HEARINGS OFFICERS’ CONSOLIDATED REPORT

FOR PROPOSED

CHAPTER 20-26, HAWAI’I ADMINISTRATIVE RULES

PUBLIC AND COMMERCIAL ACTIVITIES ON MAUNA KEA LANDS

Report Compiled by the

University of Hawai‘i
System Government Relations Office
and
The Office of the Vice President for Legal Affairs
and University General Counsel

for

Hearings Officers

Regents Jeffrey Portnoy and Simeon Acoba
Hearing I

and

Regent Randolph G. Moore
Hearings II, III, and IV

October 11, 2018
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I. INTRODUCTION

This report is the Hearings Officers’ consolidated report of the following public hearings on proposed Chapter 20-26, Hawai‘i Administrative Rules, Public and Commercial Activities on Mauna Kea Lands:

- Hearing I
  Monday, September 24, 2018, 5:00 p.m. to 7:00 p.m.
  Sullivan Conference Center, University of Hawai‘i Cancer Center
  701 Ilalo Street, Honolulu, Hawai‘i 96813

- Hearing II
  Tuesday, September 25, 2018, 5:00 p.m. to 7:00 p.m.
  ‘Imiloa Astronomy Center of Hawai‘i
  600 ‘Imiloa Place, Hilo, Hawai‘i 96720

- Hearing III
  Wednesday, September 26, 2018, 6:15 p.m. to 8:15 p.m.
  Waikoloa Elementary and Middle School
  68-1730 Ho‘oko Street, Waikoloa, Hawai‘i 96738

- Hearing IV
  Friday, September 28, 2018, 5:30 p.m. to 7:30 p.m.
  ‘Ike Le‘a (Room 144), University of Hawai‘i Maui College
  310 West Ka‘ahumanu Avenue, Kahului, Hawai‘i 96732

Section 304A-1903, Hawai‘i Revised Statutes (“HRS”), authorizes the Board of Regents (“BOR”) to “adopt rules pursuant to chapter 91 to regulate public and commercial activities on Mauna Kea lands.” The public hearings were conducted pursuant to sections 91-3 and 304A-1903, HRS, and section 20-1.1-19, Hawai‘i Administrative Rules.

On August 19, 2018, the University duly noticed the public hearings by the publication of the Notice of Proposed Rulemaking Public Hearing (“Notice”) in the Honolulu Star-Advertiser, attached as Exhibit “A.” Additionally, the University published the Notice in newspapers on the islands where hearings were held: The Maui News, Hawai‘i Tribune-Herald, and West Hawai‘i Today.

The purpose of this report is to provide the BOR with all written and oral submissions, contained in Exhibits “B” and “C,” regarding the proposed rules. Under section 91-3(a)(2), HRS, the BOR “shall fully consider all written and oral submissions respecting the proposed rule.” A summary of submissions is also contained herein as required by Admin Directive No. 18-02, which sets forth the process to be followed in obtaining the Governor’s approval during rule-making. Summaries are brief and are not intended to take the place of written or oral submissions. Quoted text is as presented by the author.
II. EXECUTIVE SUMMARY

This section provides information related to the public hearings and written submissions received for the period between the public notice on August 19, 2018, and 11:59 p.m. on Friday, September 28, 2018 (the extended time for submitting written testimony electronically, after the close of the last public hearing).

Written Testimony Received

As stated in the Notice, interested persons had an opportunity to submit data, views, or arguments in writing by five methods:

- at one of the four public hearings;
- by mail to the University System Government Relations Office;
- in person to the University System Government Relations Office;
- by email; or
- through an online site set up for this purpose.

A total of 406 written submissions were received by all methods.

Oral Testimony Received

In addition to submitting written comments, all interested persons also had an opportunity to submit data, views, or arguments orally at four public hearings. Note that some persons testified but chose not to sign-in and/or testified and chose to be anonymous. If they testified at the microphone before the hearings officer(s), they were counted and their testimony recorded for the record. Information for the four hearings are summarized as follows:

Hearing I, Monday, September 24, 2018, University of Hawai‘i Cancer Center

- Start Time: 5:02 p.m.
- End Time: 7:05 p.m.
- Oral testifiers on the Record: 29
- Approximate Persons in Attendance: 82
- Written Testimony Submitted at Hearing: 2

Hearing II, Tuesday, September 25, 2018, ‘Imiloa Astronomy Center of Hawai‘i

- Start Time: 5:01 p.m.
- End Time: 7:48 p.m.
- Oral testifiers on the Record: 33
- Approximate Persons in Attendance: 130
- Written Testimony Submitted at Hearing: 4
Hearing III, Wednesday, September 26, 2018, Waikoloa Elementary and Middle School

- Start Time: 6:15 p.m.
- End Time: 7:52 p.m.
- Oral testifiers on the Record: 8
- Approximate Persons in Attendance: 34
- Written Testimony Submitted at Hearing: 4

Hearing IV, Friday, September 28, 2018, University of Hawai‘i Maui College

- Start Time: 5:30 p.m.
- End Time: 7:35 p.m.
- Oral testifiers on the Record: 22
- Approximate Persons in Attendance: 112
- Written Testimony Submitted at Hearing: 2

The total number of individuals providing oral testimony at the four hearings is 92.

III. SUMMARIES OF WRITTEN TESTIMONY RECEIVED BEFORE OR AFTER PUBLIC HEARINGS

1. **Kaiwiola “Kaiwi” Coakley**
   - Date Received: August 20, 2018
   - Position on Draft Rules: Comment
   - Summary of written testimony: Regarding “activities involving more than 10 people . . . it is unfair to limit Hawaii’s natural resources to a number of people.” Regarding “gate to control roadway access . . . carefully create rules that will be unbiased and fair towards the public.”

2. **Lani Eugenio**
   - Date Received: August 20, 2018
   - Position on Draft Rules: Comment
   - Summary of written testimony: Supporting Mr. Coakley’s August 20, 2018 submission.

3. **Dennis O’Shea**
   - Date Received: August 20, 2018
   - Position on Draft Rules: Oppose
   - Summary of written testimony: Stop all further development on Mauna Kea.

4. **John FitzGerald**
Date Received: August 21, 2018  
Position on Draft Rules: Comment  
Summary of written testimony: “Restricting the snow activities on Mauna Kea is unconscionable[.]” Permitting for “recreational use by residents” is complicated. “Please do not make so restrictive that many will give up and go away as the hunters have because of restrictions.”

5. Mikiala Akau

Date Received: August 21, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: “All rules and regulations stated should apply to any and every occupant of the mauna, including UH.”

6. Kahealani Alapai

Date Received: August 21, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Self-identified as “native Hawaiian Practitioner.” “There is certain circumstances and significant timing that calls for access at all times to our Mauna. We the Hawaiian People should be exempt from these suggested rules and these rules should only be applied to the hundreds of tourist and tour companies[.]”

7. Mychel Estavillo

Date Received: August 21, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Please do not allow state agencies to criminalize customary and traditional gatherings on our mountain.

8. Donna Grabow

Date Received: August 21, 2018  
Position on Draft Rules: Comment  
Summary of written testimony: Concerns regarding “no groups bigger than 10 without a permit; no cell phones; no pedestrians in roadways; and customary activities are permitted only in circumscribed ways, including that they must leave no trace (though bulldozers leave humongous traces when distorting the summit of Mauna Kea).”

9. Kealii Bertelmann

Date Received: August 21, 2018
Position on Draft Rules: Oppose
Summary of written testimony: No comments.

10. Kekoa Sumera-Lee

Date Received: August 21, 2018
Position on Draft Rules: Comment
Summary of written testimony: Concerned that rules “strip away the rights of the native Hawaiian people and to serve your entities with money to build your weapon here on our sacred Mauna[.]”

11. Christopher McCullough

Date Received: August 21, 2018
Position on Draft Rules: Oppose
Summary of written testimony: Self-identified as President of Landscape Industry Council of Hawai’i/Board member Hawai’i Island Landscape Association. Urges UH “to respect and support the rights of native Hawaiians to protect their sacred places, not limit and repress them.”

12. Alison McDowell

Date Received: August 21, 2018
Position on Draft Rules: Oppose
Summary of written testimony: Concerned about “…regulations designed to limit and constrain access to important cultural spaces and criminalize protest. This document is a danger not only to Hawaiians, but to all who value freedom of speech and assembly.”

13. Leimomi Kalanihunia, Kupa

Date Received: August 21, 2018
Position on Draft Rules: Comment
Summary of written testimony: Concerned about “…restriction on how, where, when, why, etc… to practice [cultural rights]…”

14. Joshua Walawender

Date Received: August 21, 2018
Position on Draft Rules: Comment
regarding section 20-26-29 reference to four-wheel drive vehicle which lacks inclusion of electric vehicles and environmental concerns. Concerned regarding 20-26-38 definition of “camping.” Concerned regarding 20-26-39 access of nighttime activities.

15. **Sean Jennings**

   **Date Received:** August 22, 2018  
   **Position on Draft Rules:** Oppose  
   **Summary of written testimony:** “…restore the management to the kingdom of Hawaii.”

16. **Lillian Renfro-Robeau**

   **Date Received:** August 22, 2018  
   **Position on Draft Rules:** Oppose  
   **Summary of written testimony:** “These proposed Rules will limit citizens constitutional rights and their ability to participate in decision making.”

17. **Graham Harvey**

   **Date Received:** August 23, 2018  
   **Position on Draft Rules:** Comment  
   **Summary of written testimony:** Concerned that “…the State of Hawaii is even considering bringing in legislation that will (deliberately or otherwise) restrict the rights of citizens to protest, protect and/or celebrate in groups that they deem appropriate and ways that they deem appropriate within existing laws.”

18. **James Love**

   **Date Received:** August 25, 2018  
   **Position on Draft Rules:** Comment  
   **Summary of written testimony:** “Why is the ‘Administration’ so quick to abandon the Constitution when it serves the needs of Corporate/Capitalist Rule, and so slow to uphold the Constitution when the rights of American Citizens/voters are being ignored?!”

19. **Marshall Fukuki**

   **Date Received:** August 27, 2018  
   **Position on Draft Rules:** Comment  
   **Summary of written testimony:** Concerned regarding 20-26-40 Snow Play definition of motorized vehicles.

**Date Received:** August 29, 2018  
**Position on Draft Rules:** Oppose  
**Summary of written testimony:** Concerned that rulemaking is premature due to pending legal questions and/or cases with State’s Supreme Court, BLNR, University of Hawai‘i and other International governments. Reserves right to comment at a later date due to pending Supreme Court case.

21. Christopher Roehrig

**Date Received:** September 1, 2018  
**Position on Draft Rules:** Comment  
**Summary of written testimony:** Concerned that, “TMT will be obsolete by the time it is built.”

22. Brittany Dayton

**Date Received:** September 3, 2018  
**Position on Draft Rules:** Oppose  
**Summary of written testimony:** Concerned “...scientists have readily been given access, so there’s no need to restrict the rest of us from having access to this special place.” Additionally, “…this move to restrict access would make your institution seem ever more oppressive, and would not be well received by natives/taxpayers.”

23. Barney Magrath

**Date Received:** September 6, 2018  
**Position on Draft Rules:** Comment  
**Summary of written testimony:** Self-identified as a previous Optics Technician for CFHT and Subaru telescope on Maunakea. Applied for a permit to watch Total Solar Eclipse in 1991 which cost him $500.00. Concerned that access is being restricted to “elites” and not “locals.”

24. Norman Stuard, Hawai‘i Beach & Golf Properties

**Date Received:** September 9, 2018  
**Position on Draft Rules:** Comment  
**Summary of written testimony:** Supports TMT. Development would help our species become more resilient and yield new and important discoveries, attract
some of the world’s top minds, support high paying jobs, world-wide recognized for new discoveries and to present people of Hawai’i as forward thinkers.

25. **Gary Alexander**

   **Date Received:** September 11, 2018  
   **Position on Draft Rules:** Oppose  
   **Summary of written testimony:** Concerned that “rushing into permitting of PGV” has dishonored the Constitution and those who have lost their lives protecting first amendment rights.

26. **P. Tearson**

   **Date Received:** September 12, 2018  
   **Position on Draft Rules:** Comment  
   **Summary of written testimony:** Concerned that cultural practitioners are being kept away from night-time practices and believes this to be against laws and not being included in the rule-making.

27. **RuthieJim Caudill**, Jacob Broome Society

   **Date Received:** September 12, 2018  
   **Position on Draft Rules:** Comment  
   **Summary of written testimony:** Referencing lawsuit with Judge Crabtree, Civil No. 1CC17-1-1823-11, and states “[t]he University has violated its Lease many times.”

28. **Ravi Grover**

   **Date Received:** September 12, 2018  
   **Position on Draft Rules:** Comment  
   **Summary of written testimony:** Concerns regarding, 20-26-3 UH given blanket exemption, 20-26-6 cultural practitioners having to pay entrance fee and/or parking, 20-26-21 “impact” determined by whom and if permit needed, Section 8 prohibition on basic tools which interferes with cultural practitioners, Section 9 having cultural practitioners to explain/justify building of ahu, Section 11 regulation on hiking, 20-26-24 prioritizing the scientific community over cultural practitioners, Sections 1-3 proposal to ban cellphone and flashlight use, 20-26-31 in support of banning sports meets and competitions, 20-26-32 exclusion of telescope operators restrictions on hazardous materials, 20-26-38 lack of permissions to religious practitioners, 20-26-39 installation of “gate, fence, or other access control structure”, with Kanaka having to check-in to access the mountain and subchapter 3 allowance of commercial activity in sacred wao akua place.
29. Kahaka Patolo

Date Received:  September 12, 2018  
Position on Draft Rules:  Oppose  
Summary of written testimony:  “NO TELESCOPES on our SACRED MAUNA AWAKEA!”

30. Thomas Bearden

Date Received:  September 12, 2018  
Position on Draft Rules:  Comment  
Summary of written testimony: Self-identified as Clinical Psychologist. In support of prohibiting alcohol, drug use, ATV’s, and off-road 4 wheeling and supports the use of only 4-wheel drive vehicles. Concerned about amount of star-gazing tours, restriction of private vehicles and use of shuttle vehicles, limiting the number of vehicles, charging of entrance and parking fees, gate at visitors center and mandatory cultural orientations. Would like a distinction made between residents and visitors.

31. Thomas Bearden

Date Received:  September 12, 2018  
Position on Draft Rules:  Comment  
Summary of written testimony: Same verbatim language as Submission No. 30.

32. Sam Nelson

Date Received:  September 12, 2018  
Position on Draft Rules:  Oppose  
Summary of written testimony: Concerned that “[r]equiring training, limiting access and charging fees is not something that is necessary at this time.” Also concerned about proposed restriction on dogs.

33. Paul Bucher

Date Received:  September 14, 2018  
Position on Draft Rules:  Opposed  
Summary of written testimony: Concerned about “…elimination of indigenous peoples…” and “…blatant assault on the constitution…”

34. Patrice Tullai

Date Received:  September 14, 2018  
Position on Draft Rules:  Oppose
Summary of written testimony: “Please do not pass the newly suggested legislation that would limit and reduce Mauna Kea summit access. This would gravely affect Hawaiian culture and impede on all people’s spiritual and emotional well being.”

35. Joanna M. Pokipala

Date Received: September 14, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about lease amount per year, banning night activities without permit impeding on “traditional celestial observations,” the dollar amount for fines and not being heard.

36. James Sogi

Date Received: September 15, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Resident of Kona who regularly hikes, skis and camps. Concerned with restricting access and use.

37. Natalie Santiago

Date Received: September 15, 2018  
Position on Draft Rules: Oppose  

38. Donna Grabow

Date Received: September 15, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned that proposed rules “…criminalize practitioners and protectors,” special permits for night activities and fines associated with violations, the banning of non-emergency cellphone and flashlight use, 20-26-3 blanket exemption for UH, 20-26-6 entrance and parking fees for cultural practitioners, 20-26-21 who determines “impact” if permit required and 20-26-22.

39. Cheryl Burghardt/Wendy Green

Date Received: September 15, 2018  
Position on Draft Rules: Comment
Summary of written testimony: Concerned proposed rules were drafted without inclusion of OHA and Hawaiian practitioners, 20-26-8 delegation should be changed from President to Board, 20-26-3 applicability and implementation should include educational and research activities, 20-26-6 fees should not be assessed for native Hawaiians exercising their traditional and customary rights, 20-26-21 should eliminate subsection (c) in regards to native Hawaiians obtaining a special use permit, 20-26-22 preservation of resources, subsection (3) needs to consider practitioners collection of resources, subsection (8) should be eliminated since practitioners need these tools to practice traditional gathering rights, subsection (9) disregards traditional function of rituals relating to ahu and kuahu, subsection (11) should be eliminated since there are established hiking trails, 20-26-24 preservation of scientific and educational resources does not take into consideration safety, 20-26-34 audio devices and noise musical instruments should not be banned, 20-26-38 camping should be allowed, 20-26-39 access subsection (a) provides appearance of “for profit” park and denies/regulates access to protectors and practitioners, (2) should be eliminated because limiting private vehicles provides an “unfair and prejudice” practice by giving tour operations priority, (c) closed areas and public access hours should not be used, 20-26-61 general provisions subsection (10) limiting access to “National Historic Landmark” by requiring a permit “seems unjust.”

40. Kamana'opono Crabbe, Office of Hawaiian Affairs

Date Received: September 18, 2018
Position on Draft Rules: Comment
Summary of written testimony: Current proposed rules fall short of meaningfully ensuring the appropriate stewardship of Maunakea, including through the protection of native Hawaiian traditional and customary rights. Specific comments and concerns on draft rules include:

- Board of Regents is specifically required to consult with OHA.
- Rules continue to inadequately address a number of issues critical to the protection of native Hawaiian traditional and customary practices, and the underlying resources, sites, and overall environment upon which they depend.
- “Designee” would not be subject to the public meeting requirements under the state sunshine law.
- “Designee” may not be as accountable to the public in the same manner as governor appointed and Senate-confirmed board or commission members.
- Consultation with Kahu Kū Mauna, OHA, and/or cultural practitioners and lineal descendants, as appropriate, should be required for all actions and activities that may adversely impact native Hawaiian traditional and customary practices.
● CMP actions requiring rulemaking should be included and implemented in the draft rules.
● Administrative rules should incorporate express regulatory guidance relating to the subleasing of Maunakea lands, which can formally ensure that observatory activities provide fair compensation sufficient to implement the CMP, and mitigate future impacts to native Hawaiian rights that would otherwise result from the proposed rules.
● These administrative rules should include specific provisions to ensure that any and all future observatory subleases, as public and/or commercial land uses, provide an appropriate, consistent, and sufficient level of financial and other support for the stewardship of Maunakea and its natural and cultural resources.

41. Anuhea Patoc, Office of Hawaiian Affairs

Date Received: September 18, 2018
Position on Draft Rules: Comment
Summary of written testimony: Same verbatim language as Submission No. 40.

42. Judith Carroll

Date Received: September 18, 2018
Position on Draft Rules: Oppose
Summary of written testimony: Concerned about permit needed, cost of permit and how and for what the money collected from permits will be used.

43. Jessica Calderon

Date Received: September 18, 2018
Position on Draft Rules: Comment
Summary of written testimony: Self-identified as an indigenous woman who practices ceremonial ways. Concerned that access should be given to those whose ancestors practiced ceremonies at a site for more than six generations. Request to leave sacred sites to indigenous people of Hawai‘i.

44. Caroline Kim

Date Received: September 18, 2018
Position on Draft Rules: Comment
Summary of written testimony: Concerned that approval of proposed rules and public hearings are premature due to many substantive issues with existing draft. Same verbatim language as Submission No. 28 in regards to 20-26-3, 20-26-6, 20-26-21, section 9, section 11, 20-26-24, sections 1-3, 20-26-31, 20-26-32, 20-26-38, 20-26-39, night time visiting hours and subchapter 3. Concerned
about 20-26-22 “...very problematic. UH itself can’t even follow this proposed rule (specifically parts 1-5) and section 10 “...added rule to prevent civil disobedience like...in 2015 even though those arrested were largely cleared of any criminal wrong-doing.”

45. Clara Hunter

**Date Received:** September 18, 2018  
**Position on Draft Rules:** Comment  
**Summary of written testimony:** Concerned about restricting of access at night. Would like to share experience with young daughter.

46. Peter Rucci

**Date Received:** September 19, 2018  
**Position on Draft Rules:** Support  
**Summary of written testimony:** Supports TMT and any other scientific/educational pursuits on Mauna Kea.

94. Pamela Ingram

**Date Received:** September 20, 2018  
**Position on Draft Rules:** Oppose  
**Summary of written testimony:** Concerned with limited access for native Hawaiians who have used Mauna Kea for cultural, spiritual and religious purposes, administrative rules that are affecting the rights, customary and traditional practices for subsistence, cultural, and religious purposes, displacement of indigenous peoples, “religious freedom” and “indigenous rights.”

159. Sheila Okin

**Date Received:** September 22, 2018  
**Position on Draft Rules:** Comment  
**Summary of written testimony:** Concerned that public hearings on draft rules are premature, not involving kanaka cultural practitioners, “too many restrictions,” all users of the mountain should abide by same rules and commercial activity is inappropriate and should not be permitted.

200. Sean Fendt

**Date Received:** September 24, 2018  
**Position on Draft Rules:** Oppose
Summary of written testimony: Concerned about excessive permitting and restriction of private and public freedom, 20-26-22 (2) and 20-26-33 companion animals should not be prohibited, 20-26-22 (8) ridiculous, 20-26-22 (11) restricts appreciation of land and interferes with religious practices and needs to be extended further than just native Hawaiians, 20-26-24 Mauna Kea “great amateur radio resource” and 20-26-36 is already covered by law and is not needed and prohibiting drones is useless because people would be able to explore areas in a less destructive way and drones operated outside of management area cannot be prohibited by rule.

205. Claudia Zimmermann  
Date Received: September 24, 2018  
Position on Draft Rules: Support  
Summary of written testimony: Self-identified as a tourist interested in preserving Mauna Kea. “Mauna Kea is an example that ancient and modern world[s] can live next to each other” and “such regulations are necessary for protecting.”

209. Matthew Toyomura  
Date Received: September 24, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about rules to access, cost associated with access, permits to practice culture, removal of Hawaiian shrines, hurting the environment and why not just upgrade one of the thirteen telescopes instead of building a new one.

214. Williamson Chang, Professor at William S. Richardson School of Law  
Date Received: September 24, 2108  
Position on Draft Rules: Oppose  
Summary of written testimony: No comments.

215. Williamson Chang, Professor at William S. Richardson School of Law  
Date Received: September 24, 2018  
Position on Draft Rules: Comment  
Summary of written testimony: Proposed rules fail to define “cultural.” By the laws of the United States and the State of Hawai‘i Mauna Kea is not within the boundaries of the State. These are rules that clear a pathway for TMT. It is impossible for the University of Hawai‘i to police itself. Specific comments and concerns on draft rules include:
- Section 20-26-3, Why should the university, as well as its affiliated persons, and government entities not be subject to these rules?
- Section 20-26-7, Why are these funds, and any revenues from Mauna Kea, not consider revenues from ceded lands?
- Section 20-26-21, Why are native Hawaiian rights limited to only those that already exist under state law?
- Section 20-26-24, Why nothing about preservation of Hawaiian values?
- Section 20-26-41, scattering of remains should be reconciled with native Hawaiian burial council.
- Section 20-26-42, overbroad
- Section 20-26-43, unnecessary
- Section 20-26-61, native Hawaiians should have control—see Kahoolawe Commission.
- Section 20-26-62, Why is this only applicable to groups over ten?
- Section 20-26-63, native Hawaiians should not be subject to such extensive and limited access.
- Section 20-26-64, What persons or groups are contemplated as using special use permits? What would be a special use?
- Regarding research permits, does this include astronomy?
- What persons or groups are contemplated as using special use permits?
- The University should not be given control of commercial tours.
- Why should the university, without native Hawaiian input, have control over commercial films and recording?

This submission also included various attachments without explanation about how they relate to the draft rules, including what appear to be transcripts from court proceedings and hearings before the Board of Land and Natural Resources.

216. **Veronica Ohara**

**Date Received:** September 24, 2018  
**Position on Draft Rules:** Comment  
**Summary of written testimony:** Concerned that current rules need to be followed, “buses to VIS could be better managed by tour companies,” limiting number of visitors for capacity like Hanauma Bay and “encourage cultural practitioners to cooperate with the rules regarding offerings, and the staff required to enforce these rules.”

218. **Williamson Chang,** Professor at William S. Richardson School of Law

**Date Received:** September 24, 2018  
**Position on Draft Rules:** Comment  
**Summary of written testimony:** The real issue is not public access to Mauna Kea—but TMT access to Mauna Kea.
219. **Williamson Chang**, Professor at William S. Richardson School of Law

*Date Received: September 24, 2018*
*Position on Draft Rules: Comment*

**Summary of written testimony:** Substantially similar to Submission No. 218. Notably, a footnote was removed that explicated upon the theme, “Hawaii is the homeland for Hawaiians.”

220. **Blake Watson**

*Date Received: September 24, 2018*
*Position on Draft Rules: Oppose*

**Summary of written testimony:** Concerned that proposed rules are discriminatory, the exclusion of “agents of UH and sublease personnel,” exclusion of cell phones and flashlights, boarders violating the U.S. Constitution of separation of church and state and requiring permits for native Hawaiians to practice their religion.

232. **Makaniolu Huaka**

*Date Received: September 25, 2018*
*Position on Draft Rules: Comment*

**Summary of written testimony:** Request for “substantial revisions” to proposed rules 20-26-3 “sets up a dual class system, with people of Hawai‘i being a subservient class to the University and astronomers” and shows that application of rules is not for all individuals. Concerned that 20-26-3 is contrary to the “University’s previously stated public commitments to the community,” the 2009 Mauna Kea Comprehensive Management Plan, UH Hilo Chancellor Tseng’s testimony given to legislature to grant UH authority to pass rules and confirms concerns when comments were obtained for draft bill (HB 1174). The following language “consistent application to all who access Mauna Kea,” “protect and apply to all resources and resource users including cultural, natural, and scientific values,” “not to create a ‘gated community’” and “regulate observatory as well as public and commercial activities” can be found in the “University of Hawai‘i. 2009 Comprehensive Management Plan, pages 7-34”, “2009 Testimony (HB1174) per Hawai‘i State Legislature,” “2009 Testimony by UHH Chancellor Rose Tseng,” “2009 Environment Hawai‘i article” and “2014 Audit (along with many others) that rules protect all resources (scientific, cultural, natural). Concerned that “community engagement” has been “abandoned” while progression of TMT and renewing leases continues. “I do not agree with...Kahea and other activists” the opposition of “all contexts or deferred pending resolution of other issues.” “Fair, equitably applied, constitutionally rigorous administrative rules that apply to all were promised and are needed,” however
proposed rules do not represent that. Provided scenarios of issue that could occur.

245. **Dr. Jesse Eiben**

Date Received: September 26, 2018  
Position on Draft Rules: Support  
Summary of written testimony: Self-identified as an ecosystem management researcher on Mauna Kea for the past 13 years and UH Hilo Assistant Professor of Applied Entomology. Concerned that “the land manager and management agency must have authority...to better manage activities...,” detrimental to “active adaptive ecosystem management” to only manage activities of the some users and not all users and there needs to be proper staffing to “track and implement rules.”

247. **Banka Schneider**

Date Received: September 26, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Attended ‘Imiloa hearing however was unable to speak due to amount of people in attendance. Does not benefit Hawaiians nor the Aina.

249. **Megan Archibald**

Date Received: September 26, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned that UH has not obtained community outreach on proposed rules and that Mauna Kea has been mismanaged.

250. **Andrew Cooper**, Electrical Engineer for W.M. Keck Observatory

Date Received: September 26, 2018  
Position on Draft Rules: Comment  
Summary of written testimony: Regular user of Mauna Kea for employment and enjoyment who is concerned about the “number of weaknesses in the rules” which include 20-26-24 (1) section uses term “electro-magnetic” which would prohibit “literally any device that uses electrical power and suggests using “intentional radio frequency transmitter” instead, 20-26-24 prohibition of flashlights “may create unacceptable safety risks,” 20-26-22 (11) term “pu’u” should be clarified and it conflicts with 20-26-40, 20-26-39 (c) public access hours should be removed since it is a public resource, 20-26-30 no justification for prohibition of drones and should be removed and 20-26-62 (e) would have an “unintended effect of completely denying permits to most non-commercial
groups” which would deny access to local groups and favor commercial interests, instead it should be replaced with a requirement for liability waiver form being signed.

251. Bianca Isaki, KAHEA

Date Received: September 26, 2018
Position on Draft Rules: Oppose
Summary of written testimony: Concerned that proposed rules have deviated from the purpose of protecting Mauna Kea’s resources and public health and safety and the “Board of Regents (Board) should prepare environmental review documents prior to decisionmaking.”

252. Jason Chin, W.M. Keck Observatory

Date Received: September 26, 2018
Position on Draft Rules: Comment
Summary of written testimony: “Regardless of our backgrounds, the benefits should extend beyond our generation and into future generations such that they will be able to see and enjoy our current experiences.”

253. Andrew Sheinis

Date Received: September 26, 2018
Position on Draft Rules: Support
Summary of written testimony: “I strongly support the Uh administrative Rules for Maunakea, and I vote.”

254. Jim Klyman

Date Received: September 26, 2018
Position on Draft Rules: Support
Summary of written testimony: Supports “limited access to critical, sensitive or overused area of Mauna Kea,” “construction of TMT facility would be beneficial to the world knowledge” and “‘Original occupying people’ should have a say in how the land is used.”

256. E. Kalani Flores, Flores-Case ‘Ohana

Date Received: September 26, 2018
Position on Draft Rules: Comment
Summary of written testimony: General comments include:
• “[T]he Board of Land and Natural Resources/Department of Land and Natural Resources (Lessor) needs to conduct an independent Ka Pa’akai analysis to assess the impacts of the proposed rules would have on customary and traditional practices”
• “As written, some of the proposed rules would conflict and adversely impact these rights and practices.”
• “State agencies have an affirmative duty to preserve and protect traditional and customary native Hawaiian rights”
• “There has been no investigation by DLNR/BLNR into the traditional and customary practices that will be affected by the proposed action.”
• “There should be separate tiers of penalties and appeals”
• “Contested case proceedings were never intended for handling these types of civil violations”
• “[R]ules and the procedures for adoption are not in compliance with the CMP, Mauna Kea Master Plan (2000), Act 132”
• “[P]roposed rules are invalid for being overbroad”
• “There should also be a section of rules and associated enforcement that pertains to astronomy personnel, UH employees, contractors, researchers, etc.”

258. Eric W.

Date Received: September 27, 2018
Position on Draft Rules: Support
Summary of written testimony: Supports “common sense set of rules requiring permits for access to an environmentally sensitive area” and prohibition on excessive noise.

259. John Powers

Date Received: September 27, 2018
Position on Draft Rules: Comment
Summary of written testimony: Concerns include the following:

- “The requirement to attend an 'orientation' session to access Maunakea is totally unacceptable and must be struck from the rules. A large sign at the entrance and another in the visitor center parking area, with a posted legal requirement to read and understand the sign before traveling on management lands, must suffice.”
- “It is another way to shut down access to the mountain by requiring a 'fee' to be paid at a location remote from the mountain.”
- “[P]rohibition of speaking, chanting and playing instruments without electronic amplification is unconstitutional.”
- “Regarding 'Access' and the use of gates to deny access 'for public safety and welfare'; this section is unacceptable as worded.”
- “[T]he requirement for a one-time group use permit for all groups larger than 10 persons is an unconstitutional restriction on freedom of peaceful assembly and religious practice[.]”
- “[T]he setting of the upper baseline for fines at $2500 for a first offense without further clarification is vague and grossly unacceptable.”

261. Shannon Rudolph

Date Received: September 27, 2018
Position on Draft Rules: Comment
Summary of written testimony: Concerns include the following:

- “The process is premature with pending legal questions still before the Hawaii Supreme Court.”
- “There was no meaningful consultation with the Kanaka Maoli community in the drafting of these rules.”
- “The proposed Rules gives a single 'designee' control of permits, access, and activities on Mauna Kea with no accountability to the Kanaka Maoli people and the public.
- “The Rules violate Kanaka Maoli customary and traditional rights to gather and access for subsistence, cultural and religious purposes.”

262. Kenneth Conklin

Date Received: September 27, 2018
Position on Draft Rules: Comment
Summary of written testimony: “No part of Mauna Kea should be ‘for Hawaiians only.’ Ancient burials, if any could be fenced off...no new burials or altars or offertory platform should be allowed.” “[L]eases and construction permits...new telescopes should be built and anyone who blocks the road or sabotages the
project should be severely punished...old Hawaiian religion must not be allowed to dictate government policy.” “Access and gathering rights were affirmed by the Hawai‘i Supreme Court in the PASH decision of 1995 (Public Access Shoreline Hawai‘i).” Concerned about 20-26-5, 20-26-6 “regulations should clearly state the same fees shall be charged to all visitors regardless of race, and that there shall be no exemptions from fees,” 20-26-21 “would explicitly grant superior race-based rights to native Hawaiians,” 20-26-40 should not be “unduly restricted” since “[m]any people of all ages and races have enjoyed such activities for generations,” 20-26-41 good but should be clarified that “scattering of cremated remains is permissible in the same locations, and in the same manner, for all people regardless of race” and 20-26-42 “[t]he list of prohibitions is too short, too vague, and too humble.”

265. Cory Harden

Date Received: September 27, 2018
Position on Draft Rules: Comment
Summary of written testimony: Concerned that “rules should only be written after...case is decided by the Hawaii Supreme Court.” “DLNR should be writing these rules, not UH” due to UH’s failure to protect the natural and cultural resources, the pending Supreme Court case in which legal jurisdiction of UH to write rules that affect kanaka maoli and the public are in question, UH’s stated purpose is education and not protection of natural and cultural resources and UH only has a dozen years left on its lease. Flawed policies reflected in a number of rules include cultural practitioners needing a permit to exercise their religious freedom, “‘designee’ given sweeping powers,” “proposed rules do not cover some policies, plans, and Comprehensive Management Plan (CMP),” fees for the public while “observatories have paid only $1 annual rent for years,” gate placement on a public road, proposed rules do not identify where in the CMP procedures will be addressed. Hearings were flawed due to not all Board of Regent members being present and a hearing should have been held on Kauai. Specific problem with rules include 20-26-5 how will enforcers know orientation has been completed, 20-26-6 cultural practitioners should be exempt, 20-26-21 unclear as to criteria and activities that have impact, 20-26-22 (10) many extended families would go over limit of 10 and (11) “rings hollow after the top of a cinder cone was bulldozed for the Subaru Telescope,” 20-26-24 cell phones may be needed in various situations and (3) flashlights should be allowed, 20-26-32 “rings hollow after observatory staff were allowed to transport fuel in barrels in the back of pickup trucks,” 20-26-34 “observatory air conditioners make a lot of noise,” 20-26-38 “some traditional and customary practices require observing the night sky at various times,” 20-26-39 will there be a restriction on observatory vehicle access, (d)(1) restricts “First Amendment rights to free speech and assembly,” 20-26-61 (10)(d)(2) “permits can be cancelled or termination if demonstrations seem likely,” 20-26-74 not clear who authorizes
the “authorized agent.” Section 20-26-75 (2), “How will tourists who have left the island do hearings?”

266. Garid Faria

Date Received: September 27, 2018
Position on Draft Rules: Comment
Summary of written testimony: Concerned about “blanket exemption for UH’s educational and research activities,” UH has conflict of interest to make rules, restriction of hiking to prevent damage while UH has damaged the pu’u already, who will be determining impact, cultural practitioners should not need to pay an entrance or parking fee to exercise cultural or religious practices, prioritization of the “scientific community and telescope operators” in regards to access, the “scientific community and telescope operators” not be subjected to the same restrictions as practitioners, “added rule to prevent civil disobedience” and inappropriate commercial activity regulated by permitting.

272. Laura Caverly

Date Received: September 27, 2018
Position on Draft Rules: Oppose
Summary of written testimony: Concerned that rules do not consider the public’s right to access and rules should be based on “preservation and sharing.”

275. Joseph Camara

Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: Self-identified as cultural practitioner who is concerned that the proposed rules attempt to limit rights to traditional, customary and religious practices, proposed rules fail to acknowledge full scope of rights, “proposed rules give the impression that UH has the authority to ‘permit’ rights, UH has “fiduciary responsibility to accommodate...traditional, cultural practices” and harsh penalties for minor infractions.

283. Judith Wilhoite

Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: Concerned that access should be given to all Hawai’i’s peoples and not restricted.

285. George Fuller
Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: In support of scientific research continuing and TMT being built but Hawaiian community and others who should continue to have access the mountain.

287. Landry Fuller

Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: “Everyone should have a right to drive up the summit to see the beautiful views year-round and play in the snow at Christmas time. Please don’t allow access to only a select few.”

288. Micah Hicks

Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: Self-identified as a kanaka, recreational hiker and a scientist who is concerned that while changes are “undoubtedly necessary” the proposed rules treat astronomers as the “exclusive or indeed primary” user of the mountain by restricting access.

290. Penny Blakeman

Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: Concerned about privatization and commercialization of the summit “strictly [for] the university.”

291. Nicole Cron

Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: Concerned that UH has “no authority to be making rules on the land,” that “…they themselves will never follow, which is unfair for everyone....” and that the “vague writing leaves many believing” cultural practices will be hindered.

292. Gregory Johnson

Date Received: September 28, 2018
Position on Draft Rules: Comment
Summary of written testimony: Concerned about:
● “potential impact of the proposed rules upon Native Hawaiian traditional and customary practice[.]”
● “pending case before the State of Hawai‘i Supreme Court on the TMT CDUP has not been adjudicated”

293. Steve Takekawa

Date Received: September 28, 2018
Position on Draft Rules: Comment
Summary of written testimony: “Don't stop driving to the summit. Don't stop playing in the snow. Don't stop hiking, hunting and other outdoor recreational activities. Don't stop native practitioners,” and “[d]o allow all the ability to access within reason. Do start an access permit process with rules that all must abide to.”

294. Gregory Johnson

Date Received: September 28, 2018
Position on Draft Rules: Comment
Summary of written testimony: Same verbatim language as Submission No. 292.

295. Mehana Maka‘ina‘i

Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: Concerned that “several sections [of the proposed rules]...prioritize the western scientific community over cultural practitioners in accessing the lands,” Hawaiian cultural practitioners should be exempt from all permits and related items regardless of activity and time activity is performed, access should not be limited and there should be no fines for these activities and the “UH President and their designee should not be allowed to single-handedly grant or withhold permits.”

297. Valerie Barnes

Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: No comments.

298. David Holmes

Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: “I am (was?) a big supporter of the Thirty Meter Telescope - however, I can not support the University of Hawaii’s proposal limiting access to public lands. If these administrative rules, as currently proposed, take effect I will no longer be able to support the University of Hawaii’s management of Mauna Kea nor the Thirty Meter Telescope. Thank you for the opportunity to comment.”

299. Jonathan Osorio, Dean of Hawai‘inuiākea School of Hawaiian Knowledge

Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: “I am not opposed to the University constructing rules and procedures for the management of the summit of Mauna Kea so long as none of those rules limit the cultural and political activities of Kanaka Maoli and their practices on the mountain.” “My recommendation is that the Board of Regents call an end to the rule making process until the issue of TMT is resolved....”

300. Mia Akau-LaClair

Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: Concerned that “the importance and sacredness of Mauna Kea is not reflected in these rules,” “the UH has not demonstrated that they have engaged and utilized the public process to develop the proposed rules” and “the rules discriminate against Kanaka maoli in favor of education and research activities” including 20-26-3 is contradictory, 20-26-2 commercial activity definition should include “the operation of the telescopes and research activity,” exemption given to “education and research activities,” 20-26-5 should be implemented, 20-26-22 education and research activities should not be allowed to remove plant and animal life, 20-26-32 scientific facilities should not have exemption to this section and 20-26-21 (b) favors education and research activities.

301. William LaClair

Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: “The importance and sacredness of Mauna Kea is not reflected in these rules.” Concerned about the public process. Feels that the rules “discriminate against Kanaka maoli in favor of education and research activities.”

302. Arnold Akau Sr.
Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: “I hereby submit my opposition to proposed rules HRS Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands. I do not feel that any future development should be allowed, all facilities should be decommissioned, and all access should be strictly limited on Mauna Kea. Please kakoʻo in protecting our most sacred place, Mauna Kea.”

303. Kiʻope Raymond, President of Kilakila ʻo Haleakalā  

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Testimony written in ʻōlelo Hawai‘i and translated into English by interpreter Ernie Martin. Concerned that Maunakea is a sacred place that should not be desecrated further and permits should not be needed to pray.

304. Kawehi Kina  

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: No comments.

305. Kilohana Fujii-Miller  

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: No comments.

307. Kulamanu Ishihara, Maui College  

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: No comments.

308. John Stephen  

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: “To ban the public and Hawaiians totally from going there is against fair management of this special place...[m]aybe some limit daily entry like what is done at Hanauma Bay would be more fair.”
311. **Mililani Trask, Hawaiian Cultural Practitioner in behalf of Wahine Practitioners & Ki‘ai** (signature block includes, Onaona Trask, Kumu Hula; LAKEA; Brit Kualii; Kalae‘ōla‘a Trask-Sharpe; Kuuleiohuokalani Kealoha Cooper)

**Date Received:** September 28, 2018  
**Position on Draft Rules:** Comment  
**Summary of written testimony:** Comments include:

- "Wahine practitioners submitting this testimony have tried for several years to work with those seeking to develop Mauna Kea (including State parties), to resolve the problems on Mauna Kea."
- "Wahine practitioners were invited to participate in the discussions on initial rules & we responded by submitting comments & testimony to the KKM on May 18, 2016 and on August 18, 2017."
- "Rather than work with Hawaiian practitioners to hold Statewide Consultations, the State, BLNR & private sector drafted these rules in a vacuum."
- "The Rules are racist, biased and seek to impose unreasonable restrictions on Hawaiians while making sweeping exemptions for State, Commercial and other individuals that have pre-existing deals with commercial lessees, the University & the DLNR."
- "The Rules favor some religions and practices while providing restrictions on Hawaiian traditional practices."
- "The vague and biased processes contained in the Rules are designed to prevent Hawaiians from practicing traditional religious ceremony by prohibiting them from accessing sacred areas, worshipping in private, gathering necessary items of worship from the Aina and participating with their families, children and religious community in ceremony."
- "the cost for Hawaiians to obtain a Special use permit after attending meetings with OMKM, KKM on Hawaii Island and to either purchase or rent a 4-wheel vehicle impose unreasonable costs & limitations on Hawaiians right to worship and engage in cultural practices."
- "Wahine Practitioners Effort to Work with State & OMKM Rejected in favor of armed violence."
- "The Rules fail to protect endangered cultural resources Wahi pana, Ahu, Pohaku) from ongoing & deliberate destruction & desecration by Science & State employees, their lessees."
- "Please do not destroy our Ahu, do not remove our Hookupu and do not vandalize our Wahipana. Stop the threats, arrests, trials & fines."

312. **Donald Rudny**

**Date Received:** September 28, 2018  
**Position on Draft Rules:** Comment
Summary of written testimony: Self-identified as a volunteer at VIS who is concerned as to reasoning why cell phones are being prohibited in proposed rules being that enforcement would be “very difficult, if not, impossible.” Uses cell phone to ensure spouse that he has arrived safely when volunteering.

313. Jennifer Lindsay-Shinsato

Date Received: September 28, 2018
Position on Draft Rules: Comment
Summary of written testimony: Concerned that there is “commercial exploitation of Mauna Kea,” that tour company vans and buses should be banned from “access above Visitor’s Center,” “[i]ndividual access whether by 4WD, bicycle or hiking should be encouraged,” “customary usage during snow season” should be continued and shuttle service should not be implemented” due to each individual person’s “response to high altitude[s].”

314. Mililani Trask, Wahine Practitioners/Ki’ai - Mililani B. Trask, Leah Gonker

Date Received: September 28, 2018
Position on Draft Rules: Comment
Summary of written testimony: Same verbatim language as Submission No. 311.

316. Julius Gutierrez

Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: “My name is Julius Gutierrez, alumni magna cumlade of UH Manoa, and Im shocked to hear the UH system is planning to restrict public access to manua kea. This is unconstitutional, a breach of free rights to access public land. Im 100% agaismt it and hope our voice as the people is heard and not allowed to happen.”

321. Kekailoa Perry, ‘Aha Kuhina, Hawaiʻinuiākea School of Hawaiian Knowledge

Date Received: September 28, 2018
Position on Draft Rules: Oppose
Summary of written testimony: “The ‘Aha Kuhina of Hawaiʻinuiākea School of Hawaiian Knowledge opposes the tenor and function of the proposed Chapter 20-26 rules and the negative impact it will have on native Hawaiian traditional and customary practices.” Proposed rules are “disingenuous and improper in the following ways:....contradictory language outlined in 20-26-21...permitting categories outline in 20-6-61 to 70 are poorly contrived in their application...rules allow for a blank exemption that recognized all telescope activities as superior to all other activities, particularly traditional and customary
practices...proposed procedures and associated violations in the rules demonstrate the true intent of the University and Office of Mauna Kea Management, proposed procedures and associated violations demonstrate the University and Office Mauna Kea Management intent to illegally infringe on the First Amendment rights of native Hawaiians (and other citizens) exercising their freedom of religion and speech...[and] the rules allow for a single appointed individual of the University of Hawaii to unilaterally make decision that impact the use of and activity on the Mauna...”

323. Hayden Robinson

Date Received:  September 28, 2018  
Position on Draft Rules:  Comment  
Summary of written testimony: Self-identified as a former student who recognized during Haleakala telescope protests in 2015 that the, “protest and reactions to it (by the public, but also in the media and in everyday conversations) were the most striking example I had ever experience of democracy in action” however “my perspective is changing” due to the proposed rules. The proposed rules “ignore basic democratic ideals and constitutional frameworks.”

324. J S.L.

Date Received:  September 28, 2018  
Position on Draft Rules:  Comment  
Summary of written testimony: Concerned that proposed rules are “too restrictive,” “[s]pecial ‘play’ areas make sense to preserve sensitive areas,” as well as “restricting the number of vehicles and people,” and would like “island locals” to be given “special consideration” since many other recreational places have changed.

326. Thomas Bearden

Date Received:  September 28, 2018  
Position on Draft Rules:  Comment  
Summary of written testimony: Substituting Submission No. 30 and 31 with this testimony. Self-identified as Clinical Psychologist. In support of prohibiting alcohol, drug use, ATV’s, and off-road 4 wheeling. Supports “only 4-wheel drive vehicles should be allowed to access the summit.” Concerned about restriction of private vehicles and use of shuttle vehicles, limiting the number of vehicles, charging of entrance and parking fees, gate at visitor’s center and mandatory cultural orientations. Would like a distinction made between residents and visitors.
327. Gordon Takaki, Hawai‘i Island Chamber of Commerce

Date Received: September 28, 2018  
Position on Draft Rules: Comment  
Summary of written testimony: In support of consistency with existing state rules in particular “[t]he administrative rules align the UH managed areas with other management rules on state lands on Maunakea including the surrounding DLNR lands,” managing road access a “critical tool” for “…protecting safety for all when visiting…maintaining safe road conditions for inclement weather events…reducing vehicle congestion…[and] camping within the UH managed lands,” use of “only vehicles equipped with low-range 4-wd” and “requiring snow recreation devices with proper braking and steering mechanisms.”

328. Velma Panlasigui

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned that “our natural resources and environment has taken a backseat for decision makers at all levels of government.”

330. Aunty "Mopsy" Mapuana Aarona and Kahele Dukelow

Date Received: September 28, 2018  
Position on Draft Rules: Comment  
Summary of written testimony: “What will it take to stop the abuse of our sacred heritage? You have taken our monarchy, once our rights to the language, our rights to protect what was handed down to our people and now you want to rob us of our sacred being with the ‘Aina. You have made millions of dollars on ceded crown lands for a dollar a year lease and allowed foreigners to walk the sacred mountain freely but yet you limit our Hawaiian cultural practice and public access. Who will benefit from TMT? Not the people of Hawaii. We already traveled the world using the stars through our voyaging society. When you make decisions put the earth in front of your face NOT the dollar sign$$$”

331. Keahi Bustamente

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: “I am opposed to any changes to current rules that are not in coordination with the needs of native Hawaiians.”

332. Kari Robinson
Date Received: September 28, 2018  
Position on Draft Rules: Comment  
Summary of written testimony: Concerns include the following:

- [“T]he rules are clearly formulated with a primary focus: prevent and criminalize anticipated protests of the telescope project and protect the scientific resources of the Mauna Kea summit area.”
- “The proposed rules criminalize the practical foundations of protest movements (camping, artificial illumination, and cell phones; by requiring low-4 wheel drive vehicles, erecting a gate at Hale Pohaku, and mandating a ‘cultural training video’[.]”

335. Jacqueline Awa, Treasurer, Board of Directors for Ahu’ena Heiau, Inc.

Date Received: September 28, 2018  
Position on Draft Rules: Comment  
Summary of written testimony: Notification that Mikahala Roy is not the Kahu of Ahu’ena Heiau and does not represent the board or organization. “We exist solely to preserve, maintain and steward Ahu’ena Heiau and we have no other mission, purpose or agenda. We do not provide testimony on any project or issue.”

340. Mark Mahaney

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: “Most people can respect the significance and importance of the Hawaiian heritage without being denied access or controlling activities on the summit.”

341. Shelley Muneoka, Treasurer for KAHEA: The Hawaiian-Environmental Alliance

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned that “draft rules to the Governor for approval” are premature due to there being “too many substantive issues.” Same verbatim language as Submission No. 28 and 44 in regards to 20-26-21, section 9, section 11, 20-26-24 sections 1-3, 20-26-31, 20-26-32, night time visiting hours and subchapter 3. Additionally, same verbatim language as Submission No. 44 in regards 20-26-6, 20-26-22, section 8, section 10 and 20-26-39. Concerned about 20-26-3 blanket exemption for UH, 20-26-34 “criminalizes singing and chanting,” 20-26-38 “prohibition on camping,” “fee schedule for rule violations are unreasonable” and “proposed rules provide the UH President and their designee wide-ranging powers to unilaterally grant or withhold permits.”
Davileigh Naeole

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: “I oppose these proposed rules which are designed to target Hawaiians protecting their sacred places from ongoing desecration.”

Axel Kratel

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned that Mauna Kea is a “public native Hawaiian cultural resource” where access should not be restricted.

Kuulei Gunderson

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned that proposed rules “support continued oppression of Hawaiian people” and “vague permitting system is a lame attempt to submit by fear.”

Pi’ikea Everett

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about proposed rules not being in the best interest of Kanaka Maoli, 3-minute time limit on providing oral testimony during hearings, no land title for Mauna Kea, rules having to pertain to permits, noise that may “disturb the scientific communities,” fines, building of ʻahu and hiking.

Gina Mamone

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: “I oppose any and every rule that restricts native Hawaiians any kind of access to our mauna!!! our culture, beliefs and rights to our mauna should not be infringed upon due to the greed of any officials including UH for their own personal gain especially to build more telescopes to desecrate our mauna anymore than it already has!!!”
351. **Rebecca DiLiberto**

*Date Received: September 28, 2018*

*Position on Draft Rules: Oppose*

*Summary of written testimony:* Concerned about the “gross misuse of UH jurisdiction and stewardship of the ‘aina to block out everyone except those UH deems necessary from the summit of Mauna Kea.” “This isn’t ‘protecting’ the land and its resources – it’s exploiting it for uses that are beneficial to the university.”

352. **Mikala Demotta**

*Date Received: September 28, 2018*

*Position on Draft Rules: Oppose*

*Summary of written testimony:* “As a native hawaiian i oppose all racist rules made against the hawaiian people gaining access to Mauna Kea it is wrong and goes against all that we were taught and all that we stand for! Our culture and beliefs gives us every right to access without any kind of permit therefore UH and all telescope employees should be the only ones needing a permit! You do not have my permission! OPPOSE!!!”

353. **James Albertini, Malu ‘Aina**

*Date Received: September 28, 2018*

*Position on Draft Rules: Oppose*

*Summary of written testimony:* Concerned about the “industrial and commercial desecration of the most sacred temple in Hawai‘i,” possession of Mauna Kea outside of the Hawai‘i Kingdom and the absence of the UH president, UH regents and OMKM board members at the public hearings.

354. **Robi Demotta**

*Date Received: September 28, 2018*

*Position on Draft Rules: Oppose*

*Summary of written testimony:* Concerned about rules restricting practice of cultural beliefs and access.

355. **Todd Steele**

*Date Received: September 28, 2018*

*Position on Draft Rules: Oppose*

*Summary of written testimony:* Concerned that rules will restrict the practice of cultural beliefs.
357.  Todd Marohnic

Date Received:  September 28, 2018
Position on Draft Rules:  Comment
Summary of written testimony:  “Enough rules and gates blocking public access! I don't need or want anyone looking out for my safety... Safety and liability are the two words used to kill any thing remotely adventurous.”

358.  Angie Mckeague

Date Received:  September 28, 2018
Position on Draft Rules:  Oppose
Summary of written testimony:  Concerned about desecration.

359.  Rosanna Mamone

Date Received:  September 28, 2018
Position on Draft Rules:  Oppose
Summary of written testimony:  Concerned with restriction of access.

360.  Jennifer Real

Date Received:  September 28, 2018
Position on Draft Rules:  Oppose
Summary of written testimony:  Concerned about people's religion and recreation rights are being infringed upon and restricting of public's access.

361.  Ponokeali'i, Ali'i Aloha Aina  Principal Member of The Hawaiian Monarchy government of The Hawaiian Kingdom

Date Received:  September 28, 2018
Position on Draft Rules:  Oppose
Summary of written testimony:  “On behalf of The Hawaiian Monarchy government of the Hawaiian Kingdom, the people of Hawai‘i and the descendants of pai‘ea kamehameha I hereby assert the supreme legal authority and jurisdiction of The Hawaiian Monarchy government of The Hawaiian Kingdom over all of the ‘āina of ko Hawai‘i pae ‘āina - the Hawaiian Islands including mauna a wakea (mauna kea) which is hereby officially designated A Protected National Historical and Spiritual Treasure of The Hawaiian Kingdom.”

362.  Lauran Chapple

Date Received:  September 28, 2018
Position on Draft Rules:  Comment
Summary of written testimony: Concerned that “rules are too limiting.”

363. Aisake Nutoni

**Date Received:** September 28, 2018  
**Position on Draft Rules:** Comment  
**Summary of written testimony:** Concerned about damaging effects of development on Mauna Kea.

364. Aisake Fakava, Jr

**Date Received:** September 28, 2018  
**Position on Draft Rules:** Comment  
**Summary of written testimony:** Same verbatim language as Submission No. 363.

365. Harriet Mamone

**Date Received:** September 28, 2018  
**Position on Draft Rules:** Oppose  
**Summary of written testimony:** Concerned about restriction of access.

366. Shelly Napoleon

**Date Received:** September 28, 2018  
**Position on Draft Rules:** Oppose  
**Summary of written testimony:** Concerned about access, termination of current leases and removal of telescopes.

367. Cedric Kailikini

**Date Received:** September 28, 2018  
**Position on Draft Rules:** Oppose  
**Summary of written testimony:** Concerned about desecration.

368. Monicalynn Mckeague

**Date Received:** September 28, 2018  
**Position on Draft Rules:** Oppose  
**Summary of written testimony:** Concerned about restriction of access.

369. Kekailoa Perry, Kumu Hawaiian Studies UHM, subject of the Hawaiian Kingdom

**Date Received:** September 28, 2018  
**Position on Draft Rules:** Oppose
Summary of written testimony: Comments include:

- “The proposed rules are “documents of barbarism” that use this seemingly benign form of rule making to justify the University and State’s colonial/occupational privilege and systemic oppression against the Hawaiian community at the University and in the Pae ‘Āina.”
- “[P]ermitting categories outline in §§20-6-61 to 70 are poorly contrived[.]”
- “The rules allow for a blanket exemption of all telescope activities[.]”
- “The fines are excessive and punish activities like traditional and customary practices[.]”
- “The rules allow for a single appointed individual of the University of Hawai‘i to unilaterally make decisions[.]”
- “This entire process is flawed as it does not sincerely allow for full review and discussion[.]”

370. **Cameron Mckeague**

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about restriction of access.

372. **Alyssa Mckeague**

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about permits.

373. **Steven Tayama, Nation of Hawai‘i**

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about jurisdiction and land ownership.

375. **Noelani Sagucio**

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about access and permits.

376. **Jacob Sehna**

Date Received: September 28, 2018  
Position on Draft Rules: Oppose
Summary of written testimony: Concerned about restriction of access.

377. Owen Sehna

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about restriction of access.

378. Deborah L. Chang, Island Transitions LLC

Date Received: September 28, 2018  
Position on Draft Rules: Comment  
Summary of written testimony: Comment include:

- “The Draft Administrative Rules say nothing about the DLNR’s “Policy for Commercial Activities on State Owned and Managed Lands and Waters,” which establish a “hierarchy of priorities” when managing the public’s natural and cultural resources.”
- “In order to proactively manage the impacts of public and commercial activities, there needs to be a robust monitoring system that gathers resource-based data to guide and justify management decisions. How will this monitoring be established and funded?”
- “The Draft Administrative Rules should make special accommodations for the exercise of Native Hawaiian traditional and customary rights. Although the State has the right to regulate these rights, it does not have ‘unfettered discretion to regulate the rights of ahupua’a tenants out of existence.’ (See discussion in PAP, pp. 2-28 and 2-29)[.]”
- “Historic Hawaiian trails, which are owned by the State by virtue of the Highways Act of 1892, are a special category of public access that should be separately managed by DLNR’s Nā Ala Hele (Statewide Trail and Access Program), which is part of the Division of Forestry and Wildlife (DOFAW).”
- “Bicycles should be included in the modes of transport listed in the definition of ‘Commercial tours.’”
- How will entrance gate be funded?
- “Certain rules need to be applicable to all user groups[.]”
- “How many “available permits” will there be for commercial activities and how will that number be determined?”
- “[A]ll permitted research activities, once completed, shall restore the affected areas to their natural condition[.]”
- “The university should be accountable and reasonable in their fees.”
- “Consultation with DLNR should be required in all Special Use Permit application reviews[.]”

379. Jenna Sehna
Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about permits and cultural rights.

380. Samantha Sehna

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about restriction of access.

381. Deborah Chang, Island Transitions LLC

Date Received: September 28, 2018  
Position on Draft Rules: Comment  
Summary of written testimony: Same verbatim language as Submission No. 378.

382. Kaiki Gunderson-Cook

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: No comments.

383. Macy Napoleon

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about the restriction of access.

384. Anela Puahala

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about the restriction of access.

385. Nedi McKnight

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Supports “science, education and astronomy” but “proposed rules do not prevent deterioration of archaeological, historical or cultural sites.” Concerned that rules will “restrict Kanaka and indigenous peoples of these islands.”

386. Sergio Mamone
Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about rights to Mauna Kea.

387. Kalei Mamone

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about the restriction of access and permits.

388. Kelli Veras

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: “This is ridiculous.”

390. Shaelyn Sagucio

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: No comments.

391. J.J. Sweet

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about restriction of access.

392. Jeff McKnight, 1958

Date Received: September 28, 2018  
Position on Draft Rules: Comment  
Summary of written testimony: Concerned about “sensitive ecosystem” that may be at danger with the development of TMT.

393. Carly Hicks

Date Received: September 28, 2018  
Position on Draft Rules: Oppose  
Summary of written testimony: Concerned about “free access to public lands,” and the restriction of access.
IV. SUMMARIES OF WRITTEN TESTIMONY RECEIVED BEFORE OR AFTER PUBLIC HEARINGS (FORM)

This section summarizes testimony received through an online form prepared by the Ka Lāhui Hawaiʻi Political Action Committee and posted at its website, kalahuihawaiipoliticalactioncommittee.org. The form is attached in Exhibit “B” at the end of the section entitled, “Written (Form) Testimony Received Before or After Public Hearings (until 11:59 p.m. September 28, 2018).”

The form allows interested persons to submit testimony directly as an email submission to the University. The only option provided in the form is to “object.” The form provided six prepared statements for a person to choose from, which are, in brief:

1. There is a lawsuit currently pending before the State’s Supreme Court regarding the University’s jurisdiction to make rules.
2. The Kanaka Maoli people never relinquished rights to and sovereignty over ceded lands.
3. There is a lack of meaningful consultation with the Kanaka Maoli community and the Office of Hawaiian Affairs.
4. The rules undermine the State’s constitutional obligation to protect the public trust, natural resources, environmental rights as well as Kanaka Maoli customary and traditional rights.
5. The University lacks jurisdiction to implement rules.
6. Reservation of right to comment later.

A space for providing additional comments was also provided in the form. The following table summarizes the form testimony by indicating which of comments, 1 through 6 above, were selected and summarizes any “Additional Comments.”

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<td>Supports &quot;opposition of further development&quot; and &quot;Kanaka Maoli self-determination in all facets of life.&quot;</td>
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<td>&quot;Enough is enough, Turn Mauna Kea back over to the Hawaiian People.&quot;</td>
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<td>&quot;State is in violation.also Tresspassing on our Rights.&quot;</td>
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<td>&quot;these proposed admin. Rules seem designed to facilitate construction of the proposed Thirty Meter Telescope&quot;</td>
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<td>&quot;Seize and Desist #sacredplace #MaunaAWakea #protect&quot;</td>
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<td>&quot;Only by cooperation will balance be achieved.&quot;</td>
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<td>&quot;Can anyone prove the State of Hawai<code>i is lawful in Hawai</code>i?&quot;</td>
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<td>Sept. 27, 2018</td>
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<td>X</td>
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<td>Concerned that &quot;rules are overreaching and too broad.&quot;</td>
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<td>Sept. 28, 2018</td>
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<td>&quot;Pro TMT citizen&quot; who is opposed to proposed rules since public &quot;greatly utilizes and appreciates access.&quot;</td>
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<td>Deirdre Kent</td>
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<td>&quot;This Mountain Belongs to EVERYONE.&quot;</td>
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<td>Sept. 28, 2018</td>
<td>X</td>
<td>X</td>
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<td>No longer a supporter of &quot;the state and telescope community and science.&quot;</td>
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<td>389</td>
<td>Kahealani Mulec</td>
<td>Sept. 28, 2018</td>
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V. SUMMARIES OF WRITTEN TESTIMONY RECEIVED AT PUBLIC HEARINGS

**Hearing I: Monday, September 24, 2018, University of Hawai’i Cancer Center**

1. **Tek Yoon**

   **Position on Draft Rules:** Comment
   **Summary of written testimony:** Mauna Kea is sacred. Concerned about development and low rents.

2. **Lei Niheu [spelling per written testimony], Member, Ka Lahui Hawai‘i Political Action Committee**

   **Position on Draft Rules:** Oppose
   **Summary of written testimony:** Testimony substantially similar to form testimony in Exhibit “B.” Concerns include the following:

   - “There is a lawsuit currently pending before the State's Supreme Court, involving the many issues and legal questions regarding the University of Hawai‘i's JURISDICTION[.]”
   - “The Kanaka Maoli people never relinquished rights to and sovereignty over these lands as such the University of Hawai‘i has no jurisdiction[.]”
   - “There has been an absence and a lack of meaningful consultation with the Kanaka Maoli community and the Office of Hawaiian Affairs (OHA)[.]”
   - “The proposed Administrative Rules are unconstitutional -they undermine the State's constitutional obligation to protect the public trust, natural resources, environmental rights as well as Kanaka Maoli customary and traditional rights[.]”
   - “[P]roposed rules will only result in future legal litigation and/or contested cases[.]?”

**Hearing II: Tuesday, September 25, 2018, ‘Imiloa Astronomy Center of Hawai‘i**

1. **Tom Peek, former Mauna Kea Observatories tour guide**
Position on Draft Rules: Oppose

Summary of written testimony: The Board of Regents should reject “these rules and embrac[e] legislative proposals for a new management agency that has no conflict of interest[.]”

2. Chad Kalepa Baybayan

Position on Draft Rules: Comment

Summary of written testimony: Comments include the following:

- “How do you ensure that everyone accessing UH managed area have gone through an orientation?”
- “This section [20-26-21] is to vague. Examples of approved activities should be given. Do not want KKM and OHA to be charged with evaluating each situation. This requires establishing a criteria.”
- “This means anyone wishing to build an Ahu would need a permit to get the use of rocks brought in from outside UH managed lands first? Or can they gather rocks from within UH managed lands to build an Ahu?”
- “Why? What evidence is there that cell phones are causing disturbances? What about right now on the mountain? Can we use cell phones to take pictures. What about flashlights with a red lens?”
- “NO instruments, no ukulele's, ipu's? What about traditional practices that require instruments?”
- “I am concerned about access, just not sure if a gate or access control structure is the best solution. The limitations we impose on vehicular traffic on the mountain should be based upon research and not some arbitrary number. How many vehicles can the mountain withstand at any one particular time?”
- “I do not think that the presidents designee should be assigned authority to issue commercial permits, it should be done by a committee so that the process is fair and transparent[.]”

3. Catherine Robbins, former national park ranger at Hawai‘i Volcanoes National Park

Position on Draft Rules: Oppose

Summary of written testimony: Concerns include the following:

- “[T]he university wants to inappropriately control peoples' activities.”
- “UH is also unfairly proposing a requirement that certain traditional Hawaiian practices (20-26-21) need a special use permit[.]”
- “The rules, certainly unfairly and perhaps illegally, allow UH to close the gate at will.”
“It is essential that the designee, first and foremost, have the public's interest at heart.”

4. **Kau'i Trainer**

**Position on Draft Rules:** Oppose  
**Summary of written testimony:** Concerns include the following:

- “These rules make it easier, not harder, for the people and the land to be harmed on a large scale.”
- “[T]he rules DO NOT APPLY to activities and functions of the university, subleases, and government entities.”
- “It is extremely questionable that the president or the president's designee has the final say on actions regarding these rules.”
- “[I]ndigenous Hawaiian people” have sovereign rights.
- “How can fees be charged for access to public lands?”
- “Requiring permits for Kanaka "assemblies" is an affront[.]”

**Hearing III: Wednesday, September 26, 2018, Waikoloa Elementary and Middle School**

1. **Lamaku Mikahala Roy, Kahu Ahu’ena Heiau**

   **Position on Draft Rules:** Oppose  
   **Summary of written testimony:** Ms. Roy provided a history on her title, lineage, and kuleana. She stated, “[t]he State of Hawaii has no authority to desecrate or declare themselves in any form overseers of sacred burials and properties at Kamakahonu, in Lanihau or anywhere in the Hawaiian Islands.”

2. **E. Kalani Flores, Flores-Case ‘Ohana**

   **Position on Draft Rules:** Comment  
   **Summary of written testimony:** See summary for Submission No. 256, above, under “Written Testimony Received before or after Public Hearings.”

3. **Clarence Ku Ching**

   **Position on Draft Rules:** Oppose  
   **Summary of written testimony:** Concerns include the following:

   - “I am an established Hawaiian cultural and religious practitioner on Mauna Kea.” “I am NOT a member of the general public AND these rules do NOT, or should not, apply to me.”
● “[T]he rules that you are promulgating are based on rights that are Constitutional and not delegable by DLNR.”
● The rules are a “Manifesto to ‘regulate’ Hawaiian cultural and religious practices on Mauna Kea – an activity that is wayyyy beyond the scope of the university's power, authority and jurisdiction.”
● “The required [OHA] consultation has failed.”
● “The university . . . is guilty of mismanagement of the Mountain[.]”
● Disagrees with restriction of cell phones and other electronic devices, restriction of camping equipment, restriction of flashlights, restriction to not be on the Mountain at night, controlling the use of the Mauna Kea Access Road, restricting on being on pu‘u, and controlling the use of the trails.

4. Christopher Langan, Mauna Kea Ski Corp

Position on Draft Rules: Comment
Summary of written testimony: Submitted a copy Mauna Kea Pro Ski Patrol map.

Hearing IV: Friday, September 28, 2018, University of Hawai‘i Maui College

1. Alapake Heanu

Position on Draft Rules: Oppose
Summary of written testimony: “The Kanaka Maoli people never relinquished rights to and sovereignty over these lands as such the University of Hawai‘i has no jurisdiction to manage how and when Kanaka Maoli exercise customary and traditional rights to access the Mauna Kea summits for subsistence, religious and cultural purposes.” There has been a lack of consultation with Kanak Maoli and the Office of Hawaiian Affairs. The University should complete pending litigation at the Hawai‘i Supreme Court. In particular, objects to limiting group to 10, “making it impossible to do night time cultural and religious activities,” and “making it mandatory for us to get a special use permit for the exercise of customary and traditional rights[.]”

2. Viktor Kosatschkov

Position on Draft Rules: Comment
Summary of written testimony: Submitted a copy of, “The Law of Land Warfare,” Department of the Army, Field Manual No. 27-10, July 18, 1956. A copy of the cover and table of contents are provided in Exhibit “B.” The entire manual is available by request from the Government Relations Office. Mr. Kosatschkov read into the record portions of the Manual that he thought were pertinent.
VI. **SUMMARIES OF ORAL TESTIMONY**

*Hearing I: Monday, September 24, 2018, University of Hawai‘i Cancer Center*

1. **Tek Yoon**
   
   **Position on Draft Rules:** Comment
   
   **Summary of oral testimony:** “I’m against all the telescopes on top Mauna Kea.”

2. **Baron Ching, Clinical Faculty, University of Hawai‘i**
   
   **Position on Draft Rules:** Oppose
   
   **Summary of oral testimony:** Concerned about “ban” on cell phones and radios. Violation of the Second Amendment. Concerned about mismanagement by University based on auditor’s reports. Disagrees with restrictions on lights and sleeping bags.

3. **Konia Freitas, Director, Kamakakūokalani Center for Hawaiian Studies**
   
   **Position on Draft Rules:** Oppose
   
   **Summary of oral testimony:** Designee language is vague and problematic. Customary and traditional practices should not be regulated. Customary use of tobacco should be considered. Rules prioritize scientific uses over cultural practitioners. Commercial activity should be regulated and permitted. Withdraw rules to get more consensus.

4. **Sabrina Gramberg, Office of Hawaiian Affairs**
   
   **Position on Draft Rules:** Comment
   
   **Summary of oral testimony:** Testifying on behalf of Kamana’o Crabbe. Reiterating written testimony. Should include standards for leasing. Should not delegate implementation away from board of regents. Consultation should be clearly required with Kahu Kū Mauna and Office of Hawaiian Affairs.

5. **Tiffnie Kakalia, Petitioner in Contested Case Hearing**
   
   **Position on Draft Rules:** Oppose
   
   **Summary of oral testimony:** Testifying “on behalf of 11 of the Petitioners.” Object to rules because of ongoing court cases. University has no jurisdiction. Board of Land and Natural Resources should be regulating.

6. **Bianca Isaki**
   
   **Position on Draft Rules:** Oppose
Summary of oral testimony: KAHEA member but testifying as individual. Concerned about delegating authority. Rules require environmental review.

7. Lei Niheu, Ka Lahui Political Action Committee

Position on Draft Rules: Oppose
Summarized oral testimony: Oppose because of current lawsuits before the Hawai‘i Supreme Court regarding University’s jurisdiction. Kānaka maoli still have sovereignty over ceded lands for religious and cultural purposes. There has been a lack of meaningful consultation with kānaka maoli community and Office of Hawaiian Affairs. Rules are unconstitutional for failing to protect the public trust. Decisions should be subject to Sunshine Law. Commercial permits should be subject to consultation and Sunshine Law meetings.

8. Ioane Noga

Position on Draft Rules: Oppose
Summary of oral testimony: Comment TMT is never going to be built.

9. Shelley Muneoka

Position on Draft Rules: Oppose
Summary of oral testimony: Concerned about section discussing removal of plants, animals, etc. University is excepting itself from these rules. Cultural practitioners should not have to justify their practices. Should not lock the gate at night. Concerned about banning non-emergency use of artificial illumination and cell phones. Supports banning competitive sports and regulating commercial activity. University should not be making yes or no decisions.

10. Candace Fujikane, Faculty, University of Hawaii

Position on Draft Rules: Oppose
Summary of oral testimony: Not enough consultation, especially with contested case parties. Section 20-26-21(c), encourages a special use permit. Who is going to adjudicate what constitutes an impact? University needs to repair relationship with native Hawaiian community caused by TMT proposal.

11. Andre Perez

Position on Draft Rules: Oppose
Summary of oral testimony: Graduate student at Kamakakūokalani Center for Hawaiian Studies and works at UH West Oahu. Oppose rules that would restrict or control native Hawaiian practices and expression. Who determines what a customary practice is? Who determines what is impactful and not? Taking from
Lake Waiau is regulated, it should not be. University has no authority over Maunakea. This is crown land. State does not have title to the land because of the overthrow and the Apology Act. Kuleana flows from ancestral connection.

12. **Punahele Kutzen**

*Position on Draft Rules: Oppose*  
*Summary of oral testimony:* “A’ole TMT. And we don’t want it. And see you guys on the mauna.”

13. **Karen Murray**

*Position on Draft Rules: Oppose*  
*Summary of oral testimony:* The rules represent self-centered greed. Take down all telescopes.

14. **Marco Perez**

*Position on Draft Rules: Oppose*  
*Summary of oral testimony:* Land and culture are being desecrated. Outsiders do not have respect. “I oppose any rules, building, anything that does not follow the nature of the world.”

15. **Bronson Azama**

*Position on Draft Rules: Oppose*  
*Summary of oral testimony:* Traditional practices are being pushed aside by Western. The rules should equally apply to the University.

16. **Kekonapiliahi Dias**

*Position on Draft Rules: Object*  
*Summary of oral testimony:* Student at the University. A permit to read the stars should not be required. We do not need TMT. “I am tired of people telling us, us Hawaiians, where we can and cannot set foot on our land, our ‘aina.”

17. **Nicole Cron**

*Position on Draft Rules: Oppose*  
*Summary of oral testimony:* Student at the University. Moved by native Hawaiian testimony.

18. **Jonathan Osorio**, Dean, Hawai‘inuiākea School of Hawaiian Knowledge
Position on Draft Rules: Comment
Summary of oral testimony: Oppose any regulation of cultural practices. By limiting cultural practices, you limit political action—“cultural practices are also political practices.” University has no right to limit expression. But, the University should make rules.

19. Ruth Aloua

Position on Draft Rules: Oppose
Summary of oral testimony: Rules discriminate against kanaka. “I will never apply for a permit to be a kanaka.” “You will never have the right or jurisdiction over my expression of my maoli.”

20. Kaukaohu Wahilani

Position on Draft Rules: Oppose
Summary of oral testimony: “I oppose all these rulings on here. Respect our existence or expect our resistance.”


Position on Draft Rules: Oppose
Summary of oral testimony: Citizen of a Hawaiian Kingdom. University exempted themselves from the rules. The state does not exist.

22. Cheryl Burghardt

Position on Draft Rules: Oppose
Summary of oral testimony: “I want to make sure and be clear that you will be reading all the testimony that was submitted.”

23. Kekailoa Perry, professor, University of Hawai’i at Mānoa

Position on Draft Rules: Oppose
Summary of oral testimony: Supports testimony from KAHEA and Office of Hawaiian Affairs. The rules oppress native Hawaiians.

24. UNIDENTIFIED SPEAKER

Position on Draft Rules: Oppose
Summary of oral testimony: Educator from public school system. Permits to practice will prevent learning.

25. UNIDENTIFIED SPEAKER
Position on Draft Rules: Oppose  
Summary of oral testimony: No building on Mauna Kea.

26. Meleana Kamai 

Position on Draft Rules: Oppose  
Summary of oral testimony: Student at UH Charter School. No right to make rules and regulations against our people. Rules prohibit interruption of scientific work, but what about the impacts on cultural practitioners?

27. Kaeo Suarez  

Position on Draft Rules: Oppose  
Summary of oral testimony: Objected to use of bell at the hearing to limit testimony.

28. Laulani Teale  

Position on Draft Rules: Oppose  
Summary of oral testimony: Speaking as a peacemaker. This process is part of “heavy systemic oppression of the indigenous people of this land.”

29. Lucas Boyd  

Position on Draft Rules: Comment  
Summary of oral testimony: Student at the University of Hawai‘i at Mānoa. “[S]cientific data that can be gathered from these new rules is not going to outweigh the cultural importance of the site itself.”

Hearing II: Tuesday, September 25, 2018, ‘Imiloa Astronomy Center of Hawai‘i

1. James Pihana, retired ranger at Mauna Kea  

Position on Draft Rules: Comment  
Summary of oral testimony: Problems with commercial vehicles and visitors. The mountain is sacred.

2. Catherine Robbins  

Position on Draft Rules: Oppose  
Summary of oral testimony: Former Volcanoes National Park employee. University rules inappropriately restrict uses, e.g., playing musical instruments and throwing snowballs. Rules illegally allow University to close the gate. Rules unfairly proposes a “requirement that certain traditional Hawaiian practices
need a special use permit[.]” Will the designee “have the public's interests at heart or only the astronomers’ or the commercial tours’?”

3. Tom Peek

Position on Draft Rules: Oppose
Summary of oral testimony: When I ran the visitor center, restricting visitors was “definitely not supported by the mountain's astronomy staff.” OMKM was never intended to balance management on the mountain. “Sierra Club, Mauna Kea Anaina Hou, Kalahui Hawai‘i, the Royal Order of Kamehameha, and others all oppose OMKM's creation because of its obvious conflict of interests[.]”

4. Nelson Ho

Position on Draft Rules: Oppose
Summary of oral testimony: Working to stop mismanagement since 1995. Proposed rules are an example of the University and OMKM’s failure.

5. Brenda Luana Machado Lee

Position on Draft Rules: Comment
Summary of oral testimony: Golden scholar awardee. There is knowledge of the mountain that must be considered. “[T]he Kingdom of Hawaii is getting up[.]”

6. Cory Harden

Position on Draft Rules: Oppose
Summary of oral testimony: “UH has failed to protect the natural and cultural resources of Mauna Kea[,]” “Rules should be written by DLNR and after Supreme Court case is decided. University lacks expertise in protection, it is an educational institution. Should not put a gate on public road. No clear process to challenge decisions by designee. Some CMP actions are not covered and do not cover future leases.

7. Thomas Bearden

Position on Draft Rules: Comment
Summary of oral testimony: “It is insulting for the Board of Regents from UH to be attempting to treat Big Island residents as tourists.” “[A] number of very specific heavy-handed rules that could be utilized to severely limit Big Islanders' access[,]” For example, section 20-26-39 restricts access to only shuttle vehicles—inconsistent with access plan and section 20-26-40 that restricts snow play. More access not less access—“We’re used to more freedom here.” Do not
make it like Hanauma Bay. Make “Big Island residents’ access in private vehicles and ability to play in the snow a priority.”

8. Lei Kalamau

**Position on Draft Rules:** Comment
**Summary of oral testimony:** I am seventy-five percent native Hawaiian. First, rangers need arrest authority. Second, “telescope gotta go up” to learn about the heavens. Third, how are the telescopes being managed to be sure the “mountain doesn’t get dirty.” Keep the mountain clean.

9. Allison Leilani Dupre

**Position on Draft Rules:**
**Summary of oral testimony:** I am 1/8 native Hawaiian and a first-generation college student at UH Hilo. TMT is achievable, but there needs to be more effort to benefit native Hawaiians. Who was representing native Hawaiians when these rules were written? Rules are a good start, but no rules for cleaning up after the telescopes up there. Leases should be more than $1 a year; Office of Hawaiian Affairs needs their 20 percent to advance native Hawaiians.

10. Gene Tamashiro

**Position on Draft Rules:** Comment
**Summary of oral testimony:** I am a sovereign Hawaiian national. The state of Hawaii has no jurisdiction to regulate.

11. Calvin Kaleiwahea

**Position on Draft Rules:** Comment
**Summary of oral testimony:** Maunakea is the temple, heaven on earth.

12. Mehana Kihoi

**Position on Draft Rules:** Oppose
**Summary of oral testimony:** I am a party to the case before the Supreme Court. You will not restrict my right to practice my culture on the mountain. You have not jurisdiction to pass rules. “I am here to say today is that I will never, ever file for a permit to conduct my traditional ceremonies as a kanaka on Mauna Kea.”

13. Roxane Stewart

**Position on Draft Rules:** Oppose
Summary of oral testimony: Rules are egregious. Process is a farce. I object to police and just one regent present. These rules police the people, who policies the University? Hawaiʻi Papa O Ke Ao does not model indigenous serving University.

14. Pahinui Bauckham

Position on Draft Rules: Comment
Summary of oral testimony: Construction needs to be pono. Maybe a telescope could be on Mauna Kea but it must be done right.

15. Mililani Trask

Position on Draft Rules: Oppose
Summary of oral testimony: Testimony on behalf of myself and wahine practitioners. We submitted testimony in 2016 and 2017. Reported problems and requested consultation. We did not receive consultation. Rights “shall be accommodated.” Twenty-one years ago we set up ahu at Hale Pōhaku. You tore it down. We cannot use flashlights. We cannot bring our family—10-person limit. Why do I need to show that children have a chaperone? What’s the procedure—we don’t have a procedure online. Why do I need to pass a compatibility test under 20-26-62?

16. Sharol Awai

Position on Draft Rules: Oppose
Summary of oral testimony: We do not need this telescope. These rules are not to protect the “original people.” The rules need changing.

17. Chad Kalepa Baybayan

Position on Draft Rules: Comment
Summary of oral testimony: Section 20-26-5, how do you ensure this? Section 20-26-21, who is determining impact? Why is Kahu Kū Mauna and the Office of Hawaiian Affairs being consulted with? Section -22, disturbing landscape is necessary to build ‘ahu. Section -24, why limit illumination and cell phones? Why not a red lenses on flash light? What about traditional practices that require musical instruments? Gate or access control should be based on data not arbitrary reasons. Section -66, designee should not issue permits, it should be by committee.

18. Peter Kubota

Position on Draft Rules: Comment
Summary of oral testimony: The regents should all be here to listen. Mauna Kea is the greatest astronomical resource but it cannot come at the expense of our values. Rules are extremely vague—“president’s designee.” It bothers me that unnamed designee will create these procedures. Many of the practices prohibited were done by the telescopes, e.g., injecting sewer into ground. These rules should not apply to native Hawaiians. Snow play and 4wds restrictions are fine, but group and assembly permits would impact cultural practices and first amendment rights.

19. Hanalei Fergerstrom

Position on Draft Rules: Oppose
Summary of oral testimony: Petitioner against TMT. As a Temple of Lono practitioner, I will not ask for permission to conduct my cultural practices. You have no jurisdiction. This should be Section 106 consultation process. Why not Kauai hearings?

20. Susan Rosier

Position on Draft Rules: Oppose
Summary of oral testimony: University as no jurisdiction. University does not have a permit. Forty pages of garbage. Not including Kauai, why?

21. Nari Ronaghy

Position on Draft Rules: Oppose
Summary of oral testimony: Supports opponents.

22. Nanci Munroe

Position on Draft Rules: Oppose
Summary of oral testimony: Proposed rules are a veiled attempt to restrict protests on Maunakea.

23. Kau‘i Trainer

Position on Draft Rules: Oppose
Summary of oral testimony: Rules will not be in the interest of true management. These rules make it easier for people and land to be harmed. Section -3 does not apply to University and sublessees. Rules target and profile kanaka practitioners. Can you establish fees on public lands?

24. Nani Pai
Position on Draft Rules: Oppose
Summary of oral testimony: Rules are a veiled attempt to target cultural practices. Why should practitioners get a special permit when commercial operators do not need a permit? There has been no consultation on the rules with practitioners. Rules are premature without Supreme Court decision.

25. Stephen Paulmier

Position on Draft Rules: Oppose
Summary of oral testimony: “Academia must acknowledge the wake of the mauna. The rules don't account for that wake.”

26. Charmaine Bugado

Position on Draft Rules: Comment
Summary of oral testimony: Read a portion of the Kingdom of Hawai‘i Constitution of 1840 into the record. “You cannot make rules for our people.”

27. Dana Keawe

Position on Draft Rules: Oppose
Summary of oral testimony: Just care for the land; care for the people. We lost faith in process. “How would you feel if someone told you, you had to have a permit to go to church on Sunday?” This is genocide and a perpetuation of colonization. The state has no jurisdiction.

28. Ronald Fujiyoshi

Position on Draft Rules: Oppose
Summary of oral testimony: The rules are not valid. Government cannot dictate what is religion. Article XII, section 7, protects customary rights. U.S. Constitution regarding separation of church and state. There needs to be a process for a religious council to protect moku o keawe. This can be done through a constitutional convention.

29. Jim Albertini

Position on Draft Rules: Oppose
Summary of oral testimony: Regents and MKMB should be at every meeting. Oppose industrialization and commercialization of Maunakea. Rules and OMKM should be abolished, instead respect the Hawaiian Kingdom on what should take place on the mountain.

30. Deborah Ward
Position on Draft Rules: Oppose

Summary of oral testimony: Rules make public and practitioners criminals.

31. Dwight Vicente

Position on Draft Rules: Oppose

Summary of oral testimony: State of Hawai‘i is invalid and lease is invalid. No jurisdiction for rules.

32. Hokulani Kaʻikaina

Position on Draft Rules: Oppose

Summary of oral testimony: University is not doing the right thing. All the regents should be here. “May” clause for consultation with Kahu Kū Mauna is just a checkbox.

33. Kehau Shintani

Position on Draft Rules: Oppose

Summary of oral testimony: Rules do not address lineal relationship. Family reunion cannot go up the mountain because of permit requirement for group of 10 in the draft rules. The law does not fit us and how we practice. Regents should all be here to show that they are serious.

Hearing III: Wednesday, September 26, 2018, Waikoloa Elementary and Middle School

1. Lamaku Mikahala Roy

Position on Draft Rules: Oppose

Summary of oral testimony: Mauna wakea belongs to akua. State has no say over U.S. first amendment rights regarding freedom of religion and worship—religious freedom and separation of church and state. State has no authority to oversee these lands.

2. E. Kalani Flores, Representing Flores Case ʻOhana

Position on Draft Rules: Oppose

Summary of oral testimony: General comments: First, BLNR and DLNR must do an independent Ka Paʻakai analysis before adopting rules to protect customary rights. Second, separate tiers for penalties and appeals—from minor to major violations. Adopt UH’s parking rules. Use DLNR’s civil resource violation system. Third, several of the rules are not in compliance with CMP, Act 132, and other laws. Fourth, rules are overly board. Fifth, rules should apply to operators. Specific comments: Section -22, rules conflict with customary practices.
-24, unnecessary to limit cell phones, artificial illumination, and wireless communication (what if I wanted to take a picture with my phone). Not all 11,000 acres need to be so restricted. Section -62, group use permit does not make sense for the visitor center, this might be more applicable to specific areas. Section -63, violates free speech, association, and moments. Penalties for violation of rules need to be sorted out like DLNR’s civil resource violation system.

3. **Christopher Langan**

Position on Draft Rules: Comment
Summary of oral testimony: Concerned about restrictions on recreational use and snow play.

4. **Clarence Ku Ching**

Position on Draft Rules: Oppose
Summary of oral testimony: “I am an established Hawaiian cultural and religious practitioner on Mauna Kea.” Oppose restrictions on flashlight ban and cell phone ban. University has no right to regulate activities on trails and pu‘u. Scrap these rules and start over.

5. **Andrew Cooper**

Position on Draft Rules: Oppose
Summary of oral testimony: Rules are overly restrictive and a severe bureaucratic overreach regarding access and what can and cannot be done. First, there should be no hours for access. Second, flashlights should not be banned—it is enough to ban interference with government function. Third, banning electro-magnetic devices does not make sense, it includes anything with a battery. Fourth, group of ten permits are too restrictive. Fifth, banning hiking on pu‘u is too restrictive. Sixth, no kites too restrictive. Seventh, no reason to restrict vehicles to 4wd. Eightth, our operator rules are more restrictive than these rules, so these rules not applying to observatories is not a problem.

6. **Claud Sutcliffe**

Position on Draft Rules: Oppose
Summary of oral testimony: Rules are intended to allow TMT construction. Concerned about parking restrictions, night closures, and limitations on flashlight and cell phone use.

7. **François Arlac**
Position on Draft Rules: Oppose
Summary of oral testimony: Guest of the Kingdom of Hawaii. Rules are an assault on the Hawaiian people.

8. Patricia Ikeda

Position on Draft Rules: Oppose
Summary of oral testimony: I agree with opponents. The rules target Hawaiian people and locals. No right to regulate hours or require a permit for cultural practices.

*Hearing IV: Friday, September 28, 2018, University of Hawai‘i Maui College*

1. David Lawson

Position on Draft Rules: Comment
Summary of oral testimony: University is component to be in charge of this area. The rules look good.

2. Lexi Figueroa

Position on Draft Rules: Oppose
Summary of oral testimony: Against construction of TMT. Concerned about waste generated by telescopes.

3. Riki Torres-Pestana, City of Refuge

Position on Draft Rules: Oppose
Summary of oral testimony: University is committing war crimes. Give me my birthright back.

4. Kahele Dukelow

Position on Draft Rules: Oppose
Summary of oral testimony: Teaches Hawaiian studies and the Hawaiian language at the University of Hawaii Maui College. The University is proposing rules for everyone but themselves. The University should also be regulated. The rules limit how Hawaiians can protest.

5. Sesame Shim

Position on Draft Rules: Oppose
Summary of oral testimony: Rules are for maintaining power over native Hawaiians’ culture and values.
6. Kaleikoa Kaʻeo, Faculty, University of Hawaiʻi
   Position on Draft Rules: Oppose
   Summary of oral testimony: University does not have a right or authority to be on our mauna. The rules target native Hawaiians. The rules empower foreign interests and racism.

7. Demont Conner
   Position on Draft Rules: Oppose
   Summary of oral testimony: The rules are a declaration of war. This is our country. Do not tell us what we can and cannot do. “Whatever this part of the rules is that going tell Hawaiians what they can and cannot do on the mauna, strike that whole thing from the record[.]”

8. Ernest Akimseu
   Position on Draft Rules: Comment
   Summary of oral testimony: Take down structures when opening a new structure. “I believe the government of the United States and the government of Hawaii are not for the native of Hawaii.”

9. Anela Benson
   Position on Draft Rules: Oppose
   Summary of oral testimony: No reason why there should be anthropogenic impacts on the puʻu. Take telescopes off indigenous sites.

10. Kalamaʻehu Takahashi
    Position on Draft Rules: Oppose
    Summary of oral testimony: Oppose TMT and acts of violence against Hawaiians. The rules should not tell us what Hawaiian culture should be.

11. Cody Tuivaiti
    Position on Draft Rules: Oppose
    Summary of oral testimony: Culture cannot be limited.

12. Kaʻena Elaban-Manuwa
    Position on Draft Rules: Oppose
Summary of oral testimony: These rules are for a spiritual place. It is not right to limit groups to 10 people at a time. This is a further desecration of Mauna a Wākea.

13. **Alapake Heanu**

Position on Draft Rules: Oppose

Summary of oral testimony: Opposed rules to regulate kanaka maoli. University has no jurisdiction over how and when native Hawaiians exercise their cultural rights. There has been a lack of meaningful consultation with the Office of Hawaiian affairs. University should not move forward with rules until current Hawai‘i Supreme Court case is decided. These rules have been tailored to limit kānaka maoli by requiring permits and limiting groups to ten. Scientific resources are put above kanaka maoli.

14. **Tyson Haupu**

Position on Draft Rules: Oppose

Summary of oral testimony: Halt construction of TMT and on the mauna.

15. **Marie Villareal**

Position on Draft Rules: Oppose

Summary of oral testimony: Do not require Hawaiian people to ask permission to enter their own land.

16. **Kamanao‘i'o Gomes**

Position on Draft Rules: Oppose

Summary of oral testimony: I oppose TMT. We do not want it on Moku o Keawe.

17. **Nelson Armitage**

Position on Draft Rules: Oppose

Summary of oral testimony: This is recognized as the Kingdom of the Hawaiian Islands.

18. **Viktor Kosatschkov**

Position on Draft Rules: Comment

Summary of oral testimony: Testifier read various portions of, “The Law of Land Warfare,” from the Department of the Army, Field Manual No. 27-10, July 18, 1956. He believes the portions read apply to the University.
19. Michelle Grow-Waikiki

Position on Draft Rules: Comment
Summary of oral testimony: Discussed her husband’s connection to the land.

20. Kaniloa Kamaunu

Position on Draft Rules: Oppose
Summary of oral testimony: The University does not have authority over native Hawaiians or kānaka maoli.

21. Shiane Mahelani Marumoto

Position on Draft Rules: Oppose
Summary of oral testimony: Do what is pono. We are being oppressed.

22. Makana Nae‘ole

Position on Draft Rules: Oppose
Summary of oral testimony: “I oppose these proposed ‘rules’ that you are obviously designing to keep me from carrying out my kuleana and protecting our maunas like Mauna Kea and Haleakala.”
EXHIBIT “A” NOTICE OF PROPOSED RULEMAKING PUBLIC HEARING
EXHIBIT “B” COPIES OF WRITTEN TESTIMONY

This Exhibit “B” is divided into the following sections:

- Written Testimony Received Before or After Public Hearings (until 11:59 p.m. September 28, 2018)
- Written (Form) Testimony Received Before or After Public Hearings
- Written Testimony Received at Public Hearings
  - Hearing I: Monday, September 24, 2018, University of Hawai‘i Cancer Center
  - Hearing II: Tuesday, September 25, 2018, ‘Imiloa Astronomy Center of Hawai‘i
  - Hearing III: Wednesday, September 26, 2018, Waikoloa Elementary and Middle School
  - Hearing IV: Friday, September 28, 2018, University of Hawai‘i Maui College
EXHIBIT “C” TRANSCRIPTS OF ORAL TESTIMONY