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LAND
STATE PARKS

**Testimony of
RYAN K.P. KANAKA'OLE
Acting Chairperson**

**Before the House Committee on
WATER & LAND**

**Thursday, February 12, 2026
9:00 AM
State Capitol, Conference Room 411**

**In consideration of
HOUSE BILL 1802 HOUSE DRAFT 1
RELATING TO CONSERVATION MITIGATION BANKS**

House Bill 1802, House Draft 1, authorizes the Department of Land and Natural Resources and certain public or private entities to operate conservation banks, subject to approval from the Board of Land and Natural Resources, for situations where a person or entity is required to provide compensatory mitigation to offset adverse impacts to threatened, endangered, candidate, or proposed species as part of an approved incidental take license and habitat conservation plan; adds the associate director of the United States Geological Survey, Ecosystem Mission Area, to the membership of the Endangered Species Recovery Committee; and requires the Endangered Species Recovery Committee to review applications and proposals for conservation banks and conduct subsequent reviews and oversight. This bill is effective 7/1/3000. **The Department of Land and Natural Resources (Department) supports this bill.**

Conservation banks are large-scale projects designed to increase populations of threatened or endangered species or to enhance their habitats. They serve as useful tools for incidental take permit holders with habitat conservation plans that require mitigation to offset the impact on threatened and endangered species. Credits from conservation banks cannot be sold until the species' population in the bank increases or its habitat is improved, in accordance with a credit schedule. With conservation banks, mitigation is completed before any take of a threatened or endangered species occurs.

The Department would benefit from operating conservation banks, as funds collected by Department-operated banks would be used for conservation efforts for threatened and endangered species, aiding their recovery.

Mahalo for the opportunity to comment on this measure.



REPRESENTATIVE MARK J. HASHEM, CHAIR
REPRESENTATIVE DEE MORIKAWA, VICE-CHAIR
HOUSE COMMITTEE ON WATER & LAND

TESTIMONY **IN SUPPORT OF** HOUSE BILL NO. 1802 HD1
RELATING TO CONSERVATION MITIGATION BANKS

February 12, 2026, 9:00 a.m.
Conference Room 411 & Videoconference
State Capitol
415 South Beretania Street, Honolulu, Hawai'i

Good morning, Chair Hashem, Vice-Chair Morikawa, and members of the committee:

Earthjustice **supports** House Bill 1802 HD1, which would authorize the establishment and operation of conservation banks to help offset adverse impacts to threatened, endangered, candidate, or proposed species as part of an approved incidental take license and habitat conservation plan.

Whenever the Legislature adopts policies related to endangered and threatened species, it is vital to ensure that adequate safeguards are in place to protect Hawai'i's unique and irreplaceable native species. HB 1802 HD1 has worked through the complex policy issues involved in establishing an entirely new conservation mitigation program and **would ensure adequate protection for imperiled species.**

Mahalo for the opportunity to offer this testimony. Please do not hesitate to contact us with any questions or for further information.

David L. Henkin, Esq.
Deputy Managing Attorney
Earthjustice, Mid-Pacific Office



SIERRA CLUB OF HAWAII

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

February 12, 2026

9:00 AM

Conference Room 411

In **SUPPORT** of **HB1802 HD1**: RELATING TO CONSERVATION MITIGATION BANKS

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i **SUPPORTS** HB1802 HD1, which would allow for the more efficient investment of resources intended to mitigate the harms of certain activities on our threatened and endangered species and their habitat.

The general concept of conservation banks certainly holds much merit. However, the wide range of variables and unforeseen outcomes so often seen in habitat restoration and management activities require considerable thought, expertise, and safeguards to ensure that a conservation bank program does not inadvertently (or intentionally) facilitate potentially devastating harm to the last remaining individuals of our endangered and threatened native species.

Accordingly, the Sierra Club is very appreciative of the amendments made in the HD1 draft of this measure, to include detailed provisions that minimize the threat of facilitating harmful activities without adequate mitigation. These include requiring adaptive management strategies and financial assurances to address potential unintended outcomes, ensuring bank sponsors have requisite scientific and technical expertise, prohibiting "credit stacking," and articulating a clear and enforceable process for review by the endangered species recovery committee, among others. **With these amendments, HB1802 HD1 would give the state's long-awaited conservation bank program the best chances of success – and help to ensure that our unique endangered and threatened native species are not driven to extinction on our generations' watch.**

Mahalo nui for the opportunity to testify.

HB-1802-HD-1

Submitted on: 2/10/2026 11:07:31 AM

Testimony for WAL on 2/12/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kealii Pang, Ph.D.	Individual	Comments	Written Testimony Only

Comments:

Aloha Chair Lowen, Vice Chair Perruso, and Members of the Committees,

My name is Kealii Pang. I am a retired federal biologist who spent my career working on the conservation and recovery of endangered species in the Pacific. I am submitting this testimony based on my direct, on-the-ground experience with mitigation banking. I am not representing any organization today, but speaking from a personal and professional perspective shaped by what I witnessed.

My concerns with HB 1802 stem from my work on the Saipan Upland Mitigation Bank. I observed firsthand that while this bank provided a convenient financial mechanism for developers to offset habitat disturbance, its success in achieving actual species recovery on Saipan was profoundly limited.

The theory was sound: protect one area to compensate for damage elsewhere. But in practice, the bank became a "check-box" solution. The focus shifted from achieving verifiable, long-term ecological outcomes for specific endangered species to the simpler transaction of purchasing credits. This experience showed me that without the strictest scientific oversight and enforceable accountability, mitigation banking can facilitate habitat loss while creating only an illusion of compensation.

Therefore, I urge you to address three critical flaws in HB 1802, flaws I saw play out to the detriment of conservation:

1. It Removes Essential Expert Oversight.

In Saipan, decisions were often driven by development timelines and economic pressure, not solely by biological necessity. Hawai'i's current law wisely places the Endangered Species Recovery Committee (ESRC) as the final scientific authority on "take" permits. This committee of experts is your bulwark against poor decisions.

HB 1802 dangerously sidesteps the ESRC. Allowing DLNR to approve bank credits without mandated ESRC review repeats the mistake I saw: it severs the direct link between the mitigation and the expert science needed to ensure it will actually work for the specific species being harmed. This turns a careful, science-based exception into a rubber stamp.

2. It Lacks Accountability for Failure.

In the field, we deal with uncertainty—drought, invasive species, disease. What happens when the mitigation bank, despite good intentions, fails to deliver the promised survival and recovery benefits? HB 1802 is silent. In Saipan, when projected recovery goals weren't met, the burden did not fall on the credit users; it fell on the under-resourced managers and, ultimately, the species themselves.

Hawai'i's current law rightly places the burden of uncertainty and the cost of adaptive management on the permittee. HB 1802 undermines this principle. It must be amended to explicitly state that if a bank's credits fail, the financial and legal responsibility to make it right falls on the credit holders and bank operators, not the State or the public.

3. It Prioritizes Financial Convenience Over Biological Certainty.

My experience taught me that true conservation is messy, site-specific, and requires constant, adaptive effort. Banking can create a dangerous perception that complex ecological losses can be neatly balanced by a financial transaction miles away.

HB 1802 establishes this new system without first resolving the hard questions: How do you truly value the loss of a critical nesting site? How do you guarantee protection in perpetuity? It puts the framework before the safeguards. The companion measures in the Governor's package (HB2327/SB3147) appear to begin addressing some of these complex issues, and I strongly encourage you to consider that more comprehensive approach.

In conclusion, from my time in Saipan, I learned that a mitigation bank is only as good as the science guiding it and the accountability enforcing it. HB 1802, as drafted, weakens both. Please, do not let Hawai'i's unique and irreplaceable species pay the price for a convenient system. Reject this draft and direct your efforts toward creating a mitigation banking law that strengthens, rather than undermines, the excellent protections already found in Chapter 195D.

Mahalo for your time and consideration.

Respectfully submitted,

Kealii Pang, Ph.D.
Retired Federal Biologist