

**STATE OF HAWAI'I
OFFICE OF HAWAIIAN AFFAIRS
Lili'uokalani Trust
Kīpuka Kaua'i
4530 Kali Rd.
Līhue, Kaua'i 96766**

**Minutes of the Office of Hawaiian Affairs Board of Trustees
Thursday, July 11, 2019
9:00 am**

ATTENDANCE:

TRUSTEE COLETTE MACHADO
TRUSTEE BRENDON KALEI'ĀINA LEE
TRUSTEE LEINAALA AHU ISA
TRUSTEE DAN AHUNA
TRUSTEE KALEI AKAKA
TRUSTEE W. KELI'I AKINA
TRUSTEE CARMEN HULU LINDSEY
TRUSTEE JOHN WAIHE'E IV

ROBERT G. KLEIN, ESQ., BOARD COUNSEL

EXCUSED:

TRUSTEE ROBERT LINDSEY

ADMINISTRATION STAFF:

MEHANA HIND, CE
DAVIS PRICE, CO
JASON LEES, DPM
JOCELYN DOANE, PP
KAWENA CARVALHO-MATTOS, DPM
KEOLA LINDSEY, CA
NOALANI NAKASONE, CO
KALIKO SANTOS, CO

BOT STAFF:

CAROL HO'OMANAWANUI
LŌPAKA BAPTISTE
DAYNA PA
KAMA HOPKINS
PRICILLA NAKAMA
LEHUA ITOKAZU
MARIA CALDERON
LEIANN DURANT
CLAUDINE CALPITO
RON PORTER
CRAYN AKINA

GUESTS:

KUULEI SANTOS
MALIA NOBREGA-OLIVERA
RUPERT ROWE
MAUREN FODALE
IHIIHIINUI KANEALII WAHINEKONA
PUANANI ROGERS
BONNIE BATAR
MAUNAKEA TRASK
ROBIN DANNER
HOPE KALLAI
SHARON GOODWIN

I. CALL TO ORDER

Chair Colette Machado Calls the Board of Trustees meeting to order at 9:01 am. Roll call is taken; Trustees Ahu Isa, Ahuna, Akaka, Akina, Lee, Carmen Hulu Lindsey and Machado are present, constituting a quorum. Trustee John Waihe'e IV is expected to arrive shortly. An excused absence was received from Trustee Robert Lindsey.

I would like to read into the record that the 72 Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for the following items:

- II. Approval of Minutes
 - A. May 16, 2019
 - B. June 6, 2019
 - C. June 19, 2019

Item II. B. will be removed the agenda, the wrong date was listed for the meeting; there was no Board meeting on May 20, 2019.

We will now move onto the approval of minutes.

II. APPROVAL OF MINUTES

Chair Colette Machado – Trustee Carmen Hulu Lindsey.

Trustee Carmen Hulu Lindsey moves to approve the Board of Trustees meeting minutes of May 16, 2019, June 6, 2019 and June 19, 2019.

Trustee Kalei Akaka seconds the motion.

Chair Colette Machado – Any discussion? Hearing none, roll call vote.

Trustee Carmen Hulu Lindsey moves to adjourn. Trustee Brendon Kalei‘āina Lee seconds the motion.						
TRUSTEE	1	2	‘AE (YES)	A‘OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA‘ALA AHU ISA			X			
TRUSTEE DAN AHUNA			X			
TRUSTEE KALEI AKAKA		x	X			
TRUSTEE KELI‘I AKINA			X			
TRUSTEE BRENDON KALEI‘ĀINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY	x		X			
TRUSTEE ROBERT LINDSEY						Excused
TRUSTEE JOHN WAIHE‘E						Excused
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7			2
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED Motion passes with seven (7) yes votes and two (2) excused.						

We will move on to public testimony.

III. PUBLIC TESTIMONY

Chair Colette Machado - As OHA Chair, it is my responsibility to manage the BOT meeting and testimony to allow the OHA BOT to conduct its necessary official business. The purpose of our BOT meetings is for OHA’s Board to discuss, deliberate and make decisions on agendized matters.

Consistent with the Sunshine law, our discussions and decisions must be limited to items identified on a properly noticed agenda, which allows the public to know what will be discussed and gives an opportunity to provide testimony. While this requirement aids public involvement, it also limits our ability to respond to matters not on our meeting agenda.

With that in mind, here are some reminders regarding public testimony:

1. We request that individuals interested in providing testimony or comments before the Board complete the “Public Testimony, and Community Concerns Form” located on the credenza.
2. Testimony is limited to five minutes. We have time cards.

3. If you have a handout that covers your testimony, we ask that you refrain from reading it aloud in its entirety. We will accept your written testimony but ask that you summarize your thoughts.
4. The opportunity to testify should not be misinterpreted as an opportunity to question BOT members; questions / requests for information will be referred to administration for follow-up.
5. Individuals who will provide testimony on matters on the agenda will have an opportunity under Public Testimony.
6. As we have done in the past, we will allow individuals to comment on matters not on the agenda. However, Trustees cannot discuss or make decisions on matters NOT on the agenda. Individuals who wish to address matters NOT listed on the agenda will have an opportunity to do so under Community Concerns.

Mahalo nui for everyone's kōkua.

Our first speaker is Rupert Rowe.

Rupert Rowe – I got a serious question do we know who we are? Very serious. The reason that I ask this question, from Statehood to this day we still don't know who we are. Reason, when OHA was formed the corruption in the State was beyond recognition. You folks was created to stop the bullshit. Secondly, in the census report it says, Hawaiian, part Hawaiian and others, on your marriage license it says Hawaiian, part Hawaiian and others. In your ōlelo o Hawaii there is not such person as a Hawaiian. I ask all of you who you are today. Do you know why we don't know who we are? You have to answer that question. So now if ōlelo o Hawaii does not recognize the word Hawaiian, how come we following that path. The same reason that the Mauna Kea stuff went happen is because they all was Hawaiian. We took the immigration part of the people that came abroad to voice their concern, not our concern. So if you is one kanaka, on the census, your birth certificate, on your marriage license, where the word others, do we have that right? Asking you OHA, our voice in our language does not address that invisible person that we face. This is a critical thing. I believe, OHA, you should go back and get one meeting to identify who we are. If we not Hawaiian then who are we. Very serious. All the pilikia that happen on the 'āina throughout Hawaii is all based on the word Hawaiian. If you is a kanaka then you have the right to voice your concern. Not the immigrant that is one Hawaiian.

In the language, it says, kanaka, first arrival maoli, then it says, they that is not of the blood will be called Hawaiian. Then it says their children will be called native Hawaiian. So who are we representing? The immigrants or the people of Hawaii. That is all I get to say. Because it is very critical knowing who you are as we all sit here today. The pilikia at the salt pond, the pilikia on the north shore, the pilikia on this island is real. On every island because we don't know who we are. Aloha.

Chair Colette Machado – Do we have anyone else signed up? I'd like to recognize Robin Danner as our next speaker.

Robin Donner – Thank you OHA for being here. I am very proud of the diversity that I see here. Thank you very much. For the record, my name is Robin Puanani Danner I'm a homesteader from Anahola for almost 25 years. The first thing I wanted to say to our Trustees, is we want to mahalo you for, it's been the first time in about 10 years that the Office of Hawaiian Affairs has awarded not just a Kauai project, we competed very well for Kauai, we received an OHA grant for over 2 years for \$480,000, which over \$200,000 we will be re-granting to native Hawaiian families on Kauai. We want to thank you. We will be focusing on tiny homes, regular homes and getting our native Hawaiian families up and running. I do want to say at this time that it is really important that OHA begin to look at it strategic plan around homestead organizations. We are very different, we need to kill the views that former Trustees brought to this board, which is small "n" those that are 50% or more because almost invisible to the Office of Hawaiian Affairs. I want to say we need to make small "n" more visible, I'd give myself as an example, I am the only small "n" in my homestead household. There are five big "N" in my household. So when OHA invests in homestead organizations and homestead projects we are serving small "n" and big "N". I just think it's an opportunity for the Office of Hawaiian Affairs and your administration to rethink the investments that

can be made on homesteads without that bologna view that we are only serving small “n”. In fact, it’s the opposite. There are 10,000 small “n” on homestead and 45,000 native Hawaiians that live there that are big “N”. The small “n” are the path to serve the greater big “N”. So I hope you would think about that.

The second thing I want to think about is a press release that SCHHA put out yesterday concerning the action that the Hawaiian Homes Commission made this week. Which was to issue a 147 acres out of 555 acres at Kalaeloa to a Canadian firm. I won’t go into the reason that is horrible. But the fight is not over, but it’s clear that we have some work to do. OHA is our homestead trust as well. One of the things I want to do is bring to the table that I am hoping we can speak to the administration about is that the SCHHA and the homestead leaders need help we can’t continue to fight this battle in our part time hours. We would like to begin conversations with the Office of Hawaiian Affairs of establishing a public interest law firm that is focused entirely on defending the rights of small “n” and the homesteads and for big “N” as well. I think that could be a major way that OHA supports homestead or small “n” or big “N”. Maika’i on the Native Hawaiian Legal Corporation for 35 years. They mostly focus on litigation of individuals. I think the time has come and we’ve matured as a people, and OHA has as well. We need a public interest law firm to focus on the collective rights of native Hawaiians. Class action law suits, things like that. I hate litigation but it needs to be there as a tool. I hope that I can follow up with a potential pilot project of our SCHHA office and public interest legal services.

The final thing, for me this morning. I am hoping the Office of Hawaiian Affairs would think outside the box. I would invite you as a Hawaiian Homes Commission Act beneficiary, I would invite the Office of Hawaiian Affairs, please submit a request to the Department of Hawaiian Home Lands request a right of entry for our lands on Mauna Kea that are by the sheep station so that our people can safely and vigorously, and passionately exercise their constitutional right to protest and be visible, rather than being miles away. Hawaiian Home lands, I think ke akua put those Hawaiian Home Lands there for all of us to voice our opinion. I would ask the Office of Hawaiian Affairs not an individual, us the power of the Office of Hawaiian Affairs to make that request to the Hawaiian Homes Commission, sister agency to sister agency and take on the kuleana and liability as well. To set up a proper, this is our standing rock. I would be so proud if Office of Hawaiian Affairs stepped forward and created a space for our people to properly exercise their constitutional right to protest that project, to pray to celebrate all that we are as Native Hawaiians. Mahalo. *(please see handout from Robin Danner)*

Chair Colette Machado – Thank you. Our next speaker is Mauren Fodale

Mauren Fodale – I thought we would share where we are. My heart is strong for the pa’akai project. But first for King Kaumualii has been working on erecting an 8 foot statue at Paulaula. Please don’t every call it the Russian Fort. There is a huge issue over that because Russians are trying to dangle money in front of DLNR to put a visitor’s center there. We are trying to reinstate the King on that land where he ruled from. It’s a spiritual as well as a visual thing. That is all I can say. We are caught up with DLNR. We got the funding through the State, to finish the statue and prepare the site for the ahu. I just want you to have this in your conscience because putting the king back on the land where he ruled from is a kind of saying we belong here, he belongs here. Working with DLNR has been very difficult. Thank you very much.

Chair Colette Machado – Thank you. We will now move on to Community presentations.

IV. COMMUNITY PRESENTATIONS

A. Hui Pa’akai o Hanapēpē

Chair Colette Machado – I’d like to call on Malia Nobrega-Olivera for Hui Pa’akai o Hanapēpē.

Malia Nobrega- Olivera – Aloha kakou. My name is Malia Nobrega-Olivera. Happy to have you all here on Kauai. I come before you as the President of Hui Pa’akai o Hanapepe. Also, here is my Vice President Kuulei Santos and our ‘ohana member Maunakea Trask. We have many other salt makers that have joined us today and other supporters. We are just really happy to be here. We will share all a little bit. I just wanted to start sharing a

little about the Hui. Hui Pa'akai o Hanapepe is a Native Hawaiian organization that is up of representative from 22 'ohana that are cultural practitioners. We are Kia'i of this wahi pana; we are kilo that visit the area on a regular bases. We are kamaaina to this place. We have grown up in this place. Definitely, we are the younger generation; we have other kupuna that are with us today that have been there for generations before us. I wanted to share some of the 'ohana inoa because you know we bring these kupuna with us. I am reading a list of our original 'ohana members, our kupuna from 1964 who represent these 22 'ohana. Clara and Jack Akuna, Barney and Mabel Char, Joe and Helen Chu, Mae Makanui Core, Ellenor DeCosta, Charles and Mary Foo, Olga and Solomon Holy, James and Aloha Hoaka, Linda Kaiaku, Albert and Christina Kali, Robert and Lady Kali, Harry and Helen Kaneakua, Joseph and Rachel Kaohi, Tia Kapahu, John and Jenny Kauma, Andy and S. Kilowano, Lily Komaki, Robert Nopohaku, Lui and Lei Niau, Gerald Okuno, Frank and Sarah Santos and Ruth Yorkman. I bring them all forward with us because they have laid this path and all the kupuna before them. Who have laid this path for our hui, for our practitioners, our descendants, for Hanapepe Kauai and have been there for generations. We continue to practice our traditional and customary practices. In this place as we know as today as wai maka o hi'iaka. In the ili of ukula. In the ahupua'a of Hanapepe. Makamokupuni o Kauai. It's a place that is listed as a historic site on the State inventory of historic places. A place we've been gathering, preparing beds, form time in memorial. History has documented that for 20 plus years now, salt makers have been rising up and raising our concerns relating to this airstrip at puolo point and requesting to protect our traditional native Hawaiian cultural rights to prepare salt beds and gather salt. In 2000, kupuna Wilma Ho Lee also had to go before the planning commission, and before other places to file for intervener status.

Before we talk a little bit more of the details of what we are being challenged with, I'll let Kuulei share a little bit more about that. I wanted to say that as kilo, as observers of the area, we continue to witness the climate change impact. Beside helicopters, and development and all of that we see the changes that are happening. When people talk about climate change, it's real for us as Hawaiians, as practitioners. When we cannot go in as 'Ohana 6 years in a row to prepare the beds to connect to the 'āina that is a big hoailona to everybody of what climate change amongst all these other impacts are doing to our Hawaiian practices. That has been a big part of the work that I do at the University of Hawaii at Mānoa and climate change and how we look at that at a Hawaiian perspective and how we implement indigenous methodology like kilo and kaulana mahina that help us connect and reconnect to our 'āina and to our practices. Another thing we've been working on and incorporating this methodology is working on a hydrology study with the County of Kauai as well as SEA Grant College at Mānoa. To help us better understand where all this flooding is happening. When we go to the site visit today, unfortunately you are going to see a big swimming pool. You are not going to see salt beds, the place is flooded. I want you to be able to see this. Because in the middle of what should be out hottest summer is a flooded salt making area for different reasons. We can talk about more of those reasons latter. This hydrology study is going to help us understand the finger print of where all this water comes from. Whether its rain, run off, it's coming up from the puna. Where ever its coming from. We've been working with these researchers form the water center at Mānoa to come up with this methodology and to implement all of this.

Another thing that we were able to do recently is work with the County to try and move the boulders to a certain point to let one part of the beach to hoomaha and to not have impacts from a lot of the cars driving on the sand. You will be able to see that too. But on Saturday we had a hui meeting, we need to close up a bigger portion of this area to let it hoomaha. Because when we talk down to the beach now, and I saw it the other day. Sat there and took pictures, in tears, seeing all of the lepo and the clay being all exposed down at the beach area. We knew there was clay down there but I've never seen it in my lifetime, I've never seen it so exposed in this way. It is a number of things that is causing this. But one of them is the number of cars that drive up onto our sand and of course the climate change impacts and the kaipii, or what is called today the king tides. But these are just some highlights of what we have been experiencing and I'm going to turn it over to Kuulei and then Maunakea to share little bit more.

Kuulei Santos – Aloha, my name is Kuulei Santos, salt maker. I am a little bit more feisty then the two that are standing behind me. It's not the first time that we've come to you guys for help. I've sit here prior and talked about our struggles. Just to name the few, we are the lowest point so everything that happens flows to us. We have a County that illegally back filled our drainage. The way our salt is made is water travels underground from the ocean into our wells. County came back filled old asphalt into that whole system so when you go there today you

will see the water cannot flow out and it's because of what the County did. They did this on State land without a permit. We came to you guys and asked you guys for help and wrote a letter there was no action. We have a helicopter company that continues to be horrible neighbors. They fly over us, they play games, they run their business however they want without the proper permits. They've said the salt makers are insignificant to us, they do not matter to us. They have said that to County officials. That is what we are dealing with, with them. We have gone to you guys as well every single time they come to expand, every single time they try to change ownership, you guys write letters but there is no follow up. There has never been any follow up from you all.

We have homeless that live in our salt area. Because of where we sit it's a lot difficult to get the homeless out. Where we can't call the County because the County its State Land, we can't call State because the State goes through a whole process to get them out. We can't call the police because it's not our property. We have the homeless that live in there. We have locals that come, they throw their glass, you'll see glass in our parking lot, there is not a season that some of us, that every single salt making family doesn't get cut by glass. We are surrounded by, across the street, we have a group of people that has moved in, they have no permits, they live there. They have no restrooms, they have no water, they have no electricity, but they decided to move in and they are Sovereignty so no one wants to kick them out. We are also dealing with that. We are at a time where we are dying, we should be in a middle of a season now but we can't.

We have an opportunity right now, the helicopter company has, the helicopter company by the way, we went to BLNR and you guys wrote a letter at that time. When they wanted to transfer to this new helicopter company which is the biggest in the State. You guys wrote a letter saying please talk to the salt makers and come up with how to be good neighbors. They found a loophole to give them the permit anyway. BLNR said do not give this helicopter company the lease until you guys meet with the salt makers. They found a loophole, helicopter company moved in, started to do all these improvements. We had to call the County to make a complaint, this was a year or two years ago, hey helicopter company is doing all these improvements please go check it out. So the County went in, that's when they said they said you guys have all these illegal structures, they are coming now for after the fact permits plus wanting to expand more. This is when the things started to get this going. The planning department has come back and said ok, because we are so behind it is going to take a year and a half before we even hear your case. In the meantime, we have a helicopter company that dug a cesspool with no permits. The salt makers fought for 5 years trying to fix the bathroom, same distance, same exact distance to our salt patch, five years to fix these county restrooms. Which I think they finally did. Here we are as salt maker battling to fix County restrooms we have a helicopter company at the same distance install a cesspool and it's ok. They are not stopping them and it's not going to be for another year and a half. We as salt makers we were not organized prior to this. So now we are finally, it's been a long time for me and Malia to sit here and hold hands together and do this battle together. We are at a point where it's good because here we are and we are dying. We are dying; we can't make salt this year.

Maunakea is going to talk about the options that we would like to go at but we need to act now. We have to do things now. For example, the Mayor called the other night at 9 o'clock, well if we want to close the road we have to go the public and we have to plead our case to the public. Why? Why do we have to keep subjecting ourselves, why do we have to stand here battle with you all? With our government, with our County officials and prove what we are worth. All of you have received pa'akai from us. We give it, we don't ask for anything in return. We are asking for help now. We are asking you to stand with us not just in a letter, but stand with us and support us and close that helicopter company and make us the most important part of that area. Make us continue on so that my grandchildren, my great grandchildren can say the same exact same thing I say. I get to stand in the same exact spot as my grandmother and do what she did. Because I love my culture, I love my history, I love the fact that my children work hard for a product that is given away. We don't ask for anything in return. We do the exact same things; we rub the beds the same way. We look for clay the same way. It's not, if you talk to other kupuna they say ok, well we weren't able to eat, 24 hours before you went into the salt patch there was not feed for the children, because we don't want to hear the children say we have to use the bathroom. We don't follow some of those rules, but we still do most of the stuff that my father taught me, and his mother taught him. On another note too, the way the generation was taught is you don't speak, you just go in and do what you were meant to do. Then you turn around and give this gift and that is it. We just don't talk about it. Not talking about it is killing us. And

you will see it today. You will see the water trying to go out, and it cant. You will see the helicopter company, you will hear the noise, you will feel the dust. You will see the locals come in burn rubber in that parking lot. You will see all that sand. The way that our beds are made is clay binds together and we make clay pots. The more of this sand that gets into our area, the clay isn't going to be able to bind together. We are not going to be able to make salt. That is my thing.

Maunakea Trask – Aloha I am Maunkea Trask. I am here to talk about the extremely complex situation that the hui is in right now. Like Kuulei said that area is a natural area, its open, we call it Hanapepe Airport but it's actually just an airstrip. There shouldn't be anything more there than a trailer. The previous owners would actually check-in off site and then come down there. There wasn't any business activity being conducted there. The zoning for that area in the State of Hawaii DOT airport, the airport itself is SLUD Urban, County Open which just means that the State will allow any County land use designation over there and the County designation is open. Now that was in the 70s. The airport itself is a remnant from the 1920s, the executive order when Hawaii was still a Territory. The Governor that that time said I need an airport for military installation. So now we have, 17 years latter PMRF was built and it's no longer used as a military installation. In the 60s and 70s, Lihue Airport became the commercial hub and that was it. It's really an obsolete facility. It's still being used for small operation for tourist. There have been sky diving airplane crashes there. Its shouldn't be there.

Right now what Kuulei said, is that the current operator, we believe they bought out the company. They couldn't get a new lease; they just bought out the old one. Now they are the operators. They are not from Hawaii and they are not being good neighbors. So they did a bunch of unpermitted work and now they are going to after the fact permits. They shouldn't be doing that right now. They have been cited, they are going through the process. But in speaking from experience, the County is there to make decisions on this issues, not there to solve the issues that is our responsibility, that is your responsibility. Right now, they give you an idea of what they are dealing with and be familiar with these processes. Kuulei and Malia and the hui and are capable of handling it themselves. Right now currently if you look at the procedural posture of the case. It really doesn't make any sense. At the time, June 25th, according to the planning director's report which Kuulei shared, the commission was requesting to differ the action because there are a bunch of unanswered questions regarding what is even required. The County isn't even sure what is required because they don't know. Because it's such a weird land use situation there. The only thing harder than fighting a hard fight is you don't even know what to do. They went to NHLC and they were quoted \$100 an hour. They don't have that. They don't sell salt, they don't have a nonprofit, they are working to make one. But like she said this is a cultural activity forever. They don't have the funds. That is all they need is money. Everyone makes it out to such a big deal, it's not.

They need money. To give you an idea of what they are dealing with here. Like Malia and Kuulei said Smokey Mountain is explicitly told these people that they are insignificant, and they don't care. We don't expect them too, that is fine. State of Hawaii DOT is on the record with letters, in effect not valuing what the salt makers contribute and their presence down there. To them they see it as a money generating facility. This is 5F lands under the admission act; you do get your 20% cut off of whatever manini lease money they get. This action should be under our kuleana. This is exactly the type of public trust land that was set aside under article 12 of the Hawaii State Constitution for you to manage for the benefit of us and them and their families.

The type of legal issues that they are dealing with and these are all unanswered. One, whether and SMA use permit is required given the pervious conditional SMA minor permit that was given to the previous operators. So they actually have an existing SMA minor permit, they violated that. Now they are going for after the fact permits. But you have to deal with this whole process of violation of preexisting permits and actually enforce those conditions thereof. Two, whether environmental review document is required under Chapter 3, 43, whether it's an EA or EIS none of which has been done at this point. And if the planning commission can required one given the ambiguity of the law, or whether the applicant can get and exemption from the State of Hawaii Department of Transportation Airports which is concerning given the record of support for the project by State of Hawaii DOT and the agency's disregard for the Hui and their presence. The Hui's biggest concern right now is the operator can actually go to SDOT and get a waiver, cause that is their kuleana; because that is their land they hold title to. Three, when the applicant can't even satisfy the requirements of the use permit under Kauai County Codes section

8-3.2E1. Four the evaluation and the adequacy of the shoreline setback, lot coverage, parking, building height and separation requirement, operations requirements under the shoreline setback ordinance. Five consistency and compliance with the general plan, natural designation of which this is part of as well and consistency with the Hanapepe, Eleele development plan. All of these questions take time and that time costs money and they need competent attorneys to do it.

Specifically what we are asking, and unfortunately, this is nothing that they approach you for a grant. This doesn't fit into a grant cycle. This came up and they did their best with what they had at the time. As you know the TMT thing, and the way contested cases run we have to request a contested case or you lose the opportunity. However right now, it's not just a contested case, for some of you know as well, under HRS 205.8.6 you have like a private attorney general. You can bring in, and force the SMA restrictions in Circuit Court and a contested case. You can assert standing under numerous different things. The point being is they don't have to wait for the planning Department for years to figure it out. They can move now. They need someone to help them to move. There are, when I graduated Law School in 2004, there is a good number of Native Hawaiian Attorneys men and women. These people need help. So we are asking for \$100,000 right now. To hire someone, to figure out what they are doing, or your assistance in helping them get, I think OHA funds Native Hawaiian Legal. That is the kind of support we need.

I've been in the County for 9 ½ years, this is a small island, they do have an effect, at this point they need more than that. Because really what the next generation, what Malia and Kuulei are doing going forward we need to go further back and act like our ancestors did. We have to fight, we have to move forward. We can't rely on the kindness of others or this kind of our Hawaiian-ness to sing our way through and to the future. We have to muscle up and do it. That's where we are at right now. We have to be proactive, we have to take responsibility, we can't rely on Oahu to take care of Kauai. We want your support but that is what we need. That's where it's at right now, we can't wait for another grant cycle and we can't wait for the planning Department to move. There is opportunities, I think there is a conservation zoning, you could go directly to the Supreme Court there is a lot of moves to be made and they need help doing that. I can't right now because I am prohibited from practicing in front of the County for a year. They can't wait another 5-6 months. Thank you so much for what you do. We really need you.

9:43 am Trustee John Waihe'e IV arrives.

Jocelyn Doane – Aloha I am the public policy manager of OHA. We have been watching some of the issues that have been happening here for years now even prior to my employment at OHA which about 9 years ago. Yes, you are totally right we write letters, they ignore us and then we write other letters and they ignore us. We have been pay attention to the more recent issues, as well. As you know we wrote a letter, we been in contact with NHLC who is as I understand assessing whether or not there are going to represent he Hui. We have absolutely been coordinating with them about our assessment of the situation. NHLC has as it relates to the cost issue and we talked about it briefly over the phone, there may be opportunities to figure out how that is going to work. They have a range of ways they represent their clients and it depends on the situation. Obviously, I don't want to speak for them, but absolutely \$100 an hour is expensive. I wouldn't know the Hui is creating this amazing resources to basically share with our community can afford that. But I am absolutely interested in continuing to talk story with the Hui and one of the reasons I wanted to go out there today is that I want to better visual understanding of what is happening. Of course we are familiar with the salt ponds, but to be there it will make it easier for us to understand what is happening. We've been in contract with the County planning office, it is my understanding, this last round anyway, which seems like a departure from what I've seen 9 years ago. Huge trying to force compliance. It will be interesting to see as the contested case going forward if there is an opportunity for an injunction at some sort that would be something that you would talk to our attorney's about. I know the Trustees is super interested in figuring out, we want to help, I think we are trying to figure out what makes sense. That's not always easy so I am absolutely committed to trying to figure out how we are going to do that. Ultimately if the Board takes action it will be the Board's discretion. But the staff is trying to brainstorm, what can we actually do short of filing a lawsuit. Obviously that would be on the table for discussion. I think we are trying to figure out what we can actually do.

Maunakea Trask – Mahalo Jocelyn, appreciate that. However, if I can politely depart from that course of action. Like you said, you been looking into this for at least a decade, the facility has been there for nearly 100 years now. If you want something easy, I'll tell you what is easy, \$100,000. Just a check that is easy. I know I am coming across as arrogant, I get it. For another month, we don't even know if they can wait for another week. There is unpermitted cesspool right there. It's raining right now. The waters are coming up as we speak. Kauai County Planning Commission cannot give an injunction. Clearly, it was the Kauai Planning Commission who got overruled by the Supreme Court saying you don't have the power to grant an injunction. Under 205.8.6, the Circuit Court can issue an injunction guarantee. That is why they need lawyers. That is what it is. There is nothing to figure out. This is your land, the Office of Hawaiian Affairs was created as an advocacy organization to be that State agency, you are in the constitution to take care of this group right here for these people like this. That is the trash, airport facility, there is mosquitos those little scooters that fly with propellers, that fly out of there. There is small helicopter operation and sky diving. I don't even know how that is legal. If e-ciggs may blow up in your fact, I tell you what skydiving will kill you in some way shape or form. I appreciate dialogue but I think OHA does not believe enough in itself it doesn't think it has real power. You are on the ballot, every 4 years. Everyone votes for you, you are our advocates. If you can't wield that amorphous spiritual power, its like magic, you can show up and people do care. Your letters do matter. Yeah they ignore it, they really don't they get scared. I seen them I read them. I used to catch OHA letters. Even if they weren't any bones under the highway, even though I knew it was clean, because that was important. You see an OHA letter now you worry because OHA is involved. What I did see is that OHA didn't get involved enough. You guys are like Kahuna you can pray people to death if you want. So do that thing. Do what you can do, cause you can do it.

Trustee Leina'ala Ahu Isa – I am interested because I just came from Kūkaniloko, if you know where the birthing stones are in Oahu. I am looking at salt ponds, cultural, traditional, 100 years, public land trust. Should we be the ones to take that over to help you instead of litigation \$100,000? Just buy it from the State or County, who actually owns the land. Look at a PLT going forward.

Maunakea Trask – It is State DOT land, so the airport itself. There is an SHP overlay because of the salt ponds. The County has a presence as a neighbor and for years, Mayor Carvalho tried to work out a deal with SDOT to where they would yield that facility to the County so we could do a stewardship agreement with the Pa'akai makers. There is also, across the street the old Humane Society, that was going to be like a visitors center so people could come by but removed from the area so you wouldn't have to be in it but you could observe from a distance and that all fell apart. Now we got that special brand of native Hawaiian sovereignty citizens who just squat and didn't do their thing. The big problem is the distance in the Kauai channel, working with SDOT because they see it as a ledger, they are getting money from it. SDOT is good at getting their money. All things considered this should be theirs.

Trustee Carmen Hulu Lindsey – This pa'akai is so important to our history to your people today. As you well know I personally wrote a testimony for this because I feel so strongly about it. I am looking forward to the site visit today. Depending on our presentation, what we see I think the Chair will be happy to look further into it because we do care. So please keep our solid hearts in mind because we do love our 'āina, our traditions, our culture and we will see what we can do.

Chair Colette Machado – Maunakea, I had a question on the status of, is it an airstrip or a designated DOT airport and if so if its Federal or State.

Maunakea Trask – I think it's a designated airport but DOT was designated 1941 a State airport facility. But, I know there is always FAA regulations regarding size of airports, traffic and all that. But, again I don't think you are going to get a land transfer any time soon. But they are fighting a case right now. They have no guidance, they are going before the planning department soon, they are going to be asked about scheduling. I mean one of the biggest strategic things you want to do as a lawyer, if they are weak, they don't have the documents, you want to hit them now. Why wait a year? Get them now. You have enough players on the field. There is a lot of questions, it is all there in the record. But we need to run parallel tracks.

Robin Danner – Amazing, what an amazing young kanaka legal mind. I spent a lot of time as a former banker; I am expert on your budget. Sometimes it makes me happy, sometimes it makes me cry. Essentially, you have about a \$50 million operating budget. You have lined items for legal services in the hundreds of thousands of dollars. I would suggest that our Chair of the RM Committee, our very own Kauai Ahuna take a look at moving \$100,000 out of the existing legal services budget directing it to NHLC and don't make them pay. OHA's resources are already funding NHLC to do this very work and if they need additional funds, direct \$100,000 to the existing contract agreement with NHLC. And if NHLC doesn't have the capacity then they can subcontract. I agree with Maunakea, we can't dialogue anymore. This is nothing, \$100,000 against a \$50 million operating budget in one year is peanuts. I just think we have the right structure with the Kauai Commissioner being the Chair of the RM Committee to move \$100,000 out of the existing legal budget that goes to all kinds of attorneys. Let's get Malia staffed up with people who can respond to the letters until we can contract Maunakea in a year when his time is up. That is what I wanted to say.

Trustee Dan Ahuna – Would it be possible that we set a meeting with NHLC right away?

Chair Colette Machado – I have authorized the interim CEO to have a discussion. Because there has been a request from NHLC to increase their budget to accommodate their staffing needs to increase their under paid staff. We have that planned with our interim CEO. There has been a request from NHLC to consider the possibility of increasing their budget. Not knowing you guys were going to put us on the line today. It's already in motion so we will just add the salt ponds to that dialogue. What would happen is if that is an issue it would come through Dan Ahuna's RM Committee as a realignment that is up for discussion. We want to help you folks because everyone is hurting, even our farmers in Wai'oli. We went to see the work that they are doing, when the stream broke and all of the silt went into the lo'i, acres and acres, they constitute 20% of all the production in Hanalei and they can't even get a good yield. They said the corm is all palahu. I look at all the young spirited individuals and the kupuna that is there, the hard work and they don't have equipment, they still using rototillers. That is not right, they are telling us it is going to take 5 years before they can get good taro out of what was damaged by this extreme weather. Through Kapua and her law clinic, they were able to get their long-term leases and they pushing to get it permanent. All over people are hurting. I appreciate you folks calling us on the carpet, we will seriously look into this, and the CEO will be addressing of increasing NHLC's budget. Thank you.

Malia Nobrega-Olivera – I just want to say in closing, you know some have approached us to say that this is a Kauai issue. But I think we all know how extent or expansive the use of pa'akai, Hanapēpē pa'akai. I mean we have pa'akai from Niiahu, we have pa'akai from Kona, from all different places. But we know the special use, the mana, the medicinal purposes, how it leads into so many other practitioners throughout our pae 'āina beyond our pae 'āina throughout the world. People know about Kauai Hanapepe salt. I just want to make it clear for all of us that this is not just a Kauai, it shouldn't be kuleana for just Kauai people and salt makers to mālama this area. That helicopter companies can relocate, they can move to Lihue or anywhere else. Even the sky diving, they can move. Can you ask a cultural practice to move? A'ole, it is pili to this 'āina, because there are certain elements in the 'āina that have been put there for a reason. So we cannot relocate, everyone else can relocate. So what do we do to make that happen so that we can continue this for generations to come. Mahalo.

Trustee Carmen Hulu Lindsey – So what is the next move for your folks? The very next move tomorrow? What is happening with this issue?

Kuulei Santos – We are trying to find an attorney to take our case and trying to find the money. That is pretty much, and we have to move now because we are in that position where we have enough supports, where we are all together holding hands, which is a big thing for us.

Chair Colette Machado - Thank you Malia, before we close this portion of the presentation I was going to ask Board Counsel Klein. I had this discussion with him the other day about our practices and if we don't upkeep them and it's not acknowledged we as a people are diminished and silenced and the practice is not acknowledged. Robert G. Klein served on the Hawaii Supreme Court and the wrote the PASH decision and it was based on access

for resources for our uses. I wanted him to give you his thoughts on why it is so important to support practices you folks are doing as salt makers.

Robert G. Klein, Board Counsel – This is not a prepared speech. The problems that the salt makers face are just the embodiment of what needs to be protected. Its protected under our constitution. Its just as valuable, a constitutional right as any other right you hear people discuss, first amendment rights, right to counsel, all of these that are protected. Our State protects Hawaiian Cultural rights and OHA is currently the advocacy agency, sometimes OHA can't do this directly, they do it through Native Hawaiian Legal Corporation when there is a legal problem. If Native Hawaiian Legal Corporation has not yet decided to take this case, from what I under the situation is, then you have an emergency situation, then you need to find an attorney, which you said you are going to do in the next step. Then file a TRO. A TRO doesn't take a lot of effort and time if you can identify what the immediate problem is that needs to be stopped and a judge can stop, you mentioned the cesspool. If that is in violation of the law and you have evidence that it is polluting your area, your salt making area then that is irreparable harm. Maunakea, you know this, you can go in and file a TRO have a hearing with the Judge immediately and shut that down. It doesn't take a \$100,000. It takes a little bit of attention to detail and not much. It doesn't take much to file a TRO. Eventually you get an injunctive relief hearing at some point. But a Judge can shut that down now. So I would recommend that you do that, don't wait around for Native Hawaiian Legal Corporation. That is an immediate step you can take. We are talking about important constitutional rights and sometimes, as Hawaiians we feel that other people have rights and they get to practice them, but what about our rights? That applies to making poi, making salt, and Mauna Kea. These rights are all protected under the constitution. So that is the fundamental legal document that governs us. So it's a very high level right that deserves protection. I can go on and on. I think if you can get the, look at the criteria for a temporary restraining order, irreparable harm, immediate relief, get someone to sign a declaration saying that is going on, take some pictures, make a compelling case, prior to filing you might want to talk to the newspaper, build it up a little bit it's an important issue and take it in front of one of your Judges and get your Chambers conference, talk it out and see if you can get it done immediately. I know that is not the only issue I know there are more including climate change, which we can't do much about. But there are things you can do and it sounds that you are really all over it you just need some support. I appreciate, Maunakea you have a tremendous analysis, I would urge you to put that down in writing, goals, how to achieve it in a legal memo. You don't have to be lead counsel.

Chair Colette Machado – Thank you for your patience, any more questions? We will see you folks down at Hanapepe. We will take this under serious consideration.

B. Hui Maka'āinana o Makana – Presley Wann

Chair Colette Machado – Our next presenter is Hui Maka'āinana o Makana Presley Wann.

Presley Wann – Aloha Kakou. I am just going to make this brief. More of an update on our community based subsistence fishing area and some of the things that are happening at Haena. I just came back from Oahu I was at the Hawaii Conservation Conference. The big thing there is community-based management. This pa'akai community, I've personally take pa'akai from the Santos family and all my other friends have given me pa'akai. It has gone all over. Cook Islands, New Zealand, all over the mainland. It's a really important makana to protect because it is a gift.

Going back to Haena, we also like Waipā we are also a nonprofit, we cannot sell any of our taro. We do give it to the community. We give usually about 100 lbs. every week, we donate to Waipā. This year, it's almost been two year, since we've not been able to give the community kalo from our lo'i. We have about 5 acres open. I want to mahalo you folks for supporting our hui, especially the community based subsistence fishing area. One of the good news, as part of our condition of Community based subsistence fishing area we have to do annual assessment. The latest one was done just last month. It is done by DAR and in conjunction with University of Hawaii. We've been showing a slow but steady increase in our biomass. Again, with the flood, it not only affected our taro production, we are all off cycle, but it's also affected the size of our fish. The general analysis of this past year though we got the biomass there generally the fish are a little bit smaller. That is probably a direct

effect of the flooding. We also use our pa‘akai for drying our fish. I just wanted to thank you for the stand. It was a big stand to stick your neck out and support us because we were the first community based subsistence fishing area in the State of Hawaii. I just wanted to express the importance of community-based management itself. It’s starting to happen all over the world.

What came out of the Hawaii Conservation Conference is that we’re becoming a role model in the world. We should be proud of all of our accomplishments. A lot of time its bad news, we always in this defensive position as Hawaiians and it’s good that we have to start being more proactive and not get ourselves in the corner every time. I am glad to see this initiative, like I told the Board of Land and Natural Resources, its real easy your guys job. To me it’s real easy. You got three priorities; your number one priority is taking care of that that feeds us from Mauka to Makai. That is your number priority you are the Trustees of our resources. Number one priority its simple take care of that, that feeds us. Second, cultural practitioners and our rights the general public. Practitioners first. Then third commercial, recreational use is the third. Right now everything seems like it huli. Commercial is the driver. I know you folks know about it but we have to remind ourselves that when we look at issues that is the way, it is and that is the way it was in Haena, take care of that that feeds us. Mahalo for you time. Aloha.

Chair Colette Machado – Mr. Wann, didn’t you guys just get recognized?

Presley Wann – Yes, we are taro farmers. We were able to get a curatorship from the State Parks. It was a study on civil dis-obedience that started us and we would cut trees down at the State Park just to control the tourism. We were very honored to be selected for the United Nations award. First ourselves and Uncle Mac Poepoe and Hui Mālama o Mo’omomi. I appreciate the support you guys do. Thank you.

Chair Colette Machado – Thank you for your time. We will move on to unfinished business.

V. UNFINISHED BUSINESS

A. CEO’s 15-Minute Update on Ho‘oulu Lāhui Aloha and OHA Activities

Chair Colette Machado –I would like call on Mehana Hind.

Mehana Hind – Aloha mai, kakou. I am sitting in for our interim CEO. I am the director of Community engagement. So our staff here on Kauai, Kaliko and Noalani are both within my area to mālama. Mahalo nui for all of you coming.

Just and update moving forward our strategic plan, we just came to Kauai a few weeks ago as part of our strategic plan 2020 and beyond. That process, all the data has been collected from the community form both online and in person and will be presented to the Board sometime in July. So DTL our contractor will be sharing the results of the community outreach at that time. We also just wrapped up the actually compiling and layout our past strategic plan now and it will be shared with you guys first coming in the first week of August. Strategic plan wrap up form 2010 to 2018. You will see within the next month or two you will be able to see what OHA has done in the last 8 years within our strategic plan and the directions moving forward will be. That is our update for now for the Administration.

Chair Colette Machado – I’d like to call on Trustee Dan Ahuna with some acknowledgement of awards of our ahahui grants and some of the grants that we provided for the island of Kauai.

Trustee Dan Ahuna – These are all the ahahui grants I am going to reading. Mālama Kaua’i for Kaua’i Pōhaku Workshop. Next is the Hawaiian Canoe Racing Association for the State Championship Regatta. Our Charter Schools, Kauikapono, Kawikini, Ke Kula Niihau, and Kula Aupuni Niihau, they all received money. For our health awards, Mālama Kauai got a grant, Culture Pu‘uhonu Society and Housing Homestead Community Development Corporation. Those are the grants that we received this year.

VI. COMMUNITY CONCERNS

Chair Colette Machado – We will move on to Community Concerns. The first individual that has signed up is Hope Kallai.

Hope Kallai – Aloha and thank you for coming to Kauai. I wanted to make a simple request, next time this board comes to Kauai if you can take time to do a site visit to Wai'ale'ale, the diversion by KIUC. It is under a consideration for a 65-year lease.

(please see attached testimony)

Chair Colette Machado – Thank you Hope.

Hope Kallai – I also have a letter from a friend of mine who ran and dropped it off she does have 13 copies from Sandy Herndon. *(please see attached testimony)*

Chair Colette Machado – The next individual that submitted written testimony is Bonnie Batar. It will be part of our official record. *(please see attached testimony)* The next individual is Ihiihinui Wakinekona.

Ihiihinui Wakinekona – Aloha. My thing is I have several questions. Way back before you were organized I was at a gathering, it was an informal gathering. The people that were there said they were going to represent our people. They said OHA, Office of Hawaiian Affairs. I said is it going to be like OIA, Office of Indian Affairs? They said no. Well I said you guys better really work and put your backs into it for our people. Because our people are dying, not from disease but from things that are being brought in and has been for centuries. I don't know if any of you read your newspaper. But last time there was an article by Auntie Clara regarding what our people ate, how our people looked like and how our people lived. Now how many of our men look like our people. None. They look like bulbous males walking down the street, try to push them they roll down the street. Same with our women. I'm wondering what are we doing, what are you doing. But food invasive foods that are coming into our islands, why are we permitting that? Our people did not live on evasive foods. I know it's too late the cattle and the goats and horses are here. But our people never lived on that. You have to please check in to invasive. Like the coqui frog, it's terrible. Look at our children they are not healthy. This is very sad because we allowing people to bring in foods that don't belong here. Like the dragon fruit. Actually the pineapple doesn't belong here either. We have to cognizant of that issue of food and invasive animals. When we change the rules about animals coming into Hawaii.

Another issue is I was very sad when Hanalei was hit so bad. That area Wainiha, my brother and sister and law had just turned the corner, the storm came, and the water came down from Wainiha from the river there. My cousin still lives there in Haena; she is waiting to get a plumber and electrician in there because she wants it fixed. How can she get it in there because they are only allowed so many minutes and hours in there? Excuse me and any plumber or electrician can go in for maybe an hour, yeah you can go in and do the work for an hour but you have to stay 4 or 5 hours until they say you can go. OHA that is your responsibility because many of our people are there and they are suffering. We need to help them.

Another issue, in 1963 Senator John Balton, 4th Senatorial District of Oahu, introduced an amendment to the law when American came and said no language and no language was history to be taught. He introduced the bill amendment. So the amendment was passed where language and history are taught. Excuse me, that is not enough. They have to learn our social studies, geography. Do you know I work as a foster grandparent in Kapaa Elementary School and our poor teachers are being told to go and teach a different way and they are not having enough time to teach our children what they need to know? Learn about here, your homeland. Then latter on when you get older you can learn something else. Elementary School they don't know what a volcano looks like, they don't know that snow falls here in Hawaii. Poor children are suffering they are not learning anything because we are allowing the United State Government to tell our people how to teach our children. We need to turn that around. Mahalo for coming, god bless.

Chair Colette Machado – Our next speaker is Puanani Rogers.

10:40 am Trustee John Waihe 'e IV leaves the meeting.

Puanani Rogers – Welina mai kakou. Good morning everyone. So happy to see everyone here. Mahalo for coming and mahalo for this opportunity for us to share our community concerns. I have a list of them.

I would like to say that it was mentioned that the constitutional law is the supreme law of the land. I beg to differ. I believe ke akua's laws is the supreme law of the land. We practice that because we are raised that way. It seems today those kind of issues when we speak of our spirituality or culture doesn't seem to come across. So I invoke the spirits of my kupuna and your kupuna to be here and listening with us today and sit around us and to give us the guidance, the word and thoughts that we have learned so that we can remember. I acknowledge ke akua, kupuna, aumakua and all the spirits that are all around us. If we acknowledge ke akua anything is possible. Just this morning I heard they are going to start the building of the TMT on Mauna Kea. All I want to say is that this is very hurtful to our people. I don't know what OHA can do to help us to come to some kind of agreement, if they can't stop the building, what else can we do to make them be less harmful to our 'āina. I don't know what that is. Is that included in the OHA strategic plan, like how we protect our sacred places? I think we should focus on that. Especially today. Send our aloha and love and prayers to our Kia'i that are protecting our Mauna a Wakea. Bless them and keep them strong. Keep them full of mana.

Another issue the water diversion. I totally support Hope Kallai's testimony. She is one of our resources on all of the water conditions and laws and policies about the water here for us. We really appreciate all her work. It has kept us ahead of what we should be doing. My personal request is that we do not give them the permit already, they had a lot of chances so many years to work this whole thing out and of course, they haven't. It was ignorant for them to say there were not cultural impacts there. That is all I have to say this is my mana'o. Mahalo for your time.

Chair Colette Machado – Mahalo nui Aunty. I will call on Sharon Goodwin.

Sharon Goodwin – Thank you. Good morning Chairperson, OHA Trustees my name is Sharon Goodwin. *(please see attached testimony)*

Chair Colette Machado – Members of the public that concludes our public testimony today.

VII. ANNOUNCEMENTS

Chair Colette Machado – Are there any announcements?

Trustee Brendon Kalei'āina Lee – Aloha Chair I was in receipt of a personal letter from Patrick Zeller who hosted us at the Museum in DC. He just asked me to please extend the Museum's sincere gratitude to the other Trustees for OHA long time support of NAMI, which has been instrumental in the success of our annual Hawaii Cultural Convention. Mahalo Patrick Zeller.

VIII. ADJOURNMENT

Chair Colette Machado – May I have a motion to adjourn.

Trustee Carmen Hulu Lindsey moves to adjourn.

Trustee Brendon Kalei'āina Lee seconds the motion.

Chair Colette Machado – Roll call vote please.

Trustee Carmen Hulu Lindsey moves to adjourn. Trustee Brendon Kalei'āina Lee seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA						
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE		x	X			
TRUSTEE CARMEN HULU LINDSEY	x		X			
TRUSTEE ROBERT LINDSEY			X			Excused
TRUSTEE JOHN WAIHE'E						Excused
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7			2
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED Motion passes with seven (7) yes votes and two (2) excused.						

The meeting was adjourned at 11:01 am.

Respectfully submitted,

Dayna Pa, Board Secretary

As approved by the Board of Trustees on August 22, 2019.

Colette Y. Machado, Chairperson
Board of Trustees

Attachment:

1. Excused Absence Memo – Trustee Robert Lindsey
2. Handout from Robin Danner – SCHHA Release dated July 10, 2019.
3. Testimony from Hope Kallai
4. Testimony from Sandy Herndon
5. Testimony from Bonnie Bator
6. Testimony from Sharon Goodwin
7. Testimony from Josephine Bonaparte



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
737 IWILEI ROAD, SUITE 200
HONOLULU, HAWAII 96817

June 28, 2019

TO: Trustee Colette Machado
Chairperson, Board of Trustees

FROM: Trustee Robert K. Lindsey, Jr.

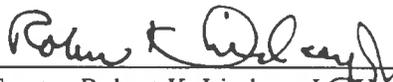
SUBJECT: Excused Absence

2019 JUN 29 A 8:33
OFFICE OF
HAWAIIAN AFFAIRS
STATE OF HAWAII
RECEIVED-801

Aloha Chair Machado:

I regret to inform you that I am unable to attend the Board of Trustees meeting on Kaua'i, Thursday, July 11, 2019. Please extend my apologies to the board members.

With sincere aloha,



Trustee Robert K. Lindsey, Jr. Hawai'i Island



For Immediate Release: July 10, 2019
Contact: 808-652-0140

SCHHA Executives
Robin Puanani Danner, Chairman
Kammy Purdy, Vice Chairman
PMB 151 – 591 Farrington Hwy #210
Kapolei, HI 96707

DHHL and Governor Appointed Commission Authorize 147 Acres of Hawaiian Homelands on Oahu to a Canadian Business – SCHHA Calls for Federal Investigation

Kapolei Hawaii – This week, the State of Hawaii agency, Department of Hawaiian Home Lands (DHHL), its staff and leadership pushed through the issuance of 147 acres of trust lands to a non-beneficiary, out of state business for an estimated \$1,360 per acre per year to generate profits and to deliver renewable energy to HECO. Five of six governor appointed Hawaiian Homes Commissioners voted to issue lands to the foreign firm as follows:

Maui Commissioner Randy Awo	Hawaii Island Commissioner David Kaapu
Kauai Commissioner Dennis Neves	Molokai Commissioner Zachary Helm
Interim Commission Chairman Bill Aila	

Only Oahu Commissioner Patty Kahanamoku-Teruya voted no on the issuance of native Hawaiian lands for purposes not central to the purposes of the Hawaiian Homes Commission Act of 1920.



Photo: Commissioners Awo, Aila & Helm

“It’s not a surprising outcome, that once again, the lands set aside for native Hawaiians by the US Congress nearly 100 years ago, have once again been co-opted by state government and private business for its own purposes,” said **Robin Puanani Danner**, elected chairman of the Sovereign Council of Hawaiian Homestead Associations (SCHHA). “For 60 years, the state of Hawaii has doomed native Hawaiians to die on the waitlist, to struggle economically, and drive by our lands that are given to non-Hawaiians to prosper. We truly need a federal investigation and intervention to this continued cronyism in State government.”

The SCHHA submitted testimony to the Hawaiian Homes Commission to deny the request of 147 acres of land by Innergex, a Canadian firm, and to follow the law, that requires Hawaiian home lands to be issued only to native Hawaiians for homes or ranching or farming, or for mercantile business purposes. The testimony pointed out that for 60 years, the state and its agency DHHL, has been ignoring sections of the 1920 law, that prohibits the issuance of trust lands to non-Hawaiians unless there are available lands that are “not required” by native Hawaiians.

“When there are 22,000 native Hawaiians dying on the waitlist, when there are native Hawaiian owned trucking companies and other industrial type businesses that Hawaiians own - every acre of our land is required for the primary purposes of our land trust,” **Danner** continued. “It is simply a continual degradation of our people, for state government, and for a Commission that should be approving lands to our people, to ignore reality, to just give away our land to non-beneficiaries that make campaign contributions to Governors and the Hawaii political machine.”

SCHHA cited **Sonny Kaniho**, an icon from Hawaii island that in 1974, 45 years ago stood up to DHHL to stop issuing lands to Parker ranch instead of to native Hawaiians waiting to ranch and farm their lands. He was arrested for trespassing on his own trust lands.

“We are tired, well beyond the emotion of anger,” said **Kammy Purdy**, SCHHA Vice chairman. “It is criminal to watch the State of Hawaii mismanage what should be a land trust where thousands of native Hawaiians are prospering, are operating businesses, farming their land, running cattle, and yes, owning and operating solar farms ourselves. These lands are not for HECO, not for Innergex, and not for DHHL to collect lease rents. The law is not complicated - give native Hawaiians their land.”

Founded in 1987, SCHHA is the oldest and largest coalition of Hawaiian Homestead Associations and Leaders exercising sovereignty on the trust lands enacted by Congress under the Hawaiian Homes Commission Act of 1920

From the content of the public hearing, it became clear that DHHL staff began conspiring with Innergex back in December 2018 to fast track the delivery of 147 acres to the Canadian firm, without a notification to the thousands of waitlist beneficiaries served by the Association of Hawaiians for Homestead Lands (AHHL) on Oahu, founded in 2009 and dedicated to ending the waitlist for Hawaiian Home Lands.

SCHHA testimony also pointed out the years that federally defined homestead associations wait for action by DHHL and the Commission for simple non-profit public purpose land uses, while it fast tracks the use of Hawaiian land for the wants and desires of non-Hawaiians. **Danner** said, “The Commission J Agenda is where native Hawaiian requests for lands go to die. An Agenda item that allows no action, but Innergex gets special treatment and a full-on action item scheduled by DHHL. Cronyism in plain sight.”



Upon news that DHHL is proceeding with the land grab for a Canadian company, SCHHA is calling on Senator Schatz, Senator Hirono and Congresswoman Gabbard to direct the federal agency, the Department of Interior responsible for oversight of DHHL, to promulgate federal regulations for DHHL to follow whenever it attempts to issue lands under Section 204 of the Hawaiian Homes Commission Act. Moreover, SCHHA is calling on Governor David Ige and State Senators Maile Shimabukuro and Senator Kai Kahele on the Senate Hawaiian Affairs Committee to exercise their kuleana to native Hawaiians.

Photo: Commissioner Patty Kahanamoku-Teruya stood alone to vote “no”

“It is imperative that our elected officials act and follow the leadership of our beloved Senator Akaka in mandating that the federal government engage to protect our rights, and to properly oversee the actions of State Government,” **Danner** said. “The suffering has gone on long enough, this land law is for us, plain and simple, it is not for anyone else, not HECO, not a Canadian firm, not DHHL to make money – aole, it is for our native Hawaiian businesses to prosper, our native Hawaiian people to live, to ranch, to farm, and yes, to conduct mercantile purposes that our children can have a bright economic future. We want federal regulations on DHHL land dispositions, it’s the only way to end the cronyism and backroom deals we have suffered for nearly 100 years. DHHL is broken, and we expect our State and Federal elected officials to care about that.”

SCHHA Vice Chairman **Kammy Purdy** commented at her dismay of the five Commissioners that voted to give 147 acres to a Canadian firm, “It’s such a simple and common-sense decision to make if you know anything about the HHCA – aole. We mahalo the courage and wisdom of Commissioner Patty Kahanamoku-Teruya for being the People’s Commissioner.”

For more information about the SCHHA, a 33-year old coalition of native Hawaiian beneficiaries of the HHCA, contact the SCHHA Chairman’s office at info@hawaiianhomesteads.org.

2019 July 9

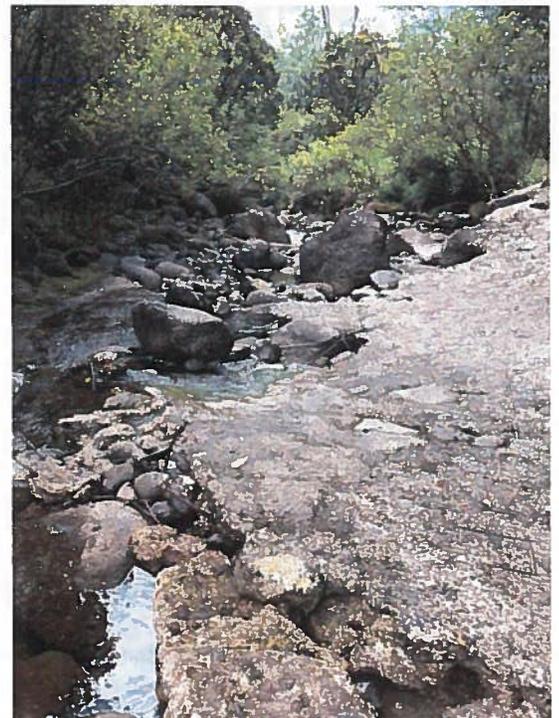
Colette Machado, Chair & Board of Trustees
Office of Hawaiian Affairs
560 N. Nimitz Hwy, Suite 200
Honolulu, Hawai'i 96817
(808) 594-1988
BOTmeeting@oha.org

Aloha e Chair Machado and Board of Trustees:

I am very concerned about the recent statements by Kauai Island Utility Cooperative about the alleged lack of cultural impacts of their diversion of the waters of Wai`ale`ale. I do not believe this statement is true or that it has been determined by this Board. I am concerned about the ongoing negative impacts to native Hawaiian cultural and spiritual practitioners by these false statements to state agencies and legislators.

KIUC also states that there is no exposed rebar at the "Blue Hole" dam and diversion structure at Wai`ale`ale Stream. This statement is also not true. I know there has been exposed rebar for over a dozen years. I am concerned about safety of Keiki and Kupuna, traditional gatherers, cultural practitioners, native Hawaiian beneficiaries and other members of the public in this publicly accessible state forest reserve.

Exposed rebar at KIUC's dam on Wai`ale`ale Stream.



Many people cross Wai`ale`ale Stream dam daily to get to the trail across the stream, with great potential for impailment on exposed rebar.

KIUC also alleges that Waikoko stream flow has been restored Mauka to makai. I do not believe that to be true, as evidenced by this photo of KIUC's dam on Waikoko Stream from February, 2019. Water is seeping through a small pipe, above a stream dry for 300 feet. There is no way o'opu could migrate over dry stream, to get to this small pipe. KIUC is seeking a 65 year water lease of this Waikoko Stream water. Waikoko Stream reduced to pipe.



On November 17, 2017, in a letter to KIUC, Kamana'opono M. Crabbe, Ph.D., Ka Pouhana, OHA Chief Executive Officer rejected the most recent *"Blue Hole" Cultural Impact Assessment* as delivered by Cultural Surveys Hawaii (Hal Hammett), stating:

The Blue Hole Cultural Impact Assessment, as currently drafted, lacks key components the agreed upon scope of work for study of cultural impacts from the Blue Hole Diversion and operation of the 'Ili'ili'ula North Wailua Ditch.

As described further below, the Blue Hole CIA falls short of the requirements set in the Scope of Work in many key areas and these deficiencies must be addressed prior to any action by KIUC to renew its application for a long-term lease from the State.

- A. The Blue Hole CIA does not determine the extent of impacts to cultural resources and Native Hawaiian practices
- B. The Blue Hole CIA avoids discussing the viability of proposed mitigation actions to reduce the impacts to cultural resources and Native Hawaiian cultural practices

C. Additional community consultation should occur and be incorporated into a revised Blue Hole CIA

D. Land Commission Awards and other documents should be used to identify the scope of gathering and practices.

Has a supplemental Cultural Impact Assessment been delivered and accepted by this Board?

If not, how has KIUC determined there are no cultural impacts to the diversion of culturally significant water if they have failed to complete the required CIA, for this board to accept?

KIUC has failed to complete the required studies agreed upon in the 2006 MOA to drop the 2004 Contested Case. KIUC has failed to complete the environmental studies required by HRS 171-58, yet they have determined their draining of the rainforest to have no impact.

Please require the revocation of Revocable Permit 7340, until an appropriate CIA is accepted. OHA was right in their 2004 determination of consumptive use. Even though the DLNR has agreed the use consumptive, KIUC is still paying nonconsumptive rates, and erroneously applying for noncompliant use for their 65 year lease application, revenue which OHA is entitled to 20%.

KIUC has had plenty of time to complete a CIA, appropriately addressing the Scope of Work required, yet they have failed to do so, now alleging no impacts.

KIUC is allowing exposed rebar to remain in Wai`al`eale Stream. KIUC has failed to restore Mauka-to-Makai streamflow of 0.8 mgd to Waikoko Stream, as required by the Land Board.

Please require KIUC to meet the conditions of Revocable Permit 7340, before they are allowed to use the sacred, culturally significant waters of Wai`ale`ale and Waikoko Streams, for commercial production of a tiny amount of power. Thank you for understanding the significance of Kauai's most sacred waters.

Hope Kallai
Kia`i Wai o Wai`ale`ale

Kilauea, HI 9675



Sandra Herndon

Rejection of KIUC's Revocable Permit

Sandra Herndon <2da1wahine@gmail.com>

Thu, Jul 11, 2019 at 12:01 AM

To: BOTmeetings@oha.org

Aloha OHA Board of Trustees,

Mahalo nui for coming to Kaua'i to address the issue of our community's concerns in regard to KIUC's lack of a Cultural Impact Assessment, performed and completed as required by law. OHA's specific request for the CIA revision two years ago is being ignored. KIUC has blatantly declared that there is NO Cultural Impact of their actions, although their diversions are impacting not only the Cultural Practitioners who wish access to the area, but the streams' diversions are causing death and damage to the aquatic life that is native to the area, This has been going on for 15 years... too long!

I ask OHA to demand the revocation of KIUC's Revocable Water Permit 7340 because they have failed to perform the required studies, and show no intent to do so. It is NOT their kuleana to decide what is culturally significant to Hawaiians!

Me ke mahalo,
Sandy Herndon
Kapa`a

11 June 2019 Kaua'i – State of Hawaii – Office of Hawaiian Affairs – Meeting of the Board of Trustees

Location: Lili'uokalani Trust Children's Center – 4530 Kali Rd – Lihu'e, Kaua'i

RE Hui Hana Pa'akai O Hanapepe & OHA's aid to cancel KIUC's Revocable Water Permit 7340

Dear OHA Board of Trustees:

Aloha! Colette Y. Machado, Chairperson, Brendon Kalei'aina Lee, Vice Chairperson, Leina'ala Ahu Isa, Dan Ahuna, Kalei Akaka, Keli'i Akina, Carmen Hulu Lindsey, Robert K. Lindsey, Jr. & John Waihe'e IV

We appreciate Office of Hawaiian Affairs (OHA) Board of Trustees consideration to truly perpetuate *Ua Mau Ke Ea O Ka 'Āina I Ka Pono* – by addressing two (2) extremely critical important Kaua'i concerns:

- 1) Please support *Hui Hana Pa'akai O Hanapepe* in their Contested Case Hearing status to deny permits to *Smoky Mountain Helicopter's Inc. (Maverick Helicopters)* class IV zoning permit / permits at Port Allen.
- 2) Support the cancellation of Revocable Water Permit 7340 to *KIUC* as *KIUC* has not done the required studies for Hawaiian cultural, traditional and customary practices for fifteen (15) years – in *KIUC's* water diversion of Waikoko and the North Fork of Wailua River(s) for their hydropower which produces minimal electricity at the expense of cultural genocide.

KIUC states that Hawaiian cultural, traditional and customary practices are not impacted. This is preposterous that *KIUC* can arbitrarily and independently make that decision; it is for *OHA* to make *that* decision. Please, *OHA Board of Trustees*, stop *KIUC* from diverting culturally significant waters, with applicant determining there's no impact.

We urge *OHA* to protect and preserve customary, traditional, and cultural, uses of Waikoko and the North Fork of Wailua River(s). Wailua Watershed Protection / Water Sustainability / Water Security ALL *very* important for the future As well, comprehensive water resource protections are especially needed with the onset of Climate Change, Kaua'i has lost North Tradewinds: Please see the following study by two esteemed scientists:

“Decrease documented in frequency of Hawai'i's northeast tradewinds”

University of Hawai'i at Mānoa – Marcie Grabowski (School of Ocean and Earth Science and Technology) Pao-Shin Chu, Professor, Meteorology presented on 19 October 2012:

“... Analyzing 37 years of wind speed and direction, and sea level pressure data from land-based weather stations, buoys and reanalysis data, were Jessica Garza, a Meteorology Graduate Assistant at the School of Ocean and Earth Science and Technology (SOEST) at UH-Mānoa; Pao-Shin Chu, Meteorology Professor and Head of the Hawai'i State Climate Office; and Chase Norton and Thomas Schroeder.

Scientists at UH-Mānoa have observed a decrease in the frequency of northeast tradewinds and an increase in eastern tradewinds over the past nearly four decades, according to a recent study published in the *Journal of Geophysical Research*. Trades are the primary source of moisture for rain, and that a dramatic reduction could fundamentally change Hawaii's overall climate. “We have seen more frequent drought in the Hawaiian Islands over the last 30 years,” he noted. “Precipitation associated with the moisture-laden northeasterly trades along the windward slopes of the islands contributes much of the overall rainfall in Hawai'i.”

According to the National Drought Mitigation Center's State Drought Monitor, nearly 50% of land in Hawaii has experienced some degree of drought during the past year. While previous research has focused primarily on changes in tradewind intensities, this work, along with Chu's 2010 study, is among the first to show changes in tradewind frequencies.” (<https://manoa.hawaii.edu/news/article.php?aId=5358>)

Mahalo Loa OHA Board of Trustees for perpetuation: Hawaiian cultural, traditional and customary practices !!
Sincerely with ALOHA Bonnie P. Bator & 'Ohana (Keana'aina, Keli'ikoa, Kai'aokamalie and Kai)

From: Sharon Goodwin
Sent: Thursday, July 11, 2019 2:31 AM
To: BOT Meetings
Subject: Cultural Impact Assessment KIUC must complete to fulfill OHA requirement towards Revocable Permit (RP) S- 7340

I testify today before you, the OHA trustees, as a KIUC Coop member, a hui member of Kia'i Wai O Wai`ale`ale, a Hawaii National (maternal great-grandfather arrived in Honolulu from Asia before the overthrow of the Hawaiian kingdom 1879. I am a hula student of Halau Ke`ala O Ka Laua`e.

I visited N. Fork Wailua Wai`ale`ale Stream, one of only 2 public access streams in the area, Blue Hole Diversion for the 1st time February 25, 2017, a day in which I encountered dry stream. I couldn't speak...then felt rage. 100% of the peoples' Public Trust waters were diverted into a ditch flowing in Hanamaulu's direction. Not a drop was in the riverbed destined for Wailuanuiahoano and the ocean.

At issue is the permit to divert Wai`ale`ale/Waikoko Stream waters. Should KIUC get a renewal of (RP) S-7340? Should they obtain a 65 year lease? I strongly recommend they get neither!

WHY?

First, KIUC failed to complete the Cultural Impact Assessment (CIA) OHA charged them with completing in the 2006 Memorandum of Agreement following OHA's Contested Case. This is 13 loongg years later. I testified at several KIUC board meetings, telling the Directors and Mr Bissell the CIA needs completion. The current Disinformation from KIUC is putting Ms. Tokioka, Communications Manager, forth to announce there "Are No Cultural Impacts" at Wai`ale`ale/Waikoko Streams. She is so confident of this, Ms Tokioka has made this part of her testimony at the following meetings:

Dec 8, 2017 to the Board of Land and Natual Resources (BLNR) the agency responsible for granting/or not granting the Revocable Permit

Dec 14, 2018 to the BLNR

Feb 28, 2019 to the Wailua-Kapa'a Neighborhood Business Ass'n meeting

Mar 22, 2019 to the BLNR

Apr 26, 2019 BLNR again

Furthermore, announcing that there "Are No Cultural Impacts" at Wai`ale`ale/Waikoko Streams is Mr David Bissell's (KIUC CEO) Disinformation talk, too. This was included in his written comments to the Legislature -- Sylvia Luke and the Senate Water and Land Committee -- prior to HB 1326 vote. In my opinion KIUC is not capable of deciding there are "No Cultural Impacts to Wai`ale`ale/Waikoko Streams".

Secondly, as I looked around me at the Stream Diversion, I saw a couple dozen jutting-out, rusted, sharp-pointed rebar pieces, sticking out at odd angles from the concrete slab diversion. Potential for danger and injuries was my thinking. Local and visiting children, adults, kupuna visit the Blue Hole. Cultural practitioners and halau, hikers, hunters visit. The concrete slab has many, many holes and rough spots. KIUC does not malama the diversion site--yet malama the site is one of the requirements of the permit of 2004. Their care is simply for the water. In my opinion they are not good stewards.

Thirdly, in 2004, KIUC's declaration of water use was non-consumptive, i.e., water is returned to the stream of origin. In December 2016 DLNR re-categorized KIUC's water use, It is CONSUMPTIVE, water is NOT

returned to the stream of origin (an HRS 171-58 requirement). I dislike my utility company diverting most if not all of the water (except on base-flow days) and lying about its use.

We are talking about the sacred waters of Wai`ale`ale/Waikoko. This is the water that has provided habitat for native stream species, providing gathering opportunities for native Hawaiians. This water is the lifeblood of the ahapua`a. Leaving water in the streambed enables percolation and ground water recharge. Needed nutrients can be carried to the sea. The Wai`ale`ale dam area is also critical habitat for the tiny Federally-protected Newcomb Snail, found only in a handful of Kaua`i Streams.

Before we left the Wai`ale`ale Stream for home, we decided to dance a hula in an attempt to uplift our spirits. Naturally we removed our shoes. It is very difficult to dance barefoot atop the concrete slab diversion. I don't recommend it. We were kinda crazy to try this but it made us feel better.

OHA Trustees, you have a grave responsibility here to protect the cultural, spiritual and gathering practices of beneficiaries as well as native citizens. You can perform an immense good by collaborating with the BLNR to stop (RP) S-7340!

I wish you all very well,

Sharon Goodwin

Kapa`a, HI 96746

Dayna Pa

From: Josephine Bonaparte
Sent: Thursday, July 11, 2019 7:28 AM
To: BOT Meetings
Subject: KIUC water diversion NOT ACCEPTABLE

Aloha to all Decision Makers regarding diversion of waters used by KIUC.

I am a KIUC member. However I am NOT happy with many of the decisions made by our Co-op.board members.

Water diversion from Wai'ale'ale/Waikoko stream has been (in my mind) been stolen from KIUC for many years and it has to stop.

Please do not give or permit KIUC any more time or provide a revocable permit moving forward.

This is highway robbery!

Kindest Aloha

Josephine Bonaparte

Kilauea, HI 96754

Sent from my iPhone