



SB77 SD1
RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS
Senate Committee on Agriculture and Environment
Senate Committee on Water and Land

February 3, 2023

1:00 PM

Room 224

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on **SB77 SD1**, which proposes a mechanism that can and has led to the permanent alienation of public lands – lands through which the State maintains a trust obligation to the Native Hawaiian people. OHA initially provided comments on this measure and continues to offer these amendments to this measure, which would mitigate OHA’s legal concerns.

OHA wishes to emphasize that this measure would authorize the transfer of public lands to DOA, thereby facilitating the potential permanent alienation of public lands from the public land trust which exists for the benefit of present and future generations¹ and to which OHA possesses a vested interest² in for the betterment of conditions of Native Hawaiians.³ Pursuant to HAR §4-158-2(15), DOA has the power to “conduct all public auctions and drawings pertaining to the disposition of public lands and other property authorized by the board[.]”

OHA again wishes to emphasize that the Crown and Government lands of the Hawaiian Kingdom, often referred to as “Ceded Lands” of the Public Land Trust corpus, are continuously held in trust for the betterment of the conditions of Native Hawaiians.⁴ In addition to its codification within the Hawai‘i Admissions Act, lawmakers sought to ensure the continuous uplifting of Native Hawaiian socio-economic status through the creation of OHA and the enacting of these principles into State law.⁵ OHA serves as the principal public agency of the State responsible for the programs and activities of Native Hawaiians,⁶ whose well-being is often positively impacted by the programs and services funded by revenue from the public land trust.

¹ Haw. Stat. Con. Art. XI, Sec. 1 (1978).

² Haw. Stat. Con. Art. XII, Sec. 4 (1978) and Haw. Stat. Con. Art. XII, Sec 6 (1978).

³ Pub. L. 86-3, 73 Stat. 4, Sec. 5(b) (1959).

⁴ Pub. L. 86-3, 73 Stat. 4; Hawai‘i Admissions Act of 1959.

⁵ HRS §10-3.

⁶ Id.

This measure would essentially establish a mechanism that would violate the State's fiduciary obligations under the public trust and public land trust by leading to the alienation of public and "ceded" lands. Under Article 11, section 1 of the Hawai'i State Constitution and Chapter 171, Hawai'i Revised Statutes (HRS), the State through the BLNR holds in trust approximately 1.3 million acres of public lands, including the natural and cultural resources they contain, for the benefit of present and future generations. Much of these lands are also subject to the Public Land Trust created by Article 12 of the Hawai'i State Constitution and section 5(f) of the Admission Act, which requires that a portion of revenues derived from Public Land Trust lands be dedicated to OHA, for the purpose of bettering the conditions of Native Hawaiians. **The trust status of these lands imposes upon the State specific fiduciary obligations of due diligence and undivided loyalty in ensuring its trust corpus is productive and that its benefits are maximized for Native Hawaiian and public beneficiaries.**

While OHA is and will continue to be a staunch advocate for agricultural producers, many of whom are Native Hawaiian hānai 'ai (food-producer practitioners), we are concerned that the proposed measure, as written, would allow for perpetual leases of agricultural lands, effectively putting public lands into private ownership and control, contrary to the public interest and the purposes of the Public Land Trust. **Should the Committee choose to move this measure forward, OHA offers amendments to the section on page 8, lines 8-12:**

(f) Removal of any land pursuant to subsection (e) shall be subject to the prior approval by the board of land and natural resources of a feasible and funded action plan submitted by the division of forestry and wildlife for reforestation or other conservation purposes on current pasture lease lands; nor shall any land be crown and government lands commonly referred to as "ceded lands" that were conveyed to the State by virtue of section 5(b) and 5(f) of the Act of March 18, 1959 (73 Stat. 4, the Admissions Act).

OHA appreciates the opportunity to testify on this measure and **urges the Legislature to take into consideration OHA's legal concerns stemming from the State's ongoing trust obligations to the Native Hawaiian people.** Mahalo nui loa.



STATE OF HAWAII
HAWAII CLIMATE CHANGE MITIGATION & ADAPTATION
COMMISSION
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Co-Chairs:
Chair, DLNR
Director, OPSD

Commissioners:
Chair, Senate AEN
Chair, Senate WTL
Chair, House EEP
Chair, House WAL
Chairperson, HTA
Chairperson, DOA
CEO, OHA
Chairperson, DHHL
Director, DBEDT
Director, DOT
Director, DOH
Chairperson, DOE
Director, C+C DPP
Director, Maui DP
Director, Hawaii DP
Director, Kauai DP
The Adjutant General
Manager, CZM

Testimony of
Leah Laramee
Coordinator, Hawai'i Climate Change Mitigation and Adaptation Commission

Before the Senate Committees on
COMMITTEE ON JUDICIARY
&
COMMITTEE ON WAYS AND MEANS

Wednesday, February 15, 2023
10:20 AM
State Capitol, Via Videoconference, Conference Room 211

In opposition of
Senate Bill 77 Senate Draft 1
RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS

Senate Bill 77 SD1 authorizes the Department of Agriculture (DOA) to request information from the Department of Land and Natural Resources (DLNR) related to the establishment of necessary and reasonable easements upon the lands. Amends legislative findings regarding non-agricultural park lands. Requires the DOA to accept the transfer of and manage certain qualifying non-agricultural park lands. Requires the DOA, prior to offering a lease, to inquire with the DLNR regarding any easements required for access to landlocked forest reserves or other assets on the lands subject to the lease. Requires the lessee to develop a conservation program and plan if conservation resources exist on the land. Requires approval from the Board of Land and Natural Resources (BLNR) and the Board of Agriculture (BOA) before removing pasture lands for reforestation, or other public purposes. **The Hawai'i Climate Change Mitigation and Adaptation Commission (Commission) opposes this measure and offers the following comments.**

The State of Hawai'i's commitment to uphold the Paris Climate Accord and progressive move towards zero emissions clean economy by 2045 requires that we actively invest in reducing our emissions and mitigate greenhouse gases (primarily carbon dioxide - CO₂). Protecting our existing forested lands is vital in meeting the State's climate change goals as forests, and in particular old-growth native forests, serve as carbon sinks, removing carbon from the atmosphere. Many of the affected lands in this bill contain old-growth native forest, endangered species, public hunting, trails, historic sites, traditional and customary cultural practices, access to the shoreline and mauka lands, and other public trust values and are most appropriately managed under DLNR.

Forestry, native forest restoration, watershed protection, and, fire fuel suppression, are important components of protecting the carbon stored in these resources and DLNR has the capacity and the mandate to conduct these activities. Whereas forests in the agricultural district are unprotected. They can be clear-cut, or otherwise converted to non-forest uses. Furthermore, SB77 contradicts the findings of the Act 90 Working Group and the original intent of Act 90, which requires review by both the BLNR the BOA. DLNR provides oversight to safeguard their natural and cultural uses.

DLNR provides funding for ranchers to remove invasive species, reduce fuel loads to lower the risk of wildfires, and grow trees for conservation, carbon sequestration credits, or sustainable harvest of wood products. DLNR provides flexibility and support for many land uses, which may be key to ensuring future economic viability across these lands. Forestry also protects fresh water recharge, as well as reduces erosion that smothers nearshore fisheries that are an important part of our food security. Keeping certain pasture lands under DLNR is critical for Hawaii's climate change resilience.

For these reasons the Commission opposes this bill and instead respectfully recommends passage of HB14 which provides a balanced approach, consistent with the Working Group's recommendations, to address the rancher's need for long-term tenure and stability and support the State's climate goals.

Mahalo for the opportunity to submit testimony in opposition of this measure.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
KA 'OIHANA MAHI'AI
1428 South King Street
Honolulu, Hawai'i 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEES ON JUDICIARY AND WAYS AND MEANS

FEBRUARY 15, 2023
10:20 AM
CONFERENCE ROOM 211 & VIDEOCONFERENCE

SENATE BILL NO. 77
RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS

Chairpersons Dela Cruz and Rhodes and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill 77. This bill authorizes the Department of Agriculture to request information from the Department of Land and Natural Resources related to the establishment of necessary and reasonable easements upon the lands before the transfer of non-agricultural park lands. Amends legislative findings regarding non-agricultural park lands. Requires the Department of Agriculture to accept the transfer of and manage certain qualifying non-agricultural park lands. Requires the Department of Agriculture, prior to offering a lease, to inquire with the Department of Land and Natural Resources regarding any easements required for access to landlocked forest reserves or other assets on the lands subject to the lease. Requires the lessee to develop a conservation program and plan if conservation resources exist on the land. Required approval from the Board of Land and Natural Resources and the Board of Agriculture before removing pasture lands for reforestation, or other public purposes. The Department respectfully provides comments.

The Department of Agriculture appreciates the tremendous efforts of the Act 90 working group to improve the process for transfer of agricultural lands and looks forward



to continuing working with the Department of Land and Natural Resources as we determine the non-agricultural park lands that will be transferred to the Department.

The Department has requested that Governor Green provide funding for surveys that may be required for the transfer of lands, so as not to delay the process.

Thank you for the opportunity to testify.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

LAURA H.E. KAAKUA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
DAWN N. S. CHANG
Chairperson**

**Before the Senate Committees on
JUDICIARY
and
WAYS AND MEANS**

**Wednesday, February 15, 2023
10:20 AM
State Capitol, Conference Room 211 & Videoconference**

**In consideration of
SENATE BILL 77, SENATE DRAFT 1
RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS**

Senate Bill 77, Senate Draft 1 proposes to require the unilateral transfer of all agricultural lands, including lands designated for intensive agricultural use, special livestock use, and pasture use under Section 171-10, Hawai'i Revised Statutes (HRS), from the Department of Land and Natural Resources (DLNR) to the Department of Agriculture (DOA), without mutual agreement. The bill would additionally require DOA, prior to offering a lease, to inquire with DLNR regarding any easements required for access to landlocked forest reserves or other assets on the lands subject to the lease, require DOA's lessees to develop a conservation program and plan if conservation resources exist on the land, and require approval from the Board of Land and Natural Resources (BLNR) and the Board of Agriculture (BOA) before removing pasture lands for reforestation, or other public purposes. **DLNR opposes this measure for the reasons provided below, but would support the measure if it were substantially amended as proposed in Exhibit A.**

DOA and DLNR have been implementing Act 90, Session Laws of Hawaii 2003 (Act 90) since its adoption which is reflected in the Phase 1 transfers of about 40,000 acres to DOA and the Agribusiness Development Corporation. DLNR is committed to working expeditiously with DOA to implement Phase 2 of the transfers, and has reached agreement with DOA that more than 50 leases and permits, representing more than 16,000 acres, will transfer to DOA if approved by BLNR and BOA. Another 70 leases and permits are also being offered for transfer

by DLNR and are under review by DOA. With new leadership at both DLNR and DOA, the Departments are meeting and communicating regularly and DLNR respectfully requests that we be allowed to continue working with DOA on Phase 2 and then into Phase 3.

Phase 3 is the more complicated pasture leases that were previously not being proposed by DLNR, but with the new Administration, DLNR is considering pasture lease changes, either by transferring to DOA or providing DLNR with statutory powers similar to those exercised by DOA in the management of its leases. DLNR concurs with the provisions of House Bill 14 which seeks to give DLNR the authority to amend existing pasture leases and issue new pasture leases by direct negotiation that that would allow DLNR to base rent on the value of the land's agricultural uses instead of charging fair market rent as Chapter 171, HRS, currently requires. DLNR therefore requests Senate Bill 77, Senate Draft 1, be amended to include the language in Exhibit A.

With such statutory authority, DLNR may consult with the lessees to work out long term leases with mutually acceptable terms that take into consideration the rancher's interest, and DLNR's interest in healthy native forests, public trails, and protecting the public trust resources. The DLNR Chair commits to working personally with the ranchers to find mutually acceptable lease terms, and at the Chair's direction, DLNR staff are prioritizing Act 90 fulfillment.

A bill to mandate transfer of these lands would result in the loss of considerable effort that DLNR and DOA have already invested in managing and designating these lands. More importantly DLNR would not be able to actively protect the public trust resources on these lands, some of which are of low value for agriculture production yet highly valued for natural and cultural resources. DOA would end up managing some parcels with low agricultural value and high liability or management issues. DLNR respectfully requests the opportunity to continue to mutually agree with DOA to transfer and accept certain agriculture lands and more importantly work with the long-time pasture lessees to honor and respect their ranching heritage and protect and preserve the valuable forest lands for watershed protection, forest restoration, critical habitat and access to traditional and customary practices. With the proposed amendments as set forth in Exhibit A, the Department supports the bill.

Mahalo for the opportunity to provide testimony on this measure.

EXHIBIT A

Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§171- Existing pasture leases; extension; negotiation; lease rents. (a) Notwithstanding any law to the contrary, the board may amend and extend, for a maximum of sixty-five years, existing pasture leases in furtherance of public purposes that are the responsibility of the department to promote, including:

- (1) Promoting sustainable food production; and
- (2) Preserving and enhancing natural resource and public use.

(b) Notwithstanding section 171-59, the board may issue new pasture leases by negotiation; provided that:

- (1) The lands are already under pastoral use; and
- (2) The issuance of leases by negotiation furthers public purposes.

(c) Notwithstanding any law to the contrary, in developing and calculating agricultural and pastoral lease rents, the board may base such lease rents on the value of the land's agricultural uses.

(d) The board shall adopt rules pursuant to chapter 91 to implement this section."

SECTION 3. Section 166E-3, Hawaii Revised Statutes, is amended to read as follows:

"§166E-3 Transfer and management of non-agricultural park lands and related facilities to the department of

agriculture. (a) Upon mutual agreement and approval of the board and the board of land and natural resources:

- (1) The department may accept the transfer of and manage certain qualifying non-agricultural park lands; and
- (2) Certain assets, including position counts, related to the management of existing encumbered and unencumbered non-agricultural park lands and related facilities shall be transferred to the department[~~-~~];

provided that lands classified by the department of land and natural resources as agricultural multi-use pursuant to section 171-10 shall remain under the management of the department of land and natural resources and shall not be subject to transfer to and management by the department.

(b) The department shall administer a program to manage the transferred non-agricultural park lands under rules adopted by the board pursuant to chapter 91. The program and its rules shall be separate and distinct from the agricultural park program and its rules. Non-agricultural park lands are not the same as, and shall not be selected or managed as are lands under agricultural park leases. Notwithstanding any other law to the contrary, the program shall include the following conditions pertaining to encumbered non-agricultural park lands:

- (1) The lessee or permittee shall perform in full compliance with the existing lease or permit;

- (2) The lessee or permittee shall not be in arrears in the payment of taxes, rents, or other obligations owed to the State or any county;
- (3) The lessee's or permittee's agricultural operation shall be economically viable as specified by the board; and
- (4) No encumbered or unencumbered non-agricultural park lands with soils classified by the land study bureau's detailed land classification as overall (master) productivity rating class A or B shall be transferred for the use or development of golf courses, golf driving ranges, and country clubs.

The transfer of non-agricultural park lands shall be done in a manner to be determined by the board of agriculture.

(c) For any encumbered or unencumbered non-agricultural park lands transferred to the department that are not being utilized or required for the public purpose stated, the order setting aside the lands shall be withdrawn and the lands shall be returned to the department of land and natural resources.

(d) Before any transfer of certain qualifying non-agricultural park lands, the department may request from the department of land and natural resources any information related to the establishment of necessary and reasonable easements upon the lands."

SECTION 4. Section 171-10, Hawaii Revised Statutes, is amended to read as follows:

"§171-10 Classes of lands. The board of land and natural resources shall classify all public lands and in doing so be guided by the following classifications:

1. Intensive agricultural use

(A) First class--Lands highly productive of intensive crops such as sugarcane, pineapples, truck crops, and orchard crops.

(B) Second class--Lands having medium productivity for intensive crops.

(C) Third class--Lands having fair to marginal productivity for intensive crops.

2. Special livestock use

(A) First class--Lands highly suitable for special livestock uses such as swine, dairy, and poultry production. In making the determination, consideration shall be given to drainage, climate, topography, proximity to market, and transportation and compatibility to adjoining land use, among other considerations. "Dairy" as used for disposition purposes means a "dry lot" dairy without allowance for grazing.

(B) Second class--Lands suitable for special livestock uses, but inferior to those of first class.

3. Pasture use

(A) First class--Lands having a potentially high economic animal unit carrying capacity and capable of correspondingly high liveweight gains per acre per year, such as, less than five acres per animal unit per year and more than one hundred pounds live beef gains per animal unit per acre per year.

(B) Second class--Lands having a potentially medium economic animal unit carrying capacity and capable of moderate liveweight gains per acre per year, such as, five to twenty acres per animal unit per year and twenty to one hundred pounds live beef gains per animal unit per acre per year.

(C) Third class--Lands having a relatively low animal unit carrying capacity and producing correspondingly low liveweight gains per acre per year, such as, more than twenty acres per animal unit per year and less than twenty pounds average live beef gains per animal unit per acre per year.

4. Commercial timber use

(A) First class--Lands of high suitability for growth of merchantable timber having mean annual growth potential under normal forest management practices with yields exceeding amounts such as one thousand board feet per acre, and with location and terrain presenting favorable logging, transportation, and marketing conditions.

(B) Second class--Lands of high suitability for growth of merchantable timber having mean annual growth potential under normal forest management practices with yields exceeding amounts such as one thousand board feet per acre, and with location and terrain presenting less favorable logging, transportation, and marketing conditions.

(C) Third class--Lands of medium suitability for growth of merchantable timber having mean annual growth potential in amounts such as five hundred to one thousand board feet per acre under normal forest management practices, and with location and

terrain presenting favorable logging, transportation, and marketing conditions.

(D) Fourth class--Lands of medium suitability for growth of merchantable timber having mean annual growth potential in amounts such as five hundred to one thousand board feet per acre under normal forest management practices, and with location and terrain presenting less favorable logging, transportation, and marketing conditions.

(E) Fifth class--Lands of relatively low suitability for growth of merchantable timber having mean annual growth potential less than an amount such as five hundred board feet per acre, and with location and terrain presenting favorable logging, transportation, and marketing conditions.

(F) Sixth class--Lands of relatively low suitability for growth of merchantable timber having mean annual growth potential less than an amount such as five hundred board feet per acre, and with location and terrain presenting less favorable logging, transportation, and marketing conditions.

5. Quarry use

Lands having sufficient quantity and quality of rock, gravel, and sand for purpose of commercial use.

6. Mining use

Lands bearing sufficient quantity and quality of mineral products for purpose of commercial mining and use.

7. Recreational use

Lands suitable for use and development as parks, playgrounds, historical sites, natural area, camp grounds, wildlife refuge, scenic sites, and other such uses.

8. Watershed use

Lands suitable for the use and development as watersheds or for the development of water, and requiring necessary restrictions on other uses.

9. Residential use

Lands suitable and economically feasible for residential development and use.

10. Commercial and industrial use

Lands suitable and economically feasible for commercial and industrial development and use.

11. Hotel, apartment, and motel use

Lands suitable and economically feasible for hotel, apartment, and motel development and use.

12. Resort use

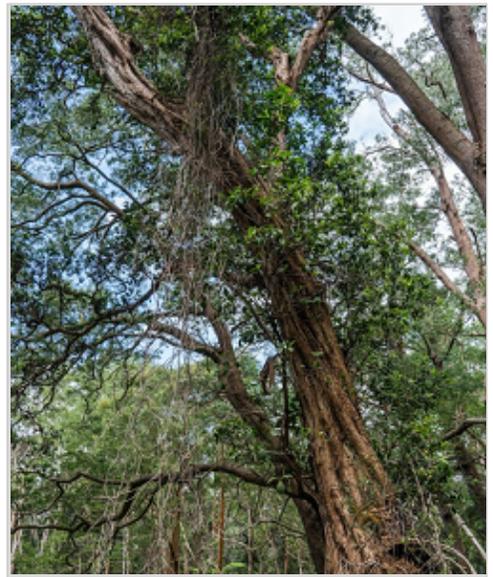
Lands suitable and economically feasible for resort development and use.

13. Agricultural multi-use

Lands having agricultural value as well as natural resource, conservation, or public recreation value.

~~[13.]~~ 14. Unclassified uses

Lands not otherwise classifiable under the foregoing sections."



SUMMARY

DESCRIPTION

EXPECTED BENEFITS





LEGISLATIVE PROPOSALS

The Act 90 Working Group recommends DLNR receive 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 DOA's, facilitating long-term tenure and stability for ranchers.



PASTURE LAND CONSERVATION VALUES



Water



Fire & Forest Health



Native Ecosystems



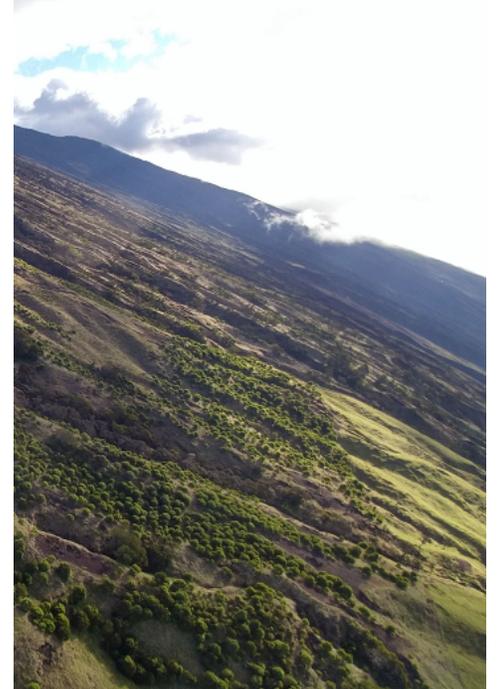
Forestry



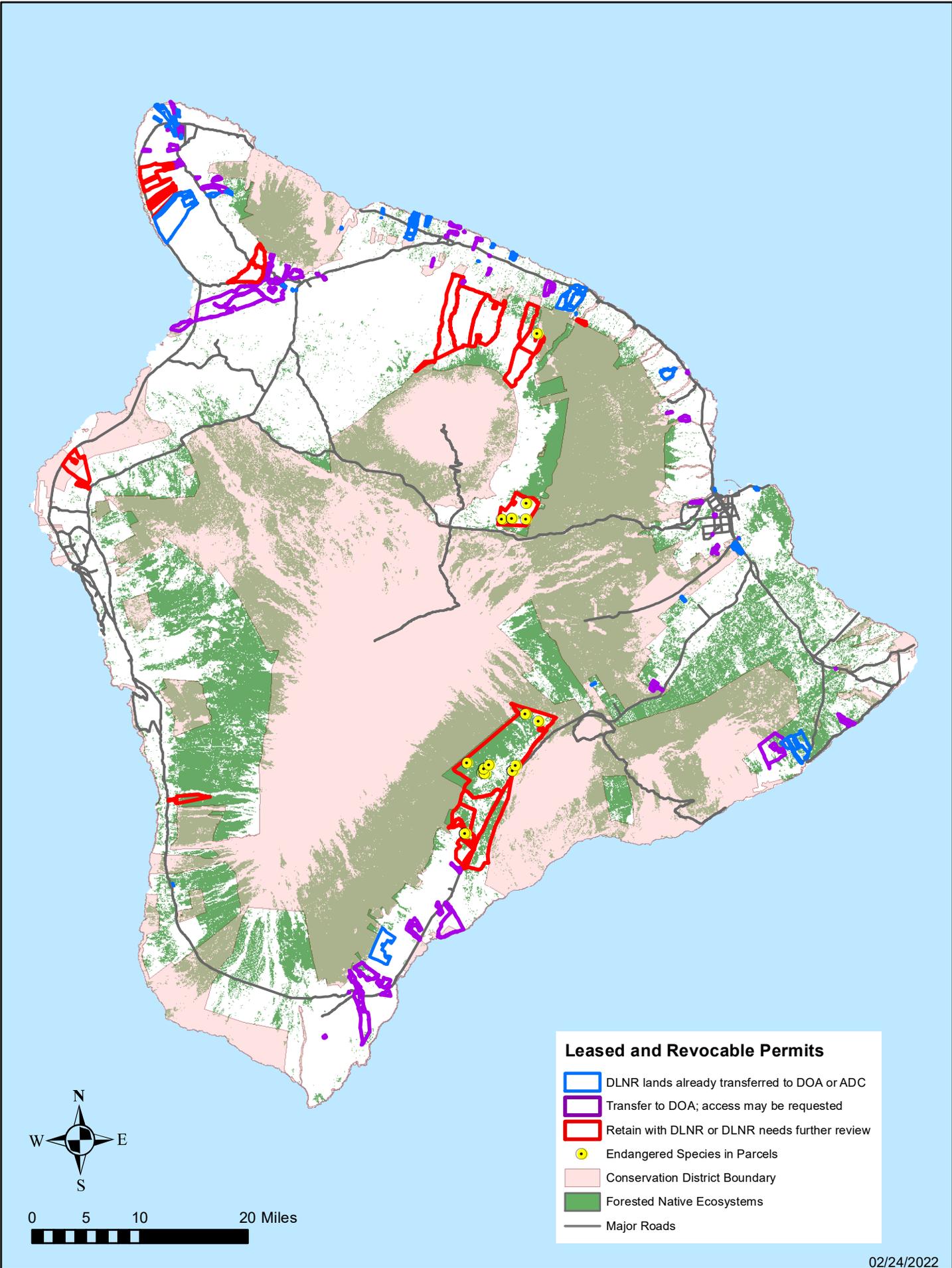
Recreation

DLNR PARTNERSHIPS WITH RANCHERS

CLIMATE CHANGE AND CARBON NEUTRALITY

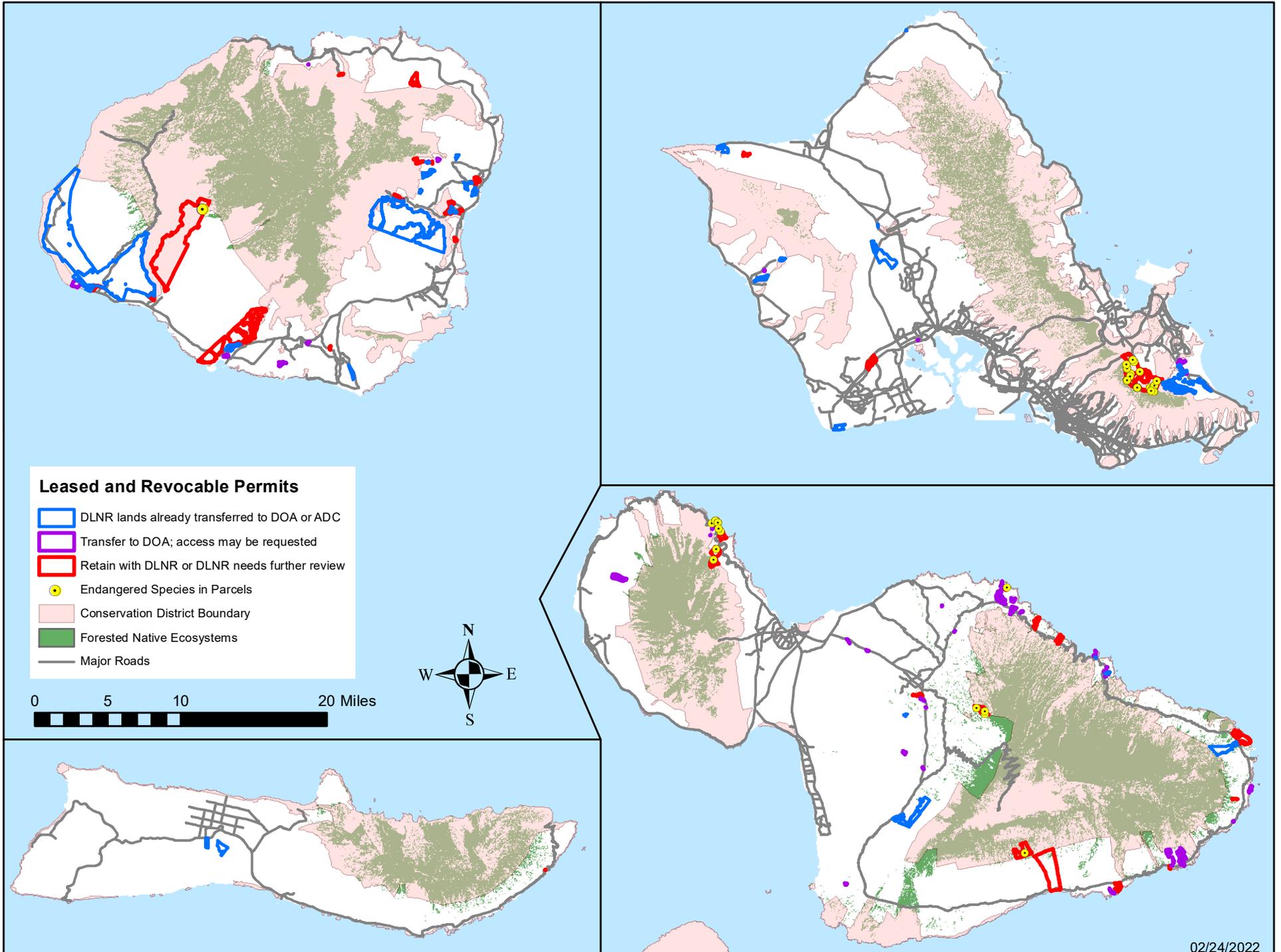


CONTACT PERSON



Leased and Revocable Permits

- DLNR lands already transferred to DOA or ADC
- Transfer to DOA; access may be requested
- Retain with DLNR or DLNR needs further review
- ☺ Endangered Species in Parcels
- Conservation District Boundary
- Forested Native Ecosystems
- Major Roads





State of Hawaii
Department of Agriculture
Ka 'Oihana Mahi'ai

[Home](#) » [Main](#) » DLNR and HDOA Announce Shared Path Forward for Progress on Pasture Lands

DLNR AND HDOA ANNOUNCE SHARED PATH FORWARD FOR PROGRESS ON PASTURE LANDS

Posted on Feb 8, 2023 in [Main](#)

DEPARTMENT OF LAND AND NATURAL RESOURCES

DEPARTMENT OF AGRICULTURE

JOSH GREEN M.D.
GOVERNOR

DAWN CHANG
DLNR CHAIRPERSON

SHARON HURD
HDOA CHAIRPERSON

Feb. 8, 2023

(HONOLULU) – The recently appointed leadership teams for the Department of Land and Natural Resources (DLNR) and the Hawai'i Department of Agriculture (HDOA) are working to resolve a long-standing issue on the management of pasture lands.

DLNR leases or permits ranching across approximately 100,000 acres while also managing other uses on these lands including native forest protection and restoration, endangered species habitat, hunting, public trails, and customary and traditional gathering practices.

In 2003, the legislature passed Act 90, which established a process for determining whether certain lands could be transferred from DLNR jurisdiction to HDOA, based on a review by the boards of both departments.

Since then nearly 40,000 acres, mostly plowed crop lands, have been transferred to HDOA and the State's Agribusiness Development Corporation. "We are referring to those completed transfers as Phase 1," explained DLNR Chair Dawn Chang. "Now, we are ready to get to work on Phase 2 – farm and pasture lands that both departments see fit to transfer."

"We thank legislators, as well as ranchers, for highlighting the importance of this issue," said HDOA Chair Sharon Hurd. "With the Green Administration's leaders of both boards (Chang and

Hurd also chair the Board of Land and Natural Resources-BLNR and the State Board of Agriculture-BOA), working together as a team, we have been meeting to find agreement and a plan for transfers, as well as a process for addressing multiuse areas,” Hurd added.

DLNR and HDOA made major progress by deciding that more than 50 leases and permits, representing more than 16,000 acres, have a mutual agreement to transfer to HDOA and will be put before the BLNR and BOA for approval.

Another 70 leases and permits are also being offered for transfer by DLNR and are under review by HDOA. “We look forward to making progress in transferring these Phase 2 parcels and will communicate with the legislature about the funding needed to conduct surveys and other due diligence necessary to finalize them transfers,” Hurd said.

“We have heard from many stakeholders including ranchers, trail users, conservationists, gatherers, and lawmakers,” Hurd continued. “This is a complex issue. A mandate to transfer all the lands to HDOA has unintended consequences for these stakeholders, as well as the agencies. We hope to chart a different course that has both progress and balance.”

Chang said “I’m directing DLNR to focus on processing transfers we agree are win-win, as well as negotiating with stakeholders on the multiple-use lands. We are putting all available lands on the negotiating table to see whether there are overlooked opportunities to support agriculture, while safeguarding other public trust resources. DLNR and HDOA recognize that each parcel should be reviewed individually, using the existing process of Act 90 that requires the expertise of both boards to prescribe how to best manage natural, cultural, and agricultural resources. Our path forward is consistent with the recommendations of the Act 90 Working Group, formed in 2021, to carefully consider this multi-faceted issue.”

Hurd concluded, “We are excited to have a shared vision on the path forward. With so many land issues, DLNR and HDOA need to both be at the table to make headway.”

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Hawaii Cattlemen's Council, Inc.

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

SB77. SD1
RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS

Wednesday, February 15, 2023, 10:20 AM
Conference Room 224 & Videoconference

Chairs Gabbard and Inouye, Vice Chairs Richards and Elefante, and Members of the Committee,

The Hawaii Cattlemen's Council (HCC) is the Statewide umbrella organization comprised of the four 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 **strongly supports SB77. SD1** regarding the transfer of non-agricultural park lands. This bill requires the Department of Agriculture to accept the transfer of and manage certain qualifying non-agricultural park lands. It also requires the Department of Agriculture to inquire with the Department of Land and Natural Resources regarding any easements required to landlocked forest reserves and requires the lessee to develop a conservation plan. It requires approval of both boards before removing pasture lands for reforestation or other public purposes.

This bill will transfer agricultural lands to DOA, but also ensures that DLNR still has access to landlocked forest reserves and requires the leaseholder to continue to maintain their conservation plan.

The purpose of Act 90, 2003 is to ensure the long-term productive use of public agricultural lands by allowing these lands to be transferred to and managed by the Department of Agriculture. This bill ensures that the purpose of Act 90, 2003 is realized and guided by the identification of agricultural lands, including all lands designated as intensive agricultural use, special livestock use, and pasture use, rather than the current situation of land transfers blocked by the impediment of mutual agreement by both boards. This unnecessary impediment has resulted in leaseholders still waiting for their agricultural lands to transfer to the Department of Agriculture 20 years later.

Ranchers are proponents for stewarding the land well and will continue to implement conservation practices when leases are transferred to DOA—the health of the land allows ranchers to continue their production. With long-term leases based on agricultural production, ranchers will be even better situated to invest in long-term conservation practices. If the state truly wants to support



agriculture, transferring agricultural lands from DLNR to DOA will help many productive leaseholders continue their production and land stewardship with confidence that they will be supported in their agricultural operations.

According to the State Ag Land Use Baseline, 1.1 million acres of the state's land was in grazing use in the 1980s. In 2015, that number dropped to 761,000 acres. The 2020 State Ag Land Use Baseline reports that pasture continues to decline on Oahu and Hawaii Island. Astute land stewards are well aware that when land is taken out of management, Hawaii's environment and prevalence of invasive species make it costly and difficult to get it back to working order. It is extremely important that we support those who are still operating as agricultural businesses. This bill would do that by transferring agricultural leases to the department that holds agriculture as a priority.

We appreciate the opportunity to testify on this priority for our industry.

Nicole Galase
Hawaii Cattlemen's Council



SIERRA CLUB OF HAWAI'I

SENATE COMMITTEES ON JUDICIARY AND WAYS AND MEANS

February 15, 2023 10:20 AM Conference Room 211

In OPPOSITION to SB77 SD1: Relating to the transfer of non-agricultural park lands

Dear Chair Rhoads, Chair Dela Cruz, Vice Chair Gabbard, Vice Chair Keith-Agaran, and members of the Committees,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i **OPPOSES SB77 SD1**, 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 appreciates that this bill provides the DLNR 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.

Conservation plans and programs and soil and water conservation district rules will lack sufficient subject matter scope and are unlikely to be reliably enforced

Finally, the Sierra Club acknowledges that this draft would provide for future pasture land lessees to, in some instances, develop a conservation program, consistent with a conservation plan approved by the chair of the board of agriculture, and comply with soil and water conservation district rules and regulations. However, it is unclear whether and how such conservation programs or plans or soil and water conservation district rules and regulations will reflect or incorporate the necessary expertise to address the full breadth of public interests in these leased lands, including natural and cultural resource protection and the protection of adjacent watershed areas. Moreover, it is unclear how the department of agriculture will have sufficient management and oversight capacity to monitor compliance with and enforce the provisions of any such plans or programs, even and especially if they were sufficient in breadth.

BLNR discretion to retain lands should be maintained

For these reasons, 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.

Accordingly, we urge the Committees to HOLD SB77 SD1, or to remove the amendments proposed on page 4, lines 1-5.. Thank you very much for this opportunity to testify.

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

SB77sd1, Relating to The Transfer of Non-Agricultural Park Lands
Senate JDC/WAM Decision-Making Hearing
Wednesday, February 15, 2023 – 10:20am
Room 211
Testimony By: Larry Jeffs
Position: Support

Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Keith-Agaran, and Members of the Senate JDC/WAM 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.

The pandemic has increased public awareness of the need for import replacement agriculture production. Pasture lands for ranchers can be an expanded contributor to import replacement production.

This transfer of certain non-agricultural park lands from DLNR to the DOA is supported. The transfer is long overdue and creates a situation where ranchers cannot do long-term planning to increase local grass-fed beef production. Ranchers, and all who are involved in agriculture production, need long-term leases before capital investments can be made for production.

It is important to acknowledge that the lands subject to transfer are in active agriculture production and stewardship. Ranchers and farmers are good stewards of the land. They have to be if they want to stay in business.

This measure removes process barriers and identifies certain requirements that address the concerns of DLNR and DOA. We strongly support the following:

- Requires DOA to accept the transfer of and manage certain qualifying non-agricultural park lands; this removes the delay caused by the need for mutual agreement by both boards
- Requires DOA to ask DLNR about any required easements to landlocked forest reserves and establish a right of entry easements in such leases; this ensures access for conservation, hunting, gathering and recreational activities
- Requires lessee to implement a soil and water conservation plan; this ensures and emphasizes the stewardship role of ranchers
- Requires both boards to approve the removal of pasture lands for reforestation or other public purposes; this ensures that lands are supported for agricultural production

Your consideration of support for SB77sd1 is appreciated and needed.

Thank you for the opportunity to provide testimony.

SB-77-SD-1

Submitted on: 2/13/2023 2:32:28 PM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Alan Gottlieb	Testifying for Ponoholo Ranch Limited	Support	Written Testimony Only

Comments:

Please support SB 77

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

SB 77, SD 1 - Support

Relating to the Transfer of Non-Agricultural Park Lands

Wednesday, February 15, 2023

10:20 AM

Conference Room 211

VIA VIDEOCONFERENCE

Aloha Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Keith-Agaran, and Members of the Committees,

My name is Scott Enright and on behalf of Hawaii Sustainable Beef Enterprises (HSBE), a ranching and beef processing company operating statewide, we strongly support SB 77, SD 1.

In Hawaii, historically, the ranching community has been a productive agricultural sector and excellent stewards of the lands. We, in this state and here at the legislature, often discuss food sustainability issues. The ranchers in Hawaii have been successfully running cattle in the state for 150 years, that is food sustainability. The purpose of Act 90, 2023 is to ensure the long-term productive use of public agricultural lands by allowing these lands to be transferred to and managed by the Department of Agriculture. This bill ensures that the purpose of Act 90, 2023 is realized. As a former Chair of Hawaii Department of Agriculture, in the Abercrombie and Ige Administration, I personally worked on the issue surrounding Act 90 for years and understand that moving this bill forward is in the best interest of the state.

Thank you for the opportunity to testify and we strongly support the Committee to move this bill forward.

Sincerely,

Scott Enright

SB-77-SD-1

Submitted on: 2/13/2023 3:06:05 PM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Sara Moore	Testifying for Kealia Ranch	Support	Written Testimony Only

Comments:

I support this bill for the following reasons:

Ranchers are good stewards of the land and contribute to conservation and food security.

With lease terms appropriate for agriculture, ranchers will be able to invest more into conservation and food production

Act 90, 2003 is long overdue and should be implemented for the purpose of increasing food production

The Department of Agriculture is the appropriate manager for agricultural leases

This bill requires the Department of Agriculture to accept the transfer of and manage certain qualifying non-agricultural park lands and removes the impediment of mutual agreement by both boards.

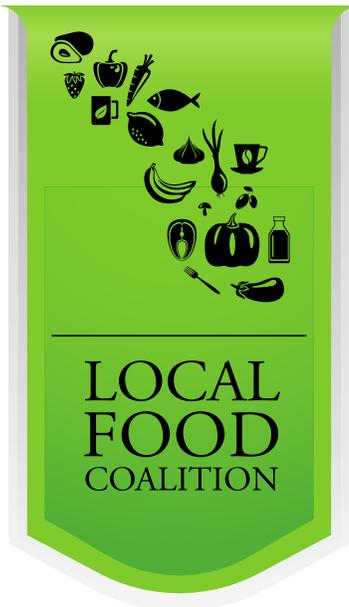
DLNR would not lose access to land locked forest areas..

The lessee will still be required to develop a conservation plan. Ranchers will continue to steward the land.

Approval of this bill provides more assurance that the land will be supported for agricultural purposes.

Pasture acreage continues to decline and we must support those in agricultural production.

Thank you for your support of this bill SB77



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

SENATE COMMITTEE ON JUDICIARY
and
SENATE COMMITTEE ON WAYS AND MEANS

February 15, 2023 – 10:20 a.m. – Conference Room 211 & Videoconference

SB 77 SD1 – RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS – IN SUPPORT

Aloha Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Keith Agaran and members of the Committees:

The Local Food Coalition **SUPPORTS** SB 77 SD1, which among other things, adopts a recommendation of the Act 90 Working Group, regarding the transfer of non-agricultural park lands under Act 90, SLH 2003.

SB 77 SD1 would require the Hawaii Department of Agriculture (HDOA) to inquire with the Department of Land and Natural Resources (DLNR) regarding any easement required to landlocked forest reserves to allow access for conservation activities.

It has been 20 years since the passage of Act 90 with little success in major part due to the requirement of mutual agreement by both boards. This bill removes that impediment.

The bill also strikes a balance between the two departments' priorities by requiring lessees to develop a conservation plan. Ranchers have proven to be good stewards of the land and they will continue to do so.

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 HDOA, 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.

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

We respectfully request your support of SB 77 SD1. Thank you for the opportunity to submit testimony.

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

SB-77-SD-1

Submitted on: 2/13/2023 6:18:17 PM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Ronald Weidenbach	Testifying for Hawaii Fish Company Inc.	Support	Written Testimony Only

Comments:

Hawaii Fish Company strongly supports SB77 which would finally compel the transfer of active agricultural and pasture lands from DLNR to DOA while addressing the request for access to land-locked parcels for warranted public and private uses permitted law. Farmers and ranchers need affordable long-term leases to plan for future food and fiber production. Hawaii's modern-day farmers and ranchers have long demonstrated their commitment, good stewardship, and sustainable management of these critical natural resources, and it will always be in their personal best interest to do so. If we as a State are serious about multi-purpose land management and sustainable food production and food security, then SB77 needs to be passed this session. We respectfully request that you do so. Thank you.



Email: communications@ulupono.com

SENATE COMMITTEES ON JUDICIARY AND WAYS & MEANS
Wednesday, February 15, 2023 — 10:20 a.m.

Ulupono Initiative supports SB 77 SD1, Relating to the Transfer of Non-Agricultural Park Lands.

Dear Chair Rhoads, Chair Dela Cruz, 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 choices, and better management of freshwater resources.

Ulupono supports SB 77 SD1, which, before the transfer of non-agricultural park lands, authorizes the Department of Agriculture to request information from the Department of Land and Natural Resources related to the establishment of necessary and reasonable easements upon the lands; amends legislative findings regarding non-agricultural park lands; requires the Department of Agriculture to accept the transfer of and manage certain qualifying non-agricultural park lands; requires the Department of Agriculture, prior to offering a lease, to inquire with the Department of Land and Natural Resources regarding any easements required for access to landlocked forest reserves or other assets on the lands subject to the lease; continue to require the lessee to maintain a conservation plan; and requires approval from the Board of Land and Natural Resources and the Board of Agriculture before removing pasture lands for reforestation, or other public purposes.

Ulupono continues to support the local livestock industry and its efforts to provide fresh, healthy products for Hawai'i's consumers. Additionally, the local livestock industry prides itself on being stewards of the land, providing needed conservation efforts to increase productivity and yields while also supporting Hawaii's natural resources.

We continue to believe that DOA's affordable, long-term leases allow local ranchers to immediately take advantage of existing, appropriate lease structures that incentivize long-term investments into their respective operations, improving the economic viability, and increasing local food production for the State.

Investing in a Sustainable Hawai'i



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. If we as a community are serious about supporting local food production and agriculture's role here in Hawai'i, we must support our local farmers and ranchers now.

Thank you for the opportunity to testify on this measure.

Respectfully,

Micah Munekata
Director of Government Affairs



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

February 15, 2023

HEARING BEFORE THE
SENATE COMMITTEE ON JUDICIARY
SENATE COMMITTEE ON WAYS AND MEANS

TESTIMONY ON SB 77, SD1
RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS

Conference Room 211 & Videoconference
10:20 AM

Aloha Chairs Rhoads and Dela Cruz, Vice-Chairs Gabbard and Keith-Agaran, 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 77, SD1 and urges you to pass this much-needed measure that will make a real difference to Hawai'i's farmers who are working to increase food production in the islands while stewarding the land they farm.

This bill recognizes that food production and natural resource conservation are equally important, constitutionally protected public purposes, not mutually exclusive, and that both must be achieved.

Long overdue to resolve a 20-year state of limbo

The bill will finally resolve the stagnation resulting from Act 90 of 2003, which was intended to ensure the long-term productive use of public land leased for agricultural purposes by transferring certain of those lands from DLNR to DOA. During all these years, ag producers have had no stability or security to conduct long-term planning and investments.

Bill addresses DLNR and public trust concerns

Much of the controversy about the lease transfer issue stems from the misperception that transferring lands in agricultural production to DOA will take away from its mission. This bill continues DLNR's duty and ability to protect native species habitat, cultural sites, public and practitioner access for recreational and cultural purposes, and watershed integrity. And it goes even further – it requires three-agency natural resource oversight to ensure that public interests are protected.

DLNR retains its management responsibility and authority to manage natural resources

DLNR retains its management responsibility and authority to manage natural resource assets no matter which agency holds the lease.

- All transferred leases will be subject to DLNR easements or rights of entry established to allow access to conservation activities, hunting, gathering, and recreation.
- Farmers and ranchers are required to work with the DLNR Soil and Water Conservation Districts to develop and implement an enforceable conservation program.
- The program will dictate practices and systems to protect the land against deterioration and prevent environmental degradation.
- No leases will be offered unless DOA staff reviews and the Board of Agriculture approves them. The Board has the ability and duty to require and enforce specific conditions protecting the property's natural resources AND can cancel leases when appropriate.

These DLNR lands are already being stewarded by agricultural producers who rely on the conservation of natural resources for their livelihood. Providing them with support and beneficial lease terms under the DOA will only further their ability to make investments in conservation efforts on the land.

Withdrawal of the lease and reforestation is still available

DLNR will not lose its ability to reforest pasture lands.

- The bill authorizes agriculturally leased lands to be withdrawn for reforestation when there is a DLNR plan and adequate resources available for implementation.
- As can be seen, by the many acres of land already withdrawn for reforestation, no one benefits when farms are prematurely taken out of production only to lay fallow, become vulnerable to fires, or be inundated with suffocating invasive weeds, diseases, and destructive feral animals because no one is on the land to manage it.

Best interest of the public

Hawai'i's food producers are an important part of the State'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 further decades of debate about which agency controls their existence when it is the mission of one agency, DOA, to foster agriculture in Hawai'i, while collaborating with DLNR to ensure the protection of natural resources.

Thank you for the opportunity to provide our comments and thank you for your continued support of Hawai'i's agricultural community.

SB-77-SD-1

Submitted on: 2/13/2023 11:18:59 PM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Cara Oba	Testifying for HECA Carbon Sequestration Task Force	Oppose	Written Testimony Only

Comments:

Aloha kakou Chair Rhoads, Chair Dela Cruz, and Members of the Senate Judiciary and Ways and Means Committees,

The HECA Carbon Sequestration Task Force strongly opposes SB77 SD1. It is an improper compromise in addressing the concerns of Act 90's implementation. The Act 90 Working Group recommended that lands with multiple management objectives remain under the Department of Land and Natural Resources management. With this bill, the transference of all non-agricultural park lands designated for agricultural purposes to Department of Agriculture would effectively ignore and terminate any multi-use land management objectives. Ensuring the practice of "good husbandry" is not the same as ensuring good land stewardship. It is the purview of BLNR and DLNR to manage these kinds of lands. We don't want to change this. If there are specific issues with the transfer or management of these lands, we should address these issues directly rather than to subvert the purpose and intent of our existing laws.

There seems to be a misconception that this is primarily about food. Food security is secondary in this discussion. If we want to promote food security or increase agricultural production, there are other means to do so that do not come with these restrictions on land use. The primary issue is that of land stewardship and the ability to use lands to serve the interests of as many people as possible. Why not instead *increase* the flexibility of DLNR's negotiation capabilities to better meet the interests of farmers or provide other accommodations to build their working relationship rather than remove DLNR's support and BLNR's judgement altogether?

We should prioritize serving broader community goals first and recognize our need to be more flexible in planning for the longer term. This is of particular importance when we consider climate adaptation measures. Climate change impacts such as drought, wildfire, and erosion will require us to manage lands judiciously. DLNR is the agency that is able to provide guidance and support to landowners to meet our communities' evolving risks and needs. They are able to work with farmers and ranchers on issues of invasive species, habitat conservation, and reducing fire risk. DLNR also considers quality of life for our communities regarding access to lands for hunting, recreation, and traditional and customary practices. We do not want to remove DLNR's authority because it is better equipped to evaluate the variety of competing interests and goals within our community. Agriculture is a subset of use cases and as such, the Department of Agriculture should not acquire multi-use lands. Lands identified as suitable for transfer have and continue to be transferred. We should not attempt to "fix" perceived issues by removing the

thoughtful consideration of our existing laws. The Hawaii Environmental Change Agents Carbon Sequestration Task Force strongly opposes this bill.

Mahalo,

Cara Oba

HECA Carbon Sequestration Task Force



LAND USE RESEARCH
FOUNDATION OF HAWAII

1100 Alakea Street, Suite 408
Honolulu, Hawaii 96813
(808) 521-4717
www.lurf.org

February 13, 2023

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Senate Committee on Judiciary

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Senate Committee on Ways and Means

Comments in Support of SB 77, Relating to the Transfer of Non-agricultural Park Lands (Before the transfer of non-agricultural park lands, authorizes the Department of Agriculture [(DOA)] to request information from the Department of Land and Natural Resources [DLNR] related to the establishment of necessary and reasonable easements upon the lands. Amends legislative findings regarding non-agricultural park lands. Requires the DOA to accept the transfer of and manage certain qualifying non-agricultural park lands. Requires the DOA, prior to offering a lease, to inquire with the DLNR regarding any easements required for access to landlocked forest reserves or other assets on the lands subject to the lease. Continues to require the lessee to maintain a conservation plan. Requires approval from the Board of Land and Natural Resources [BLNR] and Board of Agriculture [BOA] before removing pasture lands for reforestation, or other public purposes. Effective 7/1/2050.)

Wednesday, February 15, 2023, 10:20 a.m.; State Capitol, Conference Room 211 & 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 present comments regarding SB 77 in support of the various agricultural stakeholder groups who defend the goals of viable agricultural operations and the conservation and protection of agriculture in Hawaii.

SB 77. The underlying 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 2021, which group has determined that certain lands under the DLNR used for “the primary and substantial management objective of agricultural production” should be transferred to the DOA if an easement were provided to allow DLNR or the public to access an adjacent parcel.

The purposes of this bill specifically include the adoption of a recommendation from the Act 90 working group that authorizes the DOA to request from the DLNR, prior to any transfer of certain qualifying non-agricultural park lands, any information related to the establishment of necessary and reasonable easements upon the lands.

SB 77 requires the DOA to accept the transfer of and manage certain qualifying non-agricultural park lands, as well as to inquire with the DLNR regarding any easements required for access to landlocked forest reserves. The measure also continues to require the lessee to maintain a conservation plan and requires the approval of both the BLNR and BOA before removing pasture lands for reforestation or other public purposes.

In short, this bill authorizes the transfer agricultural lands to DOA, but also ensures that DLNR will continue to retain access to landlocked forest reserves, and leaseholders to maintain a conservation plan.

LURF’s Position. LURF members include property owners, farmers and ranchers who own, maintain, and engage in agricultural enterprises; who are good stewards of the land; and who consider efforts to protect and support conservation practices and efforts important to the continued conduct of their agricultural operations as well as 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 20-year delay of the anticipated transfers, however, has impaired the ability of productive farmers and ranchers to establish and implement long-term plans for their operations, and to confidently continue their production.

LURF understands that when agricultural land is removed from appropriate management, Hawaii’s environment and the increasing prevalence of invasive species make it costly and difficult to return agricultural operations back to productive working

order. It is therefore imperative that these operating agricultural businesses be afforded full support.

LURF appreciates that this measure promotes cooperation between the DOA and DLNR; understands the significance of effectuating and facilitating the transfer of certain public lands classified for agricultural use from the DLNR to the DOA pursuant to Act 90; recognizes that the DOA can best advance and sustain the needs of agriculture and the agricultural industry in Hawaii; and acknowledges the need of the DOA to be provided with information relating to the establishment of reasonable and necessary easements upon those lands in order that it can best advance and sustain the needs of agriculture and the agricultural industry in this State.

LURF therefore fully supports SB 77, particularly since the bill recognizes the need for establishment of a collaborative working relationship between the DLNR and the DOA and makes more significant effort to advance the transfer of agricultural lands.

LURF further believes that continued collaboration between the departments as well as input from all stakeholders regarding such transfers, and the establishment of clear, consistent, well-defined, and mutually agreed upon processes are vital to accomplish the long-awaited transfers and leases of land effectively and successfully.

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

Thank you for the opportunity to present comments in support of this measure.

**Testimony of The Nature Conservancy
Opposing SB 77 SD1, Relating to the Transfer of Non-Agricultural Park Lands.
Committee on Judiciary
Committee on Ways and Means
February 15, 2023, 10:20 am
Conference Room 211 and via Videoconference**

Aloha Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Keith-Agaran, and Committee Members:

The Nature Conservancy (TNC) opposes SB 77 SD1, Relating to the Transfer of Non-Agricultural Park Lands, which would require the transfer of lands from the Department of Land and Natural Resources (DLNR) to the Department of Agriculture (DOA).

TNC opposes requiring automatic transfers of non-agricultural park lands from DLNR to DOA without Board of Land and Natural Resources (BLNR) approval. 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, sequester carbon, reduce erosion that smothers nearshore fisheries that are an important part of our food security, as well as provide access for management, recreation, and traditional gathering. Retaining pasture lands under DLNR is critical for Hawai'i's climate change resilience.

TNC supports individual reviews of parcels to determine whether the land in question should be managed by DOA or DLNR. As such, we support HB 14, which would authorize the BLNR to amend and extend existing pasture leases and to issue new pasture leases by negotiation in furtherance of public purposes. This authority would allow the Board flexibility in leasing pasture lands while protecting high value resource portions of the leased land. BLNR has the expertise and responsibility to consider other factors, such as forest, recreation, cultural and historical preservation, etc. when deciding what should be transferred. We would also call attention to the recent DLNR and DOA announcement that the agencies are focusing on reviewing dozens of eligible leases and permits to transfer as evidence of the ability of the agencies to work together to implement Act 90.

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 77 SD1.

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.

BOARD OF TRUSTEES

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SB-77-SD-1

Submitted on: 2/14/2023 9:48:45 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Steven Lee Montgomery, Ph. D.	Testifying for Ahahui Malama I Ka Lokahi	Oppose	Written Testimony Only

Comments:

S B 77 RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS

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.

As you 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 Puaulu, where he had just discovered wonderful new tree species barely saved while it was used to fatten cattle.

1. 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. westhawaii.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. We oppose this bill and recommend passage of HB14 which provides a more balanced approach, consistent with the Working Group's recommendations. Mahalo,

Steven Lee Montgomery, Ph. D., Board Member

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.

KAPĀPALA RANCH

P. O. Box 537

Pahala, HI 96777

Kapapala.ranch@aol.com

lanipetrie@aol.com

COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator Tim Richards, III, Vice Chair

COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair

Senator Brandon J. C. Elefante, Vice Chair

SB77

RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS

Friday, February 4, 2023, 1:00 PM

Conference Room 224 & Video Conference

Chairs Gabbard and Inouye, Vice Chairs Richards and Elefante and Members of the Committees:

We at Kapāpala Ranch strongly support SB77. Not only was the law passed in 2003, but at a BLNR meeting we attended in 2007 DLNR staff was instructed by the Board to get certain revocable permit lands that we operated out for long-term disposition. In 2009 we received our letter from the the DOA introducing themselves as our new land agent. The DOA completed an in-person lease inspection of GL5374, RP7637, and RP7758 within months of this letter. Yet here we are 14 years later with nothing but a soon-to-expire lease.

The clause of Act 90 requiring mutual agreement between the BLNR and the BOA has not worked. In the course of 20 years multiplied by the number of agency appointees and staff someone will find some reason to disagree. In the meantime the agricultural lands that the law was intended to protect are becoming more vulnerable to being less and less productive especially as the leases are closer to expiration.

The DOA's governing rules which allow a lessee to have a first right of refusal to a new lease upon expiration are necessary for perpetual land stewardship. Whereas the DLNR's rules of public auction to renew leases do not support good stewardship. How can a lessee keep putting money into a property that they stand to lose? I have tried to communicate to DOFAW that if they want more forestry projects then lessees need to have equity upon expiration of leases. We have always been in favor of growing trees on suitable lands if it is economical.

KAPAPALA RANCH

Best management practices of the public trust lands we operate have always been on our agenda and will continue no matter which agency holds the lease. In 1990, we affirmatively agreed with DOFAW to remove 1,250 acres for koa reforestation and have continually worked at keeping cattle out of the area. In 1989 we agreed to participate with DOFAW's public game bird hunting which just finished its 33rd season. Since 1977 we have always allowed the public to get to the Forest Reserves above the Ranch. The demand for public access has grown exponentially in the past 46 years and so has our ability to manage these accesses grown into a highly operative interactive system allowing 365 day access.

Please pass SB77 so that agricultural enterprises can have a firm platform to conduct business and continue to steward public trust land while growing food for our communities.

Thank you for hearing our testimony.

Very Sincerely,

KAPAPALA RANCH

Lani C. Petrie *Bill Petrie*

Lani and Bill Petrie

Chair Gabbard and House Vice Chairs Richards and Ehlert and Members of the Committee
We at Kapapala Ranch strongly support SB77. Not only was the law passed in 2003, but at a
BLNR meeting we attended in 2007 DLNR staff was instructed by the Board to get certain
reversible permit lands that we operated out for long-term disposition. In 2009 we received our
letter from the DOA introducing themselves as our new land agent. The DOA completed an
in-person lease inspection of GL3374, RP7637, and RP7758 within months of this letter. Yet
there was 14 years later with nothing but a soon-to-expire lease.
The clause of Act 90 requiring mutual agreement between the BLNR and the BOA has not
worked. In the course of 20 years multiplied by the number of agency appointees and staff
someone will find some reason to disagree. In the meantime the agricultural lands that the law
was intended to protect are becoming more vulnerable to being less and less productive
especially as the leases are closer to expiration.
The DOA's governing rules which allow a lessee to have a first right of refusal to a new lease
upon expiration are necessary for perpetual land stewardship. Whereas the DLNR's rules of
public action to renew leases do not support good stewardship. How can a lessee keep putting
money into a property that they stand to lose? I have tried to communicate to DOFAW that if
they want more forestry projects then lessees need to have equity upon expiration of leases. We
have always been in favor of growing trees on suitable lands if it is economical.



February 13, 2023,

Senator Lorraine Inouye
Senator Henry Aquino
Senator Mike Gabbard
Senator Dru Kanuha
And Senate Committee Members

RE: SB0077 Relating to the Transfer of Non-Agricultural Park Lands

Dear Senators,

Conservation Council for Hawai'i strongly **opposes SB77- Relating to the Transfer of Non-Agricultural Park Lands**. Many of these lands contain old-growth native forest that provide shelter, nutrition and contain water sources for native and endangered birds, and other native species. These areas also provide community awareness and access to public hunting, trails, historic sites, traditional and customary cultural practices, access to the shoreline and mauka lands, and other public trust values and are most appropriately managed under DLNR. It is for these reasons we ask you to vote NO to SB77. Mahalo!

Respectfully,

Jonnetta Peters
Executive Director

Telephone/Fax: [224.338.6511](tel:224.338.6511) | email: info@conservehi.org
web: www.conservehawaii.org | P.O. Box 2923, Honolulu, HI 96802

President: Colleen Heyer | Vice President: Sunshine Woodford | Secretary: Karl Magnacca
Treasurer: Sunshine Woodford | Directors: Randall Bartlett, Steven Lee Montgomery, Bret Nainoa Mossman,
Michael Nakachi, Lisa Hinano Rey | National Wildlife Federation Region 12 Director: Rachel Sprague
National Wildlife Federation Pacific Region Associate Director: Les Welsh
Executive Director: Jonnetta "Jonee" Peters

Kō Hawai'i leo no nā holoholona lōhiu – Hawai'i's voice for wildlife | State Affiliate of the National Wildlife Federation



Environmental Caucus of
The Democratic Party of Hawai'i

Agriculture & Food Security Committee

Wednesday, February 15, 2023, 10:20 am

Senate Committees on the Judiciary and on Ways and Means

SENATE BILL 77 – RELATING TO TRANSFER OF NON-AGRICULTURAL PARK LANDS.

Position: Opposition

Me ke Aloha, Chairs Rhoads and Delacruz, Vice-Chairs Gabbard and Keith -Agaran, and members of the Senate Committees on the Judiciary and on Ways and Means:

SB77 proposes to have DLNR-served lands in the Agriculture District that are not used for agricultural park transferred to the Department of Agriculture, and authorizes information from DLNR.

The Agriculture & Food Security Committee opposes the transfer of lands in the Agriculture District that are being managed by the Department of Land and Natural Resources (DLNR) to the Department of Agriculture (DoA). There are not that many lands involved in this category, and they are typically not suited for agriculture, which is why they are not already with DoA. They are typically degraded hilly lands and drainage ways, once mapped as “waste lands”. They are often part of a land lease to private parties, and neither the DoA nor the lessees actually manage these lands nor have standards to manage such lands. However, the DLNR has many programs which could be tapped to restore and make these lands useful.

The problem is that the Legislature has failed to adequately fund DLNR or provide repeatedly requested staffing for this purpose, just as it has failed to fund or staff DoA for its essential functions, struggling to provide the service that the public needs. However, DLNR does try to work with lessees to cooperate on land management programs, which are viewed as an intrusion on lessees' operations.

Rather than pass this bill, the Agriculture and Food Security Committee urges the Legislature to build up funding and staffing to handle very real issues with invasive species and land degradation. These are not actually “waste lands”, except in the minds of western property expectations of extraction. They could become productive, or at least protected, under proper management. Lack of funding is used as an excuse to criticize departments for the lack of action desired by the public and essential to the Public Trust.

Mahalo for the opportunity to address this matter.

/s/ Charley Ice & Ted Bohlen, Co-Chairs, Energy and Climate Action Committee
Environmental Caucus of the Democratic Party

SB-77-SD-1

Submitted on: 2/14/2023 11:50:26 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Regina Gregory	Individual	Oppose	Written Testimony Only

Comments:

oppose

SB-77-SD-1

Submitted on: 2/13/2023 10:33:54 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Patti Cook	Individual	Support	Written Testimony Only

Comments:

Aloha Senators - as a resident of Hawai'i Island where we urgently want our farms and ranches to continue to operate and provide food for our community, and where we KNOW our ranchers and farmers personally as responsible land stewards, the delay of 20+ years on fully implement Act 90 is not just arrogant disregard for a clear Legislative mandate, but likely to result in reduced food production yet there will be no serious "conservation" initiated. DLNR has taken back ranch land allegedly to replace palila forest/habitat and then DONE NOTHING. The land in question has been completely neglected - allowed to become overrun by weeds, invasives, trash. Please do not succumb to the hasty - misleading - public relations action by DLNR last week to further defer action - their recent news release was very inappropriate. Doing land use management by press release is not science-based or acceptable. It's just one more reason for my skepticism about DLNR's commitment to thoughtful land stewardship.

Also, testimony opposing this bill seems to have been crafted by one person and repeated over and over and includes misinformation about the impact of ranching vs forestry and related conservation priorities.

Please approve SB77 - do not defer action further. MAHALO, Patti Cook 808-937-2833

Waimea, Island of Hawai'i

SB-77-SD-1

Submitted on: 2/13/2023 1:43:25 PM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Dwayne Cypriano	Individual	Support	Written Testimony Only

Comments:

The Dept. of Agriculture is the appropriate governing body to steward these agricultural lands. Not the DLNR usually is in conflict with the appropriate use and guidelines for Ag lands.



Hawaii's Thousand Friends

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

February 15, 2023

COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair

Senator Brandon J. C. Elefante, Vice Chair

COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator Herbert M, "Tim" Richards, III, Vice Chair

Committee Members

SB 77

TRANSFER OF NON-AGRICULTURAL PARL LANDS

Hawaii's Thousand Friends, a statewide non-profit organization dedicated to ensuring that appropriate land and water planning and management decisions are made to protect the environment, human health, cultural and natural resources, opposes SB 77, which mandates the transfer of almost 100,000 acres of agricultural pastureland currently under DLNR to the Department of Agriculture (DOA).

DLNR is the state agency charged to *enhance, protect, conserve, and manage Hawaii's unique and limited natural, cultural, and historic resources held in trust for current and future generations of the people of Hawaii nei...*

This bill broadly and without regard for resources on the land - native forests, watershed sheds, wildlife habitat, and cultural sites removes DLNRs public trust mandate to protect and conserve public resources and could permanently destroy or alter public lands.

We were unable to find a mission statement for DOA but found the following statement:

The Hawaii Department of Agriculture's (HDOA) 268 employees statewide **work to support, enhance, promote, and protect Hawaii's agriculture and aquaculture industries. We work to create and maximize opportunities for exporting; and facilitate growth of existing and new agricultural commodities and value-added products.** In addition, the department works to prevent the introduction and establishment of plants, animals and diseases that are detrimental to the state's agriculture industry and the environment. (Emphasis added)

DOA's job description is not about protecting and conserving public trust resources on public lands but is about promoting agriculture, as it should.

If pasture lands, incautiously transferred from DLNR to DOA, are watersheds or contain natural or cultural resources DOA is neither equipped nor mandated to protect these resources. DOA's objective is to promote and protect agriculture not natural and cultural resources.

We urge the committees to defer SB 77.

SB-77-SD-1

Submitted on: 2/13/2023 2:30:34 PM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Randy Cabral	Individual	Support	Written Testimony Only

Comments:

Strongly support

SB-77-SD-1

Submitted on: 2/13/2023 2:15:15 PM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Kim	Individual	Oppose	Written Testimony Only

Comments:

Dear Senators:

Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and members of the Committees,

I OPPOSE SB77. Our conservation lands need more protection, and an unsupervised transfer of lands to the DOA is a threat to our water resources, and native birds and plants. In this time where water is an ever scarcer commodity, having land that is protected with the possibility that it can be managed effectively for conservation by future generations is key. Our agricultural lands do not hold that promise.

The transfer of these public lands to the Department of Agriculture—especially without Board of Land and Natural Resources’ discretion—may result in the loss of critical protections of public watershed lands and threaten the restoration and preservation of ecosystems that are home to native and endangered species and that can mitigate the impacts of our climate crisis.

I respectfully urge the committees to HOLD SB77. Mahalo nui for allowing me to testify on this important matter.

Sincerely,

Dr. Kim Falinski

Water Resources Research Center, University of Hawai'i at Manoa

Honolulu, HI

SB-77-SD-1

Submitted on: 2/13/2023 4:09:43 PM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Alex Franco	Individual	Support	Written Testimony Only

Comments:

I support SB77

McCandless Ranch
Keith Unger

SB77, SD1 Support

McCandless Ranch strongly supports SB77, SD1 because it will keep ranchers in business.

It is essential to Hawaii that ranchers stay in business. Ranchers are everyday boots on the ground working to secure and increase Hawaii's local food production. Well managed ranch lands encourage healthy soils and coverages, is a barrier to invasive species, mitigates flood damage and minimizes fire hazards. Well managed soils sequester more carbon than well managed forests.

Should these ranch lands ever be taken back by DLNR, they will forever be lost to ranching and food production, and will deal a blow to Hawaii's Food Sustainability Goals.

The Hawaii Cattlemen's Council works tirelessly to attract and encourage young ranchers, but it is difficult. Transferring Ag lands to the Department of Agriculture ensures existing and future ranchers an opportunity to invest in the industry (or continue to invest) knowing that the state supports them with long term, ag friendly lease.

McCandless supports SB77 because it corrects loopholes in the original Act 90, (ie no longer requires mutual consent by both Department of Ag and DLNR and requires the Department of Agriculture to accept the transfer of all qualifying lands) and encourages open dialogue between the Department of Agriculture and DLNR in regard to easements and access to these lands.

In regard to SB77 SD1's requirement to commit to a conservation plan, not a problem because we are already doing the conservation work. Our livelihood depends on well managed lands.

The Act 90 concept of transferring working, qualified agricultural lands to the Department of Agriculture is long overdue. SB77 SD1 appropriately modernizes Act 90 to allow these transfers.

SB-77-SD-1

Submitted on: 2/13/2023 8:00:16 PM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Brendan Balthazar	Individual	Support	Written Testimony Only

Comments:

It is so sad that this is long over due. How can anyone do business with the possible loss of there land hanging over head. It is a shame that lands that have been in active agg for a long time some over 50 years still are not transfered to the right department. IF we didn't have a department of agg it is understandable. It is really puzzling why an agg operation should not be under the agg department.

Brendan Balthazar

Diamond B Ranch LLC

SB-77-SD-1

Submitted on: 2/14/2023 12:11:02 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Breanne Fong	Individual	Oppose	Written Testimony Only

Comments:

Dear Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Keith-Agaran, and members of the committees,

I OPPOSE SB77 which transfers nearly one hundred thousand acres of acres of public lands from the Department of Land and Natural Resources to the Department of Agriculture and removes the requirement that the Board and Land and Natural Resources’ review the suitability of parcels before the for transfer to the Department of Agriculture.

The transfer of these public lands to the Department of Agriculture—especially without Board of Land and Natural Resources’ discretion—may result in the loss of critical protections of public watershed lands and threaten the restoration and preservation of ecosystems that are home to native and endangered species and that can mitigate the impacts of our climate crisis.

I respectfully urge the committees to HOLD SB77. Mahalo nui for allowing me to testify on this important matter.

Sincerely,

Breanne Fong

Personal Testimony in SUPPORT of SB 77
RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LAND
by
Jenee S. Odani, DVM, DACVP

Aloha Chairs, Vice Chairs, and members of the committee:

My name is Jenee Odani, and I am the Extension Veterinarian with the University of Hawaii at Manoa's College of Tropical Agriculture and Human Resources, and resident of Pearl City. This testimony does not represent the position of the University of Hawaii nor CTAHR.

I am grateful for the opportunity to provide personal testimony in **SUPPORT of SB 77**.

Hawaii's cattle ranchers manage and preserve over 750,000 acres of rangeland. However, to properly manage these lands, ranchers need long-term land leases so they can continue to invest in improving the infrastructure. Ranchers play a "long game" and understand that they must sustainably manage the land to ensure the long-term success of their cattle operation. For this reason, I support the transfer of agricultural leases under DLNR to the Hawaii Department of Agriculture.

Thank you for the opportunity to testify on this matter.

SB-77-SD-1

Submitted on: 2/14/2023 4:31:58 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Virginia Tincher	Individual	Comments	Written Testimony Only

Comments:

Aloha Committee on Judiciary members and Committee on Ways and Means members,

I would like to submit the following comment regarding SB77 SD1 -

Please do not remove the BLNR from review of non-agricultural park lands under consideration for transfer from DLNR to HDOA

The BLNR has the expertise and responsibility to consider important values beyond agriculture when deciding what should be transferred. Many of the affected lands contain old-growth native forest, endangered species, public hunting, trails, historic sites, traditional and customary cultural practices, access to the shoreline and mauka lands, and other public trust values and are most appropriately managed under DLNR.

Mahalo for considering my testimony.

Virginia Tincher

Aina Haina, Oahu

SB-77-SD-1

Submitted on: 2/14/2023 5:45:19 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Taylor Kellerman	Individual	Support	Written Testimony Only

Comments:

Strongly support. Productive agricultural lands should be managed/utilized. Ranchers are proven stewards and will help carry us towards a more more food secure island state.

Taylor Kellerman

SB-77-SD-1

Submitted on: 2/14/2023 3:12:17 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Maki Morinoue	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Keith-Agaran, and members of the committees,

Thank you for this opportunity.

I OPPOSE SB77 and would like to ask you to HOLD SB77.

SB77 transfers nearly one hundred thousand acres of public lands from the Department of Land and Natural Resources to the Department of Agriculture. It removes the requirement that the Board and Land and Natural Resources review the suitability of parcels before they transfer to the Department of Agriculture.

The transfer of these public lands to the Department of Agriculture—especially without the Board of Land and Natural Resources’ discretion—may result in the loss of critical protections of public watershed lands and threaten the restoration and preservation of ecosystems that are home to native and endangered species and that can mitigate the impacts of our climate crisis.

I urge the committees to HOLD SB77.

Mahalo nui loa for your time.

Maki Morinoue

96725

SB-77-SD-1

Submitted on: 2/14/2023 6:22:42 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Woody Child	Individual	Support	Written Testimony Only

Comments:

I strongly Support SB 77. This has been going on for way to long!

SB-77-SD-1

Submitted on: 2/14/2023 6:44:31 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Bret Mossman	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Keith-Agaran, and members of the committees,

I OPPOSE SB77 which transfers nearly one hundred thousand acres of acres of public lands from the Department of Land and Natural Resources to the Department of Agriculture and removes the requirement that the Board and Land and Natural Resources' review the suitability of parcels before the for transfer to the Department of Agriculture.

The transfer of these public lands to the Department of Agriculture—especially without Board of Land and Natural Resources' discretion—may result in the loss of critical protections of public watershed lands and threaten the restoration and preservation of ecosystems that are home to native and endangered species and that can mitigate the impacts of our climate crisis.

I respectfully urge the committees to HOLD SB77. Mahalo nui for allowing me to testify on this important matter.

Sincerely,

Bret Mossman

SB-77-SD-1

Submitted on: 2/14/2023 7:29:15 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Megan Conley	Individual	Oppose	Written Testimony Only

Comments:

Dear Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Keith-Agaran, and members of the committees,

I OPPOSE SB77 which transfers nearly one hundred thousand acres of acres of public lands from the Department of Land and Natural Resources to the Department of Agriculture and removes the requirement that the Board and Land and Natural Resources' review the suitability of parcels before the for transfer to the Department of Agriculture.

The transfer of these public lands to the Department of Agriculture—especially without Board of Land and Natural Resources' discretion—may result in the loss of critical protections of public watershed lands and threaten the restoration and preservation of ecosystems that are home to native and endangered species and that can mitigate the impacts of our climate crisis.

Protecting our public watershed lands is critically important. I respectfully urge the committees to HOLD SB77. Mahalo nui for allowing me to testify on this important matter.

Sincerely,

Megan Conley

SB-77-SD-1

Submitted on: 2/14/2023 7:53:06 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Jason Moniz	Individual	Support	Written Testimony Only

Comments:

Chairs Dela Cruz, Rhoads, Vice Chairs Keith-Agaran, Gabbard and Members of the Committees,

Thank you for the opportunity to testify on SB77. We are Jason and Jeri Moniz, owners of KK Ranch a beef cattle ranch on a DLNR state lease at Hanaipoe on the northern slopes of Mauna Kea. Thank you for the opportunity to testify on SB77. We **strongly supports SB77** and support the transfer of pastoral leases under agriculture production to the management of the Department of Agriculture (HDOA). Hanaipoe, **nearly 200 years ago**, was the site where King Kamehameha III placed the first three Mexican vaqueros that arrived from California. These vaqueros taught the original paniolos how to herd cattle on horseback, and began bringing the free roaming cattle under managed controlled grazing. This was the start of the ranching of cattle as it is practiced and continues in Hawaii today.

It has been 20 years since Act 90 was passed and many of the pastoral leases, most that are utilized exclusively for cattle grazing with no so called "multi-use lands" as defined by the Act 90 Working Group, have still not been transferred. The Act 90 Working Group clearly recommended that those leases that are predominately or substantially in agriculture production should be transferred to HDOA. We believe that the HDOA is better suited to manage lands under agricultural production because they better understand producer needs and they are mandated to grow agricultural production in Hawaii. DLNR on the other hand clearly favors and focuses their efforts on protecting natural resources, particularly native flora and fauna through their Division of Forestry and Wildlife (DOFAW). DLNR'S administration and DOFAW have continuously criticize ungulates including livestock as being detrimental to their endeavors. We can't see how an agency that has consistently criticizes grazing livestock can also advocate for their continued existence.

The pastoral leases that have been grazed and maintained as open pastures are relatively free of exotic flora overgrowth and are very attractive to DOFAW for reforestation. This is in contrast to many of the State forest reserves that they manage that are badly overgrown with aggressive non-native species. DOFAW has clearly indicated that they desire to reforest many of the leases that have been in cattle production for almost 200 years versus rehabilitating the forest reserves already under their control. Left to their management we believe DOFAW does not has the resources to prevent these lands in pastoral leases from also becoming overgrown with exotics.

Cattle producers should not be punished and pushed aside from lands they have managed and stewarded for nearly 200 years. Proper grazing of livestock also provides other environmental

beneficial attributes like wildfire control and carbon sequestration. We believe SB77 will safeguard ranches and continue to promote those attributes and their continued contribution to agriculture production.

Thank you for your consideration and please support SB77.

SB-77-SD-1

Submitted on: 2/14/2023 9:07:42 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Gregory FRIEL	Individual	Support	Written Testimony Only

Comments:

Support of SB77

SB-77-SD-1

Submitted on: 2/14/2023 9:33:46 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Kristin Mack Almasin	Individual	Support	Written Testimony Only

Comments:

I support SB77. Ranchers are good stewards of the land and we need lease terms that will allow them to invest in infrastructure to properly manage the land.

SB-77-SD-1

Submitted on: 2/14/2023 9:53:27 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
John Latkiewicz	Individual	Support	Written Testimony Only

Comments:

Act 90 (2003) establishes a process to transfer non-agricultural park lands from DLNR to HDOA upon the mutual agreement of the Board of Land and Natural Resources (BLNR) and Board of Agriculture (BOA). SB77 seeks to amend Act 90 by removing the BLNR review of these parcels. The BLNR has the expertise and responsibility to consider important values beyond agriculture when deciding what should be transferred. **Many of the affected lands contain old-growth native forest, endangered species, public hunting, trails, historic sites, traditional and customary cultural practices, access to the shoreline and mauka lands, and other public trust values and are most appropriately managed under DLNR.**

SB-77-SD-1

Submitted on: 2/14/2023 10:05:15 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Elna Nagasako	Individual	Oppose	Written Testimony Only

Comments:

Dear Senator Rhoads, Senator Gabbard, Senator Dela Cruz, Senator Keith-Agaran, and members of the Committees,

I oppose SB77 because the unreviewed transfer of land from DLNR to DOA could irreversibly harm lands that are important for native species and cultural resources.

Mahalo,

Elna Nagasako
Makiki

SB-77-SD-1

Submitted on: 2/14/2023 10:18:06 AM

Testimony for JDC on 2/15/2023 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
J Ashman	Individual	Support	Written Testimony Only

Comments:

Please support this bill that will transfer certain agricultural leases from DLNR to DOA.

The affected producers that have successfully worked this land for decades, and in some cases, generations, cannot reasonably continue to invest in their farms/ranches or environmental stewardship on revocable 30-day permits.

Some of the arguments against the transfer to DOA, a sister agency with the same stewardship responsibilities, are disingenuous. Others, expressing valid concerns, have been addressed in this bill that contains mandatory resource conservation protections, etc.

The bottom line is that **DOA has the statutory authority and mission to provide viable lease terms to farmers and ranchers. DLNR does not.** And to give DLNR that authority without the mission makes no sense and would take years to enact, rulemake, and implement.

Please pass this long-overdue measure. Thank you.