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**S.B. 1108 'Aha Kiole
Room 329, 9 am
March 18, 2009**

LATE TESTIMONY

Aloha Chairwoman Carroll and members of the House Committee on Hawaiian Affairs,

While KAHEA strongly supports community-based, traditional resource management, **we oppose the extension of the 'Aha Kiole Advisory Council.** We have serious concerns about the genesis and misuse of the 'Aha Kiole and offer several amendments on to help address them.

Strong Support for Traditional Resource Management

KAHEA commends the individual cultural practitioners who have committed themselves to working towards a community-based resource management system, despite the obstacles. It is clear the current resource management efforts in Hawai'i are failing to ensure that our natural environment is healthy and able to provide for our food security. If drastic changes are not made, it is reasonable to expect that Hawai'i's environmental challenges will soon spiral out of control.

We also strongly endorse the scholarship of Kumu John Kaimikaua and support his vision for a modern 'Aha Moku system. For centuries, Native Hawaiians have successfully managed Hawai'i's natural resources to provide for a healthy environment, sustainable source of food, and strong cultural identity. To ensure Hawai'i's natural and cultural resources endure for generations to come, it is imperative that traditional resource management tools be reintroduced as a fundamental component of modern resource management.

That said, KAHEA has serious concerns about the development and manipulation of the 'Aha Kiole Advisory Committee.

Reason for Concern: 'Aha Kiole Misused by WESPAC

For nearly 10 years, KAHEA staff, board, and volunteers worked together with several other groups and individuals to establish the strongest possible protections for the Northwestern Hawaiian Islands. It was a long and intricate process that included over 100 public meetings, 40 formal hearings, and at last count over 180,000 public comments. At every turn in this process, however, the Western Pacific Fishery Management Council (WESPAC) opposed greater protection for the imperiled natural and cultural resources of the NWHI. Their tactics included manipulating data, misusing federal funds, violating federal open records/open meeting laws, and misdirecting



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public concern. As a result, WESPAC is currently under investigation by two federal agencies and defendant in one federal open records lawsuit. All of these legal inquires are connected to WESPAC's attempt to undermine marine resource protections in Hawai'i, especially Papahānaumokuākea.

Unfortunately, these issues began to taint the development of the modern 'Aha Moku system when, in 2006, WESPAC funded a series of public meetings called "Ho'ohanohano I Na Kūpuna Puwalu." The structure and process for creating the 'Aha Moku Councils was developed at these Puwalu series. Certain members of public, however, who had been critical of WESPAC's efforts in the past were denied entry or required to pay prohibitive entrance fees to attend the meetings. This raised serious community concerns about the eventual 'Aha Kiole Advisory Committee that was ultimately created by Act 212.

The community's concerns were confirmed in October 2008 when a letter was sent from the 'Aha Kiole Advisory Committee to President Bush opposing the designation of marine monuments in other regions of the Pacific. The letter (attached) echoed many of the same criticisms that WESPAC had long raised about greater protections from commercial fishing in the Northwestern Hawaiian Islands.

The 'Aha Kiole Advisory Committee was established by Act 212 "to initiate the process to create a system of best practices that is based upon the indigenous resource management practices...". The Committee's authority did not include commenting on substantive policy decisions, especially those not affecting any ahapua'a in the islands. Unfortunately, the 'Aha Kiole Advisory Committee stepped beyond its legal mandate and violated the terms of Act 212 by taking a formal position on the designation of marine protected areas in the Northern Marianas Islands. This misuse of its authority has hampered the overall effort to establish meaningful, traditionally-informed, community-based resource management in Hawai'i.

In order to support the development of legitimate community-resource management and to prevent the manipulation of the 'Aha Moku System in the future, we suggest the following amendments.

4 Amendments: Help to Ensure Genuine Community-Based Management

1. No Federal Funding

Strict rules limit the use of federal funds to influence and implement projects on a state-by-state basis because such a relationship is ripe for abuse. The State of Hawai'i should endorse these standard practices and prohibit the use of federal funds by the phase or



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level of the 'Aha Kiole system. To be truly legitimate, community-based resource management should fully supported by local funding.

2. Compliance with Sunshine and Rule-Making Requirements

One of the primary issues with the operation of the 'Aha Kiole Advisory Committee to date has been the lack of transparency. This includes the failure to notify people of public meetings, failure to provide minutes of meetings, and failure to submit reports for public comment. These concerns are exacerbated by the lack the transparency and accountability requirements in the current versions of the 'Aha Kiole bills.

Our suggestion is to add the standard language requiring the 'Aha Kiole comply with Hawai'i's Sunshine and Rule-Making procedures outlined in Hawai'i Revised Statutes Chapter 91 and 92.

3. Broad Community-Based Nominations Process; Formal Elections Process

In addition to transparency, significant community concern has been raised regarding the nomination process for the current 'Aha Kiole members. To prevent this type of controversy in the future, any 'Aha Kiole entity should abide by a broad community-based nominations process and a formal elections process. This should include accepting nominations from any entity or individual with a background in traditional Native Hawaiian resource management. This can include the Royal Order of Kamehameha I, the Association of Hawaiian Civic Clubs, individual Civic Clubs, Hula Halau, Hawaiian Charter Schools, and the Office of Hawaiian Affairs. Nomination requirements should be broadly construed to allow for the participation of individuals who are intimately familiar with an area, but not necessary residents (e.g. individuals evicted from their family's traditional land).

Instead of selection by the Governor, seats on the interim 'Aha Kiole Task Force and individual ahupua'a councils should follow standard election procedures, much like the Neighborhood Boards in the City & County of Honolulu. In addition, vacancies on the ahupua'a, moku, kiole should not be filled by the Supreme Court Justice, but rather by the Mayor of each county after a more reasonable period for the body to chose its own replacements.

4. Strictly Limited Purpose and Authority

Any effort to continue the development of a modern 'Aha Moku system must include the safeguards necessary to ensure past trespasses are not repeated. Clearly defining the purpose and authority of future 'Aha Kiole entities is crucial to addressing the historical



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trust issues that have plagued implementation of this community-based management system so far.

The purpose of any future 'Aha Kiole entity must strictly limited to information collection regarding traditional and customary resource management approaches in specific areas. The purpose of collecting this information must be limited to advising state authorities on how to address specific resource management challenges.

The existence of the 'Aha Kiole also cannot be grounds for limiting the development of any other model or type of community-based resource management regime. Hawai'i's resources are in crisis, and communities are rising to meet this challenge in unique and successful ways. Recognition and support for genuine community-based management, however, should not be used as grounds for limiting the options available to communities for addressing their dire resource management situations. Communities currently developing community-based management programs should not be required to engage with or postpone implementation because of an 'Aha Kiole entity.

Finally, given the historical misuse of the 'Aha Kiole system together with the common understanding that no one organization is able to speak for all Hawaiians, it is imperative that the authority of any 'Aha Kiole entity NOT include representing ahupua'a to entities outside of the 'Aha Kiole system and the Department of Land and Natural Resources. To be successful, the 'Aha Kiole system must abide by a strict protocol that ensures its authority is specifically targeted to assist the decision-making of the state's resource managers.

Mahalo,

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LATE TESTIMONY

Hearing Notice

Wednesday, March 18, 2009 / State Capitol Conference Room 308
House Committee on Hawaiian Affairs (HAW)
Rep Mele Carroll (Chair) / Rep Maile Shimabukuro (Vice Chair)

RE: Testimony in Opposition to SB 1108 (Relating to Native Hawaiians)

March 17, 2009

Aloha Chair Carroll, Vice Chair Shimabukuro & Committee Members,

I'm a lifetime resident of *Mokule'ia* with lineage spanning at least 10 generations in *Waialua Moku* originating at *Kawaihapai Ahupua'a* where the *Dillingham Airfield (Kawaihapai Airfield)* is situated. I've served on *Oahu Island Burial Council (OIBC)* as *Waialua Moku Representative, Office of Hawaiian Affairs's (OHA) Native Hawaiian Historic Preservation Council (NHHPC)* and *Na Maka O Ka'ena*. I'm also the *Po'o (head)* of the *Kawaihapai Ohana* which is recognized by *The Department of Interior (DOI)* as a *Native Hawaiian Organization (NHO)* and member of the *Mokule'ia Community Association (MCA)*. My *Kupuna* were *Cultural Informants* featured in *Bishop Museum's* publications:

Archeology of Oahu – Bulletin 104 (McAllister 1933)

Annie Keahipaka – Great-Great Grandmother/Aunt

The Hawaiian Planter (Handy 1940)

Kaaemoku Kakulu – Great-Great Grandfather

David Keao – Great Grandfather

I'm providing testimony as an individual opposing SB 1108. ACT 212 in 2007 was crafted with the intent favoring the Association of *Hawaiian Civic Club (AOHCC)* and not the affected communities. Currently in my community, the *Mokule'ia Community Association (MCA)* tenure of stewardship at *Ka'ena* spanning at least 30 years and has coordinated with entities such as the *Army to Malama Ka'ena*. Another entity in similarity is the *North Shore Neighborhood Board 27* which had a *Kaena Point Task Force Community* in the 1990's. The recently formed *Friends of Ka'ena* continues this *kuleana*. These entities along with families such as my *Ohana* already are doing and continuing the intent of the *Aha Kiole* which leads to *footprinting* and *ai'hue (steal) kuleana*.

It's only recently that entities such as the *Association of Hawaiian Civic Clubs* and *Ilioulaokalani Coalition* have shown interest whereas they have seldom participated. An example of eliminating public participation is that some representatives serving on State Boards or Commissions such as *Island Burial Councils* have linkage to those entities. This legislation continues to perpetuate false perception that these are the only knowledgeable cultural resources and that's not *NOT PONO*. The *Po'e Kanaka* of that specific geographical area that has the *'Ike (knowledge)* and *mana (spirit)* to provide *mana'o (thoughts)* applicable to their *Aina Aloha*. Ao'le SB 1108. *Malama Pono*

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Hearing Notice

Wednesday, March 18, 2009 / State Capitol Conference Room 329

House Committee on Hawaiian Affairs (HAW)
Rep Mele Carroll (Chair) / Rep Maile Shimabukuro (Vice Chair)

LATE TESTIMONY

March 18, 2009

RE: Testimony in Opposition to SB 1108 (Relating to Native Hawaiians)

Aloha Chair Carroll, Vice Chair Shimabukuro & Committee Members,

The *Kawaihapai Ohana* is recognized by *The Department of Interior (DOI)* as a *Native Hawaiian Organization (NHO)* whose *Kuleana (mission statement of responsibility)* has an emphasis on the *Northwest Coastline of Waialua Moku* which encompasses the *Ahupua'a of Kamananui, Mokule'ia, Kekahi, Auku'u, Kawaihapai, Kealia and Ka'ena*. Some *Kawaihapai Ohana Kupuna* were *Cultural Informants* featured in *Bishop Museum's* publications entitled *The Hawaiian Planter (1940)* and *Archeology of Oahu – Bulletin 104 (1933)*.

The *Kawaihapai Ohana* opposes SB 1108. ACT 212 in 2007 was crafted with intent favoring the *Association of Hawaiian Civic Clubs (AOHCC)* and not the affect communities. Here in our community, the *Mokule'ia Community Association (MCA)* tenure of stewardship at *Ka'ena* spans 30 years and has coordinated with entities such as the *Army to Malama Ka'ena*. Another entity with similar tenure and longevity is the *North Shore Neighborhood Board 27* which has had a *Ka'ena Point Task Force*. The recently formed *Friends of Ka'ena* continues this *kuleana*. These *hu'I (entities)* along with the *Kawaihapai Ohana* continue to *Malama Waialua Moku* which includes *Ka'ena*.

The *Po'e Kanaka* of specific regions have continued their *kuleana* and have the necessary *'ike (knowledge) and mana (spirit)* to provide *mana'o* for their *Aina Aloha*. Only recently entities such as the *Association of Hawaiian Civic Clubs (AOHHC)* and *Ilioulaokalani Coalition* have seldom participated. They have established *footprinting* on such *State Boards and Commissions* as the *Island Burial Councils* whereas members of either entities perpetuates a false perception to the public that they're the only cultural resources and therefore eliminating public participation. *Footprinting* leads to *ai'hue (stealing) kuleana (responsibilities)* from an established *hui (group)*. *Ao'le* SB 1108. *Malama Pono*.

Thomas T Shirai Jr
Kawaihapai Ohana – Po'o