

## ***Kanaka Maoli Scholars Against Desecration***

*Statement on Mauna Kea - February 17, 2009*

We declare our opposition to SB 992/HB 1174 and SB 502/HB 1370 and any other legislation bills that would transfer Mauna Kea to the University of Hawai`i (UH). These current legislative proposals would give the UH complete management authority over Mauna Kea and allow implementation of a plan that has no limit on telescope construction, would close public access to the summit, and exempt UH from public oversight in the name of development.

Mauna Kea is a sacred summit, which is already being desecrated by the existing science telescopes. The Hawai`i revised statute 711-1107 on desecration specifically states that no one may commit the offense of desecrating “a place of worship or burial,” and the statute defines “desecrate” as “defacing, damaging, polluting, or otherwise physically mistreating in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover the defendant's action.” If this legislation passes, state legislators would be violating their own state law.

These legislative proposals also interfere with on-going litigation on the current regulations governing Mauna Kea. We would also like to remind state representatives and the general public that in the recent Third Circuit Court case regarding the management of Mauna Kea, the court ruled in favor of the Plaintiffs—Kealoha Pisciotta, President of Mauna Kea Anaina Hou; Debbie Ward and Nelson Ho, Co-Chairs of Mauna Kea Issues Committees, Sierra Club Hawai`i Island Chapter; Ali`i`Ai Moku, Paul K. Neves of the Royal Order of Kamehameha I, Moku of Mamalahoa Heiau Helu`Elua; and Clarence Ku Ching, individual Native Hawaiian Practitioner—and against the UH and the state Board of Land and Natural Resources (BLNR) for violation of the regulations protecting Mauna Kea as a conservation district. This lawsuit is currently on review before the Intermediate Court of Appeals (ICA) after the University appealed the lower court ruling against them. Though the University only recently

withdrew its appeal from the ICA, counterclaims that go to the fundamental merits of this issue remain before the ICA.

Besides blatant desecration, and interference in on-going litigation, the negative environmental effects are numerous. As noted in the Testimony of the Plaintiffs regarding this legislation, two reports by the State Auditor have found that UH's misuse and the BLNR's failed oversight is "inadequate to ensure the protection of natural resources, and neglected ...the cultural value of Mauna Kea." Their report further stated that the University's Institute for Astronomy "focused primarily on the development of Mauna Kea and tied the benefits gained to its research program," and that its focus on telescope construction has been "at the expense of neglecting the site's natural resources." Also, in 2005, an Environmental Impact Statement required by federal court order found that the cumulative impact of telescope activities on Mauna Kea has had a "substantial, adverse, and significant" impact.

The current proposals also violate the land claims of the Hawaiian nation. These legislative attempts to transfer a portion of the Hawaiian Kingdom Crown and Government Lands of which Mauna Kea is a part, is in direct contravention of the Hawai`i State Supreme Court's holding in OHA v. Housing and Community Development Cororation of Hawai`i, 2008. The Hawaii Supreme Court barred the transfer of this land base by the state. If this legislation passes, state legislators would be violating the state Supreme Court ruling.

This exploitative venture proposed by this legislation must be stopped because the entire scheme promotes the ongoing violation of the sacred summit of Mauna Kea; it would be irresponsible and bad public policy, as well as a continued abuse of state power.

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