

Cindy Freitas
P.O. 4650
Kailua Kona, HI
96745

State Of Hawaii
Land Use Commission
P.O. 2359
Honolulu, Hawai'i
96804-2359
(808) 587-3822
Fax: 587-3827
dbedt.luc.web@hawaii.gov

Jonathan Scheuer - Chair
Nancy Cabral -1st Vice Chair
Aaron Mahi -2nd Vice Chair

TESTIMONY FOR CASE

DR19-67 PETITION FOR DECLARTORY ORDER-KU'ULEI HIGASHI KANAHELE & AHIENA KANAHELE

I'm Cindy Freitas testifying in support of DR19-67 Petition for Declaratory Order-Ku'ulei Higashi Kanahele & Ahiena Kanahele, for the following reason:

1. The Mauna Kea Conservation District was adopted in 1961, but the LUC never created either an "ASTRONOMY PRECINCT" or a "UH MANAGEMENT AREA".
2. Subbdivision disposes of control over a land prarcel so that more and different entities can make separate uses of the land and thus creates a greater capacity for land use that specifically cuts against conservation purposes.
3. University of Hawaii ("UH") in 1968 Lease No, S-4191 agreements like this dispose of original parcel in ways that intensify land use in violation of HAR 13-5-30(c)(7) "subdivision of land will not be utilized to increase the intensity of land uses in the conservation district"
4. The scope of Hawaii's Public Trust Doctrine is set forth in article XI, section 1 of the Hawai'i Constitution and provides: 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.

5. Webster's Merriam Dictionary Defines "division" as something that "divides, separates or marks off," as in a "border", (See, <http://www.merriam-webster.com/thesaurus/division>, accessed November 14, 2011)

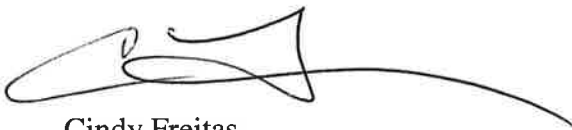
6. The UH has by its subleases and operating agreements on the lands described in the general lease in 1968 Lease No, S-4191, identified multiple construction sites on a single parcel of land so as to create a building development. This is a subdivision.

Therefore it is a de facto subdivision, it meets the definition of subdivision in the regulations and is therefore not allowed in the Conservation District.

Petition for Declaratory Order-Ku'ulei Higashi Kanahele & Ahiena Kanahele should be granted.

I Cindy Freitas also reserved the right to petition for a Contested Case in this subject matter if its not granted.

Mahalo

A handwritten signature in black ink, appearing to read 'Cindy Freitas', with a long horizontal flourish extending to the right.

Cindy Freitas

10/16/19

October 16, 2019

Land Use Commission,
State of Hawai'i
P.O. Box 2359
Honolulu, Hawai'i 96804
dbedt.luc.web@hawaii.gov

Subject: Testimony of Gary Hooser in support of the Petition of KU'ULEI HIGASHI KANAHELE and AHIENA KANAHELE, individuals, for a Declaratory Order Concerning the invalid classification of the de facto and improper industrial use precinct on approximately 525 acres of State Land Use Conservation District lands located in Mauna Kea and Hilo, County of Hawai'i, Tax Map Key No.: 4-4-015:009 (por.)

Aloha e Commissioners,

Please accept my testimony in support of the Petition of KU'ULEI HIGASHI KANAHELE and AHIENA KANAHELE, individuals, for a Declaratory Order Concerning the invalid classification of the de facto and improper industrial use precinct on approximately 525 acres of State Land Use Conservation District lands located in Mauna Kea and Hilo, County of Hawai'i, Tax Map Key No.: 4-4-015:009 (por.) (petition). The petition appropriately seeks this Commission's declaration that industrial astronomy uses of Mauna Kea summit lands are appropriate to the urban district and that no district boundary amendment has been sought to properly classify these lands.

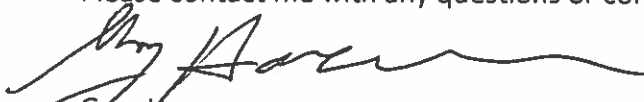
I am a former director of the State Office of Environmental Quality Control (OEQC) office. During my tenure, I regularly considered the need for proper procedure and review of significant development that deeply affect Hawai'i communities and our environment. Like Hawai'i's environmental review statute, HRS chapter 343, Hawai'i's Land Use laws are laws relating to environmental quality and are meant to protect all of our constitutional rights to a clean and healthful environment. The successive permitting of more fourteen industrial facilities in the Mauna Kea conservation district and without appropriate planning is inconsistent with those rights.

Industrial telescope siting and overall development on Mauna Kea has been poorly planned. The cumulative impact of thirteen telescopes on the conservation district is inconsistent with the purpose of land use districting. Most of the environmental impact statements (EISs) prepared for Mauna Kea construction have focused on individual telescope projects and, in the case of the Thirty-Meter Telescope, allowed that its "increment" of adverse impact was not, by comparison with the already impacted summit "substantial" and could anyway be mitigated through untested means, such as "decommissioning" other telescopes. The EIS prepared for the master plan for the 11,300 acres of the "astronomy precinct" is nearly

twenty years old and requires supplementation in light of new information about the factors involved in decommissioning telescopes on Mauna Kea and a Hawaiian cultural revival that pivots on the future of Mauna Kea. The 2009 environmental assessment for the Mauna Kea comprehensive management plan was restricted to reviewing the impacts of planning.

Should this Commission grant the petition - an action I wholly support - the Commission would further appropriately require the applicant for any future district boundary amendment to prepare further environmental impact disclosure documents. Supplemental environmental review would be required for such future action. Environmental review for the existing industrial development is troubled by the piecemeal nature of conservation district use permitting or, alternatively, based on outdated information and community concerns.

Please contact me with any questions or concerns.



Gary Hooser

From: [Alexander McNicoll](#)
To: [DBEDT LUC](#)
Subject: In SUPPORT of the Kanahele's petition
Date: Wednesday, October 16, 2019 8:35:51 PM

Aloha members of the LUC,

I testify in SUPPORT of the Kanahele's petition and ask for the following:

- UH needs to follow state Land Use laws
- Please grant the petition for declaratory orders
- Please grant the Kanahele's petition.
- No incremental degradation of public trust lands

Sincerely,
Alexander "Alika" McNicoll