



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committees on Hawaiian Affairs and Water & Land
Tuesday, March 23, 2021 at 1:01 p.m.

By
Michael Bruno
Provost
University of Hawai'i at Mānoa

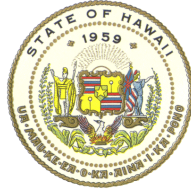
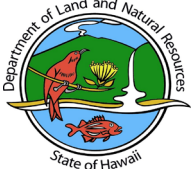
SCR 206/SR 171 – REQUESTING THE WILLIAM S. RICHARDSON SCHOOL OF LAW TO ESTABLISH THE BURIAL SITES WORKING GROUP TO EXAMINE THE BURIAL SITES PROGRAM UNDER THE DEPARTMENT OF LAND AND NATURAL RESOURCES' STATE HISTORIC PRESERVATION DIVISION

Chairs Shimabukuro and Inouye, Vice Chairs Keohokalole and Keith-Agaran, and members of the Committees:

Mahalo for this opportunity to comment on SCR 206/SR 171, requesting the William S. Richardson School of Law to establish the burial sites working group to examine the burial sites program under the Department of Land and Natural Resources (DLNR) State Historic Preservation Division. The University of Hawai'i acknowledges the intent of these resolutions; however, **we respectfully request that the William S. Richardson School of Law (UH Law School) participate as a member, versus as the working group's lead.** The UH Law School has a faculty member with expertise on iwi kūpuna issues (Native Hawaiian burials) and who is willing to serve on the working group. Unfortunately, however, we do not have the financial or other resources necessary to adequately establish and effectively manage the working group's significant kuleana, especially given the importance of this task to DLNR and the Native Hawaiian people.

Mahalo for this opportunity to testify.

DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committees on
HAWAIIAN AFFAIRS
and
WATER AND LAND**

**Tuesday, March 23, 2021
1:01 PM**

State Capitol, Via Videoconference, Conference Room 016

**In consideration of
SENATE CONCURRENT RESOLUTION 206/SENATE RESOLUTION 171
REQUESTING THE WILLIAM S. RICHARDSON SCHOOL OF LAW TO ESTABLISH
THE BURIAL SITES WORKING GROUP TO EXAMINE THE BURIAL SITES
PROGRAM UNDER THE DEPARTMENT OF LAND AND NATURAL RESOURCES'
STATE HISTORIC PRESERVATION DIVISION**

Senate Concurrent Resolution 206/Senate Resolution 171 (Resolutions) request that the William S. Richardson School of Law establish a Burial Sites Working Group (BSWG) to examine the Burial Sites Program under the Department of Land and Natural Resources' (Department) State Historic Preservation Division (SHPD) and make formal recommendations on how to correct any mismanagement by the Department. **The Department acknowledges the intent of these resolutions and offers comments.**

The resolutions urge that the BSWG include the Chairpersons of all Island Burial Councils (Councils); Administrator of SHPD; History and Culture Branch Chief of SHPD; Burials Specialist of SHPD; a representative of the Office of Hawaiian Affairs; two representatives of large landowners and developers to be appointed by the Governor; a representative of the Hawaiian community familiar with and experiences with the Burial Sites Program to be appointed by the Office of Hawaiian Affairs; and a representative of Huliauapa'a/Kali'uokapa'akai Collective to be selected by that organization. The BSWG is requested to submit a report detailing the formal findings and recommendations for corrective action, including proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2022.

Section 6E-43.5, Hawaii Revised Statutes (HRS), establishes five island burial councils (Councils), one each for Hawai'i, Maui/Lāna'i, Moloka'i, O'ahu, and Kaua'i/Ni'ihau, and attaches them to the Department for administrative purposes. The Councils carry out duties

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

established by Sections 6E-43, 6E-43.5 6E 43.6, HRS. Specifically, the Councils are tasked with: (1) determining whether previously identified native Hawaiian burial sites that appear to be over 50 years old should be preserved in place or relocated; (2) being consulted by SHPD with respect to burial treatment and preservation plans, and make recommendations to the SHPD regarding the appropriate management, treatment, and protection of native Hawaiian burial sites; (3) makes determinations as to whether to recognize a claimant to native Hawaiian burials as a lineal or cultural descendant; (4) assist the SHPD with the inventory and identification of native Hawaiian burial sites by providing information from families and other sources; (5) and maintain a list of appropriate Hawaiian organizations, agencies and offices to notify regarding the discovery of native Hawaiian burial sites.

SHPD's responsibility is to provide administrative support to the Councils under Section 13-300-28, Hawaii Administrative Rules (HAR), including: (1) posting notices of council agendas; (2) (in a non-pandemic world) making arrangements for meeting locations and site visits; (3) recording meeting minutes; (3) providing the applicants written notification of the Councils' determinations; and (5) other administrative duties. Aside from providing such administrative support to the Councils under Section 6E-43.6, HRS, & Section 13-300-40(b), HAR, SHPD has jurisdiction over any inadvertent discovery (unanticipated finding of human skeletal remains and any burial goods resulting from unintentional disturbance, erosion, or other ground disturbing activity) of human skeletal remains and any burial goods over fifty years old, regardless of ethnicity.

These Resolutions appear to assume that SHPD is failing to support the Councils to the extent possible with currently available resources, and that it is failing to comply with the statutes and administrative rules to the extent that it has become necessary to form a working group. The Department does not concur with this assumption.

The Hawai'i, Maui/Lāna'i, and O'ahu Burial Councils are supported by two burial sites specialist each. When not in attendance at a Council meeting, the History and Culture Branch Chief is available by cell phone as necessary. With a few exceptions, the questions that the Councils may have regarding statute, regulation, and procedures can be answered by referring to the council member manual given to each council member at the first meeting of their term. All staff are properly trained in the statutes and administrative rules. It is probably the case that more Sunshine Law and Ethics training is needed for the councils as compliance with these statutes, with the exception of posting meeting agendas and producing minutes, are Council rather than SHPD administrative responsibilities. Having heard that some Council members feel the need for training, SHPD and the Deputy Attorney Generals (Deputy AG) from the Department of the Attorney General (AGs) assigned to SHPD are currently working on training material that is currently targeted for presentation at the May or June 2021 council meetings.

Assigning a Deputy AG to attend Council meetings is a decision of the AGs. Each month there are between 4-7 meetings of the various Councils. Currently, the Department of the AG must provide support to the State of Hawaii's over 150 plus boards and commissions. Deputy AGs cannot be present at the meetings of all those boards and commissions. The Deputy AGs regularly provide support via cell phone during Council meetings when they cannot be physically in attendance at a meeting. All of the individual councils have utilized that method of AG support for at least a year now. In addition, Deputy AGs do attend meetings to provide

guidance and advice when prior to the meeting SHPD is able to provide them with specific matters on which the Councils will likely need legal advice.

Every allegation of burial disturbance reported to SHPD is investigated by SHPD staff. When SHPD staff feel their observations warrant, allegations are forwarded to the Department's Division of Conservation and Resources Enforcement (DOCARE) for investigation, as well as the Deputy AG's for advice. When the result of the DOCARE investigation appears to support it, the decision to pursue civil and criminal charges is made by SHPD in consultation with the AG's.

SHPD has a burial sites inventory. That inventory includes all burials identified during archaeological inventories and surveys, identified by descendants, and those inadvertently discovered. SHPD does not have the resources to carry on an active survey to identify burial sites throughout the state. In addition, there is a cultural belief and practice in a large segment of the native Hawaiian community that burials should not be identified, even though it may put the burial at risk of harm. This belief makes it difficult, and perhaps not entirely appropriate, for SHPD to implement a systematic survey effort, even if it had the resources to do so.

In closing, the Department believes that the proposed BSWG may bring clarity as to what the real issues are and propose solutions, whether it will be an increase in resources for SHPD, to amend statutes, or to recommend amendments to administrative rules.

Thank you for the opportunity to comment on these resolutions.

SCR-206

Submitted on: 3/22/2021 9:59:33 AM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Downer	Testifying for DLNR	Comments	No

Comments:

I am available for questions. Please allow me Zoom access. Thank you.

KA LĀHUI HAWAI‘I

KŌMIKE KALAI‘ĀINA

BEFORE THE SENATE COMMITTEES ON HAWAIIAN AFFAIRS AND WATER & LAND

February 23, 2021

SCR 206/SR 171

Establishing the Bural Sites Working Group to Examine the Burial Sites Program Under DLNR

Aloha Chair Shimabukuro, Chair Inouye, Vice Chair Keohokalole, Vice Chair Keith-Agaran, and Members of the Committees,

Ka Lāhui Hawai‘i Kōmike Kalai‘āina submits testimony in SUPPORT with reservations for Senate Concurrent Resolution 206 and SR 171 which is requesting the William S Richardson School of Law to Establish the Burial Sites Working Group to Examine the Burial Sites Program under the Department of Land and Natural Resources (DLNR) State Historic Preservation Division (SHPD).

After some years observing the Senate confirmations of problematic members of the Board of Land and Natural Resources Board like Christopher Yuen, Suzanne Case, and Samuel "Olu" Gon III, I am not sure that this resolution would genuinely have the wanted effect because the issues at the DLNR are systemic and starts at the top. The failure of SHPD is the failure of the Board whose members this body keeps reappointing despite many substantial testimonies in opposition.

Ka Lāhui Hawai‘i Kōmike Kalai‘āina supports the intent of this measure and adds the following suggestions for amendments to strengthen this working group with more community input please include a member of Kia‘i Kaua‘ula to be chosen by that group, a member of Mālama Kakanilua chosen by that organization, and a member of Ka Lāhui Hawai‘i to be chosen by this Hawaiian nation. The Kia‘i Kaua‘ula Mālama Kakanilua and are on the frontlines of protecting iwi kupuna right now and Ka Lāhui Hawai‘i has had decades long standing and history on burial and repatriation issues.

Me ka oiai‘o,

M. Healani Sonoda-Pale
Public Affairs Officer, Ka Lāhui Hawai‘i Kōmike Kalai‘āina

We the undersigned are opposed to HB 344 aiming to remove the people's rights to contested case hearings (CCH).

This bill is a bold attempt by lawmakers to remove the people of Hawai'i's ability to challenge critical land use and or water use and other government agencies' decisions that negatively impact them and/or the general public. It is an attempt by lawmakers to remove critical due process rights afforded to Native Hawaiians and the general public. This law presents more constitutional rights challenges than it solves. For example, CCH are for the protection of the citizens of Hawai'i and providing the people a way to challenge agency actions that negatively impact them.

The CCH process is the only Peoples process for any and all government agencies actions that exists.

It is a Peoples process because it a quasi-judicial process that allows regular people to contest, present evidence and to cross examine agencies' witnesses and/or to build the record of impacts to them as interested parties and to inform government agencies about decisions that may be adverse to Native Hawaiians and the General public.

Without a CCH process there is no way for decisions makers to understand the full impacts of their decision and/or for decisions makers to actually make an informed decision based on the facts of the impacts for any and all government decision and/or actions.

CCH are considered a Peoples process also because no one needs to be a lawyer or to hire a lawyer to participate in an administrative Contested Case Hearing. Pushing the executive branch process into the courts violates the constitutional requirement of Separation of Powers.

Therefore, Contested Case Hearings should not be construed as a threat to the system. To the contrary, they are meant to help the administration make informed decisions and to understand how their decisions may affect the greater public.

Without Contested Case Hearings, no decision could actually be challenged or go through judicial review because there would be no record to review or to appeal out of an administrative hearing.

Most, if not all, seminal land use cases began with a Contested Case Hearing (i.e. PASH, Kapa'akai etc) and were originally brought by regular citizens whose Rights and Interest in the land/water were being threatened. Many CCH have found their way all the way into the highest court of the land-the Supreme Court Of Hawai'i.

With no Contested Case Hearings there is no due process, no record to appeal into a court of law thus making this proposed law unconstitutional on its face. We do not consent to the passage of this law and we are adamantly opposed to HB 344.

MAUNA KEA MOKU NUI

'AELIKE/CONSENSUS BUILDING 'OHANA

Testimony in Support of SCR206, HCR133, and SR171 with proposed amendments
Requesting the William S. Richardson School of Law to Establish the Burial Sites Working Group
to Examine the Burial Sites Program Under the Department of Land and Natural Resources'

State Historic Preservation Division
Hearing: Tuesday, March 23, 2021, 1:01 p.m.

Aloha, Sen Shimabukuro, Chair; Sen Keohokalole, VC; and members, Cmte on Hawaiian Affairs;
Senator Inouye, Chair; Senator Keith-Agaran, VC; and members, Cmte on Water and Land

Please support SCR206, HCR 133, and SR171. Reviews of programs are always good, especially if the intention is to resolve allegations of mismanagement and to find solutions. I note that the working group will include chairpersons of the Island Burial Councils, representatives of the Dept of Land and Natural Resources, two representatives of large landowners and developers to be appointed by the governor, and a couple of members from the community. Well-rounded!

While the William S. Richardson School of Law is being requested to form the Burial Sites Working Group, the resolution itself does not list them as a member of the working group. It also does not contain information on who the chairperson will be, though it is implied that it will likely be a member of the William S. Richardson School of Law as determined by them. Recommend that the resolution be more specific on who the chairperson will be. Funding may also be necessary to provide the necessary logistical support to the working group, for example, someone to take minutes of meetings, to write the report, etc.

Also, recommend that the following Be It Further Resolved clause be amended as follows since as worded, makes it impossible for the Burial Sites Working Group to do since it has not yet been formed:

BE IT FURTHER RESOLVED that the ~~Burial Sites Working Group~~ William S. Richardson School of Law is urged to include the chairpersons of all Island Burial Councils; Administrator of the Department of Land and Natural Resources' State Historic Preservation Division; History and Culture Branch Chief of the Department of Land and Natural Resources' State Historic Preservation Division; Department of Land and Natural Resources' State Historic Preservation Division Burials Specialist; a representative of the Office of Hawaiian Affairs; two representatives of large landowners and developers to be appointed by the Governor; a representative of the Hawaiian community familiar with and experienced with the Burial Sites Program to be appointed by the Office of Hawaiian Affairs; and a representative of Huliauapa'a/Kali'uokapa'akai Collective to be selected by that organization.

OR

BE IT FURTHER RESOLVED that the Burial Sites Working Group ~~is urged~~ shall include the chairpersons of all Island Burial Councils; Administrator of the Department of Land and Natural Resources' State Historic Preservation Division; History and Culture Branch Chief of the Department of Land and Natural Resources' State Historic Preservation Division; Department of Land and Natural Resources' State Historic Preservation Division Burials Specialist; a representative of the Office of Hawaiian Affairs; two representatives of large landowners and developers to be appointed by the Governor; a representative of the Hawaiian community familiar with and experienced with the Burial Sites Program to be appointed by the Office of Hawaiian Affairs; and a representative of Huliauapa'a/Kali'uokapa'akai Collective to be selected by that organization.

Mahalo for your consideration of my testimony.

Respectfully

/s/ Leimomi

LEIMOMI KHAN

SCR-206

Submitted on: 3/21/2021 6:17:34 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dana Keawe	Individual	Support	No

Comments:

I support scr206

SCR-206

Submitted on: 3/22/2021 7:27:55 AM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Edward Halealoha Ayau	Individual	Support	No

Comments:

Aloha Honorable Senator Lorraine Inouye, Chair of the Committee on Water and Land & Senators of the Committee:

Aloha Honorable Senator Maile Shimabukuro, Chair of the Committee on Hawaiian Affairs, & Senators of the Committee:

My name is Edward Halealoha Ayau and I support the passage of SCR 206 / SR 171.

I am a member of a volunteer group working to improve the care and protection of iwi kÅ«puna (ancestral Hawaiian skeletal remains) and their moepÅ« (funerary possessions) and of unmarked Hawaiian and non-Hawaiian burial sites throughout Hawai'i.

In 1989, I was one of three principal authors of Act 306 (Session 1990) that established the island burial councils along with Dr Don Hibbard and Dr Daviana McGregor.

I was the first Coordinator of the Burial Sites Program from 1990 to 1996 during which time I was the principal drafter of the administrative rules promulgated in 1996 as Hawai'i Administrative Rules Chapter 13-300.

Along with Kai Markell of the Office of Hawaiian Affairs, we both have been tracking the progress and setbacks experienced by the island burial councils collectively for the past 25 years.

We both have been part of past efforts by the Administration of past governors including the Honorable Ben Cayetano and the Honorable Linda Lingle (Friends of the Burial Sites Program), to address the problems created by the lack of proper management of the councils by the State Historic Preservation Division and the lack of consistent and independent legal representation by the Department of the Attorney General.

Two words highlight our concerns with this mismanagement: systemic and chronic.

We are concerned Hawaiians who volunteer our time to ensure the proper care and protection of our ancestor's burial sites so that the sensitivities of the living descendants are also cared for and protected.

On January 19, 2021, along with O'ahu Island Burial Council Chairwoman Hinaleimoana Wong-Kalu, we highlighted our significant concerns with SHPD mismanagement of the island burial councils by holding a press conference to protest this ongoing mismanagement.

We stand by our positions and support a process in which a Working Group is established to look into these concerns, allow SHPD the full opportunity to explain its actions, and most importantly to hold hearings with sworn testimony from witnesses to get to the truth so that a report with formal findings and recommendations for legislative action can be presented to the 2022 Legislature.

We seek one change to the bill--an oversight on my part for which I apologize to my colleagues and friends, especially Kapua Sproat. We ask that the William S Richardson Law School be removed as the entity to establish and manage the Burial Sites Working Group and instead that a representative of the Law School be given a seat on the Working Group. In turn, we ask that the King Kamehameha V Judiciary History Center be considered for the role of establishing and managing the Working Group and that funds be appropriated for this purpose so that a bonafide administrative record can be established of the Working Group's proceedings, mahalo.

We respectfully request approval of these measures, mahalo.

Ola nā• iwi, the bones live.

SCR-206

Submitted on: 3/22/2021 10:25:57 AM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Elmer Kaai	Testifying for Cultural Descendants of na iwi kupuna o Wailupe, O?ahu	Comments	No

Comments:

First and foremost, there are no representatives from lineal and cultural descendants on the working group. My ohana are Cultural Descendants of nÄ• iwi kÄ«puna o Wailupe, O'ahu. I am curious why a single organization like Huliauapa'a/Kali'uokapa'akai Collective is provided a representative on the work group without any recognition of lineal and cultural descendants. Our ohana is not seeking to be on the working group. In fact, our ohana prefers that these resolutions be deferred and that these issues be resolved out of the legislative arena.

SCR-206

Submitted on: 3/22/2021 11:34:33 AM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Norman "Mana" Kaleilani Cáceres	Individual	Support	No

Comments:

Aloha Honorable Senator Lorraine Inouye, Chair of the Committee on Water and Land & Senators of the Committee:

Aloha Honorable Senator Maile Shimabukuro, Chair of the Committee on Hawaiian Affairs, & Senators of the Committee:

My name is Norman "Mana" Kaleilani Cáceres and I support the passage of SCR 206 / SR 171.

My family and I are state recognized lineal and cultural descendants to native Hawaiian human burials in the districts of Ewa and Kona (Honolulu). We have been involved in the care and protection of iwi kĀ«puna for the past 9 years and we have seen first hand how the systematic and chronic mismanagement of the burial sites program has affected and effected the ability to properly fulfill our commitment to properly treat the remains of our ancestor's.

During a press conference on January 19, 2021, the O'ahu Island Burial Council Chairwoman Hinalaimoana Wong-Kalu highlighted significant concerns with SHPD mismanagement of the island burial councils. My family and I stand in support of the statements made during this press conference and therefore stand in support of SCR 206 / SR 171.

We respectfully request approval of these measures, mahalo.

'Ohana Cáceres

Norman "Mana" Kaleilani Cáceres

SCR-206

Submitted on: 3/22/2021 11:57:53 AM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Trisha Kehaulani Watson, JD, PhD	Individual	Comments	No

Comments:

I would like to offer **comments** on this measure and specific **concerns regarding the fiscal implications**.

While the intent of this measure is admirable, I am deeply concerned that this measure, as written, categorically fails to involve the necessary stakeholders in this discussion. As a result, this measure could have extensive negative effects on these laws and regulations.

Specifically, this measure excludes the following critical stakeholders:

- Lineal descendants;
- Cultural descendants;
- Cultural resource management (CRM) firms; and
- The Society of Hawaiian Archaeology (SHA).

Rather than lay out a process and opportunity to make meaningful process, the authors of this measure have drafted a bill that demonstrates an alarming lack of understanding as to how the professional CRM field works. As a graduate of the William S. Richardson School of Law, I am deeply disappointed in the poor quality and exclusionary nature of this measure.

Those of us who are actually professionals in this field understand how grossly understaffed SHPD remains. Additionally, the hiring freeze in place as a result of the COVID-19 pandemic has only exasperated SHPD's struggles. This measure would only further strain an agency already crippled by a lack of funding and understaffing.

CRM firms handle the over-whelming majority of burial cases. SHPD has consistently introduced measures to improve the professional work done in the field for years. These measures have yet to pass the legislature. I would urge this committee to defer this measure and instead look to the existing solutions that have been offered to address these issues.

There is no doubt as to the importance of the burial councils. And there are importance discussions that need to be had, but this measure completely misses key stakeholders

to that discussion, as a result, this would be a terrible waste of important state resources.

SCR-206

Submitted on: 3/22/2021 12:35:19 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Paige Kaohu Kawakami	Individual	Support	No

Comments:

I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Our beliefs, our practices, our sacred sites, our ancestors, our lives are not a thing of the past. We exist, we occupy our sacred spaces, we care for our dead, we practice our culture and uphold our beliefs. We deserve better. Our iwi kÅ«puna deserve better and it is absolutely the responsibility of the state to ensure our iwi kÅ«puna are cared for in the future and atone for the egregious defilements of the past.



HULIAUAPA'A

Aloha Honorable Senator Lorraine Inouye, Chair of the Committee on Water and Land & Senators of the Committee:

Aloha Honorable Senator Maile Shimabukuro, Chair of the Committee on Hawaiian Affairs & Senators of the Committee:

My name is Kelley L. Uyeoka, and I am the Executive Director of Huliauapa'a and we strongly support the passage of SCR 206 / SR 171.

Huliauapa'a is a Hawai'i 501c3 non-profit organization that envisions wahi kūpuna thriving through Hawaiian self-determination. Our mission is to grow Hawai'i's communities through culturally based dimensions of innovative learning, leadership development and collaborative networking in wahi kūpuna stewardship.

Huliauapa'a also serves as the backbone organization of the Kali'uokapa'akai Collective, which is a community of practice of advocates in wahi kūpuna stewardship that was created from the need to organize our shared ideas, resources, and strategies to build capacity and take collective action in safeguarding Hawai'i's wahi kūpuna. The Collective's purpose is to strengthen Wahi Kūpuna Stewardship through collaboration and collective efforts.

For generations, Native Hawaiian have cared for loved ones upon their passing by watching over and protecting their iwi kūpuna (ancestral bones). The relationship between the deceased and their descendants is an ongoing connection. When this connection is disrupted through disturbance, damages, or destruction of iwi kūpuna— via development, vandalism, or other circumstances— it inhibits and sometimes stops this process of the spirit returning to source (Baldauf & Akutagawa 2013:5-8). Anything that disrupts this process has direct spiritual implications to descendants today which is why Hawaiians fight so fiercely for the protection of these remains.

However, despite state and federal laws intended to protect them, iwi kūpuna are still constantly threatened in Hawai'i. Over the years, it has become increasingly evident that the current historic preservation system limits the Burial Sites Program's ability to protect iwi kūpuna (OHA letter to SHPD re Controversy at Kau'ula, Lāhainā, Maui and Related Concerns Regarding the State Historic Preservation Division Statutory Compliance, dated Nov. 11, 2020). Thus, Huliauapa'a supports the ongoing efforts to establish a Burial Sites Working Group to study the mismanagement SHPD and to develop a report with findings and recommendations to the 2022 Legislature regarding proposed improvements through the passage of SCR 206 / SR 171.

Mahalo for your consideration,
Kelley L. Uyeoka
Executive Director
Huliauapa'a



HULIAUAPA'A

SCR-206

Submitted on: 3/22/2021 12:47:56 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael L Inouye	Individual	Support	No

Comments:

strong support

SCR-206

Submitted on: 3/22/2021 1:21:18 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
melissa tomlinson	Individual	Support	No

Comments:

Please support the protection of iwi kupuna. To much desecration to the ancestors of Hawai'i has already been done. Please support this bill.

LATE

SCR-206

Submitted on: 3/22/2021 1:27:47 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Anna Mackey	Individual	Support	No

Comments:

Aloha legislatures,

My name is Anna-Marie I am a resident of the Big Island and I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Our beliefs, our practices, our sacred sites, our ancestors, our lives are not a thing of the past. We exist, we occupy our sacred spaces, we care for our dead, we practice our culture and uphold our beliefs. We deserve better. Our iwi kÅ«puna deserve better and it is absolutely the responsibility of the state to ensure our iwi kÅ«puna are cared for in the future and atone for the egregious defilements of the past.

LATE

SCR-206

Submitted on: 3/22/2021 1:29:17 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kainani Littlejohn	Individual	Support	No

Comments:

I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

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LATE

SCR-206

Submitted on: 3/22/2021 1:37:41 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brandon Tacadena	Individual	Support	No

Comments:

I'm writing to express my strong support of this resolution. "€"

As a settler on these islands, I feel that there is kuleana to stand in solidarity with the indigenous peoples, the KÄ• naka Maoli, and to advocate for better management of lwi KÄ«puna. After sharing time and space with KÄ• naka and listening to their grievances with SHPD it is apparent that SHPD has grossly mismanaged the Native Hawaiian burial sites and should be held accountable. It is appalling that KÄ• naka are forced to literally lay their bodies down to protect the remains of their ancestors on their own traditional and ancestral lands--a result of the negligence and apathy of SHPD. The division needs accountability and it needs transparency and therefore I support this resolution.

Thank you

LATE

SCR-206

Submitted on: 3/22/2021 1:52:01 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
MICAH KAIMANA PACATANG	Individual	Support	No

Comments:

I, MICAH KAIMANA PACATANG, am hereby in support of SCR206.

LATE

SCR-206

Submitted on: 3/22/2021 2:46:27 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Caitlin Cox	Individual	Support	No

Comments:

I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Our beliefs, our practices, our sacred sites, our ancestors, our lives are not a thing of the past. We exist, we occupy our sacred spaces, we care for our dead, we practice our culture and uphold our beliefs. We deserve better. Our iwi kÅ«puna deserve better and it is absolutely the responsibility of the state to ensure our iwi kÅ«puna are cared for in the future and atone for the egregious defilements of the past.

LATE

SCR-206

Submitted on: 3/22/2021 3:11:10 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Genesis Kalawe	Individual	Support	No

Comments:

I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

We must be recognized as a living and existing culture. Our beliefs, our practices, our sacred sites, our ancestors, our lives are not a thing of the past. We exist, we occupy our sacred spaces, we care for our dead, we practice our culture and uphold our beliefs. We deserve better. Our iwi kĀ«puna deserve better and it is absolutely the responsibility of the state to ensure our iwi kĀ«puna are cared for in the future and atone for the egregious defilements of the past.

LATE

SCR-206

Submitted on: 3/22/2021 3:34:13 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
sunnie Kupahu	Individual	Support	No

Comments:

I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Our beliefs, our practices, our sacred sites, our ancestors, our lives are not a thing of the past. We exist, we occupy our sacred spaces, we care for our dead, we practice our culture and uphold our beliefs. We deserve better. Our iwi kÅ«puna deserve better and it is absolutely the responsibility of the state to ensure our iwi kÅ«puna are cared for in the future and atone for the egregious defilements of the past.”

LATE

SCR-206

Submitted on: 3/22/2021 3:36:26 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kamalani	Individual	Support	No

Comments:

I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a lack of care for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Our beliefs, our practices, our sacred sites, our ancestors, our lives are not a thing of the past. We exist, we occupy our sacred spaces, we care for our dead, we practice our culture and uphold our beliefs. We deserve better. Our iwi kÅ«puna deserve better and it is absolutely the responsibility of the state to ensure our iwi kÅ«puna are cared for in the future and atone for the egregious defilements of the past.

LATE

SCR-206

Submitted on: 3/22/2021 3:50:58 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mahela Kupahu	Individual	Support	No

Comments:

I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Our beliefs, our practices, our sacred sites, our ancestors, our lives are not a thing of the past. We exist, we occupy our sacred spaces, we care for our dead, we practice our culture and uphold our beliefs. We deserve better. Our iwi kÅ«puna deserve better and it is absolutely the responsibility of the state to ensure our iwi kÅ«puna are cared for in the future and atone for the egregious defilements of the past.

LATE

SCR-206

Submitted on: 3/22/2021 4:09:10 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laura Boles	Individual	Support	No

Comments:

I am writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Native Hawaiian beliefs, practices, sacred sites, ancestors, and lives are not a thing of the past. They exist, occupy sacred spaces, care for their dead, practice their culture and uphold their beliefs. They and their iwi kĀĀpuna deserve better and it is absolutely the responsibility of the state to ensure the iwi kĀĀpuna are cared for in the future and atone for the egregious defilements of the past.

LATE

SCR-206

Submitted on: 3/22/2021 4:27:33 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ulii Keawe-Cruz	Individual	Support	No

Comments:

I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Our beliefs, our practices, our sacred sites, our ancestors, our lives are not a thing of the past. We exist, we occupy our sacred spaces, we care for our dead, we practice our culture and uphold our beliefs. We deserve better. Our iwi kÅ«puna deserve better and it is absolutely the responsibility of the state to ensure our iwi kÅ«puna are cared for in the future and atone for the egregious defilements of the past.”

LATE

SCR-206

Submitted on: 3/22/2021 5:28:32 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Hinaleimoana Wong-Kalu	Individual	Support	No

Comments:

I strongly support SCR 206 in an effort towards ensuring greater support towards the burial sites program and all those whom engage this process. A comprehensive review of possible options towards this goal must be had in order to ensure greater respect, honor, and dignity afforded to malama iwi kupuna in Hawaii. Mahalo for your consideration. Please vote to support SCR 206. Aloha.

LATE

SCR-206

Submitted on: 3/22/2021 5:33:53 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Malia Daraban	Individual	Support	No

Comments:

I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Our beliefs, our practices, our sacred sites, our ancestors, our lives are not a thing of the past. We exist, we occupy our sacred spaces, we care for our dead, we practice our culture and uphold our beliefs. We deserve better. Our iwi kÅ«puna deserve better and it is absolutely the responsibility of the state to ensure our iwi kÅ«puna are cared for in the future and atone for the egregious defilements of the past.”

Mahalo Nui,

Malia Daraban

LATE

SCR-206

Submitted on: 3/22/2021 5:58:13 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sarah Naone	Individual	Support	No

Comments:

I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Our beliefs, our practices, our sacred sites, our ancestors, our lives are not a thing of the past. We exist, we occupy our sacred spaces, we care for our dead, we practice our culture and uphold our beliefs. We deserve better. Our iwi kÅ«puna deserve better and it is absolutely the responsibility of the state to ensure our iwi kÅ«puna are cared for in the future and atone for the egregious defilements of the past.

LATE

SCR-206

Submitted on: 3/22/2021 6:35:15 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tara Rojas	Individual	Support	No

Comments:

I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Native Hawaiian beliefs, practices, sacred sites, ancestors, lives are not a thing of the past. Native Hawaiians exist, occupy their sacred spaces, care for their dead, practice their culture and uphold their beliefs. Native Hawaiians deserve better. Native Hawaiians' iwi kÅ«puna deserve better and it is absolutely the responsibility of the state to ensure their iwi kÅ«puna are cared for in the future and atone for the egregious defilements of the past.

All of you - BLNR/DLNR, DOCARE, HHC, OHA, SHPD - need to uphold your basic and MAIN commitment to the LIVES OF NATIVE HAWAIIANS, not to foreign interests nor corporations nor greed of money nor stealing nor leasing what's stolen, COMMITMENT TO IMPROVE THE LIVES OF NATIVE HAWAIIANS, RETURN THEM TO THEIR LAND, RESPECT THEIR IWI KÅ«PUNA. THAT'S IT.

LATE

SCR-206

Submitted on: 3/22/2021 6:39:10 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kolea Fukumitsu	Individual	Support	No

Comments:

Aloha Honorable Senator Lorraine Inouye, Chair of the Committee on Water and Land & Senators of the Committee:

Aloha Honorable Senator Maile Shimabukuro, Chair of the Committee on Hawaiian Affairs, & Senators of the Committee:

My name is Kolea Fukumitsu and I support the passage of SCR 206 / SR 171.

My 'ohana and I are recognized lineal descendants to native Hawaiian human burials in Hakipu'u, O'ahu. Like many other Native Hawaiian 'ohana's through out our pae'Ä• ina, my 'ohana for generations has committed to caring for and protecting our iwi kÅ«puna (ancestral remains) within our ahupua'a, this kuleana and the ancestral connection to loved ones was passed down to my generation from my father and my great-grandmother and I have always planned to one day pass this kuleana on to my children and future grand-children.

Yet, over the past two years I, along with my family, have witnessed first hand the systemic and chronic mismanagement of the burial sites program by the State Historic Preservation Division (SHPD). This egregious mismanagement directly affects our ability as lineal descendants to properly carry our kuleana to malama iwi kÅ«puna, this in turn has caused significant spiritual and emotional implications to us as descendants.

Despite the state and federal laws and processes that are put in place to protect our sacred iwi kÅ«puna, they continue to be threatend due to the chronic mismanagement of the burial sites program. I have watched first hand as SHPD has neglected to follow or apply their own protocols and processes. My family alone has waited over a year for SHPD to make a determination regarding native Hawaiian burials in Hakipu'u, this inaction and negligence by SHPD has prevented any progress in this deeply painful situation, further endangering the iwi kÅ«puna that we are tasked with protecting.

This system that is in place is failing, and that puts our iwi kÅ«puna in constant danger and in turn this also threatens the health and safety of descendants tasked with caring for and protecting them. This chronic systemic failure needs to be addressed and solutions need to be put into place to ensure that our next generations do not inherit this issue along with all the emotional, mental and spiritual implications that come with it.

During a press conference on January 19, 2021, the O‘ahu Island Burial Council Chairwoman Hinaleimoana Wong-Kalu highlighted significant concerns with SHPD mismanagement of the island burial councils. My ‘ohana and I stand in support of the statements made during this press conference and we support the solutions presented in SCR 206/SR 171.

We respectfully request approval of these measures, mahalo.

Kolea Fukumitsu

LATE

SCR-206

Submitted on: 3/22/2021 7:11:23 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mariko Jackson	Individual	Support	No

Comments:

I am writing in strong support of this resolution. This resolution is to address the mismanagement of SHPD that has resulted in numerous legal consequences for Native Hawaiians who are standing to protect their sacred sites. Laws are meant to do this already, but protections have not been properly handled. When the state does not operate lawfully, legal consequences against those who bring this to our attention are unjust. This resolution would aid in restoring the proper handling of sacred burial grounds which are essential to Native Hawaiians.

LATE

SCR-206

Submitted on: 3/22/2021 8:48:48 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Makalua-Yee	Individual	Support	No

Comments:

Aloha Kakou!

I whole heartedly support SCR206 and ask that a working group be funded by the State in order to examine the track record of SHPD in regards to the protection of Iwi Kupuna.

I have observed over the past decade, the failure of SHPD and the board whose members the senate continues to confirm despite many testimonies in OPPOSITION. There is clearly chronic systemic mismanagement of SHPD.

Mahalo for your time and consideration.

Michelle Makalua-Yee

LATE

SCR-206

Submitted on: 3/22/2021 9:13:29 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Grace Tsubaki-Noguchi	Individual	Support	No

Comments:

I am writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, the results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

The beliefs, practices, sacred sites, ancestors, and lives of Kanaka Maoli are not a thing of the past. They deserve better. Iwi kĀ«puna deserve better. It is absolutely the responsibility of the state to ensure iwi kĀ«puna are cared for in the future and atone for the egregious defilements of the past.

LATE

SCR-206

Submitted on: 3/22/2021 9:20:02 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
kalena Charlene Holani	Individual	Support	No

Comments:

I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Our beliefs, our practices, our sacred sites, our ancestors, our lives are not a thing of the past. We exist, we occupy our sacred spaces, we care for our dead, we practice our culture and uphold our beliefs. We deserve better. Our iwi kÅ«puna deserve better and it is absolutely the responsibility of the state to ensure our iwi kÅ«puna are cared for in the future and atone for the egregious defilements of the pastries

LATE

SCR-206

Submitted on: 3/22/2021 9:36:21 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Euliana	Individual	Support	No

Comments:

We need to do better at protecting all sacred and historic sites throughout Hawaii. The current department needs to be held accountable.

LATE

SCR-206

Submitted on: 3/22/2021 10:17:37 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dory	Individual	Support	No

Comments:

I a'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites.. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Our iwi kÅ«puna deserve better and it is absolutely the responsibility of the state to ensure our iwi kÅ«puna are cared for in the future and atone for the egregious defilements of the past.

LATE

SCR-206

Submitted on: 3/22/2021 10:19:04 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Noel Shaw	Individual	Support	No

Comments:

I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Our beliefs, our practices, our sacred sites, our ancestors, our lives are not a thing of the past. We exist, we occupy our sacred spaces, we care for our dead, we practice our culture and uphold our beliefs. We deserve better. Our iwi kÅ«puna deserve better and it is absolutely the responsibility of the state to ensure our iwi kÅ«puna are cared for in the future and atone for the egregious defilements of the past.

Mahalo!

LATE

Before the Senate Committee on Water and Land

March 23, 2021

SCR 206/SR171

Establishing the Burial Sites Working Group to Examine the Burial Sites Program Under DLNR

Aloha Chair Shimabukuro, Chair Inouye, Vice Chair Keohokalole, Vice Chair Keith-Agaran and Committee Members,

I am writing to you as a recognized descendent of burials in the pu'uone sand dune complex on Maui, an area historically known to contain a high concentration of burials. I have been advocating for the care and protection of the burials for several years and have come up against many roadblocks with SHPD and the Burial Sites Program. I am in support of SCR206/SR171 and the proposed working group with amendments. I would like to propose that the balance of participants be reconsidered to include a larger percentage of community members who are both kānaka maoli and cultural practitioners of mālama iwi instead of The Richardson School of Law being the Central Focus of the working group. Perhaps the Burial Council Chairs or OHA's compliance division choose members of the community who are active and have a working knowledge of the issues that play out in real time for the descendents.

The reasons for the working group are many due to the systemic dysfunction in the department. I will share a few examples of SHPD's failures that I have personally dealt with. I am attaching a letter to Governor Ige that I wrote in 2019 that will display a sample of the issues that seem to occur time and time again on every island. I am also attaching a copy of the United Nations Committee On the Elimination of Racial Discrimination (CERD) letter that the committee sent to Mālama Kakanilua in response to a complaint letter we sent them in 2019. I am a board member of Mālama Kakanilua and we have been seeking remedy to our burial issues in multiple venues. The CERD letter is significant because the U.S. is a treaty partner in this committee and is obliged to follow its lead. The Federal government, the State and the local County government is responsible to investigate the findings and provide remedy. This proposed working group could possibly be a step towards fulfilling that obligation if its report leads to meaningful change.

The last example I will speak of is my current court case, Ahia vs. DLNR, which had its preliminary injunction hearing in 2019. The full case has not yet been heard, but in the preliminary injunctions findings of facts and conclusions of law signed by the Honorable Joseph E. Cardoza on April 19, 2019 it states:

100. SHPD staff did not fill out departmental inadvertent discovery forms for every *iwi kupuna* encountered at Increment 4.

101. SHPD staff did not fill out departmental inadvertent discovery forms for any of the *iwi kupuna* that HBT's archaeology firm encountered and considered to be disarticulated.

And:

111. Hinano Rodrigues of SHPD History and Culture Branch stated that SHPD has not followed proper procedures for inadvertent *iwi kupuna* because they are "short staffed."

112. Mr. Rodrigues testified that there are no posted vacancies for his division.

In conclusion, in times when SHPD is understaffed, and when it is fully staffed, it fails, as an agency to uphold it's responsibility to protect and preserve our ancestral burials. There are many good people working in the agency who's voices are drown out by the admininistrators. Whether it's SHPD'S failure to ensure the Archeology firms it permits are actually in compliance with the rules, it's failure to ensure monitoring reports are turned in, which leads to important data not being reported, it's failure to require projects sent for review have adequate AIS', proper mitigation plans, or it's blantent misreading of the statutes regarding inadvertant finds, the department is responsible for the desecration of my kūpuna and the ancestors of the kānaka māoli people.

Please support SCR206/SR171

Most Sincerely,

Jennifer Noelani Ahia

E Mālama I Nā Iwi Kūpuna

May 20, 2019 Governor David Ige

Dear Governont Ige:

I am writing as a recognized cultural descendent of skeletal remains that were recently desecrated in Waihe`e, Maui. The grading and grubbing permit for TMK: (2) 3-2-010:017 was issued by the county after receiving a letter from SHPD (Log No. 2018.00443 & DOC. No. 1803LS03) that states “Our records indicate that NO ARCHEOLOGICAL INVENTORY SURVEY HAS BEEN CONDUCTED, AND THAT NO ARCHEOLOGICAL HISTORIC PROPERTIES HAVE BEEN IDENTIFIED WITHIN THE SUBJECT PARCEL OR NEARBY.”

This is problematic because it is impossible to say no historic properties have been identified without doing an AIS (Archeological Inventory Survey) first. What is even more disturbing is that I was able to locate a letter found in SHPD!s library from 2005 (LOG No. 2005.1529 & DOC No. 0507CD31), in regards to the same TMK,that states “In 1990, Cultural Surveys Hawaii (CHS) conducted an archeological inventory survey which *included* the subject property. During the survey a total of four historic sites were identified, three of which are located on the subject property (2704, historic cemetery; 2705, `auwai; and 2706, subsurface cultural deposit. The recommendation is archeological monitoring for all future ground disturbing work. Also in SHPD!S library were the original AIS as well as a letter of notification for two inadvertent finds in July of 2000.

On April 25, 2019 notification was sent from SHPD to the regional representative of the Maui Lanai Island Burial Council. Iwi kupuna were needlessly disturbed during grading work on said property because there was NO archeological monitor required or present. SHPD informed the county in their March 2018 letter that “The permit issuance process may continue” despite the subject property being in a highly sensitive area of the pu`uone sand dunes which is known to contain burials. Had SHPD done their due diligence and located their own records indicating the

past AIS, historic properties and recommendation for archeological monitoring, the iwi kupuna could have been protected.

For context, I would like to share with you about two other projects on Maui where we are dealing with similar struggles that involve SHPD being negligent and leaving our iwi kupuna vulnerable to desecration and destruction, causing irreparable harm.

In Kula Makai, we are witnessing grading and grubbing of the former Maui Lu site which is proceeding with an outdated AIS and NO monitoring plan. They contractors are working with multiple bulldozers, moving large amounts of sand and trenching deep into the earth and they are not required to have archeological monitors, despite the high sensitivity in the area. In a letter dated September 2015, SHPD states:

“An archaeological inventory survey report was accepted for the project area in 1999 (Log 24023, Doc 9908RC61). The report was acceptable 16 years ago, but our drafted rules have since become law. The report is outdated and archaeological inventory survey level documentation needs to meet with current standards. Since 1999, several studies have been conducted in the general area providing potentially vital information for historic properties that may be located in the project area. In order to determine any potential effects to significant sites, we need updated data for the subject area, and immediately adjacent areas.

Significant archaeological sites located nearby include Kalepolepo Fishpond, heiau, habitation areas, fire hearths, sub surface pit features as well as displaced and in situ human burials. The proposed project is located in dune land and silty sand deposits, which are known to contain human burial features (SIHP 50-50-10-4962, and 5547 etc.). The area is known to contain marshy areas located amongst the coastal and alluvial sand deposits. Overflow areas from intermittent streams passing through the area created marshes that were commonly modified by traditional

settlers. Marsh soils can also contain very important information on vegetation in the area prior to settlement.

Pursuant to Hawai'i Administrative Rule § 13-284, we request additional information regarding potential historic properties within the subject area, and strongly recommend an updated comprehensive addendum archaeological inventory survey in order to assess the potential effect the proposed project may have on historic properties. Additional subsurface testing is warranted. Please contact Jenny Pickett at (808) 243-5169 or Jenn.L.Pickett@hawaii.gov. If you have any questions or concerns about this letter. The updated survey work should be completed by a permitted contracted archaeological firm, and the resulting report submitted to our office for review and approval.”

However, later that year, SHPD retracted its former recommendation and states:

**“SUBJECT: Chapter 6E-42 Historic Preservation Review –
REVISED COMMENTS Maui County Permit Applications, Maui
Bay Villas Project (WTP 2015/0042, G 2015/0082) Ahupua‘a,
Wailuku District, Island of Maui TMK: (2) 3-9- 001:083 and 086**

Thank you for the opportunity to comment on the aforementioned submittal originally received by our office on August 3, 2015. The applicant is proposing to initiate construction on a proposed redevelopment project at the location of the old Maui Lu Resort. We previously recommended a new archaeological inventory survey for these parcels (Log No. 2015.03036, Doc. No. 1508JP23). This letter replaces our earlier correspondence dated August 28, 2015 and October 8, 2015 (Log No. 2015.03307, Doc.

No. 1510JP03).

A search of our records indicates that an archaeological survey has been conducted

for the Maui Lu Resort's two parcels; this survey was accepted in 1999 (Burgett, Humphrey and Spear 1998; Log No. 24023, Doc. No. 9908RC61). No historic properties were identified. SHPD subsequently reviewed and approved a Special Management Area Use permit for the redevelopment of the resort, with a determination of no historic properties affected (EA 2003/0008 and SM1 2003/0021; Log No. 2004.1304, Doc. No. 0404CD58). Redevelopment of the property as currently proposed is substantially the same as was earlier planned.

Therefore, SHPD's determination is **no historic properties affected** for the proposed project. In the event that historic resources, including human skeletal remains, structural remains, cultural deposits, or lava tubes are identified during construction activities, please cease work in the immediate vicinity of the find, protect the find from disturbance, and contact the State Historic Preservation Division at (808) 243-1285. Mahalo,

Alan S. Downer, Ph.D. Administrator, State Historic Preservation
Division Deputy State Historic Preservation Officer

We as a community are dealing with similar issues in central Maui in the pu'uone sand dune complex where over 700 find sites have been disturbed. In some cases, each find site contains multiple burials. In Maui Lani Phase 6 increment 4, find site 5718 is known to contain 84 burials. Another site in the same burial complex but located in a different TMK has 72 burials. Looking at the desecration and irreparable harm of potentially a thousand burials in this project district is becoming too much to bear for our community. We have a new condominium project, TMK (2) 3-8-007:157 which sits in the middle of the pu'uone complex. They are working with an outdated AIS, but SHPD allowed the project to move forward without an addendum or further study. In addition, an AMR (archeological monitoring report) was due to be turned into SHPD after the previous sand mining project was completed years ago. SHPD has no such report on record. How can they allow a project to move forward without having a report to indicate what may have been found during monitoring.

In addition, we have Maui Lani Phase 6, Increment 4 which is currently in litigation due to similar issues. I will refrain from commenting at this time.

The community is outraged and distressed. This is happening on a large scale in Maui County and we simply will not stand for it. The Iwi Kupuna are sacred, our collective mana, and they have a right to rest in peace. We, as descendents, have a kuleana to protect them.

I am humbly requesting intervention from you Governor Ige. I would like to first see a halt to the Waihe`e project until further non-invasive studies have been done. Iwi Kupuna have already been disturbed and the potential for further desecration is extremely high. I am also requesting a full audit of SHPD and their practices. I understand they are understaffed but it is no excuse for gross negligence. When our Iwi are irreparably harmed, we are harmed.

Sincerely,

Noelani Ahia



HAUT-COMMISSARIAT AU DROITS DE L'HOMME OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS PALAIS DES NATIONS 1211 GENEVA 10, SWITZERLAND
.. TEL: +41 22 917 9000 FA: +41 22 917 9008 E-MAIL: registry@ohchr.org

REFERENCE: CERD/EWUAP/
98th session/USA (P S

Dunes Complex)/JP/ks

Excellency,

10 May 2019

I would like to inform you that in the course of its 98th Session, the Committee on the Elimination of Racial Discrimination considered information received under its early warning and urgent action procedures regarding the desecration of a burial site of the Kanaka Maoli indigenous peoples in the State of Hawaii of the United States of America.

The information received indicates that P Sand Dunes Complex in Central Maui is a traditional burial site of the Kanaka Maoli indigenous peoples. The site has been used for extractive activities without the free, prior and informed consent of Kanaka Maoli for at least a period of thirty years, resulting in the removing of innumerable burials in the area and traumatic and psychological distress for many Kanaka Maoli descendants.

Accordingly, the Committee is concerned about the lack of protection of the burial sites of Kanaka Maoli indigenous peoples and the lack of recognition of and measures to address related psychological harm. Furthermore, the legal framework over burials in Hawaii appears to be discriminatory towards the Kanaka Maoli, by establishing more complicated requirements for Native Hawaiians than the rest of the population in order to claim cultural descendancy to a burial. Moreover, the legal framework seems to be focusing on mitigating desecration rather than ensuring full protection of all burial sites.

Such situation would amount to the failure of ensuring that indigenous communities can exercise their rights to practise and revitalize their cultural traditions and customs as well as a breach of the State party duty to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources.

Chief, Mr. Mark J. Cassayre

Chargé d'affaires a.i.

Permanent Representative of United States of America to the United Nations Office

Geneva

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With regard to the information received, the Committee would like to recall the S C G R N. 23 indigenous peoples (1997) as well as recommendations on the rights of indigenous peoples made in paragraph 24 of its concluding observations of September 2014 (CERD/C/USA/CO/7-9).

Accordingly, the Committee requests the State party to provide information on the steps taken to:

1. Ensure the right to consultation and free, prior and informed consent to Kanaka Maoli indigenous peoples regarding current and future projects on their traditional lands and territories, including their burial sites, in particular the P S D C CI Maui.
2. Consider adopting comprehensive reparations measures towards the Kanaka Maoli descendants regarding burial desecration of their relatives.
3. Consider reviewing the existing legislation regarding burial in order to ensure non-discrimination and the protection of the burial sites of

indigenous peoples, including the Kanaka Maoli.

In this regard, the Committee encourages the State party to consider seeking assistance from the United Nations Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) that is mandated by the Human Rights Council (resolution 33/25, paragraph 2), to provide States with technical advice on the rights of indigenous peoples and facilitate dialogue between States, indigenous peoples and/or the private sector.

In accordance with article 9 (1) of the Convention and article 65 of its Rules of Procedure, the Committee requests the State party to submit its response by 8 July 2019. The Committee regrets that the State party has yet to submit its tenth to twelfth periodic reports that are overdue since 20 November 2017. In this regard, the Committee requests the State party to submit in a single document the overdue reports without further delay.

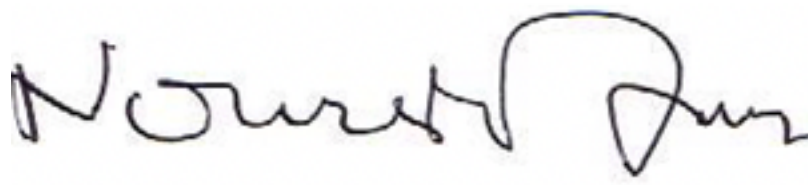
Allow me, Excellency, to reiterate the wish of the Committee to continue to engage in a constructive dialogue with the Government of United States of America, with a view to ensuring the effective implementation of the Convention.

Yours sincerely,

Noureddine Amir Chair

Committee on the Elimination of Racial Discrimination

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A handwritten signature in black ink, appearing to read "Noureddine Amir", is enclosed in a thin black rectangular border.

LATE

SCR-206

Submitted on: 3/22/2021 11:37:08 PM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dane K. U. Maxwell	Individual	Support	No

Comments:

Aloha e Honorable Senator Lorraine Inouye, Chair of the Committee on Water and Land & Senators of the Committee:

Aloha e Honorable Senator Maile Shimabukuro, Chair of the Committee on Hawaiian Affairs, & Senators of the Committee:

My name is Dane Uluwehiokalani Maxwell and I support the passage of SCR 206 / SR 171.

I comment here today in my personal capacity but speak from my experience serving as a Maui LÄ• na'i Island Burial Council member since 2014 and as the chair of this council since late 2019. At a press conference held on January 19, 2021, I along with my fellow Island Burial Council chairs expressed our concerns with the systemic mismanagement of SHPD's burial sites program. My critique of this program did not harbor malice or any ill will but was meant to highlight what I saw as being major hurdles in the way of upholding my obligations as a kanaka maoli and as an IBC member and that is to provide the greatest protections for iwi kÄ«puna.

My grandfather Kahu Charles Kauluwehi Maxwell Sr. served on MLIBC for almost 20 years. Growing up with him and while attending those meetings he echoed the same issues that we have here today. On behalf of myself and the Maxwell 'ohana, we strongly support the passage of SCR 206 / SR 171 because it is critical to review programs that have such massive impacts on the identity of Native Hawaiians in this rapidly changing landscape of Hawai'i especially when there is discontent by the IBC's and Native Hawaiian community whose burials this program serves. It is my hope that this working group helps to shape a burial sites program that will lessen the burden for future generations.

Mahalo for your time and consideration,

Dane Uluwehiokalani Maxwell

LATE

COMMITTEE ON HAWAIIAN AFFAIRS
Senator Maile S.L. Shimabukuro, Chair
Senator Jarrett Keohokalole, Vice Chair

COMMITTEE ON WATER AND LAND
Senator Lorraine R. Inouye, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

DATE: Tuesday, March 23, 2021
TIME: 1:01pm – 2:30pm
PLACE: Conference Room 016 & Videoconference

TESTIMONY IN SUPPORT OF THE INTENT of SCR 206/SR 171

Chair Shimabukuro, Chair Inouye, Vice Chair Keohokālole, Vice Chair Keith-Agaran and members of the respective committees, thank you for the opportunity to provide testimony in support of the intent of SCR 206 and SR 171.

The intent of this measure, an opportunity to convene a working group to examine SHPD and its processes and protocols as well as the efficacy of the Department of Land and Natural Resources to manage the division, is a welcomed call for action.

The only reservation I hold of the resolutions is asking the University's law school to become the convener of the working group. My suggestion would be to make DLNR fiscally responsible to convene the working group via a third-party facilitator.

There remains no mechanism to seek redress from DLNR's inept ability to effectively manage this division. By making the Department fiscally responsible to corrective measures by convening a working group would send a clear message to its leadership that this body finds Chapter 6E HRS an imperative piece of State law to protect and honor this place.

Thank you for the opportunity to support the intent of these resolutions.

LATE

SCR-206

Submitted on: 3/23/2021 8:55:22 AM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Adam Pellegrin	Individual	Support	No

Comments:

I support this measure. Anything that improves the knowledge, status, and condition of Iwi Kupuna/the remains of elder citizens of the Hawaiian Nation, and Kahiko times is a good thing. Often, law school students and faculty accomplish great things together with their time. The Innocence Project is a prime example.

LATE

SCR-206

Submitted on: 3/23/2021 11:02:17 AM

Testimony for HWN on 3/23/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cassie Low	Individual	Support	No

Comments:

"I'm writing to express my strong support of this resolution.

For decades, the State Historic Preservation Division has grossly mismanaged Native Hawaiian burial sites. SHPD has repeatedly demonstrated a complete disregard for Native Hawaiian peoples, both living and dead. SHPD's nonchalance in dealing with sacred remains and their obvious bias in favor of state and foreign development often forces Native Hawaiians and allies to lay their own bodies down in an effort to protect those that lay resting. Time and time again, this results in mass arrests, arbitrary and punitive bail amounts, and unnecessary legal consequences for Native Hawaiians while SHPD continues to operate without accountability or transparency.

Our beliefs, our practices, our sacred sites, our ancestors, our lives are not a thing of the past. We exist, we occupy our sacred spaces, we care for our dead, we practice our culture and uphold our beliefs. We deserve better. Our iwi kÅ«puna deserve better and it is absolutely the responsibility of the state to ensure our iwi kÅ«puna are cared for in the future and atone for the egregious defilements of the past."