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**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
ENERGY & ENVIRONMENTAL PROTECTION**

**Thursday, February 11, 2016
8:30 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 2377
RELATING TO SECTION 13 OF ACT 380, SESSION LAWS OF HAWAII 1997**

House Bill 2377 proposes to remove the sunset date on the use of new safe harbor agreements, habitat conservation plans, and incidental take licenses as recovery options for conserving and protecting the State's threatened and endangered species. **The Department of Land and Natural Resources (Department) strongly supports this Administration bill.**

In 1997, the Legislature expanded recovery options provided under the State's endangered species law, by authorizing the Department to issue a license for the take (ITL) of threatened or endangered species if the take is incidental to an otherwise lawful activity and provided that the applicant prepares a habitat conservation plan (HCP) or provided that a landowner enrolls in a safe harbor agreement (SHA).

As part of establishing HCPs, SHAs, and ITLs, the Legislature also provided a sunset clause that no new HCPs, SHAs, or ITLs would be approved or issued subsequent to July 1, 2001. The Legislature has extended the date of the sunset clause, in 2001, 2006, and again in 2012. Currently, the sunset clause will become effective July 1, 2017.

With Hawaii being the endangered species capitol of the nation and take of endangered and threatened species being illegal under State and Federal law, HCPs, SHAs, and ITLs have provided flexibility in the law while concurrently addressing recovery needs of listed species. Without the option of HCPs, SHAs, and ITLs many development projects would be subject to illegal take of threatened or endangered species and private landowners would lose incentives and assurances to create, restore, or improve habitats, or maintain currently unoccupied habitats, that species can be reasonably expected to use.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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

Since 1997, the Department has approved eleven HCPs throughout the State. The approved plans include development projects, such as highway expansion, wind farms, housing and infrastructure development projects, and a solar telescope. Pursuant to the statutory requirement that a HCP must increase the likelihood of recovery of the threatened or endangered species that are the focus of the plan, applicants are currently providing funding for a multitude of successful conservation projects throughout the State including seabird colony protection through fencing and predator control, waterbird protection through wetland habitat improvement and predator control, bat habitat enhancement through forest restoration, native owl research and rehabilitation, and the reestablishment of rare plant populations. The Department is currently processing applications for fourteen additional HCPs for development projects throughout the State related to projects, such as utility infrastructure, additional wind farms, and a housing subdivision.

Since 1997, the Department has also approved six SHAs with private landowners. The approved agreements have facilitated new establishments of nene populations through the reintroduction of nene to Molokai and parts of Maui. The Department is currently processing additional SHAs with landowners throughout the State.

Safe harbor agreements and HCPs are proving to be invaluable tools in the process of recovering the State's endangered species. With the increase in development throughout the State and broad partnerships to protect endangered species and their habitats, it is vital that these provisions be made a permanent addition within the State's endangered species law by removing the sunset date on the approval of new HCPs, SHAs, and ITLs.

The Department appreciates the opportunity to provide these comments.



February 9, 2016

Representative Chris Lee, Chair
Representative Nicole E. Lowen, Vice Chair
Committee on Energy & Environmental Protection

Comments in Strong Support of HB 2377 Relating to Section 13 of Act 380, Session Laws of Hawaii 1997 – Endangered Species. (Removes the sunset date on the use of new safe harbor agreements, habitat conservation plans, and incidental take licenses as recovery options for conserving and protecting the State's threatened and endangered species.)

EEP Hearing: Thursday, February 11, 2016, 8:30 a.m., Conf. Rm. 325

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to express its **strong support for HB 2377**, as LURF members have been long-time stewards of Hawaii's lands and native endangered and threatened species, and have, together with the State Department of Land and Natural Resources (DLNR), entered into safe harbor agreements, habitat conservation plans, and incidental take licenses as recovery options for conserving and protecting the State's threatened and endangered species

HB 2377. This measure would remove the sunset date on the use of new safe harbor agreements, habitat conservation plans, and incidental take licenses as recovery options for conserving and protecting the State's threatened and endangered species.

LURF's Position. LURF strongly supports HB 2377, which removes the sunset date on new approvals and issuances of safe harbor agreements, habitat conservation plans, and incidental take licenses as recovery options for conserving and protecting the State's threatened and endangered species.

The current State law provides the flexibility for DLNR to work cooperatively with its federal counterparts, private landowners, and other government agencies to deal with the complexities of the endangered species situation in Hawaii, and find proactive, workable solutions that will protect and conserve our endangered species while allowing for responsible development activities and economic growth to continue.

According to DLNR, in 1997, the Legislature expanded recovery options in the State Endangered Species Act (State ESA) by establishing a process for the preparation and implementation of habitat conservation plans and safe harbor agreements, while providing for additional incentives to private landowners to conserve endangered species. In addition, the Legislature inserted a five-year, sunset date (July 1, 2002) for the approval of habitat conservation plans and safe harbor agreements and issuance of incidental take licenses. Subsequently, Act 145 of the 2012 Regular Session extended the sunset provision through June 30, 2017.

DLNR has confirmed that to date, eleven habitat conservation plan and six safe harbor agreements have been approved under state law. The DLNR is currently processing fifteen habitat conservation plans and safe harbor agreement applications and several others are in the early planning stages.

In order to achieve the State's goal of 100 percent renewable energy generation by the year 2045, a major part of the State's diverse renewable energy portfolio, will include wind energy generation. According to DLNR, virtually every large wind energy project will require state-approved habitat conservation plans to authorize incidental take associated with their operations, it is essential that the provisions under the law for that authorization be assured beyond a five-year period.

Safe harbor agreements and habitat conservation plans are proving to be invaluable tools in the process of recovering the State's endangered species. It is important that these provisions within the State ESA be made permanent by removing the sunset date and providing public and private landowners with the message that the Legislature is committed to maintaining responsible solutions to conserve Hawaii's endangered species.

For the above reasons, LURF is in **strong support of HB 2377**, and respectfully urges your favorable consideration.

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



Conservation Council
for Hawai'i

Hawai'i's voice for wildlife

Kō Hawai'i leo no nā holoholona lōhiu

LATE

Testimony Submitted to the House Committee on Energy and Environmental Protection

Hearing: Thursday, February 11, 2016 8:30 am
Conference Room 325

Comments on HB 2377 Relating to Section 13 of Act 380, Session Laws of Hawai'i 1997

Chair Lee, Vice Chair Lowen, and Members of the Committee.

Aloha. Conservation Council for Hawai'i has concerns about HB 2377. This type of bill comes up every time the current sunset date is about to expire.

With all due respect, the legislature is not providing enough funding for Department of Land and Natural Resources to recover endangered and threatened species, or to prevent species from being listed as endangered or threatened to begin with. Furthermore, the legislature is nickel and diming important DLNR and other state programs to control invasives species and protect watersheds, which also provide habitat for many of imperiled species mauka.

Allowing for the take of endangered and threatened species while not providing enough funding to the state agencies charged with recovery endangered and threatened species is not in the best interest of the targeted species. At best, required habitat conservation plans mitigate the harmful impacts of ungulates, weeds, diseases, and other factor harming the targeted species. This situation is not in the public interest, and more needs to be done by the State to conserve imperiled species.

Please do a better job of protecting our unique and endangered Hawaiian plants, animals, and ecosystems. These public-trust resources are held in trust by the State for the people. We are concerned about the legacy we leave for our kids and generations to come. What will be left of our unique plant and animal life? At times, it seems as if introduced continental grazing and browsing mammals (such as pigs, goats, and sheep) receive more consideration by our leaders than our precious Hawaiian species.

Please provide more funding for watershed protection and invasive species control. Ask your colleagues to stop nickel and diming important species conservation and invasive species programs of the Department of Land and Natural Resources and Department of Agriculture.

Mahalo nui loa for the opportunity to testify.

Marjorie Ziegler

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