



STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P.O. BOX 119
HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
DEAN H. SEKI, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
WATER & LAND
ON
April 1, 2013

H.C.R. 96, H.D. 1 / H.R. 73, H.D. 1

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

Chair Evans and members of the Committee, thank you for the opportunity to submit written testimony on H.C.R. 96, H.D. 1 / H.R. 73, H.D. 1.

The Department of Accounting and General Services supports the intent of H.C.R. 96, H.D. 1 / H.R. 73, H.D. 1 and recommends that they be amended to also include a pending Federal designation for endangered species habitat preservation areas in the general proximity of Kona, Hawaii (because the pending Federal designation for the Kona, Hawaii area could seriously impact State funded projects, such as the new Kona Judiciary Complex development and future Hawaii Housing Finance Development Corporation residential developments).

Thank you for the opportunity to submit written testimony on this matter.



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April 1, 2013
HOUSE COMMITTEE ON WATER & LAND

TESTIMONY ON HCR 96 HD1 and HR 73 HD1
**REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE TO WORK WITH
AFFECTED PERSONS AND COUNTIES IN ESTABLISHING CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED
SPECIES IN THE STATE**

Room 325
10:30 AM

Chair Evans, Vice Chair Lowen, 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 (and titles) in as strong language as possible* to send a clear message to the U.S. Fish and Wildlife Service (FWS), to 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.

The titles and text of the resolutions were amended after the hearing in the Committee on Energy and Environmental Protection to remove several important and relevant clauses. We respectfully request that these clauses are inserted back into the resolutions:

WHEREAS, this overly-broad proposed Critical Habitat Designation affecting state, county, and private lands will have a negative impact on Maui County, and opponents describe this proposal as the taking of land without compensation; and

WHEREAS, an environmental impact statement should be considered before the proposed Critical Habitat Designation is finalized; and

WHEREAS, the proposed Critical Habitat Designation has the potential to adversely affect landowners due to restrictions on future use, lower property values, and increased lawsuits by activists; it

may also require costly and lengthy consultations between affected parties and government agencies, stymie decision-making by state and county governments, jeopardize the ability to farm and ranch, hinder sustainability practices, and hurt the relationship between the public and the federal government; and

These clauses are accurate and important because they reflect the over-reaching by FWS in their current designation proposal for Maui and the likely detrimental consequences to farmers, ranchers, and the economy and goals of the State. The message to FWS should be clear---these designations are inappropriate and must be scaled back reasonably. FWS is currently in the process of finalizing these designations; failure to make significant revisions could lead to costly and lengthy litigation.

HFBF and others have previously submitted both oral and written comments to FWS expressing some of our concerns about the proposed critical habitat designation (CHD). These concerns have not been addressed.

- **Lack of adequate notice.** Basic procedural omissions were made by FWS in its proposed CHD for Maui Nui. Many affected private property owners, including farmers and ranchers, were not provided notification of the proposed rule. 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 party of the proposed rule.
- **Unacceptable impacts.** CHD threatens to adversely impact farmers and ranchers due to potential restrictions on future use, adverse impact on land value and mortgagability, and State-mandated downzoning of property to conservation classification.
- **Irrigation water impacts.** Some of the proposed areas for CHD are State-owned parcels that are leased to farmers and ranchers. Some are within irrigation water lease areas, critical to our farmers and ranchers; raising fears about diminished irrigation water availability, especially important in this time of severe and prolonged drought. These areas must be removed from the proposed CHD.
- **Erroneous use of the “probable range” of the Blackburn’s sphinx moth.** It is inappropriate and unsupportable to use the “probable range” of the moth to minimize the projected impact of the proposed CHD.
- **Inappropriate proposed designations.** Significant portions of the proposed critical habitat areas are not occupied by endangered species, and some are clearly not suitable habitat (for example, a Piiholo Maui housing subdivision and portions of a well-used golf course). We do not understand how these areas meet the Endangered Species Act requirement of being “essential for the conservation of the species.”

- **Grossly inadequate quantification of economic impacts.** Indirect impacts to farmers and ranchers and the State are recognized by FWS as significant (“major”) but have not been quantified by FWS. These include the very real potential for litigation to force active – and cost prohibitive - management of lands for the protection of endangered species and potential restrictions on current or future land uses imposed through state and local discretionary approvals.
- **Need to realistically assess needs of species and scale back proposed designations.** We understand the need to designate sufficient critical habitat to allow for the recovery of endangered species. However, the current proposal is far too extensive, does not adequately consider impacts and costs to landowners, and must be scaled back based on a more realistic assessment of the needs of the species.
- **An EIS should be prepared** to consider the economic, social, cultural (including native Hawaiian) historic, health, and ecological effects of the designation, as well as alternatives.

HFBF is convinced that FWS did not use the required “best scientific data available” to propose these designations. They will set dangerous precedent for future Hawaii designations.

We strongly believe that 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 by eliminating areas that are not occupied by endangered species and do not currently contain the requisite primary constituent elements, especially farming and grazing lands. FWS itself, 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 Hawaii’s farms and ranches are proposed for designation.

Thank you for the opportunity to testify in **strong support of** this measure, especially with the clauses from the former draft reinserted. We also thank you for your continued support of Hawaii’s farmers and ranchers.

lowen1-Kyli

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 31, 2013 8:27 PM
To: waltestimony
Cc: Warrenmcfb@hotmail.com
Subject: *Submitted testimony for HCR96 on Apr 1, 2013 10:30AM*

HCR96

Submitted on: 3/31/2013

Testimony for WAL on Apr 1, 2013 10:30AM in Conference Room 325

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

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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lowen1-Kyli

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 29, 2013 7:50 PM
To: waltestimony
Cc: gottlieb@hawaii.rr.com
Subject: Submitted testimony for HCR96 on Apr 1, 2013 10:30AM
Attachments: HCR 96 CHD House WAL 2013.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

HCR96

Submitted on: 3/29/2013

Testimony for WAL on Apr 1, 2013 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Gottlieb	Hawaii Cattlemen's Council	Support	No

Comments: HCC strongly supports HCR 96 HD 1 with one addition. We request that the following whereas from the original Resolution be re-inserted: WHEREAS, an environmental impact statement should be considered before the proposed Critical Habitat Designation is finalized; and

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Hawaii Cattlemen's Council, Inc.

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HOUSE COMMITTEE ON WATER & LAND

Monday April 1, 2013 10:30 a.m. Room 325

HCR 96 HD 1 CRITICAL HABITAT DESIGNATION

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

Chair Evans, Vice Chair Lowen and Members of the Committee:

My name is Alan Gottlieb, and I am a rancher and the Government Affairs Chair for the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council **strongly supports HCR 96 HD 1 with one addition.** We request that the following whereas from the original Resolution be re-inserted:

WHEREAS, an environmental impact statement should be considered before the proposed Critical Habitat Designation is finalized; and

Ranchers, farmers, private landowners, DLNR and Maui County has made some strong comments to the U.S. Fish & Wildlife Service (FWS). What we hope from your resolution is that you send a strong message to FWS of your concerns. Without an EIS, we feel FWS will continue to ignore our concerns.

This resolution is NOT about monk seals or Honu. It IS about FWS, with a broad stroke, painting a red circle around 41% of Maui, without ever stepping foot on much of the ground they are designating. They either do not realize or do not care that the endangered species they want to protect do not live and CANNOT live on much of this land.

FWS continues to say that it will only impact lands that have a Federal Nexus (which they say is rare). To the contrary, much of this land does have a Federal Nexus. Many ranchers and farmers participate in the Natural Resource Conservation Service (NRCS) conservation programs, cost sharing for water and soil erosion prevention. With a Critical Habitat Designation (CHD) on their land, cost share conservation programs can be stalled or even stopped.

Cattlemen are good stewards of the land because our livelihoods depend on it and it's the right thing to do. Many of our ranches are family owned and multi-generational; our legacies are the well managed lands we leave behind.

A primary value of the ranching industry to the people of Hawaii is the eco-system services that this managed land provides to our community, including: aesthetic values and scenic vistas, water catchment and

infiltration, carbon sequestration, habitat enhancement and preservation, fire suppression through fuel load management, soil conservation, preservation of cultural values, potential for additional access and recreational opportunities, etc.

We are acutely aware of the importance of well managed wildlife habitat and watershed areas. We are concerned, however that if private lands are included in such a massive designation of critical habitat, this may have a negative effect on our economy, our property values and the use of our land. Ultimately, designating critical habitat on private property may negatively affect the species we are trying to protect.

Currently, the State is advocating food sustainability and encouraging agricultural enterprises. The designation of critical habitat could close pastures and force a rancher to decrease their herd size. This will have a direct and negative impact on existing agricultural operations and is a complete reversal from current State policy.

We feel that excluding private property from a critical habitat designation, in many cases, will outweigh the benefits of including these areas. For the difficult task of conservation work in Hawaii, cattlemen can be the greatest asset as can be attested to by our ongoing participation in conservation work throughout the State. Ranchers are an integral part of many of the Watershed Partnerships around the State working together to implement projects to help habitat restoration and listed species while at the same time accommodating economically beneficial land uses. Designating land as critical habitat will make it more difficult for these valuable partnerships to function because of the delays associated with ESA consultations over effects on critical habitat and the inflexible requirements that there be no adverse modification of critical habitat.

In U.S. Fish and Wildlife's June 11, 2012 News Release soliciting comments, they state, "The designation of Critical Habitat does not adversely affect land ownership..." This is a misleading statement. When the Federal Government draws a red circle around private property and declares it critical habitat, the requirement that there be no adverse modification of critical habitat will have a direct and negative effect on the value and the use of that property. A rancher's property is the security used to borrow money, and when devalued for any reason, could create a devastating economic hardship and dissolve many economically marginal ranches.

Very few affected ranchers or other private landowners had been contacted by USFWS or even knew this process is happening until HCC contacted them. Many do not understand what critical habitat is or what the ramifications are, causing anxiety in the ranching and landowner community. FWS finally did hold meetings, but continues to downplay the effects on private property. We have made our official comments, but FWS continues on without regard to what we believe are very valid concerns.

Thank you for giving me the opportunity to testify in favor of this very important issue.



Hawaii Cattlemen's Council, Inc.

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HOUSE COMMITTEE ON WATER & LAND

Monday April 1, 2013 10:30 a.m. Room 325

HCR 96 HD 1 CRITICAL HABITAT DESIGNATION

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

Chair Evans, Vice Chair Lowen and Members of the Committee:

Good evening, my name is Alex Franco and I am the President of the Hawaii Cattlemen's Council (HCC). We are a state wide umbrella organization comprised of five county Cattlemen's Associations with more than 130 members. Hawaii's ranchers are stewards of the land who manages open space that covers approximately 25% of Hawaii's land mass. I also manage a small beef processing operation here on Maui called the Maui Cattle Company, which markets locally produced beef to meet the growing demand stimulated by the local food movement. As Hawaii's residence engages with our industry to become more food secure, farmers and ranchers are directing more time and financial resources away from their actual core business of producing food to dealing with the increasing pressure to protect their individual private property that is under constant pressure of urban encroachment, property liability, and Government regulations.

The Hawaii Cattlemen's Council **strongly supports HCR 96 HD 1 with one addition.** We request that the following whereas from the original Resolution be re-inserted:

WHEREAS, an environmental impact statement should be considered before the proposed Critical Habitat Designation is finalized; and

HCC has expressed several major concerns with the proposed critical habitat designation for the Maui Nui listing. To date, our comments have not been addressed in a manner that reflects or acknowledges our concerns. In addition to our oral statements, HCC will submit formal written comments on the Draft Economic Analysis. I am here today to reiterate our concerns. I am hopeful that this can be the start of a dialog and the beginning of a collaborative approach to designating critical habitat. I believe the most successful process will be one that includes and values the contributions of key stakeholders such as private property owners, and I welcome the opportunity to work with you.

It is my understanding that the proposed rule designating critical habitat for the Maui Nui species does not comply with the legal requirements for designation. The designation of critical habitat must be based on "the

best scientific data available,” and requires a balancing of often widely different interests, which in turn requires public input in the collection and analysis of a broad range of information. In designating critical habitat, the Endangered Species Act requires the Fish and Wildlife Service to consider “the economic impact, and any other relevant impact, before specifying any particular area as critical habitat.” Overall, HCC views critical habitat designation as a refinement process—beginning with the possible habitat locations in the Proposed Rule. The next steps would be to refine locations until the only areas designated as critical habitat are those essential to the conservation of the species after consideration of biological information like current species locations, status of primary constituent elements, and economic and other relevant impacts. Throughout the process, the scope and approach to impact evaluation needs to be discussed with landowners that may be significantly affected.

The first step in the process should be to refine the area of suitable habitat based on key physical and biological components of the habitat for the Maui Nui species. The Fish and Wildlife Service has chosen to use a broad ecosystem-based approach that includes a large amount of habitat on private land that is likely unoccupied, arguing that such a sweeping proposal is necessary for effective management, to organize the proposed rule efficiently, and to avoid a confusing patchwork of critical habitat areas that would be difficult for the public to interpret. While this may sound good in the abstract, the result has been an overly broad proposal to designate critical habitat, which is causing grave concern to private landowners. We assert that making management or rule-making easier is not the goal of the ESA or a sound basis for critical habitat designation.

The Fish and Wildlife Service 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 do not currently contain the primary constituent elements, especially grazing land.

Private grazing lands have been included in the Proposed Rule simply because they are geographically located within the historic range of the species. Although the Fish and Wildlife Service may find them to be located where they would like to reintroduce populations, those lands do not currently meet the standard of containing all of the essential primary constituent elements. The claim that these lands are needed for expansion of populations does not make sense because, by the Fish and Wildlife Service’s definition, expansion is impossible in areas containing non-native ungulates, including cattle. Therefore, much of the land that is proposing to be designated as critical habitat for future use by the species is actually unusable by the species according to the Fish and Wildlife Service standards. HCC urges the Service to refine the areas of proposed critical habitat to property essential to the conservation of the species.

I would like to close by thanking you for allowing me to give written testimony. Ranchers in Hawaii have extensive on the ground experience with land stewardship, and we welcome the opportunity to contribute our working knowledge of this area, and our opinions as stakeholders, to the critical habitat designation and listing processes.



Hawaii's Agricultural Partnership

HCR 96 HD 1 CRITICAL HABITAT DESIGNATION

REQUESTING THE US DOI FISH AND WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES IN ESTABLISHING CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED SPECIES IN THE STATE.

Chair Evans, Vice Chair Lowen and Members of the Committee:

4 Ag Hawaii supports HCR 96 HD 1 with one addition

WHEREAS, an environmental impact statement should be considered before the proposed Critical Habitat Designation is finalized; and

Ranchers, farmers, private landowners, DLNR and Maui County have made some strong comments to the U.S. Fish & Wildlife Service (FWS). What we hope from your resolution is that you send a strong message to FWS of your concerns. Without an EIS, we feel FWS will continue to ignore our concerns.

FWS continues to say that it will only impact lands that have a Federal Nexus (which they say is rare). To the contrary, much of this land does have a Federal Nexus. Many ranchers and farmers participate in the Natural Resource Conservation Service (NRCS) conservation programs, cost sharing for water and soil erosion prevention. With a Critical Habitat Designation (CHD) on their land, cost share conservation programs can be stalled or even stopped.

Currently, the State is advocating food sustainability and encouraging agricultural enterprises. The designation of critical habitat could close pastures and force a rancher to decrease their herd size. This will have a direct and negative impact on existing agricultural operations and is a complete reversal from current State policy.

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.

Nuu Mauka Ranch

Nuu Hawaii

Mailing address:

200 Iao Valley Rd Wailuku Hawaii 96793

Regarding the US Fish & Wildlife Service Critical Habitat Designation on Maui
Docket # FWS –R1-ES-2011-0098

To whom it may concern

We are submitting our comments regarding this designation with the purpose of stating we are very much against this and view this as a “taking” from the private land owner of value and rights to use our land as intended.

We are an original member of Leeward Haleakala Watershed Restoration Partnership (LHWRP) and have been very active in conservation when it comes to our family’s ranch lands.

We have spent about \$500,000 on conservation improvements including about 3 miles of high fence and native forest reforestation with the intent to stabilize & control erosion, improve pasture grasses, and control the feral goats. This was done on our own because we knew what was best for the land and the mountain and increase value and productivity for the future of our family business. Now this and the lower parts of the ranch are set to be designated Critical Habitat, a total of about 1800 acres (All our best and most productive lands).

We have been told that the designation will have no effect no ranch operations, but it will. Coming from the perspective of the land owner this will obviously have long reaching effects on the value and future of our family’s land and operations not to mention jeopardizing putting further resources into our own conservation efforts. Banks will not likely lend money for or against lands under Critical Habitat. The USFWS CH process began in June of 2012 however we were not informed of the designation until August and not by FWS but by other concerned landowners. It is our strong opinion that USFWS tried as hard as they could to keep the designation quiet hoping nobody would notice until the last minute.

The Draft economic assessment done for USFWS was done by an outside contractor. Not once were we ever contacted by them or anyone else regarding our lands uses or values. When we contacted them they had no idea where we were or what the land was used for. USFWS acknowledge there “may” be some loss of value but say that its of minor concern.

There will be an incredible loss of value to the land. As one example, we would NEVER have considered purchasing the ranch 13 years ago if 2/3 of it was designated Critical Habitat.

USFWS also acknowledges that once the designation is in place the landowner is open to lawsuits regarding how the land is used by groups like Earth Justice and The Center for Biological Diversity however they say there is nothing they can do about that.

So this is the legacy we will be leaving our kids and grandkids.

The area within our high fence apox 900 acres much of now in the C.H. designation area is being reforested with native koa to bring back the forest, stop the erosion, restore health to the mountain, and help recapture ground water for lower pastures.

This also would allow future generations of our family to responsibly selective harvest of koa to provide some additional income for the ranch. If this C.H. designation is allowed to go through we have no assurance that future generations will be able to make this happen. Ranching in Hawaii has a long and rich history but regulations like this threaten this way of life.

Nobody knows the land and what it needs more than the rancher that works and lives on it day to day. We question if those that drew the lines for this proposed designation have ever even seen it.

There are very few native plants in the designation area and the few that are there are even more plentiful OUTSIDE the designation. The land is predominantly covered with lantana and foreign grasses. During our high fence work we needed to obtain a permit from DLNR for work done in the area zoned conservation. In their approval it was determined there were NO endangered plants or animals on the land.

Furthermore the areas that are not within our high fence are but are within the C.H. designation are our best grazing lands for cattle. We have been actively reseeding and rotating animals in an effort to create better and more productive grazing lands. This too will be in jeopardy with the cloud of no longer being able to use it one day or the looming threat of being sued to force us to remove the cattle from the newly created Critical Habitat lands. If this happens then it will likely mean the end to cattle ranching and a huge loss of income for the ranch and our family.

Along with the cattle ranching and reforestation plans we also supplement income through guided hunts for feral goat and Axis deer. We have been managing these animals on our lands for over 10 years through paid and management hunts and are convinced they are easily managed with a little effort and the addition of our high fence installation to keep them out of the reforestation areas. We travel to hunting conventions every year selling these hunts and promoting Maui bringing in much needed revenue to the ranch as well as helping to control the goat and deer populations.

If one day the revenue from these hunts is taken away from us due to this designation and or lawsuits as a result of it we will have little income opportunities left and our land value will drop putting future operations at risk.

The revenue we get from the paid hunts go back into the conservation efforts we are doing.

The goats & deer are PAYING for the high fence, erosion control and reforestation.

We feel the private land owner can manage our own lands better than the government and hope this designation will be reconsidered. We feel that an exclusion from the Critical Habitat designation should be an option for areas like ours with little native wildlife and taking into account all the capital and efforts we have put into restoring the land on our own. Our work will never be matched by any effort this designation is attempting but it will put in jeopardy our rights, future land values and our ability to continue our efforts for generations to come.

Make no mistake this will end the era and tradition of the Hawaiian Paniolo if USFWS is allowed to impose this on the land.

Mahalo.

H. Andy Graham

Managing Partner
Nuu Mauka Ranch LLC
808.870.3472

HR 73 HD1/ HCR 96 HD1

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

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

APRIL 1, 2013

Chair Evans and Members of the House Committee on Water & Land:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HR 73 HD1/HCR 96 HD1, "REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES IN ESTABLISHING 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.

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 28, 2013

TO: The Honorable Cindy Evans, Chair
House Committee on Water & Land

FROM: Gladys C. Baisa
Council Chair 

SUBJECT: **HEARING OF APRIL 1, 2013; TESTIMONY IN SUPPORT OF HCR 96, HD1, AND HR 73, HD1, 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 that the United States Department of the Interior Fish and Wildlife Service ("U.S. Fish and Wildlife Service") work with affected persons and Counties to establish 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 potential economic impacts 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, HD1, and HR 73, HD1.

**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

lowen1-Kyli

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 28, 2013 2:51 PM
To: waltestimony
Cc: Don.Couch@mauicounty.us
Subject: *Submitted testimony for HR73 on Apr 1, 2013 10:30AM*

HR73

Submitted on: 3/28/2013

Testimony for WAL on Apr 1, 2013 10:30AM in Conference Room 325

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

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 29, 2013 6:56 PM
To: waltestimony
Cc: halina@hawaii.edu
Subject: *Submitted testimony for HCR96 on Apr 1, 2013 10:30AM*

HCR96

Submitted on: 3/29/2013

Testimony for WAL on Apr 1, 2013 10:30AM in Conference Room 325

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

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 31, 2013 10:57 AM
To: waltestimony
Cc: Markg@coho.net
Subject: Submitted testimony for HCR96 on Apr 1, 2013 10:30AM

Follow Up Flag: Follow up
Flag Status: Completed

HCR96

Submitted on: 3/31/2013

Testimony for WAL on Apr 1, 2013 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Graham	Individual	Support	No

Comments: My first submission was a mistake. I am in support of this resolution.

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 31, 2013 5:06 PM
To: waltestimony
Cc: olumauangus@msn.com
Subject: Submitted testimony for HCR96 on Apr 1, 2013 10:30AM

HCR96

Submitted on: 3/31/2013

Testimony for WAL on Apr 1, 2013 10:30AM in Conference Room 325

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

Comments: I strongly support HCR 96 HD 1 with one addition. We request that the following whereas from the original Resolution be re-inserted: Whereas, an environmental impact statement should be considered before the proposed Critical Habitat Designation is finalized.

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lowen1-Kyli

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 31, 2013 7:47 PM
To: waltestimony
Cc: tabraham08@gmail.com
Subject: Submitted testimony for HR73 on Apr 1, 2013 10:30AM

HR73

Submitted on: 3/31/2013

Testimony for WAL on Apr 1, 2013 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Lopaka Abraham	Individual	Support	No

Comments: I support passage of this bill to protect and preserve native wildlife for generations to come

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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
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
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
WATER AND LAND**

**Monday, April 1, 2013
10:30 A.M.
State Capitol, Conference Room 325**

**In consideration of
HOUSE CONCURRENT RESOLUTION 96, HOUSE DRAFT 1/
HOUSE RESOLUTION 73, HOUSE DRAFT 1
RELATING TO REQUESTING THE UNITED STATES DEPARTMENT OF THE
INTERIOR FISH AND WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS
AND COUNTIES IN ESTABLISHING CRITICAL HABITAT DESIGNATIONS FOR
ENDANGERED SPECIES IN THE STATE**

House Concurrent Resolution 96, House Draft 1/House Resolution 73, House Draft 1 request the United States Department of the Interior Fish and Wildlife Service (USFWS) to work with affected persons and counties in establishing 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 in establishing critical habitat designations for endangered species in the state. Therefore, the Department supports these resolutions.