

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

Contested Case Hearing Re Conservation  
District Use Application (CDUA) HA-3568  
for the Thirty Meter Telescope at the Mauna  
Kea Science Reserve, Ka'ohē Mauka,  
Hāmākua, Hawai'i, TMK (3) 4-4-015:009

BLNR Contested Case HA-16-02  
Document title:

**Kamahana Pre-hearing Statement**

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In relation to the permit being considered at this hearing, namely Conservation Use Application HA-3568 for the Thirty Meter Telescope at the “so-called” Mauna Kea Science Reserve, in so-called “Ka'ohē Mauka,” Hāmākua, Hawai'i, allegedly TMK (3) 4-4-0015:009, I SUBMIT THE FOLLOWING PRE-HEARING STATEMENT:

My name is Kamahana Kealoha and I am a lineal descendant to Lilinoe and Kūkahau'ula (explicitly delineated herein) and have a living custom which requires I be buried in my traditional burial grounds (also delineated explicitly herein). My “credibility” and experience as a traditional Hawaiian practitioner and contemporary living cultural steward also relies on how I operate and live that culture in this western world. Therefore, my resume is available for your perusal in the case you would like to review my expertise and training which are in Hawaiian Language, Legal Hawaiian Language and Physical Anthropology with a focus on genetics and archaeology.

If that is pertinent to your understanding of my please access that information in Exhibit R9 Page

4. My testimony continues as follows:

According to **HAWAII ADMINISTRATIVE RULES TITLE 13 DEPARTMENT OF LAND AND NATURAL RESOURCES SUBTITLE 13** I have property interested in this

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particular property, and the entire summit, and prospective and established burial grounds of the Mauna, as a party, pursuant to §13-1-31, the six criteria for such rights are listed below with my evidence of meeting these six criteria:

**1) Requestor demonstrates property interest through the exercise of Native Hawaiian traditional and customary practices.**

My “traditional” and “customary” practices are of a lineal, genealogical, multi-intergenerational nature and origin, meaning that my traditions and cultural practices come through the passing of this knowledge from direct relations through direct parents and grandparents, to me, and are not erroneous through so-called “cultural” descent as distinguished by HRS §13-300-35

“Recognition of lineal and cultural descendants.” Although I have not been required to engage in that process of recognition until now, the name of the deceased individual is my great-grandmother Lilinoe and my direct great-grandfather. It is a fact that Act 171 amended the penal code as recently as 2015 to support the preparation and burial of a corpse consistent with traditional Hawaiian cultural customs and practices. In this instrument I will assert the documented and consistent cultural practices, all of which I maintain and engage in, as well as cultural perspectives of the Mauna summit region and the reverence with which they are ritualized and ho‘omana (somewhat similar to worship) are profound and deep.

A Pu‘u bear each of the names of my tutu Kūkahau‘ula and Lilinoe as seen in Exhibit 1-Page 1, from a study entitled “Mauna Kea-Ka Piko Kaulana O Ka Aina”, a study undertaken at the “request of Stephanie Nagata, on behalf of the University of Hawai‘i-Office of Mauna Kea Management” in order “to bring a significant collection of historical resource material, describing—native Hawaiian traditions, traditional customary practices and beliefs; early descriptions of landscape, land use, and access; changes in the environment; efforts at

conservation of the mountain landscape; and the events leading to development of observatories on Mauna Kea—into one manuscript.” (Exhibit R1-Page 8).

Practices documented in particular regarding Lilinoe and Kūkahau‘ula and known burial grounds of the summit and known burials of the summit, show they were reinterred and hidden again in secrecy, as is our custom of sanctity, within the burial ground prospect of the Mauna Kea summit, (Exhibit R1-Page 5-6). This account includes traditions of burial and interment that belong to my traditions and practices today and are maintained. As Exhibit R1-Page 5 thru 6 show, the burials of Lilinoe and Kūkahau‘ula in the summit region of the Mauna are clearly established by both Ka‘ahumanu and Kauikea‘ouli, who in their respective times visited the remains of our tutu, engaged in documented ritual and cultural practice and reinterred these tutu, Lilinoe and Kūkahau‘ula, in secrecy on the summit as culturally appropriate as a tradition of sanctity well established and maintained today as accorded by Exhibit R1-Page 5 and as such I believe the Mauna summit is a recognized burial site as afforded by HRS §13-300-31, namely in regards to Burial site identification.

As burial grounds the impact to the natural resource that is the burial grounds itself, and burial of my tutu is a substantive adverse impact to existing natural resources within the surrounding area, community, or region because the ‘iwi of these tutu are in fact in secret sanctity and can be desecrated any time by disturbance of construction or business ventures. And because my ‘iwi are still alive (in my body) and I assert that I have an interest that law is ever progressing to define more and more clearly my burial rights consisted with the purpose of ACT 171 (Exhibit R9-Page, 1-2) recently passed this year stating its purpose is to **“amend the penal code to support the preparation and burial of a corpse consistent with traditional Hawaiian cultural customs and practices.”** This same Act decriminalized the preparation of the Hawaiian body and still has precedent to set as far as having **somewhere** to be buried and I contend that a

undeniable legal right exists, in which the State, as evidenced through this Act 171, is leaning towards clarifying burial rights like those being asserted by Palikapu Deadman who has been in the news lately for utilizing our burial grounds (see Hawaii Tribune Herald “Human remains placed at TMT site” September 19, 2016). We are living culture and we haven ever stopped utilizing the burial grounds as is made evident today over and over again through controversial interring of iwi on the Mauna as recently as last month. This stress belabors the idea that there is precedent that is still to be made in legal application of Act 171 and its evolution, that I have a right to protect as these are our entire burial grounds for our practice and interment and those of the same lineages that can prove these are their burial grounds as well. I am here to assert the rights and practices historically researched and currently practiced including the malama of burial grounds and iwi and the right to be interred and malama-ed in these burial grounds that encompass as a whole the entire prospect of the summit and my spiritual calling and prayers have guided me to also assert that the exact area where the Telescope plans to build their atrocity will greatly detriment, injure, irreversibly harm and jeopardize my spiritual, cultural and physical well-being as a Hawaiian and Human Being as well as the spiritual, cultural and physical well being of my generation’s collateral, ascending and future descendants and all those whose lineage is similar.

Some practices and especially sacred customs and places are delineated in Exhibit R1 (Pages 2-3) of the report commissioned by the Mauna Kea Management team and they include, but are not limited to :

-Pu‘u Kūkahau‘ula, named for a form of the god Kū, where the piko of new-born children were taken to insure long life and safety. This practice is still participated in at the present time.

-Pu‘u Poli‘ahu and Pu‘u Lilinoe, named for, and the abode of the goddesses of Mauna Kea.

-Ku 'Ahu- Stone mounds as land markers.

-Ilina (burial features extending from the summit to the lowlands) Specific mention is made in several important historical accounts—recorded by both native witnesses and non Hawaiians—of the presence of burials in the pu‘u and summit plateau of Mauna Kea, The remains of individuals who share ties to Mauna Kea are still taken to various pu‘u on Mauna Kea for interment.

-Burial sites situated at Pu‘ukuka‘iau, Pu‘uokihe, Keahuonaiwi, ‘Iolehaehae, and other unspecified areas.

-Cave of Poli‘ahu where Lilinoe used to live.

-Heiau, altars and places where Prayers offered mentioned at Ahuapo‘opua‘a, Huikaula, Ka‘akōlea, Koikapue, Mākanaka, and Pu‘u Kole.

-Poli‘ahu, a known location at the summit of Mauna Kea.

-Pu‘u o Kūkahau‘ula known as the highest peak of Mauna Kea .

The practices, customs and burial rights I am blessed to engage in today are not made up of contrived thoughts and modern practices of my own and are in fact customs evolving, yet maintained, as passed down to me from my many generations of kupuna, face to face, “learning through doing,” and are multi-intergenerational, alive and consistent with the The Mauna Kea Management commissioned study that proves the evidence of a continuum of practice in the following excerpt from an account as far back as 1793 and 1794:

“While ascending Mauna Loa, Menzies observed that the Hawaiian kept “Morai” (heiau-ceremonial sites) along the trails at which they regularly stopped in prayer and offerings . . . here and there on the sides of the path they have little Morais, or spots consecrated to their Deity, which none of them ever pass without leaving something . . . to obtain his good will, and they were highly delighted, indeed when we followed their example . . .” (Exhibit R1-Page 4)

These same, authentic, practices are maintained today by myself and others among others. Namely Ahu building and hoomana (not the same but similar to “worship”).

Moving on, according to **HAWAII ADMINISTRATIVE RULES TITLE**

**13 DEPARTMENT OF LAND AND NATURAL RESOURCES SUBTITLE 1 and**

**Pursuant to HRS §13-1-31 the criteria is as follows for the items listed and my response and testimony to those items:**

**(2) Requestor will be affected by the proposed Thirty Meter Telescope project and has an interest in the proceedings that are clearly distinguishable from the general public;**

Exhibits R-2 through R-8 establish my lineal genealogy (explicitly discussed below) unbroken to Lilinoe and Kūkahau‘ula. MOST IMPORTANTLY the only genealogy of Lilinoe I know is consistent with Exhibit R1-Page 6 documented by Hawaiian historian Kamakau in the same study commissioned by the Mauna Kea Management team and Stephanie Nagata stating that “in 1828 Queen Ka‘ahumanu traveled to Hawaii to:

. . . Attempt the recovery of the bones of *Lilinoe on Maunakea* where her body was said to have lain for more than a thousand years in a well-preserved condition, not *even* the hair having fallen

out . . . Her offspring count from Hua-nui-i-ka-la‘ila‘i; she was the ancestress of ruling chiefs, and from her line was born 'Umi-ka-Iani [father of the Mahi family on Hawaii], son of Keawe-nui-a-'Umi by Ho'opili-a-Hae . . .”

Exhibit R2-Page 1 will explain in summary what is already established and evidenced by legal court document, beyond a doubt, through birth certificate, government documents and church records as my true and documented genealogy.

All records (Exhibits R-2 through R-8) have been used as certified court evidence in Mama Kahunaaina vs. Kahunaaina, Civil 5475, Third Circuit Court which was a lawsuit, decades long, where my ‘ohana was victorious in asserting land tenure over our Royal Patent lands of Honokua and Pahoehoe, Kona Hema. I ask that all vital records be redacted from this public written testimony and that all parties be held accountable to that privacy as well.

At close examination of these official supporting documents (Exhibits R3-R8), and my summary (Exhibit R2-Page 1) you will see that I and my generation relate in direct lineage to my 12<sup>th</sup> great-grandmother Kalanikauleleiaiwi. She is the daughter of Keakealaniwahine and granddaughter to Keakamahana whose mother is Keliokalani daughter of Kanaloakuaana undisputed son of Kawenuiaumi and grandson of Umialiloa my 18<sup>th</sup> graet grandfather of direct lineage (Exhibit R8-Page 5). My lineage consequently is ascending up from Umialiloa through the same Hua-nui-i-ka-la‘ila‘i documented explicitly as Lilinoe’s absolute issue in Mauna Kea Management team’s very own account of my true and accurate genealogy and that of Lilinoe as I know it, and as documented therein by Samuel Kamakau, a respected Hawaiian historian of the 19<sup>th</sup> century (Exhibit R1-Page 6).

**Also according to HAWAII ADMINISTRATIVE RULES TITLE 13 DEPARTMENT OF LAND AND NATURAL RESOURCES SUBTITLE 1 and Pursuant to HRS §13-1-31:1:**

**(3) Requestor has a substantial interest in the proceedings;**

My substantial interests are the living practices and cultural traditions noted above, and more. This explicitly includes the documentation of my lineal grandmother and grandfather's burials, although hidden appropriately in sanctity, known and acknowledged as being in the summit region where I and others of the same lineage engage in cultural practice spiritual and religious and as listed herein from the Mauna Kea Management teams own study (Exhibit R1). This includes my right to such practice as has been evident in more and more progressive legislation clarifying and supporting my claim to the right to be buried on the Mauna (Exhibit R9). This includes my right to what has not yet been defined by precedent of law but which progressively shows the trend to be towards protecting my right to malama and engage in such practices as listed above including the reasonable assumption, given the progressive laws enacted like Act 171 (Exhibit R9), that I do have a right and will establish such rights that law has yet to clarify including the probabilities of law and the facts that the entire summit is burial grounds and these burial grounds are for a living practice of burial in which, by all means and measures, could soon dictate that I have, and others with the same rights, have the full intent and legal right of being buried exactly where the TMT plans to desecrate as accorded by my spiritual responsibilities and instructions as well as lawful right as protected by the constitution of the State of Hawaii Article XII, Section 7 (Exhibit R9-Page 1-3), explicitly that:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are

descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

**According to HAWAII ADMINISTRATIVE RULES TITLE 13 DEPARTMENT OF LAND AND NATURAL RESOURCES SUBTITLE 1 and Pursuant to HRS §13-1-31:**

**(4) Requestor’s participation will substantially assist the board in its decision making;**

The above lineal descent, and historical and present day proof of MULTI intergenerational practice in a study commissioned and documented by the Mauna Kea Management team (Exhibit R1-Page 7) itself, and inclusive of law referenced herein and my testimony herein, prove beyond a doubt the substantial and irreversible injury caused to me and how Act 171, the State of Hawaii Constitution, and the States laws on burial ground and burials reserve my rights and prevent injury to myself and the natural resources and cultural resources on the Mauna summit. Any decision should be consisted with this statement.

**HAWAII ADMINISTRATIVE RULES TITLE 13 DEPARTMENT OF LAND AND NATURAL RESOURCES SUBTITLE 1 Pursuant to HRS §13-1-31 state:**

**(5) Requestor’s position is not substantially the same as any existing parties to the proceedings.**

My position is unique and non-duplicated. I am not aware of anyone else asserting and evidencing direct lineage to Lilinoe, after life deified as the goddess interred on the Mauna. She is my grandmother. We hoomana her on the Mauna and the Mauna summit region, its entire prospect are burial grounds for those with these lineages. My lineage to Lilinoe in particular and

her cultural traditions and practices I am humbled, blessed, unworthy and gratefully privileged to carry as kuleana, as little or as important as this knowledge is, is a unique position among the many unique positions here in the hearing today. I am blessed to be among my brethren and sistren and stand here today asserting my rights, respectfully in the hopes that justice will be served.

**Also HAWAII ADMINISTRATIVE RULES TITLE 13 DEPARTMENT OF LAND AND NATURAL RESOURCES SUBTITLE 1 Pursuant to HRS §13-1-31 states:**

(6) Requestor's participation will add substantially new relevant information and will not make the proceedings inefficient and unmanageable.

Currently I am going through the options of recognition of burial and rights, and I lay that option of recognition of my rights and those with similar lineages down in front of this hearing officer to serve out that justice, but specifically in regards to Lilinoe and our customs related to my great grandmother, our family burial grounds that is the summit, the practices that are multi-generational and the well being of a practice, spirituality, religion and culture that are said to be protected by the laws and statutes I have cited and evidenced herein. My culture. My rights.

As the petitioner for permitting has not addressed my concerns and issues, of which I feel there are no mitigation, and have seen no mitigation thus far, **the just and lawful decision is to deny permitting.**

The area for construction is my burial ground.

The entire summit region has always been, and it is established- burial grounds.

Not just for past burials, our culture is living- but for my own iwi in the exact place I have been spiritually instructed, like those who are asserting burials on the mauna as my cousin a Palikapu Deadman currently (see Hawaii Tribune Herald “Human remains placed at TMT site” September 19, 2016).

I implore this hearing to do the right thing and uphold Hawaii’s constitution and the burial rights imbedded in the law for all. That right thing is to DENY THE PERMITTING OF THIS ATROCITY.

**I would ALSO like to address HAWAII ADMINISTRATIVE RULES TITLE 13, DEPARTMENT OF LAND AND NATURAL RESOURCES, SUBTITLE 1 Pursuant to §13-5-30 which states as criteria for decision making on this permit process starting for myself at item 4, that state for criteria of permitting that:**

**(4) The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community, or region;**

I object based on the fact that our burial grounds are an existing natural resource and the TMT is set to be built upon my exact burial ground as defined by spiritual Hawaiian mores and documented historical and present day recognition as such, and through Mauna Kea Management plans aforementioned study mentioned herein numerous times (Exhibit R1) and all the laws invoked herein (Exhibit R9)

**(5) The proposed land use, including buildings, structures, and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels;**

As a burial ground, having the TMT built on my place of eternal interment, as consistent with Mauna Kea Management teams cultural and historical study (Exhibit R1) is NOT COMPATIBLE and causes irreversible, non-mitigating, spiritual, emotional and physical detriment and HARM to myself **and** those whose right to malama burials and be buried with our tutu are the same.

**(6) The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable;**

**(8) The proposed land use will not be materially detrimental to the public health, safety, and welfare.**

To both items above: Again given the evidence distinguished within this instrument, my spiritual, mental, emotional, cultural, and physical health is directly threatened. It has already started through this process, the detriment of health as can be seen in the many grey hairs I have where I had none starting in 2014. My spiritual health is severely compromised and therefore my emotional and psychological health, if this project moves forward, continuing the industrialization of a conservation district and planning to be built on my spiritually instructed interment site, and within my living burial grounds.

We are a living culture but this project and its supporters plan to not have that be the case and at this time in my endangered Hawaiian culture I plead with you to stop the ethnocide.

We are endangered and this project will cause my own culture (well documented and confirmed by the Mauna Kea Management team, supposedly “protected” through law and many other

avenues) to be extinct if I am not allowed to fulfill my spiritual responsibilities and if this hearing does not uphold rights I am guaranteed through all the cited herein and in Exhibit R9.

Deny the permit. Most Kindly, Aloha,

Signature: \_\_\_\_\_  
Brannon Kamahana Kealoha  
Date Submitted:

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Document title:  
Brannon Kamahana Kealoha  
Exhibit List

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced document was served upon the following parties by the means indicated on October 10, 2016:

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Brannon Kamahana Kealoha

Date: