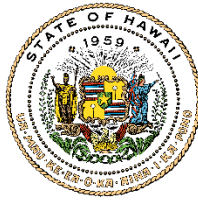
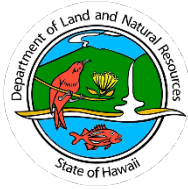


JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

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CONSERVATION AND RESOURCES  
ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Testimony of  
DAWN N. S. CHANG  
Chairperson

Before the Senate Committees on  
PUBLIC SAFETY AND INTERGOVERNMENTAL AFFAIRS  
and  
WATER AND LAND

Wednesday, February 7, 2024  
3:00 PM

State Capitol, Conference Room 225 & Videoconference

In consideration of  
SENATE BILL 2593  
RELATING TO FEDERAL LANDS

Senate Bill 2593 establishes within the Department of Land and Natural Resources (Department) a Mākua Valley Task Force to prepare for the transition of the management of the Mākua Military Reservation from the United States Army upon the expiration of the Army's lease. **The Department opposes this measure.**

The United States Department of Defense (USDOD) indicated its desire to retain lands currently leased for training purposes, including Mākua Military Reservation, after the expiration date of the existing leases. USDOD published its Environmental Impact Statement Preparation Notice (EISPN) for Army Training Land Retention on State Lands on O'ahu in *The Environmental Notice* on July 23, 2021. USDOD's proposed land retention includes Kahuku Training Area, Kawailoa-Poamoho Training Area, and Mākua Military Reservation<sup>1</sup>.

Recognizing that the public has raised concerns regarding the continued status of the USDOD use of State public lands, including ceded lands, the Department has initiated discussions with USDOD

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<sup>1</sup> There have been preliminary discussions with the Army about the possibility of the Army conveying to the State a parcel of land acquired earlier from Parker Ranch and giving up the beach area under the Mākua lease in a land exchange for the fee simple interest in the land under the Pohakuloa Training Area lease.

on the Department's land disposition process, including environmental compliance, cultural impact statements, *Ka Pa'akai* Analysis, and expectations of proactive and extensive community engagement by USDOD. The lease renewal process involves significant public consultation on the part of USDOD. In addition to preparing an EIS, USDOD will likely need to secure a Conservation District Use Permit, an Incidental Take License, and Board approval of a Habitat Conservation Plan. Each of these processes includes public consultation beyond what the EIS process requires. The Department would prefer to let this process play out. Ultimately, if USDOD completes all mandated processes, the Board would make the decision on any requested future disposition, such as a new lease, at a duly-noticed, open meeting at which the public would have an additional opportunity to testify and potentially request a contested case.

The Department appreciates the Legislature's desire to create a task force to prepare for the transition of the management of the Mākuā Military Reservation to the State from the United States Army, should such a transition be the outcome of the process described above. However, the Department believes that it would be premature to form a task force as USDOD has not yet had the opportunity to pursue the normal approval and permitting process discussed above. This process provides an ideal opportunity to engage the public on any additional provisions that should be included in a potential disposition, such as ensuring fair market value rent, clean up, self-reporting, and inspection requirements rather than contemplating a future where this land is returned to the State.

Subsection e(2) at page 3, lines 7-9, of this bill requires the State to transfer management and control of returned lands to the "sovereign native Hawaiian entity upon its recognition by the United States and the State". The Department notes that Section 5(e)<sup>2</sup> of the Admissions Act already provides that any lands no longer needed by the United States shall be conveyed to the State as follows:

(e) Within five years from the date Hawaii is admitted into the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to subsections (c) and (d) of this section shall report to the President the facts regarding its continued need for such land or property, and if the President determines that the land or property is no longer needed by the United States it shall be conveyed to the State of Hawaii.

Any such lands would return to the State through the Board of Land and Natural Resources and be held in trust for the benefit of all people in Hawai'i, not limited to a sovereign Hawaiian entity.

Mahalo for the opportunity to provide testimony in opposition to Senate Bill 2593.

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<sup>2</sup> The five (5) year limitation in 5(e) was extended indefinitely.



**SB2593**

**RELATING TO FEDERAL LAND**

Committee on Public Safety and Intergovernmental and Military Affairs  
Committee on Water and Land

February 7, 2024

3:00 PM

Conference Room 225

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The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB2593, which establishes within the Department of Land and Natural Resources a Mākua Valley task force to prepare for the transition of the management of the Mākua military reservation from the United States Army upon the expiration of the Army's lease for the land.

OHA underscores the importance of having a management plan in place for the transfer of Mākua Valley from the United States Army upon the expiration of the lease in 2029. **The lands, resources, and sites in Mākua Valley hold immense value for Native Hawaiians. It is crucial to involve Native Hawaiian and community voices on the task force for planning, recovery, and continued care of the sacred sites and the future use of the valley.** OHA appreciates being included on the task force and looks forward to helping to facilitate responsible and culturally sensitive management and restoration. We also appreciate the additional representation this proposal provides, including lineal descendants of those evicted by the federal government.

Restoration on a large scale is required for Mākua's three valleys, which are home to over 40 endangered species and numerous sacred sites. Live-fire training caused wildfires, damaging the native forest habitat and killing plants and animals. Additionally, sacred sites were damaged by bullets, aerial bombardment, shelling, and rockets. The success of the task force is essential in assisting the State in fulfilling its constitutional obligations towards Native Hawaiians and the crown and government lands it is required to manage. OHA supports the establishment of this task force and the important role it will play over the next several years for Mākua Valley.

OHA urges this committee to **advance SB2593**. Mahalo nui for the opportunity to testify on this important issue.



**RELATING TO PROPOSED ADOPTION OF HAWAII ADMINISTRATIVE RULES 13-60.11,  
"KĪPAHULU COMMUNITY-BASED SUBSISTENCE FISHING AREA, MAUI"**  
Board of Land and Natural Resources

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Unity, Equality, Aloha for all



To: SENATE COMMITTEE ON PUBLIC SAFETY AND  
INTERGOVERNMENTAL AND MILITARY AFFAIRS  
And COMMITTEE ON WATER AND LAND

For hearing Wednesday, February 7, 2024

Re: RELATING TO FEDERAL LANDS.

Establishes within the Department of Land and Natural Resources a Makua Valley task force to prepare for the transition of the management of the Makua military reservation from the United States Army upon the expiration of the Army's lease for the land. Requires a report to the Legislature.

TESTIMONY IN OPPOSITION

This is a nasty race-nationalist Hawaiian sovereignty bill masquerading as a benign bill to create a task force to develop a plan for transfer of control of Makua Valley when the U.S. Army lease expires. In recent months the media have been full of dire warnings regarding alleged "White nationalism" or "Christian nationalism." This bill, and others like it in recent years, make it explicitly clear that here in Hawaii the correct focus for serious concern should be ethnic Hawaiian race-nationalism.

There have been many similar bills in the legislature during the past two decades, all of which share two characteristics in common with this current bill: (1) They propose the establishment of a planning or governing committee whose membership would have a voting majority of ethnic Hawaiians, despite the fact that ethnic Hawaiians comprise only about 20% of Hawaii's population; and (2) They include the same requirement found in this current bill that "The task force shall base its plans and policies for transition on the goal" [to] "Transfer management and control of the lands to the sovereign native Hawaiian entity upon its recognition by the United States and the State." In addition (3) There have been numerous transfers of large swaths of land or entire valleys, to the control of ethnic Hawaiian race-based entities -- transfers which have been engineered by private groups working in tandem with county or state governments. Hawaiian race-nationalism is the slow but steady Pac-Man of Hawaii, gobbling up numerous geographic dots one by one until eventually they're all gone unless public outrage can pull the plug on this pinball game or make it "tilt."

Hawaii is a multiracial society. The lands and people of Hawaii should remain unified under the single sovereignty of the State of Hawaii and should not be divided along racial lines. This bill, and numerous other bills like it for many years, have proposed using the powers of government to balkanize Hawaii and to give away our public lands to a race-defined tribe or to a future independent nation. Legislators who have repeatedly introduced or supported such bills should be ashamed of themselves, and their colleagues should rebuke them for it publicly.

(1) This bill sets up a Makua valley task force designed to ensure that its majority would be Native Hawaiian.

The current bill SB2593 in 2024 specifies that "The Makua valley task force shall consist of the chairperson of the board of land and natural resources, or the chairperson's designee, and A MEMBER OF THE BOARD OF TRUSTEES OF THE OFFICE OF HAWAIIAN AFFAIRS, OR THE BOARD'S DESIGNEE, WHO SHALL INVITE THE FOLLOWING PERSONS TO BE MEMBERS OF THE TASK FORCE ..."

The two people identified in that paragraph do not have equal power, because the OHA board member (ethnic Hawaiian) is mandated to appoint 7 additional people to the task force, all of whom will almost certainly be ethnic Hawaiians or else spouses, family members, or close friends of ethnic Hawaiians and sharing the commitment to taking over Makua valley as an integral part of a Native Hawaiian tribal reservation or as land of a race-based independent nation.

During the first session of this biennial legislature, in 2023, a very similar bill HB 1313 was introduced and had a hearing, relating to Haiku Valley. The House Committee on Water and Land PASSED HB1313, and the bill has been forwarded for further consideration in 2024. According to HB1313 a 7-member board of directors would have 5 members who are guaranteed to be "Native Hawaiian" and the other 2 members could (and probably would) also be "Native Hawaiian." The 5 members of the "Haiku valley cultural preserve commission" guaranteed to be Native Hawaiian are: "A representative of the office of Hawaiian affairs; One member of the Ko'olau Foundation, to be appointed by the governor from a list provided by the Ko'olau Foundation; One member of the Ko'olaupoko Hawaiian Civic Club, to be appointed by the governor from a list provided by the Ko'olaupoko Hawaiian Civic Club; and Two members who shall be Native Hawaiian cultural practitioners, to be appointed by the governor from a list of Native Hawaiian organizations." The other two seats on the Commission's board are "A representative of the department of land and natural resources" [who would probably also be Native Hawaiian]; and "A representative of the Honolulu board of water supply" (currently in a huge struggle against the Navy regarding the Red Hill pollution disaster, where Hawaiian sovereignty activists have taken the leading publicity roles in harassing the Navy as vengeance for what they say the Navy did in 1893: invaded the Hawaiian Kingdom and overthrew the monarchy).

In 2008 the legislature actually passed a very similar bill HB2704 and SB2727, relating to Ha'iku Valley. That 2008 bill specified a racially stacked planning committee nearly identical to the one in the currently proposed HB1313, including a powerful role for the same Ko'olau Foundation. This bill was actually passed by the 2008 legislature but

vetoed by Governor Lingle. The Senate voted to override the veto, but the House failed to override it. The text of the bill can be seen at [http://www.capitol.hawaii.gov/session2008/Bills/HB2704\\_.htm](http://www.capitol.hawaii.gov/session2008/Bills/HB2704_.htm) Essentially the same bill was attempted in 2012, but failed. See webpage about this one particular 2012 bill: "Putting Haiku Valley, Kaneohe, Under Racial Control" <http://www.angelfire.com/big09/HaikuValley2012HB2246.html>

So we have seen that the Ha'iku Valley bill has persisted in the legislature [E onipa'a!] during at least 2008, 2012, 2023, 2024

In 2008 the bill SB151 to regulate "bioprospecting" had a hearing. It proposed to confiscate ownership of all naturally-occurring plants and animals on private lands by arbitrarily declaring that they now belong to the State of Hawaii [If you think I'm exaggerating, see language from the bill, page 7, lines 1-19]; proposed to deny private landowners and government agencies controlling public lands the right to invite any researcher onto their land for the purpose of collecting a leaf, a snail, or a spoonful of pond scum unless and until the landowner and researcher get a permit issued by a racially stacked government commission and agree to file periodic reports describing what they do, what biota they remove, and what use was made of the biota [bill language page 7 line 20 through page 8 line 4; also p. 10 line 18 through p. 15 line 6]; and guaranteed the racial stacking of the regulatory commission [bill language pp. 8-9 specifies a total of 11 commission members, of whom the OHA chair is in fact an ethnic Hawaiian, plus an additional racially-designated "five members of the native Hawaiian community" having backgrounds in specified areas -- the specified areas of expertise are reasonable and helpful to the regulation of bioprospecting, but the racial requirement is unnecessary, demeaning, pernicious, and illegal for a government commission.] For further in-depth discussion of the bioprospecting topic I refer you to the testimony I submitted to the informational briefing of the Senate Committee on Agriculture and Hawaiian Affairs on January 29, 2008, as expanded in a webpage at <http://tinyurl.com/yud9gw> .



In 2009 a bill SB86 relating to Makua Valley had a hearing. Valuable testimony was submitted concerning the racial stacking of a proposed planning committee, and concerning the same concept of transferring control of the valley to a sovereign Native Hawaiian entity upon its recognition by federal and state governments.

In 2009 the bill SB643 was introduced, attempting to racialize the entirety of Kahana Valley by removing it from ownership and control by non-racial DLNR and transferring it to racially exclusionary Dept. of Hawaiian Homelands (all board members and all beneficiaries are racially-defined native Hawaiians with high blood quantum). The first paragraph of SB643 describes its purpose in the following stark clarity: "The purpose of this Act is to transfer from department of land and natural resources to department of Hawaiian home lands all authority to manage, administer, and exercise control over Kahana valley state park."

(2) The current bill on Makua valley would "Transfer management and control of the lands to the sovereign native Hawaiian entity upon its recognition by the United States and the State." Numerous other bills in recent years have included the same concept regarding other large areas of Hawaii's lands.

HB455 of year 2019 made clear that Kaho'olawe is not to be regarded as the permanent property of the State of Hawaii, and that its transfer to a different government is expected to happen within the next few years. According to that bill: "Pursuant to section 6K-9, Hawaii Revised Statutes, the management and control of the Kahoolawe island reserve will be transferred to a sovereign native Hawaiian entity upon its recognition by the State and the federal government. This event is anticipated to occur within the timeframe of the 2026 strategic plan."

It's unclear whether the expected "Native Hawaiian entity" will be a sovereign independent nation recognized internationally, or whether it will be similar to an Indian tribe as envisioned by the numerous versions of the "Akaka bill" in Congress from 2000 to 2012. Either way, Kaho'olawe WILL be transferred out of the State of Hawaii and into the

race-based Hawaiian nation -- a transfer expected within the next few years.

How serious is the threat that a federally recognized Hawaiian tribe will soon be created? Although the Akaka bill has not been re-introduced in Congress since the end of 2012, Senator Brian Schatz zealously devoted his entire maiden speech to pushing in favor of it on June 11, 2013, even though no such bill had been introduced at that time 6 months into the new Congress and even though it has never been introduced from then until now. Full text of his speech, and analysis of it, is at

<https://www.angelfire.com/big09/AkakaSchatzMaiden061113.html>

Senator Schatz has served on the Senate Indian Affairs Committee continuously for more than 12 years, and as its Chairman from 2021 to now. He is also Chairman of an appropriations subcommittee, the same position from which Senator Inouye repeatedly attached the Akaka bill by reference (merely naming its bill number and declaring it to be "hereby enacted") hidden in a single sentence deep inside lengthy must-pass military or national debt appropriations bills.

Near the start of the 117th Congress, on January 21, 2021 KITV News reported "The new [Biden] administration is opening the door for federal recognition for Native Hawaiians, allowing greater self-determination and control similar to other Native American tribes. ... "We have a historic opportunity to be able to walk through that portal," Esther Kia'aina said. Before winning a seat on the Honolulu City Council, Esther Kia'aina worked in D.C. for decades. She says the tide turned after the U.S. government issued a formal apology for the 1893 overthrow of the Hawaiian kingdom. President Biden appointed Deb Haaland as the first Native American Interior Secretary, and if Native Hawaiians want recognition, Kia'aina says now is the time to stand up. ... As the debate continued in 2021-22 there was also a new Native Hawaiian voice at the Capitol. "I do feel that it's important to hear from our Native Hawaiian community so they can have input on whatever future that holds as far as governance but as a Native Hawaiian and one who represents Hawaii in Congress I look forward to bringing that Native Hawaiian perspective," Hawaii U.S. Congressman Kai Kahele said.

The President could issue an executive order to recognize a Hawaiian tribe, but such an order would be fragile since it could be reversed by any future President. Congressional action through something like the Akaka bill would be permanent and remains a strong possibility. But there is another way to create a Hawaiian tribe and get federal recognition for it. A regulation unilaterally proclaimed by the U.S. Department of Interior at the end of the Obama administration remains in place and could be activated at any time, like a sleeper agent in a spy movie.

43 CFR 50 "Procedures for Reestablishing a Formal Government-to-Government Relationship With the Native Hawaiian Community" was published by the Department of Interior in the Federal Register on October 14, 2016, pp. 71278-71323, thereby making it law. This rule became effective November 14, 2016, 30 days after publication in the Federal Register. In a format that is easy to read, 43 CFR 50 is at <http://tinyurl.com/jyvdbwg>

To see the rule as it was actually formatted in the Federal Register, go to <http://tinyurl.com/znjgwkr>

How serious is the threat that an internationally recognized sovereign independent Nation of Hawaii will be created? [which would automatically receive a transfer of Kaho'olawe according to HRS 6K-9] One lecturer in Hawaiian Studies at a community college has been, for more than two decades, filing federal lawsuits and corresponding with foreign government consulates in the U.S. demanding that the U.S. disgorge Hawaii and withdraw its belligerent military occupation. Another activist who styles himself as Foreign Minister of the still-living Kingdom of Hawaii has for many years been making at least one trip annually to both the United Nations in New York and the United Nations in Geneva Switzerland to lobby diplomats of foreign governments, some of which are enemies of the U.S., to invoke old treaties between their nations and the Hawaiian kingdom, and to introduce legislation in the General Assembly to reinstate Hawaii on the U.N. list of non-self-governing territories in need of decolonization. Consider also the recent effort to remove the name and statue of President McKinley from the high school, on grounds that McKinley performed a despicable act in persuading Congress to agree to the "illegal" Treaty of

Annexation in 1898 -- the primary purpose of that effort is to show the world [falsely but convincingly] that Hawaii rejects being part of America and wants help to escape. In 2021 and again in 2022 a committee of this legislature held a hearing on a resolution demanding that the Board of Education remove McKinley's name and statue, and the committee seemed shocked by the strong resistance by Hawaii's people who caused that proposal to be defeated.

One piece of evidence showing the seriousness of intent to create a sovereign Hawaiian nation is the fact that in 2015 the State of Hawaii Office of Hawaiian Affairs engaged in a well-funded process to create a Constitution for that nation. That effort proceeded in tandem with the Department of Interior multi-year series of hearings and preliminary drafts of 43 CFR 50. All versions of that emerging regulation called for ethnic Hawaiians to hold an election to select delegates to a Constitutional Convention, who would then write a Constitution, get it ratified by a vote of ethnic Hawaiians, and submit it to the Secretary of Interior for approval. OHA spent millions of dollars to update its list of ethnic Hawaiians, and subcontracted to a specially created "private" but wholly owned subsidiary "Na'i Aupuni" to hold an election of delegates. However, a lawsuit by Judicial Watch and Grassroot Institute of Hawaii succeeded in getting the U.S. Supreme Court to issue an injunction by 5-4 vote blocking the election results from being used, on account of the Rice v. Cayetano Supreme Court decision of year 2000 which ruled that a state government agency [OHA's subsidiary Na'i Aupuni] cannot hold a racially exclusionary election. Because of the Supreme Court injunction a decision was made to seat at the constitutional convention all 151 people who were still interested in participating (out of the 209 who had originally filed papers to run as candidates), but to cut the length of the convention from 8 weeks to 4 weeks in order to get the work done within the original budget. The Na'i Aupuni convention met throughout the entire month of February and voted to approve its Constitution on February 26, 2016. The Constitution was published on the Na'i Aupuni website; but of course Na'i Aupuni no longer exists and neither does its website. However, the Constitution remains available here:

<http://big09.angelfire.com/NatHwnConstitAdopt022616.pdf>

The Native Hawaiian Nation is racially exclusionary, restricted to people who have at least one drop of Hawaiian native blood. All lands and waters of the archipelago of the Hawaiian Islands shall belong to the Native Hawaiian Nation. In other words: This nation is of, by, and for the race exclusively; and the race owns all the lands and waters of Hawaii. The constitution reasserts the concept from the ancient Hawaiian religion, that ethnic Hawaiians have a genealogical relationship with the gods and the land, which is the basis of their race-based rights to control the government and how the lands are used. Here's the relevant exact language from the constitution as approved by the Na'i Aupuni convention on February 26, 2016:

Right up front in your face, the preamble says "we join together to affirm a government of, by, and for Native Hawaiian people" [i.e., of the race, by the race, and for the race], and "affirm our ancestral [i.e., race-based] rights and Kuleana to all lands, waters, and resources of our islands and surrounding seas." [i.e., we're gonna take over the whole place, just like Kamehameha did, who was known as "Ka Na'i Aupuni" -- the conqueror.] "We reaffirm the National Sovereignty of the Nation. We reserve all rights to Sovereignty and Self-determination, including the pursuit of independence. Our highest aspirations are set upon the promise of our unity and this Constitution." By the way, "Na'i Aupuni" means "Conquest" and was one nickname for Kamehameha Ka Na'i Aupuni "The Conqueror." In case there's any doubt about racial exclusivity, Article 2 -- Citizenship -- says "A citizen of the Native Hawaiian Nation is any descendant of the aboriginal and indigenous people who, prior to 1778, occupied and exercised sovereignty in the Hawaiian Islands and is enrolled in the nation." Article 7, Section 4 reaffirms the religious belief that ethnic Hawaiians have a genealogical relationship with the islands, saying "The Nation has a right, duty, and kuleana, both individually and collectively, to sustain the 'Aina (land, kai, wai, air) as an ancestor, source of mana, and source of life and well-being for present and future generations. And Article 8 says "The Government shall not ... Make any law with intent to suppress traditional Native Hawaiian religion or beliefs." Notice also that although the Constitution seems designed to pursue federal recognition as an Indian tribe, it also says "We reserve all rights to

Sovereignty and Self-determination, including the pursuit of independence."

The current bill to establish a task force for transferring the lands of Makua from the U.S. Army clearly says Makua, like Kaho'olawe, shall be removed from the State of Hawaii and given away to a race-based tribe or an independent nation: "The task force shall base its plans and policies for transition on the goal of transferring the lands currently held by the United States Army under General Lease No. S-3848 to the State, which shall:

(1) Hold the lands in trust as part of the public land trust; and  
(2) Transfer management and control of the lands to the sovereign native Hawaiian entity upon its recognition by the United States and the State."

(3) There have been numerous transfers of large swaths of land or entire valleys, to the control of ethnic Hawaiian race-based entities -- transfers which have been engineered by private groups working in tandem with county or state governments. Some of these transfers are identified below; but there are others too. Hawaiian race-nationalism is the slow but steady Pac-Man of Hawaii, gobbling up numerous geographic dots one by one until eventually they're all gone unless public outrage can pull the plug on this pinball game or make it "tilt."

Please stop this nonsense. The government lands of Hawaii (including the "ceded lands") belong to all the people of Hawaii without racial distinction. It is probably illegal, and certainly immoral, to set up an allocation of government revenue or decision-making authority based on race. The private lands of Hawaii and the fruits of those lands belong to the private landowners. It is illegal to use government regulation to seize private lands, or the products of research on private lands, for government use; or to diminish the value of private lands through excessive government regulation; without market-value compensation.

I also refer you to my book describing the broad outlines of the challenge we face in trying to protect unity and equality for Hawaii's future:

"Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State." See Chapter 1, and detailed Table of Contents, at <http://tinyurl.com/2a9fqa> .

Here's a list of some better-known land transfers from government or private donors to race-nationalist organizations after the Treaty of Annexation (1898) transferred all the public lands of the Republic of Hawaii (formerly the government lands and crown lands of the Kingdom) to the United States. Those "ceded lands" were required to be held in trust for the benefit of the people of Hawaii. The Organic Act (1900) established laws for the governance of the Territory of Hawaii, including regulations for using the ceded lands

.  
\* The Hawaiian Homes Commission Act of 1921 set aside 203,500 acres of land which is now under the control of DHHL. Original beneficiaries must have at least 50% Hawaiian native blood quantum to receive a lease of a plot of land to sustain their families by farming, ranching, or housing.

\* Bishop Estate, now called Kamehameha Schools, owns about ten per cent of all the lands in Hawaii, established by the Will of Princess Bernice Pauahi Bishop, who inherited it from King Kamehameha the Conqueror, mostly passed to Bishop from the estate of Princess Ruth Ke'elikolani. The estate, in a newspaper advertisement in 2023, acknowledged holding assets of more than \$11 Billion. Kamehameha Schools has a longstanding policy of its board of trustees (but not required in Bishop's Will) of allowing only ethnic Hawaiian children to be students, and has repeatedly defended that policy against legal challenges including a payment of \$7 Million "hush money" to persuade a plaintiff to drop a desegregation lawsuit at the very moment when the U.S. Supreme Court was deciding whether to accept the lawsuit for a hearing. The estate maintains a large research division providing "studies" to defend academic claims of ethnic Hawaiian medical and economic victimhood.

\* The entire island of Kaho'olawe was returned to the State of Hawaii by the U.S. Navy, and the Legislature passed a bill declaring that Kaho'olawe shall be held by the State only until such time as a Native

- \* Hawaiian governing entity has been given federal and state recognition, whereupon Kaho'olawe will be transferred to that Native Hawaiian governing entity.
  
- \* 40 square miles of forest land Waokele O Puna on Hawaii Island had been owned by Campbell Estate, was purchased in 2006 for \$3,600,000 by a charitable organization The Trust for Public Land, and the deed in fee simple was handed over to OHA in 2007 which contributed \$250,000.
  
- \* The entire Waimea Valley on O'ahu was purchased with a combination of private money, including the Trust for Public Land, but mostly County of Honolulu money, with a small portion from OHA; and then the deed in fee simple was handed over to OHA in 2007.
  
- \* A bill passed the Legislature in 2008 to declare that Ha'iku Valley on O'ahu is a cultural reserve, and to place that reserve under the authority of a commission with a guaranteed majority of ethnic Hawaiians and operating under the auspices of OHA until such time as a Native Hawaiian governing entity has been recognized, whereupon the valley would be given to that entity. Fortunately the Governor vetoed this bill, and the Legislature failed to override the veto.
  
- \* A bill in the Legislature in 2009, SB 86 relating to Makua, would establish a Makua valley reserve commission to oversee preservation and restoration activities in Makua valley on O'ahu, and would transfer the entire valley in fee simple to a Native Hawaiian governing entity as soon as such entity has been recognized.
  
- \* A bill in the Legislature 2004, which had extensive public hearings hosted by OHA on all the major populated islands, tried to impose restrictions on all government and private landowners depriving them of the right to allow access to their land for bioprospecting without first getting a permit from a special commission under the authority of OHA, and would have required the payment of royalties to that commission which otherwise would have gone to the landowner.  
<https://www.angelfire.com/hi2/hawaiiansovereignty/bioprospecting.html>



A closely similar bill on bioprospecting was introduced in the House again in 2008, HB1195.

\* OHA, and the Native Hawaiian Legal Corporation, and the various island burial councils, have been increasingly aggressive about asserting both "Native" water rights and NAGPRA rights in such a way as to limit the rights of non-Native Hawaiian landowners to use their land effectively.

\* Papahānaumokuākea National Monument [Northwest Hawaiian Islands, about 640,000 square miles]: Memo to U.S. Interior Secretary Ryan Zinke, 2017, urging him to rescind the addition of OHA as co-trustee and to rescind racially exclusive rights for access for Native Hawaiians for religious and cultural activities.

<https://big11a.angelfire.com/Papahanaumokuakea052917.html>

Landowners have been surprised by legislative and judicial decisions that suddenly took away long-standing property rights. Companies that built very lengthy water ditches more than a century ago to irrigate sugar cane crops now find that a suddenly robust "public trust" doctrine gives the government the right to decide how much water will be taken away from them to enhance stream flow to protect endangered species and to give water to newly resurgent taro growers. People who bought property thinking they had a right to exclusive access suddenly found out through the PASH decision that trespassers have a right to pass through their land on the way to the shoreline, and also to harvest various materials from their land. While such decisions might normally be regarded as regulatory takings for which property owners could demand compensation through inverse condemnation, these decisions circumvent any such outcome by claiming to be based on newly rediscovered "traditional and customary" practices which have always been part of Hawaii's common law or written law even though long forgotten. See "How Hawaiian racial entitlements take away rights from private and government landowners in ways unique among the 50 states." at

<https://www.angelfire.com/big09a/RacialEasementsOnLand.html>

In case you missed what all these items have in common, here it is.

Kamehameha Schools excludes 80% of all the children of Hawaii from being admitted to the schools, for no reason other than race. DHHL excludes 95% of all the people of Hawaii from getting a lease on the land, for no reason other than racial blood quantum. OHA ruthlessly excludes 80% of all the people of Hawaii from getting the the government-funded benefits it distributes, excludes 80% of Hawaii's people from signing up to participate in the Kau Inoa racial registry or the OHA loan program through a red-lining program at a Bank; and OHA was the chief pusher of a bill in Congress to create a racially exclusionary government to negotiate for money, land, and legal jurisdiction over most of the public lands of Hawaii.

There is an Evil Empire of racially exclusionary institutions which is growing out of control, like cancer. You, the Legislature, have been collaborating with this Evil Empire by passing bills like the ones discussed here.

I believe the single most important issue facing Hawai'i in the foreseeable future is the imminent and continuing threat that the lands, resources, government and people of Hawai'i will be divided along racial lines.

The Legislature from 2000-2012 repeatedly passed resolutions favoring the Akaka bill to create a racially exclusionary government empowered to negotiate with YOU, the legislators. It is expected that you will give away massive amounts of land, money, and jurisdictional authority.

Numerous bills in the Legislature in recent years have tried to implement massive give-aways even before the tribe is created, and before any negotiations have started. That's absurd! No responsible negotiator gives away important concessions before the opponents even arrive at the table.

Stop the giveaway. Just say no. Please read "Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State" available at numerous state library branches and also at <http://tinyurl.com/2a9fqa>



SENATOR GLENN WAKAI, CHAIR  
SENATOR BRANDON J.C. ELEFANTE, VICE-CHAIR  
SENATE COMMITTEE ON PUBLIC SAFETY AND  
INTERGOVERNMENTAL AND MILITARY AFFAIRS

SENATOR LORRAINE R. INOUYE, CHAIR  
SENATOR BRANDON J.C. ELEFANTE, VICE-CHAIR  
SENATE COMMITTEE ON WATER AND LAND

TESTIMONY IN SUPPORT OF SENATE BILL NO. 2593  
RELATING TO FEDERAL LANDS

February 7, 2024, 3:00 p.m.

Good afternoon, Chair Wakai, Chair Inouye, Vice-Chair Elefante, and members of the Committees:

My name is David Lane Henkin, and I am an attorney with Earthjustice. We appreciate the opportunity to offer this **testimony in support** of Senate Bill No. 2593. This bill would establish the necessary framework for the State of Hawai'i to plan for the return of Mākua, Kahanahāiki and Ko'iahi, so these sacred lands can once again be put to productive and appropriate use. The expiration of the military's lease is only a few years away, so it is critical that the State immediately start planning for these lands' return.

While we support the bill's intent and most of its provisions, we have concerns about inviting a representative of the commanding officer of the United States Army Pacific to serve on the Makua valley task force. *See* § 1(b). The task force would be entrusted to negotiate with the U.S. Army to facilitate the expedient return of the Makua valley reserve upon the expiration of the Army's lease, to ensure the clean-up of the military's unexploded ordnance, and to ensure that the military expands opportunities for cultural access. *See* § 1(d). While the Army is a necessary party to those negotiations and discussions, it should not have a seat on both sides of the table. Accordingly, we urge you to **amend SB 2593 to delete lines 6-8 on page 2**.

We respectfully urge you to pass SB 2593, with our suggested amendment. Thank you for the opportunity to offer this testimony.



**TESTIMONY OFFERING COMMENTS ON SB 2593  
RELATING TO FEDERAL LANDS**

Senate Committee on Water and Land  
The Honorable Lorraine R. Inouye, Chair  
The Honorable Brandon J.C. Elefante, Vice Chair

Senate Committee on Public Safety and Intergovernmental and Military Affairs  
The Honorable Glenn Wakai, Chair  
The Honorable Brandon J.C. Elefante, Vice Chair

Wednesday, February 7, 2024 at 3:00 p.m.  
Conference Room 225 & Videoconference  
415 South Beretania Street

Chairs Inouye and Wakai, Vice Chair Elefante, and Members of the Committees:

The Hawaii Military Affairs Council ("MAC") wishes to comment on SB 2593 which establishes within the Department of Land and Natural Resources a Mākuā Valley task force.

The MAC was established in 1985 when the Chamber was appointed by the State to serve as the liaison to the military. The MAC advocates on behalf of Hawaii's military, and is comprised of business leaders, academic institutions, State and County officials, members of the CODEL, community leaders, labor unions and organizations and retired U.S. flag and general officers. The MAC works to support Hawaii's location as a strategic U.S. headquarters in the Indo-Asia-Pacific region which is crucial for U.S. national and homeland security.

The U.S. Department of Defense has indicated its interest to retain lands currently leased to include Mākuā Military Reservation. Any transition for the disposition, lease, or otherwise would undergo regulatory and administrative processes and, ultimately be under the authority of the Department of Land and Natural Resources. As such, SB 2593 is premature at this time.

Each year, the Army in Hawaii allocates substantial resources towards the preservation of Hawaii's natural and cultural treasures. This includes safeguarding threatened and endangered species, conserving native flora, and overseeing cultural landmarks.



A prime example of these efforts is the seed bank, which serves as a sanctuary for native Hawaiian plants, including several that are on the brink of extinction. This seed bank plays a pivotal role in rejuvenating native ecosystems and fortifying Hawaii's rich biodiversity. It's our humble contribution to preserving the beauty and diversity of Hawaii for future generations.

The Army recognizes that it has a kuleana to protect the environment and its cultural resources and is committed to environmental stewardship through state and community engagement.

SB 2593 is premature at this time and future disposition, lease, or change will require regulatory and administrative procedures, ultimately determined by the Department of Land and Natural Resources.

Thank you for the opportunity to testify in comment.

**SB-2593**

Submitted on: 2/4/2024 1:48:42 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kyle K Kajihiro	Individual	Support	Remotely Via Zoom

Comments:

It is time for the state to step up its efforts to ensure the clean up and return of Mākua valley after 82 years of military occupation and destructive live fire training. Now that the Army has renounced live fire training in Mākua, and with the Army's lease of the lower portion of Mākua expiring in 2029, the state has a trust obligation to mālama ‘āina. This bill creates a structure that allows substantial community involvement in the decision making regarding the future of Mākua valley.

Uncles Ivanhoe Naiwi and Walter Kamana, both of whom were evicted from Mākua when the military took control of the valley, advocated for the return of the valley for many years. They did not live to see the valley returned. We have the opportunity and responsibility to continue carrying on their work. Mahalo for your support of this measure.

**SB-2593**

Submitted on: 2/4/2024 9:09:51 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lorna Takehara Strand	Individual	Support	Written Testimony Only

Comments:

It was decades ago that my parents learned from their friend Dr. Fred Dodge of the importance of restoring Makua Valley back to its natural beauty after the devastation it endured by the military's bombing practice. My parents and Dr. Dodge have passed away, but finally, we can see the light at the end of a very long tunnel. It will require many more decades and initiatives to restore Makua Valley, but hopefully, this major move of establishing a Makua Valley task force to prepare for the transition of management from the military will mark a historic beginning. For the sake of future generations, please approve SB2593.

**SB-2593**

Submitted on: 2/4/2024 10:33:28 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Regina Gregory	Individual	Support	Written Testimony Only

Comments:

Strong support.

Please also consider:

1. Request the federal government rescind Executive Order 11166, which stole 3,236 acres at Makua
2. Enact similar measures for army training lands at Kahuku and Poamoho



**SB-2593**

Submitted on: 2/5/2024 9:36:14 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Sam Peck	Individual	Support	Written Testimony Only

Comments:

I support this bill

My name is Karen Young. I am a lifetime resident of the Wai'anae Coast and a member of Malama Makua whose mission is to protect and honor Makua Valley. As I testified before the BLNR, we hold Kahanaha'iki, Makua. and Ko'i'ahi Valleys close to our heart, like family.

Our organization has worked for the cessation of military bombings, trainings and desecration of Makua Valley for more than 25 years. We were deeply heartened by the US Army's decision announced on December 1, 2023, that there would be no live fire training from now on and not ever more, in Makua Valley.

And , we too are reviewing the prospect of the return of Makua Valley. What is the most pono actions we must do? Many of our original members have passed. We too, will someday pass. We know that all the UXOs must be removed by the US Army. They have 6 yrs to do that. We will hold them to it. But what else can we do now, to protect Makua Valley in perpetuity?

Starting this year, our organization plans to hold public community meetings to educate and discuss with our people and build consensus over what is best for Makua Valley going forward. We expect a long and complex task. We need to get experts and experienced people to educate us as well. We want to do some hands on work. Our member Vince Dodge and friends have started some plantings across from the Makua Military main gate. This is being done in cooperation with the US Army. In this project, we've started a peace action together with the Army. From here on, Makua will stand for peace.

Decisions relating to Makua are critically important, and not to be made quickly, without long thought, even months of thought. Sometimes decisions even have to be changed depending on new information. Decisions also sometimes spring from relationships we've formed with partners. Sometimes we have to change plans that don't work or reveal something unexpected. What I'm saying is why are you forming a Task Force with named organizations who haven't demonstrated interest in Makua up to now?

We support the concept of preparing for the return of Makua Valley. We support the need for a structural entity/authority that is in charge. We request consideration of a committed community partner on the ground, which is Malama Makua, because of our history of dedication and determination.

Mahalo,  
Karen Young  
[kgsyoung@hotmail.com](mailto:kgsyoung@hotmail.com)





**SB-2593**

Submitted on: 2/6/2024 6:14:51 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Zeb Jones	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice-Chair Elefante and Honorable Committee Members:

I present this testimony to respectfully SUPPORT SB2593, which would create a Task Force within the Department of Land & Natural Resources to address transitioning Makua Valley management away from the US Army after the Army’s lease expires on the current Makua military reservation. With these important and historic lands poised to revert back to State of Hawai`i control in 2029, this task force would, among other things, 1) facilitate the return of Makua Valley Reserve when the lease expires; 2) ensure the clean-up on any unexploded ordinance; and 3) ensure expanding opportunities for cultural access.

For these reasons, and in the interest of preserving this historic valley, I respectfully urge your Committee to please pass SB 2593 out of your Committee and allow it to move forward during this Legislative Session. Mahalo for this opportunity to present this testimony supporting HB2593.

Zebuel “Zeb” C. Jones

PO Box 1462, Wai`anae, HI 96792 / Email: [zebbe3442@gmail.com](mailto:zebbe3442@gmail.com)

**LATE**

**SB-2593**

Submitted on: 2/6/2024 6:16:18 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nancy Jones	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice-Chair Elefante and Honorable Committee Members:

I respectfully present this testimony SUPPORTING SB2593, which creates a much-needed Task Force within the Department of Land & Natural Resources to address the transition of Makua Valley management away from the US Army after the Army's lease expires on the current Makua military reservation. With the US Army's lease set to expire in 2029, these important and historic lands at Makua are poised to revert back to State of Hawai'i control. This proposed task force would, among other things, 1) ensure a smooth transition for the return of Makua Valley Reserve when the lease expires; 2) ensure the clean-up on any unexploded ordinance; and 3) ensure expanded opportunities for cultural access.

For all of the above reasons, and in the interest of preserving this scenic, historic valley, I respectfully urge your Committee to please pass SB 2593 out of your Committee and allow it to move forward during this Legislative Session.

Mahalo for this opportunity to present this testimony supporting HB2593.

Nancy Jones

PO Box 1462, Wai`anae, HI 96792 / Email: [nancyhydroalt@gmail.com](mailto:nancyhydroalt@gmail.com)