



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

---

Testimony Presented Before the  
House Committee on Judiciary  
February 13, 2009 at 2:20pm

by  
Rose Tseng  
Chancellor, University of Hawai'i at Hilo

HB 1174 HD1      RELATING TO THE UNIVERSITY OF HAWAII

Chair Karamatsu, Vice Chair Ito and Members of the Committee:

There is no doubt that Mauna Kea, particularly the summit region, is a special place. Mauna Kea contains an alpine environment in a tropical region, which is rare on the planet; it is one of the most culturally significant and archaeologically important places in the Hawaiian Islands; and it is recognized globally as a premier center for astronomical research. Mauna Kea is visited by those exercising traditional cultural practices, researchers in a variety of disciplines, astronomers, recreational users, educators, tourists and island residents. While each comes to visit, enjoy, and contemplate Mauna Kea in their own way, many do not realize how they, individually and collectively, may impact the mountain. The University is seeking express rule-making authority for the purpose of enabling the University to better manage these uses and activities and protect Mauna Kea's unique cultural and natural resources.

It is important to understand the land classification system and agencies responsible for managing the lands to protect the resources. For example, the upper region of Mauna Kea is zoned conservation district lands and is divided into three types of land designations. Beginning at the summit is the Mauna Kea Science Reserve (11,288 acres) and the Mauna Kea Ice Age Natural Area Reserve (3,893.5 acres). Surrounding these two parcels is the Mauna Kea Forest Reserve (52,500 acres). The Mauna Kea Science Reserve was originally classified Forest Reserve lands. In 1968 the Science Reserve was established when it was removed from the Forest Reserve by the Board of Land and Natural Resources (Land Board) and leased to the University for 65 years to be used as a scientific complex.

The Department of Land and Natural Resources (DLNR) is mandated to protect the resources on its lands and has adopted administrative rules governing the use of lands within both the Forest Reserve and the Natural Area Reserves System. There have not, however, been any administrative rules adopted to specifically cover uses within the Mauna Kea Science Reserve.

The University understands the need and accepts its responsibility to protect the resources on the lands it uses on Mauna Kea, including lands comprising the following: (1) the Mauna Kea Science Reserve, (2) Hale Pohaku, and (3) the Mauna Kea Access Road above Hale Pohaku. While the University believes it has the implied authority to promulgate rules, it nevertheless feels there is a need to eliminate any ambiguity and uncertainty regarding rule making and seeks express statutory authority to adopt administrative rules. The authority to adopt administrative rules is expected to help the University more effectively and efficiently carry out its management obligations under the Land Board's lease of the Mauna Kea lands to the University. The University has completed and submitted to the DLNR a Mauna Kea Comprehensive Management Plan (CMP) that is designed to protect and preserve the natural and cultural resources on and within the University's Mauna Kea lands. The University will be seeking the Land Board's approval for the CMP, which will require the University to carry out a variety of oversight and management functions and responsibilities. Having rule making authority will enable the University to more efficiently carry out these CMP functions and responsibilities.

Moreover, granting the University the authority to assess and collect administrative fines should enable the University to more effectively enforce such rules. In adopting such rules, the University will be required to address and resolve any conflicts with other applicable statutes or rules.

This bill also proposes to establish a Mauna Kea management special fund. This is viewed as an affirmation of the University's commitment to improving the conditions on Mauna Kea. This fund would afford the University the necessary flexibility to better carry out its management responsibilities, particularly under the CMP. The CMP clearly articulates an overall management strategy, with sufficient specific component plans, that is designed to protect Mauna Kea's unique cultural and natural resources. The CMP was developed using an integrated approach drawing upon the Hawaiian approach to managing natural and cultural resources, as well as contemporary science based management tools. The CMP also applies an adaptive management practice, which is a systematic process for continually improving management policies and practices for resource protection by learning from outcomes of past and current management activities. Just as the CMP is designed to continually evolve and improve, the University's ability to fund any measures or activities to implement such improvements needs to be assured and preserved. Having such a fund will help provide this assurance and protection. A special fund will also assist the University in accounting for and keeping track of the benefits and costs relating specifically to Mauna Kea.

Without a separate special fund dedicated to Mauna Kea, the statutes establishing one or more of the University's special or revolving funds (such as the real property and facilities fund established pursuant to HRS section 304A-2274) would need to be amended so that funds arising from all Mauna Kea related activities could be deposited and expended from the fund. Creating such a niche in an existing fund used by the

Committee on Judiciary – HB 1174 HD1  
February 13, 2009  
Page 3 of 3

entire University system (and not just for Mauna Kea) could pose some challenges. Part of such an amendment to other statutes would need to include the ability of the University to deposit and expend monies collected by the University as administrative fines.

The University supports passage of this bill. Thank you for your thoughtful consideration.

Joint Testimony

In Opposition

To

S.B. 502/H.B. 1370

And

S.B. 992/H.B. 1174

Before

The Senate Committees on Land, Water and Oceans,  
and Higher Education

February 13, 2009

2:20 p.m. Room 325

The following testimony IN OPPOSITON to S.B. 502 (also HB 1174, SB 992, HB 1370) is submitted on behalf of the following parties:

Ms. Kealoha Pisciotta, President of Mauna Kea Anaina Hou,  
Ms. Debbie Ward and Nelson Ho, Co-Chairs of Mauna Kea Issues Committees,  
Sierra Club Hawai'i Island Chapter,  
Ali'i `Ai Moku, Mr. Paul K. Neves of the Royal Order of Kamehameha I, Moku of  
Mamalahoia Heiau Helu `Elua, and  
Mr. Clarence Ku Ching (individual Native Hawaiian Practitioner).

The above named parties are the Plaintiffs in the recent Third Circuit Court case regarding the management of Mauna Kea. The court found in favor of the Plaintiffs and against the University of Hawai'i (UH) and the Board of Land and Natural Resources (BLNR).

Aloha Chairman Hee, Chairwoman Tokuda, and Members of the Senate Committees on Land, Water and Oceans, and Higher Education,

We wish the record to reflect that we support KAHEA's testimony on S.B. 502/H.B. 1174. Although we are specifically testifying in opposition to S.B. 502 before this committee, we are **STORNGLY OPPOSED** to all four (4) versions of the University's Mauna Kea bills, including S.B. 992, H.B. 1174, and H.B. 1370.

**WE ARE STRONGLY OPPOSED TO S.B. 502 FOR THE FOLLOWING REASONS:**

### **1. S.B. 502 interferes with on-going litigation on the current regulations governing Mauna Kea**

Mauna Kea Anaina Hou, The Royal Order of Kamehameha I, Sierra Club Hawaii Island Chapter, and Clarence Ku Ching are plaintiffs in CASE NUMBER against the University of Hawaii and the Board of Land and Natural Resources for violation of the regulations protecting Mauna Kea as a conservation district. This lawsuit is currently on review before the Intermediate Court of Appeals after the University appealed the lower court ruling against them. Though the University only recently withdrew its appeal from the ICA, counterclaims that go to the fundamental merits of this issue remain before the ICA.

Passage of S.B. 502 will interfere with this judicial review by attempting to fundamentally alter the regulatory framework governing the management of Mauna Kea. In fact, this precisely why the University is advocating for S.B. 502. The University and its attorney, Lisa Munger (also attorney for the Hawaii Superferry Inc.), recognize that they are unlikely to prevail on an appeal of the current laws protecting Mauna Kea. Thus, they are seeking to drastically change those laws to better favor their interests.

As a general principle, the Legislature should not make new law that will affect pending litigation. In this specific situation, we, the plaintiffs, have dedicated more than 10 years of our lives to this judicial review process based on the regulatory framework this body saw fit to create. Passing SB 502 would interfere with this judicial process and compromise the overall efforts to ensure that the sacred summit of Mauna Kea is protected. Therefore, we ask that S.B. 502 not be passed.

### **2. S.B. 502 Violates the Hawaii Supreme Court Injunction on the Transfer of Ceded Lands**

S.B. 502 is a back-door transfer of the Ceded Lands of Mauna Kea, which is in direct contravention of the Hawai'i State Supreme Court's holding in OHA v. HCDCH, 2008. The Hawaii Supreme Court barred the transfer of all ceded lands until a formal reconciliation between the State of Hawaii, the U.S. federal government, and the Native Hawaiian people is reached, in order to prevent the premature alienation of the land trust established by the Admissions Act of 1959. Transferring land out of DLNR's control - even to another branch of the state government - violates the Supreme Court ruling because DLNR is the only state entity with the constitutional and statutory obligation to manage ceded lands. This is to say that transferring ceded lands to the University of Hawaii - an entity with absolutely no legal obligations to protect the public land trust - is no different than transferring ceded lands to a private developer.

Legislators should understand that the passage of any proposal to allow the DLNR to transfer the ceded lands of Mauna Kea to the University will result in additional litigation based on the standing injunction issued in OHA v. HCDCH.

### **3. S.B. 502 robs the public land trust and the public coffers**

S.B. 502 proposes to establish a special fund that would allow the UH to collect revenue from the exploitation of Mauna Kea, without paying fair market rent for the use of ceded lands. Hawai'i Revised Statutes 171-18 requires the Board of Land and Natural

Resources collect "fair-market" lease rent from third parties leasing public lands. For more than 30 years, the UH has allowed foreign governments and corporations to construct lucrative observatories on the summit of Mauna Kea at the cost of only \$1.00 per year. In other words, the taxpayers have been saddled with the burden of subsidizing foreign direct investment (foreign astronomy infrastructure and development) on public lands for over 30 years. This is not only illegal, but morally outrageous considering the current economic crisis facing the Nation and the State.

Moreover, the Legislature should not allow the BLNR to claim poverty as grounds for not adequately managing Mauna Kea lands, when that poverty is self-imposed. The BLNR would have sufficient funding to properly protect Mauna Kea and other conservation districts if it simply charged third parties sub-leasing public lands rent based the fair market value of the land.

#### **4. The UH has violated the public trust and destroyed the natural and cultural resources of Mauna Kea**

The UH cannot be granted any authority to manage the sacred and fragile summit of Mauna Kea because its purpose for being on the summit is not resource management, but rather resource exploitation. To be clear, the UH is the developer of Mauna Kea. Its presence on the summit has destroyed and desecrated the resources of Mauna Kea.

The desecration and destruction caused by UH's use of Mauna Kea is well document. Two reports by the State Auditor have found that UH's misuse and the BLNR's failed oversight is "inadequate to ensure the protection of natural resources, and neglected ...the cultural value of Mauna Kea." Their report further stated that the University's Institute for Astronomy "focused primarily on the development of Mauna Kea and tied the benefits gained to its research program," and that its focus on telescope construction has been "at the expense of neglecting the site's natural resources."

In 2005, an Environmental Impact Statement required by federal court order found that the cumulative impact of telescope activities on Mauna Kea has had a "substantial, adverse, and significant" impact. According to the regulations protecting all conservation districts, permits cannot be issued for activities in conservation districts that have a substantial, adverse or significant impact on the natural and cultural resources of the area precisely because their protection is the purpose of the conservation district in the first place.

The State of Hawaii designated the entire summit of Mauna Kea to be a conservation district in order to protect its unique natural and cultural resources, not to facilitate telescope construction.

#### **5. S.B. 502 creates a "fox guarding the hen house" situation on Mauna Kea**

As we have repeatedly outlined over the last decade, UH is NOT the protector of Mauna Kea, it is the exploiter. In similar fashion, our concerns have been repeatedly confirmed by court rulings and official reports. Make no mistake, despite all of the rhetoric, today is no different than yesterday. The UH is advocating for the passage of S.B. 502 in order to

streamline its ability to use and abuse the sacred summit of Mauna Kea. The Legislature will be complicit in this desecration and destruction if it passes this bill.

The UH has already outlined its plans for the summit under the management authority proposed in this bill. The UH plans to shutdown public access to the summit of Mauna Kea. The UH proposes to gate the only road to the summit and regulate who may enter and at what price. This road is a public road, paid for with taxpayer dollars. The summit itself has always been a public area. The UH has no right to create a gated community for astronomers on the public's sacred summit.

The UH also proposes regulate who may worship on the summit, when, where, and how. The UH plans to actively discriminate against people who wish to worship on the summit based on race. In an attempt to sidestep the constitutional rights of Native Hawaiian cultural practitioners, the UH proposal says people of Native Hawaiian ancestry will be "accommodated." Not only does this violate the Supreme Court rulings in both PASH and Kapaakai, it also violates the fundamental rights of non-Hawaiian cultural practitioners. Understand that Native Hawaiians are not the only people who practice Hawaiian religion and engage in Hawaiian culture. Mauna Kea is a temple and access cannot be denied. Aloha knows no color.

The UH also proposes to remove decision-making from public oversight. The bill would authorize the UH Board of Regents to make decisions about Mauna Kea without any public notice, public hearing, or even gubernatorial oversight. What exactly is UH planning to do on the summit that it needs that much secrecy?

The one thing UH does not propose to do on the summit is limit the construction of future telescopes. The current plan UH is pressuring the BLNR to approve does not outline any standards for determining the carrying capacity of the summit, nor does it propose any kind of limit on the number of telescopes that can be built on the summit. Instead, it proposes to streamline the process for erecting new, larger, and more destructive structures on the summit. There are at least two massive telescopes already in line to further decimate Wekiu habitat, desecrate iwi kupuna, and possibly contaminate Hawaii Island's primary aquifer.

For these reasons, we strongly urge you to not pass S.B. 502.

In Aloha we remain,  
Paul K. Neves, Ali`i `Aimoku, Royal Order of Kamehameha I,  
Kealoha Pisciotta, Mauna Kea Anaina Hou  
Debbie Ward and Nelson Ho, Sierra Club Hawai`i Chapter  
Clarence Ku Ching



Office  
1149 Bethel St., Ste. 415  
Honolulu, HI 96813  
877.585.2432 toll-free ph/fx

Mailing Address  
P.O. Box 37368  
Honolulu, HI 96837

www.KAHEA.org  
kahea-alliance@hawaii.rr.com

**H.B. 1174 HD 1 Mauna Kea  
Room 325, 2:20 pm  
February 13, 2009**

Aloha Chairman Karamatsu and members of the House Judiciary Committee,

**KAHEA strongly opposes the passage of HB 1174** to grant the University of Hawaii authority over the ecologically significant and culturally sacred lands of Mauna Kea. The University must not be granted any authority over Mauna Kea because:

- Mauna Kea lands leased by the University are ceded lands. Granting this authority to the University will violate the Supreme Court's ruling in OHA v. HCDCH.
- Mauna Kea lands are public trust lands that must be managed by the state's landlord, the Department of Land and Natural Resources, not the University, who is a mere lease-holder. State law requires that public trust lands be leased at fair market value for the benefit of the people of Hawaii, not the lease-holder.
- The University's activities on Mauna Kea have exploited, destroyed, and desecrated irreplaceable natural and cultural resources on the summit.
- The University promises to use this authority to limit public access, regulate when and how Hawaiians worship, and expand telescope construction on the summit, while at the same severely limiting public oversight of decisions made about the summit.

#### **HB 1174 seeks to transfer ceded lands out of the public lands trust**

With this bill, the Lingle Administration is seeking to transfer ceded lands protected by the public lands trust from the Department of Land and Natural Resources (DLNR) to the University of Hawaii. This should not be allowed because it is exact same type of land transfer deemed illegal by the Hawaii Supreme Court in January 2008 in OHA v. HCDCH.

The "Mauna Kea lands" identified in this bill are all ceded lands. Ceded lands are the lands improperly taken from the Hawaiian Kingdom during the overthrow of 1893 and transferred to the State of Hawaii at statehood on the condition that these lands were held in trust. The Supreme Court recognized the fundamental importance of this exchange, finding that "[a]s a condition of its admission into the Union, the State of Hawaii agreed to hold certain lands granted to the State by the United States in a public land trust for five purposes." (OHA v. HCDCH, citing Admission Act of March 18, 1959).

The Hawaii Supreme Court held in OHA v. HCDCH that because ceded lands are held in trust for the Hawaiian people and because the state and federal governments have both expressed a commitment to reconcile the injustice of the overthrow, "ceded lands should be preserved





Office  
1149 Bethel St., Ste. 415  
Honolulu, HI 96813  
877.585.2432 toll-free ph/fx

Mailing Address  
P.O. Box 37368  
Honolulu, HI 96837

www.KAHEA.org  
kahea-alliance@hawaii.rr.com

pending a reconciliation between the United States and the native Hawaiian people. Without an injunction, the ceded lands are at risk of being alienated and, as previously stated, once the ceded lands are sold or transferred from the public lands trust, they will not be available to satisfy the unrelinquished claims of native Hawaiians and will, as discussed more fully infra, undoubtedly have a negative impact on the contemplated reconciliation efforts." (OHA v. HCDCH) The transfer of Mauna Kea lands proposed in this bill is precisely the type of alienation that the Supreme Court anticipated and sought to prevent with the ceded lands injunction.

In addition to violating the Supreme Court's injunction against the transfer of ceded lands, this bill would also undermine the state's authority over public trust lands by handing over management authority to the leaseholder. As required by law, the DLNR is the state's landlord and is responsible for managing and overseeing all ceded lands and all conservation lands in the State. See, HRS sec. 171-3. Yet, this bill proposes to transfer the responsibility of managing the ceded lands of Mauna Kea from DLNR to the leaseholder by granting the University "authority to manage and control public activities on the Mauna Kea lands." Doing so would establish a precedent of giving the leaseholder – the developer – control over public trust lands. This not only turns the landlord-leaseholder relationship on its head, it violates the prohibition against the "wholesale delegation" of agency authority to a third party, as articulated in Kapa'akai v. LUC.

### **The University profits from Mauna Kea at the public's expense**

For 30 years the University has profited from allowing foreign countries and corporations to exploit Mauna Kea, while only paying \$1.00 per year in lease rent to the State. The University and the foreign entities that own and operate telescopes atop Mauna Kea have failed to pay "fair market" rent to the State, as required by HRS sec. 171-17, 18. This means state taxpayers have been subsidizing foreign government investments on our public lands.

The University, as well as the foreign countries and corporations on Mauna Kea, owe the state taxpayers 30 years of back-rent for violating HRS 171. Unfortunately, HB 1174 does not require compliance with state law, payment of back-rent, or provide any relief to the taxpayers. Surprisingly, during this time of debilitating economic crisis, the University is proposing to establish a special fund that would allow the University to pocket all of the profits from the use of Mauna Kea lands, bypassing the general fund altogether. The University is literally seeking the Legislature's approval to rob the people of Hawaii.

Unfortunately, the University has never accounted for the profits it has gained from its destructive use of Mauna Kea, so the people of Hawaii do not even know how much has been stolen by the University. According to a report to the UH Board of Regents in 1994, however, the University enjoyed at least \$60 million annually in benefits from its use of Mauna Kea. In 2001, the University admitted to the Legislature that the work conducted on Mauna Kea earned at least \$8 million a year just from the patent-lease contracts with defense contractors like Raytheon.



Office  
1149 Bethel St., Ste. 415  
Honolulu, HI 96813  
877.585.2432 toll-free ph/fx

Mailing Address  
P.O. Box 37368  
Honolulu, HI 96837

[www.KAHEA.org](http://www.KAHEA.org)  
[kahea-alliance@hawaii.rr.com](mailto:kahea-alliance@hawaii.rr.com)

Rather than allow the University to further burden and steal from Hawaii's peoples, this Legislature should require a financial audit of all telescope activity currently conducted on the sacred summit of Mauna Kea. With this accounting, the State can accurately assess the value of the University's astronomy program and determine how best to balance the financial needs of the University, the fragile natural and cultural resources of the mountain, and the people of the Hawaii.

### **The University desecrates and destroys Mauna Kea**

Multiple reports, audits, and lawsuits have confirmed that the University's telescope activities have violated the law and continue to destroy the natural and cultural resources of Mauna Kea. Mauna Kea's Hawaiian alpine desert is unlike any other place in the world. It is home to many Hawaiian endemic species - some are found only on Mauna Kea! This includes: 11 species of insects, such as the Wekiu bug; endangered birds, Palila (Hawaiian Honeycreeper) and Uau (Hawaiian Petrel); and the rare plant, Ahinahina (Mauna Kea Silversword). Mauna Kea lands are designated conservation and water shed lands for the purpose of protecting these imperiled cultural and natural resources, not telescope construction. The construction of so many telescopes in such a fragile environment destroys rare habitat and speeds the introduction of invasive species. The Wekiu bug, which lives only on the high elevation cinder cones of Mauna Kea, has lost 90% of its habitat to telescope development.

Most recently, the Third circuit court affirmed that DLNR rules and regulations do require DLNR to complete a comprehensive management plan for the conservation of the entire summit of Mauna Kea before permitting any further telescope construction. This ruling followed a court-ordered federal environmental impact statement (EIS) in 2005, which confirmed that the impacts of the telescope industry on the delicate cultural and natural resources of Mauna Kea have been "substantial, adverse and significant," all of which are conditions that bar the DLNR from issuing any permits for construction in a conservation district.

Furthermore, in multiple reviews of the University's activities on the summit, the Hawaii State Auditor found that the University's management and the DLNR's oversight of Mauna Kea has been "inadequate to ensure the protection of natural resources, and neglected ...the cultural value of Mauna Kea." Their report further stated that the University's Institute for Astronomy "focused primarily on the development of Mauna Kea and tied the benefits gained to its research program," and that its focus on telescope construction has been "at the expense of neglecting the site's natural resources."

### **The University seeks to limit public access and expand destructive activities**

Through this proposed legislation and its own version of a yet "management plan," the University is seeking to undermine the management of the ceded lands and natural and cultural resources on Mauna Kea, while consolidating its control over the summit. The primary purpose



Office  
1149 Bethel St., Ste. 415  
Honolulu, HI 96813  
877.585.2432 toll-free ph/fx

Mailing Address  
P.O. Box 37368  
Honolulu, HI 96837

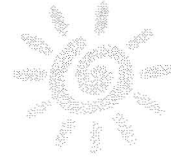
[www.KAHEA.org](http://www.KAHEA.org)  
[kahea-alliance@hawaii.rr.com](mailto:kahea-alliance@hawaii.rr.com)

of managing the conservation district on the sacred summit of Mauna Kea must be the protection of the natural and cultural resources found on these ceded lands.

Unfortunately, as outlined in its management plan, the University will not be protecting the natural and cultural resources of the mountain. The plan does not control telescope construction in any way. Instead, it proposes to limit public access, charge user fees, and dictate whether and how Hawaiians worship on the summit. The proposal includes blocking the only road to the summit; this road is a public road built with tax-payer funds that should not be gated for the benefit of a few astronomers. As a telling example of the University's audacity, HB 1174 proposes that the University "board of regents shall be exempt from the public notice, public hearing, and gubernatorial approval requirements of chapter 91," when establishing fees for use of summit. Given the University's track record of harm and desecration on the summit, the Legislature should not grant the University any authority to manage or regulate the sacred summit of Mauna Kea. Please hold HB 1174.

Mahalo,

Marti Townsend  
Program Director



# LIFE OF THE LAND

76 North King Street, Suite 203

Honolulu, Hawai'i 96817

Phone: 533-3454; E: [henry.lifeoftheland@gmail.com](mailto:henry.lifeoftheland@gmail.com)

## **COMMITTEE ON JUDICIARY**

Rep. Jon Riki Karamatsu, Chair

Rep. Ken Ito, Vice Chair

Friday, February 13, 2009

2:20 p.m.

Conference Room 325

HB1174 HD1 University of Hawaii

**OPPOSE**

Aloha Chair Karamatsu, Vice Chair Ito and Members of the Committee:

My name is Henry Curtis and I am the Executive Director of Life of the Land, Hawai'i's own energy, environmental and community action group advocating for the people and `aina for almost four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

The bill states: "Administrative rules governing public and commercial activities on the Mauna Kea lands are necessary to provide effective protection of cultural and natural resources from certain public activities"

Talk about intimidation.

Mauna Kea is ceded land.

Under the proposed rules, if a cultural group goes up to Mauna Kea over a three day period, and UH believes that some administrative rule was violated, the University of Hawaii can fine them \$17,500 (three separate violations of \$2500, \$5000, and \$10,000), threaten them with legal action to collect, and if the cultural group loses, can make them pay for the cost of a contested case hearing and/or court action.

Draconian way of shutting up those cultural groups who have sought to protect the cultural resources of the mountain since time *immemoriam*.

**karamatsu3-Leanne**

---

**From:** David Edelstein [david.adam.edelstein@microsoft.com]  
**Sent:** Thursday, February 12, 2009 12:47 PM  
**To:** JUDtestimony  
**Subject:** Another voice to protect Mauna Kea from UH

House Committee on the Judiciary  
Aloha Members of the Legislature and Board of Land and Natural R,

Aloha no --

I would like to add my voice to those protesting UH's plans for the future of Mauna Kea.

I am a huge fan of the science that is done in the observatories; however, this MUST be balanced with the rights of Kanaka Ma'oli and the needs of the environment.

Mahalo,

David Edelstein  
11336 23rd Avenue NE  
Seattle, WA 98125

## karamatsu3-Leanne

---

**From:** Valerie Loh [vallohfoto@yahoo.com]  
**Sent:** Thursday, February 12, 2009 1:07 PM  
**To:** JUDtestimony  
**Subject:** STOP UH's Power Grab for Mauna Kea

House Committee on the Judiciary  
Aloha Members of the Legislature and Board of Land and Natural R,

I vehemently oppose the University's plans for the future of Mauna Kea.

The lands of Mauna Kea are ecologically unique and culturally significant that is why they are protected as a conservation district. Conservation -- not telescope construction -- must be focus of all activity there.

Instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University has introduced four bills to the State Legislature seek to transfer all management authority from the Land Board to the University.

The proposal is outrageous. Multiple reports, audits, and lawsuits have confirmed that the University's telescope activities have violated the law and continue to destroy the natural and cultural resources of Mauna Kea.

On top of it all, the University of Hawaii is profitting from its abuse of Mauna Kea at the public's expense. The University pays the state only \$1 a year.

In exchange, the University receives tens of millions in benefits from the foreign nations and corporations with telescopes on the summit.

Especially in this time of economic crisis, the University owes the people of Hawaii back rent for 40 years of destruction and desecration on the summit of Mauna Kea.

Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Valerie Loh  
2552 peter street  
Honolulu, HI 96816

**karamatsu3-Leanne**

---

**From:** Den Mark Wichar [deedub@webtv.net]  
**Sent:** Thursday, February 12, 2009 2:14 PM  
**To:** JUDtestimony  
**Subject:** Protect Mauna Kea from UH Power Grab

House Committee on the Judiciary  
Aloha Members of the Legislature and Board of Land and Natural R,

I oppose UH plans for Mauna Kea. Under University proposal, Mauna Kea would become a gated community for astronomers. Their management plan would "manage" public access by charging and regulating people visiting the summit and dictating when, how, and who may engage in traditional and customary cultural practices. And, their management plan places no limits on threat to Mauna Kea of excessive telescope construction.

Mahalo,

Den Mark Wichar  
711 W 25 St  
Vancouver, WA 98660

**karamatsu3-Leanne**

---

**From:** J.K. Shishido [jkshishido@gmail.com]  
**Sent:** Thursday, February 12, 2009 4:57 PM  
**To:** JUDtestimony  
**Subject:** Protect Mauna Kea!

House Committee on the Judiciary  
Aloha Members of the Legislature and Board of Land and Natural R,

I strongly oppose the University's plans for the future of Mauna Kea. The lands of Mauna Kea are ecologically unique and culturally significant - that is why they are protected as a conservation district. Conservation -- not telescope construction -- must be focus of all activity there. I urge you to uphold the protections currently in place for this sacred place!

Mahalo,

J.K. Shishido  
3577 Manoa Road  
Honolulu, HI 96822



## karamatsu3-Leanne

---

**From:** Kiope Raymond [kiope@hawaii.edu]  
**Sent:** Friday, February 13, 2009 9:40 AM  
**To:** JUDtestimony  
**Subject:** UH vision statement at odds with Mauna Kea management scheme?

House Committee on the Judiciary  
Aloha Members of the Legislature and Board of Land and Natural R,

Aloha,  
The following is the official "vision" statement of the University of Hawaii system. As a tenured faculty, I must protest the bills before the legislature positioning the UH Institute Astronomy (IfA) to become the regulatory authority for Mauna Kea. It is an outrage that the University would adopt the language in the vision and at the same time be willing to allow the IfA try and persuade the legislature in the manner it is doing.

### "THE VISION

In ancient Hawaii, ahupuaa were sections of land that extended from the mountain summits down through fertile valleys to the outer edge of the reef and into the deep sea. The konohiki, or caretakers, managed the land and consulted with kahuna who were experts in different specialties. Within the ahupuaa, a wise conservation system was practiced to prevent exploitation of the land and sea, while allowing the people to use what they needed for sustenance.

The ahupuaa contained nearly everything Hawaiians required for survival. Fresh water was managed carefully for drinking, bathing, and irrigation of wet land taro. Wild and cultivated plants provided food, clothing, shelter, household goods, canoes, weapons, and countless other products. Land and sea creatures offered food, bones, teeth, skin, and feathers for tools, crafts, and ornamentation.

Since Hawaiians viewed the land as a sacred ancestor?the earth mother Papahanaumoku?they were expected to share resources and care for one another as one family. Living in harmony with the land was the Hawaiian way. As non-natives arrived in Hawaii, many began to share in the Native Hawaiian reverence for the land. Now all who live in the incredible beauty of Hawaii share a kuleana, or responsibility, to care for the land as a sacred trust.

The University of Hawaii system of public higher education embraces the Native Hawaiian reverence for the land and the ahupuaa practice of sharing diverse but finite resources for the benefit of all.

Just as the Hawaiian ethic of sharing, collaboration, and conservation benefited Hawaii in the old days, the University as a system of interdependent and collaborative institutions will ensure the responsible allocation, management, and sustainable use of limited resources and the generous sharing of diverse expertise. The teaching, research, and service provided by these institutions will prepare the liberally educated and highly skilled workforce essential for the future economic success, health, and well-being of this island state as it participates in a global society. In particular, multiple portals open pathways of knowledge that will provide educational leadership in support of Native Hawaiians, their indigenous culture, and Hawaii's unique sense of pluralism.

Working together for the betterment of all the diverse ethnic populations that are now part of this state, the University of Hawaii system will help ensure the survival and prosperity of Hawaii's people and these beautiful islands for generations to come."

Please do not hear the bills.

Mahalo,  
Kiope Raymond  
Associate Professor, CC  
Hawaiian Studies

Kiope Raymond  
310 Kaahumanu Avenue  
Kahului, HI 96732-1617

# 279 INDIVIDUALS - FORM LETTER

**karamatsu3-Leanne**

---

**From:** Judy Waters [makawaofiddler@yahoo.com]  
**Sent:** Thursday, February 12, 2009 10:36 AM  
**To:** JUDtestimony  
**Subject:** Please Protect Mauna Kea from UH's Power Grab

House Committee on the Judiciary  
Aloha Members of the Legislature and Board of Land and Natural R,

I strongly oppose the University's plans for the future of Mauna Kea. Under the University's proposal, Mauna Kea would become a gated community for astronomers. Their management plan would "manage" public access by charging and regulating people visiting the summit and dictating when, how, and who may engage in traditional and customary cultural practices. At the same time, their management plan places no limits on the real threats to Mauna Kea: excessive telescope construction. The lands of Mauna Kea are ecologically unique and culturally significant that is why they are protected as a conservation district. Conservation -- not telescope construction -- must be focus of all activity there.

Instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University has introduced four bills to the State Legislature seek to transfer all management authority from the Land Board to the University. The proposal is outrageous given the University's history of destruction and desecration on the sacred summit. Multiple reports, audits, and lawsuits have confirmed that the University's telescope activities have violated the law and continue to destroy the natural and cultural resources of Mauna Kea. Just as one example, the Wekiu bug, which lives only on the high elevation cinder cones of Mauna Kea, has lost 90% of its habitat to telescope development. Despite all of the flaws of past Land Board mismanagement on Mauna Kea, changing the laws that protect Mauna Kea now will not help to better protect the public trust resources on Mauna Kea. Instead, handing management authority over to the University will only hasten the loss of Mauna Kea's unique resources.

On top of it all, the University of Hawaii is profitting from its abuse of Mauna Kea at the public's expense. Mauna Kea is ceded lands. These lands are to be held in trust for the people of Hawaii. The law requires that fair market rent be charged for the use of these lands. However, in the case of Mauna Kea, the University pays the state only \$1 a year. In exchange, the University receives millions in benefits from the foreign nations and corporations with telescopes on the summit. Especially in this time of economic crisis, the University owes the people of Hawaii back rent for 40 years of destruction and desecration on the summit of Mauna Kea.

For these reasons, I strongly urge to stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Judy Waters  
211 N. Makaleha Pl.  
Makawao, HI 96768