

**HCR35/HR28**

**STRONGLY URGING THE UNITED STATES MILITARY TO CLEAN UP  
MUNITIONS AND EXPLOSIVES OF CONCERN IN HAWAII UNDER  
THE MILITARY MUNITIONS RESPONSE PROGRAM.**

Ke Kōmike Hale o nā mea Pa‘ahao, ke Kuleana Pū‘ali Koa, a me Nā Koa Kahiko  
House Committee on Corrections, Military, & Veterans

Malaki 19, 2021

9:00 a.m.

Lumi 430

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HCR35/HR28, which urges the United States military to clean up munitions and explosives of concern in Hawai‘i under the Military Munitions Response Program.

**As an initial matter, OHA notes that Native Hawaiians have a heightened interest in the substantial acreage of federal and state lands currently under military control.** In addition to the estimated 114,499.67 acres of federal lands that are eligible for transfer to the State under Public Law 88-233,<sup>i</sup> another 30,176.18 acres are controlled by the federal government under leases set to expire in 2029. These lands are overwhelmingly part of the 1.8 million acres of former Government and Crown Lands that were taken as a result of the unlawful overthrow of the Hawaiian Kingdom in 1893,<sup>ii</sup> and that were “ceded” to the United States’ federal government upon annexation – despite strong opposition from and without any consent by, or compensation to, Queen Lili‘uokalani or the Native Hawaiian people.<sup>iii</sup> Native Hawaiians continue to maintain unrelinquished claims to the entire “ceded” lands corpus, including those lands held or controlled by the federal government, and therefore have a particularly heightened interest in ensuring that these lands are properly remediated and not rendered unusable due to military training activities.

**Notably, historical and ongoing examples of the treatment of “ceded” lands under federal ownership or control raise particular concerns regarding the need for remediation and restoration actions to take place prior to such lands’ transition to State ownership or control.** For example, the island of Kaho‘olawe was taken for U.S. military use in 1953, with assurances that it would be restored to a “habitable condition”; to this day, only 9% of the island has been cleared beyond the surface level.<sup>iv</sup> Ironically, Kaho‘olawe accounts for most of the federal “ceded” lands relinquished to the State,<sup>v</sup> and it was only released from federal control in 1993 after years of protests and lawsuits.<sup>vi</sup> Additionally, there are still ongoing concerns about the remediation of Mākua Valley in Wai‘anae, O‘ahu, which has also been used for live-fire training, and which will also need substantial remediation and restoration as a result of such activities.<sup>vii</sup> The Hawai‘i

Supreme Court has also recently called attention to the potential for irreparable harm to 22,971 acres of state “ceded” lands leased to the federal government at at Pōhakuloa, Hawai‘i Island, which the court found were not adequately cared for as required under the public trust doctrine.<sup>viii</sup> **These historical and recent examples counsel the need for proactive and carefully informed discussions and consensus-building, in order to ensure that the transfer of ownership or control of “ceded” lands from the federal government to the State includes appropriate remediation and restoration measures – a critical component of restorative justice for Native Hawaiians who maintain claims to these lands.**

Therefore, OHA urges the Committee to **PASS** HCR35/HR28. Mahalo nui for the opportunity to testify on this important issue.

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<sup>i</sup> Section 5(e) of the Admission Act provided a five-year window for the federal government to convey back to the State of Hawai‘i lands it no longer needed; after this five-year period, title to those lands would have vested permanently in the United States. However, Public Law (P.L.) 88-233, abolished the five-year deadline so that the federal government could relinquish control of “ceded” lands at any time. Notably, P.L. 88-233 was a double-edged sword: in exchange for removing the deadline for the federal government to relinquish lands, nearly 228,000 acres of “ceded” lands set aside for national parks, monuments, and reservations became the fee-simple property of the federal government. These lands are now ineligible for transfer under P.L. 88-233. In any case, the federal government has continued to maintain control over the vast majority of the lands it retained upon statehood notwithstanding the lack of any significant federal use, such as Bellows Air Force Base in East O‘ahu. MELODY MACKENZIE ET AL., *NATIVE HAWAIIAN LAW TREATISE* 84-85 (2015).

<sup>ii</sup> MACKENZIE ET AL, *supra* note 1, at 27.

<sup>iii</sup> The state of Hawai‘i and the United States have both acknowledged this injustice, as well as the role of the U.S. military in the unlawful overthrow of the Hawaiian Kingdom. See, e.g., The Apology Resolution, Pub. Law No. 103-150, 107 Stat. 1510 (1993); Act 359 (Reg. Sess. 1993).

<sup>iv</sup> MELODY MACKENZIE, *supra* note 3 at 39; DAVIANNA MCGREGOR, KANALOA KAHO‘OLAWE, in *DETOURS: A DECOLONIAL GUIDE TO HAWAI‘I* 261, 264 (HŌKŪLANI K. AIKAU ET. AL, ED.) 2019.

<sup>v</sup> According to a 2012 inventory of public lands, 31,247.49 acres have been transferred to the state pursuant to P.L. 88-233, of which Kaho‘olawe comprises 28,776.70 acres. *Id.* at 84.

<sup>vi</sup> *Id.* at 39-40.

<sup>vii</sup> *Id.* at 8.

<sup>viii</sup> See *Ching v. Case*, 449 P.3d 1146, 1160-62, 1174-80 (Haw. 2019).

**HR-28**

Submitted on: 3/18/2021 12:50:53 AM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
David Mulinix	Our Revolution Hawaii	Support	No

Comments:

Aloha Committee,

On behalf of Our Revolution Hawaii's 7,000 members and supporters statewide, we stand in **STRONG SUPPORT** of HC28.

Please vote in support of HC28



**Testimony to the House Committee on Corrections, Military, & Veterans  
Friday, March 19, 2021 at 9:00 A.M.  
Via Videoconference**

**RE: HCR 35 / HR 28, STRONGLY URGING THE UNITED STATES MILITARY TO  
CLEAN UP MUNITIONS AND EXPLOSIVES OF CONCERN IN HAWAII UNDER THE  
MILITARY MUNITIONS RESPONSE PROGRAM.**

Chair Ohno, Vice-Chair Ganaden, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports** HCR 35 and HR 28.

The Chamber's Military Affairs Council (MAC) was established in 1985 to specifically advocate on behalf of Hawaii's military as it is the second economic driver for the State of Hawaii, comprised of business leaders, state and local officials, non-profit organizations, community leaders and retired U.S. flag and general officers to advocate and liaison with the military commands.

As a community partner in Hawaii, we take the military munitions response (MMR) seriously. We continue to actively engage in thorough removal of hazardous substances, pollutants, contaminants, and military munitions from military activities including those found as far back as WWII-era. The Armed Forces will continue to aggressively engage in munition remediation to improve public safety and reduce the risk they pose to present and future users of our communities.

Thank you for the opportunity to offer testimony.

**HR-28**

Submitted on: 3/17/2021 6:31:12 AM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
James F Moonier	Individual	Support	No

Comments:

It is critical for the State to do whatever it can to restore safely parks and recreation areas as appropriate from terminating leases from the military. The military should be responsible for the clean up so that our residents and tourists have more options to enjoy the wonders for our islands.

**HR-28**

Submitted on: 3/17/2021 10:33:02 AM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marilyn Mick	Individual	Support	No

Comments:

Aloha, I am in strong support of this Bill. Bellows is a special place for us to enjoy the beauty of Waimanalo bay and as it is it is closed off to locals too much of the time. This plan to fence off a few acres of Bellows to keep everyone safe from unexploded ordinances will, in reality, keep us away indefinitely. The military has a terrible track record of cleaning up their messes. Just look at Kaho'olawe, years after they turned it over to the State. The military needs to clean it up now. not clean it up so we can use it?

Mahalo, Marilyn Mick, Honolulu

**HR-28**

Submitted on: 3/17/2021 11:24:18 AM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jim Nicolow	Individual	Support	No

Comments:

Bellows should be cleaned up to make it useable (again, as it was when the military took ownership). Malama 'aina.

**HR-28**

Submitted on: 3/17/2021 1:40:50 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ingrid Peterson	Individual	Support	No

## Comments:

As a Kailua resident going back to 1963, I strongly support cleaning up Bellows of any unexplored ordinance. Restoring this land is the military's kuleana as a responsible member of our community. Friends used to enjoy the beach and camping there for decades. It should be cleaned up both for the enjoyment of the people and to respect any ancient artifacts that may be there. Mahalo.



**HR-28**

Submitted on: 3/17/2021 2:42:58 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kara Kelai	Individual	Support	No

Comments:

I strongly support HR28 as I truly believe the military must be responsible for their mess. I would like to see the military follow through and leave Hawaii if not better, at least the same as you found it. Once the mess is cleaned up it would be nice for them to de-occupy as they are illegally here. Mahalo for your time.

**HR-28**

Submitted on: 3/17/2021 5:00:55 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Patricia Blair	Individual	Support	No

Comments:

Absolutely! Clean it up!

**HR-28**

Submitted on: 3/17/2021 6:25:08 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Isaac Harp	Individual	Support	No

Comments:

The United States military is the worst polluter on the planet. Unfortunately, United States military leaders have not learned how to clean up after themselves, which requires adoption of HR28 to urge them to do so.

Mahalo, Isaac "Paka" Harp

**HR-28**

Submitted on: 3/17/2021 8:25:38 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Cory Harden	Individual	Support	No

Comments:

Aloha legislators,

I stongly support this measure. On Hawaii Island, we have 57 present and former military sites involving hundreds of thousands of acres of military lands in need of clean-up. Contamination from ground sites may have spread to the oceans and groundwater. In addition, old ordnance has been dumped in the ocean (remember "Ordnance Reef" on O'ahu). And cleanup for depleted uranium appears woefully inadequate.

mahalo,

Cory Harden

**HR-28**

Submitted on: 3/17/2021 10:05:55 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Samuel Hixon	Individual	Support	No

Comments:

Military explosives detonated in the limited and precious land space of Hawaii remove land accessibility and use from the public, turning beautiful landscapes with potential for sustenance, cultural, recreational, and other positive uses into scarred munitions wastelands that lie fallow, scarred with metal bullets and unexploded ordinance.

Bellows is no special exception. The rich green forest of Waikane Valley in Kahalu'u is a more esoteric example which is largely fenced off due to signs warning of explosive ordinance. Although detonation hasn't occurred in the USMC-owned Waikane Valley Training Area since 1976, the "1,061 acres that were used from 1942 to 1976 by the DoD as a training and artillery impact area" have been inaccessible and unusable for almost 50 years (quoted from U.S. Army Corps of Engineers 2014 MRS Report on Waikane). In 2009 the U.S. Marine Core reported uncovering 60 rockets and rocket propelled grenades, while noting soil contamination from heavy metals. The 2014 report by the Army Corps of Engineers favors "land use controls" over removal of ordinance due to the "cost prohibitive" nature of removing the ordinance.

Windward Oahu's Mokapu Peninsula, whose incredible oceanfront topography once garnered its name from the Hawaiian words "moku" and "kapu," meaning "sacred (or forbidden) island," has steep seacliffs and slopes falling hundreds of feet to the shores below Ulupa'u Crater, perhaps the peninsula's crown feature. Ulupau's slopes are now desecrated daily by the *rat-tat-tat* of machine gun fire and explosions of bombarding artillery by Marine Corps units.

Surely some military and training is needed, but it cannot come at the exorbitant cost which it has been afforded, namely removing Hawaiian lands from the hands of citizens for decades upon decades. Hawaii's precious natural resources cannot be debilitated and rendered useless to the public while the USMC claims its past actions are too expensive to cleanup, letting the sanctity of the land and the public's use of it pay the price while the DoD simultaneously spends over 600 billion dollars of taxpayer funding annually.

(<https://www.poh.usace.army.mil/Portals/10/docs/fuds/Draft%20Waikane%20Southern%20Impact%20Region%20MRS%20Proposed%20Plan.pdf>).



**HR-28**

Submitted on: 3/18/2021 7:23:42 AM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jeff Mcknight	Individual	Support	No

Comments:

I support this resolution in opposition to the Homeland Defense Radar for the State of Hawaii. It is yet another example of wasteful spending. The project would have an adverse impact on cultural sites and the environment. The military has a long history of unsatisfactory stewardship of Pkākūloa, Kahoʻlawe and Red Hill Tanks. The clean up of toxic waste in these areas is going to cost billions of dollars. Who is going to pay??

Thank you for the opportunity to testify.

**HR-28**

Submitted on: 3/18/2021 10:08:31 AM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Christopher Dean	Individual	Support	No

Comments:

Well, not much to say here. My Mother told me to clean up after myself when I make a mess. That's the problem with waging war, we never truly add up all the costs. If we did an honest assessment of how much it costs to wage war, I think the tax payers would be so pissed off, that would be it for the military industrial complex. Oh, that's probably why they don't tell the truth about how much money it costs. Now get them out there to clean up their mess and if they don't like it, then I suggest they stop making messes.



**HR-28**

Submitted on: 3/18/2021 12:49:41 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melissa Lawrence	Individual	Support	No

Comments:

I support HR28 which urges the US Military to clean up explosives and munitions so the land at Bellows may be more useful and safe for the people in our community.

**HR-28**

Submitted on: 3/18/2021 1:48:43 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nana-Honua Manuela	Individual	Support	No

Comments:

Per the recognized State of War between the USA & Hawaii, it is time for the US Military to clean up all of it's presense in Hawaii and negotiate a treaty of peace and de-occupy the country of Hawaii.

**HR-28**

Submitted on: 3/18/2021 3:06:51 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lois Crozer	Individual	Support	No

Comments:

I support

**HR-28**

Submitted on: 3/18/2021 3:55:27 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
tlaloc tokuda	Individual	Support	No

Comments:

Aloha CMV Committee Members

We all hear that the military is good for the islands. This is a classic example of what poor stewards the military is. What kind of irresponsible institutions are these that leave LIVE ordnances laying on the ground and the only thing they do is fence off the ordnances, The military needs to clean up their act and be good stewards and remove all ordnances in Hawaii..

This is valued land. Fencing it off will make it inaccessible. If the military deposits ordnances throughout Hawaii, then they should clean it up!

The military should try practicing good stewardship This resolution, strongly urges the United States Military to clean up munitions and explosives of concern in Hawai'i under the Military Munitions Response Program.

Mahalo for your consideration,

Tlaloc Tokuda

Kailua Kona, HI 96740

**HR-28**

Submitted on: 3/18/2021 4:29:15 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Elizabeth Hansen	Individual	Support	No

Comments:

Please support this bill. It is essential to have a healthy Hawai'i.

Mahalo.

LATE \*Testimony submitted late may not be considered by the Committee for decision making purposes.

**HR-28**

Submitted on: 3/18/2021 4:29:55 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rodger Hansen	Individual	Support	No

Comments:

Please support this bill. It is essential to have a healthy Hawai'i.

Mahalo.



Alohawaiiionipaa org  
41-1135 Waikupanaha Street  
Waimanalo, HI 96795  
(808) 200-3414

Friday, March 19, 2021 at 9:00 AM  
via vide conference

Committee on Corrections, Military, & Veterans  
Chair Rep. Takashi Ohno; Vice Chair Rep. Sonny Ganaden

Re: Support of HR28

HR28 "STRONGLY URGES THE UNITED STATES MILITARY TO CLEAN UP MUNITIONS AND EXPLOSIVES OF CONCERN IN HAWAII UNDER THE MILITARY MUNITIONS RESPONSE PROGRAM

HR28 is a long overdue common sense proposal for a solution that needs all of our support.

The details will lie in its implementation so that it can be carried out safe, cost-effective and meaningful. This must include community input as well as long-range planning so that benefits in returning the land to the local communities as well as the general public are clearly understood.

Respectfully yours,

Klaus Radtke, PhD.  
Wildland Resource Scientist  
President Alohawaiiionipaa org

Alohawaiiionipaa.org is tax-exempt public charity under section 501 (c) (3) of the Internal Revenue code. It supports specific charitable purposes which include, but are not limited to, furthering women's health, education, and to bettering the lives of largely Native Hawaiians through social interactions with people from around the world and through the support they may provide in alleviating poverty and in keeping the Hawaiian spirit, culture and heritage alive and flourishing.