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GOVERNOR OF HAWAII



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

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**Testimony of  
LAURA H. THIELEN  
Chairperson**

**Before the House Committees on  
HAWAIIAN AFFAIRS  
and  
WATER, LAND AND OCEAN RESOURCES**

**Wednesday, March 24, 2010  
10:30 am  
State Capitol, Conference Room 329**

**In consideration of  
HOUSE CONCURRENT RESOLUTION 331/HOUSE RESOLUTION 250 -  
REQUESTING THE STATE HISTORIC PRESERVATION DIVISION OF THE  
DEPARTMENT OF LAND AND NATURAL RESOURCES AND THE OFFICE OF  
HAWAIIAN AFFAIRS TO WORK TOGETHER TO ADDRESS AND CLARIFY THE  
TERM "BURIAL SITE"**

House Concurrent Resolution 331/House Resolution 250 requests that the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources (Department) and the Office of Hawaiian Affairs (OHA) work together to address and clarify the term "burial site". The Department respectfully suggests a more inclusive approach that is also fiscally achievable.

The Department suggests that the respective Island Burial Councils be tasked with taking testimony on this subject and that they provide SHPD and OHA with feedback. This topic is important to the Burial Councils, and they have the capacity and on-island presence to gather public input. The two agencies can then review the testimony and recommendations of the Island Burial Councils and provide a report to the Legislature.

To request SHPD conduct the outreach on its own, the Department would have to travel throughout the State and allow interested parties to provide testimony on the subject matter. The Department cannot afford such an unfunded mandate during a fiscal crisis. The Department notes that its general fund has been cut 32% over the past 3 years, special fund revenues have declined 35% over the past 3 years, and the Department has lost 80 positions in the recent Reduction-in-Force this past year. Any further cuts or additions of new unfunded mandates will

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CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

likely result in loss of staff and maintenance and operations of core departmental functions.

TO: Representative Mele Carroll, Chair  
House Committee on Hawaiian Affairs  
Representative Ken Ito, Chair  
House Committee on Water, Land & Ocean Resources

FROM: Sara L. Collins, Ph.D., Chair, Legislative Committee  
Society for Hawaiian Archaeology  
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HEARING: March 24, 2010, 10:30 AM, House Conference Room 329

SUBJECT: Testimony Providing Comments on HCR 331 and HR 250, Requesting the State Historic Preservation Division of the Department of Land and Natural Resources and the Office of Hawaiian Affairs to Work Together to Address and Clarify the Term "Burial Site"

I am Dr. Sara Collins, Chair of the Legislative Committee of the Society for Hawaiian Archaeology (SHA). We have over 200 members that include professional archaeologists and advocates of historic preservation in general. We wish to provide comments on HCR 331 and HR 250, resolutions that request the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources (DLNR) to work with the Office of Hawaiian Affairs (OHA) to address and clarify the term "burial site." In particular, both measures identify the occurrence of burials in caves or lava tubes as a focus of the requested investigation. We provide the following comments.

We believe the tasks requested in the resolution would be more beneficial if they did not focus primarily on burial sites within caves or lava tubes but instead approached the issues from a broader perspective. We are concerned that a focus on burials found in caves and lava tubes may also serve to create a separate class of burial sites based on context. This would make it difficult for the department to apply and enforce the law consistently. Any change to the existing definition in §6E-2 should apply to **all** burials, not just one type of burial. We believe that it would be more useful for the joint SHPD-OHA working group to look at the definition of burial sites in general and also evaluate related issues such as the meanings of phrases like "single burial," "concentration of burials," "previously identified burial," and "inadvertently discovered burial" currently found in the law and regulations.

An additional factor complicating the definition of burial sites in cave or lava tubes is that cave and lava tubes often served multiple functions. Many of our members have considerable experience in recording and documenting caves and lava tubes in Hawaii. In pre-Contact times, the Hawaiian people used these geological features as places of refuge, habitation, food preparation and consumption, and burial. Evidence is often found of more than one type of activity at the same or adjacent locales within a cave or lava tube system. Thus, the requested study should include archaeological data on historic burial sites in general as well as burials found in caves or lava tubes. While we understand the desire to furnish greater protection to burials in caves and lava tubes, we believe that such a study would yield sounder results if its focus were broader.

If the requested study considers archaeological data in combination with cultural information, we believe that a study such as the one requested of SHPD and OHA could be beneficial if it produced a definition of "burial site" that both protected **all** burial sites and provided for a clear understanding of what they are and where they are found. Clear definitions for the types of "burial sites" found in Hawai'i will also lead to more timely recognition of them and more effective enforcement capabilities.

Thank you for the opportunity to testify. Should you have any questions, please feel free to contact me at the above email address.