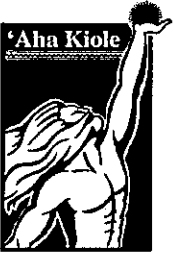


TESTIMONY

SB1108

LATE



LATE TESTIMONY

TESTIMONY OF
AHA KIOLE ADVISORY COMMITTEE

IN SUPPORT OF
SB 1108

Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
Conference Room 229, 3:30 p.m.

February 18, 2008

Aloha Chair Hee and Members of the Committee:

The Aha Kiole Advisory Committee (AKAC) was created through Act 212 in Legislative Session 2007 to create a system of best practices based upon the indigenous resource management practices of traditional moku (regional) boundaries that acknowledges the natural contours of land and the specific resources located within those areas, and the methodology necessary to sustain those resources and the community.

Since its inception in 2007, the AKAC has strived to restore the Aha Moku System, an ancient proven system of traditional land and ocean resource management used universally in Hawaii prior to the 9th century A.D. and brought forth through oral history and generational practices. This restored system is to aide government in its goal of ecosystem sustainability in Hawaii today.

It is important to understand that the hierarchy of councils known as the Aha Moku System is a traditional one already established and in practice with generational resource practitioners. As stated in the AKAC 2009 Report to the Legislature, the Aha Moku System is a top-down process with the ahupua'a communities on the top and the Kiole as the liaison to government agencies on the bottom. From November 2007 through December 2008, the AKAC along with the traditional moku districts have held or participated in close to 100 meetings, gatherings, talk-story sessions and discussions on initiating this moku system statewide. However, although many of the moku support this system, more time is needed to solidify the process.

The current members of the AKAC are all practitioners and have established a strong rapport with moku representatives and ahupua'a communities. It is prudent to allow them the time to finish the process. We urge your committee to pass SB 1108 so the work can be completed.

We are very grateful to the Hawaii State Legislature for their faith in the native Hawaiian traditional methods of ecosystem management and ask that we be allowed to continue in these efforts through the processes outlined in our 2009 Legislative Report.

LATE TESTIMONY

The Aha Kiole Advisory Committee representing the islands of Hawaii, Maui, Molokai, Lanai, Kahoolawe, Oahu, and Kauai are in support of HB 1806 as amended. Thank you for your consideration in hearing this testimony.

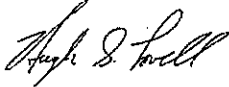
Respectfully,



Vanda Hanakahi, Moloka'i, Chair



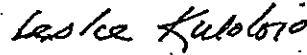
Timothy Bailey, Maui



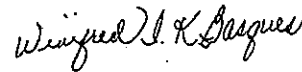
Hugh Lovell, Hawai'i



Sharon Pomroy, Kaua'i



Leslie Kuloloio, Kahoolawe, Vice-Chair



Winifred Basques, Lana'i



Charles Kapua, O'ahu

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

H.B. NO. 1806

A BILL FOR AN ACT

RELATING TO HAWAIIAN NATURAL RESOURCE MANAGEMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

LATE TESTIMONY

PART I

SECTION 1. (a) ~~There is established within the department of land and natural resources, for administrative purposes only, an aha ahapua'a council task force to establish natural resource advisory councils, to be known as aha ahapua'a councils, and create the foundation for a system of best practices based upon Hawaiian resource management practices that acknowledge the natural contours of land, the specific resources located within an area, and the methodology necessary to sustain those resources and the community.~~

(a) Through Act 212, Legislative Session Laws 2007, an Aha Kiolo Advisory Committee was established to advise the legislature in carrying out the purposes of initiating the process to create a system of best practices, called the Aha Moku System that is based upon the indigenous resource management practices of moku (regional) boundaries, which acknowledges the natural contours of land, the specific resources located within those areas, and the methodology necessary to sustain resources and the community. The Aha Moku System will foster understanding and practical use of knowledge, including native Hawaiian methodology and expertise, to assure responsible

stewardship and awareness of the interconnectedness of the clouds, forests, valleys, land, streams, fishponds, and sea. The Aha Moku System will include the use of community expertise and establish programs, projects and the development of the process through the ahupua'a to improve communication, education, provide training on stewardship issues throughout the region (moku) and increase education.

~~(b) The task force shall be comprised of twelve members who shall be appointed by the governor without regard to sections 26-34 and 78-4, Hawaii Revised Statutes, from a list of nominations submitted by the Association of Hawaiian Civic Clubs. The governor shall appoint members to the task force no later than December 30, 2009.~~

(b) Appointed in 2007, the Sunset Date for the Aha Kiolo Advisory Committee shall be June 30, 2011.

~~(c) The members of the task force shall select the chair and vice chair of the task force and shall be reimbursed for reasonable expenses, including travel expenses, necessary for the performance of their duties. Members of the task force may designate a representative for the purpose of attendance at task force meetings.~~

~~(d) The task force shall:~~

LATE TESTIMONY

- ~~(1) meet as necessary to plan for the implementation of this Act, including the preparation of reports and proposed legislation necessary to carry out the purposes of this Act;~~
- ~~(2) Define boundaries throughout the state based on the ahupua'a land system practiced by ancient Hawaiians;~~
- ~~(3) Establish a methodology for the election of members to the aha ahapua'a councils;~~
- ~~(4) Inform residents belonging to an ahupua'a about the aha ahapua'a councils to be established, and the methodology to be used for the election of members to the aha ahapua'a councils;~~
- ~~(5) Conduct community meetings in each ahupua'a to elect representatives to each aha ahapua'a council in accordance with the following timetable:
 - ~~(A) By June 30, 2010, twenty-five per cent of the elections shall be completed;~~
 - ~~(B) By December 31, 2010, fifty per cent of the elections shall be completed;~~
 - ~~(C) By June 30, 2011, seventy-five per cent of the elections shall be completed; and~~~~

~~(D) By December 31, 2011, all elections shall be completed, and~~

~~(6) Establish a timetable for the elections for each of the councils.~~

~~(d) The department of land and natural resources shall provide the administrative, technical, and clerical support services necessary to assist the task force in achieving its purpose as required under this Act.~~

~~(e) The task force shall submit a report of its findings, recommendations for implementation of the aha ahupua'a council system, and actions taken to begin implementation of the aha ahupua'a council system, including any proposed legislation necessary for the implementation of the aha ahupua'a council system, no later than twenty days prior to the convening of the regular session of 2010.~~

~~(f) The aha ahupua'a council task force shall cease to exist after December 31, 2011.~~

PART II

~~SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:~~

~~"CHAPTER~~

~~AHA MOKU SYSTEM~~

~~§ -1 Definitions. As used in this chapter:~~

~~"Ahapua'a" means a Hawaiian land division running from the mountains to the ocean~~

~~"Moku" means the largest Hawaiian island regional boundary.~~

~~§ 2 Aha kiole council; established. (a) There is established an aha kiole council within the department of land and natural resources for administrative purposes only. The aha kiole council shall consist of eight members who shall be selected by the aha moku council established under section 4; provided that each of the main Hawaiian islands shall be represented by one member.~~

~~(b) One member, who shall be selected by a two-thirds vote of the aha kiole council, shall serve as chairperson of the aha kiole council.~~

~~(c) A vacancy in the aha kiole council shall be filled in the manner specified in subsection (a) within fifteen days of the vacancy. A vacancy in the aha kiole council shall be filled with a person from the same island as the departing aha kiole council member. Aha kiole council member vacancies not filled within the times specified shall be filled promptly thereafter by the chief justice of the supreme court.~~

~~—— (d) The aha kiole council shall act by majority vote of its membership and shall establish its own procedures, except as may be provided by law.~~

~~—— (e) The term of the aha kiole council members shall be four years, except that with respect to the terms of the initial aha kiole council members, four members shall be randomly selected and shall serve for a term of two years.~~

~~—— (f) The aha kiole council members shall serve without compensation, but shall be reimbursed for reasonable expenses, including travel expenses, necessary for the performance of their duties.~~

~~§ 3 Aha kiole council; powers and duties. (a)~~

~~The aha kiole council shall:~~

~~(1) Advise the State on traditional natural resource and land management practices;~~

~~—— (2) Deliberate and resolve any issues brought to the council by the aha moku councils established under section 4, or any issues considered by the aha kiole council as being of statewide importance, or affecting more than one island;~~

~~(3) Maintain an archival repository for issues and resolutions addressed by an aha moku council established under section 4 or an aha ahupua'a council established under section 8; and~~

LATE TESTIMONY

~~(4) Represent ahupua'as statewide in the state,
national, and international arenas.~~

~~§ 4 Aha moku councils; established. (a) There
are established within the department of land and natural
resources, for administrative purposes only, eight aha moku
councils, one representing each of the main Hawaiian
islands. Each aha moku council shall consist of members
selected by the aha ahupua'a council established under
section 7; provided that each aha ahupua'a council shall
be represented by one member.~~

~~(b) One member, who shall be selected by a two thirds
vote of the aha moku council, shall serve as chairperson of
the aha moku council.~~

~~(c) A vacancy in the aha moku council shall be filled
in the manner as specified in subsection (a) within fifteen
days of the vacancy. A vacancy in the aha moku council
shall be filled with a person from the same aha ahupua'a
council as the departing aha moku council member. Aha moku
council member vacancies not filled within the times
specified shall be filled promptly thereafter by the chief
justice of the supreme court.~~

~~(d) The aha moku council shall act by majority vote
of its membership and shall establish its own procedures,
except as may be provided by law.~~

~~(c) The term of the aha moku council member shall be four years, except that with respect to the terms of the initial aha moku council members, fifty per cent of the members shall be randomly selected and shall serve for a term of two years.~~

~~(f) The aha moku council members shall serve without compensation, but shall be reimbursed for reasonable expenses, including travel expenses, necessary for the performance of their duties.~~

~~§ 5 Aha moku councils; powers and duties. (a)~~

~~Aha moku councils shall:~~

~~(1) Advise the counties on traditional natural resource and land management practices;~~

~~(2) Deliberate and resolve any issues:~~

~~(A) Brought to the council by an aha ahupua'au council established under section 8;~~

~~(B) Involving more than one moku; or~~

~~(C) Considered by the aha moku councils as being of countywide importance;~~

~~(3) Serve as an archival repository for issues and resolutions addressed by an aha ahupua'a council established under section 8; and~~

~~(4) Elect members to the aha kiole council established under section 2.~~

LATE TESTIMONY

~~§ -6 Aha Ahupua'a councils; established. (a)~~

~~There are established within the department of land and natural resources, for administrative purposes only, aha ahupua'a councils representing each ahupua'a. Each aha ahupua'a council shall consist of members who shall be selected by the residents living in their respective ahupua'a; provided that each ahupua'a shall be represented by one member.~~

~~(b) One member, who shall be selected by a two-thirds vote of the aha ahupua'a council, shall serve as chairperson of the aha ahupua'a council.~~

~~(c) A vacancy in the aha ahupua'a council shall be filled in the manner as specified in subsection (a) within ninety days. A vacancy in the aha ahupua'a council shall be filled with a person from the same ahupua'a as the departing aha ahupua'a council member. Aha ahupua'a council member vacancies not filled within the times specified shall be filled promptly thereafter by the chief justice of the supreme court.~~

~~(d) The aha ahupua'a council shall act by majority vote of its membership and shall establish its own procedures, except as may be provided by law.~~

~~(e) The term of the aha ahupua'a council member shall be four years, except that with respect to the terms of the initial aha ahupua'a council members, fifty per cent of the members shall be randomly selected and shall serve for a term of two years.~~

~~(f) The aha ahupua'a council members shall serve without compensation, but shall be reimbursed for reasonable expenses, including travel expenses, necessary for the performance of their duties.~~

~~§ -7 Aha ahupua'a councils; powers and duties.~~

~~(a) Aha ahupua'a councils shall:~~

~~(1) Provide advice and information to the ahupua'a community on natural resource and land management practices within the ahupua'a;~~

~~(2) Deliberate and resolve any issues brought to the council concerning the lands and resources in an ahupua'a that cannot be resolved by the ahupua'a through a community forum or other informal social contract process, or involving more than one community within the ahupua'a;~~

~~(3) Forward any issues and resolutions addressed by an aha ahupua'a council to the aha moku councils established under section -4 and the aha kiolo~~

LATE TESTIMONY

~~council established under section 2 for
archiving;~~

~~(4) Forward any issue involving more than one ahupua'a
or any issue identified as an island or county
issue to the aha moku council established under
section 4; and~~

~~(5) Elect members to the aha moku council established
under section 4.~~

~~PART III~~

~~SECTION 3. This Act shall take effect upon its
approval; provided that part II of this Act shall take
effect upon the completion of the final elections held in
accordance with part I of this Act.~~

INTRODUCED BY: _____



LATE TESTIMONY

Legislative Testimony
SB 1108, RELATING TO NATIVE HAWAIIANS
Senate Committee on Water, Land, Agriculture, and Hawaiian
Affairs

February 18, 2009
Room: 229

3:30 p.m.

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB 1108, which would extend the sunset date of the 'Aha Kiole Advisory Committee - created by Act 212 of the 2007 Regular Legislative Session - to 2011.

OHA believes in and supports allowing Hawai'i's current natural resource management policies to be improved through the adoption of traditional, community-based natural resource management, we do not agree that the group as it now exists is the correct one to do this work.

If this advisory committee's lifespan is to be extended, it must be with the understanding that the committee is limited in its capacity to be advisory only, it does not speak for all Native Hawaiians on any natural resources issue, it will be task oriented, and it will support existing or proposed community-based resource management projects. Furthermore, if SB 1108 moves forward, we request that it be amended to require that the Governor appoint eight new members of the advisory committee from a list of nominations submitted by Hawaiian Civic Clubs and other Native Hawaiian organizations, and that the Committee be moved under OHA for administrative purposes, with a matching funding allocation. (Please see SB 999.)

Only local communities that have lived off of the resources of their respective ahupua'a, and have properly studied the area, and the natural and unnatural impacts upon the resources, know when is the proper time to harvest, to kapu, to heal, to monitor, to inspect, and to take accountings. Native Hawaiians have centuries of knowledge upon which to draw, and generations to feed and to educate. Not only must they preserve the ecosystem of

their community resources, but the health and culture of their people.

OHA therefore respectfully urges the Committee to HOLD SB 1108, and to hear SB 999, with the above considerations taken into account. Thank you for the opportunity to testify.

LATE TESTIMONY



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

**S.B. 1108 'Aha Kiole
Room 229, 3:30 pm
February 18, 2009**

Aloha Chairperson Hee and members of the Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs,

KAHEA strongly supports community-based resource management. However, we have serious concerns about the genesis of the 'Aha Kiole and therefore offer the following suggestions for improving SB 1108.

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

LATE TESTIMONY



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.r.com

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

LATE TESTIMONY



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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

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 ahapua'a councils should follow standard election procedures, much like the Neighborhood Boards in the City & County of Honolulu. In addition, vacancies on the ahapua'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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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

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

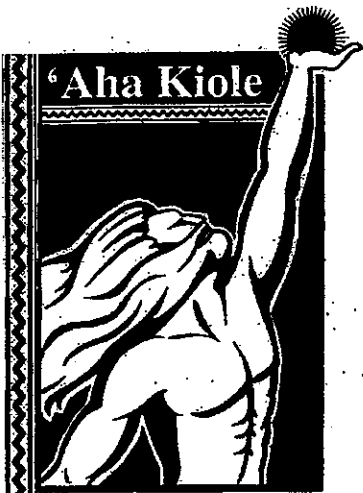
The purpose of any future 'Aha Kiole entity must strictly limited to information collection regarding traditional and customary resource management approaches in specific areas. The purpose of collecting this information must be limited to advising state authorities on how to address specific resource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

Marti Townsend
Program Director



October 13, 2008

President George Bush
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

LATE TESTIMONY

Dear President Bush,

On behalf of the Aha Kiole Advisory Committee, of the State of Hawaii, we strongly oppose the establishment of a national marine monument in the three islands north of Saipan in the Commonwealth of the Northern Mariana Islands (CNMI).

**'Aha Kiole Advisory
Committee Members:**

Ilei Beniamina
Niihau
Phone: 808 245-8269
jeanilei@yahoo.com

Sharon Pomroy
Kauai
Phone: 808 346 6725
pomroys001@hawaii.rr.com

Charles Kapua
Oahu
Lcea030@hawaii.rr.com
Phone: 808 479-3263

Vanda Hanakahi (Chair)
Molokai
Phone: 808 560-6203
hanakahi@sandwiches.net

Winifred "Winnie" Basques
Lanai
Phone: 808 565-6871
winnie@aloha.net

Leslie Kuloloio
Kahoolawe
Phone: 808 871-4001
Kulolo@clearwire.net

Timothy Bailey
Maui
Phone: 808 357-2934
paulokealeioku@hawaiiantel.net

Hugh Lovell
Hawaii
Phone: 808 885 5569
Pih52@yahoo.com

For more information:
www.ahakiole.com
ahakiole@gmail.com

The Aha Kiole Advisory Committee was created when the Hawaii State Legislature unanimously passed Senate Bill 1853, a Bill that created the Aha Moku System – a natural resource ecosystem management process in Hawai'i that integrates empirical knowledge into current land and ocean-use policies. This Act was written by almost 100 Native Hawaiian ocean and land resource practitioners representing the forty (40) traditional land districts in the State of Hawaii. It encompasses all of the main Hawaiian Islands. Governor Lingle signed this Bill into law in June 2007, thus creating Act 212.

The Native Hawaiian communities have followed the progress of the Pew Foundation's attempts to establish another national marine monument in CNMI with anger, trepidation, and despair. These strong and passionate emotions are universally felt by Hawaiians whenever the word "Papahānaumokuākea" is mentioned. This is the name your administration picked for our islands. When you created the national marine monument of the Northwest Hawaiian Islands, it was done without the participation of the Native Hawaiian people. Except for a handful of people, Hawaiians did not know that the Pew Foundation was planning to take three-fourths of Hawaiian lands and make it into a monument. Hawaiians found out by reading the newspaper after the fact – just like everyone else. But, Hawaiians are not "everyone else" – they are the indigenous people of Hawaii and this monument was considered a "taking" by the Bush Administration.

We ask that you not compound your grave mistake with Hawaii by creating another monument in CNMI against the wishes of their people. The indigenous people of the Northern Marianas need protection for their heritage. All of the elected officials of the Mariana's, including Governor Ben Fitial, Senate President Peter Reyes, Speaker of the House Arnold Palacios and all four mayors of the CNMI emphatically said "NO" to the establishment of this monument. As leaders elected by the people to represent them, why will you not listen to them?

LATE TESTIMONY

Aha Kiolo Advisory Committee
Page Two

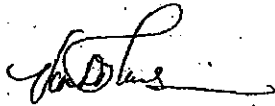
The actions of the Pew Foundation reflected by the actions of your Administration show that there is no consideration for the indigenous people of CNMI – any more than there was any consideration for the Native Hawaiians. Native people do not have a voice with you or your administration.

Have you even realized that your actions have taken away a huge part of the Hawaiian culture and heritage, and now will take an integral part of the CNMI culture away from the native people – with no hope of ever getting this part of their heritage back? Another ~~pacific island culture forever changed by the actions of a different culture too far away to~~ even understand the ramifications of their actions.

The trust of the Hawaiian people in you and your administration, as well in the Republican Party has been irrevocably broken by the taking of the Northwest Hawaiian Islands. You are breaking the trust of the native people of the Northern Marianas.

We urge you, President Bush, to please listen to the people of CNMI – as you never listened to the Native Hawaiians. We will forever mourn the loss of our north western islands. Please do not inflict this heartbreak and rage on another pacific culture.

Respectfully yours,



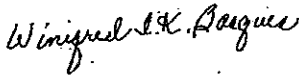
Vanda Hanakahi, Chair
Kiolo, Moloka'i




Les Kulolio, Vice-Chair
Kiolo, Kahoolawe



Timothy Bailey
Kiolo, Maui



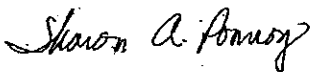
Winifred Basques
Kiolo, Lana'i



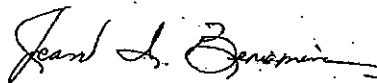
Hugh Lovell
Kiolo, Hawai'i



Charles Kapua
Kiolo, O'ahu



Sharon Pomroy
Kiolo, Kaua'i



Ilei Beniamina
Kiolo, Ni'ihau

LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 18, 2009 7:24 AM
To: WTLTestimony
Cc: kehaulani.watson@gmail.com
Subject: Testimony for SB1108 on 2/18/2009 3:30:00 PM
Attachments: puwalu%20report.pdf; 20080204143313.pdf

Testimony for WTL 2/18/2009 3:30:00 PM SB1108

Conference room: 229
Testifier position: oppose
Testifier will be present: No
Submitted by: Trisha Kehaulani Watson, JD, PHD
Organization: Individual
Address: PO Box 61395 Honolulu, HI 96839
Phone: (808) 392-1617
E-mail: kehaulani.watson@gmail.com
Submitted on: 2/18/2009

Comments:
Aloha,

I am in strong opposition to this bill.

It is well known that this Council comes from a puwalu series held a number of years ago. That series is now part of the target of a federal investigation. US Representative Henry Waxman called for a GAO investigation of WESPAC and its activities, including the puwalu, in 2008. <http://oversight.house.gov/story.asp?ID=1727> The investigation is still underway. It seems an extremely poor idea to move forward with this bill when many in the community (including myself) are confident that the investigation will reveal what we all already know - the puwalu and the resulting aha kiole were inappropriately and wrongfully influenced by WESPAC and its executive director.

This measure should be held until the federal investigation is complete.

No one is opposed to the idea behind the Aha Kiole, but we are strongly opposed to inappropriate actions that led to its creation. Until the matter is fully investigated and there are assurances that the whole process can be done lawfully, it should not move forward.

Thank you for this opportunity to testify.



**WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL**

**Report on The Puwalu Series
February 2007**

Native Hawaiians have managed their environments and natural resources successfully for thousands of years. That experience and practical knowledge has value for natural resource management currently. By contrast, Western management of natural resources in the last hundred years has resulted in extreme damage to Hawaii's environment, natural processes and natural resources. Guided by the public trust doctrine that certain natural resources are a public resource that cannot be owned privately, the State of Hawaii has taken the position that the Governor owns and manages the resources for the benefit of the citizens, and have implemented Western-centric policies that are destructive to natural resources and natural processes. Adoption of certain principles of traditional management would be beneficial for the environment, the resources, and the people.

Under the Magnuson-Stevens Fishery Conservation and Management Act, the Western Pacific Regional Fishery Management Council (Council) developed ecosystem-based approaches to fisheries management, currently believed to be the most efficient and appropriate method for fishery conservation and management. This method of resource management is consistent with traditional native island cultural practices. In consultation with the native community, the Council sponsored this conference series in partnership with the Association of Hawaiian Civic Clubs (AOHCC). The conference received the support of Kamehameha Schools/Bishop Estate (KSBE); Office of Hawaiian Affairs (OHA); the State of Hawaii, through their various departments, i.e., the Office of State Planning and DLNR; the Hawaii Tourism Authority and numerous community organizations and community projects throughout the State of Hawaii. The Council's fishery ecosystem approach provides the Council with the opportunity to utilize and share the *'ike* and *mana`o* of our Hawaii's *kupuna*, ideas and practices that have sustained Hawaiian culture for millennia.

The goal of the series was to increase participation of the Hawaiian community in the conservation and management of Hawaii's resources through the creation of a community and cultural consultation process within the governance structure. In essence, the Council recruited the population with the longest continuous history of resource utilization and conservation in Hawaii to advise resource managers on the most appropriate measures to pursue in making resource management decisions. As we learned through the series, "dependence on the resource" and "recognition" of subsistence and sustenance rights is an unfair and often patronizing representation of Native Hawaiians' relationship with the *'aina, kai and wai* (land, ocean and water) of Hawaii. The characterization of Native Hawaiian practices as a bundle of rights to be administered by the State is inadequate and egregious. The broad base of accumulated knowledge of this community about the Hawaiian environment, ecology and trophic (including anthropogenic) relationships is significant and

LATE TESTIMONY

detailed. The relationship of Native Hawaiians with the Hawaiian environment is deep, spiritual and binding. It was clear that the Native Hawaiian community could not and would not abdicate its responsibility for the health of this environment. It is a responsibility that is their inheritance.

Community outreach is a required activity in the Council process. Serious efforts are made to include public participation in every decisional step. The Native Hawaiian community has not been fully engaged with this process. The Council's goal for Hawaii is the increased participation of the Native Hawaiian community in fisheries under its authority, the formation of *Aha Moku* (district *Ahupua`a* Councils), to help shape fisheries policies for Hawaii and perpetuation of traditional cultural knowledge about fisheries and natural resources.

Overview of the Series

Ho`ohanohano I Na Kupuna, Honor Our Ancestors, was a series of three conferences that resulted from an initiative to engage the native Hawaiian community in a dialogue to inform the Council's Fishery Ecosystem Management Plans (FEP) for the Hawaiian Archipelago. The Office of Hawaiian Affairs worked with Leimana DaMate to conduct a series of workshops with the Native Hawaiian community promoting the concept of *Ahupua`a* management (traditional cultural management). Leimana and Bob DaMate of PIRMI continued the effort for *ahupua`a* management after their work for OHA ended. The Council retained the services of Leimana DaMate to continue the work and take the effort to the next level, the development of a process to implement traditional resource management practices into regulation.

During meetings with traditional communities in Hawaii, native practitioners, who continue traditional natural resources practices and maintained traditional lifestyles and relationships with the natural environment, through their *Kupuna* (elders), requested that traditional resource management be implemented into natural resource management and that education play a major role in this effort. "We want to teach our *keiki* a practice, not a memory" became the motivation for the *Puwalu*.

The first conference determined where, what and by whom traditional and cultural resource management and conservation practices were being conducted. The second conference invited educators and curriculum specialists to discuss with practitioners what practices and knowledge could and should be implemented into core curriculum and how they can be implemented. The third conference involved planners and policy-makers to develop and establish a community and cultural consultation process that implement traditional natural resource practices and management measures into regulations.

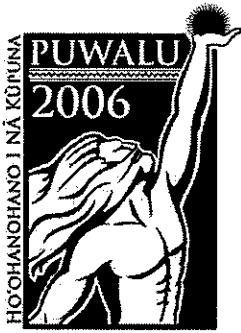
Kumu Hula, cultural practitioners and cultural consultants John Kaimikaua, Keli`i Tau`a, Kimokeo Kapulehua and Frank Kawaikapuokalani Hewitt were identified as resources and advised the Council in the development and implementation of the *Puwalu* project. The Council, AOHCC and PIRMI developed and implemented the series of *Puwalu*.

Puwalu I - Ho`ohanohano I Na Kupuna: Puwalu No Na Laeula

The first *Puwalu* (*Ho`ohanohano I Na Kupuna: Puwalu No Na Laeula*) identified and invited more than one hundred *ahupua`a* practitioners to a conference at the Hawaii Convention Center, August 15, 16 and 17th, 2006. The invitees discussed and proposed the development of *Moku* councils, *`Aha moku* or *Moku`aha*. These “*moku*” based councils would manage natural resources for the Native Hawaiian tenants and the community through the implementation of culturally based, site specific, conservation and utilization practices.

The practitioners, representing all of the populated islands in Hawaii and Kaho`olawe, established a framework for the *Puwalu* series by developing, proposing and passing a resolution:

LATE TESTIMONY



Resolution to unite Native Hawaiians to move forward, to live, to grow, to gather together, to stand firm and to restore and perpetuate the Hawaiian way of life.

WHEREAS, more than 100 elders, parents and youth—who are traditionalists, practitioners and experts as well as lineal descendants of the original inhabitants of the islands Kure Atoll, Midway Atoll, Pearl and Hermes Atoll, Lisianski Island, Laysan Island, Maro Reef, Gardner Pinnacles, French Frigate Shoals, Necker Island, Nihoa, Ni‘ihau, Kaua‘i, O‘ahu, Moloka‘i, Lāna‘i, Maui and Hawai‘i—met to honor our ancestors in the first of a series of three conferences;

WHEREAS, this first conference provided a forum for the distinguished elders, practitioners and experts to discuss and share the cultural practices of the fishermen and the farmers from the *ahupua`a* of 45 traditional land districts of the Hawaiian archipelago;

WHEREAS, the Native Hawaiians attending this conference acknowledged that the spiritual and physical well being of indigenous people of Hawai‘i are intrinsically tied to the land and the sea;

WHEREAS, the Native Hawaiians attending this conference recognized that the knowledge they share and hold reflects thousands of years of experience sustaining the resources of the land and the sea;

WHEREAS, the Native Hawaiians attending this conference identified examples of impacts negatively affecting their access to, and the abundance and availability of, the natural resources;

WHEREAS, the Native Hawaiians attending this conference reaffirmed to move forward together with one voice as lineal descendents and urge the Hawaiian people and supporters of Hawaiian culture to rise up to ensure the community’s health, safety and welfare;

NOW, THEREFORE, BE IT RESOLVED that the Native Hawaiians attending this conference call on the Hawaiian people to begin the process to uphold and continue Hawaiian traditional land and ocean practices into the governance and education of the Hawaiian archipelago;

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Native Hawaiians attending this conference call for perpetuation and preservation of the knowledge of practitioners and the restoration of healthy ecosystems through furtherance of the *ahupua`a* management system, including *konohiki* management with *kapu* and *hoa`aina* rights, and the re-establishment of the *`Aha Moku*.

Finished is the stealing of the land;

LATE TESTIMONY

Finished is the stealing of the sea;
Finished is the stealing of the life of the land.

...

The people of the land shall rise up.

—*prophecy of Wānana*

Approved and adopted on the seventeenth day of August two thousand six by the Native Hawaiians attending the first conference of the *Ho`ohanohano I Nā Kūpuna* series.

Puwalu II – Ho`ohanohano I Na Kupuna: Ke Kumu `Ike

Puwalu II – Ho`ohanohano I Na Kupuna: Ke Kumu `Ike, November 8 – 9, 2006 at the Pacific Beach Hotel, invited educators to meet with `ahupua`a practitioners to discuss the implementation of `ahupua`a practices and knowledge in education. The conference participants discussed what is being taught currently in the classroom, what is available and what practitioners thought needed to be in the curricula. The breakout sessions provided some valuable information that are currently being transcribed, reviewed and evaluated. Educators provided information on what they needed for the classroom and practitioners developed a protocol for educators to use in their approach to *kupuna* and cultural practitioners.

The consensus was to uphold and continue Hawaiian traditional land and ocean practices integrating these traditional methods of ecosystem sustainability into the current educational curricula for all public and private schools, for charter schools and for Hawaiian Immersion schools. The participants committed to supporting Hawaiian values, knowledge and ways of learning by developing a declaration, *Palapala Ku Like*, that outlines the actions that the participants will make to achieve the goal of implementing *ahupua`a* practices and traditional ecological knowledge into school curricula.

It was recognized and agreed by all participants at the *Puwalu* that Hawaiian best practices have been the only successful model of sustainability of resources in Hawaii, the Hawaiian best practices model included the *ahupua`a* and the *konohiki* management systems. The participants made a commitment to the development of an *Aha Moku* Council, empowered by statute and representing each moku of each island, to insure the perpetuation of Hawaiian best practices for resource management. The structure of each island's *Aha Kiole*, or governing council that oversees the island's resources, would be determined by each individual island for themselves to include the leadership structure, number of council members, duties of council members, and the council's relationship with the community and government. This Council would:

- Be a pool of cultural practitioners and experts in Hawaiian practical arts,
- Strengthen the generational cultural practices being lost and compromised by government and special interest groups,
- Protect, manage, and sustain the marine, land, natural and cultural resources for today's people as well as for the future.

An important tool that was developed by *Puwalu II* was a standard protocol for approaching traditional practitioners to seek cultural information. The participants developed the *Na Hana Kupono*, stating:

Na Hana Kupono

“We, the cultural practitioners of the second *Hoohanohano I Na Kupuna Puwahu*, building on the Resolution of the first *Hoohanohano I Na Kupuna Puwahu*, which called upon *na kanaka maoli* to begin the process to uphold and continue traditional land and ocean practices in the governance and education of the Hawaii Archipelago,

Affirm that *na hana kupono* (righteous procedures) shall be acknowledged as encompassing *na mea Hawa`ii* (all things Hawaiian); and that the sharing of knowledge between cultural informants and others shall include the following *na hana kupono*:

Kekipa ana e kahui ana (visiting and meeting procedures)

1. *Ho`omakaukau ana* (preparing for the call and interview)
2. *Ke kahea* (proper introduction or call to the informant)
3. *Ka ho`okupu* (appropriate gift presented to the informant)
4. *Ke kukakuka ana e kahuiana* (discussion and negotiation)
5. *kapanina e hookupu* (closure)

Ka ike (sharing knowledge and understanding procedures)

1. *Ka ho`omakaumakau ana* (preparation for sharing)
2. *Ke ao mai ana* (sharing knowledge)
3. *Ka malama ana* (agreement on how the knowledge will be used and protected)
4. *Ke ao aku ana* (instruction to the guest and sharing of ike).”

Puwalu III – Ho`ohanohano I Na Kupuna: Lawena Aupuni

Puwalu III was scheduled for December 19 – 20, 2006, at the Ala Moana Hotel. This final conference consultation brought together practitioners, educators, government agencies and policy makers to discuss the development of *Moku* councils – the implementation of the community and cultural consultation process.

Existing programs, their successes and challenges, and how the integration of *moku* councils can assist in community capacity building, improved statutes and ordinances were discussed. A framework for community consultation using the Hawaiian perspective and traditional methods was discussed. Consensus of policymakers and participants included increased and formalized communication and consultation between lawmakers and the Native Hawaiian community. Major areas of discussion were:

County Levels

- Charter amendments should include cultural practitioners on County Councils and Commissions
- County General Planning should be done through a community-based process
- *Aha moku* councils should be consulted in county decision-making processes
- *Aha Moku* involvement may take different forms, to adapt to different settings and opportunities
- If done well, Hawaii can be a model for the rest of the world in an open community and cultural consultation process
- Identify the “rules of the game” to guide strategies that would be inclusive of traditional values (*malama aina*, *‘ohana*) and principles.

State Levels – Legislation

- Include cultural practitioners in school community councils to help influence curriculum
- It is important to bring groups together and build bridges
- Native Hawaiian practitioners must be part of existing Commissions
- The Environmental Impact Statement (EIS) structure is being updated – cultural issues are being looked at
- Cultural consultation is essential
- Possibility: The Senate could co-sponsor an annual gathering to meet with practitioners throughout the state
- The 2005 Legislature passed the 2050 Sustainability Plan which is applicable and compatible with the *Aha Moku* concept. Two components are needed to make this plan viable: 1) it has to be community-based, 2) Native Hawaiian traditional values and practices of the Hawaiian culture must be included
- Values emanate from the land, ocean and the sky – they must be integrated into the protection of natural resources
- Documentation is vital in today’s world

LATE TESTIMONY

- The Hawaii State motto “Ua Mau Ke Ea O Ka ‘Aina I Ka Pono, The life of the land is perpetuated in righteousness” - predates the monarchy and is a principle that underscores the importance of place
- How does the local population make sure that they are not strangers in their own land? By strong community consultation and involvement
- The message of this *puwala* should be shared with the larger community for understanding and support

State Levels – Agencies

- Coastal zone management, ecosystem management and place-based management are critical to the health and welfare of our natural resources
- The Coastal Zone Management area encompasses the entire state – it extends seaward to include the U.S. territorial sea and is consistent with Hawaii’s archipelagic reach
- The State is moving toward integrated collaboration through three perspectives: 1) Looking at the *mauka* to *makai* process, 2) Preserving our ocean heritage – cultural enhancement, resources, economic activities, and 3) Promoting collaborative government and community stewardship
- On the Northwest Hawaiian Islands – it encompasses $\frac{3}{4}$ of the Hawaiian archipelago and runs from Nihoa to Kure Atoll. The Hawaii State Board of Land and Natural Resources approves the access process for the NWHI and is encouraging Native Hawaiian involvement in access and management processes.
- The government should actively seek integration with communities
- The Hawaii State Ocean Resource Management Plan (ORMP) focuses on being better stewards of the ocean by adopting the *ahupua’a* approach
- Work “Out of the Box”: invite cultural representatives on different boards/commissions in addition to the neighborhood boards. Each of these boards should integrate traditional methods into today’s principles.
- Hawaii should reflect our host culture – that makes us unique.

Federal Levels

- Traditional knowledge, *‘ike*, should be part of the consultation for management measures
- Ecosystem approach to fisheries management should be done through Fishery Ecosystem Plans
- The Magnuson Stevens Fishery Conservation and Management Act of 1976 promotes indigenous consultation and community integration
- Federal agencies must consult with communities and Native Hawaiian groups.

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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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LATE TESTIMONY

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February 4, 2008

The Honorable David M. Walker
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Walker:

I am writing to request that the Government Accountability Office investigate the expenditures of the Western Pacific Regional Fishery Management Council (WESPAC), one of eight regional fishery management councils established by the Magnuson Fishery Conservation Management Act of 1976.

In June 2007, a number of Hawaiian nonprofit organizations raised serious allegations regarding the inappropriate use of government funds and unethical conduct by WESPAC and its Executive Director.¹ More recently, credible sources have also contacted the Committee on Oversight and Government Reform to raise similar concerns about the conduct of WESPAC and its Executive Director.

Given the importance of ensuring that the regional fishery council tasked with managing an area of nearly 1.5 million square miles functions properly, the Committee asks that you undertake an investigation into WESPAC's expenditures to verify whether the council and its Executive Director are properly using and accounting for government funds.

¹ Pacific Fisheries Coalition, *Environmental & Cultural Organizations Call for WESPAC Congressional Hearing and the Resignation of WESPAC Director Kitty Simonds* (June 20, 2007).

LATE TESTIMONY

The Honorable David M. Walker
February 4, 2008
Page 2

Please coordinate this investigation with Erik Jones of the Committee staff at (202) 225-4407.

Sincerely,



Henry A. Waxman
Chairman

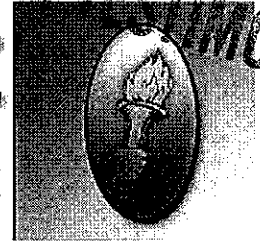
cc: Tom Davis
Ranking Minority Member



"E Paepae I Luna Loa I Ka Malamalama"
"Hold High the Light of Knowledge"

Pearl Harbor Hawaiian Civic Club
Chartered: April 16, 1964

LATE TESTIMONY



TESTIMONY OF
ANTOINETTE "TONI" LEE, PRESIDENT

**IN SUPPORT OF
SB 1108**

Senate Committee on Water, Land, Agriculture and Hawaiian Affairs (WTL)

February 18, 2008

Aloha Chair Hee, Vice-Chair Tokuda and Members of the Committee:

The members of the Pearl Harbor Hawaiian Civic Club strongly support SB 1108 and the Aha Kiole Advisory Committee.

The Pearl Harbor Hawaiian Civic Club is a member of the Association of Hawaiian Civic Clubs, and our Association has adopted resolutions since 2006 supporting the restoration of the Aha Moku concept as a resource management system. Several members of our club were involved in the puwalu series that lead to the development of this policy, and we continue to support the work done by the advisory committee. It is prudent to allow them the time to finish the process. We urge your committee to pass SB 1108 so the work can be completed.

Mahalo for this opportunity to testify on this measure.

LATE TESTIMONY

Testimony of:

Noa Napoleon
1750 Kalakaua Ave #103
Hon, HI 96815

In **Support** of SB 1108

Extends sunset date for Aha Kiole Advisory Councils

Hearing date: Feb 18, 2009
Time: 3:30 pm
Rm 229

Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs

The people empowered to organize the creation of a permanent cultural resource management council are doing a good job with the limited resources they have, and I applaud them for this.

I **support** the SB 1108 extending the sunset date of the Aha Kiole Advisory council to 2011.

Mahalo, Noa Napoleon

TESTIMONY

SB1108

LATE

(END)