

**MINUTES FOR THE
MEETING OF THE
BOARD OF LAND OF NATURAL RESOURCES**

DATE: FRIDAY, JULY 10, 2015
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson Suzanne D. Case called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

MEMBERS

Suzanne D. Case
Thomas Oi
Christopher Yuen
Keone Downing

James Gomes
Stanley Roehrig
Ulalia Woodside

STAFF

Kevin Moore-LAND
Randolph Lee-SHPD
Andrew Choy-DOCARE
Carty Chan-ENG
Keith Chun-LAND
Scott Fretz-DOFAW

Sam Lemmo-OCCL
Maria Carnevale-PMNM
Curt Smite-DOCARE
Ed Underwood-DOBOR
Dan Quinn-PARKS

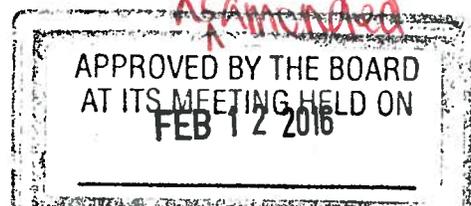
OTHERS

Dan Morris/Deputy AG
Ethan Tomokiyo/DOT-AIR
Grace Bezilla/D-2, L-5
Felicia Calden/D-3
Brutus La Benz/D-9
Terri Napeahi/L-5
Keith Kiuchi/J-1
Doug Chin/Deputy Attorney

Ann Shigi/DOT-AIR
Harry Yada/D-2
Michael Ellis/D-3
Lance Hai'ili Lincoln/D-3
Richard Pezzulo/D-9
Derron Akiona/J-1
Sharon Lim/ J-1

ITEM M-1 Resubmittal: Consent to Issuance of Revocable Permit for Space under Governor's Executive Order No. 3283 to Maui AIDS Foundation, Lāhainā, Maui, Tax Map Key: (2) 4-5-021:016.

ITEM M-2 Resubmittal: Consent to Issuance of Revocable Permit for Space under Governor's Executive Order No. 3283 to Maui Sexual Assault Center, A



Program of Child and Family Service, Lāhainā, Maui, Tax Map Key: (2) 4-5-021:016.

There was no public testimony and the Board had no questions.

Unanimously approved as submitted (Gomes, Woodside)

ITEM M-3 Issuance of a Revocable Permit for Aircraft Parking, Brian J. Daniel, Honolulu International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.

ITEM M-4 Amendment No. 1 to State Lease No. DOT-A-14-0015, Additional Space, Y. Hata & Company, Limited, Ualena Street, Honolulu International Airport, Tax Map Key: (1) 1-1-04:Portion of 13.

Ann Shige Property Manager with the Department of Transportation-Airports Division-DOT-AIR presented items M-3 and M-4.

Unanimously approved as submitted (Gomes, Yuen)

ITEM M-5 Issuance of a Revocable Permit for Parking and Staging of Ground Service Equipment, Koolau Aviation Services Inc., Lihu'e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.

Ethan Tomokikyo Property Manager with the Department of Transportation-Airports Division-DOT-AIR presented item M-5.

Unanimously approved as submitted (Gomes, Yuen)

ITEM D-1 Final approval of the Acquisition of Government (crown) Lands and Issuance of a right-of-entry permit to University of Hawai'i for lands at Waiākea, South Hilo, Island of Hawai'i, Tax Map Keys: (3) 2-4-56:16.

ITEM D-2 Amend Prior Board Action of June 13, 2014, Item D-6, Direct Lease to the University of Hawai'i for Education, Housing, and Related Purposes, Waiākea, South Hilo, Hawai'i, Tax Map Key: (3) 2-4-001:024 and (3) 2-4-056:014. And

Purpose of the amendment is to: 1) include in the direct lease to the University of Hawai'i, the former U.S. Army Reserve Site, identified as Tax Map Key: (3) 2-4-056:016, and 2) approve lease form for issuance of direct lease to the University of Hawai'i.

Kevin Moore Assistant Administrator for the Land Division-LAND reviewed items D-1 and D-2.

Member Roehrig called up Harry Yada.

Harry Yada, Director of property, University of Hawaii Hilo introduced himself.

Member Roehrig explained that he did research to find out who this facility was being dedicated to. After doing research Member Roehrig agreed to approve this with the condition that UH pursues the process of transferring the name of the facility on the subject land.

Grace Bezilla testified in opposition of item D-2.

Member Roehrig made a motion to approve with the amendment he suggested earlier. Member Yuen seconded.

Item D-1 was unanimously approved as submitted. However, Board Member Roehrig requested that the University of Hawaii at Hilo pursue the process of transferring the name of the facility on the subject land (SFC Minuro Kunieda) to a facility at the Hilo Airport, and if unsuccessful, to keep the name at the facility on the subject land.

Item D-2 was unanimously approved as submitted.

Unanimously approved as submitted (Roehrig, Yuen)

ITEM D-3 Sale of Old Government Road Remnant to Robinson Family Partners, por. of Makaweli, Waimea, Kaua'i, Tax Map Key: (4) 1-7-005:por. 001.

Kevin Moore-LAND conveyed item D-3 and recommended Board Approval.

Michael Ellis representing the Robinson Family Partners urged to support the staff recommendation.

Member Gomes asked what would be developed.

Ellis explained that a low density resort would be developed.

Member Roehrig recused himself from this vote.

Felicia Calden from Kauai asked that there be a point for public input. She knew of many people from Kauai who weren't aware of this. Calden asked that this not be approved until it goes before the public.

Michael Ellis commented in regards to Calden's comments that there are public accesses throughout the property.

Lance Hai'li Lincoln requested that Member Roehrig not vote on this item.

Unanimously approved as submitted (Oi, Gomes)

ITEM K-4 Conservation District Use Application (CDUA) KA-3724 for the Demolition and Removal of an Existing 0.2 Million Gallon (MG) Water Tank and the Installation of a New 0.5 MG Water Tank and Additional Site Improvements by the County of Kaua‘i, Department of Water Located at the Kukuilono Park and Golf Course, Kalāheo, Kaua‘i, Tax Map Key: (4) 2-3-005: Portions of 002, 006, and 025.

Sam Lemmo Administrator for the Office of Conservation and Coastal Lands-OCCL conveyed item K-4. He told the Board that the applicant was present and available for questions.

Unanimously approved as submitted (Oi, Gomes)

Item D-9 Consent to Sublease and Change of Permitted Use; General Lease No. S-5478, Office of Hawaiian Affairs, Lessee, to Hi‘ipaka LLC, Sublessee, Haleiwa, Waiālua, O‘ahu, Tax Map Key: (1) 6-6-009:023.

Kevin Moore-LAND conveyed item D-9.

Member Downing asked what the square footage was.

Brutus La Benz from the Office of Hawaiian Affairs-OHA testified that it was about 299 square feet of that property. They will just lease out the offices on the right. La Benz said this would help the community at large.

Member Downing didn’t like the idea of leasing extra spaces.

Member Yuen asked what the relationship was with Hi‘ipaka and OHA.

Richard Pezzulo, Executive Director for Hi‘ipaka LLC, testified that they were a 501c3 and were established by OHA when they acquired Waimea Valley. They want to have a retail space so they can have a full time presence there. They will manage it, and will use it as an information center. Their mission is to preserve and perpetuate the human, cultural and natural resources of Waimea for generations through education and stewardship.

Member Yuen asked if the manager of Hi‘ipaka LLC was a paid position. Pezzulo said no, they are called managers, but they are actually a Board of Directors. The 3 executives of OHA are called managers, but they are Board Members. They don’t get paid.

Member Yuen asked what laws are applied to a sublease by OHA.

La Benz explained that anyone that has ever wanted to utilize that space, they would need to provide services or benefits to their beneficiaries.

Chair Case asked Moore to over populate on the map side so the Board could get a good visualization.

Unanimously approved as submitted (Woodside, Gomes)

ITEM D-7 Grant of Term, Non-Exclusive Easement to August J. Monge and Veronica Q. Monge for Rock Seawall Purposes; Issuance of Management Right-of-Entry, Kaipapa‘u, Ko‘olauloa, O‘ahu, Tax Map Key: (1) 5-4-003:Seaward of 035.

There was no public testimony and the Board had no questions.

Unanimously approved as submitted (Gomes, Yuen)

ITEM F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Christopher Wall, Hawai‘i Institute of Marine Biology, University of Hawai‘i, for Access to State Waters to Conduct Coral Bleaching Assessment Activities.

Maria Carnavale, State Co-manager for Papahānaumokuākea Marine National Monument-PMNM presented item F-1. The applicant, Chris Wong was present for questions.

Unanimously approved as submitted (Gomes, Oi)

ITEM B-1 Request Approval to Seek the Governor’s Approval to Indemnify the City and County of Honolulu, Department of Parks and Recreation, for the Use of the Koko Head Shooting Complex on September 19-20, 2015 for National Hunting and Fishing Day Celebration.

Andrew Choy with the Hunter’s Education Program reviewed item B-1, there were no changes and the Board had no questions.

Unanimously approved as submitted (Gomes, Woodside)

ITEM B-2 Request Board Approval to Enter into Contracts for Vehicle Purchase between the Department of Land and Natural Resources, Division of Conservation and Resources Enforcement (DOCARE), and Jim Falk Motors of Maui, Inc. and Rainbow Chevrolet.

Curt Smite, Assistant Administrator with the Division of Conservation and Resources Enforcement-DOCARE conveyed item B-2.

Member Yuen asked what the requested dollar amount was. Smite said it was about \$623 dollars.

Unanimously approved as submitted (Gomes, Oi)

ITEM B-3 Request Board Approval to Delegate Authority to the Chairperson to Review and Approve Contracts for Purchases of Over \$100,000 for the Department

of Land and Natural Resources, Division of Conservation and Resources Enforcement (DOCARE).

Item deferred.

ITEM L-5 Application for Geothermal Exploration Permit and Declaration of Exemption from Chapter 343, HRS. Hualālai West Rift Zone, Hawai‘i Tax Map Key: (3) 7-3-009:019, 025, 028, (3) 7-3-010:032, 035, 041, (3) 7-4-008:001, 005, 047, 057.

Carty Chang Chief Engineer for the Engineering Division-ENG presented item L-5 and told the Board that the applicant couldn't make it from Hilo.

Terri Napeahi and Grace Bezilla testified in opposition.

Member Roehrig disclosed that he provides legal advice to the Napeahi family on unrelated matters.

Member Gomes commented that this has been improved but the Board should take into consideration the people that live in the community and be sure the community is satisfied.

Unanimously approved as submitted (Yuen, Roehrig)

ITEM J-1 Termination of Boating Lease No. BO-13120 dated December 6, 2013 between the State of Hawai‘i, Lessor, and Honey Bee USA, Inc., Lessee; Cancellation of BLNR Approval of Non-Exclusive Term Easement to Honey Bee USA, Inc.; Honolulu, O‘ahu, Hawai‘i, Tax Map Keys (1) 2-3-037:012 (por) and 020; (1) 2-6-010:003 (por), 005 and 016.

Ed Underwood Administrator for the Division of Boating and Ocean Recreation-DOBOR reminded the Board that this was before them in March, but the Board decided to defer for 60 days; DOBOR did not have the performance bond at the time and they did not remain free of encumbrances. The Board decided to defer based on a number of conditions. As of right now Honey Bee is still behind on payment and there is still no performance bond. DOBOR is recommending termination. This week before the meeting DOBOR had discussions with the developer, and they may have found a lending partner. They are here to brief the Board.

Derron Akiona requested the Board defer taking action on this until the end of August. Since March 13 meeting the NEXT reality funding fell out. If at the end of August this doesn't come through, then it can be terminated. Akiona said this has been going on long enough, he was tired of working on this project, so if the funding didn't come in by the end of August, then they will walk away from the lease.

Keith Kiuchi did a brief background check on ICON.

Keith Chun-LAND commented that if Icon funded this project solely as a lender BLNR doesn't have a right to approve or reject, but since they are requesting a 50% equity, it's considered an assignment of the lease.

Underwood said he didn't have a problem going until the end of August, but there needs to be an end date, and they would like to put on some conditions.

Sharon Lim representing a construction company testified that they support deferring until the end of August.

Member Yuen recommended deferring this item until the end of August. Member Gomes seconded.

All were in favor.

Unanimously moved to defer (Yuen, Gomes)

*Napeahi requested a contested case for item L-5.

11:08AM Member Woodside left the room

ITEM D-4 Issuance of Right-of-Entry Permit to Big Island Invasive Species Committee for Eradication of Invasive Albizia Trees located on Unencumbered State Lands at Keonepoko Iki, Keonepoko Nui and Maku'u, Puna, Hawai'i; Tax Map Keys: (3)1-5-009:009 & 010 and (3) 1-5-010:002 & 003.

ITEM D-5 Amend Prior Board Action of June 27, 2014, Item D-6, Cancellation of Revocable Permit S-7711 Richard E. Souza and Donna Lee Souza with Issuance of New Month-to-Month Revocable Permit to Richard E. and Donna Lee Souza, for Pasture Purposes, Waiohinu, Kā'ū, Hawai'i, Tax Map Key: (3) 9-5-005: portion 003. And

The purpose of the amendment is to waive the requirement for a Phase 1 Environmental Site Assessment for the cancellation of the old permit.

ITEM D-6 Issuance of Right-of-Entry to Hawai'i Explosives and Pyrotechnics, Inc. For Aerial Fireworks Display on July 13, 2015 at Kahala Hotel, Waialae, Honolulu, O'ahu, Tax Map Key: (1) 3-5-023: seaward of 041 (Portion).

ITEM D-8 Request to Amend Prior Board Action of May 8, 2015 (Item D-16), Amendment and Consent to Assignment of Grant of Non-Exclusive Easement No. S-5339, Sunset View Properties, LLC, as Assignor, to Stephen

James McGillin and Diane Lynn McGillin, Trustees of The STEPHEN AND DIANE MCGILLIN 2002 TRUST dated November 14, 2002, as Assignee, Pupukea-Paumalau Beach Lots, Ko‘olauloa, O‘ahu, Tax Map Key: (1) 5-9-020:050 seaward. Rescind Prior Board Action of March 27, 2009, item D-13. The Purpose of the Amendment is to Allow the Easement to “Run with the Land” and to Inure to the Benefit of the Private Property it Abuts. And

The purpose of the current amendment is to clarify that there are two separate assignments at issue: (1) from Sunset View Properties, LLC, as Assignor, to Kenneth V. Krebs, as Assignee, and (2) subsequently from Kenneth V. Krebs, as Assignor, to Stephen James McGillin and Diane Lynn McGillin, Trustees of The STEPHEN AND DIANE MCGILLIN 2002 TRUST dated November 14, 2002, as Assignee. The prior Board action will therefore be amended to indicate the correct names of the assignors and assignees. An additional purpose of amendment is to modify the standard form of Board consent to exclude any covenant by the assignor regarding continuing liability under the easement.

ITEM D-10 Issuance of Right-of-Entry Permit to Hawai‘i Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Lanikuhonua Beach on July 18, 2015, Honouliuli, Ewa, Honolulu, O‘ahu, Tax Map Key: (1) 9-1-057:seaward of 001 (Portion) .

There were no changes and there was no public testimony for items D-4, D-5, D-6, D-8 or D-10.

Unanimously approved as submitted (Gomes, Roehrig)

11:10AM Member Woodside returned

11:10AM Member Roehrig left the meeting

ITEM E-1 Consent to Assign General Lease No. SP-0167 Damascio and Thelma Ruiz, Assignors, to Russel Fu and Tracy Fu, Assignees, Lot 38 Pu'u Ka Pele, Waimea Canyon State Park, Waimea (Kona), Kaua'i, Tax Map Key: (4) 1-4-002:043.

Dan Quinn Administrator for State Parks-PARKS conveyed item E-1.

Unanimously approved as submitted (Gomes, Oi)

ITEM K-2 Request by Sandy L. Feng to Deviate from the Hawai‘i Administrative Rules, Chapter 13-5, Single Family Residential Standards to Place a Water Tank Within the Setback Area of a Parcel Located at 121 Forest Ridge Way, Tantalus, Honolulu, O‘ahu, Tax Map Key: (1) 2-5-016:023.

ITEM K-3 Conservation District Use Application (CDUA) OA-3739 for a Single Family Residence and Related Improvements by Adam Spurgat and Jacey Waterhouse Located at Tantalus, Honolulu, O‘ahu, Tax Map Key: (1) 2-5-018:016.

Sam Lemmo-OCCL reviewed items K-2 and K-2. There were no questions and no public testimony.

Unanimously approved as submitted (Gomes, Oi)

ITEM L-1 Authorization to Issue Procurement Solicitations and Award of Contracts Under Hawai‘i Revised Statutes Chapter 103D for Various Capital Improvements Program Projects Listed in Exhibit 1.

ITEM L-2 Certification of Elections of Karen Ah Mai, Cid Inouye and Melissa Zeman and Appointment of Iris Iwami and Dudley Kubo to Serve as Directors of the South O‘ahu Soil and Water Conservation District.

ITEM L-3 Certification of Elections of Koa Chang and Jacob Tavares to Serve as Directors of the Olinda-Kula Soil and Water Conservation District.

ITEM L-4 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai‘i Administrative Rules for Job No. J45CO49C, Ka‘iwi State Scenic Shoreline Rockfall Mitigation, O‘ahu, Hawai‘i.

ITEM L-6 Certification of Elections of Virginia Alderson, Troy Keolanui and Dylan Stropshire to Serve as Directors of the Hāmākua Soil and Water Conservation District.

Carty Chang-ENG presented items L-1, L-2, L-3, L-4 and L-6; there were no changes and no public testimony.

Unanimously approved as submitted (Gomes, Oi)

Member Gomes made a motion to go into Executive Session pursuant to Section 92-5(a) (4), Hawai‘i Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board’s powers, duties, privileges, immunities and liabilities. Member Woodside seconded.

Unanimously moved to go into Executive Seccession.

11:16 AM EXECUTIVE SECESSSION

1:08 PM RECONVENE

*****For Items C-1 and C-2 please see attached Exhibit A for Verbatim transcript transcribed by Jessica R. Perry, CSR, RPR.**

ITEM C-1 Request For Delegation of Authority For Permits and Actions Under Hawaii Administrative Rules Chapters 13-122 And 13-123, To The Chairperson, The Administrator and Branch Managers of The Division of Forestry And Wildlife

And

Authorize The Chairperson, And The Administrator And Branch Managers of The Division of Forestry And Wildlife To Determine And Approve Chapter 343, Hawaii Revised Statutes (HRS) Environmental Compliance Requirements, Including Approval of Declarations of Exemptions, as Applicable, For Permits Issued Under The Rules Regulating Hunting In Hawaii Administrative Rules Chapters 13-22 And 13-124.

The Rules can be reviewed online at <http://ltgov.hawaii.gov/the-office/administrative-rules/> or can be reviewed or obtained in person at the Division of Forestry and Wildlife (DOFAW) offices on O'ahu at 1151 Punchbowl St. Room 325 Honolulu, Hawai'i, from 8:00 am to 3:30 pm, Monday through Friday, except Holidays.

Written testimony was submitted by Malia Akutagawa, Alizon Atkins, Meghan Leialoha Au, Hanale M. Bishop, Mahealani Botelho, Leigh Sidney Keonekaulana Case, Suzanne Case, Clarence Ku Ching, Serafina Gajate, Wendy Green, H. Nahaku Kalei, Kehaulani Kekua, Monica Lee, Miki Cachola Lene, Mailani K. Maka`ina`i, Raymond Mata, Shelley Muneoka (KAHEA), Office of Hawaiian Affairs (Kamana`opono Crabbe), Anuhea Diamond Patoc, Hokuokalani Patoc, Laulani Teale, and Sierra Club of Hawaii (Marti Townsend).

Unanimously approved as amended (Yuen, Roehrig)

ITEM C-2 Request For Approval to Adopt a New Section Under Hawaii Administrative Rules As Title 13 Chapter 123 Section 21.2 To Restrict Use of and Access to Portions of Public Hunting Areas, Units A and K, Mauna Kea, Hawaii Island, Through Emergency Rulemaking Procedures To Protect Against Imminent Peril To Public Safety and Natural Resources.

The Rules can be reviewed online at <http://ltgov.hawaii.gov/the-office/administrative-rules/> or can be reviewed or obtained in person at the Division of Forestry and Wildlife (DOFAW) offices on O'ahu at 1151 Punchbowl St. Room 325 Honolulu, Hawai'i, 96809 or on Hawaii Island at 19 E.

Kawili Street, Hilo, Hawaii 96720 from 8:00 am to 3:30 pm, Monday through Friday, except Holidays.

****THIS ITEM WILL BE HEARD NO EARLIER THAN 1:00 PM****

Written testimony was submitted by Laura Clint Acasio, Parthena Adamoski, Tommy Adkins, Jennifer Noelani Ahia, K`apuni Aiwohi, Theodora "Cookie" Akau-Gaspar, Norman Gaspar, Kalaekoa Gaspar, Willette K. Akima-Akau, Kevin Akiyama, Malia Akutagawa, Jim Albertini, Nancy Aleck, Santos Alvarez, Foster Ampong, Rogelio Bernal Andreo, Mele Apana, Trina Jones Artis, Chandell Asuncion, Alizon Atkins, Meghan Leialoha Au, Keani Auli`i, Joel Aycock, Chuck Babbitt, Bridgit Mary Luahiwa Lee Loy Bales, Barbara Barry, Leilani Basham, Rick Bennett, Pomaikalani Bertelmann, Edie Bikle, Hanale M. Bishop, Eric Blackhurst, Kaikea Blakemore, Susie Maria Blau, Adam Block, Craig Bobchin, Brad Bordessa, Kris Bordessa, Clifton Stokes Keouakalanikupuapaikalaninui Botelho, Mahealani Botelho, Ken Boyer, Becca Brandes, Kate Brenton, Christie Brookman, Junette Brower, Marie Alohalani Brown, Charmaine Bugado, Cheryl B., K. Hokuokalani Cabebe, Eileen Cain, Grace Alvaro Caligtan, Paul Tuan Tran, James R. Callens, Bronson Kahiwhiwa Calles, Bobby Camara, George Keahi Camara, Jessie Lahela Burgess Camara, Joseph Kualii Lindsey Camara, Aldirico K. Carba, Nomi Carmona, Brady Carpenter, Russ Carroll, Jamilee Carter, Leigh Sidney Keonekaulana Case, Suzanne Case, Joy Cash, Sandra Castell, Raymond Catania, Cathy, Williamson B.C. Chang, Luella Nohea Chang-Crutcher, Baron Ching, Clarence Ku Ching, Gilbert Clark, Janet L. Clark, Steve Clark, Arlin Close, Olivia Close, Max Corneau, Kalai Costa, Felicia Cowden, Michael Crabbe, Travis Craig, Jennifer Kau`ionalani Crawford, Stephen G. Cullen, Sharron Cushman, Kauai Dalire, Don Davis, Phil Davis, Gardner De Aguiar, Andrea Ilima DeCosta, Megan Deets, Monique Mahealani DePonte, Kahikina De Silva, Francesco Di Cencio, Bob Douglas, Charles Abraham Dudoit, Constance Durant, Anna Eckart-Dodd, Britany Edwards, Pomai Lee Loy Emsley, Kira Engelhardt, Kanani Enos, Anela Evans, Malia K. Evans, Jessie A. Faige, Jan Farmer, Hanalei Fergerstrom, Jesus Navas Fernandez, Debera First, Kalamaku Freitas, Sharde Mersberg Freitas, Candace Fujikane, Ronald S. Fujiyoshi, Serafina Gajate, Kamala Galletes, Charde Garcia-Kaai, Emmalani K. George, Gigi Giles, John Gleason, Ku`umeaaloha Gomes, Kyle Help, Tamara Leilani Heck, Noelani Goodyear-Ka`opua, Keali`i`olu`olu Gora, Donna Grabow, Mark Graybill, Wendy Green, Ravi Grover, Gypsie Me, Haunani Haia, Jennifer Halemano, John Hamilton, Andrew Richard Hara, Cory Harden, Kay Harmon, Donald E. Heacock, Richard Hedrick, Stephen Henderson, Tiana Malina Henderson, Sandra Herndon, Shannon Herrington, Linnea Heu, Mary Hickcox, Alana Hindle, Richard Hoeflinger, Winter Hoohuli, L. Pauahi Ho`okano, Jameson Horswill, Brenda Houska, Malia Hulleman, Kelii Iaone, Sydney L. Iaukea, Wally Inglis, Shane Ishii, Jonathan Jay, John R. Jennings, Bridger Jensen, Jim Jetson Jr., Greg Johnson, Mandy Johnson-Campbell, Kiko E. Johnston-Kitazawa, Adarsha Joisa, Fehren Jones, Haunani Jones, Ahtoo Jones, Kaniela Jones, Kingston Jones, Keawaiki Jones, Ko`iaweikawaihu`ihu`iowaihee Jones, Koali Jones, Nohealani Ka`awa, Penny Kaae, Ku Kahakalau, Anna M.A. Kahalekulu, Kirstin Kahaloo, Ana Kahoopii, Jesse Kahoonei, `Ekela

Kahuanui, Haweo Ka`iama, Tiffnie Kakalia, Starr Kealahaleokalani Kalahiki, Kauilani Kalama, Earl Kalawaia Jr., H. Nahaku Kalei, Blossom Kaleo, Lilikala Kame`eleihiwa, Jonathan Kay Kamakawiwo`ole, Amirreza Kamkar, Ali`i Sir Kalikolehua Kanaele, Emily Kandagawa, Kawika Kane, Maka`ala & Maha Kanealii, Yvonne Kapeliela, Sam Kapoi, Drew Kapp, Miki`ala M. Kanekoa, W. Scott Kardel, Kris Kato, Christine Kauahikaua, Chris Kauaki, He`ali`i Ka`uhane, Kauilapele, Glen M. Kila, Jessica Ke`ala Kim-Campuspos, Kehaulani Kekua, Genai U`ilani Keli`ikuli, Ellie Keliipuleole, Warren A. Keller, Lei Kihoi, Sean King, Kealaohanuiopuna Kinney, Joseph Kohn, Rudy Kok, Paul A. Komara, Jr., G. Kalehua Krug, Tom Kualii, Mary Lacques, Natasha M. Laflin, Dave Lane, Ilima Ho-Lastimoso, Shawn A. James Leavey, Amanda Lee, Breeani Lee, Monica Lee, Miki Cachola Lene, Beki Light, Wahineolani Lind, Leilani Lindsey-Ka`apuni, Olivia Ling, Kaiwipuni Lipe, Nanea Lo, Tom Lodge, Valerie Loh, James Long, Noelani Love, Loy Lum, Julien Lozi, Janet Mac Neal, Deborah Mader, Mailani K. Maka`ina`i, Mehana Maka`ina`i, Kaliko Maii, Maile Maii, Hapuna Maii, Wanaao Maii, Genesis Makaneole-Bragg, Andy Mason, Raymond Mata, Pablo Mateluna Maturana, Mieko Matsumoto, Lewis Maynard, Peggy McArdele, Vicki McCarty, Marlene & J. Cameron McClure, Monte McComber, Robert & Marion McHenry, Ivy McIntosh, Nedi McKnight, Hi`ilani McShane, Keoki Medeiros, Keith Meier, Bethany Amber Mercer, Jodi Mercier, GP Merfeld, Joy Mills-Ferren, Lani Minihan, Linda Molina, Jon Kuahiwi Moniz, Sergio Montufar, Shyla Moon, Rick Morse, Ku`ulani Muise, David Mulinix, Shelley Muneoka (KAHEA), Karen Murray, Carol Murry, Sharon Myers, Tanya Mailelani Naehu, Kahealani Nae`ole, Brad Nakamura, Nakoa Kulani Nelson-Riley, Mike Neal, Kalamaoka`aina Niheu, Michele Nihipali, Keala Norman, Paul Normann, Christina Numazu, Trystin Oeljen, Office of Hawaiian Affairs (Kamana`opono Crabbe), Ahonuiokalani Ohelo, Sheila Okin, Bruce N. Omori, Julye Opiopio, Carolyn Ornellas, Chelle Pahinui, Cyril Pahinui, Taimiroa Pajimola, Janice Palma-Glennie, Melissa Parker, Noelani J. Paresa, Bhama Paritosh, Anuheia Diamond Patoc, Hokuokalani Patoc, Tia Pearson, Thom Peck, Tammie Noelani Perreira, Doug Perrine, Kekailoa Perry, Keanu Pinner, Ron Piotrowski, Joann Pokipala, Sherry Pollack, Lydia Pontin-DePonte, Jesse Keone Potter, Davis Price, Rosanna Prieto, Kawewehi Pundyke, Lee Ann Anuenue Punua, Debra Preston, Mark Redgwell, Kuulei Reyes, Mike Rice, Tadia Rice, Kate Righter, Hawane Rios, Ruth Aloua, Kekai R. Robinson, Kai Robinson, Paul K. Robinson, Renee Robinson, Jennifer Rodwell, Chadwick Roldan, Jason Rosado, Jacqueline L. Rossetti, Shannon Rudolph, Ileana Haunani Ruelas, Maya L. Kawailanaokeawaiki Saffery, Lynne Sagen, Ted Saker, John Schinnerer, Brent Schlea, Bill Schlosser, Michael Schwartz, Nicole Seto, Jeff Setzer, Kathryn Shawhan, Kauwila Sheldon, Jennifer Shinsato, Kamealoha Simao, Barbara Small, Steve Smith, Bill Snyder, Jan Kekua-Spencer, Maile Ualani Haili Stant, Barbara Stanton, Roxane Kapuaimohalaikalani Stewart, Fred Stone, Zachary Street, Claud Sutcliffe, Rae Swisher, Keone Taaca, Teuila Ilima Tauaese, Laulani Teale, David & Janel Te`o, Amberlene Moetoto Thompson, Teresa Tico, Lili`u Tomasello, Wahine`aipohaku Tong, Fane Ku`uipo Tonga, Kaleo Torres, Meleana Smith, Emma & Gwen`chlan Tournier, Sierra Club of Hawaii (Marti Townsend), Michalann Trainer, Lakea Trask, Mililani B. Trask, Tom Trusock, Elsie K. Umu, Nate Van Wey, John Veevaert, Ku`ulei

Vickery, Michael R. Vieira, Vicki Vierra, Emily Volz, Dustin Wamar, Jessica Waia`u, Sarah Amber K. Wakana, Josh Walawender, Denis J. Walsh, Deborah Ward, Nako`olani Lee Loy Warrington, Blake Watson, Bruce Ka`imi Watson, Leimomi Wheeler, Thomas T. Whitney, Ken Wilson, Kanoë Wilson, Emily Wineman, Beth Maile Wong, Noe Noe Wong-Wilson, Bradley Anson Wood-Ferren, Gabriella Wright, Pat Wright, Richard S. Wright Jr., Selisa Wright, Dennis Yamaguchi, Catherine Yanagi, Robin Malia Nakanishi Yardley, Miexia Kekai Ah Loy, Laura Aquino, Gail Armand, Debbie Baker, Hazel Beck, David L. Bennett, Gwen Biggert, Julia Brotman, Ali Ann Buscher, Nancy Cabral, H. Kanoëokalani Cheek, Roberta F. Chu, Robert Chung, Karyn Clay, The Chamber of Commerce, Paul H.I. Coleman, Steve Colón, Stephen Cotton, Tom Cumming, Sharron Faff, Peter Ganaban (Laborer's International Union of North America Local 368), Thomas R. Geballe (Gemini Observatory), Robyn Hafner, Janice Harvey, Clifton M. Hasegawa, Günther Hasinger, Clyde T. Hayashi (Hawaii Laborers-Employers Cooperation and Education Trust), Jo-Anna Herkes, Stewart Hunter (Maunakea Observatories Support Services), Juslyn Ikeda (Suite Possibilities, LLC), Eric Johnsen, Mike Kaleikini, Keanuenuëpi`olaniku uleialoha Kapahua, Denise Laitinen, Aaron Lee, Maunakea Observatories, Doug Simons (Canada-France-Hawaii Telescope), Paul Ho (East Asia Observatory), Markus Kissler-Patig (Gemini Observatory), Pierre Martin (Hoku Kea Observatory), Alan Tokunaga (Infrared Telescope Facility), Hilton Lewis (Keck Observatory), Dale Frail (National Radio Astronomy), Nobuo Arimoto (Subaru Observatory), Raymond Blundell (Submillimeter Array), Richard Green (University of Arizona/UKIRT Observatory), Mary McAndrew, Robert McLaren, Don Mitchell, Darren H. Nishioka (Japanese Chamber of Commerce and Industry of Hawaii), Rickey O., Eileen O'Hara, Scotty Paiva, Jamie Reno, Annette Reyes, Luca Rizzi, Ruth E. Robison, J. William Sanborn, Julia Simmons, Daniel Smith, Nancy Carr Smith, Sunny Stewart, Scott Stoddard, Paul Stomski, Ann Sueoka, Ruth Thompson, Alan Tokunaga, John Vierra, Bill Walter, Richard Wainscoat, Jonathan Williams, Laura Peterson, Ross Wilson Jr., Kanoa Withington, Georjean L. Adams, Gail Armand, Joel Aycocock, Dan Birchall, Brian Burau, Chris Butcher, Alyssa Clark, Tim Cole, Beadie Dawson (National Hawaiian Bar Association), Gardner De Aguiar, Randee Golden, Greg Green, Saeko Hayashi, Stephen Hill, Paul Hirst, Ken Hon, Steven L. Hurt, Don Hurzeler, J. Richard Jacobs, Mike Johnson, Piilani Ka`awaloa (Hawaii State Aha Moku Advisory Committee), Kyle Lanclos, Mary Beth Laychak, Hilton Lewis, Tom Lodge, Nadine Manset, Donn Mukensnable, Raymond D. Mata, Drew Medeiros, Joy Pollard, Mathew J. Rippa, Donald Rudny, Warren Skidmore, Don Slocum, Marirai Tauotaha, Davin Vicente, James Watt, Monte "Pat" Wright, and Richard Naiwieha Wurdeman.

82 people orally testified, 6 were in support, 76 were opposed.

Ku Ching, Walter Rittee and Williamson Chang requested a contested case.

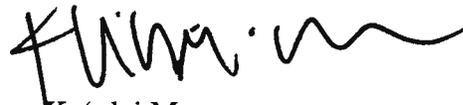
2:5 Vote

Member Woodside and Member Gomes were opposed.

Approved as submitted (Yuen, Roehrig)

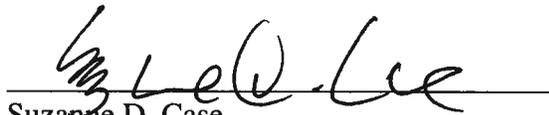
There being no further business, Chairperson Suzanne D. Case adjourned the meeting at 10:38 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ku'ulei Moses', written in a cursive style.

Ku'ulei Moses
Land Board Secretary

Approved for submittal:

A handwritten signature in black ink, appearing to read 'Suzanne D. Case', written in a cursive style.

Suzanne D. Case
Chairperson
Department of Land and Natural Resources

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Board of Land and Natural Resources
Meeting Transcript
July 10, 2015

24 Transcribed by: Jessica R. Perry, CSR, RPR

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1 (An attempt was made by the transcriber
2 to spell the Hawaiian words and names spoken as
3 phonetically as possible, when they were spoken slowly
4 and clearly enough to hear.)

5

6 CHAIRPERSON CASE: Thank you, everyone.
7 This is the afternoon session of the July 10 Board of
8 Land and Natural Resources meeting. Thank you all for
9 coming. We're going to be hearing agenda item C1 and
10 C2 this afternoon. We have -- they are related
11 issues, and we have people testifying -- the people
12 testifying on C1 and C2 are nearly identical. We are
13 going to combine testimony for C1 and C2.

14 Process is going to be that we're going
15 to have staff presentation on C1. We'll have the
16 board ask questions on C1, and then we're going to
17 have the attorney general's presentation on C2, and
18 then we're going to have board questions on C2, and

19 then we're going to go to public testimony. There's
20 one person, number 16, Robin Kauwili, who is on C1 but
21 not on C2, so we'll have Robin first and then we will
22 go down the list in order -- in the order signed up on
23 C2.

24 I guess I just want to start out by
25 acknowledging that this is an emotional issue for a

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1 lot of people, but I want to first of all be really
2 clear that C2 is an emergency rule. That means it's a
3 120-day rule. It doesn't mean that it's an emergency
4 permanent rule. It means it's a rule to deal with the
5 situation for 120 days, and that is to provide the
6 opportunity for a deeper dialogue on what the longer
7 term rules should be. So I just want to be clear,
8 it's not a permanent rule. It's 120-day rule to
9 provide time for that dialogue. And so I want to
10 make -- make -- I want to just ask everybody to be
11 very respectful. We want to have a good public
12 process. We want everybody to be heard. This is
13 important for everyone to be able to say their piece.

14 We have a lot of people, so we're going

15 to have testimony for three minutes apiece, and I
16 would ask everyone to please respect that. We'll have
17 a timer here. You can keep an eye on it. When you
18 get close to the three minute, I will give you a
19 little heads up that it's time to wrap up, and I ask
20 you to do this. So, again, I want to thank you all
21 for being here. Thank you for participating in the
22 process. It's a great statement that everyone cares
23 enough to participate personally, and so thank you for
24 being here and thank you for joining with us in our
25 respectful process moving forward with this afternoon.

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1 So with that said, I'm going to ask Scott
2 Fretz to come up and present item C1.

3 MR. FRETZ: Chair and members of the
4 board, Scott Fretz, acting administrator with the
5 Division of Forestry and Wildlife. Item C1 is request
6 for delegations of authority from the board to the
7 chairperson, the administrator of the Division of
8 Forestry and Wildlife, and the branch managers of the
9 division to approve permits and authorize activities

10 that are provided for in the hunting rules, chapters
11 13122 and 13123. Those are the game mammal and game
12 bird hunting rules.

13 In putting together this request to the
14 board, we can carefully go through each of the
15 delegations that we're requesting of you and to give
16 consideration to each of those with respect to their
17 significance and routineness.

18 In general, our intention has been to
19 request that those activities that are routine be
20 delegated to the branch managers; that any permits or
21 activities that are less routine or potentially
22 impactful to resources or constituents, delegate it to
23 the administrators -- or the administrator; and for
24 any permits that are uncommon, not routine, or
25 impactful or controversial, require approval by the

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1 chair.

2 So we've listed quite a number of these
3 in the submittal, and I know you've read those and
4 looked through those. So in the interest of time, I
5 will leave that to you and be standing by for any

6 questions that you may have.

7 CHAIRPERSON CASE: Thank you. Questions
8 of Scott at this time? No questions. Okay, thank
9 you, Scott.

10 Mr. Chin, do you want to present on item
11 C2?

12 MR. CHIN: Aloha, chair, board members,
13 Doug Chin, attorney general. Today is an opportunity
14 for the board, in the words of an editorial yesterday,
15 to assert some needed controls over the summit zone at
16 Mauna Kea. After receiving testimony, department
17 respectfully asks this board to find credible evidence
18 in the record to indicate that imminent peril exists
19 to public health, safety and morals for which quick
20 action is necessary. I will highlight just a few.

21 First, the intentional placement of
22 boulders and rock walls into a road under the board's
23 jurisdiction, that is steeply graded, graveled, and
24 has significant drop offs on the side. Second, the
25 prolonged presence of people at all hours of the night

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1 positioning themselves inside, on top of, and in
2 obstruction of the sole roadway to the summit. This
3 road has no lights, no guardrails, no markings, and no
4 sidewalks. Third, repeated examples of individuals
5 acting in disregard of the color of authority, forest
6 rangers, copy care officers, and police, leading to
7 more than 40 arrests in two days. Finally, harassment
8 and violent threats, to the point that current public
9 and private workers who are required to access the
10 road do not feel safe enough to report to work.

11 For four months now, these actions by
12 themselves or all together have been coordinated,
13 induced, strengthened and supported by a 24-hour
14 presence of individuals who did not have a permit to
15 reside there for any period of time. These are forest
16 reserve lands. This is a hunting -- this is a hunting
17 and gaming area. They cook there, they sleep there,
18 they live there.

19 I was at the visitors' center yesterday
20 and want you to know that even with notice that the
21 board is talking about this rule, in the past 48 hours
22 alone individuals have erected a very large luxury
23 tent, the largest of all of their structures by far,
24 without a permit and against DLNR regulations. And
25 for these reasons, the department recommends that the

1 board temporarily adopt this rule for 120 days to
2 mitigate these threats and in due course restore
3 normal public access to the summit.

4 We have a proposed amended rule that
5 we've put together that is also based upon comments
6 that we've received from the public, the testimony
7 that has already come in, but essentially that amended
8 rule sets the -- sets the nighttime hours -- yeah, if
9 we could put that up.

10 All right, so as everyone can see, and I
11 think it's being shown outside too, it describes the
12 restricted area. It also describes the prohibited
13 items that would be not allowed, sleeping bag, tent,
14 camping stove or propane burners, and then basically
15 it restricts hours from 10:00 to 4:00 a.m., except for
16 a transiting reception.

17 I've spoken for 3 minutes and 17 seconds,
18 so thank you very much. I'll take your questions.

19 CHAIRPERSON CASE: Thank you. All right,
20 questions? Mr. (Inaudible). I guess I'll start.

21 MR. CHIN: Sure.

22 CHAIRPERSON CASE: I just want to just
23 confirm with you that this is a 120-day rule?

24 MR. CHIN: That's correct. In other
25 words, the way that this kind of -- it's actually not

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1 called emergency ruling, but the way that this rule
2 applies within the -- within the DLNR's
3 administrative -- excuse me, within Chapter 91 is that
4 if there is an imminent peril to public health, safety
5 or morals, then the board is able to pass a rule
6 during an expedited hearing that's good for 120 days.

7 It seems like this situation, this would
8 be an appropriate allocation for the board to be able
9 to find, would be a use of this rule. In other words,
10 the last four months the very drastic change in
11 circumstances that's occurred at Mauna Kea and the
12 importance of being able to reestablish some more as
13 the difficult situation continues.

14 CHAIRPERSON CASE: Thank you. Can you
15 just explain, is camping prohibited already on the
16 mountain?

17 MR. CHIN: Sure. Camping is -- it is not
18 allowed under the forest reserve rules, and it is also
19 not allowed under the game mammal hunting area rules.
20 And it is also true that these people are there
21 present on the site without a permit.

22 The problem has been that -- the
23 assertion that I think you will hear from people today
24 as they're testifying is that they're not camping.
25 They're doing other things. They're either parked in

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1 their cars, they're chilling, they're hanging out
2 doing other things, but it doesn't actually constitute
3 camping. And so what we feel is that what's really at
4 risk is the prolonged excessive use that's been
5 existing in this area that is actually not equipped
6 for camping or for any other extra purposes like that.
7 And so what these rules do is they clarify basically a
8 restricted time when nobody can be there within the
9 area unless they're transiting or -- and also not be
10 in possession of certain camping-related equipment. I
11 don't know a better way to describe it, but it's
12 essentially that kind of materials.

13 CHAIRPERSON CASE: Go ahead.

14 BOARD MEMBER GOMES: Besides these rules
15 that we have in front of us that you want to put for
16 emergency or for the next 120 days, have you or the
17 department looked at any other avenues, any other
18 options besides implementing these?

19 MR. CHIN: Sure, sure. You know, I think
20 the difficult -- the difficult part about having
21 people residing there, where there is different ways
22 to interpret camping, is that that's exactly why we're
23 trying to insert more clear language that actually
24 prohibits a certain kind of action of just being in
25 the area or having certain types of items.

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1 As far as other types of criminal or
2 civil penalties, the types that would be available
3 would be citing them for unpermitted structures, for
4 example, a portable -- portable toilets were brought
5 into the area and placed upon DLNR lands. The
6 department, Department of Land and Natural Resources,
7 sent a notice of violation to the commercial owner for

8 operating commercial activities in that area. So
9 there's that. There's also the typical criminal
10 statutes that are in exist, such as obstructing a
11 roadway, failure to provide ingress and egress, and
12 all of those are options within law enforcement,
13 should they decide to enforce it.

14 BOARD MEMBER GOMES: I have somewhat of a
15 problem, only because I know what you're saying. I
16 understand that. I'm on the fence, but I do have
17 feelings for the other segments of people who want to
18 go up and view or relax or their way of just
19 expressing, you know, look at the stars, or, you know,
20 they're schoolchildren or maybe they have to go up at
21 10:00 at night or 12:00 because there are certain --
22 something that they want to see. I just have an issue
23 if we ban this for the next four months, how does it
24 reflect on them or other entities.

25 MR. CHIN: Sure.

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1 BOARD MEMBER GOMES: And I don't think we
2 should be singling out one person or the other or one
3 group or the other, you know.

4 MR. CHIN: Well, Member Gomes, I
5 understand your concern, and I agree, I think if the
6 board were to be -- were to make this decision to it
7 adopt this emergency rule, it does place -- the rule
8 applies to everyone in terms of what they cannot bring
9 into the area and as well as their ability to remain
10 present within the restricted area, unless they're an
11 existing (inaudible).

12 BOARD MEMBER GOMES: Could that group ask
13 the chair person or branch or something like for a
14 certain permit to go up at that time?

15 MR. CHIN: The way the rule is written
16 right now, it wouldn't allow that. It would just
17 be -- it is just closing -- it's closing the time. I
18 think the other way to look at it is that this rule
19 takes into account a limited time period. In other
20 words, I think the earlier version of the rule that
21 was posted had the starting time at 8:00.

22 BOARD MEMBER GOMES: 8:00 to 4:00.

23 MR. CHIN: And I think this is a little
24 more -- this is a later time, which allows people to
25 be able to, you know, at least be able to enjoy the

1 facilities for a couple hours before nightfall and
2 before the late time. Thank you. Thank you. I have
3 a correction, and that is that, actually, even though
4 there are prohibited rules, there are rules that would
5 be in place such as this one that would prohibit
6 certain activities. The board is able to -- or the
7 department is able to issue permits if that's the
8 case, so I apologize for not having that nuance down.

9 BOARD MEMBER WOODSIDE: I have a
10 question. What's the overlap between these DLNR rules
11 and the Office of Mauna Kea Management rules?

12 MR. CHIN: Oh, thank you. So in other
13 words, here's how this board can look at it, and
14 before I do that, let me just finish one thing with
15 Member Gomes, because I realize that I was starting to
16 talk about how it's a burden if this rule is passed.
17 I think we can all concede and acknowledge, I think
18 the board would understandably have the right to be
19 concerned about that. I think the concern on the
20 other end that we're simply asking the board to
21 consider is the balancing of public safety and the
22 types of activities and events that have been
23 occurring up there on the mountain. So that was the

24 only last part that I wanted to share, is that it is a
25 balancing test. So we are asking the board to make

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1 that consideration, that's why I'm advocating for it.

2 Okay, you know, member wood side, you
3 were asking me --

4 BOARD MEMBER WOODSIDE: I was asking
5 about the relationship between this rule that and
6 we're looking and Office of Mauna Kea Management
7 rules.

8 MR. CHIN: Right. This board has
9 jurisdiction over the forest reserve area, as well as
10 the game mammal hunting area, and so within those DLNR
11 lands, UH -- or through its Office of Mauna Kea
12 Management, has a lease agreement that the board
13 approved several years ago that allows it to be able
14 to use its management area as a science reserve. And
15 so within that -- it's -- think of it like a lease
16 agreement. So within that lease agreement, there's
17 a -- what's called a comprehensive management plan,
18 and so it has certain terms within it, and part of
19 those terms is that the Office of Mauna Kea Management

20 does have authority to close the roads if there's a
21 public safety issue or if there's other hazards.

22 So examples, as I understand, for how the
23 Office of Mauna Kea Management has closed the road in
24 the past would be, for example, a snow storm or some
25 other -- some other natural occurrence, as well as

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1 other concerns about the safety of the roadway. Keep
2 in mind, we're talking about a partially graded gravel
3 road, steep grade, going up for six miles from the
4 visitor center up to the summit, no guardrails, no
5 markings, no sidewalks. It has a steep drop off in
6 many of its locations, so that was a lot of the
7 concern that I think was being raised by different
8 people, and I think we'll hear that as well in the
9 testimony, is that this really isn't an area that's
10 equipped for that kind of prolonged and excessive use
11 that's been existing, and that is something that the
12 board should consider, is the amount of over use that
13 has been (inaudible).

14 (Loud feedback noise.)

15 BOARD MEMBER WOODSIDE: (Inaudible) there
16 isn't this restricted --

17 MR. CHIN: Right.

18 BOARD MEMBER WOODSIDE: -- time period,
19 but Office of Mauna Kea Management can choose to say
20 that they will further restrict access to a limited
21 time and a limited number of people.

22 MR. CHIN: Right, right.

23 BOARD MEMBER WOODSIDE: So they can --
24 even though we have an intention that we need, it
25 would be open for different times --

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1 MR. CHIN: Right.

2 BOARD MEMBER WOODSIDE: -- that they can
3 plan something different and we don't have any --
4 that's not within our kuleana to look at.

5 MR. CHIN: Right, right, so that's a good
6 point. In other words, there's overlapping
7 jurisdictions. The state's ability to enforce might
8 be more -- it might be more practical for the state to
9 be able to enforce if it's enforcing its own rules,
10 other than a contractual term that's in the lease

11 agreement.

12 BOARD MEMBER WOODSIDE: Thank you.

13 MR. CHIN: Thank you, Member Woodside.

14 UNIDENTIFIED MALE BOARD MEMBER: I

15 have --

16 CHAIRPERSON CASE: Go ahead.

17 UNIDENTIFIED MALE BOARD MEMBER: I have

18 another -- listening or hearing that, how do -- since

19 there's overlapping with the University of Hawaii and

20 the state --

21 CHAIRPERSON CASE: I wanted to make sure

22 people can hear. Can you move the mike. We'll just

23 move the mike.

24 UNIDENTIFIED MALE BOARD MEMBER: I'll

25 just talk loud. Basically how would you or how would

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1 the University of Hawaii DLNR would address for

2 religious purposes, because we have some religious

3 freedom acts to deal with and --

4 MR. CHIN: Absolutely.

5 UNIDENTIFIED MALE BOARD MEMBER: And how

6 do you -- and especially if it's a period of 10:00 and
7 4:00 and you have these practices that want to be
8 observed, how do you address that?

9 MR. CHIN: Thank you for your question.
10 I mean, I think that's a good question, first of all,
11 as far as UH and the Office of Mauna Kea Management is
12 concerned. When they're up here testifying, I'd urge
13 the board to ask them what are their practices and
14 what is their policy in terms of understanding and
15 respecting people's traditional and customary
16 practices.

17 As far as the -- as far as The Board of
18 Land and Natural Resources is concerned and these DLNR
19 rules, what we would argue is that these rules still
20 allow access between -- between 4:00 a.m. and 10:00
21 p.m., so there is time to be able to engage in those
22 traditional and customary practices. So the argument
23 would be that there actually is a reasonable window of
24 opportunity that's being allowed for people to use.
25 The time that's accepted is sort of this breathing

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1 room time between 10:00 p.m. and 4:00 a.m.

2 I think that the best way to describe
3 this is -- and I've really been -- because I think
4 about the testimony and I think about what input that
5 we're getting from all the -- you know, all the
6 different people who are interested in this issue.
7 And the best way that I can come up with it and that I
8 wanted to share with the board, in layman's terms it
9 ultimately becomes a balancing test. Like in other
10 words, people do have -- and it's recognized within
11 our Constitution that we give -- that we recognize
12 native Hawaiian rights.

13 In fact, I think I wrote a slide -- I
14 made a slide that shows the Constitutional provision.
15 I think it will help the members of the board to be
16 able to see it, because essentially it refers to the
17 importance of understanding and respecting people's
18 rights for cultural and religious purposes. And it
19 says for, you know, ahupua`a (inaudible) who are
20 descendents of native Hawaiians who inhabited the
21 Hawaiian islands prior to 1778, and at the very end of
22 the Constitutional provision it says, subject to the
23 right of the state to regulate such rights.

24 And so the best way to look at it is
25 that, for example, when it comes to public safety,

1 someone might have a right to practice, you know,
2 their religion, a customary and traditional right, but
3 that doesn't automatically mean it's an absolute right
4 that trumps over everything else that's out there.
5 It's subject to the right of the state to assert its
6 own concerns. It's a way of recognizing the entire
7 community, not to say that this -- this is a special
8 recognition, but it's also an understanding that
9 everybody and everybody's concerns need to be dealt
10 with.

11 UNIDENTIFIED MALE BOARD MEMBER: So in
12 four months, 120 days, after the 120 days, if there's
13 no resolution on both sides or, you know, peoples of
14 the minds who come to the table, what happens next?

15 MR. CHIN: Right, right. Well, I think
16 this, in other words, I would -- I'd urge the board --
17 I'd urge the board to continue tracking this -- you
18 know, bring us back this to table, have us talk about,
19 you know, what is the situation and give a status
20 update as far as what's happening in Mauna Kea and ask
21 questions during that time.

22 The point of having temporary rules such
23 as this for 120 days is that under normal
24 circumstances what you might do, like with the sea
25 cucumber emergency rule that the board passed a couple

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1 weeks ago, is you would have this rule in place, and
2 then if it's working or if it's useful, then the board
3 could start looking or considering permanent rules, or
4 it could look at lesser rules or smaller rules. You
5 know, it's -- the point of having a temporary rule
6 such as this is that it allows time for the board to
7 consider what it wants to do during that time, and
8 I -- you know, we -- the department would be happy to
9 keep the board apprised of how it's going.

10 UNIDENTIFIED MALE BOARD MEMBER: Thanks.

11 I'll wait. I'll let the other members.

12 MR. CHIN: Thank you.

13 CHAIRPERSON CASE: Mr. Roehrig.

14 BOARD MEMBER ROEHRIG: Thank you, chair
15 woman.

16 I live in Keokaha.

17 MR. CHIN: Yes, sir.

18 BOARD MEMBER ROEHRIG: And across the
19 street from us we have, part of our ohana, about a
20 couple hundred Hawaiians in our ohana, and we have a
21 Filipino, Chinese.

22 CHAIRPERSON CASE: I think we need to
23 move the --

24 BOARD MEMBER ROEHRIG: Sorry.

25 CHAIRPERSON CASE: Usually you're pretty

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1 loud.

2 BOARD MEMBER ROEHRIG: Chair woman knows
3 me. She knows me pretty good. So our grandson is
4 Kawelo. He's Chinese like you, Hawaiian, Filipino,
5 Portuguese like me and Cherokee from my wife. So I'm
6 on both sides of the line, so the area that I'm most
7 concerned about is what is going to be the result of
8 all of this? Down in the -- down in the hood where we
9 live, maybe we're split down the middle, but one thing
10 I think that everybody down where I live believes is
11 pono, and that is that we have Hawaiian children
12 education and give them an opportunity to go to

13 college. And everybody I think would agree that
14 that's a good idea.

15 So out of this whole thing, if we're
16 going to go through all this burn, all this agony and
17 all this confrontation, I hope that the message is
18 clear from us, that you better do something to make
19 this thing good, especially the governor and the
20 president of the university in particular. We expect
21 you folks to do a good job to make education more
22 available to my grandson. That's where I'm coming
23 from.

24 One area I don't care for that I hear
25 about, and I wanted you to give me some specifics, I

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1 want to know about what kind of threats are going
2 down.

3 MR. CHIN: Right.

4 BOARD MEMBER ROEHRIG: I don't approve of
5 that. I'm a lawyer. I took an oath to uphold the
6 law, and sitting over here, we've got to do what's
7 best for everybody in the community. What kind of
8 threats you have?

9 MR. CHIN: Right, right.

10 BOARD MEMBER ROEHRIG: I want to hear
11 some details.

12 MR. CHIN: I think that will come
13 directly from the people at UH who are going to be
14 testifying about that, but what I want to share about
15 those -- about those threats, about the rocks in the
16 road, about the rock walls --

17 BOARD MEMBER ROEHRIG: I'm not concerned
18 so much of the rocks as I am of the threats.

19 MR. CHIN: Right.

20 BOARD MEMBER ROEHRIG: Because I had my
21 own threats when I went up there. Just when I got
22 sworn in as DLNR, went up there the first time when
23 the protest was and we had some makuli oriental
24 scientists, and the one gentleman standing next to me
25 was walking with a cane, and when he tried to go

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1 forward, one of the protestors right next to me spit
2 in his face. I didn't care for that.

3 MR. CHIN: Right.

4 BOARD MEMBER ROEHRIG: And that's the day
5 I decided we've got to fix this thing up here. This
6 thing is a mess. So I'd like to hear -- I'd like to
7 hear comments --

8 MR. CHIN: If -- if you want to know how
9 it is, why am I here? Why am I asking this board to
10 pass this emergency rule? It's -- for me, for you, it
11 was the threats. You know, for -- I think for a lot
12 of people who care about law enforcement, what was
13 significant to us was once we saw rocks appear in the
14 roadway, you know. And I realize that's not the same
15 as the threats, but that -- June 24th really, sadly,
16 it changed what seemed to be getting accomplished,
17 which was a lawful exercise of people's First
18 Amendment rights, which was something that should be
19 respecting, something that should be applauded. In
20 fact, the zeal and fervor that so many people have
21 about this subject is -- it's healthy, you know, for
22 the community to go through something like that.

23 What is absolutely unhealthy is -- is
24 instances that apparently are not under people's
25 control where people are issuing threats or blocking

1 the roadway in a way that endangers public safety.
2 That's where -- that's where I think the pivot
3 occurred and things needed to change and that's why
4 we're here.

5 BOARD MEMBER ROEHRIG: Okay, thank you.

6 MR. CHIN: Sir, thank you very much.

7 CHAIRPERSON CASE: Other questions?

8 UNIDENTIFIED MALE BOARD MEMBER: We know
9 that --

10 CHAIRPERSON CASE: Can you --

11 UNIDENTIFIED MALE BOARD MEMBER: I'm
12 sorry. We know that there are a lot of people here, a
13 lot of people who submitted testimony who are very
14 passionately against the construction of the Thirty
15 Meter Telescope. What will -- will they be able to
16 protest on the mountain if these rules are passed, and
17 to what extent would they be able to?

18 MR. CHIN: Sure. If the rules are
19 passed, then -- then people can be present. It's not
20 talking about who can protest or who not, and
21 ultimately people have a right to be able to lawfully
22 exercise their First Amendment rights. What this
23 restriction would do, and the board has fairly broad
24 authority over its own lands over what it can and

25 cannot do, is it will basically say that between 4:00

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1 a.m. -- from 4:00 a.m. -- well, you know, for the most
2 part well before sunrise to 10:00 p.m., those
3 practices -- those lawful exercises can continue and
4 they can happen.

5 BOARD MEMBER ROEHRIG: So people can
6 stand off to the side -- on the side of the road and
7 hold signs?

8 MR. CHIN: Correct, correct.

9 BOARD MEMBER ROEHRIG: Chant?

10 MR. CHIN: Correct. And in fact, I think
11 one of the things that we've tried to recognize in
12 fairness is that there are many individuals who have
13 done exactly that, and what is -- what's unfortunate
14 and, well, just troubling about June 24th was that
15 even -- even with people who were trying to exercise
16 their lawful rights to the First Amendment, so
17 basically following the law, that there were people
18 who even this group couldn't control. And when I say
19 people, it's not just -- if you look at -- if you look

20 at the pictures of the rocks that were along the
21 entire area, that's not just two or three people.
22 That is a significant number of people that were --
23 that were violating the law and creating a public
24 safety hazard. So that was a difficult situation.

25 BOARD MEMBER ROEHRIG: So I have a

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1 question also related to the Thirty Meter Telescope
2 about existing legal status or the legal -- existing
3 legal situation.

4 MR. CHIN: Right.

5 BOARD MEMBER ROEHRIG: And -- because
6 I -- I -- basically I'm getting this from the
7 newspaper, but some of the people who are opposed to
8 the telescope are saying that the construction trucks
9 should not go up while the -- there's an appeal
10 pending of the conservation district use permit that
11 was issued a little over two years ago by the BLNR.

12 MR. CHIN: Right.

13 BOARD MEMBER ROEHRIG: What is the legal
14 status? Why -- do the construction trucks have the
15 legal right to go forward and what would change that?

16 MR. CHIN: I think that would be -- and
17 I've heard that, and I've heard the comment that
18 basically no -- no activity should take place or go
19 forward until basically all legal remedies have been
20 exhausted, and what I can say is that, you know, I
21 don't know if we'd ever live in a world -- we'd never
22 be able to get to a world like that, where you had to
23 wait until everything was completely resolved all the
24 way.

25 I think the reality is that what

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1 happens -- and I'm going to start speaking like a
2 lawyer, is that -- is that the portion -- the portion
3 in time when someone gets the right to be able to move
4 forward is when the board issues its permit or issues
5 its authority to go and then the trial court affirmed
6 that. So when the trial court on the Big Island said
7 it's okay for you to proceed with your permit, I'm
8 affirming The Board of Land and Natural Resources'
9 decision with the permit, they had the right to start
10 constructing then.

11 The Supreme Court -- it went up to the
12 ICA. It's now in front of the Supreme Court. That is
13 the appropriate place to resolve this dispute.
14 Legally speaking, whatever the Supreme Court decides,
15 then they will decide that at that time. May come
16 in -- the arguments will be next month, decision could
17 come out, you know, sometime next year. There is
18 no -- that's the reality. As you know, there is no --
19 there is no guarantee when the Supreme Court will rule
20 on an issue. But in the meantime, that doesn't stop
21 the legal right that people have to exercise the order
22 that they he have.

23 I'm going to use -- well, I know I'm
24 going to get in trouble for using a terrible -- the
25 analogy, and I guess because I think of it as a

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1 prosecutor, it's just that sometimes when people get
2 convicted, they're convicted, right? Their appeal
3 might get them overturned later on, but the conviction
4 has occurred already. So that's a terrible analogy.
5 It's probably not very useful, but that's -- but
6 that's the idea. And I guess as -- you know, as an

7 officer of the court, as somebody who is supposed to
8 uphold the laws, we have to respect -- whether we
9 agree or not, I'm not -- it's not a personal opinion
10 of what -- of what TMT can do or cannot do, what UH
11 can do or cannot do. They have a permit that allows
12 them to be able to start construction, and so that
13 should be occurring.

14 UNIDENTIFIED MALE BOARD MEMBER:
15 (Inaudible). So it's my understanding that there are
16 parties in court opposed --

17 MR. CHIN: Yes.

18 UNIDENTIFIED MALE BOARD MEMBER: -- to
19 the Thirty Meter Telescope. It's my understanding
20 that there is a legal mechanism before the appeal is
21 decided, a stay or an injunction?

22 MR. CHIN: Right. That's exactly right.

23 UNIDENTIFIED MALE BOARD MEMBER: That has
24 never been issued?

25 MR. CHIN: In other words, the plaintiffs

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1 to this appeal could have -- under the rules they

2 could have asked the Supreme Court to stay the permit
3 going forward pending appeal. They've never asked for
4 that. So what are we -- what do we do at that point
5 in time? We have an entity that has a lawful permit
6 to go forward and start constructing, and we have --
7 we have the need to uphold public safety and uphold
8 the laws. So that is the situation that we're in.

9 UNIDENTIFIED MALE BOARD MEMBER: Well, if
10 a stay was issued and the TMT went ahead and ignored
11 the stay --

12 MR. CHIN: We'd stop them.

13 UNIDENTIFIED MALE BOARD MEMBER: -- and
14 (inaudible) to build --

15 MR. CHIN: Right.

16 UNIDENTIFIED MALE BOARD MEMBER: We would
17 stop them?

18 MR. CHIN: We would stop them, because
19 that's not right.

20 UNIDENTIFIED MALE BOARD MEMBER: That's
21 all the questions I have.

22 MR. CHIN: Thank you, sir.

23 CHAIRPERSON CASE: Okay, Mr. Roehrig.

24 BOARD MEMBER ROEHRIG: Just to follow up
25 on that. I don't think it's quite as simple what the

1 Supreme Court of Hawaii says. The Thirty Meter has a
2 property right in their sublease, right? They have a
3 right to utilize the road and have a right to get
4 there.

5 MR. CHIN: Yes.

6 BOARD MEMBER ROEHRIG: All right. They
7 have that sublease in place right this minute. So
8 they have a property right. In the -- in the grant of
9 the CDUP, I don't know that that's a contract right or
10 a property or both, but it's a -- it is at least a
11 contractual right that gives them the entitlement to
12 due process of law, and as long as they have the lease
13 and as long as they have that contract right, they
14 have a right to use the road, public road, like all of
15 the rest of us and go up to their property, just the
16 same as we can go to our house and nobody can block
17 the road to our house, or go to our place of work and
18 you can't go block the road to your place of work.

19 So I'm troubled by this idea that it ends
20 at the U.S. -- the state Supreme Court, because I
21 don't think it ends there. I think this whole thing
22 ends at the U.S. Supreme Court. Because whether the

23 state prevails in this particular case or the
24 protestors prevail, there is a certiorari writ that's
25 available at the state Supreme Court, and there's a

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1 certiorari available if any of the contestants want to
2 go to federal district court here in Hawaii.

3 And there's a case filed right now, I
4 understand. One is state court one is federal court.
5 I don't know what's going to happen with it, but I
6 think we all should understand clearly, Mr. Attorney
7 General, that we be careful what we wish for. Because
8 if this goes to the U.S. Supreme Court, based on the
9 composition of the court, we may lose our PASH rights,
10 because Rice versus Cayetano has got some very strong
11 language in it about giving preference to different
12 nationalities, and historical ancestral rights and
13 that sort of thing, very strong language and I just
14 read it yesterday for the third time to make sure that
15 when I said that to you that I knew what I was talking
16 about.

17 So I'm hopeful about this whole thing.

18 All the last 45 years I represented all my Hawaiian
19 friends against the plantations, the state, everybody
20 under the sun, and one of the things that I utilized
21 was PASH rights. And this PASH rights is teetering
22 right now, and everybody in this room better
23 understand that. So that's why I think (speaking in
24 Hawaiian).

25 It's a good time to negotiate and think

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1 seriously about where we're all headed, because we're
2 all together, we're all one people.

3 MR. CHIN: Sir, thank you.

4 BOARD MEMBER WOODSIDE: I have a question
5 about --

6 CHAIRPERSON CASE: Ms. Woodside.

7 BOARD MEMBER WOODSIDE: (Inaudible).

8 CHAIRPERSON CASE: No, go ahead.

9 UNIDENTIFIED MALE BOARD MEMBER: I'm all
10 pau for now.

11 BOARD MEMBER WOODSIDE: I had a question
12 about your comment about between 4:00 a.m. and 10:00
13 a.m. is enough time for cultural practice.

14 MR. CHIN: 4:00 a.m. to 10:00 p.m.?

15 BOARD MEMBER WOODSIDE: Yeah, and I just
16 wanted to follow up hypothetical sort of questions.

17 MR. CHIN: Sure.

18 BOARD MEMBER WOODSIDE: And I apologize
19 for putting them hypothetical sort of questions, but
20 if the department --

21 CHAIRPERSON CASE: I'm sorry, microphone
22 closer, please.

23 BOARD MEMBER WOODSIDE: Oh, microphone,
24 sorry. If the department did want to issue a
25 religious practices permit to somebody during those

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1 evening hours, am I correct that the Office of Mauna
2 Kea Management could choose not to allow those
3 practitioners to conduct their ceremonies in those
4 evening hours?

5 MR. CHIN: They have a permit -- I don't
6 know the answer to that, only because I think that the
7 office Mauna Kea -- because I think you're -- what
8 you're concerned about is that the answer would be,

9 yes, they also have to get permission from the Office
10 of Mauna Kea Management, but I think it might depend
11 on what is existing in the agreement between Office of
12 Mauna Kea Management --

13 BOARD MEMBER WOODSIDE: And DLNR?

14 MR. CHIN: -- and DLNR.

15 BOARD MEMBER WOODSIDE: That was one of
16 my questions, was to better understand what those
17 agreements are and the communications and agreements
18 that we've had between DLNR and Office of Mauna Kea
19 Management, I wanted to understand what that was.

20 MR. CHIN: I mean --

21 BOARD MEMBER WOODSIDE: Sorry, go ahead.

22 MR. CHIN: No, no, I was just going to
23 say that what I have seen happen, my sense of it is
24 that -- is that the people who are up there, the
25 Office of Mauna Kea Management as well as the DLNR

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1 folks are -- you know, they're aware of the different
2 situations. You know, they are trying to work
3 together.

4 BOARD MEMBER WOODSIDE: Part of my

5 concern is if in 120 days, during that time period
6 we're moving into piko o Wakea, and I know you said
7 that, you know, between 4:00 a.m. and 10:00 p.m. is
8 enough time to practice, but there's, you know, three
9 ceremonial times that you -- are completely out of the
10 question if you -- if you choose those times. There's
11 three ceremonial times that we can't practice, and
12 there are -- piko o Wakea is coming up during this
13 time. So I want to understand how do we -- how do we
14 ensure that that can occur and -- if these rules do
15 get -- these emergency rules do get past for the next
16 120 days.

17 There are other things that happen, but
18 that's a big one that happens during these next 120
19 days, and so how do we ensure that we can still do
20 that on piko o Wakea, for those days that it covers,
21 for the times of, you know, popili kao, popili puka,
22 all of that that happens in those evening hours there,
23 how do we make sure that we can enable that to happen?

24 MR. CHIN: You know, and I appreciate the
25 fact that you are -- that you're thinking about all

1 those different scenarios that can come up, because I
2 think that those would be -- you know, those are the
3 right questions to ask in terms of being able to
4 respect that, so thank you.

5 BOARD MEMBER WOODSIDE: I have one more
6 follow up.

7 MR. CHIN: Sure.

8 BOARD MEMBER WOODSIDE: Kind of on a
9 different tangent. I think after June 24th and the
10 rocks and the ahu on the road, many may have realized
11 that a line was crossed. Since that time, has there
12 been -- have there been similar incidents to that?
13 What has been the communication and the response and
14 the follow up since that time?

15 MR. CHIN: Right, right. There have been
16 volunteers that came in, many of them who were from
17 the -- you know, who identified themselves as people
18 who lawfully exercise their First Amendment rights who
19 helped clean up the rocks. You know, I think there
20 was -- I think there was remorse that was -- you know,
21 that was expressed for that.

22 I think the concern that I have, and I
23 think you might be hearing this from some of the
24 people who are testifying today, it's just that it's

25 not enough -- it's not enough to just be hearing,

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1 we've cleaned it up, so don't worry, it's not going to
2 happen again, because what has occurred is there's
3 been statements saying, you know, well, we're going to
4 do whatever it takes to make sure that -- and I'm
5 paraphrasing, but statements like we'll do whatever it
6 takes, you know, to stop such and such. So in this
7 case it's, you know, the construction of TMT.

8 BOARD MEMBER WOODSIDE: (Inaudible) have
9 come from both sides, but --

10 MR. CHIN: Right, right, well --

11 BOARD MEMBER WOODSIDE: To be fair.

12 MR. CHIN: Good point. Good point.

13 BOARD MEMBER WOODSIDE: I think those
14 statements have come from both sides.

15 MR. CHIN: And I think that -- but I
16 think that that's the -- that's the concern is that if
17 that's the case, then, you know, to the people who are
18 working there, and as board members with the fiduciary
19 duty to prevent any sort of liabilities that could
20 occur, it's very important to think about that. We

21 want this to be a place that it's going to be
22 ultimately a safe, open access road for all.

23 I was actually thinking about something
24 when Member Roehrig was speaking about his -- you
25 know, his vision for what it would be like, and I

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1 think the -- ultimately where you would want to be is
2 you would want to be at a place where the road is
3 accessed safely and people who want to exercise their
4 First Amendment rights lawfully are able to do so, and
5 people who are not doing that can be effectively
6 prosecuted and effective enforcement can take place
7 against them. Essentially that's what these -- this
8 request for emergency rules is about, is trying to --
9 ultimately it's to get us there, and not simply to
10 just get us through the first -- the next four months.
11 So thank you. Thank you.

12 UNIDENTIFIED MALE BOARD MEMBER: Question
13 for what you just said.

14 MR. CHIN: Yeah.

15 UNIDENTIFIED MALE BOARD MEMBER: The

16 existing rules that we have now, that's not good
17 enough if we were to enforce what we have now that we
18 need to implement these?

19 MR. CHIN: Right.

20 UNIDENTIFIED MALE BOARD MEMBER: Because
21 that's what I'm gathering.

22 MR. CHIN: Right. What's missing --
23 what's -- to my mind, you need to know, I came from
24 being a prosecutor, so I think in terms of, you know,
25 what do you need in order to be able to, you know,

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1 effectively or adequately have the right grounds to be
2 able to charge someone. Because that's a serious
3 thing. You want to make sure you do it correctly.
4 And what is -- what's missing is a certain amount of
5 clarity that comes to what camping would be, and so
6 that's why what these rules do is rather than just
7 refer to the concept of camping, it talks about -- it
8 removes the conduct of staying overnight, being there
9 for -- essentially it would make it impractical to be
10 able to be there for overnight or for any prolonged --

11 UNIDENTIFIED MALE BOARD MEMBER: The

12 present rules you have now it doesn't allow camping,
13 does it?

14 MR. CHIN: It doesn't. It doesn't. The
15 problem is -- the problem is that -- the assertion is
16 that -- and there's case law within the Hawaii Supreme
17 Court cases that have come down that have really
18 challenged, you know, what does it mean -- you know,
19 park closures, what does it mean to be camping
20 illegally, you know, that sort of thing.

21 And so -- so I guess the best way that I
22 can say it is as a practitioner it -- it's more clear
23 if the board can be able to put out rules that talk
24 about a certain -- a certain time or certain items
25 that cannot be brought into the area, versus -- versus

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1 just saying you can't camp. So if somebody's parked
2 in their car and they happen to doze off, is that
3 camping? If they doze off for six hours, did they
4 camp? That kind of thing. That's where it becomes --
5 that's where it becomes vague, but the types of rules
6 that are being introduced here would make that kind of

7 question more clear. Yes?

8 BOARD MEMBER OI: As far as -- that's a
9 hunting area.

10 MR. CHIN: Yes.

11 CHAIRPERSON CASE: Can you put the Mike
12 over there.

13 BOARD MEMBER OI: It's a hunting area,
14 and with the rules that you are implementing now,
15 (inaudible) both sides of the road. In the hunting
16 area, right now you think about 50 yards both sides of
17 the road.

18 MR. CHIN: Is a safety zone?

19 BOARD MEMBER OI: Yeah, it's a safety
20 zone.

21 MR. CHIN: Right.

22 BOARD MEMBER OI: So what are you -- you
23 know, what you're doing is you're hurting the hunters,
24 and the hunters, a lot of them, you know, up there
25 just do hunting, you know. So this issue here is

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1 hurting a lot of people that not really involved in
2 trying to stop the development stuffs. You hurting

3 the whole community, and you shouldn't -- something
4 like this shouldn't be happening, to punish
5 (inaudible). There's other methods. I look at the
6 hunting (inaudible) chapter 2.3, and it says already
7 you cannot hunt -- you cannot camp and hunt in the
8 hunting area. I talked to my -- the (inaudible) Kauai
9 says you can't -- the only way you can is permitted
10 area. And is there a permitted area up there?

11 MR. CHIN: Right. Correct. So the
12 entire hunting area is the 70,978 acres --

13 BOARD MEMBER OI: I was told that there's
14 no permitted camping area within that area.

15 MR. CHIN: You cannot camp in there
16 without a permit, right.

17 BOARD MEMBER OI: They don't issue
18 permits (inaudible).

19 MR. CHIN: Right.

20 BOARD MEMBER OI: So it's a problem, you
21 know, (inaudible) restrictions already.

22 MR. CHIN: Right. The problem is --

23 BOARD MEMBER OI: Yeah, I get it. You
24 know, I can understand what you're saying.

25 MR. CHIN: Right.

1 BOARD MEMBER OI: You know, for me, I
2 (inaudible) whole community, yeah.

3 MR. CHIN: Right.

4 BOARD MEMBER OI: You gotta -- you know,
5 it's good to like -- (inaudible), but then I look at
6 C1 and under 13, 22, 11, 9, if that passes, the
7 chairperson can't stop (inaudible) restrict use of
8 public hunting areas for six months.

9 MR. CHIN: Right. And the reason why
10 that rule is --

11 BOARD MEMBER OI: (Inaudible) rule,
12 (inaudible). Four months, that's almost a year.

13 MR. CHIN: Right. I'll tell you the
14 reason why the -- a previous board came up with that
15 rule, as far as the authorized (inaudible) is
16 concerned, is because they -- actually can't just do
17 it for no reason at all. There's a list of
18 requirements. And so one of those is if there's a --

19 BOARD MEMBER OI: (Inaudible).

20 MR. CHIN: -- health and safety, right,
21 public safety or threat to natural resources, and so
22 at some point in time the contemplation of this board

23 was realizing, you know, these lands that is within
24 this board's kuleana is something that has to be
25 protected, and it is considering those. Member Oi,

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1 I'm glad that you're considering all of those issues.

2 BOARD MEMBER OI: You know, you got rules
3 in place (inaudible) circumvent (inaudible).

4 MR. CHIN: I -- well, I wouldn't agree
5 with that. I think the better thing to do is -- and I
6 will say, it's because -- it's -- there is no -- we
7 would never be in front of here if it wasn't for just
8 the situations that have occurred, and I think, you
9 know, what you will be hearing in terms of the
10 incidents that have taken place, the threats, you
11 know, the rocks in the road, the harassment, the
12 bullying, the vandalism that's occurred.

13 BOARD MEMBER OI: You know, I not siding
14 with -- well, I siding with the hunters and the public
15 that want --

16 MR. CHIN: Right.

17 BOARD MEMBER OI: -- want to use the
18 mountain, you know what I mean, but, you know, like

19 there's -- there's certain areas where they stop the
20 contractor from going up the hill or even putting
21 boulders on the road. That's -- that's (inaudible),
22 and (inaudible) destruction to the mountain than good.

23 MR. CHIN: Right.

24 BOARD MEMBER OI: Especially when you
25 don't let the contractor go up to -- his equipment to

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1 resolve problems with the equipment.

2 MR. CHIN: Right.

3 BOARD MEMBER OI: Who then is creating a
4 problem.

5 MR. CHIN: Just for -- just for your
6 understanding, you know, by my calculation, the
7 restricted area is about one-sixth of the entire areas
8 that's covered by this -- this --

9 UNIDENTIFIED MALE BOARD MEMBER:
10 One-sixth of 70,000 acres?

11 MR. CHIN: Correct.

12 UNIDENTIFIED MALE BOARD MEMBER: How much
13 is that, about 18,000 acres?

14 MR. CHIN: No, 12.

15 UNIDENTIFIED MALE BOARD MEMBER: 12,000

16 acres? That's quite a bit. Back to Member Oi,
17 though, you know, I can sympathize with you, Tommy,
18 because I felt that with these modest restrictions,
19 how would it hurt the public and what are the economic
20 consequences and the impact of other public segments
21 that will be affected? And that's where I'm at. I
22 hear you loud and clear, Tommy.

23 MR. CHIN: Right, right. And I suppose
24 the other option that the board does have, and -- it's
25 just that -- is that it is able to -- I mean, that's

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1 exactly the reason why this discussion is occurring,
2 so that the board can determine what it wants to do
3 with this rule, whether it wants to adopt or not adopt
4 it or amend it.

5 UNIDENTIFIED MALE BOARD MEMBER: That's
6 why I was asking if there was options, you know.

7 BOARD MEMBER OI: I go hunting -- I go to
8 Lanai twice a year to hunt sheep and deer, (inaudible)
9 same area, and the area we hunt on is, I would say,

10 not even 200 yards from the road.

11 MR. CHIN: Right.

12 BOARD MEMBER OI: So, you know, the
13 distance from the road -- you know, the hunting
14 area -- same as fishing, (inaudible) area that you
15 gonna catch fish. There's certain areas that you
16 gonna hunt where you can pick up game, you know. You
17 cannot speak on the basis that it's only, you know, so
18 many -- so many -- (inaudible).

19 MR. CHIN: Right.

20 BOARD MEMBER OI: If the game is there --

21 MR. CHIN: Right. The restricted area is
22 only in effect between 10:00 p.m. and 4:00 a.m., and
23 there also is a transiting exception.

24 BOARD MEMBER OI: (Inaudible).

25 MR. CHIN: Thanks. Thanks for thinking

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1 about that.

2 CHAIRPERSON CASE: Mr. Roehrig.

3 BOARD MEMBER ROEHRIG: When I was younger
4 I went to the Hawaii language college for seven years,

5 and we had speech giving every week for the whole time
6 I was there, and I remember early on, I don't remember
7 whether it was second year or the third year, one of
8 the young gals in our class who was on the softball
9 team, she brought a rock to class, and she was
10 discussing with us that inside her rock was an uhani,
11 and she would talk to her rock when she was feeling
12 hopohopo from going to class and she wasn't doing so
13 good, baseball and class wasn't mixing too good.

14 So it was -- it was ingrained on me at
15 that time that everything has a spirit inside. So I
16 think that it's inappropriate to say that it's okay to
17 have a sacred place, all right, but it's also okay to
18 throw that sacred place around on the road, because if
19 every little pohaku -- (speaking in Hawaiian), there's
20 an uhani inside every piece, so when we (speaking in
21 Hawaiian) pohaku, we are doing hana ino to the
22 mountain. I don't like that either.

23 MR. CHIN: Thank you.

24 CHAIRPERSON CASE: Other questions?

25 Other questions at this time? We may have more later.

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1 I guess my -- does -- I don't know if UH signed up to
2 testify, but does anyone have questions of UH that
3 would relate to Mr. Chin's testimony or should we just
4 go into regular testimony?

5 UNIDENTIFIED MALE BOARD MEMBER: I have
6 one more, please.

7 CHAIRPERSON CASE: Okay.

8 UNIDENTIFIED MALE BOARD MEMBER: If --
9 I'm just looking for some options.

10 MR. CHIN: Right.

11 UNIDENTIFIED MALE BOARD MEMBER: And, you
12 know, besides these rules. If we have an overlapping
13 DLNR and, you know, management team, is it possible
14 for them to police it, to put a station up and monitor
15 the people coming in, somebody goes after and takes a
16 look at it, you know, and cite them as such, you know,
17 in the term? What is the total build out of this
18 telescope?

19 MR. CHIN: That would be a good question
20 for UH, but I think the other thing is the
21 jurisdiction that they have is, as far as the
22 conservation management plan is concerned, is that
23 ability to close the road if they -- if they need to
24 for security -- excuse me, for public safety purposes.
25 So that's -- that's what's happening. I was saying

1 security because I think your other question was
2 whether or not they can have their own security to be
3 able to do that. And I think that's a good question
4 to ask them, because I think that -- but what I will
5 say that's what's happening there is that there's --
6 there is a difficult time to -- in terms of being able
7 to properly enforce the rules, and so that's why we're
8 asking for these emergency rules to be passed. Thank
9 you, sir.

10 UNIDENTIFIED MALE BOARD MEMBER: Thank
11 you.

12 CHAIRPERSON CASE: Thank you.
13 Mr. Roehrig.

14 BOARD MEMBER ROEHRIG: (Speaking in
15 Hawaiian). So as far as how come the rangers don't
16 have arrest powers, that's a question we should ask
17 the university?

18 MR. CHIN: Yeah, in other words, the
19 rangers aren't -- they're not law enforcement. So
20 they're not law enforcement.

21 BOARD MEMBER ROEHRIG: I understand
22 they're not law enforcement right now.

23 MR. CHIN: Right, right.

24 BOARD MEMBER ROEHRIG: But if they have
25 kuleana to be up there and stop traffic and whatever

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1 and traffic don't want to stop, what do they do, you
2 know, call Hilo station, you know? It's (inaudible).

3 MR. CHIN: (Inaudible).

4 BOARD MEMBER ROEHRIG: What if there's an
5 emergency situation where there's some bad acts going
6 on somewhere up the mountain and somebody sees that,
7 and the only person who's available is the ranger
8 staff, what are they going to do, just blow the
9 whistle, you know? We have to upgrade -- we have to
10 upgrade the performance on the mountain and not just
11 leave it to the copy care officers and the police.

12 The university has some very fine people.
13 I see my friend Chancellor Straney here. I think he's
14 doing a good job, but we need to have law enforcement
15 powers. So the board of regents needs to take a look
16 at the rules about giving their staff or whoever makes

17 those rules, to give them police powers so that they
18 have a full assortment of tools so that they can do
19 their job more effectively and they will garner more
20 respect by the public when something happens up there.
21 You cannot have, oh, you go up here, everything's
22 fine, and then you go up here and think, no more
23 nothing.

24 MR. CHIN: Right.

25 BOARD MEMBER ROEHRIG: So we need to take

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1 a close look at that.

2 MR. CHIN: Right.

3 BOARD MEMBER ROEHRIG: People complain
4 that we're not doing a very good job as stewards of
5 the mountain, and there's some merit to that. And
6 because we're all in it together, we're going to all
7 try harder.

8 MR. CHIN: Thank you, sir.

9 BOARD MEMBER ROEHRIG: Thank you.

10 BOARD MEMBER WOODSIDE: So I did ask some
11 questions about how Office of Mauna Kea Management

12 would handle certain situations. So maybe I -- for
13 those questions that I asked, it would be good to hear
14 from them. But sort of an overlap between something
15 that you had mentioned, as well as thinking on the UH
16 side, the Office of Mauna Kea Management side, in
17 terms of the -- I think -- I'm not going to get your
18 words correct, but the volume has increased to a level
19 that's posed challenging --

20 MR. CHIN: Correct.

21 BOARD MEMBER WOODSIDE: -- and is
22 difficult. And maybe that's just something we didn't
23 expect, as those that have kuleana in that place, but
24 it is kind of common for sacred sites, when there are
25 certain events that happen that are -- belong to those

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1 people, that certain areas have an increase in
2 those -- coming to those places to have certain
3 practices and traditions for a period of time. And so
4 maybe we just need to recognize that this is one of
5 those times for us as a lahui, and therefore, there is
6 going to be that increase that comes at certain places
7 across the paiaina. So yes at -- it's happening at

8 Mauna Kea, but it's also going to happen at other
9 sacred spots around the paiaina, as is -- as is normal
10 of many religions.

11 So not so much a question, but just, yes,
12 there has been an increase, but I think -- and maybe
13 we didn't expect it or for it to last that long, but
14 maybe something for us to consider when we have
15 kuleana for that type of sacred site, that we are
16 going to experience those pulses whereas a lahui we're
17 feeling the need to have that sort of connection. So
18 not necessarily helps us today in terms of being
19 prepared for that.

20 MR. CHIN: Right, right.

21 BOARD MEMBER WOODSIDE: But something
22 that we can keep in mind, because that's -- that's the
23 kuleana that we all have.

24 MR. CHIN: You know, Member Woodside, I'm
25 with you on that, and I think it's -- you're right,

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1 it's an unforeseen set of -- well, not unforeseen, but
2 it's a not common set of circumstances that has come

3 up, and so in the same sense, then, from a public
4 safety standpoint, there has to be a sort of balance
5 that occurs just to be able to keep that in mind.
6 I'll tell you really quick is that I went up there
7 last week, and I went beyond the visitor's center to
8 the area where the first switch back was, just to see
9 where the place was, you know, where the obstruction
10 was taking place, and then right before the rocks
11 occurred, and it was on the gravel road. It was very
12 steep. And I've got to tell you, that place, just
13 imagining trucks and hundreds of people standing
14 around and workers and DOCARE officers trying to take
15 care of the situation, children, older people in that
16 area, all I could think to myself was just how -- just
17 how unsafe it was. It was just -- there's no
18 guardrails. Anybody who was there on the sides, if
19 something had moved over, they could have fallen --
20 they could have fallen off. There were people above
21 the hill. Rocks could have come down. There were so
22 many things that were unsafe from that -- from that
23 excessive use. So from a public safety standpoint,
24 that's where -- that's where I come from. Thank you.

25 CHAIRPERSON CASE: Okay, I'd love to hear

1 from --

2 UNIDENTIFIED MALE BOARD MEMBER: I just
3 cite the attorney general case for you folks to take a
4 look at, Bill Wynhoff brought this case to my
5 attention, and I read it and I think that you need to
6 take a look at it. It's Lane versus Northwest Indian
7 Cemetery Protective Association, 108 Supreme Court
8 1319, 1988, U.S. Supreme Court decision. It has an
9 extensive discussion about the relationship between
10 the First Amendment right to worship and the
11 government's right to manage the property, and I think
12 that it is -- it's useful to read that to understand
13 the mix of what we have going on that Member Ulalia
14 just brought to your attention, because they come
15 together right and this case has been decided already.

16 MR. CHIN: Thank you, sir.

17 CHAIRPERSON CASE: Thank you. Any other
18 questions? Yeah, I want to ask if anybody has any
19 questions of UH for starters or should we just move
20 to --

21 BOARD MEMBER WOODSIDE: I have that one
22 that I'd love to hear, if the -- if the department --
23 and our intent is that it's predominantly open between

24 4:00 a.m. and 10:00 p.m., if the rules get passed, and
25 if the department would like to give a religious

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1 permit outside of those times, especially because
2 we're coming into a significant time, how might that
3 be handled and how has it been -- how have those
4 requests been handled by Office of Mauna Kea
5 Management and how would it be handled going forward
6 during this 120 days.

7 CHANCELLOR STRANEY: And I'm Chancellor
8 Donald Straney of UH Hilo. Office of Mauna Kea
9 Management reports to me. We have been very
10 accommodating of people who have wished to engage in
11 cultural practices for the whole time that we've been
12 up there, and most particularly recently. The rangers
13 have bent over backwards, really, to find ways to
14 assist people to engage in the practices that they
15 want.

16 They negotiated with the people on ground
17 an agreement to escort folks up the road, which is
18 still not entirely safe for public travel, so that

19 they could engage in those practices. We're
20 constrained by the number of staff we have in terms of
21 how much we can do. Our lease comes from the
22 landlord. If the department wishes to grant permits
23 for particular things, we would certainly work with
24 the department on the ability to exercise those.

25 BOARD MEMBER WOODSIDE: Thank you.

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1 CHAIRPERSON CASE: Any other questions?
2 Thank you. All right, we're going to move to public
3 testimony, and first we're going to have -- when you
4 come up, would you please state your name and the
5 number you're in in the C2 sign up sheet, but we're
6 going to start with Robin Kauwili, who is on C1 but
7 not C2.

8 UNIDENTIFIED MALE: Chair, we called for
9 him and he never responded.

10 CHAIRPERSON CASE: Not here, okay. Thank
11 you. We're going to move to the number 1 on the C2
12 signup sheet, Kalani Asam.

13 As a reminder, okay, Josh, if you can
14 move your chair just to the side so that the people

15 testifying can see where they are in their three
16 minutes. I think that would be helpful. Thank you.
17 Sorry for the inconvenience.

18 MR. ASAM: You know, I never come to
19 these things, but my name is Kalani Asam. This has
20 been very, very painful being here and just knowing
21 what I know as a kanaka maoli. I know the truth of
22 this land of mine, of ours, not yours, of my people's
23 existence here in Hawaii. This is my -- this is our
24 piko. So there's a conflict here. And no wonder we
25 have hewa. Hewa exists in this room. It is -- the

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1 reel truth is outside there with all those people out
2 there, that's our truth. That's my people's truth.
3 We would never be sacrilegious in our own homeland
4 toward Mauna Kea. There's no such a thing. You don't
5 ever even attempt to insult us in thinking that you
6 know better than us.

7 I brought the signage to make it very
8 easy. We're not as handicapped as you think
9 (inaudible). We're truly the answer for being the

10 proper people to malama ke ea `aina, and not one of
11 you qualify to be here in this room with us.

12 Once again, I find it quite sacrilegious
13 to be in the same room with all of you. I brought my
14 rock salt, and that gentleman, wow, I mean, the
15 slipping and sliding one does, boy, one would
16 definitely get hurt coming down Mauna Kea with that
17 slippery tongue of his. So that's the biggest fear,
18 are people who don't know how to be pono. And that's
19 the last word that should be used anywhere within this
20 room. None of you have any comprehension as to the
21 depth of pono. You will never comprehend the pain
22 that we have suffered for the last 122 years here in
23 our `aina, and I thank you very much for enduring what
24 has to happen. Truth must prevail. Not yours. What
25 is righteous to is not right for the U.S. that has

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1 been the problem from day 1. Get it right, then
2 possibly you could enjoy understanding or even
3 beginning to understand who we are. We're truly
4 righteous people. You cannot say the same.

5 Is it three minutes already?

6 CHAIRPERSON CASE: Yes. You have about
7 15 seconds.

8 MR. ASAM: Mahalo.

9 CHAIRPERSON CASE: Number 2 is Mike
10 Kumukauoha -- I'm sorry, I can't read the handwriting.

11 MR. LEE: Handouts for the --

12 CHAIRPERSON CASE: Can you repeat your
13 name for the record, please.

14 MR. LEE: Aloha, Michael Kumukauoha Lee,
15 recognized cultural practitioner. The state is -- the
16 occupied state is going over its powers in the First
17 Amendment freedom rights. No other religion
18 (inaudible) permitted for their sacred place, sacred
19 presence and sacred practice. We -- our kuleana comes
20 genealogically through (speaking in Hawaiian) last
21 high priest of (speaking in Hawaiian) is a star
22 priest. I am a star priest, recognized by the City
23 Council in page 1, it tells who my genealogy is. It
24 tells who my teachers are and who their teachers are.
25 As you can see, the date is May 8, 2012, with all the

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1 City Council elective representative for a million
2 people on Oahu.

3 The second page is my recognition as a
4 practitioner with Kahea against the National Fisheries
5 Service in the U.S. District Court on the Big Island.
6 That's my standing. My name is right there, Michael
7 Kumukauoha Lee. Then Governor Abercrombie always said
8 they showed up ten minutes ago, the Hawaiians, and
9 made it up. Star-Bulletin Advertiser shows me 20
10 years ago in front of my student as the chairman of
11 the religion department of Damian. I taught Hawaiian
12 studies and it talks about my keo hoku background,
13 star priest.

14 Guess what, we need to look at the view
15 plane at night and you're denying me -- the state is
16 denying. Then it says it has the audacity to give me
17 a permit, which it doesn't do to the Christians, the
18 Jews, the Muslims, the Hindus and any other religion.
19 It's specifically selecting us. Supreme Court 2006
20 recognizes us. Then my royal patents of land in
21 Kaapahu, in Hamakua, which is the district of the
22 telescope and up there. We still own that land. We
23 have the royal patent. My family had the royal patent
24 and also the archives of where the wells come directly
25 to the original landowners of a half of an ahupua`a

1 that we still own.

2 So not only am I recognized on so many
3 levels, but how do I teach my students? Our iwi
4 kupuna is buried up there on the mountain, and what is
5 being taken away is the sacred space of our sacred
6 place of our sacred practice. The big Q bug gets more
7 attention than the living kanaka maoli, and I'm the
8 966th generation by name to Kiialaelaie, the first,
9 that goes 50,000 years back. And I want to say this,
10 that in your denying me, you do injury with this
11 arbitrary, capricious rule that is not done to any
12 other -- any other religion or any other purpose.

13 CHAIRPERSON CASE: You need wrap up.

14 MR. LEE: So what we want to say is this
15 is denying us our rights presently of someone that
16 does that practice at night. And the (inaudible) that
17 we use, we use of the sacred nights of (speaking in
18 Hawaiian), at night to gather them, and you're denying
19 me -- denying me of my teaching of my students to do
20 what our bloodlines says is our kuleana, and this is
21 specific. And you have the specifics out of the

22 finding of fact in Western. Thank you.

23 CHAIRPERSON CASE: Okay, number 3 is Hank
24 Fergestrom.

25 MR. FERGESTROM: Good afternoon. My name

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1 is Hanalei Fergestrom. I'm the chosen spokesman for
2 Na Kupuna Moku Keawe, which is a group that
3 established themselves in 2003, and it is noticed
4 publically through publication as a -- since then
5 there's been no (inaudible) to our establishment.

6 Anyway, there's a whole lot more I need
7 to say about this, but I'm given only three minutes.
8 I'm trying to select how I say this most importantly.
9 One of the first things that's really important to
10 understand is in the traditional use nobody was
11 allowed on Mauna Kea except for priests and certain
12 chiefs and certain cross people for particular reason.
13 It was never for residents or for things like
14 telescopes, because that's a residency, okay.

15 So this is why it's so hard for me. I am
16 from the (inaudible). I have been taught these

17 things, and so to -- you know, I certainly understand
18 the dilemma that we're in right now and I appreciate
19 the problem we're having and how we have to address
20 it, but it would be unclear to talk about -- about the
21 mountain without putting it in perspective as to how
22 it was for thousand years before western time, yeah.

23 And so if I may, I'm just going to
24 quickly read what I wrote to you because it has some
25 very important features. May I do that?

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1 CHAIRPERSON CASE: You have a minute and
2 30 seconds left. You'll have is to summarize.

3 MR. FERGESTROM: Okay. Okay. We stand
4 firmly against the proposed emergency rule-making
5 procedures to adopt in this section under Hawaii
6 Administrative Rules title 13, 1 -- chapter 123
7 section 21-2, and you already have that part. There's
8 no evidence of imminent peril to public safety and
9 natural resources that was not caused by the
10 aggressive behavior of law enforcement agencies
11 against the peaceful protectors exercising
12 Constitutionally protected rights of freedom of speech

13 and religious freedom enumerated in the First
14 Amendment of the U.S. Constitution.

15 Other protections include but not limited
16 to public law 95341, which is the Native Americans
17 Freedom Act, (inaudible) 103-150, which is the apology
18 bill, which clearly states that the Hawaiian people
19 never directly relinquished their inherent sovereignty
20 or their national lands. And clearly entire area --
21 land area encompassed in this proposed proposal
22 identified to be Hawaiian king crown and government
23 lands.

24 Further protections are stated in the
25 (inaudible) act in numerous sections, including 5 F,

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1 regarding ceded lands belonging to the Hawaiian
2 kingdom crown and government, with clearly stated
3 beneficiaries of which there are five directed at the
4 benefit for the Hawaiian people and the public.

5 Other (inaudible) of protections --

6 CHAIRPERSON CASE: You're at three
7 minutes, so if you could wrap it up, please.

8 MR. FERGESTROM: I'm having a hard time
9 understanding how you think it's all right to enter
10 the realm of that and think that I who am a priest
11 have to be regulated by you folks who have absolutely
12 no authority up there whatsoever.

13 CHAIRPERSON CASE: Thank you.

14 MR. FERGESTROM: Can I say one more fast
15 thing about the hunting? By the way, I went to the
16 forest department to find out this hunting area A, and
17 I was told by there, I said, I should know because my
18 father made all those roads around Mauna Kea. Thank
19 you.

20 CHAIRPERSON CASE: Okay, number 4 is
21 Felicia Cowden.

22 MS. COWDEN: Aloha. My name is Felicia
23 Cowden and I am from Kauai, and this type of assertion
24 of power sets precedent across the islands. I
25 respectively -- respectfully urge the board to reject

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1 the request for the new administrative rules because
2 it, to me, is a blatant attempt to create an
3 environment to criminalize the protectors of Mauna

4 Kea. That the state would utilize the Division of
5 Forestry and Wildlife to trump up an emergency set of
6 rules to protect the public is a demonstration that
7 the protectors in fact are not currently breaking
8 state law in their preservation -- or perseverance of
9 peaceful resistance to the continuance of unwanted
10 development on the mountain.

11 This illegitimate use of emergency
12 procedures is a violation of broad public trust.
13 Possession of a blanket or a backpack does not
14 constitute an emergency. An emergency is a damn break
15 or a lava flow. This 120-day mull period will provide
16 time for the development to get started implementing
17 the primary damage of putting in the TMT. It
18 basically invalidates what these people are trying to
19 protect.

20 The state government, from the governor
21 to UH and now the DLNR, are prioritizing global
22 corporate interests over the will of the people. It
23 does not constitute an emergency that the companies
24 behind the development of the TMT ignore the results
25 of their own homework. The Gordon and Betty Moore

1 Foundation commissioned a study in 2007 that advised
2 that the project would encounter significant cultural
3 resistance. The draft EIS simply dropped the elements
4 that resulted with the do not build.

5 The process that has given the green
6 light to the approval of this 14th resisted telescope
7 has been as disingenuous as the emergency set of
8 rules. These companies and the governing entities
9 underestimated the strength and commitment of the
10 people after decades of being ignored, and this power
11 struggle has been their business risk. The First
12 Amendment rights to peacefully assemble, freedom
13 speech and religion are being violated by this set of
14 proposed rules.

15 Additionally, the rules restricting
16 access directly contravenes the state in a Hawaii
17 Supreme Court PASH decision that prohibits state of
18 Hawaii from enacting laws that restrict native
19 Hawaiian cultural practices.

20 The mission of the Department of Land and
21 Natural Resources shifting from the original preserve
22 and protect, towards the more egregious mission of the
23 public land development corporation, which was to

24 exploit the resources for revenue, in this case I
25 don't see much revenue, just the exploitation.

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1 I ask the board to please stand on the
2 right side of history. This 106 days of commitment to
3 peaceful prayers of protection at the 9,000 foot
4 level, these are, to me, on the level of movements
5 like what Gandhi did or --

6 CHAIRPERSON CASE: You're at three
7 minutes, so if you could wrap up.

8 MS. COWDEN: So this crime is being
9 committed to the protectors, not by them, so I ask you
10 to reject this set of rules.

11 CHAIRPERSON CASE: Thank you. Number 5,
12 we have Stewart Hunter.

13 MR. HUNTER: Chairperson case, members of
14 the board, good afternoon. My name is Stewart Hunter.
15 I'm the general manager of Mauna Kea Observatory
16 Support Services. MKSS operates the visitor
17 information station, the mid level astronomy
18 facilities, and maintains the 8 1/2 mile summit road.
19 I support these rules because of the unsafe and

20 illegal behavior of many of those that have been
21 camped across the street from the visitor station.
22 They have obstructed traffic by standing or sitting in
23 the middle of the road at all hours, harassed visitors
24 and workers, questioning them about their destination
25 and affiliation.

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1 Protestors have built structures on DLNR
2 land and introduced an invasive ant species. There
3 was an impromptu reggae concert. T-shirts were sold.
4 Free tattoos were offered. State DOE vehicles were
5 used to bring up charter school students who
6 obstructed traffic while chanting in the middle of the
7 road.

8 Protestors also used the visitor station
9 bathroom and even the drinking fountain to wash
10 clothes and themselves. They blocked the road with
11 large rocks, trapping people on the summit. If there
12 had been a medical emergency, there would have been no
13 way to reach these people. Many felt harassed.
14 Visitors and workers complained about being yelled at

15 after expressing opposing views. Many visitors took
16 offense at being stopped in the middle of the road and
17 questioned.

18 Protestors shined lights, yelled out
19 during the evening free public stargazing program. A
20 large person walked around (inaudible) with his face
21 covered with abolic lava and stared down staff.
22 Threatening Facebook posts were found and staff were
23 yelled at after being questioned about their job. The
24 stress about this began to show, and many let the
25 manager know that they were looking for other work.

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1 The cost of supplying water, restrooms,
2 luas, trash removal and other services to an illegal
3 camp was also costing the visitor station about \$5,000
4 a month.

5 June 24th saw around 500 protestors
6 arrive and use over 10,000 gallons of water. It was
7 apparent the visitor station had to be closed due to
8 continued stress on staff and the cost of supporting
9 an illegal encampment. Sixteen employees now face the
10 loss of their jobs. However, most stand ready when

11 they can work in safe and lawful environment.

12 In closing, I strongly support access to
13 Mauna Kea for all those willing to follow the law.

14 Along with my verbal testimony, photos and a daily log
15 from the staff have been submitted. Mahalo for your
16 time, and may I take any questions.

17 CHAIRPERSON CASE: Thank you. Thank you.
18 Number 6, Mililani Trask.

19 MS. TRASK: Aloha, board members. I'm
20 Mililani Trask. I'm a native Hawaiian practitioner of
21 Mauna Kea. I'm a founding member of Mauna Kea
22 Nainohu, the original petitioners who will go to the
23 Supreme Court in August. 18 years ago Mauna Kea
24 Nainohu and the royal order built the kuahu at the
25 Hale Pohaku and we maintained it for many years. I

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1 practiced there for four years, till problems with the
2 science community and tourists caused me to change my
3 practice.

4 In '11 and '12 we planned the Papalani
5 ceremonies. We held them three consecutive years. My

6 family and myself were there. The Papalani ceremonies
7 are sunrise ceremonies at Mauna Kea, and that occurred
8 2013, '14 and '15. In recent months I have returned
9 to my practice on the mauna. I camp out. I have a
10 sleeping bag. If it's 40 degrees or below, I sleep in
11 the car. If it's 40 degrees and above, I sleep on the
12 cot in the tent. I was up there about a week and a
13 half ago. Trustee Hulu Lindsay and other trustees
14 were sleeping in their cars next to mine.

15 I'm there not because I'm a hunt he were
16 or camper. I'm there because I'm exercising rights
17 in article 12, section 7 of the state Constitution.
18 Our rights are not limited there. There are two
19 exception in our state law that I believe you would
20 have to take a look at and include if you're looking
21 to adopt any language here. The first exception is
22 chapter 171-6, subsection 15. It provides that in
23 exercising the powers for regulation of state land, no
24 person could be sanctioned who says that they are
25 there for the purpose of utilizing, exercising rights

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1 in article 12, section 7. This is in the current

2 statutory framework now, 171-6, subsection 15,
3 paragraph 3. No person shall be sanctioned pursuant
4 to this section for the exercise of native Hawaiian
5 gathering rights and traditional cultural practices as
6 authorized by law or permitted by the department.

7 I have gone to the OMKM and also DLNR to
8 request if there's some permit, if there is some
9 license that my family and I and the other kumus who
10 did a Papalani could obtain so that we could do 24/7
11 practice. The answer was there was no permit
12 available for us. There is no permit available. Now
13 the second exception to our right arose when the
14 legislature passed act 132 in 2009.

15 CHAIRPERSON CASE: You have 15 seconds,
16 so if you could --

17 MS. TRASK: That -- that was the
18 university autonomy bill. If you take a look at act
19 132, it has very clear language, that the university
20 shall -- shall accommodate native practice, but they
21 have refused to do so.

22 CHAIRPERSON CASE: If you could wrap up,
23 please.

24 MS. TRASK: Lastly, there's a federal
25 district court case on point here. It's a case that

1 came down years ago when the Protect Kahoolawe Ohana
2 was trying to get overnight access on Kahoolawe. The
3 case was in the district court. The military said
4 that they had a long-term lease. There were live
5 ordinances and they were doing training and bombing
6 and exercises. The federal court struck them down and
7 the federal court required that they provide 24/7
8 access for native peoples 7 to 10 days a month by the
9 cycle of the full moon with full military escort.

10 You know, that's a precedent we should
11 look at. I think that we could work together if we
12 could have a consultation of the native practitioners,
13 which has never occurred. Once we have a
14 consultation, we can understand the practice, the
15 location, the nature of the practice for those that
16 are doing sunrise or sunset, but we can't make a
17 cultural resource management plan without first having
18 the consultation and the data.

19 And I have done this all over the world
20 with my work at the UN. You think you have a have a
21 problem. In the Philippines we had 50,000

22 demonstrating, three killed over the World Bank, and
23 we were able to resolve it. These are rights to
24 worship. I can't be a camper. I don't want to be a
25 hunter. I will be returning with my sleeping bag. I

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1 will not be told for 120 days that I cannot pray to
2 the akua, and I'm requesting that you put exceptions
3 in that the law currently provides for me so that I do
4 not have is to have my constitutional and human rights
5 violated. Thank you.

6 CHAIRPERSON CASE: Number 7 is Leighton
7 Tseu.

8 MR. TSEU: Aloha ka kou. I humbly come
9 before you because we all live together. I was born
10 and raised in the ahupua`a of Waiiau. I retired as a
11 merchant seaman. I spent 40 years looking at stars.
12 I spent 20 years of those 40 years as regional port
13 engineer, Matson Navigation Company. My kuleana was
14 the state of Hawaii, Micronesia and Guam. I respected
15 everything that they did in their environment, their
16 laws, and mostly their spiritual values.

17 For me, being here, it hurts, mostly

18 because my na`ao hurts to watch the continuous
19 desecration of Hawaii Nei, not just Mauna Kea, also
20 Ala Moana, our `aina, (inaudible), and the prejudice
21 towards the Hawaiian people.

22 The DLNR agency of the illegal state has
23 exercised the prejudice on the mauna by order of the
24 governor, ihi through counsel, through law. It's not
25 fair. We, the real true Hawaiians, not the

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1 (inaudible) political influence Hawaiians. We feel
2 very unjust. For 122 years of desecration, I brought
3 with me every time I travel the truth (inaudible)
4 petition. I bring the ancestors with me. I bring the
5 ancestors with me. This is us, our iwi. Why? You
6 know, our kuleana is to protect this place. It's not
7 a control. Look at the crime. Look at the traffic.
8 Look at the desecration. It's sad. We don't have to
9 be that way. We don't. But the federal government
10 and the state allows it to do that without controlling
11 it. Kala, you know. And the money says in God we
12 trust. Is that true? In every dollar it says in God

13 we trust. Is that true?

14 Since the very beginning it hurts because
15 you know and I know the true history of Hawaii. We
16 know what happened.

17 CHAIRPERSON CASE: Excuse me, you're
18 approaching three minutes.

19 MR. TSEU: Okay. For my closing, then,
20 this is what I've got, my closing is President
21 (inaudible) own words in his message of Hawaii,
22 December 18, 1893. Quote, By act of war committed
23 with the participation of diplomatic representatives
24 of the United States without authority of congress,
25 the government of a (inaudible) but friendly and

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1 conflicting people has been overthrown, unquote. The
2 president of the United States Wilson, told the truth
3 and today there's no honor in the United States
4 president's words, no or honor to the truth and no
5 honor in how we trust. The AG, he says uphold the
6 law. What's the Constitution United States law?

7 CHAIRPERSON CASE: Thank you.

8 MR. TSEU: Thank you.

9 CHAIRPERSON CASE: Number 8 is --

10 MS. TRASK: This is for you, the history
11 of President Clinton.

12 CHAIRPERSON CASE: -- Williamson Chang.

13 MR. CHANG: Good afternoon, board. My
14 name is is Williamson Chang. I'm a professor of law,
15 University of Hawaii, and have been for 39 years, as
16 the longest serving member of the faculty.

17 I am here as the counsel for Mr. Hanalei
18 Fergestrom and Mr. Kealii Aion who are filing a
19 request for a contested case hearing, and that was
20 filed at 7:00 this morning, but now I realize the rule
21 has changed, so I'd like to take care of that by
22 filing a new request. And I don't have much time up
23 here. If you want to know what I'm going to argue,
24 you can read the testimony I have filed, and I have
25 extra copies here, if you haven't seen it. They're

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1 available here. I have copies for all of those who
2 are outside as well. I always try to bring -- oops,
3 sorry.

4 First I want to say that in filing the
5 contested case hearing, it occurred to me what's not
6 going to happen, which usually happens, is there will
7 be a stay on the administrative action. There's
8 not -- there's no question that the trucks that are
9 building the TMT are going to continue up under this
10 rule. This rule is a pretty thinly disguised effort
11 to facilitate what the governor said, essentially that
12 TMT is going to be built, and that bothers me.

13 I don't think that the 120 days of truce
14 and negotiation can take place in such an environment.
15 And if this -- if this board either doesn't grant the
16 contested case hearing or doesn't stay the
17 effectiveness of the rule, essentially I'm going to be
18 forced to move to court to enjoin and declare the
19 actions of this board in adopting C1 and C2 to be
20 unconstitutional beyond your powers under state law,
21 beyond your powers in section 183 D, and I know you
22 had an hour with the attorney general. I'm literally
23 across from him. I only have 32 seconds left. So if
24 you want to ask me what my strategy is, I'd be happy
25 to answer that.

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1 But first let me say I'm probably going
2 to have to name you as individual defendants in your
3 individual capacity. That's just required by law, and
4 it's nothing personal. I am admirers of all of you,
5 and I respect you, but this will be decided in the
6 courts. Thank you.

7 CHAIRPERSON CASE: Thank you. Do you
8 have questions?

9 UNIDENTIFIED MALE BOARD MEMBER:
10 Professor Chang, you wrote an article in the Civil
11 Beat where you said a number of things, but one of
12 them was that President Obama could stop the
13 construction on Mauna Kea by invoking the Antiquities
14 Act and declaring it a national monument. That's
15 completely wrong, you know.

16 MR. CHANG: It is wrong. I apologize.
17 What I meant was you could start a process by which
18 eventually it could reach the status of a world
19 heritage site, which was a pretty fast track for
20 Papahānaumokuākea, and then perhaps we could stop it.
21 In other words, I was really just saying one thing,
22 which is we have a local boy as president, and this is
23 a really important issue to the state in which he was
24 born, and he ought to weigh in in some way. He can

25 mediate or do what he thinks is best, and I think it's

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1 funny that Mauna Kea is not -- it's simply a
2 conservation district area, whereas Mauna Loa and
3 Kilauea are on the world heritage site and
4 Papahānaumokuākea is a world heritage site and
5 they're -- they're married together in the
6 (inaudible) --

7 UNIDENTIFIED MALE BOARD MEMBER:
8 (Inaudible) this question about the legality of using
9 the Antiquities Act, and you answered that question.
10 I also have a question, basically you provided us a
11 30, 40 page legal brief, which I take it is arguing
12 that the United States government has no authority.

13 MR. CHANG: No, I argued that DLNR has no
14 authority.

15 UNIDENTIFIED MALE BOARD MEMBER: No
16 authority because the United States governor had no
17 authority?

18 MR. CHANG: No, because if you look in
19 the state constitution, and the territorial boundaries

20 define what's in the state as all the islands that are
21 acquired by the joint resolution. And do you believe,
22 sir, that the joint resolution of congress of the
23 United States could acquire a foreign sovereign and
24 independent country?

25 UNIDENTIFIED MALE BOARD MEMBER: I'm

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1 not -- I'm not here to debate that point, I'm just --

2 MR. CHANG: Well, that's the definition
3 of the territory of Hawaii.

4 UNIDENTIFIED MALE BOARD MEMBER: The
5 question I was going to ask you is do you think there
6 is federal authority, U.S. federal authority over
7 Hawaii?

8 MR. CHANG: Yes, they're clearly here.

9 CHAIRPERSON CASE: Thank you. Our next
10 testifier is Kaylene Kauwila Sheldon.

11 MS. SHELDON: Aloha ka kou. My name is
12 Kauwila Sheldon, and I am a resident of Kaaawa,
13 Hawaii. I was one of the protectors -- it's called
14 protectors, not protestors -- at the time of late
15 June. I just wanted to mention why I'm wearing pink,

16 and if you knew why I was wearing pink, then you would
17 know the legend of Poliahu and pink tinted snow God,
18 which is known as Kuukahaula. He never get --
19 (inaudible) he never gives up on Poliahu and he keeps
20 on coming back to win her love, and that's what I'm
21 going to do for Poliahu. I'm going to protect her.
22 I'm going to stand beside my brothers and sisters, as
23 a protector, not a protestor. Know the difference.
24 So if you had a connection to -- any of you in this
25 room have connection to Mauna Kea, then you would know

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1 about this moolelo.
2 I emailed my testimony, and I'm shaking
3 right now because I feel like there was so much eno
4 and hewa that was said from the TMT supporters,
5 especially when I witness the highest form of aloha.
6 And I challenge all of you, each of you to go to Mauna
7 Kea, and I don't know who spit in whose face, sir, but
8 when I went up there, the (inaudible), the visitors,
9 they were given a high -- just a high dose of aloha,
10 just the highest form of aloha there. And that's what

11 I experienced.

12 Before I left to Mauna Kea, I had zero
13 dollars. I had nothing to go there with. I had -- I
14 had my -- I have a bunch of health problems, one of
15 them is a kidney problems, others are feet problems,
16 before I went to Mauna Kea, and when I went there,
17 there's protocol. We don't leave our rubbish or our
18 trash. We clean up our mess right after, leave it the
19 best way we can when we have alele. There was
20 protocol and some members of the protectors, like such
21 as secret Mauna Kea, we and a lot of teachers,
22 educators came up there and he talked to us about how
23 to take care of the `aina of Mauna Kea and the
24 historical significance of Mauna Kea.

25 I know I only have a brief moment, but my

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1 ties lie to Mauna Kea, lies to the Keonui family.
2 Though I'm a descendent of the Keonui family. I am
3 also a descendent of many kahuna that was part of king
4 Kalakaua's (inaudible). And I am -- because I am a
5 descendent, I have a responsibility. And I was
6 reminded of that responsibility when I was up at Mauna

7 Kea.

8 Now, I've seen both sides of the DLNR. I
9 saw some very sweet DLNR officers and then I see some
10 really hasty and very mean, ambitious DLNR officers --

11 CHAIRPERSON CASE: Excuse me, your three
12 minutes are --

13 MS. SHELDON: Okay, just one thing. I
14 videoed those mean and harsh people. I just wanted to
15 say that please stand with us to protecting Maua a
16 Wakea. Mahalo.

17 CHAIRPERSON CASE: Next number ten,
18 Michelle Sakurai.

19 MS. SAKURAI: Aloha, I'm Michelle
20 (inaudible) Sakurai, and I came here to testify not
21 only for myself is, but on behalf of my children, my
22 grandchildren, my siblings, my spouse, my parents, and
23 our ancestors who have lived on the slope of Mauna o
24 Wakea, and in this paiaina for a millennium. I am
25 here today to object and to oppose the proposed

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1 emergency rules for Mauna Kea.

2 The only emergency facing Mauna Kea today
3 is for the desecration by TMT. Your emergency rules
4 are another fine example -- I'm sorry -- another fine
5 example of history repeating itself, whether it be the
6 self-proclaimed provisional government of 1893, or the
7 entity who claims to be the state government today,
8 the tactics are the same, manipulate the facts, spin
9 the truth, change the rules to achieve your goal.

10 I ask you, on what authority do you
11 exercise your powers? Because the simple truth is
12 that there is no treaty of annexation. The joint
13 resolution of congress in 1898 has no legal authority
14 in a foreign country. The United States of America
15 and its agents have no legal jurisdiction in the
16 nation state of Hawaii, which was recognized as much
17 by many countries, including the United States in
18 1844.

19 Historically the problem the people of
20 Hawaii have in trying to work with the people of the
21 United States is that the United States doesn't abide
22 by the rule of law. It doesn't abide by international
23 law. It doesn't abide by its own laws, but today you
24 have the opportunity to right some of those wrongs.
25 Now is your chance to search your heart and your

1 conscience and acknowledge the truth and act
2 accordingly. Now is your moment in history to be
3 pono. What will your legacy be for yourself, for your
4 family and for the people of Hawaii? Thank you.

5 CHAIRPERSON CASE: Next, number 11 is
6 Linda Y. L. Mills.

7 MS. MILLS: Aloha mai ka kou. My name is
8 Linda Yvonne Leilani, maiden name is Ka, Mills. I am
9 born and raised here on the island of Oahu. My
10 husband Joseph Mills, deceased, his family is from Big
11 Island, from Kamuela, and their name is Kapeleela. So
12 our roots and our ohana is all on that island as well.
13 Now that I'm retired, I plan to actively participate
14 in voicing my concerns as often as necessary, so
15 hopefully you'll see a lot of me.

16 According to my research, okay, this
17 board is planning to enforce the emergency rules for
18 Mauna Kea to restrict public access to the mauna and
19 to impose severe penalties for violations. So my
20 understanding is that me and my own, we won't be
21 allowed to travel to the mauna and to offer our
22 cultural practices, our oli akuli, because we'll be

23 subject to severe monetary violations. Right now
24 migrate grandson, his name is Kaikoo from Oahu, he's
25 visiting his aunt on the Big Island and the highlight

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1 of this summer for him was to visit Mauna Kea, as I
2 taught him the oli and a hula and now kaumana and he
3 wants to visit and offer this in honor of his kupuna.
4 Of course he always takes his backpack with him, which
5 says, you know, Captain America on it, so he says,
6 tutu, can I go up there with my backpack or are they
7 going to turn -- are they going to take away my
8 backpack? No, a`ole, so right off the plane, he had
9 his aunt take him up to Mauna Kea so he could offer
10 his pule.

11 So my question is just what does this
12 board consider an emergency? Okay, some members of my
13 ohana have visited Mauna Kea offering our pule, our
14 protocol, and have respectfully remained by Hale
15 Pohaku far from sensitive summit environments. So how
16 is their presence more of a threat than the 100,000
17 visitors and over 32,000 vehicles every year who visit

18 Mauna Kea?

19 I believe that the kua kia e mauna
20 (inaudible) do it for the many and varied political
21 and spiritual protected energies that have been
22 brought to the mauna. How would forcibly removing
23 this piece or organization ensure the protection of
24 public safety and natural resources? This group
25 represents me and my ohana, who are not residing on

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1 Hawaii island, but we are in support of their efforts.
2 I support the Constitutional rights of kuakia e mauna
3 to assembly and free speech and Hawaiian cultural
4 practitioners in our vital practices, public access,
5 recreation, and enjoyment of the pristine environs of
6 Mauna Kea. So I humbly ask you to reject the proposed
7 emergency rules. And I have 12 seconds. Mahalo.

8 CHAIRPERSON CASE: Number 12, Eileen
9 Cain.

10 MS. CAIN: Good afternoon, board. My
11 name is Eileen Cain. I live here in Honolulu. Thank
12 you for this opportunity. I know it's not an easy day
13 for anybody. I felt moved to come, even though this

14 isn't one of my favorite things to do, to testify in
15 front of people, because this issue has been
16 disturbing me so much, and I feel that this so called
17 emergency is bogus and has been invented for the
18 purpose of interfering with people's rights to
19 assemble and rights to practice freedom of speech and
20 freedom of religion and I hope the board will not
21 allow that to happen.

22 I believe that these protectors have been
23 motivated by the same kinds of motivation as the folks
24 in the Protect Kahoolawe Ohana, back in the generation
25 before, same as Rosa Parks, who refused to give up her

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1 seat on the bus because that law was a law, but it was
2 a wrong law, and she violated the law and she was
3 arrested, but she needed to do that as a matter of
4 conscience, and sometimes people have to obey their
5 conscience if the conscience and the law don't go
6 together. Supposedly the law and the conscience
7 should be able to go together, but they don't always.

8 So people sometimes feel pushed to the

9 limit where they have to say no, you cannot take any
10 more from us. You cannot take any more. So much has
11 been taken and taken, and I know it. I've been here
12 38 years. I feel like I've seen over and over again
13 this pattern where some -- for some people, you know,
14 it's like Hawaiian's place is blow their conch shell,
15 do a little hula, cut the ribbon in a new building,
16 and when it comes to their land, they're supposed to
17 shut up be invisible and go away and let the state do
18 whatever the hell it wants. And I don't think that's
19 right. I think that's really a violation of -- it's a
20 moral violation.

21 Now, if a particular individual does
22 something wrong, for example, not that you would, but
23 if this gentleman insulted that gentleman, he wouldn't
24 say the whole board is unruly. You wouldn't disband
25 your board. We'd have to have a few words with this

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1 gentleman about his behavior. Again, it seems that
2 some kind of across the board retaliation is being
3 perpetrated or planned by the -- those who have put
4 forward these rules to try to retaliate against people

5 who have had to say no to exploitation, no to abuse,
6 no you cannot just taking our rights away and taking
7 our land away. And that's what I wanted to say.
8 Thank you for listening.

9 CHAIRPERSON CASE: Thank you very much.

10 Okay, number 13, Keala Walt Mahealani
11 Mix. Not here?

12 Number 14 is Kalani Ka`ana`ana.

13 Okay, number 15 is Keke Manera.

14 MS. MANERA: Aloha ka kou. My name is
15 Keke (inaudible) Manera. My mom is from Rhode Island,
16 my dad is from the Big Island, and I was born, raised
17 on this island. I just wanted to share that. So I'm
18 mixed -- a mixed breed, but I connect more with my
19 Hawaiian culture. I love my island and I love, you
20 know, our island, our other islands.

21 I'm kind of nervous right now. This is
22 my first time doing this, but I just wanted to say
23 that I've been up to Mauna Kea and I really, really
24 appreciate its beauty. I wanted to ask you folks,
25 have you guys been up there? Have you folks been up

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1 there? Have you guys experienced it? I truly believe
2 that if more and more people just go up there and they
3 see for themselves the true rare beauty that it has
4 and just leave it be, that we don't need all of this
5 construction, we don't need this desecration on the
6 land.

7 And also, I want to be able -- I have
8 keikis. I want to be able to start bringing them up
9 there as well, so I want you folks to think about
10 stopping all these rules. We don't need more rules.
11 There's already rules in place, and I believe that I
12 want to be able to bring my kids, you know, when it's
13 their time, when it's their chance to come and
14 experience it as well and without all these rules and
15 regulations, because as a native Hawaiian, I believe I
16 have a right to do that and my kids should have right
17 to do that as well.

18 And as far as the protestors, protectors,
19 I think that they're just doing, with the rocks --
20 when it comes concerns with the rocks, they're just
21 doing that because enough is enough. They want to put
22 out the message that enough is enough. They just
23 don't want people going up there, and I feel for them
24 because they're just -- you know, it's enough already,

25 yeah?

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1 So I hope you guys vote against it, and
2 thank you for your time. Mahalo.

3 CHAIRPERSON CASE: Number 16, Kahookahi
4 Kanuha.

5 MR. KANUHA: (Speaking in Hawaiian). And
6 I'm here today to oppose, obviously, the proposal to
7 create a rule that would essentially criminalize us
8 for being on the mountain, protecting it from things
9 that the DLNR themselves should be protecting it from,
10 which is a violation of HRS 711-1107, desecration law.
11 I'm not going to repeat it because you guys sit on the
12 board, so I'm sure you know it better than I do.

13 I think it's quite clear and I think it's
14 been acknowledged by a few members on this board that
15 this law directly targets people like me, people that
16 have been on the mountain for the past 107 days not
17 camping, no matter what it looks like, no matter how
18 people want to interpret it, we know we're not there
19 camping. We are there holding vigil, ceremony at
20 least three times a day, sunrise, (speaking in

21 Hawaiian), sunset. As groups and individuals hold
22 ceremony outside of that time.

23 So we're not there camping. We're there
24 due to necessity. We're there as a reaction to the
25 potential and possibly imminent threat of desecration,

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1 further desecration upon Mauna o Wakea, and with all
2 of the hewa, all of the eno, all of the haunia that is
3 on that mountain and that people intend to further put
4 on that mountain, it requires much pule. It requires
5 diligence. It requires at this point 24/7 watch, and
6 that's essentially what we're doing. And this law, I
7 think, is -- one, I think it's silly. Two, I think
8 it's irresponsible. Three, I think it's weak. And
9 four, to be quite frank, I think it's kind of
10 pathetic. And it's quite irresponsible to really
11 target us, because it's clear that it is, and to
12 affect (inaudible) the larger community.

13 And so I'm not here just to protect our
14 rights, but I'm here to protect the rights of those
15 people as well, the rights of cultural practitioners

16 who, maybe in some sense, cannot access the mountain
17 because of its current state. And, now, I've been up
18 there for majority of the time, since the very
19 beginning, before we started counting days. And I
20 know for a fact that we have held ourselves in the
21 highest standard and kapu aloha.

22 And am I going to deny that there have
23 been absolutely no incidents on that mountain?
24 Absolutely not. I'm sure there have been some. But
25 in many of the things that we have been accused of, I

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1 will stand firm and say that that is absolutely false.
2 Majority of it is a blatant lie and in even many of
3 the truths, there's only some truth in that. I've not
4 seen any full truths in any of the allegations made
5 against us. And I know that the media and the state
6 obviously wants to sensationalize the pohaku in the
7 road and (inaudible) how (inaudible). (Speaking in
8 Hawaiian). And we don't know what those people heard
9 from those rocks, and I understand this -- this
10 thought that it posed a threat to public safety. I do
11 not believe that any of those individuals did it with

12 that intent. Again, it was a reaction to what was
13 happening on the mountain, that we needed to protect
14 Mauna o Wakea from further desecration.

15 And so I know my time is up. Again,
16 irresponsible. It's an attack against us for really
17 doing the job that the state is funded and paid to do
18 themselves. So let's work together. Help us out,
19 because we're trying to help you guys out. We're not
20 here to make you guys the enemy. We know that the
21 rule hasn't been accepted yet, and I hope that, you
22 know, at the end of the day we do not accept it. But
23 let's work together.

24 Last thing, I've been arrested twice for
25 protecting Mauna o Wakea, and my last arrest happened

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1 on June 24th and as I was being carried away by four
2 DLNR officers (inaudible), and (speaking in Hawaiian)
3 (speaking in Hawaiian), that's what we're doing.
4 That's all we're doing. And the day that we know that
5 Mauna o Wakea is safe from further desecration, then
6 we don't have to worry about this little camping

7 thing.

8 And any law that wants to be passed, you
9 know, you guys gotta do what you gotta do, we're going
10 to do what we gotta do. It will not stop us. That's
11 the truth. It will not stop us. An unlawful law will
12 not stop us. Everybody here is smart enough to know a
13 joint resolution has no power and authority outside
14 the boundaries of its territory. You know, Kamehameha
15 gave us the (inaudible). (Speaking in Hawaiian). We
16 have access to those at all times.

17 So you guys do what you gotta do. We're
18 going to what we gotta do. I hope that we can work
19 together and truly mauna pono e Hawaii. Mahalo.

20 UNIDENTIFIED FEMALE BOARD MEMBER: Have
21 you been served a notice -- served a notice of
22 violation of any rules?

23 MR. KANUHA: I was served a notice of
24 trespass by a private security group who has been
25 privately hired by TMT. I -- I believe it was June

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1 8th or 9th, a few days before Kamehameha day.

2 UNIDENTIFIED FEMALE BOARD MEMBER: Thank

3 you. Not to -- not trying to extend or go super long,
4 so maybe just a couple minutes, but you mentioned just
5 now wanting to work together.

6 MR. KANUHA: Right.

7 UNIDENTIFIED FEMALE BOARD MEMBER: What
8 does that mean to you?

9 MR. KANUHA: First of all, (inaudible) --
10 again, like I said, I believe this government -- I
11 think many of us believe this government to be
12 unlawful, but -- so the question was asked, does the
13 United States have authority? Yeah, because they're
14 here. Do they have lawful authority? No. But this
15 is the situation we're in.

16 So work together, let's -- let's start
17 with looking at HRS 711-1107, you know, and why is TMT
18 allowed -- why are they exempt from that law? If
19 you're going to call placing the rocks in the middle
20 of the road vandalism, then is desecration even a
21 strong enough word for what TMT is going to? So I
22 think we can work together.

23 First of all, looking at the laws, we can
24 uphold it. I think we are doing what DLNR is meant to
25 do, and so -- I'm not here asking for any money.

1 We're going to do it for free. We do it because it's
2 our kuleana, but I think that those things that you
3 guys can do help us. When you come and your officers
4 are in the line, turnaround, arrest the other guys,
5 because we're -- again, we're there to prevent
6 desecration. We're not there to obstruct traffic.
7 From the very beginning, from the time that we
8 instituted the aloha safety check point, we have let
9 every single vehicle through, except for those that
10 told us that they are going up there to commit
11 desecration.

12 UNIDENTIFIED FEMALE BOARD MEMBER: I have
13 one more question. So the -- we've been getting
14 loud -- got loud reports in this set of testimony, not
15 necessarily with a lot more information in it, some of
16 it may be questionable, or, as you said, some is of it
17 lies, some of it not the whole -- whole part of what
18 may have happened. What is our responsibility -- and
19 I mean our ka kou, not just us DLNR, you guys, but
20 what is our responsibility to that situation and what
21 do you think going forward we all can do together
22 about that?

23 MR. KANUHA: I think we need to fully
24 assess the situation. We need to fully understand, I
25 guess, the accuracy of those claims, are they true,

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1 and if we claim for them to be true, do we have proof
2 of those things being true. Because I can bust out a
3 log right now too and give all kind of claims and
4 allegations against certain party.

5 UNIDENTIFIED FEMALE BOARD MEMBER: But
6 going forward -- putting these -- probably both sides
7 get blames from the past, but going forward, what can
8 we do?

9 MR. KANUHA: I think there can be better
10 communication. I thought we had decent communication
11 with the park rangers. When a lot of these
12 allegations and these documents were made over to
13 myself, I realized that communication is not as good
14 as we thought. So that's the biggest thing, and
15 there's, you know, so called leadership on the
16 mountain. Whenever there has been issues, we have
17 been addressed. And there's videos all over YouTube
18 and Facebook that can show us addressing those

19 situations as soon as they're brought to our
20 attention.

21 And we've been very clear from the very
22 beginning. We are not there as a group. We are
23 simply individuals who know that we have a
24 responsibility to this place, to our history, and to
25 our future, and we are willing and more than happy to

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1 (speaking in Hawaiian) that kuleana.

2 So I think we just need to have, again,
3 better communication. If all of those things were
4 brought to our attention, we would have addressed
5 them, again, if they were true. Again, there's many
6 things in there that I would say is not true, but all
7 evidence points to us doing everything we can to
8 cooperate fully with the Office of Mauna Kea
9 Management, the park rangers up there.

10 Again, I was under the impression that we
11 had a pretty decent and honest relationship. What
12 I've seen doesn't exactly exemplify that, but it is
13 what it is. I think we can do better moving forward,

14 and again, because we don't plan to leave until Mauna
15 o Wakea is safe, and until that happens, we'll be
16 there. We'll be there with all respect. We'll be
17 there with dignity. We'll be there in kapu aloha, but
18 we will not shy away from what the truth is.

19 UNIDENTIFIED FEMALE BOARD MEMBER:

20 Mahalo.

21 MR. KANUHA: Mahalo.

22 CHAIRPERSON CASE: Number 17, Lilikala
23 Kameeleihiwa.

24 MS. KAMEELEIHIWA: Aloha mai ka kou. My
25 name is Lilikala Kameeleihiwa. I'm a senior professor

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1 and the current director of the Kamaka Kua Kalani
2 Center for Hawaiian studies at UH Manoa, where I have
3 taught courses in Hawaiian ancestral knowledge for
4 nearly 30 years.

5 I'm also a native Hawaiian whose
6 ancestors have lived in these islands for the past 100
7 generations. As such, I am defined by the United
8 Nations as indigenous. The United Nations Declaration
9 on the Right of Indigenous Peoples agreed to by all

10 the countries of the world and signed by President
11 Obama in 2010 ensures that religious rights of
12 indigenous peoples worldwide as basic human rights.

13 Under the United States standards, the
14 proposed amendments to chapter 13-123, Hawaii
15 Administrative Rules not only contravene basic human
16 rights, but are racist, and in turn allow the state of
17 Hawaii to commit cultural genocide. I refer
18 specifically to articles 10, 11, 12 and 25 of the
19 United Nations Declaration on the Rights of Indigenous
20 Peoples. I'll just briefly refer to them. Article
21 10, indigenous peoples shall not be forcibly removed
22 from their lands or territories. Article 11,
23 indigenous peoples have the right to participate and
24 revitalize their cultural traditions and customs.
25 This includes the right to maintain, protect, and

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1 develop the past, the present, and future
2 manifestations of their cultures, including Samoans.

3 Article 12, indigenous peoples have the
4 right to manifest, practice, develop, and teach their

5 spiritual and religious traditions, customs, and
6 ceremonies. The right to maintain, protect, and have
7 access in privacy to their religious and cultural
8 sites.

9 Article 25, indigenous peoples have the
10 right to maintain and strengthen (inaudible) spiritual
11 relationship with their traditionally owned or
12 otherwise occupied and used lands. Synopsis.

13 The state, that is the state of Hawaii,
14 and the government of America has a duty to support
15 these rights. As an expert on traditional Hawaiian
16 religion, I can unequivocally state that, one, Mauna
17 Kea is sacred to the sky father Waiakea, known in
18 English as the constellation Orion and is the most
19 important site for the worship of Waiakea in all of
20 the Hawaiian islands.

21 Number two, Waiakea is a primordial
22 ancestor of native Hawaiians. Number three, native
23 Hawaiians have the right to worship Waiakea on Mauna
24 Kea. Number four, native Hawaiian religious
25 ceremonies frequently were practiced throughout the

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1 night. Number five, native Hawaiians have the right
2 to stay overnight on Mauna Kea to worship Waiakea.
3 Number six, native Hawaiian religious practitioners,
4 known as the protectors of Mauna Kea, have adopted a
5 kapu aloha, a religious law of aloha toward all those
6 who come onto our sacred mountain.

7 The proposed amendments to chapter 13 --

8 CHAIRPERSON CASE: Excuse me, you're at
9 three minutes, so if you could summarize.

10 MS. KAMEELEIHIWA: Fine, I will
11 summarize. When I wrote this testimony and I sent it
12 in to you folks, I didn't know about C1. I also /AP
13 pose C1.

14 CHAIRPERSON CASE: Thank you.

15 MS. KAMEELEIHIWA: It gives much too much
16 authority without hearing to various peoples without
17 us having, as Hawaiians, a chance to say what we think
18 about any decisions made. Of course I'm against C2.

19 You know, I'd like to say I agree, we
20 should find a way to talk to one another. (Speaking
21 in Hawaiian).

22 So I'd like to give a solution, since I
23 have some very messy testimony (inaudible) to say what
24 they say, especially the law. I have a solution.
25 Let's put a campsite. Got the bathrooms there

1 already. We got people willing to take Port-a-Potties
2 up there. Let's afford people the space so hunters
3 can go, the tourists can go, the guys can stay
4 overnight. We have what Kahookahi's saying. He's
5 quite willing to be there with his kapu aloha. And
6 when the rocks went into the road, he made them clean
7 it up. He said, no, no, no, that's not what we're
8 saying. We want the kapu aloha.

9 We have to have a space where request say
10 no to this TMT. If you think it's bad for rocks to be
11 thrown on the road, what about the 2-acre site that
12 TMT is going to take digging out two stories into the
13 ground and 18 stories above the ground? That's --
14 that's bad for the mountain. Even non-Hawaiians
15 agree.

16 CHAIRPERSON CASE: (Inaudible).

17 MS. KAMEELEIHIWA: So I want to say let's
18 just take a look at that kapu aloha. Let's find a way
19 for all of us who are working together to have aloha
20 for each other. I'd like DLNR to have aloha. I want

21 the government to have aloha. I want the attorney
22 general to have aloha. I'm not privileged (inaudible)
23 foreigners of TMT, because, you know, they could have
24 built the TMT on Mount Fuji. I understand there's
25 another two observe stories up there already. Mahalo.

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1 Questions?

2 CHAIRPERSON CASE: Thank you. Number 18
3 is Kealii Gora. Kealii Gora.

4 MR. GORA: Aloha, members of the Board of
5 Land and Natural Resources. My name is Kealii Uliuli
6 Gora. I'm here to testify in strong opposition to C1,
7 agenda item, as well as C2. My initial testimony only
8 focused in on C2, but I do want to express and
9 reaffirm my strong opposition to C1.

10 My understanding, first, is that these
11 rules are short-sighted, narrow and extremely
12 restrictive. Furthermore, these rules set a very bad
13 and dangerous legal precedent for all other activities
14 that fall under the jurisdiction of DLNR. And we're
15 talking about other activities that could affect other
16 cultural and sacred sites throughout the Hawaiian

17 islands.

18 Second, from an international
19 perspective, The Board of Land and Natural Resources
20 will be in direct violations -- violation of articles
21 10, 11, 12 and 25 of the United Nations Declaration on
22 the Rights of Indigenous Peoples, which is now
23 customary international law and was adopted by the
24 United Nations general assembly in September of 2007
25 and later signed by President Obama in 2010. I won't

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1 cover those particular articles, because
2 Dr. Kameeleihiwa also had a general discussion and
3 focused in on those four articles as well.

4 Third, from a federal perspective, The
5 Board of Land and Natural Resources will also be in
6 violation of the native American Indian religious
7 freedom act, which also includes native Hawaiians, the
8 right to worship in the manner appropriate of our
9 customs and traditions, including Mauna Kea, our
10 sacred mountain.

11 Finally, from a state viewpoint, the

12 University of Hawaii, who manages and administers
13 Mauna Kea, I'm really -- I'm extremely concerned with
14 their blatant disregard and lack of respect of the
15 host culture, especially when there's formal executive
16 policies relating to so-called their respect for the
17 host culture and saying that they're trying to become
18 a model indigenous serving institution as well as a
19 Hawaiian place of learning.

20 Why are their own executive policies
21 being contradicted and native Hawaiians who are
22 continuing to assert our right to sovereignty and self
23 determination, and my conclusion is they're just
24 concerned about the money, this \$1.4 billion corporate
25 project like TMT. Could it be that the contracts have

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1 been signed to build and construct the TMT and I just
2 want to state that it's without our free, prior and
3 informed consent of native Hawaiians.

4 As the native people of this land, we
5 really have had enough of these continued misuse and
6 abuse of our lands, resources, and especially in this
7 case Mauna Kea. However, it has galvanized our

8 people. We continue to stand in solidarity, all
9 islands, native Hawaiians, and, you know, one of the
10 things I do want to say in closing that is the
11 Hawaiians are rising up. The Hawaiian nation is
12 emerging, and it's because of these continued mis --
13 misuse and abuse of our lands.

14 Based on these reasons, I humbly ask that
15 you reject these proposed amendments to chapter 13 123
16 of the Hawaii Administrative Rules, as well as -- that
17 was in agenda item 2, and also to oppose C1 as well.
18 Aloha `aina, kuakia e mauna.

19 CHAIRPERSON CASE: Kaiwipuni Lipe, number
20 19.

21 MS. LIPE: Aloha my ka kou (speaking in
22 Hawaiian). I'm a native Hawaiian more, daughter,
23 academic, and cultural practitioner. First, I
24 strongly oppose item C1, delegating authority for
25 permits and actions to just one person without our

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1 consultation.

2 Second, I'm offended and disappointed in

3 the Department of Land and Natural Resources and the
4 illegal state of Hawaii proposing to adopt any
5 emergency rules which intentionally seek to limit
6 access to those protecting and engaging in their
7 cultural practices on Mauna Kea.

8 Hence, I strongly urge you to not approve
9 the adoption for the following reasons: First, the
10 illegal state's attempt to limit native Hawaiian
11 rights to care -- to care for the land, not to
12 protest, to care for ceded lands or to observe
13 cultural practices in a sacred space violate the
14 spirit of the 1993 apology resolution and rights
15 guaranteed to native Hawaiians under article 12,
16 section 7 of the Hawaii's Constitution.

17 Protecting Mauna Kea and holding it in
18 reverence as a sacred spiritual realm are traditional
19 and customary practices that are constitutionally
20 protected. It is clear that adopting the emergency
21 rules would prevent native Hawaiians from engaging in
22 customary practices, especially in a safe manner. So
23 this -- this rule creates public safety issues, not
24 the protectors who are on Mauna Kea.

25 Further, we need to stay up there 24

1 hours, like Kahookahi said, to protect it our sacred
2 space, because we cannot trust the state that they
3 won't desecrate between the hours of 10:00 p.m. and
4 4:00 a.m.

5 Second, the illegal state lacks
6 documentation of imminent and serious threats to
7 public safety, natural resources consequent to camping
8 along and by the summit access road. Campers have
9 rather sought to exercise significant, constitutional,
10 and due process rights relating to the First Amendment
11 and the right to assembly. DLNR's proposed arbitrary
12 declaration of public safety is a thin and illegal
13 veil for its primary purpose in disbursing people
14 working to protect a place sacred to native Hawaiians
15 in accordance with HRS 711-1107 on desecration under
16 U.S. public law 95-341, the American Indian religious
17 freedom act, which includes native Hawaiians.

18 Third, the illegal state of Hawaii has
19 been quoted in the media as saying this they have
20 respect and aloha for all in Hawaii around the issue
21 of Mauna Kea. Let it be clear that there is nothing
22 respectful about intentionally desecrating a sacred
23 space and preventing peaceful protectors from

24 protecting that sanctity. Further, aloha is a
25 reciprocal and interdependent process of nourishing

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1 and caring for one another.

2 The proposed emergency rules do anything
3 but show aloha for the land, aloha for Mauna Kea, and
4 for those who are protecting the mountain. Instead,
5 these rules only seek silence important voices and
6 violate constitutional rights. This is a disgrace.

7 Finally, this is the board of the
8 Department of Land and Natural Resources, whose
9 mission it is to protect our environment. How does
10 limiting access to folks who are protecting our
11 natural resources support that mission? So, actually,
12 I think what we need is for all of us, including the
13 board, to go up and do the job that those protectors
14 are doing for free right now, and we should be able to
15 take our tents, right, so that we are safe and so that
16 we can take care of the place that we have a mission
17 to do.

18 (Inaudible) I oppose the 2 items, mahalo.

19 CHAIRPERSON CASE: Number 20, Pono
20 Kealoha.

21 MR. KEALOHA: Aloha. My name is Pono
22 Kealoha. Some of you know me and know how much I hate
23 coming here. (Inaudible) address to you as far as the
24 legality and having anything do with my `aina, with my
25 future, my children's future.

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1 I've been (inaudible) for 21 nights.
2 I've watched it kind of grow. I've seen -- I've seen
3 young -- the younger generation stepping up and
4 grasping it, giving them some kind of future, some
5 kind of hope of our direction of which way we're going
6 to take this (inaudible), because we're all in it
7 together.

8 The way that you guys are going to go,
9 we're going to end up with everybody homeless, sitting
10 by a garbage can, trying to find a piece of food. The
11 way that we're going, we're thinking of our future
12 generations. We're thinking how we take care of each
13 other, how we malama our water, our future. We have
14 land, could be growing our own food, not being brought

15 in. So with this group that's been up there, they've
16 been doing it not because they want to be somebody or
17 be out in the thing. It's because it's like me.
18 Kuleana, yeah? We're thinking about our `aina. We're
19 thinking about our future, and we don't need to have
20 you erasing us like a mistake that should never be
21 there.

22 I ask you to please honor and respect,
23 but also think, you guys do not have any metes and
24 bounds. You have no treat of annexation. So again,
25 let this seek into you, yeah. You with the to be a

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1 continuance of genocide, culture-cide, and
2 social-cide, or would you like to kind of (inaudible)
3 so we can work together. (Speaking in Hawaiian),
4 yeah? There's a direction that we can take it, but
5 not bumping head to head. Since you guys got the
6 guns, all we have is aloha. Mahalo. Thank you.

7 CHAIRPERSON CASE: Hapaki Nakamura,
8 number 21.

9 MR. NAKAMURA: Sorry, I apologize in

10 advance for what I'm about to say. I'm just angry
11 and --

12 CHAIRPERSON CASE: I'm sorry, can you
13 repeat your name, please.

14 MR. NAKAMURA: My name is Hapaki
15 Nakamura, and I speak on behalf of my ohana in Kauai,
16 Waimanalo, and I oppose C1 and C2 of today's agenda.
17 The reason for this emergency rule making is complete
18 bogus to protect from imminent peril of public safety,
19 health, and natural resources.

20 Office of Mauna Kea Management stated
21 that since 2002 an average of 270 visitors use
22 restricted area -- your restricted area, compared to
23 the average of 20 protectors that has been there the
24 last 100 days. I work with numbers every day, and I
25 promise you 270 is a lot more than 20.

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1 Public health was only a concern when the
2 water was shut off, bathrooms was closed, (inaudible)
3 to be used against the protectors for bringing
4 portable toilets, not just for themselves, but for
5 visitors also, and if any one of you guys went up

6 there, they would have let you use it. So public
7 health was an issue, it only became an issue this last
8 week because the people in office with no heart but
9 deep pockets.

10 Public safety wasn't an issue. Oh, no,
11 it was an issue when an officer ran over a legal
12 advisor's foot two weeks ago without checking on him,
13 or maybe when another vehicle side wiped a protector
14 and left without checking him while he was going up to
15 pule. If you ask me, the safety issue isn't the
16 protectors. To me it sounds completely backwards.

17 County police and DLNR employees on the
18 mauna have said (inaudible) that they themselves are
19 proud of the way the protectors have conducted them is
20 selves through aloha and the kapu aloha. So law
21 enforcement safety and the public safety should carry
22 no weight, unless you have evidence of the protectors
23 harming anyone in any way.

24 Last but no least, natural resources in
25 peril. It's annoying how stupid they think we are.

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1 You think we're stupid or you guys are straight up a
2 corrupt government from top to bottom, actually think
3 it might be both, but how can you sit there and say
4 Mauna Kea is a conservation area and the average of 20
5 protectors is a threat to the land and natural
6 resources when you folks continue to defend and you
7 guys have approved the TMT construction. What angers
8 me is how much testimony and public input from the
9 people today won't matter, because we all know you
10 guys already made up your mind.

11 Rarely ever these emergency rules are
12 needed, like the a hua laka Kaneohe bay ban of liquor
13 for the three-day weekend. There's documented
14 evidence of public safety due to liquor, including the
15 fights and death. Understandable why emergency rule
16 would be made. However, the only documented injuries
17 last the last hundred days on the mauna, at least I
18 know of, were the two protectors who were ran over and
19 left there.

20 I'm sure you guys already know how you're
21 moving forward, but know this, aloha `aina, we'll move
22 forward no matter what, the board of lies of natural
23 resources decide. Once again, my name is Hapaki
24 Nakamura, and I oppose C1 and C2 of today's agenda.
25 Mahalo.

1 CHAIRPERSON CASE: Number 22, Grace
2 Bezilla.

3 MS. BEZILLA: Is it okay if I stand?

4 CHAIRPERSON CASE: Sure.

5 MS. BEZILLA: Aloha ka kou. My name is
6 (inaudible) Bezilla. Mahalo for being here. Mahalo
7 (speaking in Hawaiian).

8 In regards to what was said earlier, I
9 myself have been up on the mountain for at least 14
10 days. After the past arrest, I was up there for seven
11 days. All of these negative things that have been
12 said, they're the negative things that have been said.
13 I don't think anyone mentioned how children are almost
14 ran over. Doesn't matter who's up there. That road
15 is not safe for anyone to be up there, because of cars
16 and anything like that. If anyone is on the road and
17 a car is coming down and brakes fail, that is a safety
18 issue. It doesn't matter if someone is in the road or
19 not, because you don't know when someone's going to
20 cross the road. There's a crosswalk there.

21 Another thing is that there was a

22 pregnant woman there the day that the protectors
23 brought up lua, about an hour before the lua arrived.
24 There were people in the visitor center and she asked,
25 a woman from India, pregnant, obviously pregnant with

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1 a young child, she humbly asked if she could use the
2 restroom and they said no. They turned her away.
3 Instead she had to go and use the restroom
4 (inaudible). That, I think, is more of a safety issue
5 and that is (speaking in Hawaiian). I'm sure if
6 anyone has ever been around a pregnant woman, and we
7 all come from pregnant woman, but that is hewa loa.

8 People getting ran over is definitely a
9 safety issue. I was there when Mikey got ran over.
10 None of you have any authority to say that rocks being
11 moved -- by the way, I was also there when certain
12 rocks were moved, not every rock, but they did speak
13 to every uhani -- actually, uhani of the rocks spoke
14 to them and they wanted to be there.

15 It's a biohazard to not have lua up
16 there. And all of these entities decided not to have

17 lua up there. Whether the protectors are there or
18 not, there are still tourists that come up every
19 single day, and since the day period of time arrests
20 in July, there have been visitors there, and the
21 visitors there have been informed, and the visitors
22 there or outraged. And the visitors there look for
23 the bathroom, even though the visitor center is
24 closed, because you go somewhere, you think there's a
25 restroom, and there's not.

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1 And I am totally outraged that these
2 things are issued to Kona Lua and Hamakua (inaudible)
3 because they were taking care of this biohazard, which
4 you are not. You are not taking care of this
5 biohazard. What are you going to do about urine and
6 feces from all over the world? Isn't that why you
7 have (inaudible) in an airport? That's a huge issue.

8 Is science greater than culture or
9 religion?

10 CHAIRPERSON CASE: Can you summarize now,
11 please.

12 MS. BEZILLA: Okay, so I have two

13 questions. First, C1 and C2, I oppose. The first
14 question I have is for you, chairman, so I read the
15 Hilo Tribune today, which states that in a July 1st
16 email to Hawaii attorney general Douglas Chin, Suzanne
17 case, chair of state -- Department of Land and Natural
18 Resources thanks Chin for the clear delineation of
19 options he laid out the day before and outlined
20 several options for moving forward. Quote,
21 (inaudible) board's submittal for the July 10th
22 meeting authorizing a DLNR representative to conduct
23 temporary closures and restrictions in public hunting
24 areas state wide, parentheses, i.e., not specific to
25 Mauna Kea, close parentheses. As a next step in

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1 implementing that amended hunting rules that were just
2 finalized, closed quote, she said. She wrote,
3 chairwoman, can you please verify that these quotes
4 are indeed yours?

5 CHAIRPERSON CASE: Can you continue to
6 summarize your testimony.

7 MS. BEZILLA: Can you please verify or

8 not?

9 CHAIRPERSON CASE: This is your
10 opportunity to testify.

11 MS. BEZILLA: Okay, so if this is indeed
12 your quote, I am humbly asking you that you resign
13 your position at this time because you have not
14 brought this up to any of our attention and we've been
15 in here since 1:00.

16 Board, can you please find out or ask
17 her, because this is not right. If she will not
18 answer that, then --

19 CHAIRPERSON CASE: Thank you.

20 MS. BEZILLA: -- why are we here?

21 CHAIRPERSON CASE: Can you wrap up?

22 MS. BEZILLA: Also, question 2, a CIA is
23 integral to an EIS. I know that there's no EIS in
24 question, but this is a DLNR issue, so it's always an
25 EIS, so it's also a CIA. So my question is, who is

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1 here on the DLNR to contest on my behalf to listen to
2 my and all of the issues on religion, on mauna,
3 (inaudible), and our cultural living, not practices,

4 it's alive, cultural living on Mauna Kea and what is
5 the qualification in regards to Mauna Kea, in regards
6 to hours of access, practice, length of time, where on
7 the mountain, and what I need and how important it is
8 to my culture and religion, and why do I need a permit
9 to live as a Hawaiian on a Hawaiian mountain? This
10 balance that we're talking about between science and
11 culture, does that happen at the Vatican, does that
12 happen on Mount Shasta, does that happen on Mount
13 Fuji?

14 CHAIRPERSON CASE: Thank you.

15 MS. BEZILLA: I don't -- I would really
16 like to know who on the board has this qualification,
17 because if not, you are violating our rules by even
18 listening to us, because no one is qualified here,
19 specifically for Mauna Kea. I totally, humbly mahalo
20 you. I think the guy that was here earlier has that
21 qualification, but I don't think that any of you here
22 have that qualification, and I say this humbly.
23 Mahalo.

24 Please find a way before you make this
25 decision to it figure out if you are totally in this

1 jurisdiction to make rules for Hawaiians practicing --
2 not even practicing, living in a Hawaiian way and our
3 rights. Mahalo.

4 CHAIRPERSON CASE: Thank you. Number 23,
5 Scottie Paiva.

6 MR. PAIVA: My name is Scottie Paiva, and
7 I'm the chief ranger for the Office of Mauna Kea
8 Management. Good afternoon, Chair Case and members of
9 the board. I am here today to -- in support of the
10 proposed emergency rules for chapter 13-123-21.1 and
11 to ask for your help to regain the.

12 Order and control of Mauna Kea.

13 I have submitted written testimony and a
14 summary of ranger observations and interactions with
15 the protestors on Mauna Kea. I will be presenting a
16 consent -- condensed version of both for you at
17 this -- at this time this afternoon on three focused
18 areas, the first is safety. On June 24th the
19 protestors blocked the road with rocks and huge
20 boulders and human chains, trapping workers on the
21 summit.

22 The second focus is resource management.
23 Use of open flames present a huge threat of wild land

24 fires to the surrounding critical (inaudible) habitat.

25 Third, social impacts. Workers on Mauna

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1 Kea feel threatened and don't want to report to work.
2 We have lost two highly qualified rangers since the
3 encampment on Mauna Kea, and this has created -- and
4 this has also created a problem for us to recruit
5 qualified members.

6 I wanted to thank you for this
7 opportunity to speak before you today, and if you have
8 any questions, I'll be happy to answer them as best as
9 I can.

10 UNIDENTIFIED MALE BOARD MEMBER: I have
11 one question.

12 MR. PAIVA: Yes.

13 UNIDENTIFIED MALE BOARD MEMBER: You
14 folks don't have any police powers?

15 MR. PAIVA: No, we don't.

16 UNIDENTIFIED MALE BOARD MEMBER: Has
17 there been discussion about that?

18 MR. PAIVA: Yes, there has been.

19 UNIDENTIFIED MALE BOARD MEMBER: And

20 what's your manao? I don't want to put you on the
21 spot, but --

22 MR. PAIVA: You're not. You're not.

23 UNIDENTIFIED MALE BOARD MEMBER: But the
24 other guys --

25 MR. PAIVA: You're not. And I'm speaking

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1 for myself and my guys. That's what I'm here for.
2 I'm here for everyone. I'm here for everyone's
3 safety. It's our responsibility, and I take it very
4 deeply, to ensure everyone who goes up, goes up safely
5 and comes down safely. And we're in the process -- we
6 were in the process of creating rules prior to the
7 contested case hearing. We were stopped. So with
8 that being over with, we're in the process again of
9 formulating rules. And depend -- and my feeling is
10 depending on the type of rules that gets approved,
11 will depend on the type of enforcement powers needed
12 by the rangers.

13 UNIDENTIFIED MALE BOARD MEMBER: What are
14 some examples of what you could use?

15 MR. PAIVA: I'm sorry.

16 UNIDENTIFIED MALE BOARD MEMBER: What is
17 some examples of what kind of powers would be
18 considered?

19 MR. PAIVA: Again, law enforcement
20 powers.

21 UNIDENTIFIED MALE BOARD MEMBER: Okay.

22 CHAIRPERSON CASE: Thank you.

23 UNIDENTIFIED MALE BOARD MEMBER: Thank
24 you, chairman.

25 CHAIRPERSON CASE: Any questions? Okay,

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1 thank you very much.

2 MR. PAIVA: Thank you.

3 CHAIRPERSON CASE: Number 24, Robert
4 McLaren.

5 MR. MCLAREN: Aloha, madam chairman,
6 members of the board. My name is Bob McLaren,
7 associate director of the Institute for Astronomy.
8 I've been involved in astronomy on Mauna Kea one way
9 or another for nearly 35 years. I've given you
10 written testimony describing my experiences from the

11 period of July -- excuse me, June 24 through 26th, and
12 I'll just summarize what I think are the most salient
13 points.

14 By mid day on June 24, the TMT
15 construction crew had abandoned their attempt to reach
16 the site primarily because of the presence of large --
17 three or four large rock barriers across the road.
18 The construction workers had basically left the
19 mountain by that point.

20 Early in the afternoon a group of
21 protestors created a new road block at the beginning
22 of the gravel road. This group was stopping vehicles
23 and asking the occupants about their purpose in
24 traveling to the mountain. Some were allowed to pass,
25 some were not. Two staff members of the James Clark

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1 Maxwell Telescope were allowed to pass after
2 explaining that there was urgent work they needed to
3 do at the telescope. Proceeded up the gravel road,
4 but were then stopped by a second group of protestors
5 at the rock barriers. This group told them they are

6 not allowing any observatory vehicles to pass and that
7 they could blame their predicament on TMT. JCMT staff
8 returned and left the mountain.

9 Now, while some were being blocked from
10 going up, others were being blocked from coming down.
11 That's a far more serious situation. One of these was
12 a ranger, another was a group of four researchers who
13 had been doing field work in connection with their
14 study of permafrost on the mountain. This group was
15 stopped at the rock barriers coming down. Protestors
16 helped them move some of the rocks, but actually the
17 final two barriers this group had to remove them
18 themselves.

19 This reckless action by the protestors
20 could have really had tragic consequences if there had
21 been an accident or medical emergency above that area,
22 but they didn't stop there. TMT had left, but
23 nonetheless, they decided to continue their activity
24 and block all traffic. They decided to hold everyone
25 hostage to their anti TMT objectives.

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1 Later, when Mauna Kea Observatory Support

2 Services tried mobilize heavy equipment to clear the
3 hazards from the road, the protestors at Hale Pohaku
4 refused to let the equipment move uphill. Seeing no
5 way to provide safe passage above Hale Pohaku, an
6 accommodation was reached with the protestors in which
7 the rangers would block the road to all traffic after
8 ensuring that everyone was off the mountain. As a
9 result of this closure, most of the observatories lost
10 a night of observing and suffered other losses, which
11 you'll hear about in their testimony later.

12 A condition of the deal was that the
13 protestors would be allowed to remove the rock
14 barriers by themselves, with no assistance desired
15 from UH. By morning in fact they did that, after a
16 brief inspection by a group of us from UH.

17 That -- okay. I'll just mention that on
18 Friday morning there was a scare and the protestors
19 returned and put more rocks on the road.

20 CHAIRPERSON CASE: Thank you. Okay,
21 number 25, Louis, no last name.

22 MS. TAKEKAWA: E kala mai. I'm actually
23 Keaka Louis's place. Okay, aloha my ka kou.

24 (Inaudible) Takekawa.

25 CHAIRPERSON CASE: I'm sorry, can you say

1 your name again slowly.

2 MS. TAKEKAWA: Jordan Takekawa, (speaking
3 in Hawaiian). The United Nations Declaration of
4 Rights of Indigenous Peoples Article 12 states,
5 indigenous people have the right to maintain, protect
6 and have access in privacy to the religious and
7 cultural sites.

8 With that said, to the Board of Land and
9 Natural Resources, I do not agree with these emergency
10 rules. I sit with -- to sit there and call
11 (inaudible) campers is an insult. It is a travesty.
12 Do you think we would be up there day in and day out
13 sacrificing jobs, precious time with our ohana and our
14 everyday lives if we didn't think that there was a
15 greater goal?

16 When the proposed construction of the
17 Thirty Meter Telescope is over, when all the
18 telescopes are gone and when the `aina can rest and
19 revive, our people will leave and the mountain will be
20 at peace, as it should be.

21 I still do not think that the state of

22 Hawaii, Governor Ige, or the University of Hawaii
23 understand. Governor Ige even stated, and I quote, in
24 many ways we have failed the mountain, yet you
25 continue the approval of desecration. We have seen

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1 the lack of stewardship by UH. We have seen the
2 Department of Land and Natural Resources turning on
3 their mission. We have the misuse and mismanagement
4 of Mauna Kea, and we have seen the consumption of
5 money and agreed corrupt the connection to this land.

6 I see no means or rationale for these
7 emergency rules. They are (speaking in Hawaiian).
8 There will be no TMT and there will be no compromise.
9 (Speaking in Hawaiian). Mahalo.

10 CHAIRPERSON CASE: Number 26, Kamaka
11 Pili. No Kamaka Pili? Okay, number 27, Mailani
12 Makainai.

13 MS. MAKAINAI: Aloha mai ka kou.
14 (Speaking in Hawaiian).

15 I'm sitting in a very awkward state right
16 now across from you fine kupuna, and you are not
17 kupuna, but in our culture kupuna are considered very

18 wise. We respect them it and their authority over all
19 because kupuna act in such a way that's full of wisdom
20 and aloha and they teach the future generation of how
21 to malama ohana, malama i ka aina, malama o Hawaii.

22 And I oppose the new amendments. I
23 oppose this emergency rule. I don't see it
24 paralleling -- that's a word. I don't see that it
25 parallels what took place to protect a hua laka in

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1 Kaneohe Bay. You know, there were several cases that
2 came about, and citings of abuse of alcohol, drugs,
3 littering, overcrowding, fights, there was even a
4 death in Kaneohe Bay, and the board came together to
5 make sure that an emergency rule was in place for
6 three-day weekends so that that could never happen
7 again.

8 I don't see that happening right now.
9 There's such haste, and, yes, it's a mess. It's a
10 huge mess, but we have been kue. We've been against
11 Mauna Kea for five plus years, and no one is listening
12 to us. I'm very much a pacifist, a peaceful person.

13 I like to use my words instead of my fist, and that's
14 what I see and have seen when I've gone up to Mauna
15 Kea. I haven't really seen any type of display of
16 violence on behalf of the protectors. I've just only
17 seen aloha `aina and the way they've educated greeted
18 people coming up to Mauna o Wakea.

19 In our language, we have something called
20 waiwai, and that means wealth. I'm a graduate of the
21 University of Hawaii at Manoa. I'm also an
22 entrepreneur. I recognize some entrepreneurs in front
23 of me. Waiwai, wealth. What is Hawaii's wealth and
24 how are we going to serve and increase Hawaii's
25 wealth, increase Hawaii's influence, and not allow

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1 money to be our master?

2 I'm sure many of you have been
3 resourceful enough, and Kahookahi Kanuha wants to work
4 together. I believe that that's actually possible.
5 There's many -- there's many protectors up there right
6 now that are willing to volunteer and truly malama
7 Mauna Kea and also our other waihepana.

8 What scares me is Governor Ige. He also

9 approved the traditional burial -- burials. Hey, one
10 for the Hawaiians. And it's beautiful to see that now
11 Hawaiians can malama our iwi and bury them and follow
12 proper protocol. Permits, if someone dies, am I
13 supposed to -- was I supposed to apply for a permitted
14 45 days before I knew my kupuna was going to pass away
15 in order to go up to Mauna o Wakea and do the proper
16 protocols to maybe sure the iwi of my kupuna is taken
17 care of most properly.

18 CHAIRPERSON CASE: You'll need to wrap up
19 now.

20 MS. MAKAINAI: Those things are true
21 concern, and I wanted to challenge and encourage this
22 board here to truly invest in what Hawaii's waiwai is,
23 and I believe I am one of that examples. I believe
24 you have waiwai here in front of you, and with that, I
25 mahalo you for your time. I mahalo you kupuna. God

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1 bless you and your ohana. I hope and pray that the
2 way that you envision Hawaii is in line with our
3 culture, because Hawaiian culture is all about malama

4 (inaudible). We want to believe -- we want to leave
5 behind a legacy of Hawaii that has been given to us,
6 has been given to me, has been given to my ancestors,
7 and I don't see that happening with the construction
8 of TMT or other things that threaten our true
9 Department of Land and Natural Resources.

10 And one last thing, kala mai, but, you
11 know, waiwai, I see over here the logo of the iwi, the
12 lehua mamo, and I think this is a weki. I'm not sure,
13 I'm not a fisherman. But I don't see that -- you
14 cannot just stamp something, make it Hawaiian, and
15 then pretend to be Hawaiian or pretend to be a part of
16 our culture and respect it thus so when the actions
17 you're taking, especially with hastily trying to rush,
18 hush this new proposed change and call that Hawaiian,
19 because it's not. And mahalo.

20 CHAIRPERSON CASE: Henry Chang, 28.

21 MR. CHANG-WO: Aloha ka kou, board. My
22 name is Henry Chang-Wo. I (inaudible) and I oppose
23 the telescope (inaudible). In fact, I want to see all
24 that opala come off the mountain. I come from the
25 (inaudible). My friend takes care of lo`i. You know

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1 what we see? We know what is happening, but we don't
2 know the law. We -- I depend on the mountain, all
3 (inaudible) depend on the mountain. If it wasn't for
4 the mountain, (inaudible). That (inaudible) is so
5 important to all of us. (Inaudible). Easy for you to
6 bring up the new law. Stop -- stop the (inaudible),
7 and that will bring them down. It's fine (inaudible)
8 safety, at the same time stop that convoy from going
9 up the mountain.

10 I don't know law, but all this kids know
11 the law. All I know is that it's not right and I'm a
12 fisherman (inaudible). I depend on the clouds.
13 (Inaudible) 30 by 30 up you there, because we above
14 the clouds. Our kupuna knew what we had.
15 (Inaudible). Let's not desecrate what we have.
16 Mahalo for your time. Thank you.

17 CHAIRPERSON CASE: Thank you. Number 29,
18 Don Awiao.

19 MR. AWIAO: (Inaudible) item C1,
20 (inaudible).

21 CHAIRPERSON CASE: You can -- if you're
22 testifying on both, can you do jointly.

23 MR. AWIAO: All right. Okay, I'll
24 just -- aloha, chair, members of the board of the land

25 and natural resources. Those in here, ohana, friends,

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1 personal and professional, aloha. I'm Don Awiao,
2 native Hawaiian, hunter, fisherman, public access
3 advocate, and cultural practitioner. I may disagree
4 with some earlier speakers here, and I love what they
5 stand for, but I believe this is an esteemed body that
6 represents our community, our island community, whom I
7 have great long respect for all. My classmate and
8 cultural language practitioner, (inaudible), yourself,
9 protector of our watersheds and conservation lands,
10 great Hawaii waterman, (inaudible) icon and long-time
11 public servants for Hawaii island and Kauai.

12 I speak on behalf of my ohana and friends
13 who are hunters and gatherers. There wasn't much
14 public notice for our understanding regarding these
15 items. It is in my view and all here supporting the
16 mauna that this action before you today is an
17 (inaudible) attempt to target and possibly an
18 exclusionary action toward native Hawaiian
19 practitioners, cultural practitioners, and protectors

20 in furtherance to prohibit their constitutionally
21 protected activities under the U.S. Constitution, as
22 well as the state of Hawaii Constitution. Thus, I
23 implore this (inaudible) body to reject this agenda
24 item and give deference to such actions now and in the
25 future.

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1 As Board Member Oi says, there are
2 regulations already, in fact, even sections 209,
3 who -- Board Member Woodside was in the natural
4 (inaudible) commission, that these actions would hurt
5 hunters and the general public, and I have the same
6 concerns, especially specifically sections 13-122, 123
7 and 124. And as you said, temporary closure of the
8 public hunting areas in all of these regulations would
9 be something that would even go further for a year or
10 so, even at this 120 days temporary request at this
11 time.

12 And I do have a lot of deference to the
13 delegating authority to delegate a DLNR representative
14 to arbitrarily have this authority to do -- take
15 action under the C1 item, and also in sections 124,

16 which the palilo bird up there, which may be a part of
17 the environmental concern, and this is not a -- the
18 bird is not extinct because of the actions of the
19 protectors of the mauna. It's more so because of the
20 extinction of much of our mamani trees. And it's
21 already stated in the DLNR website that the deals with
22 the palilo bird, that the last of these honeycreepers,
23 and why they are endangered, so they give several
24 reasons, which I won't go over.

25 Moreover, understanding these agenda

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1 items and its implications to native Hawaiians and
2 members of the public, this board has a fiduciary
3 kuleana for ceded public trust funds that hold
4 paramount importance to not only native Hawaiians, but
5 to the general public.

6 If this item is passed, (inaudible) in
7 the department -- and I'll summarize -- its policies,
8 processes, purposes and ultimately the board, the
9 director, the chair and the governor of Hawaii, as
10 president Lincoln once said at the memorial of a civil

11 war battle, in which I believe is a foundation of it
12 our government after the civil war, that we here
13 highly resolve that these dead shall not have died in
14 vain, which my kupunas (inaudible) say, that this
15 nation under God shall have a new birth of freedom
16 under the government of the people, by the people, for
17 the people shall not parish for later.

18 So again, I call this board, the
19 governor, and all entities involved to negotiated and
20 make this issue, as uncle Stan said, pono so that our
21 island community, including the native Hawaiian
22 community, to heal and move on. Mahalo for letting me
23 testify. (Speaking in Hawaiian).

24 CHAIRPERSON CASE: Thank you.

25 UNIDENTIFIED MALE BOARD MEMBER: I have a

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1 question.

2 CHAIRPERSON CASE: Yeah.

3 UNIDENTIFIED MALE BOARD MEMBER: I just
4 wanted to -- I'm trying to understand, then, and see
5 if there's a way to take care of specifically hunting
6 issues. I want to try to understand what you see is

7 the problem for hunting.

8 MR. AWIAO: Well, like Board Member Oi
9 said, you know, much of the -- like the paved roads
10 along the Mauna Kea access or the hunter road, which
11 was closed in 2014, much of us still go along those
12 roadways which are -- you know, they're not -- they're
13 overgrown a little bit, but they're still able to walk
14 on those trails. A lot of us just do hiking most of
15 the time near the access road, so, you know, if we're
16 wearing backpacks, camping gear, you know, a lot of us
17 have to have our camping gears, you know. It might
18 not be for an overnight stay. A lot of it is because
19 we're -- you know, it's past the time that -- that is
20 propose in the this new rule too, in the 21-2.

21 I have a problem too because sometimes we
22 do stay out late, maybe even past 12:00 a.m. and we
23 don't make it back to our -- you know, down the hill
24 or wherever our vehicles are. So a lot of times
25 it's -- get caught up with the (inaudible) and, you

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1 know, we sometimes forget we're hunting and we look up

2 and we see all this beautiful scenery up in the sky.
3 So as Hawaiians, you know, we're very spiritual, we
4 see a lot of things, so one of the reasons why I feel
5 we might -- we might get into trouble just being
6 there, maybe in the wrong place, wrong time, you know.

7 UNIDENTIFIED MALE BOARD MEMBER: Okay,
8 so -- but I'm just -- you know, I'm not trying to put
9 you on the spot. I'm just trying to understand the
10 situation. Hunting is allowed until 30 minutes after
11 sunset, and from 30 minutes before sunrise. And the
12 time, the closure time would be 10:00 p.m. to 4:00
13 a.m.

14 MR. AWIAO: Right, and before this --
15 before it came to today's hearing it was --

16 UNIDENTIFIED MALE BOARD MEMBER: So it's
17 better.

18 MR. AWIAO: Yeah. So I'm glad that will
19 change. That was the -- when I made the -- my
20 testimony, that was -- I was concerned about that, the
21 time.

22 UNIDENTIFIED MALE BOARD MEMBER: Okay,
23 thank you.

24 UNIDENTIFIED MALE BOARD MEMBER: I have
25 one question. I used to go up hunting up there in

1 another life, and sometimes you forget the time. So
2 let's say you're -- let's say you're close to the time
3 of close down, in other words, you're close to 10:00
4 because either you lost your way or you lost your dog,
5 you know what I mean, we had plenty times we lost our
6 dog, and so we try to find our dog, and you don't know
7 where your dog went, and if they're not barking,
8 sometimes they're chasing something big or whatever,
9 so what if we have a grace period if you made a good
10 faith effort to come out and you're a little bit late?

11 MR. AWIAO: I mean, unless you're
12 (inaudible).

13 UNIDENTIFIED MALE BOARD MEMBER: I don't
14 either.

15 MR. AWIAO: It would be a nice thing to
16 know.

17 UNIDENTIFIED MALE BOARD MEMBER: But that
18 there's some grace period if you're in there in good
19 faith you're going hunting and something happens, they
20 have an emergency for whatever, you know, and you're a
21 little late, and you can show that, then that should
22 be adequate.

23 MR. AWIAO: Well, if the officer or, you
24 know, whoever is going to penalize us, I believe if
25 they're trained to do that --

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1 UNIDENTIFIED MALE BOARD MEMBER: They
2 have investigate, you know, the facts.

3 MR. AWIAO: Right. I mean, if they take
4 into account what happened. Sometimes, too, we're
5 just wrong. The air's thin up there too, we're -- you
6 know, we don't go as fast up there as would be down at
7 a lower elevation, yes.

8 UNIDENTIFIED MALE BOARD MEMBER: Some
9 people get lost, lucky we never find 'em.

10 MR. AWIAO: Exactly.

11 UNIDENTIFIED MALE BOARD MEMBER: Okay,
12 that's all I have.

13 CHAIRPERSON CASE: Thank you. Thank you.
14 Ilima Long.

15 MR. PERRY: I'm on C2, 25, so I think
16 they gave us the same number.

17 CHAIRPERSON CASE: You're not on the sign

18 up sheet here. What's your name?

19 MR. PERRY: Kekai Perry. I talked to
20 (inaudible) up in the front, she said to make sure I
21 got this.

22 UNIDENTIFIED FEMALE: (Inaudible).

23 CHAIRPERSON CASE: All right, go ahead.

24 MR. PERRY: Yeah, sorry for the
25 confusion.

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1 CHAIRPERSON CASE: Can you state your
2 name again, please.

3 MR. PERRY: Kekailoa Perry. (Speaking in
4 Hawaiian). Aloha ka kou. I'd like to ask just for a
5 second that you folks take a really good look at me,
6 and it's not just because I'm pretty. It's because
7 this is what I look like up in Mauna Kea. And in this
8 backpack I carry things that I know will keep me safe,
9 camping gear, clothes that will keep me warm, possibly
10 blankets, things that, according to this rule, is
11 going to get me arrested or fined or possibly put into
12 jail.

13 Okay, so I oppose C1 and C2, and I think

14 aside from my good looks, this is a good visual
15 representation of why there's going to be some
16 confusion when we're dealing with kanaka who are just
17 trying to maintain their existence in our homeland.

18 Now, I submitted a testimony, written
19 one, and I don't necessarily want to go through it
20 all. It's kind of wordy, but I really wanted to make
21 sure I let you folks know something very important
22 that I feel is important. And it's just -- it's all
23 found in one word, consciousness, consciousness. If
24 we want to talk truthfully about taking care of Mauna
25 Kea, about having a conversation with Hawaiian people,

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1 with people who love the land, then we have to be
2 conscious about what we're doing here.

3 Passing a rule designed to criminalize
4 people who are conscious is inappropriate and it's
5 hurt full, and I know -- I know from going to school
6 with Doug, talking with Billy Kanoe, talking with the
7 bothers up on the mountain and the rangers, I know
8 people are conscious. The brother over here told us

9 rangers are quitting. I talked to them. We know why
10 they quit, because they have a conscience, because
11 they cannot sit and watch this continue, desecration
12 and have to deal with their own family, with people
13 who have conviction, that's why they quit.

14 I heard from law enforcement guys they
15 felt embarrassed because they were crying when they
16 had to arrest their own people. That's not
17 embarrassing. That's something we should all be proud
18 of and learn from, those men who are up there trying to
19 enforce the law are conscious men. They have
20 conviction. They're learning. That's what
21 consciousness is all about. It's not about how come
22 we never do something ten years ago. It's about once
23 we learn what's important, once we understand what
24 aloha means, we have to take action and be conscious.
25 We cannot ignore any more the falsities of everything

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1 that's gone on before.

2 So I ask you folks to please ask with
3 consciousness, act with aloha. Thank you for your
4 time.

5 CHAIRPERSON CASE: Thank you. Number 30,
6 Ilima Long.

7 MR. NOGA: Aloha, my name is Joshua Noga,
8 number 30. There was a switch outside. I have the
9 paper right here. So --

10 CHAIRPERSON CASE: Josh, sorry, tell me
11 your name again.

12 MR. NOGA: Joshua Noga.

13 CHAIRPERSON CASE: Noga.

14 MR. NOGA: Noga, N O G A. I live in the
15 ahupua`a of Hauula, in the moku of Koolauloa. I am
16 here in opposition to C1 and C2. I spent a week on
17 the mauna when it went to head on July -- on June
18 24th, spending -- I know why this -- these emergency
19 rules are come out, it's meant to criminalize the
20 protectors on the mauna in regards to a strategy, that
21 they want them out there so that they can send the TMT
22 workers and -- up there early enough. By doing this,
23 they can criminalize them in the media, in public
24 perception, make them look like trouble makers,
25 hazardous to the environment, which is simply untrue.

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1 We have a sick disease going on here in
2 the state of Hawaii where we have politicians are in
3 the pockets of big business developers, and I'll give
4 you one example right here. To my left here we have a
5 Hawaii attorney general, Douglas Chin, who was a
6 managing partner for a law firm, Carlsmith Ball, who
7 is representing the University of Hawaii and TMT.
8 Now, he's the Hawaii attorney general, but he's
9 sitting here for almost three hours. What kind of
10 message that does send? He gave a testimony in favor
11 of these rules, but I'm a little worried in regards to
12 what kind of message that sends to our people as a
13 whole, when we have somebody in such a high position
14 of power who is able to use that power, wield that
15 power, speak for almost an hour, even before any of us
16 can testify, and then continue just sitting here. I'm
17 sure there are way more things that he can be doing,
18 he should be doing, rather than sitting in here
19 listening to these silly emergency rules. You know.

20 I got no pilikea with attorney general,
21 but what kind of message does that send, you know,
22 when Ige talks about failing -- failing the mountain,
23 failing the Hawaiian people, he's absolutely true, and
24 this it attempt in these rules to criminalize the very

25 people who take it upon them self and really going

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1 against possibly losing their jobs, supporting for
2 their families so they can go up there, and to
3 criminalize them like this when they're up there
4 holding vigil, it's just reckless, irresponsible, and
5 it only goes to further point to the sickness that I
6 talked about in regards to businesses, politicians,
7 someone like an attorney general who is in the pockets
8 of these people like TMT who are able to, wow, we have
9 is these things.

10 CHAIRPERSON CASE: You need to
11 summarize --

12 MR. NOGA: Sure. While we have this in
13 Supreme Court, TMT's allowed so-called permit to
14 resume, so I think this is irresponsible. This is
15 just an opportunity to criminalize our protectors and
16 (inaudible) mauna. Mahalo.

17 CHAIRPERSON CASE: Thank you. Number 31,
18 Andre Perez.

19 MR. PEREZ: Aloha mai ka kou.
20 (Inaudible) Andre Perez, (speaking in Hawaiian). I

21 just want to point out, there's a problem going on
22 even with this meeting. We're all getting parking
23 tickets out there. So when you come off the mauna,
24 the struggle and the things that we have to endure, we
25 have to come to this meeting and get a \$40 parking

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1 ticket. I'm not the only one. Many people are
2 getting tickets out there, and your parking attendant
3 is standing by outside waiting to ticket people as the
4 time expires. So I think that's a problem that you
5 guys should address.

6 Also, I want to point out that in
7 addition to all this Hawaiian suppression that's going
8 on on the mountain, we also have Oiwi TV who has been
9 barred from this meeting, but there's other media
10 going on right now that's filming inside this room.
11 So I don't think that's fair to Oiwi TV, a
12 Hawaiian-owned media business, yeah.

13 Okay, I absolutely oppose the rule
14 making. I want that to stand for the record. When
15 the United States invaded and bombed Iraq, one of the

16 things -- the first things they did was they targeted
17 sanitation facilities. They bombed the water
18 facilities, and in principle that's what's happening
19 on the mountain in response to Hawaiians who are
20 protecting the mountain right now. They shut off the
21 water. They've locked the sanitation facilities, and
22 so they're trying to starve us off the mountain, yeah.

23 There can be no doubt that these actions
24 and rules are designed to purposefully suppress and
25 marginalize kanaka maoli, criminalize us and starve us

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1 off our own mountain. I believe that these are
2 fundamentally human rights issues and self
3 determination issues. Are Hawaiians human beings? Do
4 we have the right to say we don't want this on our
5 land? Is this Hawaiian land? Does anybody question
6 that? Does anybody think this is not Hawaiian land,
7 that we don't have kuleana to this land as aboriginal
8 people?

9 I believe we have a clear human right to
10 self determination issue right now, and I see how in
11 principle fundamentally we're being targeted as

12 hazards and health issues to public safety. I think
13 it's very bad move on the state and Hawaiians -- the
14 Hawaiian community will not forgive and forget this
15 for a very long time.

16 There's no question that we have an
17 issue, ongoing, long standing issue of redress and
18 reconciliation between kanaka maoli and the United
19 States, state of Hawaii, as outlined in the apology
20 bill. So we have to have sensitivity to that as well.

21 CHAIRPERSON CASE: If you could
22 summarize.

23 MR. PEREZ: I'm summarizing. We believe
24 that these types of rules, desecration will result in
25 harm to the deeply held religious beliefs and cultural

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1 values of Hawaiian people. And as a result of this
2 failure of the administration process -- because we
3 know it's still in court right now. You all know
4 that. Still in court right now, yet they're still
5 trying to build the TMT while the issue is still in
6 court.

7 As a result of the failure of this
8 administration process, we believe that further
9 desecration is imminent, and we're compelled to occupy
10 to protect Mauna Kea as a people, as human beings who
11 love and have a strong relationship with our land.
12 Desecration of Mauna Kea and suppression of Hawaiians
13 on the mountain will be a moral outrage to Hawaiians
14 and to the greater community.

15 In closing I just want to say that civil
16 disobedience is based on moral political principle.
17 America is a country that's founded on civil
18 disobedience, from the Boston tea party, anti-war
19 movements, women's suffrage, abolition of slavery,
20 labor laws and unions, civil rights movements,
21 anti-nuclear war movements, environmental and forest
22 protection movements, are all part of civil
23 disobedience. And if these rules are passed, there
24 can be no question there will be mass coordinated
25 civil disobedience on Mauna Kea to break these rules

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1 based on moral and political principle. I think it
2 would be a disaster to pass these rules. It will only

3 exacerbate the situation.

4 Hawaiian community --

5 CHAIRPERSON CASE: Can you wrap it up,
6 please.

7 MR. PEREZ: -- has welcomed settlers with
8 nothing about aloha to even our own detriment. We're
9 not hazardous or dangerous to the community or to our
10 land. Mahalo.

11 CHAIRPERSON CASE: Number 32, Noe Lopez.

12 MS. AKUTAGAWA: I took the place of the
13 person who had this number. My name is Malia
14 Akutagawa. I'm from the island of Molokai. I'm an
15 assistant professor of law with the William S.
16 Richardson School of Law and Hawaii Nui Akea School of
17 Hawaiian Knowledge. I make this testimony in
18 opposition to C1 and C2 provisions. I submit this
19 letter in opposition on many reasons.

20 First, I concur with professor Williamson
21 Chang about violations of constitutionally protected
22 First Amendment rights to free speech and assembly.
23 It's a veiled attempt to foreclose the Mauna Kea
24 protectors from exercising their rights. I'm also
25 very concerned about the circumvention and the

1 violation of the public's constitutionally protected
2 5th Amendment right of due process.

3 One, I received this revised rules about
4 two or three hours ago. The sunshine law, Chapter 91,
5 basically requires notice one week prior. So this is
6 against your own rules, and I know these rules very
7 well, not just because I'm an attorney, but also
8 because I've sat on a number of boards and commissions
9 on a state and county level, chair of the Island
10 Burial Council of Molokai, chair of the Molokai
11 Planning Commission, and most recently I'm a member of
12 the State Environmental Council. So this -- this body
13 is in violation of Chapter 91.

14 There were also links that did not lead
15 to any of these rules, so there's a question of
16 whether the public was adequately noticed. So that is
17 something that is very troublesome to me.

18 Additionally, provision C1, which would
19 grant executive power to DLNR Chairperson Case to
20 close off hunting grounds without benefit of a public
21 hearing is also a violation of the sunshine law and a
22 violation of the due process rights guaranteed by the

23 U.S. Constitution.

24 I'm also daughter of a hunter, sister of
25 a hunter. We eat deer meat. It is our subsistence

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1 life style. To have closures for six months would be
2 very -- it would be -- it would be something that
3 would affect our be ability to subsist, and those are
4 also Constitutionally protected under article 12,
5 section 7 of the Hawaii state Constitution and Hawaii
6 Revised Statute section 1-1. So I'm concerned about
7 the hunting issues as well.

8 Molokai we have two economies, a
9 subsistence economy and a cash economy. So to deny
10 our families of deer meet that -- venison, goat, and
11 pig would deny us from having food on our table. So
12 this is important.

13 The religious and ceremonial --

14 CHAIRPERSON CASE: If you could wrap it
15 up, please.

16 MS. AKUTAGAWA: Yes.

17 -- violate article 12, section 7 HRS 1-1
18 and 7-1. 7-1 also protects the trails. This is

19 originally the 1850 kuleana act which used to require
20 permission of the chiefs of the land (inaudible).
21 Because there was testimony by (inaudible) of being
22 blocked access is and being unable to gather the
23 things they needed for the daily life, the kuleana act
24 was amended to not allow -- not have is that
25 permission provision, and that is the law that stands

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1 on the books as HRS 7-1.

2 So to limit and restrict by providing
3 certain time for people to go along this trail is
4 illegal and violates the state Constitution, as well
5 as public trust provision, which includes native
6 Hawaiian practice and the rights and the resources
7 that are associated with those rights and practices.
8 So to limit access along the Mauna Kea road would be a
9 violation.

10 I'm not done. I'm almost done.

11 CHAIRPERSON CASE: You need to please
12 wrap it up.

13 MS. AKUTAGAWA: The state office that

14 manages Mauna Kea on their website identifies the
15 summit access road as the trail that people will walk
16 upon. There are other ancient trails that have been
17 overgrown and they say is unsafe, so that's the only
18 place that they can access. So that road needs to
19 stay open at all times so that religious and
20 ceremonial practices can take place.

21 The fact that you are singling out native
22 Hawaiians who are the protectors of the mauna and
23 exercising kapu aloha and calling them vandals instead
24 of protectors making their religious pilgrimage, it
25 bothers me, especially because you guys are aware that

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1 two protectors were hit by vehicles operated by TMT
2 security personnel and nothing was done to ensure
3 their safety, nothing was done to investigate, nothing
4 was done to prosecute.

5 CHAIRPERSON CASE: Can you wrap up your
6 comments, please.

7 MS. AKUTAGAWA: That's my last comment.

8 CHAIRPERSON CASE: Thank you.

9 MS. AKUTAGAWA: So if you want to protect

10 safety, public safety, do that first.

11 CHAIRPERSON CASE: Thank you.

12 MS. AKUTAGAWA: Mahalo.

13 CHAIRPERSON CASE: Number 33, David
14 Lopes. Oh, wait. David Lopes.

15 MR. LOPES: I can say that it's no, the
16 legal stuff everybody was talking. I don't know
17 nothing, but I just one kanaka from Nanakuli
18 homestead. Nanakuli homestead or DHHL don't represent
19 me. I represent myself. I learned the truth, learned
20 the truth. All my life you all be hiding it from us.
21 There's no treaty. My children to go to Olelo. They
22 love Olelo. They come home, teach me because I don't
23 know nothing. I was deprived.

24 The mauna call. Something inside my gut
25 tell me, go, there's something. I go. Hewa. Hewa.

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1 I go two time. First time, (inaudible), sleep on the
2 mountain, your people come visit you through the
3 night, your family gonna come talk to you, spiritually
4 you will wake -- you will awaken. We're still here.

5 We kanaka. We still here. Please, don't pass this.

6 Imagine, I just nobody who just woke --
7 awoken. There is more of me. There is more of me out
8 there who will be awakened. I will awake them. I
9 will go back to my people, our people. Or if you call
10 them your people, do something for our people. Not
11 just talk, (inaudible).

12 My brother got banged up on the mauna. I
13 was there. Do you care? Now you care. You like make
14 all these rules. Why? Because my brother got banged.
15 Did you do anything? Nothing. Not even turn around,
16 stop and help him. Quiet. Everybody quiet, yeah?
17 Feel something. Feel. Feel what we feel. Ha, aloha.
18 Kapu aloha. We will be there. Rest of my life I will
19 be there.

20 I will teach my grandchildren. I have 19
21 grandchildren. I will teach them to be there and
22 defend that mountain, that mountain who created us.
23 That is my create or, my creation. I am a young
24 child. I am old, but I still am a young child because
25 I am learning. Thank you guys for waking me. I will

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1 tell my -- our people the hewa going on.

2 You do not have a treaty. Remember that.

3 It will always be there in front of you, in back of
4 you, in the side of you forever. The queen has fight
5 the fought, fight the battle. All we want is the
6 right thing for our people, please. Please. Kapu
7 aloha. It's he's east to go to the dark side. See
8 kapu aloha. We have taken (inaudible) to the
9 sacredness of that mauna.

10 For us kanaka, the rock talk to us. You
11 kanaka, the rock don't talk to you, because you are on
12 the wrong side. Kanaka, the rock is all we have. All
13 we got is that mountain. It's like the kalo -- trying
14 to take the kalo from us. Now you like the mountain.
15 You got everything down below. (Inaudible)
16 everything, (inaudible). I started off --

17 CHAIRPERSON CASE: Can you wrap it up,
18 please, now.

19 MR. LOPES: I'm going to wrap this up
20 very quickly.

21 UNIDENTIFIED MALE BOARD MEMBER: Be
22 polite to her, please.

23 MR. LOPES: And I will be polite. Deeply
24 respect to you and to you, my friend. I love you guys
25 all. May God be with you. I mean this from the

1 bottom of my heart. Please forgive me. I forgive you
2 folks. May God forgive you. May the Lord forgive
3 you, or he will charge you for what you did. Aloha
4 no. Aloha no.

5 I will go back to the mauna again and
6 again and again I will (inaudible). Aloha no. Civil
7 rights has been violated. The treaty.

8 CHAIRPERSON CASE: Thank you.

9 MR. LOPES: Aloha no.

10 CHAIRPERSON CASE: Number 34, Melvin
11 McAulton.

12 MR. MCAULTON: Aloha and good afternoon.
13 I would like to address the board and the attorney
14 general as well. My name is Mel McAulton (inaudible).
15 I am a pro se litigant and a paralegal. At this time
16 I would like to also hand to this board these
17 documents. Pass it out to your members. Based on
18 what I have here, there's going to be to documents,
19 one is statement for Mauna Kea TMT. The second
20 document is the Constitution. The Constitution that I

21 have here is from 1895, and it was reproduced in 2000
22 and then again -- well, I'm sorry, not 2000, but in
23 1998. That was the final, and in 1998 what we have
24 here under the Constitution, if you read it on article
25 1, section 18-3, and it's the rights of access. Under

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1 the rights of access, native Hawaiians and their
2 descendants shall be allowed free access to the
3 mountains, caves, seas, and sites of religious and
4 cultural importance for personal, subsistence,
5 religious, and cultural purposes. This statement
6 alone is in the Constitution of the Hawaii
7 Constitution itself.

8 This was passed out, if we take the TMT
9 report that I gave to you guys, page 2. I have here
10 Pele Defense Fund versus (inaudible) at 837 Pacific,
11 second edition, 1247 Hawaii 1992, and then again in
12 517 U.S. court 1163, 1996. This was brought down,
13 ladies and gentlemen, from the Supreme Court 9th
14 distribute in Washington, D.C. this refers to that
15 Constitution that we just saw.

16 In other words, what's happening here is

17 that the Hawaiians itself have free access to any and
18 all mountains. It doesn't say just one particular
19 mountain. It doesn't say Diamond Head. It says all
20 mountains. Therefore, the restriction is against the
21 people's rights. And when we talk about rights, I am
22 going to go ahead and address the facts that the
23 rights of the people --

24 CHAIRPERSON CASE: You're going to need
25 to summarize now, sir.

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1 MR. MCAULTON: -- were actually violated.
2 We're talking about their civil rights, the 1st
3 Amendment, the 5th Amendment and the 14th Amendment.
4 I left out the 6th Amendment. Doesn't really matter,
5 but the 1st, the 5th, and the 14th Amendment is very
6 important, and the reason behind that is it's their
7 civil rights. It's a violation that was taken by
8 Department of Land and Natural Resources and the state
9 attorney general for them to lock the restrooms is a
10 violation of federal health laws.

11 What you're doing is you're keeping the

12 people from being healthy. You're keeping them from
13 an environment which is inhuman. That is inhuman
14 acts. If you produce any inhuman acts against any
15 human, it is a federal law to not and I repeat, cease
16 and desist from locking those restrooms to anyone
17 publically because now it becomes a U.S. law, and I am
18 right now when had I walk out that door, I'm making a
19 phone call to two people who are waiting to hear from
20 me in Washington, D.C.

21 They want to know what the outcome's
22 going to be on this and they want to know what I have
23 to offer, because what I have to offer, when it goes
24 to them, it's going to come to you. Reason? You are
25 an entity of the state. As an entity, you can be

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1 sued. The state can't be sued --

2 CHAIRPERSON CASE: Can you wrap it up
3 now, please.

4 MR. MCAULTON: -- but an entity that
5 works under the state can.

6 CHAIRPERSON CASE: Time for you to wrap
7 up.

8 MR. MCAULTON: And that is the law. We
9 know that. Now, just for the last part of this, I
10 just want you guys to know, I know each and every one
11 of you at one time has lost somebody in a family,
12 relatives or whatever. When you lose somebody, you
13 lose them forever, and the whole point behind that is
14 it's in the heart. When you lose something, you can
15 never get it back. That's the same thing these people
16 are fighting for. Mauna Kea, when they lose Mauna
17 Kea, they lose a part of them. You do not want to
18 have these people lose something that is precious to
19 them, as much as it is to you people when you lose
20 something.

21 CHAIRPERSON CASE: Thank you.

22 MR. MCAULTON: Do you not want to have
23 that happen to you.

24 CHAIRPERSON CASE: Thank you.

25 MR. MCAULTON: Do not let it happen to

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1 them.

2 CHAIRPERSON CASE: Thank you.

3 MR. MCAULTON: Thank you very much.

4 Mahalo. And aloha.

5 UNIDENTIFIED MALE BOARD MEMBER: Excuse
6 me, sir, can I get a copy of your Constitution.

7 CHAIRPERSON CASE: It's right here.

8 MR. MCAULTON: Oh, yeah, you guys all
9 have a copy of that. Please be sure to read that,
10 Pele Fund, the defense fund is an actual court case --

11 CHAIRPERSON CASE: Thank you.

12 MR. MCAULTON: -- that cited the
13 Constitution --

14 UNIDENTIFIED MALE BOARD MEMBER: Thank
15 you.

16 MR. MCAULTON: -- on article 1 --

17 CHAIRPERSON CASE: All right.

18 MR. MCAULTON: Section 18-3.

19 CHAIRPERSON CASE: Our next --

20 MR. MCAULTON: Thank you. Mahalo.

21 CHAIRPERSON CASE: -- person is number
22 35, who is not here, (inaudible). Number 36, Hilton
23 Lewis.

24 MR. LEWIS: (Inaudible). Aloha. My name
25 is Hilton Lewis. I'm the director of the W.M. Keck

1 Observatory on Mauna Kea. I've worked for the Keck
2 Observatory for 29 years, 26 years on the Big Island,
3 raised my children there. My youngest was born in
4 Kealahou. I'm very deeply committed to my
5 community, to Hawaii, and to the well being of the
6 staff of my observatory.

7 Without question Mauna Kea is the best
8 site in the world for astronomy, and the observatories
9 that are on top of Mauna Kea have had enormous impact
10 on science. So it is with deep concern that I have
11 watched the events of the last nine months unfold. My
12 concern first and foremost is for the well being and
13 safety of my staff and for everyone who is on the
14 mountain.

15 I'm also very concerned about the impact
16 of shutting down access to our facilities and our
17 ability to carry out our scientific mission. Any
18 blocking of access can be potentially life
19 threatening. We have had several occasions over the
20 years where we have had to take staff off the mountain
21 urgently or visitors. The difference between
22 unimpeded access and even a short delay can make the
23 difference between life and death. This is a very

24 real concern among our staff, and that they not be
25 stuck on the mountain, perhaps in dangerous weather

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1 conditions or with a sick staff member or a sick
2 member of the public who needs urgent medical
3 attention.

4 We have already lost highly valued
5 observing time in perfect weather conditions due to
6 the recent road blockade in June. This time is
7 competitively assigned to astronomers, and once it's
8 lost, there is no guarantee that they can get access
9 again. My concern is that unpredictable or extended
10 loss of access will significantly reduce our ability
11 to do the cutting edge science that we are tasked to
12 carry out.

13 We've had to expend significant resources
14 because of the new safety and security concerns.
15 These expenses include a large fraction of time of our
16 managers and supervisors in planning, coordinating,
17 communicating, changing work schedules, changing
18 transport schedules, hiring additional staff to ensure

19 safety in the event of a confrontation.

20 The ongoing protests and the concerns
21 over safety and long-term access are taking a toll on
22 the morale of my staff. Our staff members are part of
23 the Big Island community, and there's now a lot of
24 division among family, friends, and neighbors. I am
25 concerned that a prolonged conflict could affect the

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1 observatory's ability to retain and affect staff. And
2 these are people and their families who are deeply
3 rooted in the community and who make a significant
4 economic and social contribution to society.

5 Long-term impact of uncertain access also
6 extends to our ability to attract funds from federal
7 and other sources, and these funds are essential to
8 keep the observatories alive and vibrant. The Keck
9 telescopes are the two most scientifically productive
10 telescopes on the planet. More broadly, Keck
11 Observatory and myself are concerned about the
12 vibrancy of astronomy on Mauna Kea. Astronomy is a
13 science that seeks to answer the deepest questions
14 about the universe, questions that all humans

15 everywhere have asked since the beginning of time.

16 Astronomy done in Hawaii is something we
17 can and should be proud of it. It inspires people
18 young and old across the globe. It is the vital
19 contribution from Hawaii to all of humanity. Mahalo.

20 CHAIRPERSON CASE: Thank you. Number 37,
21 Tiffanie Kakalia.

22 MS. KAKALIA: Aloha mai ka kou. My name
23 is is Tiffany Kakalia, resident of Hawaii island,
24 lifelong resident. I'm here to testify in strong
25 opposition to the proposed emergency rules of Mauna

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1 Kea and to ask that you please reject the request from
2 the Division of Forestry and Wildlife to adopt a new
3 rule that would prohibit essential items that may be
4 needed when accessing different areas of the mauna,
5 like you've heard, in practice (inaudible).

6 These proposed changes are said to
7 address impacts on the natural resources and eliminate
8 risk regarding public safety, when there really isn't
9 any imminent peril to these resources or the safety

10 concerns that are being brought about, except with the
11 closure of the visitors station and bathrooms and
12 such.

13 These restrictions would instead infringe
14 upon the kuleana and rights of native Hawaiians and
15 other Hawaii citizens to access and conduct ceremonies
16 on sacred site. I'm testifying here today as kau
17 keiki o ka `aina from generations back. Like many, my
18 kupuna hailed from the cardinal points of that moku.
19 I was raised on that island. I raised my children and
20 now grandchildren, specifically on the slopes of Mauna
21 Kea on the Hamakua side. We know her intimately as
22 wahi kupuna. She is a big part of our life and how we
23 identify to being native Hawaiian.

24 It's a little difficult to hear that this
25 one-time action of the kea`i and the stone structures

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1 and what they felt that they needed to do at the time
2 is considered -- considered vandalism and cannot be
3 ignored by the state, especially when the sacredness
4 of Waiau was vandalized several years back with no
5 action by the state, and that was rangers watching as

6 a young person took stand up paddle board into Waiau,
7 walked in the sentiment, which include our piko and
8 our sacred traditions, carved his name in the --
9 again, in the embankment on a low level (inaudible),
10 that to me is vandalism.

11 And if the one-time action of protecting
12 a resource cannot be overlooked, why was that? There
13 wasn't any sense of urgency to put any sort of ruling
14 together. There was no restitution. There was no --
15 there was nothing done. Nothing was done to the
16 person that did this or their family. No mihi was
17 made with that place. So it's really hard to hear
18 some of this stuff.

19 I worked in the field of education and
20 wellness for Hawaiian communities for well over 20
21 years, and currently I work for the Department of
22 Native Hawaiian Health, and it's through this
23 department that I learned that social determinants
24 directly impacts the well being which causes health
25 disparities for our native Hawaiians, none more

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1 prevalent than the current situation on our mauna.

2 It's more than just access, astronomy and
3 culture. We're talking about the wellness --

4 CHAIRPERSON CASE: If you could wrap it
5 up.

6 MS. KAKALIA: -- of people.

7 CHAIRPERSON CASE: Wrap it up, please.

8 MS. KAKALIA: Yeah, I'll wrap it up. For
9 many years kanaka iwi have been denied fair access to
10 social justice in our own land, for restricted
11 cultural practice, desecration, sacred sites, it
12 continues on. Supporting the proposed emergency rules
13 for Mauna Kea will only perpetuate the demise of
14 native Hawaiians and promote cultural genocide.
15 Please consider this.

16 I'm testifying today as an individual,
17 but I do want you to know that I do belong to a
18 volunteer group associated with the Office of Mauna
19 Kea Management. And as you know, they do have a
20 cultural advisory board, council. To date we have not
21 been invited to one discussion regarding this issue,
22 not one. Rangers have been. You know, it's in the
23 comprehensive management plan since 2009 that we're
24 supposed to take the lead in things like this. We
25 have not been consulted on it at all to date. And I

1 find that very troubling, especially hearing
2 testimonies of people and our community wanting to
3 engage.

4 This council was put together for that
5 reason. It was started as a kupuna council in 2000.
6 It evolved and -- into (inaudible), an advisory
7 council in 2009 in the comprehensive management plan.
8 There's administrative protocols that are in place to
9 take care of and address the concerns that people have
10 been stating today. It's not been followed, and I
11 would just like to let you know it has not -- even at
12 the request to be informed we have not been informed.

13 And again, I'm speaking as an individual
14 on that council. I'm not representing anything.

15 CHAIRPERSON CASE: Okay.

16 UNIDENTIFIED MALE BOARD MEMBER: I'm very
17 bothered by this thing on Lake Waiiau. Somebody on a
18 stand up paddle board. That's bullshit. Excuse my
19 word, but --

20 MS. KAKALIA: Here's the pictures.

21 UNIDENTIFIED MALE BOARD MEMBER: I think

22 that that's outrageous.

23 MS. KAKALIA: And here's my letter to
24 William Aina that was not addressed.

25 UNIDENTIFIED MALE BOARD MEMBER: So I

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1 want the university to investigate this --

2 MS. KAKALIA: And again, the university,
3 that's not even our kuleana.

4 UNIDENTIFIED MALE BOARD MEMBER: Try
5 wait. Try wait. Let me finish. I want -- if the
6 university has investigated, I'd like to hear what
7 they found.

8 The other thing is this Hawaiian advisory
9 group is supposed to be consulted about the mountain.
10 When I was in the board of regents, we started this
11 whole thing in 1998, and I know that it has become an
12 integral part of the Office of Mauna Kea Management,
13 and this Hawaiian advisory group is supposed to play
14 an active role in protecting these very things that
15 we're talking about. And it needs to be an active
16 body and it needs to be consulted on an ongoing basis.

17 Part of what we're finding out in this
18 docket is that maybe we're all making mistakes as we
19 go down the road, including myself, but we don't know
20 that we made mistakes sometimes after it's done, and
21 that's how human beings are. But on this one,
22 Chancellor Straney, if you folks can, you know,
23 address this idea of the Hawaiian advisory group and
24 have them have a more vigorous voice, that would help
25 us out.

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1 And as far as this -- this thing at Lake
2 Waiau, do you want to comment on that?

3 CHANCELLOR STRANEY: If I could.

4 UNIDENTIFIED MALE BOARD MEMBER: Yeah.

5 CHANCELLOR STRANEY: And I appreciate
6 Tiffanie's request for Kahu Ku Mauna to meet more
7 frequently. Heard and understood and we will move on
8 that. Lake Waiau is not part of the lease that the
9 University of Hawaii holds. It's on lands managed by
10 DLNR. I believe DOCARE did investigate this, I'm
11 told, but I have no direct knowledge because it
12 doesn't report to us. So I would --

13 UNIDENTIFIED MALE BOARD MEMBER: Here's
14 the problem. Your Hawaiian advisory group, you have
15 been utilized to investigate the whole mountain, not
16 just where you folks are, and if you don't -- if you
17 don't have the authority, we need to fix that so that
18 they do have the authority, because we just have one
19 mountain and there are arbitrary lines where the
20 science reserve is. And maybe part of the problem is
21 this falls in the cracks and we didn't know about it,
22 and now we know, so let's find a way to fix it and
23 then --

24 CHANCELLOR STRANEY: The university works
25 very closely with DLNR personnel on the mountain, and

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1 I'd suggest that in this instance we should --

2 UNIDENTIFIED MALE BOARD MEMBER: But DLNR
3 doesn't have a kupuna advisory council on the
4 mountain, right?

5 MS. KAKALIA: They look to us -- they
6 look to us for input.

7 UNIDENTIFIED MALE BOARD MEMBER: They

8 look to you for input?

9 MS. KAKALIA: As neighbors, as neighbors.
10 So we did that. My concern in bringing this issue up
11 is that we have -- we have young people that do
12 protocol at the lake, and this -- this young scholar
13 was getting ready for an international trip to be away
14 from our pai `aina, our ohana, and she was restricted
15 access by rangers who have no authority to restrict
16 access to the lake.

17 UNIDENTIFIED MALE BOARD MEMBER: Let's
18 keep on this one thing.

19 MS. KAKALIA: Well, that's why I brought
20 it up.

21 UNIDENTIFIED MALE BOARD MEMBER: Let's --
22 let's try and do a better job with the --

23 CHANCELLOR STRANEY: But I think this is
24 a larger issue, the coordination between UH and DLNR.

25 UNIDENTIFIED MALE BOARD MEMBER: Yeah,

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1 we're just finding this out. We're trying to make it
2 better, right?

3 CHAIRPERSON CASE: I -- I just wanted to

4 follow up. You said Kahu Ku Mauna has not been
5 consulted on -- on what?

6 MS. KAKALIA: This issue of kea`i mana,
7 the presence of cultural practitioners. We have not
8 been consulted in meetings that the university is
9 saying they have consultation. They might with other
10 groups, but in the comprehensive management plan, the
11 first action item that we're supposed to attend to
12 since 2009 was to meet with cultural lineal
13 descendants, cultural practitioners and community
14 members that frequent the mauna to set policy and UH
15 procedure. We have continuously asked for kokua in
16 how to address these things since 2009.

17 So the state emergency that we're in,
18 that's neglect. That's -- that's neglect. We've
19 known about these process and these things to be put
20 in place. Everything you're hearing the community
21 say, if you look through the management plans and all
22 the sub plans, there's ways that they have organized
23 to address it. It's just not being addressed, but yet
24 continuous development happens.

25 CHAIRPERSON CASE: So when was the last

1 time Kahu Ku Mauna met?

2 MS. KAKALIA: We met in May. During our
3 May and our April meetings, it was regular meetings
4 that we called. We called and we don't want to meet
5 without the chancellor present. Since before 2000,
6 the office has been found negligent many times on the
7 management of cultural resources. Why would we
8 possibly still engage for another 15 years in that
9 conversation when things aren't changing? Nothing
10 personal against Stephanie. We have communication.
11 Sometimes it breaks down. It's absolutely
12 frustrating. And then to learn that these things are
13 what causes the ills of our people, that's why the
14 emotions come out when they talk to you. It's
15 extremely frustrating.

16 UNIDENTIFIED MALE BOARD MEMBER: Well, we
17 need to control what goes on at Lake Waiau, because
18 it's very sacred.

19 CHANCELLOR STRANEY: Again, that's not in
20 the university --

21 UNIDENTIFIED MALE BOARD MEMBER: I
22 understand that, Don, but often DLNR, as DLNR we have
23 an obligation to do a better job there, and thank you

24 (inaudible) for bringing this to our attention, and we
25 need to work on that because some of my friends have

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1 their piko there too.

2 MS. KAKALIA: Yes.

3 UNIDENTIFIED MALE BOARD MEMBER: Like
4 Larry Kimura. (Inaudible).

5 MS. KAKALIA: He's a part of this
6 council, actually.

7 UNIDENTIFIED MALE BOARD MEMBER: So
8 that's -- that's --

9 UNIDENTIFIED FEMALE BOARD MEMBER: I had
10 a question. Thank you for mentioning Kahu Ku Mauna.
11 That was actually one of the questions that I had
12 down, was to -- was listening to see if there would be
13 some discussion of any -- any discussion with Kahu Ku
14 Mauna or any advice coming from them as it relates to
15 this matter. So I just wanted to clarify. Kahu Ku
16 Mauna hasn't specifically taken a position or hasn't
17 been asked to?

18 MS. KAKALIA: We actually made a public
19 announcement when this first started that we are here

20 and available for the university and have not been
21 invited to any conversation when this first started.
22 We're at a place right now where we're discussing put
23 out another public statement just to say that we're
24 here, we're trying, and we are not engaged in this
25 process. The (inaudible) know that we're here.

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1 Really the community doesn't think we're much, because
2 we're -- it's advisory, they can listen or not, but we
3 have a responsibility to our place. And that's why I
4 wanted to let you know that we have been there for
5 many, many years, and it's -- it's very frustrating to
6 be part of a process that the state can pick and
7 choose, whether it's the university or any department,
8 to actually have administrative protocols and pick and
9 choose when you want to follow it. So I just --
10 mahalo nui for your time. I just wanted to bring that
11 to your attention, and again, I'm speaking as an
12 individual.

13 UNIDENTIFIED FEMALE BOARD MEMBER: Yes.

14 CHAIRPERSON CASE: Thank you very much.

15 MS. KAKALIA: Mahalo nui.

16 CHAIRPERSON CASE: Number 38, Doug
17 Simons.

18 MR. SIMONS: Aloha, board, and a mahalo
19 for the opportunity to share a few thoughts. My name
20 is Doug Simons. I'm the director of
21 Canada-France-Hawaii Telescope, previous director of
22 Gemini Observatory, UH graduate, 30-year veteran of
23 Hawaii astronomy. I've basically dedicated my whole
24 life to Hawaii astronomy. I've heard a lot about
25 hunting. I'm also a big fan of hunting for game on

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1 Mauna Kea, so I have a lot of experience there too.

2 I'm providing you with a letter this
3 afternoon that I think is fairly unique in the
4 evidence that you've been provided with. That's a
5 letter signed by ten Mauna Kea observatory directors,
6 and I'm here representing their interests in
7 particular to describe our perspective of what
8 happened on the June 24th protest.

9 My overarching message is that the
10 observatories seek at the highest level safety for

11 public and staffs in the future of Mauna Kea, and
12 careful stewardship is (inaudible) to the future of
13 Mauna Kea as well. We're strong advocates of working
14 across and depend on the community for that.

15 In summary, on the night of June 24th,
16 when he a complete shutdown of Subaru, Keck, Gemini,
17 UKIRT, IRTF and JCMT because the road was left
18 impassable, covered with rocks and boulders. It was
19 unprecedented. It was an event that unfortunately
20 left those telescopes unmanned and they cannot operate
21 without people onsite. Some of the telescopes are
22 remotely controlled, but many of them are not. The
23 night before was cut short to avoid having nighttime
24 staff interfere or conflict with gathering protestors
25 that night as well, so we basically lost a night and a

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1 half.

2 The night that we lost on the 24th would
3 have been exceptional. You heard from Hilton Lewis,
4 and a couple of examples of what was lost that night,
5 at Gemini Observatory, the scheduled observation, what

6 we call target of opportunity for the largest
7 satellite of Pluto was scheduled to be looked at
8 looking for water ice. That may not sound like a very
9 exciting observation, but in a few nights you'll
10 understand -- or two days you'll understand why
11 because on TV internationally you'll see New Horizons,
12 a billion dollar NASA spacecraft flying by Pluto, that
13 was part of a carefully timed observation ground
14 support for this NASA mission that didn't happen
15 because protests happened that day.

16 We also had eight engineers and
17 scientists stuck in Taiwan that had to have their
18 plans cancelled. They were coming out to do
19 commissioning work on a new instrumental on one of the
20 telescopes, and a group from the mainland scheduled to
21 use the NASA RTF as well. They cancelled, lost their
22 tickets, cost them money. It's a big hassle to
23 reschedule as well. There's lots of other knocked
24 down effects, but I wanted to give you some sense of
25 the loss of science opportunities, specifically on

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1 that night.

2 There are a number of tasks that the day
3 crews are responsible for on the observatories. We
4 were unable to get day crews up there for those two
5 days, the 24th and 25th, except for a handful. The
6 point that I want to make about this, though, is
7 there's literally millions of dollars in
8 instrumentation that runs the cryogenic temperatures
9 and requires humans to inject liquid nitrogen into
10 them. If you do not do that on a regular basis,
11 you'll have an uncontrolled, potentially dangerous
12 warm up. It could be very expensive, and also be very
13 dangerous. One of those instruments did have an
14 uncontrolled warm up, but it's not damaged.

15 UNIDENTIFIED MALE BOARD MEMBER: A what?

16 MR. SIMONS: An uncontrolled warm up. I
17 can explain that if you give me more time later.

18 In addition to that, the road was, as
19 you're well aware, left covered with boulders, and
20 that represented an enormous safety issue for our
21 staff. I would say the overarching safety issue for
22 us right now is that -- is that at any given time
23 protestors can block that road, trapping people above,
24 including observatory staff, and you can create a
25 medical emergency that way. Just last month we had

1 somebody at my observatory pass out. You always put
2 them on 02 and you rush them down the mountain. So
3 this is a big issue for my staff who's up there all
4 the time, and I really do want to stress that.

5 CHAIRPERSON CASE: Please summarize now.

6 MR. SIMONS: Sure. And I want to thank
7 you for your time. Again, the overarching message
8 from us is please do what you can to provide a safe
9 working environment for our staffs. It's to the
10 benefit of the public, and we want to see the road
11 ultimately opened up for everybody as it was in the
12 past.

13 CHAIRPERSON CASE: Thank you.

14 UNIDENTIFIED MALE BOARD MEMBER: To
15 resolve this, what is your interpretation of safe
16 working conditions? What would -- what plan would you
17 put up? Besides -- if we wouldn't implement the rules
18 that we have before us.

19 MR. SIMONS: So I support the rule, to be
20 clear, and I support it in the sense that I'm not here
21 to prescribe a solution. I'm simply here because I'm

22 an astronomer. I'm not an expert in law enforcement.
23 I'm simply here to tell you from our perspective what
24 the safety issue is, and for us it's this matter of
25 instantaneous road closure and prevention of a medical

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1 emergency from getting back down.

2 UNIDENTIFIED MALE BOARD MEMBER: Okay.

3 CHAIRPERSON CASE: Thank you.

4 BOARD MEMBER ROEHRIG: I met you before.

5 I think the -- when we went up to the -- what was
6 supposed to be the dedication of the Thirty Meter
7 (inaudible).

8 MR. SIMONS: Yes, I was there.

9 BOARD MEMBER ROEHRIG: I think you were
10 the speaker.

11 MR. SIMONS: You have a good memory.

12 BOARD MEMBER ROEHRIG: In the conference
13 room, and I was there with my friend Rose (inaudible)
14 and so I listened carefully because I wasn't aware of
15 all the history. So when you tell me today you're
16 just an astronomer, my comment to that is that you and
17 all the other leaders of all those telescopes up

18 there, you've got to help us.

19 MR. SIMONS: I agree.

20 BOARD MEMBER ROEHRIG: Okay. This is a
21 new day. Times have changed, you know, and there has
22 been a reawakening. All my neighbors in Keokaha
23 they've got flags flying on their cars and trucks.
24 Times have changed. So it's not the same as it was
25 three months ago. This is a brand new situation. So

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1 what is going to have to happen for the existing
2 telescopes not to close down and not to lose all their
3 billions in investment and not to lose all of their
4 grants that get funneled through the Institute For
5 Astronomy for viewing time and all the grants? There
6 has to be a heart rendering discussion between all the
7 telescopes, including the Thirty Meter.

8 The Thirty Meter is holding all of you
9 guys hostage, not because they're mean or whatever.
10 It's the practical consequence of this dispute.
11 Because when you -- one of the cases we had in torts,
12 when you shoot a gun into a -- into an occupied

13 auditorium, it really doesn't matter when you intended
14 to hurt somebody. The risk is so great, it's
15 outlawed. That's why you can't shoot guns into
16 auditoriums.

17 So in this situation, it doesn't matter
18 whether or not the various protestors had mean
19 intentions and something beyond you want to say kapu
20 aloha. Kapu is -- has a lot of meanings, probably the
21 best meaning is religious, it's a religious deity, and
22 because of that, this na`au just drives people, and so
23 they have this momentum coming, all right, and I wrote
24 down in my notes here, we had -- one of the last
25 witnesses, no Thirty Meter or civil disobedience

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1 continues for a long time.

2 So let's say that that's the situation
3 right now, no Thirty Meter or civil disobedience
4 continues for a long time. It would continue long
5 enough for you guys all to close down. I'm
6 reminded -- not to be -- chairwoman says I talk too
7 much, but (inaudible) about King Kamehameha I, and
8 I'll be real short. You can fine me.

4 BOARD MEMBER ROEHRIG: Paia. So he's
5 called Paia Ula. That's Keeaumoku's nickname because
6 he was crawling like a crab on the ground, he was a
7 royalty, or ula because he had red coming out of his
8 body, and he hit him with a (inaudible) right across
9 (inaudible) and he opened him up.

10 So right after lunch he stopped laughing
11 and Kamehameha won the battle. So now here we are up
12 on Mauna Kea. Are we in the morning or are we in the
13 afternoon? Nobody knows where we are. Maybe this is
14 in the morning and one side is laughing and the other
15 side gonna win in the afternoon. I don't know. All I
16 say is, history repeats itself.

17 If we don't want to have this thing go on
18 forever, all the telescopes gotta sit down, you guys
19 got that crunch it together and decide where is the
20 future of this. The one person who speaks the loudest
21 on Mauna Kea isn't in this room. He's in heaven right
22 now, and that's Dan Inouye. And Dan Inouye told me in
23 1998, and that's why we made that big group when I was
24 in the board of regents, to get this thing started.
25 He told me, the future of the universe for the people

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1 on Earth, all human beings, is to look through the
2 telescopes on Mauna Kea to see our past and our future
3 for the savior, salvation of the human race. That's
4 why it's important to him, and that's why he was in
5 favor of the telescopes to keep coming, not because he
6 necessarily loved all of that, but because the free
7 world needs that viewing site. It's either there or
8 Chile.

9 UNIDENTIFIED MALE: You got it. Amen.

10 BOARD MEMBER ROEHRIG: So there's --
11 that's the pilikea.

12 UNIDENTIFIED FEMALE: Let's go Chile.

13 BOARD MEMBER ROEHRIG: So I just say
14 this -- so I just say this. You have a good
15 chancellor. I like Don Straney because he's a
16 reasonable guy and he listens and he's hard working
17 and he's interested in helping Hawaiians. So you guys
18 gotta work with UH Hilo and the Institute of Astronomy
19 and Randy Moore, the chairman of the board of regents
20 is a good man.

21 UNIDENTIFIED MALE: Mr. Roehrig, can we
22 wrap up.

23 BOARD MEMBER ROEHRIG: I know him very
24 well. Yeah. So James -- James usually wraps me up.

25 So I'm just saying, you guys gotta get going, because

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1 if the protests continue, you know, you guys might win
2 the battle and might lose the war because everything
3 is going to stop. And all -- all the neighbors on the
4 Big Island -- get choke neighbors not going to work up
5 the mountain. We know it. I get phone calls.

6 UNIDENTIFIED MALE: Member Roehrig, we
7 need to move on.

8 BOARD MEMBER ROEHRIG: So that's it.

9 UNIDENTIFIED MALE: Excuse me, chairman,
10 I concede my three minutes to this gentleman here.

11 CHAIRPERSON CASE: We're not -- we're not
12 doing that.

13 BOARD MEMBER ROEHRIG: That's okay, no.

14 UNIDENTIFIED MALE: No, no, please. Make
15 your statement. I'll pass my paper out.

16 CHAIRPERSON CASE: We're -- (inaudible).

17 BOARD MEMBER ROEHRIG: I shouldn't have
18 talked too long, and I --

19 UNIDENTIFIED MALE: No, that's all right.

20 (Inaudible) my three minutes.

21 BOARD MEMBER ROEHRIG: But we've got to
22 get this thing moving. Madam chairwoman, back to you.

23 CHAIRPERSON CASE: Thank you. All right.
24 Number 39, Gunther Hassinger.

25 MR. HASSINGER: Honorable Chair Chase,

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1 honorable board members, I'm the director of the
2 Institute For Astronomy, as has been mentioned, and
3 I'm here in support -- in strong support -- in strong
4 support of the emergency rules for the mountain.

5 And I would like to give you my
6 perspective on the claims that the University of
7 Hawaii and the Office of Mauna Kea Management have
8 done a bad job in managing the mountain. I think we
9 have seen this in this debate and in the past, that we
10 just get the finger about managing the mountain badly.
11 I, as the Institute of Astronomy Manoa, am not
12 involved, and so I give you my personal perspective on
13 that, because it's not a defense of my own.

14 So the mountain management, from my point
15 of view, has improved significantly and

16 demonstratively over the last 15 years under the
17 Office of Mauna Kea Management. You know that there
18 were the state audits of 1998, 2005 and 2014, and
19 while the 1998 and 2005 audits were very critical of
20 the management, the 2014 audit came out with very
21 positive statements, which I usually ignore. They
22 basically said that UH and DLNR, your board has
23 addressed many of our recommendations, including
24 development and implementing management plans for
25 Mauna Kea's natural, cultural, and historic resources,

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1 and the result is an improved and more comprehensive
2 framework that coordinates the agency's efforts to
3 manage and protect Mauna Kea, while balancing the
4 competing interests of culture, conservation,
5 scientific research and recreation.

6 And you also know that the major missing
7 item in this audit was the adoption of administrative
8 rules, which we are now working together at UH and
9 DLNR. And so while we have clearly things to improve,
10 in particular with Kahu Ku Mauna and with the native

11 Hawaiian (inaudible), I think in the overall
12 management of the mountain, the combination of UH and
13 DLNR is the best possible organization. There's no
14 other organization who can manage that mountain.

15 And you know that the comprehensive
16 management plan has become the underpinning framework
17 of all activities on the mountain and all the
18 observatories and the university are complying in
19 every aspect. We have the mandatory orientation on
20 cultural and natural resources, the inspection of
21 vehicles and equipment for protection against invasive
22 species, safety rules, and regulations protecting
23 these resources.

24 In all proposed projects on the mountain,
25 big or small, I mean, Kahu Ku Mauna and also Mauna Kea

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1 Management Board are dealing with all these issues.
2 They're not dealing, I agree, with the big issue that
3 we have now, but they have worked in the last 15 years
4 together to look at every individual project that is
5 done up there.

6 The Mauna Kea rangers are on duty 365

7 days a year, and they are monitoring the activities of
8 the summit, watching for safe and unsafe,
9 inappropriate activities, responding to safety
10 warnings, and so on. So they are the guardian angels
11 of everybody on the mountain, including the
12 protectors.

13 And so from my point of view, Office of
14 Mauna Kea Management has done a great job, and now the
15 stand off has shut down a lot of these activities, and
16 therefore I really --

17 CHAIRPERSON CASE: Wrap up. Thank you.

18 MR. HASSINGER: -- support the emergency
19 rules to get back to a safe and orderly activity.
20 Thank you very much.

21 CHAIRPERSON CASE: Thank you very much.
22 Sorry, one question.

23 UNIDENTIFIED MALE BOARD MEMBER: Back in
24 1998, after the whole process of establishing the
25 Office of Mauna Kea Management and kupuna advisory

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1 (inaudible), there was strong forces in the university

2 to move the management of the mountain to Hilo for the
3 Institute For Astronomy.

4 MR. HASSINGER: Yes.

5 UNIDENTIFIED MALE BOARD MEMBER: Because
6 there was a strong feeling that the Institute For
7 Astronomy, being centered in Manoa, was not doing an
8 adequate job. So maybe history is repeating itself,
9 but rather than tell us how to do what the university
10 is doing, this is the board of regents and the
11 president's kuleana, and the president and the board
12 of regents need to weigh in on how to make Mauna Kea
13 better, because it's not just the board of land and
14 it's not just UH Hilo. It's the entire UH system has
15 to pull together to make it stronger. So that's just
16 my -- my observation.

17 MR. HASSINGER: What I would like to
18 point out with this statement is that you are right.
19 I mean, the -- as long as the management was in Manoa,
20 there were a lot of criticized that the mountain is
21 Hilo and the management is in Hilo now. And since
22 these 15 years that that has happened, there are
23 significant improvements, really dramatic
24 improvements. Not in all facets, but, for instance,
25 native Hawaiian practitioners have highest priorities

1 to go up the mountain. It was never a problem before
2 the TMT issue arise.

3 I mean, there was -- the sacred areas up
4 there are clear. They are free for the access. They
5 are free of telescopes. So I think there is a chance
6 for a fruitful and peaceful coexistence on that
7 mountain where science and cultural practitioners can
8 work together and they have worked together.

9 UNIDENTIFIED MALE BOARD MEMBER: What are
10 you going to do with the Thirty Meter?

11 MR. HASSINGER: The Thirty Meter
12 Telescope is not on a side which is cultural -- it's
13 not on the side which is culturally or environmentally
14 that problematic. I think it is -- has been tucked
15 away where you can't see it even from Lake Waiau or
16 from Puu Wekiu, or from Puu Poliahu, you don't see the
17 telescope. And so I think from my point of view,
18 there has been for many years of cooperation and the
19 fruitful coexistence between culture and science. It
20 is a chance, if you work together, to continue that.

21 UNIDENTIFIED MALE BOARD MEMBER: Thank
22 you.

23 CHAIRPERSON CASE: Okay, number 40,

24 Andria Tupola.

25 MS. TUPOLA: Aloha, Chair Case and board

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1 members. My name is Andria Tupola. I'm the state
2 house representative for district 43, which starts in
3 Maili and ends in Ewa. Today I'm testifying as an
4 individual against the proposed rules, and just kind
5 of wanted to share some of my thoughts. First is I
6 think in HRS 91.3 it states that an agency he can
7 change a rule if it states in writing the reason why
8 it's doing the emergency change. And so I was just
9 requesting to see what was written as to why the
10 emergency rule with a being proposed. Kind of a
11 preamble. When we look at the law, like when we're
12 looking at a bill, it just says kind of how it came
13 about. Obviously, you know, there are reasons, but I
14 wanted to see if writing like how it came to this
15 solution, us there's many solution that is could have
16 been proposed, but this is a specific solution.

17 And I think also the things that other

18 people have been bringing up about other current laws.
19 I mean, as a law make I know that the public loses
20 trust in us when we don't abide by the law. And so
21 they're losing confidence in us because we need to
22 check our -- check to make sure we're not violating
23 any other laws, and if there's any support we can give
24 you with people that can help you to look into that,
25 or whatever it may be, because it seems like we're

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1 crossing into a lot of different bounds that perhaps
2 are unintended, maybe the origin tension was to
3 protect the people that are there, but now it's just
4 into every area that may or may not be the original
5 intention of this rule change.

6 Secondly is the unintended consequences.
7 Something that was brought up earlier by Andre was in
8 regards to the civil disobedience, is, you know,
9 sometimes when we're making laws or rules, thinking
10 that we're affecting one thing, while unintentionally
11 we're creating other things to happen, and that's what
12 we don't want to happen. You know, we want this to --
13 to not end of being something that's going to create

14 more civil disobedience than what we've had. I mean,
15 I have people come to the legislature, you know,
16 during session saying that our prisons our overcrowded
17 ever since the sit-lie bill. Now we have a bunch of
18 homeless that are inside the jail with, you know,
19 convicted felons. This cannot be where we continue to
20 criminalize behavior because we think that we're
21 shaping it to make people stop.

22 And so thirdly, increasing access. I
23 mean, we're talking about an issue that's on Big
24 Island, but we're having a hearing on Oahu. And so in
25 order to get a bigger scope of the people who are

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1 being affected, we need to be having this hearing on
2 Big Island where people can actually attend this and
3 not have to fly over, or even here in Hawaii where,
4 you know, people have been here since 1:00, maybe 8:00
5 in the morning, and I know it sounds like a long time,
6 trust me, I've sat in long hearings, but still, to
7 continue expanding access so that everyone's voice can
8 be heard.

9 And lastly is the solution. You know, a
10 lot of times when we're making rules or laws, it's to
11 find a solution. But what we're doing is so
12 peripheral, like we're going to stop backpacks and
13 this thing, but when the root of the problem is
14 something bigger than what we're talking about right
15 here. And I understand that that may or may not lie
16 with you guys. That may lie across the building.

17 UNIDENTIFIED MALE BOARD MEMBER: It may
18 lay with you at the legislature.

19 MS. TUPOLA: That's what I'm saying.

20 UNIDENTIFIED MALE BOARD MEMBER: You
21 folks can enact legislation to cure this whole thing
22 if you have the votes.

23 MS. TUPOLA: And that's what I'm saying
24 is that doing this rule is very peripheral, whereas we
25 may need to solve this problem that's much bigger and

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1 there's a root of it.

2 And so lastly, I just wanted to say is
3 that I'm not coming up with these conclusions blindly.
4 I have met with the chancellor here. I have talked

5 with him. I read through the court cases. I've gone
6 up to Mauna Kea. I've met with the people. If you
7 need somebody to stand the gap and try to communicate
8 or try to find some type of solution for this, I will
9 do it. If we need somebody that needs to go up there
10 and try to figure this out, we should. Because I
11 don't think by continually ignoring the people that
12 are up there that it's going to get any better, or by
13 making a law or a rule here on Oahu that affects Big
14 Island is going to make anything better either.

15 So we need to sit down and be realistic
16 with ourselves. Are we really doing what we need to
17 do to come up with creative solutions. The people of
18 Hawaii are depending on us. They're depending on us
19 to protect the land and to hear their voices. So if
20 you need help, if you want us to help, and we have
21 lawyers that work for -- we will come and we will
22 help. I will come and I will help. I will go to the
23 Big Island and I will help to advocate, to help get
24 the people protected, if that's what needs to happen.

25 Do I think that a law or a rule is going

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1 to change the behavior? Probably not, and it might
2 worsen it, but we should think about that. What is
3 this going to do adversely? Instead of being
4 proactive, we're just reacting. All this happens,
5 let's react.

6 So we have a choice here. We can
7 initiate something proactive that's going to help the
8 people, as opposed to restrict them, or cut them off,
9 ignore them, or stand on Oahu and tell people on the
10 Big Island what we think. So if you want me to take
11 that there, I will. Whatever you need help with, I'm
12 there to help. That's what I think we can do to make
13 Hawaii better is have agencies work together, be more
14 collaborative, instead of divisive.

15 And that's the same which we need to make
16 legislation and rules. Let's collaborate. The same
17 -- I think she left, but the girl that was here, she
18 said their group's willing to help. Have them help
19 advocate. Have them help out. You know, have them
20 weigh in and have them bring you information. There's
21 so many people willing to help with this issue. Let's
22 bring them all on board and say, you know what, we
23 need everyone's help. Let's bring everyone to the
24 table and let's figure this out, as opposed to just

25 ignoring people or assuming. Let's not work off of

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1 assumptions any more.

2 UNIDENTIFIED MALE BOARD MEMBER: I have
3 one question.

4 CHAIRPERSON CASE: Yeah.

5 UNIDENTIFIED MALE BOARD MEMBER: You're
6 an attorney? You an attorney?

7 MS. TUPOLA: I'm a music teacher. Would
8 you like me to sing a song?

9 UNIDENTIFIED MALE BOARD MEMBER:
10 (Inaudible).

11 CHAIRPERSON CASE: Thank you very much.

12 MS. TUPOLA: I'll sing you a song later.

13 UNIDENTIFIED MALE BOARD MEMBER: Thank
14 you for your help.

15 MS. TUPOLA: Anything you need help with.

16 UNIDENTIFIED MALE BOARD MEMBER: You work
17 it out with the chairman -- chairwoman. She's the
18 boss.

19 MS. TUPOLA: Chair Case, if you need
20 help, I'm they're help you. I know that it's hard to

21 do these types of things. If you need help
22 collaborating, calling meetings together, identifying
23 groups that can help you, I will help.

24 CHAIRPERSON CASE: Thank you.

25 MS. TUPOLA: So I'm at your service.

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1 CHAIRPERSON CASE: Number 41, Rich
2 Matsuda.

3 MR. MATSUDA: Thank you, Chairperson Case
4 and members of the board for this it opportunity. My
5 name is Rich Matsuda. I'm the operations manager at
6 the W.M. Keck Observatory. I am a third generation
7 Hawaii resident. I was raised on Oahu and I've lived
8 on Hawaii island for the last 21 years.

9 I'm very proud to lead the decent and
10 hard working men and women on the operations crew who
11 work on Mauna Kea to enable the world class
12 astronomical discoveries that Keck is known far. As a
13 resident, I also care deeply about the community on
14 Hawaii island that I live in and that my crew lives
15 in.

16 My concern for both the crew and the
17 community compels me to speak today. Mauna Kea is an
18 extraordinarily special place. It also be a perilous
19 place due to its high altitude and unpredictable
20 conditions. This makes safety a particularly
21 important concern for those of us who access the
22 mountain every day, and something I urge you to
23 prioritize.

24 Several in the operations crew, including
25 myself, have prepared ourselves by becoming certified

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1 emergency medical responders. In 2011 our training
2 was put to the ultimate test when one of our own team
3 members suffered a heart attack on Mauna Kea. This
4 was a dire situation, because the nearest hospitals
5 are an hour and a half away in Hilo and Waimea.

6 We transported our worker down the
7 eight-mile long road from the summit observatory to
8 Hale Pohaku, where we transferred him to an ambulance.
9 Thanks to the quick response, he recovered and he's
10 fine today. This is the same stretch of road that has
11 been closed to the public since June 24th.

12 In my 20 years working on Mauna Kea, we
13 have responded to cases of acute mountain sickness,
14 cerebral edema, concussion, broken limbs, vehicle
15 accident injuries, to name a few. Some were
16 observatory workers, some were residents or tourists.
17 Serious health incidents occur without warning, and
18 getting the victim down to qualified emergency medical
19 care is crucial. This is why our crew and I believe
20 maintaining order and clear passage of the road on
21 Mauna Kea must be a priority for all who access Mauna
22 Kea, whether they are observatory workers, cultural
23 practitioners, visitors, or others.

24 As you look for ways to assure the safety
25 of everyone on the mountain now, I hope that you are

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1 also guided by a longer term version of Mauna Kea's
2 future. I believe that Mauna Kea is extremely special
3 from many perspective, including, science,
4 environment, and culture, and deeply deserving of
5 stewardship from all of us.

6 I sincerely hope, and I've heard this

7 mentioned multiple times, and the speaker just before
8 me, that we all find a way to work together in aloha
9 and peace to help create a shared long-term version
10 for Mauna Kea that we can all be proud of, and I would
11 add my offer of help as well to the last -- to what
12 the last speaker said. Thank you.

13 CHAIRPERSON CASE: Thank you very much.
14 Number 42, Shelly Munioka.

15 MS. FUJIKANE: Shelly and I have
16 switched. I have a meeting to go to at 6:00. Aloha
17 mai ka kou. My name is Candace Fujikane. I'm an
18 English professor at the University of Hawaii and I'm
19 here to oppose agenda item C1 and C2. Regarding C1,
20 if the chairperson of the DLNR is granted executive
21 power to close public hunting areas, there will be no
22 public oversight or input in making important
23 decisions about what constitutes public safety or
24 protection of natural resources.

25 Regarding C2, neither acting

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1 administrator of the Division of Forestry and
2 Wildlife, Scott Fretz, nor attorney general Douglas

3 Chin has identified imminent peril or threats to
4 public safety that can be specifically attributed to
5 camping.

6 Fretz has called for emergency rule
7 making for the public hunting area is unwarranted,
8 given that hunters and cultural practitioners have
9 been camping on those lands for years. Chin's
10 concerns about the boulders and rock walls placed on
11 the road cannot be attributed to camping. Attributing
12 the introduction of invasive species to the protectors
13 is also disingenuous, given the traffic of 300,000
14 visitors to the mountain every year.

15 The placing of unauthorized toilets is
16 not an imminent peril, nor is the consumption of
17 water. Stephanie Nagata, director of the OMKM, has
18 described the protectors as cordial. Clearly this
19 proposal is another effort to remove the protectors
20 from the mountain so that the TMT can proceed with
21 construction. The public is concerned about
22 transparency and accountability. The decisions about
23 the protection of natural resources cannot be left to
24 one person, as a problematic reasoning by both Fretz
25 and Chin illustrate.

1 I am concerned about how these emergency
2 rule-making processes will impact the ability of
3 (inaudible) to engage in cultural practices. I am not
4 Hawaiian, but as a member of (inaudible) `aina mauna,
5 I have walked with Kahookahi on the ancient kuamoo,
6 some of which fall within the proposed restricted
7 areas. Who engages in walking the trails, the
8 practice of kaapuni ma ka`ika`i, traveling on
9 spiritual kuka`i or journeys taken as occasions to
10 view, remember, and teach the moolelo, the histories
11 and the stories, of the waihipaina, or celebrated
12 places of Mauna o Wakea.

13 These kuka`i span not one day, but
14 several days. This cultural practice is also
15 critically important to the monitoring of sacred
16 sites, as we have seen desecration happening on
17 (inaudible) parts of the mauna. Water from the sake
18 credited springs (speaking in Hawaiian) have been
19 recently diverted through aluminum pipes down the
20 mauna to storage tanks near Pohakuloa. Who authorized
21 this diversion? Why wasn't the general public
22 notified and allowed to provide input? We need public

23 oversight in order to protect Mauna o Wakea. And I
24 have photographs before and after photographs of what
25 the springs looked like in 2005 and what they looked

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1 like last year.

2 We have looked out over na `aina mauna,
3 the mountain lands, and we have seen the land as the
4 late afternoon sun cast a yellow glow on the grassy
5 slopes. I think of Poliahu and her sisters
6 Lilinowaiu and Kahookane and the golden pa`u made
7 from the kapa pounded from the rays of the sun. I
8 think of Waiao and Moinanea, the reptilian water deity
9 who is kahu or guardian to Poliahu as she dwells in
10 Waiao during the summer months.

11 From a vantage point on an ancient kuamoo
12 in the proposed restricted area, we have seen what
13 kupuna long ago would have seen, clouds rolling in
14 around the puu that invoke Kanehunamoku and the other
15 12 islands of kane, floating high among the clouds.
16 In keau nelenele Moses (inaudible) references three of
17 the islands, Kuhailani, Kelohilani, and Nuumelani as
18 once being home to moolinanea --

19 CHAIRPERSON CASE: Can you wrap it up
20 now?

21 MS. FUJIKANE: Just a little bit more.
22 All of these sites inspire the remembering of thee
23 moolelo Mauna o Wakea. How many oiwi will miss these
24 experiences if emergency roads are implemented without
25 cause. I urge you to oppose this proposal for the

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1 emergency road. Na Kea E Mauna are only doing what
2 you yourselves have sworn to do as members of the
3 DLNR, to protect the conservation district and the
4 sacred lands of Mauna o Wakea. Thank you.

5 CHAIRPERSON CASE: Thank you.

6 MS. FUJIKAWA: Do you want to see the
7 pictures? I have the pictures right here. They were
8 amazingly beautiful, the springs were green, there was
9 a carpet of grass. Ku wanted to sleep on the grass
10 when we went hiking last year, but instead of this,
11 what we actually saw was barbed wire around concrete
12 poured to create these reservoirs and aluminum pipes
13 drawing water from these very sacred springs that are

14 recorded in the moolelo of komiki, who went to Waiau
15 to get water to make awa, and some of the water
16 jiggled out and created these springs that spread
17 across Pohakuloa all the way to Hualalai.

18 UNIDENTIFIED MALE BOARD MEMBER: Did you
19 follow where the pipes go to?

20 MS. FUJIKAWA: Yeah, you can see it on
21 Google Earth. Can you see the silver lining of the --

22 UNIDENTIFIED MALE BOARD MEMBER: Where do
23 they end up going to?

24 MS. FUJIKAWA: They go down to these four
25 water tanks that are down by Pohakuloa. So anybody

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1 can look that up on Google Earth. And we don't know
2 who approved that diversion or whose -- where the
3 water is going, what it's being used for. We are just
4 hoping it's not being used for toilets in the state
5 parks. We have no idea what the water is being used
6 for.

7 CHAIRPERSON CASE: What was the name of
8 the spring?

9 MS. FUJIKAWA: The springs are Kahokokane

10 -- or Hopo`okane, I'm sorry, Kahopo`okane and Waihu.

11 CHAIRPERSON CASE: Thank you. Okay,
12 number 43, Alfred (inaudible) Medeiros.

13 MR. BUELTMAN: I switched with him. My
14 name is Paul Buelتمان. Aloha, my name is Paul
15 Buelتمان. I'm from the Big Island. I was just luck
16 to be here to be able to testify against this. You
17 know, there's a lot of testimony that's been given,
18 and I want to be respectful to everybody's time,
19 because there's probably more than a hundred people
20 still outside wanting to give testimony. I'm in
21 opposition of the section C1 and 2.

22 UNIDENTIFIED MALE BOARD MEMBER: Excuse
23 me. I'm heard of hearing, if anyone can ramp up the
24 volume, please. (Inaudible), please. Is there any
25 way you can put up the volume a little bit?

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1 MR. BUELTMAN: Sorry, we talk softly on
2 the Big Island.

3 CHAIRPERSON CASE: Please continue.

4 MR. BUELTMAN: Okay.

5 CHAIRPERSON CASE: There's a chair over
6 there.

7 UNIDENTIFIED MALE: (Inaudible).

8 MR. BUELTMAN: No, it's all right. I'll
9 be quick. So once again, I'm in strong opposition of
10 section C1 and 2, you know, as a person who lives on
11 the Big Island, and while I can't speak for all my
12 friends and family who are there, I do have lots of
13 friends and family who not only work within the DLNR
14 system, but also up on the mountain, you know, in the
15 observatories themselves, and, you know, I think these
16 rule changes, well, you know, they're under the guise
17 of maybe safety, you know, it seems more like a
18 retaliation to things that are happening on top of the
19 mountain right now. And maybe this -- you know, this
20 simplistic approach may be is just to, you know, just
21 don't build the telescope, you know. Everything goes
22 back to normal. You know, the telescopes that are up
23 there now have several years left of, you know,
24 structural integrity. You know, they're fine right
25 now. They're working.

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1 You know, they talk about advancing stuff
2 now, you know, at the expense of what, you know, you
3 say -- you talk about conservation. You know,
4 conservation is using something now, but, you know,
5 keeping it so that future generations can still use
6 that same resource, you know. You know, there's a lot
7 of words that are being thrown around, but I think
8 some of them have been twisted and misused, but
9 anyway, that's all I had to say about this. Thank you
10 guys for your time and being here to hear us.

11 CHAIRPERSON CASE: Thank you.

12 UNIDENTIFIED MALE BOARD MEMBER: Thank
13 you.

14 CHAIRPERSON CASE: Number 44,
15 Kanawaialililuka Lindsey. Not here? Okay, number 45,
16 Raymond Kaleoleilani, and I can't read the last name.
17 No more? Number 46, Starsha Cleaver. And 47, child
18 (inaudible).

19 SPEAKER: Excuse me, my number is 56. If
20 you do call my number, would you repeat it loud,
21 please?

22 CHAIRPERSON CASE: I sure will. Number
23 48, (inaudible). 49, Ben Manuel.

24 MR. MANUEL: Good afternoon, everybody.
25 (Inaudible) live in (inaudible), which is now known as

1 (inaudible) valley. My ancestral homeland is
2 (inaudible), but it's colonized name. So I'm not here
3 because I am familiar with the details of what you
4 guys are trying to do. From my perspective, and I
5 come from a grassroots perspective, (inaudible) out on
6 the sidewalk every Wednesday holding signs and end
7 occur and people to protect Mauna Kea.

8 I'm against the project. I'm against any
9 rule that helps you to convenience yourselves to
10 (inaudible) and by doing so inconveniencing the people
11 that want to protect Mauna Kea, because the mountain
12 needs to be protected for all the reasons that have
13 been mentioned before. And I have it written on the
14 palm of my head, but I just want to say a large part
15 of what's going on, this rude intrusion on to Hawaiian
16 places is kind of a racist thing and we look far back
17 in time we'll see that that's usually at the root of
18 the problems that we have.

19 And so if you were to implement these
20 emergency rules (inaudible) amount of resistance that

21 it would be able to amass on the mountain and therefore
22 making it easier for TMT to proceed with its --
23 completing its construction (inaudible) create an
24 atmosphere in occupied Hawaii, we recognize it as being
25 such.

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1 We create this atmosphere or a reality,
2 (inaudible) and what we have is apartheid, which keeps
3 people -- it happens in Palestine, it happens in all
4 occupied places, where the colonized or the occupier
5 limits the people. The people have rights too, and
6 please (inaudible). (Inaudible).

7 But you know, we have a lot of stolen
8 things here, and being that I'm set, I know my
9 history. My people were brought here to be exploited
10 by the haoles on the plantations. And Filipinos like
11 to kind of make the claim that helped to build Hawaii,
12 but I don't think (inaudible). Yeah, we didn't build
13 Hawaii. The land was stolen from the Hawaiians and
14 the haoles brought us in.

15 CHAIRPERSON CASE: Time for you to
16 summarize.

17 MR. MANUEL: Yeah, and so I just want
18 today make that point, because I don't think a lot of
19 people make these points. Sometimes (inaudible)
20 places, but we need to consider that too, the
21 considerations that you have. And don't build TMT,
22 please.

23 CHAIRPERSON CASE: Thank you. Number 50
24 we have (inaudible) Connor.

25 SPEAKER: Aloha, my name is (inaudible),

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1 and you already know, me, I always try to just speak
2 up for our people, speak up for what is right, and I
3 would like to send a clear message to both sides of
4 the aisle, because where I come from, what is right is
5 right, what is wrong is wrong, what is fair is fair.
6 So I gonna say on the part of the state and attorney
7 general, I was trying to wait for you to say
8 specifically what was the exact threats that was
9 given, and he failed to do that. And so I say it to
10 you, to the board, that for you to consider making
11 this rule is like a knee jerk reaction to something

12 that is vague and conclusionary. So for that purpose
13 you need to just outright reject it.

14 However, on the other hand, I do
15 recognize that -- and I talked to Kahookahi. I talked
16 to the leaders on the mauna, and, you know, it was out
17 of their control that the pohaku end up on the road.
18 Some of the people decided to do that on their own and
19 so I say for on our side, if we want to be able to
20 continue to make progress forward, we cannot continue
21 with this kind of negative attitude. I watched
22 Facebook all the time and I started to see kapu aloha
23 go out the window and people give into their emotions.

24 So on our side we have to remain paa to
25 this concept of kapu aloha. And I gonna tell you

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1 that's a very rare thing for me because I come from a
2 place of violence, and to respond to everything I
3 don't like with violence. And these two young men
4 went teach me about kapu aloha. I gonna push 51 next
5 month, and I got these two young 20 year olds telling
6 me about kapu aloha, and I accept that wholeheartedly.
7 So I say to you, I'm committed to that, and I'm

8 committed to pushing our people forward through kapu
9 aloha.

10 And for those of us that stand on our
11 side, hey, enough with the craziness, brah, because
12 you're hurting our cause. So I know a lot of people
13 no like to speak up against our own people, but for me
14 what is right is right and what is wrong is wrong and
15 what is fair is fair. And so if you folks on the
16 board want to be fair, then be fair to us as well.
17 You hurting the hunters. You hurting the people that
18 demand on the mana that didn't have nothing to do with
19 the protest, and you know that this rule is only
20 because of the protest or, or the protectors. You
21 know what I mean, that's the right (inaudible) for
22 that, is the protectors.

23 So I ask you to not consider -- or reject
24 the claim until they can come to you and show you
25 proof of threats. You know, this thing about blocking

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1 the road. That's one problem. I understand that,
2 because that's interfering with interstate commerce,

3 and that's a federal law. You can go prison for that,
4 and so we need to be mindful of that, but, you know,
5 that was one incident, and it's pau already. It took
6 the protectors to go clear the road on their own
7 without being asked. So you guys need to consider
8 that.

9 And let's come to place where we end this
10 already, all right. We need to get to that place
11 where we can sit down and discuss how we gonna resolve
12 this issue, because if you stand strong and you no
13 like move, TMT no like move, and the protectors not
14 gonna move, we not gonna go to place. We need to
15 resolve this and we need to resolve this now. Aloha.

16 CHAIRPERSON CASE: Number 51, Kimo
17 Kaleohano.

18 MR. KALEOHANO: Aloha mai ka kou.
19 (Speaking in Hawaiian). My name is Kimo Kaleohano.
20 Mahalo for the opportunity to testify today. I'm
21 speaking on behalf of myself, my ohana, and
22 (inaudible) Robert Ibenez, who could not be here today
23 due to medical reasons.

24 I won't spend my time talking
25 counterpoints to the ridiculous arguments and

1 accusations based in nonsense that are being spun by
2 TMT, their PR firm, UH, the current administration, as
3 I'm sure they have and will continue to be well
4 refuted today. Nor will I waste time discussing the
5 legality of the proposed rules, as they are illegal
6 under numerous U.S., state, United Nations and
7 international laws.

8 Everyone in this room knows that this
9 attempt at emergency rule making has no more to do
10 with public safety than Lauren Thurston and his
11 committee of safety had to do with safety. This is
12 clearly a conspiracy to stop kanaka maoli, as well as
13 non-kanakas from exercising their civil,
14 Constitutional, and indigenous rights in protecting
15 Mauna Kea, our history and our culture.

16 This is clearly evidenced by West Hawaii
17 Today's release of internal emails between members of
18 this board and other agencies in the current
19 administration.

20 But I would like to talk about what you
21 as a board can do. You can fulfill your kuleana to
22 your own mission statement, to enhance, protect,
23 conserve and manage Hawaii's unique and limited

24 natural, cultural and historic resources, held in
25 public trust for the current and future generations of

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1 Hawaii Nei.

2 This is nothing -- there is nothing
3 natural, cultural, or historic about what is being
4 attempted here today. Please set aside your poll 0
5 particulars, personal agendas and the influence of big
6 money and stand up for our people and the very
7 resources you're supposed to be protecting.

8 I ask you, Ms. Case, Mr. Roehrig,
9 Mr. Downing, Mr. Gomes, Mr. Oi, Ms. Woodside, and
10 Mr. Yuen, who and what is it that you stand for, our
11 people and our `aina or big corporations and their
12 money?

13 In closing, I humbly ask you, please,
14 rise up. Be strong and courageous. Stand with us,
15 not against us, in protecting our mauna, our history,
16 our culture and our future, and oppose this emergency
17 rule making. For many of us the sacredness of Mauna
18 Kea is a very real thing.

19 My 5th great grandfather, Samuel
20 Kaleohano's bones were carried on the mauna by my 4th
21 great grandfather, George Kaleohano. And those bones,
22 although they're long gone, are -- excuse me, although
23 those bones are long gone, that mauna is just as
24 sacred to me as your grandparent's graves are to you.
25 Onipaa, till the last aloha `aina lives. Mahalo tore

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1 your time.

2 CHAIRPERSON CASE: Number 52,
3 (inaudible). 52, (inaudible). Number 53, Gunther
4 went already. Number 54, Allen -- wait. No, Allen
5 Tokonaga.

6 UNIDENTIFIED MALE: He's 56.

7 CHAIRPERSON CASE: Yeah. No Allen
8 Tokonaga. Number 56, Candace did already go. Number
9 56.

10 SPEAKER: (Inaudible) switch.

11 CHAIRPERSON CASE: Oh, yeah, sorry.
12 Shelly Munioka.

13 MS. MUNIOKA: Aloha mai ka kou. My name
14 is Shelly Munioka. I'm here testifying today on

15 behalf of Kahea, the environmental alliance.
16 Unfortunately my computer just went on the fritz.
17 Right now, as this second, as you can see --
18 CHAIRPERSON CASE: Do you want to switch
19 with number 56?
20 MS. MUNIOKA: Oh, that would be -- that
21 would be awesome. Switch with me, uncle?
22 MR. DUDOIT: Yes.
23 MS. MUNIOKA: You go first, please.
24 CHAIRPERSON CASE: She has to reboot.
25 MR. DUDOIT: Okay.

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1 CHAIRPERSON CASE: Number 56, Charles
2 (inaudible).
3 MR. DUDOIT: Pronounce my name, please,
4 correctly.
5 CHAIRPERSON CASE: Well, I would say
6 Dudoit.
7 MR. DUDOIT: You got it.
8 CHAIRPERSON CASE: All right.
9 MR. DUDOIT: Close enough.

10 CHAIRPERSON CASE: How do you say it?

11 MR. DUDOIT: Dudoit.

12 CHAIRPERSON CASE: Okay.

13 MR. DUDOIT: I'm French, Hawaiian,
14 English.

15 Can you identify yourselves, please. I'm
16 hard of hearing and my site is not that good. Sir,
17 but start.

18 UNIDENTIFIED MALE: Madam chair.

19 MR. DUDOIT: Please.

20 MR. WYNHOFF: Bill Wynhoff, from the
21 attorney general's office, sir.

22 MR. DUDOIT: Thank you.

23 MR. WYNHOFF: You're welcome.

24 BOARD MEMBER WOODSIDE: Aloha, Ulalia
25 Woodside.

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1 MR. DUDOIT: Thank you.

2 CHAIRPERSON CASE: Suzanne Case.

3 MR. DUDOIT: And you're the chairman?

4 CHAIRPERSON CASE: I am.

5 MR. DOWNING: Keone Downing.

6 MR. DUDOIT: Thank you. Mahalo.
7 BOARD MEMBER ROEHRIG: Stan Roehrig.
8 MR. DUDOIT: Repeat that, sir.
9 BOARD MEMBER ROEHRIG: Stan Roehrig.
10 MR. DUDOIT: Stan Rolick.
11 BOARD MEMBER ROEHRIG: Roehrig. Yeah,
12 I'm hard of hearing.
13 MR. DUDOIT: Sir?
14 BOARD MEMBER YUEN: Chris Yuen, a board
15 member.
16 MR. DUDOIT: Okay, sir?
17 BOARD MEMBER OI: Thomas Oi.
18 MR. DUDOIT: Repeat that again, please.
19 BOARD MEMBER OI: Thomas Oi.
20 MR. DUDOIT: How do you spell that?
21 BOARD MEMBER OI: O I.
22 MR. DUDOIT: Thank you. Please, would
23 you read these carefully. I want to preserve my
24 voice. I've spoken so much. While you're reading
25 that, you might review your papers published by the

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1 Honolulu Advertiser last month on the 26th. I'm on
2 the front page, and it was a specific word used for my
3 emotions at that particular time, and, yes, I was
4 emotional. I'm 84 years old. When I was 12 years
5 old, I saw my grandmother cry because Lanai was being
6 bombed. We were eating mango upon the porch and every
7 time a bomb would drop, (inaudible). And I says,
8 what's going on with you, you know, to my brother, my
9 older brothers. I'm 12 years old and I didn't
10 understand what she was doing. To me, it was like
11 live TV today. We didn't have TV in those days. It
12 was live TV. I said, man, this is the best picture I
13 ever saw so far in my life, not realizing what was
14 happening.

15 And it took me 84 years to come to this
16 point. On the 25th I went up there to see what was
17 going on on the mauna. I was so disturbed, on the
18 26th I go up there and I'm watching again. Everybody
19 is talking, the DLNR offices are walking proudly, and
20 they should be, but guess what, they weren't watching
21 the keikis, the babies running around loose, it's
22 parents are so busy talking to everybody else, the
23 police is so concerned about watching traffic, and
24 going on, and guess what, a baby almost died in front
25 of my eyes. This is my flesh and blood. We're

1 talking about flesh and blood on the next generations
2 to come, future, future, future generations it moved
3 me to the point that I almost -- in fact, I lost it.
4 I took all my clothes off. I'm a diabetic. I took my
5 slippers, my socks off, all in my BVDs, and you know
6 what, those boys covered me and started to pray. And
7 I was so moved.

8 I thought I was there maybe to sacrifice
9 my life for these keikis. And that keiki almost died
10 in my place. This is reality to me. Where is the
11 DLNR up there watching traffic and then concerned
12 about the keiki? What do we do when they die and the
13 next generation make, make, make. There will be no
14 Hawaiian blood, but guess what, the Hawaiian blood has
15 circumvented this globe even before Hokulia. Prior to
16 that Hawaiian music has circulated. If you ask the
17 Hawaiian population here --

18 CHAIRPERSON CASE: Time for you to wrap
19 it up, Mr. Dudoit.

20 MR. DUDOIT: Pardon?

21 CHAIRPERSON CASE: It's time for you to

22 wrap it up.

23 MR. DUDOIT: Make it short. You read the
24 statement that I wrote. Let me tell you my second
25 amendment to this note, which I am giving you a copy

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1 of, I state, I'll ask my hanai grandson Barack Obama
2 to come home before Christmas to help us and to be
3 very careful that the enemies of this world don't jerk
4 on his chain and have us, the U.S., bankrupt. Thank
5 you all and aloha for your time. Everybody is tired.
6 You need some rest. (Inaudible) -- I don't know what
7 else to say. Thank you.

8 CHAIRPERSON CASE: Okay, Shelly. Shelly
9 Munioka.

10 MS. MUNIOKA: Yeah. Okay, (inaudible).
11 My name is Shelly Munioka, and today I'm testifying on
12 behalf of Kahea, the Hawaiian environmental alliance.
13 I'm in strong opposition to item C1 and C2. Before I
14 get into the bulk of my testimony, I just wanted to
15 say that when issues of access to a specific area is
16 being discussed, it's (inaudible) possible (inaudible)

17 take place on an island in question. So in this case
18 the Big Island, yeah.

19 So today, 12:45, we're going to start at
20 1:00, received a time that a new draft and proposed
21 rules, and I think the changes that were made are
22 substantial and the item should have been -- at least
23 C2 should have been reagendaized. The new version has
24 categorical exemptions for folks that work at the
25 facilities. It also -- yeah, I think it was

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1 substantially (inaudible), something to look at.

2 In terms of C1, the delegation of
3 authority to the board (inaudible) close public
4 hunting areas is unnecessary. The proposed language
5 calls -- the instances requiring closure relatively
6 rare, thus the administrative burden it would be
7 alleviated by streamlining would be minimal, while the
8 potential abuse for this kind of power is great.

9 To create an emergency rule -- and I'm on
10 C2, the agency must show imminent peril to public
11 health and safety or natural resources. The only
12 clear imminent peril to public health and safety is

13 the closing of bathrooms and the removal of
14 Port-a-Potties provided by the protectors and cutting
15 off access to water. Hydration is key on the mauna.
16 And forcing people to relieve themselves in the
17 wilderness is creating an avoidable public health and
18 sanitation issue.

19 If indeed we are to talk about the peril
20 to natural resources, it begs the question why no
21 emergency roads were put in place in '98 when the
22 auditor's report said plainly that UH's management of
23 Mauna Kea was inadequate to protect her natural
24 resources.

25 Why not in 2005 when the auditor found

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1 that DLNR did not provide a mechanism to ensure
2 compliance with lease and permit requirements? Why
3 not in 2010 when the CDP was given to the TMT, a
4 project that admitted, if built, would contribute to
5 the cumulative significance, substantial and adverse
6 impacts already caused by existing telescopes?

7 How about just a few months ago when

8 people reported -- or, actually, one month ago people
9 reported that machines in the mauna were leaking oil
10 directly on the ground, why not then?

11 Why has there been so much documented
12 dereliction of duty with no consequence, no
13 punishment, and yet now an emergency of imminent peril
14 is being declared?

15 Mr. Chin has cited rocks in the road.
16 Those were removed the day after the action, yet the
17 road has remained closed still till today. Telescope
18 operators have been allowed unrestricted access up and
19 down the mauna, while cultural practitioners are only
20 be allowed between the hours of 1:00 and 2:00 and only
21 if an escort is available to take them.

22 This points to an arbitrary application
23 of rules, and actually, when people ask for them to
24 produce the rules that they're enforcing, they're
25 unable to do so. So I don't know what's being

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1 enforced, actually, but it's being applied unevenly,
2 yeah.

3 So the pohaku that were placed there were

4 placed there to prevent further desecration of Mauna
5 Kea. They were there, removed by hand, not requiring
6 heavy machinery. And HRS 703-30 permits a person in
7 certain limited situations to justify disobedience to
8 criminal law if the harm the act sought to avert far
9 out weighed the harm sought to be prevented by the
10 law.

11 The construction vehicles were imposing
12 imminent harm. In this specific situation, the rocks
13 were placed to prevent irreversible damage to body of
14 our aqua. When we say that Mauna Kea is our kupuna,
15 we mean it in a literally sense. People are acting
16 out of a protection of an elder.

17 Chin said the individuals remaining in
18 the area have caused visitors and workers to feel
19 harassed.

20 CHAIRPERSON CASE: You need to wrap up
21 now.

22 MS. MUNIOKA: Okay. And we were all here
23 last month. Ms. Nagata was asked directly if there
24 had been any confrontations, and she described the
25 protestors/protectors as cordial. So the

1 justification of imminent peril is dubious at best.

2 So the last section of the rule prohibits
3 from entering or remaining in the area from 10:00 p.m.
4 to 5:00 a.m. now, and the opinion that came out of
5 PASH guarantees access for customary and traditional
6 practices in connection with undeveloped land, which
7 this is, and state's (inaudible), the state does not
8 have the unfettered discretion to regulate the rights
9 of ahupua`a tenants out of existence. This proposed
10 rule will amount to regulating rights out of
11 existence, because it would criminalize nighttime
12 celestial observations, sunrise ceremonies and other
13 practices that require access after dark.

14 It's the rising, the traversing and the
15 setting of celestial bodies that's key to the
16 practice, so asking us to leave in the middle of the
17 night for six hours and come back is not -- that
18 doesn't -- won't allow us to continue to practice.

19 In closing, I just wanted to quote David
20 Ige, actually, who said let me be -- my computer died.
21 He said something to the effect of let me be direct,
22 the public -- the public roads will remain open and
23 we'll do everything in our ability to ensure lawful

24 access. That's basically the same position we have.
25 Mahalo.

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1 CHAIRPERSON CASE: Number 57 is not
2 testifying. 58, Luella Leonardi.

3 MS. LEONARDI: Aloha, madam chair and
4 board. My name is -- let me start off. Am my
5 father's daughter. His name is Kanakaoo Niaupio, and
6 my name is Luella Koohealani Leonardi. I have a
7 bachelor of arts in geography, cartography, and GIS.
8 Today I am here to talk about pohaku and its reference
9 to hui alaloa.

10 I mentioned my father because during his
11 time pohaku was essential to his survival. Pohaku has
12 many uses. Pohaku is used to grow plants, to give
13 birth, to build fishponds, and to build outhouses. My
14 father was born at 1845 Maunawili Road, in Kailua on
15 Oahu. He also passed away at the age of 87. On our
16 property -- on his property we still have outhouses.
17 My grandmother sewed clothes for Liuliu. I had to use
18 that same outhouse when I was a little girl.

19 I'm -- you know, I'm asking myself, where

20 is the civility here? I am a human person. I make
21 number 1 and I make number 2. At my age, I have to
22 rock to maybe make number 2, and sometimes -- and
23 shishi -- when I make number 1, have I to go often in,
24 at my age, in hopes and in hopes that I make it in
25 time.

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1 I made on a reservation to go to mauna a
2 month ago, and I'm taken that I have to worry about
3 using the restroom, because I'm going to go in about a
4 week. And I have to ask, Kanua, what you folks doing
5 up there for restroom, because, you know, if I go up
6 there and stay a whole week, what should I do? I need
7 to go.

8 I'm aghast that I have to ask him
9 those -- have a conversation about using restroom.
10 Okay, and I was out there on the wall talking to my
11 friend Mano, and I was looking at at that art work
12 that Isamu Noguchi made in 1977. You know, we used to
13 call that the King Kong toilet bowl. I mean, he get
14 one over there, and I no more when I get to go to

15 Mauna Kea. By the way, I'm from Waianae.

16 In 1978 -- very quickly, in 1978 public
17 law 95341 hui awaloa, I had to go to Kahoolawe and
18 walk from Kiawekahiki, Honokanainai, Pumai`iwi, and
19 over Hakewala in one day's time and return. Public
20 law 95341, we didn't make rules then, and we -- and I
21 see that we're coming close to it making rules for
22 public law 95341. Most of our people don't know what
23 is public law 95341, but we had to access -- we had to
24 hui alaloa in 1978. I'll be really quick.

25 There was a -- that night on Kahoolawe

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1 there was an archaeologist that was doing his
2 objectivity on his science project, and he was trying
3 to tell all of us that he is the owner of
4 Kealaekahiki, so I stood up in front of 200 people and
5 I turn and I told him, I said, Kealaekahiki is very
6 sacred to it my people. This -- you cannot own
7 Kealaekahiki and turn it into metes and bounds.
8 That's what he was doing that the.

9 CHAIRPERSON CASE: Can you wrap it up
10 now.

11 MS. LEONARDI: On Molokai a week later,
12 Cynthia Thielen, I turned around told her her consent
13 decree, we all voted it down because on her consent
14 decree it allowed the military continue on bombing.
15 It allowed the military to continue on bombing
16 (speaking in Hawaiian). Okay, I came from Oahu and I
17 went up and I talked to my uncle Randy about our trip.

18 CHAIRPERSON CASE: (Inaudible).

19 MS. LEONARDI: And I told him we were
20 picking up pohaku and we had to make this path way
21 from Honokanainai over to Kealaekahiki. He asked me
22 what color. I said, oh, all the rocks that we had --
23 pohakus we had to pick up had to be white. So he was
24 very satisfied that the day later at 9:15 at night I
25 went to talk to uncle Sam Lono.

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1 CHAIRPERSON CASE: Time for you to wrap
2 up.

3 MS. LEONARDI: I went to talk to uncle
4 Sam Lono, and I turned it around and I told him, I
5 said, uncle Sam, I saw this pohaku, this cradle for a

6 baby, and I looked at him and I said, very emotional,
7 before I left the `aina I put a poopoo inside the
8 cradle. Uncle Sam Lono began to tell me all about the
9 cradle and its purpose.

10 I'm very blessed to have known him. And
11 I will wrap this up. I am asking all of you, you
12 know, in this protect Mauna Kea, I'm asking you to --
13 to take care of our people, because even uncle Sam
14 Lono was arrested at Kualoa park and cited, and all he
15 was doing was Kahea because of the iwi that was
16 inadvertently taken out.

17 We also did Mokapu within that month. We
18 did Mokapu, access to Mokapu, and he asked us to bring
19 pohakus, and we asked him why. And he said, never
20 mind, just bring it. So this whole thing about
21 pohaku, I'm taken by the way the haole man look at the
22 pohaku and the way I look at pohaku.

23 As far as I am concerned, I am very happy
24 the pohaku was on that road. The pohaku be on that
25 road, then our people, our young people's body be on

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1 that road. And I think --

2 CHAIRPERSON CASE: Ma'am, time for you to
3 wrap up.

4 MS. LEONARDI: I think the signs that
5 everybody here would rather see a body on the road
6 rather than a pohaku. What is more dangerous here.

7 CHAIRPERSON CASE: Thank you.

8 MS. LEONARDI: And please return the lua.

9 CHAIRPERSON CASE: Number 59, Greg
10 Johnson.

11 MR. JOHNSON: I absolutely admire your
12 endurance, and that of everybody else here. It's
13 really impressive. I'll be very brief. I'm but a
14 guest here. I'm from Colorado.

15 CHAIRPERSON CASE: I'm sorry, can you say
16 your name.

17 MR. JOHNSON: Greg Johnson. I'm from
18 Colorado, so I know a bit about rocks and mountains.
19 The point of what I have to say here is I have a
20 perspective that may have not heard today. I was on
21 the mountain the 23rd, the 24th and the 25th. I'm a
22 professor of religion, and I was up there because I
23 study sacred land issues. I learned a lot on the
24 night of the 23rd about kapu aloha from the protectors
25 and during their strategy meeting, and I have to say

1 it's my professional opinion, as a scholar of
2 religion, that that absolutely meets every standard of
3 reasonable religion would meet any legal test of what
4 counts as religion, and the kind of practice of love
5 of place that they simply exude is, to me, astonishing
6 and humbling.

7 So anyhow, took that in, admired it a
8 great deal personally, but also professionally. The
9 next day, with my son, walked up with the protectors
10 as an observer, a sympathetic ally to be sure, but as
11 an observer. I was there as the various folks got
12 arrested, and the point I wanted to most emphasize is
13 this, as leaders of the protectors who were most --
14 who most set the tone for kapu aloha got arrested,
15 mist and rain began to fall, obscuring vision. When
16 it became clear that the leaders were gone, there were
17 a number of younger men who clearly were not part of
18 the leadership, and they took it into their hands to
19 move the rocks month the road.

20 I witnessed this directly. It was a very
21 marked departure from the kapu aloha that had been so

22 clearly articulated and held to to that moment. So
23 the media story that this is generally what happened
24 on the mountain strikes me because I was there and saw
25 it as wrong and offensive and I just wanted to bring

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1 it to your attention that it was the act of very few
2 people, and an act that an emergency rule like this
3 would be a disproportionate response to, particularly
4 in view of the kinds of religious freedom issues that
5 mighty merge in response. So thank you for your time.

6 CHAIRPERSON CASE: Thank you. Number 60
7 is not here, 61. Number 62 is Malia Akutagawa. She
8 went already. (Inaudible).

9 MR. WONG: Aloha mai ka kou. My name is
10 Sterling Wong. I'm the public policy manager for the
11 Office of Hawaiian Affairs. We provided detailed
12 written comments. I'm going to highlight some of
13 those.

14 OHA opposes the provisions in C1 related
15 to the delegation of public hunting area closures by
16 BLNR to the department. OHA opposes these provisions
17 because they will limit transparencies and

18 opportunities for public input for decisions that
19 could significantly and adversely impact
20 constitutionally protected native Hawaiian traditional
21 and customary practices.

22 OHA opposes submittal C2 due to a number
23 of technical, statutory, cultural, environmental,
24 public safety, and Constitutional concerns, as well as
25 the potential for unintended natural, cultural, and

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1 public safety impacts, all of which may expose the
2 department to a range of legal challenges that could
3 drain DLNR of fiscal staff, fiscal staff and legal
4 counsel resources, otherwise necessary to more
5 effectively manage our island's cultural and natural
6 resources and the public trust.

7 Our written testimony details many of the
8 legal issues relating to the submittal, including
9 concerns regarding the written justification for why
10 rule making is required in less than 30 days' notice
11 of the hearing and lack of specific evidence
12 demonstrating imminent peril to public health, public

13 safety, or natural resources. Therefore, I won't go
14 into those specifically now.

15 However, I wanted to take this
16 opportunity to provide some general conflicts.
17 According to rangers' reports, since March 25 -- 25th
18 about ten protectors have continuously been on the
19 mountain. At some points during that period that
20 number has increased to nearly 200. In stark
21 contrast, according to OMKM, an average of 100,000
22 people have visited Mauna Kea each year since 2002.
23 That's about 270 people a day, every day, for over a
24 decade who have not triggered any finding of imminent
25 peril to public safety or natural resources requiring

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1 emergency rule making. And even in those occasions
2 where public safety or natural resources were
3 impacted, there was still no apparent need for rules.

4 And so I just wanted to take the
5 opportunity to pass out a couple of pictures that I
6 found on the Internet, and the funny thing about the
7 Internet is when people post pictures on Mauna Kea,
8 they tend to post them with the telescope so you know

9 it's actually Mauna Kea.

10 These are incidents that we have found
11 that have occurred in the last I think two or three
12 years that all raise significant public safety issues,
13 and none of these incidents triggered some sort of
14 need for emergency rules. So our question is if
15 emergency rules weren't needed for these incidents,
16 why are these needed now. So let's just go through.

17 So we have a body boarder going, I don't
18 know, whatever. This is actually a rental car that
19 went up to the summit. Apparently the driver left his
20 car in neutral, got out of the car, left his wife in
21 the car. It started rolling down. She had to jump
22 out. It literally rolled down the summit.

23 This is a fire that happened at the
24 Gemini center. There's actually an YouTube video of
25 them trying to extinguish it with fire extinguishers.

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1 I believe that's a rental car. It's on fire.

2 Sorry, just really quick. That's ESPN X
3 Games that I used to photo shoot up there. That's a

4 skier. There was actually a big ramp over here. He's
5 jumping over the access road with two police officers
6 throwing shakas.

7 This is Crossfit. I need to see what
8 they're doing. I don't know what this lady's doing,
9 butts anyway, thank you for your time. Mahalo.

10 CHAIRPERSON CASE: Thank you. Number 63,
11 Walter Riddy.

12 MR. RIDDY: Aloha board members. I came
13 from Molokai to kind of talk story about this
14 situation. We got a battle going on up on Mauna Kea
15 and I'm really proud of everybody today. I think they
16 giving us choke information. I can't add to any of
17 the legal stuff. There's a lot of legal things
18 hanging in the air on this one, but what I wanted to
19 talk about was the real war.

20 All of our resources are depleting. It
21 was easy for us to understand that when we had to deal
22 with Kahoolawe. It was pretty in your face. This one
23 is a little bit slower. It's like a cancer that's
24 going on, and I'm really worried about the ability of
25 DLNR to resolve some of these issues that we find

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1 ourselves in, because the legislature is literally
2 cutting your guys' budget and your manpower is getting
3 less and less. And I think that when Abercrombie
4 decided to do the PLDC, people reminded him that it's
5 not a good idea to privatize natural resources for
6 private entity and profit making. So that went up in
7 smoke.

8 So that leaves you with very few options,
9 and one of the options is to find allies. And you
10 cannot find better allies than the Hawaiian people.
11 You have the same kuleana as the Hawaiian people have,
12 and we have answers that are 2,000 years old, and have
13 allowed us to survive in these islands.

14 So for you guys to start making us the
15 enemy is a bad mistake. So this stuff that's going on
16 now, everybody can see through this smoke screen. I
17 mean, we've got stuff from the Internet right now
18 showing what happened. This is is targeted to the
19 Hawaiians because of what we doing up on the mountain,
20 and nobody can really dispute that. Nothing has been
21 proven.

22 But I wanted to get back to the idea of
23 allies, we the Hawaiian, we allies. We've been
24 talking to environmentalists, trying to join and make

20 If you guys are going to come up with solutions, you
21 have to be working with the Hawaiians really closely.
22 I think county police guys are working pretty good.
23 They tell us exactly what's going to happen and
24 everybody is prepared. We need to have much better
25 relationship with DLNR, much better, because in the

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1 long run we're going to lose this war without
2 resources if we don't find allies. And I'm here to
3 say we want to do that.

4 Whether or not TMT is worth splitting up
5 the allies, I'm not quite sure, but you heard the
6 testimony today, so that's your decision to make. But
7 I'm truly against C1 and a little bit against C2. C1
8 is going to cut our lines. I mean, you guys are only
9 line to this building. You take that away, and give
10 it to the chairperson and to the staff, you cutting
11 our lines for us to become allies. So don't do that.
12 You know, we need to be more engaging. I think you
13 guys learned a lot today. You sat here a long today
14 and learned a lot, and a lot of you are new, so that's
15 a good experience. Some of you are old timers

16 (inaudible) stories.

17 UNIDENTIFIED MALE BOARD MEMBER: You
18 older than me.

19 MR. RIDDY: Well -- but -- you want to be
20 allies and just in case this actually goes through, I
21 want to make a formal request for contested case
22 hearing, just in case this thing work out. So I don't
23 know how to do a formal except to say it to all of
24 you, that I would like to say that I would like to
25 have a formal contested case hearing, and I hope we

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1 can be allies.

2 CHAIRPERSON CASE: So can he make a
3 contested case request dependent on how the vote goes?

4 UNIDENTIFIED MALE: He's going to have to
5 follow up in writing.

6 CHAIRPERSON CASE: So follow up in
7 writing.

8 UNIDENTIFIED MALE: Make the request, and
9 if you wish to follow up in writing, depending on what
10 the outcome is, then please do that, sir.

11 BOARD MEMBER ROEHRIG: Madam chairwoman.

12 CHAIRPERSON CASE: Mr. Roehrig has a
13 question for you.

14 BOARD MEMBER ROEHRIG: What's your name
15 again?

16 MR. RIDDY: Walter.

17 BOARD MEMBER ROEHRIG: So here's my
18 question, so you can hear it clearly. You're against
19 1. You're more against 1 than you are against 2. So
20 explain that to me again.

21 MR. RIDDY: Well, 1 is really clear that
22 it cuts off our ability to come before this board.
23 And I see this board as our only way to express our
24 satisfaction or dissatisfaction, whatever.

25 BOARD MEMBER ROEHRIG: Permits, permits,

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1 is that what you're saying?

2 MR. RIDDY: Well, if -- let's say an area
3 is going to be closed, we've got to come -- we can say
4 something before this board, what the impacts are
5 going to be on us and all of that. If you do number
6 1, chairman, or her designees, can make that decision

7 and we don't have that ability to come before this
8 board and express our dissatisfaction or satisfaction.
9 It cuts us off. So the more power you give away, the
10 less power we have as a community to come to you, and
11 we need to be coming to you as much as possible,
12 because you guys need allies. We need to be partners
13 in all of this.

14 BOARD MEMBER WOODSIDE: Stan, can I
15 follow up.

16 BOARD MEMBER ROEHRIG: That's all I got.

17 BOARD MEMBER WOODSIDE: I was just going
18 to follow up on that a little bit. In C1, there are
19 several sections that have some delegations, some of
20 them is for entering into contracts, some of them is
21 for coming up with qualifications for disabled
22 hunters, but what I've been hearing as the two
23 sections that are particularly of concern and interest
24 are the two that deal with the temporary closure being
25 delegated to the chairperson.

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1 MR. RIDDY: Yes.

2 BOARD MEMBER WOODSIDE: So is that the
3 particular sections that --

4 MR. RIDDY: That's the section that --
5 the flag that I saw that raised my eye up, yeah, was
6 closing I guess for mammals and birds.

7 BOARD MEMBER WOODSIDE: Uh-huh, two
8 sections.

9 MR. RIDDY: I'm a hunter also.

10 BOARD MEMBER WOODSIDE: Mahalo, uncle.

11 CHAIRPERSON CASE: I'm sorry (inaudible).

12 UNIDENTIFIED MALE BOARD MEMBER: I have a
13 question. I have a couple questions. So --
14 (inaudible) so I hear what you're saying. I think the
15 dilemma that I feel sitting here is that I also hear a
16 lot of people basically saying that they are so
17 opposed to the TMT that they -- they think it was good
18 to put rocks in the road, that they will do
19 whatever -- whatever is necessary to stop that
20 construction from going forward.

21 And I'm a lawyer. I'm a person that
22 believes in the (inaudible) rule of law, and there
23 is -- there are legal recourses. There is still legal
24 recourse to stop the TMT. It's not standing in the
25 road. It's not putting rocks in the road. And I am

1 just -- my dilemma is I don't know what they expect
2 the government to do when the government, like myself,
3 is committed to the rule of law.

4 I'm not sure I understand, but it seems
5 like people think that the government is just going to
6 sit passively, because they are so committed and so
7 earnest in (inaudible).

8 MR. RIDDY: Well, you have to look at
9 through Hawaiian lens, this rule of law that you're
10 talking about, there was no -- there was an overthrow.
11 There was no annexation. I mean, it's hard for us to
12 buy that when you have that history that we have to
13 deal with. And at the same time we're still willing,
14 because we're so protective of our existing resources,
15 and, you know, sooner or later we're going to get to
16 that point where there's going to -- this is a nation
17 of laws, and sooner or later that law is going to be
18 corrected.

19 But in the meantime, we have to work with
20 the existing system, because our resources are
21 disappearing so fast. I'm 70 years old. I used to
22 see fish galore. I know the resources are

23 disappearing. I know they're (inaudible). I have to
24 do something to protect it, because I have a kuleana
25 to the future generations and so do you. So all I'm

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1 saying is you have to do what you have to do, but
2 don't play games like this to do what you gotta do.
3 Make it pono and straight up. And we're gonna have is
4 to do what we gonna have to do, and we gonna be --
5 we're saying we're going to be kapu aloha in all of
6 this. There's no intention what -- in our day, we
7 weren't kapu aloha. Our generation was not kapu aloha
8 everything -- I had lawyers keeping me out of jail
9 constantly. So -- and that's the truth, so this
10 generation has knowledge that we never had and they
11 have protocols and guidance that we never had.

12 You guys got to back up this generation.
13 This is -- this is a great partnership if you guys
14 could put it together, to save our resources. That's
15 the -- that's the end game. The end game is not
16 whether we should have telescopes on the mountain.
17 It's the sacredness of all of our resources. We all

18 know as Hawaiians we came -- we came from Waiakea, sky
19 father and Hookalani, the star mother. I mean, talk
20 about irony. That's who we are. We're born of these
21 people and we're fighting with the telescope guys.
22 This thing don't make any sense.

23 UNIDENTIFIED MALE BOARD MEMBER: I wish
24 there -- I hope there is a way around this conflict.
25 The only thing I'd like to suggest to you is that

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1 native Hawaiians have had many successes in the
2 regular legal system with judges that have, you know,
3 the U.S. flags next to their bench. They've had many
4 successes. We are trying -- and this board here is
5 trying to move the laws -- you talk about resource
6 protection, we're trying to move the laws in a
7 positive way.

8 MR. RIDDY: For every success we have ten
9 failures. So let's balance this thing. Process,
10 seven-year process. Why you guys grumbling? We have
11 a seven-year process. Just look at this process. I
12 mean, we cannot accept the process that we lose on
13 every single one on this processes.

14 So I'm saying, this process, you know,
15 all this stuff that the governor is telling you guys
16 to go do in order to get us off the mountain,
17 that's -- it's not your kuleana. If he wants to do
18 that, tell the governor and his attorney general, go
19 find another way. We're not going to go make enemies
20 out of the Hawaiians who want to protect it, which is
21 what you guys are supposed to be doing in the first
22 place. That just doesn't make any sense. It just
23 doesn't make any sense.

24 CHAIRPERSON CASE: Mr. Roehrig.

25 BOARD MEMBER ROEHRIG: When I was 18 I

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1 was protestor.

2 CHAIRPERSON CASE: Can you use the mike.

3 BOARD MEMBER ROEHRIG: When I was 18 and

4 I went to college I was a protestor, but when they
5 came with the club, they never come for (inaudible).
6 I got hit on the head with a stick real hard, knocked
7 me down. I got hit again on the arm, and the cop was
8 trying to arrest me and I called off and I ran. The

9 Italian cop tried to catch me and I went in the
10 dormitory and hid in the closet and I had a headache
11 for about three weeks and I got away.

12 And I was throwing rocks and snow balls
13 through the president's window, me and some of my
14 freshmen friends, because we didn't like what the
15 president of the university was doing and I was 18. I
16 look back at how stupid I was, you know.

17 And then I had trouble in intermediate
18 school, Stevenson. I was asked to leave because I was
19 in a gang. I was at only haole in the gang. Then I
20 went to high school, I got asked to leave high school.
21 So when I got sworn in as a law to uphold the law, I
22 never broke it and I uphold it. I swore to uphold the
23 Constitution of the United States, Constitution of the
24 state of Hawaii and all the federal and state laws,
25 and that's it, and when I look in the mirror, I look

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1 in the mirror and I say I'm proud I didn't break that.

2 And I tell my Hawaiian clients, I'm not
3 going to hold sign with you on the road. You wanted
4 me to protest, I protest in court, according to

5 precedent of the existing law.

6 The problem I have with this is Christian
7 has the same problem, the problem is the case of -- I
8 got it right here, hang on a minute. You want to take
9 a look at two cases, one of them is OHA versus State
10 of Hawaii, 129 Supreme Court 1436. It specifically
11 says that the apology resolution did not apply to
12 invalidate the transfer of all the land the federal
13 government to the state of Hawaii, all the land of the
14 federal government went to the state of Hawaii
15 instantaneously when the -- when the statehood bill
16 was passed in the U.S. congress. That's what the case
17 says.

18 So for me, I cannot pretend that Mauna
19 Kea or want to believe that Mauna Kea is owned by
20 somebody else, or that the -- or that the apology
21 thing meant that the -- that the land didn't go to the
22 state of Hawaii. I cannot go there, and that's the
23 problem. So I have to go with the existing law. The
24 existing law says that Thirty Meter has a contract and
25 a property right. If the Supreme Court hulis that

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1 decision and does something with it, we may all end up
2 on the same side again. But until that happens, I'm
3 not going to break my oath as a lawyer because --
4 because I get Hawaiian family too, brother.

5 MR. RIDDY: I don't have an oath as a
6 lawyer, but I also understand international law. So
7 there's more than just national law, there's
8 international. That's the difference between yourself
9 and mine.

10 BOARD MEMBER ROEHRIG: And I respect -- I
11 respect your point of view, because you're a stand up
12 guy, but I'm older than you. I'm 76. But anyway,
13 Walter, we need your help. We need your help and what
14 we gotta do is if the law stays the way it is and the
15 Supreme Court approves what the Thirty Meter gotta do
16 and there's still going to be a protest, we're going
17 to be on the side of law and order.

18 I am not -- I have to be on the side of
19 law and order. As long as I'm on the board, I'm on
20 the side of law and order, and I'm sorry, but I draw
21 the line right there. I got Hawaiian grandson. He
22 comes to my house every weekend, prays with my wife
23 and I, mostly he prays with my wife, tutu, you know,
24 and they read books, and I look at him and I know he's

25 never going to make it maybe all the way to law

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1 school, but he's a fine man. He's only six, and I
2 want him to have the right idea in his head and I want
3 him to learn that law and order is important.

4 MR. RIDDY: So all I'm saying here is
5 that if the lower courts do what they do, that's fine,
6 we'll abide by the lower courts, but right now what
7 we're talking about is rule making, and the rule
8 making, that's the part.

9 BOARD MEMBER ROEHRIG: You hear you.

10 MR. RIDDY: That's either going to
11 separate us or help bring us together with trust,
12 because right now these two last minute -- these last
13 minute moves, these kunani move is not a good kunani
14 move.

15 CHAIRPERSON CASE: Thank you. Number 64
16 is Pelete Flores. Not here?

17 UNIDENTIFIED FEMALE: He's here.

18 MR. FLORES: Aloha. Pelete Flores. Born
19 in Hilo, raised in Waimea, Kauai, currently living
20 here on Oahu, restoring fishpond in Heeia.

21 Sitting on behalf of my wahine, Leinani
22 and my kids and (inaudible), he had to leave, so I got
23 all their numbers. I guess the first one, C1, I ask
24 you guys to oppose that rule, the hunting part. First
25 it gonna be hunting controlling how we feed ourselves,

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1 then fishing, farming, the thing can go on after that,
2 for the first one.

3 And then oppose the second one too. I
4 got to go up to the mauna that day all the luas got
5 locked, and it's kind of crazy for see even the
6 Port-a-Potties all locked and the next day on the
7 news, well, see the protectors bring up lua for all
8 the tourists and everybody there to just use bathroom,
9 and then next on the news hearing that, oh, they said
10 they lock all the luas because the cesspool is full.
11 The cesspool is full, so you gotta lock all the
12 Port-a-Potties too? Kind of crazy, all the lies and
13 stuffs going on.

14 Just oppose the two and just trying to
15 write down stuff to say but couldn't. Just listening

16 to all the guys talking about the law part. Can't
17 understand how you guys stand, but get a whole other
18 generation of us that kind of know more than just what
19 is up to one certain (inaudible) really know more, but
20 they not gonna just stand down because what the law
21 says. It's not pono in our eyes. We standing for the
22 `aina, and the thoughts that our kupuna taught us
23 before, especially with the pohaku up there.

24 Got a lot I want to say too, but this is
25 where we stand, and we still going to be standing till

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1 the very last aloha `aina. Aloha.

2 CHAIRPERSON CASE: Okay, number 66 is
3 going to be Dr. (Inaudible).

4 UNIDENTIFIED FEMALE: 65?

5 CHAIRPERSON CASE: 65 already spoke.

6 UNIDENTIFIED FEMALE: I'm 65.

7 CHAIRPERSON CASE: Did you -- you swapped
8 with --

9 UNIDENTIFIED FEMALE: Yeah.

10 CHAIRPERSON CASE: Okay, come on up.

11 MS. MILHAM: Excuse me if I don't sit. I

12 had an injury the other day and that makes that really
13 uncomfortable.

14 CHAIRPERSON CASE: Can you say your name,
15 please.

16 MS. MILHAM: Yes, my name is Mary Alice
17 Kaiulani Milham. I am a journalist and I live in
18 Makaha. And I've got put my glasses on.

19 UNIDENTIFIED MALE BOARD MEMBER: They're
20 on your head.

21 MS. MILHAM: Yeah, always. Thank you.
22 So for those -- let me tell you a little story. So
23 Sunday I went for a hike at Kaena Point to go see the
24 sunset, and on the way it started getting dark, the
25 (inaudible) rising, and I had brought a flashlight

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1 that wasn't fully charged. So got too dark. I didn't
2 see a big mud pit right before I got to the parking
3 lot and I slipped and fell. And I broke my tailbone,
4 and I sprained my right knee really badly.

5 So that was Sunday. But that was my
6 fault. I didn't come prepared for the hike that I was

7 doing, and it's very embarrassing to me because I am a
8 former hiker and backpacker. I've climbed Mount
9 Whitney and hiked hundreds and backpacked hundreds of
10 miles, but it was a mistake, and it was a mistake made
11 because I left my house in a rush. I was under time
12 pressure to get there to see the sunset, and so wasn't
13 prepared properly.

14 My point in telling you this is that
15 being up in the mountains, being up in the mountains
16 without safety equipment, tents, backpacks, blankets
17 is a threat to the safety of someone that's in the
18 mountains.

19 We all make mistakes, and when it's done
20 in haste, you know, we react under pressure. And when
21 it comes to safety in an alpine environment, those
22 mistakes can cause great injury, broken bones, and
23 even loss of life. So you guys say that the purpose
24 much these rules is that the protectors are putting
25 themselves at risk by being on the mauna after dark in

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1 hazardous conditions and inclement weather. But in
2 fact, you are the ones who will be putting them in

3 danger and at risk by prohibiting backpacks, blankets,
4 tarps, tents and stoves, the very equipment needed to
5 ensure their safety in such conditions.

6 Without shelter from the elements,
7 people on the mountain will be put at risk of
8 hypothermia, exposure, and other related medical
9 issues. So, therefore, I am abhorred at the proposed
10 new rule. I'm appalled at their blatantly punitive
11 nature guised in a sham of concern for public safety.

12 I'm also deeply concerned that these
13 rules are being taken as an emergency measure, as if
14 there were an imminent danger inherent in the
15 protectors just being on Mauna Kea. It is illogical,
16 perverse to prohibit the possession of blankets,
17 tents, tarps, backpacks and camping gear and stoves,
18 things necessary to keep you warm and prepare food.
19 It's as if -- I'll wrap up.

20 CHAIRPERSON CASE: Thank you.

21 MS. MILHAM: Prohibiting the possession
22 of gear necessary for safety and survival in an alpine
23 environment, you, the DLNR, and the state of Hawaii
24 are in fact or would in fact be endangering lives, not
25 protecting them. So it's in the interest of safety

1 that I oppose this it proposed emergency rule, and
2 also warn you that approving these rules will be an
3 unconscionable and costly mistake. You would be
4 morally accountable, legally for any injuries and harm
5 that result.

6 The right of the protectors to exercise
7 their religious freedom on Mauna Kea is protected
8 under the First Amendment of the United States
9 Constitution. So when we talk about respect for the
10 law, is that not the highest law of the land, the
11 United States Constitution?

12 As you know, a lawsuit was filed I
13 believe Wednesday in U.S. District Court against DLNR.
14 Chair Case, Governor Ige, Office of Mauna Kea
15 Management and UH Hilo Chancellor Donald Straney,
16 forcing these new rules, restricting the exercise of
17 religious freedom will be a costly mistake for the
18 state and for the taxpayers who pay the bills.

19 CHAIRPERSON CASE: Okay. Sorry, can you
20 wrap it up, please?

21 MS. MILHAM: Sure. It will only serve to
22 take -- make this agency and the governor look as

23 backward and loathsome as Governor George Wallace in
24 1963, trying to bar after can students from the
25 University of Alabama by standing in the doorway. Our

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1 protectors have vowed to continue the blockade against
2 desecration of Mauna Kea, and I have no doubt that
3 they will continue their vigil and protective action
4 on Mauna Kea, as they have for the past 107 days.

5 There have been three protectors who have
6 been hit by vehicles on Mauna Kea. These are real
7 safety concerns. These are real safety concerns. I
8 would like to see those issues addressed, how these
9 people that have hit these protectors been held
10 accountable? Has there been training for other
11 employees on the mountain to deal with how they drive
12 on the roads.

13 CHAIRPERSON CASE: Okay.

14 MS. MILHAM: Thank you.

15 CHAIRPERSON CASE: Okay, now we have
16 Dr. Chris (inaudible).

17 SPEAKER: Aloha, Dr. Christopher
18 (inaudible). Kaelepu is where I came from

14 about a different law. Let's see. Selective
15 prosecution. You guys are lawyers. You guys should
16 is be familiar with that. It's when you specifically
17 attach prosecution to a place or a thing that is
18 outside of the guidelines of political or other
19 effect. And I think the -- on the agenda is C1 and
20 C2, and I disagree with both.

21 I have traveled around this island
22 several times, walking with (inaudible), carrying
23 (inaudible) during makahiki. We have welcomed many a
24 school and many organization --

25 CHAIRPERSON CASE: You need to summarize

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1 now.

2 SPEAKER: -- and location. And we do it
3 by sight of the star. We walk with our ancestors that
4 are up in the heavens. And to deny me that right is
5 against anything that any good lawyer should
6 represent.

7 CHAIRPERSON CASE: Thank you.

8 SPEAKER: Aloha.

9 CHAIRPERSON CASE: Okay, number 67 is

10 going to be somebody representing Native Hawaiian
11 Legal Corporation.

12 MR. COPPER: Good afternoon, chair,
13 members of the board. My name is David Copper. I'm
14 an attorney at Native Hawaiian Legal Corporation. I
15 represent Kalani Flores, he's a native Hawaiian with
16 traditional and customary practices on the mauna. We
17 oppose these rules, and we oppose them based on
18 existing legal precedent.

19 First, I think it's very clear that the
20 department has failed to meet the requirements of
21 Kapaa Kai o Ka `Aina versus Land Use Commission. Its
22 case by the Supreme Court, and it said that state
23 agencies have an affirmative duty to preserve and
24 protect traditional and customary native Hawaiian
25 rights. This means that before you enact these rules,

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1 you must identify the scope and existence of
2 traditional and customary native Hawaiian rights, the
3 extent to which those rights will be infringed by a
4 proposed action, and you must protect those rights.

5 The looked at the staff submittal.
6 There's no Kapaa Kai analysis in here. None has been
7 provided by the attorney generals. That's existing
8 legal precedent. You cannot enact these rules without
9 an analysis.

10 I'd like to talk more about the rules. I
11 think it is clear that it's unneeded. I know Member
12 Yuen, other members have shown concern over, hey, it's
13 great what's going on and you appreciate the passion,
14 but there's rocks on the road, there's danger. The
15 proposed rules do not address that whatsoever. There
16 is nothing in the proposed rules which addresses
17 safety is because there's rocks on the road.

18 Well, so let's do a lawyer trick. We're
19 going to pretend, okay, let's assume everything the
20 opposition, the department is telling us is true.
21 Well, they're saying there's illegal activities
22 happening on the mountain. Okay. Well, why do we
23 need these rules? We already have rules making these
24 supposed activities illegal. Well, I believe I heard
25 the attorney general's office say our current rules

1 are not specific enough.

2 I have the rules. This is how specific
3 they are. Okay, it's prohibit today remove, damage or
4 disturb natural features. Rocks in the road. To
5 remove, damage, or disturb prehistoric remains; to
6 remove, damage or disturb any notice, marker,
7 structure, and to occupy any building; engage in any
8 construction of improvement; introduce any plant or
9 animal; and/or remain in this area under the influence
10 of alcohol, drain, dump or leave any litter; deposit
11 any body waste; build any fire on the ground or in any
12 structure; and of course residing in this area.

13 So it's already illegal. Why do you need
14 to have more rules? Just enforce the rules that you
15 already have.

16 So, again, that's my question. Why do we
17 need more rules? Well, the Tribune Herald, as great
18 as they are, they found some emails. And we all know
19 why these rules are out. It is very clear that it's
20 for political reasons, to support the TMT telescope.
21 And I don't want to put words in anyone's mouth, but
22 someone called these rules, the proposed rules, a home
23 run. And very briefly I'd like to finish.

24 They say these rules are a home run. And
25 while I caution you to adopt these rules, I agree,

1 they are a home run. If you want to violate Kapaa
2 Kai, it's a home run. If you want to step on native
3 Hawaiian rights and the rights of the public, then you
4 knocked it out of the park. And if you wanted to
5 enact needless rules at the expense of the
6 Constitution, it's a grand slam. There -- look at
7 these rules for what they are. There's no need to
8 strike out on this one. Thank you.

9 UNIDENTIFIED MALE BOARD MEMBER: So
10 you've heard -- you have a general idea of what --
11 I'll just call it the encampment.

12 MR. COPPER: I have a general idea.

13 UNIDENTIFIED MALE BOARD MEMBER: Is that
14 a violation of the existing rules, in your lawyer's
15 opinion?

16 MR. COPPER: I haven't seen the
17 encampment, but it sounds like the department is
18 saying it is. We've heard that camping is illegal.
19 If there is camping, then yes, it's illegal.

20 UNIDENTIFIED MALE BOARD MEMBER: Well,

21 you just told us that everything -- that a whole bunch
22 of things are already illegal. I'm just asking you is
23 what is -- people staying overnight at this encampment
24 currently illegal?

25 MR. COPPER: Well, I'm saying that's what

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1 the department is telling you, that it is illegal.

2 UNIDENTIFIED MALE BOARD MEMBER: That's
3 not --

4 MR. COPPER: If you ever need more rules.

5 UNIDENTIFIED MALE BOARD MEMBER: That's
6 not what you said.

7 MR. COPPER: It is what I said. I said
8 let's do a lawyer trick. Remember? I said let's
9 assume what the department says is true. That's what
10 I said. And I -- and in an effort to (inaudible) my
11 time, I may have spoken too fast, but that's what I
12 said. I said, let's do a lawyer trick and assume what
13 we're being told is true. And why do we do this?
14 It's to show how ridiculous the proposed position is.

15 This is what they're saying, help, it's
16 an emergency. People are doing illegal things. So

17 what are we going to do? Make them illegal again.

18 That's what they're saying.

19 CHAIRPERSON CASE: So in your mind, is it
20 a violation of the rules, what's happening right now?

21 MR. COPPER: From what I understand,
22 there are very few people that have committed
23 violations. We know that the vast majority of the
24 people on the mountain did not place those rocks.
25 They're cordial, but it goes beyond that.

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1 CHAIRPERSON CASE: What about spending
2 the night on the mountain, is that camping?

3 MR. COPPER: Tell me.

4 CHAIRPERSON CASE: So you're not willing
5 to say, so that sounds like you think it's ambiguous.

6 MR. COPPER: What I'm saying is, again,
7 these rules, even the rules you have now, are
8 trampling on native Hawaiian traditional and customary
9 rights. Unfortunately there is no analysis, which you
10 are required to do before enacting any rule, if there
11 is an effect on traditional and customary native

12 Hawaiian rights, you have to do the Kapaa Kai
13 analysis.

14 UNIDENTIFIED MALE BOARD MEMBER: You
15 know, you said that.

16 MR. COPPER: Right.

17 UNIDENTIFIED MALE BOARD MEMBER: You said
18 that a few times, but all we're asking you is if you
19 think the present rule barring camping is ambiguous
20 with respect to what's going on.

21 MR. COPPER: No.

22 UNIDENTIFIED MALE BOARD MEMBER: And
23 you --

24 MR. COPPER: And if that's the question,
25 then no.

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1 UNIDENTIFIED MALE BOARD MEMBER: And so
2 you think it is camping, what's going on up there is
3 camping and it violates the rules?

4 MR. COPPER: I've never been up there.
5 You can laugh about it, but I've never been up there.

6 UNIDENTIFIED MALE BOARD MEMBER: Well
7 with, sir --

8 MR. COPPER: If you want to tell me, is
9 there camping going on there.

10 CHAIRPERSON CASE: Ma'am, ma'am, he's
11 testifying.

12 UNIDENTIFIED MALE BOARD MEMBER: I'm
13 going to -- I'm not going to -- I'm spending any more
14 time on this line of questioning.

15 CHAIRPERSON CASE: All right.

16 MR. COPPER: That's fine, and like I say,
17 the person I represent, you may call him protector,
18 protestor. This is someone with traditional customary
19 practices, and these practices, which occur at night,
20 which are well documented in environmental disclosure
21 documents which have been submitted to the board, are
22 being affected by these rules. And if you did a Kapaa
23 Kai analysis, you would see that and address those
24 rules.

25 UNIDENTIFIED MALE BOARD MEMBER:

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1 (Inaudible).

2 CHAIRPERSON CASE: Mr. Roehrig, please

3 proceed.

4 BOARD MEMBER ROEHRIG: I'll try to be
5 short. I've done a Kapaa Kai analysis on it too, and
6 with disrespect to you, I've been representing the
7 Hawaiian community for more than 45 years on cases all
8 over the state, all the land cases, and your boss and
9 I are buddies. We were in the war back in the '70s.
10 So I've done the Kapaa Kai analysis myself, and it
11 isn't so clear to me, unfortunately.

12 If I was convinced beyond some doubt that
13 you were right, I would be a lot more confident than I
14 feel right now, because my analysis is that the state
15 has the right to regulate PASH rights, and that's
16 what's in article 12, section 7, right at the end it
17 says state has the right to regulate it.

18 MR. COPPER: But not out of existence.

19 BOARD MEMBER ROEHRIG: Wait a minute.
20 Hang on there, counsel. Regulating out of existence
21 isn't the same thing as a temporary rule that lasts
22 for 120 days. If we -- if we passed -- if we passed a
23 law that outlawed it on Mauna Kea, then I believe it
24 would come within the purview of Lin -- hang on.

25 UNIDENTIFIED MALE: The state doesn't

1 have any (inaudible).

2 BOARD MEMBER ROEHRIG: Lin versus
3 (inaudible) Indian Cemetery Protective Association,
4 108 Supreme Court, 1319, 1988 case, U.S. Supreme
5 Court. Are you familiar with that case?

6 MR. COPPER: No.

7 BOARD MEMBER ROEHRIG: That case says
8 right on point that where Hawaiian -- excuse me,
9 Indians have religious rights in this beautiful forest
10 up in the mountain, and the federal government wanted
11 to put a logging (inaudible) right through the middle
12 of it, and they said it's going to spoil it. The U.S.
13 Supreme Court said as long as you're not outlawing it,
14 you can reasonably -- you can put some controls on the
15 First Amendment right of (inaudible). I think it's an
16 unfortunate decision, because I've been supporting
17 Hawaiians all these years. This is a bad decision for
18 me, but that's the existing law.

19 And I read all these cases in the last
20 four days, because I didn't want to come over here and
21 speak out of turn, but you've got to go read this
22 case. It's bad for your position. And that's what I
23 told the attorney general, he gotta go read it too.

24 So I didn't just pick you out. I told him the same
25 thing, gotta go read it, because it has a lot do with

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1 this case. And it's an unfortunate decision, but it's
2 existing law and it seems to put a squeeze on PASH
3 rights. That's what I think, and I feel bad about
4 that, but I think that that's the existing law.

5 So with all due respect, counsel, I
6 respect you representing your client to your best
7 ability, but on this issue, I just have a little
8 different opinion. Thank you for your help.

9 CHAIRPERSON CASE: Thank you.

10 MR. COPPER: Thank you.

11 CHAIRPERSON CASE: Number 69 is --

12 MS. LOPRINCI: No, I'm 68. My name's
13 Claire. Do you want this?

14 CHAIRPERSON CASE: Okay.

15 MS. LOPRINCI: (Inaudible).

16 UNIDENTIFIED MALE BOARD MEMBER: Is it
17 okay if we --

18 CHAIRPERSON CASE: We're going to need to

19 go ahead and (inaudible).

20 MS. LOPRINCI: I'm sorry?

21 CHAIRPERSON CASE: Please.

22 MS. LOPRINCI: Aloha.

23 UNIDENTIFIED MALE BOARD MEMBER:

24 (Inaudible) we've got to.

25 MS. LOPRINCI: Aloha ka kou (inaudible).

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1 My name is Claire (inaudible). I'm a cultural
2 practitioner.

3 CHAIRPERSON CASE: I'm sorry, Claire.

4 MS. LOPRINCI: Loprinci, L O P R I N C I.

5 I come from a long line of cultural practitioners of
6 Sicilian descent. It's never been broken. And I can
7 tell you that you all have is kuleana. I have
8 kuleana. Here I'm recognized as a cultural
9 practitioner. I can prove my lineage all the way
10 back. I (inaudible) over a thousand babies. Now
11 these days mostly Hawaiian babies. I can tell you,
12 they are ready to take over.

13 I can tell you I can see your broken
14 hearts because you're not doing the pono thing, and

15 you're analyzing it and making all these excuses, when
16 you have kuleana, you have kuleana. You never step
17 over that line, ever. I have kuleana. I have a
18 mother and baby and families. I never step over into
19 the realms of a cultural practitioner that can't do
20 what they do. I do not go into that.

21 And when you have kuleana and you put
22 yourself here, say, malama `aina, you malama `aina.
23 It's that simple. All your laws and your things, you
24 cannot go above Mauna o Wakea. You are not Mauna o
25 Wakea. That is the mauna of the maunas of the maunas.

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1 Right now I should be at my son's -- he's married
2 tomorrow. It is so important.

3 UNIDENTIFIED MALE: Excuse me take is
4 down a notch.

5 MS. LOPRINCI: No, I'm Sicilian, we don't
6 take it down a notch.

7 CHAIRPERSON CASE: Please.

8 UNIDENTIFIED MALE: You're going to have
9 to.

10 MS. LOPRINCI: I will. I'll take it down
11 a notch. But we've listened to a whole lot of this
12 kind of stuff --

13 UNIDENTIFIED MALE: So have we.

14 MS. LOPRINCI: And we sat for a long
15 time.

16 UNIDENTIFIED MALE: So have we.

17 MS. LOPRINCI: Yeah.

18 UNIDENTIFIED MALE: All day.

19 MS. LOPRINCI: Yeah, but we waited.

20 CHAIRPERSON CASE: Please -- you don't
21 need to -- please.

22 MS. LOPRINCI: So let me talk.

23 UNIDENTIFIED MALE: (Inaudible).

24 MS. LOPRINCI: Yeah, let me talk. So
25 when -- that is the mauna of the maunas of the maunas.

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1 And I can tell you that the police -- I have been
2 there every single day. I live an hour and a half, 15
3 minutes away. I have been there at every arrest. I
4 am in my 60s. I have walked that mauna twice. I can
5 tell you that these lies that I'm hearing about

6 destruction and throwing the pohaku, the kapu aloha of
7 those young bloods, watch Selma. I was at the bridge
8 of Selma by one of my mentors. Watch Selma. She was
9 a daughter of a slave, 99 years old. I've had the
10 mentors. I've had those kupunas. You don't step over
11 lines.

12 So if you think that you're doing the
13 pono thing by abiding by the law when you're putting
14 yourself higher up than Mauna o Wakea, then hilahila.
15 You gonna have to live with that. I -- we live up
16 there, and those people that are up there, you got all
17 these people camping out up there all the time in
18 their cozy little places up there that you've built
19 for those campers.

20 Those Mauna o Wakea kids I'm impressed.
21 I'm impressed. We are doing kapu aloha. I go up
22 twice a week to recycle all the stuff.

23 CHAIRPERSON CASE: Could you summarize
24 now, please.

25 MS. LOPRINCI: What I can summarize is

1 that you have kuleana to do the right thing, and I --
2 if you cannot do the right thing, then pull yourself
3 off this board. If the governor cannot do the right
4 thing, then pull yourself off, because what you do is
5 going to affect your mo'opuna and their mo'opuna.

6 CHAIRPERSON CASE: Thank you.

7 MS. LOPRINCI: No, not thank you yet.
8 And they're going to live --

9 CHAIRPERSON CASE: You need wrap up.

10 MS. LOPRINCI: -- with that. I know have
11 I to wrap up. They're going to live with what you
12 decide to do. Your grandson with what you decide to
13 do. You have to do the pono thing. If not, recuse
14 yourself, because (inaudible) is here and it's just
15 going to get stronger. That's it. And you're either
16 pono or poha. You decide.

17 UNIDENTIFIED MALE BOARD MEMBER: Poha,
18 what does that mean?

19 MS. LOPRINCI: You're waste.

20 UNIDENTIFIED MALE BOARD MEMBER: Yeah,
21 we'll see.

22 MS. LOPRINCI: You'll see. You said it
23 yourself. I'm not going to argue with you.

24 UNIDENTIFIED MALE BOARD MEMBER: I'm just
25 saying that we should be respectful of each other.

1 MS. LOPRINCI: I am being respectful. So
2 when you have --

3 UNIDENTIFIED MALE BOARD MEMBER: So when
4 you tell us that we're going to be garbage if we don't
5 vote with you, all I'm saying is --

6 MS. LOPRINCI: Pono or poha?

7 UNIDENTIFIED MALE BOARD MEMBER: -- let
8 us keep -- let's keep --

9 MS. LOPRINCI: No, no, no, wait a minute.

10 UNIDENTIFIED MALE BOARD MEMBER:
11 (Inaudible).

12 MS. LOPRINCI: If you're going to
13 (inaudible) --

14 CHAIRPERSON CASE: Let's.

15 UNIDENTIFIED MALE: There's no need for
16 this it.

17 MS. LOPRINCI: You should control your
18 own board member, if there's no need.

19 CHAIRPERSON CASE: Okay, number 69 is Ku
20 Ching.

21 UNIDENTIFIED MALE BOARD MEMBER: I'm

22 sorry I got upset.

23 MS. KAHULOA: Kala mai. I just -- I'm
24 Piilani Kahuloa and I'm the aha moku representative
25 and (inaudible) for the island of Hawaii. Our flight

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1 is at 7:00. I submitted my testimony and I just
2 wanted to acknowledge all of you folks and appreciate
3 the hard work that you folks are doing and have to do
4 in making the decision, but --

5 CHAIRPERSON CASE: Thank you.

6 MS. KAHULOA: (Inaudible) oppose both C1
7 and C2.

8 CHAIRPERSON CASE: Thank you.

9 MS. KAHULOA: Mahalo.

10 CHAIRPERSON CASE: Okay, Ku Ching.

11 MS. WELA: Aloha mai. My name is Naui
12 Wela, and I am here humbly before you to read
13 testimony on behalf of Clarence Kukoahi Ching.
14 Ms. Chair and members of the Board of Land and Natural
15 Resources, I am Clarence Ku Ching, age 79, a long-time
16 Hawaiian cultural and religious practitioner on Mauna

17 Kea. I am also a long-time student and practitioner
18 of the lua. Being a member --

19 CHAIRPERSON CASE: I'm sorry to
20 interrupt, but if -- you're not going to have time to
21 read the whole thing, so --

22 MS. WELA: Oh, no, I know.

23 CHAIRPERSON CASE: So summarize.

24 MS. WELA: I know. Thank you. Being a
25 member of Pakuialua. I am in opposition to the

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1 adoption of the proposed rule. The proposed emergency
2 rule making does not meet the requirements to be
3 legally adopted at this time. The basis that should
4 be required to justify the passage of a rule should be
5 credible. The basis upon which you relied for
6 adoption are skewed in incredible and illogical ways
7 that you should be ashamed to even start to consider
8 enacting the proposed rule. At this time whether it
9 is timely or not, this testifier requests contested
10 case hearing.

11 An important part of my practice includes
12 walking, hiking across, up and down the `aina, walking

13 hiking in the footsteps of our ancestors. I am a
14 co-founder and leader of Huakai`i Na `Aina Mauna. In
15 2002 we started hiking at sea level at Kahoolalele
16 landing at Kukaiao on the Hamakua coast and proceeded
17 up the umi koa and kaula trails to the summit of Mauna
18 Kea, then went down the sky line trail, across
19 Pohakuloa training area, down the old Kona road to the
20 Puuanahulu, then down Puuanahulu Kiholo trail, ending
21 at sea level on Kiholo Bay at Luahiniwai where we were
22 privileged to swim in that most famous pond.

23 In 2003 we walked, hiked from the summit
24 of Mauna Kea to the rim of Mokuawaowel on Mauna Loa,
25 then down and around Kilauea, then down the Keauhou

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1 trail to Keauhou landing at sea level.

2 Huakai`i Na `Aina Mauna is planning our
3 activities that will take place later on this month.
4 Near the end of the month we are walking, hiking from
5 the Mauna Kea access road at Puulelenui at about
6 13,000 feet to Puumakanaka on the Kaula trail. Then
7 descending to about 10,000 feet. We will be starting

8 at approximately 8:00 a.m., that will give us the full
9 day needed to accomplish our objectives. You are on
10 notice by my testimony here that this activity is
11 taking place while you say that a permit is required,
12 I disagree, as permission is not required when one has
13 a right to exercise. We will be exercising our
14 Constitutionally provided cultural and religious
15 rights.

16 On July 31st we will be flying our
17 nation's flag on the summit of -- on the summit at
18 noon with an appropriate oli and pule to celebrate
19 Kalahoehoe`ea. These two activities may be curtailed,
20 I believe, if the subject rule that is being addressed
21 today is promulgated, and that will make us very
22 unhappy.

23 Let me tell you, I will not accept a
24 million dollars to not be able to participate in these
25 activities. I will not sell my right to practice.

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1 Therefore, I would suggest that you curtail all
2 further action on the emergency rule making and the
3 irregular, illegal and unconstitutional curtailing of

4 my and my fellow kanaka maoli rights to practice our
5 customary and traditional cultural and religious
6 rights. Mahalo nui.

7 CHAIRPERSON CASE: Thank you. Will you
8 please remind Mr. Ching that if he -- that he needs to
9 follow up with a written contested case hearing
10 request within ten days.

11 MS. WELA: Thank you.

12 CHAIRPERSON CASE: Okay, we have number
13 70, Kauai Onokea.

14 MS. ONOKEA: Aloha mai ka kou. My name
15 is Kauai Onokea. I'm from Maunaloa Valley, located
16 between Tantalus and Roundtop here on Oahu. First, I
17 would like -- some of the information that I looked up
18 here on your website on behalf of your mission
19 statement speaks of how you guys enhance, protect, and
20 conserve and manage this area. Going out for that
21 word protect, which means to keep safe from harm or
22 injury, I don't think you guys are doing that.

23 By withholding items that is necessary
24 for people to be on that mountain, not just to stay
25 over a night, but even just to stay in the day, would

1 put them in harm's way, such as the cold weather and
2 use of the restroom. I won't go into that too deep.

3 But it's a big -- a big word that
4 everyone is speaking of in this movement of the
5 Hawaiian people, *kia`i*. I'm not too sure if a lot of
6 people know what that exactly means. It is a very big
7 and important word which describes a guardian,
8 someone -- a caretaker, a watchman. With we take on
9 that responsibility as a *kia`i* to be that watchman or
10 that guard our `aina. And that is the reason why that
11 they need to be there 24/7, to be that watchful eye
12 for our `aina and make sure that no desecration
13 happens on that land.

14 There are many reasons that we need to be
15 thereafter 10:00 p.m. to 4:00 a.m. or 5:00 a.m.,
16 outside of just protecting the space, such as cultural
17 practices, ceremony, and observation of the skies,
18 such as the people in the telescope. It is a big part
19 of our lives to observe our skies, our heavens as much
20 as it is for scientists. So it is just as important
21 for us to be there and be able to study that science
22 as the people that are there for the -- in the
23 telescopes.

24 So I think that the adjustment that has
25 been made to allow people that are in the

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1 observatories to be there and break these rules that
2 you speak of, I disagree on that. We're not there to
3 threaten anyone. The pohaku in our lives are like
4 people. So when I see rocks in the road, it's like to
5 me it's our kupuna that are supporting us in what
6 we're doing in being there physically for other people
7 to see.

8 So you may have seen a couple hundred
9 people, but a thousands of rocks to us are just like
10 our people, and that is the spirits that we bring with
11 us to help us and protect us in what we do.

12 I don't think this rules will do
13 anything. To me, it's like putting a Band-Aid a
14 situation. We need to all come together and figure
15 out a solution so that no one can be threatened and
16 everyone can be safe on this mauna. Mahalo nui.
17 Aloha.

18 CHAIRPERSON CASE: Number 71 is Joshua
19 Noga.

20 UNIDENTIFIED MALE: He spoke already.

21 CHAIRPERSON CASE: He spoke, okay. 72,
22 and I'm sorry, I can't read your name.

23 MS. TOWNSEND: It's okay. It's been
24 crossed out many times. My name is Maya Townsend.

25 CHAIRPERSON CASE: I'm sorry, I want to

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1 make sure. Okay. Go ahead.

2 MS. TOWNSEND: So here's my written
3 testimony. Thank you very much, and if you all want
4 to take a break, I won't be offended. Okay. Again,
5 my name is Maya Townsend. I'm the director for the
6 Sierra Club of Hawaii. I've been involved in the
7 effort to protect Mauna Kea for many, many years in
8 various organizations and various capacities.

9 Much of my testimony covers things that
10 have already been said, but the third and fourth
11 points I think are important to raise. Part of why
12 I'm concerned about these temporary rules is because I
13 know that the Office of Mauna Kea Management is
14 currently considering their own restrictions to public

15 access, and they're frightening, you know. They
16 definitely favor astronomers over everyone else. They
17 would prohibit people using flashlights, for example,
18 and cell phones on the mountain. They would authorize
19 the chancellor to restrict access for up to two years
20 at a time, and we're concerned that these temporary
21 rules will be used somehow in this OMKM process, which
22 is not rule making, because they are convinced they do
23 not have to follow rule making, and that's a problem.

24 But I also want to address litigation. I
25 mean, Mr. Yuen and Mr. Roehrig seem to think that it's

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1 easy for members of the public to conduct litigation.
2 It is extremely difficult. I've been involved in this
3 for a very long time, not as long as many, but I have
4 seen the toll that it takes. And just getting an
5 injunction is cost prohibitive. You have to put up a
6 bond for example. And the thing is you wonder what
7 can you as a government do, and I actually have a
8 suggestion.

9 If you as the government could say, pause
10 the TMT CDUP until the Supreme Court issues its

11 ruling, you have a temporary reprieve and a time in
12 which you can negotiate and work out with opposing
13 sides a compromise, and in that temporary reprieve,
14 all access up the road can be allowed because the
15 protectors will feel no reason to guard the road and
16 to prevent access to the other telescopes.

17 There is no controversy with the current
18 telescopes up there. There's nothing wrong with
19 people going -- the protectors have nothing against
20 them. It's just the construction equipment for the
21 Thirty Meter Telescope. When they read the rules and
22 the plain reading of the rule it says you can't have a
23 substantial adverse impact, and an EIS says that TMT
24 has a substantial adverse I am, and yet you allowed it
25 to happen, it's hard for them to believe in a rule of

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1 law.

2 And I just have to say, when you look at
3 these temporary rules, C1 and C2, that would bar
4 public access, I'd like for you to take a moment, step
5 back, and imagine instead of a telescope being built

6 on a distant mountain, actually the controversy at the
7 heart here would be a luxury subdivision on the
8 shoreline or a federal highway over a reef, and
9 instead of native Hawaiians standing in front of you
10 with ti leaves and backpacks, you'd have surfers,
11 their long hair and their surfboards. And would you
12 seriously consider barring public access to the
13 shoreline to surfers and other ocean users in order to
14 make the luxury home developer feel more comfortable,
15 would you just tear up the shoreline while there's
16 litigation going on? I don't think that you would, so
17 I'm urging you here today to not do that in this case.

18 Instead, tell the TMT to hold its horses
19 until the Supreme Court issues it's ruling. Thank
20 you.

21 CHAIRPERSON CASE: So 72 is -- and I'm
22 sorry I can't -- no, you actually moved around to 68,
23 so (inaudible).

24 SPEAKER: (Inaudible).

25 CHAIRPERSON CASE: And then Kaiulani

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1 Milham, is that the same as --

2 UNIDENTIFIED MALE: (Inaudible).

3 CHAIRPERSON CASE: Okay, 74 is --

4 SPEAKER: I'm 74.

5 CHAIRPERSON CASE: Okay, sorry,
6 (inaudible).

7 MS. AZARIO: Aloha mai ka kou. My name
8 is Jamaica (inaudible) Azario. I am a kupa of Palolo
9 valley here on this island. I am here to formally
10 read testimony on behalf of my father, but first I
11 would like to respond to some comments that have been
12 really disturbing that I've heard throughout the day.

13 The first being that I completely resent
14 the comments made by attorney general Douglas Chin in
15 which he argued for the need for this change in rule
16 to maintain safety by alluding to the possible future
17 violent acts by Kea e Mauna, and saying that we will,
18 quote, do whatever it takes to protect this mauna,
19 when all we have promised is to stay as long as it
20 takes in kapu aloha, in non-violent protest. This, I
21 think, is an essential distinction that I would like
22 noted for the record. We have never threatened
23 violence or any such extreme actions, when in fact the
24 only person who has done -- who has demonstrated that
25 he will do whatever it takes to further his initiative

1 is Governor Ige in talking about the fulfillment of
2 the TMT.

3 I would also like to respond to one of
4 the astronomers who said that the beautiful and
5 important thing about their work is that it seeks to
6 answer the deepest and most important questions about
7 the world, and I would like to say that our science
8 and our beliefs do too attempt to seek the answers to
9 these questions, and I would like our science to be
10 recognized as essential and important to these
11 questions.

12 I would also like to respond to the idea
13 that has been raised by a few people that there are no
14 better organizations than the Office of Mauna Kea
15 Management to manage our mountain, when in fact our
16 Konahiki and kupuna have managed that space before the
17 arrival of missionaries and the creation of this fake
18 state eventually without any documented acts of
19 desecration or threats to public safety, and this is
20 surely something cannot be stated by the state of
21 Hawaii or the Office of Mauna Kea Management, whatever

22 they call themselves.

23 With that said, I am going to go in to
24 reading my father's testimony. I think it goes
25 without saying is that I stand in strong opposition to

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1 these rule changes.

2 My father, Jonathan K. Kamakawiwo`ole
3 Azario is professor at the Center for Hawaiian
4 Studies, respected kumu, Hawaiian musician, and
5 activist, and I apologize to you folks, because I'm
6 definitely going to go over time and I'm accountable
7 to you guys to that and I apologize.

8 CHAIRPERSON CASE: No, you need to stick
9 to the time.

10 MS. AZARIO: I wish to voice strong
11 opposition to the Office of Mauna Kea Management's
12 rule changes that seek to limit access my native
13 Hawaiian religious and cultural practitioners to a so
14 called restricted area at the summit of Mauna Kea. I
15 object to this rule change on a number of grounds.

16 One, native Hawaiians have in increase
17 numbers been paying their respecting to the mountain

18 and to our traditional deities as the sacredness of
19 that summit has been threatened by erection of the
20 latest and largest telescope.

21 Two, access to religious shines and the
22 ability to maintain cultural practices are
23 universally acknowledged as standard human rights in
24 civilized countries, where those rights are abridged
25 or oppressed, there is almost inevitably civil

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1 disorder.

2 Three, the rights of indigenous peoples
3 to manifest, practice, develop and teach their
4 spiritual and religious traditions, customs and
5 ceremonies, the right to maintain, protect and have
6 access and privacy is declared in the UN Declaration
7 of Rights of the Indigenous Peoples, of which the U.S.
8 since 2009 is signatory.

9 Four, in the apology resolution of
10 103-150, in 1993, the United States states the
11 indigenous Hawaiian people never directly relinquished
12 their claims to their inherent sovereignty as a people

13 or over their national lands, the United States. This
14 means that the state of Hawaii and its laws are indeed
15 a fiction, even through the monarchy --

16 CHAIRPERSON CASE: Please wrap up.

17 MS. AZARIO: -- referendum and
18 acknowledge that the native Hawaiian people are
19 determined to preserve, develop and transmit to future
20 generations their ancestral territory and their
21 cultural identity in accordance with their own
22 spiritual and traditional beliefs, customs, practices,
23 language and social institutions.

24 Five, the only restorative action that
25 the U.S. committed itself to in 103-150 was in support

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1 of reconciliation efforts between the United States
2 and the native Hawaiian people.

3 It ought to be clear to the members of
4 this board that the rule change it is considering
5 violates the principles and spirits of the UN
6 Declaration of Rights of Indigenous Peoples, a
7 document that represents the earnest work of hundreds
8 of principled men and women and the agreement of every

9 member nation of the UN. While they may not have the
10 ability to enforce the directives, they have a
11 powerful moral force in the world and demonstrate how
12 civilized governments should engage with and fairly
13 deal with their indigenous peoples.

14 It should also be clear to the members of
15 this board that the rule change violates the spirit of
16 the apology law and is a prime demonstration that the
17 state of Hawaii has no intention of cooperating with
18 the United States support for reconciliation, for in
19 the face of mounting objection to the proliferation of
20 telescopes on Mauna Kea by native Hawaiian cultural
21 practitioners over the past several decades, instead
22 of seeking ways to address or engage with kanaka maoli
23 complaints, the state chooses to build the largest,
24 most intrusive telescope of all, and to bar us from
25 that sacred summit in the name of public safety.

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1 The state cannot credibly argue that it
2 is unable to manage the summit -- summit and enforce
3 current laws pertaining to defacement, vandalism, or

4 destruction of property. Where those things occur, it
5 is possible and proper for the state to take action
6 that is allowed by law. It is neither proper nor wise
7 for the state to violate the principles of
8 international conduct that are accepted by enlightened
9 nations in the 21st century, targeting a native people
10 exercising our cultural and religious rights. Mahalo
11 to you all.

12 CHAIRPERSON CASE: 75, Tom Linder. Tom
13 Linder. No Tom Linder, okay. 76, Bianak Aliza. 77,
14 Kaipo Moniz.

15 MR. MONIZ: Aloha. This the first time
16 I've ever done anything like this, so little bit
17 nervous, but I'm okay.

18 UNIDENTIFIED MALE BOARD MEMBER: You're
19 doing fine.

20 MR. MONIZ: Thank you. So my name is
21 Kaipo Moniz, and I actually -- I want to say that I
22 oppose the emergency rule changes to adopt the
23 emergency rules in regards to camping. And I also
24 oppose the delegation of the board's power in agenda
25 item C1. I oppose the delegation of this board's

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1 power to the chairperson in regards to the ability to
2 close -- to temporarily close the area for a period of
3 six months, and that is due to the fact that I just
4 realized that the state statute that was just passed
5 and approved by Governor Ige upon May 9th added a
6 provision -- added a section in sections 15-22-11.9
7 that adds that they can temporarily close it for this
8 reason, and this is the main reason why I oppose that
9 agenda item.

10 And that item is, it says, they're
11 allowed to temporarily close this road to comply with
12 the requirements of agreements made with private
13 landowners (inaudible), and that would directly affect
14 us and this democratic process where we can voice our
15 concerns with you, and it just gives the authority to
16 the chairperson, this one person without the board and
17 without the board's approval and without this dialogue
18 that we're having.

19 And I was -- I was actually concerned
20 because I didn't hear that, that -- that what I just
21 read, and it was added into two sections of the Hawaii
22 Revised Statutes. In section 13-122-11.9 and in
23 section 13-123-21.1, and it reads exactly the same, to
24 comply with the requirements of agreements made with

25 private landowners or lessees, which means two or

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1 three entities may have total control in dialogue
2 between the chairperson, and I would like to have the
3 opportunity to voice my opinion to all of you, because
4 everybody has a different opinion and a different
5 view, and what they're compassionate for and it's all
6 related to our values, you know that we gathered as we
7 grew up. So I really oppose that strictly based on
8 those things, you know.

9 I read the board should (inaudible) and
10 maybe expand it to include, you know, maybe to --
11 maybe meetings on at least two islands, you know, for
12 the board to hear, because I'm -- I don't like talking
13 about problems. I like talking about solutions, just
14 like everybody else, you know, because there's a lot
15 of creative minds out there that are not being
16 utilized. I've heard a lot of good comments and I
17 want to be part of the solution, just like everybody
18 else.

19 CHAIRPERSON CASE: Thank you.

20 MR. MONIZ: Mahalo.

21 CHAIRPERSON CASE: 79 is Dr. Darren
22 Ching.

23 MS. MONIZ: Wait, I'm 78.

24 CHAIRPERSON CASE: What's your name?

25 MS. MONIZ: Aina Moniz.

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1 CHAIRPERSON CASE: Oh, it says you
2 weren't testifying.

3 MS. MONIZ: Yeah, I changed my mind. Hi.
4 Aloha mai ka kou. (Speaking in Hawaiian). Hello, my
5 name is Aian Dudoit Moniz. I was born and raised on
6 Hilo -- in Hilo, Hawaii, and now I currently reside in
7 Oahu. I was raise in the my culture from a very young
8 age and I'm very proud to be a native Hawaiian.

9 With that being said, it is my kuleana,
10 my responsibility, to my culture, to my people and my
11 `aina to stand firmly against C1 and these newly
12 proposed rules and urge you, the board, to do it as
13 well, as I believe this is just a ridiculous reaction
14 or tactic to hinder the native Hawaiian people and our
15 movement of protecting our rights, our freedom, and

16 most importantly the land that our ancestors entrusted
17 us to malama.

18 I feel these -- this -- I feel these
19 rules distract the public from the truth, that a multi
20 billion dollar investments, AKA money, is more
21 important than the people's voice and most importantly
22 people's culture and religion.

23 To me and most of the Hawaiian people,
24 our resources, our `aina is more important than money.
25 It's more valuable. It's irreplaceable. We aren't

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1 just doing this it for us. But for my future keiki
2 and also the future generation, and as -- for these
3 false accusations of threats from the kea`i, I say
4 show me the physical, tangible proof. We have always
5 acted in kapu aloha. This is new movement. We're not
6 the same as our earlier ancestors.

7 And with that, we will prevail, with kapu
8 aloha. I ask you to stop the desecration of all our
9 resources and our sacred lands, and especially our
10 deities. This is our religion. It's not just

11 cultural practices. We believe in this as any
12 Christian or Muslim or any other type of religion do.
13 And I just say when will enough be enough? Aloha
14 `aina, Ku Kea e Mauna.

15 CHAIRPERSON CASE: 79, Dr. Darren Chin.

16 DR. CHING: Aloha ka kou. My name's
17 Darren Ching. I'm going to fast with this. I have to
18 be fast. I have a lot to go over. Okay, I wear a lot
19 of hats. One hat I want to wear is safety and medical
20 officer for (inaudible) Mauna Kea. If you don't know
21 who we are, there's been several of us who have been
22 here already. We walk the trails of Mauna Kea,
23 starting from 2002, and if you don't know who we are,
24 the we are the guys in 2013 who found Mr. Brian
25 Murphy, the guy who was lost from Michigan for five

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1 years on the mountain. We go where other people
2 don't.

3 And can I explain what happened when we
4 did that? We had to call the cops. We had to call
5 DLNR, DOCARE, we had to call Mauna Kea rangers. We
6 were delayed. This was a day after Hurricane Flosse,

7 okay. We did not make it to the pickup point in time.
8 We had to spend overnight on it's mountain with 40
9 mile an hour winds at the peak, and it was cold.
10 Okay, we deployed emergency blankets. We had
11 emergency food. We had emergency water.

12 Now, the new rules say no tarps, no
13 backpacks. Well, we would have been in really bad
14 shape if we didn't have this stuff, okay. The other
15 thing, okay, these trails take a long time to walk
16 over. If we're going to start access at 1:00 p.m.,
17 you're not going to get off the mountain in time, and
18 if you're not going to have your survival blankets and
19 your water and your supplies, you're talking about
20 potential mortal danger here. You're not making the
21 place any safer. So I stand opposed to all of this.

22 The other hat I wear, okay, I'm
23 vice-chair (inaudible). We are the stewards of
24 (inaudible). And you can see our agreement with DLNR.
25 We've been this since 2002. It was clearly stated to

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1 us that we do not have police posse, okay. If we tell

2 people not to do stuff over there, we do it on the
3 basis of moral authority. If somebody does something
4 up there that they're not supposed to be doing, with
5 we call DOCARE. We call the cops.

6 The guys on Mauna Kea rangers, some of
7 the stuff they've been doing is atrocious. If we did
8 that kind of stuff, there would be complaints about
9 us. You guys would be pulling this stewardship
10 agreement like this fast. And the other thing, we
11 would probably get arrested for assault. I don't
12 think you should let the Mauna Kea rangers run that
13 place.

14 And incidentally, I know what happened to
15 the waters of Hopokane. What happened was in 2005
16 when we went there it was already partially diverted.
17 The military was taking it to run their air station at
18 Pohakuloa. We went there again in 2014 and it was
19 completely diverted, 100 percent, all channeling
20 through a concrete basin. All that was transferred to
21 DLNR, department of parks, every single drop was
22 diverted down to Pohakuloa state park, and these are
23 the waters of Kane, this is the waters of life.

24 The water is not being processed, okay.
25 It's not potable. All that stuff is being used is to

1 flush toilets and to wash your hands. These are the
2 waters of Kane, the waters of life. This comes from
3 streams of Hopokane, one of the four sister goddesses
4 of Mauna Kea, the physical embodiment. All right, one
5 more thing, if I may.

6 You know, the Mauna Kea guys, they say
7 that, oh, you know, they got this white cloak, you
8 know, their signs, they're pure, the fact of the
9 matter is they are not quite that pure. You know, we
10 have records of what abuses can occur in science. You
11 all know of the 1932 Tuskegee experiment where they
12 took Afro-American minorities with syphilis and they
13 didn't treat them. They let them die. They produced
14 wonderful science, (inaudible). You know, they
15 published papers. They had academic advancement.

16 CHAIRPERSON CASE: Time for you to wrap
17 up.

18 DR. CHING: Pardon?

19 CHAIRPERSON CASE: Please wrap up.

20 DR. CHING: Okay. Okay. They have not
21 done any kind of ethical study on this. In medicine
22 we have -- okay, I'm assistant clinical professor of

23 medicine, John A. Burns School of Medicine. We do --
24 whenever we do, we have to institutional review
25 committee. We have to look to see what adverse

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1 effects our stud see doing, and we don't do it if the
2 committee says that you are adversely affecting a
3 group.

4 The astronomers have never done that,
5 they've never have done an ethical review, and we have
6 more than enough instances where science have failed
7 on the ethical side. The nuclear bombs in Micronesia.
8 I mean, that's a complete ethical failure. I think
9 the telescope guys really need to do a multi
10 disciplinary ethical review of what they're doing.

11 CHAIRPERSON CASE: Thank you.

12 DR. CHING: Thank you.

13 CHAIRPERSON CASE: Number 80 is Rachel
14 Harbottle. No Rachel Harbottle, (inaudible)
15 Harbottle, (inaudible) Harbottle, (inaudible)
16 Harbottle. 80 to 84.

17 Okay, 85 is Deangelo McIntyre.

18 MR. MCINTYRE: Aloha nui. I'm Deangelo.
19 Okay. It's hot outside. It's too hot to be doing all
20 this it foolishness. It's the middle of July. I
21 first got here. I'm from Kentucky. I'm from
22 Louisville, the home of the Kentucky derby. And I
23 first got here when I was 11, in 1997, on Halloween.
24 The first song I heard on the radio was Thriller. And
25 I have never been to Hawaii before, and I was so

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1 stoked. And I tell people I was raised here. Because
2 I went to elementary school. People are like, oh,
3 what high school you go to? No, I went to elementary
4 school here. Ms. Matsuda was my teacher. So Hawaii
5 raised me and got into me and got under my skin. And
6 I'm one with of the kea`i. And I didn't threaten
7 nobody. That's why (inaudible) went up to the -- to
8 the mauna to protect (inaudible) operate by the
9 (inaudible) very much so.

10 I can tell you right now, I do, because I
11 was raised right. I was raised in the south by an old
12 black woman. I know how to act. I know how to
13 respect my elders, and we even have a list of rules,

14 and I can tell you one of them that I remember was to
15 assist kupuna at all times.

16 Those erroneous allegations about
17 smearing doodoo on the -- ew, `a`ole -- on a bathroom
18 and making threats to people, and I remember that
19 stuff with (inaudible), they thought we shot a gun at
20 them and stuff. Y'all have been wrong before in the
21 past about that. Please don't believe that stuff.
22 It's not true. And I think it's a slanderous way that
23 these people with all this money just want to get up
24 there and do their thing with the telescope.

25 And I'm actually proud that, you know,

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1 something I did interrupted the New Horizon thing and
2 they can't do their thing with Pluto. Whatever. They
3 demoted Pluto from being a planet anyway.

4 The or thing I wanted to say is y'all --
5 I'm so sorry, I don't mean to be rude to you two
6 uncles, but you said something about law and order.
7 There is nothing lawful or orderly about the U.S.S.
8 Boston pulling into Honolulu Harbor and pointing guns

9 at Iolani palace. You guys are sitting here on that
10 legacy today. How dare you talk about law and order.

11 I oppose both of the measures, and I fly
12 to the Big Island on the 12th. So do you what you're
13 gonna do, because I'm gonna do what I gotta do.

14 CHAIRPERSON CASE: Thank you. Number 86
15 already spoke. Number 87, Kaleo, and I'm sorry I
16 can't read your last name.

17 MR. KEALIIOKA: Kealiikoa. Aloha mai ka
18 kou. My name is Kaleo Kealiikoa. Come from Hawaii.
19 Live in Waianae right now, and I oppose your emergency
20 rule that you're going to implement on Mauna o Wakea.
21 I was listening to you guys all day, listen to
22 everybody. The main thing I wanted for say was I
23 wanted you guys for find it in your guys' heart for do
24 what is the right thing.

25 But for me for ask you to do that, I

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1 gotta find 'em in my heart for me to do the right
2 thing. I was there Wednesday, that second arrest day,
3 but I never get arrested, but I was one of the first
4 guys that went put the pohaku in the middle of the

5 road. I'm here for, you know, come clean. I never
6 tell nobody else what for do, because that wasn't my
7 kuleana. My kuleana was only for kakoo, which means
8 to support these brothers and sisters of Mauna o Wakea
9 and help protect. But when I saw how DLNR was
10 behaving them self, I had hard time with this kapu
11 aloha. So for me, what I had to do was -- I was just
12 going to run up to the mountain, to the top, the
13 summit, and go pule at the alu. As I was running,
14 just started grabbing pohaku, put them on the road,
15 and I guess a lot of young brothers over there, they
16 all saw what I was doing, and I guess they went
17 follow, because even halfway through, they're like,
18 oh, kind of look back, like, wow.

19 So anyway, long story short, for me I
20 feel I gotta come here, come clean with myself and
21 hope you guys can do the same too. Find it in your
22 guys' heart what is the right thing for do for not
23 only for Mauna Kea but for Hawaii and the world.
24 Mahalo.

25 CHAIRPERSON CASE: I have 88, Loretta

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1 Riddy. Already gone. Okay, 89 (inaudible) Wright.

2 MS. WRIGHT: Kawelau. Maybe my
3 handwriting is atrocious.

4 CHAIRPERSON CASE: Not as bad as some.

5 MS. WRIGHT: Aloha mai ka kou. My name
6 is Kawelau Kealoha Wright. I'm from Maui, just so
7 happen I'm on this island taking a class and I'm here
8 today, tonight, actually.

9 So I just want to be on the record saying
10 that I'm strongly -- I strongly oppose these rules,
11 these emergency rules that are supposed to be in the
12 name of public safety. That's the first thing I want
13 today say.

14 I don't appreciate what appears to all of
15 us to be an act of criminalizing the actions of the
16 protectors. And a lot has been said, and I just
17 wanted to reiterate the fact that Hawaii and Hawaiians
18 in general have really welcomed settlers, historically
19 speaking, welcomed settlers with open arms, and I
20 think that sometimes that equates to the whole thing
21 about, you know, I've actually had people throw this
22 in my face, where's the aloha spirit.

23 Right, but I just want to remind
24 everybody, and maybe not just you, but everybody here,

25 that aloha is not justice. That's what everybody

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1 thinks aloha is. Aloha is this, as the indigenous
2 people of this place giving aloha, but what you're
3 seeing is the other side of aloha, which is this, when
4 enough is enough and we cannot continue to give.

5 I've been here all day, just like you all
6 have, and I appreciate your fortitude. I've heard a
7 lot of people, heard a lot of people offer to help
8 you, help not just you, but this whole situation, and
9 I would just strongly encourage you, rather than
10 approving this sort of -- with appears to us to be a
11 knee jerk reaction, and perhaps -- and that's how it
12 appears to us. But perhaps try to facilitate. I
13 mean, according to your mission statement we're on the
14 same side. And I really do believe we can work
15 together. If the bottom line is that we're all
16 concerned for the health of the resources, then I
17 think that we can work together.

18 And then lastly, with all due respect and
19 humility, the appreciate the fact that you've taken an
20 oath, you know, and you -- like, you know, you

21 definitely respect the law and order, the rule of law.
22 I get that. But I want to say that not -- not
23 everything that has been legal in history has been
24 right. There's a lot of things, and I don't have to
25 tell you what they are, but historically speaking,

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1 that is the case.

2 So thank you very much for being
3 thoughtful when you make your decision. Mahalo
4 (speaking in Hawaiian).

5 CHAIRPERSON CASE: Lucas Wheeler? Kathy
6 Kama`u.

7 UNIDENTIFIED MALE BOARD MEMBER: Chair,
8 before we start, can I just ask, how many more do we
9 have?

10 CHAIRPERSON CASE: We're on 91. The
11 sheet goes to -- actually, well, I don't -- I don't
12 think -- do we have something between 100 and 105?

13 UNIDENTIFIED FEMALE: 126.

14 CHAIRPERSON CASE: Yeah, but I don't have
15 101 to 125. It goes to 150, but I don't know --

16 UNIDENTIFIED FEMALE: All of the
17 registered speakers are in here at this time.

18 CHAIRPERSON CASE: All the registered
19 speakers.

20 UNIDENTIFIED FEMALE: That's it. There's
21 nobody else out there.

22 CHAIRPERSON CASE: Okay, so please
23 proceed.

24 MS. KAMA`U: Thank you. Aloha. My name
25 is Kathy Kama`u. I'm number 91 and I strongly oppose

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1 both of these C1, C2 and the construction of TMT. As
2 you can tell from my name, I've married into a very
3 traditional Hawaiian family that's very immersed in
4 the cultural and I'm grateful to them for what they
5 have taught me about their culture, but I'm not
6 sitting here representing them. I wouldn't be so bold
7 to do so.

8 I'm representing the haole portion of my
9 family. And if you took a profile of me or of many of
10 my friends, you would feel that maybe we would support
11 TMT, or we would support these type of rules, but I

12 want you to know that we don't, and there are
13 thousands of us that don't, thousands that are not
14 Hawaiian that are watching what's going on and they
15 don't.

16 Before I speak to you as a wife and a
17 mother and a grandmother, I want to speak to you as a
18 business owner. Recently we found out that Hawaii is
19 one of the lowest rated states to have a business, and
20 it's not because of what's happening to stop TMT being
21 constructed. It's because what's happening here in
22 this room, where we're arbitrarily changing the rules.
23 Business owners like to know the rules and then they
24 work within the system. But Hawaii is known to
25 arbitrarily change the rules, make up new rules,

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1 choose who has to follow the rules, who doesn't have
2 to follow the rules, and I think this is really a
3 prime example. I'm sorry to sound so rude, but I
4 think this is a real prime example.

5 When we look at the pictures that OHA
6 showed and look at many other instances that have

7 happened up on that mountain and then all of a sudden
8 now we have to have this imminent peril. It's just
9 another arbitrary and knee jerk reaction that we as
10 business owners also see that happens here in Hawaii.

11 As a mother, grandmother, wife, we love
12 that mountain. We love hiking. We love going out on
13 trails. We love doing things. Just four weeks ago my
14 son-in-law took three of my grandchildren up to the
15 top of the mountain and watched the sunset. Your
16 rules would forbid that. Your rules would not allow
17 that. And even though you say, oh, it's only for 120
18 days, it has been very much my experience, and I'm an
19 older person, and my experience that once a precedence
20 is set, that precedence is continued. And I don't
21 think we can trust that that it would just be 120
22 days. There would be a reason to continue past and
23 beyond that.

24 My children are very educated. My
25 family's educated. Two or doctors. Many have

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1 master's degrees. My husband and I have master's
2 degrees. They all (inaudible), in-law's sons and my

3 own sons and my husband are Eagle Scouts. To even
4 begin to think about doing some type of hike without a
5 backpack in that type elevation without a blanket just
6 is appalling, to think that you would consider that a
7 criminal act, to make a rule (inaudible).

8 My husband has looked forward to taking
9 his children, taking his mo`opunas up there on that
10 mountain and teaching them things that his own Aunty
11 Iolani Luahini has taught him about Mauna Kea, and if
12 you don't know who that is, then have you no business
13 deciding how to take care of Mauna Kea.

14 And with your rules, he would not be able
15 do that, because we would exceed your rules of ten
16 people up on that mountain, just because we have five
17 kids, just if we took our five children and their
18 spouses and him and I, he would not be able to teach
19 them what his aunty taught him. And if we somehow
20 widdled to just ten people, they would have no blanket
21 to sit on. They would have nothing, no -- no common
22 sense items with them to be up on top of that mountain
23 to learn that stuff.

24 I know my time is short. I just wanted
25 to quickly address and sum up that I've heard

1 astronomers and other people on the staff on that
2 mountain talk about how they've had these -- this
3 emergency and that emergency and medical emergencies,
4 and it sounds to me like they were able to handle it
5 just fine without these rules in place. I heard an
6 astronomer talk about he's been up there for 18 years
7 and they've co-existed just fine, and I'm willing to
8 state --

9 CHAIRPERSON CASE: (Inaudible).

10 MS. KAMA`U: --- obviously it hasn't or
11 you wouldn't have all these people so upset.

12 CHAIRPERSON CASE: Please summarize now.

13 MS. KAMA`U: All have you to do is drive
14 along Hawaii island and look at the yellow lights and
15 realize that they dictate what's happening and people
16 are saying enough is enough. Thank you.

17 CHAIRPERSON CASE: Thank you. Number 92,
18 Linda Molina.

19 MS. MOLINA: Hello. (Inaudible), Suzanne
20 Case and board members. Thank you so much for taking
21 the time to listen to all of us. My name is Linda
22 Molina. I'm from Chile. (Inaudible). I'm also a

23 North Shore resident. I want to read my letter to
24 you.

25 Dear (inaudible), I want you to please --

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1 I wanted to please ask you to vote no on this proposed
2 rules set to restrict use and access to the Mauna Kea
3 access road. As we all know, these rules will take
4 away or natural born rights to enjoy and protect our
5 secret place, the Mauna Kea.

6 You may think it is just dust and rocks,
7 but the Mauna Kea is alive. It is sacred and deserve
8 all the respect. Mauna Kea is alive. It is made out
9 of dust and water, just like we are. I feel as a
10 human being I have the duty to speak for my beloved
11 Mauna Kea. The corporations want to have their
12 telescope built, but what about respecting our sacred
13 land? They already have built (inaudible) other
14 telescopes. When this is going to stop?

15 As a human being, I feel ashamed of being
16 part of this civilization, so absorbed in the money
17 and the power, where the respect for the land is being
18 trespassed to the point to destroy one with of the

19 most sacred places on Earth.

20 We all know we live in a generation of
21 change and awakening in where we have learned to live
22 with the consequences of our actions. This is not the
23 first civilization or be the last to exist. But to me
24 this is definitely the one that has caused more harm
25 to our planet.

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1 Please, please representatives, help us
2 to change that. Your decision can change the world.
3 Hawaii, it is an example for the world. We are going
4 all clean energy, are we going to destroy our sacred
5 temple for the world in this universe to put -- for
6 money to put a bigger telescope when there's another
7 15 telescopes.

8 I'm going to add, (inaudible)
9 commandment's said treat others the same way you like
10 to be treated. That includes the Mauna Kea, as
11 everything else and everybody else. Thank you.

12 I also, can I please ask a question?
13 Because of this revelations, I wanted to know why

14 bringing a blanket to the Mauna Kea, it is illegal?

15 Why you guys want it to be illegal?

16 CHAIRPERSON CASE: So just to clarify,
17 the current version of the rule doesn't have a blanket
18 restriction in it. Sleeping bags is restricted, but
19 not blanket.

20 UNIDENTIFIED FEMALE: (Inaudible)
21 blanket.

22 UNIDENTIFIED MALE: No, (inaudible).

23 CHAIRPERSON CASE: The version that was
24 distributed this morning doesn't have a blanket
25 restriction.

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1 MS. MOLINA: (Inaudible) bathroom is
2 okay? Like those are basic human needs, like why this
3 (inaudible) somebody.

4 CHAIRPERSON CASE: Thank you.

5 MS. MOLINA: Thank you very much for your
6 time. I hope you guys make the decision for all of
7 us, for our kids, our grandkids, and this planet, you
8 know. Thank you.

9 CHAIRPERSON CASE: Okay, (inaudible). I

10 think there's a series who aren't here, but please
11 speak up if you are. (Inaudible), (inaudible),
12 (inaudible), Bruce Watsen, Keala Kahuanui, Michael
13 Vieira.

14 MR. VIEIRA: Present.

15 CHAIRPERSON CASE: Who, sorry.

16 MS. KELIIPULEOLE: I'm Ele Keliipuleole
17 but I don't know what the numbers are.

18 CHAIRPERSON CASE: You're number 95.

19 MS. KELIIPULEOLE: 95.

20 CHAIRPERSON CASE: So please proceed.

21 MS. KELIIPULEOLE: Thank you. My name,
22 full name is Elenora Ariole Keliipuleole. I was born
23 on the Big Island and raised on the Big Island. As
24 some of you know, way back when there were no roadways
25 to go up to Mauna Kea, so in order to it access that

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1 you went by Jeep or horse back or you walked. So most
2 of my experience has always been on horse back, and we
3 didn't go through Pohakuloa area unless you were
4 hunting. That was the main. You went up through the

5 Hamakua side on horse back and you road all the way
6 up, so I needed backpacks, you needed your water, you
7 needed whatever necessary things because you don't
8 know what time you're going to come on down, but
9 that's where I'm coming from.

10 I'm going to pass this out. I'll read it
11 as quickly as I can, because I don't want to take up
12 any more of your time.

13 UNIDENTIFIED MALE: You can just hand
14 them out to me. I'll hand it out.

15 MS. KELIIPULEOLE: I currently live in
16 Palolo valley. Aloha to all. I was born on the
17 island of Hawaii. 1968 Mauna Kea was pristine. In
18 1978 we returned home to bury a siblings. My tutu
19 born in 1893 cried out in utter despair when she saw
20 golf balls at the top of Mauna Kea summit. A year
21 later, in 1979, we returned home again to bury my
22 mother.

23 CHAIRPERSON CASE: I'm sorry, you're
24 going to need to summarize this, because you don't
25 have --

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1 MS. KELIIPULEOLE: Will. I will do it
2 again as quickly. Again, my tutu cried out in despair
3 at the further desecration of Mauna Kea, lamenting the
4 fact that Hawaii no longer had any respect for
5 anything remotely close to the Hawaiian culture.

6 Limited access and exploitation of its
7 natural resources and its keiki o ka `aina, children
8 of the land, was eminent. You see, my grandmother was
9 born during the time of great upheaval of the Hawaiian
10 kingdom and all that was held sacred to the Hawaiian
11 race.

12 However, it did not stop her from passing
13 her knowledge on to us. I clearly remember one of her
14 quotes. We're being sold out to the highest bidder.
15 How true were her words. Poho for the Hawaiians, and
16 of course UH was part of this machine. It wasn't
17 until the '70s that the Hawaiian protestors began
18 organizing. Then of course UH jumped in on the band
19 wagon, along with the state of Hawaii, by creating its
20 branch OHA in '78.

21 However, with all the agencies created
22 during that time, have the Hawaiian people really
23 benefited? History repeats itself. It started with
24 with Honolulu Harbor, Pearl Harbor, Kahoolawe, Makua
25 Valley, Pohakuloa, Barking Sands, the airports, water

1 sheds on all the islands, Haleakala and now Mauna Kea.
2 Where are the federal state agencies created to
3 protect us? These agencies are being supported from
4 the blood, sweat and tears of our islands and our
5 race, silent or sitting on the fence to see which is
6 stronger, irrelevant of the impact it may leave on
7 Hawaii `aina and its people.

8 CHAIRPERSON CASE: You're coming up on
9 your time.

10 MS. KELIIPULEOLE: Don't get me wrong, I
11 support science and education; however, I do not
12 support the years of irresponsible management of Mauna
13 Kea. I understand that science and law does not
14 always fit and that there are laws to protect cultural
15 and religious practices.

16 CHAIRPERSON CASE: Ma'am, you're going to
17 have to wrap up now.

18 MS. KELIIPULEOLE: Even though
19 (inaudible) calls for a hard look at environmental
20 damage and how to mitigate such damage, it is not

21 enough --

22 CHAIRPERSON CASE: Are you intending to
23 read this whole thing?

24 MS. KELIIPULEOLE: I'm going to read --
25 so basically I'm saying, you already have rules in

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1 place. Way back when I kid there were no rules in
2 place. You respected what you needed to do and you
3 left the mountain the way it was.

4 Now, as time, and if I recall correctly
5 in 1978, and I've gone up to Mauna Kea many, many
6 times and I was there that Saturday after all whatever
7 was going on in June, on the 26th, that Saturday, but
8 the point I'm trying to make is you didn't have all of
9 those rules, but the management of Mauna Kea and the
10 surrounding areas hasn't been the greatest through the
11 DLNR or through the BLNR, for that matter. And now
12 we're all the way into 2015 and you have all of these
13 laws in place to supposedly protect the public and
14 protect what's there, and then you're going to create
15 more laws and more laws and more laws? Does that make
16 any sense?

17 CHAIRPERSON CASE: Thank you.
18 MS. KELIIPULEOLE: Thank you.
19 CHAIRPERSON CASE: Okay, I'm sorry, we
20 were going to --
21 MR. VIEIRA: I think I'm 99.
22 CHAIRPERSON CASE: 99, thank you.
23 MR. VIEIRA: I have written testimony.
24 CHAIRPERSON CASE: Just go ahead and say
25 your name again, please.

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1 MR. VIEIRA: Good evening, Michael
2 Vieira. I represent a company called Taiboko, which
3 is a tour operator, one of eight tour operators which
4 provide tours up Mauna Kea. Taiboko has been
5 operating for more than 20 years. Taiboko and other
6 permitted tour operators are regulated by the Office
7 of Mauna Kea Management. The rules place limitations
8 on the type of vehicles and number of vehicles that
9 can be used by the tour operators. The operators also
10 pay a surcharge for each passenger and annual fees to
11 renew permits. By complying with the regulations,

12 tour operators provide a safe and responsible option
13 for visitors and the fees provide by the tour
14 operators help fund the maintenance of roads and
15 amenities servicing Mauna Kea.

16 Many of Taiboko's clients are from Japan.
17 Many Japanese visitors come to the Big Island
18 specifically for the purpose of visiting Mauna Kea,
19 and due to scheduling issues, tourists visiting Mauna
20 Kea often spend several nights in Big Island hotels.
21 Taiboko and the other tour operators have been
22 impacted by increased competition from visitors using
23 non-regulated means to access Mauna Kea, increased
24 fees and the reduction in services, including the
25 unavailability of toilets.

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1 Further restrictions upon tour operator's
2 use of and access to Mauna Kea would create a severe
3 hardship upon the company. Taiboko and the other tour
4 companies are an essential part of the Big Island's
5 tourist industry, and when considering the economic
6 impact, the safety of visitors, and preservation and
7 impact on the environment, commercial tours on Mauna

8 Kea should not be further restricted. Thank you.

9 CHAIRPERSON CASE: Thank you. Okay,
10 number 100 was signed off. I'm just going to go
11 through this other page and see if anybody is here.
12 Jason Rosado.

13 MR. ROSADO: Hello. My name is Jason
14 Rosado. I'm here to testify on behalf of Tom Kualii
15 on Big Island, because he could not be here today. So
16 he says, I'm sorry, aloha mai. My name is Tom Kualii.
17 I'm a native Hawaiian (inaudible), born and raised on
18 Hawaii island. My family is from Hilo as far back as
19 I can remember. My grandfather, Thomas (inaudible)
20 took his grandchildren up to Mauna Kea to star gaze.
21 Those children, those childhood memories have always
22 drawn me back to the mauna.

23 Now, as a photographer, I use my craft to
24 display the beauty of the mauna and to help document
25 cultural sites and activities up on Mauna Kea. Two

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1 favorite attractions to our island is Kilauea, via
2 Hawaii volcanos national park and Mauna Kea. Taking

3 away access or even (inaudible) businesses, tourism,
4 the people of Hawaii and the residents of the big
5 island for decades have been going to Mauna Kea to
6 hunt, play in the snow, star gaze and practice our
7 spiritual rights as Hawaiians.

8 Mauna Kea is the best -- excuse me, Mauna
9 Kea is the best place on this heart and the main
10 reason why these observatories are here to do what
11 they do. So why take away something that should be
12 shared by the kanaka maoli, Hawaii island residents or
13 Hawaii residents and visitors alike, so many share in
14 the experience of this sacred place.

15 Mauna Kea is deeply ingrained in who I am
16 as a man and as a native Hawaiian (inaudible). I ask
17 that you reconsider the rules you are putting in
18 place. I'm opposed to the current rules the way they
19 are (inaudible) local people of something my family
20 has been doing for generations. Mahalo nui, Tom
21 Kualii.

22 CHAIRPERSON CASE: Thank you very much.

23 MR. ROSADO: Thank you.

24 CHAIRPERSON CASE: Okay, 102, Kimmer
25 Horsen.

1 MS. HORSEN: Here. Aloha mai ka kou. My
2 name is Kimmer Horsen. I'm actually native American,
3 a ten-year Army veteran, combat veteran. I believe
4 it's still my kuleana to protect and reach some sort
5 of diplomacy in this contract that we have going on
6 right here with Mauna Kea, Mauna o Wakea over on the
7 Big Island with my brothers and my sisters, my kanaka
8 maoli.

9 I believe the current -- I am against the
10 current rules, only because they discriminate not
11 based on race, though kanaka maoli are a race, like
12 how other people practice (inaudible) as well, so I
13 believe it's religious discrimination.

14 Everyone has a right to assemble, but I
15 do applaud the current -- the issue that we have with
16 safety at this point, because there's a lot -- this is
17 a very volatile hot issue right now. I just want to
18 say that I've seen lot of conflict. If we were to do
19 the same thing with, say, the middle eastern people
20 and build something on their Mecca, we'd get the same
21 thing.

22 Now, DLNR has gone to the mauna with
23 weapons, with 9 millimeter pistols. All right.

24 Kanaka maoli are living kapu aloha. They did not
25 bring any weapons up to the mauna to hurt anybody.

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1 DLNR did, authorize deadly force if necessary. Now,
2 that in itself, being a veteran, we bring what's
3 called escalation of force, someone brings a weapon on
4 to a conflict, that in itself is a threat.

5 This issue deserves special preference
6 because it their religious location, the mauna, the
7 beginning of their creation story. I believe it's an
8 unlawful order. If I was still in the Hawaii national
9 guard and my governor ordered me to take deadly force,
10 if possible, on people that were just practicing their
11 religion, I would not do -- I would not participate in
12 the unlawful order. I believe it's an unlawful order.

13 I'm just advising you on what I've seen
14 and to take this into consideration, that the
15 telescope is in fact a target, a military target, it
16 will be, because it can attract missiles. Can you
17 look up www.Hawaii.edu offices, testimony of Kemp. We
18 need to make sure what we're doing here is totally

19 safe. I don't know if we've contacted the navy, if we
20 have the capability to defend Big Island and Mauna o
21 Wakea from an atomic attack from other countries. I
22 think it's very serious. We need to find that out.

23 From what I am concerned, our navy
24 capabilities are on Kauai and Oahu, so this is -- this
25 is a big -- this is a big issue and I'm just tired of

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1 seeing it on TV and I appreciate that you guys are
2 trying to be safe, trying to uphold the law. Nobody
3 is above the law. Nobody is above the rule of law,
4 and when you, sir, said that, you had a mo`opuna, a
5 native Hawaiian keiki and you didn't know if he could
6 finish law school, I disagree, I believe he can finish
7 law school. I believe we underestimate the kanaka too
8 much and the native American people. We are very
9 smart. We've been here a long time. We're invaded,
10 our cultures were taken away, our religious -- we
11 never had real religious rights. Try take away
12 process from the Catholics or the Christians, same
13 thing. Can't do that. And it's all about equality.

14 So I just hope and pray you guys will do

15 the right thing. I believe in you. I've been to this
16 board so many times when William Aola was still the
17 head here, the head chair, and we're still in this
18 predicament, we're still having this problem. So it's
19 falling on deaf ears. It's got stop. Mahalo.

20 CHAIRPERSON CASE: Thank you. 103 is
21 Imai and I can't read the last name. Okay, 104,
22 Jennifer (inaudible). 105, Piilani Kaawaloa. 106,
23 Clare, she already spoke. 107 Joe Kahale. 10, Kawika
24 Kane.

25 MR. KANE: Bingo. Aloha, board. Thank

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1 you for being here tonight and persevering in all
2 these hours, and I know that you folks have been
3 attacked in some occasions on testimony, and I just
4 want to let you know I appreciate you folks. My name
5 is Kawika Kane. Ko`u inoa. I'd like to start by
6 saying I oppose strongly for the emergency rule for
7 two reasons.

8 Number one, the emergency rule is based
9 on the attorney general and the Mauna Kea management

10 and the DLNR and all the workers up there, they want
11 this emergency rule because of safety reasons, and the
12 attorney general read some of that. He even mentioned
13 threats. He wasn't detailed about that. But I oppose
14 this for, number one, that's very over exaggerated,
15 the safety reasons.

16 Number two, the reason why I oppose this
17 ruling, emergency rule, is that there's laws already
18 in place. There's no need for additional laws or
19 rules to be implemented.

20 So let me clarify, my first position, the
21 reason why it's overexaggerated, over the past 100
22 days there's 24 hours in a day. Kala mai. That's
23 2400 hours. Over the past 2400 hours there's not a
24 lot of safety problems. There's not. Over the past
25 2400 hours, yes, brother came over and talked about

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1 him putting the pohaku in the road. Yes, that was
2 pilikia. Yes, we have to address that. That didn't
3 take up much of that 2400 hours.

4 Yes, there's been challenges with
5 disrespect with rangers and DLNR officers and words

6 being exchanged with workers up there. That's very
7 minute, very minimum over the past 2400 hours. So for
8 them to say these emergency rules are necessary
9 because of safety, that's -- that's not true. That's
10 very over exaggerated.

11 My second position, there's laws already
12 in place. That was read by the brother from the legal
13 Hawaiian entity. Rules already existing. There's no
14 reason to put these emergency rules in place. I think
15 the emergency rules by the attorney general, the DLNR,
16 the governor's office from the workers up at the top
17 of the mountain, they want to put these rules in place
18 to limit access. They want to limit access to our
19 kuakia e mauna, they want to limit access to our
20 practitioners. They want to limit access to the
21 native Hawaiian community to practice their religious
22 rights. And that's what it's about. This emergency
23 rules is to limit access.

24 On the contrary, what needs to happen is
25 open up more access. And this is why I think more

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1 access is necessary. Right now we want to talk about
2 solutions. Right now we want to talk about what's
3 best for both parties. Yes, the governor wants this
4 construction to continue. Yes, TMT has raised the
5 money. Cannot -- they just said we gonna give some
6 money too. They want the construction to happen.
7 Maika`i, go ahead, let the construction happen.
8 However, there's another party. There's a native
9 Hawaiian community that says, no, we don't want this
10 construction to happen. We need to go up to the
11 mauna, we need to worship, we need to pule, we need to
12 gather and we need to pray and assemble and speak out
13 to stop the construction.

14 So to validate both parties, construction
15 goes on, we need more access to assemble and to speak,
16 so that will be pono for both sides.

17 And I just want to say, yes, it may take
18 longer to construct this telescope. Maybe it's ten
19 years instead of five, maybe it's going to cost more
20 than a billion, maybe 2 billion because of the delays.
21 So we need to satisfy both parties.

22 I'd love to clarify my issues, the two
23 reasons why I oppose this, if the board would like to
24 ask me. If not, in closing, I'd like to just leave a
25 message.

1 In closing I have a message from the
2 kuakia e mauna that is currently up there right now.
3 Some say it's camping. Some say they're sleeping
4 overnight camping. I said that's not true. I say the
5 kuakia e mauna, protectors, they're sentinels.
6 They're there to protect the mauna. So, part of their
7 responsibility is to say overnight in the staging
8 area, not to camp. That is to provide sustenance and
9 safety, but we need the Port-a-Potties there for them
10 to practice their religious rights to protect that
11 mauna, which means 24 hour vigil. They need to be
12 there 24 hours, and they need to have a staging area.
13 They're not to desecrate. They don't
14 litter. They're not there to do anything with with
15 with the minerals and the natural resources. They're
16 there to record practice their religious rights, and
17 that is to have a staging area. They take care of the
18 malahini, all the tourists that come over, they
19 educate the keiki. We have keiki there. My brother
20 Sam Kapoi, Samuel Kapoi from Waianae, he took his
21 whole family there, his who young sons and they're at

22 the mauna right now. In this frigid weather, he feels
23 it's important that his two sons understand what his
24 dad stands for, along with his wife, his ohana is
25 there.

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1 Now, Sam and some of the brothers up
2 there, Nakoa, do not adhere to federal or state or
3 county laws. Their precedence first and foremost is
4 is to their people. So to be there on the `aina, to
5 be there on the mauna takes precedence over federal,
6 state, county law. And they're going to exercise
7 what's true to them, what's pono to them and be there
8 all night 24 hour/7 vigil, and that's the kuakia e
9 mauna there on Mauna Kea. Mahalo.

10 UNIDENTIFIED MALE: Mehanaokala Hind.
11 She's not here? Byron Ching. Keoni Fox? Leilani
12 Sakamoto? Keau Flores? Hinu Flores? Ramona
13 Kahikina.

14 MS. KAHIKINA: Ramona Kahikina, me.
15 Aloha ladies and gentlemen of the board. My name is
16 Ramona (Inaudible) Kahikina. What you just heard was

17 my son. I'm so proud of him. I stand as -- on behalf
18 of I stand of Mary Kawena Pukui. I am the daughter.
19 I am (speaking in Hawaiian). My -- I just moved and
20 I'm from the mainland. I represent all the brothers
21 and sisters all over the world. I am a retired from
22 Delta Airlines and I've traveled all over the world,
23 and I've met -- and I visited all these indigenous
24 people. But there's people all over the world are
25 supporting Mauna Kea, and I am their speaker.

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1 I am the ancestor of Pele. My
2 daughter -- I have two. I have my son and my eldest,
3 but my youngest is (inaudible). She was young at the
4 time, only two and a half years old. I took her up to
5 Mauna Kea in the early '80s because my two oldest
6 children was in school. I shared the ha with her and
7 I chanted the and I taught her the mana in Mauna Kea.

8 Now my daughter at the age of two and a
9 half was raised in the mainland, but she was born in
10 Hawaii. And she knows the ha and she knows the
11 culture and the mana. As she grew up in the mainland,
12 she was strong in Hawaiian culture, though she was not

13 raised. And I am a former grade school teacher. I
14 also volunteer in high school. You don't even
15 understand the history books that is given about the
16 Hawaiian culture. It's totally false, falsified. My
17 daughter stood and wanted to protest about how it is
18 written in the history of the United States, how
19 Hawaii is manifest. I told her no, it comes within
20 you.

21 But I want to tell, ladies and gentlemen,
22 you know when I go to Mauna Kea, I am so hurt that I
23 cannot go up there. My family and my mo`opunas, my
24 kupunas. I come from the lineage of Kamehameha and
25 Liliuokalani. I stand strong with my mana and they

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1 are saddened that I am not able to go up.

2 My kupunas and my great grandchildren, I
3 want to teach them the ha. I want to teach them the
4 religion. I don't want it to come in a textbook. I
5 don't want them to learn this in a book. I want them
6 to experience. I believe in all of you, I really do,
7 and I know we have the control of writing history. We

8 can make it right in our history books, and we can
9 make a difference, because when the day comes, those
10 books are written about this moment, about this event,
11 it will stand strong of what needs to be done right.

12 Political, which I'm not really strong
13 in, I do have children who is strong in politics, but
14 for me, I know that I stand strong that for the
15 history, we need to make a difference and I believe
16 that you will do the right thing. Aloha and thank
17 you.

18 UNIDENTIFIED MALE: Alfred Medeiros.
19 Lisa Hallett. Jessica Andrews. Jessica?

20 MS. HALLETT: Lisa. I'm sorry, I didn't
21 know what number you were on.

22 UNIDENTIFIED MALE: 117.

23 MS. HALLETT: Aloha. My name is Lisa
24 Hallett Andrews. Come from Hawi, Hawaii, Hawaii
25 island. I have testimony to share with you from a

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1 brother in Hilo that could not be here today, and it's
2 coming up now.

3 This testimony is strongly against the

4 passing of these emergency rules. From Zach Street.
5 Testimony in regard to the request to adopt new
6 administrative rules 13-123, 212, restricting use of
7 and access to Mauna Kea. Aloha BLNR, I write to you
8 today with the perspective of a Hilo resident that
9 values both the contribution of astronomy and the
10 special cultural and environmental elements of Mauna
11 Kea, and I write to you from a place of deep concern.

12 I'm concerned, even alarmed by this bold
13 attempt by the state to manipulate its elected and
14 appointed power to undermine the rights of the
15 citizenry in order to advance the cause and alleviate
16 the concerns of corporate and state interests.

17 As a fair-minded person and an astute
18 observer of the events unfolding on Mauna Kea, I have
19 researched the matter from both sides. I have also
20 made many visits to the area on the mountain that
21 would be affected by the proposed rule changes. Let
22 me tell you what I see.

23 I see the state government, led by
24 Governor Ige and attorney general Chin consciously and
25 egregiously mischaracterizing the intent and actions

1 of peaceful protestors, protectors, to receive -- to
2 deceive the general public and institute rule changes
3 that violated constitutionality, protected civil
4 rights in the guise of protecting public safety. The
5 guise is thin, and anyone that takes an honest look
6 can see right through.

7 Through a commitment to peaceful protest,
8 which is the most appropriate and noble form of
9 resistance to perceived corruption and abuse by
10 government, a group of committed citizens have stymied
11 the advances of corporate government project -- of a
12 corporate government project, and the government is
13 frustrated, embarrassed and upset. This frustration
14 gives neither appointed nor elected officials the
15 right to misappropriate their political authority to
16 draft new rules to punish those that resist. This is
17 the behavior of unjust. Undemocratic, and desperate
18 governments.

19 The statements against the protestors
20 made by attorney general Chin are blatant propaganda
21 designed to enflame the public and garner support for
22 rule changes that if adopted will certainly be found
23 by later courts -- real short, (inaudible) -- and

24 investigators to be an abuse of power. In fact,
25 policy changes advanced with such targeted focus based

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1 on such bias and fallacies could warrant an
2 investigation by the federal department of justice
3 civil rights division. This is a strain and burden
4 the state of Hawaii can little afford.

5 The adoption of these proposed rule
6 changes, would not only be devastating evidence that
7 the state of Hawaii feels empowered to disregard the
8 civil rights of the individual for the benefit of
9 corporate and political interests, but it would be the
10 most targeted and blatant disrespect of native
11 Hawaiian cultural practitioners in a very long time.

12 If the board is somehow under the
13 impression that the inflated concerns regarding public
14 safety expressed by the governor and attorney general
15 will provide sufficient cover for the violation of the
16 civil rights of peaceful protestors, or protectors,
17 let me assure that you -- that your impression is
18 absolutely wrong. Please do not adopt these rule
19 changes. If you do, it will only serve to assure me

20 and my fellow citizens that you see that law as a tool
21 to achieve your own goals, instead of civil code
22 designed to protect the people and natural resources
23 of this special. Mahalo for your consideration, Zach
24 Street, Hilo, Hawaii.

25 CHAIRPERSON CASE: Okay, 118 Jessica

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1 Nalani Andrews.

2 Can you please stay your name.

3 MS. ANDREWS: Hello. I am Jessica
4 Andrews, Jessica Nalani Andrews, and I am strongly
5 against the law that you make. I'm sorry. I am the
6 keiki o ka aina of my generation, and generations to
7 come, and I know that my kupuna have like their
8 culture -- cultural practitioners and they go up there
9 and do an oli and then they bring blankets and
10 backpacks and stuff that is needed for appropriate
11 blessing and things like that, and yeah.

12 I feel that this law that you would be
13 making is unnecessary and will not support and
14 (inaudible) -- support the community and there's

15 necessary things that are needed for the cold up
16 there.

17 Aloha Board of Land and Natural
18 Resources. I am Jessica Nalani Andrews. I am before
19 you as keiki o ka `aina from Hawaii island. Mahalo
20 for taking our testimony today regarding the new
21 restrictions. Besides being a sacred place, Mauna Kea
22 is a place that must remain open to public access.

23 Our generation would like to see your
24 generation handle this issue in a (inaudible) and
25 certainly without breaking the law. I know that the

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1 road on the Mauna Kea is safe -- on the mauna is safe
2 and clear, and also know that the road was graded two
3 times shortly after the second wave of arrests, and I
4 believe two times a week all year long.

5 I see that the Port-a-Potties have been
6 stolen that were part of the protection of the mauna
7 by people operating under Governor Ige's orders. I
8 have been taught that stealing is against the law.
9 They should be returned to the mauna because all of
10 our kuleana is to protect the mauna, so Port-a-Potties

11 are needed.

12 My kupuna are cultural practitioners that
13 must have blankets, and they and their helpers carry
14 items in backpacks, plants, lei, ti leaf offerings,
15 mats for kneeling, food, drinks, bags for trash, and
16 items for child care, items for kupuna care, like
17 strollers, wheelchairs and first aid kits, et cetera,
18 so as to have hands free for walking safely and
19 steadily. I think it is none of anyone's business
20 what we bring to the Mauna Kea, as long as it is not
21 going to hurt anyone.

22 The only people that have been hurt are
23 the two protectors that have been hit by cars. My
24 kumu hula and other kupuna are on Mauna Kea and I want
25 to visit them as soon as possible, whenever that will

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1 be.

2 Now, you are shutting us down because we
3 care about our land. We have done -- not none
4 anything to hurt you, the road or Mauna Kea. Nobody
5 would like to hurt anything or anybody, because we

6 just care. Keep conservation land conservation land.

7 Thank you.

8 CHAIRPERSON CASE: Thank you. 119, Maya
9 Saffrey. 120, Kaleo Wong. 121, John Griffiths. 122,
10 Malia Mahi. 123, Rosanna Prieto.

11 MS. PRIETO: Aloha mai ka kou. Mahalo
12 for hearing our testimony today. My name is Rosanna
13 Prieto. I'm from Oahu. I'm testifying today on
14 behalf of my grandchildren and future grandchildren.
15 I strongly oppose the rulings that you are proposing
16 today, and so my testimony is that it is illegal and
17 morally abhorrent to limit and/or regulate indigenous
18 cultural practices under the premise of imminent peril
19 to natural resources without substantive evidence of
20 such peril. This is attack particular of cultural
21 genocide and systemic political oppression that needs
22 to be immediately discontinued.

23 Please reconsider your responsibility as
24 public servants to protect, guide, listen to, heal and
25 work with your people. Please consider our humanity,

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1 as we ask you to hear our grief and act with

2 compassion. Do not limit native Hawaiian access to
3 Mauna o Wakea, yet allow the tens of thousands of
4 visiting tourists to come and go. The only imminent
5 peril that this would create is the erasure of our
6 cultural identity and the continued fracturing of our
7 kingdom for profit.

8 As a natural born incident of the
9 illegally occupied Hawaiian kingdom and an
10 environmentally concerned member of the planet Earth,
11 I ask that the desecration of Mauna Kea cease
12 completely and that there be no further construction
13 of the Thirty Meter Telescope. Mahalo.

14 CHAIRPERSON CASE: Okay, 26 not here, 24,
15 25, 6, 7, not here, 128, Nicole Grace.

16 MS. GRACE: That's me. My name is Nicole
17 Grace. I am representing myself. I don't have a
18 prepared statement, and a lot of everything that I was
19 going to say has been said ad nauseam today, so I'm
20 going to skip all of that and just speak on one thing.

21 First, I oppose C1 and C2 whole
22 heartedly.

23 The main reason I oppose these rules --
24 well, what's left to say, is that it delegates power
25 from a board with a due process and a transparent

1 system to one person. And from what I've seen and
2 heard just today, despite what research I've done on
3 that one person that power would be delegated to, I
4 don't feel that person's qualified to make those
5 decisions on our behalf.

6 I feel that it's necessary at this time
7 for the decisions to remain in more hands than one,
8 especially if that one person is not qualified and
9 can't even pronounce most of our names. Thank you
10 very much.

11 CHAIRPERSON CASE: Okay, 129, Noelle
12 Campbell. 130, Kahiua Campbell. 131, Kahiumano
13 Seabury. 132, skip. 133, skip. 134, Waiana Makana
14 Wong. 135, Kealoha (inaudible) Wong. 136, Makane
15 Christianson. Sorry.

16 MR. CHRISTIANSON: Aloha, board. My name
17 is Makane Christianson. I representing the hunting,
18 farming and fishing association tonight. These rules,
19 we oppose these rules, first off, reason being because
20 it limits access to hunters that we have on Mauna Kea,
21 and it's an emergency rule that lasts for 120 days and

22 goes away, but really how long does it take to build
23 it TMT?

24 This is going to be a problem if you
25 don't solve it with a potentially better solution,

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1 because our hunters will be denied access. We have
2 hunters that go to the backside of Mauna Kea and start
3 their trek at about 1:00 in the morning to get there.
4 They use stoves to heat up their food in the
5 afternoon, and sometimes, you know, it gets cold up
6 there, and for safety wise, you know, these items --
7 you had more items on the first list that were taken
8 off, and by the time I got here about 1:00, it -- we
9 had to change our testimony a little bit, to -- I
10 guess it was to appease the hunters, but still, using
11 the game management area to solve a problem, it really
12 just limits access to more people.

13 And, you know, everybody has the right to
14 protest, and this is a short-sighted endeavor, and if
15 many of you will have the opportunity to read the
16 Tribune Herald, the paper that came out on the steps
17 that were being taken to come up with this rule making

18 process. So I just suggest -- strongly suggest that
19 you guys come up with a better solution to this
20 overall problem that's affecting more than just the
21 protestors up on the mountain, but it's affecting a
22 lot of mountain users.

23 That's all I have. Thank you.

24 CHAIRPERSON CASE: Thank you. 137,
25 Kealani Cook.

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1 MR. COOK: Aloha. My name is Kealani
2 Cook. (Inaudible) like everyone else in opposition it
3 the rule changes. I'm not a cultural practitioner,
4 I'm not a lawyer. I'm going to talk about law, so
5 don't yell at me too much.

6 I'm a historian, and one of the things
7 that -- I wasn't even going to testify today, but it
8 was -- listening to the attorney general's -- the
9 attorney general talking about this, if I heard this
10 correctly, the attorney general admitted that -- that
11 pretty much the purpose of this law, what they're
12 doing now, is not illegal. They can't prove that

13 they're doing something illegal with the camping.
14 When people were doing something illegal, they got
15 arrested, they got hauled down, they bailed out,
16 they're back up there.

17 If they're not doing anything illegal and
18 they change the laws specifically to follow -- to go
19 after whatever political opponents of the governor, it
20 makes a little bit of a mockery of the system, and you
21 guys are the ones that are going -- I mean, it's kind
22 of weird that they're asking you to do the rule change
23 and you're going to take the heat for the governor's
24 project, or project the governor supports. And
25 that -- that's the first part, that the actual purpose

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1 is already sort of making a mockery of the system of
2 law.

3 The procedure that they're using that
4 they're claiming, this imminent peril, and they
5 haven't actually been able to produce evidence of the
6 imminent peril. There have been accusations, but all
7 of those are things that -- I mean, even when you're
8 talking about the guy getting spit on, and it was hard

9 to hear outside, so that was something you saw?

10 UNIDENTIFIED MALE BOARD MEMBER: I was
11 right next to him.

12 MR. COOK: Isn't that assault?

13 UNIDENTIFIED MALE BOARD MEMBER: Well,
14 you know, the person who did the spitting is somebody
15 that I know from Hilo for a long, long time, and I
16 didn't approve of it, but I didn't feel it was my
17 responsibility or my authority to be a cop. I was
18 there as a -- I was there as an invited guest. I was
19 greatly offended, and I felt really bad for the old
20 guy, because he was walking with cane. He was having
21 a hard time already. And she walked up and spit right
22 in his face, and when she called him, I haven't said
23 it in here, she used a very strong racial epithet
24 against him, and that's why I say, that's what
25 motivated me to try to change the system.

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1 When I came down the hill, I told
2 Chancellor Straney, we've got to fix this place. This
3 thing is a mess. That's part of what my mission is

4 here, and if I'm not perfect in my mission, it's
5 because I've got strong feelings too, because I've
6 been on the Hawaiian side all these years.

7 MR. COOK: And what I'm saying is,
8 something like that is, I mean, if there is an actual
9 assault that goes on, there are laws for that, right?
10 That should be covered. And for something like that,
11 that's also a huge violation of the whole kapu aloha,
12 and that should be taken care of on that side too.

13 UNIDENTIFIED MALE BOARD MEMBER: The
14 older generation didn't have quite the finesse that --

15 MR. COOK: The older generation was
16 brought up in a --

17 UNIDENTIFIED MALE BOARD MEMBER:
18 (Inaudible).

19 MR. COOK: '60s, '70s spirit.

20 UNIDENTIFIED MALE BOARD MEMBER: What's
21 it called again? Kapu aloha, that finesse a little
22 more sensible. My age is not like that.

23 CHAIRPERSON CASE: Please go ahead.

24 MR. COOK: Just saying that laws are in
25 place for the things that are actual threats and the

1 possibilities of actual assaults, and if those things
2 happen, the laws are in place. And to create new laws
3 that justify it by saying we're going to create these
4 new laws --

5 UNIDENTIFIED MALE BOARD MEMBER: By the
6 way, what do we get -- you know, your points are well
7 taken, but answer my a simple question, we have
8 responsibility of keeping the roads open so that the
9 staff of the Thirty Meter can go up there and do what
10 they want and if the court shuts them down, that's
11 their tough luck. And if the court shuts them down,
12 then we will block them from going up there, but until
13 the court shuts them down, we have to obey the law and
14 we've got to keep the roads open. So how do you
15 answer that?

16 MR. COOK: What did you do last time?

17 UNIDENTIFIED MALE BOARD MEMBER: Huh?

18 MR. COOK: What did you do last time?

19 UNIDENTIFIED MALE BOARD MEMBER: What did
20 we do what last time?

21 MR. COOK: On the 24th.

22 UNIDENTIFIED MALE BOARD MEMBER: We sent
23 the cops up there --

24 MR. COOK: And that's -- and that's --

25 everybody knew this is the thing. We knew it was

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1 going to happen, people are going to get arrested, and
2 that's -- and that's part of the process. We're not
3 rearranging the ruling.

4 UNIDENTIFIED MALE BOARD MEMBER: The
5 problem is -- the problem is with that scenario, the
6 only way you can effectively do it is when you have
7 demonstrations -- and I'm not an expert in this area,
8 but you have to have overwhelming force. And you have
9 to last long enough to abate the problem.

10 MR. COOK: And if you don't from the
11 political courage to do that, then you shouldn't do
12 that project.

13 UNIDENTIFIED MALE BOARD MEMBER: If you
14 don't have overwhelming force and you can't last long
15 enough to abate the problem, then the problem gets
16 exacerbated, and that's what happened, and it happened
17 twice. And so I'm not the governor to say which way
18 the state goes. Governor Ige was elected by the will
19 of the people answered has his own philosophy where he

20 wants to go, and he said in the paper what his
21 position is, and if the law says that these people are
22 supposed to be there --

23 MR. COOK: But is this an imminent peril?

24 UNIDENTIFIED MALE BOARD MEMBER: -- we
25 can't -- we can't keep the roads open only for some

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1 and not for others.

2 MR. COOK: And that's another issue.

3 UNIDENTIFIED MALE BOARD MEMBER: It is.

4 MR. COOK: But we're talking about the
5 imminent peril part of this. Where is the imminent
6 peril?

7 UNIDENTIFIED MALE BOARD MEMBER: The
8 imminent peril is -- I don't know if you were in here,
9 but some of the things I heard sound to me like
10 imminent peril.

11 MR. COOK: Then they should be
12 investigated.

13 UNIDENTIFIED MALE BOARD MEMBER: Well,
14 you know what, you know what, you may be right, they
15 should be investigated.

16 MR. COOK: What kind of -- these rangers
17 are technically -- there's some form of law, right?

18 UNIDENTIFIED MALE: Excuse me. I hear
19 both of your sides. We're here for (inaudible).

20 MR. COOK: The got two Portagees here.

21 UNIDENTIFIED MALE: Yeah, so let's move
22 on with it. It's been a long day. We need to move
23 on, seriously.

24 MR. COOK: I'm about 15 minutes away from
25 probably getting divorced if I don't show up.

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1 And finally the rules themselves, they've
2 been changed, but they've also sort of made a little
3 bit -- with the blankets, it was obviously like the
4 content of the law is making a mockery of it. But
5 then wean the -- I mean, the backpacks and when have
6 you to keep massaging this thing just because it's
7 like -- you started silly and we're trying to get less
8 silly. You do that, when the people who are under the
9 law make a mockery of the law, that's an issue. When
10 the people are in charge of creating and enforcing the

11 law do that, that's a greater issue, because it
12 undermines the authority of the law in general. And
13 that's something as a historian that you can see, that
14 either it's overwhelming force, which ends up with
15 despotism, or the law has made a complete mockery
16 of --

17 CHAIRPERSON CASE: Okay, just --

18 UNIDENTIFIED MALE: So basically you're
19 against, opposing C1 and C2?

20 MR. COOK: Yes. (Inaudible).

21 CHAIRPERSON CASE: 138, (inaudible).
22 139, (inaudible) Kaina. 140, Marissa Spies. It's
23 easier when you can read the handwriting.

24 MS. SPIES: Aloha. Thank you for taking
25 the time to listen to us, and I'm going to be brief,

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1 base know you all want to go home and I do too. My
2 name is Marissa Spies. I was born and raised on
3 Hawaii island, and I was raised in the shadow of Mauna
4 Kea. I'm educated at UH Hilo and informed Oahu three
5 years ago to start my Ph.D. I'm here today in
6 opposition to the emergency rule changes. I feel that

7 these rules are unfairly targeting protectors opposed
8 to TMT construction.

9 I applaud the efforts of the protectors.
10 They are standing vigil on Mauna Kea and protecting
11 land that has already been set aside for conservation.
12 Everyone is so focused on TMT and the good science
13 that will come out of it, that they forget that
14 astronomy does not represent all science.

15 I'm educated in biology, anthropology,
16 environmental science, and conservation biology. As a
17 scientist and a native Hawaiian, I understand that
18 there are times when we need to stand for protection
19 of places that we hold sacred, even if it is in
20 opposition to current rules the protectors are
21 standing for me, for all of us, when we can't
22 physically be there.

23 The DLNR has failed us in proper
24 management of Mauna Kea, and if we continue down the
25 path of TMT construction, this will only continue.

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1 Again, I applaud our protectors for taking it upon

2 themselves to conserve a fragile ecosystem and sacred
3 mountain.

4 What does the average person do when the
5 government has failed the people? You stand for what
6 is right, even if you stand with the minority.

7 Developers of TMT have been throwing a
8 lot of money at our community, as if it is
9 substitution for the culturally rich area that they
10 plan to construct their piece of scientific equipment
11 on. Construction on what is a focal point to it an
12 entire culture and island community is something that
13 no amount of money can ever buy, and it's something
14 that's priceless.

15 I urge you all to oppose these rule
16 changes, and not to unfairly demonize a group standing
17 for something that is culturally and environmentally
18 important to all residents of Hawaii. I urge you as a
19 scientist and as a native Hawaiian. Thank you very
20 much for your time.

21 CHAIRPERSON CASE: Thank you.
22 (Inaudible). Kamalii (inaudible). Alikea Hussey.
23 David (inaudible). Sherry Pollock. (Inaudible).
24 (Inaudible). Jason Redulla.

25 MR. REDULLA: Good evening, chair and

1 board members. My name is Jason Redulla, and I'm the
2 acting enforcement chief and division administrator
3 for DLNR's Division of Conservation and Resources
4 Enforcement. I am in support of the emergency rule
5 because it will provide a legal regulation that will
6 enhance public safety for all persons at Mauna Kea.
7 In my professional law enforcement opinion, due to the
8 actions of protestors who blocked the road by placing
9 rocks in the roadway and refusing to comply with
10 lawful and reasonable orders to not obstruct the
11 roadway, I do believe that there is immediate peril to
12 public safety without this type of regulation.

13 I'd like to provide you with several
14 examples of this immediate peril. During the protests
15 on both April 2nd and June 24th, those persons who
16 blocked the roadway placed themselves in life
17 threatening jeopardy. The roadway consists a gravel
18 cinder road, bordered in many areas by sheer drop offs
19 and unstable slopes. These conditions create a
20 significant hazardous condition to persons present on
21 the roadway and creates a significant fall danger with
22 the risk of death or substantial bodily injury, not to

23 mention significant liability to the state of Hawaii.

24 Further, imminent peril is demonstrated
25 by the obstruction of the roadway, which hinders the

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1 appropriate medical and fire response to the summit.
2 Fire trucks and ambulances cannot pass object
3 instructed roadways that are filled with boulders and
4 rocks, and furthermore, fire trucks cannot access
5 this.

6 On June 24th, I actually observed the ahu
7 and rock walls that were placed in the road. These
8 obstructions were placed on the roadway, creating a
9 very unsafe condition to motorists. Vehicles that
10 wanted to pass these obstructions would have had to
11 drive precariously close to the sheer edge drop offs
12 on the shoulder of the road. This danger is further
13 multiplied by the fog and darkness and limited
14 traction of the gravel cinder roadway.

15 The environmental and terrain conditions,
16 coupled with the noncompliance of many protestors,
17 also places our DOCARE officers in very dangerous

18 situations. DOCARE officers have had to effect
19 arrests in very close proximity to protestors on the
20 road. This close proximity and lack of space makes
21 effectuating arrests more difficult safely do and
22 places our officers in a highly dangerous situation.

23 In conclusion, to promote public safety,
24 I urge you to support this measure and pass it
25 tonight. Thank you.

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1 UNIDENTIFIED FEMALE BOARD MEMBER: Have a
2 question.

3 MR. REDULLA: Yes.

4 UNIDENTIFIED FEMALE BOARD MEMBER: So
5 under about the blocking of the road is a public
6 safety issue. How does the 10:00 p.m. to 4:00 a.m.
7 rule help with preventing that blocking of the road?

8 MR. REDULLA: In my professional law
9 enforcement opinion, and I'm not a lawyer, so in my
10 layman, legal law enforcement opinion, this type of
11 restriction will minimize the presence of persons in
12 the area, and thus will create a more safe environment
13 for vehicles to pass and transit through, just by the

14 reduction of the amount of people in the area.

15 UNIDENTIFIED FEMALE BOARD MEMBER: Thank
16 you.

17 CHAIRPERSON CASE: Thank you.

18 UNIDENTIFIED MALE BOARD MEMBER: Kala
19 mai. You were there?

20 MR. REDULLA: Yes, sir, I was there on
21 June 24th.

22 UNIDENTIFIED MALE BOARD MEMBER: Okay,
23 and that's your observation, your personal
24 observation?

25 MR. REDULLA: Yes, sir, it is.

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1 UNIDENTIFIED MALE BOARD MEMBER: And
2 you're the boss?

3 MR. REDULLA: Yes, sir, I am the chief.

4 UNIDENTIFIED MALE BOARD MEMBER: Okay,
5 thank you.

6 CHAIRPERSON CASE: Thank you. Meleana
7 Kamai.

8 MS. MELEANA KAMAI: Aloha mai ka kou.

9 (Speaking in Hawaiian).

10 CHAIRPERSON CASE: Go ahead.

11 MS. KAMAI: (Speaking in Hawaiian).

12 Mahalo for all of your patience, for sitting here all
13 day, for listening to us, mahalo for serving without
14 pay, excluding you. We trust to you do what's right.
15 We don't need to repeat what's already been said, but
16 what I would like to say besides opposing these
17 unnecessary so called emergency rules is that there
18 are many people missing from this room. There are
19 many voices missing from this testimony.

20 Thankfully we have Olelo TV. Due to
21 Olelo it TV, many people are at least hearing us
22 today, this evening, but that was not through the
23 actions of the state, of their own accord, of their
24 own willingness? Where is the transparency? Where
25 the inclusion of our people? Do we only represent the

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1 big house across the street, the corporations, the
2 international companies with monies? No, you
3 represent the people of Hawaii, yes, with the laws,
4 the legalities of it all, and slippery slopes is and

5 the snakedy snakes of using the law, creating
6 unnecessary laws. Enforce that the laws that we have.
7 We don't need to create something which is going to
8 limit a particular group of the population, which is
9 always targeted at the expense of everyone else who
10 has come. Even today we still welcome you, but we
11 don't ask you -- and even our own people, we don't ask
12 you to change yourself. We ask each other to adapt to
13 each other, to be tolerant, but tolerance only goes so
14 far. And then we wonder why our people lose patience,
15 cannot present themselves well, that they get upset
16 and they find themselves doing the things that they
17 have to do, illegal as it is beings because they are
18 not legalese, they do not slip through the law, like
19 many attorneys know how to slip through the law,
20 create new laws, so that it all works out for who?
21 Everybody but.

22 Many people before us have cited so much
23 information that you folks are probably on overload.
24 But I thank you for hearing it and I pray that you
25 folks go home and absorb it, because it's in your

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1 heart, it's in your na`au. What is the right thing do
2 within the law? Create new things that targets a
3 group that actually causes more danger? Why can't it
4 be a win-win like Kawika was saying? Why aren't we
5 looking at the and possibility. Why does it always
6 have to be them or us? When do we start to consider
7 the and?

8 Hawaiians have been us and you. We are
9 still us and you, because you are us. We are the
10 people of Hawaii living here, but we know who the
11 first peoples are, and thank you for respecting that.
12 So I ask you folks, do what's right in your na`au and
13 to think about who the missing voices are.

14 And if I just may add one more, so we are
15 in 2015. We have technology. To those voices that
16 are not here, I ask you to do teleconferencing,
17 because for people to come from our neighbor islands
18 to spend one, two, 300 dollars, sometimes they have to
19 buy the first class seat. 400 dollars for a
20 three-minute testimony. How many of us have that?
21 And if they are hunters, practitioners, who of us has
22 that kind of money? So let us use technology as it
23 has been available to us. Mahalo nui loa.

24 CHAIRPERSON CASE: That's all I have

25 often the sign up sheet. Is there anyone else who

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1 wishes to testify?

2 MR. GUTIERREZ: I think I'm 151.

3 CHAIRPERSON CASE: Sorry.

4 UNIDENTIFIED MALE: This goes up to 180.

5 CHAIRPERSON CASE: He's kidding.

6 MR. GUTIERREZ: All right, good evening
7 by now. Good night. First off, I'm Makalea Gutierrez
8 from Kailua, Oahu. I'm here on behalf of myself, as
9 well as my ohana. Many of us couldn't be here, like
10 the one before me spoke, you know, issues of access
11 are a big deal, and access to today's meeting is one
12 of them. You know, but I'll get into that.

13 I just wanted to start off by mahaloing
14 you guys. I know it's hard. Sat across from you
15 guys, this board several times now, and I couldn't
16 imagine it from the other end. You know, it's
17 difficult and the fact that you guys want to hear
18 everybody out, going up to 180, you know, it's
19 important, you know, and the fact that you guys are
20 taking your kuleana seriously is a good sign of fate

21 for the public, for the stakeholders out there.

22 I just want to urge you guys to continue
23 to let that kuleana guide you, to it allow a lot of
24 things that have been said today into your folks'
25 minds and really -- really let that set in.

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1 So just to start, I do oppose both C1 and
2 C2, the proposed rules. And just for the sake of
3 time, you know, the cultural, spiritual, religious
4 arguments you guys have heard, I'm sure, as well as
5 the environmental, the financial, and the fiduciary,
6 so all of these -- all of these arguments are out
7 there, you know, and I just want to urge you folks to
8 not pass this rule, not open the state to a liability
9 of more lawsuits, more legal battles, spending more
10 money and more time, more energy.

11 You know, it's clear -- it's clear what
12 the general consensus of today was. You know, it's
13 clear what the 1998 and the 2005 state audits say
14 about the management of, you know, Mauna Kea through
15 the DLNR, through the UH board of regents. So the

16 writing is on the wall. The fact is that the
17 mismanagement is a problem, and I know this is just
18 about the proposed rules, so I'll just wrap it up
19 with -- with -- just wrap it up with thanking you guys
20 for your time. Thanks.

21 CHAIRPERSON CASE: Okay, Karen Murray.

22 MS. MURRAY: Karen Murray, yes. Hi.
23 Sorry, I've been at work since I got up this morning
24 at 5:00 and then I had to go hold signs for this and
25 then come down here on my own time, thank you. But,

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1 okay, I totally oppose C1 and C2. I feel emergency --
2 these emergency rules are not really an emergency.

3 You know, I was -- (inaudible), but I
4 didn't expect any laws to be enacted or changed to
5 protect me over at (inaudible). I'm just like that.
6 I just wash my face and that's fine, you know.

7 Okay. I think if this is an emergency,
8 we need a new dictionary. And I've been on the
9 streets, as I just came from, and I've been hearing
10 from people all over the world, an, everywhere, and
11 when they hear about what's happening here, from TMT

12 and what is happening now with this -- they really
13 think that this is bullying, yeah. This is a petty
14 kind of bullying. My grandmother, if she saw those
15 rocks, pictures of those rocks, and I saw great
16 videos. She would have said, oh, bring 'em over my
17 house, you know, we make some -- use some in our
18 backyard. Okay. They're not dangerous, and they were
19 taken down within a day.

20 And we also had on the news, we had UH
21 spokes person, David -- I don't know how to say his --
22 anyway, he said that Mauna Kea is a cinder cone that
23 is constantly in motion, okay. We had to grade it
24 twice a week in order to even maintain that road
25 because rocks are constantly falling into that road,

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1 because that's a cinder cone, that's the nature of
2 Mauna Kea. It's trying to heal that scar of a road,
3 okay.

4 So as far as that being any kind of
5 danger, that's shibai. And after the bullet hole
6 thing, oh, my God, credibility is like down here,

7 okay. So when it came to feces on the wall and all
8 that kind of stuff, you know, it seemed to me they
9 would have brought it up when they closed the visitors
10 center. Oh, feces on the wall, that's why. And bomb
11 threat, they would have brought in homeland security
12 or something, right? So I don't believe that. I
13 don't believe those two things. I don't believe a lot
14 of things because the credibility is lost.

15 And, you know, I approached you during
16 your confirmation hearing, and I know we're never
17 going to agree, because I don't think that the
18 military -- military will ever be good stewards of the
19 land, not especially after Red Hill, yeah, so that's
20 especially why I don't want C1 to go through, because
21 we're not going to agree, yeah.

22 Let's see, make sure. Yeah, I mean,
23 Hawaiians, they work with rocks all the time. We were
24 just out working on a fishpond about a month ago. You
25 know. These things are not dangerous. Rocks are not

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1 dangerous. There are -- they're our friends. They're
2 part of our lives, yeah. What is dangerous is

3 building another hazardous waste tank on a cinder
4 cone, a 5,000 gallon tank of hazardous waste sitting
5 at the top of a cinder cone that is by the UH spokes
6 person's own words, constantly in motion. We see from
7 Red Hill, it's not a good idea, tanks leak.

8 The other thing is that UH astronomer on
9 a talk show he said, well, this is probably going to
10 be the last of the big telescopes because it's
11 financially draining, for one with, and the other
12 thing is we'll probably have breakthroughs in optics.
13 Take out your cell phones, how great is that, you can
14 all kinds of great photos and videos now, right? And
15 things are getting -- computers are getting smaller,
16 and smaller and smaller, until finally they'll put
17 right in your hand, right?

18 So if they can do that with that, TMT can
19 take all of their money and invest it in research in
20 optics and retrofit that into one of the existing
21 obsolete telescopes and not disturb that land in
22 trying to take all that rubbish away, because to take
23 one down disturbs a lot of land also. Okay.

24 CHAIRPERSON CASE: Thank you.

25 MS. MURRAY: Sorry if I seem abrasive.

1 I'm really tired. I need to go home and sleep.

2 CHAIRPERSON CASE: Is there anyone else
3 who wants to testify? No further testimony? Okay,
4 we're going to close. Oh, sorry. You want to come
5 back and respond? Thank you.

6 MR. CHIN: Member Roehrig had asked for
7 the Facebook threats, so I just wanted to give him,
8 put them in the record.

9 CHAIRPERSON CASE: Sorry, we were about
10 to close public testimony. Are you wanting to
11 testify?

12 MS. NANEOLE: Aloha. Mahalo nui. I'm
13 glad I got here just in time.

14 CHAIRPERSON CASE: I'm sorry, can you
15 again say your name?

16 MS. NANEOLE: Kauai Naneole. I was number
17 138. Aloha. I oppose first and foremost amending
18 anything that would exclude access and rights to the
19 summit. I have ohana buried and scattered up there,
20 as well as people up there in Waiiau. And this
21 proposed amendment or -- this proposal would prevent
22 my access to those sites.

23 The pole, as we know it, is a special
24 time for our akua, and I think that by preventing us
25 the access at these specific hours, you also prevent

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1 us from our inherent right to practice our religious
2 connection with that (inaudible). So that's all I
3 have to say. Mahalo nui for your long, lengthy day.

4 CHAIRPERSON CASE: Thank you. Anyone
5 else wish to testify?

6 UNIDENTIFIED MALE: (Inaudible) disclose
7 her dad is one of my closest friends.

8 CHAIRPERSON CASE: Okay. At this point
9 we're going to close public testimony, and go into
10 deliberation.

11 UNIDENTIFIED MALE BOARD MEMBER: Madam
12 chair, (inaudible) this is James' motion. James, is
13 it appropriate now for us to go into executive session
14 to talk to our attorney and whatever your script says?

15 UNIDENTIFIED MALE: Sure.

16 UNIDENTIFIED MALE BOARD MEMBER:
17 (Inaudible) script.

18 CHAIRPERSON CASE: Do we need --

19 UNIDENTIFIED MALE: Do we need to go into
20 executive session? We had one earlier.

21 CHAIRPERSON CASE: Or do we just need --

22 UNIDENTIFIED MALE BOARD MEMBER: I need
23 some legal advice from counsel, because I have some --
24 I have some legal concerns that I would like to air
25 with counsel. I think it's prudent to -- to --

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1 because it's an attorney client thing, I think it's
2 prudent to go in executive session to discuss it.

3 CHAIRPERSON CASE: Would you like to make
4 a motion?

5 UNIDENTIFIED MALE BOARD MEMBER: I make
6 that motion (inaudible).

7 CHAIRPERSON CASE: Would you like to do
8 it yourself?

9 UNIDENTIFIED MALE BOARD MEMBER: Sure, if
10 you give me the script, I'll read it. I don't see it.
11 Are you sure it's on that page? Here we go, number
12 four, move to go in executive session to consult with
13 our board's attorney on questions and issues

14 pertaining to the board's powers, duties, privileges,
15 amenities and liabilities relating to this docket.

16 CHAIRPERSON CASE: Second?

17 UNIDENTIFIED MALE BOARD MEMBER: Second.

18 CHAIRPERSON CASE: All in favor?

19 Opposed? Okay, we're going into executive session.

20 UNIDENTIFIED MALE BOARD MEMBER: Thank
21 you everybody for your testimony (inaudible).

22 (Recess taken.)

23 CHAIRPERSON CASE: Okay, we are back in
24 session at 10:10, and we are going to hear --
25 entertain a motion on item C1. Is there a motion.

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1 UNIDENTIFIED MALE BOARD MEMBER: I wanted
2 to make a motion on C1. Just so -- to explain for a
3 moment. C1 is an item that delegates various duties
4 that are -- and powers that exist under the current
5 game management rules to various administrators or to
6 the chair of the division of -- or the chair of the
7 department, and they include many things which are not
8 very controversial, such as waiving additional fees
9 for -- when additional animals are taken on the island

10 of Lanai during hunts and things like that.

11 The only two items that have been
12 controversial is the delegation of the closing of
13 the -- the complete closing of the hunting area from
14 which is currently -- the rule says can be done by the
15 board or its authorized representative, and that would
16 have been --- under this proposal would be delegated
17 to the chairperson, potentially for a period of up to
18 six months. And I'm going to change -- I'm going to
19 move that he we change that to a maximum of one month
20 by the chairperson.

21 I heard Walter Riddy's testimony and
22 other testimony that they want to be able to come to
23 the board and argue about these things, and I think
24 that with a one-month period, there are emergencies
25 that come up that need to be dealt with. There are

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1 relatively short-term closings -- closures that are
2 not that serious. Anything longer would have to come
3 to the board and be argued and (inaudible) by the
4 public.

5 So my motion is to approve C1 as
6 presented with that amendment.

7 CHAIRPERSON CASE: The amendment to
8 change that, the closure?

9 UNIDENTIFIED MALE BOARD MEMBER: In both
10 chapter 122 and chapter -- which is the bird hunting
11 rules, and 123, which is the game mammal hunting
12 rules, they're separate clauses that say -- that
13 delegate to the chairperson that power, but this would
14 limit the chairperson's closure time to one month.
15 Anything longer would have to go to the board.

16 UNIDENTIFIED MALE BOARD MEMBER: Second
17 the motion.

18 CHAIRPERSON CASE: Okay, any discussion?

19 UNIDENTIFIED MALE BOARD MEMBER: I think
20 it should be 1322-119 and 1323-211.

21 UNIDENTIFIED MALE BOARD MEMBER: Right,
22 thank you.

23 CHAIRPERSON CASE: I'm sorry, can you
24 just say that in the mike. I just want to make sure
25 it's in the record, the two sections.

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1 UNIDENTIFIED MALE BOARD MEMBER: So
2 1322-11.1 and 13123-21.1, those sections.

3 CHAIRPERSON CASE: So change the six
4 months to one month in those sections?

5 UNIDENTIFIED MALE BOARD MEMBER: Yeah,
6 correct.

7 CHAIRPERSON CASE: Okay, and we have a
8 second?

9 UNIDENTIFIED MALE BOARD MEMBER: Second.

10 CHAIRPERSON CASE: Any discussion, any
11 other discussion? If not, all in favor?

12 MEMBERS: Aye.

13 CHAIRPERSON CASE: Opposed?

14 Thank you. All right. Item C2, do we
15 have a motion on item C2.

16 UNIDENTIFIED MALE BOARD MEMBER: Yes, I'd
17 like to make a motion on item C2. I want to
18 acknowledge, we had an enormous amount of testimony
19 today, and very moving, very well stated, very
20 eloquent testimony, and I understand the concerns and
21 the passions of the people that testified. I think a
22 lot of the people are -- who are at the -- been on the
23 mountain have been standing on the side of the road,
24 who have been at the encampment are wonderful people,
25 very good people.

1 I'm very concerned that I hear a number
2 much people testify that they are prepared to place
3 boulders in the road again. I heard a number of
4 people testify that they're prepared to block the road
5 again, and as we've said here before, we -- we
6 actually -- we actually do take -- uphold the laws.
7 We have our enforcement people who are -- also their
8 job is to uphold the laws, and at this point the law
9 does say that if telescope construction people come
10 through, that they have a right to come through. The
11 only people who can change that right now is -- the
12 only people are a court, and we are required to uphold
13 that.

14 So our people need the tools to keep --
15 to keep order on the mountain, and for that reason,
16 I'm going to move to approve C2 as it was presented
17 today.

18 I know that the board members -- I think
19 all the board members have comments, and I'm not going
20 to make any kind of big speeches. I think this is a

21 very -- I could make the wrong speech, but it's a very
22 sad that this has come to this point, and that this --
23 that there is this conflict between I think people who
24 are deeply good on both sides and have different
25 visions, but (inaudible) have the same (inaudible) and

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1 on the same island.

2 I'm also going to find that based on what
3 we've been presented that there is an imminent peril
4 to public health, safety and natural resources that
5 justifies this granting of this emergency rule.

6 And the final comment that I'd like to
7 make is there have been requests and there's been
8 statements that for cultural reasons people may want
9 to go up and stay on the mountain for times outside of
10 the hours, and that these -- this is -- will be
11 possible. There is a provision in the rules for
12 special permits that can be granted by the chair that
13 would deviate from the normal requirements of the
14 rules, including this emergency rule. So this is
15 still a conversation and a dialogue that we can
16 continue to have.

17 UNIDENTIFIED MALE BOARD MEMBER: Second
18 the motion.

19 CHAIRPERSON CASE: Discussion?

20 UNIDENTIFIED MALE BOARD MEMBER: Madam
21 chair.

22 CHAIRPERSON CASE: Please.

23 UNIDENTIFIED MALE BOARD MEMBER: Madam
24 chair, may I ask a question?

25 CHAIRPERSON CASE: Yes.

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1 UNIDENTIFIED MALE: Just so -- I mean,
2 it's my understanding, and correct me if I'm wrong,
3 I'm reviewing -- the motion included a request that
4 the board find that an impairment peril to the public
5 health or natural resources necessitated the emergency
6 nature of the rule.

7 UNIDENTIFIED MALE BOARD MEMBER: That's
8 part of the motion, yes.

9 UNIDENTIFIED MALE: Thank you, madam
10 chair.

11 CHAIRPERSON CASE: And just to clarify,

12 the rest of the rule provides procedures for permits,
13 and we'd have to refer back to what they are, but --

14 UNIDENTIFIED MALE BOARD MEMBER: That's
15 in the game management rules, which are being amend
16 here. So there is a clause for special permits in the
17 game management rules.

18 CHAIRPERSON CASE: Thank you. Please,
19 Mr. Roehrig.

20 BOARD MEMBER ROEHRIG: This is very
21 painful for me, probably painful for all of us, but
22 for me it's very painful, but when Governor
23 Abercrombie asked me to serve on the land board, he
24 called me up and asked me to serve, and I said you
25 want me on the land board? He said, I want you on the

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1 land board. And he said -- I said, well, why do you
2 wants my on the land board? And only thing he told me
3 was take the rock out of my shoe.

4 And I didn't quite understand what he
5 meant, but he didn't want to talk it about it any more
6 than that. But then other people said, well, we need
7 some -- we need some new -- we need some new blood in

8 the board and new ideas, and that's why we're telling
9 you you've got to go, and so I decided, okay, I made a
10 decision. I talked to my wife, and now I'm here and I
11 took the oath. All right. And I'm going to -- I'm go
12 to do my job correct, even though I've got strong
13 feelings for my Hawaiian clients and my Hawaiian
14 neighbors and my Hawaiian family, including my
15 grandson who comes to it our house every day.

16 So I'm seconding the motion and I'm going
17 to be in favor of this, and here is some of the things
18 that I want to have happen, and I want there to be
19 good faith efforts made to work on these things if
20 they can't be done overnight, because I -- I feel that
21 they are part and parcel of why I'm voting for this.
22 Okay, and it goes like this, number one, not in any
23 particular order, the Kahu Ku Mauna advisory committee
24 has got to have a robust future. It's there for a
25 reason. It's there for the Hawaiians to know that we

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1 care about their PASH rights of the mountain. So they
2 have to have a voice in what happened. And it's not

3 whether they have a voice, there has to be an
4 appearance at least that they're being listened to.

5 When they come over here to a meeting
6 like this and they tell us that they feel frustrated,
7 the whole reason for us setting that up in 1998 was so
8 that they would have a voice, permanent voice and so
9 that they would have that PASH rights voice, and this
10 Kahu Ku Mauna advisory board was set is up for that
11 purpose. It's supposed to be the eyes and ears for
12 the Hawaiians and they have to be a robust group. So
13 that's got to be worked on. That's the first thing.

14 Number two, there's got to be a proper
15 disposition, and if it's too late for that on anybody
16 on a stand up board or surfing or windsurfing or
17 having swim meets, races in Waiau bay, that's
18 forbidden. We expect the DOCARE officers to strictly
19 restrict what goes down in Waiau Bay. That's a sacred
20 place, and if there's going to be Hawaiian -- if
21 there's Hawaiian type ceremonies, using the lake
22 water, that's okay, but it's not for general
23 recreational use by passers-by. That's a restricted
24 area, and it's got to be -- it has to be respected,
25 very, very sacred place.

1 Next item, this water going down the
2 mountain, we want that investigated and find out where
3 is that water going to, and if it's draining areas
4 that are sacred, we've got to find out whether or not
5 that's a good idea. We want to have a report brought
6 to us about that, because we're bothered by that,
7 especially when we saw those photos at one place all
8 nice and green, everything was nice and malia, and the
9 next one just get bushes all nothing already. So we
10 want to work on that.

11 Next item, we encourage peaceful protest.
12 Protest as much as you like, but not on the road, and
13 no block nobody. And there is going to be some
14 discussion, and chair woman is going to take this up,
15 we're going to have permits to have certain protest
16 site on top the mountain somewhere where you can have
17 a 24-hour facility but it's not blocking the road.
18 The chairman is open minded to considering that it,
19 and so are we, but we have to have -- we have to let
20 the western culture and the Hawaiian culture coexist,
21 because we have to uphold the law.

22 All right, the next item, and this is
23 another painful area. I'm very fearful that no matter

24 which way we go, somebody is going to spend money, a
25 lot of money, and no matter which way we go, we

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1 might -- we might have lawsuits against us, against
2 the state, whatever. It doesn't look like we can
3 prevent that, but we have to be mindful of the fact
4 that tomorrow the Thirty Meter limited liability
5 partnership, or some other entity, can file a claim in
6 federal district court in Hawaii, in San Francisco, in
7 some other state where they're domiciled, and then the
8 issue of whether PASH rights are going to face the
9 same fate with Rice versus Cayetano, we're going to
10 have to face that. That would be a very sad day for
11 me, because I think the PASH rights is what gave me
12 clients hope all these years, and that could go the
13 same way as Rice versus Cayetano because there's an
14 element in PASH rights that favors the host culture.

15 You look at the Rice versus Cayetano,
16 very unfortunate words in the case, but it says that
17 any kind of benefit to one nationality by reason of
18 ancestry is Constitutionally suspect. That's what it

19 says. Very unfortunate, but that's what we're faced
20 with. That's the reality of it. That's why I'm
21 fearful, this isn't going to end in the state Supreme
22 Court. This is going to end in the U.S. Supreme
23 Court. So you've got to be careful for what you wish
24 for. You might win the battle and might lose the war.
25 And the war is going to be with Justice Scalia and his

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1 boys. All you have to do is read the newspaper, see
2 how they vote. Do they vote -- are they going to vote
3 for a local culture? I don't think so. They don't
4 seem to act like it. Maybe I'm wrong, but that's my
5 fear. I have a hopohopo about that.

6 So the last item is I want to encourage
7 the university -- I want the president to hear this,
8 chairman of the board of regents, I want them to back
9 up Don Straney, because he hired two Hawaiian
10 educators, one for east Hawaii, one for west Hawaii,
11 to start the process of getting the at risk kids in
12 the Hawaiian pocket communities and other
13 disadvantaged kids from other pocket communities in
14 the Big Island, get them ready for college to go to UH

15 Hilo, tuition waivers, early admittance, opportunities
16 to get ready to go to college and give them after
17 school training. Where they're having problems, give
18 them mentors right into the after school program, and
19 that's what they started to do, and hopefully that
20 idea will spread across the state, and we'll get
21 everybody in this picture to help pay for that,
22 because mitigation measures are part of the deal of
23 the CDUP, and it's part of the appeal in the CDUP.

24 And all of the leases are coming up. If
25 they want to get extensions of the leases, you know,

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1 or they want to do -- they want to do upgrades, you
2 know where they've got to come? Right here. So this
3 isn't the end of the day. This is just the first day.
4 We're just getting started, and you can see from the
5 comments in here, we've got an action board. No
6 sissies in here. All different shapes and sizes and
7 all of them are eleo, every one of them. All
8 different point of view, and we don't always agree,
9 but we work hard and we try to get along with each

10 other, even though we have strong disagreement. And
11 we need the public's help for us to do a good job,
12 because this job is not easy and we're facing tough
13 times coming up. So we need to pull together as a
14 community.

15 Thank you, madam chairman.

16 CHAIRPERSON CASE: Are there other
17 discussion?

18 BOARD MEMBER WOODSIDE: Kanawai mamalahoe
19 was quoted several times today, and it was in several
20 testimonies that we received, and that goes both ways.
21 The safe and respectful use of the road is important
22 to everybody. And I'm disappointed that that hasn't
23 been upheld. I'm disappointed in the words of
24 violence that have been used, maybe not in this room
25 today, but definitely on both sides of the

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1 conversation.

2 I'm -- I feel for our DOCARE officers,
3 and I appreciate your testimony and what you stand
4 for. Of all tools that we have, I don't know that
5 we're using the right tool right now, and I don't know

6 that we've given you the right tools and all the tools
7 and resources that you can use as well. It's
8 conflicting. I hear you guys talk and I feel the same
9 way you do.

10 Having said that, I don't -- we just had
11 the emergency rules for the lo`i last meeting. When
12 it came to impacts to natural resources, we received a
13 certain amount of information on species and data. I
14 didn't receive that about the natural resources at
15 this point in time. In other issues before us, when
16 there's been violations, we've received reports about
17 those violations and investigations into those
18 violations. I recognize the challenges of the
19 existing rules on the books and how maybe that
20 challenge serving violations, but I still that's part
21 of the process, and that was a tool that we had as
22 well that we could have used.

23 We have Kahuku Mauna. We have Ahumoku
24 Council. We have the Office Hawaiian Affairs. Many
25 people who have offered help in the past and that are

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1 resources to Office of Mauna Kea Management, the
2 university, and to the board, and that's a tool that I
3 don't feel that we used beforehand.

4 I don't know that I feel that I've heard
5 a genuine understanding of -- from all sides of what
6 it means to have cultural practice at Mauna Kea. I
7 hear the cultural practice and the camping sort of
8 woven together, along with our First Amendment rights.
9 And I don't know that I have heard clearly how we've
10 tried to understand each of those conversations and to
11 move forward with resolutions on each of them as is
12 appropriate for them. I feel that we're lumping them
13 together.

14 And I recognize, like my fellow board
15 members, that the situation has come to a head at this
16 point in time, requiring these types of rules to come
17 before us, because other tools and other efforts
18 weren't necessarily used ahead of time.

19 So for those of us that have to go
20 forward, continue to serve our land, continue to serve
21 our people, I think we do need to pause every now and
22 then and think of the tools we have on hand. You
23 don't bring your `o`o when you have do a ko`i type of
24 job. You don't take your `o`o if what you really
25 wanted to do is hoi, and I don't know that these rules

1 really accomplish -- are the right tool at the right
2 time for this particular situation. I think we've
3 brought the wrong tool to a very, very challenging
4 situation. And I share the fear with my board members
5 of the violence that we hear about, which is very
6 different from being -- to having perseverance.

7 And I'm concerned about the public safety
8 issues that have already occurred and the potential
9 for more public safety issues, and I hope that we can
10 all abide by kanawai mamalahoe and find a way to have
11 peaceful and respectful conversations and recognizing
12 how we can come to some sort of aloha in this -- in
13 this situation.

14 Mahalo.

15 CHAIRPERSON CASE: Are there other
16 comments, discussion?

17 UNIDENTIFIED MALE BOARD MEMBER: I have
18 one more, after anybody else, after everybody else,
19 then I -- just a couple items.

20 CHAIRPERSON CASE: Go ahead.

21 UNIDENTIFIED MALE BOARD MEMBER: Okay.

22 I'm just talking about our DOCARE acting boss. I'm
23 very impressed by your comments. You really spoke
24 from the heart. You're the man on the spot. You were
25 there, and we've got to back you up and we've got to

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1 have your men have -- they have to have good feeling
2 in their heart that they're doing the right thing, so
3 we've got to be there for you guys, and I recognize
4 that today. And I think that's really important. So
5 you tell your boys, you know, have a good feeling,
6 because we're going to back you up. We're going to
7 watch your back.

8 The other thing is we want the university
9 to look into having your -- if I didn't already say
10 this, having your rangers have police powers, talk to
11 the president, chairman of the board of regents, see
12 what -- how do we accomplish that. Do we need to go
13 through legislation, I'm not sure, whether you guys
14 have to make rules or board of regents gotta make
15 rules. I'm not sure how that's to be done or whether
16 that's under present rules now that need to be -- need

17 to be looked at with fresh eyes.

18 I'm not sure, but for the same reasons
19 that we have opportunities for clear and present
20 danger, is the words I would use, for prior
21 intervention before things happen, under
22 Constitutional law, we have that same reason that the
23 rangers need to have police powers, because
24 emergencies are going to arise when we least expect it
25 on the mountain. There's more people. There's more

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1 traffic. There's more tension. And there's more
2 people -- just tourists going up there, running around
3 in their -- in their bikinis and whatever, and, you
4 know, they look like -- I don't know whether they've
5 been, but what they're doing, but just a lot of
6 pressure up there, and emergencies are going to occur,
7 disputes are going to arise on top of the mountain,
8 and you guys might be the only ones who are there.
9 You can't call, you know, patrol to come and help you.
10 You've got to do it right there.

11 So it's not to make you guys into a
12 malitia, you know, something inappropriate, but it's

13 to give you adequate tools in the event you have an
14 emergency so you can do what is necessary to keep the
15 peace and have the law of the land obeyed. Thank you.

16 Thank you, everybody for coming and all
17 of your comments. I'm going to remember this day for
18 a long time.

19 UNIDENTIFIED MALE: (Speaking in
20 Hawaiian). I'll see you on the mountain.

21 CHAIRPERSON CASE: Any other comments?
22 Discussion? If not --

23 UNIDENTIFIED FEMALE: (Inaudible).

24 CHAIRPERSON CASE: The motion is to
25 approve the rule as submitted today. And there's a

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1 second?

2 UNIDENTIFIED FEMALE: There's no
3 assurance for the Hawaiians. There's been a lot of
4 assurances just now.

5 UNIDENTIFIED MALE BOARD MEMBER: I
6 seconded the motion.

7 CHAIRPERSON CASE: You did, all right.

8 All in favor?

9 UNIDENTIFIED MEMBERS: Aye.

10 CHAIRPERSON CASE: Opposed?

11 BOARD MEMBER WOODSIDE: Aole.

12 UNIDENTIFIED MALE BOARD MEMBER: Aole.

13 CHAIRPERSON CASE: Motion's passed.

14 Meeting is adjourned.

15 (End of audio-recorded proceedings.)

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C E R T I F I C A T E

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I, Jessica R. Perry, Certified Shorthand Reporter

4 for the State of Hawaii, hereby certify that the
5 audio-recorded proceedings were transcribed by me in
6 machine shorthand and thereafter reduced to
7 typewritten form; that the foregoing represents to the
8 best of my ability, a true and correct transcript of
9 the audio-recorded proceedings had in the foregoing
10 matter.

11 I further certify that I am not attorney for any of
12 the parties hereto, nor in any way concerned with the
13 cause.

14 DATED this 28th day of September, 2015, in
15 Honolulu, Hawaii.

16

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Jessica R. Perry, CSR, RPR
Hawaii CSR# 404

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