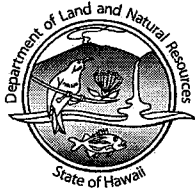


HB 1174

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the Senate Committee on
WAYS AND MEANS**

**Monday, April 6, 2009
9:30 AM
State Capitol, Conference Room 211**

**In consideration of
HOUSE BILL 1174, HOUSE DRAFT 3, SENATE DRAFT 1
RELATING TO THE UNIVERSITY OF HAWAII**

House Bill 1174, House Draft 3, Senate Draft 1 proposes to: 1) Allow UH to assess and charge fees and enter into lease agreements for Mauna Kea lands, 2) Allow the University of Hawaii (UH) to adopt administrative 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, and; 3) Establish the Mauna Kea Management Special Fund. The Department of Land and Natural Resources (Department) supports allowing UH to manage and regulate activities at Mauna Kea by way of administrative rules subject to and consistent with the terms and conditions of their current leases with the Department.

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL V. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Ways and Means
April 6, 2009 at 9:30am

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

HB1174 HD3 SD1 RELATING TO THE UNIVERSITY OF HAWAII

Chair Kim, Vice Chair Tsutsui and Members of the Committee:

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

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

The Department of Land and Natural Resources (DLNR) is mandated to protect the resources on its lands and has adopted administrative rules governing the use of lands within 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 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.

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.



**Testimony to the Senate Committee on Ways and Means
Monday, April 6, 2009; 9:30 a.m.
Conference Room 211
State Capitol**

RE: HOUSE BILL 1174 HD3 SD1 RELATING TO THE UNIVERSITY OF HAWAII

Chair Kim, Vice Chair Tsutsui and members of the committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber is in strong support for HB 1174 HD3 SD1 relating to the University of Hawaii.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

This measure allows the University of Hawaii to adopt administrative rules to regulate activities at and within the Mauna Kea lands, or the lands UH leases from the Board of Land and Natural Resources. The measure also allows UH to provide for procedures to enforce these rules, and to assess and collect administrative fines for violations of these rules.

The rules outlined in this measure will help assure proper governance of both public and commercial activities on Mauna Kea, a treasure whose benefits and resources need to be protected now and for future generations. The Office of Mauna Kea Management needs to be empowered by the authority this bill provides in order for it and its rangers to properly do their job. Also, the State Auditor recommended in 2005 that UH obtain rule-making authority and develop, implement, and monitor a comprehensive management plan for Mauna Kea.

Recently, a draft of the Comprehensive Management Plan (CMP) was completed, which was developed through extensive community input through a variety of means, such as public hearings, surveys, and the use of a website, provides guidelines and management strategies to protect and preserve the cultural and natural resources on the University's managed lands.

While the CMP may not be the perfect plan, it is an important step towards the right direction in providing positive stewardship of Mauna Kea in an appropriate way.

Thus, The Chamber respectfully requests this measure be passed for further discussion. Thank you for the opportunity to testify.



Hawai'i Island Chamber of Commerce

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April 5, 2009

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Jere Usui

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Senator Donna Mercado Kim

Senate Ways & Means

415 Beretania St.

Honolulu HI 96813

Dear Senator Kim & Members of the Committee,

I am Mary Begier, current Chairperson of the Government Affairs Committee of the Hawaii Island Chamber of Commerce. We represent over 325 companies and 700 members. We come here today to speak in support of HB1174, HD3, SD1.

There is plenty of blame to go around in many directions for what has occurred wrongly on the mountain. There is also ample credit to be distributed for what has been done correctly. It is not productive to spend any more time pointing fingers over past behavior. The mistakes have been identified, let's learn from them. Now it is vitally important to move forward in a healthful and constructive manner.

I pledge our organizations membership to hold our Board of Regents and UH Hilo accountable for the management of our precious resource, Mauna Kea. Please pass this measure so the appropriate authority can be given our Rangers and the necessary funding be allocated to caring for this wonderful place that so many worship, play and work.

Thank you for the opportunity to testify.

HAWAII TEAMSTERS AND ALLIED WORKERS, LOCAL 996

Affiliated with the International Brotherhood of Teamsters

1817 Hart Street
Honolulu, Hawaii 96819-3205

Telephone: (808) 847-6633
Fax: (808) 842-4575

Sen. Donna Mercado Kim Chair
Sen. Shan Tsutsui, Vice-Chair
Committee on Ways and Means

Glenn Ida, Representative

Monday, Apr. 6, 2009, at 9:30 AM
Conference room 211

The Hawaii Teamsters Local 996, Supports HD1174, HD3, SD1, relating to the University of Hawaii.

HD1174, HD3, SD1, will enable the University of Hawaii to adopt rules and regulate public and commercial activities atop Mauna Kea.

Local 996 represents workers at GASPRO, Hilo. GASPRO provides industrial gas, welding equipment and supplies. Currently they deliver gas and other products to the telescopes on the summit every Wednesday.

I've been told that after a good snow, traffic and parking may be a problem because of the amount of people that go up to play in the snow. If we need to make an emergency delivery access will be impeded if we need to get a large truck through the public access area to get to the summit.

The Hawaii Teamsters Local 996 supports, HD1174, HD3, SD1.

Thank you for this opportunity to testify.

**Testimony in Support of
HB 1174 HD3 SD1**

**By
Barry K. Taniguchi
Chair, Mauna Kea Management Board**

**Presented before
Senate Committee on Ways and Means**

April 6, 2009, 9:30 am

Chair Kim and members of the committee on Ways and Means.

If enacted H.B. 1174 HD3 SD1 will improve the protection of the cultural and natural resources of Mauna Kea. This proposed legislation allows the University of Hawai'i **through the Office of Mauna Kea Management (OMKM) and the Mauna Kea Management Board (MKMB)** to adopt administrative rules to regulate public and commercial activities within lands managed by the University on Mauna Kea. It will also allow UH to enforce these rules and to establish a Mauna Kea lands management special fund.

This bill is **strictly** about allowing the University to draft administrative rules to manage public and commercial activities and assess fines for rule violations. **This bill does not transfer ceded lands out of the public land trust.** In fact, the leased ceded lands will remain in the public trust.

Granting the University the authority to promulgate rules will allow the University's OMKM and the MKMB a tool to more effectively carry out its mission to protect and preserve the unique cultural and natural resources on lands managed by the University. One activity that requires rules is managing access. There are many who do not realize that their activities, as innocent as it may seem, have an impact on the cultural and natural landscape. Further, the University must care for the safety and welfare of the people who visit the mountain, particularly during or at the advent of inclement weather. The public will continue to have access to the mountain, but we must devise a workable and systematic method to prevent unintended destruction and desecration and a way to manage access when dangerous conditions arise. We must be particularly cognizant of Native Hawaiians who wish to engage in their cultural and religious practices as required under the Hawai'i State Constitution.

The University's guiding document for Mauna Kea is the 2000 Master Plan, which 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 OMKM, reporting to the UH Hilo Chancellor. OMKM's advisory board is the MKMB, which in turn is advised on cultural issues by the Kahu Ku Mauna Council (Guardians of the Mountain).

These advisory boards, comprised of members of the community selected for their knowledge of the Mauna Kea's management issues and sensitivity to Native Hawaiian

culture, give the community significant input over the management of UH's lands 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.

The OMKM rangers have made a significant difference, however, they could be more effective if the University could adopt administrative rules and give rangers the ability to enforce them. Presently, rangers cannot keep visitors from entering archaeologically or environmentally sensitive areas. Rangers cannot even require people to pick up their trash. Although the high elevation and extreme weather can make Mauna Kea a dangerous place to be, there is very little rangers can do to ensure public health and safety on the mountain.

The proposed legislation to authorize the University to adopt administrative rules is a recommendation from the State Auditor's 1998 report on the University's management of Mauna Kea, and was reiterated in the Auditor's 2005 report, which also noted a number of improvements in UH's stewardship. The Auditor stated in 2005, "We recommend the University of Hawai'i 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."

The University is in the final stages of completing the Mauna Kea Comprehensive Management Plan (CMP) that will be 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. That document will assign the authority and responsibility to execute the plan to the University of Hawaii Hilo and its Office of Mauna Kea Management.

It has been noted that many are distrustful of the University. If this is the case, we suggest that the rule making authority be granted to the University ONLY through the Board of Regents, UH Hilo, the Office of Mauna Kea Management and the Mauna Kea Management Board.

We 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 give the community greater control over Mauna Kea's future.

We encourage the Legislature to take responsible and timely action.

The Pacific Resource
PARTNERSHIP



Testimony of Kyle Chock
Executive Director
The Pacific Resource Partnership

Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair

HB1174, HD3, SD1 – RELATING TO THE UNIVERSITY OF HAWAII
Monday, April 6, 2009
9:30 am
Conference Room 211

Chair Kim, Vice Chair Tsutsui and Members of the Senate Committee on Ways and Means:

My name is Kyle Chock, Executive Director of the Pacific Resource Partnership (PRP), a labor-management consortium representing over 240 signatory contractors and the Hawaii Carpenters Union.

Pacific Resource Partnership strongly supports HB1174, HD3, SD1 which allows UH to adopt administrative rules to regulate activities at and within the Mauna Kea lands, or the lands UH leases from the Board of Land and Natural Resources. This measure also allows UH to provide for procedures to enforce these rules, and to assess and collect administrative fines for violations of these rules, and it establishes the Mauna Kea Management Special Fund.

This legislation is the first step to ensure that the recommendation for administrative rule-making authority and enforcement by the State Auditor in the Auditor's 1998 and 2005 reports is implemented. This authority is needed to ensure that the cultural and natural resources on Mauna Kea are protected from inappropriate uses.

This measure is also a recommendation set forth in the Mauna Kea CMP, which if adopted, will ensure that any future development on Mauna Kea is carried out in a culturally respectful and environmentally appropriate manner. PRP supports these goals and urges you to pass this bill.

Thank you for the opportunity to testify on HB1174, HD3, SD1.

Testimony Presented before the
Senate Committee on Ways and Means

By David Byrne
Supervisor
Mauna Kea Ranger Corps Program

HB1174 HD3 SD1

RELATING TO THE UNIVERSITY OF HAWAI'I, MAUNA KEA

April 6, 2009 at 9:30 am

Chair Kim and members of the Ways and Means Committee

HB1174 HD3 SD1 allows the University of Hawaii (UH) to adopt administrative rules to regulate activities within the lands UH manages on Mauna Kea. This bill also provides UH with the ability to enforce these rules, and to assess and collect administrative fines for violations of these rules.

The Ranger Corps **supports** the intent of this bill. Enforcement abilities of administrative rules would better allow the Ranger Corps to serve the mountain and those coming here from the standpoint of health and safety, and resource management and protection. Proposed changes would allow for better regulation of commercial activity, as well as special events and activities on the mountain.

Health and safety concerns for those traveling to Mauna Kea is a major issue. From an enforcement perspective in helping ensure those coming here do so safely. Following are issues the rangers observe on a recurring basis: 1) people traveling above Hale Pohaku (located at the 9,300 foot elevation) without receiving proper health and safety educational information; 2) people traveling above Hale Pohaku on the un-paved summit road without a four-wheel drive vehicle; 3) driving off the designated Mauna Kea Access Road; 4) unsafe vehicle operation on the Mauna Kea Access Road, as well as lack of observance of generally accepted travel rules; 5) general lack of knowledge on how to drive on steep, gravel roads; 6) overall traffic and off-road vehicle management and control, especially on high volume visitor days (i.e. snow days); 6) dangerous snow play activity; 7) enforcement of road closures; and 8) regulation of alcohol consumption and drug abuse. The Ranger Corps requires the authority to enforce rules in relation to these issues.

Protection and management of Mauna Kea's resources is a primary goal of the Ranger Corps. This is a place of incredible natural, cultural and historical resources. However, the following occurrences on the mountain have been observed: 1) driving off designated roads; 2) littering; 3) destruction of cultural and/or archaeological sites and suspected artifact removal; 4) vandalism of various kinds, whether to protected sites or existing structures and trails; and 6) unpermitted camping and building of fires and other activities that could result in wildfires. Without enforcement authority, the Ranger Corps is only an observation and documenting entity. Our hands are tied without the ability to prevent future occurrences of this kind, leaving these resources vulnerable to damage and desecration.

Commercial activity is an increasing issue on Mauna Kea. As awareness of Mauna Kea as an important cultural, historical, natural and scientific site increases, so do the number of visitors to this place, requiring additional need for regulation of commercial activity. The Ranger Corps requires the ability to enforce the requirements of the commercial tour permits, to prevent unpermitted commercial companies from conducting operations on Mauna Kea, and the ability to enforce the use of film permits. In addition, many larger non-commercial groups come to the mountain. Authority to require these groups to obtain a Special Request would allow the Rangers to provide these groups with necessary health and safety information, an orientation on the cultural and environmental significance of Mauna Kea, as well as ensure appropriate conduct and activity while visiting the mountain.

Special events and activities occur on Mauna Kea. Such events take the form of bike races, running events and snow competition. In order to help ensure the health and safety of participants as well as protect all the resources of this place, the Ranger Corps again would require the authority to regulate such events and all summit activities. Without any enforceable rules in place to address these activities, there is little that the ranger can do.

Mauna Kea is a culturally and environmentally unique and significant place. The Mauna Kea Ranger Corps program was developed to protect the mountain. The comprehensive management plan that the University is hoping will be approved shortly by the Board of Land and Natural Resources contains much needed management guidelines and recommendations, but without administrative rules to enforce them, Rangers hands are tied.

Attached are photos illustrating some of observances by the Mauna Kea Rangers.

Thank you for the opportunity to comment on this bill.



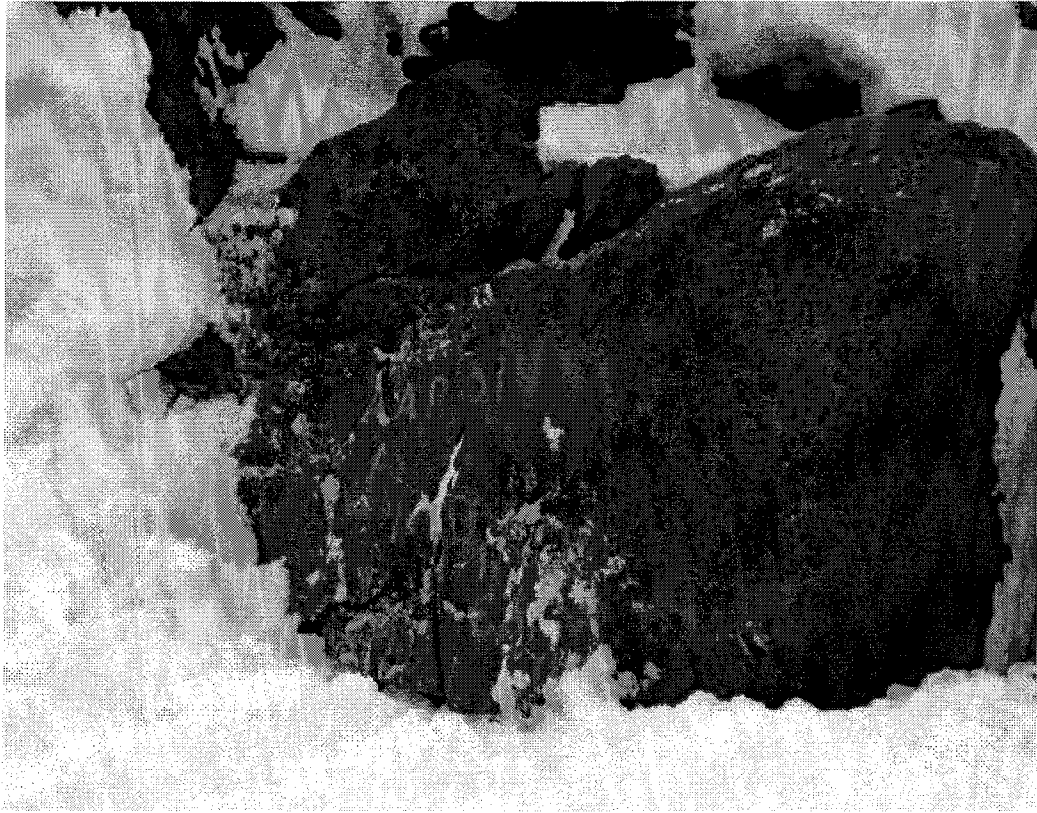
Fire dancing on the summit.



Creative stacking of rocks



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



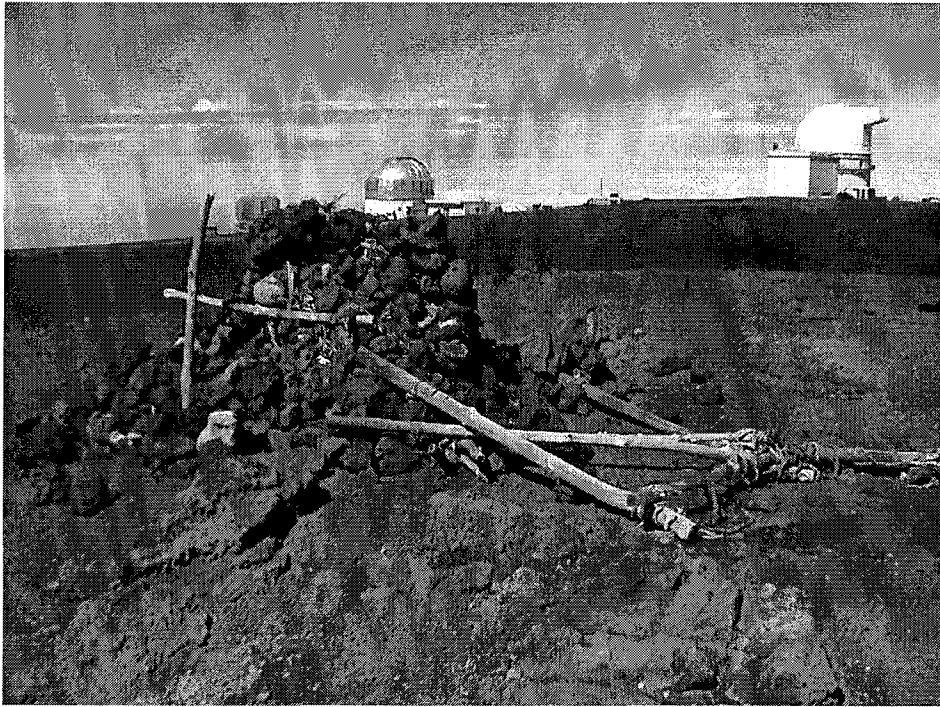
Graffiti



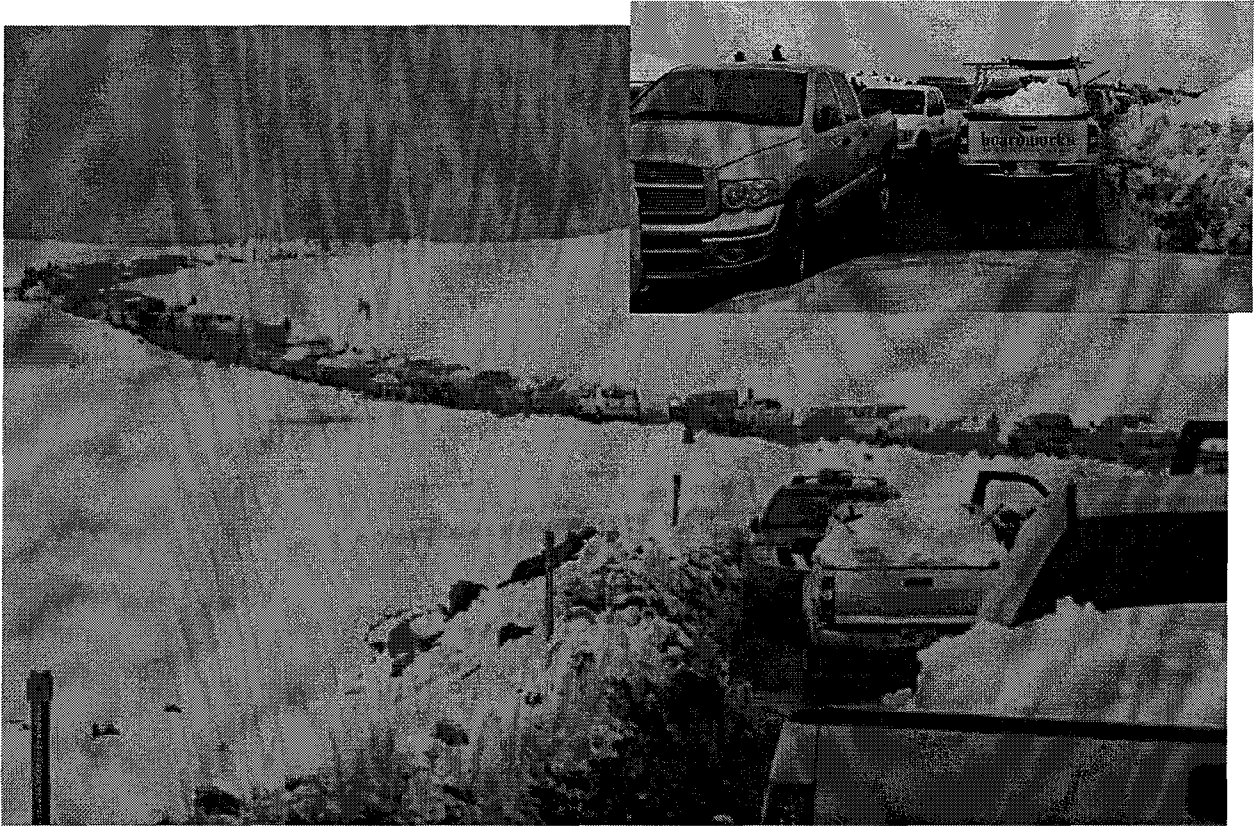
Hiking off trail leaves footprint marks on the summit puu.



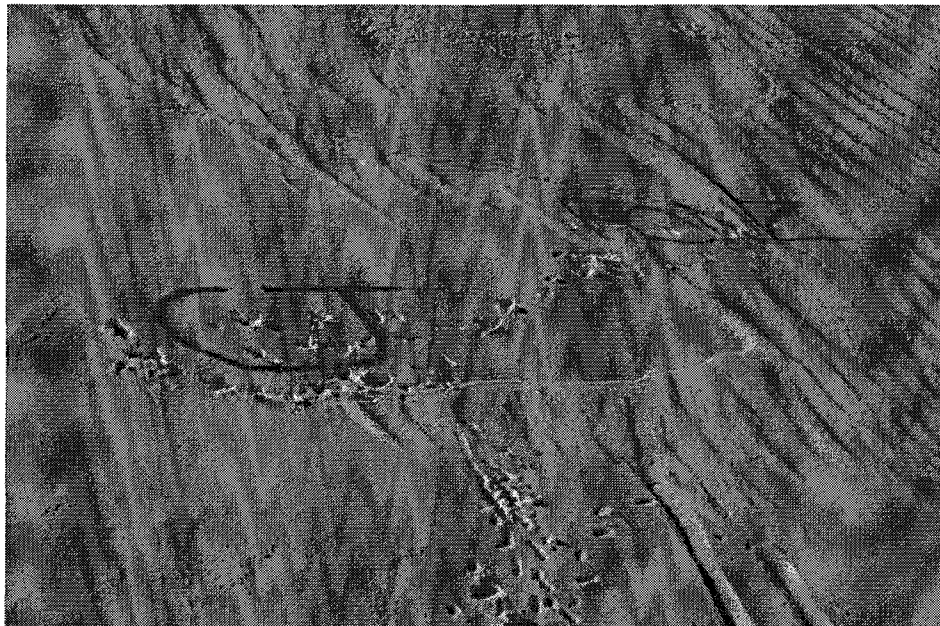
Lele prior to vandalism



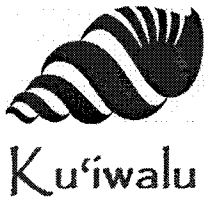
Vandalized lele



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.



Graffiti on the slope of the summit pu'u



Testimony Presented Before the
Committee on Ways and Means
April 6, 2009 at 9:30 a.m.

By
Dawn N.S. Chang
Principal, Ku'iwalu

HB 1174, HD3, SD1, RELATING TO THE UNIVERSITY OF HAWAI'I

Testimony in Support of the Bill

Aloha Chair Kim and Members of the Committee:

Mauna Kea kuahiwi ku 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 Kanahēle, *Mauna Kea Temple Under Siege*, 2006).

My name is Dawn Chang and I am the principal of 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 Kanakaole 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 Kanakaole 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 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 individuals 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." (Hawaii Revised Statutes, 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 Pohaku, or a cultural facility such as a hale for Hawaiian navigation and astronomy." (Section 7.3.4 of the CMP)

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

Hawaii. (Judge Hara's January 19, 2007 Decision and Order, Conclusion of Law 18). The CMP also utilizes the Hawaii Supreme's Court's analytical framework to ensure that government agencies protect the valued cultural, historical, and natural resources, including traditional and customary practices as set forth in *Ka Pa'akai O Ka 'Aina v. Land Use Commission*, 94 Haw. 131 (2000).

Finally, a critical component to the effective and efficient implementation of the CMP is administrative rule making to implement and enforce the CMP. 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.**



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H.B. 1174 HD 3, SD 1 Mauna Kea
Room 211, 9:30 am
April 6, 2009

Aloha Chairwoman Kim and members of the Senate Ways and Means Committee,

KAHEA strongly opposes the passage of HB 1174 to grant the University of Hawaii authority over the ecologically significant and culturally sacred lands of Mauna Kea. We strongly urge your Committee to hold this bill until the management plan process that is currently underway is completed. **The Board of Land and Natural Resources will decide on April 9, 2009** whether to adopt the University's plan for the summit or not. 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 Committee is interested in improving the management scheme over Mauna Kea. We are all searching for a way to bring about a pono resolution to the issues plaguing Mauna Kea. To reach that resolution properly is time well-spent and should not be rushed.

1. 1995 MANAGEMENT PLAN STILL IN EFFECT

The Senate should not feel pressured to decide today whether to adopt H.B. 1174 based on claims that there is no management plan for the summit, no rules for the Science Reserve, and "something is better than nothing." Management of Mauna Kea continues under the 1995 management – and though we too would like to see this plan updated – it is important that the final management plan truly address the long-standing issues with telescope construction in a conservation district. **In fact, management has continued under the 1995 plan since the University attempted and failed to have its 2000 development plan adopted by the Board of Land and Natural Resources. It is disingenuous for the University to now claim urgency as grounds for a hasty decision to change the legal framework for management of Mauna Kea, especially when the University's latest proposal is still under review.**

2. NEW MANAGEMENT PLAN UNDER REVIEW; SIGNIFICANT CHANGES EXPECTED

The management plan mandated by the 2007 court decision against the University is currently undergoing intense public review and significant changes are anticipated based on the criticisms received so far. The current draft plan under review does nothing to address long-standing land use issues, such as limitations on future telescope construction, decommissioning of obsolete telescopes, and collection of market-based rent. **The Board of Land and Natural Resources has not adopted or in anyway endorsed this plan; neither has the Office of Hawaiian Affairs or the public at large.**

Thus, it is premature for the Legislature to consider changing the legal framework for management of Mauna Kea. **A legislative change at this point could actually contradict the management needs of the summit identified through the on-going public review process and ultimately make the situation on Mauna Kea worse.**

3. UNIVERSITY'S SPECIAL FUND IS BAD FOR HAWAI'I; FUNDS SHOULD GO TO THE GENERAL FUND

Considerable revenue has been generated from the use of state conservation lands on Mauna Kea for astronomy by foreign institutions. Unfortunately, the state has not enjoyed any this financial benefit, while baring the burden of serious threats to endangered species, the underground aquifer, and extremely significant cultural sites on the summit. Surprisingly, in the middle of the state's greatest economic crisis, the University is proposing a new special fund to direct all revenue from the use of Mauna Kea directly to the University. Instead of developing a plan to ensure that the State receives at least some of the benefit from telescope construction and commercial activities on



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kahea-alliance@hawaii.rr.com

the summit. **The University would rather force the public to cut important programs and raid other special funds, than collect fair rent for the use of state lands and deposit those funds in the general fund.**

This is one demonstration of how the University's interest in the summit of Mauna Kea undermines the best interests of the state and the people of the Hawai'i. **At the very least, the special fund provision should be deleted from HB 1174, the Legislature should exercise greater oversight of activities on the summit, and all revenue from the use of state lands on Mauna Kea should be deposited in the general fund.**

4. UNIVERSITY HAS NO EXPERTISE IN MANAGING THE RESOURCES OF MAUNA KEA

As your Committee has heard throughout this session – and every time the University has asked the Legislature for more control over the summit – the University has serious, long-standing problems successfully managing activities on Mauna Kea. It is important for your Committee to keep in mind that **the 1995 management plan specifically took from the University the authority to manage commercial and recreational access on Mauna Kea because it had been so poorly implemented.**

Unfortunately, there is no indication that these problems have been resolved. Reports of inappropriate “management” and “enforcement” actions by University staff on the summit are as recent as December 2008. Even through this current process to develop its new plan, the University has misrepresented the position of community leaders and claimed to consult with individuals who were not actually consulted.

Truth is the University is not on the summit of Mauna Kea to manage resources. It is there to do astronomy, which is what it is good at and should focus on. **The University's motives for being on the summit actually contradict the management needs of the resource. Thus, it would be impossible for the University to properly fulfill both mandates at the same time.**

Your Committee does not have the assurances it needs to be confident that granting the University greater authority over Mauna Kea – and consequently reducing public oversight and management of these important lands and funds – will result in better protections for the conservation district and the public trust natural and cultural resources on the summit.

We strongly urge the Senate to wait and assess the outcome of the administrative process to develop a new management plan before changing the legal framework for management on Mauna Kea. It is extremely difficult to anticipate the final form of the current management plan and thus it is extremely difficult for your Committee to make an informed decision about what legislative action would best support the management needs of the summit. 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 pass a meaningful legislative solution to any remaining challenges to appropriate management on Mauna Kea. **Please hold H.B. 1174 until the time is right for a legislative solution.**

Mahalo,

Marti Townsend
Program Director

Testimony In **SUPPORT** of HB1174, HD3, SD1
Relating to the University of Hawaii

By Al Lardizabal, Director
Government Relations
Laborers International Union of North America Local 368

To the Committee on Ways and Means
Monday April 6, 2009
9:30 a.m.
Conference Room 211
State Capitol

Senator Donna Mercado Kim, Chair; Senator Shan S. Tsutsui, Vice Chair
and Members of the Committee:

The contents of this measure were replaced with SB 502, SD1. that allows the UH to adopt administrative rules to regulate activities at and within Mauna Kea lands, or the lands that UH leases from the Board of Land and Natural Resources. The bill also allows the UH to develop procedures to enforce these rules, establish rents, fees and to assess and collect administrative fines for violations of these rules and establishes the Mauna Kea lands management special fund.

The critical aspect of this bill is that it clarifies and provides certainty to the University of Hawaii's authority to manage and control public activities on the Mauna Kea lands and adopt rules pursuant to chapter 91, HRS, relating to public activities permitted or occurring on Mauna Kea lands. Of import too is the mandated access and accommodation for traditional and customary native Hawaiian cultural and religious practices.

We strongly **SUPPORT** this bill.

Thank you for the opportunity to present this testimony.

kim4 - Elizabeth

From: Peter Ehrhorn [ehrhornp001@hawaii.rr.com]
Sent: Saturday, April 04, 2009 7:40 AM
To: WAM Testimony
Subject: In Opposition to UH's Plan for Mauna Kea and H.B. 1174, HD 3

Testimony Opposing HB 1174 HD 3 4/6/2009 WAM room 211 Aloha Kakou Land Board Members and Senators,,

I am writing to urge you to support the University's plans for the future of Mauna Kea as outlined in H.B. 1174, HD 3 and the University's version of a "comprehensive management plan."

The search for knowledge is perhaps the most important goal of the human race and telescopes on Mauna Kea will help result in our expansion of knowledge. Mauna Kea is one of the best areas to view the universe and should not be limited.

The lands of Mauna Kea are ecologically unique and culturally significant which is why they are protected as a conservation district. The viewing of stars were very important to the ancient Hawaiians and I am sure they would not object to put this holy activity on the most sacred mountain.

Telescope development has got to be one of the most environmentally friendly activities there is. People are generally not on top of the mountain when the telescopes are being operated. They are operated by remote controlled and the astronomers are located lower on the mountain where environmental damage is not an issue.

I generally am not in favor of defense spending however I make an exception in this case. One of the purposes of these telescopes is to locate killer asteroids in the hope that once discovered something can be done to deflect them from hitting earth. While the odds of an asteroid hitting earth is slight, the damage that would result should one hit earth would basically end life on earth. These expenditures are therefore worth it. Also as with most science important discoveries not connected with the original goal is also discovered.

Finally these telescopes pump in tons of money into the Hawaiian economy which is needed especially now. Please don't set Hawaii back. We need this. This is a non polluting industry which could end up saving your life. Please support it.

Mahalo,

Peter Ehrhorn
254 Kaha St.
254 Kaha
Kailua, HI 96734

kim4 - Elizabeth

From: Peter Ehrhorn [ehrhornp001@hawaii.rr.com]
Sent: Saturday, April 04, 2009 7:40 AM
To: WAM Testimony
Subject: In Opposition to UH's Plan for Mauna Kea and H.B. 1174, HD 3

Testimony Opposing HB 1174 HD 3 4/6/2009 WAM room 211 Aloha Kakou Land Board Members and Senators,,

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The search for knowledge is perhaps the most important goal of the human race and telescopes on Mauna Kea will help result in our expansion of knowledge. Mauna Kea is one of the best areas to view the universe and should not be limited.

The lands of Mauna Kea are ecologically unique and culturally significant which is why they are protected as a conservation district. The viewing of stars were very important to the ancient Hawaiians and I am sure they would not object to put this holy activity on the most sacred mountain.

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I generally am not in favor of defense spending however I make an exception in this case. One of the purposes of these telescopes is to locate killer asteroids in the hope that once discovered something can be done to deflect them from hitting earth. While the odds of an asteroid hitting earth is slight, the damage that would result should one hit earth would basically end life on earth. These expenditures are therefore worth it. Also as with most science important discoveries not connected with the original goal is also discovered.

Finally these telescopes pump in tons of money into the Hawaiian economy which is needed especially now. Please don't set Hawaii back. We need this. This is a non polluting industry which could end up saving your life. Please support it.

Mahalo,

Peter Ehrhorn
254 Kaha St.
254 Kaha
Kailua, HI 96734

kim4 - Elizabeth

From: BethAnne Webb [ladylavalover12@yahoo.com]
Sent: Saturday, April 04, 2009 8:51 AM
To: WAM Testimony
Subject: In Opposition to UH's Plan for Mauna Kea and H.B. 1174, HD 3

Testimony Opposing HB 1174 HD 3 4/6/2009 WAM room 211 Aloha Kakou Land Board Members and Senators,,

I am expressing my opposition to the University's plans for the future of Mauna Kea as outlined in H.B. 1174, HD 3 and the University's version of a "comprehensive management plan."

I am concerned that any comprehensive plan be quite specific in how to protect the already endangered ecosystem and cultural relics that are at risk with further development. Since it is the case that native Hawaiians were deprived of their lands in the past, it is crucial that their rights to engage in traditional and customary practices and religious ceremony on the summit also be protected.

The University has a vested interest in promoting astronomy. Based on its past willingness to ignore the cultural and ecological significance of the summit, it is NOT the best institution to manage the future of the summit.

While it may seem silly to stop the development of astronomy because a bug or flower is losing crucial habitat, the larger question of species viability will one day include humankind. And once a fragile irreplaceable species or cultural area is gone, it is gone FOREVER. How many telescopes are enough? What about the idea that when a new one comes, it replaces an outdated one?

What about the idea of charging a fair market price for the value received to anyone (including the present telescope operators) who wishes to use the exquisitely perfect and rare real estate situated atop Mauna Kea's summit? In this time of huge budget constraints...can we afford not to.

BethAnne Webb Honaunau

BethAnne Webb
PO Box 101
Honaunau, HI 06726

**Testimony in Support of
HB1174, HD3, SD1, Relating to the University of Hawaii
By
Roberta F. Chu
A concerned individual**

**Presented before
Senate Ways and Means
Monday, April , 2009, 9:30 am**

Chair Kim and members of the Ways and Means Committee,

I strongly support HB 1174 HD3 SD1 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.

Roberta F. Chu

robertachu@hawaii.rr.com

kim4 - Elizabeth

From: Lily Haggerty [lilyspad@aloha.net]
Sent: Saturday, April 04, 2009 12:53 PM
To: WAM Testimony
Subject: In Opposition to UH's Plan for Mauna Kea and H.B. 1174, HD 3

Testimony Opposing HB 1174 HD 3 4/6/2009 WAM room 211 Aloha Kakou Land Board Members and Senators,,

This is ridiculous.
Enough is enough.

Clean up the mess from what is up there already.
It is an eyesore as it is.
A sacred mountain means that the mountain should be respected and left alone.

I am writing to urge you to oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174, HD 3 and the University's version of a "comprehensive management plan."

The University's plan for Mauna Kea falls far short of being "comprehensive" or providing even basic "management" for the extremely fragile and sacred public trust resources of the summit. This plan fails to outline any actual activities, timelines, or goals for protecting endangered species and their habitats. It also fails to adequately protect the constitutional right to engage in traditional and customary practices and religious ceremony on the summit.

Rather, the plan seeks to give the University unprecedented control over the use of the summit with the passage of H.B. 1174. With this authority, the University proposes to construct at least 50 more telescopes (along with their gift shops, parking lots, and toxic chemical storage facilities) as outlined in its 2000 development plan, erect a gate at Hale Pohaku to limit public access to the sacred summit, and impose an approval process to limit cultural practice and religious observances.

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. 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.

On top of it all, foreign telescope owners are profiting of the 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, foreign telescope owners pay the state only \$1 a year. In exchange, they receive millions for the sale of telescope time and contracts with defense-contractors. Especially in this time of economic crisis, at the very least these illegal and immoral rental agreements between the state and the foreign telescope owners should be renegotiated to ensure fair market rent is collected for the use of our public trust resources on the summit of Mauna Kea.

Despite all of the flaws of past Land Board absent-management on Mauna Kea, changing the laws that protect Mauna Kea now will not help to better protect our public trust resources. The

Land Board must fulfill its legal obligations to actively management and protect the conservation district on the summit. To do this, the Land Board should not approve the University's plan for Mauna Kea and the Legislature should not pass H.B. 1174. Instead, profits from the use of Mauna Kea should be appropriated to the Department of Land and Natural Resources specifically to provide for enforcement of current laws and the development of an update to the 1995 management plan that is currently governing activities on the summit.

Mahalo,

Lily Haggerty
88-1595 Ulua Dr.
88-1595 Ulua Dr.
Captain Cook, HI 96704

808-328-8444

kim4 - Elizabeth

From: Robert Wagner [rtwagner@bellsouth.net]
Sent: Saturday, April 04, 2009 5:52 PM
To: WAM Testimony
Subject: Please Protect Mauna Kea from UH's Power Grab

Testimony Opposing HB 1174 HD 3 4/6/2009 WAM room 211 Aloha Kakou Land Board Members and Senators,,

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,

Robert Wagner
3100 Sweetwater Rd
Apt. 3112
Lawrenceville, GA 30044

kim4 - Elizabeth

From: joel fischer [jfischer@hawaii.edu]
Sent: Saturday, April 04, 2009 1:47 PM
To: WAM Testimony
Subject: In Opposition to UH's Plan for Mauna Kea and H.B. 1174, HD 3

Testimony Opposing HB 1174 HD 3 4/6/2009 WAM room 211 Aloha Kakou Land Board Members and Senators,,

I am a supporter of science and astronomy. I am NOT anti-science. Therefore, I cannot understand why my university, the UH, is having such a difficult time handling this very sensitive and important issue. Thereofere, until they can, I am testifying AGAINST hb1174!

I am writing to urge you to oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174, HD 3 and the University's version of a "comprehensive management plan."

The University's plan for Mauna Kea falls far short of being "comprehensive" or providing even basic "management" for the extremely fragile and sacred public trust resources of the summit. This plan fails to outline any actual activities, timelines, or goals for protecting endangered species and their habitats. It also fails to adequately protect the constitutional right to engage in traditional and customary practices and religious ceremony on the summit.

Rather, the plan seeks to give the University unprecedented control over the use of the summit with the passage of H.B. 1174. With this authority, the University proposes to construct at least 50 more telescopes (along with their gift shops, parking lots, and toxic chemical storage facilities) as outlined in its 2000 development plan, erect a gate at Hale Pohaku to limit public access to the sacred summit, and impose an approval process to limit cultural practice and religious observances.

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. 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.

On top of it all, foreign telescope owners are profiting of the 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, foreign telescope owners pay the state only \$1 a year. In exchange, they receive millions for the sale of telescope time and contracts with defense-contractors. Especially in this time of economic crisis, at the very least these illegal and immoral rental agreements between the state and the foreign telescope owners should be renegotiated to ensure fair market rent is collected for the use of our public trust resources on the summit of Mauna Kea.

Despite all of the flaws of past Land Board absent-management on Mauna Kea, changing the laws that protect Mauna Kea now will not help to better protect our public trust resources. The Land Board must fulfill its legal obligations to actively management and protect the conservation district on the summit. To do this, the Land Board should not approve the University's plan for Mauna Kea and the Legislature should not pass H.B. 1174. Instead, profits from the use of Mauna Kea should be appropriated to the Department of Land and

Natural Resources specifically to provide for enforcement of current laws and the development of an update to the 1995 management plan that is currently governing activities on the summit.

Aloha,

Dr. Joel Fischer
Professor
UH, Manoa

joel fischer
1371-4 hunakai
honolulu, HI 96816

kim2 - Arline

From: Xian Lai [xian.lai@gmail.com]
Sent: Saturday, April 04, 2009 11:18 PM
To: WAM Testimony
Subject: HB1174 HD3 - WAM MEETING 46/2009, 9:30 AM

Follow Up Flag: Follow up
Flag Status: Completed

RE: HB1174 HD3
Meeting: April 6, 2009, 9:30 am

To: Senator Donna Mercado Kim, WAM Chair
Senator Shan Tsutui, WAM Vice-chair
Members of the WAM Committee

I stongly oppose to the passage of this bill.

Fees for public activities would erode public access to this natural resource and creates one more level of bureaucracy for the general public to negotiate. Further, there are no assurances that the University will not deny the public access at its pleasure. The bill gives the Board of Regents free reign to make rules that may deny access to the areas currently enjoyed by the public.

The University currently leases land from the State of Hawaii as a separate entity. In this capacity the State retains oversight of the property. The management plan would effectively give authority to the University of manage the property as it sees fit. There are no provisions in the bill for environmental protection, and minimal provision for cultural protections, without interference by the University. The current situation allows decisions to be made in a public manner. This is not provided for in the bill.

I am concerned that this management plan would require State funding to start up at a time when funds are being cut for even essential services. Start up funding is not discussed in the bill.

I ask that you please consider not passing this bill until the University can address all concerns expressed by the public.

Thank you for your consideration.

Xian Lai
1561 Pensacola Street, #506
Honolulu, HI 96822

kim4 - Elizabeth

From: Mike Middlesworth [edit@hawaii.rr.com]
Sent: Sunday, April 05, 2009 2:57 PM
To: WAM Testimony
Subject: Re: HB 1174, HD3, SD1 4/6/2009 9:30 a.m.

Follow Up Flag: Follow up
Flag Status: Completed

I am writing in support of HB 1174, which Authorizes the board of regents to charge fees and enter into lease agreements for the Mauna Kea lands, adopt rules to regulate public and commercial activities on Mauna Kea lands, establish and collect administrative fines for violations; establishes a Mauna Kea lands management special fund for the University of Hawaii to manage Mauna Kea lands; requires annual reports to the legislature.

The university is the proper institution to manage and preserve Mauna Kea, through the Mauna Kea Management Board, which has voted to support the Mauna Kea Management Plan.

Respectful use of the mountain for astronomy is important to the advancement of science, and an educational institution is best equipped to make that happen. The Mauna Kea Management Board appears prepared to see that the mountain will be well cared for and available for traditional Hawaiian cultural uses, as well as for astronomy.

Aloha,
Mike Middlesworth
2316-C Ainakahele
Hilo, HI 96720

kim2 - Arline

From: demellog001@hawaii.rr.com
Sent: Sunday, April 05, 2009 11:25 AM
To: WAM Testimony
Cc: mhara@hawaii.edu
Subject: Supportive Testimony for HB 1174, HD 3, SD 1

Follow Up Flag: Follow up
Flag Status: Completed

For HB 1174, HD 1174, HD 3,SD1
Date: Monday, April 6, 2009
Time: 9:30 AM
Place: Conference Room 221
State Capitol

To Senator Donna Mercado Kim,

Personally, as a resident of the island of Hawaii, I wish to convey my strong support for HB 1174,HD 3 SD 1. It is timely that the University of Hawaii at Hilo through its Office of Mauna Kea Management takes a positive step towards properly managing the mountain. Mauna Kea is an important natural and cultural landscape. It may means different things to different people. For some it is a place for recreation, cultural practice, a science reserve or a place to take the family to experience the snow. But one thing we have in common is that it is a special place and all of us want to make sure that it is cared for in a proper way.

I see this Bill as a long overdue means to better the mountain. To date there are not effective rules that guide the area summit. Notably, I work in administration at UH Hilo in a pivotal position involved as a team member supporting this rule making Bill. And might add, that I applaud the efforts of UH Hilo to step forth with a willingness and commitment to properly manage the mountain. Practically, with local management in place working in concert with the authority to manage Mauna Kea this is a milestone step in the 50 years of telescope history on Mauna Kea.

Finally, for too long there no clear accountability for what occurs of Manua Kea. This bill holds the BOR through UH Hilo and the Office of Mauna Kea accountable. I humbly ask that you support this Bill for generations not yet born so that they may appreciate and value the majesty of Mauna Kea with a plan to manage its natural and cultural resources

Aloha

Gerald De Mello
381 Haili St.
Hilo, Hawaii 96720

April 5, 2009

Senator Donna Mercado Kim

Chair, Senate Ways & Means Committee

Re: HB 1174, HD3, SD1

Aloha, Senator Kim and Committee Members:

The issues surrounding Mauna Kea have caused considerable controversy on Hawaii Island, and indeed, across the state.

I urge you to favorably act on this bill to move it forward. Many of us in the business community of the Big Island have been following and studying this matter carefully. I, among many, believe that HB 1174 takes steps in the right direction to lead to a more properly controlled and protected mountain, for all its resources and uses—cultural, scientific, environmental, spiritual and recreational.

We know that much of the criticism has been warranted. But we've also seen the sense of stewardship grow within the University, particularly the Office of Mauna Kea Management. The OMKM has worked to bring sides together for frank discussion and protection of the mountain. The OMKM advisory board and the Kahu Mauna Council have put in a great deal of time to do their best for all.

We believe HB 1174 will provide the proper authority for oversight of this precious resource, and will also mean we will have a clear body to hold accountable.

Thank you for your time.

Sincerely,

Barbara A. Hastings
2316C Ainakahahele Street
Hilo, HI 96720

kim2 - Arline

From: David DeLuz Jr [DJR@bigislandtoyota.com]
Sent: Sunday, April 05, 2009 4:32 PM
To: WAM Testimony
Subject: Testimony in Support of HB 1174 HD3 SD1 to WAM

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

ALOHA! I would greatly appreciate if you could please accept and submit my testimony attached within this email. Please do not hesitate to call me @ 808-895-4284 or email me @ [dj@bigislandtoyota.com](mailto:djr@bigislandtoyota.com) should have any questions and thank you in advance for your assistance and cooperation. MAHALO!

April 5, 2009

TO: Senate Committee on Ways and Means

RE: **Testimony in Support of HB 1174 HD3, SD1**

HEARING DATE & TIME: April 6, 2009 @ 9:30am

VIA FACSIMILE: WAMTestimony@capitol.hawaii.gov

Honorable Chair Kim and members of the Ways and Means Committee:

I strongly support HB 1174 HD3, SD1 and urge members of the committee 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 has the opportunity within HB 1174 HD3, SD1 to do the right thing and act now to protect the resources from further degradation.

While it is acknowledged that the University has not done a good job of managing its leased areas on Mauna Kea, the legislature should 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. It is essential that this legislature should 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 appreciate the opportunity to submit my testimony and strongly urge you to pass this very important home rule bill.

Respectfully,

David S. De Luz, Jr., in lieu of my penned signature

David S. De Luz, Jr.
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kim4 - Elizabeth

From: Desdra Dawning [Desdradawning@yahoo.com]
Sent: Saturday, April 04, 2009 6:28 AM
To: WAM Testimony
Subject: In Opposition to UH's Plan for Mauna Kea and H.B. 1174, HD 3

Testimony Opposing HB 1174 HD 3 4/6/2009 WAM room 211 Aloha Kakou Land Board Members and Senators,,

I am writing to urge you to oppose the University's plans for the future of Mauna Kea as outlined in H.B. 1174, HD 3 and the University's version of a "comprehensive management plan."

The University's plan for Mauna Kea falls far short of being "comprehensive" or providing even basic "management" for the extremely fragile and sacred public trust resources of the summit. This plan fails to outline any actual activities, timelines, or goals for protecting endangered species and their habitats. It also fails to adequately protect the constitutional right to engage in traditional and customary practices and religious ceremony on the summit.

Rather, the plan seeks to give the University unprecedented control over the use of the summit with the passage of H.B. 1174. With this authority, the University proposes to construct at least 50 more telescopes (along with their gift shops, parking lots, and toxic chemical storage facilities) as outlined in its 2000 development plan, erect a gate at Hale Pohaku to limit public access to the sacred summit, and impose an approval process to limit cultural practice and religious observances.

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. 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.

On top of it all, foreign telescope owners are profiting of the 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, foreign telescope owners pay the state only \$1 a year. In exchange, they receive millions for the sale of telescope time and contracts with defense-contractors. Especially in this time of economic crisis, at the very least these illegal and immoral rental agreements between the state and the foreign telescope owners should be renegotiated to ensure fair market rent is collected for the use of our public trust resources on the summit of Mauna Kea.

Despite all of the flaws of past Land Board absent-management on Mauna Kea, changing the laws that protect Mauna Kea now will not help to better protect our public trust resources. The Land Board must fulfill its legal obligations to actively management and protect the conservation district on the summit. To do this, the Land Board should not approve the University's plan for Mauna Kea and the Legislature should not pass H.B. 1174. Instead, profits from the use of Mauna Kea should be appropriated to the Department of Land and Natural Resources specifically to provide for enforcement of current laws and the development of an update to the 1995 management plan that is currently governing activities on the summit.

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