

DAVID Y. IGE  
GOVERNOR  
STATE OF HAWAII

JOSH GREEN  
LT. GOVERNOR  
STATE OF HAWAII



WILLIAM J. AILA, JR.  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES  
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE SENATE COMMITTEES ON HAWAIIAN AFFAIRS & WATER & LAND  
HEARING ON MARCH 12, 2020 AT 1:15PM IN CR 016

**SCR 60 SUPPORTING THE DEPARTMENT OF HAWAIIAN HOME LANDS  
BENEFICIARIES BY AFFIRMING THEIR KULEANA TO HAVE A VOICE IN COMING  
TO A RESOLUTION ON COMPENSATION FOR UNAUTHORIZED USE OF THE  
MAUNA KEA ACCESS ROAD AND OTHER DEPARTMENT OF HAWAIIAN HOME  
LANDS PARCELS IN THE SURROUNDING AREA**

March 11, 2020

Aloha Chair Shimabukuro, Chair Kahele, and members of the Committees:

The Department of Hawaiian Home lands (DHHL) submits comments on this resolution supporting DHHL beneficiaries by affirming their kuleana to have a voice in coming to a resolution on compensation for unauthorized use of the Mauna Kea Access Road and other DHHL parcels in the surrounding area.

DHHL recognizes the interests of beneficiaries and specifically requested independent counsel to advise the Hawaiian Homes Commission (HHC) on the valuation of compensation through funds and land owed to DHHL as outstanding claims of Act 14 (1995) or other items related to Act 14 (1995) to solely represent the interests of beneficiaries. An investigative committee of the HHC was appointed effective October 23, 2019 and a meeting was held subsequent to the appointment. A professional services notice has been posted and offers will be considered.

DHHL requests that the 3<sup>rd</sup> whereas clause on page 2 of the resolution be amended to reflect that as of June 2019, there were 28,753 applicants on the waitlist for Hawaiian home lands leases because an applicant can have an application for a residential lease and an agricultural or pastoral lease.

Thank you for your consideration of our testimony.



Hawai‘i State Senate  
Committee on Hawaiian Affairs  
Committee on Water and Land

*Pō‘aha, Malaki 12, 2020*  
*Ke Kapikala Moku‘āina*  
415 South Beretānia Street

Re: **SCR 60** - SUPPORTING THE DEPARTMENT OF HAWAIIAN HOME LANDS BENEFICIARIES BY AFFIRMING THEIR KULEANA TO HAVE A VOICE IN COMING TO A RESOLUTION ON COMPENSATION FOR UNAUTHORIZED USE OF THE MAUNA KEA ACCESS ROAD AND OTHER DEPARTMENT OF HAWAIIAN HOME LANDS PARCELS IN THE SURROUNDING AREA.

*Aloha Luna Ho‘omalu Shimabukuro, Luna Ho‘omalu Kai Kahele, and members of the Committees:*

The Association of Hawaiian Civic Clubs **SUPPORTS** SCR 60, as it urges resolution on the long-standing settlement implemented by Act 14, Session Laws of Hawai‘i 1995. Sufficient time has elapsed since enactment of Act 14 and we urge the Department of Hawaiian Home Lands and other state agencies involved to conclude the settlement actions approved in that law.

At its 60th annual convention, the Association adopted Resolution 2019-60 which shares the same title as SCR 60.

The civic club movement was founded in 1918 by Congressional Delegate Prince Jonah Kūhiō Kalaniana‘ole with the creation of the Hawaiian Civic Club; the Association was formally organized in 1959 and has grown to a confederation of over sixty (60) Hawaiian Civic Clubs located throughout the State of Hawai‘i and the United States. The Association is the oldest Hawaiian community-based grassroots organization. The Association is governed by a

16-member Board of Directors; advocates for improved welfare of Native Hawaiians in culture, health, economic development, education, social welfare, and nationhood; and perpetuates and preserves language, history, music, dance and other Native Hawaiian cultural traditions.

*Mahalo* for allowing us to share our *mana* 'o.

*Me ka 'oia 'i 'o,*

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

Hailama Farden

*Pelekikena*

# ***ASSOCIATION OF HAWAIIAN CIVIC CLUBS***

## ***A RESOLUTION***

No. 2019 – 60

### **SUPPORTING DEPARTMENT OF HAWAIIAN HOME LANDS BENEFICIARIES IN AND AFFIRMING THEIR KULEANA TO HAVE A VOICE IN COMING TO A RESOLUTION ON COMPENSATION FOR UNAUTHROIZED USE OF THE MAUNAKEA ACCESS ROAD AND OTHER DHHL PARCELS IN THE SURROUNDING AREA**

WHEREAS, the Department of Hawaiian Home Lands (DHHL) is governed by the Hawaiian Homes Commission Act of 1920, enacted by the U.S. Congress to protect and improve the lives of native Hawaiians; and

WHEREAS, the act created a Hawaiian Homes Commission to administer certain public lands, called Hawaiian home lands, for homesteads; and

WHEREAS, native Hawaiians are defined as individuals having at least 50 percent Hawaiian blood; and

WHEREAS, in 1995, the State of Hawai‘i enacted legislation, known as Act 14, to resolve and satisfy all claims stemming from its improper and uncompensated use of Trust lands that arose between August 21, 1959, and July 1, 1988; and

WHEREAS, to resolve all controversies and claims regarding the improper and uncompensated use of lands for state roads and highways, Act 14 contemplated “the initiation of a land exchange” between the State and the Hawaiian Homes Commission; and

WHEREAS, to date, some 24 years after the law was passed, there is no evidence that either entity has initiated any land exchange pursuant to Act 14 to resolve the State’s prior improper and uncompensated use of trust lands for roads and highways, including for the use of the MKAR; and

WHEREAS, the transfer agreement was initiated on November 4, 1994, and in 2019, 25 years later, the transfer has not been properly completed; and

WHEREAS, the Hawaiian Homes Commission, under the Hawaiian Homes Commission Act and the Hawai‘i State Constitution, has an obligation to (1) protect the trust res (DHHL land

inventory), and (2) exercise exclusive loyalty to its beneficiaries (reference Hawai'i Supreme Court, Ahuna v. DHHL); and

WHEREAS, beneficiary consultation between the Hawaiian Homes Commission and the beneficiaries has not commenced for land exchanges; and

WHEREAS, as of December 31, 2017, there were 44,952 beneficiary applicants on the waitlist for Hawaiian home lands leases, and annually, a large number of these beneficiaries die while still waiting for a land award while non-Hawaiian interests are afforded access to land for the "greater good" of the community; and

WHEREAS, it is the right and responsibility of the native Hawaiian beneficiaries of the DHHL to provide input and to be consulted in matters of land disposition, yet they have not been afforded the venue to do so; and

WHEREAS, previous resolutions of the Association of Hawaiian Civic clubs have affirmed the sacredness of Maunakea; and

WHEREAS, County of Hawai'i Mayor Harry Kim met with members of the Association of Hawaiian Civic Clubs Hawai'i Council on October 17, 2019, and the council brings forward this issues as a result of this meeting.

NOW, THEREFORE, BE IT RESOLVED, by the Association of Hawaiian Civic Clubs at its 60th Annual Convention in Lahaina, Maui, in the malama of Welehu and the rising of Lā'au Pau, this 16th day of November 2019, supporting Department of Hawaiian Home Lands beneficiaries in and affirming their kuleana to have a voice in coming to a resolution on compensation for unauthorized use of the Maunakea access road and other DHHL parcels in the surrounding area; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be transmitted to the chair of the Hawaiian Homes Commission, as well as the Governor of the State of Hawai'i, President of the State Senate, Speaker of the State House of Representatives, Chair of the State Senate subject matter committee on Hawaiian Affairs, Chair of the State House subject matter committee on Hawaiian Affairs, Chair of the Board of Trustees of the Office of Hawaiian Affairs, and all County Mayors.



The undersigned hereby certifies that the foregoing Resolution was duly adopted in the malama of Welehu and the rising of Lā'au Pau on the 16<sup>th</sup> day of November 2019, at the 60th Annual Convention of the Association of Hawaiian Civic Clubs in Lahaina, Maui.

---

Hailama V. K. K. Farden, President

Malu'ohai Residents' Association  
P.O. Box 700911  
Kapolei, HI 96709

March 12, 2020

Senate Committee on Hawaiian Affairs  
Chair Maile S.L. Shimabukuro,  
Vice Chair Kaiali'i Kahele  
Members of the Committee

Re: SUPPORTING THE DEPARTMENT OF HAWAIIAN HOME LANDS BENEFICIARIES BY AFFIRMING THEIR KULEANA TO HAVE A VOICE IN COMING TO A RESOLUTION ON COMPENSATION FOR UNAUTHORIZED USE OF THE MAUNA KEA ACCESS ROAD AND OTHER DEPARTMENT OF HAWAIIAN HOME LANDS PARCELS IN THE SURROUNDING AREA.

Aloha Chair Shimabukuro, Vice Chair Kahele, and members of the Committee,

For the record, I am Homelani Schaedel here today in my capacity as President of Malu'ohai Residents' Association to provide the following comments:

For clarity, we respectfully request amending Page 2, Line 10 from 44,952 to 28,418 per the DHHL Applicant Summary as of December 31, 2018 posted on their website (See attached).

We appreciate introduction of this resolution, but do not feel the Legislature is obliged to affirm our "right" as beneficiaries of the Hawaiian Home Lands Trust to have a voice in matters related to Trust lands or the Department of Hawaiian Home Lands (DHHL).

If the intent of this resolution is to require DHHL to conduct Beneficiary Consultation on the use of and compensation for lands beneath the Mauna Kea Access Road and surrounding parcels. We urge your Committee to make that request directly to the Chairman of the Hawaiian Homes Commission.

However, we do not feel it is our kuleana to understand the process, complexity, or to determine equitable compensation for use of vacant Trust lands, nor do we have the expertise, experience, or are qualified to contribute toward arriving at a value. We believe it is the kuleana of the Hawaiian Homes Commission and DHHL to ensure the best interests of beneficiaries is served during discussions and negotiations that will result in highest and best use and highest value of vacant Trust lands.

With stronger language, we believe this resolution can provide the necessary platform and have a greater impact toward reaching an equitable solution. We respectfully request amending Page 2 Lines 33 – 36 to read...

...“the Legislature supports Hawaiian Home Lands Trust beneficiaries by affirming their right to require the Department of Hawaiian Home Lands, the Department of Land and Natural Resources, and the Department of Transportation, to come to a resolution and fair compensation for past, present and future use of the land beneath the Mauna Kea Access Road and other DHHL parcels in the surrounding area, by June 30, 2021.”

Mahalo for the opportunity to present our comments.

## **DHHL Applicant Summary as of December 31, 2018**

Individuals with only <b>RESIDENTIAL</b> applications:	6,188
Individuals with only <b>AGRICULTURAL</b> applications:	4,554
Individuals with only <b>PASTORAL</b> applications:	758
Individuals with <b>RESIDENTIAL</b> and <b>AGRICULTURAL</b> applications:	14,557
Individuals with <b>RESIDENTIAL</b> and <b>PASTORAL</b> applications:	<u>2,361</u>
<b>Total Number of DHHL APPLICANTS:</b>	<b>28,418</b>



**SCR-60**

Submitted on: 3/9/2020 6:04:49 PM

Testimony for HWN on 3/12/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Elizabeth Kenui	Testifying for Waimanalo Hawaiian Homes Association	Support	No

Comments:

The Officers and Directors of the Waimanalo Hawaiian Homes Association support SCR 60. Beneficiaries of the Department of Hawaiian Home Lands must have a voice in coming to a resolution on compensation for unauthorized use of the Mauna Kea Access Road and other Department of Hawaiian Home Lands parcels. Improper and uncompensated use of Hawaiian Home lands interferes with the rehabilitation of native Hawaiians and their ability to practice the Hawaiian culture.

**SCR-60**

Submitted on: 3/10/2020 8:12:22 AM

Testimony for HWN on 3/12/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Robert W. Keaweaweulu Brown	Testifying for Kalihi Palama Hawaiian Civic Club	Support	No

Comments:



**Moku O Keawe**  
Hawai'i Council for the  
Association of Hawaiian Civic Clubs  
P.O. Box 7164 | Hilo, Hawai'i | 96720

---

**Committees on  
Hawaiian Affairs & Water and Land**

Thursday, March 12, 2020 1:15PM Conference Room #016

Re: SCR60 – SUPPORTING THE DEPARTMENT OF HAWAIIAN HOME LANDS BENEFICIARIES BY AFFIRMING THEIR KULEANA TO HAVE A VOICE IN COMING TO A RESOLUTION ON COMPENSATION FOR UNAUTHORIZED USE OF THE MAUNA KEA ACCESS ROAD AND OTHER DEPARTMENT OF HAWAIIAN HOME LANDS PARCELS IN THE SURROUNDING AREA.

Aloha Chair Shimabukuro and Chair Kahele and members of the Hawaiian Affairs & Water and Land committees,

The Association of Hawaiian Civic Clubs – Hawai'i Council (AHCC – Hawai'i Council) **SUPPORTS SCR60**. This resolution reiterates the obligations set forth under the Hawaiian Homes Commission Act and the Hawai'i State Constitution to protect the trust and to exercise exclusive loyalty to its beneficiaries regarding the Mauna Kea access road (Hawai'i Supreme Court, Ahuna v. DHHL). Consultation is crucial between the beneficiaries of Hawaiian Home Lands and the Hawaiian Homes Commission regarding all land exchanges and compensation.

At its 60th annual convention, the AHCC - Hawai'i Council submitted a resolution 2019-60 which was adopted by the Association of Hawaiian Civic Clubs.

The AHCC - Hawai'i Council is comprised of nine (9) active Hawaiian Civic Clubs on the Island of Hawai'i who are chartered by the Association of Hawaiian Civic Clubs. We are part of a collective of fifty-one (51) other clubs throughout the State of Hawai'i and the United States that meet annually to vote on resolutions that advocate for the betterment of the conditions for Native Hawaiians. Thank you for hearing our testimony and we **STRONGLY URGE YOUR SUPPORT FOR SCR60**.

Mahalo Nui,

Shane Akoni Palacat-Nelsen  
Pelekikena

# ***ASSOCIATION OF HAWAIIAN CIVIC CLUBS***

## ***A RESOLUTION***

No. 2019 – 60

### **SUPPORTING DEPARTMENT OF HAWAIIAN HOME LANDS BENEFICIARIES IN AND AFFIRMING THEIR KULEANA TO HAVE A VOICE IN COMING TO A RESOLUTION ON COMPENSATION FOR UNAUTHROIZED USE OF THE MAUNAKEA ACCESS ROAD AND OTHER DHHL PARCELS IN THE SURROUNDING AREA**

WHEREAS, the Department of Hawaiian Home Lands (DHHL) is governed by the Hawaiian Homes Commission Act of 1920, enacted by the U.S. Congress to protect and improve the lives of native Hawaiians; and

WHEREAS, the act created a Hawaiian Homes Commission to administer certain public lands, called Hawaiian home lands, for homesteads; and

WHEREAS, native Hawaiians are defined as individuals having at least 50 percent Hawaiian blood; and

WHEREAS, in 1995, the State of Hawai'i enacted legislation, known as Act 14, to resolve and satisfy all claims stemming from its improper and uncompensated use of Trust lands that arose between August 21, 1959, and July 1, 1988; and

WHEREAS, to resolve all controversies and claims regarding the improper and uncompensated use of lands for state roads and highways, Act 14 contemplated “the initiation of a land exchange” between the State and the Hawaiian Homes Commission; and

WHEREAS, to date, some 24 years after the law was passed, there is no evidence that either entity has initiated any land exchange pursuant to Act 14 to resolve the State's prior improper and uncompensated use of trust lands for roads and highways, including for the use of the MKAR; and

WHEREAS, the transfer agreement was initiated on November 4, 1994, and in 2019, 25 years later, the transfer has not been properly completed; and

WHEREAS, the Hawaiian Homes Commission, under the Hawaiian Homes Commission Act and the Hawai'i State Constitution, has an obligation to (1) protect the trust res (DHHL land

inventory), and (2) exercise exclusive loyalty to its beneficiaries (reference Hawai'i Supreme Court, Ahuna v. DHHL); and

WHEREAS, beneficiary consultation between the Hawaiian Homes Commission and the beneficiaries has not commenced for land exchanges; and

WHEREAS, as of December 31, 2017, there were 44,952 beneficiary applicants on the waitlist for Hawaiian home lands leases, and annually, a large number of these beneficiaries die while still waiting for a land award while non-Hawaiian interests are afforded access to land for the "greater good" of the community; and

WHEREAS, it is the right and responsibility of the native Hawaiian beneficiaries of the DHHL to provide input and to be consulted in matters of land disposition, yet they have not been afforded the venue to do so; and

WHEREAS, previous resolutions of the Association of Hawaiian Civic clubs have affirmed the sacredness of Maunakea; and

WHEREAS, County of Hawai'i Mayor Harry Kim met with members of the Association of Hawaiian Civic Clubs Hawai'i Council on October 17, 2019, and the council brings forward this issues as a result of this meeting.

NOW, THEREFORE, BE IT RESOLVED, by the Association of Hawaiian Civic Clubs at its 60th Annual Convention in Lahaina, Maui, in the malama of Welehu and the rising of Lā'au Pau, this 16th day of November 2019, supporting Department of Hawaiian Home Lands beneficiaries in and affirming their kuleana to have a voice in coming to a resolution on compensation for unauthorized use of the Maunakea access road and other DHHL parcels in the surrounding area; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be transmitted to the chair of the Hawaiian Homes Commission, as well as the Governor of the State of Hawai'i, President of the State Senate, Speaker of the State House of Representatives, Chair of the State Senate subject matter committee on Hawaiian Affairs, Chair of the State House subject matter committee on Hawaiian Affairs, Chair of the Board of Trustees of the Office of Hawaiian Affairs, and all County Mayors.



The undersigned hereby certifies that the foregoing Resolution was duly adopted in the malama of Welehu and the rising of Lā'au Pau on the 16<sup>th</sup> day of November 2019, at the 60th Annual Convention of the Association of Hawaiian Civic Clubs in Lahaina, Maui.

Handwritten signature of Hailama V. K. K. Farden in black ink.

---

Hailama V. K. K. Farden, President

**SCR-60**

Submitted on: 3/6/2020 9:11:16 PM

Testimony for HWN on 3/12/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sage-Lee Medeiros-Garcia	Individual	Support	No

Comments:

To the Water and Land Committee relating to SCR60-

Support. I believe reaffirming the position of the legislature is an encourages civic engagement and resolution. Resolution wi only be satisfied with more participation in our government and having official positions from bottom up to be filled by members who are willing to serve and to improve the community of multicultural. However, Native Hawaiians are clearly denoted here based on a blood quantum. While other racial makeup may not require a quantum to be identified as such, why should it be that a Hawaiian must be identified by a high level of quantum? Suggest a reassessment on the efficiency of a quantum level high to possibly adjust based on current demands of the future generations.

All that we want are easy to acquire: permits, contracts, materials, consumables, and machinery to create communities from the land provided. A vision that does not take alot of \$ to achieve. If we fall short in contractors or MLH, can there be training provided to Native Hawaiians to bring skis and quals iot rebuild?

Lastly, line 35 refers to 'their' and is unclear if it is directed to Native Hawaiians or Legislature.

Sage-Lee Medeiros-Garcia

**SCR-60**

Submitted on: 3/8/2020 8:41:24 AM

Testimony for HWN on 3/12/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
kenneth kudo	Individual	Oppose	No

Comments:

Oppose any compensation whatsoever to DHHL recipients for false allegations of wrongdoings on Mauna Kea. These recipients undermine the strength and well being of Hawaii and its government.



**SCR-60**

Submitted on: 3/10/2020 2:55:03 AM

Testimony for HWN on 3/12/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Juanita Kawamoto Brown	Individual	Support	No

Comments:

**SCR-60**

Submitted on: 3/10/2020 12:23:49 PM

Testimony for HWN on 3/12/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kea Kala	Individual	Support	No

Comments:

**SCR-60**

Submitted on: 3/10/2020 1:39:00 PM

Testimony for HWN on 3/12/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marlene Kamuela Purdy	Individual	Support	No

Comments:

As a HHC Act 1920 beneficiary Ohana, total support for SCR 60

**SCR-60**

Submitted on: 3/10/2020 2:36:01 PM

Testimony for HWN on 3/12/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kehaulani Shintani	Individual	Support	No

Comments:



## SCR60

### **SUPPORTING THE DEPARTMENT OF HAWAIIAN HOMELANDS BENEFICIARIES BY AFFIRMING THEIR KULEANA TO HAVE A VOICE IN COMING TO A RESOLUTION ON COMPENSATION FOR UNAUTHORIZED USE OF THE MAUNA KEA ACCESS ROAD AND OTHER DEPARTMENT OF HAWAIIAN HOME LANDS PARCELS IN THE SURROUNDING AREA.**

Senate Committee on Hawaiian Affairs

Senate Committee on Water and Land

March 12, 2020

1:15 p.m.

Room 016

The Administration of the Office of Hawaiian Affairs (OHA) will recommend to the Board of Trustees a position of **COMMENT** on SCR60, which supports the Department of Hawaiian Home Lands (DHHL) beneficiaries by affirming their kuleana to have a voice in the resolution of the unauthorized use of the Mauna Kea Access Road (MKAR) and other DHHL parcels in the surrounding area. OHA urges the State of Hawai'i to resolve past and ongoing inappropriate, uncompensated, and impermissible uses of Hawaiian Home Lands Trust lands (Trust lands) and notes that beneficiary consultation may be required for any land exchange involving the MKAR.

The most recent outcry by DHHL and OHA beneficiaries concerning the ownership and control of 65 acres of land in the Hawaiian Home Lands Trust (HHLT) on Maunakea have renewed concerns about the State's inappropriate, uncompensated, and impermissible use of HHLT lands. MKAR is an approximately six-mile long paved roadway that leads from the Daniel K. Inouye Highway to a Visitor Information Station located on Maunakea. Maunakea is a mountain sacred to many Native Hawaiians but nevertheless is used by the University of Hawai'i for the construction and operation of large-scale industrial telescope facilities. The University of Hawai'i's mismanagement of this significant mountain is well documented and ongoing. Not surprisingly the MKAR – constructed by the State between the 1960's - 1970's and located almost entirely on Trust lands – recently triggered renewed beneficiary scrutiny of the State's ongoing pattern of disregard for native Hawaiian and Native Hawaiian interests and concerns regarding Maunakea . It appears that the State may have failed to obtain the consent of the Hawaiian Homes Commission (HHC) before commencing construction of the MKAR, which has been used continuously and without compensation to the HHLT.

The State's past inappropriate uses of the HHLT have still not been resolved approximately 25 years after the State made a commitment to make the HHLT whole. Although the State of Hawai'i agreed to take on the trust responsibility of administering the HHCA and the HHCA program as a condition of Congress granting Hawai'i statehood, the State nevertheless improperly converted HHLT lands, including the land beneath the

MKAR, for road and other uses without any apparent consent from the HHC. In response to community concerns that the State had been violating its fiduciary obligations as trustee of the HHLT, and in furtherance of recommendations by the 1983 Federal-State Task Force on the HHCA, in 1995 the State enacted legislation known as Act 14, to resolve and satisfy all claims stemming from the State's improper and uncompensated use of Trust lands from August 21, 1959 to July 1, 1988. To resolve all controversies and claims relating to the improper and uncompensated use of lands for State roads and highways, Act 14 contemplated "the initiation of [] land exchanges" between the State and the HHC. To date, approximately 25 years since Act 14's passage, neither entity has initiated any land exchange to resolve the State's prior improper and uncompensated use of Trust lands for roads and highways including for the use of MKAR.

**In addition to the failure of the State of Hawai'i to fully implement its own laws adopted to resolve its past breaches of the Trust pursuant to Act 14, further potential breaches of the Trust remain unresolved from the State's continued improper and uncompensated use of Trust lands.** Even if the State eventually complies with its self-imposed obligations under Act 14, breaches arising after July 1, 1988 are expressly excluded from the scope of the Act. Despite the fact that the State has continued and continues to use Trust lands for roads and highways, including the MKAR, without compensation to the Trust—as DHHL stated in its briefing to the HHC at its January 2019 meeting—there have been no proposed remedies whatsoever for a number of ongoing violations of the State's fiduciary obligations under the Trust.

OHA emphasizes that with no land exchange having been executed, the land underlying the MKAR remains classified as HHLT lands, and federal laws and regulations regarding the use and exchange of HHLT lands may apply, including the requirement of a summary of beneficiary consultations. While the State has primary responsibility for administering the HHCA program, the federal government still plays an important functional role in oversight. The HHCA and the Hawaiian Homelands Recovery Act of 1995 give the United States responsibilities related to the approval of land exchanges involving HHLT lands and the right to bring suit against the State to enforce the provisions of the HHCA on behalf of the DHHL beneficiaries. In 2016, the DOI issued 43 C.F.R. Parts 47 and 48, which provide specific guidance to the Secretary of Interior in fulfilling oversight responsibilities regarding the exchange of HHLT lands. For example, Part 47 clarifies the documents the Secretary of Interior must use in conducting federal review, to ensure appraisals of the properties involved, and to ensure compliance with certain federal laws as applicable, including the National Environmental Policy Act, the National Historic Preservation Act, and the Native American Graves Protection and Repatriation Act. Moreover, this rule requires the HHC Chair to provide a summary of all consultations with beneficiaries, HHCA homestead associations, or HHCA beneficiary associations. Significantly, 43 C.F.R. Part 47 states that all land exchanges involving lands in the HHLT are to be reviewed with the primary goal of protecting the interests of the Trust and its beneficiaries. Only upon compliance with all of the aforementioned requirements may the Secretary of Interior approve any contemplated land exchange.

Mahalo ā nui for the opportunity to testify on this measure.

**SCR-60**

Submitted on: 3/11/2020 9:58:04 AM

Testimony for HWN on 3/12/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dawn Tanimoto	Individual	Support	No

Comments:

**SCR-60**

Submitted on: 3/11/2020 9:58:40 AM

Testimony for HWN on 3/12/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Robert Shook	Individual	Support	No

Comments:



**SCR-60**

Submitted on: 3/11/2020 12:08:27 PM

Testimony for HWN on 3/12/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
josephine tanimoto	Individual	Support	No

Comments:

My family and I strongly SUPPORT this measure.

**SCR-60**

Submitted on: 3/11/2020 9:42:09 PM

Testimony for HWN on 3/12/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kamuela Werner MPH	Individual	Support	No

Comments:



Luna O Nā Papa Alaka'i

**Pelekikena**

Anthony Makana Paris

**Hope Pelekikena 'Ekahi**

Randi Fernandez

**Hope Pelekikena 'Elua**

K ā'eo Kealoha Lindsey

**Pu'ukū**

Leilani Williams-  
Solomon

**Kākau 'Ōlelo Ho'opa'a**

Sai Furukawa

**Kākau 'Ōlelo Palapala**

Kamuela Werner

**Pelekikena Hala Koke**

Yvonne 'PeeWee' Ryan

**Nā Luna Alaka'i**

Alan Akao  
Kuni Agard  
Puamana Crabbe  
Kanani Pali  
Marlene Sai  
Bruce Wong

P.O. Box 4728  
Honolulu, HI 96812

[www.pkhcc.org](http://www.pkhcc.org)

*Founded in 1964  
by Lili'uokalani  
Kawānanakoa Morris*

Senate Committee on Hawaiian Affairs  
Senate Committee on Water and Land

Thursday, March 12, 2020  
1:15 pm Conference Room 016  
State Capitol  
415 South Beretania Street

Re: SCR 60 SUPPORTING THE DEPARTMENT OF HAWAIIAN HOME LANDS BENEFICIARIES BY AFFIRMING THEIR KULEANA TO HAVE A VOICE IN COMING TO A RESOLUTION ON COMPENSATION FOR UNAUTHORIZED USE OF THE MAUNA KEA ACCESS ROAD AND OTHER DEPARTMENT OF HAWAIIAN HOME LANDS PARCELS IN THE SURROUNDING AREA

*Aloha* Chair Shimabukuro and Chair Kahele and members of the Committees:

The Prince Kūhiō Hawaiian Civic Club **SUPPORTS** SCR 60.

At its 60th annual convention, the Association of Hawaiian Civic Clubs adopted Resolution 2019-60 which shares the same title as SCR 60.

We support appropriate consultation with beneficiaries of trust lands and appropriate compensation for use of trust lands.

PKHCC urges the committees to PASS SCR 60.

*Me ke aloha,*

A. Makana Paris  
Pelekikena  
[president@pkhcc.org](mailto:president@pkhcc.org)

**SCR-60**

Submitted on: 3/11/2020 10:36:30 PM

Testimony for HWN on 3/12/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Anthony Makana Paris	Individual	Support	No

Comments:

**MOKU O MANOKALANIPŌ**  
THE KAUA'I COUNCIL OF THE ASSOCIATION OF HAWAIIAN CIVIC CLUBS

Date: Malaki 12, 2020

To: Ka 'Aha Kenekoa  
Ke Kōmike Kuleana Hawai'i  
Ke Kōmike no ka Wai a me ka 'Āina

From: Moku o Manokalanipō, The Kaua'i Council of the Association of Hawaiian Civic Clubs  
Malia Nobrega-Olivera, Pelekikena  
malianob@gmail.com

Re: SCR 60 - SUPPORTING THE DEPARTMENT OF HAWAIIAN HOME LANDS BENEFICIARIES BY AFFIRMING THEIR KULEANA TO HAVE A VOICE IN COMING TO A RESOLUTION ON COMPENSATION FOR UNAUTHORIZED USE OF THE MAUNA KEA ACCESS ROAD AND OTHER DEPARTMENT OF HAWAIIAN HOME LANDS PARCELS IN THE SURROUNDING AREA.

Aloha Luna Ho'omalua Maile S.L. Shimabukuro, Luna Ho'omalua Kaiali'i Kahele, and members of the Senate Committees on Hawaiian Affairs and Committee on Water and Land,

I'm writing on behalf of Moku o Manokalanipō, The Kaua'i Council of the Association of Hawaiian Civic Clubs which represents the four (4) Hawaiian Civic Clubs based on the island of Kaua'i.

Moku o Manokalanipō SUPPORTS SCR 60, as it urges resolution on the long-standing settlement implemented by Act 14, Session Laws of Hawai'i 1995. Sufficient time has elapsed since enactment of Act 14 and we urge the Department of Hawaiian Home Lands and other state agencies involved to conclude the settlement actions approved in that law.

At its 60th annual convention, the Association adopted Resolution 2019-60 which shares the same title as SCR 60. Our members of Moku o Manokalanipō actively participated in these discussions at our convention and are kia'i of our pae 'āina.

The Hawaiian civic club movement was founded in 1918 by Congressional Delegate Prince Jonah Kūhiō Kalaniana'ole with the creation of the Hawaiian Civic Club; the Association was formally organized in 1959 and in 1968, the Hawaiian Civic Clubs on the island of Kaua'i organized Moku o Manokalanipō, the Kaua'i Council of the Association of Hawaiian Civic Clubs.