



Mauna Kea

james smithson <nobodyatjhs@gmail.com>
To: bor.testimony@hawaii.edu

Fri, Dec 17, 2021 at 2:05 PM



Before Mauna Kea - flyer.pdf
138K



Before Mauna Kea

Astronomy in Hawaii, Ancient to Modern Times

Michael Chauvin

Chapter Titles

1. Astronomy in Ancient Hawaii
2. Finding the Longitude: Hawaii's First Astronomical Observatory
3. Astronomy and Destiny: The Murder of William Gooch
4. Longitude in a Lifeboat: 43 Days to Laupahoehoe
5. Astronomy by the Book: The Missionaries and their Message
6. Denison Olmsted: *The Rudiments of Natural Philosophy and Astronomy*
7. Astronomers for Hire: The Amateur, the Professional, and the Professor
8. A Transit of Venus and a Transient Romance
9. A Transit of Venus and a Trace of Wit
10. Telescopes, Martians, and the Man in the Moon
11. Once Upon a Time: From Sabbath Bell to Sidereal Clock
12. Astronomy for a King: His Majesty and His Legacy
13. Astronomy for a Queen: Looking for Latitude at Waikiki
14. Astronomy for an Explorer: From Molokai to Machu Picchu
15. Astronomy for Everyone: *Palapala* at the Hawaii State Library
16. Falling Stars: The Honolulu and Palolo Valley Meteorites
17. Rising Stars: The Bishop Museum Planetarium and Observatory
18. New Stars: From Astrophysics to Astrobiology
19. Stars and Stripes: New Weapons for Old Glory



Michael Chauvin, *Before Mauna Kea: Astronomy in Hawaii, Ancient to Modern Times*. 574 pp. including more than 250 illustrations, extensive endnotes, and a full bibliography. POD, pb., \$50.00. Hawaiian Skies, P. O. Box 10272, Honolulu, Hawaii 96816.

About the author: Educated at the universities of Michigan, Hawaii, Harvard, and Cambridge, Michael Chauvin has taught astronomy at the University of Hawaii at Hilo, been a Lecturer at the Bishop Museum Planetarium in Honolulu, a Resident Scholar at the Dibner Library of the History of Science and Technology at the Smithsonian Institution in Washington, DC., and the recipient, through the American Astronomical Society, of two NASA-funded research awards. He is a founding member of the Inter-Union Commission for the History of Astronomy – an international body formed in 2001 by the International Astronomical Union (IAU) and the Division of History of Science of the International Union for History and Philosophy of Science (DHS/IUHPS) to represent the interests of professional historians of astronomy worldwide.

Dr. Chauvin is the author of the critically-acclaimed *Hokuloa: The British 1874 Transit of Venus Expedition to Hawaii* (2004).

Testimony on The Master Plan for Maunakea Management

Jimmy Kuroiwa <kuroiwaj@earthlink.net>
To: bor.testimony@hawaii.edu

Fri, Dec 17, 2021 at 3:12 PM

David Lassner, President
University of Hawaii
Board of Regents
Subject: The Master Plan for Maunakea Management

We submit, as a reminder for the Board of Regents, that the purpose of the Maunakea Management Master Plan is for the only stakeholders, citizens of the State of Hawaii, the “One Larger group of Hawaiians”.

The Purpose of “the Comprehensive Management Plan (CMP) provides a management framework for the University of Hawai’i (UH) to address measures to protect the cultural, natural, and scientific resources on UH Managed areas on Maunakea.”

We know that the United States Congress has never adopted in law the Kanaka Maoli (ethnic Polynesian Hawaiian) as an Indigenous People of the Islands of Hawaii.

The science, the law, and the history present the truth from its first visitor –settler from Polynesia arriving about 1219 CE through 1266 CE to the Islands of Hawaii. Their ancestors, followed by other visitor – settlers, became the “One Larger group of Hawaiians” which is a blend of many ethnic groups comprising the State of Hawaii’s current citizens.

These visitor - settler constitute the “All” in the July 4, 1894 Republic of Hawaii’s Constitution, and which was incorporated in the April 30, 1900 Organic Act (The Act to Provide a Government for the Territory of Hawaii). The only “Hawaiian” identified in the Organic Act under:

“Article 1 §4. all persons who were citizens of the Republic of Hawaii on August twelfth, eighteen hundred and ninety-eight, are hereby declared to be citizens of the United States and citizens of the Territory of Hawaii.

“And all citizens of the United States resident in the Hawaiian Islands who were resident there on or since August twelfth, eighteen hundred and ninety-eight and all the citizens of the United States who shall hereafter reside in the Territory of Hawaii for one year shall be citizens of the Territory of Hawaii.”

This “One Larger group of Hawaiians” includes all ethnic groups as “Hawaiians” or “Native Hawaiians” as the Law which was understood throughout the history of the Islands of Hawaii.

Supreme Court of the United States; Rice v. Cayetano, Governor of Hawaii; Certiorari To The United States Court Of Appeals For The Ninth Circuit; No. 98 — 818. Argued October 6, 1999 – Decided February 23, 2000: Held: Hawaii’s denial of Rice’s right to vote in OHA trustee elections violates the Fifteenth Amendment. Pp. 15 — 28.

Attached is a copy of our testimony supporting the TMT on Maunakea submitted on July 16, 2020.

Thank you,

/s/

James I. Kuroiwa, Jr.
Hawaii LECET Director (Retired)

47-327 Mawaena Street
Kaneohe, HI 96744
Email: kuroiwaj@earthlink.net (mailto:kuroiwaj@earthlink.net)

Attachment:

Office of the Secretary and Chief of Staff to the Regents
1111 Franklin St., 12th floor
Oakland, CA 94607

University of California system
UC Regents
[<regentsoffice@ucop.edu>](mailto:regentsoffice@ucop.edu)

Subject: Testimony in SUPPORT of the Thirty Meter Telescope (TMT) on Mauna kea, Hawaii.

James I. Kuroiwa, Jr. Director Hi LECET (Ret.) LIUNA Local 368

Appointed by President George W. Bush and served two terms on the Hawaii State Advisory Committee of the U.S. Civil Rights Commission. (2007 through 2011). President and RME of Mahana Landscaping, Inc. (Hawaii Island Projects: Hyatt Regency (Hilton) at Waikoloa; The Ritz Carlton (The Orchids) at Mauna Lani; Hapuna Beach Resort; The Four Seasons at Kaupulehu; and other Kona projects from 1985 through 1998). Served as the 81 mm Mortars Section Leader with the 100th Battalion/442nd Infantry USAR (1964 to 1971) and 1st/502nd Ambl 101st Abn I Corps Vietnam (1969).

The Construction of TMT on Mauna kea is settled:

*The construction and operation of the TMT on Mauna kea is a settled issue. The Hawaii Supreme Court decided in the award of the “Notice to Proceed” to TMT through the State of Hawaii. The end results are for the TMT to complete its construction and to begin operations for the expansion of knowledge about our universe to share with the World.

Hawaii’s Governor Stalls:

*The operation of the TMT on Mauna kea will provide the World a clear vision into our Space and future. The TMT project was stalled because of a “Political” issue which has no standing with the Rule of Law. The TMT issue sits in the lap of the Governor of Hawaii, Governor David Ige, in allowing fake politics to reject science.

The “*One Larger Class of Hawaii’s Citizens*” support the TMT:

*The United State Senate Committee on Foreign Relations submitted Report No. 227 on the overthrow of Queen Liliuokalani to Congress on February 26, 1894, finding the U.S Military, Minister Stevens and Commissioner Blount not complicit in removing the Queen and her Cabinet by the Committee of Safety on January 17, 1893.

*The Senate Report was accepted by the full Senate and on March 5, 1894, by unanimous consent, approved by concurrent resolution to print of 6,000 copies of the Report to be distributed at 2,000 copies for the Senate, 4,000 copies to the House, with required copies for State Libraries, Universities, and States.

*The American of *Kanaka Maoli* ancestry is not recognized by Congress as indigenous and they are a part of the “*One Larger Class of Hawaiian Citizens*”. The “*One Larger Class of Hawaiian Citizens*” consists of all ethnic class who are residents in the Islands of Hawaii as recognized in the July 4, 1894 Constitution of the Republic of Hawaii and the United States as described in the April 30, 1900 Organic Act.

*Hawaii’s citizens recognize that Mauna kea is a special place, as is the entire State of Hawaii, with 92% of the citizens of the State of Hawaii supporting the TMT’s construction and operations, where both science and Hawaiian culture can exist on the summit.

The United States has never abused the *Kanaka Maoli*:

*The United States legally and historically has never abused the *Kanaka Maoli*. The visitors from Polynesia were probably the first to make the Islands of Hawaii their home arriving between 1219 CE to 1266 CE.

*The United States Congress on July 9, 1921 created and recognized, in conflict with the U.S. Constitution’s Fourteenth Amendment, the sub-group “*native Hawaiian*” in the Hawaiian Homes Commission Act. The sub-group “*native Hawaiian*” is the only Congressionally recognized citizen in addition to the “*One Larger Class of Hawaiians Citizen*” as in the Organic Act.

The Hawaii “*Revisionists*” attempts to change legal Hawaiian history:

*Hawaii does recognize the existence of “*Revisionists*”, who are American’s of *Kanaka Maoli* ancestry, who continue attempts to change the legal and historical facts relating to the political evolution of the Islands of Hawaii to become the State of Hawaii. The “*Revisionists*” for the past one hundred twenty-six years attempted to avoid recognizing the July 4, 1894 adoption of the Republic of Hawaii’s Constitution, that replaced the 1887 Kingdom Constitution.

Hawaii’s Ceded Lands is owned by the State of Hawaii in absolute fee:

*The Ceded Lands issue is also settled law, as decided by the U.S. Supreme Court on March 31, 2009 in the Hawaii v. OHA case. The U.S. Supreme Court stated clearly; “The Apology Resolution did not strip Hawaii of its sovereign authority to alienate the lands the United States held in absolute fee and granted to the State upon its admission to the Union.”

*The United States Federal Courts; The Court of Claims on May 16, 1910; the Supreme Court on February 23, 2000 and on March 31, 2009, decided after a complete review of legal historical documents and cross examination of witnesses the constitutional outcomes of each case. The “*Revisionists*” have continued to revise and amend the intent of those decisions on *Crown Lands*, on the “*One Larger Class of Hawaiian Citizen*”, and on the *Ceded Lands*.

Ward Research Inc. polling result for TMT released on May 28, 2020:

*Copyright 2020 Hawaii News Now. All rights reserved. Released May 28, 2020. “According to the TMT-commissioned poll conducted by Ward Research, Inc., approximately 61% of residents want construction to move ahead, while 32% are opposed.” Also, “92% of people think there’s a way for both science and Hawaiian culture to exist on the summit.” And, “The poll surveyed roughly 500 people who are representative of the ethnicity, gender and island-by-island population of Hawaii. About 22% were of (Native Hawaiian) Americans of *Kanaka Maoli* ancestry.”

The United States invests and develops its Space Force:

*The establishment of the United States Space Force (USSF) that will be overseen by GEN Charles Q. Brown Jr., who was recently nominated to be Chief of the United States Air Force. “The Mission: The USSF is a military service that organizes, trains, and equips space forces in order to protect U.S. and allied interests in space and to provide space capabilities to the joint force USSF responsibilities include developing military space professionals, acquiring military space systems, maturing the military doctrine for space power, and organizing space forces to present to our Combatant Commands.” The USSF must become a working partner with the TMT, the University of Hawaii, and all other TMT Partners throughout the Free World to maintain World peace.

Thank you,

/s/

James I. Kuroiwa, Jr.

47-327 Mawaena Street

Kaneohe, HI 96744

Email: kuroiwaj@earthlink.net

July 16, 2020

Subject: Testimony in SUPPORT of the Thirty Meter Telescope (TMT) on Mauna kea, Hawaii.

James I. Kuroiwa Jr.

References:

The July 9, 1868: U.S. Constitution 14th Amendment. “Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

The February 3, 1870: U.S. Constitution 15th Amendment. “Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.”

The February 26, 1894: U.S. Senate Committee on Foreign Relations Report No. 227 presented to Congress: The Congressional authorization to conduct the hearing, “whether any, and, if so, what irregularities have occurred in the diplomatic or other intercourse between the United States and Hawaii in relation to the recent political revolution in Hawaii, and to this end said committee is authorized to send for persons and papers and to administer oaths to witnesses.” The Senate Committee at the conclusion of the hearing, involving twenty-five (25) individual sworn testimonies and twenty-four (24) notarized individual statements, found the U.S. Military, Ministers Stevens and Blount not complicit in the interference and the removal of the Kingdom of Hawaii’s Queen and her Cabinet by the Committee of Safety.

The July 4, 1894: Constitution of the Republic of Hawaii. “**Article 17.** - Citizenship. Section 1. All persons born or naturalized in the Hawaiian Islands, and subject to the jurisdiction of the Republic are citizens thereof.”

And, “**Article 95. - Crown Land.** - That portion of the public domain heretofore known as Crown Lands hereby declared to have been heretofore, and now to be, the property of the Hawaiian Government, and to be now free and clear from any trust of or concerning the same, and from all claim of any nature whatsoever, upon the rents, issues and profits thereof. It shall be subject to alienation and other uses as may be provided by law. All valid leases thereof now in existence are hereby confirmed.”

The July 7, 1898: Annexation of the Republic of Hawaii through the Newlands Resolution. “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.

“The existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition: Provided, That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.”

The April 30, 1900: Organic Act establishing the Territory of Hawaii. “§4. Citizenship. That all persons who were citizens of the Republic of Hawaii on August twelfth, eighteen hundred and ninety-eight, are hereby declared to be citizens of the United States and citizens of the Territory of Hawaii.

“And all citizens of the United States resident in the Hawaiian Islands who were resident there on or since August twelfth, eighteen hundred and ninety-eight and all the citizens of the United States who shall hereafter reside in the Territory of Hawaii for one year shall be citizens of the Territory of Hawaii.”

The May 16, 1910: Crown Lands is settled Law. U.S. Court of Claims, Liliuokalani v. United States, 45 Ct. Cl. 418 decision. “Section 99 of the organic act of 1900 (31 Stat. L., 161) adopts substantially the same language. We have not entered into a discussion of the defenses predicated upon the above provisions of law, believing the case disposed of before we reached them. It is, however, worthy of note that the organic act of 1900 puts an end to any trust -- if the same possibly existed -- and the petition herein was not filed until January 20, 1910, more than six years thereafter.”

The July 9, 1921: Hawaiian Homes Commission Act. “§201. (a) That when used in this title: (7) The term ‘*native Hawaiian*’ means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778;”

The March 18, 1959: Admission Act approving Hawaii as the 50th State of the United States. “§15. Territorial laws shall continue in force in the State of Hawaii: All Territorial laws in force in the Territory of Hawaii at the time of its admission into the Union shall continue in force in the State of Hawaii, except as modified or changed by this Act or by the constitution of the State, and shall be subject to repeal or amendment by the Legislature of the State of Hawaii, except as provided in section 4 of this Act with respect to the Hawaiian Homes Commission Act, 1920, as amended; and the laws of the United States shall have the same force and effect within the said State as elsewhere within the United States: Provided, That, except as herein otherwise provided, a Territorial law enacted by the Congress shall be terminated two years after the date of admission of the State of Hawaii into the Union or upon the effective date of any law enacted by the State of Hawaii which amends or repeal sit, whichever may occur first. As used in this section, the term ‘Territorial laws’ includes (in addition to laws enacted by the Territorial Legislature of Hawaii) all laws or parts thereof enacted by the Congress the validity of which is dependent solely upon the authority of the Congress to provide for the government of Hawaii prior to its admission into the Union, and the term ‘laws of the United States’ includes all laws or parts thereof enacted by the Congress that (1) apply to or within Hawaii at the time of its

admission into the Union, (2) are not ‘Territorial laws’ as defined in this paragraph, (3) are not in conflict with any other provision of this Act.”

February 23, 2000: The “One Larger Class of Hawaiian Citizen” Issue is settled Law.

SCOTUS, Rice v. Cayetano (7 to 2) decision. “Held: Hawaii’s denial of Rice’s right to vote in OHA trustee elections violates the Fifteenth Amendment. Pp. 15 — 28. The State’s further contention that the limited voting franchise is sustainable under this Court’s cases holding that the one-person, one-vote rule does not pertain to certain special purpose districts such as water or irrigation districts also fails, for compliance with the one-person, one-vote rule of the Fourteenth Amendment does not excuse compliance with the Fifteenth Amendment.”

SCOTUS, Rice v. Cayetano decision. “The agency administers programs designed for the benefit of two subclasses of Hawaiian citizenry, ‘*Hawaiians*’ and ‘*native Hawaiians*.’ State law defines ‘*native Hawaiians*’ as descendants of not less than one-half part of the races inhabiting the Islands before 1778, and ‘*Hawaiians*’ – a larger class that includes ‘*native Hawaiians*’ – as descendants of the peoples inhabiting the Hawaiian Islands in 1778.” The State of Hawaii’s 1978 amendment’s definition of “*Hawaiians*” conflicts directly with the definition of the Hawaiian citizen as written in the Republic of Hawaii’s Constitution and adopted by the April 30, 1900 United States Organic Act.

March 31, 2009: Ceded Lands Issue is settled Law. SCOTUS, Hawaii v OHA (9 to 0) decision. “117 Haw. 174, 177 P. 3d 884, reversed and remanded. ALITO, J., delivered the opinion for a unanimous Court. When a state supreme court incorrectly bases a decision on federal law, the court’s decision improperly prevents the citizens of the State from addressing the issue in question through the processes provided by the State’s constitution. Here, the State Supreme Court incorrectly held that Congress, by adopting the Apology Resolution, took away from the citizens of Hawaii the authority to resolve an issue that is of great importance to the people of the State. Respondents defend that decision by arguing that they have both state-law property rights in the land in question and “broader moral and political claims for compensation for the wrongs of the past.” Brief for Respondents 18. But we have no authority to decide questions of Hawaiian law or to provide redress for past wrongs except as provided for by federal law. The judgment of the Supreme Court of Hawaii is reversed, and the case is remanded for further proceedings not inconsistent with this opinion. It is so ordered. No. 07-1372.”

October 31, 2018: Hawaii’s Supreme Court on October 31, 2018 upheld by a 4 – 1 vote the construction permits of the consortium building the Thirty Meter Telescope (TMT) on Mauna Kea.

Copies Forwarded:

The Honorable David Ige, Governor,
State of Hawaii,
Executive Chambers, State Capitol,
Honolulu, Hawaii 96813

Mayor Harry Kim
County of Hawaii
25 Aupuni Street,
Hilo, HI 96720

David Lassner, President
Office of the President
Bachman Hall 202
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Honolulu, HI 96822

Brian Lee, Director
Hawaii LECET FUND
650 Iwilei Road, Suite 285
Honolulu, HI 96817

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Linda Frutoz-Gill

Your Organization (optional)

Your e-mail address (in case we need to reach you) *

lfrutg@msn.com

Board of Regents Agenda Item (required) *

BOR IV.B. Partial Report of the Maunakea Plan Review Permitted Interaction Group Recommending Consideration of Approval of the Proposed Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I NĀ Leo (Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

Your Testimony (pdf or word)

No file attached

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Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Ben Mai

Your Organization (optional)

Your e-mail address (in case we need to reach you) *

bmai@hawaii.edu

Board of Regents Agenda Item (required) *

BOR IV.A. Informational Update on Maunakea Management

Your Position (required) *

Oppose

Your Testimony/Comments

No TMT on Mauna Kea! Respect for native lands is much bigger than astronomy!

Your Testimony (pdf or word)

No file attached



I support the construction of TMT on Mounakea

Gideon Clark <konagideon@gmail.com>
To: bor.testimony@hawaii.edu

Sat, Dec 18, 2021 at 7:55 AM

Hello to whom it may concern,

My name is Gideon Clark I have lived in Hawaii all my life and am 8% native Hawaiian. Even though I do not practice the Hawaiian religion I have learned and practiced my Hawaiian culture throughout my life.

I support UH's draft Master Plan because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best-managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

I wish my more vocal native Hawaiians did not wish so strongly to hinder the progress and development of technologies like the TMT from coming to Hawaii. I believe it is an honor to be selected as a site for such an amazing achievement.

Sincerely,
Gideon Clark



TMT

1 message

Frank Young <fyoung@hawaii.rr.com>
To: bor.testimony@hawaii.edu

Fri, Jan 7, 2022 at 11:22 AM

I am in favor of building the TMT on Mauna Kea. I believe as a member of the human species, we have always striven for knowledge throughout our history on this earth. We need TMT to broaden our knowledge and understanding of the universe of which we are a part.

We must acknowledge and honor our Hawaiian history, also. We must use the very best site for TMT as outlined by all leading experts in astronomy. To do any less would be a tragic error in our efforts to gain insight to the universe we live in.

Thank you.

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Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Chantell Cambia

Your Organization (optional)

Your e-mail address (in case we need to reach you) *

cjcambia@hawaii.edu

Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Oppose

Your Testimony/Comments

Dear UH Board of Regents,

My name is Chantell and I am a resident of O'ahu, Hawai'i. I am requesting you revoke this Master Plan on Mauna Kea. You are neglecting the last 4-5 years of protests against any commercial project done on Mauna Kea by Native Hawaiians and locals. It is especially the many decades Native Hawaiians protested against anything being built on Mauna Kea and all stolen Hawaiian land. The various commercial projects like the number of telescopes built on Mauna Kea have also had reports of contamination due chemical substances spilled into the land.No commercial project will ever be built on Mauna Kea nor any other stolen

Hawaiian land. Stop prioritizing making capital from this commercial project plan. Revoke this Master Plan now!

Sincerely,

Chantell Cambia

[Your Testimony \(pdf or word\)](#)

No file attached

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Your Name (required) *

JOHN P BEGG

Your Organization (optional)

SELF

Your e-mail address (in case we need to reach you) *

jbeyhi@yahoo.com

Board of Regents Agenda Item (required) *

OTHER

OTHER (Please describe) *

General statement of responsibility

Your Position (required) *

Support

Your Testimony/Comments

Remove all unused equipment and restore the landscape to the approval of the Hawaiian community.

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Sadie Sarkissian Eckart

Your Organization (optional)

Seld

Your e-mail address (in case we need to reach you) *

mileka17@yahoo.com

Board of Regents Agenda Item (required) *

BOR VI.E. Partial Report of the Maunakea Plan Review Permitted Interaction Group Recommending Consideration of Approval of the Proposed Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo (Listen to the Voices)

Your Position (required) *

Oppose

Your Testimony/Comments

No to Building on MaunaKea! That is a cultural and sacred place . No more telescopes up there please. Dismantle and move somewhere else please. Sacred places should be left alone. There are other places to choose. Enough is enough! No more just bc of money. My ancestors went to Mauna Kea for spiritual and cultural callings. Stop destroying our Mauna. Damaged telescopes have been unattended up there for years. Only when it was made public, did UH all of a sudden care. No No No to building anything else up there. I Love science, this is Not about 'Science'.

Sadie Sarkissian Eckart

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

negros

Your Organization (optional)

Familee Expressions

Your e-mail address (in case we need to reach you) *

maelanilee@yahoo.com

Board of Regents Agenda Item (required) *

BOR VI.E. Partial Report of the Maunakea Plan Review Permitted Interaction Group Recommending Consideration of Approval of the Proposed Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo (Listen to the Voices)

Your Position (required) *

Oppose

Your Testimony/Comments

I do not approve the newest updated Mauna Kea Plan because I am an heir to Kaohe, filed with the Bureau of Conveyances, therefore I have undivided interest to Mauna Kea and it's protection. I do not authorize any development or management of the Mountain or landscape and do not support any plans for development or management of this land/mountain. My family asks that all telescopes be decommissioned and this mountain be private for our family as heir to protect and maintain. We ask that a gate be put up for it is private property. We do not authorize any persons up on Kaohe/Mauna Kea from now until further notice is given by me, Maelani Lee.



Maunakea working group

1 message

Charlene Holani <holanic@hawaii.edu>
To: bor.testimony@hawaii.edu

Sat, Jan 15, 2022 at 1:04 PM

I Charlene Holani born and raised on Hawaii island, and an alumni of Manoa hereby urge this new working group maintain straight forward clarity with and to all of Hawaii in regards to every change and decision and updates being down by, with and for this working group. It is paramount that the past 'back door', understand happenings will not be repeated and as such this working group realize the final say of these ceded Hawaiian 'lands was/is/and forever more be 'Hawaiian' the universitys precense on Maunakea is not rightfully so and in continueing to be may UH realize who they are answering to, rather then how it has been operating which is, UH had been speaking for and making decisions with out Hawaiian consent. Be pono UH and may this working group keep them accountable.

Mahalo,

Sent from my iPhone



**MASTER PLAN FOR THE UNIVERSITY OF HAWAII MAUNAKEA LANDS hearing on
1/20/22**

1 message

Ken Conklin <ken_conklin@yahoo.com>

Sat, Jan 15, 2022 at 7:00 PM

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

This testimony is attached in pdf format, and is also available as a webpage at
tinyurl.com/bdz6vh64



UH regents Mauna Kea 1:20:22 pdf.pdf
94K

Center for Hawaiian Sovereignty Studies
46-255 Kahuhipa St. Suite 1205
Kane'ohe, HI 96744
(808) 247-7942

Kenneth R. Conklin, Ph.D. Executive Director
e-mail Ken_Conklin@yahoo.com
Unity, Equality, Aloha for all



To: UH Board of Regents
Date: January 15, 2022
For hearing January 20, 2022
Re: Mauna Kea Master Plan

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202201200830/BOR_1_20_2022_Materials.pdf](https://www.hawaii.edu/offices/bor/regular/materials/202201200830/BOR_1_20_2022_Materials.pdf)

regarding the draft
MASTER PLAN FOR THE UNIVERSITY OF HAWAI'I MAUNAKEA LANDS
E Ō I NĀ LEO (LISTEN TO THE VOICES) posted on January 11, 2022.

This testimony is also available as a webpage at
tinyurl.com/bdz6vh64

Four Fundamental Principles of Civil Rights in Hawaii

Here are four fundamental principles of civil rights in Hawaii, each stated in a single sentence. Then there are brief followup clarifications of what they mean. After that are more detailed explanations of how these principles apply to University of Hawaii policies for the governance of the Mauna Kea lands that are under UH control. The draft proposal of the Mauna Kea Master Plan openly and shamefully violates the first two principles, and was created by a racially and politically stacked Working Group most of whose members oppose the third and fourth principles.

These principles are easy to agree upon but sometimes difficult to implement when special-interest groups demand special privileges not granted to others. First I will list the principles very briefly; then I will offer a few clarifications of key words or phrases.

1. Equality before God: All humans are equal in the eyes of God regardless of race.
2. Equality under the law: Government should treat all people equally under the law regardless of race.
3. Unity with America: Hawaii is 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, not divided along racial lines.

A few clarifications:

1. Those who don't believe in God, or believe in 400,000 gods, have other ways to say it. The U.S. Declaration of Independence said: "All men [people] are created equal." Don't believe in creationism? Natural law gives every human equal worth and inalienable rights.

A beautiful Hawaiian creation legend says the gods mated and gave birth to these islands as living beings. Later the gods mated and gave birth to the first human from whom we all are descended. Thus humans are children of the gods and brothers/sisters to the 'aina.

Unfortunately some activists twist this legend to say only people with Hawaiian blood have this genealogy; therefore ethnic Hawaiians have a god-given right to rule Hawaii. Using religion or race as a basis to demand political power in Hawaii is just as unacceptable as jihad in the Middle East, fascism in Europe, or white nationalism in South Carolina.

2. Equal treatment under the law means there should be no special rights or government entitlement programs for one race preferentially or exclusively. Hawaii has many hundreds of such programs. They are illegal under the 14th Amendment equal protection clause, and morally repugnant as "institutional racism" comparable to Jim Crow laws in the old South.

For each program, either open it so all races have access or shut it down. If Native Hawaiians are truly the most needy, then they will receive most of the help if help is given based on need alone.

Article 12 Section 7 of the Hawaii Constitution grants special rights to Native Hawaiians for "traditional and customary practices" interpreted to include trespassing for shoreline access, religious practices, or gathering certain materials. The pono way to honor that provision while also honoring equality under the law is to extend the traditional and customary rights of Native Hawaiians to all citizens. In the kingdom, those rights were for everyone regardless of race ("hoa'aina" meant "tenant" not "native tenant"; "kanaka" meant race-neutral "person").

3. The Hawaiian revolution of 1893 was done entirely by local men while 162 U.S. peacekeepers, present for fear of rioting or arson, were never needed or used. Hawaii remained an independent nation until 1898.

The Republic was given full-fledged international recognition as the rightful successor government by emperors, kings, queens, and presidents of at least 19 nations, including Queen Victoria — all personally signed letters congratulating President Dole. In 1897, the Republic, internationally recognized as the rightful government of Hawaii, offered a Treaty of Annexation to the U.S., which the U.S. then accepted in 1898 after lengthy debate.

Some Senators complained that ratification by both House and Senate was not correct procedure for a treaty, but they lost. Neither Hawaiian secessionists nor U.N. has standing to overrule the method chosen by the sovereign U.S. to make its internal decision to ratify what the Republic of Hawaii offered. Yes, we are Americans.

4. What Kamehameha hath joined together, let no politicians rip asunder. The people and lands of Hawaii should remain unified under the single sovereignty of the State of Hawaii, not divided along racial lines — no race-based government recognized as though it is an Indian tribe.

Mauna Kea Sacredness: Debunking the assertion of religious sacredness as a cynical ploy by activists seeking race-based political power and money for racially exclusionary government handouts.

During Summer and Fall 2021 there were several calls for supporters of the Thirty-Meter Telescope project on Mauna Kea to submit testimony to various institutions in Hawaii and mainland USA. Following is a consolidated version of Ken Conklin's testimony.

Aloha. I am Kenneth R. Conklin, Ph.D., retired professor of Philosophy. I have lived in Hawaii permanently since 1992, speak Hawaiian with moderate fluency, and have developed considerable expertise in Hawaiian history, Hawaiian culture, and especially the Hawaiian sovereignty movement. My testimony about Mauna Kea focuses mostly on debunking the disrespectful assertion of religious sacredness

as a cynical ploy by activists seeking race-based political power and money for racially exclusionary government handouts.

1. Activists seeking political power are (ab)using Mauna Kea as a pawn in their political game. They illegally block the access road, literally holding the summit as a hostage. They hope to either secede from the USA and re-establish Hawaii as an independent nation, or else obtain federal recognition for a phony Hawaiian tribe. The state government agency Office of Hawaiian Affairs demands megabucks in "rent" [bribe] for the telescope campus -- money to be spent on racially exclusionary projects. Both varieties of activists want to control access to the telescope campus and the summit, and the kinds of activities permitted there, so they can force visitors to comply with cultural/religious protocols and listen to propaganda about Hawaii's history. If you decision-makers withhold funding or political support for the telescopes, or if you cater to activist demands for control over visitors, including activist requirements for visitor orientation and protocol, you thereby enroll as their accomplices.

2. Extremely few people truly believe Mauna Kea is "sacred" in a religious sense. Everyone appreciates the beauty and majesty of Mauna Kea. The activists regard it as "sacred" in the sense that controlling it is essential to their political and financial success, in the same way as a football quarterback is sacred to the team, or teenagers' weekly allowances are sacred to them. By using the word "sacred" they expect that the warm-hearted and generous people of Hawaii will step back in awe and give deference to what is falsely portrayed as their religion. The activists have a long history of claiming that every square inch of land in Hawaii is "sacred" because of a beautiful creation legend that they twist to say that anyone with even one drop of Hawaiian native blood is genealogically a child of the gods and a sibling to the land in a way nobody else can ever be who lacks a drop of the magic blood. Every location is "sacred" because chiefs, gods, or plants/animals who are body-forms of the gods lived there or did actions there. In bygone centuries Hawaiian natives buried family members or fallen warriors in shoreline sand dunes, back yards, or under their houses; thus ancient bones are found everywhere.

Nowadays if a single bone is found at a construction site the whole project must be halted until a committee decides whether to spend lots of money to ceremonially protect and rebury it in place and leave a vacant perimeter around it, or whether to move it somewhere nearby. Claims of places or bones being sacred are asserted everywhere, thereby giving the activists a race-based permanent property-rights easement on all the lands of Hawaii, along with political power, and basis to demand compensation. Today's activists have been known to bury some human bones or erect small structures either to claim that they are ancient artifacts or to claim that the Hawaiian religion is alive and therefore the artifacts newly created by its practitioners must be treated as sacred.

3. The ancient Hawaiian religion with centuries of tenure was permanently abolished in 1819, the year before the first Christian missionaries arrived. It was abolished by the four top political and spiritual leaders of the Kingdom in a public display in front of perhaps a thousand important people. They broke an major taboo whose violation normally carried the death penalty, and then gave a short speech proclaiming that the old religion was now overthrown, and ordering the destruction of all the stone temples and burning of the idols throughout all of Hawaii. The four leaders were the young King Liholiho Kamehameha II, his biological mother Keopuolani (sacred wife of Kamehameha The Great) who had the highest mana (spiritual power) in Hawaii, his regent (co-ruler) stepmother Ka'ahumanu ("favorite" wife of Kamehameha The Great among more than 20 official wives and numerous unofficial concubines), and Kahuna Nui (High Priest) Hewahewa. These leaders freely exercised self-determination on behalf of the entire nation. Soon thereafter came a short civil war. High chief Kekuaokalani, to whom Kamehameha The Great had entrusted the war god Ku, and his army, fought to preserve the old religion but were slaughtered in the Battle of Kuamo'o. Some ethnic Hawaiians today seek to revive the old religion as a political power-seeking ploy, thereby disrespecting the freely-chosen self-determination of their ancestors, and also disrespecting the Christianity practiced by most ethnic Hawaiians today. Many ethnic Hawaiians today claim to embrace both Christianity and the ancient religion, and pray or chant to the god(s) of

both. There are even a few left-leaning Christian pastors who tell their flocks it's OK to embrace both; but the Protestant missionaries of the 19th Century and the Catholic hierarchy of today reject such syncretism. One thing that makes Kamehameha III famous among historians was his gut-wrenching public vacillation between the two religions: He dearly loved his younger sister Nahi'ena'ena (same pair of parents) and made a baby with her (especially for love and also for politically-expected genealogical enhancement of mana in the royal family) even while periodically repenting and trying to be a good Christian when the missionaries warned him.

4. An essay drafted by 7 Native Hawaiian leaders in July, 2021 is entitled "The Historical Context for Sacredness, Title, and Decision Making in Hawai'i: Implications for TMT on Maunakea." It points out that the ancient Hawaiian religion and its gods had no objection to using areas near the summit of Mauna Kea for commercial and industrial purposes which included living and working there, digging into the ground to quarry rocks for sale or barter, and leaving their trash behind. It is not "Wao Akua" (the realm of the gods where ordinary people are not allowed to live or work). "Archaeological evidence demonstrates that, while the kapu system was in effect, Hawaiians utilized Maunakea as a valuable resource for industrial activities for over 500 years until the time of western contact. Hawaiians excavated the upper slopes of Maunakea for stone of exceptional quality to make tools. As described by Hawaiian cultural practitioner and master navigator Kalepa Baybayan during the TMT contested case hearing, "[t]hey ... shaped the environment by quarrying rock, left behind evidence of their work, and took materials off the mountain to serve their communities, within the presence and with full consent of their gods." This adze quarry complex covers an area over 900 times the size of the permitted TMT site, which itself is small compared to the entire astronomy precinct"

5. Hawaii is multiracial, with many different religions. No individual race or religion should be allowed to dictate to everyone else what will be the decisions of the government. The Constitution, First Amendment, says there shall be no "establishment of religion" by the

government, meaning that government must not adopt any particular set of religious beliefs as the primary basis for making decisions that affect all people of all different religions. That Amendment allows "free exercise" of religion by any religion, so long as it doesn't force itself on anyone who is not an adherent of it. It would be both legally and morally wrong for any government agency to award custody of Mauna Kea to any racial group or to adopt decisions or regulations establishing the ancient Hawaiian religion as the primary authority. The Constitution of the State of Hawaii, Article XII, Section 7 declares that 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." Subsequent court decisions have ruled that those rights extend to ethnic Hawaiians beyond the borders of any particular ahupua'a, and apply to shoreline access and gathering of certain plants for subsistence and cultural practices. To avoid imposing racial exclusivity, all such rights should be allowed to every resident of Hawaii. We would thereby ensure that all Native Hawaiians would be protected as required by the Constitution, while also manifesting the Aloha Spirit and the value "ho'okipa" as we avoid racial supremacy or exclusivity.

In conclusion: The thirty-meter telescope project will bring jobs and economic development sorely needed in Hawaii. Objections based on culture or religion are unacceptable both legally and morally. Mauna Kea is indeed a sacred place -- not only for Native Hawaiians, not only for all the people of Hawaii, but for the entire human race. It will help us explore and understand our origins and the beauty of the cosmos. It will bring us knowledge to guide our descendants as they navigate among the stars, just as ancient Hawaiians used the stars to navigate across the ocean.

SEE REFERENCES TO CONKLIN'S WRITINGS ABOUT MAUNA KEA ON THE FOLLOWING PAGE:

On September 27, 2018 Ken Conklin submitted testimony regarding proposed rules for Public and Commercial Activities on Mauna Kea Lands. A short summary of the testimony lists 4 fundamental principles of unity and equality, two conclusions, and topics of specific rules that are analyzed. The summary is at

<https://tinyurl.com/yccvmtwy>

The complete 18 page testimony is at

<https://tinyurl.com/y8vse4k2>

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.

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Your Name (required) *

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Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

I support adoption of UH's draft Master Plan because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island

community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

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Board of Regents Agenda Item (required) *

BOR VI.E. Partial Report of the Maunakea Plan Review Permitted Interaction Group Recommending Consideration of Approval of the Proposed Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo (Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

Your Testimony (pdf or word)

[Support of UH's draft MAster PLAN for Mauna Kea.pdf](#) (40.5 kB)

To the University of Hawaii Board of Regents

I support adoption of UH's draft Master Plan for Mauna Kea. In my opinion UH has done a very good job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. Building the TMT is absolutely necessary and it should be built on Mauna Kea.. I hope UH is doing everything in its power to ensure TMT is built. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud to have been part of it. Astronomy on Mauna Kea provides opportunities for our children to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and the future of astronomy.

Göran Sandell, PhD.
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Your Name (required) *

Ron Reilly

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BOR VI.E. Partial Report of the Maunakea Plan Review Permitted Interaction Group Recommending Consideration of Approval of the Proposed Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo (Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the

scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

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Your Name (required) *

Veronica Ohara

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Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

I fully support this Master Plan for the University of Hawai'i Maunakea Lands. I am thankful that the rights of the Hawaiians are protected according to the Hawaii Constitution in this Master Plan. The University of Hawaii has done a good job over the past decades and this new plan includes more guidance for the CMP and Public Commercial Activities on Maunakea Lands, this is important as the current structures are aging and require upkeep. I am pleased to see the balance between astronomy, cultural practices and the environment are a focal point of this plan as Maunakea can serve as a center for knowledge for our past and obviously for humanity understanding of our solar system, our place in the universe. There is an emphasis on 'Imiloa, the Rangers, volunteers, Maunakea Management Board and Kahu Ku Mauna Council, Environmental Community for the future, thus we can move forward in a way that protects the land and our culture.

Management of Maunakea Lands to UH Hilo under the advisory of Maunakea Management Board and Kahu Ku Mauna indicates that people who know best and are closest will be able to make effective decisions should problems arise.

I was encouraged to see DLNR recently evaluated Maunakea's natural and cultural resources as the best protected in Hawaii.

Thank you for trying your best to reach out to the Hawaii Island kia'i, even though they refused to speak with you. Please know I am one of the many Kanaka Maoli supporters of TMT and astronomy. I hope astronomy will continue in Hawaii, I can't imagine an institution of higher learning without an astronomy department. I support TMT and would like to see Hawaii continue as the leader in astronomy not only for the science but for the education for our future generations.

I support this Master Plan.

Sincerely,

Veronica Ohara

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Your Organization (optional)

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BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

King Kalakaua was majorly interested in astronomy, electricity, and communication. He was a far sighted person. The damage done by the so-called Sovereignty Hawaiian movement is beyond belief. They are so busy fighting among themselves for power that they have forgotten, if they even knew, what Kalakaua stood for. They also do not know their history at all. They are a very divisive, backward group. No matter how much money you throw at them, it will never be enough. The destruction of the Hawaiian beliefs by these people, i.e. the damage to plants and territory in their illegal, unlawful pillaging of Maunakea is unbelievable. I think sometimes that if the Japanese, Chinese, Russians, or Germans had taken the islanders - they would still be slaves if not dead. I would point out the necessity for this telescope - and finding out if we have neighbors anywhere close. I know many of

you have worked long and hard - not always well or right, but you have worked on this project. Thank you for your diligence.

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BOR VI.E. Partial Report of the Maunakea Plan Review Permitted Interaction Group Recommending Consideration of Approval of the Proposed Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo (Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. Mauna Kea is some of the best managed state-owned land in Hawaii, and I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea benefits our keiki in terms of education, training, inspiration, and pride in the scientific discovery. The world-class nature of astronomy on Mauna Kea is vital for the Hawaii Island community and for the economic diversification of our state as a whole. Please keep it up.

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Your Name (required) *

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Your Position (required) *

Support

Your Testimony/Comments

I mua TMT! I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. Also, Mauna Kea is now some of the best managed state-owned land in Hawaii. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the economic diversification and world-class nature of the work that goes on there. Please adopt the Master Plan and move ahead with the TMT.

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BOR VI.E. Partial Report of the Maunakea Plan Review Permitted Interaction Group Recommending Consideration of Approval of the Proposed Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo (Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

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Your Testimony (pdf or word)

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BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

I strongly support the adoption of the University of Hawaii Master Plan for Management of Maunakea Lands. It reflects the needs and aspirations of ALL Hawaii, not only those of a minority group. It recognizes the complexity of the task and is the only thoughtful, coherent plan of management on the horizon.

Your Testimony (pdf or word)

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Your Position (required) *

Support

Your Testimony/Comments

I'm in favor of UH continuing to hold the lease for the telescopes on Moana Kea. I support the future telescope and the great science being done here in Hawaii.

Your Testimony (pdf or word)

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Your Name (required) *

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Your Position (required) *

Support

Your Testimony/Comments

The draft master plan for the UH stewardship of Maunakea lands, as written, documents an extremely thorough and balanced vision for the future of Maunakea stewardship. If adopted and implemented effectively, this plan should improve on every aspect that the mauna offers, from cultural interpretation, environmental sustainability, astronomical research, cross-disciplinary research, conservation, and educational opportunity. Those who crafted this plan clearly solicited a broad swath of input and listened carefully to all the voices that spoke to their experience with and their vision for Maunakea. Speaking from the perspective of an astronomer of 20 years, the current plan, as written, will not only maintain the highly

productive facilities on the mauna, but allows for a carefully controlled modest re-fitting of those structures on existing sites, those which are not to be decommissioned, in order to make them more impactful while still maintaining a limited presence on the mauna. It also allows for the development of another world class research facility on the currently existing site 13, whether that be TMT or another telescope, a crucial step towards answering the questions of 21st century astronomical research for which currently facilities are insufficient. These questions are at the very core of our search for our origins as a species, the origins of our planet, of our galaxy, and of our universe; a fundamentally human endeavor. This plan is crafted with love for the mauna, what it brings to all people, and looks to improve on the experience of respectfully communing with the mauna for all who chose to, irrespective of their profession, background, race, or beliefs. I believe this plan should be adopted.

Your Testimony (pdf or word)

No file attached

Actions

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Testimony submitted for the support of the TMT

1 message

Jean Toyama <toyama@hawaii.edu>

Mon, Jan 17, 2022 at 11:09 AM

To: bor.testimony@hawaii.edu

I am sending you the testimony I sent last month and continue in my firm support of the TMT.

Jean Yamasaki Toyama, Emerita Professor of French-UHM



AsupportTMT.docx

15K

regentsoffice@ucop.edu

January 17, 2022

I am resubmitting the testimony I sent previously and am more than ever convinced that the we in Hawai'i must look to the future and realize the vision of Governor John Burns and Queen Lili'uokalani.

Here is that testimony.

The TMT is part of the grand vision of our beloved Governor of Hawaii, John Burns. Mauna Kea's potential was part of how he saw Hawaii and its role in the future. According to grandson Brendan, Governor John Burns, "dreamed of the creation of world class telescopes". Because of his efforts to make this happen, the road leading up to the telescopes on Mauna Kea is called "John A. Burns Way." This was in 1970.

Experts will extoll the location, the pristine conditions, I point out the continuity of history. The building of the TMT will be the pinnacle of the vision he had for our state and the continuation of Queen Lili'uokalani's passion for science. She said, "The ancient Hawaiians were astronomers."

Whatever valid issues exist between the supporters and protesters of the TMT, I hope that they can be worked out in a fair and honest way, perhaps in the Hawaiian *Ho'oponopono* way.

I think about the ancient ones
— na po'e kahiko—
robust, curious, hungry to find.
How they would have relished
exploring nōho'i
—the Milky Way—
to watch creation unfold
by slicing through time
diving into the waves of the Big Bang.

Jean Toyama
55 S. Kukui St. #2801
Honolulu, Hawai'i 96813

533-4186 or 228-9922 (cell)



(no subject)

1 message

waimeawind@aol.com <waimeawind@aol.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 11:29 AM

Mauna Kea management plan

As a scientist (MD) and a resident of Kamuela,
I am in favor of the TMT.

The plan must provide considerable attention to the Hawaiian Culture, and respect and inclusion for those who believe the Mountain is sacred

I believe these two issues can be resolved in a win-win.

[Sent from the all new AOL app for iOS](#)

Maunakea Master Plan: Board of Regents 1/20/22 Meeting

1 message

Georjean Adams <georjean@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 11:45 AM

RECONFIRMING Comments sent to the Board of Regents on the UH Master Plan Draft December 15, 2021:

I support the draft Master Plan for the University of Hawaii Maunakea Lands dated December 10, 2021.

Maunakea is a special place for its beauty, cultural significance and uniqueness in the world. We share *kuleana* to keep it that way. The Plan shows careful consideration and balancing of both the cultural and scientific importance of Maunakea.

- Maunakea is the best location in the world for astronomical observation. UH should do everything it can to maintain that status. I support the cutting edge observatories on Maunakea, the decommissioning of observatories that are past their prime, and the building of new observatories as they meet standards in the Master Plan. Yes, I support building the TMT. I believe that the people employed by these observatories will continue to treat the mauna with the utmost respect. The world benefits from the discoveries made on our mauna. Our *kama'aina* benefit from the inspiration (and jobs) our observatories provide.
- Expanding educational opportunities is a great goal, as long as you are careful not to overwhelm facilities.
- Allowing cultural practitioners access to the summit is a given. But they, too, need to *malama ka 'aina*. I'm disgusted at the continued ugliness of the protestors' camp leavings and hope we never see such a mess up at the summit.
- Tourism (off-islanders and *kama'aina*) has to be managed and limited to prevent damage to the mauna and to facilities. I think the Plan outlines a decent approach, but I expect it will require adjustments as you learn what works best.

The University of Hawaii has learned a lot (and will keep learning) and has shown that it should continue managing the Maunakea Lands for the benefit of all.

I also submitted comments on January 4, 2022, to the Mauna Kea Working Group that I do NOT support their 12/17/21 draft and that I support the UH Master Plan.

Georjean Adams
South Kohala, Hawaii



TESTIMONY ON MAUNAKEA MASTER PLAN

Theone Vredenburg <theonev1@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 12:04 PM

This is to reaffirm my support of the Maunakea Master Plan as testified and submitted by email on December 15, 2021.

Theone Vredenburg



Maunakea Master Plan Testimony

1 message

MauiBeachBumm <mauibeachbumm@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 12:45 PM

Aloha,

I support UH's draft Master Plan because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion.

I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home.

The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Mahalo,
Marc Lefebvre
(808)298-3560



Support for Tmt

1 message

Belinda Cole-Schwartz <belindacole@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 1:07 PM

What an opportunity for Hawaii to host the largest telescope in the world. Possibly finding discoveries that can enlighten and protect our planet.



Support fro Astronomy on Mauna Kea and TMT

1 message

Michael DeWeert 2 <deweert@hawaii.rr.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 1:09 PM

Dear Regents,

I am a Hawaii resident writing to express strong support for the Thirty-meter telescope (TMT). This project is important for the knowledge it will give our peoples, and also for the inspiration it will provide for the children of Hawaii, and the opportunities it can open up for our keiki.

When I served as a judge for the Hawaii State Science and Engineering Fair (HSSEF), I saw many students, of all ethnicities, doing projects in astronomy and astrophysics, inspired by our history and heritage of astronomy in Hawai'i and on Maura Kea. The enthusiasm of the kids for science, and their drive to understand nature for the benefit of humankind, was truly inspiring.

Now, the self-appointed "protectors" of Maura Kea want to take away the opportunity, and make all of us poorer. The historical injustices are unquestionable, but stopping astronomy on the Mauna will only make them worse. It's as if a bitter uncle, mistreated and denied education by his family, insisted that the family throw away the college funds for all the next generation, including his own kids. We would pity, not praise, a family who caved into such a demand.

Mauna Kea ,as a home for astronomy, is a great gift to all of humanity, and especially to future generations of Hawai'i. I urge you to let us keep navigating by the stars to secure a brighter future for our state and for our children. Imua kilohoku!

Aloha and Mahalo,
Mike

Michael J DeWeert
45-343 Mahalani Street
Kaneohe, HI 96744
(808) 372-1483



TMT

1 message

Jon Sobstad <jonstad1122@yahoo.com>
Reply-To: Jon Sobstad <jonstad1122@yahoo.com>
To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

Mon, Jan 17, 2022 at 1:09 PM

Aloha,

There can be no better use for Hawaii and Hawaiian culture than to continue the study of the heavens and Earth than the further observation and remote exploration of the Universe by instruments such as the TMT and other facilities located atop Mauna Kea and Haleakala, The premier venues for these observations in the whole world.

Don't throw out the baby with the bathwater.

Jon Sobstad
Molokai, Hawaii



Testimony in favor of UH Master Plan for TMT

1 message

BRIAN O'HARA <briano Haramd@prodigy.net>

Mon, Jan 17, 2022 at 1:12 PM

Reply-To: BRIAN O'HARA <briano Haramd@prodigy.net>

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

As a culturally sensitive 55 year Hawaii State resident with part Hawaiian grandchildren (one attending Kamehameha School, I have followed the TMT controversy carefully. We must get it right to be fair to all interests and to promote peace and harmony in our Aloha state. I think the State House task-force Report is not a fair and wise map for realigning governance on Mauna Kea since it does not offer safeguards for its continued use, in part, as a uniquely valuable astronomy resource. It does correct the greivous former lack of Native Hawaiian leadership input but would cut the UH representation entirely from the Governing Board. It tilts toward Hawaiian cultural activists who seem largely motivated by their activism and wish to dominate and control rather than follow other Hawaiian interests in sharing and developing natural assets for themselves and the larger community. Total control of Mauna Kea by these activists is no longer necessary since the other steak-holders have now indicated their willingness to compromise and share this sacred* mountain's governance more equitably, upholding all its cultural-religious, scientific, recreational, ecological and artistic values. The Astronomy leaders have made it clear they will greatly heed and as much as possible defer to cultural Hawaiian interests. Future mountain management must include wise and respected leaders from the Kanaka Maole Community as well as the University of Hawaii, the Astronomy Community and State Government. For sure, outdated Observatories must be removed while this one, the last, is added.

*a mountain can be spiritually sacred to many beholders and still be uniquely sacred to its first settlers, without their exclusive management!

It is a known fact that many Hawaiians support the TMT and take issue with the activists' more narrow perspectives.

Brian O'Hara MD
Honolulu, January 19, 2022



SUPPORT for adoption of UH's draft Master Plan for Mauna Kea

1 message

Patricia B Cadiz <pb5@mac.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 1:22 PM

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work and it is important to keep these brilliant scientists employed right here in Hawaii!

Astronomy on Mauna Kea is part of our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, *for the economic diversification and world-class nature of the work* that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Thank you,
Patricia Cadiz
Paia, Hawaii



TMT

1 message

Barbara Ells <ellsb001@hawaii.rr.com>
Reply-To: Barbara Ells <ellsb001@hawaii.rr.com>
To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

Mon, Jan 17, 2022 at 1:24 PM

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT).

UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built.

Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home.

The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up.

I mua Kilo Hōkū and i mua TMT!

Barbara B Ells
Ben W Dysart

Aloha ><



IMUA TMT!

1 message

Julie Brighton <jewel_brite@yahoo.com>

Mon, Jan 17, 2022 at 1:28 PM

Reply-To: Julie Brighton <jewel_brite@yahoo.com>

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!



TMT atop Maunakea

1 message

Suzie Petersen's <suzanneepetersen@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 1:30 PM

Again I reiterate my support for the UH management plan at Maunakea. This argument has got to stop, and that telescope needs to be built as soon as possible.

These delays continues to hurt Hawaii and the future of our world.

Simple as that!

Suzanne Elise Anderson

Sent from my iPhone



Support for UH Maunakea Master Plan

1 message

Erik Petigura <petigura@astro.ucla.edu>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 1:32 PM

Aloha UH Board of Regents,

I am a former visiting scholar at UH Manoa. I currently live in Los Angeles.

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Mahalo,

Erik



Statement in Support of TMT

1 message

Pavel Stankov <pstankov@hawaii.edu>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 1:34 PM

Aloha,

I am writing to you as a person who cares about the future of Hawai'i, the future of science, and the future of human understanding.

TMT will be a much needed source of scientific knowledge for the entire world, and I welcome its creation on Mauna Kea. There is no better place on Earth for this remarkable feat of human ingenuity, and to reap its benefits we need to have it on the island of Hawai'i. This will be yet another cause of pride for the state and all of its inhabitants: we will be able to say that the knowledge that belongs to our entire species is furthered in the pristine environment of the world's largest mountain.

Sincerely,

Pavel Stankov



I support the UH's draft master plan

1 message

Michelle Sandell <mysandell@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 1:38 PM

Dear University of Hawaii Board of Regents:

I wrote before your December meeting expressing my support for the UH draft Master Plan for UH-managed lands on Mauna Kea.

With a new meeting upcoming this month, I wanted to let you know that I still maintain that support. My earlier comments are included below.

Thank you for reading, and please keep astronomy alive on Mauna Kea!

-Michelle Sandell

I support the UH Master Plan because I support astronomy in Hawaii, astronomy supports Hawaii, and I believe the University of Hawaii has handled well the massive responsibility of managing Mauna Kea in the past. I am confident they will continue to do so in the future. It is also exciting to look forward to the Master Plan's expanded efforts to incorporate other disciplines for field studies at Halepōhaku, to be committed to the teaching telescope there, and to increase the ways the larger community connects with the decision-making process..

I am proud of what Mauna Kea stands for. I am proud that all of our activities on and around the summit manifest important human values: caring for the land and for each other, and the pursuit of knowledge. Let's keep up the good work and move forward with UH's draft of the Master Plan!

Sincerely,

Dr. Michelle Sandell
Hilo, Hawaii
PhD, Northwestern University

Writer, DiscoverHawaiiScience.com
Website guru, [Ke Ola Magazine](http://KeOlaMagazine)



In Support of TMT

1 message

Valerie Weiss <valerieweiss31@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 1:42 PM

Aloha.

I stand by my previous testimony in support of UH and of the TMT.

Additionally,

I hope UH is doing everything in its power to ensure TMT is built. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home.

The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Mahalo.

Valerie Weiss

Kapaa



Mauna Kea TMT

1 message

Andolie <amarten@earthlink.net>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 1:45 PM

Aloha,

I worked nine years for Gemini Observatory in their Public Relations and Astronomy Education Outreach Department. My job was to arrange and assist/lead events and presentations to children, classrooms, families and to general public gatherings with the intention of sharing scientific inspiration.

I chose to welcome and inspire everyone to step into the wonder of the stars. My favorite continual opening was to ask ... Who would love a job, if it were to do what you love! and be paid for it! to be part of teams to explore the edge of human discoveries? I would emphasize to all grade levels, this mountain, Mauna Kea, in this ocean at that (this) time (was) is considered the best place in the world for cutting edge discoveries of the universe. In their back yards!! ... then I would continue to introduce the stars (star systems - Hawaiian as well as Greek) and encourage them to look up and greet/make friends of identifiable stars that are forever around us, that may help us all keep time and place in our lives as they have in the past navigating the oceans.

I left Gemini in 2012! At that time, the Thirty Meter Telescope project was supportive in programs for our community, partnering to enable funding for Journey through the Universe affecting thousands, helping summer Akamai internships and many more projects. At that time, 'First Light' for TMT was tentatively (as the most ambitious!) 2018!!! Not even broken ground in 2022! Lets not use this project as a political sledgehammer. Wow, lets not delay!

What honor we might welcome in our back yard! and Hawaiian resident children be welcomed to work with.

Discovery! Science! inspiration! Not even for profit! May TMT please be our future or their future (everyone who chooses so)!

Thank you,

Andolie Marten
Hilo, Hawaii
2002-2012 outreach assistant/planetarium hostess/'Imiloa Family Astro nights hostess/Journey through the Universe assistant. Gemini Observatory



Fwd: Mauna Kea Working Group's Governing Model for Mauna Kea

2 messages

Gerald Lai <gerald.kk.lai@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 1:47 PM

University of Hawaii Board of Regents,

This is my email to the Mauna Kea Working Group (MKWG) regarding its Draft Report on the Management of Mauna Kea. The MKWG Draft Report EXCLUDES the International and National Astronomy, Scientific and Academic Communities from participation in the Management of Mauna Kea. The astronomical and scientific research, development and discoveries on Mauna Kea are too valuable and beneficial to Mankind's Knowledge of the Infinite and Eternal Universe to be sidelined and rejected by a racial, ethnic, cultural minority with a belief that Mauna Kea is sacred. The stewardship and management of Mauna Kea must remain with the UH Stewardship Master Plan adopted by the Board of Regents.

Gerald Lai

----- Forwarded message -----

From: **Gerald Lai** <gerald.kk.lai@gmail.com>
Date: Tue, Jan 4, 2022 at 3:41 PM
Subject: Mauna Kea Working Group's Governing Model for Mauna Kea
To: <maunakeaWG@capitol.hawaii>
Cc: <imuatmt@gmail.com>

To Members of the Mauna Kea Working Group (MKWG)

The Draft Report of the MKWG EXCLUDES the international and national astronomy and scientific community a vote on the management of Mauna Kea.

The International and National Science communities, recognize the importance and immense value of astronomy to advance mankind's knowledge of the Universe, in the fields Astro-Physics, Mathematical Physics, Mathematics, Quantum Physics, and Cosmology. The international astronomy and science community includes the United States, Canada, China, and India which have invested billions into the research and development of the science, technology, hardware, software, and construction of existing observatories and the Thirty Meter Telescope on Mauna Kea.

In the United States, the US National Academy of Science, Gordon and Betty Moore Foundation, Caltech and the University of California are major supporters, contributors, and investors in the research and development of the Thirty Meter Telescope on Mauna Kea.

To exclude the International and National Science Communities from having a say or a vote on the management of Mauna Kea, is a highly prejudicial, one-sided proposal by the opponents of the Thirty Meter Telescope.

The opponents of the Thirty Meter Telescope have used the meme and trope that Mauna Kea is sacred. However, the Hawaiian religion and governance, under the Kapu system, was abolished by King Kamehameha II, Liholiho and Queen Kaahumanu in 1819, 203 years ago. Under the First Amendment to the US Constitution, Under the Establishment Clause, the legislature "shall make no law respecting an establishment of religion". And under the Free Exercise Clause, "or prohibiting the free exercise thereof." "Thus building a wall of separation between Church and State." Thomas Jefferson, a founding father of the US Constitution and third President of the United States.

The Importance of the Thirty Meter Telescope

In 1608 AD, Galileo Galilei invented a telescope which magnified objects 30 times clearer in detail than the human eye. Galileo was the first person to see the four moons of Jupiter, which he thought were distant stars. But after months of observation, he realized that Jupiter's moons were orbiting Jupiter. With his telescope, Galileo observed the movement of the planet Venus and the waxing and waning of Venus like our moon. When the sun was between the Earth and Venus, Venus was brightly lit. And as Venus moved toward or away from the Earth, Venus would wax and wane like the phases of our moon. When Venus was between the Earth and the Sun, Venus was in full darkness. Galileo then realized that Venus was actually orbiting the Sun, and that the Earth and the other planets were also orbiting the Sun. Up to that time, people, everyone, and the Catholic Church, believed the Earth was immovable, the center of the Universe, that the Sun, planets, stars, and celestial bodies were absolute, immutable, immovable and revolving around the Earth.

Galileo with his telescope observed that the faint smudges of light in our Milky Way Galaxy were actually packed with billions of stars, our Sun just one of them. Galileo also observed a supernova, a comet, solar flares and sunspots on our Sun.

Galileo's discoveries and findings contradicted portions of scripture in the Bible, which brought him into conflict with the Catholic and Protestant churches. In 1633, Galileo was arrested, then tried and convicted for heresy by the Catholic Inquisition. Galileo was forced to recant his astronomical and scientific discoveries, and placed under house arrest for the rest of his life.

Galileo is also considered the Father of the Scientific Method, deriving Principles and Findings by observation, experiment and inductive reasoning. Albert Einstein called Galileo, "The Father of Modern Science". Galileo implemented a major development in human thought, the Separation of Science from Religion and Philosophy. "The Laws of Nature are Mathematical"- Galileo. Besides his accomplishments in Astronomy, Galileo is also considered the Father of Modern Physics of the Principle of Relativity, of mathematical astronomy, inventor of telescopes, microscopes, thermometer, and time pieces.

The Thirty Meter Telescope on Mauna Kea will have a thousand-fold magnification of Galileo's telescope and will be technically far superior to Galileo's telescope. The Thirty Meter Telescope will have the capability to observe the cosmos in near-ultraviolet to med-infrared wavelengths, with adaptive optics to reduce blurring. The Thirty Meter Telescope on Mauna Kea, located in the Northern Hemisphere, working in conjunction with the Giant Magellan Telescope (GMT) in Chile, located in the Southern Hemisphere, will allow astronomers and scientists an unobstructed view of the entire cosmos from the Earth.

As the Polynesians of old, observed, studied, and understood the heavens, to guide them, navigate, explore, discover, and populate vast and remote areas of the Pacific, The Thirty Meter Telescope will carry on this tradition of observing, studying, learning, and understanding the vast Universe in Time and Space, to move Mankind forward toward a greater Knowledge and Understanding of the Infinite and Eternal Universe.

IMUA TMT



I am writing in support of UH's Master Plan for Mauna Kea

1 message

Barnaby Beech <barnabybeech@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 1:49 PM

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Although this is a copy of a text from a member supporting the development of the Thirty Meter Telescope on Mauna Kea, I would like to express my whole hearted support for the project as a symbol to the world of the greatness that can be achieved here in Hawaii when presented with the right opportunity along with the chance to share it with the world.

Barnaby Beech



TMT

1 message

wayne roberts <waynerobertsau@yahoo.com.au>
To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

Mon, Jan 17, 2022 at 1:52 PM

As an amateur astronomer from Australia, I implore you to take all steps possible to ensure the construction of the Thirty Metre Telescope on Mauna Kea.

To this end, I urge you to support adoption of the University of Hawaii's draft Master Plan; obviously this involves continuing UH's role as manager of Mauna Kea, without which its Master Lease from the Department of Land and Natural Resources may not be renewed, throwing into doubt the continuation of the sub leases of the various observatories on Mauna Kea.

The astronomy research carried out on Mauna Kea is second to none throughout the world; additionally the facilities provide many employment opportunities for the local population, not to mention the manifest educational and scientific pathways for the keiki.

The TMT will take its place at the fore front of global astronomical research; it is good for astronomy, good for the planet and peoples of the world, and good for the local community in particular.

Please do your bit to enable construction of this marvellous and invaluable telescope.

Yours sincerely;

Wayne G. Roberts.



TNT

1 message

Betty <betty.bolton@hawaiiantel.net>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 1:58 PM

Dear UH

I'm not a big writer but I just have to say that Hawaii and the world needs these telescopes.

If this were the first building of telescopes on The Mountain I might understand the Hawaiian peoples resistance. But it's not.

I want Hawaii to be part of the future! I want the jobs and the research of our Universe.

I also want the Hawaiian culture to continue into the future. The world must change and Hawaiian culture must change with it. Be proud of the ancient path finders and build on their discoveries. Let the culture be part of the future not stuck only in the past.

Find a way that the Hawaiian people can benefit from the telescopes. Funding and education directed to the betterment of the people. Be proud of what the Hawaiian people can achieve into the next millennium!

Always with Aloha
E.C. Bolton

Sent from my iPhone



Testimony regarding Mauna Kea Master Plan

1 message

Pj InHawaii <pstomski@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 2:01 PM

support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Paul Stomski
PO Box 1389
Kamuela, HI. 96743

Sent from my iPhone



Maunakea Reaffirmation of Testimony

1 message

Gene <groundsg001@hawaii.rr.com>

Mon, Jan 17, 2022 at 2:19 PM

To: bor.testimony@hawaii.edu

Aloha:

This iOS to confirm that I still stand by my testimony supporting the astronomy use of our wonderful Maunakea.

Mahalo

Gene Grounds



In Support of UH's Master Plan

1 message

Ty Yun <tyun08@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 2:19 PM

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). TMT is one of the most beneficial projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work as should ALL Hawaiians. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up.

Sincerely,
Ty Yun
Kamuela, Hawaii



Support for UH's Master Plan.

Art McDonald <art@snolab.ca>

Mon, Jan 17, 2022 at 2:26 PM

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

I support UH's draft Master Plan because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is your culture. Astronomy on Mauna Kea provides opportunities for your keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and your state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up.

Sincerely

Art McDonald

2015 Nobel Physics Laureate

Art McDonald

Gordon and Patricia Gray Chair in Particle Astrophysics, Emeritus, Nobel Physics Laureate 2015

Department of Physics, Engineering Physics and Astronomy
Queen's University
Kingston, Ontario, Canada K7L 3N6
Ph: 613 533 2702 Cell: 613 5411405 Fax: 613 5336813



Master plan for University of Hawaii Maunakea lands

1 message

Dr. Charles Weems <weems@hawaii.edu>

Mon, Jan 17, 2022 at 2:34 PM

To: bor.testimony@hawaii.edu, Laura Aquino <lauraa@current-events.com>

I stand by my testimony submitted in December 2021 to approve the Master Plan for the University of Hawaii Maunakea Lands *E Ō / Nā Leo*.



Mauna Kea master plan

1 message

Kim Jackson <kim@kimjacksonlaw.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 2:36 PM

Dear Board of Directors,

I stand by my testimony submitted in December. I continue to vigorously support the addition of the TMT telescope to the astronomy use of the mountain top provided that the older buildings/ refuse are cleared from the mountain to use only the space needed. I want to protect the mountain but I also seek the mountain's use to add to scientific findings in astronomy, which has always been part of Hawaiian culture. I show respect to Mauna Kea by acknowledging and accepting her best in the world spots for astronomy. Aloha nui loa, Kim

Kimberly A. Jackson
Law Offices of Kimberly A. Jackson, LLLC
75-5782 Kuakini Hwy, Suite C-2
Kailua-Kona, HI 96740

Telephone: (808) 329-4421
Facsimile: (808) 329-4508
www.kimjacksonlaw.com

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UH Master Plan

1 message

Marcia <marcianora@yahoo.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 2:37 PM

To whomever it may concern,

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT).
Aloha.....Marcia Nora

Sent from my iPad



Imua TMT!

1 message

euclido <euclido@protonmail.com>

Mon, Jan 17, 2022 at 2:39 PM

Reply-To: euclido <euclido@protonmail.com>

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

I totally support TMT on Mauna Kea for all the right reasons including Mauna Kea being the single best location for Astronomy in the Northern Hemisphere. Although I am not Hawaiian I know many Hawaiians whom I have worked with and some who are friends and they support TMT also. The anti-TMT Kia'i have made many false claims about TMT including that Hawaiians are against the building of the telescope on Mauna Kea... I remember when ground breaking for TMT was happening and the leader and, pretty much, the creator of the anti-TMT movement marched in front of Kapuna at the ceremony; berating them and calling them; "infidels". I, as I'm sure many others, felt shocked that anyone other than a terrorist would call others infidels.

I understand that eventually about 50% of Hawaiians joined in support of the anti-TMT movement but then Hawaii is now comprised of many cultures as well as Hawaiians...every poll since this debate began showed a state wide support for TMT. All legal challenges against TMT were overruled because the claims of those opposed to TMT were found to be false. I know it shouldn't matter how long someone is a citizen of Hawaii. But I have lived and worked in east Hawaii for 44 years...

Please, I implore you to rule on the side of both truth and the majority of our state's citizens.

Sincerely,

Euclid A. LoGiudice

Sent with ProtonMail Secure Email.



TMT

1 message

Paula Kamiya <tweetybyrd@hawaii.rr.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 2:51 PM

As a retired Hawaii educator I fully support the building and implementation of the TMT on Mauna Kea of the Big Island of Hawaii. I have had the privilege of experiencing what Chile has and is accomplishing in the Southern Hemisphere with their telescopes and look forward to having the privilege to do more here in the Northern Hemisphere. What a honor for us to have the TMT as a worldwide center for learning.

Sincerely, Paula Kamiya, Waikola, HI

Sent from my iPhone



Mauna Kea Master Plan

1 message

Alan Mefford <alanhawaii@yahoo.com>
To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

Mon, Jan 17, 2022 at 2:57 PM

UH Center for Maunakea Stewardship's draft Master Plan for UH-managed lands on Maunakea

Dear University of Hawai'i Board of Regents,

I support UH's draft Master Plan because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

I am sure you will see many direct copies of the above message. I have carefully read it to be sure I support the points that it lists. I add that under the UH the Mauna Kea astronomy complex is the best managed in the world. This is partially shown by the many amazing discoveries that have come from Mauna Kea. I know that the UH's draft Master Plan represents many hours of careful study and decisions and I completely support it.

Please continue the great and valuable work.

Alan Mefford



draft Master Plan for Mauna Kea

1 message

Douglas Perrine <douglasperrine@yahoo.com>

Mon, Jan 17, 2022 at 2:57 PM

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

I support the UH draft master plan for Mauna Kea, the continued use of Mauna Kea for astronomy, and construction of the TMT on Mauna Kea. The plan balances preservation of the environment, scenic vistas, recreation, and native cultural practices with the critical scientific endeavors for which Mauna Kea is the best location in the world. It honors the Hawaiian cultural traditions of exploration, astronomy, and adoption of new technologies. It allows for preservation of an important economic sector which provides good jobs, tax revenues, and support for education and paths to a successful future for Hawaii's keiki.

Douglas Perrine
Kailua Kona



Master Plan for the University of Hawai'i Maunakea Lands

1 message

Robert Nehmad <rnehmad@hawaii.rr.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 3:14 PM

To Whom It May Concern,

This is to inform you that my testimony submitted previously stands.

Your consideration of this request is appreciated.

Regards

Robert Nehmad

[935 Kauku Place](#)

[Honolulu, HI 96825](#)

Telephone (808) 366-9045

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

I Robert Nehmad

Your Organization (optional)

Institute of Transportation Engineers

Your e-mail address (in case we need to reach you) *

rnehmad@hawaii.rr.com

Board of Regents Agenda Item (required) *

BOR IV.B. Partial Report of the Maunakea Plan Review Permitted Interaction Group Recommending Consideration of Approval of the Proposed Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I NĀ Leo (Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

I support UH's draft Master Plan because it maintains astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a good job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea recommits the culture demonstrated by indigenous

pacific island people (outstanding navigational skills). Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

[Your Testimony \(pdf or word\)](#)

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Actions

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IMUA TMT

1 message

Vicki Fay <vfay1960@mac.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 3:15 PM

As a resident and as an educator, I feel the development of the TMT is the single most important action that the University of Hawaii can take in this century. Astronomy on Mauna Kea is a celebration of our culture as navigators and observers of the heavens. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there.

Please keep it up. I mua Kilo Hōkū and i mua TMT!

Vicki Fay, EdM. 🌴

(808) 282-0878

46-055 Meheanu Place

Apt. #3444

Kaneohe, HI 96744



UH new Master Plan for Mauna Kea

1 message

Paul Baillie <baillieandsons@yahoo.com>

Mon, Jan 17, 2022 at 3:17 PM

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

To whom it may concern

Please do not let a very small segment of Hawaii's population Stand in the way of our scientific Community On Mauna Kea, We need to look To the future Honoring the past Not being Controlled by it! I have worked and hunted on Mauna Kea for nearly 50 years and I know from experience, the Mountain is big enough for all of us to enjoy Her!, do not let one group exclude all the rest of us!

Paul Baillie, Keaau, Hawaii



Mauna Kea

1 message

juanita ray <juanitaray72@gmail.com>

Mon, Jan 17, 2022 at 3:52 PM

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hökū and i mua Tmt Mahalo,

Juanita ray
808-345-3513



Mauna Kea Master Plan

1 message

Amy Takeuchi <atakeuchi808@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 3:53 PM

Sent from my iPhone

I am an avid supporter of UH continuing to manage Mauna Kea and the TMT. The Hawaiian community should have a voice also & be able to practice their beliefs under UH management. The telescopes and the UH Astronomy Program provide a wealth of knowledge & education for our community not available anywhere else in the world. We should not lose this opportunity to expand our knowledge as our mariners of old did.



My comments on the TMT BoR Meeting.

1 message

Haydn Huntley <haydn.huntley@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 3:56 PM

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

--Haydn

Haydn Huntley
cell: 808-283-5173



testimony

1 message

Marilyn Seely <marseel@aol.com>

Mon, Jan 17, 2022 at 4:07 PM

Reply-To: Marilyn Seely <marseel@aol.com>

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

Please know that I stand by my testimony submitted in December to the Board of Regents.

Respectfully,

Marilyn Seely, Kaneohe, Hawaii

8082355466



Comments in Support of UH Master Lease for Mauna Kea

1 message

Ronald Lynch <ron@lynch.name>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 4:10 PM

I am writing to voice my support for the adoption of UH's draft Master Plan for Mauna Kea. I believe the University of Hawaii has done a very fine job of managing Mauna Kea as evidenced by the collection of world-class telescopes and acquiring a permit for constructing the Thirty Meter Telescope (TMT).

Astronomy is one of the purest of sciences since its discoveries contribute to our understanding of the universe but can seldom if ever be turned into commercial products. There is no other place on Earth that is more ideal for conducting astronomical observations than Mauna Kea. Although space-based telescopes have some advantages, they are severely limited in size and maintainability leaving a critical role for ground-based telescopes such as those currently on Mauna Kea and the proposed Thirty Meter Telescope.

Astronomy has been and continues to be a "good neighbor" and the entire state benefits from its presence both in prestige and in more immediate ways such as job creation and infrastructure improvements. If UH's master lease is not renewed, it could jeopardize or delay construction of the Thirty Meter Telescope and might call into question the validity of the subleases used by the existing astronomical facilities.

I realize that a subset of the Native Hawaiian community are opposed to this renewal claiming rights to Mauna Kea on religious grounds. While I support the right of protestors to state their objections and to have their day in court (which they did), those who blocked the legally approved construction of the TMT were illegal obstructionist not protestors. Had the courts sided with the protestors they would have expected the rest of us to respect that decision but, having lost, some of them decided that the court ruling was invalid and implementation should be physically prevented. That is not the way things should work in a civilized society.

Respectfully Submitted,

Ronald A. Lynch
M.S. Chemistry (University of Hawaii at Manoa 1974)
M.S. Computer and Information Science (University of Hawaii at Manoa 1977)



The world needs science, and science needs Hawaii.

1 message

Joseph Wolf <loboprod8@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 4:12 PM

Killing TMT should not even be under discussion. It's the stupidest pathway possible.



Maunakea Telescope Testimony for 1/20/22

1 message

Nancy Taylor <taylor005@gmail.com>

Mon, Jan 17, 2022 at 4:18 PM

To: bor.testimony@hawaii.edu

Aloha - As an extremely proud '62 UC Berkeley and a 50+ year resident of Hawaii I write to lend my full support to the building of the Maunakea Telescope on the island of Hawaii. My reasons are many:

- Positive impact on for jobs and opportunities for Hawaii sand Hawaiians
- Positive impact to the State of in terms of reputation for the University and in the world of astronomy
- Ideal location for the future of important astronomical research
- Many opportunities for research and inspiration for Hawaii's students from elementary through the University level

The benefits for Hawaii and the scientific community are immense. I strongly this important project both for science but also for Hawaii which is my second home.

Thank you for you consideration of my thoughts.

Aloha.

Nancy Taylor



Master Plan

1 message

paul meyer <meyerassoc@hawaii.rr.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 4:21 PM

Good morning. I will be brief. I urge your approval of the UH Master Plan for Mauna Kea.

In particular the TMT must proceed as foreseen or our community will forego a wonderful and unique research facility. We cannot allow a shortsighted or limiter approach to astronomy in Hawaii.

I wish we could have it on Haleakala but that will not work.

Thank you and Aloha.

Paul Meyer

Maui



Support TMT

1 message

Gardner De Aguiar <BudhagRizzo@msn.com>
To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

Mon, Jan 17, 2022 at 4:36 PM

Aloha

My name is Gardner De Aguiar. I am a 57 year old Kānaka Maoli and have lived all my life in Hawaii, the majority here on the Big Island. I fully support the construction of the Thirty Meter Telescope here. We need an industry that will keep our best and brightest people here in the islands, and Astronomy should be that industry. It is an industry that will progress our people and place us on a level playing field with the rest of the modern world. It will provide another industry to rely on besides Tourism -- an industry that makes servants of us. Our ancestors were Explorers and we should continue this tradition in these modern times. Culture and Science can COEXIST on the Mauna.

Gardner De Aguiar
Hilo, Hawai'i



Master Plan for UH-managed lands on Maunakea

1 message

Jessica <jessntd@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 4:40 PM

Aloha, I would like to offer testimony on the master plan. I truly support the continued objectives of astronomy on Maunakea, however I would like to see more accountability in sustainably dismantling telescopes, containing any chemicals from the ground, and protection of places such as Lake Waiau. I also would like to see more reforestation, more focus on subjects that reflect the historical significance of the mauna and protection of fauna and flora such as silverswords, and conjunction with Maunakea Stewardship on restoring mamane trees and other subalpine flora that are endemic and sustainable for the unique habitat of the mauna. Mahalo for your work on this subject and I am looking forward to your final plans. Jessica Kuzmier, Kona



Support the TMT on Mauna Kea

1 message

Jean Geer <sajean12@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 4:45 PM

The TMT has my support . . . We need the astronomy industry in Hawaii! Sajeon Geer



Support for UH's Master Lease and plan for Mauna Kea

1 message

Robert Robinson <rjrobins@hawaii.edu>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 5:33 PM

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Robert J. Robinson



Testimony in support of adopting UH's draft Master Plan for Maunakea

1 message

Ruth Robison <rrobison@hawaii.edu>
To: BOR Testimony <bor.testimony@hawaii.edu>

Mon, Jan 17, 2022 at 5:50 PM

Thank you for the opportunity to submit testimony in support of adopting UH's draft Master Plan for Maunakea. This well-crafted Master Plan lays the groundwork for keeping world-class endeavors in astronomy on Maunakea, including currently operating telescopes and the future Thirty Meter Telescope (TMT). UH has continuously improved its management of Maunakea over the last 20 years and has built respect and observance of Hawaiian culture into its plans. I want astronomy to thrive in Hawai'i because it represents the cutting edge of understanding of our place in the universe. This is important for all people on earth. The scientific discoveries that have been made by our telescopes have been first class because Maunakea is a first-class site for them. The various organizations that operate the telescopes, as well as the individual astronomers and support staff, have been wonderful additions to our communities, enhancing educational opportunities for our students and serving as a source of inspiration and pride. In addition, astronomy is a clean industry, which Hawai'i needs as we attempt to diversify our economy. Astronomy under the management of UH has not exploited the people of Hawai'i. On the contrary, it has lifted us all up. This Master Plan will make it possible for these benefits to continue into the future. Mahalo.

--

Ruth E. Robison, Ph D
International Educator (Retired)
743 Kaumana Drive Bldg B * Hilo, HI 96720-1876 * USA
Phone (808) 935.7991



UH Master Plan

1 message

Celeste <teroger@pixi.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 5:52 PM

I support adoption of University of Hawai'i's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a remarkable job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawai'i and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawai'i. Mauna Kea Observatories are the most scientifically productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea represents Hawai'ian culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawai'i Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. Imua Kilo Hōkū and imua TMT!

Mahalo for your consideration.

Celeste Rogers
91-1097 Pa'aoloulu Way
Kapolei, HI 96707



MAUNA KEA

1 message

TERRY HAMADA <terry.hamada@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 5:53 PM

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Mahalo,

Terry Hamada
Born: Kohala, Hawaii (birth place of King Kamehameha)
Raised: Waimea, with the majestic view of Mauna Kea
'62 Grad of Hawaii Preparatory Academy

TMT Telescope

1 message

Graham and Diane DeVey <kulakidz@gmail.com>
To: BOR Testimony <bor.testimony@hawaii.edu>

Mon, Jan 17, 2022 at 6:26 PM

Parallel Paths and the TMT Telescope

Graham DeVey, Kihei

August 9, 2019

(January 17 2022 Update)

I'm hopeful we can find parallel paths to success in supporting Hawaiian culture and operating the Thirty Meter Telescope in Hawaii.

My wife and I have lived on Maui 24 years. What keeps us here is the lasting and positive influence of the Hawaiian people on us and the community. We've traveled widely, and there are few places in the world where an endemic culture has been so welcoming, so pertinent and important to daily life for all. It's an ongoing blessing for all of us to learn from Hawaiians.

I was a science teacher at Baldwin High School on Maui for 17 years and taught 3000 or more students—Hawaiian, Haole, Filipino, Japanese, Portuguese, and many mixes of these. In my classroom lessons, I was very careful to share lessons in ways that were parallel to Hawaiian teachings, both in content and method. A native of Chicago, I was unqualified to teach Hawaiian culture and felt that the Hawaiian kupuna were much better for that responsibility, through their knowledge, passion, patience, mana, and ability to nurture the next generations. But I took pride in finding ways to parallel Hawaiian teaching and culture with my own science lessons. Many, many students and families have thanked me for my approach.

Before teaching, I had been a corporate engineer for 19 years, with 200 scientists and engineers reporting to me. Developing the next generations of young technical people became a calling for me and brought me to Maui. While on Maui, I've helped lots of youngsters gravitate toward the sciences.

Losing our local talent to the Mainland is a huge drain on our resources and a personal tragedy for me. I work with local tech businesses to help hire and train Hawaii-born workers, who know how to live and thrive here. Years ago, I attended a community hearing regarding a telescope for Haleakala on Maui. A well-meaning, silver-haired Haole woman stood and said, "Jobs jobs jobs! They are lying to us. These telescope people will bring in their own people from the Mainland and overseas, and our kids won't get the jobs! Our Hawaii kids don't know how to do this difficult work!" She was actually weeping. I wanted to climb over the table and smack her, wake her up. Yes, our local kids can and will do the work, and our tech companies would prefer to hire them, rather than train outsiders to work in Hawaii for 2-3 years before returning to their own homelands. We can, we will train brilliant students of Hawaii to work here, and technical people of all levels to work alongside them. This is what I devoted 17 years of my own life to support, and I am absolutely not alone.

At this point, many Hawaiians are gathered to oppose building TMT on Mauna Kea. I see many loving faces, people I know well, among the participants. Part of me rejoices to see native Hawaiians coming together, sharing their spirit, uniting as one. It is difficult to apply the Hawaiian teachings of antiquity to a confused new world. But I feel their pride, their joy, their mana in uniting behind a cause.

For me, though, this is a bitter, bitter development and my heart is bruised by the irony that a telescope is the focus of so much cultural upheaval. Perhaps University of Hawaii could have been a better steward of the mountain environment, I truly do not know. What promises were made in the past, and kept or broken, can surely be researched and discussed. From what I know, though, the TMT project has attempted to treat its mountain site with respect, and has tried to be open in negotiating, in good faith, to do what is pono.

I have taken native Hawaiian students to the top of Haleakala to use its telescopes, and these students enhanced the experience of our entire group. One Hawaiian boy, late in the evening, took off his shirt and lay on his back, surrounded by telescopes, feeling the earth beneath him through his skin and absorbing the stars above. He was connecting with many generations, and I was honored to help him find his way there.

So, here we are. We are at an absolutely unique time in terms of opportunity, to find parallel paths to help Hawaiians connect to their culture and to attract locally-grown talent towards astronomy careers in their own homeland. We

must stop accepting the norm of losing our bright youngsters to Seattle, to Silicon Valley, to Wall Street, when we could be helping them use the marvelous TMT telescope to explore, and perhaps challenge or even replace our deepest and most fundamental knowledge of the cosmos, right from Hawaii. I cannot imagine a more rewarding time to work together, honoring and rescuing the past, and preparing the way for educational prosperity for generations to come.

Respectfully submitted,

Graham DeVey [24 Kilolani Lane, Kihei, HI 96753](#)

Jan 17 2022



UH's new Master Plan

1 message

Pete Wilson <perhansahi@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 6:29 PM

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

--

Pete Wilson
[13-927 Kahukai Street](#)
[Pahoa HI 96778](#)
808-557-8108



Mauna Kea lease

1 message

Geoff Nelson <suisuncreek@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 7:13 PM

This should be simple. It's essential to keep astronomy here. Good for the economy, world class science, and very environmentally aware. Please.

Geoff Nelson
Suisun Creek Vineyards



Support for TMT!

1 message

Gambla <lengambla@yahoo.com>

Mon, Jan 17, 2022 at 7:31 PM

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

Aloha,

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has managed Mauna Kea over the last 20 years and while not perfect, I am not aware of any ill intent on their behalf. They performed exceptionally well with respect to obtaining a permit for the construction of TMT and while it is easy to say 'no' because of the loud minority, I urge you to stand up and say 'yes' to TMT.

TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. I also support removing antiquated sites on Mauna Kea as well in order to not only show good stewardship but also to keep Mauna Kea in pristine order.

Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is part of Hawaiian culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home.

The presence of astronomy on Mauna Kea is a feather in our Hawaii Island community's cap as well as for our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Mahalo, Len Gambla
Papa'ikou

UH Master Plan

1 message

Michael Muszynski <mgmuszyn@hawaii.edu>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 8:27 PM

Ok, this email from Imua TMT gives me clarity on how to proceed for the upcoming UH Board of Regents meeting on Jan. 20 and how best to respond to keep astronomy and TMT alive on Maunakea:

Aloha TMT Supporters,

We need UH's new Master Plan in place in order to renew UH's Master Lease for Mauna Kea and keep the astronomy industry, including TMT, in Hawaii! The protesters will be attacking the Master Plan at a UH Board of Regents Hearing on January 20, 2022.

Please submit email comments in support of UH's Master Plan here:

bor.testimony@hawaii.edu

Please send comments by Wednesday January 19!

If you sent comments previously, please submit again. You can send the exact same comments again. Very little changed in the report. The reason for testifying twice is that at the first hearing in December the Regents could only listen and at this hearing they can vote. Two hearings were required and so we need to submit testimony twice to show community support!

Here is a draft comment to give you ideas. Feel free to use it verbatim or to type your own message from the heart:

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hökū and i mua TMT!

Further background:

Building TMT is a matter of time. The protesters' game is to delay as long as possible in the hope that we give up. Part of this strategy involves changing the management system of Mauna Kea, especially removing the University of Hawaii as the manager of Mauna Kea because that would create chaos for the astronomy community. The reason for this is that UH holds a Master Lease from the Department of Land and Natural Resources to manage Mauna Kea and all the telescopes have sub-Leases with UH based on that Master Lease. If UH's Master Lease is not renewed, it will create legal ambiguity as to whether the subleases are still good and possibly push the telescopes off Mauna Kea. Therefore, the protesters believe that stopping UH's Master Lease stops TMT. That is not strictly true, but it will create enough risk that we encourage TMT supporters to support renewal of UH's Master Lease.

UH is currently applying for that lease renewal. Part of that process is the creation of a number of plans, including a Master Plan. The UH Board of Regents is holding a hearing to discuss the Master Plan. The protesters are using this opportunity to attack the plan as a way of attacking TMT and destroying the astronomy industry. The reality is that UH actually does a really good job managing Mauna Kea. Mauna Kea is some of the best managed land in the state.

Please let UH, and Hawaii, know that we support TMT and astronomy on Mauna Kea.

Thank you.

Mike Muszynski

Sent from my iPhone



Renewal of UH's Master Lease for Mauna Kea

1 message

Robert S. J. Hu <hibigheart@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 6:49 PM

I support the University of Hawaii's Master Plan because it keeps astronomy on Mauna Kea that includes the Thirty Meter Telescope.

We in Hawaii, are proud of Astronomy for our keiki in terms of training, inspiration, and that its continual support benefits the United States of America and our mission to enhance our knowledge of scientific knowledge to protect our world.

Please keep this project going .

Sincerely,

Robert S.J. Hu

2008 Hawaii State Teacher of the Year

Now a retired teacher residing in Mililani, HI.

January 17, 2022



Strong support for UH Master Plan for Mauna Kea

1 message

Barbarak <barbarak@hawaii.rr.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 9:58 PM

As a concerned resident of the State of Hawaii, I strongly support the UH Master Plan for Mauna Kea and think the Lease should be in the care of astronomers and leaders from UH. I have read the bill in the state house which would leave the care of the telescopes with a board composed of not a single representative from UH nor a single astronomer. Do not allow that to happen. UH has the ability to properly care for all aspects of Mauna Kea and will continue to take positive steps to make Thirty Meter Telescope a reality here. This will definitely be a huge step toward enhancing scientific research and putting Hawaii at the forefront. No other place can offer what Mauna Kea does. Please vote to move Hawaii forward. Keep UH in charge of Mauna Kea. Thank you

Aloha,
Barbara Krasniewski
Stan Krasniewski
124 Kuulei Road
Kailua 96734



TMT

1 message

Ken Obenski <ken@obenski.net>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 10:47 PM

I'm an engineer, and thus a believer of science. Science is humanities way of understanding how the universe really works: from the unimaginably small to the incomprehensively large. Scientists study things as fast as light, as slow as rocks and almost everything in between. Why believe in science? When we follow science to do something, we succeed. Engineers exploit that knowledge and experience to make things for people, from the apparently simple like a pin to the mind bogglingly complex like the International Space Station. Things so big and so complex that no one person is capable of understanding more than a fraction of a subsystem, so far nothing bigger than a transcontinental railroad, or smaller than an atom.

One of these engineering science projects is planned for Hawaii. The planning has taken 10 years so far and the construction will take about seven more. It will occupy about 0.00004% of this island. Less space relative to Mauna Kea than this is to the rest of the newspaper page. Some people feel this is an affront to their belief that the tiniest blemish to what they consider sacred is unacceptable. They are entitled to their belief. Others say that: they are entitled to their belief but have no right to impose it on everyone else. Who is everyone else: the island population, the state population, the scientific community, or the whole world? Jews and Muslims have found a way to share the much smaller Jerusalem Temple Mount, over the centuries Christians have shared it too. Those of a scientific mind maintain that the whole world stands to benefit if the project goes forward, but admit it's not possible to predict what the benefit will be. Like Ben Franklin said about newfound electricity "Of what use is a newborn baby?"

The International Telescope Committee (ITC) has handled this badly. They claim that they consulted with cultural practitioners before proceeding but as a layman on those issues I see some serious mistakes. First the name TMT sounds like a disease. It's just an abbreviation for Thirty Meter Telescope, a name that needs explaining and is often explained wrong. Thirty meters, about 100 feet, is the diameter of the primary mirror. No doubt someday the official name will be for some professor of astronomy. Probably someone most of us never heard of. The least they could have done is to give it a Hawaiian name. Just think how much less resistance there would have been. If it was the Kamehameha Telescope there would be no Kamehameha- Go-Home protest signs. King *Kalakaua* was interested in astronomy and in 1883 had a telescope installed at *Punahou* School. *Kalakaua* Telescope would be hard to protest; *Hale Kino Hoku O Kalakaua* would be even less likely.

The ITC has emphasized the scientific and commercial benefits, all of which are obvious but has done little to promote the cultural connection to Hawaiians whose lives were governed by the stars. There were Hawaiian Royal *Hilo Koku*, a title which can be translated as Royal Astrologer or Astronomer. Many *heiau* also served as observatories. Polynesians achieved celestial navigation long before Europeans and they did it without complex instruments. The images collected will be electronic, not requiring observers to peer through a conventional lens, thus they can be shared with the cultural community as well as academia. They could even be on YouTube.

The ITC published and widely circulated promotional artist's conceptions that until 2017 all depicted the observatory at the peak of the mountain, when the proposed site on the north face is 500 feet lower. Those misleading images still circulate and are the basis for much protest. It's not like they have not been told. The ITC failed to engage the Hawaiian community. It has lived up to the popular image of eggheads who study more and more about less and less until they know everything about nothing.



Support for the UH Mauna Kea Master Plan

1 message

Daniel Smith <smithdan@hawaii.edu>

Mon, Jan 17, 2022 at 11:21 PM

To: bor.testimony@hawaii.edu

Cc: imuatmt@gmail.com

I write in my individual capacity to support adoption of UH's draft Master Plan because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). From what I have heard, UH has done a progressively better job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT.

TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. In my observations, the science community is very respectful and treats the land well. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work.

Astronomy on Mauna Kea is properly viewed as an extension of the Pacific Islands cultures that brought people to these islands. Astronomy has earned high respect. I believe Papa Mau would have supported continued astronomy on Mauna Kea.

Astronomy on Mauna Kea provides opportunities for our youth to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. As an educator, I hope some of my students will have opportunities associated with astronomy and the TMT.

On a personal note, as an undergraduate I, among others, had the opportunity to work for "big science" in a high energy physics lab exploring the nature of fundamental particles. It greatly improved my academic experience and lead to my life-long involvement in computer science-related work. TMT will make possible many such opportunities for the younger generations in Hawaii.

The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please extend the Master Plan and keep astronomy on Mauna Kea.

Respectfully, E Malama Pono,

Daniel C. (Dan) Smith, PhD

1-808-462-8346, Mobile



I Support Astronomy on Mauna Kea

1 message

Cheryl Tanguay <cheryl.tanguay@gmail.com>
To: bor.testimony@hawaii.edu

Mon, Jan 17, 2022 at 11:30 PM

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built.

Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work.

Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Respectfully submitted,
Cheryl Tanguay
Kailua-Kona, HI 96740

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Duane Medeiros

Your Organization (optional)

Ohana Puou Kunewa(HewaHewa Nui)

Your e-mail address (in case we need to reach you) *

HawaiianDNA59@gmail.com

Board of Regents Agenda Item (required) *

OTHER

OTHER (Please describe) *

Maunakea is The Sole responsibility of Every Kanaka! We are and Will always be stewards of E Hawaii Au! Kuleana Stewardship is a Kanaka Only Process. The State of Hawaii and The University of Hawaii is of the colonizer Process! The illegal stewards have done the damage far beyond their original responsibility. Celestial Scientist and their Process have disrespected our Maunakea, Maunaloa, Kaho'olawe, and all of E Hawaii Au! What makes it PONO In this TIME and day for any MASTER Plan to be excepted, by the Kanaka Stewards Who have always been left Out of any MASTER Community Planning of anything, especially Maunakea! I and my entire Ohana Puou Kunewa(HewaHewa Nui) OPPOSE the STATE OF HAWAII, THE UNIVERSITY OF HAWAII BOARD OF REGENTS AND EVERY FOREIGN COUNTRY PARTICIPATING In this or any MASTER Plan to continue with the idea of TMT! You respectfully Do Not have my Consent! You Do Not have consent from Ohana HewaHewa Nui!

Your Position (required) *

Oppose

Your Testimony/Comments

Maunakea is The Sole responsibility of Every Kanaka! We are and Will always be stewards of E Hawaii Au! Kuleana Stewardship is a Kanaka Only Process. The State of Hawaii and The University of Hawaii is of the colonizer Process! The illegal stewards have done the damage far beyond their original responsibility. Celestial Scientist and their Process have disrespected our Maunakea, Maunaloa, Kaho'olawe, and all of E Hawaii Au! What makes it PONO In this TIME and day for any MASTER Plan to be excepted, by the Kanaka Stewards Who have always been left Out of any MASTER Community Planning of anything, especially Maunakea! I and my entire Ohana Puou Kunewa(HewaHewa Nui) OPPOSE the STATE OF HAWAII, THE UNIVERSITY OF HAWAII BOARD OF REGENTS AND EVERY FOREIGN COUNTRY PARTICIPATING In this or any MASTER Plan to continue with the idea of TMT! You respectfully Do Not have my Consent! You Do Not have consent from Ohana HewaHewa Nui! Mahalo For allowing my TESTIMONY!

Your Testimony (pdf or word)

No file attached

Actions

Close

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Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Thomas Pinkert

Your Organization (optional)

(Self)

Your e-mail address (in case we need to reach you) *

pink9@aol.com

Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

As long time residents of the Big Island (since 1999) my wife and I both are strong supporters of going forward with the Thirty Meter Telescope, fully respectful of native Hawaiian rights and concerns and with due diligence in maintaining the site properly. There is no reason science cannot co-exist with religion and cultural practices, as long as both sides respect one another. This is not an oil pipeline or luxury resort built for economic gain. It's in the pursuit of science and knowledge and, in the long run, wisdom and humility. Thank you.

Your Testimony (pdf or word)

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Kelly Kraemer

Your Organization (optional)

Alum (PhD, Political Science, 2000)

Your e-mail address (in case we need to reach you) *

kkraemer@csbsju.wdu

Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Oppose

Your Testimony/Comments

UH has proved itself incompetent for this task tome and time again.

Your Testimony (pdf or word)

No file attached

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Sharron Gonzalez

Your Organization (optional)

Your e-mail address (in case we need to reach you) *

reikimastertaichichih@gmail.com

Board of Regents Agenda Item (required) *

BOR VI.E. Partial Report of the Maunakea Plan Review Permitted Interaction Group Recommending Consideration of Approval of the Proposed Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo (Listen to the Voices)

Your Position (required) *

Oppose

Your Testimony/Comments

Aloha Your opposition to this plan would be greatly appreciated UH has a history of mismanagement of Mauna a Wakea and this plan highlights the continuation of this A sacred place designated as conservation land and a source of our water calls for better management by a better entity chosen by those who truly care for it's preservation and not it's desecration and destruction

Your Testimony (pdf or word)

No file attached

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Carol S. Long

Your Organization (optional)

Your e-mail address (in case we need to reach you) *

longc007@hawaii.rr.com

Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

TMT is important to the whole world. While I respect the feelings of the Native Hawaiians who are protesting, TMT will benefit ALL of mankind. Science is imperative to all of us. We cannot dwell in the past and must look ahead.

Your Testimony (pdf or word)

No file attached



BOR 1-20-22 mtg. testimony re Draft Mauna Kea MP

1 message

E. Kalani Flores <ekflores@hawaii.edu>

Tue, Jan 18, 2022 at 1:39 AM

To: bor.testimony@hawaii.edu, David Lassner <david@hawaii.edu>, Bonnie Irwin <bdirwin@hawaii.edu>

January 17, 2022

FR: E. Kalani Flores, representing the Flores-Case 'Ohana (08ef80@gmail.com)

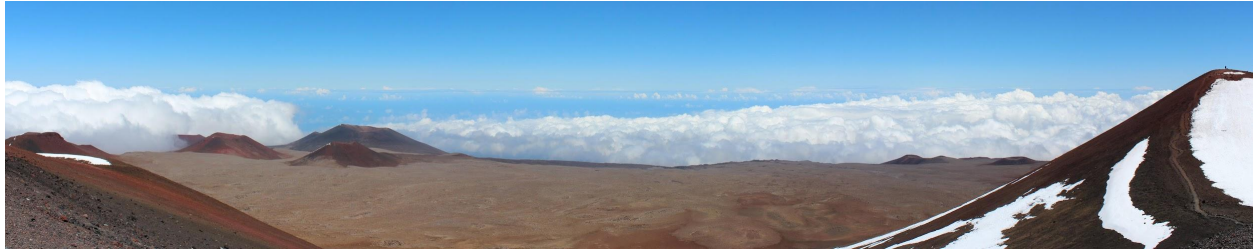
RE: Written Comments for Draft Master Plan for the University of Hawai'i Maunakea Lands (dated January 11, 2022)

[1 attachment]



Flores-Case Ohana Comments 1-17-22.pdf

3375K



E ala ē me ke aloha a me ka ‘oia‘i‘o.
Awaken with aloha and truth.

January 17, 2022

FR: E. Kalani Flores, representing the Flores-Case ‘Ohana (08ef80@gmail.com)

RE: Written Comments for Draft Master Plan for the University of Hawai‘i Maunakea Lands (dated January 11, 2022)

INTRODUCTION

The Flores-Case ‘Ohana provides the following comments once again regarding the Draft Master Plan for the University of Hawai‘i Maunakea Lands (“draft plan”). Despite us submitting comments to the University of Hawai‘i (UH) Board of Regents (BOR), Maunakea Management Board (MKMB), and Office of Mauna Kea Management (OMKM) on several occasions pertaining to Mauna a Wākea as well being a petitioner in two contested case hearings pertaining to the Thirty Meter Telescope (TMT), the University of Hawai‘i (UH) failed to contact us and other Kanaka Maoli (aka Native Hawaiian) cultural practitioners during the initial process of drafting this plan several months ago. We were only contacted by email on October 14, 2021 at the ‘eleventh hour’ when comments were due on October 26th. This extremely late attempt at contact is perceived more as an afterthought or as a formality to state that consultation was attempted. There are no excuses why we and other cultural practitioners and *kia‘i* were **not** contacted earlier when the UH system, governmental agencies, elected officials, astronomy organizations, commercial tour operators, etc. were given the opportunity to review earlier pre-publication versions of this draft plan.¹ At the time, there was insufficient time of only a few weeks to examine this extensive draft plan and also provide comments. The Flores-Case ‘Ohana met with several authors of the draft plan to get further clarity on certain parts of the plan and also provided oral comments on October 21st. This was followed up with a compilation of

¹ See: Appendix A - Summary of Outreach and Consultation

written comments that were initially submitted by October 26, 2021. Additional comments are being submitted at this time along with previously submitted comments.

Despite nearly 1,500 individuals submitting comments regarding the draft plan (dated September 2021), the current draft plan (dated January 11, 2020) included revisions that were primarily “*minor copyediting changes*” without any substantial changes. Why should members of the public including Kanaka Maoli engage in this process when input and comments are systematically dismissed and ignored?

In addition, the communication between the Center of Maunakea Stewardship (CMS) and members of the public is not timely and quite pathetic. Case in point, when this matter was brought forth for a special BOR meeting on December 16, 2021, CMS only sent us an email regarding this meeting the day before on December 15th as noted in the screenshot of the email below.

UH regents schedule first meeting on new Maunakea Master Plan Inbox x

Center for Maunakea Stewardship anews@hawaii.edu via [auth.ccsend.com](#)
to me ▾

Dec 15, 2021, 9:45 AM



The UH needs to comprehend that Kanaka Maoli are not just stakeholders, but are actually “right holders” as it pertains to the natural and cultural resources of Mauna a Wākea and that their efforts of proper consultation are seriously lacking.

GENERAL COMMENTS

I. UH continues a pattern of not listening

The title for this draft master plan, *E Ō I Ka Leo* (Listen to the Voice), is in contradiction to how this plan was drafted with the narratives systematically ignoring decades of community and Native Hawaiian concerns and comments regarding the issues surrounding the mismanagement of Mauna a Wākea by the University of Hawai‘i (UH). This same issue was also identified in the *Mauna Kea Science Reserve Master Plan* (“2000 Master Plan”) as noted below:

Cultural Sensitivity: Issues of cultural sensitivity were raised repeatedly. The sensitivity of the plan to Hawaiian cultural values was mentioned and questions were raised as to whether community voices would be heard.

Firstly, the voice of the Mauna Kea observatories is clearly the overriding voice throughout this draft plan. Whereas, the voices of Kanaka Maoli (Native Hawaiian) cultural practitioners were excluded during the initial process of drafting this plan as well as with the current version.

Nearly 1,500 individuals submitted comments to the CMS by October 26, 2021. Likewise, the Flores-Case ‘Ohana engaged in this process and provided written comments via email and also provided comments during a video conferencing meeting. However, the revisions made to the current draft plan were primarily “*minor copyediting changes*” without any substantial changes despite what was stated in UH News, [Public input requested for new Maunakea Master Plan](#) (Sept. 12, 2021), as noted in the solicitation below.

The University of Hawai‘i is seeking broad community feedback on a draft of a new Maunakea Master Plan that will guide land-use decisions on UH-managed Maunakea lands.

All public comments/feedback will be taken into consideration as the draft is amended before going to the UH Board of Regents for review and possibly further changes before final approval, which is expected in early 2022.

A policy including guidelines for consultation with Kanaka Maoli communities and organizations should be included in this draft plan. It's very apparent that UH administrators, programs, and consultants/contracted firms are not familiar with the process and methods of proper consultation with Kanaka Maoli. Examples of how agencies should engage Kanaka Maoli are included as attachments and/or links in the footnote.² Even though some of these procedures are applied at the federal level and in Section 106 actions, they are still applicable to the UH in how to engage and consult with Kanaka Maoli.

Why does the UH ask the public for input and comments/feedback, but is not going to apply any constructive critique and relevant suggestions to this draft plan? This is another example of the systematic pattern of the UH not listening. That's why the draft plan should more accurately be called, *Ho'okuli I Nā Leo (Deaf to the Voices)*.

II. UH exemplifies unethical cultural appropriation

This draft plan is a prime example of unethical cultural appropriation and exploitation of Hawaiian culture through the distortion, and misuse of traditional knowledge, cultural expressions, and Hawaiian terms. The *Foreword* [pp. x-xiv] has taken 'ōlelo no 'eau and clearly distorted the meanings of these traditional sayings outside of their original cultural context. There is an attempt to promote astronomy and further development on Mauna a Wākea through a western worldview cloaked under these Hawaiian sayings. In addition, Hawaiian phrases and terms are peppered throughout this document in an attempt to give an illusion that this is a Hawaiian plan and to make it more palatable to Hawaiians. These displays of misappropriation of Hawaiian cultural elements are disrespectful and are also considered a form of desecration. Likewise, as noted in UH Mānoa's guidelines, "*Cultural appropriation is a form of intellectual plagiarism.*"³ As an institution of higher learning, the UH administration and programs should be held to the same strict ethical standards it expects of their students.

[see attached specific comments regarding the Foreword]

² Examples of Native Hawaiian consultation: [ACHP - Consultation with Native Hawaiian Organizations in the Section 106 Process: A Handbook](#). [US DOI - Standard Operating Procedure for Consultation with the Native Hawaiian Community](#).

³ [Ethics, Research Integrity & Cultural Appropriation](#)
(https://kahualike.manoa.hawaii.edu/horizons/publication_ethics.html)

III. UH fails to acknowledge issues with its management

In this draft master plan, the UH failed to acknowledge and formally apologize for their role as the lessee of the Mauna Kea lands that has resulted in cumulative impacts upon its resources that have been determined to be substantial, significant, and adverse.

[see Flores-Case ‘Ohana detailed comments previously submitted October 26, 2021]

IV. UH fails to uphold its statutory and constitutional obligations

The UH continues to fail their affirmative duty and legal obligations to protect the natural and cultural resources, public land trust, and rights of the public and Kanaka Maoli connected with Mauna a Wākea. The over emphasis of the promotion of astronomy development and activities has overshadowed the protection of the afore-mentioned in this draft plan.

[see Flores-Case ‘Ohana detailed comments previously submitted October 26, 2021]

V. UH fails to be in compliance with its management plans

Before UH approves a master plan for those lands that include the Mauna Kea Science Reserve (MKSR) and the mid-level facilities at Hale Pōhaku, the UH should ensure it’s in compliance with the BLNR approved management plans and conditions of the Conservation District rules. Also, it’s important to maintain compatibility and consistency between this draft plan and previously approved management plans. In addition, this draft plan fails to enforce UH’s compliance with these management plans.

[see Flores-Case ‘Ohana detailed comments previously submitted October 26, 2021]

VI. Adverse impacts upon the sacred *piko* and resources of Mauna a Wākea

The actions of the UH to advance the overdevelopment of astronomical facilities within an environmentally and culturally sensitive landscape has caused adverse impacts and irreparable harm upon the sacred *piko* as well as the natural and cultural resources of Mauna a Wākea. This draft plan fails to protect the sacred nature of this *piko* by stripping all references to this aspect that’s been referenced in various accounts. In fact, the 2000 Master Plan included at least 25 references to this mountain’s sacredness. Whereas, this draft plan reduced it to only one flawed reference as such, “*for some the mauna is sacred.*”

The sacredness of this mountain is well known and documented in several traditional accounts.

[see Flores-Case ‘Ohana detailed comments previously submitted October 26, 2021; also see pages 29-35 extracted from *The Report of the Hui Ho ‘olohe*, 2018]

VII. Adverse impacts upon ancestral *akua*, *kupua*, and *kupuna*

The actions of the UH to advance the overdevelopment of astronomical facilities within an environmentally and culturally sensitive landscape has caused adverse impacts and irreparable harm upon those *akua*, *kupua*, and *kupuna* of Mauna a Wākea. This draft plan fails to protect them from further development.

[see Flores-Case ‘Ohana detailed comments previously submitted October 26, 2021]

VIII. Adverse impacts upon cultural resources and historic sites

The actions of the UH to advance astronomy overdevelopment within an environmentally and culturally sensitive landscape has caused adverse impacts and irreparable harm upon those cultural resources and historic sites connected to Kanaka Maoli and their practices. This draft plan fails to protect these resources and sites from further development.

[see Flores-Case ‘Ohana detailed comments previously submitted October 26, 2021]

IX. Adverse impacts upon Kanaka Maoli customary and traditional practices

The actions of the UH to advance astronomy overdevelopment within an environmentally and culturally sensitive landscape has caused adverse impacts and irreparable harm upon cultural sites and traditional and customary Kanaka Maoli cultural, spiritual, and religious practices. This draft plan fails to make commitments to protect these practices.

[see Flores-Case ‘Ohana detailed comments previously submitted October 26, 2021]

X. UH has failed to prepare an EIS according to HRS, Chapter 343

The UH has not prepared an Environmental Impact Statement (EIS) for this proposed Master Plan in accordance with Hawai‘i Revised Statutes, Chapter 343. Whereas, a Final EIS was completed prior to the UH BOR adopting the 2000 Mauna Kea Science Reserve Master Plan.

SPECIFIC COMMENTS

[see Flores-Case ‘Ohana detailed comments previously submitted October 26, 2021]

CONCLUDING REMARKS

Members of the Flores-Case ‘Ohana have participated at all levels of the public review process pertaining to Mauna a Wākea such as attending board meetings and hearings, submitting testimony, entering into contested case hearings, and filing legal appeals. Based upon our personal experience, it's very evident that the State (inclusive of the Governor, Attorney General Office, BLNR, DLNR, UH, BOR, OMKM, CMS, their contracted law firms, hearing officers, other agencies and individuals) have taken very adversary positions and actions against Kanaka Maoli cultural practitioners which have resulted in detrimental impacts upon our cultural practices and traditions associated with Mauna a Wākea. Likewise, the State has systematically ignored community and Kanaka Maoli concerns dating back to the 1970's regarding the overdevelopment of the environmentally and culturally sensitive landscape of this sacred mountain.

The written comments presented in this document highlight significant deficiencies and lack of accountability in this review process. Comments put forth are specific to the items presented and were not intended as an assessment of all aspects of this current draft plan as there was insufficient time and resources to do so. Other parts of this draft plan that aren't commented upon does not constitute an endorsement or agreement with these sections. We reserve the right to further comment on this draft plan in the future. These comments are submitted on behalf of the Flores-Case ‘Ohana.

The true aspect of stewardship entrusted to the UH for our precious and public lands in conservation districts is to ensure that these significant areas are acknowledged, preserved for present and future generations, and not systematically destroyed. In essence, the astronomy development on the summit of Mauna a Wākea has been conducted as a commercial enterprise under the guise of science, educational, and economic opportunities that has resulted in the cumulative impacts upon the natural and cultural resources being substantial, significant, and adverse due to over 50 years of mismanagement.

Everyone is responsible and accountable for their intentions and their actions in the *wao akua*, this sacred space known to our *kupuna* as Mauna a Wākea. On this *mauna*, one must interact in a manner that is **pono**, upright in the presence of the ancestral connection that binds us through space and time to teachings, traditions and lifeways that have continued because of the *kuleana* that has been passed down from one generation to the next.

It is important to remember that many peoples, including Kanaka Maoli, have a reverential relationship with the living Earth as our 'Mother' or 'Grandmother'. The cultural perspective of *mālama ʻāina* and *aloha ʻāina*, to care for the land and nature with sincere love and respect, is at the heart of Kanaka Maoli cultural traditions. For those who are listening, what is our *ʻāina* trying to tell us during these times of change?

Kanaka Maoli and their allies throughout Hawaiʻi and the world have risen like a mighty wave and are committed to protecting their beloved Mauna a Wākea from further desecration and destruction. To gain an in-depth understanding of the history and issues surrounding this sacred mountain, one should read, *Reclaiming the Past for Mauna a Wākea's Future: The Battle Over Collective Memory and Hawaiʻi's Most Sacred Mountain*, by Terina Kamailelaliʻi Faʻagau. ([see attachment](#))



Photo from Pu'uuhonua o Pu'uhuluhulu

In conclusion, this current draft plan is basically the same as the previous draft version without any substantial changes despite comments submitted by nearly 1,500 community members and organizations. This draft plan fails to restore *lōkahi* (harmony/balance) on Mauna a Wākea. The manner in which the various versions of this draft plan were orchestrated just reaffirmed that the UH is inept of consulting with Kanaka Maoli and the broader community. Likewise, it's very evident that the UH is incapable of properly managing these culturally and environmentally sensitive lands of Mauna a Wākea even with this proposed plan. As such, the appropriate action would be to transfer the management of these lands to a non-governmental Native Hawaiian entity.

E Ō I KA LEO (LISTEN TO THE VOICE) FOREWORD

Mauna Kea, kuahiwi kū ha‘o i ka mālie.

Mauna Kea, standing alone in the calm.²

Comment: This is an example of cultural appropriation when Hawaiian sayings are misinterpreted and distorted from their original cultural context. **Recommendation:** Delete the highlighted paragraph below.

This ‘ōlelo no‘eau (Hawaiian proverbs and poetic sayings) recognizes and expresses the sentiment that Maunakea is a source of inspiration to many people. Steadfast always, the mauna (mountain) compels us to gaze upward in search of the unknown, thereby engendering a sense of wonderment and hope.

Comment: Its more than "some" that consider "the mauna is sacred." See *Hui Ho‘olohe Report* Maunakea is linked to the Hawaiian people, their culture, cosmology, and for some the mauna is sacred. Its resources serve as the source for a diverse range of spiritual, research, educational, recreational, and subsistence experiences that define the significance of the mauna. Its extraordinary blend of topographic and atmospheric qualities make Maunakea the most desirable location for ground-based astronomy in the northern hemisphere, and the exceptional combination of alpine and sub-alpine ecosystems in a tropical environment make it ecologically unique as well. If there is truth to the idea that the nature of "place" shapes who we are as a community, Maunakea certainly stands alone as a preeminent example of this.

Comment: This doesn't only apply to "early" Hawaiians.

The quest to understand their beginnings is an inherent drive in all humans, and it has led virtually all cultures to develop rich stories and beliefs regarding their origins. For early Hawaiians, Maunakea was the origin – the first-born island. For modern astronomy, Maunakea provides a window on the origins of the Universe. Integrating these diverse and rich perspectives is both the purpose and challenge with this plan and thus its name, *E Ō I Ka Leo* (Listen to the Voice), for it is in listening deeply to the many values attached to Maunakea that the knowledge of who we are will be revealed, and our humanity affirmed.

The mauna stands alone, calm in the midst of all forms of storm. It reminds us that our varied interests, as diverse and sometimes divisive as they may be, are in fact woven as *lei* (garland) through the innate human drive to understand our beginnings, and it is that lei which connects us all as one community.

Strengthening Connections to Place

He ali ‘i ka ‘āina; he kauwā ke kanaka.

The land is a chief; man is its servant.³

Comment: This is another example of cultural appropriation when Hawaiian sayings are inserted into a document to make it appear "cultural" without any relevance to the content. **Recommendation:** Delete this ‘ōlelo no‘eau.

Foundational values that guide UH’s stewardship and inform E Ō I Ka Leo derive from key tenets of the Hawaiian worldview, which holds that cultural and natural landscapes are one and the same. In this worldview, land is not a commodity but rather an esteemed elder in the Hawaiian family

²Pukui, 1983, No. 2147

³Pukui, 1983, No. 531

Comment: The highlighted section below distorts Hawaiian cultural traditions, values, and worldviews.

system. The Hawaiian relationship to the land is one of reciprocity; people serve the land which in turn provides for the people. In this view, it is the collective responsibility of UH, Native Hawaiians, the Hawai‘i Island community, and the astronomy facility staff who benefit from Maunakea’s remarkable viewing conditions, to behave in ways that sustain Maunakea’s gifts of spirit, life, discovery, learning, and connection for future generations. The purpose of E Ō I Ka Leo is to help all fulfill their responsibilities to the mauna and to one another.

Part of this responsibility is to integrate the knowledge and traditions of the ancestors into our plans and practices wherever we can. For example, the *Kumulipo* (an important Hawaiian creation account) describes Maunakea as the first-born mountain son of *Wākea* (sky father) and *Papa* (earth mother), who were also progenitors of the Hawaiian race. Maunakea is symbolic of the *piko* (umbilical cord) of the island-child, Hawai‘i, and that which connects the land to the heavens (Maly, Piko Kaulana:v). **Comment:** The reference to the Paupani-a(wa)kea is incomplete according to source cited. Also, this is another example of cultural appropriation with the *Paupaniākea* is another name for Wākea referenced in the *Kumulipo*. The name may mean “End of the closing up of light” or “Opening up of light” (Beckwith, Hawaiian Mythology:294) which in either case accurately describes some of the unique spiritual and astronomical qualities associated with the summit area. Further, as Pukui and Elbert note ‘*Āpapalani* refers to the “Legendary upper stratum and abode of the gods [or] chiefs of the highest rank, as *nī‘aupi‘o*.” (Pukui-Elbert:28). In researching these names Pualani Kanahale notes:

“*Āpapalani* is the space above the earth’s atmosphere where the oxygen is thinner. On the mountain it is where the greenery subsides and disappears, thins out like the oxygen. The space below where the daily rain clouds meet the mountain is ‘*Āpapanu‘u*. Therefore, we have two nomenclatures, the very top is *Paupaniākea* and ‘*Āpapalani* below”.

It is UH’s intent that this Master Plan serve as a framework for aligning land use decisions, management actions, and educational programs in a way that strengthens everyone’s connections to this special place by integrating traditional and contemporary knowledge and practice where possible. Achieving balance in the development and management of the resources can be accomplished only when there is a greater understanding and appreciation of the many values held by the community regarding Maunakea.

History, Voice, and Vision

I ka `olelo no ke ola, i ka `olelo no ka make.

In language there is life, in language there is death.⁴

Words can heal, words can destroy.

Comment: This is another example of cultural appropriation when Hawaiian sayings are inserted into a document to make it appear "cultural" without any relevance to the content.

Recommendation: Delete this ‘*olelo no ‘eau*.

Historians write from a worldview that is shaped by their backgrounds, experience, and values. In Hawai‘i, for many years this meant that American historians often neglected and even denigrated traditional Hawaiian values and culture. That has changed substantially in recent decades with

Comment: What is being done through cultural appropriation that grossly distorts traditional Hawaiian values and culture in this Foreword by the author(s) of this plan is similar to what "American historians" have done.

⁴ Pukui, 1983, No. 1191

Hawaiian voices increasingly expressed and heard. As a result, historical events and political injustices experienced by the Hawaiian people are now well-documented, as are the devastating impacts those experiences have had on the well-being of Hawaiians. The broadened discussion by voices of indigenous peoples has given rise to a movement that seeks to rectify harm caused by these past injustices. **Comment: The over-development on Mauna Kea has been echoed by many members of the community consistently dating back to the 1970's - not just by Hawaiians.**

The resonance of the native Hawaiian *kāhea* (call) to compensate for past injustices is clearly reflected in the ongoing conflict over the development of the Thirty Meter Telescope (TMT) and with what is viewed as over-development on Maunakea for astronomy in general. At the same time, other community voices have consistently spoken in support of astronomy on Maunakea as an important element of the island's future economic and educational base. This has motivated many in the community to pursue a vision for Hawai'i of a more diversified economy that includes greater support for research, education, and technology and less dependence on tourism.

UH believes that whether one supports or opposes astronomy on Maunakea in general and/or TMT in particular, and regardless of whether one believes that UH is the most appropriate agency to manage the upper reaches of the mountain, if Hawai'i is to achieve its goals of building a more diverse and sustainable future for this and future generations, the path forward is through a knowledge-based economy inclusive of disciplines grounded in science and technology guided by the values of the community. A central question for Maunakea then becomes "do the values of our community allow for Maunakea to be a place where a component of this future (astronomy) is pursued beyond 2033 when conducted under a comprehensive management plan?"

How one answers that question is a function of the diverse and sometimes conflicting views one holds regarding land use, governance, and stewardship. This diversity of opinion was most recently observed in the findings of the Department of Land and Natural Resources' evaluation of UH's implementation of the Maunakea Comprehensive Management Plan,⁵ which stated that "...the opinions of members of the public regarding UH stewardship of Maunakea has often depended upon whether they support or oppose telescope development on the mauna."

Unfortunately, E Ō I Ka Leo cannot resolve past historical injustices and the consequences inflicted upon and experienced by Native Hawaiians because of them. Neither can it resolve the fundamental question of whether State and Federal policy should continue to endorse astronomy on Maunakea. While both are critical topics for the State, these are policy issues that UH alone cannot decide, and their resolution is beyond the scope of this Master Plan. What E Ō I Ka Leo attempts is to incorporate the diverse values held by the community into a framework that supports discourse and decisions leading to a balance of interests and responsibilities and a unifying vision for Maunakea as a unique source of learning.

Comment: It's true that this plan cannot resolve all "past historical injustices and the consequences," but UH could start by acknowledging and formally apologizing for their role as the lessee of the Mauna Kea lands that has resulted in cumulative impacts upon its resources that have been determined to be substantial, significant, and adverse. In addition, UH could also acknowledge that the UH Mauna Kea managed lands are within the ahupua'a of Ka'ohe, moku of Hāmākua, that were designated as Government Lands of the Kingdom of Hawai'i as the result of the Mahele Act of 1848.

⁵ Ku'iwalu, 2020.

Extending the Reach

‘A‘ohe pau ka ‘ike i ka hālau ho‘okahi.

All knowledge is not taught in the same school.⁶

One can learn from many sources.

Comment: The plan fails to disclose that the Envision Maunakea Initiative was a process not open to the general public and that participants were only included by invite.

In 2016, UH collaborated with the astronomy-community in sponsoring the Envision Maunakea Initiative, a series of conversations led by its community partner, Friends of the Future. These conversations identified the aspirations of community members regarding what Maunakea means to them and how they would like to see it stewarded. The intent was to improve UH’s understanding of why Maunakea is important to people and to use this feedback to inform UH and astronomy community’s plans for the future. The conversations were intimate and, in many instances, deeply personal, with the shared experiences documented in *The Report of the Hui Ho‘olohe*.⁷

Two key insights revealed by that collaboration have informed this plan. First, all groups agreed that it is a privilege to experience Maunakea, whether that be as a cultural practitioner, recreationalist, tourist, astronomer, commercial tour operator, or other. Maunakea uniformly is described as moving minds and spirit, and lives have been changed because of one's relationship to the mauna even if for only a single experience. Second, the mauna is the teacher. While each of us brings with us a set of values, a knowledge base, and tools that shape our experience of it, in the end it is the mauna that teaches us both what we came to learn and that which it decides we need to learn. **[see comment on bottom of page]**

Maunakea is not just a valuable astronomical resource, it is a unique natural, biocultural, and social ecosystem that has much to teach us about our origins, future, human nature, history, *‘ike Hawai‘i* (traditional knowledge), climate, and so much more. E Ō I Ka Leo proposes to broaden the focus of UH’s facilities and resources at Halepōhaku to support the educational and research opportunities that Maunakea offers in fields other than astronomy. The exact nature of the educational opportunities that will be offered are still to be developed, but in concept would be supported by Halepōhaku serving as a multi-disciplinary field station for research and teaching. Facilities and programs offered there would serve as a venue for focused, customized, high-touch, educational programming for college and secondary school students; community, professional, affinity groups; and the general public. It would be a place for integrating multiple disciplines and addressing diverse topics.

Foundational to future educational programming and field work would be building a solid cultural base of *‘ike Hawai‘i* and *nohona Hawai‘i* (traditional practices) underpinning all offerings and opportunities. CMS and ‘Imiloa are partnering to develop this programming in collaboration with other Hawaiian cultural resources across UH and in the community with a common goal of inspiring the intellectual and personal growth of all those who are privileged to visit, learn, and work there.

Comment: In the same manner that this Foreword used Hawaiian accounts inappropriately, it also misrepresented the accounts in *The Report of the Hui Ho‘olohe*. Firstly, the term "privilege" isn't even found in this report. Instead, several participants make reference to their "experience" as being "profound" and "spiritual." Likewise, participants in this report don't articulate "the mauna is the teacher." In fact, the term "teacher" is only written once on page 16 in a totally different context. The key insights revealed in this report are not what is being presented in this paragraph.

⁶ Pukui, 1983; #203

⁷ Envision Maunakea, 2018

Ancestral Ways, New Beginnings

Hahai no ka ua i ka ululā'au.

Rains follow the forest.⁸

Knowing this, Hawaiians hewed only what was needed.

Comment: This is another example of cultural appropriate when Hawaiian sayings are inserted into a document to make it appear "cultural" without any relevance to the content.

Recommendation: Delete this 'ōlelo no 'eau.

Hawaiians understand how special Maunakea is as both a source of inspiration and for the value of its unique natural resources. Guided by this perspective, this plan helps demonstrate UH's relationship to Maunakea as a significant cultural and historical landscape where astronomy is a legally permitted use, commitments are honored, and use of its resources are balanced in order to achieve a sustainable future for the diverse values our community ascribes to this special place.

In recognition of this, E Ō I Ka Leo seeks to *'āwili* (weave) the diverse values Maunakea represents, striving to find balance amongst the community's many approaches to understanding our origins and encouraging people to collaboratively protect this special place. Finding balance is a never-ending, constantly evolving journey that aligns well with UH's overall purpose. Accordingly, E Ō I Ka Leo establishes a framework for moving forward with the understanding that, as with all sail plans, the navigators must constantly be aware of, adapt, and adjust to changing winds and seas that we encounter during our journey.

⁸ Pukui, 1983, #405



THE SACRED AND THE SPIRITUAL

At every session, participants referred to Maunakea as “sacred,” and talked about their spiritual connection with it, but they did not speak with a single voice. Some used “sacred” in a literally religious sense: the ways in which their religion declared the mountain, especially the summit, to be sacred, and to be venerated in religious rituals. For example, a number of participants spoke of the upper regions as *wao akua*, “place of the gods” (as opposed to the lower regions, *wao kanaka*, “place of ordinary human beings”).

Although some participants described religious ceremonies they performed at lower elevations, overwhelmingly it was the summit that was referred to as “sacred.” When no particular ceremony or practice was described, participants often described it as “special,” or “spiritual.”

Certainly the summit was sacred in the past. Participants spoke of who would be allowed into the sacred zone, and who would not. Participants commonly linked sacredness to behavior, talking about what should or not be done there in the present—what might be called “proper behavior.”

We heard very little “theology,” and it’s not hard to see why. It was clear to us that although some of our participants were well versed in matters of Hawaiian religion, they mainly talked to us about behavior in the sacred areas.

This series of statements speaks to individual behavior—how to act. Other participants spoke about what should be done (or not done), which is a different matter; we treat that elsewhere.

— It is a spiritual place. A place for the gods. Everyone who's lived here knows that it's sacred. You know that when you go up there you're really connecting with your family. You wouldn't do anything bad or disrespectful. It's just an unspoken thing that you know.

— Maunakea is a sacred place, like a religion. For us it's like going to church. We don't announce we're going to church, we just go.

— There are realms that don't belong to us. When we are nīele [nosy], we interrupt forces that work together naturally. It is not for humans; it is not our place, not our kuleana. That realm is talking to us.

— Sacred is about experiencing it. The way you interact is different when a place is sacred. You walk lightly, and you feel that on Maunakea. It's very personal to you. I don't have to understand your sacredness to understand that it's important to you.

One participant gave us examples of what can happen in the sacred regions. We heard a few similar stories:

— These things happened in the highest region. One story is of the two convicted felons who, after their visit [to the summit] with me, cried like babies, went home and became outstanding citizens, fathers, husbands and community members. I also informed you about the broken family (father and son) who for the first time hugged each other and cried like babies. The son straightened out his life, married, bought a house and became a good father. He now maintains a good relationship with his father.

Some participants explicitly linked sacredness with exclusion—in other words, the only proper activities were those associated with Hawaiian religious practices. Others were more inclusive. There was disagreement as to whether a summit kapu meant that no one should go there, or that people should only go there if they had a purpose. Although this wasn't always stated so directly, the notion that visits to the upper regions should be done for serious reasons was commonly expressed.

— Recently during a solstice ceremony, a gentleman from India asked if he could participate. "Is it OK if I do my own practice?" When it was his turn at the ahu, he participated in his language with his practice. Hawaiian practice is to be one with the earth.

Mālama and aloha everything around us that nurtures us into ancestry. Every native person has the same practice, as long as you know what Hawaiian practice is, join us. Allow sacredness to happen in a sacred place.

— Lots of misunderstanding about sacredness. We are talking about the entire mountain. Whatever that person, they have to understand the summit is sacred/spiritual. It is not to keep off, it is to go to communicate with the supreme being.

— When I think of people telling me what should be up there, I think that's one man's opinion. As for the akua, they are in a different realm. What we do doesn't mean anything to them. They will be here long after we're gone.

Some participants understood that Maunakea is considered sacred by some, but didn't feel it personally:

— I'm Native Hawaiian and I don't think it's sacred; maybe because that was not passed down to me.

Participants often referred to the tension between the sacred and the secular (meaning recreational, scientific, commercial, and other non-religious activities). It was common for someone to describe Maunakea's sacred nature and then follow up by talking about what, therefore, should not be done—sometimes very generally, and sometimes very specifically. Here are some statements taking up different themes: influences of the outside world, using the mountain's power for one's own gain, needing to have a reason for going, and one that was often repeated in other contexts: go there if you have reason to, but leave as soon as you can.

— The mountain is sacred. So why must we encroach? We keep encroaching whether in ocean and on land. Where is the end? To me, beauty is in the natural setting; that's beauty to me. To me, a lava field is beauty. Why must we alter the land so much? I've seen a lot in 77 years. I've never spoken like this before and it is time that I speak. Sacredness and mana of the mountain is the most important thing to me.

— Talking to a kupuna, I asked her about the mauna, and she said "Never been there. I don't need to go there."

— My granddaughter asked if I was going to the mountain [for the protests]. I said, "No, and, if you go, make sure you know why. If you're only going to shout or going because someone else is there, that's the wrong reason."

— I agree the mountain is very, very powerful. People can use power in not so good ways, and I believe firmly a lot of people are using power from the mauna in a bad way for their own personal gain. Unless people can stop and look at the power as a positive thing, we will be fighting for a long time.

— [There are] ancient springs on Maunakea only the highest could attend to; ali'i were allowed in those realms. There was a deep reverence...do not stay or dwell...go and leave.

Although there was explicit discussion of sacred sites at Hale Pōhaku, almost all talk of the sacred, not surprisingly, centered on the summit. At every 'aha kūkā session we encouraged the participants to talk about the entire mountain, not just the summit. But almost invariably the talk returned to the summit regions.

It was mainly the ranchers, hunters, naturalists, and artists who gave us “the rest of the mountain” statements, and although not many of these touched on the sacred as such, a great many of them touched on the spiritual, almost always in a personal sense.

— People have lived here for generations and their mana is still here. It is in the soil. When we eat from the land, we take that in. Rocks, trees, it's all here. There is energy. I think the connection to Maunakea is, for a lot of people, like it's almost a fulcrum where it all comes together in a powerful place.

— I think there are people within every religion, as well as people who are nonreligious, who experience the natural world as sacred, whether they use that term or not. In a sense I believe the whole earth is sacred. But there are certain places that are exceptionally powerful—you can feel the energy. Maunakea is one of those places.

— In times past, there was no separation between the “sacred” and the secular. Religion and life were inextricably intertwined. A multiplicity of deities guided daily lives, were revered and were honored frequently by ritual. We seem to have lost much of our familiarity with the natural world, the wonderful outdoors. We proclaim the heights of our mountains “sacred,” and for many they are indeed places where divinity resides.

More commonly, we heard our participants describe their relationship to Maunakea as “spiritual” in a non-religious way. We said earlier that we learned never to anticipate where a participant's narrative would go, which was one of our joys. Here's a hunter's description complete with a beautiful insight.

— [Maunakea is one of the] sources that ground us, nurture us. It's hard to explain; it's more than just the clean air, the feeling

you get sitting on a rock, not thinking about hunting. It has a spiritual impact when you're up there. It is all simplicity and complexity. It's perfect. That is one of the treasures we have and we really need to share with the world. It's that place that our kūpuna could recognize and utilize for their spiritual purposes. Aloha 'āina and mālama 'āina are intended to be spiritual acts.

An entomology graduate student relates her understanding of how the mountain works:

— The spirituality is definitely not religious for me. I'm on a cinder cone looking at bugs and even though it rained hours ago, you can hear water percolating underground, the breeze in your face . . . I cannot explain it . . . that's my definition of spirituality.

Many participants spoke of the quiet, the peace. For example,

— I think it's the peace, quiet, nature, being close to nature, feeling the cold, connected to the elements and exposed to the elements. There is something we find in nature that makes us feel alive. That is the spiritual side for me.

Some artists spoke of spirituality in these ways:

— As a writer, and what I guess one would call a "nonreligious mystic," I feel a strong spiritual connection with Maunakea. It is the inspiration for much of my work, even when it does not appear literally in a poem, and an important part of my spiritual practice. I offer my own spirit's deepest attention to this place. I write poems about the plants, the changing light, the austere, silent spirit of the mountain. Even when the poems are not "about" Maunakea, they aspire to express its unique spiritual integrity, clarity, and space. What I feel when I am on the top is that Maunakea is in connection—in conversation—with the whole universe. It feels unbounded, expansive, full of light, weightless.

From an observatory support staff person, who chose not to talk about his technological life:

— I view the mountain mostly as an artist first, vision and visual artist. When I go up there, especially alone, and park at Pu'u Huluhulu and feel the breeze for a few minutes...it's not religious. It is respectful to ask permission and then to feel that cold kiss on the cheek; I know my day is going to be OK.

From an artist-turned-astronomy student:

— As an artist, I see comfort in the serenity and natural beauty of Maunakea, as it offers a strange unifying balance between the heavens and our seemingly insignificant selves. The distance from civilization adds to a warm feeling of controlled isolation, which I personally find to be a valuable distraction from everyday stress and chaos. The mountain's respectable, grand size allows me to experience a new found strength, persistence, balance, and fervor directly resulting from the realization of how weak I am in the grand scheme of the Earth alone, and ultimately in the eyes of the universe. In both ways, Maunakea is sacred, as it allows us to ground ourselves while reaching out to touch the heavens, the realm of the gods and our own creation.

Some participants reported profound experiences that flowed from simple acts, such as stopping on the Saddle Road before dawn and getting out of the car:

— For me one of the most spiritual experiences was on the side of the Saddle Road; I pulled over at 5 AM— I was traveling with a colleague—he jumped out and was speechless—and he talks a lot—speechless. It was what the world's best planetarium aspires to be: the stars around the perfectly clear sky, still, quiet. It really made you think about how we are so small.

The same person later said,

— If I had to pick one thing that's most significant—and I had no idea until I went up—it was the silence, such a profound silence. You think you know silence until you go up—your thoughts and your breath—quiet like nothing I ever experienced before or after, the quiet up there.

These notions of sanctity, of spirituality were sometimes intertwined with feelings of cosmic connection, being part of a bigger whole, being close with nature, and feelings of wonder. Some expressed feelings of being laid bare, being exposed to the universe. And for some, the feelings seemed to stem from things that were wholly metaphysical, such as the mana of previous generations imbued in the rocks and land itself.

Interestingly, there was something of a dichotomy in the ways these feelings led people to regard summit access. For some, the sanctity of the summit meant it should be kapu except for religious purposes. One or two went so far as to say even they should not be permitted. For others, the feelings of wonder and connection led them to believe that as long as access itself did not threaten the summit, it was a place that all of mankind could share for its mutual betterment.

We heard what can only be called prescriptions: *Know why you're going there*, and *If you go there, do what you have to do and leave*. As we will see in the next section, these can be brought to bear on Maunakea's issues.

Reclaiming the Past for Mauna a Wākea’s Future: The Battle Over Collective Memory and Hawai‘i’s Most Sacred Mountain

*Terina Kamailelauli ‘i Fa ‘agau**

I.	UNDERSTANDING THE RELATIONSHIP BETWEEN PAST, PRESENT, AND FUTURE.....	2
II.	COLLECTIVE MEMORY’S ESSENTIAL ROLE IN SHAPING NARRATIVES OF JUSTICE FOR KĀNAKA MAOLI	7
	A. <i>Understanding Collective Memory</i>	9
	B. <i>Collective Memory’s Power and Potential for Justice Struggles in Hawai‘i</i>	11
III.	KA PIKO KAULANA O KA ‘ĀINA: THE FAMOUS SUMMIT OF THE LAND	16
	A. <i>The Significance of Maunakea to Hawai‘i and Kānaka Maoli</i> ..	16
	B. <i>Western Astronomy’s Occupation of Maunakea</i>	22
IV.	THE STATE’S AFFIRMATIVE DUTY TO PROTECT NATIVE HAWAIIAN TRADITIONAL AND CUSTOMARY RIGHTS	28
	A. <i>Native Hawaiian Traditional and Customary Rights</i>	29
	B. <i>Traditional and Customary Rights as a Protected Public Trust Purpose</i>	32
V.	(RE)SHAPING KA WĀ MA MUA: THE BATTLE OVER COLLECTIVE MEMORY OF INJUSTICE SHROUDING MAUNAKEA	35
	A. <i>The majority’s “history” of Maunakea is almost entirely void of Native Hawaiians and obscures Kānaka Maoli’s deep-seated connections to Mauna a Wākea.</i>	39
	B. <i>The majority ignored decades of the University and DLNR’s mismanagement of Maunakea and the significant, substantial and adverse impacts to the summit.</i>	44
	1. Justice Wilson challenged the majority’s indefensible use of the “degradation principle.”	51
	2. The majority’s narrow collective memory relieved the state of its constitutionally mandated duties.	53
	3. The majority ignored traditions and customs exercised everywhere but within the exact footprint of the TMT project.....	54

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C. <i>The majority failed to acknowledge the TMT controversy within the context of colonization and its lasting impacts for Kānaka Maoli</i>	63
VI. KŪ KIA‘I MAUNA: KĀNAKA MAOLI’S EFFORT TO PROTECT MAUNAKEA AND RESHAPE PREDOMINATING NARRATIVES	64
VII. LOOKING TO KA WĀ MA HOPE: THE FUTURE OF MAUNAKEA AND KĀNAKA MAOLI	72

I. UNDERSTANDING THE RELATIONSHIP BETWEEN PAST, PRESENT, AND FUTURE

The ‘ōlelo no‘eau (proverb) “I ka wā ma mua, ka wā ma hope” illustrates how Kānaka Maoli (Native Hawaiians)¹ orient themselves temporally. “Ka wā ma mua,” literally translated as “the time in front,” describes the time that precedes the present (i.e., the past).² Likewise, “ka wā ma hope” means “the time in back,” the time coming after the present (i.e., the future).³ Kānaka Maoli appreciate that they “stand[] firmly in the present, with [their] back[s] to the future, and [their] eyes fixed upon the past, seeking historical answers for present-day dilemmas.”⁴ Recollections of the past, however, “are largely constructed in the present.”⁵ While looking to history⁶ can provide insight for the present and into the future, understandings of history depend on “who tells it, how it is told, which stories are shared, the nuances and complexities, [and] the language used.”⁷

¹ “Native Hawaiian,” “Kanaka Maoli,” or “Maoli,” as used in this article, refers to individuals that can trace their ancestry back to the peoples inhabiting the Hawaiian Islands prior to the arrival of Captain James Cook in 1778, regardless of blood quantum. “Kanaka” is the singular, while “Kānaka” is the plural. MARY KAWENA PUKUI & SAMUEL H. ELBERT, HAWAIIAN DICTIONARY 127 (1986) [hereinafter HAWAIIAN DICTIONARY].

² LILIKALĀ KAME‘ELEIHIWA, NATIVE LAND AND FOREIGN DESIRES: PEHEA LA E PONO AI? 22 (Bishop Museum Press, 1992) [hereinafter KAME‘ELEIHIWA, NATIVE LAND]; Nālani Wilson-Hokowhitu & Manulani Aluli Meyer, Introduction: *I Ka Wā Mamua, The Past Before Us*, in THE PAST BEFORE US: MO‘OKŪ‘AUHAU AS METHODOLOGY 1 (Nālani Wilson-Hokowhitu ed., 2019).

³ KAME‘ELEIHIWA, NATIVE LAND, *supra* note 2, at 22; Wilson-Hokowhitu & Meyer, *supra* note 2, at 1.

⁴ KAME‘ELEIHIWA, NATIVE LAND, *supra* note 2, at 22.

⁵ Sharon K. Hom & Eric K. Yamamoto, *Collective Memory, History, and Social Justice*, 47 UCLA L. REV. 1747, 1757 (2000).

⁶ “History” is traced back to the Greek “histōr,” meaning “wise man” or “judge.” *History*, ONLINE ETYMOLOGY DICTIONARY, https://www.etymonline.com/search?q=history&source=ds_search (last visited Feb. 21, 2021). For the purposes of this article, “history” refers to a story, narrative, or relation of incidents (true or false) of the past. *See id.*

⁷ Melody Kapilialoha MacKenzie & D. Kapua‘ala Sproat, *A Collective Memory of Injustice: Reclaiming Hawai‘i’s Crown Lands Trust in Response to Judge James S.*

And as those social understandings of the past evolve, so do the solutions for present-day problems.⁸

Traditionally, Kānaka Maoli fixed their eyes on “ka wā ma mua” by looking to their history and ancestral knowledge preserved through mo‘okū‘auhau (genealogies), mele (songs), and mo‘olelo (stories).⁹ But near the end of the 19th century, many Kānaka worried their ancestral knowledge would be erased, leaving future generations lost without the cultural kahua (foundation) Native Hawaiians relied upon since time immemorial.¹⁰ As American businessmen seized control over the archipelago and Hawai‘i’s native population declined due to foreign-introduced disease, “non-native historians developed and promoted [a] narrative” that failed to “acknowledg[e] . . . [Americans’] hostile takeover of an indigenous sovereign” and instead centered “around sugar planters, the economy, and land and power in Hawai‘i.”¹¹ Prevailing for nearly a century after the 1893 illegal overthrow of the Hawaiian Kingdom, colonial narratives developed and promoted by foreign historians centered around shifting economic and political power in Hawai‘i.¹² This “history” crafted by non-natives suppressed Native Hawaiians’ historical accounts, along with their collective memory of the injustice that took place in Hawai‘i.¹³

Burns, 39 U. HAW. L. REV. 481, 482 (Summer 2017).

⁸ *See id.*

⁹ NOENOE K. SILVA, *THE POWER OF THE STEEL-TIPPED PEN: RECONSTRUCTING NATIVE HAWAIIAN INTELLECTUAL HISTORY* 212 (2017) (examining literature by Native Hawaiian intellectuals) [hereinafter SILVA, STEEL-TIPPED PEN]. A mo‘olelo “is a progression of words that not only recounts the story of an individual, but is also woven into the collective fabric or memory of Maoli society.” Lu‘ukia Nakanelua, *Na Mo‘o o Ko‘olau: The Water Guardians of Ko‘olau Weaving and Wielding Collective Memory in the War for East Maui Water*, 41 U. HAW. L. REV. 189, 191 (2018).

¹⁰ SILVA, STEEL-TIPPED PEN, *supra* note 9, at 7–8.

¹¹ MacKenzie & Sproat, *supra* note 7, at 483–84. A century after Westerners’ first contact in Hawai‘i, “the Native Hawaiian population had plunged to a mere 19 percent of the pre-contact population.” Lilinoe Kauahikaua & Seanna Pieper-Jordan, *DATA JUSTICE: ABOUT US, BY US, FOR US* 9 (Feb. 2021), available at https://static1.squarespace.com/static/5ef66d594879125d04f91774/t/601dca4138c3983f4b7d5646/1612565088228/Data+Justice+Report_FINAL.pdf.

¹² MacKenzie & Sproat, *supra* note 7, at 483–84.

¹³ *Id.* The modern Hawaiian sovereignty movement galvanized Kānaka Maoli’s pursuit of redress for the colonization’s injuries. Julian Aguon, *Native Hawaiians and International Law*, in *NATIVE HAWAIIAN LAW: A TREATISE* 352, 360–61 (2015). To get at the heart of the issue, Kānaka Maoli worked to reconstruct history and correct the inaccurate collective memory that was told, and prevailed, for so long. *See* MacKenzie & Sproat, *supra* note 7, at 484–85 (citing HAUNANI-KAY TRASK, *FROM A NATIVE DAUGHTER: COLONIALISM AND SOVEREIGNTY IN HAWAI‘I* 1–24, 31–50 (2004)); KAME‘ELEHIWA, *NATIVE LAND*, *supra* note 2, at 3 n.7 (describing the shift in Native Hawaiian consciousness and the politicization, identification, and capitalization of “Native” during the Hawaiian sovereignty movement). Native Hawaiians began to “expand the law’s narrow framing of

Which aspects of history are told, and how they are told, determine social understandings of justice and how that “justice” will be accomplished.¹⁴ Collective memory—a powerful tool wielded by colonizers for centuries—can be reclaimed and deployed by Kānaka and other Indigenous People to undergird justice claims.¹⁵ Kānaka Maoli today are deliberately looking to the past—through stories, songs, genealogies, and chants—to understand how they can shape and determine their future.¹⁶ They continue the effort to recover parts of history left out of colonizers’ narratives.¹⁷ And while the courts often tell a different version of “history,” Native Hawaiians have persisted in making these recovered narratives public and changing the way others understand what justice for Native Hawaiians requires.¹⁸

injustice and focus on historical facts to more fully portray what happened and why it was wrong.” Hom & Yamamoto, *supra* note 5, at 1757. History was more than a way for Hawaiians to look to the past and remember the ways of their ancestors. *Id.* It became “a catalyst for mass mobilization and collective action aimed at policymakers, bureaucrats, and the American conscience.” *Id.*

¹⁴ Hom & Yamamoto, *supra* note 5, at 1764.

¹⁵ *Id.* at 1764–65. For instance, the 1993 Apology Resolution’s recognition of the illegal overthrow of the Hawaiian Kingdom bolstered Native Hawaiians’ claims to the Crown and Government Lands of the Hawaiian Kingdom. MacKenzie & Sproat, *supra* note 7, at 520–21. A result of the Great Māhele in 1848, King Kamehameha III held 2.5 million acres, sixty-percent of the kingdom’s lands, with chiefs holding the remainder of the land. *Id.* Kamehameha III then divided his lands into two. *Id.* First, he established the Government lands, about 1.5 million acres, that were “‘set apart forever to the chiefs and people’” of the kingdom. *Id.* Kamehameha III retained the remaining land, subject to the rights of native tenants, “for himself and his heirs and successors[.]” Melody Kapilialoha MacKenzie, *Historical Background*, in NATIVE HAWAIIAN LAW: A TREATISE 2, 12–14 (2015). These lands were “taken by the United States upon annexation of Hawai‘i as a territory following the 1893 overthrow.” Hom & Yamamoto, *supra* note 5, at 1766–67 (citing Melody K. MacKenzie, *Historical Background*, in NATIVE HAWAIIAN RIGHTS HANDBOOK 3, 12 (Melody Kapilialoha MacKenzie ed., 1991)). Upon statehood in 1959, Hawai‘i’s Government and Crown Lands were transferred from U.S. control to the State of Hawai‘i by the 1959 Admission Act. Melody Kapilialoha MacKenzie, *Public Land Trust*, in NATIVE HAWAIIAN LAW: A TREATISE 76, 79 (2015). These former Government and Crown Lands are subject to the Public Land Trust, which imposes on the state specific fiduciary obligations of due diligence and undivided loyalty in ensuring that trust benefits are maximized for Native Hawaiian and public beneficiaries. *See id.*; HAW. CONST. art. XII.

¹⁶ *See* Hom & Yamamoto, *supra* note 5, at 1759–60. For instance, Noenoe K. Silva uses nineteenth and twentieth century texts written by Kānaka in ‘Ōlelo Hawai‘i (Hawaiian language) to examine the gaps left in the historical record authored primarily by non-native outsiders and illuminate the history of Native Hawaiians’ resistance to American imperialism. NOENOE K. SILVA, ALOHA BETRAYED: NATIVE HAWAIIAN RESISTANCE TO AMERICAN COLONIALISM 15 (2004) [hereinafter SILVA, ALOHA BETRAYED].

¹⁷ SILVA, ALOHA BETRAYED *supra* note 16, at 15.

¹⁸ *See id.*; Hom & Yamamoto, *supra* note 5, at 1759–60.

In October 2018, the Hawai‘i Supreme Court published the decision *In re Contested Case Hearing re Conservation Dist. Use Application (CDUA) Ha-3568 for the Thirty Meter Telescope at the Mauna Kea Sci. Res. (“Mauna Kea II”)* (2018).¹⁹ On the heels of protracted administrative trials (contested case hearings)²⁰ and earlier litigation,²¹ the court’s *Mauna Kea II* decision affirmed the state’s Board of Land and Natural Resources’ (“BLNR’s” or “the Board’s”) grant of a Conservation District Use Permit (“CDUP” or “the Permit”)²² for the development of the Thirty Meter Telescope (“TMT”) on Maunakea.²³ Many assumed that the court’s ruling finally “clear[ed] the way for TMT to begin construction.”²⁴ But when developers sought to break ground on the TMT in July 2019, several hundred Kia‘i (guardians)²⁵ gathered at the base of the Mauna Kea Access

¹⁹ *In re Contested Case Hearing re Conservation Dist. Use Application (CDUA) Ha-3568 for the Thirty Meter Telescope at the Mauna Kea Sci. Res.*, 143 Haw. 379, 431 P.3d 752 (2018) [hereinafter *Mauna Kea II*].

²⁰ A contested case hearing is a quasi-adjudicative hearing held to determine “the rights, duties, and privileges of specific parties.” HAW. REV. STAT. ANN. § 91-1 (Westlaw through 2019 Reg. Sess.); HAW. CODE R. §§ 13-1-28, 13-1-29 (2009); *Kilakila ‘O Haleakalā v. Univ. of Haw.*, 131 Haw. 193, 200, 317 P.3d 27, 34 (2016) [hereinafter *Kilakila*]. A contested case may be required by agency rule or regulation, statutory law, or constitutional due process. *Kilakila*, 131 Haw. at 200, 317 P.3d at 34.

²¹ *Mauna Kea Anaina Hou v. Bd. of Land & Nat. Res.*, 136 Haw. 376, 363 P.3d 224 (2015) [hereinafter *Mauna Kea I*].

²² BLNR administrative rules require that “[n]o land use(s) shall be conducted in the conservation district unless a permit or approval is first obtained from the department or board.” HAW. CODE R. § 13-5-6(d) (2009).

²³ *Mauna Kea II*, 143 Haw. at 384, 431 P.3d at 757. All names for the same mountain, “Mauna Kea,” “Maunakea,” and “Mauna a Wākea” are used interchangeably throughout this article. “Mauna Kea” (white mountain) describes the mountain’s snow-covered peak. “Maunakea,” as one word, is short for “Mauna a Wākea” (mountain of Wākea). Consistent with Native Hawaiian tradition, “[t]he University of Hawai‘i Hilo School of Hawaiian Language recommends the one-word spelling[.]” *Mauna Kea or Maunakea?*, UNIV. OF HAW. INST. FOR ASTRONOMY, <https://www2.ifa.hawaii.edu/newsletters/article.cfm?a=690&n=55> (last visited Feb. 21, 2021). The ‘Ōiwi (Native) place-name “Maunakea” is used throughout this article “to remember and honor the mana, the spiritual and cultural power, that resides in places and the persons . . . associated with those places.” See *DETOURS: A DECOLONIAL GUIDE TO HAWAI‘I* 16 (Hōkūlani K. Aikau & Vernadette Vicuña Gonzalez eds., 2019); HAWAIIAN DICTIONARY, *supra* note 1, at 280.

²⁴ Alexandra Witze, *Embattled Thirty Meter Telescope Scores Big Win in Hawaii’s Highest Court*, NATURE (Oct. 31, 2018), <https://www.nature.com/articles/d41586-018-04444-2>.

²⁵ MARY KAWENA PUKUI & SAMUEL H. ELBERT, HAWAIIAN DICTIONARY 146 (rev. & enlarged ed. 1986). Behind the movement to protect Maunakea are “self-described ‘protectors, not protestors’ or Kia‘i Mauna (guardians of the mountain).” Noelani Goodyear-Ka‘ōpua, *Protectors of the Future, Not Protestors of the Past: Indigenous Pacific Activism and Mauna a Wākea*, 116 S. ATL. Q. 184, 188–89 (2017). In this article, “Kia‘i” and “Kia‘i Mauna” are used synonymously to refer to protectors holding space on

Road to halt the contentious project's construction, which they have been successful in doing for nearly two years as of this writing.²⁶

The present conflict engulfing TMT is the culmination of a decades-long battle over the summit of Maunakea.²⁷ This conflict, however, is not simply a battle over a sacred mountain, but a battle over the collective memories of Maunakea and Kānaka Maoli and the injustices committed against them.²⁸ The Hawai'i Supreme Court majority and TMT stakeholders and supporters recall memories altered by their "hopes and desires" to justify their approval and support for the project.²⁹ On the other hand, Kia'i, other Kānaka Maoli, and their allies remember and retell a competing collective memory of injustice, one that "integrates the ancestral with claims of right" to Maunakea.³⁰ These present-day constructions of the past will determine the future of Maunakea and other Kānaka Maoli struggles for justice.³¹ The prevailing collective memory of "ka wā ma mua" will inform what will be done "ka wā ma hope."³²

This article unpacks the incomplete "history" of injustices in Hawai'i and on Maunakea—as depicted by BLNR's approval of TMT's CDUP and reinforced by the *Mauna Kea II* majority—that the Hawai'i Supreme Court and TMT supporters deployed to rationalize and clear the way for the telescope's development.³³ Further, this article explains how the prevailing collective memory of injustice will determine the fate of the TMT on Maunakea and shape narratives of justice for Native Hawaiians "ka wā

the mountain, petitioners challenging the TMT in court, and others fighting in solidarity to protect Mauna a Wākea.

²⁶ HPR News Staff, *Latest Developments as TMT Construction Preparations Begin on Mauna Kea*, HAW. PUB. RADIO (July 15, 2019), <https://www.hawaiipublicradio.org/post/latest-developments-tmt-construction-preparations-begin-Mauna-kea#stream/0>. In March 2020, one of two countries using public funds to finance the TMT, Japan suspended its yearly funding, "citing the stalemate over [the project's] construction on Mauna Kea." Ku'uwehi Hiraishi, *Japan Suspends TMT Funding Citing Mauna Kea Stalemate*, HAW. PUB. RADIO (Mar. 3, 2020), <https://www.hawaiipublicradio.org/post/japan-suspends-tmt-funding-citing-Mauna-kea-stalemate#stream/0>. In response to the suspension, Kia'i delivered a letter to the Consulate General of Japan reaffirming their stance on protecting the mountain from the TMT. *Id.* Kia'i Lanakila Mangauil urged Japan to divest money from the project and instead "reinvest back into their own communities and help their own people." *Id.*

²⁷ *See infra* Parts III, V, VI.

²⁸ *See* Hom & Yamamoto, *supra* note 5, at 1764–65.

²⁹ *Id.* at 1761.

³⁰ *See id.* at 1761–62.

³¹ *Id.*

³² *See infra* Parts II, VII.

³³ *See infra* Part V.

ma hope.”³⁴ Part II explores collective memory and explains its power and potential for justice struggles in Hawai‘i with an example from *Rice v. Cayetano* (2000).³⁵ Part III examines the cultural and historical significance of Maunakea to Hawai‘i and Native Hawaiians as well as the history of Western astronomy on the mountain’s summit. Part IV provides the legal background of this battle over Maunakea and outlines the State of Hawai‘i’s affirmative duty to protect Native Hawaiian traditional and customary rights. Parts V and VI illuminate the recent and ongoing battle over the collective memory of injustice of Maunakea. Part V closely examines the *Mauna Kea II* majority and dissenting opinions and their effects on public perception surrounding Maunakea and justice for Native Hawaiians. Part VI then brings light to Native Hawaiians’ oft-ignored familial, spiritual, and legal claims to Maunakea—with examples from Kia‘i’s testimony before BLNR, the court, and the public—to combat the narrative that has paved the way for the approval of the TMT. Finally, Part VII concludes this article by looking to “ka wā ma hope” and contemplating the future of Maunakea.

II. COLLECTIVE MEMORY’S ESSENTIAL ROLE IN SHAPING NARRATIVES OF JUSTICE FOR KĀNAKA MAOLI

Kānaka Maoli identity and understanding of the present derive from mo‘olelo.³⁶ Native Hawaiian Professor and Scholar Lilikalā Kame‘eleihiwa explained that “every aspect of the Hawaiian conception of the world is related by birth, and as such, all parts of the Hawaiian world are one indivisible lineage . . . Hawaiians patterned their behavior after the ancestral example found in their genealogy.”³⁷ That past informed their future.³⁸ But since Western contact, the “historical portraits” often used to describe Hawai‘i were crafted primarily by non-native voices that reflect Eurocentric views.³⁹

Since “Western views [of history] have [largely] predominated,” those narratives play a significant role in Native Hawaiians’ lives.⁴⁰ Eric K.

³⁴ See *infra* Parts V–VI.

³⁵ *Rice v. Cayetano*, 528 U.S. 495 (2000); Hom & Yamamoto, *supra* note 5, at 1766–76.

³⁶ See KAME‘ELEIHIWA, *supra* note 2, at 1 (describing how “Hawaiian identity is, in fact, derived from” the mo‘olelo and “cosmogonic genealogy” of the Kumulipo); Nakanelua, *supra* note 9, at 198–99 (“[U]nderstanding Mo‘o [and mo‘olelo] as a paradigm, the foundation of Maoli understanding of law, culture, and society, is critical to the way Kānaka create and re-create community identity.”).

³⁷ KAME‘ELEIHIWA, *supra* note 2, at 2.

³⁸ *Id.*

³⁹ *Id.* at 3.

⁴⁰ *Id.* at 4.

Yamamoto, Fred T. Korematsu Professor of Law and Social Justice at the William S. Richardson School of Law, also recognized how historical narratives impacted Kānaka's sense of identity: "'Who we were and what happened' are integrally connected to how Native Hawaiians were sometimes pejoratively described by white American missionaries (savages and pagans), businessmen (incompetents), and politicians (a dying race), and later by racial immigrant groups (lazy and uneducated)."⁴¹ Equally important is the way these predominating narratives or stories determine what justice entails for Native Hawaiians.⁴² As succinctly put by Columbia University Professor Edward Said:

[Stories are] the method colonized people use to assert their own identity and the existence of their own history. The main battle in imperialism is over land, of course; but when it came to who owned the land, who had the right to settle and work on it, who kept it going, who won it back, and who now plans its future—these issues were reflected, contested, and even for a time, decided in narrative.⁴³

Understanding the inherent power in narratives and how they are framed, Dr. Kame'eleihiwa questioned the flawed accounts peddled by non-native Westerners:

[H]ow can anyone write an honest history? Moreover, how is it possible to write an accurate, or even approximate, replay of life when writing the history of a people from the viewpoint of another completely distinct culture, or from another completely different time?⁴⁴

Professor Yamamoto observed that, akin to Native Hawaiians, other groups also understand how the past informs present and future constructions of justice and redress.⁴⁵ Those groups seeking social justice "tend to define injustice more broadly" than the "progressive lawyers" whose ideas of injustice are framed within the narrow confines of legal doctrine that "narrows public imagination and debate."⁴⁶ To achieve mass mobilization and collective action, social justice groups must "expand the law's narrow framing of injustice and focus on historical facts to more fully portray what

⁴¹ Hom & Yamamoto, *supra* note 5, at 1760.

⁴² See EDWARD W. SAID, *CULTURE AND IMPERIALISM* xv (1993).

⁴³ *Id.*

⁴⁴ KAME'ELEIHIWA, *supra* note 2, at 5–6.

⁴⁵ Hom & Yamamoto, *supra* note 5, at 1757.

⁴⁶ *Id.*

happened and why it was wrong.”⁴⁷ As Professor Yamamoto noted, however, both “progressive lawyers” and social justice groups often fail to address the crux of how collective memory operates.⁴⁸

A. *Understanding Collective Memory*

More than historical facts and events simply “retrieved from a brain storehouse,” memories are “constructed and continually reconstructed.”⁴⁹ Memories are always being reshaped “by complex interactions among people and their social environments.”⁵⁰ Both individuals and social groups “often subconsciously choose what to remember in ways that reflect their desires, hopes, and the cultural norms of their social environment.”⁵¹ Moreover, memories of the past are framed within the context of culture.⁵² These culturally-framed memories are conveyed and perpetuated through narratives.⁵³

Narrative structures derive from purposeful constructions of collective memory and “shape how society constructs and relates to individual and group identity claims.”⁵⁴ “Direct experiences, cultural forms, institutional practices, and political ideology generate the underlying, or structural, narratives.”⁵⁵ These narratives serve as a lens through which groups understand history and frame their relationship of the past to the present.⁵⁶ But “this lens is constructed,” and thus “‘remembering’ the past is neither innocent nor objective.”⁵⁷ Historian Peter Burke’s observation illustrates how “historical memory is selective”:

A way of seeing is a way of not seeing, a way of remembering is a way of forgetting, too. If memory were only a kind of registration, a “true” memory might be possible. But memory is a process of encoding information,

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.* at 1760.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.* at 1761.

⁵³ *Id.*

⁵⁴ MacKenzie & Sproat, *supra* note 7, at 488; see Hom & Yamamoto, *supra* note 5, at 1761 (citing Craig R. Barclay, *Autobiographical Remembering: Constraints on Objectified Selves*, in REMEMBERING OUR PAST: STUDIES IN AUTOBIOGRAPHICAL MEMORY 67, 94 (David C. Rubin ed., 1996)).

⁵⁵ Hom & Yamamoto, *supra* note 5, at 1762.

⁵⁶ *Id.*

⁵⁷ *Id.*

storing information and strategically retrieving information, and there are social, psychological, and historical influences at each point.⁵⁸

Figuring out “what happened and who we were” goes beyond factual discovery and is “an act of historical and political construction.”⁵⁹ The daughter of Holocaust survivors, writer Eva Hoffman observed that the understanding of any event is “shaped by contemporaneous values and ideological pressures.”⁶⁰ For instance, historian Peter Novick examined how “America’s preoccupation with the Holocaust . . . is motivated as much by political as moral concerns.”⁶¹ The Holocaust “has been treated as a political issue and deliberately used for political ends.”⁶² Therefore, to effectively use collective memory to understand present-day justice struggles, a “lawyerly approach”—digging historically to find out what happened and applying those facts to show a violation of established rights norms—will not suffice.⁶³ Instead, “[t]he digging we must do is not only into the documentary archives, but also into the archives of mind, spirit, and culture—then and now.”⁶⁴

Since “framing justice is about social memory,”⁶⁵ social justice lawyers and activists often aim to refute inaccurate historical narratives and take a more active role in constructing group memories “as we go, within a context of not only rights norms but also larger societal understandings of injustice and reparation.”⁶⁶ Collective memory allows groups demanding justice to dismantle the inaccurate narratives—told and retold by individuals, institutions, and nations—that “refram[e] shameful past acts” and deflect blame and responsibility.⁶⁷

⁵⁸ *Id.* (quoting Peter Burke, *History as Social Memory*, in *MEMORY: HISTORY, CULTURE AND THE MIND* 97, 103 (Thomas Butler ed., 1989)).

⁵⁹ *Id.* at 1760.

⁶⁰ *See id.* at 1762 (citing Eva Hoffman, *The Uses of Hell*, N.Y. R. BOOKS 19 (Mar. 9, 2000)).

⁶¹ *Id.* at 1763.

⁶² Hoffman, *supra* note 60.

⁶³ Hom & Yamamoto, *supra* note 5, at 1764.

⁶⁴ *Id.*

⁶⁵ *Id.* at 1756.

⁶⁶ *Id.* at 1764.

⁶⁷ *Id.* at 1758.

B. *Collective Memory’s Power and Potential for Justice Struggles in Hawai‘i*

For Kānaka, recounting “what happened” in Hawai‘i’s past remains difficult for several reasons.⁶⁸ Many stories traditionally passed down between generations of Kānaka Maoli were lost when the native population was decimated by foreign-introduced disease.⁶⁹ With America’s increased presence in Hawai‘i, Western narratives and institutions predominated, suppressing Hawaiian language and culture.⁷⁰ And, as Professor Yamamoto explained,

Making the task of recounting even more difficult is the present-day reality that native Hawaiians are building their own new understandings of ‘what happened’ and ‘who we were’ partly in order to claim ‘what is rightfully ours.’ This linkage of events to identity and then to rights implicates contemporary notions of nationhood.⁷¹

Other scholars, including Dr. Kame‘eleihiwa, similarly recognized and emphasized how history is tied to identity, which are tied to rights claims and justice.⁷² Unpacking and examining “history”—especially when inscribed into law—thus becomes a crucial task because of collective memory’s use as a strategic tool that justifies upholding or denying rights to certain groups as well as promoting or thwarting notions of justice.⁷³

Professor Yamamoto outlines five strategic points to translate collective memory into practical strategy that can be deployed to realize the power and potential of collective memory for justice struggles.⁷⁴ First,

⁶⁸ *Id.* at 1759–60.

⁶⁹ SILVA, ALOHA BETRAYED, *supra* note 16, at 3; *see supra* note 11 and accompanying text.

⁷⁰ KAME‘ELEIHIWA, *supra* note 2, at 5–6. “[W]ithin a century of foreign occupation ‘ōlelo Hawai‘i became an endangered language.” Katrina-Ann R. Kapā‘anaokalāokeola Nākoa Oliveira, *E Ola Mau ka ‘Ōlelo Hawai‘i: The Hawaiian Language Revitalization Movement*, in *A NATION RISING: HAWAIIAN MOVEMENTS FOR LIFE, LAND, AND SOVEREIGNTY* 79 (Noelani Goodyear-Ka‘ōpua et al., eds., 2014). The illegal overthrow of the Hawaiian Kingdom marked a “devastating blow[] dealt to the Kanaka people.” *Id.* at 80. By 1896, three years after the overthrow, the Republic of Hawai‘i established English as the medium of instruction in schools and “effectively banned ‘ōlelo Hawai‘i-medium education.” *Id.*

⁷¹ Hom & Yamamoto, *supra* note 5, at 1760.

⁷² *See* KAME‘ELEIHIWA, *supra* note 2, at 7–8; Hom & Yamamoto, *supra* note 5, at 1764–65.

⁷³ *See* Hom & Yamamoto, *supra* note 5, at 1777.

⁷⁴ *Id.* at 1764.

“justice claims of ‘right’ start with struggles over memory.”⁷⁵ “Collective memories differ depending on locale, group experiences, and cultural norms[.]”⁷⁶ Since different groups remember the past differently, they often disagree on what injustice looks like and what justice entails.⁷⁷ Therefore, justice depends upon “critically engag[ing] the dynamics of group memory injustice.”⁷⁸

Second, the “[g]roup memory of injustice is characterized by the active, collective construction of the past.”⁷⁹ Memory is not composed of a recollection of past events.⁸⁰ Instead, it involves present-day constructions that are built and altered, not simply found.⁸¹ Collective memory “emerges from interactions among people, institutions, media, and other cultural norms.”⁸²

Third, “[t]he construction of collective memory implicates power and culture.”⁸³ Decisionmakers have the power to decide which memories ought to be acknowledged, and those prevailing memories shape justice claims.⁸⁴ “[S]truggles over memory are often struggles between colliding ideologies, or vastly differing world views.”⁸⁵ Challenges to the prevailing historical narratives are met with “fierce opposition by those in power” who “seek[] totally to discredit the developing memory proffered by outsiders” or who “seek[] to partially transform [an] old memory . . . into a new memory . . . that justifies continued hierarchy.”⁸⁶

Fourth, “[t]hese contests over historical memory regularly take place on the terrain of culture—of which legal process, and particularly civil rights adjudication, is one, but only one, significant aspect.”⁸⁷ Memories of past events, persons, and interactions are culturally-framed—“they are subject to socially structured patterns of recall, they are often triggered by

⁷⁵ *Id.*

⁷⁶ MacKenzie & Sproat, *supra* note 7, at 493.

⁷⁷ *See id.*; Hom & Yamamoto, *supra* note 5, at 1764.

⁷⁸ Hom & Yamamoto, *supra* note 5, at 1764.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.* at 1765.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

social stimuli and they are conveyed through communal language.”⁸⁸ Legislators, judges, and other decisionmakers “determine[] which cultural practices, images, and narratives formally frame the memories. And those memories in turn legitimate future understanding of and action on justice claims.”⁸⁹

Finally, “it is always important for those outsiders to conceive of law and legal process as contributors to—rather than as the essence of—larger social justice strategies.”⁹⁰ Activists seeking justice have dual goals: “to achieve the specific legal result and to contribute to construction of social memory as a political tool.”⁹¹

Together, these strategic points “underscore collective memory’s powerful role in justice struggles in Hawai‘i and beyond.”⁹² They call attention to the ongoing battle over collective memory of injustice and the strategic import of deploying collective memory to bolster justice claims.⁹³ In courts in particular, judges hold power to shape collective memory, which, when inscribed into case law, legitimizes “socio-legal or cultural narratives, or stories, about groups, institutions, situations and relationships.”⁹⁴ The “prevailing, or master, narrative provides a principle lens[] through which groupings of people in a community see and interpret events and actions.”⁹⁵

Thus, the battle over the memory of Maunakea poses major implications for not only Maunakea but also Native Hawaiians themselves.⁹⁶ The battle over Maunakea—both in and outside of the courtroom—illustrates these five strategic points and collective memory’s significant role in the struggle for justice for Kānaka Maoli.⁹⁷

Professor Yamamoto deployed *Rice v. Cayetano* (2000) as an example to illustrate how collective memory can perpetuate injustice, and the controversial majority opinion authored by Justice Anthony Kennedy is representative of the types of narratives and collective memories told by

⁸⁸ *Id.* at 1761.

⁸⁹ *Id.* at 1765.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² MacKenzie & Sproat, *supra* note 7, at 495.

⁹³ *Id.*

⁹⁴ See Eric K. Yamamoto, Moses Haia, & Donna Kalama, *Courts and the Cultural Performance: Native Hawaiians’ Uncertain Federal and State Law Rights to Sue*, 16 U. HAW. L. REV. 1, 24 (1994); Hom & Yamamoto, *supra* note 5, at 1765.

⁹⁵ Yamamoto et al., *supra* note 94 (“Court rulings have reinforced such master narratives, and harsh societal actions have been justified them.”).

⁹⁶ See Hom & Yamamoto, *supra* note 5, at 1766.

⁹⁷ See *id.*

non-natives that Native Hawaiians have sought to correct.⁹⁸ In 1978, a result of the Constitutional Convention, Hawai'i voters established the Office of Hawaiian Affairs ("OHA") and its Board of Trustees comprised of and elected by Native Hawaiians.⁹⁹ Catalyzed by the efforts of Native Hawaiian Convention participants who "saw the convention as an opportunity to further the goal of self-determination,"¹⁰⁰ "Hawai'i's diverse peoples overwhelmingly approved the 1978 state constitutional amendment creating OHA and its indigenous Hawaiians-only voting structure."¹⁰¹ A unique governing entity independent from the state's executive branch, OHA holds broad powers to "acquire, hold, and manage property; to enter into contracts and leases; to manage and invest funds; and to formulate public policy relating to Hawaiian affairs."¹⁰²

In 1996, Harold Rice, a rancher from Hawai'i Island, sued then Hawai'i Governor Ben Cayetano to invalidate OHA's voting process and claimed that it was nothing more than a special privilege for a racial minority in violation of the Fifteenth and Fourteenth Amendments.¹⁰³ The U.S. Supreme Court agreed, in part, with Rice's argument and struck down the voting system.¹⁰⁴ The majority concluded the state's "denial of [Rice's] right to vote to be a clear violation of the Fifteenth Amendment."¹⁰⁵

How was the Court able to reconcile the history of injustice in Hawai'i with its invalidation of a program clearly intended to rectify injustice? As Professor Yamamoto elucidates, "the Court majority generated a remarkable narrative reminiscent of the familiar tale of how Western culture and law, more or less naturally, 'civilized' the native savage

⁹⁸ *See id.*

⁹⁹ Melody Kapilialoha MacKenzie, *Native Hawaiians and U.S. Law, in NATIVE HAWAIIAN LAW: A TREATISE* 264, 273 (2015). OHA "represents [Native Hawaiians] concerning government control over valuable [public trust lands] . . . OHA . . . monitors the state's use of [trust] lands and spends millions annually on programs addressing social, economic, and cultural needs of Kanaka Maoli." Hom & Yamamoto, *supra* note 5, at 1766–67; *see also* HAW. CONST. art. XII, §§ 5–6; 1997 Haw. Sess. Laws 240.

¹⁰⁰ MacKenzie, *supra* note 99, at 273. Convention delegates intended for OHA to bolster Hawaiian self-determination and self-government, similar to the way Native Americans had been able to do in cooperation with the federal government. *Id.* at 274.

¹⁰¹ Hom & Yamamoto, *supra* note 5, at 1767.

¹⁰² MacKenzie, *supra* note 99, at 275 n.83.

¹⁰³ *See Rice v. Cayetano*, 528 U.S. 495, 499 (2000).

¹⁰⁴ *Id.*; MacKenzie, *supra* note 99, at 284. Both the Hawai'i District Court and the 9th Circuit Court of Appeals upheld OHA's voting system limiting registration to Hawaiians. *See generally Rice v. Cayetano*, 146 F.3d 1075 (9th Cir. 1998); *Rice v. Cayetano*, 941 F. Supp. 1529 (D. Haw. 1996).

¹⁰⁵ *Rice*, 528 U.S. at 499.

. . . in Hawai‘i.”¹⁰⁶ Justice Kennedy’s majority opinion contorted history and, in effect, what was required to achieve justice in Hawai‘i.¹⁰⁷ The majority’s narrative euphemized the impacts of Western colonists in nineteenth century Hawai‘i.¹⁰⁸ It framed a narrative that it claimed was only a “neutral” and “uncontroversial” recounting of past events.¹⁰⁹ Characterizing “white American missionaries and businessmen [not] as foreign settlers but rather as natural heirs of Hawai‘i,” the majority intimated that there were no negative effects of U.S. colonization.¹¹⁰ All things considered, there was no injustice for OHA to remedy.¹¹¹

The majority’s inaccurate retelling of Hawai‘i’s history and its “dissonant framing of the ‘injustice’”¹¹² has effectively left other laws and programs intended to benefit Native Hawaiians vulnerable to legal challenges and potential invalidation.¹¹³ A devastating blow to Native Hawaiian self-determination:

¹⁰⁶ Hom & Yamamoto, *supra* note 5, at 1773.

¹⁰⁷ See *Rice*, 528 U.S. at 498–511. Justice Kennedy detailed, and analogized, the histories of the voting structure in Hawai‘i and the events surrounding the Fifteenth Amendment. *Id.* at 511–14. Despite the vast dissimilarities between those histories, Justice Kennedy then likened OHA’s voting scheme to pre-Reconstruction voting restrictions and an Oklahoma voting law that was struck down for its “subtle” attempt to limit voting to white citizens. *Id.* The majority found that OHA’s voting structure “[rested], in the end, on the demeaning premise that citizens of a particular race are somehow more qualified than others to vote on certain matters.” *Id.* at 523. Justices Stephen Breyer and David Souter’s concurrence went further and opined that OHA’s electorate does not resemble that of a federally recognized Indian Tribe and that “there is no ‘trust’ for native Hawaiians here.” *Id.* at 524–37 (Breyer, J., concurring).

¹⁰⁸ Hom & Yamamoto, *supra* note 5, at 1773.

¹⁰⁹ *Id.* at 1772.

¹¹⁰ *Id.* at 1775. For instance, the Court characterized (pre-contact) life in Hawai‘i as:

[N]ot “idyllic” because there was internecine warfare and. . . kings “could order the death or sacrifice of any subject.”. . . [The majority] blandly described often greedy Western encroachment as a “story of increasing involvement of westerners in the economic and political affairs of the Kingdom.”. . . [T]he Court intimated that the overthrow was justified by Queen Lili‘uokalani’s undemocratic actions. . . [T]he majority alluded to the “Chinese, Portuguese, Japanese, and Filipino” migrations to Hawai‘i and how these immigrants faced, and overcame, discrimination.

Id. at 1773–74.

¹¹¹ See *id.* at 1775.

¹¹² *Id.* at 1771.

¹¹³ See *id.* Authored by Justice John Paul Stevens’ and joined by Justice Ruth Bader Ginsburg, the dissenting opinion criticized the majority’s holding for failing to understand the significance of Hawaiian history and “rest[ing] largely on the repetition of glittering generalities that have little, if any, application to [Hawai‘i’s] compelling history.”

Rice and the collective memory it legitimates distort progressive civil rights and erase human rights. They twist a history of white racial dominance into a justification for present-day equality for Freddy Rice . . . [B]y narrowly framing history to legitimate its decision, the Supreme Court generated precedent for forthcoming cases that undermines the principle of justice through reparation.¹¹⁴

This example demonstrates that, more than a tool for “retrieving group histories[,]”¹¹⁵ collective memory of injustice is “construc[ed] as we go, within a context of not only rights norms but also larger societal understandings of injustice and reparation.”¹¹⁶ Professor Yamamoto’s analysis of *Rice* is but one example evincing the power of collective memory for Native Hawaiians seeking to rectify wrongs perpetuated by revisionist histories and colonial narratives.¹¹⁷

III. KA PIKO KAULANA O KA ‘ĀINA: THE FAMOUS SUMMIT OF THE LAND

A. *The Significance of Maunakea to Hawai‘i and Kānaka Maoli*

Mauna a Wākea’s allure is uncontested—people from Hawai‘i and abroad admire the mountain’s beauty. But Kānaka Maoli’s connection to Maunakea is unique from those of other locals, astronomers, or tourists. That connection—Maunakea’s historical and cultural significance to Kānaka—is embedded in their many stories, songs, genealogies and

Rice v. Cayetano, 528 U.S. 495, 527–28 (2000) (Stevens, J., dissenting). Justice Stevens based his dissent on Congress’ analogous treatment of Native Americans and Native Hawaiians and the reality that OHA’s trustee system and electorate “violate[d] neither the letter nor the spirit” of the Fourteenth and Fifteenth Amendments. *Id.* at 538. Native Hawaiians’ legal status and OHA’s technically being an “arm of the state” should not have precluded the state from implementing OHA’s voting scheme, especially given that Native Hawaiians’ lack of “any vestigial native government” was “a possibility which history and the actions of [the United States] deprived them.” *Id.* at 535. The dissenters accosted the majority’s flawed collective memory. *See id.* They understood that, through OHA’s implementation and voting scheme, Kānaka Maoli sought neither “privileges [n]or handouts.” *See Hom & Yamamoto, supra* note 5, at 1775.

¹¹⁴ *See Hom & Yamamoto, supra* note 5, at 1777.

¹¹⁵ Susan K. Serrano, *Collective Memory and the Persistence of Injustice: From Hawai‘i’s Plantations to Congress—Puerto Ricans’ Claims to Membership in the Polity*, 20 REV. L. & SOC. JUST. 353, 362 (2011).

¹¹⁶ *Id.*; Hom & Yamamoto, *supra* note 5, at 1764.

¹¹⁷ *See, e.g., Nakanelua, supra* note 9; MacKenzie & Sproat, *supra* note 7.

chants.¹¹⁸ Most notably, the Kumulipo, “an oli of our beginnings”¹¹⁹ and “arguably the most important literary work in the Hawaiian canon[,]”¹²⁰ traces Kānaka Maoli’s lineage directly back to Maunakea.¹²¹

Traditionally passed down through generations orally,¹²² the Kumulipo imparts the story of Papa (earth mother) and Wākea (sky father) from whom the islands were born and all Kānaka Maoli descended.¹²³ Wākea and Papa bore their first human daughter, Ho‘ohōkūkālani.¹²⁴ Hāloanaka—Wākea and Ho‘ohōkūkālani’s first child—was born prematurely, buried in the earth, and grew into the first kalo (taro)¹²⁵ plant.¹²⁶ Wākea and Ho‘ohōkūkālani then delivered a second son, Hāloa, who became the first Kanaka, ali‘i nui (high chief), and the progenitor of all Kānaka Maoli.¹²⁷

¹¹⁸ See generally BRANDY NĀLANI MCDUGALL, FINDING MEANING, KAONA AND CONTEMPORARY LITERATURE (2016).

¹¹⁹ *Id.* at 52.

¹²⁰ *Id.* at 53.

¹²¹ *Id.* As McDougall explains:

A 2,102-line mele ko‘ihonua (creation and genealogical chant), the Kumulipo provides an evolutionary account of creation and traces the beginnings of the Kanaka Maoli concept of the universe, from degrees of darkness to the births of plants and animals, to the births of the gods from whom came the first Kānaka. Although the Kumulipo is not the only mo‘okū‘auhau, nor is it the only one relating the creation of the universe, the Kumulipo is thought to be most complete and best preserved.

Id.

¹²² The Kumulipo was first transcribed in 1889 for King Kalākaua. *Id.* at 59. Several translations of the Kumulipo were subsequently produced, including one by Queen Lili‘uokālani in 1897. *Id.* The most popularly used translation today was provided by Martha Warren Beckwith in 1951. *Id.* Though often used and cited to, some scholars have criticized Beckwith’s version as being translated through a primarily Western lens. *Id.*

¹²³ KAME‘ELEIHIWA, *supra* note 2, at 23–24.

¹²⁴ *Id.* at 24.

¹²⁵ With over 300 varieties in Hawai‘i, kalo, or taro, has been a staple of Maoli diets “from earliest times to the present.” HAWAIIAN DICTIONARY, *supra* note 1, at 123.

¹²⁶ KAME‘ELEIHIWA, *supra* note 2, at 24.

¹²⁷ *Id.* Because the union of Papa and Wākea resulted not only in Maunakea’s birth but also the birth of the Native Hawaiian people, Native Hawaiian scholar Leon No‘eau Peralto attributes Maunakea as “the birthplace of a Kanaka Maoli consciousness.” Emalani Case, *I ka Piko, To the Summit: Resistance from the Mountain to the Sea*, 54 J. PAC. HIS. 166, 174 (2019) (citing Leon No‘eau Peralto, *Mauna a Wākea: Hānau Ka Mauna, the Piko of Our Ea*, in A NATION RISING: HAWAIIAN MOVEMENTS FOR LIFE, LAND, AND SOVEREIGNTY 233, 234 (Noelani Goodyear-Ka‘ōpua, Ikaika Hussey, & Erin Kahunawaika‘ala Wright, eds. 2014)).

Before Ho‘ohökūkālani’s birth, Papa and Wākea bore their first-born mountain son, Mauna a Wākea.¹²⁸ A mele hānau (birth chant) composed for Kauikeaouli (Kamehameha III) recounts Maunakea’s creation and divine origins:

O hanau ka Mauna a Wakea,
 O puu a‘e ka Mauna a Wakea.
 O Wakea ke kane, o Papa, o Walinuu ka wahine.
 Hanau Hoohoku, he wahine,
 Hanau Haloa he ‘lii
 Hanau ka Mauna, he keiki Mauna na Wakea

*Born is the Mauna a Wākea,
 The mountain of Wākea buds forth.
 Wākea is the male, Papa Walinu‘u is the female.
 Born is Ho‘ohökū, a female,
 Born is Hāloa, a chief,
 Born is the Mauna, a mountain-child of Wākea.*¹²⁹

Imbued with “multiple layers of kaona, or veiled meaning,” these genealogical stories shape Native Hawaiians’ connection to ‘āina (land)¹³⁰ and to Maunakea.¹³¹ By “blur[ing] the boundaries and break[ing] down hierarchies between humans and nonhumans,” the Kumulipo, along with accompanying mele and mo‘olelo, teaches that “we are all interconnected and genealogically part of the ‘āina.”¹³²

The Papa and Wākea lineage teaches the fundamental lessons, traditions, and responsibilities of Mālama ‘Āina (caring for the land) and Aloha ‘Āina (loving the land).¹³³ It conveys the Maoli understanding that

¹²⁸ Peralto, *supra* note 127, at 233 (citing *He Kananae No Ka Hanau Ana O Kauikeaouli*, KANA‘I AUPUNI (1906)).

¹²⁹ *Id.*

¹³⁰ “‘Āina,” typically translating to “land,” describes “nature itself” and those “part[s] of the land, and sea, and streams, and water that [] sustain[] life.” Julia Steele, *Episode 2: The Meaning of Aloha ‘Āina with Professor Jon Osorio*, HAW. PUB. RADIO (Feb. 5, 2016), <https://www.hawaiipublicradio.org/post/episode-2-meaning-aloha-ina-professor-jon-osorio>. [hereinafter Steele, *Professor Jon Osorio*]. ‘Āina is what feeds “not just humans, but [] everything.” *Id.*

¹³¹ Peralto, *supra* note 127, at 234.

¹³² See MCDUGALL, *supra* note 118, at 95.

¹³³ See KAME‘ELEIHIWA, *supra* note 2, at 25. A longtime member of the Protect Kaho‘olawe ‘Ohana, Professor Davianna Pōmaika‘i McGregor describes “Aloha ‘Āina” as having:

[T]hese different layers of meaning: It is the practice of caring for the land and the resources of the land. It is the practice of honoring the

“[b]oth the [‘āina] and Kanaka are instilled, at birth, with particular kuleana [privileged responsibilities] to each other.”¹³⁴ Kānaka Maoli’s familial relationship to the land is the foundation of Native Hawaiians’ “desire [not] to conquer his elder female sibling, the ‘Āina, but to take care of her, to cultivate her properly[.]”¹³⁵ This responsibility is reciprocated: “[s]o long as younger Hawaiians love, serve, and honor their elders, the elders will continue to do the same for them, as well as to provide for all their physical needs.”¹³⁶ As described by Native Hawaiian Scholar and Professor Emalani Case, Native Hawaiians understand themselves as “belonging *to*” the ‘āina, including Maunakea, rather than having “possession *of*” it.¹³⁷

More than a genealogical record, these ancestral teachings “firmly establish our history and belonging to the pae ‘āina (archipelago), with all of the kuleana, or privileged responsibilities, associated with this familial belonging.”¹³⁸ With ‘āina as an ancestor, pono (balance, perfect order)¹³⁹

spiritual life force of those natural resources and honoring them through worship or through gifting, but also through a demeanor and manner that is respectful of those resources. And then at certain key political points it has meant that those who are aloha ‘āina are people who are nationalists and have a strong sense of patriotism for Hawai‘i and the land of Hawai‘i and Hawai‘i Pae ‘Āina.

Julia Steele, *Episode 5: The Meaning of Aloha ‘Āina with Professor Davianna Pōmaika‘i McGregor*, HAW. PUB. RADIO (Feb. 5, 2016), <https://www.hawaiipublicradio.org/post/episode-5-meaning-aloha-ina-professor-davianna-p-maika-i-mcgregor>. “Aloha ‘Āina” therefore encompasses “Mālama ‘Āina.” *See id.*

¹³⁴ Peralto, *supra* note 127, at 234. “Kuleana” translates to “right.” It also translates to both “privilege” and “responsibility.” HAWAIIAN DICTIONARY, *supra* note 1, at 179.

¹³⁵ KAME‘ELEIHIWA, *supra* note 2, at 25. “[T]he *kalo* plant, which was the main staple of the people of old, is also the elder brother of the Hawaiian race, and as such deserves great respect.” *Id.*

¹³⁶ *Id.* For “it is the ‘Āina, the *kalo*, and the *Ali‘i Nui* who are to feed, clothe, and shelter their younger brothers and sisters, the Hawaiian people.” *Id.*

¹³⁷ Case, *supra* note 127, at 180.

¹³⁸ MCDUGALL, *supra* note 118, at 94.

¹³⁹ HAWAIIAN DICTIONARY, *supra* note 1, at 340. Dr. Kame‘eleihiwa describes pono as “denot[ing] a universe in perfect harmony.” KAME‘ELEIHIWA, *supra* note 2, at 25. Richard Kekuni Blaisdell further elaborates on this pono relationship between Kānaka Maoli and ‘āina:

[W]e are lōkahi with everything in our cosmos, inherently, because we have the same parents and therefore we are all siblings, and therefore, we must respect, revere, everything in our environment, and that is why we cannot destroy and pollute, contaminate, because to do this is to hurt ourselves. That is the essence of being Kanaka Maoli. In our thinking and action, the greatest virtue is to maintain proper pono, that is proper relationships, harmony within ourselves and others with everything in

exists so long as the land takes care of Kānaka Maoli and Kānaka Maoli take care of the land.¹⁴⁰

While Native Hawaiians understand that all land must be taken care of, Maunakea also has particular significance to Kānaka Maoli because of its divine origin.¹⁴¹ As the piko (naval) of Hawai‘i, the summit of Mauna a Wākea is “where Kanaka Maoli can be closest to Wākea, the ancestor whose domain is the sky”¹⁴² and “where heaven, earth, and stars find union.”¹⁴³

Moreover, the summit of Maunakea, with an elevation of 13,803 feet,¹⁴⁴ is a wahi pana (storied place)¹⁴⁵ that lies within wao akua (space of the gods).¹⁴⁶ Pono required that Kānaka respect the bounds of wao akua and refrain from developing structures within or altering the landscape of the

the cosmos.

MCDUGALL, *supra* note 118, at 95 (quoting *Aloha Quest: Kumulipo/Hawaiian Cosmos* (KFVE television broadcast Dec. 9, 1999)).

¹⁴⁰ See Steele, *Professor Jon Osorio*, *supra* note 130.

¹⁴¹ Case, *supra* note 127, at 168.

¹⁴² *Id.* Piko is also translated to mean the “summit or top of a hill or mountain.” HAWAIIAN DICTIONARY, *supra* note 1, at 328. “Mauna Kea can be considered the *piko ho‘okahi*, the single navel, which ensures spiritual connections, genealogical connections, and the rights to the regenerative powers of all that is Hawai‘i. It is from this ‘world navel’ that the Hawai‘i axis emerges.” KEPĀ MALY & ONAONA MALY, MAUNA KEA, KA PIKO KAULANA O KA ‘ĀINA (MAUNA KEA, THE FAMOUS SUMMIT OF THE LAND) ii (KUMU PONO ASSOCIATES, LLC 2006). For more information on piko, see *id.* at i–ii (describing the significance of piko and explaining how Native Hawaiian understandings of piko provide a better understanding of the importance of Mauna a Wākea as a “piko o ka moku” (navel of the island)).

¹⁴³ MALY & MALY, *supra* note 142, at i (“Not just any heaven, but Wākea, not just any earth, but Papahānaumoku, and not just any constellation . . . but Ho‘ohōkūkalanī, whose children descend and return to the stars.”).

¹⁴⁴ Measured from sea level, Maunakea stands as the tallest mountain in the Pacific. See Flores-Case ‘Ohana’s Proposed Findings of Fact, Conclusions of Law, and Decision Order, *A Contested Case Hearing Re Conservation Use Application HA-3568 for the Thirty Meter Telescope at Mauna Kea Science Reserve* 46 ¶ 341 (May 30, 2017) [hereinafter Flores-Case Proposal]. From its base on the ocean floor to its peak, Maunakea is nearly 33,000 feet tall, making it the tallest mountain in the world. See *id.*

¹⁴⁵ Wahi pana are sacred or “legendary” places. HAWAIIAN DICTIONARY, *supra* note 1, at 377.

¹⁴⁶ Case, *supra* note 127, at 168; see Flores-Case Proposal, *supra* note 144, at 23–24. Ku‘ulei Kanahale explains that wao akua might be equated with conservation lands—places that should be left alone by humans. *Mauna Kea LUC: Ku‘ulei Kanahale On Wao Akua* (Oct. 25, 2019), BIG ISLAND VIDEO NEWS (Oct. 28, 2019), <https://www.youtube.com/watch?v=RiDPVS19yCM>. In contrast, Kānaka resided in and subsisted off of wao kanaka and the resources it provided. *Id.* Although typically translated to “god(s),” “akua” can be better understood as elements, and, in accord with that thinking, the elements (e.g., winds, waters, lava) and all other resources (e.g., plants, animals) are physical manifestations of the akua. *Id.*

summit area of Maunakea.¹⁴⁷ Thus, while tradition indicates that people traveled across Maunakea with great frequency,¹⁴⁸ the upper elevations and summit area were kapu (sacred).¹⁴⁹ Kānaka Maoli often prayed or honored akua at the summit and “actively nurture[d] and maintain[ed] our relationship to our ancestors, thereby renewing our sense of responsibility to them” and to the ‘āina.¹⁵⁰ Maunakea’s summit was left untouched by Kānaka Maoli “on purpose because [it was] reserved for honouring the spiritual connection between Kanaka and ‘āina.”¹⁵¹

Sitting atop an aquifer, Maunakea is also integral in “collecting waters that sustain life[.]”¹⁵² Ka‘ohe, the ahupua‘a (district)¹⁵³ in which the summit sits, is aptly named after ‘ohe (bamboo) for the way it collects water.¹⁵⁴ Kānaka Maoli know Ka‘ohe as “the place that we will find water, always.”¹⁵⁵ They understand that Waiau (the lake), Poli‘ahu (the snow),

¹⁴⁷ See *Mauna Kea LUC*, *supra* note 146; Steele, *Professor Jon Osorio*, *supra* note 130. Because Native Hawaiians understood akua to be literal elements, respecting wao akua was also an act of conservation or sustainability of their environment upon which they depend. See *Mauna Kea LUC*, *supra* note 146; Steele, *Professor Jon Osorio*, *supra* note 130.

¹⁴⁸ MALY & MALY, *supra* note 142, at 453, 456.

¹⁴⁹ See Case, *supra* note 127, at 172, 180. What is sacred “is ultimately a conversation of a relationship between humans and all of creation.” *Id.* at 173. Native Hawaiian Scholar and Professor Emalani Case discusses the intricacies and difficulties involved in discussions about Maunakea and sacredness:

To talk about Mauna Kea, therefore, is to talk about spirit. It is to use words like ‘sacred’ and to draw on emotions born of connection and relationship that are too often disregarded in academic discourse. Further, it is to use stories that are frequently categorized as ‘myth’, a category that has not served Indigenous peoples well as myths tend to be read as fantastical or make-believe. The relegation of Indigenous beliefs to the realm of the mythical, or even the spiritual, is further complicated by the fact that conservations of what Indigenous peoples consider ‘sacred’ must sometimes occur in court rooms . . . and in written testimonies. This can be problematic—or as Winona La Duke explains, quite ironic—because, in those spaces, ‘what is sacred to Native Americans [or other Indigenous peoples] will be determined by the government that has been responsible for doing everything in its power to destroy Native American [and other Indigenous] cultures’.

Id. at 172 (quoting WINONA LA DUKE, *RECOVERING THE SACRED: THE POWER OF NAMING AND CLAIMING* 11 (2005)).

¹⁵⁰ *Id.* at 180.

¹⁵¹ *Id.*

¹⁵² Goodyear-Ka‘ōpua, *Protectors of the Future*, *supra* note 25, at 189.

¹⁵³ HAWAIIAN DICTIONARY, *supra* note 1, at 9.

¹⁵⁴ Goodyear-Ka‘ōpua, *Protectors of the Future*, *supra* note 25, at 189.

¹⁵⁵ *Id.*

Kahoupokāne (the springs), and Lilinoe (the mist)—akua and waters of Maunakea—“give continued life through a healthy water supply.”¹⁵⁶ Even today, “their wellbeing is stewarded by kānaka practitioners.”¹⁵⁷ Maunakea is thus not only an elder but also a valuable water resource that must be “safeguard[ed] for future generations[.]”¹⁵⁸

These stories and names of Maunakea elucidate Kānaka Maoli’s connection—physical, spiritual, genealogical, and ecological—to ‘āina, including the mountain itself. They are the bases for, and help to make sense of, Kānaka Maoli’s responsibility to care for and protect the land and its natural resources. And they illuminate Maunakea’s centrality in Native Hawaiians’ understanding of themselves and the universe encompassing them.

B. *Western Astronomy’s Occupation of Maunakea*

Although Native Hawaiians intentionally left Maunakea undisturbed as a space reserved for akua, colonizers “strategically used the appearance of emptiness to justify their claims to land.”¹⁵⁹ These early claims became astronomers’ basis for increased development of observatories on the summit of Maunakea.¹⁶⁰ Western astronomers¹⁶¹ at work on observatories atop Haleakalā, Maui’s tallest peak,¹⁶² admired

¹⁵⁶ See *id.*; KU‘UPUAMAE‘OLE KIYUNA, KA PIKO KAULANA O KA ‘ĀINA: ADDITIONAL CONTEXT FOR UNDERSTANDING THE CULTURAL SIGNIFICANCE OF MAUNA KEA 4 (2019), available at https://figshare.com/articles/Ka_Piko_Kaulana_o_ka_ina_Additional_Context_for_Understanding_the_Cultural_Significance_of_Mauna_Kea/11522274.

¹⁵⁷ KIYUNA, *supra* note 156.

¹⁵⁸ Case, *supra* note 127, at 171; Goodyear-Ka‘ōpua, *Protectors of the Future*, *supra* note 25, at 189.

¹⁵⁹ Case, *supra* note 127, at 180.

¹⁶⁰ See *id.*

¹⁶¹ Dr. Gerald Kuiper was among the first astronomers that sought to build observatories at Maunakea’s summit. STATE OF HAWAI‘I AUDITOR, AUDIT OF THE MANAGEMENT OF MAUNA KEA AND THE MAUNA KEA SCIENCE RESERVE, REPORT NO. 98-6 2 (Feb. 1998) available at http://www.malamamaunakea.org/uploads/management/Audit_98-6.pdf. [hereinafter 1998 AUDIT]; Walter Steiger, *Origins of Astronomy in Hawai‘i*, UNIV. OF HAW. INST. FOR ASTRONOMY, <https://www.ifa.hawaii.edu/history/steiger/index.shtml> (last visited Feb. 21, 2021).

¹⁶² Similar to Maunakea, the summit of Haleakalā is both a wahi pana (storied place) and a sacred site for Native Hawaiians. The Haleakalā summit falls within those lands “ceded” to the United States upon annexation and later transferred to the State of Hawai‘i upon its 1959 admission into the United States. *Haleakala Crater*, SACRED LAND FILM PROJECT (Sept. 1, 2008), <https://sacredland.org/haleakala-crater-united-states/#:~:text=The%20holy%20site%20or%20wahi,spiritual%20wisdom%20and%20practiced%20meditation.>

Maunakea for its height and sought to use its summit that was unobstructed by cloud cover.¹⁶³ Astronomers have since continued to praise Maunakea’s summit as “the finest [astronomical observing sight] in the world.”¹⁶⁴

In 1953, University of Hawai‘i Professor Walter Steiger made it his “goal to establish a solar observatory on the top of” one of Hawai‘i’s highest peaks.¹⁶⁵ Soon after, Governor John Burns released funds to begin the construction of an access road to Maunakea’s summit, where astronomers housed the first telescope in 1964.¹⁶⁶ The mountain quickly became renowned as “a truly superb site, the finest [many astronomers] had ever seen.”¹⁶⁷

Over the following decade, in Steiger’s words, “the spectacular developments on Mauna Kea began.”¹⁶⁸ These developments were catalyzed, in part, as an effort to attract investors and revitalize Hilo’s economy after the county was devastated by a tsunami.¹⁶⁹ In 1968, the Board of Land and Natural Resources approved a 65-year lease to the University of Hawai‘i for the lands referred to as the Mauna Kea Science Reserve, which included all lands above the 12,000-foot level of the mountain.¹⁷⁰ In the same year, astronomers established the first observatory on Maunakea on Pu‘u Poli‘ahu.¹⁷¹

¹⁶³ Steiger, *supra* note 161.

¹⁶⁴ See MAUNA KEA COMPREHENSIVE MANAGEMENT PLAN 6-1 (2009), available at <http://www.malamaMaunakea.org/management/comprehensive-management-plan> [hereinafter 2009 MANAGEMENT PLAN].

¹⁶⁵ Steiger, *supra* note 161.

¹⁶⁶ *Id.*; Kelly Dickerson, *The Incredible Story of an Astronomer Who Struggles to Support the Instrument That Will Revolutionize His Field But is Tearing His Community Apart*, BUS. INSIDER (Oct. 13, 2015), <https://www.businessinsider.com/thirty-meter-telescope-hawaii-protests-2015-10>. That same year, the Hawai‘i Land Use Commission established a Conservation District encompassing Maunakea’s summit. 1998 AUDIT, *supra* note 161, at 2. With Maunakea as a conservation district, “Mauna Kea’s lands fell under the direct purview of the State Board of Land and Natural Resources.” *Id.*

¹⁶⁷ Steiger, *supra* note 161.

¹⁶⁸ *Id.*

¹⁶⁹ See Dickerson, *supra* note 166. In order to quickly attract astronomers and investors, the University of Hawai‘i rented land on Maunakea for only one dollar per year. See *id.*

¹⁷⁰ 1998 AUDIT, *supra* note 161.

¹⁷¹ Steiger, *supra* note 161. Steiger recalled the development of the first observatory proposed by John Jefferies in 1968: the 88-inch telescope “was a well-conceived plan” that was “a terrible blow to Dr. Kuiper, who felt ‘his mountain’ was ‘stolen’ from him . . . Regardless of the outcome, [Kuiper] must be acknowledged as the discoverer of Mauna Kea as a superb astronomical site.” *Id.*

In 1969, the University established the Institute for Astronomy (“IfA”) to facilitate research and education on astronomy.¹⁷² As more astronomers began work on the mountain, more foreigners began claiming Maunakea as their own.¹⁷³ Failing to turn a profit, the observatories atop Maunakea have also seldom employed Native Hawaiians, with most positions being outsourced to organization and university investors.¹⁷⁴ Moreover, the observatories gave rise to longstanding controversy within the local community because of the University’s mismanagement and its failure to consult with Native Hawaiians.¹⁷⁵

By 1974, three telescopes were in operation after being constructed without the appropriate Conservation District Use Permits, and three more telescopes were planned for development.¹⁷⁶ Local groups, including conservationists, formed a coalition to challenge increased development on Maunakea’s summit.¹⁷⁷ In response to these concerns, Governor George Ariyoshi issued a memorandum directing BLNR Chairman Sunao Kido and the Department of Land and Natural Resources (“DLNR”) to “develop and promulgate . . . a Master Plan for all of Mauna Kea[,]” assemble an advisory group to provide input for the plan,¹⁷⁸ and incorporate the planning under lease to the University.¹⁷⁹

State and federal agencies, individual scientists, representatives from conservation organizations, and community members sought to weigh in on DLNR’s plan for Maunakea.¹⁸⁰ But by 1976, the Department had not

¹⁷² 1998 AUDIT, *supra* note 161, at 8; *see* Steiger, *supra* note 161.

¹⁷³ *See* 1998 AUDIT, *supra* note 161, at 8; Steiger, *supra* note 161.

¹⁷⁴ Dickerson, *supra* note 166.

¹⁷⁵ *See id.*; Alexandra Witze, *How the Fight Over A Hawaii Mega-telescope Could Change Astronomy*, NATURE (Jan. 14, 2020), <https://www.nature.com/articles/d41586-020-00076-7> (last visited Feb. 21, 2021).

¹⁷⁶ WILLIAM S. RICHARDSON SCHOOL OF LAW ENVIRONMENTAL LAW CLINIC, UNDERSTANDING MAUNA KEA: A PRIMER ON CULTURAL AND ENVIRONMENTAL IMPACTS 1 (2020) [hereinafter UNDERSTANDING MAUNA KEA].

¹⁷⁷ 1998 AUDIT, *supra* note 161, at 4.

¹⁷⁸ Governor Ariyoshi specifically requested that the group “should include representation from Hawaii County government, interested and affected citizens, knowledgeable scientists, and person with interest in environmental protection.” Memorandum from Acting-Governor, State of Hawai‘i, to Chairman Sunao Kido, Bd. Land Nat. Res. (Nov. 1, 1974). The Mauna Kea Advisory Committee was assembled in response to Governor Ariyoshi’s memorandum. Royal Order of Kamehameha I & Mauna Kea Anaina Hou, *Mauna Kea—The Temple, Protecting the Sacred Resource*, at Appendix A, <https://dlnr.hawaii.gov/mk/files/2017/01/MKAH-Exhibit-B01q.pdf>.

¹⁷⁹ Memorandum from Acting-Governor, *supra* note 178.

¹⁸⁰ *See* Memorandum from Staff Planner Randal Jackson, Recreation Planning to Bd. Land Nat. Res. (July 20, 1976).

held any public hearings concerning the Mauna Kea Plan.¹⁸¹ Several members of the Mauna Kea Advisory Committee, the group assembled by DLNR to advise the plan, pushed for public hearings and the fencing off of certain areas for preservation.¹⁸² Most notably, the Committee unanimously agreed that the number of observatories on the summit should be limited to the six that were already approved.¹⁸³ Former County of Hawai‘i Mayor Herbert T. Matayoshi also “strongly urge[d] that the number of telescopes be limited to the number presently on Mauna Kea.”¹⁸⁴

Many of the comments in DLNR’s 1976 Report on Community Comments for a Mauna Kea Plan reflect the same concerns echoed today regarding Maunakea’s future.¹⁸⁵ For instance, community members sought to ensure the preservation of the forests and Native Hawaiian ecosystems on Maunakea and did not want to see any more development “scar the mountain.”¹⁸⁶ One comment took issue specifically with astronomers’ argument that the telescopes provided employment opportunities and recalled IfA founding director John Jefferies’ assertion that the telescopes “offered good jobs[.]”¹⁸⁷ In response to Jefferies’ remark, the commenter asked, rhetorically, “*but for whom?*”¹⁸⁸

In 1977, BLNR published its Mauna Kea Plan, “a set of broad guidelines to be reviewed and updated from time to time[.]” which ignored the recommended six-telescope limit on Maunakea.¹⁸⁹ And, while many Hawai‘i Island locals recognized the scientific significance of the observatories, the community remained

[C]oncerned about the natural beauty of the mountain and about its historic and cultural heritage. Sites such as Puu Poliaiu [sic], home of the Hawaiian Goddess of Snow, and Lake Waiau atop the summit, “regarded by Hawaiians as a

¹⁸¹ *See id.*

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ Letter from Managing Director John Keppeler, County of Hawai‘i, to Chariman Christopher Cobb, Bd. Land Nat. Res. (Sept. 16, 1976); BIANCA ISAKI, SHELLEY MUNEOKA, & KUULEI HIGASHI KANAHELE, KŪ KIA‘I MAUNA: HISTORICAL AND ONGOING RESISTANCE TO INDUSTRIAL ASTRONOMY DEVELOPMENT ON MAUNA KEA, HAWAI‘I 2–3 (2019).

¹⁸⁵ Memorandum from Staff Planner Randal Jackson, Recreation Planning to Bd. Land Nat. Res. (July 20, 1976).

¹⁸⁶ *See id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.* (emphasis added).

¹⁸⁹ *Plans Drawn for Majestic Mauna Kea*, HAW. TRIB.-HERALD B-2 (Jan. 27, 1980). At the time, no limit on the number of observatories was placed by BLNR. *Id.*

sacred place and a cultural tie with the past,” should not be obliterated by haphazard development. And the rarefied atmosphere on the mountain’s higher slopes and summit surrounding unique Hawaiian ecosystems should not be unreasonably disturbed in the name of progress or scientific development.¹⁹⁰

Members of the Waimea Hawaiian Civic Club¹⁹¹ also worried that the mountain would become overcrowded by “outsiders who do not have good ‘mana‘o’ (thoughts) about preserving the valuable history of the mountain.”¹⁹² One member hoped to prevent “irreversible effects such as full-scale erosion of the mountain itself, not to mention the devastating effect it has on the existing historical sites.”¹⁹³

Largely ignoring these concerns, IfA researchers sought to expand “astronomy as an enterprise on Mauna Kea” and aspired “to develop an academic program matching the excellence of our sites[.]”¹⁹⁴ And while BLNR developed subsequent management plans,¹⁹⁵ concerns over Maunakea’s mismanagement were never adequately addressed or resolved.¹⁹⁶

By the late 1990s, Maunakea’s summit housed thirteen telescopes.¹⁹⁷ And in 1998, the State Auditor published a scathing report detailing the state’s failure to adequately manage the natural and cultural

¹⁹⁰ *Id.*

¹⁹¹ The Waimea Civic Club is a part of the Moku o Keawe (Hawai‘i Island) Council within the Association of Hawaiian Civic Clubs, a not-for-profit organization that advocates for improved welfare of Native Hawaiians. The oldest Hawaiian community-based advocacy movement and governed by an 18-member volunteer Board of Directors, the Association of Hawaiian Civic Clubs is a federation of individual Hawaiian Civic Clubs located across Hawai‘i and the continental United States. *Our Organization | Ka ‘Ahaui, ASS’N HAWAIIAN CIVIC CLUBS*, <https://aohcc.org/our-organization/>.

¹⁹² Faith Bean & Brenda Duquette, *PERSPECTIVE: Reflections of Mauna Kea*, HAW. TRIB.-HERALD B-8 (Jan. 27, 1980).

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ For a list and details of these management plans, see 2009 MANAGEMENT PLAN, *supra* note 164, SUB-PLANS—MAUNA KEA CULTURAL RESOURCES MANAGEMENT PLAN (CRMP) & MAUNA KEA NATURAL RESOURCES MANAGEMENT PLAN (NRMP), at 1-16–1-18.

¹⁹⁶ 1998 AUDIT, *supra* note 161, at 23. For instance, while historic preservation was an initial concern upon the signing of the University’s 1968 lease, the issue was only first addressed in 1983 in the state’s complex development master plan. *Id.* The plan, however, “did not adequately address preservation.” *Id.*

¹⁹⁷ *See id.* at 2.

resources on Maunakea.¹⁹⁸ The Auditor found that the University’s sole focus on developing Maunakea for astronomical research “overshadowed” the University’s obligation “to provide reasonable assurance of protection for the summit’s natural resources.”¹⁹⁹ Plans developed by the University that outlined protection controls “were submitted late and were weakly implemented.”²⁰⁰

The State Auditor traced Maunakea’s management problems (e.g., neglecting historic preservation, damage to historic sites) back to the University’s “limited approach to protection[.]”²⁰¹ The cumulative “substantial, significant, and adverse”²⁰² impacts on Maunakea’s natural, historical, and cultural resources spanned back to the building of the first three telescopes without CDUPs starting in 1986—including fluid and fuel spills (1979, 1982, 1995, 1996, 2004), the failure to adequately dispose of trash (1995), damage to historic sites (1991), habitat destruction (1996), and sewage overflows and spills (1998–2004, 2008).²⁰³ As the Auditor concluded in its 1998 report:

[L]ittle was done to protect [Maunakea’s] natural resources. The university, as the leaseholder, should have provided sufficient protection to the natural resources and controlled public access and use . . . The Department of Land and Natural Resources, in its role as landlord, should have overseen the university’s activities and enforced permit conditions and regulations in protecting the State’s interests. Neither state agency has been proactive in maintaining the conservation district.²⁰⁴

In 1999, the University’s Board of Regents held committee meetings on the proposed draft of the 2000 Mauna Kea Master Plan for the

¹⁹⁸ See *Summary*, in 1998 AUDIT, *supra* note 161 (“[M]anagement of the Mauna Kea Science Reserve is inadequate to ensure the protection of natural resources.”); UNDERSTANDING MAUNA KEA, *supra* note 176.

¹⁹⁹ See 1998 AUDIT, *supra* note 161, at 15.

²⁰⁰ See *id.* at 18.

²⁰¹ See *id.* at 21.

²⁰² See *In re Contested Case Hearing Re Conservation Dist. Use Application (CDUA) HA-3568 for the Thirty Meter Telescope at the Mauna Kea Sci. Res., Findings of Fact, Conclusions of Law and Decision and Order*, Case No. BLNR-CC-16-002, 21 (Haw. Bd. of Land and Nat. Res. Sept. 27, 2017) [hereinafter BLNR TMT Decision].

²⁰³ See UNDERSTANDING MAUNA KEA, *supra* note 176 (listing examples of cultural and environmental impacts on Mauna kea between 1968 and 2019).

²⁰⁴ 1998 AUDIT, *supra* note 161, at 34–35.

construction of more telescopes on Maunakea's summit.²⁰⁵ At those meetings, Native Hawaiians "gave impassioned testimony about the sacredness of Mauna Kea, their opposition to further development, and their great distrust of the [U]niversity and the astronomy community."²⁰⁶ After thirty years of astronomy on Maunakea, "it was the first time [the Board of Regents] heard such testimony firsthand."²⁰⁷ In the decades that followed, Native Hawaiians continued to challenge further development of Maunakea's summit.²⁰⁸

Native Hawaiian practitioner and then-Regent Nainoa Thompson brought to light the broader justice issues that the Maunakea controversy reflected, explaining that "[t]his is really about abuse of the native people being subject to racism and disrespect. This is an opportunity for a real turning point, a defining moment."²⁰⁹ The same sentiment has been emphasized in recent years as the controversy over Maunakea has made international headlines.²¹⁰ Protectors of the sacred mountain emphasize that "the movement we are witnessing today is not new . . . It has been at least a century in the making, from the first arrival of colonialism in Hawaiian lands."²¹¹ For Native Hawaiians, the continued development on these lands "is fundamentally indistinguishable from earlier colonization activities."²¹²

IV. THE STATE'S AFFIRMATIVE DUTY TO PROTECT NATIVE HAWAIIAN TRADITIONAL AND CUSTOMARY RIGHTS

Shaped by a culture unique to Hawai'i, the state's laws are comprised of special legal protections for Hawai'i's people, land, and natural resources. Both inspired by and affirming Native Hawaiian tradition and custom, the state's laws—in the Constitution, Hawai'i Revised Statutes

²⁰⁵ Susan Kreifels, *Science vs. Spirit is Key Mauna Kea Issue*, HONOLULU STAR-BULL. (June 18, 1999), available at <http://archives.starbulletin.com/1999/06/18/news/story10.html>.

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ See generally ISAKI ET AL., *supra* note 184 (detailing the decades of Native Hawaiian resistance against development on Maunakea).

²⁰⁹ Kreifels, *supra* note 205.

²¹⁰ See *Mauna Kea: Hawaii Protesters Delay Giant Telescope Construction*, BBC (July 18, 2019), <https://www.bbc.com/news/world-us-canada-49035815>.

²¹¹ Keolu Fox & Chanda Prescod-Weinstein, *The Fight for Mauna Kea Is a Fight Against Colonial Science*, NATION (July 24, 2019), <https://www.thenation.com/article/archive/Mauna-kea-tmt-colonial-science/>.

²¹² Leandra Swanner, *Instruments of Science or Conquest? Neocolonialism and Modern American Astronomy*, 47 HIST. STUD. NAT. SCI. 293, 296 (2017); see *infra* Parts V.C–VI.

(“HRS”), and case law handed down from the Hawai‘i Supreme Court—include intentionally-crafted legal protections for Native Hawaiian traditions and customs.²¹³ The State of Hawai‘i has an affirmative duty to protect Native Hawaiians’ traditional and customary rights,²¹⁴ and these rights are a protected public trust purpose under Hawai‘i’s public trust doctrine.²¹⁵

A. *Native Hawaiian Traditional and Customary Rights*

Notwithstanding the onset of drastic changes to Hawai‘i’s cultural and political landscape as a result of American colonization, “[a]ncient Hawaiian usage [] survived the transition from communal land tenure to a Western system of private property rights[.]”²¹⁶

A landmark result of the 1978 Constitutional Convention, the duty to protect traditional and customary rights was codified into the Hawai‘i Constitution as Article XII, section 7, which provides: “[t]he 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.”²¹⁷ “Against the backdrop of rising consciousness now known as The Hawaiian Renaissance,”²¹⁸ delegates to the Convention intended that the provision “encompass all rights of Native Hawaiians such as access and gathering.”²¹⁹ In an effort to rectify some of the wrongs committed against Native Hawaiians since the 1893 overthrow of the Hawaiian Kingdom, delegates sought to codify these rights that were “an integral part of the ancient Hawaiian civilization and are retained by its descendants.”²²⁰

²¹³ See, e.g., HAW. CONST. art. XII, § 7; HAW. REV. STAT. ANN. §§ 1-1, 7-1 (West 2019).

²¹⁴ HAW. CONST. art. XII, § 7; HAW. REV. STAT. ANN. §§ 1-1, 7-1 (West 2019).

²¹⁵ HAW. CONST. art. XI, § 1; D. KAPUA‘ALA SPROAT, *OLA I KA WAI: A LEGAL PRIMER FOR WATER USE AND MANAGEMENT IN HAWAI‘I* 7 (Dec. 2009) [hereinafter SPROAT, *OLA I KA WAI*].

²¹⁶ See David M. Forman & Susan K. Serrano, *Traditional and Customary Access and Gathering Rights*, in *NATIVE HAWAIIAN LAW: A TREATISE* 775, 786 (2015).

²¹⁷ HAW. CONST. art. XII, § 7.

²¹⁸ A. U‘ilani Tanigawa Lum, *Accessing Traditional Kīpuka: Protecting the Storehouse of Knowledge Through the Rule of Law*, 20 *ASIAN-PAC. L. & POL’Y J.* 69, 77–78 (2019) (internal quotations omitted).

²¹⁹ Hawaiian Affairs Comm., Standing Comm. Rep. No. 57, reprinted in 1 *PROCEEDINGS OF THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978* at 637, 640 (1980).

²²⁰ *Id.*; Forman & Serrano, *supra* note 216, at 786–87 (“In November 1978, state voters approved [the] amendment to the Hawai‘i Constitution that sought to provide further

HRS section 1-1 provides further protections for Native Hawaiian traditional and customary practices:

The Common law of England, as ascertained by English and American decisions, is declared to be the common law of the State of Hawaii in all cases, except as otherwise expressly provided by the Constitution or laws of the United States, or by the laws of the State, or fixed by Hawaiian judicial precedent, or *established by Hawaiian usage*[.]²²¹

Section 1-1 codifies the doctrine of custom²²² into Hawai‘i’s common law.²²³ Although Native Hawaiian traditional and customary rights are not expressly referenced in the statute, the Hawai‘i Supreme Court has cited that the Hawaiian usage exception in section 1-1 is a basis for protecting those rights.²²⁴ HRS section 7-1 also protects Native Hawaiian traditional and customary gathering rights “on the premise that they ‘were necessary to insure the survival of those who, in 1851, sought to [continue to] live in accordance with the ancient ways.’”²²⁵

The Hawai‘i Supreme Court has protected Native Hawaiians’ traditional and customary rights on the basis of HRS section 1-1, section 7-1, and Article XII, section 7.²²⁶ Authored by the Hawai‘i Supreme Court’s first Native Hawaiian justice, Chief Justice William S. Richardson (“CJ Richardson”), *Kalipi v. Hawaiian Trust Co.* (1982) was the first of his court’s landmark decisions that would uphold protections for Native Hawaiian traditional and customary rights.²²⁷ CJ Richardson’s “opinions

protection for traditional and customary rights.”).

²²¹ HAW. REV. STAT. ANN. § 1-1 (West 2019) (emphasis added).

²²² In English law, the doctrine of custom describes “an ancient rule of law for a particular locality, as opposed to the common law of the country. It has its origin in the Anglo-Saxon period, when local customs formed most laws affecting family rights, ownership and inheritance, contracts, and personal violence.” The Editors of Encyclopedia Britannica, *Custom*, BRITANNICA (Feb. 4, 2018), <https://www.britannica.com/topic/custom-English-law>.

²²³ See HAW. REV. STAT. ANN. § 1-1 (West 2019).

²²⁴ Pub. Access Shoreline Haw. v. Haw. Cnty. Planning Comm’n, 79 Haw. 425, 437 n.21, 903 P.2d 1246, 1258 n.21 (1995) [hereinafter *PASH*]; Forman & Serrano, *supra* note 216, at 787–88.

²²⁵ Tanigawa Lum, *supra* note 218, at 89 (quoting *Kalipi v. Hawaiian Trust Co.*, 66 Haw. 1, 8, 656 P.2d 745, 750 (1982)).

²²⁶ See *id.* at 89; *Ka Pa‘akai O Ka ‘Āina v. Land Use Comm’n*, 94 Haw. 31, 7 P.3d 1068 (2000).

²²⁷ *Kalipi*, 66 Haw. 1, 656 P.2d 745 (affirming that pursuant to Article XII, section 7 of the state constitution that Hawai‘i courts are obligated to preserve and enforce Native Hawaiian traditional and customary rights).

reflect his humble background, his commitment to a more open society with equal opportunity for Hawai‘i’s multi-ethnic population, and his strong belief in looking to Hawai‘i’s rich past as a source of today’s law.”²²⁸ Reflecting on his court’s approach, and exemplifying “i ka wā ma mua, ka wā ma hope,” CJ Richardson explained,

While the [Native Hawaiian] culture had largely been displaced, nevertheless many of the underlying guiding principles remained. We set about returning control of interpreting the law to those with deep roots and profound love for Hawai‘i . . . [W]e made a conscious effort to look to Hawaiian custom and tradition in deciding our cases[.]²²⁹

CJ Richardson “broke new ground” for traditional and customary rights with his 1982 *Kalipi* decision,²³⁰ which held that HRS section 7-1 “assure[s] that lawful occupants of an ahupua[‘]a may, for the purposes of practicing native Hawaiian customs and traditions, enter undeveloped lands within the ahupua[‘]a to gather those items enumerated in the statute[.]”²³¹ By recognizing that gathering rights are also protected by HRS section 1-1 and Article XII, section 7 of the Hawai‘i State Constitution, the Richardson court in *Kalipi* “set the foundation for more recent cases affirming traditional and customary rights[.]” such as *Pele Defense Fund* and *PASH*.²³² In *Pele Defense Fund*, the court broadened the black letter of the law to better reflect native practices by concluding that Native Hawaiians’ exercise of traditional and customary rights was not limited to practitioners’ ahupua‘a of residence.²³³ Native Hawaiians’ traditional and customary rights, the court held, should not be “narrowly construed or ignored by the court.”²³⁴ In *Public Access Shoreline Hawaii v. Hawai‘i County Planning Commission* (“*PASH*”) (1995), the Hawai‘i Supreme Court reaffirmed Native Hawaiians’ traditional and customary rights under Article XII, section 7 and held that the state is “obligated to protect the reasonable

²²⁸ Melody Kapilialoha MacKenzie, *Ka Lama Kū O Ka No‘eau: The Standing Torch of Wisdom*, 33 U. HAW. L. REV. 3, 3 (2010) [hereinafter MacKenzie, *Ka Lama Kū*].

²²⁹ *Id.* at 6–7 (quoting William S. Richardson, Spirit of Excellence Award Acceptance Speech at the ABA Spirit of Excellence Awards Luncheon (Feb. 10, 2007)).

²³⁰ *Id.* at 9, 11.

²³¹ *Kalipi*, 66 Haw. at 7–8, 656 P.3d at 749.

²³² MacKenzie, *Ka Lama Kū*, *supra* note 228, at 11–12.

²³³ *Pele Def. Fund v. Paty*, 73 Haw. 578, 620, 837 P.2d 1247, 1272 (1992), *cert denied*, 507 U.S. 918 (1993).

²³⁴ *See id.* at 619–20, 837 P.2d at 1271.

exercise of traditional and customary rights to the extent feasible under” Hawai‘i’s laws.²³⁵

Ka Pa‘akai O Ka ‘Āina v. Land Use Commission (“*Ka Pa‘akai*”) (2000) then introduced the analytical framework state agencies must use to operationalize their fiduciary duty under Article XII, section 7.²³⁶ *Ka Pa‘akai* also clarified that the provision requires that agencies “actively research and consider the cultural, historical, and natural resources of a subject property as they relate to Native Hawaiian rights when determining what restrictions should be placed on land use.”²³⁷ This decision “is monumental for its recognition of the State’s ‘affirmative duty . . . to preserve and protect traditional and customary Native Hawaiian rights’ and for providing the framework for agencies to employ when evaluating competing interests” of these rights against the “ever-growing private property interests[.]”²³⁸

B. *Traditional and Customary Rights as a Protected Public Trust Purpose*

Hawai‘i’s public trust doctrine, codified as Article XI, section 1 of the state constitution, also protects Native Hawaiians’ traditional and customary rights.²³⁹ The public trust doctrine, articulated in Hawai‘i law, is rooted in and is consistent with Native Hawaiian custom and tradition, and the Maoli values upon which the public trust doctrine was founded have been upheld and elevated in Hawai‘i long before Article XI, section 1’s codification into state law.²⁴⁰ “Based on ancient tradition, custom, practice

²³⁵ *PASH*, 79 Haw. 425, 437–51, 903 P.2d 1246, 1258–72 (1995). *PASH* also outlined the “elements of the custom doctrine[.]” *Id.* at 447, 903 P.2d at 1268.

²³⁶ *Ka Pa‘akai O Ka ‘Āina v. Land Use Comm’n*, 94 Haw. 31, 7 P.3d 1068 (2000); Forman & Serrano, *supra* note 216, at 799.

²³⁷ Forman & Serrano, *supra* note 216, at 804. The three-part framework requires findings of fact and conclusions regarding:

- (1) the identity and scope of “valued cultural, historical, or natural resources” in the petition 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 by the LUC to reasonably protect native Hawaiian rights if they are found to exist.

Id. at 799 (quoting *Ka Pa‘akai*, 94 Haw. at 35, 7 P.3d at 1072).

²³⁸ Tanigawa Lum, *supra* note 218, at 82.

²³⁹ HAW. CONST. art. XI, § 1.

²⁴⁰ SPROAT, *OLA I KA WAI*, *supra* note 215, at 7 (“[C]ases and laws from the Kingdom of Hawai‘i, along with Hawaiian custom and tradition, firmly established the

and usage[,]” Hawai‘i’s public trust doctrine is unique.²⁴¹ That “private ownership of land had no place in early Hawaiian thought”²⁴² directly shaped and continues to inform the development of law and policy in Hawai‘i.²⁴³

For instance, in 1978 the Constitutional Convention amended the state’s constitution “to clarify the policy of the State with regard to resources” and promote the protection of Hawai‘i’s natural resources.²⁴⁴ Since then, the constitution has required that:

For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii’s natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

All public natural resources are held in trust by the State for the benefit of the people.²⁴⁵

principle that natural resources, including water, were not private property, but were held in trust by the government for the benefit of the people.”).

²⁴¹ See *In re Ashford*, 440 P.2d 76, 77 (1968) (citing *Keelikolani v. Robinson*, 2 Haw. 514 (1862)) (“Hawaii’s land laws are unique in that they are based on ancient tradition, custom, practice and usage.”)

²⁴² NATIVE HAWAIIAN LAW: A TREATISE 9 (MELODY KAPILIALOHA MACKENZIE ET AL. EDS., 2015).

²⁴³ See TRANSLATION OF THE CONSTITUTION AND LAWS OF THE HAWAIIAN ISLANDS, ESTABLISHED IN THE REIGN OF KAMEHAMEHA III 11–12 (1842) (quoting THE CONSTITUTION OF 1840) (“Exposition of the Principles on Which the Present Dynasty is Founded. The origin of the present government, and system of polity, is as follows. Kamehameha I, was the founder of the kingdom, and to him belonged all the land from one end of the Islands to the other, though it was not his own private property. It belonged to the chiefs and people in common, of whom Kamehameha I was the head, and had the management of the landed property.”); THE DECLARATION OF RIGHTS OF 1839 (“Protection is hereby secured to the persons of all the people, together with their lands, their building lots and all their property and nothing whatever shall be taken from any individual”). Accordingly, the Hawai‘i Supreme Court has held that “[t]he public trust, by its very nature, does not remain fixed for all time, but must conform to changing needs and circumstances.” *In re Waiāhole Combined Contested Case Hearing*, 94 Haw. 97, 135, 9 P.3d 409, 447 (2000) [hereinafter *Waiāhole I*].

²⁴⁴ See *Env’t, Agric., Conservation & Land Comm., Standing Comm. Rep. No. 77*, reprinted in 1 PROCEEDINGS OF THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978, at 685-86 (1980), available at <https://digitalcollections.hawaii.gov/docs/concon/1978/1978%20Con%20Con%20Journal%20Vol-1%20Journal.pdf>.

²⁴⁵ *Id.* The former constitutional provision that was deleted and replaced by Article XI, section 1 read: “The legislature shall promote the conservation, development and

According to the Convention's Committee on Environment, Agriculture, Conservation and Land, the language "For the benefit of present and future generations" was included because the Committee felt it important to "affirm[] the ethical obligations of this generation toward the next" and ensure that the law is "consistent with the concept that the Constitution should provide for the future."²⁴⁶ Article XI, section 1, as held by the Hawai'i Supreme Court, "adopt[s] the public trust doctrine as a fundamental principle of constitutional law in Hawai'i."²⁴⁷ Thus far, the court has affirmed that public trust purposes were intended to include: environmental protection, traditional and customary Native Hawaiian rights, appurtenant rights, domestic water uses, and reservations for the Department of Hawaiian Homelands.²⁴⁸

Native Hawaiian traditional and customary rights are protected as a public trust purpose under Hawai'i's public trust doctrine, as outlined by the watershed case *In re Waiāhole Combined Contested Case Hearing* ("Waiāhole I") (2000).²⁴⁹ In *Waiāhole I*, the Hawai'i Supreme Court held that the public trust exacts a "dual mandate of: 1) protection and 2) maximum reasonable and beneficial use" of waters, a public trust resource.²⁵⁰ Further, public trust purposes "have priority over private commercial uses, which do not enjoy the same protection."²⁵¹ Since "use consistent with trust purposes [are] the norm or 'default' condition," the state's balancing between public and private purposes "must begin with a presumption in favor of public use, access, and enjoyment."²⁵² Moreover, *Waiāhole I* established the state's "affirmative duty . . . to protect public trust uses whenever feasible."²⁵³ In *Kauai Springs, Inc. v. Planning Comm'n of Kaua'i* ("Kaua'i Springs") (2014), the court further recognized and affirmed the "separate and enduring public rights in trust resources" that remain "superior to any private interest."²⁵⁴

utilization of agricultural resources, and fish, mineral, forest, water, land, game and other natural resources." *Id.*

²⁴⁶ *Id.*

²⁴⁷ *Waiāhole I*, 94 Haw. at 132, 9 P.3d at 444.

²⁴⁸ *Id.* at 137–39, 9 P.3d at 449–51.

²⁴⁹ *Id.*; *In re Wai'ola o Moloka'i, Inc.*, 103 Haw. 401, 430–31, 83 P.3d 664, 693–94 (2004) [hereinafter *Wai'ola*] ("We have consistently recognized the heightened duty of care owed to native Hawaiians."); SPROAT, OLA I KA WAI, *supra* note 215, at 8.

²⁵⁰ *Waiāhole I*, 94 Haw. at 139, 9 P.3d at 451; Sproat, OLA I KA WAI, *supra* note 215, at 7–8.

²⁵¹ SPROAT, OLA I KA WAI, *supra* note 215, at 8.

²⁵² *Waiāhole I*, 94 Haw. at 142, 9 P.3d at 454.

²⁵³ *Id.* at 141, 9 P.3d at 453.

²⁵⁴ *Kauai Springs, Inc. v. Planning Comm'n of Kaua'i*, 133 Haw. 141, 173, 324

Pursuant to the state’s laws and the unique principles underlying them, the state has a duty to “conserve and protect [Maunakea’s] natural beauty and all [its] natural resources[.]”²⁵⁵ Moreover, the state’s public trust doctrine protects Native Hawaiian traditional and customary rights on the summit of Mauna a Wākea.²⁵⁶ The majority’s narrative and holding, however, hold neither BLNR nor the University accountable for their repeated failures to adequately protect Maunakea and its resources, including Kānaka Maoli’s traditional and customary rights.

V. (RE)SHAPING KA WĀ MA MUA: THE BATTLE OVER COLLECTIVE MEMORY OF INJUSTICE SHROUDING MAUNAKEA

The most recent controversy concerning Maunakea, the proposed TMT, threatens to further desecrate Maoli lands and curtail Native Hawaiians’ protected rights. In 2008, the TMT International Observatory, LLC (“TIO”)²⁵⁷ consulted with the University of Hawai‘i to assess the development of the TMT on Maunakea, chosen for its pristine atmospheric conditions.²⁵⁸ Following a 2010 Final Environmental Impact Statement (“EIS”), TIO submitted Conservation District Use Application (“CDUA”) HA-3568 for the TMT in the same year.²⁵⁹

Maunakea, with its thirteen existing telescopes, is already home to more astronomical observatories than any other mountain peak in the world.²⁶⁰ If built, the proposed TMT would tower over Hawai‘i Island as the largest building on the isle.²⁶¹ The structure, planned to be built within the conservation district, would occupy over five acres of land just 600 feet below the summit ridge.²⁶²

P.3d 951, 983 (2014) (reaffirming the public trust doctrine as a fundamental principle of Hawai‘i law and establishing a framework for state and county agencies to appropriately consider the public trust in fulfilling their mandates) [hereinafter *Kaua‘i Springs*].

²⁵⁵ See HAW. CONST. art. XI, § 1.

²⁵⁶ See *id.*

²⁵⁷ In 2003, the TMT Corporation was formed by Caltech and the University of California “for the purpose of fostering astronomy through building a thirty meter telescope. . . . Voting power and telescope observing time [] vary amongst its members proportionate to their respective contributions to the TMT project.” *Mauna Kea II*, 143 Haw. 379, 386, 363 P.3d 752, 759 (2018).

²⁵⁸ *Id.* at 386, 363 P.3d at 759.

²⁵⁹ *Id.*

²⁶⁰ Joseph E. Ciotti, *Historical Views on Mauna Kea: From the Vantage Points of Hawaiian Culture and Astronomical Research*, 45 HAWAIIAN J. HIST. 147, 148, 150 (2011).

²⁶¹ Goodyear-Ka‘ōpua, *Protectors of the Future*, *supra* note 25, at 188.

²⁶² *Mauna Kea II*, 143 Haw. at 387, 431 P.3d at 760.

The contentious project, like other telescopes and observatories before it, was met with resistance by Kānaka Maoli “working to assert and protect their genealogical connections to elements and deities of the mountain against an expanding footprint of astronomical observatories and telescopes[.]”²⁶³ Kia‘i Mauna, protectors of Maunakea, explained that the eighteen-and-a-half story structure would desecrate the sacred summit, which had already suffered substantial, adverse impacts from the existing observatories that occupied the summit area.²⁶⁴ They also argued that BLNR, by approving the TMT’s permit application, violated its constitutional duty to protect Native Hawaiian traditional and customary rights.²⁶⁵ In 2011, the Board approved the TMT’s Conservation District Use Permit (“CDUP” or “permit”), despite strong Maoli-led opposition and without holding an administrative trial or contested case hearing that would determine the rights of Native Hawaiians in the matter.²⁶⁶

In April 2015, thirty-one Kia‘i Mauna were arrested for “trespassing’ on government property and ‘obstructing’” the access road to the summit in an effort to halt the TMT’s construction.²⁶⁷ Meanwhile, in the courts, grassroots community group Mauna Kea Anaina Hou and other Kia‘i²⁶⁸ challenged the permit, contending that BLNR “put the cart before the horse” by prematurely approving the CDUP.²⁶⁹ The Board claimed, on the other hand, that the approval was a preliminary decision and that the construction of the TMT was stayed pending the outcome of a contested case hearing.²⁷⁰ The Hawai‘i Supreme Court ruled in favor of the Kia‘i petitioners, holding that the CDUP was invalid and ordering a new contested case hearing for the CDUA.²⁷¹

The following year, the state legislature passed a statute allowing contested cases regarding conservation districts to be directly appealed to the Hawai‘i Supreme Court.²⁷² In 2016, as ordered by the *Mauna Kea I*

²⁶³ Goodyear-Ka‘ōpua, *Protectors of the Future*, *supra* note 25, at 188.

²⁶⁴ *Mauna Kea II*, 143 Haw. at 384, 431 P.3d at 757; *Mauna Kea I*, 136 Haw. 376, 380, 363 P.3d 224, 228 (2015).

²⁶⁵ *Mauna Kea II*, 143 Haw. at 396, 431 P.3d at 769.

²⁶⁶ *Mauna Kea I*, 136 Haw. at 380, 363 P.3d at 228.

²⁶⁷ Goodyear-Ka‘ōpua, *Protectors of the Future*, *supra* note 25, at 184.

²⁶⁸ In addition to Mauna Kea Anaina Hou, the named plaintiffs to *Mauna Kea I* were: “Clarence Kukauakahi Ching, the Flores-Case ‘Ohana, Deborah J. Ward, Paul K. Neves, and Kahea: The Hawaiian Environmental Alliance.” *Mauna Kea I*, 136 Haw. 376, 363 P.3d 224.

²⁶⁹ *See Mauna Kea I*, 136 Haw. at 381–82, 363 P.3d at 230–31.

²⁷⁰ *Id.* at 381, 363 P.3d at 229.

²⁷¹ *Id.*

²⁷² H.B.1581, 28th Leg., Reg. Sess., 2016 Haw. Sess. Laws § 48. The majority inserted this fact into a footnote: “Act 48 of 2016, effective August 1, 2016, added Hawaii

court, BLNR began its second contested case for the TMT before a new Hearing Officer, former Judge Riki May Amano, who concluded that the permit should be granted.²⁷³ In accord with Hearing Officer Amano’s recommendation, BLNR again approved the TMT’s CDUA and granted its permit.²⁷⁴

In February 2018, Native Hawaiian cultural practitioners appealed to the Hawai‘i Supreme Court, where they argued that the permit approval violated BLNR’s public trust duties and its duty to protect Native Hawaiian traditional and customary rights and practices.²⁷⁵ By October 2018, the court majority published its decision that affirmed that BLNR properly issued the telescope’s CDUP.²⁷⁶

Less than a year later, on July 10, 2019, Hawai‘i State Governor David Ige and TIO announced that the TMT’s construction would begin on July 15, 2019.²⁷⁷ Hundreds of Kia‘i Mauna, anticipating the beginning of construction, convened again on Maunakea to block vehicles carrying construction equipment for the TMT from reaching the summit.²⁷⁸ In an emotional confrontation for Kia‘i and local law enforcement officers, police arrested thirty-three kūpuna (elders) who had placed themselves on the frontline.²⁷⁹ Kia‘i were unshaken and maintained their presence, with thousands of other Kānaka and their allies convening—along the access

Revised Statutes § 183C-9 to make final decisions and orders from contested cases concerning conservation districts directly appealable to this court. 2016 Haw. Sess. Laws Act 48, §§ 2 & 14 at 76, 82.” *Mauna Kea II*, 143 Haw. at 387 n.4, 431 P.3d at 760 n.4.

²⁷³ *Mauna Kea II*, 143 Haw. at 387, 431 P.3d at 760; In re Contested Case Hearing Re Conservation District Use Application (CDUA) HA-3568 for the Thirty Meter Telescope at the Mauna Kea Science Reserve, Proposed Findings of Fact, Conclusions of Law and Decision and Order 21, Case No. BLNR-CC-16-002 (Haw. Bd. of Land and Nat. Res. July 26, 2017) [hereinafter Hearing Officer Amano Proposal].

²⁷⁴ *Mauna Kea II*, 143 Haw. at 387, 431 P.3d at 760.

²⁷⁵ *See id.* at 395, 431 P.3d at 768.

²⁷⁶ *Id.* at 409, 431 P.3d at 782. In an unprecedented maneuver, first published its decision without Justice Michael D. Wilson’s dissent. *See id.* at 379, 431 P.3d at 752.

²⁷⁷ Press Release, State of Hawai‘i, Governor’s Office—Joint News Release—Thirty Meter Telescope Set to Start Construction (July 15, 2019), *available at* <https://governor.hawaii.gov/newsroom/latest-news/governors-office-joint-news-release-thirty-meter-telescope-set-to-start-construction/>.

²⁷⁸ Tribune Herald Staff, ‘OUR LAST STAND’: Hundreds of TMT Protesters Block Maunakea Access Road, HAW. TRIB.-HERALD (July 16, 2019), <https://www.hawaiitribune-herald.com/2019/07/16/hawaii-news/our-last-stand-hundreds-of-tmt-protesters-block-Maunakea-access-road/>.

²⁷⁹ KITV Web Staff, 33 Kupuna Arrested for Protesting on Mauna Kea, KITV4 ISLAND NEWS (July 17, 2019), <https://www.kitv.com/story/40804841/33-kupuna-arrested-for-protesting-on-Mauna-kea>.

road, at rallies on neighboring islands, and across the world—in support of protecting Maunakea.²⁸⁰

Mauna Kea II reignited a public battle over the story of Maunakea.²⁸¹ The majority opinion, contrasted against Kānaka Maoli's ancestral claims and their kuleana to Maunakea, also highlights an even broader centuries-long battle over the collective memory of Hawai'i that will play an integral role in determining the future of Maunakea and the future of Kānaka Maoli and their struggles for justice.²⁸²

As “outsiders” in a foreign legal system, Native Hawaiians' memories have often been ignored.²⁸³ And, in effect, their justice struggles are inadequately addressed by Hawai'i's courts and by state agencies and their departments.²⁸⁴ Despite protections explicitly guaranteed by the Hawai'i State Constitution, as made apparent by *Mauna Kea II*, the state has yet to “fully embrace[] . . . its trust responsibility” to Native Hawaiians.²⁸⁵ In an uphill battle against a whitewashed, popularized narrative, Kānaka Maoli have fought for decades to reshape collective memory to reflect a more complete story of Mauna a Wākea.²⁸⁶ By bringing typically “forgotten” events back to the forefront, Native Hawaiians deployed collective memory as a tool in a struggle over justice for Maunakea—a struggle to protect against the state-sanctioned desecration of Kānaka Maoli's ancestral land, to prevent further destruction of a sacred ancestor, and to preserve the mountain and its resources for the generations to come. Before BLNR, the state supreme court, and the general public, Kia'i sought to reshape mainstream narratives told about Maunakea, and Kānaka generally, in a valiant effort to protect their sacred mountain and bolster other justice claims.

The majority for *Mauna Kea II*, on the other hand, employed a brief, selective “history” of Maunakea to justify affirming BLNR's approval of the TMT.²⁸⁷ It told a historical narrative that, deliberately or not, removed

²⁸⁰ Kristin Lam, *Why Are Jason Momoa and Other Native Hawaiians Protesting a Telescope on Mauna Kea? What's at Stake?*, USA TODAY (Aug. 21, 2019), <https://www.usatoday.com/story/news/nation/2019/08/21/Mauna-kea-tmt-protests-hawaii-native-rights-telescope/1993037001/>.

²⁸¹ See, e.g., Tribune Herald Staff, *supra* note 279; Lam, *supra* note 280; see generally *Mauna Kea II*, 143 Haw. 379, 363 P.3d 752.

²⁸² See Hom & Yamamoto, *supra* note 5, at 1765.

²⁸³ See *id.*

²⁸⁴ See *id.*

²⁸⁵ See MacKenzie, *Public Land Trust*, *supra* note 15, at 123.

²⁸⁶ See *infra* Parts V–VI.

²⁸⁷ See generally *Mauna Kea II*, 143 Haw. 379, 431 P.3d 752.

Native Hawaiians from the centuries-old story of Maunakea.²⁸⁸ A narrative that relieved the state of its public trust obligations and disemboweled Native Hawaiians’ constitutionally protected traditional and customary rights.²⁸⁹ A narrative that is in lockstep with other colonizers’ accounts of Hawai‘i’s history—one that begins with and revolves around Western contact and its ostensible benefits gifted to Kānaka Maoli.²⁹⁰

A. *The majority’s “history” of Maunakea is almost entirely void of Native Hawaiians and obscures Kānaka Maoli’s deep-seated connections to Mauna a Wākea.*

By integrating ‘ike kūpuna (ancestral insight) with current claims of right,²⁹¹ Kia‘i petitioners told an “ancestral” collective memory—a “genealogy preserved orally over generations through chants.”²⁹² Kia‘i consistently reiterated what Kānaka Maoli have known since time immemorial: Mauna a Wākea is sacred.²⁹³ And through oli and mo‘olelo, they told stories of their familial connection to the ‘āina and to Mauna a Wākea.²⁹⁴ These stories, Kia‘i urged, “are not myths but rather teaching tools[,]” about Native Hawaiians’ kuleana to care for the ‘āina, including Maunakea, for future generations, just as Kānaka Maoli have always done.²⁹⁵

Kia‘i explained that Maoli identity has always been intimately tied to Maunakea and its well-being.²⁹⁶ “It is clear that to many Hawaiians,

²⁸⁸ See *infra* Part V.A.

²⁸⁹ See *infra* Part V.B.

²⁹⁰ See *infra* Parts V.A–V.B.

²⁹¹ Hom & Yamamoto, *supra* note 5, at 1759–60.

²⁹² See *id.* at 1759.

²⁹³ See, e.g., Written Direct Testimony of E. Kalani Flores 20, available at <https://dlnr.hawaii.gov/mk/files/2016/10/B.02a-wdt-EK-Flores.pdf> [hereinafter Flores Testimony]; Witness Direct Testimony of Hāwane Rios 1, available at <https://dlnr.hawaii.gov/mk/files/2016/10/F-5-Witness-Testimony-Hawane-Rios.pdf> [hereinafter Rios Testimony]; *Mauna Kea II*, 143 Haw. 379, 384, 431 P.3d 752, 757 (2018); *Mauna Kea I*, 136 Haw. 376, 380, 363 P.3d 224, 228 (2015).

²⁹⁴ Rios Testimony, *supra* note 293, at 1–2 (“The practice of aloha ‘āina—to love and care for the land, was passed down by these same ancestors through generations all the way to my mother and then to me. It is a practice of our people to know where we come from, to remember our creation story and how our family genealogies connect to it . . . [The genealogy of Papa and Wākea] was taught to me by my elders with the intention to always remember my birthright and responsibility to uphold the tradition of caring for the earth in a good way.”).

²⁹⁵ See Written Direct Testimony of K. Kealoha Pisciotta 5, available at <https://dlnr.hawaii.gov/mk/files/2016/10/B.01a-Kealoha-Pisciotta-WDT-2016-C-1-amend.pdf> [hereinafter Pisciotta Testimony].

²⁹⁶ See *id.* at 2; Rios Testimony, *supra* note 293, at 1–4.

Mauna Kea is more than a mountain; it is the embodiment of the Hawaiian people.”²⁹⁷ Kānaka testified about their genealogy—extending back to Papa and Wākea—that imparts upon them a responsibility as stewards to protect the ‘āina—in this case, Maunakea—consistent with and in furtherance of Native Hawaiian tradition.²⁹⁸

The *Mauna Kea II* majority, however, relegated Kānaka Maoli’s experiences to a short paragraph providing a vague, “objective” overview of what “some Native Hawaiians consider” Maunakea to be.²⁹⁹ The majority opinion opened by appearing to acknowledge Maunakea’s spiritual significance to Native Hawaiians.³⁰⁰ The one-paragraph summary ended as quickly as it began, and it failed to capture the tremendous significance Maunakea holds for Kānaka Maoli, traditionally and to this day.³⁰¹ By failing to convey Native Hawaiians’ deep-rooted, genealogical connection to Maunakea, the majority limited Native Hawaiians’ claims of right to the sacred mountain.³⁰²

Providing no further explanation aside from a simple definition, the majority stated that Maunakea is “wao akua (the place where gods reside)[.]”³⁰³ “Before Western contact[,]” the majority writes, “the summit area was considered kapu (taboo) to all but the highest chiefs and priests, and unavailable to the general public.”³⁰⁴ This account did not attempt to relay the complexities of kapu or wao akua and how they function together.³⁰⁵ Instead, it mirrored Westerners’ descriptions that “few Hawaiians travelled to the summit area of Mauna Kea” making it “largely unknown even to the native populations.”³⁰⁶ The court’s collective memory of injustice, though it does make mention of Native Hawaiians, also simultaneously erases Native Hawaiians from its narrative of Maunakea.³⁰⁷

²⁹⁷ Flores-Case Proposal, *supra* note 144, at 23 FOF 183 (quoting MALY & MALY, *supra* note 142, at 1).

²⁹⁸ Pisciotta Testimony, *supra* note 295, at 2, 5, 7; Flores Testimony, *supra* note 293, at 18; Rios Testimony, *supra* note 293, at 1–2.

²⁹⁹ See *Mauna Kea II*, 143 Haw. 379, 384, 431 P.3d 752, 757 (2018).

³⁰⁰ *Id.*

³⁰¹ *Id.* at 384–85, 431 P.3d at 757–58.

³⁰² See *id.*

³⁰³ *Id.* at 384, 431 P.3d at 757.

³⁰⁴ *Id.* at 385, 431 P.3d at 758.

³⁰⁵ See *id.*

³⁰⁶ DALE P. CRUIKSHANK, MAUNA KEA: A GUIDE TO THE UPPER SLOPES AND OBSERVATORIES 4 (1986).

³⁰⁷ See *Mauna Kea II*, 143 Haw. at 384–85, 431 P.3d at 757–58.

Nowhere in the opinion did the majority clarify that kapu was neither just a set of restrictions nor a prohibitive system.³⁰⁸ It did not include that kapu was a “code of conduct”³⁰⁹ for Kānaka that facilitated this Indigenous society’s creation and implementation of conservation practices;³¹⁰ or, that the kapu marked the sacred and required Kānaka to understand their relationship to those hallowed sites (e.g., areas marked as wao akua) and entities.³¹¹ The Board and, subsequently, the majority ignored testimony that explained the Mauna’s holy status, which:

[W]as known from the remote times of the ancient ones. It is for this reason that amongst the countless ancestors of Kanaka Maoli and numerous ali‘i (chiefly) dynasties that lived in these islands, they never built any large heiau (temples) on the summit in this realm that is considered kapu . . . so as not to create a physical and/or spiritual disturbance, disconnection, or imbalance between man and his akua, and between man and his environment.³¹²

Instead, the majority’s framing of kapu plays into the Western caricature of a punitive system that restricted maka‘āinana (common people)³¹³ from freedoms that only privileged ali‘i (chiefs) could enjoy.³¹⁴ The majority, therefore, completely misunderstood and mischaracterized Native Hawaiians’ relationship to Maunakea.³¹⁵ By the court’s account, Native Hawaiians seem to have benefited from the increased access to the

³⁰⁸ See generally *id.*

³⁰⁹ Lezlie Kī‘aha, *Thinking Outside the Bars: Using Hawaiian Traditions and Culturally-Based Healing to Eliminate Racial Disparities Within Hawai‘i’s Criminal Justice System*, 17 ASIAN-PAC. L. & POL’Y J. 1, 6 (2015).

³¹⁰ See *Mauna Kea LUC*, *supra* note 146; Steele, *Professor Jon Osorio*, *supra* note 130; Charles Kekuewa Pe‘ape‘a Makawalu Burrows, *Hawaiian Conservation Values and Practices*, in CONSERVATION BIOLOGY IN HAWAII 203, 205 (1989) (Kapu was “used as a conservation measure to protect the over-exploitation of natural resources.”).

³¹¹ Interview with Jamaica Heolimeleikalani Osorio, Assistant Professor, University of Hawai‘i Department of Political Science, in Mānoa, Haw. (Feb. 18, 2020).

³¹² Flores Testimony, *supra* note 293, at 18 (emphasis removed).

³¹³ See HAWAIIAN DICTIONARY, *supra* note 1, at 224.

³¹⁴ See *Rice v. Cayetano*, 528 U.S. 495, 500 (2000) (“Kings or principal chieftains, as well as high priests, could order the death or sacrifice of any subject.”). Dr. Jamaica Heolimeleikalani Osorio explained that the state and others local to Hawai‘i are “accustomed to think of kapu as obstructions, as something tell you to keep out,” and it has often been used contemporarily to keep Native Hawaiians out of their homelands. Interview with Jamaica Heolimeleikalani Osorio, Assistant Professor, University of Hawai‘i Department of Political Science, in Mānoa, Haw. (Feb. 18, 2020).

³¹⁵ See *Mauna Kea II*, 143 Haw. 379, 385, 431 P.3d 752, 758 (2018).

summit, which was once “forbidden,” via roads built for the observatories.³¹⁶

Opposite the majority, in order to accurately reflect Native Hawaiians’ history on Maunakea, Kia’i underscored the significance of wao akua and kapu. Within wao akua, Kia’i explained, Maunakea’s summit is an especially sacred landscape.³¹⁷ And while select ceremonial and spiritual practices take place at the summit, Kia’i emphasized that many Native Hawaiians refrain from entering into that sacred space all together as a practice of reverence.³¹⁸ Even more than a cultural practice, Kia’i urged, Kānaka Maoli’s sacred conduct on the summit is a kuleana—a birthright borne from the familial connection between Kānaka and their elder Mauna a Wākea.³¹⁹

The court’s framing obscures Native Hawaiians’ genealogical connection and deep-seated relationship with the mountain. The absence of physical “evidence” of Native Hawaiian practices occurring on the summit was construed by the court as indicative that there were no cultural or spiritual practices that ever took place there.³²⁰ By twisting wao akua and kapu, the majority construed Kānaka Maoli’s physical absence from the summit to intimate that since Native Hawaiians were traditionally restricted from physically accessing the summit, then they could not have a legitimate claim today.³²¹ But, as Kia’i asserted, the court’s “use it or lose it” justification reinforces a colonial lens incompatible with Maoli culture and worldviews.³²² The court’s approach blatantly ignores kapu and wao akua, some of the very Native Hawaiian customs that influenced current state law and that the state is obligated to protect.³²³ Both BLNR and the court failed to recognize that revering wao akua and the sacred mountain—by not building structures or frequenting the areas—is a cultural and spiritual practice in and of itself.³²⁴ The framework advanced by the *Mauna Kea II*

³¹⁶ *See id.*

³¹⁷ Kealoha Pisciotto, Mauna Kea Anaina Hou, Paul Neves and Kaliko Kanahale Proposed Findings of Fact, Conclusions of Law, Decision and Order, *A Contested Case Hearing Re Conservation Use Application HA-3568 for the Thirty Meter Telescope at Mauna Kea Science Reserve* 53 (May 30, 2017) [hereinafter Mauna Kea Anaina Hou Proposal].

³¹⁸ *Id.* at 105–07.

³¹⁹ *Id.*

³²⁰ *See id.*

³²¹ *See id.*

³²² *See id.*

³²³ *See id.*

³²⁴ *See generally id.* (affirming BLNR’s findings of fact and conclusions of law); BLNR TMT Decision, *supra* note 202 (finding no relevant Native Hawaiian traditions and customs warranting state protection).

court threatens any traditions or customs that risk being misinterpreted—or misconstrued, intentionally or not—by the state, and it dangerously reaffirms the colonial-borne court system’s grasp over Native Hawaiians’ fragile rights.³²⁵

The remainder of the majority’s opinion, aside from stating that archaeological research reveals the existence of an adze quarry on the southern slopes of the mountain, treated Native Hawaiians and their interests in the Mauna as peripheral, and Native Hawaiians are mentioned only as an afterthought.³²⁶ After its scant overview of the “history” of Maunakea before Western contact in 1778, the majority skipped forward two-hundred years to post-statehood in 1968, offering a collective memory of Maunakea that barely mentioned Native Hawaiians at all.³²⁷

The majority overviewed the establishment of the Mauna Kea Science Reserve and then listed all twelve observatories built between 1970 and 2002.³²⁸ It details the “direct”³²⁹ and “obvious benefits”³³⁰ of the TMT and the twelve already-existing observatories on the mountain’s summit.³³¹ The majority’s emphasis on the already-existing observatories implies that the next “natural” step is building the TMT, another “advanced world-class telescope.”³³² By the majority’s account, the TMT is just one more telescope that should take its rightful place next to the other thirteen already occupying Maunakea.³³³

The erasure of Native Hawaiians from the majority’s “history” of Maunakea justifies the state’s continuing exclusion of Native Hawaiians from making decisions on matters regarding the summit.³³⁴ The majority, intentionally or not, evoked the same collective memories deployed by Justice Kennedy’s majority opinion in *Rice v. Cayetano* and the late Justice Burns’ “The Crown Lands Trust: Who Were, Who Are, the Beneficiaries?”

³²⁵ See *Mauna Kea II*, 143 Haw. 379, 396–97, 431 P.3d 752, 769–70; BLNR TMT Decision, *supra* note 202.

³²⁶ See *Mauna Kea II*, 143 Haw. at 385, 431 P.3d at 758.

³²⁷ See *id.* at 396–97, 431 P.3d at 769–70.

³²⁸ *Id.*

³²⁹ *Id.* at 402, 431 P.3d at 775.

³³⁰ See Testimony of David Callies, at 6, Contested Case Hearing, Case No. BLNR-CC-16-002 (CDUA HA-3568) (Oct. 11, 2016), *available at* <https://dlnr.hawaii.gov/mk/files/2016/10/TIO-EXH-C-6.pdf>.

³³¹ *Mauna Kea II*, 143 Haw. at 385, 431 P.3d at 758. The twelve observatories on Maunakea house a total of thirteen telescopes. *Id.*

³³² See *id.* at 402, 431 P.3d at 775.

³³³ See *id.*

³³⁴ See *id.*

both of which told narratives also justifying undermining Native Hawaiians' rights and justice claims.³³⁵

The majority actively ignored, and thus rendered insignificant or irrelevant, Maoli testimony and well-established Native Hawaiian traditions and customs.³³⁶ The erasure of Native Hawaiians from the majority's narrative of Maunakea effectively threatens Native Hawaiians' constitutionally protected traditional and customary rights.³³⁷ The brief "history" provided by the majority as a background to *Mauna Kea II* sets up the rest of the court's analysis that, also through skewing "history" and suppressing Native Hawaiians' collective memory of injustice, minimized the state's duty to protect natural and cultural resources on public and conservation district lands and cuts away at Native Hawaiians' protected rights enshrined in Hawai'i's Constitution.³³⁸

B. *The majority ignored decades of the University and DLNR's mismanagement of Maunakea and the significant, substantial and adverse impacts to the summit.*

To justify the majority conclusion that BLNR did not violate its constitutional duty to protect the summit and traditional and customary rights by permitting the TMT, the majority glossed over the decades of UH's mismanagement of the mountain,³³⁹ ignored the long-term substantial, adverse impacts to public trust lands, resources, and purposes that it concedes the observatories have effected;³⁴⁰ and applied a framework that allows the state to ignore the cumulative impacts to conservation and public trust lands.³⁴¹

For the first time, in *Mauna Kea II*, the Hawai'i Supreme Court explicitly held that state-managed conservation district lands "are public resources held in trust for the benefit of the people pursuant to Article XI, Section 1."³⁴² Despite the majority's concession that the telescopes' cumulative effects already caused substantial, adverse impacts, the majority nonetheless held that the "use of the land by TMT is consistent with conservation and in furtherance of the self-sufficiency of the State."³⁴³

³³⁵ See MacKenzie and Sproat, *supra* note 7; James S. Burns, *The Crown Lands Trust: Who Were, Who Are, the Beneficiaries?*, 38 U. HAW. L. REV. 213 (2016).

³³⁶ See *Mauna Kea II*, 143 Haw. at 396–97, 431 P.3d at 769–70.

³³⁷ See discussion *infra* Part V.A.

³³⁸ See *Mauna Kea II*, 143 Haw. at 396–97, 431 P.3d at 769–70.

³³⁹ See *id.* at 386, 431 P.3d at 759.

³⁴⁰ See *id.* at 422, 431 P.3d at 795 (Wilson, J., dissenting).

³⁴¹ See *id.* at 399–402, 431 P.3d at 772–75.

³⁴² *Id.* at 400, 431 P.3d at 773.

³⁴³ *Id.* at 402, 431 P.3d at 775.

Therefore, the court concluded, “the TMT comports with Article XI, Section 1 public trust principles and . . . the BLNR met its duties as trustee under [Article XII, Section 4] public land trust.”³⁴⁴ The majority justified this conclusion by evading details of the state’s mismanagement of Maunakea’s natural and cultural resources and by ignoring its own case precedent regarding public trust lands.³⁴⁵ Using what Justice Wilson’s dissent called “the degradation principle,” the majority concluded that TMT alone would not cause substantial, adverse impacts and thus the board met its Article XI, section 1 trust responsibilities and would instead benefit Hawai‘i and Native Hawaiians.³⁴⁶

Embracing their kuleana to mālama ‘āina, Kia‘i told a collective memory of decades of harm caused by already-existing and poorly-managed observatories on Maunakea. Kia‘i’s testimony and stories, when taken collectively, created an extensive list of the University’s mismanagement and the lasting injuries to Maunakea’s summit. Since the 1960s, the predominating story of Maunakea is one that elevates its potential for stargazing—as the best astronomical site in the world. Kānaka Maoli, however, have sought to uncover the deleterious impacts to Maunakea and Native Hawaiians caused by the astronomical “progress” that the Mauna became renowned for.

Kānaka Maoli detailed a number of egregious mistakes by the University since the first telescope’s establishment on Maunakea: allowing the development telescopes without permits and others “without permit conditions or controls to ensure implementation of management plans[.]”³⁴⁷ refusing to establish a limit to telescopes against the suggestions of the Mauna Kea Advisory Committee, many members of the public, state leaders, and Native Hawaiians;³⁴⁸ and prioritizing astronomical research over its obligation to protect the summit’s resources.³⁴⁹ Unlike the *Mauna Kea II* majority, Kia‘i stressed the scathing 1998 Auditor’s Report and the University’s blatant disregard of the audit’s criticisms and

³⁴⁴ *Id.* (originally stating that “BLNR met its duties as trustee under Article XI, Section 1 *public land trust*”) (emphasis added)). Public land trust duties are codified under Article XII of the state’s constitution. HAW. CONST. art. XII, § 4.

³⁴⁵ *See id.*

³⁴⁶ *Id.* at 422, 431 P.3d at 795 (Wilson, J., dissenting) (“BLNR concludes that the degradation to the summit area has been so substantially adverse that the addition of TMT would have no substantial adverse effect.”).

³⁴⁷ Written Direct Testimony of Deborah J. Ward 10 (Oct. 11, 2016), *available at* <https://dlnr.hawaii.gov/mk/files/2016/10/B-17-a-WDT-Deborah-J-Ward.pdf> [hereinafter Ward Testimony].

³⁴⁸ *See id.* at 2; *Plans Drawn for Majestic Mauna Kea*, HAW. TRIB.-HERALD B-2 (Jan. 27, 1980).

³⁴⁹ Flores-Case Proposal, *supra* note 144, at 120–21.

recommendations intended to safeguard the Mauna's natural, historical, and cultural resources.³⁵⁰

Kia'i told a collective memory of injustice that sought also to hold the Department of Land and Natural Resources and its Board accountable for their complicity in Maunakea's mismanagement.³⁵¹ They drew from several critical reports from the Hawai'i State Auditor to demonstrate that even the state itself recognized the Department and Board's failures as lessor to provide oversight of the University's actions on the mountain.³⁵² Kia'i cited that, according to a 1998 audit, DLNR "failed to define its relationship with the university, allowing the institution to oversee its own activities and not provide a mechanism to ensure compliance with lease and permit requirements."³⁵³ Citing a later audit report from 2005, Kia'i underscored that this matter had "been previously brought to the attention of DLNR and its board for several decades."³⁵⁴ According to the 2005 audit, which Kia'i quoted, "[t]he lack of oversight by the department allow[ed] the university and its sublessees unchecked discretion on the use of Mauna Kea and le[ft] cultural and natural resources at risk for further damage."³⁵⁵

Demonstrating the state's readiness to undermine its public trust duties and protections for Native Hawaiians' rights, Kia'i drew attention to a previous controversy with "issues . . . almost identical" to those in *Mauna Kea II*.³⁵⁶ In 2004, despite the 1998 audit's critical findings, the Department of Land and Natural Resources permitted the development of the NASA/Keck Outrigger Telescopes project near the summit without a comprehensive management plan.³⁵⁷ Native Hawaiians and other

³⁵⁰ Ward Testimony, *supra* note 347; see Flores Testimony, *supra* note 293, at 4; 1998 AUDIT, *supra* note 161, at 15.

³⁵¹ See, e.g., Flores Testimony, *supra* note 293; Ward Testimony, *supra* note 347.

³⁵² Flores Testimony, *supra* note 293, at 4.

³⁵³ Ward Testimony, *supra* note 347 ("The Legislative Auditor addressed the accumulation of impacts that have resulted in the findings of significant, adverse and substantial cumulative impacts to the natural and cultural resources of Mauna Kea in 1998: '(DLNR) has failed to define its relationship with the university, allowing the institution to oversee its own activities and not provide a mechanism to ensure compliance with lease and permit requirements.'").

³⁵⁴ Flores Testimony, *supra* note 293, at 4 (quoting STATE OF HAWAI'I AUDITOR, FOLLOW-UP AUDIT OF THE MANAGEMENT OF MAUNA KEA AND THE MAUNA KEA SCIENCE RESERVE, REPORT NO. 05-3 30 (Dec. 2005) [hereinafter 2005 AUDIT]).

³⁵⁵ *Id.*

³⁵⁶ See Pisciotta Testimony, *supra* note 295, at 3.

³⁵⁷ Ward Testimony, *supra* note 347; *Timeline of Mauna Kea Legal Actions Since 2011*, KAHEA (Sept. 10, 2016), <http://kahea.org/issues/sacred-summits/timeline-of-events>; see HAW. CODE R. § 13-5-39(b) (2011) ("The department or board may require the preparation of a comprehensive management plan where it finds that further development may lead to significant natural, cultural, or ecological impacts within the conservation

conservation groups, including many of the Kia‘i that challenged the TMT in *Mauna Kea I*, intervened to challenge the permit.³⁵⁸ Petitioners challenging the “Outrigger” project endeavored to hold the state accountable to its responsibility to preserve and protect the summit and to comply with its own administrative rules.³⁵⁹ NASA eventually pulled its funding for the project but only after its federal environmental impact statement, created as a result of the litigation, had acknowledged the adverse and significant impacts of three decades of astronomy on the cultural and natural resources of Maunakea.³⁶⁰

Recent events, pertaining specifically to the TMT’s development, also reveal the state’s evasion of its public trust duties and its duty to affirmatively protect Native Hawaiians’ rights. For instance, prior to BLNR’s consent to sublease to TIO, the Board allowed TIO to take possession of the proposed site to grade, excavate, and bore into Maunakea’s summit.³⁶¹ “Th[ose] activities, between August and October 2013, resulted in irreparable harm and damage to th[e] unique and pristine geological and cultural landscape” of Maunakea.³⁶² Moreover, Kia‘i emphasized the Board’s attempt to evade due process and expedite the TMT project, which came to a head in *Mauna Kea I*.³⁶³ By “putting the cart before

district.”).

³⁵⁸ Pisciotta Testimony, *supra* note 295, at 3. The project “sought to construct four (4) to six (6) smaller ‘outrigger’ telescopes placed around the existing two (2) KECK observatories that sit on Kukahau‘ula (the summit).” *Id.* After the Hearing Officer concluded that the project lacked the required BLNR-approved management plan, BLNR remanded the decision for re-review and the Hearing Officer changed his position. *Id.* On appeal to the state district court, Mauna Kea Anaina Hou and other petitioners were successful, and the court voided the CDUP issued for the KECK project. *Id.* Later, a federal Environmental Impact Assessment case, the Office of Hawaiian Affairs sued NASA on behalf of Mauna Kea Anaina Hou “for failing to complete a full EIS for the Outrigger Telescopes Project . . . After the Third Circuit Court vacated [the project’s] CDUA, NASA eventually pulled their funding for the project.” *Id.*

³⁵⁹ Ward Testimony, *supra* note 347, at 3. Judge Glenn Hara overturned the board’s decision to approve the development and directed the development of a management plan. *Id.* A result of Judge Hara’s decision and order, the University developed a Comprehensive Management Plan which was approved by the board in 2009. *Id.* at 4. Deborah Ward, in testimony to BLNR, criticized the 2009 Comprehensive Management Plan for its reliance on a 2000 Management Plan that “has neither been scrutinized nor approved by the BLNR, yet it is referenced as the determining document for future development.” *Id.* at 4; *see* 2009 MANAGEMENT PLAN, *supra* note 164, at 37, 3-8 (describing the 2000 Mauna Kea Science Reserve Master Plan and its approval by the University Board of Regents).

³⁶⁰ Pisciotta Testimony, *supra* note 295, at 3.

³⁶¹ Flores-Case Proposal, *supra* note 144, at 69.

³⁶² *Id.*

³⁶³ *See id.* at 145 (“BLNR has a pattern of executing actions that are comparable to ‘putting the cart before the horse[.]’”).

the horse,” the Board revealed its willingness to forfeit its statutory and constitutional obligations to further the project.³⁶⁴

Since the first concerns regarding TMT’s permit application arose over a decade ago, Kia’i urged the state to fulfill its statutory and constitutional obligations as outlined by *Ka Pa ‘akai* by rejecting the TMT’s CDUA.³⁶⁵ Kia’i also criticized the University and the TMT’s lack of meaningful consultation with Native Hawaiians regarding the project.³⁶⁶ Rather than “trigger[ing] high levels of cultural conversations, consultation, engagement, [and] decisionmaking” among Native Hawaiians, TMT stakeholders, and the state,³⁶⁷ the TMT’s proposal to build on sacred land was “rubber stamped” by the state.³⁶⁸ As Maoli practitioner and Kia’i Kalani Flores explained, the lack of accountability for state decisionmakers thus leaves the burden on the public, specifically Kānaka Maoli, to adequately protect Maunakea.³⁶⁹ By remaining “engaged in the process,” Flores and his ‘ohana (family) and others seek to fulfill their “civil responsibilities,” or kuleana, to protect Maunakea.³⁷⁰

The majority glossed over the the mismanagement of the MKSR and the irreplaceable natural and cultural resources located within the reserve.³⁷¹ The opinion conceded that:

Construction of these observatories and roads has had significant cumulative adverse impacts on cultural, archaeological, and historic resources in the MKSR. The observatories have also had significant cumulative adverse impacts on geology, soils, and slope stability in the MSKR because they significantly modified the preexisting terrain, the tops of certain pu‘u were flattened to accomodate observatory foundations, and some materials were removed

³⁶⁴ *See id.*

³⁶⁵ *Id.* at 69.

³⁶⁶ *Id.* at 83 (“It was not only the lack of quantitative lack of consultation with Native Hawaiian cultural practitioners, but also the types of questions that were asked and the kinds of information that were provided in the asking of the questions.”).

³⁶⁷ *Id.* at 81.

³⁶⁸ *Id.* at 2 (“There’s an underlying perception that these types of projects are typically ‘rubber stamped’ and pushed through the existing State permitting process due to political pressures and/or business influences despite very apparent noncompliance with State laws.”).

³⁶⁹ *Id.*

³⁷⁰ *See id.*

³⁷¹ *See Mauna Kea II*, 143 Haw. 379, 385, 431 P.3d 752, 758 (2018).

from the pu‘u were pushed over their sides, creating steeper slopes more susceptible to disturbance.³⁷²

The opinion then mentioned the 2000 MKSR Master Plan adopted by the University’s Board of Regents in response to “significant criticism raised” in the 1998 Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve.³⁷³ The majority, however, did not describe the “significant criticism.”³⁷⁴ Nor did it include any of the criticisms outlined in the three audits that followed in 2005, 2014, and 2017.³⁷⁵ Instead, by avoiding all audits’ criticisms, the majority trivialized the already significant, adverse impacts that it admitted the TMT would exacerbate.³⁷⁶

The majority did not include the first audit’s finding that the University’s focus on developing Maunakea to “enhance[] the university’s prestige and that of its astronomy program . . . overshadowed the university’s commitment to provide reasonable assurance of protection for the summit’s natural resources,” or that a subsequent audit found the same.³⁷⁷ The majority did not consider that, even when the University outlined plans for resource management and protection, “many of these plans were submitted late and were weakly implemented” due, in part, to “the university’s lack of commitment and the Department of Land and Natural Resources’ failure to enforce plans.”³⁷⁸ These failures “compounded the problem of inadequate environmental protection.”³⁷⁹ The 1998 Audit repeated that Maunakea’s stellar reputation as “a premier location for astronomical research” came at the expense of the University’s and DLNR’s neglect of the mountain’s natural resources, but the majority failed to include any information about these audits beyond the fact that one was published in 1998.³⁸⁰

³⁷² *Id.* at 385–86, 431 P.3d at 758–59.

³⁷³ *Id.* at 386, 431 P.3d at 759.

³⁷⁴ *Id.*

³⁷⁵ *Id.*

³⁷⁶ *See id.*

³⁷⁷ 1998 AUDIT, *supra* note 161, at 15; *see* 2005 AUDIT, *supra* note 355 (“The University of Hawai‘i has taken some positive steps toward strengthening the protection of Mauna Kea’s natural and cultural resources by implementing the 2000 Mauna Kea Science Reserve Master Plan. However, the university has not dealt with certain significant management issues, such as resolving jurisdictional issues with the Department of Land and Natural Resources and monitoring conservation district use permits. Such issues, if left unaddressed, increase the likelihood of harm to the science reserve’s vulnerable environment.”).

³⁷⁸ 1998 AUDIT, *supra* note 161, at 18.

³⁷⁹ *Id.*

³⁸⁰ *See Mauna Kea II*, 143 Haw. at 386, 431 P.3d at 759.

In its opinion, the majority referred to the 2000 Master Plan's goals and the establishment of the Office of Mauna Kea Management ("OMKM"), which were created to help better effectuate those goals of protecting the right to exercise traditional cultural practices and preserving natural resources and landscapes.³⁸¹ The majority mentioned the Master Plan's goals but not how those goals were effectuated, if at all.³⁸² And it did not provide any updated information regarding the state's implementation of the 20-year old plan or the subsequent 2009 Comprehensive Management Plan.³⁸³

In addition to emphasizing the Master Plan's goals, the majority highlighted DLNR's and TMT's mitigation measures and plans that would "lessen the impacts of the TMT."³⁸⁴ The court determined that, on balance, the TMT would be consistent with conservation and in furtherance of the state's self-sufficiency.³⁸⁵ In the majority's view, "[t]he TMT Project does not involve the irrevocable transfer of public land to a private party" and, as a condition of the TMT's decommissioning plan, "the land [will one day] . . . be restored."³⁸⁶

As a text that constructs collective memory of injustice and inscribes it into law, the majority's opinion perpetuates a narrative that ignores astronomy's cumulative impacts on the summit while exaggerating its benefits, especially as they concern Native Hawaiians. By ignoring the state's decades-long mismanagement of Maunakea, the majority shirked the legal obligation of the state to ensure protection of natural and cultural resources as required by Article XI, section 1 of the constitution.³⁸⁷ Rather than recognizing and taking into consideration the significant adverse impacts the previous observatories already caused, the majority ignored all that history, and instead looked only at the specific impacts the TMT itself would have in one specific area.³⁸⁸ It removed the TMT from the rest of the history of observatories on the summit and viewed the TMT's impacts in isolation.³⁸⁹ Overall, the majority masked the state's numerous

³⁸¹ *Id.*

³⁸² *Id.*

³⁸³ *See id.*

³⁸⁴ *Id.* at 405, 431 P.3d at 778.

³⁸⁵ *Id.*

³⁸⁶ *Id.* at 401, 431 P.3d at 774 ("The TMT is to be decommissioned at the end of its anticipated 50 year useful life or at the end of the lease, whichever comes first, pursuant to the Decommissioning Plan.").

³⁸⁷ *See id.*

³⁸⁸ *See id.*

³⁸⁹ *See id.*

shortcomings and promoted the TMT as a benefit to the state with few, if any, negative implications.³⁹⁰

1. Justice Wilson challenged the majority’s indefensible use of the “degradation principle.”

The collective memory of injustice that Native Hawaiians sought to recast more closely parallels Justice Wilson’s dissent, which criticized the majority for its use of the “degradation principle.”³⁹¹ Similar to Kia‘i, Justice Wilson recognized the significance of including the entire history of damage to the summit.³⁹² Both Native Hawaiians and Justice Wilson sought to portray the full extent of astronomy’s impacts on Maunakea more accurately.³⁹³ Justice Wilson’s dissent sheds light on the court’s own precedent and past events omitted or obscured by the majority’s analysis.³⁹⁴ Throughout his opinion, Justice Wilson consistently criticized the majority’s reliance on “the degradation principle,” a principle contrary to Hawai‘i law.³⁹⁵ He pointed to the state’s duties to Kaho‘olawe to illuminate the danger of the majority’s incorporation of the degradation principle into its legal analysis.³⁹⁶

Whereas the majority proposed that there was no precedent for BLNR or the court to follow concerning management of public trust resources on Maunakea, Justice Wilson turned to the state’s management of Kaho‘olawe as an example of the state’s obligation toward protecting Hawai‘i’s lands and natural resources.³⁹⁷ By bringing this context forward, Justice Wilson explained that the state’s approval of the TMT is inconsistent with its constitutional duties under Article XII, section 7 and Article XI, section 1.³⁹⁸

Justice Wilson recalled that, like Maunakea, Kaho‘olawe had been “severely degraded.”³⁹⁹ However severe the damage already inflicted upon a public trust resource, the state still maintained the “duty to preserve and rehabilitate in perpetuity.”⁴⁰⁰ The interpretation put forth by the majority—

³⁹⁰ *See id.*

³⁹¹ *See id.* at 421–34, 431 P.3d at 794–807 (Wilson, J., dissenting).

³⁹² *See id.*

³⁹³ *See id.*

³⁹⁴ *Id.*

³⁹⁵ *Id.* at 421–22, 431 P.3d at 794–95.

³⁹⁶ *Id.* at 422 n.2, 431 P.3d at 795 n.2.

³⁹⁷ *Id.*

³⁹⁸ *See id.* at 422, 427–28, 431 P.3d at 795, 800–01.

³⁹⁹ *Id.* at 422 n.2, 431 P.3d at 795 n.2.

⁴⁰⁰ *Id.*

that “the passage of time and the degradation of natural resources can justify unacceptable environmental and cultural damage”—renders null the state’s duty to protect conservation district lands and other public lands and resources.⁴⁰¹ According to Justice Wilson, the state’s duty is “potentially undermined or extinguished under the new degradation principle.”⁴⁰² Letting the degradation principle inform its opinion, the majority:

[R]enders inconsequential the failure of the State to meet its constitutional duty to protect natural and cultural resources for future generations. It renders illusory the public trust duty enshrined in the Constitution of the State of Hawai‘i and heretofore in the decisions of this court to protect such resources. And its policy of condoning continued destruction of natural resources once the resource value has been substantially adversely impacted is contrary to accepted norms of the environmental rule of law.⁴⁰³

The dissent further criticized the majority for its failure to recognize and consider the intent of the existing legal framework concerning public trust lands and resources within conservation districts—“to conserve, protect, and preserve the important natural resources of the state through appropriate management and use to promote their long-term sustainability and the public health, safety, and welfare.”⁴⁰⁴ In its analysis and application of the law, the majority also ignored the Constitutional Convention delegates’ intent that the 1978 amendments expressly set forth the state’s obligation to conserve and protect all public lands and natural resources, including Native Hawaiians’ traditional and customary rights.⁴⁰⁵ Based on the foregoing, Justice Wilson warned that as a result of the majority’s flawed analysis, “one of the most sacred resources of the Hawaiian culture loses its protection because it had previously undergone substantial adverse impact from prior development of telescopes.”⁴⁰⁶

⁴⁰¹ *Id.* at 422, 431 P.3d at 795.

⁴⁰² *Id.* at 422 n.2, 431 P.3d at 795 n.2.

⁴⁰³ *Id.* at 423, 431 P.3d at 796.

⁴⁰⁴ *Id.* at 433, 431 P.3d at 806; *see* HAW. CONST. art. XI, §§ 1, 9; HAW. CONST. art. XII, § 7; HAW. REV. STAT. § 183C-1 (1978); HAW. CODE R. § 13-5-30(c)(4) (2011).

⁴⁰⁵ *See Mauna Kea II*, 143 Haw. at 411–12, 413 P.3d at 784–85 (Pollack, J., concurring). Justice Richard W. Pollack, however, in his concurring opinion, did consider the 1978 Constitutional Convention and delegates’ express intent regarding Article XI, section 1. *Id.* (“[T]he principle that public land is a natural resource within the meaning of article XI, section 1 has long been established under our law.”).

⁴⁰⁶ *See id.* at 422, 431 P.3d at 795 (Wilson, J., dissenting).

2. The majority’s narrow collective memory relieved the state of its constitutionally mandated duties.

Although Justice Wilson’s dissenting opinion did not refute the entire flawed history embraced by the majority, his opinion, focused on the degradation principle, purposefully portrayed a fuller picture of Maunakea’s past and criticized the majority for its failure to fully weigh the TMT’s implications.⁴⁰⁷ On the other hand, by failing to acknowledge the University’s and BLNR’s grave failures, thereby neglecting to hold the state accountable, the majority opinion resulted in the curtailment, or dilution, of Native Hawaiians’ rights despite their being guaranteed by the constitution and statutes.⁴⁰⁸

By the majority’s logic, the cumulative past is irrelevant. Thus, although the astronomical development on Maunakea has “resulted in substantial, significant and adverse impacts,” the court concluded TMT was still permissible because even if the TMT would exacerbate the already substantial, significant, and adverse impacts on the summit, the impacts of the TMT alone would only be “incremental” in comparison to the overall damage already done.⁴⁰⁹ Following this logic, the majority held that the TMT would not adversely impact cultural resources.⁴¹⁰ If applied to future cases, the majority’s reasoning allows for the state to ignore or dismiss its constitutional duties to Native Hawaiians and the general public if public trust and conservation lands are deemed to have already suffered enough “substantial, significant and adverse impacts[.]”⁴¹¹

In addition to artificially separating the TMT’s impacts from the history of all the existing observatories, the majority also failed to acknowledge the significance of the University’s history of mismanagement of the Mauna and its resources.⁴¹² In essence, the court ignored the state’s entire past of mismanagement mistakes.⁴¹³ Separating the present (TMT) from the past (thirteen existing telescopes and the University’s past behavior) effectively deemed the cumulative past irrelevant in determining

⁴⁰⁷ *Id.* at 421–34, 431 P.3d at 794–97.

⁴⁰⁸ *See id.* at 386, 395–98, 400–02, 431 P.3d at 759, 768–71, 773–75.

⁴⁰⁹ The court, citing *Kilakila III*, explains that “BLNR does not have license to endlessly approve permits for construction in conservation districts, based purely on the rationale that every additional facility is purely incremental.” *Id.* at 403–04, 431 P.3d at 776–77. But this rationale, which the court appears to refute is exactly the logic it deploys to justify permitting the TMT. *See id.*

⁴¹⁰ *Id.* at 404, 431 P.3d at 777.

⁴¹¹ *See id.* at 403, 431 P.3d at 776.

⁴¹² *See id.* at 386, 395–98, 400–02, 431 P.3d at 759, 768–71, 773–75.

⁴¹³ *See id.*

what justice entails for Native Hawaiians and Maunakea.⁴¹⁴ It concealed the genuine justice concerns shared by Kānaka Maoli and allowed for the majority to cast TMT as purely a benefit to the state and Native Hawaiians.⁴¹⁵

Justice Wilson's critical dissent brought into focus the entire impact of the area and considered the actual and potential implications of the observatories, including TMT, on Maunakea.⁴¹⁶ He began to tell a story more in line with Native Hawaiians' collective memory of injustice by comparing the state's history with and duty to Maunakea to those of Kaho'olawe.⁴¹⁷ Justice Wilson's consideration of the TMT's impacts to the entire summit, as well as his recognition of the University's mismanagement and lack of accountability, revealed, in part, the injustice that Native Hawaiians remember and that the majority's opinion masks.⁴¹⁸ Opposite the majority, the dissent's more complete account of history and its criticism of the "degradation principle" attempted to reinforce and uphold the state's constitutional duties under Hawai'i law.⁴¹⁹

3. The majority ignored traditions and customs exercised everywhere but within the exact footprint of the TMT project.

Chief Justice Richardson's seminal decisions upheld that the state's "resources should be held for the benefit of the public[.]"⁴²⁰ In *Mauna Kea II*, however, the majority abandoned CJ Richardson's legacy of protections for Native Hawaiian traditional and customary rights that were based on his pursuit of "justice for Hawai'i's native people and, indeed, for all people in our homeland."⁴²¹

The court's selective approach to history that undermined Native Hawaiians' claim to Maunakea is captured by a single sentence that contends: "various Native Hawaiian traditional and customary practices are derived from these beliefs, which have also led to related contemporary cultural practices."⁴²² The court's separation of "related contemporary" cultural practices from "traditional and customary" ones created a dichotomy that never existed and does not accurately reflect Native

⁴¹⁴ *See id.*

⁴¹⁵ *See id.*

⁴¹⁶ *Id.* at 422, 431 P.3d at 795 (Wilson, J., dissenting).

⁴¹⁷ *Id.*

⁴¹⁸ *See id.*

⁴¹⁹ *Id.*

⁴²⁰ MacKenzie, *Ka Lama Kū*, *supra* note 228, at 6.

⁴²¹ *See id.* at 15; *Mauna Kea II*, 143 Haw. at 395–98, 431 P.3d at 768–71.

⁴²² *See Mauna Kea II*, 143 Haw. at 385, 431 P.3d at 758.

Hawaiian cultural practices.⁴²³ Moreover, this superficial distinction between traditional and contemporary stands “contrary to legal understandings that Hawaiian cultural practices must evolve in contemporary times to support a living culture.”⁴²⁴

The court’s framing of cultural practices lends to the narrative, “a tired colonial trope, representing Indigenous Peoples as mere vestiges of a quickly fading and increasingly irrelevant past.”⁴²⁵ In essence, the court legitimizes the colonial narratives that cast Native Hawaiian culture as antithetical to progress and modernity.⁴²⁶ Moreover, the court’s mischaracterization of Native Hawaiian culture sets up the framework for the rest of its analysis that, in effect, invalidates Native Hawaiians cultural practices on Maunakea.⁴²⁷

Just as the court majority narrowed the scope of time in its evaluation of “history” and TMT’s potential impacts, it similarly narrowed the scope of physical space evaluated such that the TMT would appear not to affect Native Hawaiian traditional and customary rights on Maunakea. This narrowed scope further justified the majority’s conclusion the state did not violate its obligations under Article XI, section 1, Article XII, section 7, and HRS section 1-1 when it approved the TMT’s CDUP.⁴²⁸ In doing so, the majority’s conclusion ignored the Native Hawaiian principles that are the very foundation of Hawai‘i’s unique legal system that this state boasts.⁴²⁹ Further, *Mauna Kea II* departed from longstanding precedent and curtails the specific protections for Native Hawaiians’ rights incorporated into state law.⁴³⁰

Departing from Chief Justice Richardson’s precedent and legal legacy, the *Mauna Kea II* majority constricted its focus to look only at the

⁴²³ See *id.*; KIYUNA, *supra* note 156, at 7.

⁴²⁴ KIYUNA, *supra* note 156, at 7 (“Although Hawai‘i case law establishes that practitioners must demonstrate that a particular practice existed prior to 1892, this does not mean that traditional and customary rights are frozen in time and cannot take on new forms. Indeed, in the Declaration on the Rights of Indigenous Peoples, the United Nations affirmed that Native peoples retain the right to ‘practice and revitalize their cultural traditions and customs[,] . . . includ[ing] the right to maintain, protect, and develop the past, present, and future manifestations of their cultures.”).

⁴²⁵ See Goodyear-Ka‘ōpua, *Protectors of the Future*, *supra* note 25, at 184.

⁴²⁶ See generally *Rice v. Cayetano*, 528 U.S. 495 (2000); Burns, *supra* note 335; Avis Kuuipoleialoha Poai, *Tales from the Dark Side of the Archives: Making History in Hawai‘i without Hawaiians*, 39 U. HAW. L. REV. 537 (2017) (analyzing “the histories that have been told about Native Hawaiians by attorneys, judges, and scholars”).

⁴²⁷ See *Mauna Kea II*, 143 Haw. at 385, 431 P.3d at 758.

⁴²⁸ *Id.* at 395–98, 431 P.3d at 768–71.

⁴²⁹ See MacKenzie, *Ka Lama Kū*, *supra* note 228, at 6.

⁴³⁰ See *Mauna Kea II*, 143 Haw. at 395–98, 431 P.3d at 768–71.

specific area that TMT would occupy.⁴³¹ By narrowing its scope and considering the proposed observatory site in isolation, the majority constricted the *Ka Pa‘akai* analysis to conclude that there was no evidence that the site was used to store or bury artifacts, that ahu or lele (sacrificial altars or stands)⁴³² existed, or that mele or hula were performed there.⁴³³ This constricted focus on the specific site proposed for the TMT Observatory conveniently narrowed the scope so much so that it excluded Native Hawaiians—along with their well-documented cultural traditions and customs—from the analysis.⁴³⁴ Doing such contradicted *Kalipi* and subsequent precedents that consistently upheld Native Hawaiians’ rights.⁴³⁵

The majority cited the evidence—testimony, research studies, plans, and impact assessments—provided by BLNR to examine the extent of cultural practices that took place on Maunakea.⁴³⁶ The majority acknowledged the cultural practices of Native Hawaiians on the Mauna’s summit by summarizing some of BLNR’s findings that:

Native Hawaiian cultural practitioners on Mauna Kea conduct their practices at the summit of Mauna Kea (Pu‘u Wēkiu), Lake Waiau, Pu‘u Līlīnoe, or Kūkahau‘ula. Cultural practices at Mauna Kea include solstice and equinox observations on Pu‘u Wēkiu, burial blessings, depositing of piko (umbilical cord) near Lake Waiau as well as collection of its water for use in healing and ritual practices, the giving of offerings and prayers at the ahu lele (sacrificial altar or stand), behind the visitor center adjacent to Hale Pōhaku,

⁴³¹ See Memorandum in Support of Motion, at 9, In re Contested Case Hearing re Conservation Dist. Use Application (CDUA) Ha-3568 for the Thirty Meter Telescope at the Mauna Kea Sci. Res. No. SCOT-17-0000777 (Nov. 19, 2017) [hereinafter Native Hawaiian Amici Brief]; *Ka Pa‘akai O Ka ‘Āina v. Land Use Comm’n*, 94 Haw. 31, 47–49, 7 P.3d 1068, 1084–86 (2000) (stating that the “petition area” relevant to the court’s analysis comprised 1,009.086 acres of land, the reclassification of which was in dispute); In re ‘Iao Ground Water Management Area High-Level Source Water Use Permit Applications, 128 Haw. 228, 248–49, 287 P.3d 129, 149–50 (2012) [hereinafter *Nā Wai ‘Ehā*]; *Wai‘ola*, 103 Haw. 103 Haw. 401, 401, 424, 426, 83 P.3d 664, 664, 687, 689 (2004).

⁴³² HAWAIIAN DICTIONARY, *supra* note 1, at 8, 201.

⁴³³ *Mauna Kea II*, 143 Haw. at 396, 431 P.3d at 769.

⁴³⁴ *See id.*

⁴³⁵ *See Ka Pa‘akai*, 94 Haw. at 47–49, 7 P.3d at 1084–86; *Nā Wai ‘Ehā*, 128 Haw. at 248–49, 287 P.3d at 149–50; *Wai‘ola*, 103 Haw. at 424, 426, 83 P.3d at 687, 689; *Mauna Kea II*, 143 Haw. at 396, 431 P.3d at 769; *see also* Native Hawaiian Amici Brief, *supra* note 431, at 8–12.

⁴³⁶ *Mauna Kea II*, 143 Haw. at 395–98, 431 P.3d at 768–71.

monitoring or observing the adze quarry, or observing stars, constellations, and the heavens.⁴³⁷

Despite acknowledging the many Native Hawaiian practices that take place atop Maunakea, the majority quickly turned around to conclude that none of those practices were relevant in assessing the TMT’s impact on cultural resources or traditional and customary practices.⁴³⁸

The majority, in accord with BLNR’s assertions, narrowed its analysis to what it called the “relevant area,” which included only the proposed TMT Observatory site area and the Access Way.⁴³⁹ Thus, the court concluded that there were no Native Hawaiian cultural practices, artifacts, or structures found in the “relevant area.”⁴⁴⁰ The majority noted that there were ahu erected in the vicinity of the project but wrote those off as irrelevant because they were not within the narrowly construed “relevant area,” as well.⁴⁴¹

With little explanation, the majority further concluded that the two ahu constructed on the Access Way by Kia‘i in 2015 to protect Maunakea “did not constitute a traditional and customary right or practice.”⁴⁴² The majority did not discuss whether Native Hawaiians were consulted to reach this conclusion, or whether this practice—of building ahu to protect sacred land—was a tradition or custom.⁴⁴³ The majority also did not fully consider or address the cultural practice of refraining from going to Maunakea’s summit in wao akua.⁴⁴⁴ The majority ignored these factors, and instead constructed a narrative that the apparent absence of Kānaka from the “relevant area” justified denying Native Hawaiians’ claims to Maunakea and permitting continued development on Maunakea.⁴⁴⁵

Even where the majority took a broader approach and recognized that Native Hawaiian cultural practices did indeed take place on Maunakea, the court emphasized that those practices have “coexisted” alongside the astronomy facilities at the summit.⁴⁴⁶ The majority did not include that, for decades preceding TMT’s conception, Kānaka and others urged to halt any

⁴³⁷ *Id.* at 396, 431 P.3d at 769.

⁴³⁸ *Id.*

⁴³⁹ *Id.*

⁴⁴⁰ *Id.*

⁴⁴¹ *Id.*

⁴⁴² *Id.*

⁴⁴³ *Id.* at 395–98, 431 P.3d at 768–71.

⁴⁴⁴ *See id.*

⁴⁴⁵ *See id.*

⁴⁴⁶ *Id.* at 397, 431 P.3d at 770.

further development of telescopes on Maunakea.⁴⁴⁷ Nor did it include Native Hawaiians' early concerns that the mountain would become "overcrowded" by outsiders who do not share the same concerns regarding protection of the natural and cultural resources or "preserv[ation of] the valuable history of the mountain."⁴⁴⁸ The majority also omitted the many state officials' statements admitting the University's and state's failures on Maunakea, including Governor Ige's concession that "[w]hether you see it from a cultural perspective or a natural resource perspective, we [state officials] have not done right by a very special place."⁴⁴⁹

On the contrary, the majority assumed that since previous observatories had "co-existed" alongside "Native Hawaiian uses," the TMT would not "curtail or restrict" any Native Hawaiian practices.⁴⁵⁰ The majority conveniently forgot Native Hawaiians' vehement opposition to development on Maunakea at the turn of the 21st century, or that astronomers had previously resigned from or declined work at observatories on Maunakea in response to the mistreatment of Indigenous resources and issues by other astronomers.⁴⁵¹ These "forgotten" stories refute the majority's flawed memory of Native Hawaiians coexisting with and consenting to the already-existing facilities on the mountain.⁴⁵²

With the majority's inscription of its flawed narrative into law, the court constructed and legitimized a "memory" of Maunakea devoid of Native Hawaiians.⁴⁵³ The opinion adds to the Western-produced historical accounts and narratives that minimize Native Hawaiians' presence in Hawai'i's history.⁴⁵⁴ The erasure of Native Hawaiians and their cultural practices from Maunakea supports the state's and court's presumption that no harm would be done by the TMT.⁴⁵⁵ "Limiting the analysis of Native

⁴⁴⁷ See *id.* at 385, 431 P.3d at 758. In 1976, members of the local community and state and city officials recommended that the BLNR cap the number of telescopes on the mountain to those six already existing facilities. Letter from Managing Director John Keppeler, County of Hawai'i, to Chairman Christopher Cobb, Bd. Land Nat. Res. (Sept. 16, 1976).

⁴⁴⁸ Bean & Duquette, *supra* note 192.

⁴⁴⁹ Governor David Ige, *The Mauna Kea Story* (May 26, 2015), <https://governor.hawaii.gov/main/governor-iges-transcribed-Mauna-kea-story/>.

⁴⁵⁰ *Mauna Kea II*, 143 Haw. at 402, 431 P.3d at 775.

⁴⁵¹ Usha Lee McFarling, *Science, Culture Clash Over Sacred Mountain*, L.A. TIMES (Mar. 18, 2001), <https://www.latimes.com/archives/la-xpm-2001-mar-18-mn-39418-story.html>.

⁴⁵² See Flores Testimony, *supra* note 293; Rios Testimony, *supra* note 293; Pisciotta Testimony, *supra* note 295.

⁴⁵³ See generally *Mauna Kea II*, 143 Haw. 379, 431 P.3d 752.

⁴⁵⁴ See generally *id.*

⁴⁵⁵ Native Hawaiian Amici Brief, *supra* note 431, at 12.

Hawaiian rights only to the TMT site” in the way the majority did “emasculates the law and not only deprives these rights fundamental justice, but essentially erases them from recognition.”⁴⁵⁶

In its narrow analysis of traditional and customary rights on Maunakea, the majority perpetuated the narrative—often proffered by those who take issue with Kānaka Maoli’s “recent” mobilization to protect Maunakea⁴⁵⁷—that traditional and customary practices have “co-existed” on the summit alongside astronomy for decades.⁴⁵⁸ In an act of erasure of Native Hawaiians, the *Mauna Kea II* majority concluded that since previous observatories had been “compatible”⁴⁵⁹ and “co-existed” with Native Hawaiian practices, so would the TMT.⁴⁶⁰

Native Hawaiians, publicly and through formal testimony, have sought to counter these narratives that falsely assume the compatibility of astronomical structures on sacred land and the ability for such developments to co-exist with Native Hawaiian culture.⁴⁶¹ Rather than remembering past observatories as compatible with the land and land-based cultural practices, Kia‘i’s stories reminded us that Kānaka Maoli consented neither to the existing observatories nor the TMT, nor did any of the telescope developers meaningfully consult with Native Hawaiians or involve Kānaka in the processes of developing these projects.⁴⁶²

Native Hawaiians seeking to protect Maunakea criticized that these developments never “co-existed” but have actually threatened cultural practices.⁴⁶³ And petitioners urged that the need for the *Mauna Kea II* case only existed because of the state’s unwillingness to listen to and recognize petitioners’ claims that observatories never co-existed with Native

⁴⁵⁶ *Id.*

⁴⁵⁷ Kealoha Pisciotta testified that the movement to protect Maunakea gained traction in the past decade as a result of “the perfect storm.” Pisciotta Testimony, *supra* note 295, at 4. After decades of legal challenges, public hearings, and heartfelt testimonies, Kia‘i used media to disseminate their message and start reshaping the public consciousness across Hawai‘i. *Id.*

⁴⁵⁸ *Mauna Kea II*, 143 Haw. at 302, 431 P.3d at 775.

⁴⁵⁹ *See id.* (finding that the TMT met the permit requirement under HAR § 13-5-24(c)(5) that “[t]he proposed land use . . . shall be compatible with the locality and surrounding areas”).

⁴⁶⁰ *See id.* at 302–03, 431 P.3d at 775–76.

⁴⁶¹ Written Direct Testimony of B. Pualani Case 1 (Oct. 11, 2016), *available at* <https://dlnr.hawaii.gov/mk/files/2016/10/B.21a-wdt-Case.pdf> [hereinafter Case Testimony]. “Nor did [scientists] ask permission to [build observatories/TMT] from the caretakers of that sacred place, and the mountain does have kahus.” *Id.*

⁴⁶² *Id.*

⁴⁶³ *Id.* at 1–4; Ward Testimony, *supra* note 347, at 14, 17–18.

Hawaiian traditions and customs on Maunakea.⁴⁶⁴ Kealoha Pisciotta lamented, “Native Hawaiians have watched the University repeatedly erect telescopes on Mauna Kea over and against their protests and patient explanations of the site’s sacred importance.”⁴⁶⁵ Others also recall their efforts over the past decades to “remed[y] the habitat loss, the repeated pollution accidents, the introduction of multiple alien predators and weeds, the permanent and irreversible alteration of the geologic terrain.”⁴⁶⁶ Time and again, however, Kia‘i’s pleas have fallen on the state’s deaf ears.⁴⁶⁷

In its unprecedented approach, the majority limited the scope of its analysis to the TMT’s specific footprint and curtailed protections for Native Hawaiian traditional and customary rights.⁴⁶⁸ The court’s narrative not only shapes how we remember history but also influences how history will be evaluated under the law, and how the law will apply to future cases. The court’s formalist approach⁴⁶⁹ ignored the broader context of this issue as well as the real-life impacts the court’s decision would inflict. This formalist approach separates legal rules from their political and social implications and is particularly easy for courts to employ.⁴⁷⁰ By stripping away the surrounding context, courts—and other decisionmakers—can readily replicate unjust laws as well as the stories (i.e., collective memories), flawed or not, that originally justified them.⁴⁷¹ The history transcribed by the court and the majority’s conclusion in *Mauna Kea II* illuminate the importance of collective memory in struggles for justice.⁴⁷² The controversy over Maunakea is a testament to the court’s power and readiness to “filter and twist, recall and forget ‘information’ in reframing shameful past acts (thereby lessening responsibility)” to also define and enact “justice” in a way that does not actually redress Native Hawaiians’ rights claims.⁴⁷³

⁴⁶⁴ See Ward Testimony, *supra* note 347, at 5.

⁴⁶⁵ Mauna Kea Anaina Hou Proposal, *supra* note 317, at 50 ¶ 253.

⁴⁶⁶ Ward Testimony, *supra* note 347, at 5.

⁴⁶⁷ See *id.*

⁴⁶⁸ See *Mauna Kea II*, 143 Haw. 379, 302–03, 431 P.3d 752, 775–76 (2018)..

⁴⁶⁹ Legal formalism is “a theory that legal rules stand separate from other social and political institutions. According to this theory, once lawmakers produce rules, judges apply them to the facts of a case without regard to social interests and public policy. In this respect, legal formalism differs from legal realism.” *Legal Formalism*, LEGAL INFO. INST., https://www.law.cornell.edu/wex/legal_formalism.

⁴⁷⁰ See *id.*

⁴⁷¹ See Yamamoto et al., *supra* note 94, at 21; Hom & Yamamoto, *supra* note 5, at 1764–65.

⁴⁷² See *Mauna Kea II*, 143 Haw. at 302–03, 431 P.3d at 775–76.

⁴⁷³ See Hom & Yamamoto, *supra* note 5, at 1758.

The state’s intentional exclusion of the surrounding area ignored a history of Native Hawaiian customs and traditions involving Maunakea.⁴⁷⁴ Consequently, by looking only at the “application area” and holding that Native Hawaiian practitioners did not meet their burden to show the summit was essential for traditional and customary practices,⁴⁷⁵ the majority subverted the *Ka Pa‘akai* analysis and weakened protections for Native Hawaiians traditional and customary rights.⁴⁷⁶ This approach is contrary to the court’s analysis in *Ka Pa‘akai*, *Na Wai ‘Ehā*, and *Wai‘ola*, all three of which affirmed the state’s affirmative duty to adequately consider and protect Native Hawaiians rights.⁴⁷⁷

The majority’s legal conclusions derived, in large part, from the history the court itself constructed.⁴⁷⁸ Thus, by putting blinders on to avoid the surrounding summit area, the court relieved the state of its public trust duties, including the obligation to protect traditional and customary rights.⁴⁷⁹ The court’s holding that BLNR met its constitutional duties—despite the actual and potential implications of its decision (i.e., ignoring relevant cultural practices; limiting the scope of analysis in a way that favors development; irreversible damage to the summit environment and natural resources)—absolved the state of its duty all together.⁴⁸⁰

The majority abandoned the well-documented intent of Constitutional Convention delegates who sought to protect the “integral part[s] of ancient Hawaiian civilization” that are “retained by its descendants.”⁴⁸¹ And opposite its own precedent, the court “narrowly construed” and “ignored” Native Hawaiians rights enshrined in Article XII, section 7.⁴⁸² The court’s problematic framing of present-day cultural

⁴⁷⁴ See *Mauna Kea II*, 143 Haw. at 302–03, 431 P.3d at 775–76.

⁴⁷⁵ Hearing Officer Amano Proposal, *supra* note 273, at 242 COL 346. Misinterpreting the state’s affirmative duty to protect traditional and customary rights, Hearing Officer Amano incorrectly concluded that “Petitioners and Opposing Intervenors have not established by reliable, probative, substantial and credible evidence that their practices—whether characterized as contemporary, customary or traditional—will be adversely affected by the TMT Project.” *Id.*

⁴⁷⁶ *Mauna Kea II*, 143 Haw. at 322, 431 P.3d at 795 (Wilson, J., dissenting).

⁴⁷⁷ See *Ka Pa‘akai O Ka ‘Āina v. Land Use Comm’n*, 94 Haw. 31, 47–49, 7 P.3d 1068, 1084–86 (2000); *Nā Wai ‘Ehā*, 128 Haw. 228, 248–49, 287 P.3d 129, 149–50; *Wai‘ola*, 103 Haw. at 401, 424, 426, 83 P.3d at 664, 687, 689 (2004).

⁴⁷⁸ See generally *Mauna Kea II*, 143 Haw. 379, 431 P.3d 752.

⁴⁷⁹ See *id.* at 395–98, 431 P.3d at 768–71.

⁴⁸⁰ See *id.*

⁴⁸¹ See Hawaiian Affairs Comm., Standing Comm. Rep. No. 57, reprinted in 1 PROCEEDINGS OF THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978, at 637, 640 (1980).

⁴⁸² See *id.*; see also *Pele Def. Fund v. Paty*, 73 Haw. 578, 619–20, 837 P.2d 1247,

practices as separate from those practiced by earlier Kānaka distorted the way traditions and customs have been perpetuated and passed down between generations of Kānaka Maoli.⁴⁸³ It presumed that traditional practices are frozen in the past, not “retained” in the present and for the future, and that the culture practiced by Native Hawaiians today is not legitimate and does warrant protection.⁴⁸⁴

Further, the court’s analysis drastically departs from principles that have guided it in evaluating these fundamental protections. As Native Hawaiians argue, and as previous cases have upheld, Native Hawaiian traditions and customs that are practiced have adapted, and must continue to adapt, to changing times.⁴⁸⁵ For instance, in *Palama v. Sheehan* (1968), the Richardson court upheld the exercise of rights along an ancient trail by vehicle rather than restricting use to horses and pedestrians as it was used around 1850.⁴⁸⁶ The Hawai’i Supreme Court also held in *PASH* that “notwithstanding arguable abandonment of a particular site, . . . traditional and customary practices remain[] intact[.]”⁴⁸⁷ Therefore, even if there was a gap in time between exercising these rights on Maunakea—as a result of “stresses . . . in the form of dispossession, displacement, legal and moral prohibition and more”⁴⁸⁸—“continuous exercise is not required[.]”⁴⁸⁹ Rather than interpreting these adaptations as traditions and customs that have been “retained”⁴⁹⁰ and “evolved over time[.]”⁴⁹¹ the majority’s construing these adaptations merely as “contemporary Native Hawaiian practices that derive from . . . traditional and customary rights” threatens extinguishing them.⁴⁹² “Affirming the continuation of traditional and

1271 (1992), *cert. denied* 507 U.S. 918 (1993).

⁴⁸³ See KİYUNA, *supra* note 156, at 2–5.

⁴⁸⁴ *Id.*

⁴⁸⁵ See *Palama v. Sheehan*, 50 Haw. 298, 440 P.2d 95 (1968).

⁴⁸⁶ See *generally id.*; see also Forman & Serrano, *supra* note 216, at 817 (discussing *Palama*); Native Hawaiian Amici Brief, *supra* note 431, at 7.

⁴⁸⁷ *PASH*, 79 Haw. 425, 450, 903 P.2d 1246, 1271 (1995). *PASH* qualifies its holding by including that “this right is potentially subject to regulation in the public interest.” *Id.*

⁴⁸⁸ Native Hawaiian Amici Brief, *supra* note 431, at 8.

⁴⁸⁹ *PASH*, 79 Haw. at 450, 903 P.2d at 1271.

⁴⁹⁰ See Hawaiian Affairs Comm., Standing Comm. Rep. No. 57, *reprinted in* 1 PROCEEDINGS OF THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978, at 637, 640 (1980).

⁴⁹¹ Native Hawaiian Amici Brief, *supra* note 431, at 8.

⁴⁹² *Id.*; see *Mauna Kea II*, 143 Haw. 379, 385, 431 P.3d 752, 758 (2018).

cultural practice is useless if there are no actual protections provided for practitioners to continue their practices.”⁴⁹³

Taking everything into account, the court, in its analysis of traditional and customary rights exercised on Maunakea’s summit, reinscribed a colonial history into law and deployed those colonial narratives to justify ignoring its own precedent and changing the law itself to promote the development of the TMT on sacred land.⁴⁹⁴

C. *The majority failed to acknowledge the TMT controversy within the context of colonization and its lasting impacts for Kānaka Maoli.*

Kānaka Maoli relate the injustices of Maunakea back to a pattern of colonial “projects” developed in Hawai‘i. In contrast to the court’s extremely limited scope in evaluating “history” and Native Hawaiians’ rights to Maunakea, Kānaka—looking at the broader implications of colonization—understand this controversy as an episode in an ongoing series of injustices against Native Hawaiians. Kānaka Maoli’s collective memory of injustice of astronomy on Maunakea is therefore not just about Maunakea.⁴⁹⁵ The “ongoing violation of Hawaiians’ religious and cultural attachments to Mauna Kea is linked to colonial, systemic deprivation of self-determination that is materially detrimental to Native Hawaiian[s].”⁴⁹⁶

Kia‘i argued that the collective memory of Maunakea cannot be separated from many of the other past harms Native Hawaiians suffered as a result of colonization.⁴⁹⁷ Native Hawaiian musician and scholar Dr. Jonathon Osorio explained the state’s role in perpetuating the legacy of colonization in Hawai‘i:

Since the takeover of our country, we Kānaka Maoli have witnessed the steady and lately, spectacular erosion of our presence on the land that only [four] generations ago was exclusively ours. But of far greater concern, is that neither government nor public interests today effectively regulate the use of our lands in any meaningful way. To put this baldly, the lands of Hawai‘i have been offered up for speculation and to fuel expensive capital projects and neither environmental cautions [nor] community concerns [] have

⁴⁹³ Pisciotta Testimony, *supra* note 295, at 11.

⁴⁹⁴ *See generally Mauna Kea II*, 143 Haw. 379, 431 P.3d 752.

⁴⁹⁵ *See Mauna Kea Anaina Hou Proposal*, *supra* note 317, at 100 COL 1095.

⁴⁹⁶ *Id.*

⁴⁹⁷ *See, e.g., Ward Testimony*, *supra* note 347, at 18; Written Direct Testimony of Jonathan K. Kamakawiwo‘ole Osorio 2 (Oct. 10, 2016), *available at* <https://dlnr.hawaii.gov/mk/files/2016/10/B.07a-Osorio-WDT.pdf> [hereinafter Osorio Testimony]. Dr. Osorio is also the Dean of Hawai‘inuiākea School of Hawaiian Knowledge at the University of Hawai‘i Mānoa.

been able to balance the political trend away from the knee-jerk approvals of development Public resistance to the construction of the [TMT] on Mauna Kea must be understood within all of these historical contexts.⁴⁹⁸

Sharing a sentiment felt by many Kānaka Maoli, hula master and Maoli educator Dr. Pualani Kanaka‘ole Kanahale bemoaned the continued desecration of Maoli lands: “For the economy, we have given up all of our sacred spaces.”⁴⁹⁹

Thus, for Kānaka Maoli, challenging the TMT also means having to challenge that larger narrative concerning colonization, which, as demonstrated by *Mauna Kea II*, is often excluded by decisionmakers in considering present rights claims. Regardless, Native Hawaiians challenged the “racialized images inscribed in and reproduced through law that continue to foster systemic, present-day exclusion” of Kānaka Maoli in matters concerning Maunakea and other Maoli lands.⁵⁰⁰

VI. KŪ KIA‘I MAUNA: KĀNAKA MAOLI’S EFFORT TO PROTECT MAUNAKEA AND RESHAPE PREDOMINATING NARRATIVES

In their effort to bolster their familial, spiritual, and legal claims to Maunakea, Kia‘i testified before BLNR, the court, and the public to reshape the narrative that has paved the way for the approval of the TMT. Set against a backdrop of unresolved issues dating back to the beginnings of colonization, this battle—as well as “future disputes over land and development in Hawai‘i”—is happening “within a context of growing resentment of the state’s failure to protect vulnerable communities and willingness to ignore inconvenient regulations in its rush to approve sizable capital projects,”⁵⁰¹ as well as Native Hawaiians’ “increasing impatience with the state’s management of our [ancestral] lands.”⁵⁰²

With this controversy hinging on which collective memory prevails, *Mauna Kea II* is actually a conflict “between people who see the history and future of Hawai‘i very differently.”⁵⁰³ As Kānaka Maoli see it, the collective memory of Maunakea and Native Hawaiians will determine how Hawai‘i reconciles “a ruptured past, contentious present, and very uncertain

⁴⁹⁸ Osorio Testimony, *supra* note 497, at 2.

⁴⁹⁹ Ward Testimony, *supra* note 347, at 18.

⁵⁰⁰ See Serrano, *supra* note 115, at 425.

⁵⁰¹ Osorio Testimony, *supra* note 498, at 3.

⁵⁰² *Id.*

⁵⁰³ *Id.* at 1.

future.”⁵⁰⁴ Although Kānaka Maoli hoped the court might serve as a site of “cultural transformation” in this battle, the *Mauna Kea II* majority only reaffirmed colonizers’ narratives and the status quo.⁵⁰⁵ By purposefully narrowing the scope of its investigation of history, the court and “the legal process reinforce[d] inequality [and the] power imbalance” between Kānaka Maoli and the private interests that the state favored.⁵⁰⁶ Equally important, the court shared a public message that shapes larger societal understandings and policy actions over time.⁵⁰⁷

The court’s intentional framing of Maunakea’s narrative—justifying increased development on an already significantly, substantially, and adversely impacted sacred space and arbitrary limitations on Native Hawaiians’ traditional and customary rights—poses grave implications. The over-development of the kapu area would result in detrimental changes to the “environmental forms” of akua (i.e., the resources and elements on Maunakea), negatively affecting the landscape and changing the summit’s climate.⁵⁰⁸ With the deep connection Kānaka Maoli have with the mountain and its resources and elements that exist there, the “irreparable harm caused by the TMT Project will include . . . [p]sychological harms caused by the desecration of a [sacred] site[.]”⁵⁰⁹ Such harms, to “the feeling associated with sites and the cultural practices associated . . . cannot be mitigated.”⁵¹⁰

On a spiritual level, because Kānaka Maoli know Maunakea is an ancestor that must be cared for, the TMT would sever “connection[s] . . . between the ancestral and human realm. Information shared between us, and knowledge passed down ancestrally would be lost. Interaction between the mountain and the human would be diminished like a loss of a family member, and the death of a way of life.”⁵¹¹ Further desecration of the summit by the TMT “harm[s Native Hawaiians’] ability to transmit knowledge about who they are in relation to this place to future generations.”⁵¹² Thus, for present and future Kānaka, the TMT is a desecration to Maunakea that would “harm the ability of kānaka to be fully

⁵⁰⁴ *Id.*

⁵⁰⁵ See YAMAMOTO ET AL., RACE, RIGHTS, & REPARATIONS: LAW AND THE JAPANESE AMERICAN INTERNMENT 251 (2001).

⁵⁰⁶ Yamamoto et al., *supra* note 94, at 17–18.

⁵⁰⁷ See *id.* at 33–34 n. 53–54.

⁵⁰⁸ See Case Testimony, *supra* note 462, at 5.

⁵⁰⁹ Flores-Case Proposal, *supra* note 144, at 104–05 FOF 750.

⁵¹⁰ *Id.*

⁵¹¹ Case Testimony, *supra* note 462, at 6; Flores-Case Proposal, *supra* note 144, at 103 FOF 740.

⁵¹² Flores-Case Proposal, *supra* note 144, at 107 FOF 765.

kānaka.”⁵¹³ As explained by Maoli scholar and educator Dr. Noelani Goodyear-Ka‘ōpua,

Aloha ‘āina has been a practice of Kanaka Maoli survivance for generations, and it is based on the undretanding tht lands, incuding Mauna a Wākea, are familial kin . . . Kānaka Maoli are not just related to the land but are indeed part of it. The health of kānaka and their cultural identities is directly tied to the health of the land and is thus harmed when the ‘āina is harmed.⁵¹⁴

The TMT’s “irreparable harms” will extend to and impact future generations of Kānaka by “inhibit[ing] and harm[ing]” the “kuleana relationships between Kānaka Maoli and this Mauna” that Native Hawaiian practitioners and educators have been “trying to preserve and perpetuate[.]”⁵¹⁵

But the battle over Maunakea, and its collective memory, continues. Although their memory did not prevail in the Hawai‘i Supreme Court, the battle over Maunakea—and its collective memory—continued outside the state’s formal adjudicative processes.⁵¹⁶ Native Hawaiians have since looked beyond the court for ways to “publicize counter narratives that challenge dominant understandings, or master narratives” about Native Hawaiians and their justice claims.⁵¹⁷ While the majority opinion might be considered the “prevailing” collective memory, Kānaka Maoli’s most recent stand to protect Maunakea challenges that narrative in the public domain. To support their claims to Maunakea, Kānaka Maoli challenged the TMT at demonstrations across the Hawaiian archipelago and through a media campaign that reached international audiences and challenged mainstream narratives of Native Hawaiians.⁵¹⁸

A movement in the making, over 300 Kānaka Maoli—from Hawai‘i Island and beyond—mobilized in the early hours of July 17, 2019 to block the Mauna Kea Access Road and halt the TMT’s planned start of construction.⁵¹⁹ Some Kānaka Maoli chained themselves across

⁵¹³ *Id.*

⁵¹⁴ *Id.*

⁵¹⁵ *Id.*

⁵¹⁶ See Yamamoto et al., *supra* note 94, at 21–25.

⁵¹⁷ See *id.*

⁵¹⁸ See *infra* notes 534–548 and accompanying text.

⁵¹⁹ Michael Brestovansky, *Dozens of Kupuna Arrested on Third Consecutive Day of TMT Protest*, HAW. TRIB.-HERALD (July 18, 2019), <https://www.hawaiitribune-herald.com/2019/07/18/hawaii-news/dozens-of-kupuna-arrested-on-third-consecutive-day-of-tmt-protest/>.

cattleguards, while others stood arm in arm.⁵²⁰ Kūpuna comprised the frontline of the blockade.⁵²¹ These Kia‘i committed to peacefully resist the state-sanctioned desecration while remaining in kapu aloha, a discipline “rooted in dignity and humanity” and a code of conduct that allow Kānaka Maoli, by acting only with love and kindness, to honor the sanctity of Mauna a Wākea.⁵²²

Denouncing Native Hawaiians’ actions as “lawlessness,” law enforcement, equipped with riot gear, confronted Kia‘i and arrested thirty-three Kūpuna, raising tensions among the broader community.⁵²³ That same day, Governor Ige declared a statewide proclamation of emergency “to ensure the execution of law [and] suppress or prevent lawless violence.”⁵²⁴ Highlighting the ongoing battle over collective memory of injustice, Governor Ige intimated that Kia‘i, the Native people of this land, were “illegally occup[ying]” space on the Mauna.⁵²⁵ The court’s decision—based on the selective history it inscribed—is, thus, also a “public message” that TMT supporters, including Governor Ige, can rely on to further deny justice to Native Hawaiians while simultaneously labelling them vagrants for violating the “rule of law.”⁵²⁶

⁵²⁰ *Id.*

⁵²¹ *Id.*

⁵²² *Kapu Aloha: A Guiding, Transformational, and Liberating Force*, PUUHONUA PUUHULUHULU (Sept. 23, 2019), <https://www.youtube.com/watch?v=AX7kTOHNjYU>. Andre Perez and Pualani Case describe kapu aloha as sacred conduct required of the sacred space they seek to protect. *Id.* Kapu aloha demands and interconnects honor, respect, and reverence not just to other people but to the entire surrounding environment. *Id.* On the mountain, it is used as a philosophy of non-violent direct action. *Id.* With kapu aloha as a guiding principle, Kia‘i “engage in civil resistance [while] demonstrating aloha for the opposition, for each other, and for their land.” *Id.*

⁵²³ Brestovansky, *supra* note 521. “To see some of our most respected kupuna, advocates and ‘ohana get arrested for voicing the same concerns our community has expressed for decades over the state’s mismanagement of Maunakea brings a kaumaha (heaviness) to our hearts that is unbearable.” *OHA Statement on Today’s Arrest of Kūpuna and Others on Maunakea*, OFF. OF HAWAIIAN AFFS. (July 17, 2019), <https://www.oha.org/news/oha-statement-on-todays-arrest-of-kupuna-others-on-maunakea/>.

⁵²⁴ Proclamation, Office of the Governor, State of Hawai‘i (July 17, 2019), *available at* <https://governor.hawaii.gov/wp-content/uploads/2019/07/1907086-Mauna-Kea.pdf>. On July 30, 2019—after the state granted a 2-year extension of the CDUP deadline for initiation of construction—Governor Ige rescinded the emergency proclamation “because there are no immediate plans to move heavy construction equipment” to the proposed TMT site. Withdrawal of Proclamation, Office of the Governor, State of Hawai‘i (July 30, 2019), *available at* <https://governor.hawaii.gov/wp-content/uploads/2019/07/Withdrawal.pdf>.

⁵²⁵ *See* Proclamation, Office of the Governor, *supra* note 524.

⁵²⁶ *See* Yamamoto et al, *supra* note 94, at 21–25; Lorraine R. Inouye, *Inouye to Ige: It’s Time*, HAW. TRIB.-HERALD (Aug. 20, 2019), <https://www.hawaiitribune->

Uncritical of the majority's regressive opinion, TMT supporters, and other bystanders, claim that the rule of law justifies the harassment of Kia'i by law enforcement and the state. Their critiques—that Kia'i are over-emotional and stuck in the past—perpetuate tired “colonial tropes [that] point to the sense of American exceptionalism brought with the U.S. occupation of Hawai'i.”⁵²⁷ They “see irrational people who fail to see the unique opportunity TMT can provide to Hawai[‘i] and the world.”⁵²⁸ Emboldened by *Mauna Kea II*, they ask, “[i]f the legal process is thwarted by a vocal minority, what about the rule of law?”⁵²⁹ But, as Critical Race Theorists and Professors Mari Matsuda and Charles Lawrence III articulated, “settled law can give way when a committed minority heeds the justice call.”⁵³⁰

By taking their stand to protect Maunakea, despite criticisms relying on *Mauna Kea II* and the flawed narratives it impressed, Kia'i actively worked to reshape the collective memory of injustice of Maunakea and Kānaka Maoli. And despite the state's attempt to quash the movement along with Native Hawaiians' justice claims, the organized movement quickly grew.⁵³¹ Kia'i committed to living on the Mauna at Pu'uhonua o Pu'uhuluhulu for as long as necessary.⁵³² While braving the harsh climate

herald.com/2019/08/20/opinion/inouye-to-ige-its-time/ (“We cannot pick and choose. Laws must be followed, all laws, all the time . . . TMT has gone through unprecedented review . . . [B]locking the road, stopping TMT and shutting down astronomy will only impede these [essential human rights issues]—and further divide our community.”); Sherry Menor-McNamara, *Column: Stonewalling TMT Would Undermine the Rule of Law*, HONOLULU STAR ADVERTISER (Aug. 4, 2019) (“From a legal and regulatory process standpoint, the rule of law must stand. Undermining the integrity of our judicial system undermines our democracy . . . From a business and economic standpoint, certainty and fairness are key to doing business in Hawaii. Approved projects such as TMT have gone through the proper process and should not be stopped after the fact.”).

⁵²⁷ See Iokepa Casumbal-Salazar, *A Fictive Kinship: Making “Modernity,” “Ancient Hawaiians,” and the Telescopes on Mauna Kea*, U. OF MINN. PRESS, <https://www.upress.umn.edu/book-division/images/other-images/a-fictive-kinship-making-modernity-ancient-hawaiians-and-the-telescopes-on-mauna-kea>.

⁵²⁸ See Robert Kekuna, *Column: Stopping TMT Won't Help Hawaiians Much*, HONOLULU STAR ADVERTISER (Aug. 18, 2019) (“[W]hen I see [Kānaka Maoli] protesting . . . I see the accumulation of decades of pain, hurt and resentment, passed down through generations.”).

⁵²⁹ Charles Lawrence & Mari Matsuda, *Column: Civil Disobedience Has Changed the Law*, HONOLULU STAR ADVERTISER (Aug. 18, 2019).

⁵³⁰ *Id.* (“As Hawaii confronts a climate apocalypse we are woefully ill-equipped for, we face annihilation if we cannot learn kapu aloha and a new rule of law: one based on caring for the land and for one another. Instead of seeing protectors on the mountain as crazy Hawaiians, we should consider whether they bring a vision of law that will save our lives.”).

⁵³¹ *See id.*

⁵³² *See id.*; PU'UHONUA O PU'UHULUHULU, puuhuluhulu.com. Named after the

at an altitude over 6,000-feet, Kānaka Maoli quickly established a highly-organized community rooted in kapu aloha.⁵³³

With a “Mauna Media” team documenting the events at Pu‘uhonua o Pu‘uhuluhulu, the protectors were able to take control over framing how the public perceived what was happening on Maunakea and what led to Kānaka Maoli taking their stand to protect Maunakea in 2019.⁵³⁴ By posting the initial images and videos of Kia‘i chained to cattle grates and the live coverage of Kūpuna arrests, “[t]he peaceful dignity of these [Kia‘i] established the media frame for the following weeks” of the Kū Kia‘i Mauna movement.⁵³⁵ Soon after, news, information, and personal stories were disseminated directly from Kia‘i to the public through social media (i.e., Facebook, Instagram, and Twitter), YouTube videos, the Pu‘uhuluhulu website, press releases, and video recordings of near-daily announcements made by Kia‘i leaders.⁵³⁶

Not only did the media team “allow[] for rapid mobilization of [protectors,]” but it “spread awareness fast and without cost.”⁵³⁷ In this deliberate endeavor to confront pro-TMT narratives and to reshape the

Pu‘u (hill) on which it was established, the Pu‘uhonua was “established by Kia‘i with the support of the Royal Order of Kamehameha ‘Ekahi for the purpose of protecting sacred Maunakea.” *Id.* “Pu‘uhonua” are established places of refuge, sanctuary, and peace and safety. HAWAIIAN DICTIONARY, *supra* note 1, at 358.

⁵³³ PU‘UHONUA O PU‘UHULUHULU, *supra* note 532. Kia‘i established a code of conduct for the Pu‘uhonua; held protocol three times a day every day; orchestrated a rideshare system to transport people to and from the Mauna; guided visitors on scheduled tours of Pu‘u Huluhulu; offered free Pu‘uhuluhulu University courses taught by Maoli educators, practitioners, and other experts. *Id.* They organized designated hale (houses) for new visitor check-ins, meals that were served three times a day, medical services with medics on hand, and a “Kānaka Costco” stocked with warm clothes, sleeping bags, sunscreen, flashlights, and more. *See id.*; HAWAIIAN DICTIONARY, *supra* note 1, at 52. In addition to requiring “Kapu Aloha Always” and that Kia‘i “BE PONO[,]” this set of rules for the Pu‘uhonua also prohibited smoking, weapons, and alcohol and required consent for any pictures or videos taken. *Code of Conduct*, PU‘UHONUA O PU‘UHULUHULU, *supra* note 532.

⁵³⁴ Sterling Higa, *Sterling Higa: The Social Media Movement Behind the Mauna Kea Protests*, HONOLULU CIVIL BEAT (Aug. 8, 2019), <https://www.civilbeat.org/2019/08/sterling-higa-the-social-media-movement-behind-the-mauna-kea-protests/>.

⁵³⁵ *Id.*

⁵³⁶ *Id.* Sterling Higa describes the “concerted effort to control the narrative on social media probably contributes to the generational divide in public opinion, with older people supporting the telescope and younger people opposing it.” *Id.*

⁵³⁷ *Id.* This rapid mobilization and communication via social media allowed Kia‘i to garner support in ways that the movement might not have seen otherwise. *Id.* Those unable to travel to Maunakea sent on-the-ground Kia‘i money through Venmo or CashApp to help pay for food, water, and other necessary supplies. *Id.* And when Kia‘i, who were shuttling people to and from the Mauna, lacked money for car repairs, donors were quickly notified and just as quickly met those Kia‘i’s needs. *Id.*

enduring collective memory of Mauna Kea and Kānaka Maoli, Kia‘i filled the gap in the collective memory that neither local news outlets, which did “not have the resources to properly cover all of the resistance[,]”⁵³⁸ nor international news outlets, “much of which downplayed . . . Native Hawaiians’ range of concerns,”⁵³⁹ could accurately cover.⁵⁴⁰ Kia‘i and their media team “reveal[ed] . . . the severely misguided understanding of Native Hawaiian perspectives” held by journalists, local and international communities, the State, and the court.⁵⁴¹ Maoli activist Kawena Phillips explained, this movement and the concerted effort to confront and reshape these narratives central to the collective memory of injustice “is about telling the world that [Native] Hawaiians have a right to our own land, a voice in what happens to it, [and] a right to have people listen to and respect our wishes for our land.”⁵⁴²

Early news coverage of the events on Maunakea did not include the “history of litigation that has been ongoing for years around the Mauna, [or] the century-long fight of Native Hawaiians to be recognized, eventually culminating in an apology from the [United States] in 1993 for the forceful and illegal annexation of Hawai‘i.”⁵⁴³ But since then some mainstream news outlets have adopted the narrative that, “[a]s [Native] Hawaiian leaders have been stating for decades, this struggle is about ‘more than just [the TMT.]’”⁵⁴⁴ Articles published in mainstream outlets including *The New York Times*,⁵⁴⁵ *The Guardian*,⁵⁴⁶ and *USA Today*⁵⁴⁷ began to tell a collective memory of decades of Maoli opposition to development on Maunakea that had been ignored; the project’s damage to the ecology, the

⁵³⁸ Marisa Peryer, *Native Hawaiians on Coverage of Mauna Kea Resistance*, COLUM. JOURNALISM REV. (July 29, 2019), <https://www.cjr.org/opinion/mauna-kea-telescope-protest-hawaii.php>.

⁵³⁹ *See id.*

⁵⁴⁰ *See id.*

⁵⁴¹ *See id.*

⁵⁴² *See id.*

⁵⁴³ *Id.*

⁵⁴⁴ *See id.*

⁵⁴⁵ Meghan Miner Murray, *Why Native Hawaiians Are Protesting a Telescope*, N.Y. TIMES A-11 (July 23, 2019) (highlighting “prote[ctors]’ larger goal . . . to bring wider attention to their grievances about the state’s economic interests being given priority over Native Hawaiian cultural and land use rights”).

⁵⁴⁶ Michelle Broder Van Dyke, *‘A New Hawaiian Renaissance’: How a Telescope Protest Became a Movement*, GUARDIAN (Aug. 17, 2019), <https://www.theguardian.com/us-news/2019/aug/16/hawaii-telescope-protest-mauna-kea> (voicing concerns of Kia‘i on the ground at Pu‘uhonua o Pu‘uhuluhulu).

⁵⁴⁷ Lam, *supra* note 280 (describing Native Hawaiians’ claims to Maunakea in the context of the broader history of Hawai‘i’s illegal overthrow).

scenic viewplane, and the aquifer on the mountain; and Native Hawaiians’ enduring mistrust of the University.⁵⁴⁸ This largely unprecedented shift resulted from Kia‘i’s unwavering effort to reshape conversations about—and thus, the memory of—Maunakea and Native Hawaiians.

Kia‘i remained steadfast, and Kānaka Maoli supported the movement from afar. People and rights organizations from around the world rallied in support of the Kia‘i on Maunakea.⁵⁴⁹ High-profile celebrities, many with ties to Hawai‘i, visited the Mauna and shared their experiences and support via their own social media channels.⁵⁵⁰ Thousands gathered on neighbor islands, as well as across the continental U.S. and beyond, at rallies, benefit concerts, community town halls, and workshops.⁵⁵¹ Exasperated with the University’s compliance in the ongoing mismanagement Maunakea, Kia‘i sat in at Bachman Hall outside University of Hawai‘i President David Lassner’s office for more than a hundred days.⁵⁵² Other Kānaka Maoli held their own daily protocol ceremonies outside the Department of Hawaiian Homelands building in Kapolei, and eager communities gathered at trainings and workshops to learn about non-violent direct action and the stories and significance of the Mauna.⁵⁵³

In early 2020, after holding space on the Mauna for over six months, Kia‘i agreed with Hawai‘i County Mayor Harry Kim to vacate the access road, both to remain safe against the risks of COVID-19 and with the understanding that no TMT construction would proceed until at least the end of February 2020.⁵⁵⁴ Kia‘i leader Dr. Noe Noe Wong-Wilson called this

⁵⁴⁸ See, e.g., *id.*; Murray, *supra* note 545; Broder Van Dyke, *supra* note 546.

⁵⁴⁹ PU‘UHONUA O PU‘UHULUHULU, *supra* note 532. This included organizations including Amnesty International, the Council of the Native American and Indigenous Studies Association, the Asian Pacific American Labor Force. *Id.* Many grassroots community groups from abroad also visited Pu‘uhonua o Pu‘uhuluhulu in support of Kia‘i. *Id.*

⁵⁵⁰ See Ellie Nakamoto-White, *TMT Protestors Took to Social Media to Make Their Case—and Build Support Nationally*, HAW. NEWS NOW (Aug. 1, 2019), <https://www.hawaiinewsnow.com/2019/08/01/tmt-protesters-took-social-media-make-their-case-build-support-nationally/>.

⁵⁵¹ See Jenn Boneza, *More Than 10,000 March Through Waikiki to Support Mauna Kea and the Protection of Hawaiian Lands*, KHON2 (Oct. 5, 2019), <https://www.khon2.com/local-news/more-than-10000-march-through-waikiki-to-support-mauna-kea-and-the-protection-of-hawaiian-lands/>; Trisha Kehaulani Watson-Sproat, *Why Native Hawaiians Are Fighting to Protect Maunakea from a Telescope*, VOX (July 24, 2019), <https://www.vox.com/identities/2019/7/24/20706930/mauna-kea-hawaii>.

⁵⁵² Nicole Tam, *UH Manoa Students that Occupied Administration Building on Campus Packs Up*, KITV4 (Dec. 20, 2019), <https://www.kitv.com/story/41483827/uh-manoa-students-that-occupied-administration-building-on-campus-packs-up>.

⁵⁵³ See Pu‘uhonua o Pu‘uhuluhulu, @puuhuluhulu, <http://www.instagram.com/puuhuluhulu/>.

⁵⁵⁴ *Hawaii Telescope Protesters Leave Camp Due to Virus Concerns*, ASSOCIATED

“a victory for the protectors,” though Kia‘i continued to hold space on the sides of Mauna Kea Access Road.⁵⁵⁵ As of this writing, the TMT’s construction is still halted.

In what has become a 21st century “Hawaiian renaissance,” elders said that this type of movement was unprecedented.⁵⁵⁶ This renaissance illustrates that there is no master narrative or prevailing collective memory of the injustice of Maunakea and Native Hawaiians, despite colonizers’ efforts to cement their incomplete narratives as truth.⁵⁵⁷ On the contrary, the battle continues as Native Hawaiians challenge the narratives that have stood as barriers to achieving justice. Although colonizers’ narratives predominated for centuries, Kia‘i have begun reshaping the stories told about Maunakea and Kānaka Maoli in the courts, on social media, through public demonstrations and increased academic scholarship. Through all these efforts, Kānaka Maoli challenge the very narratives that deny them justice.

VII. LOOKING TO KA WĀ MA HOPE: THE FUTURE OF MAUNAKEA AND KĀNAKA MAOLI

Dr. Jonathon Osorio foresaw, as presented in his contested case testimony nearly four years ago, that “the renewal of the protest on the mountain, should the TMT prevail [in court] and try to resume construction, will shake the political foundations of the state.”⁵⁵⁸ Just as Dr. Osorio

PRESS (Mar. 27, 2020), <https://apnews.com/article/a1d2c1993c9df2981d5e192f21037cf1>.

⁵⁵⁵ Michael Brestovansky, *Protestors, Kim Reach Agreement to Reopen Maunakea Access Road*, HAW. TRIB.-HERALD (Dec. 27, 2019), <https://www.hawaii-tribune-herald.com/2019/12/27/hawaii-news/protesters-kim-reach-agreement-to-reopen-Maunakea-access-road/>.

⁵⁵⁶ *Kapu Aloha: Remember Your Ancestors*, PU‘UHONUA O PU‘UHULUHULU (Sept. 13, 2019), <https://www.youtube.com/watch?v=adeqsmRgdyI> (“We’ve never experienced anything like this.”). In what became an island-wide movement sparked by this battle over Maunakea, Native Hawaiians across the pae ‘āina (archipelago) were emboldened by Aloha ‘Āina, similar to Kānaka of generations past, and mobilized against developments that threatened the integrity of their communities. Christine Hitt & Aaron K. Yoshino, *How the Conflict Over the Thirty Meter Telescope Has Reawakened a More-Than-Century-Old Battle*, HONOLULU MAG., <http://www.honolulumagazine.com/how-the-conflict-over-the-thirty-meter-telescope-has-reawakened-a-more-than-century-old-battle/> (“No matter where you stand on this issue, there is no question that widespread media coverage surrounding Maunakea has reinvigorated activism in the Hawaiian community and focused attention on other movements and protests across the state. On Sept. 26, 2019, 28 people were arrested while blocking construction equipment headed to a \$32 million proposed sports complex at Waimānalo’s Sherwood Forest. About three weeks later, 22 arrests were made in Kahuku and 33 in Kalaeloa after dozens of protesters tried to stop transportation of turbine equipment to the Nā Pua Makani wind farm project.”).

⁵⁵⁷ See *Kapu Aloha*, PU‘UHONUA O PU‘UHULUHULU, *supra* note 556.

⁵⁵⁸ Osorio Testimony, *supra* note 498, at 3–4.

predicated, Kānaka Maoli have done just that.⁵⁵⁹ Through investigating, criticizing, and correcting the inaccurate historical narratives deployed by the Hawai‘i Supreme Court and others in support of the TMT, Kānaka Maoli have illuminated their collective memory of injustice, one which sets the controversy shrouding Maunakea against a backdrop of colonization’s continued destruction to Maoli land (including Maunakea), Maoli people, and Maoli self-determination.

This battle over Maunakea is, at its heart, a battle over the collective memory of Maunakea and Kānaka Maoli and the injustices committed against them both. As Professor Yamamoto points out, “if we seek justice by claiming civil or human rights, we must at the outset critically engage the dynamics of group memory of injustice.”⁵⁶⁰ These group memories are “not about simply recalling past events” but rather they are constructed in the present—they are “built and continually altered.”⁵⁶¹ The collective memory cast by *Mauna Kea II*, only appearing to take into consideration Maoli voices and perspectives, justified the resulting curtailment of Native Hawaiian traditional and customary rights. By ignoring the purpose and intent behind Native Hawaiian traditions and customs on the Mauna, the court deemed that no “relevant” traditional and customary rights were ever exercised by Kānaka. According to the majority’s selective version of history—void of Native Hawaiians, of the continued resistance to development on Maunakea, and of the University and BLNR’s mismanagement of the summit’s resources, void of any discussion of the illegal overthrow—“justice” requires that the TMT, having gone through the “proper” legal process, ought to be built.⁵⁶²

Although the memories acknowledged by decisionmakers (i.e., BLNR, the *Mauna Kea II* court) typically dictate notions of justice, the legal process “is one, but only one, significant aspect” in shaping both collective memory and justice.⁵⁶³ Despite the court’s use of historical narratives that, in actuality, perpetuate colonization’s harms to Maunakea and Kānaka Maoli, Kia‘i and their allies have illuminated that the battle also “take[s]

⁵⁵⁹ *See id.*

⁵⁶⁰ Hom & Yamamoto, *supra* note 5, at 1764.

⁵⁶¹ *Id.*

⁵⁶² *See Mauna Kea II*, 431 Haw. 379, 431 P.3d 752 (2018). In discussing Native Hawaiians’ potential unjust enrichment claims, Harvard Law Review importantly argues that “choosing how to recount history can dictate the victor of a land dispute. *Aloha ‘Aina: Native Hawaiian Land Restitution*, 133 HARV. L. REV. 2148, 2151 (2020). Courts evaluating land claims by Native Hawaiians should trace earlier than the lease at hand, to the Overthrow of the Hawaiian Kingdom.” *Id.* Although *Mauna Kea II* did not address restitution claims, telling a complete history of Native Hawaiians and Maunakea, including the overthrow, remains nonetheless important in determining Native Hawaiians’ rights claims. *See id.*

⁵⁶³ Hom & Yamamoto, *supra* note 5, at 1765 (emphasis omitted).

place on the terrain of culture.”⁵⁶⁴ Through mass demonstrations, social media, and Maoli scholarship, art, and literature, Kānaka Maoli have increasingly controlled the stories told and retold about Maunakea, Native Hawaiians, and their justice struggles.

By taking control over the narrative, Kānaka Maoli have more fully and accurately portrayed the collective memory of injustice shrouding Maunakea, one that is not separate from the enduring injustices Native Hawaiians face as a result of colonization. Deploying collective memory as a political tool, Native Hawaiians also envision the Kū Kia‘i Mauna movement as a part of a larger movement to rectify colonization’s gravest harms, including global climate change and human rights violations against Indigenous Peoples. Through actively reshaping the collective memory of Hawai‘i’s past (“ka wā ma mua”), as Maoli Political Scholar and Professor Kamanamaikalani Beamer succinctly put, Native Hawaiians have “altered what’s possible in Hawai‘i and what’s possible” for Kānaka Maoli in “ka wā ma hope.”⁵⁶⁵

⁵⁶⁴ *Id.*

⁵⁶⁵ See Lam, *supra* note 280.



I support adoption of UH's draft Master Plan for Mauna Kea

1 message

Mike Gonsalves <indigo.gonzo@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 5:39 AM

Dear Board of Regents:

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up.

We can all share and care for Maunakea! I mua Kilo Hoku and i mua TMT!

With respect and aloha,

Michael L. Gonsalves
[858 Hoomalu Street](#)
[Pearl City, HI 96782](#)



Testimony in Support of UH's Draft for Maunakea's Master Plan

1 message

Rodrigo Romo <rfvromo@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 6:43 AM

Aloha Kakou.

I am writing to strongly support the adoption of UH's draft Master Plan for Mauna Kea.

If there is anything that the last 2 years have taught us is the importance of diversifying the economy in Hawaii and to not be so dependable on Tourism. Astronomy is not only a clean industry, but it is also one that provides strong economic benefits to Hawaii.

While UH might have committed some mistakes in the past on the management of the Maunakea land they manage, they have shown over the past 10+ years significant improvements and dedication. UH has demonstrated leadership in the Stewardship of the Mountain and they are the right entity to continue to manage those lands and to oversee astronomy on Maunakea.

I stand in strong support of UH and their Master Plan.

Mahalo

Rodrigo Romo
Hilo, HI



Mauna Kea Plan

1 message

bettievanoverbeke <bettievanoverbeke@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 8:06 AM

I have lived on Hawaii Island 34 years. I taught earth science at Pahoa High and Intermediate school for 10 years through out the 90s.

TMT offers opportunities in STEM education we lack. It offers good jobs and opportunities. It will help look for incoming asteroids we can now do something to deflect. It will greatly enhance science for the world. We can give new discoveries Hawaiian names as has already been demonstrated. Please approve telescopes on Mauna Kea and the TMT. Telescopes are a huge win for Hawaii Island and the world.

I currently live on slopes of Mauna Kea and love seeing the telescopes from my farm.

Aloha,

Bettie Van Overbeke

[29-2483 Kaiwiki Homestead Rd.](#)

[Hakalau, HI 96710](#)

(808)785 - 6186

Sent from my Galaxy Tab® A



Request for UH Rejection of the Mauna Kea Master Plan

1 message

Karen Buenavista Hanna <khanna@conncoll.edu>

Tue, Jan 18, 2022 at 8:11 AM

To: bor.testimony@hawaii.edu

Cc: protectmaunakea@gmail.com

To the Board of Regents of the University of Hawai'i

January, 2022

Dear Board of Regents of the University of Hawai'i,

My name is Karen Buenavista Hanna. I am a concerned citizen and assistant professor at Connecticut College.

I respectfully ask that UH reject the Mauna Kea Master Plan, halt the Thirty Meter Telescope project, and return Mauna Kea to Kanaka Maoli governance.

The Mauna Kea Master Plan is deeply flawed in many ways. It does not respect the wishes of the vast majority of the Indigenous cultural practitioners of that place. It proposes to block their access with gates. It proposes further construction on Mauna Kea, which Kanaka Maoli have not consented to in any way. It proposes perpetual stewardship by the University of Hawai'i, with no plan of ever returning this sacred mountain to the rightful owners of the Crown Lands upon which UH's Science Reserve sits.

The University of Hawai'i needs to listen to the actual voices of the people of this land, who have been speaking clearly for a long time. Please reject the Mauna Kea Master Plan, stop TMT, and begin the long but worthwhile process of true healing, so that the University of Hawai'i may be a place of genuine learning.

Thank you for your time and consideration.

Sincerely,

Karen Buenavista Hanna, PhD



Support for University of Hawaii Management and the TMT telescope

1 message

True <streamgirll@yahoo.com>

Tue, Jan 18, 2022 at 8:21 AM

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

Aloha, University of Hawaii is the most logical entity on our island to manage all things astrological. What other entity on the island comes close to their expertise or resources? Our island's economy, scientists and keiki need the TMT, and the sooner the better.
Mahalo, Mary True, Pepekeo



TMT Support

1 message

Lisa Hutchinson <whistlewhileyouwork808@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 8:37 AM

Aloha,

I am a native Hawaiian and I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up.

Leinaala Hutchinson



Support Astronomy on Mauna Kea Jan 20!

1 message

donkephart@earthlink.net <donkephart@earthlink.net>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 9:51 AM

Aloha,

We continue to support adoption of UH's draft Master Plan for Mauna Kea. We are proud of the work that astronomers on the mountain have accomplished and support the building there of the TMT. The mountain is large enough to accommodate native Hawaiian practitioners as well as astronomers. It is ludicrous that so-called protesters want to make it an either/or us-versus -them situation. We are tired of minority rule that allows myth to trump science.

Mahalo.

Don and Kerrill Kephart



House Mauna Kea Plan falls short/UH management should continue under proposed UH plan

1 message

Matthew Gurewitsch <matthew@alohaheights.com>
To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

Tue, Jan 18, 2022 at 10:36 AM

Aloha!

Kudos to the Mauna Kea working group for attempting the impossible. I do not believe there is any governing model that will pass muster with the TMT protesters, who have for some time placed themselves outside the law in opposition to the rest of the State of Hawaii. The State of Hawaii must not bow to their illegal blockage of the Mauna Kea Access Road. It is of vital importance to the future of our keiki, our environment, our economy, and the conduct of State business that the TMT project go forward. In my view, the new proposed plan and structure put forward by UH deserves your full support. The Mauna Kea Working Group draft report, however well intentioned, should be scrapped in its entirety.

If, however, the draft report remains on the table, I urge you to address the following shortcomings and issues.

1. The astronomy industry must have a vote in the management of Mauna Kea, through the Mauna Kea Observatories Group as well as through UH—that's two votes, please. We are talking about the entities that maintain the access road and inject billion in much-needed green investment into our economy, helping diversify us away from an economy overdependent on tourism and overexploitation of our aina.
2. The protesters must agree to cease and desist with their protests against TMT. They've had their say. The law is against them and the majority of the Hawaiian population (including the native population) is against them. The tyranny of the minority must cease.
3. References to HRS 183 (which addresses forest reserves) and HRS205A (dealing with Coastal Lands) have no place in a document addressing management of the summit of Mauna Kea, which is above the tree line and far from the coast. These references are Trojan horses for future zoning shenanigans to impede the astronomy industry. These disingenuous references must not stand.
4. With all due respect to those who proclaim the "sacred" status of Mauna Kea, Mauna Kea is not sacred as a Native Hawaiian matter. The ali'i abolished the kapu religion over 200 years ago, and our Constitution prohibits the government from establishing a religion. The opinion or belief that Mauna Kea is sacred is a private matter, by no means shared by all or even the majority of Native Hawaiians.
5. What's with "Mauna a Wakea"? Whatever the hidden agenda is in promulgating this name, it should not be indulged in document funded by taxpayers. It's partisan propaganda.

Mahalo nui loa for your attention.

m.

Matthew Gurewitsch
[3415 Kuaua Pl.](#)
Kihei (Maui) HI 96753

t/+1 (808) 874-8925
fx/+1 (212) 656-1647

on the web: beyondcriticism.com
on skype & twitter: mg1228



I support adoption of UH's draft Master Plan for Maunakea

1 message

Christoph Baranec <baranec@hawaii.edu>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 10:52 AM

Aloha University of Hawai'i Board of Regents:

I support adoption of UH's draft Master Plan for Maunakea because it keeps astronomy on Maunakea alive. Our University has done a masterful job of managing Maunakea over the last 20 years, and it is now some of the best managed public land in Hawaii. Maunakea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of our work. Astronomy on Maunakea is part of our diverse culture and community. Astronomy on Maunakea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Maunakea is vital for our Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of our work.

Mahalo no kou manawa,
Christoph Baranec
Associate Astronomer, Institute for Astronomy
Board of Regents' Medal for Excellence in Research, 2017
Resident of Hilo, Hawaii



imua tmt

1 message

Linda Hunter <myyumikins@yahoo.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 10:59 AM

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that take place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. Do not let us be the ones Puck was referring to when he said, "Oh what fools these mortals be", or be swayed by the vocal protesters who, as Lucy wisely advised Charlie Brown, "If you can't be right, be wrong at the top of your lungs."

The recently launched James Webb telescope is being heralded to world-wide acclaim. That same recognition, respect, and appreciation will also deservedly be given to the TMT.

I mua Kilo Hoku and i mua TMT.

Mahalo nui loa, and aloha,

Linda Hunter
P.O. Box 888
Honoka'a, Hawai'i 96727

(808) 775-7754 (h)
(808) 640-3036 (c)



Support for UH Master Plan

1 message

Andrew Repp <arepp@clahawaii.org>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 11:18 AM

To whom it may concern:

I would like to express my support for the adoption of UH's draft Master Plan for Maunakea, especially because it serves to keep astronomy alive on Maunakea (including the Thirty Meter Telescope, TMT). UH has done an excellent job of managing the mauna over the last 20 years, especially with respect to obtaining a permit for the construction of TMT.

TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built.

Furthermore, Maunakea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Maunakea is our culture. Astronomy on Maunakea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. As a secondary educator, my classes directly benefit from the presence of astronomy in this state. Keeping astronomy on Maunakea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Sincerely,
Andrew Repp

IN SUPPORT OF UH Mauna Kea Master plan

1 message

Adrienne King <adrienne@kingandking.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 11:30 AM

Approve the Master Plan and ensure renewal of the Master Lease with the University of Hawai'i.

- Only UH can credibly continue to manage Mauna Kea---in spite of perceived or real past insensitivities.
- Mauna Kea is actually among the few best managed state-owned parcels of land in Hawai'i.
- Any other proposal does not insure the expertise required to manage Mauna Kea for the benefit of Hawai'i's keiki.
- UH regents know that too few science educational and enrichment opportunities are available to marginalized populations in the state.
- Hawai'i's keiki need UH and this state's unequivocal commitment to encourage astronomy and STEM education in the state.
- The United States government aims to address this problem.¹
- UH will manifest its commitment in this effort by approving the Master Plan and renewal of the lease.

Adrienne King

Mother of two sons and two grandsons of Native Hawaiian ancestry.

1

Inclusion across the Nation of Communities of Learners of Underrepresented Discoverers in Engineering and Science (NSF INCLUDES) Design and Development Launch Pilots

Inclusion across the Nation of Communities of Learners of Underrepresented Discoverers in Engineering and Science (NSF INCLUDES) is a comprehensive national initiative designed to enhance U.S. leadership in science, technology, engineering and mathematics (STEM) discoveries and innovations focused on NSF's commitment to diversity, inclusion, and broadening participation in these fields. NSF INCLUDES supports efforts to create networked relationships among organizations whose goals include developing talent from all sectors of society to build the STEM workforce. This initiative seeks to improve collaborative efforts aimed at enhancing the preparation, increasing the participation, and ensuring the contributions of individuals from groups that have traditionally been underrepresented and underserved in the STEM enterprise: women, persons with disabilities, African Americans/Blacks, Hispanic Americans, American Indians, Alaska Natives, Native Hawaiians, Native Pacific Islanders, and persons from economically disadvantaged backgrounds. Significant advancement in the inclusion of these groups will result in a new generation of STEM talent and leadership to secure our nation's future and long-term economic competitiveness. <https://www.nsf.gov/pubs/2017/nsf17522/nsf17522.htm>



UH @ Mauna Kea

1 message

Buck Joiner <buck@tiki.net>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 11:53 AM

In support of UH Master Lease for Mauna Kea

UH Board of Regents

I am in strong support of the UH Master Lease for Mauna Kea. Astronomy was a strong part of the original finders of the Hawaii islands and continued for many generations. That knowledge was originally a passed on to the best of the Kānaka Maoli. It is pono that the management of our critical Mauna Kea infrastructure be under the guidance of the most capable institution, one that is interested in the the health and well being of the land, the science, the culture, and the history of astronomy in Hawaii.

Please vote to continue that legacy.

sincerely
Buck Joiner
40 years
Kihei, Maui



Virus-free. www.avast.com



Support

1 message

Carol Riley <rarchr@icloud.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 12:15 PM

Support UH plan!!!

Sent from my iPhone



Support for Astronomy

1 message

Saralyn Ready <slready@yahoo.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 12:24 PM

We must march forward with the work being done in astronomy on Mauna Kea.
Saralyn Ready
Adolph Quasthoff

Sent from my iPhone



Master Plan for Mauna Kea

1 message

Mark Rognstad <mrognstad@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 12:32 PM

Dear Regents

I support adoption of UH's draft Master Plan for Mauna Kea. UH has done an exceptional job of managing Mauna Kea, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hökū and i mua TMT!

Mark Rognstad
Kailua, Hawaoo



Mauna Kea

1 message

paulbrewbaker tzeconomics.com <paulbrewbaker@tzeconomics.com>
To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

Tue, Jan 18, 2022 at 12:40 PM

Re: Partial Report of the Maunakea Plan Review Permitted Interaction Group Recommending Consideration of Approval of the Proposed Master Plan for the University of Hawai'i Maunakea Lands and Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E
Ō I Nā Leo (Listen to the Voices) -- University of Hawai'i Board of Regents meeting, Thursday, January 20, 2022.

Regents, a poem:

This is not ethnocracy.

This is not theocracy.

This is science based-industry disestablishmentarianism.

Resist.

Ignore posers.

Dismiss n00b self-pwnage.

Aquaman is fake.

Do not reduce numbers of telescopes and astronomical facilities atop Mauna Kea.

Peoples of Polynesia have looked to the heavens for guidance and insight for millennia.

Do not regress.

Mahalo,
pb

Paul H. Brewbaker, Ph.D., CBE
TZ Economics
[606 Ululani Street](#)
Kailua, Hawaii [96734-4430](tel:96734-4430)
paulbrewbaker@tzeconomics.com
[1-\(808\)-220-1538](tel:1-808-220-1538)



Maunakea

Kimberly Kekina <kimkekina65@icloud.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 12:48 PM

Bad idea our ancestors had enough 🙄👤

Sent from my iPhone



Comments on UH's Master Plan for Mauna Kea

1 message

William Lester <walester@wal.net>

Tue, Jan 18, 2022 at 12:58 PM

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

Aloha, UH Board of Regents

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT).

UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built.

Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work.

Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up.

I mua Kilo Hōkū and i mua TMT!

William (Bill) Lester

William (Bill) Lester

78-7218 Puuloa Road

Kailua Kona, HI 96740

917-676-4142

walester@wal.net

“

*If the plan doesn't work,
change the plan.
But never the goal.*



The Thirty Meter Telescope

1 message

Martin Zebzda <zebzda@att.net>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 1:18 PM

Aloha

I am having a very difficult time understanding why building the TMT on Mauna Kea is a problem whatsoever. Hawaii gets a shining star as a leader in astronomy. Hawaii gets permanent great paying local jobs will result. The foundation is paying one million for rent a year and donating one million to local schools. FIVE usable telescopes will be removed to appease the misinformed. The TMT will not be seen from below. The telescopes occupy 1% of the summit. There are no temples nor burial grounds on the summit.

The arguments against it are ignorant and remind me of the lies that the MAGAs have bought into regarding the election...Telescopes do not produce nuclear nor other toxic waste. The information obtained will not be sold for a profit. The summit is Kapu not because of religious significance but because the high altitude killed people in the old days. The old kings wanted to protect the people from altitude sickness.

A sad misinformation campaign has people believing delusional ideas.

Let's not hesitate. Build the TMT now!

Dr Martin Zebzda

Maui HI

Sent from my iPhone



UH Master Plan for Mauna Kea

1 message

Barbara Heintz <bheintz@hawaii.edu>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 1:25 PM

I strongly support the adoption of UH's draft Master Plan for Mauna Kea because it is the best option for keeping astronomy on Mauna Kea including TMT alive. Over the past 20 years, UH has conscientiously improved and perfected its management and today, it is some of the best managed state-owned land in Hawaii.

The protesters' game is to delay as long as possible. Changing the management system would create chaos for the astronomy community. If the Master Lease is not renewed, it will create legal ambiguity that the protesters believe will stop TMT and possibly push the telescopes off Mauna Kea.

Mauna Kea Observatories are the most scientifically productive collection of telescopes in the world. Astronomy on Mauna Kea is respectful and inspired by Hawaiian culture. It provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world class nature of the work that goes on there.

Mauna Kea Observatories are a treasure and TMT would be an amazing feat for Hawaii to bring to fruition. I pray that it can be completed. The UH Master Plan will make it possible for these benefits to continue into the future.

Barbara Heintz
Retired
182 Kaiulani St.
Hilo, HI. 96720

Sent from my iPad



Support Astronomy

1 message

Bolekb001 <bolekb001@hawaii.rr.com>

Tue, Jan 18, 2022 at 1:35 PM

To: bor.testimony@hawaii.edu

Please add my support for the master plan for Maunakea summit. It is vital to the world science community and the local children of Hawaii to become science leaders in the future.

Maunakea is a Hawaiian treasure and a resource for science worldwide. The plan should accommodate both.

Sent from my iPhone

Benett J Bolek



Mauna Kea Master plan

1 message

Eric Johnsen <gejsen@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 1:46 PM

Please register our support for the UH Master Plan for Mauna Kea. We agree with everything said below, in particular for the standing of astronomy at the head of the list of appropriate uses to take place on the summit.

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up.

Aloha,
Eric Johnsen and family
Honoka'a, Hawaii.



Support Existing UH Hilo Center for Maunakea Stewardship/Oppose Mauna Kea Working Group Draft Final Report

1 message

dennisnmnb@gmail.com <dennisnmnb@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 2:05 PM

Board of Regents:

I am writing **in support of the UH Hilo Center for Maunakea Stewardship's** existing management structure and stewardship of Mauna Kea and in **strong opposition to the approach taken and the recommendations made in the Mauna Kea Working Group draft final report.** It is clear from review of the draft that the ostensible purpose of the group, to propose a new framework for management of Mauna Kea, should be understood as code to develop a way to stop TMT. Let me explain my conclusion:

- **Eliminating the astronomy community**, one of the primary island communities utilizing space on Mauna Kea, from the Government Entity proposed as the new Manager is a confounding conclusion for a group dedicated to “community input and outreach” to have reached. It ensures anything but comprehensive “community input”.
- Taking an extremely **one sided and ethnocentric view** of a shared environmental resource is hardly the way to avoid the polarization the report decries in its description of the previous efforts undertaken by the current Manager.
- **Ignoring the recent efforts** the UH Hilo Center for Maunakea Stewardship has proposed, in what seems a good faith effort, to listen to complaints and ameliorate past omissions, certainly presents a one-sided assessment of a complex situation.
- Allowing a **three year transition period** for the new Governing Entity to assume management ensures that sufficient lease arrangements for TMT and for astronomy on the mountain are impossible, thus rendering the demise of TMT a foregone conclusion.
- Planning to “**return the Mauna above 9200 feet elevation to its natural state**”, which I can only read as a pre-observatory state, is pretty unambiguous about blocking TMT and astronomy in general from the mountain and the state.

I get it that the idea for this working group was a political placeholder for opposition to TMT, and that that opposition is in its turn a placeholder for outrage at the abridgement of Hawaiian sovereignty, but why the subterfuge? Let's call it what it is and call this report what it is: an exhaustive effort at further confusing a complex situation in which there are multiple stakeholders, and an excuse for coming up with a pre-determined conclusion for one highly vocal stakeholder group that by no means speaks for the entire group it purports to represent.

Dennis Boyd

Kailua Kona



TMT telescope

1 message

Leslie Agorastos <leslie.agorastos@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 2:24 PM

As a Hawaii born person, I strongly believe that TMT is the best gift we could get. This is an opportunity to allow our citizens to excel in the world, and an extraordinary opportunity for our keiki.

Please have UH continue to manage this as they have done an extraordinary job to date.

Aloha nui loa,
Leslie Agorastos

--

Leslie M Agorastos RB-7038
Coldwell Banker Island Properties RB-16822

[67-1185 Mamalahoa Hwy](#) E-128
Kamuela, Hawaii 96743
M: (808) **937-4022** O: (808) 887-0887



Testimony attached relating to Maunakea Master Plan

1 message

Miles Yoshioka <miles.yoshioka@hicc.biz>
To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

Tue, Jan 18, 2022 at 3:02 PM

Aloha,

Please find our testimony attached in support for the Proposed Master Plan for the UH Maunakea Lands.

Miles Yoshioka

Executive Officer

Hawai'i Island Chamber of Commerce

1321 Kino'ole Street

Hilo, HI 96720

Phone: 808-935-7178

miles.yoshioka@hicc.biz

www.hicc.biz

<https://www.facebook.com/HawaiiIslandChamberofCommerce>



Hawaii Island Chamber_BOR testimony 01182022.pdf
133K



Hawai'i Island Chamber of Commerce

1321 Kino'ole Street
Hilo, Hawai'i 96720
Phone: (808) 935-7178
Fax: (808) 961-4435
E-mail: admin@hicc.biz
www.hicc.biz

January 18, 2022

Executive Officer
Miles Yoshioka

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Lynn Nuniez
Lisa Shiroma
Rachel Solemsaas
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Loren Tsugawa
James Tyrin
Kevin Waltjen
Kurt Williams
Ashley Yamamoto
Garth Yamanaka

TO: University of Hawai'i Board of Regents

FROM: Miles Yoshioka, Executive Officer
Hawai'i Island Chamber of Commerce

SUBJECT: Support for Proposed Master Plan for the UH Maunakea Lands

Aloha Chair Moore and all distinguished Regents,

The Hawai'i Island Chamber of Commerce, formed in 1898 by the business community of the Island of Hawaii, has continued to be a dedicated supporter of scientific and, in particular, the astronomical enterprises on Maunakea.

In 1963, the Executive Secretary of this Chamber, Mr. Mitsuo "Mits" Akiyama began his quest to rebuild the economy of Hawaii Island, then devastated by the 1960 tsunami that hit Hilo Bay, much as how the COVID-19 pandemic is affecting Hawai'i Island's economy today. Through the efforts of Mr. Akiyama, Mauna Loa astrophysicist Howard Ellis and astronomer Dr. Gerard Kuiper, the first telescope was placed on the mountain a few years later for site testing, a precursor to the world-class astronomical center it is today.

Our chamber continues to stand with Hawaii's business community in support of astronomy, science, culture and environmental stewardship. The economic benefits of this industry are significant. There are hundreds of local residents currently working in the industry earning good wages and supporting their families and community.

Initially through the Office of Maunakea Management and now, through the Center for Maunakea Stewardship, UH has dedicated its management efforts to the protection of the natural and cultural resources while ensuring the UH managed lands on the mountain allow for world-class astronomy. A point we should all be proud of.

HICC members have actively participated in every management plan process, invasive weed pulls and one of our members was awarded for her efforts in partnering with CMS for environmental stewardship. We are working together in our community to ensure best management practices continue for Maunakea.

The University of Hawaii has sought to balance multiple community interests when it comes to Maunakea. The balance struck in the Master Plan limits



Hawai'i Island Chamber of Commerce

1321 Kino'ole Street
Hilo, Hawai'i 96720
Phone: (808) 935-7178
Fax: (808) 961-4435
E-mail: admin@hicc.biz
www.hicc.biz

telescope development and protects natural and cultural resources, all while ensuring a world class astronomy program for Hawaii continues.

We stand by our testimony submitted in December 2021 in support of the Master Plan. We call on you to support the Master Plan as well and continue stewardship efforts to malama Maunakea.

Thank you for your time.



Requesting UC to withdraw from TMT

Amisha DeYoung-Dominguez <deyoungdominguez@gmail.com>

Tue, Jan 18, 2022 at 3:15 PM

To: BOR Testimony <bor.testimony@hawaii.edu>

Cc: protectmaunakea@gmail.com, "regentsoffice@ucop.edu" <regentsoffice@ucop.edu>

Hello,

Thank you for following up. I would appreciate if your staff could include the attachment in this email as my testimony to the UH Board of Regents (along with the other letters of public comment requesting to halt the TMT project) in the meeting packet that is given to the Board. I greatly appreciate your time and consideration.

Sincerely,

Amisha DeYoung-Dominguez

[Quoted text hidden]

--

Amisha DeYoung-Dominguez

3 attachments



January 18, 2022.pdf

11K

January 18, 2022

Dear Board of Regents of the University of Hawai'i,

My name is Amisha DeYoung-Dominguez. I am a concerned citizen, UCSB alumni, mother, and attorney from Oxnard, California.

I am taking time from being with my family and toddler because it is important that you hear from people from all walks of life.

I respectfully ask that UH reject the Mauna Kea Master Plan, halt the Thirty Meter Telescope project, and return Mauna Kea to Kanaka Maoli governance, for all the same reasons that advocates have been urging you to do so.

Sincerely,

Amisha DeYoung-Dominguez



This is the future

1 message

nyx808 <nyx808@yahoo.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 3:28 PM

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Sent from my T-Mobile 5G Device

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Leinani Lozi

Your Organization (optional)

Your e-mail address (in case we need to reach you) *

leinani.lozi@gmail.com

Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

Aloha kākou, I am writing in support of the new University of Hawai'i Master Plan, E Ō I Nā Leo. I believe that UH has learned a great many lessons in its time managing the mauna and any new entity seeking to manage Maunakea would not be equipped with these experiences. That being said, I think UH will need to dedicate a lot more financial and staff resources to support this vision proposed in the new Master Plan than what they currently provide. The organizations mentioned in this plan such as the 'Imiloa Astronomy Center of Hawai'i and the Center for Maunakea Stewardship have incredibly dedicated and hardworking staff who mālama Maunakea in various ways. Their staff needs to be doubled to support the goals of holistic and hands-on educational programming and stewardship that this plan proposes. I also firmly believe that public access should be restricted or heavily discouraged for particular areas on Maunakea to preserve them physically and spiritually. I

sincerely hope that the adoption of this plan will bring about radical change in stewardship, education, science and culture on Maunakea.

[Your Testimony \(pdf or word\)](#)

No file attached

Actions

Close

Export



Testimony for UH BOR Meeting 1/20/22

1 message

Rich Matsuda <rmatsuda@keck.hawaii.edu>
To: BOR Testimony <bor.testimony@hawaii.edu>
Cc: John O'Meara <jomeara@keck.hawaii.edu>

Tue, Jan 18, 2022 at 3:51 PM

Aloha,

Please accept the Maunakea Observatories written testimony for the regents meeting on Jan 20, 2022, regarding agenda item VI.E-F about the Proposed Master Plan for Maunakea.

Thank you,

Rich Matsuda

W. M. Keck Observatory



MKO Testimony_2022 January 18.pdf
138K



To: University of Hawai'i Board of Regents
From: Maunakea Observatories
Subject: Testimony on Proposed Master Plan for the University of Hawai'i Maunakea Lands
Date: 18 January 2022

The Maunakea Observatories (MKO) appreciate the University's efforts to guide land use decisions for the next two decades through the proposed Master Plan, E Ō I Nā Leo. MKO extends our support and desire to collaborate to all stakeholders on Maunakea as the important and weighty future responsibility of governing the Maunakea Science Reserve lands is determined.

The MKOs agree with a long range commitment to astronomy in the draft Master Plan. We believe science is important, and astronomy is beneficial to our local community, the state of Hawai'i, and the world.

For the past five decades, telescopes on Maunakea have provided important new knowledge about the universe, including two Nobel Prizes in Physics, the very first image of a black hole - Pōwehi, detection of 'Oumuamua - the first known interstellar object passing through our solar system, the first image of a solar system beyond our own - HR8799, and much more. The publicly shared scientific knowledge produced on Maunakea deepens our understanding of the laws of nature and even addresses fundamental questions about human existence.

There are many positive benefits that result from our scientific endeavors. We share astronomy with students through our many STEM outreach activities, such as the Maunakea Scholars Program that provides opportunities for Hawai'i public high school students to engage in research using highly-coveted time on Maunakea telescopes. We provide high-quality internships to college and community college students from Hawai'i through programs like the Akamai Workforce Initiative. And, we offer a wide range of engineering, technical, scientific and administrative employment opportunities for Hawai'i residents in our workforce of approximately 500 jobs at the MKOs. In addition, the MKOs rely on scores of local businesses to conduct our operations. The total economic impact is significant, contributing approximately \$200M per year to Hawai'i's economy.

While we believe in the benefits of astronomy, we acknowledge that for many in the Native Hawaiian and local community Maunakea is a wahi pana of immense environmental and

cultural significance that takes priority over other activities. Knowing this, we strive to conduct astronomy in a balanced and respectful way with care for the environment and respect and support for Native Hawaiian cultural practices. Our thoughts are in alignment with the recently released Decadal Survey on Astronomy and Astrophysics 2020 (Astro2020) from the National Academies of Sciences, Engineering and Medicine, which includes a major recommendation for “the development of a new model for respectful, collaborative decision-making in partnership with Indigenous and other local communities.” As such, the MKOs recommend the plan be more specific about its impacts on the indigenous Native Hawaiian and local communities, and that the plan outline processes for meaningful partnership and collaborative decision-making with these communities, which we look forward to participating in.

Thank you for the opportunity to provide testimony.


Aloha,



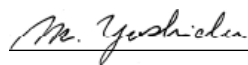
Director Hilton Lewis, W. M. Keck Observatory (Keck I and Keck II)



Interim Director Andy Sheinis, Canada-France-Hawaii Telescope



Director John Rayner, NASA Infrared Telescope Facility



Director Michitoshi Yoshida, Subaru Telescope



Mauna Kea

1 message

Gene <groundsg001@hawaii.rr.com>

Tue, Jan 18, 2022 at 4:02 PM

To: Board Of Regents <bor.testimony@hawaii.edu>

Aloha:

Because the present use of Mauna Kaaba has been so beneficial and can continue to be, I recommend that you continue this program. I am proud that Hawaii is a window into the universe and that you have administered this respectfully and responsively.

Mahalo

Gene Grounds

Testimony in support of UH's Master Plan for Maunakea

1 message

Katherine Loke Roseguo <manifestaloha@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 4:14 PM

Aloha. I am a Hawaii island retired public school teacher and I have worked as a middle school science teacher at Honoka'a High and Intermediate and ma ke 'ano he kumu 'epekema malaa'o a i ka papa 9 ma ke kula 'o Nāwahīokalani'ōpu'u Iki. I am currently employed at the Visitor Information Station at 9,200 feet where I serve the visitors through informing them about how to visit Maunakea safely and respectfully. Thus, I am an employee of the UH Hilo Center for Maunakea Stewardship.

I want to express my full support for the responsible, respectful and pono adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy and culture on Mauna Kea alive, including the Thirty Meter Telescope (TMT).

Visitors to Maunakea have great experiences while they are there, as evidenced by their enthusiasm and many positive comments: <https://www.yelp.com/biz/mauna-kea-visitor-information-station-hilo-2>

Every day I work, I witness the hard work and dedication of the workers at the VIS and Hale Pohaku, and the Rangers, who risk their lives every day to make sure people are safe. Just last week they saved someone's life in the middle of a blizzard. And this week there was a tragic accident which might have been prevented if they had followed safety protocols. My boss does a great job keeping us safe and informed. Almost all employees at the MKVIS graduated from local public schools. Then there are the people who plant and create habitats for our native flora and fauna, including the silversword, the wēkiu bug, the māmane, and the palila. In addition, there are the telescope techs, the astronomers, the engineers and the people who clear the roads. These are all local people in the community, many who have worked 20 or 30 years at Maunakea.

UH Hilo Center for Maunakea Stewardship is already doing a great job. When problems come up, they get discussed and fixed. If there needs to be a compromise, then that is discussed and acted upon. At the moment, the UH Center for Maunakea Stewardship charges NO FEES to visit the mountain. Everyone is welcome, for free. Just be safe and respectful.

UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit

in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Na'u me ke aloha,
na K. Roseguo



Written Testimony for the Mauna Kea Master Plan

1 message

Peter Maurer <peter.maurer@ymail.com>

Tue, Jan 18, 2022 at 4:26 PM

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

Aloha,

Enclosed is my written testimony for the Mauna Kea Master Plan.

Mahalo for your time and consideration.

Best wishes,

Peter



MKMP--Maurer.pdf

28K

Dear members of the Board:

This document is clearly the result of long hours, unbridled patience, and hard work. A great deal of thought and care has been given. I am in favor of the majority of the Master Plan.

As an environmentalist who spoke out numerous times against hydraulic fracturing in New York, I have noted your efforts and care in helping the environment thrive. I appreciate them. I support the upgrades of the VIS and other mid-level support facilities, while recognizing the need to balance those upgrades with the environmental impacts.

Section 4.1.1 on page 4-1 indicates that astronomy was identified as a desirable location for astronomy. However, I feel this history is incomplete, as officials and community members recruited astronomy to help stimulate the local economy due to a natural disaster. Astronomy continues to provide stability as a source of employment and research for Hawaii.

I'm grateful for your continued support of astronomy. As you eluded, most knowledge in astronomy plays a role helps us understand much about our own planet and informs other disciplines, such as medicine and climate. Astronomy also helps guide our perspective as well as our own history on Earth, this solar system, and the universe. I appreciate your continued support toward astronomy, and a management structure that will be more comprehensive to maintaining the cultural and natural resources on Mauna Kea.

Finally, as a strong supporter of education, I urge the University of Hawaii to continue following through on its promises to support community and educational programs for students and the community. Education helps us solve difficult problems and create thriving communities. And, of course, you will also need individuals trained in the sciences from Hawaii to help maintain the observatories and explore Laniakea.

Thank you for your time.

Peter Maurer



In support of UH's Master Plan, and TMT

1 message

Victoria Missien <missienv001@hawaii.rr.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 4:37 PM

Our family fully supports the University of Hawai'i continuing their oversight and management of Mauna Kea, and support their draft Master Plan towards renewal of their Master Lease. Divisive as this issue has become there is no denying the historic, indigenous importance of continually seeking enrichment through the study and knowledge of our night skies. The informed curiosity which led the ancestors to the islands of Hawai'i is the gift and endowed responsibility for us now: to seek, learn, caretake and share.

There have been assertions that past management of Mauna Kea was less than it should have been, and that any past shortcomings should deny UH continued stewardship, and furthermore deny all astronomical studies at the summit. Whether this accusation is fair or strategic, humanity can and does learn from experience, including gained knowledge of better practices. It would be a sad disservice to determine there is no place for scientific study on Mauna Kea, and that it be strictly a spiritual temple. Mauna Kea has been, can, and should be both, and so much more. The potential to collaborate on a richly rewarding future for education, enrichment, honoring traditions, inspiring our keiki, and yes increased economic diversity is there. It is all possible.

Civility, respect, patience, listening, compromise, and inclusion is needed from all.



TMT

1 message

Martin Abel <marsu22@hotmail.com>

Tue, Jan 18, 2022 at 5:24 PM

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

To the Board of Regents:

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a good job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. Thank you.

Sincerely,
Martin Abel



Testimony in support of the UH's draft Master Plan for Maunakea

1 message

Leedda W <leedda@yahoo.com>

Tue, Jan 18, 2022 at 5:25 PM

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

To the University of Hawaii Board of Regents,

I am an astronomer and have been working for one of the oldest telescopes on the summit of Maunakea for over 22 years. I feel so blessed to be able to work in such a special and unique place.

I urge you to adopt UH's draft Master Plan for Maunakea because it keeps astronomy on Mauna Kea alive, and it brings in Hawaiian participation in its stewardship through the Kahu Ku Mana council and the Hawaiian Culture committee. I especially like that they hope to broaden their inclusion to more Hawaiians. It includes the Thirty Meter Telescope (TMT) to ensure Hawaii remains at the top of productive astronomical research. UH has done a masterful job of managing Mauna Kea over the last 17 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Maunakea is now some of the best managed state-owned land in Hawaii. Maunakea Observatories (MKOs) are the most scientifically-productive collection of telescopes in the world, and I am proud of the work we do and its impact on all of astronomy. Astronomy on Maunakea is our culture. Astronomy on Maunakea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Maunakea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I whole-heartedly support the mission of the IfA at UH, all the MKOs, and their future to come when the lease for the Astronomy Precinct is renewed and this is just one of the first steps toward that end.

Mahalo nui loa,
Lisa



Agenda items e f and g

1 message

Cheryl B <burgharc@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 5:29 PM

Comments:

Letter E: I oppose the Mauna Kea plan.

1. It with minor revisions looks the same as we have seen under the continued mismanagement of the Mauna by UH.
2. The UH BOR and UH has given too much weight to one department of the university, astronomy as well as to the members of the community supporting the large tool of astronomy. The amount of funding for its' promotion, legal fees and PR from the citizens of Hawai'i's taxes could be used in many other places that would benefit the entire university.

Letter F: I oppose the Mauna Kea Plan and object to the agenda forwarded to us.

Simply put: why is testimony being requested when letter F says adoption of the plan? We are quite aware that UH BOR will rubber stamp this after they try to give the illusion that they are listening but to put it clearly on the agenda?

Letter G: I oppose the Mauna Kea Plan because as long as UH remains a systemic Eugenics-based place, there is no path to reimagining the university in its current or any new incarnation.

C. Burghardt

Aloha,

We are opposed to the Draft Maunakea UH Master Plan in its entirety.

It's interesting that you chose the words E Ō I KA LEO (LISTEN TO THE VOICE) as your title. It is not a very suitable title since through the years no actual "listening" has been done by the University of Hawai'i about protecting Mauna Kea as the most sacred site in Hawai'i.

In your Forward, you link Mauna Kea as the origin to early Hawaiians as the first-born island to modern astronomy and a window to the origins of the universe. These two ideals could not be more different. The "only" spot or portal on earth where an individual can stand and connect to their ancestors or receive ancestral knowledge is entirely separate from a manmade device that could be absolutely anywhere including outside the earth's atmosphere to "view" the universe. Thus, the entire premise of your title and ultimately your perspective are quite skewed.

You write of "astronomy on Mauna Kea as an important element of the island's future economic and educational base". However, expenses linked to mismanagement, lack of oversight, and poor decisions have caused UH and ultimately the State of Hawai'i to spend millions of taxpayer dollars to fight lawsuits, direct funds unnecessarily to pay for future decommissioning of telescopes, etc., etc. Education (and particularly early education) suffers the greatest loss of funding when States have these unnecessary expenses. This of course is also a catalyst for poor fiscal responsibility. It is not only short-sighted but dangerous to believe that astronomy on Mauna Kea is a necessary means to economic stability in Hawai'i.

We would agree that Mauna Kea is a "unique source of learning". The natural and unique ecosystems including rare and endangered species is the ultimate learning opportunity. UH has unfortunately not protected these areas and has aided in the population decline and the potential future demise of the Palila (although you have tried to transfer the blame on feral animals). The facilities at Halepōhaku on Mauna Kea where the Palila once thrived have caused irreparable harm. While any disturbances and developments at Halepōhaku or the Mid-Level facility areas should be avoided to protect the federally designated critical habitat, UH continues to expect to build and develop these areas. Most recently, a new parking area was made where Māmane trees should have been planted instead. And UH also has the intent of putting a teaching telescope there. This once again has proven UH to not be a good steward of the land nor protector of nature, endangered species and sensitive ecosystems.

Under "UH'S VISION FOR MAUNAKEA" it states, UH recognizes that it must protect the area's various values including "culturally significant landscape and a recognized historic district with many contributing historic properties" and "rare subalpine and alpine ecosystems". However, cumulative impacts upon Mauna Kea's cultural, archaeological, historic, and natural resources have been substantial, significant and adverse under UH's management and have been well documented as such. So, why would anyone believe this statement? UH continues to send out

a smoke screen filled with deception. Including the “CORE VALUES ASSOCIATED WITH MAUNAKEA” all of which have not been followed to date.

1.4.1 RESPONSIBLY STEWARD MAUNAKEA FOR PRESENT AND FUTURE GENERATIONS

UH:

1. Embraces its responsibilities to Native Hawaiians, respecting their religious and cultural practices;

The TMT project proposes to be built in an undeveloped area amongst the hundreds of the documented and undocumented ahu (shrines) and cultural sites.

Kukahau’ula as one example, was determined a historic (district) by SHPD owing its association with legendary figures and ongoing Native Hawaiian cultural practices, however, 1100 feet of the 3400 ft long Access Way that would serve the proposed TMT would cross Kukahau’ula. In addition to hundreds of find spots and shrines in the summit region, it has been referred to by archaeologists with DLNR-SHPD as a “ritual landscape” that UH has shown no care in wanting to protect.

2. Dedicates itself to the protection of the landscape and the flora and fauna that have evolved in its isolated ecosystems;

Time and time again individuals have noted their concerns about the many pollutants such as mercury and other waste products that come with the use and maintenance of the telescopes on Mauna Kea. The fact that adequate studies have not been done on the impacts of those pollutants on the groundwater and native flora and fauna is of great concern and has never been addressed by UH.

3. Dedicates itself to the pursuit of the many non-astronomy research and educational activities for which Maunakea is especially well-suited; and

These areas should be the main focus. Those activities which do not desecrate sacred lands.

4. Will limit astronomical research facilities and projects to only those for which Maunakea is particularly well-suited.

Like many things UH does, the wording here is a smoke screen and not well defined.

As for the objectives:

- *Guide human activities on the mountain in a way that minimizes their adverse effects and is sustainable.*

Once again, UH has not been a good steward of the lands of Mauna Kea themselves. Therefore, it remains questionable whether they can accomplish this objective since their standard of measuring “adverse effects” is questionable.

- *Protect, maintain, and restore the cultural landscape and natural resources by implementing the CMP management actions.*

The OMKM has failed to properly consult with Native Hawaiian cultural practitioners to develop and implement CMP Cultural Resources policies.

- *Affirm and protect Maunakea as a wahi pana and wao akua.*

Dr. Kahakalau articulated in the TMT contested case that “the entire mountain, as a first born, has a unique, special status for culturally-connected Hawaiians and exudes mana, Mauna Kea’s summit, based on what I was taught, as the highest peak not just in Hawai’i but the entire Pacific, is also clearly a Wao Akua. A Wao Akua, versus a Wao Kanaka, **is reserved for deities and spirits and should only be accessed for specific, always and only spiritual practices, involving special protocols.**

It is clear that UH has not protected nor affirmed Mauna Kea as a Wao Akua. Once again, they are using words that are not associated with their actions thus far.

- *Provide educational and other programs to ensure public activities are conducted in a manner that respects Native Hawaiian practices, does not unduly impact the environment, protects and sustains resources, and maintains human health and safety.*

UH is using words to disguise their intentions. Notice that “private activities” nor “corporate activities” are listed here. So one can make the assumption that they only want to “do what’s right” if the “public” is involved. Who is holding the telescope partners, potential construction companies, tour operators etc., accountable?

- *Build relationships between the mauna, its special caretakers, and the broader community.*

Clearly UH has failed here in the past, and there’s no comprehensive plan listed as to what that will entail or look like as an effort from UH.

- *Limit permitted commercial activities to those which support the stewardship of Maunakea’s resources.*

This appears to be just another “unclear” statement that UH wishes to remain vague so they can interpret and change “at will”.

1.4.2 MAINTAIN THE UNIVERSITY’S & MAUNAKEA OBSERVATORIES’ STATUS AS WORLD LEADERS IN ASTRONOMY

The best astronomical viewing conditions are obviously high altitude, low temperature, continuous darkness, and a stable atmosphere free of dust and moisture. These conditions are obviously more perfect in outer space than they are on earth. UH can certainly maintain its status as a world leader in astronomy by supporting non-land based telescopes and a world class teaching and observational facility that is “not” on the top of Mauna Kea.

This would also allow UH to be a true leader in the world. One who puts native people and land, endangered species and native flora and fauna, above all else. A genuine leader in the ultimate land conservation effort for future generations. Putting people before profit, preserving habitat for wildlife, maintaining native ecosystems and acknowledging, truly acknowledging Mauna Kea's natural and cultural resources as well as Native Hawaiian traditional and customary practices and rights for all time by not allowing any more telescopes atop the mountain.

This would be the most responsible stewardship of Mauna Kea for present and future generations.

UH will continue supporting the vision of a knowledge-based economy

Hawai'i's economic future should not depend on a knowledge based economy. Economic success cannot be guaranteed by jumping on the bandwagon of technology or scientific ideology. Monsanto has been a perfect example in Hawai'i of why that can be a dangerous road to follow. Ensuring that inequality does not increase into the future is a very important element and measurement of economic success.

1.4.3 DIVERSIFY EDUCATIONAL PURSUITS AND EXPAND RESEARCH OPPORTUNITIES

While the concept of UH working to strengthen its support of research and educational programs in indigenous, natural, and social sciences is a positive pursuit, it should be combined with an effort of sustainability. UH should strive to meet the needs of students without compromising land, ecosystems, traditional and customary practices and rights, social and educational equity, and the ability of future generations to know the natural and scenic beauty of Mauna Kea.

1.4.4 SEEK BALANCE AND MUTUALLY BENEFICIAL RELATIONSHIPS AMONG MAUNAKEA'S STAKEHOLDERS

While UH constantly professes to seek a mutually respectful and beneficial relationship with Mauna Kea "stakeholders", its actions show otherwise. UH's ineffective management and the unlawful actions of its own employees and individuals under their jurisdiction have continuously resulted in adverse impacts upon Mauna Kea's natural and cultural resources. Native Hawaiian traditional and customary practices and rights have also been negatively impacted. They consistently fail to properly consult with Native Hawaiian cultural practitioners and have allowed desecration and dismantling of cultural sites on Mauna Kea. This has shown their lack of concern for the health and safety, proper stewardship, and preservation of resources. Actions matter more than words here.

1.5 STRATEGIES

10. Facilitate the development of a new astronomical facility on Astronomy Site 13

Site 13 is a roughly 5-acre area at the end of a four-wheel drive road at an elevation of 13,150 feet on the Northern Plateau of Mauna Kea where there are no current developments.

According to Kealoha Pisciotta's Written Direct Testimony in the contested case, the viewplane is in "direct line of sight of Maui and the NW plane which is used for ke ala ao (solstice and equinox) ceremonies. There are also lines that represent the relationship between Mauna Kea and Poli'ahu Heiau on Kaua'i, Ahu a Umi Heiau situated between the three great mountains (Hualalai, Mauna Loa and Mauna Kea) on Hawai'i Island, the Pu'u Kohola Heiau in Kawaihae, Hawai'i Island, and Motu Manamana (Necker Island) of the Northwestern Hawaiian Islands which marks the great turn around of the sun during the ke ala polohiwa time. The shrines on this tiny island are related to this relationship too."

Hāwane Rios also testified she has received ancestral knowledge through mediumship in areas on the Northern Plateau. Ms. Rios explained the significance of shrines along the Northern Plateau, their connection to one another, their alignment with the constellations and tides at certain times of the year, and that they are portals which connect to celestial bodies of the universe. In particular, the Northern Plateau is a place of learning, a celestial realm in the cosmos that is also connected to voyaging. She describes the Northern Plateau as "a very sacred space of higher learning, spiritual learning, higher consciousness."

These are just a few reasons why development on site 13 should not be a consideration if UH truly and deeply cares for Native Hawaiians and their spiritual, traditional and customary cultural practices.

HALEPŌHAKU (FACILITIES)

UH continues to disregard endangered species including the Palila in its decision making and Master Plan. They are merely mentioned as a matter of fact. Grading and paving areas, reconstructing areas, building new facilities or adding to existing ones all have a significant effect. Dust and noise etc. in this area during construction will have a tremendous environmental impact. Mitigation measures alone will not suffice. A potential multi-year project will mean a number of nesting seasons for the Palila. Once gone, they may never return. Or, they may be lost forever. There is no guarantee either way. The risk is much too great for an endangered species and its potentially minimal survival rate.

It is stated that, "The DLNR, which is leading Palila recovery efforts, has asked that new disturbances and developments at Halepōhaku be avoided." However, we already know that disturbances and developments have occurred recently including a new parking area. It is clear the UH doesn't follow any recommendations for ensuring these areas of critical habitat remain undisturbed.

Archaeological surveys should also be done in this area. UH often rushes to get things done before adequate surveys to confirm there are no historical or cultural properties, altars or remains there.

MAUNA KEA SCIENCE RESERVE

All potential plans for the Mauna Kea Science Reserve should be put on hold. UH's actions over the past five decades have already resulted in substantial, significant, and adverse impacts on Mauna Kea's summit region. We must conserve the ecological and culturally irreplaceable ecosystems on the summit and preserve this historic district for future generations of Native Hawaiians to continue their customary and traditional practices.

"Mauna Kea, the highest mountain peak in the Hawaiian Islands, is of profound importance in Hawaiian culture. The summit region is sacred to Native Hawaiians, and because of its spiritual qualities, traditional and customary cultural practices are exercised throughout the summit area." This statement regarding Mauna Kea's cultural significance is affirmed in the Concurring Opinion from *Mauna Kea Anaina Hou v. Board of Land and Natural Resources* (2015).

Mauna Kea's summit region is sacred. Native Hawaiian traditions state that ancestral akua reside there.

E. Kalani Flores stated the following in his Written Direct Testimony in the TMT contested case: "Embedded within these ahu and stones is 'ike kupuna and ancestral knowledge along with ancestral guardians. As such, construction (of the TMT observatory) in this vicinity would sever our past, present, and future generational connections with the 'ike kupuna and ancestral knowledge implanted at these sites. With the understanding that many of these sites serve as depositories of ancient wisdom as well as multi-dimensional portals, the massive extent of destruction proposed in this culturally sensitive landscape would also adversely impact our Native Hawaiian customary and traditional practices that are still connected to these sites.

It is for these reasons that we oppose the Draft Maunakea UH Master Plan in its entirety. UH should be "listening" to those who may oppose any further development on Mauna Kea. UH has done enough damage.

Thank you for your time.

Cheryl Burghardt
Wendy Green



Written Testimony for the UH Board of Regents January 20, 2022 Meeting

1 message

Wendy Laros <wendy@kona-kohala.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 5:37 PM

Aloha,

Please accept the attached document that provides our written testimony for the UH Board of Regents.

This is for the January 20, 2022 meeting, Agenda Item F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo (Listen to the Voices).

Mahalo,

Wendy J. Laros, President & CEO



Kona-Kohala Chamber of Commerce
75-5737 Kuakini Hwy, Ste. 208
Kailua-Kona, HI 96740
(808) 329-1758
wendy@kona-kohala.com



2022.1.18_Kona-Kohala Chamber - Testimony for BOR, UH Maunakea Lands Master Plan.pdf
453K

January 18, 2022

RE: Adoption of the Master Plan for the University of Hawai'i Maunakea Lands, E Ō I Nā Leo.

To the University of Hawai'i Board of Regents,

The Kona-Kohala Chamber of Commerce brings together the business community as a strong, united voice to address key issues in our community, on our island and in our state. Founded in 1968, our 430 member businesses and organizations represent a wide range of industries such as agriculture, aquaculture, astronomy, banking, construction, education, finance, food service, healthcare, media, non-profits, retail, real estate, tourism, technology, transportation and more. We exist to provide leadership and advocacy for a successful business environment in West Hawai'i. Our goal is to enhance the quality of life for our community through a strong, sustainable economy on Hawai'i Island.

We support the Master Plan for the University of Hawai'i Maunakea Lands, E Ō I Nā Leo and ask that you adopt the plan. We believe in the UH's mission and purpose to "Sustainably steward Maunakea for the benefit of our communities, Hawai'i, and the world, as a publicly-accessible learning landscape where all who visit learn, and those who seek something more discover through rich multi-cultural experiences and multi-disciplinary discourse. Provide equal opportunities across the schools of the UH system and community partners to engage with the mauna in ways that perpetuate and advance knowledge, wisdom and values while fostering mutual understanding and respect."

UH recognizes this is a precious area for residents and visitors seeking cultural, educational, recreational, and exploration experiences. With entities in place such as the **Center for Maunakea Stewardship**, **'Imiloa Astronomy Center** and the **Institute for Astronomy**, the University of Hawai'i has broad resources, vast knowledge and a steadfast commitment to provide the best possible stewardship under very complex circumstances.

We strongly support UH management and state lease renewal on Maunakea. The University of Hawai'i is by far the best option for a management structure on Maunakea and the lease renewal of 2033 is urgent. The University has taken significant steps to address issues and improve management. We applaud the depth, scope and considerations embedded in the Master Plan pertaining to land use and facilities along with the Comprehensive Management Plan (CMP) that fully outlines related activities and resources.

The Kona-Kohala Chamber of Commerce strongly supports the astronomy industry on Maunakea noting significant scientific discovery, global leadership, educational outreach, workforce pipelines, jobs and economic impact. Hawai'i has worked diligently to diversify its economic sectors and attract high tech industry to create more opportunities. Hawai'i's astronomy sector provides needed economic diversity with a statewide impact of \$167 million. Astronomy activities generate over \$52 million in earnings, over \$8 million in state taxes and 1,400 jobs statewide. We are very grateful to the UH Institute for Astronomy and Maunakea's astronomy industry for well-developed, impactful programs that better prepare Hawai'i students

to become the workforce for higher paying science and technology jobs in Hawai'i's 21st century economy.

We support culture, science and environmental stewardship on Maunakea. In 2017, we recognized the University's commitment to culture on Maunakea when the Office of Mauna Kea Management, now **Center for Maunakea Stewardship**, was the recipient of the **Kona-Kohala Chamber of Commerce Pualu Award for Culture and Heritage**. The Chamber's Pualu Awards recognize businesses, organizations or individuals that work together for the betterment of Hawai'i Island. The meaning of *pualu* translates to "all together, in unison, and cooperative." (Pukui & Elbert, 1986).

We support expanded educational activity and construction of a new UH observatory at the Halepōhaku Mid-Level Facility to continue the important work of teaching, training and conducting research. As mentioned in the plan's opening message, "Efforts already underway to elevate culture and education as key priorities alongside astronomy and land stewardship have begun with the assignment of responsibility to the 'Imiloa Astronomy Center of Hawai'i. 'Imiloa is developing additional necessary and appropriate educational programming for those who work on and visit Maunakea and improving the interpretive experience at the Maunakea Visitor Information Station at Halepōhaku." In Part 2: Physical Plan, it states, "The facilities at Halepōhaku are essential to UH's ongoing astronomy program and implementation of the CMP. Those facilities contribute significantly to the achievement of UH goals and objectives." In the UH Commitment Regarding Use of Halepōhaku, it states, "The only astronomy facility that will be proposed at Halepōhaku is the UH Hilo New Educational Telescope (NET)."

Lastly, the Kona-Kohala Chamber of Commerce strongly supports the development and future operations of the Thirty Meter Telescope (TMT). We must voice our support for this project which is permitted for Astronomy Site 13 as stated in Strategy 10 in the Master Plan. Since 2009, TMT has contributed millions of dollars to educational initiatives for Hawai'i Island students that include The Hawai'i Island New Knowledge (THINK) Fund, Workforce Pipeline and Akamai Internship Program. Additionally, TMT will provide 300 local and specialized construction jobs during the construction phase, and once the telescope is complete, employ 140 staff. TMT's commitment is to fill these positions with as many Hawai'i residents as possible and use local businesses for support services. We must acknowledge the positive educational and economic contributions of TMT for our island community.

We appreciate the opportunity to voice our support for the Master Plan for the University of Hawai'i Maunakea Lands, E Ō I Nā Leo.

Sincerely,



Wendy J. Laros, President and CEO
Kona-Kohala Chamber of Commerce



TMT and UH's Master Lease for Mauna Kea

1 message

Eric Takasugi <eric.takasugi@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 7:10 PM

To whom it may concern,

My name is Eric Takasugi, a resident of Kona and a supporter of astronomy and the Thirty Meter Telescope on the Big Island of Hawai'i.

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Thank you for your time.

Sincerely,
Eric Takasugi



TMT

1 message

Susan Irvine <susan.r002@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 8:45 PM

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea. Astronomy on Mauna Kea is our culture. Astronomy provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of world-class astronomy on Mauna Kea is vital for the economic diversification of Hawaii Island and our state as a whole.

UH needs to be involved on Mauna Kea, as UH was responsible for obtaining a permit for the construction of TMT. TMT is one of the best projects to be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Mauna Kea Observatories are situated in the best site in the world for the astronomers and the residents of our state. I mua TMT!

Mahalo for reading this, Susan Irvine, Hilo, HI



Mauna Kea master plan

1 message

DLR <adrenalinrod@yahoo.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 8:45 PM

My name is Drena Rodrigues and I oppose the Master plan you have for Mauna Kea.

The first thing I heard was that it would be gated up there. Who are you trying to keep out?

After years of desecration and severe impacts on our Mauna, it is evident that the U.H should not have a say in the care of our Mauna.

It is said the plan was made by speaking with people and groups of which you mentioned several groups that the Hawaiian people have lost much faith in. To form a plan based on the opinions of these agencies who are not in alignment with what the Hawaiian people want, is a mistake and the Hawaiian people will see thought this.

It is time to walk away from the Mauna and let her heal from the negative impacts that the University and the astronomy community has done to her.

If you have not learned from Red Hill what can happen when a place is not properly managed then we are in trouble.

Mauna Kea does not belong to the UH or the Government, it belongs to the people of Hawaii and it has been proven that no one can take care of her better then the people who revere and love her.

Please leave and stop building and exploiting our sacred Mauna A Wakea

With deep sadness for what has been done to our Aina.

Drena Rodrigues

Sent from my iPhone



Testimony for UH Maunakea Master Plan

1 message

Alan Tokunaga <tokunagaa001@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 8:56 PM

University of Hawaii Board of Regents,

I am an Astronomer Emeritus at the UH Manoa Campus. I worked at the UH from 1980 to 2016 and have therefore seen and participated in the growth of astronomy on Maunakea from the early days. I am a former director of the NASA Infrared Telescope Facility. I was born and raised on Maui, and like many people in the islands I am saddened by the controversy of astronomy development on Maunakea. Stopping the TMT and even stopping all of astronomy in Hawaii will not resolve the underlying issues raised by the Kia'i movement and it will not yield a better future for the next generation. I believe the proposed Master Plan is an important step toward addressing the many issues that face the University and the community. A long-term sustained push by the University is needed to realize the objectives of the plan, to address the concerns of the Kia'i movement, and to heal the divisions in our community. No plan will please everyone, but we must move forward and I urge to BOR to adopt this plan.

Thank you for consideration of this testimony,

Alan Tokunaga
UH Astronomer Emeritus



Let TMT proceed

1 message

Suzy Lauer <lauer5090@twc.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 9:44 PM

We support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and We wholeheartedly support its completion.

We hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and We are proud of their work.

Astronomy on Mauna Kea support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and we wholeheartedly support its completion. We hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and We are proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there.

Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home.

The early Hawaiians studied and knew the skies at night. They used the skies as a tool for exploration and discovery.

Suzanne & Geoffrey Lauer



I support TMT

1 message

william coke <wailum99@hotmail.com>

Tue, Jan 18, 2022 at 9:47 PM

To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Mahalo nui loa
William Coke

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Mary Beth Laychak

Your Organization (optional)

Your e-mail address (in case we need to reach you) *

mblaychak@yahoo.com

Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

Your Testimony (pdf or word)

[Laychak_BoRtestimoney_support.pdf](#) (33.6 kB)

To: University of Hawai'i Board of Regents
From: Mary Beth Laychak
Subject: Testimony on Proposed Master Plan for the University of Hawai'i Maunakea Lands
Date: December 15, 2021

As a staff member of one of the Maunakea Observatories, I am reassured to see a long range commitment to astronomy in the draft Master Plan; E Ō I Nā Leo. The Maunakea Observatories are the scientifically most productive collection of telescopes in the world and I am proud of the work that we do.

I have the privilege to represent my facility and the Maunakea Observatories (MKOs) in the community. The core values described in the Master Plan resonate with me and reflect the work that myself and others strive to do in the community. It is my opinion that the MKOs have a kuleana to the mauna and the community to respect the wahi pana that is Maunakea and share understanding of the universe gained by the telescopes with the broader community. We also have the obligation to be good neighbors, and contribute to the community we call home. Over the past 50 years, the MKOs have not always done as much as we can or should have, but we strive to do better moving forward.

Over the past decade, I have been a part of the MKOs efforts to do better, both within and outside of our traditional STEM outreach. From the start of COVID, the MKOs saw the need in our community and asked the community "how can we help?" When our community answered that critical needs were food insecurity and our keiki, we started to do the work to help. The W.M. Keck Observatory created a program called Farm to Families where they bought produce from local farmers then donated the food to local organizations in need. MKOs staff volunteer at the Hawai'i Island Food Basket, packing and helping to distribute food across the island. I am one of the founders of Keiki Heroes, a community based program to educate and empower keiki to feel in control of their own health during COVID. Keiki Heroes is now a statewide program with materials distributed through all the major health organizations in the state. The MKOs are a critical sponsor of Keiki Heroes, supporting the program since day one.

Community engagement is a cornerstone of my work. In my experience, engagement works best when it is a two-way street: asking the community what they want and then listening to the answer. I encourage the Board of Regents and the University of Hawai'i to truly live up to the values outlined in E Ō I Nā Leo by involving community voices— specifically Hawaiian voices. I believe the Maunakea Observatories are eager to support and willing to lead these efforts, working collaboratively with the University and our community to achieve these goals.

Thank you for the opportunity to provide testimony,
Mary Beth Laychak

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Susan Lussier

Your Organization (optional)

Your e-mail address (in case we need to reach you) *

Sue808@hotmail.com

Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

I grew up in Hilo. There has always been a telescope on Mauna Kea as long as I can remember. The Hawaiians of old navigated across the Pacific Ocean by looking at the stars as well as noting birds, waves, and other navigational guides. Those ancient Hawaiians would be the first to look through the telescopes to better see into the universe.

As a veteran public school teacher, I taught a solar system unit annually to my third graders. As scientists we are always asking questions and pushing for the boundaries to gain more knowledge. Our kupuna looked up for direction. We need to continue to follow their example.

For the keiki, Susan Lussier

Retired elementary teacher who loved science

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Your Name (required) *

Amber Suzanne Ramsey

Your Organization (optional)

Mermaid

Your e-mail address (in case we need to reach you) *

Meherio@icloud.com

Board of Regents Agenda Item (required) *

BOR VI.E. Partial Report of the Maunakea Plan Review Permitted Interaction Group Recommending Consideration of Approval of the Proposed Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo (Listen to the Voices)

Your Position (required) *

Oppose

Your Testimony/Comments

Traditional Environmental Knowledge is well established as a top priority at the Academic Level as taught by Nan Greer at Kaua'i Community College. Native Hawaiian people live in harmony with nature. To perpetuate a final crime against them as people by implementing this telescope against their plea not to will not be accepted by any Anthropologist you employ to teach at your University. It's Unacademic. It's RACIST against the Hawaiian a people and the Hawaiian Culture. A'ole TMT. They can build telescope somewhere else.

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Jasmine Torres

Your Organization (optional)

Your e-mail address (in case we need to reach you) *

Kahelelanidreams@gmail.com

Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Oppose

Your Testimony/Comments

I oppose building anymore telescopes on Maura Kea, or any other part of Hawaii.

Your Testimony (pdf or word)

No file attached

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Jacqui L Hoover

Your Organization (optional)

Hawaii Island Economic Development Board and Hawaii Leeward Planning Conference

Your e-mail address (in case we need to reach you) *

jhoover@hiedb.org

Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

Aloha,

Since 2005, I am native Hawaiian and have closely followed matters related to management of Maunakea, participate in numerous focus group meetings, and testified in hearings over the past two decades. As an individual who has the privilege of working in economic development, land and resource management, planning, public policy, and education, in addition to reviewing many plans, I have also personally developed comprehensive plans in these areas,

In reviewing the master plan under consideration. I find it is comprehensive, provides a framework that ensures collaborative community engagement, recognizes the diverse stakeholders and accompanying

diverse concerns in a thoughtful, respectful, and proactive manner. Having participated in information sessions and hearing firsthand the multiple perspectives shared as the plan was being developed, the University of Hawaii clearly did Ō I Nā Leo (Listen to the Voices) and I humbly request that the Board of Regents adopt the Master Plan for the University of Hawai`i Maunakea Lands. Mahalo for this opportunity to offer my comments to advocate in support of this plan.

[Your Testimony \(pdf or word\)](#)

No file attached

Actions

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Mauna Kea

1 message

Mary Katherine Trevithick <mktrevithick@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 10:24 PM

To Whom It May Concern:

I strongly support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built.

Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Thank you for your time and consideration.

Sincerely,
Mr. & Mrs. Paul M. Trevithick
Kailua-Kona
Sent from my iPad



Mauna Kea master plan

1 message

yvonne.yvnn@gmail.com <yvonne.yvnn@gmail.com>
To: bor.testimony@hawaii.edu

Tue, Jan 18, 2022 at 10:48 PM

As a forty year resident of Hawaii, I have the utmost confidence in the management of Mauna Kea by the University of Hawaii. I have no confidence in the management by a group of activists whose sole objective is the elimination of the world's foremost center of astronomy.

Hawaii can lead the world in precious little. We should be proud to lead it in astronomy rather than homelessness.

Gregory B. Wilson

Sent from my iPhone



Support of TMT

1 message

Sherry Sutherland <sherrynhawaii@yahoo.com>
To: "bor.testimony@hawaii.edu" <bor.testimony@hawaii.edu>

Tue, Jan 18, 2022 at 11:55 PM

Astronomy is a subject that deeply fascinates me. It is a branch of science that fosters the imagination and attempts to answer questions regarding the nature of universe. It is hard to fathom that building a collection of world-class telescopes and supporting astronomy would become such a contentious issue for the state of Hawaii.

Without TMT, it is my fear is that astronomical literacy will dramatically decline. Astronomy on Mauna Kea provides opportunities for scientific progress, education, training, technological discoveries, and ultimately, more jobs. The tourism industry has been woefully impacted by the Covid-19 pandemic and serves as a painful reminder that Hawaii needs more economic diversification. Hawaii needs to be a global leader in science and technology. It is my fervent hope that UH is doing everything in its power to ensure that TMT is built.

I whole heartedly support the building of TMT!

Thank you for your consideration in this matter!

Sherry Sutherland-Choy



UH's Master Plan for Mauna Kea

1 message

Jean-Pierre Maillard <jean-pierre.maillard@iap.fr>
To: bor.testimony@hawaii.edu

Wed, Jan 19, 2022 at 4:12 AM

Dear Sir,

As a French astronomer who has had the chance to work for many years on the Mauna Kea summit through the Canada-France-Hawaii Telescope, I want to say by my testimony how essential it is to adopt rapidly the new UH's Master Plan. It's essential for all the telescopes on the mountain, for the TMT project, for the science in Hawaii and beyond, for the science in the world. As astronomers we applause to the perspectives open by JWST just recently launched but we know also that large ground-based telescopes as they exist on Mauna Kea and with their projects of development (case of the CFH Telescope) are fully needed to pursue large programs not feasible on a space telescope, to complete detections made in space and to start new investigations.

More particularly specialist of infrared astronomy, I have been able to fully test, to check and to use the exceptional qualities of the site in this spectral domain. The TMT by its diameter, much larger than the 6.5 m of the new space telescope, installed on the highest peak equipped with a telescope of its size, will be a unique tool for the worldwide scientific community, giving in addition to the University of Hawaii a prominent status. I have been also able to appreciate the quality of its management of the site.

Therefore, I am confident that you realize how important and capital is your decision to endorse the new UH's Master Plan for Mauna Kea.

Aloha

Jean-Pierre Maillard

--

* Dr Jean-Pierre Maillard *
* Institut d'Astrophysique de Paris (CNRS, UPMC)*
* 98bis Boulevard Arago, 75014 PARIS - FRANCE *
* ----- *
* bureau : 48A (rdc) *
* tel : 33(0) 14432 8139 mob: 33(0) 66040 6126 *
* courriel : jean-pierre.maillard@iap.fr *



Please find a way to continue the study of the Universe on Mauna Kea

1 message

Nalani Hance <nalanihance@gmail.com>
To: bor.testimony@hawaii.edu

Wed, Jan 19, 2022 at 6:44 AM

Aloha,

I have always been so proud of the fact that Hawaiians found Hawaii by using the stars to guide them. The continuation of the study of the Universe is so important, even to those of us who call ourselves Hawaiian. Please fight to keep TMT.

Katherin Nalani Hance
808-937-3858



Support of UH's Master Plan

1 message

Kei Szeto <szetomse2015@gmail.com>
To: bor.testimony@hawaii.edu

Wed, Jan 19, 2022 at 8:17 AM

Aloha,

I support adoption of UH's draft Master Plan for Mauna Kea because it keeps astronomy on Mauna Kea alive, including the Thirty Meter Telescope (TMT). UH has done a masterful job of managing Mauna Kea over the last 20 years, especially with respect to obtaining a permit for the construction of TMT. TMT is one of the greatest projects to ever be developed in Hawaii and I wholeheartedly support its completion. I hope UH is doing everything in its power to ensure TMT is built. Moreover, Mauna Kea is now some of the best managed state-owned land in Hawaii. Mauna Kea Observatories are the most scientifically-productive collection of telescopes in the world, and I am proud of their work. Astronomy on Mauna Kea is our culture. Astronomy on Mauna Kea provides opportunities for our keiki to benefit in terms of education, training, inspiration, and pride in the scientific discovery that takes place in our home. The presence of astronomy on Mauna Kea is vital for the Hawaii Island community and our state as a whole, for the economic diversification and world-class nature of the work that goes on there. Please keep it up. I mua Kilo Hōkū and i mua TMT!

Makalo,
Kei Szeto

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Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Noelani Leonard

Your Organization (optional)

Your e-mail address (in case we need to reach you) *

Noelani.leonard@ymail.com

Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Oppose

Your Testimony/Comments

I feel that it should be completely obvious by now that this telescope should not be placed on the Mauna, we need to preserve all the natural resources we have because as we've seen on Oahu's Red Hill one wrong location can be detrimental to the lives of so many. Something like water that is a basic necessity to live should never be compromised, not even considered because no family should have to second guess the water they're using to bathe their children or prepare their meals. Everyone should be confident in the water they're provided, please do not let this become another Red Hill, we are not anti science just pro life and for so many that is what Mauna Kea is.

Mahalo for you time, Noelani

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Robert Soares

Your Organization (optional)

Your e-mail address (in case we need to reach you) *

Fu_dog_5@yahoo.com

Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Oppose

Your Testimony/Comments

Oppose construction of TMT, we have enough telescopes at the summit. Let them build it elsewhere.

Your Testimony (pdf or word)

No file attached

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Dr James JACK

Your Organization (optional)

Your e-mail address (in case we need to reach you) *

jcj@hawaii.edu

Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Oppose

Your Testimony/Comments

Greatly appreciate this opportunity to share an opinion on the E Ō I Nā Leo UH Maunakea Lands Master Plan. Thank you for creating the space, time and resources to hear diverse voices on this important topic. I share my view as a UH alumni who has faith in education as a tool for decolonizing our minds and reconnecting us to indigenous knowledge in the place we inhabit now. I have carefully read the master plan and most of the opinions shared to date via email, online form, mail and telephone and again feel the need to make it clear why I resist approval of this proposal. There are other examples of how we can do better: Aloha 'āina.

For example Mt Fuji is an outstanding precedent for how to decommission and remove construction such as the radar dome that was thought to be productive based on anthropocentric worldview in 1964. Yet through

Careful reflection and desire for UNESCO world heritage recognition the poor condition of the peak was reconsidered and a decision was made to remove the dome in 2001 and keep it in a historical museum in Yamanashi. The mountain still faces problems, but this was one big step away from desecrating the peak of a mountain held sacred in Japan that can help us work to care for other mountains we love. Mauna Kea will become a hallmark of our human capacity for reflection, correction and preservation of cultural, natural and heritage perhaps by making a visitor museum of artifacts off of the mountain at a site selected by local residents to show the lessons of the past if the achievements of astronomy truly hold merit in the long view of time.

Through careful actions, respectful love of Mauna Kea and right speech we can build a better tomorrow. Hawai'i is a center for stellar navigation that the rest of the world can learn much from in practice, philosophy and action. Let the rightful teachers share, educate, experience and build the frameworks needed to protect Mauna Kea and all sites that are at risk of being threatened by capitalist development in the islands today. With the overwhelming opposition to TMT and the cultural renaissance occurring among indigenous people now across the world, the limited worldview that reduces science to a Euro-American phenomena is clearly in need of expansion. Diversify science to include all perspectives and redistribute resources to the native practitioners who know local ways of not only looking, photographing and analyzing stars by empirical modes of thought but also by land-based knowledge, spiritual worldviews, ancestral wisdom and more.

Now is the perfect time to clean up the mountain and do what needs to be done to care for the Hawaiian archipelago rich culture, traditions and vision to co-create a bright future together. It is possible. No means no. Please listen to the 'āina, listen to the clear majority of native Hawaiian people, listen to the water, listen to the plants, listen to the animals, listen to people across the world who resist the destruction of Mauna Kea, listen to the insects, listen to so many voices and do what is right. No TMT. Clean up the Mauna now. Clearly mistakes have been made and it is time to correct the wrongs now. Start deconstructing the rest of the telescopes immediately and create a stewardship that is run by a konohiki that knows the place intimately to teach others. Please do what is pono no TMT.

Thank you very much for inviting comments and for reading this message.

[Your Testimony \(pdf or word\)](#)

No file attached

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Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Michael Jones

Your Organization (optional)

Your e-mail address (in case we need to reach you) *

mdj04012015@gmail.com

Board of Regents Agenda Item (required) *

BOR VI.F. Adoption of the Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo
(Listen to the Voices)

Your Position (required) *

Support

Your Testimony/Comments

I support the development of a plan for Mauna Kea that allows astronomy to continue and the TMT to be built. I can understand why many Hawaiians feel their culture has not been respected in the ways land has been used. However, it seems to me that astronomy is one of the uses that enriches us all and is consistent with Hawaiian navigation which is justifiably celebrated. We need to find a way for astronomy to proceed on Mauna Kea and to allow cultural and religious practices as well.

Public Testimony Form - University of Hawaii Board of Regents

Please provide your testimony on this form for the next University of Hawaii Board of Regents meeting. Make sure you include all the requested information so that the Board of Regents is able to clearly understand the testimony provided.

Your Name (required) *

Alfred Keaka Hiona Medeiros

Your Organization (optional)

A'OLE TMT

Your e-mail address (in case we need to reach you) *

AlfredMedeiros@Gmail.Com

Board of Regents Agenda Item (required) *

BOR VI.E. Partial Report of the Maunakea Plan Review Permitted Interaction Group Recommending Consideration of Approval of the Proposed Master Plan for the University of Hawai'i Maunakea Lands -- E Ō I Nā Leo (Listen to the Voices)

Your Position (required) *

Oppose

Your Testimony/Comments

The only plan that should be considered, is a plan to not build TMT on our Mauna Kea. Desecration of our 'Āina for the advancement of technology and science should never be okay and if the building TMT is truly about science, then science will show why building it on Mauna Kea is not good.

The further desecration of our 'Āina needs to be stopped at all levels, especially ones like TMT that will cause more harm than benefit anybody. Why look to the stars and focus on space, when we've got so much to do here on earth and in Hawai'i. I am not against science or the advancement of technology, but I am against what will be done and what will happen to our Mauna if TMT is built, like damaging the aquifer on Moku o Keawe.

With that being said, TMT will not be built on Mauna Kea and I am one of the thousands that will give their life to fight against it by any means necessary! #AOLETMT 🙏🙏🙏

[Your Testimony \(pdf or word\)](#)

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Your Name (required) *

Noe Bowman

Your Organization (optional)

Your e-mail address (in case we need to reach you) *

jk.kalima@yahoo.com

Board of Regents Agenda Item (required) *

OTHER

OTHER (Please describe) *

What hapoened to 1959 Hawaii protected by the U.S. Constitution Freedom of Religion, Right to Worship? Maunakea is the Mother and "church" for Hawaiian worship. Why should this not be under the protection of United States of America.? Still waiting for an answer. President Clinton made a very clear apology on behalf of Hawaiian lands taken illegally and illegal takeover of a viable, respected kingdom. Still waiting... Hawaiian religious freedom and right to worship is compromised. How can this happen in a United State of America?

Your Position (required) *

Comments Only

Your Testimony/Comments

Your Testimony (pdf or word)

No file attached

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