

TESTIMONY

HB 509

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

ESTHER KIA'AINA
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

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

**Before the Senate Committees on
WATER AND LAND
and
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS**

**Thursday, March 21, 2013
2:15 PM
State Capitol, Conference Room 225**

**In consideration of
HOUSE BILL 509, HOUSE DRAFT 2
RELATING TO RELATING TO MAKUA VALLEY**

House Bill 509, House Draft 2 proposes to establish the Makua Valley Reserve Commission to oversee control and management of Makua Valley on Oahu. **The Department of Land and Natural Resources (Department) supports this measure with comments.**

The Department believes that Makua Valley (Valley) is rich in natural and cultural resources and finds that the creation of a Commission provides a sensitive approach to appropriately managing the Valley. The Department further believes that natural resource management should be adequately represented on the Commission. Makua Valley, particularly the side valleys and ridges, is rich in native Hawaiian species, many of which are listed as state and federal threatened and endangered species.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEES ON WATER AND LAND AND
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS
ON
HOUSE BILL NO. 509, H.D. 2

March 21, 2013

RELATING TO MAKUA VALLEY

House Bill No. 509, H.D. 2, establishes: the Makua Valley Reserve Commission (Commission) to oversee preservation and restoration activities in Makua Valley on Oahu and the Makua Valley Rehabilitation Trust Fund. The Commission would consist of seven members appointed by the Governor and confirmed by the Senate. The members will not be compensated for their service but will be reimbursed from the trust fund for necessary expenses, including travel expenses. The bill also enables the Commission to utilize the moneys in the trust fund to hire employees, including an executive director, to carry out the purposes of this new commission.

The Department of Budget and Finance has concerns with this bill.

The establishment of a trust fund requires a significant level of accountability and financial structure to ensure that funds are managed to the fiduciary standards and trust objectives. Moreover, it is unclear if this new trust fund will generate sufficient revenues to support all of the fiduciary obligations of the Commission.



HB509 HD2
RELATING TO MAKUA VALLEY
Senate Committees on Water and Land and
Public Safety, Intergovernmental and Military Affairs

March 21, 2013

2:15 p.m.

Room 225

The Office of Hawaiian Affairs (OHA) **SUPPORTS WITH AMENDMENTS** HB509 HD2, which would establish the Mākua Valley Reserve Commission to facilitate and oversee the transfer, restoration, and management of Mākua Valley on the island of O‘ahu.

This bill will facilitate the rehabilitation, protection, and management of cherished Mākua Valley on the Wai‘ānae coast of O‘ahu. Mākua Valley is a site of great historic, cultural, and environmental significance, whose protection has been the subject of substantial community activism for nearly two decades. The valley historically hosted a thriving Native Hawaiian population that cultivated and lived off of the abundant resources in the region. The valley was also historically used as a port of landing for voyaging canoes, and was the location of a number of cultural institutions, including reknowned pā lua and hālau hula. In addition, a number of native plants and animal species have and continue to live in Mākua valley, many of which are currently considered threatened or endangered with extinction.

Unfortunately, since the early twentieth century, Mākua Valley has suffered continuous desecration by extensive military training and weapons testing, which has destroyed or damaged many of the natural and cultural resources and sites formerly contained within the area. Only after nearly 20 years of community efforts, including lawsuits by cultural groups and environmental organizations, military live-fire training has ceased in the valley. However, there continue to be concerns regarding the existence of toxins, unexploded ordinances, and other hazards that may remain from nearly 100 years of military occupation.

By establishing a commission of appropriate government and community representatives, OHA believes that this bill will accordingly help the state and its residents, including Native Hawaiian historians and cultural practitioners, take a significant step forward in the immense task of rehabilitating, protecting, and managing the land and resources in cherished Mākua Valley.

To more appropriately reflect the administrative structure of the OHA, OHA requests that lines 17-18 of page 3 be replaced with the following:

(5) One member shall be the administrator of the office of Hawaiian affairs, or the administrator’s designee;

Therefore, OHA urges the Committees to **PASS WITH AMENDMENTS** HB509 HD2. Mahalo for the opportunity to testify on this measure.



DEPARTMENT OF THE ARMY
REGIONAL ENVIRONMENTAL AND ENERGY OFFICE – WESTERN
US CUSTOM HOUSE
721 19TH STREET, ROOM 427
DENVER, CO 80202-2530

20 March 2013

Regional Environmental & Energy Office - Western

Senate Committee on Water and Land,
and Senate Committee on Public Safety, Intergovernmental and Military Affairs
Hawaii State Capitol, Room 308
415 South Beretania Street
Honolulu, HI 96813

Re: House Bill 509 HD2, Makua Valley Reserve Commission

Dear Chairpersons Solomon and Espero, Vice-Chairs Shimabukuro and Baker and
Committee members:

The Army's Regional Environmental & Energy Office - Western (REEO-W) is the US Army's liaison to the states in the Western US. Our mission is to work with states on environmental and sustainability topics in order to avoid conflicts when possible, and help resolve issues efficiently. As Director of the REEO-W, I want to express our opposition to HB 509, which would establish a Makua Valley Reserve Commission under the Hawaii Department of Land and Natural Resources.

The US Army opposes HB 509 HD2, for two reasons: (1) The proposed action is premature because there are no plans to close the Makua Military Reservation (MMR); and (2) The US Army has a current need for live-fire maneuver training.

However, if this Bill advances we recommend that the definition of "Valley reserve" in section 2 be changed to "mean the 782 acres of the Makua Military Reserve currently leased by State of Hawaii to the United States."

Makua Valley consists of 4,190 acres, of which 82% or 3,408 acres is ceded and fee simple lands of the US Government. The remaining 18% or 782 acres is leased by the State to the US Government and is part of the MMR under control of the US Army. This lease expires in August 2029. HB 509 HD2 is premature because there are no plans to close the training area in Makua or stop training based solely on the expiration of the lease.

The vast distances of the Pacific and the low density of U.S. basing and infrastructure there place a premium on forward stationed and forward-deployed U.S. forces. Forces forward-based in Hawaii are a deterrent and are required to be held in combat ready status for immediate deployment. This highlights the need for the US Army's continued access to MMR. MMR is one of the only collective training areas on O'ahu that offers the realistic live-fire training required to certify ground troops prior to combat deployments. These training and readiness requirements also apply to the Hawaii Army National Guard and Hawaii based Reserve units of the US Army and Marine Corps, which continue to be deployed to Afghanistan and other over-seas locations.

The US Army retains a professional environmental staff and continues to spend \$4 million annually to protect and restore endangered species and cultural sites in the Makua Valley. The US Government is the largest contributor to environmental and cultural preservation and restoration on the Leeward Coast and throughout the State. We continue to enjoy a very good working relationship with Hawaii state agencies, including the Department of Land and Natural Resources and its Historic Preservation Division and the Department of Health.

Thank you for the opportunity to provide our comments. The MMR plays a significant role in readiness training for our troops, and we will continue to protect and restore the species and cultural sites in Makua Valley in order to sustain this vital asset. My point of contact is Mr. Park Haney at 303-844-0957.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark A. Mahoney', written in a cursive style.

Mark A. Mahoney
Director, Army REEO-W

**Testimony to Joint Hearing of the Senate Committee on Water
and Land and Committee on Public Safety,
Intergovernmental and Military Affairs**

Thursday, March 21, 2013

2:15 PM

Conference Room 225

RE: HOUSE BILL NO. 509, HD2, RELATING TO MAKUA VALLEY

**Chair Solomon and Vice Chair Shimabukuro, and Chair Espero and Vice
Chair Baker, and members of the Committees.**

**My name is Charles Ota and I am the Vice President for Military Affairs at
The Chamber of Commerce of Hawaii (The Chamber). This written
testimony is submitted in *opposition* to House Bill No. 509, HD2, Relating
to Makua Valley.**

**The measure proposes to establish the Makua Valley Reserve Commission
to oversee the control and management of Makua Valley on O`ahu. It
requires that DLNR provide enforcement and support for the
Commission's activities.**

**We believe that the actions proposed in this measure are premature and
should be held in abeyance for reasons outlined below:**

- 1. Makua Valley consists of about 4,190 acres (see attached map of
Makua Valley). Of that total acreage, only 18% or 732 acres of the
land area on the far western end of the valley along the shoreline is
state owned and leased to the federal government. This area has
not been used for combat training since the military suspended
amphibious assault exercises in the late 1990s, and would be the
only land to be managed and controlled by the proposed
Commission.**

2. The remaining 82% of the land in Makua Valley, or about 3,458 acres extending from the western end leased by the state to the mauka or eastern end, is owned by the federal government. This federally owned land is named the Makua Military Reservation (MMR) and is the area that is used for military training exercises. The military has plans to redevelop and modernize MMR to meet the projected training requirements for the 21st century force.
3. Military use of the 3,458 acres owned by the federal government is expected to continue well into the future. National security threats in the Asia Pacific dictate that the US continue to forward deploy forces in Hawaii. Therefore, the US Army has no plans to return the land to the US General Services Administration for use by another federal agency or disposition.

The need to continue retaining a forward deployed military force in Hawaii is based on the high level of security threats posed by North Korea's continued development of ballistic missiles and nuclear weapons, China's aggressive double-digit growth in military capabilities, and active terrorist cells operating in Southeast Asia. The US can ill afford to ignore these threats. The US President, US Secretary of State, and US Secretary of Defense declared a refocusing of US security strategy in the Asia Pacific following the 2011 US-hosted APEC gathering held in Honolulu.

The forward deployed US forces in South Korea, Japan, Guam, and Hawaii, coupled with the forces of US partner nations such as Japan, South Korea, Australia and other Asia Pacific nations, form a visible force that is essential to deterring armed conflicts and in controlling the spread of terrorism and nuclear proliferation. If and when necessary, these forward deployed forces are held in combat ready status and are capable of responding immediately to quell any conflicts as quickly as possible.

This US strategy of focusing on deterrence is shared by our partner nations in the Asia Pacific because it has guaranteed peace and stability to prevail, which has been and will continue to nourish a thriving global economy for all.

We ask committee members to note that the joint security efforts of US and partner nations are essential to keeping the vital sea lanes of the South China Sea free and open. Commerce and trade through the South China Sea accounts for 51% of the world's economy and is critical to the economies of the US and all Asia Pacific nations.

Clearly, a disruption in the flow of commerce and trade due to regional conflicts and instability would have serious implications in stifling Hawaii's growth in the global economy.

For Hawaii, military presence is the core of the defense industry that has grown to become the second major source of revenues to the state next to tourism. The direct and indirect impacts of the defense industry total \$14.7 billion annually in the state's economy, and accounts for more than 102,000 good-paying jobs for Hawaii's workforce that collectively report annual household earnings of \$8.7 billion.

Committee members should note that the current fiscal realities faced by the US dictate that forward deployed combat ready units be assigned at suitable forward locations such as Hawaii where adequate training capabilities currently co-exist. Unencumbered access to and use of MMR and other training areas ensure that Hawaii's infantry units of the US Army, Marine Corps, and Hawaii Army National Guard are being held in combat ready status.

The forward basing of Army and Marine Corps units in Hawaii is also due to the availability of essential military infrastructure that has been built over the years. Schofield Barracks, Ft Shafter, Marine Corps Base Hawaii, Pearl Harbor, and Hickam, and the availability of world-class training areas on Hawaii Island, Kauai, and O`ahu, serve to establish Hawaii as the premier command and control location for US military operations in the Asia Pacific. This strategy has succeeded through World War Two, the Korean War, the Vietnam War, and the 10-year wars in Iraq and Afghanistan. It remains a key factor in deterring a future war.

The committee members should also note the many environmental benefits that are being gained by the state. The US Army recognizes the

historic cultural value of Makua Valley and the number of endangered species that thrive in the protected environment. It continues to spend millions of dollars annually to provide a highly trained and experienced professional environmental staff that serves to protect and preserve the wide variety of endangered species and Native Hawaiian cultural sites and artifacts in MMR. Makua Valley is among the state's most protected and preserved lands in Hawaii.

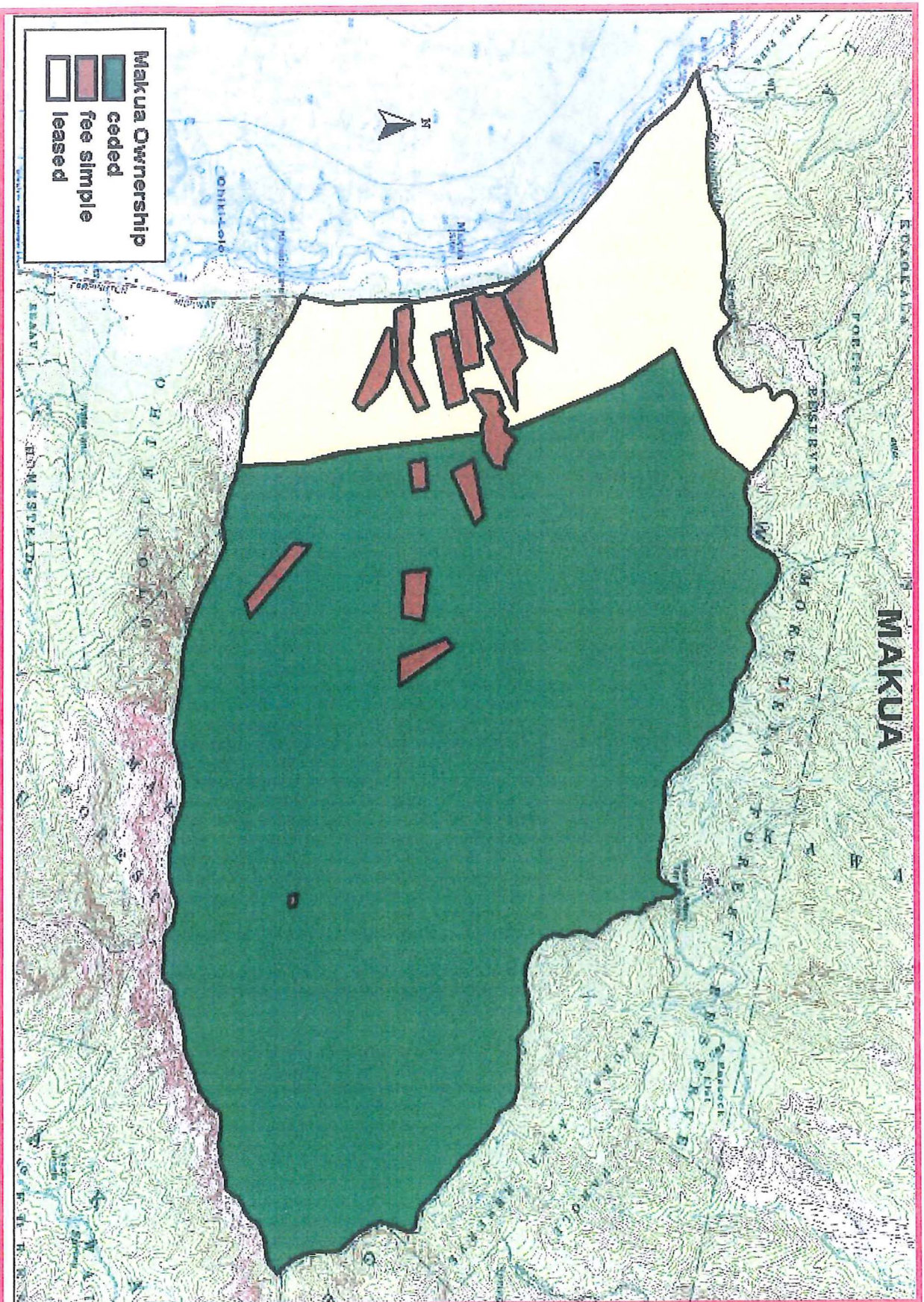
In light of the above, we urge the Committee to consider the full implications of this measure as it places at risk the many benefits currently accruing to the state, its workforce, and the public.

We do not believe it prudent for the state to consider establishing a Commission at this time, and recommend that HB 509, HD2 be deferred indefinitely until the federal government declares its land holdings in Makua Valley in excess to its needs.

Thank you for the opportunity to comment on this important measure.

Attachment: Land Holdings Map of Makua Valley

Makua Ownership





EARTHJUSTICE

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, DC INTERNATIONAL

SENATOR MALAMA SOLOMON, CHAIR
SENATOR MAILE S.L. SHIMABUKURO, VICE-CHAIR
SENATE COMMITTEE ON WATER AND LAND

SENATOR WILL ESPERO, CHAIR
SENATOR ROSALYN H. BAKER, VICE-CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL AND MILITARY AFFAIRS

TESTIMONY RE: HOUSE BILL NO. 509, H.D. 2
RELATING TO MĀKUA VALLEY

March 21, 2013, 2:15 p.m.
Conference Room 225

Good afternoon Chairs Solomon and Espero, Vice-Chairs Shimabukuro and Baker, and members of the Committees:

My name is David Henkin, and I am an attorney with Earthjustice. We appreciate the opportunity to offer this testimony regarding House Bill No. 509, House Draft 2. Earthjustice strongly supports the intent of this bill, which is to start planning for the return of Mākua, Kahanahāiki and Ko'iahi to the people of Hawai'i, so these sacred lands can once again be put to productive and appropriate use.

We respectfully ask you to pass HB 509 HD2. Thank you for the opportunity to offer this testimony.

From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: mh@interpac.net
Subject: Submitted testimony for HB509 on Mar 21, 2013 14:15PM
Date: Tuesday, March 19, 2013 6:54:23 PM

HB509

Submitted on: 3/19/2013

Testimony for WTL/PSM on Mar 21, 2013 14:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Cory Harden	Individual	Support	No

Comments: Malama Makua Valley!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: castanha@hawaii.edu
Subject: Submitted testimony for HB509 on Mar 21, 2013 14:15PM
Date: Wednesday, March 20, 2013 12:06:04 AM

HB509

Submitted on: 3/20/2013

Testimony for WTL/PSM on Mar 21, 2013 14:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Dr. Anthony Castanha	Individual	Support	No

Comments: Aloha, I strongly urge the support of this important legislation. Sincerely,
Dr. Anthony Castanha University of Hawai'i at Manoa

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From: [James Rodrigues](#)
To: [PSMTestimony](#); [WTLTestimony](#)
Cc: sparkyrodrigues@gmail.com
Subject: HB 509, HD2 Relating to Makua Valley
Date: Tuesday, March 19, 2013 12:47:41 PM

COMMITTEE ON
WATER AND LAND
Senator Malama Solomon, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS
Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair

RELATING TO MAKUA VALLEY.
Establishes the Makua Valley Reserve Commission to oversee the control and management of Makua Valley on Oahu. Provides that DLNR will provide enforcement and administrative support for the Commission's activities.
Effective July 1, 2050.

WTL/PSM, WAM

Notice of Hearing Date: Thursday, March 21, 2013.

Our Ohana support this bill. I would like to suggest that a provision be added that would allow for Private and Corporate funds to be added to the Makua Valley Reserve Commission Trust Fund. Lots of work needs to be done at Makua Valley and having other avenues of funding may reduce the funding request to the Legislature.

Please pass the Makua Valley Reserve Commission bill.

Mahalo,

James 'Sparky' Rodrigues
86-222 Puhawai Road
Waianae, Hawaii 96792
808-696-2823

3-19-2013

From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: Jrkeoneakapu@gmail.com
Subject: Submitted testimony for HB509 on Mar 21, 2013 14:15PM
Date: Wednesday, March 20, 2013 8:05:31 AM

HB509

Submitted on: 3/20/2013

Testimony for WTL/PSM on Mar 21, 2013 14:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
JR Keoneakapu Williams	Individual	Support	No

Comments: Aloha committee chairs and members. My name is JR Keoneakapu Williams, a Native Hawaiian Cultural Practitioner. I strongly support this bill with amendments. The U.S. military has done nothing but desecrate our Ahupua'a and pollute the aina. It is not OK for them to continue to destroy our lands! Please support this by not renewing the lease and allowing the families to return HOME! Mahalo

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From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: dkapua@gmail.com
Subject: Submitted testimony for HB509 on Mar 21, 2013 14:15PM
Date: Tuesday, March 19, 2013 3:01:58 AM

HB509

Submitted on: 3/19/2013

Testimony for WTL/PSM on Mar 21, 2013 14:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Kapua Keliikoa-Kamai	Individual	Support	No

Comments: Aloha Senate Chairs Solomon & Espero, Vice Chairs Shimabukuro & Espero and Committee Members, **STRONG SUPPORT FOR HB 509 HD 2 RELATING TO MAKUA VALLEY** My name is Kapua Keliikoa-Kamai, of Wai'anae Valley Homestead, and I have supported all efforts returning Makua Valley to the people of Hawai'i for over a decade. The current lease expires in 2029 so it is imperative that the smooth, transparent, native species protection, eradication of invasive species, and the safe disposal & removal of unexploded ordinances activities begin now. This Makua Valley Reserve Commission will allow for the above processes to occur, as well as the protection and preservation of Native Hawaiians' customary and traditional practices for cultural, spiritual and subsistence purposes. This Commission will also provide administrative management to ensure proper usage, preservation and transition. For these reasons and more, I encourage you to pass HB 509 HD 2 out of your Committees onto the Senate floor for full vote and passage. Me ka ha'aha'a, Kapua Keliikoa-Kamai

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Center for Hawaiian Sovereignty Studies
46-255 Kahuhipa St. Suite 1205 Kane'ohe, HI 96744
Tel/Fax (808) 247-7942
Kenneth R. Conklin, Ph.D. Executive Director
e-mail Ken_Conklin@yahoo.com



Unity, Equality, Aloha for All

To: WTL/PSM

From: Kenneth R. Conklin, Ph.D.

Re: HB509, HD2

Establishes the Makua Valley Reserve Commission and automatically transfers Makua's three ahupua'as to the Akaka tribe as soon as that tribe achieves federal and state recognition.

Date: March 18, 2013 for hearing March 21

TESTIMONY IN OPPOSITION

I strongly OPPOSE HB509 relating to Makua.

Some of my concerns are general; and some are specific to particular items in the bill.

GENERAL CONCERNS

The Army's lease does not expire until 2029. What's the rush to enact legislation for the transitional period?

This bill is a wolf in sheep's clothing. It is a Hawaiian sovereignty bill masquerading as a bill for environmental and cultural preservation.

I believe the single most important issue facing Hawai'i in the foreseeable future is the imminent and continuing threat that the

lands, resources, government and people of Hawai'i will be divided along racial lines. Please see my book "Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State"
<http://tinyurl.com/2a9fqa>

The Legislature has repeatedly passed resolutions favoring the Akaka bill to create a racially exclusionary government empowered to negotiate with YOU, the legislators. It is expected that you will give away massive amounts of land, money, and jurisdictional authority.

This bill would already designate Makua Valley as the future property of the Akaka tribe even before the tribe is created, and before any negotiations have started. That's absurd! No responsible negotiator gives away important concessions before the opponents even arrive at the table. Legislators have a fiduciary duty to protect the lands and resources of Hawaii on behalf of all our people, not just some.

HB509 is also a bill to push the military out of Makua, despite a long history of military training there which has included environmental stewardship. Court decisions have repeatedly affirmed the Army's right to use Makua while making allowances for cultural activities and preservation; but this bill would over-rule those court decisions. § -10 Severability Section 2, coming at the bottom of the bill, may be insufficient to protect the rights of the Army.

I vehemently oppose the effort (1) to place Makua valley under the control of a racially and ideologically stacked "cultural reserve commission"; and (2) to single out one particular racial group and its cultural heritage as the sole source of value for historic and cultural preservation; and (3) to declare that the valley will be transferred to a future race-based government if and when that new government achieves federal/state recognition.

Makua belongs to all the people of Hawaii, and should stay that way. It has been used for a variety of agricultural, commercial, cultural, and religious purposes by people of various racial heritages. May it always be so! That's why this bill must be rejected.

SPECIFIC ITEMS IN THE BILL

§ -3 Reservation of uses.

"(1) Preservation and practice of all rights customarily and traditionally exercised by native Hawaiians for cultural, spiritual, and subsistence purposes"

But of course those rights are preserved throughout all of Hawaii. There's no need to reaffirm them here.

Furthermore, all other racial and cultural groups in Hawaii should also be entitled to exercise their customs, and it is improper to single out only ethnic Hawaiians for protection to the exclusion of others. If paragraph (1) is regarded as necessary to be reaffirmed so explicitly, then the rights of everyone else should also be reaffirmed explicitly.

And in particular, the rights of the Army, found at the bottom of the bill in § -10 Severability Section 2, should be moved up to this paragraph so it is clearly given equal priority with ethnic Hawaiian race-based "rights."

By failing to allow commercial uses, and explicitly prohibiting such uses, this bill would deny former residents of the valley, who were evicted and whose lands were condemned, any opportunity to return and to resume their former activities including farming and ranching. The bill would also prohibit local residents from selling any fish they catch, and prohibit snorkel tours and other profit-making ocean recreational activities.

§ -5 Commission.

(a) This section enumerates the criteria for membership on the Commission for each of its seven members. The criteria guarantee that the vast majority of members will be anti-military; and the criteria lean heavily in favor of guaranteeing a racial majority for ethnic Hawaiians. Here are six of the nine members as specified in Section 5: (1) Malama Makua, and (2) Hui Malama O Makua, and (3) families that were evicted from the valley -- these three are antimilitary and dominated by ethnic Hawaiians; (4) How is the "Waianae coast community" defined, and by what mechanism will that community choose its representative? (5) Office of Hawaiian Affairs is race-based and has a history of filing anti-military lawsuits; (6) One member shall be the chairperson of the board of land and natural resources, or the chairperson's designee -- at the present time, the DLNR chair is ethnic Hawaiian William Aila, who ran for governor on a sovereignty platform, and the vice-chair is Esther Kia'aina, who until recently was official spokesperson for OHA; (7) "member shall be appointed by the governor from a list provided by native Hawaiian organizations" is clearly race-based. Thus several Commission members are required to be ethnic Hawaiians, and all members are likely to be ethnic Hawaiians who are politically active in sovereignty movement.

(d) "Any action taken by the commission shall be approved by a simple majority of its members. Four members shall constitute a quorum to do business." Since 4 members are a quorum, the ethnic Hawaiians could call meetings and make decisions in the absence of the other members.

(e) Why is there an exemption from chapter 76 ? Furthermore, in these difficult financial times, do we really want to be expanding the size of government by hiring an executive director and other "warm bodies"?

§ -6 Responsibilities and duties of the commission.

(5) "...curator or stewardship agreements with appropriate Hawaiian cultural and spiritual community organizations for the perpetuation of native Hawaiian cultural, religious, and subsistence customs, beliefs, and practices ..." This is clearly racist, because it excludes other ethnicities, religions and cultures.

§ -8 Transfer. "Upon its return to the State, the resources of the valley reserve shall be held in trust as part of the public land trust; provided that the State shall transfer management and control of the valley reserve to the sovereign native Hawaiian entity upon its recognition by the United States and the State."

§ -8 is outrageous. Handing over a piece of Hawaii to a racially exclusionary government is both illegal and immoral. Setting aside Makua for such a fate even before the Akaka bill passes and before negotiations have begun with the Akaka tribe is a violation of the fiduciary duty of the Legislature to protect the property and rights of all the citizens of our State. Ethnic Hawaiians, or their spouses or family members, who sit as members of this legislature have a clear conflict of interest on this bill.

I note that the "Transfer" paragraph was included in the bill as originally offered but was then removed from the HD1 version and then restored in the HD2 version. Neither of the relevant committee reports made any mention of the removal or restoration of that "Transfer" paragraph, nor gave any hint about the reasoning behind those changes. Apparently the people involved in making those changes would prefer we not notice what was done. My dear legislators, please do not embarrass yourselves by allowing that paragraph to be enacted.

From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: Mana@ibehawaiian.com
Subject: *Submitted testimony for HB509 on Mar 21, 2013 14:15PM*
Date: Tuesday, March 19, 2013 2:35:38 PM

HB509

Submitted on: 3/19/2013

Testimony for WTL/PSM on Mar 21, 2013 14:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Mana Kaleilani Caceres	Individual	Support	No

Comments:

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March 19, 2013

Chairperson, Senate Committee on Water and Land
Chairperson, Senate Committee Public Safety, Intergovernmental and Military Affairs

Re: HB 509 HD2 TESTIMONY IN STRONG SUPPORT

Dear Chairs Solomon and Espero and committee members:

More than 30 years ago, the Kupuna leaders of the efforts for the return of Kahoolawe and Makua Valley made a fateful compact and decision. According to Aunty Frenchy Desoto and many others. A decision to delay the efforts for the return of Makua Valley, in favor of the efforts towards the return of Kahoolawe was agreed to.

The U.S. Army has not live fire trained in Makua Valley for more than twelve years, and in spite of that, soldiers from the 25th Infantry has been certified as trained and sent to both Iraq and Afghanistan. The demonstration of successful deployments is clear evidence that it is time for the U.S. Army to keep its promise made to the people of Makua and the State of Hawaii (territory of Hawaii at the time), to return Makua Valley.

In preparation for its return HB509 Hd2 initiates a process for the Army to start a transition of Makua Valley, back to civilian control just as the navy transitioned Kahoolawe to civilian control. The valley to be held in Trust until such time that a Native Hawaiian Sovereign Government Entity is created. The creation process of this Native Hawaiian Sovereign Government Entity is well under way and the timing is proper.

Please pass HB509 HD2.

Mahalo for listening to our testimony.

William and Melva Aila
86-630 Lualualei Hmstd. Rd.
Waianae, Hawaii 96792
PH# 696-9921
Cell# 330-0376

HB 509 – Establishment of Makua Valley Reserve Commission

I, William “Punini” Prescott, a native Hawaiian kupuna and appointed spokesman for Hawaii’s Veterans of Foreign Wars, strongly oppose HB 509 for the following reasons:

1. The Army’s lease doesn’t expire for another fifteen (15) years. Therefore, there is no justification for a commission at this time. Any number of things could occur between now and then making work plus tax money spent a waste. Further HB509 will only allow Malama Makua, who is suing the Army over Makua, to further harass and cause bitter feelings to develop with our military by using what has been a lot of false information.

2. The bill establishes a *Makua Valley Reserve Commission*. Why is it needed? The land leased to the Army is *alongside a stretch of Makua’s Farrington Highway* up to the base of the north ridge. It consists of 782 acres where in 1950 a shell area clearing was completed by the Army. It **does not** include *Makua Valley’s middle and upper areas* consisting of approximately 3,237 acres which is Federal property. Additionally approximately 170 acres in the lower Makua area belongs to the military in fee simple.

3. The Bill provides for preserving Hawaiian cultural, spiritual, and subsistence rights.

(a) Cultural - Defined by Daniel Webster as “*the ideas, customs, skills, arts, etc., of a people that are transferred **to succeeding generations.***”

(1) Bishop Museum on the question regarding *guidelines, rules, statutes, that identifies an object as being of legitimate Hawaiian cultural value* wrote “...most of the time it’s a subjective process...” (In other words: prejudiced, biased, etc.).

(2) DLNR on the same question basically gave the same answer – that it was all subjective.

(3) As a result of this prejudiced process the Army has had to spend more than \$700 thousand dollars in making safe accesses to a dried up cattle watering hole, a dried up river bed, an ordinary rock approximately 3’ in diameter, etc. These sites and other claims, by Malama Makua, do not meet the definition for Hawaiian culture and has cost the Army millions in tax dollars.

(4) Note: The only site DLNR has ever identified of significance in Makua Valley is *Ukanipo Heiau* located on the slope at the base of the north ridge near shore and is outside of the training area.

(b) Spiritual

(1) We *Hawaiians as a people* do not and have not prayed to Hawaiian gods for nearly 200 years. We are and have been Christians. And as Christians we the Hawaiian people pray to our god in Church. (The few who choose to pray to these Hawaiian gods should do it on their own property like other faiths.)

(2) How did it happen? Kamehameha II ended the cultural practice in 1819 by ordering god images burned and heiaus demolished on all the Islands. Why? Because he wanted to end the senseless killing of those who had broken the kapu (sinned).

(3) Queen Liliuokalani, in her book "Hawaii's Story," wrote, I shall not claim that in the days of Captain Cook our people were civilized. But Christianity in substance they have accepted.

(c) Subsistence - There isn't anything in Pilila'au Makua Military Reservation that cannot be found elsewhere.

4. Our State elected has the responsibility and moral obligation to provide our National Guard personnel all of the support they need to prepare for combat duty which includes not only weapons and equipment but also areas to train in such as PMMR which former National Guard Adjutant, Maj. Gen. Robert Lee has confirmed it is needed. To train off island these past years has required our military to spend millions of our tax dollars to move troops, equipment, helicopters, etc., tax money that would have been saved had they been able to train in the PMMR.

During WWII Makua played a critical role in preparing our military to retake the pacific islands lost in the war. While they were successful more than 100,000 of our men lost their lives doing it. Something we should never forget: "*There is nothing in Makua Valley more sacred than the lives of our men and women who are serving our country to protect our freedoms.*"

We, Hawaii's Veterans of Foreign Wars, ask all of you to reject HB 509.

