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

DATE: FRIDAY, JULY 10, 2015
TIME: 9:00 A.M.
PLACE: KALANI'MOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWA'I 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-PMN
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'i 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., Līhu‘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 Kukuiolono Park and Golf Course, Kalāhea, 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, Wai‘alua, 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, Kalpapa’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
ITEM L-5 Application for Geothermal Exploration Permit and Declaration of Exemption from Chapter 343, HIRS. Hualalai 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 the 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), Kauai'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.

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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 Secession.

11:16 AM   EXECUTIVE SECESSION
1:08 PM    RECONVENE

9
***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.


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*


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,

Ku’ulei Moses
Land Board Secretary

Approved for submittal:

Suzanne D. Case
Chairperson
Department of Land and Natural Resources
Board of Land and Natural Resources
Meeting Transcript
July 10, 2015
(An attempt was made by the transcriber to spell the Hawaiian words and names spoken as phonetically as possible, when they were spoken slowly and clearly enough to hear.)

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

Process is going to be that we're going to have staff presentation on C1. We'll have the board ask questions on C1, and then we're going to have the attorney general's presentation on C2, and then we're going to have board questions on C2, and
then we're going to go to public testimony. There's one person, number 16, Robin Kauwili, who is on C1 but not on C2, so we'll have Robin first and then we will go down the list in order -- in the order signed up on C2.

I guess I just want to start out by acknowledging that this is an emotional issue for a lot of people, but I want to first of all be really clear that C2 is an emergency rule. That means it's a 120-day rule. It doesn't mean that it's an emergency permanent rule. It means it's a rule to deal with the situation for 120 days, and that is to provide the opportunity for a deeper dialogue on what the longer term rules should be. So I just want to be clear, it's not a permanent rule. It's 120-day rule to provide time for that dialogue. And so I want to make -- make -- I want to just ask everybody to be very respectful. We want to have a good public process. We want everybody to be heard. This is important for everyone to be able to say their piece.

We have a lot of people, so we're going
to have testimony for three minutes apiece, and I
would ask everyone to please respect that. We'll have
a timer here. You can keep an eye on it. When you
get close to the three minute, I will give you a
little heads up that it's time to wrap up, and I ask
you to do this. So, again, I want to thank you all
for being here. Thank you for participating in the
process. It's a great statement that everyone cares
even enough to participate personally, and so thank you for
being here and thank you for joining with us in our
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
that are provided for in the hunting rules, chapters 13122 and 13123. Those are the game mammal and game bird hunting rules.

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

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

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

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

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

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

First, the intentional placement of boulders and rock walls into a road under the board's jurisdiction, that is steeply graded, graveled, and has significant drop offs on the side. Second, the prolonged presence of people at all hours of the night
positioning themselves inside, on top of, and in
obstruction of the sole roadway to the summit. This
road has no lights, no guardrails, no markings, and no
sidewalks. Third, repeated examples of individuals
acting in disregard of the color of authority, forest
rangers, copy care officers, and police, leading to
more than 40 arrests in two days. Finally, harassment
and violent threats, to the point that current public
and private workers who are required to access the
road do not feel safe enough to report to work.

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

I was at the visitors' center yesterday
and want you to know that even with notice that the
board is talking about this rule, in the past 48 hours
alone individuals have erected a very large luxury
tent, the largest of all of their structures by far,
without a permit and against DLNR regulations. And
for these reasons, the department recommends that the
board temporarily adopt this rule for 120 days to mitigate these threats and in due course restore normal public access to the summit.

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

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

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

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

MR. CHIN: Sure.
CHAIRPERSON CASE: I just want to just confirm with you that this is a 120-day rule?

MR. CHIN: That's correct. In other words, the way that this kind of — it's actually not called emergency ruling, but the way that this rule applies within the — within the DLNR's administrative -- excuse me, within Chapter 91 is that if there is an imminent peril to public health, safety or morals, then the board is able to pass a rule during an expedited hearing that's good for 120 days.

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

CHAIRPERSON CASE: Thank you. Can you just explain, is camping prohibited already on the mountain?
MR. CHIN: Sure. Camping is -- it is not allowed under the forest reserve rules, and it is also not allowed under the game mammal hunting area rules. And it is also true that these people are there present on the site without a permit.

The problem has been that -- the assertion that I think you will hear from people today as they're testifying is that they're not camping. They're doing other things. They're either parked in their cars, they're chilling, they're hanging out doing other things, but it doesn't actually constitute camping. And so what we feel is that what's really at risk is the prolonged excessive use that's been existing in this area that is actually not equipped for camping or for any other extra purposes like that. And so what these rules do is they clarify basically a restricted time when nobody can be there within the area unless they're transiting or -- and also not be in possession of certain camping-related equipment. I don't know a better way to describe it, but it's essentially that kind of materials.
CHAIRPERSON CASE: Go ahead.

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

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

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As far as other types of criminal or civil penalties, the types that would be available would be citing them for unpermitted structures, for example, a portable -- portable toilets were brought into the area and placed upon DLNR lands. The department, Department of Land and Natural Resources, sent a notice of violation to the commercial owner for
operating commercial activities in that area. So there's that. There's also the typical criminal statutes that are in exist, such as obstructing a roadway, failure to provide ingress and egress, and all of those are options within law enforcement, should they decide to enforce it.

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

MR. CHIN: Sure.

BOARD MEMBER GOMES: And I don't think we should be singling out one person or the other or one group or the other, you know.
MR. CHIN: Well, Member Gomes, I understand your concern, and I agree, I think if the board were to be -- were to make this decision to it adopt this emergency rule, it does place -- the rule applies to everyone in terms of what they cannot bring into the area and as well as their ability to remain present within the restricted area, unless they're an existing (inaudible).

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

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

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

MR. CHIN: And I think this is a little more -- this is a later time, which allows people to be able to, you know, at least be able to enjoy the
facilities for a couple hours before nightfall and before the late time. Thank you. Thank you. I have a correction, and that is that, actually, even though there are prohibited rules, there are rules that would be in place such as this one that would prohibit certain activities. The board is able to -- or the department is able to issue permits if that's the case, so I apologize for not having that nuance down.

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

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

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

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

Board Member Woodside: I was asking about the relationship between this rule that and we're looking and Office of Mauna Kea Management rules.

Mr. Chin: Right. This board has jurisdiction over the forest reserve area, as well as the game mammal hunting area, and so within those DLNR lands, UH -- or through its Office of Mauna Kea Management, has a lease agreement that the board approved several years ago that allows it to be able to use its management area as a science reserve. And so within that -- it's -- think of it like a lease agreement. So within that lease agreement, there's a -- what's called a comprehensive management plan, and so it has certain terms within it, and part of those terms is that the Office of Mauna Kea Management
does have authority to close the roads if there's a public safety issue or if there's other hazards. So examples, as I understand, for how the Office of Mauna Kea Management has closed the road in the past would be, for example, a snow storm or some other -- some other natural occurrence, as well as other concerns about the safety of the roadway. Keep in mind, we're talking about a partially graded gravel road, steep grade, going up for six miles from the visitor center up to the summit, no guardrails, no markings, no sidewalks. It has a steep drop off in many of its locations, so that was a lot of the concern that I think was being raised by different people, and I think we'll hear that as well in the testimony, is that this really isn't an area that's equipped for that kind of prolonged and excessive use that's been existing, and that is something that the board should consider, is the amount of over use that has been (inaudible). (Loud feedback noise.
BOARD MEMBER WOODSIDE: (Inaudible) there isn't this restricted --

MR. CHIN: Right.

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

MR. CHIN: Right, right.

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

MR. CHIN: Right.

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

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

BOARD MEMBER WOODSIDE: Thank you.

MR. CHIN: Thank you, Member Woodside.

UNIDENTIFIED MALE BOARD MEMBER: I have --

CHAIRPERSON CASE: Go ahead.

UNIDENTIFIED MALE BOARD MEMBER: I have another -- listening or hearing that, how do -- since there's overlapping with the University of Hawaii and the state --

CHAIRPERSON CASE: I wanted to make sure people can hear. Can you move the mike. We'll just move the mike.

UNIDENTIFIED MALE BOARD MEMBER: I'll just talk loud. Basically how would you or how would the University of Hawaii DLNR would address for religious purposes, because we have some religious freedom acts to deal with and --

MR. CHIN: Absolutely.

UNIDENTIFIED MALE BOARD MEMBER: And how
do you -- and especially if it's a period of 10:00 and 4:00 and you have these practices that want to be observed, how do you address that?

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

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

room time between 10:00 p.m. and 4:00 a.m.
I think that the best way to describe this is -- and I've really been -- because I think about the testimony and I think about what input that we're getting from all the -- you know, all the different people who are interested in this issue. And the best way that I can come up with it and that I wanted to share with the board, in layman's terms it ultimately becomes a balancing test. Like in other words, people do have -- and it's recognized within our Constitution that we give -- that we recognize native Hawaiian rights.

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

And so the best way to look at it is that, for example, when it comes to public safety,
someone might have a right to practice, you know, their religion, a customary and traditional right, but that doesn't automatically mean it's an absolute right that trumps over everything else that's out there. It's subject to the right of the state to assert its own concerns. It's a way of recognizing the entire community, not to say that this -- this is a special recognition, but it's also an understanding that everybody and everybody's concerns need to be dealt with.

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

MR. CHIN: Right, right. Well, I think this, in other words, I would -- I'd urge the board -- I'd urge the board to continue tracking this -- you know, bring us back this to table, have us talk about, you know, what is the situation and give a status update as far as what's happening in Mauna Kea and ask questions during that time.
The point of having temporary rules such as this for 120 days is that under normal circumstances what you might do, like with the sea cucumber emergency rule that the board passed a couple weeks ago, is you would have this rule in place, and then if it's working or if it's useful, then the board could start looking or considering permanent rules, or it could look at lesser rules or smaller rules. You know, it's -- the point of having a temporary rule such as this is that it allows time for the board to consider what it wants to do during that time, and I -- you know, we -- the department would be happy to keep the board apprised of how it's going.

UNIDENTIFIED MALE BOARD MEMBER: Thanks. I'll wait. I'll let the other members.

MR. CHIN: Thank you.

CHAIRPERSON CASE: Mr. Roehrig.

BOARD MEMBER ROEHRIG: Thank you, chair woman.

I live in Keokaha.

MR. CHIN: Yes, sir.
BOARD MEMBER ROEHRIG: And across the street from us we have, part of our ohana, about a couple hundred Hawaiians in our ohana, and we have a Filipino, Chinese.

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

BOARD MEMBER ROEHRIG: Sorry.

CHAIRPERSON CASE: Usually you're pretty loud.

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

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

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

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

MR. CHIN: Right.

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

BOARD MEMBER ROEHRIG: I want to hear some details.

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

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

MR. CHIN: Right.

BOARD MEMBER ROEHRIG: Because I had my own threats when I went up there. Just when I got sworn in as DLNR, went up there the first time when the protest was and we had some makuli oriental scientists, and the one gentleman standing next to me was walking with a cane, and when he tried to go forward, one of the protestors right next to me spit in his face. I didn't care for that.

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

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

What is absolutely unhealthy is -- is instances that apparently are not under people's control where people are issuing threats or blocking
the roadway in a way that endangers public safety.

That's where -- that's where I think the pivot occurred and things needed to change and that's why we're here.

BOARD MEMBER ROEHRIG: Okay, thank you.

MR. CHIN: Sir, thank you very much.

CHAIRPERSON CASE: Other questions?

UNIDENTIFIED MALE BOARD MEMBER: We know that --

CHAIRPERSON CASE: Can you --

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

MR. CHIN: Sure. If the rules are passed, then -- then people can be present. It's not talking about who can protest or who not, and ultimately people have a right to be able to lawfully exercise their First Amendment rights. What this restriction would do, and the board has fairly broad authority over its own lands over what it can and
cannot do, is it will basically say that between 4:00 a.m. -- from 4:00 a.m. -- well, you know, for the most part well before sunrise to 10:00 p.m., those practices -- those lawful exercises can continue and they can happen.

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

MR. CHIN: Correct, correct.

BOARD MEMBER ROEHRIG: Chant?

MR. CHIN: Correct. And in fact, I think one of the things that we've tried to recognize in fairness is that there are many individuals who have done exactly that, and what is -- what's unfortunate and, well, just troubling about June 24th was that even -- even with people who were trying to exercise their lawful rights to the First Amendment, so basically following the law, that there were people who even this group couldn't control. And when I say people, it's not just -- if you look at -- if you look
at the pictures of the rocks that were along the entire area, that's not just two or three people. That is a significant number of people that were -- that were violating the law and creating a public safety hazard. So that was a difficult situation.

BOARD MEMBER ROEHRIG: So I have a question also related to the Thirty Meter Telescope about existing legal status or the legal -- existing legal situation.

MR. CHIN: Right.

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

MR. CHIN: Right.

BOARD MEMBER ROEHRIG: What is the legal status? Why -- do the construction trucks have the legal right to go forward and what would change that?
MR. CHIN: I think that would be -- and I've heard that, and I've heard the comment that basically no -- no activity should take place or go forward until basically all legal remedies have been exhausted, and what I can say is that, you know, I don't know if we'd ever live in a world -- we'd never be able to get to a world like that, where you had to wait until everything was completely resolved all the way.

I think the reality is that what happens -- and I'm going to start speaking like a lawyer, is that -- is that the portion -- the portion in time when someone gets the right to be able to move forward is when the board issues its permit or issues its authority to go and then the trial court affirmed that. So when the trial court on the Big Island said it's okay for you to proceed with your permit, I'm affirming The Board of Land and Natural Resources' decision with the permit, they had the right to start constructing then.
The Supreme Court -- it went up to the ICA. It's now in front of the Supreme Court. That is the appropriate place to resolve this dispute. Legally speaking, whatever the Supreme Court decides, then they will decide that at that time. May come in -- the arguments will be next month, decision could come out, you know, sometime next year. There is no -- that's the reality. As you know, there is no -- there is no guarantee when the Supreme Court will rule on an issue. But in the meantime, that doesn't stop the legal right that people have to exercise the order that they have.

I'm going to use -- well, I know I'm going to get in trouble for using a terrible -- the analogy, and I guess because I think of it as a prosecutor, it's just that sometimes when people get convicted, they're convicted, right? Their appeal might get them overturned later on, but the conviction has occurred already. So that's a terrible analogy. It's probably not very useful, but that's -- but that's the idea. And I guess as -- you know, as an
officer of the court, as somebody who is supposed to uphold the laws, we have to respect -- whether we agree or not, I'm not -- it's not a personal opinion of what -- of what TMT can do or cannot do, what UH can do or cannot do. They have a permit that allows them to be able to start construction, and so that should be occurring.

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

MR. CHIN: Yes.

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

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

UNIDENTIFIED MALE BOARD MEMBER: That has never been issued?

MR. CHIN: In other words, the plaintiffs to this appeal could have -- under the rules they
could have asked the Supreme Court to stay the permit going forward pending appeal. They've never asked for that. So what are we -- what do we do at that point in time? We have an entity that has a lawful permit to go forward and start constructing, and we have -- we have the need to uphold public safety and uphold the laws. So that is the situation that we're in.

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

MR. CHIN: We'd stop them.

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

MR. CHIN: Right.

UNIDENTIFIED MALE BOARD MEMBER: We would stop them? 

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

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

MR. CHIN: Thank you, sir.

CHAIRPERSON CASE: Okay, Mr. Roehrig.

BOARD MEMBER ROEHRIG: Just to follow up on that. I don't think it's quite as simple what the
Supreme Court of Hawaii says. The Thirty Meter has a
property right in their sublease, right? They have a
right to utilize the road and have a right to get
there.

MR. CHIN: Yes.

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

So I'm troubled by this idea that it ends
at the U.S. -- the state Supreme Court, because I
don't think it ends there. I think this whole thing
ends at the U.S. Supreme Court. Because whether the
state prevails in this particular case or the protestors prevail, there is a certiorari writ that's available at the state Supreme Court, and there's a certiorari available if any of the contestants want to go to federal district court here in Hawaii. And there's a case filed right now, I understand. One is state court one is federal court. I don't know what's going to happen with it, but I think we all should understand clearly, Mr. Attorney General, that we be careful what we wish for. Because if this goes to the U.S. Supreme Court, based on the composition of the court, we may lose our PASH rights, because Rice versus Cayetano has got some very strong language in it about giving preference to different nationalities, and historical ancestral rights and that sort of thing, very strong language and I just read it yesterday for the third time to make sure that when I said that to you that I knew what I was talking about. So I'm hopeful about this whole thing.
All the last 45 years I represented all my Hawaiian friends against the plantations, the state, everybody under the sun, and one of the things that I utilized was PASH rights. And this PASH rights is teetering right now, and everybody in this room better understand that. So that's why I think (speaking in Hawaiian).

It's a good time to negotiate and think seriously about where we're all headed, because we're all together, we're all one people.

MR. CHIN: Sir, thank you.

BOARD MEMBER WOODSIDE: I have a question about --

CHAIRPERSON CASE: Ms. Woodside.

BOARD MEMBER WOODSIDE: (Inaudible).

CHAIRPERSON CASE: No, go ahead.

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

BOARD MEMBER WOODSIDE: I had a question about your comment about between 4:00 a.m. and 10:00 a.m. is enough time for cultural practice.
MR. CHIN: 4:00 a.m. to 10:00 p.m.?

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

MR. CHIN: Sure.

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

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

BOARD MEMBER WOODSIDE: Oh, microphone, sorry. If the department did want to issue a religious practices permit to somebody during those evening hours, am I correct that the Office of Mauna Kea Management could choose not to allow those practitioners to conduct their ceremonies in those evening hours?

MR. CHIN: They have a permit -- I don't know the answer to that, only because I think that the office Mauna Kea -- because I think you're -- what you're concerned about is that the answer would be,
yes, they also have to get permission from the Office of Mauna Kea Management, but I think it might depend on what is existing in the agreement between Office of Mauna Kea Management --

BOARD MEMBER WOODSIDE: And DLNR?

MR. CHIN: -- and DLNR.

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

MR. CHIN: I mean --

BOARD MEMBER WOODSIDE: Sorry, go ahead.

MR. CHIN: No, no, I was just going to say that what I have seen happen, my sense of it is that -- is that the people who are up there, the Office of Mauna Kea Management as well as the DLNR folks are -- you know, they're aware of the different situations. You know, they are trying to work together.
concern is if in 120 days, during that time period we're moving into piko o Wakea, and I know you said that, you know, between 4:00 a.m. and 10:00 p.m. is enough time to practice, but there's, you know, three ceremonial times that you -- are completely out of the question if you -- if you choose those times. There's three ceremonial times that we can't practice, and there are -- piko o Wakea is coming up during this time. So I want to understand how do we -- how do we ensure that that can occur and -- if these rules do get -- these emergency rules do get past for the next 120 days.

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

MR. CHIN: You know, and I appreciate the fact that you are -- that you're thinking about all
those different scenarios that can come up, because I think that those would be -- you know, those are the right questions to ask in terms of being able to respect that, so thank you.

BOARD MEMBER WOODSIDE: I have one more follow up.

MR. CHIN: Sure.

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

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

I think the concern that I have, and I think you might be hearing this from some of the people who are testifying today, it's just that it's
not enough -- it's not enough to just be hearing,

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

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

MR. CHIN: Right, right, well --

BOARD MEMBER WOODSIDE: To be fair.

MR. CHIN: Good point. Good point.

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

MR. CHIN: And I think that -- but I think that that's the -- that's the concern is that if that's the case, then, you know, to the people who are working there, and as board members with the fiduciary duty to prevent any sort of liabilities that could occur, it's very important to think about that. We
want this to be a place that it's going to be
ultimately a safe, open access road for all.
I was actually thinking about something
when Member Roehrig was speaking about his -- you
know, his vision for what it would be like, and I

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

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

MR. CHIN: Yeah.

UNIDENTIFIED MALE BOARD MEMBER: The
existing rules that we have now, that's not good enough if we were to enforce what we have now that we need to implement these?

MR. CHIN: Right.

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

MR. CHIN: Right. What's missing --

what's -- to my mind, you need to know, I came from being a prosecutor, so I think in terms of, you know, what do you need in order to be able to, you know,

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

UNIDENTIFIED MALE BOARD MEMBER: The
present rules you have now it doesn't allow camping, does it?

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

And so -- so I guess the best way that I can say it is as a practitioner it -- it's more clear if the board can be able to put out rules that talk about a certain -- a certain time or certain items that cannot be brought into the area, versus -- versus just saying you can't camp. So if somebody's parked in their car and they happen to doze off, is that camping? If they doze off for six hours, did they camp? That kind of thing. That's where it becomes -- that's where it becomes vague, but the types of rules that are being introduced here would make that kind of
question more clear. Yes?

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

MR. CHIN: Yes.

CHAIRPERSON CASE: Can you put the Mike over there.

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

MR. CHIN: Is a safety zone?

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

MR. CHIN: Right.

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

hurting a lot of people that not really involved in trying to stop the development stuffs. You hurting
the whole community, and you shouldn't -- something like this shouldn't be happening, to punish (inaudible). There's other methods. I look at the hunting (inaudible) chapter 2.3, and it says already you cannot hunt -- you cannot camp and hunt in the hunting area. I talked to my -- the (inaudible) Kauai says you can't -- the only way you can is permitted area. And is there a permitted area up there?

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

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

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

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

MR. CHIN: Right.

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

MR. CHIN: Right. The problem is --

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

MR. CHIN: Right.
BOARD MEMBER OI: You know, for me, I (inaudible) whole community, yeah.

MR. CHIN: Right.

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

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

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

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

BOARD MEMBER OI: (Inaudible).

MR. CHIN: -- health and safety, right, public safety or threat to natural resources, and so at some point in time the contemplation of this board
was realizing, you know, these lands that is within this board's kuleana is something that has to be protected, and it is considering those. Member Oi,

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

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

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

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

MR. CHIN:  Right.

BOARD MEMBER OI:  -- want to use the mountain, you know what I mean, but, you know, like
there's -- there's certain areas where they stop the contractor from going up the hill or even putting boulders on the road. That's -- that's (inaudible), and (inaudible) destruction to the mountain than good.

MR. CHIN: Right.

BOARD MEMBER OI: Especially when you don't let the contractor go up to -- his equipment to resolve problems with the equipment.

MR. CHIN: Right.

BOARD MEMBER OI: Who then is creating a problem.

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

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

MR. CHIN: Correct.

UNIDENTIFIED MALE BOARD MEMBER: How much is that, about 18,000 acres?
MR. CHIN: No, 12.

UNIDENTIFIED MALE BOARD MEMBER: 12,000 acres? That's quite a bit. Back to Member Oi, though, you know, I can sympathize with you, Tommy, because I felt that with these modest restrictions, how would it hurt the public and what are the economic consequences and the impact of other public segments that will be affected? And that's where I'm at. I hear you loud and clear, Tommy.

MR. CHIN: Right, right. And I suppose the other option that the board does have, and -- it's just that -- is that it is able to -- I mean, that's exactly the reason why this discussion is occurring, so that the board can determine what it wants to do with this rule, whether it wants to adopt or not adopt it or amend it.

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

BOARD MEMBER OI: I go hunting -- I go to Lanai twice a year to hunt sheep and deer, (inaudible) same area, and the area we hunt on is, I would say,
not even 200 yards from the road.

MR. CHIN: Right.

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

MR. CHIN: Right.

BOARD MEMBER OI: If the game is there --

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

BOARD MEMBER OI: (Inaudible).

MR. CHIN: Thanks. Thanks for thinking about that.

CHAIRPERSON CASE: Mr. Roehrig.

BOARD MEMBER ROEHRIG: When I was younger I went to the Hawaii language college for seven years,
and we had speech giving every week for the whole time I was there, and I remember early on, I don't remember whether it was second year or the third year, one of the young gals in our class who was on the softball team, she brought a rock to class, and she was discussing with us that inside her rock was an uhani, and she would talk to her rock when she was feeling hopohopo from going to class and she wasn't doing so good, baseball and class wasn't mixing too good.

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

MR. CHIN: Thank you.

CHAIRPERSON CASE: Other questions?

Other questions at this time? We may have more later.
I guess my -- does -- I don't know if UH signed up to testify, but does anyone have questions of UH that would relate to Mr. Chin's testimony or should we just go into regular testimony?

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

CHAIRPERSON CASE: Okay.

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

MR. CHIN: Right.

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

MR. CHIN: That would be a good question for UH, but I think the other thing is the jurisdiction that they have is, as far as the conservation management plan is concerned, is that ability to close the road if they -- if they need to for security -- excuse me, for public safety purposes. So that's -- that's what's happening. I was saying
security because I think your other question was
whether or not they can have their own security to be
able to do that. And I think that's a good question
to ask them, because I think that -- but what I will
say that's what's happening there is that there's --
there is a difficult time to -- in terms of being able
to properly enforce the rules, and so that's why we're
asking for these emergency rules to be passed. Thank
you, sir.

UNIDENTIFIED MALE BOARD MEMBER: Thank
you.

CHAIRPERSON CASE: Thank you.

Mr. Roehrig.

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

MR. CHIN: Yeah, in other words, the
rangers aren't -- they're not law enforcement. So
they're not law enforcement.
BOARD MEMBER ROEHRIG: I understand they're not law enforcement right now.

MR. CHIN: Right, right.

BOARD MEMBER ROEHRIG: But if they have kuleana to be up there and stop traffic and whatever and traffic don't want to stop, what do they do, you know, call Hilo station, you know? It's (inaudible).

MR. CHIN: (Inaudible).

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

The university has some very fine people. I see my friend Chancellor Straney here. I think he's doing a good job, but we need to have law enforcement powers. So the board of regents needs to take a look at the rules about giving their staff or whoever makes
those rules, to give them police powers so that they have a full assortment of tools so that they can do their job more effectively and they will garner more respect by the public when something happens up there. You cannot have, oh, you go up here, everything's fine, and then you go up here and think, no more nothing.

MR. CHIN: Right.

BOARD MEMBER ROEHRIG: So we need to take a close look at that.

MR. CHIN: Right.

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

MR. CHIN: Thank you, sir.

BOARD MEMBER ROEHRIG: Thank you.

BOARD MEMBER WOODSIDE: So I did ask some questions about how Office of Mauna Kea Management
would handle certain situations. So maybe I -- for those questions that I asked, it would be good to hear from them. But sort of an overlap between something that you had mentioned, as well as thinking on the UH side, the Office of Mauna Kea Management side, in terms of the -- I think -- I'm not going to get your words correct, but the volume has increased to a level that's posed challenging --

MR. CHIN: Correct.

BOARD MEMBER WOODSIDE: -- and is difficult. And maybe that's just something we didn't expect, as those that have kuleana in that place, but it is kind of common for sacred sites, when there are certain events that happen that are -- belong to those people, that certain areas have an increase in those -- coming to those places to have certain practices and traditions for a period of time. And so maybe we just need to recognize that this is one of those times for us as a lahui, and therefore, there is going to be that increase that comes at certain places across the paiaina. So yes at -- it's happening at
Mauna Kea, but it's also going to happen at other sacred spots around the paeaina, as is -- as is normal of many religions.

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

MR. CHIN: Right, right.

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

MR. CHIN: You know, Member Woodside, I'm with you on that, and I think it's -- you're right,
up, and so in the same sense, then, from a public
safety standpoint, there has to be a sort of balance
that occurs just to be able to keep that in mind.
I'll tell you really quick is that I went up there
last week, and I went beyond the visitor's center to
the area where the first switch back was, just to see
where the place was, you know, where the obstruction
was taking place, and then right before the rocks
occurred, and it was on the gravel road. It was very
steep. And I've got to tell you, that place, just
imagining trucks and hundreds of people standing
around and workers and DOCARE officers trying to take
care of the situation, children, older people in that
area, all I could think to myself was just how -- just
how unsafe it was. It was just -- there's no
guardrails. Anybody who was there on the sides, if
something had moved over, they could have fallen --
they could have fallen off. There were people above
the hill. Rocks could have come down. There were so
many things that were unsafe from that -- from that
excessive use. So from a public safety standpoint,
that's where -- that's where I come from. Thank you.

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

MR. CHIN: Thank you, sir.

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

BOARD MEMBER WOODSIDE: I have that one that I'd love to hear, if the -- if the department -- and our intent is that it's predominantly open between
permit outside of those times, especially because we're coming into a significant time, how might that be handled and how has it been -- how have those requests been handled by Office of Mauna Kea Management and how would it be handled going forward during this 120 days.

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

They negotiated with the people on ground an agreement to escort folks up the road, which is still not entirely safe for public travel, so that
they could engage in those practices. We're
constrained by the number of staff we have in terms of
how much we can do. Our lease comes from the
landlord. If the department wishes to grant permits
for particular things, we would certainly work with
the department on the ability to exercise those.

BOARD MEMBER WOODSIDE: Thank you.

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

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

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

As a reminder, okay, Josh, if you can
move your chair just to the side so that the people
testifying can see where they are in their three
minutes. I think that would be helpful. Thank you.

Sorry for the inconvenience.

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

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

    I brought the signage to make it very
easy. We're not as handicapped as you think
(inaudible). We're truly the answer for being the
proper people to malama ke ea `aina, and not one of you qualify to be here in this room with us.

Once again, I find it quite sacrilegious to be in the same room with all of you. I brought my rock salt, and that gentleman, wow, I mean, the slipping and sliding one does, boy, one would definitely get hurt coming down Mauna Kea with that slippery tongue of his. So that's the biggest fear, are people who don't know how to be pono. And that's the last word that should be used anywhere within this room. None of you have any comprehension as to the depth of pono. You will never comprehend the pain that we have suffered for the last 122 years here in our `aina, and I thank you very much for enduring what has to happen. Truth must prevail. Not yours. What is righteous to is not right for the U.S. that has been the problem from day 1. Get it right, then possibly you could enjoy understanding or even beginning to understand who we are. We're truly righteous people. You cannot say the same.

Is it three minutes already?
CHAIRPERSON CASE: Yes. You have about 15 seconds.

MR. ASAM: Mahalo.

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

MR. LEE: Handouts for the --

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

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

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City Council elective representative for a million people on Oahu.

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

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

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

CHAIRPERSON CASE: You need wrap up.

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

CHAIRPERSON CASE: Okay, number 3 is Hank Fergestrom.

MR. FERGESTROM: Good afternoon. My name is Hanalei Fergestrom. I'm the chosen spokesman for Na Kupuna Moku Keawe, which is a group that established themselves in 2003, and it is noticed publically through publication as a -- since then there's been no (inaudible) to our establishment.

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

So this is why it's so hard for me. I am from the (inaudible). I have been taught these
things, and so to -- you know, I certainly understand
the dilemma that we're in right now and I appreciate
the problem we're having and how we have to address
it, but it would be unclear to talk about -- about the
mountain without putting it in perspective as to how
it was for thousand years before western time, yeah.

And so if I may, I'm just going to
quickly read what I wrote to you because it has some
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
and religious freedom enumerated in the First Amendment of the U.S. Constitution.

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

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

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

Other (inaudible) of protections --

CHAIRPERSON CASE: You're at three minutes, so if you could wrap it up, please.
MR. FERGESTROM: I'm having a hard time understanding how you think it's all right to enter the realm of that and think that I who am a priest have to be regulated by you folks who have absolutely no authority up there whatsoever.

CHAIRPERSON CASE: Thank you.

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

CHAIRPERSON CASE: Okay, number 4 is Felicia Cowden.

MS. COWDEN: Aloha. My name is Felicia Cowden and I am from Kauai, and this type of assertion of power sets precedent across the islands. I respectively -- respectfully urge the board to reject the request for the new administrative rules because it, to me, is a blatant attempt to create an environment to criminalize the protectors of Mauna
That the state would utilize the Division of Forestry and Wildlife to trump up an emergency set of rules to protect the public is a demonstration that the protectors in fact are not currently breaking state law in their preservation -- or perseverance of peaceful resistance to the continuance of unwanted development on the mountain.

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

The state government, from the governor to UH and now the DLNR, are prioritizing global corporate interests over the will of the people. It does not constitute an emergency that the companies behind the development of the TMT ignore the results of their own homework. The Gordon and Betty Moore
Foundation commissioned a study in 2007 that advised that the project would encounter significant cultural resistance. The draft EIS simply dropped the elements that resulted with the do not build.

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

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

The mission of the Department of Land and Natural Resources shifting from the original preserve and protect, towards the more egregious mission of the public land development corporation, which was to
24 exploit the resources for revenue, in this case I
don't see much revenue, just the exploitation.

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

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

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

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

MR. HUNTER: Chairperson case, members of
the board, good afternoon. My name is Stewart Hunter.
I'm the general manager of Mauna Kea Observatory
Support Services. MKSS operates the visitor
information station, the mid level astronomy
facilities, and maintains the 8 1/2 mile summit road.
I support these rules because of the unsafe and
illegal behavior of many of those that have been
camped across the street from the visitor station.
They have obstructed traffic by standing or sitting in
the middle of the road at all hours, harassed visitors
and workers, questioning them about their destination
and affiliation.

Protestors have built structures on DLNR
land and introduced an invasive ant species. There
was an impromptu reggae concert. T-shirts were sold.
Free tattoos were offered. State DOE vehicles were
used to bring up charter school students who
obstructed traffic while chanting in the middle of the
road.
Protestors also used the visitor station
bathroom and even the drinking fountain to wash
clothes and themselves. They blocked the road with
large rocks, trapping people on the summit. If there
had been a medical emergency, there would have been no
way to reach these people. Many felt harassed.
Visitors and workers complained about being yelled at
after expressing opposing views. Many visitors took
offense at being stopped in the middle of the road and
questioned.

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

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

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

In closing, I strongly support access to Mauna Kea for all those willing to follow the law. Along with my verbal testimony, photos and a daily log from the staff have been submitted. Mahalo for your time, and may I take any questions.

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

MS. TRASK: Aloha, board members. I'm Mililani Trask. I'm a native Hawaiian practitioner of Mauna Kea. I'm a founding member of Mauna Kea Nainohu, the original petitioners who will go to the Supreme Court in August. 18 years ago Mauna Kea Nainohu and the royal order built the kuahu at the Hale Pohaku and we maintained it for many years. I practiced there for four years, till problems with the science community and tourists caused me to change my practice.

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

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

in article 12, section 7. This is in the current
statutory framework now, 171-6, subsection 15, paragraph 3. No person shall be sanctioned pursuant to this section for the exercise of native Hawaiian gathering rights and traditional cultural practices as authorized by law or permitted by the department.

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

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

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

CHAIRPERSON CASE: If you could wrap up, please.

MS. TRASK: Lastly, there's a federal district court case on point here. It's a case that
came down years ago when the Protect Kahoolawe Ohana was trying to get overnight access on Kahoolawe. The case was in the district court. The military said that they had a long-term lease. There were live ordinances and they were doing training and bombing and exercises. The federal court struck them down and the federal court required that they provide 24/7 access for native peoples 7 to 10 days a month by the cycle of the full moon with full military escort.

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

And I have done this all over the world with my work at the UN. You think you have a have a problem. In the Philippines we had 50,000
demonstrating, three killed over the World Bank, and we were able to resolve it. These are rights to worship. I can't be a camper. I don't want to be a hunter. I will be returning with my sleeping bag. I

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

CHAIRPERSON CASE: Number 7 is Leighton Tseu.

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

For me, being here, it hurts, mostly
because my na`ao hurts to watch the continuous desecration of Hawaii Nei, not just Mauna Kea, also Ala Moana, our `aina, (inaudible), and the prejudice towards the Hawaiian people.

The DLNR agency of the illegal state has exercised the prejudice on the mauna by order of the governor, ihi through counsel, through law. It's not fair. We, the real true Hawaiians, not the political influence Hawaiians. We feel very unjust. For 122 years of desecration, I brought with me every time I travel the truth (inaudible) petition. I bring the ancestors with me. I bring the ancestors with me. This is us, our iwi. Why? You know, our kuleana is to protect this place. It's not a control. Look at the crime. Look at the traffic. Look at the desecration. It's sad. We don't have to be that way. We don't. But the federal government and the state allows it to do that without controlling it. Kala, you know. And the money says in God we trust. Is that true? In every dollar it says in God
we trust. Is that true?

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

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

MR. TSEU: Okay. For my closing, then, this is what I've got, my closing is President (inaudible) own words in his message of Hawaii, December 18, 1893. Quote, By act of war committed with the participation of diplomatic representatives of the United States without authority of congress, the government of a (inaudible) but friendly and conflicting people has been overthrown, unquote. The president of the United States Wilson, told the truth and today there's no honor in the United States president's words, no or honor to the truth and no honor in how we trust. The AG, he says uphold the law. What's the Constitution United States law?

CHAIRPERSON CASE: Thank you.

MR. TSEU: Thank you.
Chairperson Case: Number 8 is --

Ms. Trask: This is for you, the history
of President Clinton.

Chairperson Case: -- Williamson Chang.

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

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

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available here. I have copies for all of those who
are outside as well. I always try to bring -- oops,
sorry.
First I want to say that in filing the contested case hearing, it occurred to me what's not going to happen, which usually happens, is there will be a stay on the administrative action. There's not -- there's no question that the trucks that are building the TMT are going to continue up under this rule. This rule is a pretty thinly disguised effort to facilitate what the governor said, essentially that TMT is going to be built, and that bothers me.

I don't think that the 120 days of truce and negotiation can take place in such an environment. And if this -- if this board either doesn't grant the contested case hearing or doesn't stay the effectiveness of the rule, essentially I'm going to be forced to move to court to enjoin and declare the actions of this board in adopting C1 and C2 to be unconstitutional beyond your powers under state law, beyond your powers in section 183 D, and I know you had an hour with the attorney general. I'm literally across from him. I only have 32 seconds left. So if you want to ask me what my strategy is, I'd be happy to answer that.
But first let me say I'm probably going to have to name you as individual defendants in your individual capacity. That's just required by law, and it's nothing personal. I am admirers of all of you, and I respect you, but this will be decided in the courts. Thank you.

CHAIRPERSON CASE: Thank you. Do you have questions?

UNIDENTIFIED MALE BOARD MEMBER:

Professor Chang, you wrote an article in the Civil Beat where you said a number of things, but one of them was that President Obama could stop the construction on Mauna Kea by invoking the Antiquities Act and declaring it a national monument. That's completely wrong, you know.

MR. CHANG: It is wrong. I apologize. What I meant was you could start a process by which eventually it could reach the status of a world heritage site, which was a pretty fast track for Papahanaumokuakea, and then perhaps we could stop it. In other words, I was really just saying one thing, which is we have a local boy as president, and this is a really important issue to the state in which he was born, and he ought to weigh in in some way. He can
mediate or do what he thinks is best, and I think it's

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

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

UNIDENTIFIED MALE BOARD MEMBER: No
authority because the United States governor had no
authority?
MR. CHANG: No, because if you look in
the state constitution, and the territorial boundaries
define what's in the state as all the islands that are acquired by the joint resolution. And do you believe, sir, that the joint resolution of congress of the United States could acquire a foreign sovereign and independent country?

UNIDENTIFIED MALE BOARD MEMBER: I'm not -- I'm not here to debate that point, I'm just --

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

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

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

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

MS. SHELDON: Aloha ka kou. My name is Kauwila Sheldon, and I am a resident of Kaaawa, Hawaii. I was one of the protectors -- it's called protectors, not protestors -- at the time of late June. I just wanted to mention why I'm wearing pink,
and if you knew why I was wearing pink, then you would know the legend of Poliahu and pink tinted snow God, which is known as Kuukahaula. He never get -- (inaudible) he never gives up on Poliahu and he keeps on coming back to win her love, and that's what I'm going to do for Poliahu. I'm going to protect her. I'm going to stand beside my brothers and sisters, as a protector, not a protestor. Know the difference. So if you had a connection to -- any of you in this room have connection to Mauna Kea, then you would know about this moolelo.

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

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

I know I only have a brief moment, but my ties lie to Mauna Kea, lies to the Keonui family. Though I'm a descendent of the Keonui family. I am also a descendent of many kahuna that was part of king Kalakaua's (inaudible). And I am -- because I am a descendent, I have a responsibility. And I was reminded of that responsibility when I was up at Mauna
Now, I've seen both sides of the DLNR. I saw some very sweet DLNR officers and then I see some really hasty and very mean, ambitious DLNR officers --

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

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

CHAIRPERSON CASE: Next number ten, Michelle Sakurai.

MS. SAKURAI: Aloha, I'm Michelle (inaudible) Sakurai, and I came here to testify not only for myself is, but on behalf of my children, my grandchildren, my siblings, my spouse, my parents, and our ancestors who have lived on the slope of Mauna o Wakea, and in this paiaina for a millennium. I am here today to object and to oppose the proposed emergency rules for Mauna Kea.
The only emergency facing Mauna Kea today is for the desecration by TMT. Your emergency rules are another fine example -- I'm sorry -- another fine example of history repeating itself, whether it be the self-proclaimed provisional government of 1893, or the entity who claims to be the state government today, the tactics are the same, manipulate the facts, spin the truth, change the rules to achieve your goal.

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

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

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

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

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

According to my research, okay, this board is planning to enforce the emergency rules for Mauna Kea to restrict public access to the mauna and to impose severe penalties for violations. So my understanding is that me and my own, we won't be allowed to travel to the mauna and to offer our cultural practices, our oli akuli, because we'll be
of this summer for him was to visit Mauna Kea, as I taught him the oli and a hula and now kaumana and he wants to visit and offer this in honor of his kupuna. Of course he always takes his backpack with him, which says, you know, Captain America on it, so he says, tutu, can I go up there with my backpack or are they going to turn — are they going to take away my backpack? No, a`ole, so right off the plane, he had his aunt take him up to Mauna Kea so he could offer his pule.

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

I believe that the kua kia e mauna (inaudible) do it for the many and varied political and spiritual protected energies that have been brought to the mauna. How would forcibly removing this piece or organization ensure the protection of public safety and natural resources? This group represents me and my ohana, who are not residing on Hawaii island, but we are in support of their efforts. I support the Constitutional rights of kuakia e mauna to assembly and free speech and Hawaiian cultural practitioners in our vital practices, public access, recreation, and enjoyment of the pristine environs of Mauna Kea. So I humbly ask you to reject the proposed emergency rules. And I have 12 seconds. Mahalo.

CHAIRPERSON CASE: Number 12, Eileen Cain.

MS. CAIN: Good afternoon, board. My name is Eileen Cain. I live here in Honolulu. Thank you for this opportunity. I know it's not an easy day for anybody. I felt moved to come, even though this
isn't one of my favorite things to do, to testify in front of people, because this issue has been disturbing me so much, and I feel that this so called emergency is bogus and has been invented for the purpose of interfering with people's rights to assemble and rights to practice freedom of speech and freedom of religion and I hope the board will not allow that to happen.

I believe that these protectors have been motivated by the same kinds of motivation as the folks in the Protect Kahoolawe Ohana, back in the generation before, same as Rosa Parks, who refused to give up her seat on the bus because that law was a law, but it was a wrong law, and she violated the law and she was arrested, but she needed to do that as a matter of conscience, and sometimes people have to obey their conscience if the conscience and the law don't go together. Supposedly the law and the conscience should be able to go together, but they don't always. So people sometimes feel pushed to the
limit where they have to say no, you cannot take any
more from us. You cannot take any more. So much has
been taken and taken, and I know it. I've been here
38 years. I feel like I've seen over and over again
this pattern where some -- for some people, you know,
it's like Hawaiian's place is blow their conch shell,
do a little hula, cut the ribbon in a new building,
and when it comes to their land, they're supposed to
shut up be invisible and go away and let the state do
whatever the hell it wants. And I don't think that's
right. I think that's really a violation of -- it's a
moral violation.

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

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gentleman about his behavior. Again, it seems that
some kind of across the board retaliation is being
perpetrated or planned by the -- those who have put
forward these rules to try to retaliate against people
who have had to say no to exploitation, no to abuse,
no you cannot just taking our rights away and taking
our land away. And that's what I wanted to say.
Thank you for listening.

CHAIRPERSON CASE: Thank you very much.
Okay, number 13, Keala Walt Mahealani Mix. Not here?
Number 14 is Kalani Ka`ana`ana.
Okay, number 15 is Keke Manera.
MS. MANERA: Aloha ka kou. My name is Keke (inaudible) Manera. My mom is from Rhode Island,
my dad is from the Big Island, and I was born, raised
on this island. I just wanted to share that. So I'm mixed -- a mixed breed, but I connect more with my Hawaiian culture. I love my island and I love, you know, our island, our other islands.
I'm kind of nervous right now. This is my first time doing this, but I just wanted to say that I've been up to Mauna Kea and I really, really appreciate its beauty. I wanted to ask you folks, have you guys been up there? Have you folks been up
there? Have you guys experienced it? I truly believe that if more and more people just go up there and they see for themselves the true rare beauty that it has and just leave it be, that we don't need all of this construction, we don't need this desecration on the land.

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

And as far as the protestors, protectors, I think that they're just doing, with the rocks — when it comes concerns with the rocks, they're just doing that because enough is enough. They want to put out the message that enough is enough. They just don't want people going up there, and I feel for them because they're just — you know, it's enough already,
So I hope you guys vote against it, and thank you for your time. Mahalo.

CHAIRPERSON CASE: Number 16, Kahookahi Kanuha.

MR. KANUHA: (Speaking in Hawaiian). And I'm here today to oppose, obviously, the proposal to create a rule that would essentially criminalize us for being on the mountain, protecting it from things that the DLNR themselves should be protecting it from, which is a violation of HRS 711-1107, desecration law. I'm not going to repeat it because you guys sit on the board, so I'm sure you know it better than I do. I think it's quite clear and I think it's been acknowledged by a few members on this board that this law directly targets people like me, people that have been on the mountain for the past 107 days not camping, no matter what it looks like, no matter how people want to interpret it, we know we're not there camping. We are there holding vigil, ceremony at least three times a day, sunrise, (speaking in
Hawaiian), sunset. As groups and individuals hold ceremony outside of that time.

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

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

And so I'm not here just to protect our rights, but I'm here to protect the rights of those people as well, the rights of cultural practitioners
who, maybe in some sense, cannot access the mountain because of its current state. And, now, I've been up there for majority of the time, since the very beginning, before we started counting days. And I know for a fact that we have held ourselves in the highest standard and kapu aloha.

And am I going to deny that there have been absolutely no incidents on that mountain? Absolutely not. I'm sure there have been some. But in many of the things that we have been accused of, I will stand firm and say that that is absolutely false. Majority of it is a blatant lie and in even many of the truths, there's only some truth in that. I've not seen any full truths in any of the allegations made against us. And I know that the media and the state obviously wants to sensationalize the pohaku in the road and (inaudible) how (inaudible). (Speaking in Hawaiian). And we don't know what those people heard from those rocks, and I understand this -- this thought that it posed a threat to public safety. I do not believe that any of those individuals did it with
that intent. Again, it was a reaction to what was
happening on the mountain, that we needed to protect
Mauna o Wakea from further desecration.

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

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

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on June 24th and as I was being carried away by four
DLNR officers (inaudible), and (speaking in Hawaiian)
(speaking in Hawaiian), that's what we're doing.
That's all we're doing. And the day that we know that
Mauna o Wakea is safe from further desecration, then
we don't have to worry about this little camping
And any law that wants to be passed, you know, you guys gotta do what you gotta do, we're going to do what we gotta do. It will not stop us. That's the truth. It will not stop us. An unlawful law will not stop us. Everybody here is smart enough to know a joint resolution has no power and authority outside the boundaries of its territory. You know, Kamehameha gave us the (inaudible). (Speaking in Hawaiian). We have access to those at all times.

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

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

MR. KANUHA: I was served a notice of trespass by a private security group who has been privately hired by TMT. I -- I believe it was June 8th or 9th, a few days before Kamehameha day.

UNIDENTIFIED FEMALE BOARD MEMBER: Thank
you. Not to -- not trying to extend or go super long, so maybe just a couple minutes, but you mentioned just now wanting to work together.

MR. KANUHA: Right.

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

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

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

First of all, looking at the laws, we can uphold it. I think we are doing what DLNR is meant to do, and so -- I'm not here asking for any money.
We're going to do it for free. We do it because it's our kuleana, but I think that those things that you guys can do help us. When you come and your officers are in the line, turnaround, arrest the other guys, because we're -- again, we're there to prevent desecration. We're not there to obstruct traffic.

From the very beginning, from the time that we instituted the aloha safety check point, we have let every single vehicle through, except for those that told us that they are going up there to commit desecration.

UNIDENTIFIED FEMALE BOARD MEMBER: I have one more question. So the -- we've been getting loud -- got loud reports in this set of testimony, not necessarily with a lot more information in it, some of it may be questionable, or, as you said, some is of it lies, some of it not the whole -- whole part of what may have happened. What is our responsibility -- and I mean our ka kou, not just us DLNR, you guys, but what is our responsibility to that situation and what do you think going forward we all can do together about that?
MR. KANUHA: I think we need to fully assess the situation. We need to fully understand, I guess, the accuracy of those claims, are they true, and if we claim for them to be true, do we have proof of those things being true. Because I can bust out a log right now too and give all kind of claims and allegations against certain party.

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

MR. KANUHA: I think there can be better communication. I thought we had decent communication with the park rangers. When a lot of these allegations and these documents were made over to myself, I realized that communication is not as good as we thought. So that's the biggest thing, and there's, you know, so called leadership on the mountain. Whenever there has been issues, we have been addressed. And there's videos all over YouTube and Facebook that can show us addressing those
situations as soon as they're brought to our
attention.

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

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(speaking in Hawaiian) that kuleana.

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

Again, I was under the impression that we
had a pretty decent and honest relationship. What
I've seen doesn't exactly exemplify that, but it is
what it is. I think we can do better moving forward,
and again, because we don't plan to leave until Mauna
o Wakea is safe, and until that happens, we'll be
there. We'll be there with all respect. We'll be
there with dignity. We'll be there in kapu aloha, but
we will not shy away from what the truth is.

UNIDENTIFIED FEMALE BOARD MEMBER:

Mahalo.

MR. KANUHA: Mahalo.

CHAIRPERSON CASE: Number 17, Lilikala

Kameeleihiwa.

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

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

I'm also a native Hawaiian whose
ancestors have lived in these islands for the past 100
generations. As such, I am defined by the United
Nations as indigenous. The United Nations Declaration
on the Right of Indigenous Peoples agreed to by all
the countries of the world and signed by President Obama in 2010 ensures that religious rights of indigenous peoples worldwide as basic human rights. Under the United States standards, the proposed amendments to chapter 13-123, Hawaii Administrative Rules not only contravene basic human rights, but are racist, and in turn allow the state of Hawaii to commit cultural genocide. I refer specifically to articles 10, 11, 12 and 25 of the United Nations Declaration on the Rights of Indigenous Peoples. I'll just briefly refer to them. Article 10, indigenous peoples shall not be forcibly removed from their lands or territories. Article 11, indigenous peoples have the right to participate and revitalize their cultural traditions and customs. This includes the right to maintain, protect, and develop the past, the present, and future manifestations of their cultures, including Samoans. Article 12, indigenous peoples have the right to manifest, practice, develop, and teach their
spiritual and religious traditions, customs, and ceremonies. The right to maintain, protect, and have access in privacy to their religious and cultural sites.

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

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

Number two, Waiakea is a primordial ancestor of native Hawaiians. Number three, native Hawaiians have the right to worship Waiakea on Mauna Kea. Number four, native Hawaiian religious ceremonies frequently were practiced throughout the
night. Number five, native Hawaiians have the right
to stay overnight on Mauna Kea to worship Waiakea.
Number six, native Hawaiian religious practitioners,
known as the protectors of Mauna Kea, have adopted a
kapu aloha, a religious law of aloha toward all those
who come onto our sacred mountain.

The proposed amendments to chapter 13 --

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

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

CHAIRPERSON CASE: Thank you.

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

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

So I'd like to give a solution, since I
have some very messy testimony (inaudible) to say what
they say, especially the law. I have a solution.

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

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

CHAIRPERSON CASE: (Inaudible).

MS. KAMEELEIHIWA: So I want to say let's just take a look at that kapu aloha. Let's find a way for all of us who are working together to have aloha for each other. I'd like DLNR to have aloha. I want
the government to have aloha. I want the attorney
general to have aloha. I'm not privileged (inaudible)
foreigners of TMT, because, you know, they could have
built the TMT on Mount Fuji. I understand there's
another two observe stories up there already. Mahalo.

Questions?

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

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

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

Second, from an international perspective, The Board of Land and Natural Resources will be in direct violations -- violation of articles 10, 11, 12 and 25 of the United Nations Declaration on the Rights of Indigenous Peoples, which is now customary international law and was adopted by the United Nations general assembly in September of 2007 and later signed by President Obama in 2010. I won't cover those particular articles, because Dr. Kameeleihiwa also had a general discussion and focused in on those four articles as well.

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

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

Why are their own executive policies being contradicted and native Hawaiians who are continuing to assert our right to sovereignty and self determination, and my conclusion is they're just concerned about the money, this $1.4 billion corporate project like TMT. Could it be that the contracts have been signed to build and construct the TMT and I just want to state that it's without our free, prior and informed consent of native Hawaiians.

As the native people of this land, we really have had enough of these continued misuse and abuse of our lands, resources, and especially in this case Mauna Kea. However, it has galvanized our
people. We continue to stand in solidarity, all
islands, native Hawaiians, and, you know, one of the
tings I do want to say in closing that is the
Hawaiians are rising up. The Hawaiian nation is
emerging, and it's because of these continued mis --
masue and abuse of our lands.

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

CHAIRPERSON CASE:  Kaiwipuni Lipe, number
19 19.

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

consultation.

Second, I'm offended and disappointed in
the Department of Land and Natural Resources and the illegal state of Hawaii proposing to adopt any emergency rules which intentionally seek to limit access to those protecting and engaging in their cultural practices on Mauna Kea.

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

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

Further, we need to stay up there 24
hours, like Kahookahi said, to protect it our sacred
space, because we cannot trust the state that they
won't desecrate between the hours of 10:00 p.m. and
4:00 a.m.

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

Third, the illegal state of Hawaii has
been quoted in the media as saying this they have
respect and aloha for all in Hawaii around the issue
of Mauna Kea. Let it be clear that there is nothing
respectful about intentionally desecrating a sacred
space and preventing peaceful protectors from
protecting that sanctity. Further, aloha is a reciprocal and interdependent process of nourishing and caring for one another.

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

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

(Inaudible) I oppose the 2 items, mahalo.
CHAIRPERSON CASE: Number 20, Pono

Kealoha.

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

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

The way that you guys are going to go, we're going to end up with everybody homeless, sitting by a garbage can, trying to find a piece of food. The way that we're going, we're thinking of our future generations. We're thinking how we take care of each other, how we malama our water, our future. We have land, could be growing our own food, not being brought
in. So with this group that's been up there, they've
been doing it not because they want to be somebody or
be out in the thing. It's because it's like me.
Kuleana, yeah? We're thinking about our `aina. We're
thinking about our future, and we don't need to have
you erasing us like a mistake that should never be
there.

I ask you to please honor and respect,
but also think, you guys do not have any metes and
bounds. You have no treat of annexation. So again,
let this seek into you, yeah. You with the to be a
continuance of genocide, culture-cide, and
social-cide, or would you like to kind of (inaudible)
so we can work together. (Speaking in Hawaiian),
yeah? There's a direction that we can take it, but
not bumping head to head. Since you guys got the
guns, all we have is aloha. Mahalo. Thank you.

CHAIRPERSON CASE: Hapaki Nakamura,
number 21.

MR. NAKAMURA: Sorry, I apologize in
advance for what I'm about to say. I'm just angry
and --

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

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

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

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Public health was only a concern when the
water was shut off, bathrooms was closed, (inaudible)
to be used against the protectors for bringing
portable toilets, not just for themselves, but for
visitors also, and if any one of you guys went up
there, they would have let you use it. So public health was an issue, it only became an issue this last week because the people in office with no heart but deep pockets.

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

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

Last but no least, natural resources in peril. It's annoying how stupid they think we are.
You think we're stupid or you guys are straight up a corrupt government from top to bottom, actually think it might be both, but how can you sit there and say Mauna Kea is a conservation area and the average of 20 protectors is a threat to the land and natural resources when you folks continue to defend and you guys have approved the TMT construction. What angers me is how much testimony and public input from the people today won't matter, because we all know you guys already made up your mind.

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

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

Mahalo.
CHAIRPERSON CASE: Number 22, Grace Bezilla.

MS. BEZILLA: Is it okay if I stand?

CHAIRPERSON CASE: Sure.


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

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

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

CHAIRPERSON CASE: Can you summarize now, please.

MS. BEZILLA: Okay, so I have two
questions. First, C1 and C2, I oppose. The first
question I have is for you, chairman, so I read the
Hilo Tribune today, which states that in a July 1st
e-mail to Hawaii attorney general Douglas Chin, Suzanne
case, chair of state -- Department of Land and Natural
Resources thanks Chin for the clear delineation of
options he laid out the day before and outlined
several options for moving forward. Quote,
(inaudible) board's submittal for the July 10th
meeting authorizing a DLNR representative to conduct
temporary closures and restrictions in public hunting
areas state wide, parentheses, i.e., not specific to
Mauna Kea, close parentheses. As a next step in
implementing that amended hunting rules that were just
finalized, closed quote, she said. She wrote,
chairwoman, can you please verify that these quotes
are indeed yours?

CHAIRPERSON CASE: Can you continue to
summarize your testimony.

MS. BEZILLA: Can you please verify or
not?

CHAIRPERSON CASE: This is your opportunity to testify.

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

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

CHAIRPERSON CASE: Thank you.

MS. BEZILLA: -- why are we here?

CHAIRPERSON CASE: Can you wrap up?

MS. BEZILLA: Also, question 2, a CIA is integral to an EIS. I know that there's no EIS in question, but this is a DLNR issue, so it's always an EIS, so it's also a CIA. So my question is, who is here on the DLNR to contest on my behalf to listen to my and all of the issues on religion, on mauna, (inaudible), and our cultural living, not practices,
it's alive, cultural living on Mauna Kea and what is the qualification in regards to Mauna Kea, in regards to hours of access, practice, length of time, where on the mountain, and what I need and how important it is to my culture and religion, and why do I need a permit to live as a Hawaiian on a Hawaiian mountain? This balance that we're talking about between science and culture, does that happen at the Vatican, does that happen on Mount Shasta, does that happen on Mount Fuji?

CHAIRPERSON CASE: Thank you.

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

Please find a way before you make this decision to it figure out if you are totally in this
jurisdiction to make rules for Hawaiians practicing --
not even practicing, living in a Hawaiian way and our
rights. Mahalo.

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

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

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

The second focus is resource management. Use of open flames present a huge threat of wild land
fires to the surrounding critical (inaudible) habitat.

Third, social impacts. Workers on Mauna

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

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

UNIDENTIFIED MALE BOARD MEMBER: I have
one question.

MR. PAIVA: Yes.

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

MR. PAIVA: No, we don't.

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

MR. PAIVA: Yes, there has been.

UNIDENTIFIED MALE BOARD MEMBER: And
what's your mana'o? I don't want to put you on the spot, but --

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

UNIDENTIFIED MALE BOARD MEMBER: But the other guys --

MR. PAIVA: You're not. And I'm speaking for myself and my guys. That's what I'm here for.

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

UNIDENTIFIED MALE BOARD MEMBER: What are some examples of what you could use?
MR. PAIVA: I'm sorry.

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

MR. PAIVA: Again, law enforcement powers.

UNIDENTIFIED MALE BOARD MEMBER: Okay.

CHAIRPERSON CASE: Thank you.

UNIDENTIFIED MALE BOARD MEMBER: Thank you, chairman.

CHAIRPERSON CASE: Any questions? Okay,

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thank you very much.

MR. PAIVA: Thank you.

CHAIRPERSON CASE: Number 24, Robert McLaren.

MR. MCLAREN: Aloha, madam chairman, members of the board. My name is Bob McLaren, associate director of the Institute for Astronomy. I've been involved in astronomy on Mauna Kea one way or another for nearly 35 years. I've given you written testimony describing my experiences from the
period of July -- excuse me, June 24 through 26th, and I'll just summarize what I think are the most salient points.

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

Early in the afternoon a group of protestors created a new road block at the beginning of the gravel road. This group was stopping vehicles and asking the occupants about their purpose in traveling to the mountain. Some were allowed to pass, some were not. Two staff members of the James Clark Maxwell Telescope were allowed to pass after explaining that there was urgent work they needed to do at the telescope. Proceeded up the gravel road, but were then stopped by a second group of protestors at the rock barriers. This group told them they are...
not allowing any observatory vehicles to pass and that they could blame their predicament on TMT. JCMT staff returned and left the mountain.

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

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

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

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

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

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

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

(INAUDIBLE) Takekawa.

CHAIRPERSON CASE: I'm sorry, can you say
your name again slowly.

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

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

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

I still do not think that the state of
Hawaii, Governor Ige, or the University of Hawaii understand. Governor Ige even stated, and I quote, in many ways we have failed the mountain, yet you continue the approval of desecration. We have seen

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

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

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

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

I'm sitting in a very awkward state right now across from you fine kupuna, and you are not kupuna, but in our culture kupuna are considered very
wise. We respect them it and their authority over all
because kupuna act in such a way that's full of wisdom
and aloha and they teach the future generation of how
to malama ohana, malama i ka aina, malama o Hawaii.

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

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

I don't see that happening right now.
There's such haste, and, yes, it's a mess. It's a
huge mess, but we have been kue. We've been against
Mauna Kea for five plus years, and no one is listening
to us. I'm very much a pacifist, a peaceful person.
I like to use my words instead of my fist, and that's what I see and have seen when I've gone up to Mauna Kea. I haven't really seen any type of display of violence on behalf of the protectors. I've just only seen aloha `aina and the way they've educated greeted people coming up to Mauna o Wakea.

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

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

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

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

MS. MAKAINAI: Those things are true concern, and I wanted to challenge and encourage this board here to truly invest in what Hawaii's waiwai is, and I believe I am one of that examples. I believe you have waiwai here in front of you, and with that, I mahalo you for your time. I mahalo you kupuna. God bless you and your ohana. I hope and pray that the way that you envision Hawaii is in line with our culture, because Hawaiian culture is all about malama
(inaudible). We want to believe — we want to leave behind a legacy of Hawaii that has been given to us, has been given to me, has been given to my ancestors, and I don't see that happening with the construction of TMT or other things that threaten our true Department of Land and Natural Resources.

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

CHAIRPERSON CASE: Henry Chang, 28.

MR. CHANG-WO: Aloha ka kou, board. My name is Henry Chang-Wo. I (inaudible) and I oppose the telescope (inaudible). In fact, I want to see all that opala come off the mountain. I come from the (inaudible). My friend takes care of lo`i. You know
what we see? We know what is happening, but we don't know the law. We -- I depend on the mountain, all (inaudible) depend on the mountain. If it wasn't for the mountain, (inaudible). That (inaudible) is so important to all of us. (Inaudible). Easy for you to bring up the new law. Stop -- stop the (inaudible), and that will bring them down. It's fine (inaudible) safety, at the same time stop that convoy from going up the mountain.

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

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

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

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

MR. AWIAO: All right. Okay, I'll just -- aloha, chair, members of the board of the land
and natural resources. Those in here, ohana, friends,

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

I speak on behalf of my ohana and friends
who are hunters and gatherers. There wasn't much
public notice for our understanding regarding these
items. It is in my view and all here supporting the
mauna that this action before you today is an
(inaudible) attempt to target and possibly an
exclusionary action toward native Hawaiian
practitioners, cultural practitioners, and protectors
in furtherance to prohibit their constitutionally
protected activities under the U.S. Constitution, as
well as the state of Hawaii Constitution. Thus, I
implore this (inaudible) body to reject this agenda
item and give deference to such actions now and in the
future.

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

And I do have a lot of deference to the
deleaguting authority to delegate a DLNR representative
to arbitrarily have this authority to do -- take
action under the C1 item, and also in sections 124,
which the palilo bird up there, which may be a part of
the environmental concern, and this is not a -- the
bird is not extinct because of the actions of the
protectors of the mauna. It's more so because of the
extinction of much of our mamani trees. And it's
already stated in the DLNR website that the deals with
the palilo bird, that the last of these honeycreepers,
and why they are endangered, so they give several
reasons, which I won't go over.

Moreover, understanding these agenda items and its implications to native Hawaiians and
members of the public, this board has a fiduciary
kuleana for ceded public trust funds that hold
paramount importance to not only native Hawaiians, but
to the general public.

If this item is passed, (inaudible) in
the department -- and I'll summarize -- its policies,
processes, purposes and ultimately the board, the
director, the chair and the governor of Hawaii, as
president Lincoln once said at the memorial of a civil
war battle, in which I believe is a foundation of it our government after the civil war, that we here highly resolve that these dead shall not have died in vain, which my kupunas (inaudible) say, that this nation under God shall have a new birth of freedom under the government of the people, by the people, for the people shall not parish for later.

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

CHAIRPERSON CASE: Thank you.

UNIDENTIFIED MALE BOARD MEMBER: I have a question.

CHAIRPERSON CASE: Yeah.

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

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

I have a problem too because sometimes we do stay out late, maybe even past 12:00 a.m. and we don't make it back to our -- you know, down the hill or wherever our vehicles are. So a lot of times it's -- get caught up with the (inaudible) and, you know, we sometimes forget we're hunting and we look up
and we see all this beautiful scenery up in the sky.
So as Hawaiians, you know, we're very spiritual, we
see a lot of things, so one of the reasons why I feel
we might -- we might get into trouble just being
there, maybe in the wrong place, wrong time, you know.

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

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

UNIDENTIFIED MALE BOARD MEMBER: So it's
better.

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

UNIDENTIFIED MALE BOARD MEMBER: Okay,
thank you.

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

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

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

UNIDENTIFIED MALE BOARD MEMBER: I don't either.

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

UNIDENTIFIED MALE BOARD MEMBER: But that there's some grace period if you're in there in good faith you're going hunting and something happens, they have an emergency for whatever, you know, and you're a little late, and you can show that, then that should be adequate.
MR. AWIAO: Well, if the officer or, you know, whoever is going to penalize us, I believe if they're trained to do that --

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

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

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

MR. AWIAO: Exactly.

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

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

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

CHAIRPERSON CASE: You're not on the sign
up sheet here. What's your name?

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

UNIDENTIFIED FEMALE: (Inaudible).

CHAIRPERSON CASE: All right, go ahead.

MR. PERRY: Yeah, sorry for the
confusion.

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

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

Okay, so I oppose C1 and C2, and I think
aside from my good looks, this is a good visual representation of why there's going to be some confusion when we're dealing with kanaka who are just trying to maintain their existence in our homeland.

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

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

Passing a rule designed to criminalize people who are conscious is inappropriate and it's hurt full, and I know -- I know from going to school with Doug, talking with Billy Kanoe, talking with the bothers up on the mountain and the rangers, I know people are conscious. The brother over here told us
rangers are quitting. I talked to them. We know why
they quit, because they have a conscience, because
they cannot sit and watch this continue, desecration
and have to deal with their own family, with people
who have conviction, that's why they quit.

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

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that's gone on before.

So I ask you folks to please ask with
consciousness, act with aloha. Thank you for your
time.
CHAIRPERSON CASE: Thank you. Number 30, Ilima Long.

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

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

MR. NOGA: Joshua Noga.

CHAIRPERSON CASE: Noga.

MR. NOGA: Noga, N O G A. I live in the ahupua`a of Hauula, in the moku of Koolauloa. I am here in opposition to C1 and C2. I spent a week on the mauna when it went to head on July -- on June 24th, spending -- I know why this -- these emergency rules are come out, it's meant to criminalize the protectors on the mauna in regards to a strategy, that they want them out there so that they can send the TMT workers and -- up there early enough. By doing this, they can criminalize them in the media, in public perception, make them look like trouble makers, hazardous to the environment, which is simply untrue.
We have a sick disease going on here in the state of Hawaii where we have politicians are in the pockets of big business developers, and I'll give you one example right here. To my left here we have a Hawaii attorney general, Douglas Chin, who was a managing partner for a law firm, Carlsmith Ball, who is representing the University of Hawaii and TMT. Now, he's the Hawaii attorney general, but he's sitting here for almost three hours. What kind of message that does send? He gave a testimony in favor of these rules, but I'm a little worried in regards to what kind of message that sends to our people as a whole, when we have somebody in such a high position of power who is able to use that power, wield that power, speak for almost an hour, even before any of us can testify, and then continue just sitting here. I'm sure there are way more things that he can be doing, he should be doing, rather than sitting in here listening to these silly emergency rules. You know.

I got no pilikea with attorney general, but what kind of message does that send, you know, when Ige talks about failing -- failing the mountain, failing the Hawaiian people, he's absolutely true, and this it attempt in these rules to criminalize the very
people who take it upon them self and really going

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

CHAIRPERSON CASE: You need to
summarize --

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

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

MR. PEREZ: Aloha mai ka kou.

(Inaudible) Andre Perez, (speaking in Hawaiian). I
just want to point out, there's a problem going on
even with this meeting. We're all getting parking
tickets out there. So when you come off the mauna,
the struggle and the things that we have to endure, we
have to come to this meeting and get a $40 parking
ticket. I'm not the only one. Many people are
getting tickets out there, and your parking attendant
is standing by outside waiting to ticket people as the
time expires. So I think that's a problem that you
guys should address.

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

Okay, I absolutely oppose the rule
making. I want that to stand for the record. When
the United States invaded and bombed Iraq, one of the
things -- the first things they did was they targeted sanitation facilities. They bombed the water facilities, and in principle that's what's happening on the mountain in response to Hawaiians who are protecting the mountain right now. They shut off the water. They've locked the sanitation facilities, and so they're trying to starve us off the mountain, yeah.

There can be no doubt that these actions and rules are designed to purposefully suppress and marginalize kanaka maoli, criminalize us and starve us off our own mountain. I believe that these are fundamentally human rights issues and self determination issues. Are Hawaiians human beings? Do we have the right to say we don't want this on our land? Is this Hawaiian land? Does anybody question that? Does anybody think this is not Hawaiian land, that we don't have kuleana to this land as aboriginal people?

I believe we have a clear human right to self determination issue right now, and I see how in principle fundamentally we're being targeted as
hazards and health issues to public safety. I think it's a very bad move on the state and Hawaiians — the Hawaiian community will not forgive and forget this for a very long time.

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

CHAIRPERSON CASE: If you could summarize.

MR. PEREZ: I'm summarizing. We believe that these types of rules, desecration will result in harm to the deeply held religious beliefs and cultural values of Hawaiian people. And as a result of this failure of the administration process — because we know it's still in court right now. You all know that. Still in court right now, yet they're still trying to build the TMT while the issue is still in court.
As a result of the failure of this administration process, we believe that further desecration is imminent, and we're compelled to occupy to protect Mauna Kea as a people, as human beings who love and have a strong relationship with our land. Desecration of Mauna Kea and suppression of Hawaiians on the mountain will be a moral outrage to Hawaiians and to the greater community.

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

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

Hawaiian community —

CHAIRPERSON CASE: Can you wrap it up, please.

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

CHAIRPERSON CASE: Number 32, Noe Lopez.

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

First, I concur with professor Williamson Chang about violations of constitutionally protected First Amendment rights to free speech and assembly. It's a veiled attempt to foreclose the Mauna Kea protectors from exercising their rights. I'm also very concerned about the circumvention and the
violation of the public's constitutionally protected
5th Amendment right of due process.

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

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

Additionally, provision C1, which would
grant executive power to DLNR Chairperson Case to
close off hunting grounds without benefit of a public
hearing is also a violation of the sunshine law and a
violation of the due process rights guaranteed by the
I'm also daughter of a hunter, sister of a hunter. We eat deer meat. It is our subsistence lifestyle. To have closures for six months would be very -- it would be -- it would be something that would affect our ability to subsist, and those are also Constitutionally protected under article 12, section 7 of the Hawaii state Constitution and Hawaii Revised Statute section 1-1. So I'm concerned about the hunting issues as well.

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

The religious and ceremonial --

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

MS. AKUTAGAWA: Yes.

-- violate article 12, section 7 HRS 1-1 and 7-1. 7-1 also protects the trails. This is
originally the 1850 kuleana act which used to require
permission of the chiefs of the land (inaudible).
Because there was testimony by (inaudible) of being
blocked access is and being unable to gather the
things they needed for the daily life, the kuleana act
was amended to not allow -- not have is that
permission provision, and that is the law that stands
on the books as HRS 7-1.
So to limit and restrict by providing
certain time for people to go along this trail is
illegal and violates the state Constitution, as well
as public trust provision, which includes native
Hawaiian practice and the rights and the resources
that are associated with those rights and practices.
So to limit access along the Mauna Kea road would be a
violation.
I'm not done. I'm almost done.
CHAIRPERSON CASE: You need to please
wrap it up.
MS. AKUTAGAWA: The state office that
manages Mauna Kea on their website identifies the
summit access road as the trail that people will walk
upon. There are other ancient trails that have been
overgrown and they say is unsafe, so that's the only
place that they can access. So that road needs to
stay open at all times so that religious and
ceremonial practices can take place.

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

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

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

MS. AKUTAGAWA: That's my last comment.
CHAIRPERSON CASE: Thank you.
MS. AKUTAGAWA: So if you want to protect
safety, public safety, do that first.

CHAIRPERSON CASE: Thank you.

MS. AKUTAGAWA: Mahalo.


MR. LOPES: I can say that it's no, the legal stuff everybody was talking. I don't know nothing, but I just one kanaka from Nanakuli homestead. Nanakuli homestead or DHHL don't represent me. I represent myself. I learned the truth, learned the truth. All my life you all be hiding it from us. There's no treaty. My children to go to Olelo. They love Olelo. They come home, teach me because I don't know nothing. I was deprived. The mauna call. Something inside my gut tell me, go, there's something. I go. Hewa. Hewa.

I go two time. First time, (inaudible), sleep on the mountain, your people come visit you through the night, your family gonna come talk to you, spiritually you will wake -- you will awaken. We're still here.
We kanaka. We still here. Please, don't pass this.

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

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

I will teach my grandchildren. I have 19 grandchildren. I will teach them to be there and defend that mountain, that mountain who created us. That is my create or, my creation. I am a young child. I am old, but I still am a young child because I am learning. Thank you guys for waking me. I will
tell my -- our people the hewa going on.

You do not have a treaty. Remember that.

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

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

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

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

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

MR. LOPES: And I will be polite. Deeply respect to you and to you, my friend. I love you guys all. May God be with you. I mean this from the
bottom of my heart. Please forgive me. I forgive you folks. May God forgive you. May the Lord forgive you, or he will charge you for what you did. Aloha no. Aloha no.

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

CHAIRPERSON CASE: Thank you.

MR. LOPES: Aloha no.

CHAIRPERSON CASE: Number 34, Melvin McAulton.

MR. MCAULTON: Aloha and good afternoon.

I would like to address the board and the attorney general as well. My name is Mel McAulton (inaudible). I am a pro se litigant and a paralegal. At this time I would like to also hand to this board these documents. Pass it out to your members. Based on what I have here, there's going to be to documents, one is statement for Mauna Kea TMT. The second document is the Constitution. The Constitution that I
have here is from 1895, and it was reproduced in 2000 and then again -- well, I'm sorry, not 2000, but in 1998. That was the final, and in 1998 what we have here under the Constitution, if you read it on article 1, section 18-3, and it's the rights of access. Under

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the rights of access, native Hawaiians and their descendents shall be allowed free access to the mountains, caves, seas, and sites of religious and cultural importance for personal, subsistence, religious, and cultural purposes. This statement alone is in the Constitution of the Hawaii Constitution itself.

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

In other words, what's happening here is
that the Hawaiians itself have free access to any and all mountains. It doesn't say just one particular mountain. It doesn't say Diamond Head. It says all mountains. Therefore, the restriction is against the people's rights. And when we talk about rights, I am going to go ahead and address the facts that the rights of the people --

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

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MR. MCAULTON: -- were actually violated.

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

What you're doing is you're keeping the
people from being healthy. You're keeping them from
an environment which is inhuman. That is inhuman
acts. If you produce any inhuman acts against any
human, it is a federal law to not and I repeat, cease
and desist from locking those restrooms to anyone
publically because now it becomes a U.S. law, and I am
right now when had I walk out that door, I'm making a
phone call to two people who are waiting to hear from
me in Washington, D.C.

They want to know what the outcome's
going to be on this and they want to know what I have
to offer, because what I have to offer, when it goes
to them, it's going to come to you. Reason? You are
an entity of the state. As an entity, you can be

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sued. The state can't be sued --

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

MR. MCAULTON: -- but an entity that
works under the state can.

CHAIRPERSON CASE: Time for you to wrap
up.
MR. MCAULTON: And that is the law. We know that. Now, just for the last part of this, I just want you guys to know, I know each and every one of you at one time has lost somebody in a family, relatives or whatever. When you lose somebody, you lose them forever, and the whole point behind that is it's in the heart. When you lose something, you can never get it back. That's the same thing these people are fighting for. Mauna Kea, when they lose Mauna Kea, they lose a part of them. You do not want to have these people lose something that is precious to them, as much as it is to you people when you lose something.

CHAIRPERSON CASE: Thank you.

MR. MCAULTON: Do you not want to have that happen to you.

CHAIRPERSON CASE: Thank you.

MR. MCAULTON: Do not let it happen to them.
MR. MCAULTON: Thank you very much.

Mahalo. And aloha.

UNIDENTIFIED MALE BOARD MEMBER: Excuse me, sir, can I get a copy of your Constitution.

CHAIRPERSON CASE: It's right here.

MR. MCAULTON: Oh, yeah, you guys all have a copy of that. Please be sure to read that, Pele Fund, the defense fund is an actual court case --

CHAIRPERSON CASE: Thank you.

MR. MCAULTON: -- that cited the Constitution --

UNIDENTIFIED MALE BOARD MEMBER: Thank you.

MR. MCAULTON: -- on article 1 --

CHAIRPERSON CASE: All right.

MR. MCAULTON: Section 18-3.

CHAIRPERSON CASE: Our next --

MR. MCAULTON: Thank you. Mahalo.

CHAIRPERSON CASE: -- person is number 35, who is not here, (inaudible). Number 36, Hilton Lewis.

MR. LEWIS: (Inaudible). Aloha. My name is Hilton Lewis. I'm the director of the W.M. Keck

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Observatory on Mauna Kea. I've worked for the Keck Observatory for 29 years, 26 years on the Big Island, raised my children there. My youngest was born in Kealakekua. I'm very deeply committed to my community, to Hawaii, and to the well being of the staff of my observatory.

Without question Mauna Kea is the best site in the world for astronomy, and the observatories that are on top of Mauna Kea have had enormous impact on science. So it is with deep concern that I have watched the events of the last nine months unfold. My concern first and foremost is for the well being and safety of my staff and for everyone who is on the mountain.

I'm also very concerned about the impact of shutting down access to our facilities and our ability to carry out our scientific mission. Any blocking of access can be potentially life threatening. We have had several occasions over the years where we have had to take staff off the mountain urgently or visitors. The difference between unimpeded access and even a short delay can make the difference between life and death. This is a very
real concern among our staff, and that they not be
stuck on the mountain, perhaps in dangerous weather

CONDITIONS OR WITH A SICK STAFF MEMBER OR A SICK
MEMBER OF THE PUBLIC WHO NEEDS URGENT MEDICAL
ATTENTION.

We have already lost highly valued
observing time in perfect weather conditions due to
the recent road blockade in June. This time is
competitively assigned to astronomers, and once it's
lost, there is no guarantee that they can get access
again. My concern is that unpredictable or extended
loss of access will significantly reduce our ability
to do the cutting edge science that we are tasked to
carry out.

We've had to expend significant resources
because of the new safety and security concerns.
These expenses include a large fraction of time of our
managers and supervisors in planning, coordinating,
communicating, changing work schedules, changing
transport schedules, hiring additional staff to ensure
safety in the event of a confrontation.

The ongoing protests and the concerns over safety and long-term access are taking a toll on the morale of my staff. Our staff members are part of the Big Island community, and there's now a lot of division among family, friends, and neighbors. I am concerned that a prolonged conflict could affect the observatory's ability to retain and affect staff. And these are people and their families who are deeply rooted in the community and who make a significant economic and social contribution to society.

Long-term impact of uncertain access also extends to our ability to attract funds from federal and other sources, and these funds are essential to keep the observatories alive and vibrant. The Keck telescopes are the two most scientifically productive telescopes on the planet. More broadly, Keck Observatory and myself are concerned about the vibrancy of astronomy on Mauna Kea. Astronomy is a science that seeks to answer the deepest questions about the universe, questions that all humans
everywhere have asked since the beginning of time. Astronomy done in Hawaii is something we can and should be proud of it. It inspires people young and old across the globe. It is the vital contribution from Hawaii to all of humanity. Mahalo.

CHAIRPERSON CASE: Thank you. Number 37, Tiffanie Kakalia.

MS. KAKALIA: Aloha mai ka kou. My name is Tiffany Kakalia, resident of Hawaii island, lifelong resident. I'm here to testify in strong opposition to the proposed emergency rules of Mauna Kea and to ask that you please reject the request from the Division of Forestry and Wildlife to adopt a new rule that would prohibit essential items that may be needed when accessing different areas of the mauna, like you've heard, in practice (inaudible).

These proposed changes are said to address impacts on the natural resources and eliminate risk regarding public safety, when there really isn't any imminent peril to these resources or the safety
concerns that are being brought about, except with the
closure of the visitors station and bathrooms and
such.

These restrictions would instead infringe
upon the kuleana and rights of native Hawaiians and
other Hawaii citizens to access and conduct ceremonies
on sacred site. I'm testifying here today as kau
keiki o ka `aina from generations back. Like many, my
kupuna hailed from the cardinal points of that moku.
I was raised on that island. I raised my children and
now grandchildren, specifically on the slopes of Mauna
Kea on the Hamakua side. We know her intimately as
wahi kupuna. She is a big part of our life and how we
identify to being native Hawaiian.

It's a little difficult to hear that this
one-time action of the kea`i and the stone structures
and what they felt that they needed to do at the time
is considered -- considered vandalism and cannot be
ignored by the state, especially when the sacredness
of Waiau was vandalized several years back with no
action by the state, and that was rangers watching as
a young person took stand up paddle board into Waiau, walked in the sentiment, which include our piko and our sacred traditions, carved his name in the -- again, in the embankment on a low level (inaudible), that to me is vandalism.

And if the one-time action of protecting a resource cannot be overlooked, why was that? There wasn't any sense of urgency to put any sort of ruling together. There was no restitution. There was no -- there was nothing done. Nothing was done to the person that did this or their family. No mihi was made with that place. So it's really hard to hear some of this stuff.

I worked in the field of education and wellness for Hawaiian communities for well over 20 years, and currently I work for the Department of Native Hawaiian Health, and it's through this department that I learned that social determinants directly impacts the well being which causes health disparities for our native Hawaiians, none more
prevalent than the current situation on our mauna.

It's more than just access, astronomy and culture. We're talking about the wellness --

CHAIRPERSON CASE: If you could wrap it up.

MS. KAKALIA: -- of people.

CHAIRPERSON CASE: Wrap it up, please.

MS. KAKALIA: Yeah, I'll wrap it up. For many years kanaka iwi have been denied fair access to social justice in our own land, for restricted cultural practice, desecration, sacred sites, it continues on. Supporting the proposed emergency rules for Mauna Kea will only perpetuate the demise of native Hawaiians and promote cultural genocide. Please consider this.

I'm testifying today as an individual, but I do want you to know that I do belong to a volunteer group associated with the Office of Mauna Kea Management. And as you know, they do have a cultural advisory board, council. To date we have not been invited to one discussion regarding this issue, not one. Rangers have been. You know, it's in the comprehensive management plan since 2009 that we're supposed to take the lead in things like this. We have not been consulted on it at all to date. And I
find that very troubling, especially hearing testimonies of people and our community wanting to engage.

This council was put together for that reason. It was started as a kupuna council in 2000. It evolved and -- into (inaudible), an advisory council in 2009 in the comprehensive management plan. There's administrative protocols that are in place to take care of and address the concerns that people have been stating today. It's not been followed, and I would just like to let you know it has not -- even at the request to be informed we have not been informed.

And again, I'm speaking as an individual on that council. I'm not representing anything.

CHAIRPERSON CASE: Okay.

UNIDENTIFIED MALE BOARD MEMBER: I'm very bothered by this thing on Lake Waiau. Somebody on a stand up paddle board. That's bullshit. Excuse my word, but --

MS. KAKALIA: Here's the pictures.

UNIDENTIFIED MALE BOARD MEMBER: I think
that that's outrageous.

MS. KAKALIA: And here's my letter to William Aina that was not addressed.

UNIDENTIFIED MALE BOARD MEMBER: So I want the university to investigate this --

MS. KAKALIA: And again, the university, that's not even our kuleana.

UNIDENTIFIED MALE BOARD MEMBER: Try wait. Try wait. Let me finish. I want -- if the university has investigated, I'd like to hear what they found.

The other thing is this Hawaiian advisory group is supposed to be consulted about the mountain. When I was in the board of regents, we started this whole thing in 1998, and I know that it has become an integral part of the Office of Mauna Kea Management, and this Hawaiian advisory group is supposed to play an active role in protecting these very things that we're talking about. And it needs to be an active body and it needs to be consulted on an ongoing basis.
Part of what we're finding out in this
docket is that maybe we're all making mistakes as we
go down the road, including myself, but we don't know
that we made mistakes sometimes after it's done, and
that's how human beings are. But on this one,
Chancellor Straney, if you folks can, you know,
address this idea of the Hawaiian advisory group and
have them have a more vigorous voice, that would help
us out.

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And as far as this -- this thing at Lake
Waiau, do you want to comment on that?

CHANCELLOR STRANEY:  If I could.

UNIDENTIFIED MALE BOARD MEMBER:  Yeah.

CHANCELLOR STRANEY:  And I appreciate
Tiffanie's request for Kahu Ku Mauna to meet more
frequently. Heard and understood and we will move on
that. Lake Waiau is not part of the lease that the
University of Hawaii holds. It's on lands managed by
DLNR. I believe DOCARE did investigate this, I'm
told, but I have no direct knowledge because it
doesn't report to us. So I would --
UNIDENTIFIED MALE BOARD MEMBER: Here's the problem. Your Hawaiian advisory group, you have been utilized to investigate the whole mountain, not just where you folks are, and if you don't -- if you don't have the authority, we need to fix that so that they do have the authority, because we just have one mountain and there are arbitrary lines where the science reserve is. And maybe part of the problem is this falls in the cracks and we didn't know about it, and now we know, so let's find a way to fix it and then --

CHANCELLOR STRANEY: The university works very closely with DLNR personnel on the mountain, and

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I'd suggest that in this instance we should --

UNIDENTIFIED MALE BOARD MEMBER: But DLNR doesn't have a kupuna advisory council on the mountain, right?

MS. KAKALIA: They look to us -- they look to us for input.

UNIDENTIFIED MALE BOARD MEMBER: They
look to you for input?

MS. KAKALIA: As neighbors, as neighbors.

So we did that. My concern in bringing this issue up is that we have -- we have young people that do protocol at the lake, and this -- this young scholar was getting ready for an international trip to be away from our pai `aina, our ohana, and she was restricted access by rangers who have no authority to restrict access to the lake.

UNIDENTIFIED MALE BOARD MEMBER: Let's keep on this one thing.

MS. KAKALIA: Well, that's why I brought it up.

UNIDENTIFIED MALE BOARD MEMBER: Let's -- let's try and do a better job with the --

CHANCELLOR STRANEY: But I think this is a larger issue, the coordination between UH and DLNR.

UNIDENTIFIED MALE BOARD MEMBER: Yeah,

we're just finding this out. We're trying to make it better, right?

CHAIRPERSON CASE: I -- I just wanted to
follow up. You said Kahu Ku Mauna has not been consulted on -- on what?

MS. KAKALIA: This issue of kea‘i mana, the presence of cultural practitioners. We have not been consulted in meetings that the university is saying they have consultation. They might with other groups, but in the comprehensive management plan, the first action item that we're supposed to attend to since 2009 was to meet with cultural lineal descendents, cultural practitioners and community members that frequent the mauna to set policy and UH procedure. We have continuously asked for kokua in how to address these things since 2009.

So the state emergency that we're in, that's neglect. That's -- that's neglect. We've known about these process and these things to be put in place. Everything you're hearing the community say, if you look through the management plans and all the sub plans, there's ways that they have organized to address it. It's just not being addressed, but yet continuous development happens.

CHAIRPERSON CASE: So when was the last
time Kahu Ku Mauna met?

MS. KAKALIA: We met in May. During our May and our April meetings, it was regular meetings that we called. We called and we don't want to meet without the chancellor present. Since before 2000, the office has been found negligent many times on the management of cultural resources. Why would we possibly still engage for another 15 years in that conversation when things aren't changing? Nothing personal against Stephanie. We have communication. Sometimes it breaks down. It's absolutely frustrating. And then to learn that these things are what causes the ills of our people, that's why the emotions come out when they talk to you. It's extremely frustrating.

UNIDENTIFIED MALE BOARD MEMBER: Well, we need to control what goes on at Lake Waiau, because it's very sacred.

CHANCELLOR STRANEY: Again, that's not in the university --

UNIDENTIFIED MALE BOARD MEMBER: I understand that, Don, but often DLNR, as DLNR we have an obligation to do a better job there, and thank you
(inaudible) for bringing this to our attention, and we need to work on that because some of my friends have their piko there too.

MS. KAKALIA: Yes.

UNIDENTIFIED MALE BOARD MEMBER: Like Larry Kimura. (Inaudible).

MS. KAKALIA: He's a part of this council, actually.

UNIDENTIFIED MALE BOARD MEMBER: So that's -- that's --

UNIDENTIFIED FEMALE BOARD MEMBER: I had a question. Thank you for mentioning Kahu Ku Mauna. That was actually one of the questions that I had down, was to -- was listening to see if there would be some discussion of any -- any discussion with Kahu Ku Mauna or any advice coming from them as it relates to this matter. So I just wanted to clarify. Kahu Ku Mauna hasn't specifically taken a position or hasn't been asked to?

MS. KAKALIA: We actually made a public announcement when this first started that we are here
and available for the university and have not been
invited to any conversation when this first started.
We're at a place right now where we're discussing put
out another public statement just to say that we're
here, we're trying, and we are not engaged in this
process. The (inaudible) know that we're here.

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Really the community doesn't think we're much, because
we're -- it's advisory, they can listen or not, but we
have a responsibility to our place. And that's why I
wanted to let you know that we have been there for
many, many years, and it's -- it's very frustrating to
be part of a process that the state can pick and
choose, whether it's the university or any department,
to actually have administrative protocols and pick and
choose when you want to follow it. So I just --
mahalo nui for your time. I just wanted to bring that
to your attention, and again, I'm speaking as an
individual.

UNIDENTIFIED FEMALE BOARD MEMBER: Yes.

CHAIRPERSON CASE: Thank you very much.
MR. SIMONS: Aloha, board, and a mahalo for the opportunity to share a few thoughts. My name is Doug Simons. I'm the director of Canada–France–Hawaii Telescope, previous director of Gemini Observatory, UH graduate, 30-year veteran of Hawaii astronomy. I've basically dedicated my whole life to Hawaii astronomy. I've heard a lot about hunting. I'm also a big fan of hunting for game on Mauna Kea, so I have a lot of experience there too.

I'm providing you with a letter this afternoon that I think is fairly unique in the evidence that you've been provided with. That's a letter signed by ten Mauna Kea observatory directors, and I'm here representing their interests in particular to describe our perspective of what happened on the June 24th protest.

My overarching message is that the observatories seek at the highest level safety for
public and staffs in the future of Mauna Kea, and
careful stewardship is (inaudible) to the future of
Mauna Kea as well. We're strong advocates of working
across and depend on the community for that.

In summary, on the night of June 24th,
when he a complete shutdown of Subaru, Keck, Gemini,
UKIRT, IRTF and JCMT because the road was left
impassable, covered with rocks and boulders. It was
unprecedented. It was an event that unfortunately
left those telescopes unmanned and they cannot operate
without people onsite. Some of the telescopes are
remotely controlled, but many of them are not. The
night before was cut short to avoid having nighttime
staff interfere or conflict with gathering protestors
that night as well, so we basically lost a night and a

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half.

The night that we lost on the 24th would
have been exceptional. You heard from Hilton Lewis,
and a couple of examples of what was lost that night,
at Gemini Observatory, the scheduled observation, what
we call target of opportunity for the largest satellite of Pluto was scheduled to be looked at looking for water ice. That may not sound like a very exciting observation, but in a few nights you'll understand -- or two days you'll understand why because on TV internationally you'll see New Horizons, a billion dollar NASA spacecraft flying by Pluto, that was part of a carefully timed observation ground support for this NASA mission that didn't happen because protests happened that day.

We also had eight engineers and scientists stuck in Taiwan that had to have their plans cancelled. They were coming out to do commissioning work on a new instrumental on one of the telescopes, and a group from the mainland scheduled to use the NASA RTF as well. They cancelled, lost their tickets, cost them money. It's a big hassle to reschedule as well. There's lots of other knocked down effects, but I wanted to give you some sense of the loss of science opportunities, specifically on that night.
There are a number of tasks that the day crews are responsible for on the observatories. We were unable to get day crews up there for those two days, the 24th and 25th, except for a handful. The point that I want to make about this, though, is there's literally millions of dollars in instrumentation that runs the cryogenic temperatures and requires humans to inject liquid nitrogen into them. If you do not do that on a regular basis, you'll have an uncontrolled, potentially dangerous warm up. It could be very expensive, and also be very dangerous. One of those instruments did have an uncontrolled warm up, but it's not damaged.

UNIDENTIFIED MALE BOARD MEMBER: A what?

MR. SIMONS: An uncontrolled warm up. I can explain that if you give me more time later.

In addition to that, the road was, as you're well aware, left covered with boulders, and that represented an enormous safety issue for our staff. I would say the overarching safety issue for us right now is that -- is that at any given time protestors can block that road, trapping people above, including observatory staff, and you can create a medical emergency that way. Just last month we had
somebody at my observatory pass out. You always put
them on O2 and you rush them down the mountain. So
this is a big issue for my staff who's up there all
the time, and I really do want to stress that.

CHAIRPERSON CASE: Please summarize now.

MR. SIMONS: Sure. And I want to thank
you for your time. Again, the overarching message
from us is please do what you can to provide a safe
working environment for our staffs. It's to the
benefit of the public, and we want to see the road
ultimately opened up for everybody as it was in the
past.

CHAIRPERSON CASE: Thank you.

UNIDENTIFIED MALE BOARD MEMBER: To
resolve this, what is your interpretation of safe
working conditions? What would -- what plan would you
put up? Besides -- if we wouldn't implement the rules
that we have before us.

MR. SIMONS: So I support the rule, to be
clear, and I support it in the sense that I'm not here
to prescribe a solution. I'm simply here because I'm
an astronomer. I'm not an expert in law enforcement. I'm simply here to tell you from our perspective what the safety issue is, and for us it's this matter of instantaneous road closure and prevention of a medical emergency from getting back down.

UNIDENTIFIED MALE BOARD MEMBER: Okay.

CHAIRPERSON CASE: Thank you.

BOARD MEMBER ROEHRIG: I met you before. I think the -- when we went up to the -- what was supposed to be the dedication of the Thirty Meter (inaudible).

MR. SIMONS: Yes, I was there.

BOARD MEMBER ROEHRIG: I think you were the speaker.

MR. SIMONS: You have a good memory.

BOARD MEMBER ROEHRIG: In the conference room, and I was there with my friend Rose (inaudible) and so I listened carefully because I wasn't aware of all the history. So when you tell me today you're just an astronomer, my comment to that is that you and all the other leaders of all those telescopes up
there, you've got to help us.

MR. SIMONS: I agree.

BOARD MEMBER ROEHRIG: Okay. This is a new day. Times have changed, you know, and there has been a reawakening. All my neighbors in Keokaha they've got flags flying on their cars and trucks. Times have changed. So it's not the same as it was three months ago. This is a brand new situation. So

what is going to have to happen for the existing telescopes not to close down and not to lose all their billions in investment and not to lose all of their grants that get funneled through the Institute For Astronomy for viewing time and all the grants? There has to be a heart rendering discussion between all the telescopes, including the Thirty Meter. The Thirty Meter is holding all of you guys hostage, not because they're mean or whatever. It's the practical consequence of this dispute. Because when you -- one of the cases we had in torts, when you shoot a gun into a -- into an occupied
auditorium, it really doesn't matter when you intended
to hurt somebody. The risk is so great, it's
outlawed. That's why you can't shoot guns into
auditoriums.

So in this situation, it doesn't matter
whether or not the various protestors had mean
intentions and something beyond you want to say kapu
aloha. Kapu is -- has a lot of meanings, probably the
best meaning is religious, it's a religious deity, and
because of that, this na`au just drives people, and so
they have this momentum coming, all right, and I wrote
down in my notes here, we had -- one of the last
witnesses, no Thirty Meter or civil disobedience

continues for a long time.

So let's say that that's the situation
right now, no Thirty Meter or civil disobedience
continues for a long time. It would continue long
enough for you guys all to close down. I'm
reminded -- not to be -- chairwoman says I talk too
much, but (inaudible) about King Kamehameha I, and
I'll be real short. You can fine me.
Okay, so King Kamehameha I, when he fought with Kewalao at Kehe, that was the first big battle of the civil war on the Big Island, right above Honaunau in the field across the street they had a big fight. And King Kamehameha I's seer or clairvoyant or you can also call him (speaking in Hawaiian), the man who writes in the sand, you know, they never get paper those days, so they would do that. So they said — he said, leader, in the morning time you gonna get lickings and the other side gonna laugh, okay. In the afternoon Kewalo gonna die and you're gonna win, and so when they had the confrontation between Kewalo and Keeaumoku, Keeaumoku had a spear through him. So he was crawling on the ground and Kewalo was laughing at him, in his face, just before noontime. And a guy with a sling with a rock in it threw it and hit him right in the forehead and he dropped on the ground, Keeaumoku went over, that's why they call him (speaking in Hawaiian) crab.

UNIDENTIFIED FEMALE: Paia.
BOARD MEMBER ROEHRIG: Paia. So he's called Paia Ula. That's Keeaumoku's nickname because he was crawling like a crab on the ground, he was a royalty, or ula because he had red coming out of his body, and he hit him with a (inaudible) right across (inaudible) and he opened him up.

So right after lunch he stopped laughing and Kamehameha won the battle. So now here we are up on Mauna Kea. Are we in the morning or are we in the afternoon? Nobody knows where we are. Maybe this is in the morning and one side is laughing and the other side gonna win in the afternoon. I don't know. All I say is, history repeats itself.

If we don't want to have this thing go on forever, all the telescopes gotta sit down, you guys got that crunch it together and decide where is the future of this. The one person who speaks the loudest on Mauna Kea isn't in this room. He's in heaven right now, and that's Dan Inouye. And Dan Inouye told me in 1998, and that's why we made that big group when I was in the board of regents, to get this thing started. He told me, the future of the universe for the people

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on Earth, all human beings, is to look through the
telescopes on Mauna Kea to see our past and our future
for the savior, salvation of the human race. That's
why it's important to him, and that's why he was in
favor of the telescopes to keep coming, not because he
necessarily loved all of that, but because the free
world needs that viewing site. It's either there or
Chile.

BOARD MEMBER ROEHRRIG: So there's --
that's the pilikea.

UNIDENTIFIED FEMALE: Let's go Chile.
BOARD MEMBER ROEHRRIG: So I just say
this -- so I just say this. You have a good
chancellor. I like Don Straney because he's a
reasonable guy and he listens and he's hard working
and he's interested in helping Hawaiians. So you guys
gotta work with UH Hilo and the Institute of Astronomy
and Randy Moore, the chairman of the board of regents
is a good man.

UNIDENTIFIED MALE: Mr. Roehrig, can we
wrap up.
BOARD MEMBER ROEHRRIG: I know him very
well. Yeah. So James -- James usually wraps me up.
So I'm just saying, you guys gotta get going, because if the protests continue, you know, you guys might win the battle and might lose the war because everything is going to stop. And all -- all the neighbors on the Big Island -- get choke neighbors not going to work up the mountain. We know it. I get phone calls.

UNIDENTIFIED MALE: Member Roehrig, we need to move on.

BOARD MEMBER ROEHRRIG: So that's it.

UNIDENTIFIED MALE: Excuse me, chairman, I concede my three minutes to this gentleman here.

CHAIRPERSON CASE: We're not -- we're not doing that.

BOARD MEMBER ROEHRRIG: That's okay, no.

UNIDENTIFIED MALE: No, no, please. Make your statement. I'll pass my paper out.

CHAIRPERSON CASE: We're -- (inaudible).

BOARD MEMBER ROEHRRIG: I shouldn't have talked too long, and I --

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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honorable board members, I'm the director of the
Institute For Astronomy, as has been mentioned, and
I'm here in support -- in strong support -- in strong
support of the emergency rules for the mountain.
And I would like to give you my
perspective on the claims that the University of
Hawaii and the Office of Mauna Kea Management have
done a bad job in managing the mountain. I think we
have seen this in this debate and in the past, that we
just get the finger about managing the mountain badly.
I, as the Institute of Astronomy Manoa, am not
involved, and so I give you my personal perspective on
that, because it's not a defense of my own.
So the mountain management, from my point
of view, has improved significantly and
demonstratively over the last 15 years under the
Office of Mauna Kea Management. You know that there
were the state audits of 1998, 2005 and 2014, and
while the 1998 and 2005 audits were very critical of
the management, the 2014 audit came out with very
positive statements, which I usually ignore. They
basically said that UH and DLNR, your board has
addressed many of our recommendations, including
development and implementing management plans for
Mauna Kea's natural, cultural, and historic resources,

and the result is an improved and more comprehensive
framework that coordinates the agency's efforts to
manage and protect Mauna Kea, while balancing the
competing interests of culture, conservation,
scientific research and recreation.

And you also know that the major missing
item in this audit was the adoption of administrative
rules, which we are now working together at UH and
DLNR. And so while we have clearly things to improve,
in particular with Kahu Ku Mauna and with the native
Hawaiian (inaudible), I think in the overall management of the mountain, the combination of UH and DLNR is the best possible organization. There's no other organization who can manage that mountain.

And you know that the comprehensive management plan has become the underpinning framework of all activities on the mountain and all the observatories and the university are complying in every aspect. We have the mandatory orientation on cultural and natural resources, the inspection of vehicles and equipment for protection against invasive species, safety rules, and regulations protecting these resources.

In all proposed projects on the mountain, big or small, I mean, Kahu Ku Mauna and also Mauna Kea Management Board are dealing with all these issues. They're not dealing, I agree, with the big issue that we have now, but they have worked in the last 15 years together to look at every individual project that is done up there.

The Mauna Kea rangers are on duty 365
days a year, and they are monitoring the activities of
the summit, watching for safe and unsafe,
inappropriate activities, responding to safety
warnings, and so on. So they are the guardian angels
of everybody on the mountain, including the
protectors.

And so from my point of view, Office of
Mauna Kea Management has done a great job, and now the
stand off has shut down a lot of these activities, and
therefore I really --

CHAIRPERSON CASE: Wrap up. Thank you.
MR. HASSINGER: -- support the emergency
rules to get back to a safe and orderly activity.
Thank you very much.
CHAIRPERSON CASE: Thank you very much.
Sorry, one question.
UNIDENTIFIED MALE BOARD MEMBER: Back in
1998, after the whole process of establishing the
Office of Mauna Kea Management and kupuna advisory

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(inaudible), there was strong forces in the university
to move the management of the mountain to Hilo for the
Institute For Astronomy.

MR. HASSINGER: Yes.

UNIDENTIFIED MALE BOARD MEMBER: Because
there was a strong feeling that the Institute For
Astronomy, being centered in Manoa, was not doing an
adequate job. So maybe history is repeating itself,
but rather than tell us how to do what the university
is doing, this is the board of regents and the
president's kuleana, and the president and the board
of regents need to weigh in on how to make Mauna Kea
better, because it's not just the board of land and
it's not just UH Hilo. It's the entire UH system has
to pull together to make it stronger. So that's just
my -- my observation.

MR. HASSINGER: What I would like to
point out with this statement is that you are right.
I mean, the -- as long as the management was in Manoa,
there were a lot of criticized that the mountain is
Hilo and the management is in Hilo now. And since
these 15 years that that has happened, there are
significant improvements, really dramatic
improvements. Not in all facets, but, for instance,
native Hawaiian practitioners have highest priorities
to go up the mountain. It was never a problem before
the TMT issue arise.

I mean, there was -- the sacred areas up
there are clear. They are free for the access. They
are free of telescopes. So I think there is a chance
for a fruitful and peaceful coexistence on that
mountain where science and cultural practitioners can
work together and they have worked together.

UNIDENTIFIED MALE BOARD MEMBER: What are
you going to do with the Thirty Meter?

MR. HASSINGER: The Thirty Meter
Telescope is not on aside which is cultural -- it's
not on the side which is culturally or environmentally
that problematic. I think it is -- has been tucked
away where you can't see it even from Lake Waiau or
from Puu Wekiu, or from Puu Poliahu, you don't see the
telescope. And so I think from my point of view,
there has been for many years of cooperation and the
fruitful coexistence between culture and science. It
is a chance, if you work together, to continue that.

UNIDENTIFIED MALE BOARD MEMBER: Thank
you.
members. My name is Andria Tupola. I'm the state	house representative for district 43, which starts in
Maili and ends in Ewa. Today I'm testifying as an
individual against the proposed rules, and just kind
of wanted to share some of my thoughts. First is I
think in HRS 91.3 it states that an agency he can
change a rule if it states in writing the reason why
it's doing the emergency change. And so I was just
requesting to see what was written as to why the
emergency rule with a being proposed. Kind of a
preamble. When we look at the law, like when we're
looking at a bill, it just says kind of how it came
about. Obviously, you know, there are reasons, but I
wanted to see if writing like how it came to this
solution, us there's many solution that is could have
been proposed, but this is a specific solution.
And I think also the things that other
people have been bringing up about other current laws. I mean, as a law make I know that the public loses trust in us when we don't abide by the law. And so they're losing confidence in us because we need to check our -- check to make sure we're not violating any other laws, and if there's any support we can give you with people that can help you to look into that, or whatever it may be, because it seems like we're crossing into a lot of different bounds that perhaps are unintended, maybe the origin tension was to protect the people that are there, but now it's just into every area that may or may not be the original intention of this rule change.

Secondly is the unintended consequences. Something that was brought up earlier by Andre was in regards to the civil disobedience, is, you know, sometimes when we're making laws or rules, thinking that we're affecting one thing, while unintentionally we're creating other things to happen, and that's what we don't want to happen. You know, we want this to -- to not end of being something that's going to create
more civil disobedience than what we've had. I mean, I have people come to the legislature, you know, during session saying that our prisons our overcrowded ever since the sit-lie bill. Now we have a bunch of homeless that are inside the jail with, you know, convicted felons. This cannot be where we continue to criminalize behavior because we think that we're shaping it to make people stop.

And so thirdly, increasing access. I mean, we're talking about an issue that's on Big Island, but we're having a hearing on Oahu. And so in order to get a bigger scope of the people who are being affected, we need to be having this hearing on Big Island where people can actually attend this and not have to fly over, or even here in Hawaii where, you know, people have been here since 1:00, maybe 8:00 in the morning, and I know it sounds like a long time, trust me, I've sat in long hearings, but still, to continue expanding access so that everyone's voice can be heard.
And lastly is the solution. You know, a lot of times when we're making rules or laws, it's to find a solution. But what we're doing is so peripheral, like we're going to stop backpacks and this thing, but when the root of the problem is something bigger than what we're talking about right here. And I understand that that may or may not lie with you guys. That may lie across the building.

UNIDENTIFIED MALE BOARD MEMBER: It may lay with you at the legislature.

MS. TUPOLA: That's what I'm saying.

UNIDENTIFIED MALE BOARD MEMBER: You folks can enact legislation to cure this whole thing if you have the votes.

MS. TUPOLA: And that's what I'm saying is that doing this rule is very peripheral, whereas we may need to solve this problem that's much bigger and there's a root of it.

And so lastly, I just wanted to say is that I'm not coming up with these conclusions blindly. I have met with the chancellor here.
with him. I read through the court cases. I've gone
up to Mauna Kea. I've met with the people. If you
need somebody to stand the gap and try to communicate
or try to find some type of solution for this, I will
do it. If we need somebody that needs to go up there
and try to figure this out, we should. Because I
don't think by continually ignoring the people that
are up there that it's going to get any better, or by
making a law or a rule here on Oahu that affects Big
Island is going to make anything better either.

So we need to sit down and be realistic
with ourselves. Are we really doing what we need to
do to come up with creative solutions. The people of
Hawaii are depending on us. They're depending on us
to protect the land and to hear their voices. So if
you need help, if you want us to help, and we have
lawyers that work for -- we will come and we will
help. I will come and I will help. I will go to the
Big Island and I will help to advocate, to help get
the people protected, if that's what needs to happen.

Do I think that a law or a rule is going
to change the behavior? Probably not, and it might
worsen it, but we should think about that. What is
this going to do adversely? Instead of being
proactive, we're just reacting. All this happens,
let's react.

So we have a choice here. We can
initiate something proactive that's going to help the
people, as opposed to restrict them, or cut them off,
ignore them, or stand on Oahu and tell people on the
Big Island what we think. So if you want me to take
that there, I will. Whatever you need help with, I'm
there to help. That's what I think we can do to make
Hawaii better is have agencies work together, be more
collaborative, instead of divisive.

And that's the same which we need to make
legislation and rules. Let's collaborate. The same
-- I think she left, but the girl that was here, she
said their group's willing to help. Have them help
advocate. Have them help out. You know, have them
weigh in and have them bring you information. There's
so many people willing to help with this issue. Let's
bring them all on board and say, you know what, we
need everyone's help. Let's bring everyone to the
table and let's figure this out, as opposed to just
ignoring people or assuming. Let's not work off of assumptions any more.

UNIDENTIFIED MALE BOARD MEMBER: I have one question.

CHAIRPERSON CASE: Yeah.

UNIDENTIFIED MALE BOARD MEMBER: You're an attorney? You an attorney?

MS. TUPOLA: I'm a music teacher. Would you like me to sing a song?

UNIDENTIFIED MALE BOARD MEMBER: (Inaudible).

CHAIRPERSON CASE: Thank you very much.

MS. TUPOLA: I'll sing you a song later.

UNIDENTIFIED MALE BOARD MEMBER: Thank you for your help.

MS. TUPOLA: Anything you need help with.

UNIDENTIFIED MALE BOARD MEMBER: You work it out with the chairman -- chairwoman. She's the boss.

MS. TUPOLA: Chair Case, if you need help, I'm they're help you. I know that it's hard to
do these types of things. If you need help collaborating, calling meetings together, identifying groups that can help you, I will help.

CHAIRPERSON CASE: Thank you.

MS. TUPOLA: So I'm at your service.

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CHAIRPERSON CASE: Number 41, Rich Matsuda.

MR. MATSUDA: Thank you, Chairperson Case and members of the board for this opportunity. My name is Rich Matsuda. I'm the operations manager at the W.M. Keck Observatory. I am a third generation Hawaii resident. I was raised on Oahu and I've lived on Hawaii Island for the last 21 years.

I'm very proud to lead the decent and hard working men and women on the operations crew who work on Mauna Kea to enable the world class astronomical discoveries that Keck is known for. As a resident, I also care deeply about the community on Hawaii Island that I live in and that my crew lives in.
My concern for both the crew and the community compels me to speak today. Mauna Kea is an extraordinarily special place. It also be a perilous place due to its high altitude and unpredictable conditions. This makes safety a particularly important concern for those of us who access the mountain every day, and something I urge you to prioritize.

Several in the operations crew, including myself, have prepared ourselves by becoming certified emergency medical responders. In 2011 our training was put to the ultimate test when one of our own team members suffered a heart attack on Mauna Kea. This was a dire situation, because the nearest hospitals are an hour and a half away in Hilo and Waimea.

We transported our worker down the eight-mile long road from the summit observatory to Hale Pohaku, where we transferred him to an ambulance. Thanks to the quick response, he recovered and he's fine today. This is the same stretch of road that has been closed to the public since June 24th.
In my 20 years working on Mauna Kea, we have responded to cases of acute mountain sickness, cerebral edema, concussion, broken limbs, vehicle accident injuries, to name a few. Some were observatory workers, some were residents or tourists. Serious health incidents occur without warning, and getting the victim down to qualified emergency medical care is crucial. This is why our crew and I believe maintaining order and clear passage of the road on Mauna Kea must be a priority for all who access Mauna Kea, whether they are observatory workers, cultural practitioners, visitors, or others.

As you look for ways to assure the safety of everyone on the mountain now, I hope that you are also guided by a longer term version of Mauna Kea's future. I believe that Mauna Kea is extremely special from many perspective, including, science, environment, and culture, and deeply deserving of stewardship from all of us.

I sincerely hope, and I've heard this
mentioned multiple times, and the speaker just before me, that we all find a way to work together in aloha and peace to help create a shared long-term version for Mauna Kea that we can all be proud of, and I would add my offer of help as well to the last -- to what the last speaker said. Thank you.

CHAIRPERSON CASE: Thank you very much. Number 42, Shelly Munioka.

MS. FUJIKANE: Shelly and I have switched. I have a meeting to go to at 6:00. Aloha mai ka kou. My name is Candace Fujikane. I'm an English professor at the University of Hawaii and I'm here to oppose agenda item C1 and C2. Regarding C1, if the chairperson of the DLNR is granted executive power to close public hunting areas, there will be no public oversight or input in making important decisions about what constitutes public safety or protection of natural resources.

Regarding C2, neither acting administrator of the Division of Forestry and Wildlife, Scott Fretz, nor attorney general Douglas
Chin has identified imminent peril or threats to public safety that can be specifically attributed to camping.

Fretz has called for emergency rule making for the public hunting area is unwarranted, given that hunters and cultural practitioners have been camping on those lands for years. Chin's concerns about the boulders and rock walls placed on the road cannot be attributed to camping. Attributing the introduction of invasive species to the protectors is also disingenuous, given the traffic of 300,000 visitors to the mountain every year.

The placing of unauthorized toilets is not an imminent peril, nor is the consumption of water. Stephanie Nagata, director of the OMKM, has described the protectors as cordial. Clearly this proposal is another effort to remove the protectors from the mountain so that the TMT can proceed with construction. The public is concerned about transparency and accountability. The decisions about the protection of natural resources cannot be left to one person, as a problematic reasoning by both Fretz and Chin illustrate.
I am concerned about how these emergency rule-making processes will impact the ability of (inaudible) to engage in cultural practices. I am not Hawaiian, but as a member of (inaudible) `aina mauna, I have walked with Kahookahi on the ancient kuamoo, some of which fall within the proposed restricted areas. Who engages in walking the trails, the practice of kaapuni ma ka`ika`i, traveling on spiritual kuka`i or journeys taken as occasions to view, remember, and teach the moolelo, the histories and the stories, of the waihipaina, or celebrated places of Mauna o Wakea.

These kuka`i span not one day, but several days. This cultural practice is also critically important to the monitoring of sacred sites, as we have seen desecration happening on (inaudible) parts of the mauna. Water from the sake credited springs (speaking in Hawaiian) have been recently diverted through aluminum pipes down the mauna to storage tanks near Pohakuloa. Who authorized this diversion? Why wasn't the general public notified and allowed to provide input? We need public
oversight in order to protect Mauna o Wakea. And I have photographs before and after photographs of what the springs looked like in 2005 and what they looked like last year.

We have looked out over na `aina mauna, the mountain lands, and we have seen the land as the late afternoon sun cast a yellow glow on the grassy slopes. I think of Poliahu and her sisters Lilinowaiau and Kahookane and the golden pa`u made from the kapa pounded from the rays of the sun. I think of Waiao and Moinanea, the reptilian water deity who is kahu or guardian to Poliahu as she dwells in Waiao during the summer months.

From a vantage point on an ancient kuamoo in the proposed restricted area, we have seen what kupuna long ago would have seen, clouds rolling in around the puu that invoke Kanehunamoku and the other 12 islands of kane, floating high among the clouds. In keau nelenele Moses (inaudible) references three of the islands, Kuhailani, Kelohilani, and Nuumelani as once being home to moolinanea --
CHAIRPERSON CASE: Can you wrap it up now?

MS. FUJIKANE: Just a little bit more. All of these sites inspire the remembering of the moolelo Mauna o Wakea. How many oiwi will miss these experiences if emergency roads are implemented without cause. I urge you to oppose this proposal for the emergency road. Na Kea E Mauna are only doing what you yourselves have sworn to do as members of the DLNR, to protect the conservation district and the sacred lands of Mauna o Wakea. Thank you.

CHAIRPERSON CASE: Thank you.

MS. FUJIKAWA: Do you want to see the pictures? I have the pictures right here. They were amazingly beautiful, the springs were green, there was a carpet of grass. Ku wanted to sleep on the grass when we went hiking last year, but instead of this, what we actually saw was barbed wire around concrete poured to create these reservoirs and aluminum pipes drawing water from these very sacred springs that are
recorded in the moolelo of komiki, who went to Waiau to get water to make awa, and some of the water jiggled out and created these springs that spread across Pohakuloa all the way to Hualalai.

UNIDENTIFIED MALE BOARD MEMBER: Did you follow where the pipes go to?

MS. FUJIKAWA: Yeah, you can see it on Google Earth. Can you see the silver lining of the --

UNIDENTIFIED MALE BOARD MEMBER: Where do they end up going to?

MS. FUJIKAWA: They go down to these four water tanks that are down by Pohakuloa. So anybody can look that up on Google Earth. And we don't know who approved that diversion or whose -- where the water is going, what it's being used for. We are just hoping it's not being used for toilets in the state parks. We have no idea what the water is being used for.

CHAIRPERSON CASE: What was the name of the spring?

MS. FUJIKAWA: The springs are Kahokokane
-- or Hopoʻokane, I'm sorry, Kahopoʻokane and Waihu.

CHAIRPERSON CASE: Thank you. Okay, number 43, Alfred (inaudible) Medeiros.

MR. BUELTMAN: I switched with him. My name is Paul Bueltman. Aloha, my name is Paul Bueltman. I'm from the Big Island. I was just luck to be here to be able to testify against this. You know, there's a lot of testimony that's been given, and I want to be respectful to everybody's time, because there's probably more than a hundred people still outside wanting to give testimony. I'm in opposition of the section C1 and 2.

UNIDENTIFIED MALE BOARD MEMBER: Excuse me. I'm heard of hearing, if anyone can ramp up the volume, please. (Inaudible), please. Is there any way you can put up the volume a little bit?

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MR. BUELTMAN: Sorry, we talk softly on the Big Island.

CHAIRPERSON CASE: Please continue.

MR. BUELTMAN: Okay.
CHAIRPERSON CASE: There's a chair over there.

UNIDENTIFIED MALE: (Inaudible).

MR. BUELTMAN: No, it's all right. I'll be quick. So once again, I'm in strong opposition of section C1 and 2, you know, as a person who lives on the Big Island, and while I can't speak for all my friends and family who are there, I do have lots of friends and family who not only work within the DLNR system, but also up on the mountain, you know, in the observatories themselves, and, you know, I think these rule changes, well, you know, they're under the guise of maybe safety, you know, it seems more like a retaliation to things that are happening on top of the mountain right now. And maybe this -- you know, this simplistic approach may be is just to, you know, just don't build the telescope, you know. Everything goes back to normal. You know, the telescopes that are up there now have several years left of, you know, structural integrity. You know, they're fine right now. They're working.
You know, they talk about advancing stuff now, you know, at the expense of what, you know, you say -- you talk about conservation. You know, conservation is using something now, but, you know, keeping it so that future generations can still use that same resource, you know. You know, there's a lot of words that are being thrown around, but I think some of them have been twisted and misused, but anyway, that's all I had to say about this. Thank you guys for your time and being here to hear us.

CHAIRPERSON CASE: Thank you.

UNIDENTIFIED MALE BOARD MEMBER: Thank you.

CHAIRPERSON CASE: Number 44, Kanawaialiiluka Lindsey. Not here? Okay, number 45, Raymond Kaleoleilani, and I can't read the last name. No more? Number 46, Starsha Cleaver. And 47, child (inaudible).

SPEAKER: Excuse me, my number is 56. If you do call my number, would you repeat it loud, please?


MR. MANUEL: Good afternoon, everybody. (Inaudible) live in (inaudible), which is now known as
(inaudible) valley. My ancestral homeland is
(inaudible), but it's colonized name. So I'm not here
because I am familiar with the details of what you
guys are trying to do. From my perspective, and I
come from a grassroots perspective, (inaudible) out on
the sidewalk every Wednesday holding signs and end
occur and people to protect Mauna Kea.

I'm against the project. I'm against any
rule that helps you to convenience yourselves to
(inaudible) and by doing so inconveniencing the people
that want to protect Mauna Kea, because the mountain
needs to be protected for all the reasons that have
been mentioned before. And I have it written on the
palm of my head, but I just want to say a large part
of what's going on, this rude intrusion on to Hawaiian
places is kind of a racist thing and we look far back
in time we'll see that that's usually at the root of
the problems that we have.

And so if you were to implement these
emergency rules (inaudible) amount of resistance that
it would be able amass on the mountain and therefore
making it easier for TMT to proceed with its --
completing its construction (inaudible) create an
atmosphere in occupy Hawaii, we recognize it as being
such.

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We create this atmosphere or a reality,
(inaudible) and what we have is apartheid, which keeps
people -- it happens in Palestine, it happens in all
occupied places, where the colonized or the occupier
limits the people. The people have rights too, and
please (inaudible). (Inaudible).

But you know, we have a lot of stolen
things here, and being that I'm set, I know my
history. My people were brought here to be exploited
by the haoles on the plantations. And Filipinos like
to kind of make the claim that helped to build Hawaii,
but I don't think (inaudible). Yeah, we didn't build
Hawaii. The land was stolen from the Hawaiians and
the haoles brought us in.

CHAIRPERSON CASE: Time for you to
summarize.
MR. MANUEL: Yeah, and so I just want today make that point, because I don't think a lot of people make these points. Sometimes (inaudible) places, but we need to consider that too, the considerations that you have. And don't build TMT, please.

CHAIRPERSON CASE: Thank you. Number 50 we have (inaudible) Connor.

SPEAKER: Aloha, my name is (inaudible),

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and you already know, me, I always try to just speak up for our people, speak up for what is right, and I would like to send a clear message to both sides of the aisle, because where I come from, what is right is right, what is wrong is wrong, what is fair is fair. So I gonna say on the part of the state and attorney general, I was trying to wait for you to say specifically what was the exact threats that was given, and he failed to do that. And so I say it to you, to the board, that for you to consider making this rule is like a knee jerk reaction to something
that is vague and conclusionary. So for that purpose
you need to just outright reject it.

However, on the other hand, I do
recognize that -- and I talked to Kahookahi. I talked
to the leaders on the mauna, and, you know, it was out
of their control that the pohaku end up on the road.
Some of the people decided to do that on their own and
so I say for on our side, if we want to be able to
continue to make progress forward, we cannot continue
with this kind of negative attitude. I watched
Facebook all the time and I started to see kapu aloha
go out the window and people give into their emotions.

So on our side we have to remain paa to
this concept of kapu aloha. And I gonna tell you

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that's a very rare thing for me because I come from a
place of violence, and to respond to everything I
don't like with violence. And these two young men
went teach me about kapu aloha. I gonna push 51 next
month, and I got these two young 20 year olds telling
me about kapu aloha, and I accept that wholeheartedly.
So I say to you, I'm committed to that, and I'm
committed to pushing our people forward through kapu aloha.

And for those of us that stand on our side, hey, enough with the craziness, brah, because you're hurting our cause. So I know a lot of people no like to speak up against our own people, but for me what is right is right and what is wrong is wrong and what is fair is fair. And so if you folks on the board want to be fair, then be fair to us as well. You hurting the hunters. You hurting the people that demand on the mana that didn't have nothing to do with the protest, and you know that this rule is only because of the protest or, or the protectors. You know what I mean, that's the right (inaudible) for that, is the protectors.

So I ask you to not consider -- or reject the claim until they can come to you and show you proof of threats. You know, this thing about blocking the road. That's one problem. I understand that, because that's interfering with interstate commerce,
and that's a federal law. You can go prison for that, and so we need to be mindful of that, but, you know, that was one incident, and it's pau already. It took the protectors to go clear the road on their own without being asked. So you guys need to consider that.

And let's come to place where we end this already, all right. We need to get to that place where we can sit down and discuss how we gonna resolve this issue, because if you stand strong and you no like move, TMT no like move, and the protectors not gonna move, we not gonna go to place. We need to resolve this and we need to resolve this now. Aloha.

CHAIRPERSON CASE: Number 51, Kimo Kaleohano.

MR. KALEOHANO: Aloha mai ka kou.

(Speaking in Hawaiian). My name is Kimo Kaleohano. Mahalo for the opportunity to testify today. I'm speaking on behalf of myself, my ohana, and (inaudible) Robert Ibenez, who could not be here today due to medical reasons.

I won't spend my time talking counterpoints to the ridiculous arguments and
accusations based in nonsense that are being spun by TMT, their PR firm, UH, the current administration, as I'm sure they have and will continue to be well refuted today. Nor will I waste time discussing the legality of the proposed rules, as they are illegal under numerous U.S., state, United Nations and international laws.

Everyone in this room knows that this attempt at emergency rule making has no more to do with public safety than Lauren Thurston and his committee of safety had to do with safety. This is clearly a conspiracy to stop kanaka maoli, as well as non-kanakas from exercising their civil, Constitutional, and indigenous rights in protecting Mauna Kea, our history and our culture.

This is clearly evidenced by West Hawaii Today's release of internal emails between members of this board and other agencies in the current administration.

But I would like to talk about what you as a board can do. You can fulfill your kuleana to your own mission statement, to enhance, protect, conserve and manage Hawaii's unique and limited
natural, cultural and historic resources, held in public trust for the current and future generations of

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1 Hawaii Nei.

2 This is nothing -- there is nothing natural, cultural, or historic about what is being attempted here today. Please set aside your poll 0 particulars, personal agendas and the influence of big money and stand up for our people and the very resources you're supposed to be protecting.

3 I ask you, Ms. Case, Mr. Roehrig, Mr. Downing, Mr. Gomes, Mr. Oi, Ms. Woodside, and Mr. Yuen, who and what is it that you stand for, our people and our 'aina or big corporations and their money?

4 In closing, I humbly ask you, please, rise up. Be strong and courageous. Stand with us, not against us, in protecting our mauna, our history, our culture and our future, and oppose this emergency rule making. For many of us the sacredness of Mauna Kea is a very real thing.
My 5th great grandfather, Samuel Kaleohano's bones were carried on the mauna by my 4th great grandfather, George Kaleohano. And those bones, although they're long gone, are -- excuse me, although those bones are long gone, that mauna is just as sacred to me as your grandparent's graves are to you.

Onipaa, till the last aloha `aina lives. Mahalo tore your time.


UNIDENTIFIED MALE: He's 56.


SPEAKER: (Inaudible) switch.

CHAIRPERSON CASE: Oh, yeah, sorry.

Shelly Munioka.

MS. MUNIOKA: Aloha mai ka kou. My name is Shelly Munioka. I'm here testifying today on
behalf of Kahea, the environmental alliance.

Unfortunately my computer just went on the fritz.

Right now, as this second, as you can see --

CHAIRPERSON CASE: Do you want to switch with number 56?

MS. MUNIOKA: Oh, that would be -- that would be awesome. Switch with me, uncle?

MR. DUDOIT: Yes.

MS. MUNIOKA: You go first, please.

CHAIRPERSON CASE: She has to reboot.

MR. DUDOIT: Okay.

CHAIRPERSON CASE: Number 56, Charles (inaudible).

MR. DUDOIT: Pronounce my name, please, correctly.

CHAIRPERSON CASE: Well, I would say Dudoit.

MR. DUDOIT: You got it.

CHAIRPERSON CASE: All right.

MR. DUDOIT: Close enough.
CHAIRPERSON CASE: How do you say it?
MR. DUDOIT: Dudoit.
CHAIRPERSON CASE: Okay.
MR. DUDOIT: I'm French, Hawaiian, English.
Can you identify yourselves, please. I'm hard of hearing and my site is not that good. Sir, but start.
UNIDENTIFIED MALE: Madam chair.
MR. DUDOIT: Please.
MR. WYNHOFF: Bill Wynhoff, from the attorney general's office, sir.
MR. DUDOIT: Thank you.
MR. WYNHOFF: You're welcome.
BOARD MEMBER WOODSIDE: Aloha, Ulalia Woodside.

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MR. DUDOIT: Thank you.
CHAIRPERSON CASE: Suzanne Case.
MR. DUDOIT: And you're the chairman?
CHAIRPERSON CASE: I am.
MR. DOWNING: Keone Downing.
MR. DUDOIT: Thank you. Mahalo.

BOARD MEMBER ROEHRIG: Stan Roehrig.

MR. DUDOIT: Repeat that, sir.

BOARD MEMBER ROEHRIG: Stan Rolick.

MR. DUDOIT: Stan Rolick.

BOARD MEMBER ROEHRIG: Roehrig. Yeah, I'm hard of hearing.

MR. DUDOIT: Sir?

BOARD MEMBER YUEN: Chris Yuen, a board member.

MR. DUDOIT: Okay, sir?

BOARD MEMBER OI: Thomas Oi.

MR. DUDOIT: Repeat that again, please.

BOARD MEMBER OI: Thomas Oi.

MR. DUDOIT: How do you spell that?

BOARD MEMBER OI: O I.

MR. DUDOIT: Thank you. Please, would you read these carefully. I want to preserve my voice. I've spoken so much. While you're reading that, you might review your papers published by the

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Honolulu Advertiser last month on the 26th. I'm on the front page, and it was a specific word used for my emotions at that particular time, and, yes, I was emotional. I'm 84 years old. When I was 12 years old, I saw my grandmother cry because Lanai was being bombed. We were eating mango upon the porch and every time a bomb would drop, (inaudible). And I says, what's going on with you, you know, to my brother, my older brothers. I'm 12 years old and I didn't understand what she was doing. To me, it was like live TV today. We didn't have TV in those days. It was live TV. I said, man, this is the best picture I ever saw so far in my life, not realizing what was happening.

And it took me 84 years to come to this point. On the 25th I went up there to see what was going on on the mauna. I was so disturbed, on the 26th I go up there and I'm watching again. Everybody is talking, the DLNR offices are walking proudly, and they should be, but guess what, they weren't watching the keikis, the babies running around loose, it's parents are so busy talking to everybody else, the police is so concerned about watching traffic, and going on, and guess what, a baby almost died in front of my eyes. This is my flesh and blood. We're
talking about flesh and blood on the next generations
to come, future, future, future generations it moved
me to the point that I almost -- in fact, I lost it.
I took all my clothes off. I'm a diabetic. I took my
slippers, my socks off, all in my BVDs, and you know
what, those boys covered me and started to pray. And
I was so moved.

I thought I was there maybe to sacrifice
my life for these keikis. And that keiki almost died
in my place. This is reality to me. Where is the
DLNR up there watching traffic and then concerned
about the keiki? What do we do when they die and the
next generation make, make, make. There will be no
Hawaiian blood, but guess what, the Hawaiian blood has
circumvented this globe even before Hokulia. Prior to
that Hawaiian music has circulated. If you ask the
Hawaiian population here --

CHAIRPERSON CASE: Time for you to wrap
it up, Mr. Dudoit.

MR. DUDOIT: Pardon?

CHAIRPERSON CASE: It's time for you to
wrap it up.

MR. DUDOIT: Make it short. You read the statement that I wrote. Let me tell you my second amendment to this note, which I am giving you a copy of, I state, I'll ask my hanai grandson Barack Obama to come home before Christmas to help us and to be very careful that the enemies of this world don't jerk on his chain and have us, the U.S., bankrupt. Thank you all and aloha for your time. Everybody is tired. You need some rest. (Inaudible) -- I don't know what else to say. Thank you.


MS. MUNIOKA: Yeah. Okay, (inaudible). My name is Shelly Munioka, and today I'm testifying on behalf of Kaheia, the Hawaiian environmental alliance. I'm in strong opposition to item C1 and C2. Before I get into the bulk of my testimony, I just wanted to say that when issues of access to a specific area is being discussed, it's (inaudible) possible (inaudible)
take place on an island in question. So in this case
the Big Island, yeah.

So today, 12:45, we're going to start at
1:00, received a time that a new draft and proposed
rules, and I think the changes that were made are
substantial and the item should have been -- at least
C2 should have been reagendized. The new version has
categorical exemptions for folks that work at the
facilities. It also -- yeah, I think it was

substantially (inaudible), something to look at.

In terms of C1, the delegation of
authority to the board (inaudible) close public
hunting areas is unnecessary. The proposed language
calls -- the instances requiring closure relatively
rare, thus the administrative burden it would be
alleviated by streamlining would be minimal, while the
potential abuse for this kind of power is great.

To create an emergency rule -- and I'm on
C2, the agency must show imminent peril to public
health and safety or natural resources. The only
clear imminent peril to public health and safety is
the closing of bathrooms and the removal of 
Port-a-Potties provided by the protectors and cutting 
off access to water. Hydration is key on the mauna. And forcing people to relieve themselves in the 
wilderness is creating an avoidable public health and 
sanitation issue.

If indeed we are to talk about the peril 
to natural resources, it begs the question why no 
emergency roads were put in place in '98 when the 
auditor's report said plainly that UH's management of 
Mauna Kea was inadequate to protect her natural 
resources.

Why not in 2005 when the auditor found 
that DLNR did not provide a mechanism to ensure 
compliance with lease and permit requirements? Why 
not in 2010 when the CDP was given to the TMT, a 
project that admitted, if built, would contribute to 
the cumulative significance, substantial and adverse 
impacts already caused by existing telescopes? How about just a few months ago when
people reported -- or, actually, one month ago people reported that machines in the mauna were leaking oil directly on the ground, why not then?

Why has there been so much documented dereliction of duty with no consequence, no punishment, and yet now an emergency of imminent peril is being declared?

Mr. Chin has cited rocks in the road. Those were removed the day after the action, yet the road has remained closed still till today. Telescope operators have been allowed unrestricted access up and down the mauna, while cultural practitioners are only be allowed between the hours of 1:00 and 2:00 and only if an escort is available to take them.

This points to an arbitrary application of rules, and actually, when people ask for them to produce the rules that they're enforcing, they're unable to do so. So I don't know what's being enforced, actually, but it's being applied unevenly, yeah.

So the pohaku that were placed there were
placed there to prevent further desecration of Mauna Kea. They were there, removed by hand, not requiring heavy machinery. And HRS 703-30 permits a person in certain limited situations to justify disobedience to criminal law if the harm the act sought to avert far outweighed the harm sought to be prevented by the law.

The construction vehicles were imposing imminent harm. In this specific situation, the rocks were placed to prevent irreversible damage to body of our aqua. When we say that Mauna Kea is our kupuna, we mean it in a literally sense. People are acting out of a protection of an elder.

Chin said the individuals remaining in the area have caused visitors and workers to feel harassed.

CHAIRPERSON CASE: You need to wrap up now.

MS. MUNIOKA: Okay. And we were all here last month. Ms. Nagata was asked directly if there had been any confrontations, and she described the protesters/protectors as cordial. So the

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justification of imminent peril is dubious at best.

So the last section of the rule prohibits
from entering or remaining in the area from 10:00 p.m.
to 5:00 a.m. now, and the opinion that came out of
PASH guarantees access for customary and traditional
practices in connection with undeveloped land, which
this is, and state's (inaudible), the state does not
have the unfettered discretion to regulate the rights
of ahupua`a tenants out of existence. This proposed
rule will amount to regulating rights out of
existence, because it would criminalize nighttime
celestial observations, sunrise ceremonies and other
practices that require access after dark.

It's the rising, the traversing and the
setting of celestial bodies that's key to the
practice, so asking us to leave in the middle of the
night for six hours and come back is not -- that
doesn't -- won't allow us to continue to practice.

In closing, I just wanted to quote David
Ige, actually, who said let me be -- my computer died.
He said something to the effect of let me be direct,
the public -- the public roads will remain open and
we'll do everything in our ability to ensure lawful
access. That's basically the same position we have.

Mahalo.

CHAIRPERSON CASE: Number 57 is not testifying. 58, Luella Leonardi.

MS. LEONARDI: Aloha, madam chair and board. My name is -- let me start off. Am my father's daughter. His name is Kanakaoo Niaupio, and my name is Luella Koohealani Leonardi. I have a bachelor of arts in geography, cartography, and GIS. Today I am here to talk about pohaku and its reference to hui alaloa.

I mentioned my father because during his time pohaku was essential to his survival. Pohaku has many uses. Pohaku is used to grow plants, to give birth, to build fishponds, and to build outhouses. My father was born at 1845 Maunawili Road, in Kailua on Oahu. He also passed away at the age of 87. On our property -- on his property we still have outhouses. My grandmother sewed clothes for Liuliu. I had to use that same outhouse when I was a little girl.

I'm -- you know, I'm asking myself, where
20 is the civility here? I am a human person. I make number 1 and I make number 2. At my age, I have to rock to maybe make number 2, and sometimes -- and shishi -- when I make number 1, have I to go often in, at my age, in hopes and in hopes that I make it in time.

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I made on a reservation to go to mauna a month ago, and I'm taken that I have to worry about using the restroom, because I'm going to go in about a week. And I have to ask, Kanua, what you folks doing up there for restroom, because, you know, if I go up there and stay a whole week, what should I do? I need to go.

I'm aghast that I have to ask him those -- have a conversation about using restroom. Okay, and I was out there on the wall talking to my friend Mano, and I was looking at at that art work that Isamu Noguchi made in 1977. You know, we used to call that the King Kong toilet bowl. I mean, he get one over there, and I no more when I get to go to
Mauna Kea. By the way, I'm from Waianae.

In 1978 -- very quickly, in 1978 public law 95-341 hui awaloa, I had to go to Kahoolawe and walk from Kiawekahiki, Honokanainai, Pumai`iwi, and over Hakewala in one day's time and return. Public law 95-341, we didn't make rules then, and we -- and I see that we're coming close to it making rules for public law 95-341. Most of our people don't know what is public law 95-341, but we had to access -- we had to hui alaloa in 1978. I'll be really quick.

There was a -- that night on Kahoolawe there was an archaeologist that was doing his objectivity on his science project, and he was trying to tell all of us that he is the owner of Kealaekahiki, so I stood up in front of 200 people and I turn and I told him, I said, Kealaekahiki is very sacred to it my people. This -- you cannot own Kealaekahiki and turn it into metes and bounds. That's what he was doing that the.

CHAIRPERSON CASE: Can you wrap it up now.
MS. LEONARDI: On Molokai a week later, Cynthia Thielen, I turned around told her her consent decree, we all voted it down because on her consent decree it allowed the military continue on bombing. It allowed the military to continue on bombing (speaking in Hawaiian). Okay, I came from Oahu and I went up and I talked to my uncle Randy about our trip.

CHAIRPERSON CASE: (Inaudible).

MS. LEONARDI: And I told him we were picking up pohaku and we had to make this path way from Honokanainai over to Kealaekahiki. He asked me what color. I said, oh, all the rocks that we had — pohakus we had to pick up had to be white. So he was very satisfied that the day later at 9:15 at night I went to talk to uncle Sam Lono.

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1                  CHAIRPERSON CASE: Time for you to wrap up.
2                  MS. LEONARDI: I went to talk to uncle Sam Lono, and I turned it around and I told him, I said, uncle Sam, I saw this pohaku, this cradle for a
baby, and I looked at him and I said, very emotional, before I left the `aina I put a poopoo inside the cradle. Uncle Sam Lono began to tell me all about the cradle and its purpose.

I'm very blessed to have known him. And I will wrap this up. I am asking all of you, you know, in this protect Mauna Kea, I'm asking you to -- to take care of our people, because even uncle Sam Lono was arrested at Kualoa park and cited, and all he was doing was Kahea because of the iwi that was inadvertently taken out.

We also did Mokapu within that month. We did Mokapu, access to Mokapu, and he asked us to bring pohakus, and we asked him why. And he said, never mind, just bring it. So this whole thing about pohaku, I'm taken by the way the haole man look at the pohaku and the way I look at pohaku.

As far as I am concerned, I am very happy the pohaku was on that road. The pohaku be on that road, then our people, our young people's body be on
CHAIRPERSON CASE: Ma'am, time for you to wrap up.

MS. LEONARDI: I think the signs that everybody here would rather see a body on the road rather than a pohaku. What is more dangerous here.

CHAIRPERSON CASE: Thank you.

MS. LEONARDI: And please return the lua.

CHAIRPERSON CASE: Number 59, Greg Johnson.

MR. JOHNSON: I absolutely admire your endurance, and that of everybody else here. It's really impressive. I'll be very brief. I'm but a guest here. I'm from Colorado.

CHAIRPERSON CASE: I'm sorry, can you say your name.

MR. JOHNSON: Greg Johnson. I'm from Colorado, so I know a bit about rocks and mountains. The point of what I have to say here is I have a perspective that may have not heard today. I was on the mountain the 23rd, the 24th and the 25th. I'm a professor of religion, and I was up there because I study sacred land issues. I learned a lot on the night of the 23rd about kapu aloha from the protectors and during their strategy meeting, and I have to say
it's my professional opinion, as a scholar of religion, that that absolutely meets every standard of reasonable religion would meet any legal test of what counts as religion, and the kind of practice of love of place that they simply exude is, to me, astonishing and humbling.

So anyhow, took that in, admired it a great deal personally, but also professionally. The next day, with my son, walked up with the protectors as an observer, a sympathetic ally to be sure, but as an observer. I was there as the various folks got arrested, and the point I wanted to most emphasize is this, as leaders of the protectors who were most -- who most set the tone for kapu aloha got arrested, mist and rain began to fall, obscuring vision. When it became clear that the leaders were gone, there were a number of younger men who clearly were not part of the leadership, and they took it into their hands to move the rocks month the road.

I witnessed this directly. It was a very marked departure from the kapu aloha that had been so
clearly articulated and held to that moment. So the media story that this is generally what happened on the mountain strikes me because I was there and saw it as wrong and offensive and I just wanted to bring it to your attention that it was the act of very few people, and an act that an emergency rule like this would be a disproportionate response to, particularly in view of the kinds of religious freedom issues that might merge in response. So thank you for your time.

CHAIRPERSON CASE: Thank you. Number 60 is not here, 61. Number 62 is Malia Akutagawa. She went already. (Inaudible).

MR. WONG: Aloha mai ka kou. My name is Sterling Wong. I'm the public policy manager for the Office of Hawaiian Affairs. We provided detailed written comments. I'm going to highlight some of those.

OHA opposes the provisions in C1 related to the delegation of public hunting area closures by BLNR to the department. OHA opposes these provisions because they will limit transparencies and
opportunities for public input for decisions that
could significantly and adversely impact
constitutionally protected native Hawaiian traditional
and customary practices.

OHA opposes submittal C2 due to a number
of technical, statutory, cultural, environmental,
public safety, and Constitutional concerns, as well as
the potential for unintended natural, cultural, and

public safety impacts, all of which may expose the
department to a range of legal challenges that could
drain DLNR of fiscal staff, fiscal staff and legal
counsel resources, otherwise necessary to more
effectively manage our island's cultural and natural
resources and the public trust.

Our written testimony details many of the
legal issues relating to the submittal, including
concerns regarding the written justification for why
rule making is required in less than 30 days' notice
of the hearing and lack of specific evidence
demonstrating imminent peril to public health, public
safety, or natural resources. Therefore, I won't go
into those specifically now.

However, I wanted to take this
opportunity to provide some general conflicts.
According to rangers' reports, since March 25 — 25th
about ten protectors have continuously been on the
mountain. At some points during that period that
number has increased to nearly 200. In stark
contrast, according to OMKM, an average of 100,000
people have visited Mauna Kea each year since 2002.
That's about 270 people a day, every day, for over a
decade who have not triggered any finding of imminent
peril to public safety or natural resources requiring

emergency rule making. And even in those occasions
where public safety or natural resources were
impacted, there was still no apparent need for rules.

And so I just wanted to take the
opportunity to pass out a couple of pictures that I
found on the Internet, and the funny thing about the
Internet is when people post pictures on Mauna Kea,
they tend to post them with the telescope so you know
it's actually Mauna Kea.

These are incidents that we have found that have occurred in the last I think two or three years that all raise significant public safety issues, and none of these incidents triggered some sort of need for emergency rules. So our question is if emergency rules weren't needed for these incidents, why are these needed now. So let's just go through.

So we have a body boarder going, I don't know, whatever. This is actually a rental car that went up to the summit. Apparently the driver left his car in neutral, got out of the car, left his wife in the car. It started rolling down. She had to jump out. It literally rolled down the summit.

This is a fire that happened at the Gemini center. There's actually an YouTube video of them trying to extinguish it with fire extinguishers.

I believe that's a rental car. It's on fire.

Sorry, just really quick. That's ESPN X Games that I used to photo shoot up there. That's a
skier. There was actually a big ramp over here. He's jumping over the access road with two police officers throwing shakas.

This is Crossfit. I need to see what they're doing. I don't know what this lady's doing, butts anyway, thank you for your time. Mahalo.

CHAIRPERSON CASE: Thank you. Number 63, Walter Riddy.

MR. RIDDY: Aloha board members. I came from Molokai to kind of talk story about this situation. We got a battle going on up on Mauna Kea and I'm really proud of everybody today. I think they giving us choke information. I can't add to any of the legal stuff. There's a lot of legal things hanging in the air on this one, but what I wanted to talk about was the real war.

All of our resources are depleting. It was easy for us to understand that when we had to deal with Kahoolawe. It was pretty in your face. This one is a little bit slower. It's like a cancer that's going on, and I'm really worried about the ability of DLNR to resolve some of these issues that we find
ourselves in, because the legislature is literally cutting your guys' budget and your manpower is getting less and less. And I think that when Abercrombie decided to do the PLDC, people reminded him that it's not a good idea to privatize natural resources for private entity and profit making. So that went up in smoke.

So that leaves you with very few options, and one of the options is to find allies. And you cannot find better allies than the Hawaiian people. You have the same kuleana as the Hawaiian people have, and we have answers that are 2,000 years old, and have allowed us to survive in these islands.

So for you guys to start making us the enemy is a bad mistake. So this stuff that's going on now, everybody can see through this smoke screen. I mean, we've got stuff from the Internet right now showing what happened. This is is targeted to the Hawaiians because of what we doing up on the mountain, and nobody can really dispute that. Nothing has been proven.

But I wanted to get back to the idea of allies, we the Hawaiian, we allies. We've been talking to environmentalists, trying to join and make
environment. And we would love to go to the legislature and increase your budgets, but recently I was involved in a pushing and shoving up at Mauna Kea and I had a different view of DLNR and enforcement division. It was a really bad feeling and a bad view that I had.

We need to get that out of our mentality. We need to stop playing these konani games between protectors and attorney general's office. This building should be different from that building. You cannot have the governor coming over here with his long arm, with his schemes that he's putting before us. It's going to divide us. If we have legitimate proof, concerns, fine, you guys have to do what you have to do to provide public safety, fine, but this kind of stuff, it's really bad. You guys are looking really bad because you can see right through all of this.

These rules, it's not worth (inaudible).
If you guys are going to come up with solutions, you have to be working with the Hawaiians really closely. I think county police guys are working pretty good. They tell us exactly what's going to happen and everybody is prepared. We need to have much better relationship with DLNR, much better, because in the long run we're going to lose this war without resources if we don't find allies. And I'm here to say we want to do that.

Whether or not TMT is worth splitting up the allies, I'm not quite sure, but you heard the testimony today, so that's your decision to make. But I'm truly against C1 and a little bit against C2. C1 is going to cut our lines. I mean, you guys are only line to this building. You take that away, and give it to the chairperson and to the staff, you cutting our lines for us to become allies. So don't do that. You know, we need to be more engaging. I think you guys learned a lot today. You sat here a long today and learned a lot, and a lot of you are new, so that's a good experience. Some of you are old timers
(inaudible) stories.

UNIDENTIFIED MALE BOARD MEMBER: You older than me.

MR. RIDDLY: Well -- but -- you want to be allies and just in case this actually goes through, I want to make a formal request for contested case hearing, just in case this thing work out. So I don't know how to do a formal except to say it to all of you, that I would like to say that I would like to have a formal contested case hearing, and I hope we can be allies.

CHAIRPERSON CASE: So can he make a contested case request dependent on how the vote goes?

UNIDENTIFIED MALE: He's going to have to follow up in writing.

CHAIRPERSON CASE: So follow up in writing.

UNIDENTIFIED MALE: Make the request, and if you wish to follow up in writing, depending on what the outcome is, then please do that, sir.
BOARD MEMBER ROEHRIG: Madam chairwoman.

CHAIRPERSON CASE: Mr. Roehrig has a question for you.

BOARD MEMBER ROEHRIG: What's your name again?

MR. RIDDY: Walter.

BOARD MEMBER ROEHRIG: So here's my question, so you can hear it clearly. You're against 1. You're more against 1 than you are against 2. So explain that to me again.

MR. RIDDY: Well, 1 is really clear that it cuts off our ability to come before this board. And I see this board as our only way to express our satisfaction or dissatisfaction, whatever.

BOARD MEMBER ROEHRIG: Permits, permits, is that what you're saying?

MR. RIDDY: Well, if -- let's say an area is going to be closed, we've got to come -- we can say something before this board, what the impacts are going to be on us and all of that. If you do number 1, chairman, or her designees, can make that decision
and we don't have that ability to come before this board and express our dissatisfaction or satisfaction. It cuts us off. So the more power you give away, the less power we have as a community to come to you, and we need to be coming to you as much as possible, because you guys need allies. We need to be partners in all of this.

BOARD MEMBER WOODSIDE: Stan, can I follow up.

BOARD MEMBER ROEHRIG: That's all I got.

BOARD MEMBER WOODSIDE: I was just going to follow up on that a little bit. In C1, there are several sections that have some delegations, some of them is for entering into contracts, some of them is for coming up with qualifications for disabled hunters, but what I've been hearing as the two sections that are particularly of concern and interest are the two that deal with the temporary closure being delegated to the chairperson.

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MR. RIDDY: Yes.
BOARD MEMBER WOODSIDE: So is that the particular sections that --

MR. RIDDY: That's the section that -- the flag that I saw that raised my eye up, yeah, was closing I guess for mammals and birds.

BOARD MEMBER WOODSIDE: Uh-huh, two sections.

MR. RIDDY: I'm a hunter also.

BOARD MEMBER WOODSIDE: Mahalo, uncle.

CHAIRPERSON CASE: I'm sorry (inaudible).

UNIDENTIFIED MALE BOARD MEMBER: I have a question. I have a couple questions. So -- (inaudible) so I hear what you're saying. I think the dilemma that I feel sitting here is that I also hear a lot of people basically saying that they are so opposed to the TMT that they -- they think it was good to put rocks in the road, that they will do whatever -- whatever is necessary to stop that construction from going forward.

And I'm a lawyer. I'm a person that believes in the (inaudible) rule of law, and there is -- there are legal recourses. There is still legal recourse to stop the TMT. It's not standing in the road. It's not putting rocks in the road. And I am
just -- my dilemma is I don't know what they expect
the government to do when the government, like myself,
is committed to the rule of law.

I'm not sure I understand, but it seems
like people think that the government is just going to
sit passively, because they are so committed and so
earnest in (inaudible).

MR. RIDDY: Well, you have to look at
through Hawaiian lens, this rule of law that you're
talking about, there was no -- there was an overthrow.
There was no annexation. I mean, it's hard for us to
buy that when you have that history that we have to
deal with. And at the same time we're still willing,
because we're so protective of our existing resources,
and, you know, sooner or later we're going to get to
that point where there's going to -- this is a nation
of laws, and sooner or later that law is going to be
corrected.

But in the meantime, we have to work with
the existing system, because our resources are
disappearing so fast. I'm 70 years old. I used to
see fish galore. I know the resources are
disappearing. I know they're (inaudible). I have to
do something to protect it, because I have a kuleana
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
don't play games like this to do what you gotta do.
Make it pono and straight up. And we're gonna have is
to do what we gonna have to do, and we gonna be --
we're saying we're going to be kapu aloha in all of
this. There's no intention what -- in our day, we
weren't kapu aloha. Our generation was not kapu aloha
everything -- I had lawyers keeping me out of jail
constantly. So -- and that's the truth, so this
generation has knowledge that we never had and they
have protocols and guidance that we never had.

You guys got to back up this generation.

This is -- this is a great partnership if you guys
could put it together, to save our resources. That's
the -- that's the end game. The end game is not
whether we should have telescopes on the mountain.
It's the sacredness of all of our resources. We all
know as Hawaiians we came -- we came from Waiakea, sky
father and Hookalani, the star mother. I mean, talk
about irony. That's who we are. We're born of these
people and we're fighting with the telescope guys.
This thing don't make any sense.

UNIDENTIFIED MALE BOARD MEMBER: I wish
there -- I hope there is a way around this conflict.
The only thing I'd like to suggest to you is that

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native Hawaiians have had many successes in the
regular legal system with judges that have, you know,
the U.S. flags next to their bench. They've had many
successes. We are trying -- and this board here is
trying to move the laws -- you talk about resource
protection, we're trying to move the laws in a
positive way.

MR. RIDDY: For every success we have ten
failures. So let's balance this thing. Process,
seven-year process. Why you guys grumbling? We have
a seven-year process. Just look at this process. I
mean, we cannot accept the process that we lose on
every single one on this processes.
So I'm saying, this process, you know, all this stuff that the governor is telling you guys to go do in order to get us off the mountain, that's -- it's not your kuleana. If he wants to do that, tell the governor and his attorney general, go find another way. We're not going to go make enemies out of the Hawaiians who want to protect it, which is what you guys are supposed to be doing in the first place. That just doesn't make any sense. It just doesn't make any sense.

CHAIRPERSON CASE: Mr. Roehrig.

BOARD MEMBER ROEHRIG: When I was 18 I was protestor.

CHAIRPERSON CASE: Can you use the mike.

BOARD MEMBER ROEHRIG: When I was 18 and I went to college I was a protestor, but when they came with the club, they never come for (inaudible). I got hit on the head with a stick real hard, knocked me down. I got hit again on the arm, and the cop was trying to arrest me and I called off and I ran. The
Italian cop tried to catch me and I went in the
dormitory and hid in the closet and I had a headache
for about three weeks and I got away.

And I was throwing rocks and snow balls
through the president's window, me and some of my
freshmen friends, because we didn't like what the
president of the university was doing and I was 18. I
look back at how stupid I was, you know.

And then I had trouble in intermediate
school, Stevenson. I was asked to leave because I was
in a gang. I was at only haole in the gang. Then I
went to high school, I got asked to leave high school.
So when I got sworn in as a law to uphold the law, I
never broke it and I uphold it. I swore to uphold the
Constitution of the United States, Constitution of the
state of Hawaii and all the federal and state laws,
and that's it, and when I look in the mirror, I look
in the mirror and I say I'm proud I didn't break that.

And I tell my Hawaiian clients, I'm not
going to hold sign with you on the road. You wanted
me to protest, I protest in court, according to
precedent of the existing law.

The problem I have with this is Christian
has the same problem, the problem is the case of -- I
got it right here, hang on a minute. You want to take
a look at two cases, one of them is OHA versus State
of Hawaii, 129 Supreme Court 1436. It specifically
says that the apology resolution did not apply to
invalidate the transfer of all the land the federal
government to the state of Hawaii, all the land of the
federal government went to the state of Hawaii
instantaneously when the -- when the statehood bill
was passed in the U.S. congress. That's what the case
says.

So for me, I cannot pretend that Mauna
Kea or want to believe that Mauna Kea is owned by
somebody else, or that the -- or that the apology
thing meant that the -- that the land didn't go to the
state of Hawaii. I cannot go there, and that's the
problem. So I have to go with the existing law. The
existing law says that Thirty Meter has a contract and
a property right. If the Supreme Court hulis that
decision and does something with it, we may all end up
on the same side again. But until that happens, I'm
not going to break my oath as a lawyer because --
because I get Hawaiian family too, brother.

MR. RIDDY: I don't have an oath as a
lawyer, but I also understand international law. So
there's more than just national law, there's
international. That's the difference between yourself
and mine.

BOARD MEMBER ROEHMRIG: And I respect -- I
respect your point of view, because you're a stand up
guy, but I'm older than you. I'm 76. But anyway,
Walter, we need your help. We need your help and what
we gotta do is if the law stays the way it is and the
Supreme Court approves what the Thirty Meter gotta do
and there's still going to be a protest, we're going
to be on the side of law and order.

I am not -- I have to be on the side of
law and order. As long as I'm on the board, I'm on
the side of law and order, and I'm sorry, but I draw
the line right there. I got Hawaiian grandson. He
comes to my house every weekend, prays with my wife
and I, mostly he prays with my wife, tutu, you know,
and they read books, and I look at him and I know he's
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.
Sitting on behalf of my wahine, Leinani and my kids and (inaudible), he had to leave, so I got all their numbers. I guess the first one, C1, I ask you guys to oppose that rule, the hunting part. First it gonna be hunting controlling how we feed ourselves, then fishing, farming, the thing can go on after that, for the first one.

And then oppose the second one too. I got to go up to the mauna that day all the luas got locked, and it's kind of crazy for see even the Port-a-Potties all locked and the next day on the news, well, see the protectors bring up lua for all the tourists and everybody there to just use bathroom, and then next on the news hearing that, oh, they said they lock all the luas because the cesspool is full. The cesspool is full, so you gotta lock all the Port-a-Potties too? Kind of crazy, all the lies and stuffs going on.

Just oppose the two and just trying to write down stuff to say but couldn't. Just listening
to all the guys talking about the law part. Can't understand how you guys stand, but get a whole other generation of us that kind of know more than just what is up to one certain (inaudible) really know more, but they not gonna just stand down because what the law says. It's not pono in our eyes. We standing for the `aina, and the thoughts that our kupuna taught us before, especially with the pohaku up there.

Got a lot I want to say too, but this is where we stand, and we still going to be standing till

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the very last aloha `aina. Aloha.

CHAIRPERSON CASE: Okay, number 66 is going to be Dr. (Inaudible).

UNIDENTIFIED FEMALE: 65?

CHAIRPERSON CASE: 65 already spoke.

UNIDENTIFIED FEMALE: I'm 65.

CHAIRPERSON CASE: Did you -- you swapped with --

UNIDENTIFIED FEMALE: Yeah.

CHAIRPERSON CASE: Okay, come on up.

MS. MILHAM: Excuse me if I don't sit. I
had an injury the other day and that makes that really uncomfortable.

CHAIRPERSON CASE: Can you say your name, please.

MS. MILHAM: Yes, my name is Mary Alice Kaiulani Milham. I am a journalist and I live in Makaha. And I've got put my glasses on.

UNIDENTIFIED MALE BOARD MEMBER: They're on your head.

MS. MILHAM: Yeah, always. Thank you. So for those -- let me tell you a little story. So Sunday I went for a hike at Kaena Point to go see the sunset, and on the way it started getting dark, the (inaudible) rising, and I had brought a flashlight that wasn't fully charged. So got too dark. I didn't see a big mud pit right before I got to the parking lot and I slipped and fell. And I broke my tailbone, and I sprained my right knee really badly.

So that was Sunday. But that was my fault. I didn't come prepared for the hike that I was
doing, and it's very embarrassing to me because I am a
former hiker and backpacker. I've climbed Mount
Whitney and hiked hundreds and backpacked hundreds of
miles, but it was a mistake, and it was a mistake made
because I left my house in a rush. I was under time
pressure to get there to see the sunset, and so wasn't
prepared properly.

My point in telling you this is that
being up in the mountains, being up in the mountains
without safety equipment, tents, backpacks, blankets
is a threat to the safety of someone that's in the
mountains.

We all make mistakes, and when it's done
in haste, you know, we react under pressure. And when
it comes to safety in an alpine environment, those
mistakes can cause great injury, broken bones, and
even loss of life. So you guys say that the purpose
much these rules is that the protectors are putting
themselves at risk by being on the mauna after dark in

hazardous conditions and inclement weather. But in
fact, you are the ones who will be putting them in
danger and at risk by prohibiting backpacks, blankets, tarps, tents and stoves, the very equipment needed to ensure their safety in such conditions.

Without shelter from the elements, people on the mountain will be put at risk of hypothermia, exposure, and other related medical issues. So, therefore, I am abhorred at the proposed new rule. I'm appalled at their blatantly punitive nature guised in a sham of concern for public safety.

I'm also deeply concerned that these rules are being taken as an emergency measure, as if there were an imminent danger inherent in the protectors just being on Mauna Kea. It is illogical, perverse to prohibit the possession of blankets, tents, tarps, backpacks and camping gear and stoves, things necessary to keep you warm and prepare food. It's as if -- I'll wrap up.

CHAIRPERSON CASE: Thank you.

MS. MILHAM: Prohibiting the possession of gear necessary for safety and survival in an alpine environment, you, the DLNR, and the state of Hawaii are in fact or would in fact be endangering lives, not protecting them. So it's in the interest of safety
that I oppose this it proposed emergency rule, and
also warn you that approving these rules will be an
unconscionable and costly mistake. You would be
morally accountable, legally for any injuries and harm
that result.

The right of the protectors to exercise
their religious freedom on Mauna Kea is protected
under the First Amendment of the United States
Constitution. So when we talk about respect for the
law, is that not the highest law of the land, the
United States Constitution?

As you know, a lawsuit was filed I
believe Wednesday in U.S. District Court against DLNR.
Chair Case, Governor Ige, Office of Mauna Kea
Management and UH Hilo Chancellor Donald Straney,
forcing these new rules, restricting the exercise of
religious freedom will be a costly mistake for the
state and for the taxpayers who pay the bills.

CHAIRPERSON CASE: Okay. Sorry, can you
wrap it up, please?

MS. MILHAM: Sure. It will only serve to
take -- make this agency and the governor look as
backward and loathsome as Governor George Wallace in 1963, trying to bar after can students from the University of Alabama by standing in the doorway. Our protectors have vowed to continue the blockade against desecration of Mauna Kea, and I have no doubt that they will continue their vigil and protective action on Mauna Kea, as they have for the past 107 days. There have been three protectors who have been hit by vehicles on Mauna Kea. These are real safety concerns. These are real safety concerns. I would like to see those issues addressed, how these people that have hit these protectors been held accountable? Has there been training for other employees on the mountain to deal with how they drive on the roads.

CHAIRPERSON CASE: Okay.

MS. MILHAM: Thank you.

CHAIRPERSON CASE: Okay, now we have Dr. Chris (inaudible).

SPEAKER: Aloha, Dr. Christopher (inaudible). Kaelepu is where I came from
originally, but, actually, no, (inaudible). So I come from papa and wakea. My genealogy states it. The only genealogy that's in existence that's been proofed by science.

Wow, all right. I am a -- my last job was -- my last paying job was with Office of Hawaiian Affairs as an IT person. I'm field trained EMT and my doctorate is in theology. Actually, I've actually a lot today. I think because all these lawyers here, you guys are like confused about what is lawful. I don't really want to argue like one joint resolution against another joint resolution, because the joint resolution that protects AIRFA and protects, you know, the American Indian religious freedoms act is just that, it's a joint resolution. Congress has no Constitutional ability to practice the law outside of the area that congress can (inaudible). And that law happens to be in the area that the federal government bought, which is D.C.

So Hawaii is not a state, but let's talk
about a different law. Let's see. Selective
prosecution. You guys are lawyers. You guys should
is be familiar with that. It's when you specifically
attach prosecution to a place or a thing that is
outside of the guidelines of political or other
effect. And I think the -- on the agenda is C1 and
C2, and I disagree with both.

I have traveled around this island
several times, walking with (inaudible), carrying
(inaudible) during makahiki. We have welcomed many a
school and many organization --

CHAIRPERSON CASE: You need to summarize

now.

SPEAKER: -- and location. And we do it
by sight of the star. We walk with our ancestors that
are up in the heavens. And to deny me that right is
against anything that any good lawyer should
represent.

CHAIRPERSON CASE: Thank you.

SPEAKER: Aloha.

CHAIRPERSON CASE: Okay, number 67 is
going to be somebody representing Native Hawaiian Legal Corporation.

MR. COPPER: Good afternoon, chair, members of the board. My name is David Copper. I'm an attorney at Native Hawaiian Legal Corporation. I represent Kalani Flores, he's a native Hawaiian with traditional and customary practices on the mauna. We oppose these rules, and we oppose them based on existing legal precedent.

First, I think it's very clear that the department has failed to meet the requirements of Kapaa Kai o Ka `Aina versus Land Use Commission. Its case by the Supreme Court, and it said that state agencies have an affirmative duty to preserve and protect traditional and customary native Hawaiian rights. This means that before you enact these rules, you must identify the scope and existence of traditional and customary native Hawaiian rights, the extent to which those rights will be infringed by a proposed action, and you must protect those rights.
The looked at the staff submittal. There's no Kapaa Kai analysis in here. None has been provided by the attorney generals. That's existing legal precedent. You cannot enact these rules without an analysis.

I'd like to talk more about the rules. I think it is clear that it's unneeded. I know Member Yuen, other members have shown concern over, hey, it's great what's going on and you appreciate the passion, but there's rocks on the road, there's danger. The proposed rules do not address that whatsoever. There is nothing in the proposed rules which addresses safety is because there's rocks on the road.

Well, so let's do a lawyer trick. We're going to pretend, okay, let's assume everything the opposition, the department is telling us is true. Well, they're saying there's illegal activities happening on the mountain. Okay. Well, why do we need these rules? We already have rules making these supposed activities illegal. Well, I believe I heard the attorney general's office say our current rules
are not specific enough.

I have the rules. This is how specific they are. Okay, it's prohibit today remove, damage or disturb natural features. Rocks in the road. To remove, damage, or disturb prehistoric remains; to remove, damage or disturb any notice, marker, structure, and to occupy any building; engage in any construction of improvement; introduce any plant or animal; and/or remain in this area under the influence of alcohol, drain, dump or leave any litter; deposit any body waste; build any fire on the ground or in any structure; and of course residing in this area.

So it's already illegal. Why do you need to have more rules? Just enforce the rules that you already have.

So, again, that's my question. Why do we need more rules? Well, the Tribune Herald, as great as they are, they found some emails. And we all know why these rules are out. It is very clear that it's for political reasons, to support the TMT telescope. And I don't want to put words in anyone's mouth, but someone called these rules, the proposed rules, a home run. And very briefly I'd like to finish.

They say these rules are a home run. And while I caution you to adopt these rules, I agree,
they are a home run. If you want to violate Kapaa Kai, it's a home run. If you want to step on native Hawaiian rights and the rights of the public, then you knocked it out of the park. And if you wanted to enact needless rules at the expense of the Constitution, it's a grand slam. There — look at these rules for what they are. There's no need to strike out on this one. Thank you.

UNIDENTIFIED MALE BOARD MEMBER: So you've heard — you have a general idea of what — I'll just call it the encampment.

MR. COPPER: I have a general idea.

UNIDENTIFIED MALE BOARD MEMBER: Is that a violation of the existing rules, in your lawyer's opinion?

MR. COPPER: I haven't seen the encampment, but it sounds like the department is saying it is. We've heard that camping is illegal. If there is camping, then yes, it's illegal.

UNIDENTIFIED MALE BOARD MEMBER: Well,
you just told us that everything — that a whole bunch
of things are already illegal. I'm just asking you is
what is — people staying overnight at this encampment
currently illegal?

MR. COPPER: Well, I'm saying that's what

the department is telling you, that it is illegal.

UNIDENTIFIED MALE BOARD MEMBER: That's
not --

MR. COPPER: If you ever need more rules.

UNIDENTIFIED MALE BOARD MEMBER: That's
not what you said.

MR. COPPER: It is what I said. I said
let's do a lawyer trick. Remember? I said let's
assume what the department says is true. That's what
I said. And I -- and in an effort to (inaudible) my
time, I may have spoken too fast, but that's what I
said. I said, let's do a lawyer trick and assume what
we're being told is true. And why do we do this?
It's to show how ridiculous the proposed position is.

This is what they're saying, help, it's
an emergency. People are doing illegal things. So
what are we going to do? Make them illegal again.
That's what they're saying.

CHAIRPERSON CASE: So in your mind, is it a violation of the rules, what's happening right now?

MR. COPPER: From what I understand, there are very few people that have committed violations. We know that the vast majority of the people on the mountain did not place those rocks.
They're cordial, but it goes beyond that.

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CHAIRPERSON CASE: What about spending the night on the mountain, is that camping?

MR. COPPER: Tell me.

CHAIRPERSON CASE: So you're not willing to say, so that sounds like you think it's ambiguous.

MR. COPPER: What I'm saying is, again, these rules, even the rules you have now, are trampling on native Hawaiian traditional and customary rights. Unfortunately there is no analysis, which you are required to do before enacting any rule, if there is an effect on traditional and customary native
Hawaiian rights, you have to do the Kapaa Kai
analysis.

UNIDENTIFIED MALE BOARD MEMBER: You know, you said that.

MR. COPPER: Right.

UNIDENTIFIED MALE BOARD MEMBER: You said that a few times, but all we're asking you is if you think the present rule barring camping is ambiguous with respect to what's going on.

MR. COPPER: No.

UNIDENTIFIED MALE BOARD MEMBER: And you --

MR. COPPER: And if that's the question, then no.

UNIDENTIFIED MALE BOARD MEMBER: And so you think it is camping, what's going on up there is camping and it violates the rules?

MR. COPPER: I've never been up there. You can laugh about it, but I've never been up there.

UNIDENTIFIED MALE BOARD MEMBER: Well with, sir --
MR. COPPER: If you want to tell me, is there camping going on there.

CHAIRPERSON CASE: Ma'am, ma'am, he's testifying.

UNIDENTIFIED MALE BOARD MEMBER: I'm going to -- I'm not going to -- I'm spending any more time on this line of questioning.

CHAIRPERSON CASE: All right.

MR. COPPER: That's fine, and like I say, the person I represent, you may call him protector, protestor. This is someone with traditional customary practices, and these practices, which occur at night, which are well documented in environmental disclosure documents which have been submitted to the board, are being affected by these rules. And if you did a Kapaa Kai analysis, you would see that and address those rules.

UNIDENTIFIED MALE BOARD MEMBER:

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(Inaudible).

CHAIRPERSON CASE: Mr. Roehrig, please
BOARD MEMBER ROEHRIG: I'll try to be short. I've done a Kapaa Kai analysis on it too, and with disrespect to you, I've been representing the Hawaiian community for more than 45 years on cases all over the state, all the land cases, and your boss and I are buddies. We were in the war back in the '70s. So I've done the Kapaa Kai analysis myself, and it isn't so clear to me, unfortunately.

If I was convinced beyond some doubt that you were right, I would be a lot more confident than I feel right now, because my analysis is that the state has the right to regulate PASH rights, and that's what's in article 12, section 7, right at the end it says state has the right to regulate it.

MR. COPPER: But not out of existence.

BOARD MEMBER ROEHRIG: Wait a minute. Hang on there, counsel. Regulating out of existence isn't the same thing as a temporary rule that lasts for 120 days. If we -- if we passed -- if we passed a law that outlawed it on Mauna Kea, then I believe it would come within the purview of Lin -- hang on.

UNIDENTIFIED MALE: The state doesn't
have any (inaudible).

BOARD MEMBER ROEHRIG: Lin versus (inaudible) Indian Cemetery Protective Association, 108 Supreme Court, 1319, 1988 case, U.S. Supreme Court. Are you familiar with that case?

MR. COPPER: No.

BOARD MEMBER ROEHRIG: That case says right on point that where Hawaiian -- excuse me, Indians have religious rights in this beautiful forest up in the mountain, and the federal government wanted to put a logging (inaudible) right through the middle of it, and they said it's going to spoil it. The U.S. Supreme Court said as long as you're not outlawing it, you can reasonably -- you can put some controls on the First Amendment right of (inaudible). I think it's an unfortunate decision, because I've been supporting Hawaiians all these years. This is a bad decision for me, but that's the existing law.

And I read all these cases in the last four days, because I didn't want to come over here and speak out of turn, but you've got to go read this case. It's bad for your position. And that's what I told the attorney general, he gotta go read it too.
So I didn't just pick you out. I told him the same thing, gotta go read it, because it has a lot to do with this case. And it's an unfortunate decision, but it's existing law and it seems to put a squeeze on PASH rights. That's what I think, and I feel bad about that, but I think that that's the existing law.

So with all due respect, counsel, I respect you representing your client to your best ability, but on this issue, I just have a little different opinion. Thank you for your help.

CHAIRPERSON CASE: Thank you.

MR. COPPER: Thank you.

CHAIRPERSON CASE: Number 69 is --

MS. LOPRINCI: No, I'm 68. My name's Claire. Do you want this?

CHAIRPERSON CASE: Okay.

MS. LOPRINCI: (Inaudible).

UNIDENTIFIED MALE BOARD MEMBER: Is it okay if we --

CHAIRPERSON CASE: We're going to need to
My name is Claire (inaudible). I'm a cultural practitioner.

CHAIRPERSON CASE: I'm sorry, Claire.

MS. LOPRINCI: Loprinci, L O P R I N C I.

I come from a long line of cultural practitioners of Sicilian descent. It's never been broken. And I can tell you that you all have is kuleana. I have kuleana. Here I'm recognized as a cultural practitioner. I can prove my lineage all the way back. I (inaudible) over a thousand babies. Now these days mostly Hawaiian babies. I can tell you, they are ready to take over.

I can tell you I can see your broken hearts because you're not doing the pono thing, and
you're analyzing it and making all these excuses, when
you have kuleana, you have kuleana. You never step
over that line, ever. I have kuleana. I have a
mother and baby and families. I never step over into
the realms of a cultural practitioner that can't do
what they do. I do not go into that.

And when you have kuleana and you put
yourself here, say, malama ʻaina, you malama ʻaina.
It's that simple. All your laws and your things, you
cannot go above Mauna o Wakea. You are not Mauna o
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
tomorrow. It is so important.

UNIDENTIFIED MALE: Excuse me take is
down a notch.

MS. LOPRINCI: No, I'm Sicilian, we don't
take it down a notch.

CHAIRPERSON CASE: Please.

UNIDENTIFIED MALE: You're going to have
to.
MS. LOPRINCI: I will. I'll take it down a notch. But we've listened to a whole lot of this kind of stuff --

UNIDENTIFIED MALE: So have we.

MS. LOPRINCI: And we sat for a long time.

UNIDENTIFIED MALE: So have we.

MS. LOPRINCI: Yeah.

UNIDENTIFIED MALE: All day.

MS. LOPRINCI: Yeah, but we waited.

CHAIRPERSON CASE: Please -- you don't need to -- please.

MS. LOPRINCI: So let me talk.

UNIDENTIFIED MALE: (Inaudible).

MS. LOPRINCI: Yeah, let me talk. So when -- that is the mauna of the maunas of the maunas.

And I can tell you that the police -- I have been there every single day. I live an hour and a half, 15 minutes away. I have been there at every arrest. I am in my 60s. I have walked that mauna twice. I can tell you that these lies that I'm hearing about
destruction and throwing the pohaku, the kapu aloha of those young bloods, watch Selma. I was at the bridge of Selma by one of my mentors. Watch Selma. She was a daughter of a slave, 99 years old. I've had the mentors. I've had those kupunas. You don't step over lines.

So if you think that you're doing the pono thing by abiding by the law when you're putting yourself higher up than Mauna o Wakea, then hilahila. You gonna have to live with that. I -- we live up there, and those people that are up there, you got all these people camping out up there all the time in their cozy little places up there that you've built for those campers.

Those Mauna o Wakea kids I'm impressed. I'm impressed. We are doing kapu aloha. I go up twice a week to recycle all the stuff.

CHAIRPERSON CASE: Could you summarize now, please.

MS. LOPRINCI: What I can summarize is
that you have kuleana to do the right thing, and I --
if you cannot do the right thing, then pull yourself
off this board. If the governor cannot do the right
thing, then pull yourself off, because what you do is
going to affect your mo'opuna and their mo'opuna.

CHAIRPERSON CASE: Thank you.

MS. LOPRINCI: No, not thank you yet.

And they're going to live --

CHAIRPERSON CASE: You need wrap up.

MS. LOPRINCI: -- with that. I know have
I to wrap up. They're going to live with what you
decide to do. Your grandson with what you decide to
do. You have to do the pono thing. If not, recuse
yourself, because (inaudible) is here and it's just
going to get stronger. That's it. And you're either
pono or poha. You decide.

UNIDENTIFIED MALE BOARD MEMBER: Poha,
what does that mean?

MS. LOPRINCI: You're waste.

UNIDENTIFIED MALE BOARD MEMBER: Yeah,
we'll see.

MS. LOPRINCI: You'll see. You said it
yourself. I'm not going to argue with you.

UNIDENTIFIED MALE BOARD MEMBER: I'm just
saying that we should be respectful of each other.
MS. LOPRINCI: I am being respectful. So when you have --

UNIDENTIFIED MALE BOARD MEMBER: So when you tell us that we're going to be garbage if we don't vote with you, all I'm saying is --

MS. LOPRINCI: Pono or poha?

UNIDENTIFIED MALE BOARD MEMBER: -- let us keep -- let's keep --

MS. LOPRINCI: No, no, no, wait a minute.

UNIDENTIFIED MALE BOARD MEMBER: (Inaudible).

MS. LOPRINCI: If you're going to (inaudible) --

CHAIRPERSON CASE: Let's.

UNIDENTIFIED MALE: There's no need for this it.

MS. LOPRINCI: You should control your own board member, if there's no need.

CHAIRPERSON CASE: Okay, number 69 is Ku Ching.

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
Kea. I am also a long-time student and practitioner of the lua. Being a member --

CHAIRPERSON CASE: I'm sorry to interrupt, but if -- you're not going to have time to read the whole thing, so --

MS. WELA: Oh, no, I know.

CHAIRPERSON CASE: So summarize.

MS. WELA: I know. Thank you. Being a member of Pakuialua. I am in opposition to the

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adoption of the proposed rule. The proposed emergency rule making does not meet the requirements to be legally adopted at this time. The basis that should be required to justify the passage of a rule should be credible. The basis upon which you relied for adoption are skewed in incredible and illogical ways that you should be ashamed to even start to consider enacting the proposed rule. At this time whether it is timely or not, this testifier requests contested case hearing.

An important part of my practice includes walking, hiking across, up and down the `aina, walking
hiking in the footsteps of our ancestors. I am a co-founder and leader of Huakai`i Na `Aina Mauna. In 2002 we started hiking at sea level at Kahoolalele landing at Kukaiao on the Hamakua coast and proceeded up the umi koa and kaula trails to the summit of Mauna Kea, then went down the sky line trail, across Pohakuloa training area, down the old Kona road to the Puuanahulu, then down Puuanahulu Kiholo trail, ending at sea level on Kiholo Bay at Luahiniwai where we were privileged to swim in that most famous pond.

In 2003 we walked, hiked from the summit of Mauna Kea to the rim of Mokuawaowel on Mauna Loa, then down and around Kilauea, then down the Keauhou trail to Keauhou landing at sea level.

Huakai`i Na `Aina Mauna is planning our activities that will take place later on this month. Near the end of the month we are walking, hiking from the Mauna Kea access road at Puulelenui at about 13,000 feet to Puumakanaka on the Kaula trail. Then descending to about 10,000 feet. We will be starting
at approximately 8:00 a.m., that will give us the full
day needed to accomplish our objectives. You are on
notice by my testimony here that this activity is
taking place while you say that a permit is required,
I disagree, as permission is not required when one has
a right to exercise. We will be exercising our
Constitutionally provided cultural and religious
rights.

On July 31st we will be flying our
country's flag on the summit of -- on the summit at
noon with an appropriate oli and pule to celebrate
Kalahoeoe'ea. These two activities may be curtailed,
I believe, if the subject rule that is being addressed
today is promulgated, and that will make us very
unhappy.

Let me tell you, I will not accept a
million dollars to not be able to participate in these
activities. I will not sell my right to practice.

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my and my fellow kanaka maoli rights to practice our customary and traditional cultural and religious rights. Mahalo nui.

CHAIRPERSON CASE: Thank you. Will you please remind Mr. Ching that if he -- that he needs to follow up with a written contested case hearing request within ten days.

MS. WELA: Thank you.

CHAIRPERSON CASE: Okay, we have number 70, Kaui Onokea.

MS. ONOKEA: Aloha mai ka kou. My name is Kaui Onokea. I'm from Maunalaha Valley, located between Tantalus and Roundtop here on Oahu. First, I would like -- some of the information that I looked up here on your website on behalf of your mission statement speaks of how you guys enhance, protect, and conserve and manage this area. Going out for that word protect, which means to keep safe from harm or injury, I don't think you guys are doing that.

By withholding items that is necessary for people to be on that mountain, not just to stay over a night, but even just to stay in the day, would
put them in harm's way, such as the cold weather and
use of the restroom. I won't go into that too deep.

But it's a big -- a big word that
everyone is speaking of in this movement of the
Hawaiian people, kia`i. I'm not too sure if a lot of
people know what that exactly means. It is a very big
and important word which describes a guardian,
someone -- a caretaker, a watchman. With we take on
that responsibility as a kia`i to be that watchman or
that guard our `aina. And that is the reason why that
they need to be there 24/7, to be that watchful eye
for our `aina and make sure that no desecration
happens on that land.

There are many reasons that we need to be
thereafter 10:00 p.m. to 4:00 a.m. or 5:00 a.m.,
outside of just protecting the space, such as cultural
practices, ceremony, and observation of the skies,
such as the people in the telescope. It is a big part
of our lives to observe our skies, our heavens as much
as it is for scientists. So it is just as important
for us to be there and be able to study that science
as the people that are there for the -- in the
telescopes.
So I think that the adjustment that has been made to allow people that are in the observatories to be there and break these rules that you speak of, I disagree on that. We're not there to threaten anyone. The pohaku in our lives are like people. So when I see rocks in the road, it's like to me it's our kupuna that are supporting us in what we're doing in being there physically for other people to see.

So you may have seen a couple hundred people, but a thousands of rocks to us are just like our people, and that is the spirits that we bring with us to help us and protect us in what we do.

I don't think this rules will do anything. To me, it's like putting a Band-Aid a situation. We need to all come together and figure out a solution so that no one can be threatened and everyone can be safe on this mauna. Mahalo nui. Aloha.

CHAIRPERSON CASE: Number 71 is Joshua Noga.
UNIDENTIFIED MALE: He spoke already.

CHAIRPERSON CASE: He spoke, okay. 72, and I'm sorry, I can't read your name.

MS. TOWNSEND: It's okay. It's been crossed out many times. My name is Maya Townsend.

CHAIRPERSON CASE: I'm sorry, I want to make sure. Okay. Go ahead.

MS. TOWNSEND: So here's my written testimony. Thank you very much, and if you all want to take a break, I won't be offended. Okay. Again, my name is Maya Townsend. I'm the director for the Sierra Club of Hawaii. I've been involved in the effort to protect Mauna Kea for many, many years in various organizations and various capacities.

Much of my testimony covers things that have already been said, but the third and fourth points I think are important to raise. Part of why I'm concerned about these temporary rules is because I know that the Office of Mauna Kea Management is currently considering their own restrictions to public
access, and they're frightening, you know. They
definitely favor astronomers over everyone else. They
would prohibit people using flashlights, for example,
and cell phones on the mountain. They would authorize
the chancellor to restrict access for up to two years
at a time, and we're concerned that these temporary
rules will be used somehow in this OMKM process, which
is not rule making, because they are convinced they do
not have to follow rule making, and that's a problem.

But I also want to address litigation. I
mean, Mr. Yuen and Mr. Roehrig seem to think that it's
easy for members of the public to conduct litigation.
It is extremely difficult. I've been involved in this
for a very long time, not as long as many, but I have
seen the toll that it takes. And just getting an
injunction is cost prohibitive. You have to put up a
bond for example. And the thing is you wonder what
can you as a government do, and I actually have a
suggestion.

If you as the government could say, pause
the TMT CDUP until the Supreme Court issues its
ruling, you have a temporary reprieve and a time in
which you can negotiate and work out with opposing
sides a compromise, and in that temporary reprieve,
all access up the road can be allowed because the
protectors will feel no reason to guard the road and
to prevent access to the other telescopes.

There is no controversy with the current
telescopes up there. There's nothing wrong with
people going -- the protectors have nothing against
them. It's just the construction equipment for the
Thirty Meter Telescope. When they read the rules and
the plain reading of the rule it says you can't have a
substantial adverse impact, and an EIS says that TMT
has a substantial adverse I am, and yet you allowed it
to happen, it's hard for them to believe in a rule of

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And I just have to say, when you look at
these temporary rules, C1 and C2, that would bar
public access, I'd like for you to take a moment, step
back, and imagine instead of a telescope being built
on a distant mountain, actually the controversy at the heart here would be a luxury subdivision on the shoreline or a federal highway over a reef, and instead of native Hawaiians standing in front of you with ti leaves and backpacks, you'd have surfers, their long hair and their surfboards. And would you seriously consider barring public access to the shoreline to surfers and other ocean users in order to make the luxury home developer feel more comfortable, would you just tear up the shoreline while there's litigation going on? I don't think that you would, so I'm urging you here today to not do that in this case. Instead, tell the TMT to hold its horses until the Supreme Court issues it's ruling. Thank you.

CHAIRPERSON CASE: So 72 is -- and I'm sorry I can't -- no, you actually moved around to 68, so (inaudible).

SPEAKER: (Inaudible).

CHAIRPERSON CASE: And then Kaiulani
UNIDENTIFIED MALE: (Inaudible).

CHAIRPERSON CASE: Okay, 74 is --

SPEAKER: I'm 74.

CHAIRPERSON CASE: Okay, sorry, (inaudible).

MS. AZARIO: Aloha mai ka kou. My name is Jamaica (inaudible) Azario. I am a kupa of Palolo valley here on this island. I am here to formally read testimony on behalf of my father, but first I would like to respond to some comments that have been really disturbing that I've heard throughout the day.

The first being that I completely resent the comments made by attorney general Douglas Chin in which he argued for the need for this change in rule to maintain safety by alluding to the possible future violent acts by Kea e Mauna, and saying that we will, quote, do whatever it takes to protect this mauna, when all we have promised is to stay as long as it takes in kapu aloha, in non-violent protest. This, I think, is an essential distinction that I would like noted for the record. We have never threatened violence or any such extreme actions, when in fact the only person who has done -- who has demonstrated that he will do whatever it takes to further his initiative
is Governor Ige in talking about the fulfillment of
the TMT.

I would also like to respond to one of
the astronomers who said that the beautiful and
important thing about their work is that it seeks to
answer the deepest and most important questions about
the world, and I would like to say that our science
and our beliefs do too attempt to seek the answers to
these questions, and I would like our science to be
recognized as essential and important to these
questions.

I would also like to respond to the idea
that has been raised by a few people that there are no
better organizations than the Office of Mauna Kea
Management to manage our mountain, when in fact our
Konahiki and kupuna have managed that space before the
arrival of missionaries and the creation of this fake
state eventually without any documented acts of
desecration or threats to public safety, and this is
surely something cannot be stated by the state of
Hawaii or the Office of Mauna Kea Management, whatever
they call themselves.

With that said, I am going to go in to reading my father's testimony. I think it goes without saying is that I stand in strong opposition to

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these rule changes.

My father, Jonathan K. Kamakawiwo`ole Azario is professor at the Center for Hawaiian Studies, respected kumu, Hawaiian musician, and activist, and I apologize to you folks, because I'm definitely going to go over time and I'm accountable to you guys to that and I apologize.

CHAIRPERSON CASE: No, you need to stick to the time.

MS. AZARIO: I wish to voice strong opposition to the Office of Mauna Kea Management's rule changes that seek to limit access my native Hawaiian religious and cultural practitioners to a so called restricted area at the summit of Mauna Kea. I object to this rule change on a number of grounds.

One, native Hawaiians have in increase numbers been paying their respecting to the mountain
and to our traditional deities as the sacredness of
that summit has been threatened by erection of the
latest and largest telescope.

Two, access to religious shines and the
ability to maintain cultural practices are
universally acknowledged as standard human rights in
civilized countries, where those rights are abridged
or oppressed, there is almost inevitably civil

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disorder.

Three, the rights of indigenous peoples
to manifest, practice, develop and teach their
spiritual and religious traditions, customs and
ceremonies, the right to maintain, protect and have
access and privacy is declared in the UN Declaration
of Rights of the Indigenous Peoples, of which the U.S.
since 2009 is signatory.

Four, in the apology resolution of
103-150, in 1993, the United States states the
indigenous Hawaiian people never directly relinquished
their claims to their inherent sovereignty as a people
or over their national lands, the United States. This means that the state of Hawaii and its laws are indeed a fiction, even through the monarchy --

CHAIRPERSON CASE: Please wrap up.

MS. AZARIO: -- referendum and acknowledge that the native Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language and social institutions.

Five, the only restorative action that the U.S. committed itself to in 103-150 was in support of reconciliation efforts between the United States and the native Hawaiian people.

It ought to be clear to the members of this board that the rule change it is considering violates the principles and spirits of the UN Declaration of Rights of Indigenous Peoples, a document that represents the earnest work of hundreds of principled men and women and the agreement of every
member nation of the UN. While they may not have the
ability to enforce the directives, they have a
powerful moral force in the world and demonstrate how
civilized governments should engage with and fairly
deal with their indigenous peoples.

It should also be clear to the members of
this board that the rule change violates the spirit of
the apology law and is a prime demonstration that the
state of Hawaii has no intention of cooperating with
the United States support for reconciliation, for in
the face of mounting objection to the proliferation of
telemopes on Mauna Kea by native Hawaiian cultural
practitioners over the past several decades, instead
of seeking ways to address or engage with kanaka maoli
complaints, the state chooses to build the largest,
most intrusive telescope of all, and to bar us from
that sacred summit in the name of public safety.

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The state cannot credibly argue that it
is unable to manage the summit — summit and enforce
current laws pertaining to defacement, vandalism, or
destruction of property. Where those things occur, it
is possible and proper for the state to take action
that is allowed by law. It is neither proper nor wise
for the state to violate the principles of
international conduct that are accepted by enlightened
nations in the 21st century, targeting a native people
exercising our cultural and religious rights. Mahalo
to you all.

CHAIRPERSON CASE: 75, Tom Linder. Tom
Linder. No Tom Linder, okay. 76, Bianak Aliza. 77,
Kaipo Moniz.

MR. MONIZ: Aloha. This the first time
I've ever done anything like this, so little bit
nervous, but I'm okay.

UNIDENTIFIED MALE BOARD MEMBER: You're
doing fine.

MR. MONIZ: Thank you. So my name is
Kaipo Moniz, and I actually -- I want to say that I
oppose the emergency rule changes to adopt the
emergency rules in regards to camping. And I also
oppose the delegation of the board's power in agenda
item C1. I oppose the delegation of this board's
power to the chairperson in regards to the ability to
close -- to temporarily close the area for a period of
six months, and that is due to the fact that I just
realized that the state statute that was just passed
and approved by Governor Ige upon May 9th added a
 provision -- added a section in sections 15-22-11.9
that adds that they can temporarily close it for this
reason, and this is the main reason why I oppose that
agenda item.

And that item is, it says, they're
allowed to temporarily close this road to comply with
the requirements of agreements made with private
landowners (inaudible), and that would directly affect
us and this democratic process where we can voice our
concerns with you, and it just gives the authority to
the chairperson, this one person without the board and
without the board's approval and without this dialogue
that we're having.

And I was -- I was actually concerned
because I didn't hear that, that -- that what I just
read, and it was added into two sections of the Hawaii
Revised Statutes. In section 13-122-11.9 and in
section 13-123-21.1, and it reads exactly the same, to
comply with the requirements of agreements made with
private landowners or lessees, which means two or

three entities may have total control in dialogue
between the chairperson, and I would like to have the
opportunity to voice my opinion to all of you, because
everybody has a different opinion and a different
view, and what they're compassionate for and it's all
related to our values, you know that we gathered as we
grew up. So I really oppose that strictly based on
those things, you know.

I read the board should (inaudible) and
maybe expand it to include, you know, maybe to --
maybe meetings on at least two islands, you know, for
the board to hear, because I'm -- I don't like talking
about problems. I like talking about solutions, just
like everybody else, you know, because there's a lot
of creative minds out there that are not being
utilized. I've heard a lot of good comments and I
want to be part of the solution, just like everybody
else.

CHAIRPERSON CASE: Thank you.
MR. MONIZ: Mahalo.

CHAIRPERSON CASE: 79 is Dr. Darren Ching.

MS. MONIZ: Wait, I'm 78.

CHAIRPERSON CASE: What's your name?

MS. MONIZ: Aina Moniz.

CHAIRPERSON CASE: Oh, it says you weren't testifying.

MS. MONIZ: Yeah, I changed my mind. Hi. Aloha mai ka kou. (Speaking in Hawaiian). Hello, my name is Aian Dudoit Moniz. I was born and raised on Hilo -- in Hilo, Hawaii, and now I currently reside in Oahu. I was raised in the my culture from a very young age and I'm very proud to be a native Hawaiian.

With that being said, it is my kuleana, my responsibility, to my culture, to my people and my `aina to stand firmly against C1 and these newly proposed rules and urge you, the board, to do it as well, as I believe this is just a ridiculous reaction or tactic to hinder the native Hawaiian people and our movement of protecting our rights, our freedom, and
most importantly the land that our ancestors entrusted
us to malama.

I feel these -- this -- I feel these
rules distract the public from the truth, that a multi
billion dollar investments, AKA money, is more
important than the people's voice and most importantly
people's culture and religion.

To me and most of the Hawaiian people,
our resources, our `aina is more important than money.
It's more valuable. It's irreplaceable. We aren't

just doing this it for us. But for my future keiki
and also the future generation, and as -- for these
false accusations of threats from the kea`i, I say
show me the physical, tangible proof. We have always
acted in kapu aloha. This is new movement. We're not
the same as our earlier ancestors.

And with that, we will prevail, with kapu
aloha. I ask you to stop the desecration of all our
resources and our sacred lands, and especially our
deities. This is our religion. It's not just
cultural practices. We believe in this as any
Christian or Muslim or any other type of religion do.
And I just say when will enough be enough? Aloha
`aina, Ku Kea e Mauna.

CHAIRPERSON CASE:  79, Dr. Darren Chin.

DR. CHING: Aloha ka kou. My name's
Darren Ching. I'm going to fast with this. I have to
be fast. I have a lot to go over. Okay, I wear a lot
of hats. One hat I want to wear is safety and medical
officer for (inaudible) Mauna Kea. If you don't know
who we are, there's been several of us who have been
here already. We walk the trails of Mauna Kea,
starting from 2002, and if you don't know who we are,
the we are the guys in 2013 who found Mr. Brian
Murphy, the guy who was lost from Michigan for five
years on the mountain. We go where other people
don't.

And can I explain what happened when we
did that? We had to call the cops. We had to call
DLNR, DOCARE, we had to call Mauna Kea rangers. We
were delayed. This was a day after Hurricane Flosse,
okay. We did not make it to the pickup point in time. We had to spend overnight on it's mountain with 40 mile an hour winds at the peak, and it was cold. Okay, we deployed emergency blankets. We had emergency food. We had emergency water.

Now, the new rules say no tarps, no backpacks. Well, we would have been in really bad shape if we didn't have this stuff, okay. The other thing, okay, these trails take a long time to walk over. If we're going to start access at 1:00 p.m., you're not going to get off the mountain in time, and if you're not going to have your survival blankets and your water and your supplies, you're talking about potential mortal danger here. You're not making the place any safer. So I stand opposed to all of this.

The other hat I wear, okay, I'm vice-chair (inaudible). We are the stewards of (inaudible). And you can see our agreement with DLNR. We've been this since 2002. It was clearly stated to us that we do not have police posse, okay. If we tell
people not to do stuff over there, we do it on the
basis of moral authority. If somebody does something
up there that they're not supposed to be doing, with
we call DOCARE. We call the cops.

The guys on Mauna Kea rangers, some of
the stuff they've been doing is atrocious. If we did
that kind of stuff, there would be complaints about
us. You guys would be pulling this stewardship
agreement like this fast. And the other thing, we
would probably get arrested for assault. I don't
think you should let the Mauna Kea rangers run that
place.

And incidentally, I know what happened to
the waters of Hopokane. What happened was in 2005
when we went there it was already partially diverted.
The military was taking it to run their air station at
Pohakuloa. We went there again in 2014 and it was
completely diverted, 100 percent, all channeling
through a concrete basin. All that was transferred to
DLNR, department of parks, every single drop was
diverted down to Pohakuloa state park, and these are
the waters of Kane, this is the waters of life.

The water is not being processed, okay.
It's not potable. All that stuff is being used is to
flush toilets and to wash your hands. These are the waters of Kane, the waters of life. This comes from streams of Hopokane, one of the four sister goddesses of Mauna Kea, the physical embodiment. All right, one more thing, if I may.

You know, the Mauna Kea guys, they say that, oh, you know, they got this white cloak, you know, their signs, they're pure, the fact of the matter is they are not quite that pure. You know, we have records of what abuses can occur in science. You all know of the 1932 Tuskegee experiment where they took Afro-American minorities with syphilis and they didn't treat them. They let them die. They produced wonderful science, (inaudible). You know, they published papers. They had academic advancement.

CHAIRPERSON CASE: Time for you to wrap up.

DR. CHING: Pardon?

CHAIRPERSON CASE: Please wrap up.

DR. CHING: Okay. Okay. They have not done any kind of ethical study on this. In medicine we have -- okay, I'm assistant clinical professor of
medicine, John A. Burns School of Medicine. We do --
whenever we do, we have to institutional review
committee. We have to look to see what adverse

effects our study see doing, and we don't do it if the
committee says that you are adversely affecting a
group.

The astronomers have never done that,
they've never have done an ethical review, and we have
more than enough instances where science have failed
on the ethical side. The nuclear bombs in Micronesia.
I mean, that's a complete ethical failure. I think
the telescope guys really need to do a multi
disciplinary ethical review of what they're doing.

CHAIRPERSON CASE: Thank you.

DR. CHING: Thank you.

CHAIRPERSON CASE: Number 80 is Rachel
Harbottle. No Rachel Harbottle, (inaudible)
Harbottle, (inaudible) Harbottle, (inaudible)
Harbottle. 80 to 84.

Okay, 85 is Deangelo McIntyre.
MR. MCINTYRE: Aloha nui. I'm Deangelo. Okay. It's hot outside. It's too hot to be doing all
this it foolishness. It's the middle of July. I
first got here. I'm from Kentucky. I'm from
Louisville, the home of the Kentucky derby. And I
first got here when I was 11, in 1997, on Halloween.
The first song I heard on the radio was Thriller. And
I have never been to Hawaii before, and I was so
stoked. And I tell people I was raised here. Because
I went to elementary school. People are like, oh,
what high school you go to? No, I went to elementary
school here. Ms. Matsuda was my teacher. So Hawaii
raised me and got into me and got under my skin. And
I'm one with of the kea'i. And I didn't threaten
nobody. That's why (inaudible) went up to the -- to
the mauna to protect (inaudible) operate by the
(inaudible) very much so.
I can tell you right now, I do, because I
was raised right. I was raised in the south by an old
black woman. I know how to act. I know how to
respect my elders, and we even have a list of rules,
and I can tell you one of them that I remember was to assist kupuna at all times.

Those erroneous allegations about smearing doodoo on the -- ew, `a`ole -- on a bathroom and making threats to people, and I remember that stuff with (inaudible), they thought we shot a gun at them and stuff. Y'all have been wrong before in the past about that. Please don't believe that stuff. It's not true. And I think it's a slanderous way that these people with all this money just want to get up there and do their thing with the telescope.

And I'm actually proud that, you know,

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something I did interrupted the New Horizon thing and they can't do their thing with Pluto. Whatever. They demoted Pluto from being a planet anyway.

The or thing I wanted to say is y'all -- I'm so sorry, I don't mean to be rude to you two uncles, but you said something about law and order. There is nothing lawful or orderly about the U.S.S. Boston pulling into Honolulu Harbor and pointing guns
at Iolani palace. You guys are sitting here on that legacy today. How dare you talk about law and order. I oppose both of the measures, and I fly to the Big Island on the 12th. So do you what you're gonna do, because I'm gonna do what I gotta do.

CHAIRPERSON CASE: Thank you. Number 86 already spoke. Number 87, Kaleo, and I'm sorry I can't read your last name.

MR. KEALIIKOA: Kealiikoa. Aloha mai ka kou. My name is Kaleo Kealiikoa. Come from Hawaii. Live in Waianae right now, and I oppose your emergency rule that you're going to implement on Mauna o Wakea. I was listening to you guys all day, listen to everybody. The main thing I wanted for say was I wanted you guys for find it in your guys' heart for do what is the right thing.

But for me for ask you to do that, I gotta find 'em in my heart for me to do the right thing. I was there Wednesday, that second arrest day, but I never get arrested, but I was one of the first guys that went put the pohaku in the middle of the
road. I'm here for, you know, come clean. I never
tell nobody else what for do, because that wasn't my
kuleana. My kuleana was only for kakoo, which means
to support these brothers and sisters of Mauna o Wakea
and help protect. But when I saw how DLNR was
behaving them self, I had hard time with this kapu
aloha. So for me, what I had to do was — I was just
going to run up to the mountain, to the top, the
summit, and go pule at the alu. As I was running,
just started grabbing pohaku, put them on the road,
and I guess a lot of young brothers over there, they
all saw what I was doing, and I guess they went
follow, because even halfway through, they're like,
oh, kind of look back, like, wow.

So anyway, long story short, for me I
feel I gotta come here, come clean with myself and
hope you guys can do the same too. Find it in your
guys' heart what is the right thing for do for not
only for Mauna Kea but for Hawaii and the world.
Mahalo.

CHAIRPERSON CASE: I have 88, Loretta

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MS. WRIGHT: Kawelau. Maybe my handwriting is atrocious.

CHAIRPERSON CASE: Not as bad as some.

MS. WRIGHT: Aloha mai ka kou. My name is Kawelau Kealoha Wright. I'm from Maui, just so happen I'm on this island taking a class and I'm here today, tonight, actually.

So I just want to be on the record saying that I'm strongly -- I strongly oppose these rules, these emergency rules that are supposed to be in the name of public safety. That's the first thing I want today say.

I don't appreciate what appears to all of us to be an act of criminalizing the actions of the protectors. And a lot has been said, and I just wanted to reiterate the fact that Hawaii and Hawaiians in general have really welcomed settlers, historically speaking, welcomed settlers with open arms, and I think that sometimes that equates to the whole thing about, you know, I've actually had people throw this in my face, where's the aloha spirit.

Right, but I just want to remind everybody, and maybe not just you, but everybody here,
that aloha is not justice. That's what everybody

thinks aloha is. Aloha is this, as the indigenous
people of this place giving aloha, but what you're
seeing is the other side of aloha, which is this, when
enough is enough and we cannot continue to give.

I've been here all day, just like you all
have, and I appreciate your fortitude. I've heard a
lot of people, heard a lot of people offer to help
you, help not just you, but this whole situation, and
I would just strongly encourage you, rather than
approving this sort of -- with appears to us to be a
knee jerk reaction, and perhaps -- and that's how it
appears to us. But perhaps try to facilitate. I
mean, according to your mission statement we're on the
same side. And I really do believe we can work
together. If the bottom line is that we're all
concerned for the health of the resources, then I
think that we can work together.

And then lastly, with all due respect and
humility, the appreciate the fact that you've taken an
oath, you know, and you -- like, you know, you
definitely respect the law and order, the rule of law.  
I get that. But I want to say that not — not  
everything that has been legal in history has been  
right. There's a lot of things, and I don't have to  
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 —
UNIDENTIFIED FEMALE: All of the registered speakers are in here at this time.

CHAIRPERSON CASE: All the registered speakers.

UNIDENTIFIED FEMALE: That's it. There's nobody else out there.

CHAIRPERSON CASE: Okay, so please proceed.

MS. KAMA`U: Thank you. Aloha. My name is Kathy Kama`u. I'm number 91 and I strongly oppose both of these C1, C2 and the construction of TMT. As you can tell from my name, I've married into a very traditional Hawaiian family that's very immersed in the cultural and I'm grateful to them for what they have taught me about their culture, but I'm not sitting here representing them. I wouldn't be so bold to do so.

I'm representing the haole portion of my family. And if you took a profile of me or of many of my friends, you would feel that maybe we would support TMT, or we would support these type of rules, but I
want you to know that we don't, and there are
thousands of us that don't, thousands that are not
Hawaiian that are watching what's going on and they
don't.

Before I speak to you as a wife and a
mother and a grandmother, I want to speak to you as a
business owner. Recently we found out that Hawaii is
one of the lowest rated states to have a business, and
it's not because of what's happening to stop TMT being
constructed. It's because what's happening here in
this room, where we're arbitrarily changing the rules.
Business owners like to know the rules and then they
work within the system. But Hawaii is known to
arbitrarily change the rules, make up new rules,

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choose who has to follow the rules, who doesn't have
to follow the rules, and I think this is really a
prime example. I'm sorry to sound so rude, but I
think this is a real prime example.

When we look at the pictures that OHA
showed and look at many other instances that have
happened up on that mountain and then all of a sudden
now we have to have this imminent peril. It's just
another arbitrary and knee jerk reaction that we as
business owners also see that happens here in Hawaii.

As a mother, grandmother, wife, we love
that mountain. We love hiking. We love going out on
trails. We love doing things. Just four weeks ago my
son-in-law took three of my grandchildren up to the
top of the mountain and watched the sunset. Your
rules would forbid that. Your rules would not allow
that. And even though you say, oh, it's only for 120
days, it has been very much my experience, and I'm an
older person, and my experience that once a precedence
is set, that precedence is continued. And I don't
think we can trust that that it would just be 120
days. There would be a reason to continue past and
beyond that.

My children are very educated. My
family's educated. Two or doctors. Many have

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master's degrees. My husband and I have master's
degrees. They all (inaudible), in-law's sons and my
own sons and my husband are Eagle Scouts. To even begin to think about doing some type of hike without a backpack in that type elevation without a blanket just is appalling, to think that you would consider that a criminal act, to make a rule (inaudible).

My husband has looked forward to taking his children, taking his mo`opunas up there on that mountain and teaching them things that his own Aunty Iolani Luahini has taught him about Mauna Kea, and if you don't know who that is, then have you no business deciding how to take care of Mauna Kea.

And with your rules, he would not be able do that, because we would exceed your rules of ten people up on that mountain, just because we have five kids, just if we took our five children and their spouses and him and I, he would not be able to teach them what his aunty taught him. And if we somehow widdled to just ten people, they would have no blanket to sit on. They would have nothing, no -- no common sense items with them to be up on top of that mountain to learn that stuff.

I know my time is short. I just wanted to quickly address and sum up that I've heard
astronomers and other people on the staff on that mountain talk about how they've had these -- this emergency and that emergency and medical emergencies, and it sounds to me like they were able to handle it just fine without these rules in place. I heard an astronomer talk about he's been up there for 18 years and they've co-existed just fine, and I'm willing to state --

CHAIRPERSON CASE: (Inaudible).

MS. KAMA`U: --- obviously it hasn't or you wouldn't have all these people so upset.

CHAIRPERSON CASE: Please summarize now.

MS. KAMA`U: All have you to do is drive along Hawaii island and look at the yellow lights and realize that they dictate what's happening and people are saying enough is enough. Thank you.

CHAIRPERSON CASE: Thank you. Number 92, Linda Molina.

MS. MOLINA: Hello. (Inaudible), Suzanne Case and board members. Thank you so much for taking the time to listen to all of us. My name is Linda Molina. I'm from Chile. (Inaudible). I'm also a
North Shore resident. I want to read my letter to you.

Dear (inaudible), I want you to please --

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I wanted to please ask you to vote no on this proposed rules set to restrict use and access to the Mauna Kea access road. As we all know, these rules will take away or natural born rights to enjoy and protect our secret place, the Mauna Kea.

You may think it is just dust and rocks, but the Mauna Kea is alive. It is sacred and deserve all the respect. Mauna Kea is alive. It is made out of dust and water, just like we are. I feel as a human being I have the duty to speak for my beloved Mauna Kea. The corporations want to have their telescope built, but what about respecting our sacred land? They already have built (inaudible) other telescopes. When this is going to stop?

As a human being, I feel ashamed of being part of this civilization, so absorbed in the money and the power, where the respect for the land is being trespassed to the point to destroy one with of the
most sacred places on Earth.

We all know we live in a generation of change and awakening in where we have learned to live with the consequences of our actions. This is not the first civilization or be the last to exist. But to me this is definitely the one that has caused more harm to our planet.

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Please, please representatives, help us to change that. Your decision can change the world. Hawaii, it is an example for the world. We are going all clean energy, are we going to destroy our sacred temple for the world in this universe to put -- for money to put a bigger telescope when there's another 15 telescopes.

I'm going to add, (inaudible) commandment's said treat others the same way you like to be treated. That includes the Mauna Kea, as everything else and everybody else. Thank you. I also, can I please ask a question? 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
think there's a series who aren't here, but please speak up if you are. (Inaudible), (inaudible), (inaudible), Bruce Watsen, Keala Kahanuini, Michael Vieira.

MR. VIEIRA: Present.

CHAIRPERSON CASE: Who, sorry.

MS. KELIIPULEOLE: I'm Ele Keliipuleole but I don't know what the numbers are.

CHAIRPERSON CASE: You're number 95.

MS. KELIIPULEOLE: 95.

CHAIRPERSON CASE: So please proceed.

MS. KELIIPULEOLE: Thank you. My name, full name is Elenora Ariole Keliipuleole. I was born on the Big Island and raised on the Big Island. As some of you know, way back when there were no roadways to go up to Mauna Kea, so in order to it access that you went by Jeep or horse back or you walked. So most of my experience has always been on horse back, and we didn't go through Pohakuloa area unless you were hunting. That was the main. You went up through the
Hamakua side on horse back and you road all the way up, so I needed backpacks, you needed your water, you needed whatever necessary things because you don't know what time you're going to come on down, but that's where I'm coming from.

I'm going to pass this out. I'll read it as quickly as I can, because I don't want to take up any more of your time.

UNIDENTIFIED MALE: You can just hand them out to me. I'll hand it out.

MS. KELIIPULEOLE: I currently live in Palolo valley. Aloha to all. I was born on the island of Hawaii. 1968 Mauna Kea was pristine. In 1978 we returned home to bury a siblings. My tutu born in 1893 cried out in utter despair when she saw golf balls at the top of Mauna Kea summit. A year later, in 1979, we returned home again to bury my mother.

CHAIRPERSON CASE: I'm sorry, you're going to need to summarize this, because you don't have --

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MS. KELIIPULEOLE: Will. I will do it again as quickly. Again, my tutu cried out in despair at the further desecration of Mauna Kea, lamenting the fact that Hawaii no longer had any respect for anything remotely close to the Hawaiian culture. Limited access and exploitation of its natural resources and its keiki o ka `aina, children of the land, was eminent. You see, my grandmother was born during the time of great upheaval of the Hawaiian kingdom and all that was held sacred to the Hawaiian race.

However, it did not stop her from passing her knowledge on to us. I clearly remember one of her quotes. We're being sold out to the highest bidder. How true were her words. Poho for the Hawaiians, and of course UH was part of this machine. It wasn't until the '70s that the Hawaiian protestors began organizing. Then of course UH jumped in on the band wagon, along with the state of Hawaii, by creating its branch OHA in '78.

However, with all the agencies created during that time, have the Hawaiian people really benefited? History repeats itself. It started with Honolulu Harbor, Pearl Harbor, Kahoolawe, Makua Valley, Pohakuloa, Barking Sands, the airports, water
sheds on all the islands, Haleakala and now Mauna Kea. Where are the federal state agencies created to protect us? These agencies are being supported from the blood, sweat and tears of our islands and our race, silent or sitting on the fence to see which is stronger, irrelevant of the impact it may leave on Hawaii `aina and its people.

CHAIRPERSON CASE: You're coming up on your time.

MS. KELIIPULEOLE: Don't get me wrong, I support science and education; however, I do not support the years of irresponsible management of Mauna Kea. I understand that science and law does not always fit and that there are laws to protect cultural and religious practices.

CHAIRPERSON CASE: Ma'am, you're going to have to wrap up now.

MS. KELIIPULEOLE: Even though (inaudible) calls for a hard look at environmental damage and how to mitigate such damage, it is not
enough --

CHAIRPERSON CASE: Are you intending to read this whole thing?

MS. KELIIPULEOLE: I'm going to read --

so basically I'm saying, you already have rules in

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place. Way back when I kid there were no rules in place. You respected what you needed to do and you left the mountain the way it was.

Now, as time, and if I recall correctly in 1978, and I've gone up to Mauna Kea many, many times and I was there that Saturday after all whatever was going on in June, on the 26th, that Saturday, but the point I'm trying to make is you didn't have all of those rules, but the management of Mauna Kea and the surrounding areas hasn't been the greatest through the DLNR or through the BLNR, for that matter. And now we're all the way into 2015 and you have all of these laws in place to supposedly protect the public and protect what's there, and then you're going to create more laws and more laws and more laws? Does that make any sense?
MR. VIEIRA: Good evening, Michael Vieira. I represent a company called Taiboko, which is a tour operator, one of eight tour operators which provide tours up Mauna Kea. Taiboko has been operating for more than 20 years. Taiboko and other permitted tour operators are regulated by the Office of Mauna Kea Management. The rules place limitations on the type of vehicles and number of vehicles that can be used by the tour operators. The operators also pay a surcharge for each passenger and annual fees to renew permits. By complying with the regulations,
tour operators provide a safe and responsible option for visitors and the fees provide by the tour operators help fund the maintenance of roads and amenities servicing Mauna Kea.

Many of Taiboko's clients are from Japan. Many Japanese visitors come to the Big Island specifically for the purpose of visiting Mauna Kea, and due to scheduling issues, tourists visiting Mauna Kea often spend several nights in Big Island hotels. Taiboko and the other tour operators have been impacted by increased competition from visitors using non-regulated means to access Mauna Kea, increased fees and the reduction in services, including the unavailability of toilets.

Further restrictions upon tour operator's use of and access to Mauna Kea would create a severe hardship upon the company. Taiboko and the other tour companies are an essential part of the Big Island's tourist industry, and when considering the economic impact, the safety of visitors, and preservation and impact on the environment, commercial tours on Mauna
Kea should not be further restricted. Thank you.

CHAIRPERSON CASE: Thank you. Okay, number 100 was signed off. I'm just going to go through this other page and see if anybody is here.

Jason Rosado.

MR. ROSADO: Hello. My name is Jason Rosado. I'm here to testify on behalf of Tom Kualii on Big Island, because he could not be here today. So he says, I'm sorry, aloha mai. My name is Tom Kualii. I'm a native Hawaiian (inaudible), born and raised on Hawaii island. My family is from Hilo as far back as I can remember. My grandfather, Thomas (inaudible) took his grandchildren up to Mauna Kea to star gaze. Those children, those childhood memories have always drawn me back to the mauna.

Now, as a photographer, I use my craft to display the beauty of the mauna and to help document cultural sites and activities up on Mauna Kea. Two favorite attractions to our island is Kilauea, via Hawaii volcanos national park and Mauna Kea. Taking
away access or even (inaudible) businesses, tourism, the people of Hawaii and the residents of the big island for decades have been going to Mauna Kea to hunt, play in the snow, star gaze and practice our spiritual rights as Hawaiians.

Mauna Kea is the best -- excuse me, Mauna Kea is the best place on this heart and the main reason why these observatories are here to do what they do. So why take away something that should be shared by the kanaka maoli, Hawaii island residents or Hawaii residents and visitors alike, so many share in the experience of this sacred place.

Mauna Kea is deeply ingrained in who I am as a man and as a native Hawaiian (inaudible). I ask that you reconsider the rules you are putting in place. I'm opposed to the current rules the way they are (inaudible) local people of something my family has been doing for generations. Mahalo nui, Tom Kualii.

CHAIRPERSON CASE: Thank you very much.
MR. ROSADO: Thank you.
CHAIRPERSON CASE: Okay, 102, Kimmer Horsen.

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MS. HORSEN: Here. Aloha mai ka kou. My name is Kimmer Horsen. I'm actually native American, a ten-year Army veteran, combat veteran. I believe it's still my kuleana to protect and reach some sort of diplomacy in this contract that we have going on right here with Mauna Kea, Mauna o Wakea over on the Big Island with my brothers and my sisters, my kanaka maoli.

I believe the current -- I am against the current rules, only because they discriminate not based on race, though kanaka maoli are a race, like how other people practice (inaudible) as well, so I believe it's religious discrimination.

Everyone has a right to assemble, but I do applaud the current -- the issue that we have with safety at this point, because there's a lot -- this is a very volatile hot issue right now. I just want to say that I've seen lot of conflict. If we were to do the same thing with, say, the middle eastern people and build something on their Mecca, we'd get the same thing.

Now, DLNR has gone to the mauna with weapons, with 9 millimeter pistols. All right.
Kanaka maoli are living kapu aloha. They did not bring any weapons up to the mauna to hurt anybody.

DLNR did, authorize deadly force if necessary. Now, that in itself, being a veteran, we bring what's called escalation of force, someone brings a weapon on to a conflict, that in itself is a threat.

This issue deserves special preference because it their religious location, the mauna, the beginning of their creation story. I believe it's an unlawful order. If I was still in the Hawaii national guard and my governor ordered me to take deadly force, if possible, on people that were just practicing their religion, I would not do -- I would not participate in the unlawful order. I believe it's an unlawful order.

I'm just advising you on what I've seen and to take this into consideration, that the telescope is in fact a target, a military target, it will be, because it can attract missiles. Can you look up www.Hawaii.edu offices, testimony of Kemp. We need to make sure what we're doing here is totally
safe. I don't know if we've contacted the navy, if we have the capability to defend Big Island and Mauna o Wakea from an atomic attack from other countries. I think it's very serious. We need to find that out.

From what I am concerned, our navy capabilities are on Kauai and Oahu, so this is -- this is a big -- this is a big issue and I'm just tired of seeing it on TV and I appreciate that you guys are trying to be safe, trying to uphold the law. Nobody is above the law. Nobody is above the rule of law, and when you, sir, said that, you had a mo`opuna, a native Hawaiian keiki and you didn't know if he could finish law school, I disagree, I believe he can finish law school. I believe we underestimate the kanaka too much and the native American people. We are very smart. We've been here a long time. We're invaded, our cultures were taken away, our religious -- we never had real religious rights. Try take away process from the Catholics or the Christians, same thing. Can't do that. And it's all about equality.

So I just hope and pray you guys will do
the right thing. I believe in you. I've been to this board so many times when William Aola was still the head here, the head chair, and we're still in this predicament, we're still having this problem. So it's falling on deaf ears. It's got stop. Mahalo.

CHAIRPERSON CASE: Thank you. 103 is Imai and I can't read the last name. Okay, 104, Jennifer (inaudible). 105, Piilani Kaawaloa. 106, Clare, she already spoke. 107 Joe Kahale. 10, Kawika Kane.

MR. KANE: Bingo. Aloha, board. Thank you for being here tonight and persevering in all these hours, and I know that you folks have been attacked in some occasions on testimony, and I just want to let you know I appreciate you folks. My name is Kawika Kane. Ko`u inoa. I'd like to start by saying I oppose strongly for the emergency rule for two reasons.

Number one, the emergency rule is based on the attorney general and the Mauna Kea management
and the DLNR and all the workers up there, they want this emergency rule because of safety reasons, and the attorney general read some of that. He even mentioned threats. He wasn't detailed about that. But I oppose this for, number one, that's very over exaggerated, the safety reasons.

Number two, the reason why I oppose this ruling, emergency rule, is that there's laws already in place. There's no need for additional laws or rules to be implemented.

So let me clarify, my first position, the reason why it's overexaggerated, over the past 100 days there's 24 hours in a day. Kala mai. That's 2400 hours. Over the past 2400 hours there's not a lot of safety problems. There's not. Over the past 2400 hours, yes, brother came over and talked about him putting the pohaku in the road. Yes, that was pilikia. Yes, we have to address that. That didn't take up much of that 2400 hours.

Yes, there's been challenges with disrespect with rangers and DLNR officers and words
being exchanged with workers up there. That's very
minute, very minimum over the past 2400 hours. So for
them to say these emergency rules are necessary
because of safety, that's -- that's not true. That's
very over exaggerated.

My second position, there's laws already
in place. That was read by the brother from the legal
Hawaiian entity. Rules already existing. There's no
reason to put these emergency rules in place. I think
the emergency rules by the attorney general, the DLNR,
the governor's office from the workers up at the top
of the mountain, they want to put these rules in place
to limit access. They want to limit access to our
kuakia e mauna, they want to limit access to our
practitioners. They want to limit access to the
native Hawaiian community to practice their religious
rights. And that's what it's about. This emergency
rules is to limit access.

On the contrary, what needs to happen is
open up more access. And this is why I think more
access is necessary. Right now we want to talk about solutions. Right now we want to talk about what's best for both parties. Yes, the governor wants this construction to continue. Yes, TMT has raised the money. Cannot -- they just said we gonna give some money too. They want the construction to happen. Maika`i, go ahead, let the construction happen.

However, there's another party. There's a native Hawaiian community that says, no, we don't want this construction to happen. We need to go up to the mauna, we need to worship, we need to pule, we need to gather and we need to pray and assemble and speak out to stop the construction.

So to validate both parties, construction goes on, we need more access to assemble and to speak, so that will be pono for both sides.

And I just want to say, yes, it may take longer to construct this telescope. Maybe it's ten years instead of five, maybe it's going to cost more than a billion, maybe 2 billion because of the delays. So we need to satisfy both parties.

I'd love to clarify my issues, the two reasons why I oppose this, if the board would like to ask me. If not, in closing, I'd like to just leave a message.
In closing I have a message from the
kuakia e mauna that is currently up there right now.
Some say it's camping. Some say they're sleeping
overnight camping. I said that's not true. I say the
kuakia e mauna, protectors, they're sentinels.
They're there to protect the mauna. So, part of their
responsibility is to say overnight in the staging
area, not to camp. That is to provide sustenance and
safety, but we need the Port-a-Potties there for them
to practice their religious rights to protect that
mauna, which means 24 hour vigil. They need to be
there 24 hours, and they need to have a staging area.

They're not to desecrate. They don't
litter. They're not there to do anything with with
the minerals and the natural resources. They're
there to record practice their religious rights, and
that is to have a staging area. They take care of the
malahini, all the tourists that come over, they
educate the keiki. We have keiki there. My brother
Sam Kapoi, Samuel Kapoi from Waianae, he took his
whole family there, his who young sons and they're at
the mauna right now. In this frigid weather, he feels it's important that his two sons understand what his dad stands for, along with his wife, his ohana is there.

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Now, Sam and some of the brothers up there, Nakoa, do not adhere to federal or state or county laws. Their precedence first and foremost is is to their people. So to be there on the `aina, to be there on the mauna takes precedence over federal, state, county law. And they're going to exercise what's true to them, what's pono to them and be there all night 24 hour/7 vigil, and that's the kuakia e mauna there on Mauna Kea. Mahalo.


MS. KAHIKINA: Ramona Kahikina, me. Aloha ladies and gentlemen of the board. My name is Ramona (Inaudible) Kahikina. What you just heard was
my son. I'm so proud of him. I stand as -- on behalf
of I stand of Mary Kawena Pukui. I am the daughter.
I am (speaking in Hawaiian). My -- I just moved and
I'm from the mainland. I represent all the brothers
and sisters all over the world. I am a retired from
Delta Airlines and I've traveled all over the world,
and I've met -- and I visited all these indigenous
people. But there's people all over the world are
supporting Mauna Kea, and I am their speaker.

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I am the ancestor of Pele. My
daughter -- I have two. I have my son and my eldest,
but my youngest is (inaudible). She was young at the
time, only two and a half years old. I took her up to
Mauna Kea in the early '80s because my two oldest
children was in school. I shared the ha with her and
I chanted the and I taught her the mana in Mauna Kea.

Now my daughter at the age of two and a
half was raised in the mainland, but she was born in
Hawaii. And she knows the ha and she knows the
culture and the mana. As she grew up in the mainland,
she was strong in Hawaiian culture, though she was not
raised. And I am a former grade school teacher. I also volunteer in high school. You don't even understand the history books that is given about the Hawaiian culture. It's totally false, falsified. My daughter stood and wanted to protest about how it is written in the history of the United States, how Hawaii is manifest. I told her no, it comes within you.

But I want to tell, ladies and gentlemen, you know when I go to Mauna Kea, I am so hurt that I cannot go up there. My family and my mo`opunas, my kupunas. I come from the lineage of Kamehameha and Liliuokalani. I stand strong with my mana and they are saddened that I am not able to go up.

My kupunas and my great grandchildren, I want to teach them the ha. I want to teach them the religion. I don't want it to come in a textbook. I don't want them to learn this in a book. I want them to experience. I believe in all of you, I really do, and I know we have the control of writing history. We
can make it right in our history books, and we can
make a difference, because when the day comes, those
books are written about this moment, about this event,
it will stand strong of what needs to be done right.

    Political, which I'm not really strong
in, I do have children who is strong in politics, but
for me, I know that I stand strong that for the
history, we need to make a difference and I believe
that you will do the right thing. Aloha and thank
you.

    UNIDENTIFIED MALE: Alfred Medeiros.


    MS. HALLETT: Lisa. I'm sorry, I didn't
know what number you were on.

    UNIDENTIFIED MALE: 117.

    MS. HALLETT: Aloha. My name is Lisa
Hallett Andrews. Come from Hawi, Hawaii, Hawaii
island. I have testimony to share with you from a

    brother in Hilo that could not be here today, and it's
    coming up now.

    This testimony is strongly against the
passing of these emergency rules. From Zach Street. Testimony in regard to the request to adopt new administrative rules 13-123, 212, restricting use of and access to Mauna Kea. Aloha BLNR, I write to you today with the perspective of a Hilo resident that values both the contribution of astronomy and the special cultural and environmental elements of Mauna Kea, and I write to you from a place of deep concern.

I'm concerned, even alarmed by this bold attempt by the state to manipulate its elected and appointed power to undermine the rights of the citizenry in order to advance the cause and alleviate the concerns of corporate and state interests.

As a fair-minded person and an astute observer of the events unfolding on Mauna Kea, I have researched the matter from both sides. I have also made many visits to the area on the mountain that would be affected by the proposed rule changes. Let me tell you what I see.

I see the state government, led by Governor Ige and attorney general Chin consciously and egregiously mischaracterizing the intent and actions
of peaceful protestors, protectors, to receive -- to
deceive the general public and institute rule changes
that violated constitutionality, protected civil
rights in the guise of protecting public safety. The
guise is thin, and anyone that takes an honest look
can see right through.

Through a commitment to peaceful protest,
which is the most appropriate and noble form of
resistance to perceived corruption and abuse by
government, a group of committed citizens have stymied
the advances of corporate government project -- of a
corporate government project, and the government is
frustrated, embarrassed and upset. This frustration
gives neither appointed nor elected officials the
right to misappropriate their political authority to
draft new rules to punish those that resist. This is
the behavior of unjust. Undemocratic, and desperate
governments.

The statements against the protestors
made by attorney general Chin are blatant propaganda
designed to enflame the public and garner support for
rule changes that if adopted will certainly be found
by later courts -- real short, (inaudible) -- and
investigators to be an abuse of power. In fact, policy changes advanced with such targeted focus based on such bias and fallacies could warrant an investigation by the federal department of justice civil rights division. This is a strain and burden the state of Hawaii can little afford.

The adoption of these proposed rule changes, would not only be devastating evidence that the state of Hawaii feels empowered to disregard the civil rights of the individual for the benefit of corporate and political interests, but it would be the most targeted and blatant disrespect of native Hawaiian cultural practitioners in a very long time.

If the board is somehow under the impression that the inflated concerns regarding public safety expressed by the governor and attorney general will provide sufficient cover for the violation of the civil rights of peaceful protestors, or protectors, let me assure that you — that your impression is absolutely wrong. Please do not adopt these rule changes. If you do, it will only serve to assure me
and my fellow citizens that you see that law as a tool
to achieve your own goals, instead of civil code
designed to protect the people and natural resources
of this special. Mahalo for your consideration, Zach
Street, Hilo, Hawaii.

CHAIRPERSON CASE: Okay, 118 Jessica

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Nalani Andrews.

Can you please stay your name.

MS. ANDREWS: Hello. I am Jessica Andrews, Jessica Nalani Andrews, and I am strongly
against the law that you make. I'm sorry. I am the
keiki o ka aina of my generation, and generations to
come, and I know that my kupuna have like their
culture — cultural practitioners and they go up there
and do an oli and then they bring blankets and
backpacks and stuff that is needed for appropriate
blessing and things like that, and yeah.

I feel that this law that you would be
making is unnecessary and will not support and
(inaudible) — support the community and there's
necessary things that are needed for the cold up
there.

Aloha Board of Land and Natural
Resources. I am Jessica Nalani Andrews. I am before
you as keiki o ka `aina from Hawaii island. Mahalo
for taking our testimony today regarding the new
restrictions. Besides being a sacred place, Mauna Kea
is a place that must remain open to public access.

Our generation would like to see your
generation handle this issue in a (inaudible) and
certainly without breaking the law. I know that the

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road on the Mauna Kea is safe -- on the mauna is safe
and clear, and also know that the road was graded two
times shortly after the second wave of arrests, and I
believe two times a week all year long.

I see that the Port-a-Potties have been
stolen that were part of the protection of the mauna
by people operating under Governor Ige's orders. I
have been taught that stealing is against the law.
They should be returned to the mauna because all of
our kuleana is to protect the mauna, so Port-a-Potties
are needed.

My kupuna are cultural practitioners that must have blankets, and they and their helpers carry items in backpacks, plants, lei, ti leaf offerings, mats for kneeling, food, drinks, bags for trash, and items for child care, items for kupuna care, like strollers, wheelchairs and first aid kits, et cetera, so as to have hands free for walking safely and steadily. I think it is none of anyone's business what we bring to the Mauna Kea, as long as it is not going to hurt anyone.

The only people that have been hurt are the two protectors that have been hit by cars. My kumu hula and other kupuna are on Mauna Kea and I want to visit them as soon as possible, whenever that will be.

Now, you are shutting us down because we care about our land. We have done -- not none anything to hurt you, the road or Mauna Kea. Nobody would like to hurt anything or anybody, because we

Thank you.

CHAIRPERSON CASE: Thank you. 119, Maya Saffrey. 120, Kaleo Wong. 121, John Griffiths. 122, Malia Mahi. 123, Rosanna Prieto.

MS. PRIETO: Aloha mai ka kou. Mahalo for hearing our testimony today. My name is Rosanna Prieto. I'm from Oahu. I'm testifying today on behalf of my grandchildren and future grandchildren. I strongly oppose the rulings that you are proposing today, and so my testimony is that it is illegal and morally abhorrent to limit and/or regulate indigenous cultural practices under the premise of imminent peril to natural resources without substantive evidence of such peril. This is attack particular of cultural genocide and systemic political oppression that needs to be immediately discontinued.

Please reconsider your responsibility as public servants to protect, guide, listen to, heal and work with your people. Please consider our humanity,

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as we ask you to hear our grief and act with
compassion. Do not limit native Hawaiian access to Mauna o Wakea, yet allow the tens of thousands of visiting tourists to come and go. The only imminent peril that this would create is the erasure of our cultural identity and the continued fracturing of our kingdom for profit.

As a natural born incident of the illegally occupied Hawaiian kingdom and an environmentally concerned member of the planet Earth, I ask that the desecration of Mauna Kea cease completely and that there be no further construction of the Thirty Meter Telescope. Mahalo.

CHAIRPERSON CASE: Okay, 26 not here, 24, 25, 6, 7, not here, 128, Nicole Grace.

MS. GRACE: That's me. My name is Nicole Grace. I am representing myself. I don't have a prepared statement, and a lot of everything that I was going to say has been said ad nauseam today, so I'm going to skip all of that and just speak on one thing. First, I oppose C1 and C2 wholeheartedly.

The main reason I oppose these rules -- well, what's left to say, is that it delegates power from a board with a due process and a transparent
system to one person. And from what I've seen and
heard just today, despite what research I've done on
that one person that power would be delegated to, I
don't feel that person's qualified to make those
decisions on our behalf.

I feel that it's necessary at this time
for the decisions to remain in more hands than one,
especially if that one person is not qualified and
can't even pronounce most of our names. Thank you
very much.

CHAIRPERSON CASE: Okay, 129, Noelle
Campbell. 130, Kahiua Campbell. 131, Kahiiumano
Seabury. 132, skip. 133, skip. 134, Waiana Makana
Wong. 135, Kealoha (inaudible) Wong. 136, Makane
Christianson. Sorry.

MR. CHRISTIANSON: Aloha, board. My name
is Makane Christianson. I representing the hunting,
farming and fishing association tonight. These rules,
we oppose these rules, first off, reason being because
it limits access to hunters that we have on Mauna Kea,
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
25 This is going to be a problem if you
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
14 And, you know, everybody has the right to
15 protest, and this is a short-sighted endeavor, and if
16 many of you will have the opportunity to read the
17 Tribune Herald, the paper that came out on the steps
18 that were being taken to come up with this rule making
process. So I just suggest -- strongly suggest that
you guys come up with a better solution to this
overall problem that's affecting more than just the
protestors up on the mountain, but it's affecting a
lot of mountain users.

That's all I have. Thank you.

CHAIRPERSON CASE: Thank you. 137,

Kealani Cook.

MR. COOK: Aloha. My name is Kealani
Cook. (Inaudible) like everyone else in opposition it
the rule changes. I'm not a cultural practitioner,
I'm not a lawyer. I'm going to talk about law, so
don't yell at me too much.

I'm a historian, and one of the things
that -- I wasn't even going to testify today, but it
was -- listening to the attorney general's -- the
attorney general talking about this, if I heard this
correctly, the attorney general admitted that -- that
pretty much the purpose of this law, what they're
doing now, is not illegal. They can't prove that
they're doing something illegal with the camping.
When people were doing something illegal, they got arrested, they got hauled down, they bailed out, they're back up there.

If they're not doing anything illegal and they change the laws specifically to follow -- to go after whatever political opponents of the governor, it makes a little bit of a mockery of the system, and you guys are the ones that are going -- I mean, it's kind of weird that they're asking you to do the rule change and you're going to take the heat for the governor's project, or project the governor supports. And that -- that's the first part, that the actual purpose is already sort of making a mockery of the system of law.

The procedure that they're using that they're claiming, this imminent peril, and they haven't actually been able to produce evidence of the imminent peril. There have been accusations, but all of those are things that -- I mean, even when you're talking about the guy getting spit on, and it was hard
to hear outside, so that was something you saw?

UNIDENTIFIED MALE BOARD MEMBER: I was right next to him.

MR. COOK: Isn't that assault?

UNIDENTIFIED MALE BOARD MEMBER: Well, you know, the person who did the spitting is somebody that I know from Hilo for a long, long time, and I didn't approve of it, but I didn't feel it was my responsibility or my authority to be a cop. I was there as a -- I was there as an invited guest. I was greatly offended, and I felt really bad for the old guy, because he was walking with cane. He was having a hard time already. And she walked up and spit right in his face, and when she called him, I haven't said it in here, she used a very strong racial epithet against him, and that's why I say, that's what 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
here, and if I'm not perfect in my mission, it's
because I've got strong feelings too, because I've
been on the Hawaiian side all these years.

MR. COOK: And what I'm saying is,
something like that is, I mean, if there is an actual
assault that goes on, there are laws for that, right?
That should be covered. And for something like that,
that's also a huge violation of the whole kapu aloha,
and that should be taken care of on that side too.

UNIDENTIFIED MALE BOARD MEMBER: The
older generation didn't have quite the finesse that --

MR. COOK: The older generation was
brought up in a --

UNIDENTIFIED MALE BOARD MEMBER:
(Inaudible).

MR. COOK: '60s, '70s spirit.

UNIDENTIFIED MALE BOARD MEMBER: What's
it called again? Kapu aloha, that finesse a little
more sensible. My age is not like that.

CHAIRPERSON CASE: Please go ahead.

MR. COOK: Just saying that laws are in
place for the things that are actual threats and the
possibilities of actual assaults, and if those things happen, the laws are in place. And to create new laws that justify it by saying we're going to create these new laws --

UNIDENTIFIED MALE BOARD MEMBER: By the way, what do we get — you know, your points are well taken, but answer my a simple question, we have responsibility of keeping the roads open so that the staff of the Thirty Meter can go up there and do what they want and if the court shuts them down, that's their tough luck. And if the court shuts them down, then we will block them from going up there, but until the court shuts them down, we have to obey the law and we've got to keep the roads open. So how do you answer that?

MR. COOK: What did you do last time?

UNIDENTIFIED MALE BOARD MEMBER: Huh?

MR. COOK: What did you do last time?

UNIDENTIFIED MALE BOARD MEMBER: What did we do what last time?

MR. COOK: On the 24th.

UNIDENTIFIED MALE BOARD MEMBER: We sent the cops up there --

MR. COOK: And that's -- and that's --
everybody knew this is the thing. We knew it was going to happen, people are going to get arrested, and that's -- and that's part of the process. We're not rearranging the ruling.

UNIDENTIFIED MALE BOARD MEMBER: The problem is -- the problem is with that scenario, the only way you can effectively do it is when you have demonstrations -- and I'm not an expert in this area, but you have to have overwhelming force. And you have to last long enough to abate the problem.

MR. COOK: And if you don't from the political courage to do that, then you shouldn't do that project.

UNIDENTIFIED MALE BOARD MEMBER: If you don't have overwhelming force and you can't last long enough to abate the problem, then the problem gets exacerbated, and that's what happened, and it happened twice. And so I'm not the governor to say which way the state goes. Governor Ige was elected by the will of the people answered has his own philosophy where he
wants to go, and he said in the paper what his
position is, and if the law says that these people are
supposed to be there --

MR. COOK: But is this an imminent peril?

UNIDENTIFIED MALE BOARD MEMBER: -- we
can't -- we can't keep the roads open only for some

and not for others.

MR. COOK: And that's another issue.

UNIDENTIFIED MALE BOARD MEMBER: It is.

MR. COOK: But we're talking about the
imminent peril part of this. Where is the imminent
peril?

UNIDENTIFIED MALE BOARD MEMBER: The
imminent peril is -- I don't know if you were in here,
but some of the things I heard sound to me like
imminent peril.

MR. COOK: Then they should be
investigated.

UNIDENTIFIED MALE BOARD MEMBER: Well,
you know what, you know what, you may be right, they
should be investigated.
MR. COOK: What kind of -- these rangers are technically -- there's some form of law, right?

UNIDENTIFIED MALE: Excuse me. I hear both of your sides. We're here for (inaudible).

MR. COOK: The got two Portagees here.

UNIDENTIFIED MALE: Yeah, so let's move on with it. It's been a long day. We need to move on, seriously.

MR. COOK: I'm about 15 minutes away from probably getting divorced if I don't show up.

And finally the rules themselves, they've been changed, but they've also sort of made a little bit -- with the blankets, it was obviously like the content of the law is making a mockery of it. But then wean the -- I mean, the backpacks and when have you to keep massaging this thing just because it's like -- you started silly and we're trying to get less silly. You do that, when the people who are under the law make a mockery of the law, that's an issue. When the people are in charge of creating and enforcing the
law do that, that's a greater issue, because it undermines the authority of the law in general. And that's something as a historian that you can see, that either it's overwhelming force, which ends up with despotism, or the law has made a complete mockery of --

CHAIRPERSON CASE: Okay, just --

UNIDENTIFIED MALE: So basically you're against, opposing C1 and C2?

MR. COOK: Yes. (Inaudible).

CHAIRPERSON CASE: 138, (inaudible).

139, (inaudible) Kaina. 140, Marissa Spies. It's easier when you can read the handwriting.

MS. SPIES: Aloha. Thank you for taking the time to listen to us, and I'm going to be brief,

base know you all want to go home and I do too. My name is Marissa Spies. I was born and raised on Hawaii island, and I was raised in the shadow of Mauna Kea. I'm educated at UH Hilo and informed Oahu three years ago to start my Ph.D. I'm here today in opposition to the emergency rule changes. I feel that
these rules are unfairly targeting protectors opposed to TMT construction.

I applaud the efforts of the protectors. They are standing vigil on Mauna Kea and protecting land that has already been set aside for conservation.

Everyone is so focused on TMT and the good science that will come out of it, that they forget that astronomy does not represent all science.

I'm educated in biology, anthropology, environmental science, and conservation biology. As a scientist and a native Hawaiian, I understand that there are times when we need to stand for protection of places that we hold sacred, even if it is in opposition to current rules the protectors are standing for me, for all of us, when we can't physically be there.

The DLNR has failed us in proper management of Mauna Kea, and if we continue down the path of TMT construction, this will only continue.
themselves to conserve a fragile ecosystem and sacred mountain.

What does the average person do when the government has failed the people? You stand for what is right, even if you stand with the minority.

Developers of TMT have been throwing a lot of money at our community, as if it is substitution for the culturally rich area that they plan to construct their piece of scientific equipment on. Construction on what is a focal point to it an entire culture and island community is something that no amount of money can ever buy, and it's something that's priceless.

I urge you all to oppose these rule changes, and not to unfairly demonize a group standing for something that is culturally and environmentally important to all residents of Hawaii. I urge you as a scientist and as a native Hawaiian. Thank you very much for your time.

CHAIRPERSON CASE: Thank you.

MR. REDULLA: Good evening, chair and
board members. My name is Jason Redulla, and I'm the acting enforcement chief and division administrator for DLNR's Division of Conservation and Resources Enforcement. I am in support of the emergency rule because it will provide a legal regulation that will enhance public safety for all persons at Mauna Kea. In my professional law enforcement opinion, due to the actions of protestors who blocked the road by placing rocks in the roadway and refusing to comply with lawful and reasonable orders to not obstruct the roadway, I do believe that there is immediate peril to public safety without this type of regulation.

I'd like to provide you with several examples of this immediate peril. During the protests on both April 2nd and June 24th, those persons who blocked the roadway placed themselves in life threatening jeopardy. The roadway consists a gravel cinder road, bordered in many areas by sheer drop offs and unstable slopes. These conditions create a significant hazardous condition to persons present on the roadway and creates a significant fall danger with the risk of death or substantial bodily injury, not to
mention significant liability to the state of Hawaii.

Further, imminent peril is demonstrated by the obstruction of the roadway, which hinders the appropriate medical and fire response to the summit.

Fire trucks and ambulances cannot pass object instructed roadways that are filled with boulders and rocks, and furthermore, fire trucks cannot access this.

On June 24th, I actually observed the ahu and rock walls that were placed in the road. These obstructions were placed on the roadway, creating a very unsafe condition to motorists. Vehicles that wanted to pass these obstructions would have had to drive precariously close to the sheer edge drop offs on the shoulder of the road. This danger is further multiplied by the fog and darkness and limited traction of the gravel cinder roadway.

The environmental and terrain conditions, coupled with the noncompliance of many protestors, also places our DOCARE officers in very dangerous
situations. DOCARE officers have had to effect
arrests in very close proximity to protestors on the
road. This close proximity and lack of space makes
effectuating arrests more difficult safely do and
places our officers in a highly dangerous situation.

In conclusion, to promote public safety,
I urge you to support this measure and pass it
tonight. Thank you.

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UNIDENTIFIED FEMALE BOARD MEMBER: Have a
question.

MR. REDULLA: Yes.

UNIDENTIFIED FEMALE BOARD MEMBER: So
under about the blocking of the road is a public
safety issue. How does the 10:00 p.m. to 4:00 a.m.
rule help with preventing that blocking of the road?

MR. REDULLA: In my professional law
enforcement opinion, and I'm not a lawyer, so in my
layman, legal law enforcement opinion, this type of
restriction will minimize the presence of persons in
the area, and thus will create a more safe environment
for vehicles to pass and transit through, just by the
UNIDENTIFIED FEMALE BOARD MEMBER: Thank you.

CHAIRPERSON CASE: Thank you.

UNIDENTIFIED MALE BOARD MEMBER: Kala mai. You were there?

MR. REDULLA: Yes, sir, I was there on June 24th.

UNIDENTIFIED MALE BOARD MEMBER: Okay, and that's your observation, your personal observation?

MR. REDULLA: Yes, sir, it is.

UNIDENTIFIED MALE BOARD MEMBER: And you're the boss?

MR. REDULLA: Yes, sir, I am the chief.

UNIDENTIFIED MALE BOARD MEMBER: Okay, thank you.

CHAIRPERSON CASE: Thank you. Meleana Kamai.

MS. MELEANA KAMAI: Aloha mai ka kou.
(Speaking in Hawaiian).

CHAIRPERSON CASE: Go ahead.

MS. KAMAI: (Speaking in Hawaiian).

Mahalo for all of your patience, for sitting here all day, for listening to us, mahalo for serving without pay, excluding you. We trust to you do what's right. We don't need to repeat what's already been said, but what I would like to say besides opposing these unnecessary so called emergency rules is that there are many people missing from this room. There are many voices missing from this testimony.

Thankfully we have Olelo TV. Due to Olelo TV, many people are at least hearing us today, this evening, but that was not through the actions of the state, of their own accord, of their own willingness? Where is the transparency? Where the inclusion of our people? Do we only represent the big house across the street, the corporations, the international companies with monies? No, you represent the people of Hawaii, yes, with the laws, the legalities of it all, and slippery slopes is and
the snakedy snakes of using the law, creating
unnecessary laws. Enforce that the laws that we have.
We don't need to create something which is going to
limit a particular group of the population, which is
always targeted at the expense of everyone else who
has come. Even today we still welcome you, but we
don't ask you -- and even our own people, we don't ask
you to change yourself. We ask each other to adapt to
each other, to be tolerant, but tolerance only goes so
far. And then we wonder why our people lose patience,
cannot present themselves well, that they get upset
and they find themselves doing the things that they
have to do, illegal as it is beings because they are
not legalese, they do not slip through the law, like
many attorneys know how to slip through the law,
create new laws, so that it all works out for who?
Everybody but.

Many people before us have cited so much
information that you folks are probably on overload.
But I thank you for hearing it and I pray that you
folks go home and absorb it, because it's in your

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heart, it's in your na`au. What is the right thing do within the law? Create new things that targets a group that actually causes more danger? Why can't it be a win-win like Kawika was saying? Why aren't we looking at the and possibility. Why does it always have to be them or us? When do we start to consider the and?

Hawaiians have been us and you. We are still us and you, because you are us. We are the people of Hawaii living here, but we know who the first peoples are, and thank you for respecting that. So I ask you folks, do what's right in your na`au and to think about who the missing voices are.

And if I just may add one more, so we are in 2015. We have technology. To those voices that are not here, I ask you to do teleconferencing, because for people to come from our neighbor islands to spend one, two, 300 dollars, sometimes they have to buy the first class seat. 400 dollars for a three-minute testimony. How many of us have that? And if they are hunters, practitioners, who of us has that kind of money? So let us use technology as it has been available to us. Mahalo nui loa.

CHAIRPERSON CASE: That's all I have
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
for the public, for the stakeholders out there.

I just want to urge you guys to continue
to let that kuleana guide you, to it allow a lot of
things that have been said today into your folks'
minds and really -- really let that set in.

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So just to start, I do oppose both C1 and
C2, the proposed rules. And just for the sake of
time, you know, the cultural, spiritual, religious
arguments you guys have heard, I'm sure, as well as
the environmental, the financial, and the fiduciary,
so all of these -- all of these arguments are out
there, you know, and I just want to urge you folks to
not pass this rule, not open the state to a liability
of more lawsuits, more legal battles, spending more
money and more time, more energy.

You know, it's clear -- it's clear what
the general consensus of today was. You know, it's
clear what the 1998 and the 2005 state audits say
about the management of, you know, Mauna Kea through
the DLNR, through the UH board of regents. So the
writing is on the wall. The fact is that the
mismanagement is a problem, and I know this is just
about the proposed rules, so I'll just wrap it up
with -- with -- just wrap it up with thanking you guys
for your time. Thanks.

CHAIRPERSON CASE: Okay, Karen Murray.

MS. MURRAY: Karen Murray, yes. Hi.

Sorry, I've been at work since I got up this morning
at 5:00 and then I had to go hold signs for this and
then come down here on my own time, thank you. But,

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okay, I totally oppose C1 and C2. I feel emergency --
these emergency rules are not really an emergency.

You know, I was -- (inaudible), but I
didn't expect any laws to be enacted or changed to
protect me over at (inaudible). I'm just like that.
I just wash my face and that's fine, you know.

Okay. I think if this is an emergency,
we need a new dictionary. And I've been on the
streets, as I just came from, and I've been hearing
from people all over the world, an, everywhere, and
when they hear about what's happening here, from TMT
and what is happening now with this — they really
think that this is bullying, yeah. This is a petty
kind of bullying. My grandmother, if she saw those
rocks, pictures of those rocks, and I saw great
videos. She would have said, oh, bring 'em over my
house, you know, we make some — use some in our
backyard. Okay. They're not dangerous, and they were
taken down within a day.

And we also had on the news, we had UH
spokes person, David — I don't know how to say his --
anyway, he said that Mauna Kea is a cinder cone that
is constantly in motion, okay. We had to grade it
twice a week in order to even maintain that road
because rocks are constantly falling into that road,

because that's a cinder cone, that's the nature of
Mauna Kea. It's trying to heal that scar of a road,
okay.

So as far as that being any kind of
danger, that's shibai. And after the bullet hole
thing, oh, my God, credibility is like down here,
okay. So when it came to feces on the wall and all that kind of stuff, you know, it seemed to me they would have brought it up when they closed the visitors center. Oh, feces on the wall, that's why. And bomb threat, they would have brought in homeland security or something, right? So I don't believe that. I don't believe those two things. I don't believe a lot of things because the credibility is lost.

And, you know, I approached you during your confirmation hearing, and I know we're never going to agree, because I don't think that the military -- military will ever be good stewards of the land, not especially after Red Hill, yeah, so that's especially why I don't want C1 to go through, because we're not going to agree, yeah.

Let's see, make sure. Yeah, I mean, Hawaiians, they work with rocks all the time. We were just out working on a fishpond about a month ago. You know. These things are not dangerous. Rocks are not dangerous. There are -- they're our friends. They're part of our lives, yeah. What is dangerous is
building another hazardous waste tank on a cinder cone, a 5,000 gallon tank of hazardous waste sitting at the top of a cinder cone that is by the UH spokes person's own words, constantly in motion. We see from Red Hill, it's not a good idea, tanks leak.

The other thing is that UH astronomer on a talk show he said, well, this is probably going to be the last of the big telescopes because it's financially draining, for one with, and the other thing is we'll probably have breakthroughs in optics. Take out your cell phones, how great is that, you can all kinds of great photos and videos now, right? And things are getting -- computers are getting smaller, and smaller and smaller, until finally they'll put right in your hand, right?

So if they can do that with that, TMT can take all of their money and invest it in research in optics and retrofit that into one of the existing obsolete telescopes and not disturb that land in trying to take all that rubbish away, because to take one down disturbs a lot of land also. Okay.

CHAIRPERSON CASE: Thank you.

MS. MURRAY: Sorry if I seem abrasive.
I'm really tired. I need to go home and sleep.

CHAIRPERSON CASE: Is there anyone else who wants to testify? No further testimony? Okay, we're going to close. Oh, sorry. You want to come back and respond? Thank you.

MR. CHIN: Member Roehrig had asked for the Facebook threats, so I just wanted to give him, put them in the record.

CHAIRPERSON CASE: Sorry, we were about to close public testimony. Are you wanting to testify?

MS. NANEOLE: Aloha. Mahalo nui. I'm glad I got here just in time.

CHAIRPERSON CASE: I'm sorry, can you again say your name?

MS. NANEOLE: Kaui Naneole. I was number 138. Aloha. I oppose first and foremost amending anything that would exclude access and rights to the summit. I have ohana buried and scattered up there, as well as people up there in Waiau. And this proposed amendment or -- this proposal would prevent my access to those sites.
The pole, as we know it, is a special time for our akua, and I think that by preventing us the access at these specific hours, you also prevent us from our inherent right to practice our religious connection with that (inaudible). So that's all I have to say. Mahalo nui for your long, lengthy day.

CHAIRPERSON CASE: Thank you. Anyone else wish to testify?

UNIDENTIFIED MALE: (Inaudible) disclose her dad is one of my closest friends.

CHAIRPERSON CASE: Okay. At this point we're going to close public testimony, and go into deliberation.

UNIDENTIFIED MALE BOARD MEMBER: Madam chair, (inaudible) this is James' motion. James, is it appropriate now for us to go into executive session to talk to our attorney and whatever your script says?

UNIDENTIFIED MALE: Sure.

UNIDENTIFIED MALE BOARD MEMBER: (Inaudible) script.

CHAIRPERSON CASE: Do we need --
UNIDENTIFIED MALE: Do we need to go into executive session? We had one earlier.

CHAIRPERSON CASE: Or do we just need --

UNIDENTIFIED MALE BOARD MEMBER: I need some legal advice from counsel, because I have some -- I have some legal concerns that I would like to air with counsel. I think it's prudent to -- to -- because it's an attorney client thing, I think it's prudent to go in executive session to discuss it.

CHAIRPERSON CASE: Would you like to make a motion?

UNIDENTIFIED MALE BOARD MEMBER: I make that motion (inaudible).

CHAIRPERSON CASE: Would you like to do it yourself?

UNIDENTIFIED MALE BOARD MEMBER: Sure, if you give me the script, I'll read it. I don't see it. Are you sure it's on that page? Here we go, number four, move to go in executive session to consult with our board's attorney on questions and issues
pertaining to the board's powers, duties, privileges, amenities and liabilities relating to this docket.

CHAIRPERSON CASE: Second?

UNIDENTIFIED MALE BOARD MEMBER: Second.

CHAIRPERSON CASE: All in favor?

Opposed? Okay, we're going into executive session.

UNIDENTIFIED MALE BOARD MEMBER: Thank you everybody for your testimony (inaudible).

(Recess taken.)

CHAIRPERSON CASE: Okay, we are back in session at 10:10, and we are going to hear -- entertain a motion on item C1. Is there a motion.

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UNIDENTIFIED MALE BOARD MEMBER: I wanted to make a motion on C1. Just so -- to explain for a moment. C1 is an item that delegates various duties that are -- and powers that exist under the current game management rules to various administrators or to the chair of the division of -- or the chair of the department, and they include many things which are not very controversial, such as waiving additional fees for -- when additional animals are taken on the island
of Lanai during hunts and things like that.

The only two items that have been controversial is the delegation of the closing of the -- the complete closing of the hunting area from which is currently -- the rule says can be done by the board or its authorized representative, and that would have been --- under this proposal would be delegated to the chairperson, potentially for a period of up to six months. And I'm going to change -- I'm going to move that he we change that to a maximum of one month by the chairperson.

I heard Walter Riddy's testimony and other testimony that they want to be able to come to the board and argue about these things, and I think that with a one-month period, there are emergencies that come up that need to be dealt with. There are relatively short-term closings -- closures that are not that serious. Anything longer would have to come to the board and be argued and (inaudible) by the public.
So my motion is to approve C1 as presented with that amendment.

CHAIRPERSON CASE: The amendment to change that, the closure?

UNIDENTIFIED MALE BOARD MEMBER: In both chapter 122 and chapter -- which is the bird hunting rules, and 123, which is the game mammal hunting rules, they're separate clauses that say -- that delegate to the chairperson that power, but this would limit the chairperson's closure time to one month. Anything longer would have to go to the board.

UNIDENTIFIED MALE BOARD MEMBER: Second the motion.

CHAIRPERSON CASE: Okay, any discussion?

UNIDENTIFIED MALE BOARD MEMBER: I think it should be 1322–119 and 1323–211.

UNIDENTIFIED MALE BOARD MEMBER: Right, thank you.

CHAIRPERSON CASE: I'm sorry, can you just say that in the mike. I just want to make sure it's in the record, the two sections.
UNIDENTIFIED MALE BOARD MEMBER: So 1322-11.1 and 13123-21.1, those sections.

CHAIRPERSON CASE: So change the six months to one month in those sections?

UNIDENTIFIED MALE BOARD MEMBER: Yeah, correct.

CHAIRPERSON CASE: Okay, and we have a second?

UNIDENTIFIED MALE BOARD MEMBER: Second.

CHAIRPERSON CASE: Any discussion, any other discussion? If not, all in favor?

MEMBERS: Aye.

CHAIRPERSON CASE: Opposed?

Thank you. All right. Item C2, do we have a motion on item C2.

UNIDENTIFIED MALE BOARD MEMBER: Yes, I'd like to make a motion on item C2. I want to acknowledge, we had an enormous amount of testimony today, and very moving, very well stated, very eloquent testimony, and I understand the concerns and the passions of the people that testified. I think a lot of the people are -- who are at the -- been on the mountain have been standing on the side of the road, who have been at the encampment are wonderful people, very good people.
I'm very concerned that I hear a number much people testify that they are prepared to place boulders in the road again. I heard a number of people testify that they're prepared to block the road again, and as we've said here before, we -- we actually -- we actually do take -- uphold the laws. We have our enforcement people who are -- also their job is to uphold the laws, and at this point the law does say that if telescope construction people come through, that they have a right to come through. The only people who can change that right now is -- the only people are a court, and we are required to uphold that.

So our people need the tools to keep -- to keep order on the mountain, and for that reason, I'm going to move to approve C2 as it was presented today.

I know that the board members -- I think all the board members have comments, and I'm not going to make any kind of big speeches. I think this is a
very -- I could make the wrong speech, but it's a very sad that this has come to this point, and that this -- that there is this conflict between I think people who are deeply good on both sides and have different visions, but (inaudible) have the same (inaudible) and on the same island.

I'm also going to find that based on what we've been presented that there is an imminent peril to public health, safety and natural resources that justifies this granting of this emergency rule.

And the final comment that I'd like to make is there have been requests and there's been statements that for cultural reasons people may want to go up and stay on the mountain for times outside of the hours, and that these -- this is -- will be possible. There is a provision in the rules for special permits that can be granted by the chair that would deviate from the normal requirements of the rules, including this emergency rule. So this is still a conversation and a dialogue that we can continue to have.
UNIDENTIFIED MALE BOARD MEMBER: Second the motion.

CHAIRPERSON CASE: Discussion?

UNIDENTIFIED MALE BOARD MEMBER: Madam chair.

CHAIRPERSON CASE: Please.

UNIDENTIFIED MALE BOARD MEMBER: Madam chair, may I ask a question?

CHAIRPERSON CASE: Yes.

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UNIDENTIFIED MALE: Just so -- I mean, it's my understanding, and correct me if I'm wrong, I'm reviewing -- the motion included a request that the board find that an impairment peril to the public health or natural resources necessitated the emergency nature of the rule.

UNIDENTIFIED MALE BOARD MEMBER: That's part of the motion, yes.

UNIDENTIFIED MALE: Thank you, madam chair.

CHAIRPERSON CASE: And just to clarify,
the rest of the rule provides procedures for permits,
and we'd have to refer back to what they are, but --

    UNIDENTIFIED MALE BOARD MEMBER: That's
in the game management rules, which are being amend
here. So there is a clause for special permits in the
game management rules.

    CHAIRPERSON CASE: Thank you. Please,
Mr. Roehrig.

    BOARD MEMBER ROEHRIG: This is very
painful for me, probably painful for all of us, but
for me it's very painful, but when Governor
Abercrombie asked me to serve on the land board, he
called me up and asked me to serve, and I said you
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
the board and new ideas, and that's why we're telling you you've got to go, and so I decided, okay, I made a decision. I talked to my wife, and now I'm here and I took the oath. All right. And I'm going to -- I'm go to do my job correct, even though I've got strong feelings for my Hawaiian clients and my Hawaiian neighbors and my Hawaiian family, including my grandson who comes to it our house every day.

So I'm seconding the motion and I'm going to be in favor of this, and here is some of the things that I want to have happen, and I want there to be good faith efforts made to work on these things if they can't be done overnight, because I -- I feel that they are part and parcel of why I'm voting for this. Okay, and it goes like this, number one, not in any particular order, the Kahu Ku Mauna advisory committee has got to have a robust future. It's there for a reason. It's there for the Hawaiians to know that we care about their PASH rights of the mountain. So they have to have a voice in what happened. And it's not
whether they have a voice, there has to be an appearance at least that they're being listened to. When they come over here to a meeting like this and they tell us that they feel frustrated, the whole reason for us setting that up in 1998 was so that they would have a voice, permanent voice and so that they would have that PASH rights voice, and this Kahu Ku Mauna advisory board was set is up for that purpose. It's supposed to be the eyes and ears for the Hawaiians and they have to be a robust group. So that's got to be worked on. That's the first thing. Number two, there's got to be a proper disposition, and if it's too late for that on anybody on a stand up board or surfing or windsurfing or having swim meets, races in Waiau bay, that's forbidden. We expect the DOCARE officers to strictly restrict what goes down in Waiau Bay. That's a sacred place, and if there's going to be Hawaiian — if there's Hawaiian type ceremonies, using the lake water, that's okay, but it's not for general recreational use by passers-by. That's a restricted area, and it's got to be — it has to be respected, very, very sacred place.
Next item, this water going down the
mountain, we want that investigated and find out where
is that water going to, and if it's draining areas
that are sacred, we've got to find out whether or not
that's a good idea. We want to have a report brought
to us about that, because we're bothered by that,
especially when we saw those photos at one place all
nice and green, everything was nice and malia, and the
next one just get bushes all nothing already. So we
want to work on that.

Next item, we encourage peaceful protest.
Protest as much as you like, but not on the road, and
no block nobody. And there is going to be some
discussion, and chair woman is going to take this up,
we're going to have permits to have certain protest
site on top the mountain somewhere where you can have
a 24-hour facility but it's not blocking the road.
The chairman is open minded to considering that it,
and so are we, but we have to have — we have to let
the western culture and the Hawaiian culture coexist,
because we have to uphold the law.

All right, the next item, and this is
another painful area. I'm very fearful that no matter
which way we go, somebody is going to spend money, a lot of money, and no matter which way we go, we might -- we might have lawsuits against us, against the state, whatever. It doesn't look like we can prevent that, but we have to be mindful of the fact that tomorrow the Thirty Meter limited liability partnership, or some other entity, can file a claim in federal district court in Hawaii, in San Francisco, in some other state where they're domiciled, and then the issue of whether PASH rights are going to face the same fate with Rice versus Cayetano, we're going to have to face that. That would be a very sad day for me, because I think the PASH rights is what gave me clients hope all these years, and that could go the same way as Rice versus Cayetano because there's an element in PASH rights that favors the host culture. You look at the Rice versus Cayetano, very unfortunate words in the case, but it says that any kind of benefit to one nationality by reason of ancestry is Constitutionally suspect. That's what it
Very unfortunate, but that's what we're faced with. That's the reality of it. That's why I'm fearful, this isn't going to end in the state Supreme Court. This is going to end in the U.S. Supreme Court. So you've got to be careful for what you wish for. You might win the battle and might lose the war. And the war is going to be with Justice Scalia and his boys. All you have to do is read the newspaper, see how they vote. Do they vote -- are they going to vote for a local culture? I don't think so. They don't seem to act like it. Maybe I'm wrong, but that's my fear. I have a hopohopo about that.

So the last item is I want to encourage the university -- I want the president to hear this, chairman of the board of regents, I want them to back up Don Straney, because he hired two Hawaiian educators, one for east Hawaii, one for west Hawaii, to start the process of getting the at risk kids in the Hawaiian pocket communities and other disadvantaged kids from other pocket communities in the Big Island, get them ready for college to go to UH
Hilo, tuition waivers, early admittance, opportunities to get ready to go to college and give them after school training. Where they're having problems, give them mentors right into the after school program, and that's what they started to do, and hopefully that idea will spread across the state, and we'll get everybody in this picture to help pay for that, because mitigation measures are part of the deal of the CDUP, and it's part of the appeal in the CDUP.

And all of the leases are coming up. If they want to get extensions of the leases, you know,
other, even though we have strong disagreement. And we need the public's help for us to do a good job, because this job is not easy and we're facing tough times coming up. So we need to pull together as a community.

Thank you, madam chairman.

CHAIRPERSON CASE: Are there other discussion?

BOARD MEMBER WOODSIDE: Kanawai mamalahoe was quoted several times today, and it was in several testimonies that we received, and that goes both ways. The safe and respectful use of the road is important to everybody. And I'm disappointed that that hasn't been upheld. I'm disappointed in the words of violence that have been used, maybe not in this room today, but definitely on both sides of the conversation.

I'm -- I feel for our DOCARE officers, and I appreciate your testimony and what you stand for. Of all tools that we have, I don't know that we're using the right tool right now, and I don't know
that we've given you the right tools and all the tools and resources that you can use as well. It's conflicting. I hear you guys talk and I feel the same way you do.

Having said that, I don't — we just had the emergency rules for the lo‘i last meeting. When it came to impacts to natural resources, we received a certain amount of information on species and data. I didn't receive that about the natural resources at this point in time. In other issues before us, when there's been violations, we've received reports about those violations and investigations into those violations. I recognize the challenges of the existing rules on the books and how maybe that challenge serving violations, but I still that's part of the process, and that was a tool that we had as well that we could have used.

We have Kahuku Mauna. We have Ahumoku Council. We have the Office Hawaiian Affairs. Many people who have offered help in the past and that are
resources to Office of Mauna Kea Management, the university, and to the board, and that's a tool that I don't feel that we used beforehand.

I don't know that I feel that I've heard a genuine understanding of -- from all sides of what it means to have cultural practice at Mauna Kea. I hear the cultural practice and the camping sort of woven together, along with our First Amendment rights. And I don't know that I have heard clearly how we've tried to understand each of those conversations and to move forward with resolutions on each of them as is appropriate for them. I feel that we're lumping them together.

And I recognize, like my fellow board members, that the situation has come to a head at this point in time, requiring these types of rules to come before us, because other tools and other efforts weren't necessarily used ahead of time.

So for those of us that have to go forward, continue to serve our land, continue to serve our people, I think we do need to pause every now and then and think of the tools we have on hand. You don't bring your `o`o when you have do a ko`i type of job. You don't take your `o`o if what you really wanted to do is hoi, and I don't know that these rules
really accomplish -- are the right tool at the right
time for this particular situation. I think we've
brought the wrong tool to a very, very challenging
situation. And I share the fear with my board members
of the violence that we hear about, which is very
different from being -- to having perseverance.

And I'm concerned about the public safety
issues that have already occurred and the potential
for more public safety issues, and I hope that we can
all abide by kanawai mamalahoe and find a way to have
peaceful and respectful conversations and recognizing
how we can come to some sort of aloha in this -- in
this situation.

Mahalo.

CHAIRPERSON CASE: Are there other
comments, discussion?

UNIDENTIFIED MALE BOARD MEMBER: I have
one more, after anybody else, after everybody else,
then I -- just a couple items.

CHAIRPERSON CASE: Go ahead.

UNIDENTIFIED MALE BOARD MEMBER: Okay.
I'm just talking about our DOCARE acting boss. I'm very impressed by your comments. You really spoke from the heart. You're the man on the spot. You were there, and we've got to back you up and we've got to have your men have -- they have to have good feeling in their heart that they're doing the right thing, so we've got to be there for you guys, and I recognize that today. And I think that's really important. So you tell your boys, you know, have a good feeling, because we're going to back you up. We're going to watch your back.

The other thing is we want the university to look into having your -- if I didn't already say this, having your rangers have police powers, talk to the president, chairman of the board of regents, see what -- how do we accomplish that. Do we need to go through legislation, I'm not sure, whether you guys have to make rules or board of regents gotta make rules. I'm not sure how that's to be done or whether that's under present rules now that need to be -- need
to be looked at with fresh eyes.

I'm not sure, but for the same reasons that we have opportunities for clear and present danger, is the words I would use, for prior intervention before things happen, under Constitutional law, we have that same reason that the rangers need to have police powers, because emergencies are going to arise when we least expect it on the mountain. There's more people. There's more traffic. There's more tension. And there's more people -- just tourists going up there, running around in their -- in their bikinis and whatever, and, you know, they look like -- I don't know whether they've been, but what they're doing, but just a lot of pressure up there, and emergencies are going to occur, disputes are going to arise on top of the mountain, and you guys might be the only ones who are there. You can't call, you know, patrol to come and help you. You've got to do it right there.

So it's not to make you guys into a malitia, you know, something inappropriate, but it's
to give you adequate tools in the event you have an
emergency so you can do what is necessary to keep the
peace and have the law of the land obeyed. Thank you.

Thank you, everybody for coming and all
of your comments. I'm going to remember this day for
a long time.

UNIDENTIFIED MALE: (Speaking in
Hawaiian). I'll see you on the mountain.

CHAIRPERSON CASE: Any other comments?

Discussion? If not --

UNIDENTIFIED FEMALE: (Inaudible).

CHAIRPERSON CASE: The motion is to
approve the rule as submitted today. And there's a

second?

UNIDENTIFIED FEMALE: There's no
assurance for the Hawaiians. There's been a lot of
assurances just now.

UNIDENTIFIED MALE BOARD MEMBER: I
seconded the motion.

CHAIRPERSON CASE: You did, all right.
All in favor?

UNIDENTIFIED MEMBERS: Aye.

CHAIRPERSON CASE: Opposed?

BOARD MEMBER WOODSIDE: Aole.

UNIDENTIFIED MALE BOARD MEMBER: Aole.

CHAIRPERSON CASE: Motion's passed.

Meeting is adjourned.

(End of audio-recorded proceedings.)
for the State of Hawaii, hereby certify that the
audio-recorded proceedings were transcribed by me in
machine shorthand and thereafter reduced to
typewritten form; that the foregoing represents to the
best of my ability, a true and correct transcript of
the audio-recorded proceedings had in the foregoing
matter.

I further certify that I am not attorney for any of
the parties hereto, nor in any way concerned with the
cause.

DATED this 28th day of September, 2015, in
Honolulu, Hawaii.

______________________________
Jessica R. Perry, CSR, RPR
Hawaii CSR# 404