these proposed areas are on private property, some on state-owned parcels that may be leased to farmers and ranchers, and some are within irrigation water lease areas.

Because of the potential negative impacts to farmers and ranchers, including complete loss of land use, we believe this is a "taking" of land without compensation.

We are not opposed and encourage the designation of critical habitat for endangered species in appropriate areas such as public lands that are set aside to provide for preservation or rehabilitation, or private lands where the landowner voluntarily agrees to the designation.

4 Ag Hawaii is a non-profit 501[c] [3] corporation established as a public-private partnership focused on goals that include: promoting the agricultural economic welfare of Hawai'i and its counties; conducting agricultural economic; educational & media programs, and fostering statewide interest for responsible agricultural economic development of our islands.

Thank you for the opportunity to provide testimony on this matter.

thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 12:37 PM
To: EEPtestimony
Cc: hawaiiifish@gmail.com
Subject: Submitted testimony for HR73 on Mar 21, 2013 08:30AM

HR73

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ron Weidenbach	Hawaii Aquaculture andf Aquaponic Association	Support	No

Comments: Good commonsense resolution to support a badly needed effort to address endangered species issues in Hawaii in a more pragmatic, collaborative, and farmer-friendly manner.

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 8:34 AM
To: EEPtestimony
Cc: henrysequ001@hawaii.rr.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Frances Kama-Silva	Barbed S Ranch	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 9:09 PM
To: EEPtestimony
Cc: gottlieb@hawaii.rr.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Gottlieb	Hawaii Cattlemen's Council	Support	Yes

Comments:

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 11:36 AM
To: EEPtestimony
Cc: afrancokaupo@gmail.com
Subject: Submitted testimony for HCR96 on Mar 21, 2013 08:30AM

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Alex Franco	Hawaii Cattlemen's Council	Support	No

Comments: We must seek a way to improve the USFWS Critical Habitat Designation (CHD) process that involves farmers and rancher in a colaborative fashion, instead of the broad brush approach that has already put over a 170,000 acres in CHD on Maui alone.

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 9:38 AM
To: EEPtestimony
Cc: diamondbranchhi@aol.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Brendan Balthazar	Maui cattlemens Assn	Support	No

Comments:

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 5:04 PM
To: EEPtestimony
Cc: Warrenmcfb@hotmail.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Warren Watanabe	MCFB	Support	No

Comments:

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March 21, 2013

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

TESTIMONY ON HCR 96 and HR73

REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES TO ESTABLISH REASONABLE CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED SPECIES IN THE STATE.

Room 325

8:30 AM

Chair Lee, Vice Chair Thielen, and Members of the Committee:

I am Dean Okimoto, President of the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is comprised of approximately 2,000 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate, and advance the social, economic, and educational interests of our diverse agricultural community.

HFBF strongly supports HCR 96 and HR73 and respectfully requests that you pass these resolutions requesting that the U.S. Fish and Wildlife Service (FWS) work with affected landowners to ensure that critical habitat for endangered species in Hawaii is designated (CHD) in a reasonable manner and does not impede food production in the islands.

Basic procedural omissions were made by FWS in its proposed CHD for Maui Nui. For example; many affected private property owners, including farmers and ranchers, were not provided notification of the proposed rule. This has resulted in inadequate time for the affected parties to prepare responses. Information contained in the Federal Register notice was wholly inadequate to allow farmers and ranchers (and others) to determine if their properties were being proposed for designation. Given the significance of the proposed CHD, FWS should have notified each affected party of the proposed rule.

HFBF has previously submitted both oral and written comments to FWS expressing some of our concerns about the proposed CHD.

These concerns have not been addressed. After review of the draft proposal and economic analysis, HFBF is convinced that FWS did not use the required "best scientific data available." FWS should reevaluate the ecosystem-based management units of possible habitat for the Maui Nui species by focusing on only those areas that are essential for the conservation of the species

and eliminating areas that are not occupied by endangered species and do not currently contain the requisite primary constituent elements, especially farming and grazing lands.

In support of this request, HFBF pointed out that FWS, in its economic analysis of the direct effects of the CHD, states that “the Service anticipates that areas that currently support farming and grazing activities are not likely to support the physical and biological features of critical habitat for the Maui Nui species.” With that acknowledgment, we seriously question why our farms and ranches are being proposed for designation.

Thank you for the opportunity to testify in **strong support** of this measure and thank you for your support of Hawaii’s farmers and ranchers.

thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 9:16 AM
To: EEPtestimony
Cc: fmencher@hawaii.rr.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Frederick M. Mencher	Individual	Support	No

Comments:

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 19, 2013 11:12 AM
To: EEPtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HR73 on Mar 21, 2013 08:30AM*

HR73

Submitted on: 3/19/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 8:56 AM
To: EEPtestimony
Cc: bbrooks@haleakalaranch.com
Subject: Submitted testimony for HCR96 on Mar 21, 2013 08:30AM

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
John Brooks	Individual	Support	No

Comments: Please pass this resolution and help to support Hawaii ag.

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 8:46 AM
To: EEPtestimony
Cc: farmnforages@gmx.com
Subject: Submitted testimony for HCR96 on Mar 21, 2013 08:30AM

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kristin Mack	Individual	Support	No

Comments: The economic impact of the critical habitat designation has been greatly underestimated by federal officials and in the draft economic analysis. Research reports from other areas of the US where critical habitats have been designated have proved that it is very costly to the local economy, producers and land owners. Designating critical habitat for endangered species should be done in appropriate areas such as public lands that are set aside to provide for preservation or rehabilitation, or private lands where the landowner voluntarily agrees to the designation.

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 7:52 AM
To: EEPtestimony
Cc: Hanaleikona@yahoo.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Roman Dycus	Individual	Support	No

Comments:

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 7:15 AM
To: EEPtestimony
Cc: Tammie.cypriano@yahoo.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Tammie Cypriano	Individual	Support	No

Comments:

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 7:35 AM
To: EEPtestimony
Cc: mcblivestock@gmail.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Bryan	Individual	Support	No

Comments:

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 8:49 AM
To: EEPtestimony
Cc: mail@kealiaranch.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sara Moore	Kealia Ranch	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 8:11 AM
To: EEPtestimony
Cc: hicattlemens@hawaii.rr.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Stacie Francis		Support	No

Comments:

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 9:27 AM
To: EEPtestimony
Cc: dbicoy@molokairanch.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dathan Bicoy	Individual	Support	No

Comments:

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 2:06 PM
To: EEPtestimony
Cc: halina@hawaii.edu
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Halina M Zaleski	Individual	Support	No

Comments:

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 10:02 AM
To: EEPtestimony
Cc: Leealdrige@msn.com
Subject: *Submitted testimony for HR73 on Mar 21, 2013 08:30AM*

HR73

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lee aldrige	Individual	Support	No

Comments:

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 3:18 PM
To: EEPtestimony
Cc: lmochida@whshipman.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Loren Mochida	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 3:12 PM
To: EEPtestimony
Cc: Mnakahata@gmail.com
Subject: Submitted testimony for HCR96 on Mar 21, 2013 08:30AM

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mae Nakahata	Individual	Support	No

Comments: Proposed designation is a taking without compensation and hurts farmers and ranchers

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 2:06 PM
To: EEPtestimony
Cc: rhcabral@rhomac.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Randolph Cabral	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 9:35 AM
To: EEPtestimony
Cc: sabrina@ponoholo.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sabrina White	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
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To: EEPtestimony
Cc: ahuntemer@aol.com
Subject: Submitted testimony for HCR96 on Mar 21, 2013 08:30AM

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
angela huntemer	Individual	Oppose	No

Comments: This proposed bill is an abomination. The animals and plants listed under the ESA are there for very good reason. The designation of Critical Habitiat is not done lightly. The employment of best practices in biological science are present in the Federal Governements designation. Due notice is given. Species, sometimes even if not directly observe on the land in question can be assumed to be there - according to best practices. I urge you all to oppose this crazy idea that will push more species of plants and animals to the brink of extinction. Mahalo. Angela Huntemer Sidrane.

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 10:19 PM
To: EEPtestimony
Cc: eterwey@hotmail.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Edith Terwey	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 5:52 PM
To: EEPtestimony
Cc: kwood@parkerranch.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
George Wood	Individual	Support	No

Comments:

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 9:48 PM
To: EEPtestimony
Cc: gregf@haleakalaranch.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

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Submitted By	Organization	Testifier Position	Present at Hearing
Gregory Friel	Individual	Support	No

Comments:

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 5:00 PM
To: EEPtestimony
Cc: gordines@kauaiflowers.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
John R. Gordines	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 9:31 PM
To: EEPtestimony
Cc: Psgmikilua@gmail.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

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Submitted By	Organization	Testifier Position	Present at Hearing
Phyllis Shimabukuro-Geiser	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
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To: EEPtestimony
Cc: OLUMAUANGUS@MSN.COM
Subject: Submitted testimony for HCR96 on Mar 21, 2013 08:30AM

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Ferreira	Individual	Support	No

Comments: The US Fish & Wildlife service designating 271,062 acres of which amounts to 41% of the total land area of Maui I feel will impact farming and ranching dramatically. The economic impact of Maui county and its farmers and ranchers has been greatly underestimated by the US Fish & Wildlife service. As manager of Kaupo Ranch of which over 700 acres of its prime grazing lands has been designated as critical habitat. I am in no doubt it will impact our operation tremendously. I am afraid there will be much stiffer regulations put upon farming and ranching operations not to mention that it may trigger changes to state law(s). Because of the potential negative impacts to farmers and ranchers including complete loss of land use I believe this is a taking of land without compensation. We are definitely not opposed to designating critical habitat for endangered species in appropriate areas such as public lands that set aside to provide for the preservation or rehabilitation or, private lands where the landowners voluntarily agree to designation. Please support this resolution.

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 21, 2013 4:54 AM
To: EEPtestimony
Cc: skjsurf@gmail.com
Subject: Submitted testimony for HR73 on Mar 21, 2013 08:30AM

HR73

Submitted on: 3/21/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Steven Josefsberg	Individual	Oppose	No

Comments: This Bill, as written, seems to have an element of irresponsibility towards the protection of our endangered species laws by allowing property owners some control of the process. As a property owner I have been witness to the vast majority of us being concerned only with our own short term self interest. The desire to build seawalls to protect our oceanfront property is a prime example. As such, I oppose this Bill HR73. Mahalo for your time and efforts.

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 11:40 PM
To: EEPtestimony
Cc: wislts@hotmail.com
Subject: *Submitted testimony for HCR96 on Mar 21, 2013 08:30AM*

HCR96

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Wayne Shimokawa	Individual	Support	No

Comments:

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