

**tokioka2-Robert**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 06, 2015 5:12 PM  
**To:** vmitestimony  
**Cc:** brian.k.adkins.civ@mail.mil  
**Subject:** Submitted testimony for HB1430 on Feb 9, 2015 09:05AM  
**Attachments:** GC Statement - HB 1430 09 FEB 2015 (Final).docx

**HB1430**

Submitted on: 2/6/2015

Testimony for VMI on Feb 9, 2015 09:05AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brian K Adkins	USAG Hawaii	Oppose	No

Comments: Submitting on behalf of COL Richard Fromm, Garrison Commander,USAG Hawaii for The Veterans, Military, & International Affairs, & Culture and the Arts Committee Hearing to be conducted 09 Feb 2015 at 9:05AM on HB1430

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**COL RICHARD FROMM STATEMENT ON H.B. 1430**

**09 FEBRUARY 2015**

Hawaii House Bill 1430 provides for the creation of a Makua Valley Reserve and a commission to administer the reserve. Section 8 of the bill appears to contemplate that the United States Army will transfer its property holdings within the Makua Valley to the State of Hawaii upon the expiration of a lease with the State which controls a small part of the Army's current holdings.

United States Army, Hawaii, wishes to make clear that the Army has no plans to abandon or transfer its Makua Valley property interests, and we oppose this bill.

Ongoing social, political, economic, and other developments across Asia and the Pacific all demonstrate that this region has become significantly important to the interests of the United States. Recent evolutions in U.S.

national strategy – which significantly increase focus upon this region – reflect these changes. Trained and ready Hawaii based land forces remain a critical pillar of that strategy, along with the many other instruments of U.S. power and influence.

Our ability to project land combat power to satisfy the full spectrum of operations – from humanitarian assistance and disaster relief to contingency and combat missions – is dependent upon our ability to conduct the most realistic training possible here in Hawaii.

The Makua Military Reservation has been an Army training range for over 70 years. Makua has been, and is currently utilized by, the Army as well as other branches of the U.S. military.

Makua consists of 4,190 acres, of which 3,408 acres is ceded and fee simple lands of the Federal Government. The remaining 782 acres at the mouth of the valley - 18% of the total land - are leased by the State of Hawaii to the Army. Prior to the expiration of the lease in the year 2029, the State of Hawaii and the Army will have the option to enter into a new agreement. The remaining land – 82% of the total – is owned by the U.S. Government and will continue to be used for military training. The Army has no plans or intentions to cease using it as such in the future even if the lease for the 782 acres is not renewed. The Makua range plays an integral part in our Pacific training strategy and is a vital asset for preparing combat-ready Soldiers who are best able to support and defend the United States.

As wartime operations in the Middle East come to a close, the Army's presence on Oahu has reverted to its pre war levels, meaning that there are now seven full Brigades and other large units of Soldiers, Marines and Army National Guardsman on the island. The capability to train locally is vital. The Army needs to capitalize on all local training resources to ensure the readiness of units stationed here. Makua remains an essential training range.

Additionally, current budgetary pressures – such as sequestration – make the costly transportation of units and their equipment to more distant training facilities – such as Pohakuloa on the island of Hawaii or training locations on the mainland - much more difficult. Our

Oahu-based local training areas – Schofield Barracks, Kahuku Training Area and Makua – will be fully utilized.

The ability to train locally is essential for the large numbers of units on the island – not only due to the prospect of greatly reduced budgets – but also to help ensure the quality of life for our Soldiers. Local training allows them to spend more valuable time with their families at home here.

The Army has obligations to train our Soldiers and to be a good steward of the land. The Army is committed to minimizing negative impacts on the environment during all training exercises in its use of Makua, as well as its other training ranges.

The Army complies with all environmental laws and requirements with regard to natural and cultural resources

in Makua Valley. In fact, the Army continues to spend approximately \$5-6 million annually to protect and restore populations of endangered species and also to protect and make cultural sites accessible at Makua. The U.S.

Government is the single largest contributor to environmental and cultural preservation and restoration not only on the Leeward Coast but throughout the State.

I cordially invite all members of these committees to visit Makua at your earliest convenience and allow us to personally show you the Army's training and protection efforts there.

Please let me conclude with this thought: Our nation's greatest resource – that which protects and defends all of our other vital resources – is America's sons and daughters who wear the uniform of our armed forces.

To not properly train them would be both immoral and unacceptable . Makua Military Reservation is vital tool in meeting that obligation.

Mahalo.



DAVID Y. IGE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
CARTY CHANG  
Interim Chairperson**

**Before the House Committee on  
VETERANS, MILITARY & INTERNATIONAL AFFAIRS, & CULTURE AND THE ARTS**

**Monday, February 9, 2015  
9:05 am  
State Capitol, Conference Room 312**

**In regards to  
HOUSE BILL 1430  
RELATING TO MAKUA VALLEY**

House Bill 1430 proposes to create a Makua Valley Reserve Commission within the Department of Land and Natural Resources (Department) for control and management of Makua Valley. **The Department offers the following comments.**

Makua Valley has significant natural and cultural resources and it is in the State's interests that these resources be appropriately managed and preserved for future generations. However, the Department notes that approximately 3,400 acres of Makua Valley is Federal land, which would not be subject to a state commission until and unless the United States Army returns those lands to the state. About 782 acres belongs to the state and is leased to the Army until 2029. These lands would be subject to a state commission upon the termination of the lease.

While the Department believes that a commission would provide the appropriate management structure for Makua Valley, we note that there is no funding attached to this bill. The Department estimates the cost of a commission, including an Executive Director and a secretary, which would allow for minimum staffing, would be roughly \$300,000 per year. Even if the Department had to provide only a secretary to ensure the meetings met sunshine law, and that minutes were recorded, the costs would be roughly \$120,000 including supplies, costs for the Commission and the cost of space. The Department is unable to support these additional costs under its current budget.

The Department also suggests that the Commission be set up similarly to the Kahoolawe Island Reserve Commission, in that it is administratively attached to the Department for organizational purposes, but is autonomous in almost all other respects. This allows for clear lines of jurisdiction. However, if this is the case, the Department would also suggest that at least two (2) members of the

**CARTY S. CHANG**  
INTERIM CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**DANIEL S. QUINN**  
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**W. ROY HARDY**  
ACTING 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

Commission have natural resource preservation experience because there are such important natural, as well as cultural resources in Makua Valley.



**HB1430**

**RELATING TO MAKUA VALLEY**

House Committee on Veterans, Military, & International Affairs, & Culture and the Arts

February 9, 2015

9:05 a.m.

Room 312

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment will recommend to the Board of Trustees a position of **SUPPORT WITH AMENDMENTS** for HB1430, which establishes the Mākua Valley Reserve as well as a Mākua Valley Reserve Commission to administer the Reserve.

**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 renowned pā lua and hālau hula. In addition, a number of native plant 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. Thanks to 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 ordinance, and other hazards that may remain from nearly 100 years of military occupation.

By establishing a reserve to be overseen by cultural and biological experts, with appropriate government and community representatives, OHA believes that HB1430 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 19-20 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 committee to **PASS WITH AMENDMENTS** HB1430.  
Mahalo for the opportunity to testify on this important measure.

**tokioka2-Robert**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 08, 2015 7:19 AM  
**To:** vmitestimony  
**Cc:** dhenkin@earthjustice.org  
**Subject:** Submitted testimony for HB1430 on Feb 9, 2015 09:05AM  
**Attachments:** HB 1430 - test 1.pdf

**HB1430**

Submitted on: 2/8/2015

Testimony for VMI on Feb 9, 2015 09:05AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
David Henkin	Earthjustice	Support	No

Comments:

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REPRESENTATIVE KEN ITO, CHAIR  
REPRESENTATIVE JAMES KUNANE TOKIOKA, VICE-CHAIR  
HOUSE COMMITTEE ON VETERANS, MILITARY, &  
INTERNATIONAL AFFAIRS, & CULTURE AND THE ARTS

TESTIMONY IN SUPPORT OF HOUSE BILL NO. 1430  
RELATING TO MAKUA VALLEY

February 9, 2015, 9:05 a.m.  
Conference Room 312

Good morning Chair Ito, Vice-Chair Tokioka, and members of the Committee:

My name is David Henkin, and I am an attorney with Earthjustice. We appreciate the opportunity to offer this testimony in support of House Bill No. 1430. This bill would establish the necessary framework for the State of Hawai'i to plan for the return of Mākuā, Kahanahāiki and Ko'iahi, so these sacred lands can once again be put to productive and appropriate use.

While we support the bill's fundamental intent and most of its provisions, we have concerns about including among the commission's duties and responsibilities "enter[ing] into 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. See § -6(5). To avoid infringing First Amendment religious freedoms, the commission should not favor one form of spiritual practice over others through such curator or stewardship agreements. Rather, freedom of religious and cultural practice should be guaranteed for all.

We respectfully urge you to pass HB 1430, with amendments to address the aforementioned concern. Thank you for the opportunity to offer this testimony.

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Unity, Equality, Aloha for all



To:  
HOUSE COMMITTEE ON VETERANS, MILITARY, & INTERNATIONAL  
AFFAIRS,  
AND  
HOUSE COMMITTEE ON CULTURE AND THE ARTS  
For hearing Monday, February 09, 2015

Re: HB 1430 RELATING TO MAKUA VALLEY.

Establishes Makua Valley Reserve Commission to oversee control and management of Makua Valley. Subject to Commission oversight, requires the Department of Land and Natural Resources to implement controls and permitted uses for the Valley and provide administrative support to the Commission.

## TESTIMONY IN OPPOSITION

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

### GENERAL CONCERNS

This bill is a wolf in sheep's clothing. It is a Hawaiian sovereignty bill masquerading as a bill for environmental and cultural preservation. § -8 Transfer is outrageous.

I believe the single most important issue facing Hawaii in the foreseeable future is the imminent and continuing threat that the lands, resources, government and people of Hawaii will be divided along racial lines. Please see "Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State" <http://tinyurl.com/2a9fqa>

The Legislature from 2000 to 2010 repeatedly passed resolutions favoring the Akaka bill, and then passed Act 195 (session laws of 2011) to begin creating a racially exclusionary Hawaiian tribe empowered to negotiate with YOU, the legislators. It is expected that you will give away massive amounts of land, money, and jurisdictional authority to the tribe.

This bill, in § -8 Transfer, would already designate Makua Valley as the property of the racial Hawaiian 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. If you insist on giving away Makua Valley, at least you should get some concessions in return.

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.

In 2009 a very similar bill passed the legislature but was vetoed by Governor Lingle. In 2013 a very similar bill died in the legislature. Please follow their lead and defeat this bill yet again.

This 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.

## 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 § -12 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 mention military uses, lines 1 and 2 in the bill would actually exclude the military: "The valley reserve shall be used solely and exclusively for the following purposes"

By failing to allow commercial uses, and later 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 seven 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) the "aha moku advisory committee" is ethnic Hawaiian; (5) Office of Hawaiian Affairs is race-based and has a history of filing anti-military lawsuits; (7) "member shall be appointed by the governor from a list provided by native Hawaiian organizations" is clearly race-based. Thus 6 out of 7 Commission members are either required to be, or

very likely to be, ethnic Hawaiians who are politically active in the sovereignty movement.

(d) "Any action taken by the commission shall be approved by a simple majority of its members. Four voting members shall constitute a quorum." Since 4 members are a quorum, a zealous group of ethnic Hawaiian racial partisans 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 the expiration of the lease existing as of July 1, 2015, the resources of the valley reserve shall be held intrust 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."

Section 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 Hawaiian tribe has been created and before negotiations have begun with it 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, which sets aside Makua Valley as the future property of the tribe for the exclusive benefit of themselves and their descendants. They have an ethical duty to recuse themselves from debating this bill or voting upon it.

**tokioka2-Robert**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 06, 2015 10:21 PM  
**To:** vmitestimony  
**Cc:** nanakulibill@hotmail.com  
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**HB1430**

Submitted on: 2/6/2015

Testimony for VMI on Feb 9, 2015 09:05AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
William Prescott	Individual	Oppose	No

Comments: William Prescott (Appointed Spokesperson for Hawaii's Veterans of Foreign Wars) 87-138 La'anui Street Waianae, HI 96792 PH: 668-7162 (Email: nanakulibill@hotmail.com) TO: HOUSE COMMITTEE ON VETERANS, MILITARY, & INTERNATIONAL AFFAIRS, AND HOUSE COMMITTEE ON CULTURE AND THE ARTS For hearing Monday, February 09, 2015 Re: HB 1430 RELATING TO MAKUA VALLEY. Establishes Makua Valley Reserve Commission to oversee control and management of Makua Valley. Subject to Commission oversight, requires the Department of Land and Natural Resources to implement controls and permitted uses for the Valley and provide administrative support to the Commission. TESTIMONY IN OPPOSITION 1. As a Native Hawaiian senior residing on Hawaiian Home Lands in Nanakuli, and representing Hawaii's Veterans of Foreign Wars, I strongly oppose Bill 1430 for several reasons. (a) Makua Valley is not leased land. President Johnson signed an executive order in 1964 setting aside 3,286 acres in middle and upper areas of Makua Valley for federal use. One hundred seventy acres of privately own land, in the lower end of Makua Valley, was condemned during the war and is owned in fee simple by the Army. Land that is leased in Makua is along the road consisting of approximately 1,500 acres, which was cleared of unexploded ammuniton and returned to the State. The State then agreed to lease that land, at no charge, to the military for 64 years, which ends in 2028. (Ref: Honolulu Advertiser, August 1, 1976, "Makua - a study in land exchange.") (b) Makua valley was a cattle ranch prior to WWII. Mr. Lincoln MacCandless had a lease to the middle and upper areas of the valley where his cattle roamed unrestricted because there was nothing considered to be of any cultural or archeological significance by our Hawaiians. (c) In regards to Hawaiian rights to traditional spiritual practices in Makua Valley, it should be noted that Kamehameha II in 1819, abolished the Hawaiian religion, ordered god idols burned, heiaus demolished on all the islands, etc. When the Christians arrived in 1820 Hawaiians accepted its teachings, and practiced it spiritually until today in church, but not in Makua Valley. Those who choose to continue praying to those former gods should do it on their own property like other religions. (d) Regarding preservation and protection of archaeological, historical and environmental resources in Makua, no one has been able to define what those words mean or how it is applied in making a determination. What has been questionably identified in the aforementioned includes a dried up cattle watering hole in the ground that is about 10' in diameter, a rock on the side of a hill someone named "Piko," a dried up river bed on the side of a cliff, a hole in the ground in which running water can be seen, etc. These sites as anyone can tell have nothing to do with Hawaiians. (e) Following the attack by Japan on December 7, 1941, Makua was transferred to the War Department from the Territory of Hawaii with the agreement that it would be used for combat training. There was no stipulation as to protecting cultural sites, native plants, etc. As a result, during the war years Makua Valley experienced intense live firing from ships, airplanes, artillery guns,

infantry weapons, etc. Live firing still continued after the war, which raises the question as to whether anything of any significance in Makua Valley could have survived. I doubt it. 2. Our military commanders have confirmed Pilila'au Makua Military Reservation is needed to prepare troops for combat. It would be less costly, training could be done on a more regular basis and there would be far less family separation time for our military. 3. We, Hawaii's Veterans of Foreign Wars, especially we Hawaiian veterans ask the Board to oppose HB No 1430 because it is the right thing to do.

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**tokioka2-Robert**

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**To:** vmitestimony  
**Cc:** nanakulibill@hotmail.com  
**Subject:** \*Submitted testimony for HB1430 on Feb 9, 2015 09:05AM\*

**HB1430**

Submitted on: 2/6/2015

Testimony for VMI on Feb 9, 2015 09:05AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
William Prescott	Individual	Oppose	No

Comments:

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