

TESTIMONY
HB 1174, HD3
LATE



LATE TESTIMONY

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFI-CIO

GENTRY PACIFIC DESIGN CENTER, STE. 215A • 560 N. NIMITZ HIGHWAY, #50 • HONOLULU, HAWAII 96817
(808) 524-2249 • FAX (808) 524-6893

March 20, 2009

NOLAN MORWAKI
President
Bricklayers & Ceramic Tile Setters
Local 1 & Plasterers/Cement
Masons Local 630

JOSEPH O'DONNELL
Vice President
Iron Workers Local 625

DAMIEN T. K. KIM
Financial Secretary
International Brotherhood of
Electrical Workers Local 1166

ARTHUR TOLENTINO
Treasurer
Sheet Metal Workers I.A. Local 293

MALCOLM K. AHLO
Sergeant-At-Arms
Carpenters, Linoleum, & Soft Tile
Local 1296

REGINALD CASTANARES
Trustee
Plumbers & Fitters Local 875

THADDEUS TOMEI
Elevator Constructors Local 128

JOSEPH BAZEMORE
Drywall, Tapers, & Finishers
Local 1944

RICHARD TAGGERE
Glaziers, Architectural Metal &
Glassworkers Local Union 1889

AUGHN CHONG
Roofers, Waterproofers & Allied
Workers United Union of Roofers
Local 221

MARY AYCOCK
Cabinetmakers, Ironship Builders
Local 627

LYNN KINNEY
District Council 50
Painters & Allied Trades
Local 1791

ALANI MAHOE
Operating Engineers Local 5

EDWARD SEBRESOS
International Assoc. of
Ceiling & Froat Insulators
Allied Workers Local 132

Honorable Senator Clayton Hee, Chair
Honorable Senator Jill N. Tokuda, Vice Chair
Members of the Senate Committee on Water, Land, Agriculture and
Hawaiian Affairs
Honorable Senator Jill N. Tokuda, Chair
Honorable Senator Norman Sakamoto, Vice Chair
Members of the Senate Committee on Higher Education
Hawaii State Capital
415 South Beretania Street
Honolulu, HI 96813

RE: **IN SUPPORT OF HB 1174, HD3**
Relating to the University of Hawaii
Hearing: Mon., March 23rd, 2009, 3:45 p.m. in Room 229

Dear Chair Hee, Vice Chair Tokuda and the Senate Committee
On Water, Land, Agriculture and Hawaiian Affairs & Chair Tokuda, Vice
Chair Sakamoto and the Senate Committee on Higher Education:

For the Record my name is Buzz Hong the Executive Director for
the Hawaii Building & Construction Trades Council, AFL-CIO. Our
Council is comprised of 16-construction unions and a membership
of 26,000 statewide.

The Council SUPPORTS the passage of HB 1174, HD3 that allows
the UH Board of Regents to adopt administrative rules to regulate
public and commercial activities at and within the Mauna Kea lands,
or the lands UH leases from the BLNR. It will also allow the UH to
assess and collect administrative fines for violations of these rules
and establishes the Mauna Kea Management Special Fund for the
deposit and use of these revenues.

Thank you for the opportunity to submit this testimony in support
of HB 1174, HD3.

Sincerely,

W. Hong
William "Buzz" Hong
Executive Director

LATE TESTIMONY

Dear Senator Tokuda,

I am raised on the Big Island for over 40 years and I am writing to let you know that I **SUPPORT HB. 1174 HD 3.**

The University of Hawaii at Hilo has come a long way to develop rules and guidelines for what happens on top of Mauna Kea with the development of the Office of Mauna Kea Management.

The school has also emerged as one of, if not, the best Astronomy programs in the world. The majority of people on the Big Island stand together to continue to strengthen and support the University of Hawaii at Hilo's and the Office of the Mauna Kea Managements mission and to protect our Hawaiian culture and natural environment.

Sincerely,



Marvin Min

LATE TESTIMONY

March 20, 2009

Senator Clayton Hee, Chair
Senator Jill Tokuda, Vice Chair
Committee of Water, Land, Agriculture & Hawaiian Affairs

Re: HB1174 HD3
March 23, 2009 Conference Room 229 3:45pm

I am a freshman at the University of Hawaii at Hilo. Being born and raised on the Big Island, I feel that we are very fortunate to have one of the best sites in the world for Astronomy, which ties in to the ancient Hawaiian navigators and their use of the stars. It makes me very proud to have my University play an integral role in this area.

Mauna Kea is a special mountain on the Big Island and thus it is imperative that UH Hilo continue in its role of oversight of the mountain through the Office of Mauna Kea Management (OMKM). The OMKM keeps us students as well as the public informed on the happenings on the mountain. Now they need your support to enable them to establish rules on the mountain.

I sincerely encourage you and your committee to support this important bill. The students and faculty here are all behind it.

Sincerely,



Robyn K.L.F. Taniguchi
1332 Launa Street
Hilo, HI 96720

LATE TESTIMONY

March 20, 2009

Senator Clayton Hee, Chair
Senator Jill Tokuda, Vice Chair
Committee of Water, Land, Agriculture & Hawaiian Affairs

Re: HB1174 HD3
March 23, 2009 Conference Room 229 3:45pm

I am writing in support of House Bill 1174 HD3. I was born and raised on Oahu, and moved to the Big Island in 1993. We have raised our two daughters in Hilo to appreciate and respect our very special mountain, Mauna Kea.

The breathtaking views of the snow-capped mountain were a first for me and in speaking with our friends on Oahu, many have never had the opportunity to experience that beautiful sight.

The Office of Mauna Kea Management has made some wonderful strides in the management of our special mountain, however they need to be able to formulate a management plan and establish rules for the general public, tourists, commercial interests, etc..

I encourage you to support this important bill.

Sincerely,



Barbara Au Taniguchi
1332 Launa Street
Hilo, HI 96720

From: Ulalia Ka'ai Berman [kaaiulalia@gmail.com]
Sent: Sunday, March 22, 2009 4:01 PM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

In addition think of our keiki and the future generations of Hawai'i that will not have the opportunity to see for themselves the beauty of this sacred aina - Mauna Kea. Please let us have some dignity in what makes "Moku O Keawe" special to our keiki, and ka poe o ke ao nei.

From: Annette Kaohelaulii [annettesadventures@juno.com]
Sent: Sunday, March 22, 2009 4:04 PM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

It is very critical that the Legislature do all possible to protect the lands on Mauna Kea that belong to all of the people of the state. That would include making sure that H.B. 1174 does not pass out of your committee.

The University's "comprehensive management plan" will not protect the important natural and cultural resources of the mountain. These attempts to change the law, rather than follow the existing laws if you don't like them will not work in the long run., so do not let it happen.

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Annette Kaohelauliifi
45-403 Koa Kahiko Street
45-403 Koa Kahiko Street
Kaneiohe, HI 96744

235-5431

LATE TESTIMONY

From: wainani texeira [wainanilee@hotmail.com]
Sent: Sunday, March 22, 2009 5:47 PM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

wainani texeira

From: Fern Holland [fernnygirl@yahoo.com]
Sent: Sunday, March 22, 2009 6:02 PM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Fern Anuenue Holland

To:
Members of Senate Committees:
Higher Education and
Water, Land, Agriculture and Hawaiian Affairs

March 22, 2009

From:
Keomailani Von Gogh
PO Box 5864 Hilo, HI
96720

LATE TESTIMONY

Aloha,

I am writing in opposition to HB 1174 regarding the transferring of management authority on Mauna Kea from the BLNR to the University of Hawaii. This bill would give complete control over to a special interest group – astronomy, and would give the UH authority to close its gates and put up its chains to keep the public off of public land. This bill and the alleged “Comprehensive Management Plan” depend on each other and one cannot exist without the other. This alleged management plan lays it out- how the University and its agents will regulate the public by closing the road any time they see fit, or feel there are too many members of the public playing in the snow, hiking, sightseeing, etc, including cultural practitioners doing ceremony, praying, or gathering medicine. Nights would be closed to ALL MEMBERS OF THE PUBLIC while allowing the astronomy community free reign. The University appointed advisory body Kahu Ku Mauna would be able to regulate and “educate” the cultural practitioners on who, what, when, where, how, and with what items practitioners can practice their culture “appropriately.” This is offensive. In one section of the CMP they actually will require practitioners to apply for a CDUP in order to build an Ahu or shrine. If a practitioner is cited for an alleged infraction by the University he or she may be fined and could be taken to court. This would be criminalizing religious practice. All of the above new UH powers would be in direct violation of the Hawaii State Constitution. The University plans to regulate the public while building more and more observatories which have and still are causing the biggest negative impacts on the mountain.

In SECTION 3 of HB1174, the University proposes to (3) “Delegate to the president or the presidents’ designee the authority to render the final decision in contested case proceedings subject to chapter 91, as it deems appropriate; this would make the University and their Lessees judge, jury, and executioner.

Would we give the owner of a bed and breakfast (B&B) that is located across the highway from the beach the benefit of being able to decide who and when the public uses the beach under the guise of “management”? No! Would we give the owner the authority to write citations and collect fines and fees from the public to use for “management “of “his” part of the shoreline? No! Would we let him expand his operations on to the beach and approve his own permits while limiting access to the public? No!

Please do not attempt to create new laws that are in direct conflict with existing laws already in place and only need to be funded and implemented. The funding will come from charging not The University, but the Astronomy corporations that benefit from using public resources on Mauna Kea as is required by law HRS171-18. The rent will be paid to the State 80% and 20% to OHA.

To quote relevant parts of the recent Supreme Court ruling regarding the Superferry, “That our Constitution prohibits laws which provide disparate treatment intended to favor a specific individual, class, or entity is a fundamental principle of the democratic nature of government: equal rights and treatment for all persons under the law.”

Please do not schedule and or please hold HB1174.

Mahalo for your time and consideration,

Keomailani Von Gogh
PO Box 5864
Hilo, Hawaii
96720

LATE TESTIMONY

From: Charles Lawson [Lawsoncyn@aol.com]
Sent: Sunday, March 22, 2009 6:45 PM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Charles Lawson

From: kealoha [kealohap@aloha.net]
Sent: Sunday, March 22, 2009 6:52 PM
To: WTLTestimony; HRE Testimony
Cc: kealiikea@yahoo.com; dward@hawaii.edu; Clarence Ching; Nelson Ho; Marti Townsend; kealoha
Subject: attachment for testimony in opposition to HB1174
Attachments: OHA Comments MK EA.pdf; OHA Comments CMP.pdf

LATE TESTIMONY

Aloha Pumehana,

Chairs Hee, Tokuda and Members of the Committees on Water, Land, Agriculture and Hawaiian Affairs, and Higher Education.

I am sorry I did not enclose the OHA Position attachments referenced in the joint testimony in opposition to HB1174 and general support for SR44 filed on behalf of the following groups and individuals,

1. The Royal Order of Kamehameha I,
2. Mauna Kea Anaina Hou,
3. Sierra Club Hawai'i Island Chapter,
4. Clarence Ching,
5. Na Koa Ikaika O Ka Lahui Hawai'i and;
6. Aloha `Aina Education Project

I am sorry for any confusion and I thank you for your time and consideration,

In Aloha I remain,
Kealoha Pisciotta, President
Mauna Kea Anaina Hou



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

COPY

LATE TESTIMONY

HRD09/3754D

March 9, 2009

University of Hawai'i
Office of the President
2444 Dole Street
Bachman 202
Honolulu, HI 96822

RE: Request for comments on the Mauna Kea Comprehensive Management Plan: UH Management Areas – Draft Environmental Assessment.

Aloha e Office of the President of the University of Hawai'i,

On February 9, 2009, the Office of Hawaiian Affairs (OHA) received a letter requesting comments on the Draft Environmental Assessment (EA) for the Mauna Kea Comprehensive Management Plan (CMP). If approved, the current draft of the CMP would provide a framework for planning for the management of existing and future activities within the ceded, public lands atop Mauna Kea that the University leases from the Department of Land and Natural Resources.

OHA has found it very difficult to provide an adequate review of this Draft EA for a number of reasons. First, the CMP itself is incomplete, and we do not recommend its approval in its current state. Although the Draft EA states, "The CMP, once approved by the BLNR, will be the guiding management plan for decisions involving the UH Management Areas" (Draft EA, page 3-1), the document is far too vague and preliminary to allow anyone to base a decision upon it, because it basically prescribes studies and future plans, not activities and their possible impacts. We have enclosed a copy of our separate review of that document for your information and will not burden you with that analysis in this letter. Second, in large measure because of the inadequacies of the CMP, this Draft EA does not fulfill the statutory requirements of Chapter 343 of the Hawaii Revised Statutes (HRS), which would have allowed us to provide adequate analysis and review of the proposed activities. Thus, we urge the University, which is in the awkward position of being both the applicant and the accepting agency, not to accept this Draft EA and to request a more thorough and compliant environmental review be executed, preferably upon a truly comprehensive management plan, as was ordered by Third Circuit Court Judge

University of Hawai'i, Office of the President
March 9, 2009
Page 2

Glenn S. Hara in his January 19, 2007 ruling. (Civil No. 04-1-397, *Mauna Kea Anaina Hou, et. al. v. Board of Land and Natural Resources, et. al.*)

OHA's legal mandates

OHA respectfully reminds the University that we should work together to protect public trust and ceded lands, as well as Native Hawaiian traditional and customary rights and practices. The subject lands on Mauna Kea are ceded lands, which is not mentioned in either the CMP or the Draft EA, and are both sacred to Native Hawaiians and unique environmentally as critical habitat for a number of endemic, native and endangered species.

Not only does the State, including the University, have a constitutional obligation "for the benefit of present and future generations," to "conserve and protect Hawaii's natural beauty and all natural resources" because "[a]ll public natural resources are held in trust by the State for the benefit of the people" (Hawai'i Constitution, Article XI, Section 1), but the State also has a constitutional mandate to "protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes" for Native Hawaiians (Hawai'i Constitution, Article XII, Section 7). The HRS helps create a methodology for State agencies to meet the latter mandate. Section 10(1)(b) affirms, "It shall be the duty and responsibility of all state departments and instrumentalities of state government providing services and programs which affect native Hawaiians and Hawaiians to actively work toward the goals of this chapter and to cooperate with and assist wherever possible the office of Hawaiian affairs." Meanwhile, OHA is tasked in HRS § 10(3)(4) with "[a]ssessing the policies and practices of other agencies impacting on native Hawaiians and Hawaiians, and conducting advocacy efforts for native Hawaiians and Hawaiians."

OHA cannot meet that statutory mandate via the Draft EA provided to us, because it does not provide us with enough information to "ensure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations." (HRS Section 343-1 and Hawaii Administrative Rules (HAR), Section 11-200-1). So few environmental or cultural specifics were provided in this document that a true analysis or decision making cannot be conducted from it. Instead, this document generally recognizes the significance of the place for Native Hawaiians and environmental components of the mountain, but does not provide any detailed description of those components in either the document or any appendices.

Environmental Assessment requirements

Unlike most EAs, this one includes no appendices including archaeological, cultural, biological, geological, or aquatic studies, among others. Instead, a list of references is included, and the necessary studies for analysis of potential impacts are anticipated products of the CMP. Some of these prescribed studies must be included in an amended Draft EA, or, at the very least,

LATZ TESTIMONY

University of Hawai'i, Office of the President
March 9, 2009
Page 3

in a Final EA. (Including, but not limited to: CR-11 Complete archaeological survey of the portions of the Summit Access Road corridor under UH management; CR-13 Develop and implement a burial treatment plan; NR-7 Delineate areas of high native diversity, unique communities, or unique geological features within the Astronomy Precinct and at Hale Pōhaku and consider protection from development; and NR-15 Conduct baseline inventories of high-priority resources). Thus, this Draft EA includes a summary of literature searches, no independent oral interviews or analysis for a Cultural Impact Assessment, no scientific descriptions of the federally and state protected plant and animal species or their habitats, and no mitigation measures.

The CMP apparently was drafted as a plan to create more plans, and a plan to do the studies necessary to determine potential impacts of those plans. This is backwards. The Draft EA is supposed to determine potential impacts of activities proposed in the CMP. Circuitous wording does not exempt the University from either its requirements to provide a Comprehensive Management Plan as required under the HAR and via Circuit Court Order or its requirements to conduct an environmental review that "will integrate the review of environmental concerns with existing planning processes of the state and counties and alert decision makers to significant environmental effects which may result from the implementation of certain actions." (HRS Section 343-1) No integration was conducted, just a listing of potentially applicable federal and state laws, but no analysis or application of any of them.

In fact, several times the Draft EA alluded to subverting such applicable laws, raising the question of whether or not the applicant understands the laws and their implications. For example, the federal Endangered Species Act (ESA), the National Historic Preservation Act (NHPA), and Hawai'i's burial and historic preservation laws have been all but ignored by this document and the CMP. Some of the actions described by the EA (in language that was largely cut and pasted from the CMP) include "considering" protecting critical habitat and cultural resources. This is more than inadequate; it is illegal. And, if critical habitat may even potentially be impacted, a Section 7 consultation under the ESA is required. Has such consultation occurred? Equally, depending on the source of funding or what agency is proposing an activity that may impact on a site that either may be listed on the federal or state historic registers, the agency must consult under HRS Chapter 6E or under Section 106 of NHPA. Laws are not matters of convenience that can be avoided by vague language in a CMP that is neither comprehensive nor a plan for management.

This Draft EA should evaluate the activities proposed in a site-specific manner. It must describe, for the reviewers and decision makers, proposed management of species and areas. There is no timetable for any of the proposed activities, whether they are communication, planning, studies, etc. There are no build-out priorities or stages of analysis, implementation, mitigation, or review. No specific impacts on any resources are discussed, which is imperative for a reviewer's ability to determine potential consequences. The biggest impact on the

LATE TESTIMONY

mountain is the telescopes, and they are only briefly alluded to in the summary cumulative impact section.

HAR §11-200-10 lists the required contents of an Environmental Assessment. Of the 12 requirements, this Draft EA is completely missing one: "G. Proposed mitigation measures". At least two are also substantially inadequate and incomplete, for reviewing and decision-making purposes: "E. Summary description of the affected environment" and "F. Identification and summary of impacts and alternatives considered".

Mitigation measures are key components of the environmental review process, as are alternatives. No mitigation measures are addressed, not even to state that there are no mitigation measures. Equally, although an alternatives analysis is listed in the table of contents, none is actually conducted. A discerning reader of both the CMP and the Draft EA would automatically note that there are, by practical necessity, at least three alternatives that must be described and examined:

1. The No Action alternative, which would "maintain[] the current status in the UH Management Areas";
2. The Proposed Action alternative, which would require "approval of the CMP"; and
3. An alternative in case the current legislative process does not provide statutory, rule-making authority to the University for the UH Management Areas.

It is irresponsible for both the CMP and EA drafters to presume that the Hawai'i State Legislature will undoubtedly provide for the precise statutory authority requested by the University. A third, non-preferred alternative must be presented to reviewers and decision makers to provide for the possibility that rule making is not authorized, but that management of leased lands must continue, and a CMP still must be in place, per existing rules (HAR) and Circuit Court Order. Without that alternative presented in either the CMP or its associated Draft EA, neither is complete and no legitimate analysis of the proposals can be undertaken.

Comprehensive Management Plan requirements

Because the Mauna Kea lands that the University leases from the BLNR include "astronomy facilities" in a conservation district, land uses in that area require a Conservation District Use Permit (CDUP) from the Office of Conservation and Coastal Lands, and that CDUP cannot be granted unless the proposed use is appropriately addressed in a "management plan". (HAR Section 13-5-24(c)(4)). The Third Circuit Court found that the last BLNR-approved management plan was one adopted on March 10, 1995, and that management plan "did not provide the scope and coverage for the development of the astronomy facilities on Mauna Kea" and could not support a CDUA for such development because it "is virtually silent on the matter of future development of astronomy facilities on Mauna Kea." (See August 3, 2006

University of Hawai'i, Office of the President
March 9, 2009
Page 5

Memorandum of Decision for Civil No. 04-1-397, *Mauna Kea Anaina Hou v. Board of Land and Natural Resources*).

Equally, the current draft CMP is virtually silent on all land uses, thereby not meeting the basest requirement for a management plan. As Judge Hara spelled out in his August 3, 2007 Memorandum of Decision, HAR Chapter 13-5 states, "Management plan' means a comprehensive plan for carrying out multiple land uses." Judge Hara continues: "The plain meaning of the term 'comprehensive' suggests a scope that is 'all-covering, all-embracing, all-inclusive, all-pervasive....' Burton, William C. *Legal Thesaurus*, Regular Ed. MacMillan Publishing Co. Inc. (1980). The term is also defined by *the American Heritage Dictionary of the English Language*, American Heritage Publishing Co., Inc and Houghton Mifflin Company (1969), as 'Including or comprehending much, large in scope or content.' (Emphasis added)."

Not only does this CMP not address land uses, it specifically does not address land uses in the Astronomy Precinct, and it is in no way "comprehensive" because it only plans to plan, incorporates elements of the 1995 management plan and incorporates the 2000 Master Plan by reference only, without even appending the latter. The latter was never approved by the BLNR, so it cannot be considered a legitimate management plan, and it is not included in the current CMP, therefore not enabling that requirement to be remedied. Both the 1995 management plan and the 2000 Master Plan did not incorporate a cultural analysis via a Cultural Impact Assessment or address what impact these commercial activities could have on cultural resources and traditional and customary practices, pursuant to the three-part analysis provided in *Ka Pa'akai O Ka 'Aina v. Land Use Commission*, 94 Hawai'i 31, 7 P. 3d 1068 (2000). Thus, both would require those analyses by the Draft EA if they are to be legitimately incorporated into the CMP in an open and straight-forward manner.

Judge Hara also stated in his August 6, 2006 Memorandum of Decision that management plans could not be developed on a project-by-project basis because that

would result in foreseeable contradictory management conditions for each project or the imposition of special condition (sic) on some projects and not others. The result would be projects within a management area that did not conform to a comprehensive management plan, and would not be consistent with the purposes of appropriate management and promoting long term sustainability of the protected resource espoused by HRS §183C-2.

Presuming that the University of Hawai'i intends, should this CMP be approved, to reapply for a permit to construct and operate the Outrigger Telescope Project in a resource subzone of a conservation district in the Astronomy Precinct of Mauna Kea, there is no way that it could conform to this CMP either, because this CMP includes no land use analysis and no mention of

LATE TESTIMONY

University of Hawai'i, Office of the President
March 9, 2009
Page 6

the Astronomy Precinct at all. Without full and complete integration of the 2000 Master Plan, by the BLNR, that project, for example, would not be able to be approved per the court's analysis.

Conclusion

This Draft EA cannot, in good faith, be accepted as it is currently drafted. OHA understands that the Draft EA could only review what it was provided by the CMP. This provides more legitimacy to our advocacy that the CMP also not be approved as is, because it is neither comprehensive, nor a management plan, and does not provide for adequate or thorough decision making ability or planning.

Thank you for the opportunity to comment. If you have further questions, please contact Heidi Guth by phone at (808) 594-1962 or e-mail her at heidig@oha.org.

:O wau iho nō me ka 'oia'i'o,



Clyde W. Nāmu'o
Administrator

Attachment (1): Copy of signed letter reviewing the Mauna Kea CMP (HRD09/3754C)

C: OHA Board of Trustees

OHA Hilo and Kona CRC Offices

Doug Hazelwood
Pacific Consulting Services, Inc.
720 Iwilei Road, Suite 424
Honolulu, HI 96817

Katherine Puana Kealoha, Director
Office of Environmental Quality Control
235 South Beretania Street, Suite 702
Honolulu, HI 96813

Laura Thielen, Chairperson
Board of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl St.
Honolulu, HI 96813

LATE TESTIMONY

Pua Aiu, Administrator
Historic Preservation Division
Department of Land and Natural Resources
601 Kamokila Boulevard, Room 555
Kapolei, HI 96707

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

Office of Mauna Kea Management
640 N. Aohoku Place, Room 203
Hilo, HI 96720

Rolf-Peter Kudritzki
University of Hawai'i
Institute for Astronomy
2680 Woodlawn Drive
Honolulu, HI 96822

Dawn Chang, Principal
Ku'iwalu
Pauahi Tower, 27th Floor
1003 Bishop Street
Honolulu, HI 96813



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

COPY
LATE TESTIMONY

HRD09/3754C

March 9, 2009

Dawn Chang, Principal
Ku'iwalu
Pauahi Tower, 27th Floor
1003 Bishop Street
Honolulu, HI 96813

RE: Request for comments on the Mauna Kea Comprehensive Management Plan.

Aloha e Dawn Chang,

On January 30, 2009, the Office of Hawaiian Affairs (OHA) received a letter requesting comments on the Mauna Kea Comprehensive Management Plan (CMP). The CMP was developed for the University of Hawai'i and is intended to serve as a guide for managing the existing and future activities and uses of Mauna Kea and to ensure the protection of the mountain's cultural and natural resources, many of which are unique. OHA has reviewed the plan and offers the following comments.

First, we would like to extend a warm mahalo to the university and Ku'iwalu for the extensive consultation with the Native Hawaiian community, and the broader public, that was conducted in the preparation of this CMP. As a general rule, OHA encourages project coordinators to engage communities in the planning process in recognition of the fact that identifying and discussing possible mitigation measures for issues in advance substantially improves the final project. Nevertheless, OHA still has a number issues with the document.

Multiple management plans

OHA has concerns that the CMP does not examine or provide management guidance for each of the astronomy development projects contemplated and proposed in the University of Hawai'i's 2000 Mauna Kea Science Reserve Master Plan. OHA notes that astronomy development has resulted in substantial and adverse impacts to the natural and cultural resources of Mauna Kea (Record of Decision for the Outrigger Telescopes Project, 2005). According to the CMP, the CMP and Master Plan will serve as two parallel management documents for

LATE TESTIMONY

Dawn Chang
March 9, 2009
Page 2

Mauna Kea, with the CMP managing access and day-to-day activities on Mauna Kea and the Master Plan serving as the framework for future development.

The CMP states that: "The CMP will not replace the 2000 Master Plan, which continues to serve as the University's development planning framework for responsible stewardship and use of the UH Management Areas. As the CMP maintains consistency with the 2000 Master Plan, future updates to that plan should be consistent with the CMP." (CMP, page 2-3.) Moreover, the document states on page 7-54 that "[i]t needs to be emphasized that the CMP manages resources; it does not advocate or promote new telescope development."

OHA notes that Mauna Kea itself is a resource, one that is especially sacred to Native Hawaiians, and the CMP must manage telescope development to protect the resource. There are a number of issues that arise from the university's strategy of operating under two parallel managing documents. First, it's confusing. Over the years, a series of management and master plans have guided activities and uses on Mauna Kea, which has confounded management of the mountain. The 2005 State Audit of Mauna Kea noted that the number of plans has resulted in "a complex web of responsibility" and that the university has "added to that web by tolerating different management documents without resolving inconsistencies between them or consolidating them into one comprehensive management plan."

The university continues this "complicated web" by allowing two management plans, despite the fact that the CMP is supposed to be the single comprehensive management plan the state auditor recommends. Moreover, the university's two management plans strategy seems to skirt both the Hawai'i Administrative Rules (HAR) and a circuit court ruling.

Chapter 13-5, HAR, allows for astronomy facilities within the Resource Subzone of the state's Conservation District, provided that the Board of Land and Natural Resources (BLNR) approves a management plan and permit for the project. Mauna Kea is located within the Resource Subzone of the state's Conservation District.

In his January 19, 2007 ruling, Third Circuit Court Judge Glenn Hara concluded that HAR §13-5-24 "requires a management plan which covers multiple land uses within the larger overall area that [the University of Hawai'i Institute for Astronomy] controls at the top of the Mauna Kea in the conservation district." Judge Hara noted that the state's administrative rules define "land use" as:

- 1) The placement or erection of any solid material on land if that material remains on the land more than fourteen days, or which causes a permanent change in the land area on which it occurs;
- 2) The grading, removing, harvesting, dredging, mining or extraction of any material or natural resource on land;
- 3) The subdivision of land; or

- 4) The construction, reconstruction, demolition, or alteration of any structure, building, or facility on land.

The development and decommissioning of astronomy facilities, such as observatories, would fall under the state's definition of "land use," and would therefore be required to be analyzed in a BLNR-approved comprehensive management plan. However, the CMP does not consider any future observatory development, as noted earlier. This is problematic because the BLNR is only reviewing the CMP; it has not adopted nor approved the 2000 Master Plan (CMP, page 3-8), which is the only document that outlines future astronomy development on Mauna Kea. This would essentially mean that the BLNR would never have the opportunity to review the university's astronomy development plans as required by the state's administrative rules and Judge Hara's court order.

The university's dual management strategy makes it unclear to which plan projects must conform. Page 7-55 of the CMP states that three UH agencies are charged with "reviewing projects to ensure that they conform to the 2000 Master Plan." But the state's administrative rules do not require projects adhere to a master plan; they require projects to comply with a BLNR-approved management plan. Judge Hara noted that having multiple management plans would result in projects on Mauna Kea that "do not conform to a comprehensive management plan. This would *not* be consistent with the purposes of appropriate management nor the promotion of long-term sustainability of protected resources required by Haw. Rev. Stat. §183-1."

What's more, Judge Hara emphasized that the management plan must be comprehensive, meaning that its scope is "all-covering, all-embracing, all-inclusive, all-pervasive." The CMP fails Judge Hara's decision in this regard, because the CMP does not analyze any of the proposed observatories for Mauna Kea.

Furthermore, the CMP simply does not comply with the management plan requirements of the Department of Land and Natural Resources (DLNR), which are listed in Exhibit 3 of §13-5, HAR. Exhibit 3 states that the management plan must include for *each proposed land use*: a description of the proposed land use, a site plan, justification that it is an identified land use for the subzone, its relationship to existing and other proposed land uses, expected timing and monitoring strategies. The CMP doesn't fulfill any of these requirements because, as noted previously, it does not consider the development of new observatories, each of which would be classified as a separate land use under HAR. Each proposed telescope must be described in detail, with timelines, as required by HAR. Moreover the CMP does not contain a start and end date, as called for by Exhibit 3.

Management authority

Another major problem with the CMP is that management authority between the DLNR and the university is muddled throughout the document, causing the critical boundary between lessor and lessee to be completely blurred.

One example of this is the management of historic properties. The State Historic Preservation Division (SHPD) is the division of the DLNR that is statutorily tasked with managing the state's historic properties. Yet, the CMP delegates much of the management authority over Mauna Kea's numerous historic sites to the university, which has no experience or expertise in managing historic properties. SHPD is not mentioned in two of the CMP's historic properties management actions (CR-10 and CR-11), and the division is only briefly mentioned as an agency to "work with" in the additional comments section for CR-12. Historic property monitoring programs (CR-10), buffers around historic sites (CR-12) and archaeological surveys of state lands (CR-11) must all be submitted to and approved by SHPD.

Another example of confusing management jurisdiction relates to commercial activities. According to the CMP, the UH Board of Regents accepted the responsibility of regulating commercial tour activities from the BLNR in 2005, and the university's Office of Mauna Kea Management (OMKM) currently reviews and issues these permits (CMP, page 7-30). However, the university apparently has "no express statutory or regulatory authority to issue permits" for other commercial activities, such as concessions, resource extraction and special events (CMP, page 7-38). The CMP continues: "Statutory amendments allowing the University to control these activities in a manner consistent with this CMP would be beneficial." Moreover, one CMP management action, ACT-11, lays out the university's plan to seek statutory authority to regulate commercial activities. OHA asks how the BLNR, as the lessor and the state agency statutorily mandated to protect Hawai'i's natural resources, can transfer its authority to manage commercial tour operations to the university, the lessee, without a statutory amendment, yet the BLNR cannot transfer its jurisdiction over other commercial operations to the university without changing the law.

In 2005, the state auditor reported that the DLNR had previously attempted to transfer authority to permit commercial operations on Mauna Kea to the university, subject to approval by the Department of the Attorney General. Apparently, the attorney general's office rendered an "oral opinion" to a university official that the management transfer was legal. However, the university's Board of Regents later learned that the DLNR was still in fact the "primary agency responsible for protection of natural and cultural resources" within the Mauna Kea Science Reserve and that the DLNR's responsibilities "could not be delegated without legislative or constitutional action," according to the auditor. While the auditor recommended that a written opinion from the attorney general's office should be sought to resolve the issue, the CMP doesn't mention whether such an opinion was ever rendered, and it still remains unclear what authority can be transferred without a statutory amendment.

Moreover, the DLNR's delegation of authority over commercial activities to the university raises a number of questions. Is the OMKM's commercial permitting process subject to Chapters 91 and 92 of the Hawai'i Revised Statutes? Is appropriate consideration given to the impact these commercial activities could have on cultural resources and traditional and customary practices, pursuant to the three-part analysis provided in *Ka Pa'akai O Ka 'Aina v.*

LATE TESTIMONY

Dawn Chang
March 9, 2009
Page 5

Land Use Commission, 94 Hawai'i 31, 7 P. 3d 1068 (2000) (*Ka Pa'akai*)? The CMP must clearly answer these questions.

Furthermore, OHA questions UH's strategy of creating a commercial activities management plan that relies heavily on the university receiving authority to regulate those activities through a statutory amendment. The CMP lacks detailed contingency plans to manage commercial activities if the university is unable to sway lawmakers to give it rule-making authority. In addition, the CMP provides little information on how non-tour-related commercial activities are currently managed. As noted previously, the university does not have the authority to regulate these activities. But these activities apparently are currently allowed, according to Table 7-8. Table 7-8 is very vague on who is responsible for regulating these existing commercial activities (the CMP says the responsibility is somehow shared between UH and DLNR) and how the permits for these activities are issued and reviewed. OHA notes that the 1995 Management Plan, which is the current operating management plan, specifies that "regulating commercial activities should be the sole responsibility of DLNR."

Rule-making authority and enforcement

Throughout the CMP, the university cites the need to obtain rule-making authority through the legislative process so the university can promulgate and enforce rules regulating commercial activities and public access. The CMP notes that the state auditor recommended this action in 2005. However, community opposition killed at least one bill (Senate Bill 904, 2005 Regular Session) that would have granted rule-making authority to the university, and there is no guarantee that a similar bill will be enacted. The CMP is too dependent on the UH being able to obtain rule-making authority, while providing little in terms of contingency plans in case the school never gets such authority. Alternatives are needed because the management and enforcement policies currently in place for Mauna Kea are inadequate, which is the reason the auditor recommended improvements.

What's worse is that there's scant planning offered in the event that the university actually does receive rule-making authority. For example, these two statements are found in the "Managing Access, Activities and Uses" section: "Many of the considerations described in this section cannot be implemented without rule-making authority. The specifics will need to be further evaluated and incorporated during the rule-making process." (CMP, page 7-35). This is not planning.

More importantly, OHA questions whether the university should actually be provided the rule-making authority for Mauna Kea. Many people in the community do not want the university to have this authority because they do not trust the university to manage or protect Mauna Kea's resources. We also point out that UH does not have expertise or experience in managing important natural and cultural resources or protecting traditional and customary Native Hawaiian practices. The DLNR is the entity with this expertise and experience. The university was previously responsible for managing commercial activities and enforcing rules. However, it

Dawn Chang
March 9, 2009
Page 6

failed at both, and had to relinquish these functions back to the DLNR. The 1995 Management Plan states:

As the interest in Mauna Kea increased, the question of commercial uses led to several years' discussions with the DLNR concerning management and enforcement responsibilities. Although UH has assumed these responsibilities, over the years it has become evident that UH was not structured to manage, control and enforce rules involving public recreation activities. In addition, with regard to commercial operators, UH does not have a process in place to issue permits and enforce permit conditions. It was determined that management and enforcement responsibilities – unless they were directly related to astronomy facilities, including the Mauna Kea Access Road – should be transferred back to DLNR. Because of their presence on the mountain, UH personnel would continue to assist DLNR in educating visitors on the hazards of high-altitude driving, responding to emergencies and monitoring infractions. It was decided that regulating commercial activities should be the sole responsibility of DLNR.

While the university may assume that many of its management and enforcement failures singled out in the excerpt above could be fixed if it were to obtain rule-making authority, there is no guarantee that rule-making authority is the panacea, especially with how little planning the CMP provides in the event UH actually gains this authority. On the other hand, the DLNR's management and enforcement abilities, while far from perfect for Mauna Kea, is at least tried and true at most other places within its jurisdiction. Also, the DLNR currently has the statutory authority and cannot simply abrogate it for fiscal or staffing reasons.

Monitoring Permits

The CMP specifies that OMKM is the entity designated with the responsibility of monitoring tenant observatories for compliance with the conditions of their Conservation District Use Permits (CDUP). The CMP on page 7-14 states that rangers shall conduct compliance inspections at each observatory twice a year. This planning strategy is problematic for a number of reasons.

As a lessee, the university cannot be the entity responsible for ensuring CDUP compliance. As the landowner and state agency tasked with protecting natural and cultural resources, the DLNR is the entity responsible for ensuring CDUP compliance. The DLNR issues CDUPs, its rules regulate CDUPs, and therefore it is the only entity that should be enforcing the conditions of CDUPs. This is but another case of the CMP attempting to blur the line between lessor and lessee.

The university was also responsible for managing CDUPs and subleases when the State Auditor developed its report in 2005. The auditor noted:

In recent years, the [DLNR] has passively allowed the university to fulfill the department's role of landowner. As a result, departmental management plans and its monitoring and enforcement efforts have been thought of as subordinate to what the lessee -- or, the university -- would do. This lax attitude is reflected in the department's failure to update the papers and define its relationship with the university, allowing the institution to oversee its own activities and not provide a mechanism to ensure compliance with lease and permit requirements.

The auditor further noted that the university's rangers did not monitor the observatories for permit violations, despite the fact that the 2000 Master Plan assigns this function to them, and that the rangers were not trained to do this task. Because of the lack of periodic monitoring, when the DLNR actually did inspect Mauna Kea in 2004, it found unapproved equipment and construction materials in the summit area, and the department eventually fined the university \$20,000 for permit violations by four observatories, according to the auditor.

OHA notes that under the CMP, the rangers still have this function, yet the document does not include permit monitoring training for the rangers. The CMP must establish and provide details for a permit and sublease monitoring program, as the auditor recommended in 2005. This program must be led by the DLNR, who must hold the UH and others accountable.

Project Approval Process

The CMP does not seem to recognize that the BLNR, as the landowner, has final approval authority for future projects in the UH Management Areas. For example, the CMP states on page 7-55 that the UH Board of Regents and the UH president have project approval and design review authority over all major developments within the UH Management Areas. The CMP states further that the university president makes "the final determination" on whether projects are major or minor in nature, and that minor project review "ends with the University President, while major projects require formal approval by the Board of Regents." Although the CMP notes that a broad range of projects undertaken in the UH Management Area is subject to an environmental review pursuant to Chapter 343, Hawaii Revised Statutes, the CMP is unclear whether the university would be the receiving agency for any such environmental reviews and what role, if any, the BLNR would fill in this process. To be sure, page 6-5 and other areas of the CMP do state that major construction activities at the summit would require BLNR/DLNR permits such as a CDUP, while minor construction generally would not require a CDUP. But it remains unclear which Mauna Kea projects the BLNR would be able to review if the university president is the one who determines which projects are minor and therefore do not require a BLNR-approved CDUP. This is why it is incumbent that the CMP recognize that DLNR has final project approval authority.

It should be noted that the entire project review process in the CMP was adopted straight from the 2000 Master Plan, which the state auditor criticized in 2005. The state auditor stated that the review process specified in the 2000 Master Plan has "created considerable confusion" for the Mauna Kea Management Board (MKMB) and that OMKM has "also faced challenges

deciphering the design review process.” The auditor pointed out that the master plan does not provide definitions for insignificant, minor or major projects and does not indicate who is responsible for oversight of the review and approval process. In addition, the auditor found that responsibilities had been transferred after the master plan was completed, and that a key committee tasked with design review had yet to be established. Consequently, the auditor recommended that the university “revisit the master plan to clarify the design review process and establish clear procedures for the [OMKM], [the MKMB], and the design review committee to provide effective controls for future development.”

The university cannot adopt into the CMP a section of a master plan that was singled out for criticism by the state auditor. The CMP must be revised to address the auditor’s recommendations. OHA also requests that the CMP expressly spell out that the BLNR, as the landowner and lessor, has the final say on whether projects are minor or major in nature and that BLNR also has final approval authority for all projects atop the summit. Additionally, OHA asks that the CMP name the DLNR as the accepting authority for all environmental reviews conducted pursuant to Chapter 343, Hawaii Revised Statutes, for both development projects and future management plans relating to UH Management Areas. OHA notes that this was not the case for the Draft Environmental Assessment for the CMP, as the university – not the DLNR – is identified as the receiving agency for that document. This creates the odd situation in which the BLNR must approve the CMP but will not accept the environmental review for the plan.

Decommissioning

On page 7-52, the CMP indicates that the observatory sub-lessees determine when their telescopes are obsolete and should be decommissioned, removed and the site restored. This is problematic. That determination should be made by the DLNR, as the landowner, and the university, because of its expertise with observatories. The DLNR, along with the university, needs to develop a process to evaluate the conditions of telescopes. The university and the DLNR cannot delegate this authority and defer to the sub-lessees. The DLNR needs to be intimately involved in this process, because it is the agency that is statutorily mandated to protect the state’s natural and cultural resources.

Cultural practices

OHA has concerns that the CMP attempts to clearly delineate between traditional and contemporary Native Hawaiian practices. We would like to point out that Native Hawaiian culture is a living, constantly evolving culture and consists of both traditional and contemporary practices. Separating the two is offensive.

In addition, the CMP relies heavily on and incorporates many of the concepts from the 1995 Management Plan. OHA notes that the 1995 Management Plan was approved prior to the *Ka Pa‘akai* ruling in 2000, and therefore does not consider the three-part analysis laid out in the ruling. OHA notes that *Ka Pa‘akai* was incorporated into the Native Hawaiian cultural resources section (CMP, page 7-7). However, the *Ka Pa‘akai* analysis must also be used to evaluate all state actions that occur on Mauna Kea, which the CMP does not do. Observatory development,

commercial activities and closures of the summit, particularly at night, are just a few state actions that must be examined through the *Ka Pa'akai* analytical framework to establish their impact on Native Hawaiian cultural practices.

OHA also has concerns relating to the Native Hawaiian cultural specialist and the on-site construction monitor contemplated on page 7-6. The CMP indicates that a qualification for the Native Hawaiian cultural specialist is that an applicant must have previously worked as a Native Hawaiian cultural specialist. This may be too limiting as many cultural practitioners have never been paid to ply their practice. In addition, the CMP states that if construction activity will "unduly harm" cultural resources, an on-site construction monitor can order the stoppage of construction activities, provided that the work stoppage order does not exceed 72 hours. This is problematic because finding a solution that would ensure the protection of the cultural resource may not be discovered within 72 hours. The CMP must be amended to address this.

While management action CR-1 states that the university will consult with Native Hawaiian practitioners, lineal descendants and Native Hawaiian organizations on cultural issues relating to Mauna Kea, OHA requests explicit language that such consultations will be conducted for each of the other 13 management actions for Native Hawaiian cultural resources.

Infrastructure

OHA is concerned by the mention in the CMP (page 6-6) of numerous cesspools on Mauna Kea. The Environmental Protection Agency's (EPA) regulations required all existing large capacity cesspools to be closed and replaced with an alternative wastewater system by April 5, 2005. Since 2000, EPA has prohibited the construction of new large capacity cesspools nationwide. The regulations do not allow an extension of the deadline. OHA understands that cesspools are more widely used in Hawai'i than in any other state in the country and that the EPA is anxious for Hawai'i to address this issue. We ask that the CMP include a process for replacing all cesspools on Mauna Kea with new wastewater systems.

OHA also requests that the CMP contain a plan that would include guidelines and protocols for managing hazardous materials, mirror washing and wastewater to prevent future spills. A monitoring and enforcement process should also be established. OHA notes that there is great value in having one uniform plan that all users of the mountain follow.

Flaws in structure of CMP

We have previously noted that the CMP does not comply with the DLNR's requirements for management plans, as stipulated in Exhibit 3 of HAR. There are also other major flaws with the actual planning aspect of the CMP. The vast majority of the 102 actions listed in the CMP only indicate a need to develop various plans. But the actions generally do not provide details for the plans; timetables to develop the plans; do not require the plans to be implemented; do not offer a detailed review or monitoring process for either the plans or the implementation of those plans; and do not provide for mitigation plans. Consequently, the CMP is more of a plan to plan

Dawn Chang
March 9, 2009
Page 10

than an actual comprehensive management plan, required by the state's administrative rules and a circuit court order.

For example, the CMP lists a set of management actions to protect the natural resources of Mauna Kea. Management action NR-7 states that OMKM will "delineate areas of high native diversity, unique communities, or unique geological features within the Astronomy Precinct and at Hale Pōhaku and *consider* protection from development." (CMP, page 7-15, emphasis added.) The CMP later states that areas "considered" for protection may include: cultural and historical resources and habitat for important, rare, threatened or endangered native species, including the wēkiu bug (candidate for federal listing), Mauna Kea silversword (federally listed as endangered), the palila (endangered), the Hawaiian hoary bat (endangered) and māmane trees, which in certain areas on Mauna Kea is considered critical habitat for the palila. The university shouldn't just consider protecting these natural resources, they must protect these resources. Threatened and endangered species as well as cultural and historical resources are statutorily protected, both by the state and the federal government. This management action must contain an actual plan with timetables to protect these resources.

Another example of a flawed management action is NR-12, which states that OMKM will "create restoration plans and conduct habitat restoration activities, as needed." The CMP does not offer any guidance as to what a restoration plan will look like, what the timetable is for developing and implementing a restoration plan and what the process is for identifying and prioritizing areas that need to be restored. These are just two management actions that are deficient. Nearly all 102 suffer from similar deficiencies.

Moreover, the CMP is not clear on the mechanisms established to ensure that its management actions are carried out. On page 7-64, the CMP states that the OMKM "should" produce an annual progress report and that the annual report "should" describe actions to be taken to improve the program. In addition, the CMP states that the OMKM "shall" submit a written report to the BLNR, but it doesn't indicate what that report will contain. The CMP needs to expressly state that OMKM must produce an annual progress report, and the CMP must offer more details about what the written report to the BLNR will contain. To be sure, the CMP contains a requirement for a five-year revision plan; however, the natural and cultural resources of Mauna Kea can be seriously impacted between those five-year plans if interim, annual reports are not conducted. Many of the shortcomings of the CMP are historical ones that were identified in two state audits and have still yet to be resolved. OHA fears that the structure of the draft CMP and its equivocal reporting process cannot ensure that these problems will ever be resolved.

In addition, the CMP indicates that the OMKM is "responsible for implementing the CMP and ensuring adherence to its provisions." (Page 7-64). OHA notes that aside from its rangers, OMKM currently has only two people on staff: an interim director and a secretary. The task of implementing the entire CMP would be daunting for any agency, but wholly impossible for an agency staffed with just two individuals. The CMP does not contain any requirements to create more positions for OMKM to fulfill its responsibilities. OHA has concerns that if the

LATE TESTIMONY

Dawn Chang
March 9, 2009
Page 11

CMP does not include specific language for new positions at OMKM, the division will remain under staffed, especially when considering the present economic climate. The resources of Mauna Kea will surely suffer as a result.

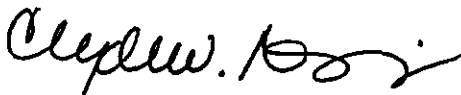
The CMP also leans heavily on the 2000 Master Plan for guidance. This is a major issue. The CMP shouldn't liberally incorporate sections of and concede to a plan that has never been and may never be approved by the BLNR. Moreover, the Master Plan is almost a decade old, has not been revised and was criticized by the state auditor. If the 2000 Master Plan is allowed to play such a pivotal role in the CMP, it should be included in the CMP and reviewed and approved concurrently by the BLNR. OHA would also like to point out that the CMP does not include in its appendices any archaeological or biological studies cited throughout the document. In addition, while the maunakeacmp.com website contains links to some past management plans, several were not made available, namely the 1982 Research and Development Plan and the 1983 Mauna Kea Science Reserve Complex Development Plan.

Conclusion

While OHA appreciates the amount of work that was invested into the production of the CMP, especially the community consultation, we believe that this draft of the CMP is unacceptable. OHA recommends that the BLNR decline this draft and require a thoroughly revised version that at the very least meets the published requirements for a management plan and the requirements of Judge Hara. Mauna Kea is one of the most sacred places in Hawai'i, and its status as such demands no less.

Thank you for the opportunity to comment. If you have further questions, please contact Sterling Wong by phone at (808) 594-0248 or e-mail him at sterlingw@oha.org.

'O wau iho nō me ka 'oia 'i'o,



Clyde W. Nāmu'o
Administrator

C: OHA Hilo and Kona CRC Offices

Laura Thielen, Chairperson
Board of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl St.
Honolulu, HI 96813

Dawn Chang
March 9, 2009
Page 12

LATE TESTIMONY

Pua Aiu, Administrator
State Historic Preservation Division
601 Kamokila Boulevard, Room 555
Kapolei, HI 96707

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

Office of Mauna Kea Management
640 N. Aohoku Place, Room 203
Hilo, HI 96720

Rolf-Peter Kudritzki
University of Hawai'i
Institute for Astronomy
2680 Woodlawn Drive
Honolulu, HI 96822

Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Office of Environmental Quality Control
235 South Beretania Street, Suite 702
Honolulu, HI 96813

From: kealoha [kealohap@aloha.net]
Sent: Sunday, March 22, 2009 6:52 PM
To: WTLTestimony; HRE Testimony
Cc: kealiikea@yahoo.com; dward@hawaii.edu; Clarence Ching; Nelson Ho; Marti Townsend; kealoha
Subject: attachment for testimony in opposition to HB1174
Attachments: OHA Comments MK EA.pdf; OHA Comments CMP.pdf

LATE TESTIMONY

Aloha Pumehana,

Chairs Hee, Tokuda and Members of the Committees on Water, Land, Agriculture and Hawaiian Affairs, and Higher Education.

I am sorry I did not enclose the OHA Position attachments referenced in the joint testimony in opposition to HB1174 and general support for SR44 filed on behalf of the following groups and individuals,

1. The Royal Order of Kamehameha I,
2. Mauna Kea Anaina Hou,
3. Sierra Club Hawai'i Island Chapter,
4. Clarence Ching,
5. Na Koa Ikaika O Ka Lahui Hawai'i and;
6. Aloha `Aina Education Project

I am sorry for any confusion and I thank you for your time and consideration,

In Aloha I remain,
Kealoha Pisciotta, President
Mauna Kea Anaina Hou

LATE TESTIMONY

**Testimony in Support of
HB 1174 HD3**

**By
Devin S. Chu
A concerned individual**

**Presented before
Senate Committee on Higher Education
&
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm**

Chairs Tokuda and Hee and members of the committees on Higher Education and Water, Land, Agriculture and Hawaiian Affairs.

I strongly support HB 1174 HD3 and urge members of the committees to vote yes on this bill. It is urgent that the University of Hawai'i is granted the authority to promulgate administrative rules governing public and commercial activities on Mauna Kea. It is critical to have rules to protect the unique and precious resources on Mauna Kea and the legislature must do the right thing and act now to protect the resources from further degradation.

While it is acknowledged that the University did not do a good job of managing its leased areas on Mauna Kea, the legislature must recognize that there has been substantial improvement since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council. Together they have strived to provide proper stewardship of Mauna Kea. This legislature must give them the necessary tools to carry out their mandate more effectively to protect the resources. Is it not better to support OMKM's efforts to protect the resources than to allow the current situation to continue and leave the resources unprotected?

I strongly urge you to pass this bill.

Devin S. Chu

satoru13@hawaii.rr.com



LATE TESTIMONY

UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Higher Education Committee
and
Senate Water, Land, Agriculture, and Hawaiian Affairs Committee
March 23, 2009 at 3:45pm
by
Rose Tseng
Chancellor, University of Hawai'i at Hilo

HB1174, HD3 RELATING TO THE UNIVERSITY OF HAWAII

Chairs Tokuda and Hee, and Members of the Committees:

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 the Forest Reserve, the Natural Area Reserves System, and the Conservation District. While the DLNR's conservation district rules apply to the Mauna Kea Science Reserve, there have not been any administrative rules adopted to specifically cover activities 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

LATE TESTIMONY

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.

The House amended this bill to: (1) clarify that the rule making authority sought by the University would only cover public and commercial activities and (2) provide definitions for "public" and "commercial" activities.

At the request of the Hawai'i State Legislature, the Legislative Auditor conducted an initial audit of the management of Mauna Kea (1998) and a follow up audit (2005) in which the Legislative Auditor stated clearly that the University, not DLNR, should develop rules.

The University has been trying to comply with the Legislative Auditor's recommendations and submitted bills to the Legislature seeking statutory rule making authority in 2005 and again in 2006. Neither bill, however, was approved by the Legislature. If the current version of the bill is not passed by the Legislature, it would make it more difficult for the University to meet its management and oversight obligations relating to Mauna Kea, including implementing the Mauna Kea CMP and performing the related functions and responsibilities. Without the ability to adopt or enforce rules, the University could, at best, only ask a violator or potential violator to stop such prohibited or restricted activity (e.g., continued desecration of or intrusion into culturally significant sites (including improper entry into or activity within a historic or culturally significant site), littering, graffiti, and unsafe or improper operation of recreational, off-road, and other motor vehicles that may be damaging sensitive areas).

The bill requires that the University should "[e]ncourage and foster a process of collaboration and involvement between its Mauna Kea lands advisory bodies and community interests to ensure that the process of developing any administrative rules for the Mauna Kea lands is accomplished with community participation and input." It also requires that in establishing administrative rules, the University "address and reconcile any conflicts with other statutes or rules that are applicable to the Mauna Kea lands." To accomplish this, the University is committed to working with the community, particularly the Big Island community, and other public entities, such as the DLNR and the Office of Hawaiian Affairs, in preparing, establishing, and adopting any administrative rules applicable to the Mauna Kea lands.

LATE TESTIMONY

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 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.

LATE TESTIMONY

From: david schlesinger [davidofalltrades99@yahoo.com]
Sent: Sunday, March 22, 2009 9:18 PM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

david schlesinger

From: Mailing List
Sent: Sunday, March 22, 2009 9:21 PM
To: HRE Testimony
Cc: damudda@hawaii.rr.com
Subject: Testimony for HB1174 on 3/23/2009 3:45:00 PM

Testimony for HRE/WTL 3/23/2009 3:45:00 PM HB1174

LATE TESTIMONY

Conference room: 229
Testifier position: support
Testifier will be present: No
Submitted by: Christine Reed
Organization: Individual
Address: Kaiwika Rd. Hilo, HI
Phone: 808-935-1580
E-mail: damudda@hawaii.rr.com
Submitted on: 3/22/2009

Comments:

I feel it is important to approach all activities on Mauna Kea with respect to all concerned. I support the effort to balance the economic value of science on the mountain with the concerns of the Hawaiian community. As a 35 year resident of Hilo I see astronomy as a clean industry that has a lot to offer Hawaii's citizens and the world. I want the economic contribution that is made by visiting scientists and the companies and universities that sponsor the telescopes to continue and flourish. Even if the master plan is not perfect it is a starting point and an improvement upon a previous time of no plan. I hope to see all parties work together to move us into the future and enable our children to benefit from the chance to learn more about our world and the universe, and educational and job opportunities that these studies provide.

LATE TESTIMONY

From: Maria Maitino [mmaitino@gmail.com]
Sent: Sunday, March 22, 2009 9:49 PM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Maria Maitino

From: Mailing List
Sent: Sunday, March 22, 2009 10:09 PM
To: HRE Testimony
Cc: ltanaka@tntelectric.com
Subject: Testimony for HB1174 on 3/23/2009 3:45:00 PM

LATE TESTIMONY

Testimony for HRE/WTL 3/23/2009 3:45:00 PM HB1174

Conference room: 229
Testifier position: support
Testifier will be present: No
Submitted by: Leonard Tanaka
Organization: T&T ELECTRIC, INC.
Address: 456-A Kekuanaoa Street Hilo, HI
Phone: 800-935-9029
E-mail: ltanaka@tntelectric.com
Submitted on: 3/22/2009

Comments:

From: Mailing List
Sent: Sunday, March 22, 2009 10:10 PM
To: HRE Testimony
Cc: stanaka@tntelectric.com
Subject: Testimony for HB1174 on 3/23/2009 3:45:00 PM

Testimony for HRE/WTL 3/23/2009 3:45:00 PM HB1174

Conference room: 229
Testifier position: support
Testifier will be present: No
Submitted by: SuellenTanaka
Organization: T&T ELECTRIC, INC.
Address: 456-A Kekuanaoa Street Hilo, HI
Phone: 800-935-9029
E-mail: stanaka@tntelectric.com
Submitted on: 3/22/2009

Comments:

LATE TESTIMONY

From: Mailing List
Sent: Sunday, March 22, 2009 10:12 PM
To: HRE Testimony
Cc: ltanaka@kaiulani4.com
Subject: Testimony for HB1174 on 3/23/2009 3:45:00 PM

LATE TESTIMONY

Testimony for HRE/WTL 3/23/2009 3:45:00 PM HB1174

Conference room: 229
Testifier position: support
Testifier will be present: No
Submitted by: LeonardTanaka
Organization: KA'IULANI 4, LLC
Address: 456-A Kekuanaoa Street, Suite 100 Hilo, HI
Phone: 800-935-9029
E-mail: ltanaka@kaiulani4.com
Submitted on: 3/22/2009

Comments:

LATE TESTIMONY

From: Bill Akiona [hoa.aina@yahoo.com]
Sent: Sunday, March 22, 2009 10:35 PM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Bill Akiona

LATE TESTIMONY

From: Elisabeth Alfstad [elisabeth.alfstad@gmail.com]
Sent: Sunday, March 22, 2009 11:56 PM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Elisabeth Alfstad

From: paulette Kaleikini [pkaleikini@hawaii.rr.com]
Sent: Monday, March 23, 2009 6:03 AM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

paulette Kaleikini

From: Ron Koehler [koehler@IfA.Hawaii.Edu]
Sent: Monday, March 23, 2009 6:29 AM
To: WTLTestimony
Subject: testimony on bill# HB1174

LATE TESTIMONY

Please accept my testimony in support of the House Bill #1174. I am Ron Koehler, the General Manager of Mauna Kea Observatories Support Services. The Mauna Kea Rangers are employees under my supervision. The Office of Mauna Kea Management (OMKM) has the responsibility for the management of all of Mauna Kea's resources. This is done through the rangers. But, the rangers do not have the authority to prevent anyone from doing whatever they want.

This problem is going worsen in the future, as the number of visitors to Mauna Kea increases. The improvements to the Saddle Road have made access easier from the Hilo side. As further improvements are made to the Saddle Road on the West side, tourists will find it more attractive, which will increase the traffic on the Summit Roads.

The Mauna Kea Rangers have a difficult job as it is since they need to do what they can to protect the resources and they must also protect the visitors from the hazards they will be exposed to on the mountain.

The adiminstrative rules and regulations asked for by the University are critical for OMKM to continue protecting Mauna Kea, which is why OMKM was established in the first place.

Sincerely, Ron Koehler

From: kathleen keahi Keahi Winn [winn.kathleen@neuf.fr]
Sent: Monday, March 23, 2009 6:30 AM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

kathleen keahi keahi Keahi Winn

From: mkaleikini@ormat.com
Sent: Monday, March 23, 2009 6:42 AM
To: WTLTestimony
Subject: Please accept my support for passing Bill HD 1174 HD3.

LATE TESTIMONY

Testimony in Support of
HB 1174 HD3

Presented before
Senate Committee on Higher Education
&
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm

Chairs Tokuda and Hee and members of the committees:

I strongly support HB 1174 HD3 and urge members of the committees to vote yes on this bill. It is urgent that the University of Hawai'i is granted the authority to promulgate administrative rules governing public and commercial activities on Mauna Kea. It is critical to have rules to protect the unique and precious resources on Mauna Kea and the legislature must do the right thing and act now to protect the resources from further degradation.

While it is acknowledged that the University did not do a good job of managing its leased areas on Mauna Kea, the legislature must recognize that there has been substantial improvement since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council. Together they have strived to provide proper stewardship on UH's lands. This legislature must give them the necessary tools to carry out their mandate more effectively to protect the resources. Is it not better to support OMKM's efforts to protect the resources than to allow the current situation to continue and leave the resources unprotected?

I strongly urge you to pass this bill.

From: newtonc@hawaii.rr.com
Sent: Monday, March 23, 2009 6:57 AM
To: WTLTestimony
Subject: Support HB 1174

LATE TESTIMONY

Dear Honorable Committee Members,

As a longtime Big Island resident, and family which has lived on the Big Island for 4 generations, we urge your support of House Bill 1174.

We believe that this bill will preserve and protect Mauna Kea in a manner that will benefit all people of our state. Astronomy has been a blessing to our community and fosters the use of our minds to be greater stewards of our lands. My teenage son now desires to study astronomy on Mauna Kea and he understands the need to protect and preserve the land. We believe this House Bill will enable us to do so.

We have met many people who work on Mauna Kea and that includes many local residents. If we send astronomy away, many jobs and families will lose their livelihood. We cannot let this happen. Please support HB 1174.

Thank you.

Newton J. Chu
120 Pauahi St. #312
Hilo, HI 96720

(808)961-0406

From: Mailing List
Sent: Monday, March 23, 2009 7:23 AM
To: HRE Testimony
Cc: jeffrey.melrose2@hawaiiantel.net
Subject: Testimony for HB1174 on 3/23/2009 3:45:00 PM

LATE TESTIMONY

Testimony for HRE/WTL 3/23/2009 3:45:00 PM HB1174

Conference room: 229
Testifier position: support
Testifier will be present: No
Submitted by: jeffrey melrose
Organization: Individual
Address: 1405 Waianuenu Hilo
Phone: 808 961-6562
E-mail: jeffrey.melrose2@hawaiiantel.net Submitted on: 3/23/2009

Comments:

The UH needs the authority to develop rules if they are to manage Mauna Kea responsibly. It will be difficult to hold them accountable for future management if they are not responsible for setting in place and revising rules as needed to do so.

From: cbsur@hawaii.rr.com
Sent: Monday, March 23, 2009 7:26 AM
To: WTLTestimony
Subject: HB 1174 HD3

LATE TESTIMONY

Testimony in Support of
HB 1174 HD3

Presented before
Senate Committee on Higher Education
&
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm

Chairs Tokuda and Hee and members of the committees:

I strongly support HB 1174 HD3 and urge members of the committees to vote yes on this bill. It is urgent that the University of Hawai'i is granted the authority to promulgate administrative rules governing public and commercial activities on Mauna Kea. It is critical to have rules to protect the unique and precious resources on Mauna Kea and the legislature must do the right thing and act now to protect the resources from further degradation.

While it is acknowledged that the University did not do a good job of managing its leased areas on Mauna Kea, the legislature must recognize that there has been substantial improvement since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council. Together they have strived to provide proper stewardship on UH's lands. This legislature must give them the necessary tools to carry out their mandate more effectively to protect the resources. Is it not better to support OMKM's efforts to protect the resources than to allow the current situation to continue and leave the resources unprotected?

I strongly urge you to pass this bill.

**Testimony H.B. 1174 H.D. 3
By Tim Lui-Kwan**

LATE TESTIMONY

**Presented before
Senate Committee on Higher Education
and
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm**

Aloha Chairman Tokuda, Chairman Hee, Vice-Chair Sakamoto and members of the Senate committees on Higher Education and Water, Land, Agriculture and Hawaiian Affairs.

My name is Tim Lui-Kwan and I currently reside on the island of Oahu. However, as a native son of Hilo, Mauna Kea has always played a central role in my life. My ohana is from Hamakua on the eastern slopes of Mauna Kea and we have been nourished for generations by its life-giving waters, rich soil and cooling winds. My family and I played in its snow as young children and skied its slopes as young adults. I also had the opportunity to work on the archaeological survey of its adze quarries over 30 years ago. Over the years, my respect for Mauna Kea has increased commensurate with my understanding of the cultural and scientific importance of its resources as well as its fragile nature of this unique environment.

I support the adoption of this legislation and urge the members of the Senate committees to vote yes on this bill. I believe that its is critical to the efficient and effective management of Mauna Kea's resources that the University of Hawai'i is granted the authority to promulgate administrative rules overseeing activities on the mountain.

While the University would have certain management and enforcement responsibilities, other State agencies such as the State Historic Preservation Division, the Office of Conservation and Coastal Lands and the Division of Forestry and Wildlife will continue to play a vital role in protecting the unique and precious resources of Mauna Kea for future generations. However, the legislature must do the right thing and act now to put in place a feasible mechanism to protect these resources from further degradation.

There has been substantial improvement in the management of the resources on Mauna Kea since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council. Without the authority provided by this legislation, it would be difficult to effectively manage and enforce the management tools created to protect the mountain's resources.

I strongly urge you to pass this bill.

Tim Lui-Kwan, 1885 Kaikunane Loop, Honolulu, HI 96817, Tel.: (808)294-9491

E-mail: tluikwan@carlsmith.com

From: Steve Hiramami [steve_hiramami@notes.k12.hi.us]
Sent: Monday, March 23, 2009 8:42 AM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Steve Hiramami

From: Malia Hall [malia.hall@bbklaw.com]
Sent: Monday, March 23, 2009 8:52 AM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Malia Hall

Mauna Kea Summit

From: Leiana Lobre [diane@tobaccofreehawaii.org]
Sent: Monday, March 23, 2009 8:54 AM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Leiana Lobre

LATE TESTIMONY

**Testimony in Support of
HB 1174 HD3**

**Presented before
Senate Committee on Higher Education
&
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm**

Chairs Tokuda and Hee and members of the committees on Higher Education and Water, Land, Agriculture and Hawaiian Affairs.

I strongly support HB 1174 HD3 and urge members of the committees to vote yes on this bill. It is urgent that the University of Hawai'i is granted the authority to promulgate administrative rules governing public and commercial activities on Mauna Kea. It is critical to have rules to protect the unique and precious resources on Mauna Kea and the legislature must do the right thing and act now to protect the resources from further degradation.

While it is acknowledged that the University did not do a good job of managing its leased areas on Mauna Kea, the legislature must recognize that there has been substantial improvement since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council. Together they have strived to provide proper stewardship on UH's lands. This legislature must give them the necessary tools to carry out their mandate more effectively to protect the resources. Is it not better to support OMKM's efforts to protect the resources than to allow the current situation to continue and leave the resources unprotected?

I strongly urge you to pass this bill.

Ian L. Sandison

3061 Pacific Heights Road
Honolulu, Hawaii 96813



HB1174 HD3 – Relating to the University of Hawaii

DATE: March 23, 2009
TIME: 3:45pm
PLACE: Conference Room 229

LATE TESTIMONY

TO: Committee on Higher Education
Senator Jill Tokuda, Chair
Senator Norman Sakamoto, Vice Chair

Committee on Water, Land, Agriculture and Hawaiian Affairs
Senator Clayton Hee, Chair
Senator Jill Tokuda, Vice Chair

FROM: Lisa Gibson
President
Hawaii Science & Technology Council

RE: Testimony in Support of HB1174 HD3

Aloha Chair, Vice Chair, and Members of the Committee,

The Hawaii Science & Technology Council strongly supports HB 1174 HD3 and urges members of the committees to vote yes on this bill. It is urgent that the University of Hawai'i is granted the authority to promulgate administrative rules governing public and commercial activities on Mauna Kea. It is critical to have rules to protect the unique and precious resources on Mauna Kea and the legislature must do the right thing and act now to protect the resources from further degradation.

The Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council have strived to provide proper stewardship on UH's lands. This legislature must give them the necessary tools to carry out their mandate more effectively to protect the resources.

The Hawaii Science & Technology Council (HISciTech) is a 501(c)6 industry association with a 28-member board. HISciTech serves Hawaii companies engaged in ocean sciences, agricultural biotechnology, astronomy, defense aerospace, biotech/life sciences, information & communication technology, energy, environmental technologies, and creative media.

Thank you for the opportunity to testify.

Sincerely,

Lisa H. Gibson
President

The Twenty-Fifth Legislature
Regular Session of 2009

THE SENATE

Committee on Water, Land, Agriculture, and Hawaiian Affairs

Senator Clayton Hee, Chair

Senator Jill N. Tokuda, Vice Chair

Committee on Higher Education

Senator Jill N. Tokuda, Chair

Senator Norman Sakamoto, Vice Chair

LATE TESTIMONY

State Capitol, Conference Room 229
Monday, March 23, 2009; 3:45 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 1174, HD3
RELATING TO THE UNIVERSITY OF HAWAII**

The ILWU Local 142 supports H.B. 1174, HD3, which allows the UH Board of Regents to adopt administrative and enforce rules to regulate public and commercial activities at and within the Mauna Kea lands, or the lands UH leases from the Board of Land and Natural Resources. Establishes the Mauna Kea Management Special Fund for the deposit and use of revenues derived from administrative fines for violations of rules.

Mauna Kea is a sacred mountain. It is majestic and a vision to behold. Whether we are Native Hawaiian or not, no one wants to see Mauna Kea desecrated by unfettered commercial activity or insensitive debris or wanton vandalism. The mountain must be protected.

That is what we believe H.B. 1174, HD3 will require the University of Hawaii to do. By adopting administrative rules, UH will be able control visitors to Mauna Kea, ensure that commercial activity be minimized or even eliminated, prohibit the vandalism and desecration of the mountain, and have the power to enforce the rules and impose fines for violations.

We do, however, urge that assurances are given by the University of Hawaii that the administrative rules will be culturally sensitive and observant of the special place that Mauna Kea is to Native Hawaiians. We also hope that the University of Hawaii will actively monitor and control the telescopes currently existing as well as being proposed for the summit. These telescopes play a valuable scientific role and will help to generate needed funds to advance the work of the University. However, the University must also be mindful that Mauna Kea is a sacred place.

The ILWU urges passage of H.B. 1174, HD3. Thank you for the opportunity to testify.

LATE TESTIMONY

Testimony in Support of
HB 1174 HD3
Presented before
Senate Committee on Higher Education
&
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009 @ 3:45 p.m.

Chairs Tokunaga and Hee and members of the committees on Higher Education and Water, Land, Agriculture and Hawaiian Affairs.

I understand that HB 1174 HD3 will be heard by your committee on Monday, March 23. I am writing to be on record supporting this Bill. I believe that if this legislation is enacted it will improve and protect the cultural and natural resources of Mauna Kea.

Since 1972 I have been manufacturing Hawaiian souvenir products and packaging local plant products from certified nurseries in Hawaii. In 1999 I started the Hawaiian Mamaki Tea Plantation that grows organic mamaki on our farm located at an elevation of 2,000 feet on the lush fertile slopes of Mauna Loa Mountain. Early Hawaiians believed that Mamaki helped cleanse one's body and could be used as an energy booster.

I see this Bill as a long overdue means to better manage Mauna Kea with local management in concert with the authority to manage the mountain for all people of our Big Island. Notably, the public will continue to have access to the mountain, and in particular, Native Hawaiians who wish to participate in cultural practices.

Therefore as an active community member of Hilo, who participates in the Hawaii Island Chamber of Commerce, Japanese Chamber of Commerce and Industry and the Hawaii Organic Farmers Association, I strongly support HB 1174 HD3 and urge this committee to support this Bill and help give our community a means by which to hold someone accountable and responsible for managing one of the most precious resource our island has.

This is the community where I was born and where my grandchildren will live and enjoy Mauna Kea as a special place. I encourage your committee to take this timely and responsible action to establish the means to charge the University of Hawaii at Hilo with the responsibility to properly manage Mauna Kea for the good of everyone.

Sincerely,
Herbert S. Kamiyama
tea@organichawaii.com

Hawaiian Mamaki Tea Plantation, Inc.
12 Puainako Street
Hilo, Hi 96720 Tel: 808-959-8185

LATE TESTIMONY

**Testimony in Support of
HB 1174 HD3**

**Presented before
Senate Committee on Higher Education
&
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm**

Chairs Tokuda and Hee and members of the committees on Higher Education and Water, Land, Agriculture and Hawaiian Affairs.

I strongly support HB 1174 HD3 and urge members of the committees to vote yes on this bill. It is urgent that the University of Hawai'i is granted the authority to promulgate administrative rules governing public and commercial activities on Mauna Kea. It is critical to have rules to protect the unique and precious resources on Mauna Kea and the legislature must do the right thing and act now to protect the resources from further degradation.

While it is acknowledged that the University did not do a good job of managing its leased areas on Mauna Kea, the legislature must recognize that there has been substantial improvement since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council. Together they have strived to provide proper stewardship on UH's lands. This legislature must give them the necessary tools to carry out their mandate more effectively to protect the resources. Is it not better to support OMKM's efforts to protect the resources than to allow the current situation to continue and leave the resources unprotected?

I strongly urge you to pass this bill.

Jean Tung

Tungj001@hawaii.rr.com

Ph: 808-959-7526



LATE TESTIMONY

LIFE OF THE LAND

76 North King Street, Suite 203

Honolulu, Hawai'i 96817

Phone: 533-3454; E: henry.lifeoftheland@gmail.com

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Senator Clayton Hee, Chair

Senator Jill N. Tokuda, Vice Chair

COMMITTEE ON HIGHER EDUCATION

Senator Jill N. Tokuda, Chair

Senator Norman Sakamoto, Vice Chair

March 23, 2009

3:45 p.m.

Conference Room 229

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 HD3 University of Hawaii

OPPOSE

Aloha Chairs Hee, Tokuda, Vice Chairs Sakamoto, Ito Members of the Committees:

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.

LATE TESTIMONY

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"

In 2004 the University of Hawai'i was caught committing nine violations at Mauna Kea. The Board of Land and Natural Resources (BLNR) could have fined the University \$2000 for each of 9 violations, plus \$2000 administrative penalty. UH hired an attorney who argued that the University should not pay a nickel. Life of the Land demanded that they pay the full amount. The BLNR agreed with LOL and fined them \$20,000.

Now, under this bill, the University would be able to fine community and cultural groups with much stiffer fines. Talk about intimidation. Under the proposed HD1, 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 there is a contested case hearing and/or court action and the cultural group loses, can make them pay for the cost of the hearing process. This is a Draconian way of shutting up those cultural groups who are exercising their constitutional actions on ceded land, and who have sought to protect the cultural resources of the mountain since time *immemoriam*.

HD3 leaves these amounts out, but the fines remain.



**International Brotherhood of Electrical Workers
LOCAL UNION NO. 1186 • Affiliated with AFL-CIO**

1935 HAU STREET, ROOM 401 • HONOLULU, HI 96819-5003
TELEPHONE (808) 847-5341 • FAX (808) 847-2224

LATE TESTIMONY

**TESTIMONY SUPPORTING HB1174 HD3
RELATING TO THE UNIVERSITY OF HAWAII**

**TO: SENATE WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS
COMMITTEE (VIA FAX 586-6659)**

For Hearing on Monday, March 23, 2009, at 3:45 p.m., in Room 229

RE: SUPPORT FOR HB1174 HD3

Honorable Chair Hee, Vice Chair Tokuda, and Senate Committee members,

My name is **Peter Akamu**, and I am the President of the International Brotherhood of Electrical Workers Local Union 1186 representing over 3,500 members of the electrical construction, telecommunication, Oceanic Cable; and civil service employees at Pearl Harbor Shipyard, Kaneohe Marine Base and Hickam. IBEW local 1186 also represents over 120 signatory electrical contractors that perform most of the electrical work in Hawaii.

HB1174 HD3 provides for responsible management of Mauna Kea and ensures public input and accountability of this precious resource.

Thank you for providing me with this opportunity to testify in strong support for HB1174 HD3.

Mahalo and aloha,

Peter Akamu
President
International Brotherhood of
Electrical Workers, Local Union 1186

From: Ruth Osias [shimward@earthlonk.net]
Sent: Monday, March 23, 2009 9:22 AM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Ruth Osias

From: PALANI, JR. VAUGHAN [nakahiliprdctns@aol.com]
Sent: Monday, March 23, 2009 9:22 AM
To: WTLTestimony
Subject: *****SPAM***** Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

As a native-Hawaiian of nearly 65 years of age, for the past 40 years, I have been observing a disturbing trend---a growing disregard for the sacred natural treasures that make these islands of Hawai'i one of the most unique places on this earth--

Hawaiian people, the first people of this ?pae ?aina?, or, ?archipelago?, have always welcomed ?malihini?, or, ?new-comers?, with the famed spirit of ?aloha?, for which Hawai ?i and the Hawaiian people are famous, ever since the first-recorded visitors began to arrive on our islands? shores, even before the early 1779 explorations of British Navigator, Captain James Cook, ?[who named our pae?aina, ?The Isles of Sandwich?, for John Montagu, the 4th Lord of Sandwich, who was Cook?s financial sponsor]?

Our people, then, only asked that the new visitors have the sensitivity to respect our traditions and our ??aina?, or, ?land??That was not much to ask of a visitor---You would expect no less from someone new entering your home, as a welcomed guest, and even if that guest became an invited resident of your home---You would expect that person to respect the boundaries of privacy and the mutual courtesies observed in the household----

Observing these respectful ways, engagement with the native-Hawaiian nationals worked and everyone lived harmoniously, for the most part, in the island communities of Hawai?i?because, as new-comers became a part of the permanent community of Hawai?i, they embraced the Hawaiian spirit of aloha, with respect for the native-Hawaiian people?s cultural beliefs and practices that conveyed an over-all respect for the land?and our Hawaiian people?s access to those lands, in particular, which represented, then, and continue to represent, today, our people?s spiritual identity with those ?wahi pana?, or, ?sacred lands?, which convey ?mana?, or, ?power?---

One of those ?wahi pana?, is Mauna Kea?and we ask that all peoples, residents and visitors, alike, observe the same sensitivity and respect for our Hawaiian people?s traditional practices and our sacred ?wahi pana?, as was observed since the coming of the first ?malahini?, here in Hawai?i--

Mauna Kea is a treasure beloved by our people and majestic to look at and to visit with respectful reverence?

Mauna Kea is one of the three famed "Na Kuahiwi 'Eko'u", or "Three Mountains", of Hawai?i Island, the birth-island of King Kamehameha-the-Great, who, through conquest in battle, unified these islands under his singular rule more than 200 years ago---

Although King Kamehameha prevailed in his battles of conquest, he never failed to acknowledge that his military successes were achieved because of his faithfulness to the sacred spirits and "mana", or "power", of these Hawaiian islands--and as a result, was a staunch preservationist--

LATE TESTIMONY

King Kamehameha acknowledged and respected the sacred spiritual "mana" of Mauna Kea---

His reign was long and untainted because he was faithful to, and respectful of, these spiritual beliefs and the sacred "ea", or "life", of the "'aina", or "land"---

It is from this belief that the motto of Hawai'i became known as, "Ua mau ke ea o ka 'aina i ka pono", meaning, "The life of the land is perpetuated in righteousness?" a valuable saying to maintain, and, since it is the motto of the State of Hawai'i, it should be the constant "law" of practice in every division of the current state's governance, including the University of Hawai'i-----especially, as it relates to this bill---

In these modern times, science and land development often go hand-in-hand, in the name of advancement and material gain, resulting in an inevitable collision with the original spiritual values and beliefs attached to the lands being altered----which has happened as a result of this bill's introduction---

We, the native-blooded descendants of our ancient Hawaiian ancestors, who long-practiced our spiritual beliefs that, for centuries, have been imbedded in the "mana" of their ancient "'aina", suddenly, are transformed into "strangers in our own land"----asking for permission to practice the customary ways of our homeland---

This is not "pono", or, "righteous"---This bill does not live up to the motto of Hawai'i---

In this instance, as SB1174 calls for the further development of Mauna Kea that the name of scientific advancement and education---the terrain-alteration of Mauna Kea threatens, not only the survival of our native-Hawaiians abilities to continue to practice our spiritual beliefs and respectful attachment to this great mountain, Mauna Kea, but native flora and fauna there, too---

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan.

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 basis of all decisions about this amazing and important place.

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

The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174. 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 profiting 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 Hawai'i. 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 \$1.00 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 Hawai'i back rent for 40 years of destruction and desecration on the summit of Mauna Kea. For these reasons, I strongly urge you to each stand strong for Mauna Kea.

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

Please continue to respect, with ?pono? decisions, the preservation of the ?mana? of the ?wahi pana? of Mauna Kea----please vote against passage of HB1174---and pass HCR 231, instead---

Mahalo,

Palani Vaughan, Jr.

LATE TESTIMONY

PALANI, JR. VAUGHAN
PO BOX 1617
HONOLULU, HI 96806

LATE TESTIMONY

**Testimony in Support of
HB 1174 HD3**

**Presented before
Senate Committee on Higher Education
&
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm**

Chairs Tokuda and Hee and members of the committees on Higher Education and Water, Land, Agriculture and Hawaiian Affairs.

I strongly support HB 1174 HD3 and urge members of the committees to vote yes on this bill. It is urgent that the University of Hawai'i is granted the authority to promulgate administrative rules governing public and commercial activities on Mauna Kea. It is critical to have rules to protect the unique and precious resources on Mauna Kea and the legislature must do the right thing and act now to protect the resources from further degradation.

While it is acknowledged that the University did not do a good job of managing its leased areas on Mauna Kea, the legislature must recognize that there has been substantial improvement since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council. Together they have strived to provide proper stewardship on UH's lands. This legislature must give them the necessary tools to carry out their mandate more effectively to protect the resources. Is it not better to support OMKM's efforts to protect the resources than to allow the current situation to continue and leave the resources unprotected?

I strongly urge you to pass this bill.

Ian L. Sandison

3061 Pacific Heights Road
Honolulu, Hawaii 96813

LATE TESTIMONY

**Testimony in Support of
HB 1174 HD3**

**Presented before
Senate Committee on Higher Education
&
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm**

Chairs Tokuda and Hee and members of the committees on Higher Education and Water, Land, Agriculture and Hawaiian Affairs.

I strongly support HB 1174 HD3 and urge members of the committees to vote yes on this bill. It is urgent that the University of Hawai'i is granted the authority to promulgate administrative rules governing public and commercial activities on Mauna Kea. It is critical to have rules to protect the unique and precious resources on Mauna Kea and the legislature must do the right thing and act now to protect the resources from further degradation.

While it is acknowledged that the University did not do a good job of managing its leased areas on Mauna Kea, the legislature must recognize that there has been substantial improvement since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council. Together they have strived to provide proper stewardship on UH's lands. This legislature must give them the necessary tools to carry out their mandate more effectively to protect the resources. Is it not better to support OMKM's efforts to protect the resources than to allow the current situation to continue and leave the resources unprotected?

I strongly urge you to pass this bill.

Ian L. Sandison

3061 Pacific Heights Road
Honolulu, Hawaii 96813

LATE TESTIMONY

From: John Stillman [jestillman@embarqmail.com]
Sent: Monday, March 23, 2009 10:09 AM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

John Stillman

From: Britany Edwards [MirrorMirrorInTheButsudan@yahoo.com]
Sent: Monday, March 23, 2009 10:09 AM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Britany M.K.M. Edwards

From: Cheryl Held [cherylheld@raany.com]
Sent: Monday, March 23, 2009 10:58 AM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Cheryl Held

LATE TESTIMONY

W. 12 St.
York, NY 10014

From: Adrienne Oliver [acarlinoliver@hawaii.rr.com]
Sent: Monday, March 23, 2009 11:04 AM
To: WTLTestimony
Subject: Pass the bill HB1174 HD3

LATE TESTIMONY

**Testimony in Support of
HB 1174 HD3**

**Presented before
Senate Committee on Higher Education
&**

**Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm**

Chairs Tokuda and Hee and members of the committees on Higher Education and Water, Land, Agriculture and Hawaiian Affairs.

I urge the members of the committees to vote yes on HB 1174 HD3. The University of Hawai'i absolutely must be granted the authority to publicize formally the administrative rules governing public and commercial activities on Mauna Kea. It is more than obvious that rules must be in place to protect the rare precious resources on Mauna Kea.

Since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council, there has been strong effort to provide proper stewardship on UH's lands. Past history of the management of the Mauna Kea leased lands should not be the governing factor in making this decision, but instead base the decision on the positive and responsible efforts by OMKM that are taking place today. It is imperative that this legislature give OMKM the necessary tools to continue their efforts to protect the resources. To vote no on this bill will be a great step backward and would basically leave the natural and unique resources of Mauna Kea unprotected.

I strongly urge you to pass this bill.

Adrienne Carlin Oliver, President
CARLIN & OLIVER, LTD.

acarlinoliver@hawaii.rr.com



16-166 MELEKAHIWA STREET • KEAAU, HAWAII 96749 • PHONE: (808) 966-5636 • FAX: (808) 966-5673
 MIKEF@HPMHI.COM • WWW.HPMHAWAII.COM

LATE TESTIMONY

March 23, 2009

**Testimony in Support of
 HB 1174 HD3**

**Presented before
 Senate Committee on Higher Education
 &
 Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
 March 23, 2009, 3:45 pm**

Chairs Tokuda and Hee and members of the committees on Higher Education and Water, Land, Agriculture and Hawaiian Affairs.

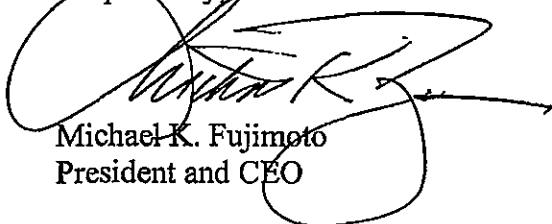
I strongly support HB 1174 HD3 and urge members of the committees to vote yes on this bill. It is urgent that the University of Hawai'i is granted the authority to promulgate administrative rules governing public and commercial activities on Mauna Kea. It is critical to have rules to protect the unique and precious resources on Mauna Kea and the legislature must do the right thing and act now to protect the resources from further degradation.

The University of Hawaii's Institute of Astronomy program and the Mauna Kea summit sites which support our Island's scientific industry are both key resources that require preservation and nurturing. Undoubtedly, both elements have and will continue to contribute immensely to the educational, scientific, cultural and economic wealth of the Island and our State if they receive our support and encouragement.

While it is acknowledged that the University may not have done a great job of managing its leased areas on Mauna Kea, the legislature must recognize that there has been substantial improvement since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council. Together they have strived to provide proper stewardship on UH's lands. This legislature must give them the necessary tools to carry out their mandate more effectively to protect the resources.

I strongly urge you to pass this bill.

Respectfully,



Michael K. Fujimoto
 President and CEO

LATE TESTIMONY

Testimony in Support of HB 1174 HD3

By:
Jesse Eiben

Presented before
Senate Committee on Higher Education
&
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm

Chairs Tokuda and Hee and members of the committees on Higher Education and Water, Land, Agriculture and Hawaiian Affairs.

I strongly support HB 1174 HD3 and urge members of the committees to vote yes on this bill. As a resident of Hawaii active in the conservation of Hawaiian flora and fauna, and an active scientific researcher (PhD student) on Mauna Kea, I was appalled to see that there is no rule making authority for the Office of Mauna Kea Management. It is urgent that the University of Hawai'i is granted the authority to promulgate administrative rules governing public and commercial activities on Mauna Kea. It is critical to have rules to protect the unique and precious resources on Mauna Kea and the legislature must do the right thing and act now to protect the resources from further degradation. It has been my experience while working on Mauna Kea that all those involved with OMKM are keenly aware of the threats to Mauna Kea, and they want to protect it as a state resource for everyone. This authority was requested in both audits of UH's use of Mauna Kea. There has been so much hard work and critical thought by OMKM put into trying to protect Mauna Kea. I know from experience the amount of oversight they have over the various threats to Mauna Kea. They take incredible care ensuring that any project using the Mauna Kea as a resource impact the mountain as little as possible. They do this as dictated by their mandate, and have some success, even without any real authority to ensure that anyone not following their guidelines is held accountable.

While it is acknowledged that the University did not do a good job of managing its leased areas on Mauna Kea, the legislature must recognize that there has been substantial improvement since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council. Together they have strived to provide proper stewardship on UH's lands. This legislature must give them the necessary tools to carry out their mandate more effectively to protect the resources. Not passing HB1174 HD3 will only increase the delay of proper management of Mauna Kea. This threatens every aspect of proper stewardship. In my experience working with the wekiu bug of Mauna Kea, rules that are enforceable are necessary for its protection. Honestly, OMKM has done an admirable job ensuring that the protection of the habitat for flora and fauna is protected by keeping tabs on as many groups and activities on Mauna Kea. By simply being a watchful presence, they have

LATE TESTIMONY

done a lot. But that is not enough. Is it not better to support OMKM's efforts to protect the resources than to allow the current situation to continue and leave the resources unprotected?

I strongly urge you to pass this bill.

Name -- Jesse Eiben

Email address -- Eiben@hawaii.edu

LATE TESTIMONY

Testimony in Support of HB 1174 HD3

Presented before
Senate Committee on Higher Education
&
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm

Chairs Tokuda and Hee and members of the committees on Higher Education and Water, Land, Agriculture and Hawaiian Affairs.

I strongly support HB 1174 HD3 and urge members of the committees to vote yes on this bill. It is urgent that the University of Hawai'i is granted the authority to promulgate administrative rules governing public and commercial activities on Mauna Kea. It is critical to have rules to protect the unique and precious resources on Mauna Kea and the legislature must do the right thing and act now to protect the resources from further degradation.

While it is acknowledged that the University did not do a good job of managing its leased areas on Mauna Kea, the legislature must recognize that there has been substantial improvement since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council. Together they have strived to provide proper stewardship on UH's lands. This legislature must give them the necessary tools to carry out their mandate more effectively to protect the resources. Is it not better to support OMKM's efforts to protect the resources than to allow the current situation to continue and leave the resources unprotected?

I strongly urge you to pass this bill.

Mark McGuffie
Enterprise Honolulu

LATE TESTIMONY

From: Gay Leah Barfield, Ph.D., Lic. MFT [okika@aloha.net]
Sent: Monday, March 23, 2009 12:20 PM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Gay Leah Barfield, Ph.D., Lic. MFT

LATE TESTIMONY

The Senate
Committees on Water, Land Agriculture
and Hawaiian Affairs and on Higher Education
March 23, 2009, 3:45 p.m.
Conference Room 229

Statement of the Hawaii Carpenters Union In Support of HB1174, HD3

The Hawaii Carpenters Union is in strong support of H.B. 1174 for both the current preservation of Mauna Kea, and for future planning and management.

In the course of membership discussions on efforts towards a comprehensive management plan, we have become aware of current issues of damage to natural, Native Hawaiian and other structures, as well as safety and health problems. Rulemaking and jurisdiction for rule enforcement is needed.

The future of natural, cultural and scientific resources also depend on the ability to educate, inform and enforce for proper and respectful activity. The economic future of the Big Island, including for members of our union, will be directly affected if it is ever perceived that conditions do not provide for astronomy in co-existence with other activities.

As the University of Hawaii and the DLNR move to meet their responsibilities, H.B. 1174 provides an essential component, no matter what plans are eventually pursued. The Hawaii Carpenters Union urges its passage.

LATE TESTIMONY

**Testimony in Support of
HB 1174 HD3
By**

Joni Uemura

**Presented before
Senate Committee on Higher Education
&
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm**

Chairs Tokuda and Hee and members of the committees on Higher Education and Water, Land, Agriculture and Hawaiian Affairs.

I strongly support HB 1174 HD3 and urge members of the committees to vote yes on this bill. It is urgent that the University of Hawai'i is granted the authority to promulgate administrative rules governing public and commercial activities on Mauna Kea. It is critical to have rules to protect the unique and precious resources on Mauna Kea and the legislature must do the right thing and act now to protect the resources from further degradation.

While it is acknowledged that the University did not do a good job of managing its leased areas on Mauna Kea, the legislature must recognize that there has been substantial improvement since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council. Together they have strived to provide proper stewardship on UH's lands. This legislature must give them the necessary tools to carry out their mandate more effectively to protect the resources. Is it not better to support OMKM's efforts to protect the resources than to allow the current situation to continue and leave the resources unprotected?

I strongly urge you to pass this bill.

Joni Uemura

juemura@hawaii.rr.com

From: Sen. Jill Tokuda
Sent: Monday, March 23, 2009 1:32 PM
To: to
Subject: FW: testimony on bill# HB1174

Importance: High

LATE TESTIMONY

Did you folks receive this? I didn't see him on the testifier list.

Senator Jill N. Tokuda

District 24
Kaneohe, Kailua, and Enchanted Lake
Majority Whip
Chair, Committee on Higher Education
Vice Chair, Committee on Water, Land, Agriculture & Hawaiian Affairs
Phone: 587-7215
Fax: 587-7220
www.senatortokuda.com

From: Ron Koehler [mailto:koehler@IfA.Hawaii.Edu]
Sent: Monday, March 23, 2009 6:36 AM
To: Sen. Jill Tokuda
Subject: Fw: testimony on bill# HB1174

----- Original Message -----

From: Ron Koehler
To: WTLTestimony@Capitol.hawaii.gov
Sent: Monday, March 23, 2009 6:28 AM
Subject: testimony on bill# HB1174

Please accept my testimony in support of the House Bill #1174. I am Ron Koehler, the General Manager of Mauna Kea Observatories Support Services. The Mauna Kea Rangers are employees under my supervision. The Office of Mauna Kea Management (OMKM) has the responsibility for the management of all of Mauna Kea's resources. This is done through the rangers. But, the rangers do not have the authority to prevent anyone from doing whatever they want.

This problem is going worsen in the future, as the number of visitors to Mauna Kea increases. The improvements to the Saddle Road have made access easier from the Hilo side. As further improvements are made to the Saddle Road on the West side, tourists will find it more attractive, which will increase the traffic on the Summit Roads.

The Mauna Kea Rangers have a difficult job as it is since they need to do what they can to protect the resources and they must also protect the visitors from the hazards they will be exposed to on the mountain.

The adiminstrative rules and regulations asked for by the University are critical for OMKM to continue protecting Mauna Kea, which is why OMKM was established in the first place.

Sincerely, Ron Koehler

From: Sen. Jill Tokuda
Sent: Monday, March 23, 2009 1:34 PM
To:
Cc: ay
Subject: FW: Testimony in Support of HB1174
Attachments: HB1174 HD3 testimony3-22-09.doc

LATE TESTIMONY

Did you folks get this for today's hearing?

Thanks!

Senator Jill N. Tokuda
District 24
Kaneohe, Kailua, and Enchanted Lake
Majority Whip
Chair, Committee on Higher Education
Vice Chair, Committee on Water, Land, Agriculture & Hawaiian Affairs
Phone: 587-7215
Fax: 587-7220
www.senatorjilltokuda.com

-----Original Message-----

From: Leonard Tanaka - T&T Electric, Inc. [mailto:ltanaka@tntelectric.com]
Sent: Sunday, March 22, 2009 10:30 PM
To: Sen. Clayton Hee; Sen. Jill Tokuda
Cc: Sen. Russell Kokubun; CHAT - Judi Steinman; CHAT - Nimr Tamimi
Subject: Testimony in Support of HB1174

Aloha e Senators,

Please find our attached testimony in support of HB 1174 HD3 for your consideration tomorrow. We speak on behalf of our 35 employees as well as in association through our membership with the Hawaii Island Chamber of Commerce and the Kanoelehua Industrial Area Association.

Mahalo,

Leonard S. Tanaka
President
T&T ELECTRIC, INC.
456-A Kekuanaoa Street
Hilo, Hawaii 96720
800-935-9029 ext 14
808-960-5710 cell
www.tntelectric.com

LATE TESTIMONY

From: Sen. Jill Tokuda
Sent: Monday, March 23, 2009 1:35 PM
To:
Cc:
Subject: FW: Support for HB 1174 Mauna Kea Comprehensive Management Plan

Testimony for today.

Senator Jill N. Tokuda

District 24
Kaneohe, Kailua, and Enchanted Lake
Majority Whip
Chair, Committee on Higher Education
Vice Chair, Committee on Water, Land, Agriculture & Hawaiian Affairs
Phone: 587-7215
Fax: 587-7220
www.senatortokuda.com

From: Paula Helfrich [mailto:phelfrich@yis.edu.mm]
Sent: Sunday, March 22, 2009 4:44 PM
To: Sen. Jill Tokuda; Sen. Russell Kokubun; Sen. Dwight Takamine
Cc: gmello@hawaii.edu
Subject: FW: Support for HB 1174 Mauna Kea Comprehensive Management Plan

March 20, 2009

The Hon. Jill Tokuda, Chair, Senate Committee on Higher Education
The Hon. Russell Kokubun
The Hon. Dwight Takamine

HB1174 HD3 – Public Hearing Mar. 21, Joint Cte on HED/WAM/WLU

Dear Chair Tokuda, Takamine and Kokubun and members of the committees:

I am a resident of the Island of Hawaii on temporary teaching and research assignments in Myanmar. I understand that HB. 1174 HD 3 will be heard in your committee on Monday, March 23. I am writing to be on record supporting this Bill in concept. HB1174 seeks to enable administrative rulemaking and clarify oversight. Respectfully, I request that you modify the Bill to specify the UNIVERSITY OF HAWAII AT HILO AND THE OFFICE OF MAUNA KEA MANAGEMENT as the agents of authority and responsibility, and not a general "University" entity. I believe that if this legislation is modified and enacted it will improve and protect the cultural and natural resources of Mauna Kea. This legislation will allow the University of Hawaii at Hilo through the Office of Mauna Kea Management to develop rules to better protect this resource, to manage health and safety issues, and to ensure public access, and most important, restore trust and confidence.

It is a reasonable approach to do what should have been done years ago. A few years ago, the legislature narrowly rejected a measure to establish a MAUNA KEA AUTHORITY, which would have provided integrated oversight on scientific, cultural and environmental issues. The history of astronomy in Hawaii has been made much more difficult because of conflicts in management and accountability, leading to a lack of trust, suspicion, lawsuits and general antipathy.

It is practical to have Mauna Kea managed by an established entity on Hawaii Island, which will encourage accountability and trust. There are many who are well intended but do not recognize that their activities on the Mountain have an impact on the cultural and natural environment.

A clear mandate from the legislature will allow UHH/OMKM to do its job, with support from its local Board as well as the Board of Regents. The science & technology aspects of the mountain should and will continue to be handled by IFA and the Mauna Kea Users Group. The mountain's natural, cultural and environmental resources will be protected, administrative rules will provide accountability, the public will continue to have access to the mountain, and safety and

health issues will be monitored. In particular, Native Hawaiian issues will be better prioritized and addressed, steps towards trust and participation will be restored for Hawaii Island residents and the state as a whole.

If modified and passed this Bill will recognize UH Hilo through the Office of Mauna Kea Management as the responsible agency for managing Mauna Kea Mountain. Our community needs this legislation to protect the mountain and give the Hawaii Island community greater control over Mauna Kea's future and well being.

I respectfully encourage your committee to take this timely and responsible action.

Sincerely,

Paula Z. Helfrich
575 Alawaena Street
Hilo, Hawaii
Helfrich.paula@gmail.com

Temp: Yangon International School & Sitagu Buddhist Academy
117 Thumingalar Housing
Thingangyun, Yangon, Myanmar
phelfrich@yis.edu.mm

Send by YIS Email Server

From: Sen. Jill Tokuda
Sent: Monday, March 23, 2009 1:37 PM
To:
Cc:
Subject: FW: HB. 1174 HD 3

LATE TESTIMONY

For today.

Senator Jill N. Tokuda

District 24
Kaneohe, Kailua, and Enchanted Lake
Majority Whip
Chair, Committee on Higher Education
Vice Chair, Committee on Water, Land, Agriculture & Hawaiian Affairs
Phone: 587-7215
Fax: 587-7220
www.senatortokuda.com

From: Walker [mailto:rekw32@hawaiiintel.net]
Sent: Saturday, March 21, 2009 12:50 PM
To: Sen. Jill Tokuda
Subject: HB. 1174 HD 3

March 21, 2009

Dear Senator Tokuda:

I am writing in support HB. 1174 HD 3 because I believe we need a dedicated management team to protect Mauna Kea and its resources. I think the University of Hawaii at Hilo is the best vehicle on the Big Island that can develop proper rules to assure protection of the cultural and natural environment as well as to protect concerns of over development or underdevelopment on the mountain. The process of developing rules need to be in consultation and in consideration with all interested parties for continued maintenance of our valuable mountain. We need to take a strong stand now to protect Mauna Kea so that in the future we can be proud of our current actions.

Thank you very much for this opportunity to express myself.

Sincerely,

Ruth Walker, Hilo Hawaii 96720

From: Sen. Jill Tokuda
Sent: Monday, March 23, 2009 1:38 PM
To:
Cc:
Subject: FW:

LATE TESTIMONY

Sent to Hee as well, not sure if you received this.

Senator Jill N. Tokuda

District 24
Kaneohe, Kailua, and Enchanted Lake
Majority Whip
Chair, Committee on Higher Education
Vice Chair, Committee on Water, Land, Agriculture & Hawaiian Affairs
Phone: 587-7215
Fax: 587-7220
www.senatortokuda.com

From: Nimr Y. Tamimi [mailto:nimr@epihawaii.com]
Sent: Friday, March 20, 2009 9:50 PM
To: 'Nimr Y. Tamimi'; Sen. Clayton Hee
Cc: Sen. Jill Tokuda; 'KIAA2'
Subject:

From: Nimr Y. Tamimi [mailto:nimr@epihawaii.com]
Sent: Friday, March 20, 2009 6:16 PM
To: 'senhee@capitol.hawaii.gov'
Cc: 'sentokuda@capitol.hawaii.gov'; 'KIAA2'
Subject: HB 1174

March 21, 2009

Dear Senator Hee:

I strongly support HB 1174 HD 3, I urge your committee to support this bill for the following reasons:

- It will improve the cultural and natural resources of Mauna Kea
- It will allow the development of rules to better protect the mountain
- It brings the management of the mountain back the Island of Hawai'i
- It will continue to support and enhance cultural practices
- It will bring accountability to the management of the mountain

Thank you for your time and consideration

Nimr Tamimi



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

LATE TESTIMONY

H.B. 1174 HD 1 Mauna Kea
Room 229, 3:45 pm
March 23, 2009

Aloha Chairman Hee and Chairwoman Tokuda, and members of the Senate Committees on Water, Land, Agriculture, and Hawaiian Affairs, and Higher Education,

KAHEA strongly opposes the passage of HB 1174 to grant the University of Hawaii management authority over the ecologically significant and culturally sacred lands of Mauna Kea. We strongly urge your Committees to hold this bill until the current management planning process is completed. To grant the University any authority now would be premature and possibly contradict the management needs and goals ultimately identified in the final management plan.

We understand that your Committees are interested in improving the management of Mauna Kea. We are all searching for ways to bring about a pono resolution to the issues plaguing Mauna Kea. Reaching that outcome, however, will take time. Given the fact that the management plan mandated by the 2007 court decision is currently undergoing intense public review and significant changes are anticipated based on the criticisms received so far, there is no reason for the Legislature to rush to judgment about what management authority the University should have over Mauna Kea. In fact, hasty decision-making at this stage could make the situation worse than it is now. Management of the sacred summit is continuing under the 1995 management – and though we too would like to see this plan updated – it is important that the final management truly address the long-standing issues with telescope construction in a conservation district.

We strongly suggest that the Legislature wait and assess the outcome of the administrative process to develop a management plan before changing the legal framework for management on Mauna Kea. Much could happen between now and the time that a final management plan is adopted by the Board of Land and Natural Resources. It is extremely difficult to anticipate the final form of this plan and thus it is extremely difficult for your Committees to make an informed decision about what legislative action would best support the management needs of the summit.

Please hold H.B. 1174 HD1 until the time is right for a legislative solution. Once a final management plan is properly completed, having incorporated the public's comments and expert advice, then the Legislature will have the information it needs to propose a meaningful legislative solution to any remaining challenges to appropriate management of Mauna Kea. Unfortunately, there are simply too many complex variables for the Legislature to take prudent action at this time.

Mahalo,

Marti Townsend
Program Director

LATE TESTIMONY

From: ehulani kane [ehumama@hotmail.com]
Sent: Monday, March 23, 2009 3:07 PM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

please be faithful to our aina and to our kupuna.

Mahalo,

Testimony in Opposition to HB 1174 HD3 Joint Senate Committees: Water Land Agriculture and Hawaiian Affairs, and Higher Education March 23, 2009 (3:45 pm) Room 329

Aloha kakou, Chair Hee, Chair Tokuda, and committee members

My Name is Deborah Ward. I live in the Puna District of the Island of Hawaii, and I retired after 23 years at the University from the Department of Natural Resources and Environmental Management. I have been involved in issues regarding the management of Mauna Kea since I visited the summit and documented the damage to Pu'u Hau Oki. This damage took place as a result of decisions by the Director of UH IfA, and approved by a DLNR planner who had never even been to Mauna Kea. This deliberate action filled the base and damaged slopes of the cinder cone, prime habitat of the wekiu bug. This same Pu'u was contaminated by a sewage spill, and was documented by Dr. Fred Stone and Dr. Frank Howarth on another visit. The discovery of these violations, which directly violated conditions in the Mauna Kea Management Plan, approved by the BLNR in 1985, were the impetus for my involvement to find ways to improve the management of this highly delicate and fragile natural environment.

At the request of the Legislative Auditor, I participated in discussions for the audits conducted in 1998 and 2005. At the request of the Office of Mauna Kea Management (OMKM), I have been an active member of the OMKM Environment Committee since 2000. Contrary to what you may have been told, I am not a naysayer; I was tasked to draft the Environment Committee white paper that led to our decision to hire a natural resources planning firm to construct a natural resources management plan for OMKM. The planning team, SRGII, developed management recommendations to identify, protect and conserve the fragile natural resources, including flora, fauna, hydrologic resources, geologic resources, and more. After Judge Hara's ruling that a comprehensive management plan is required, to comply with DLNR rules in a Conservation District, Ku'iwalu, a public relations firm, hired by the University, was hired to construct a document which is now being represented as a CMP.

I attended the Environment Committee meetings, in which Dawn Chang, representing Ku'iwalu, assured the committee that the natural resource management actions would be incorporated into the CMP. Over my concern that DLNR was the proper agency to direct the development of a CMP, the University overrode my objections, these plans went forward. (I declined in writing to consult with the Ku'iwalu firm, and yet I am listed as a consulted party in the draft.)

The natural resource planning team presented the management recommendations to a large group of assembled scientists in November 2008, and fielded comments and suggestions for improvement. Those of us with hundreds of hours of time vested in the management recommendations felt that these discussions were significant and useful. To the shock of the members of the Environment Committee, the natural resource management recommendations were removed from the final draft of the CMP in the final stages, days before the document was published. The interference by University lawyers in the planning process (begun by engaged members of the community) led the planning firm, SRGII, to remove its name from the document, and withdraw from the process. Last week, a vote was taken by the UH appointed advisory board to the UH Chancellor regarding the CMP. Lisa Hadway, the DLNR scientist charged with administering the Mauna Kea Ice Age Natural Area Reserve, voted to oppose the

CMP . The chair of the Environment Committee, planner Ron Terry, said the plan would be “less than meaningful” unless conditions were imposed that mandated funding and staffing to carry out the promises.

You may wonder what the CMP has to do with the law you are considering today. The CMP provides the clues for the University’s plans for the future, should it convince you to overturn the laws in place for the Conservation Districts, in favor of a special party, in this case the astronomy industry.

The rule making authority proposed in HB 1174 defies Conservation District administrative rule (HAE 13-5-2). The authority is referenced by the CMP (a 299 page document) in over 99 places to provide the rationale for restricting the public, and the cultural practitioners, in numerous ways. The CMP claims that rules are needed to limit impacts by the public on resources. While ignoring the “significant, adverse and substantial” cumulative impact of astronomy development over the past 40 years, the University places the blame for impacts on the resources on the public. (Keck Outrigger EIS 2007)

The rules that are proposed would NOT address the impact that astronomy development has had on Mauna Kea, including the removal of 40 feet of cinder from the top of a pu’u in the summit cluster, or the multiple spills of mercury, diesel fuel, jet fuel, aluminizing fluid and sewage. The last sewage spill, up to 1000 gallons, took place at Hale Pohaku only a year ago, (a decade after the EPA rules required replacement of gang cesspools).

The rule making authority that is proposed in this bill is specifically cited in the CMP to authorize the gating and chaining of the summit access road, and the restriction against visiting the summit at sunrise or sunset by members of the public. It cites the imposition of rules regarding the appropriateness of Hawaiian cultural features, claiming that it will have the right to determine appropriateness of ahu constructed by practitioners and may dictate when they will be dismantled. The CMP also cites the rule making authority proposed here today to allow the imposition of fees for the public, per person, or per vehicle. The CMP proposes that with rule-making authority, University law enforcement personnel could cite and fine violators. The CMP proposes that the UH law enforcement personnel would be responsible for reviewing Conservation District Use Permit conditions; if this isn’t the fox guarding the henhouse—what is? This bill would allow the University to preside over any appeal of citation, and would empower the University president, or designee, with final decision-making authority over the contested case. This significant amendment to HRS Title 8 Chapter 91, which outlines rule-making procedures for agencies, would allow the University to be the final arbiter. The University is not a neutral party, and should not be allowed to preside in such a blatant conflict of interest! Additionally, HB 1174 specifically allows the UH to set up a special fund to collect rents and fees for its own use, but specifically maintains the financial obligations of the taxpayers.

The rules for management are in place. In fact, the CMP states that “In the absence of the University obtaining rule-making authority, OMKM can report violations ...to DLNR, which will still be responsible for enforcement of existing rules and regulations.” The CMP is still under review, and action on this bill is premature. It must be deferred until review of the CMP by the staff of DLNR and BLNR has taken place.

LATE TESTIMONY

March 10, 2009

To: Trustees, Office of Hawaiian Affairs

From: Deborah Ward, Mauna Kea Issues Co-chair, Sierra Club, Hawaii Chapter

Regarding: Misrepresentation by Ku'iwalu, the University of Hawaii's consultation firm

Aloha,

You are meeting on March 11, 2009 to make a decision regarding your support of proposals made by international astronomy interests, corporations and foreign governments to give control of public access, personal, religious and ceremonial practice on sacred, ceded, conservation land to the University of Hawaii, to further the interests of astronomy.

I am a member of a hui of participants, including Sierra Club, who took part in successful litigation to overturn the Department of Land and Natural Resources permit for telescope development, absent a comprehensive development plan to address multiple uses on Mauna Kea.

I am also a member of the OMKM Environment Committee, which initially contracted with SRGII to develop a natural resource management plan for Mauna Kea. In spite of commitments made by Ms Chang that the natural resource plan would be an integral part of the CMP, the plan is not even appended to the CMP.

I am writing to you because Ms. Chang has made a representation in the Mauna Kea CMP draft that claims that I have consulted on this plan. I would like to make it very clear that this is a misrepresentation of the truth. I have never consulted on this plan. I attended one of the public meetings run by Ku'iwalu, but I was not willing to participate due to the constraints placed on testimony by the imposition of an artificial agenda that did not allow the open discussion of concerns. I did take notes, and my notes reflect significant disparity between what the speakers said and what Ms Chang reported. For example, I can state without reservation that there was no unanimous agreement about the proposal to require every visitor to take part in cultural, environmental and safety education before going to the summit.

I am very concerned that the truth of other statements made by Ms Chang to the legislature, the public, and to DLNR must and will be challenged. The consulting firm hired by the University of Hawaii represents the interests of its client, not the people of Hawaii.

Sincerely,



Deborah Ward

P.O. Box 918

Kurtistown HI 96760

808-966-7361



LATE TESTIMONY

Testimony Presented Before the
Senate Water, Land, Agriculture, and Hawaiian Affairs Committee
And
Senate Higher Education Committee
March 23, 2009 at 3:45 p.m.
By
Dawn N.S. Chang
Principal, Ku'iwalu

HB 1174, HD3 RELATED TO THE UNIVERSITY OF HAWAI'I

Aloha Chairs Tokuda and Hee, and Members of the Joint Committee:

Mauna Kea kuahiwi kū ha'o ka mālie
(Mauna Kea is the astonishing mountain that stands in the calm) (Pukui 1983)

"Mauna Kea is the first-born to us. That's where our roots start, that's where our island begins; that's where the first rain from Wākea hits. It is our mountain. That's where the first sunlight that rises every morning hits. That mountain is first for everything we have ... And so, because Mauna Kea is the first born, we need to mālama Mauna Kea."
(Pualani Kanaka'ole Kanahale, *Mauna Kea Temple Under Siege*, 2006).

My name is Dawn Chang and I am the principal of Ku'iwalu, a native Hawaiian woman owned small business. Ku'iwalu has been retained by the University of Hawai'i (UH) to work in coordination with the Office of Mauna Kea Management (OMKM) to prepare the Comprehensive Management Plan for the UH leased lands (CMP). The consultant team that has been responsible for drafting the CMP includes The Edith Kanaka'ole Foundation, Rechtman Consulting from Hilo, Sustainable Resources Group International, Inc., Pacific Consulting Services Inc., and McNeil Wilson Anthology.

Mauna Kea is a culturally significant resource. The CMP from the beginning focuses on the cultural significance of Mauna Kea with a Cultural Anchor prepared by the Edith Kanaka'ole Foundation. Many in the community criticized the UH for not being good stewards of Mauna Kea and not demonstrating sensitivity to the cultural significance of Mauna Kea by placing too much emphasis on the telescope observatories. Thus, the CMP acknowledges the cultural significance of Mauna Kea as not only a place of historic significance, but more importantly as a living cultural resource where native



Ku'iwalu

LATE TESTIMONY

Hawaiians continue to bury the *piko* of their children, gather mamake for medicinal teas, traverse the 'Umi trail for subsistence hunting, and scatter the ashes of their loved ones on Mauna Kea. (See Sections 1 and 5 of the CMP).

Besides honoring the cultural importance of Mauna Kea, the CMP process involved extensive community outreach to engage the stakeholders in developing the management plan. The preparation of the CMP started with OMKM over six years ago as they began gathering information on the cultural and natural resources on Mauna Kea. Over the last 20 months, the Ku'iwalu Consultant Team has engaged in extensive community outreach to *mākia* or first listen to the community (in particular the native Hawaiian and Big Island community) with *ha'aha'a* or humility and respect. (See Section 4 of the CMP).

We met with over 150 individual and groups in small talk story sessions where community members felt more comfortable sharing their *mana'o*. We also convened six public meetings; two each in Hilo, Waimea, and Kona. A statewide telephone survey was conducted to independently gauge the community's understanding and sentiment about Mauna Kea. While there are shortcomings with any survey, approximately 90% of those surveyed supported the co-existence of culture and science on Mauna Kea so long as the cultural issues are being addressed. The website www.MaunaKeaCMP.com was established as a means of keeping the community informed about the progress of the CMP as well as providing them another mechanism to "tell us what they think."

The CMP is intended to provide the OMKM a set of management actions to preserve and protect the natural and cultural resources by managing existing and future uses and activities on Mauna Kea. (Section 7 of the CMP). Mauna Kea is conservation lands and the legislature intended that conservation lands be conserved, protected, and preserved through appropriate management and use "to promote long-term sustainability and the public health, safety and welfare." (Chapter 183C). The CMP is not intended to circumvent existing regulatory requirements for use of conservation lands, i.e. Chapter 343 relating to environmental review process and Chapter 183C relating to conservation district use application process as these will continue to be adhered to for any use of conservation lands.

The CMP is also not intended to advocate or promote new telescope development. "Nonetheless, it is not only appropriate but necessary to proactively address issues related to new land uses or activities and their potential impacts on the resources. Future land use is not confined to telescope development but it could include roadway upgrades, improvements to Hale Pōhaku, or a cultural facility such as a *hale* for Hawaiian navigation and astronomy." (Section 7.3.4 of the CMP).



Ku'iwalu

LATE TESTIMONY

Further, the CMP is in compliance with Judge Hara's ruling in his 2007 decision in the Outrigger Telescopes case as it "covers multiple land uses [astronomy, recreational, commercial, cultural, educational, infrastructure and operations] within the larger overall area" [covering an area of over 11,000 acres] managed by the University of Hawai'i. (Judge Hara's January 19, 2007 Decision and Order, Conclusion of Law 18). The CMP also utilizes the Hawai'i Supreme's Court's analytical framework as set forth in *Ka Pa'akai O Ka 'Aina v. Land Use Commission*, 94 Haw. 131 (2000) to ensure that government agencies protect the valued cultural, historical, and natural resources, including traditional and customary practices.

Finally, a critical component to the effective and efficient implementation of the CMP is authorizing the UH with administrative rule making to implement and enforce the plan. The State Auditor in her 1998 and 2005 Audits of Mauna Kea specifically recommended that the UH develop rules for Mauna Kea. Therefore, HB 1174 is not only consistent with the Auditor's strong recommendation but it is a critical management tool that OMKM and its Rangers need to manage Mauna Kea.

And, it is for these reasons that I would strongly urge the Committee to pass this Bill.

Testimony in Support of
HB 1174 HD3

LATE TESTIMONY

Presented before
Senate Committee on Higher Education
and
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm

Chairs Tokuda and Hee and members of the committees on Higher Education and Water, Land, Agriculture and Hawaiian Affairs.

I strongly support HB 1174 HD3 and urge members of the committees to vote yes on this bill. There are a range of threats to Mauna Kea's unique cultural and natural resources, threats that can be reduced through a comprehensive approach to management. Education is an essential part of any management strategy. Measures designed to reduce the impacts of human activity and climate change are also important. However, the ability to promulgate administrative rules provides managers with an additional tool, one that has a direct impact by holding people accountable for their actions.

The University of Hawai'i should be granted the authority to promulgate administrative rules governing public and commercial activities on Mauna Kea. These rules are necessary to protect Mauna Kea's unique and precious cultural and natural resources. By acting now, and granting the University the ability to promulgate rules, the Legislature will do its part in protecting the resources from further degradation.

There have, and will continue to be many challenges in the management of Mauna Kea. Although the University has not always done a good job in managing its leased areas on Mauna Kea, the legislature must recognize that there has been substantial improvement since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Kū Mauna Council. These entities have worked hard to provide responsible stewardship for the lands managed by the University. While these efforts will continue, rule-making authority is an essential tool for them to effectively carry out their mandate. Giving this responsibility to the University will enable them to continue protecting Mauna Kea's resources, utilizing the full suite of available tools.

I strongly urge you to pass this bill.

Kristin Duin

knduin@stanfordalumni.org

Hau Bulletin 3/5/09
LATE TEL

GATHERING PLACE

Mauna Kea bills will preserve natural and cultural treasures

By Arthur Hoke and Barry Taniguchi

POSTED: 01:30 a.m. HST, Mar 05, 2009

(Page 1 of 2) | [Single Page View](#)

If enacted, two bills being considered in the current Hawaii legislative session — Senate Bill 502 and House Bill 1174 — will improve the protection of the cultural and natural resources of Mauna Kea. The proposed legislation allows the University of Hawaii to adopt administrative rules to regulate activities within the Mauna Kea lands it leases from the state Board of Land and Natural Resources. The legislation allows UH to enforce these rules and to establish a Mauna Kea lands management special fund.

The ability for UH to adopt administrative rules was first recommended by the state auditor's 1998 report on the university's management of Mauna Kea. That highly critical auditor's report spurred the university to develop and adopt the 2000 master plan. The master plan transferred management of the summit from the Manoa campus to the UH-Hilo campus and its chancellor. That plan established a new management body: the Office of Mauna Kea Management, reporting to the chancellor. OMKM's advisory board is the Mauna Kea Management Board, which in turn is advised on cultural issues by the Kahu Ku Mauna Council.

These advisory boards, made up of members of the community selected for their knowledge of Mauna Kea's management issues and sensitivity to Hawaiian culture, give the community significant input into the management of the lands UH leases on Mauna Kea.

Protection of Mauna Kea's archaeological, cultural and environmental resources has benefited greatly from the new management arrangement, and has included the creation of the Mauna Kea ranger corps by OMKM to monitor activities on the mountain and advise visitors regarding appropriate behavior with respect to Mauna Kea's unique cultural and environmental resources.

While the OMKM rangers have made a significant difference, they could be more effective if the oversight bodies could adopt administrative rules for behavior and give rangers the ability to enforce them. As it is, rangers can only advise visitors from entering archaeologically or environmentally sensitive areas, or to pick up their trash. In addition, the absence of rules and enforcement authority makes the rangers' efforts to ensure public health and safety on the mountain at extreme elevation and in dangerous weather all the more challenging.

A follow-up report by the state auditor in 2005 noted a number of improvements in UH's stewardship under the master plan. One thing that remained consistent with its 1998 report was the auditor's stance on granting rule-making authority to UH. In 2005, the auditor reiterated, "We recommend the University of Hawaii obtain administrative rule-making authority, revise and update planning documents, and develop, implement and monitor a comprehensive management plan for natural, cultural and historic resources of the summit and Hale Pohaku area."

Today, the university is in the final stages of completing the Mauna Kea Comprehensive Management Plan (CMP) that will serve as the guiding framework for protecting and preserving the cultural and natural resources on Mauna Kea by managing the multiple uses and activities on the mountain. SB 502 and HB 1174 will allow UH to properly implement and enforce the management actions contained in the CMP.

LATE TESTIMONY

Some testifiers have incorrectly claimed that the bills being considered would do other things that would be detrimental to Mauna Kea. For example, the legislation does not seek to transfer ceded lands out of the public land trust. In fact, the leased ceded lands remain in the public trust and subject to any future potential claims by Hawaiians or a federally recognized Native Hawaiian sovereign entity.

A few testifiers have said this legislation allows the university to limit public access.

On the contrary, the legislation and the CMP on which it is based propose to preserve and protect valued cultural, historical and natural resources, including traditional and customary practices as required under the Hawaii state Constitution. There is no provision in the bills or the CMP to charge fees to access Mauna Kea. And neither the bills nor the CMP advocate future telescope development.

Simply put, we are trying to implement the state auditor's recommendations and need this legislation to protect the mountain and its valuable and vulnerable resources. When combined with the other recommendations and management practices described in the CMP, this legislation will allow the community greater control in its effort to preserve Mauna Kea as a cultural and community treasure now and in the future.

We encourage the Legislature to take responsible and timely action.

Arthur Hoke is former chairman of the Mauna Kea Management Board, a member of Kahu Ku Mauna Council and past president of the Association of Hawaiian Civic Clubs. Barry Taniguchi is chairman of the Mauna Kea Management Board.

**ASSOCIATION OF HAWAIIAN
CIVIC CLUBS
A RESOLUTION**

08-47

**URGING THE STATE OF HAWAII, BOARD OF LAND AND NATURAL
RESOURCES, TO APPROVE THE COMPREHENSIVE MANAGEMENT
PLAN COVERING THE LANDS LEASED TO THE UNIVERSITY
OF HAWAII ON MAUNAKEA MOUNTAIN**

WHEREAS, the State of Hawai'i laws defines a management plan as a comprehensive plan for carrying out multiple land uses; and Maunakea has multiple land use issues that are in need of a comprehensive land use management plan; and

WHEREAS, the lands leased to the University of Hawai'i on Maunakea mountain have been leased to the University of Hawai'i until 2033; and

WHEREAS, the Institute for Astronomy, under the University of Hawai'i, Manoa, was tasked with the responsibility for the "management" of the area covered by the lease agreement; and

WHEREAS, those management activities had caused concern amongst the Hawaiian communities of Hawai'i Island, which resulted in a "Master Plan" being approved in 2000 by the University of Hawai'i Board of Regents; and

WHEREAS, the Office of Mauna Kea Management, an entity of the University of Hawai'i, Hilo was created, and has been functioning since 2000 without adequate authority of a "Comprehensive Management Plan", but the Office of Mauna Kea Management has formulated a comprehensive management plan; and

WHEREAS, the Office of Mauna Kea Management's Comprehensive Management Plan builds on the previous management and master plans to update the management strategies for the diverse range of activities and uses such as astronomy, cultural and religious activities, recreational and commercial activities, scientific research, and includes comprehensive components to manage the Cultural Resources, Historical Resources, and the Natural Resources on Maunakea mountain; and

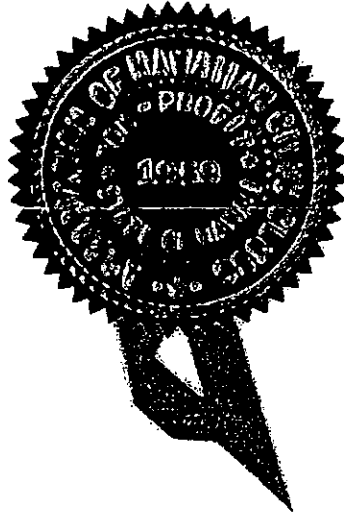
WHEREAS, the Cultural, Historical, and Natural resources are not being adequately preserved and protected, primarily because of the absence of properly written, and enforced rules and regulations, to cover the lands on Maunakea mountain leased to the University of Hawai'i;

NOW, THEREFORE, BE IT RESOLVED by the Association of Hawaiian Civic Clubs at its 49th Annual Convention at Nukoli'i, Kaula'i, Hawai'i, this 24th day of October 2008, that it

LATE TESTIMONY

strongly urges the State of Hawai`i, Board of Land and Natural Resources, approve a Comprehensive Management Plan covering the lands leased to the University of Hawai`i on Maunakea Mountain; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be transmitted to the Governor of the State of Hawai`i, the Chairperson and members of the Board of Land and Natural Resources, and to the President of the Senate and the Speaker of the House of Representatives of the Legislature of the State of Hawai`i.



The undersigned hereby certifies that the foregoing Resolution was duly adopted on the 24th day of October 2008, at the 49th Annual Convention of the Association of Hawaiian Civic Clubs at Nukoli`i, Kaua`i, Hawai`i

Aimona Han

President

LATE

**ASSOCIATION OF HAWAIIAN
CIVIC CLUBS
A RESOLUTION**

08-48

**URGING THE LEGISLATURE OF THE STATE OF HAWAII, TO
AUTHORIZE THE OFFICE OF MAUNA KEA MANAGEMENT, AN
ENTITY OF THE UNIVERSITY OF HAWAII, HILO, TO DEVELOP
ADMINISTRATIVE RULES COVERING THE LANDS LEASED
TO THE UNIVERSITY OF HAWAII ON MAUNAKEA MOUNTAIN**

WHEREAS, a portion of the lands on Maunakea mountain have been leased to the University of Hawai'i until 2033; and

WHEREAS, the Institute for Astronomy, under the University of Hawai'i, Manoa, was tasked with the responsibility for the "management" of the area covered by the lease agreement; and

WHEREAS, those management activities had caused concern amongst the Hawaiian communities of Hawai'i Island, which resulted in a "Master Plan" being approved in 2000 by the University of Hawai'i Board of Regents; and

WHEREAS, the Office of Mauna Kea Management, an entity of the University of Hawai'i, Hilo, was created, and has been functioning since 2000 without adequate authority of Administrative Rules and Regulations; and

WHEREAS, the Cultural, Historical, and Natural resources are not being adequately preserved and protected, primarily because of the absence of properly written, and enforced rules and regulations, to cover the lands leased to the University of Hawai'i on Maunakea mountain; and

WHEREAS, the Office of Mauna Kea Management has undertaken the development of a Comprehensive Management plan for those leased lands atop Maunakea, which includes components for the comprehensive management of Cultural, Historical, and Natural resources as well;

NOW, THEREFORE, BE IT RESOLVED by the Association of Hawaiian Civic Clubs at its 49th Annual Convention at Nukoli'i, Kaua'i, Hawai'i, this 24th day of October 2008, that it strongly urges the Legislature of the State of Hawai'i, to authorize the Office of Mauna Kea Management, an entity of the University of Hawai'i, Hilo, to develop Administrative Rules covering the lands leased to the University of Hawai'i on Maunakea Mountain; and

LATE TESTING

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be transmitted to the Governor of the State of Hawai`i, the President of the Senate and the Speaker of the House of Representatives of the Legislature of the State of Hawai`i, and the Mayor of the County of Hawai`i.



The undersigned hereby certifies that the foregoing Resolution was duly adopted on the 24th day of October 2008, at the 49th Annual Convention of the Association of Hawaiian Civic Clubs at Nukoli`i, Kaua`i, Hawai`i

Simon K. Lee

President

PHOTOS OF

RANGER OBSERVANCES

ON

UH'S MANAGED LANDS ON MAUNA KEA

LATE TESTIMONY

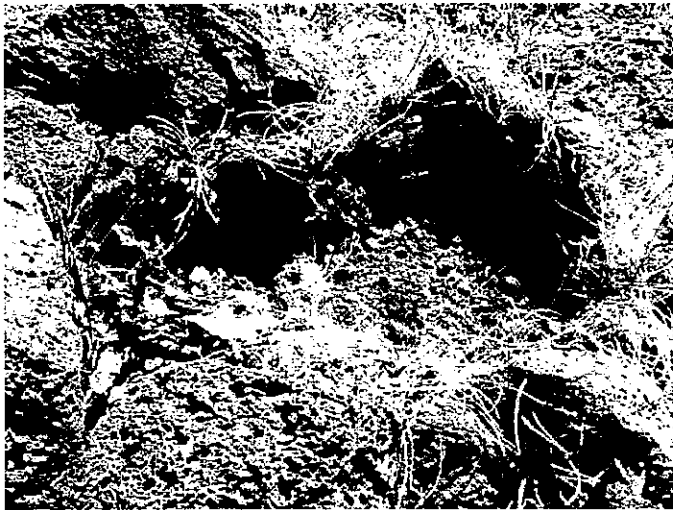
LATE TESTING BY



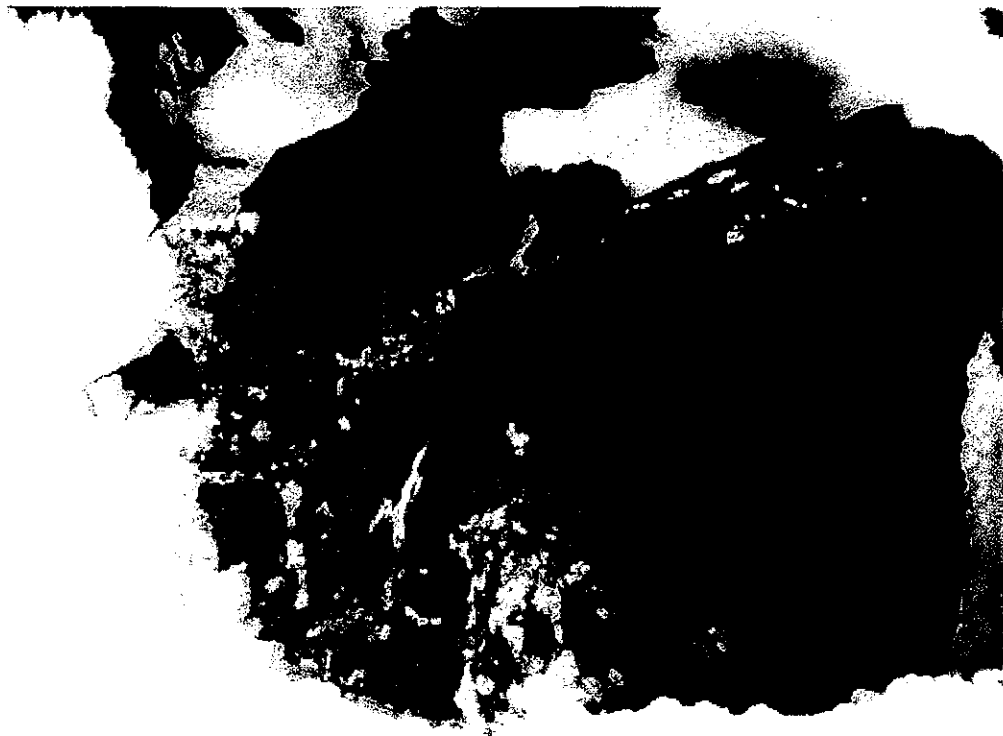
Fire dancing on the summit.



Creative stacking of rocks



Hole left in the ground after removal of rock to form a stack of rocks



Graffiti

LATE TESTIMONY

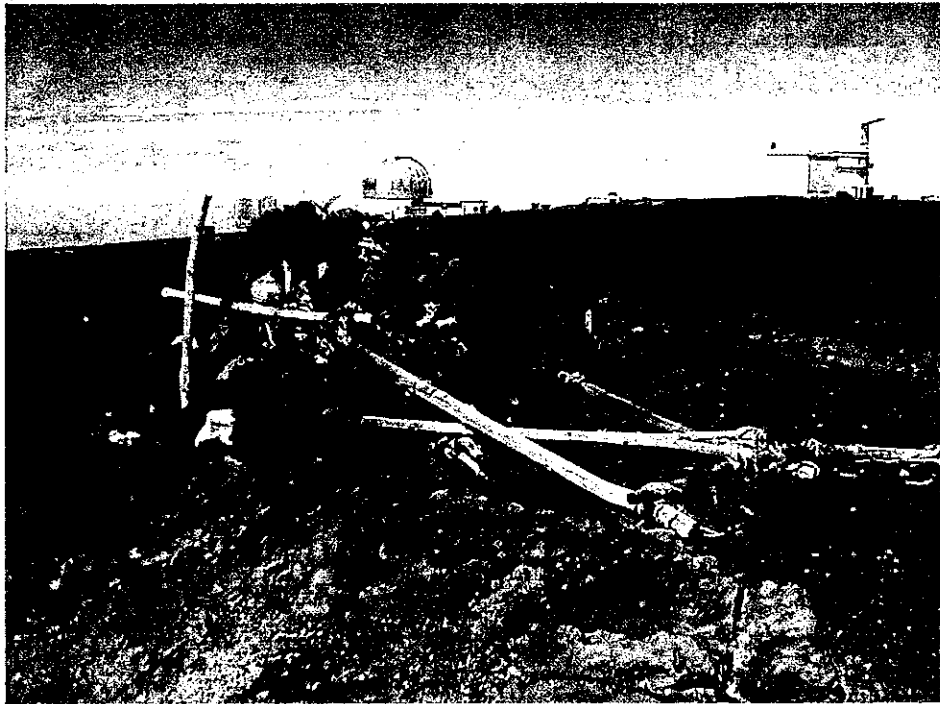


Hiking off trail leaves footprint marks on the summit puu.



Lele prior to vandalism

LATE TESTIMONY



Vandalized lele



Traffic congestion on the summit access road. A ranger vehicle (yellow roof light) is trying to weave its way through traffic. If there was an accident requiring emergency response, an ambulance would not be able to make it through the traffic. Parked cars on the side of the road impeded two way traffic flow.

LIFE TESTIMONY



Graffiti on the slope of the summit puu

LATE TESTIMONY

**Testimony in Support of
HB 1174 HD3**

**Presented before
Senate Committee on Higher Education
&
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm**

Aloha Co-Chairs Senator Hee and Tokuda:

Very Strongly
Thank You for the opportunity to speak on behalf of Hb 1174—the rule making bill. Let's not let the perfect be the enemy of the good.

I am Richard Ha, I'm a native Hawaiian, life-long Big Island farmer. We farm 600 acres at Pepeekeo. We farmed bananas for 25 years and hydroponic vegetables for the last five. We have produced millions of pounds of food. We go under the Hamakua Springs brand in the supermarkets. There are nearly 70 of us who work on the farm. We are concerned with Food Security and Sustainability, especially since we sit out here on islands in the middle of the Pacific.

I would like to share with you how I came to be involved with issues to do with Mauna Kea. I was a new member of the Hawaii Island Economic Development Board three years ago. Soon after I joined the board, the Thirty Meter Telescope people inquired about siting their telescope on Mauna Kea. So, the HIEDB formed a special TMT committee. I had strong feelings about the way it should be done—it should be done right!! So, I volunteered to sit on that committee.

Before that I was just a banana farmer. But when you talk about Mauna Kea you automatically talk about the Hawaiian Culture and when you talk about that, you end up in Keaukaha the oldest Hawaiian Homes community on the Big Island – 75 years. And, I found that the elementary school was the center of the community.

I went to see Kumu Lehua Veincent, principal of the Keaukaha Elementary School. I had what I thought was a good proposal, "The TMT wants to come to the Big Island, what happens if we can convince the TMT to give some kids from the community five full ride scholarships to the best schools in the nation?" Kumu Lehua listened then he asked me; "what about the rest?" I could feel my ears getting hot. I felt kind of stupid. Yes, what about the rest?

And, I thought that because the TMT had intentions to do things for the community I expected that people would be receptive. Instead, I felt the Keaukaha people were very wary wanting to know; "what do you really want?" They had been promised things many times before.

In the meantime the TMT board decided to deal directly with UH system. But, having met and liked the people in the Keaukaha community and the elementary school, I came back again and again to talk story. One day, I offered to sponsor an excursion to my farm. In the course of that trip, I asked Kumu; "eh where you guys go on excursion?" He told me they did not go; "no more money". Instead they walked around the neighborhood. I said; "what you mean?" He said, "the bus cost \$300 and we don't have enough money for all the classes".

I was shocked. How could this be? There were hundreds of millions of dollars of telescopes on Mauna Kea and there was no evidence of any benefit to Keaukaha the most Hawaiian of Hawaiian communities? This no can! We needed to do something.

So, myself, Duane Kanuha, Leslie Lang and Macario decided to copy the adopt a child template—where you pay \$20.00 a month and the child sends you a letter and a picture every so often. We decided to do a adopt a class project so each class could go on excursion. We figured \$300 for the bus and \$300 for the entry fee to Imiloa--- the world class Hawaiian culture astronomy museum. So for \$600 people could adopt one class and send them on excursion. In four months we had all the classes, both semesters, going on excursion.

And this idea became contagious. Gordon and Betty Moore heard about the project and they donated the money to send all the classes on the Big Island from Kindergarden to High School to Imiloa. I heard that they planned to expand this idea to the San Francisco Bay area.

LATE TESTIMONY

That was nearly three years ago. And, due to Kumu Lehua's leadership this perpetual low achieving school, because of two consecutive years of improvements, came off the No Child Left Behind non performing list. They were the only elementary school on the Big Island to achieve this distinction. Now they are role models. Imagine that.

Kumu Lehua told me this story; He said a teacher recently came in to interview to see if she could teach at Keaukaha Elementary, he rolled his chair back and told me, she said it was a career move!

I have attended at least 8 public hearings about Mauna Kea and many regular meetings of the Keaukaha Community Association as well as the Kanaka Council. I have friends on all sides of the issue. I see myself as a bridge between the shiny shoe crowd and the rubbah slippah crowd. I think that if we all can move toward the center a bit, we can make this work for all of us and especially for future generations.

The TMT recently asked us for advice as to how they should proceed. We told them they must bring tangible benefit to the community. We suggested educational benefits and it needed to benefit the whole community not just the elite few. (what about the rest- Kumu Lehua asked ?) That was how the THINK fund was conceived.

The TMT has agreed to contribute a significant amount of money to a fund that would be administered by the Hawaii Community Foundation. The THINK fund is not limited to just the TMT for funding. We hope that other telescopes will donate to this fund in the future.

The governing board of that fund has not been determined yet. But, we would like to see people serve who are known for having the larger community in mind. Previously, because viewing time was what was traded, there was no way for the community to share directly in the benefits of astronomy. But, this way we can get direct benefit back to the community.

LATE TESTIMONY

One of the most frustrating things to the community is that control over Mauna Kea always seems to be from Oahu, First it was the University of Hawaii on Oahu and now it is the effect of the internet where one can just press a button and submit testimony—and it becomes a numbers game. The Office of Mauna Kea Management which is under the control of the University of Hawaii at Hilo came about in 2000 because of the frustration with Oahu control. This is a major point of distinction. Please consider that for Big Islanders Mauna Kea is our kuleana. We want to control our own destiny.

The CMP, the rule making and the TMT do not exist in a vacuum. I happen to believe that the current economic crisis is not the worse thing that will happen to us in the next few years. I think that world oil prices will soon rise again and it will be much higher than the \$147 per barrel we saw last summer. The world has changed forever. The TMT will be there for 50 years. It will give badly needed transition time. It is not about us anymore. We need to start thinking about the future generations.

It is no secret that I think that the TMT can bring benefit to the community. But, when I first volunteered for the TMT committee, I insisted that it must be done right. So, we must malama Mauna Kea before we do anything else. And, rule making is one part of this important process.

I started off by saying that we should not let the perfect be the enemy of the good. My dad told me when I was a young boy; "there are a thousand reasons why, **no can**; I only looking for one reason why; **CAN!!**"



Richard Ha
President
Hamakua Springs country Farm

LATE TESTIMONY

COMMITTEE ON HIGHER EDUCATION

SENATOR TOKUDA, CHAIR; SENATOR SAKAMOTO, VICE CHAIR

AND

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

SENATOR HEE, CHAIR; SENATOR TOKUDA, VICE CHAIR

Testimony of Faye P. Hanohano 

Mahalo for this opportunity to testify in **opposition** to Senate Bill 1174.

Mauna Kea is a wahi pana of the Island of Hawai'i. It is of very special significance to the Native Hawaiian people, who live within sight of her snow-capped peaks. Indeed, **this** highest peak in all of Hawai'i and Polynesia, holds a special place in the heart of all of Hawai'i's people.

Over the past several decades, Mauna Kea has been desecrated through the opening of observatories on its summit by the University of Hawai'i system. To add insult to injury, our people have had their tax dollars used to support this desecration. While charging others such as Yale, millions of dollars to use our sacred mountain, the observatories have paid us just one dollar a year.

The Institute for Astronomy at the University of Hawai'i at Mānoa, is responsible for the desecration and hewa to our 'āina and our people for the past thirty years. It also rests with those who oversee them: the Chancellor of the University of Hawai'i at Mānoa, the President of the University of Hawai'i, and the Board of Regents.

The people do not trust the IFA, and those responsible for it in the University of Hawai'i system. What positive change that has occurred, has been through the hard work of the Hawai'i Island people – volunteering in the community to address how we might, still mālama this kuahiwi la'a. Our people work in a positive way, even though the IFA and its overseers, see our people as something to exploit, as they pursue their own agendas and priorities.

I want to be on record that I believe that the people of the island of Hawai'i love Mauna Kea; that the people of the island of Hawai'i are not opposed to science, that the people of the island of Hawai'i go out of their way to make things pono. However, without trust, a wrong cannot be addressed.

I, along with many, many others on the Island of Hawai'i do not trust the IFA, the President, or the Board of Regents of the University of Hawai'i system relative to Mauna Kea. I voted against this bill in the House and urge you to vote no as well.

From: Ruth Ruta [rutahealer@aol.com]
Sent: Monday, March 23, 2009 7:08 PM
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Ruth Ruta

From: Marcia Timboy [napiliwahine3@hotmail.com]
Sent: Monday, March 23, 2009
To: WTLTestimony
Subject: Please Protect Mauna Kea from UH's Power Grab

LATE TESTIMONY

Testimony Opposing H.B. 1174
Senate Committee on Water, Land, Ocean, and Hawaiian Affairs

Aloha Senators and Land Board Members,,

I strongly oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174 and the University's version of a comprehensive management plan. 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 basis of all decisions about this amazing and important place.

Unfortunately, instead of abiding by the laws that protect Mauna Kea, the University is attempting to change them. The University introduced four bills to the State Legislature seeking to transfer all management authority from the Land Board to the University. The proposal is so outrageous that three of the bills have already died this session. Given the University's history of destruction and desecration on the sacred summit, there is no reason to pass the University's fourth and final try to takeover the summit: HB 1174.

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 profiting 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 you to each stand strong for Mauna Kea. Uphold the protections currently in place for this sacred place and work to ensure they are fully enforced.

Mahalo,

Marcia Lee Timboy

From: phoebel@msn.com
Sent: Monday, March 23, 2009
To: WTLTestimony
Subject: support HB1174 HD3

LATE TESTIMONY

Testimony in Support of
HB 1174 HD3

Presented before
Senate Committee on Higher Education
&
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
March 23, 2009, 3:45 pm

Chairs Tokuda and Hee and members of the committees:

I strongly support HB 1174 HD3 and urge members of the committees to vote yes on this bill. It is urgent that the University of Hawai'i is granted the authority to promulgate administrative rules governing public and commercial activities on Mauna Kea. It is critical to have rules to protect the unique and precious resources on Mauna Kea and the legislature must do the right thing and act now to protect the resources from further degradation.

While it is acknowledged that the University did not do a good job of managing its leased areas on Mauna Kea, the legislature must recognize that there has been substantial improvement since the establishment of the Office of Mauna Kea Management and its advisory bodies, the Mauna Kea Management Board and the Kahu Ku Mauna Council. Together they have strived to provide proper stewardship on UH's lands. This legislature must give them the necessary tools to carry out their mandate more effectively to protect the resources. Is it not better to support OMKM's efforts to protect the resources than to allow the current situation to continue and leave the resources unprotected?

I strongly urge you to pass this bill.

HAWAII TEAMSTERS AND ALLIED WORKERS, LOCAL 996

Affiliated with the International Brotherhood of Teamsters

1817 Hart Street

Telephone: (808) 847-6633

Honolulu, Hawaii 96819-3205

Fax: (808) 842-4575

LATE TESTIMONY

Sen. Clayton Hee, Chair
Sen. Jill Tokuda, Vice-Chair
Committee on Water, Land, Agriculture and Hawaiian Affairs.

Sen. Jill Tokuda, Chair
Sen. Norman Sakamoto, Vice-Chair
Committee on Higher Education

Glenn Ida
Representative
Monday, Mar. 23, 2009, at 3:45 PM
Conference Room 229

The Hawaii Teamsters Local 996 supports the passage of HB 1174, HD3, Relating to the University of Hawaii.

HB 1174, HD3, complies with the State Auditors 1998 and 2005 report on the management of Mauna Kea calling for the University of Hawaii to develop and promulgate administrative rules and holds the University accountable for the protection of all the resources, including those of archaeological and cultural significance.

Local 996 negotiates and enforces 60 contracts with a membership of over 6000 members throughout the State of Hawaii and Guam. Airgas/Gaspro, Hilo, is one of them. They deliver a tanker full of Nitrogen gas to the summit every Wednesday. Airgas/Gaspro provides other industrial gasses and welding supplies that they require to maintain and operate their equipment under the extreme conditions on the summit of Mauna Kea.

There's a need for a management plan and enforcement, especially at the point of public access. I've been told that conditions can get hazardous after a good snow because a lot of people go up there to play. There's inadequate control of traffic, parking, garbage and sanitation issues. What about a contingency plan in case of emergencies? Will we be able to get our trucks through to deliver goods should there be an emergency other than on Wednesdays?

The Hawaii Teamsters Local 996 supports HB 1174, HD3.

Thank you for the opportunity to testify on this important matter.

TESTIMONY
HB 1174, HD3
LATE
(END)