

From: [Marc Lefebvre](#)
To: [DBEDT LUC](#)
Subject: Land Use Commission testimony for hearing on TMT/Astronomy
Date: Monday, October 21, 2019 10:01:39 AM

Aloha,

Astronomy on Maunakea, including TMT, is consistent with a conservation district. No rezoning is justified.

- Recent Hawaii Supreme Court decisions clearly and emphatically affirm that astronomy is a permitted land use in a conservation district (Kilakila O' Haleakala vs. Univ. of Hawaii 2016; MKAH vs. BLNR 2018)

- The Hawaii Supreme Court's decision upholding TMT's permit also clearly notes (and does not question) that the astronomy precinct resides within a conservation district. (MKAH vs. BLNR 2018)

- It further clearly notes that "the use of land by TMT is consistent with conservation ...". (MKAH vs. BLNR 2018).

For these above reasons alone, the Supreme Court affirms that astronomy on Mauna Kea is an expressly permitted use consistent with conservation.

Thus, the proposed re-designation of astronomy facilities on Mauna Kea as "industrial" -- requiring rezoning -- is inconsistent with Hawaii Supreme Court rulings and thus cannot be accepted.

Furthermore, the law supports the current designation of astronomy facilities as permitted on Mauna Kea; the process by which astronomy facilities are approved for Maunakea shows a rigor and care required for building in a conservation district.

- The designation of astronomy facilities as permitted uses on Maunakea is clear from state law. Maunakea is in the Resource Subzone within the Conservation District. One of the permitted use in this subzone is astronomy facilities under an approved management plan (HAR 13-5-24)

- Land use on Maunakea undergoes a rigorous review process. DLNR requires UH to submit a CDUA for astronomy facilities on Maunakea.

- Residents may request a contested case hearing to advocate for their position on the proposed land use.

- Before a CDUA for a major project proposed for Maunakea is submitted to DLNR, it is reviewed and evaluated through a University review process involving extensive community participation with multi-layers of review and input.

Mahalo,

Marc Lefebvre

(808) 298-3560

Mauibeachbumm@gmail.com

From: [loke rose](#)
To: [DBEDT LUC](#)
Subject: The Land Use Commission hearing on TMT/astronomy. No rezoning justified
Date: Monday, October 21, 2019 10:06:17 AM

Astronomy on Maunakea, including TMT, is consistent with a conservation district. No rezoning is justified.

This is why:

:

- Recent Hawaii Supreme Court decisions clearly and emphatically affirm that astronomy is a permitted land use in a conservation district (Kilakila O' Haleakala vs. Univ. of Hawaii 2016; MKAH vs. BLNR 2018)
- The Hawaii Supreme Court's decision upholding TMT's permit also clearly notes (and does not question) that the astronomy precinct resides within a conservation district. (MKAH vs. BLNR 2018)
- It further clearly notes that "the use of land by TMT is consistent with conservation ...". (MKAH vs. BLNR 2018).

For these above reasons alone, the Supreme Court affirms that astronomy on Mauna Kea is an expressly permitted use consistent with conservation.

Thus, the proposed re-designation of astronomy facilities on Mauna Kea as "industrial" -- requiring rezoning -- is inconsistent with Hawaii Supreme Court rulings and thus cannot be accepted.

Furthermore, the law supports the current designation of astronomy facilities as permitted on Mauna Kea; the process by which astronomy facilities are approved for Maunakea shows a rigor and care required for building in a conservation district.

- The designation of astronomy facilities as permitted uses on Maunakea is clear from state law. Maunakea is in the Resource Subzone within the Conservation District. One of the permitted use in this subzone is astronomy facilities under an approved management plan (HAR 13-5-24)
- Land use on Maunakea undergoes a rigorous review process. DLNR requires UH to submit a CDUA for astronomy facilities on Maunakea.
- Residents may request a contested case hearing to advocate for their position on the proposed land use.
- Before a CDUA for a major project proposed for Maunakea is submitted to DLNR, it is reviewed and evaluated through a University review process involving extensive community participation with multi-layers of review and input.

Mahalo
Katherine Roseguo
Hawaii Island voter

Please - remember, reduce, reuse, recycle, renew, refresh, recover, restore, respect, refuse, reintegrate, rethink, revitalize, replant, replanet, regreen, refurbish, regrow, rot.

From: [Amanda N](#)
To: [DBEDT LUC](#)
Subject: Mauna Kea
Date: Monday, October 21, 2019 10:42:21 AM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanahaes petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai‘i State Constitution, you are required to,

“conserve and protect Hawai‘i’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.”

Further, Article XII, § 7 of the Hawai‘i Constitution provides:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai‘i Supreme Court went on to later interpret this section of the Hawai‘i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai‘i must follow State Land Use laws. The University of Hawai‘i should be required to follow proper processes as defined by law and seek a boundary amendment.

personalize testimony to describe how the industrialization of the summit affects you
Describe how disrupting this wao akua will affect your cultural practice.

I respectfully ask that you GRANT the Kanahaes’ petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

Amanda Niles

From: [Josie Kojima](#)
To: [DBEDT LUC](#)
Subject: LUC Support
Date: Monday, October 21, 2019 10:47:18 AM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanahaes petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai‘i State Constitution, you are required to,

“conserve and protect Hawai‘i’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.”

Further, Article XII, § 7 of the Hawai‘i Constitution provides:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai‘i Supreme Court went on to later interpret this section of the Hawai‘i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai‘i must follow State Land Use laws.

I respectfully ask that you GRANT the Kanahaes’ petition for declaratory order to ensure that

proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

Josie Kojima

Sent from my iPhone

From: [Cheryl B](#)
To: [DBEDT LUC](#)
Subject: Land USE commission
Date: Monday, October 21, 2019 10:48:14 AM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanahaes petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- (3) even if "an observatory" is allowed under the general lease, "the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities," is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai'i State Constitution, you are required to,

"conserve and protect Hawai'i'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."

Further, Article XII, § 7 of the Hawai'i Constitution provides:

"The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights."

The Hawai'i Supreme Court went on to later interpret this section of the Hawai'i State Constitution to impose an affirmative duty "to preserve and protect traditional and customary native Hawaiian rights." You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai'i must follow State Land Use laws. The University of Hawai'i should be required to follow proper processes as defined by law and seek a boundary amendment.

Our `ohana has been actively involved in the protection of Mauna Kea since 2011. We continually question how the people who are supposed to help us protect our `aina are the ones we are always in court, at BLNR or now at the Land Use Commission to challenge? It is our kuleana to preserve and protect traditional and customary native Hawaiian rights, kanaka and non-kanaka of our islands. From our own experiences, we know that the University of Hawai'i has completely failed in so many ways on the Mauna. It is past time to do the right thing.

We respectfully ask that you GRANT the Kanahaes' petition for declaratory order to ensure that

proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

C. Burghardt

W. Green

From: [hawaiianreyes](#)
To: [DBEDT LUC](#)
Subject: Testimony in Opposition to Rezoning Mauna Kea
Date: Monday, October 21, 2019 10:49:58 AM

To whom it may concern,

My name is Annette Reyes. I am writing because Mauna Kea should not be rezoned as industrial. An industrial area is for manufacturing and that is not happening on Mauna Kea. Also the Hawaii Supreme Court clearly ruled that astronomy is a permitted use of conservation land as showed in the TMT case. No rezoning is needed nor justified. Adding TMT will not change that as was proved in another court case (MKAH vs BLNR 2018).

Thank you for allowing me to express my concerns,
Annette Reyes

From: [David K Shizuma](#)
To: [DBEDT LUC](#)
Subject: Testimony in Support of the Kanahaes" petition
Date: Monday, October 21, 2019 10:51:35 AM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanahaes petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- (3) even if "an observatory" is allowed under the general lease, "the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities," is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have **constitutional obligations to protect public trust resources and traditional and customary rights**. The LUC has the **unique** authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai'i State Constitution, you are required to,

"conserve and protect Hawai'i'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."

Further, Article XII, § 7 of the Hawai'i Constitution provides:

"The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights."

The Hawai'i Supreme Court went on to later interpret this section of the Hawai'i State Constitution to **impose an affirmative duty "to preserve and protect traditional and customary native Hawaiian rights."**

All I am asking is that the law be applied to ALL equally - including the University of Hawaii. There is no other governmental body that is able to ensure that the laws and rules of Land Use is applied to all.

You have the opportunity to do what is **pono**, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai'i **must** follow State Land Use laws. The University of Hawai'i should be required to follow proper processes as defined by law and seek a boundary amendment.

I respectfully ask that you GRANT the Kanahaes' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust

lands.

Sincerely,

David Shizuma

From: [Mele Look](#)
To: [DBEDT LUC](#)
Subject: Testimony for Kanahale petition
Date: Monday, October 21, 2019 10:55:22 AM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I am a biomedical scientist at the University of Hawai'i John A. Burns School of Medicine. I am submitting this testimony in my personal and not my professional capacity. I SUPPORT of the Kanahales' petition, and request you declare:

- **(1) existing telescope structures on Mauna Kea have created a de facto urban district outside of LUC procedures;**
- **(2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and**
- **3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.**

As a scientist and a health researcher for the past 40 years, I completely understand the merits of scientific discovery. And I know from decades of work, that health, and particularly Hawaiian health is intrinsically linked to their relationship to the land. Evidence over the past 15 years, shows how the great disparity and inequity in health status of Native Hawaiians is linked to their ability to maintain spaces and practices that are fundamental to their health and well-being. Especially spaces that hold special and sacred meaning. It is indisputable that Maunakea holds that status worldwide. Being the highest mountain in the world, when measured from the earth's crust, is reason enough. And coupled with origin stories, historic references, and environmental uniqueness. It is a treasured place that needs to be preserved.

I respectfully ask that you GRANT the Kanahales' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

[Mele A. Look](#)

[Waimanalo, Hawai'i](#)

From: [suzanne garrett](#)
To: [DBEDT LUC](#)
Subject: I SUPPORT of the Kanahaes' petition
Date: Monday, October 21, 2019 11:04:49 AM

I SUPPORT the Kanahahele's petition !!!
Suzie Garrett

From: [Kim Falinski](#)
To: [DBEDT LUC](#)
Subject: SUPPORT Kanahaes position
Date: Monday, October 21, 2019 11:07:38 AM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanahaes petition. The existence of 13 laboratories is not consistent with Conservation zone district uses. Your Commission can help to fix this.

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai'i must follow State Land Use laws. The University of Hawai'i should be required to follow proper processes as defined by law and seek a boundary amendment.

I am in support of science, but not in support of science above cultural uses. The issues on Mauna Kea reveal entrenched ideas about who controls the natural resources in the state of Hawaii, and show how the different district uses can be adapted.

I respectfully ask that you GRANT the Kanahaes' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

Kim Falinski

From: [Garid Faria](#)
To: [DBEDT LUC](#)
Subject: Testimony: In Support of Kanahahele's Petition
Date: Monday, October 21, 2019 11:15:54 AM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanahaheles petition, and ask that you declare that:

- The existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- Further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- Even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.
-
- UH needs to follow state Land Use laws
- The sprawling telescopes that have taken over the summit of Mauna Kea do not belong in a conservation district.
- 18-story buildings, like the TMT, are inconsistent with a conservation district designation.
- We were never given a chance to say “no” to the de facto industrial research zone atop Mauna Kea

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai‘i State Constitution, you are required to,

“conserve and protect Hawai‘i’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.”

Further, Article XII, § 7 of the Hawai‘i Constitution provides:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai‘i Supreme Court went on to later interpret this section of the Hawai‘i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai‘i must follow State Land Use laws. The University of Hawai‘i should be required to follow proper processes as defined by law and seek a boundary amendment.

I respectfully **ask that you GRANT the Kanahaheles’ petition for declaratory order to ensure**

that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

G. Faria

From: [Stephen Paulmier](#)
To: [DBEDT LUC](#)
Subject: In SUPPORT of the Kanahaes petition
Date: Monday, October 21, 2019 11:21:54 AM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanahaes petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you have the legal authority to hear this petition before you and the constitutional obligation to protect public trust resources in addition to traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai‘i State Constitution, you are required to, “conserve and protect Hawai‘i’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.”

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“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai‘i Supreme Court went on to later interpret this section of the Hawai‘i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai‘i must follow State Land Use laws. The University of Hawai‘i should be required to follow proper processes as defined by law and seek a boundary amendment.

I respectfully ask that you GRANT the Kanahaes’ petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,
Stephen Paulmier
Hilo/Keaau
808 430 8866

From: [Thayne Currie](#)
To: [DBEDT LUC](#)
Subject: Testimony in Opposition to DR19-67
Date: Monday, October 21, 2019 11:39:42 AM

Dear Land Use Commission:

I ***STRONGLY*** oppose DR19-67.

Astronomy on Maunakea, including TMT, is an expressly permitted land use within a resource subzone of a conservation district.

1. Recent Hawaii Supreme Court decisions clearly and emphatically affirm that astronomy is a permitted land use in a conservation district (Kilakila O' Haleakala vs. Univ. of Hawaii 2016; Mauna Kea Anaina Hou vs. Board of Land and Natural Resources 2018, hereafter MKAH vs. BLNR 2018). Astronomical observatories on Maunakea lie within the resource subzone of a conservation district.

2. On substance, the petitioners' claims are indistinguishable from numerous ones made during the Contested Case Hearing (CCH) for the Thirty Meter Telescope's CDUA overseen by Judge Amano and thus are repetitive. For example, both focus on claims that astronomical observatories substantially impact traditional and customary rights and "deprive" petitioners of a clean environment. Multiple witnesses for TMT opponents even used "industrial" to describe the observatories. However, the record 88 days of testimony for the CCH already allowed an in-depth exploration of these and similar claims. For example, the CCH included detailed testimony demonstrating that current and proposed astronomical observatories cannot have a credible impact on water resources. And as clearly determined in BLNR's Findings of Fact/Conclusions of Law, astronomical observatories on Mauna Kea like TMT are consistent with the purpose of a conservation district.

Moreover, in upholding BLNR's issuance of TMT's CDUP, the Hawaii Supreme Court itself considered and rejected exactly the kind of claims put forth by petitioners in this case: namely that TMT somehow causes a "substantial, adverse impact" on natural and cultural resources. Effectively, this petition is a not-so-thinly veiled attempt to reargue previous legal proceedings.

3. Clearly and critically, the Supreme Court's decision in Mauna Kea Anaina Hou vs. Board of Land and Natural Resources (2018) determined that "the use of land by TMT is consistent with conservation ...". (MKAH vs. BLNR 2018, pg. 52).

For these above reasons alone, the Supreme Court affirms that astronomical observatories on Mauna Kea, including TMT, are expressly permitted land uses consistent with conservation.

Thus, the proposed re-designation of astronomy facilities on Mauna Kea as "industrial" and inconsistent with a conservation district is unambiguously invalidated by the Hawaii Supreme Court. This petition must be rejected.

4. Furthermore, the law supports the current designation of astronomy facilities as permitted on Mauna Kea; the process by which astronomy facilities are approved for Maunakea shows a rigor and care required for building in a conservation district.

- The designation of astronomy facilities as permitted uses on Maunakea is clear from state law. Maunakea is in the Resource Subzone within the Conservation District. One of the permitted use in this subzone is astronomy facilities under an approved management plan (HAR 13-5-24)
- Land use on Maunakea undergoes a **rigorous** review process. DLNR requires UH to submit a CDUA for astronomy facilities on Maunakea.
- Residents may request a contested case hearing to advocate for their position on the proposed land use.
- Before a CDUA for a major project proposed for Maunakea is submitted to DLNR, it is reviewed and evaluated through a University review process involving extensive community participation with multi-layers of review and input. In the case of TMT, the Hearings Officer (Judge Amano) allowed more than 20 community members to call their own witnesses, cross examine others' witnesses, and craft proposed Findings of Fact/Conclusions of Law.

5. My own personal experience contradicts the labeling of current astronomical observatories as "industrial buildings". I have gone to Mauna Kea for astronomical observations since 2006. In particular, I have extensive experience using the Subaru Telescope, am well familiar with the entire structure, and have seen first-hand how the observatory is maintained. A modern observatory like Subaru is a clean, highly controlled environment.

From: [NeuroSpa](#)
To: [DBEDT LUC](#)
Subject: Mr . Chair Scheuer
Date: Monday, October 21, 2019 11:56:01 AM
Attachments: [image001.png](#)

Chair Scheuer,

I know you are a good leader and care about your peoples, it's why I send you this message.

I submit this testimony in SUPPORT of the Kanahelles petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if "an observatory" is allowed under the general lease, "the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities," is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai'i State Constitution, you are required to,

"conserve and protect Hawai'i'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."

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"The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights."

The Hawai'i Supreme Court went on to later interpret this section of the Hawai'i State Constitution to impose an affirmative duty "to preserve and protect traditional and customary native Hawaiian rights." You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai'i must follow State Land Use laws. The University of Hawai'i should be required to follow proper processes as defined by law and seek a boundary amendment.

****personalize testimony to describe how the industrialization of the summit affects you***
Describe how disrupting this wao akua will affect your cultural practice.*

I respectfully ask that you GRANT the Kanacheles' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,



Simon Bouchard | Founder/CEO | NeuroSpa
[1 \(450\) 631-1284](tel:14506311284) | sbouchard@neurospa.ca | <http://neurospa.ca>

From: [M. L.](#)
To: [DBEDT LUC](#)
Subject: Our Beautiful Mauna Kea..
Date: Monday, October 21, 2019 12:07:55 PM

To Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony In SUPPORT of the Kanahaes petition, and ask that you declare that:

- (1) Many existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if "an observatory" is allowed under the general lease, "the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities," is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to "Protect" all public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai'i State Constitution, you are required to,

"Conserve and Protect Hawai'i's Unique Natural Beauty and ALL natural resources, including land, ocean, fresh 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 all Hawai'i Nei. All public natural resources are held in trust by - The State for the benefit of the people."

Further, Article XII, § 7 of the Hawai'i Constitution provides:

"The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights."

The Hawai'i Supreme Court went on to later interpret this section of the Hawai'i State Constitution to impose an affirmative duty "to preserve and protect traditional and customary native Hawaiian rights." You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai'i must follow State Land Use laws. The University of Hawai'i should be required to follow proper processes as defined by law and seek a boundary amendment.

personalize testimony to describe how the industrialization of the summit affects you
Describe how disrupting this wao akua will affect your cultural practice.

I respectfully ask that you GRANT the Kanahaes' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

From: ronsan2224@aol.com
To: [DBEDT LUC](#)
Subject: Letter in support of the Kanahele petition before the Land Use Commission
Date: Monday, October 21, 2019 12:21:30 PM

October 21, 2019

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanaheles petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai‘i State Constitution, you are required to, “conserve and protect Hawai‘i’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.”

Further, Article XII, § 7 of the Hawai‘i Constitution provides:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai‘i Supreme Court went on to later interpret this section of the Hawai‘i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

In fact, I believe the lands affected on the top of Mauna Kea are still legally designated as “Government Lands” under the Mahele Act of the Kingdom of Hawai‘i. Public Law 103-150, signed by President Clinton has admitted that the lands of Hawai‘i, especially the lands designated as “Crown Lands” and “Government Lands” were not given “legally” to the State of

Hawai'i. Thus, there should not be ANY construction on Mauna Kea as has been done over the years.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai'i must follow State Land Use laws. The University of Hawai'i should be required to follow proper processes as defined by law and seek a boundary amendment.

I respectfully ask that you GRANT the Kanacheles' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

Ronald S. Fujiyoshi
1196 W. Kowailani St.
Hilo, HI 96720

From: [Kirra Swenerton](#)
To: [DBEDT LUC](#)
Subject: Testimony in SUPPORT of the Kanahaes petition
Date: Monday, October 21, 2019 12:27:35 PM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanahaes petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai'i State Constitution, you are required to,

“conserve and protect Hawai'i'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.”

Further, Article XII, § 7 of the Hawai'i Constitution provides:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai'i Supreme Court went on to later interpret this section of the Hawai'i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono,

follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai'i must follow State Land Use laws. The University of Hawai'i should be required to follow proper processes as defined by law and seek a boundary amendment.

I write to you as both an ecologist and as a human being, united with this sacred earth. My own ancestors come from lands as far away as Scotland and Armenia and I have experienced firsthand the intergenerational trauma caused by the loss of sacred sites and the breakdown of ecosystems. Mauna Kea is simply too important to risk damaging any further. It is a site of world wide significance and irreplaceable beauty and value to humans and all beings. The value to science and learning and the study of the stars is not worth the price of sacred human connection to the earth to which we all belong. Mauna Kea is a place that teaches humans how to be in right relationship with our earth and home and should be tended by the native Hawaiians who hold the deepest ties to this sacred Mauna. In this time of great upheaval, human beings are being offered a critical opportunity to change our behavior and make choices in alignment with life. This is your chance to do something right. Don't miss it.

I respectfully ask that you GRANT the Kanahaes' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

Kirra Swenerton, M.S.

From: [Puala Hanamaikai](#)
To: [DBEDT LUC](#)
Subject: Support of the Kanahele's petition
Date: Monday, October 21, 2019 1:16:46 PM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

Thank you for allowing a written petition in support of Kanahele's petition.

Building on conservation land, especially on Mauna kea does not comply with existing laws under the conservation rule. Our legal department has overlooked such status to allow this desecration. None of the telescopes are consistent with the state conservation laws and our State needs to do the right thing and stop it's illegal building of anything on the Mauna. UH needs to follow state Land use laws. Even if "an observatory" is allowed under the general lease, "the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities," is inconsistent with conservation district uses.

Who is getting paid off for such desecration. The sprawling telescopes that have taken over the summit of Mauna Kea do not belong in a conservation district. 18-story buildings, like the TMT, are inconsistent with a conservation district designation. Please grant the Kanaheles' petition for declaratory orders. We were never given a chance to say "no" to the de facto industrial research zone atop Mauna Kea. I am now saying AOLE!

Mahalo,

Warnice K Hanamaikai

From: [DeWaine Tollefsrud](#)
To: [DBEDT LUC](#)
Subject: Testimony re: The Land Use Commission hearing on TMT/astronomy
Date: Monday, October 21, 2019 1:28:45 PM

I am unable to attend but please enter the following as testimony. Mahalo

Aloha,

My name is DeWaine Tollefsrud and I am a resident of Kea'au, Hawai'i.

I have been following the "progress" of the building of the TMT for some time and am currently dismayed at the necessity of this meeting re the ludicrous proposal of rezoning the Conservation District as "Industrial". Besides, the idea of astronomy being labeled "an industry", with all that word's attendant negative implications, is laughable. The Hawai'i Supreme Court appears to agree. In a recent ruling the Hawaii Supreme Court clearly and emphatically affirm that astronomy is a permitted land use in a conservation district (Kilakila O' Haleakala vs. Univ. of Hawaii 2016; MKAH vs. BLNR 2018). Further it was decided that upholding TMT's permit also clearly notes that the astronomy precinct resides within a conservation district. (MKAH vs. BLNR 2018). It further clearly notes that "the use of land by TMT is consistent with conservation ...". (MKAH vs. BLNR 2018).

For these above reasons alone, the Supreme Court affirms that astronomy on Mauna Kea is an expressly permitted use consistent with conservation and the proposed re-designation of astronomy facilities on Mauna Kea as "industrial" -- requiring rezoning -- is inconsistent with Hawaii Supreme Court rulings and thus cannot be accepted.

With Aloha,

DeWaine Tollefsrud

PO Box 492368

Keaau, HI 96749

Zodama2003@yahoo.com

From: [sandra kirkpatrick](#)
To: [DBEDT LUC](#)
Subject: Land Use Hearing on TMT
Date: Monday, October 21, 2019 1:31:23 PM

Aloha.

I'm submitting this electronic testimony in favor of the TMT being built in the conservation district as is. TMT does not have industrial uses, but is educational in nature. Classifying it as anything else is just another delaying tactic. The TMT will be the best thing to have happened on Hawaii in a long time. It's a win for the kids as ignorance is very present on the island. I've seen for too long how the protestors on the mauna have twisted people's emotions to suit their agenda. I'm beginning to believe that the protestors want Hawaiians to remain ignorant and ill educated so that they can be more easily manipulated. Thank heaven more Hawaiians are in favor of TMT being built than not. They want the education for their kids. And so do the rest of us.

Mahalo.

Sandra Kirkpatrick

From: [Ru carley](#)
To: [DBEDT LUC](#)
Subject: Urbanization of Mauna Kea -Kanaheles Petition Testimony
Date: Monday, October 21, 2019 2:12:54 PM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanaheles petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai‘i State Constitution, you are required to,

“conserve and protect Hawai‘i’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.”

Further, Article XII, § 7 of the Hawai‘i Constitution provides:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai‘i Supreme Court went on to later interpret this section of the Hawai‘i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai'i must follow State Land Use laws. The University of Hawai'i should be required to follow proper processes as defined by law and seek a boundary amendment.

I respectfully ask that you GRANT the Kanaheles' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

Ru Carley

Honaunau, HI

Sent from my iPhone

From: [Kelsey Baker](#)
To: [DBEDT LUC](#)
Subject: Testimony in SUPPORT of the Kanahaes petition
Date: Monday, October 21, 2019 2:24:48 PM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanahaes petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- (3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai‘i State Constitution, you are required to,

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The Hawai‘i Supreme Court went on to later interpret this section of the Hawai‘i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai‘i must follow State Land Use laws. The University of Hawai‘i should be required to follow proper processes as defined by law and seek a boundary amendment.

I respectfully ask that you GRANT the Kanahaes’ petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

Kelsey Baker

From: [Patti Freeman](#)
To: [DBEDT LUC](#)
Cc: [Doug Simons](#); [Rich Matsuda](#); [Patti Freeman](#)
Subject: Testimony re: Docket No. DR19-67, Petition for Declaratory Orders
Date: Monday, October 21, 2019 2:44:27 PM
Attachments: [LUC testimony.MKO.pdf](#)

To whom it may concern:

Attached please find written testimony pertaining to Land Use Commission Docket No. DR19-67 which is on the agenda for the October 24, 2019 LUC meeting in Hilo, HI.

If you have questions, please contact Doug Simons at simons@cfht.hawaii.edu or (808) 885-3111.

Kind regards,

Patti Freeman

--

Patti Freeman
Assistant to the Executive Director
Executive Secretary to the Board of Directors
Canada France Hawaii Telescope
65-1238 Mamalahoa Hwy
Kamuela, HI 96743
(808)885-7944



October 21, 2019

Mr. Jonathan Scheuer, Chair,
and Commissioners
Land Use Commission
P.O. Box 2359
Honolulu, Hawai'i 96804

Subject: Docket No. DR19-67, Petition for Declaratory Orders; Declaration of Ku`ulei Higanish Kanahele Kanahele and Ahiena Kanahele

Dear Chair Scheuer and Commissioners:

The undersigned Maunakea Observatories directors respectfully request that the subject petition be denied.

The operation of our astronomical observatory facilities (the "Maunakea Observatories") is permitted in the Astronomy Precinct within the conservation district resource subzone on the summit of Maunakea. The Board of Land and Natural Resources has sole discretion to establish uses that are consistent within a conservation district, which by state statute and administrative rules specifically includes astronomy facilities. In 2018, the Hawai'i Supreme Court reaffirmed this position in the decision regarding the CDUP for TMT. The land use classification is appropriate, and our permitted operation in the conservation district meets both the intent and letter of the law.

The Maunakea Observatories have a deep commitment to the respect and protection of Maunakea's precious cultural and natural resources. This commitment includes, but is not limited to, maintaining our awareness of Maunakea's unique cultural and natural resources through regular orientations for all observatory personnel; preventing invasive species through inspections and monitoring; increasing public understanding and appreciation of Maunakea through participation and collaboration in educational outreach activities; and, otherwise carefully following all aspects of the Mauna Kea Comprehensive Management Plan.

Further, we note the importance and benefit of astronomy on Maunakea to Hawai'i. Maunakea is the best, most productive site in the Northern Hemisphere for learning and sharing new knowledge about our universe and understanding of our place in it – one of Hawai'i's gifts of knowledge to people around the world. We support Hawai'i's aspiring scientists through programs like Maunakea Scholars, which has provided over ninety (90) students from thirteen (13) Hawai'i public high schools the opportunity to perform student-led, independent astronomy research at our telescopes on Maunakea, mentored by professional staff and University of Hawai'i Institute for Astronomy graduate students. The Maunakea Observatories also sponsor the Kama'aina Observatory Experience, a unique opportunity for kama'aina

to experience the science, culture, and environmental wonders of Maunakea. Participants in the monthly tours begin their experience at Hale Pohaku with a talk by a Hawaiian cultural practitioner, followed by a visit to two (2) telescope facilities. President Barack Obama announced the program at an October 2015 White House star party, and tours began in January 2016. To date, over one-thousand (1000) kama'aina from across the state have participated in the program.

In conclusion, we are grateful for the State's permission to operate on Maunakea, and we aspire to work responsibly and in a spirit of cooperation to protect Maunakea's precious resources. Thank you for the opportunity to submit testimony.

Sincerely,



Director Doug Simons, Canada-France-Hawaii Telescope



Director Jennifer Lotz, Gemini Observatory



Director Pierre Martin, Hoku Kea Observatory



Director Paul Ho, James Clerk Maxwell Telescope (East Asian Observatory)



Director John Rayner, NASA Infrared Telescope Facility



Director Michitoshi Yoshida, Subaru Telescope



Director Klaus Hodapp, UKIRT



Director Hilton Lewis, W.M. Keck Observatory (Keck I and Keck II)

From: avatar11@rediffmail.com on behalf of [Ravi Grover](#)
To: [DBEDT LUC](#)
Date: Monday, October 21, 2019 2:48:18 PM

While the summit of Mauna Kea should NOT be designated as "urban," the University should not be allowed to urbanize the mauna by simply avoiding the LUC altogether. The Board of Land and Natural Resources (BLNR) has gone ahead and permitted at least fourteen industrial observatories without ever requiring UH to apply for a boundary amendment at the LUC to create an urban zone. Instead please support the Kanahaes and ask that the LUC declare that:

- the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures
- further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district
- even if "an observatory" is allowed under the general lease, "the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities," is inconsistent with conservation district uses

Thank you and God bless,
Ravi Grover

From: [Anna Louise E. Fontaine](#)
To: [DBEDT LUC](#)
Subject: Kanahaes" petition
Date: Monday, October 21, 2019 3:06:36 PM

I am writing you to bring your attention to these points:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if "an observatory" is allowed under the general lease, "the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities," is inconsistent with conservation district uses.

Thank you to consider my request.

Anna Louise Fontaine
Lantier, QC, Canada

From: [Michelle Cabalse](#)
To: [DBEDT LUC](#)
Subject: Testimony in support of the Kanahahele petition
Date: Monday, October 21, 2019 3:24:56 PM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanahahele petition, and ask that you declare that:

(1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;

(2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and

3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai‘i State Constitution, you are required to,

“conserve and protect Hawai‘i’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.”

Further, Article XII, § 7 of the Hawai‘i Constitution provides:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai‘i Supreme Court went on to later interpret this section of the Hawai‘i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai‘i must follow State Land Use laws. The University of Hawai‘i should be required to follow proper processes as defined by law and seek a boundary amendment.

Our kumu huka teach their traditions and perpetuate Hawaiian cultural traditions connected to the lands and wao akua atop Maunakea. Any further development is desecrating their lineage and mo'okuauau that stand as the foundation of teaching Hawaii's people, with or without blood quantum.

I respectfully ask that you GRANT the Kanahēles' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,
Michelle Cabalse

From: [Jo Ann Tsark](#)
To: [DBEDT LUC](#)
Subject: Testimony in SUPPORT of petition by Ku`ulei Kanahele
Date: Monday, October 21, 2019 4:58:21 PM
Attachments: [Letter of Support for Kanahele Petition.pdf](#)

JoAnn Tsark MPH
1669 B Palolo Avenue
Honolulu HI 96816

October 21, 2019

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanaheles' petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
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to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

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I respectfully ask that you GRANT the Kanahaes’ petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,



Director, Community Based Research Core for
RMATRIX (U54MD007584) and Ola HAWAII (U54MD007601)
UH John A. Burns School of Medicine
Phone: (808)721-7511 E: umilani@gmail.com or jtsark@hawaii.edu

JoAnn Umilani Tsark MPH

Director, Community Based Research Core for
RMATRIX (U54MD007584) and Ola HAWAII (U54MD007601)
UH John A. Burns School of Medicine
Phone: (808)721-7511 E: umilani@gmail.com or jtsark@hawaii.edu

JoAnn Tsark MPH
1669 B Palolo Avenue
Honolulu HI 96816

October 21, 2019

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

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The Hawai'i Supreme Court went on to later interpret this section of the Hawai'i State Constitution to impose an affirmative duty "to preserve and protect traditional and customary native Hawaiian rights." You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai'i must follow State Land Use laws. The University of Hawai'i should be required to follow proper processes as defined by law and seek a boundary amendment.

I respectfully ask that you GRANT the Kanaheles' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

A handwritten signature in dark ink, appearing to read "John A. Burns". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Director, Community Based Research Core for
RMATRIX (U54MD007584) and Ola HAWAII (U54MD007601)
UH John A. Burns School of Medicine
Phone: (808)721-7511 E: umilani@gmail.com or jtsark@hawaii.edu

From: [Lisa Chang](#)
To: [DBEDT LUC](#)
Subject: testimony in support of the Kahanele's petition
Date: Monday, October 21, 2019 5:34:48 PM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanahelles petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai'i State Constitution, you are required to,

“conserve and protect Hawai'i'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.”

Further, Article XII, § 7 of the Hawai'i Constitution provides:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai'i Supreme Court went on to later interpret this section of the Hawai'i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai'i must follow State Land Use laws. The University of Hawai'i should be required to follow proper processes as defined by law and seek a boundary amendment.

MAHALO FOR DOING THE RIGHT THING CHAIR SCHEUER. YOU WILL ALWAYS BE IN THE HEARTS OF THOSE YOU CARED FOR.

I respectfully ask that you GRANT the Kanaheles' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

Lisa Lehuanani Chang
Teacher in Hau'ula, O'ahu

From: [Raphiell Nolin](#)
To: [DBEDT LUC](#)
Subject: Testimony for Kanahahele's petition
Date: Monday, October 21, 2019 5:48:27 PM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanahaheles petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai'i State Constitution, you are required to,

“conserve and protect Hawai'i'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.”

Further, Article XII, § 7 of the Hawai'i Constitution provides:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai'i Supreme Court went on to later interpret this section of the Hawai'i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai'i must follow State Land Use laws. The University of Hawai'i should be required to follow proper processes as defined by law and seek a boundary amendment.

I and my family are Hawaiian cultural practitioners and Mauna Kea is sacred to us. We go to the mountain to pray and connect with Akua. We are also big fans of astronomy and enjoy Imiloa presentations. There are already plenty of Astronomical Observatories on Mauna Kea, that could be more fully utilized or removed from the mountain. Building Hawaii's tallest structure on top of our sacred mountain is sacreligious and would be an insult to our traditional Hawaiian spiritual practice and belief that some places are sacred and should be left alone.

I respectfully ask that you GRANT the Kanahelles' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Aloha,

Raphiell Nolin

Kapa'au, Hi

From: [Stephanie Ross](#)
To: [DBEDT LUC](#)
Subject: Support Kanahele Petition
Date: Monday, October 21, 2019 6:06:56 PM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanaheles' petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if "an observatory" is allowed under the general lease, "the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities," is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai'i State Constitution, you are required to "conserve and protect Hawai'i'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."

Further, Article XII, § 7 of the Hawai'i Constitution provides: "The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights."

The Hawai'i Supreme Court went on to later interpret this section of the Hawai'i State Constitution to impose an affirmative duty "to preserve and protect traditional and customary native Hawaiian rights." You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai'i must follow State Land Use laws. The University of Hawai'i should be required to follow proper processes as defined by law and seek a boundary amendment.

I respectfully ask that you GRANT the Kanaheles' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

Stephanie Ross

From: normandgorby@aol.com
To: [DBEDT LUC](#)
Subject: SUPPORT of the Kanahaes petition
Date: Monday, October 21, 2019 7:35:21 PM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanahaes petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai‘i State Constitution, you are required to,

“conserve and protect Hawai‘i’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.”

Further, Article XII, § 7 of the Hawai‘i Constitution provides:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai‘i Supreme Court went on to later interpret this section of the Hawai‘i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai‘i must follow State Land Use laws. The University of Hawai‘i should be required to follow proper processes as defined by law and seek a boundary amendment.

I respectfully ask that you GRANT the Kanahaes’ petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

From: [Hope Fa-Kaji](#)
To: [DBEDT LUC](#)
Subject: Comments in Support of Kanahele Petition (Docket No. DR19-67)
Date: Monday, October 21, 2019 7:56:12 PM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanaheles petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

The LUC was created for the preservation and protection of Hawaiian lands. There is a constitutional obligation to prioritize Hawaiian land and natural resources, as well as protecting "tradition and customary native Hawaiian rights."

Out of the four categories of land under the LUC, Mauna Kea, with its important ecological and historic significant, clearly falls under conservation. As a former national competitor in the sport of orienteering, which involves using a map and compass to navigate through mountains and forests, I have had an intimate connection with state designated conservation land. There is no other category that can come close.

Beyond a fundamental concern and respect for nature, this matter is question of maintaining the integrity of the LUC's responsibilities to the land and the people of Hawaii, especially those of native decent. Respect for the rights of native Hawaiians is something rooted deep in my family. I am a yonsei, a fourth-generation Japanese American. There is a reason that there are so many Japanese Hawaiians. There is a reason that the internment camps my grandparents were sent to as teenagers were filled from the West Coast states and the islands. Hawaii is home to so many Japanese Americans like me, and even more so for the people that have been there many more generations. Maintaining the conservation status of Mauna Kea is a testimate to these people, and all the injustice they have endured.

I respectfully ask that you GRANT the Kanaheles' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Malama pono,
Hope Fa-Kaji

From: [Miles Greenberg](#)
To: [DBEDT LUC](#)
Subject: LUC Mauna Kea
Date: Monday, October 21, 2019 8:23:38 PM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanaheles petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- (3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai‘i State Constitution, you are required to,

“conserve and protect Hawai‘i’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.”

Further, Article XII, § 7 of the Hawai‘i Constitution provides:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai‘i Supreme Court went on to later interpret this section of the Hawai‘i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai‘i must follow State Land Use laws. The University of Hawai‘i should be required to follow proper processes as defined by law and seek a boundary amendment.

There are times when sanctity must be preserved. I believe the sacredness of these lands must be honored and protected and not sold out like all too often occurs.

I respectfully ask that you GRANT the Kanaheles' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Please SUPPORT the Kanahele petition.

Sincerely,

Miles Greenberg, ND

6540 Kahuna Rd

Unit A

Kapaa, HI 96746

littlelongon@yahoo.com

[Sent from Yahoo Mail on Android](#)

From: [p.tearson](#)
To: [DBEDT LUC](#)
Subject: SUPPORT of the Kanahaes' petition
Date: Monday, October 21, 2019 9:04:00 PM

Do you know what a conservation district is and what is allowed in one? There seems to be a problem in definition. The sprawling telescopes that have taken over the summit of Mauna Kea do not belong in a conservation district. 18-story buildings, like the TMT, are inconsistent with a conservation district designation. Why is 'conservation' the most appropriate designation for the summit area of Mauna Kea?

We were never given a chance to say "no" to the de facto industrial research zone atop Mauna Kea. If we had been given the opportunity, we would have said NO since a research zone doesn't go with conservation when it brings all the other telescopes and have created a de facto urban district outside of LUC procedures;

The start of a simple remedy-UH needs to follow state Land Use laws. Please grant the Kanahaes' petition for declaratory orders

From: [ku ching](#)
To: [DBEDT LUC](#)
Subject: DR19-67- KU`ULEI HIGASHI KANAHELE PETITION FOR DECLARATORY ORDER
Date: Monday, October 21, 2019 10:01:37 PM

DR19-67- KU`ULEI HIGASHI KANAHELE PETITION FOR DECLARATORY ORDER
HEARING: Thursday, October 24, 2019
WHERE: Naniloa Hotel, Hilo, HI
TIME: 9:00 a.m.

FROM: Clarence F. T. Ching
64-823 Mamalahoa Highway
Kamuela, HI . 96743
(808)769-3828

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

This Petition is submitted IN SUPPORT of the subject Petition, and ask for a DECLARATORY ORDER that:

1. The existing telescopes built on Mauna Kea in violation of LUC procedures created a de facto urban district,
2. That there be no further industrialization (construction) on Mauna Kea that is NOT in compliance with LUC boundary amendment procedures to reclassify conservation lands to urban district, and
3. Despite "an observatory" has, up to now, been "allowed" by the Mauna Kea General Lease from DLNR to the University of Hawaii, that has proliferated to at least 13 telescope entities, as what appears to be the attempted granting of a "mythical" boundary amendment that has resulted in an "industrialization" of the Mauna Kea summit area is NOT in compliance with LUC rules, being inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai'i State Constitution, you are required to,

“conserve and protect Hawai'i'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.”

Further, Article XII, § 7 of the Hawai‘i Constitution provides:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai‘i Supreme Court went on to later interpret this section of the Hawai‘i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

The most basic aspect of the State’s trust duties is the obligation “to protect and maintain the trust property and regulate its use.” *Zimring*, 58 Haw. at 121, 566 P.2d at 735; accord *Restatement (Second) of Trusts* § 176 (1959) (“The trustee is under a duty to the beneficiary to use reasonable care and skill to preserve the trust property.”). *Ching vs. Case*, SCAP-18-0000432, at 55.

Regardless of the developer or the proposed project, state land use laws must be applied and enforced. Here, the University of Hawai‘i, as the Lessor and Sublessee of the subject lands, must comply with State Land Use laws. The University of Hawai‘i should be required to follow proper processes as defined by law and, even with the acquiescence of DLNR, cannot, without jurisdiction, to authorize its Sublessor, the TMT interests to further industrialize Mauna Kea without applying for and obtaining a boundary amendment. The LUC cannot rubber-stamp an unauthorized agency of the "state" to make its own boundary amendment modifications.

I respectfully pray that you GRANT the Kanaheles’ petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

/s/ Clarence F. T. Ching

From: [nomadjg](#)
To: [DBEDT LUC](#)
Subject: Testimony in Support of the Kanahele's Mauna Kea Petition
Date: Monday, October 21, 2019 10:14:46 PM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanaheles petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and 3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai‘i State Constitution, you are required to,

“conserve and protect Hawai‘i’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.”

Further, Article XII, § 7 of the Hawai‘i Constitution provides:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai‘i Supreme Court went on to later interpret this section of the Hawai‘i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai‘i must follow State Land Use laws. The University of Hawai‘i should be required to follow proper processes as defined by law and seek a boundary amendment.

I am asking this on behalf of all of the residents of Hawai‘i with aloha ‘aina.

I respectfully ask that you GRANT the Kanaheles’ petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public

trust lands.

Sincerely,

Janet Graham

From: [Michael Zhang](#)
To: [DBEDT LUC](#)
Subject: TMT is not an industrial use
Date: Monday, October 21, 2019 10:43:04 PM

Dear Board of Regents,

I am writing in opposition to the demands of some protestors that TMT be designated as industrial land use. Such a designation is clearly preposterous for an astronomical project within the Astronomy Precinct. The Hawaii Supreme Court--not to mention ten years of legal proceedings--have found that TMT is consistent with the purposes of a Conservation District. Designating astronomy facilities on Maunakea as industrial would be in contradiction to these rulings.

Time and again, the protestors have come up with disingenuous tactics to forestall, delay, and disrupt TMT. It is time for the University of Hawaii to stop indulging such childish tactics. No more compromises, no more dialogue, and no more appeasement. It is time to send the message that TMT will be built, that any negotiation on this matter is out of the question, and that the state must open the road--by force, if necessary--to enforce the law.

This is intended to be written testimony for the October 24 Land Use Commission hearing on TMT/astronomy.

Sincerely,

Michael Zhang

From: [Mele McPherson](#)
To: [DBEDT LUC](#)
Subject: KANAHELE PETITION SUPPORT
Date: Monday, October 21, 2019 10:48:28 PM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission:

I submit this testimony in SUPPORT of the Kanaheles' petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if "an observatory" is allowed under the general lease, "the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities," is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai'i State Constitution, you are required to "conserve and protect Hawai'i'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."

Further, Article XII, § 7 of the Hawai'i Constitution provides: "The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights."

The Hawai'i Supreme Court went on to later interpret this section of the Hawai'i State Constitution to impose an affirmative duty "to preserve and protect traditional and customary native Hawaiian rights." You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and enforced equally. Here, the University of Hawai'i must follow State Land Use laws. The University of Hawai'i should be required to follow proper processes as defined by law and seek a boundary amendment.

The industrialization of this very sacred and spiritual place, the wao akua, is the ultimate in desecration and complete disrespect for my culture (the host culture), my cultural practices and one of my places of worship. Mauna a Wakea is my mauna, it's where i find my grounding, regain my focus & clarity, where i feel the closest connection to my Akua. It is a very painful experience being surrounded by giant metal industrial sites in a place i consider to be so sacred. The fact that I am currently not even being allowed to access it beyond the kupuna tent is just added insult to injury.

I respectfully ask that you GRANT the Kanaheles' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

Mele McPherson

From: [Eric Tielemans](#)
To: [DBEDT LUC](#)
Subject: SUPPORT of the Kanahaes petition
Date: Monday, October 21, 2019 11:04:26 PM

Dear Chair Scheuer, Vice Chair Cabral, and members of the Land Use Commission,

I submit this testimony in SUPPORT of the Kanahaes petition, and ask that you declare that:

- (1) the existing telescopes built on Mauna Kea have created a de facto urban district outside of LUC procedures;
- (2) further construction on Mauna Kea summit areas must comply with LUC boundary amendment procedures to reclassify conservation lands into the urban district; and
- 3) even if “an observatory” is allowed under the general lease, “the successive, individual approval of thirteen scientific laboratories, other research facilities, and associated offices, parking lots, and utilities,” is inconsistent with conservation district uses.

As the Land Use Commission (LUC), you not only have the legal authority to hear this petition before you, but you have constitutional obligations to protect public trust resources and traditional and customary rights. The LUC has the unique authority to declare what uses are appropriate in which districts, and to also reclassify lands from one district to another or to amend district boundaries. Under Article XI, § 1 of the Hawai‘i State Constitution, you are required to,

“conserve and protect Hawai‘i’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.”

Further, Article XII, § 7 of the Hawai‘i Constitution provides:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

The Hawai‘i Supreme Court went on to later interpret this section of the Hawai‘i State Constitution to impose an affirmative duty “to preserve and protect traditional and customary native Hawaiian rights.” You have the opportunity to do what is pono, follow the law, and uphold your trust duty with respect to these public trust lands.

Regardless of the developer or the proposed project, land use laws should be applied and

enforced equally. Here, the University of Hawai'i must follow State Land Use laws. The University of Hawai'i should be required to follow proper processes as defined by law and seek a boundary amendment.

I respectfully ask that you GRANT the Kanacheles' petition for declaratory order to ensure that proper land use procedures are followed for perhaps the most culturally significant of public trust lands.

Sincerely,

Eric Tielemans,
Haumana of Malamalomi school Amsterdam
The Netherlands, 1121 AV 24

Verzonden vanuit [Mail](#) voor Windows 10