

HCR96, HD2

REQUESTING THE UNITED STATES
DEPARTMENT OF THE INTERIOR FISH AND
WILDLIFE SERVICE TO WORK WITH AFFECTED
PERSONS AND COUNTIES IN ESTABLISHING
CRITICAL HABITAT DESIGNATIONS FOR
ENDANGERED SPECIES IN THE STATE.

NEIL ABERCROMBIE
GOVERNOR



Dean H. Seki
Comptroller

Maria E. Zielinski
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P.O. BOX 119
HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
DEAN H. SEKI, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEES
ON
ENERGY AND ENVIRONMENT; PUBLIC SAFETY, INTERGOVERNMENTAL AND
MILITARY AFFAIRS; AND WATER AND LAND
ON
April 19, 2013

H.C.R. 96, H.D. 2

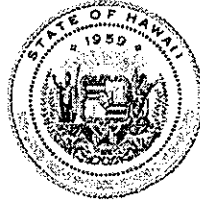
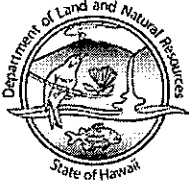
REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND
WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES IN
ESTABLISHING CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED
SPECIES IN THE STATE

Chairs Gabbard, Espero, Solomon, and members of the Committees, thank you for the
opportunity to submit written testimony on H.C.R. 96, H.D. 2.

The Department of Accounting and General Services supports the intent of H.C.R. 96,
H.D. 2 and respectfully requests that it be amended to also include a pending Federal designation
for endangered species habitat preservation areas in the general proximity of Kona, Hawaii
(because the pending Federal designation for the Kona, Hawaii area could seriously impact State
funded projects, such as the new Kona Judiciary Complex development and future Hawaii
Housing Finance Development Corporation residential developments).

Thank you for the opportunity to submit written testimony on this matter.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
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
KAIHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the Senate Committees on
ENERGY AND ENVIRONMENT
and
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS
and
WATER AND LAND**

**Friday, April 19, 2013
3:30 P.M.
State Capitol, Conference Room 225**

**In consideration of
HOUSE CONCURRENT RESOLUTION 96, HOUSE DRAFT 2
REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND
WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES IN
ESTABLISHING CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED
SPECIES IN THE STATE**

House Concurrent Resolution 96, House Draft 2 requests the United States Department of the Interior Fish and Wildlife Service (USFWS) to work with affected persons and counties in establishing critical habitat designations for endangered species in the State. **The Department of Land and Natural Resources (Department) supports this resolution.**

When a species is proposed for listing as endangered or threatened under the Endangered Species Act, USFWS must consider whether there are areas of habitat that the Department believes are essential to the species' conservation. Critical habitat is a specific geographic area(s) that contains features essential for the conservation of a threatened or endangered species and that may require special management and protection. An area is designated as critical habitat after USFWS publishes a proposed federal regulation in the Federal Register and considers public comments on the proposal. The final boundaries of the critical habitat area are also published in the Federal Register.

USFWS must take into consideration the potential economic impact, as well as any other benefits or impacts, of specifying any particular area as critical habitat. USFWS may exclude any area from critical habitat if it is determined that the benefits of excluding it outweigh the

benefits of specifying the area as part of critical habitat, unless we determine that the failure to designate the area as critical habitat will result in the extinction of the species.

Through the above mentioned processes, USFWS currently works with affected persons and counties in establishing critical habitat designations for endangered species in the state. Therefore, the Department supports this resolution.



The Judiciary, State of Hawaii

**Testimony to the
Senate Committee on Energy and Environment**
Senator Mike Gabbard, Chair
Senator Russell E. Ruderman, Vice Chair

Senate Committee on Public Safety, Intergovernmental and Military Affairs
Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair

Senate Committee on Water and Land
Senator Malama Solomon, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Friday, April 19, 2013, 3:30 p.m.
State Capitol, Conference Room 225

WRITTEN TESTIMONY ONLY

by
Rodney A. Maile
Administrative Director of the Courts

Bill No. and Title: House Concurrent Resolution No. 96, H.D. 2, Requesting the United States Department of the Interior Fish and Wildlife Service to Work with Affected Persons and Counties in Establishing Critical Habitat Designations for Endangered Species in the State.

Judiciary's Position:

The Judiciary supports the intent of House Concurrent Resolution No. 96, H.D.2. The site selected for the new Judiciary Kona complex is also being impacted. The Judiciary believes the requested collaboration would be beneficial.

Thank you for the opportunity to provide comments on this measure.

NEIL ABERCROMBIE
GOVERNOR



KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

WRITTEN ONLY

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

**SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL
AND MILITARY AFFAIRS
SENATE COMMITTEE ON WATER AND LAND**

April 19, 2013 at 3:30 p.m.
State Capitol, Room 225

In consideration of

**H.C.R 96, H.D. 2
REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND
WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES IN
ESTABLISHING CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED
SPECIES IN THE STATE.**

The HHFDC ***supports the intent*** of H.C.R. 96, H.D. 2. The Kamakana Villages at Keahuolu residential development in Kona is also being impacted by the U.S. Fish and Wildlife Service's Critical Habitat Designations process. HHFDC believes that the requested collaboration would be beneficial.

Thank you for the opportunity to provide written comments in support of this Concurrent Resolution.



Hawaii Cattlemen's Council, Inc.

P O Box 437199 Kamuela HI 96743
Phone (808) 885-5599 • Fax (808) 887-1607
e-mail: HCattlemens@hawaii.rr.com

SENATE COMMITTEE ON ENERGY & ENVIRONMENT SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS, SENATE COMMITTEE ON WATER & LAND

Friday April 19, 2013 3:30 p.m. Room 225

HCR 96 HD 2 CRITICAL HABITAT DESIGNATION

REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES IN ESTABLISHING CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED SPECIES IN THE STATE.

Chairs Gabbard, Espero and Solomon; Vice Chairs and Members of the Committees:

My name is Alan Gottlieb, and I am a rancher and the Government Affairs Chair for the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ 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 approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council **strongly supports** HCR 96 HD 2.

Ranchers, farmers, private landowners, DLNR and Maui County have made some strong comments to the U.S. Fish & Wildlife Service (FWS). What we hope from your resolution is that you send a strong message to FWS of your concerns. Without an EIS, we feel FWS will continue to ignore our concerns.

This resolution is NOT about monk seals or Honu. It IS about FWS, with a broad stroke, painting a red circle around 41% of Maui, without ever stepping foot on much of the ground they are designating. They either do not realize or do not care that the endangered species they want to protect do not live and CANNOT live on much of this land.

FWS continues to say that it will only impact lands that have a Federal Nexus (which they say is rare). To the contrary, much of this land does have a Federal Nexus. Many ranchers and farmers participate in the Natural Resource Conservation Service (NRCS) conservation programs, cost sharing for water and soil erosion prevention. With a Critical Habitat Designation (CHD) on their land, cost share conservation programs can be stalled or even stopped.

Cattlemen are good stewards of the land because our livelihoods depend on it and it's the right thing to do. Many of our ranches are family owned and multi-generational; our legacies are the well managed lands we leave behind.

A primary value of the ranching industry to the people of Hawaii is the eco-system services that this managed land provides to our community, including: aesthetic values and scenic vistas, water catchment and infiltration, carbon sequestration, habitat enhancement and preservation, fire suppression through fuel load

management, soil conservation, preservation of cultural values, potential for additional access and recreational opportunities, etc.

We are acutely aware of the importance of well managed wildlife habitat and watershed areas. We are concerned, however that if private lands are included in such a massive designation of critical habitat, this may have a negative effect on our economy, our property values and the use of our land. Ultimately, designating critical habitat on private property may negatively affect the species we are trying to protect.

Currently, the State is advocating food sustainability and encouraging agricultural enterprises. The designation of critical habitat could close pastures and force a rancher to decrease their herd size. This will have a direct and negative impact on existing agricultural operations and is a complete reversal from current State policy.

We feel that excluding private property from a critical habitat designation, in many cases, will outweigh the benefits of including these areas. For the difficult task of conservation work in Hawaii, cattlemen can be the greatest asset as can be attested to by our ongoing participation in conservation work throughout the State. Ranchers are an integral part of many of the Watershed Partnerships around the State working together to implement projects to help habitat restoration and listed species while at the same time accommodating economically beneficial land uses. Designating land as critical habitat will make it more difficult for these valuable partnerships to function because of the delays associated with ESA consultations over effects on critical habitat and the inflexible requirements that there be no adverse modification of critical habitat.

In U.S. Fish and Wildlife's June 11, 2012 News Release soliciting comments, they state, "The designation of Critical Habitat does not adversely affect land ownership..." This is a misleading statement. When the Federal Government draws a red circle around private property and declares it critical habitat, the requirement that there be no adverse modification of critical habitat will have a direct and negative effect on the value and the use of that property. A rancher's property is the security used to borrow money, and when devalued for any reason, could create a devastating economic hardship and dissolve many economically marginal ranches.

Very few affected ranchers or other private landowners had been contacted by USFWS or even knew this process is happening until HCC contacted them. Many do not understand what critical habitat is or what the ramifications are, causing anxiety in the ranching and landowner community. FWS finally did hold meetings, but continues to downplay the effects on private property. We have made our official comments, but FWS continues on without regard to what we believe are very valid concerns.

Thank you for giving me the opportunity to testify in favor of this very important issue.

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Marjorie Ziegler	Conservation Council for Hawai'i	Oppose	No

Comments: This resolution is unnecessary. The federal Endangered Species Act requires the U.S. Fish and Wildlife Service to conduct an economic analysis for the designation of critical habitat. This will involve land uses that may be affected by the designation.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

"Building Better Communities"

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Ryan Engle
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Scotty Anderson
Pacific Rim Partners

W. Bruce Barrett
Castle & Cooke Homes Hawaii, Inc.

**Testimony to the Senate Committees on
Energy and Environment, Public Safety, Intergovernmental and Military
Affairs, Water and Land
Friday, April 19, 2013
3:30 pm
State Capitol - Conference Room 225**

**RE: HCR 96 HD 2, REQUESTING THE UNITED STATES
DEPARTMENT OF INTERIOR FISH AND WILDLIFE SERVICE TO
WORK WITH AFFECTED PERSONS AND COUNTIES IN ESTABLISHING
CRITICAL HABITAT DESIGNATION FOR ENDANGERED SPECIES IN
THE STATE**

Dear Chairs Gabbard, Espero and Solomon and Vice Chairs Ruderman, Baker and Shimabukuro, and members of the Committees:

My name is Gladys Marrone, Director of Government Relations for the Building Industry Association of Hawaii (BIA-Hawaii), the voice of the construction industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, affiliated with the National Association of Home Builders.

BIA-Hawaii **strongly supports** HCR 96, HD 2. The resolution requests the United States Department of the Interior Fish and Wildlife Service to work with affected persons and counties in establishing Critical Habitat Designations for endangered species in the State. The resolution also requires that as part of its collaboration with affected persons and counties, the Department of the Interior Fish and Wildlife Service prepare an environmental assessment of its proposed Critical Habitat Designation and, if the assessment reveals issues that merit further investigation, prepare an environmental impact statement.

We believe that the entire process used by the U.S. Fish and Wildlife Service in how they identify potential critical habitat sites needs to be vetted in an open and transparent public process. As of December 31, 2011, the land use classifications Statewide were as follows:

Land Use Classification	Acres	% of Total
Urban	198,622	4.83%
Conservation	1,973,846	47.99%
Agricultural	1,928,318	46.89%
Rural	11,602	0.28%
Total	4,112,388	100%

Mailing address: P.O. Box 970967, Waipahu, HI 96797 Street address: 94-487 Akoki St., Waipahu, HI 96797-0967;
Telephone: (808) 847-4666 Fax: (808) 440-1198 E-mail: info@biahawaii.org; www.biahawaii.org

In view of the level of protection already afforded lands within the State Conservation District, it would appear that focusing on these lands **first** to identify potential critical habitat may provide policy makers with a broader view of how to manage the designation of critical habitats. In addition, it would provide some indication of areas that may be needed to supplement those areas already designated critical habitat on lands that are within the State Conservation District.

It would seem reasonable that *all of the state Conservation zoned lands should be assessed before any lands other lands are considered for designation*. Furthermore, assessing conservation zoned lands first would minimize impacts on infrastructure investment and land use planning at both the State and County levels.

There also seems to be disproportionate amount of Federal Lands being considered for designation. According to the Data Book, the Federal government owned approximately 321,400 acres of land in 2007 out of the total approximately 4,112,388 acres in the state, or approximately 7.82%. In Kona the proposed critical habitat for the three plant species involves approximately 18,766 acres in seven (7) separate units on Hawaii Island. The seven (7) units have been identified as follows:

Proposed Critical Habitat Area	Size in Acres	State	Federal	County	Private
Unit 10	2,914	2,914			
Unit 31	9,936	7,101			2,834
Unit 32	1,779	21			1,758
Unit 33	1,583	1,080			502
Unit 34	961	259			702
Unit 35	1,192	606		19	568
Unit 36	402	5	397		
Total	18,766	11,986	397	19	6,364

The federal lands identified are approximately 2.11% of the total acreage under consideration.

Consideration of urban or lands planned for urban growth for potential critical habitat designation should only occur after all other sites which are already protected through zoning have been thoroughly exhausted.

Thank you for this opportunity to express our views.



Hawaii's Agricultural Partnership

HCR 96 HD 2

SENATE COMMITTEE ON ENERGY & ENVIRONMENT - SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS - SENATE COMMITTEE ON WATER & LAND

REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES IN ESTABLISHING CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED SPECIES IN THE STATE.

Chairs Gabbard, Espero and Solomon; Vice Chairs and Members of the Committees:

4 Ag Hawaii strongly supports HCR 96 HD 2

The US Fish and Wildlife Service is currently designating critical habitat for endangered species on all the islands.

Some of these proposed areas are on private property, some on state-owned parcels that may be leased to farmers and ranchers, and some are within irrigation water lease areas.

Because of the potential negative impacts to farmers and ranchers, including complete loss of land use, we believe this is a "taking" of land without compensation.

We are not opposed and encourage the designation of critical habitat for endangered species in appropriate areas such as public lands that are set aside to provide for preservation or rehabilitation, or private lands where the landowner voluntarily agrees to the designation.

4 Ag Hawaii is a non-profit 501[c] [3] corporation established as a public-private partnership focused on goals that include: promoting the agricultural economic welfare of Hawai'i and its counties; conducting agricultural economic; educational & media programs, and fostering statewide interest for responsible agricultural economic development of our islands.

Thank you for the opportunity to provide testimony on this matter.



Hawaii Farm Bureau
F E D E R A T I O N

2343 Rose Street • Honolulu, Hawaii 96819
Phone: (808) 848-2074 • Neighbor-Islands: (800) 482-1272
Fax: (808) 848-1921 • Email: info@hfbf.org
www.hfbf.org

April 19, 2013

SENATE COMMITTEES
on
ENERGY AND ENVIRONMENT
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS
and
WATER & LAND

TESTIMONY ON HCR 96 HD2

REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE TO WORK WITH
AFFECTED PERSONS AND COUNTIES IN ESTABLISHING CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED
SPECIES IN THE STATE

Room 225
3:30 PM

NOTICE OF HEARING

DATE: Friday, April 19, 2013
TIME: 3:30 p.m.
PLACE: Conference Room 225

Chairs Gabbard, Espero, Solomon, Vice Chairs Ruderman, Baker, Shimabukuro, and Members of the Committees:

I am Dean Okimoto, President of the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is comprised of approximately 2,000 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate, and advance the social, economic, and educational interests of our diverse agricultural community.

HFBF strongly supports HCR 96 and respectfully requests that you *pass this resolution (and title) in as strong language as possible* to send a clear message to the U.S. Fish and Wildlife Service (FWS), to work with affected landowners to ensure that critical habitat for endangered species in Hawaii is designated (CHD) *in a reasonable manner* and does not impede food production in the islands.

The reason this resolution is before you is that FWS has proposed CHDs that are inappropriate, unjustified, and that threaten the continued viability of farms and ranches. The agency is currently in the process of finalizing the designations.

HFBF is convinced that FWS did not use the required “best scientific data available” to propose these designations. We are concerned that this will set dangerous precedent for further upcoming Hawaii designations.

We strongly support the current resolution and offer two amendments for clarity. The titles and text of the original resolutions were amended after a House hearing and we respectfully request that the title include the word “reasonable” before the words “critical habitat designations” and we request that one of the clauses that was deleted (below) be inserted back into the resolution:

WHEREAS, the proposed Critical Habitat Designation has the potential to adversely affect landowners due to restrictions on future use, lower property values, and increased lawsuits by activists; it may also require costly and lengthy consultations between affected parties and government agencies, stymie decision-making by state and county governments, jeopardize the ability to farm and ranch, hinder sustainability practices, and hurt the relationship between the public and the federal government; and

This clause is accurate and important because it articulates how the over-reaching by FWS in its current designation proposal for Maui is likely to result in very real detrimental consequences to farmers, ranchers, and the economy and goals of the State. The message to FWS should be clear--these designations are inappropriate and must be scaled back reasonably. Failure to make significant revisions to the proposal could lead to costly and lengthy litigation.

HFBF and others have previously submitted both oral and written comments to FWS expressing our concerns about the proposed critical habitat designation (CHD). These concerns have not been addressed.

- **Lack of adequate notice.** Basic procedural omissions were made by FWS in its proposed CHD for Maui Nui. Many affected private property owners, including farmers and ranchers, were not provided notification of the proposed rule. Information contained in the Federal Register notice was wholly inadequate to allow farmers and ranchers (and others) to determine if their properties were being proposed for designation. Given the significance of the proposed CHD, FWS should have notified each party of the proposed rule.
- **Unacceptable impacts.** CHD threatens to adversely impact farmers and ranchers due to potential restrictions on future use, adverse impact on land value and mortgagability, and State-mandated downzoning of property to conservation classification.
- **Irrigation water impacts.** Some of the proposed areas for CHD are State-owned parcels that are leased to farmers and ranchers. Some are within irrigation water lease areas,

critical to our farmers and ranchers; raising fears about diminished irrigation water availability, especially important in this time of severe and prolonged drought. These areas must be removed from the proposed CHD.

- **Erroneous use of the “probable range” of the Blackburn’s sphinx moth.** It is inappropriate and unsupportable to use the “probable range” of the moth to minimize the projected impact of the proposed CHD.
- **Inappropriate proposed designations.** Significant portions of the proposed critical habitat areas are not occupied by endangered species, and some are clearly not suitable habitat (for example, a Piiholo Maui housing subdivision and portions of a well-used golf course). We do not understand how these areas meet the Endangered Species Act requirement of being “essential for the conservation of the species.”
- **Grossly inadequate quantification of economic impacts.** Indirect impacts to farmers and ranchers and the State are recognized by FWS as significant (“major”) but have not been quantified by FWS. These include the very real potential for litigation to force active – and cost prohibitive - management of lands for the protection of endangered species and potential restrictions on current or future land uses imposed through state and local discretionary approvals.
- **Need to realistically assess needs of species and scale back proposed designations.** We understand the need to designate sufficient critical habitat to allow for the recovery of endangered species. However, the current proposal is far too extensive, does not adequately consider impacts and costs to landowners, and must be scaled back based on a more realistic assessment of the needs of the species.
- **An EIS should be prepared** to consider the economic, social, cultural (including native Hawaiian) historic, health, and ecological effects of the designation, as well as alternatives.

We strongly believe that FWS should reevaluate the ecosystem-based management units of possible habitat for the Maui Nui species by focusing on those areas that are essential for the conservation of the species and by eliminating areas that are not occupied by endangered species and do not currently contain the requisite primary constituent elements, especially farming and grazing lands. FWS itself, in its economic analysis of the direct effects of the CHD, states that “the Service anticipates that areas that currently support farming and grazing activities are not likely to support the physical and biological features of critical habitat for the Maui Nui species.” With that acknowledgment, we seriously question why Hawaii’s farms and ranches are proposed for designation.

Thank you for the opportunity to testify in **strong support** of this measure, especially with one of the clauses from the former draft reinserted. We also thank you for your continued support of Hawaii’s farmers and ranchers.

HCR96

Submitted on: 4/18/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Warren Watanabe	Maui County Farm Bureau	Support	No

Comments:

HCR96

Submitted on: 4/18/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Jim Greenwell	Palani Ranch Co Inc	Support	No

Comments: The testimony from the Hawaii Cattlemens Council is precisely on target, We strongly support this reso.

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Karin Carswell Guest	Kauai Cattlemen's Association	Support	No

Comments:

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Frances Kama-Silva	Barbed S Ranch	Support	No

Comments:

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
britt craven	palani ranch	Support	No

Comments:

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
David S De Luz Jr	Kukaiiau Ranch LLC	Support	No

Comments: SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS, SENATE COMMITTEE ON WATER & LAND Friday April 19, 2013 3:30 p.m. Room 225 HCR 96 HD 2 CRITICAL HABITAT DESIGNATION REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES IN ESTABLISHING CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED SPECIES IN THE STATE. Chairs Gabbard, Espero and Solomon; Vice Chairs and Members of the Committees: My name is Davdi S. De Luz, Jr and I represent Kukaiiau Ranch in the District of Hamakua on the Big Island and i strongly support HCR 96 HD 2. Ranchers, farmers, private landowners, DLNR and Maui County has made some strong comments to the U.S. Fish & Wildlife Service (FWS). What we hope from your resolution is that you send a strong message to FWS of your concerns. Without an EIS, we feel FWS will continue to ignore our concerns. This resolution is NOT about monk seals or Honu. It IS about FWS, with a broad stroke, painting a red circle around 41% of Maui, without ever stepping foot on much of the ground they are designating. They either do not realize or do not care that the endangered species they want to protect do not live and CANNOT live on much of this land. FWS continues to say that it will only impact lands that have a Federal Nexus (which they say is rare). To the contrary, much of this land does have a Federal Nexus. Many ranchers and farmers participate in the Natural Resource Conservation Service (NRCS) conservation programs, cost sharing for water and soil erosion prevention. With a Critical Habitat Designation (CHD) on their land, cost share conservation programs can be stalled or even stopped. Cattlemen are good stewards of the land because our livelihoods depend on it and it's the right thing to do. Many of our ranches, like ours are family owned and multi-generational; our legacies are the well managed lands we leave behind. A primary value of the ranching industry to the people of Hawaii is the eco-system services that this managed land provides to our community, including: aesthetic values and scenic vistas, water catchment and infiltration, carbon sequestration, habitat enhancement and preservation, fire suppression through fuel load management, soil conservation, preservation of cultural values, potential for additional access and recreational opportunities, etc. We are acutely aware of the importance of well managed wildlife habitat and watershed areas. We are concerned, however that if private lands are included in such a massive designation of critical habitat, this may have a negative effect on our economy, our property values and the use of our land. Ultimately, designating critical habitat on private property may negatively affect the species we are trying to protect. Currently, the State is advocating food sustainability and encouraging agricultural enterprises. The designation of critical habitat could close pastures and force a rancher to decrease their herd size. This will have a direct and

negative impact on existing agricultural operations and is a complete reversal from current State policy. I feel that excluding private property from a critical habitat designation, in many cases, will outweigh the benefits of including these areas. For the difficult task of conservation work in Hawaii, cattlemen can be the greatest asset as can be attested to by our ongoing participation in conservation work throughout the State. Ranchers are an integral part of many of the Watershed Partnerships around the State working together to implement projects to help habitat restoration and listed species while at the same time accommodating economically beneficial land uses. Designating land as critical habitat will make it more difficult for these valuable partnerships to function because of the delays associated with ESA consultations over effects on critical habitat and the inflexible requirements that there be no adverse modification of critical habitat. In U.S. Fish and Wildlife's June 11, 2012 News Release soliciting comments, they state, "The designation of Critical Habitat does not adversely affect land ownership..." This is a misleading statement. When the Federal Government draws a red circle around private property and declares it critical habitat, the requirement that there be no adverse modification of critical habitat will have a direct and negative effect on the value and the use of that property. A rancher's property is the security used to borrow money, and when devalued for any reason, could create a devastating economic hardship and dissolve many economically marginal ranches. Very few affected ranchers or other private landowners had been contacted by USFWS or even knew this process is happening until HCC contacted them. Many do not understand what critical habitat is or what the ramifications are, causing anxiety in the ranching and landowner community. FWS finally did hold meetings, but continues to downplay the effects on private property. We have made our official comments, but FWS continues on without regard to what we believe are very valid concerns. Thank you for giving me the opportunity to testify in favor of this very important issue.

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Keith Unger	McCandless Ranch	Support	No

Comments: McCandless Ranch strongly supports HCR 96 HD 2. The proposed FWS critical habitat designation for Maui Nui will impact over 41% of the Island of Maui. As with any proposal of this magnitude, at the very least an Environmental Assessment should be required.

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Ron Weidenbach	Hawaii Aquaculture and Aquaponics Association	Support	No

Comments: This concurrent resolution brings an extremely important matter to the attention of all relevant parties in hopes of achieving a more reasonable balance between endangered species protection and basic human and economic survival. The ability to grow food and other very important land uses should be weighted very carefully against such well intended but sometimes over zealous critical habitat designations.

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Harry von Holt	Ponoholo Ranch, Ltd	Support	No

Comments:

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Phyllis Shimabukuro-Geiser	Mikilua Poultry Farm Inc	Support	No

Comments:

HCR96

Submitted on: 4/18/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Roland Silva	Ka"ala Ranch	Support	No

Comments:

HCR96

Submitted on: 4/18/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Jimmy Gomes	Ulupalakua Ranch	Support	No

Comments:



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HCR 96 HD2

REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES IN ESTABLISHING CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED SPECIES IN THE STATE

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

APRIL 19, 2013

Chair Gabbard, Chair Espero, Chair Solomon, and Members of the Senate Committees on Energy & Environment, Public Safety, Intergovernmental & Military Affairs, and Water & Land:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HCR 96 HD2, "REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES IN ESTABLISHING CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED SPECIES IN THE STATE." We support this resolution.

The purpose of this resolution is to request that the U. S. Department of Fish & Wildlife work with affected persons and Counties in establishing reasonable Critical Habitat Designations for endangered species.

The U.S. Fish & Wildlife Service has proposed to designate approximately 271,062 acres in Maui County as critical habitat for endangered species. We understand that if designated, this would more than double the extent of critical habitat

in Maui County, and would result in over 40% of all the land on the island of Maui being designated as critical habitat for endangered species.

The designation of critical habitat plays an important role in the recovery of endangered species. Nevertheless, we believe that such designations should be firmly supported by sound science, including careful consideration of the recovery needs of the species and a thorough evaluation of the characteristics of the land proposed for designation to ensure that all such lands, particularly those that are privately owned and those that are not presently occupied by endangered species, truly provide habitat that are essential to the recovery of the species.

Based on the aforementioned, we respectfully request your favorable consideration on these resolutions. Thank you for the opportunity to testify.

SENATE COMMITTEE ON ENERGY & ENVIRONMENT
SENATE COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL AND MILITARY AFFAIRS,
SENATE COMMITTEE ON WATER & LAND

Friday April 19, 2013 3:30 p.m. Room 225

HCR 96 HD 2 CRITICAL HABITAT DESIGNATION
REQUESTING THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND
WILDLIFE SERVICE TO WORK WITH AFFECTED PERSONS AND COUNTIES IN
ESTABLISHING CRITICAL HABITAT DESIGNATIONS FOR ENDANGERED SPECIES
IN THE STATE.

Chairs Gabbard, Espero and Solomon; Vice Chairs and Members of the Committees:

My name is Alex Franco I'm with Maui Cattle Company (MCC) a small beef processing operation, which markets locally produced beef and work with a numbers of cattle ranching operation on Maui and the Big Island. I am also President of the Hawaii Cattlemen's Council (HCC).

Maui Cattle Company **strongly supports** HCR 96 HD 2.

HCC and MCC have expressed several major concerns with the proposed critical habitat designation for the Maui Nui listing. To date, our comments have not been addressed in a manner that reflects or acknowledges our concerns. In addition to our oral statements, HCC will submit formal written comments on the Draft Economic Analysis. I am hopeful that this can be the start of a dialog and the beginning of a collaborative approach to designating critical habitat. I believe the most successful process will be one that includes and values the contributions of key stakeholders such as private property owners, and we welcome the opportunity to work with USFWS.

It is my understanding that the proposed rule designating critical habitat for the Maui Nui species does not comply with the legal requirements for designation. The designation of critical habitat must be based on "the best scientific data available," and requires a balancing of often widely different interests, which in turn requires public input in the collection and analysis of a broad range of information. In designating critical habitat, the Endangered Species Act requires the Fish and Wildlife Service to consider "the economic impact, and any other relevant impact, before specifying any particular area as critical habitat." Overall, we view critical habitat designation as a refinement process—beginning with the possible habitat locations in the Proposed Rule. The next steps would

be to refine locations until the only areas designated as critical habitat are those essential to the conservation of the species after consideration of biological information like current species locations, status of primary constituent elements, and economic and other relevant impacts. Throughout the process, the scope and approach to impact evaluation needs to be discussed with landowners that may be significantly affected.

The first step in the process should be to refine the area of suitable habitat based on key physical and biological components of the habitat for the Maui Nui species. The Fish and Wildlife Service has chosen to use a broad ecosystem-based approach that includes a large amount of habitat on private land that is likely unoccupied, arguing that such a sweeping proposal is necessary for effective management, to organize the proposed rule efficiently, and to avoid a confusing patchwork of critical habitat areas that would be difficult for the public to interpret. While this may sound good in the abstract, the result has been an overly broad proposal to designate critical habitat, which is causing grave concern to private landowners. We assert that making management or rule-making easier is not the goal of the ESA or a sound basis for critical habitat designation.

The Fish and Wildlife Service should reevaluate the ecosystem-based management units of possible habitat for the Maui Nui species by focusing on only those areas that are essential for the conservation of the species and eliminating areas that do not currently contain the primary constituent elements, especially grazing land.

Private grazing lands have been included in the Proposed Rule simply because they are geographically located within the historic range of the species. Although the Fish and Wildlife Service may find them to be located where they would like to reintroduce populations, those lands do not currently meet the standard of containing all of the essential primary constituent elements. The claim that these lands are needed for expansion of populations does not make sense because, by the Fish and Wildlife Service's definition, expansion is impossible in areas containing non-native ungulates, including cattle. Therefore, much of the land that is proposing to be designated as critical habitat for future use by the species is actually unusable by the species according to the Fish and Wildlife Service standards. WE urge the Service to refine the areas of proposed critical habitat to property essential to the conservation of the species.

I would like to close by thanking you for allowing me to give written testimony. Ranchers in Hawaii have extensive on the ground experience with land stewardship, and we welcome the opportunity to contribute our working knowledge of this area, and our opinions as stakeholders, to the critical habitat designation and listing processes.

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Brown	Individual	Oppose	No

Comments:

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Lyn Howe	Individual	Support	No

Comments:

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Ashley M. Stokes	Individual	Support	No

Comments: Chairs Gabbard, Espero and Solomon; Vice Chairs and Members of the Committees: My name is Ashley Stokes, and I am a veterinarian that works closely with our local ranchers and am an active member of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ 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 approximately 25% of the State's total land mass. The Hawaii Cattlemen's Council strongly supports HCR 96 HD 2. Ranchers, farmers, private landowners, DLNR and Maui County has made some strong comments to the U.S. Fish & Wildlife Service (FWS). What we hope from your resolution is that you send a strong message to FWS of your concerns. Without an EIS, we feel FWS will continue to ignore our concerns. This resolution is NOT about monk seals or Honu. It IS about how the FWS develops critical habitat and the methods of inclusion of land owners in the process. FWS continues to say that it will only impact lands that have a Federal Nexus (which they say is rare). To the contrary, much of this land does have a Federal Nexus. Many ranchers and farmers participate in the Natural Resource Conservation Service (NRCS) conservation programs, cost sharing for water and soil erosion prevention. With a Critical Habitat Designation (CHD) on their land, cost share conservation programs can be stalled or even stopped. Cattlemen are good stewards of the land because our livelihoods depend on it and it's the right thing to do. Many of our ranches are family owned and multi-generational; our legacies are the well managed lands we leave behind. A primary value of the ranching industry to the people of Hawaii is the eco-system services that this managed land provides to our community, including: aesthetic values and scenic vistas, water catchment and infiltration, carbon sequestration, habitat enhancement and preservation, fire suppression through fuel load management, soil conservation, preservation of cultural values, potential for additional access and recreational opportunities, etc. We are acutely aware of the importance of well managed wildlife habitat and watershed areas. We are concerned, however that if private lands are included in such a massive designation of critical habitat, this may have a negative effect on our economy, our property values and the use of our land. Ultimately, designating critical habitat on private property may negatively affect the species we are trying to protect. Currently, the State is advocating food sustainability and encouraging agricultural enterprises. The designation of critical habitat could close pastures and force a rancher to decrease their herd size. This will have a direct and negative impact on existing agricultural operations and is a complete reversal from current State policy. We feel that excluding private property from a critical habitat designation, in many cases, will outweigh the benefits of including these areas. For the difficult task of conservation work in Hawaii, cattlemen can be the greatest asset as can

be attested to by our ongoing participation in conservation work throughout the State. Ranchers are an integral part of many of the Watershed Partnerships around the State working together to implement projects to help habitat restoration and listed species while at the same time accommodating economically beneficial land uses. Designating land as critical habitat will make it more difficult for these valuable partnerships to function because of the delays associated with ESA consultations over effects on critical habitat and the inflexible requirements that there be no adverse modification of critical habitat. In U.S. Fish and Wildlife's June 11, 2012 News Release soliciting comments, they state, "The designation of Critical Habitat does not adversely affect land ownership..." This is a misleading statement. When the Federal Government draws a red circle around private property and declares it critical habitat, the requirement that there be no adverse modification of critical habitat will have a direct and negative effect on the value and the use of that property. A rancher's property is the security used to borrow money, and when devalued for any reason, could create a devastating economic hardship and dissolve many economically marginal ranches. Very few affected ranchers or other private landowners had been contacted by USFWS or even knew this process is happening until HCC contacted them. Many do not understand what critical habitat is or what the ramifications are, causing anxiety in the ranching and landowner community. FWS finally did hold meetings, but continues to downplay the effects on private property. We have made our official comments, but FWS continues on without regard to what we believe are very valid concerns. Thank you for giving me the opportunity to testify in favor of this very important issue.

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Keith Unger	Individual	Support	No

Comments: My name is Keith Unger and I am the manager for McCandless Ranch and the Land Issues Chairman for the Hawaii Cattlemen's Council. I stongly support HCR 96 HD2. HCC, the Maui Cattlemen's Association and many of our members statewide recognized early in the process the huge impact such a desgination could have on the state of Hawaii. The Maui Nui designation is only the beginning. The status of the 'i'iwi is currently being considered endangered by FWS with Critical Habitat designations to follow. With a population of 350,000 'i'iwi on the Big Island, 20,000 on Maui and 10,000 on Kauai, thousands of additional acres throughout the state may soon be designated as well, further compromising Hawaii's ability to manage our own lands. At the very least, an Environmental Assesseent should be required by FWS prior to finalizing critical habitat designations for Maui Nui as well as any future proposed CH designations.

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Matt Stevenson	Individual	Support	No

Comments:

HCR96

Submitted on: 4/17/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

TO: Senate Committees on Energy & Environment; Public Safety, Intergovernmental & Military Affairs; Water & Land

RE: HCR96, HD2(HSCR1457) Requesting the US Department of the Interior, Fish and Wildlife Service To Work With Affected Persons and Counties in Establishing Critical Habitat Designations For Endangered Species in the State. Friday, April 19, 2013; 3:30pm; Room 225

FROM: Jalna Keala, Concerned citizen

Aloha Senators; I wish to support this resolution and make some additional comments. The Department of Interior through the Fish and Wildlife Service (FWS) in Hawaii has an incredible amount of precious land under its jurisdiction and apparently is poised to double the amount. Please do not allow this to happen regardless of whether these are private or public lands.

Please do not just accept, but demand to know the FWS definitions of "endangered species" and how and where this applies to Hawaii. Are these species flora, fauna, mammal, bird, fish or more? How endangered are they? Please evaluate those lands already under FWS jurisdiction and see for yourselves if they are good stewards, or simply grabbing and holding land because they can.

The legislature in recent years has expressed concern over the need for Hawaii to more efficiently produce our own food supplies. Example, we have seen formerly productive Hawaiian fishponds become marshes in the name of becoming sanctuaries for endangered birds. At full production, those fishponds have the ability to produce hundreds of pounds of fish per acre and, as you know, some of ponds are as large as several hundred acres. The equation is said to be 400 pounds of fish per acre per year. Do the math...

Thankfully this resolution expresses caution with regard to FWS and to that I would add, use **Extreme Caution**. Insist upon environmental and cultural impact assessments and statements according to Hawaii State law. Put your stress on food production and ask FWS for a determination of what they are and how endangered are the species and habitats "at risk".

Thank you for the opportunity to provide comments.

Jalna Keala; 5019 Poola Street, Honolulu, HI; 96821; jalna.keala2@hawaiiantel.net

HCR96

Submitted on: 4/18/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Jared Dmello	Individual	Support	No

Comments:

HCR96

Submitted on: 4/18/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Calvin Wong	Individual	Support	No

Comments:

HCR96

Submitted on: 4/18/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Gregory Friel	Individual	Support	No

Comments:

HCR96

Submitted on: 4/18/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Councilmember Don Couch	Individual	Support	No

Comments:

HCR96

Submitted on: 4/18/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Michael P. Victorino	Individual	Support	No

Comments:

Council Chair
Gladys C. Baisa

Vice-Chair
Robert Carroll

Council Members
Elle Cochran
Donald G. Couch, Jr.
Stacy Crivello
Don S. Guzman
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
David M. Raatz, Jr., Esq.


COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

April 18, 2013

TO: The Honorable Mike Gabbard, Chair
Senate Committee on Energy and Environment

The Honorable Will Espero, Chair
Senate Committee on Public Safety, Intergovernmental and Military Affairs

The Honorable Malama Solomon, Chair
Senate Committee on Water and Land

FROM: Gladys C. Baisa 
Council Chair

SUBJECT: **HEARING OF APRIL 19, 2013; TESTIMONY IN SUPPORT OF HCR 96, HD2,
RELATING TO THE UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE'S PROPOSED CRITICAL HABITAT
DESIGNATIONS IN MAUI COUNTY**

Thank you for the opportunity to testify in strong support of this important measure. The purpose of this measure is to request that the United States Department of the Interior Fish and Wildlife Service ("U.S. Fish and Wildlife Service") work with affected persons and Counties to establish critical habitat designations for endangered species in the State, and perform an environmental assessment of the proposed critical habitat designations.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

On February 21, 2013, the U.S. Fish and Wildlife Service held a public hearing on Maui to receive comments on the proposed critical habitat designations. I testified at this public hearing to request that the U.S. Fish and Wildlife Service reevaluate the proposed critical habitat designations based on potential economic impacts and community concerns. I have attached my comments to the U.S. Fish and Wildlife Service.

For the reasons outlined in my attached comments, I support reconsideration of the proposed critical habitat designations and thus, am in strong support of HCR 96, HD2.

**COMMENTS ON PROPOSAL BY THE U.S. FISH AND WILDLIFE SERVICE
TO DESIGNATE CRITICAL HABITAT AREAS ON MOLOKAI, LANAI,
KAHOOLAWE, AND MAUI**

Public Hearing of February 21, 2013

Good evening and thank you for taking the time to hear our community's input on the proposed classification of lands in Maui County as critical habitat areas. My name is Gladys Baisa and I am the Chair of the Maui County Council. I offer my comments tonight as an individual member of the Council as the Council has not had the opportunity to formally consider this proposal.

While I am in strong support of preserving our County's natural resources and protecting our threatened or endangered species, I also want to ensure that the potential impacts to the community are taken into consideration.

One of the arguments in support of the designation of lands as critical habitat areas is that the designation will only impact permits and funding at the Federal level and not at the State and County levels. Maui County farmers and ranchers who currently depend on Federal funds for their operations or who may seek Federal funds in the near future will be affected by this proposal. In addition, there may be indirect consequences to landowners resulting from the designation of critical habitat areas. For example, critical habitat designations on lands within the State agricultural district may cause the State to reclassify those areas as conservation districts. A conservation district land use classification would subject landowners to additional permitting requirements and restrictions on the use of their land.

In 2003, the County of Kauai underwent a similar critical habitat classification proceeding. At that time, the U.S. Fish and Wildlife Service received testimony from many concerned individuals. Your Department's final report stated, "The critical habitat initiative is generating an unwelcome degree of rift between the State Department of Land and Natural Resources and the Service, and may erode public support for needed recovery efforts. The Service should withdraw their plans for critical habitat designation on Kauai, and instead, work with existing agencies on their current efforts at conservation and preservation."

Therefore, it is extremely important that the designation process involve all policy-making entities, including the Hawaii State Legislature, State and County departments, and the Maui County Council, to determine the areas that would properly address and most effectively respond to the preservation of threatened or endangered species. The preamble to the current regulations notes that the procedures for addressing impacts "must vary according to the specific area under review. Impacts should not be expected to remain static or to apply uniformly in all cases".

The State and County of Maui are already pursuing ways to preserve critical areas for plants, animals, and watershed protection, and partnerships would help to further these efforts. For example, Chapter 195D, Hawaii Revised Statutes, known as the Hawaii's Endangered Species Act, takes into account recommendations made by your Department. Additional actions our State has taken to protect and preserve threatened or endangered species include, but are not

limited to, statutory provisions concerning conservation districts, conservation programs, habitat conservation plans, safe harbor agreements, the Endangered Species Recovery Committee, an Endangered Species Trust Fund, and the Forest Stewardship Program, Fund and Management Plan.

Concerns have also been raised on the economic analysis used during the critical habitat designation process. Economic analyses used in previous critical habitat determinations attempt to measure the aggregate economic impacts of proposed designations. An analysis of the total cost of designation does not help to determine which parcels should be included in a critical habitat area and which should be excluded. To better understand the impacts of these designations, a more detailed approach to economic analysis is needed that recognizes the differences in the opportunity cost of land.

Finally, economic considerations need to be given to consumers who will ultimately bear the costs for compliance with or adherence to critical habitat areas rules and regulations. Hawaii has strived towards food sustainability, and potential price increases could jeopardize these initiatives.

Again, thank you very much for your consideration and I look forward to working with all of you for the betterment of Maui County.

paf:jkn:13-072a

HCR96

Submitted on: 4/18/2013

Testimony for ENE/PSM/WTL on Apr 19, 2013 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Mae Nakahata	Individual	Support	No

Comments: