

OFFICE OF HAWAIIAN AFFAIRS

Date: February 8, 2018

To: Joint Senate Committees on Hawaiian Affairs, Public Safety, Intergovernmental, and

Military Affairs, and Agriculture and Environment

Via: Online Testimony Submission

From: Resource Management Chair Carmen Hulu Lindsey

Subject: Testimony in Support of Senate Bill 2133

Aloha Joint Senate Committee Members,

Mahalo for your consideration for this measure. I would like to testify in **support of SB 2133**. This measure will serve to protect the connection of Native Hawaiians to their lands in order to practice and live out their cultural traditions.

Please consider passing this measure, requiring counties to establish ordinances and rules for the dedication of land in certain proposed subdivisions and condominium property regimes for Hawaiian Cultural Reserves purposes, subject to exceptions based on special circumstances to be determined by each county.

Mahalo nui for your consideration of this measure.

Sincerely,

Trustee Hulu Lindsey

Carmen Juen Lindsey

Chairperson of the Committee on Resource Management of the Office of Hawaiian Affairs



SB2133 RELATING TO HAWAIIAN CULTURAL RESERVES

Senate Committee on Hawaiian Affairs Senate Committee on Public Safety, Intergovernmental, and Military Affairs Senate Committee on Agricultural and Environment

<u>February 8, 2018</u> 1:15 pm Room 016

The Office of Hawaiian Affairs (OHA) strongly <u>SUPPORTS</u> SB2133, which is a bill in OHA's 2018 Legislative Package. This measure would serve as a step towards reviving and perpetuating Native Hawaiian cultural connections, knowledge, and values, by requiring counties to provide for the set aside of Hawaiian Cultural Reserves in the approval of certain subdivision and condominium property regime proposals, when and where appropriate.

For various reasons, many Native Hawaiians have been systemically disconnected from their traditional cultural practices as well as the 'āina upon which those practices depend. Land use and development, including speculation-driven residential development and industrial agriculture, have particularly impacted and continue to impact natural and cultural resources, access to such resources, and the generational connections to place that serve as the foundation for Native Hawaiian cultural perpetuation. Notably, the traditional ecological knowledge and values threatened by such cultural disconnection may be key to the future sustainability and self-sufficiency of our islands, as even Western science and policy experts recognize today.

Unfortunately, existing legal protections of Native Hawaiian traditional and customary practices may not sufficiently ensure the restored and continued connection of Native Hawaiians to place, particularly for development proposals involving our agricultural and rural lands. Notably, the generations-long struggle of Native Hawaiians to actively perpetuate their culture is evidenced most prominently by the constitutional mandate in Article XII section 7, to "protect all rights, customarily and traditionally exercised" by Native Hawaiians, and in statutory and case law recognizing Native Hawaiian traditional and customary rights and practices. However, existing protections serve primarily to lessen the severity of impacts on remaining natural and cultural resources and associated practices that have survived over a century of drastic change to our islands' physical, social, economic, and political landscape. These protections do not necessarily reverse the loss of resources and connections that has already occurred, or ensure the affirmative restoration of connections to place as may be essential for Native Hawaiian cultural survival. As land in the Hawaiian Islands continues to be the focus of global economic forces, with constant and growing development pressure on our undeveloped agricultural and rural lands in particular, more affirmative legal mechanisms may be necessary, to provide a more adequate foundation for cultural restoration and perpetuation in Hawai'i.

This measure accordingly represents a small step toward affirmatively reviving and perpetuating cultural connections to place, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Today, large-scale real estate development, particularly on undeveloped lands, often plays a major role in disconnecting Native Hawaiians from the 'āina. In recent years, the development of residential subdivisions and condominium property regimes on agricultural and rural lands has foreclosed the restoration and protection of cultural resources essential for place-based cultural practices; these developments have also often restricted critical access to resources and sites that may be found on or adjacent to the lands they are located on. Accordingly, by requiring counties to determine when such development proposals should set aside land for Hawaiian Cultural Reserve purposes, this measure may not only lessen their impact on existing cultural resources and sites, but require the affirmative restoration of resources and connections that would otherwise be foreclosed completely, as the counties deem appropriate.

Notably, this measure will help to realize the monumental value of Native Hawaiian culture not only for the Native Hawaiian people, but for the entire State of Hawai'i. For example, the establishment of Hawaiian Cultural Reserves within major residential developments will help to perpetuate and normalize the traditional ecological knowledge and values particularly critical to our islands' future sustainability. As illustrated by current examples of community-led stewardship efforts in places throughout the islands, such reserves could also promote healthy and sustainable local agricultural production and consumption; provide culturally-enriched educational spaces for students; and even act as incubators for sustainable, local economic innovation. Finally, the establishment of such reserves will ultimately serve to remind the surrounding and greater communities of the unique connections between land, culture, and people that are essential to our identity as kama'āina and residents of Hawai'i nei.

Accordingly, OHA encourages the Committee to PASS SB2133. Mahalo for the opportunity to testify on this measure.



ON THE FOLLOWING MEASURE:

S.B. NO. 2133, RELATING TO HAWAIIAN CULTURAL RESERVES.

BEFORE THE:

SENATE COMMITTEES ON HAWAIIAN AFFAIRS AND ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS AND ON AGRICULTURE AND ENVIRONMENT

DATE: Thursday, February 8, 2018 **TIME:** 1:15 p.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General, or

Dawn T. Apuna, Deputy Attorney General

Chairs Shimabukuro, Nishihara, and Gabbard and Members of the Committees:

The Department of the Attorney General supports the intent of this bill and provides the following comments.

The purpose of this bill is to require the establishment of Hawaiian cultural reserves as a condition of approval for subdivisions, and condominium property regimes of three or more residential units located on agricultural or rural lands.

This bill presents constitutional concerns regarding the "takings" provisions of the Fifth and Fourteenth Amendments. In general, the government may not "take" private land for public use without just compensation. The U.S. Supreme Court has consistently held that placing conditions on the issuance of land use permits can raise a potential takings problem. Nollan v. Calif. Coastal Comm'n, 483 U.S. 825 (1987). In order to avoid an unconstitutional taking, there must first be an "essential nexus," between the government interests the permitting process seeks to address and the conditions that would be imposed. Id. See also Dolan v. City of Tigard, 512 U.S. 374 (1994). In addition, the Supreme Court has held that land use conditions on development will not pass constitutional muster unless there is a "rough proportionality" between the conditions imposed and the impact from the development. Id. Thus, to withstand constitutional challenge, the exaction of a Hawaiian cultural reserve must

Testimony of the Department of the Attorney General Twenty-Ninth Legislature, 2018 Page 2 of 2

have a nexus and rough proportionality to those impacts created by a proposed subdivision or condominium property regime ("CPR").

The bill should clearly explain why new subdivisions and CPRs will negatively impact the native Hawaiian community, and why the requirement to provide or dedicate land for a Hawaiian cultural reserve would be roughly proportional to the impact from that new subdivision or CPR. It will not be enough to simply demonstrate that there is a problem and the dedication of open lands can solve the problem, or that there are problems caused by past developments. It must be demonstrated that the new subdivision or CPR is causing a problem, and the exaction to solve the problem will be roughly proportional to the impact from each new subdivision or CPR. Id. See also Nollan v. Calif. Coastal Comm'n, 483 U.S. 825 (1987).

We respectfully ask the Committees to consider these comments.

DEPARTMENT OF PLANNING AND PERMITTING

CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
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KIRK CALDWELL MAYOR



KATHY K. SOKUGAWA ACTING DIRECTOR

TIMOTHY F. T. HIU DEPUTY DIRECTOR

EUGENE H. TAKAHASHI DEPUTY DIRECTOR

February 8, 2018

The Honorable Maile S.L. Shimabukuro, Chair and Members of the Committee on Hawaiian Affairs The Honorable Clarence K. Nishihara, Chair and Members of the Committee on Public Safety, Intergovernmental, and Military Affairs The Honorable Mike Gabbard, Chair and Members of the Committee on Agriculture and Environment Hawaii State Senate Hawaii State Capitol 415 South Beretania Street Honolulu, Hawaii 96813

Dear Chairs Shimabukuro, Nishihara, and Gabbard, and Committee Members:

Subject: Senate Bill No. 2133

Relating to Hawaiian Cultural Reserves

The Department of Planning and Permitting (DPP) **offers comments** on Senate Bill No. 2133, which requires the counties to obtain dedication of land for Hawaiian cultural reserve purposes, as a condition of approval for subdivision or condominium property regimes (CPR) on agricultural and rural lands.

The DPP supports the intent of the Bill to perpetuate native Hawaiian traditional and customary cultural practices. However, we question the Bill's proposal to address this desire by assigning the counties the lead role through the land subdivision and CPR processes. Our reasons are as follows:

- The proposal lacks a nexus between the development of an agricultural or rural subdivision or CPR. and setting aside land in perpetuity for a Hawaiian cultural reserve.
- The proposal lacks sufficient detail on what kind of land should be designated as a cultural reserve. The proposed definition is too vague. The imposition of this requirement on all subdivision and CPR applications, regardless of inherent cultural-historical value, seems to lead to arbitrary decisions.
- The counties lack expertise in determining appropriate lands for preservation, and as special places, we lack expertise on maintaining them.
- The proposal is an unfunded mandate, especially with respect to the new responsibility to maintain properties.

The Honorable Maile S.L. Shimabukuro, Chair and Members of the Committee on Hawaiian Affairs The Honorable Clarence K. Nishihara, Chair and Members of the Committee on Public Safety, Intergovernmental, and Military Affairs The Honorable Mike Gabbard, Chair and Members of the Committee on Agriculture and Environment Senate Bill No. 2133 February 8, 2018 Page 2

- Without a demonstration that the proposed subdivision creates the need for a preserve, the counties (and the State) could be liable to pay fair compensation for any land obtained under this Bill.
- Hawaiian cultural reserves do not appear as a permissible use within the State agricultural district, pursuant to Chapter 205-4.5. We believe the counties do not have authority to establish such use under State law.
- There is a threshold of three dwellings under the CPR process, but no such minimum for subdivision action. Is there a reason for this differentiation?
- The Bill requires the counties to adopt supplemental rules to require the dedication of Hawaiian cultural reserves as a condition of county approval of CPRs. Currently, counties do not have the authority to approve or disapprove CPRs under Chapter 514B.
- Under the City land subdivision process, the state Department of Land and Natural Resources (DLNR) is already consulted with respect to impacts on historic and archeological resources.

The Bill delineates the participation of the Office of Hawaiian Affairs (OHA) as a consulting party. We believe OHA, or DLNR, is better equipped than the City to administer a Hawaiian cultural reserve program. We suggest a program based on incentives to preserve lands already defined as having cultural value be considered, similar to the establishment of the registers of historic places.

Accordingly, we respectfully ask that this Bill be amended to a strategy that does not place lead responsibility on the counties, or be held by your committees.

Thank you for the opportunity to testify.

Very truly yours,

Kathy K. Sokugawa

Acting Director

Submitted on: 2/6/2018 9:46:10 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Leimomi Khan	Hawaiian Affairs Caucus Democratic Party of Hawaii	Support	No

Comments:

The Hawaiian Affairs Caucus, DPH, supports SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture.

The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, we respectfully urge the Committee to **PASS SB2133.**

Submitted on: 2/7/2018 3:56:16 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sabrina Gramberg	Kawaihuelani Center For Hawaiian Language	Support	Yes

Comments:

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture.

The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS SB2133.

Submitted on: 2/7/2018 3:33:06 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Hawaiian Civic Club of Honolulu	Support	No

Comments:

I SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture.

The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, we respectfully urge the Committee to **PASS SB2133.**

<u>SB-2133</u> Submitted on: 2/7/2018 4:45:35 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Ho`omana Pono, LLC	Support	Yes

Comments:

In strong support...

Submitted on: 2/6/2018 2:01:10 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Desire DeSoto	Community	Support	No

Comments:

I STRONGLY SUPPORT HB1747/SB2136, which would seek to ensure that OHA's constitutional and statutory right to a pro rata share is more adequately reflected and that the state's Public Land Trust (PLT) obligations to Native Hawaiians are fulfilled, by: (1) Establishing \$35 million as an interim reflection of the 20% of PLT revenues that should be transferred annually to OHA; (2) Transferring \$119 million to OHA for underpaid PLT revenues between July 1, 2012 and June 30, 2018; (3) Requiring continued annual accounting of revenues from PLT lands; and (4) Convening a Public Land Trust Revenues Committee every six years, to review and make recommendations regarding OHA's portion of PLT revenues. After years of injustice, it is time to revisit Native Hawaiians' fair share of the PLT revenue. This revenue is the primary source of funding for programs, grants & services that benefit both Native Hawaiians and the larger community. Raising the annual payment to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai'i. Therefore, I respectfully urge the Committee to PASS HB1747/SB2136.

<u>SB-2133</u> Submitted on: 2/7/2018 4:10:15 PM Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omanapono Political Action Committee (HPAC)	Support	Yes

<u>SB-2133</u> Submitted on: 2/6/2018 8:02:41 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Kohn MD	We Are One, Inc www.WeAreOne.cc - WAO	Support	No

Comments:

Support with appropriate local support of Ahapuaa Moku local approval of all plans.

<u>SB-2133</u> Submitted on: 2/5/2018 12:45:01 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

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

<u>SB-2133</u> Submitted on: 2/5/2018 3:24:58 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Harry		Support	No

Comments:

I fully support this bill. My kuleana lands surrounded by development. How will my ohana keep our traditional holdings? Our iwi Hawaii of generations lie in our land. Who will protect us? Cannot even live in own home. Disposed and exported, no justice.

<u>SB-2133</u> Submitted on: 2/5/2018 4:10:09 PM Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Debra Koonohiokala Norenberg		Support	No

<u>SB-2133</u> Submitted on: 2/6/2018 6:21:45 AM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing	
Nicholle S L Konanui		Support	No	

<u>SB-2133</u> Submitted on: 2/6/2018 1:03:50 PM Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Noa Lincoln		Support	No

<u>SB-2133</u> Submitted on: 2/6/2018 5:51:29 PM Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Isaiah		Support	No

Submitted on: 2/6/2018 8:41:27 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kamuela Park		Support	No

Comments:

Ke aloha,

I STRONGLY SUPPORT HB1744/SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture.

The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS HB1744/SB2133.

Mahalo,

Kamuela

Submitted on: 2/6/2018 10:44:07 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
muhtadia rice		Support	No

Comments:

I STRONGLY SUPPORT HB1744/SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture. The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS HB1744/SB2133.

<u>SB-2133</u> Submitted on: 2/7/2018 10:23:59 AM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kama Hopkins		Support	No

<u>SB-2133</u> Submitted on: 2/7/2018 10:24:56 AM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bob Lindsey		Support	No

Submitted on: 2/7/2018 3:50:03 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing	
Wayne		Support	No	

Comments:

Aloha mai kĕ kou,

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture.

The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committees to PASS SB2133.

Mahalo nui,

Wayne Tanaka

Submitted on: 2/7/2018 3:54:32 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kamaile Maldonado		Support	No

Comments:

Please pass this bill to require more proactive rehabilitation of the inherent and mutually symbiotic relationship Hawaiians share with this place; this critical relationship has been severed in many places for generations. The recognition offered by cultural reserves will do much to restore a Hawaiian sense of place and Hawaiians' senses of self.

RELATING TO HAWAIIAN CULTURAL RESERVES SB2133

COMMITTEE ON HAWAIIAN AFFAIRS
COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS
COMMITTEE ON AGRICULTURE AND ENVIRONMENT

February 8, 2017 Room 016

Aloha, my name is Zuri 'Aki and on behalf of myself and the 'Aki 'ohana, I **STRONGLY SUPPORT** SB2133, which would require counties to establish the framework for the dedication of lands for Hawaiian Cultural Reserves purposes. I am Native Hawaiian, cultural practitioner, and advocate of Native Hawaiian rights. It is with this kuleana that I share the following mana'o.

For reasons far-beyond their control, Native Hawaiians have been systemically disconnected from both their traditional cultural practices and the 'āina (natural resources), which a great many of those practices depend. The over-a-century-long struggle of Native Hawaiians to actively perpetuate their culture is evidenced most-prominently by the 1978 amendment of Article XII section 7, to "protect all rights, customarily and traditionally exercised" by Native Hawaiians, and the extensive amount of case law that have been woven into the fabric of Native Hawaiian rights. However, despite these protections, Native Hawaiians continue to be disconnected from both their traditional cultural practices and the 'āina.

In the forty years since the 1978 constitutional convention, it has become apparent that these existing protections serve primarily to lessen the severity faced by Native Hawaiians in being disconnected from their traditional cultural practices and the 'āina, but these protections do not stop this systemic problem from occurring. **Correspondingly, these protections do not address, nor do they reverse, the loss of resources and the disconnections that have already occurred as a result of social, economic, and political forces beyond the control of Native Hawaiians.**

Since the turn of the 21st century, land and natural resources in the Hawaiian Islands have been the focus of global economic forces. Unsustainable land development, as the target of real estate speculation and investment, in just the last half-century alone, has drastically altered the physical character of these islands, which in turn, have accelerated the disconnection between Native Hawaiians, their traditional cultural practices, and the 'āina. The integral connection between Native Hawaiians, their culture, and the 'āina was remarked upon in the 1993 Apology Resolution, wherein it noted that

historical injustices suffered by Native Hawaiians and the forceful transfer of their lands had occurred "without the consent of or compensation to the Native Hawaiian people" and that "the health and well-being of the Native Hawaiian people is intrinsically tied to their deep feelings and attachment to the land[.]" Today, large-scale real estate development continues to disconnect Native Hawaiians from their traditional cultural practices and 'āina.

The urban development of agricultural land, in particular, has been problematic for two primary reasons: 1) agricultural lands often retain the last remaining vestiges of intact cultural resources, and 2) undeveloped agricultural lands have long since served as unrestricted thoroughfares to conservation areas containing significant cultural resources. **Consequently, urban development of agricultural lands has negatively impacted both the integrity of remaining cultural resources as well as access to those resources.** Many of these developments have utilized the subdivision mechanism to convert large parcels of agricultural lands into sprawling urban areas. Recently, the framework for condominium property regimes have also been used to expedited real estate development of agricultural lands that would have otherwise been subject to state and county district boundary amendment (or rezoning) processes. This recent use of the condominium property regime framework for unregulated real estate development on agricultural lands have seen abuses in the Kunia area, a legendary place in Native Hawaiian stories, that ultimately resulted in irreparable harm to Native Hawaiian cultural resources.

For Native Hawaiians to reconnect with their traditional cultural practices and the 'āina, in a way that comports with internationally recognized principles of self-determination, the establishment of a legal mechanism that accurately addresses the source of this systemic problem is needed. In view of a solution to this over-a-century-long problem, OHA emphasizes that the establishment of a Hawaiian Cultural Reserve framework would act as the first step toward reconnecting Native Hawaiians with their traditional cultural practices and the 'āina. Native Hawaiian culture has monumental value not solely for the Native Hawaiian people, but for the entire State of Hawai'i. Native Hawaiian culture, while uniquely connected to the Hawaiian Islands, has also served as a major social and economic driver that has expanded far-beyond the boundaries of our state. Likewise, the Hawaiian Cultural Reserves framework maintains the capacity to serve as a progressive mechanism to advance new economic opportunities for the people of Hawai'i.

On behalf of myself and my 'ohana, I strongly urge the Committee to <u>PASS</u> SB2133. Mahalo for the opportunity to testify on this measure.

Submitted on: 2/7/2018 4:30:01 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mahealani Traub	Pakalolo Suite	Support	No

Comments:

PLEASE SUPPORT - Senate Bill 2133

Hearing before the senate on February 8, 2018 at 1:15 pm, room 016.

Right now, if a big developer wants to subdivide and develop real estate on agricultural lands, WE GET NOTHING. When a big developer sells houses on former agricultural lands for prices that we can't afford, WE GET NOTHING. When a big developer grows million dollar homes on lands that should be used for food security and sustainability, not for growing foreign investors, WE LOSE EVERYTHING.

SB2133, the Hawaiian Cultural Reserves bill, would GET HAWAIIAN HANDS ON HAWAIIAN LANDS to preserve and perpetuate Hawaiian cultural practices, create and bolster cultural resources, and even advance our socioeconomic opportunities for the betterment of all residents of Hawai'i.

This bill doesn't say it's okay for these islands to be unsustainably developed. This bill specifically says that while real estate development in these islands may be out of our control, we desire to keep as much as we can for the betterment of future generations - and for Native Hawaiians, we want those lands that our ancestors intended for us to thrive upon, to do exactly that.

<u>SB-2133</u> Submitted on: 2/7/2018 4:55:18 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Noalani Nakasone	Individual	Support	No

Comments:

I am a Native Hawaiian and I am

from Kauai. I urge you to please

Support this bill. With much appreciation.

Mahalo,

Noalani Nakasone

 From:
 Lu Ann

 To:
 HWNTestimony

 Subject:
 Please PASS SB2133

Date: Tuesday, February 6, 2018 1:21:43 PM

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture. The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS SB2133.

 From:
 Jan E. Dill

 To:
 HWNTestimony

 Subject:
 Please PASS SB2133

Date: Tuesday, February 6, 2018 1:23:15 PM

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture. The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS SB2133.

 From:
 Crystal Rogers

 To:
 HWNTestimony

 Subject:
 Please PASS SB2133

Date: Tuesday, February 6, 2018 1:26:38 PM

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture. The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS SB2133.

 From:
 Lucas Morgan

 To:
 HWNTestimony

 Subject:
 Please PASS SB2133

Date: Tuesday, February 6, 2018 2:22:46 PM

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture. The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS SB2133.

I am a 7th generation kama'aina haole, also a licensed clinical psychologist in the state of Hawai'i. I appreciate the value of land and culture for all people, in particular Native Hawaiians and those who are committed to the sustainability of these islands. Please support this measure, as a step towards healing, sustainability, and preserving what is most valuable in the midst of seemingly unstoppable development for the extreme economic gain of a few, but the detriment of many.

Aloha kakou.

Lucas Morgan, Ph.D. Licensed Clinical Psychologist I Ola Lahui Behavioral Health Services 1441 Kapiolani Blvd., Suite 1802 Honolulu, HI 96814

ph: (808) 525-6255; fax: (808) 525-6256

www.iolalahui.org

From: Carol Johnson
To: HWNTestimony
Subject: Please Pass SB2133

Date: Tuesday, February 6, 2018 6:10:06 PM

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture.

The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS SB2133.

Carol Nalani Johnson

Sent from my iPad

 From:
 Joseph Kohn

 To:
 HWNTestimony

 Subject:
 Please Pass SB2133

Date: Tuesday, February 6, 2018 8:07:07 PM

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture.

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Joseph Kohn MD
Founder, We Are One, Inc. - WAO
1268 W Hiahia Pl
Wailuku, HI 96793-9762
808-359-6605
Joseph@WeAreOne.cc
www.WeAreOne.cc

 From:
 Deb Colalillo

 To:
 HWNTestimony

 Subject:
 Please PASS SB2133

Date: Tuesday, February 6, 2018 10:30:40 PM

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture. The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS SB2133.

Mahalo nui loa.

With much appreciation, Deborah Ramirez
 From:
 Uilani Kapu

 To:
 HWNTestimony

 Subject:
 Please Pass SB2133

Date: Tuesday, February 6, 2018 11:12:43 PM

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture.

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Mahalo

Uilani Kapu

Sent from my iPad

 From:
 Kathy Giffard

 To:
 HWNTestimony

 Subject:
 Please Pass SB2133

Date: Wednesday, February 7, 2018 6:16:26 AM

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture.

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 From:
 Paul Bucher

 To:
 HWNTestimony

 Subject:
 Please PASS SB2133

Date: Wednesday, February 7, 2018 9:36:28 AM

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture. The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS SB2133.

From: Keoahunui Warrington
To: HWNTestimony
Subject: Please PASS SB2133

Date: Wednesday, February 7, 2018 10:14:26 AM

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture. The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS SB2133.

Mahalo, Constance Keoahunui Uale Warrington

Sent from my iPhone

From: Edward Gomes
To: HWNTestimony
Subject: Please Pass SB2133

Date: Wednesday, February 7, 2018 11:36:33 AM

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture.

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I STRONGLY SUPPORT HB1744/SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture.

The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS HB1744/SB2133.

Submitted on: 2/7/2018 6:29:45 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Chang		Support	No

Comments:

As a former "land manager" of cultural properties this is a step in a better direction. If the state, OHA and our Hawaiian community can work better to malama our special places I encourage it. I believe solving this equation is a necessity for the future of our community.

Submitted on: 2/7/2018 6:33:11 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
BLEH		Support	No

Comments:

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture.

The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS SB2133.

From: <u>Doreen Ramirez-Wales</u>
To: <u>HWNTestimony</u>
Subject: Not my bill, OHA"s.

Date: Wednesday, February 7, 2018 6:08:54 PM

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture. The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS SB2133.

Mahalo piha,

Doreen Ramirez-Wales

Submitted on: 2/7/2018 7:33:11 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Leanne Fox		Support	No

Comments:

Aloha,

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture.

The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands.

Therefore, I respectfully urge the Committee to PASS SB2133.

Mahalo, Dr. Leanne Kealoha Fox

<u>SB-2133</u> Submitted on: 2/7/2018 9:48:57 PM Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaulana Dameg		Support	No

Comments:

Submitted on: 2/8/2018 9:33:45 AM

Testimony for HWN on 2/8/2018 1:15:00 PM

Sul	omitted By	Organization	Testifier Position	Present at Hearing
Dav	wn K. Sang		Support	No

Comments:

Hawaiians have long been disenfranchised from their traditional practices and rights to govern themselves in a manner fitting of a lĕ hui raised in an island community. Hawai'i's shift in societal values have decimated the 'Ä• ina and the only way to return pono to the land base is to seek out traditional practices of kanaka Hawai'i. To this end, I am in strong support of this bill.

Na'u nÅ∙ ,

Kau'i Sang

 From:
 Mehana Vaughan

 To:
 HWNTestimony

 Subject:
 Please PASS SB2133

Date: Wednesday, February 7, 2018 10:02:25 PM

I STRONGLY SUPPORT SB2133, which would help revive and perpetuate Native Hawaiian cultural connections, knowledge, and values, by requiring the counties to develop a framework under which certain subdivision and condominium property regime proposals must set aside land for Hawaiian Cultural Reserve purposes. Unsustainable land use and real estate development continue to impact natural and cultural resources, restrict access to such resources, and inhibit or sever generational connections to place that are essential in perpetuating Native Hawaiian culture. The dedication of lands for Hawaiian Cultural Reserves would help to lessen negative impacts by actively restoring cultural connections to developed areas, and perpetuating traditional ecological knowledge that may be key to the future sustainability of our islands. Therefore, I respectfully urge the Committee to PASS SB2133.

Sent from my iPhone

Center for Hawaiian Sovereignty Studies
46-255 Kahuhipa St. Suite 1205
Kane'ohe, HI 96744
(808) 247-7942
Kenneth R. Conklin, Ph.D. Executive Director
e-mail Ken_Conklin@yahoo.com
Unity, Equality, Aloha for all



To: SENATE COMMITTEE ON HAWAIIAN AFFAIRS; AND COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS; AND COMMITTEE ON AGRICULTURE AND ENVIRONMENT

For hearing Thursday, February 8, 2018

Re: SB 2133 RELATING TO HAWAIIAN CULTURAL RESERVES
Requires the counties to provide for the establishment of Hawaiian
cultural reserves as a condition of approval and development of certain
types of subdivisions and condominium property regimes on
agricultural and rural lands that include the construction of dwellings

TESTIMONY IN OPPOSITION

My first reaction when reading through this bill was *LOL (laugh out loud) at its absurdity. But then I noticed that the bill is scheduled for hearing before three committees all at once, so there is real danger that it could be railroaded through.

The opening portion of the bill is a historical narrative about how modern private development of residential/industrial lands is depriving ethnic Hawaiians of access to lands to which they feel a cultural connection, thereby threatening the extinction of Hawaiian culture. It seems that the metaphor being evoked is the need to set aside native habitat for the preservation of endangered species, like the pueo or nene or wekiu. But ethnic Hawaiians are not an endangered species -their population has grown from fewer than 40,000 in the first U.S. Census of 1900 to more than 400,000 in Census 2000 -- a tenfold increase in the first century of U.S. sovereignty. The population grew to 529,000 in Census 2010, and probably more than 600,000 today. Family income continues to rise, lifespan continues to lengthen, and the Hawaiian culture is thriving as we see in the voyages of Hokule'a, the proliferation of hula halaus, and the revival of Hawaiian language. And unlike animals who might be bound to small land areas to ensure their survival on the specific plants and bugs they eat, ethnic Hawaiians are humans capable of choosing where to reside and capable of adapting to change.

Hawaii has a growing population with a shortage of housing and escalating prices for land and houses. If developers of housing subdivisions are forced to set aside land for parks or Hawaiian cultural preserves, that will decrease the number of housing units to be built and therefore will increase their prices, worsening the housing shortage and driving more local people out of the unaffordable marketplace.

This bill in effect confiscates land from private owners by forcing them to set aside a significant portion of their land for purposes they did not intend, and/or this bill forces owners to pay what amounts to a bribe to an ethnic group in lieu of land. I have traveled in third-world

countries where mordita, or baksheesh, is a way of life. It's not pleasant, and it leads to all manner of hostility and violence. Get ready for lots of lawsuits over "inverse condemnation" when a landowner sues the government for imposing new regulations which reduce the value of his land or which have the effect of taking part of all of his land without compensation.

About half of this bill's pages are devoted to laying out how it will be applied to condominiums. I am an owner of a condominium apartment where I have lived for 21 years, following another 5 years in a different condo nearby. My condo was developed from raw land by Bishop Estate, dedicated to serving ethnic Hawaiians. At no time did it ever occur to Bishop Estate that they should set aside a portion of this development for a Hawaiian cultural preserve. As I look out my window at the tennis court 12 stories below, I wonder why Bishop Estate did not build a hula mound instead! Give me a break!

Which reminds me. Bishop Estate (now renamed Kamehameha Schools) is the largest private landowner in Hawaii, with hundreds of parcels scattered hither and yon. If cultural preservation is so important, Bishop Estate should be expected to do lots more of it instead of chasing the almighty dollar. They are doing a good job of supporting restoration of the He'eia (Ko'olau Poko) fishpond, but until about 10 years ago they were an absentee landlord apparently uninterested in malama 'aina. OHA owns thousands of acres which it is mismanaging or neglecting, such as Waokele o Puna on Hawaii Island, the old Wai'alua courthouse in Hale'iwa, Waimea Valley, Kukaniloko (birthing stones) by Whitmore Village near Wahiawa, Makaweli poi mill, and many others.

There are plenty of places where Hawaiian cultural preserves can be built on land already owned by the State of Hawaii, OHA, DLNR, DHHL, Kamehameha Schools, etc. without grabbing land from every private owner or developer.

<u>SB-2133</u> Submitted on: 2/5/2018 5:05:22 PM

Testimony for HWN on 2/8/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing	
keomailani von gogh		Oppose	No	

Comments: