



**SCR 138, Proposed SD1, REQUESTING A FINANCIAL AND MANAGEMENT
AUDIT OF THE OFFICE OF HAWAIIAN AFFAIRS
Senate Committee on Agriculture and Hawaiian Affairs**

Date: March 27, 2008

Time: 2:45 pm

Room: 224

Aloha Chair Tokuda, Vice Chair English, and Members. I am Trustee Walter Heen, Vice-Chair of the Office of Hawaiian Affairs (OHA) Board of Trustees and I am here with Trustee Colette Machado to speak on behalf of Chair Apoliona and the remainder of the OHA Board of Trustees.

OHA strongly opposes this concurrent resolution. Since the OHA Trustees were not scheduled to meet before this hearing, they were polled individually and a majority responded that they oppose the resolution.

We believe that the financial and management audit of OHA that is requested by this resolution is unnecessary. Section 10-14.55, Hawai'i Revised Statutes, requires that the State Auditor conduct an audit of OHA at least once every four years. Typically, these audits examine both management and financial performance. The Office of the Auditor has informed us that their work on the next audit under this statute will begin in December 2008 and the work will cover 2005 to present. An earlier audit is not needed and would be duplicative.

Furthermore, we note that the annual financial audits of OHA conducted by independent auditing firms have year after year found no reportable conditions. The latest of these financial audits is being wrapped up at this very moment and will be available for all to see in a short time. Also, the 2005 Audit of the Office of Hawaiian Affairs issued by the State Auditor, while criticizing OHA in certain respects, praised OHA for improvements in its management of its investments.

As a former legislator, a former member of this body and the House of Representatives, I will, with all due respect, now address the language of the resolution itself.

The first Whereas clause indicates that news reports called your attention to the negotiated settlement between the Governor and OHA concerning the Public Land Trust. I am puzzled why the resolution refers to those news reports since at the time this resolution was drafted, you had held two hearings on the settlement and knew for weeks that an agreement had been reached.

The third Whereas clause faults OHA for not being forthcoming with details of the settlement, "or if in fact any negotiations were being conducted at all[.]" However, on this point, I would like to direct your attention to the following:

- Since the year 2001, OHA has repeatedly proposed legislation addressing OHA's share. Through both testimony and proposed legislation, OHA had made it abundantly clear what the key issues were, that negotiations were continuing, and that a settlement could include a combination of cash and land.
- Standing Committee Report No. 1338, dated March 3, 2007, from the Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs, the Honorable Russell S. Kokubun, Chair, addressed to Senate President Colleen Hanabusa, "recognizes the confidential nature of the ongoing negotiations." The report does "encourage" that OHA brief the Senate President and the Speaker of the House if any "potential settlements" are reached. The settlement was reached on January 17, 2008, and both the House and Senate leadership were briefed on the details on January 19th. I deem the committee report to be your clear recognition that confidentiality throughout the negotiation process was a necessary function of our obligation as Trustees to reach an agreement based on our sound judgment and belief as to what is in the best interest of the trust, the beneficiaries and, ultimately, the State of Hawaii. Once the agreement was reached and we had prepared legislation to approve it, we presented those details to you and to the public. As Trustees there was no other lawful way to negotiate and present the details of the agreement. If we failed in anything regarding the expectation of the committee, it was not presenting the results of the negotiations earlier to the President and the Speaker. We apologize for that oversight. Nevertheless, it seems obvious from the tenor of the report that presentation to those officers was in keeping with the need for confidentiality.
- OHA's testimony to the Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs on SCR 152 of the 2007 Session made it crystal clear that following Act 178, SLH 2006, which addressed certain issues relating to OHA's rightful share of income and proceeds, OHA and the State had moved ahead with additional negotiations concerning income and proceeds.

The fifth Whereas clause says that OHA's actions "have led the Legislature to question whether OHA is adequately managing its affairs and financial resources." I fail to see how the confidentiality of the negotiations, which I have noted was required by our obligation as Trustees and recognized by you, can lead

one to logically conclude that there must be something amiss with OHA's management of the affairs of the trust estate. It simply does not follow; especially since the standing committee report recognizes the need for confidentiality, the only exception being the briefing of the President and the Speaker.

As for the "awkward position" in which the Legislature finds itself as expressed in the fourth Whereas clause, it strikes me that that "comes with the turf" of elected office. The Governor's proposal to buy "Turtle Bay" and the present situation regarding Aloha Airlines are also awkward but you will seek to find the proper solutions in those cases that will be in the best interests of the entire community. OHA urges you to reach the correct, reasoned, solution regarding the settlement.

I repeat that OHA strongly opposes this resolution as unnecessary and as based on false premises and destructive of the legal responsibilities of its Trustees. If the Legislature succumbs to the demands of a very few in the Native Hawaiian community, it will begin a slide down a very slippery slope that could completely nullify the responsibilities and functions imposed on OHA and the State of Hawaii by the Hawai'i State Constitution.

Mahalo for the opportunity to testify.



Na Koa Ikaika o Ka Lahui Hawaii

Mililani B. Trask

c/o 400 Hualani Street, Bldg 10, Suite 194 ❖ Hilo, HI 96720
(808) 961-2888 phone • (808) 935-8854 fax • gibson@ilhawaii.net



To: Senate Committee on Agriculture and
Hawaiian Affairs
Jill Tokuda, Chair
J. Kalani English, Vice-Chair

Hearing Date: March 27
Time: 2:45 pm
Place: CR 224

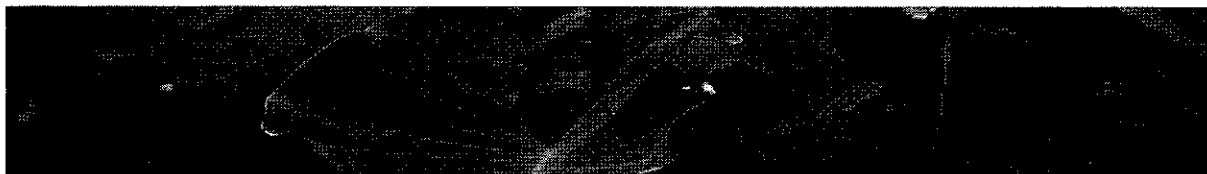
RE: SCR 138 – SD 1: Relating to the Audit of OHA

TESTIMONY of MILILANI B. TRASK in SUPPORT

Aloha Senators,

Thank you for introducing this badly needed legislative measure. The recent effort of OHA to obtain legislative support for the purported ceded land settlement has led us all to question the fiscal and administrative capacity of OHA.

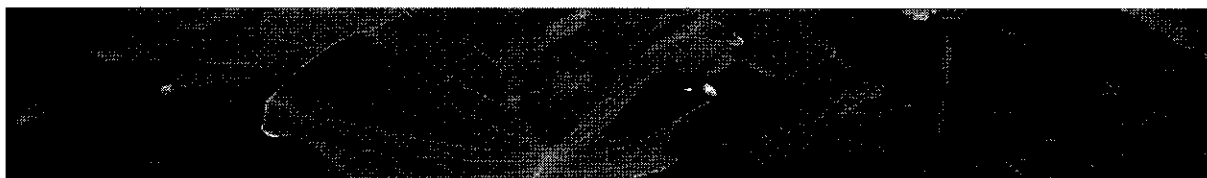
As Trustees of the native Hawaiian assets derived from the public land trust, the OHA trustees have a fiduciary responsibility and obligation to act exclusively in the interest of the native beneficiary. The conduct of the Trustees with regard to the proposed settlement falls far below this standard. OHA did not obtain either valuations or appraisals for the land parcels in question, neither did they conduct environmental due diligence on the parcels.



Although the Legislature and the beneficiaries have been told that the agreement between the Governor and OH was a final resolution to the issue of past revenues due OHA from 1978 to 2008, OHA has been unable to explain how the 200 million dollar figure was derived. In addition the waiver language in the settlement clearly waives the rights of all Hawaiians and their organizations, associations and other legal entities to the public land trust. This in and of itself is a breach of trust.

The effort of OHA to violate the obligation owed by the State of Hawaii to Hawaiian peoples is occurring in a backdrop of other questionable activities and events that the legislature must examine before further trust assets are transferred to OHA. These include but are not limited to the following:

1. OHA has created several Limited Liability Corporations and has transferred land (Kauai Poi and Waimea Oahu) and hundreds of thousands of trust dollars into these devices. The corporate documents provide that upon the dissolution of the corporation (Hii Lei Aloha) its assets may be transferred to non-profits. This diminishes trust assets and is in my opinion illegal.
2. For several months there has been a steady exodus of OHA employees from the office. Some employees have been interrogated and dismissed; others have left voluntarily because they could not work there any more. Cameras have been installed to keep the office workers under surveillance, and the doors to certain areas are electronically sealed to prevent entry.
3. The last State Audit of OHA showed that OHA had no actual strategic plan for the Hawaiian beneficiaries. It also found serious problems in administration and fiscal accountability. Have these issues been addressed?
4. Nepotism is a problem that the State Auditor must examine in light of the records that have surfaced relating to several thousand

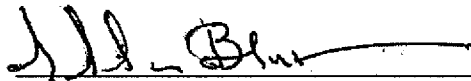


(estimated to exceed \$50,000.) dollars charged to the OHA Account by Aulani Apoliona, the sister of the Chair. I have reviewed charges for trips throughout the USA, including costs for \$1,000.00 dinners at Tony Roma's Restaurant. At present this employee has submitted requests for reimbursement of thousands of dollars of charges to her own personal account, this occurred after the OHA charge card was taken away. These questionable reimbursements were reviewed and approved by trustee Oz Stender who was the chair of the OHA Finance Committee during this period.

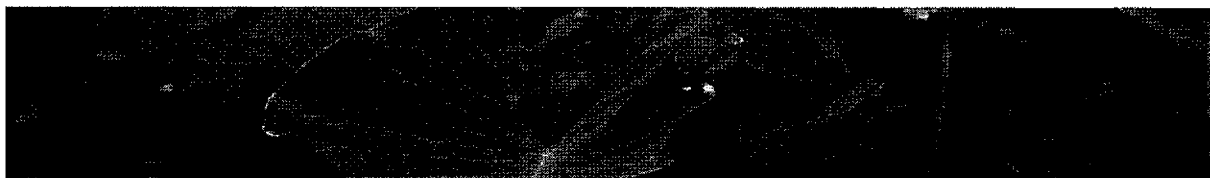
These are a few of the concerns that beneficiaries have been raising. There are many many more.

The State Legislature also owes a fiduciary duty to our peoples. In the case of OHA, we must ask the question "Where is the accountability"? The State Legislature needs the data from an Administrative audit and a Fiscal Audit in order to help us get the answers.

Mahalo,



Mililani B. Trask



Olinda L. Fisher
89-639 Nanakuli Avenue
Wai`anae, Hawai`i 96792

March 27, 2008

Honorable Jill N. Tokuda, Chair
Honorable J. Kalani English, Vice Chair
Members of the Committee on Agriculture and Hawaiian Affairs

RE: SCR 138 Proposed SD1

I am a native Hawaiian and I write today in **strong support** regarding SCR 138 Proposed SD1, requesting a Financial and Management Audit of the Office of Hawaiian Affairs.

The Office of Hawaiian Affairs has proven to the native Hawaiian people, Hawaiian people, and as well as the general public that they hold no accountability to anyone.

Their actions have spoken louder than words. When OHA decided to purchase Waimea Falls there was not very much input from the native Hawaiians, Hawaiian and/ or general public. When OHA supported the Akaka Bill, they listened very little to the native Hawaiians, Hawaiian and/ or general public. Now they conduct secret negotiations with the Governor and her administration regarding the Ceded Lands (5f) settlement without even consulting or informing the only interest group who will be affected by all this the native Hawaiians, better known as the small (n).

How is it that this State Agency gives out funds to different groups, organizations, entities, schools and yet can not give an accurate account on how much comes from the (State funds) and how much is used from the (Ceded Land funds). As you are aware of any funds coming out of the Ceded Land Funds is designated strictly for native Hawaiians.

I challenge you to ask how many individual native Hawaiians they have actually serviced.

The financial cover-up and mis-management among the trustees, employees and administration have gone on far too long, you even read it in their own Ka Wai Ola (The living water of OHA) newspaper.

I ask you to please hold the Office of Hawaiian Affairs (OHA) accountable for their actions and have them be audited.

Mahalo
Olinda L. Fisher
Nanakuli Homestead Resident

testimony

From: Kekahuna Keaweiwi [kekahunakeaweiwi@yahoo.com]
Sent: Wednesday, March 26, 2008 8:58 AM
To: testimony
Cc: Joselyne Costa; Lynette Cruz; Ku; Andre Perez; Kaleikoa Kaeo; Manu Kaiama; Dexter Kaiama; Kekuni Blaisdell; Michelle Anderson; Sen. Clayton Hee; Sen. J. Kalani English; Rep. Mele Carroll; Danny Mateo; Riki Hokama; kalani Hoopii; kohalaikaunupae@gmail.com; Tane .; Pono Kealoha Jr.; jwalker@lava.net; Myrna Ah Hee; Alex; Foster Ampong; Clayton Baybayan; Robert Brito; Charles Morales; Gordon Cockett; Daniel Garcia; Kenny Hoopai; Michele Hoopii; Greg Johnson; Willie Kahaialii; Wilmont Kahaialii; kanaloe Kamaunu; Keeaumoku Kapu; Josephine Keliipio; Tony Kincannon; Clifford Naeole; Maria C. Ornellas; Lynette Ramos; Tony Vierra
Subject: Written Testimony Supporting SCR 138 SD1

**THE SENATE
TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008
STATE OF HAWAII**

March 26, 2008

Senate Committee on: Agriculture and Hawaiian Affairs.

Hearing Date & Time: Thursday, March 27, 2008,
2:45 p.m. (HST)
Conference Room 224
State Capitol
415 South Beretania Street

Attention: Chair: Jill N. Tokuda

Testimony Supporting SCR 138 SD1: REQUESTING A FINANCIAL AND MANAGEMENT AUDIT OF THE OFFICE OF HAWAIIAN AFFAIRS.

Aloha Chair Tokuda,

My name is Foster Robin Ampong and I am testifying in support of **SCR 138 SD1** Requesting a financial and management **AUDIT OF THE OFFICE OF HAWAIIAN AFFAIRS.**

Transparency and Accountability of those elected into the respective positions and government departments are not only fundamental tenets any civilized democracy is founded on, it is the very essence of what any government expects of its citizenry. To accept anything less than an **AUDIT OF THE OFFICE OF HAWAIIAN AFFAIRS** would be a travesty of these fundamental principles written onto parchment that is known and revered as the *Constitution of United States of America*. To the average citizens, it is a betrayal of public trust and confidence.

Public Trust and Confidence in government has eroded considerably in recent years, as the Hawaii Super Ferry Fiasco has demonstrated. The same has equally or greater taken place with the Office of Hawaiian Affairs and its present leadership. A fact that is both undeniable and inescapable.

SCR 138 SD1 can remedy this unfortunate reality to a substantial degree and carries forth in tandem,

the strong potential to avert future misunderstandings and possible divisive actions within our fragile community.

Thank you for this opportunity to testify.

Sincerely,

Living Being in the HuMan function with the attached name

Foster Robin Ampong

Phone: (808) 281-3894 - Email: kekahunakeaweiwi@yahoo.com

Be a better friend, newshound, and know-it-all with Yahoo! Mobile. [Try it now.](#)

LATE

From: Tamar deFries [mailto:tamardefries@hotmail.com]
Sent: Wednesday, March 26, 2008 9:41 PM
To: testimony; Sen. Roz Baker; Sen. Shan Tsutsui; Sen. Jill Tokuda; Sen. J. Kalani English
Subject: Testimony in Support of SCR138 SD1

The Senate
Twenty-Fourth Legislature
Regular Session of 2008
State of Hawai'i

March 26, 2008

To Senate Committees:

Agriculture and Hawaiian Affairs
Chair Jill N. Tokuda and Vice Chair J. Kalani English

Ways and Means
Chair Rosalyn H. Baker and Vice Chair Shan S. Tsutsui

Subject: Testimony in Support of to SCR138 SD1 (Financial and Management Audit of the Office of Hawaiian Affairs)

The Senate deserves applause for introducing SCR138 SD1 requesting a financial and management audit of the Office of Hawaiian Affairs. The requested audit is about trust accountability and transparency owed to the native beneficiaries and the community-at-large.

OHA Trustees and Administration have a fiduciary responsibility and obligation to act exclusively in the interest of native beneficiaries. The request of a financial and management audit of the Office of Hawaiian Affairs will provide native beneficiaries with an open and honest "report card," pertaining to the trust derived from the public land trust. Therefore, I submit my testimony in support of SCR138 SD1.

Sincerely,

Tamar deFries
Honolulu, Hawai'i

LATE

The Senate
Twenty-Fourth Legislature
Regular Session of 2008
State of Hawai'i

March 26, 2008

To Senate Committees:

Agriculture and Hawaiian Affairs
Chair Jill N. Tokuda and Vice Chair J. Kalani English

Ways and Means
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Sincerely,

Kealii Makekau
2563 Date st, #312
Honolulu Hi, 96826

The Senate
Twenty-Fourth Legislature
Regular Session of 2008
State of Hawai'i

LATE

March 26, 2008

To Senate Committees:

Agriculture and Hawaiian Affairs
Chair Jill N. Tokuda and Vice Chair J. Kalani English

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Subject: Testimony in Support of to SCR138 SD1 (Financial and Management Audit of the Office of Hawaiian Affairs)

SCR138 SD1 requesting a financial and management audit of the Office of Hawaiian Affairs demonstrates the Senate's responsibility to ensure that Chapter 10 of the Hawai'i Revised Statutes is being administered appropriately. The audit of the Office of Hawaiian Affairs is about due diligence. Thus, I support SCR138 SD1.

Sincerely,

Kahealani Keahi

2008 Kamalalehua Place
Honolulu, Hawai'i 96813

testimony

From: kuulei [kuuleikiliona@hawaii.rr.com]
Sent: Wednesday, March 26, 2008 11:00 PM
To: testimony
Subject: SCR 138, SD1

LATE

**TESTIMONY IN SUPPORT OF SCR 138
and Proposed SD1**

TO: Committee on Agriculture and Hawaiian Affairs
Sen. Jill N. Tokuda, Chair
Sen. J. Kalani English, Vice Chair

FROM: Ku'ulei Kilonia, private citizen
kuuleikiliona@hawaii.rr.com

Date: Thursday, March 27, 2008
Time: 2:45 p.m.
Place: Conference Room 224

Dear Chairs and Committee Members,

This testimony is in *strong* support of SCR 138, with proposed SD1.

There are too many good reasons to list here, so let me just say

PLEASE pass this measure!!!!

Mahalo Nui Loa,

Ku'ulei A. Kilonia

THE SENATE
TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008
STATE OF HAWAII

LATE

March 27, 2008

Senate Committee on: Agriculture and Hawaiian Affairs

Hearing Date & Time: Thursday, March 27, 2008, 2:45 p.m. (HST)
Conference Room 224
State Capitol
415 South Beretania Street

Attention: Chair: Jill N. Tokuda

**Testimony Supporting SCR 138 SD1: REQUESTING A FINANCIAL AND
MANAGEMENT AUDIT OF THE OFFICE OF HAWAIIAN AFFAIRS.**

Aloha Chair Tokuda,

My name is Dexter Keeaumoku Kaiama. Thank you for providing me the opportunity to submit my written testimony in support SCR 138 SD1 Requesting a financial and management AUDIT OF THE OFFICE OF HAWAIIAN AFFAIRS.

A financial and management audit provides a wonderful opportunity to instill in the native hawaiian beneficiaries the confidence that OHA is complying with its constitutionally mandated fiduciary obligations. It also assures the beneficiaries and the general public, should the audit find mis-management and/or financial irresponsibility, that accountability and compliance will be enforced.

As evidence by overwhelming sentiment in recent community meetings, on SB 2733/HB 266 (OHA Settlement), there is an underlying mistrust of the OHA, its stated vision for the future, and its attempts to settle the rights to past and future income WITHOUT PRIOR INPUT from the rightful beneficiaries. Under the circumstances, I believe a financial and management audit of OHA will serve the purpose of restoring some measure of faith that this State Agency is fulfilling its legal and moral obligation to our community.

An audit also provides OHA a great opportunity to obtain an independent assessment of their goals and operations. Information generated from the audit can serve to:
(1) maximize the office's financial and management efficiency; (2) improve or open earnest communications; and (3) facilitate a re-assessment of the office's goals and visions more in line with that of the native hawaiian beneficiaries.

In essence, a financial and management audit of OHA will serve the beneficiaries, the general community as a whole as well as the office itself. For these reasons, I respectfully ask for your vote to pass SCR 138 SD1 and request the financial and management audit of OHA.

Mahalo nui, malama pono.

Dexter Keeaumoku Kaiama
#284-5675
cdexk@yahoo.com

LATE

The Senate
Twenty-Fourth Legislature
Regular Session of 2008
State of Hawai'i

March 27, 2008

To Senate Committees:

Agriculture and Hawaiian Affairs
Chair Jill N. Tokuda and Vice Chair J. Kalani English

Ways and Means
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SCR138 SD1 requesting a financial and management audit of the Office of Hawaiian Affairs demonstrates the Senate's responsibility to ensure that Chapter 10 of the Hawai'i Revised Statutes is being administered appropriately. The audit of the Office of Hawaiian Affairs is about due diligence. Thus, I support SCR138 SD1.

Sincerely,

Lokana Keliikoa-Pua
85-1129 Kepauala Place
Waianae, HI 96792