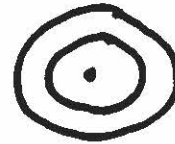


MALAMA I NA KUPUNA O HAWAI'I NEI



March 22, 1989

Thomas Kaulukukui  
Chair, Trustees  
Office of Hawaiian Affairs  
1600 Kapi'olani Blvd., Suite 1500  
Honolulu, Hawai'i 96814

Dear Mr. Kaulukukui:

Ano ai. I am writing on behalf of Malama I Na Kupuna O Hawai'i Nei to clarify our position on the bill to prevent the disturbance of significant native Hawaiian burials and to establish a Commission on Native Hawaiian Burials.

At the outset, I would like to say that protection of the bones of our kupuna has the highest priority for us. All of our decisions are based upon a judgement as to what would best protect the sanctity of the bones of our kupuna. Our kupuna are the foundation upon which our culture rests. Protecting the sanctity of their burial sites is a paramount factor in both determining and providing the foundation for unity among Hawaiians.

In late January, we initially submitted a bill to the legislature that was drafted with the assistance of the Native American Rights Fund, of Boulder Colorado. The original draft was designed to incorporate into law, a strong native Hawaiian point of view to promote and protect our cultural rights with respect to skeletal remains and burial goods. When our original draft was turned down as too "extreme", we drafted a new version of the bill which would set up a Native Hawaiian Burials Commission to establish rules and regulations to set criteria on determining the levels of significance of unmarked burial sites and how to protect them from disturbance. At that time we proposed that such a commission be placed under the Department of Land and Natural Resources for administrative purposes. Unfortunately, the Senate Committee on Culture, Arts and Historic Preservation, broadened the responsibilities of the commission to include the burials of all the ethnic groups. The special focus on native Hawaiian burials appeared to be lost. It was at that point that we decided to approach the Office of Hawaiian Affairs for assistance in establishing an additional special commission which would specifically focus on Native Hawaiian Burials.

As we explained at the time, it was a very difficult move for us to make, because of outstanding criticisms and unresolved problems we had with the manner in which the Office of Hawaiian Affairs had mismanaged the Honokahua burial site under the Memorandum of Agreement. Nevertheless, we felt it was a necessary step to take to provide protection for the bones of our kupuna.

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**We appreciated the special efforts of the trustees of the Office of Hawaiian Affairs to expedite the decision to accept responsibility and sponsorship of a Commission on Native Hawaiian Burials. We recognize that, spurred on by the desire to protect the bones, we imposed our agenda upon the trustees.**

**Based upon the understanding that we reached with the Office of Hawaiian Affairs, we submitted joint testimony to the Senate Ways and Means Committee proposing to establish a Commission on Native Hawaiian Burials in addition to a General Commission on Burials. Unfortunately, the Senate rejected this proposal and the bill crossed over to the House of Representatives without any provision for a Commission on Native Hawaiian Burials.**

**Persevering in our efforts to have a Native Hawaiian Burials Commission established, members of Malama I Na Kupuna met with members of the House of Representatives and members of the administration to gain support for establishing a Native Hawaiian Burials Commission under the Office of Hawaiian Affairs. In the meetings we were told that the legislature would not support the establishment of two commissions. There was, however, openness to the establishment of one commission which could focus on native Hawaiian burials if it would be placed under the Department of Land and Natural Resources. A major concern of the legislators was O.H.A.'s lack of enforcement powers and trained staff to oversee and monitor burials. The fact that O.H.A. operates somewhat autonomously of the State of Hawai'i under policies which have not undergone the Chapter 91 procedures was perceived as leaving the Commission more vulnerable to court suits that may arise.**

**On Friday, March 10 we informed Linda Delaney of the feedback we had received and notified her that we were planning to meet with the Department of Land and Natural Resources to explore the possibility of amending the bill to have the Commission on Burials under their department focus on native Hawaiian burial sites. We promised to call her to inform her of the outcome of our discussion with the Department. We met with the Department representative on the evening of March 10. Our O'ahu members were tied up all weekend in a retreat with the Protect Kaho'olawe 'Ohana and on Monday they were in an all-day negotiation session with the U.S. Navy. Thus, no one got back to Linda to inform her that the Department of Land and Natural Resources was planning to recommend that the commission focus on native Hawaiian burials and that we planned to support that recommendation. This was a serious mistake on our part, which we deeply regret. We sincerely apologize.**

**I am enclosing a copy of the testimony which we are presenting to the House Finance Committee this afternoon. It explains our current position and the rationale for it. Please share this letter and the testimony with your fellow trustees, your chief administrator and your staff.**

**Where your efforts are aimed at protecting the burials of our kupuna, we would like to work jointly with the Office of Hawaiian Affairs. We believe that it is possible for the Office of Hawaiian Affairs to serve as the primary agency under which the Commission on Native Hawaiian Burials can be placed at some future date when the**

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present weaknesses in its administrative structure are strengthened. However, at this time, the Department of Land and Natural Resources can provide the strongest, most effective and immediate base of support for the commission. Based upon our primary concern for the immediate and strongest protection for the bones of our kupuna, we must recommend that the commission be placed under the DLNR rather than the Office of Hawaiian Affairs. Should the legislature decide that the Office of Hawaiian Affairs can assume responsibility for the Commission on Native Hawaiian Burials at this time, in response to lobby efforts by your staff, we will not actively oppose that decision or place obstacles in its way.

Thank you for your past support. We hope that we can coordinate our efforts on behalf of the bones of kupuna in the future. If you have any questions or would like to meet to discuss this matter further, please contact me at 959- 9832.

Sincerely,

A handwritten signature in cursive script, appearing to read "Edward L.H. Kanahale".

Edward L.H. Kanahale