WRITTEN TESTIMONY
RECEIVED BEFORE OR
AFTER PUBLIC
HEARINGS

(until 11:59 p.m. September 28, 2018)
As of 11:59 p.m. September 28, 2018

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As of 11:59 p.m. September 28, 2018

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<td>Rebecca DiLiberto</td>
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<td>James Albertini</td>
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<td>Angie Mckeague</td>
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<td>Jennifer Real</td>
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<td>361</td>
<td>Ponokeali'i</td>
<td>Ali‘i Aloha Aina Principal Member of The Hawaiian Monarchy government of The Hawaiian Kingdom</td>
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<td>Lauran Chapple</td>
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<td>Aisake Fakava, Jr</td>
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<td>Harriet Mamone</td>
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<td>366</td>
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<td>Kekailoa Perry</td>
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<td>Steven Tayama</td>
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<td>Deborah L. Chang</td>
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<td>379</td>
<td>Jenna Sehna</td>
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<td>Macy Napoleon</td>
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<td>Kalei Mamone</td>
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As of 11:59 p.m. September 28, 2018

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<td>Carly Hicks</td>
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<td>394</td>
<td>Ana Lucia Vargas</td>
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</table>
Aloha,

As a kama'aina, native Hawaiian, and a vested community member of Hawaii Island, I would like to add my input on the proposed rules at Mauna Kea:

1. In regard to the proposal for "a permit for activities involving more than 10 people":

I believe this should be revisited as this is a muddled attempt to limit the protesters who have brought national attention to the Mauna Kea issue. Nevertheless, it is unfair to limit Hawaii's natural resources to a number of people. I recently went hiking to Halawa falls on Molokai with a group of 15 people. Over the past weekend, I was at a beach barbeque with an even larger group. Shall we then institute a permitting process for accessing our mountains, streams, oceans, and coastlines? This is not equitable.

2. In regard to the proposal for "a gate to control roadway access":

Again, we have access rights to our mountains and the sea. My parents fought in the courts for access rights after the close of the Kohala Plantation since ranchers began locking gates to the public. UH should not, and by law, shall not restrict the public's way of access by erecting a gate to Mauna Kea. In doing so, this will only further create a divide between the public, especially native Hawaiians, and the entities that manage the land.

3. I want to comment that UH must carefully create rules that will be unbiased and fair towards the public. If there is any deference for the Thirty Meter Telescope (TMT) or the International Scientific Community, then our local people will be back at square one, as the basis for all parties to operate by must be fair. From personal experience, growing up in North Kohala in the 1980s, to my memory, the scientific community atop Mauna Kea never came to Kohala Elementary. After graduating from Kamehameha Schools Kapalama and going to college in the mainland, I returned to Kohala as a Middle School teacher during the late 2000s. Again, there were no educational or resource offers from the Mauna Kea telescope community to the Kohala people. As such, the stewardship of Mauna Kea has been questionable. Who has it truly benefited? As a longtime member of the community, I testify that the professed benefits have never materialized. It would be unconscionable to allow TMT or other like entities to engage on the mountain when native Hawaiians are being pushed off. We must put our people first; if we choose other interests over our people, we will lose what is most valuable.

Mahalo,

Kaiwiola Coakley
3888 Sierra Drive
Honolulu, HI 96816
808-348-8984

--

Kaiwiola "Kaiwi" Coakley

Co-founder

Board Member

Ambassador
Good writing, Kaiwi. I sent your letter to the GOP group here. Rick Thompson, who does the writing for the West HI GOP was impressed! So was Tom Stuart who always writes to the newspaper.

On Monday, August 20, 2018, 9:29:25 AM HST, Kaiwiola Coakley <kcoakley.hi@gmail.com> wrote:

Aloha,

As a kama'aina, native Hawaiian, and a vested community member of Hawaii Island, I would like to add my input on the proposed rules at Mauna Kea:

1. In regard to the proposal for "a permit for activities involving more than 10 people":

I believe this should be revisited as this is a muddled attempt to limit the protesters who have brought national attention to the Mauna Kea issue. Nevertheless, it is unfair to limit Hawaii's natural resources to a number of people. I recently went hiking to Halawa falls on Molokai with a group of 15 people. Over the past weekend, I was at a beach barbeque with an even larger group. Shall we then institute a permitting process for accessing our mountains, streams, oceans, and coastlines? This is not equitable.

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3. I want to comment that UH must carefully create rules that will be unbiased and fair towards the public. If there is any deference for the Thirty Meter Telescope (TMT) or the International Scientific Community, then our local people will be back at square one, as the basis for all parties to operate by must be fair. From personal experience, growing up in North Kohala in the 1980s, to my memory, the scientific community atop Mauna Kea never came to Kohala Elementary. After graduating from Kamehameha Schools Kapalama and going to college in the mainland, I returned to Kohala as a Middle School teacher during the late 2000s. Again, there were no educational or resource offers from the Mauna Kea telescope community to the Kohala people. As such, the stewardship of Mauna Kea has been questionable. Who has it truly benefitted? As a longtime member of the community, I testify that the professed benefits have never materialized. It would be unconscionable to allow TMT or other like entities to engage on the mountain when native Hawaiians are being pushed off. We must put our people first; if we choose other interests over our people, we will lose what is most valuable.

Mahalo,

Kaiwiola Coakley
3888 Sierra Drive
Honolulu, HI 96816
808-348-8984

--
Kaiwiola "Kaiwi" Coakley

Co-founder

Board Member

Ambassador
I believe you should stop all further development on Mauna Kea. There are already more than enough telescopes there to fulfill any scientific astronomy endeavours.

Aloha,

Dennis O'Shea
Restricting the snow activities on Mauna Kea is unconscionable as enjoying the snow in Hawaii is rare and a wonderful experience for Hawaii’s youth and parents who are no able to travel to where it snows. Restricting the use of the mountain from recreational use by residents and only allowing use with a complicated permitting process is the Hawaii State’s normal way of discouraging the use of public places that are in the trust of the Hawaii State Government for the benefit of its citizens and not just the use of a few permitted activities.

In the 70’s, we hiked, hunted, and played in the snow on our beautiful Mauna Kea mountain with no restrictions. I am very disappointed to see under the guise of “Safety for the public” and the “religious rights of certain citizens” access the “our Mountain” so restricted that fewer people can enjoy its majesty and what it has to offer. As a 5th generation kamaaina, I am very disappointed in the Hawaii State’s management of Mauna Kea. Our mountain has become the private property of the permitted few paid for by all the tax payers of Hawaii. The permitted few do not pay to maintain Mauna Kea.

I encourage you to consider making Mauna Kea available to all who want to experience this wonderful and world famous place here in Hawaii. It was a privilege for me, I want it to be a privilege for my grand children and all the generations to come. Mauna Kea is a very special place to all the citizens of the Big Island. Please let them enjoy and experience it. Please do not make so restrictive that many will give up and go away as the hunters have because of restrictions.

Aloha,

John FitzGerald
808-987-4947
e-mail: fitzz@maui.net
Name
Mikiala Akau

Address
Kailua Kona Hawaii 96740

Email
miki0232@hotmail.com

Hawai‘i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
What is good for one should be good for all. All rules and regulations stated should apply to any and every occupant of the mauna, including UH.
Limiting our access as Native Hawaiian Practitioners is a violation to our rights. 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 that don’t know the spiritual value and sacredness of our Mauna. We as Practitioners hold a sacred space in the form of prayers for our People, our aina, and our Honua. I ask you to please do the “Pono” action so that Our traditional prayers and practices can continue and not be hindered for our future generations. Mahalo
Aloha to whom it may concern,

Please do not allow state agencies to criminalize customary and traditional gatherings on our mountain. It is NOT RIGHT!!! Please do not allow our rights as Hawaiians to be taken away! To gather and pray and protest is our right!

Mahalo!
Mychel Estavillo
Aloha

Below is my comment regarding The new proposed rules for Mauna Kea.
Mahalo,
Donna Grabow
Moku o Keawe, Hilo

The State of Hawaii is attempting to criminalize protest and and traditional gatherings on Mauna Kea. The proposed rules are aimed at the continuous subjugation of the original people; Kanaka Maoli:

Rules include
- no groups bigger than 10 without a permit,
- no cell phones,
- no pedestrians in roadways,
- 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).

Anyhow, the comment period ends Sept. 28. I hope some of you will join me in making comments. Even a short sentence to the effect that state agencies should support rather than limit constitutional rights would be great. Comments may be submitted until Sept. 28 online at bit.ly/2PpxAhG, via email at uhhar@hawaii.edu or in writing to the UH Government Relations Office, 2442 Campus Road, Administrative Services Building 1-101, Honolulu, HI 96822. Below is a link to the proposed rules:

#SeeYouOnTheMauna #Repost: Greg Johnson
Name
Kealii Bertelmann

Address
Hawai`i United States

Email
kaualanikupuu@gmail.com

Hawai`i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose
Aloha,

I'm emailing you on the subject on these proposed rules you folks are trying to establish on top of Mauna Kea.

It is very clear of your intentions by these actions and "proposed rules" of your people. To 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 is not only mindless of you folks but also says that you are all a bunch of money hungry cowards. People are waking up and your schemes are soon to come to an end. This planet will be no longer in habitable in the generations to come. But you folks don't care cause you can eat money and drink the poisonous toxins that your money hand feeds you.

We all know how powerful Mauna Kea is. Sitting on the 19th parallel. Come on. You folks push the rules and agree to build TMT and there will be nothing left. What do you stand for? Yourselves? Your families? There won't be anything left to stand for if you go ahead with this. I'm completely disgusted with the fact that this literally targets the people who stands for righteousness and who takes care of this aina. To be so brainwashed for money, dumbfounds me.

#HawaiiansWillUnite
#HawaiiWillRise
Aloha kakou,

As President of the Landscape Industry Council of Hawai‘i I urge you to respect and support the rights of native Hawaiians to protect their sacred places, not limit and repress them. We must all do our part to protect pristine environments and protect what is held sacred.
Name
Alison McDowell

Address
852 N 24th St
Philadelphia PA 19130 USA

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activites on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
Even though I live far from Mauna Kea, I have close friends who are valiantly fighting to protect this sacred ground. I took time today to read through your extensive list of rules, 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. Know that your actions are being watched by people who live far from your intrusive telescope program. We see how you treat indigenous people and disrespect the land. I am writing to voice my opposition to these rules and the precedent they set, rules that preference the power of the few over the spiritual needs of the many. It indicates great hubris that you would defile this vital land in your search for the heavens. Perhaps if you showed more deference and respect for the gifts given by the creator, you would not have lost your way. Respect open access to these lands by native Hawaiians and their allies. Their right to this space far surpasses whatever flimsy authority you are trying to exercise.

Alison McDowell
Philadelphia, PA
Name
Leimomi Kalanihuia

Organization
Kupa

Address
99 boat harbor view
Waianae Hawaii 96792

Phone
18084394747

Email
Kalapakikalanihuia@gmail.com

Hawai‘i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Comment

Comment
How can the state say its ok to practice our cultural rights and in the same breath put a restriction on how, where, when, why etc.... to practice. HEWA!!!
I have several concerns regarding individual sections of the proposed rules. I hope the authors of the proposed rules will consider changes to address these concerns.

Regarding 20-26-29 "Vehicles and transportation: (b) Only vehicles equipped with low-range four-wheel-drive are allowed north of Halepōhaku."

I understand the intent of this rule, however I would urge the authors to consider that this requirement will lead to people on this island who love and respect Maunakea and who wish to visit the summit to choose vehicles which have poor gas mileage and which are otherwise damaging to the natural environment.

Under normal conditions (i.e. when there is no snow or ice on the road -- the only time the road is open), I do not believe that this leads to safer travel. In more than 12 years of working on or around Maunakea, I am aware of several injury accidents on the mountain and they seem to be common on both four wheel drive vehicles and non-four wheel drive vehicles. This rule, as written, does not appear to have any data driven reasoning behind it and will actually lead to environmental harm without any clear benefit to public safety. Rules like this should be informed by data and statistics, not conjecture.

In addition, the wording of this rule is poorly chosen because it assumes that in the future the phrase "low-range four-wheel-drive" will be relevant. I strongly urge the authors to consider the fact that within a few decades, vehicles which do not have a traditional transmission will be common. I'm speaking of course, about electric vehicles (EVs). There are
four wheel drive EVs on the market today that would probably be safe, reasonable vehicles to use on this road. They have four wheel drive and have strong "engine" breaking features to avoid brake fade, but would not qualify under this rule. If you do adopt this rule (despite my urging above), it must be written in such a way as to be useful in the future as well as in the present.

Regarding 20-26-38 "Camping: Camping is prohibited within the UH management areas."

I would strongly urge the authors to define what "camping" means in this context. I am a lifelong amateur astronomer and stargazer and I worry that this rule (depending on how it is enforced) would effectively outlaw use of this area at night.

Regarding 20-26-39 "Access: (c) Closed areas, public access hours."

Again, I would urge the authors to keep use of the area permissible at night, even to enshrine that concept in these rules. The night skies are one of the treasures that Maunakea gives people access to. If these rules were to effectively deny use of the area at night, it would be a terrible loss. Much of the beauty of Maunakea only comes out after dark and it is reasonable and right for the public to be able to enjoy that.
Name

sean jennings

Address

pahoa hi 96778 hawaii

Email

swjennings@gmail.com

Hawaiʻi Administrative Rules

Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment

Oppose

Comment

UH should have no right to do these things. restore the management to the kingdom of hawaii. these new proposed rules are absurd.
These proposed Rules will limit citizens constitutional rights and their ability to participate in decision making. The State should support citizen participation by supporting their constitutional right to gather peacefully and be heard in the court systems. Thanks for your time.
I am utterly disappointed to read 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. I urge you to celebrate and enhance the diversity - cultural and otherwise - of the islands and to honour people's commitments to the land (and sea) by gathering, acting in varied ways and by leaving gifts and other memorials of their interactions with places they deem important and vital.
RE: Hawai‘i Administrative Rules, entitled "Public and Commercial Activities on Mauna Kea Lands"

1 message

James Love <onoponolono@gmail.com>   Sat, Aug 25, 2018 at 8:09 AM
To: uhhar@hawaii.edu

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?!

The First Amendment states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

I guess it’s a good thing for the Catholics that the Vatican doesn’t sit atop a 14,000 volcano in the middle of the Pacific!
I have a comment on the proposed Hawaii Administrative Rules, Chapter 20-26, Public and Commercial Activities on Mauna Kea Lands."

Paragraph (e) of Subchapter 20-26-40 Snow Play states:
Towing persons on skis, sleds, or other sliding devices by any motorized vehicle is prohibited.

If the purpose is to prevent the use of motorized machinery to tow skiers, snowboarders, sledders and other sliding devices, then "motorized vehicle" should be amended to "motorized means".

That would prohibit someone from setting up a portable gas-powered motorized towline to pull people upslope.

Marshall Fukuki
Testimony for HAR Title 20 Subtitle 1 Chapter 26

1 message

Cindy Freitas <hanahanai@hawaii.rr.com>
To: UHHAR@hawaii.edu

Wed, Aug 29, 2018 at 6:46 PM

HAR Title 20 Subtitle 1 Chapter 26.doc
30K
August 28, 2018

David Ige  
Governor of the State of Hawaii  
415 South Beretania Street #5  
Honolulu, HI 96813

University of Hawai’i  
Board of Regents

Subject: Hawai’i Administrative Rules Title 20 Subtitle 1 Chapter 26

We understand the University of Hawai’i is seeking to conduct public hearings for the purpose of taking public comment in order to adopt Administrative Rules regulating commercial and public and Native Hawaiians rights and use of Mauna Kea. We object and take exception to this current process because and as the University is also aware, 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 to make and approve rules governing Native Hawaiians and the General Public. Mauna Kea is comprised of public and so called “Ceded Lands” that reside in the Mauna Kea Conservation District. The University is not mandated to manage, control or regulate the public or Native Hawaiians on any of the Mauna Kea Conservation District lands.

We believe it is inappropriate for this to be happening at this time and we believe the University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai’i and the other International governments have been resolved.

The Court must be allowed to rule upon by the case before them and before proceeding here. Because many of us are Plaintiffs in the Supreme Court Case, we wish to reserve our right to comment at a later date, when our comments are more appropriate and also when our comments cannot be used against us or our case.

Lastly, we believe this action will ultimately trigger a contested case hearing before the Board of Land and Resources, in order to properly inform and assess the impacts this action will have on the Native Hawaiian Cultural and Religious Practitioners and the general Public users of Mauna Kea. These rules violate our constitutional rights and we must contest.

Respectfully,

/s/ _______________________
Kealoha Pisciotta  
Mauna Kea Anaina Hou/Kai Palaoa  
keomaivg@gmail.com

Certified Mail: 7016 3010 0000 8599 8344
DATED: August 28, 2018
Hawai‘i Island
Prospective lessees must show usefulness of proposed use. Most in the know agree that TMT will be obsolete by the time it is built. Once "observatory" is not being used it is to be removed and the ground restored. Prohibit prospective lessees from buying people/organizations.
Name
Brittany Dayton

Address
91-216 Wakamalii Place
Kapolei Hi 96707 Usa

Phone
8084303991

Email
waipuilanidayton@hotmail.com

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
Please stop trying to limit access to Mauna Kea. The scientists have readily been given access, so there’s no need to restrict the rest of us from having access to this special place. When we come up, it’s always with the best intentions. We don’t make a mess, and don’t exploit the area to make money. We simply come to bring flowers/offerrings to our kupuna and enjoy the serenity of the landscape.

As a managing organization, I wish you would give more to the people instead of take. I cannot speak for everyone, but to me, this move to restrict access would make your institution seem ever more oppressive, and would not be well received by natives/taxpayers. People would be angry and they would have every right to be.

I had to leave the Big island to work in Honolulu. I work hard and commute far every day to make a living. When I come back home to visit my family in Hilo, Mauna Kea is always on my list of places to go. I M asking that you not restrict access to me and others like me, who come to the mountain for recreational and spiritual reasons.

Thank you for your time. Aloha.
Hello Friends - I heard about this issue in a WHT article. They also provided this email address so one could provide comments.

You know I have a long history with Mauna Kea. I was hired in 1990 by the CFHT, Optics Technician, then onto the Subaru telescope, and then I became a restaurant owner in Waimea, with my wife.

During my time on the Big Island I learned real fast that UH management of Mauna Kea, the spelling at the time, was ruled by the elites. Remember the Total Solar Eclipse of 1991? The public was not allowed on the mountain! (I applied for a permit, it cost me $500 to provide an insurance waiver and I worked there! True Story! Thank you very much Don Hall)

This event was BEFORE rangers, BEFORE the Office of Mauna Kea management and it is perfect example of how UH has 'managed' access.

Anyway time goes on and now you want continue to draft new rules? Why?

Didn't you learn from the latest TMT fiasco that people are fed up with being denied access?

I'm a photographer and a skier and nothing I have seen promotes these activities. The rules that govern these activities are driving people away.Is that what the elites want?

This committee needs to do the right thing and include the locals on the Big Island by making it easier for all citizens to access this wonderful mountain all the time 24/7/365. NOT just the UH folks

Mahalo for your time.

--

Most Cordially

>>Barney Magrath<<
>>808.937.3615<<
>>Optics Entrepreneur<<

www.barneymagrath.wixsite.com/moonviewer
Aloha,

Please accept this correspondence as an expression of my support for the TMT.

While there are numerous reason to support the TMT, here are my top 4:

- The development of the TMT will help our species become more resilient and yield new and important discoveries to improve our children’s lives
- The development of the TMT will attract some of the world’s top minds to the Big Island and support high paying jobs.
- The discoveries resulting from the use of the TMT will be something the people of Hawaii can be proud of and recognized for world wide
- The development of the TMT will prove to the world that the people of Hawaii are forwarding looking… and not backward looking.

Mahalo,

Norman Stuard
Gary Alexander <gfloydalexander@gmail.com>  
To: uhhar@hawaii.edu  

To Whom It May Concern, I was past President of the Kapoho community Association, a founding member of Big Island Rainforest Action Group, and a contributor of The Pele Defense Fund. What we found out through meetings, protests, civil disobedience, and lawsuits, was that so many people gave their lives in wars to protect our constitution and our freedom, that the first amendment to the Constitution states “Congress shall make no law Respecting an establishment of religion or Prohibiting The Free Exercise Thereof” and by rushing into the permitting of PGV, the DOD, County of Hawaii, and State of Hawaii, dis honored the memory of those brave souls who fought for our freedom, and totally ignored the Hawaiians whose ancestors left a legacy for them of Honoring Pele “she who makes the stones”. We will resist peacefully, but I will promise you that in the arena of Public Opinion, you will lose.
Rules are necessary to protect this sacred lands but UH isn't in a position to make them bearing in mind that there are a lot of cultural considerations. Keeping cultural practitioners away from their night-time practices is against laws that allow them to be there and to practice their culture since it is their land.

Cultural practitioners need to be included in the rule-making and not just the ones that UH would choose. Cultural practitioners know more about the needs of the land than most. Let them join with UH to work out the issues before the public chimes in.
Your University and possibly individuals connected with the University are in a Lawsuit at this time through the OHA.

Judge Crabtree 1 CC 17-1-1823-11

The University has violated its Lease many times.

The University has also made constant promises which it has not fulfilled.

You are a state University and have violated the US Constitution through Separation of Church and State, and Freedom of Religion.
Please accept these comments on the following:

20-26-3: Blanket exemption for UH’s educational and research activities should not get blanket exemptions.

Restrictions on Native Hawaiin religious practices:
• 20-26-6: Cultural practitioners should not need to pay an entrance fee or for parking to exercise their cultural or religious practices.
  o Section 8: Cancel prohibition on people from carrying basic tools. Particularly if practitioners need to clear invasives to collect lā`au, or want to use the tools to collect lā`au.
  o Section 9: could be used to target the construction of ahu. Kānaka should not need to explain/justify the building of an ahu to the university.

Eco-tourism:
• 20-26-11: UH should not regulate hiking on pu`u while they themselves have LEVELED pu`u.
  • 20-26-24: This section is also very problematic largely going against the stated purpose of “promoting public safety and welfare” by prioritizing the scientific community over cultural practitioners accessing the area
  o Sections 1 - 3 No cell phones or flashlights? The mountain is vast and it is reckless to propose a ban on cellphone and flashlight use. A dangerous proposal.
  • 20-26-31 We whole-heartedly support banning sports meets and competitions
  • 20-26-32: Telescope operators should also be subject to restrictions on hazardous materials on the mountain.
  • 20-26-38: Remove prohibition on camping and make allowance to religious practitioners
  • 20-26-39: We are against installing a gate, fence, or other “access control structure” on the mauna
  o This section uses “public safety and welfare” as a justification for road closures, however, as you may recall these same ideas were used as the rationale to pass the so-called “emergency rules” after civil disobedience in 2015. Rules that were quickly reversed after a successful challenge in court. Those arrested because of the emergency rules had their charges dismissed. People are leery of this language because of this past misuse.
  • In terms of night time visiting hours; kanaka should not need to check-in with anyone at UH in order to access the mountain.
  • Subchapter 3: Do not allow commercial activity in the sacred wao akua place

Thank you,
Ravi G
This is so disrespectful! Our Mauna awakea is sacred! There should be NO TELESCOPES on our SACRED MAUNA AWAKEA! The LAHUI will PROTECT AND MALAMA OUR MAUNA! THE KANAKA MUST BE IN CHARGE!
Comment

Please see attached Word file.
Testimony Regarding the Proposed Administrative Rules for Maunakea Management  
Thomas Bearden, Ph.D.  9/12/2018

I am 62 years old and have been going to Maunakea for the 34 years I have lived on the Big Island. I have gone on observatory tours, skied, sledded, and taken my children to play in the snow. Maunakea is very important to me not only as a place for recreation, but also because of the beauty and spiritual energy that pervades it.

I am glad to see some of the proposed changes to the existing rules, such as prohibiting alcohol and drug use and prohibiting ATVs and off-road 4-wheeling. I also believe that only 4-wheel drive vehicles should be allowed to access the summit. I feel that the numbers of people that are accessing the mountain at night for star-gazing tours is becoming problematic.

However, I am quite concerned to see some of the specific rules being proposed. I am also very concerned at the overall tone of the rules, which except for native Hawaiians, make no distinctions between Big Island residents and tourists. It is very insulting for people from UH on Oahu to be attempting to treat Big Island residents as tourists. We live here, this is our mountain, not yours. You are guests here, not us. These rules are mostly designed to make your jobs easier, irrespective of our wishes.

The specific heavy-handed rules that could be utilized to severely limit Big Island residents include:
1) Access by private vehicles may be restricted utilizing shuttle vehicles in lieu of private vehicles.
2) Limiting the number of vehicles allowed access.
3) Charging fees for entrance and parking.
4) Putting a gate up at the Visitors Center.
5) Mandatory cultural orientations.

I will address these in order. The ability of Big Island residents to access the mountain in private vehicles needs to be enhanced, not further restricted. The residents of the Big Island have a long tradition/cultural practice of playing in the snow and bringing snow back down the mountain in their own pickup trucks for the enjoyment of those too young or too old to go to the summit themselves. It also helps keep young children off the mountain who,
if their family can't bring snow back to them, will be more likely to be taken
to the summit themselves. This practice would be impossible on a shuttle.
As a clinical psychologist in Hilo, I saw many children. The two events
every year that made them the most excited were the County Fair and snow
on Maunakea. Visiting Maunakea in their private vehicles when there is
snow is a very important cultural practice to generations of residents. No
Big Island residents involved in the EnVision Maunakea talk story sessions
were in favor of stopping residents from accessing the snow in their own
vehicles. Why have that process if you are going to ignore it?

2) If there are too many vehicles on snow days, allow residents first right of
access. This winter I attempted to access the summit two days after a
moderate snowfall. When I arrived at the Visitor's Center at 8:00 am, I was
told after several hours of waiting that the road might be open at 12:00. I
came back at 12:00 and ended up waiting until 4:00 pm before the road was
finally open. The over-worked and under-manned personnel at the road
block were unable to give us any updates during this entire time as the one
snowplow on duty slowly cleared the road. People were becoming
frustrated and angry.

Likewise, if there are too many people accessing the mountain at
night, give Big Island and other state residents priority over commercial
tours full of tourists.

3) The residents of the Big Island and the rest of the state should not have to
pay fees for entrance to our mountain or for parking. Use some of the state
taxes that UH receives from us or charge tourists.

4) Many telescopes have been built without having to put up a gate to block
access to the mountain. If one is permitted it will inevitably be over-utilized
for the convenience of management personnel and to the detriment of public
access. It clearly sends the wrong message.

5) In principle, I am not opposed to a once in a lifetime short cultural and
safety orientation before people are allowed access to the mountain.
Residents should be allowed to take this orientation at various locations such
as UH-Hilo, Waimea, and Kona for convenience. There should be no charge and it should not be conducted by OHA.

I suggest the UH-Manoa President and Board of Trustees think carefully about the message their proposed rule changes are sending to Big Island residents. Instead of attempting to restrict our access and turn Maunakea into a Hanauma Bay-like experience, put your resources and energy to making our access easier and more enjoyable. Take some of our tax money, observatory fees, or the fees already charged to commercial operators and triple the number of snowplows and operators. Increase the number of over-worked personnel at the visitors center and give them the means to communicate with the snowplow operators. Build more restrooms. This is the Big Island, not Oahu. We are used to more independence and having more freedom to enjoy our aina here. Given that UH is beginning the process to renew your lease and given the inevitable protests if TMT is finally approved, it would behoove UH to be less tone-deaf to the wants of the average Big Island resident. You really don't want to shoot yourselves in the foot and unnecessarily alienate more residents than you already have.

Aloha,

Thomas Bearden, Ph.D.
Testimony on Management Plan

1 message

Thomas Bearden <thomasbearden56@yahoo.com>  
Reply-To: Thomas Bearden <thomasbearden56@yahoo.com>  
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

Wed, Sep 12, 2018 at 1:50 PM

I submitted this testimony via the website, but I want to make sure it was received. Could you please inform me if you receive it through this email as an attachment or the website?

Mahalo,

Thomas Bearden

Testimony Regarding the Proposed Administrative Rules for Maunakea Management.doc

31K
Testimony Regarding the Proposed Administrative Rules for Maunakea Management
Thomas Bearden, Ph.D.  9/12/2018

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Aloha,

Thomas Bearden, Ph.D.
webhead@hawaii.edu <webhead@hawaii.edu>
Reply-To: Sam Nelson <samnelson975@gmail.com>
To: uhhar@hawaii.edu

Name
Sam Nelson

Address
483 Wainaku St
Hilo Hi 96720 USA

Phone
8023090867

Email
samnelson975@gmail.com

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
These proposed rules would serve to restrict access in an unnecessary manner. Requiring training, limiting access and charging fees is not something that is necessary at this time. Most visitors are respectful for the area and this proposal will only serve to limit access, create a new program that will need to be staffed, and fees to be paid for the new programs. I also wonder why dogs are proposed to be restricted.
Sirs, I am strongly opposed to the proposed new rules for Mauna Kea. Yet another totalitarian colonial settler state eurocentric take over designed to continue the elimination of indigenous peoples and their way of thinking. I will say I understand why: MONEY. Always the money. Your soul for sale. We all know where this is headed. I’m sorry my presence on our mountain offends you. Your presence offends me greatly and our mountain is not for sale, does not belong to you, DLNR, or the fake state of Hawai‘i, and therefore you have no authority to impose such rules. Fortunately, I think the proposals are so absurd that they will never stand up in court. I am surprised and dissapointed that UH would participate in such a blatant assault on the constitution. Thats NOT what your supposed to be about. Shame on you!!!

Paul Bucher
75-236 Hualalai Rd
Kailua-Kona, Hi
96740
Aloha,
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.
Thank you
Patrice Tullai
Sent from my iPad
Aloha,

My name is Joanna Maile Pokipala, and I oppose the proposed rules by the office of Mauna Kea management. For too long, UH and the Office of Mauna Kea management have say to what happens on the Mauna and it's clear neither of the two I have done a good job.

For example, "Ceded" crown lands on the summit continue to be leased for $1 year, in violation of the Hawai`i law (HRS 171). Developers are offering a $1M benefits package in return for permission to start their proposed 18-story, 8-acre TMT construction project, but have made no move to remedy the sweetheart $1 deal for existing construction and industrial land use.

Another example that is more recent proposed rules. The current proposal that is on the table would ban being on the mauna at night without a special permit — making it harder for the practice of traditional celestial observations to continue. Violating this and other rules could result in a fine as high as $2500.

I feel that that OMKM and UH have done nothing good for the Mauna and have not listen to the people who inherited the care of it. Please listen now and oppose this injustice.

Mahalo,
Joanna M Pokipala
My Name is James Sogi. I live in Kona. I use Mauna Kea regularly for hiking and skiing and camping.
I oppose The University of Hawai'i Office of Mauna Kea Management (OMKM) proposed rules restricting access and use of Mauna Kea summit lands.

James Sogi
To whom it may concern,

I am writing to put on the record that the University of Hawaii has no jurisdiction over my beloved temple of Mauna Kea.

Please refer to the United Nations memorandum by Dr. Alfred DeZayas dated 25Feb2018. In this Memorandum he clearly states that the Hawaiian Kingdom is in continuity and under a strange form of occupation. It also states that Hawaiian Kingdom and International law must be adhered to.

You and your group are now on notice and should you continue to disregard the truth then you will be guilty of war crimes! Plundering of our land is a war crime! Desecration of our sacred temple of Mauna Kea will have consequences!

One can no longer blatantly disregard the law! I urge you and all concerned to cease and desist any and all involvement with my beloved Mauna Kea.

Please walk the path of Pono!
Mahalo Nui!
MEMORANDUM

Date: 25 February 2018

From: Dr. Alfred M. de Zayas
United Nations Independent Expert
Office of the High Commissioner for Human Rights

To: Honorable Gary W. B. Chang, and
Honorable Joni E. Fincher, and
Members of the Judiciary for the State of Hawaii

Re: The case of Mme Routh Bolomet

As a professor of international law, the former Secretary of the UN Human Rights Committee, co-author of book, The United Nations Human Rights Committee Case Law: 1977-2008; and currently serving as the UN Independent Expert on the promotion of a democratic and equitable international order, I have come to understand that the lawful political status of the Hawaiian Islands is that of a sovereign nation-state in continuity; but a nation-state that is under a strange form of occupation by the United States resulting from an illegal military occupation and a fraudulent annexation, As such, international laws (the Hague and Geneva Conventions) require that governance and legal matters within the occupied territory of the Hawaiian Islands must be administered by the application of the laws of the occupied state (in this case, the Hawaiian Kingdom), not the domestic laws of the occupier (the United States).

Based on that understanding, in paragraph 69(n) of my 2013 report (A/68/284) to the United Nations General Assembly I recommended that the people of the Hawaiian Islands — and other peoples and nations in similar situations — be provided access to UN procedures and mechanisms in order to exercise their rights protected under international law. The adjudication of land transactions in the Hawaiian Islands would likewise be a matter of Hawaiian Kingdom law and international law, not domestic U.S. law.

I have reviewed the complaint submitted in 2017 by Mme Routh Bolomet to the United Nations Office of the High Commissioner for Human Rights, pointing out historical and ongoing plundering of the Hawaiians’ lands, particularly of those heirs and descendants with land titles that originate from the distributions of lands under the authority of the Hawaiian Kingdom. Pursuant to the U.S. Supreme Court judgment in the Paquete Habana Case (1900),
U.S. courts have to take international law and customary international law into account in property disputes. The state of Hawaii courts should not lend themselves to a flagrant violation of the rights of the land title holders and in consequence of pertinent international norms. Therefore, the courts of the State of Hawaii must not enable or collude in the wrongful taking of private lands, bearing in mind that the right to property is recognized not only in U.S. law but also in Article 17 of the Universal Declaration of Human Rights, adopted under the leadership of Eleanor Roosevelt.

Respectfully,

Dr. Alfred M. deZayas
United Nations Independent Expert on the promotion of a democratic and equitable international order
Office of the High Commissioner for Human Rights
Palais des Nations, CH-1211 Geneva 10, Switzerland

[Signature]
Aloha,

I OPPOSE the Office of Mauna Kea Management trying to move forward with the Draft Rules that govern Mauna Kea summit lands, which are Crown Royal Hawaiian Lands. It is premature to request the Governor’s approval to allow for public hearings on these proposed rules. It would make more sense to get better consensus before spending time and resources in a public hearing process.

#1 There should be NO proposed rules.

The University of Hawaii and the Office of Mauna Kea Management trying desperately to pass rules to CRIMINALIZE practitioners and protectors of Mauna Kea, for accessing our sacred sites. Pushing for special permits in order to be on the Mauna over night, and $2,500 fines if caught without one. Even attempting to ban non-emergency cellphone and flashlight use. UNBELIEVABLE!

And...

• 20-26-3: Blanket exemption for UH’s educational and research activities aka: telescopes. Why? UH’s activities have the same impact everyone else’s does. If we put the resource first and at the center of our decision-making it’s clear that UH research does not deserve such an exemption. This gets to the heart of why the leasee, should not be the one creating management rules.

• 20-26-6 Cultural practitioners should not need to pay an entrance fee or for parking to exercise their cultural or religious practices. An exception or accommodation should be added to 20-26-6.

• 20-26-21 Who assesses “impact” when determining if a cultural practice requires a permit?

• 20-26-22 This section is very problematic. UH itself can’t even follow this proposed rule (specifically parts 1-5) which describes activities that have all occurred during or as a result of telescope development. No authority, no jurisdiction... the mountain does not belong to the University of Hawaii

Sincerely,
Donna Grabow, Hilo
Attached please find our submission of comments on the proposed rules for Mauna Kea. We would appreciate an acknowledgment of receipt of this email.

Cheryl Burghardt
Wendy Green

Dear Board of Regents.docx
17K
Aloha,

Thank you for accepting comments on the proposed Chapter 20-26, Hawai‘i Administrative Rules, entitled “Public and Commercial Activities on Mauna Kea Lands.” Although we will include written remarks here, we would like to express our overwhelming disappointment that these proposed rules were written without involving OHA or any native Hawaiian practitioners. Ensuring that customary and traditional rights and religious practices of Kanaka Maoli are protected should be your highest priority. We would like to urge you to consider involving them before moving forward.

In trying to limit our comments to a few pages, the following are areas in the proposed rules that we feel need immediate attention:

§20-26-8 Delegation of authority  Designating authority to only the President or designee would allow for the possibility of unfair or arbitrary decision-making. Having a Board review ideas and evaluate options would help to ensure high quality decisions are made. This language should be changed from “President” to “Board”.

§20-26-3 Applicability and implementation, generally  Not having these rules apply to the University and persons or government entities under an agreement with the University is a blatant disregard for the environment and fragile ecosystems on Mauna Kea. Educational and research activities should follow the same rules that should be set forth to recognize and value cultural, historical and natural resources; Especially those on the most sacred place in Hawai‘i.

§20-26-6 Fees  Native Hawaiians who are exercising their traditional and customary rights on Mauna Kea should not be assessed any fees. Exemptions should also be made for residents of Hawai‘i for parking and access. This standard has been set by state parks in Hawai‘i for locals. Mauna Kea should not be an exception.

§20-26-21 Traditional and customary rights  Language under (c) that suggests Native Hawaiian activity that may be found to impact the area should obtain a special use permit is absurd. There is no foundation or need for assessing any impact of protected customary and traditional rights. This should be eliminated from the text.

§20-26-22 Preservation of resources  Section (3) with wording about “removing any natural feature or resource” does not take into consideration the fact that practitioners engage in water and snow collection as well as collecting la‘au for ceremonial and medicinal purposes.

Section (8) That includes language about harvesting tools or gear, should also be eliminated. Tools that may be needed by practitioners when they practice traditional gathering rights were clearly not considered here.
Section (9) with wording on “engaging in any construction” is also a disregard for traditional and customary rights. It undermines the traditional function of rituals and ceremonies relating to ahu and kūahu on Mauna Kea.

Section (11) should be eliminated altogether. Hiking should not be regulated on Puʻu. Many established trails on Mauna Kea are unmarked and many are famously on Puʻu. These should not be prohibited areas.

§20-26-24 Preservation of scientific and educational resources Both sections prohibiting (1) cellular telephones and (3) artificial illumination do not take into consideration the welfare and safety of those who will use the area. This could also be misinterpreted by foreign visitors who may leave behind valuable tools they may need in case of an emergency. It is also difficult to imagine that a small flashlight would make a bigger disturbance than headlights from an automobile.

§20-26-34 Audio devices and noise While it may be understandable that noise levels could be kept to a minimum near the observatories so as not to create a nuisance, musical instruments being banned completely seems quite far-fetched.

§20-26-38 Camping Camping on Mauna Kea should not be prohibited. Open shelter camping that allows for star gazing and moon viewing with a small amount of protection from the elements is essential.

§20-26-39 Access (a) A gate or other structure being used to manage vehicular access to Mauna Kea gives the appearance of both structuring a “for profit” park, and a means to deny or regulate access to protectors or practitioners. Because hikers, stargazers, moon viewers etc. will be determined to access the area, this could potentially lead to problems with parking or other issues when the area is closed off. In addition, this could lead to UH unjustly limiting access to locals and others in favor of tour buses and or other agreements that could potentially be unfair, biased or discriminatory.

(2) Setting a maximum number of private vehicles and restricting access also gives the impression of an unfair and prejudice practice of giving tour operations priority over locals and individual tourist alike. These should be eliminated. There should be no prejudicial or discriminatory rules of any kind.

(c) Closed areas, public access hours should not be used for reasons stated above including access for families to visit the bones of their ancestors, subsistence gathering, traditional and customary practices, pilgrimages, as well as stargazing, moon viewing etc. Limiting access during certain hours could lead to problems that arise from individuals who have limited access and are not able to safely hike in or out of areas. The public also has an inherent right to access Mauna Kea as a part of the public land trust and should be afforded full and fair entry.

§20-26-61 General provisions (10) Limiting access to a National Historic Landmark (MK Adz Quarry) in the Mauna Kea Ice Age Natural Area Reserve or the Mauna Kea Forest reserve from
UH management areas by requiring a permit seems unjust. Someone could access the area by other means, or inadvertently end up there. This rule seems unreasonable, unfair, and will be difficult to enforce.

In addition to the above issues we found with your proposal, we would also like to reiterate that UH and those associated with UH for astronomy or other endeavors should be held accountable for the protection and safety of Mauna Kea and its fragile ecosystem. It is apparent that these rules were designed to be punitive to a specific group of people.

Our hope is that you will listen well to the concerns being presented and that ultimately you will consult with a variety of Hawaiian practitioners to gain better insight so that rules pertaining to Mauna Kea will be relevant. Collectively, we can do better.

Wendy Green
Cheryl Burghardt
webhead@hawaii.edu <webhead@hawaii.edu>
Reply-To: KAMANA'OPONO CRABBE <publicpolicy@oha.org>
To: uhhar@hawaii.edu

Name
KAMANA'OPONO CRABBE

Organization
OFFICE OF HAWAIIAN AFFAIRS

Address
560 N. NIMITZ HIGHWAY, SUITE 200
HONOLULU HI 96817

Phone
8085941908

Email
publicpolicy@oha.org

Hawai‘i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment

Comment

435K
September 11, 2018

David Lassner  
President, University of Hawai‘i  
c/o UH System Government Relations Office  
2442 Campus Road, Administrative Services Building 1, Room 101  
Honolulu, Hawai‘i 96822


Aloha e Mr. Lassner,

The Administration of the Office of Hawaiian Affairs (OHA) offers the following COMMENTS regarding the proposed administrative rules for the University of Hawai‘i’s (UH’s) leased Maunakea lands. While OHA appreciates that the longstanding lack of administrative rules has substantially hindered much-needed management of public and commercial activities on Maunakea, OHA believes that the current proposed rules fall short of meaningfully ensuring the appropriate stewardship of Maunakea, including through the protection of Native Hawaiian traditional and customary rights. Accordingly, OHA urges the inclusion of additional provisions to more comprehensively and sustainably manage and mitigate the impacts of public and commercial activities on Maunakea.

1. The sacred nature and longstanding concerns over the stewardship of Maunakea strongly counsel rules that can comprehensively and sustainably fulfill its unique and diverse management needs.

   As OHA and numerous others have previously testified, Maunakea is amongst Hawai‘i’s most sacred places. Many Native Hawaiians believe that Maunakea connects them to the very beginning of the Hawaiian people, and Native Hawaiians have used its summit for cultural, spiritual, and religious purposes since time immemorial. Over the past several decades, OHA’s beneficiaries have voiced growing concerns over the development, use, and management of Maunakea’s summit and surrounding lands, concerns which have been validated and reaffirmed by numerous state audits and other third-party reports. OHA believes it is for these reasons that the UH’s Board of Regents is specifically required to consult with OHA, to ensure that any administrative rules “shall not affect any right, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by . . . descendants of native
Hawaiians who inhabited the Hawaiian Islands prior to 1778. “1 It is also for these reasons that OHA believes it is critically important for the proposed administrative rules, which have been pending since 2009, to comprehensively cover and ensure the ongoing fulfillment of Maunakea’s unique and diverse management needs.

2. OHA’s longstanding concerns should be addressed in the administrative rules.

OHA appreciates the outreach meetings that took place earlier this year with Office of Mauna Kea Management (OMKM) staff and the Mauna Kea Management Board (MKMB) Chair, and the long-awaited opportunity for dialogue that these meetings provided. OHA understands that these meetings were undertaken in part to satisfy the requirement that the Board “consult with the Office of Hawaiian Affairs to ensure that [the Maunakea administrative rules] shall not affect any right, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by ahupua’a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.” Unfortunately, despite explicit concerns expressed by OHA during these meetings as well as in OHA’s original correspondence from 2011, the current administrative 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.

A. Decisions that may impact Native Hawaiian traditional and customary rights and underlying resources and sites should be made in a transparent and accountable manner.

OHA continues to have significant concerns, originally expressed in 2011, regarding the lack of transparency and accountability mechanisms for potentially far-reaching decisionmaking that may impact Native Hawaiian traditional and customary rights, including the environment and resources upon which these rights rely. As OHA has previously and consistently stated, public meetings are often the only opportunity for Native Hawaiians to identify and assert their constitutionally-protected traditional and customary rights during government decisionmaking. However, as with previous drafts of these rules, the current draft would allow a single individual “designee” – who would not be subject to the public meeting requirements under the state sunshine law – the authority to make decisions concerning: fees for access, permits, parking, entrance, etc.; the issuance or denial of written permits for group activities, public assemblies, research activities, hiking on cinder cones, and commercial activities, among other permits; the closure of or limitation of access to all or portions of the Maunakea lands; and various other administrative actions.2 Notably, such an individual

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“designee” also may not be as accountable to the public in the same manner as Governor-appointed and Senate-confirmed board or commission members, and the rules lack clear processes for challenging the scope and basis of many of the decisions made by this individual “designee.”

OHA does acknowledge that not all decisions may require the same level of public transparency or scrutiny; OHA further acknowledges the potential need for expedited decisionmaking in order to address bona fide public safety or resource protection issues, such as inclement weather or the discovery of a sensitive cultural site in a high-traffic public area. However, OHA believes that there may be ways to balance the need for expeditious decisionmaking under exigent circumstances, and the need for public transparency and accountability in decisions that can significantly impact the ability of Native Hawaiians to exercise their traditional and customary rights. Although OHA has consistently raised this concern since 2011, including in meetings with OMKM staff and the MKMB Chair earlier this year, the rules still fail to identify when more intense uses and activities should be made openly and transparently, with an opportunity for public scrutiny and input.

B. Consultation with Kahu Kū Mauna, the Office of Hawaiian Affairs, 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.

On a similar note, OHA strongly urges that these administrative rules provide much clearer cultural consultation requirements, consistent with the 2009 Mauna Kea Comprehensive Management Plan (CMP), to ensure that decisionmaking does not unduly infringe on Native Hawaiian traditional and customary practices, or impact culturally significant resources and sites. OHA does take note of the draft rules’ suggestion that the “president’s designee may seek the advice of the Maunakea management board and the Kahu Kū Mauna pursuant to the comprehensive management plan and consistent with the timelines and procedures of this chapter,” and that OMKM may, “after consulting with Kahu Kū Mauna,” restore sites impacted by “customary and traditional rights” activities. However, despite Kahu Kū Mauna (KKM’s) explicit role as a Native Hawaiian cultural advisory body for the MKMB, OMKM, and the UH Chancellor, neither of these permissive regulatory references would require any actual consultation with KKM. Moreover, the draft rules provide no other mention or role for KKM, other than to advise that cultural practitioners consult with them. Given the broad range of decisions and activities contemplated by these draft rules that may impact cultural resources and practices on Maunakea – including area closures, the designation of snow play areas, the issuance of group and commercial permits, etc. – OHA

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OHA further notes that the CMP and its underlying cultural resource protection plan contain numerous "actions" and other provisions requiring OMKM and KKM to "work with families with lineal and historical connections to Maunakea, kūpuna, cultural practitioners, the Office of Hawaiian Affairs and other Native Hawaiian groups ... toward the development of appropriate procedures and protocols regarding cultural issues." However, again, the lack of consultation requirements on a number of decisions relevant to cultural practices and protocols for Maunakea provide little assurance that any such consultation.

C. CMP actions requiring rulemaking should be included and implemented in the draft rules.

OHA further urges UH to ensure that these rules reflect the management actions envisioned in the CMP, that may be critical to protecting Native Hawaiian rights and cultural resources, and that would appear to require rulemaking to be properly implemented. For example, FLU-2 (designating land use zones to restrict future land uses in the Astronomy Precinct, based on cultural and natural resource inventories); CR-7 (cultural education requirements for construction staff, UH staff, and researchers); ACT-2 (parking and visitor traffic plan); and CR-6 (guidelines for the visitation and use of ancient shrines), among others, would all appear to require rulemaking to be enforceable and fully implemented. Other actions, such as EO-7 (developing a systematic input process for stakeholders) and NR-13 (establishing a collaborative working group for management and resource protection), among others, could also be implemented and institutionalized via rulemaking. However, these and other CMP action items that, if implemented, would serve to protect cultural practices, resource, and sites, do not appear to be reflected in the administrative rules.

OHA appreciates OMKM's assertion that some of these action items may be implemented via "policies" adopted by OMKM or the Board of Regents; however, there is no guarantee that such policies will in fact be established, much less in an appropriate and accountable way. For example, a number of these actions have been pending for years, well beyond their anticipated timeline of completion; the need for rulemaking itself was specifically cited as the reason for the delay in implementing certain actions (such as CR-6, "Develop and adopt guidelines for the visitation and use of ancient shrines"). The decade-long failure to adopt "policies" to implement these outstanding actions, which would appear to otherwise require rulemaking, raises significant doubt as to whether such policies will actually be adopted in a timely manner outside of the rulemaking context. In another example, despite the CMP's aforementioned requirement that OHA, `ohana with lineal ties, and cultural practitioners be specifically consulted on specific actions including CR-5 (the adoption of guidelines for the placement of cultural offerings), CR-7 (the appropriateness of new cultural features), and CR-9 (the appropriateness of new cultural features), policies to "implement" these actions were recently recommended for approval by OMKM, without any meaningful consultation with OHA or a known family of cultural practitioners that specifically
requested consultation. Such a recommendation brings into question whether future "policies" that are in fact adopted to implement the CMP, will be done so in an appropriate way consistent with the CMP’s own requirements.

OHA notes that even if referenced or generally contemplated in the current rules draft, specific policies and plans adopted outside of the formal rulemaking process may also not be enforceable, as illustrated in numerous court decisions relating to HRS Chapter 91.

D. Reliable and transparent resource-generating mechanisms, including observatory sublease provisions, are necessary to minimize impacts to Native Hawaiian traditional and customary rights resulting from permitted, unregulated, and otherwise allowed activities

Finally, and most critically, OHA reiterates its long-standing assertion that any administrative rules for Maunakea provide clear assurances that future observatory subleases will generate sufficient and reliable revenue and other support for the appropriate management of Maunakea, including through the full implementation of the CMP.

OHA notes that a number of activities which may be permitted, unregulated, or otherwise allowed under these rules have the potential to significantly undermine Native Hawaiian traditional and customary practices and beliefs associated with Maunakea, thereby impacting Native Hawaiians’ ability to exercise their traditional and customary rights. For example, access to and the availability of specific resources and sites may be hampered or foreclosed by commercial tours, research activities (including observatory development and operation), public use, and even the actions of untrained government staff and contractors. In addition, “Culture and nature are from an anthropological perspective intertwined and from a Native Hawaiian point of view inseparable . . . one cannot even begin to try and understand the meaning and significance of the cultural resources . . . without considering the relationship between people and the high altitude environment”; therefore, the impacts of permitted and allowed activities on Maunakea’s environmental integrity as a whole, may fundamentally burden or preclude the meaningful exercise of Native Hawaiian cultural practices in an otherwise sacred region.

In light of this understanding, OHA does believe that full implementation of the CMP, including its various subplans, may mitigate the potential for impacts to Native Hawaiian rights. However, absent stronger capacity-building assurances in the rules, there is no identifiable source of funds or other resources necessary for the CMP to be fully and

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5 OHA did attend a May 2016 outreach meeting regarding these actions along with numerous other stakeholders, where the overwhelming sentiment was to conduct further public outreach; however, the only subsequent outreach events were a series of general notices stating that “OMKM would like to invite you to talk story about Maunakea,” with no indication of what, specifically, OMKM was inviting the public to “talk story” about. OHA does not consider this to represent meaningful and directed consultation with OHA, cultural practitioners, or lineal descendants, much less members of the general public.

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consistently implemented. OHA notes that the proposed rules do authorize fees for permits, parking, and entrance; however, even the most lucrative commercial tour permits have historically generated only half a million dollars a year on average, just a fraction of UH's current costs of administering Maunakea. Numerous CMP action items yet to be implemented – including greater enforcement coverage, the development and implementation of educational and cultural training curricula, the development and implementation of a parking and visitor traffic plan, the scoping of additional facilities such as restrooms and a vehicle wash station, the ongoing collection and maintenance of cultural information and practices, and many others – will likely require a much higher level of resources than in previous years. Again, without mechanisms to ensure a sufficient level of resource generation to meaningfully implement the CMP, permitted and other activities will have a high likelihood of harming Native Hawaiian traditional and customary rights.

In this regard, OHA notes that the one activity with consistently sufficient budgetary resources, which has and will likely continue to reap the most direct and unique benefits of Maunakea's lands, and which has also served as the primary source of long-standing protests by Native Hawaiian cultural practitioners and environmental groups alike, is observatory development and operation on Maunakea's summit. OHA therefore strongly urges that the administrative rules 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.

OHA does understand that the scientific study of celestial phenomena has incredible academic and, perhaps more importantly, philosophical value, with the potential to unify humanity across national, religious, ethnic, and political barriers in the common pursuit of understanding our universe, and our very existence as a human race. As in many other cultures, Native Hawaiian traditions also involved the extensive study of the night sky, using stars, planets, and the moon to predict weather conditions, guide harvesting and farming practices, foretell events, and navigate across vast expanses of ocean. Accordingly, OHA has never opposed astronomic endeavors in and of themselves. However, the unifying, cross-cultural value of astronomy may be severely undermined, and its philosophical call for unity and mutual compassion for our shared humanity significantly subverted, if it advances only at the direct and unaddressed expense of a particular cultural group, who maintain sincere and reasonable concerns relating to environmental resources and spiritual spaces considered to be both culturally sacred, and marred by historically unjust acquisition.

Accordingly, ensuring that extremely well-funded astronomical endeavors on Maunakea help to address their cultural and environmental impacts would not only mitigate concerns relating to Native Hawaiian rights, but also reinforce the philosophical and humanitarian foundation of astronomy on Maunakea. Unfortunately, as illustrated by the

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Protect Mauna Kea Movement, decades-long neglect of environmental and cultural concerns in favor of observatory development have eroded away many Native Hawaiians’ ability to trust in less formal assurances. Therefore, clear regulatory mechanisms to this effect should provide as much public transparency and accountability as feasible.

In light of the above, OHA strongly recommends that these administrative rules 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. Insofar as such sublease provisions may prove critical to the protection of Native Hawaiian traditional and customary rights in Maunakea, OHA stands ready to provide the consultation required under the Board of Regent’s statutory rulemaking authority.

Mahalo nui for the opportunity to comment on this matter. For any questions or concerns, please contact Jocelyn Doane, Public Policy Manager, at 594-1908 or via e-mail at jocelynd@oha.org.

‘O wau iho nō me ka ‘oia ‘i‘o,

Kamana‘opono M. Crabbe, Ph.D.
Ka Pouhana, Chief Executive Office

KC:wt

CC: Robert Lindsey, Ke Kua ‘O Hawai‘i, OHA Trustee
OHA LETTER - 09.11.18 Lassner of UH RE Proposed Chap 20-26 HAR Entitled Public and Commercial Activities on Mauna Kea Lands

1 message

Anuhea Patoc <anuheap@oha.org> Tue, Sep 18, 2018 at 9:35 AM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>
Cc: Jocelyn Doane <jocelynd@oha.org>, Wayne Tanaka <waynet@oha.org>

Aloha,

Please find the attached OHA Letter for the upcoming Public Hearing Testimony for the Proposed Chapter 20-26, Hawai‘i Administrative Rules, entitled “Public and Commercial Activities on Mauna Kea Lands.”

Mahalo,

Anuhea Patoc
Pou Alo Kulekele Aupuni
Public Policy Administrative Assistant
Office of Hawaiian Affairs
560 North Nimitz Highway, Suite 200 | Honolulu, HI 96817
Ph: 808-594-1756 Email: anuheap@oha.org

September 11, 2018

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Protect Mauna Kea Movement, decades-long neglect of environmental and cultural concerns in favor of observatory development have eroded away many Native Hawaiians’ ability to trust in less formal assurances. Therefore, clear regulatory mechanisms to this effect should provide as much public transparency and accountability as feasible.

In light of the above, OHA strongly recommends that these administrative rules 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. Insofar as such sublease provisions may prove critical to the protection of Native Hawaiian traditional and customary rights in Maunakea, OHA stands ready to provide the consultation required under the Board of Regent’s statutory rulemaking authority.

Mahalo nui for the opportunity to comment on this matter. For any questions or concerns, please contact Jocelyn Doane, Public Policy Manager, at 594-1908 or via e-mail at jocelynd@oha.org.

'O wau iho nō me ka 'oia 'i'o,

Kamana'opono M. Crabbe, Ph.D.
Ka Pouhana, Chief Executive Office

KC:wt

CC: Robert Lindsey, Ke Kua 'O Hawai'i, OHA Trustee
Mauna Kea
1 message

judith carroll <silkangelmaui@hotmail.com>  
To: “uhhar@hawaii.edu” <uhhar@hawaii.edu>  

Tue, Sep 18, 2018 at 11:04 AM

Aloha
Concerning your new rules:
A permit to climb a mountain? And how much will you charge for this permit? Do you own this mountain? What will you do with the money? This is desecration of NATURE! What’s next? Permits to sit on a beach? People like you will be held responsible for trashing Hawaii! When you folks finish no tourist will want to come and your golden goose will be fried. You should be asking permission from the Hawaiians to enter Mauna Kea... first US government stole all Hawaiian Islands now you folks trying to steal a Mountain. Get over yourself! You cannot kill the Manna of this place. You will suffer greatly if you continue in your quest to profit and destroy the Hawaiian Spirit. Nature is powerful... just ask Pele. Back off Mauna Kea. Go somewhere else.

Judith Carroll R.N.
Sent from my iPhone
Sacred Mauna Kea
1 message

Jessica Calderon <jessacalderon@gmail.com>  To: uhhar@hawaii.edu  Tue, Sep 18, 2018 at 12:34 PM

I am writing as an Indigenous woman who practices ceremonial ways and understands the importance and sacredness of our ceremonies and ceremony sites. Those who should have any access and every say to the sacred sites are those whose ancestors have been practicing ceremony on the site for more than 6 generations, their culture descends from and belongs to the area. They are the ones who know how to respect and care for the area. I am requesting that you do the right thing and leave this sacred site to the indigenous people of the land, the Hawaiian people.

Jessica Calderon
Mahalo for allowing me to comment on item VC4, “Authorization to Request Governor’s Approval to Allow the University to Hold Public Hearings regarding Proposed Chapter 20-26, Hawai‘i Administrative Rules, entitled “Public and Commercial Activities on Maunakea Lands”

It is premature to request the Governor’s approval to allow for public hearings on these proposed rules. There are far too many substantive issues with the rules in their existing draft to put them out for public comment. It would make more sense to get better consensus before spending time and resources in a public hearing process. Involve in a more meaningful way practitioners who will be impacted by these rules—which means including them in the creation of the rules, not merely allowing comments on University-created rules.

Below are areas of specific concern:

- **20-26-3**: Blanket exemption for UH’s educational and research activities aka: telescopes. UH research does not deserve such an exemption. The lessee with high impact use of the land should not be the one creating management rules; there should be independent oversight and public input on such rules.

- **20-26-6**: Cultural practitioners should not need to pay an entrance fee or for parking to exercise their cultural or religious practices. An exception or accommodation should be added to 20-26-6.

- **20-26-21**: Who assesses “impact” when determining if a cultural practice requires a permit?

- **20-26-22**: This section is very problematic. UH itself can’t even follow this proposed rule (specifically parts 1-5) which describes activities that have all occurred during or as a result of telescope development.

  - Section 8 prohibiting people from carrying basic tools is an over-reach. Particularly if practitioners need to clear invasives to collect lā`au, or want to use the tools to collect lā`au.

  - Section 9: could be used to target the construction of ahu. Kānaka should not need to explain/justify the building of an ahu to the university.

  - Section 10: an added rule to prevent civil disobedience like what occurred in 2015 even though those arrested were largely cleared of any criminal wrong-doing.

  - Section 11: It is unconscionable for UH to regulate hiking on pu`u while they themselves have LEVELED pu`u.

- **20-26-24**: This section is also very problematic largely going against the stated purpose of “promoting public safety and welfare” by prioritizing the scientific community over cultural practitioners accessing the area.

  - Sections 1 - 3: The mountain is vast and it is reckless to propose a ban on cellphone and flashlight use and also could prove to be dangerous.

- **20-26-31**: Telescope operators should also be subject to restrictions on hazardous materials on the mountain.

- **20-26-38**: Prohibition on camping. Cultural practices re: celestial observation would be impacted by this; therefore, accommodations or exemptions should be made for cultural practitioners.

- **20-26-39**: We are against installing a gate, fence, or other ‘access control structure’ on the mauna.

  - This section uses “public safety and welfare” as a justification for road closures, however, as you may recall these same ideas were used as the rationale to pass the so-called “emergency rules” after civil disobedience in 2015. These rules were quickly reversed after a successful challenge in court. This language is controversial and should be revised accordingly.

  - In terms of night time visiting hours; kānaka should not need to check-in with anyone at UH in order to access the mountain.

  - Subchapter 3: Commercial Activity is inappropriate in the wao akua—even if it is regulated via permitting, it is still inappropriate for sacred lands.

The concerns listed above are not trivial ones and demonstrates that these rules are not ready to be vetted by the public—instead the body that drafted these rules should work at building trust and relationships with the kānaka that will be most affected by these rules. That kind of trust cannot be built at a public hearing. The current draft has too many areas of concern that would regulate Hawaiian cultural practices out of existence. Please do not authorize a request to Governor Ige to approve these rules to go out for public hearing.

Thank you.

All the best,

Caroline Kim
To whom this may concern,

Aloha!
My name is Ciara and I am greatly concerned about laws that would restrict the Access of this great mountain at night to witness the magic of the skies.
My young daughter has yet to see the sky up there at night and I also have one on the way, they must see the stars!
To keep this from the public would be criminal. This mountain has energy that must be shared and not kept too only the select few.

Mahalo,
Ciara.
<3 <3 <3 "Be the LOVE that you want to see". <3 <3 <3
Hello,

I have been monitoring the TMT situation for some time now. I totally support the TMT and any other scientific/educational pursuits on Mauna Kea. Everyone I talk to about this has the same feelings. Please don’t let vocal, ignorant, uneducated activists monopolize the upcoming hearings to give you the impression that the public objects to UH’s work on the mountain. If you put it to a state vote, such as on the November ballot, you will find that the vast majority of the public supports TMT and UH’s work.

V/R,
Peter Rucci
I am strongly opposed to the proposed new “rules” for Mauna Kea.

You have no right to limit access to Mauna Kea by Native Hawaiians. Mauna Kea is one of Hawai‘i's most sacred places and connects Native Hawaiian to their land, their ancestors, and their aukua. Mauna Kea belongs to the Hawaiian people, not UH, despite recent bogus assumptions of UH authority. From time immemorial this land has belonged to the Hawaiians and been used for cultural, spiritual, and religious purposes. UH has no authority to rule on Mauna Kea without the direct consent of the Hawaiian people who live on the island of Hawai‘i. Administrative rules “shall not affect any right, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by the descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778.”

In this attempt, UH disrespects the Hawaiian people and always has. It greatly oversteps its bounds in order to abrogate the rights of Native Hawaiians. You should be ashamed. You betray the native people by once again trying to displace indigenous peoples and their way of life, under the disguise of administrative rules. SHAME! Universities are supposed to represent the highest intelligence and understanding, but once again, you use your position to enslave people and rob them of the religious freedom and their indigenous rights. We all know why, MONEY, MONEY, MONEY.

Stop your eurocentric elimination of indigenous rights and peoples.

Pamela Ingram
77-111 Kaiupoho Place
Kailua Kona, Hawaii 96740
Testimony in regard to OMKM Draft Rules

September 22, 2018

I am a 77 year old kupuna residing in Waimea. I see this beautiful Mauna every day and visited it often in my younger days.

I concur with the stance that public hearings on the OMKM draft rules are premature. At present, UH has a poor rating for stewardship on Mauna Kea. I see no indication that this has changed in the time I have lived on this island. It is not time to allow UH to grant or withhold permits for access. I hope that UH will STOP...proceed with care and thoughtful deliberation and most importantly, involve the kanaka cultural practitioners in our island community who, it seems, will be the most affected by the proposed changes.

Big Problems and Inconsistencies abound!

1. Too many restrictions and rules for cultural practitioners
2. All who use the mountain should have the same rules....no prioritizing the scientific community over the cultural practitioners. Both are important.
3. Commercial activity is inappropriate and should not be permitted.

Mahalo for your consideration,
Sheila Okin
64-5267 Puanuanu Pl.
Kamuela, HI 96743

Sent from my iPad
This is a continuation of excessive permitting and restriction if private and personal freedom in such a wondrous resource. If “protecting” the resource means that it is no longer available as a resource, you’ve missed the mark, as the proposed rules do.

I agree with the idea of protecting the land and maintaining it for enjoyment of all, but this implementation is poor.

Specifically, 20-26-22 (2) and 20-26-33 – hunting dogs are far more destructive than companion animals, I agree with steep fines for not cleaning up after one’s dog, but prohibiting companion animals is absurd.

20-26-22(8) is ridiculous, and (11) severely restricts one’s ability to appreciate the land, and may interfere with religious practices although I understand need for erosion control.

Protection of religious practices needs to extend beyond only native Hawaiians.

20-26-24 - with? I see the need to protect radio astronomical activity, but think this may have gone too far – Mauna Kea is a great amateur radio resource.


Prohibiting drone operations is useless – 1) you’re working against your goals because use of a drone or other unmanned device allows one to explore in a far less destructive way, and 2) drones operated from land outside the UH management area can not be prohibited by this rule.
As a tourist I am also interested in preserving the sacred place. Mauna Kea is an example that ancient and modern world can live next to each other. Building the bridge between both sections is in my opinion important. It is sad that such regulations are necessary for protecting this special place. However, it can help to make people aware that Mauna Kea is more than Star Gazing and that protecting ancient wisdom and having a place to live it are the tombstones of a lived culture and strengthen the identity of the Hawaiian people. I wish you good luck with the implementation of the admin rules.
Matthew Toyomura - witten TMT testimony

wishstar@hawaii.rr.com <wishstar@hawaii.rr.com>
To: uhhar@hawaii.edu

Mon, Sep 24, 2018 at 10:19 AM

Sent from my iPhone

Matthew Toyomura - witten TMT testimony.pdf
63K
“CALL ME A RADICAL, FOR I REFUSE TO REMAIN IDLE” -George Helm

Dear UH Board of Regents or To Whom It May Concern

1: What is your relationship with Mauna Kea is?
   - The emotional, the historical, the intellectual and, of course, the spiritual.

2: What are problems that you see with the proposed action?
   - Select 3 specific problems that you want to focus on
   - In your own words, explain why this proposed action is wrong

3: What course of action needs to taken to solve these problems?
   - Need to consult cultural practitioners from Hawai’i Island to determine what is or is not appropriate before talking with the public! Revoke the proposed public & commercial hearing!

4: Any final words? Last statement?

Closing for example - Sincerely, Aloha

Dear Uh board of regents and to whom it may concern

Aloha my name is Matthew and my relationship with Mauna kea is that I am not connected with Mauna kea but I believe that it’s a Spiritual connection because Mauna kea holds shrines for the Hawaiian to keep their culture alive and it is where hawaiians go to practice cultural things and that what I believe about Mauna kea.

There are some problem building the telescope well they made rules about going up Mauna kea and what will be taking down from Mauna kea and how much it will cost they are problem because all these problems will affect the people like the Rules they want to make people get permits to to practice culture and they are taking down shrines from the hawaiians and the cost will be making people have to pay a little bit more so they can build it.
To solve these problems they need to see the hawaiians point and see what others got to say instead of always listening to scientist but they always say it will help the environment and a lot of the times it hurts the environment and the state allows it but it will be better if they ask cultural experts or even people who regularly go to mauna kea to practice hawaiian culture.

Last but not least There are Thirteen telescopes already on Mauna Kea so why do we need more they can at least upgrade the thirteen already on and they should at least let the Hawaiians do their cultural traditions because that’s their sites on Mauna Kea that they are breaking down so they can put another telescope that is all I have to say.

Sincerely Matthew
Name
Williamson Chang

Organization
None--Professor of Law University of Hawaii The William S. Richardson School of Law

Address
1717 Mott Smith Drive No 1707
Honolulu Hawaii 96823 USA

Phone
808 342 1228

Email
wbchang@Hawaii.edu

Hawai‘i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose
Part I. The Kaona or Deeper Meaning of Mauna Kea

Williamson B.C. Chang

Re: Testimony of Williamson B.C. Chang, Professor of Law at the William S. Richardson School of Law, University of Hawai‘i at Manoa on Proposed Rules of the University of Hawai‘i Regarding Public Access to Mauna Kea

The University has not always been cordial to my testimony. The last time I sought to testify—as an expert witness in the recent contested case proceeding—the attorneys for the university argued that I was not an expert and that what I had to say was not relevant.

I shall begin by saying that there are two parts to my testimony. There is the testimony on that we have been brought here to address—rules regarding public use of Mauna Kea. That is just one part of what needs to be said.

Mauna Kea presents to faces to the world—that which is above the ocean and can be seen—and all that matters to western eyes—and that which is below the ocean surface—that which cannot be seen with only our eyes. There is a deeper issue—concerns that must always be raised whenever there is a discussion of Mauna Kea. The deeper meaning of Mauna Kea lies beneath the surface.

The TMT consortium seeks to build on Mauna Kea—because it is the best place on the world—a place where it is said that “one can see clearly”—and deep into the origins of the Universe. They claim that they will the universe clearly from the summit of Mauna Kea. That view is a diminished and crippled vision of the world—a western vision compromised by a western culture that sees not the universe as is—but a universe chosen—a universe where Hawaiians and others were less than human, a universe where all is dead, ancient if not aligned and celebrated by western values. Hawaiian values are deemed mythical and thus not real—the Kumulipo is legend—a story, an unscientific, fictional account of creation. Yet, the fictions of western creation chants are not myths in themselves whether they be a sword in the stone or the legal fiction that all men are created equal—a core principle celebrated more in the exception than in practice.

Let us start with the failure of the University in its proposed rules to define “cultural”—wherein it defines all other terms in its preamble. It does not touch the concept of “sacred” or “Hawaiian.” To say that the objections of Native Hawaiians and others is “cultural” because Mauna Kea is “sacred” erects an artifice, a straw man, of the Hawaiian culture that is easy for western minds to undermine.
Translation of words from Hawaiian to English is not a science it is a tool—herein a legal tool to dissect Hawaiian life under a claim of objectivity. No, “sacred” does not express the meaning or Kaona of Mauna Kea to Hawaiians. The western mind cannot grasp the place that Mauna Kea occupies in the world of Hawaiians—unless the westerner fully enters that world. Translations into English form the Hawaiian do not reflect the despair and cultural destruction to which building a stadium-sized telescope on Mauna Kea is to a Hawaiian. The ideas of “sacred” are vastly different between cultures—the word “sacred” does not convey the meaning of Mauna Kea.

The west, particularly America, celebrates places of sacrifices—not places of life—it celebrates places of sacrifice—such as Calvary or Golgotha, Iwo Jima and Pearl Harbor. Americans are moved to “remember the Alamo,” “Remember the Maine,” and “Remember Pearl Harbor.” Hawai’i was annexed, in the minds of Americans, not by any act of Congress by the sacrifices of American lives at Pearl Harbor. It is inconceivable that a monster such as TMT would be built on Arlington cemetery, on Gettysburg, on the cemeteries at Normandy, or anywhere near the Arizona memorial.

War and sacrifice for war has made America. It made Hawai’i America in the eyes of many. After Pearl Harbor Hawai’i was forever part of the United States. Whether the territory of Hawai’i was really America—or thought of as America by many, Hawai’i became America—for only the bombing of America itself could raise the furor that led to entry into World War II. No matter its status or its distance from America Hawai’i had to be America after Pearl Harbor. Hawai’i was as American as the Alamo—which was not part of America during that last stand. America does not have “sacred” mountains—it has sacred crusades—crusades for territory—and in the case of TMT for the conquest of the universe—of the unknown.

The Hawaiian world celebrates the living. The “life of the Hawaiian people” is the aina—and there is no aina more central to the affinity created by Papa and Wakea—namely that land and people are family—are sibling all the children of Papa and Wakea. To build TMT on Mauna Kea is simply does not exist within the Hawaiian world. Such a desecration is unthinkable when Japanese think of Mount Fuji. The difference is simply that the United States took Hawaiian land and Hawaiian sovereignty—the power of Hawaiians over their lands and revered places.

By the laws of the United States and the State of Hawaii Mauna Kea is not within the boundaries of the State. As incredible as that may sound the County of Hawaii could not prove that a defendant, who was arrested for trespass in protecting Mauna Kea, was in the State, and within the County of Hawaii when arrested. This defect was proved when I represented a protector charged with trespass—prove that the State of Hawai’i, its District Court covering Mauna Kea had jurisdiction over the summit Mauna Kea. Prove that Mauna Kea is within the State of Hawai’i. The county and the prosecutor had the burden of proof. Their expert witnesses had never seen the boundaries of Hawaii—never read them. These expert witnesses could say nothing more than “of course Mauna Kea is in the County of Hawaii—everyone knows that.” [The court transcript is attached as appendix A] Shortly thereafter, all charges against all protectors were dropped.
America can never escape the fact that there was no treaty acquiring Hawaii. The joint resolution thus states that the United States shall give itself the crown and government lands. There is no deed, grant or consent by which the Republic of Hawaii in 1898 gave the public lands, now the ceded lands to the United States.

Thus, the deeds held by the University of Hawai'i to Mauna Kea are as useless as a blank paper. They are monuments to the continuing deception—an American myth greater than any that is Hawaiian, that the State has title to the ceded lands of Hawai'i. Just do a title search—there is a break, a permanent break—and glaring and unmistakable break in the year 1898. There is no document, law or reason explaining how the United States received good title. [Earlier Testimony before the Board of Regents presenting this claim is attached as Exhibit B]

The destruction of the Hawaiian world must stop here. Rules facilitating TMT cannot be justified here. These are rules that clear a pathway for TMT—that ultimate goal cannot be justified by opinion polls, or establishing STEM programs, or finding Hawaiian students who are interested in astronomy. Some issues are simply beyond opinion polls, money, bolstering the economy or prestige. The act of proceeding with these rules and proceeding with TMT reflect the view that the Hawaiian people do not count—that their most sacred place does not have value. In this matter—it is only a question of dotting the “i’s” and crossing the “t’s” and when done the university shall have its TMT.

The plight of Samuel Kaleikoa Kaeo, a Native Hawaiian Professor, in a Maui Court demonstrates what building on TMT would mean. He sought to speak Hawaiian and only Hawaiian in a Maui State Court. In insisting on being Hawai'i—in Hawai'i—the Court treated his refusal to acknowledge the English language by declaring him—right there, in front of the judge, to be absent, to be not there, to not exist. The non-existence of Hawaiians—as has the non-existence of indigenous people—despite their real and actual presence, despite their cultures and nations full equal to that in Europe, made them legally invisible—so much so that their lands were deemed uninhabited and for the taking.

Uninhabited lands were declared terres nullius—occupied by no one under European law. When Hawaiians are invisible—when Hawaiian culture is invisible—when the connection of Hawaiians to Mauna Kea is deemed a “cultural” claim, a “religious claim,” and not seen in its reality from a Hawaiian world-view, a welterschuang Mauna Kea is terres nullius—open to exploitation. That is far from the truth—the soul of everything Hawaiian emanates and exists in Mauna Kea—but not in a way that the West can understand—not in a way that above where western eyes only notice—and not in the way the west claims to see so clearly.
Part II. Mauna Kea is not just another University Facility

Williamson B.C. Chang

Re: Testimony of Williamson B.C. Chang, Professor of Law at the William S. Richardson School of Law, University of Hawai‘i at Manoa on Proposed Rules of the University of Hawai‘i Regarding Public Access to Mauna Kea.

I. The university has demonstrated that it is incapable of 1) managing Mauna Kea; and 2) cannot safeguard the concerns of Native Hawaiians as to the value of Mauna Kea

The record of the University of Hawaii as to the management of the Mauna Kea summit has been dismal. This is clear from the reports of the legislative auditor in 2005:

We found that the University of Hawaii’s management of Mauna Kea Science Reserve is inadequate to ensure the protection of natural resources. The university focused primarily on the development of Mauna Kea tied to the benefits gained to its research program. Controls were outlined in the management plans that were often late and weakly implemented. The University’s control over public access was weak and its efforts to protect natural resources were piecemeal. The university neglected historic preservation, and the cultural value of Mauna Kea was largely unrecognized. Efforts to gather information on the Weiku bug came after damage had already been done. Trash from construction was cleaned up only after concerns were raised by the public. Old testing equipment constructed in the early years of development has not been removed as required by the lease agreement.

This critique is devastating, particularly as it is the second legislative auditor report on university management of Mauna Kea. It is thus clear that the university has engaged in a deliberate pattern and practice that ignores both the environment and cultural concerns regarding Mauna Kea. It is unbelievable that the University of Hawaii was so derelict as to the allow trash to accumulate on Mauna Kea. This reflects the university view that Mauna Kea has no significant value. It is impossible to view the university as committed to the protection of Mauna Kea as of unique value. It is also clear that the Department of Astronomy as well as the Lessees and vendors working on Mauna Kea had no desire to act to protect Mauna Kea—reflecting a lack of respect for Mauna Kea.

It is thus impossible to permit the University of Hawaii to police itself. It is not the public that needs regulating—it is the university. The university has recently boasted that it is the most beautiful university campus in the United States. Such a claim is incredulous and ludicrous. One only has to
look at the lack of maintenance on Manoa campus as proof that the University has no capacity for maintaining the structures on its main campus. The 2005 report of the Auditor reinforces proof that the university has no commitment to decent maintenance or even respect for the most spectacular of natural monuments in Hawaii.

I. The Rules reflect a fundamental failure of the university and the State of Hawaii as to comprehending the nature of the conflict as to the construction of TMT: The State and University cannot have singular legal control over Mauna Kea

The proposed rules reflect that the university does not comprehend the nature of the conflict over the summit of Mauna Kea. The protests over Mauna Kea are not baseless nor rest in a desire simply to obstruct government. The protests are based in a view that state government and university management are simply inappropriate for a site that is so unique and so important to the Hawaiian people. The protests are thus a protest over the governance of Mauna Kea—as the symbol of the abuse of imposition of the government and jurisdiction of the United States, the State of Hawaii and the University of Hawaii.

The question is not how the University of Hawaii and the State of Hawaii, through its Board of Land and Natural Resources can cure the harms already done, and planned to take place, on Mauna Kea. The question is whether the State, DLNR and the University have a legal, political and moral right to govern Mauna Kea in the first place. These rules are simply proposed regulations, most likely to be ignored, that replicate how the State manages it resources. These rules also reflect how the State and the University intend to continue the subordination of the rights of Native Hawaiians—as to the most important of all places to Hawaiian people. This action of the State is predictable—but wholly wrong.

The rules place in the President and his designee czar-like powers as to whom, when and how anyone other than university employees, affiliates of the university, the vendors and operators of the equipment on Mauna Kea may have access. The rules presume that Mauna Kea is akin to the Stan Sheriff Center, to Lyon Arboretum, or the dormitories on campus. The university assets rules, derived from a sense of parens patriae, that chill the rights of Native Hawaiians—and worst of all, consider Native Hawaiians to be simply part of a larger public.

The rules provide for commercial tours—as if Mauna Kea was equivalent to Diamond Head. These rules are simply the follow-up to the special access rules promulgated by DLNR solely to stop Hawaiians from the exercise of their rights in defense of their culture. Those rules were contested but put into place. DLNR employed armed guards to enforce those rules. Ultimately, those rules were retracted. Those rules had but a single purpose—to enforce the property rights the university claimed to the exclusion of all others. That property right has no basis in reality. If the State of Hawaii cannot show a valid chain of title to the lands of Mauna Kea—then the University of Hawaii, as a lessee has no rights either. If the University cannot show a valid chain of title then its pretense
that it has the right to exclude—on which these rules are based, is not only wholly flawed but reinforce the victimization of Native Hawaiians. Native Hawaiians have chosen to make their stand here—the rules themselves exhibit an arrogance and failure to learn.

1) Section 20-26-3 Applicability and Implementation

Why should the university, as well as its affiliated persons, and government entities not be subject to these rules? What rules govern the university? Where are they to be found? Why are they not being rewritten as these rules are proposed?

2) Section 20-26-7 Mauna Kea lands management special fund.

Why are these funds, and any revenues from Mauna Kea, not consider revenues from ceded lands?

3) Section 20-26-21 Traditional and customary rights:

Why are Native Hawaiian rights limited to only those that already exist under state law? What is meant by the terms “Traditional” and “customary?” What are these not defined in the definitional section.

4) Section 20-26-22 Preservation of resources:

Mauna Kea is not just another Stan Sheriff Center.

5) Section 20-26-24 Preservation of scientific and educational resources

Insensitive: Why nothing about preservation of Hawaiian values?


Strengthens the force of the above objection.

7) Section 20-26-41 Scattering of cremated remains

Should be reconciled with Hawaiian Burial Council powers.

8) Section 20-26-42 Interference with government function

Overbroad.

9) Section 20-26-43 Compliance with laws

Unnecessary—even under university control.

10) Section 20-26-61 General Provisions
Another reason why Native Hawaiians should have control—see Kahoolawe Commission.

11) Section 20-26-62 Group use permits

Why is this only applicable to groups over ten? What is National Park policy as to Hawaiian group access, fees charged to Hawaiians, and permission for religious reasons?

12) Section 20-26-63 Permits for public assemblies

Mauna Kea is clearly of special value to Hawaiians—they should not be subject to such extensive and limited access.

13) Section 20-26-64 Research permits.

Does this include astronomy? Does this override agreements made with existing observatories?

14) Section 20-26-64 Special use permits.

What persons or groups are contemplated as using special use permits? What would be a special use?

15) Section 20-26-64 Commercial tour activity permits

If Mauna Kea were a National Park—as it should have been designated in 1916—the University would not be given control of commercial tours. Why should Hawaiians be given power over this aspect of Mauna Kea?

16) Section 20-26-64 Commercial film and recordings

Why should the university, without Native Hawaiian input, have control over commercial films and recordings—should the next “Jurassic Park” or “Aloha” be permitted over Native Hawaiian objections?
Exhibit A

Exhibits Attached to the Testimony of Williamson B.C. Chang Professor of Law at the William S. Richardson School of Law, The University of Hawaii at Manoa, September 25, 2018 on Proposed Rules of the University of Hawaii regarding Public Access to Mauna Kea

Exhibit A

Extract from the Transcript of County of Hawaii v. Ioane Jr., October 15, 2015
MR. CHANG: Can I just make a comment?
THE COURT: You can make.
MR. CHANG: Okay. Well, you did deny the motion to dismiss, but the motion to dismiss went to the jurisdiction of the Court. It didn't go to the ability -- whether or not the prosecution had proven or was proving in this case beyond a reasonable doubt that they knew that he was within the State of Hawai'i. In other words, one issue is this Court's jurisdiction. We settled that. You have jurisdiction.

The question is the prosecution and the police officers' jurisdiction. Do they -- do they know it? How do they know it? And, um, was -- did they act in a way that's consonant with acting beyond a reasonable doubt?

THE COURT: All right. Miss Bailey?
MS. BAILEY: Your Honor, again the State objects. It's argumentative and this issue's been settled.

THE COURT: I believe, um, in your pre-trial motion we did address whether or not the State of Hawai'i exists or not, and while you --
MR. CHANG: I --
THE COURT: -- disagree with --
MR. CHANG: I didn't disagree with you. I said the State of Hawai'i does exist. Uh, the question is we've never discussed the statute that defines the boundaries of the State of Hawai'i, and our --

THE COURT: All right.

MR. CHANG: -- defense is the defendant was not within the boundaries as defined in the Hawai'i State Constitution.

THE COURT: And I believe that was part of your argument at that point also.

MR. CHANG: It was, um, and we asked you to take judicial notice of the Hawai'i State Constitution.

THE COURT: All right. I'm going to sustain the objection. Let's move on.

MR. CHANG: That's all.

THE COURT: Any --

MS. BAILEY: No further questions --

THE COURT: -- redirect?

MS. BAILEY: -- for the Captain. Thank you very much.

THE COURT: You're excused.

THE WITNESS: Okay.

(The witness was excused at 2:13:45 p.m.)
MS. BAILEY: Your Honor, at this time the
State calls Officer William Brown to the stand.

THE CLERK: Please remain standing and
raise your right hand.

Do you solemnly swear that the testimony
you shall give in this matter before this Court to be
the truth, the whole truth and nothing but the truth?

THE WITNESS: I do.

THE CLERK: Thank you. You may be
seated.

WILLIAM BROWN,
called as a witness by the State, first having been
duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BAILEY:

Q. Good afternoon, Officer. Can you please
state your name and spell your last name for the
record?

A. William Brown. Last name Brown like the
color, B-R-O-W-N.

Q. And, Officer, what is your occupation?

A. I'm a community policing officer in Puna
District.

Q. And who is your employer?

A. Hawai'i County -- Hawai'i Police
Department.

Q. And, Officer, were you employed and on duty on April 2nd, 2015?
A. Yes.

Q. And as part of your duties and assignment on that date did you process individuals that had been placed under arrest, um, on -- from Mauna Kea Access Road?
A. Yes.

Q. And do you recall processing an individual transported from Mauna Kea Access Road by the name of Kelii Ione [sic]?
A. Yes.

Q. And if you were to see him again would you be able to recognize him?
A. Yes.

Q. And if he's seated in this courtroom can you describe where he's sitting and an article of clothing he's wearing?
A. He is seated next to the gentleman in the black suit wearing a white T-shirt with the words "Kapaloa" on it.

MS. BAILEY: Your Honor, may the record reflect that the officer's identified the defendant as Kelii Ione [sic]?
THE COURT: It will.

Q. (By Ms. Bailey) And, Officer, how did you learn, um, that this individual that you just identified, um, went by the name of Mr. Kelii Aone [sic]?

A. During the process, um, the booking process we ask for information such as name of the --

Q. And did he --

A. -- individual.

Q. -- provide his name to you?

A. Yes.

MS. BAILEY: Okay. No further questions for the witness. Thank you.

THE COURT: Cross-examination?

MR. CHANG: Uh, nothing from the defendant.

THE COURT: All right. You may step down, sir.

THE WITNESS: Thank you, ma'am.

(The witness was excused at 2:16:02 p.m.)

MS. BAILEY: Thank you, Officer.

Um, Your Honor, at this time the State would call Mr. Brandon Cain to the stand.

(The defendant and counsel held a discussion off the record at 2:16:15 p.m.)
THE CLERK: Would you raise your right hand?

You solemnly swear that the testimony you shall give in this matter before this Court shall be the truth, the whole truth and nothing but the truth?

THE WITNESS: Yes.

THE CLERK: Thank you. You may be seated within that box.

BRANDON CAIN, called as a witness by the State, first having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. BAILEY:

Q. Good afternoon. Can you please state your name and spell your last name for the record?

You can have a seat and just so you know that little box in front of you is a recording device and you are being recorded.

A. Okay. Uh, Brandon Cain. I work for the County of Hawai'i. I'm a property appraiser.

Q. Okay. And how long have you been in this -- or how long have you been in this position?

A. A little over two years.

Q. And are you a part of the -- do you work for the County of Hawai'i in the Real Property

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STATE OF HAWAII
Division?

A. Yes.

Q. Okay. And as part of your duties, um, within the Real Property Division are you familiar with state tax maps?

A. Yes.

Q. And do state tax maps designate divisions within Hawai'i County?

A. Yes.

Q. And about how many divisions are there?

A. Nine.

Q. And is Hamakua one of these divisions?

A. Um, yes.

Q. And which zone number represents or are -- are the -- are the nine divisions represented by zone numbers?

A. Yes.

Q. And which zone number represents the Hamakua District?

A. Four.

Q. And, Mr. Cain, are you familiar with certified documents?

A. Yes.

Q. And what is a certified document?

A. Uh, they're documents from our office.
been unaltered, and they just -- they are what they say they are.

Q. Okay.

MS. BAILEY: Your Honor, at this time I'd like to approach the witness with what's marked as State's Exhibit 1 as well as State's Exhibit 2, and I am showing opposing counsel. These have been provided to him although not in quite the enlarged form they are today.

Okay. May I approach the witness?

THE COURT: You may.

Q. (By Ms. Bailey) So, Mr. Cain, um, as to Exhibit 1 what is this exhibit?

A. Um, it's the overall view of Zone 4 on the Big Island.

Q. And Zone 4 again is the Hamakua --

A. Oh.

Q. -- Hamakua District?

A. Correct.

Q. And is this a certified copy of the State tax map for Zone 4?

A. Yes.

Q. And now moving on to State's Exhibit Number 2 can you describe for the Court what this exhibit is?
A. Uh, it's a -- a zoomed-in, uh, view of, um, Plat 15 within Zone 4, Section 4.

Q. And is this all -- is this also a certified copy of that particular map?

A. Yes.

MS. BAILEY: Your Honor, at this time the State would, um, move to place Exhibits 1 and 2 into evidence pursuant to the Rule 92 of the Hawai'i Rules of Evidence.

THE COURT: Any objection, Mr. Chang?

MR. CHANG: No.

THE COURT: All right. State's 1 and 2 are admitted.

(State's Exhibit Numbers 1 and 2 were received into evidence.)

MS. BAILEY: And, Your Honor, may I approach the witness --

THE COURT: You may.

MS. BAILEY: -- to mark those exhibits and --

And, Your Honor, at this time, um, because I wasn't sure how Your Honor would like to do this because those are certified documents I also have what's marked as State's Exhibit 1-A and as well as State's Exhibit 2-A which are exact replicas. And I'm
showing opposing counsel. May I approach the witness
with these?

THE COURT: You may.

MR. CHANG: They're exact replicas?

MS. BAILEY: Right.

MR. CHANG: Oh, okay.

MS. BAILEY: May I approach?

THE COURT: You may.

Q. (By Ms. Bailey) So, Mr. Cain, I've just shown you what's marked as State's Exhibit 1-A. Can you describe for the Court what this is?

A. It's, um, an overall view of the Hamakua District, Zone 4.

Q. And is this a fair and accurate copy of what you just observed as Exhibit 1?

A. Yes.

MS. BAILEY: Okay. And, Your Honor, if I may I approach, um, the witness with a Sharpie so that he can actually make marks on that map?

THE COURT: You may.

MS. BAILEY: Mr. Cain, um, using the Sharpie that I just gave to you can you please indicate or please trace using a solid line on State's Exhibit 1-A, um, the boundaries of the Hamakua District?
(Counsel held a discussion off the record at 2:21:55 p.m.)

Q. (By Ms. Bailey) So, Mr. Cain, is it fair to say that everything within the solid marking, the solid tracing that you just made is the Hamakua District?

A. Yes.

Q. Um, and but for those markings that you just made is that a fair and accurate copy of, um, State's Exhibit 1?

A. Yes.

MS. BAILEY: Your Honor, at this time the State would move to place, um, Exhibit 1-A into evidence.

THE COURT: Any objection?

MR. CHANG: Uh, may I take a look, please?

THE COURT: Yes. You should probably retrieve it from the --

MS. BAILEY: Hmm?

THE COURT: You should probably retrieve it from the --

MS. BAILEY: Okay.

THE COURT: -- so you can both look at it 'cause you haven't seen it since he marked it.
MR. CHANG: This is your black marks. Correct?

MS. BAILEY: Sir, I'm gonna bring this back to the table so we can (Inaudible; low recording volume). Again, Your Honor --

THE COURT: All right.

MS. BAILEY: -- the State would move to place Exhibit 1-A into evidence.

THE COURT: Any objection?

MR. CHANG: Uh, no, but I'd like to question him on it.

THE COURT: You'll have a chance to cross-examine him. All right. State's Exhibit 1-A is admitted.

(State's Exhibit Number 1-A was received into evidence.)

Q. (By Ms. Bailey) Mr. Cain, moving on to State's Exhibit 2-A can you describe what this is?

A. Uh, it's a zoomed-in, uh, picture of, uh, Zone 4, Hamakua District, Section 4, Plat 15.

Q. And is Exhibit 2-A a fair and accurate copy of what you just observed as State's Exhibit 2?

A. Yes.

Q. And using the -- the Sharpie again can you indicate -- using again a solid line can you mark
the -- the district boundaries for Hamakua.

A. It -- it does go off the map, but I can trace what the boundaries are shown.

Q. On that map? Okay. Um, are you finished?

A. Yes.

Q. Okay. Um, Mr. Cain, does Exhibit 2-A also show Mauna Kea Access Road?

A. Yes.

Q. And using the Sharpie can you please this time using dots can you place dots following Mauna Kea Access Road up to the summit.

And, Mr. Cain, does Exhibit 2-A also show where the Mauna Kea Visitor's Center is located?

A. Yes.

Q. And using the Sharpie again can you draw an arrow to the location of the Mauna Kea Visitor's Center and then also write next to that line where the arrow begins that you're pointing to the Visitor's Center.

And but for your markings on Exhibit 2-A is this a true and accurate copy of State's Exhibit 2 that you looked at prior?

A. Yes.

MS. BAILEY: Your Honor, at this time the
State would move to place Exhibit 2-A into evidence.

THE COURT: All right.

MR. CHANG: May I inspect?

THE COURT: Do you wanna see it?

MS. BAILEY: May I collect?

THE COURT: Yes. She's gonna retrieve it and bring it back to you.

MR. CHANG: So he drew the darker ones, too. Right?

MS. BAILEY: Hmm?

MR. CHANG: He drew these, too. Right?

MS. BAILEY: Yeah.

MR. CHANG: Okay.

MS. BAILEY: These -- the solid ones are the district line.

MR. CHANG: Okay.

THE COURT: Any objection?

MR. CHANG: No.

THE COURT: All right. State's Exhibit 2-A is admitted.

(State's Exhibit Number 2-A was received into evidence.)

Q. (By Ms. Bailey) So, Mr. Cain, based on your training and experience as well as your examination of the state tax maps, the area fronting

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STATE OF HAWAII
the Visitor's Center is located in which division?
   A. The Hamakua District.

MS. BAILEY: Okay. No further questions for the witness. Thank you.

THE COURT: Cross-examination?

CROSS-EXAMINATION

BY MR. CHANG:

Q. Um, Mr. Cain, could you restate, please, the title of your job?
   A. I'm a real property appraiser.
   Q. Real property appraiser for the County of Hawai'i?
   A. Correct.
   Q. And how long have you been in that job?
   A. A little over two years. About 26 months.
   Q. Twenty-six months. Um, what was your prior training before you took that job?

MS. BAILEY: Objection. It's outside the scope and it's irrelevant.

THE COURT: All right. Sustained.

Q. (By Ms. Bailey) Um, how did you develop the skill and expertise to be able to mark these maps and identify these districts?
   A. Uh, I received training upon -- upon hire
to identify parcels in my zone.

Q. Okay. Is it your contention that Hamakua District as you drew it on the map is within the State of Hawai'i?

A. Yes.

Q. And how do you know that?

MS. BAILEY: Objection. Again this is outside the scope.

THE COURT: I'm gonna allow him to answer. Go ahead.

THE WITNESS: Um, it's -- it seems reasonable that it's in the State of Hawai'i.

Q. (By Mr. Chang) And you're saying it's reasonable why?

A. Because, uh, this island is -- is part of the State, and -- and my job is to assess on the island.

MR. CHANG: Your Honor, may I approach the witness with, um, the Hawai'i State Constitution, Section 1 of Article 15 which is, I'm gonna show opposing counsel, state boundaries.

MS. BAILEY: Your Honor, State would object at this point.

THE COURT: All right. And I'm going to disallow it.
MR. CHANG: And what's the reason for that?

THE COURT: It's, um, part of this argument was part of the pre-trial motion, and, um, I'm not going to allow you to relitigate decisions that I have already made.

MR. CHANG: Uh, I'm not relitigating it. I'm trying to establish how the witness knows -- has a reasonable belief what is the boundaries of the State.

THE COURT: Well, he's testified as to what his reasonable belief is.

MR. CHANG: I don't believe --

THE COURT: Whether you believe him or not is not relevant.

MR. CHANG: So you don't want me to -- you're not gonna allow me to present the Hawai'i State Constitution as a -- to refresh or to help the witness recall what the boundaries of the State of Hawai'i are?

THE COURT: How is that relevant to his testimony here and his --

MR. CHANG: He -- he did make a statement that the District of Hamakua is in the State of Hawai'i.

THE COURT: And he said his belief is
because the -- this island is part of the State of Hawai'i. That's his testimony.

MR. CHANG: Well, I'd like him to point out how in the definition the word "Hawai'i Island" appears.

THE COURT: Mr. Chang, that was part of your argument in the --

MR. CHANG: I don't think it was.

THE COURT: -- pre-trial motions. I believe it was.

MR. CHANG: I didn't argue Hawai'i Island.

THE COURT: Well, I'm not going to argue what your memory was and what my memory was. I'm not going to allow it at this point in time. You can believe or --

MR. CHANG: I renew that request as to the Act of Admission by which Hawai'i was admitted as a State and Section 2 of the Act of Admission, which is a compact between the state and federal government defines the area and territory of the State of Hawai'i.

THE COURT: I'm not going to allow you to relitigate arguments that were made either through your memorandums or through your argument at the
THE COURT: All right.

THE DEFENDANT: No more questions.

THE COURT: Any other questions?

MR. CHANG: No.

THE COURT: All right. Redirect?

MS. BAILEY: No. No further questions, Your Honor. Thank you very much.

THE COURT: You may step down, sir.

Thank you very much.

THE WITNESS: Thanks.

(The witness was excused at 2:31:58 p.m.)

MS. BAILEY: So, Your Honor, at this point the State would move to continue this trial so that we can have, um, our last remaining witness have an opportunity to testify.

THE COURT: All right. Look at my schedule here. Do you know when your witness is going to be available?

MS. BAILEY: Um, he's gonna be available, Your Honor, as soon as next week, and I did confirm with him. He does not have any, um, prior obligations for the next two months.

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THE COURT: There's three set on the 5th of November. There's two set on the 19th of November, one non, um, Mauna Kea case, and two set on December 3rd at 1:00. Um, November 19th then at 1:00.

MR. CHANG: Uh, November 19th or that December 3rd looks good.

THE COURT: Um.

MR. CHANG: November 19th at 1:00 looks good.

THE COURT: November 19th at 1:00.

MR. CHANG: Okay.

MS. BAILEY: Thank you, Your Honor, for accommodating --

THE COURT: All right.

MS. BAILEY: -- the request for continuance.

THE COURT: Mr. Ioane, you are ordered to return November 19th, 1:00.

THE DEFENDANT: Okay.

THE COURT: Thank you.

MS. BAILEY: And, Your Honor, may I, um, have permission to release my witnesses?

THE COURT: You may release your witnesses, and actually I'm gonna take a short break --
MS. BAILEY: Okay.

THE COURT: -- before we call the next case.

THE CLERK: All rise.

(End of recording at 2:33:44)

--00o--
CERTIFICATE FOR COURT-APPROVED TRANSCRIBER

STATE OF HAWAII   
COUNTY OF HAWAII   

I, CAROL KANESHIGE, approved transcriber for the Judiciary, State of Hawai'i, do hereby certify that the foregoing pages, 1 - 45, contain a true and accurate transcript of the proceedings had in connection with the above-entitled cause and was transcribed by me to the best of my ability from the electronic recordings furnished to me identified as follows:


Dated at Hilo, Hawai'i, this 30th day of October 2015.

______________________________
CAROL KANESHIGE, CSR 140

CAROL S. KANESHIGE, CSR, RPR, RDR
OFFICIAL COURT REPORTER, THIRD CIRCUIT COURT
STATE OF HAWAII
Exhibit B

Exhibits Attached to the Testimony of Williamson B.C. Chang Professor of Law at the William S. Richardson School of Law, The University of Hawaii at Manoa, September 25, 2018 on Proposed Rules of the University of Hawaii regarding Public Access to Mauna Kea

Exhibit B

Testimony of Professor Williamson Chang at the April 16, 2015 meeting of the Board of Regents on the Management of the Mauna Kea Science Reserve [with an attachment]
The Testimony in Person of Williamson B.C. Chang, Professor of Law, April 16, 2015

[Professor Chang will appear in person at the meeting of the Board of Regents]

Meeting of the University of Hawaii Board of Regents
University of Hawai‘i at Hilo
UCB 127, Ho‘olulu terrace
200 W. Kawili Street
Hilo, Hawai‘i 96720
Fax Number: (808) 956 5156

April 15, 2015

Re: The Management of the Mauna Kea and the Mauna Kea Science Reserve; Testimony of Professor Williamson B.C. Chang, Professor of Law, William S. Richardson School of Law, University of Hawai‘i at Manoa

Honorable Board of Regents:

I have had the honor and pleasure to serve as a Professor of Law at the University of Hawai‘i for the last 39 years. I have served the University and the community well. I am also grateful for the opportunity to serve and work in the University.

Let me start by saying this:

I know a place, I know a country where there would never be a question whether to build an eighteen-story thirty meter telescope on the summit of Mauna Kea. That country, that nation is “Hawai‘i.”

Before 1893, it would have been unthinkable that the Government of the Kingdom of Hawai‘i would ever conceive of such a plan. Yes, Kalakaua loved astronomy. All Hawaiians loved the stars. However, they loved Mauna Kea even more. Mauna Kea is “sacred” it is the Sky-Father it is the essence, the beginning of the creation chant of the Hawaiian people. All Hawaiians, all Islands, even Taro are descendants of Mauna Kea.

When I say “Mauna Kea” is sacred, I do not mean use “sacred” the way most people use that term. I mean “sacred” not in the same sense of worship. I use “sacred” in the sense of “precious” and “so important that nothing else counts”---I apply it to those things and people that we care so much about that we would do anything, even flout and break the law, to preserve their existence.

The child of a parent, especially a young child is “sacred” in this sense. So are parents to their children. So are grandparents. Even the family pet is “sacred.” If your house was burning down would you risk your life to go into the burning house to rescue your children, your mother, your grandparents, even your beloved dog or cat? Would you go even if forbidden by first responders, firemen or policemen? Yes, many of us would go without hesitation--without thinking of the consequences. Would you give a kidney to save or extend the life of your child, your brother, your uncle? Would you spend all of your money to save a loved one from cancer? from Lou Gehrig’s disease or from a life in prison without parole? Yes, we all would.
Moreover, we praise such emotions and desires of others who make such sacrifices every day. We understand the soldier who sacrifices himself by instinctively jumping on a grenade. We understand the parent or grandparent who gives all their money to see their child or grandchild through college.

Whether one worships Mauna Kea or not, whether one considers it “sacred” does not matter as much as understanding the instincts that drive those to defend and save Mauna Kea—much as one would understand the absolute love for a child, or a parent even if such acts break the law.

When we see the instinct of family, of brotherhood, of sisterhood of love for mankind in others we celebrate that—we gravitate to that. We love and defend Mauna Kea because it reminds us what makes us human. Sacred is not necessarily a place. It is a relationship, a deep visceral relationship: beyond reason, beyond law, beyond rationality.

The Mauna Kea movement is a movement that has grown because of young people. They live in new confusing world themselves—a world of cognitive dissonance. That is they live within an outright contraction—a Hawaii in decline where there is nothing they can do. They see their world being attacked and destroyed, is water taken, its plants doused with foreign chemicals, its agricultural lands disappear in the name of gentlemen farmers, its open lands used for artillery practice, and its shoreline becoming high-end condominiums that only rich foreigners can afford.

Moreover, to the young, Hawaii is unlivable, there is no viable future: There are no places to rent, no jobs that fit their training, no money for retirement and the endless, life-sapping traffic congestion. And now an eighteen story telescope on Mauna Kea!

It would never be built on other sacred sites: not over the Western Wall, the Dome of the Rock, Angor Wat, Gettysburg, Arlington, or the Arizona Memorial? No one would think of putting a pair of glasses on the eyes of God. Why then, Mauna Kea? We, and our youth are inundated today with the attacks on the treasures of the earth and why?

So, what happened to this “nation” called Hawaii, where Mauna Kea was loved and adored? Hawaii was a nation, that by a series of events, starting with an overthrow in 1893 and ending with annexation in 1900, by which another nation, the United States, forcefully took the sovereignty of Hawaii.

What do I mean by that?—to take one nation’s sovereignty? Sovereignty is the monopoly of a government on the legitimate use of violence.

By that I mean the State, the police and DLNR are the only ones today who can do so-called “legal” violence to Mauna Kea. Similarly, the police of Hawaii County and the officers DLNR are the only ones who can use the violence of arrest and jail or fine to force down the protectors of Mauna Kea. Protect the mountain and you go to jail. It is legal. It is called law. It is a power possessed only by the sovereign of a nation. There once was a time in Hawaii when that monopoly on the use of legal power protected not defiled Mauna Kea.

In 1893 and 1900 a new Nation took over in Hawaii—a new nation with new rules. These were new rules that had the power to interfere with our very human, emotions and instincts, instincts
derived over time from our kupuna, our ancestors and the culture of this nation of Hawaii. Hawaii has changed.

Today, government has the legitimate power to do violence to families as well. Government agencies can take a child away from a parent. Government agencies can put a Hawaiian in prison for the smallest of offenses—denying him or her freedom and the chance to be with and raise their families. The world of Hawaii has been turned upside down.

The answer lies in power, that is law—the shift over their lives by which all is reversed. In 1898 the United States, by Joint Resolution took the nation of Hawaii. I am a legal historian. In the appendix attached I show my work—that concludes definitively that the joint resolution had no such power. It was impotent, it was an act of Congress not a treaty. It could no more take Hawaii by a law then Hawaii by a law could take America.

It was a fraud—in created a disease that spread, a malaise we all suffer—called the myth of annexation. We all believe we are part of America, we all act as if that were true. We have been taught that way. We follow the lead of others who act that way.

The truth is that the joint resolution did not give to the United States the monopoly on the use of legitimate violence—a violence to build on Mauna Kea, the violence to arrest those who seek to stop that building. Most of all the University claims Mauna Kea by lease—a lease derived from the Joint Resolution.

It is said that the Joint Resolution gave Mauna Kea to the United States, which gave it to the State, which gave it to the University. As a matter of law that is false. It is a lie. The University has no power over Mauna Kea. It cannot build, it cannot give permits, it cannot arrest us.

The mass of young people are here today in protest because live in a world of cognitive dissonance. They live in a world where they are learning, at the University about the truth of the Joint Resolution, which gives no power, no sovereignty to the state. Outside of their classes they see the State taking what they love—preventing them from running into the burning house to save their Mauna Kea, their father, their sky-father.

And this dissonance makes them ill. It makes our youth sick. It is a crisis that creates mental illness. In short, to build on Mauna Kea is to cast a sickness throughout these islands, a sickness and sadness, not only on Native Hawaiians but on all people who live here.

I have included an appendix, taken from my work, which speaks to the myth of annexation and demonstrates that the Joint Resolution had no capacity to take the Nation of Hawaii. I will place this testimony and my appendix on my “Scholar Space” at Hamilton Library, the University of Hawaii at Manoa, under my name. This is the link to that site:

Mahalo and Mahalo Ke Akua.

Williamson Chang  
Professor of Law  
University of Hawai‘i at Manoa  
William S. Richardson School of Law
IN THE MATTER OF
Contested Case Hearing
Re Conservation District Use
Application (CDUA) Ha -33568
for the Thirty Meter Telescope
at the Mauna Kea Science Reserve, Ka'ohe Mauka, Hamakua,
Hawai'i, TMK (3) 4-4-015:009)

) CASE No. BLNR-CC-16-002
) WRITTEN DIRECT TESTIMONY
) OF WILLIAMSON B. C. CHANG
) AS TO APPLICANT'S LACK OF
) TITLE TO THE SUMMIT
) OF MAUNA KEA AND THE LACK OF
) TERRITORIAL SUBJECT MATTER
) JURISDICTION OF THE BOARD OF
) LAND NATURAL RESOURCES TO
) ISSUE THE PERMIT
) CONTESTED CASE HEARING
) DATE: October 18, 2016
) TIME: 9:00 a.m.
) HEARING OFFICER: Hon.
) Riki May Amano (Ret.)

WRITTEN TESTIMONY OF WILLIAMSON CHANG

I. The Critical Preliminary Issue is Whether or not the State, by its Board of Land and Natural
Resources has Territorial Subject Matter Jurisdiction

There are two preliminary issues that must be resolved. Although such issues are not
listed in the Amended Notice of Contested Case Hearing, See Order of Hearings Officer Hon.

1 See Chang, Darkness over Hawaii: Annexation Myth Greatest Obstacle to Progress," 16
http://blog.hawaii.edu/aplpj/files/2015/09/APLPJ_16_2_Chang.pdf_[Last checked April 8,
2016 750pm]
Judge Riki May Amano, (Ret.), October 5, 2016. Such issues are always in issue in any legal proceeding, whether a judicial or administrative proceeding of this nature. The first issue is thus whether or not the adjudicative body, in this case, the Board of Land and Natural Resources, by this Contested Case proceeding, as authorized under the Rules of the Board of Land and Natural Resources, has territorial subject matter jurisdiction. Since this is a proceeding as to an incident of the use of land on the Island of Hawaii, whether or not the BLNR has jurisdiction over the summit of Mauna Kea, TMK (3) 4-4-015:009 there must be territorial subject matter jurisdiction or any judgment is void ab initio. This statement contends that the Board does not have such subject matter jurisdiction because Mauna Kea is not within the jurisdiction of the State of Hawaii as defined by federal and state law. The territorial boundaries of the State of Hawaii set forth in three state and federal laws. The first law defining the boundaries of the State of Hawaii was Section Two of the Admission Act, An Act to Provide for the Admission of the State of Hawaii into the Union, Pub. L. 86-3. Said section states that:

The State of Hawaii shall consist of all the islands, together with their appurtenant reefs and territorial waters, included in the Territory of Hawaii on the date of enactment of this Act, except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters, but said State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (off-shore from Johnston Island), or Kingman Reef, together with their appurtenant reefs and territorial waters.

2 Durfee v. Duke, 375 U.S. 106 (1983) ("The Nebraska court had jurisdiction over the subject matter of the controversy only if the land in question was in Nebraska. Whether the land was Nebraska. . .." Stewart, J.)

3 This language may seem quite obtuse and contrived, and it is. Congress, and in particular, the Senate Committee on Interior and Insular Affairs was well aware of the defective nature of the Joint Resolution.

In 1954 the committee was given a report from the Congressional Research Service providnig knowledge that there has been strong doubt over time as to very capacity of a joint resolution to acquire any territory, including the Hawaiian Islands.

Moreover, the committee was undoubtedly aware of the vehement objections to the capacity of the joint resolution made during the Senate debate in 1898. Such statements were public and in the Congressional record. Any suspicions were further aggravated by the territorial boundary brought before the Senate Committee on Interior and Insular affairs in 1953 by the representatives of the Hawaii Statehood Commission.

The Hawaii Statehood Commission, and its chair, Mr. C. Nils Tavares, a former Attorney
General of the Territory could not explain the imprecision used in the proposed state constitution to define the boundaries of the new state. Whereas other states and territories were always defined as precisely as possible, by metes and bounds, or longitude and latitude, or lines running from natural monuments or existing political boundaries, the proposed description of the boundaries brought forth by Mr. Tavares was pitiful.

The explanations for this simplistic description of Hawaii, which provided no positive means of determining the dominion of the future state were equally weak and unpersuasive. For months, during the Spring of 1953, Congressmen and Senators hammered away at Mr. Tavares feeling that the people of Hawaii were insulting Congress with their simplistic proposal.

Those congressmen and senators did not know, however, that the defect in the description of the boundaries of the Territory of Hawaii, when brought forth in 1953, were the result of the failure of the United States to ratify the treaty of 1897 with the Republic of Hawaii. Lacking a treaty, there was no agreed description as to the lands and waters that had been turned over, if such had occurred to the United States. Much like many others, the congressmen and senators assumed that the Hawaiian Islands had been acquired by a treaty. All territory acquired by the United States subsequent to the Revolution had been acquired, in some sense or the other, by a treaty, even if the treaty constituted a peace treaty concluding a war. Many people make the same assumption today that Hawaii was somehow acquired by a treaty or agreement. It was not.

The 1953 Congress and the Senate Committee on Interior and Insular Affairs would learn that there was no treaty and that Hawaii had been supposedly acquired by a joint resolution, a mere act of Congress. Lacking a mutual treaty, the United States was in the position of an interloper. The United States was like a person who had found a bicycle on the roadside, not bought one. The United States like the "finder" had no papers to prove ownership. And having no such papers, it could not, of course, prove that what it claimed and had actually been acquired by a mutual contract, or, in this case a treaty. The legislative history thus reveals that it became clear at this point in time, to only a certain few senators and congressmen that this was a unique case. The United States had been claiming Hawaii as territory of the United States without any legal basis. When researched, it became clear that there was a huge objection in 1898 to claiming Hawaii by a joint resolution. The Senate Committee asks for a report on this very point. They received a report from Charles Tansil, of the Congressional Research Service, which cited to scholars and others who doubted the power of a joint resolution to acquire any territory, let alone, that of Hawaii. This was news to many senators and congressmen. It was bad news. The United States was in the midst of the cold war with the Soviet Union. The United States could never reveal the secret that it had occupied the Hawaiian Islands since 1898. In the heightened political tension of the Cold War the United States was purportedly the ideal of democracy and fair play. It was, in the eyes of Americans, the Soviets who conquered, undermined, or intervened in the national affairs of other sovereign nations in violation of the law of nations.

Thus, at one point a confused United States went before the United Nations and admitted Hawaii was a colony, volunteering to place Hawaii on the list of non-self-governing territories maintained by the United Nations. In time, this policy would change and all efforts would be made to Americanize Hawaii, admit it as a State in the Union, and thus put to rest forever any questions as to how Hawaii was originally acquired in 1898.
In order to accomplish this objective, Congress and the Senate Interior and Insular Affairs Committee had to completely redraft the boundary description as taken from the Organic Act which established the form of government for Hawaii in 1900. One of the members of the Committee created under the Joint Resolution, Walter Frear, it would appear, had carelessly described the dominion of the Territory of Hawaii as those islands acquired by the Joint Resolution of 1898.

This simple and puzzling definition stood apart from all other descriptions of states or territories of the United States. Other territories such as Utah, or Arizona, or New Mexico, and other States such as Oregon were defined in precise terms, by metes and bounds, and positive markers, such as referents to natural monuments or political lines, or by longitude and latitude. These other territorial description were long and laborious. They should be. There is nothing more important to a nation, or a political entity than clear boundaries. Boundaries describe were the sovereignty or power of one nation begin and another end. More wars have been fought over disputed boundaries than any other issue. The world has suffered enormous anguish over time as to challenges to territorial boundaries.

For this reason, the original boundaries as crafted by Frear were appalling and almost laughable to Congress in 1953 but for the very seriousness of the issue. This lack of carefully drawn boundaries was directly a result that the United States had never concluded a treaty of cession with Hawaii. The United States had simply taken, or more accurately occupied Hawaii under the ardor, patriotism and bullish of men such as Theodore Roosevelt and William McKinley. McKinley even considered taking Hawaii by an executive order when the Treaty of 1897 failed to be ratified in the United States Senate. The taking of Hawaii by a mere act or Congress, a joint resolution was clearly a mistake. The proof of the mistake would live forever in the territorial boundaries describing the Territory of Hawaii and later the State of Hawaii.

In 1953 and 1954 it became the mission, a sort of secret mission and Manhattan project, of the Senate Interior and Insular Affairs Committee to rectify the sloppiness of the people of Hawaii. The work of the people of Hawaii in drafting boundaries in the proposed Constitution created by a constitutional convention was simply thrown out. The existing boundaries of the Territory of Hawaii had caused its own legal problems in Hawaii, most which were kept secret, but known to C. Nils Tavares. On one occasion the Supreme Court of the Territory of Hawaii wondered out loud if there were any boundaries to Hawaii. Questions persisted such as were the channel waters between the main islands part of Hawaii, as originally claimed by Kamehameha III? Were the Palmyra Islands, some 990 miles to southeast of Oahu part of Hawaii given that they were annexed by Kamehameha IV. A company called Island Airlines sought to avoid federal CAB regulation by claiming that by flying within the islands, albeit over open ocean more than three miles from shore, their planes were still within the territory of the Kingdom of Hawaii. These two issues, the channel waters and Palmyra Island would be a thorn in the side of the Senate Committee on Interior and Insular Affairs.

Tavares, at first, claimed that the channel waters would be within the new State as the channel waters had always been considered part of Hawaii. He would make the same claim as to the Palmyra Islands, although nearly 1000 miles away, part of another chain of islands, but
considered part of the County of Honolulu.

From early 1953 to the middle of 1954, the Senate Interior and Insular Affairs Committee worked in semi-secrecy. Non-public secret hearings were held in March of 1953. Numerous task forces were created combining experts from various federal departments and agencies. The objective became clear. It would not be possible for Congress to change the essential dominion of the Territory of Hawaii. Instead, the Senate Committee had the task of burying that definition in beneath a pile of confusing, contradictory, and deceptive language. The Committee produced six drafts. The final product was Committee Print Six. It was a nightmare in terms of legal language and drafting boundaries. For example, one would assume that it would make sense to simply refer to each of the main Hawaiian Islands by name, and include them in the future State of Hawaii. No. The Committee adopted language which chose to name island that would not be in the State of Hawaii, such as Kingman Reef and Midway. There is no mention of Oahu or Maui, or the Island of Hawaii. Midway was never territory of the Kingdom of Hawaii so excluding it made little sense. One may as well exclude Manhattan Island, New York, for that matter.

This practice of naming islands to be excluded arose from the policy to exclude Palmyra from the State of Hawaii. For odd reasons, the owners of Palmyra had offended the Committee. During World War II the Navy sought to negotiate with the family to establish a naval base and air station on Palmyra. The family balked and upped the rent. Oddly, the Navy caved in, paid the higher rent and never chose to undertake the obvious path of condemning Palmyra as necessary for national security, thus paying the owners a just compensation. Everywhere else the Navy ran Hawaii during world War II. The inexplicable reluctance of the Navy to condemn and seize Palmyra for the United States was never understood by the 1954 Senate Committee. Even more odd, the minute the war was over the Navy packed up and left Palmyra. Nevertheless, the United States was required to foot the bill for a clean-up of Palmyra when the family prevailed upon Congress to pass a private bill compensating the family for hardships suffered during World War II. Elsewhere in the Hawaiian Islands, the military took lands without compensation, never cleaned up waste and arsenal and were deaf to claims for compensation.

At some point, a powerful member of the Senate Interior and Insular Affairs Committee, hearing this history, took a strong dislike to the owners of Palmyra. Thereafter he insisted that Palmyra, a part of the Kingdom of Hawaii, as well as the Republic of Hawaii in 1898, was to be kept out of the new state of Hawaii. Thus, the present definition of Hawaii excludes Palmyra. In order to effectively cover this odd decision, the description of Hawaii thus was created by naming other islands to be excluded, some, like Midway, which had never been part of Hawaii.

On the issue of the channel waters, always part of the territory of Hawaii, Senators took a strong dislike when they discovered that Hawaii utilized the archipelagic theory of island boundaries, and claimed that the channel waters between the main islands were akin to the islands themselves and thus within the boundaries of the Territories. The immediate reaction of the Senate Committee was astonishment. They felt betrayed by this small state. The Senate was now being asked to admit as a State a territorial area much larger than the small islands that dotted the maps of Hawaii.
Senators recoiled at the desire of Mr. Tavares to include the channel waters much as they had initially recoiled upon learning that there was no treaty acquiring the Hawaiian Islands. The Senators made their decision, Hawaii would have to relinquish the channel waters to the United States.

The Hawaii Statehood Commission and its chairman, first Mr. Tavares, then Delegate Farrington, and finally his wife, Mrs. Farrington and no say in any of these matters: Palmyra was out of the State and the channel waters were out of the State.

Committee Print Six differed vastly from the provision as to the boundary of Hawaii submitted by the people of Hawaii. The Senate Committee told the Hawaii delegation to turn around, reconvene the constitutional convention and amend the proposed convention, already ratified, so that its boundary description read in the same cryptic manner as that of Committee Print Six. The amendment of the proposed constitution was impossible. Delegates had passed away and the constitutional convention could never be reconvened.

If both the Act of Admission, containing the terms of Committee Print Six, was passed into law admitting Hawaii, and if, at the same time, Congress accepted the Constitution of the State of Hawaii as written by the people, there would be two vastly different legal descriptions of the boundaries of Hawaii. Clark Clifford, the future Secretary of War for Lyndon Johnson was called into to settle this mess. His solution was that Hawaii would be admitted under the condition that unless a majority of the Hawaii electorate did not adopt the crazy language of Committee Print Six, exclude Palmyra and the channel waters, Hawaii would not be admitted as a State. These conditions were written in to the Admission Act as Section 7b, but no one in Hawaii was told about them. The people were not told of about Committee Print Six. They were simply told to vote for, as set forth in question two of the plebiscite, the new federal territorial description. In the press they were told that the new description made no changes to the existing territory of Hawaii. This was a lie. The new description excluded the channel waters and Palmyra. The people were never given the actual text of Committee Print Six but were told that unless they approved Committee Print Six, which was not available for public purview, statehood would denied. Instead, the people were told this plebiscite was all about whether they wanted statehood--again.

The whole purpose of Clark Clifford's work was ensure that the two descriptions of the State of Hawaii, one in the Admission Act and the other in the State Constitution were exactly the same. This was to be accomplished without informing the people of Hawaii. Thus, one governor, still believing that the channel waters were within the jurisdiction of the State of Hawaii loudly protested to international ears when a Soviet submarine ploughed through a channel between two of the main islands. When informed that the State no longer possessed the channel waters the people of Hawaii were somewhat outraged.

Thus, in the Constitutional Convention of 1978, the terms carefully wrought by the Senate in 1954 were changed by an amendment to section one of Article XV of the Hawaii State Constitution. That provision was the exact replica of Committee Print Six. The delegates to the convention were outraged that dominion that had been part of the Kingdom of Hawaii had been
taken by the United States---without the people knowing. Thus, the 1978 constitutional
convention amended the territorial boundaries of the State to include the channel waters by
adding the word "archipelagic" in describing the waters that comprised the waters of the State.
Technically, this violated the compact of admission particularly the condition subsequent by
which Hawaii was admitted as a State. Technically, Congress had a legal basis for ousting
Hawaii as a state. No such action has been taken since 1978, largely because the whole of the
story is far to embarrassing to the United States.

Nonetheless, there are two different official boundaries describing the State of Hawaii. The
description in the State Constitution contains the channel waters and thus creates a State larger
than that originally admitted. Palmyra was excluded from the State of Hawaii to a kind of no-
man's land. All the records relating to conveyances and ownership of Palmyra were taken from
the State Bureau Conveyances and lodged in the office of clerk of the United States District
Court for the District of Hawaii.

Some twenty years ago, Native Hawaiians, claiming to be descendants of Queen Kalama, who
they asserted had a property interest in Palmyra announced this claim without filing a quiet title
action. Instead, the irate owners of Palmyra, much in keeping with their earlier behavior,
brought suit against the Native Hawaiians for "slander of title." In defense of the Native
Hawaiian claimants, their attorney raised the question as to where the action would be heard?
Would it be State Court or Federal Court and could the owners prove that the real property laws
of the United States, or those of the State of Hawaii were even applicable. For those statements
the attorneys was slapped with the harshest Rule 11(e) fine probably in the history of the State
and Federal Courts in Hawaii. He was fined 76,000 dollars for simply raising the possibility
that Palmyra, once part of the Kingdom of Hawaii and never part of the United States, was not
within any jurisdiction, once it was excluded by Committee Print Six from the future State of
Hawaii. In some sense, Palmyra, was the "last Hawaiian place," the last real property not under
United States or State of Hawaii jurisdiction, and arguably thus under the jurisdiction of the
Kingdom of Hawaii--which had annexed the island in the first place.

The Rule 11(e) fine was not enough. Senator Inouye decided that the only means of ending any
questions about Palmyra, and really about the legal effect of the Joint Resolution of 1898, was
for the United States to buy Palmyra outright, making the United States the owner of Palmyra
whether or not the United States had sovereignty over the island. Thus, a private-public
partnership was formed between the United States and the Nature Conservancy of Hawaii to
purchase Palmyra under the rubric of protecting its wildlife. There would be no more questions
about Palmyra. Such, however, did not terminate the puzzle as to how the State acquired such
government lands as Mauna Kea. The chairperson of the Nature Conservancy of Hawaii at the
time, was, of course, Suzanne Case, the present Chair of the Board of Land and Natural
Resources.

See the records of the Staff of S. Comm. on Insular and Interior Affairs, 83d Cong. (Committee
Prints1-6, 1954)(on file with Lib. of Cong.). See also The Center for Legislative Archives,
Records of the Committee on Interior and Insular Affairs and Its Predecessors, NAT'L
ARCHIVES, at www.archives.gov/legislative/guide/house/chapter-13-interior-and-insular-
When stripped down to its essence, this section while not denoting that the island of "Hawaii" is within the State of Hawaii, does state that "all the islands, . . . included in the Territory of Hawaii on the date of the enactment of this Act, . . . " shall be deemed the territory of the State of Hawaii. This is also true of Section One of the Hawaii State Constitution, Article XV, as amended by the Constitutional Convention of 1978, ratified November 7, 1978. which state the same language, with a single exception:

The State of Hawaii shall consist of all the islands, together with their appurtenant reefs and territorial and archipelagic waters, included in the Territory of Hawaii on the date of enactment of the Admission Act, except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters; but this State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island) or Kingman Reef, together with their appurtenant reefs and territorial waters.

For all intents and purposes, at this point, both the Admission Act of 1959, and the Constitution of the State of Hawaii state that the islands that were defined as within the Territory of Hawaii are now within the State of Hawaii. Thus, if one turns to the description of the territorial boundaries under the Organic Act of 1900, an Act to Provide a Government for the Territory of Hawaii, 31 Stat. 141 (1900), one find in Section Two, that only those islands acquired by that act of Congress, entitled, "Joint Resolution to provide for annexing the Hawaiian Islands to the United States," approved July seventh, eighteen hundred and ninety-eight, shall be known as the Territory of Hawaii:

That the islands acquired by the United States of America under an Act of Congress entitled “Joint resolution to provide for annexing the Hawaiian Islands to the

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4 "Joint Resolution to Provide for annexing the Hawai‘i an Islands to the United States,” 30 Stat 750 (July 7, 1898)
United States," approved July seventh, eighteen hundred and ninety-eight, shall be known as the Territory of Hawaii.\(^5\)

Thus, the Board of Land and Natural Resources, of the State of Hawaii, has jurisdiction as to the summit of Mauna Kea, which is on the island of Hawaii only if the island of Hawaii was acquired by said Joint Resolution of 1898, known as the "Newlands Resolution," which the United States claims as the basis for both sovereignty over the Hawaiian Islands and the ownership of government lands of the former Kingdom of Hawaii after July 7, 1898.

The Joint Resolution of 1898 did not acquire the Island of Hawaii, for a number of reasons. First, a joint resolution as a mere act, or bill of Congress has no power to acquire the territory of another foreign, independent and sovereign nation. As of 1898, Hawaii was a sovereign, independent and sovereign nation and not territory of the United States. Under the international law of that time, a nation could acquire territory of another sovereign nation by means of conquest, treaty of cession or by acquisitive prescription.

The United States did not conquer Hawaii, nor has ever made any claim that it acquired Hawaii by conquest. Hawaii was not acquired by a treaty in that the Treaty of Annexation of 1897 failed. That treaty did not receive ratification by the United States Senate as required by the United States constitution. The doctrine acquisitive prescription, akin to the doctrine of adverse possession in real property law does not apply. Moreover, the United States has never claimed acquisitive prescription. The United States has always maintained that Hawaii was acquired by joint resolution.

Nonetheless, this position has been undergoing review. In 1988 the Justice Department provided an opinion by which it admitted it could not identify the constitutional power for the

\(^5\) The 1915 notes to Section Two of the Organic Act read as follows:

"The Hawaiian group consists of the following islands: Hawaii, Maui, Oahu, Kauai, Molokai, Lanai, Niihau, Kahoolawe, Molokini, Lehua, Kaula, Nihoa, Necker, Laysan, Gardiner, Lisiansky, Ocean, French Frigates Shoal, Palmyra, Brooks Shoal, Pearl and Hermes Reef, Gambia Shoal and Dowsett and Maro Reef. The first nineteen were listed in the Commission report transmitted to Congress by the message of the President, Senate Doc. 16, 55th Congress, 3d Session, 1898. U.S. Misc. Pub. 1898."

However, these are merely notes, not the law itself, and were added in 1915, probably by Walter Frear, long after the effective date of the Organic Act and only after the problems with section two of the Organic Act became apparent.
acquisition of Hawaii. Moreover, the State Department has had doubts about its position on the annexation of Hawaii. The official website of the Historian of the United States Department of State originally posted a description of the history of Hawaii admitting that the United States "annexed" Hawaii. Thus, as of today, that description has been deleted and

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"This argument, [that Texas was precedent for the annexation of Hawaii] however, neglected one significant nuance: Hawaii was not being acquired as a state. Because the joint resolution annexing Texas relied on Congress' power to admit new states, "the method of annexing Texas did not constitute a proper precedent for the annexation of a land and people to be retained as a possession or in a territorial condition."

Andrew C. McLaughlin, A Constitutional History of the United States 504 (1936). Opponents of the joint resolution stressed this distinction. See, e.g., 31 Cong. Rec. 5975 (1898) (statement of Rep. Ball). Moreover, as one constitutional scholar wrote:

> The constitutionality of the annexation of Hawaii, by a simple legislative act, was strenuously contested at the time both in Congress and by the press. The right to annex by treaty was not denied, but it was denied that this might be done by a simple legislative act... Only by means of treaties, it was asserted, can the relations between States be governed, for a legislative act is necessarily without extraterritorial force -- confined in its operation to the territory of the State by whose legislature it is enacted. Westel Woodbury Willoughby, The Constitutional Law of the United States § 239, at 427 (2d ed. 1929).

"Notwithstanding these constitutional objections, Congress approved the joint resolution and President McKinley signed the measure in 1898. Nevertheless, whether this action demonstrates the constitutional power of Congress to acquire territory is certainly questionable. The stated justification for the joint resolution -- the previous acquisition of Texas -- simply ignores the reliance the 1845 Congress placed on its power to admit new states. It is therefore unclear which constitutional power Congress exercised when it acquired Hawaii by joint resolution." Accordingly, it is doubtful that the acquisition of Hawaii can serve as an appropriate precedent for a congressional assertion of sovereignty over an extended territorial sea."

7 "Milestones: 1866-1898 Annexation of Hawaii, 1898
America's annexation of Hawaii in 1898 extended U.S. territory into the Pacific and highlighted resulted from economic integration and the rise of the United States as a Pacific power.
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Dole sent a delegation to Washington in 1894 seeking annexation, but the new President, Grover Cleveland, opposed annexation and tried to restore the Queen. Dole declared
replaced by the following statement:

"Annexation of Hawaii: 1898. "Notice to readers: This article has been removed pending review to ensure it meets our standards for accuracy and clarity. The revised article will be posted as soon as it is ready. In the meantime, we apologize for any inconvenience, and we thank you for your patience." 8

First, a joint resolution has no capacity to acquire the territory of another sovereign nation for such a claim violates the basic principle underlying international law of the equality of sovereignty of nations. Namely, Hawaii and the United States, regardless of their different size or military power, are deemed to possess absolute law making power over their own territorial realm. They are equal in sovereignty. The United States has no more power to acquire Hawaii by an act of its Congress then Hawaii has the power to acquire the United States by an act of its then legislative assembly.

Second, the legislative history of the Joint Resolution, as found in the Senate and House debates on the Joint Resolution in 1898 make clear this very point.9 There were numerous Hawaii an independent republic. Spurred by the nationalism aroused by the Spanish-American War_ the United States annexed Hawaii in 1898 at the urging of President William McKinley. Hawaii was made a territory in 1900, and Dole became its first governor. Racial attitudes and party politics in the United States deferred statehood until a bipartisan compromise linked Hawaii's status to Alaska, and both became states in 1959."

See Office of the Historian: United States Department of State--Milestones 1866-1898. at https://history.state.gov/milestones/1866-1898/hawaii. This older version was by obtained using the Wayback Machine software on the internet.


9 See the various objections of Senator William Allen of Nebraska:

"Mr. Allen: No foreign nation has the power, by its own legislation, or by its own courts to quiet title to or acquire the real property within the dominion of another sovereign. All nations possess equal powers of sovereignty. Sovereignty is the absolute law making authority of a government within its territorial boundaries. It must follow therefore, that if each government is absolutely sovereign within its own boundaries, it has absolutely no sovereignty beyond its own boundaries into the dominion of another sovereign.
Senators who stood to oppose the joint resolution on the grounds that it lacked the capacity to acquire Hawaii. This objection must be distinguished from the claim that the Joint Resolution

A Joint Resolution if passed becomes a statute law. It has no other or greater force. It is the same as if it would be if it were entitled “an act” instead of “A Joint Resolution...” That is its legal classification. It is therefore impossible for the Government of the United States to reach across its boundary into the dominion of another government and annex that government or persons or property therein. But the United States may do so under the treaty making power, which I shall hereafter consider.

The Constitution and the statutes are territorial in their operation: that is they cannot have any binding force or operation beyond the territorial limitation of the government in which they are promulgated. In other words, the Constitution and statutes cannot reach across the territorial boundaries of the United States into the territorial domain of another government and affect that government or persons or property there.

I hold, without further discussion that under the rules I have stated, the treaty-making power, which includes the power of acquiring additional territory rests exclusively in the President and the Senate, that it is an executive power which in its very nature cannot be exercised by the House of Representatives, and that the only method of exercising it is by treaty and not by joint resolution or act of Congress; and the case of Texas, when rightly understood, forms no exception to this rule; Therefore, an attempt to annex or acquire territory by act or joint resolution of the Congress is in violation of the letter, spirit and policy of the constitution.

Mr. President the Constitution must begin and end with the territorial jurisdiction of the United States: It cannot reach beyond the boundaries of our Government. It would be as lifeless and impotent as a piece of blank paper in Canada or in the Hawaiian Islands.

Statements of Senator Allen at 31 Cong. Rec. 6634, 6635, 6636, 6336, 6339 (1898) 55th Cong 2d Sess.

10 Senator White of California spoke for many when he declared:

"There is no constitutional power to annex foreign territory by resolution, certainly not otherwise than as a State. Whatever may be said of the past history of this country or of the records to which senators have adverted, there is one proposition which cannot be contested, mainly, that there is no precedent for this proposed action.

States [have] been admitted into the Union, territory has been acquired and has been annexed by treaty stipulation, but there is no instance where by a joint resolution it has been attempted not only to annex a foreign land far remote from our shores, but also, to annihilate a nation, and to withdraw from the sovereign societies of the world a government which in the opinion of the Senator from Alabama is the best government of which he has any cognizance."

was unconstitutional. The joint resolution was unconstitutional, as it amounted to an "end run" around the foreign affairs power as solely vested in the President and the Senate under the constitution, but the claim of lack of capacity is not merely a claim that annexation was "wrong" or "unconstitutional." Rather, the claim of taking another nation by a law of one's own nation is fantastic, impossible, and incoherent.

Third, the Joint Resolution did not have, as an actual effect, the imposition of sovereignty over Hawaii. The Republic of Hawaii never consented to the Joint Resolution. The Republic of Hawaii repudiated the United States' claim that the joint resolution made Hawaii territory of the United States. Most pertinent to the case here, the United States claimed that the Joint Resolution also transferred title to the crown and government lands held by the Republic of Hawaii to the United States.

Mauna Kea is former government lands of the Kingdom of Hawaii. Indeed, the Republic of Hawaii, by its President, Sanford Dole continued to effect grants and transfers of the crown and government lands to private parties, against the wishes of the United States, after the effective date of the Joint Resolution, July 7, 1898. President Dole was warned by the United States to stop. The Attorney General of the United States issued an opinion that the Republic of Hawaii no longer had title or ownership to the crown and government lands. Nevertheless, President Dole continued to defy the United States and convey crown and government lands to private parties.¹¹

"Mr. President, the Constitution must begin and end with the territorial jurisdiction of the United States: It cannot reach beyond the boundaries of our Government. It would be as lifeless and impotent as a piece of blank paper in Canada or in the Hawaiian Islands; and so with statute or joint resolution."

¹¹ "To The PRESIDENT... the local government of the Hawaiian Islands are about to dispose at public auction of portions of the public lands of Hawaii, and suggesting that in view of the provisions of the resolution of annexation, approved July 7, 1898, such action on the part of the Hawaiian authorities is without legal warrant or authority, ...I have given attentive consideration to the question raised by these papers, and have no hesitation in advising you that the officers of the existing government in said islands have no authority to sell or otherwise dispose of the public lands in the Hawaiian Islands, and that any such sales or agreements to sell will be absolutely null and void as against the Government of the United States." Public Land-Hawaii 22 U.S. Op. Atty. Gen. (1899)
This practice so offended President McKinley that the President issued an executive order declaring that all such conveyances by President Dole, or the Republic of Hawaii, was "void ab initio" and that the Republic of Hawaii must return all monies received in exchange for such lands. Dole and the Republic of Hawaii continued to make grants well after the effective date of the Joint Resolution. 

The Attorney General of the United States issued a second opinion declaring the conveyances by the Republic after the effective date of the Joint Resolution to be void. The Republic still made conveyances. In effect, the Republic took the correct position that the Joint Resolution had no power to do either 1) impose the sovereignty of the United States over the whole of the Hawaiian Islands and 2) to claim ownership of the crown and government lands.

Differences between the United States and the Republic of Hawaii over title to the government lands became so divisive that President Dole commissioned a special emissary, General A.S. Hartwell, a former judge, to proceed to Washington and present the position of the Republic that the United States did not own the crown and government lands. General Hartwell, in his October 31, 1899 letter to President McKinley states the position of the Republic. Namely, the only means of acquiring either sovereignty or ownership of the public lands was by the proper ratification of the Treaty of 1897.

The Joint Resolution could not be held out as a substitute for ratification. This was made clear in the Treaty of 1897 under article VII. Finally, the terms of the Treaty and the

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12 "Mr. President. By an Executive order bearing date of September 11, 1899, you directed 'that all proceedings taken or pending for the sale or disposition of public lands in the Hawaiian Islands shall be discontinued; and that if any sales or agreements for sale of said public lands have been made since the adoption of the resolution of annexation the purchasers shall be notified that the same are null and void, and any consideration paid to the local authorities on account thereof shall be refunded.'" Public Lands - Hawaii 22 U.S. Op. Atty. Gen. 627 (1899)

13 "The existing government of Hawaii very clearly, by the resolution of annexation, parted with all ownership of the public lands of Hawaii. Indeed, it is scarcely an adequate expression of the fact to say that it parted with the ownership, because that government, as a sovereign power, was dissolved and ceased to exist. Its public property, including lands, became vested in the United States, and only by the authority or direction of the United States could those lands be disposed of." Public Lands - Hawaii 22 U.S. Op. Atty. Gen. 627 (1899)
Joint Resolution vastly differed such that never was a "meeting of the minds," between both countries, as to the terms and conditions of annexation. Thus, in his letter\(^\text{15}\) Hartwell writes that the Joint Resolution is merely a statute, an act, not a treaty\(^\text{16}\) and the terms of the Joint Resolution differ substantially from the terms of the Treaty.\(^\text{17}\) The refusal to accept "annexation" as unilaterally proclaimed by the United States ended only because of the chaos created by clash between two legal and political systems vying for control over the lands, economy, and courts of Hawaii. The Republic of Hawai'i never gave in, never consented and maintained its system of involuntary servitude, un-constitutional under the laws of the United States, its own foreign affairs, and continued to enter into new treaties after the effective date of the Joint Resolution. The Republic of Hawaii, however, was no match for the military might and political and economic weight of the United States. The economy of Hawai'i collapsed after the Chinatown fire of 1898. The chaos and confusion created an interregnum or state of affairs where the confusion over which law applied, Hawaiian or American, brought civil affairs, the economy and the application of the laws to a standstill.

\(^{15}\) "Washington D. C. October 31, 1899
To the President
Sir
"... on behalf of the Government of the Republic of Hawaii, I have the honor, very respectfully, to request a reconsideration of the Executive Order ... directing that:
That all [sales] of public lands in the Hawaiian Islands shall be discontinued; and that the . . . that the same are null and void and any consideration paid . . . shall be refunded**
*Sales of public lands, or any other governmental acts by the Hawaiian Government . . . cannot, as I respectfully submit, properly be called in question. . . ." See letter of A.S. Hartwell to President McKinley of the United States, October 31, 1899 (Hawaii State Archives)

\(^{16}\) "A treaty between sovereign states is unlike a statute; the former requiring an exchange of ratifications the latter taking effect either according to its provision or under the general provisions of municipal law." See letter of A.S. Hartwell to President McKinley of the United States, October 31, 1899 (Hawaii State Archives)

\(^{17}\) "The Treaty in its first article declares that “all the territory of and appertaining to the Republic of Hawaii is hereby annexed to the United States of America under the name of the Territory of Hawaii;” thus securing to Hawaii a distinct political status which is not secured by the wording in the Newlands resolution... . . . The Newlands resolution provides for such commission to recommend to Congress such legislation concerning the “Hawaiian Islands.” . . . I mention these things because I think that they show that the statute in matters of doubt ought to receive a construction in favor of the results which would naturally have followed the wording the treaty." See letter of A.S. Hartwell to President McKinley of the United States, October 31, 1899 (Hawaii State Archives)
A report to Congress stated that Hawaii was in a state where there was "no law," it was an "interregnum."

Meanwhile, it has become apparent that there is much doubt of the extent of the power granted to the local government by the provisions of the joint resolution, and that in many important respects there is something like an interregnum in Hawaii. Many doubtful questions of admiralty and maritime jurisdiction have arisen as well as of criminal procedure, rendering it uncertain whether there is any tribunal for the decision of important questions affecting property, and any existing method by which criminals may be indicted or legal juries empanelled for their trial.¹⁸

The United States took advantage of this melt-down. The Republic of Hawaii could not solve the problem for legislation passed by the Republic would not resolve the confusion so long as the United States and President McKinley insisted that the Joint Resolution had bequeathed to the United States both the sovereignty over the Hawaiian Islands, and title to the crown and government lands. The Republic of Hawaii was thus hopelessly out-gunned.

The United States had the military power to enforce its will and it did. More apropos, only the Congress of the United States had the clout to enact legislation that could be enforced, by the United States, by its monopoly on the legitimate use of police power and violence. Thus, the Republic of Hawaii came to an end, not by ceding Hawaii to the United States by treaty or consenting, either in writing or by deed to the terms of the Joint Resolution. The United States acquired Hawaii, its sovereignty and its crown and government lands by its superiority in power. There has been no lawful treaty of cession ever. Many claim the Hawaiian Islands are occupied. The very inability of the State of Hawaii to prove it has territorial jurisdiction over Mauna Kea as well as the States' inability to present a clean chain of title to lands at the summit of Mauna Kea are proof that the interregnum of 1899 has never ended.

The battle of wills continues still today. The Republic of Hawaii has been replaced by the protectors of Mauna Kea. If any protectors are arrested on the summit of Mauna Kea hereafter, the County Prosecutor of Hawaii or the State Attorney General must first prove that such arrests occurred within the State of Hawaii--as defined as "those islands acquired by the joint resolution of 1898."

Since such arrests would constitute a criminal proceeding then the County Prosecutor

¹⁸ H.R. Rep. No. 305, 56th Cong. 1st Sess. (February 12, 1900) pages 4 and 5
must prove that the element of the crime, that the accused was within the jurisdiction of the State of Hawaii, is true beyond any reasonable doubt. In light of what has presented, from the vehement objections in the Senate in 1898,19 the rejection of the Joint Resolution by the

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19 See Statements of Senator White at 31 Cong. Rec. Appendix at page 551 (1898):

"Mr. White: The resolution thus refers truly to the grant contained in the Hawaiian constitution, but utterly disregards the facts when it assumes that an unratified treaty means anything. I continue the quotation:

That said cession is accepted ratified and confirmed. What cession, Senators? Has any cession been made? Is there a lawyer upon either side of this Chamber who is willing to say that there has been a grant, a cession by Hawaii of Hawaii? Can a cession be made when a proposition emanates from one party unaccepted by the other? Is there anyone who has regard for those attainment which he possess who will claim that such contract has been made? Is there any doubt about it?

Mr. White: There is no constitutional power to annex foreign territory by resolution, certainly not otherwise than as a State.

Mr. President, what are we asked to do? The resolution which has been presented comes from the House of representatives and is but a repetition of the resolution prepared by the Committee on Foreign Relations of this body, and is to my mind upon it surface irrespective of the constitutional questions involved, I was about to say absurd in its inaccuracy.

Mr. White: There is no clause in the Constitution of the United States that provides for the acquisition of territory by joint resolution of Congress unless it be one single provision, and that is that the Congress may admit new States into the Union, that it was not limited to territory belonging to the United States, but that territory belonging to a foreign power might be admitted into the Union as a State.

Mr. White: We cannot as I said before extend our legislative right to act without until there has been some authority by which that which is without is brought within. Whence do acts of Congress go? Upon whom do they operate? Upon the people of the United States.

Mr. White: They [Joint Resolutions] are impotent to effect the title. They are impotent to effect the title or status of property of those who live upon alien soil.

Mr. President, how can a joint resolution such as this be operative? What is the legislative jurisdiction of Congress? Does it extend over Hawaii? May we in this anticipatory manner reach out beyond the sea and assert our authority under a resolution of Congress within the confines of that independent nation? Where is our right, our grant of power to do this? Where do we find it? Some assume to discover it in the supposition that there has been a cession, which, has in truth, never been made. Hawaii is foreign to us. We base our jurisdiction upon a falsehood desired to be made conclusive in a resolution the verity of which it is said cannot be attacked
Republic of Hawaii in 1898, and the Justice Department Opinion of Douglas Kmiec in 1898, as well as the enormous energy and efforts spent by Congress in disguising the boundaries of the State of Hawaii, it is safe to say that the "doubt" as to whether the Prosecutor can prove the element of a defendant-protectors' "presence" within the State of Hawaii as formally defined by the State Constitution and federal law, is way beyond a reasonable doubt.

One might easily say that the State has no evidence at all to offer that it has jurisdiction over the summit of Mauna Kea. It has no chain of title to demonstrate a clean set of conveyances leading back to the Mahele.

Thus contrary to the common belief of many persons today, the Republic of Hawaii did however groundless it may be. The committee in this document assert that a cession has been accomplished, because they well know that we have otherwise no power to act."

20 See Letter of A.S. Hartwell, Special Emissary to President of the United States from the Republic of Hawaii wrote in his October 31, 1899 letter to President McKinley his profound disappointment in the United States that the United States would simply pronounce that the United States had title to the government and crown lands by the congressional enactment of the Organic Act. The Organic had no power whatsoever to acquire the crown and government lands. The use of an act of Congress to acquire the Crown and Government lands, without the consent, or a treaty with the Republic of Hawaii, was to commit the same crime as was committed by the Joint Resolution.

"Upon the enactment of the Newlands resolution [Joint Resolution] in the place of a ratified treaty, [Treaty of 1897] . . . I respectfully submit that something was required in the nature of a ratification. . . . The inchoate [not ratified] treaty provided in its seventh article for an exchange of ratifications "at Washington as soon as possible."

Until such exchange, or something equivalent to it, there could be no cession accomplished by mutual agreement.

The Senate Bill "To provide a government for the Territory of Hawaii," introduced December 6, 1898 [The Organic Act] . . . evidently recognized August 12, 1898 as the date of the transfer of the sovereignty of the Hawaiian Islands to the United States, [and] by its provision section 101 [the transfer] . . . the public domain known as the Crown Lands . . . [as of] the twelfth day of August eighteen hundred and ninety-eight. [wherein prior to that time] [said lands were] the property of the Hawaiian government."

not consent to the Joint Resolution. The Republic of Hawaii did ratify the earlier Treaty of Annexation of 1897. The Republic of Hawaii never participated in the drafting of, or consented to the terms of the Joint Resolution. This is made clear in the position Hartwell took in Washington, as so clear stated in his letter of October 31, 1899 to President McKinley. Hartwell states that the only basis by which the United States could acquire sovereignty over Hawaii, or acquire title to the former crown and government lands of the Kingdom of Hawaii, was to ratify, as required by the Constitution of the United States the earlier Treaty of 1897. Such ratification required a two-thirds approval by a majority of the Senators present.

After the Treaty of 1897 had been negotiated between the Republic of Hawaii and the United States on June 16, 1897 the terms of the treaty were ratified by the Republic of Hawaii, as required by Article VII of the Treaty of Annexation. On the other hand, there was massive opposition to the Treaty by the Hawaiian people, and by Queen Liliuokalani in the fall of 1897. A special session of the Senate was convened to consider the Treaty. The administration could not gain the two thirds super majority it needed for ratification. The treaty was never even brought before the Senate for a vote. The Treaty lay dormant before the Senate until the Spanish American War began in April of 1898. McKinley claimed that he needed Hawaii as base to invade the Philippines to defeat the Spanish. His advisor, John W. Foster proposed that instead of ratifying the treaty, that the United States unilaterally draft a joint resolution, which, as a mere act of Congress only required a majority vote of the House and Senate. Both houses would eventually pass the Joint Resolution but only over substantial objection in the Senate. The Resolution was signed into law on July 7, 1898. The Republic of Hawaii never ratified, nor consented to the terms of the Joint Resolution.

Prior to 1898, there was no question as to the boundaries of Hawaii and as to whether Mauna Kea or the Island of Hawaii was within the dominion of the Kingdom of Hawaii, the Provisional Government (1893-1894) or the Republic of Hawaii (1894-1900). In 1846 Kamehameha III proclaimed the dominion of the Kingdom so as to clearly include the main islands, which were named, as well as the channel waters between such islands.22 The

22 Statute of Kamehameha III 1846.

'SECTION I. The jurisdiction of the Hawaiian Islands shall extend and be exclusive for the distance of one marine league seaward, surrounding each of the islands of Hawaii, Maui, Kahoolawe, Lanai, Molokai, Oahu, Kauai and Niíhau; commencing at low water mark on each
Provisional Government and the Republic of Hawaii simply reaffirmed that their dominion was the same as that of the Kingdom of Hawaii. Thus, there would have been no question prior to 1898 that the governments prior to 1898 had jurisdiction over the government lands of Hawaii, such as that of Mauna Kea.

However, there was no cession of sovereignty from the Republic of Hawaii to the United States in 1898. The Joint Resolution lacked the capacity to convey such sovereignty. There has been a long history of doubt as to capacity of the Joint Resolution to acquire Hawaii. Such includes doubts raised by officials of the United States as well as by scholars and others.

Most of all, there was substantial opposition in the United States Senate based on the grounds that a joint resolution was incapable of so conveying sovereignty. Only two Senators stood in June of 1898 to explain how the Joint Resolution could acquire the Hawaiian Islands.

of the respective coasts of said islands. The marine jurisdiction of the Hawaiian Islands shall also be exclusive in all the channels passing between the respective islands, and dividing them; which jurisdiction shall extend from island to island.

'SECTION II. It shall be lawful for his Majesty to defend said closed seas and channels, and if the public good shall require it, prohibit their use to other nations, by proclamation.

'SECTION III. All captures and seizures made within said channels or within one marine league of the coast, shall be deemed to have been made, and shall be deemed to have entered in His Majesty's waters. The civil and criminal jurisdiction shall be coextensive with the one maritime league, and the interisland channels herein defined. And the right of transportation and transshipment from island to island, shall exclusively belong to Hawaiian vessels duly registered and licensed to the coasting trade, as in the two succeeding articles prescribed.'


23 Article 15. Territory. "The Territory of the Republic of Hawaii shall be that heretofore constituting the Kingdom of the Hawaiian Islands, and the territory ruled over by the Provisional Government of Hawaii, or which may, hereafter be added to the Republic." Constitution of the Republic of Hawaii, Article 15 (Hawaii State Archives)

24 "The constitutionality of the annexation of Hawai'i, by a simple legislative act, was strenuously contested at the time both in Congress and by the press. The right to annex by treaty was not denied, but it was denied that this might be done by a simple legislative act Only by means of treaties, it was asserted, can the relations between States be governed, for a legislative act is necessarily without extraterritorial force--confined in its operation to the territory of the State by whose legislature it is enacted." W. Willoughby, The Constitutional Law of the United States, sec. 239, page 427 (2d ed. 1929).
The first, Senator Foraker claimed that the Joint Resolution was actually the substitute ratification of the Treaty of 1897 which the Senate failed to ratify by a two-thirds super majority. Senator Lindsay reminded Senator Foraker that Article VII of the Treaty of 1897\(^{25}\) required ratification by a two thirds super-majority of the Senate.\(^{26}\) Article VII of the Treaty,

\(^{25}\) "Article VII. This Treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate on one part; and by the President of the Republic of Hawaii in accordance with the Constitution of said Republic, on the other; and the ratifications hereof shall be exchanged at Washington D.C., as soon as possible. Treaty of Annexation between the Republic of Hawaii and the United States." (failed for lack or ratification by the United States) (June 16, 1897)

\(^{26}\) Mr. Foraker: . . . The treaty that was negotiated between this Government and Hawaiian Republic has never become treaty. It has been simply negotiated. It will be a treaty if it shall be ratified, and not otherwise. Until that moment of its ratification, there is no contract between Hawaii and the United States.

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Mr. Lindsay. If it will not disturb the senator, I should like to present this idea to him.

Mr. Foraker. Yes.

* * * *

Mr. Lindsay. Article 7 of the treaty provides:

"This treaty shall be ratified by the President of the United States by an with the advice and consent of the Senate on the one part."

I wish to ask the Senator whether a joint resolution, concurred in by the two houses but passed through the Senate by less than a two thirds majority can be treated as equivalent to the ratification of a treaty by the President of the United States by with the advice and consent of the Senate?

Mr. Foraker. It is not precisely the same thing, but the legal effect of the whole transaction is necessarily the same, according to the view I entertain of the power of Congress with respect to that particular matter because the result is an absolute cession of the territory belonging to the Republic of Hawaii and an absolute acceptance of it on the part of the United States. Now I shall show why that is so.

Mr. Lindsay. After this joint resolution shall have been adopted and approved by the president and presented to the Hawaiian authorities I ask the Senator if they will not have a perfect right to refuse to accept the benefit if the joint resolution upon that ground that a treaty has not been ratified by the President, by and with the advice and consent of the Senate.
agreed to by the United States, compelled the United States to ratify the treaty as required by Article II of the United States Constitution and that there be a later exchange of ratifications in Washington D.C.

Senator Foraker moved to an argument that the Joint Resolution, albeit a unilateral act of the United States, was a treaty. It was a kind of treaty in which only one party or nation need sign, as the other, in this case Hawaii "died" or ceased to exist upon the conclusion of such a treaty. Senator Foraker eventually saw the error of his ways and admitted that the United

Statements of Senators Lindsay and Foraker, 31 Cong. Rec. 6339 (1898)

27 31 Cong. Rec. at 6335, June 23, 1898, 55th Cong. 2d Sess. (Remarks of Senators Foraker and Allen).

Mr. Foraker. Undoubtedly they would have a right to ignore all the action that they took previously having referred to the negotiation and ratification of the treaty. They could treat this whole question de novo and take action with respect to this. I do not know that anybody ever contended for the contrary.

Mr. Foraker. We proposed that a contract was required, but in this case only one party need ratify: because I say that you cannot have a treaty without having a contract, and you cannot have a contract without having two parties to it.

Mr. Allen: That is true.

Mr. Foraker: And if one party disappears on the signing of the contract you no longer have a contract.

Mr. White: What becomes of it?

Mr. Allen: There are two parties to the contract up to the moment of its execution.

Mr. Foraker: But there is no contract until it is executed.

Mr. Allen: Very well, the moment the contract is signed and delivered it is an executed contract.

Mr. Foraker: But one party is dead and the contract cannot continue as the term ‘Treaty” applies.

Mr. Allen: Very well, but that party did not die until after the delivery of the Contract.

Mr. Foraker: Suppose you do not pay the money, who will there be to enforce the payment? The people of Hawaii become merged into the United States.
States could not annex Hawaii by a Joint Resolution.\textsuperscript{28}

The remaining Senator to offer an explanation of how the joint resolution could acquire the Hawaiian Islands.\textsuperscript{29} Senator Stewart ultimately claimed that the United States could annex

\textsuperscript{28} Mr. Allen: When we pass this resolution and it becomes a law, the transaction is consummated except the delivery of the property.

Mr. Foraker: It would have to be accepted on the other side. This is not the ratification of a treaty. We cannot by a joint resolution annex Hawaii.

(Statements of Senators Allen and Foraker) See 31 Cong Rec. 6336 (1898)

\textsuperscript{29} Senator Stewart claimed that the resolution, by itself, could acquire the Hawaiian Islands. He asserted that the Joint Resolution would become law. The President of the United States must enforce all laws. That obligation made the joint resolution \textit{self-executing} legislation. Thereupon, Senator Donelson Caffrey of Louisiana challenged Stewart by posing a hypothetical: would the boundary between the United States and Mexico be moved 300 miles south if the United States Congress passed such legislation?

Mr. Caffrey: Will the Senator from Nevada permit me to interrupt him? I wish to know how he proposes to extend those limits down 300 miles into Mexico. The Senator says, “Suppose we extend them.” I want to know by what rule?

Mr. Stewart: We do not propose to do it. I do not think Congress would commit such an outrage as that.

Mr. Caffrey: Exactly, but in the supposititious case of the extension of territory 300 miles into Mexico how would you do it?

Mr. Stewart: It might be done by act of Congress and if the President would sign it, he and the Congress would be bound by it if Congress said the boundary line should be in another place.

Mr. Caffrey: It would surely be a peaceful act.

Mr. Stewart: It would be a purely peaceful act if Mexico did not object. If Mexico did object, it would be a case for war.

Mr. Teller: Suppose Mexico agreed, then what?

Mr. Stewart: If Mexico agreed to it that would be the end of it.

Mr. Teller: Of course, that would be the end of it.
anything" by a joint resolution. His argument that the United States Congress could pass anything by means of a joint resolution. The Congress could even move the border 300 miles south into the Mexico.

Senator Stewart argued that the Constitution requires the President of the United States to "faithfully execute" all laws, the President would have to enforce that resolution. No, the

Mr. Allen: But suppose the Mexican Congress or the Mexican executive agreed to it; and that neither the Congress nor the executive had the authority to agree to it.

Mr. Stewart: It would not matter whether they had any authority or not. If we took the territory inside of our boundary, Mexico would have no redress but war.

Mr. Allen: But to carry out the Senator's simile further suppose Congress should declare that it we a necessity to annex England and the President should approve it, would that annex England to the United States?

Mr. Stewart: Yes, if England did not object.

Mr. Allen: But suppose the people of England did object?

Mr. Stewart: Then we would have to fight for it.

Mr. Allen: And if the English parliament would consent would that bind the people of England, though the parliament lacked the authority to consent?

Mr. Stewart: If the people of England were not satisfied, they might fight too.

Mr. Allen: Then we can annex the world?

Mr. Stewart: We can annex anything. But we do not suppose that Congress is going to do those things. The fact that sovereign power exists implies that it might be abused. It is not abused in this case [Hawaii] because we know that the people of the Sandwich Islands want to be annexed to this country.

In effect, Senator Stewart was actually describing acquisition of territory by conquest. 31 Cong. Rec. 6369 (1898) (Statements of Senators Caffrey, Stewart, Teller and Allen).

Arguably the President would have to enforce the Joint Resolution as part of his duty to "take care that the laws be faithfully executed,"

"He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive
President would not have to enforce a law invading Mexico. The President would have to invoke the war powers. Senator Stewart was thus confusing the war powers with the power to legislate "within" the United States by means of joint resolution.

There is no explanation nor rationale that explains how the joint resolution could acquire the Hawaiian Islands. The Republic of Hawaii after the effective date of the Joint Resolution resisted the imposition of United States sovereignty, United States law and the Constitution until the civil order of the Republic collapsed in chaos.

It came to be that the judges of the Republic of Hawaii would apply the criminal law of the Republic of Hawaii to convict someone such as Mr. Edwards, accused of sodomy. However, since that conviction violated the Bill of Rights of the United States Constitution, federal judges newly appointed by McKinley in Hawaii would release Edwards upon the application for a writ of habeas corpus. The sheriffs of the Republic would immediately re-arrest someone like Edwards sending him back to jail. Upon which, Edwards would again appeal to the U.S. Federal Judges, applying the Constitution of the United States, unlike the judges of the Republic, and seek release by means of a habeas corpus.

The Republic did not act as if it were a territory of the United States. Dole was still called a "President" instead of "Governor." The Republic of Hawaii maintained its Ministry of Foreign Affairs, its Foreign Minister, and engaged in diplomatic relations with other sovereign nation, including negotiations with Great Britain as to damages resulting from the 1893 overthrow, as well entering treaties with other nations, such as Japan.

The Republic continued to register sailing vessels under the Hawaiian, not the United

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Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States."

U.S. Constitution Article II, Section 3, Messages; Convene and Adjourn Congress; Receive Ambassadors; Execute Laws; Commission Officers


33 International Law-Hawaii-Court of Claims 22 U.S. Op. Atty. Gen. 583 (1899) (... all such claims should first be received by the Department of State, through diplomatic channels...)
States flag. The Republic ignored the application of the Chinese Exclusion Act then in force in the United States. Hawaii was not part of the United States. The Joint Resolution had no effect. Finally, the system of contract labor on the sugar plantations, a form of involuntary servitude abolished in the United States continued in Hawaii even after the effective date of the Joint Resolution.

When certain contract labors brought suit all the way up to the Supreme Court of the Republic of Hawaii, arguing that their contracts with sugar companies were void as abolished by the thirteenth amendment which must be, by the terms of the thirteenth amendment, somehow applicable in Hawaii, they lost. The Supreme Court of the Republic of Hawaii in 1899 ruled that the thirteenth amendment of the United States constitution was not applicable in Hawaii.

The Court held that the thirteenth amendment did not apply to Hawaii under either its language that involuntary servitude was abolished in "the United States," or "within the jurisdiction," of the United States. In effect, according to the Justices of the Supreme Court of the Republic of Hawaii in 1899, Hawaii was neither. It was not territory of, or within, the United States. Moreover, it was not even under the jurisdiction of the United States, even if not actual United States territory.

This undermined the theory of many that if the Joint Resolution did not actually acquire Hawaii for the United States it did provide Congress with the power to later annex Hawaii in the Organic Act, two years later. That reasoning, is, of course, faulty, for one cannot bootstrap the power to acquire Hawaii by an act of Congress when Congress has no power to acquire Hawaii in the first place. Nonetheless, many persons would believe the "bootstrap" theory: the

34 "The issuance of registry to vessels entitling them to carry national colors is an act of sovereignty, although the register itself is not a document required by the law of nations as indicative of a ship’s national character; for this can be shown in other ways, as, for instance, by a consular certificate attached to the bill of sale of a vessel to an American citizen. This is evidence of national character and entitles the vessel under the consular regulations to the protection of the flag. Sea letters are also at times evidence of the national character of a vessel." Vessels-Registers-Hawaii, 22 U.S. Op. Atty. Gen. 578 (1899)
35 Honomu Sugar Co. v. Sayewiz, 12 Haw. 86 (1899)
36 Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Thirteenth Amendment, United States Constitution.
Joint Resolution did not acquire Hawaii, it merely "provided for," or "paved the way" for the later acquisition of Hawaii by vesting Congress with the power of annexation.

This claim is made by the State of Hawaii as to its title to government lands, including Mauna Kea. Namely, while the State cannot demonstrate a clean chain of title by which the United States received title to government lands in 1898 by the Joint Resolution, the State of Hawaii today claims that the Organic Act did is the basis of its perfect title to the crown and government lands. Yet, if one act of Congress, the Joint Resolution has no power to acquire, by its own act, title to the public lands of the Republic of Hawaii, how can another, later act of Congress acquire such power?

Thus, the Joint Resolution is critical to this case in two ways. First, the fact that the joint resolution could not acquire the Hawaiian Islands as territory of the United States led to an unlawful seizure of the Hawaiian Islands, and the unlawful assertion of sovereignty and jurisdiction over the Hawaiian Islands. Second, the Joint Resolution is also the basis by which the United States claims title to government lands. The State of Hawaii claims that by the Joint Resolution or by the Organic Act there was a valid conveyance of such lands to the United States. This myth can be seen in the first two clauses of the joint resolution itself.

In the first clause of the joint resolution, the United States Congress claims that the government and nation of Hawaii already ceded both sovereignty over all lands, and title to the government lands by the Constitution of the Republic of Hawaii, of 1894:

*Whereas the Government of the Republic of Hawaii having, in due form, signified its consent, in the manner provided by its constitution, to cede absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies, and also to cede and transfer to the United States the absolute fee and ownership of all public, Government, or Crown lands, public buildings or edifices, ports, harbors, military equipment, and all other public property of every kind and description belonging to the Government of the Hawaiian Island, together with every right and appurtenance thereunto appertaining:*

*Therefore,*

In the second clause of the Joint Resolution of 1898, the United States purports to accept this offer of sovereignty and title to government lands:

"Resolved by the Senate and House of Representatives of the United States of America
in Congress assembled, That said cession is accepted, ratified, and confirmed, and that the said Hawaiian Islands and their dependencies be, and they are hereby, annexed as a part of the territory of the United States and are subject to the sovereign dominion thereof, and that all and singular the property and rights hereinbefore mentioned are vested in the United States of America.

There are two clear falsehoods at play:

First, it is not the Republic of Hawaii which is making an offer of either sovereignty over Hawaii, or title to the government lands. It is the United States. The United States, not the Republic of Hawaii wrote and enacted the joint resolution. The Republic of Hawaii had nothing to do with the Joint Resolution. The Republic did not ratify or consent to the Joint Resolution. It is clear, from the letter written by General Hartwell to President McKinley that the Republic repudiated the terms of the Joint Resolution. The Republic also refused to consider the Joint Resolution binding. Thus, President Dole gave and granted away lands after the effective date of the Joint Resolution. The Republic acted in almost all ways to deny that the Joint Resolution had any effect.

Second, the Joint Resolution claims that by the Constitution of the Republic of Hawaii, Hawaii offered both its sovereignty and title to the government lands, such as Mauna Kea to the United States. There is nothing in the Constitution of the Republic that makes such an offer. At best, one might single out a provision in the Constitution of the Republic of Hawaii that merely states that the President of the Republic has the power to enter into a treaty with the United States for commerce or political union.37

II. The Legal Obligations of Mandatory Judicial Notice and the State's Burden of Proof

In light of the above, the fact that the Joint Resolution was powerless to acquire either sovereignty or title to public lands results in two conclusions. First, that it is presumptively the case that the United States never acquired the Hawaiian Islands and thus has no sovereignty or

37 "The President with the approval of the Cabinet is hereby expressly authorized and empowered to make a Treaty of Political or Commercial Union between the Republic of Hawaii and the United States of America subject to ratification of the Senate." Article 32 of the Constitution of the Republic of Hawaii (July 4, 1894).
jurisdiction over Hawaii. As such, neither the State of Hawaii or the Board of Land and Natural Resources has the power, as sovereign, over Mauna Kea, as to its use, or leasing it to the Consortium.

Second, if the Joint Resolution was powerless to acquire sovereignty over Hawaii, presumably the Joint Resolution was powerless to acquire title to the government lands upon which Mauna Kea stands. In both cases, the failure of the Treaty of 1897, followed by the failed substitution of a joint resolution in its place results in the fact that the State both lacks jurisdiction to issue the permit herein, and the University of Hawaii at Hilo cannot lease the summit of Mauna Kea, as it has no ability to prove a clear chain of title that bridges the gap of 1898.

These conclusions may not appear compelling. Nonetheless, it is compelling that the Hearings Officer, and any Court considering the issuance of the permit enforce three rules or principles of law that are clearly applicable and binding.

First, under the Hawaii Rules of Evidence, which are laws of the State of Hawaii, this tribunal and any that may hear this matter is bound to take judicial notice of territorial limitations as set forth in the boundary descriptions found in the Act of Admission, the State Constitution and the Organic Act. All three provisions are State or Federal laws. Under Rule 202(b) it is mandatory that a court, and that would include this tribunal or contested case,

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38 The most fundamental jurisdiction is that of territorial jurisdiction. For example, in a case to quiet title, or as to eminent domain, an in rem case so to speak, if the moving party cannot prove the land is within the jurisdiction of the state, the federal and state courts lack subject matter jurisdiction. The lack of subject matter jurisdiction goes to the very power of the court. Lack of subject matter jurisdiction can be raised at any time, even after judgment. Any party can raise the issue and the court must sua sponte raise the issue and dismiss if it is aware that it lacks subject matter jurisdiction because the land is not within the courts territorial jurisdiction. *Durfee v. Duke* 375 U.S. 106 (1963) (“the Nebraska court had jurisdiction over the subject matter of the controversy only if the land was within in Nebraska”).

39 H.R.S. Section 626-1. Hawaiʻi Rules Evidence 202(b):

"Rule 202. Judicial notice of law

(b) Mandatory judicial notice of law. The court shall take judicial notice of (1) the common law, (2) the constitutions and statutes of the United States and of every state, territory, and other jurisdiction of the United States, (3) all rules adopted by the United States Supreme Court or by the Hawaiʻi Supreme Court, and (4) all duly enacted ordinances of cities or counties of this State." (1980) Cited at Page 2, 4 and 14. Cited in Footnote 9.
must apply federal and state law. Hawaii is unique in requiring such as a matter of judicial notice but it is self-evident, that all judges, all lawyers, all military personnel take an oath of allegiance to uphold the Constitution.\textsuperscript{40}

Such an oath entails upholding the laws of the United States. No one is claiming that application of international law at this point. There are professional obligations that both bench and bar must acknowledge.\textsuperscript{41} The only claims here are the clear and direct obligation to obey

\textsuperscript{40}Oath required by the Hawaii Supreme Court

"I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of the State of Hawai'i, and that I will at all times conduct myself in accordance with the Hawai'i Rules of Professional Conduct."

Oath Required as to all State Public Officials
Constitution of the State of Hawaii, Article XVI Section 4: Oath of Office.

Section 4. All eligible public officers, before entering upon the duties of their respective offices, shall take and subscribe to the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawaii, and that I will faithfully discharge my duties as ......................... to best of my ability."

As used in this section, "eligible public officers" means the governor, the lieutenant governor, the members of both houses of the legislature, the members of the board of education, the members of the national guard, State or county employees who possess police powers, district court judges, and all those whose appointment requires the consent of the senate.

Oath Required as to all enlisted personnel and commissioned Army Officers of the United States

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. So help me God." (Title 10, US Code; Act of 5 May 1960 replacing the wording first adopted in 1789, with amendment effective 5 October 1962).

\textsuperscript{41}Haw. Code of Jud. Conduct, Rule 2.2. Impartiality and Fairness:
A judge shall uphold and apply the law* and shall perform all the duties of judicial office fairly and impartially.*
Comments:
and apply the laws of the United States and the State of Hawaii.

Second, both State and Federal law declare that the state's power to issue a permit in this case, and the state's assumption that it has clear title to the summit of Mauna Kea, as passed to the University of Hawaii, are based on the laws that state that the State of Hawaii consists of the islands acquired by the joint resolution of 1898. Issues as to whether or not the state territorial jurisdiction over a person, or particularly over real property, are issues of subject matter jurisdiction.

Any judicial or Board decision wherein there is no territorial subject matter jurisdiction is absolutely void and of no effect. A challenge to subject matter jurisdiction, under the Hawaii Rules of Civil Procedure, as applicable herein, can be made at any time, before a judgment, before a hearing, during a hearing, during a trial, after a trial, after judgment, and indeed, years after a judgment. A judgment lacking subject matter jurisdiction is wholly void, of no effect.

Third, the burden rests upon the moving party: the Consortium applying for the

[1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.
[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.
[3] When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule.

See also Hawai’i Rules of Prof. Conduct, Rule 3.3 Candor Toward the Tribunal
(a) A lawyer shall not knowingly:
(1) make a false statement of material fact or law to a tribunal;
(2) fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client;
(3) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
(4) offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take remedial measures to the extent reasonably necessary to rectify the consequences.

permit. In short, it is the State that has the burden of proving that the island of Hawaii, upon which Mauna Kea sits, was acquired by joint resolution by the United States in 1898. Only if the State can demonstrate how a joint resolution can acquire the island of Hawaii will the State and the Board of Land and Natural Resources have territorial subject matter jurisdiction. Equally compelling, the State has the burden of showing that it has perfect title to the summit of Mauna Kea. This it must do despite the lack of any conveyance, by treaty or deed, from the Republic of Hawaii to the United States in 1898.

The party claiming title or claiming sovereignty by way of title has the burden of proving such title. This means that the State must prove that in 1898 that the United States acquired sovereignty over the Hawaiian Islands and that the State acquired perfect title to the government lands upon which Mauna Kea rests.

43 Opinion of the International Court of Justice, See Case Concerning Sovereignty over Pedra Branca/Pulau Puteh, Middle Rocks and South Ledge (Malaysia/Singapore) General list No. 130, International Court of Justice Slip Opinion page 13 12 May 2008:

"Malaysia appears to forget that 'the burden of proof in respect of [the facts and contentions on which the respective claims of the Parties are based] will of course lie on the Party asserting or putting them forward. (Temple of Preah Vihear (Cambodia v. Thailand), Merits, Judgment, I.C.J. Reports 1962, p. 16); it is thus for Malaysia to show that Johor could demonstrate some title to Pedra Branca, yet it has done no such thing."

44 See Makila Land Co., LLC. v. Kapu, 114 Haw. 56; 156 P.3d 482; (Intermediate Court of Appeals 2006):

"In an action to quiet title, the burden is on the plaintiff to prove title in and to the land in dispute, and, absent such proof, it is unnecessary for the defendant to make any showing. State v. Zimring, 58 Haw. 106, 110, 566 P.2d 725, 729 (1977) (citations omitted). The plaintiff has the burden to prove either that he has paper title to the properly or that he holds title by adverse possession. Hustace v. Jones, 2 Haw.App. 234, 629 P.2d 1151 (1981); see also Harrison v. Davis, 22 Haw. 51, 54 (1914). While it is not necessary for the plaintiff to have perfect title to establish a prima facie case, he must at least prove that he has a substantial interest in the property and that his title is superior to that of the defendants. Shilts v. Young, 643 P.2d 686, 689 (Alaska 1981). Accord Rohner v. Neville, 230 Ore. 31, 35, 365 P.2d 614, 618 (1961), reh'g denied, 230 Ore. 31, 368 P.2d 391 (1962).

45 See Makila Land Co., LLC. v. Kapu, 114 Haw. 56; 156 P.3d 482; (Intermediate Court of Appeals 2006):
The question of subject matter jurisdiction and of clear title to property are always in issue. A judgment rendered where such is lacking has no force in effect. This would be true of a tribunal, court, or land board of Hawaii issuing a permit to build a telescope on Mount Fuji or on Kilimanjaro. Such was precisely the dispute in 1898 and 1899 between President Dole and President McKinley. Hawaii was in 1898 a foreign country to the United States. Dole claimed the United States could not acquire title to the government lands by a mere Joint Resolution. Since that time, there has been no cession by treaty of Hawaii to the United States. There has been no conveyance of the government lands of the Kingdom of Hawaii, as held by the Republic of Hawaii to the United States, by which such was transferred to the State of Hawaii and ultimately the University of Hawaii.

The burden of proving that Hawaii is no longer a foreign country, as President Dole asserted, is on the moving party. The State of Hawaii also bears the burden of proof that the State, by its University, has perfect title to the sacred summit of Mauna Kea.

Respectfully yours,

Williamson Chang
Professor of Law

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Haw. R. Civ. Proc. 12: Defenses and Objections--When and How Presented--By Pleading or Motion--Motion for Judgment on the Pleadings
(h) Waiver or Preservation of Certain Defenses.
(3) Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.
Maunakea Administrative Rule input request

1 message

Veronica Ohara <hula.clay@gmail.com>  
Mon, Sep 24, 2018 at 4:02 PM

Aloha UHHAR,

Mahalo for the opportunity to contribute to the stewardship of Maunakea.

The current rules protect the Conservation Zone and it's important to see that the rules are followed. For example the buses to the VIS could be better managed by the tour companies. Perhaps limit the number of visitors when numbers exceed capacity. Hanauma Bay does this well.

Better organization of transportation would be advisable, ask the tour companies to work together to lower the number of vehicles. It's understandable that there will be reluctance as they are in competition for business. But the area is a Conservation Zone and it would be in their interests to see that the area is well cared for.

Enlist the cooperation of the rental car companies to ensure their vehicles are equipped for the drive and clean. Ask Avis, etc. to encourage tourists use professional tour companies to reduce the number of vehicles. Again expect resistance but it is also in the interest of all tourism based industries to support care for the Conservation Zone.

Encourage cultural practitioners to cooperate with the rules regarding offerings, and the staff required to enforce these rules.

Mahalo,

Veronica Ohara
Comment

Please add this testimony to the existing testimony submitted--thank you Professor Williamson Chang

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1 Testimony of Professor Williamson Chang Short Version large Hearing on Rules September 24 2018.pdf
240K
Mauna Kea: The Last Hawaiian Place?
Williamson B.C. Chang Professor of Law
The William S. Richardson School of Law
The University of Hawaii at Manoa

This hearing is about rules of public access to Mauna Kea. We all know the real issue is not public access to Mauna Kea—but TMT access to Mauna Kea. Access to Mauna Kea is to be denied Hawaiians by these rules—denied as Hawaiians are treated as simply members of the public—once again a part of that stew the call the melting pot—maybe this time the meat, the potatoes or the onions.¹ Nevertheless, these rules make Hawaiians again—just another face in the crowd—just another application waiting for access to Mauna Kea. These rules are presented as if the past five years never happened—as if there were no massive protests on the summit of Mauna Kea—as if there were no arduous legal proceedings—as if justice had not been so arbitrarily been denied in Hilo in the last contested case hearing. I was there—and not there. I was brought in by a party as an expert with the understanding that I would testify—I would never be heard—the University saw to that—denying that I had anything worthy of saying.

I am here now to say one thing: Mauna Kea may not be the last stand, the Alamo, the Valley Forge, the Guadalcanal or the Gettysburg for the Hawaiian people—it may not be the last battle. It may not be the end of the end, but it is more than the end of the beginning. Mauna Kea is of such significance and such value that it is the last truly Hawaiian place. Kahoolawe was, of course, very special—as are all the islands. However, the union of Papa and Wakea—namely Papahanaumokuakea and Mauna Kea are the source of all to Hawaiians—the source of the people, the aina, the taro plant, for all are ohana. That is, there is true meaning in the saying that the life of

¹ Hawaii is not a paradise for Hawaiians. Rather, Hawaii is the homeland for Hawaiians. For others who are here, whether they be Micronesians, or Filipinos, Koreans, Irish, German Portuguese, Chinese or Japanese, all have a place they call their homeland. All have a place that is sovereign and safe. All are secure in knowing that there is a place where Chinese food will always endure or where the Japanese language will always be spoken, or Irish dances will always be danced. All these people have a homeland and they are proud of it. Hawaiians too have a homeland—it is called the Hawaiian Islands. Presently, however, Hawaiians are not safe and secure in Hawaii. Their sovereign Kingdom has been taken. They were once a majority of the people, a majority of the voting people of that Kingdom. Today, they are but a small minority. Hawaiians face the greatest of obstacles—the highest rates of diabetes, heart disease and adolescent suicides. Hawaiians are vastly over-represented among the homeless and those incarcerated—in prisons far from their homeland.
the land is preserved in righteousness—for it means that first, the land is alive—as is Mauna Kea—as is Kilauea—and that there is sovereignty in the aina itself—that sovereignty is preserved by the people, the kahu, the stewards—who if not pono—will not rule.

Let us be obvious—our young people our leaving in droves. They cannot afford to live in Hawaii—they cannot find shelter, they cannot find decent jobs, they cannot see a future for themselves—to raise a family—for their children to raise a family. Once the keiki leave—it is over for Hawaiians—for Hawaii without Hawaiians is the dreadful end. For those sent far and wide—Mauna Kea is thus a beacon—a light—not light that the astronomers seek to study—but a light of vastly greater importance—for the world loves Hawaiians—the aloha spirit is the number one attraction according to our tourists—not the beautiful beaches, not the pali cliffs, not the diversity of peoples—but the aloha spirit—that contagious optimism, that overwhelming feeling of belonging, of community of human connection. When the last Hawaiian leaves—that spirit will leave too. No, Mauna Kea is not the last stand—but it comes close—and for that reason it is special—special as many know it—Hawaiians can put up with much—the dread of school of assimilation—of homelessness and illness—but they cannot sit by as their keiki and their keiki’s keiki leave. Hawaiians today, as they have gather around Mauna Kea—for it is the spiritual piko, the center the churning light that makes life—the start that the astronomers hope to find with TMT—they should look around not up at the stars—for the stars that created life are still alive around them—in the process of creating aina in Kilauea and in the quiet majesty of Mauna Kea—and the sweeping fleet of islands to the lee and west. Look down and around—not up. Yes, the summit of Mauna Kea is a place where you can see clearly—but one will not find the beginning of the universe in stars—but all around you.
Mauna Kea: The Last Hawaiian Place?

Williamson B.C. Chang Professor of Law
The William S. Richardson School of Law
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However, the union of Papa and Wakea—namely Papahanaumokuakea and Mauna Kea are the source of all to Hawaiians—the source of the
people, the aina, the taro plant, for all are ohana. That is, there is true meaning in the saying that the life of the land is preserved in righteousness—for it means that first, the land is alive—as is Mauna Kea—as is Kilauaea—and that there is sovereignty in the aina itself—that sovereignty is preserved by the people, the kahu, the stewards—who if not pono—will not rule.

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Sent from Mail for Windows 10
Aloha,

This set of rules that are being proposed are discriminatory. How can one set of people- those that are agents of UH and sublease personnel- be excluded from them?

This set of rules, for whom they apply to, are onerous and borderline authoritarian. How can it be a good idea to exclude the public's use of cell phones and flashlights?

This set of rules borders of violating the US Constitutional laws providing for the separation of church and state. How can a lessee of Hawaii "state" lands be asking that those that the mountain is supposed to be open for, namely Hawaiian cultural practitioners, be required to obtain a permit to practice their religion? Who is the UH, or the "owners" - the state of Hawaii- to say that they get to determine what is permitted spiritual activity?

Let's be honest. These rules are aimed squarely at the Protectors, who where doing the job of protecting the mountain because the UH and the state have failed to follow their own mandate to do so. These rules are an attempt at a political power grab to give western scientific large scale development an unfair advantage over those that seek to question development and protect the mountain from any more activities that add on to what has been a very poor track record. The protectors ought to be writing the rules at this point.

Blake Watson
Volcano, HI
Comments on the proposed draft administrative rules for Mauna Kea

Makaniolu Huaka <mhuaka@yahoo.com>  
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

After attending UH's administrative rules meeting for Mauna Kea yesterday I am writing to urge the University of Hawaii to make substantial revisions to its proposed administrative rules.

The primary need for substantial revisions is based on the text of §20-26-3 Applicability and implementation; which states: "(b) These rules do not apply to education and research activities and support functions carried out by: (1) The university; (2) Persons under an agreement with the university; or (3) Government entities under an agreement with the university." This unnecessary language sets up a dual class system, with the people of Hawaii being a subservient class to the University and astronomers. This language represents the University's subversion of the intent to ensure UH has the authority to pass rules applicable to all individuals on the mountain. The context is the University originally claimed they possessed undisputed authority to pass rules over University and astronomy activities but sought authority to pass only one set of rules that encompassed University, astronomy, commercial, and public activities that would be consistent for all. The University's current claims that rules can only apply to the narrowest possible interpretation of Act 132 (limited only to commercial and public activities) is false and misleading. This clause (§20-26-3) is contrary to the University's previously stated public commitments to the community when management was moved to the Big Island. This clause is contrary to the 2009 Mauna Kea Comprehensive Management plan which states that rules shall apply to all with the plan stating examples such as how the rules to be adopted will apply to both observatory and public vehicles, requiring that they both be 4wd. This clause is contrary to UH Hilo Chancellor Tseng's testimony when the University requested the legislature grant UH authority to pass rules that encompass public and commercial activities. This clause substantiates the concerns expressed by organizations such as Kahea when commenting on the draft bill (HB 1174).

Typical language used with these events stated such things as "consistent application to all who access Mauna Kea" and "protect and apply to all resources and resource users including cultural, natural, and scientific values". "Not to create a 'gated community'. "Regulate observatory as well as public and commercial" activities." Sources of such language can be found in these references.

5. 2014 Audit (along with many others) that rules protect all resources (scientific, cultural, natural; emphasis added), http://www.malamamaunakea.org/uploads/management/Audit_14-07.pdf

Other edits to the proposed rules are warranted. I am confident that such focused topics, which correct technical and semantic issues, as opposed to issues of broader purpose or intent, will be addressed in a repeat of the community consultation process. Repeating this community consultation process prior to submitting the rules for community approval prior to the more formal legislatively mandated steps will allow the university to explain why these specific rules are necessary and represent the minimum government oversight needed. This community engagement however, is exactly what the University leadership seems to yet again have abandoned as they progress with other issues such as TMT and renewing leases.

I do not agree with entities such as Kahea and other activists that these rules should be opposed in virtually all contexts or should be deferred pending resolution of other issues. Fair, equitably applied, constitutionally rigorous administrative rules that apply to all were promised and are needed. Yet this proposed set of rules represents a rushed and botched attempt. The revisions needed are straightforward. These revisions would simplify a complex situation that will be made more complex if passed as-is. These revisions will extend applicability of the proposed
rules to substantial additional user groups and thus represent a substantial change.

The remainder of this letter illustrates the obvious folly of the proposed rules through a series of scenarios. UH will likely argue that these scenarios can be addressed by internal policies. Policy compliance has no explicit enforcement mechanism in many instances, and the unwarranted distinction between policies and rules requires unnecessary and complicated communications.

Student homework: University lands and students or faculty engaged in school-related work are reasonably assumed to represent the university as defined in §20-26-3 of the proposed rules. Many students and faculty are NOT commenting on rules with this opportunity as they understand them to not apply. UH management may disagree, but the confusion is self-imposed by UH management. Students and faculty engaged in academic activities are led to believe by the current language that they would not need permits for large groups, would not be required to use 4wd vehicles, could fly drones, etc. without any oversight under these proposed rules. The same applies to astronomers. This set of rules is not about safety. This is about privilege.

Field trips: University class field trips are a University function. Faculty may organize field trips without notification, use 2wd vehicles, invite hundreds of participants, do so at any hour of the day or night, and be in compliance with these rules. Law enforcement will have no authority of the activity as long as it does not break other laws because it is an internal policy consideration at UH. This set of rules is not about safety. This is about privilege.

With aloha.
M.Huaka
Name
Jesse Eiben

Organization
Private Citizen

Address
Hilo HI 96720 United States

Email
jesse.eiben@gmail.com

Hawai‘i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Support

Comment
It is a key tenet of all modern ecosystem management theory and application that the land manager and management agency must have authority to make rules to better manage activities that could be detrimental to the environment.

I have been conducting ecosystem management research on Maunakea for the past 13 years related to my work on conserving endemic species of insects and arthropods through holistic assessments of the interconnectivity of plants and animals in the high alpine ecosystems and how humans can better manage these impacted environments in perpetuity.

These lands REQUIRE active management to protect and conserve the resources of people and culture, animals, and plants, and be protected from the impacts of people, animals, and plants. Knowing the difference between what needs protected and from whom and when is a constant challenge, that will change year to year.

It is essential that authority is provided to the University of Hawaii to manage all activities on lands it controls. It is poor policy and detrimental to active adaptive ecosystem management to only be allowed to manage activities of some users of a land area (permitted University activities and employees of permitted entities that the University is currently allowed to manage). All activities and uses that may impact a land area should be able to be guided to better the land area by a series of rules and authority to implement the rules.

That being said, with the ability to make rules and enforce rules for land uses in a land area, there is a great deal of vetting for proper and fair implementation of rules that must be adhered to and properly funded. This ability to create and enforce rules with a multitude of purposes is a great concern on University lands (either owned or leased). The ability to make rules does not mean they rules will necessarily be properly vetted or applied. However, these rules in this document are a useful overall set of rules with some leeway for defining and implementing when warranted.

I have seen and participated in modern and high-quality environmental management on Maunakea. There is a great risk that rules will slow high-quality management of lands in a bureaucracy that does not understand or can not properly document land-management needs or activities. There must be a stable form of staffing to track and implement rules, or this land management may suffer from the same year-to-year lack of fiscal planning and promises that the University and State is suffering from with conservation projects.

I support these rules in general, and greatly hope that proper implementation of rules will take place in the future. I trust the team of environmental managers on Maunakea operating in their current capacity. There is a concern that with new rules will come a change of ethos in the management regime, which could be less adaptive and supportive of all users of the UHH managed lands. I trust the OMKM with high-quality ecological monitoring, ecosystem change mitigation and conservation activities. I am less impressed with the UH System and Hawaii State Government actions I have seen related to management options for Maunakea (ex. Governor and UH President dictating land management changes in 2015 with ‘giving back approx. 10,000 acres of land to the DLNR’ with no discussion from environmental researchers or managers). I see a possible change with these rules toward more
top-down management that may be detrimental to the progress being made with adaptive environmental management on Mauna Kea.

Sincerely,
Dr. Jesse Eiben, UH Hilo, Assistant Professor of Applied Entomology
Aloha:
I went last night to the hearing at ‘Imiloa. I was unable to speak because there were so many people speaking against these proposed regulations & rules.
I am also opposed as they do not benefit Hawaiians nor the Aina. Once again it is about UH making money at the cost of the mauna.
It is a disgrace to treat such sacred land with such disregard.
If you decide to go ahead with these rules & regulations, there will be opposition just like a few years ago with TMT.
Please learn from Pele’s recent eruptions-
RESPECT THE AINA.
Mahalo,
banka schneider

UNCONDITIONAL

Willing to experience aloneness,
I discover connection everywhere;
Turning to face my fear,
I meet the warrior who lives within;
Opening to my loss,
I gain the embrace of the universe;
Surrendering into emptiness,
I find fullness without end.

Each condition I flee from pursues me,
Each condition I welcome transforms me
And becomes itself transformed
Into its radiant jewel-like essence.
I bow to the one who has made it so,
Who has crafted this Master Game;
To play it is purest delight;
To honor its form – true devotion.

—Jennifer Welwood
My name is Megan Archibald. I am 100% not Kanaka Maoli, just like the person probably reading this. However, Hawai'i is my home and I care about it as much as any Native Hawaiian. I'm here to say that if you have listened to the people of Hawai'i and/or read what they have to say about the proposed administrative rules, and still think it's a good idea to implement (most of them) then you do not belong in Hawai'i. UH says that the draft rules were developed after extensive community outreach, but I have yet to see one person (Hawaiian or not) who hasn't opposed. Mauna Kea has been mismanaged long enough, it's time for UH to take accountability, and for whoever is listening to REALLY hear the people.
Mauna Kea Public Access Rules Input

1 message

Andrew Cooper <acooper@keck.hawaii.edu>
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

Wed, Sep 26, 2018 at 3:26 PM

My thanks for allowing public input on the proposed Mauna Kea access rules and considering my input found below. As a regular mountain user for over a decade I have routinely accessed the summit of Mauna Kea, both during the course of my employment and for personal enjoyment.

In general I support the effort to clarify public access rules on the mauna. However, there are a number of weaknesses in the rules that could be clarified, and a few of the prohibitions that are overly aggressive and should be removed. Please consider the following input in revising the public access rules.

My inputs are included below as text and attached as a PDF.

Thank you,

Andrew Cooper
Waikoloa

UH System Government Relations Office 2442 Campus Road, Administrative Services Building 1, Room 101 Honolulu, Hawai'i 96822

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In general I support the effort to clarify public access rules on the mauna. However, there are a number of weaknesses in the rules that could be clarified, and a few of the prohibitions that are overly aggressive and should be removed. Please consider the following input in revising the public access rules.

There are a number of rules that should be re-worded for more accurate terminology. Section 20-26-24 part 1 includes a prohibition for any "electro-magnetic" device as follows.

“(1) Using any electro-magnetic device, including but not limited to radio transmitters and cellular telephones, except for use in an emergency;”

This rule as written would prohibit literally any device that uses electrical power, not just phones or radios, but rather cameras, wristwatches, vehicles, or even a pacemaker. The term "electromagnetic device" should be replaced with the same terminology as used in Federal Communications Commission (FCC) standards. I would suggest the phrase “intentional radio frequency transmitter”. I should note that part 2 covers essentially the same subject and is redundant. Part 1 could be deleted to remove this issue.

In the same section 20-26-24 there is a prohibition against artificial illumination, such as flashlights. This may protect the optical observatories against accidental light, but does not consider that the prohibition may create unacceptable safety risks. The possibilities of injury due to lack of light, tripping and falls, increases dramatically if flashlight use is prohibited, even in the partial light conditions during allowed during public access hours. This prohibition should be removed in favor of part (4) that essentially covers the real issue of interference with scientific observations.
Section §20-26-22 part 11 contains a prohibition for hiking on pu’u. This is clearly an effort to prevent damage to the sensitive steep cinder slopes of the summit pu’u and should be included. This is however a bit vague and difficult to interpret.

“(11) Hiking, conducting nature study, or conducting any activity on pu’u (cinder cones) unless on designated trails or roads, except by written permit; or”

What does pu’u mean? Essentially the entire astronomy precinct is cinder and could be considered pu’u. Furthermore this conflicts with the allowed snow play sections of 20-26-40. This should be clarified to indicate steep cinder slopes not simply the term pu’u, or restricted to specific sites called out by name. e.g. Pu’u Pol’ahu, Pu’u Pohaku, Pu’u Hau Kea, etc.

Section 20-26-39 part c contains language to authorize public access hours. This is a tricky subject and one that should be removed. This is a public resource and it should be available at any hour, in particular considering that many of the finest aspects of the area are best seen at night, i.e. the dark skies treasured by the observatories can be enjoyed by the general public as well.

Are traditional practitioners allowed nighttime access? If so the prohibition should be removed due to the possibility of denying access to traditional practitioners after dark access, or due to the impossibility of determining who is and who is not an allowed traditional practitioner.

Section 20-26-30 contains a prohibition against the use of drones, kites, or aerial toys. No justification against the use of such devices is given. Without any justification this prohibition should be removed.

Section 20-26-62 part e specifies that insurance can be required for non-commercial group access. This has the unintended effect of completely denying permits to most non-commercial groups who do not charge for activities. If a hiking group, school group or club, church group, or even a large family wishes to obtain a permit they face the requirement to obtain expensive liability insurance. This effectively denies access to local groups in favor of commercial interests.

Any requirement for insurance should be removed and replaced with the requirement for a liability waiver form to be signed by all participants.

Andrew Cooper  
Electrical Engineer  
W. M. Keck Observatory  
808-881-3862  
mailto:acooper@keck.hawaii.edu

ACooperMaunaKeaRulesInput20180926.pdf  
50K
My thanks for allowing public input on the proposed Mauna Kea access rules and considering my input found below. As a regular mountain user for over a decade I have routinely accessed the summit of Mauna Kea, both during the course of my employment and for personal enjoyment.

In general I support the effort to clarify public access rules on the mauna. However, there are a number of weaknesses in the rules that could be clarified, and a few of the prohibitions that are overly aggressive and should be removed. Please consider the following input in revising the public access rules.

There are a number of rules that should be re-worded for more accurate terminology. Section 20-26-24 part 1 includes a prohibition for any “electro-magnetic” device as follows.

“(1) Using any electro-magnetic device, including but not limited to radio transmitters and cellular telephones, except for use in an emergency;”

This rule as written would prohibit literally any device that uses electrical power, not just phones or radios, but rather cameras, wristwatches, vehicles, or even a pacemaker. The term “electromagnetic device” should be replaced with the same terminology as used in Federal Communications Commission (FCC) standards. I would suggest the phrase “intentional radio frequency transmitter”. I should note that part 2 covers essentially the same subject and is redundant. Part 1 could be deleted to remove this issue.

In the same section 20-26-24 there is a prohibition against artificial illumination, such as flashlights. This may protect the optical observatories against accidental light, but does not consider that the prohibition may create unacceptable safety risks. The possibilities of injury due to lack of light, tripping and falls, increases dramatically if flashlight use is prohibited, even in the partial light conditions during allowed during public access hours. This prohibition should be removed in favor of part (4) that essentially covers the real issue of interference with scientific observations.

Section §20-26-22 part 11 contains a prohibition for hiking on pu’u. This is clearly an effort to prevent damage to the sensitive steep cinder slopes of the summit pu’u and should be included. This is however a bit vague and difficult to interpret.

“(11) Hiking, conducting nature study, or conducting any activity on pu’u (cinder cones) unless on designated trails or roads, except by written permit; or”

What does pu’u mean? Essentially the entire astronomy precinct is cinder and could be considered pu’u. Furthermore this conflicts with the allowed snow play sections of 20-26-40. This should be
clarified to indicate steep cinder slopes not simply the term pu’u, or restricted to specific sites called out by name. e.g. Pu’u Poli’ahu, Pu’u Pohaku, Pu’u Hau Kea, etc.

Section 20-26-39 part c contains language to authorize public access hours. This is a tricky subject and one that should be removed. This is a public resource and it should be available at any hour, in particular considering that many of the finest aspects of the area are best seen at night, i.e. the dark skies treasured by the observatories can be enjoyed by the general public as well.

Are traditional practitioners allowed nighttime access? If so the prohibition should be removed due to the possibility of denying access to traditional practitioners after dark access, or due to the impossibility of determining who is and who is not an allowed traditional practitioner.

Section 20-26-30 contains a prohibition against the use of drones, kites, or aerial toys. No justification against the use of such devices is given. Without any justification this prohibition should be removed.

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Any requirement for insurance should be removed and replaced with the requirement for a liability waiver form to be signed by all participants.

Andrew Cooper
acooper@keck.hawaii.edu
Waikoloa, HI
Testimony in opposition to HAR chap. 20-26

Bianca Isaki <bianca@kahea.org>
To: UH - Hawaii Administrative Rules <uhhar@hawaii.edu>

Aloha - please find my individual testimony attached.

--
Bianca Isaki, Ph.D., Esq.
KAHEA: The Hawaiian-Environmental Alliance
P.O. Box 37368
Honolulu, Hawai‘i 96837
808.927.5606

2018.09.26 Isaki testimony opposed.pdf
56K
Date: September 26, 2018

To: University of Hawai‘i Government Relations Office
2442 Campus Road, Administrative Services Building 1-101
Honolulu, Hawai‘i 96822
email: uhhar@hawaii.edu

Re: Testimony in opposition to proposed Chapter 20–26, Hawaii Administrative Rules.

To whom it may concern,

I oppose the proposed rules. I have been involved in public processes concerning the University’s operations on Mauna Kea since 2009 when I started working for KAHEA: The Hawaiian-Environmental Alliance, a nonprofit corporation. I attended the September 25, 2018 hearing on the rules in Honolulu, at which all who testified were also in opposition to the rules as proposed.

I appreciate that the call for the University’s rulemaking for Mauna Kea goes back at many years and that the purpose of the rules was intended to protect Mauna Kea’s resources and public health and safety. The proposed rules, however, appear to have deviated from this purpose and towards restraining efforts by the Kia‘i Mauna and other cultural practitioners. This appearance was not aided by the 2011 “emergency rules” which the Third Circuit struck down as invalid nor by the actual substance of provisions, for instance, delegating wholesale the administration of the rules to an unknown president’s designee.

There are too many questions about what the impacts of the rules will be. The Board of Regents (Board) should prepare environmental review documents prior to decisionmaking. In another area, Kā‘anapali beach on Maui, the Board of Land and Natural Resources has taken the position that the time for environmental review of a commercial permitting regime for use of the area was during the rulemaking phase. I don’t agree with that position but the point is that, like here, Kā‘anapali rules were supposed to manage commercial activity. Instead, and while the rules were in force, divers and swimmers ended up dodging boats. Opelu fishers gave up because the permitted jetskis scared away the opelu schools and commercial charter boats caught the opelu mama. These impacts were not explored.

The point is that no one knows what the impacts of these rules will be. Hawai‘i’s environmental review process is meant to protect the environment because it is “critical to the well being of humanity,” HRS § 343-1. Preparing an EIS will disclose how the rules may impact the many communities assembled by Mauna Kea and allow the Board to fulfill its duties to make informed decisions about its management of public trust resources.

Me ke aloha,

Bianca Kai Isaki, Ph.D., Esq.
Dear Sir or Madam,

Thank you for the proposed report on the rules regarding public and commercial activities on Mauna Kea lands. As a resident of the Big Island, I hope the administration will continue to strike a balance for access by all who wishes to benefit from the area. 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. Mauna Kea should be synonymous with something the people of Hawaiʻi can be proud of; whether it is for astronomy to understand our place in the universe, its sheer beauty, or reverence with the Hawaiian culture. Our children and children’s children will be proud to say humanity benefited from our stewardship of the mountain.

Best Regards,

Jason Chin, W. M. Keck Observatory
Andrew Sheinis

65-1312 Pomaikai pl
Waimea HI 96743

808.365.2574

quasar@cruzio.com

I strongly support the Uh administrative Rules for Maunakea, and I vote.
Testimony - Proposed UH Maunakea rules

1 message

jbklyman@yahoo.com <jbklyman@yahoo.com> To: uhhar@hawaii.edu

I support limited access to critical, sensitive or overused area of Mauna Kea. However, it has to be made clear why these prohibitions are in effect, or you will not get the publics support/buy-in.

1. I feel construction of the TMT facility would be beneficial to the world knowledge, and Mauna Kea has such unique geography in support of astronomical observations not found elsewhere in the world.

2. I believe "Original occupying people" should have a say in how the land is used, and done so with their support and understanding of the issues involved. However, this seems to be at odds with many Hawaiian Nationals, that appear to have reasonable claims for the land usage. I do not have an answer for this, but it seems more communication and agreement is needed. Perhaps addressing "the most good" or taking action to support previous agreements that are causing the ridged stances being taken.

3. Effective Communication – does not seem to have taken place. How can you administer the reasons behind the creation of a rule, so you get the "buy in" of those effected by the rule? A review of how community informing was done, may be needed.

My Reasoning for my stance:

Hawaiian national testimony appeared to me to be emotional, LOUD, captive audience staging. Though ineloquently expressed, did hold a valid underlying issue. With regard to these underlying issues, I do not know if they have been considered. Probably the public testimony given, was done so without knowledge or understanding of what the intent of the proposed rule was to protect. The impression I walked away with, was that many did not like the rule base, possibly because it may have been properly understood or simply against the personal value of that witness. I find most problems are due to misunderstanding in communication of an idea vs outright opposition to a well-reasoned prohibition.

Is there some way to provide an “Rules for Dummies” companion text that might explain the intent for creating each rule, and what reasons were considered in evidence that supports its inclusion? Things like no music or instruments, restrictions on personal car usage, snowballs, limiting the number of participants in cultural practices. Then again, there were complaints about how the 40+ pages of rules was excessive – how to get away from this? Perhaps an expert on the regulations with the ability to “talk story” explaining the rational for the rule, as many people do not want to immerse themselves in such detail (especially many from the Hawaiian culture that rely on an aural story tradition). I suspect many may not be able to fully read and understand what is in the proposed regulations. How did the UH do its outreach to the Hawaiian community? Were invites sent to elders from the community, or did the UH simply publish in a newspaper and website that these issues were to be created and their input was needed? Perhaps this is part of the TMT construction resistance, as 5 years of prep work, EIS and publications were released, and it was not until construction equipment was going up the mountain that the Hawaiian community poured out in mass. I think this “wester legal” communication style may be a good part of mountain usage issues.

There seemed to be some confusion on how the public would have input to the UH regency members to address and correct issues that come up. I see there is a clause in the regulations to allow for this, but it may not be clear on how to make use of this for changes. Can this be clarified?

How do you address the “Sacredness” of Mauna Kea? Historically, it was for special workers and Ali‘i – so how does the general public now fit in. How do you command their "respect" during a visit? More on “Cultural Orientation” clarification seems needed.

There are probably more issues, but I feel these cover the significant reasons for the dissatisfaction with the new rules. Plus correcting pervious inactions to garner “buy-in” that there is credibility to those making the regulations.

Jim Klyman
Keaau, HI
webhead@hawaii.edu <webhead@hawaii.edu>  
Reply-To: "E. Kalani Flores" <ekflores@hawaiiantel.net>  
To: uhhar@hawaii.edu

Name  
E. Kalani Flores

Organization  
Flores-Case 'Ohana

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Kamuela HI 96743

Email  
ekflores@hawaiiantel.net

Hawai‘i Administrative Rules  
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment  
Comment

Comment  
See attachment

F-C Ohana Testimony Chap 20-26.pdf  
355K
September 26, 2018

TO: UH Government Relations Office  
2442 Campus Road  
Administrative Services Building 1-101  
Honolulu, HI, 96822  
uhhar@hawaii.edu

FR: E. Kalani Flores, representing the Flores-Case ‘Ohana  
P.O. Box 6918, Kamuela, HI 96743  
ekflores@hawaiiantel.net

RE: UH Adoption of Chapter 20-26: Hawai’i Administrative Rules

General Comments:

1. In order to protect Native Hawaiian customary and traditional rights exercised for subsistence, cultural, and religious purposes associated with the Mauna Kea lands, the 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 stipulated in the State Supreme Court decision rendered in *Ka Pa’akai O Ka ‘Āina v. Land Use Commission*, 94 Hawai’i 31, 47, 7 P.3d 1068, 1084 (2000). Once these rights and practices are appropriately identified, the University needs to consult with the Office of Hawaiian Affairs (as required by Act 132) as well as Hawaiian cultural practitioners in order to appropriately protect these rights and practices (as required by the 2009 Mauna Kea Comprehensive Management Plan). The exercise of native Hawaiian rights and cultural practices and associated activities pursuant to article XII, section 7 of the Hawaii State Constitution are distinct from the general public activities. 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, and the power to protect these rights and to prevent any interference with the exercise of these rights. In order to fulfill its duty to preserve and protect customary and traditional native Hawaiian rights, DLNR and BLNR must independently investigate:

1. the identity and scope of “valued cultural, historical, or natural resources” in the... area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;
2. the extent to which those resources -- including traditional and customary native Hawaiian rights -- will be affected or impaired by the proposed action; and
3. the feasible action, if any, to be taken . . . to reasonably protect native Hawaiian rights if they are found to exist.
Under *Ka Pa`akai*, an agency’s analysis must be “independent,” *94 Hawai`i* at 45, *7 P.3d* at 1083, and the duty of the agency to analyze the *Ka Pa`akai* framework cannot be delegated. *Id.* at 60, *7 P.3d* 1087.

There has been no investigation by DLNR/BLNR into the traditional and customary practices that will be affected by the proposed action. **Adopting these proposed rules before DLNR/BLNR has completed an independent *Ka Pa`akai* analysis would be in clear violation of *Ka Pa`akai* and the Hawai`i Constitution.**

2. There should be separate tiers of penalties and appeals pertaining to the different violations and penalties. As written, the rules have lumped every type of violation from minor to major into one approach. For example, a parking citation should not be treated in the same manner as other proposed violations and be subject to a penalty up to $2,500. What are the examples of enforcement, appeals, and penalties applied on existing UH campuses? **These proposed rules need further clarification and separation between the various categories of violations.**

3. If the proposed violations are considered civil in nature, why aren’t they being handled through the existing district or circuit court system instead of a contested case proceeding? Contested case proceedings were never intended for handling these types of civil violations because they are inappropriate, time consuming, and **not** cost effective. Just calculate how much it would cost for the UH to conduct one contested case proceeding? Now, times that by the number of anticipated violations per year that might contest these rules. **Other options (i.e. DLNR’s Civil Resource Violation System) for handling certain violations should be implemented that are just, speedy, and cost-effective.** For example, the CRVS allows the issuance of citations for minor violations – either a fine, retribution for fees and costs, or non-monetary sanctions like restoration – that would **not** have to go through a hearing process or court system.

4. Several of these proposed rules and the procedures for adoption are not in compliance with the CMP, Mauna Kea Master Plan (2000), Act 132 as well as other statutory laws.

5. **Several of these proposed rules are invalid for being overbroad and thus infringing on the constitutional rights of individuals. Hoffman Estates v. Flipside, Hoffman Estates, 455 U.S. 489, 491 (U.S. 1982).**

6. **There should also be a section of rules and associated enforcement that pertains to astronomy personnel, UH employees, contractors, researchers, etc. who are within the Mauna Kea Science Reserve and other UH managed lands in order to protect the cultural and natural resources.** As written, such individuals are exempt from such rules.
Specific Comments:

§20-26-3 Application. [Some of these rules are applicable to astronomy personnel, UH employees, researchers, contractors, etc.]

Thus, they shouldn’t be exempt from all of these rules unless another section of rules is being applied to specific to them.]

§20-26-6 Fees. [This section doesn’t specify any provisions for waiver of fees for Native Hawaiian cultural practitioners.]

§20-26-22 Preservation of resources. [Many on these specific rules are unnecessarily restrictive in nature. In addition, many of them would be in conflict with Native Hawaiian traditional and customary rights and practices.] Also, section (6) should be moved to §20-26-23.

§20-26-24 Preservation of scientific and educational resources. (1) Using any electro-magnetic device, including but not limited to radio transmitters and cellular telephones, except for use in an emergency;

(2) Using wireless communication technologies, except for use in an emergency;

[It’s unnecessary to ban such devices in all parts of Mauna Kea. These areas should be more specific. Also, as written, these sections would make it unlawful to even use an iphone or smart phone to take photos.]

(3) Using artificial illumination, except for headlights on licensed motorized vehicles;

[As written, this section would make it unlawful to use a flashlight.]

§20-26-29 Vehicles and transportation. (7) Failing to comply with any posted sign or any posted equipment requirement based on roadway conditions, such as a requirement to use or carry tire chains when snow or ice is present or anticipated. [It’s not always necessary to have tire chains when snow is present which this section implies. The ending part of this sentence should be eliminated as such: such as a requirement to use or carry tire-chains when snow or ice is present or anticipated.]

§20-26-30 Unmanned aerial vehicles, drones and air toys. [There should be some provisions, perhaps by permit, for use of some types of uavs or drones such as for research, educational, or other projects instead of a complete ban.]

§20-26-38 Camping. [This section doesn’t specify any provisions for activities by Native Hawaiian cultural practitioners that might conflict with the proposed rule and definition of “camping”. Also, there should be some provisions, perhaps by permit, for such activity as for research, educational, or other projects instead of a complete ban.]

§20-26-39 Access. [This section doesn’t specify any provisions for access by Native Hawaiian cultural practitioners that might conflict with the proposed rules.]

§20-26-41 Scattering of cremated remains. [There should be designated areas for scattering of cremated remains for the general public and visitors.]

§20-26-62 Group use permits generally. (a) Any group larger than ten (10) members shall be required to obtain a group use permit. [There should be a distinction when such group use permits are necessary or practical. For example, why would it be necessary for a group of ten or more require a permit if
only coming to the VIS? Especially if it’s an educational or tour group just visiting the VIS. Instead, there should be an easier process to notify the VIS if a class or other group was coming to the VIS similar to the process for groups planning a trip to the ‘Imiloa Center in which a permit is not necessary or needed.]

§20-26-63 Group use permits for public assemblies and meetings. (a) Public assemblies, meetings, gatherings, demonstrations, parades, and other such events, resulting in assemblies of ten (10) or more persons, are allowed in the UH management areas, provided a permit for such event has been issued by the president’s designee. [Parts of this rule are in violation of First Amendment rights and runs afoul of the rights of free speech, association, and movement.]

§20-26-73 Penalties, administrative fines and other administrative sanctions. [see General Comments 2 & 3]

§20-26-75 Appeals process,... [see General Comments 2 & 3] [Also, seven days to submit an appeal is inadequate. It should be at least 21 days or more similar to what other State agencies allow in the appeals to their citations.]

Note: We were only able to comment on the few specifics of these proposed rules. As such, we reserve the right to provide additional comments.
I'm writing in support of the proposed rules for access to Mauna Kea. They are a common sense set of rules requiring permits for access to an environmentally sensitive area that is prone to dangerous weather conditions at times. I also appreciate the prohibition on excessive noise. Hopefully these rules go into effect as proposed, and a precious resource can be better managed for future generations.

Eric W
I take issue with several of the changes to administrative rules regarding access to Maunakea.

First, and most glaring is denying individual access to the mountain until one has attended an ‘orientation’. Presumably the orientation regards basic, common-sense issues regarding mountain safety and cultural sensitivity, but the contents of the orientation are nowhere stated. There is no indication of when, or where, or how often this ‘orientation’ will be held, or how many people will be admitted to an ‘orientation’ session. This single rule gives UH the authority to block access to the mountain to all who do not attend its ‘orientation’ session. It may require people to make a dedicated trip over possibly long distances at inconvenient times. It may be held infrequently, and may be restricted to as few people as UH officials decide. 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. This single requirement dooms the document in its existing form.

There is the requirement for all to pay a ‘Fee’ to access Maunakea. Is the fee to be paid at the point of access to the mountain, or must the visitor make yet another dedicated trip over possibly long distances to pay this fee in person during restricted business hours? This is not explicitly stated and is unacceptable. Payment of an annual fee is an acceptable requirement for tour operators who access Maunakea as part of an ongoing commercial enterprise, but it is otherwise vague and unacceptable as worded. 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.

Regarding vehicles, it is not explicitly prohibited for a vehicle to be deliberately used to block a roadway. This needs to be stated under ‘Vehicles’, not ‘Fee’ to be paid at a location remote from the mountain.

There is no indication of when, or where, or how often this ‘orientation’ will be held, or how many people will be admitted to an ‘orientation’ session. This single rule gives UH the authority to block access to the mountain to all who do not attend its ‘orientation’ session. It may require people to make a dedicated trip over possibly long distances at inconvenient times. It may be held infrequently, and may be restricted to as few people as UH officials decide. 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. This single requirement dooms the document in its existing form.

Regarding ‘Violations, Costs, Administrative fines...’, the setting of the upper baseline for fines at $2500 for a first offense without further clarification is vague and grossly unacceptable. Is a parking ticket $2500? A candy wrapper that missed the trash can $2500? This is a police state tactic to hold the club of financial ruin over all who access the management area. This abusive game was played during the Fissure-8 eruption where people were fined $5000 for attempting to access their own homes, or for simply being in a ‘prohibited area’. As written, this section is totally unacceptable. All who access Maunakea will be risking significant financial loss or ruin at the discretion of any UH officer.

The proposed ‘Hawai‘i Administrative Rules’ document represents a major escalation of the State of Hawaii’s assault against the US Constitutional rights of the people who live here. Many people here do not like being a part of the USA, but as long as Hawai‘i is a state of the Union, the US Constitution stands.

Agencies of the State of Hawaii have demonstrated through their actions a police-state mentality that ignores US Constitutional protections in the pursuit of absolute power and control over the land and it’s people. The US Constitution exists for the sole purpose of curbing the desire of States for absolute power and control. The US Constitution is not a document that can be ignored in the pursuit of ‘public safety and order’. The management document in question is unacceptable as written due to multiple glaring instances of this attitude.

John Powers
PO Box 898
Pahoa, HI 96778
Aloha,

RE: Mauna Kea 'Rules'

- 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 give 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.

Mahalo,
Shannon Rudolph
P. O. Box 243 Holualoa, Hi. 96725
* 35 year Hawai‘i Island resident
TO: UH System Government Relations Office
University of Hawaii at Manoa
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FROM: Kenneth R. Conklin, Ph.D.
46-255 Kahuhipa St. Apt. 1205
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Website: "Hawaiian Sovereignty: Thinking Carefully About It"
http://tinyurl.com/6gkzk
Book: "Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State"
http://tinyurl.com/2a9fqa


DATE: September 27, 2018

Attached please find a pdf file of 18 pages containing my detailed testimony regarding proposed regulations for "Public and Commercial Activities on Mauna Kea Lands."

Here is a summary of it.

In the testimony I identify and explain in detail 4 fundamental principles of unity and equality, and I apply them to criticize and improve the proposed regulations. My complete testimony is also available as a webpage at https://tinyurl.com/y8vse4k2

Here are four fundamental principles for all issues related to Hawaiian sovereignty, which are also helpful for analyzing the proposed rules for Mauna Kea:

1. We are all equal in the eyes of God regardless of race.
2. All people, regardless of race, should be treated equally under the law by our government.
3. Unity with America: Hawaii is in fact the 50th State of the USA, whose laws rightfully have jurisdiction here.
4. Unity of Hawaii: The people and lands of Hawaii should remain unified under the single sovereignty of the State of Hawaii, and should not be divided along racial lines.

Two obvious conclusions for Mauna Kea rule-making can be derived from those fundamental principles. Many proposed rules should be improved to reflect these two conclusions. These conclusions motivate and underlie all the comments I have made about specific proposed rules.
(A) Every rule should apply equally to people of all races; there should be no racial set-asides or special privileges.

(B) If rule-makers believe Article 12 Section 7 of the Hawaii Constitution requires certain rights to be granted to one particular racial group, then the best way to fulfill that requirement is to grant those same rights to all Hawaii's people regardless of race. There is legal precedent that a law requiring benefits for one racial group can be satisfied by granting those benefits to all persons regardless of race. Furthermore, the Aloha Spirit and the need for pono require such inclusiveness rather than racial exclusion.

Proposed rules for Mauna Kea analyzed by applying those principles and conclusions include the following topics:
* Mandatory orientation program for visitors;
* Fees charged to visitors;
* Traditional and customary rights of Native Hawaiians;
* Snowplay;
* Burials and scattering of cremated remains;
* Racial set-asides or preferences;
* Access for religious or cultural purposes;
* Demographic characteristics of employees, volunteers, visitors deemed irrelevant.

Conklin's complete testimony is at https://tinyurl.com/y8vse4k2
Aloha Hawaii administrative rule-makers

This document provides written testimony for hearings held the last week of September 2018 regarding proposed regulations for "Public and Commercial Activities on Mauna Kea Lands" to become proposed chapter 20-26 of Hawaii's Administrative Rules. I am using your statement of your proposed rules found at http://www.hawaii.edu/offices/bor/adminrules/chapter26-proposed.pdf

My testimony identifies and describes four fundamental principles from which are derived my comments on several of the proposed regulations. Each principle is explicated and supported by philosophic and historical references. There are also proposals for a few additional regulations to strengthen and extend the ones you offered.

Mahalo for reviewing this testimony.

Kenneth R. Conklin, Ph.D.
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e-mail Ken_Conklin@yahoo.com

INTRODUCTION

Proposed regulations for public and commercial activities on Mauna Kea have emerged at this particular time in partial response to protests against construction of a new 30-meter telescope. Protesters calling themselves "protectors" frequently called Mauna Kea a "sacred place" and blocked the access road to prevent delivery of construction materials and equipment. As public controversy heated up during a period of several years, other issues were raised regarding the appropriateness and handling of individual visitors and commercial tour groups. What regulations should be adopted to control who and how many can visit, for what purposes; and to control their activities?

Troubling questions have been raised regarding whether the religious views of some members of a particular racial group should have priority in this "sacred place." For example, should new burials or scattering of ashes be allowed, and should people without native ancestry be allowed to do such things? Should recreational use, for example snowplay, be allowed, or would that be desecration of a sacred place? Should visitors be required to be "educated" by ethnic Hawaiian greeters about the rules and specifically about the religious beliefs before being allowed to enter? Some protesters have challenged the jurisdiction of the United States, and the State of Hawaii, asserting that ethnic Hawaiians alone, or an unextinguished Hawaiian Kingdom, remain sovereign.
This testimony addresses particular regulations in the Board of Regents' proposed rules. But first it is necessary to discuss some fundamental principles whereby such regulations should be judged. These principles seem so obvious that it is astonishing that every one of them comes under vicious attack from some protesters. Accordingly the principles will not only be stated but also defended with argumentation and citations to supporting documents or analyses. Readers in a hurry may skip past the biographical information about testifier Kenneth R. Conklin, and the fundamental principles, to read the specific conclusions concerning particular regulatory issues. But you can expect that opponents will raise arguments that will require you to look back to the principles.

When a dentist sees a tiny brown spot on a tooth, she might gently poke it with a probe which could cause a large hole to open revealing an underlying cavity in need of treatment. Scientists and mathematicians know that details are important, because the whole edifice of long-established theory is at risk if even a single contrary fact or logical flaw is discovered. The proposed rules for public and commercial activities on Mauna Kea are small details, relatively unimportant in view of the huge problems we face in our chaotic and dangerous world. But supporting or opposing any particular rule opens a chain of logical reasoning which ultimately requires adherence to fundamental principles of civil rights, or commitments to beliefs about Hawaii's history.

KOKOKAHI

In 1839 King Kauikaouli Kamehameha III proclaimed a Declaration of the Rights of Man, which then became the preamble of the 1840 Constitution.

Here is the first sentence of the first Constitution of Hawaii. I call it the KOKOKAHI sentence. One blood. It is the rock upon which all the laws of Hawaii are founded, starting in the Kingdom and then flowing through the Republic, Territory, and State. It is my inspiration for the four fundamental principles stated below.

"Ua hana mai ke Akua i na lahuikanaka a pau i ke koko hookahi, e noho like lakou ma ka honua nei me ke kuikahi, a me ka pomaikai." In English, it can be translated into modern usage as follows: "God has made of one blood all races of people, to dwell upon this Earth in unity and blessedness."

SUMMARY: FUNDAMENTAL PRINCIPLES AND CONCLUSIONS

Here are four fundamental principles helpful for analyzing the proposed rules:
1. We are all equal in the eyes of God regardless of race.
2. All people, regardless of race, should be treated equally under the law by our government.
3. Unity with America: Hawaii is in fact the 50th State of the USA, whose laws rightfully have jurisdiction here.
4. Unity of Hawaii: The people and lands of Hawaii should remain unified under the single sovereignty of the State of Hawaii, and should not be divided along racial lines.

Two obvious conclusions for Mauna Kea rule-making can be derived from those fundamental principles. Many proposed rules should be improved to reflect these two conclusions. These conclusions motivate and underlie all the comments I have made about specific proposed rules.
(A) Every rule should apply equally to people of all races; there should be no racial set-asides or special privileges.
(B) If rule-makers believe Article 12 Section 7 of the Hawaii Constitution requires certain rights to be granted to one particular racial group, then the best way to fulfill that requirement is to grant those same rights to all Hawaii's people regardless of race. There is legal precedent that a law requiring benefits for one racial group can be satisfied by granting those benefits to all persons regardless of race.
Furthermore, the Aloha Spirit and the need for pono require such inclusiveness rather than racial exclusion.

BACKGROUND OF TESTIFIER KENNETH R. CONKLIN IN RELATION TO MAUNA KEA

I am Kenneth R. Conklin, holding a masters degree in Mathematics and Ph.D. in Philosophy.

I visited Hawaii on three summer vacations from 1982 to 1989, and then moved permanently to Kane’ohe in 1992. I have studied Hawaii’s history in depth and have participated in Hawaiian cultural activities; and speak Hawaiian with moderate fluency. I am a civil rights activist working to protect the unity of all Hawaii’s people, and equality under the law for all Hawaii’s people regardless of race.

I have dozens of publications in scholarly journals, hundreds of newspaper publications and a very large website focusing on Hawaii’s history and sovereignty, the Akaka bill, bills in the Legislature, etc. http://tinyurl.com/6gkzk

In 2007 I published a book "Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State"
http://tinyurl.com/2a9fqa

Over the years I have a long history of concern about race-based interference with proposals to place additional telescopes on Mauna Kea and to regulate activities there. Here are a few items displaying my concerns about Mauna Kea:

Compilation of newspaper articles from 1999 to 2003 describing the importance of astronomical discoveries on Mauna Kea, opposition to Mauna Kea astronomy from Hawaiian sovereignty activists, and OHA’s attempts to extort money and political power
https://tinyurl.com/y9t2jcr9

Ken Conklin testimony March 11, 2002 to Hawaii Department of Land and Natural Resources: How the telescope campus on Mauna Kea serves the spiritual essence of this sacred place in accord with Hawaiian creation legend.
https://tinyurl.com/y7vkmf66

Ken Conklin testimony January 12, 2004 NASA EIS scoping hearing: How the telescope campus on Mauna Kea serves the spiritual essence of this sacred place in accord with Hawaiian creation legend; why testimony from Hawaiian sovereignty activists should be discounted in view of their motives.
https://tinyurl.com/4fhkx

On May 21, 2015 Honolulu Star-Advertiser published a major commentary I authored: "Protesters use claims of sacredness for political agendas"
Full text of the commentary, plus greatly expanded analysis, is available on my webpage "Mauna Kea 2015: Sacred Place; Political Pawn; Profane Demagoguery; Recreational Activism" at http://tinyurl.com/omjuj3p
See item 8 in that webpage for the newspaper commentary.

FUNDAMENTAL CIVIL RIGHTS PRINCIPLES UNDERLYING MY COMMENTS ABOUT MAUNA KEA

Principle #1. We are all equal in the eyes of God regardless of race.
I believe we are all equal in the eyes of God regardless of race. Or, as some might prefer to say it: All humans are inherently equal under Natural Law. Or as the U.S. Declaration of Independence says: "All men [i.e., people] are created equal ..."

Principle #1 requires lengthy explanations, because most people in Hawaii have not yet realized that Hawaiian sovereignty activists are utterly opposed to this principle; and most people do not yet understand how fundamentally important and non-negotiable it is. So if you get tired of #1, then skip to #2; but you might need to come back later.

The problem is that one racial group in Hawaii asserts special rights and privileges based solely on having at least one drop of Hawaiian blood. They claim they have inherent superiority over all who lack a drop of Hawaiian blood. To justify this fascist concept they cite the Kumulipo, a beautiful Hawaiian creation legend. But they teach a twisted version of it at all levels of the public and private schools in Hawaii in the "Hawaiian Studies" portions of the curriculum. According to Kumulipo, the gods mated and gave birth to these Hawaiian islands as living beings. Then the gods mated again and gave birth to a stillborn deformed baby which they buried, from which grew the first kalo plant. Then they mated again and gave birth to a perfect, beautiful baby boy named Haloa. There's no problem with this legend as described so far, so long as it is interpreted as describing the creation of all humanity. That way Haloa is the primordial ancestor [like Adam of the Bible] from whom all humans are descended. Thus we are all equal to each other as children of the gods, and as younger brothers/sisters to these islands. "He ali'i ka 'aina, he kauwa ke kanaka." Land (the entire environment including sea and air) is Chief, people are its humble servants. [If we take care of the land, then the land will take care of and feed us.]

The racist twisting of that beautiful legend comes when Haloa is regarded as the primordial ancestor only for "Native Hawaiians" -- implying that Native Hawaiians have a god-given right to racial supremacy in Hawaii because they alone are children of the gods and siblings to the 'aina. Everyone lacking a drop of Hawaiian native blood is forever outside that family of gods, lands, and Hawaiians. This is a theological justification for racial fascism (similar to the "blood and soil" concept touted by German leaders in the 1930s) -- I call it Hawaiian religious fascism. For more analysis see "Hawaiian religious fascism: A twisted version of a beautiful creation legend provides the theological basis for a claim that ethnic Hawaiians are entitled to racial supremacy in the governance and cultural life of the Hawaiian islands." at https://tinyurl.com/j4o2cdj

See also an earlier webpage: "Religion and zealotry in the Hawaiian sovereignty movement -- how religious myths are used to support political claims for racial supremacy in Hawaii" (9 subpages) https://tinyurl.com/2n4hy

The antidote to Hawaiian religious fascism is to fully acknowledge and embrace the Aloha Spirit, recognize that it is present in all people and things (regardless of race), and is a powerful force capable of uniting us all in love for each other and respect for the 'aina. Those who understand Christian theology might like the analogy that the Aloha Spirit is the Hawaii version of the Holy Spirit -- one of the three Persons of God, infinitely powerful, always present and capable of infusing us with wisdom and goodness if we open ourselves to receive what is offered. See "The Aloha Spirit. How aloha for all, manifested in the twin pillars of unity and equality, can overcome Hawaiian religious fascism which is the theological basis for a claim to racial supremacy" at https://tinyurl.com/y7jy53eq

One of the most despicable rejections of racial equality in the eyes of God is the attack on "cultural appropriation." There is growing militancy in some minority groups, including ethnic Hawaiians, who demand that the only people who should be allowed to tell the story of or speak on behalf of a culture are people whose genetic heritage includes the racial group most closely identified with that culture. Certainly people born and raised within a cultural tradition will be steeped in it in a way that outsiders
would have a hard time emulating. But is it truly impossible to thoroughly master cultural elements if someone is an adult newcomer, or a lovingly nurtured adopted child lacking the genetic heritage? Why can't their expressions of the culture ever acquire such depth that they are authentic? Why must they be deemed imposters, guilty of cultural appropriation? And even if some newcomers or adoptees lack full depth of spirit or performance, why should their contributions to the perpetuation and thriving of the culture be disrespected or angrily rejected?

For example: At this moment (September 2018) there's a controversy because Dwayne "The Rock" Johnson intends to play the role of Kamehameha The Great in a well-financed major film being planned. Mr. Johnson is tall, handsome, physically well-endowed, fierce-looking, dark-skinned, with a history of starring roles in action movies. The problem is that he is 50% Samoan and 50% African-American, born and raised outside Hawaii and having zero Hawaiian native ancestry. Many ethnic Hawaiian leaders in academia, hula, music, etc. are loudly demanding that someone with Hawaiian blood must play this role, and that writers and directors of the screenplay must be ethnic Hawaiian to ensure that history is told "correctly." This controversy is a rerun of the same nastiness that surfaced 16 years ago when the same actor was slated to play the same role in the same bio-pic, and some of the same Hawaiian leaders loudly voiced the same complaints. On July 10, 2002 the "Honolulu Weekly" alternative newspaper published a parody of a Kamehameha movie screenplay, written by ethnic Hawaiian filmmaker Anne Keala Kelly (perhaps disgruntled at not being considered for the film), in an article entitled "Haolewood: The Last Epidemic." Some news reports and commentaries, along with the entire "Haolewood" screenplay from the now-defunct "Honolulu Weekly", are provided in this webpage: "Political claims to collective cultural 'intellectual property' rights (especially regarding spiritual symbols, ways of knowing, and the spiritual/cultural interpretation of political leadership)" at https://tinyurl.com/3y5t9

Another example -- this one directly pertaining to the telescope issue on Mauna Kea -- was reported by Hawaii News Now TV on October 27/28, 2017 at https://tinyurl.com/ybj7qovl

Protesters asserted Hawaiian religious fascism to claim that a universally acknowledged expert on Hawaiian culture is an imposter guilty of cultural appropriation, whose views should be ignored and whose cultural performances are desecrations, merely because he lacks a drop of Hawaiian native blood.

"Three Thirty Meter Telescope opponents were arrested at a state Land Board meeting Friday for being disruptive. The three, identified as Samuel Kaeo, Chase Kanuha and Andre Perez, were among a group of about a dozen Native Hawaiians who interrupted the meeting to call for the immediate resignation of board member Sam Ohu Gon. Gon recently voted to approve the telescope's construction permit and serves as the board's official cultural adviser. He has an extensive resume in environmental issues and is also a well-respected practitioner of Hawaiian culture. But because he's not Native Hawaiian, the protesters say he should not be making decisions that affect their people. "We are asking that you should leave the seat because you do not represent the lahui kanaka!," one member shouted. ... "In the midst of that intervention, three individuals engaged in passive resistance causing us to physically remove them from the room and place them under arrest," said Jason Redulla, deputy enforcement chief for the Department of Land and Natural Resources. ... "We understand their right to express themselves and the point they were trying to make this morning. However, whenever those types of expression cross the line into disorderly conduct, we as law enforcement have to act," said Redulla. BLNR Chair Suzanne Case defended Gon's respectability and knowledge of Hawaiian culture. "It is disappointing and frankly offensive that some who disagree with the Land Board's recent decision on the TMT telescope choose to aim personally at Ohu or any board member. This is not peaceful protest. We must simply reject this kind of divisiveness in Hawaii as well as nationally and globally, and practice respect in our public discourse no matter our views," Case said. Group members say the land board's cultural advisor should be Hawaiian and not appointed by the governor. "He (Gon)
has cultural expertise for sure, but anybody can gain that. That seat should be occupied by a Native Hawaiian that is vetted through a process by the Native Hawaiian community," said Ilima Long, opponent of TMT. Long say the board's decision to approve a construction permit for the Thirty Meter Telescope was a major blow, but they still plan to block the project any way they can. ..."

Sam Gon, Ph.D., is senior scientist and cultural advisor for the Nature Conservancy of Hawaii, and for BLNR. He is also a fluent speaker of Hawaiian. He has great expertise in Hawaiian culture and as a chanter, and has been welcomed as an expert by ethnic Hawaiian leaders at Hawaiian cultural events for decades. He was recently named a "Living Treasure" of Hawaii. See his knowledge and personality on display in a YouTube video interview at https://tinyurl.com/y9rnq5a7

The protesters behaved with vicious racism when they demanded his removal as cultural advisor regarding Mauna Kea and the proposed 30-meter telescope, merely because of his ancestry.

Sam Gon and Dwayne Johnson are savagely attacked merely because they lack a drop of the magic blood, when they speak as experts about Hawaiian culture (Gon), or portray cultural heroes (Johnson). But others who lack Hawaiian blood are embraced when they do the same things. The difference is that those who are embraced are politically aligned with the views of Hawaiian activists, and actually live among them; so they are useful to the "lahui" and the movement. Here are three such people with no native blood who are welcome to speak or perform as though they are "kanaka maoli": Pat Namaka Bacon (ethnic Japanese adopted child of Mary Kawena Pukui and expert in language and hula); Kepa Maly (Caucasian adopted by a Hawaiian family, raised on O'ahu and Lana'i, who founded the Lana'i Culture and Heritage Center and served as its executive director, and who is extremely skilled at speaking and chanting in Hawaiian with a style that would be authentic to an elderly native man); and Marvin "Puakea" Nogelmeier, a Caucasian from mainland USA who arrived in Hawaii as a teenager, lived and loved (mahu) among ethnic Hawaiians and adopted their culture, and became one of the foremost experts, and professor of, Hawaiian language. Google them for more information.

Nogelmeier is especially interesting because he came to Hawaii a year after high school, learned Hawaiian first from living among native speakers and then from academic study, and began establishing himself in the academic community; but felt it necessary to adopt a Hawaiian sovereignty political viewpoint in order to advance his academic career. Although he made very significant contributions to the resurgence of the language, he retired at only an Associate Professor rank, perhaps for the "politically correct" purpose of allowing "real" Hawaiians to stand above with the highest rank of full Professor.

"Native Hawaiians" as a group are perhaps the world's biggest cultural appropriator. Prior to Captain Cook's arrival in 1778 they had no metal, no pottery, no beasts of burden, no written language, constant warfare, a social system where each chief created law at his whim and enforced it with instantaneous death; and they had not yet invented the wheel. Hawaiians eagerly adopted all the important elements of British and American culture offered to them including metal weapons and cooking utensils, Christian religion, monogamous marriage, written language, the concept of rule of law and due process, private property ownership, parliamentary government in a Constitutional monarchy, musical instruments and songs from other cultures, and eventually technology such as motorized vehicles, radio, TV, etc.

"Native Hawaiian" actors today play movie roles portraying leaders of other cultures; their musicians and singers compose and perform in European, American, and Asian languages. It's just plain silly when Hawaiians complain about cultural appropriation. Knowledgeable and 'olu'olu (mellow) people with no Hawaiian blood should be fully welcome on Mauna Kea, including the right to speak Hawaiian, demonstrate prayers to the Hawaiian gods, lead tours and explain Hawaiian history and culture.

Further reading:
A Harvard Ph.D. was given to an ethnic Hawaiian for her dissertation developing a description of allegedly unique ways that ethnic Hawaiians acquire knowledge, and then using that description to develop a rationale for why ethnic Hawaiians need racially separate schooling to acquire the culture that is uniquely theirs. Presumably this theory could be used to assert the claim that anyone lacking a drop of Hawaiian blood is inherently incapable of comprehending or representing Hawaiian culture. See webpage "Hawaiian Epistemology and Education -- A claim that anyone with a drop of Hawaiian native blood has genetically and culturally encoded unique ways of knowing and learning; and therefore ethnic Hawaiian children (and other ethnic minorities to a lesser degree) have special needs for uniquely tailored curriculum and instructional methods" at https://tinyurl.com/5lu9r

See also "Indigenous Intellectual Property Rights -- The General Theory, and Why It Does Not Apply in Hawaii" at https://tinyurl.com/2b77k

Principle #2  All people, regardless of race, should be treated equally under the law by our government.

Actually, equality under the law is guaranteed by the U.S. Constitution's 14th Amendment Equal Protection clause. But here in Hawaii we do not obey that law. As of April 1, 2011 a valuable webpage provided information about 856 government-funded racial entitlement programs for the exclusive benefit of "Native Hawaiians." That webpage was vandalized but has now been partially restored. Hundreds of additional racial entitlement programs have been created since then, and some of them are identified in government publications. See webpage "For Hawaiians Only" at https://tinyurl.com/zrfuy8k

No part of Mauna Kea should be "for Hawaiians only." Ancient burials, if any, could be fenced off as is sometimes done during real estate development of shopping centers, as seen for example in the parking lot at the Target store in Kailua, O'ahu, and the burial mound constructed near the entrance to the Honolulu Zoo to hold native burials that were uncovered during excavations for road repairs in Waikiki. But no new burials or altars or offertory platforms should be allowed on Mauna Kea in any location near the telescopes, visitor center, or access road, where assertion of a right to not disturb (even) a (new) burial or religious artifact could then be used as political pawns to interfere with current or future use of those facilities. See "Hawaiian Bones -- The 3 Rs -- Rites For the Dead, Rights Of the Living, and Respect for All" at https://tinyurl.com/j29vy2l

If the courts certify leases and construction permits, and if the legislature chooses to move forward, new telescopes should be built and anyone who blocks the road or sabotages the project should be severely punished, even if they are "Native Hawaiians" claiming Mauna Kea is a "sacred place." The old Hawaiian religion must not be allowed to dictate government policy, because it is contrary to the First Amendment "establishment clause" to have any particular religion adopted and enforced through rule-making as an establishment of religion by the State of Hawaii.

An important extension of Principle #2 requires a detailed analysis. Please read below a special section entitled: "If the Hawaii Constitution requires granting certain rights to 'Native Hawaiians' then a way to do that is to be inclusive rather than exclusive -- grant those rights to all Hawaii's people regardless of race."
Principle #3. Unity with America: Hawaii is in fact the 50th State of the USA., and should remain so. Very few of Hawaii’s people want the 50th star ripped off the flag to make Hawaii once again an independent nation. And yes, contrary to some assertions: there really was an overthrow of the Hawaiian monarchy; there really was an establishment of a successor “Republic of Hawaii” government that was internationally recognized as the rightful government of the still-independent nation of Hawaii; there really was a Treaty of Annexation several years later between the Republic and the U.S.; there really was a Statehood vote where 94.3% of Hawaii’s voters said YES to joining the U.S.; so the Constitution and laws of the USA do indeed have jurisdiction over Hawaii’s people including the First and Fourteenth Amendments referenced above. See some footnotes at the end of this section 3 providing proof or explication of those points.

The government of Hawaii, including rule-making for Mauna Kea by the University of Hawaii, must obey U.S. laws even if a few diehard deadenders of the Hawaiian Kingdom persist in being Overthrow deniers, Annexation deniers, or Statehood deniers.

To the University of Hawaii Board of Regents and to government officials of the State of Hawaii I say: Be brave! Govern fearlessly, and forcefully when necessary to suppress and remove people blocking roads, refusing to obey the laws and regulations, threatening violence and anarchy. Treat all people equally under the law regardless of race. This is your kuleana -- your duty -- which you undertook when you swore an oath "to support and defend the Constitution of the United States."

The First Amendment of the U.S. Constitution says government must allow the free exercise of religion on Mauna Kea but must not allow the ancient Hawaiian religion to become the established religion of the State of Hawaii. Therefore regulations for Mauna Kea must not grant exclusive access or preferential treatment for the practice of the ancient Hawaiian religion, nor for proselytizing of that religion in any mandatory indoctrination lectures required for individual or group admission to lands or facilities. Mauna Kea is part of the public lands of the State of Hawaii just as the public schools belong to State of Hawaii. Therefore the Hawaiian religion on Mauna Kea should be managed by following the same procedures mandated by the courts for how the Christian religion is handled in the public schools: It's OK to teach ABOUT the religion and explain the facts about its beliefs and rituals and facts about the role of that religion in the history of the world and of the U.S. and Hawaii; but it is forbidden to indoctrinate the school children (or visitors to Mauna Kea) that the religion is true, or to require anyone to participate in any prayers or rituals, nor to require school children or visitors to Mauna Kea to be present when such prayers or rituals are performed. Children in school, or visitors to Mauna Kea, are free to engage in such performances initiated by themselves; but such performances must not be initiated by officers or employees of the institution. Any children in school, or visitors to Mauna Kea, who initiate such performances must not be allowed to intimidate others into participating and must not (ab)use such performances to obstruct the activities of the institution.

The 14th Amendment of the U.S. Constitution requires that all people must be treated equally regardless of race. That means that on Mauna Kea there must not be racial requirements, preferences, or race-based exclusions for admission to the lands or facilities, or the fees which might be charged. Activities must be offered and publicized equally to people of all races. If there is a burial site posted or protected by gates or fences, it must be open or closed to visitors of all races equally. The only exception should be if an individual has a permit issued after proof that the individual is a lineal descendant of the person in the burial, not merely a so-called "cultural descendant" of a burial whose individual identity has been long forgotten.

There is a webpage providing a historical narrative stating important facts and providing proof of each one: "Hawaii Statehood -- straightening out the history-twisters. A historical narrative defending the legitimacy of the revolution of 1893, the annexation of 1898, and the statehood vote of 1959." https://tinyurl.com/nqadwb

Mauna Kea rules

September 27, 2018

Conklin testimony Page 8
Here are some of the main topics in that webpage; where each topic has one or more links to other webpages providing detailed explanations and references:

* The Hawaiian revolution of 1893 was led and carried out entirely by local men without any assistance from 162 U.S. peacekeepers who came ashore to protect American lives and property in the face of credible threats of rioting and arson (just as U.S. peacekeepers have done more recently in Granada, Haiti, Liberia, etc.). See the 808-page Morgan Report of testimony under oath in February 1894 before the U.S. Senate Committee on Foreign Affairs; plus a book by a Ph.D. professor of history.

* The revolutionary Provisional Government was given de facto recognition within two days by the local consuls of every nation which maintained a consulate in Honolulu.

* U.S. President Grover Cleveland, a friend of ex-queen Lili'uokalani, had his Secretary of State and his ambassador to Hawaii do everything they could to undermine the Provisional Government, and sent warships to stage combat exercises offshore Honolulu in an effort of gunboat diplomacy to intimidate the Dole government to step down and restore Lili'uokalani to the throne. Failing in that attempt, President Cleveland submitted the issue to Congress in hopes they would authorize the use of force; but as a result of hearings and the Morgan Report in February 1894 a Senate resolution ordered Cleveland to stop interfering in Hawaii's internal affairs.

* A successor government for the permanent Republic of Hawaii was created in July 1894; its Constitution is provided; there were at least 5 native Hawaiians who participated in the Constitutional Convention; a native Hawaiian former royalist was Speaker of the House of Representatives of the Republic.

* During Fall 1894 the local consuls of foreign governments sent to their respective heads of state copies of the Republic's Constitution with a request to award permanent de jure recognition of the Republic. Emperors, kings, queens, and presidents of at least 19 nations on 4 continents personally signed letters in 11 languages addressed to President Dole formally granting full-fledged diplomatic recognition to the Republic as the rightful government of Hawaii. Photographs of those letters and accompanying documents, including English translations, are provided.

* An attempted armed counter-revolution was led by native Hawaiian Robert Wilcox in January 1895, with the knowledge and support of Lili'uokalani. Men were killed. Hundreds of men were hunted down, tried by a military tribunal, fined and imprisoned; but by the end of 1895 all had been paroled. The ex-queen was found guilty of conspiracy based on evidence found in the garden and on the inside of her private home; she spent several months under guard in Iolani Palace until she was gradually paroled and finally pardoned by President Dole.

* In 1897, following the end of President Cleveland's term, the legislature of the Republic of Hawaii passed a Treaty of Annexation and offered it to the United States. The U.S. Congress agreed to the Treaty in 1898 by votes of 42-21 in the Senate (exactly 2/3) and 209-91 in the House (more than 2/3). A link is provided to full text of the Treaty, and of the resolutions whereby Hawaii and the U.S. approved it.

* Statehood vote of 1959: There were 132,773 votes "yes" and 7971 votes "no" for an astonishing 94.3% "yes" vote. For those who like to say ethnic Hawaiians were opposed to Statehood: Do the math. If 20% of the voters were ethnic Hawaiians, that would mean there were 28,149 votes cast by ethnic Hawaiians = 20% out of the total 140,744. Supposing ALL the 7971 "no" votes had been cast by ethnic Hawaiians; then there were still 20,178 "yes" votes from ethnic Hawaiians, representing 72% of the 28,149 ethnic Hawaiian votes. The vote count was also broken down by individual representative
The district with the highest percentage of ethnic Hawaiian residents -- sparsely-populated Moloka'i -- had 1904 "yes" and 75 "no" for a 96.2% "yes" vote -- the highest percentage among all the 17 districts. A 3-page pdf file (unfortunately 5.4 Megabytes!) shows the statistics as certified by Hawaii Chief Elections Officer Dwayne Yoshina in his letter dated January 7, 2000:
http://tinyurl.com/2rbx79

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**Principle #4. Unity of Hawaii:** The people and lands of Hawaii should remain unified under the single sovereignty of the State of Hawaii, and should not be divided along racial lines.

The Akaka bill (Hawaiian Government Reorganization Bill) to create a Hawaiian tribe failed after 13 years in Congress, 2000-2012. The Department of Interior, in the closing months of Obama's presidency, unilaterally proclaimed a "final rule" by publication in the Federal Register on October 14, 2016, providing a pathway for creation of a Hawaiian tribe and federal recognition of it; however, the process for implementing it would be very lengthy and fraught with legal challenges. Even if a tribe is created, there will then be lengthy negotiations to determine how lands will be allocated between the State of Hawaii and the tribe. So for the foreseeable future it is the State of Hawaii and the UH Board of Regents who have jurisdiction over Mauna Kea; and they should fearlessly and boldly create and enforce regulations.

To the University of Hawaii Board of Regents and to government officials of the State of Hawaii I say: Be brave! Govern fearlessly, and forcefully when necessary to suppress and remove people blocking roads, refusing to obey the laws and regulations, threatening violence and anarchy. Treat all people equally under the law regardless of race.

Following are webpages focusing on proposals for racial separatism in Hawaii, and explaining why that's a very bad idea. **MAUNA KEA AS A WHOLE, OR ANY PORTION OF MAUNA KEA, SHOULD NOT BE ENCUMBERED WITH SPECIAL RACIAL-SEPARATIST REGULATIONS GOVERNING ACCESS OR THE ACTIVITIES THAT MAY BE CONDUCTED. Do not favor or burden any racial group as though they have separate rights or separate jurisdiction.**

Open letter to President Obama regarding the Akaka bill (Hawaiian Government Reorganization bill)
Topics discussed that are relevant to demands to divide Hawaii's people and lands along racial lines:
* Appealing to your ideals -- tear down walls that divide us instead of erecting a new wall of apartheid (Berlin speech in July 2008)
* Your personal search for identity in a black community where good people seeking full integration struggled against an ideology of racial separatism and hatred
* Would you support creation of a race-based government for 40 million African-Americans? the Akaka bill's impact on Hawaii would be 50% more devastating than that (because African-Americans comprise only 12-13% of America's people whereas Native Hawaiians comprise 20% of Hawaii's people).
https://tinyurl.com/bl9rvv

What Kamehameha hath joined together, let not Akaka rip asunder
https://tinyurl.com/n9f5fp

Why all America should oppose the Hawaiian government reorganization bill, also known as the Akaka bill. [Webpage dormant after 2012 because there was no longer any Akaka bill in Congress]
https://tinyurl.com/ypops

History of efforts to get official government recognition of ethnic Hawaiians as a political entity or Indian tribe -- a narrative summary covering 17 years 2000 through 2016, broken into two-year Congressional
periods. Each "Congress" has a link to an index for that two year period, broken into sub-indexes in chronological order, linking to webpages providing full text of news reports, commentary, and lawsuits regarding the Akaka bill in Congress, stealth maneuvers by Senator Inouye, Obama Department of Interior regulatory process, Hawaii legislature bills and resolutions, etc.
https://tinyurl.com/htxzfvp

History of efforts to create a Hawaiian tribe during the 115th Congress (January 2017 through December 2018 [in progress]), including efforts to create a state-recognized tribe and efforts to get federal recognition through administrative rule changes, executive order, or Congressional legislation
https://tinyurl.com/ybumj4z3

IF THE HAWAII CONSTITUTION REQUIRES GRANTING CERTAIN RIGHTS TO "NATIVE HAWAIIANS" THEN A WAY TO DO THAT IS TO BE INCLUSIVE RATHER THAN EXCLUSIVE -- GRANT THOSE RIGHTS TO ALL HAWAII'S PEOPLE REGARDLESS OF RACE.

Some of the proposed chapter 20-26 regulations for Mauna Kea explicitly grant superior race-based rights to Native Hawaiians, which seem to be justified by Article 12, section 7 of the Hawaii Constitution, which in turn would be philosophically or morally justified in the viewpoint of anyone who believes in Hawaiian religious fascism.

There are two very different ways to overcome the racial supremacy enshrined in Article 12: Either delete Article 12 from the state Constitution; or else interpret Article 12 inclusively to apply equally to all Hawaii's people regardless of race.

One way to delete Article 12 is for the legislature to propose an amendment to the state Constitution which would be approved by a vote in a general election; or by calling a state Constitutional Convention whose delegates would propose the deletion followed by a vote of the people to approve what the con-con did. Once every ten years the question must be placed on the ballot whether there should be a state Constitutional Convention -- that question will be on the ballot in November of 2018. This is a way for the people to take control and get rid of Article 12 whether the legislature likes it or not.

Another way to delete Article 12 is through a lawsuit in the federal courts to rule that Article 12 of the state Constitution violates the Equal Protection clause of the 14th Amendment of the U.S. Constitution and the establishment clause of the First Amendment. Using the federal courts and the federal Constitution to fix the state Constitution has already been done in the famous Rice v. Cayetano lawsuit. The Hawaii Constitution as amended in 1978 required that only "Native Hawaiians" were allowed to vote for trustees of the Office of Hawaiian Affairs; but the U.S. Supreme Court ruled by 7-2 vote in 2000 that Hawaii's racial restriction violated the 15th Amendment of the U.S. Constitution that the right to vote "shall not be denied or abridged on account of race."

Instead of getting rid of Article 12 through Constitutional amendment or lawsuit, a more peaceful and gentle approach is to expand it so that the rights it grants are interpreted to be for all the people of Hawaii regardless of race. Such an expansion would be especially justified as a kinolau (a manifestation or embodiment) of the Aloha Spirit. See "The Aloha Spirit -- what it is, who possesses it, and why it is important" at https://tinyurl.com/66w4m2

There are two ways to expand Article 12 to make it racially inclusive. Those who seek inclusiveness could bring a state or federal lawsuit to force inclusiveness. The plaintiffs would bear the financial burden of the lawsuit at least until the plaintiffs win and the courts award them their costs. This was the procedure in many historical civil rights lawsuits to abolish racial supremacy, such as school
desegregation. Or else the administrators who create rules could interpret Article 12 to apply inclusively to people of all races; and then anyone who demands racial supremacy or exclusivity would need to bear the costs of a lawsuit to force their views to prevail.

I strongly encourage the rule-makers for Mauna Kea to adopt the inclusive approach voluntarily. This is more practical and less expensive. But most important: it is the right thing to do. It implements the Aloha Spirit. Quite simply but powerfully: it is Pono.

The portion of Article 12 that is specifically relevant to regulations for use of Mauna Kea is section 7, entitled "Traditional and Customary Rights": "The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights."

The fact that such rights were "customarily and traditionally exercised for subsistence, cultural and religious purposes" merely identifies a group of rights that were practiced before the arrival of Captain Cook -- it does NOT require that those rights are only available to a specific racial group today. Suppose we acknowledge that those pre-contact rights have never been extinguished, and we allow all Hawaii's people, regardless of race, to enjoy those rights. Thereby ethnic Hawaiians ("descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778") would certainly have those rights along with everyone else, and the requirements of Article 12 would be satisfied without any need for racial exclusivity, divisiveness, or lawsuits.

Two court decisions have a bearing on how to interpret Article 12, Section 7 in this expansive way as applicable to all Hawaii's people regardless of race.

Access and gathering rights were affirmed by the Hawaii Supreme Court in the PASH decision of 1995 (Public Access Shoreline Hawaii). According to that decision Native Hawaiians have a right to access the shoreline, or to gather certain plants, even if doing so is accomplished by trespassing through undeveloped or partially developed land, subject to regulation by the State. But there's nothing in that decision that restricts shoreline access or gathering rights to the racial group who are descendants of residents from before Captain Cook's arrival. The PASH decision recognizes that that racial group has those rights, but the decision does not prohibit the interpretation that those rights run with the land regardless of the race of the land owner; and the PASH decision certainly does not prohibit the State from extending such rights to everyone. The PASH decision is based on the concept that the bundle of rights obtained when purchasing fee-simple land in Hawaii (including the right to exclude trespassers) is limited by the rights possessed by tenants of the ahupua'a before Captain Cook's arrival, or certainly before the Mahele started in 1848. When land is sold or inherited, the land comes infused with the rights granted to tenants in the Mahele; and those special rights make land ownership in Hawaii very different from the other 49 states. The word for "tenant" under the Mahele is "hoa'aina" which has no racial designation. There is no such thing as "NATIVE tenant rights" despite attempts by sovereignty activists to insert the racial designator. We are free to adopt the realization that access and gathering rights under the PASH decision belong to all Hawaii's people equally regardless of race. So far as I am aware there has never been a court decision saying that PASH rights are exclusively for ethnic Hawaiians. The demand to have racial exclusivity has not been the focus of litigation, simply because racial exclusivity has been the automatically presumed default in Hawaii. How sad! For further analysis of the PASH decision see Paul M. Sullivan, "Customary Revolutions -- The Law of Custom and the Conflict of Traditions in Hawaii" published at 20 University of Hawaii Law Review 99 (1998); available at https://tinyurl.com/23668n
If rights are officially and explicitly granted to only one group of people, does that prohibit those rights from being extended also to all the rest of the people? The ruling in a Hawaii lawsuit (Day v. Apoliona) says there's no problem in extending the rights. Because if the rights are given to everyone, then those rights will thereby be given to the particular group originally designated to have them.

If a law or regulation provides money explicitly for the benefit of native Hawaiians with native blood quantum higher than 50%, is it lawful to provide that money to Native Hawaiians whose blood quantum is below 50%? Hawaii courts have ruled that it's OK to do that. If benefits are designated for a smaller group, then it's perfectly legal to provide those benefits to a more inclusive larger group which includes that smaller group inside it. Presumably the same legal arguments would allow the State to extend the same benefits to all citizens regardless of race, because the set of all citizens includes the subset of all Native Hawaiians regardless of blood quantum, which in turn includes the sub-subset of all native Hawaiians with blood quantum higher than 50%.

The lawsuit Day v. Apoliona arose because Section 5(f) of the Hawaii Statehood Act of 1959 required that ceded land revenues could be spent for any one or more of 5 purposes. One of those purposes was "the betterment of native Hawaiians as defined in the Hawaiian Homes Commission Act of 1920" (i.e., at least 50% native blood quantum). When OHA was created in the State Constitutional Convention of 1978, the legislature then funded OHA by giving it 20% of all revenue from the ceded lands. But as time went by OHA was spending that money on projects for all Native Hawaiians regardless of blood quantum -- such projects as creating a racial registry, lobbying for the Akaka bill, loans for small-business, etc. A group of high-quantum native Hawaiians filed a lawsuit saying that spending ceded land money on low-quantum Hawaiians violated the Statehood Act. But the courts ruled it was OK, because the high-quantum beneficiaries were included as a subgroup of all Native Hawaiians. See "Day v. Apoliona" at https://tinyurl.com/yo2ovk

NOTICE OF HEARINGS AND LIST OF PROPOSED RULES

On September 7, 2018 an email was sent from Maunakea Rules-Information <mkrules@hawaii.edu> signed by University of Hawaii President David Lassner to a group of 100 people including Ken Conklin, as follows:

Aloha,

The University of Hawai'i published statewide notice on August 19, 2018, to inform interested persons that it will hold public hearings related to the adoption of Chapter 20-26, Hawai'i Administrative Rules, entitled “Public and Commercial Activities on Mauna Kea Lands.”

The notice and draft rules can be found on the Board of Regents’ Proposed Administrative Rules Changes web site at http://www.hawaii.edu/offices/bor/adminrules/proposed.html. The notice includes the dates, times, and locations of the four hearings; how you can submit oral and/or written comments; and where you can find a copy of the proposed draft rules. You can also read about the rule-making process at https://www.hawaii.edu/news/2018/08/19/maunakea-administrative-rules-public-announcement/.

Since you have indicated an interest in issues regarding Maunakea in the past, we wanted to provide you with this reminder.
Thank you for your continued participation in the process.

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The notice and draft rules can be found on the Board of Regents’ Proposed Administrative Rules Changes web site at
http://www.hawaii.edu/offices/bor/adminrules/proposed.html

The "Notice of Proposed Rule-Making" was posted at

The proposed rules themselves were posted in a 43-page pdf document entitled "Adoption of Chapter 20-26 Hawai'i Administrative Rules" found at
http://www.hawaii.edu/offices/bor/adminrules/chapter26-proposed.pdf

ANALYSIS OF PARTICULAR REGULATIONS FOR PUBLIC AND COMMERCIAL ACTIVITIES ON MAUNA KEA LANDS, IN LIGHT OF THE PRINCIPLES

Each comment below pertains to a specific proposed rule, whose proposed rule number is identified along with the page number where it is found in the 43-page document.

§20-26-5 Orientation. As set forth in the comprehensive management plan, all persons accessing the UH management areas shall be required to complete an orientation regarding cultural and natural resources, safety matters, and other relevant information prior to entering the UH management areas. [page 8]

Comment: See my fundamental principle #2: All people, regardless of race, should be treated equally under the law by our government. See my fundamental principle #3: Unity with America, which includes the following comment specifically relevant to proposed §20-26-5:

The First Amendment of the U.S. Constitution says government must allow the free exercise of religion on Mauna Kea but must not allow the ancient Hawaiian religion to become the established religion of the State of Hawaii. Therefore regulations for Mauna Kea must not grant exclusive access or preferential treatment for the practice of the ancient Hawaiian religion, nor for proselytizing of that religion in any mandatory indoctrination lectures required for individual or group admission to lands or facilities. Mauna Kea is part of the public lands of the State of Hawaii just as the public schools belong to State of Hawaii. Therefore the Hawaiian religion on Mauna Kea should be treated by following the same procedures mandated by the courts for how the Christian religion is handled in the public schools: It's OK to teach ABOUT the religion and explain the facts about its beliefs and rituals and facts about the role of that religion in the history of the world and of the U.S. and Hawaii; but it is forbidden to indoctrinate the school children (or visitors to Mauna Kea) that the religion is true, or to require anyone to participate in any prayers or rituals, nor to require school children or visitors to Mauna Kea to be present when such prayers or rituals are performed. Children in school, or visitors to Mauna Kea, are free to engage in such performances initiated by themselves; but such performances must not be initiated by officers or employees of the institution. Any children or visitors who initiate such performances must not be allowed to intimidate others into participating and must not (ab)use such performances to obstruct the activities of the institution.

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Mauna Kea rules      September 27, 2018      Conklin testimony Page 14
§20-26-6 Fees. Fees, as established by the board, may be charged for permits, parking, entrance, and for the use of facilities and programs related to the UH management areas. [page 9]

Comment: Your regulations should clearly state that the same fees shall be charged to all visitors regardless of race, and that there shall be no exemptions from fees based on either the asserted race or the asserted religion of the visitor, nor any waiver of fees because of any assertion that the visitor is entering for the purpose of private worship or public religious performance.

See my fundamental principle #3: Unity with America: Hawaii is in fact the 50th State of the USA, whose laws rightfully have jurisdiction here." The following portion of content explicating that principle bears repeating here because it is specifically relevant to proposed §20-26-6. The 14th Amendment of the U.S. Constitution requires that all people must be treated equally regardless of race. That means that on Mauna Kea there must not be racial requirements, preferences, or race-based exclusions for admission to the lands or facilities, or the fees which might be charged. Activities must be offered and publicized equally to people of all races. The First Amendment also applies, which means that the government is not allowed to establish or prefer any religion (such as by waiving entrance fees for worshippers of snow Goddess Poliahu while denying fee waivers to worshippers of Earth Goddess Maia or the Egyptian sun-god Ra.

Does anyone object to my invoking the U.S. Constitution because, they say, there is no Treaty of Annexation, the Statehood vote of 1959 was not valid, the U.S. lacks jurisdiction in Hawaii? Again, see my fundamental principle #3: Unity with America, wherein I provided a number of specific rebuttals to that assertion including citations of proof.

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§20-26-21 Traditional and customary rights.
(a) This chapter is subject to the right of native Hawaiians to exercise protected customary and traditional rights as provided for in Article XII, section 7 of the Hawai'i Constitution, consistent with the laws of the State of Hawai'i.
(b) The University recognizes the spiritual, cultural, and historical significance of Maunakea to native Hawaiians and the protected customary and traditional rights referenced under subsection (a) of this section. Where such customary and traditional rights have minimal or no impact on existing cultural, natural, or scientific resources, no permit or approval is required under this chapter. If such activity is found to impact cultural, natural, or scientific resources, OMKM, after consulting with Kahu Kū Mauna and the Office of Hawaiian Affairs, may restore the site to its condition prior to such activity.
(c) Where a particular activity has been found to impact existing cultural, natural, or scientific resources, persons proposing to conduct such activities are encouraged to consult with OMKM and Kahu Kū Mauna to obtain a special use permit, under section 20-26-65. OMKM shall assist applicants and allow protected customary and traditional practices to the greatest extent possible. ...

[page 10]

Comment: See my Fundamental Principle #2. All people, regardless of race, should be treated equally under the law by our government. Proposed §20-26-21, Traditional and customary rights, would explicitly grant superior race-based rights to Native Hawaiians, which seem to be justified by Article 12, section 7 of the Hawaii Constitution, which in turn would be philosophically or morally justified in the viewpoint of anyone who believes in Hawaiian religious fascism.

Article 12 might be deleted if there is a Constitutional Convention, or else it might be overturned by the U.S. Supreme Court if the issues of "standing" and "political question" can be overcome in order to reach the merits of the case.
An alternative to getting rid of Article XII is to expand it so that the rights it grants are interpreted to be for all the people of Hawaii regardless of race. There is nothing in the Constitution or the laws that says the protected rights are solely or exclusively for Native Hawaiians. It is contrary to the Aloha Spirit to deny those same rights to all Hawaii's people. There is simply no good reason for racial exclusion.

See my lengthy analysis above of an inclusive interpretation of Article 12, entitled: "If the Hawaii constitution requires granting certain rights to "Native Hawaiians" then a way to do that is to be inclusive rather than exclusive -- grant those rights to all Hawaii's people regardless of race.

§20-26-40 Snow play. (a) Skiing, snowboarding, sledding and other similar winter or snow sports may be restricted to maintain public safety and welfare, to prevent damage to resources, and to minimize conflicts among visitors. The use of devices that are not equipped with braking mechanisms or which do not provide directional control on snow or ice is prohibited.

(b) Skiing, snowboarding, sledding or other forms of snow recreation or snow activities may be prohibited in specific designated zones or areas in order to maintain public safety and welfare, and protect resources. [page 20]

Comment: It's good to see that snowplay, within reasonable limits and conditions, will be allowed. Many people of all ages and races have enjoyed such activities for generations. Please do not allow such activities to be forbidden or unduly restricted because of any claim that the entirety of Mauna Kea is a "sacred place." For at least two decades the assertion of "sacred place" has been used by sovereignty activists to block or delay telescope projects on Mauna Kea. In an article in the Honolulu Advertiser of January 17, 2002 Clayton Hee, OHA chairman, showed astounding hypocrisy by saying that a sufficient bribe would make the "sacred place" claim go away. Hee said a sufficient amount for the National Aeronautics and Space Administration to pay would be $20 Million. Note the date the article was published. Some might suggest that Hee's overthrowing of "sacred place" reminds them of the overthrow of the monarchy! Recall the lines in "Kaulana Na Pua": "A'ole makou a e minamina i ka pu'u kala o ke aupuni. Ua lawa makou i ka pohaku, i ka 'ai kamaha'o o ka 'aina." [We will not regret {losing} the government's pile of money; sufficient for us {to eat} are the rocks, the wondrous food of the land.]

On May 21, 2015 Honolulu Star-Advertiser published a major commentary I authored: "Protesters use claims of sacredness for political agendas." Full text of the commentary is copied as item #8 on a webpage entitled "Mauna Kea 2015: Sacred Place; Political Pawn; Profane Demagoguery; Recreational Activism" at http://tinyurl.com/omjuj3p

§20-26-41 Scattering of cremated remains. The scattering of cremated human remains is allowed within the UH management areas, consistent with this chapter and policies and procedures established by the president. [page 21]

Comment: It's good that scattering of cremated remains will [continue to] be allowed. The regulation should clarify that scattering of cremated remains is permissible in the same locations, and in the same manner, for all people regardless of race. This comment is derived from Fundamental Principle #2: All people, regardless of race, should be treated equally under the law by our government.
But there should also be a regulation to prohibit any [new] burials, or erection of any new ahus (altars) or leles (raised platforms for sacrificial offerings of plants or animals) in any location near the telescopes, visitor center, or access road, where assertion of a right to not disturb (even) a (new) burial or religious artifact could then be used as political pawns to interfere with current or future use of those facilities. Ancient burials, if any, could be fenced off as is sometimes done during real estate development of shopping centers, as seen for example in the parking lot at the Target store in Kailua, O'ahu, and the burial mound constructed near the entrance to the Honolulu Zoo to hold native burials that were uncovered during excavations for road repairs in Waikiki. See "Hawaiian Bones -- The 3 Rs -- Rites For the Dead, Rights Of the Living, and Respect for All" at https://tinyurl.com/j29vy2l

§20-26-42 Interference with government function. [page 21]

Comment: The list of prohibitions is too short, too vague, and too humble. Surely we all remember how protesters used their bodies, rocks, and other objects to block vehicles from using the access roads; how they "prayed" or chanted to invoke a "free exercise of religion" justification for their obstruction, and how they constructed large stone structures which they called "ahu" (altars) right in the middle of the road. Your regulations must be very clearly worded to prevent such nonsense, and to prevent any way for protesters to twist or ignore the meaning of what you write. Do not allow judges or juries to rule that your regulations are too vague or overly broad or inconsistent with the Constitutional right to free expression of religion.

SUGGESTING ADDITIONAL REGULATIONS REGARDING ISSUES NOT ADDRESSED AMONG THE PROPOSED REGULATIONS

Proposed rule:
No racial set-asides or preferences are allowed. No portion of Mauna Kea shall be set aside for exclusive or preferred use for any racial group, either temporarily or permanently. If any portion of Mauna Kea is declared off-limits for individual or group visits, either temporarily or permanently, such a designation must apply to people of all races and must be justified on the basis of protecting the natural environment, historical resources, or modern facilities.

Comment: See my Fundmental Principles; especially these:
#2: All people, regardless of race, should be treated equally under the law by our government.; and #4: The people and lands of Hawaii should remain unified under the single sovereignty of the State of Hawaii, and should not be divided along racial lines.

Proposed rule:
Access for religious or cultural purposes must not be race-based and must be of limited duration and frequency. No portion of Mauna Kea shall be set aside for exclusive or preferred use for any religious or cultural group, festival, or ceremony except for a single event of less than three hours and conducted in accord with terms and conditions of a permit issued by the president's designee or Office of Mauna Kea Management. No additional permit shall be granted to the same group or any of its individuals for any event until at least 8 days after any previous permit they had for any purpose has expired. If a religion/culture or religious/cultural ceremony requires practitioners or performers to have a specific racial component in their ancestry, then that religion or ceremony shall be treated as racially exclusionary and will not be given any exclusive or preferential access to any portion of Mauna Kea.
Comment: See my Fundamental Principles; especially these:
#2: All people, regardless of race, should be treated equally under the law by our government.; and
#4: The people and lands of Hawaii should remain unified under the single sovereignty of the State of Hawaii, and should not be divided along racial lines.
and see especially Principle #1 where I discussed the authenticity of Sam Gon and Kepa Maly as practitioners of Hawaiian culture.

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Proposed rule:
Demographic characteristics of personnel deemed irrelevant. No employee or volunteer, paid or unpaid; and no visitor; may be asked to identify his/her race, religion, nationality, gender or culture. The selection of individuals to serve as lecturers in any facilities on Mauna Kea, or to serve as leaders, docents or monitors, in any tours or orientation activities, or to serve as security guards, shall not have any requirements or preferences for their race, religion, nationality, gender or culture. The criteria for selection shall be expertise in subject matter, adherence to the policies of the Office of Mauna Kea Management, ability to explain things clearly, skill in organizing and leading a group in a friendly and respectful manner.
Comment: See my Fundamental Principles; especially these:
#1: We are all equal in the eyes of God regardless of race.; and
#2: All people, regardless of race, should be treated equally under the law by our government.
Rules should only be written after the Thirty Meter Telescope case is decided by the Hawai'i Supreme Court. Till then, comments made by the Mauna Kea petitioners could be used against them in court. So they hesitate to comment, and we lose the voices of people with extensive knowledge of natural, cultural, and historical resources.

Department of Land and Natural Resources (DLNR) should be writing these rules, not UH.

1 – For decades, the University of Hawai'i (UH) has failed to protect the natural and cultural resources of Mauna Kea, so UH has lost the moral high ground to dictate to kanaka maoli and the public how to protect the mountain.

2 – The State Supreme Court has not yet decided whether UH has the legal jurisdiction to write rules that affect kanaka maoli and the public.

3 – UH’s stated purpose is education, not protection of natural and cultural resources. DLNR’s mission is to “Enhance, protect, conserve and manage Hawai’i’s unique and limited natural, cultural and historic resources...” (DLNR website) UH lacks expertise in protecting resources, and has conflict of interest—to provide education, UH wants as many telescopes as possible. Conflict of interest is apparent in UH’s choice of a meeting place for the rules hearing in Hilo—‘Imiloa Astronomy Center, instead of a place that promotes protection of resources.

4 – UH has only about a dozen years left on its lease.

There are flawed policies reflected in a number of rules:

1 – Requiring cultural practitioners to get permits is like requiring people going to church on Sunday to get permits. Federal law says free exercise of religion cannot be prohibited.

2 — The “designee” is given sweeping powers, and would not be subject to public hearings or any clear process for challenging decisions.

3 — The proposed rules do not cover some policies, plans, and Comprehensive Management Plan rules that in fact require rule-making that follows Chapter 91.

4 — The rules would allow fees for the public, but there are no rules requiring future observatory subleases to provide adequate financial support for protection of resources. Observatories have paid only $1 annual rent for years.

5 - UH wants to put a gate on a public road. UH’s easement on the road does not include the right to block access.

6 — Some rules say procedures will follow the Comprehensive Management Plan (CMP) but give no page or chapter numbers to indicate which parts of the CMP are referred to.

The hearings were flawed:
All Board of Regents members should have attended, not just one member.

A hearing should be held on Kaua‘i. One person from Kaua‘i attended every day of the Thirty Meter Telescope contested case hearing. Historically, Mauna Kea has been significant throughout Hawai‘i and Polynesia.

There are problems with specific rules:

20-26-5 Orientation
How will enforcers know who completed the orientation and how long ago?

20-26-6 Fees
Cultural practitioners should be exempt, but it would be impossible to determine who is a bona fide practitioner.

20-26-21 Traditional and customary rights
It is unclear who will determine, and with what criteria, which activities have impacts.

20-26-22 Preservation of resources
(10) Permits needed for groups of more than 10—Many extended families go over this limit.
(11) No activity on pu‘u—This rings hollow after the top of a cinder cone was bulldozed for the Subaru Telescope.

20-26-24 Preservation of scientific and educational resources

1. No cell phones—These may be needed to handle various situations to prevent emergencies.
   (3 ) No artificial illumination—Should be allowed. It’s dangerous to walk on the mountain at night in the dark.

20-26-32 Hazardous materials
No hazardous materials—This rings hollow after observatory staff were allowed to transport fuel in barrels in the back of pickup trucks.

20-26-34 Audio devices
No making noise—Observatory air conditioners make a lot of noise.

20-26-38 Camping
No camping—Some traditional and customary practices require observing the night sky at various times

20-26-39 Access

1. Possible shuttles—will observatory staff also have their vehicle access restricted?
2. (d) (1) Designee can close areas at will—this seems designed to restrict First Amendment rights to free speech and assembly

1. Interference with government functions
   Much of this seems designed to restrict First Amendment rights to free speech and assembly

20-26-61 General provisions
   (10 ) (d) (2) Permits can be cancelled or terminated if demonstrations seem likely—this may violate free speech rights

20-26-74 Enforcement, citations
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20-26-75 Appeals...
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Aloha:

I agree with many who see the blanket exemption for UH’s educational and research activities as unwarranted, especially when it’s activities have had the same if not more impact than everyone else on this resource. Like others, I agree that we should put the resource first and foremost in our decision-making. It’s clear based on past history that UH does not deserve such an exemption. In fact, UH has a conflict of interest. Clearly, a leasee with such high impact use of the land should not be the one creating management rules that will favor its interests at the expense of other stakeholders. More importantly, UH itself can’t even follow these proposed rules which describes activities/violations that have all occurred during or as a result of telescope development. UH itself needs to be regulated and held accountable by a separate agency or entity with sufficient authority/resources to keep it in check.

1. It is absurd for UH to regulate hiking on pu’u while they themselves have leveled pu’u. When is it acceptable for violator without redress to then be allowed to participate- let alone regulate itself?

2. Who assesses “impact” when determining if a cultural practice requires a permit- someone already shown to be guilty of violations themselves?

As an educational institution, the University claims to respect, value and support the host culture. If that is truly the case, then cultural practitioners should not need to pay an entrance fee or for parking to exercise their cultural or religious practices. As the host culture, Kānaka should not need to explain/justify the building of an ahu to the university.

1. Why are the “scientific community” and telescope operators being prioritized over cultural practitioners when it comes to accessing the area, especially when these rights are recognized elsewhere in the state but not here? UH act with integrity and respect of the host culture, not with greed in your heart and profits on your mind.

2. In this case, who participates, who influences/controls the process or benefits from the results/outcomes? UH has excessive influence and is reaching for more as it has much to gain financially, so beware.

3. What is the basis for such high fines? UH needs to explain.

4. Generations have enjoyed snow play activities on the mauna, so why is it potentially being targeted for restrictions? UH let it be.

At the very least, telescope operators and “scientific community” should also be subject to the same restrictions as practitioners while practitioners should receive the same accommodation or exemptions whether camping, accessing or practicing their beliefs.

Clearly, an added rule to prevent civil disobedience and protest like what occurred in 2015 even though those arrested were largely cleared of any criminal wrongdoing is indicative of who unduly influences the process and will benefit as a result. Were any telescope operators or members of the “scientific community” ever treated in this way?

To preserve the sacred and restrict the profane the mauna should be kept in as natural, undisturbed and undeveloped a state as possible for all to enjoy, experience and practice their beliefs whether scientific or cultural for generations to come. This means the less change/damage, particularly more permanent changes/damages, the better.

I agree with those who feel commercial activity is inappropriate in the wao akua, even if it is regulated via permitting, is still inappropriate as it embodies the spirit of greed, profit and commodification that is at the heart of capitalist desecration that has damaged and diminished so much of the sacred and beautiful places of Hawaii.

Mahalo,
Garid
These proposed rules do not seem to consider the public's right to access Mauna Kea as being paramount which it is. As an institution of learning the university should be very careful that it puts the education of the people of our state as it’s primary mission. Many of these rules appear instead to be of use to the university in the case of trying to build the TMT in the face of continued protest. Rules for this amazing mountain that belongs to all of us should be based on preservation and sharing not pushing an agenda.
Aloha,

Attached is my testimony opposing Proposed rules for the Public and Commercial use of Mauna Kea Lands.

Also attached are exhibits including relevant articles of UNDRIP and testimony of Mililani Trask expert in Hawaiian traditional, cultural, customary and religious rights.

Me ke aloha aina,

Kualii

5 attachments
- Testimony Opposing Proposed Rules for public and Commercial Use of UH managed lands on Mauna Kea.docx 14K
- Relevant Articles from the 2006 United Nations Declaration of Rights of Indigenous People.docx 12K
- Testimony of Mililani B Trask PDF.pdf 385K
- H-13 Letter to Kahu Ku Mauna-D_2.pdf 389K
- DRIPS_en.pdf 166K
Aloha,

I am a lineal descendant of Mauna Kea and an active cultural practitioner and kyai of the Sacred cultural landscape on Mauna Kea's summit.

State, Federal and International law protect my rights to traditional cultural practice and protect cultural sites that are sacred to me.

The sacred cultural landscape of the Waolani or summit area of Mauna Kea is one such site.

Aloha aina is my religion, protecting the summit of Mauna Kea from development and desecration is my religious practice.

Articles of the United Nations Declaration of the rights of Indigenous Peoples (UNDRIP) maintain the protection of our rights as our spirituality and cultural practices evolve to include new manifestations.

I am opposed to the proposed rules as they attempt to limit my rights to traditional, customary and religious practices. Only article 12 section 7 is mentioned in the proposed rules although many other State, Federal and international statutes and case law protect my rights and define them in a far broader scope than is allowed under the proposed rules. Additional laws and rulings that protect my rights include, but are not limited to PASH decision, the first amendment of the American constitution, and the UNDRIP. The proposed rules fail to acknowledge the full scope of my rights.

Furthermore, the proposed rules give the impression that UH has the authority to "permit" my "rights", when, UH, as a manager of undeveloped, "ceded" Kingdom of Hawaii lands has the fiduciary responsibility to accommodate my traditional, cultural practices.

Also, the proposed rules attempt to discourage any attempt to prevent development and desecration by Administering radically harsh penalties for minor infractions like parking. I do not know of anywhere else where you could get a $10,000 parking ticket.

I have a right and kuleana to protect Mauna Kea from further development and desecration. Attempts to criminalize stewardship of a sacred cultural landscape is unethical and a lame attempt to strip Hawaiians of their rights to protect their sacred sites.

There are elements in the proposed rules that seem sensible in regards to natural resource management, but because of blatant attempt to limit Native Hawaiian rights and the intent to intimidate anyone who may opposed continued development and desecration, I must wholly oppose the proposed rules as presented.

Me ke aloha aina,

Joseph Kualii Lindsey Camara
Relevant Articles from the 2006 United Nations Declaration of Rights of Indigenous People

Article 11
Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

Article 12
Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

Article 25
Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

This declaration was adopted by the UN in 2007. It is supported by 147 countries including the U.S.
I. Scope of Expert Testimony:

Affiant is an indigenous Hawaiian attorney licensed to practice in the State of Hawaii and a United Nations Expert in the field of international indigenous human rights. I served as the first indigenous exert of the Pacific Region to the United Nations Permanent Forum on Indigenous Issues and am widely recognized as an initial drafter of the United Nations Declaration on the Rights of Indigenous Peoples. Affiant states under penalty of perjury that the information contained herein is accurate & truthful and submitted in support of Joseph Kualii Lindsey Camaro, a Petitioner in this contested case.

II. Maunakea: A Sacred Landscape:

A. The University of Hawaii, State DLNR, TMT and OMKM have been aware for years that Maunakea is a sacred landscape to and for Hawaii’s indigenous peoples, and a place that has been utilized by Hawaiian cultural and religious practitioners from time immemorial. The following excerpts from the Maunakea Comprehensive Management plan (CMP-April 2009) by Ho’akea/Ku’iwalu clearly demonstrate that the parties developing the Mauna were aware of this fact and the cultural uses of the Mauna during the entire course of time relevant to this contested case.

“Mauna Kea kuahiwi ku ha’o i ka mālie” (Mauna Kea is the astonishing mountain that stands in the calm) (Pukui 1983), is an old saying that expresses the sentiment among the Hawaiian people that Mauna Kea is a source of awe and inspiration. Kepā Maly, a respected researcher and cultural historian, relates, “the mountain is a respected elder, a spiritual connection to one’s gods” (Maly 1999).

It is clear that to many Hawaiians, Mauna Kea is more than a mountain; it is the embodiment of the Hawaiian people. of the cultural significance Mauna Kea holds for many Hawaiian people

Many traditional practices are associated with physical places, places that are today considered traditional cultural properties. These can be either archaeological sites or natural geographic features of the landscape. Such properties are afforded additional protection under both state and federal laws – protection that in most instances would limit the use of these places to activities that do not result in physical alterations of the property.

As has been documented, some traditional practices associated with Mauna Kea have continued into the present and thus, while undertaken in modern times these practices are nonetheless considered traditional and not contemporary. The contemporary practices undertaken by Hawaiians in modern times may or may not have a basis in traditional practice, but none exhibit an unbroken continuity with past practices. The revival of an ancient practice, without established continuity to the past, can only be considered a modern interpretation of what once was and thus must be considered a contemporary practice.
Hawaiian cultural practices associated with Mauna Kea can be considered aspects of the cultural concept related to the segregation and use of sacred space. Specifically, it is the recognition that the summit region of Mauna Kea, the area of the UH Management Areas, exists both geographically and metaphysically at the apex of a religious perhaps equated with the uppermost tier (kahua) of a lananu‘u mamao (sacred tower) on top of a heiau (temple), space that is considered to be within the domain of the gods.

As a result of his exhaustive studies, Kepä Maly identified many traditional cultural properties on Mauna Kea. He documented ongoing traditional cultural practices associated with several of these. It is a sacred landscape that provides a connection, genealogically, physically, and spiritually to ancestral realms. The mythical creation of Mauna Kea is part of a Hawaiian cosmology that establishes a relationship between all things animate and inanimate.

According to Kanahele and Kanahele (1997), Mauna Kea represents the piko (the umbilicus) of the island of Hawai‘i, which is the first-born (hiapo) island child of Wākea and Papahānaumoku, a product of the union of the sky and the earth. This is the ancestral part of a traditional genealogy that later includes the birth of humans, with Wākea as father and his daughter, Ho‘ohōkūkalani, as mother. Ho‘ohōkūkalani’s name means “Creator of the stars,” and in union with her father she provides the celestial womb from which the native population ensues. Thus, in a Hawaiian context, Mauna Kea can be viewed as the kuaahu (shrine) to this union and considered an ancestor to the Hawaiian people. This lineage carries a birthright and responsibilities commensurate with Mauna Kea’s status as first-born, whose resources need to be protected for the growth and well being of all.

As it may have been in ancient times, the Mauna Kea landscape is today considered by many in the Hawaiian community to be the most sacred and culturally significant location on the island of Hawai‘i, if not in the whole of Hawai‘i. While as Maly (1999:12) relates, “[t]his attachment to the mountain landscape is rooted in antiquity and remains important in the lives of Native Hawaiians today, who attribute spiritual and cultural values to Mauna Kea.” The practices identified here as contemporary are either not part of a documented longstanding family tradition, are modern adaptations of ancient practices, or are new activities not traditionally practiced. Nonetheless, these contemporary cultural practices are significant to the practitioners and their families and may ultimately be the foundation for future traditional cultural practices.

Chief among the contemporary practices is the use of the whole of Mauna Kea as a spiritual and religious site of prayer and contemplation, which includes the building of family ahus or altars and the placement of offerings to honor families or as a form of personal spiritual worship. Other practices include the collection of basalt from Keanakāko‘i; the scattering of ashes of cremated remains of families and friends; and subsistence and recreational hunting. See CMP, April 2009, prepared by Ku‘iwalu/Ho‘akea, at pages 1-1 to 1-3.

III. History of State Mismanagement in Relation to State Law:

A. Applicable State Constitutional, Statutory and Case Law:

Hawaiian Cultural Rights are specifically addressed in Article XII Section 7 of the State Constitution. Hawaii Revised Statutes section 171-6-15 which imposes penalties and fines for illegal uses of the Mauna specifically exempts Hawaiians engaging in cultural practices. It states
“No person shall be sanctioned pursuant to this section for the exercise of native Hawaiian gathering rights and traditional cultural practices as authorized by law or as permitted by the department pursuant to article XII, section 7, of the Hawaii state constitution.” In addition, Act 132 passed by the Legislature in 2009 that gave the University ‘Autonomy’ in its management of the Mauna specifically provides “…Access for traditional and customary native Hawaiian cultural and religious purposes shall be accommodated.” The University, DLNR and the Science Community have ignored and violated these mandates and consequently have violated Hawaiian Constitutional and Human rights. (UN Declaration on the Rights of Indigenous Peoples, provisions 11, 12 & 25).

(HRS. Chapter 171) requires that State lands be leased at fair market value as determined by appraisal. It provides that lease rental cannot be waived for any commercial venture for longer than 1 year. Section 171-6 (15) sets fines for violations of the law, rules or illegal public use but it also states…”No person shall be sanctioned pursuant to this section for the exercise of native Hawaiian gathering rights and traditional cultural practices as authorized by law or as permitted by the department pursuant to article XII, section 7, of the Hawaii state constitution.”

In 2015 the State Supreme Court reviewed the Petition of the Maunakea Anaina Hou and several other “Protector” groups. The Court ruled in their favor, finding that the DLNR Board had violated due process. The Supreme Court required the matter be sent back for a contested case. The majority and minority opinions recognized the sacredness and profound importance of Maunakea to Hawaiian practitioners, and recognized that traditional and customary practices are exercised throughout the summit area. The Court ruled that the State and DLNR had an “affirmative obligation” to protect Hawaiian rights recognized in Article XII Section 7 of the Constitution, this argument was expanded in the Minority opinion which also affirmed that this obligation was part of the protection of the public trust. See Maunakea Anaina Hou vs., DLNR/State of Hawaii. SCAP-14-0000873, December 2, 2015.

B. State Mismanagement as verified by The State Auditor:

State auditors reports on the Mauna for the years 1998, 2005, 2009 and 2014 document numerous violations of State law and verify that although the University and private Telescope Operators created several studies & plans for the Development (Native Cultural Report, Public Access Report, Decommissioning Report and Comprehensive Management Plan) none of these plans have been implemented and no plan actually provided for Hawaiian rights to worship or for other cultural practices. For example, the Public Access Plan prepared for the TMT Project and the OMKM in 2010 by the Sustainable Resources Group International, delineated public access rights in a number of areas including hunting and recreational uses but specifically omitted any protections for Hawaiians and instead put Hawaiian rights in a section entitled “Unresolved Issues”. This is a clear example of racism that pervades the history of the States mismanagement of Maunakea.

In 2014, the State Auditor (citing Act 132 , 2009) noted, “Administrative rules governing public and commercial activities on Mauna Kea lands are necessary to provide effective protection of cultural and natural resources from certain public activities, and to help ensure public health and safety. Examples of public and commercial activities to be governed by administrative rules include general access to sensitive resource areas, such as specific and off-road vehicle
management and control; alcohol consumption; recreational activities; and commercial tour activities.”

The auditor found that the University and Office of Maunakea Management (OMKM) had not implemented any of their own studies, reports or plans because they have refused to establish rules to implement these plans. Consequently, the Mauna has not been protected these many years, nor have there been rules to facilitate Hawaiian cultural practices guaranteed by the State Constitution & Laws. During this time, development proceeded to a point that it exceeded the carrying capacity of the Mauna and its unique environment. The last Comprehensive Management Plan called for development to cease after 13 permits for telescopes had been awarded, today there are 22 structures on the Mauna!

The 2014 audit found that the OMKM had benefitted significantly by avoiding its rule making obligations and giving out unauthorized and illegal permits for public commercial uses. In the last few years, the science community has brought in 2 million dollars through illegal permitting for tourism. These funds did not go to the DLNR for management purposes, in fact the BLNR record reflects that the Board has repeatedly acknowledged that it did not have funds to meet the environmental and cultural needs of the Mauna.

Although the provisions of Chapter 171 require fair market rental be paid for the use of public lands, these laws have been violated for 48 years, ever since the University received a 65 year lease for Maunakea in 1968 for free. The University ignored these laws when it subleased lands on the summit for 22 buildings for $1.00 per year. Data obtained by Kahea, the Hawaiian Environmental Coalition indicates that annual rent should be 45 – 55 million per year and that rental of approximately 500 million has been lost to date.

C. ACT 132 & Evidence of Desecration and Deliberate Vandalism of Sacred Sites:

In 2009, the State Legislature passed ACT 132 the purpose of which was to allow the university of Hawaii to adopt administrative rule to regulate activities within the lands managed by the UH on Maunakea. Testimony of the Maunakea Ranger Corp Program, the body whose job it was to protect cultural sites on the Mauna, presented to the Senate Ways & Means Committee on April 6, 2009. Their testimony, attached hereto as Exhibit #1 verifies that the Maunakea Corps was aware that there was a significant problem with desecration of sacred cultural sites and properties on the Mauna. Appended to their testimony were photos of destroyed lele (altars) as well as graffiti and the deliberate disturbance of cultural features going on at the summit. (see Exhibit #1, testimony of Mauna Kea Rangers to the Legislature re: Act 132, 2009 and photos of destroyed ahu.)

The State Legislature passed Act 132 in 2009, but the University, DLNR and TMT refused and continue to refuse to pass Administrative Rules to protect the cultural resources relating to Hawaiian rights to worship and engage in cultural practices guaranteed by the State Constitution Article XII Section 7.

IV. Applicable International Human Rights Law and Violations thereof:

A. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
The UNDRIP (Exhibit #2) was passed in 2007, it set forth the Human Rights of Indigenous Peoples, including Hawaiians. The UNDRIP sets forth clearly the rights of Hawaiians to the lands, territories and resources they traditionally owned and used, including sacred sites and landscapes. UNDRIP incorporated by reference.

**Article 11 of the Declaration states:**

1. “Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.”

**Article 12 of the Declaration States:**

1. “Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.”

**Article 25 of the Declaration states:**

“This Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.”

**These provisions and the Hawaiian Human Rights they refer to, have been violated and continue to be violated by the actions of the University, TMT and DLNR. In April, 2015 over 100 Hawaiian practitioners, through their organizations, halau and ohana, submitted an Intervention to the U.N. Permanent Forum on Indigenous Issues objecting to these human rights violations requesting Consultation. (See Exhibit #3 Testimony of Hawaiian practitioners to the UN Permanent Forum on Indigenous Issues, 2015). Their Intervention verified the sacredness of the Mauna and its cultural significance to Hawaiians and also documented the injury and expanding violations of their human rights as the direct result of the actions of the State DLNR, TMT University and numerous other foreign nations and commercial science corporations.”

The study discussed the perspective of international human rights law on the cultural heritage of indigenous peoples, including Hawaiians in the following manner:

6. Indigenous peoples’ cultural heritage includes tangible and intangible manifestations of their ways of life, world views, achievements and creativity, and should be considered an expression of their self-determination and their spiritual and physical relationships with their lands, territories and resources. While the notion of heritage encompasses traditional practices in a broad sense, including language, art, music, dance, song, stories, traditional games and sports, sacred sites, and ancestral human remains, for indigenous peoples the preservation of heritage is deeply embedded and linked to the protection of traditional territories. Indigenous cultural heritage is a holistic and inter-generational concept based on common material and spiritual values influenced by the environment. It also includes bio-cultural heritage and traditional food production systems such as rotational farming, pastoralism, artisanal fisheries and other forms of access to natural sources.

7. Taking into account the various understandings of culture and cultural heritage, the Expert Mechanism proposed the following:

Indigenous peoples’ cultures include tangible and intangible manifestations of their ways of life, achievements and creativity, are an expression of their self-determination and of their spiritual and physical relationships with their lands, territories and resources. Indigenous culture is a holistic concept based on common material and spiritual values and includes distinctive manifestations in language, spirituality, membership, arts, literature, traditional knowledge, customs, rituals, ceremonies, methods of production, festive events, music, sports and traditional games, behavior, habits, tools, shelter, clothing, economic activities, morals, value systems, cosmovisions, laws, and activities such as hunting, fishing, trapping and gathering. Their environment, impacting on a people’s common perspective of the world and underlining its connection with nature, influences indigenous cultures. Indigenous cultures shape their views of the world and life. (A/HRC/21/53, Para. 52).”


The record reflects that the University, DLNR, BLNR and TMT have consistently refused to acknowledge Hawaiian Constitutional and Human Rights. Although a number of “Studies” have been undertaken, no administrative rules have been fashioned with the participation of Hawaiian Practitioners. The State has conducted an archaeology survey, and mapping that record environmental areas, but has never included data on the Hawaiian practices of Maunakea, their location and location specific information. Consequently, the State and TMT do not know how many practitioners need access to the Mauna during the moon cycles, when the perennial springs flow, or at other seasonal & astrological times etc. Because no consultation has occurred, the DLNR has no information on traditional practices that are applicable or to reforestation & invasive species eradication, method of renewing the earth to support growth & re-introduction of
endemic species. Cultural mapping should be undertaken in order to ensure that places of practice are accurately recorded and procedures are developed in conjunction with practitioners.

This work must be undertaken if any protocols are developed by Practitioners for their use & protection. Recently, the DLNR circulated proposed rules, these rules were prepared in a vacuum and were not based on the actual facts relating to where, how, how often and the manner in which Hawaiians practice their culture on Maunakea. Instead of working with practitioners, DLNR is proposing rules based on their authority to manage the Mauna.

Currently, the State is proposing rules in 3 areas:
1) CR-5 Develop and Adopt Guidelines for the Culturally Appropriate Placement and Removal of Offerings;
2) Action Item CR-8 Develop and Adopt a Management Policy for UH Management Areas on the Scattering of Cremated Human Remains;
3) Action Item CR-7 Determination of the Appropriateness of Constructing new Hawaiian Cultural Features;
4) Action Item CR-9 Management Policy for the Cultural Appropriateness of Building Ahu or 'Stacking of Rocks.;”

Proposing State regulation in these areas runs afoul of the Establishment Clause of the First Amendment and flies in the face of the task required by the State Constitution… that that the State accommodate Hawaiian practice. In addition, the State must abandon its current process of recognizing State designated Kahu Ku Mauna (Priest of the Mountain) and begin to work with real practitioners, State wide. Real Hawaiian Kahu and Kumu need to be included and the State appointed Kahu Ku Mauna disbanded.

Consultations need to be undertaken on all islands because it is clear that practitioners reside on all islands. Gathering data from as many practitioners as possible will facilitate the broadest understanding of the practices on the Mauna and their locations and other details (day or night, solstice, women or men or both, overnight, etc. etc.). Cultural mapping is necessary to ensure that protocols for access & use interface reasonably with what is going on culturally.

It is evident that the constitutional and Human Rights of Hawaiians are being deliberately violated and subverted. The University and DLNR must be compelled to adopt rules to facilitate & implement protections for Native Hawaiian rights. In fashioning the cultural protocols, it is the practitioners themselves who will be the sources of information and cultural knowledge. Traditional knowledge & practice dictate the appropriate manner of indigenous worship, gathering etc. and this knowledge is encoded in the culture of the Hawaiian practitioner.

October 2d, 2016
Mililani B. Trask
Indigenous Expert to the United Nations
Ku Kia’I Mauna – Maunakea is Sacred!

May 18th, 2016

To: Lukela Ruddle & Kahu Ku Mauna
From: Mililani B. Trask, Damien Marie Onaona Trask and Brittany Kualii

Re: Consultation of Kahu Ku Mauna re: Hookupu & Protocols Maunakea
May 21, 2016

Aloha Lukela,

Thank you for the invitation to attend the KKM Consultation on Maunakea Protocols. I am unable to attend and will be at a retreat in Kona for cultural practitioners during that time. I am sending this communication in behalf of myself and the Hawaiian women whose names appear below. Please forward this to the KKM and others attending the hui so they will know our mana’o. We look forward to working with you folks on this in the future. I will be forwarding this on to Wally directly, and also to the DLNR.

Aloha,
Kumu Damien Marie Onaona Trask,
Brittany Kualii, Mililani B. Trask
Maunakea Practitioners

I. Maunakea Practitioners overseeing the Ahu a Papalani, located at Hale Pohaku:

Nearly 20 years ago, Hawaiian Cultural Practitioner, including some of our group, constructed an Ahu on the site that was later developed as the Maunakea Visitors Center, Hale Pohaku. This site was chosen in keeping with Hawaiian practice “Komo Ke Akua, A’oe Komo Ke Kanaka”. It is named Ahu a Papalani.

This site has been maintained and continues to be maintained by a group of Hawaiians, primarily women, who use the site regularly for purposes described in this document. Other Hawaiian Practitioners facilitated construction of the Ahu including members of the Royal Order of Kamehameha and Maunakea Anaina Hou. We advise KKM to contact them directly and consult with them regarding their cultural practice and concerns.
II. Nature and Regularity of Cultural Use of Ahu & Mauna:

Women worship at the Ahu monthly, and also clean and dress the Ahu monthly. These ceremonies usually occur on the cycle of the full moon. During cleaning & dressing, old hookupu are removed and disposed of under cultural protocols.

The women who practice at the Ahu also engage in ceremony at other locations on the Mauna, including Hale o Umi, the Puu of the summit, Lake Waiau, Ka Po Kane and elsewhere depending on the nature of the ceremony and season of the year.

A. Hookupu:

The most sacred of Hoopuku brought by our women are: #1. Sacred waters of the Mauna, #2. Sacred waters of Hawaii Aina and #3. Sacred waters of Ka Pae Aina Hawaii. Other Hookupu including appropriate greenery and items gathered for this purpose are also used.

Kane Alaka‘i have facilitated our women practitioners by assisting us in gathering the waters of the Mauna. This task requires strength and long hours of hiking. While younger women have made the trek, it is too difficult for our older practitioners. At the present time there is no location in the vicinity of the Ahu where Sacred Waters can be stored. Because of ongoing vandalism, Sacred Waters are kept by gatherers or by the woman until they are brought to the Ahu for Hookupu.

The Sacred waters are collected and kept separately in containers. When placed on the Ahu, the waters may be poured over the stones or placed in an appropriate vessel (coconut apu) and left on the Ahu.

The placing of Hookupu is accompanied by the reciting of Hawaiian traditional chants & prayers, (oli, mele). The Mohai hula may be performed and the Pu and other are also instruments sounded.

B. Dressing & Cleaning:

Every month women return to the Ahu to dress it with new greenery and remove the old. At this time, old traditional hookupu are also removed and are taken to a designated area near the Ahu for internment.

Appropriate Hookupu remain on the Ahu for 1 month and are removed the next month when the women return to dress and clean the Ahu. Objects used as containers for offerings are cleaned and placed on the side of the structure for other practitioner’s future use.
At the present time there is no place or appropriate procedure to remove inappropriate offerings and trash, these materials are usually taken to the trash bin next to the visitors center.

C. Broader Cultural Use of Mauna:

The women who are Hawaiian cultural practitioners at Ahu a Papalani also conduct religious ceremony at other locations on the Mauna.

Women gather the waters from the Mauna as well as adz, kuni stone and other implements and materials, some of which have ceremonial uses. It is well known throughout Hawaii, that Hawaiian women take their children’s piko & I’ewe to special places located on the Mauna. These are ‘family areas’ that have been used by the same ohana for hundreds of years.

While the Mauna serves as a ceremonial gathering place for Hawaiian women collectively, some of our individual women practitioners also conduct private ceremony on the Mauna, including the women who have signed this document.

Ceremony undertaken on the Mauna by our women and many other Hawaiian practitioners, may be part of a larger spiritual and religious activities, for example, practitioners circumnavigating the island for ceremonial purposes may need to go to the Mauna as part of a larger event.

The Mauna is the appropriate location for the transmittal and teaching of ceremonial practices including the pule, mele and oli for the Mauna and her female deities. No location is provided for these cultural needs and women are forced to meet & retreat at other locations.

Some ceremonies require that women remain on the Mauna for 24 hours or longer. (Sunset to Sunrise) In 2015, we worked with State personal obtain the use of the facilities at Hale Pohaku for a full-moon ceremony. We want to work with the State to create a procedure that ensures that Hawaiian practitioners like ourselves and our Kupuna, can use these facilities for such activities. These facilities are built on Hawaiian ceded lands with State public trust funds.

When no accommodation is made for these religious uses, women have camped in cars, and slept on the ground risking arrest for participating in these events.

The women practitioners with oversight of Ahu a Papalani support and encourage the removal of invasive species and the planting of endemics on the Mauna, including the propagation of the Silversword (Hinahina) at the Ahu and summit. We are currently working with other practitioners to achieve these goals and we support the volunteer efforts for the reforestation of the Mauna in this respect.
D. Pilikia:

1. **Deliberate vandalism and desecration of the Ahu, Hookupu and surrounding area have been and continue to be a problem at Hale Pohaku location and elsewhere on the Mauna.** This problem was described in detail in the testimony of the Maunakea Rangers at the Keck hearings. They filed with their testimony photos of an Ahu before and after it was desecrated, referring to it as “vandalism”. In earlier years, Maunakea Anaina Hou practitioners and county workers implicated employees of the Science reserve in these crimes, but no corrective action has ever been taken.

The testimony of the Maunakea Rangers is remarkable in another respect in that it identifies Hookupu marking stones left by practitioners as “creative stacking of rocks”. This misunderstanding and inaccurate characterizing of hookupu underscore the need for the University and DLNR to work with practitioners to protect areas of worship rather than destroying them or mistakenly identifying them as childish artistic expressions.

2. **Tourists taking Photos during ceremony:**
Recently, while a Hawaiian Woman was praying at the Ahu, a group of tourists came in to take photos. They said that their tour guide had shared with them the fact that a sacred Hawaiian altar was behind the building & they could take photos there. These activities are disrespectful of practitioners right to privacy and should not be tolerated as an entitlement acquired by commercial license holders. We have also had problems with tourists taking hookupu, including lei and apu from the ahu.

3. **Inappropriate Hookupu:**
Hawaiian Women coming to clean and dress the Ahu continue to find inappropriate Hookupu on the Ahu these include, beer & liquor bottles, plastic flowers, crystals, photos, chicken feathers, incense, beadwork, and other objects and materials.

4. **Lack of Protective Measures for Practitioners:**
Failure of the State DLNR and Science Community to work with practitioners to design and implement protective measures to ensure that the rights of cultural practitioners can be accommodated remains a big problem. As long as this is the case, problems will continue. The State Constitution calls for the State to “accommodate” our cultural & religious practice. Restrictions can only be imposed for health and safety reasons.
II. Concluding Observations and Request for Follow-Up

The Hawaiian women submitting this document are requesting follow-up and proposing a more solution oriented effort be made by the KKM and DLNR to provide for and address cultural needs and rights for practitioners.

Protective measures are badly needed at this time include to stop desecration of the wahi pana and address the need to educate & inform the public and science community about Hawaiian cultural rights on the Mauna.

These Protective Measures should include:

A. Interpretive signs informing tourists and non-practitioners of the rights Hawaiians have to sacred places & ceremonies, including their right of privacy. Our attorneys will prepare language for signage free of charge;

B. Requirements that commercial users must inform tourist and others about Hawaiian rights and to distribute to them a brochure regarding these rights. Our attorneys will prepare language for the brochure free of charge;

C. A procedure for the arrest and prosecution of persons deliberately vandalizing Ahu & other wahi pana. Our attorneys will work with the Prosecutor on this language under the existing criminal code;

D. Procedures providing for the use of the Hale Pohaku facilities to accommodate practitioners overnight ceremonial use and for retreats and educational sessions, and procedures for overnight ceremony a sites;

E. Cultural mapping and broader community consultations so that the data needed for a cultural resource planning, protection and management can be undertaken.

F. Funding for interpretive signs & printing of materials informing and educating people about the cultural relevance of the Mauna, the spiritual and cultural uses of Hawaiians of the Mauna and the constitutional responsibility of the Sate to accommodate these rights.
We are concerned that the proposed protocols and rules prepared by the KKM purport to place us on notice that State employees will now be removing & destroying our Hookupu and other sacred offerings on our Ahu. Please do not impose these rules in our area of worship & practice. Please work with us to accommodate our cultural and religious rights.

When Cultural Resource planning is undertaken in earnest, it begins with a broad Consultation with native practitioners so that all cultural resources (tangible and intangible) and their uses can be identified and their locations mapped. This has never been done for Maunakea.

We look forward to your response and to meeting with the KKM,

Sincerely,

Damien-Marie Onaona Trask – 808-982-5117/ onatrask@gmail.com
Brittany Ka’oi Kualii – 808
Mililani B. Trask – 808-990-0529/ mililani.trask@icllchawaii.com
United Nations
DECLARATION
on the RIGHTS
of INDIGENOUS
PEOPLES
United Nations Declaration
on the Rights of Indigenous Peoples
Resolution adopted by the General Assembly

[without reference to a Main Committee (A/61/L.67 and Add.1)]


The General Assembly,

Taking note of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006,¹ by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

Recalling its resolution 61/178 of 20 December 2006, by which it decided to defer consideration of and action on the Declaration to allow time for further consultations thereon, and also decided to conclude its consideration before the end of the sixty-first session of the General Assembly,

Adopts the United Nations Declaration on the Rights of Indigenous Peoples as contained in the annex to the present resolution.

107th plenary meeting
13 September 2007

Annex

United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social
progress and development, understanding and friendly relations among nations and peoples of the world,

_Recognizing in particular_ the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

_ConSIDering_ that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

_ConSIDering also_ that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

_Acknowledging_ that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights\(^2\) and the International Covenant on Civil and Political Rights,\(^3\) as well as the Vienna Declaration and Programme of Action,\(^3\) affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

_Bearing in mind_ that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

_Convinced_ that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

_Encouraging_ States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

_EmphASizing_ that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

\(^2\)See resolution 2200 A (XXI), annex.
\(^3\)A/CONF.157/24 (Part I), chap. III.
Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1
Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

Article 2
Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Article 3
Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4
Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to

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4 Resolution 217 A (III).
their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5
Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6
Every indigenous individual has the right to a nationality.

Article 7
1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8
1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:

   (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
   (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
   (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
   (d) Any form of forced assimilation or integration;
   (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.
Article 9
Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10
Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11
1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12
1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.
Article 13
1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14
1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15
1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16
1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.
2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17
1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18
Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19
States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20
1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21
1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22
1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23
Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24
1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.
Article 25
Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26
1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27
States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples’ laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28
1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources
equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29
1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30
1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31
1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

**Article 32**

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

**Article 33**

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

**Article 34**

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

**Article 35**

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.
**Article 36**

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

**Article 37**

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

**Article 38**

States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

**Article 39**

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

**Article 40**

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.
Article 41
The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42
The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43
The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44
All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45
Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

Article 46
1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law
and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.
Judith Wilhoite

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Kailua Hi 96734 USA

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The mountain needs to be accessible by all of Hawaii’s peoples. It is an inspiring experience to watch the moon rise or the sunset from the summit. For our host culture, it is so much more than recreation. Please don’t take this away from them or the joy of the mountain from the rest of us.
These proposed changes are ridiculous and unnecessary. The mountain is loved and respected by ALL of us, not just the scientific community or the Hawaiian community. I believe strongly in allowing scientific research to continue up there, and also believe the TMT should move forward. But I also believe in the Hawaiian community’s right to access the mountaintop as they wish, along with writers in awe of the mountain such as myself. People heading up to shovel snow into the back of their pickups on Christmas morning is not a treat to either the scientific community, nor the Hawaiian community. Let it be...let it be.
Name
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Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
Everyone should have a right to drive up to the summit to see the beautiful views year-round and play in the snow at Christmastime. Please don’t allow access to only a select few.
While changes to the management of the summit is undoubtedly necessary, the rules as proposed pose an onerous burden on those who most have a right to access the mountain top and fail to address the systematic problems so controversial of late. The rules as proposed in fact have the opposite effect creating a mountain top that for all appearances is to be kept only for the science done there. The efforts of the astronomers, however valuable, cannot be treated as the exclusive or indeed primary use of the mountaintop because of the consistent history of colonization that the islands and their native and local populations here have. As a kanaka, a recreational hiker, and a scientist I cannot condone rules that limit and restrict mountaintop access as the rules would.
Privatization of sacred, public land is absolutely disgusting. This is an obvious ploy to commercialize the summit...not for the public’s benefit, but strictly the university. More specifically, those with large paychecks from the university whom want even larger paychecks...without actually doing any work for it.
Name
Nicole Cron

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Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
UH has a reputation for not taking care of the land and have no authority to be making rules on the land anyway. We have seen time and time again that UH makes rules that they themselves will never follow, which is unfair for everyone who is being put in an inconvenience because of these regulations. Also, while these rules claim that they will not hinder cultural practices, the vague writing leaves many believing that this is a lie. Overall, do not make rules while still not being able to follow the ones that are already in place. Take care of the land.
Name
Gregory Johnson

Organization
Member of the public

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Hawai‘i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Comment

GJohnsonCommentsHAR20-26.docx 17K
September 27, 2018

To: Board of Regents, University of Hawai`i
From: Greg Johnson, member of the public

RE: HAR 20-26 Proposed Rules and Limitations on Traditional and Customary Practice

Dear Board of Regents,

I am submitting these comments for your consideration regarding the proposed Mauna Kea management rules (HAR 20-26). My focus is on the potential impact of the proposed rules upon Native Hawaiian traditional and customary practice, rights explicitly and admirably protected by the state constitution at article 12, paragraph 7. Additionally, I will briefly flag a range of other shortcomings of the proposed rules.

At the outset, I wish to call attention to the premature nature of the proposed rules. The rules presuppose a framework of “compatibility” with appropriate uses of UH management lands. I submit that the terms of compatibility and appropriateness—defined how, and by whom—are as of yet unknown insofar as the pending case before the State of Hawai`i Supreme Court on the TMT CDUP has not been adjudicated. The cart is surely out front of the horse yet again.

Credentials and Context
My comments here are informed by my training (PhD in the study of religion from the University of Chicago), my research experience in Hawai`i (nearly twenty years, largely focused on questions of burial protection, repatriation, and sacred lands), and by my site-specific experiences on Mauna Kea, including with religious practitioners (approximately 15 visits since the early 2000s, including numerous observations of ritual protocol on the mountain).

Traditional and Customary Practice
As a scholar of comparative religion, there is much I could say about the faulty, imprecise, and flatly mistaken assumptions about Native Hawaiian traditional and customary practices evinced in the proposed rules. Here I will limit my comments to issues pertaining to time, space, and objects. Hawaiian customary and traditional practices in today’s context—as in the past—include many forms of worship that are responsive in nature. In contrast to liturgical traditions that are calendrical and sedentary in nature, stipulating set times and places for ritual observances (of which there are some in Hawaiian contexts, such as the Makahiki cycle), much of Hawaiian religion focuses on the needs of the human and more-than-human community in real time and in site-specific ways.

In other words, ceremonies are performed as needed and where needed, with immediacy being at a premium for such rituals to be efficacious. Whether someone has died, been born, is facing a health issue, or if a particular area of the land demands ministering to or is visited for the power and healing it is understood to convey, such ceremonial contexts emerge in the course
of the uncertainties of life and must be addressed ritually in a timely, direct, and grounded fashion.

The brilliance of such religious traditions is found in their seamless rooting of humans in natural environments and the way they express and foster the interdependence of these realms. For many Hawaiians, Mauna Kea is a paradigmatic place where this religious connectivity is expressed and enacted. It is understood by many ritual experts to be a place of considerable mana and is therefore of place of much ritual activity of a responsive nature. Once on the mauna, ritual practitioners often engage in site-specific forms of worship (e.g., prayers, chants, offerings) that seek to amplify the mana of the mauna through attention to its various piko (portals). Doing so, one long-practiced form of ritual engagement with the landscape is to construct modest ahu (shrines, altars) of pohaku (stone). These ritual sites then take on significant and irreplaceable importance to the practitioner community.

This is but a nutshell sketch, though I hope I have conveyed why there is a profound mismatch between traditional and customary practices as engaged on Mauna Kea and the proposed rules that would regulate them in a manner that would be devasting and disfiguring. To suggest but several of many imaginable and alarming scenarios, consider the following: How can a practitioner anticipate the religious needs of his or her community in such a manner as to apply 15 or 45 days in advance for the proper permit (HAR 20-26c; 20-26-62b; HAR 20-26-65)? What if the group in need of ritual ministrations is larger than ten (HAR 20-26-22.10)? What if the community to maintain its morale when sacred sites are deemed off limits and ritual structures are removed or otherwise desecrated, as was the case with Ahu Kauakoko in 20015 (HAR 20-26-21b; 20-26-22.9)? What if a ceremony requires light to navigate at night to an appointed location (HAR 20-26-24.3) or if a practitioner wishes to call in the prayers of a kupuna by phone (HAR 2026-241)?

“Uncle, wait for ceremony?—need to get one permit to help you.” “Aunty, sorry, no can kahea those `aumakua now—the `aina has been ‘restored’ to its pre-ahu condition.” “Tita, gate closed today, no can pray.” “E kala mai, Ikaika, have ten people for the pule circle already. Try next time.”

Hawai`i has a proud if sometimes checkered history of acknowledging and protecting Native Hawaiian traditional and customary rights. Why back-peddle now in such an egregious way? Today the State of Hawai`i has the potential to be a beacon in a dark time. Immigrants and others have looked to the state as a model of democracy. Now the state and university have the opportunity to stand in this honorable light if matters on Mauna Kea are handled with care and diligence rather than in haste, as the current rules suggest. To this end, I urge the board to consider how Native Hawaiian traditional and customary practices actually unfold on Mauna Kea and to revisit the proposed rules with an eye to making them more amenable to those who have the longest and deepest connections to it. Permits that require up to 45 days advanced notice, group size limitations, stipulations about the status and permissibility of religious structures, and other such constraints embedded in the proposed rules are unfair, unseemly,
and counterproductive. Mauna Kea will be a better place for everyone if the rights and places of Hawai`i’s first people are accorded the respect they deserve.

**Other Considerations**

I close by adding my voice to those who have raised concerns about the ways these proposed rules have every appearance of being designed to thwart otherwise constitutionally protected forms of assembly, free speech, and other basic rights. Development of Mauna Kea may well generate forms of public dissent in the future. Attempting to curtail expression of assembly and speech in advance of the fact is anti-democratic and cowardly. It would be far more honorable for the university to address protests and other forms of expression through established mechanisms and to consult with affected communities in advance rather than criminalize them by such mechanisms as those contemplated in the proposed rules.

Sincerely,

Greg Johnson
Mauna Kea must remain a peoples mountain. However, with increased utilization, with an ever increasing population, there's need for control and maintenance. 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. Mauna Kea still belongs to the people of Hawaii. However, there's also need to protect our natural environment so that it's not overrun with our ever increasing "well-intended" people. Do allow all the ability to access within reason. Do start an access permit process with rules that all must abide to. Do manage our Mauna Kea so that our mountain remains available for our keiki.
Greetings, I submitted my comments through your online portal today. However, it is unclear to me if I uploaded the document correctly, so I attach it here as well.

Best,

Greg Johnson
Dear Board of Regents,

I am submitting these comments for your consideration regarding the proposed Mauna Kea management rules (HAR 20-26). My focus is on the potential impact of the proposed rules upon Native Hawaiian traditional and customary practice, rights explicitly and admirably protected by the state constitution at article 12, paragraph 7. Additionally, I will briefly flag a range of other shortcomings of the proposed rules.

At the outset, I wish to call attention to the premature nature of the proposed rules. The rules presuppose a framework of “compatibility” with appropriate uses of UH management lands. I submit that the terms of compatibility and appropriateness—defined how, and by whom—are as of yet unknown insofar as the pending case before the State of Hawai‘i Supreme Court on the TMT CDUP has not been adjudicated. The cart is surely out front of the horse yet again.

Credentials and Context
My comments here are informed by my training (PhD in the study of religion from the University of Chicago), my research experience in Hawai‘i (nearly twenty years, largely focused on questions of burial protection, repatriation, and sacred lands), and by my site-specific experiences on Mauna Kea, including with religious practitioners (approximately 15 visits since the early 2000s, including numerous observations of ritual protocol on the mountain).

Traditional and Customary Practice
As a scholar of comparative religion, there is much I could say about the faulty, imprecise, and flatly mistaken assumptions about Native Hawaiian traditional and customary practices evinced in the proposed rules. Here I will limit my comments to issues pertaining to time, space, and objects. Hawaiian customary and traditional practices in today’s context—as in the past—include many forms of worship that are responsive in nature. In contrast to liturgical traditions that are calendrical and sedentary in nature, stipulating set times and places for ritual observances (of which there are some in Hawaiian contexts, such as the Makahiki cycle), much of Hawaiian religion focuses on the needs of the human and more-than-human community in real time and in site-specific ways.

In other words, ceremonies are performed as needed and where needed, with immediacy being at a premium for such rituals to be efficacious. Whether someone has died, been born, is facing a health issue, or if a particular area of the land demands ministering to or is visited for the power and healing it is understood to convey, such ceremonial contexts emerge in the course
of the uncertainties of life and must be addressed ritually in a timely, direct, and grounded fashion.

The brilliance of such religious traditions is found in their seamless rooting of humans in natural environments and the way they express and foster the interdependence of these realms. For many Hawaiians, Mauna Kea is a paradigmatic place where this religious connectivity is expressed and enacted. It is understood by many ritual experts to be a place of considerable mana and is therefore of place of much ritual activity of a responsive nature. Once on the mauna, ritual practitioners often engage in site-specific forms of worship (e.g., prayers, chants, offerings) that seek to amplify the mana of the mauna through attention to its various piko (portals). Doing so, one long-practiced form of ritual engagement with the landscape is to construct modest ahu (shrines, altars) of pohaku (stone). These ritual sites then take on significant and irreplaceable importance to the practitioner community.

This is but a nutshell sketch, though I hope I have conveyed why there is a profound mismatch between traditional and customary practices as engaged on Mauna Kea and the proposed rules that would regulate them in a manner that would be devasting and disfiguring. To suggest but several of many imaginable and alarming scenarios, consider the following: How can a practitioner anticipate the religious needs of his or her community in such a manner as to apply 15 or 45 days in advance for the proper permit (HAR 20-26c; 20-26-62b; HAR 20-26-65)? What if the group in need of ritual ministrations is larger than ten (HAR 20-26-22.10)? How is the community to maintain its morale when sacred sites are deemed off limits and ritual structures are removed or otherwise desecrated, as was the case with Ahu Kauakoko in 20015 (HAR 20-26-21b; 20-26-22.9)? What if a ceremony requires light to navigate at night to an appointed location (HAR 20-26-24.3) or if a practitioner wishes to call in the prayers of a kupuna by phone (HAR 2026-241)?

“Uncle, wait for ceremony?—need to get one permit to help you.” “Aunty, sorry, no can kahea those `aumakua now—`a `aina has been `restored` to its pre-ahu condition.” “Tita, gate closed today, no can pray.” “E kala mai, Ikaika, have ten people for the pule circle already. Try next time.”

Hawai`i has a proud if sometimes checkered history of acknowledging and protecting Native Hawaiian traditional and customary rights. Why back-peddle now in such an egregious way? Today the State of Hawai`i has the potential to be a beacon in a dark time. Immigrants and others have looked to the state as a model of democracy. Now the state and university have the opportunity to stand in this honorable light if matters on Mauna Kea are handled with care and diligence rather than in haste, as the current rules suggest. To this end, I urge the board to consider how Native Hawaiian traditional and customary practices actually unfold on Mauna Kea and to revisit the proposed rules with an eye to making them more amenable to those who have the longest and deepest connections to it. Permits that require up to 45 days advanced notice, group size limitations, stipulations about the status and permissibility of religious structures, and other such constraints embedded in the proposed rules are unfair, unseemly,
and counterproductive. Mauna Kea will be a better place for everyone if the rights and places of Hawai`i’s first people are accorded the respect they deserve.

Other Considerations
I close by adding my voice to those who have raised concerns about the ways these proposed rules have every appearance of being designed to thwart otherwise constitutionally protected forms of assembly, free speech, and other basic rights. Development of Mauna Kea may well generate forms of public dissent in the future. Attempting to curtail expression of assembly and speech in advance of the fact is anti-democratic and cowardly. It would be far more honorable for the university to address protests and other forms of expression through established mechanisms and to consult with affected communities in advance rather than criminalize them by such mechanisms as those contemplated in the proposed rules.

Sincerely,

Greg Johnson
To Whom It May Concern

I would like to express my opposition to The University of Hawai‘i’s Office of Mauna Kea Management’s (OMKM) proposed administrative rules related to public and commercial activities on Mauna Kea lands through the following points:

· First, there are several sections in these proposed rules that are extremely problematic and in fact prioritize the western scientific community over cultural practitioners in accessing the lands. Hawaiian cultural practitioners should be exempt from all language related to group use permits, permits for public assemblies and meetings, research permits, special use permits and other related items. Hawaiian cultural practitioners need to be protected and respected as coming from the host culture where customary practices are traditional, necessary and rooted in proper stewardship over the land. Whether the activity being conducted is for religious, gathering of materials, studying the celestials, demonstrating for the community or other cultural purposes and whether the activity being conducted occurs during the day, night or for an extended period of time, no permits should be required. Cultural practitioners should not be limited in their access of Mauna Kea nor should they be fined amounts as high as $2500 for their activities. Requiring cultural practitioners to apply for a permit is offensive and is placing restrictions on those who best work to protect, learn from and respect Mauna Kea.

· Second, the UH President and their designee should not be allowed to single-handedly grant or withhold permits. Permits that should be required related to any and all non-cultural activities should go through an extensive process for approval and one in which the community is allowed to provide input. Mauna Kea has been severely mismanaged in the past by the DLNR and the University of Hawai‘i and this type of rule places far too much power in the hands one or a small group of people. Proposing this rule continues to jeopardize the use of Mauna Kea.

I sincerely hope that if rules are made to “protect” Mauna Kea that they actually are created and enforced to do so. Limits and outright bans need to be implemented for those who desecrate the mountain and negatively impact the environment. Rules for better management on Mauna Kea should be directly focused on the observatories, on the scientific research being conducted, on development of roads and infrastructure, on commercial activities, on tourists accessing the mountain and on any and all additional proposed projects.

Sincerely
Mehana Maka‘ina’i
webhead@hawaii.edu <webhead@hawaii.edu>
Reply-To: Valerie Barnes <valerie@isomedia.com>
To: uhhar@hawaii.edu

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Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activites on Mauna Kea Lands

Support/Oppose/Comment
Oppose
I am [was?] a big supporter of the Thirty Meter Telescope - however, I cannot 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.
Testimony on administrative rules for Mauna Kea

Jonathan Osorio <osorio@hawaii.edu>
To: uhhar@hawaii.edu
Fri, Sep 28, 2018 at 10:01 AM

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484K
September 28, 208

Aloha

I am Jonathan Kay Kamakawiwo'ole Osorio, Dean of Hawai'iinuiakāea School of Hawaiian Knowledge. I am writing in opposition to the current draft of rules for the management of the summit of Mauna Kea. I acknowledge what many already know, that I have opposed the construction of the Thirty Meter Telescope from the very outset of the project and that I have participated openly in DLNR hearings and other testimonies as a professor of Hawaiian Studies and as dean.

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. Native Hawaiian cultural practitioners and Native Hawaiian political dissidents have a moral and legal right to conduct their ceremonies and their protests on that summit because it is former Hawaiian government land and our people have the right to assert sovereignty over those lands. Short of an actual Hawaiian government with legal title to that land, the best that the State of Hawai'i and the University can do is to treat the summit of Mauna Kea as a trust obligation and to manage public as well as Native Hawaiian interests, especially when they are in conflict.

In this case the legal kinds of arguments that we can make are consistent with some very practical arguments. If the Supreme Court rules in favor of moving forward with the construction of the TMT, and that construction begins to take place, there will be a response by hundreds and perhaps thousands of people. That will happen whether there are rules aimed at protestors and practitioners or not. But the very idea of these rules and the simple enough calculations that they are being deployed specifically against Hawaiian political dissent is already enough to provoke immediate and angry confrontations, and for those reasons I mentioned earlier.

If the Court rules against the TMT project, or more specifically against the DLNR management of the issue, the University is going to need a path forward that includes Kānaka Maoli, not just one or two members of a council, but our people. The other telescopes remain. Is it possible to create a community of practitioners on the mountain that co-exist? Of course it is. But that requires mutual respect and trust, and these draft regulations inspire neither one.

My recommendation is that the Board of Regents call an end to the rule making process until the issue of TMT is resolved and with the recognition that either outcome will require a respectful and trusted relationship between Kānaka and the University, move forward very carefully and patiently to seek some outcome that does not maintain a long and bitter struggle among us. I would make the case that Hawaiians fully embracing the University of Hawai'i is more valuable to UH than this telescope. I do know that this outcome is more valuable to Hawaiians than the telescope will ever be.

Mahalo

Jonathan K. Osorio, PhD
Dean, HSHK
University of Hawai'i Mānoa
Aloha kākou,

Please see attached Opposition Testimony to HRS Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands.

Mahalo Nui,

Mia Akau-LaClair

September 28, 2018

RE: Testimony in opposition of Chapter 20-26, Hawai‘i Administrative Rules, entitled "Public and Commercial Activities on Mauna Kea Lands"

Aloha kākou,

My name is Mia Akau-LaClair. I am Kanaka Maoli. I represent the ‘Ohana Akau of Pu‘ukapu, Kohala.

With utmost aloha, I submit testimony in opposition to the proposed rules governing public and commercial activities on Mauna Kea Lands for the following reasons:

1) **The importance and sacredness of Mauna Kea is not reflected in these rules.** Growing up in Pu‘ukapu and frequenting the slopes of Mauna Kea as a child of Parker Ranch, we always knew that Mauna Kea was the Wao Akua and Piko of our honua, a place so sacred that we as kanaka barely ever ascended its peak. And when we did enter this realm, we did so in prayer. The activities that have taken place on our mauna for the past 50 years demonstrate absolute disregard for our Akua who reside in this realm, our Kūpuna who upheld the sacredness of our mauna for centuries, our ‘āina and our wai that continually provide for our kanaka. The importance of this place should be front and center in these rules and dictate both the access rules as well as all decisions on future activities on the mauna. For me, this would be disallowing all future development, decommissioning existing facilities, and strictly limiting ALL forms of access.

2) **The UH has not demonstrated that they have engaged and utilized the public process to develop the proposed rules.** I am aware that a public meeting process was initiated several months ago to gather public input on the development of the rules, however, the testimony was not publicized nor was any explanation given on how the information gathered was utilized to develop the proposed rules. I personally know, that the majority of the feedback received was in opposition to both the development and proposed rules. The fact that the mana‘o shared has not be incorporated has, amongst many other things, contributed to the public distrust of the UH as supposed stewards of our mauna. While UH may claim to adhere to the HRS in the development of these rules, I am confident that the “intent” of the public input process was to gather input to be incorporated into the proposed rules not holding meetings for the sake of holding meetings. Additionally, I’ve watched the public testimony on the proposed rules submitted over the past few days, unfortunately, all members of the board were not even present to hear and process the voice of the people. Because the UH has been unsuccessful in conducting a thorough and fair public process I believe that they should be required to return to the public input stage and redraft the proposed rules.

3) **The rules discriminate against Kanaka maoli in favor of education and research activities.** This is evident throughout the entire rule document and has been vocalized
by many kanaka sharing testimony at the public meetings. I will share two examples to prove my point.

a. Section 20-26-3 Applicability and implementation, generally states that a) These rules shall apply to all public activities and commercial activities in the UH management areas as defined in these rules. And then appears to directly contradict itself by stating b) These rules do not apply to education and research activities and support functions carried out by...” According to the definition of commercial activity in Section 20-26-2, “Commercial activity” means a use or purpose designed for profit, which includes the exchange or buying and selling of goods, or the providing of services, or relating to or connected with trade, traffic or commerce in general; provided, however, that the use of land for utility purposes shall not be considered a commercial activity. Commercial activities include but are not limited to activities whose base of operations is outside the boundaries of the UH management areas, or provide transportation to, from, or within the UH management areas. Based on this definition, it appears that the operation of the telescopes and research activity on the mauna clearly fits the definition of commercial activity which should subject these entities to adherence to these rules. Instead, the rules blatantly discriminates against kanaka maoli in favor of “education and research activities.”

Especially disturbing is that “education and research activities” are exempted from the proposed rules when I know they are the most impactful to our resources on the mauna. For example, why is it that they are not required to follow Section 20-26-5 Orientation, requiring orientation to the cultural and natural resources on the mauna prior to entry into the area? Many of the people that travel to the mauna to engage in these activities have no idea of the importance of this place and should definitely be required to attend an orientation. Additionally, why are education and research activities not prohibited from removing plant and animal life, removing and damaging natural features, etc as required by Section 20-26-22 Preservation of resources? The scientific facilities on the mauna impact these resources on the largest scale possible and yet they are not required to follow this rule. Why are these activities not required to follow Section 20-26-32 Hazardous materials? The scientific facilities are the only entities utilizing these materials on the mauna currently and yet they are not required to follow this rule. How is holding our public to a higher standard than the commercial entities or specific activities on the mauna NOT discrimination?

b. Section 20-26-21 Traditional and customary rights, states b) Where such customary and traditional rights have minimal or no impact on existing cultural, natural, or scientific resources, no permit or approval is required under this chapter. Rather than protect the rights of Kanaka Maoli to practice, this rule again seems to discriminate in favor of education and research activities. In other
words, OMKM has full discretion to decide when cultural resources are impactful and allowable while kanaka are not afforded the same protection to determine when education and research activities are impactful and should be limited.

Due to the absolute disregard of the sacredness of our mauna, the abundant testimony provided during the public input period that has not been incorporated into these proposed rules, along with the discriminatory nature of the proposed rules, I feel that the only way forward is to go back to the development process and start over. I challenge the UH Board of Regents to enter into this important work in a pono way, if not for the sake of the Kanaka Maoli of the place, for the sake of our Mauna, one of the most sacred places in Hawai‘i and all of the world!

Me ka ʻoiaʻiʻo,

[Signature]

Mia Akau-LaClair
64-1003 Maluʻiaenapuʻu Place
Waimea, Hawaiʻi 96743
Hello,

Please see attached Opposition Testimony to HRS Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands.

Thank you,

William LaClair
September 28, 2018

RE: Testimony in opposition of Chapter 20-26, Hawai‘i Administrative Rules, entitled "Public and Commercial Activities on Mauna Kea Lands"

To Whom it may concern,

I am submitting this written testimony in opposition to the proposed rules entitled “Public and Commercial Activities on Mauna Kea Lands.”

I feel that the process for developing the proposed rules disregarded the testimony and public input that was received throughout this process.

I feel that a great many of the rules are very constrictive to cultural activities and gatherings while bolstering the protection of the scientific community.

Many of the rules and definitions are unclear on what the definition of commercial activity is, and it appears that UH’s research activity; past, present, and proposed is by definition commercial activity and should thus be restricted from the mauna altogether.

In closing, I hope that the consideration of the first culture and religion of this aina should be honored during the process of making the proposed rules. I feel that UH has continually failed to manage the area properly by allowing many sacred sites to be desecrated and now wishes to restrict the people from protecting against any further desecration in the future. I also feel that these rules are unclear on what the intent of the definitions of protection for the area and resources are. Therefore, I believe that these rules should be scrapped and brought back to the drawing board with the input and testimony from the community so that the rules will better reflect the communities desire to protect the cultural and natural resources.

Thank you for considering my written testimony

William LaClair
Aloha,

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 kākoʻo in protecting our most sacred place, Mauna Kea.

Mahalo,

Arnold Akau Sr.
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Kīʻope Raymond

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Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

45K
28 September 2018

re: Hawai‘i Administrative Rules Chapter 20-26; Public and Commercial Activities on Maunakea Lands

Auhea ‘oe, e ka mea heluhelu,

Mahalo ka ‘ae ‘ana mai e ho‘omaopopo aku iā ‘oe e pili ana i ko‘u mau mana‘o.


Makemake au e kāpae ‘ia kēia mau kulekele a e hana hou ‘ia.

No‘u, ‘a‘ole lawa ka noi‘i ‘ana ma nā kumuhana like ‘ole e pono ai kēia ‘āina kapu a he kūpono ka huki ‘ia o kēia mau kulekele, no ka manawa, a hiki i ka lohe ‘ia mai nā kānaka a pau e makemake nei e hāpai i ko lākou mau mana‘o no nā ‘āina ma ka wēkiu o Maunakea.

Eia ‘elua wale nō mau kumu, ma waena o nā kumu he nui, a‘u e noi nei e ho‘opane‘e ‘ia ka ho‘oholo ‘ana no kēia a lohe ‘ia nā leo a pau.


‘O kekahi mea, ‘o ia ka mana‘o ma nā kulekele e noi ana i kekahi kanaka e ‘āpono ‘ia, ma o kekahi palapala ‘ae, no kona ka pule ‘ana ma mua o kona hele ‘ana i luna ala e pule. ‘A‘ole hiki ia‘u ke ‘ae aku i kēlā. He mea ho‘ouluhua maoli ka mana‘o ‘o no ke kanaka Hawai‘i ka hewa, nona ke kalaima ho‘i, inā makemake ‘o ia e pule a i ‘ole mahalo i kona mau kūpuna me ka ‘ole o ka palapala e ‘ae ana iā ia e hana i mea pili ho‘omana nona iho. Me he mea la ‘o ko ‘oukou makemake ka māka‘i mai ana i ko ka po‘e hana? ‘A‘ole loa‘a ke kūlana, ke kuleana ho‘i, i ka U.H. e hana pēlā.

Mahalo,
na Kī‘ope Raymond
Pay heed, O reader,

I appreciate the consent to express to you my opinions.

I am a Professor in the U.H. system, instructing at the Hawaiian Studies department at the Maui College. However, I am sending this letter in my status as President of the group Kilakila ʻo Haleakalā.

I wish to disregard these policies and rewrite them.

To me, research on multiple subjects is insufficient for the needs of this sacred land. It is appropriate to pull these policies, for the time being, until all people who wish to express their opinions for the land on the summit of Maunakea are heard.

Here are only two reasons within many reasons, that I request for you to postpone this until all voices are heard.

The first, and most important, the entire summit of Maunakea is a sacred place, there is no need to erect another telescope, namely TMT, which is being planned there. Since Maunakea and other mountains are sacred, I cannot consent to the desecration of these places.

Another thing, the concept in the policies that ask for someone’s approval, through a permit to pray, before ascending there to pray. I cannot consent to that. It is irking that the notion of Hawaiians are wrong, and are criminal if they wish to pray or give thanks to their ancestors without the permit to allow him to conduct his own religion. It is as if, you all wish to police these people’s actions? U.H. does not have the authority or right to do so.

Thank you,
By Kīʻope Raymond
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Kawehi Kina

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Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose
Public Testimony Web Submission | Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands | Oppose

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Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose
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Hawai‘i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose
I agree with taking care of the summit. Having been up to the top twice in my life, I feel it was a special event in my life. To ban the public and Hawaiians totally from going there is against fair management of this special place. It is part of the state and should be open to respectful attendance. Maybe some limit to daily entry like what was done at Hanauma Bay would be more fair.
Please file for the Record

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Mauna Wahine Testimony Rules Final PDF.pdf
205K
To: uhhar@hawaii.edu
David Lassner
President, University of Hawaii
From: Mililani B. Trask, Hawaiian Cultural Practitioner in behalf of
Wahine Practitioners & Ki’ai

Re: Comments to Maunakea Proposed Administrative Rules

Background:

For years Hawaiians seeking to preserve & protect Mauna Kea have requested that the BLNR & State follow State law by adopting Administrative Rules for the Mauna. Several requests have been made in direct testimony and through written correspondence by myself and other Hawaiian practitioners seeking to exercise rights defined & acknowledged in Article XII Section 7 of the Hawaii State Constitution and the First Amendment of the U.S. Constitution.

In addition, the State Auditors office has repeatedly found that the BLNR (and later the OMKM) had failed to adopt Administrative Rules. The Auditors findings & recommendations were ignored for 16+ consecutive years, during which time the State, BLNR and University of Hawaii have supported & funded over-development and commercial use of the Mauna by private and State parties, to the detriment of the biodiversity, environment, cultural resources and cultural & religious rights of Hawaiians. There were only 13 telescopes approved but 22 building were constructed!

In recent years the State, BLNR and OMKM have lost many legal challenges on the procedures used by State and private sector to deny Hawaiians due process of the law.

Wahine Practitioners prior efforts to work with OMKM, DLNR, & University:

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. Testimony has been submitted by Wahine individually at hearings for Mauna development going back for years the Subaru, Keck and TMT telescope projects. Wahine supported & helped sponsor & organized the 3-year sunrise ceremonies called the ApapaLani ceremonies that drew hundreds of practitioners and were held in conjunction with the Merry Monarch competitions to
accommodate visiting Hawaiians & Statewide Halau.

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. In our testimony of August 2017, we described ourselves, our religious & our cultural practices, the locations of our uses on the Mauna, as well as the problems we encountered. We suggested 6 things that could be done to resolve these issues and ended with a request for “CONSULTATION”. In our initial testimony in 2016 we pointed out what the legal standards in the Hawaii Constitution & U.S. Constitutions require & how the proposed rules violated them. Again we requested ‘Consultation’ to resolve these issues, and asked that our Ahu not be touched & that our religious practice be respected.

NO RESPONSE WAS EVER RECEIVED NOR WERE OUR REQUESTS FOR CONSULTATION EVER ACKNOWLEDGED. Instead some of our members were arrested, threatened and convicted of violating the law. We ended our prior testimony with this statement:

“When Cultural Resource planning is undertaken in earnest, it begins with Consultation with practitioners so that all cultural resources (tangible and intangible) and their uses can be identified, and their locations mapped. This was never done for Mauna Kea.”

Where we are today:

The State, TMT, University & DLNR never held practitioner consultations statewide, although they knew that there were hundreds of Hawaiian practitioners on Hawaii Island and thousands (who marched) on neighbor islands. Instead, they worked with DLNR, KKM & other “stakeholders” to create rules to criminalize Hawaiian practices in direct derogation of our Human and Constitutional Rights.

Rather than work with Hawaiian practitioners to hold Statewide Consultations, the State, BLNR & private sector drafted these rules in a vacuum. The purpose & function of the Rules is to prevent Hawaiians from accessing the Mauna rather than facilitating their access.

For years the State refused to adopt Rules to accommodate our cultural rights while supporting & funding commercial users. Now that the State has created a “Science Zone” and approved 22 buildings for Commercial Science, they have fashioned rules that give a preference to Commercial users. Hawaiians are required to demonstrate that our cultural use is ‘compatible’ with commercial science.

2.
General Comments:

I. **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.**

For example, Sec. 20-26-3 gives a blanket exemption to: all university activities, to persons & governmental entities with an agreement with the University, and to all ‘research’ and ‘education’ activities carried out by to the University, regardless of the impact these activities have on Hawaiian religious practice or cultural rights, the environment or public health safety. This section also provides that the Mauna Kea Administrative Rules will never apply when there is any other statute regulating conservation areas, forest reserve, hunting etc. Because the State BLNR & University have always refused to adopt protective measures & procedures to accommodate & facilitate Hawaiian cultural & religious practice, these rights are not protected under existing statutes. The State however did adopted hunting rules in the past, so under section 20-26-3(c) public hunting is exempt from the Mauna Kea Rules! On sacred Mauna Kea, hunting laws have a priority over Hawaiian rights to worship!

II. **The Rules favor some religions and practices while providing restrictions on Hawaiian traditional practices.**

The Rules favor Christian religious practices and ceremonies over indigenous traditional religious practices of native Hawaiians. An example of this is the Christian blessing ceremony initiated by the TMT with the support of Governor Ige, the OMKM and DLNR. This event was planned, implemented and paid for by State, University and private sector parties. DLNR and University ‘security’ allowed dozens of cars to drive to the summit. The explicit purpose of the ceremony was to bless the TMT construction site and endeavor. Attendees included government officials & business leaders, who came to participate for political reasons and free publicity in the coming election. Seventy + metal folding chairs were set up along with tents for the media. Although no parking area was designated, cars admitted were allowed to park all around the facilities and ceremony site. A Christian minister was brought in to conduct a Christian blessing ceremony. No protocols were imposed to ensure that cars & guest attending the Christian blessing were not inadvertently transporting red ants or other ‘invasive species’!

This type of Christian/political religious ceremony is allowable under the draft Rules because of the built in ‘exemptions’ in the Rules (20-26-3). The TMT has an ‘agreement’ with the University and
the TMT is not engaging in a Hawaiian practice under Article XII. Section 7 of the State Constitution (20-26-21). In the future, science & commercial lessees of the University and DLNR can continue to undertake Christian practices, without any restriction, limitation, protective protocol or the threat of arrest & prosecution. Hawaiians practicing traditional ceremonies however are prohibited from worshipping & conducting traditional ceremonies by unreasonable restrictions.

III. 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. In addition, 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.

Section 20-26-21 demonstrates how the Rules are designed to negatively impact Hawaiian traditional practitioners. Although the section begins (a) with the recognition that the Chapter is subject to the rights of Hawaiians under Article XII section 7 of the State Constitution, this recitation is meaningless in light of the processes that follow.

Recognizing Rights while Failing to Protect Them:
Section 20-26-21 of the Rules says that the University ‘recognizes’ the State Constitutional protections, (Article XII, sec. 7) of Hawaiians, but says that only those traditional practices that have “minimal or no impact on existing cultural, natural or scientific resources” can be pursued without a permit. The term ‘minimal impact’ is not defined on the Rules, neither is there any standard for Hawaiian practitioners to use to determine if they need a permit. If a Hawaiian believes their practice of worship does not have any negative impact, and the practitioner does not get a permit ad goes to worship, and the University, OMKM, TMT, DLNR disagree, the practitioner(s) are immediately subject to arrest and criminal prosecution as well as a fine. Because of their arrest, they will be denied any future permit!
Sub-section (c) says that if a Hawaiian person or families traditional practice has been found to impact existing cultural, natural or scientific resources, the practitioner must “consult” with OMKM, and the State designated Kahu Ku Mauna (Priests of the Mountain, hereafter KKM).

There is no explanation or description of what an ‘impact’ is or is not. It is unclear who determines there is an ‘impact’ and under what criteria the ‘impact’ is reviewed? Who is going to “find” the impact is ‘minimal’ and what is the definition of minimal? There is no definition of “Consultation”.

4.
The Rules further provide that *if* there is an ‘impact’ the Hawaiian practitioner has to obtain a ‘special use permit’ under section 20-26-65. In addition, *if* there are any other laws that may apply, the practitioner must obtain ‘other applicable permits’ from ‘other governmental entities.’

This burdensome process is not required of any other user of the Mauna. University and other commercial licensees, including telescope operators and tour companies who have an ‘agreement’ with the University and are exempt from these restrictions. Specific sections of the existing law & Rules facilitate snow play, hunting and other private endeavors for commercial lessees. By providing specific statutory provisions to accommodate these public & commercial uses, the commercial and public users of the Mauna do not need to apply for a special use permit nor do they have to attend several meetings with the State, OMKM and the Kahuna.

**Procedural Barriers for Hawaiians, Exemptions for Commercial Users**

Although the Rules require that Hawaiian practitioners consult with OMKM, KKM and OHA, there is no streamlined procedure for practitioners to utilize to obtain a Special Use Permit. There is no defined process for or definition of “Consultation” in the Rules.

OMKM & OHA are State entities that have office hours M-F and are closed on State & Federal holidays & weekends. The KKM are ‘volunteers’ who do not work at OMKM. They are employed in other jobs & meet irregularly. Practitioners needing to ‘consult’ must arrange on their own for these consultations and meetings with OHA, OMKM and KKM. Hawaiians are required to take week days off from their paying jobs to attend these meetings, and to schedule them themselves. **Practitioners from neighbor islands are required to fly by plane to Hawaii Island for these ‘Consultations’ on weekdays. Meetings with KKM members may have to occur on weekends because they do not work as Kahuna on weekdays. If some of the KKM cannot attend a meeting, practitioners will have to return to Hawaii Island for additional meetings. Practitioners must undertake these costs & suffer loss of income to attend “Consultations” without even knowing what the “Consultation” is!**

**Four Wheel Trucks Required to Pray!**

If Hawaiian practitioners are able to attend these various ‘consultations’ and do receive a Special Use Permit, they are still prevented for worshipping and gathering on the Mauna if they do not drive a 4-wheel vehicle!

Section 20-26-29(b) of the Rules prohibits any Hawaiian from going to the Mauna for cultural practice & religious worship, unless they are driving a 4-wheel vehicle. **This requirement is imposed regardless of the weather conditions or health & safety concerns.**
For centuries Hawaiians have worshipped on Mauna Kea, they did not have 4-wheel trucks in traditional times. Commercial vans have 4-wheel drive, as do the DLNR trucks used by the State & paid for by taxpayers. It may make sense to restrict the use of certain vehicles when the weather creates dangerous conditions, however, when such conditions do not exist there is no reason to prevent Hawaiians from driving to the summit or any other areas on the Mauna with a 2 wheel drive vehicle.

**Traditional Gathering Prohibited**
Under the biased standards in the Rules, a Hawaiian who gathers a Kuni stone for ceremony without a Special Use Permit can be accused of taking ‘natural resources’ and ‘scientific resources’ arrested and fined. Section 20-26-22 of the Rules has 12 subsections describing ‘prohibit’ activities. This list prohibits Hawaiians from gathering items needed for cultural and sacred practices, including kuni stone, seeds, and sacred water which is gathered from various locations and used as a Hookupu during ceremony.

Traditional containers, including water containers (Coco Nut shells, wooden bowls) and lauhala baskets used to store salt, iliahi & other items for ceremony are prohibited because these items used in ceremony on the Mauna have to be brought in by Wahine practitioners. It is impossible to carry water or leave the water as a Hookupu on the Ahu unless the water is in a container. Women maintain the Ahu and return monthly to clean it. These activities are prohibited by the Rules because they entail removal of plants! This section also prohibits Hawaiians with cultural affiliations to burials on the Mauna from accessing burial caves located on the Mauna and requires practitioners get a separate permit from DLNR.

Under the Rules, Hawaiians gathering water or other items for ceremony are required to obtain another permit from the DLNR if they have walk through a NARS in order to gather. This requirement is imposed even if no gathering is taking place in the NARS. There is a high likelihood that practitioners gathering kuni may stray into the NARS because the University & DLNR have never demarcated the NARS boundaries. Making this mistake will result in their being arrested, fined & denied another permit in the future.

**Group Use Permits – Double Standards**
Section 20-26-62 requires that any group with more than 10 members must get an additional permit known as a ‘group use permit’. The limit to 10 people was established because Commercial users vans accommodate 10 people. Commercial users who advertise that they are “educational” however, may then claim an ‘educational’ exemption under the rules. Commercial users do not have to get a Special use permit or other agency or Mauna permits, under Section 21-26-66 (e) the Presidents designee can expedite commercial tours with a ‘concession agreement’ directly rather than forcing them to go through the tortuous process Hawaiian practitioners are required to follow.
Commercial tour operators are not required to prove that youth being transported have “chaperones”, but Hawaiians coming to the Mauna with children are required to submit a “Special Request Form” with information verifying that they are “chaperones”. The chaperone forms allow the applicants with two choices – visiting the Visitors Center or going to the Summit. There are no choices on the required forms for Hawaiian practitioners who want to go to other areas to gather, worship or engage in other cultural activities. Existing commercial users will be grandfathered in, this preserves the current system under which permits were awarded based on who had the political connections & who their friends were, rather than the State RFP process.

Other rules are being proposed for the sole purpose of preventing Wahine Practitioners from worshipping. For Example, in our previous comments to proposed rules, we specifically noted that we worship by the moon cycles and at times need to be on the Mauna at night. The new rules prohibit us from the using flashlights or torches. We need illumination to worship at night. Commercial users however are allowed to go to the Mauna at night & where the Mauna Rangers are there to give them small group sessions. The rangers use high intensity flashlights so strong they shine to the stars! When these night tours occur, all parking at the Hale are "reserved" for the tour groups.

We have witnessed well over 100 “visitors” (tour groups in vans) at the Hale Pohaku at night. They get all parking stalls at the hale, but parking by others is prohibited. The Mauna managers have even put out cones to prevent us from parking on the side of the road for ceremony. The Mauna mangers only allow tourists to use the toilet, they have locked the bathrooms up at night to prevent Wahine Practitioners from relieving themselves.

**The Compatibility Test:**
Subsection(c) of section 20-26-62 requires that group uses must meet a 'Compatibility' requirement, it states...

“c) Applications for group use permits shall be evaluated for compatibility with the functions and purpose of the UH management areas, for consistency with existing approved management plans; for the potential effect on the surrounding resources, the existing facilities, and the public's use of the UH management areas, for compatibility with existing approved uses; for compatibility with scheduled or ongoing construction, repairs, or maintenance activities; and for the applicant’s prior record of non-compliance with permit conditions, or of violations.”

Additional information from the applicant may be required to make this evaluation. Failure to provide additional information when requested may be grounds for permit denial.” Traditional prayer & ceremony are not functions of the University.
This requirement abridges Hawaiian rights to worship under the 1st Amendment of the U.S. Constitution and Article XII of the State Constitution. It is clear from this language that Hawaiian rights to worship God are secondary to all other Science, construction and public rights. This language is also the excuse to 'ban' all Hawaiians who have been previously arrested on the Mauna.

In addition to these permits and forms, Hawaiians holding religious or other cultural meetings, gatherings or demonstrations may have to obtain a fourth permit issued by the “presidents designee” under section 20-26-63 (a). Because there is no additional information contained in the Rules about this permit & its applicable procedures, it’s doubtful that any Hawaiian will seek or obtain this permit. If the OMKM disagrees, the Hawaiian will be arrested, fined and refused a permit in the future under the criterion set out in 20-26-62 (c)

Delegation of Authority - Passing the decisions-making Buck:
Section 20-26-8 states “The board delegates its authority to administer this chapter to the president, who may further delegate that authority to a designee.” Women practitioners believe that this provision violates the Ruling in Supreme Court of Hawai’i in Kilakika ‘O Healeakalā.

This provision is the ‘fail-safe mechanism’ in the Rules. The Board has the obligation & authority to ensure that the Rules and Hawaiian Constitutional & U.S. Constitutional requirements are met. The process also allows that the President can thereafter designate decision-making authority to another unidentified “designee”. The Rules are silent on who the un-named designee of the President actually is!

This provision allows the Board to designate the President to make determinations. When the Board meets, the law requires public notice & the opportunity to testify. If the Board delegates its authority to the President, there is no public notice of when the official State action is being considered. Because there is no ‘Board action’, there is no record of the Board meeting and no opportunity to receive public & Hawaiian input. In this process, there is no public transparency or accountability.

III. Wahine Practitioners Effort to Work with State & OMKM Rejected in favor of armed violence.

Wahine practitioners have repeatedly sought to interface with the State on issues relating to Mauna Kea. Other Hawaiians have done the same. These efforts have been to no avail.
The record reflects that the State & Commercial science have delayed enacting Rules to accommodate Hawaiian religious & cultural practice for years. This is evidenced by several Court decisions that have forced the State Agencies & DLNR Board to implement Contested Case procedures for Hawaiian practitioners that were costly and inevitably failed to resolve any of the issues on the Mauna.

**State & Commercial Science efforts to misrepresent Hawaiian as violent while arming State officers with shotguns & semi-Automatic weapons.**
In July 2015, media outlets reported that the State BLNR created fake “emergency Rules” to prevent Hawaiian practitioners from engaging in nighttime religious practice. The State claimed that the reason for such rules was the protection of the public safety. Judge Ibarra struck the Emergency Rules down.

The following year, the State Administration & BLNR supported the introduction of SB 895 to add another criminal trespass law to our State statutes. It had been drafted to facilitate arrest of Mauna Kea protesters. It never passed. The ACLU opposed the measure & in their testimony stated in part....

“This bill is ... unnecessary. Criminal trespass laws and other regulations prohibiting use of public lands are often used to disproportionately affect protesters, as well as homeless individuals and families. Indeed, S.B. 895 seemingly targets protesters — such as those who demonstrated at Mauna Kea — by adding redundant penalties for remaining in/on state parks, lands, and highways. S.B. 895, if passed, would merely add to a problematic national trend of punishing dissenting speech. We strongly urge this committee to defer S.B. 895.”

On June 6th, 2015 false reports were generated by Commercial users (Subaru Telescope) on the Mauna that a bullet hole had been found in the door of a telescope on Mauna Kea. The report was made to the Hilo Police Department and posted on the blog site of the telescope & other commercial science users. Photos were included.

The next day on June 7th, Science bloggers posted this lie.....
“For the past few weeks, anti-TMT (Thirty Meter Telescope) advocates have been increasingly promoting the use of violence and physical damage not only to the current telescopes and potential telescopes, but also toward individuals working on the mountain and future construction workers and workers at the TMT. If this in fact turns out to be a shot fired at a telescope on the mountain, this has officially become an act of domestic terrorism.” That same day, KHON TV reported that the entire story & police report were false and that the bullet hole was actually caused by a door flying into the wall during high winds, (as recorded in writing on the door repair invoice).

9.
What was not false was a comment posted by a blogger that said..."I am the Punishment of God. If you had not committed great sins, God would not have sent a punishment like me upon you''.

Ten days later on July 17, 2015 Hawaii News Now reported that Jason Redulla, the acting chief of the Department of Land and Natural Resources’ Division of Conservation and Resource Enforcement, and the state's top law enforcement official on Mauna Kea, posted a photo of himself with his personal AR-15 automatic assault rifle and the words "Say hello to my little friend” on a Mauna blog conversation on line. Radula’s’ blog was defended by Suzanne Case who said it was just "a personal matter".

Five months later, on December 11th 2015 Suzanne Case supported and BLNR Board funded $53, 350.00 for the purchase of 10 shotguns and 20 semi-automatic rifles for Redulla to use on Mauna Kea because of "an increased threat of terrorism." Civil Beat Should Hawaii’s DLNR Cops Carry Semi-Automatic Weapons?, by Chad Blair 12-16-15.

One year later, in June and July of 2016, KITV reported that DLNR employee, Thomas Friel had been forced out of his ‘new’ job as Chief of DLNR enforcement division because of “racial profiling”. He had requested more guns for the State DLNR, unlike Redula who was against Hawaiian, Freil was concerned about Muslim fishermen who were deckhands on incoming vessels. There is no evidence & never has been that Hawaiian practitioners are ‘domestic terrorists’ or that Muslim Asian deckhands on fishing vessels are either.

KITV covered the story and reported that “Guns could also be behind a personnel clash in the DOCARE department. Missing DLNR hand guns, along with misappropriated federal funds and equipment thefts are some of the more than 12 internal investigation reportedly started by Friel.” After Friel departed, the investigations were terminated. The missing guns are still missing!

Hawaiian women practitioners of Mauna Kea who have gone to Mauna to exercise their right to protest have personally experienced threats of violence and physical abuse on the Mauna at the hands of DLNR employees & security. The current proposed Rules now authorize violent & racist DLNR employees to carry & use weapons on Mauna Kea against Hawaiians seeking to exercise their cultural & religious rights on the Mauna.

VI. The Rules fail to protect endangered cultural resources Wahi pana, Ahu, Pohaku) from ongoing & deliberate destruction & desecration by Science & State employees, their lessees.

There is a long history of Science related people & others desecrating Hawaiian areas & implements of worship on the Mauna with impunity.
For many years there were two wood Ahu built atop 2 of the Mauna summits. These Ahu were used & maintained by the Royal Order of Kamehameha. When Hawaiians began to oppose telescope construction, employees of the Institute For Astronomy (IFA) began to desecrate, destroy and remove the sacred Ahu & marking stones of the Mauna. On one occasion, employees of the County at the Hilo dumpsite witnessed employees of the IFA discarding a Mauna marking stone at the dump. They recorded the description of the truck --- including the sign on the door which was the IFA logo. Practitioners from Maunakea Anaina Hou returned the stone, but it was later removed & never found. All the marking stones & Ahu on the Mauna have disappeared.

On April. 6th, 2009 at State hearings on HB1174 HDs SD1, the Maunakea Rangers submitted testimony on point. (See Testimony Presented before the Senate Ways and Means, By David Byrne, Supervisor Mauna Kea Ranger Corps Program, April 6,2009).

It acknowledged that “there was destruction of cultural and/or archaeological sites and suspected artifact removal” occurring on the Mauna. Attached to their testimony were before and after photos of one of the primary summit Ahu. It had been smashed & chopped down with an ax. The Hookupu in calabashes were smashed to smithereens. These photos are in the hearing record.

The Rangers implored the State to pass administrative rules so they could do their job. In the 9 years that have elapsed, nothing was done. Today all of the summit Ahu are gone and every marking stone has been removed by ‘vandals’. The deliberate destruction of sacred places & objects of worship on Mauna Kea by people associated with OMKM & its commercial lessees continues to this day. On February 12, 2018 Big Island Video News released a video of Senator Kai Kahele questioning Stephanie Nagata of the OMKM on the destruction of Summit Ahu by a bulldozer. The video transcript recorded the following exchange...

“ Did a University of Hawaii employee bulldoze an ahu on the summit of Mauna Kea in the summer of 2015?” demanded State Senator Kai Kahele during a hearing on Monday.

Sen. Kahele, chair of the Senate Committee on Higher Education, questioned testifiers who came to the Capitol auditorium podium to voice their concerns with SB 3090, proposing to establish a new Mauna Kea Management Authority.

“Kahele’s inquisition of the Office of Mauna Kea Management director Stephanie Nagata was particularly tense. The questions centered around an ahu – built on the mountain during the tumult of 2015 and named ‘ahu Ka Uakoko – that was later destroyed by a Mauna Kea Support Services employee.”

11.
“No one gave the order to bulldoze,” Nagata told Kahele. “Are you telling me a University of Hawaii Mauna Kea Support Services employee, on their own, started up a bulldozer and desecrated and destroyed an ‘ahu that was built on Mauna Kea?” Kahele fired back. It was in an area that is actively used for the storage of materials that are used to maintain the road and the ‘ahu happened to be in the way of the bulldozer to access the materials,” Nagata explained.

“Was there an investigation done? Was the individual held accountable? Does the individual still work for the University of Hawaii?” Kahele asked.

Nagata told Kahele that the individual had been counseled, but she could not say more about the matter, Kahele continued with his line of questioning. She also told Kahele that the Mauna Kea Support Services employee does not report to OMKM, but rather to the Institute For Astronomy.

The State of Hawaii, University and Commercial Science have known for years that desecration of Hawaiian places of burial and worship was going on the Mauna but did nothing. In Hawaii persons committing these crimes are sentenced to 1 year in prison and $10,000 because it’s a felony.

See: §711-1107 Desecration.

(1) A person commits the offense of desecration if the person intentionally desecrates:

(a) Any public monument or structure; or (b) A place of worship or burial; or (c) In a public place the national flag or any other object of veneration by a substantial segment of the public.

(2) "Desecrate" means defacing, damaging, polluting, or otherwise physically mistreating in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover the defendant's action.

(3) Any person convicted of committing the offense of desecration shall be sentenced to a term of imprisonment of not more than one year, a fine of not more than $10,000, or both. [L 1972, c 9, pt of §1; gen ch 1993; am L 2002, c 198, §1]

COMMENTARY ON §711-1107: Section 711-1107 deals more generally with all acts of desecration; i.e., acts of physical damage to or mistreatment of venerated places and objects under circumstances which the defendant knows are likely to outrage the sensibilities of persons who observe or discover the defendant's actions.
Thus, any desecration of a public monument or structure; or a place of worship or burial (public or private); or, in a public place, the national flag, or any other object (such as certain religious objects) revered by a substantial segment of the public, will constitute an offense. Damage by desecration is treated separately from other types of property damage because the sense of outrage produced by such acts is out of proportion to the monetary value of the damage. than $50,000.00

OMKM had an obligation to report the criminal activity of IFA personal who were desecrating Hawaiian places of worship, but instead they covered it up. OMKM has demonstrated that they will not protect the cultural resources and Wahipana of the Mauna. They have proven that they will not report or take action against ongoing criminal activities occurring on the Mauna involving destruction of the very cultural resources they are being paid to protect. Despite these irrefutable facts, the rules provide that Hawaiians cannot worship or practice their culture unless they consult with OMKM and get them to agree to approve a permit allowing us to pray!

Only OMKM can build Ahu/Altars for worship!
Section 2-26-21 prohibits Hawaiians from re-building their own Ahu/Altar once it has been destroyed. Now that all of the summit Ahu have been destroyed by vandals & IFA personal, Hawaiians will never be allowed to reconstruct our Ahu. Under the rules, only the OMKM can rebuild our sacred Ahu! See Sec.(b) “If such activity is found to impact cultural, natural or scientific resources, OMKM after consulting with Kahu Ku Mauna and the Office of Hawaiian Affairs, may restore the site to its condition prior to such activity”.

This section of the rules actually directs a State body (OMKM) to consult with a State Agency (OHA) and the State appointed priests (KKM) who advise them before the State body rebuilds the Ahu where Hawaiians may be authorized to worship! This language is clearly unconstitutional and a violation of the establishment clause of the 1st Amendment as well as an infringement on Hawaiian practitioners right to worship.

Conclusion- The State must undertake Consultation in good faith to protect Hawaiian Rights and our natural & cultural resources

These are only a few of the problems Wahine Practitioners have with the rules. There are many more. Wahine Practitioners, our Ohana & Ki’ai again request that the State act in good faith & sponsor Consultations on all islands. A consultation means that a gathering is held on every island so that Hawaiian practitioners can attend and identify their areas of worship & cultural practice and locate them on a map. Once these areas are mapped, they can be identified on the ground & protective measures designed & implemented.
The Administrative Rules must accommodate our cultural practice, their drafting should be an interactive process directly involving Hawaiian practitioners. This has not been done.

**OMKM & the State have to STOP ignoring the law & start implementing it**

Hawaiian Cultural Rights are specifically addressed in Article XII Section 7 of the State Constitution. *Hawaii Revised Statutes section 171-6-15 which imposes penalties and fines for illegal uses of the Mauna specifically exempts Hawaiians engaging in cultural practices. It states:*

“*No person shall be sanctioned pursuant to this section for the exercise of native Hawaiian gathering rights and traditional cultural practices as authorized by law or as permitted by the department pursuant to article XII, section 7, of the Hawaii State Constitution.*”

In addition, *Act 132 passed by the Legislature in 2009 that gave the University ‘Autonomy’ in its management of the Mauna specifically provides ... “Access for traditional and customary native Hawaiian cultural and religious purposes shall be accommodated.”* The University, DLNR and the Science Community have ignored and violated these mandates and consequently have violated Hawaiian Constitutional and Human rights. (UN Declaration on the Rights of Indigenous Peoples, provisions 11, 12 & 25).

In 2015 the State Supreme Court reviewed the Petition of the Maunakea Anaina Hou and several other “Protector” groups. The majority and minority opinions recognized the sacredness and profound importance of Maunakea to Hawaiian practitioners, and recognized that traditional and customary practices are exercised throughout the summit area.

The Court ruled that the State and DLNR had an “affirmative obligation” to protect Hawaiian rights recognized in Article XII Section 7 of the Constitution, this argument was expanded in the Minority opinion which also affirmed that this obligation was part of the protection of the public trust. See Maunakea Anaina Hou vs., DLNR/State of Hawaii. SCAP-14-0000873, December 2, 2015.

It is impossible for the State, University & Commercial science to create rules to “accommodate” Hawaiian worship & practice if they do not know what Hawaiian practice is & where our areas of worship & gathering are. This means that working with Hawaiian practitioners is primary.
The approach being pursued by the State, University and OMKM, TMT etc. excludes Hawaiians from our cultural & sacred places in order to accommodate commercialization of our Sacred Mauna. The State has enflamed the situation by repeatedly abridging the law, (as noted by State Courts) encouraging violence and purchasing weapons for use against Hawaiians on the Mauna.

Please do not destroy our Ahu, do not remove our Hookupu and do not vandalize our Wahipana. Stop the threats, arrests, trials & fines.

Ku Kiʻai Mauna, Maunakea is Sacred

I. Wahine Practitioners/Kiʻai:

Onaona Trask, Kumu Hula

Mililani B. Trask

Brit Kualii

LAKEA

Kalaeʻōlaʻa Trask-Sharpe

Kuuleiohuokalani Kealoha Cooper

..... and others by Internet
Aloha,

Just wondering the reason that cell phones are prohibited. This restriction will be very difficult, if not, impossible to enforce. I volunteer a lot at the VIS, and I always contact my wife that I arrived safely. I can’t do that anymore? Many visitors like to take photos and I Airdrop images we capture during our live view show. It requires wireless connection between devices. Sounds like I can’t do that anymore, too.

Thanks,

Don
Comment

Commercial exploitation of Mauna Kea—for example tour company vans and buses—should be banned from access above the Visitors’ Center. Individual access whether by 4WD, bicycle or hiking should be encouraged. Banning customary usage during snow season is unconscionable.

Summit shuttle service is a ridiculous idea as it would not be frequent enough to satisfy either residents or visitors, and, if descent were not instantly available, could endanger the health and life of individuals given that a person’s response to high altitude varies on different days and at different times.

Thank you
PLEASE FILE FOR THE RECORD

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Mauna - TEst- PDF MBT & Leah.pdf

204K
To: uhhar@hawaii.edu  
David Lassner  
President, University of Hawaii  
From: Mililani B. Trask, Hawaiian Cultural Practitioner in behalf of  
Wahine Practitioners & Ki’ai

Re: Comments to Maunakea Proposed Administrative Rules

Background:

For years Hawaiians seeking to preserve & protect Mauna Kea have requested that the BLNR & State follow State law by adopting Administrative Rules for the Mauna. Several requests have been made in direct testimony and through written correspondence by myself and other Hawaiian practitioners seeking to exercise rights defined & acknowledged in Article XII Section 7 of the Hawaii State Constitution and the First Amendment of the U.S. Constitution.

In addition, the State Auditors office has repeatedly found that the BLNR (and later the OMKM) had failed to adopt Administrative Rules. The Auditors findings & recommendations were ignored for 16+ consecutive years, during which time the State, BLNR and University of Hawaii have supported & funded over-development and commercial use of the Mauna by private and State parties, to the detriment of the biodiversity, environment, cultural resources and cultural & religious rights of Hawaiians. There were only 13 telescopes approved but 22 building were constructed!
In recent years the State, BLNR and OMKM have lost many legal challenges on the procedures used by State and private sector to deny Hawaiians due process of the law.

Wahine Practitioners prior efforts to work with OMKM, DLNR, & University:

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. Testimony has been submitted by Wahine individually at hearings for Mauna development going back for years the Subaru, Keck and TMT telescope projects. Wahine supported & helped sponsor & organized the 3-year sunrise ceremonies called the ApapaLani ceremonies that drew hundreds of practitioners and were held in conjunction with the Merry Monarch competitions to

1.
accommodate visiting Hawaiians & Statewide Halau.

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. In our testimony of August 2017, we described ourselves, our religious & our cultural practices, the locations of our uses on the Mauna, as well as the problems we encountered. We suggested 6 things that could be done to resolve these issues and ended with a request for “CONSULTATION”. In our initial testimony in 2016 we pointed out what the legal standards in the Hawaii Constitution & U.S. Constitutions require & how the proposed rules violated them. Again we requested ‘Consultation’ to resolve these issues, and asked that our Ahu not be touched & that our religious practice be respected.

NO RESPONSE WAS EVER RECEIVED NOR WERE OUR REQUESTS FOR CONSULTATION EVER ACKNOWLEDGED.
Instead some of our members were arrested, threatened and convicted of violating the law. We ended our prior testimony with this statement:

“When Cultural Resource planning is undertaken in earnest, it begins with Consultation with practitioners so that all cultural resources (tangible and intangible) and their uses can be identified, and their locations mapped. This was never done for Mauna Kea.”

Where we are today:

The State, TMT, University & DLNR never held practitioner consultations statewide, although they knew that there were hundreds of Hawaiian practitioners on Hawaii Island and thousands (who marched) on neighbor islands. Instead, they worked with DLNR, KKM & other “stakeholders” to create rules to criminalize Hawaiian practices in direct derogation of our Human and Constitutional Rights.

Rather than work with Hawaiian practitioners to hold Statewide Consultations, the State, BLNR & private sector drafted these rules in a vacuum. The purpose & function of the Rules is to prevent Hawaiians from accessing the Mauna rather than facilitating their access.

For years the State refused to adopt Rules to accommodate our cultural rights while supporting & funding commercial users. Now that the State has created a “Science Zone” and approved 22 buildings for Commercial Science, they have fashioned rules that give a preference to Commercial users. Hawaiians are required to demonstrate that our cultural use is ‘compatible’ with commercial science.
General Comments:

I. 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.

For example, Sec. 20-26-3 gives a blanket exemption to: all university activities, to persons & governmental entities with an agreement with the University, and to all ‘research’ and ‘education’ activities carried out by to the University, regardless of the impact these activities have on Hawaiian religious practice or cultural rights, the environment or public health safety. This section also provides that the Mauna Kea Administrative Rules will never apply when there is any other statute regulating conservation areas, forest reserve, hunting etc. Because the State BLNR & University have always refused to adopt protective measures & procedures to accommodate & facilitate Hawaiian cultural & religious practice, these rights are not protected under existing statutes. The State however did adopted hunting rules in the past, so under section 20-26-3(c) public hunting is exempt from the Mauna Kea Rules! On sacred Mauna Kea, hunting laws have a priority over Hawaiian rights to worship!

II. The Rules favor some religions and practices while providing restrictions on Hawaiian traditional practices.

The Rules favor Christian religious practices and ceremonies over indigenous traditional religious practices of native Hawaiians. An example of this is the Christian blessing ceremony initiated by the TMT with the support of Governor Ige, the OMKM and DLNR. This event was planned, implemented and paid for by State, University and private sector parties. DLNR and University ‘security’ allowed dozens of cars to drive to the summit. The explicit purpose of the ceremony was to bless the TMT construction site and endeavor. Attendees included government officials & business leaders, who came to participate for political reasons and free publicity in the coming election. Seventy + metal folding chairs were set up along with tents for the media. Although no parking area was designated, cars admitted were allowed to park all around the facilities and ceremony site. A Christian minister was brought in to conduct a Christian blessing ceremony. No protocols were imposed to ensure that cars & guest attending the Christian blessing were not inadvertently transporting red ants or other ‘invasive species’!

This type of Christian/political religious ceremony is allowable under the draft Rules because of the built in ‘exemptions’ in the Rules (20-26-3). The TMT has an ‘agreement’ with the University and
the TMT is not engaging in a Hawaiian practice under Article XII. Section 7 of the State Constitution (20-26-21). In the future, science & commercial lessees of the University and DLNR can continue to undertake Christian practices, without any restriction, limitation, protective protocol or the threat of arrest & prosecution. Hawaiians practicing traditional ceremonies however are prohibited from worshipping & conducting traditional ceremonies by unreasonable restrictions.

III. 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. In addition, 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.

Section 20-26-21 demonstrates how the Rules are designed to negatively impact Hawaiian traditional practitioners. Although the section begins (a) with the recognition that the Chapter is subject to the rights of Hawaiians under Article XII section 7 of the State Constitution, this recitation is meaningless in light of the processes that follow.

Recognizing Rights while Failing to Protect Them:
Section 20-26-21 of the Rules says that the University ‘recognizes’ the State Constitutional protections, (Article XII, sec. 7) of Hawaiians, but says that only those traditional practices that have “minimal or no impact on existing cultural, natural or scientific resources” can be pursued without a permit.

The term ‘minimal impact’ is not defined on the Rules, neither is there any standard for Hawaiian practitioners to use to determine if they need a permit. If a Hawaiian believes their practice of worship does not have any negative impact, and the practitioner does not get a permit ad goes to worship, and the University, OMKM, TMT, DLNR disagree, the practitioner(s) are immediately subject to arrest and criminal prosecution as well as a fine. Because of their arrest, they will be denied any future permit!

Sub-section (c) says that if a Hawaiian person or families traditional practice has been found to impact existing cultural, natural or scientific resources, the practitioner must “consult” with OMKM, and the State designated Kahu Ku Mauna (Priests of the Mountain, hereafter KKM).

There is no explanation or description of what an ‘impact’ is or is not. It is unclear who determines there is an ‘impact’ and under what criteria the ‘impact’ is reviewed? Who is going to “find” the impact is ‘minimal’ and what is the definition of minimal? There is no definition of “Consultation”. 4.
The Rules further provide that if there is an ‘impact’ the Hawaiian practitioner has to obtain a ‘special use permit under section 20-26-65. In addition, if there are any other laws that may apply, the practitioner must obtain ‘other applicable permits’ from ‘other governmental entities.’

This burdensome process is not required of any other user of the Mauna. University and other commercial licensees, including telescope operators and tour companies who have an ‘agreement’ with the University and are exempt from these restrictions. Specific sections of the existing law & Rules facilitate snow play, hunting and other private endeavors for commercial lessees. By providing specific statutory provisions to accommodate these public & commercial uses, the commercial and public users of the Mauna do not need to apply for a special use permit nor do they have to attend several meetings with the State, OMKM and the Kahuna.

**Procedural Barriers for Hawaiians, Exemptions for Commercial Users**

Although the Rules require that Hawaiian practitioners consult with OMKM, KKM and OHA, there is no streamlined procedure for practitioners to utilize to obtain a Special Use Permit. There is no defined process for or definition of “Consultation” in the Rules.

OMKM & OHA are State entities that have office hours M-F and are closed on State & Federal holidays & weekends. The KKM are ‘volunteers’ who do not work at OMKM. They are employed in other jobs & meet irregularly. Practitioners needing to ‘consult’ must arrange on their own for these consultations and meetings with OHA, OMKM and KKM. Hawaiians are required to take weekdays off from their paying jobs to attend these meetings, and to schedule them themselves. Practitioners from neighbor islands are required to fly by plane to Hawaii Island for these ‘Consultations’ on weekdays. Meetings with KKM members may have to occur on weekends because they do not work as Kahuna on weekdays. If some of the KKM cannot attend a meeting, practitioners will have to return to Hawaii Island for additional meetings. Practitioners must undertake these costs & suffer loss of income to attend “Consultations” without even knowing what the “Consultation” is!

**Four Wheel Trucks Required to Pray!**

If Hawaiian practitioners are able to attend these various ‘consultations’ and do receive a Special Use Permit, they are still prevented for worshipping and gathering on the Mauna if they do not drive a 4-wheel vehicle!

Section 20-26-29(b) of the Rules prohibits any Hawaiian from going to the Mauna for cultural practice & religious worship, unless they are driving a 4-wheel vehicle. *This requirement is imposed regardless of the weather conditions or health & safety concerns.*
For centuries Hawaiians have worshipped on Mauna Kea, they did not have 4-wheel trucks in traditional times. Commercial vans have 4-wheel drive, as do the DLNR trucks used by the State & paid for by taxpayers. It may make sense to restrict the use of certain vehicles when the weather creates dangerous conditions, however, when such conditions do not exist there is no reason to prevent Hawaiians from driving to the summit or any other areas on the Mauna with a 2 wheel drive vehicle.

**Traditional Gathering Prohibited**

Under the biased standards in the Rules, a Hawaiian who gathers a Kuni stone for ceremony without a Special Use Permit can be accused of taking ‘natural resources’ and ‘scientific resources’ arrested and fined. Section 20-26-22 of the Rules has 12 subsections describing ‘prohibit’ activities. This list prohibits Hawaiians from gathering items needed for cultural and sacred practices, including kuni stone, seeds, and sacred water which is gathered from various locations and used as a Hookupu during ceremony.

Traditional containers, including water containers (Coco Nut shells, wooden bowls) and lauhala baskets used to store salt, iliahi & other items for ceremony are prohibited because these items used in ceremony on the Mauna have to be brought in by Wahine practitioners. It is impossible to carry water or leave the water as a Hookupu on the Ahu unless the water is in a container. Women maintain the Ahu and return monthly to clean it. These activities are prohibited by the Rules because they entail removal of plants! This section also prohibits Hawaiians with cultural affiliations to burials on the Mauna from accessing burial caves located on the Mauna and requires practitioners get a separate permit from DLNR.

Under the Rules, Hawaiians gathering water or other items for ceremony are required to obtain another permit from the DLNR if they have walk through a NARS in order to gather. This requirement is imposed even if no gathering is taking place in the NARS. There is a high likelihood that practitioners gathering kuni may stray into the NARS because the University & DLNR have never demarcated the NARS boundaries. Making this mistake will result in their being arrested, fined & denied another permit in the future.

**Group Use Permits – Double Standards**

Section 20-26-62 requires that any group with more than 10 members must get an additional permit known as a ‘group use permit’. The limit to 10 people was established because Commercial users vans accommodate 10 people. Commercial users who advertise that they are “educational” however, may then claim an ‘educational’ exemption under the rules. Commercial users do not have to get a Special use permit or other agency or Mauna permits, under Section 21-26-66 (e) the Presidents designee can expedite commercial tours with a ‘concession agreement’ directly rather than forcing them to go through the tortuous process Hawaiian practitioners are required to follow.
Commercial tour operators are not required to prove that youth being transported have “chaperones”, but Hawaiians coming to the Mauna with children are required to submit a “Special Request Form” with information verifying that they are “chaperones’. The chaperone forms allow the applicants with two choices – visiting the Visitors Center or going to the Summit. There are no choices on the required forms for Hawaiian practitioners who want to go to other areas to gather, worship or engage in other cultural activities. Existing commercial users will be grandfathered in, this preserves the current system under which permits were awarded based on who had the political connections & who their friends were, rather than the State RFP process.

Other rules are being proposed for the sole purpose of preventing Wahine Practitioners from worshipping. For Example, in our previous comments to proposed rules, we specifically noted that we worship by the moon cycles and at times need to be on the Mauna at night. The new rules prohibit us from the using flashlights or torches. We need illumination to worship at night. Commercial users however are allowed to go to the Mauna at night & where the Mauna Rangers are there to give them small group sessions. The rangers use high intensity flashlights so strong they shine to the stars! When these night tours occur, all parking at the Hale are “reserved” for the tour groups.

We have witnessed well over 100 “visitors” (tour groups in vans) at the Hale Pohaku at night. They get all parking stalls at the hale, but parking by others is prohibited. They get all parking stalls at the hale, but parking by others is prohibited. The Mauna managers have even put out cones to prevent us from parking on the side of the road for ceremony. The Mauna mangers only allow tourists to use the toilet, they have locked the bathrooms up at night to prevent Wahine Practitioners from relieving themselves.

The Compatibility Test:
Subsection(c) of section 20-26-62 requires that group uses must meet a ‘Compatibility’ requirement, it states...
“c) Applications for group use permits shall be evaluated for compatibility with the functions and purpose of the UH management areas, for consistency with existing approved management plans; for the potential effect on the surrounding resources, the existing facilities, and the public's use of the UH management areas, for consistency with existing approved uses; for compatibility with scheduled or ongoing construction, repairs, or maintenance activities; and for the applicant’s prior record of non-compliance with permit conditions, or of violations.” Additional information from the applicant may be required to make this evaluation. Failure to provide additional information when requested may be grounds for permit denial.” Traditional prayer & ceremony are not functions of the University.
This requirement abridges Hawaiian rights to worship under the 1st Amendment of the U.S. Constitution and Article XII of the State Constitution. It is clear from this language that Hawaiian rights to worship God are secondary to all other Science, construction and public rights. This language is also the excuse to ‘ban’ all Hawaiians who have been previously arrested on the Mauna.

In addition to these permits and forms, Hawaiians holding religious or other cultural meetings, gatherings or demonstrations may have to obtain a fourth permit issued by the “presidents designee” under section 20-26-63 (a). Because there is no additional information contained in the Rules about this permit & its applicable procedures, it’s doubtful that any Hawaiian will seek or obtain this permit. If the OMKM disagrees, the Hawaiian will be arrested, fined and refused a permit in the future under the criterion set out in 20-26-62 (c)

Delegation of Authority - Passing the decisions-making Buck:
Section 20-26-8 states “The board delegates its authority to administer this chapter to the president, who may further delegate that authority to a designee.” Women practitioners believe that this provision violates the Ruling in Supreme Court of Hawai’i in Kilakika ‘O Healeakala.

This provision is the ‘fail-safe mechanism’ in the Rules. The Board has the obligation & authority to ensure that the Rules and Hawaiian Constitutional & U.S. Constitutional requirements are met. The process also allows that the President can thereafter designate decision-making authority to another unidentified “designee”. The Rules are silent on who the un-named designee of the President actually is!

This provision allows the Board to designate the President to make determinations. When the Board meets, the law requires public notice & the opportunity to testify. If the Board delegates its authority to the President, there is no public notice of when the official State action is being considered. Because there is no ‘Board action’, there is no record of the Board meeting and no opportunity to receive public & Hawaiian input. In this process, there is no public transparency or accountability.

III. Wahine Practitioners Effort to Work with State & OMKM Rejected in favor of armed violence.

Wahine practitioners have repeatedly sought to interface with the State on issues relating to Mauna Kea. Other Hawaiians have done the same. These efforts have been to no avail.
The record reflects that the State & Commercial science have delayed enacting Rules to accommodate Hawaiian religious & cultural practice for years. This is evidenced by several Court decisions that have forced the State Agencies & DLNR Board to implement Contested Case procedures for Hawaiian practitioners that were costly and inevitably failed to resolve any of the issues on the Mauna.

**State & Commercial Science efforts to misrepresent Hawaiian as violent while arming State officers with shotguns & semi-Automatic weapons.**

In July 2015, media outlets reported that the State BLNR created fake “emergency Rules” to prevent Hawaiian practitioners from engaging in nighttime religious practice. The State claimed that the reason for such rules was the protection of the public safety. Judge Ibarra struck the Emergency Rules down.

The following year, the State Administration & BLNR supported the introduction of SB 895 to add another criminal trespass law to our State statutes. It had been drafted to facilitate arrest of Mauna Kea protesters. It never passed. The ACLU opposed the measure & in their testimony stated in part....

“This bill is ... unnecessary. Criminal trespass laws and other regulations prohibiting use of public lands are often used to disproportionately affect protesters, as well as homeless individuals and families. Indeed, S.B. 895 seemingly targets protesters — such as those who demonstrated at Mauna Kea — by adding redundant penalties for remaining in/on state parks, lands, and highways. S.B. 895, if passed, would merely add to a problematic national trend of punishing dissenting speech. We strongly urge this committee to defer S.B. 895.”

On June 6th, 2015 false reports were generated by Commercial users (Subaru Telescope) on the Mauna that a bullet hole had been found in the door of a telescope on Mauna Kea. The report was made to the Hilo Police Department and posted on the blog site of the telescope & other commercial science users. Photos were included.

The next day on June 7th, Science bloggers posted this lie.....

“For the past few weeks, anti-TMT (Thirty Meter Telescope) advocates have been increasingly promoting the use of violence and physical damage not only to the current telescopes and potential telescopes, but also toward individuals working on the mountain and future construction workers and workers at the TMT. If this in fact turns out to be a shot fired at a telescope on the mountain, this has officially become an act of domestic terrorism.” That same day, KHON TV reported that the entire story & police report were false and that the bullet hole was actually caused by a door flying into the wall during high winds, (as recorded in writing on the door repair invoice).
What was not false was a comment posted by a blogger that said..."I am the Punishment of God. If you had not committed great sins, God would not have sent a punishment like me upon you".

Ten days later on July 17, 2015 Hawaii News Now reported that Jason Redulla, the acting chief of the Department of Land and Natural Resources’ Division of Conservation and Resource Enforcement, and the state’s top law enforcement official on Mauna Kea, posted a photo of himself with his personal AR-15 automatic assault rifle and the words “Say hello to my little friend” on a Mauna blog conversation on line. Radula’s’ blog was defended by Suzanne Case who said it was just “a personal matter”.

Five months later, on December 11th 2015 Suzanne Case supported and BLNR Board funded $53, 350.00 for the purchase of 10 shotguns and 20 semi-automatic rifles for Redulla to use on Mauna Kea because of “an increased threat of terrorism.” Civil Beat Should Hawaii’s DLNR Cops Carry Semi-Automatic Weapons?, by Chad Blair 12-16-15.

One year later, in June and July of 2016, KITV reported that DLNR employee, Thomas Friel had been forced out of his ‘new’ job as Chief of DLNR enforcement division because of “racial profiling”. He had requested more guns for the State DLNR, unlike Redula who was against Hawaiian, Freil was concerned about Muslim fishermen who were deckhands on incoming vessels. There is no evidence & never has been that Hawaiian practitioners are ‘domestic terrorists’ or that Muslim Asian deckhands on fishing vessels are either.

KITV covered the story and reported that “Guns could also be behind a personnel clash in the DOCARE department. Missing DLNR hand guns, along with misappropriated federal funds and equipment thefts are some of the more than 12 internal investigation reportedly started by Friel.” After Friel departed, the investigations were terminated. The missing guns are still missing!

Hawaiian women practitioners of Mauna Kea who have gone to Mauna to exercise their right to protest have personally experienced threats of violence and physical abuse on the Mauna at the hands of DLNR employees & security. The current proposed Rules now authorize violent & racist DLNR employees to carry & use weapons on Mauna Kea against Hawaiians seeking to exercise their cultural & religious rights on the Mauna.

VI. The Rules fail to protect endangered cultural resources Wahi pana, Ahu, Pohaku) from ongoing & deliberate destruction & desecration by Science & State employees, their lessees.

There is a long history of Science related people & others desecrating Hawaiian areas & implements of worship on the Mauna with impunity.
For many years there were two wood Ahu built atop 2 of the Mauna summits. These Ahu were used & maintained by the Royal Order of Kamehameha. When Hawaiians began to oppose telescope construction, employees of the Institute For Astronomy (IFA) began to desecrate, destroy and remove the sacred Ahu & marking stones of the Mauna. On one occasion, employees of the County at the Hilo dumpsite witnessed employees of the IFA discarding a Mauna marking stone at the dump. They recorded the description of the truck --- including the sign on the door which was the IFA logo. Practitioners from Maunakea Anaina Hou returned the stone, but it was later removed & never found. All the marking stones & Ahu on the Mauna have disappeared.

On April. 6th, 2009 at State hearings on HB1174 HDs SD1, the Maunakea Rangers submitted testimony on point. (See Testimony Presented before the Senate Ways and Means, By David Byrne, Supervisor Mauna Kea Ranger Corps Program, April 6,2009).

It acknowledged that “there was destruction of cultural and/or archaeological sites and suspected artifact removal” occurring on the Mauna. Attached to their testimony were before and after photos of one of the primary summit Ahu. It had been smashed & chopped down with an ax. The Hookupu in calabashes were smashed to smithereens. These photos are in the hearing record.

The Rangers implored the State to pass administrative rules so they could do their job. In the 9 years that have elapsed, nothing was done. Today all of the summit Ahu are gone and every marking stone has been removed by ‘vandals’. The deliberate destruction of sacred places & objects of worship on Mauna Kea by people associated with OMKM & its commercial lessees continues to this day. On February 12, 2018 Big Island Video News released a video of Senator Kai Kahele questioning Stephanie Nagata of the OMKM on the destruction of Summit Ahu by a bulldozer. The video transcript recorded the following exchange...

“ Did a University of Hawaii employee bulldoze an ahu on the summit of Mauna Kea in the summer of 2015?” demanded State Senator Kai Kahele during a hearing on Monday.

Sen. Kahele, chair of the Senate Committee on Higher Education, questioned testifiers who came to the Capitol auditorium podium to voice their concerns with SB 3090, proposing to establish a new Mauna Kea Management Authority.

“Kahele’s inquisition of the Office of Mauna Kea Management director Stephanie Nagata was particularly tense. The questions centered around an ahu – built on the mountain during the tumult of 2015 and named ‘ahu Ka Uakoko – that was later destroyed by a Mauna Kea Support Services employee.”
“No one gave the order to bulldoze,” Nagata told Kahele. “Are you telling me a University of Hawaii Mauna Kea Support Services employee, on their own, started up a bulldozer and desecrated and destroyed an ‘ahu that was built on Mauna Kea?” Kahele fired back. It was in an area that is actively used for the storage of materials that are used to maintain the road and the ‘ahu happened to be in the way of the bulldozer to access the materials,” Nagata explained.

“Was there an investigation done? Was the individual held accountable? Does the individual still work for the University of Hawaii?” Kahele asked.

Nagata told Kahele that the individual had been counseled, but she could not say more about the matter, Kahele continued with his line of questioning. She also told Kahele that the Mauna Kea Support Services employee does not report to OMKM, but rather to the Institute For Astronomy.

The State of Hawaii, University and Commercial Science have known for years that desecration of Hawaiian places of burial and worship was going on the Mauna but did nothing. In Hawaii persons committing these crimes are sentenced to 1 year in prison and $10,000 because it's a felony.

See: §711-1107 Desecration.

(1) A person commits the offense of desecration if the person intentionally desecrates:

(a) Any public monument or structure; or (b) A place of worship or burial; or (c) In a public place the national flag or any other object of veneration by a substantial segment of the public.

(2) "Desecrate" means defacing, damaging, polluting, or otherwise physically mistreating in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover the defendant's action.

(3) Any person convicted of committing the offense of desecration shall be sentenced to a term of imprisonment of not more than one year, a fine of not more than $10,000, or both. [L 1972, c 9, pt of §1; gen ch 1993; am L 2002, c 198, §1]

COMMENTARY ON §711-1107: Section 711-1107 deals more generally with all acts of desecration; i.e., acts of physical damage to or mistreatment of venerated places and objects under circumstances which the defendant knows are likely to outrage the sensibilities of persons who observe or discover the defendant's actions.

12.
Thus, any desecration of a public monument or structure; or a place of worship or burial (public or private); or, in a public place, the national flag, or any other object (such as certain religious objects) revered by a substantial segment of the public, will constitute an offense. Damage by desecration is treated separately from other types of property damage because the sense of outrage produced by such acts is out of proportion to the monetary value of the damage. than $50,000.00

OMKM had an obligation to report the criminal activity of IFA personal who were desecrating Hawaiian places of worship, but instead they covered it up. OMKM has demonstrated that they will not protect the cultural resources and Wahipana of the Mauna. They have proven that they will not report or take action against ongoing criminal activities occurring on the Mauna involving destruction of the very cultural resources they are being paid to protect. Despite these irrefutable facts, the rules provide that Hawaiians cannot worship or practice their culture unless they consult with OMKM and get them to agree to approve a permit allowing us to pray!

Only OMKM can build Ahu/Altars for worship!
Section 2-26-21 prohibits Hawaiians from re-building their own Ahu/Altar once it has been destroyed. Now that all of the summit Ahu have been destroyed by vandals & IFA personal, Hawaiians will never be allowed to reconstruct our Ahu.. Under the rules, only the OMKM can rebuild our sacred Ahu! See Sec.(b) “If such activity is found to impact cultural, natural or scientific resources, OMKM after consulting with Kahu Ku Mauna and the Office of Hawaii Affairs, may restore the site to its condition prior to such activity”.

This section of the rules actually directs a State body (OMKM) to consult with a State Agency (OHA) and the State appointed priests (KKM) who advise them before the State body rebuilds the Ahu where Hawaiians may be authorized to worship! This language is clearly unconstitutional and a violation of the establishment clause of the 1st Amendment as well as an infringement on Hawaiian practitioners right to worship.

Conclusion- The State must undertake Consultation in good faith to protect Hawaiian Rights and our natural & cultural resources

These are only a few of the problems Wahine Practitioners have with the rules. There are many more. Wahine Practitioners, our Ohana & K‘aii again request that the State act in good faith & sponsor Consultations on all islands. A consultation means that a gathering is held on every island so that Hawaiian practitioners can attend and identify their areas of worship & cultural practice and locate them on a map. Once these areas are mapped, they can be identified on the ground & protective measures designed & implemented.
The Administrative Rules must accommodate our cultural practice, their drafting should be an interactive process directly involving Hawaiian practitioners. This has not been done.

**OMKM & the State have to STOP ignoring the law & start implementing it**

Hawaiian Cultural Rights are specifically addressed in Article XII Section 7 of the State Constitution. Hawaii Revised Statutes section 171-6-15 which imposes penalties and fines for illegal uses of the Mauna specifically exempts Hawaiians engaging in cultural practices. It states:

“**No person shall be sanctioned pursuant to this section for the exercise of native Hawaiian gathering rights and traditional cultural practices as authorized by law or as permitted by the department pursuant to article XII, section 7, of the Hawaii State Constitution**”.

In addition, **Act 132 passed by the Legislature in 2009 that gave the University ‘Autonomy’ in its management of the Mauna specifically provides ... “Access for traditional and customary native Hawaiian cultural and religious purposes shall be accommodated.”** The University, DLNR and the Science Community have ignored and violated these mandates and consequently have violated Hawaiian Constitutional and Human rights. (UN Declaration on the Rights of Indigenous Peoples, provisions 11, 12 & 25).

In 2015 the State Supreme Court reviewed the Petition of the Maunakea Anaina Hou and several other “Protector” groups. The majority and minority opinions recognized the sacredness and profound importance of Maunakea to Hawaiian practitioners, and recognized that traditional and customary practices are exercised throughout the summit area.

The Court ruled that the State and DLNR had an “affirmative obligation” to protect Hawaiian rights recognized in Article XII Section 7 of the Constitution, this argument was expanded in the Minority opinion which also affirmed that this obligation was part of the protection of the public trust. See Maunakea Anaina Hou vs., DLNR/State of Hawaii. SCAP-14-0000873, December 2, 2015.

It is impossible for the State, University & Commercial science to create rules to “accommodate” Hawaiian worship & practice if they do not know what Hawaiian practice is & where our areas of worship & gathering are. This means that working with Hawaiian practitioners is primary.
The approach being pursued by the State, University and OMKM, TMT etc. excludes Hawaiians from our cultural & sacred places in order to accommodate commercialization of our Sacred Mauna. The State has enflamed the situation by repeatedly abridging the law, (as noted by State Courts) encouraging violence and purchasing weapons for use against Hawaiians on the Mauna.

Please do not destroy our Ahu, do not remove our Hookupu and do not vandalize our Wahipana. Stop the threats, arrests, trials & fines.

Ku Kiʻai Mauna, Maunakea is Sacred

I. Wahine Practitioners/Kiʻai:

Mililani B. Trask

Leah Gonker

15.
My name is Julius Gutierrez, alumni magna cum laude of UH Manoa, and I'm shocked to hear the UH system is planning to restrict public access to manu kea. This is unconstitutional, a breach of free rights to access public land. I'm 100% against it and hope our voice as the people is heard and not allowed to happen.
This email is being sent on behalf of the UH Mānoa Hawaiʻinuiākea School of Hawaiian Knowledge Aha Kuhina. The attached document is the Aha Kuhina's testimony in opposition to the Office of Mauna Kea Management proposed rules Chapter 20-26. Aha Kuhina members and the Dean of Hawaiʻinuiākea are copied here for communication purposes. We ask that you send any response to our testimony by "replying to all".

--
Peace,
Kekailoa Perry
Kamakakūokalani Center for Hawaiian Studies

"Until the philosophy which holds one race superior than another, is finally and permanently discredited and abandoned, everywhere is war." - Robert Nester Marley
September 28, 2018

TO: David Lassner, President, University of Hawai‘i
c/o UH System Government Relations Office
2422 Campus Road, Administrative Services Building 1, Room 101

FR: ‘Aha Kuhina
Hawai‘inuiākea School of Hawaiian Knowledge
2645 Dole Street, Room 209


The ‘Aha Kuhina of Hawai‘inuiākea 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. The proposed rules function as, according to Professor Robert Williams, a destructive "document of barbarism" that uses 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. The proposed rules reject the University’s commitment to a Hawaiian Place of Learning and, if approved, will allow the UH and State to absolve themselves of any injustices arising from any present or future acts of domination over Native Hawaiians. In short, the proposed rules are a thinly veiled attack on Native Hawaiian religion, culture, and political self-governance that will have a direct negative impact on our school’s ability to function as a space for Hawaiian learning at UH.

The ‘Aha Kuhina of Hawai‘inuiākea School of Hawaiian Knowledge is the governing body of the school designed, from its inception, to serve the needs of all school units through active consultation with and direction through the school Dean, the UH community and larger community of the Pae ‘Āina. The ‘Aha Kuhina represents all of the units in the school – Kamakakūokalani, Kawaihuelani, Ka Papa Lo‘i o Kānewai and Native Hawaiian Student Services.

The ‘Aha Kuhina supports the general objections and principles outlined in KAHEA's June 7, 2018 and OHA's September 11, 2018 testimonies. Additionally, we believe that the proposed rules are disingenuous and improper in the following ways:

1. The contradictory language outlined in §20-26-21 relating to “traditional and customary rights”. The language pledges conditional support for the constitutional rights of native Hawaiians while simultaneously imposing undue and possibly unconstitutional restrictions on all constitutionally protected practices. The rules suggest that Mauna Kea is a wahi pana despite allowing for actions and activities that are in direct conflict with the wahi pana function. Similarly, the proposed rules provide no such condition or restriction relative to the "scientific" or "astronomical" uses of the Mauna.
2. The permitting categories outline in §§20-6-61 to 70 are poorly contrived in their application. The permitting rules wrongly equate the University and State’s affirmative duty to protect Native Hawaiian traditional and customary practices under Art. XII§7 to general public and commercial activities. The public and commercial uses are privileged uses while Native Hawaiian traditional and customary uses are rights fully protected by the constitution. The various uses for public and private functions are in conflict with the constitutionally protected Native Hawaiian rights outlined in the constitution.

3. The rules allow for a blanket exemption that recognizes all telescope activities as superior to all other activities, particularly traditional and customary practices. Such a provision smacks at the core of a backward, Lockean principle that uses “difference” in cultural values to deploy negative meanings to native practices, such as Hawaiian religious and stewardship practices, and value added meaning to those of the dominant group, such as telescope development. Telescopes, therefore, resemble progress while traditional and customary practices are relegated to museums and treated as amusement. In other words, build and develop telescopes but limit any functional use of traditional and customary practices like restoring sacred sites and building ahu.

4. The proposed procedures and associated violations in the rules demonstrate the true intent of the University and Office of Mauna Kea Management to selectively regulate, enforce and prosecute anyone whose cultural identity and beliefs do not fit the economic and political uses desired by the University, State, and some members of the science community.

5. The proposed procedures and associated violations demonstrate the University and Office of Mauna Kea Management’s intent to illegally infringe on the First Amendment rights of Native Hawaiians (and other citizens) exercising their freedom of religion and speech atop Mauna Kea. The fines are excessive and punish activities like traditional and customary practices by criminalizing anyone who exercises their cultural practices that have not been scrutinized by the President or his designee. The fines and permitting process is also clearly intended to punish any practitioner who exercises their constitutional right to protect their religious and cultural resources from destruction by the University. Moreover, the permits and enforcement do not identify how the University will punish its own staff and designees who violate the constitutionally protected rights of native Hawaiians through the mismanagement of the area or mistreatment of Hawaiian practitioners.

6. The rules allow for a single appointed individual of the University of Hawai‘i to unilaterally make decisions that impact the use of and activity on the Mauna. Such an action is unconstitutional as it delegates the Article XII§7 duties and responsibilities of the State to the President of the University of Hawai‘i, who has yet to accept any fiduciary responsibility for the lands already poorly managed by the University. The President pays no attention to the concerns of his UH Native Hawaiian community neglecting to engage in meaningful dialogue that seeks to create accord with that community. Instead, the President disguises his lack of cultural understanding and shields himself from his responsibility to the community by surrounding himself with advisors who have no power to implement a more culturally and respectful application of UH policies.

The ‘Aha Kuhina will submit further testimony as we consult our community and coordinate our position with other stakeholders who believe in the full protection and end of desecration of the Mauna by the University and State of Hawai‘i. We believe that this entire process is flawed as it does not sincerely allow for full review and discussion of the important constitutional issues that will be negatively affected if the current draft rules are approved. In fact, approval of these present rules amount to a modern form of cultural imperialism couched in the law and disguised as a legitimate, democratically derived public policy. Therefore, the ‘Aha Kuhina objects to the proposed rules and this flawed review process.

‘Aha Kuhina Testimony

Page 2 of 2
Name
Hayden Robinson

Organization
none

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Boulder CO 80302 USA

Phone
303 513-2552

Email
honu19@gmail.com

Hawai’i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Comment
attached

HaydenRobinsonComment.docx
14K
My name is Hayden Robinson. I don’t currently live in Hawai‘i, but I have spent lots of time there in my life, including working and paying taxes on Maui in 2016-2017. I’m not in college right now, but I hope to finish my BA degree in the coming years. My academic interests include thinking about political philosophy and civil society. I am particularly focused on cultural rights issues. This interest comes in part from my time spent in Hawai‘i learning about a range of significant issues Native Hawaiians have faced over recent decades, including the struggle to restore Kaho‘olawe, burial protections, and subsistence rights issues. I’ve always been impressed with Native Hawaiian persistence and the state’s responsiveness (if not always in consistent ways). I also have experience observing various Native American struggles on the mainland (for example, I was at the Standing Rock camps twice) and think that Native Hawaiians receive better treatment than American Indians, for the most part. My dad (a professor of religion and indigenous studies) and I have talked about this issue lots. I now see that one difference in treatment is because of the Hawai‘i state constitution and its strong provisions to protect Native Hawaiian traditional and customary rights. It also seems like there is lots of respect in Hawai‘i for Kanaka Maoli. This is really cool and different from what I saw in North Dakota at Standing Rock. When I think about what I saw there, I compare it to what I experienced when I witnessed the Haleakala telescope protests of 2015 at the Maui base yard. It was tense, but the guiding ethic of Kapu Aloha kept the protectors from engaging in violence or aggressive behavior, and the police kept their cool (again, depending on one’s perspective). As a student of civil society, the protest and reactions to it (by the police, but also in the media and in everyday conversations) were the most striking example I had ever experience of democracy in action. People on different sides of the issue demonstrated commitment, conviction, and were working out their differences in a principled manner.

Now my dad and mom have sent me the proposed Mauna Kea management rules and my perspective is changing. The state (or I guess the university) seems less willing to take Native Hawaiians seriously than I thought. And it also seems like these rules ignore basic democratic ideals and constitutional frameworks. The whole thing sounds more like North Dakota than the Hawai‘i I have always loved. I don’t get it. I’m not anti-telescopes, and I see that Mauna Kea needs to be better managed. I went up there with my mom and dad a few times in 2015 and again last year. It is kind of weird that people go wherever they want. Frankly, it made me wonder whether Hawaiian sacred sites were being protected. Anyhow, I can see the importance of access guidelines and some rules. But after I read these proposed rules I was really confused. They remind me of things I read in high school about state abuses of authority and the typical nightmare that people only realized they were complicit in such abuse too late. I totally saw that in North Dakota. But I have to believe Hawai‘i is better than this. Can’t you revise these rules to achieve what is necessary to protect the mountain, scientific assets, and constitutional rights, both of the general public and of Native Hawaiians in particular? I know there are lots of different interests at stake here, and I don’t understand all of them or how to manage them. But my gut tells me there must be a better way. I so remember being dragged by my dad to burial council meetings on Maui as a kid. They were kind of boring, actually, but what I remember was that the different sides seemed to take each other seriously. That seemed super basic then but now I see how important it is to work hard to listen and consult. North Dakota seems like it can’t do it right, but I think Hawai‘i can.
Certain restrictions are needed to protect Mauna Kea. However, these rules, I feel, are too restrictive. Prohibiting snow toys with no brakes? We locals have never had "official" snow equipment and made do with what we had. Special "play" areas make sense to preserve sensitive areas as does restricting the number of vehicles and people. This island is becoming more crowded and popular as a tourist destination. Places that families have been used to going to are now difficult to enjoy because of crowds and more restrictions due to trying to control effects of crowds. Please remember the people who call this island home. We now have to pay to enjoy the volcano area and certain parks, places that our families enjoyed for generations. We can no longer camp where we used to, hike where we used to, picnic, or play where we used to. Please don't take one more place away from us. If you do put restrictions, please give island locals special consideration.
After I testified at the meeting in Hilo, I have revised my testimony. Please substitute the attached Word file titled Revised Bearden Testimony etc. for my original file I submitted on 9/12/18.

Mahalo,
Thomas Bearden

Revised Testimony Regarding the Proposed Administrative Rules for Maunakea Management.doc

29K
Revised Testimony Regarding the Proposed Administrative Rules for Maunakea Management
Thomas Bearden, Ph.D.  9/25/2018

I am 62 years old and have been going to Maunakea for the 34 years I have lived on the Big Island. I have gone on observatory tours, skied, sledded, and taken my children to play in the snow. Maunakea is very important to me not only as a place for recreation, but also because of the beauty and spiritual energy that pervades it.

I am glad to see some of the proposed changes to the existing rules, such as prohibiting alcohol and drug use and prohibiting ATVs and off-road 4-wheeling. I also believe that only 4-wheel drive vehicles should be allowed to access the summit.

However, I am quite concerned to see some of the specific rules being proposed. I am also very concerned at the overall tone of the rules, which except for native Hawaiians, make no distinctions between Big Island residents and tourists. It is very insulting for the Board of Regents from UH on Oahu to be attempting to treat Big Island residents as tourists. **We live here, this is our mountain, not UH's. You are the guests here, not us. These rules are mostly desgined to make your jobs easier, irregardless of our wishes.**

There are a number of specific heavy-handed rules that could be utilized to severely limit Big Island residents access, including:

**Rule 20-26-39 which states:**
Access by private vehicles may be restricted for public safety and welfare, for the protection of resources, and to reduce congestion. Restrictions may include, but are not limited to, setting a maximum number of private vehicles allowed within the UH management areas at a time, restricting the areas in which private vehicles may operate, or utilizing shuttle vehicles in lieu of private vehicles.

Under this rule access by private vehicles may be restricted utilizing shuttle vehicles in lieu of private vehicles at the whim of UH. This rule goes far beyond the intent of the 2010 Public Access subplan of the 2009 Comprehensive Management Plan, which these proposed administrative rules are supposed to implement.
Rule 20-26-40 states: (a) Skiing, snowboarding, sledding and other similar winter or snow sports may be restricted to maintain public safety and welfare, to prevent damage to resources, and to minimize conflicts among visitors. The use of devices that are not equipped with braking mechanisms or which do not provide directional control on snow or ice is prohibited.

This rule as written would outright prohibit all skiing, snowboarding, and sledding as skis, snowboards, and most sleds, do not have brakes. This also was not the intent of the Comprehensive Management Plan.

Other problematic rules include:
Charging fees for entrance and parking.
Putting a gate up at the Visitors Center.
Mandatory cultural orientations.

I have several comments and recommendations to the UH-Board of Regents and the Big Island members of the Maunakea Management Board.

As a clinical psychologist in Hilo, I saw many children. The two events every year that made them the most excited were the County Fair and snow on Maunakea.

The ability of Big Island residents to access the mountain in private vehicles needs to be enhanced, not further restricted. The residents of the Big Island have a long tradition, which is now a cultural practice, of playing in the snow and bringing snow back down the mountain in their own pickup trucks for the enjoyment of those too young or too old to go to the summit themselves. This tradition also helps keep young children off the mountain. If their family can't bring snow back to them, they will be more likely to be taken to the summit themselves. This cultural practice would be impossible on a shuttle. Additionally, no Big Island residents involved in the EnVision Maunakea talk story sessions were in favor of stopping residents from accessing the snow in their own vehicles. Why have that process if you are going to ignore it?
If there are too many vehicles on snow days, allow residents first right of access and improve access so more vehicles can safely go to the summit. This winter I attempted to access the summit two days after a moderate snowfall. When I arrived at the Visitor's Center at 8:00 am, I was told after several hours of waiting that the road might be open at 12:00. I came back at 12:00 and ended up waiting until 4:00 pm before the road was finally open. The over-worked and under-manned personnel at the road block were unable to give us any updates during this entire time as the one snowplow on duty slowly cleared the road. People were becoming frustrated and angry.

I also feel that the residents of the Big Island and the rest of the state should not have to pay fees for entrance to our mountain or for parking. Use some of the state taxes that UH receives from us, charge tourists, or use observatory lease fees instead.

I am also concerned that if a gate is permitted at the Visitors Center it will inevitably be over-utilized for the convenience of management personnel and to the detriment of public access. It clearly would send the wrong message.

In principle, I am not opposed to a once in a lifetime short cultural and safety orientation before people are allowed access to the mountain. However, do not treat residents like tourists and make them take this orientation every time they go to Maunakea. Residents should be allowed to take this orientation at various locations in Hilo, Waimea, and Kona for convenience, or on the internet. There should be no charge.

In closing, I suggest the UH-Manoa President and Board of Trustees and the Maunakea Management Board think carefully about the message their proposed rule changes are sending to Big Island residents. Instead of attempting to restrict our access and turn Maunakea into a Hanauma Bay-like experience, put your resources and energy into making our access easier and more enjoyable. This is the Big Island, not Oahu. We are used to more independence and having more freedom to enjoy our aina here. Take some of our tax money, observatory fees, or the fees already charged to
commercial operators and triple the number of snowplows and operators. Increase the number of over-worked personnel at the visitors center and give them the means to communicate with the snowplow operators. Build more restrooms. Given that UH is beginning the process to renew their lease on Maunakea and given the inevitable protests if TMT is finally approved, it would be beneficial for UH if it were less tone-deaf to the wants of the average Big Island resident. You really don't want to shoot yourselves in the foot and unnecessarily alienate more residents than you already have.

I strongly recommend that the proposed rules I have discussed be rewritten with an emphasis on making Big Island residents access in private vehicles and ability to play in the snow a priority. The proposed rules treat these rights as a nuisance, and as currently written, they would not even be allowed.

Mahalo for this opportunity to testify.

Thomas Bearden, Ph.D.
Dear Board of Regents,

Attached are comments on the Administrative Rules managed lands on Maunakea from the Hawaii Island Chamber of Commerce.

Gordon Takaki
Hawaii Island Chamber of Commerce
PO Box 4425
Hilo, HI 96720
Tel: (808)430-5720

Attention: This email and any attachment(s) may contain privileged and confidential information intended only for the use of the individual(s) named above. If you are not an intended recipient, please refrain from any disclosure, copying, distribution or use of this information and note that such actions are prohibited. If you have received this transmission in error, please notify the sender and delete it immediately from your computer without retaining any copy. Thank you for your cooperation.
Aloha University of Hawai‘i Board of Regents,

The Hawaii Island Chamber of Commerce would like to submit comments on the proposed draft of the administrative rules for the UH-managed lands on Maunakea. We applaud the University for tackling this large-scale matter and thank the Regents for their efforts in reaching out to our island community for input.

The Hawaii Island Chamber of Commerce believes in the proper care of Maunakea’s natural and cultural resources and advocates for continued Hawaii Island community engagement in the decision-making and planning for the mountain.

Past issues have been addressed and there is a strong commitment to continual improvement. The current management structure allows for both scientific and cultural advancement and the protection of the asset that we are privileged to have.

**Consistency With Existing State Rules**
The administrative rules align the UH managed areas with other management rules on state lands on Maunakea including the surrounding DLNR lands. There isn’t an easy way to distinguish when you leave one jurisdiction and enter another so consistency of rules on Maunakea provides consistency and clarity for the general public.

**Managing Road Access**
Regarding section 26-19; we support managed road access. We have been on the mountain and see managing road access a critical tool for 1) protecting safety for all when visiting the mountain, 2) maintaining safe road conditions for inclement weather events, 3) reducing vehicle congestion especially during star gazing activities, and 4) Camping within the UH managed areas should be prohibited because there are no support systems including shelters and bathrooms, and the weather can be unpredictable.

**Supporting 4-WD Only Vehicles**
The Hawaii Island Chamber of Commerce Board of Directors supports the rule that states that only vehicles equipped with low-range 4-wd should be allowed on the gravel road past Halepohaku. Allowing only 4wd vehicles on the steep gravel mountain road supports the commitment to safe access to the mountain, and offers protection for residents and visitors who may not be familiar with the road hazards and conditions in this graveled area.

**Public Safety**
The draft rule requiring snow recreation devices with proper braking and steering mechanisms helps to protect the recreational user and those around the area from getting hurt. If one of these alternative snow play devices gets out of control, people can get hurt.

Mahalo for allowing the Hawaii Island Chamber of Commerce to submit comments on the draft administrative rules for Maunakea.

Aloha,

Gordon Takaki, President
Hawaii Island Chamber of Commerce
Aloha, I feel the need to oppose because it has become evident the care for our natural resources and environment has taken a backseat for decision makers at all levels of government. With land use in Hawaiʻi already a limiting factor, what remain should rightfully benefit peoples of Hawaiʻi and the freedom to live Pono within their space; but more importantly, that Mauna Kea deserves to be a Peaceful presence for everyone.
Aloha Kakou,

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$$$

Mahalo,
Aunty "Mopsy" Mapuana Aarona
Protect Pa'ia
Maui, Hawaii

--
Kahele Dukelow
Associate Professor in Hawaiian Studies and Language
Humanities Department Chair
University of Hawaii Maui College
To whom it may concern,

I am opposed to any changes to current rules that are not in coordination with the needs of Native Hawaiians.

Thank you,
Keahi Bustamente
Name
kari robinson

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3035138588

Email
karimarierobinson@gmail.com

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment

Comment

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As a member of the general public, I am writing to offer comments on the University of Hawai‘i's Chapter 20-26, Hawai‘i Administrative Rules, entitled "Public and Commercial Activities on Mauna Kea Lands." Though technically a resident of Colorado, Hawai‘i has always been a home of my heart; I have spent most summers in the islands since age 12, and have raised my own children to feel similarly committed to the protection and preservation of Hawaiian culture and ecology. Over the years, my family has developed deep and enduring friendships on Maui and on the Hawai‘i Island, and these relationships include ‘ohana who engage in a wide spectrum of practices on Mauna Kea. We have been fortunate to have been included in traditional and cultural practices on the Mauna, including being present for the building of ahu and powerful, unforgettable chanting. We have hiked extensive trails on the summit area, beholding the sight of Lake Waiau seemingly floating on the top of the world; we have had memorable evening picnics under a sea of stars; we have played in the snow at the height of summer and in the middle of the Pacific Ocean. All these experiences cumulatively inform how I perceive the the Proposed Rules and the egregious process through which they are being considered.

First and foremost, the macro-order purpose of the rules, as I understand them, is allegedly to rectify decades of mismanagement by the University of Hawaii. However, the rules fall short of this mandate on a number of levels, and in representing this as their primary goal, perform a fundamental dishonesty transparent to all who are aware of the TMT project and its ambitious timeline for construction. Though the Hearing Officer at the Honolulu public forum explicitly disavowed a connection between the proposed rules and the TMT project, the 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.

As evidence of this assertion, one need only take a quick glance at the rules themselves. While one could elaborate on details of specific language of the UH document, for my purpose a general overview of the proposed rules and their impact will suffice: Traditional and customary practices face enormous restrictions to minimize their deleterious effects on scientific "resources;” traditional and customary practices, such as chanting, ahu construction, and Kapu Aloha based forms of resistance form the heart and soul of TMT protests in the recent past; therefore, the proposed rules aim directly at the foundations of such protest. 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,” establish the summit as a quasi-gated community for university employees) and severely curtail traditional and cultural practices (audio restrictions
that “create a nuisance,” such as chanting are sanctionable offenses, while other rules prohibit ahu construction and authorize “restoration,” or, as others would call it, desecration). While it is true that the rules begin to envision regulations that will preserve the unique ecological environment of Mauna Kea and a possible path toward commercial regulation, when viewed in the context of a multi-pronged strategy to reassure TMT investors that their telescope will be not be threatened by activists or judicial setbacks, I am literally sickened by this rule making process.

The human dignity at stake cannot be underestimated. As was noted by Kepa Maly in his earlier ethnography of Mauna Kea (and upon which the cultural resources management plan of the FEIS for TMT was based), many Native Hawaiians consider the Mauna to be alive, a source of ancestral connection, and embedded in the very fabric of being in the world. To gate access to the summit! To require cultural practitioners to watch a cultural awareness video! To assume, as the rules do over and over, a position of authority over what counts as “proper use” and “appropriate” behavior on the Mauna (20-26-1) under the guise of enhanced safety! Truly, the audacity is stunning, the intentions of such “rule-makers” utterly exposed.

The especially sad and depressing fact is that, in many respects, Hawai‘i has been at the forefront of the advancement of human rights in a number of local, national, and global contexts. The establishment of state burial councils and rules has resulted in the protection of countless human ancestral remains that many developers would have relegated to ditches were it not for the protections and avenues these rules afford. Hawai‘i was the first state in the nation to legalize same-sex marriage, and more recently successfully challenged the deportation of countless immigrants who otherwise would have suffered grievous harm. Hawai‘i’s state constitution uniquely affords Native Hawaiians protections for their traditional and customary practices, serving as an example for indigenous peoples worldwide who seek to remedy their invisibility to colonial powers invested in their disenfranchisement--or worse.

To the Board of Regents at the University of Hawai‘i, I ask you this basic question: Who are you as principled people? Where do you stand on the side of history? With North Dakota? Or with the many other states which, guided by Republicans and fueled by their money, have advanced bills allowing for the seizure of assets by protestors/protectors? In looking closely at the proposed rules, especially the financial and criminal penalties the “president’s designee” is able to levy, how are these rules fundamentally any different? To be clear, I am not advancing a policy of “no development ever,” or a complete abdication of responsibility on the part of the university to its management responsibilities. However, the proposed rules are neither consistent with the Hawai‘i state constitution’s protection of traditional and customary rights, nor do they align with the consultation and consent model recently promulgated by United Nations
guidelines on development and management projects. The University of Hawai‘i can and must do better.

Sincerely,

Kari Robinson
M.A. Cultural Anthropology, University of Chicago
Aloha!

It has come to our attention that Mikahala Roy provided testimony at the Administrative Rules Public Hearing in Waikoloa on Wednesday, September 26 and represented herself as the Kahu of Ahu’ena Heiau.

This is not true. Mikahala Roy is not the Kahu of Ahu’ena Heiau, doesn’t sit on the Ahu’ena Heiau, Inc. Board of Directors and doesn’t not represent our organization.

Ahu’ena Heiau, Inc. has served as the caretakers of the Ahu’ena since our inception as a Federal 501 3c nonprofit in 1993. 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.

For the record, a member of our board serves as Kahu of Ahu’ena Heiau, Inc.

I have attached an official memo for your records.

Sincerely,

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

Response to UH Board of Regents 2018-9-28-signed.pdf
127K
September 28, 2018

Aloha UH Board of Regents,

It has come to our attention that Mikahala Roy provided testimony at the Administrative Rules Public Hearing in Waikoloa on Wednesday, September 26 and represented herself as the Kahu of Ahu’ena Heiau.

This is not true. Mikahala Roy is not the Kahu of Ahu’ena Heiau, doesn’t sit on the Ahu’ena Heiau, Inc. Board of Directors and does not represent our organization.

Ahu’ena Heiau, Inc. has served as the caretakers of the Ahu’ena since our inception as a Federal 501 3c nonprofit in 1993. 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.

For the record, a member of our board serves as Kahu of Ahu’ena Heiau, Inc.

Sincerely,

Jacqueline Awa
Treasurer, Board of Directors
Ahu’ena Heiau, Inc.
Aloha! I've just read that you intend to diminish access and the rights of the public to utilize the Mauna Kea. I feel that is absolutely absurd that these lands that have been enjoyed by millions over decades are suddenly being denied on religious or cultural reasons. It is just one more attempt for Hawaiian activists to squeeze ANY non-Hawaiian people from enjoying this state's lands. Most people can respect the significance and importance of Hawaiian heritage without being denied access or controlling activities on the summit.

My family has had numerous wonderful trips and events at the summit and the thought that the University wants to deny access is appalling. I completely disagree with this action.

Furthermore, I find it completely unacceptable that the state/County looks the other way ALLOWS and encourages Activists to stop traffic at the entry road and push their agenda is disgusting! If I were to do anything like this I'd be arrested immediately and sent home. Who's condoning this activity and why is it not being stopped!

Please vote NO on this proposal!!!
Name
Shelley Muneoka

Organization
KAHEA: The Hawaiian-Environmental Alliance

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Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

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Aloha mai kākou,

My name is Shelley Muneoka. Mahalo for allowing me to offer some thoughts as a boardmember of KAHEA: The Hawaiian-Environmental Alliance on the Proposed Chapter 20-26, Hawai‘i Administrative Rules, entitled “Public and Commercial Activities on Maunakea Lands”. In June we testified that it was premature to request the draft rules to the Governor for approval to allow for public hearings on these proposed rules. The Board of Regents decided that day to proceed with that process and that is the process in which we are currently engaged. There remain far too many substantive issues with this draft of the rules to have them move forward in this process. Try again and involve in a more meaningful way practitioners who will be impacted by these rules—which means including them in the creation of the rules, not merely allowing comments on University-created rules.

Our apologies if the following sections skip around, but we did want to include some areas of specific concern

• 20-26-3: Blanket exemption for UH’s educational and research activities aka: telescopes. Why? UH’s activities have the same impact everyone else’s does. If we put the resource first and at the center of our decision-making it’s clear that UH research does not deserve such an exemption. This gets to the heart of why the lessee with high impact use of the land should not be the one creating management rules.

• 20-26-6 Cultural practitioners should not need to pay an entrance fee or for parking to exercise their cultural or religious practices. An exception or accommodation should be added to 20-26-6.

• 20-26-21 Who assesses “impact” when determining if a cultural practice requires a permit?

• 20-26-22 This section is very problematic. UH itself can’t even follow this proposed rule (specifically parts 1-5) which describes activities that have all occurred during or as a result of telescope development.
  • Section 8 prohibiting people from carrying basic tools is an over-reach. Particularly if practitioners need to clear invasives to collect lāʻau, or want to use the tools to collect lāʻau.
  • section 9: could be used to target the construction of ahu. Kānaka should not need to explain/justify the building of an ahu to the university.
  • section 10: an added rule to prevent civil disobedience like what occurred in 2015 even though those arrested were largely cleared of any criminal wrong-doing
  • section 11: It is absurd for UH to regulate hiking on pu‘u while they themselves have LEVELED pu`u.

• 20-26-24: This section is also very problematic largely going against the stated purpose of “promoting public safety and welfare” by prioritizing the scientific community over cultural practitioners accessing the area
  • Sections 1 - 3 No cell phones or flashlights? The mountain is vast and it is reckless to propose a ban on cellphone and flashlight use. A dangerous proposal.
20-26-31 We whole-heartedly support banning sports meets and competitions
20-26-32: Telescope operators should also be subject to restrictions on hazardous materials on the mountain.
20-26-34 This section bans creating noise or sound within UH management areas, vocally or otherwise. This section criminalizes singing and chanting which are important ways that we honor and connect with Mauna Kea and our akua that live there. It is offensive and hypocritical as the existing telescopes create a dull white noise that disrupts what once was peaceful silence.
20-26-38: Prohibition on camping: What about TCP that involve staying overnight to observe the way celestial bodies move in the sky which may include moonrises and moonsets as well as sunrises and sunsets. Exemptions should be made for practitioners
20-26-39: We are against installing a gate, fence, or other “access control structure” on the mauna

This section uses “public safety and welfare” as a justification for road closures, however, as you may recall these same ideas were used as the rationale to pass the so-called “emergency rules” after civil disobedience in 2015. Rules that were quickly reversed after a successful challenge in court. Those arrested because of the emergency rules had their charges dismissed. People are leery of this language because of this past misuse.

In terms of night time visiting hours; kanaka should not need to check-in with anyone at UH in order to access the mountain.

Subchapter 3: Commercial Activity is inappropriate in the wao akua—even if it is regulated via permitting, it is still inappropriate. Taking a page out of the Bible, look at how Jesus dealt with merchants in the temple, it’s simply incongruent with a sacred place

The fee schedule for rule violations are unreasonable. $2500 for the first offense, $5,000 for the second and $10,000 for a third is astronomical and therefore unreasonable and need to be revisited.

The Proposed Rules provide the UH President and their designee wide-ranging powers to unilaterally grant or withhold permits. This is far too much power concentrated at the top and undercuts the existing permitting process that allows for contested case hearings an broader public particiption.

The concerns listed above are not trivial ones and the body that drafted these rules should work at building trust and relationships with the kānaka that will be most affected by their implementation. That kind of trust cannot be built at a public hearing. The current draft has too many ways that allow Hawaiian practices to be regulated out of existence. Please do not move forward with this draft of the rules. Start again and include practitioners and broader community from the beginning.

Mahalo for your time,
Shelley Munoka, Treasurer
KAHEA: The Hawaiian-Environmental Alliance
I oppose these proposed rules which are designed to target Hawaiians protecting their sacred places from ongoing desecration.
Comment

These rules are obviously meant to shut up native Hawaiian activists who fight for the rights to preserve access to Mauna Kea. The rules are a disgrace not just to native Hawaiians, but to all of the local community. Mauna Kea is a public native Hawaiian cultural resource, you have no right to restrict access. Don’t be surprised when the entire local community speaks out against the telescopes. This is a serious overreach, and it’s these sorts of actions that will continue to motivate the local community to mobilize and support native Hawaiians in their fight to preserve Mauna Kea.
Office of Mauna Kea Management Proposed Rules testimony

Kuulei Gunderson <kuuleig@hawaii.edu>
To: uhhar@hawaii.edu
Fri, Sep 28, 2018 at 7:35 PM

maunakea.9:28.pdf
19K
Aloha kākou,

O Kuʻulei Uluwehi Gunderson koʻu inoa.


The rules aim to support the continued oppression of the Hawaiian people by denying and attempting to profit while making illegal the practice of cultural navigational practices from our mauna; with the ultimate goal of disassembling those who oppose the Thirty Meter Telescope and any further construction on Mauna a Wākea.

The proposed vague permitting system is a lame attempt to submit by fear, the gatherings of Hawaiʻi’s native people and the success which comes from unity. Not in my lifetime have I seen as many kanaka unite behind one cause: the protection of our mauna. The proposed rules do not value or take into consideration the host culture. It is instead meant to bully and control kanaka who ultimately deny the construction of the Thirty Meter Telescope or any further disruption to the mauna. The University of Hawaiʻi Office of Mauna Kea Management has introduced such vague and open ended requirements as a means to intimidate those who do not support their actions or beliefs of best interest. As temporary stewards of Mauna a Wākea the University of Hawaiʻi Office of Mauna Kea Management has a kuleana to the people of Hawaiʻi. It is your responsibility to prioritize cultural values over profit and listen to the people of these ʻāina.

-Kuʻulei Gunderson

September 28, 2018
Aloha,

I am sending this testimony to state my opposition to the Administrative Rules that have been proposed for Mauna Kea.

This past Monday I attended the public meeting on Oʻahu at UH Sullivan Center to listen to the voices of family members and friends. It was very clear to me then and as it is clear to me now that this document does not represent the best interests of Kanaka Maoli. It pains me to sit in these meetings, to have our testimonies regulated to 3 minutes, and to have us wonder whether or not our words will be taken seriously by the Board of Reagents, DLNR, and other State officials who profess to have ownership and kuleana for this place. It blows my mind that the people making important decisions about Mauna Kea cannot produce a perfect title that shows that they have the jurisdiction over this place. Let me be clear, Mauna Kea is on “seized” lands belonging to the Hawaiian Kingdom. These lands are held in trust for Kanaka Maoli because there is no treaty indicating a cessation of these lands. I have no more authority and jurisdiction to come into your homes and claim that your home is now mine without a title. If I donʻt have a title to your home, then I donʻt have the right to dictate the rules of what you can or cannot do there. And that is what is happening right now.

You are making very important decisions about Mauna Kea for a place that you have no kuleana for. That kuleana belongs to those families who have their ancestors’ iwi there. That kuleana belongs to those who worship there. That kuleana belongs to those who for generations have upheld cultural practices at those sacred sites. Yet here we are- allowing people who have very little genealogical connections to make these big decisions. And what is worse- you have failed to include them in the rule making process. And you are criminalizing their efforts to protect that mauna. You want to come here- sign a permit. You want to chant here- make sure your noise doesnʻt disturb the scientific communities. You want to express your right to protect this mauna- then be prepared to pay a fine. You want to build an ʻahu- as long as it gets approved by us. You want to hike here- as long as its not damaging the mauna. Really? Like your TMT isnʻt damaging the mauna? Should I trust an organization that has had multiple instances in the past of mismanaging this mauna- to start managing it properly?

As an educated Kanaka, I am aware that these rules and laws serve to benefit the personal interests of the University rather than the interests of my people who have genealogical ties to these lands. That your values for science and money outweigh the sacredness of a place that is considered a burial ground, a temple, and a home to our ancestral spirits. That is is not okay for Kanaka to sing, chant, and pray or make any type of noise to disturb the mauna, but it is okay to allow noise that would permit a Thirty Meter Telescope.

As I read through the proposed document, I was filled ʻeha and hurt because you are targeting family and friends that have protected Mauna a Wākea. I am sick of being treated as a second class citizen in my homeland. Actually listen to the communities of Hamakua and Kohala. That is their home. They are the ones that will be impacted the most by these rules your agencies are attempting to create.

I leave these words with you so that my children and those following generations will know that I have done everything within my power to protect the sanctity of Mauna Kea with the hope that one day they will be able to visit that place and continue to feel the aloha of those who have come before them. That they will transverse these grounds without the fear of criminalization for being Kanaka.
Name
gina mamone

Address
72 pilipaa st
hilo hi 96720

Email
bella@hawaii.com

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activites on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
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!!! you do not show that you are making decisions in the best interest of our mauna when making rules! hate crime charges should be filed against UH for your abuse of our mauna and for your disregard and disrespect toward the hawaiian people and your lease should be revoked and permanently terminated!!! rules made to keep people off our mauna should be aimed towards all of you who constantly desecrate what we hold sacred!!!
This feels like it would be a gross misuse of UH jurisdiction and stewardship of the 'āina to block out everyone except those UH deems necessary from the summit of Mauna Kea. The university doesn’t appear to be a very conscientious steward at the moment, which is incredibly disappointing.

I am not a Native Hawaiian, but I grew up here in Hawaii practicing the culture right there with all my Hawaiian friends and teachers. We should not need a permit for cultural practice. This isn’t “protecting” the land and its resources - it’s exploiting it for uses that are beneficial to the university. I totally disagree with the rule proposals.
Name
mikala demotta

Address
72 pilipaa st
hilo hi 96720

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activites on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
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!!!
Aloha kakou,

On behalf of our organization, I oppose your proposed rules. I oppose the industrial and commercial desecration of the most sacred temple in Hawaii, Mauna a Wa Kea and the trampling of the cultural, traditional, and religious rights of Kanaka Maoli.

The Office of Mauna Kea Management (OMKM) should be abolished. It and the university of Hawaii have no jurisdictional authority over the Mauna. Mauna Kea is crown and government lands of the Hawaiian Kingdom, under illegal occupation by the United States. The Hawaiian Kingdom and Hawaiian cultural and religious practitioners of the Hawaiian Kingdom should decide on rules for protecting the sacred temple of Mauna Kea.

The University of Hawaii and OMKM along with the proposed rules are engaging in ongoing desecration of the sacred Mauna and regulating Kanaka Maoli rights into extinction. Your primary value for the Sacred Mauna is DOLLARS, and how you can exploit and further commodify the Mauna.

I attended the Hilo Hearing. It was an insult and a disgrace that only 1 Board of Regent member attended the hearing. UH president, David Lassner, all the UH Regents and OMKM Board members should have been present to show respect for the Mauna, the community, and especially Hawaiian practitioners, many who poured their hearts out. Shame on the University and OMKM. Your absence speaks volumes about who you are and what you really value.
Name
robi demotta

Address
294 king ave
hilo hi 96720

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
Rules made to keep us Hawaiians from being able to practice our cultural beliefs and having access to Mauna Kea should not be made! It is not right when you are the ones desecrating our sacred mountain! Your rules should be made for all of you who continue to misuse and abuse it for your own personal gain! Get off our Mauna and take your telescopes with you!
Name
todd steele

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
Rules that are made by the UH that will keep Hawaiians from what is rightfully their Mauna to practice their cultural beliefs should not be made! UH making the rules due to greed and for their own personal gain should not be tolerated and if the rules are made anyways they should be charged with hate crimes against the people! Kingdom of Hawaii still exists! Maui opposes!!!
"The proposed rules are needed for safety and to protect natural and cultural resources, according to the university."

I think the university is the biggest threat to natural and cultural resources. And safety, they could use that excuse to stop just about anything. 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.
Name
angie mckeague

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
OPPOSE!!! UH and all telescopes get off our Mauna!!! You do not deserve to be up there even with permits! You have desecrated our Mauna enough already! Terminate your lease once and for all!!!
Name
rosanna mamone

Hawai‘i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
Mauna Kea does not need rules to keep Hawaiians from access! Rules made for no access should be for UH and all telescopes for the continued desecration that has been done and will continue to occur! Leave our Mauna and our people alone already! Oppose!!!
I am writing to oppose the proposed administrative rules regarding Mauna Kea. The right of the people to exercise their religion or their desire for recreation should not be infringed upon. Mauna Kea is a unique natural and cultural resource that belongs to Hawaii and the people of Hawaii. UH is wrong to try to restrict the public's access. I strongly oppose these new rules.

Sincerely,
Jennifer Real, MD
aloha e,

ʻo koʻu inoa ʻo ponokeali'i - my name is ponokeali'i.

ʻO wau kekahi aliʻi aloha ʻāina Hawaiʻi - I am a Hawaiian aliʻi patriot.

ʻO wau kekahi aliʻi aloha ʻāina Hawaiʻi - I am a principal member of the Hawaiian Monarchy government of the Hawaiian Kingdom.

ʻO wau ke keikikāne nui a eono o ka paiʻea kamehameha ekahi moʻi a me ka meaʻo kaʻahumanu - I am the 6th great grandson of paiʻea kamehameha ekahi moʻi and kaʻahumanu moʻi).

On behalf of The Hawaiian Monarchy government of the Hawaiian Kingdom, the people of Hawaiʻi and the descendants of paiʻea kamehameha I hereby assert the supreme legal authority and jurisdiction of The Hawaiian Monarchy government of The Hawaiian Kingdom over all of the ʻāina of ko Hawaiʻi pae ʻāina - 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.

ponokeali'i
aliʻi aloha ʻāina
Principal Member of
The Hawaiian Monarchy
government of
The Hawaiian Kingdom

808.492.4413

2 attachments

HK National Treasure - mauna a wakea.jpg
size: 1575K

HK National Treasure - mauna a wakea.pdf
size: 1926K
A Proclamation of National Cultural & Spiritual Treasure of
The Hawaiian Kingdom

The Hawaiian Monarchy - government of The Hawaiian Kingdom hereby proclaims

MAUNA A WAKEA
(Mount of Wakea)

known to all as Mauna Kea to hereby be designated to be a

National Cultural & Spiritual Treasure of The Hawaiian Kingdom

This designation affords certain rights, privileges and protections to the subject.

These rights, privileges and protections include, but are not limited to:

• The right to be honored as a traditional Polynesian place of worship which honors the sacred union of papa and wakea - earth mother and sky father.

• The privilege of being the most wahi kapu - sacred place - in all of Polynesia.

• The legal and diplomatic protections of The Hawaiian Monarchy government of The Hawaiian Kingdom against intrusion or desecration, in any form.

Proclaimed on this 17th day of the month of January in the year 2018.

Ponokeaali'i
ponokeali'i
ali'i aloha aina
Principal Member of
The Hawaiian Monarchy
government of
The Hawaiian Kingdom
<table>
<thead>
<tr>
<th>Name</th>
<th>Lauran Chapple</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>64-252 Mamalahoa Hwy, Kamuela HI 96743 USA</td>
</tr>
<tr>
<td>Phone</td>
<td>808 640 3407</td>
</tr>
<tr>
<td>Email</td>
<td><a href="mailto:lauranjb@yahoo.com">lauranjb@yahoo.com</a></td>
</tr>
</tbody>
</table>

**Hawaii Administrative Rules**

**Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands**

**Support/Oppose/Comment**

**Comment**

I oppose. These rules are too limiting to the people of Hawaii to worship and appreciate their sacred mountain. Mauna Kea is much more than a site for telescopes, but these rules favor the telescopes as their most important use.
Testimony
1 message

Aisake Nutoni <aisake.nutoni@icloud.com>
To: uhhar@hawaii.edu
 Fri, Sep 28, 2018 at 8:55 PM

Testimony.docx
14K
September 27, 2018

To the scientists and astrophysicists of the Thirty Meter Telescope:

I am writing this in reference towards the development of the Thirty Meter Telescope. There are many Hawaiians who are being affected by this cause on a spiritual level as well as a cultural level. I am writing as an individual because my ideas may differ from others.

I feel that it is completely wrong to build a telescope on our sacred land because not only will you be damaging our sacred land, but you will also be damaging the connection that we have with the land.

I write to you guys as an American citizen with the cultural background of my Hawaiian Ancestry. I understand why scientists desire to build on the top of Mauna Kea, but I feel that your reasoning would need to be stronger. Mauna Kea has been recorded as the tallest mountain in the world and I understand how you guys would be able to further your studies from this, but I think you guys should keep in mind of the history that this place holds. Mauna Kea can be seen as a Hawaiian temple. I think it’s absolutely ludicrous to demolish a temple just for science.

I stand for what’s right, and I refuse to let science interfere with our cultural identity.

The Hawaiian culture was once on the brink of extinction. When our cultural practices became illegal for us to portray, this brought darkness to many families. Time has passed. The government eventually legalized Hawaiian practices, and this urged all Hawaiians to influence it everywhere they could. If we didn’t revive these practices, then they would have been forgotten and lost forever. This is what our culture had to go through. From all of our struggle that our ancestors had to go through, I refuse to let the telescope keep us silenced.

I stand firm in what I believe. Although I want humanity to move forward in life, I know that there are other ways to achieve this. The way that this is proposed is absolutely wrong.

Sincerely,

Aisake N. Fakava
Student of Accounting
University of Hawaii Maui College
Aisake Fakava, Jr <afakava@hawaii.edu>
To: uhhar@hawaii.edu
Fri, Sep 28, 2018 at 8:56 PM

Testimony.docx
14K
September 27, 2018

To the scientists and astrophysicists of the Thirty Meter Telescope:

I am writing this in reference towards the development of the Thirty Meter Telescope. There are many Hawaiians who are being affected by this cause on a spiritual level as well as a cultural level. I am writing as an individual because my ideas may differ from others.

I feel that it is completely wrong to build a telescope on our sacred land because not only will you be damaging our sacred land, but you will also be damaging the connection that we have with the land.

I write to you guys as an American citizen with the cultural background of my Hawaiian Ancestry. I understand why scientists desire to build on the top of Mauna Kea, but I feel that your reasoning would need to be stronger. Mauna Kea has been recorded as the tallest mountain in the world and I understand how you guys would be able to further your studies from this, but I think you guys should keep in mind of the history that this place holds. Mauna Kea can be seen as a Hawaiian temple. I think it’s absolutely ludicrous to demolish a temple just for science.

I stand for what’s right, and I refuse to let science interfere with our cultural identity.

The Hawaiian culture was once on the brink of extinction. When our cultural practices became illegal for us to portray, this brought darkness to many families. Time has passed. The government eventually legalized Hawaiian practices, and this urged all Hawaiians to influence it everywhere they could. If we didn’t revive these practices, then they would have been forgotten and lost forever. This is what our culture had to go through. From all of our struggle that our ancestors had to go through, I refuse to let the telescope keep us silenced.

I stand firm in what I believe. Although I want humanity to move forward in life, I know that there are other ways to achieve this. The way that this is proposed is absolutely wrong.

Sincerely,

Aisake N. Fakava
Student of Accounting
University of Hawaii Maui College
Name
harriet mamone

Hawai'i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
AOLE!!! OPPOSE!!! Hawaiians have every right and UH should not have the right to make rules forbidding Hawaiians from any access to Mauna Kea! It is HEWA!!! NOT PONO!!!
Name
shelly napoleon

Hawai'i Administrative Rules
Chapter 20-26 Public and Commercial Activites on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
NO!!! UH should not make any rules limiting Hawaiians access to Mauna Kea! UH is da desecrators of our mauna and their lease should be permanently terminated and they should take their telescopes with them off Mauna Kea!!!
Name
cedric kailikini

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
UH should get off our mauna and leave it alone! Their rules should be aimed at them not us! They are the very ones desecrating it and they should be ashamed of themselves so greedy and pathetic!
Name
monicalynn mckeague

Hawai‘i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
No rulemaking by UH should be aimed at Hawaiians concerning any access to Mauna Kea!!! oppose oppose oppose!!!
TESTIMONY IN OPPOSITION TO PROPOSED OMKM RULES

Kekai Perry <kekailoa@gmail.com>
To: uhhar@hawaii.edu

Fri, Sep 28, 2018 at 9:15 PM

Attached is my testimony in opposition to the OMKM rule proposals. Thank you.

Peace,
Kekailoa.

KPerry Testimony to OMKM Sept 2018.pdf
104K
Testimony in Opposition to Proposed Chapter 20-26 Hawai‘i Administrative Rules Relating to Public and Commercial Activities on Mauna Kea Lands.

September 28, 2018

Sent Via Email Attachment to uhhar@hawaii.edu

TO: David Lassner, President, University of Hawai‘i
c/o UH System Government Relations Office
2442 Campus Road, Administrative Services Building 1, Room 101

FR: Kekailoa Perry
Hawaiian Subject & Kumu of Hawaiian Studies UHM
2645 Dole Street, Room 209

I am Kekailoa Perry, a subject of the Hawaiian Kingdom and kumu of Hawaiian Studies. I oppose the proposed Chapter 20-26 rules and the negative impact it will have on Native Hawaiian traditional and customary practices.

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. The proposed rules reject the University's commitment to a Hawaiian Place of Learning and will allow the UH and State to absolve themselves of any injustices arising from present or future acts of domination over Native Hawaiians. In short, the proposed rules are a thinly veiled attack on Native Hawaiian religion, culture and political self-governance that will have a direct negative impact on our Hawaiian communities.

I concur with the arguments outlined in the KAHEA June 7, 2018 testimony and generally agree with the Hawaiian traditional and customary assessments of OHA's September 11, 2018 testimony. The proposed rules are improper in the following ways:

1. The proposed procedures and associated violations in the rules demonstrate the true intent of the University and Office of Mauna Kea Management to selectively regulate, enforce and prosecute anyone whose cultural identity and beliefs do not fit the economic and political uses desired by the University, State and some in the science community.

2. Section 20-26-21 relating to “traditional and customary rights” pledges conditional support for the constitutional rights of native Hawaiians while simultaneously imposing undue and possibly unconstitutional restrictions on all constitutionally protected practices. The rules suggest that Mauna Kea is a wahi pana but allows for actions and activities to be permitted in direct conflict with the wahi pana function. Similarly, the proposed rule provides no such condition or restriction relative to the Astronomy and "scientific" uses on the Mauna.

3. The permitting categories outline in §§20-6-61 to 70 are poorly contrived in its application. The permitting rules wrongly equate the University and State’s affirmative duty to protect Native Hawaiian traditional and customary practices under Art. XII§7 to general public and commercial activities. The public and commercial uses are privileged uses while Native Hawaiian traditional and customary uses are rights fully protected by the constitution. The various uses for public and private functions are mutually exclusive from the constitutionally protected Native Hawaiian rights outlined in the constitution.

KPerry Testimony in Opposition
Page 1 of 2
4. The rules allow for a blanket exemption of all telescope activities above all other activities like traditional and customary practices. Telescopes, therefore, resemble progress while traditional and customary practices are relegated to museum-like amusement. In other words, build and develop telescopes but limit any functional use of traditional and customary practices like restoring sacred sites and building ahu.

5. The fines are excessive and punish activities like traditional and customary practices by criminalizing anyone who exercises their cultural practices that have not conceded their rights to the President or his designee. The fines and permitting process is also clearly intended to punish any practitioner who exercises their constitutional right to protect their religious and cultural resources from destruction by the University. Moreover, the permits and enforcement do not identify how the University will punish its own staff and designees who violate the constitutionally protected rights of native Hawaiians through the mismanagement of the area or mistreatment of Hawaiian practitioners.

6. The rules allow for a single appointed individual of the University of Hawai‘i to unilaterally make decisions that impact the use and activity on the Mauna. Such an action is unconstitutional as it delegates the Article XII§7 duties and responsibilities of the State to the President of the University who has yet to accept any fiduciary responsibility for the lands already poorly managed by the UH.

7. This entire process is flawed as it does not sincerely allow for full review and discussion of the important constitutional issues that will be negatively affected if the current draft rules are approved. In fact, approval of these present rules amount to a modern form of cultural imperialism couched in the law and disguised as a legitimate, democratically derived public policy.

Therefore, I object to the OMKM proposed rules. The UH BOR must scrap the rules and engage in real, transparent consultation with the protectors of the Mauna, the Hawaiian community whose rights will be directly impacted by such rules and all Hawaiians on all the UH campuses before further action is considered.
Name

cameron mckeague

Hawai'i Administrative Rules

Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment

Oppose

Comment

Oppose! I am Hawaiian and that means I have every right to have access at any time to Mauna Kea!!!
Name
alyssa mckeague

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
I should be able to enjoy Mauna Kea without a permit! That rule should not be applied to Hawaiians I oppose!!!
Name
Steven Tayama

Organization
Nation of Hawai‘i

Address
41-1300 Waikupanaha St.
Waimanalo Hawai‘i 96795 Hawai‘i

Phone
1 808 351 1402

Hawai‘i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
I cannot understand just how the state can make rules over lands it has no title to. Do these telescopes not sit on lands taken without the consent of or compensation to the native Hawaiian people or their lawful government? This case has carefully avoided this point. Who’s land is it. Who has legal ownership? This is the bottom line.
Name
noelani sagucio

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
Hawaiians should have access to Mauna Kea without permits or any kind of limitations! UH is the desecrators of our sacred Mauna and they should not have any access anymore! Get off our Mauna and leave it and the Hawaiian people alone!
Name
jacob sehna

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
NO rules should be made by UH not giving hawaiians access to Mauna Kea! oppose all rules that take away any rights to hawaiians!
Name
owen sehna

Hawai‘i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
access to Mauna Kea should always be for Hawaiians and UH has no right setting limitations unless it is for themselves! oppose!
Comments on Draft Rules for Public and Commercial Activities on Mauna Kea

kulaiwi@hawaiiantel.net <kulaiwi@hawaiiantel.net>  
To: uhhar@hawaii.edu  

Fri, Sep 28, 2018 at 9:32 PM

MK Draft Rules 9_2018.pdf
283K
September 28, 2018

UH Government Relations Office
2442 Campus Road
Administrative Services Building 1-101
Honolulu, HI 96822

To whom this concerns:

SUBJECT: Draft Administrative Rules for Public and Commercial Activities on Mauna Kea

Mahalo for the opportunity to review and comment on the draft rules. I have several questions, comments, and concerns as follows:

1. 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.

As one of the preparers of the “Public Access Plan for the UH Management Areas on Mauna Kea” (PAP), one of the sub-plans comprising the Mauna Kea Comprehensive Management Plan approved by the Board of Land and Natural Resources in 2009 and 2010, I am aware of the emphasis placed in the PAP on using this DLNR policy in combination with the “adaptive management process” to guide decision-making with regards to management of public and commercial activities on Mauna a Wākea. Mauna Kea (a.k.a. Maunakea), as Hawai‘i’s most sacred wahi pana, deserves the highest level of respect and protection. While most present-day users of Mauna Kea can agree with this ultimate goal, the diverse and divergent user groups have difficulty setting their interests aside in favor of what is best for the natural and cultural resources that make Mauna Kea so special to our state and the world. Lest we “love the Mauna to death,” this DLNR policy and the “adaptive management process” are intended to protect the Mauna’s resources and should be used to formulate and be incorporated in the rules governing all user groups (not just public and commercial users).

2. 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 PAP contains extensive discussion on how the DLNR policy and adaptive management process would be used (see pp. 2-15, 2-16, 5-1, 5-3, 5-4, 6-6, and 6-7). I am not suggesting that the draft administrative rules detail these methodologies but rather that the DLNR’s Policy for Commercial Activities on State Owned and Managed Lands and Waters and the adaptive management methodology be specifically referenced in at least §20-26-61 General provisions and §20-26-66 Commercial tour activity permits of the draft rules.
3. 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)

Native Hawaiians are a special group with rights that are unique from those of the general public under State law. I suggest that a special section be added to the draft rules that would outline a more culturally appropriate permit system for Native Hawaiian traditional and customary activities. This can be done without racially discriminating by making it clear that it is the activity and not a racially defined group being accommodated. It should be obvious that a person does not have to be racially Native Hawaiian to be culturally Native Hawaiian. Special accommodation is already utilized in the current draft rules in the form of an informal procedures option, as opposed to formal procedures, in the appeals process (§20-26-75).

4. 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).

All regulatory actions affecting historic Hawaiian trails located within the UH Management Areas of Mauna Kea should occur “in consultation with” DLNR’s DOFAW. The draft rules should explicitly require consultation with DLNR-DOFAW and Historic Preservation Division when historic trails are to be affected, just as several draft rules require prior consultation with the university. This is in keeping with the purposes of the draft rules, which are intended to “foster co-management with the department of land and natural resources in UH management areas.” Related to this, the Nā Ala Hele Administrative Rules (Title 13, Subtitle 5, Chapter 130) should be included in §20-26-3(c) and §20-26-4 of the draft rules.

Additional recommendations and concerns re: the draft rules include:

- Bicycles should be included in the modes of transport listed in the definition of “Commercial tours.”
- The only way to ensure that “all” persons accessing the UH management areas will receive an orientation as required in §20-26-5, is to install an entrance gate on John A. Burns Way, staff it with sufficient enforcement personnel, and provide orientation in numerous languages. How will this be funded? There needs to be a provision whereby island residents who frequent the area and have previously obtained the orientation can verify this and be waived through.
- The draft rules refer to both “Mauna Kea” and “Maunakea.” Why are both spellings used? I’m aware of the spelling controversy and would like to know that the use of both spellings is a conscious choice and not a random occurrence.
- Certain rules need to be applicable to all user groups, including employees, consultants, contractors, and agents of the UH, such as observance of posted speed limits, which is a long-recognized problem. How will rules that should apply to all be enforced?
- How many “available permits” will there be for commercial activities and how will that number be determined?
- §20-26-64 should explicitly state that all permitted research activities, once completed, shall restore the affected areas to their natural condition.
- While the UH is authorized to assess and collect fees per §20-26-6, the fee schedule should be subject to fee standards or guidelines based on other agency practices. The university should be accountable and reasonable in their fees. How can this concern be addressed?
- Consultation with DLNR should be required in all Special Use Permit application reviews (§20-26-65).
I hope these comments and questions are constructive and helpful, not only to the completion of administrative rules, but also to the concerns of managing the impacts of all users, whether they are members of the public, Native Hawaiian cultural practitioners, passengers on commercial tour vans, or personnel connected to permitted scientific endeavors. I would appreciate a response to my specific recommendations and questions. Mahalo again for the opportunity to review and comment on the draft rules.

Me ka pono,

[Signature]

Copied:
Stephanie Nagata, OMKM Director
David Smith, DOFAW Administrator
Steven Bergfeld, DOFAW Branch Manager, Island of Hawai‘i
Michael Millay, Nā Ala Hele Program Manager
Christopher Yuen, BLNR Member
Name
jenna sehna

Hawai‘i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
Oppose! Hawaiian people should be able to go to Mauna Kea without permits! It is our cultural right!
No No No! Access should not have limitations for Hawaiians!
Name
Deborah Chang

Organization
Island Transitions LLC

Address
P.O. Box 202
Pa`auilo HI 96776 USA

Phone
808-776-1516

Email
kulaiwi@hawaiiantel.net

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment

Comment
See attached. Mahalo.

MK Draft Rules 9_2018.pdf
283K
September 28, 2018

UH Government Relations Office
2442 Campus Road
Administrative Services Building 1-101
Honolulu, HI 96822

To whom this concerns:

SUBJECT: Draft Administrative Rules for Public and Commercial Activities on Mauna Kea

Mahalo for the opportunity to review and comment on the draft rules. I have several questions, comments, and concerns as follows:

1. 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.

As one of the preparers of the “Public Access Plan for the UH Management Areas on Mauna Kea” (PAP), one of the sub-plans comprising the Mauna Kea Comprehensive Management Plan approved by the Board of Land and Natural Resources in 2009 and 2010, I am aware of the emphasis placed in the PAP on using this DLNR policy in combination with the “adaptive management process” to guide decision-making with regards to management of public and commercial activities on Mauna a Wākea. Mauna Kea (a.k.a. Maunakea), as Hawai’i’s most sacred wahi pana, deserves the highest level of respect and protection. While most present-day users of Mauna Kea can agree with this ultimate goal, the diverse and divergent user groups have difficulty setting their interests aside in favor of what is best for the natural and cultural resources that make Mauna Kea so special to our state and the world. Lest we “love the Mauna to death,” this DLNR policy and the “adaptive management process” are intended to protect the Mauna’s resources and should be used to formulate and be incorporated in the rules governing all user groups (not just public and commercial users).

2. 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 PAP contains extensive discussion on how the DLNR policy and adaptive management process would be used (see pp. 2-15, 2-16, 5-1, 5-3, 5-4, 6-6, and 6-7). I am not suggesting that the draft administrative rules detail these methodologies but rather that the DLNR’s Policy for Commercial Activities on State Owned and Managed Lands and Waters and the adaptive management methodology be specifically referenced in at least §20-26-61 General provisions and §20-26-66 Commercial tour activity permits of the draft rules.
3. 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)

Native Hawaiians are a special group with rights that are unique from those of the general public under State law. I suggest that a special section be added to the draft rules that would outline a more culturally appropriate permit system for Native Hawaiian traditional and customary activities. This can be done without racially discriminating by making it clear that it is the activity and not a racially defined group being accommodated. It should be obvious that a person does not have to be racially Native Hawaiian to be culturally Native Hawaiian. Special accommodation is already utilized in the current draft rules in the form of an informal procedures option, as opposed to formal procedures, in the appeals process (§20-26-75).

4. 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).

All regulatory actions affecting historic Hawaiian trails located within the UH Management Areas of Mauna Kea should occur “in consultation with” DLNR’s DOFAW. The draft rules should explicitly require consultation with DLNR-DOFAW and Historic Preservation Division when historic trails are to be affected, just as several draft rules require prior consultation with the university. This is in keeping with the purposes of the draft rules, which are intended to “foster co-management with the department of land and natural resources in UH management areas.” Related to this, the Nā Ala Hele Administrative Rules (Title 13, Subtitle 5, Chapter 130) should be included in §20-26-3(c) and §20-26-4 of the draft rules.

Additional recommendations and concerns re: the draft rules include:

- Bicycles should be included in the modes of transport listed in the definition of “Commercial tours.”
- The only way to ensure that “all” persons accessing the UH management areas will receive an orientation as required in §20-26-5, is to install an entrance gate on John A. Burns Way, staff it with sufficient enforcement personnel, and provide orientation in numerous languages. How will this be funded? There needs to be a provision whereby island residents who frequent the area and have previously obtained the orientation can verify this and be waived through.
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Me ka pono,

[Signature]

Copied:
Stephanie Nagata, OMKM Director
David Smith, DOFAW Administrator
Steven Bergfeld, DOFAW Branch Manager, Island of Hawai‘i
Michael Millay, Nā Ala Hele Program Manager
Christopher Yuen, BLNR Member
Name
Kaiki Gunderson-Cook

Address
PO BOX 343
Kamuela HI 96743 US

Phone
8089366446

Email
Risingtide80@hotmail.com

Hawai'i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose
Name
macy napoleon

Hawai'i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
hawaiians have a right to access our mauna! it is our cultural right and UH should not have the right to infringe upon it!!!
Name
anela puahala

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
aole! so hewa that UH thinks they can make rules to keep hawaiians from having access to Mauna Kea! i oppose!!!
My name is Nedi McKnight. I live in Paʻauilo ma kai. I support science, education and astronomy. I wholeheartedly OPPOSE the proposed rules Chapter 20-26, Hawaiʻi Administrative Rules, entitled “Public and Commercial Activities on Mauna Kea Lands.”

I am not of Hawaiian descent, but do not have to be to understand the concept of mountain top conservation. These proposed rules are not meant for preservation or ecological protection purposes. These proposed rules do not prevent deterioration of archaelogical, historical or cultural sites. We all know what these proposed rules are intended to do: Restrict the Kanaka Maoli and indigenous people of these islands‘ ability to protect their most sacred mountain, temple and ancestor, Mauna a Wakea.

If you proceed with marring the remaining mountain summits with enormous telescopes, and continue to systematically oppress and marginalize the original people of these islands; you will be surrounded by worthless dollars and shame.

Future generations will not perceive your legacy to be discovery and higher learning, rather, you will be remembered as vanguards in the cultural and ecological destruction of Hawaiʻi. Please, I urge you, think in terms of centuries rather than in a few short years.
Name

sergio mamone

Hawaiʻi Administrative Rules

Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment

Oppose

Comment

NO! Hawaiian for life means we born Hawaiian we die Hawaiian and Hawaiian we will be without having our rights to our Mauna taken away by rules that UH make!
Name
kalei mamone

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
UH rules for Hawaiians to have access to Mauna Kea should not be made! No permits should be for them who have been desecrating our sacred Mauna!!! oppose!
Name
Kelli Veras

Hawai‘i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
This is ridiculous
Public Testimony Web Submission | Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands | Oppose

1 message

webhead@hawaii.edu <webhead@hawaii.edu>  
Reply-To: Shaelyn Sagucio <Shaelynsagucio@yahoo.com>  
To: uhhar@hawaii.edu

Name
Shaelyn Sagucio

Address
61 Alaloa Road  
Hilo Hawaii 96720 US

Email
Shaelynsagucio@yahoo.com

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment

Oppose
Name
J.J. Sweet

Address
16-566 keaau-pahoa road 188-166
keaau hi 96749

Email
joshuajaysweet@gmail.com

Hawai‘i Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
i don't think that it is right that any group or organization be able to restrict who can or can not go up mauna kea.
My name is Jeff McKnight. I am Secretary of the DPH Environmental Caucus but I write these comments as an individual. There are already 12 telescopes that already the mountain. TMT would destroy an additional eight acres of land, and intensify human waste and toxins entering the sensitive ecosystem. The mountain is home to endangered Hawaiian flora and fauna. On Mauna Kea, once untrammeled by humans, thousands of astronomers per year now drive to its summit. They leave behind huge amounts of human waste annually and introduce toxic chemicals into the fragile environment. Mauna Kea is a sacred mountain to native Hawaiians and is vital for pure water on the Big Island. TMT On sacred Mauna Kea, TMT represents, theft, oppression, and renewed occupation of native Hawaiian land and represents continuation of the age of eocidoe.

We are Mauna Kea and must take all measures protect and restore her natural ecosystems. I am strongly opposed to construction of the Thirty Meter Telescope.
Name
Carly Hicks

Organization
NA

Address
1821 Manaiki PL
Honolulu HI 96819 USA

Phone
8083668048

Email
hellocarly@gmail.com

Hawaiʻi Administrative Rules
Chapter 20-26 Public and Commercial Activities on Mauna Kea Lands

Support/Oppose/Comment
Oppose

Comment
It is the right of all residents of Hawaii to have free access to public lands. Giving UH Manoa the ability to restrict or monitor our access to the land is an abuse of power. The land belongs to the people.
Ana Lucia Vargas <alvo22@hotmail.com>
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

Ref: Hawaii Administrative Rules, Chapters 20-26
Public and Commercial Activities on Mauna Kea Lands: 20-26-24 Preservation of Scientific and Educational Resources (1), (2) and (3).
I am opposed to these rules, please reconsider,
Sincerely:
Ana Lucia Vargas
alvo22@hotmail.com

Sent from my iPhone
WRITTEN (FORM) TESTIMONY RECEIVED BEFORE OR AFTER PUBLIC HEARINGS (until 11:59 p.m. September 28, 2018)
As of 11:59 p.m. September 28, 2018

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Organization (if any)</th>
<th>Support/Oppose/Comment</th>
<th>Time Received</th>
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<td>Kaulani Lambert</td>
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<td>Michael Gomes</td>
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<td>Earl Stone</td>
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<td>Gina Alias</td>
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<td>Charleen Beard</td>
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<td>Barbara Bettis</td>
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<td>Kalamaokaaina Niheu</td>
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<td>Frederick A VanDine MD PhD</td>
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<td>Kupono Ana</td>
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<td>Purdyka Wahilani</td>
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<td>63</td>
<td>Corine Chang</td>
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<td>Kaylene Sheldon</td>
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<td>Jennifer Mitchell</td>
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<td>Lydia Mitchell</td>
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<td>Rhonda Vincent</td>
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<td>Michael Hutchinson</td>
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<td>Malia Marquez</td>
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<td>Shirley Lum</td>
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<td>Kauaohukalani Wahilani</td>
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<td>Tiare Hoopai</td>
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<td>79</td>
<td>MaryAnn Omerod</td>
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</tbody>
</table>
## Public Hearing for Hawai‘i Administrative Rules
**Title 20, Chapter 26**
“Public and Commercial Activities on Mauna Kea Lands”
List of Submitted Form Testimony

As of 11:59 p.m. September 28, 2018

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
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<td>Germaine Meyers</td>
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<td>83</td>
<td>Britney Onaga</td>
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**Thursday, September 20, 2018**

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<td>Wilfred Thuringer</td>
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<td>Theresa Keohunani Taber</td>
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<td>Noelani DeVincent</td>
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<td>Vincent Davis</td>
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<tr>
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<td><a href="mailto:kipikoa1@hotmail.com">kipikoa1@hotmail.com</a></td>
<td></td>
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<tr>
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<td>Inez Larson</td>
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<td>Tatiana Young</td>
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<tr>
<td>244</td>
<td>Javier Mendez</td>
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<td>246</td>
<td>Josephine Kelipio</td>
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<td>12:22pm</td>
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<tr>
<td>248</td>
<td>Megan Archibald</td>
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<td>Oppose</td>
<td>1:45pm</td>
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<tr>
<td>255</td>
<td>Susan Wilson</td>
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<tr>
<td></td>
<td><strong>Thursday, September 27, 2018</strong></td>
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<tr>
<td>257</td>
<td>Colleen J</td>
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<td>3:20am</td>
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<tr>
<td>260</td>
<td>Timmy Leong</td>
<td></td>
<td>Oppose</td>
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</tr>
<tr>
<td>263</td>
<td>Gene Tamashiro</td>
<td></td>
<td>Oppose</td>
<td>12:35pm</td>
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<td>264</td>
<td>Travis W</td>
<td></td>
<td>Oppose</td>
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<td>267</td>
<td>Sierra Knight</td>
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<tr>
<td>268</td>
<td>Al Kuahi Wong</td>
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<td>Michelle Cerecerez</td>
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<td>Janet Mac Neal</td>
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<td>271</td>
<td>George Mac Neal</td>
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<td>Rebecca McGuire</td>
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<td>274</td>
<td>Jodi Mercier</td>
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<td>276</td>
<td>Ina Kerciku</td>
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<td>277</td>
<td>Hanalei Pi‘imanu Vierra</td>
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<td>278</td>
<td>Nazanin Sadati</td>
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<td>3:46am</td>
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<tr>
<td>279</td>
<td>Anuenue Kanahele</td>
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<td>4:27am</td>
</tr>
<tr>
<td>280</td>
<td>Anna Ellis</td>
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<td>Oppose</td>
<td>5:22am</td>
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<tr>
<td>281</td>
<td>Nalani Kanahele</td>
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<td>282</td>
<td>Manaal Ali</td>
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<tr>
<td>284</td>
<td>Claudia C K Quintanilla</td>
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<tr>
<td>286</td>
<td>Vehia Wheeler</td>
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<td>289</td>
<td>Lisa Grandinetti</td>
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<td>Miwa Tamanaha</td>
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<td>Shaeralee-Tiare Manosa</td>
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<td>Mel Wildman</td>
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<td>2:53pm</td>
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<td>Marielle Leeds</td>
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<td>Dennese Cribb</td>
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<td>Paul Wela</td>
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<td>338</td>
<td>Pi‘ikea Stevens</td>
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<td>6:43pm</td>
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<td>Hazen Komraus</td>
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<td>343</td>
<td>Deirdre Kent</td>
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<td>Kenneth Boyer</td>
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<td>Kanenehiwaimaikalani Watson</td>
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<td>348</td>
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<td>371</td>
<td>Hannah Ashley</td>
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<td>374</td>
<td>Terence Moniz</td>
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<tr>
<td>389</td>
<td>Kahealani Mulec</td>
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<td>Oppose</td>
<td>9:58pm</td>
</tr>
</tbody>
</table>

Copy of Form Testimony
Prepared by The Ka Lāhui Hawaiʻi Political Action Committee
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is  
M. Healani Sonoda-Pale
I am  
Kanaka Maoli aka Native Hawaiian
My email is  
healanipale@gmail.com
I reside at  
Kuliouou, Oahu

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai‘i and the other International governments have been resolved.

Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka "Ceded Lands", its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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 been an absence and lack of meaningful consultation with the Kanaka Maoli community and the Office of Hawaiian Affairs (OHA) whose concerns and issues were and continue to be ignored (Consultation with OHA is a requirement per Act 132) in the drafting of these proposed Administrative Rules.

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 (Hawaii State Constitution Article XI, Sections 1 & 9 and Article XII, Sections 4 & 7). For example, the proposed Administrative Rules would allow an individual to grant permits that would not be subject to the public meeting requirements (under the state sunshine law) and to make decisions concerning access fees, parking, research activities, public assemblies, commercial activities, and closures, etc. without having to be accountable to the public and consult with the Kanaka Maoli people.

Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.
My name is M. Healani Sonoda-Pale
I am Kanaka Maoli aka Native Hawaiian
My email is healanipale@gmail.com
I reside at Kuliouou, Oahu

<table>
<thead>
<tr>
<th><strong>I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai’i and the other International governments have been resolved.,</td>
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<tr>
<td>Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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.,</td>
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</tr>
<tr>
<td>I reserve my right to comment at a later more appropriate date.</td>
</tr>
</tbody>
</table>
My name is Kaiulani Lambert
I am Kanaka Maoli aka Native Hawaiian
My email is kaiulambert@yahoo.com
I reside at Kaneohe, Oahu
I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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.

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My name is Kaiulani Lambert
I am Kanaka Maoli aka Native Hawaiian
My email is kaiulambert@yahoo.com
I reside at Kaneohe, Oahu

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

My name is Michael Gomes
I am Kanaka Maoli aka Native Hawaiian
My email is mikeegomes@mail.com
I reside at Hoolehua, Molokai

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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I reserve my right to comment at a later more appropriate date.
My name is Michael Gomes

I am Kanaka Maoli aka Native Hawaiian

My email is mikeegomes@mail.com

I reside at Hoolehua, Molokai

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I reserve my right to comment at a later more appropriate date.
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>  
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is r. lincoln  
I am Kanaka Maoli aka Native Hawaiian  
My email is tarobrand@yahoo.com  
I reside at kaimalino kona hawaii  
I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.,

Additional Comments: from the time of my kupuna till now we the kanaka showed you aloha. you return aloha with lies and greed. america and the illegal state of hawaii you dont belong here. shame on you.
| **My name is** | r. lincoln |
| **I am** | Kanaka Maoli aka Native Hawaiian |
| **My email is** | tarobrand@yahoo.com |
| **I reside at** | kaimalino kona hawaii |

**I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:**

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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 (Hawaii State Constitution Article XI, Sections 1 & 9 and Article XII, Sections 4 & 7). For example, the proposed Administrative Rules would allow an individual to grant permits that would not be subject to the public meeting requirements (under the state sunshine law) and to make decisions concerning access fees, parking, research activities, public assemblies, commercial activities, and closures, etc. without having to be accountable to the public and consult with the Kanaka Maoli people.

Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

**Additional Comments:** from the time of my kupuna till now we the kanaka showed you aloha. you return aloha with lies and greed. america and the illegal state of hawaii you dont belong here. shame on you.
My name is Shane Pale
I am Kanaka Maoli aka Native Hawaiian
My email is shane.pale@gmail.com
I reside at Honolulu Hawaii
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai‘i and the other International governments have been resolved.

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I reserve my right to comment at a later more appropriate date.
| **My name is** | Shane Pale |
| **I am** | Kanaka Maoli aka Native Hawaiian |
| **My email is** | shane.pale@gmail.com |
| **I reside at** | Honolulu Hawaii |

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Earl Stone
I am Kanaka Maoli aka Native Hawaiian
My email is stone1919.es@gmail.com
I reside at Oahu

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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My email is stone1919.es@gmail.com

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I reserve my right to comment at a later more appropriate date.
My name is Kahaka Patolo  
I am Kanaka Maoli aka Native Hawaiian  
My email is kahakapatolo07@gmail.com  
I reside at Honolulu  

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<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Kahaka Patolo</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I am</strong></td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:kahakapatolo07@gmail.com">kahakapatolo07@gmail.com</a></td>
</tr>
<tr>
<td><strong>I reside at</strong></td>
<td>Honolulu</td>
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</table>
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

Wed, Sep 19, 2018 at 1:56 PM

My name is Daniel (Aka) Kani Roldan
I am other: Mix puerto Rican & Hawaiian from grandfather
My email is danminime61@gmail.com
I reside at Orlando, Florida

I object to the University of Hawaii (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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Additional Comments:

All i think about is my grandfather living and leaving Hawaii after Pearl Harbor was Attacked. He left with his heart crying but left cause he seem his friends killed. He would tell my sister and I stories of the old ways. I was station in Hawaii and felt the Aloha and my Ancestors within me. I tend to move back in October of next year but it hurts me to see n hear all what is going on and feeling we are losing our rights as Hawaiian people, though im only mix. It hurts to see locals move away from the islands because of high cost and injustice of tradition and Rights of local people. I know my grandfather that loved Hawaii would cry if he was still alive to see what is going on and happening to its people, Island, and Tradition. Maybe i dont make sence or i have no say sence im not 100% Hawaiian or live on islands but my heart is always called n is there. I want to believe my grandparents stories of our Ancestors and all they have been through was not in fo nothing. I am Mauna kea, Mahalo. Malama pono.

OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf
31K
<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Daniel (Aka) Kani Roldan</th>
</tr>
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<tr>
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<td>other: Mix puerto Rican &amp; Hawaiian from grandfather</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:danminime61@gmail.com">danminime61@gmail.com</a></td>
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My name is Gina Alias  
I am Kanaka Maoli aka Native Hawaiian  
My email is galias39@yahoo.com  
I reside at Bremen Georgia  

I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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Additional Comments: I am a Native Hawaiian decedent
My name is Gina Alias

I am Kanaka Maoli aka Native Hawaiian

My email is galias39@yahoo.com

I reside at Bremen Georgia

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Additional Comments: I am a Native Hawaiian decedent
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>  
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>  
Wed, Sep 19, 2018 at 2:16 PM

My name is Charleen Beard  
I am Kanaka Maoli aka Native Hawaiian  
My email is dakazzer@hotmail.com  
I reside at southgate mi  
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- I reserve my right to comment at a later more appropriate date.
My name is Charleen Beard

I am Kanaka Maoli aka Native Hawaiian

My email is dakazzer@hotmail.com

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I reserve my right to comment at a later more appropriate date.
My name is Barbara Bettis.
I am Kanaka Maoli aka Native Hawaiian.
I reside at 545 Queen St. #617, Honolulu, Oahu.

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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<td>I am</td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td>I reside at</td>
<td>545 Queen St. #617, Honolulu, Oahu</td>
</tr>
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Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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.

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> Wed, Sep 19, 2018 at 3:30 PM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Kalamaokaaina Niheu
I am Kanaka Maoli aka Native Hawaiian
My email is niheuk@gmail.com
I reside at Oahu

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I reserve my right to comment at a later more appropriate date.

Additional Comments: Ku kia‘i mauna!

OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf
32K
<table>
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<th>My name is</th>
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Additional Comments: Ku kia‘i mauna!
My name is Frederick A VanDine MD PhD
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is drfred@cox.net
I reside at Las Vegas, Nevada

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Pono Kealoha
I am Kanaka Maoli aka Native Hawaiian
I reside at Pearl City, Oahu

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My name is Kupono Ana
I am other: Hawaiian National of the Kingdom of Hawaiʻi
My email is alohaaina9@yahoo.com
I reside at Kaʻaʻawa, Oʻahu

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My name is Purdyka Wahilani
I am Kanaka Maoli aka Native Hawaiian
I reside at Oahu
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<table>
<thead>
<tr>
<th>My name is</th>
<th>Corine Chang</th>
</tr>
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I reserve my right to comment at a later more appropriate date.
My name is Corine Chang
I am Kanaka Maoli aka Native Hawaiian
My email is ipoc.m.chang@hotmail.com
I reside at Mountain View, Hawaii

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**Additional Comments:**

When will people realize, HAWAII is our home and they need to stop messing with our Aina. PELE ALREADY PROVED HER POWER
My name is KOA ISHIKAWA
I am Kanaka Maoli aka Native Hawaiian
My email is kanakafireregion4@gmail.com
I reside at HONOLULU

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.

Additional Comments: When will people realize, HAWAII is our home and they need to stop messing with our Aina. PELE ALREADY PROVED HER POWER
My name is Jennifer Noelani Ahia
I am Kanaka Maoli aka Native Hawaiian
My email is jennahia@yahoo.com
I reside at Waiehu, Maui
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University of Hawaii Mail - OBJECTION TO THE UH PROCESS TO...
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<tr>
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<th>Jennifer Noelani Ahia</th>
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>
To: “uhhar@hawaii.edu” <uhhar@hawaii.edu>

Wed, Sep 19, 2018 at 6:24 PM

My name is Kaylene Sheldon
I am Kanaka Maoli aka Native Hawaiian
My email is kauwilamahina@gmail.com
I reside at Ka’a’awa, Oahu

I object to the University of Hawai’i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

- 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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai’i and the other International governments have been resolved.
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Additional Comments:
In addition the earth quake activities on Mauna Kea could get worst in the near future and by building more structures disrupts the sacredness of the wao Akua, you never should build on the wao Akua, it should be against the law!

OBJECTION TO UH PROCESS FOR ADMIN RULES FOR Mauna Kea.pdf
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<table>
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<tr>
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I am Kanaka Maoli aka Native Hawaiian
I reside at Kailua Kona, Hawaii
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My name is Jennifer Mitchell
I am Kanaka Maoli aka Native Hawaiian
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

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I am Kanaka Maoli aka Native Hawaiian
I reside at Kealakekua, Hawaii

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Additional Comments: Hawaiian Kingdom lands- ‘Aʻole UH control
My name is Lydia Mitchell

I am Kanaka Maoli aka Native Hawaiian

I reside at Kealakekua, Hawaii

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I am Kanaka Maoli aka Native Hawaiian
My email is rhondagvincent@yahoo.com
I reside at Kapolei, Oahu

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My name is Michael Hutchinson
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Kapolei, Oahu
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My name is Stanford Regidor
I am Kanaka Maoli aka Native Hawaiian
I reside at Hilo, Hi
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Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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 been an absence and lack of meaningful consultation with the Kanaka Maoli community and the Office of Hawaiian Affairs (OHA) whose concerns and issues were and continue to be ignored (Consultation with OHA is a requirement per Act 132) in the drafting of these proposed Administrative Rules.

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 (Hawaii State Constitution Article XI, Sections 1 & 9 and Article XII, Sections 4 & 7). For example, the proposed Administrative Rules would allow an individual to grant permits that would not be subject to the public meeting requirements (under the state sunshine law) and to make decisions concerning access fees, parking, research activities, public assemblies, commercial activities, and closures, etc. without having to be accountable to the public and consult with the Kanaka Maoli people.

Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.
My name is Stanford Regidor
I am Kanaka Maoli aka Native Hawaiian
I reside at Hilo, Hi

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.
My name is Cathy Costa
I am Kanaka Maoli aka Native Hawaiian
My email is ccosta001@hawaii.rr.com
I reside at Kurtistown
I object to the University of Hawaii (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

There is a lawsuit currently pending before the State’s Supreme Court, involving the many issues and legal questions regarding the University of Hawaii’s JURISDICTION to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawaii and the other International governments have been resolved.
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I reserve my right to comment at a later more appropriate date.
My name is Cathy Costa

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My email is ccosta001@hawaii.rr.com

I reside at Kurtistown

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I reserve my right to comment at a later more appropriate date.
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>  
To: “uhhar@hawaii.edu” <uhhar@hawaii.edu>  

My name is Malia Marquez  
I am Kanaka Maoli aka Native Hawaiian  
My email is maliamarquez71@gmail.com  
I reside at Maunalua, O‘ahu  
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf  
31K
<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Malia Marquez</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I am</strong></td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:maliamarquez71@gmail.com">maliamarquez71@gmail.com</a></td>
</tr>
<tr>
<td><strong>I reside at</strong></td>
<td>Maunalua, O'ahu</td>
</tr>
</tbody>
</table>

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>
To: “uhhar@hawaii.edu” <uhhar@hawaii.edu>

Wed, Sep 19, 2018 at 8:40 PM

My name is Shirley Lum
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is ka_nax2@yahoo.com
I reside at Hawai’i Kai, O’ahu

I object to the University of Hawai’i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai’i and the other International governments have been resolved.

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf
31K
<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Shirley Lum</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I am</strong></td>
<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:ka_nax2@yahoo.com">ka_nax2@yahoo.com</a></td>
</tr>
<tr>
<td><strong>I reside at</strong></td>
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</tr>
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

Subject: OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

From: Tiana-Malia Kawaihoa-Marquez

My name is Tiana-Malia Kawaihoa-Marquez
I am Kanaka Maoli aka Native Hawaiian
My email is kawaihoa@hawaii.edu
I reside at Maunalua, O'ahu

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OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf
31K
My name is Tiana-Malia Kawaihoa-Marquez
I am Kanaka Maoli aka Native Hawaiian
My email is kawaihoa@hawaii.edu
I reside at Maunalua, O'ahu

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.
My name is Richelle Tseu
I am Kanaka Maoli aka Native Hawaiian
I reside at Honolulu, O`ahu

I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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I reserve my right to comment at a later more appropriate date.
My name is Richelle Tseu
I am Kanaka Maoli aka Native Hawaiian
I reside at Honolulu, O`ahu

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I reserve my right to comment at a later more appropriate date.
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Kaukahuokalani Wahilani
I am Kanaka Maoli aka Native Hawaiian
I reside at Puea, Waianae Valley

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Kaukaohuokalani Wahilani</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I am</strong></td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
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<td>Puea, Wai‘anae Valley</td>
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> To: “uhhar@hawaii.edu” <uhhar@hawaii.edu>

Wed, Sep 19, 2018 at 9:38 PM

My name is Tiare Hoopai
I am Kanaka Maoli aka Native Hawaiian
My email is keolakaohu@gmail.com
I reside at Hilo, hawai‘i

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai‘i and the other International governments have been resolved.
Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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.

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

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My name is MaryAnn Omerod
I am Kanaka Maoli aka Native Hawaiian
My email is naniomerod1@gmail.com
I reside at Honolulu, HI

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I reserve my right to comment at a later more appropriate date.
My name is John Omerod
I am Kanaka Maoli aka Native Hawaiian
My email is omerod@me.com
I reside at Honolulu, HI
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Germaine Meyers
I am Kanaka Maoli aka Native Hawaiian
My email is 808hikino@gmail.com
I reside at Waianae, Oahu
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai‘i and the other International governments have been resolved.

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I reserve my right to comment at a later more appropriate date.
My name is Shaeralee-Tiare Manosa
I am Kanaka Maoli aka Native Hawaiian
My email is smanosa@gmail.com
I reside at Mana‘e, Molokai
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Brittney Onaga
I am Kanaka Maoli aka Native Hawaiian
My email is buhirtknee@hotmail.com
I reside at Honolulu, Hawai‘i

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.
My name is Alapake Heanu
I am Kanaka Maoli aka Native Hawaiian
I reside at Waʻehu Maui
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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I reserve my right to comment at a later more appropriate date.

Additional Comments:

Public law 103-150 Whereas the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people over their lands to the United states, either through their monarchy or through a plebiscite or referendum.
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I reside at Waiʻehu Maui

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Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. The Kanaka Maoli people never relinquished rights to and sovereignty over these lands as such the University of Hawaiʻi 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.

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I reserve my right to comment at a later more appropriate date.

Additional Comments:
Public law 103-150 Whereas the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people over their lands to the United states, either through their monarchy or through a plebiscite or referendum.
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Jolene Carreira
I am Kanaka Maoli aka Native Hawaiian
My email is juc3@hawaii.edu
I reside at Hauula, Oahu

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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<td><strong>I am</strong></td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:juc3@hawaii.edu">juc3@hawaii.edu</a></td>
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Wilfred Thuringer
I am Kanaka Maoli aka Native Hawaiian
I reside at Omaha, ne

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> Thu, Sep 20, 2018 at 6:24 AM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Shalee Kekawa
I am Kanaka Maoli aka Native Hawaiian
My email is SKekawa@live.com
I reside at San Diego, CA

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My email is SKekawa@live.com
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I am Kanaka Maoli aka Native Hawaiian
I reside at Kona, Hawai‘i

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My name is Leilani Basham
I am Kanaka Maoli aka Native Hawaiian
My email is leibasham@gmail.com
I reside at Wahiawā, Oʻahu

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My name is Vanya Kulamanu Fagasa
I am Kanaka Maoli aka Native Hawaiian
My email is kulamanu@hotmail.com
I reside at Koloa, Kauai

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I reserve my right to comment at a later more appropriate date.
My name is Patrick Nakahara
I am Kanaka Maoli aka Native Hawaiian
My email is naoichinakahara@gmail.com
I reside at Makiki, Hawai'i, O'ahu

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.
My name is Patrick Nakahara
I am Kanaka Maoli aka Native Hawaiian
My email is naoichinakahara@gmail.com
I reside at Makiki, Hawai'i, O'ahu

I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state's BLNR, University of Hawai'i and the other International governments have been resolved.

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My name is S Lo. I am non-Kanaka Maoli aka non-Native Hawaiian. I reside at Los Angeles, CA.

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<table>
<thead>
<tr>
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<th>S Lo</th>
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<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
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My name is THERESA KEOHUNANI TABER
I am Kanaka Maoli aka Native Hawaiian
My email is SOLIDLAVA@HOTMAIL.COM
I reside at KEA'AU, MOKU O KEAWE

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I reserve my right to comment at a later more appropriate date.

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My name is THERESA KEOHUNANI TABER

I am Kanaka Maoli aka Native Hawaiian

My email is SOLIDLAVA@HOTMAIL.COM

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I reserve my right to comment at a later more appropriate date.
My name is Tom StGermain

I am Kanaka Maoli aka Native Hawaiian

My email is kawikaof808ea@gmail.com

I reside at Honolulu, O‘ahu

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Additional Comments:

As a university which is located within the Hawaiian Islands and takes on the name of HAWAI‘I as part of its title, I honestly feel that the University of Hawai‘i should be more culturally sympathetic, sensitive, and aware of the indigenous native people's of the Hawaiian Islands also known as the KANAKA MAOLI; rights and concerns towards any and all land, water, and cultural issues related to the Hawaiian Islands. As this would be only appropriate and adequate for the school to do both legally and justifiably by properly acknowledging, recognizing, and honoring the KANAKA MAOLI people's in all processes and issues the school may or may not take on and be involved with. In my opinion the school has a duty to always include the KANAKA MAOLI people's in any and all activities it pursues or has interest in within the Hawaiian Islands chain.
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is delia montgomery
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is chiceco@gmail.com
I reside at Pahoa, Big Island, Hawaii

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai‘i and the other International governments have been resolved.

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> Thu, Sep 20, 2018 at 9:57 AM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Noelani DeVincent
I am Kanaka Maoli aka Native Hawaiian
My email is noelani.devincent@gmail.com
I reside at Wahiawa, Hawaii

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OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf
31K
My name is Noelani DeVincent

I am Kanaka Maoli aka Native Hawaiian

My email is noelani.devincent@gmail.com

I reside at Wahiawa, Hawaii

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My name is Tammy Anderson
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is tamsocean@gmail.com
I reside at Honokaa Hawaii

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Tammy Anderson</th>
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<tbody>
<tr>
<td><strong>I am</strong></td>
<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:tamsocean@gmail.com">tamsocean@gmail.com</a></td>
</tr>
<tr>
<td><strong>I reside at</strong></td>
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**OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES**

1 message

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<tr>
<th>My name is</th>
<th>Tina Calderon</th>
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</thead>
<tbody>
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<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
<td>My email is</td>
<td><a href="mailto:cheer1sfv@gmail.com">cheer1sfv@gmail.com</a></td>
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**Additional Comments:**

Respect the land, water, air and native people's rights. Listen to those that are connected to our Sacred Earth Mother. Do what is right and just!
<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Tina Calderon</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I am</strong></td>
<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:cheer1sfv@gmail.com">cheer1sfv@gmail.com</a></td>
</tr>
<tr>
<td><strong>I reside at</strong></td>
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**Additional Comments:**

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I am other: Acjachemen band of mission Indians
I reside at Huntington beach, CA

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My name is Tahesha Knapp-Christensen
I am Other: Umonhon Nation of Nebraska
My email is taheshakc259@gmail.com
I reside at Long Beach, California
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Na Na
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Turtle Island

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OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf

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**OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES**

**1 message**

**123ContactForm <noreply@123formbuilder.io>**

To: “uhhar@hawaii.edu” <uhhar@hawaii.edu>

<table>
<thead>
<tr>
<th>My name is</th>
<th>Vincent Davis</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am</td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td>My email is</td>
<td><a href="mailto:Tamaainareo@yahoo.com">Tamaainareo@yahoo.com</a></td>
</tr>
<tr>
<td>I reside at</td>
<td>Tarrytown, New York</td>
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I am Kanaka Maoli aka Native Hawaiian
My email is Tamaainareo@yahoo.com
I reside at Tarrytown, New York

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<tr>
<th>My name is</th>
<th><a href="mailto:kipikoa1@hotmail.com">kipikoa1@hotmail.com</a> <a href="mailto:kipikoa1@hotmail.com">kipikoa1@hotmail.com</a></th>
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<th>My name is</th>
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1 message

123ContactForm <noreply@123formbuilder.io> Thu, Sep 20, 2018 at 3:47 PM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Inez Larson
I am other: Mixed
I reside at Honolulu, O'ahu

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I reserve my right to comment at a later more appropriate date.

Additional Comments: A'ole. This mountain is sacred and we will die on the mountain before you build that telescope. A'ole TMT. The rules should be pono for everyone, just like the pono manner that university of Hawaii is run. It should be matching. I am a student of university of Hawaii and i am proud of my college. I know the University of Hawai'i can do this right!

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I reserve my right to comment at a later more appropriate date.

Additional Comments: A’ole. This mountain is sacred and we will die on the mountain before you build that telescope. A’ole TMT. The rules should be pono for everyone, just like the pono manner that university of Hawai‘i is run. It should be matching. I am a student of university of Hawaii and i am proud of my college. I know the University of Hawai‘i can do this right!
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> Thu, Sep 20, 2018 at 4:20 PM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Katherine Piho
I am Kanaka Maoli aka Native Hawaiian
My email is kelisanoe@yahoo.com
I reside at Oahu, Hawaii

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> Thu, Sep 20, 2018 at 4:30 PM

To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Tatiana Young
I am Kanaka Maoli aka Native Hawaiian
I reside at Waianae, Oahu

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My name is clare loprinzi
I am other: Hawaiian kingdom K
I reside at holualoa hawaii
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1 message

123ContactForm <noreply@123formbuilder.io>
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Nanea Lo
I am Kanaka Maoli aka Native Hawaiian
My email is naneaclo@gmail.com
I reside at honolulu, oahu

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Ranette Robison
I am Kanaka Maoli aka Native Hawaiian
My email is carinthiarobinson@outlook.com
I reside at Hilo, Hawaii
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Additional Comments:

Do what is Pono
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<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Ranette Robinson</th>
</tr>
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**Additional Comments:**

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My name is Carry Kim
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is tsomoyog@gmail.com
I reside at Turtle Island
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Additional Comments:

At a time when cultural heritage is under threat, being eroded, erased and forgotten worldwide, it is a moral imperative to protect and preserve the traditions of sacred ancestral lands and the traditions which emerged from the native peoples who lived upon them. In particular, lands which have been designated conservation lands for their cultural significance should be kept accessible in dialogue with and consultation by genuine cultural practitioners. It is unconscionable to not protect the continuance of these traditions as they provide sanctuary and cultural sustenance for Kanaka Maoli. They must be given the freedom to practice their cultural ways for future generations to thrive with the kapuna.
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Additional Comments:

At a time when cultural heritage is under threat, being eroded, erased and forgotten worldwide, it is a moral imperative to protect and preserve the traditions of sacred ancestral lands and the traditions which emerged from the native peoples who lived upon them. In particular, lands which have been designated conservation lands for their cultural significance should be kept accessible in dialogue with and consultation by genuine cultural practitioners. it is unconscionable to not protect the continuance of these traditions as they provide sanctuary and cultural sustenance for Kanaka Maoli. They must be given the freedom to practice their cultural ways for future generations to thrive with the kapuna.
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Dessa Drake
I am other: Filipina
I reside at Paso Robles, CA

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai‘i and the other International governments have been resolved.

Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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 been an absence and lack of meanful consultation with the Kanaka Maoli community and the Office of Hawaiian Affairs (OHA) whose concerns and issues were and continue to be ignored (Consultation with OHA is a requirement per Act 132) in the drafting of these proposed Administrative Rules.

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 (Hawaii State Constitution Article XI, Sections 1 & 9 and Article XII, Sections 4 & 7). For example, the proposed Administrative Rules would allow an individual to grant permits that would not be subject to the public meeting requirements (under the state sunshine law) and to make decisions concerning access fees, parking, research activities, public assemblies, commercial activities, and closures, etc. without having to be accountable to the public and consult with the Kanaka Maoli people.

Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>
Thu, Sep 20, 2018 at 7:02 PM

My name is Ronald Fujiyoshi
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is ronsan2224@aol.com
I reside at Hilo
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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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai'i and the other International governments have been resolved.

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OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf
31K
<table>
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<tr>
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</table>
My name is gertrenda chong
I am Kanaka Maoli aka Native Hawaiian
My email is chongohana@aol.com
I reside at Waimea, HI Island
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai‘i and the other International governments have been resolved.

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<td><a href="mailto:chongohana@aol.com">chongohana@aol.com</a></td>
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My name is Luana Rivera Palacio
I am Kanaka Maoli aka Native Hawaiian
I reside at San Jose, Turtle Island
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My name is Nichelle Garcia
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is nichellita@outlook.com
I reside at San Mateo, CA

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>
Thu, Sep 20, 2018 at 7:41 PM

My name is Amy Perruso
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is amyperruso@gmail.com
I reside at Wahiawa, Oahu
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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I reserve my right to comment at a later more appropriate date.
My name is Amy Perruso
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is amyperruso@gmail.com
I reside at Wahiawa, Oahu

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<tr>
<th><strong>My name is</strong></th>
<th>Vince Resurrection</th>
</tr>
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<tbody>
<tr>
<td><strong>I am</strong></td>
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<tr>
<td><strong>My email is</strong></td>
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I am Kanaka Maoli aka Native Hawaiian

My email is guessineedemail@yahoo.com

I reside at Honolulu, Oahu

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Additional Comments: Listen to the people you serve.
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> Thu, Sep 20, 2018 at 7:51 PM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Slater Pokipala
I am Kanaka Maoli aka Native Hawaiian
My email is ygetemail@yahoo.com
I reside at Honolulu, Oahu

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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.

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31K
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My name is Kekuuokalani Pokipala
I am Kanaka Maoli aka Native Hawaiian
My email is joannap@hawaii.edu
I reside at Honolulu, Oahu

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<th><strong>My name is</strong></th>
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<td><strong>I am</strong></td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:joannap@hawaii.edu">joannap@hawaii.edu</a></td>
</tr>
<tr>
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<td>Honolulu, Oahu</td>
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> Thu, Sep 20, 2018 at 9:05 PM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

<table>
<thead>
<tr>
<th>My name is</th>
<th>Lehua Kaulukukui</th>
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<td>I am</td>
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</tr>
<tr>
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<td><a href="mailto:kananilehua@gmail.com">kananilehua@gmail.com</a></td>
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<tr>
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<td>Waikoloa, HI</td>
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31K
My name is Lehua Kaulukukui
I am Kanaka Maoli aka Native Hawaiian
My email is kananilehua@gmail.com
I reside at Waikoloa, HI

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.
My name is Karen Mahealani Martin
I am Kanaka Maoli aka Native Hawaiian
My email is karenmartin808@gmail.com
I reside at 1649 Bertram St
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:
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I reserve my right to comment at a later more appropriate date.
Additional Comments: UH is an educational system for higher learning and should not be involved in land management! They are setting themselves up for law suits!
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I am Kanaka Maoli aka Native Hawaiian

My email is karenmartin808@gmail.com

I reside at 1649 Bertram St

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1 message

123ContactForm <noreply@123formbuilder.io> Thu, Sep 20, 2018 at 10:05 PM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Teresa Chuc
I am other: Turtle Island/U.S. Citizen and resident
My email is Teresameichuc@gmail.com
I reside at 3343 East Del Mar Blvd., Pasadena, CA 91107
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My name is Michael Wauschek
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is michaelwauschek@yahoo.com
I reside at Cerritos California

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Additional Comments: #Miniwiconi

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1 message

123ContactForm <noreply@123formbuilder.io>  Thu, Sep 20, 2018 at 10:20 PM

To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

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I am Kanaka Maoli aka Native Hawaiian
My email is ggushike@hawaii.edu
I reside at Honolulu, Oʻahu

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I reside at Honolulu, Oʻahu

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.
My name is Kalani Pruet
I am Kanaka Maoli aka Native Hawaiian
My email is kalanipruet@yahoo.com
I reside at Kaunakakai, Molokai

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<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Malin Norén</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I am</strong></td>
<td>other: Swedish</td>
</tr>
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

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OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf

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<table>
<thead>
<tr>
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My name is Marco Perez
I reside at Honolulu, Oahu

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Diliaur Tellei
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is diliaur@gmail.com
I reside at Honolulu, Oahu

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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I reserve my right to comment at a later more appropriate date.
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</tr>
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<td>I am</td>
<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
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<td><a href="mailto:diliaur@gmail.com">diliaur@gmail.com</a></td>
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I reserve my right to comment at a later more appropriate date.
My name is Noe Lopes
I am Kanaka Maoli aka Native Hawaiian
I reside at Waianae, Oahu

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**Additional Comments:**

UH Has no jurisdiction
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

Fri, Sep 21, 2018 at 12:48 AM
202100882

My name is Kawika Lopes
I am Kanaka Maoli aka Native Hawaiian
I reside at Waianae, Oahu

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> Fri, Sep 21, 2018 at 2:31 AM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Jeannette Soon-Ludes
I am Kanaka Maoli aka Native Hawaiian
My email is jeannettesoon@gmail.com
I reside at Hyattsville, MD, born and raised Koolaupoko, Oahu

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I reserve my right to comment at a later more appropriate date.

Additional Comments: I support the Kanaka Maoli and local residents on Hawaii Island in their opposition of further development atop our sacred Mauna. I support Kanaka Maoli self-determination in all facets of life, including determining the appropriate relationship between people and aina.
<table>
<thead>
<tr>
<th>My name is</th>
<th>Jeannette Soon-Ludes</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am</td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td>My email is</td>
<td><a href="mailto:jeannettesoon@gmail.com">jeannettesoon@gmail.com</a></td>
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<tr>
<td>I reside at</td>
<td>Hyattsville, MD, born and raised Koolaupoko, Oahu</td>
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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.,

I reserve my right to comment at a later more appropriate date.

**Additional Comments:**

I support the Kanaka Maoli and local residents on Hawaii Island in their opposition of further development atop our sacred Mauna. I support Kanaka Maoli self-determination in all facets of life, including determining the appropriate relationship between people and aina.
My name is
Raul Goodness
I am
Kanaka Maoli aka Native Hawaiian
I reside at
Wailuku, Maui
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Dorinda Burnet
I am Kanaka Maoli aka Native Hawaiian
My email is dpkburnet@yahoo.com
I reside at Las Vegas, NV

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31K
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I reserve my right to comment at a later more appropriate date.
My name is Caroline HOLLAND
I am other: Indigenous
My email is clhollandn3@gmail.com
I reside at Turtle Island

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Additional Comments: This is a personal decision to protect or defend first nation people, property and traditional structure.

OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES
1 message

123ContactForm <noreply@123formbuilder.io>
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

Fri, Sep 21, 2018 at 12:15 PM

My name is Caroline HOLLAND
I am other: Indigenous
My email is clhollandn3@gmail.com
I reside at Turtle Island
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<td>other: Indigenous</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:clhollandn3@gmail.com">clhollandn3@gmail.com</a></td>
</tr>
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1 message

123ContactForm <noreply@123formbuilder.io>
To: “uhhar@hawaii.edu” <uhhar@hawaii.edu>
Fri, Sep 21, 2018 at 12:45 PM

My name is Jonathan Kuahiwi Moniz
I am Kanaka Maoli aka Native Hawaiian
My email is j.kuahiwi.m@gmail.com
I reside at Wai‘anae O‘ahu
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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Additional Comments: Enough is enough, Turn Mauna Kea back over to the Hawaiian People.
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I reside at Tucson

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1 message

123ContactForm <noreply@123formbuilder.io> Fri, Sep 21, 2018 at 1:22 PM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Luhui Isha Ward
I reside at Humaliwu, Turtle Island (aka: Malibu Ca)

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My name is Luhui Isha Ward

I reside at Humaliwu, Turtle Island (aka: Malibu Ca)

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1 message

123ContactForm <noreply@123formbuilder.io> Fri, Sep 21, 2018 at 2:05 PM
To: “uhhar@hawaii.edu” <uhhar@hawaii.edu>

My name is Al Brown
I am other: Kama’ Aina
My email is alwaianae@aol.co
I reside at Hilo, Hawaii

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I reserve my right to comment at a later more appropriate date.
My name is Clifford Charlton
I reside at Ponchatoula, La U.S.

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My name is Nanea Lopes
I am Kanaka Maoli aka Native Hawaiian
I reside at Waianae, Oahu

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

| My name is | Laulani Teale |
| I am | Kanaka Maoli aka Native Hawaiian |
| My email is | laulani@gmail.com |
| I reside at | Kahaluʻu, Oʻahu |

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Additional Comments: This is absolutely disgraceful. It is a disrespectful interference with the relationship between Kanaka and ʻĀina in one of our most sacred places, and proves that the University of Hawaii is not fit to manage this place.
**My name is**  
Laulani Teale

**I am**  
Kanaka Maoli aka Native Hawaiian

**My email is**  
laulani@gmail.com

**I reside at**  
Kahalu‘u, O‘ahu

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My name is Samantha Tanigawa
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is staningawa99@gmail.com
I reside at Renton, Washington Formerly Honolulu, Oahu.

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</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:stanigawa99@gmail.com">stanigawa99@gmail.com</a></td>
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Ken Burch

I am non-Kanaka Maoli aka non-Native Hawaiian

I reside at Anahola, Kaua‘i

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My name is Isis Dean
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is magenabaron808@gmail.com
I reside at Haiku, Maui

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My name is Ben Manuel
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Honolulu, O'ahu
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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.
**My name is**
Ben Manuel

**I am**
non-Kanaka Maoli aka non-Native Hawaiian

**I reside at**
Honolulu, O'ahu

**I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:**

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai'i and the other International governments have been resolved.

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I reserve my right to comment at a later more appropriate date.
My name is Bronson Kekūpaʻa Silva
I am Kanaka Maoli aka Native Hawaiian
My email is bronsonksilva@gmail.com
I reside at Honolulu, Oʻahu

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I reserve my right to comment at a later more appropriate date.

OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf

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<thead>
<tr>
<th>My name is</th>
<th>Bronson Kekūpa’a Silva</th>
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<tr>
<td>My email is</td>
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<tr>
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I reserve my right to comment at a later more appropriate date.
My name is Jessica Hanie
I am Kanaka Maoli aka Native Hawaiian
My email is nahinetaimoli@gmail.com
I reside at  Wailuanuiahoano, Kaua‘i
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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I reserve my right to comment at a later more appropriate date.
<table>
<thead>
<tr>
<th>My name is</th>
<th>Jessica Hanie</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am</td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td>My email is</td>
<td><a href="mailto:nawahinetoa@gmail.com">nawahinetoa@gmail.com</a></td>
</tr>
<tr>
<td>I reside at</td>
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I reserve my right to comment at a later more appropriate date.
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> Fri, Sep 21, 2018 at 7:17 PM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Sandee Pa
I am Kanaka Maoli aka Native Hawaiian
I reside at Waimanalo Oahu

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:
I reserve my right to comment at a later more appropriate date.

OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf
29K
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I reserve my right to comment at a later more appropriate date.
My name is Michelle Anderson
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Turtle Island
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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My name is Robert Mueller
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Kahaluu, Oahu

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<tr>
<th><strong>My name is</strong></th>
<th>Robert Mueller</th>
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I reserve my right to comment at a later more appropriate date.
My name is Sandee Pa
I am Kanaka Maoli aka Native Hawaiian
I reside at Waimanalo, Oahu

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Laureen Samuels
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at New York, New York

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I reserve my right to comment at a later more appropriate date.
My name is Susan Vickery
My email is gifts9954@gmail.com
I reside at Wailuku, Maui

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<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Sherry Pollack</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I am</strong></td>
<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:davidsher@juno.com">davidsher@juno.com</a></td>
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I reserve my right to comment at a later more appropriate date.
My name is Sherry Pollack
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is davidsher@juno.com
I reside at Kaneohe, Oahu

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My name is Nathan Yuen
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Honolulu, Oahu

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Elizabeth Lofton
I am Kanaka Maoli aka Native Hawaiian
My email is Kalalau1977@aol.com
I reside at Maryland

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<th><strong>My name is</strong></th>
<th>Beth Leeds</th>
</tr>
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**Additional Comments:**

Mauna Kea is the highest mountain in the Hawaiian Islands. It is sacred.
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1 message

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<tr>
<th>123ContactForm <a href="mailto:noreply@123formbuilder.io">noreply@123formbuilder.io</a></th>
<th>Sat, Sep 22, 2018 at 12:25 PM</th>
</tr>
</thead>
<tbody>
<tr>
<td>To: &quot;<a href="mailto:uhhar@hawaii.edu">uhhar@hawaii.edu</a>&quot; <a href="mailto:uhhar@hawaii.edu">uhhar@hawaii.edu</a></td>
<td></td>
</tr>
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</table>

| My name is          | Sao Vaefaga                |
| I am                | Kanaka Maoli aka Native Hawaiian |
| My email is         | ohua.sao@gmail.com         |
| I reside at         | Hawi, Hawaii               |

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</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:ohua.sao@gmail.com">ohua.sao@gmail.com</a></td>
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I am Kanaka Maoli aka Native Hawaiian

My email is wailuapua@gmail.com

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Theodora Akau Gaspar
I am Kanaka Maoli aka Native Hawaiian
My email is hapagurl7669@yahoo.com
I reside at Hawaii Island, Moku O Keawe

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I reserve my right to comment at a later more appropriate date.
My name is Norman Gaspar
I am Kanaka Maoli aka Native Hawaiian
My email is hawnpride13@yahoo.com
I reside at Hawaii Island, Moku O Keawe
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**OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES**

1 message

123ContactForm <noreply@123formbuilder.io> Sat, Sep 22, 2018 at 1:09 PM

To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

<table>
<thead>
<tr>
<th>My name is</th>
<th>Debra Koonohiokala Norenberg</th>
</tr>
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<tr>
<td>I am</td>
<td>other: Hawaiian National aka Hawaiian Subject</td>
</tr>
<tr>
<td>My email is</td>
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My name is Kauluwehiokalani Eli
I am Kanaka Maoli aka Native Hawaiian
My email is ulueli@gmail.com
I reside at Honolulu, Oahu

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> Sat, Sep 22, 2018 at 3:57 PM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is dan bishop
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is dbishop008@earthlink.net
I reside at kehei, maui

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Additional Comments: dbishop008@earthlink.net

OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf

32K
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I am non-Kanaka Maoli aka non-Native Hawaiian

My email is dbishop008@earthlink.net

I reside at kehei, maui

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### Additional Comments: dbishop008@earthlink.net
My name is Leinaala Tuifua
I am Kanaka Maoli aka Native Hawaiian
My email is jhuztyce@yahoo.com
I reside at Kahului, Maui

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1 message

123ContactForm <noreply@123formbuilder.io>
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

Sat, Sep 22, 2018 at 4:20 PM

My name is
Laura Marquez

I am
other: My Mom was born in 1915 on Kauai, she is a Native Hawaiian

I reside at
Sacramento, California

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I reserve my right to comment at a later more appropriate date.

OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf
31K
My name is Laura Marquez

I am other: My Mom was born in 1915 on Kauai, she is a Native Hawaiian

I reside at Sacramento, California

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>  Sat, Sep 22, 2018 at 4:20 PM
To: “uhhar@hawaii.edu” <uhhar@hawaii.edu>

My name is Robert Kajiwara
I am other: a Hawaiian national, a native citizen of the Hawaiian Kingdom
My email is robhk27@gmail.com
I reside at Waipahu, Oahu

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My name is Karol Wack
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Laupahoehoe, HI

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UH should be working and consulting with kanaka maoli, especially those that are working to protect Mauna Kea. Mahalo for your consideration.
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1 message

123ContactForm <noreply@123formbuilder.io>
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>
Sat, Sep 22, 2018 at 5:26 PM

My name is Ines Silva
I am Kanaka Maoli aka Native Hawaiian
My email is sincere2upro@yahoo.com
I reside at Pahoa, Moku O Keawe
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is MeleLani Llanes
I am other: Multi-racial, culturally hawaiian
My email is beatingheart1@gmail.com
I reside at Makakilo, O'ahu
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Additional Comments: UH has repeatedly desecrated Mauna Kea and has been shown to be unfit to manage anything there. This has been reported by reputable sources. Therefore, any discussion about administrative rules should be about taking management away from the University of Hawai'i and management placed in the hands of the Mauna Kea protectors.
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<tr>
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<th>MeleLani Llanes</th>
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</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:beatingheart1@gmail.com">beatingheart1@gmail.com</a></td>
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1 message

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I reside at Aiea, Oahu

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> To: “uhhar@hawaii.edu” <uhhar@hawaii.edu>

Sat, Sep 22, 2018 at 8:14 PM

My name is Abcde Shepherd
I am Kanaka Maoli aka Native Hawaiian
My email is abcde.shepherd@gmail.com
I reside at Honolulu Hawaii

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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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai’i and the other International governments have been resolved.,

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I am Kanaka Maoli aka Native Hawaiian
My email is panioloron@hawaii.rr.com
I reside at Waianae, Oahu
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My name is Kealii Makekau. I am Kanaka Maoli aka Native Hawaiian. I reside at 2563 Date St #312 Honolulu HI 96826.

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I reserve my right to comment at a later more appropriate date.
My name is Joyce Cate

I am non-Kanaka Maoli aka non-Native Hawaiian

I reside at Hilo, Hawaii

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Mary Drayer
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is mdrayerhome@msn.com
I reside at Wailuku, Maui

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1 message

123ContactForm <noreply@123formbuilder.io> Sat, Sep 22, 2018 at 9:30 PM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is
Alizon Atkins

I am
non-Kanaka Maoli aka non-Native Hawaiian

I reside at
Mt View, Hawaii

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I am non-Kanaka Maoli aka non-Native Hawaiian

I reside at Mt View, Hawaii

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Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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,
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>  Sat, Sep 22, 2018 at 9:32 PM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Kahiau Snyder
I am Kanaka Maoli aka Native Hawaiian
My email is kahiau.snyder@imua.ksbe.edu
I reside at Wailuku
I object to the University of Hawaii’s (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

There is a lawsuit currently pending before the State’s Supreme Court, involving the many issues and legal questions regarding the University of Hawaii’s JURISDICTION to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawaii and the other International governments have been resolved.

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.

OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf
31K
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I am Kanaka Maoli aka Native Hawaiian

My email is kahiau.snyder@imua.ksbe.edu

I reside at Wailuku

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Erin Drayer
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Makawao, Maui
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My name is Erin Drayer

I am non-Kanaka Maoli aka non-Native Hawaiian

I reside at Makawao, Maui

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My name is Lori Weeks
I am Kanaka Maoli aka Native Hawaiian
My email is lotweeks@yahoo.com
I reside at Keauhou, North Kona, Hawaii

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai‘i and the other International governments have been resolved.

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.
<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Lori Weeks</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I am</strong></td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:lotweeks@yahoo.com">lotweeks@yahoo.com</a></td>
</tr>
<tr>
<td><strong>I reside at</strong></td>
<td>Keauhou, North Kona, Hawaii</td>
</tr>
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My name is Anne Mahi
I am Kanaka Maoli aka Native Hawaiian
I reside at Pearl City, Oahu

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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I reserve my right to comment at a later more appropriate date.
My name is Anne Mahi
I am Kanaka Maoli aka Native Hawaiian
I reside at Pearl City, Oahu

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I reserve my right to comment at a later more appropriate date.
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

<table>
<thead>
<tr>
<th>My name is</th>
<th>Julia Paul</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am</td>
<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
<td>I reside at</td>
<td>Big Island</td>
</tr>
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1 message

123ContactForm <noreply@123formbuilder.io>
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Kuulei Kaluhiokalani
I am Kanaka Maoli aka Native Hawaiian
My email is kalaeloa1@gmail.com
I reside at Kalaeloa, Oahu

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Additional Comments: State is in violation.also Tresspassing on our Rights.

OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf
32K
**My name is** Kuulei Kaluhiokalani

**I am** Kanaka Maoli aka Native Hawaiian

**My email is** kalaeloa1@gmail.com

**I reside at** Kalaeloa, Oahu

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**Additional Comments:** State is in violation. also Tresspassing on our Rights.
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Liana Martinez
I am Kanaka Maoli aka Native Hawaiian
My email is lianakealohilanimartinez@gmail.com
I reside at Santa FE, NM

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<table>
<thead>
<tr>
<th>My name is</th>
<th>Liana Martinez</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am</td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td>My email is</td>
<td><a href="mailto:lianakealohilanimartinez@gmail.com">lianakealohilanimartinez@gmail.com</a></td>
</tr>
<tr>
<td>I reside at</td>
<td>Santa FE, NM</td>
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My name is Rebekah Luke
I am Kanaka Maoli aka Native Hawaiian
I reside at Kaaawa, Oahu
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:
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<thead>
<tr>
<th>My name is</th>
<th>Rebekah Luke</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am</td>
<td>Kanaka Maoli aka Native Hawaiian</td>
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<tr>
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Kalele Kekauoha-Schultz
I am Kanaka Maoli aka Native Hawaiian
I reside at Wailuku, Maui
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<table>
<thead>
<tr>
<th>My name is</th>
<th>Kalele Kekauoha-Schultz</th>
</tr>
</thead>
<tbody>
<tr>
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My name is Randee Golden

I am non-Kanaka Maoli aka non-Native Hawaiian

I reside at North Kohala Hawaii Island

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.

Additional Comments: If they have failed to care for this mauna to date, what will change? There are many people who do not want more buildings on this mountain. I am one of them.
My name is Randee Golden

I am non-Kanaka Maoli aka non-Native Hawaiian

I reside at North Kohala Hawaii Island

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>  
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

Sun, Sep 23, 2018 at 6:26 PM

My name is Kathryn Chapman
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is kathrynrchapman@gmail.com
I reside at San diego, ca

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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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai‘i and the other International governments have been resolved.

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OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf

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<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Kathryn Chapman</th>
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<tbody>
<tr>
<td><strong>I am</strong></td>
<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:kathrynrcchapman@gmail.com">kathrynrcchapman@gmail.com</a></td>
</tr>
<tr>
<td><strong>I reside at</strong></td>
<td>San Diego, CA</td>
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My name is Roxane Stewart
I am Kanaka Maoli aka Native Hawaiian
My email is roxanek@hawaii.edu
I reside at Hilo, Hawai'i

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Additional Comments: It seems that UH is not actually seeking public input, they are only seeking input that supports their stance. Objections to their management and the TMT development have been in overwhelming opposition to day the least. Yet, UH continues to spew propaganda that the public supports UH's direction. Absolutely not.
**My name is** Roxane Stewart  
**I am** Kanaka Maoli aka Native Hawaiian  
**My email is** roxanek@hawaii.edu  
**I reside at** Hilo, Hawai'i  

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

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<thead>
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<th>1 message</th>
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<tbody>
<tr>
<td><strong>Name</strong></td>
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<tr>
<td><strong>Affiliation</strong></td>
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<td><strong>Email</strong></td>
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- I have been teaching at the University of Hawai‘i for 22 years, and the University’s treatment of Kanaka Maoli in the TMT case has been appalling. These administrative rules illustrate the criminalization of Kānaka because they are clearly a response to the stand the kia’i have taken to protect Mauna a Wākea. The University needs to repair its relationships with Kānaka communities through good faith actions, not the proposal of rules directed at Kānaka. Remember that as Supreme Court Justice Sabrina McKenna stated, justice must have the appearance of justice.
<table>
<thead>
<tr>
<th>My name is</th>
<th>Candace Fujikane</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am</td>
<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
<td>My email is</td>
<td><a href="mailto:fujikane@hawaii.edu">fujikane@hawaii.edu</a></td>
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1 message

123ContactForm <noreply@123formbuilder.io>                      Mon, Sep 24, 2018 at 1:12 AM
To: “uhhar@hawaii.edu” <uhhar@hawaii.edu>

My name is Tony Van Kralingen
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is holanipohaku@yahoo.com
I reside at Volcano HI ISLAND

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<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Tony Van Kralingen</th>
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<tbody>
<tr>
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<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:holanipohaku@yahoo.com">holanipohaku@yahoo.com</a></td>
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**Additional Comments:**

Aloha ~
My name is Vannesa Vasquez

I am other: Hispanic

My email is vannesavasquez@gmail.com

I reside at San Diego, ca

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<tr>
<th>My name is</th>
<th>Vannesa Vasquez</th>
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<tr>
<td>I am</td>
<td>other: Hispanic</td>
</tr>
<tr>
<td>My email is</td>
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My name is Ekini Lindsey
I am Kanaka Maoli aka Native Hawaiian
I reside at Honolulu, O'ahu

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.
My name is Adam Poʻoloa
I am Kanaka Maoli aka Native Hawaiian
I reside at Kuliʻouʻou
I object to the University of Hawaiʻi (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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My name is Jason Henson
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is jason@jasonhenson.com
I reside at Turtle Island
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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.

OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> Mon, Sep 24, 2018 at 7:05 AM
To: “uhhar@hawaii.edu” <uhhar@hawaii.edu>

My name is Jason Henson
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is jason@jasonhenson.com
I reside at Turtle Island
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Jason Henson</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I am</strong></td>
<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:jason@jasonhenson.com">jason@jasonhenson.com</a></td>
</tr>
<tr>
<td><strong>I reside at</strong></td>
<td>Turtle Island</td>
</tr>
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### OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

<table>
<thead>
<tr>
<th>My name is</th>
<th>Sharron Cushman</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am</td>
<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
<td>My email is</td>
<td><a href="mailto:reikimastertaichichih@gmail.com">reikimastertaichichih@gmail.com</a></td>
</tr>
<tr>
<td>I reside at</td>
<td>Hilo, Hawaii</td>
</tr>
<tr>
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**Additional Comments:** I strongly object to the proposed rules!
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Oahu

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.
<table>
<thead>
<tr>
<th>My name is</th>
<th>Antonio Perez</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am</td>
<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
<td>I reside at</td>
<td>Oahu</td>
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>  
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>  
Mon, Sep 24, 2018 at 8:08 AM

My name is  
He'ali'i Ka'uhane

I am  
Kanaka Maoli aka Native Hawaiian

I reside at  
Wailuku, Maui

I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

Additional Comments:  
Mauna A Wakea, is the apex of the water resource, and should not be allowed potential contamination.

OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf  
31K
My name is He'ali'i Ka'uhane

I am Kanaka Maoli aka Native Hawaiian

I reside at Wailuku, Maui

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Additional Comments:

Mauna A Wakea, is the apex of the water resource, and should not be allowed potential contamination.
My name is Terrilee Kekoolani
I am Kanaka Maoli aka Native Hawaiian
I reside at Honolulu, Oahu

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I reserve my right to comment at a later more appropriate date.
<table>
<thead>
<tr>
<th>My name is</th>
<th>Terrilee Kekoolani</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am</td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td>I reside at</td>
<td>Honolulu, Oahu</td>
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> Mon, Sep 24, 2018 at 9:19 AM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Hiwa Kaʻapuni
I am Kanaka Maoli aka Native Hawaiian
My email is akaapuni@hawaii.edu
I reside at Hilo, Hawaiʻi

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My name is Hiwa Ka‘apuni

I am Kanaka Maoli aka Native Hawaiian

My email is akaapuni@hawaii.edu

I reside at Hilo, Hawai‘i

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<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Joyce Wond</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I am</strong></td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
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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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai'i and the other International governments have been resolved.,

Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka "Ceded Lands", its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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.,

I reserve my right to comment at a later more appropriate date.
My name is Joyce Wond

I am Kanaka Maoli aka Native Hawaiian

My email is kaopuikijoyce@gmail.com

I reside at Honolulu Hawai‘i

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai‘i and the other International governments have been resolved.

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I reserve my right to comment at a later more appropriate date.
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Hau`oli Thielk
I am Kanaka Maoli aka Native Hawaiian
I reside at Haiku Hawaii
I object to the University of Hawai`i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai’i and the other International governments have been resolved.

Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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 been an absence and lack of meaningful consultation with the Kanaka Maoli community and the Office of Hawaiian Affairs (OHA) whose concerns and issues were and continue to be ignored (Consultation with OHA is a requirement per Act 132) in the drafting of these proposed Administrative Rules. 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 (Hawaii State Constitution Article XI, Sections 1 & 9 and Article XII, Sections 4 & 7). For example, the proposed Administrative Rules would allow an individual to grant permits that would not be subject to the public meeting requirements (under the state sunshine law) and to make decisions concerning access fees, parking, research activities, public assemblies, commercial activities, and closures, etc. without having to be accountable to the public and consult with the Kanaka Maoli people.

Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.
My name is Hau`oli Thielk
I am Kanaka Maoli aka Native Hawaiian
I reside at Haiku Hawaii

I object to the University of Hawai`i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai`i and the other International governments have been resolved.

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.
My name is Noelani Goodyear-Kaopua
I am Kanaka Maoli aka Native Hawaiian
My email is noegoodyearkaopua@gmail.com
I reside at Honolulu, Oʻahu

I object to the University of Hawaiʻi (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

There is a lawsuit currently pending before the State’s Supreme Court, involving the many issues and legal questions regarding the University of Hawaiʻi’s JURISDICTION to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai‘i and the other International governments have been resolved.

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I reserve my right to comment at a later more appropriate date.
<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Noelani Goodyear-Kaopua</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I am</strong></td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:noegoodyearkaopua@gmail.com">noegoodyearkaopua@gmail.com</a></td>
</tr>
<tr>
<td><strong>I reside at</strong></td>
<td>Honolulu, O'ahu</td>
</tr>
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<table>
<thead>
<tr>
<th>My name is</th>
<th>Emily Kandagawa</th>
</tr>
</thead>
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<tr>
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<td>Waianae, Oahu</td>
</tr>
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There was an absence and lack of meaningful consultation with the Kanaka Maoli community and the Office of Hawaiian Affairs (OHA) whose concerns and issues were and continue to be ignored (Consultation with OHA is a requirement per Act 132) in the drafting of these proposed Administrative Rules.,

The proposed Administrative Rules make the Mauna Kea project an “all inclusive” project and are in direct violation of the Hawaii State Constitution Article XI, Sections 1 & 9 and Article XII, Sections 4 & 7. As such, these proposed Administrative Rules will only result in future legal litigation and/or contested cases.,
<table>
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Ryan Sonognini
I am Kanaka Maoli aka Native Hawaiian
My email is thishawaiianeatspoi@gmail.com
I reside at Mililani, Oahu

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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I reserve my right to comment at a later more appropriate date.
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Katherine Achacoso
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is achacosokatherine@gmail.com
I reside at Honolulu, Oahu

I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai'i and the other International governments have been resolved. Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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.

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.
My name is Jennifer Mitchell
I am Kanaka Maoli aka Native Hawaiian
I reside at Kailua Kona, Hawaii
I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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I reserve my right to comment at a later more appropriate date.

Additional Comments: Stop the Hewa!
My name is Jennifer Mitchell
I am Kanaka Maoli aka Native Hawaiian
I reside at Kailua Kona, Hawaii

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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I reserve my right to comment at a later more appropriate date.

Additional Comments: Stop the Hewa!
My name is Ed Nabarro.
I am Kanaka Maoli aka Native Hawaiian.
I reside at Kailua Kona, Hawaii.

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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Ed Nabarro
Kailua Kona, Hawaii
<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Ed Nabarro</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I am</strong></td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
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**I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:**

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai‘i and the other International governments have been resolved.

Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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.

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.
My name is Corine Chang
I am Kanaka Maoli aka Native Hawaiian
My email is ipoc.m.chang@hotmail.com
I reside at Mountain View, Hawaii

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Additional Comments:
I am a kanaka maoli and am in disagreement with UH or any Fake State entity leasing out any Hawaiian Kingdom “Crown Lands” to anyone against the will of the beneficiaries of the Kingdom TRUST. OHA is another entity of the STATE I do not trust when there’s so much money unaccounted for, OHA needs to account for every cent of those millions unaccounted. All my life, almost 6 decades the fake state has been exploiting our lands, leasing them out to BIG polluters for $1 a year. That is a slap in the face! Then it's another slap in the face when the these
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I am Kanaka Maoli aka Native Hawaiian
I reside at Lāna'i Island
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>  Tue, Sep 25, 2018 at 2:13 AM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is         Daida Akau
I am               Kanaka Maoli aka Native Hawaiian
My email is        daidalivealoha@gmail.com
I reside at        Kamuela, Hawaii

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OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf
31K
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<thead>
<tr>
<th>My name is</th>
<th>Daida Akau</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am</td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td>My email is</td>
<td><a href="mailto:daidalivealoha@gmail.com">daidalivealoha@gmail.com</a></td>
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My name is Erin Foley
I reside at Kaaawa, Oahu

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> Tue, Sep 25, 2018 at 9:10 AM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Regina Gregory
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Honolulu, Oahu

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My name is Nicole Smith
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Big island
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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.
My name is John Doe
I reside at Hilo, Hawai‘i

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai‘i and the other International governments have been resolved.

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Joy McLeod
I am Kanaka Maoli aka Native Hawaiian
My email is mcleodj003@hawaii.rr.com
I reside at Hilo, Hawai‘i

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OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf
31K
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<tr>
<th>My name is</th>
<th>Joy McLeod</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am</td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td>My email is</td>
<td><a href="mailto:mcleodj003@hawaii.rr.com">mcleodj003@hawaii.rr.com</a></td>
</tr>
<tr>
<td>I reside at</td>
<td>Hilo, Hawai'i</td>
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My name is Stephen Loo
I am Kanaka Maoli aka Native Hawaiian
I reside at Hilo, Hawaii

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I reserve my right to comment at a later more appropriate date.
My name is Claud Sutcliffe
I am other: Hanai of Molokai
My email is claudsutcliffe@gmail.com
I reside at Waimea, Hawai‘i
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Additional Comments: these proposed admin. rules seem designed to facilitate construction of the proposed Thirty Meter Telescope
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I reside at Big Island
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My name is Mahmud Watts
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Keaau, Hawaii
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules
to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on
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There is a lawsuit currently pending before the State’s Supreme Court, involving
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Additional Comments:
I believe the University of Hawai‘i (UH) Process to Propose Administrative Rules
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activities on Mauna Kea is an attempt at a gross abuse of natural, spiritual and
cultural resources.
| **My name is** | Mahmud Watts |
| **I am** | non-Kanaka Maoli aka non-Native Hawaiian |
| **I reside at** | Keaau, Hawaii |

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My name is Shannon Rudolph
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is shannonkona@gmail.com
I reside at Holualoa, Hawai‘i Island

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My email is shannonkona@gmail.com
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I reserve my right to comment at a later more appropriate date.
My name is Leighton Tseu
I am Kanaka Maoli aka Native Hawaiian
My email is lrtseu@gmail.com
I reside at 777 Paani Street. apt# 1102, Honolulu, HI. 96826
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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Additional Comments: Mauna Kea is Sacred, there is NO "Treaty of Annexation" between the Hawaiian Kingdom and the United States of America. A sovereign nation cannot annex another sovereign without an agreement or treaty. War Crimes are being committed by the USA upon the Hawaiian Kingdom and its Kanaka Maoli. Show us the evidence of a treaty between the two nations signed by both nations leadership. It is very sad UH and the USA Government knows Hawaiian Kingdom still exist and yet they continue to commit War Crimes. US Congress or any other nations parliament cannot annex any nation within their own government without a treaty. The "truth" has been surfaced USA needs to de-occupy from the Hawaiian Kingdom by International Law and US Constitution. Be honest and truthful that is the only way to over come the war crimes of 125 years.
My name is Leighton Tseu

I am Kanaka Maoli aka Native Hawaiian

My email is lrtseu@gmail.com

I reside at 777 Paani Street. apt# 1102, Honolulu, HI. 96826

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io> Wed, Sep 26, 2018 at 4:49 AM
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Susan Vickery
I reside at Wailuku, Maui
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Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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.

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.

Additional Comments: Seize and Desist #sacredplace #MaunaAWakea #protect
My name is Susan Vickery
I reside at Wailuku, Maui

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My name is HIRAM RESPICIO
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is iograpes@yahoo.com
I reside at 87-123 HELELUA ST G308
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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>  
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is Eric Marantz
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is ericm808@gmail.com
I reside at Pahoa, Hawaii 96778

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My name is Jessica Baugues
I am Kanaka Maoli aka Native Hawaiian
My email is honulei@me.com
I reside at 16-593 Ke`aau Pahoa Rd. Kea`au, Hawai`i 96749
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I am Kanaka Maoli aka Native Hawaiian
I reside at Waianae Oahu

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My name is Christine Phillips
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is ihi.opihi@gmail.com
I reside at Kailua-Kona, Hawaii
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Additional Comments:

I hope for, and act towards, a harmonious relationship between all people of Hawai‘i and the land. Seeking this balance and the knowledge that comes with it; I look to the people who have come before me. There is a rich understanding that the Kanaka Maoli have of this very special place we call Mauna Kea. We ALL can agree how special this place is! Science worships this mountain through the way it knows how; creating a temple for knowledge, learning, and discovery. The Kanaka Maoli named this mountain for its sacredness. Their continued care and worship of this place manifests in rituals passed down through generations. These rituals hold knowledge, learning, and discoveries that are just as just as enlightening as looking through a lens. I urge UH Manoa and all governing authorities to obtain a deeper understanding of the practices that have connected people to this mountain for many years. These practices connect us to the stars just as much, if not more, than what can be seen with our eyes. As humans, we have many ways to sense the universe. In the future, the leading edge of science will look to understand this. Simultaneity of both studies (Science and Spirit) will enrich humanity with unspeakable knowledge. To achieve this, we must give Kahuna the authority we give scientists, and governing authorities. Only by cooperation will balance be achieved. We have only to gain when we realize there is more to learn. It is by cooperation that our horizons of understanding expand.
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I am non-Kanaka Maoli aka non-Native Hawaiian
My email is mendezj@hawaii.edu
I reside at Honolulu, Oahu

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I reserve my right to comment at a later more appropriate date.
My name is josephine keliipio
I am Kanaka Maoli aka Native Hawaiian
My email is jlili808@yahoo.com
I reside at Kailua Kona, Hawaii

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**OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES**

1 message

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<tr>
<td>My name is</td>
<td>Megan Archibald</td>
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I am Kanaka Maoli aka Native Hawaiian.
I reside at Kaunakakai, Molokai.

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

My name is Gene Tamashiro
I am other: Sovereign Hawaiian National
My email is alohatruth@gmail.com
I reside at (domiciled) Hale Aloha, 25-3447 Pakelekia St. Hilo, Hawaiian Kingdom
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Additional Comments: Can anyone prove the State of Hawai‘i is lawful in Hawai‘i?

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I am Kanaka Maoli aka Native Hawaiian
I reside at mililani, oahu

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There is a lawsuit currently pending before the State's Supreme Court, involving the many issues and legal questions regarding the University of Hawaii's JURISDICTION to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state's BLNR, University of Hawaii and the other International governments have been resolved.

Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka "Ceded Lands", its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. The Kanaka Maoli people never relinquished rights to and sovereignty over these lands as such the University of Hawaii 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.

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.
My name is travis w
I am Kanaka Maoli aka Native Hawaiian
I reside at mililani, oahu

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I reserve my right to comment at a later more appropriate date.

**Additional Comments:**
I strongly object to rules being imposed that would limit Native Hawaiian sovereign rights to their sacred paces and believe the Mauna Kea represents a protected area that needs to be kept for practices and not building massive structures that polute place but also dishonor the sacredness of Place.
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I strongly object to rules being imposed that would limit Native Hawaiian sovereign rights to their sacred paces and believe the Mauna Kea represents a protected area that needs to be kept for practices and not building massive structures that polute place but also dishonor the sacredness of Place.
My name is Al Kuahi Wong
I am Kanaka Maoli aka Native Hawaiian
My email is aloha440@aol.com
I reside at Boston, MA

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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. I reserve my right to comment at a later more appropriate date.
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</tr>
<tr>
<td>My email is</td>
<td><a href="mailto:aloha440@aol.com">aloha440@aol.com</a></td>
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I reserve my right to comment at a later more appropriate date.
My name is Michelle Cerecerez
I am other: Native American
I reside at Los Angeles California
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I reserve my right to comment at a later more appropriate date.
My name is Janet Mac Neal
I am Kanaka Maoli aka Native Hawaiian
My email is jjhawaii07@gmail.com
I reside at Hilo, Hawaii

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Additional Comments:
Keep Hawaii Islands "Hawaii". Having commercial entities on the Mauna Kea lands would take away the natural beauty of our Islands that TOURIST come to see. Commercial services can be available anywhere else which is in dire need for business. Once it starts, no end will result in beneficial to our natural beauty. Destruction all over our GOD given "Paradise". Almighty dollar is the culprit. When our government officials create deficits, they create destruction to recoup their inadequacy of being given the authority to screw up our beautiful Hawaii. End this charade of deficits & vote "PONO". We dont need another city on Mauna Kea Land.
My name is Janet Mac Neal

I am Kanaka Maoli aka Native Hawaiian

My email is jjhawaii07@gmail.com

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

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I am other: Caucasian
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KEEP HAWAII, HAWAII...PARADISE OF THE PACIFIC OCEAN, #1 TOURIST DESTINATION other than Commercial & Dollars for our Poor State in dire Financial Crisis.... they call this handout or begging for finances to get us out of HOCK!
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My name is Rebecca McGuire
I am Kanaka Maoli aka Native Hawaiian
My email is bsanada74@gmail.com
I reside at Honolulu, O'ahu

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My name is Jodi Mercier
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Kealakekua, Island of Hawai‘i
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Additional Comments:

The rules are overreaching and too broad. The penalties for violating the rules should be outlined more specifically. They should be classified into categories with different penalties, rather than simply stating that the first offense is a fine up to $2500. Many of the infractions to these rules seem minor and should not result in the possibility that one could get a huge fine for violating one of them. This would very likely lead to allegations of abuse of power, which I am assuming the university would like to avoid.
<table>
<thead>
<tr>
<th>My name is</th>
<th>Jodi Mercier</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am</td>
<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
<td>I reside at</td>
<td>Kealakekua, Island of Hawai‘i</td>
</tr>
</tbody>
</table>

**I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:**

Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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 been an absence and lack of meaningful consultation with the Kanaka Maoli community and the Office of Hawaiian Affairs (OHA) whose concerns and issues were and continue to be ignored (Consultation with OHA is a requirement per Act 132) in the drafting of these proposed Administrative Rules.

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**Additional Comments:**

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My name is Ina Kerciku
I am non-Ka’ana Maoli aka non-Native Hawaiian
My email is kercikuina@yahoo.it
I reside at Albania

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

I reserve my right to comment at a later more appropriate date.
<table>
<thead>
<tr>
<th><strong>My name is</strong></th>
<th>Ina Kerciku</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I am</strong></td>
<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:kercikuina@yahoo.it">kercikuina@yahoo.it</a></td>
</tr>
<tr>
<td><strong>I reside at</strong></td>
<td>Albania</td>
</tr>
</tbody>
</table>

**Object:**

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons: I reserve my right to comment at a later more appropriate date.
My name is Hanalei Pi'imanu Vierra
I am Kanaka Maoli aka Native Hawaiian
My email is hpvierra@gmail.com
I reside at San Diego, CA

I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai'i and the other International governments have been resolved.

Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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.

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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 (Hawaii State Constitution Article XI, Sections 1 & 9 and Article XII, Sections 4 & 7). For example, the proposed Administrative Rules would allow an individual to grant permits that would not be subject to the public meeting requirements (under the state sunshine law) and to make decisions concerning access fees, parking, research activities, public assemblies, commercial activities, and closures, etc. without having to be accountable to the public and consult with the Kanaka Maoli people.

Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.
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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.
My name is Nazanin Sadati
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Sacramento, California

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.
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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

123ContactForm <noreply@123formbuilder.io>
To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

My name is
Anuenue Kanahele
I am
Kanaka Maoli aka Native Hawaiian
My email is
nue.mose@yahoo.com
I reside at
Oahu and Kauai
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.,

Additional Comments:
There is no debate. Keep your nose oit and away from Kanaka Maoli resourses and spiritual places. Its always mind blowing the ignorance of people who just cant seem to see the destrucrion for profit. At what cost? Mauna Kea is not to be touched. While you are at it... clean up the mess you left with the other broke down rust buckets. That is what you should be discussing. How to remove your rubbish.

OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf
32K
My name is Anuenue Kanahele
I am Kanaka Maoli aka Native Hawaiian
My email is nue.mose@yahoo.com
I reside at Oahu and Kauai

I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai'i and the other International governments have been resolved.,

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My name is Anna Ellis
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is amellis@bu.edu
I reside at Boston, MA

I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.
My name is Anna Ellis
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is amellis@bu.edu
I reside at Boston, MA

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

I reserve my right to comment at a later more appropriate date.
My name is Nalani Kanahele
I am Kanaka Maoli aka Native Hawaiian
My email is nalanikoaneanuenue@yahoo.com
I reside at Pākālā, Kaua‘i

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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I reserve my right to comment at a later more appropriate date.

OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

1 message

Fri, Sep 28, 2018 at 5:27 AM

My name is Nalani Kanahele
I am Kanaka Maoli aka Native Hawaiian
My email is nalanikoaneanuenue@yahoo.com
I reside at Pākālā, Kaua‘i

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OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf

31K
<table>
<thead>
<tr>
<th>My name is</th>
<th>Nalani Kanahele</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am</td>
<td>Kanaka Maoli aka Native Hawaiian</td>
</tr>
<tr>
<td>My email is</td>
<td><a href="mailto:nalaniokeanuenue@yahoo.com">nalaniokeanuenue@yahoo.com</a></td>
</tr>
<tr>
<td>I reside at</td>
<td>Pākālā, Kaua‘i</td>
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</table>
My name is Manaal Ali
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Sioux Falls, SD

I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

I reserve my right to comment at a later more appropriate date.
<table>
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<tr>
<th>My name is</th>
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I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons: I reserve my right to comment at a later more appropriate date.
My name is Claudia C K Quintanilla
I am Kanaka Maoli aka Native Hawaiian
I reside at 91-1049 Hoakalei St.
I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

Additional Comments: Mahalo Nui Loa
My name is Claudia C.K. Quintanilla

I am Kanaka Maoli aka Native Hawaiian

I reside at 91-1049 Hoakalei St.

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

Additional Comments: Mahalo Nui Loa
My name is Vehia Wheeler  
I am non-Kanaka Maoli aka non-Native Hawaiian  
I reside at Honolulu, Oahu  

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Mauna Kea is a sacred site that deserves respect. UH Manoa has no place building another telescope there, which desecrates the Mauna for its own political gain.
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My name is Lisa Grandinetti.
I am non-Kanaka Maoli aka non-Native Hawaiian.
I reside at Honolulu, Oahu.

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My name is Miwa Tamanaha
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is miwa.tamanaha@gmail.com
I reside at Oahu

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1 message

To: "uhhar@hawaii.edu" <uhhar@hawaii.edu>

Additional Comments:
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My name is Shaeralee-Tiare Manosa

I am Kanaka Maoli aka Native Hawaiian

My email is smanosa@gmail.com

I reside at Mana‘e, Moloka‘i

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I am non-Kanaka Maoli aka non-Native Hawaiian
My email is islandpinkgirl@yahoo.com
I reside at Kapa'a, Kaua'i, Hawaii

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<th>Harley Frye</th>
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My name is Harley Frye

I am Kanaka Maoli aka Native Hawaiian

My email is harleyf@hawaii.edu

I reside at Honolulu, O'ahu

I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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<thead>
<tr>
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<th>Mikela Mercier</th>
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OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf

31K
My name is Mikela Mercier
I am Kanaka Maoli aka Native Hawaiian
I reside at Kailua-kona, Hawaii island

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My name is Nancy Redfeather
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is nancyredfeather@hawaii.rr.com
I reside at Kawanui, Honalo, Hawai'i Island

I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai'i and the other International governments have been resolved.

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<td><strong>My email is</strong></td>
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My name is Diane Texidor
I am Kanaka Maoli aka Native Hawaiian
My email is deetex123@aol.com
I reside at Honolulu, Oahu

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<th>Susan Rosier</th>
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<td>I am</td>
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<td><a href="mailto:808sue808@gmail.com">808sue808@gmail.com</a></td>
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My name is Susan Rosier
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is 808sue808@gmail.com
I reside at Waikahekahe, Puna, Moku o Keawe Hawai‘i

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My name is Kaiopua Mateo-Kaiwi

I am Kanaka Maoli aka Native Hawaiian

I reside at Maui

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My name is Mel Wildman
I am Kanaka Maoli aka Native Hawaiian
I reside at Oahu, Hawai'i

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Additional Comments:

- Due to high levels of State Auditor reports. UH / OMKM both have had numerous reports of failed duty to Mauna Kea. Their Jurisdiction of Mauna kea is moot. 1. They must provide substantial proof of reliability. 2. They must provide at least 10yrs of active duty to maintain and protect environmental control without failure. 3. They must provide adequate reports of Management control within the 10yr minimum, that includes validity of financial losses incurred during the 10yr Minimum. Without all 3 of those factors. Legally, they are Moot in jurisdiction. By legal statute of law, City and county have no jurisdiction on the matter. Hawai'i State Constitution provides adequate protection of any and all Hawaiian Cultures. City and County including the State, are agents of the Land which is primarily considered as Ceded aka (Crown Lands), thus both entities of the Government are not Heirs of the Land. Hawaiian people are considered by legal standards of law Heirs as descendants under Hawai'i Constitutional law. Where that law exist State cannot dismiss the fact that they are NOT the Heirs of the land. The Heirs are those who first occupied the land as ancestors, thus passed on to their Heirs of that land i.e The Hawaiian People or Kanaka Maoli. Mahalo nui, Wildman.
My name is Mel Wildman

I am Kanaka Maoli aka Native Hawaiian

I reside at Oahu, Hawai‘i

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Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

Additional Comments:

Due to high levels of State Auditor reports. UH / OMKM both have had numerous reports of failed duty to Mauna Kea. Their Jurisdiction of Mauna kea is moot. 1. They must provide substantial proof of reliability. 2. They must provide at least 10yrs of active duty to maintain and protect environmental control without failure. 3. They must provide adequate reports of Management control within the 10yr minimum, that includes validity of financial losses incurred during the 10yr Minimum. Without all 3 of those factors. Legally, they are Moot in jurisdiction. By legal statute of law, City and county have no jurisdiction on the matter. Hawai‘i State Constitution provides adequate protection of any and all Hawaiian Cultures. City and County including the State, are agents of the Land which is primarily considered as Ceded aka (Crown Lands), thus both entities of the Government are not Heirs of the Land. Hawaiian people are considered by legal standards of law Heirs as descendants under Hawai‘i Constitutional law. Where that law exist State cannot dismiss the fact that they are NOT the Heirs of the land. The Heirs are those who first occupied the land as ancestors, thus passed on to their Heirs of that land i.e The Hawaiian People or Kanaka Maoli. Mahalo nui, Wildman.
OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

<table>
<thead>
<tr>
<th>My name is</th>
<th>Marielle Leeds</th>
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<tbody>
<tr>
<td>I am</td>
<td>other: Officially Invited by Hawaiian Kingdom</td>
</tr>
<tr>
<td>My email is</td>
<td><a href="mailto:milileeds22@gmail.com">milileeds22@gmail.com</a></td>
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Additional Comments:

In addition, the Aloha Statute requires treatment to be done with Aloha and grading and destroying any areas on the Summit of Mauna Kea is against this concept and Hawaiian way. It is harmful and disrespectful to the people and to the aina. This area under consideration for development...more development...should have never been touched or built upon. It is a Hawaiian sacred site. The development needs to STOP NOW. Just because something has already been raped does not mean it is ok to keep raping. This land needs to be protected and not developed and the developed sites need to be returned to their natural states.
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My name is Dennese Cribb
I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Leesville, SC
I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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Additional Comments: Was married to a Native Hawaiian for 14 years. He passed in 2004. His family is still my family so I feel my opinion should count on their behalf.
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My name is Paul Wela
I am Kanaka Maoli aka Native Hawaiian
My email is paulwela@yahoo.com
I reside at Keaukaha Hawaii

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These are Hawaiians lands that UH an other state an federal government has no rights to
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I am Kanaka Maoli aka Native Hawaiian
My email is paulwela@yahoo.com
I reside at Keaukaha hawaii

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I reside at Oahu, HI

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<tr>
<th><strong>My name is</strong></th>
<th>Darlene Rodrigues</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I am</strong></td>
<td>non-Kanaka Maoli aka non-Native Hawaiian</td>
</tr>
<tr>
<td><strong>My email is</strong></td>
<td><a href="mailto:darlene.rodrigues@gmail.com">darlene.rodrigues@gmail.com</a></td>
</tr>
<tr>
<td><strong>I reside at</strong></td>
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My email is darlene.rodrigues@gmail.com
I reside at Mililani, Oahu

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I am non-Kanaka Maoli aka non-Native Hawaiian
My email is rodgerhansen22@gmail.com
I reside at Hakalau Hi

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My name is Pi'ikea Stevens
I am Kanaka Maoli aka Native Hawaiian
My email is justiceksmom@yahoo.com
I reside at Kalamazoo, Moku o Keawe

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**OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES**

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<th>hazen komraus</th>
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 OBJECTION TO UH PROCESS FOR ADMIN RULES FOR MAUNA KEA.pdf

31K
My name is hazen komraus

I am non-Kanaka Maoli aka non-Native Hawaiian

My email is hazenkomraus@hotmail.com

I reside at Pahoa, Hawaii

I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 (Hawaii State Constitution Article XI, Sections 1 & 9 and Article XII, Sections 4 & 7). For example, the proposed Administrative Rules would allow an individual to grant permits that would not be subject to the public meeting requirements (under the state sunshine law) and to make decisions concerning access fees, parking, research activities, public assemblies, commercial activities, and closures, etc. without having to be accountable to the public and consult with the Kanaka Maoli people.

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Additional Comments:

Top down, anti-public use policies will burn away any goodwill UH has with the public. As a pro TMT citizen i am deeply opposed to the proposed regulations and policies, do not do this. The public greatly utilizes and appreciates access to this land for MANY reasons. I am not opposed to limiting commercial tourism activities or reasonable steps to protect flora and fauna.
My name is Deirdre Kent
I reside at 18-4355 N. Pszyk

I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai'i and the other International governments have been resolved.

Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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.

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I reside at Volcano Hi

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I reserve my right to comment at a later more appropriate date.
My name is Kanenehiwaimaikalani Watson  
I am Kanaka Maoli aka Native Hawaiian  
My email is knoeauwatson@gmail.com  
I reside at Waipahu, Oahu  

I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:  

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</tr>
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I reserve my right to comment at a later more appropriate date.
My name is  Eric Rue  
I am  non-Kanaka Maoli aka non-Native Hawaiian  
My email is  ericrue333@gmail.com  
I reside at  Keaau Hawaii, hawaii island  

I object to the University of Hawai’i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES
My name is Eric Rue
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is ericrue333@gmail.com
I reside at Keaau Hawaii, hawaii island

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My name is Michelle Kratel
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is michelle.montano@gmail.com
I reside at Hilo, HI
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I am non-Kanaka Maoli aka non-Native Hawaiian
I reside at Waikoloa Hawaii

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My name is Terence Moniz
I am non-Kanaka Maoli aka non-Native Hawaiian
My email is tmgundog@aol.com
I reside at Volcano, HI

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Additional Comments: This is criminal. I once supported the state and telescope community and science. Hope Ige Kim and the state are ready for the uprising!
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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 (Hawaii State Constitution Article XI, Sections 1 & 9 and Article XII, Sections 4 & 7). For example, the proposed Administrative Rules would allow an individual to grant permits that would not be subject to the public meeting requirements (under the state sunshine law) and to make decisions concerning access fees, parking, research activities, public assemblies, commercial activities, and closures, etc. without having to be accountable to the public and consult with the Kanaka Maoli people.,

Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.,

Additional Comments: This is criminal. I once supported the state and telescope community and science. Hope Ige Kim and the state are ready for the uprising!
My name is Kahealani Mulec
I am Kanaka Maoli aka Native Hawaiian
I reside at Keaau

I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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.
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**I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:**

Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands”, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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.
OBJECTION TO THE UH PROCESS TO PROPOSE
MAUNA KEA ADMINISTRATIVE RULES

U.H. HAS NO JURISDICTION!

- Their 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.
- Their proposed Rules give a single ‘designee’ control of permits, access, and activities on Mauna Kea with no accountability to the Kanaka Maoli people and the Public.
- Their Rules violate Kanaka Maoli customary and traditional rights to gather and access for subsistence, cultural and religious purposes.

HEARINGS ON U.H. PROPOSED ADMINISTRATIVE RULES

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

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

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

FRIDAY, SEPTEMBER 28, 2018, 5:30 P.M. TO 7:30 P.M.
‘Ike Le‘a (Room 144), University of Hawai‘i Maui College
510 West Ka‘ahumanu Avenue, Kahului, Hawai‘i 96732

www.kalahuihawaiiapoliticalactioncommittee.org
My name is*
Last

I am
Optional Multiple Choice

☐ Kanaka Maoli aka Native Hawaiian
☐ non-Kanaka Maoli aka non-Native Hawaiian
☐ other:

My email is
Optional.

I reside at*
City, Island
I object to the University of Hawai'i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:*  

Multiple Choice: You may make more than one choice and choose all.

- 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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state's BLNR, University of Hawai'i and the other International governments have been resolved.

- Mauna Kea is comprised of Public and Hawaiian Kingdom Crown and Government lands aka “Ceded Lands“, its summits are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well being of the Kanaka Maoli people. 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 been an absence and lack of meaningful consultation with the Kanaka Maoli community and the Office of Hawaiian Affairs (OHA) whose concerns and issues were and continue to be ignored (Consultation with OHA is a requirement per Act 132) in the drafting of these proposed Administrative Rules.

- 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 (Hawaii State Constitution Article XI, Sections 1 & 9 and Article XII, Sections 4 & 7). For example, the proposed Administrative Rules would allow an individual to grant permits that would not be subject to the public meeting requirements (under the state sunshine law) and to make decisions concerning access fees, parking, research activities, public assemblies, commercial activities, and closures, etc. without having to be accountable to the public and consult with the Kanaka Maoli people.

- Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

- I reserve my right to comment at a later more appropriate date.

Additional Comments:  
Individual comments are suggested.
HEARING I:
MONDAY,
SEPTEMBER 24, 2018,
UNIVERSITY OF HAWAIʻI
CANCER CENTER
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<th>No.</th>
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MKaia/ UH "Hearing"

9/24/18 4:30 pm Burns Med, Kakaako
Sign in, transcripts? No fotos.
Hawaii Studies (osorio@kana70 956-0980)
Bd. of Regents 956-8213 "Hon. Ms. Patnam, Acoba, Poitney
3 min talk:
MK sacredness well estab. w/Waianw, a
unique, standing, life-giving body of snow-fed
water created at its summit.
This nat'l sacred creation makes the man-
made Sistine Chapel pale by comparison.
So far has anybody seen telescopes sticking
out of it's roof?
Follow the money, the curse of spirituality,
& please stop this curse! Please remove
all "ph.d., revenue-feeding" scientific equip-
ment, stop hiding behind the guise of
"institutional courtesy" "rent of $2 a month
& go pay for rockets for your telescopes,
No earthquakes & optics unsurpassed!

Tsekoon 525.7281
cc NHLRC
UH
September 24, 2018

To: University of Hawai‘i Leadership
244 Dole Street | Honolulu Hawaii 96822

OBJECTION TO THE UH PROCESS TO PROPOSE MAUNA KEA ADMINISTRATIVE RULES

Aloha Members,

I am submitting this testimony in behalf of the Ka Lāhui Hawai‘i Political Action Committee (KPAC). KPAC is a Hawaiian political watchdog organization that was formed to monitor legislation that impacts the Kanaka Maoli (aka Native Hawaiian) people and our National Lands which consists of the Hawaiian Kingdom crown and government lands.

We object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulating commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea for the following reasons:

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 to make and approve rules governing Kanaka Maoli and the General Public. The University should wait until the legal questions including questions regarding the jurisdiction, current leases and other agreements between the state’s BLNR, University of Hawai‘i and the other International governments have been resolved.

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There has been an absence and a lack of meaningful consultation with the Kanaka Maoli community and the Office of Hawaiian Affairs (OHA) whose concerns and issues were and continue to be ignored (Consultation with OHA is a requirement per Act 132) in the drafting of these proposed Administrative Rules.

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 (Hawaii State Constitution Article XI, Sections 1 & 9 and Article XII, Sections 4 & 7). For example, the proposed Administrative Rules would allow an individual to grant permits that would not be subject to the public meeting requirements (under the state sunshine law) and to make decisions concerning access fees, parking, research activities, public assemblies, commercial activities, and closures, etc. without having to be accountable to the public and consult with the Kanaka Maoli people.

Problems with the UH process to promulgate Administrative Rules, unresolved questions over UH Jurisdiction over Mauna Kea summits, and the unconstitutionality of the proposed rules will only result in future legal litigation and/or contested cases.

Mahalo for your time,

Lei Niheu
KPAC Member

---- www.kalahuihawaiipoliticalactioncommittee.org | tel. 808.372.2512 | klhpoliticalactioncommittee@gmail.com ----
HEARING II:
TUESDAY,
SEPTEMBER 25, 2018,
‘IMILOA ASTRONOMY CENTER OF HAWAI‘I
<table>
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<th>No.</th>
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<td>1</td>
<td>Tom Peek</td>
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Testimony of Tom Peek, former Mauna Kea Observatories tour guide

September 25, 2018 - Imiloa Center – Board of Regents

Aloha. I’m Tom Peek from Volcano, and I was an early astronomy guide for the Mauna Kea observatories. I’m here to oppose these draconian “administrative rules” and raise serious questions about the agency that created them—the Office of Mauna Kea Management (OMKM). My comments reflect 30 years watching this clash between astronomers and our local community—as both an observatory insider and a longtime Big Island resident.

In 1988, when I was running our fledgling Visitor Information Station program and buying the station’s first real telescope (an 11-inch Celestron), Big Islanders would often ask me two questions:

1. How many more telescopes are you folks going to build up there?

2. And when are they going to put up a gate to keep us out?

I lied about both—but certainly not knowingly. As for the first question, I relayed to them that there was a limit on the number of telescopes allowed—a promise made to the community—and that we’d already reached it. I’d read the early UH and DLNR planning documents allowing only 11 major telescopes (along with two old, soon-to-be-decommissioned 24-inch telescopes). (By the way, the Visitor Information Station was promised one of them).

Unbeknownst to me, plans were already underway to go well beyond that—to propose more than 100 additional telescopes and do precisely what those early plans explicitly tried to prevent: allow “astronomers to completely take over the mountain.”
Regarding the second question—about restricting islanders’ access—that may have been in the minds of some astronomers, but in those days was definitely not supported by astronomy staff working on the mountain. They understood, as one said while rebuking a pushy UC astronomer, “this mountain belonged to the islanders long before we showed up.”

That understanding was upturned by UH President Kenneth Mortimer and Institute for Astronomy Acting Director Bob McLaren in their defensive—I’d say even vindictive—response to the highly-critical 1998 legislative audit. Auditor Marion Higa lambasted UH and DLNR for failing to protect the mountain in a UH/DLNR collusion to promote astronomy by flouting laws, ignoring their own rules and regulations and fudging the telescope count in order to make it seem that Smithsonian’s sprawling 8-telescope submillimeter array and the Gemini Telescope were still within the 11 major telescope limit.

Mortimer and McLaren—along with the BLNR Chair—denied most of Higa’s conclusions, instead blaming the public for whatever problems existed. And they proposed the first restrictions on public access—including road closures, limited hours of operation, and fees for access—the kinds of provisions we now see in these “administrative rules.”

At the time, Sierra Club’s Nelson Ho called this “scapegoating the public” rather than dealing with the “industrialization and commercialization of the summit,” and he challenged UH’s argument that “public safety” demanded the restrictions because studies showed that it was numerous observatory and construction vehicles that made the summit roads hazardous.

But more disturbing than the proposed access rules, UH proposed transferring even more of DLNR’s statutory responsibilities and create the university’s own Mauna Kea management agency—OMKM. OMKM was never intended to restore balance on the mountain—as the public outcry demanded—but to fulfill three other goals:
1. Assure greater UH control over the road and the mountaintop.

2. Use sham planning to build political legitimacy for constructing more telescopes (even though islanders had repeatedly testified that the summit was already overbuilt).

3. And begin limiting noncommercial access to the summit.

In multiple hearings and in the media, Sierra Club, Ka Lahui Hawai‘i, Mauna Kea Anaina Hou, the Royal Order of Kamehameha and others repeatedly opposed OMKM’s creation because of its obvious conflict of interest—UH as telescope promoter and beneficiary regulating itself—“a fox guarding the henhouse” as the critics said. Indeed, these community groups proposed a wholly new management agency in which statutory “rightholders” of this ceded land would manage the mountaintop on behalf of the public and Native Hawaiians, rather than the usual “stakeholders”—astronomers, UH and Hawai‘i’s business interests.

But “old boy politics,” as usual, prevailed.

So tonight’s hearing marks a long held dream for UH—to finally take over the mountaintop, just as the public feared back in the 1980s. These rules—to further empower an illegitimate agency, OMKM—are a key component of that.

Read the rules closely and you’ll see that the vindictive spirit of UH’s response to the 1998 audit has now been amplified by their current spiteful reactions to the Mauna Kea protectors and the State Supreme Court’s 2015 ruling voiding TMT’s permit because of DLNR malfeasance. But the rules, if enacted, will almost certainly end up in court, and this time UH will be the defendant.
I hope you Regents will put an end to all this, and make a long overdue course correction, by rejecting these rules and embracing legislative proposals for a new management agency that has no conflict of interest.

Three other final points:

- Some well-intentioned state legislators have pushed for UH to complete these rules, but they’ve done so with only partial understanding of what Hawai‘i’s laws and constitution require and without full knowledge of the notorious history of the clash, particularly how and why OMKM came into existence.

- These rules may also be a delusionary last ditch effort to save TMT—to make sure Native Hawaiians and their many supporters cannot easily protest that telescope and the next ones in the queue—including Doug Simon’s Canada-France-Hawai‘i Telescope (CFHT) replacement.

- In watching the cultural aspects of this longstanding clash, I’ve sadly come to the conclusion that the underlying reason too many UH officials and astronomers feel justified pushing their agenda despite Native Hawaiian concerns is because of something just as cruel as racism—Western ethnocentrism. This deeply-seated cultural bias makes them unsympathetic to Native Hawaiians, who, in order to preserve their most important traditions—like revering their holy mountain unfettered—refuse to fully assimilate to American culture in the way that other Hawai‘i ethnic groups have often been forced to do.

Thank you.
§20-26-5 Orientation. As set forth in the comprehensive management plan, all persons accessing the UH management areas shall be required to complete an orientation regarding cultural and natural resources, safety matters, and other relevant information prior to entering the UH management areas. [Eff. (Auth: HRS §§304A-105, 304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)]

How do you ensure that everyone accessing UH managed area have gone through an orientation?

§20-26-21 Traditional and customary rights. (a) This chapter is subject to the right of native Hawaiians to exercise protected customary and traditional rights as provided for in Article XII, section 7 of the Hawai‘i Constitution, consistent with the laws of the State of Hawai‘i.

(b) The University recognizes the spiritual, cultural, and historical significance of Maunakea to native Hawaiians and the protected customary and traditional rights referenced under subsection (a) of this section. Where such customary and traditional rights have minimal or no impact on existing cultural, natural, or scientific resources, no permit or approval is required under this chapter. If such activity is found to impact cultural, natural, or scientific resources, OMKM, after consulting with Kahu Ku ‘U’Ulawa and the Office of Hawaiian Affairs, may restore the site to its condition prior to such activity.

(c) Where a particular activity has been found to impact existing cultural, natural, or scientific resources, persons proposing to conduct such activities are encouraged to consult with OMKM and Kahu Ku ‘U’Ulawa to obtain a special use permit, under section 20-26-65. OMKM shall assist applicants and allow protected customary and traditional practices to
the greatest extent possible.

(d) This section does not eliminate the need for other applicable permits and approvals issued by other government entities. [Eff ] (Auth: HRS §§304A-1903) (Imp: HRS §§304A-103, 304A-1903)

This section is too vague. Examples of approved activities should be given. Do not want KKM and OHA to be charged with evaluating each situation. This requires establishing criteria.

Pg. 26-12 (Preservation of Resources)

(12) Introducing any materials from outside the UH management areas, including but not limited to manmade and natural items such as balls, plastic flowers, glass, metal and rocks, except by written permit and, if applicable, a permit issued by the department of land and natural resources. [Eff ] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

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?

Pg. 26-13

§20-26-24 Preservation of scientific and educational resources. The following activities are prohibited within the UH management areas:

(1) Using any electro-magnetic device, including but not limited to radio transmitters and cellular telephones, except for use in an emergency;
(2) Using wireless communication technologies, except for use in an emergency;
(3) Using artificial illumination, except for headlights on licensed motorized vehicles; or
(4) Conducting any other activity that
materially interferes with the scientific and educational operations of the astronomical facilities or research equipment or with the protection of the scientific resources. [Eff (Auth: HRS §§304A-105, 304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)]

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?

Pg. 26-17

§20-26-34 Audio devices and noise. Creating noise or sound within UH management areas, either vocally or otherwise, including but not limited to public address systems, radios, television sets, musical instruments, or use of any noise producing devices, such as electric generating plants or other equipment driven by motors or engines, in a manner and at times that create a nuisance is prohibited. [Eff (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)]

NO instruments, no ukulele’s, ipu’s? What about traditional practices that require instruments?

Pg. 26-19 Access

§20-26-39 Access. (a) Roadway access control. Upon approval of the board of land and natural resources, a gate or other access control structure may be installed as set forth in the comprehensive management plan to manage vehicular access to portions of the UH management areas.

(2) Access by private vehicles may be restricted for public safety and welfare, for the protection of resources, and to reduce congestion. Restrictions may include, but are not limited to, setting a maximum number of private vehicles allowed within the UH
management areas at a time, restricting the areas in which private vehicles may operate, or utilizing shuttle vehicles in lieu of private vehicles.

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?

Pg. 26-31

§20-26-66 Commercial tour activity permits. (a) Commercial tour activity permits for conducting

(d) The president's designee shall establish a number of available permits under this section. If qualified applications outnumber available permits, the permits shall be allocated by drawing or lottery.

I do not think that the president's designee should be assigned authority to issue commercial permits, it should be done by a committee so that the process is fair and transparent.
To: U.H. Board of Regents
From: Catherine Robbins,
Re: Rules about “Public and Commercial Activities on Mauna Kea Lands”

Aloha. My name is Catherine Robbins from Volcano. As a former national park ranger at Hawai‘i Volcanoes National Park and one who has hiked on Mauna Kea for over thirty years, I could make many comments about these proposed rules but in short, I oppose them. Some of my reasons follow.

The national park has many rules that address public safety and resource protection. Underlying the rules, though, the park wants Hawai‘i residents and visitors to be able to explore and experience the natural world, and their rules facilitate them doing that.

A read of these University of Hawai‘i rules about Mauna Kea leads me to believe that the university wants to inappropriately control peoples’ activities. For example, prohibiting musical instruments (20-26-34) and prohibiting throwing snowballs during snow play days (20-26-31). It’s ridiculous.

UH is also unfairly proposing a requirement that certain traditional Hawaiian practices (20-26-21) need a special use permit, even when commercial tour activities (20-26-65) do not need that permit. Unconscionable.

The rules, certainly unfairly and perhaps illegally, allow UH to close the gate at will. Yet Mauna Kea is not private property or the private domain of the astronomers. It’s ceded land and Big Islanders of all ethnicities have been going up for generations. Shame on UH.

Out of respect for the public and Native Hawaiians, Hawai‘i Volcanoes National Park never closes the gate except in a dire emergency, like during this summer’s earthquakes and summit collapse.

(over)
The “President’s designee” (20-26-39) appears to be the person to close the road. Will that designee have the public’s interests at heart, or only the astronomers, or the commercial tours?
I sincerely hope this individual isn’t a university employee as that would remove any semblance of impartiality and objectivity as they make their decision. It is essential that the designee, first and foremost, have the public’s interest at heart.

Mauna Kea is the peoples’ mountain.

Catherine Robbins
P.O. Box 1030
Volcano, HI 96785
Tel. 808-985-8973
Email: Catherine@catherinerobbins.com
§20-26-1 Purpose

"The purpose of these rules is to provide for the proper use, management, and protection of cultural, natural, and scientific resources of the UH management offices; to promote public safety and welfare by regulating public and commercial activity within the UH management areas; to ensure safe and appropriate access to the UH management areas for the public; and to foster co-management with the department of land and natural resources in UH management areas."

It is ironic that these rules are about proper use, management, and protection of cultural, natural, and scientific resources, but the very groups that have done the worst kind of damage and desecration on the mauna are those that are in agreements with UH and the DLNR. The power differential between these two entities and Kanaka protectors is so great that rules such as these will NOT be in the interest of true protections, management and proper use. We don't need to talk more of those failures because Senator Kai Kahele’s team has already done us a service in highlighting what Kanaka protectors have been saying for decades. This, in itself, is evidence of the power differential: state entities, agencies, legislators and their staff have the power to hurt or help the people and the land. The people and the land MUST be the foundation of a healthy community. These rules make it easier, not harder, for the people and the land to be harmed on a large scale.

This is evidenced by §20-26-3, where the rules DO NOT APPLY to activities and functions of the university, subleases, and government entities. These are the entities that have done irreversible damage to people and the land. The depth and breadth of their damage in comparison to any other public group is so great that it is incomparable. So why do these rules appear to target Kanaka protectors and not these entities for their desecration and destruction of the land and their criminalization of Kanaka? Who are the entities that have caused the release of more hazardous materials on the mauna? The answer lies in the entities on the mauna, not with Kanaka.

It is extremely questionable that the president or the president’s designee has the final say on actions regarding these rules. §20-26-3 (e) states that the president or president’s designee "may seek the advice of the Maunakea management board and the Oahu Ku Mauna pursuant to the comprehensive management plan and consistent with the timelines and procedures of this chapter." The word "may" means that the president or president's designee is not required to seek advice. This is of deep concern to me, given that there are no checks and balances in the decision making of the most sacred mauna in the Pacific.

Kanaka have a unique relationship with the United States, as evidenced by the hundreds of laws that define Kanaka as public trust beneficiaries and "indigenous Hawaiian people that never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy, or through a plebiscite or referendum (Public Law 103-150)." Kanaka are not considered the "public." Kanaka have secured, special rights due to their unique status, as evidenced by The Hawaii State Constitution, Article 12, Section 7: "The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religions purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian
Islands prior to 1778, subject to the right of the State to regulate such rights.” The opinion I have of the last part of the previous sentence is that the State cannot regulate such rights into non-existence; otherwise it negates the intent of the Section; which is to reaffirm and protect all rights. These rules are doing exactly that: regulating Kanaka rights into non-existence. The multitude of rules that make it difficult for Kanaka to access the mauna is evidence that these rules are targeting and profiling Kanaka protectors and Kanaka practitioners. §20-26-34, §20-26-35, §20-26-38, §20-26-39, §20-26-42, §20-26-62...these rules all appear to be a direct result of the events that have occurred as a result of UH and government entities' decisions NOT to follow the correct protocol. The Supreme Court did not rule against Kanaka protectors. The Supreme Court ruled against UH and government entities. Again, why the reactionary response to criminalize Kanaka who have done almost zero damage to the mauna?

§20-26-5 states that orientation should be required for anyone not associated with UH but the orientations need to be for UH and government entities and foreign industrial astronomy desecrators! Not for Kanaka protectors. There are even rangers who have admitted that they don't know any of the historical and political issues surrounding the mauna. Who will certify that these orientations are sufficient and efficacious? What are the qualifications of the people giving the orientations? The people who desecrate and destroy the mauna?

§20-26-6 addresses fees. How can fees be charged for access to public lands? This is not a national park. It is not a state park. These are lands that are for the benefit of Kanaka and the public. If anyone should pay fees, it is the countries that have desecrated our mauna. They should be paying for proper management and care of the mauna. Kanaka have a right to enter these lands as Hawaiian Kingdom subjects and descendants of the first peoples of this land.

How can UH, as a lessee, require fees of others §20-26-3 part a but not those in §20-26-3 part b? Are not the people who go up to the mauna every day having more of an impact on the mauna than those who only go up once a month or once every couple of months? It is not fair that people in §20-26-3 part b do not have to pay fees.

§20-26-63 Requiring permits for Kanaka “assemblies” is an affront to the very core of the Protect Mauna Kea Movement. The only reason these “assemblies” have occurred is to stop UH and government entities from desecrating the mauna! §20-26-63 and §20-26-64 are profiling Kanaka protectors in an attempt to continue their acts of desecration.

The focus on tours and commercialism is just a distraction on what is really an attack on Kanaka protectors who have the right to protect what is their kuleana. No other assemblies or groups have the potential to lead to conflict because Kanaka protectors have a vested interest in the protection of the sacred. And conflict arises because UH and government entities create a hostile environment by working against Kanaka and the land instead of with Kanaka and the land. Does the mauna want more desecration? Does the wêkii want more habitat destruction? Does the iwi kupuna want more gawking tourists?

These rules need to address the needs of Kanaka and 'Āina, not just the needs of corporate self-interest. I am completely against the approval of the Hawai'i Administrative Rules that are before us tonight. These rules would make me a criminal and justify the use of unnecessary force against me. That you would consider to use these rules to harm innocent citizens, practitioners, and indeed, helpers in our community, shows that you are a part of the problem and not the solution.

Kau'i Trainer
Hilo, Hawai'i
HEARING III:
WEDNESDAY,
SEPTEMBER 26, 2018,
WAIKOLOA ELEMENTARY AND MIDDLE SCHOOL
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<th>No.</th>
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<th>Organization (if any)</th>
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<td>1</td>
<td>Lamaku Mikahala Roy</td>
<td>Kahu Ahu’ena Heiau</td>
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<td>E. Kalani Flores</td>
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Aloha Kakou e ka 'Ohana,

In the mid 1970's Ahu'ena Heiau at Kamakahonu Hawaii was restored by 'Oiwi. David Kahelemauna Roy, Jr. led that effort for Akua and became Kahu of Ahu'ena Heiau by Akua and the people in the 'Aha Kumu Pono at Kamakahonu. Ahu'ena Heiau is the first restored temple of worship in the Hawaiian Islands of the modern era.

Kahuna La'au Lapa'au Mornah N. Simeona said that the seventies were a time of great spiritual growth for Hawaii and her people. Among numerous efforts carried out meaningfully in the communities, Hokule'a traveled to Kahiki, Ho'oponopono was implemented in the Geneva Convention and taught to the world and Ahu'ena Heiau was restored in the Hawaiian Islands.

This restoration of Ahu'ena Heiau (Burning Altar -- referring to the Great Light there) was guided by Akua in the hearts of the men who came from all islands with the main working crew coming from Kona. There was no Office of Hawaiian Affairs, no presence of a state historic preservation department only dedicated and faithful individuals with pride for the heritage of 'Oiwi, pride in their bloodlines and respect for the First Capital of the Kingdom of Hawaii and all that came with it.

In 2005, I succeeded my father as Kahu of Ahu'ena Heiau. By loving communication with the Ancestors beginning for me in these past years, I'm instructed by them of the name our people have held for the station I inherit by Akua and my father.

I am guided by Akua and by Ancestors who serve Akua Manamanaloa in the Pacific. I learn and teach the cosmology of the first faith of Hawaii, 'aina kulaiwi; ke 'aina mauialohaunua.

Mililani i Ke Akua,

Lamaku Mikahala Roy, Kahu Ahu'ena Heiau
Kamakahonu, Hawaii
May 23, 2015

Meeting of Mauna Kea ‘Ohana; HCC campus, Hilo Hawaii
Comments of Lamaku Mikahala Roy, Kahu, Ahu’ena Heiau Kamakahonu, Hawaii

Aloha mai kakou,

I am Lamaku Mikahala Roy from Kona and I appreciate all the mana’o being brought forward today. I’m grateful for all gatherings to form and relate as Mauna Kea ‘Ohana.

The Ancestors of ‘Oiwi are active and worldwide, people actively engage with Divine Realm. In 2010, the commemoration of the 200th anniversary of the unification of the Hawaiian Islands by Kamehameha the Great, Divine Conveyances from the Ancestors of ‘Oiwi began at Kamakahonu.

On Mother’s Day, 5-10-2015, a woman received a telepathic message from an ‘io, she reported, in Waikoloa. She saw in her mind’s eye, the bird’s features, colors and markings and was told where to look to find him. Driving along the highway, she soon did come upon the One who called her. He had passed on.

This woman made a call that came to me. I went to prayer in the noon hour of that day. A powerful Divine Conveyance came forward. Please see attached. Here is what I’d like to share with you all today. Between the first & second meetings of the Mauna Kea ‘Ohana, this event and a most significant ceremony related to it took place.

First, please read the attached full message. Then, I’d like to make emphasis by what is in my na’au today to share with you related to it. Here are my words of emphasis.

Akua, in this Divine Conveyance, proclaims Mauna a Wakea to be the Holy Mountain of Creator and best representation of Kaluaokalani. Akua confirms in Hawaii, Spirit is honored by Akua’s Firstborn, na Hiapo. As such, Akua still Guides in the care of the Hawaiian Islands. Akua proclaims a leader by genealogy and divinity, Alii Nui Mo’i Edmund K. Silva, Jr. and the support system formed with the people, Nou Ke Akua Ke Aupuni O Hawaii (For You, Akua, the Government of Hawaii).

Safety comes by Life with Akua. In the desire for Safety and Protection of the Hawaiian Islands from further desecration of Lands and Spirit of ‘Oiwi, I hope that the 31 persons arrested and all who support Mauna a Wakea will agree that Guidance from the Source for Hawaii has been received.

Let the Heavenly Lands be protected along with the people by Akua. Let transparent relating characterize the true and worthwhile efforts of aloha ‘aina and aloha ka po’e.

E Ho’ola i ke Aupuni Pono’i ~ Revive the government rooted in the righteousness of Akua for the lands and the people.

The Message of the Sacred, Royal Messenger in Waikoloa is:

‘O ka pono ke hana ‘ia

A iho mai na lani
WINDS OF LOVE SWIRL SURROUNDING MAUNA KEA UPON THE EARTH
EXTENDING OUTWARD TO THE MOST DISTANT REALMS OF SILENT
AND RESOUNDING SPACE.

GREAT WINDS CARRY THE LOVE OF DIVINE CREATOR FOR ALL
CREATION FROM THE LARGEST TO THE SMALLEST MATTER. GREAT
WINDS OF LOVE REMIND ALL LIFE WHERE YOU COME FROM ~ ON THIS
DAY TO HONOR MOTHERS AND MOTHERHOOD ~ NOW RECALL AND
HONOR THE CREATOR OF ALL LIFE.

LET THIS DATE, 5 – 10 – 2015, REMIND US FOREVER OF ‘IO (10) THAT
DELIVERS A MESSAGE AND CONFIRMATION. THE RESTORATION OF
THE KINGDOM OF HAWAI’I IN THE COMPLETE HAWAI’IAN
ARCHIPELAGO OF ISLANDS IS IN PROCESS.

MANKIND FORGETS THAT ALL OF CREATION BELONGS TO ME, YOUR
DIVINE CREATOR. ONE OF MY FORMS ON EARTH IS THE ‘IO SEEN IN
ITS HOME IN HAWAI’I. HOW IS IT THAT WORDS ARE EXPRESSED BUT
THEN FORGOTTEN?

Psalm 24: 1 “The Earth is the Lord’s, and the fullness thereof; the world and they that
dwell therein. For He has founded it upon the seas and established it upon the rivers.”

IN HAWAI’I, THE WORDS YET LIVE ~ SPIRIT IS HONORED BY MY
FIRSTBORN, KNOWN AS HIAPO. KALUAOKALANI IS THE NAME THAT
AMONG OTHER TRANSLATIONS MEANS “THE SECOND HEAVEN.” IT IS
THE LOVING FIRST HOME OF DIVINE WORLD AND HUMANKIND; THE
FIRST HOME OF DIVINE BEINGS AND MAN. HERE LOVE WAS THE
VIBRATION THAT PERMEATED AND MADE ALL LIVE IN HARMONY AND
THRIVE.

THE NAME OF THE LAND PERSISTED THROUGH PRESENT
GENERATIONS AND IS NOW BEING REINVIGORATED.

KALUAOKALANI IS PERHAPS BEST REPRESENTED BY HER TALLEST
MOUNTAIN PEAK, YET SHE HAS NUMEROUS WONDROUS
REPRESENTATIONS IN THE WATERFALLS, THE VALLEYS, THE RIVERS,
THE SEAS. THE PEAK IS MAUNA A WAKEA; MY HOLY MOUNTAIN AND
PLACE HELD IN GREATEST REVERENCE.

LET THIS BE THE COMMEMORATION OF THE DAY HEAVENLY HAWK IN
WAIKOLOA CONVEYED MY MESSAGE TO THE GREATEST AND THE
SMALLEST OF MY CREATIONS IN THE PLACE I’VE PREPARED TO SERVE
THE EARTH AND MANKIND. LET KALUAOKALANI AWaken ALL TO
LOVE AND HARMONY.
THE RESTORATION OF THE KINGDOM OF HAWAI'I LED BY ALI'I NUI MO'I EDMUND K. SILVA, JR. AND NOU KE AKUA KE AUPUNI O HAWAI'I IS UNDERWAY. THE UNITY OF 'OIWI OF THE PACIFIC IS HELD IN SPIRIT BY THEIR ANCESTORS WHO SERVE ME.

FROM THE VERY FIRST KINGDOM ESTABLISHED AT KAMAKAHONU, MY HOLY LIGHT HAS SHINED THROUGHOUT ALL MOVEMENTS OF MAN.

NOW BY THE READINESS OF ALL WORKERS FOR LIGHT AND WORKERS FOR MY HOLINESS THROUGHOUT THE WORLD DO I PROCLAIM MAUNA A WAKEA MY HOLY MOUNTAIN AND KO HAWAI'I PAE 'AINA AS LANDS OF KALUAOKALANI NOW OCCUPIED BY THE UNITED STATES OF AMERICA.

NOU KE AKUA KE AUPUNI O HAWAI'I BY ALI'I NUI MO'I EDMUND K. SILVA, JR. IS ENFORCED TO RESTORE MY HOMELAND THE PACIFIC AND ALL OF MY CREATIONS FOR THE GOOD OF ALL LIFE AND TIME TO COME.

HE 'OIA'TO NO. TRUTH INDEED.

Received and Recorded on May 10, 2015

By Lamaku Mikahala Roy

Lamaku Mikahala Roy, Kahu Ahu'ena Heiau
Kamakahonu, Hawaii
To: Office of Mauna Kea Management  
Board of Regents University of Hawai‘i  
Governor David Ige State of Hawai‘i

From: Lamakū Mikahala Roy  
Kahu, Ahu‘ena Heiau  
Kamakahonu, Hawai‘i

RE: STRONG, CLEAR AND ETERNAL OPPOSITION OF THE PROPOSED DRAFT RULES FOR MAUNA A WAKEA

Public Hearing  
Waikoloa Elementary & Middle School; 6:15 – 8:15 pm  
68-1730 Ho‘oko St  
Waikoloa, Hawaii

September 26, 2018

Attached please find testimony I’ve offered earlier that is my testimony here tonight.

Mauna a Wakea belongs to Akua, Divine Creator. All associated with Mauna a Wakea belongs to Akua.

Psalms 24:1 “The Earth is the Lord’s and the fullness thereof; the world and they that dwell therein. For He has founded it upon the seas and established it upon the rivers.”

Mauna a Wakea is the Pinnacle and Highest Point of the remnants of Kaluaokalani, the Second Heaven. By its name, Kaluaokalani is the birthplace and origin of all life created by Akua for ‘Oiwi in the Pacific and for all mankind upon the Earth.
Aloha Kakou:

I am Mikahala Roy, Kahu of Ahu'ena Heiau at Kamakahonu Hawaii. I inherited this Title by designation of my father, Kahu David Kelihelemauna Roy, Jr. who led the restoration of Ahu'ena Heiau by and for ‘Oiwi beginning in 1975. I began my Service on April 6, 2005.

I inherit the purposes and authority of the station of Kahu as the Divine Servant of this Royal and Sacred Temple of the Hawaiian Islands and of the Ancestors of Hawaii under Ke Akua Manamana Loa, Divine Creator.

As Kamakahonu was designated first Capital of Hawaii and Ahu'ena Heiau, the personal temple of Ka Moʻi Kalanipaiʻeakunuiakea Kamehameha I, the meaning of the enduring life of SPIRIT of Ahu'ena Heiau is equal to the enduring life of SPIRIT of all the lands and ‘Oiwi of the Hawaiian Islands of the Pacific.

Native Hawaiians have the right to challenge construction plans that disturb Hawaiian burial sites, the Hawaii Supreme Court ruled in August 2010. But by the constitution of the State of Hawaii proceeding from the constitution of the U.S. of America, the separation of church and state is clear. The State has no say in the worship, continuity and evolution of the first faith of the lands of Hawaii. Further, by the Freedom of Religions Act passed in 1978, the State is obligated to not only recognize but to protect the religion of Hawai‘i. This applies to lands they lawfully own and those they illegally occupy such as Hawaii.

I stand before you today, the representative of the Ancestors of Hawaii and Akua for Kamakahonu. As I stand here, so do all of those in Service, past, present and future of ALL the Temples of Hawaii and other sacred properties stand with me. As I’m here, our Ancestors stand before you. We are in the presence of Divine Creator.

The 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. Akua oversees Hawai‘i. By their own law, the State has no part in the religion of Hawaii. Restoration of sacred sites and protection of burials are included in the Divine Plan for Hawaii’s present and future.

Mikahala Roy

Mikahala Roy, Kahu Ahu’ena Heiau
Kapitala Mua o Ka Na‘i Aupuni
Kamakahonu, Hawai‘i
Testimony Pertaining To:

HB 1618
SB 1527

Ladies and Gentlemen of the Hawaii Legislature:

Aloha Kakou. I am Mikahala Roy, Kahu of Ahu'ena Heiau at Kamakahonu, Hawaii. Kamakahonu is the first Capital of the Hawaiian Islands unified by Kamehameha the Great and Ahu'ena Heiau served as his personal Heiau.

My testimony today is wholeheartedly against HB 1618 and SB 1527. There exists no rightful avenue for the State of Hawaii to attempt the exertion of control upon Native Healers of Hawaii -- no more than it has rightful means to do so over sacred temples, burial grounds -- in short, upon all of Sacred Hawai'i. The State has no right at all to involve itself or its regulatory parties in the Sacred Religious Practices of Hawai'i.

Attached please find the DECLARATION OF KAMAKAHONU.

The Declaration of Kamakahonu gives fuel & energy to a cohesive VOICE that Hawaii is the domain of Akua (Divine Creator). It states:

1) The State has no say in the worship, continuity and evolution of the first faith of the lands of Hawaii. By state laws, the separation of church and state is clear.

2) By the Freedom of Religions Act passed in 1978, the State is obligated to not only recognize religions but to protect religious freedom. This applies to lands they lawfully own and those they illegally occupy such as Hawaii.

3) 'Oiwi have the right to challenge construction plans that disturb Hawaiian burial sites as confirmed by the Hawaii Supreme Court ruling of August 2010.

4) Temples of worship and burial grounds are ultimate religious domains.

E nana 'ia ka pulapula i ka la'a kea i ka la'a uli,
May the descendants be cared for in times of light and in times of misfortune.

Holopapa ka pono (righteousness prevail),

Mikahala Roy

Kahu, Ahu'ena Heiau
Kamakahonu
September 26, 2018

TO: UH Government Relations Office  
2442 Campus Road  
Administrative Services Building 1-101  
Honolulu, HI, 96822  
uhhar@hawaii.edu

FR: E. Kalani Flores, representing the Flores-Case ‘Ohana  
P.O. Box 6918, Kamuela, HI 96743  
ekflores@hawaiiantel.net

RE: UH Adoption of Chapter 20-26: Hawai‘i Administrative Rules

General Comments:

1. In order to protect Native Hawaiian customary and traditional rights exercised for subsistence, cultural, and religious purposes associated with the Mauna Kea lands, the 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 stipulated in the State Supreme Court decision rendered in Ka Pa‘akai O Ka‘Aina v. Land Use Commission, 94 Hawai‘i 31, 47, 7 P.3d 1068, 1084 (2000). Once these rights and practices are appropriately identified, the University needs to consult with the Office of Hawaiian Affairs (as required by Act 132) as well as Hawaiian cultural practitioners in order to appropriately protect these rights and practices (as required by the 2009 Mauna Kea Comprehensive Management Plan). The exercise of native Hawaiian rights and cultural practices and associated activities pursuant to article XII, section 7 of the Hawaii State Constitution are distinct from the general public activities. 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, and the power to protect these rights and to prevent any interference with the exercise of these rights. In order to fulfill its duty to preserve and protect customary and traditional native Hawaiian rights, DLNR and BLNR must independently investigate:

(1) the identity and scope of “valued cultural, historical, or natural resources” in the... area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;  
(2) the extent to which those resources – including traditional and customary native Hawaiian rights – will be affected or impaired by the proposed action; and  
(3) the feasible action, if any, to be taken... to reasonably protect native Hawaiian rights if they are found to exist.

Ka Pa‘akai O Ka‘Aina v. Land Use Comm’n, 94 Hawai‘i 31, 47, 7 P.3d 1068, 1084 (2000). Under Ka Pa‘akai, an agency’s analysis must be “independent,” 94 Hawai‘i at 45, 7 P.3d at 1083, and the duty of the agency to analyze the Ka Pa‘akai framework cannot be delegated. Id. at 60, 7 P.3d 1087.
There has been no investigation by DLNR/BLNR into the traditional and customary practices that will be affected by the proposed action. Adopting these proposed rules before DLNR/BLNR has completed an independent Ka Pa'akai analysis would be in clear violation of Ka Pa'akai and the Hawai'i Constitution.

2. There should be separate tiers of penalties and appeals pertaining to the different violations and penalties. As written, the rules have lumped every type of violation from minor to major into one approach. For example, a parking citation should not be treated in the same manner as other proposed violations and be subject to a penalty up to $2,500. What are the examples of enforcement, appeals, and penalties applied on existing UH campuses? These proposed rules need further clarification and separation between the various categories of violations.

3. If the proposed violations are considered civil in nature, why aren't they being handled through the existing district or circuit court system instead of a contested case proceeding? Contested case proceedings were never intended for handling these types of civil violations because they are inappropriate, time consuming, and not cost effective. Just calculate how much it would cost for the UH to conduct one contested case proceeding? Now, times that by the number of anticipated violations per year that might contest these rules. Other options (i.e. DLNR's Civil Resource Violation System) for handling certain violations should be implemented that are just, speedy, and cost-effective. For example, the CRVS allows the issuance of citations for minor violations - either a fine, retribution for fees and costs, or non-monetary sanctions like restoration - that would not have to go through a hearing process or court system.

4. Several of these proposed rules and the procedures for adoption are not in compliance with the CMP, Mauna Kea Master Plan (2000), Act 132 as well as other statutory laws.

5. Several of these proposed rules are invalid for being overbroad and thus infringing on the constitutional rights of individuals. Hoffman Estates v. Flipside, Hoffman Estates, 455 U.S. 489, 491 (U.S. 1982).

6. There should also be a section of rules and associated enforcement that pertains to astronomy personnel, UH employees, contractors, researchers, etc. who are within the Mauna Kea Science Reserve and other UH managed lands in order to protect the cultural and natural resources. As written, such individuals are exempt from such rules.

Specific Comments:

§20-26-3 Application. [Some of these rules are applicable to astronomy personnel, UH employees, researchers, contractors, etc.]

Thus, they shouldn't be exempt from all of these rules unless another section of rules is being applied to specific to them.]

§20-26-6 Fees. [This section doesn't specify any provisions for waiver of fees for Native Hawaiian cultural practitioners.]

§20-26-22 Preservation of resources. [Many of these specific rules are unnecessarily restrictive in nature. In addition, many of them would be in conflict with Native Hawaiian traditional and customary rights and practices.] Also, section (6) should be moved to §20-26-23.
§20-26-24 Preservation of scientific and educational resources.
(1) Using any electro-magnetic device, including but not limited to radio transmitters and cellular telephones, except for use in an emergency;
(2) Using wireless communication technologies, except for use in an emergency;
[It's unnecessary to ban such devices in all parts of Mauna Kea. These areas should be more specific. Also, as written, these sections would make it unlawful to even use an iphone or smart phone to take photos.]
(3) Using artificial illumination, except for headlights on licensed motorized vehicles;
[As written, this section would make it unlawful to use a flashlight.]

§20-26-29 Vehicles and transportation.
(7) Failing to comply with any posted sign or any posted equipment requirement based on roadway conditions, such as a requirement to use or carry tire chains when snow or ice is present or anticipated.
[It's not always necessary to have tire chains when snow is present which this section implies. The ending part of this sentence should be eliminated as such: such as a requirement to use or carry tire chains when snow or ice is present or anticipated.]

§20-26-30 Unmanned aerial vehicles, drones and air toys. [There should be some provisions, perhaps by permit, for use of some types of uavs or drones such as for research, educational, or other projects instead of a complete ban.]

§20-26-38 Camping. [This section doesn't specify any provisions for activities by Native Hawaiian cultural practitioners that might conflict with the proposed rule and definition of "camping". Also, there should be some provisions, perhaps by permit, for such activity as for research, educational, or other projects instead of a complete ban.]

§20-26-39 Access. [This section doesn't specify any provisions for access by Native Hawaiian cultural practitioners that might conflict with the proposed rules.]

§20-26-41 Scattering of cremated remains. [There should be designated areas for scattering of cremated remains for the general public and visitors.]

§20-26-62 Group use permits generally. (a) Any group larger than ten (10) members shall be required to obtain a group use permit. [There should be a distinction when such group use permits are necessary or practical. For example, why would it be necessary for a group of ten or more require a permit if only coming to the VIS? Especially if it's an educational or tour group just visiting the VIS. Instead, there should be an easier process to notify the VIS if a class or other group was coming to the VIS similar to the process for groups planning a trip to the 'Imiloa Center in which a permit is not necessary or needed.]

§20-26-63 Group use permits for public assemblies and meetings. (a) Public assemblies, meetings, gatherings, demonstrations, parades, and other such events, resulting in assemblies of ten (10) or more persons, are allowed in the UH management areas, provided a permit for such event has been issued by the president's designee. [Parts of this rule are in violation of First Amendment rights and runs afoul of the rights of free speech, association, and movement.]

§20-26-73 Penalties, administrative fines and other administrative sanctions. [see General Comments 2 & 3]

§20-26-75 Appeals process... [see General Comments 2 & 3] [Also, seven days to submit an appeal is inadequate. It should be at least 21 days or more similar to what other State agencies allow in the appeals to their citations.]

Note: We were only able to comment on the few specifics of these proposed rules. As such, we reserve the right to provide additional comments.
The University of Hawai‘i Board of Regents Proposed Rules for Mauna Kea Hearing: September 26, 2018, at Waikoloa Elementary and Middle School, Waikoloa, Hawai‘i Island

Sirs:

I am Clarence ku Ching – and I am in total opposition to these proposed rules!

Mauna Kea is our Mountain, the Mountain that is DNA- and blood-related to us according to principles of Hawaiian cosmology - our elder, mountain brother. Its status to us is as elevated as that of our other elder brother - the kalo. The Mountain is also the place where the bones of many of our ancient ancestors have deteriorated to become, with the rocks, stones, and gravels, the actual substance of what is the Mountain.

Like its brother mountains scattered over the Earth that are respected and acknowledged, and possibly worshiped, Mauna Kea’s status is indeed as important to many Hawaiians. Hawaiians - both inside and outside of this room.

As for me - I am an established Hawaiian cultural and religious practitioner on Mauna Kea. In addition to participating in practices in common with others, I am also a participant in cultural and religious walks over the 'aina and mauna in the footsteps of my ancestors. I am the leader of the group – Huaka‘I I Na ‘Aina Mauna. Mauna Kea is one of my special places. Because of these activities, the Hawai‘i state Constitution and my participation in the Hawai‘i state Appellate system that includes multiple appeals - I am NOT a member of the general public AND these rules do NOT, or should not, apply to me.

Please consider that some of the rules that you are promulgating are based on rights that are Constitutional and not delegable by DLNR.

However, it is clear to see that even though the scope of these rules aren't broad enough to extend out to folks like me - it is clearly obvious that you are indeed attempting to exactly do that. You are attempting to exceed the scope of jurisdiction that you have been empowered with by Act 132.

Although you get some kind of legal authority to establish the so-called "proposed rules" by Act 132, are you in compliance with Act 132? No.

To begin with - I will include in my testimony to the Record of this Rule-making process - by reference - all of the "Official Records" of all the contested cases and other processes that are Mauna Kea related that are archived by DLNR and in the court system of the so-called "State of Hawai‘i." This includes the Keck Observatories Outrigger Telescopes, the Mauna Kea Comprehensive Management Plan, the First TMT CDUA Contested Case Hearing, the Second TMT CDUA Contested Case Hearing - and the briefs and decisions of their respective appeals.
By personal observation, I'm finding that this specific Rule-making process is insulting, ridiculous and a sham. It borders on misrepresentation, deceit and fraud. While it's purpose is couched to address "general public and commercial activities" - It really is a Manifesto to "regulate" Hawaiian cultural and religious practices on Mauna Kea - an activity that is wayyyyy beyond the scope of the university's power, authority and jurisdiction.

I'm also very sorry to say that the Regents - as a collective - are ignoring this supposedly very important process - being attended by 2 at Monday's (Sept. 24) Honolulu hearing and 1 at Tuesday's (Sept. 25) Hilo hearing. If the Regents have divorced themselves from engaging in this process - How will they be able to competently vote to approve this process or not?

One of the university's charges is to "consult" with the Office of Hawaiian Affairs. Depending on the definition of "consult" - to seek information or advice (from someone with expertise) - Has successful consultation taken place?

It appears - from OHA's comments submitted in this public hearing process - that OHA's "information and advice" to the process haven't been significantly implemented - as OHA's objections and comments are numerous. The required consultation has failed.

On the other hand, despite the Act 132 condition that states - "Access for traditional and customary native Hawaiian cultural and religious purposes shall be accommodated." - it appears that the opposite is taking place.

From the tenor of these proposed rules, it clearly appears that the university's position - opposite from its legal charge of support, and even advocacy for the practice of Hawaiian culture and religion (by the Hawaii State Constitution, its statutes and rules and case law) - is to attempt to "regulate" such practices out of existence on the Mountain.

The university, on the other hand, is guilty of mismanagement of the Mountain (if we can believe Governor Ige and the "State" Auditor), being fined $20,000 for allowing sub-lessee violations, attempts to put illegal (not supported by compliance with legal rule-making) rules in place, being complicit in curtailing customary and traditional Hawaiian cultural and religious practices, desecration (or allowed to be desecrated) of contemporary ahu and other sites (without rules or authority), illegally blocking the access road under the guise of health and safety concerns, allowing the major modification of disappearing 30 plus feet of puʻu and sending them to oblivion, illegally burying gobs of rubbish on the Mountain, being complicit in allowing astronomy activities to cause significant, substantial and adverse impacts to cultural and environmental resources of the Mountain, and presently intending to incrementally add more of such impacts to the Mountain.

Is the university, the foremost Desecrator and Violator of Mauna Kea qualified to promulgate rules for the general public and commercial activities? And to promulgate
rules that would apply to those (Hawaiian cultural and religious practitioners) who you have NO jurisdiction over?

By the way, because cultural and religious practitioners may not look any differently than members of the general public – How are you going to know who you may have jurisdiction over and who you may not? I believe that “identification” will become a major problem.

Personally, I'm waiting for the opportunity to oppose you guys in court for false or illegal arrest and other criminal behavior. Maybe even kidnaping. Are you Regents (and possibly the Governor) willing to be personally liable for such irrational, immoral and illegal behavior?

However, despite an over-abundance of "bad" things that the proposed rules include - there are those that are extremely more obnoxious than others as they pertain to violations of the scope of your jurisdiction and common sense health and safety concerns. However, I don't have the time to enumerate the bulk of them. However, among the ones I will specially point out are -

1. The restriction of cell phones and other electronic devices.

In August 2002, while my group was hiking between Pu'uMakanaka and Pu'uLilinoe, one of our group developed an advanced case of altitude sickness. With no available means to get him off the mountain (as our position was about as inaccessible as is possible on the Mountain) - it was only by the use of a cellphone that we were able to call up an army helicopter that could land and take the person off from the 12,000 foot altitude that we were at to timely evacuate him off the mountain. The use of a GPS instrument was important in efficiently getting the helicopter to point of pickup.

A few years after that, again, it was a cell phone that beckoned a county helicopter to very steep terrain above Pohakuloa Training Area, between the springs at Houpo O Kane and the then State Park below, to take off one of our participants who had broken an ankle. It was so steep that the helicopter couldn't land, but had to balance with a part of its skid on the edge while the rest of the helicopter was suspended in air.

Then in 2014, our group discovered the bones of a lost hiker who had perished in a snowstorm - and a cell phone was used to report the situation.

That you would attempt to restrict cell phones for folks such as us and in the situations that we sometimes find ourselves is totally unconscionable, irresponsible and a threat to public health and safety. It is also a crime against humanity.

If, sometime in the future, a dire event should take place that could have been avoided by not having this restriction – are you willing to be held personally responsible and liable for promulgating such an absurd rule?

2. The restriction of camping equipment.
There have been a couple of situations when members of my group have been "marooned" on the mountain. In the item above, in the example of human bone discovery, the situation resulted in the group not getting to a pickup point in time, forcing them to spend the night on the Mountain. They were able to survive because they had items that are included in this category with them. Yes, this category includes items of life saving. It's insurance folks - to avert possible catastrophe.

If, sometime in the future, a dire event should take place that could have been avoided by not having this restriction - are you willing to be held personally responsible and liable for promulgating such an absurd rule?

3. The restriction of flashlights.

Are you kidding? A flashlight is one of the most important and required items to have on the Mountain at all times. One never knows when he or she will be out there and needing one. We have used flashlights for signaling - even in the daytime.

If, sometime in the future, a dire event should take place that could have been avoided by not having this restriction - are you willing to be held personally responsible and liable for promulgating such an absurd rule?

4. The restriction to not be on the Mountain at night.

Over the course of many years, I have participated in many night-time cultural and religious activities that this restriction would impact. Specifically, observances, celebrations and rituals at equinox and solstice times on the Mountain would be totally impacted. I'm not ready to have you rule-make the termination of this practice that is of great importance to me.

5. Attempts to control the use of the Mauna Kea Access Road.

While you may have a "non-exclusive lease" of the Access Road - you do NOT have full control over the roadway. Do you know what "non-exclusive" means? It means that there are others who have rights that you DO NOT have - and those rights belong to the public and others. These are "public" rights. In your arrogance, you dare to make rules over a "public" roadway. Or to close a "public" roadway off under the guise of health and safety concerns? Remember, Bill Gates thought he could do it on Lanai when he got married, but the law prevailed.

Unfortunately, your arrogance hasn't yet been tested. Are you willing to be held personally responsible and liable for promulgating such an absurd rule that will impact the public's rights?

6. Restrictions on being on pu'u.

Generally speaking, pu'u areas are very important to Hawaiians. Many of our burials are located on them. Are you attempting to restrict us from visiting our cemeteries?
You'd better not. You're interfering with and negatively impacting our cultural and religious rights.

7. Attempts to control the use of the trails?

This one takes the cake. In your (and those of your advisors) exuberance and haste – you have decided to extend your non-existent jurisdiction to the trails on the Mountain. Really? Are you guys that dumb, or are you just a bunch of rubber-stampers? Did anyone check to see if the trails are included in your general lease?

Sorry to say, you guys haven't done your homework. Your arrogance prevents you to do so. The trails are NOT included in the general lease. So, simply put, you do not have ANY control over the trails of Mauna Kea (and includes the Umikoa Trail, the Humu’ula Trail and other trails. Yet your proposed rules blindly has you guys claiming control and making rules on their use.

Are you Regents foolhardy enough to accept personal liability to knowingly include dominion over the Mauna Kea trails when you don't have any semblance of rights to them?

7. The Law of the Splintered Paddle is applicable to Mauna Kea.

You specifically do NOT have jurisdiction over the trails AND you definitely don't have powers and authority to trump the Hawai'i State Constitution.

Anyway folks, I suspect that you will not be paying much attention to the contents of my (and others) testimony. But please take heed – as you are trying to enter into areas where you are not authorized and empowered to legally go.

My best advise to you folks is to scrap these proposed rules and start over – with good faith and intentions at the fore.

However, please take NOTICE that you have an obligation and duty to read and consider all testimonies of this public hearing – and the knowing that is included. And be further noticed that if you intentionally and knowingly exceed your jurisdiction and try to affect the rights that you have no business even trying or thinking to regulate – that you may be subject to personal liability.
Submitted by:
Christopher Langan
Mauna Kea Ski Corp
Hearing IV: Friday, September 28, 2018, University of Hawaiʻi Maui College
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Aloha,

As a Kanaka Maoli of Ko Pae ‘Aina Hawai‘i, I object to the University of Hawai‘i (UH) Process to Propose Administrative Rules to regulate commercial, public, and Kanaka Maoli (aka Native Hawaiian) activities on Mauna Kea.

Mauna Kea is comprised Hawaiian Kingdom Crown and Government lands aka “Public Trust Lands”. 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. The University has only a sublease of Mauna Kea summits – ownership still lies with the Kanaka Maoli people.

The summits of Mauna Kea are sacred to Kanaka Maoli and its resources, sacred sites, and overall environment is important to the well-being of the Kanaka Maoli people. However, there been an absence and lack of meaningful consultation with the Kanaka Maoli community and the Office of Hawaiian Affairs (OHA) whose concerns and issues were and continue to be ignored.

With a lawsuit already pending in the Hawai‘i Supreme Court, the University of Hawai‘i will open itself up to more litigation and/or contested cases if they go forward with these proposed rules which undermine the Hawai‘i State’s constitutional obligation to protect the public trust, natural resources, environmental rights as well as Kanaka Maoli customary and traditional rights (Hawaii State Constitution Article XI, Sections 1 & 9 and Article XII, Sections 4 & 7). As a State University you are obligated to comply with the State’s Constitution.

These proposed Administrative Rules have been tailored to limit Kanaka Maoli access to the Mauna Kea summits by

1. limiting our numbers to 10,
2. making it impossible to do night time cultural and religious activities,
3. and making it mandatory for us to get a special use permit for the exercise of customary and traditional rights if the University deems that our activities will impact “scientific resources”.

Despite claims by the University that these rules are not about the TMT its obvious that these proposed Administrative Rules were created to limit Kanaka Maoli access and future protests on sacred Mauna Kea. If it was not about about the TMT then why would the University put scientific resources over that of protect Kanaka Maoli customary and traditional rights?

This process and the rules are Hewa (evil) and I oppose both.
THE LAW OF LAND WARFARE

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*This manual supersedes FM 27–10, 1 October 1940, including C 1, 15 November 1944.
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