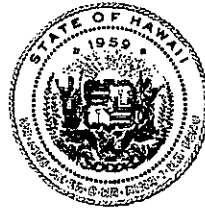
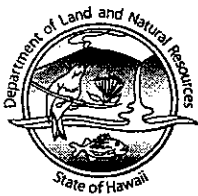


NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the House Committee on
FINANCE**

**Monday, February 27, 2012
10:00 AM
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 2806, HOUSE DRAFT 1
RELATING TO NATIVE HAWAIIANS**

House Bill 2806, House Draft 1 proposes to create an aha moku advisory committee within the Department of Land and Natural Resources (Department) to advise the Chairperson of the Department on the application of best management practices as they relate natural resources management with traditional practices and knowledge. The Department acknowledges the intent of the bill but prefers Senate Bill 3053, Senate Draft 1 (RELATING TO NATIVE HAWAIIANS) which proposes to establish an aha moku advisory committee within the Office of Hawaiian Affairs (OHA) to advise the chairperson of the Board of Trustees of OHA on matters related to land and natural resources management through the aha moku system.

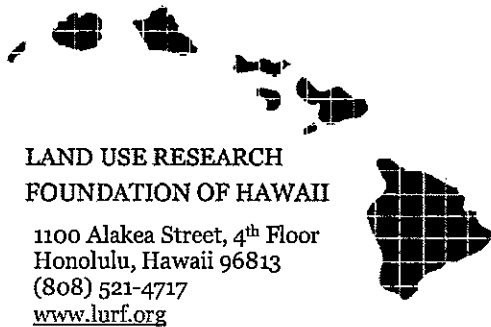
Thank you for the opportunity to provide comments on this measure.

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
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



February 26, 2012

Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair
House Committee on Finance

Comments and Concerns and Opposition to the current form of HB 2806 Aha Moku Advisory Committee (Establishes Aha Moku Advisory Committee within DLNR; which may advise the BLNR Chairperson; appropriates \$153,000 for necessary expenses, including travel and hiring an executive director)

Monday, February 27, 2012, 10:00 a.m., in Senate Conference Room 308

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF opposes the current form of this bill, however, we recommend that the *Aha Moku* Advisory Committee is best suited for the Office of Hawaiian Affairs (OHA), rather than in the Department of Land and Natural Resources (DLNR), since the purpose of creating the *Aha Moku* Advisory Committee is similar to the purpose for which the OHA was created. Such an amendment would be consistent with the companion bill SB 3053, SD1.

HB 2806, HD1. This bill establishes an *Aha Moku* Advisory Committee within the Department of Land and Natural Resources ("DLNR"), which may advise the Board of Land and Natural Resources ("BLNR") Chair in carrying out the purposes of Hawaii Revised Statutes ("HRS") Chapter 171. The BLNR Chair also has a special "oversight" relationship with the *Aha Moku* Advisory Committee, which will consist of eight members appointed by the Governor and confirmed by the Senate from a list of nominations submitted only by the *Aha Moku* Councils of each island (a nomination process which appears to be by private special interest groups, without the benefit of a public process or the Sunshine Law). The measure also includes a general fund appropriation of \$153,000 or so much thereof as may be necessary for fiscal year 2012-2013 for the administrative costs related to carrying out its duties; its members shall be reimbursed for necessary expenses, including travel expenses and it may use State funds to hire its own executive director, who shall be exempt from HRS Chapter 76.

LURF's Position. LURF believes that the bill is well-intended, and **supports the intent of HB 2806, HD1**, which is to provide BLNR with the knowledge of traditional Native Hawaiian *Aha Moku* resource management practices. However, **LURF has serious concerns, comments and recommendations**, thus, at this time; LURF must **oppose the current**

version of HB 2806, HD1. LURF would, however, **support amendments** which would either:

- (a) Place the *Aha Moku* Advisory Committee within the Office of Hawaiian Affairs (“OHA”), perhaps as part of the existing OHA *Hui Imi* Advisory Council, and allow some additional funding for OHA, or
- (b) Create the *Aha Moku* Advisory Committee within DLNR; and at the same time, also create other “advisory committees” within DLNR to advise the BLNR Chair, and afford each advisory committee comprised of special interest groups who are directly affected by BLNR’s actions relating to HRS Chapter 171, including, but not limited to special interest groups in the areas of agriculture, ranching, aquaculture, fishing, hunting, water use, land use, tourism, housing, education, business, military, renewable energy, sustainability, genetic modification, high technology and climate change. These other advisory committees within DLNR should have the same rights, privileges and \$153,000 in State appropriations as the *Aha Moku* Advisory Committee.

LURF’s Concerns. The first major concern is that the current version of HB 2806, HD1 would have the effect of creating and favoring a special class, and providing favorable treatment, special rights and privileges, including monetary reimbursement payments, only to one special interest group, thereby rendering the measure unconstitutional. The present version of HB 2806, HD1 would create a “**quasi-private entity funded by taxpayers with none of the necessary statutory and administrative requirements.**”

LURF believes the laws enacted by our Legislature must rightly support the free speech and equal protection rights of all citizens, special interest, industry groups and stakeholders groups who may also wish to provide advice to the BLNR Chair relating to the broad spectrum of subject matter areas relating to land and natural resource management, despite such advice being potentially contrary to the advice provided by the *Aha Moku* Advisory Committee.

LURF therefore respectfully requests that this bill be **held, or amended**, based on the following serious concerns regarding the constitutionality, organization and operation of HB 2806, HD1:

1. **The bill constitutes an unconstitutional “Special Law”** creating and favoring a special class limited to a “class of one” and providing favorable treatment, special rights, privileges, the ability to hire its own executive director using state funds and the state reimbursement of necessary expenses to only one special interest group, the *Aha Moku* Advisory Committee. See *Sierra Club v. Department of Transportation*, 120 Haw. 181, 202 P.3d 1226 (2009) (*Superferry* case). No other special interest group, including other Hawaiian or Native Hawaiian groups, would have the same special relationship with the BLNR Chair, preferential treatment, special rights and State funding.
2. **The bill violates the equal protection clause, due process and free speech rights of the U.S. Constitution** by granting favorable treatment, special rights, privileges, including hiring an executive director and monetary reimbursements, to only one special interest group. Meanwhile, other citizens, special interest groups, industry groups and stakeholders wishing to render advice to the BLNR Chair which is different from or contrary to the advice given by *Aha Moku* Advisory Committee, are not afforded the same favorable treatment, special rights, privileges and State funding. HB 2806, HD1 thus seriously

discriminates against groups which possess views which may be different from those held by the *Aha Moku* Advisory Committee, and raises critical constitutional free speech issues.

3. **The bill may violate the separation of powers doctrine.** The bill appears to be a questionable attempt by the *legislative branch* of government to illegally compel the DLNR, which is a constituent of the *executive branch* of government, to grant a single special interest group (the *Aha Moku* Advisory Committee), favorable treatment, special rights, privileges and state funding.
4. **Instead of creating a new *Aha Moku* Advisory Committee within DLNR, which may result in a duplication of efforts, or conflict with OHA and its *Hui 'Imi* Advisory Council – the best place for the *Aha Moku* Advisory Committee might be within OHA.** Pursuant to HRS §10-3, OHA serves as “the principle public agency in the State responsible for the performance, development, and coordination of programs and activities relating to Native Hawaiians and Hawaiians.” Also, OHA’s purposes includes, “Assessing the policies and practices of other agencies impacting on native Hawaiians and Hawaiians, and conducting advocacy efforts for Native Hawaiians and Hawaiians.” HRS §10-3(4).

In fact, the efforts to create an *Aha Moku* Advisory Committee are very similar to the background of OHA’s current *Hui 'Imi* Advisory Council.

OHA’s *Hui 'Imi* Advisory Council can be traced back to the adoption of SCR 106, SD1 (1989), which called for the creation of a task force to examine the provision of services to Hawaiians...and make findings and recommendations concerning the coordination of public and private services available to Hawaiians in the areas of education, economic development, housing, employment, medicine, law, cultural issues, and social service issues.” The Task Force, composed of eighteen public and private sector groups, was named the *Hui 'Imi* Task Force for Hawaiian Services (“Task Force”). In 1991, the Task Force delivered to the legislature its report volumes I and II, which included its findings and thirty-nine recommendations, at which time the formal legislative authorization of the Task Force ended. Nevertheless, the dedicated members of the Task Force continued to work together informally to address a variety of issues relating to the delivery of social services to Native Hawaiians.

In 1997, the Legislature passed Act 376, which temporarily reauthorized the Task Force as the "*Hui 'Imi* Advisory Council," and placed it within the Department of Accounting and General Services for administrative purposes only. Act 376 (1997) specifically provided that “Members shall serve without compensation and without reimbursement for expense, including travel expenses, necessary for the performance of their duties.”

In 2003, pursuant to Act 42, the Legislature found that the work of the *Hui 'Imi* Advisory Council was a valuable resource to the State and the Native Hawaiian community, by serving as a forum in which ideas and concerns relating to human services issues important to Hawaiians may be expressed and shared among the public and private agencies involved in the delivery of those services to the native Hawaiian community. Accordingly, Act 42 (2003) made the *Hui 'Imi* Advisory Council permanent and placed it within OHA for administrative purposes only. Pursuant to HRS §10-18, the *Hui 'Imi* Advisory Council serves “as a liaison between public and private entities serving the Hawaiian community in the planning and development of collaborative public and private endeavors.”

As noted above, the proposed *Aha Moku* Advisory Committee is consistent with the statutory purpose and responsibilities of OHA and its *Hui 'Imi* Advisory Council. Thus, the creation of the *Aha Moku* Advisory Committee within DLNR may be duplicative with, or maybe even in conflict with OHA and its *Hui 'Imi* Advisory Council. Given the possible duplication, conflict and fiscal challenges, perhaps the most prudent recommendation would be for the proposed *Aha Moku* Advisory Committee to be placed within OHA, either as part of the *Hui 'Imi* Advisory Council, or as a separate advisory body within OHA.

5. **The bill lacks the necessary statutory and administrative provisions and requirements.** The bill provides that “oversight” of the *Aha Moku* Advisory Committee shall be by the BLNR Chair; however, it does not provide any explanation of what that “oversight” may be. HB 2806, HD1 lacks the following basic administrative provisions:
- No requirement that its meetings or advice to the BLNR Chairperson be subject to the public notice and hearing provisions of Chapter 91;
 - No defined terms of office or term limits of committee members;
 - No details regarding the organization of the committee, officers, meetings, quorum and notice;
 - No standards, criteria or process relating to the establishment of a salary for the executive director;
 - No standards, criteria or process for the appointment, term of employment, evaluation, or removal of its executive director;
 - No process or procedure relating to its authority or process for handling appropriations, deposits, creating a separate account within DLNR for the committee (or the comingling of funds), power to deposit moneys in any banking institution within or outside the State, disbursements and paying vouchers, performance of the payroll function for its executive director;
 - No process or procedure relating to budget preparation, submission, or auditing;
 - While the bill provides for an annual report to the Legislature and BLNR Chairperson, it lacks any details regarding legislative review of the committee’s program, financial plan, evaluation of the committee’s recommendations, and the appropriation of future general funds;
 - No provision for an audit by the state auditor and follow-up report on the findings and recommendations of the auditor; and
 - No provision relating to whether the *Aha Moku* Advisory Committee may sue or be sued, or whether the State will be liable for the acts or omissions of the committee, its members or executive director.

For the above reasons, at this time, LURF respectfully requests that this Committee **hold, or amend HB 2806, HD1**. As stated above, LURF would **support and amendment of HB2806, HB1**, which would either: (a) place the *Aha Moku* Advisory Committee within OHA, together with some funding (instead of within DLNR), or (b) create other “advisory committees” comprised of special interest groups who are all directly affected by BLNR’s actions relating to HRS Chapter 171, (relating to agriculture, ranching, aquaculture, fishing, hunting, water, tourism, housing, education, business, military, land use, renewable energy, sustainability, genetic modification, high technology, etc.), and afford each of those special interest groups the same rights, privileges and state funding as the *Aha Moku* Advisory Committee.

Thank you for your consideration, and the opportunity to present LURF’s comments, concerns and suggested amendments relating to this measure.



O`ahu Council
Association of Hawaiian Civic Clubs
P. O. Box 37874
Honolulu, HI 96837-1122

Feb. 28, 2012

TO: Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair
& Members
House Committee on Finance

FROM: Mahealani Cypher, President
O`ahu Council, Association of Hawaiian Civic Clubs

RE: H.B. 2806, H.D. 1, Relating to Native Hawaiians

Aloha, Chair Oshiro, Vice Chair Lee, and Committee Members:

The O`ahu Council of the Association of Hawaiian Civic Clubs urges your support and passage of House Bill 2806, House Draft 1, relating to the establishment of the Aha Moku Advisory Committee to advise the State of Hawai`i on Native Hawaiian cultural practices and approaches to wise management of the natural and cultural resources of our islands.

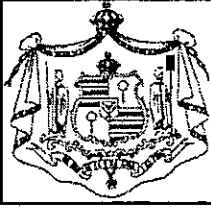
Our Council is comprised of 25 Hawaiian Civic Clubs from throughout the island of O`ahu, and our members are deeply concerned about the kinds of rules and regulations that govern our `aina and kai. Often, some rules don't make sense and run counter to what works better for our environment or cultural resources. It is our view that Hawaiian ways of caring for the land and waters were very effective in sustaining the large population that thrived here in the islands for centuries before Western contact.

This advisory committee of practitioners bring with them many generations of knowledge about careful and prudent resource management, and no doubt will prove an asset and help to those government agencies that promulgate rules, regulations and laws regarding resource protection and management.

We ask your kokua and vote in favor of reporting this bill out of committee and, soon, into law.

Mahalo for this opportunity to share our mana`o with you.

Mahealani Cypher



Association of Hawaiian Civic Clubs

P. O. Box 1135
Honolulu, Hawai'i 96807

HOUSE BILL 2806, HD1(HSCR247-12) RELATING TO NATIVE HAWAIIANS

HOUSE COMMITTEE ON FINANCE
Monday; February 27, 2012; Rm. 308

Aloha Chairman Oshiro, Vice Chair Lee and members of the House Finance Committee.

The Association of Hawaiian Civic Clubs has supported the Aha Moku Advisory Council since its inception following several conferences on Native Hawaiian cultural practitioners and indigenous resource management practices as related to Hawaii's natural resources. We have supported HB2806HD1 in its various forms as it made its way through the legislative maze, and we continue to support it today.

We also support the amendment to increase the council membership from eight to nine members.

Thank you for the opportunity to testify and urge passage of this bill.

Contact: jalna.keala2@hawaiiantel.net



Ko`olau Foundation

P. O. Box 4749, Kane`ohe, HI 96744

Ph. (808) 218-4915

February 27, 2012

Rep. Marcus Oshiro, Chair
& Members
House Finance Committee
State Capitol
Honolulu, HI 96813

Re: H.B. 2806, H.D. 1, Relating to Native Hawaiians

Aloha, Chair Oshiro and Members of the Committee,

My name is Leialoha "Rocky" Kaluhiwa. I would like to testify on behalf of the Ko`olau Foundation in strong support of H.B. 2806, House Draft 1, which would establish an Aha Moku Advisory Committee to assist the state in a process to integrate Hawaiian cultural practices into rules and regulations governing land, water and cultural resources.

We were disappointed when the law regarding the Aha Moku system was allowed to sunset. However, we are encouraged by this legislation, and hope you will consider it favorably.

This new advisory committee would be housed in the Department of Land and Natural Resources. We have two specific comments about the bill:

- 1) The burial councils already have kuleana for iwi kupuna – and that responsibility should remain with them and not be part of this advisory committee's work.
- 2) For more than two decades now, the Kane`ohe Bay Master Plan has been sitting in the Department of Land and Natural Resources – a plan that took more than 1,500 hours of work involving both practitioners and the general community and stakeholders. It was a plan to maintain and sustain the life of Kane`ohe bay. The act became law in the 1990's, a law that until today has not been complied with by the department.

Our Hawaiians planned for seven generations with our food and sustainability. In today's world, our Native Hawaiians' plans have to go through this bureaucracy to stay afloat.

That is why I feel we need this legislation, and we need this formal connection and relationship between the DLNR and our Native Hawaiian practitioners. Otherwise, the director of the department will feel like he can only listen to the Western way of making rules, and may not be able to give equal weight to the mana`o and recommendations of Native practitioners.

My plea to you is to pass this bill, with the amendment I suggested, for the betterment of the Hawaiian people and for our entire State of Hawai'i.

Mahalo for allowing me to offer my testimony.

Sincerely,

/s/ LEIALOHA KALUHIWA

LEIALOHA KALUHIWA
Member, Board of Directors



Vanda Hanakahi, Aha Moku Advisory Committee

TESTIMONY IN SUPPORT

OF HB 2806

RELATING TO NATIVE HAWAIIAN ROLL COMMISSION

House Committee on Finance
House Committee on Legislative Management

Monday, Feb.27, 2012, 10:00 a.m., Rm 308

Submitted by: Vanda Hanakahi, Moloka'i, Chair, on behalf of the other members of the Aha Moku Advisory Committee and the 43 moku from each of the main Hawaiian Islands that they represent: Leslie Kuloloio, Kahoolawe; Ke'eaumoku Kapu, Maui; Winifred Basques, Lana'i; Pi'ilani Kaawaloa, Hawaii; Charles Kapua and Rocky Kaluhiwa, O'ahu; Sharon Pomroy, Kaua'i; and Keith and Bruce Robinson, Konohiki, Ni'ihau.

Aloha Chair Oshiro, Vice Chair Lee and Members of the House Committee on Finance; and Chair Yamashita, Vice Chair Tokioka and Members of the Legislative Management Committee:

Thank you for the opportunity to testify in strong support of H.B. 2806, the bill relating to Native Hawaii's and one that establishes the Aha Moku Advisory Committee within the Board of Land and Natural Resources.

The purpose of H.B. 2806 is to complete the purpose of Act 212, the Aha Moku Bill which passed the legislature unanimously into law in 2007. Its intent is two-fold: First, to integrate the Native Hawaiian cultural and traditional values into the fabric of state policy; and Second, to address the severe changes to the physical and cultural landscape accumulated over the past 200 years in the State of Hawai'i which were responsible for the deterioration of the natural resources, our unique ecosystem as well as the Hawaiian culture.

The Aha Moku System is the restoration of the Native Hawaiian land and ocean tenure system that dates back to the 9th century, prior to the arrival of Paa. This is the system that was responsible for the sustainability of the natural and cultural resources of the people. It is a site-specific process and its practices were honed through countless generations of native practitioners whose sole purpose is to sustain and perpetuate the resources upon which the people were and continue to be dependent upon. This system is simple, yet sophisticated, is based upon the scientific observations of expert resource managers, and is flexible enough to allow for natural and unexpected changes within the environment.

Aha Moku Testimony

House Committees on Finance and Legislative Management,

February 27, 2012

There are 567 traditional ahupua'a within the State of Hawai'i, and they comprise the 43 moku or larger land districts on each island. Each ahupua'a and each moku are geographically different and unique in their resources. Because of this distinction, it has come to light over the past decades that the western method of having one law that manages such diverse geography within eight islands does not work. For example, when the lobster season is open in the state, the lobsters are actually spawning on the south side of the Island of Hawai'i. The moku system allows for community participation and sharing of knowledge within each different ahupua'a.

For the first time in history, the Native Hawaiian people are striving to work within the Hawaii State System to share their generational and empirical knowledge of Hawaii's natural resources in a unified effort to stem the on-going deterioration of our state's natural assets. This effort has the wide-spread support of the general public as well as active participation of the kanaka maoli. However, this can only be done through direct collaboration between the native people and state agencies that ensures trust and cooperation. We believe that initiating the Aha Moku System into state policy through the Board of Land and Natural Resources will begin the process of halting the degeneration of our ecosystem, perpetuate the Hawaiian culture, and ensure the protection of our unique environment for all of Hawaii for future generations. Everyone will benefit from this.

We urge the passage of H.B. 2806

Mahalo nui loa!

Vanda Hanakahi, Chair, Moloka'i

Aha Moku Advisory Committee

P.O. Box 507, Ho'olehua, HI 96729

Phone: 808-646-1487

Email: kaiwilauula@yahoo.com

Testimony of Leimana DaMate

IN SUPPORT OF HB 2806

RELATING TO NATIVE HAWAIIANS

House Committee on Finance

Monday, Feb.27, 2012, 10 a.m., Rm 308

Aloha Chair Oshiro, Vice Chair Lee and Members of the Finance Committee, and Chair Yamashita, Vice Chair Tokioka and Members of the Legislative Management Committee,

Thank you for the opportunity to testify in support of HB 2806 relating to Native Hawaiians which establishes the aha moku advisory committee within the Department of Land and Natural Resources. This bill is the result of many years of community consultation and effort to integrate Native Hawaiian traditional and generational resource methodology into Hawaii State Policy. For the first time since the overthrow of the Hawaiian Kingdom in 1893, our Hawaiian lawai'a (fishermen) and mahi'ai (farmers) have come forward as a unified group to offer their expert knowledge, experience and willingness to advise the State of Hawai'i on integrating this knowledge into the fabric of state policy.

This in itself is historical because throughout the renaissance and re-emergence of the Hawaiian culture throughout the past decades, important components such as language and hula have been the focus. However, it has always been known that the foundation of the Hawaiian people is the natural and cultural resources. And, because Hawaiians are so indivisibly connected to their 'aina and kai, land and ocean, they cannot be separated. This connection will help all of us who live in and love Hawaii continue to enjoy our resources. Hawaiians, in their moku and ahupua'a, can now advise the policy makers in land and ocean resources on best practices for specific sites. This has never been done before.

For the past seven years, our kupuna and moku representatives have been striving to offer their expert knowledge on resource management to the State of Hawaii through our legislators and agencies. Many of the state and county agencies have already begun to incorporate aspects of the ahupua'a system in their individual divisions through information gleaned from our annual legislative reports, the seven statewide puwalu that were held and countless community and public meetings – but it is being done without the formal participation of the Hawaiian people.

In 2007 and 2011, bills were introduced and unanimously passed by our legislature. While these efforts have been accepted and acknowledged through the passage of Act 212 in 2007, Governor Abercrombie expressed concerns in 2011 and as a result, the bill was vetoed until those issues could be addressed. Those concerns were answered through meetings and collaborations with the Department of Land and Natural Resources, the Office of Hawaiian Affairs and legislators.

As a result, HB 2806 contains the necessary amendments that we believe satisfies the governors concerns.

I live in my ancestral lands in the ahupua'a of Kahuku, moku of Ka'u, mokupuni (island) of Moku O Keawe (Hawai'i) where my 'ohana continues to practice traditional resource methodology in protecting and preserving our environment and ecosystem. It is the same now, as it has been for countless generations. You can come to Ka'u and know that what you see is what our ancestors saw. It is what we want our grandchildren and their grandchildren to see -- a pristine and beautiful land teeming with plentiful resources to sustain all of us. This is one small part of HB 2806 -- it is repeated over and over again throughout the traditional 43 moku of Hawaii.

Please accept the traditional knowledge on sustaining our resources that is offered to our state. Please pass H.B. 2806.

Mahalo,

Leimana DaMate

Phone: 808-497-080, Email: Leimana@fastnethi.com

Thomas T Shirai Jr
P O Box 601
Waiialua, HI 96791
Email: Kawaihapai@hawaii.rr.com

February 26, 2012

HOUSE COMMITTEE ON FINANCE (FIN)
Rep Marcus Oshiro, Chair
Rep Marilyn Lee, Vice Chair

Notice of Hearing

DATE: Monday, February 27, 2012
TIME: 10:00AM
PLACE: Conference Room 308

RE: Testimony OPPOSING HB 2806 HD1 (Relating to Native Hawaiians)

Aloha Chair Oshiro, Vice Chair Lee & Committee Members,
My name is Thomas T Shirai Jr and testifying as an individual. I serve on several current Community and Cultural entities such as the *North Shore Neighborhood Board 27 (Sub-District 1 – Mokule'ia to Ka'ena)*, *Ka'ena Point Advisory Group (Cultural Delegate)* and *Mokule'ia Community Association (MCA)* as *Cultural Advisor*. I'm also *Po'o* of the *Kawaihapai Ohana* which is recognized by *The Department of Interior (DOI)* thru their *Office of Hawaiian Relations* (<http://www.doi.gov/ohr/nativehawaiians/list.cfm>) as a *Native Hawaiian Organization (NHO)*. Most noteworthy is recognition by the *State Historic Preservation Division (SHPD)* as a *Lineal Descendant* twice (*Ahupua'a of Kawaihapai and Paalaa-Kai*) along with other *Cultural Descendancy* for specific geographical areas within *Waiialua Moku*. These recognitions are for caring of specific matters regarding *Malama Iwi Kupuna*. Lastly my *Kupuna* were *Cultural Informants of Waiialua Moku* for *Bishop Museum*. They were featured in *Bishop Museum Publications* entitled *Archeology of Oahu (McAllister-1933)* and *The Hawaiian Planter (Handy-1940)*.

The Ahupua'a of Kawaihapai is situated on the *Northwest Coastline of Waiialua Moku* here on the *Island of Oahu*.

Having shared some of my background, I strongly oppose HB 2806 HD1 because it impedes on established *kuleana* with applicable entities at the grassroots addressing cultural and community concerns of a specific geographical area which includes *State Boards & Commissions* which includes *Island Burial Councils* and *The Environmental Council* or *City & County* entities such as *Neighborhood Boards* here on *Oahu*. Furthermore, it dilutes others with similarity sharing information what would be *Huna (Confidential)* for protection of specific and sensitive cultural matters. I strongly advocate for the preservation of a *Recognized Lineal Descendant*

Thomas T Shirai Jr

Page 2

in protection of *Iwi Kupuna* at the *State Level (Chapter 6E)* and *Federal Level (NAGPRA – Native American Graves Protection Act – Chapter 106)*.

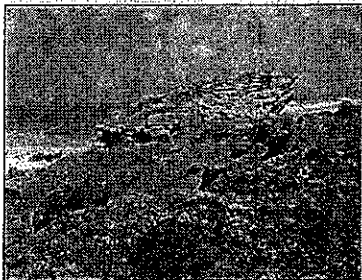
Examples of grassroots coordination here in *Waiialua Moku* is ongoing restoration for *Ka'ena State Park* and the *Ka'ena Natural Area Reserve (NAR)*. The *Mokule'ia Community Association (MCA)* along with support from the *North Shore Neighborhood Board 27* was able to coordinate participation from the *US Army 25th Infantry Division* stationed at *Schofield Barracks* to successfully remove numerous derelict vehicles and trash debris resulting in large tonnage from the *Ahupua'a of Ka'ena*. This was accomplished thru usage of the Army's Chinook Helicopters, flatbed trucks and workforce of garrison working alongside our community members. This was done approximately 15 years ago. Recently a *Predator Proof Fence* was built within the *Ka'ena Natural Area Reserve (NAR)* (<http://restorekaena.org/gallery-videos.html>) which complements an established *Bottom Fish Restricted Fishing Area (BRAFA)* offshore of the *NARS*. Recently, *Interpretive Signs* were installed for educational purposes that adds to the protection of *Leina Ka Uhane (departure point of our ancestors to the after life)* which is the most significant cultural site also located within the *NARS*. Our community continues to have an established and respectable relationship with the Army, legislators at all levels and the *Department of Land & Natural Resources (DLNR)* thru the *Ka'ena Point Advisory Group (KPAG)* to achieve our optimum of *Malama Ka'ena*. It's not necessary to create another entity which will further delay, disrupt or remove decision making out of a specific geographical area.

Although the intent of *HB 2806 HD1* is noted it's not needed especially in regards to our State's economy. Funding *DOCARE* is more appropriate because part of *Malama Aina* is enforcement of rules and regulations.

This measure was created *By Request (BR)* originating from a special interest group(s) which were not active previously during my tenure as a *State Commissioner* serving on the *Oahu Island Burial Council (OIBC)* as *Waiialua Moku Regional Representative (2000-04)* and a resident of this area. Keep things simple and at the grassroots level which is a lot more effective.

Thank you for the opportunity to provide testimony strongly opposing *HB 2806 HD1*. *Malama Pono*.

Thomas T Shirai Jr
Mokule'ia, Waiialua

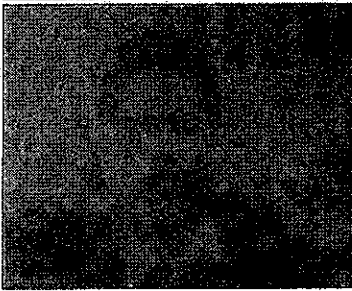
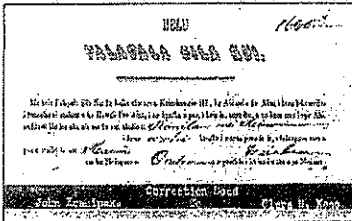


Aloha Chuck,

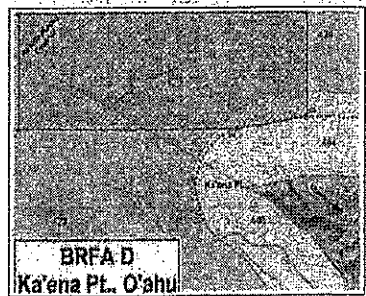
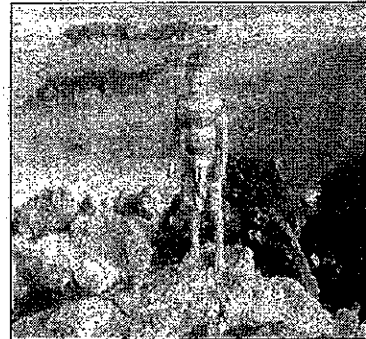
In the December 2006 issue, Hawaii Fishing News featured an article I wrote about Ka'ena Point and my family's legacy. Included are pictures from my photo album taken in 1968 when my Grandparents (David & Abigail Keao) and I were also accompanied by my Father (Thomas Shirai) on this holoholo to Ka'ena. The primary seafood subsistence area that my Grandparents would go to was located on Ohona Aina situated at the tip of Ka'ena. That parcel dates back to *The Mahele* (Grant 1665) when my Grandpa's Kupuna owned a portion of it and continued until World War II when the US Military condemned parcels such as this one to established their installations and training areas. After WWII ended *aina* (land) such as this was to revert back to owners however, many never did.

Regardless of this, my Grandparents continued to frequent there for subsistence purposes after my birth. These photos were taken in 1968 and a few years later, we stopped going to Ka'ena due to increased recreational and subsistence usage and along with the lack of stewardship such as conservation that defeating the concept of *Malama Aina*. Among the subsistence affected is gathering and making *paakai* (sea salt). In recent years entities such as the *Mokule'ia Community Association* have been a tremendous part of clearing *Opala* from this *Wahi Pana*.

Today this parcel is now known as the *Ka'ena Natural Area Reserve (NAR)* where *Wildlife (Flora and Fauna)* are protected. Gone are those memoirs of abundant seafood subsistence and vehicular transiting to *Keawaula* and the *Waianae Coastline* due to erosion of the road years ago which was part of the *O R & L* train track. The *Natural Area Reserve* also protects several cultural sites within it which includes *Leina Ka Uhane* and *Fishing Ko'a* (shrines) for the once abundant subsistence. Off Shore of the NARS, is an established *Bottom Fish Restricted Fishing Area (BFRA - A)*. The *Ka'ena Natural Area Reserve Predator-Proof Fencing Project* will give this area of *Ka'ena Ahupua'a* the afforded protection it is highly deserving of.



Information including a video about this project can be found on the *Department of Land & Natural Resources (DLNR)* website: <<http://www.restorekaena.org/gallery-videos.html>>



Thank you for the opportunity to share some of my *Ohana* legacy and *mana'o*. *Malama Ka'ena.*
Thomas T Shirai Jr.
Mokule'ia, Waialua

Honolulu Advertiser
Letter to Editor
August 20, 2004

Don't build Ka'ena Point road

We are writing in response to the letters by Mr. Hans Kealoha Wedemeyer (June 24) and Mr. Bradley A. Coates (July 6) advocating that a road be built around Ka'ena Point. We would like to make several points in opposition to this recommendation:

From the Office of State Planning Land Use Division's Subregional Land Use Plan: Mokule'ia to Ka'ena: "All shorefront lands from the western end of the Crozier Drive urban district to Ka'ena, all foothills mauka to the top of the cliffs, and all lands westward from Dillingham (Kawaihapai) airfield. These lands would be used for park purposes, forest recreation, or preserved for their natural values and wildland and scenic qualities. ... Uses in this zone should be compatible with the wildland character. Any structures or clearings should be related to enhancing outdoor recreation uses in a natural or wildland setting. Urban uses would not be compatible in this zone and should not be expanded. A paved highway around Ka'ena Point would not be allowed."

The Central O'ahu/North Shore Regional Plan also states that a paved highway around Ka'ena Point would not be allowed.

From the North Shore Sustainable Communities Plan: "Protect the natural resources of Ka'ena Point from potentially damaging vehicular traffic and roadway development."

From the Wai'anae Sustainable Communities Plan: "Preservation of lands north of Kepuhi Point as open-space lands." In addition, while the plan acknowledges the need for another access road, it never suggests a road around Ka'ena Point as an option.

Ka'ena Point is culturally sacred to the Hawaiian people as the place where souls leave this world and enter the next. There are many cultural remains in the cliff-sides and down toward the beach. To build a road in this area would amount to sacrilege and desecration.

Ka'ena Point is a federally recognized and protected natural reserve and, as such, is part of the the Hawai'i Natural Areas Reserve System. It is also a state park. Any road would endanger the area's ecosystem.

In the 2000 legislative session (SCR 160), it was determined by the Department of Transportation that it would cost at least \$500 million to build such a road around Ka'ena Point. Four years later, the cost probably would be at least a third higher. Bottom line: It could cost at least half the entire state operating budget to build such a road.

There is an entire community on the other side of Ka'ena Point that both letter writers have failed to take into consideration with their support of this idea. They never asked the Mokule'ia community what we think of this idea, which would have a major impact on our agricultural, conservation and open-land policies, as well as our country lifestyle and quality of life.

For all the foregoing reasons, we strongly oppose the recommendation for a road around Ka'ena Point, and we will be monitoring this issue very carefully in the future.

Mike Dailey, Vicky and Kimo Lyman, Kathleen M. Pahinui, Lloyd O'Sullivan, Stewart Ring and Thomas Shirai

Mokule'ia residents

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 26, 2012 3:26 PM
To: FINTestimony
Cc: Kitty@mac.com
Subject: Testimony for HB2806 on 2/27/2012 10:00:00 AM

Testimony for FIN 2/27/2012 10:00:00 AM HB2806

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: Kitty M. Simonds
Organization: Maunalua Hawaiian Civic Club
E-mail: Kitty@mac.com
Submitted on: 2/26/2012

Comments: