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**TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE SENATE COMMITTEE ON JUDICIARY AND LABOR

February 25, 2016
9:01 A.M.
CONFERENCE ROOM 016

**SENATE BILL NO. 2802
RELATING TO HUNTING ON PRIVATE LANDS**

Chairperson Keith-Agaran and Members of the Committee:\

Thank you for the opportunity to testify on Senate Bill No. 2802 which requires hunters to first obtain written permission from the landowner or occupier or holder under such landowner before entering private property. The department supports this administration bill.

Agricultural theft and agricultural vandalism have been a constant problem for Hawaii's farmers, increasing the cost of production and preventing farming operations to be successful. The vast farming land area throughout Hawaii and limited law enforcement officers make it difficult to capture perpetrators. This measure does not prohibit hunting on private lands. It will ensure greater safety and peace of mind for landowners who are often agriculturalists to control access to their properties.

Thank you for the opportunity to submit our testimony.





SB2802
RELATING TO HUNTING ON PRIVATE LANDS
Senate Committee on Judiciary and Labor

February 25, 2016

9:01 a.m.

Room 016

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB2802, which will require hunters to obtain written permission from landowners, occupiers, or holders of private lands to hunt on private lands.

Many Native Hawaiians currently engage in hunting for subsistence and other purposes as a traditional and customary practice. The Hawai'i Constitution, Supreme Court, and this Legislature consistently protect the perpetuation of these practices as a living component of the Hawaiian culture. However, while Native Hawaiians may reasonably engage in such practices on less-than-fully-developed lands notwithstanding certain trespassing and other laws, the written permission requirement of this bill may unduly burden practitioners who wish to do so, while also complying with statutory provisions.

Hunting remains an important cultural and subsistence practice for many Native Hawaiians, particularly in rural regions. For example, a report issued by the Governor's Moloka'i Subsistence Task Force found that Hawaiian families on Moloka'i continue to rely heavily upon subsistence to supplement meager incomes, deriving 38% of their food from these activities. These practices rely primarily upon wildlife game that is abundant on privately owned land because the game on public lands is too scarce to be hunted. This report revealed that subsistence activities, including hunting, were also critical to the persistence of Hawaiian cultural customs and values. Updated data from 2014 found that Native Hawaiians on Moloka'i continue to share the sentiment that subsistence is "very important" for their families livelihood.

OHA appreciates this bill's apparent desire to protect the property rights of private landowners. However, **the written permission requirement of this bill may create substantial burdens for practitioners who wish to both engage in cultural hunting practices, while also complying with the statute and avoiding the risk of arrest by law enforcement.** For example, much of Hawai'i's land is owned by large landowners whose explicit, written permission may be much more difficult to obtain than an implicit or verbal agreement. Likewise, large landowners who may otherwise wish to permit or even promote hunting on their lands may be discouraged from doing so, by the inconvenience or liability inherent in a written

permission requirement. Thus, while the Constitution broadly protects traditional and customary hunting activities, practitioners who are not able to obtain the written permission of landowners or occupiers could experience a chilling effect, as they would bear the burden of proving their rights to agents and prosecutors who may not understand the complex legal authority protecting their practices.

In light of these concerns, OHA urges the Committee to **HOLD** SB2802. Mahalo for the opportunity to testify on this important measure.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for SB2802 on Feb 25, 2016 09:01AM
Date: Wednesday, February 24, 2016 1:46:59 AM

SB2802

Submitted on: 2/24/2016

Testimony for JDL on Feb 25, 2016 09:01AM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|----------------------------|---------------------------|---------------------------|
| Tom Lodge | hawaii hunting association | Comments Only | No |

Comments: 1. No problem with requirement for written permission. 2. Would suggest giving anyone cited 30 days to produce a written waiver to the citation. Reason: Many times one is given permission to trespass and friends are subsequently told they too can trespass by the original permitted trespasser, though not originally by the owner/occupier directly. However there are times that explanation will produce said permissions from the owner/occupier and should be accorded to anyone cited. 3. A provision should be granted to explain to the Judge that the property upon which the citation was issued, was not posted or otherwise clearly delineated as a property line should have the citation so noted as "no posting" so that the cited party can explain the possibility of an inadvertent incursion. Much Aloha, Tom Lodge

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for SB2802 on Feb 25, 2016 09:01AM
Date: Tuesday, February 23, 2016 7:29:47 AM

SB2802

Submitted on: 2/23/2016

Testimony for JDL on Feb 25, 2016 09:01AM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Brian Isaacson | Individual | Oppose | No |

Comments: Written permission seems somewhat archaic these days, when so many other means of communication is available. In many cases, hunters and land owners have long-standing arrangements for permission to hunt, and have no need of a written record. As long as permission has been granted, by some form or format, that should be sufficient.

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Subject: Submitted testimony for SB2802 on Feb 25, 2016 09:01AM
Date: Tuesday, February 23, 2016 12:35:15 PM

SB2802

Submitted on: 2/23/2016

Testimony for JDL on Feb 25, 2016 09:01AM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Kerri Marks | Individual | Oppose | No |

Comments: Strongly oppose - this bill interferes with native cultural hunting and gathering rights. Trespassing laws already exist - just enforce them.

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Subject: Submitted testimony for SB2802 on Feb 25, 2016 09:01AM
Date: Tuesday, February 23, 2016 7:13:11 PM

SB2802

Submitted on: 2/23/2016

Testimony for JDL on Feb 25, 2016 09:01AM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| William R Smith | Individual | Oppose | No |

Comments: I want to reiterate my opposition of this bill.

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