

1
2
3
4
5
6
7
8
9
10
11
12
13
14
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HAWAII ADVISORY COMMITTEE
UNITED STATES COMMISSION ON CIVIL RIGHTS
HAWAIIAN HOMES UPDATE FORUM

SEPTEMBER 6, 1988

ILIKAI HOTEL
HONOLULU, HAWAII

BEFORE: PATRICIA A. MILLER, RPR, CP-CM, CSR #275
RALPH ROSENBERG COURT REPORTERS, INC.
(808)524-2090

APPEARANCES

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INDEX

	<u>PAGE</u>
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
	4
	7
	53
	61
	61
	65
	72
	101
	105
	120
	148
	153
	157

1 MR. MAXWELL: Aloha. This meeting of the
2 Hawaii Advisory Committee to the United States
3 Commission on Civil Rights will now come to order.

4 The purpose of this meeting is to update
5 an earlier advisory committee report, Breach of
6 Trust? Native Hawaiian Homelands, released in
7 1980. Recent developments relating to the
8 implementation, management, and enforcement of the
9 Hawaiian Homes Commission Act will be addressed.

10 The advisory committee has invited
11 officials of the Hawaiian Homes Commission, the
12 Office of Hawaiian Affairs, and community and legal
13 organizations to provide information and
14 perspectives on the status of the homeland trust.

15 I am Charles Kaulaeuhi Maxwell, chairman
16 of the Native Issues Subcommittee and vice chair of
17 this advisory committee. The advisory committee
18 receives information and makes recommendations to
19 the commission in areas which the committee or any
20 of its subcommittees is authorized to study.

21 Other members of the committee in
22 attendance during the meeting will be Emmet Cahill,
23 Alfred Lardizabal, Helen Nagtalon Miller, Barry
24 Shain, and Donnis Thompson.

25 Also with us today is staff member John

1 Dulles from the commission's western regional
2 office in Los Angeles.

3 We're pleased to have with us the acting
4 staff director from Washington, the U.S.
5 Commission, Susan J. Prado, and also Jim Cory from
6 the Office of the Staff Director.

7 This consultation is being held pursuant
8 to federal laws applicable to state advisory
9 committees and regulations promulgated by the U.S.
10 Commission on Civil Rights.

11 The Commission on Civil Rights is an
12 independent agency of the United States Government
13 established by Congress in 1957 and directed to:

14 Investigate complaints alleging that
15 citizens are being deprived of their right to vote
16 by reason of their race, color, religion, sex, age,
17 handicap, or national origin, or by reason of
18 fraudulent practices;

19 To study and collect information
20 concerning legal developments constituting
21 discrimination or denial of equal protection of the
22 laws under the Constitution because of race, color,
23 religion, sex, age, handicap, or national origin,
24 or in the administration of justice;

25 To appraise federal laws and policies

1 with respect to discrimination or denial of equal
2 protection of the laws;

3 And to serve as a national clearinghouse
4 for information about discrimination;

5 And submit reports, findings, and
6 recommendations to the President and to Congress.

7 I would like to emphasize that this is a
8 consultation and not an adversary proceeding.
9 Individuals have been invited to come and share
10 with the committee information to the subject of
11 today's inquiry. Each person who will participate
12 has voluntarily agreed to meet with this committee.

13 Since this is a public meeting, the press
14 and radio and television stations, as well as
15 individuals, are welcome. Persons meeting with the
16 committee, however, may specifically request that
17 they not be televised. In this case, we will
18 comply with their wishes.

19 We are concerned that no defamatory
20 material be presented at this meeting. In the
21 unlikely event that this situation should develop,
22 it will be necessary for me to call this to the
23 attention of the person making these statements and
24 request that they desist in their action. Such
25 information will be stricken from the record, if

1 necessary. If the comments a person is offering,
2 however, are of sufficient importance, the
3 committee will hear the information. In that
4 event, the person against who allegations are made
5 will have ample opportunity to respond by making
6 statements before the committee or submitting
7 written statements, if they desire.

8 Every effort has been made to invite
9 persons who are knowledgeable in the area to be
10 dealt with here today. In addition, we have
11 allocated time between four and five p.m. to hear
12 from anyone who wishes to share information with
13 the committee about the issues under consideration.
14 At that time, each person or organization will have
15 five minutes to speak to the committee and may
16 submit additional information in writing. Those
17 wishing to participate in the open session must
18 contact commission staff before four p.m. this
19 afternoon.

20 We'll start with the witnesses now.
21 Before we do, I would like to remind everyone that
22 whenever you speak, please, whoever you're
23 representing, your name, and especially if your
24 name is Hawaiian, please pronounce it correctly so
25 our staff reporter can get it down. And this is

1 our reporter here, Patricia Miller. She will be
2 taking notes for today's hearing.

3 MR. DULLES: Mr. Chairman, I just want to
4 let everybody know there is parking validation. It
5 is \$1.75. There is a stamp on the registration
6 table. If you stamp your own ticket, that might
7 save you some money in parking tickets.

8 And don't forget to register so we have a
9 full list of everybody attending. Thank you.

10 MR. MAXWELL: Also, if you have prepared
11 statements, would you, please, pass it out to our
12 staff, and he will distribute it to us.

13 For the people just coming in again, if
14 you want to speak, there is a sign-up sheet in the
15 back.

16 Now I would like to call upon the
17 Administration of Hawaiian Homes Program, Ilima A.
18 Piianaia, chairperson of the Hawaiian Homes
19 Commission.

20 You want your staff up there with you?
21 No?

22 MS. PIIANAIA: Afterwards, if I need
23 them.

24 Thank you, Vice Chairman Maxwell. I have
25 submitted written testimony, and I would like to

1 read the first portion of my written testimony,
2 although you have it before you.

3 I thank you for the opportunity to
4 testify on the matter of recent developments
5 relating to the Hawaiian Homes Commission Act,
6 1920, as amended.

7 I am Ilima A. Piianaia, chairman of the
8 Hawaiian Homes Commission.

9 The agency I head is charged with the
10 responsibility of administering the provisions of
11 the Hawaiian Homes Commission Act, 1920, as
12 amended, which law was enacted by the United States
13 Congress in 1921. Upon statehood, as a compact
14 between the State of Hawaii and the United States
15 of America, and as a condition of admission, Hawaii
16 adopted the Hawaiian Homes Commission Act as a
17 provision of its Constitution and assumed the
18 responsibility of administering the lands set aside
19 for native Hawaiians. Native Hawaiians was defined
20 as persons with 50 percent or more Hawaiian blood.

21 Over the years, native Hawaiians and
22 others have voiced numerous concerns about the
23 administration and direction of the Hawaiian Homes
24 program. In 1980, many of the concerns were
25 articulated in a civil suit filed by the Hou

1 Hawaiians in federal court. The U.S. Department of
2 the Interior requested that an administrative
3 mechanism be established to address these concerns.
4 The Governor of the State of Hawaii and the United
5 States Secretary of the Interior formed a
6 Federal-State Task Force in July 1982, composed of
7 federal, state, and community representatives for
8 this purpose.

9 The task force first met in September
10 1982 and conducted research and analysis of a wide
11 range of issues with department staff support.
12 Their draft report was widely disseminated and
13 discussed at community meetings statewide. The
14 final report of the task force was accepted by the
15 State of Hawaii and the United States Department of
16 the Interior in August 1983.

17 I would like to point out that the task
18 force report was preceded by the breach of trust
19 report. And my remarks are really directed to the
20 task force report and, as a result, include the
21 issues that were raised in the breach of trust
22 report.

23 MR. MAXWELL: So noted.

24 MS. PIIANAIA: The task force report
25 identified key areas of management and program

1 concerns as well as a total of 134 specific
2 recommendations to address those concerns.

3 Since 1983, there has been tremendous
4 progress in resolving the concerns identified in
5 the report. Some of the key accomplishments
6 include:

7 Implementation of the acceleration
8 program whereby over 2,500 lots were leased during
9 a two-year period;

10 Securing congressional consents to
11 amendments to the Hawaiian Homes Commission Act
12 from 1959 to 1985, including an amendment of the
13 blood quantum requirement from 50 percent to 25
14 percent for qualified successors to homestead
15 leases;

16 Adoption of the State right-to-sue
17 legislation at the state level;

18 Clean financial audits since 1985;

19 Return of Hawaiian homelands disposed
20 through governors' executive orders and
21 proclamations to county and state agencies;

22 Initiation of negotiations with state and
23 county agencies on compensation for use of lands;

24 Initiation of administrative negotiations
25 to resolve land discrepancies with other state

1 departments;

2 Aggressively seeking the return or
3 compensation for lands acquired by federal agencies
4 through improper dispositions;

5 Implementation of the Federal Housing
6 Administration's mortgage insurance program for
7 homestead lessees;

8 Development of increased and new
9 resources to support the homestead development
10 programs including: state general funds to support
11 department operations; federal grant-in-aid through
12 the U.S. Department of Housing and Urban
13 Development, subject to final approval by the
14 President; increase in income through the
15 department's general leasing program of 33 percent
16 over the past five years, from \$1.8 million to over
17 \$2.4 million per year;

18 Implementation of a statewide capital
19 improvement program which identifies and
20 prioritizes the department's proposed capital
21 investment projects for the next 10 years;

22 And increased funds available for the
23 implementation of CIP projects from an average of
24 less than \$1 million per year to over \$10 million
25 in 1987 and 1988. This latter expenditure will

1 result in the development of almost 300 homestead
2 lots by 1989 to 1990.

3 While much has been accomplished, there
4 is still much to do. At the same time, the
5 progress made over the past five years has created
6 new issues, problems, and areas of concern.

7 For example, when the department's
8 acceleration program started in 1984, the waiting
9 list for homestead awards included approximately
10 8,000 applications. Despite awarding a total of
11 2,541 lots during the three-year period, the number
12 of applications for homesteads increased from 8,000
13 to over 17,000 today. This, in turn, has created
14 additional demands on the department in carrying
15 out its homesteading program.

16 With the tremendous increase in the
17 number of applications for homestead leases, as
18 well as the need and commitment to provide
19 improvements for approximately 2,000 lots, more
20 than ever before the department is looking for new
21 ways to meet the needs of its native Hawaiian
22 beneficiaries.

23 We must continue to work with other
24 government agencies on the federal, state, and
25 county levels, the private sector, and the

1 beneficiaries, to begin to fulfill our existing
2 commitments as well as provide additional land for
3 award. This requires increased use of resources
4 outside the department, including such programs as
5 the Federal Housing Administration's mortgage
6 insurance program and greater beneficiary
7 participation in the financing of the improvements.

8 The department's financial resources must
9 also be increased through the continued development
10 of commercial and industrial lands. Our human
11 resources can be used in a more effective manner,
12 and we are committed to continued staff
13 development.

14 The department has land holdings on the
15 five major islands. However, they are concentrated
16 in a few primarily rural areas. Furthermore, the
17 readily developable lands are already in homestead
18 use. It is and will become more difficult and
19 costly to meet the demand for homesteads with our
20 traditional programs.

21 In acknowledgment of this challenging and
22 changing environment, the department has identified
23 fundamental issues which will shape and guide our
24 future. These issues are a combination both of the
25 past problems and concerns identified by the task

1 force and the new constraints and opportunities
2 brought on by this changing environment.

3 Issues of primary concern include:

4 First, management of land and water
5 resources. The primary asset of the department is
6 its land and its related resources including water.
7 We will continue to provide for their effective
8 management, from both a financial and resource
9 perspective.

10 Secondly, beneficiary profile. In order
11 to better serve native Hawaiians, we must
12 understand who they are. This, in turn, will allow
13 us to better identify programs and services to best
14 meet the overall needs and demands of native
15 Hawaiians under the terms and requirements of the
16 act.

17 Thirdly, land development and award. The
18 department is committed to providing improvements
19 for approximately 2,000 leased lots. In addition,
20 the current waiting lists exceed 17,000
21 applications. We will fulfill our commitment to
22 existing lessees with unimproved lots. At the same
23 time, we will continue to lease additional
24 homestead lots.

25 Fourthly, financial resources. There

1 must be a sound financial foundation both for our
2 current and future operations. This requires a
3 financial plan and implementation strategy to
4 determine our financial needs and the means of
5 securing those resources. If this is not done, the
6 program direction will be defined by financial
7 constraints rather than strategic intent.

8 Fifth, organization and staff
9 development. Human resources are as essential as
10 financial resources in accomplishing our strategic
11 intent. Only through the most effective use and
12 motivation of our people will we continue to move
13 forward. We must consider organizational and
14 operational shifts as well as continue to train and
15 develop staff to adapt to this changing
16 environment.

17 And, sixth, community relations. In
18 order to establish good working relations with the
19 community at large, the legislature, other
20 agencies, and the beneficiaries, we must establish
21 ourselves as an action-oriented, reliable agency
22 whose word is good. Without this credibility, our
23 ability to work with others will be severely
24 limited.

25 Out of these six issues, the department

1 has identified six goals which we are striving
2 towards. To meet the changing needs of the native
3 Hawaiians, we will need to continue to grow and
4 evolve.

5 The department's goals are: first, to
6 effectively manage the trust's land, water, and
7 related resources; secondly, to develop and provide
8 programs and services that best meet the overall
9 needs of native Hawaiians; thirdly, to develop and
10 deliver land for award on an ongoing basis; fourth,
11 to effectively develop and manage financial
12 resources; fifth, to effectively manage the
13 department's human resources; and, sixth, to
14 establish better relationships with the native
15 Hawaiian community, governmental agencies,
16 individual homestead communities, and the community
17 at large.

18 We will continue to implement the
19 recommendations of the task force and, at the same
20 time, adjust to the changing needs, constraints,
21 and opportunities the past five years have brought.

22 The department's goals reflect this
23 duality of the future connected with the past. It
24 is from this duality that we will continue
25 implementing the Hawaiian Homes Commission Act.

1 Attached for your review is a report on
2 the status of implementation of the Federal-State
3 Task Force Report. This report, as I noted
4 earlier, addresses specific questions identified by
5 this Hawaii Advisory Committee, as well.

6 I would like to point out that the
7 progress report attached to this testimony follows
8 the sections of the Federal-State Task Force Report
9 and updates you on what has been accomplished. It
10 is self-explanatory. It is also 12 pages long.
11 And I will submit that for the record.

12 There are also attachments that I would
13 like to point out following this.

14 The first attachment is the President's
15 statement dated October 27, 1986.

16 MR. MAXWELL: Excuse me. Ilima, what
17 page is that on?

18 MS. PIIANAIA: Okay. It is following --
19 it is an unnumbered page. If you go through the
20 task force, following page 12, there is a sheet
21 saying "Attachments."

22 MR. MAXWELL: Okay. Got it. Thank you.

23 MS. PIIANAIA: Attachment A is the
24 President's message, and it is dated October 27,
25 1986. And it was the message when President Reagan

1 signed House Joint Resolution 17 into law.

2 We have attached this because I think, as
3 a Hawaii Advisory Committee to the U.S. Civil
4 Rights Commission, you will find the President's
5 statement to be quite interesting.

6 The second attachment really directly
7 connects back to your trust report. These are the
8 qualification procedures and application procedures
9 for Hawaiian homestead applications. That is
10 approximately four pages long.

11 And the final attachment, Attachment C,
12 is a preliminary financial report for the
13 department for the fiscal year that ended on
14 June 30th, 1988.

15 MR. MAXWELL: Okay. I can understand --
16 we just had it now. So it is going to be hard.
17 But maybe we have questions.

18 But before I go into questioning, I would
19 like to inform whoever walked in, please put your
20 name on the sign-up sheet. And if you want to
21 speak, there is another pad for that also.

22 Okay. Are you completed?

23 MS. PIIANAIA: That completes my
24 testimony.

25 MR. MAXWELL: Okay. Any questions from

1 the panel members?

2 MR. LARDIZABAL: Not at this time.

3 MR. DULLES: I'll have some after you
4 finish.

5 MR. MAXWELL: Okay. Because of the fact
6 that, okay, the way I look at this is that all of
7 these recommendations that have been corrected
8 we've just been given, but all that we had was the
9 Federal and State Task Force findings, and maybe I
10 can ask you some questions pertaining to that.

11 MS. PIIANAIA: Sure.

12 MR. MAXWELL: And you can answer, and
13 then you can show us what page to find the
14 information on.

15 One thing that interests me -- and I
16 guess a lot of Hawaiians -- is that the executive
17 orders that have been made illegally, are we being
18 compensated for that or has the land been returned?
19 And, if so, can you show us some example here?

20 MS. PIIANAIA: I would like to refer you
21 to page 6 of the progress report, under the major
22 heading of "Land Transfers" at the bottom of the
23 page. And this follows a task force report, which
24 the first section was on general financing
25 recommendations. And this goes from page 6,

1 really, through page 9.

2 Essentially, in summary, the executive
3 orders and governors' proclamations, which were
4 illegal conveyances, these have all been rescinded
5 except for those covering federal lands.

6 We are in court, the State of Hawaii has
7 sued the United States government, Department of
8 Navy, for illegal occupation and use of our lands
9 at Lualualei.

10 We are currently negotiating with other
11 agencies for compensation. It's quite complex.
12 For instance, when things like, say, Keaukaha
13 Elementary School was established on the Big
14 Island, at that time, it was primarily to service
15 the homestead community. As the community has
16 grown, non-Hawaiians are going to the school. So
17 we are trying to work out the school problems. We
18 have worked out some of the school problems and are
19 still in negotiations for either compensation, land
20 exchanges.

21 MR. MAXWELL: Land exchange comparable to
22 the value?

23 MS. PIIANAIA: Yes. The act requires
24 that land exchanges can only be on a per-value
25 basis.

1 MR. MAXWELL: Any question on that?
2 Anybody?

3 Okay. Another point of interest that I
4 have specifically dealing for like from Maui, we
5 have, you know, in Kahikinui, we have this whole
6 15,000 acres that are leased to a non-Hawaiian.
7 Okay. Not too many Hawaiians can lease 15,000
8 acres. And I posed this question way back in the
9 breach of trust, and I would like to know if that
10 has been solved. And I don't think so on Maui.
11 I'm speaking about access to the ocean that has
12 been blocked on the entire area of this coast in
13 Kahikinui. And I am talking about the native
14 Hawaiians that can use the natural resources,
15 hunting, fishing, and there were old trails that
16 led down to the ocean, and presently it has been
17 closed the last five years. Those rights-of-way to
18 the ocean have been closed. I know on other
19 properties that Hawaiian Homes owns there's the
20 same problem.

21 MS. PIIANAIA: Most of the lands that
22 were leased out, such as Kahikinui, were leased out
23 prior to the department having control of its own
24 lands. Up until about 1965, lands that were not
25 used for homestead purposes were actually managed

1 by the Department of Land and Natural Resources.
2 It took major legislation to return the lands to
3 the management of the commission, the Hawaiian
4 Homes Commission.

5 The department has looked at use of lands
6 or access rights by native Hawaiians. At the
7 present time, we have not come to any overall
8 program for that. The ahupua'a that you refer to,
9 Kahikinui, is probably our most remote ahupua'a.
10 At this point in time, it is one of four tracts of
11 land out of 34 that we do not have a plan prepared
12 for.

13 MR. MAXWELL: Well, I would seriously
14 suggest that after I guess we had the hearings in
15 1978 I had posed this question. I think
16 Mrs. Miller was chairing that hearing. See, the
17 reason why I think it is very important that
18 Hawaiians, now that you have control of this land,
19 that you have the right, as administrator, to open
20 up the access to the ocean because that's where the
21 Hawaiians get their resource from. Also, let them
22 hunt; let them harvest.

23 See, what is happening now, the people
24 that run this ranch are using it as a private
25 estate, and you have to -- excuse the term -- kiss

1 okole to even go on the property, and that is not
2 correct. Something has to be done right away in
3 establishing -- you know, the Hawaiian Homes
4 offices on each island can hold the key. But we
5 should retain our right to access to the ocean.
6 That is number one. And then we should let the
7 Hawaiians harvest the resources from the ocean and
8 give them that access. If they cannot lease the
9 land, you know, I think that should be done.

10 MS. PIIANAIA: What I would like to do,
11 Mr. Maxwell, is to follow up in more detail in
12 writing to you on that.

13 MR. MAXWELL: Okay.

14 THE WITNESS: Particularly the Kahikinui
15 and other tracts that have access to the shoreline,
16 and to recap some of the efforts that have been
17 made, and also any kind of legal problems that
18 might be obstacles.

19 MR. MAXWELL: I'm not coming to you as an
20 adversary kind of thing

21 MS. PIIANAIA: Right.

22 MR. MAXWELL: And I understand that you
23 inherited a political football and you inherited a
24 bag of worms that not only one woman with her staff
25 can solve, but the fact of the matter is still that

1 our people are suffering. Our people are suffering
2 from not having the opportunity to enjoy what was
3 rightfully theirs. So that's why I'm concerned and
4 a lot of the members are concerned, as to when are
5 we going to, you know, stop having to have these
6 hearings, when do we get down and cut bait, so to
7 speak.

8 Questions?

9 MS. SAUNDERS: I have a question on the
10 succession. You have changed it so that the lessee
11 has time to designate a successor, and the
12 commission cannot come in. But I don't understand
13 how long that period is and when the commission
14 versus the lessee designates a successor.

15 MS. PIIANAIA: Okay. Mrs. Saunders, the
16 law was amended in 1986 or consented to by the U.S.
17 Congress in 1986, to allow children and spouses of
18 one-quarter blood to succeed to the leasehold
19 interest.

20 We have required and have audited, or are
21 in the process still, I think, of auditing all our
22 files to make sure that successors either to the
23 leasehold interest or to the appraised value of the
24 improvements, if there is no qualified successor.
25 We have instructed everyone that they are to fill

1 out a designation form.

2 There are cases where lessees do not fill
3 out their designation forms or there are problems
4 with documentation of blood quantum. In those
5 cases, we then go to the process of the commission
6 designating a successor. So, basically, the
7 commission designation of a successor is the last
8 step. But we still have those cases where no one
9 has been designated by the lessee to either succeed
10 to the leasehold interest or to receive the
11 appraised value of the improvements on the land.

12 Does that answer your question?

13 MS. SAUNDERS: My problem is one of
14 timing because, as I understand it, it used to be
15 that there was a very fast reversion from the
16 lessee to the commission. And I'm interested in
17 how long the lessee has to designate or when the
18 commission would step in and say there is no
19 designation.

20 MS. PIIANAIA: If there is no
21 designation --

22 MS. SAUNDERS: Within a year, two years,
23 10 years?

24 MS. PIIANAIA: It will be within a year.
25 At this point, we're -- Mr. Lardizabal and I are in

1 this race to see who has the smallest department in
2 state government, and I just won the race.

3 Mr. Lardizabal has a few more people than I do. I
4 mean he can create the positions, right.

5 We have a backlog, and that backlog is
6 due to lack of staff resources and also the need to
7 hire appraisers. We have just instituted a
8 procedure so that we now have appraisers who can go
9 in and appraise the improvements on every island.
10 Prior to this, the counties were handling
11 appraisals for us. So we have just gone through
12 that transition.

13 But it is, as best as possible, done
14 within a year, which, for the commission to
15 designate a successor, we're required to advertise
16 in the newspaper four times, and that is about a
17 four-month period. So, after that, everything
18 else, all the processing is done after that.

19 MS. SAUNDERS: Thank you.

20 MR. MAXWELL: John.

21 MR. DULLES: I have two or three quick
22 questions. This was a monumental task force
23 report. I commend you because I know you were
24 directly involved in its preparation. And it is
25 voluminous and contains many, many findings and

1 recommendations. It appears to me that this issue
2 has been well studied; and, as the chairman
3 suggests, maybe some action is necessary in some
4 areas that have not been met. But I commend you
5 for your work on that.

6 I wanted to ask you, however: You
7 mention in your response that this report was
8 accepted by the Department of Interior and by the
9 State. Is that all they were supposed to do? Was
10 there not some obligation on the part of the
11 Federal Government or the State to respond in some
12 detail to what measures might be undertaken or what
13 plan of action might be initiated to address many
14 of these excellent findings and recommendations?
15 Is that all we have: They have accepted the
16 report?

17 MS. PIIANAIA: Essentially, yes. The
18 task force was created and jointly appointed by, at
19 that time, Secretary Watt and Governor Ariyoshi.
20 The task force recommendations did not carry the
21 weight that was hoped that they would carry.

22 The State has pulled through in many of
23 the major recommendations of the task force report.
24 The United States Department of the Interior has --
25 how do I politely say this -- they have not

1 followed through with the recommendations to the
2 extent that the State has on its side. We are
3 still -- well, what the Secretary of the Interior
4 has done basically has expedited land exchange
5 reviews as well as assisted us with the consent to
6 amendments to the process. We now have a person in
7 the Secretary's Office or out of the Secretary's
8 Office to whom we can make contact with. And
9 earlier this year we did send up a package of
10 amendments, and they have worked very quickly on
11 those.

12 But with a change of administration
13 coming up, it is unclear whether that relationship
14 will still exist. And it will be up to us to make
15 sure that the Department of Interior continues the
16 relationship and improves the relationship with our
17 department.

18 MR. DULLES: Thank you.

19 One of the things that I noticed on page
20 66 of the task force report on information and
21 access, it says, "Beneficiaries are the primary
22 group needing access to information about the
23 Hawaiian Homes Commission Act and DHHL programs."
24 And it also says, "Beneficiaries feel they do not
25 have ready access to information." And I'm just

1 wondering, because there was a concept of an
2 ombudsman and also of some advocacy function within
3 your department that would actually assist people
4 in at least getting current information about the
5 status of their claims and also helping them in an
6 advocacy fashion, will it take more resources? Or
7 is this being done? Or how have you been able to
8 address this particular finding from the task force
9 report?

10 MS. PIIANAIA: First of all, let me say
11 that we are not fantastic on information, and that
12 is an area that organizationally we need to
13 improve. We have one information specialist within
14 the department. That person's primary
15 responsibility is to put together and get out our
16 departmental newsletter, which has a circulation of
17 about 15,000.

18 In this year's budget, we have put in
19 money -- I believe it is about \$50,000 -- to
20 actually beef up our information program and access
21 for the beneficiaries. Tied into this also is the
22 need for computerization. Computerization for all
23 state agencies is essentially centralized in the
24 Department of Budget and Finance. So it is an area
25 that we are very concerned with. The staff, the

1 entire staff, is very concerned with this. And it
2 is one of our major projects or programs that we
3 want to establish in this fiscal year.

4 In terms of an advocacy role, that is not
5 a simple thing for the department to set up. And
6 the reason why it is not a simple thing is because
7 the commission is actually in the role of trustee.
8 And to have an advocate may not be the answer, and
9 it may be in conflict for anyone working within the
10 department if it turns into an adversarial
11 relationship.

12 I don't think there is a need for an
13 advocate. There may be at this point, but
14 eventually, looking towards a situation that is
15 better managed and better organized and more
16 efficient, we would hope that we wouldn't need an
17 ombudsman, but basically you would know who to call
18 in the department.

19 I think also I need to point out the
20 level of resources we need to respond, especially
21 if you look at our 5,000-plus or close to 6,000
22 actual lessees and then another 17,000
23 applications. We're now dealing with the universe
24 of constituency of at least 12,000 people with a
25 permanent staff of only 98.

1 MR. DULLES: Are you satisfied, however,
2 that at least now there is a full accounting for
3 all 200,000 acres with respect to the transfers,
4 the previously illegal leases, and exchanges of
5 land? I mean, has that pretty well been resolved
6 to your satisfaction, the accounting of the land
7 itself?

8 MS. PIIANAIA: Vice Chairman Maxwell said
9 that he's glad to see a lot of things resolved.
10 Many things are not resolved. We have our
11 checklist of things we need to resolve. We have
12 identified, to the best of our ability, what
13 happened to the lands. There are major areas, and
14 I believe it's in the progress report. Let me
15 just --

16 MR. MAXWELL: Addendum 6, page 6, "Land
17 Transfer"?

18 MS. PIIANAIA: No. It is on page 10,
19 "Land Inventory Discrepancies."

20 We have completed internally land tenure
21 reports for a number of areas. That's in the
22 second bullet there. We have other areas that we
23 still need to complete our land tenure reports on.

24 So the bottom line answer to your
25 question, Mr. Dulles, is that no, I am not

1 satisfied yet that we have resolved the land
2 inventory. It will still take additional work,
3 which means going through survey records. It is
4 very tedious work. We have one person assigned
5 full time to that in terms of looking at the
6 historical record and surveys and recordations,
7 et cetera.

8 MR. DULLES: And, finally, you met with
9 us earlier in August and shared with us some of
10 your very, what appeared to be, innovative and
11 exciting ideas for maximizing benefits under the
12 homelands program. And I wondered if maybe you
13 could share these or at least some of these ideas
14 that you are moving forward along in terms of new
15 initiatives just briefly.

16 MS. PIIANAIA: I don't know where to
17 start. There are many things that we're trying to
18 work up in terms of initiatives.

19 I think the largest problem -- and it's
20 reflected in my testimony -- is that we have this
21 duality of moving into the future, but we also have
22 67 years of past history that have created many
23 problems. We need to really take a look at how to
24 step into the 21st century.

25 It's interesting because our landholding

1 is the fourth largest in the State of Hawaii, but
2 when you look at the usability of lands,
3 particularly when you look at the number of
4 applications we have for homestead leases, it's
5 going to require innovation. We need to maximize
6 the use of land for homesteading, while at the same
7 time, unless there is a drastic change that I
8 cannot foresee in the near future, we also have to
9 generate income.

10 We are looking at a number of ways of
11 lessening the financial burden on the department
12 and the commission. I think a major program that's
13 been very -- we are beginning to see it really work
14 right now is the FHA financing. We are trying to
15 move out into new ways of financing.

16 We're looking at different ways of
17 providing entitlements. And this is all very
18 preliminary. And I will mention this because we
19 have discussed it very briefly. There are areas
20 where we do not have any land. I think the Island
21 of Maui particularly is an area where we do not
22 have land holdings and where there is a need for
23 residential leases, for instance.

24 We would like to look into what the
25 definition of a beneficiary entitlement is. It may

1 make more sense for us, for instance -- and this is
2 really at this point just a preliminary idea -- it
3 may make more sense for us to find a way of
4 financing somebody's down payment for residential
5 lot and house. At this time, it costs us between
6 thirty and forty thousand dollars to develop a
7 residential lot, depending on where it is. It's
8 very expensive. If we can provide the down payment
9 for a fee simple lot, it may be more cost
10 effective, and it may be a quicker way of getting
11 people their entitlement than our present
12 operation, which is still a little faster than it
13 was previously.

14 We also need to start looking at -- in
15 places like Oahu, we need to face some of the
16 realities and look at what kind of density
17 homestead lots should come in and whether they
18 should actually be, say, a garden apartment for a
19 young couple starting out and how to deal with the
20 life cycle.

21 One of the things that happens with a
22 99-year lease is that the homestead lessee is
23 essentially tied to one area for three to four
24 generations. And in this day and age, most people
25 are more mobile than they were in the past. So

1 ways of looking at the exchanges between native
2 Hawaiians, say if somebody has a job on Maui and
3 needs to move over there, how to set up that kind
4 of process so that we can lessen the dependency of
5 the native Hawaiian beneficiary on us and make it
6 possible for native Hawaiians to determine their
7 own destinies in that way.

8 I think we really are looking at ways to
9 decrease the dependency of native Hawaiian
10 beneficiaries upon the department. The program was
11 set up as a highly dependent program. I think in
12 August, when I met with you, I informed you that
13 for a long time a homestead lessee could not even
14 go on a two-week vacation without permission from
15 the commission. If you look at that historically,
16 that is a very colonial way of treating native
17 Hawaiians.

18 MR. DULLES: Thank you.

19 MR. MAXWELL: Ilima, we have several
20 agencies that could work for the betterment of our
21 people, if it is managed correctly: Hawaiian
22 Homes, OHA. OHA is an agency that receives moneys
23 directly from Section 5F. That is the enabling act
24 or the Statehood Act. In fact, I think one of the
25 qualifications is 50 percent Hawaiian that's

1 connected up to the Hawaiian Homes Act in 1920.

2 Has there been any kind of correlation
3 between OHA and Hawaiian Homes pertaining to
4 funding from the Section 5F moneys for 50-percent
5 Hawaiians?

6 MS. PIIANAIA: At the present time, there
7 is one program, and that's self-help housing, which
8 is actually an ANA grant. I have been in
9 discussions with the chairman, I guess the recently
10 former chairman of the Office of Hawaiian Affairs,
11 as well as its administrator. There is an
12 organization, the Hawaiian Services Institute and
13 Agencies, and we will be reconvening to discuss how
14 all the different institutions and agencies can
15 begin to pool resources and really complement each
16 other, because when you look at the various
17 agencies and institutions, our resources are
18 relatively large.

19 MR. MAXWELL: Right.

20 MS. PIIANAIA: But in terms of OHA
21 specifically, we are in discussions. At one time,
22 there was a proposed memorandum of agreement
23 between Alu Like, the Office of Hawaiian Affairs,
24 and Hawaiian Home Lands, which has not been
25 consummated. But in my discussions with some of

1 the OHA board members, they would like to begin to
2 look at that memorandum of agreement again.

3 MR. MAXWELL: Right, because it only
4 stands to reason that the recipients of the
5 Hawaiian Homes Act would automatically qualify for
6 Section 5F moneys. So if that moneys could be used
7 to help to open up areas for the 50 percent
8 Hawaiians, it only stands to reason that both
9 agencies should really get together.

10 MS. PIIANAIA: I agree. Yes.

11 MR. LARDIZABAL: Ilima, I read your
12 report here, and I thank you for that. You have a
13 tremendous burden to implement. My question is --
14 and I want to at least let the public know it takes
15 a lot of resources to accomplish what I guess many
16 people want. I can't find in my mind how you can
17 accomplish what I think the public wants in terms
18 of the Hawaiians, 17,000 backlogged, with limited
19 resources.

20 So my questions are these: One, can you
21 identify what is the ideal situation for your
22 department and the resources, financial, CIP
23 operations, your resources, any legal authority you
24 don't have now that prevents you from doing certain
25 things, departmental cooperation with different

1 agencies, and even the counties, maybe, and the
2 U.S. Government, and any legislation that you need.

3 I'm familiar with the department. It is
4 very small. And the task at hand is tremendous. I
5 see financing as a key thing for you. Where can we
6 get those kind of financing and so forth?

7 MS. PIIANAIA: Let me respond. And I
8 don't mean this facetiously, but we are going to
9 get it wherever we can.

10 Our major source of funding has been
11 through the executive budget and the legislature.
12 We are going through a transition. I'm taking the
13 department through transition where we need to be
14 programmatic, and we can no longer say that we
15 don't have the money so we can't do anything.

16 We have been trying to turn that around
17 to say this is what we have to do; and when we know
18 what we really have to do and what our priorities
19 are, then we can identify how much it is going to
20 cost us and how to go after the money. We will be
21 working on, in this year, a financial strategy.
22 Essentially the department has not had a financial
23 plan or a financial strategy.

24 We will continue to go to the legislature
25 for funding. We will continue to generate revenues

1 from general leasing our land. We will --

2 MR. LARDIZABAL: Let me ask you a
3 question, if I may interrupt. You have an
4 operational budget of \$1 million, roughly,
5 900,000-plus for 98 people. That has been pretty
6 much steady during the last --

7 MS. PIIANAIA: No, Al, this is the first
8 time. This fiscal year is the first time the
9 department has ever had any general funds for our
10 operations. We have been the only department in
11 the state government that had to cover the costs of
12 our own operations. So a lot of the revenues that
13 we generated through general leasing went to
14 operational costs.

15 I have informed my fellow agencies, as
16 well as the legislature, that they're going to hear
17 from me every year until we get the other half of
18 our permanent positions general funded. This is
19 only half of our permanent positions.

20 MR. LARDIZABAL: How about in terms of
21 CIP?

22 MS. PIIANAIA: In CIP, we have, for this
23 biennium right now, about \$22 million. And that
24 was a substantial increase from previous bienniums.
25 The increase was due primarily to acceleration and

1 the need to make improvements. But \$22 million
2 does not go far. We will be going in and asking
3 for more.

4 We will also be looking at joint
5 venturing. We can joint venture. So we will be
6 looking at that. We need to look at all sorts of
7 ways to find resources to pay development costs for
8 lots.

9 We are also working with the counties
10 very closely in terms of looking at existing
11 standards and whether we should construct according
12 to their standards or to lesser standards, which we
13 can. But that, again, is complex because the
14 counties are required to maintain our roadways.
15 And you come into the health and safety question
16 and whether, if we don't use the county standards,
17 say, for roadway engineering, then does the
18 commission have to adopt its own health and safety
19 standards, which my initial thinking on it is yes,
20 my initial consultations.

21 I'm not sure if I am answering your
22 question, Al.

23 MR. LARDIZABAL: Well, I am trying to see
24 how, I think, these agencies can assist or be of
25 help in getting what needs to be done. Apparently,

1 there is a feeling that much needs to be done. But
2 they also must see the opposite of the coin, it
3 does take resources. And are these resources
4 within your grasp and control? If they're not, who
5 is in control, state agency that you can work with?

6 MS. PIIANAIA: All of the agencies that
7 we have worked with, the key agencies being, of
8 course, your department, Personnel Services, Budget
9 and Finance, Accounting and General Services, Land
10 and Natural Resources, have all been extremely
11 cooperative. Because we are a state agency, we
12 still have to go through some of the state
13 processes.

14 As you know, Al, there's been a move to
15 do away with your department and Budget and Finance
16 and all the hang-up agencies. But we are moving
17 towards that, and we're also looking at, as you
18 say, legislation. But essentially we have many
19 amendments to the act that we have not been able to
20 even implement yet. We are looking through the
21 different processes that we have to go through as a
22 state agency.

23 MR. SHAIN: As a follow-up to that Ilima,
24 do you see that possibly another structure aside
25 from being a state agency could make DHHL more

1 effective?

2 I don't know if that has been asked.

3 MS. PIIANAIA: No, it hasn't been.

4 If you go back to the Federal-State Task
5 Force, the task force report, one of the
6 recommendations was to really --

7 MR. MAXWELL: Wait one moment. Can you
8 repeat that, Barry, into the mike, please.

9 MR. SHAIN: What I asked was, under the
10 current structure of being a state agency, has
11 there been any research done or have you thought of
12 possibly another structure, because, as Al said,
13 you have 17,000 backlogged and one-quarter -- 80
14 percent of the land hasn't been given away,
15 et cetera, et cetera. I was wondering if you have
16 looked into possibly another structure, like a
17 501(c)(3) or setting up a corporation that would
18 still be funded by the legislature, of course, but
19 it would have the availability of other resources
20 and maybe a little bit more independent?

21 MS. PIIANAIA: The Federal-State Task
22 Force report recommended that the department and
23 commission look into the authority model. We have
24 essentially -- or at that time, we had two existing
25 authorities: Hawaii Housing Authority and Hawaii

1 Community Development Authority. And as you know,
2 these authorities have bonding capacities and
3 everything else.

4 The department has not pursued this
5 recommendation basically because it went into
6 acceleration following the task force report. We
7 have discussed, in-house, other structures. Since
8 I have been on the job, we have not pursued other
9 structures. We're still talking about it.

10 We know we have to make an organizational
11 shift. Whether to shift to a corporate type of
12 structure or an authority structure is not clear to
13 us yet. Again, this is something that we will be
14 looking at in the next two to three years.

15 I think what needs to be really clear is
16 that, since we're trustees on behalf of the State
17 of Hawaii, how do you still administer the trust on
18 behalf of the State without necessarily going
19 through all of the bureaucratic processes of state
20 government.

21 MR. MAXWELL: Okay. Ilima, are you aware
22 of -- last week, I think, they had hearings on
23 Molokai, the congressional hearings held by Senator
24 Inouye. And on the front page of the Maui News --
25 I will give you a copy -- there was "Homesteaders

1 air grievances." One of the persons there is Bill
2 Char, who I have worked with before. This is an
3 example -- and Senator Inouye -- which I really
4 don't appreciate his comments -- he said that if
5 you want to check into the Hawaiian Homes, good or
6 bad, you know, we'll check.

7 That's what it is all about. I think
8 that's what we're all about, trying to check how we
9 can improve. But, I mean, if these people are so
10 dissatisfied, you know -- are you aware of the
11 comments that they made about water, about this and
12 that? I'm not asking you to be specific.

13 MS. PIIANAIA: I am generally aware.

14 MR. MAXWELL: Okay.

15 MS. PIIANAIA: I was not at that meeting.

16 MR. MAXWELL: Apparently, there is so
17 much problem, so much hurt, that they have to go to
18 a congressional hearing like this. It is not even
19 the subject matter. You know, it is about
20 reparations and about health and welfare.

21 So some things really have to happen.
22 That is what I mean. I mean that is what I'm
23 trying to urge. Something has to happen to help
24 our people. It is just too long, you know, for
25 them to be all upset like this. And a congressman,

1 a senator, threatens them that, you know, all the
2 bad going to come out. What bad is there? There
3 was a lot of bad that happened, but, you know, our
4 people have to go on, and this is our act.

5 Any other comments?

6 MS. MILLER: Yes.

7 MR. MAXWELL: Helen.

8 MS. MILLER: I think I'm interested from
9 the standpoint of being a member of the SAC
10 Committee, State Advisory Committee, and having put
11 out a report several years ago -- I think it was
12 1980 -- in which the citizens complained that they
13 were being deprived of their right to property
14 under the HHCA and that they were not receiving
15 equal protection of the law.

16 So I wondered, after hearing your report
17 and knowing that there are other people in the
18 audience today that are very much concerned with
19 the issues of the Hawaiian community, what would
20 you consider of highest priority in making sure
21 that the rights of the Hawaiian people are not
22 abrogated?

23 I have heard so many things this morning
24 and in your report and also having read the report
25 that certainly there has been action on the part of

1 your office and some other organizations interested
2 in the Hawaiian problem.

3 What would you consider the most basic
4 thing that could be done so that the people who
5 have complained to us in 1980 would say, you can
6 stop complaining for us now because our rights are
7 not being violated?

8 MS. PIIANAIA: Let me address that in two
9 parts. In terms of of the Civil Rights Commission
10 and as the advisory committee, my understanding is
11 you have specific areas to look into. There is a
12 point at which the Hawaiian Homes Commission Act
13 and the U.S. Civil Rights Act may intersect. I'm
14 not clear on that. I know that In section 1983 of
15 the Civil Rights Act there is an intersection.
16 Basically, that is one answer, is that we have to
17 follow the Hawaiian Homes Commission Act. And
18 within that is guaranteed anyone's constitutional
19 rights to due process, et cetera, et cetera,
20 et cetera.

21 Our job, as trustee on behalf of the
22 State of Hawaii, is to ensure that the act is
23 administered, Hawaiian Homes Commission Act is
24 administered as it is set forth. There will
25 continue to be complaints, I'm sure, long after I'm

1 gone. There are still going to be many things to
2 resolve.

3 I think that the most basic thing that we
4 have to do as trustees is to create the
5 wherewithal, the resources to make sure that the
6 intent and purpose of the act, which is essentially
7 homesteading, can be accomplished. And until we go
8 out and develop those resources by hook or by -- by
9 hook or by hook -- it is going to be very, very
10 difficult for us to carry out our job to satisfy
11 not only us, as trustees, but the Hawaiian
12 community and everyone else in the State of Hawaii.

13 I'm not sure if that answers your
14 question, but that's --

15 MS. MILLER: Partly, but it gives a clue
16 to some of the other questions I had in mind.

17 MR. MAXWELL: Okay. Any more?

18 Yes.

19 MR. SHAIN: Yeah. The congressional act,
20 1920 or 1921, gave a blood quantum of 50 percent.
21 I think as we start looking ahead more and more
22 toward the future, especially with inheritance,
23 even inheritance of a lease, if you continue in
24 that way, we're going to see more people put off
25 their land or put off the land. Has the commission

1 looked at that at all?

2 MS. PIIANAIA: Yes. I will differ from
3 your observation. There are more and more native
4 Hawaiians; that is, 50 percent Hawaiians in the
5 population. It is my understanding that the
6 largest age cohort or the largest group of native
7 Hawaiians are still under the age of 18. So we
8 will have a plentiful supply, a plentiful, a large
9 population of native Hawaiians.

10 In terms of dislocation from the land,
11 that was the primary purpose, to prevent
12 dislocation was the primary purpose of the
13 one-fourth blood successorship. And we have had
14 very few dislocations from the land since that
15 amendment was consented to by Congress.

16 We will need to monitor whether that
17 one-fourth successorship amendment is working as it
18 is intended to. At this point, it appears to be
19 working quite well.

20 MR. MAXWELL: Thank you.

21 Any more questions?

22 MS. MILLER: One more. If nothing more
23 is done than what is in the report, would you say
24 that the rights of the Hawaiian people have not
25 been abrogated?

1 MS. PIIANAIA: If nothing more is done
2 than --

3 MS. MILLER: Than what has been reported.
4 You know, after all, there are limits expressed in
5 the report, that you have done this and that, but
6 there are difficulties because of money or not
7 being able to get certain laws passed and so forth.
8 But let's say things were left there. Would you
9 say then that the Hawaiian Homes Commission has
10 done its job to ensure equal rights for the
11 Hawaiian people?

12 MS. PIIANAIA: That's a very, very
13 difficult question. It is a deep question, and I'm
14 not sure I can answer it at this point. It would
15 take a lot more reflection on my part. I will say
16 that within our responsibilities in carrying out
17 the act and in administering the act, we do our
18 best to make sure that the rights of beneficiaries
19 are not abrogated. And this is in keeping with
20 constitutional provisions, as I said earlier.

21 What is very significant is that
22 beneficiaries, groups of beneficiaries, can sue us
23 if they think that we are breaching our trust
24 responsibilities, and I'm not so sure if our trust
25 responsibilities and breach of trust is the same as

1 the civil rights or the rights that you're talking
2 about. I'm not sure if they're synonymous.

3 MS. MILLER: I guess the reason I ask
4 that question is because it is a law that there
5 were lands set aside for the Hawaiians. We can't
6 do anything but follow it. I guess that's why my
7 question was based on that.

8 MS. PIIANAIA: Let me answer that
9 question this way: If I am violating this law,
10 which has been subject to interpretations, then I
11 should not be sitting in the chair I'm sitting in.

12 MS. MILLER: And then the other question
13 is, do you think the Federal Government has done
14 all it could to enable the state commission to do
15 its work?

16 MS. PIIANAIA: No.

17 MR. SHAIN: Expand.

18 MR. MAXWELL: I'm going to have to allow
19 one more question from you, and then we're going to
20 have to move on, because we have other witnesses

21 MS. SAUNDERS: Mine isn't a question.
22 Mine is just a note. I note that the country of
23 Norway has just granted the Samers or the Lapps,
24 their native population, their own parliament. And
25 this is to be, in effect, a state within a state,

1 and they are to address the concerns and needs and
2 problems of the Samers. And it seems to me there
3 is a parallel here. And the Scandinavian countries
4 seem to be so far ahead of us. I'm intrigued by
5 this model.

6 MR. MAXWELL: You know, I'm going to have
7 to thank you. But this is a really broad subject
8 that just an hour of conversation with you, you
9 know, and my recommendation later is to the
10 committee that we have another one of these held on
11 the Island of Molokai, where there is a lot of
12 people that's affected. Maybe we can get some
13 other kind of testimony from them. But I would
14 like to express our thanks to you for sitting here
15 and informing us of what's been happening. You
16 have been very informative to us.

17 Thank you.

18 MS. PIIANAIA: Thank you. And I would
19 like to extend my mahalo for allowing us this
20 opportunity, and also to let you know that myself
21 and my staff are available for you any time you
22 like.

23 MR. MAXWELL: Thank you.

24 Just an added thing. Some of the
25 questions that we pose, maybe you can get back,

1 like you said, in writing to us when you can.

2 MS. PIIANAIA: Yes.

3 MR. MAXWELL: Thank you.

4 MS. PIIANAIA: Thank you very much.

5 MR. MAXWELL: I would like to call now
6 Moses Keale, Office of Hawaiian Affairs, or Rod
7 Burgess.

8 I would like the record to show this is
9 Trustee Louis Hao, who is the Chairman of the
10 Office of Hawaiian Affairs.

11 MR. DULLES: Mr. Chairman, may I just
12 acknowledge that we have present with us from
13 Washington the acting staff director of the United
14 States Commission on Civil Rights, Susan J. Prado,
15 and we are very honored and pleased that she could
16 join us today.

17 MR. MAXWELL: Also, I would like to
18 mention the fact that there are sign-up sheets in
19 the back. Whoever came in late can sign up if they
20 want to speak. They will have the time afforded
21 them between four and five this afternoon.

22 MR. HAO: Aloha. I have with me Trustee
23 Clarence Ching, also.

24 My name is Lois Hao, Chairman and Trustee
25 from Molokai for the Office of Hawaiian Affairs.

1 Aloha.

2 MR. MAXWELL: Aloha.

3 MR. HAO: Thank you for the opportunity
4 to present the comments of the Office of Hawaiian
5 Affairs regarding recent developments toward the
6 implementation, management, and enforcement of the
7 Hawaiian Homes Commission Act.

8 It has been eight years since the Civil
9 Rights Commission published the proceedings of a
10 similar forum on the Hawaiian Home Lands. It may
11 interest you to note that the Office of Hawaiian
12 Affairs did not testify at your initial forum
13 because we were not yet fully established.

14 That report's title asked the fundamental
15 question of whether a breach of trust had occurred
16 in the administration and implementation of the
17 Hawaiian Homes program. Based on the findings of
18 the report, the answer to the question was clearly
19 yes.

20 Since 1980, however, remarkable progress
21 has been made to review and to repair the Hawaiian
22 Homes trust.

23 Highlights to the repair process have
24 included a Solicitor General's report to the
25 congressionally-established Native Hawaiians Study

1 Commission and the creation of the Joint
2 Federal-State Task Force on Hawaiian Home Lands.
3 And their reports were published in 1983. The
4 Office of Hawaiian Affairs, OHA, took an active and
5 responsible role in each of those reports. In
6 fact, OHA helped fund and one of our trustees
7 served as a member of the task force.

8 Let me now begin by summarizing the
9 advances which have occurred in the last eight
10 years:

11 One, acting in response to the task
12 force, former Governor George Ariyoshi canceled a
13 series of territorial and state gubernatorial
14 executive orders which illegally set aside 28,000
15 acres of trust lands for nonbeneficiary use.

16 Secondly, in response to the issue of
17 trust lands used for airports which could not be
18 returned, cash payment for back rent and a land
19 exchange were negotiated.

20 Third, in response to the needs of the
21 then 3,000 qualified beneficiaries on the waiting
22 list -- some of whom had waited for 30 years -- the
23 department initiated an accelerated awards program,
24 assigning raw lands to eligible native Hawaiians.

25 Fourth, as required by the State

1 Constitution, the administrative costs of the
2 department were included and funded in Governor
3 Waihee's first executive budget approved in 1987.

4 Fifth, along with administrative costs, a
5 significant commitment of \$27 million in capital
6 improvements money was also authorized for this
7 biennium.

8 Sixth, last Friday, the first FHA-backed
9 home mortgage was signed by a Hawaiian Homes
10 awardee.

11 And, seventh, the federal budget, for the
12 first time in 50 years, includes an appropriation
13 of \$1.3 million for Hawaiian Homes infrastructure,
14 a small but symbolic acknowledgment of
15 responsibility.

16 As impressive as these gains are,
17 however, each step forward has also meant a new
18 question raised, a possible breach deepened. And
19 that is the sadness of the Hawaiian Homes program;
20 that progress always walks with a shadow of doubt.

21 First, the response to illegal set-asides
22 was imperfectly implemented by the Department of
23 Hawaiian Homes. Almost immediately after the lands
24 were returned to the control of the department,
25 revocable leases were approved to continue most of

1 those lands under the administration of county
2 parks. No rent was negotiated, save the
3 maintenance costs of public use enjoyment.

4 We continue to question whether such an
5 arrangement is consistent with the fiduciary
6 responsibilities of the state and the commission.

7 Also deeply troubling were efforts to
8 pursue the return of Lualualei lands from the
9 Federal Government. Without addressing the merits
10 of the case, the Court ruled that the statute of
11 limitations had run, and that the case was
12 dismissed. The Lualualei lands were addressed in
13 the Task Force Report of 1983. Now, how could
14 there be such a delay in filing suit?

15 Second, the land exchange negotiated
16 between the State and the department to replace
17 Hilo Airport holdings for income-producing property
18 at Shafter Flats raised two significant issues.

19 Most important to OHA, Shafter Flats were
20 ceded lands subject to the native Hawaiian trust
21 established for our office. As a result of that
22 exchange, OHA has lost \$58,000 a year in trust
23 revenues. Thus, one Hawaiian trust was repaired by
24 harming another.

25 In addition, the entire premise of

1 exchanging lands for income rather than the
2 fulfillment of DHHL trust purposes is open to
3 possible suit. While it may not now seem a primary
4 concern, the seriousness of this concern will grow
5 with time.

6 In particular, the department has
7 announced plans to pursue income production which
8 are not linked to revocable leases and uses. The
9 development of Kawaihai Harbor and surrounding
10 trust lands for commercial purposes effectively
11 removes these lands from explicit beneficiary
12 enjoyment through stated trust objectives. There
13 shall be no homesteading, no ranching, farming, or
14 pasture land use will be possible.

15 Further, this curtailment of useful trust
16 lands comes just as there is an explosion in
17 eligible beneficiary interests. Spurred by the
18 announcement of the acceleration program, the 1980
19 waiting list of 3,000 has now expanded to more than
20 17,000 families.

21 Ironically, this use of trust lands for
22 income purposes comes just as state and federal
23 sources are demonstrating a willingness to meet
24 their obligations to the program. The public will,
25 to continue and to increase this funding could well

1 be sapped, or even broken, by the easier and
2 longstanding but dubious practice that the program
3 should pay for itself.

4 Of course, the program has some public
5 beneficiary dimension which outweighs the native
6 Hawaiian interest. This possibility is present in
7 the Kaulana Boat Ramp project, Hawaii County
8 announcements of building and irradiation plant on
9 homelands, and the continued inability to use large
10 tracts of Kauai homestead lands because of Barking
11 Sands military buffer zones.

12 The problems are complex. Their
13 resolution will not be easy. But every effort
14 should be expended to find solutions which do not
15 create additional, sometimes deeper, harms to the
16 Hawaiian Homelands trust and native Hawaiian
17 beneficiaries.

18 Among other issues which continue to have
19 adverse implications for the success of the
20 Hawaiian Homes program are the deteriorating
21 condition and inaccessibility of genealogical
22 records needed to establish eligibility;
23 difficulties with the successorship provisions
24 allowing a one-quarter Hawaiian spouse or children
25 to inherit the award; and the unconscionable wait

1 which continues for so many qualified beneficiaries
2 while non-Hawaiians enjoy leases.

3 We are confident that, in the course of
4 this forum, these and other concerns will be raised
5 and addressed in detail.

6 It is not our intent to simply point
7 fingers at the Department of Hawaiian Home Lands,
8 the State, or the Federal Government. As stated at
9 the beginning of this presentation, there has been
10 significant progress toward fulfilling the letter
11 and the spirit of the Hawaiian Homes trust.

12 Further, OHA, again, affirms its
13 commitment to full cooperation with and assistance
14 to the department and trust beneficiaries in
15 further improving the programs and the intent of
16 the Hawaiian Homelands.

17 On behalf of OHA, I would also like to
18 express our gratitude to you for the interest and
19 the commitment which you have displayed in calling
20 this meeting, especially for your dedication in
21 seeking a follow-up to what proved to be a critical
22 report and element in our continuing quest for fair
23 and effective management of the Hawaiian Homelands
24 Trust.

25 Mahalo.

1 are received from OHA from Section 5F, would it not
2 impact the recipients of the Hawaiian Homes? And
3 if so, how can these two agencies get together to
4 implement more land? Because one agency has
5 funding, one agency has land. That is the theory
6 that I'm talking about.

7 MS. DELANEY: I think what we need to do
8 first is to try to separate out. You describe the
9 5F trust, which is a description of the trust
10 constraints. Both the trust moneys that OHA
11 derives, as well as the Hawaiian Home Lands, are
12 described in section 5B of the Admissions Act. And
13 then it is those lands that are addressed in our
14 State Constitution, and that's what finally creates
15 the OHA trust. It is consistent with the 5F trust,
16 but they are not precisely the same thing.

17 MR. MAXWELL: Wait. Let me clarify. I
18 don't mean the lands that creates the moneys
19 derived; I'm talking about moneys that are derived
20 from the lands, these three classifications, and
21 the betterment of native Hawaiians is one. The
22 moneys, itself, what I am saying is that OHA has
23 the moneys that derive from this Section 5F. Could
24 it be used for Hawaiian Homes recipients?

25 MS. DELANEY: It could and it has been.

1 As was stated in the testimony, OHA put up \$50,000
2 for the Joint Federal-State Task Force. There have
3 been other examples.

4 If you are talking about merging the two
5 trusts, I think it would require a constitutional
6 amendment.

7 MR. MAXWELL: No. It was just, my
8 question was one has a land base, one has a money
9 base or a source of a money base, Section 5F, if
10 they could come together. You know, the next
11 question in my mind would be, the Section 5F
12 moneys, is that earmarked or does the OHA trustees
13 have -- can specify what it would be used for?
14 This is my train of question --

15 MS. DELANEY: Uh-huh.

16 MR. MAXWELL: -- is that, again, Ilima
17 states that financial, money is the problem to
18 implement the grading and this and that of the
19 land. They have a lot of land. OHA has an area
20 that could get money.

21 MS. DELANEY: OHA does not have a lot of
22 money. The trust revenues for the Office of
23 Hawaiian Affairs was equal to about 1.4 million a
24 year. That is right now the same amount which DHHL
25 is receiving, I believe, in administrative costs.

1 people.

2 We're going to take a short recess.

3 (Brief recess taken)

4 MR. MAXWELL: Okay. The next panel that
5 has been invited to testify is the Legal and Policy
6 Issues, Mehealani Ing, Executive Director of the
7 Native Hawaiian Legal Corporation, and I believe
8 Alan Murakami, attorney, Native Hawaiian Legal
9 Corporation.

10 MS. ING: Aloha.

11 MR. MAXWELL: Aloha

12 MS. ING: You know, I never get used to
13 speaking in public.

14 Good afternoon and aloha, members of the
15 U.S. Commission --

16 MR. MAXWELL: Aloha.

17 MS. ING: Aloha, Commission on Civil
18 Rights, Hawaii Advisory Committee, thank you for
19 this opportunity to present testimony on the
20 Hawaiian Homes program.

21 I'm Mahealani Ing. I was introduced.
22 And I am the Executive Director of the Native
23 Hawaiian Legal Corporation, a five-attorney,
24 non-profit, public interest law firm which has as
25 its mission the defense, protection, and assertion

1 of native Hawaiian land and traditional rights.

2 I began my work in this area 18 years ago
3 and, in 1975, spent several years working
4 exclusively on Hawaiian Homes legal problems as a
5 research assistant with the Legal Aid Society of
6 Hawaii. The problems we faced then are by and
7 large the same problems we confront now.

8 Charlie, I have to take a little aside.
9 I remember 15,000 acres at Kahikinui 15 years ago.
10 I think our lease is to Elmer Cravalho; is it not?

11 MR. MAXWELL: That's right.

12 MS. MAHEALANI: So a lot of things have
13 stayed the same.

14 Our litigation director, Alan Murakami,
15 will be presenting, in a more detailed and
16 analytical fashion, the status of the program as
17 our agency views it today. Alan is the person
18 chiefly responsible for overseeing the day-to-day
19 legal work relating to Hawaiian Homes problems in
20 our office. He has over 10 years of experience on
21 this and other islands.

22 Before hearing from Alan, however, I
23 would like to place that program within a larger
24 context which describes Hawaiian concerns today.
25 As you may know, the Hawaiian government undertook

1 a great land division in 1848. The net result of
2 that legal manipulation relentlessly engineered by
3 American businessmen and finally acceded to by the
4 Hawaiian government was to push tens of thousands
5 Hawaiians off of their lands. The remedy held out
6 during this period, the Kuleana Act of 1950, was a
7 wretched failure. Seventy-four percent of all
8 adult males and their families were dislocated from
9 the land. Unhealthful conditions created by the
10 ghettos which resulted further exacerbated the
11 problem of an already diseased and dying
12 population.

13 In 1893, sovereignty over all land not
14 privately held -- and, of course, most privately
15 held land at that time was in the hands of
16 non-natives -- was wrested away from the Hawaiian
17 people by these same business interests. They
18 imprisoned our queen on trumped-up charges after
19 taking over her government and gave Hawaii's land
20 to the United States. As Kina'u Kamalii'i, former
21 chair of the Native Hawaiian Study Commission, put
22 it just recently at a hearing before the Senate
23 Select Committee on Indian Affairs, the U.S. stole
24 Hawaii from Hawaiians.

25 The Hawaiian Homes Commission Act, passed

1 almost 30 years after the U.S. takeover, held out a
2 promise of land repatriation to mitigate the
3 injustices done to our people. You and I are here
4 today because the Hawaiian Homes program, with its
5 67-year history of neglect, has failed in its
6 mission. If Hawaiians show any vitality as a
7 people today, it is in spite of this program, not
8 because of it.

9 The long history of abuse, neglect,
10 mismanagement, and uninspired leadership have
11 brought our people to the point where we are no
12 longer willing to put up with more of the same in
13 the future. We now believe to take control of our
14 own affairs, to eventually remove this program from
15 state control, is the only answer.

16 In a recent conference on native Hawaiian
17 rights coordinated by my organization, conferees
18 who elected to meet an extra day developed
19 principles embodied in five points which they
20 believed must be included in any strategy designed
21 to heal our nation. These principles, which we and
22 many other native groups have proposed be
23 incorporated into federal legislation, include:

24 (1) An apology by the United States
25 government to native Hawaiians and their government

1 for the U.S. role in the coup of 1893;

2 (2) A substantial land and natural
3 resource base comprised of a reformed Hawaiian
4 Homes program, a fair share of the ceded lands
5 trust, the return of Kaho'olawe, and other
6 appropriate lands;

7 (3) Recognition of the native Hawaiian
8 government with sovereign authority over territory
9 within the land base;

10 (4) Guarantees of (a) substantial beach
11 access, (b) fishing, hunting, and gathering rights,
12 and (c) protections for native Hawaiian religious
13 practices and historic sites.

14 And, finally, an appropriate cash
15 payment.

16 We are certain that comprehensive reform
17 federal and state legislation must be adopted
18 embodying the five objectives I have just related.
19 We are not certain of the specific means that would
20 best achieve these critical objectives but have
21 organized ourselves and are working with those who
22 support our goals.

23 And this includes our senator, who is the
24 chair of the U.S. Senate Select Committee on Indian
25 Affairs.

1 There is no principled argument that
2 Hawaiian natives cannot assume sovereign powers
3 within the federal constitutional system. There is
4 constitutional authority for Congress to deal on a
5 nation-to-nation basis with aboriginal peoples
6 within the continental United States.

7 As an historical and equitable matter and
8 as a matter of justice, there are important aspects
9 in which Hawaiian natives have the strongest claims
10 to sovereignty of any indigenous groups in the
11 United States, the chief one being that we
12 exercised full sovereign authority a relatively
13 short time ago in history. The sovereign authority
14 exercised was not as a "domestic dependent
15 nation," as Indian tribes on the mainland, but as a
16 complete international sovereign. It made treaties
17 with numerous nations and acted as a sovereign in
18 the full international sense. Had there been a
19 United Nations at the time, the Kingdom of Hawaii
20 would have been a full participating member in it.

21 For those who believe Hawaiian
22 sovereignty is radical and extreme, we say this:
23 Sovereignty is admittedly a dream, but it is
24 beautiful and dignified, an idea which has inspired
25 peoples and nations since the beginning of time.

1 It is an idea embraced even in our own times by the
2 United States Supreme Court in its decisions
3 relating to Indians and other native Americans; an
4 idea we believe is worthy of our highest
5 commitment. Radical and extreme was the wholesale
6 theft of a nation and its land perpetuated by
7 American annexationists. They and they alone were
8 radical and extreme.

9 In summary, we believe in a comprehensive
10 approach providing for restoration of Hawaiian
11 lands, including Hawaiian Homes trust lands, and
12 sovereignty. We believe this is the appropriate
13 basis on which to proceed. We believe ultimately
14 the only objective that will really work is
15 restoration of a full government-to-government
16 relationship between the United States and the
17 Hawaiian nation.

18 Before I entertain any questions, I would
19 like to have Alan continue with our presentation.

20 MR. MAXWELL: Sure. Mahalo.

21 MR. MURAKAMI: Good afternoon, members of
22 the Hawaii Advisory Committee. My name is Alan
23 Murakami, and I am distributing my written
24 testimony to you in the hopes that I can adequately
25 summarize it in my oral testimony.

1 I wanted to say initially that we are
2 very grateful for this opportunity to appear before
3 you. The interest that you have demonstrated is
4 particularly heartening to us because of the vast
5 problems that confront this program.

6 I think that every forum and every avenue
7 that we have to seek improvements to this program
8 is going to be of immeasurable benefits to the
9 native Hawaiian beneficiaries. So I would urge you
10 to continue this follow-up activity. I realize
11 this is now the second session that you have
12 convened in the last eight or nine years. And we
13 think more of this is necessary for a thorough
14 follow-through on all the various recommendations
15 made.

16 And I wanted to say as a side light there
17 have been many studies and recommendations made.
18 And I think the time really is ripe for action.
19 The recommendations are on paper. They're in black
20 and white. Numerous hearings have been held. This
21 is now the stage for implementing the many, many,
22 many concerns about this program and how they may
23 be properly addressed.

24 I wanted to initially also say that we
25 believe that this commission should go statewide.

1 The bulk of the Hawaiian Home Lands are on the
2 neighbor islands. We have received requests to
3 present testimony on behalf of others who could not
4 make it. We tried as much as we could to get
5 people to come here to Honolulu, but it remains a
6 simple fact that a lot of the homesteaders that are
7 experiencing the problems of which you are
8 concerned do live on the neighbor islands; and that
9 is where, if it is at all possible, this commission
10 should go to listen to these concerns.

11 Finally, I'm going to make my comments
12 conditional and provide a caveat on the basis of
13 what has been expressed earlier by Mahealani Ing.
14 We believe that long-term solution to a lot of
15 these problems really lies on who ultimately is
16 responsible for administering this program. And
17 the State and the Federal Government have had 68
18 years to try and properly administer the trust
19 responsibilities that are identified in the
20 Hawaiian Homes Commission Act. And I think, by all
21 accounts, the performance record has been pretty
22 miserable.

23 To basically outline what I hope to say
24 today -- there are many things that have to be
25 covered -- but I think I can summarize what this

1 commission should try to attempt to do in playing
2 its part in this whole picture of dealing with the
3 problems of the Hawaiian Homes program, and I
4 summarize them under my general recommendations.

5 The first one is to determine why the
6 Department of Hawaiian Home Lands has not yet
7 contracted to conduct a management audit, as has
8 been clearly recommended in the task force report.
9 I think that, if the audit is conducted, a lot of
10 the detailed concerns and problems that have been
11 raised and will be raised before you today and have
12 been raised before in the past will be properly
13 addressed and reported on by a qualified audit
14 team. And this would go a long way to address the
15 many, many problems dealing with administration of
16 the program, the land inventory, problems with the
17 responsiveness of the staff to concerns of
18 beneficiaries, the understaffing, as has been
19 outlined by the director earlier, and how that
20 creates problems in administration of the program,
21 et cetera.

22 Second, to determine why the
23 Federal-State Task Force has not yet been
24 reconvened to evaluate the progress on the
25 implementation of its many recommendations. That

1 was the last recommendation made by the task force
2 in its report. And that was a very important one.
3 It was supposed to have been done within a year, to
4 begin the assessment process of how far along both
5 the state and federal governments had gone to
6 implement their recommendations or its
7 recommendations.

8 Three, advise the U.S. Congress on the
9 need for and the U.S. responsibility to provide
10 additional financial resources to fund the many
11 infrastructural improvements needed to make this
12 program meaningful. It is very clear from the task
13 force that the state alone cannot do the job. And
14 it has been a nagging question as to how much the
15 U.S. is going to put forth to rectify the problems
16 it contributed to during its initial, let's see, 40
17 years of administration of the program and, as I
18 will outline later, it's illegal uses of trust
19 lands as a trustee of this program.

20 Fourth is to advise the U.S. Justice
21 Department on the need to initiate legal actions
22 where necessary on behalf of native Hawaiians to
23 enforce the act. That is provided for clearly in
24 the Admission Act, upon which Hawaii became a state
25 admitted to the union. But that discretionary

1 right has never been exercised. I don't think
2 there is any clearer examples than Hawaiian Home
3 problems that have cried out for the need for
4 litigation to address the many, many concerns that
5 have been raised in the past. All the previous
6 court actions that have been litigated in the
7 courts, both federal and state, have come out of
8 beneficiary actions initiated by beneficiaries at
9 their cost and at much expense and time to them.

10 In October of 1980, you issued a report
11 entitled Breach of Trust? Native Hawaiian
12 Homelands. And in that report, the former and late
13 Georgianna Padeken relates that some 25,000 acres,
14 comprising about 12 and a half percent of the
15 original 200,000 acres set aside for the program,
16 were then leased to 2,997 eligible beneficiaries.
17 At the time, in contrast, 122,000 acres, or 61
18 percent, were being utilized by non-beneficiaries.
19 The waiting list consisted of about 6,300 people.

20 Since then, the task force has been
21 convened and recommendations made. In its 1987
22 annual report, the Hawaiian Homes Department
23 reveals that since -- well, as of 1987, some 5,800
24 beneficiaries have received lot awards. However,
25 you must keep in mind that only about 3,700 of

1 these are actually utilizing the land or residing
2 on the land. The rest of these awards which
3 resulted from the acceleration program from some
4 years back -- I believe it was between 1985 and
5 1987 -- resulted in unimproved lots being granted
6 to some 2,000 plus awardees. Many of these people,
7 aside from, perhaps, growing some small plots of
8 vegetables on the property or putting a few cattle
9 on the property, have not been able to occupy or
10 possess the property because of the lack of
11 infrastructural improvements and, in fact, have
12 probably been, in effect, prevented from living on
13 the land because the department has required
14 compliance with county regulations in terms of
15 building and other code requirements.

16 As a result, the beneficiary count on the
17 land has actually gone up from about 3,000 to about
18 3,700 people during the past nine years. And they
19 currently occupy about 32,713 acres. This is only
20 about 17.5 percent of all the land in the
21 inventory.

22 I have to condition that statement
23 because I have used 187,413 acres as the base for
24 the inventory as opposed to 200,000 acres. That,
25 apparently, is a figure that the department is

1 working with under the Kaeo report. But, again,
2 the land inventory is not clearly reconciled, as
3 has been testified before. And we're not exactly
4 sure, but I use that figure as a conservative
5 estimate.

6 Again, about 61 percent, again based on
7 the 187,000 acres, or about 97,000 acres, are being
8 used by non-native Hawaiians on general leases and
9 other types of conveyances by the the Department of
10 Hawaiian Home Lands and the Department of Land and
11 Natural Resources. And, perhaps, most glaringly,
12 some 17,000 eligible beneficiaries wait for their
13 lot awards statewide.

14 This record reflects severe institutional
15 problems confronting the program. In the 68 years,
16 only a relatively handful of beneficiaries have
17 actually gotten land, and that continues to be the
18 case nine years after your current -- your last
19 session with the public.

20 More than four times than the amount of
21 those who have settled on the lease lots wait for
22 land. Of those waiting, some have waited for over
23 36 years.

24 Clearly, there have been some notable
25 gains. The governor has canceled some 16 executive

1 orders and 8 proclamations which were illegally
2 issued, and this resulted in about 27,835 acres
3 returning to the program.

4 During the '85 period, 1985 through '87,
5 the department conducted an acceleration program
6 primarily to issue raw lands to some 2,000-plus
7 awardees. They currently are working with about a
8 \$22 million budget to fund capital improvements for
9 these lands. However, that amount will probably
10 only address about 480 lots and an additional, I
11 believe it is, 620 lots for design of
12 infrastructural improvements.

13 So you can see that a lot of the problems
14 confronting the program still remain. And the
15 commission needs to continue monitoring this series
16 of problems to determine how effective the response
17 has been to the various recommendations made to
18 rectify these concerns.

19 illegal land transfers, I have mentioned
20 briefly the progress made in returning some of the
21 lands. However, I think certain issues remain
22 outstanding in terms of the illegal uses of land.
23 A couple of instances I have cited here include the
24 Hawaiian Homes Commission's continued arrangement
25 with the City and County of Honolulu, for example,

1 to operate city parks at Waimanalo and Makapu'u
2 Beaches at nominal compensation. This arrangement
3 was attacked in the task force report, and there
4 was a recommendation that at least fair market rent
5 be obtained if these lands were continued for use
6 as parks by the City and County of Honolulu.

7 However, in a series of transactions, the
8 department and the commission has allowed these
9 arrangements to continue, purportedly under the
10 justification that the beach parks serve native
11 Hawaiian beneficiaries. My response is basically
12 that that is an issue that really has not been
13 resolved by the commission as to the conditions
14 under which they will allow nominal consideration
15 to be the rent charged for the use of trust lands.

16 I'm not exactly sure, but I think the
17 consideration that was charged is either a dollar
18 or ten dollars per year -- a dollar. So we're
19 really getting nothing for the use of these lands.

20 But the issue that really hasn't been
21 confronted is to what extent will such arrangements
22 be allowed to continue if, in fact, native
23 Hawaiians are using lands. On the one hand, there
24 is the argument used by the department; but, on the
25 other hand, lands that are used for parks are used

1 by native Hawaiians wherever they are across the
2 State of Hawaii. So why should Hawaiian Homes
3 suffer the burden of not receiving income from
4 those lands as any other landowner would obviously
5 get if their lands were condemned or leased to the
6 City and County of Honolulu. The mere fact that
7 native Hawaiians use these lands as parks does not
8 justify the fact that Hawaiian Homes Commission
9 allows these lands to be used at nominal
10 consideration. Hawaiian Homes should treat these
11 lands as any other private or public landowner
12 would do; and either charge fair market rent, or,
13 if the lands are condemned for use as parks, they
14 should get adequate consideration for the
15 condemnation of these lands and, perhaps, an
16 exchange of lands of, again, fair market rent,
17 of equal value.

18 Now, in addition, the use of the airport
19 lands was condemned in the task force report. And
20 since then, the department has undergone a land
21 exchange which has been approved by the Department
22 of Interior, allowing the transfer of some 245
23 acres of airport and other lands for some 13.8
24 acres of income-generating commercial-industrial
25 lands at Shafter Flats. The object of this

1 transfer has been clearly and openly to acquire
2 lands to generate income for the Hawaiian Homes
3 Department. Now, this raises another issue because
4 one of the recommendations of the task force was
5 the Hawaiian Homes Commission should determine as a
6 matter of policy the type of replacement lands
7 needed for its programs, and I emphasize that.
8 Once a policy for replacement lands has been
9 established, the policy should not be altered, even
10 at the department administration's change.

11 Now, this recommendation is designed to
12 get the department to identify as a matter of
13 policy what kind of lands will they get back for
14 the lands that have been utilized for airports,
15 parks, schools, et cetera. Do they need lands for
16 homesteading? Do they need lands for income
17 generation? That is the issue that is before the
18 department and the commission that has yet to be
19 resolved. What I think needs to be pointed out,
20 however, is that the legislature and the Con Con
21 has spoken to this issue clearly in 1978, when it
22 mandated to the legislature to sufficiently fund
23 the administration and operating budget of the
24 Department of Hawaiian Home Lands. So that it pays
25 for the administration and operating costs of that

1 department through its general funds rather than
2 from the general leased revenues that the
3 commission generates from its leasing of lands to
4 non-native Hawaiians.

5 The problem that the commission and the
6 Constitutional Convention pointed out was that if
7 you put Hawaiian Homes in the business of leasing
8 its lands to generate revenues to pay for its
9 administrative costs, then it would be in a basic
10 conflict of interest because it would be attempting
11 to generate income to pay for its costs and, at the
12 same time, to have to balance the need to issue
13 lands to Hawaiians, which has been the fundamental
14 problem of this program. So, in my mind, I think
15 there is an inherent conflict with the
16 Constitutional Convention here if, in fact, lands
17 are designated for income generation in the land
18 exchanges being sought and consummated by the
19 department. And that issue needs to be clearly
20 addressed and either repudiated or somehow
21 justified in light of the Constitutional Convention
22 -- constitutional amendment passed in 1978.

23 Finally, as was pointed out by OHA, the
24 Shafter Flats lands are ceded lands or were ceded
25 lands, depending on how you look at it. Some

1 people consider that still ceded lands. If, in
2 fact, OHA is to receive its fair entitlement to the
3 20 percent of the revenues from the ceded lands
4 trust, where is the replacement money coming from
5 to compensate OHA?

6 The task force recommended that, if ceded
7 lands are involved in pending land exchanges, that
8 OHA be consulted and there be coordination with OHA
9 so there would not be a loss of revenues to the
10 native Hawaiian beneficiaries. Native Hawaiian
11 beneficiaries get money from the ceded lands trust
12 and should be getting lands, and some of them are,
13 from the Hawaiian Homes Commission Act. There
14 needs to be a reconciliation if, in fact, lands are
15 exchanged which involve ceded lands. That did not
16 occur in the Shafter Flats exchange, and OHA lost,
17 by some views, by some people's views, a relatively
18 small sum, \$52,000, but it established a principle
19 whereby OHA would not be consulted whenever such
20 land exchanges affect the ceded land revenues to
21 the Office of Hawaiian Affairs. And that is a
22 dangerous precedent.

23 Management and administration concerns,
24 there are many issues involved here. I have
25 outlined some of them, mentioning the need and the

1 recommendation by the task force to computerize
2 certain department records, to computerize the wait
3 list, to computerize the need to summarize the
4 demand for land by the people on the wait list, so
5 there will be better retrieval of this information
6 and better ability of the department to summarize
7 it.

8 Apparently, there is some move to do that
9 now, although it has not happened over the last
10 nine years, and that has hampered the program.

11 MR. MAXWELL: Excuse me, Alan. If you
12 can, since you submitted your report, because I am
13 sure there will be questions for you, and I have
14 got to control the time here because we have other
15 people waiting --

16 MR. MURAKAMI: I will speed this part up.

17 I think this part has been a mixed
18 record. The department has made some strides to
19 improve their management and administration.
20 However, as it translates into the field, I think I
21 can personally attest that there has been, at
22 times, interminable delays in getting responses to
23 beneficiary requests for help and information. And
24 that may be related to the lack of computerization.
25 It may be related to the lack of staffing, but it

1 remains a major problem. And there have been
2 months and sometimes years before there have been
3 responses to beneficiary requests for help and
4 assistance, and I think that remains a very large
5 problem confronting the department.

6 I want to put in a plug for this
7 commission to inquire into why waiting lists are
8 not made public. This issue has been raised by my
9 office. We asked formally for a list to be made
10 public. The House of Representatives of the State
11 Legislature passed a resolution requesting that the
12 wait list be made public. The task force issued a
13 recommendation that such list be made public. And,
14 to date, the department has not made those lists
15 public, citing reasons of privacy and the need for
16 an attorney general opinion to resolve that issue.
17 We have not gotten a response from that yet.

18 We have been asked by people on Molokai
19 to raise the issue of what's been known as
20 third-party agreements. This issue has arisen on
21 Molokai because of the sanctioning of the
22 third-party agreements by the Department of
23 Hawaiian Home Lands. Some people believe that
24 these TPA's, as they are called, amount to
25 subleases, which are barred by Section 208 of the

1 act. But it has raised problems and issues that
2 the commission and the department must resolve.
3 The basic problem that has been cited is that the
4 TPA's have been used to allow non-native Hawaiians
5 to utilize Hawaiian Home Lands to benefit private
6 enterprises that have competed with homesteader
7 farmers that would otherwise be able to compete in
8 the marketplace. But because of the use of TPA's
9 and the larger amounts of land that have been
10 controlled under TPA's, people have lost the
11 ability to compete in the marketplace as farmers.

12 I have a set of testimony from Martin
13 Kahae, who has testified before the Senate Select
14 Committee on Indian Affairs and other bodies to
15 outline this problem --

16 MR. MAXWELL: We will accept it into the
17 record.

18 MR. MURAKAMI: -- for the detail on this
19 problem.

20 Program resources, that remains a
21 problem. I think we have already addressed that.

22 Illegal land uses that continue, we have
23 mentioned the Lualualei case. That is up on the
24 Ninth Circuit Court of Appeals on the issue of
25 whether the State is barred from raising that issue

1 because it did not file its lawsuit early enough.

2 I did want to mention, however, that we
3 have cited here the recommendation of the task
4 force that the United States and the State cancel
5 all leases to the United States for uses of trust
6 lands at nominal consideration. The two primary
7 examples that remain unresolved as of yet is the
8 295-acre parcel at Pohakuloa being used as a
9 military training ground and the 25-acre parcel at
10 Kekaha being used by the Navy as storage
11 facilities. These leases continue to operate under
12 DLNR management and, contrary to the task force
13 report, has not been canceled. There have not been
14 renegotiations made to get fair market rent for
15 these parcels. And they continue to be used in
16 breach of the trust established by Congress.

17 Finally, under the right to sue, the task
18 force recommended right-to-sue legislation by both
19 the state and federal governments. The State has
20 responded by passing a right-to-sue bill. However,
21 it has made it a prospective bill only and has
22 limited damages to out-of-pocket costs, which is
23 very minor compared to other potential costs that
24 could be obtained if more general damages were
25 allowed.

1 In connection with that bill, the
2 governor is under a duty to propose a package to
3 address all retroactive problems and damages
4 involving the Hawaiian Homes program back until
5 statehood by the legislative session in 1991. And
6 we are raising this as a point of concern because
7 we believe that action must be taken immediately by
8 all those involved to assist and promote this
9 package so that an effective remedy can be
10 presented to the legislature for the various past
11 abuses and damage that has occurred as a result of
12 the improper management of the department by
13 previous administrations.

14 In contrast, the U.S. has yet to act on
15 any right-to-sue litigation. And that remains an
16 open agenda. We believe this commission should
17 play a role in recommending that such legislation
18 be enacted promptly.

19 In conclusion, I think it is fair to say
20 that the many actions taken by the task force to
21 make recommendations have been met with mixed
22 results. However, substantial problems persist in
23 all areas addressed by the task force and, to some
24 extent, by this commission in its 1980 report.

25 Those who are beneficiaries remain

1 impatient. Clearly, more progress could have
2 occurred with a broader commitment by the United
3 States and the State, had it been made during the
4 interim period. This situation demands that the
5 task force needs to be reconvened to assess
6 progress on implementing its recommendations. At
7 the very least, administrators should commission a
8 management audit to address the detailed issues and
9 problems raised.

10 Finally, this commission should expand
11 its coverage by going to homestead communities on
12 the neighbor islands where the bulk of the trust
13 lands are. Accessibility to this body is one
14 additional and sure way to assure your timely
15 consideration of these problems and issues will
16 receive the attention they deserve.

17 Thank you very much.

18 MR. MAXWELL: Thank you.

19 Any brief questions?

20 MR. DULLES: Just one brief question. It
21 appears to me that many of these issues really need
22 to be brought to the attention of the legislature
23 in Hawaii. Is there an oversight committee of the
24 legislature that reviews, monitors, and directs the
25 work of the Home Lands Department? And are these

1 the kind of issues that are brought before the
2 legislative process in the State of Hawaii? Just a
3 brief --

4 MR. MURAKAMI: I don't believe there is a
5 specific committee that monitors and directs
6 changes to the program. Whatever legislative
7 oversight occurs, occurs as a result of review of
8 bills and budget items brought to a committee that
9 includes Hawaiian concerns. It is not a special
10 committee set up just for Hawaiian Homes program.

11 MR. MAXWELL: You see, if I can
12 interrupt, actually, because it is a federal
13 mandate and the Justice Department, the Department
14 of Interior is the one that has the final say. But
15 I was going to recommend, you know, when you asked
16 the question, that these testimony should really go
17 to the Hawaiian Homes, to Ilima, you know, so she
18 has a record because I see she is writing down
19 stuff like that. So could you see she gets a copy
20 of this?

21 MR. DULLES: She will be provided with
22 all of the documents, as well as a copy of the
23 transcript of the proceeding, absolutely.

24 MR. MAXWELL: Your recommendations will
25 be taken into consideration because it is really

1 valuable.

more

Go ahead.

3 MR. SHAIN: This goes to either one of
4 you. As you see it now, Hawaiian Home Lands is
5 controlled by the State under a federal mandate or
6 somewhere in that order. Do you see the
7 possibility of -- I guess you're highly critical of
8 the system as it is now, to say the least -- a fix
9 within the system as it stands right now? I mean
10 DHHL and --

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at is

11 MS. ING: One of the things that has
12 always bothered me is that the past as well as
13 current administrations have taken the attitude
14 that they would cooperate with county building
15 codes. As a result, as Ilima has pointed out, the
16 cost for infrastructure improvements is \$40,000 per
17 house site. Our people say that they don't need to
18 live in compliance with city building codes. And
19 we do know that domestic dependent nations on the
20 mainland adopt their own standards. I think that
21 that would go a far way to making true acceleration
22 of awards.

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u,

23 The concern that I heard from past --

24 MR. SHAIN: Can I interrupt for a second?

resent

25 MS. ING: Yes

1 MS. ING: No. Not under the present
2 system.

3 MR. MURAKAMI: I think what we're trying
4 to say is that I think conceivably a fix is
5 possible, but realistically is what we are here to
6 talk about. And what we have realistically seen in
7 68 years is about -- well, at best, 6,000 people,
8 maybe 5,800 people who are native Hawaiians placed
9 on the land. And there are well over 17,000 people
10 on the wait list.

11 I think a management audit might bring
12 this out, but if they trace the history of how many
13 people were settled on the land and how soon, you
14 will see a large period of time during which very
15 few people were placed on the land after the
16 initial burst of activity when the act was passed
17 in 1920, '21.

18 And what we are saying here is that if
19 Hawaiians are given self-determination and are able
20 to become -- take charge of their own affairs, that
21 it is much more realistic that things will happen.

22 Currently, under this system, the State
23 has accepted as a compact or contract with the
24 United States that it will faithfully administer
25 the Hawaiian Homes program. But what we have seen

1 too often in the past, at least, has been a
2 conflict of interest. The State has its interest
3 as a whole. The Hawaiian Homes program has an
4 interest in particular. And you may have a piece
5 of land where the State needs a facility. And the
6 governor has issued executive orders granting
7 permission to use the land illegally. That kind of
8 practice can continue in terms of funding. It can
9 continue in terms of other kinds of programs needed
10 to assist native Hawaiians to settle on these
11 lands, where there is going to be inherent
12 conflicts between what the State wants and what
13 native Hawaiians want under this program. And
14 that's what we are trying to bring out. There is
15 an inherent conflict here that we think has to be
16 fundamentally addressed in a major and bold way.
17 Otherwise, we will continue to have these problems.

18 And yes, it is conceivable we could
19 determine a fix, but we're going to be locked into
20 this mode of trying to get that fix improved and
21 made more efficient and somehow made better. So if
22 we are willing to do that, that's fine, but I think
23 past history has discouraged a lot of Hawaiians,
24 and I think justifiably so.

25 MR. SHAIN: A few more questions.

1 MR. MAXWELL: Go ahead

2 MR. SHAIN: It's going to sound like a
3 Carl Sagan question. But I have got this list of
4 organizations and also the Hawaiian civic clubs and
5 all the rest. You know, who speaks for the
6 Hawaiians? I mean, I hear OHA saying this; I hear
7 Ilima saying this; I hear you saying this. And I
8 understand, you know; I come from an ethnic
9 community where you put six of us in a room and
10 there are 14 opinions coming out the other door.
11 But who speaks for the Hawaiians? Who says, we
12 want sovereignty? Who says, we want to continue.
13 Do you see a united front coming? I mean who
14 represents who?

15 MS. ING: That is a very difficult
16 question. We talk to one another.

17 Let me talk about my experience with the
18 creation of the Office of Hawaiian Affairs. I
19 worked as a voter registrar, and I am convinced
20 that 60,000 or 70,000 people who registered to vote
21 for Office of Hawaiian Affairs did so because it
22 held out this promise of self-determination. I
23 think where we differ is as to the mechanism, how
24 to implement. But the dream is there, and we share
25 it, and we know it. And I can talk to the

1 so-called radicals or the Office of Hawaiian
2 Affairs or Ilima. I think, as Hawaiians, we dream
3 of one thing. And if our voices are discordant, it
4 is simply because we are disoriented as to the "how
5 to," but we know what we want, and that is my
6 answer.

7 MR. MAXWELL: You know, Barry, let me add
8 to Mahealani's answer. The only time that the
9 Hawaiians were ever united was when Kamehameha
10 conquered all the islands. He spoke as one.
11 That's fact. Presently we speak with many tongues,
12 but all of the same language that come out from our
13 tongues, it's the same. We're asking for help, the
14 same thing like they have done for the last --
15 right after the overthrow, help in respect that the
16 lands have been taken away. The only lands that
17 are available are the Hawaiian Homelands, and this
18 is why there is so much interest in the Hawaiian
19 Home Lands land.

20 But my question to you, which I would
21 like you to answer, is: From all of this -- I know
22 you answered him -- but from all of these problems,
23 how can we fix? You know, there are so many
24 wrongs. But if there is one thing in your mind
25 that you could think about that would immediately

1 -- when I say immediately, I mean in five years or
2 so, you know -- help our people at least to have
3 some hope to see a light in the tunnel? What would
4 the overriding thing be to fix up the Hawaiian
5 Homes Act?

6 MS. ING: You know, I personally hate to
7 say money, but I really do believe that one barrier
8 to putting people on our land is money. I mean,
9 they're talking infrastructure. They're talking
10 about, you know, putting in water because you can't
11 support an agricultural activity on marginal land
12 without water. So I guess if we had tons of money.

13 MR. MAXWELL: Well, if we did have that
14 and if it was managed -- see, the reason I ask that
15 question -- and I got to tell you about the
16 Alaskans, the Eskimos, they are having the same
17 problem. They had a lot of money. But it wasn't
18 administered through the right way. Like you say,
19 why should we have the modern day infrastructure?
20 Some people want to live like how it was before,
21 maybe roads and, you know, down by the beach is the
22 most perfect place.

23 But, see, the reason why there was such a
24 demand at that time because the Hawaiians thought,
25 when it first was implemented, that this was a

1 solve-all to their problems in 1920. But if you
2 notice, the 40 acres that was given to them, they
3 lived on half an acre, and they leased out 39 of
4 that. And that wasn't rehabilitating the Hawaiian
5 people. That just made them into a western concept
6 of rehabilitation.

7 MS. ING: They leased the 35 acres out
8 because there was no water --

9 MR. MAXWELL: Right.

10 MS. ING: -- to support the farming. It
11 is just a built-in failure.

12 MR. MAXWELL: But now, why there is so
13 much interest is because land is so valuable in
14 Hawaii. Even the land that cannot get water is
15 valuable. And that is why our people, our youth,
16 are signing up for applications.

17 Any more comments?

18 MR. SHAIN: Charlie, one last question.

19 MR. MAXWELL: Go ahead.

20 MR. SHAIN: Are you happy with the
21 current blood quantum as defined under Hawaiian
22 Home Lands right now?

23 SPEAKER: Can't hear you.

24 MR. MAXWELL: Sorry.

25 MS. ING: My personal --

1 MR. MAXWELL: Could you repeat his
2 question. They can't hear you.

3 MS. ING: Are we happy with the blood
4 quantum as defined under the current statutes?

5 I speak as a person who has an interest
6 in this question. I am not a qualified native
7 Hawaiian under the program. But I still think,
8 even if I were, that I would be opposed to this
9 artificial definition which divides our people.

10 When Georgianna went up to Congress and
11 lobbied to have the successorship quantum lowered
12 to a quarter Hawaiian, I did not realize at the
13 time that this successorship quarter blood
14 requirement only applied to children and -- is this
15 siblings?

16 MR. MAXWELL: Spouse.

17 MS. ING: Spouse. Okay. We have the
18 ludicrous situation in our office now, on a very
19 immediate, real level, where grandchildren are
20 being adopted by their -- what? Yeah, children are
21 being adopted by their grandparents so that they
22 can succeed in trying to circumvent this law. So
23 I'm opposed to it. I'm unhappy about it, but it is
24 not an agency position.

25 MR. MAXWELL: And just for the records, I

1 might add that Ilima verified this on Maui when she
2 was at a meeting. The one-half quantum is not the
3 liking of Prince Kuhio. He wanted 1/32. This was
4 an animal of the Congress at that time. At that
5 time, they said that is how a native Hawaiian shall
6 be noted, is half or 50 percent. So sometime or
7 another we are going to find out if that 50 percent
8 is going to be a decisive issue amongst our people.
9 It already is.

10 MS. ING: We have the situation where
11 families, you know -- I mean the program is to
12 bring harmony and promote family. And just the
13 opposite result, which is a child who does not have
14 the requisite quantum is evicted, as happened with
15 Doug Silva in Waimanalo.

16 MR. MAXWELL: Mahealai, I'm going to have
17 to cut this short now because we have to get done
18 at five, and there is a lot of people more.

19 Thank you so much for both of your
20 testimonies.

21 I would like to call up now Mr. Masaru
22 Oshiro, Community Perspectives Panel, from Alu
23 Like, and Maria Kaina.

24 MR. OSHIRO: My name is Masaru Oshiro.

25 MR. MAXWELL: Excuse me. Is Maria Kaina

1 here with you?

2 MR. OSHIRO: I have not seen her.

3 MR. MAXWELL: Okay. Thank you.

4 MR. OSHIRO: My name is Masaru Oshiro. I
5 am the Chief Executive Officer of Alu Like, and I
6 appreciate the opportunity to present our testimony
7 before the Hawaii Advisory Committee of the U.S.
8 Civil Rights Commission.

9 The full text of my testimony is in your
10 hands. I will try to, wherever possible, cut
11 short some of the background information.

12 MR. MAXWELL: Thank you.

13 MR. OSHIRO: Alu Like is a private,
14 non-profit, community-based, statewide organization
15 whose chief purpose is to enable native Hawaiian
16 social and economic excellence. Our programs
17 include employment and training, vocational
18 education, and library services. We also offer the
19 Hawaii Computer Training Center, a cooperative
20 effort with the IBM Corporation and several other
21 business enterprises. We also provide an
22 ex-offender program and a Native Hawaiian Business
23 Development Center. In addition to these areas,
24 Alu Like currently maintains the most comprehensive
25 data on native Hawaiians to date and maintains a

1 capacity to advocate, plan, and seek alternative
2 ways to address many of the needs of the Hawaiian
3 people.

4 I will move onto the bottom of page 2,
5 last paragraph. We would like to share Alu Like's
6 experience with the Department of Hawaiian Home
7 Lands since your last forum. We are, in addition
8 to the Hawaiian Homes Commission, a member of the
9 organization called the Hawaiian Service
10 Institutions and Agencies, a group of organization
11 heads that meet periodically to discuss ways in
12 which the duplication of services can be avoided
13 and the pooling of limited resources can best be
14 maximized.

15 In 1978, prior to your first meeting, the
16 Alu Like was able to secure administration for
17 Hawaiian native American funds for a demonstration
18 pilot project that assisted homesteaders at Panaewa
19 with the clearing of their lands for planting.

20 In 1982, Alu Like invited Mr. Ray Combs,
21 Assistant Secretary for Indian Affairs, to the
22 Secretary of Housing and Urban Development, to come
23 to Hawaii to assess our housing needs. As a result
24 of his work and the close cooperation of the
25 Department of Hawaiian Home Lands and other

1 agencies, homesteaders are now eligible for Federal
2 Housing Administration loan assistance.

3 In 1984, the former Department of
4 Hawaiian Homes director, Georgianna Padeken,
5 initiated a memorandum of agreement with Alu Like,
6 the University of Hawaii Cancer Research Center,
7 and the Department of Health that developed a
8 genealogical data bank that included the
9 computerization of invaluable post-1941 cancer
10 data. As a result, since 1986, Alu Like has been
11 able to assist close to 100 people in verifying
12 their genealogical records necessary for Department
13 of Hawaiian Home Lands homestead applications.

14 Alu Like has also provided testimony on
15 right-to-sue legislation. Governor Waihee has
16 signed a bill that now provides a process on such
17 litigation. Our island representatives on Hawaii,
18 Maui, and Molokai indicate that they have not
19 received a complaint from homesteaders on the
20 matter of their civil rights being infringed upon.

21 An unprecedented number of land awards
22 have been made by the department since 1980 during
23 the Georgianna Padeken administration. We also
24 understand that for the first time in the
25 department's history federal funds have been

1 appropriated for the improvement of infrastructure
2 on homestead lands.

3 Mrs. Rubin's, our previous CEO, testimony
4 on the first public forum focused on our 1975 Needs
5 Assessment of Native Hawaiians. I am happy to
6 provide updated compendiums on profiles of native
7 Hawaiians, as well as those on the health-related
8 issues. Three copies of the studies were presented
9 to your staff, and it is in their possessions.

10 We continue to look forward to a close
11 cooperation between Alu Like and the Department of
12 Hawaiian Home Lands. It has been a fruitful and
13 beneficial relationship undergirded by our
14 philosophy of mutual respect and trust that is
15 embodied in our mandate.

16 Thank you for the opportunity to testify.

17 MR. MAXWELL: Okay. Any questions?

18 Thank you, Mr. Oshiro.

19 MR. OSHIRO: Thank you.

20 MR. MAXWELL: Again, let me ask if Maria
21 Kaina is here.

22 If not, I would like to call up Sonny
23 Kaniho. And I would like to recognize the
24 chairman of the federal task force, Ki'nau Kamalii,
25 in the back.

1 MS. KAMALII: I wasn't the chairman of
2 the federal task force. I was chairman of the
3 Native Hawaiian Study Commission.

4 MR. MAXWELL: That's correct. Sorry.
5 Chairman of the Native Hawaiian Study Commission,
6 Ki'nau Kamalii.

7 MR. KANIHO: Mr. Chairman, excuse me. I
8 have asked Alan to speak for me. I get hard time
9 speaking.

10 MR. MAXWELL: Gee, Sonny, I didn't know
11 the last time when it was hard for you to speak.

12 Okay. Go ahead, Alan.

13 MR. MURAKAMI: Actually, I am only doing
14 this in the interest of time. Maybe I can speak
15 faster.

16 Sonny has asked me to present this
17 testimony on behalf of the Aged Hawaiians. This is
18 a client group I represent in Waimea. They consist
19 of members on the 1952 Waimea wait list, pastoral
20 wait list, I should say, residents of Waimea who
21 have been waiting for pastoral lots for the last 36
22 years.

23 Basically, what I wanted to cover here
24 was a story of how these elder Hawaiians have not
25 been able to get on pastoral lease awards.

1 Without going into a lot of detail on the
2 history, I think what I should say is that the
3 Waimea lands were opened up as a result of the
4 efforts of the pioneers who are still on, in large
5 part, the 1952 Waimea pastoral waiting list. It
6 was through their petition and applications that
7 initially got the lands in Waimea opened up to
8 homesteading.

9 And this 1952 wait list, which consisted
10 of, at the time, 187 individuals, sought to get
11 native Hawaiians on the land. Following their
12 application, some 48 individuals did get lease
13 awards, and the lease was followed to that extent.

14 However, subsequent to that initial batch
15 of awards, there were actions taken by the
16 commission which resulted in the cancellation
17 purportedly of that list and a reconstituting of
18 two or three subsequent wait lists, which were in
19 part followed to award lease lots to individuals in
20 Waimea irrespective of the remaining people on the
21 1952 wait list.

22 Now, in our review of the records of the
23 time, there were apparently actions taken by the
24 commissions which purportedly resulted in the
25 cancellation of the list. However, the major

1 problem with that attempt was that they failed to
2 notify any of these eligible beneficiaries that
3 such actions were pending. And people continued to
4 wait on this list, not knowing that other people
5 were being granted lease awards before people on
6 this wait list ahead of them.

7 You know, that kind of brings out the
8 problem of the making the wait list public.
9 Because the wait lists were not public, people
10 could not really understand what was happening
11 because the commission and the department
12 controlled the records at the time. And people
13 were getting awards ahead of people on this wait
14 list.

15 Now, Sonny took this cause up some years
16 ago and, in 1974, after repeatedly trying to get
17 the wait list, found it in the State Archives. And
18 he waged a 10-year battle at that time to get the
19 list reinstated so that the commission would simply
20 follow the picking order that was set up by this
21 initial list. And it was not, in fact, until after
22 an Inspector General report was issued in 1982, for
23 which Sonny presented testimony and evidence of the
24 illegal cancellation of this list, that the
25 department -- the commission finally decided to

1 reinstate the list in 1984.

2 Now, since that time, large portions of
3 Puukapu, the area in question, have remained in the
4 possession and control of Parker Ranch under
5 revocable permits.

6 As far back as 1953, an attorney general
7 opinion issued by the State rendered an opinion
8 saying that once homestead lands had been withdrawn
9 from the management and control of the Commissioner
10 of Public Lands or the Department of Land and
11 Natural Resources, as it later came to be known,
12 that land had to be used specifically for
13 homesteading and not be allowed to be used by
14 non-native Hawaiians for other purposes.

15 Because of this position, Sonny has been
16 trying to get clarification as to why these
17 revocable permits are still being allowed when some
18 109 individuals remain on the 1952 wait list,
19 waiting for their pastoral lease awards.

20 In conjunction with this effort, we have
21 submitted a petition to the Department of Hawaiian
22 Home Lands, seeking to get the next person in line
23 awarded a pastoral lease lot in the order presented
24 in the 1952 wait list. I understand that that
25 beneficiary is actually second in line because the

1 person ahead of him was succeeded by his spouse
2 when he died. However, the petition is currently
3 before the department, and we are seeking to have
4 an immediate award of a pastoral lot to Mr. James
5 Akiona, who we believed at the time to be the first
6 person on the wait list.

7 This battle to have additional awards
8 made out of the remaining lands at Puukapu has been
9 a longstanding one. There is evidence that, since
10 1953, the Waimea Hawaiian Civic Club has
11 continuously urged the Department of Hawaiian Home
12 Lands and the Governor to investigate the problem
13 and to rectify the failure to make lease awards for
14 pastoral lots to native Hawaiians in the Waimea
15 area.

16 Accordingly, the Aged Hawaiians and
17 Humuula applicants, whose problems will be
18 addressed by Sonny later, urge this commission to
19 investigate why the State of Hawaii has not revoked
20 the permits to Parker Ranch and immediately award
21 the Puukapu and other trust lands in Waimea to
22 those on the 1952 wait list. These awards should
23 be for lots sufficiently large enough to allow a
24 lessee the opportunity to commercially ranch and to
25 become economically self-sufficient. As part of

1 your investigation, we urge you to determine the
2 amount of compensation that the State should pay to
3 those in the 1952 waiting list and their
4 successors. We also urge you to recommend
5 initiation of a breach-of-trust lawsuit by the U.S.
6 Department of Justice against the Hawaiian Homes
7 Commission to compel the immediate award of these
8 lands to these beneficiaries if prompt action is
9 not taken.

10 Secondly, there have been problems with
11 getting people on the land because of lack of funds
12 and resources to make infrastructural improvements
13 on these lands. One of the reasons that has been
14 utilized by the commission in the past is that such
15 lands could not be awarded because there was no
16 money for the improvements. In fact, the
17 legislature turned the department down -- the
18 department's request down -- for additional moneys
19 to develop these lots in a previous session. As a
20 result, they have withheld making awards, even
21 though the lots have been subdivided and mapped out
22 on the latest tax maps for the Puukapu area.

23 So, additionally, the Aged Hawaiians urge
24 you to investigate why the Hawaiian Homes
25 Commission refuses to lease their available lands

1 in and around Waimea when there are lands available
2 for homesteading. We recommend that you urge the
3 Department of Interior to seek sufficient
4 appropriations for the Hawaiian Homes Commission to
5 allow it to irrigate the pastoral and agricultural
6 lands in Waimea so that the Hawaiian Homes
7 Commission can maximize the number of awards in the
8 Waimea area. Without this assistance, the
9 commission may not be able to meet the current
10 demands of pastoral lots by the hundreds of
11 eligible beneficiaries under various waiting lists
12 in Waimea and elsewhere in the State.

13 So at this point I would like to turn
14 over the microphone to Sonny to address the
15 problems of the Humuula applicants.

16 MR. MAXWELL: Go ahead.

17 MR. KANIHO: Before I start my testimony,
18 may I please introduce a person who has been on the
19 list for 40 years? May I have the privilege?

20 MR. MAXWELL: Sure.

21 Mrs. Aveiro, will you stand.

22 She has been on the list for 40 years.

23 MR. MAXWELL: Repeat her name again in
24 the mike so the reporter can hear.

25 MR. KANIHO: Helen Aveiro.

1 Okay. I will be starting on Humuula
2 lease. Page 5, I will begin there.

3 MR. MAXWELL: Talk into the mike.

4 MR. KANIHO: Turn to page 5. There is no
5 numbers on that. Count from there. I will start,
6 it is headed under "Humuula."

7 Humuula is 33,000 acres of area of
8 Hawaiian Home Lands located on the slope of Mauna
9 Kea. The list terminated in 1974. Then went
10 ahead, the Humuula applicants went ahead and
11 questioned the department about what they were
12 going to do with the land, but there was no reply.
13 But, anyway, in '75, the applicants applied for the
14 land.

15 When they applied for the land in '75, in
16 '76, they were able to address their concern to get
17 portion of Humuula land. But, in the process, they
18 denied the Humuula applicants to use the land for
19 homestead because the money is needed for the
20 department.

21 And let me say this: There is not a
22 language in the act that mandates the commission to
23 lease their land for revenue purpose. But that is
24 one of them.

25 But, however, we keep on continue to go

1 after the commission. It is sad to hear what they
2 say.

3 Charlie, excuse me.

4 MR. MAXWELL: No problem. Take your
5 time.

6 MR. KANIHO: What I want to do to you
7 now, I want to point to you about what their
8 comment is. And, now, you go under item 22 on your
9 exhibits. That's a hard thing to say that they say
10 that the land leased to non-Hawaiians is the best
11 interest and in the best trust for the native
12 Hawaiian. There, I cannot say, you know, say
13 whether that is language for department, who
14 supposed to put native Hawaiians on the land.

15 Actually, the Department of Hawaiian Home
16 Lands has only one job. It's to put Hawaiians on
17 Hawaiian Homes land. And if they run out of
18 applications, then they get the number two job,
19 they can lease the land to non-native Hawaiians.

20 The list, the waiting list is a
21 mandation. There is native Hawaiians in the State.
22 And the commission -- the department's job is to --
23 if there is no list, then they're supposed to go up
24 there and encourage if there are any more
25 Hawaiians. That's their duty. It is only put

1 native Hawaiians on Hawaiian Homes land.

2 But to make things short, with the
3 Humuula lease, they applied it, and they still get,
4 that land is needed. So that is the issue here;
5 that we went to them and begged them under Section
6 207(a). And when you read under 207(a), all those
7 lands set aside under the Hawaiian Homes Commission
8 Act are all qualified for homestead purpose. So
9 you can see that somewhere along the line they are
10 not giving their sole obligation to exercise the
11 act.

12 And also, in 1978, we wrote a letter to
13 Governor Waihee to have the Attorney General to
14 investigate our allegations, our allegations about
15 non-Hawaiians using Hawaiian Homes land that was
16 set aside for homestead purpose in 1951.

17 The commission, at this speaking, are
18 still violating the trust duty. However, that was
19 a year ago. We have not get any answer from the
20 governor's office, whether the AG is investigating
21 the allegation. But, however, all our letters to
22 the governor was answered. The letters are
23 beautiful in their answering, but the results is
24 not there. But I'm hopeful it will answer. But
25 after this day, we will remind him and see. And

1 I'm sure that your organization will get a copy of
2 the governor's letter.

3 MR. MAXWELL: Sonny, if I can tell you,
4 you see, because of all of the information, if you
5 could have your mana'o come out from within, and
6 whatever your statements is, is submitted here,
7 we're going to receive it. So just to save time,
8 if you bring out your mana'o from what you feel.
9 Go ahead. Just from your memory.

10 MR. KANIHO: Everything is there. What I
11 wanted to see is that the public gets this
12 information, too.

13 MR. MAXWELL: Right.

14 MR. KANIHO: It is very important to
15 them.

16 And recommendation of the Humuula
17 applicants, we urge you to investigate the
18 continuing problem posed by the conflict in
19 interest caused by the Hawaiian Homes Commission's:

20 (1) Failure to have sufficient funds for
21 its administration and operating budgets from the
22 legislature;

23 (2) Misunderstanding of its trust duty
24 to award lands to native Hawaiians irrespective of
25 its urge to general lease trust lands to generate

1 revenues for the Department of Hawaiian Home Lands.

2 If you find that this problem continues
3 to pose an obstacle to the award of lands to
4 beneficiaries, we urge you to recommend legal
5 action by the U.S. Department of Justice to require
6 the Hawaiian Homes Commission to award land to the
7 Humuula applicants. When we say Humuula
8 applicants, we are not only saying we want for all
9 those who has applied for Hawaiian Homes land be
10 accommodated. Then, again, we are going to run
11 into trouble. Land can only be set aside for
12 whatever the act calls for.

13 Right now we have only three programs:
14 housing, farm, and ranching. But we try to get the
15 other one in because they reserving these lands for
16 non-Hawaiians to get into business. But Hawaiians
17 are not allowed to get in those kind of business:
18 commercial and industrial.

19 And we are going back to the legislature.
20 Hopefully, we can work with the Department of
21 Hawaiian Homes. We have offered ourself. Our door
22 has always been open.

23 MR. MAXWELL: Great.

24 MR. KANIHO: Thank you.

25 MR. MAXWELL: Any questions?

1 Thank you, Sonny.

2 You had a question? Sorry.

3 MR. DULLES: Yeah. I wanted to find out
4 here -- and maybe Al can answer the question --
5 specifically what the federal interest, the federal
6 jurisdiction is here. And I know, Charlie, you
7 know the answer. But just for the record, I know
8 there has been some intercession on the part of the
9 Department of Interior. Now we are hearing mention
10 of the Department of Justice in a potential
11 lawsuit. Specifically, jurisdictionally, what is
12 the federal interest? I would just like to have
13 that on the record, Mr. Chairman.

14 MR. MURAKAMI: In the view of the Native
15 Hawaiian Legal Corporation, the United States
16 retains co-trusteeship relationship with the native
17 Hawaiian beneficiaries. That co-trusteeship
18 surfaces in the act in terms of the Department of
19 Interior's role in approving all land exchanges and
20 Congress' retention of powers to approve or ratify
21 any changes to the act that may result in a
22 diminution of benefits to native Hawaiians. And it
23 manifests itself in the power of the United States
24 to sue on behalf of native Hawaiian beneficiaries
25 as contained in Section 5F of the Admission Act.

1 MR. DULLES: Thank you very much.

2 MR. MAXWELL: Thank you.

3 Sonny.

4 MR. KANIHO: One more thing. About the
5 conclusion of the task force report, we need the
6 task force back again. That's one of the most
7 important issues on the task force; that they
8 reconvene every year to see how the progress has
9 been done. But because the governor and the
10 Department of Interior did not implement that
11 portion of the recommendation, I think that's why
12 we kind of fall down. But if they did, you would
13 have a better report than ours.

14 MR. MAXWELL: Okay. Well, with this
15 body, we can recommend to the Department of
16 Interior to see that, you know, this might come
17 forth.

18 Thank you.

19 Okay. I would like to call on John
20 before I call the next -- you wanted after this
21 next witness; right?

22 MR. DULLES: Yes. Just go ahead.

23 MR. MAXWELL: I would like to call upon
24 Mililani B. Trask, the Kia'aina, Governor for the
25 Ka Lahui Hawaii, the Hawaiian nation.

1 MS. TRASK: Aloha, everyone, and thank
2 you for allowing me to come and testify.

3 I do want to say that I did get a little
4 copy of the letter that you folks had sent to
5 Sonny, and that is when I then wrote and asked for
6 the honor to be here to address you folks.

7 I have for your purview several copies of
8 my testimony and also a letter that I'm sending to
9 the Honolulu Advertiser, the editor of the
10 Advertiser, which I am providing you a copy of it
11 because I am suggesting at the close of that letter
12 that the Civil Rights Commission initiate immediate
13 investigation of the Office of Hawaiian Affairs and
14 the State Attorney General's Office relating to
15 breach-of-trust questions for the ceded land
16 revenues, what has basically been bantered about in
17 the press this week.

18 Again, aloha.

19 Pursuant to Article VI, Provision 6 of
20 the Constitution of Ka Lahui Hawaii, I am pleased
21 to present this testimony to you on behalf of the
22 Hawaiian community and the members of Ka Lahui.

23 At the present time, we have 2,500
24 members who are registered members, and we are
25 currently conducting workshops throughout the State

1 with an ANA grant in conjunction with the Native
2 Hawaiian Legal Corporation. Our goal is
3 self-determination and self-governance.

4 Among the members of Ka Lahui currently
5 registered, we have Hawaiian homesteaders on the
6 Island of Hawaii from Keaukaha, Panaewa, Waimea,
7 and Kalae, which is South Point. We also have Ka
8 Lahui members on Molokai from the Hawaiian
9 Homesteaders Association of Hoolehua, Kaunakakai,
10 Kalama'ula, Kapa'akea, and Oneali'i. On the Island
11 of Oahu, our membership includes homesteaders from
12 Waianae, Nanakuli, Waimanalo, Papakolea. And on
13 Maui, we have Ka Lahui registered members from Kula
14 and Central Maui. On Kauai, our membership is
15 located in Anahola. All of these persons are
16 Hawaiian homesteaders. They are either lessees or
17 persons waiting on the list.

18 In 1982, I was appointed a commissioner
19 of the Federal-State Task Force on Hawaiian Home
20 Lands. Our charge was to investigate the Hawaiian
21 Home Lands trust and to make recommendations to the
22 Governor of the State of Hawaii and the U.S.
23 Secretary of Interior for changes in the management
24 of the trust. Our report was issued in August of
25 1983. And, in 1987, I was elected to be kia'aina

1 of Ka Lahui for a two-year term.

2 Since your last inquiry in 1980, the
3 following pertinent events have occurred:

4 In 1982, the Native Hawaiian Study
5 Commission heard and recorded hundreds of
6 complaints relating to the Hawaiian Home Lands.
7 This was done as part of the testimony on
8 reparations. I think, if you will go through some
9 of that testimony, you will see there filed already
10 on the Senate congressional record the story of
11 many individual homesteaders and homestead
12 associations who presented testimony.

13 In 1983, the Federal-State Task Force
14 Report was issued. Since that time, in my
15 estimation, we have had virtually no compliance by
16 either the state and the federal government.

17 The Department of Hawaiian Home Lands, as
18 an agency, did, however, take care of, I think, two
19 matters. One was they consolidated their counts.
20 That was accomplished by Georgianna Padeken in the
21 legislative session of 1984. We had over 15
22 individual financial accounts. And it was a fiscal
23 mess. So those accounts were consolidated.

24 And the following year, in 1985, they did
25 balance their books. And that, I think, needs to

1 be mentioned.

2 When we started out the Federal-State
3 Task Force on Hawaiian Home Lands, we actually
4 convened in 1982. Six months prior to our
5 convening, the Washington office of the Solicitor
6 General sent a panel of CPA's down from Washington
7 to investigate the fiscal situation of the
8 department. And after six months, they issued a
9 very brief one-paragraph report saying that the
10 condition of the books were inauditable. And that
11 cost 50,000 in federal taxpayers' dollars and six
12 months. So I think that was a major accomplishment
13 that Georgianna was able to accomplish that before
14 she died in 1985.

15 Nevertheless, there were 133
16 recommendations in the Federal-State Task Force
17 Report of Hawaiian Home Lands, and my count is 131
18 ignored and two addressed by the department under a
19 previous administration.

20 If you take a look at the Federal-State
21 Task Force Report and the backup papers to it,
22 documented extensive breach of trust. I don't
23 think there is any other way of saying that other
24 than that. It documented extensive breach of
25 trust. A recommendation for one year follow-up was

1 in writing in that report. That recommendation was
2 not followed.

3 In 1986, we have Hawaiians, native
4 Hawaiians on the waiting list, arrested and beaten,
5 prosecuted for trespassing on Hawaiian Home
6 Waimanalo land currently used by the County for
7 free. It is very interesting to note that because
8 we had a report called Waimanalo Planning Issues.
9 That was a report done by the Department of
10 Planning, the DERP at the U of H. And they
11 documented critical overcrowding needs in the
12 Hawaiian homestead community in Waimanalo. That
13 report documents two-bedroom homes with 21 people
14 living in it. That report documents that the
15 reason why Waimanalo has abandoned cars parked in
16 the Hawaiian homestead community is because pet
17 families are using those cars so that their
18 children can sleep in them at night. That is a
19 planning document issued by DERP at the University
20 of Hawaii.

21 Despite that fact, the Waimanalo Hawaiian
22 Home Lands are leased to the County. The act
23 provides that where there is a clear need for
24 removal of Hawaiian Home Lands from public uses in
25 order to meet the needs of the beneficiaries, that

1 the department has an obligation to do so. They
2 have failed to do that and just, I think, a year
3 and a half ago renewed the lease again with the
4 County. The County is not paying any rent. They
5 go through a very tortured formula in the lease.
6 It is sort of comical, but what it comes down to is
7 they will pay rent some day based on the formula,
8 but there is no date set for when they have to
9 start paying the rent.

10 In 1986, Ka Ohana O Kalae from South
11 Point shut down South Point Hawaiian Homelands, the
12 access road, in order to stop the use of Hawaiian
13 Home Lands by persons who were not Hawaiians and
14 who were proceeding with commercial interests.
15 They were also protesting leasing of 2,000-plus
16 acres to a Japanese non-beneficiary named
17 Mr. Yamagata. He has had those 2,000 acres for
18 several years. In addition, he has total use and
19 control of the whole water supply, the whole water
20 system of Kalae. The native Hawaiian homesteaders,
21 we have some on waiting lists there for as long as
22 30 years. We have had some raw land given out.
23 These people are being limited to 25- to 100-acre
24 awards when Mr. Yamagata, who is not a Hawaiian, is
25 allowed to have a lease for 2,000 acres.

1 Mr. Yamagata has a very large heard of cattle.
2 Native beneficiaries there are going to be limited
3 to three head of cattle.

4 Demonstrations by the Ka Ohana O Kalae
5 continued in 1978, in 1987, and they are also set
6 again for this year, 1988.

7 In 1987, homesteader Doug Silva was
8 evicted by the tactical squad, HPD. Heavily armed
9 units were dispatched to the Waimanalo Homestead
10 Community without any notice to the community. OHA
11 objected strenuously, but nothing was done about
12 it.

13 I think that this instance right here is
14 probably the most disturbing to me. There is
15 virtually no precedent in eviction law to call in a
16 heavily armed tactical unit. You know, if you're a
17 landlord and you want to evict someone, you go down
18 to the district court, file your papers, and the
19 sheriff goes out.

20 With regards to Doug Silva, there was a
21 van dispatched with 12 people. They were armed
22 with submachine guns. They were armed with
23 fragment grenades. No warning was given to the
24 community. No attempt was made to vacate the homes
25 of people surrounding his lot. There were children

1 coming and going on their bicycles when that
2 tactical unit, which was armed, pulled into that
3 Hawaiian homestead community. I consider just that
4 to be, in and of itself, the most egregious
5 violation of civil rights on this entire
6 chronology. But it is dangerous because it raises
7 the specter of armed confrontation in our
8 community, and that we would like to avoid.

9 In 1987, the Department of Hawaiian Home
10 Lands, the Governor, and the Department of Interior
11 approved a land swap for Hilo Airport and other
12 airports in the State on Hawaiian Home Lands. The
13 Office of Hawaiian Affairs was not consulted. We
14 have a specific recommendation in the Federal-State
15 Task Force on this point. OHA was ignored, and the
16 total amount of revenues lost to OHA was about
17 \$55,000 annually.

18 In 1987, after five years of carrying the
19 stand-to-sue legislation -- pursuant to a
20 Federal-State Task Force recommendation is why we
21 carried it -- we were disappointed to see the state
22 legislature passing legislation, with the advice of
23 the Governor and the Office of Hawaiian Affairs,
24 which gives Hawaiians standing to sue in state
25 court but which prevents the Court from awarding

1 any native Hawaiian either infrastructure moneys or
2 their land awards.

3 Understand what happened with the bill.
4 The Federal-State Task Force Report says Hawaiians
5 have entitlements, they have entitlements to their
6 land awards, they're supposed to get off their list
7 and get their individual awards. And, number two,
8 the act provides that beneficiaries get not only
9 their award, but water in amounts necessary to
10 either do residential or pastoral uses. When the
11 act guarantees availability of water, it involves
12 infrastructure to bring the water to the lot. That
13 is implied in the law. The law would not propose
14 that you would give someone, you know, an award of
15 land and then three buckets of water. What is
16 suggested is that they must bring the water to the
17 lot and make it available. You know, that's the
18 reason for the recommendation in the Federal-State
19 Task Force Report.

20 It comes out in '83. Five years we carry
21 the legislation. The bill comes out saying that
22 Hawaiian homesteaders and their associations can
23 sue; but if they sue and win, all land awards and
24 moneys for infrastructure must be paid either to
25 the Department of Hawaiian Home Lands or the Office

1 of Hawaiian Affairs.

2 I can't think of a single family in the
3 17,500 plus that have waited for their land awards
4 that would go to court, litigate, pay the expense,
5 and be happy to see their land awards turned over
6 to Moki Keale. That was not the intent of the
7 recommendation.

8 Subsequent to that fiasco, in 1987,
9 Senator Daniel Inouye notified Civil Rights for
10 Hawaiians in writing that he would not introduce
11 standing-to-sue legislation in the federal Congress
12 because he had been requested by the Governor and
13 by the Office of Hawaiian Affairs not to proceed
14 with that. I have a copy of that letter signed by
15 the senator if you would like to see it.

16 The Hawaiian Homes report indicated that
17 there should be standing to sue legislation not
18 only in the state level, but also in the federal
19 level. We have not been able to move Dan Inouye on
20 this point since 1983. And we now have a letter
21 dated March of 1988 saying that he will not be
22 proceeding on it in 1989, either.

23 In 1988, the Paheehee Ridge Association,
24 who are Hawaiian Homesteaders on Oahu with raw
25 land, they formed an association. They went to the

1 department requesting moneys for infrastructure.
2 They were told that they were not a priority.

3 They then worked with Senator James Aki
4 to write legislation. They went into the
5 legislature to lobby for some money. Their bill
6 was killed at a hearing in the Senate because the
7 chair of the Department of Hawaiian Home Lands,
8 Ilima Piianaia, showed up to testify against it.
9 It is apparent that efforts made by Hawaiian
10 homesteaders to circumvent having to deal with the
11 department are going to be stopped in the
12 legislature by the department itself.

13 1988, we have Sonny Kaniho, a member of
14 Ka Lahui and also a native Hawaiian homesteader,
15 being sentenced to jail for trespassing on Hawaiian
16 Home Lands currently leased to Parker Ranch.
17 Everyone in the Hawaiian community is outraged and
18 upset with this.

19 MR. MAXWELL: Let me interrupt you.

20 The statement you made about this is how
21 we got to run the hearing, federal hearing, you
22 mentioned Ilima Piianaia.

23 MS. TRASK: Yeah.

24 MR. MAXWELL: The record will be made
25 available, if you want to answer that. Okay.

1 MR. DULLES: We would appreciate it if
2 you would refrain from naming individuals in terms
3 of allegations of misconduct.

4 MS. TRASK: You know, I am requesting
5 that there be a federal investigation. The civil
6 rights violations against the native people are
7 egregious. We have not had this opportunity for
8 eight years.

9 And at this time and for the record, I
10 feel that it is my responsibility to name people.
11 I did so with Senator Inouye, and I was advised by
12 Senator Inouye that each and every egregious
13 violation of individual Hawaiian homesteaders
14 should be brought to the attention of this
15 commission and that you folks should be requested
16 to take down by affidavit that testimony. And,
17 consequently, you know, I am proceeding. We may
18 not see you for another eight years. And we need
19 to make the record. You know, as an attorney, I
20 feel that that is the appropriate way. I am not
21 here to say that somebody testified against the
22 Paheehee Ridge Association. It is a matter of
23 legislative record. I have the testimony in
24 writing.

25 MR. MAXWELL: It is only because of the

1 fashion that we are -- as an umbrella, the federal
2 umbrella as an advisory committee, we are just
3 asking you, if it is that important, then we will
4 allow it. Right? And then we will have to have
5 equal time allotted.

6 MR. DULLES: Well, thus far, I think the
7 committee has been attentive to the testimony. I
8 think it is relevant and important. It was just
9 when we got to the situation where an individual
10 was named by name. We have to be careful in terms
11 of protecting --

12 MS. TRASK: You know, I welcome any
13 comment from Ilima at any time.

14 MR. MAXWELL: Yeah, but this hearing is
15 not for that kind of confrontation.

16 MS. TRASK: You know, I am making the
17 record, Charlie.

18 MR. MAXWELL: Wait. As the chair, I have
19 to advise you of this. Because of our federal
20 constraints, we have to advise you of this. And I
21 am saying I will afford her the appropriate time to
22 answer anything, either in writing or in person.

23 MS. TRASK: I would like to hear the
24 response.

25 MR. DULLES: You are on the record.

1 MR. MAXWELL: So continue.

2 MS. TRASK: Okay. Where we are in 1988,
3 we have approximately 17,500 families awaiting
4 settlement. About 450 of these people have been
5 given lots with the infrastructure in it. We have
6 about 2,100 who received raw land awards and about
7 14,850 who are remaining on waiting lists.

8 I do want to say, with regard to the raw
9 land awards, that it was appropriate for the
10 Department of Hawaiian Home Lands to award those
11 lands. That was one of the things in the
12 step-by-step solution that was proposed. DHHL was
13 to award raw lands and to expedite that. And then
14 there was a financial package, 25 million per year
15 from the state and federal government for four
16 years. This was then to supply infrastructure
17 money. That is where I think the plan broke down
18 in the first step.

19 We also had in 1988 -- and this was just
20 this past month -- we had the first Hawaiian
21 homesteader to receive a federal loan and to have
22 that approved, and her home has now been built with
23 FHA moneys. She is on this island, on Oahu.

24 We also had Senator Inouye coming through
25 -- the Senate Select Committee has received and

1 documented testimonies from native Hawaiians here,
2 also on the Island of Kauai and Molokai, relating
3 to Hawaiian homestead breach of trust. And you
4 probably will want to contact his aid, Lerni
5 MacGregor or Pat Zell to get copies of that
6 testimony, but he received that.

7 There has been virtually no
8 implementation of the recommendations of the
9 Federal-State Task Force on the Hawaiian Homes
10 Commission Act published in August '83. Only a
11 handful of the 133 recommendations have been
12 followed.

13 The waiting list since that time has
14 doubled. The Governor's Office, the Office of
15 Hawaiian Affairs, the Department of Hawaiian Home
16 Lands, and the legislature have failed to implement
17 any comprehensive plan to provide for affordable
18 housing to native Hawaiian homesteaders on waiting
19 lists, although in 1987 the State appropriated \$180
20 million for affordable public housing. There is no
21 avenue for legal redress either in the state or the
22 federal court for judicial review.

23 Subsequent to the publication of the task
24 force report, the Department of Hawaiian Home Lands
25 proceeded with land exchanges. The State Office of

1 Hawaiian Affairs was made to pay. Despite a clear
2 directive in the task force to proceed with
3 negotiations on the Lualualei lands on Oahu, over
4 2,000 acres, the Department of Hawaiian Home Lands
5 delayed taking any legal action. When the matter
6 was finally raised, the Court ruled that the
7 statute of limitation had expired. Consequently,
8 the legal standing for over 10,000 acres of
9 Lualualei land is that it has been lost in
10 perpetuity to the trust. We do not have any legal
11 redress. We cannot appeal that thing.

12 No legal action has been instituted by
13 the Department of Justice or the State to remedy
14 the existing breach of trust problems. The
15 department has failed to initiate any legal or
16 legislative action to collect back rentals owed for
17 past illegal uses. And we had several
18 recommendations in the task force report on that
19 point.

20 The situation is one which requires the
21 immediate and prompt attention of the United States
22 Commission on Civil Rights.

23 We hereby request that the Western
24 Regional Division initiate an inquiry to receive
25 and document sworn testimony and affidavits from

1 Hawaiians statewide who have been aggrieved by the
2 state and federal Government's inattention to these
3 matters. We respectfully submit that this panel
4 request the United States Commission on Civil
5 Rights to conduct an investigation of the state and
6 federal governments' collusion and commingling of
7 trust assets. It is apparent that neither the
8 State nor the United States Department of Justice
9 nor the Senate Select Committee on Indian Affairs
10 will take any action on these egregious violations
11 of civil rights.

12 Senator Inouye has indicated that he
13 would be interested in conducting an investigation
14 of the situation, but that he, for the present
15 time, will be deferring to the State.

16 In 1982, we requested that the Department
17 of Justice conduct an investigation. I have a
18 letter from them saying that they were proceeding
19 with an investigation. For six years we have not
20 received any report on that.

21 I think that, you know, one of the things
22 that you should know is that when we did the
23 Federal-State Task Force on Hawaiian Home Lands, we
24 utilized the exhibits to your own publication.
25 Your 1980 publication on breach of trust is

1 basically what got the feds down here, that letter
2 from Mr. Moniz, indicating that despite what the
3 various departments said, the Federal Government
4 stood in a trust relationship to the native people.

5 You know, my feeling is is that if you
6 are looking for a clear statement on jurisdiction,
7 it really is in that appendix. There is a section
8 that you might want to look at also on the
9 breach-of-trust question in the Federal-State Task
10 Force Report itself. You know, we had a pretty
11 extensive inquiry made, but the bottom line is that
12 the federal administrative position, the federal
13 legal position, at least that that was in the
14 amicus curiae brief on the Keokaha case are not in
15 agreement. You're going to find that there is a
16 conflict. You're going to have federal
17 administrative agencies, such as what you're seeing
18 in that Department of Interior letter, saying
19 clearly we have a trust obligation. You have got
20 the amicus curiae brief in the federal court ruling
21 saying that we have a tangential secondary
22 supervisory role. But regardless of how you would
23 characterize the federal legal responsibility, I
24 don't think that it distracts in any way from the
25 fact that there is serious civil rights violations

1 here and that they have been ongoing for, you know,
2 30 years.

3 We are really at a point, when you have
4 the tactical squad coming out to the Hawaiian Homes
5 community, when you have Hawaiian homesteaders
6 standing with Livai Kaaua at Makapuu taking up the
7 gun, you are in a situation where there is a risk
8 of armed resistance and violence. I really
9 consider that we are there. We would like very
10 much to avoid that here, but we can't -- we can't
11 send any more letters to the Senate Select
12 Committee. We can't send any more letters to the
13 Department of Justice saying, will you investigate
14 that?

15 If the best that you folks can do after
16 this herring is to send a letter to the Department
17 of Justice, don't waste your time. I have got a
18 whole file full of letters, starting with '82, and
19 I have got their responses saying they're
20 investigating it. The thing is, as Sonny said, we
21 got the letters back from the Governor, we got
22 letters from Inouye, we got letters from Department
23 of Justice, but we do not have a full-blown
24 investigation of the problem. And it is something
25 that needs to go, in my estimation, directly to the

1 United States Commission on Civil Rights. It has
2 to go there; and, if necessary, someone has to be
3 appointed who is independent because there is
4 federal involvement here. There is federal
5 approvement of illegal land exchanges.

6 So your federal and your state
7 government, your attorney general, and your
8 Department of Justice, frankly, are in a conflict.
9 So we need to bring it to the attention of the
10 Civil Rights Commission, the National Civil Rights
11 Commission, and ask that there be some impartial
12 investigator appointed.

13 In Indian cases, in such things as this,
14 what has happened is you have an investigator
15 appointed. You have a reporter that goes with
16 them, and a notary, and they go out to each of the
17 Indian villages, and they take testimony
18 homesteader by homesteader, and they make
19 affidavits, so that you can deal with that, you can
20 have a record of that.

21 But we just are not in a position anymore
22 to send letters asking for an investigation. And,
23 you know, I feel strangely because the end of my
24 testimony is asking you for an investigation. But
25 I really think it has to go up to the National

1 Civil Rights Commission and we have to get a
2 response and we need some group that is unbiased
3 and that is not going to be influenced by who the
4 next Democratic or Republican governor or president
5 is. We haven't been able to move Department of
6 Justice since your last report, and we have all
7 sent letters, all of us in this room.

8 You know, if there is any questions, I
9 can take them. If there is any request you folks
10 have for follow-up information, Senator Inouye's
11 letters, all the memorandums we have sent out, the
12 letter for the investigation to the Department of
13 Justice, all of it, I have.

14 MR. MAXWELL: Could you give our staff
15 your address or get his address where you could
16 send all those letters because then we can
17 substantiate all the letters that you sent.

18 MS. TRASK: Sure. These things were also
19 filed in my testimony before Senator Inouye. So
20 they are part of his congressional record now,
21 those responses, but we can certainly do that.

22 MR. MAXWELL: We will take a very brief
23 recess.

24 (Brief recess taken)

25 MR. MAXWELL: Okay. Let me resume the

1 consultation.

2 And, Mililani, you're still up.

3 You left off. You had more to say?

4 MS. TRASK: No. I'm pau.

5 MR. MAXWELL: Okay. Questions?

6 Yes, Barry.

7 MR. LARDIZABAL: Mililani, for my own
8 edification, I need your help in trying to identify
9 specifically any civil rights violation as you see
10 it as an attorney. There are a lot of operational
11 problems, so forth. Sift, if you can, for me, best
12 you can.

13 MS. TRASK: I think maybe the best way of
14 looking at the thing is in general terms, in
15 general categories. What we have here is we have a
16 compact for admission between the State and the
17 Federal Government, the provisions of which
18 guarantee in certain individuals of native blood
19 entitlements to land and the ability to get water.

20 What we have, generally speaking, is we
21 have a long history of territorial mismanagement
22 and then state mismanagement. The statistics, I
23 think, the general statistics will speak for
24 themselves. An estimated 30,000 individuals
25 waiting, a current list of 17,000 waiting, with the

1 vast bulk of the lands, when we sat down to take a
2 look at the investigation, well over 50 percent of
3 the lands being utilized for state, federal,
4 county, and private purposes, persons who are not
5 beneficiaries. That, in my estimation, is a
6 violation of these people's civil rights.

7 When you view that in the context of the
8 legal fact that they cannot get legal redress, you
9 do not have standing as a native Hawaiian to go
10 into the Federal District Court as Indians do under
11 their own statute, you are not able to enter the
12 federal court at all to get redress as an
13 individual. Then even with the State legislation
14 passing, you're able to litigate, you're able to
15 sue, but you are not able to recover. So you are
16 not able to be made whole, either with your land
17 award or otherwise.

18 I think that there is additional civil
19 rights violations that have to be looked at when
20 you see what you have as civil rights -- nonviolent
21 expressions of civil rights. I think Doug Silva is
22 probably a very good example. You have somebody
23 here, a Hawaiian homesteader, regardless of the
24 facts, given notice, asked to vacate the property.
25 He does not. Rather than utilize what is the

1 standard legal procedure at the request of the
2 department, tactical SWAT team is brought in.
3 Absolutely no precedent for that. You know, I
4 think these -- when you look at it, there is one
5 set of problems dealing with the act, and then
6 there are additional problems that speak to the
7 State's response. I think that those are two ways
8 of classifying the civil rights violations.

9 But another thing I think is that it is
10 not just -- it is very difficult to point the
11 finger and say this is the state party violating
12 civil rights or this is the federal party. And I
13 am sure you are aware that under the 1983 action
14 there is a provision for 1985 action, and that is
15 conspiracy on the part of the many parties
16 involved.

17 And, in this case, I would certainly
18 include the State Attorney General, who for five
19 years in a row testified against affording native
20 Hawaiians the right to receive access or redress in
21 the state courts. You know, there is some concern.
22 Who is really violating civil rights when a federal
23 agency is on Hawaiian Home Lands, a state agency is
24 refusing to evict them.

25 MR. MAXWELL: Mililani, I am going to

1 have to cut you off right there because I am going
2 to have to allow him another question. And that
3 will be the last because we have got to move on.

4 Go ahead, Barry.

5 MR. SHAIN: Okay.

6 MR. MAXWELL: Into the mike.

7 MR. SHAIN: I can see from your
8 testimony, you said the current system isn't
9 working.

10 MS. TRASK: Right.

11 MR. SHAIN: So a similar question that I
12 asked another group.

13 MS. TRASK: Uh-huh

14 MR. SHAIN: What do you see as a fix for
15 this?

16 MS. TRASK: I think the first thing is
17 return to the recommendations of the Federal-State
18 Task Force. I think that those things need to be
19 implemented. Unfortunately, 100 million from the
20 feds and the State are not going to do it. 100
21 million from each was requested when we had 8,000
22 on the waiting list. We now have double that
23 amount. So we are going to need the double money.
24 But I think the key to this thing is the
25 recommendation speaking to, number one, prototype

1 models for housing and, number two, an authority.

2 I mean, as long as we stick with the
3 current form of administration, I don't care how
4 many departments you create within the divisions
5 you create or how you blow them down, you are not
6 going to resolve this problem until you empower the
7 administrative agency with the kind of power it
8 needs to go out there and say to the County, get
9 off of these lands, we're going to build some
10 homes. Give them the capital and give them the
11 power of an authority. And that is why we
12 recommended that the department structure be
13 changed, even if it is temporary, even if it is 10
14 years or 15 years. But we need an authority. You
15 know, we need something like the Tennessee Valley
16 Authority to get in there and get the job done in
17 10 years.

18 MR. MAXWELL: Okay.

19 MS. PRADO: Just briefly, you mentioned
20 earlier that Senator Inouye had referred you to the
21 commission. Was that verbally, in the course of
22 your testimony, or in writing?

23 THE WITNESS: No. What happened was I
24 testified on Oahu, and then he went to Molokai and
25 Kauai. And thereafter he returned, and I had a

1 follow-up meeting with Lerni MacGregor, who is his
2 staff aid. That was last week Wednesday. And she
3 was saying that the Senator was very concerned with
4 what he heard. He wanted to go out there and call
5 for a full-blown federal investigation. But there
6 had not been the quality of data, evidence,
7 affidavits, and testimony submitted to his senate
8 select committee so he could move on it.

9 He did get some testimony, a handful of
10 people on Molokai and a handful of people on Kauai.
11 But in order to justify a full-blown Senate
12 investigation, the Senate Select Committee on
13 Indian Affairs, you would need to have testimony
14 from many more beneficiaries, and you would need to
15 have it right down to the specifics of it in
16 affidavit form.

17 Consequently, what came out of that was
18 the suggestion that perhaps the Civil Rights
19 Commission could go out there and take that type of
20 testimony, facilitate the making of those types of
21 affidavits, and then a recommendation to the
22 national and to the Senate select committee might
23 have a chance of flying.

24 But, you know, he's basically where you
25 are. We have got a report that is dated 1983,

1 virtually no follow-up, and a handful of
2 testimonies taken on one island. Not sufficient to
3 justify major federal investigation. But if the
4 request goes up to your superiors and we can get an
5 investigation going that will bring it to an
6 affidavit, personal statement, take it statewide, I
7 think we will lay the foundation for it.

8 MS. PRADO: That was the suggestion of an
9 aid, it wasn't Senator Inouye?

10 MS. TRASK: It was her communication to
11 me from the Senator. He was gone. He did not stay
12 around longer. But I take Lerne's representation
13 that it is true.

14 MR. MAXWELL: Okay. Thank you, Mililani.

15 MS. TRASK: Thank you, folks.

16 MR. MAXWELL: And now I would like to
17 call upon Kawaipuna Prejean.

18 Before I do that, John, you want to
19 announce --

20 MR. DULLES: Just briefly, I would like
21 to advise that we will keep the record open of this
22 meeting for one week, so that anyone that wants to
23 submit supplemental information or submit a written
24 statement should send it to my office in
25 Los Angeles. And because of the pressures of time,

1 I would request that that be submitted to our
2 office no later than the 14th of this month. I
3 realize that is not a lot of time.

4 I will be available directly after the
5 meeting to talk with anyone who wishes to submit
6 comments and give you my mailing address. But I
7 wanted to let you know that that opportunity would
8 be afforded.

9 We will now hear from individual
10 presenters, and we will allocate approximately five
11 minutes per speaker. And please refrain from
12 making any derogatory or defamatory information
13 against specific individuals. And speak to the
14 general problem, as you see it, of the issues under
15 consideration.

16 Thank you, Mr. Chairman.

17 MR. MAXWELL: Kawaipuna Prejean, he don't
18 know any defamatory language.

19 MR. PREJEAN: Thank you very much,
20 Mr. Chairman, for this opportunity to provide
21 testimony on a very important topic here, civil
22 rights.

23 We are concerned also that this
24 commission not be whitewashed by the right-wingers
25 of America and the Republican Party that I know

1 have been trying to do away with the civil rights
2 of very hard fought battles from the Blacks and the
3 Indian people and many other minorities in the
4 United States.

5 You have heard very glaring testimony as
6 far as the flagrant disregard of trusts, the breach
7 of trust, and again, as pointed out by Mililani
8 Trask, this has been used in many testimonies
9 referring to that 1980 booklet that was put out.

10 Yet, again, there is many people that
11 have died waiting for Hawaiian Home Lands. And
12 being one that was an advocate back in 1980 to file
13 suit against the Federal District Court in United
14 States District of Columbia, again, which was
15 dismissed without prejudice, with the idea of
16 setting up the Federal-State Task Force.

17 The 134 recommendations just scratched
18 the surface. If they were doing this many things
19 that needed recommendations to fix up, we're just
20 concerned how many they were doing right.

21 And, of course, not to get into a
22 finger-pointing session with the people at the
23 department, because many of them, this is how they
24 feed their families, and the concern that we have
25 is those families that were, again, uprooted in the

1 most mean manner at Waimanalo. After talking to
2 Georgianna Padeken, who said that she was actually
3 charging the County a dollar for lease of the land,
4 and we say, we'll give her a hundred percent
5 increase and offered her \$2, and she said no
6 because the County was also kicking in the right to
7 maintain those properties.

8 We look at the collection of the back
9 rents, because of that Federal-State Task Force, it
10 forced Governor Ariyoshi, who is now the head of
11 the Democratic Party, but at that time was the
12 governor, forcing him to give up the illegally held
13 lands by the 16 executive orders. There is
14 arrearages counting in the millions of dollars, and
15 I would suggest you put a moratorium on the State
16 of Hawaii for that \$400 million they claim to be in
17 surplus. The only reason they have a surplus is
18 because they have been cheating the first people of
19 this land and this state.

20 I would like to see this task force take
21 on the challenge and expect us to be there involved
22 with you and not behind you, but in a circle of
23 friendship and peace and cooperation, to effect
24 this particular commission with the mandate to do
25 some work and not be frightened by all the

1 bureaucrats that you come against telling us that
2 we should take our story elsewhere.

3 We have already been to Washington. Last
4 week, I delivered a resolution to Inouye's office,
5 as well as the Senate Select Committee on Indian
6 Affairs, regarding the coup d'etat of 1893, a lot
7 of people don't parallel the loss of nationhood
8 with the loss of self-esteem and also our way of
9 curing our ills, not to be dictated to in a
10 paternalistic fashion or continued to fall under
11 some supposed trust that never had ever worked to
12 the welfare of the people it's supposed to be
13 protecting.

14 I would say also to go after vigorously
15 the much military land that is being misused and
16 abused and take away all the special privileges
17 that is given to non-native people that have used
18 more lands than Hawaiian Homes.

19 When I got involved with Hawaiian Homes,
20 there were less than 2,000 people on the waiting
21 list. And, of course, you know, the things that
22 we're concerned about is the people that have died
23 waiting. There should be some accelerated program
24 and urgent recommendation that, in fact, the elders
25 be taken care of first and the young people, and

1 come up with some creative programs that will, in
2 fact, instill pride, the sense of justice, and fair
3 play with the first people of this land because we
4 have yet to see, after 95 years of the coup d'etat
5 inspired by U.S. Government, that any type of
6 justice has really prevailed in favor of the
7 indigenous people of this land.

8 We look forward, you know, in our
9 lifetime to seeing some of these injustices
10 remedied and provide relief, more instead of
11 telling us how many people have cheated us and
12 expect us to sit here and continue to share aloha
13 with you.

14 I hope, in fact, this commission turns
15 into something that is going to be active oriented,
16 and let us know in any way that we can be of
17 assistance in facilitating the achievement of
18 justice and fair play for the people of Hawaii.

19 Mahalo.

20 MR. MAXWELL: Thank you.

21 Any questions?

22 Alice Moha Akita Zenger, from Kekaha
23 Homestead, leasing Kapaa.

24 MS. ZENGER: Kekaha.

25 MR. MAXWELL: Oh, Kekaha.

1 MS. ZENGER: Aloha.

2 MR. MAXWELL: Aloha.

3 MS. ZENGER: My name is Alice Moha Akita
4 Zenger. I am second generation lessee on Hawaiian
5 Home Lands. First generation died waiting. My
6 mother waited for 28 years for water on her land.
7 She literally died waiting over a quarter of a
8 century. That was really uncalled-for.

9 It is now 33 years. I am the lessee, and
10 I am still waiting, thank you, for the necessary
11 water that I need to conduct a viable business,
12 ranching. I have 191.6 acres, and I can only raise
13 28 heads.

14 Breach of trust? This voice calls out
15 yes, yes, yes, breach of trust. And why? Because
16 the powers to be in the Department of Hawaiian Home
17 Lands are not acting exclusively for the
18 beneficiaries. There is a definite conflict of
19 interest, a definite conflict of interest: When
20 Kekaha Sugar Company, American Factors, can dictate
21 what happens to all that water that comes down by
22 the ditch that they only pay \$55,208.88 a year;
23 when the Act of 1920 specifically spells out that,
24 as a lessee, I am entitled to surplus water, and I
25 do not have adequate water to even flush my toilet,

1 I do not have adequate water for my troughs for my
2 animals.

3 And I go to the Department of Hawaiian
4 Home Lands, just as my mother did, and plead and
5 write testimony and give testimony, and I write to
6 Governor Ariyoshi, and I send carbon copies to my
7 legislators who represent me from Kauai, and I
8 write to Governor Waihee, and I talk with the
9 powers to be in the Department of Hawaiian Home
10 Lands. And all this time, through two generations,
11 33 years and eight months, and zero is their track
12 record in helping us, zero.

13 In fact, Georgianna Padeken, I respect
14 her, she truly tried to help us, and they did pass
15 that we would get, through the commission,
16 commissioners' action, that we would get six inches
17 of water from the ditch to feed into two four-inch
18 pipes for my neighbor and myself so that we can
19 conduct a viable business. And that was in 1983.

20 It is now 1988 and no action. You have
21 heard from others. A lot of waha, as the Hawaiians
22 say, a lot of mouth, a lot of talking. But the
23 bottom line is zero track record by way of action.
24 Their track record is zero in my case. It was zero
25 in my mother's case. It is zero for my neighbor's

1 case. And if you will come to Kauai, you will hear
2 again and again and again the zero track record of
3 the powers to be who are supposed to be acting
4 exclusively for the native Hawaiians.

5 I plead with you, please come to Kauai
6 and hear the many voices who cry out and get no
7 help.

8 The slap across the face came on July
9 26th. On May 24 of this year, I gave testimony to
10 remind the commissioners of my situation. They
11 said that in July, on July 26th, they would try to
12 come up with a resolution. By the time July rolled
13 around, they had changed the meeting from my island
14 to the Big Island. And I checked, would they
15 address my water problem? Yes, they were going to
16 be. I sent in a letter to be sure I was on the
17 agenda. Voila. When I walked in, I was handed
18 rescind paper number one. They had approved giving
19 me six inches of water. Now they were going to
20 rescind all of that. That was the kind of action
21 they were going to take.

22 Help? Zero. Shove your face in the
23 dirt? Yes, siree. They are now going to rescind
24 it. And I spoke up, and I said, I feel -- and I am
25 not a lawyer -- that legally and morally you have a

1 responsibility of informing the lessees who are
2 going to be directly affected by your action prior
3 to taking it up. They did not feel that was
4 necessary.

5 MR. MAXWELL: Excuse me. Can you confine
6 your, because --

7 MS. ZENGER: Yes.

8 That was rescinding number one. They
9 deferred. Rescinding action number two, August
10 29th of last month. And I said, hey, this
11 rescinding is a little different from rescinding
12 number one. Oh, yes, we had to have them look at
13 it legally. Prior to my going to the meeting, I
14 went to see an attorney.

15 Someone asked, who speaks for the
16 Hawaiians? Who speaks for the Hawaiians, someone
17 asked. Well, let me tell you. It is not the
18 Department of Hawaiian Home Lands.

19 MR. MAXWELL: Excuse me, Alice. I am
20 going to have to cut you short. But if you can
21 submit to us whatever information you have, letters
22 that you have sent, please give it to our staff.
23 And the only reason I have to do this -- and I
24 really hate to -- but because it is under the
25 Federal Register we have to end at certain time, we

1 have to.

2 Thank you.

3 The next party up is Henry Smith, Anahola
4 Hawaiian Homes Association.

5 State your name and who you represent.

6 MR. SMITH: Aloha, board members.

7 My name is Henry E. Smith, Jr. I'm the
8 president of Anahola Hawaiian Homes Association,
9 and I would appreciate if the committee here would
10 somewhere, somehow come to Kauai and listen to the
11 testimonies of the people on the Island of Kauai.

12 And there is many concerns, but what I
13 would like to see, something addressed of what
14 Mahealani Ing talked about about funding. That's
15 the main purpose of moving our Hawaiian Homes
16 program. It cannot move with zero.

17 I have seen many homes built there on the
18 Island of Kauai by the Federal Government blood
19 grant. Now, how does the Hawaiian get that? I
20 know I can go outside on fee simple land. I have
21 got family that got blood grants, but if you live
22 on Hawaiian Homes, they don't seem to qualify for
23 this. I would like to find out why we can't get a
24 blood grant -- and I'm talking statewide. If they
25 could, the Federal Government could come up with

1 six, seven, eight hundred million dollars and give
2 us that blood grant, we sure can build homes and
3 infrastructure because it just gave 800 million to
4 build that highway there.

5 And in my life, 30 years has been spent
6 overseas, and I have been around the world. But I
7 see a lot of our moneys that's being spent
8 overseas, but we need it here in the State of
9 Hawaii. So that's one of my main concerns, is how
10 do we get funding? The County is broke. The State
11 is broke. So how does a Hawaiian get something
12 like a blood grant or something in that nature and,
13 yet, make it feasible for this Hawaiian instead of
14 giving all of the restrictions? Maybe some way it
15 could be geared up where the Hawaiians could get it
16 without getting, you know, 10 cosigners. So we
17 need something like that to help us there
18 statewide, not only on Kauai.

19 And another thing that I would like to
20 bring up, that there is some things in the act that
21 I would like to see amended. Like they say, well,
22 if you have a mercantile license, you can't get a
23 loan. So something like that should be amended
24 because that is what would benefit. As long as it
25 is something that benefits the Hawaiian, that way

1 we can receive some type of help by having it
2 amended where the Hawaiians can get into business,
3 can be productive in some way, somehow, and get
4 into this type of funding.

5 That's all I have to say.

6 Thank you.

7 MR. MAXWELL: Thank you so much.

8 Okay. We have a few minutes more, and I
9 would like to take it up by thanking everybody for
10 coming out here to testify. And if you can
11 understand what our advisory capacity is, that,
12 like I mentioned before, we are here to gather
13 information and make our report available to the
14 Federal Commission on Civil Rights. And then we
15 have to wait and truly -- if we can show them an
16 overriding desire to have something done to the
17 situation of the Hawaiian Homes Act and whether
18 there is definite violations of the trust, then
19 they'll act on it.

20 But you got to remember that this takes
21 months and months and months for the report even to
22 come back before we have this kind of okay to move
23 further.

24 So with that in mind, I would like to
25 thank you again for all coming, for the panel here,

1 We would like to thank everybody.

2 And the meeting is now adjourned.

3 (The meeting adjourned at 5:00 p.m.)

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CERTIFICATE

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2
3 I, PATRICIA A. MILLER, RPR, CP-CM, CSR
4 #275, do hereby certify that:

5 On September 6, 1988, at 1:00 p.m., the
6 proceedings contained herein were taken down by me
7 in machine shorthand and were thereafter reduced to
8 typewriting under my supervision; that the
9 foregoing represents, to the best of my ability, a
10 true and correct transcript of the proceedings had
11 in the foregoing matter.

12 I further certify tht I am not of
13 counsel for any of the parties hereto, nor in any
14 way interested in the outcome of the cause named in
15 the caption.

16 Dated this 7th day of September, 1988,
17 in Wailuku, Maui, Hawaii.

18
19
20
21 Patricia A. Miller

22 PATRICIA A. MILLER
23 RPR, CP-CM, CSR #275