



LAND USE RESEARCH
FOUNDATION OF HAWAII

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January 26, 2022

Senator Lorraine R. Inouye, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Senate Committee on Water and Land

Senator Mike Gabbard, Chair
Senator Clarence K. Nishihara, Vice Chair
Senate Committee on Agriculture and Environment

Testimony in Support of SB 2068, Relating to Land Management (Repeals board approval requirements for transfers of certain public lands classified for agricultural use by the Department of Land and Natural Resources [DLNR] to the Department of Agriculture [DOA]; requires the DOA to accept the transfer of and manage certain qualifying non-conservation, non-agricultural park lands; requires the DOA, prior to offering a lease, to inquire with the DLNR regarding any easements required for access; requires the Board of Land and Natural Resources [BLNR] to amend and extend certain leases for the lease to qualify for certain financing; authorizes the BLNR to amend and extend existing pasture leases and to issue new pasture leases; requires the Division of Forestry and Wildlife [DFW] to seek approval from the BLR before removing pasture lands for reforestation; requires the DFW to submit a funded action plan for reforestation on current pasture lands .)

Friday, January 28, 2022, 1:10 p.m.; Conference Room 229 & Videoconference

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 utility companies. LURF's mission 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 **support of the intent of SB 2068** and of the various agricultural stakeholder groups who defend the goals of viable agricultural operations and the conservation and protection of agriculture in Hawaii.

SB 2068. The primary intent of this bill is to effectuate and facilitate the transfer of certain public lands classified for agricultural use from the DLNR to the DOA pursuant to Act 90, Session Laws of Hawaii (2003) (Act 90); Chapter 166E, Hawaii Revised Statutes; and for the purposes and in a manner consistent with Article XI, Section 10, of the Hawaii Constitution, which establishes that “the public lands shall be used for the development of farm and homeownership on as a widespread a basis as possible, in accordance with procedures and limitations prescribed by law.”

In furtherance of said transfer of public lands, an Act 90 working group was established by Act 139, Session Laws of Hawaii, which group has determined that lands under the DLNR used for “the primary and substantial management objective of agricultural production” should be transferred to the DOA.

LURF’s Position. LURF members include property owners, farmers and ranchers who own, maintain, and engage in agricultural enterprises, and who consider efforts to protect and support agriculture significant to the continued conduct of their operations and to help sustain and preserve farming and ranching businesses into the future.

Many farmers and ranchers have been awaiting the transfer of their land leases from the DLNR to the DOA pursuant to Act 90, which was enacted to ensure long-term productive use of public agricultural lands to be managed by the DOA, which department is better suited to administer agricultural lands. The now 19-year delay of the anticipated transfers, however, has impaired the ability of farmers and ranchers to establish and implement long-term plans for their operations.

LURF upholds the intent of this measure as it promotes cooperation between the DOA and DLNR and recognizes that the DOA can best advance and sustain the needs of agriculture and the agricultural industry in this State. LURF also understands that lands under the DOA are appraised on their agricultural value while lands under the DLNR are auctioned for lease at the highest rates possible, which is commonly beyond the affordability of local farmers and ranchers. Additionally, long term leases issued by the DOA make it possible for agricultural stakeholders to prudently invest in infrastructure improvement and resource conservation on the leased land.

LURF therefore fully supports the intent of SB 2068 because the measure makes a significant effort to advance the transfer of agricultural lands. LURF believes, however, that the continued collaboration between the departments as well as input from all stakeholders regarding such transfers, and the establishment of **clear, consistent, and well-defined processes** by which to accomplish said transfers from the DLNR to the DOA, are necessary to successfully implement this undertaking. In that regard, there are legitimate concerns including the existence of vague and ambiguous language used to describe and define critical terms in the bill as presently drafted, as well as inconsistencies between rules and practices followed by each of the two departments regarding the handling of lease issuances and extensions may raise problems with the practical implementation of the long-awaited transfers and leases of land.

By recognizing the significance of and need to assist the local agriculture industry and to implement measures which help to support the viability and maintenance of agriculture in the State, the intent of this bill significantly helps to promote economically viable agriculture, increased food production, and food self-sufficiency in Hawaii.

For the reasons stated above, LURF **supports the intent of SB 2068**, and respectfully urges your favorable consideration of this measure and any necessary amendments thereto consistent with these comments.

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



SIERRA CLUB OF HAWAI'I

SENATE COMMITTEE ON WATER AND LAND

SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

January 28, 2022 1:10 PM CCR229

In **OPPOSITION** to **SB2068**: Relating to Land Management

Aloha Chairs Inouye and Gabbard, Vice Chairs Keith-Agaran and Nishihara, and members of the Committees on Water and Land and Agriculture and Environment,

On behalf of our 27,000 members and supporters, the Sierra Club of Hawai'i **OPPOSES SB2068**, which may result in the loss of critical protections for nearly one hundred thousand acres of public watershed lands currently managed by the Department of Land and Natural Resources ("DLNR").

Watersheds and public trust uses of public lands need continued protection

The Sierra Club has significant concerns regarding this measure's potential unintended impacts on the range of public interests, including watershed protection, that may arise from the forcible transfer of "pasture" lands from the DLNR to the Department of Agriculture ("DOA"). By removing the Board of Land and Natural Resources' ("BLNR's") discretion as to what public agricultural lands should be surrendered to the Department of Agriculture, this bill would curtail if not eliminate the DLNR's ability to apply its considerable staff expertise and capacity to manage agricultural land uses, including livestock cultivation and the clearing of remnant native forests, that may otherwise impact native species habitat, cultural sites, public and practitioner access for recreational and cultural purposes, and watershed integrity critical to maintaining our islands' water cycle in the era of climate change.

Agriculture and conservation can coexist

The Sierra Club does appreciate that this bill allows the BLNR to designate certain agricultural lands as conservation lands and thereby retain control over these lands. However, this may result in the unnecessary foreclosure of agricultural practices that may otherwise be compatible with non-agricultural values of reclassified conservation land, or in unnecessary impacts to non-agricultural values and interests in lands otherwise primarily used for agriculture. In many cases, agriculture and conservation values, as well as broader public and cultural interests, can be maintained on the same parcels of land, but only with sufficient management expertise and capacity to facilitate and balance both. Requiring the BLNR to choose between agricultural and conservation uses will prevent this balance from being realized.

Access easements alone cannot protect the full range of public interests in these lands

The Sierra Club further appreciates that this bill provides the BLNR with the ability to request access easements prior to the issuance of a lease for lands transferred from the DLNR to the DOA. However, access easements alone are not sufficient to protect the range of important public interests in transferred lands. For example, easements would not allow for the protection of cultural sites or native and endangered species habitat on transferred land parcels, and would not provide for the management measures needed to ensure that certain land uses, such as ungulate grazing, do not result in runoff and other impacts to adjacent watershed and shoreline areas.

BLNR discretion to retain lands should be maintained

For the reasons above, the Sierra Club respectfully urges the Committees to ensure that the discretion granted to the BLNR to retain certain agricultural or pasture lands, as reflected in Act 90, be retained. **Should the Committees choose to move this measure forward, the Sierra Club asks that the changes reflected section 4 of this measure be removed.**

For these reasons, we urge the Committees to **HOLD** SB2068. Thank you very much for this opportunity to testify.

SB-2068

Submitted on: 1/26/2022 9:02:16 PM

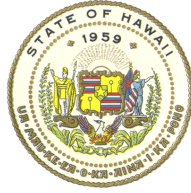
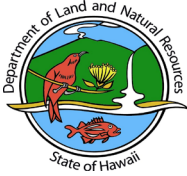
Testimony for WTL on 1/28/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
kaira resch	Individual	Oppose	No

Comments:

If these lands are transferred to the Department of Agriculture, ranching activities including unrestricted grazing and clear cutting of remnant native forests could take precedence over public access for hiking, hunting, and cultural practices; watershed protection; and the preservation of native and endangered species habitat. Ranchers could likely pay even less for their use of transferred public trust lands under the DOA than the already very small fees they pay under DLNR, and ranching-related facilities on these lands could also receive exemptions from state and county environmental protection and development laws.

DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committees on
WATER AND LAND
and
AGRICULTURE AND ENVIRONMENT**

**Friday, January 28, 2022
1:10 PM**

State Capitol, Conference Room 229, Via Videoconference

**In consideration of
SENATE BILL 2068
RELATING TO LAND MANAGEMENT**

Senate Bill 2068 proposes to: (1) repeal requirements for Board of Land and Natural Resources (BLNR) to approve transfers of certain public lands classified for agricultural use by the Department of Land and Natural Resources (Department or DLNR) to the Department of Agriculture (DOA); (2) require DOA to accept the transfer of and manage certain qualifying non-conservation, non-agricultural park lands; (3) require DOA, prior to offering a lease, to inquire with the Department regarding any easements required for access to landlocked forest reserves or other assets on the lands subject to the lease; (4) require BLNR to amend and extend certain leases for the lease to qualify for certain financing; (5) authorize BLNR to amend and extend existing pasture leases and to issue new pasture leases by negotiation in furtherance of public purposes that the Department and DOA are responsible for promoting; (6) require the Division of Forestry and Wildlife (DOFAW) to seek BLNR approval before removing pasture lands for reforestation; and (7) require DOFAW to submit a funded action plan for reforestation on current pasture lands. **The Department of Land and Natural Resources (Department) opposes this measure in part and supports it in part.**

The Department opposes PARTS I and II of Senate Bill 2068 because they are inconsistent with the Final Report of the Act 90¹ Working Group submitted to the Legislature on December 21, 2021 (Report). The Department supports portions of PART III of the measure, specifically the portion of PART III, SECTION 7 that proposes to create a new subsection (g) of Section 171-36,

¹ Act 90, Session Laws of Hawaii 2003, codified into law as Chapter 166E, Hawaii Revised Statutes (HRS), provides for transfer of agricultural lands to DOA. The Department has transferred more than 19,000 acres to DOA over the years.

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

ROBERT K. MASUDA
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AQUATIC RESOURCES
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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

HRS, regarding the extension and amendment of pasture leases and PART III, SECTION 8, that proposes to amend Section 171-59, HRS, to allow the Department to issue new pasture leases by direct negotiation.

The concern the Department has with PARTs I and II of the bill is that they create a class of lands called “non-conservation designated public lands classified for agricultural use by the [Department],” which the Department understands to include all lands with an agricultural land use designation that are not already set-aside to DOA as non-agricultural park lands. PARTs II would require the wholesale transfer of these lands to DOA. However, the Act 90 Working Group Report found that the Department should retain management of those agricultural lands designated as multiple-use agricultural lands. The Report states in relevant part as follows:

The Working Group further finds that certain agricultural lands under DLNR have multiple management objectives, which can include agricultural production, forestry, native forest restoration, watershed protection, habitat conservation, public recreation, fire fuel suppression, and other public purposes which clearly fall within DLNR's purview and mission. These multiple-use lands should remain under DLNR's management.

Senate Bill 2068 is predicated on the notion that lands historically zoned “agricultural” are not important for natural and cultural resource protection, or that they should never be used for other public or priority purposes such as public schools, colleges (e.g., West Oahu University once was agricultural land), affordable homes and rentals, renewable energy projects or other income-producing opportunities like commercial, resort or mixed uses that could provide the much-needed support to the State’s financial situation. In fact, many areas zoned as agricultural land are critical watershed, endangered species habitat, important hunting areas, and have even been designated as Natural Area Reserves, the most protective designation for State lands.

Instead, the Department recommends the existing process that requires approval by both BLNR and BOA be retained. These boards can weigh agricultural values, as well as other public trust values of these lands, such as:

- what resources are on the land,
- presence of endangered species,
- protection and care of our precious watersheds,
- recreational and hunting access,
- historical sites, and
- usability for agriculture.

Pasture lands are a critical part of the Department's forest protection and restoration, traditional gathering, and hunting and trails and other recreation responsibilities. The attached maps show the proximity of large tracts of pasture lands to forest reserves on Hawaii Island, and provide details on native ecosystems, potential for restoration and occurrence of endangered species. The Department is retaining these lands and is willing to support extending and amending the pasture leases with the Department under collaborative management terms compatible with both grazing and public trust natural and cultural resource protection and enhancement.

The Hawaii State Constitution, Article XI, Section 1, requires that:

For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

The Department strongly believes this measure is not a reasonable compromise and will result in the degradation of these constitutionally protected public purposes.

It is of the utmost imperative that the pasture lands at issue remain under the management of the Department. There are significant resource values on these lands that require active management by the Department to ensure their continued sustainability. Pursuant to Chapter 166E, HRS, under DOA management, these lands would be used solely for pasture purposes without regard to native forest restoration. DOA lacks the staffing and expertise to incorporate resource management activities into its land management practices. Furthermore, use of these lands exclusively for pasture purposes would result in a significant detrimental impact to our environment. Without DLNR management, these lands could be grazed without restriction, clear-cut and plowed, and public access could be blocked, threatening public trust natural and cultural values. While the bill would require DOA to “inquire” with the Department on easements or assets in leases, there is little likelihood that DOA could manage these lands to protect these public values due to its lack of staff specialization in natural resource and recreation management.

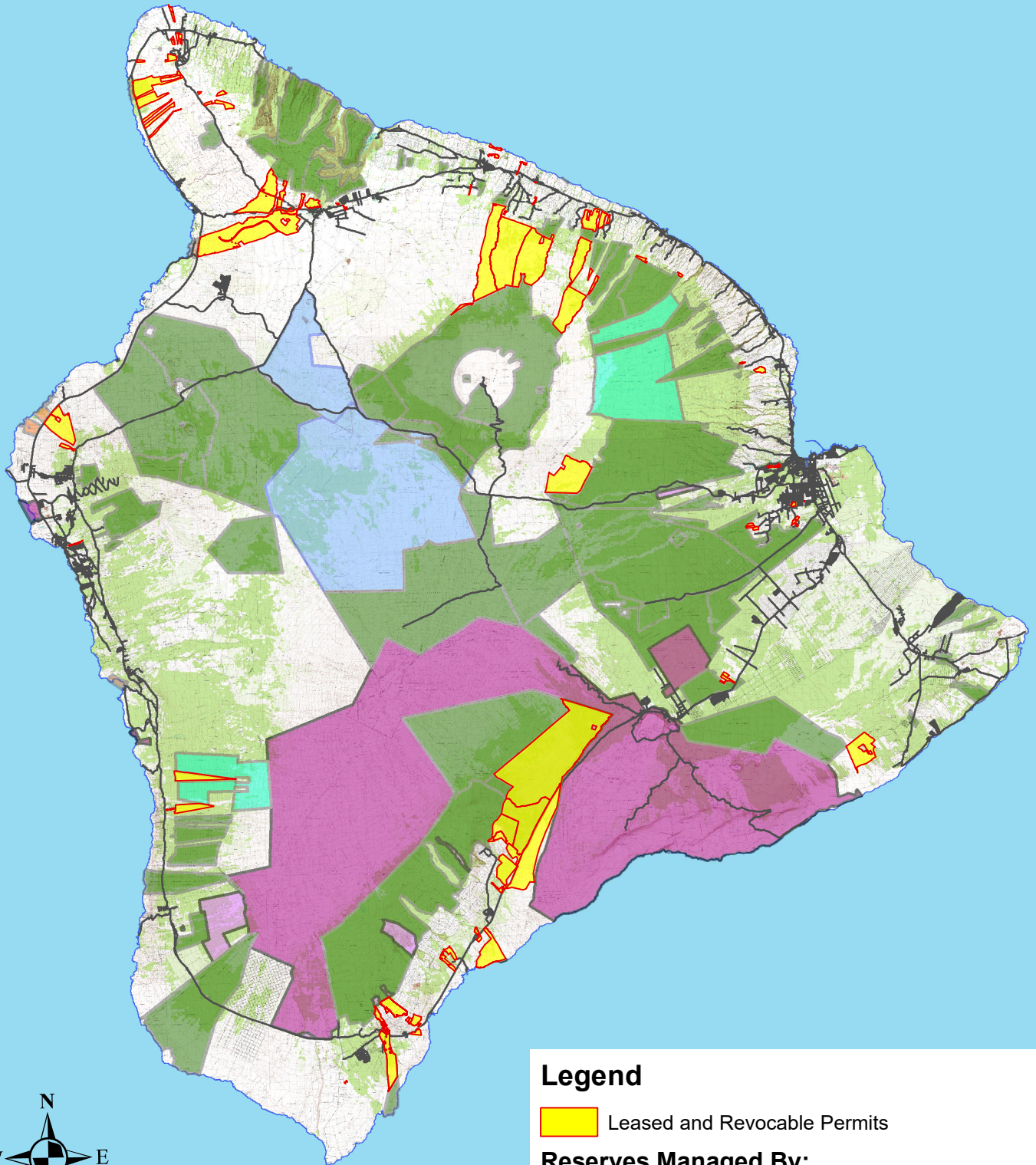
According to the United States Geological Survey, the impact of deforestation in Hawaii is severe. Hawaii’s native wet and mesic forests store an average of 124 metric tons of carbon per acre. There are around 800,000 acres of native wet and mesic forest in Hawaii. Hawaii’s invasive wet and mesic grasslands store an average of 70 metric tons of carbon per acre. There are around 300,000 acres of invasive wet and mesic grasslands in Hawaii. When Hawaii’s native forests are converted to grasslands, they lose about half of their stored carbon - a loss of 54 metric tons of carbon per acre. Reforesting grasslands is the largest carbon sequestration opportunity for Hawaii to reach the goal of carbon neutrality by 2045 (Act 15, Session Laws of Hawaii 2018). The Department is inventorying lands that are not used for pasture, and planning combination grazing and reforestation projects. The Department also offers voluntary incentive programs for ranchers to reforest lands and is developing standards for carbon credit projects that could further diversify revenues for ranchers.

PART III, SECTION 7 of the bill proposes an amendment to Section 171-36(b), HRS, that would have far-reaching negative impacts on the Department if the bill were passed. That section relates to commercial and industrial leases in addition to intensive agriculture and pasture leases. By changing “may” to “shall” on page 11, line 9, the bill takes away the BLNR’s discretion to grant lease extensions and instead mandates the extension of all those categories of leases regardless of whether the BLNR finds the extensions to be in the best interests of the State.

The Department supports other provisions in PART III of the bill that provide the Department with statutory powers similar to those exercised by DOA in the management of its leases. Through a proposed new subsection (g) of Section 171-36, HRS, the bill would give the Department the authority to amend existing leases to place use restrictions on high resource value portions of the lease premises and allow BLNR to factor use restrictions and land conservation and stewardship services performed by lessees into determining an appropriate rent. Through a proposed amendment to Section 171-59, HRS, the bill would also authorize the Department to issue new pasture leases by direct negotiation with terms up to 65 years that include use restrictions on high resource value portions of the lease premises and allow BLNR to factor use restrictions as well as the value of any land conservation and stewardship services lessees are required to perform under their leases into the determination of an appropriate rent to charge.

Senate Bill 2068 would have severe negative impacts on the Department if passed in its present form. The Department could support a version of the bill that omitted PARTs I, II and the objectionable portions of PART III as noted above. The Department requests that the committee respect the findings of the Act 90 Working Group and allow the Department to continue to manage multiple-purpose agricultural lands.

Thank you for the opportunity to comment on this measure.

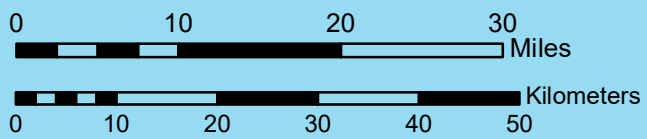
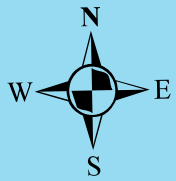


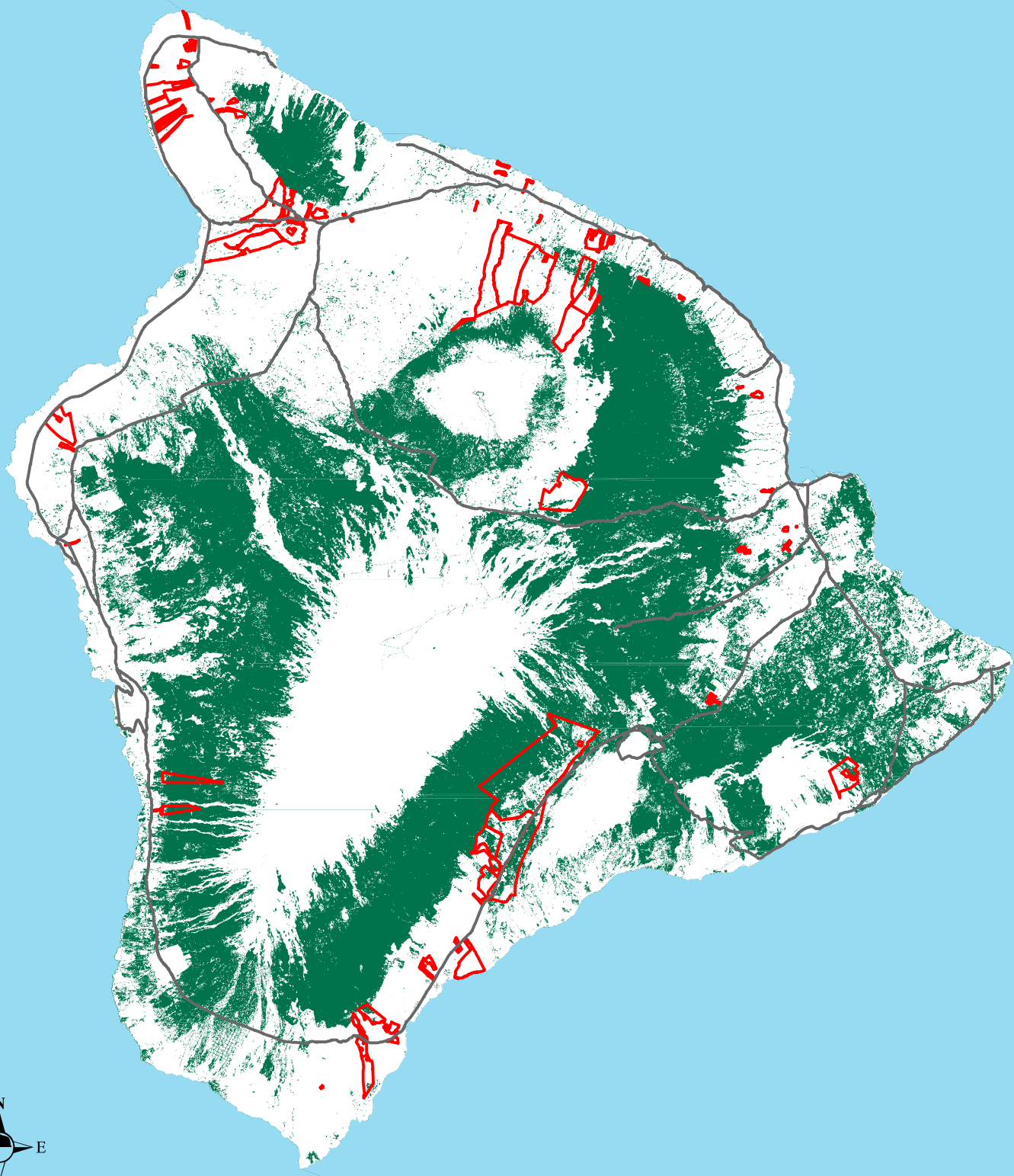
Legend

Leased and Revocable Permits

Reserves Managed By:

- Div. Forestry & Wildlife, or Jointly with Other Agency
- Div. State Park
- The Nature Conservancy
- U.S. Fish & Wildlife Service
- U.S. National Park Service
- U.S. Army








0 2.5 5 10 15 20
Miles

0 5 10 20 30 40
Kilometers

Legend

-  Leased and Revocable Permits
-  Forested Native Ecosystems
-  Major Roads

02/06/20

Parcels with Potential for Restoration Native Ecosystems Before Human Contact



Legend

-  Leased and Revocable Permits
-  Native Montane Wet Forest
-  Native Lowland Wet Forest
-  Native Montane Mesic Forest
-  Native Lowland Dry Mesic Forest
-  Native Subalpine Shrubland
-  Native Montane Dry Forest
-  Native Lowland Dry Forest
-  Barren or Alpine
-  Major Roads










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Parcels with Potential for Restoration Remaining Native Ecosystems



Legend

-  Leased and Revocable Permits
-  Native Montane Wet Forest
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

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Legend

-  Leased and Revocable Permits
-  Endangered Species in Parcels
-  Critical Habitat for Endangered Species
-  Major Roads

02/06/20



SUMMARY

DESCRIPTION

EXPECTED BENEFITS





2022 LEGISLATIVE PROPOSALS

The DLNR seeks greater flexibility under Chapter 166E, HRS to amend, extend, and issue new leases by negotiation. The perceived need to transfer pasture leases to the DOA can be relieved by providing the DLNR with statutory powers similar to those exercised by the DOA in the management of its leases.



PASTURE LAND CONSERVATION VALUES



Water



Fire & Forest Health



Native Ecosystems



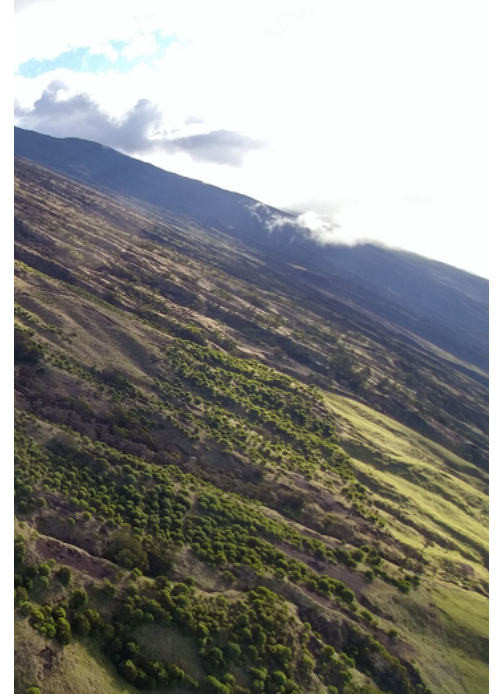
Forestry



Recreation

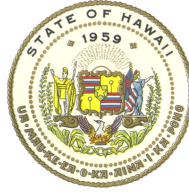
DLNR PARTNERSHIPS WITH RANCHERS

CLIMATE CHANGE AND CARBON NEUTRALITY



CONTACT PERSON

DAVID Y. IGE
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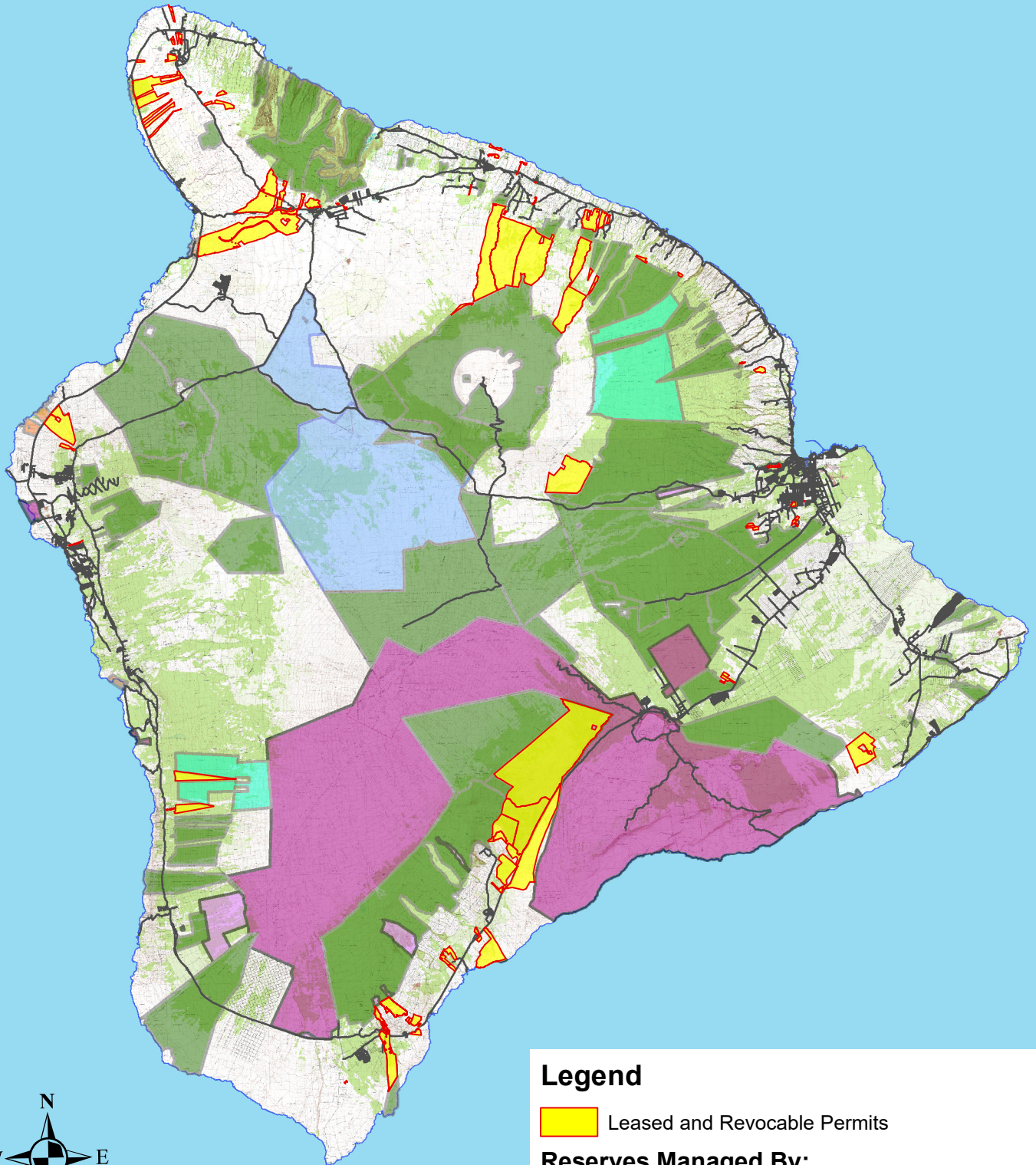
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Legend


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Reserves Managed By:

 Div. Forestry & Wildlife, or Jointly with Other Agency

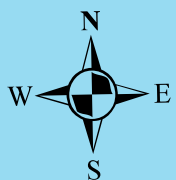
 Div. State Park

 The Nature Conservancy

 U.S. Fish & Wildlife Service

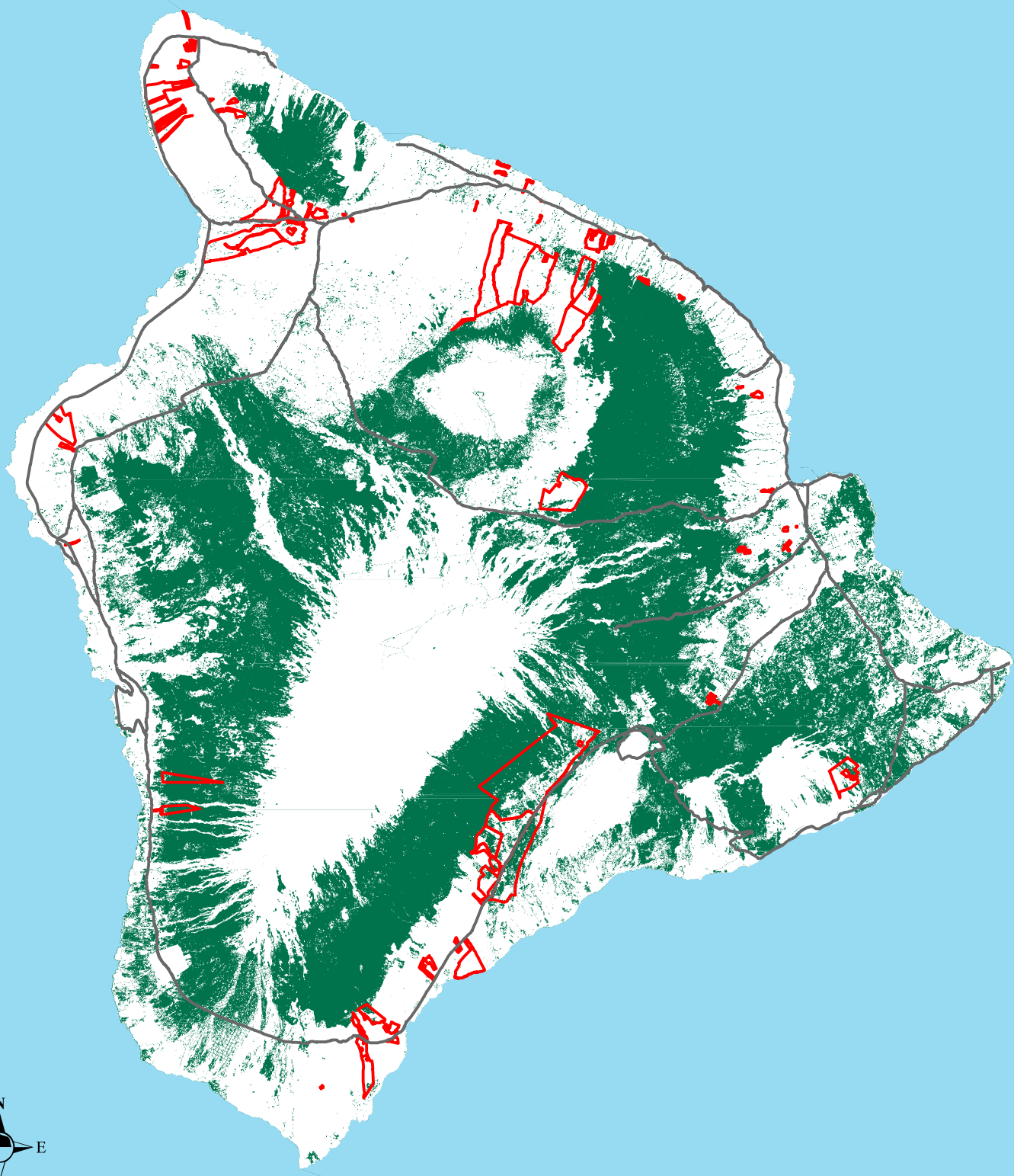
 U.S. National Park Service

 U.S. Army



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0 10 20 30 40 50 Kilometers



0 2.5 5 10 15 20
Miles

0 5 10 20 30 40
Kilometers

Legend

-  Leased and Revocable Permits
-  Forested Native Ecosystems
-  Major Roads

02/06/20

Parcels with Potential for Restoration Native Ecosystems Before Human Contact



Legend

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

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Miles

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Parcels with Potential for Restoration Remaining Native Ecosystems



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

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PASTURE LAND CONSERVATION VALUES



Water



Fire & Forest Health



Native Ecosystems



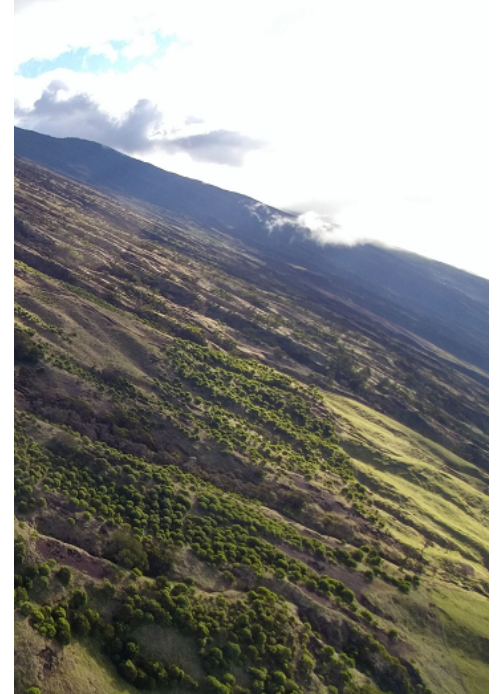
Forestry



Recreation

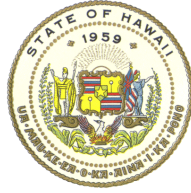
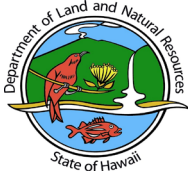
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CLIMATE CHANGE AND CARBON NEUTRALITY



CONTACT PERSON

DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committees on
WATER AND LAND
and
AGRICULTURE AND ENVIRONMENT**

**Friday, January 28, 2022
1:10 PM**

State Capitol, Conference Room 229, Via Videoconference

**In consideration of
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RELATING TO LAND MANAGEMENT**

Senate Bill 2068 proposes to: (1) repeal requirements for Board of Land and Natural Resources (BLNR) to approve transfers of certain public lands classified for agricultural use by the Department of Land and Natural Resources (Department or DLNR) to the Department of Agriculture (DOA); (2) require DOA to accept the transfer of and manage certain qualifying non-conservation, non-agricultural park lands; (3) require DOA, prior to offering a lease, to inquire with the Department regarding any easements required for access to landlocked forest reserves or other assets on the lands subject to the lease; (4) require BLNR to amend and extend certain leases for the lease to qualify for certain financing; (5) authorize BLNR to amend and extend existing pasture leases and to issue new pasture leases by negotiation in furtherance of public purposes that the Department and DOA are responsible for promoting; (6) require the Division of Forestry and Wildlife (DOFAW) to seek BLNR approval before removing pasture lands for reforestation; and (7) require DOFAW to submit a funded action plan for reforestation on current pasture lands. **The Department of Land and Natural Resources (Department) opposes this measure in part and supports it in part.**

The Department opposes PARTS I and II of Senate Bill 2068 because they are inconsistent with the Final Report of the Act 90¹ Working Group submitted to the Legislature on December 21, 2021 (Report). The Department supports portions of PART III of the measure, specifically the portion of PART III, SECTION 7 that proposes to create a new subsection (g) of Section 171-36,

¹ Act 90, Session Laws of Hawaii 2003, codified into law as Chapter 166E, Hawaii Revised Statutes (HRS), provides for transfer of agricultural lands to DOA. The Department has transferred more than 19,000 acres to DOA over the years.

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AQUATIC RESOURCES
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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

HRS, regarding the extension and amendment of pasture leases and PART III, SECTION 8, that proposes to amend Section 171-59, HRS, to allow the Department to issue new pasture leases by direct negotiation.

The concern the Department has with PARTs I and II of the bill is that they create a class of lands called “non-conservation designated public lands classified for agricultural use by the [Department],” which the Department understands to include all lands with an agricultural land use designation that are not already set-aside to DOA as non-agricultural park lands. PARTs II would require the wholesale transfer of these lands to DOA. However, the Act 90 Working Group Report found that the Department should retain management of those agricultural lands designated as multiple-use agricultural lands. The Report states in relevant part as follows:

The Working Group further finds that certain agricultural lands under DLNR have multiple management objectives, which can include agricultural production, forestry, native forest restoration, watershed protection, habitat conservation, public recreation, fire fuel suppression, and other public purposes which clearly fall within DLNR's purview and mission. These multiple-use lands should remain under DLNR's management.

Senate Bill 2068 is predicated on the notion that lands historically zoned “agricultural” are not important for natural and cultural resource protection, or that they should never be used for other public or priority purposes such as public schools, colleges (e.g., West Oahu University once was agricultural land), affordable homes and rentals, renewable energy projects or other income-producing opportunities like commercial, resort or mixed uses that could provide the much-needed support to the State’s financial situation. In fact, many areas zoned as agricultural land are critical watershed, endangered species habitat, important hunting areas, and have even been designated as Natural Area Reserves, the most protective designation for State lands.

Instead, the Department recommends the existing process that requires approval by both BLNR and BOA be retained. These boards can weigh agricultural values, as well as other public trust values of these lands, such as:

- what resources are on the land,
- presence of endangered species,
- protection and care of our precious watersheds,
- recreational and hunting access,
- historical sites, and
- usability for agriculture.

Pasture lands are a critical part of the Department's forest protection and restoration, traditional gathering, and hunting and trails and other recreation responsibilities. The attached maps show the proximity of large tracts of pasture lands to forest reserves on Hawaii Island, and provide details on native ecosystems, potential for restoration and occurrence of endangered species. The Department is retaining these lands and is willing to support extending and amending the pasture leases with the Department under collaborative management terms compatible with both grazing and public trust natural and cultural resource protection and enhancement.

The Hawaii State Constitution, Article XI, Section 1, requires that:

For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

The Department strongly believes this measure is not a reasonable compromise and will result in the degradation of these constitutionally protected public purposes.

It is of the utmost imperative that the pasture lands at issue remain under the management of the Department. There are significant resource values on these lands that require active management by the Department to ensure their continued sustainability. Pursuant to Chapter 166E, HRS, under DOA management, these lands would be used solely for pasture purposes without regard to native forest restoration. DOA lacks the staffing and expertise to incorporate resource management activities into its land management practices. Furthermore, use of these lands exclusively for pasture purposes would result in a significant detrimental impact to our environment. Without DLNR management, these lands could be grazed without restriction, clear-cut and plowed, and public access could be blocked, threatening public trust natural and cultural values. While the bill would require DOA to “inquire” with the Department on easements or assets in leases, there is little likelihood that DOA could manage these lands to protect these public values due to its lack of staff specialization in natural resource and recreation management.

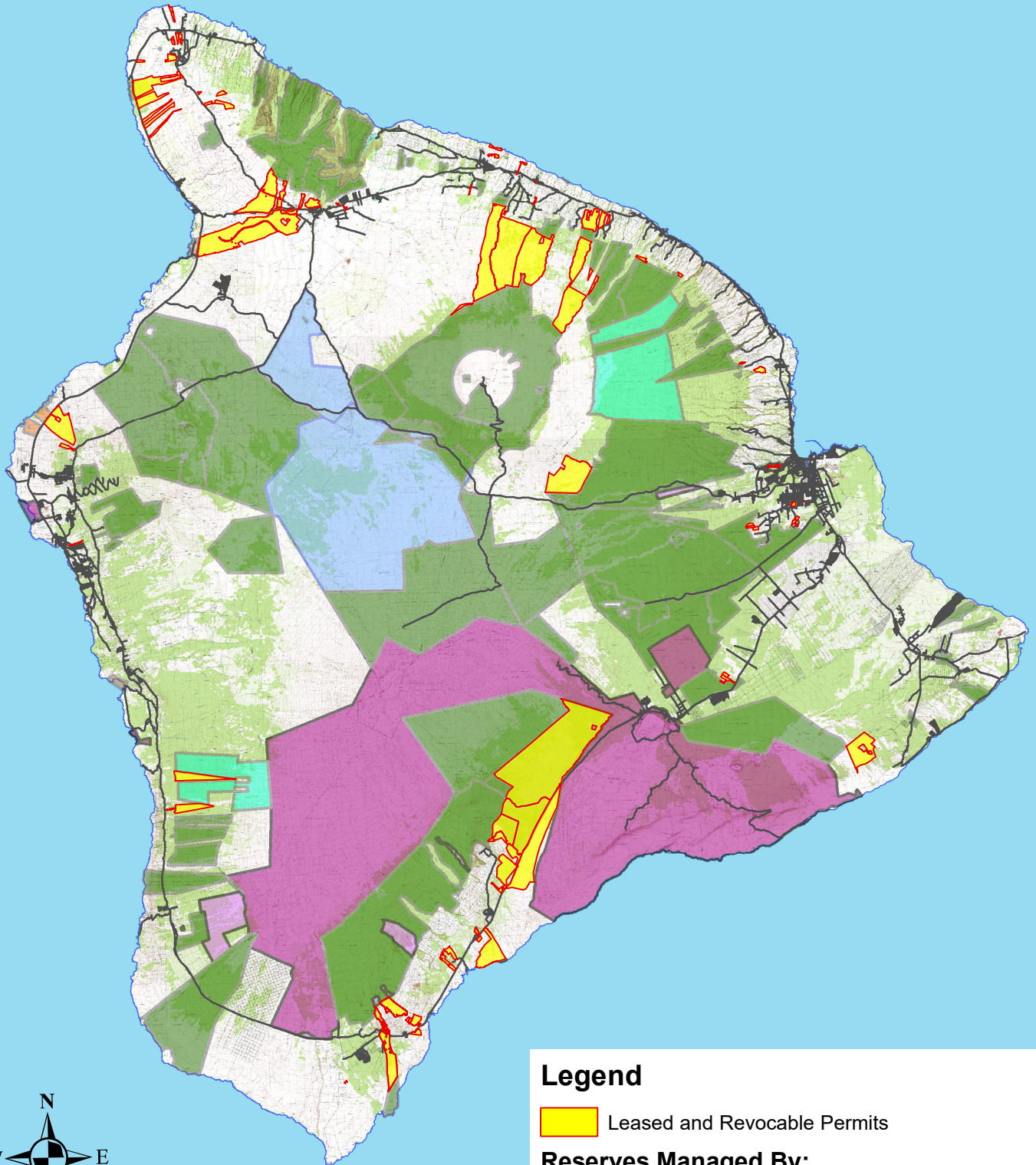
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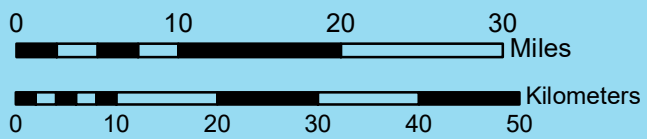
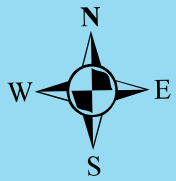


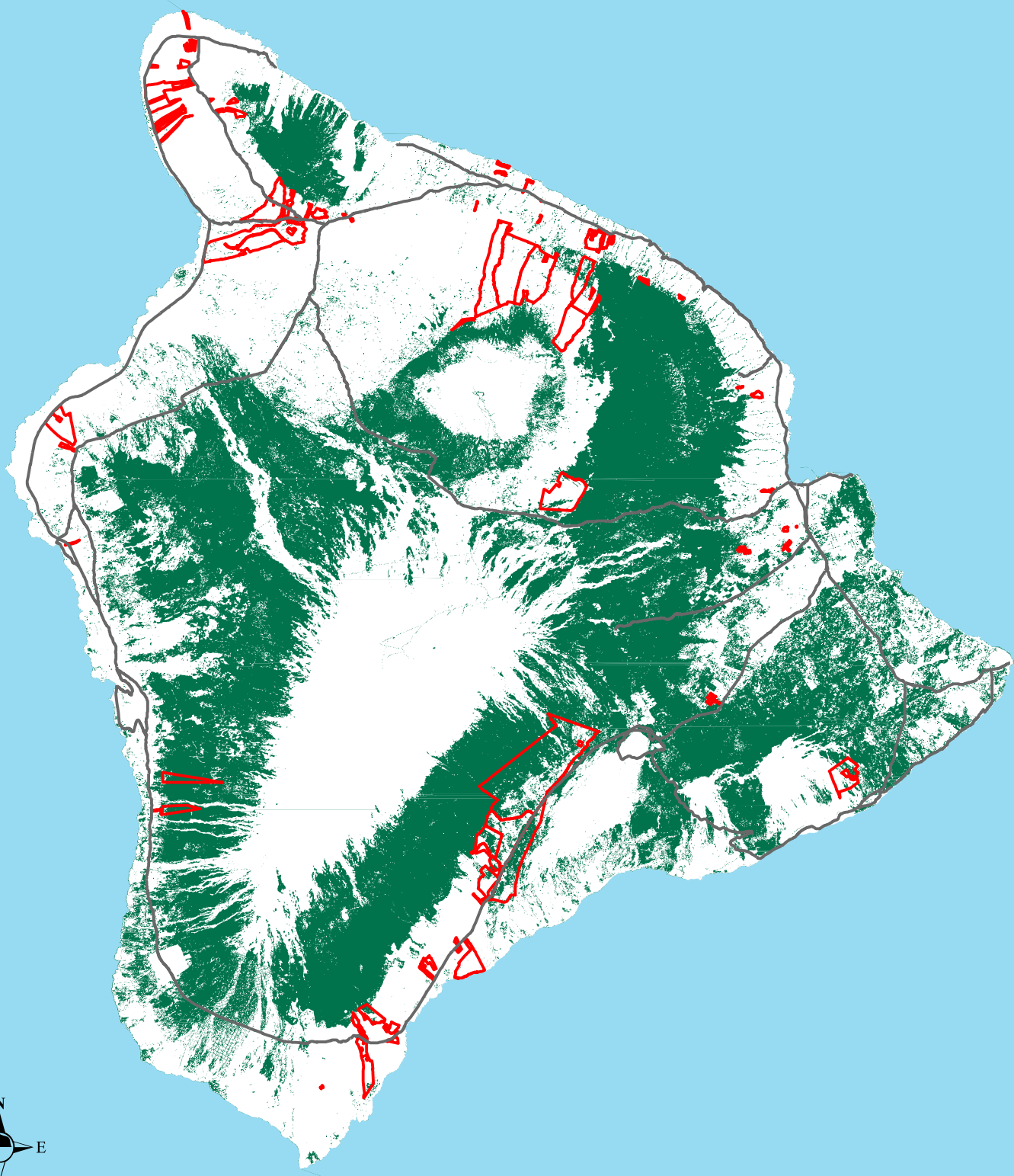
Legend

Leased and Revocable Permits

Reserves Managed By:

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0 2.5 5 10 15 20
Miles

0 5 10 20 30 40
Kilometers

Legend

-  Leased and Revocable Permits
-  Forested Native Ecosystems
-  Major Roads

02/06/20

Parcels with Potential for Restoration Native Ecosystems Before Human Contact



Legend

-  Leased and Revocable Permits
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


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Parcels with Potential for Restoration Remaining Native Ecosystems



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

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PASTURE LAND CONSERVATION VALUES



Water



Fire & Forest Health



Native Ecosystems



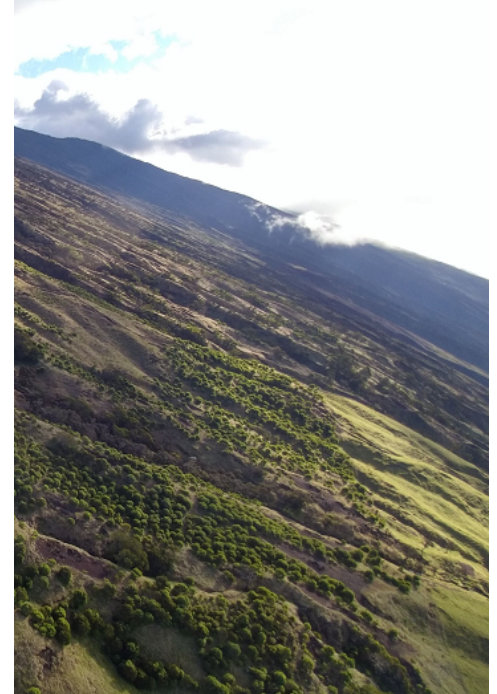
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Recreation

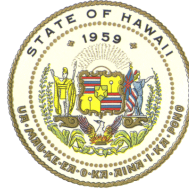
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CONTACT PERSON

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**STATE OF HAWAII
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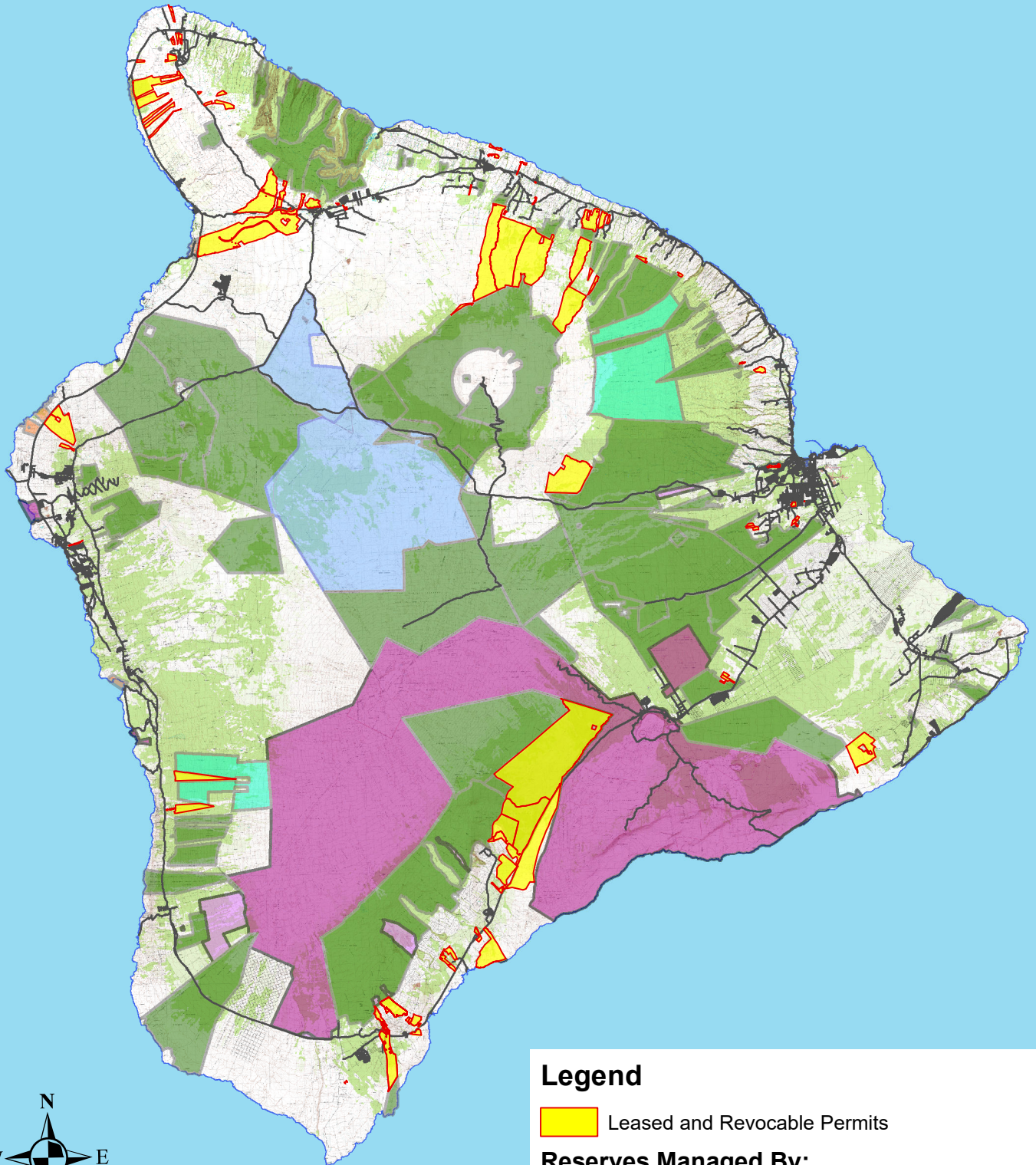
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Thank you for the opportunity to comment on this measure.

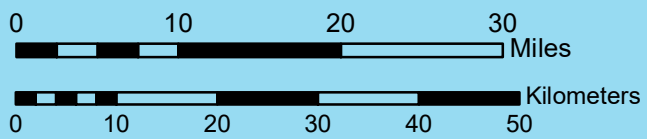
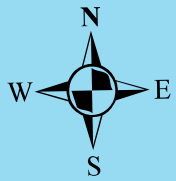


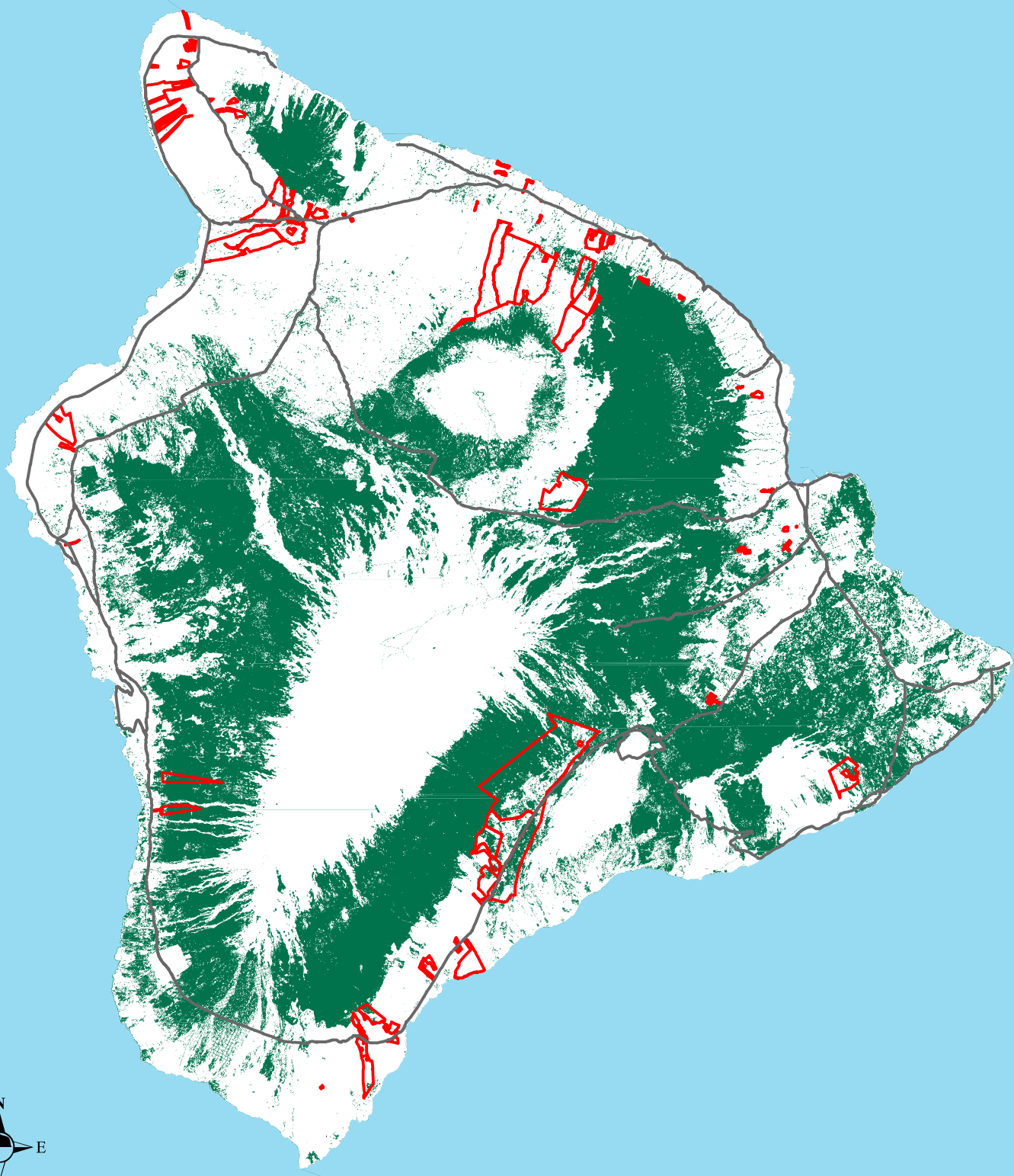
Legend

- Leased and Revocable Permits

Reserves Managed By:

- Div. Forestry & Wildlife, or Jointly with Other Agency
- Div. State Park
- The Nature Conservancy
- U.S. Fish & Wildlife Service
- U.S. National Park Service
- U.S. Army








0 2.5 5 10 15 20
Miles

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Kilometers

Legend

-  Leased and Revocable Permits
-  Forested Native Ecosystems
-  Major Roads

02/06/20

Parcels with Potential for Restoration Native Ecosystems Before Human Contact



Legend

-  Leased and Revocable Permits
-  Native Montane Wet Forest
-  Native Lowland Wet Forest
-  Native Montane Mesic Forest
-  Native Lowland Dry Mesic Forest
-  Native Subalpine Shrubland
-  Native Montane Dry Forest
-  Native Lowland Dry Forest
-  Barren or Alpine
-  Major Roads











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Miles

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Kilometers

Parcels with Potential for Restoration Remaining Native Ecosystems



Legend

-  Leased and Revocable Permits
-  Native Montane Wet Forest
-  Native Lowland Wet Forest
-  Native Montane Mesic Forest
-  Native Lowland Dry Mesic Forest
-  Native Subalpine Shrubland
-  Native Montane Dry Forest
-  Native Lowland Dry Forest
-  Barren or Alpine
-  Major Roads



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

0 5 10 20 30 40
Kilometers



0 2.5 5 10 15 20
Miles

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Kilometers

Legend

-  Leased and Revocable Permits
-  Endangered Species in Parcels
-  Critical Habitat for Endangered Species
-  Major Roads

02/06/20



SUMMARY

DESCRIPTION

EXPECTED BENEFITS





2022 LEGISLATIVE PROPOSALS

The DLNR seeks greater flexibility under Chapter 166E, HRS to amend, extend, and issue new leases by negotiation. The perceived need to transfer pasture leases to the DOA can be relieved by providing the DLNR with statutory powers similar to those exercised by the DOA in the management of its leases.



PASTURE LAND CONSERVATION VALUES



Water



Fire & Forest Health



Native Ecosystems



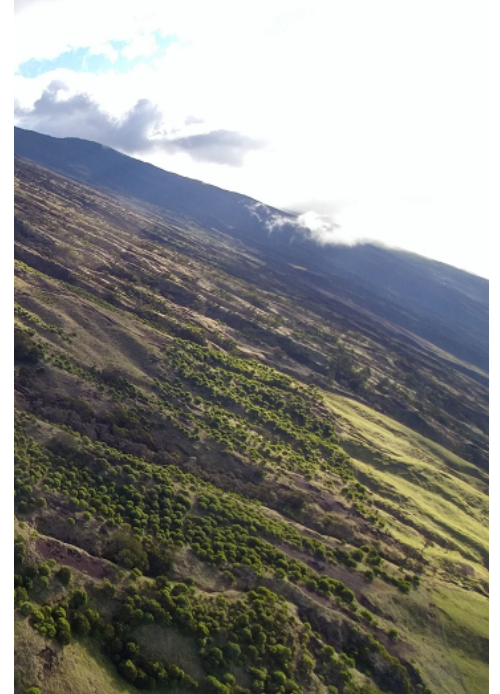
Forestry



Recreation

DLNR PARTNERSHIPS WITH RANCHERS

CLIMATE CHANGE AND CARBON NEUTRALITY



CONTACT PERSON



**Before the Senate Committees on
WATER AND LAND
and
AGRICULTURE AND ENVIRONMENT**

**Friday, January 28, 2022
1:10 PM
State Capitol, Conference Room 229, Via Videoconference**

**In consideration of
SENATE BILL 2068
RELATING TO LAND MANAGEMENT**

Conservation Council For Hawaii **opposes SB 2068**. Many components of this measure are inconsistent with the Final Report of the Act 90¹ Working Group submitted to the Legislature on December 21, 2021 (Report). PART I of the bill creates a class of lands called “non-conservation designated public lands classified for agricultural use by DLNR,” which is understood to include all lands with an agricultural land use designation that are not already set-aside to DOA as non-agricultural park lands. However, the Act 90 Working Group Report found that the DLNR should retain management of those agricultural lands designated as multiple-use agricultural lands. The Report states in relevant part as follows:

The Working Group further finds that certain agricultural lands under DLNR have multiple management objectives, which can include agricultural production, forestry, native forest restoration, watershed protection, habitat conservation, public recreation, fire fuel suppression, and other public purposes which clearly fall within DLNR's purview and mission. These multiple-use lands should remain under DLNR's management.

Senate Bill 2068 is predicated on the notion that lands historically zoned “agricultural” are not important for natural and cultural resource protection, or that they should never be used for other public or priority purposes such as public schools, colleges (e.g., West Oahu University once was agricultural land), affordable homes and rentals, renewable energy projects or other income-producing opportunities like commercial, resort or mixed uses that could provide the much-needed support to the State’s financial situation. In fact, many areas zoned as agricultural land are critical watershed, endangered species

¹ Act 90, Session Laws of Hawaii 2003, codified into law as Chapter 166E, Hawaii Revised Statutes (HRS), provides for transfer of agricultural lands to DOA. DLNR has transferred more than 19,000 acres to DOA over the years.

habitat, important hunting areas, and have even been designated as Natural Area Reserves, the most protective designation for State lands.

Pasture lands are a critical part of the Department's forest protection and restoration, traditional gathering, hunting and trails and other recreation responsibilities.

Thank you for the opportunity to submit our opposing testimony for SB 2068.



COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator Clarence K. Nishihara, Vice Chair

SB2068

RELATING TO LAND MANAGEMENT

Monday, January 28, 2022, 1:10 PM
VIA VIDEOCONFERENCE

Chairs Inouye and Gabbard, Vice Chairs Keith-Agaran and Nishihara, and members of the committees,

The Hawaii Cattlemen's Council (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 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 over 750 thousand acres of land in Hawaii, or 20% of the State's total land mass. We represent the interests of Hawaii's cattle producers.

The Hawaii Cattlemen's Council **supports the intent of SB2068**. Everyone knows that agriculture is a difficult business. Hawaii's local communities and leadership support farmers and ranchers and want them to succeed. A lot of promises have been made over the years to increase local food production and cut through the bureaucratic red tape to keep farming viable in the islands. This was the genesis of Act 90, passed nearly 19 years ago. The most straightforward way to support agriculture is to transfer public agricultural lands to DOA to provide them with the management and lease terms they need. Lands in active agricultural production should be transferred to DOA, with DLNR-requests for access or other reasonable natural resource accommodations addressed as part of the transfer agreement. This bill makes a great effort to support the transfer of agricultural lands, but we urgently need to avoid further stalemates caused by nebulous language, as we have experienced with Act 90, 2003.

We respectfully request that the following issues be addressed in this bill to ensure that agricultural lands, including pasture use, will be transferred to DOA

- Act 90, SLH 2003 defines "'Agricultural activities" as "the care and production of livestock, livestock products, poultry, or poultry products, or apiary, horticultural, or floricultural products, or the planting, cultivating, and harvesting of crops or trees," so to ensure that pasture is indeed included in the intent of SB2068, where agricultural use is mentioned pasture should also be included.
- "Certain public lands classified for agricultural use" –the term "certain" is vague. Lands in active agricultural production must be transferred. Other agricultural lands that could reasonably be



used for agriculture should be identified with the goal to preserve and transfer lands for agricultural production.

- “Primary and substantial management objective of agricultural production” –many pasture leases are primarily for the management of agricultural production, but in carefully stewarding the land, producers also undertake conservation activities. These lands should be transferred to the DOA; otherwise the responsible landholders will be penalized for their conservation efforts – some of which are necessary for the operation, and some of which are just the right thing to do for the land.
- “Designated conservation lands” – we urge that lands in active agricultural production are not designated as conservation, as “the public lands shall be used for the development of farm and homeownership on as widespread a basis as possible” according to article XI, section 10, of the State Constitution.
- “Sustainable food production” – this term means different things to different people and “sustainable” should be removed. Cattle production is sustainable when producers are allowed to steward the land and provide local food to the community. Whether they keep 100% of their herds here for local consumption, or send some to the mainland for further finishing, they are managing the land and every rancher is contributing to local food production.

While Part III of the measure authorizes the board of land and natural resources to amend and extend existing pasture lease and to issue new pasture leases by negotiation, this is not a mandate and should not be used to delay or circumvent the transfer of agricultural lands from DLNR to DOA. We believe that these lands must be transferred to DOA to provide producers the support, stability, and security they need to continue. However, if the intent is for DLNR expand its mission to support agriculture and to retain some of these agricultural lands by providing them with the ability to successfully manage them, we respectfully recommend that **lease terms, extensions, and negotiations language be equivalent to that of the DOA.**

Regarding the removal of agriculture land currently under DLNR authority for reforestation or other purposes, we feel strongly that **the division of forestry and wildlife seek approval from both the board of land and natural resources and the board of agriculture prior to any decision or action** (page 24, line 16). This collaboration and review by agricultural experts is necessary if we are serious about supporting food production and weighing the long-term consequences of removing agriculture from agricultural lands.

Thank you for your efforts to resolve this long-standing quagmire that is jeopardizing the livelihoods of some of our most dedicated producers. We respectfully ask that the committees **support SB2068 with the requested amendments.** We appreciate the opportunity to testify on this critical matter for our industry and are available any time to work with you.

Nicole Galase
Hawaii Cattlemen’s Council
Managing Director

SENATE COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Friday, January 28, 2022

1:10PM

State Capitol Conference Room 229 & Videoconference

**In consideration of
SENATE BILL 2068
RELATING TO LAND MANAGEMENT**

Testimony Submitted by Allen Allison, PhD

Senator Lorraine Inouye, Senator Gilbert Keith-Agaran and distinguished members of the Hawai'i Senate Committee on Water and Land, my name is Allen Allison. I am the Director of Natural Sciences at Bishop Museum and a member of the University of Hawai'i Graduate Faculty in Biology. I am also the Chair Emeritus of the Hawaii Conservation Alliance. However, I am providing this testimony as a private individual against SB 2068.

Land use and land management in Hawai'i are complex issues that are best addressed on an objective basis using all available information in consultation with stakeholders. The Department of Land and Natural Resources (DLNR), in collaboration with a number of other organizations, has developed a comprehensive information system to guide and inform the use and management of lands under its jurisdiction. Parcels that are today dominated by introduced grasses, and might seem well-suited for ranching, may in fact border natural forest and be good candidates for reforestation.

I believe that the DLNR has developed an effective partnership with ranchers and is working cooperatively with them to sustainability manage forested watersheds by eradicating invasive alien species and undertaking large-scale forest restoration.

Rather than mandate the transfer of pasture lands and similar parcels to the Department of Agriculture through legislation, I would respectfully urge that the Legislature provide DLNR with statutory powers similar to those used by the Department of Agriculture to manage its leases.

The Hawaii Conservation Alliance is in the final stages of preparing a report on the status of native biocultural resources in Hawai'i. The situation is very concerning. As I am sure you are aware, Hawai'i has more than twice the number of federally threatened and endangered plants species of any other U.S. state, including California. More than 80% of the state's forest birds are now extinct and several additional species are currently at serious risk of extinction.

The State of Hawaii has launched a 30 x 30 initiative – formal protection of at least 30% of state watersheds by 2030. DLNR is the lead agency in implementing the 30x30 initiative and it needs to retain as much flexibility as possible over its existing lands. I urge you to vote against SB2068.

Thank you for the opportunity to comment on this measure.

SB-2068

Submitted on: 1/27/2022 11:16:55 AM

Testimony for WTL on 1/28/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kamalehua Ahn-DiFolco	Individual	Support	No

Comments:

Date: Jan. 27, 2022

To: Mike Gabbard Chair, Clarence K. Nishihara Vice Chair Of ANE

Lorraine R. Inouye Chair, Gilbert S. C. Keith-Agaran Vice Chair of WTL

From: Kamalehua Ahn-DiFolco

Subject: Support of S.B 2068 in relating to Land and Management

Aloha! My name is Kamalehua Ahn-DiFolco. and I am a 10th grader from kalaheo highschool. I strongly support and admire the bill SB2068. And I would like to ask you to strongly consider this bill and to have your support for this bill.

The Hawaii State Constitution, states that "the public lands shall be used for the development of farm and homeownership." Which can help with more growth and expansion for more local growing and less food being shipped in. With that being said improved cooperative working relationships between the department of land and natural resources, the department of agriculture, and lessees of multi-use agricultural lands will make it easier to manage or co-manage department of land and natural resources multi-use parcels for public values such as production of food, preservation, and management of natural resources.

I sincerely thank you for your time and your thought, and I hope that you will support Senate Bill SB2068 , which is relating to land and management.

KAPĀPALA RANCH

P. O. Box 537

Pahala, HI 96777

Kapapala.ranch@aol.com; lanipetrie@aol.com

Committee on Water and Land
Chair Senator Lorraine Inouye
Vice Chair Senator Gilbert Keith-Agaran

Committee on Agriculture and Environment
Chair Senator Mike Gabbard
Vice Chair Senator Clarence Nishihara

SB 2068

Relating to Land Management

January 28, 2022

1:10 pm Via Video Conference

Chair Inouye and Vice Chair Keith-Agaran
Chair Gabbard and Vice Chair Nishihara

Thank you for this opportunity to testify. While I support this bill's intent, the language is vague. Although there is wording such as 'certain qualified' lands are eligible for transfer there is no definition of what that means. And although this bill authorizes the DLNR to extend and negotiate leases there is nothing that mandates them to write long-term leases for us.

With clearer definitions and criteria for defining purposes added to this bill, I could fully support it.

With Respect,

KAPAPALA RANCH

Lani C. Petrie

LARRY JEFTS FARMS, LLC
PO BOX 27
KUNIA, HAWAII 96759
(808) 688-2892

SB2068, Relating to Land Management
Senate WTL/AEN Hearing
Friday, January 28, 2022 – 1:10pm
CR229/Videoconference

Testimony By: Larry Jeffs
Position: Support Intent

Chairs Inouye and Gabbard, Vice Chairs Keith-Agaran and Nishihara,
and Members of the Senate WTL/AEN Joint Committee:

I am Larry Jeffs, owner and operator of Larry Jeffs Farms, LLC. We have more than 42 years of Hawaii farm experience on Molokai and Oahu. Our family farms produce about 1 million pounds weekly of import replacement produce. I am a volunteer director, serving as Chair of the West Oahu Soil and Water Conservation District (SWCD). I have been an officer of the Hawaii Farm Bureau for many years.

Appreciation is expressed for this measure that seeks to support agriculture by transferring ag lands from DLNR to the DOA. Ranchers, and all who are involved in agriculture production, need long-term leases before capital investments can be made for production. This transfer is long overdue and creates a situation where ranchers cannot do long-term planning to increase local grass-fed beef production.

We support the intent of this measure. Some of the concerns about this measure are about terms that are not precisely stated and would benefit from clarification, such as:

- “Primary and substantial management objective of agricultural production” is not defined.
- Need clarification on what determines “certain qualifying non-conservation, non-agricultural park lands.”
- “Sustainable food production” can be defined in many ways

Ambiguity in these key phrases leads to different interpretations and creates barriers to lease transfers.

We also suggest that the proposed land lease policy in Part III, followed by rule-making, should be consistent between DLNR and DOA.

Thank you for the opportunity to provide testimony.



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

January 28, 2022

HEARING BEFORE THE
SENATE COMMITTEE ON WATER & LAND
And
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

TESTIMONY ON SB 2068
RELATING TO LAND MANAGEMENT
1:10 p.m.
Conference Room 229 & Videoconference

Aloha Chairs Inouye and Gabbard, Vice Chairs Keith-Agaran and Nishihara, and Members of the Committees,

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau supports SB 2068 with clarifying amendments, which would finally provide relief to lessees who have been waiting since 2003 for Act 90 to be implemented. This bill will ensure the productive and publicly beneficial use of State lands by agriculture producers. Requiring these lands to be transferred to and managed by the department of agriculture (DOA) is necessary and appropriate because it is the mission and responsibility of the DOA, not the department of land and natural resources (DLNR), to support and foster agriculture in Hawai'i'.

HFB greatly appreciates the efforts that have been made to accomplish the transfers and respectfully requests the following amendments that will further clarify and facilitate the intent that State lands in agricultural use, including pasture use, will be transferred from DLNR to DOA.

- On page 5, modify lines 1 and 2 to read: The department [may] shall accept the transfer of and manage non-agricultural park lands in agriculture production, including those in pasture use.
- On page 5, modify lines 4 through 6 to read: provided that [designated] conservation lands **not in agricultural use, which includes pasture use**, shall remain under the jurisdiction of the department of land and natural resources.
- On page 5, modify lines 17 through 20 to read: Prior to offering a lease, the department shall inquire with the department of land and natural resources regarding any **necessary and reasonable** easements required by the department of land and natural resources.....

- On page 7, from line 5 through page 24, line 9, delete Part III, giving the BLNR authority to amend and extend existing pasture leases and to issue new pasture leases by negotiation in furtherance of public purposes that are the responsibility of the board of land and natural resources and department of agriculture to promote, such as food production and natural resource conservation and stewardship. Part III should be deleted in its entirety as unnecessary since the preceding sections of the bill mandate that DLNR lands in agricultural production, including pasture lands, will be transferred to DOA.
- On page 24, modify lines 16 through 19 to read: The department of land and natural resources' division of forestry and wildlife must seek approval from the board of land and natural resources **and the board of agriculture** prior to the removal of any land in pasture lease or permit for reforestation purposes.
- On page 25, modify lines 1 through 3 to read: Prior to the removal for reforestation purposes of any land in agriculture production, including land in pasture use, the division of forestry and wildlife shall submit a funded action plan, including a reasonable time frame for notice to the current land lease or permit holder, to the board of land and natural resources and the board of agriculture for approval.

HFB also respectfully requests the addition of a deadline for the transfer of DLNR lands in agriculture production to DOA. Producers whose leases have not been transferred after the nearly 19 years since Act 90 continue to be in a state of limbo, without the security and stability necessary to make investments and infrastructure improvements, or even contemplate long-term plans. No business can operate this way.

Hawai'i's food producers are also land stewards who are an important part of Hawai'i's goals of greater self-sufficiency and conservation efforts. Enabling their continued work is in the best interest of the public. They should not be trapped in decades of debate about which agency controls their existence when it is the mission of one agency, DOA, to foster agriculture in Hawai'i. Supporting agriculture and conserving natural resources are not mutually exclusive. Producers should not be forced into waiting additional years while DLNR works to adjust its priorities, policies, and rules to expand its mission to support food production.

Thank you for taking our concerns into consideration and for your continued support of Hawai'i agriculture.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS ATTA
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 PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEES ON
WATER AND LAND
AND
AGRICULTURE AND ENVIRONMENT

JANUARY 28, 2022

1:10 P.M.

CONFERENCE ROOM 229
and VIA VIDEOCONFERENCE

SENATE BILL NO. 2068
RELATING TO LAND MANAGEMENT

Chairpersons Gabbard, Inouye and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill 2068. This bill amends the process for transferring agricultural lands from the Department of Land and Natural Resources ("DLNR") to the Department of Agriculture ("Department") by: repealing board approval requirements; requiring the Department to accept certain transfers; requiring prior consultation with DLNR prior to offering a lease regarding the need for easements; requiring the Board of Land and Natural Resources ("BLNR") to amend and extend certain leases for financing qualification; authorizing the BLNR to amend and extend existing pasture leases and to issue new pasture leases by negotiation; and



requiring prior BLNR approval and a funded action plan for the DLNR Division of Forestry and Wildlife (“DOFAW”) for withdrawing pasture lands for reforestation.

The Department of Agriculture appreciates the tremendous efforts of the Act 90 working group to improve the process for transfer of agricultural lands and offer the following comments and recommendations:

The Department recognizes the desire and intent of this bill, however, has significant concerns regarding the elimination of the Board of Agriculture’s (“BOA”) authority to determine the terms of transfer, the mandatory acceptance of transfers by the Department, and the repeal of Hawaii Revised Statutes (“HRS”) §166E-6, which authorizes the Board of Agriculture (“BOA”) to adopt rules to effectuate the purposes of HRS Chapter 166E.

Repeal of the BOA’s authority to determine conditions for transfer in Section 2(1) of the bill would eliminate the BOA’s ability to ascertain the suitability of proposed land transfers for agricultural use. Agriculture classification under existing zoning laws has been the default designation for all lands that do not easily fall into the other classification categories and consequently includes many features which may include natural and other hazards and not be suitable for agricultural activities and use.

In Part II, Section 2(2) of the bill, the Department is required to accept the transfers of “certain qualifying non-conservation, non-agricultural park lands.” The term “qualifying” is undefined and needs clarification to ensure suitability of land for agricultural use. As such, a due diligence review for these issues and the ability to reject unsuitable land as they are identified, is essential.

The repeal of HRS §166E-6 would restrict the BOA’s rulemaking ability to the narrow matters provided in HRS §§166E-4 (conversion to lease) and -5 (cancellation, renegotiation, and extension of transferred encumbrances). The BOA would be unable to adopt rules to, among other things, govern dispositions under HRS §166E-8

(including lease provisions and application requirements); and to plan, develop and manage Non-Agricultural Park lands under HRS §166E-9.

Also, HRS §166E-8, which was not revised in the bill, contains references to rules adopted consistent with HRS §166E-6. The repeal would create internal consistency concerns within the chapter.

The Department recommends the retention of the BOA's discretionary authority to determine terms of transfer and to reject any proposed land transfer that it deems unsuitable for agriculture use or includes features that creates unreasonable liability or management risks. The Department strongly advises against the repeal of Hawaii HRS §166E-6, to ensure that it can properly administer the non-agricultural park program.

Thank you for the opportunity to offer comments.

SB-2068

Submitted on: 1/27/2022 12:16:03 PM

Testimony for WTL on 1/28/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
peter simmons	Individual	Oppose	Yes

Comments:

Peter D. Simmons

59-416 Ka Nani Dr.

Kamuela HI 96743

COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator Clarence K. Nishihara, Vice Chair

RE: SB2068 RELATING TO LAND MANAGEMENT

Monday, January 28, 2022, 1:10 PM

Testimony and VIA VIDEOCONFERENCE

Aloha Chairs Inouye and Gabbard, Vice Chairs Keith-Agaran and Nishihara, and members of the Committees,

I am Peter Simmons, retired Kamehameha Schools KS, Land Asset Division. I was responsible for 293,000 acres of land on Hawaii Island including agricultural, conservation and multiple use lands. While with KS I negotiated over 100 pasture leases, several forestry leases and agreements

and managed all of KS conservation lands on Hawaii Island. After retiring, I occasionally consult on land and resource matters. Thank you for this opportunity to testify.

How will the land optimize its cultural, environmental, economic, educationally, etc. to benefit the people of Hawaii most efficiently?

- Ranchers and ranch people presently occupying these diverse landscapes have multifaceted talents and understanding to match the land they occupy. They are the keepers of the land. Their financial success is important to their immediate communities and to the lands they steward.
- The most efficient and cost effective way to manage land is by using the resources already on the land including the human resources which are organized as ranch businesses in the sector of the economy we've called Agriculture.
- The most efficient use of State staff is to put all agriculture lands under the Department of Agriculture and if all or portions of the leased lands need to be, they can be withdrawn from the DOA on a case by case basis.
- Hopefully a law won't need to be written to oblige DLNR and DOA to work together.

Unfortunately, DLNR's Division of Forestry and Wildlife is overrun with problems affecting its achieving mediocracy let alone success with its 9 goals in its Forest Action Plan. DOFAW while underwater is grasping for more goals to add to its mission. Where in DOFAW's plans is the mention of food security or cattle ranching in its Action Plan. DOFAW's own planning documents do not mention their newly created aspirational desires to run sustainable agricultural programs.

DOFAW has been clear over the years about its budget and personnel shortfalls compared with their responsibilities. We need DOFAW to attend to managing their existing kuleana. DOFAW has informed the hunting community, the forest industry community and even avian biologists that they do not have the staff or resources to conduct inventories of feral and wild animals, trees planted or managed for commercial forestry even our rare elements are not properly inventoried.

One of the most basic, most fundamental tasks of good management is knowing what is being managed. Inventory and assessment are fundamental and are not being done. Adding more to their responsibilities rather than unburdening them is not in the best interests of DOFAW or the Peoples' forests and resources. As the bill notes they will need to add additional positions to cover this new facet of their desire to manage the pastoral lands of the State.

DLNR may have plans to enlarge its kuleana that have not been circulated. They may have plans for the lands of Kapapala and others that might demonstrate the need for a new position with supporting staff and infrastructure. In the absence of plans, multiple use lands should be managed by DOA in consultation with DLNR-DOFAW.

It would be valuable if DOFAW shared its plans or co-developed its plans so that lease provisions could be aligned with DLNR-DOFAW's management intentions. The DLNR plan would guide DLNR, DOFAW, DOA and the Lessee in crafting a lease that should include

agreed upon management outcomes additional responsibilities and reasonable withdrawal provisions.

And should conservation work be needed using the people of the land to work with the land should be optimized.

Mahalo for this opportunity to testify,

Peter Simmons



SENATE COMMITTEE ON WATER AND LAND and
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
January 28, 2022 – 1:10 p.m. - Videoconference

**RE: SB 2068 – Relating to Land Management – Support
Intent**

Aloha Chairs Inouye and Gabbard, Vice Chairs Keith-Agaran and Nishihara and Members of the Committees:

The Local Food Coalition supports the intent of SB 2068, which among other things, facilitates the transfer of certain non-agricultural park lands from the Department of Land and Natural Resources (DLNR) to the Department of Agriculture (DOA) pursuant to Act 90, Session Laws of Hawaii 2003.

Farmers and ranchers need long-term leases in order to reasonably invest in infrastructure improvements on the leased land. Lands in active agricultural production should be transferred to the DOA, so that long-term planning can be implemented. The success of farmers and ranchers is a key component in the State's goal to double local food production.

We ask for your consideration to not designate lands in active agricultural production as conservation lands.

We appreciate the work of the Act 90 Working Group during the interim to identify the challenges and potential remedies to facilitate the transfer process of lands under Act 90.

The Local Food Coalition is an organization comprised of farmers, ranchers, livestock producers, investors and other organizations working to provide Hawaii's food supply.

Thank you for the opportunity to submit testimony.

Kendall Matsuyoshi
808-544-8345
kmatsuyoshi@wik.com

Hawai'i Aquaculture &
Aquaponics Association
Hawai'i Cattlemen's Council
Hawai'i Farm Bureau
Federation
Hawai'i Farmers' Union
United
Hawai'i Food Industry
Association
Hawai'i Food
Manufacturers Association
Kohala Center
Land Use Research
Foundation of Hawai'i
Maui Farm to School
Network (Maui F2SN)
Ulupono Initiative
College of Tropical
Agriculture and Human
Resources - University of
Hawai'i at Manoa

**Testimony of The Nature Conservancy
Commenting on SB 2068, RELATING TO LAND MANAGEMENT.**

**Committee on Water & Land and Committee on Agriculture & Environment
Friday, January 28, 2022, 1:10 PM
Conference Room 229 via Videoconference**

Aloha Chair Inouye, Chair Gabbard, Vice Chair Keith-Agaran, Vice Chair Nishihara, and Members of the Committees:

The Nature Conservancy (TNC) offers the following comments on SB 2068, Relating to Land Management.

TNC opposes requiring transfers of non-agricultural park lands from the Department of Land and Natural Resources (DLNR) to the Department of Agriculture (DOA).

The pasture lands under DLNR management are comprised of remnant native forest but allow for grazing. These are lands that have never been plowed nor have the native forests been clear cut. They also contain remnant forests which are critical to Hawai'i's water security, provide habitat for Hawai'i's unique and vulnerable plant and animal species, offer a buffer to slow the spread of invasive species into more pristine native forest, as well as provide access for management, recreation, and traditional gathering.

TNC supports Part III of SB 2068, which authorizes the Board of Land and Natural Resources to amend and extend existing pasture leases and to issue new pasture leases by negotiation in furtherance of public purposes. This authority will allow the Board flexibility in leasing pasture lands while protecting high value resource portions of the leased land.

Acknowledging that the current revocable lease situation is challenging for ranchers, TNC supports the highest and best use of these lands and believes DLNR's oversight of them provides more land use options for the people of Hawai'i, today and for generations in the future.

Mahalo for the opportunity to provide comments on SB 2068.

The Nature Conservancy of Hawai'i and Palmyra is a non-profit organization dedicated to the preservation of the lands and waters upon which all life depends. The Conservancy has helped protect more than 200,000 acres of natural lands in Hawai'i and Palmyra Atoll. We manage 40,000 acres in 13 nature preserves and work in over 50 coastal communities to help protect and restore the nearshore reefs and fisheries of the main Hawaiian Islands. We forge partnerships with government, private parties, and communities to protect forests and coral reefs for their ecological values and for the many benefits they provide to people.

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Email: communications@ulupono.com

SENATE COMMITTEES ON WATER & LAND AND AGRICULTURE & ENVIRONMENT
Friday, January 28, 2022 — 1:10 p.m.

Ulupono Initiative offers comments on SB 2068, Relating to Land Management

Dear Chair Inouye, Chair Gabbard, and Members of the Committees:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food; renewable energy and clean transportation; and better management of freshwater and waste.

Ulupono offers comments on SB 2068, which repeals board approval requirements for transfers of certain public lands classified for agricultural use by the Department of Land and Natural Resources (DLNR) to the Department of Agriculture (DOA); requires the DOA to accept the transfer of and manage certain qualifying non-conservation, non-agricultural park lands; requires the DOA, prior to offering a lease, to inquire with the DLNR regarding any required easements for access to landlocked forest reserves or other assets on the lands subject to the lease; requires the Board of Land and Natural Resources (BLNR) to amend and extend certain leases in order for the lease to qualify for certain financing; authorizes the BLNR to amend and extend existing pasture leases and to issue new pasture leases by negotiation in furtherance of public purposes that the DLNR and DOA are responsible for promoting; requires the Division of Forestry and Wildlife (DOFAW) to seek approval from the BLNR before removing pasture lands for reforestation; and requires the DOFAW to submit a funded action plan for reforestation on current pasture lands.

Ulupono appreciates the efforts of the Working Group established by Act 139, SLH 2021, which was established to find potential remedies to fulfill the purposes of Act 90, SLH 2003. We recognize the importance of this group's task in helping the State address the appropriate management of active agricultural leases.

Ulupono supports this bill's attempt at streamlining the transfer of certain agricultural leases to the DOA and the collaboration between the two departments. We also support the bill's language requiring DOFAW's development of a funded action plan when seeking to remove lands out of pastoral use and into reforestation. Ulupono continues to support

Investing in a Sustainable Hawai'i

the local livestock industry and its efforts to provide fresh, healthy products for Hawai'i's consumers and as such, we still believe that DOA's affordable, long-term leases allow local ranchers to immediately take advantage of existing, appropriate lease structures that incentivize ranchers to make long-term investments into their respective operations, improving economic viability and increasing local food production for the State. Although this bill seeks to balance two competing interests, there is no need to recreate an existing structure within DLNR to manage agricultural lands.

Recently, the pandemic, along with devastating natural disasters and shipping supply issues, have heightened local food insecurity in our communities. With many leaders across our state saying that local agriculture can play an important role in our economic and social recovery, one theme around local food production rises to the top: the time to act is now. Local producers, like our ranchers, are a critical component of Hawai'i's food security. The local ranching community deserves our State's support by managing crucial, food-producing pasture leases within the DOA, a department whose mission and expertise to manage agricultural activities and related natural resources, including pastureland production, promotes local food production and directly supports State sustainability goals.

We ask the committee to consider addressing the following concerns should this bill move forward:

1. The following phrases and terms should be defined to provide transparency and clarity:
 - a. "Primary and substantial management objective of agricultural production"
 - b. "Certain qualifying non-conservation, non-agricultural park lands"
 - c. "Sustainable food production"
 - d. DOFAW's "funded action plan"
2. The DOFAW approval process should include the Board of Agriculture.
3. Under Part III of this bill, consider adding language to address the following:
 - a. Assurances around lease rents that are attached to agricultural production.
 - b. Since DLNR responsibilities are expanded upon, consider adding more around the DOA (e.g., protecting resources necessary for agricultural production, promoting food self-sufficiency, conserving and protecting suitable agricultural lands and water, etc.)

Thank you for the opportunity to testify on this measure.

Respectfully,

Micah Munekata
Director of Government Affairs

SB-2068

Submitted on: 1/27/2022 1:09:58 PM

Testimony for WTL on 1/28/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Chris Manfredi	Testifying for Hawaii Coffee Association	Support	No

Comments:

Support Intent

Mahalo,

Hawaii Coffee Association



Hawaii's Thousand Friends

335 Hahani Street #342132 * Kailua, HI 96734 * Phone/Fax (808) 262-0682 E-Mail htf3000@gmail.com

January 28, 2022

COMMITTEE ON WATER AND LAND
Senator Lorraine R Inouye, Chair
Senator Gilbert S.C Keith-Agaran, Vice Chair
Committee Members

SB 2068 RELATING TO LAND MANAGEMENT

Hawaii's Thousand Friends, a non-profit organization dedicated to ensuring that growth is reasonable and responsible and that planning and land use decisions protect natural and cultural resources and human health and are implemented in conformity with the law, opposes SB 2068 that transfers an unknown amount of *certain non-agricultural park* acres of land from the Department of Land and Natural Resources (DLNR) to the Department of Agriculture (DOA).

DLNR's mission and responsibility is to "Enhance, protect, conserve and manage Hawaii's unique and limited natural, cultural and historic resources held in public trust for current and future generations of the people of Hawaii nei..."

Transferring unknown acreage of *non-agricultural parkland* that for the most part has not been altered or clear-cut, to the Department of Agriculture weakens, if not totally prevents, DLNR's ability to protect native forests and the endangered species that inhabit them.

DLNR has public trust responsibilities to protect Hawaii's natural and cultural resources and provide traditional gathering access to public lands. These responsibilities cannot be abrogated to another agency.

The Department of Agriculture's obligations are to support, enhance, promote and maximize opportunities to facilitate growth of existing agriculture opportunities.

Thus, transferring *non-agricultural parkland* to DOA endangers watersheds by allowing incompatible uses, creating remnant native forestlands making wildlife within them vulnerable to clear cutting and conversion to non-forest uses.

SB 2068 deletes section §166E-6 Rules for Non-agricultural parklands. This deletion means that lands transferred to the Department of Agriculture will not adopt rules pursuant to Chapter 91, including eligibility requirements for each disposition and applicant qualifications. Why does transferring *non-agricultural parkland* from DLNR exempt DOA from public rule making *for non-agricultural parklands*?

Please hold this bill to ensure that the public trust is upheld and that our islands watersheds, cultural resources and native forests, which are the lungs of the earth are protected.

LATE

SB-2068

Submitted on: 1/27/2022 2:07:16 PM

Testimony for WTL on 1/28/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Elna Nagasako	Individual	Oppose	No

Comments:

I am writing in opposition to SB 2068. The transfer of pasture lands, many of which are remnants of native forest lands, from the Department of Land and Natural Resources to the Department of Agriculture should not be advanced. Keeping these lands with the DLNR is essential for watershed protection, native species habitat protection, and preservation of access by the public for hiking and cultural practices. Please preserve DLNR oversight of these important lands.

LATE

SB-2068

Submitted on: 1/27/2022 3:10:26 PM

Testimony for WTL on 1/28/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ilima DeCosta	Individual	Oppose	No

Comments:

As written, HB2068 proposes to take lands that are crown - or ceded lands, which have been under the stewardship of the DLNR since Hawai'i was an independent nation - and move these lands into the control of the Department of Agriculture. Since we know that the Department of Agriculture has done a poor job of managing its current inventory, if passed, I am concerned that SB2068 could pave the way for further development of spaces, like Mauna Kea, and will result in the bull dozing of many more wahi pana (sacred spaces). Mahalo.

LATE

SB-2068

Submitted on: 1/27/2022 11:18:45 PM

Testimony for WTL on 1/28/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dave Mulnix	Testifying for Our Revolution Hawaii	Oppose	No

Comments:

Oppose because, if these lands are transferred to the Department of Agriculture, ranching activities including unrestricted grazing and clear cutting of remnant native forests could take precedence over public access for hiking, hunting, and cultural practices; watershed protection; and the preservation of native and endangered species habitat. Ranchers could likely pay even less for their use of transferred public trust lands under the DOA than the already very small fees they pay under DLNR, and ranching-related facilities on these lands could also receive exemptions from state and county environmental protection and development laws.

LATE

SB-2068

Submitted on: 1/27/2022 11:31:55 PM

Testimony for WTL on 1/28/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sherry Pollack	Individual	Oppose	No

Comments:

I oppose SB2068. If these lands are transferred to the Department of Agriculture, ranching activities including unrestricted grazing and clear cutting of remnant native forests could take precedence over public access for hiking, hunting, and cultural practices; watershed protection; and the preservation of native and endangered species habitat.

Thank you for the opportunity to testify.

LATE

SB-2068

Submitted on: 1/28/2022 9:40:58 AM

Testimony for WTL on 1/28/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Steven Lee Montgomery	Testifying for Ahahui Malama I Ka Lokahi	Oppose	No

Comments:

RELATING TO LAND MANAGEMENT. S B 2068

Dear Senators,

Ahahui Malama I Ka Lokahi strongly opposes this bill, which would be contrary to the findings of the Act 90 Working Group allowing the DLNR to continue managing multiple-purpose agricultural lands. Some upland ranched tracts were originally intact mauka forests, often still unplowed, partly forested watersheds and endangered species habitats. Many of these forests eligible for the conservation district were instead designated in the agriculture district, meaning they can be easily clear-cut, or converted to non-forest uses. Ensuring that these forested pastures are able to retain their remaining forests is essential for Hawaii's watersheds and water availability. Continued DLNR management and oversight of these lands is most appropriate.

We recommend the existing process that requires approval by both BLNR and BOA be retained. These boards can weigh agricultural values, as well as other public trust values of these lands, such as: presence of endangered species, recreational and hunting access, historical sites and uses for agriculture. Many sites hold potential for large-scale reforestation to reach Hawaii's goal to be carbon neutral by 2045.

We respectfully note the Legislature lacks the expertise or staff to simply mandate the extension of pasture leases regardless of whether the BLNR finds the extensions to be in the best interests of the public (changing "may" to "shall" on page 11 the bill bypasses the BLNR's role to grant lease extensions).

As we meet in this Capitol building well adorned by Hawaiian Koa woodwork, we must conclude this bill is not prudent with its potential that so many upland sites, never once plowed or clearcut

of trees, would not remain under the 1 agency with expertise to manage or restore Koa ecosystems.

When the Polynesian Voyaging Society searched for big koa trees to build voyaging canoes, sadly, due to the damage by cattle to local forests, they had to go to Alaska. In 1913, the first botanist working for the Territory, Joseph Rock, published the classic *Indigenous Trees of Hawaii*, in which he writes:

"The whole forest has suffered greatly, not only from the invasion of cattle, but also by forest fires, which have destroyed large areas." On p. 31 he notes the new Volcanoes National Park was rescuing a Manele & Koa grove in Kipuka Puauulu, where he had just discovered wonderful new tree species barely saved while it was used to fatten cattle.

Michael Tam has written koa forested land on the Big Island by 1900 was gobbled up by ranchers to raise herds of cattle. Unfortunately, large forests were eliminated by grazing and girdling cattle. But in upper slopes, some fences once erected to keep cattle within boundaries can now keep the cattle out of prime sites where young koa trees can quickly sprout and grow. /martinandmacarthur.com/blogs/news

A Big Island paper reported 1,250 acres of DLNR forest in Ka'u might be harvested for koa wood for the first time in 30 years. This Kapapala Koa Canoe Management Area, within the Ka'u Forest Reserve north of Pahala, was set aside in 1991 to be sustainably harvested to provide koa wood for various community organizations that build traditional canoes.
westhawaiiitoday.com/2019/04/01/hawaii-news/state-moves-forward-with-koa-

We note DLNR has transferred to DOA 18,000 acres of crop lands, but other cattle grazed lands can be partnership programs for ranchers to protect endangered species, plant trees for habitat, carbon sequestration and forest products, plus reduce fuel loads to lower risk of wildfires. It is critical that these lands remain with DLNR to protect their public trust natural and cultural values. The DLNR has assisted ranchers interested in growing trees along with other agricultural products, and for carbon sequestration & sustainable harvest of wood as the expert forestry agency.

North Kona at mauka Puuwaawaa is a once grazed Koa tract that is a model for recovery of special native forests from 90 years of livestock leasing. This dryer zone was economically marginal for

ranching, so in 2002 to protect endangered species, plant trees for habitat recovery, and lower risk of wildfires, the DLNR Board transferred responsibility to the Division of Forestry and Wildlife, which with USDA forest scientists, has set up innovative projects. These Puuwaawaa lands represent a remarkable diversity of historical, natural, cultural and recreational resources like and hunting, while providing wildfire fuel suppression by some livestock grazing. The Mauna Kea Forest Restoration Project is a 2nd example of ongoing tree planting in upper mamane tree belt. Please hold this bill and allow continued diverse economic and environmental options in mauka landscapes. Mahalo,

C. Lehuakona Isaacs, jr, President
Montgomery, Ph.D., Board Member

Steven Lee

Ahahui Malama I Ka Lokahi /Hawaiians for the Conservation of Native Ecosystems P.O. Box 720, Kailua, HI 96734 www.ahahui.net To practice, promote and perpetuate a modern native Hawaiian conservation ethic that provides for a healthy Hawaiian ecosystem nurtured by human communities and serving as a model for local and global resource management.