

From: [Shelley Muneoka](#)
To: [DBEDT LUC](#)
Subject: KAHEA's testimony in strong support of the Kanahele Petition
Date: Thursday, October 24, 2019 1:34:01 AM
Attachments: [LUC Kanahele 10.24.19.docx](#)

Aloha,

Please see the attached testimony submitted on behalf of KAHEA: The Hawaiian-Environmental Alliance in strong support of the Kanaheles' petition on the October 24-25 meeting agenda.

Mahalo,
Shelley Muneoka
KAHEA boardmember

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

My name is Shelley Muneoka and I am submitting testimony on behalf of KAHEA: The Hawaiian-Environmental Alliance today. We stand in strong SUPPORT of the Kanahaes' petition before you today, 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.

KAHEA has engaged various administrative and legal processes in protection of Mauna Kea over the last decade and now humbly come before the Land Use Commission to ask that you address an error that has resulted in irreparable harm to one of our most sacred places. The University should not have been allowed to build one observatory after another without coming before this body for a boundary amendment to ask (and hopefully be denied) to change the Mauna Kea Summit Area from a conservation district to an urban district. I feel sick even writing those words because that is what defacto has already happened. To be completely clear, KAHEA is not advocating for the urbanization of the summit, we are saying that UH (and any other applicant) should be required to apply for a district boundary amendment to conduct land uses inconsistent with a Conservation designation -- like constructing (at least) 14 industrial astronomy facilities. Or even a single 18-story one. Applicants can not be allowed to industrialize the conservation district by simply avoiding the LUC altogether.

The BLNR and University claim to have jurisdiction over the conservation district and indeed, BLNR has the authority to determine allowable uses therein, but it should go without saying that their authority does not extend to permitting non-conservation uses within a conservation district. Both entities say they have new and improved management plans and that the TMT will be the last telescope built on a new site on the mauna. But we've heard this before.

The Submillimeter Array was supposed to be the last telescope in the 1983 Mauna Kea Science Reserve Complex Development Plan, which proposed limiting the number of telescopes to 11 large and 2 small telescopes.

- and even then the University was counting Keck I and II + six 1.8 meter outriggers as one telescope; and then the eight 6 m SMA structures as one telescope - so the last "two" telescopes were actually 16 structures.
- Then the 2000 Mauna Kea Master Plan called for 15 telescopes and expansion of two existing telescopes, including the SMA by 12 antennas and 24 concrete pads

- But then in 2006, IfA dialed it back so it was only two more antennas and two pads for the SMA, the TMT, and expansion of the 2.2m site to do PAN-STARRs, which is on Haleakalā now (though were initially proposed for Mauna Kea!)
- In 2015, UH's Lassner wrote a 3 paragraph letter to DLNR Chair Case promising the TMT would be the last telescope on a new site. <https://www.hawaii.edu/news/wp-content/uploads/2015/11/system-lassner-TMT-last-site-letter.pdf>
- But then last week the Board of Regents' Mauna Kea task force just proposed to relocate the Hoku Kea to another site by Hale Pōhaku, which isn't even in the 525 acres of the "astronomy precinct." This is putting a telescope on a new site, and that is specifically what Lassner said UH would not do.

So, how can we trust that the processes that these two entities (BLNR and UH) oversee are adequate to protect Mauna Kea?

‘Ike kūpuna (ancestral knowledge), among other things, informs how to best care for our ‘āina. It is rooted in hundreds of years of cultural practice, that has been refined using scientific principles to arrive at the equivalent of "best practices." One of these best practices is not often accessing the area. Specific to the land at issue in this petition, the Kanahaes, cultural practitioners of Mauna Kea, are carriers of this knowledge and understand this area as a wao akua. As Kuulei describes, elemental forces and functions create these the godly realms. Being designated as a wao akua (which parallels the LUC's designation of this land as conservation) means that it functions best without a permanent physical human presence or impact. Unfortunately, it is an uncontested fact that the cumulative impact from industrial astronomy on Mauna Kea has already been substantial and adverse. Perhaps a concept unfamiliar to this body, non-use or non-entry is common for many families (like the Kanahaes) in relationship to Mauna Kea and does not signify a lack of connection to or reverence for a place. Perhaps a hypothetical situation may lend some clarity – if the inner sanctum of St. Peter's Basilica in Vatican City (that only high ranking priests have access to) were demolished, that destruction would impact Catholics around the world, even though they'd never be allowed to enter there themselves. Merely seeing pictures, or just knowing in their hearts that a part of their sacred place was gone, would hurt – and that is a built environment that can be re-built. Mauna Kea was born from our akua and can never be fully restored. The inner sanctum of our church has already been breached. Aside from the existing 13 research facilities already having caused disruption in this wao akua, the TMT would be built upon untouched conservation-designated land. What about 13 telescopes, plus the TMT, is consistent with a conservation district?

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.

We 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,

Shelley Muneoka

Boardmember, KAHEA: The Hawaiian-Environmental Alliance

From: [Joseph Kohn MD](#)
To: [DBEDT LUC](#)
Subject: SUPPORT of the Kanahaes petition
Date: Thursday, October 24, 2019 11:08:58 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.”

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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.

Respect the culture!

Sincerely,

Joseph Kohn MD

Founder, We Are One, Inc. - www.WeAreOne.cc - WAO

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From: [Dexter Kaiama](#)
To: [DBEDT LUC](#)
Subject: Re: Submission of written testimony in support of Kanahele Petition before LUC and Hearing scheduled for 10/24 and 10/25/2019
Date: Thursday, October 24, 2019 12:25:41 PM
Attachments: [The Ahupua'a of Kaohe is lands that have never been the subject of a LEGAL cession.pdf](#)

Attending hearing on Kanahele's Petition before the Land Use Commission, scheduled for October 24 and 25, 2019 at the Naniloa Hotel, Hilo.

Informed by the Chair, that written testimony may be submitted up until the time of the Commission's ruling/decision on the petition.

Accordingly, please receive and accept the enclosed written testimony, providing due notice of the illegal prolonged Occupation of the Hawaiian Kingdom, the consequences and potential future consequences of said illegal occupation and in full support of the Kanahele's petition.

Mahalo,

Dexter Ke'eaumoku Ka'iama

**Testimony before the SOH, Land Use Commission
October 24, 2019**

Re: Petition of Ku'ulei/Anuhea Kanahele

LUC Commission Members: **Jonathan Likelike Scheuer, Chair**
 Nancy Cabral, Vice-Chair
 Lee Ohigashi (Maui)
 Edmund Aczon (O'ahu)
 Dan Giovanni (Kaua'i)
 Gary Y. Okuda (At-Large)
 Arnold Wong (At Large)
 Dawn Chang (At Large)

O wau, Dexter Ke'eaumoku Ka'iama. Good morning Chairman and Commission members.

The Ahupua'a of Kaohe is lands that have never been the subject of a LEGAL cession:

(1) There is no "Treaty of Annexation" with the U.S. - NO LAILA (therefore) no legal cession;

(2) The U.S. Joint Resolution - is a municipal law that has no extra-territorial force or effect, under both U.S. and International law;

(3) the Joint Resolution is an unlawful infringement into the territorial integrity of the Hawaiian Kingdom, an UNLAWFUL USURPATION OF SOVEREIGNTY.

(4) Accordingly, the State of Hawai'i possesses no valid legal title to Kaohe. That notice is respectfully conveyed to this Commission.

(5) Pending the end of the illegal occupation and lawful transition back to the Hawaiian Kingdom, under the mandates of international law, this Commission is duly notified of its obligation to Administer the Laws of the Hawaiian Kingdom - or - at a minimum, TO LEGISLATE AND/OR ADMINISTER IN A MANNER NOT INCONSISTENT WITH THE LAWS OF THE HAWAIIAN KINGDOM.

(6) IT IS MY TESTIMONY THAT ANY DESIGNATION CHANGE OF KAOHE FROM CONSERVATION - WILL BE AN ADMINISTRATION INCONSISTENT WITH HAWAIIAN KINGDOM LAW, IN FURTHERANCE OF AN UNLAWFUL USURPATION OF SOVEREIGNTY AND WILL RESULT OR BE COMPLICIT IN THE FURTHER DESTRUCTION OF THE SUMMIT AREAS OF KAOHE - ALL IN VIOLATION OF INTERNATIONAL LAW.

(7) No laila, I fully support the Kanahele's Petition to Declare that the industrialization of Mauna Kea summit areas is contrary to its conservation district designation. I ask that this Commission take all steps, in its present authority, to reject the CDUP Permit granted for construction of the TMT and/or, consistent with the Kanahele's Petition, require U.H. to first apply for a district boundary amendment — — — and then deny said application.

Mahalo.

From: [Jessica Waiau](#)
To: [DBEDT LUC](#)
Subject: Written Testimony regarding DR19-67 KANAHELE & KANAHELE
Date: Thursday, October 24, 2019 2:41:12 PM

Aloha,

My name is Jessica Waia'u and I reside in Waiakea on the island of Hawai'i. Thank you for your time in reviewing my testimony. I was unable to stay to present my testimony in person and hope you will accept this written testimony. Thank you to the commission for hearing this petition as it is clear that BLNR, UH and TMT/TIO did not want to hold this hearing. It would seem to me that in this action you, commissioners, are demonstrating that you are truly here to listen to the community. I hope that this is true.

The current industrial use of Mauna Kea, violates the state district use boundaries law as administered by this commission. I respectfully ask that you grant the Kanahele's petition for declaratory orders and compel those that want to develop in a conservation use district to follow the appropriate procedures as laid out in your framework. That way this commission can weigh in on what might be one of the most important decisions of our time.

The Land Use Commission has designated Mauna Kea as a conservation district. However, the existing use of the summit is inconsistent with your definition of the activities that are allowed in a conservation district. The development of current telescopes, proposed telescopes (including TMT) and any other industrial development atop Mauna Kea are inconsistent with conserving and protecting our natural resources.

A few years ago I travelled to the summit of Mauna Kea for the first time. I was surprised to see how the observatories dominated the landscape and how expansive the footprints of those sites were. I can only imagine that if we don't compel developers (including the state, BLNR and UH) to follow correct district boundary amendment procedures, we may find that we will have many more "last telescopes". By compelling those parties to seek a district boundary amendment, we can allow for further review and scrutiny from a land use lens instead of a solely economic lens.

Further industrialization of this area will mean that my son and future generations of my 'ohana will be impacted by what Judge Michael Wilson described as the degradation principle. Just because substantial and adverse impact has already occurred, doesn't mean that it's okay to allow future adverse impacts. Just because we messed up in the past, doesn't mean we should continue messing up. We need to learn from past mistakes and mismanagement and find the lessons embedded. We can close the door on the further deterioration of our natural resources and take a stand against developers who wish to use the land as they see fit. We need to have generational lenses and think of the Hawai'i we want to see centuries from now for the decisions we make today will impact the

opportunities of tomorrow.

I respectfully ask that the commission grant the Kanahele's petition and follow through on your duty to protect and preserve Hawai'i.

Me ke aloha,

Jessica Waia'u

From: [JCCIH](#)
To: [DBEDT LUC](#)
Cc: [Stephen Ueda](#); [Donn Mende](#)
Subject: Petition# DR19-67 Kanahele & Kanahele
Date: Thursday, October 24, 2019 2:52:05 PM
Attachments: [JCCIH Petition DR19-67 Kanahele & Kanahele - LUC 10.23.19.doc](#)

Aloha State Land Use Commission:

Please see attached opposing letter for Petition# DR19-67 Kanahele & Kanahele.

Mahalo,
Kapua Silva
Executive Assistant
Japanese Chamber of Commerce & Industry of Hawaii
714 Kanoiehua Avenue
Hilo, Hawaii 96720-4565
Phone: 808-934-0177 Fax: 808-934-0178
Email: jccih@jccih.org Website: www.jccih.org

The Japanese Chamber of Commerce & Industry of Hawai'i promotes the well-being of our community through business and personal relationships through the values of "Okage Sama De" and "Kahiau".



Japanese Chamber of Commerce & Industry of Hawai'i

DR19-67 KANAHELE & KANAHELE

Japanese Chamber of Commerce & Industry of Hawai'i
Donn Mende, President 2019-2020
714 Kanoelehua Ave
Hilo, HI 96720

State Land Use Commission
P.O. Box 2359
Honolulu, HI 96804
dbedt.luc.web@hawaii.gov

October 23, 2019

Subject: Petition of Ku'u lei Higashi Kanahele & Ahiena Kanahele – DR19-67 KANAHELE & KANAHELE

Aloha State Land Use Commission:

Japanese Chamber of Commerce & Industry of Hawai'i (JCCIH) opposes the Petition #DR19-67 to have the Maunakea summit region reclassified from Conservation District to Urban District.

The reasons we oppose the Petition #DR19-67 is by keeping the summit zoned Conservation District provides the greatest protection for the natural and cultural resources. Conservation District rules are among the strictest in the State, requiring innumerable reviews and compliance conditions. The DLNR has the authority to approve specific uses, such as Astronomy, within the Conservation District lands upon application by issuing Conservation District Use Permits (CDUP). Telescopes constructed on Maunakea will only be approved after a rigorous review by DLNR and other state and county agencies. The review includes the preparation of an environmental impact statement (EIS), a State Historic Preservation Division review, demonstrating that the proposed major use is consistent with the Mauna Kea Comprehensive Management Plan (CMP).

Please vote to deny Petition #DR19-67.

Mahalo for your time,

Donn Mende
President 2019-2020
Japanese Chamber of Commerce & Industry of Hawai'i