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HAWAII ADVISORY COMMITTEE  
TO THE  
UNITED STATES COMMISSION ON CIVIL RIGHTS

FACT-FINDING MEETING ON HAWAIIAN HOME LANDS

TRANSCRIPT OF PROCEEDINGS

DATE: Thursday, August 2, 1990  
PLACE: Ramada Renaissance Ala Moana Hotel  
Honolulu, Hawaii  
BEFORE: CHARLES KAULUEHI MAXWELL, SR.  
Native Issues Sub-committee  
Acting Chair, Fact-Finding Meeting  
Vice Chairman,  
Hawaii Advisory Committee to  
U.S. Commission on Civil Rights

COMMITTEE MEMBERS IN ATTENDANCE:

- MR. EMMETT A. CAHILL
- MS. FAYE KENNEDY DALY
- MR. ALFRED C. LARDIZABAL
- MS. HELEN R. NAGTALON-MILLER, Ph.D.
- MS. CARMEN L. PANUI
- MS. MARION G. SAUNDERS
- MR. BARRY L. SHAIN
- MR. OSWALD K. STENDER
- MR. ANTHONY S. VERICELLA
- MS. JULIANNE R. PUZON

REPORTED BY: Joan Izumigawa, CSR No.136  
Notary Public, State of Hawaii

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1                   P R O C E E D I N G S

2                   CHAIRMAN MAXWELL: Can I have your  
3 attention, please.

4                   We call this meeting to order.  
5 This meeting of the Hawaii Advisory Committee  
6 to the United States Commission on Civil Rights  
7 will now come to order.

8                   The purpose of this meeting is to  
9 obtain information and views relating to the  
10 implementation of the Hawaiian Homes Commission  
11 Act of 1920. Specifically, the Committee is  
12 interested in learning the extent to which the  
13 Federal government and the State of Hawaii are  
14 meeting the obligations for fulfilling the law.

15                   Participants have been requested  
16 to address the following issues:

17                   Have the Federal and State  
18 governments met their respective trust  
19 obligations to Native Hawaiian people under the  
20 Homes Commission Act?

21                   To what extent have both the  
22 Federal and State governments responded to the  
23 specific findings and recommendations issued by  
24 the Federal-State Task Force on the Hawaiian  
25 Homes Commission Act?

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1           What assistance has been provided  
2 by the Federal government and the State to  
3 implement the Act? This includes financial,  
4 technical, legal, and staffing resources, as  
5 well as leadership and management direction.

6           Are the existing Federal oversight  
7 and State administrative mechanisms adequate to  
8 assure vigorous and effective implementation of  
9 the Act?

10           Finally, the Advisory Committee is  
11 soliciting recommendations for improving the  
12 performance and accountability of the Federal  
13 and State governments in fulfilling the mandate  
14 of the Hawaiian Homes Commission Act.

15           Among those invited to address the  
16 meeting are State officials and legislators  
17 involved in Native Hawaiian home lands affairs,  
18 legal and advocacy organizations, and  
19 representatives of the United States  
20 Departments of Interior and Justice.

21           Based upon the information  
22 collected at this meeting, along with the  
23 transcript of a public forum convened by the  
24 Committee in September 1988, a report will be  
25 prepared for the United States Commission on

1 Civil Rights. This will serve to update an  
2 earlier Advisory Committee report, Breach of  
3 Trust? Native Hawaiian Homelands, released in  
4 1980.

5 I am Charles Kauluehi Maxwell,  
6 vice chairman of the Hawaii Advisory Committee.  
7 The Advisory Committee receives information and  
8 makes recommendations to the Commission in  
9 areas where the Committee or any of its  
10 subcommittees is authorized to study.

11 Other members of the Committee in  
12 attendance during the meeting will be: Emmett  
13 Cahill, Faye Kennedy Daly, Alfred C.  
14 Lardizabal, Helen R. Nagtalon-Miller -- and  
15 Nagtalon Miller is one last name -- Carmen L.  
16 Panui, Marion G. Saunders, Barry L. Shain,  
17 Oswald K. Stender, Anthony S. Vericella,  
18 Julianne Puzon ex officio. The Chair, Andre'  
19 S. Tatibouet, could not be with us today.

20 Also with us today are staff  
21 members John F. Dulles II, Grace Hernandez, and  
22 Arthur Palacios from the Commission's Western  
23 Regional Office in Los Angeles.

24 This fact-finding meeting is being  
25 held pursuant to Federal rules applicable to

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1 State Advisory Committees and regulations  
2 promulgated by the U.S. Commission on Civil  
3 Rights. All inquiries regarding these  
4 provisions should be directed to the Chair or  
5 to Mr. Dulles, the Federal officer for this  
6 meeting.

7                   The Commission on Civil Rights is  
8 an independent agency of the United States  
9 government established by Congress in 1957 and  
10 directed to:

11                   Investigate complaints alleging  
12 that citizens are being deprived of their  
13 rights to vote by reason of their race, color,  
14 religion, sex, age, handicap, or national  
15 origin, or by reason of fraudulent practices;

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

23                   Appraise Federal laws and policies  
24 with respect to discrimination or denial of  
25 equal protection under the laws;

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1           To serve as a national clearing-  
2 house for information about discrimination; and

3           Submit reports, findings, and  
4 recommendations to the President and to  
5 Congress.

6           I would like to emphasize that  
7 this is a fact-finding meeting and not an  
8 advisory proceeding -- excuse me, adversary  
9 proceeding. Individuals have been invited  
10 to come and share with the Committee  
11 information relevant to the subject of  
12 today's inquiry. Each person who will  
13 participate has voluntarily agreed to meet with  
14 the Committee.

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

22           We are concerned that no  
23 defamatory material be presented at this  
24 meeting. In the unlikely event that this  
25 situation should develop, it will be necessary

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1 to call this to the attention of the person  
2 making the statement and request that they  
3 desist in their action. Such information will  
4 be stricken from the record, if necessary.

5           Every effort has been made to  
6 invite persons who are knowledgeable in the  
7 area to be dealt with here today.

8           In addition, we have allocated  
9 time between 4:00 and 5:00 p.m. to hear from  
10 anyone who wishes to share information with the  
11 Committee about the specific issues under  
12 consideration today. At that time each person  
13 or organization will be afforded a brief  
14 opportunity to address the Committee and may  
15 submit additional information in writing.  
16 Those wishing to participate in the open  
17 session must contact Commission staff before  
18 4:00 p.m. this afternoon.

19           In addition, the record of this  
20 meeting will remain open for a period of 10  
21 days following its conclusion. The Committee  
22 welcomes additional written statements and  
23 exhibits for inclusion in the record. These  
24 should be submitted to the Western Regional  
25 Division, United States Commission on Civil

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1 Rights, 3660 Wilshire Boulevard, Suite 810, Los  
2 Angeles, California 90010.

3 Let us proceed.

4 I would like to turn -- if all of  
5 you have agendas or you wish to have some, you  
6 can obtain it from our staff. There are  
7 several changes to our agenda. The government  
8 was supposed to come out, but they have stated  
9 -- the Justice Department and the Interior  
10 Department have stated that they will not  
11 attend this hearing.

12 I would now like to call upon Al  
13 Lardizabal to read a statement that was  
14 prepared by this Advisory Committee that will  
15 be transmitted to the Interior Department and  
16 the Justice Department.

17 MR. LARDIZABAL: Thank you, Mr.  
18 Chairman. I have written a letter to the  
19 Commission, and I quote:

20 "This is to express my concern as  
21 a State Advisory Committee member of the  
22 absence of representation by the U.S.  
23 Department of the Interior on August 2, 1990,  
24 to the fact-finding meeting in Hawaii. The  
25 Committee is in receipt of the October 17,

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1 1989, letter to Senator Daniel K. Inouye from  
2 Mr. Timothy W. Glidden, Counselor to the  
3 Secretary of the Interior, and the July 17,  
4 1990, letter from Mr. Glidden to Mr. Alfred A.  
5 Fletcher, Chairman of the U.S. Commission on  
6 Civil Rights.

7 "However, it is my belief that the  
8 U.S. Department of the Interior could and  
9 should play a much more significant role in the  
10 return of Hawaiian home lands to the Hawaiian  
11 people. The absence of representation by the  
12 U.S. Department of the Interior denies the  
13 Committee the opportunity to full discuss the  
14 return of these lands. It is my hope that the  
15 U.S. Department of the Interior will be able to  
16 meet with this Committee in the future."

17 Thank you.

18 THE CHAIR: Okay. If you'll note  
19 on your afternoon session under the 1:00 p.m.,  
20 State Government Panel, instead of Chairman  
21 Kaulukukui, in his place Rodney Burgess, the  
22 vice chairman will be testifying.

23 Mr. Bill Tam of the Attorney  
24 General's Office will be testifying for the  
25 Department of Land and Natural Resources.

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1 MR. STENDER: Excuse me, Mr.  
2 Chairman. May I make a comment, please?

3 THE CHAIR: Yes.

4 MR. STENDER: This is really  
5 following hard on Mr. Lardizabal's letter to  
6 the Department of the Interior. I have read  
7 the correspondence which was addressed on this  
8 issue in response to the -- our inquiry.

9 I just wanted to, as a member of  
10 this Committee -- you know, I'd like to have it  
11 noted for the record that I am deeply concerned  
12 and disappointed that the U.S. Department of  
13 the Interior chose not to be represented at  
14 these proceedings. This correspondence  
15 indicates to me that the Federal government's  
16 refusal to accept the fiduciary responsibility  
17 for the administration of the Hawaiian Homes  
18 Trust is very disappointing.

19 It appears that the Federal  
20 government seems to choose those issues that  
21 they feel they are responsible for and those  
22 they are not responsible for, and I don't see  
23 how they can deny any responsibility for the  
24 work that we're doing. And so I just wanted to  
25 have that noted for the record.

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1                   THE CHAIR: Thank you, Mr.  
2 Stender. I think that expresses the feeling of  
3 the members in toto as of yesterday's meeting.  
4 Thank you.

5                   We are going to start calling the  
6 first presenters. But before I do, I would  
7 like to state that whoever comes up to testify,  
8 please, for the record, state your name and  
9 your -- who you represent, whether it be any  
10 organization that you're representing here.

11                   I now would like to call upon the  
12 Hawaiian Homes -- excuse me, Mr. Alan Murakami  
13 and Mr. Paul Nahoia Lucas, the attorneys for the  
14 Native Hawaiian Legal Corporation. They'll be  
15 giving the Hawaiian Homes Commission Act 1920  
16 background and the legal issues.

17                   MR. MURAKAMI: Mr. Chairman,  
18 members of the Committee, good morning. My  
19 name is Alan Murakami, the litigation director  
20 for the Native Hawaiian Legal Corporation.

21                   The Corporation has identified  
22 several areas of priority in representing  
23 Hawaiians in areas of great concern to them,  
24 one of which is the Hawaiian Homes area. We  
25 are representing several individuals and groups

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1 at this time who are attempting to enforce  
2 various provisions of the Act.

3 I have been asked to give an  
4 overview and background of the Federal and  
5 State roles in connection with the  
6 administration of the Act. I found this to be  
7 a somewhat overwhelming task, given the long  
8 history and the many abuses that have  
9 occurred. As a result, I find it will be  
10 impossible to actually go into much detail  
11 about all the various ramifications and aspects  
12 of this involvement.

13 I have prepared written testimony  
14 which has been submitted to the Committee, and  
15 that should be before you today. But we have  
16 also submitted our past recommendations that  
17 have been submitted to another group, this  
18 being the U.S. Select Committee on Indian  
19 Affairs, who, in conjunction with the House  
20 Committee on Insular and Interior Affairs, held  
21 extensive hearings last August, and more  
22 recently in May in connection with the  
23 administration of the Hawaiian Homes Commission  
24 Act.

25 I would at the outset refer you to

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1 an attachment to my testimony which gives a  
2 summary of some of the recommendations that I  
3 have submitted to those committees with regard  
4 to how we believe changes to the Act can be  
5 made in a positive and productive manner.

6           These are broken down between  
7 short-term and long-term recommendations that  
8 involve the proposals to enhance water rights  
9 of Native Hawaiians in connection with the  
10 administration of the Act, to initiate a  
11 program for an ombudsman/advocate for Native  
12 Hawaiian beneficiaries in view of the many  
13 problems associated with the Act and the  
14 relative inability of beneficiaries to  
15 effectively advocate for themselves in light of  
16 the shortage of resources and the complexity of  
17 the issues involving the Hawaiian Homes  
18 Commission Act.

19           I have a section in these  
20 recommendations urging a process for upgrading  
21 the inventory available to beneficiaries of the  
22 Act which will entail a pretty extensive and  
23 intricate system to enhance the types of lands  
24 that could be made available for homesteading.

25           As many of you already know, many

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1 of the homestead sites currently available are  
2 inadequate and too remote, lack sufficient  
3 irrigation or access to natural irrigation  
4 water, and can only be developed for suitable  
5 homesteading purposes for farms, residences,  
6 ranches, and aquacultural farms at extensive  
7 cost to the trustees, the State, and hopefully  
8 the Federal government. The point of this  
9 recommendation is that if in fact the inventory  
10 is upgraded, perhaps these costs could be  
11 either mitigated or eliminated and more people  
12 can be settled on lands at a faster pace.

13                   We have asked for independent  
14 counsel to be -- an Office of Independent  
15 Counsel to be set up so that beneficiaries have  
16 access to legal representation, sometimes the  
17 only means that beneficiaries have to enforce  
18 their rights under the Act, and there are  
19 several points under that particular  
20 recommendation.

21                   We suggested that a regular  
22 Master's Report be prepared in connection with  
23 the performance of the Federal and State  
24 governments so that this particular program has  
25 an ongoing review, something that has been

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1 sorely lacking over the many years of its  
2 administration. It's only been over the last,  
3 say, five to seven years that any increased  
4 attention of any appreciable amount has been  
5 devoted to the program.

6           We've suggested that real property  
7 taxes either be -- the power to assess taxes  
8 against Hawaiian Home Lands either be modified  
9 or perhaps even eliminated in harmony with some  
10 of the treatment of real property taxation  
11 issues involving Native American tribes on the  
12 mainland.

13           Secondly, in terms of long-term  
14 recommendations, we have suggested that serious  
15 consideration be given to integrating this  
16 program with a policy by the United States to  
17 grant self-governance and self-determination to  
18 Native Hawaiian people so that they will have  
19 as part of its land base the Hawaiian Home  
20 Lands base to administer by the Native Hawaiian  
21 beneficiaries themselves under a system  
22 accountable to them.

23           And finally, we urge that a  
24 program of community economic development be  
25 established so that not only are lands given to

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1 the Native Hawaiians to be administered and  
2 governed by them, but that they be given the  
3 tools and the resources to develop economies  
4 that have basically been destroyed as a result  
5 of Western contact over the two centuries of  
6 Hawaii's history, and that this fund be  
7 available to them so that they can determine  
8 for themselves what kind of economic activities  
9 and economic future Hawaiians would like to see  
10 for their children and grandchildren.

11                   In my attempt to summarize what  
12 the performance of the Federal and State  
13 governments have been, I found the task  
14 overwhelming. In short, in terms of the  
15 Federal performance, I believe you had a site  
16 visit yesterday that probably helps you to view  
17 perhaps the tip of the iceberg of the types of  
18 problems that Native Hawaiians face.  
19 Recovering Lualualei or something equivalent to  
20 it is going to be no small task.

21                   I am deferring most of the  
22 discussion of this issue and others related to  
23 the Federal government's performance to my  
24 colleague, Paul Nahoia Lucas, who accompanied  
25 you yesterday.

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1           The only thing I would like to add  
2 in connection with the Federal performance is,  
3 as I have mentioned earlier, the lack of a  
4 mechanism for effective self-governance by  
5 Native Hawaiians, which essentially lies at the  
6 root of all the problems and evils that have  
7 been previously identified by witnesses who  
8 have testified in innumerable hearings before  
9 this and other bodies in connection with the  
10 problems related to the administration of the  
11 Act.

12           Just briefly, what I attempted to  
13 point out in my testimony is that Hawaiians  
14 really stand akin to their Native American  
15 brothers on the mainland and in Alaska. They  
16 are an indigenous people. They were here  
17 before any Westerners discovered these islands.  
18 They have similar cultural and political  
19 histories in terms of their relationship with  
20 the land, their cultural philosophies about the  
21 protection of the land, and their ability to  
22 live in harmony with nature over centuries of  
23 existence.

24           In contrast, the United States  
25 really has only been in existence for a little

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1 over 200 years, and we are already seeing that  
2 in some respects we are at the breaking point  
3 of our ability to co-exist with nature. But in  
4 short, what the United States did with various  
5 Indian nations as they currently exist today is  
6 to form a government-to-government relationship  
7 with them at a very early stage when there was  
8 an initial contact with Indian tribes.

9           Now, there are many sad stories to  
10 tell about that relationship and many broken  
11 treaties that occurred as a result of this  
12 relationship with the tribes. However, the  
13 essence of this relationship is that the United  
14 States treated Indian nations separately as  
15 governments and recognized their sovereign  
16 ability to have their own membership, regulate  
17 their own affairs, and to govern and determine  
18 their own future.

19           The Hawaiians have a somewhat  
20 different history than the Indians and there  
21 cannot be made an identical parallel with these  
22 groups. However, I think because of Hawaii's  
23 history as an independent kingdom and the fact  
24 that the United States had treaties with the  
25 Kingdom of Hawaii and the fact that Hawaii, in

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1 contrast with some of the Native American  
2 tribes that currently have tribal status and  
3 have a government-to-government relationship  
4 with the United States, was recognized in the  
5 international community of nations by scores of  
6 countries that still exist today, gives them a  
7 status that is perhaps even better than what  
8 Native Americans have to attain sovereignty  
9 amongst their people.

10                   The second thing I would point out  
11 about this particular parallel is that U.S.  
12 policy towards Indians has fluctuated over  
13 history. It has basically fluctuated between  
14 policies that sought to assimilate these people  
15 with the mainstream society and a policy of  
16 self-determination.

17                   We are currently in the era of  
18 self-determination that was formally initiated  
19 by the Nixon administration. This policy is to  
20 give native peoples their right to self-  
21 determination, to recognize that the United  
22 States trusteeship role is to assist them in  
23 enhancing their ability to govern themselves,  
24 and that this is the key to their economic  
25 future and ability to survive as a culture.

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1                   This official policy continues to  
2 exist in the form of numerous Federal programs  
3 that exist to target Native American tribes  
4 recognized by the Federal government for  
5 special assistance in terms of housing, health,  
6 education and a variety of social programs that  
7 are designed to overcome some of the past  
8 injustices that have occurred in the treatment  
9 of Indians on their reservations.

10                   Hawaiians basically have been left  
11 out of that process. When the Hawaiian Homes  
12 Commission Act was passed, when the  
13 administration of the daily affairs of this  
14 program was transferred to the State, the  
15 United States was really at a time in its  
16 history when it was trying to terminate its  
17 relationship with native peoples, not  
18 recognizing their unique status, attempting to  
19 break previous relationships and treaty  
20 agreements with them, and the like.

21                   What has occurred since then has  
22 been a radical transformation of the attitude  
23 of the U.S. government toward native people.  
24 The unfortunate thing is that Hawaiians have  
25 been left out of this process. The reality

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1 today is that Hawaiians are clamoring for the  
2 same treatment, and if this Commission is in  
3 fact looking at the ways in which laws are  
4 applied that might deny people similarly  
5 situated equal rights, then this is clearly an  
6 area of inquiry that I would invite the  
7 Commission to explore.

8           There are many complex issues  
9 involved, but I simply wanted to say that there  
10 are many Hawaiian groups that are now  
11 advocating for sovereignty of various kinds and  
12 that it really is incumbent upon the U.S.  
13 government and Congress to deal with this  
14 issue in a forthright manner and to work with  
15 Hawaiian people in coming up with an ultimate  
16 resolution of the concern for sovereignty.

17           I have -- I am going to try to  
18 skip over a lot of what I have written in my  
19 testimony. I think a lot of the members of  
20 this Commission have information concerning the  
21 history of the Hawaiian Homes Act. So I would  
22 like to briefly summarize what I have put in  
23 writing in my written testimony.

24           First of all, I think it should be  
25 recognized that the Hawaiian Homes Commission

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1 Act was really a product of intense lobbying by  
2 both proponents for the Act as well as  
3 counter-lobbying by large landed interests in  
4 Hawaii, primarily the sugar and ranching  
5 interests, and what resulted was a program that  
6 was severely crippled at the outset, crippled  
7 by primarily the fact that it was given so-  
8 called junk lands -- to quote some prophetic  
9 individual of the day in the 1920's, "lands  
10 that a goat couldn't live on." That's a quote  
11 from the Congressional Record.

12                   What we have experienced since  
13 that time is a struggle over crumbs, the  
14 limited resources provided to the Hawaiian  
15 Homes Commission in terms of its financial  
16 ability to develop these lands and accompanied  
17 with an inventory of lands that were remote, in  
18 very poor locations, arid, and very, very  
19 expensive to develop.

20                   Currently the Department has  
21 estimated that it will take \$900 million to put  
22 in the infrastructure and site development that  
23 would be necessary to settle the people on the  
24 waiting list, which is currently estimated to  
25 be 20,000 people, give or take a thousand due

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1 to duplications in applications. This is an  
2 immense bill that the State of Hawaii alone can  
3 never hope to meet.

4           Unless there is a lowering of cost  
5 through the upgrading of the inventory of the  
6 lands available to them and increased support  
7 by Federal and other, private sources to match  
8 the requirements for infrastructure  
9 development, the mission of the Hawaiian Homes  
10 Department and the Hawaiian Homes Commission I  
11 think cannot be met.

12           In summary, that's the thrust of  
13 my testimony, that given these circumstances, I  
14 don't believe that the Department of Hawaiian  
15 Home Lands can accomplish its mission to settle  
16 all the people on the waiting list in a  
17 reasonable period of time. I point out that  
18 the Department currently only gets less than  
19 0.2 percent of the entire State operating  
20 budget of \$3.2 billion, and this is for a  
21 complex program to homestead tens of thousands  
22 of people on Trust lands, to administer loan  
23 programs, to provide technical assistance, to  
24 assist farmers, ranchers, and aquaculture  
25 farmers with the development of those types of

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1 activities for their long-term self-  
2 sufficiency, to build homes for people who are  
3 either homeless or in crowded conditions in  
4 their existing housing, a complex program that  
5 cannot -- that no one can reasonably expect  
6 this Department to perform effectively without  
7 greater resources.

8           I think the current status of the  
9 homesteading program might give this Commission  
10 -- or this Committee the best idea of what has  
11 happened in the past. What I did, in an  
12 attempt to summarize this, is I looked to the  
13 1987 Department of Hawaiian Home Lands Annual  
14 Report, and in there they have a pie chart of  
15 the breakdown of the use of Hawaiian home  
16 lands. I would like to pass it out to the  
17 Committee today for their review.

18           There are two things about these  
19 charts that I think you should know. First,  
20 that 17.5 percent of the lands are currently  
21 being homesteaded and, as I understand, that  
22 17.5 percent includes the raw lands that were  
23 distributed to people, or to Native Hawaiian  
24 beneficiaries, lands which they cannot occupy  
25 because of the lack of infrastructure. So that

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1 is a conservative estimate of what lands have  
2 been homesteaded.

3           And more importantly, if you total  
4 up the general leases, the licenses, the DLNR-  
5 administered leases, the revocable permits, the  
6 illegal executive orders, we have over 62  
7 percent of the land being used by  
8 non-Native Hawaiians under a variety of  
9 different conveyances. That's the first thing.

10           The second thing is that,  
11 unfortunately, this is out of the 1987 Annual  
12 Report of the Department, and I do not believe  
13 that the statistics have changed significantly  
14 in the three years. To the credit of the  
15 Waihee administration, there have been renewed  
16 resources committed to this program, and we  
17 recognize that.

18           My point is that given this --  
19 even given these increased resources, the  
20 Department cannot be reasonably expected to  
21 meet its mission of placing people on this land  
22 within a reasonable period of time. If you  
23 just look at the numbers, the Governor has  
24 basically set an objective or goal for the  
25 Department to settle 20,000 families by

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1 building 20,000 housing units within 10 years,  
2 or the year 2000.

3                   It has a similar commission from  
4 the Governor to develop affordable housing for  
5 the general population over that same period of  
6 time. What I have pointed out in my testimony  
7 is that in the latter objective, to accomplish  
8 the latter objective, the Waihee administration  
9 was successful in obtaining a 120,000 cash  
10 appropriation from the legislature in 1988 to  
11 pursue this objective. The Department at best  
12 can total up only about half of that in terms  
13 of revenue bonds, general obligation bonds, and  
14 cash to do pretty much the same thing within  
15 the same period of time.

16                   The State has never accomplished a  
17 task of this magnitude in its history, and not  
18 for lack of trying. I think they're trying in  
19 good faith to accomplish it, because there's a  
20 critical lack of affordable housing in this  
21 state. And I'm certainly not trying to  
22 denigrate anybody's good faith attempts to try  
23 to do so.

24                   However, what I am trying to say  
25 is that we must inject some sense of realism in

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1 this whole situation to assess whether such a  
2 task can be accomplished. And the best at this  
3 point I can say is that my conclusion is that  
4 this would be a highly dubious objective to  
5 accomplish given the current resources, the  
6 current inventory, and the past commitment by  
7 particularly the Federal government to help in  
8 this regard.

9           Even if this task is accomplished  
10 -- And I certainly hope it is -- what I have  
11 pointed out in my testimony, and as I have in  
12 my previous testimony to you, is that there are  
13 still these many other tasks, primarily those  
14 cited by the Federal-State Task Force in 1983  
15 when it issued its report of the shortcomings  
16 of the Commission in protecting its trust  
17 assets, resolving issues of back compensation  
18 for illegal uses of trust lands by public  
19 agencies and private entities, and failing to  
20 properly come up with a plan for disposing of  
21 the lands that may not be suitable for  
22 homesteading so they can be either exchanged or  
23 somehow conveyed out so that suitable lands can  
24 be made available for homesteaders in a  
25 reasonable period of time.

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1           The Department has not been able  
2 to do that. They have not been able to fully  
3 investigate the development of cluster housing  
4 that was suggested by the Task Force. I have  
5 listed about eight major points that I believe  
6 have been left on the wayside as a result of  
7 the Department's current focus on settling  
8 people in residential lots, due to the size of  
9 the waiting list.

10           So even if the major task was  
11 accomplished, what I'm trying to say at this  
12 point is that the various problems cited by the  
13 Task Force that I've listed on pages 7 and 8 of  
14 my testimony really have not yet gotten the  
15 attention that they deserve. Seven years have  
16 gone by, deadlines have passed, very few of  
17 these major concerns have been addressed by the  
18 Commission, and they continue to be left on the  
19 back burner.

20           A final concern that I have raised  
21 in my testimony is that the inability of the  
22 Department to obtain the sufficient resources  
23 to meet its goals has caused one consequence,  
24 and that is in the farm and the ranch homestead  
25 program.

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1           What we are finding is now  
2 happening is because the waiting list of these  
3 programs is so long, even though they are less  
4 numerous than those for residential lots, what  
5 the Department is doing is attempting to settle  
6 as many people on lands irrespective of the  
7 ability of those people to create economically  
8 viable ranches to enhance their economic self-  
9 sufficiency.

10           For example, they have recently  
11 passed policies -- adopted a policy of cutting  
12 up ranch lots in Puukapu to accommodate  
13 primarily people who at best raise two animal  
14 units -- an animal unit being defined as one  
15 head of cattle and one calf -- so basically  
16 enough land, that is, 10 to 20 acres, given the  
17 lack of irrigation, to raise two head of  
18 cattle and two calves at any given time.

19           Our concern is that what this is  
20 doing, in essence, is to reinterpret the  
21 Hawaiian Homes Commission Act without any  
22 congressional or legislative involvement, and  
23 that this reinterpretation of the Act, to  
24 ignore the basic thrust and idea behind the  
25 homesteading program, is a severe deterioration

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1 of the initial intent of the program.

2           Because of this problem we have  
3 unfortunately had to resort to litigation.  
4 That is ongoing. We are still struggling with  
5 the Department to attempt to reach some kind of  
6 accommodation for the clients that we represent  
7 who are serious about ranching, want to become  
8 economically viable ranchers, and who are  
9 finding that they are unable to do so despite  
10 the fact that they initially applied for these  
11 lots in 1952.

12           In view of the shortage of time, I  
13 would like to terminate my testimony at this  
14 time and turn the mike over to Mr. Lucas.

15           THE CHAIR: Mr. Murakami?

16           MR. MURAKAMI: Yes?

17           THE CHAIR: Maybe the panel has  
18 some questions for you before you go to more  
19 testimony.

20           MR. MURAKAMI: Either way.

21           THE CHAIR: Based on our  
22 involvement as an advisory committee to the  
23 U.S. Civil Rights Commission and the end result  
24 of this hearing through our commissioners to  
25 recommend to the President or to Congress some

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1 solutions to the problems, you have outlined in  
2 detail the many, many ills that face the  
3 Hawaiian homes.

4           However, everyone's got to agree  
5 that the Federal government and the past State  
6 government have seriously failed to help the  
7 Hawaiian people get on the land and it was  
8 misused. So how, in your interpretation, can  
9 we submit in our report some recommendations  
10 -- strong -- to the President or to Congress?

11           MR. MURAKAMI: I believe Mr. Lucas  
12 has prepared the answer to that question. But  
13 briefly, I have a list of recommendations that  
14 was submitted to the U.S. Senate Select  
15 Committee and the House Committee on Interior  
16 and Insular Affairs. The theme of my  
17 recommendation is broken down into short-term  
18 and long-term recommendations.

19           The important thing I would like  
20 to point out about these recommendations is  
21 that in the long term, I think this problem  
22 will not go away unless the issue of  
23 sovereignty is resolved and resolved in favor  
24 of putting this land base in the land base that  
25 is ultimately granted or allowed to be governed

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1 by the recognized sovereign that arises out of  
2 this protracted debate over whether Hawaiians  
3 should have sovereignty like their Native  
4 American and Native Alaskan brothers and  
5 sisters.

6                   That's the short answer. There  
7 are many detailed answers I could give. Let me  
8 take one. Lualualei has been on the front  
9 burner of this Commission, and rightly so. I  
10 commend the Commission for its foresight and  
11 for its energy and dedication to seeing this  
12 issue receives national attention.

13                   We have a Hawaiian population that  
14 is perhaps the most dispossessed of any in  
15 these islands. You can look over the  
16 statistics anywhere. The Hawaiians are poor,  
17 they are least-educated, they are in prison in  
18 the greatest numbers and in the greatest  
19 proportions, they are in the poorest of  
20 health, and primarily they are housing-short  
21 -- They are in overcrowded housing or they are  
22 homeless -- and they are over-represented in  
23 these groups.

24                   And yet you have the U.S. Navy now  
25 controlling 1,300 acres of prime potential

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1 residential land on this island, the island  
2 with the greatest demand for residential  
3 homestead lots, the island with the greatest  
4 population. And yet the Commission, because of  
5 the lack of available and suitable homestead  
6 land, cannot provide those homesteads despite  
7 the passage of 69 years since the inception of  
8 this Act.

9           Now, I term this illegal -- It's  
10 my opinion -- and I've termed it immoral, as a  
11 non-attorney. I believe that if this  
12 Commission focuses on that issue alone, it  
13 would accomplish a lot, and probably more than  
14 any other body has in recent years if it can  
15 overcome the hurdles to the return of  
16 Lualualei.

17           THE CHAIR: Yes. See, if we can  
18 substantiate that our rights as Native  
19 Hawaiians have been violated, which it clearly  
20 appears to be, then this is where this  
21 Committee would come in.

22           Are there some other questions?  
23 Anybody else?

24           MS. NAGTALON-MILLER: Since the  
25 consultation today -- in this consultation

1 we're engaged in fact-finding, and you have  
2 certainly provided us with important background  
3 information and recommendations. As members  
4 of the public, you can tell us, the members of  
5 the Committee, what we can do or what role we  
6 can play.

7           And inasmuch as you have given us  
8 very good information, very extensive  
9 information, I would like to ask: What  
10 fundamental goal can our State Advisory  
11 Committee play or what can our Committee do to  
12 obtain justice for Native Hawaiians in the  
13 implementing of the Hawaiian Homes Commission  
14 Act? Because we certainly can't come up a  
15 report that would be voluminous. We would like  
16 to make an impact.

17           So if you could tell us what  
18 particular fundamental role we can play, what  
19 we can do.

20           MR. MURAKAMI: I appreciate your  
21 sincerity and I appreciate your dedication.  
22 This Committee unfortunately does not have  
23 decision-making power over the future of this  
24 Act. In that sense, I think there's nothing  
25 directly you can do. We would have to ask

1 Congress, we would have to ask the  
2 legislature, we would have to ask other  
3 decision makers who have a policy-making role.

4           What this Commission, I think, can  
5 do, though, is to educate decision makers,  
6 politicians, and the public about the perennial  
7 problems facing this -- and chronic problems  
8 facing this particular program.

9           My summary of recommendations  
10 talked about a Master's Report. I see the  
11 possibility of this Commission taking an  
12 ongoing role in examining the performance of  
13 both the Federal and State governments in  
14 performing its mission with respect to this  
15 Act.

16           Without increased attention to the  
17 problems, I don't think changes will come, and  
18 I think the role of this Commission is to bring  
19 attention to the problems in an objective and  
20 neutral manner.

21           Mr. Lucas will go over some  
22 specific recommendations about, for example,  
23 Lualualei, what could be done in terms of  
24 statutory changes or administrative actions.

25           I think that this Commission

1 should make strong and positive recommendations  
2 concerning implementing this Act that would,  
3 one, increase attention to it; two, give and  
4 empower beneficiaries with an ability to force  
5 changes to the Act or force corrective action  
6 in the administration of the Act through the  
7 use of advocate/ombudsmen and legal independent  
8 counsel to enforce various provisions of the  
9 act.

10 I cannot hope to go over each and  
11 every separate recommendation that I could make  
12 on each of the ills that might have been  
13 brought to this Commission's attention.  
14 However, I think that if a process and  
15 procedure was clearly established that  
16 beneficiaries could tap and sufficient  
17 resources were devoted to that, that you will  
18 find changes coming incrementally but  
19 progressively, and hopefully consistently, so  
20 that ultimately we will have no waiting list.

21 MS. NAGTALON-MILLER: Forgive me  
22 for asking another question, but since you're  
23 the litigation director of the Native Hawaiian  
24 Legal Corporation, I would like to know: What  
25 statements would you like to make to the

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1 Committee apropos litigation, since you're the  
2 expert or director of this particular group?

3 MR. MURAKAMI: As an attorney, I  
4 could talk about that in terms of what areas  
5 of potential litigation there might be, and  
6 clearly there are in this arena. But there are  
7 two things to consider with what views, what  
8 things could be done in court to correct  
9 abuses, to correct deficiencies.

10 To the extent -- first of all, to  
11 the extent that my office has the resources, we  
12 will continue to do so, serve as legal  
13 advocates and, if necessary, litigate where  
14 there are -- irreconcilable difficulties occur,  
15 and we have to do so, however reluctantly  
16 because of our shortage of resources.

17 We are a Legal Services-funded  
18 program, and we have a very small budget that's  
19 spread amongst the main priorities that have  
20 been identified for attention by this -- by our  
21 program. Hawaiian Homes is one of perhaps five  
22 major areas of concern to Native Hawaiians. We  
23 cannot do all the work, and that's why I have  
24 recommended these other advocacy type programs  
25 to assist beneficiaries. We have to pick and

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1 choose.

2                   Secondly, I think the atmosphere  
3 in the courts has been transformed over the  
4 past decade. I just came back from a  
5 conference celebrating the twentieth  
6 anniversary of the Native American Rights Fund,  
7 and there seemed to unanimity amongst the  
8 speakers at that conference that the easy wins  
9 of native peoples during the 1970's is not  
10 being repeated today and that the atmosphere  
11 judicially has changed tremendously through the  
12 Reagan and Bush administrations.

13                   What the basic message of the  
14 conference was, was that we need to look more  
15 creatively or intelligently at the various  
16 options open to resolving problems and not  
17 simply through the courts. And so I think  
18 administratively, legislatively, and in terms  
19 of community education, there are many things  
20 that can be done.

21                   THE CHAIR: Alan, I think we've  
22 got to move on --

23                   MR. MURAKAMI: Yes.

24                   THE CHAIR: -- because of the time  
25 constraints, and I would like to hear the next

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1 presentation.

2 MR. MURAKAMI: I would, too.

3 THE CHAIR: The panel can ask  
4 their questions after his presentation.

5 MR. LUCAS: Thank you, Mr.  
6 Chairman.

7 Aloha kakahiaka kakou and good  
8 morning, Mr. Vice Chairman and members of the  
9 Hawaii Advisory Committee to the United States  
10 Commission on Civil Rights. My name is Paul  
11 Nahoa Lucas. I am a staff attorney at the  
12 Native Hawaiian Legal Corporation, and I have  
13 been asked today to provide testimony to this  
14 Committee on the role of the Federal government  
15 and their performance as a trustee in  
16 overseeing the management of the Hawaiian  
17 Homes Program.

18 The Federal government's failure  
19 to perform its trust duties to Native Hawaiians  
20 is premised on the fact that the Federal  
21 government serves as a co-trustee for the  
22 Hawaiian Homes Commission Act. This premise,  
23 however, has been sharply disputed by the  
24 Department of the Interior, the Federal agency  
25 which has assumed the role as "lead Federal

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1 agency" with respect to Federal responsibility  
2 concerning the Hawaiian Homes Program.

3           Upon passage of the Act in 1921,  
4 the United States government served as the sole  
5 trustee of Hawaiian Home Lands for the benefit  
6 of Native Hawaiians. At the time of Hawaii's  
7 admission into the Union in 1959, the United  
8 States transferred this primary obligation to  
9 the new State of Hawaii as a condition of  
10 statehood under a compact that the State  
11 accepted and incorporated into its  
12 constitution.

13           Historically, this transfer  
14 occurred during a period known by Native  
15 American advocates as the "Termination Era."  
16 During this period, the United States policy  
17 towards Indians was to terminate its trust  
18 relationship with Indian tribes in an effort to  
19 assimilate Indian people into mainstream  
20 America, even at the cost of denying them their  
21 sovereign rights.

22           For example, Congress enacted  
23 Public Law 280 in 1953, which extended state  
24 jurisdiction over Indian country for the first  
25 time in several areas. The Hawaii Admission

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1 Act was consistent in this regard.

2           Accordingly, Federal executive  
3 officers have interpreted such transfer to  
4 absolve the Federal government of any trust  
5 responsibility. For instance, in a letter to  
6 U.S. Senator Daniel Inouye on October 17, 1989,  
7 Timothy Glidden, Counselor to the Secretary and  
8 the Secretary's designated officer for the  
9 Hawaiian Homes Commission, stated  
10 unequivocally that the federal government does  
11 not serve as a trustee and that it is only the  
12 State of Hawaii which serves as a trustee over  
13 the administration of the Hawaiian Homes  
14 Program.

15           The Department's position was  
16 based largely on a footnote in a Ninth Circuit  
17 case entitled Keaukaha-Panaewa Community  
18 Association versus Hawaiian Homes Commission,  
19 588 F.2d 1216 (1978) which stated "the State is  
20 the trustee . . . the United States has only a  
21 somewhat tangential supervisory role under the  
22 Admission Act, rather than the role of  
23 trustee."

24           Further, in the process of  
25 approving State legislative amendments made to

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1 the Act between 1959 to 1986, former President  
2 Reagan in signing Public Law 99-557 perhaps  
3 aptly reflected the traditional attitude of  
4 Federal officials about this program when he  
5 ignored the trust relationship and attempted to  
6 completely disavow any Federal responsibility  
7 for it by declaring:

8 "I am signing this joint resolution  
9 because I believe, as the Department of  
10 the Interior testified when the  
11 resolution was pending, that the matters  
12 with which the Hawaiian Homes Commission  
13 Act is concerned should be left entirely  
14 to the State of Hawaii. The  
15 administration of the public lands in  
16 question can be competently handled by  
17 the State government."

18 The executive position, however,  
19 is clearly contrary to more than 100 years of  
20 case law establishing trust relationships  
21 between the Federal government and Native  
22 American groups. Under well-established  
23 judicial principles of federal Indian law, a  
24 trust relationship can be created through  
25 treaty, statute, or executive order.

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1           The Act is a congressional statute  
2 which has established a trust relationship  
3 between the Federal government and Native  
4 Hawaiians. The Federal courts have held that  
5 termination of such a relationship should not  
6 be presumed absent a "clear and plain"  
7 expression to the contrary. The language and  
8 legislative history of the Hawaiian Admission  
9 Act shows no "clean and plain" intent on the  
10 part of Congress to terminate this  
11 relationship.

12           Contrary to the Department's  
13 position, the federal government does retain  
14 oversight responsibility in administering the  
15 Hawaiian Homes Commission Act. The Department  
16 of the Interior still maintains the right to,  
17 one, oversee rehabilitation and reclamation  
18 work over the various projects operating on  
19 Hawaiian Home Lands (Section 225 of the Act);  
20 two, approve of land exchanges between the  
21 State and other entities (Section 204 of the  
22 Act); and most importantly, retains the  
23 authority to alter, amend, or repeal any  
24 provision of the Act (Section 223).

25           On August 7 through 11, 1989,

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1 Senator Daniel Inouye, Chairman of the Senate  
2 Select Committee on Indian Affairs, held  
3 extensive oversight hearings on the Act  
4 throughout the state. Throughout the hearing,  
5 Senator Inouye acknowledged the trust duty of  
6 the United States and explored alternative  
7 means of remedying the multitude of problems  
8 confronting the program.

9           As far as former President  
10 Reagan's comments are concerned, I believe Mr.  
11 Murakami has demonstrated that even the State  
12 has failed to adequately perform its duties as  
13 a trustee.

14           Arguably, the trust relationship  
15 is not clearly discerned from the language or  
16 legislative history of the Hawaiian Homes  
17 Commission Act. In response to this concern,  
18 the State has enacted Senate Bill 3236, now Act  
19 349, which amends the Hawaiian Homes Commission  
20 Act.

21           Act 349 further strengthens and  
22 clarifies the State and Federal governments'  
23 roles as fiduciaries in managing the Hawaiian  
24 Homes Program. Section 1 of Act 349 provides,  
25 among other things, that, quote:

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1            "In recognition of the solemn  
2 trust created by this Act, and the  
3 historical government to government  
4 relationship between the United States  
5 and the Kingdom of Hawaii, the United  
6 States and the State of Hawaii hereby  
7 acknowledge the trust established under  
8 this Act and affirm their fiduciary duty  
9 to faithfully administer the provisions  
10 of this Act on behalf of the native  
11 Hawaiian beneficiaries of the Act."

12 End quote.

13            These facts indicate that the  
14 Federal government does serve in a fiduciary  
15 capacity rather than an administrative capacity  
16 in overseeing the Home Lands Program.

17            As a co-trustee, the Federal  
18 government has breached its duties by allowing  
19 Hawaiian Home Lands to be leased to the  
20 military and other Federal agencies for nominal  
21 rent.

22            Lualualei is a classic example of  
23 the Federal government's mismanagement of land  
24 specifically set aside for Native Hawaiians.

25 On August 10, 1922, two years after the Act was

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1 passed, the territorial Commissioner of Public  
2 Lands, the predecessor to the Department of  
3 Land and Natural Resources, leased three  
4 parcels of Hawaiian Home Lands totalling  
5 approximately 1,300 acres for the purpose of  
6 cultivating sugar.

7 In 1930 and again --

8 THE CHAIR: Could you please  
9 summarize because of the time constraints.  
10 When we want to ask you questions, we have your  
11 statement in toto, so try and summarize, if you  
12 can, please.

13 MR. LUCAS: The next three  
14 examples -- or excuse me, the next four  
15 examples are instances of the Federal  
16 government receiving lands from the Hawaiian  
17 Homes Commission at fairly nominal rent.  
18 Lualualei, I believe, as I've explained, was  
19 set aside. These lands were set aside by  
20 executive order in 1930 and 1933. It was later  
21 determined that these executive orders were  
22 illegal. That was in 1984. In the interim,  
23 the Department of the Navy had been using these  
24 lands for over 50 years rent-free.

25 They attempt -- the Hawaiian Homes

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1 attempted to regain control of its lands in  
2 1984. They were barred from recovering these  
3 lands due to a statute called the federal Quiet  
4 Title Act and, as a result, the Department and  
5 the Commission now must seek other means, such  
6 as special legislation, to address this  
7 problem.

8           Pohakuloa is a similar situation  
9 on the Big Island. The Department of Land and  
10 Natural Resources entered into a lease  
11 agreement with the Department of the Army for  
12 the use of approximately 21,000 acres of land  
13 on the Big Island as a military training area.  
14 Included in that was 295 acres of Hawaiian Home  
15 Lands. The lease terms are for 64 years at \$1  
16 for the entire 64 years.

17           Kekaha on the island of Kauai is  
18 another example. The same year, 1964, the  
19 Department of Land and Natural Resources  
20 entered into a lease agreement for 64 years at  
21 \$1 for 25 acres of Hawaiian Home Lands.

22           Keaukaha is the final example. In  
23 1948, the President set aside approximately 53  
24 acres of Hawaiian Home Lands for use as an FAA  
25 communications radar facility. Again, the use

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1 of these lands is rent free for an indefinite  
2 term.

3                   The solution, and one that Mr.  
4 Murakami has suggested and which I have  
5 advocated in my testimony, is to provide Native  
6 Hawaiians with a mechanism so that they can  
7 enforce their rights under the Act. At this  
8 present time they have no right to sue the  
9 United States government for breaches of trust.

10                   They have a right to go into  
11 Federal court and sue the State. They have a  
12 right to go into State court to sue the State.  
13 The United States has a right to sue the State,  
14 but Native Hawaiians do not have that right.  
15 I would urge this Commission, if they would  
16 like to do something, recommend to Congress or  
17 to the President that Native Hawaiians be  
18 afforded this right through special  
19 legislation.

20                   Just to touch briefly on some of  
21 the comments the Commissioners had on  
22 Lualualei, some of the suggestions to avoid  
23 problems such as Lualualei in the future would  
24 be to amend the Quiet Title Act, which  
25 initially prohibited the State from going back

1 and reclaiming those lands. Amend the federal  
2 Quiet Title Act to exclude Native American  
3 groups from coverage, so that Native Americans  
4 could go in and could sue to recover for  
5 Federal lands which have been wrongfully taken.

6 Other alternatives include, again,  
7 as I have mentioned earlier, special  
8 legislation to allow Native Hawaiians the right  
9 to sue. The State recently, two years ago,  
10 enacted special legislation under the Native  
11 Hawaiian Trust Judicial Relief Act which allows  
12 Native Hawaiians to go into State court to sue  
13 for breaches of trust. There are certain  
14 severe limitations on that, but nevertheless  
15 there is that right.

16 One final solution to the  
17 Lualualei problem could be including suitable  
18 replacement lands in any Federal repatriation -  
19 - reparation, excuse me, package which Congress  
20 might want to propose -- or in the Governor's  
21 package, which is supposedly coming out next  
22 year.

23 THE CHAIR: Thank you.

24 You are recognized.

25 MS. PANUI: Good morning.

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1                   You clearly believe that the  
2 existing State mechanisms for implementing the  
3 Hawaiian Homes Commission Act are ineffective,  
4 and you have proposed self-governance. But  
5 how do you propose to come up with the self-  
6 governance vehicle that would be agreeable to  
7 the majority of the Hawaiian people?

8                   MR. MURAKAMI: I can't come up  
9 with it. The Native Hawaiians will have to  
10 come up with it. What I'm suggesting is, the  
11 concept of self-governance really lies at the  
12 root of the issue, because without it there is  
13 no accountability for the performance of the  
14 administrators of this Act to the  
15 beneficiaries.

16                   If you have self-determination, if  
17 you have self-governance, they become  
18 accountable and results follow. If they're  
19 not, they may or may not have results. There  
20 is no relationship, necessarily, between the  
21 beneficiaries and the people administering the  
22 Act, something that can be enforced, something  
23 that can result, if necessary, in removal of  
24 administrators who are not performing their  
25 duties.

1           Currently the only way you can do  
2 that is through elections, and in this case,  
3 election of the Governor, because the Governor  
4 appoints the commissioners. But there is no  
5 direct accountability between the commissioners  
6 and the beneficiary.

7           I can't propose a specific  
8 solution. I don't think that's -- I wouldn't  
9 even pretend to do that, and I think Senator  
10 Inouye is on record saying that he doesn't want  
11 to prescribe that, either, that he wants to be  
12 given that formula by the Native Hawaiian  
13 people, so that there is some onus on the  
14 beneficiaries themselves to come up with this  
15 package.

16           MS. PANUI: Can I further that,  
17 then.

18           Do you see the Hawaiian agencies  
19 perhaps getting together and providing this  
20 vehicle, to go out to reach the Hawaiian people  
21 to get their manao and bringing it back to form  
22 this type of self-governance that you feel is  
23 ultimately due to the Hawaiian people?

24           MR. MURAKAMI: There are many  
25 steps to be taken in this long process, and

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1 what you've suggested is clearly one of them.  
2 What I would like to see initially is that  
3 there is more clear understanding of the  
4 concept and education amongst people to  
5 understand it better so they're not threatened  
6 by it, either, and that includes non-Hawaiians  
7 as well.

8 THE CHAIR: Okay.

9 Barry Shain.

10 MR. SHAIN: I just want this for  
11 the record.

12 Both of you used the term, "breach  
13 of trust."

14 MR. MURAKAMI: Did we use it?

15 MR. LUCAS: Yes.

16 MR. MURAKAMI: Yes, we did.

17 MR. SHAIN: Where was the breach  
18 of trust? By the Federal government, by the  
19 State government, by the Hawaiian Home Lands  
20 Commission? Where does the responsibility  
21 lie?

22 MR. MURAKAMI: Are you speaking of  
23 a specific instance, or --

24 MR. SHAIN: I'm talking about the  
25 entire concept of moving 25,000 people onto the



1 land right now.

2 Alan, the reason I'm asking you  
3 this question is, the Federal government  
4 refuses to show up here.

5 MR. MURAKAMI: That's right.

6 MR. SHAIN: There seems to be  
7 something happening at the State government  
8 level --

9 THE CHAIR: Excuse me. Could you  
10 speak into the microphone. They can't hear  
11 you.

12 MR. SHAIN: The Federal government  
13 refuses to show up here, and I think it was  
14 Paul who brought forward the statement by  
15 President Reagan saying that "we're not  
16 responsible," this letter that Ozzie and Al  
17 talked about, that the Federal government is  
18 not responsible.

19 I look at the State with the  
20 executive orders taking 16 prime pieces of land  
21 and, you know, \$1 a year for Waimanalo Beach,  
22 things like that, the Federal government  
23 reserves, et cetera.

24 Where is the breach? Who is  
25 responsible?

1 MR. MURAKAMI: I think the breach  
2 initially is their failure to recognize their  
3 responsibility, the U.S. government.

4 MR. SHAIN: You feel the breach is  
5 at the U.S. government?

6 MR. MURAKAMI: Sure. You have a  
7 trustee that doesn't even recognize his duties,  
8 and I consider that a breach.

9 MR. SHAIN: Okay.

10 MR. LUCAS: I see it as being  
11 both. I see it as both the United States and  
12 the State.

13 MR. MURAKAMI: Well, in the sense  
14 that the Federal government is debating the  
15 issue, it is really calling attention to the  
16 fact that unless you get somebody to recognize  
17 his duties, you're never going to get that  
18 entity to act properly, and we unfortunately  
19 have this current debate.

20 If you look at the records ten  
21 years ago, the Solicitor General was saying the  
22 United States has a role as a trustee for  
23 Hawaiian people. So they basically have  
24 inconsistent positions being expressed  
25 depending on the administration in office at

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1 the time.

2           Now, rather than trying to debate  
3 it, I think that what's been attempted, at  
4 least in this past session -- And hopefully  
5 this will be brought up in Congress -- is that  
6 we clarify this legislatively, and that's what  
7 the "purpose clause" bill was intended to do,  
8 was to clarify that the United States does have  
9 this trust responsibility.

10           If that piece of legislation is in  
11 effect consented to by Congress, then there  
12 will be no debate. But until we get that  
13 resolved, we will run into this position of the  
14 Republican administrations.

15           MR. SHAIN: One more question, and  
16 maybe we should keep it to a pretty short  
17 answer.

18           MR. MURAKAMI: Yes.

19           MR. SHAIN: Before sovereignty  
20 does take place and the Hawaiian people get  
21 together to discuss what their sovereignty  
22 should be, what is -- in terms of the corporate  
23 role, how do you see this model working with  
24 -- with also having communications from the  
25 Hawaiian people into it?

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1           Would the Federal government just  
2 be a fiduciary agency, the State government  
3 would administer it, Hawaiian Home Lands would  
4 implement it, and hopefully there would be some  
5 communications from the Hawaiian people to make  
6 this thing happen? I'm talking about pre-  
7 sovereignty.

8           MR. MURAKAMI: Pre-sovereignty?

9           MR. SHAIN: Yes.

10           What's the model that you think  
11 this Commission should recommend that at least  
12 has a shot of working?

13           Okay. I'm done.

14           MR. MURAKAMI: I don't think  
15 there's a magic formula, and there are many  
16 people advocating different roles for  
17 sovereignty.

18           MR. SHAIN; No, I'm sorry, not to  
19 the role of sovereignty.

20           Right now we have a problem.

21           MR. MURAKAMI: Sure.

22           MR. SHAIN: There's 96,000 acres  
23 being under lease, some even to people carrying  
24 foreign passports. How can we in the short  
25 term recommend -- what would your

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1 recommendation be to this Commission to  
2 recommend in terms of a corporate structure,  
3 pre-sovereignty? Sovereignty has nothing to do  
4 with this. Should the Federal government put  
5 funds into here? What is the recommendation in  
6 terms of the structure?

7 MR. MURAKAMI: Well, I guess maybe  
8 your question to me -- you said, "corporate  
9 structure." I'm not sure that that is a  
10 corporate mechanism.

11 But clearly what beneficiaries are  
12 seeking now is more help from the Federal  
13 government, and I think the State is also  
14 looking toward the Federal government. The  
15 bill is too high, and the State cannot pay it.

16 In terms of trying to get people  
17 on the land quickly, then clearly if more money  
18 was available, more people can be settled more  
19 quickly. What I have suggested is that that be  
20 pursued, in addition to trying to lower the  
21 cost by looking at lands that are available  
22 that could be used for homesteading that are  
23 currently not available.

24 And that has not so far, I think,  
25 been given serious attention. We have

1 suggested in the case of Lualualei -- I'm sure  
2 the Navy's position is going to be, "We need it  
3 for national security." They have lands that  
4 they have taken improperly, I believe, from the  
5 Hawaiian kingdom, lands that could be used for  
6 housing. These areas have to be explored in  
7 order to accomplish the task of identifying  
8 ways to lower the cost of settling people on  
9 the lands.

10 THE CHAIR: Another question?  
11 Anthony. Could you use the mike,  
12 please.

13 MR. VERICELLA: Sure.

14 With respect to the fact that the  
15 Federal government has said that they really do  
16 not have any responsibility except  
17 tangentially but that the State is really the  
18 trustee, they've also said that they do have  
19 responsibility if it's proven that the State is  
20 not living up to its trust responsibility, and  
21 then in that case their lead agency, which is  
22 the Department of the Interior, will involve  
23 the Department of Justice to then investigate  
24 the matter. And that is correct.

25 MR. MURAKAMI: Well, I think they

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1 have even put it more bluntly: that the  
2 Department of Justice has that role, not the  
3 Department of the Interior.

4 MR. VERICELLA: But the Department  
5 of the Interior, as lead agency, would have to  
6 work in conjunction with the Department of  
7 Justice to do so?

8 MR. LUCAS: Yes.

9 MR. MURAKAMI: That's  
10 theoretically what we're hoping to see, but  
11 what we don't see is that -- there is not a  
12 mechanism set up so that somebody with a  
13 problem can go see the Department of the  
14 Interior. "We've got a problem here. What do  
15 I have to do to make a complaint? What do I  
16 have to do to substantiate a complaint? Who do  
17 I have to see, and what time frame are you  
18 going to investigate and make a recommendation  
19 to Justice if you have to?" There's no  
20 procedure.

21 MR. VERICELLA: Since that is the  
22 case, in the meantime, while you're trying to  
23 get legislation to further involve the Federal  
24 government in their trustee responsibility,  
25 maybe a different approach could be a

1 recommendation from here that -- the Federal  
2 government's saying that the State has all the  
3 responsibility and can administer this trust or  
4 they have the skill to do so, and that's  
5 exactly what President Reagan has said.

6           In that case, we go through the  
7 State Legislature or the Governor himself to  
8 condemn or revoke all executive orders and  
9 government proclamations that were done before  
10 the federal Quiet Title Act ever existed.

11           And if he can rescind or revoke  
12 those, or the State Legislature does, then the  
13 federal Quiet Title Act doesn't even apply,  
14 because it can't apply legally after an illegal  
15 activity occurred in the first place, right?

16           MR. MURAKAMI: Your comments have  
17 a beautiful simplicity. Unfortunately --

18           MR. VERICELLA: That's why -- it  
19 can't be that simple.

20           MR. MURAKAMI: The problem is, it  
21 can never be that way. That was what the  
22 situation was with Lualualei.

23           MR. VERICELLA: Right.

24           MR. MURAKAMI: The executive  
25 orders were declared illegal in 1978 in a case

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1 involving another piece of land.

2 MR. VERICELLA: Sure.

3 MR. MURAKAMI: But the same  
4 principle applied.

5 MR. VERICELLA: Uh-huh.

6 MR. MURAKAMI: The problem is that  
7 the United States has sovereign immunity from  
8 suit, and until it consents to suit, it cannot  
9 be sued.

10 It consented to be sued on title  
11 matters in 1972. Before that, nobody could  
12 really sue. Okay?

13 MR. VERICELLA: Uh-huh.

14 MR. MURAKAMI: But it imposed a  
15 12-year statute of limitations. In other  
16 words, if it couldn't be brought within 12  
17 years, if it wasn't brought within 12 years,  
18 then you're out.

19 That was 13 years after we became  
20 a state when Judge Fong said Hawaii should have  
21 known -- or the Department of Hawaiian Home  
22 Lands should have known that the Department of  
23 the Navy was claiming this Lualualei property  
24 for its own. So you have this very Catch-22  
25 situation where you really can't do anything.

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1 THE CHAIR: Okay --

2 MR. MURAKAMI: Not until Congress  
3 changes it.

4 That's a good recommendation that  
5 you could make.

6 THE CHAIR: We're going to allow  
7 one more question.

8 MS. DALY: This is a very brief  
9 question, but I think it's important. Both of  
10 you have mentioned the denial of the NH's right  
11 to sue.

12 What could this Committee do? I  
13 noticed that you say we should make a  
14 recommendation. I think it would help this  
15 Committee make its recommendation if we knew  
16 the main reason why they are denied this right  
17 to sue. It helps to know the position of the  
18 Federal government, because you say that we do  
19 have -- the Native Hawaiians do have a right to  
20 sue the State but not the Federal government.

21 Can you just tell me their  
22 argument?

23 MR. LUCAS: I think the reason why  
24 is, they are claiming that they have no  
25 responsibility any more over the Act, that they

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1 no long serve as a trustee, they are just a  
2 supervisor. And so the real problem lies with  
3 the State, is what they're saying, so go ahead  
4 and sue the State, but don't sue us.

5 THE CHAIR: Okay.

6 Al?

7 MR. LARDIZABAL: Just to follow up  
8 the question -- but before I make that  
9 question: You know, Alan, you talked about  
10 money. The feds talk about \$500 billion to pay  
11 off the S&L's.

12 The question is: The feds are  
13 saying that -- on August 27, 1979, the former  
14 Solicitor of the Department of the Interior  
15 said that in fact the Department of the  
16 Interior had a trusteeship relationship with  
17 this Act. Then subsequently that was denied by  
18 the current administration; is that correct?

19 MR. MURAKAMI: And the previous  
20 one.

21 MR. LARDIZABAL: And the previous  
22 one.

23 MR. MURAKAMI: President Reagan's  
24 one.

25 MR. LARDIZABAL: And they also

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1 used the case of the Ninth Circuit Court, Bryce  
2 (phonetic) versus Hawaii, and Keaukaha-Panaewa.

3 MR. MURAKAMI: Uh-huh.

4 MR. LARDIZABAL: Is that the only  
5 reasons why they're saying that they have no  
6 longer a position of responsibility?

7 MR. LUCAS: I guess if you're  
8 taking it from the same letter, yes. I mean, I  
9 would --

10 MR. LARDIZABAL: What do you  
11 think?

12 MR. LUCAS: That would be my  
13 response, but again, it's a footnote and it's  
14 -- I would argue that in that particular case,  
15 they were determining whether or not Native  
16 Hawaiians had a right under the Act to enforce  
17 -- under the Hawaiian Homes Commission Act to  
18 sue the State government for their breach of  
19 trust, and in doing so the court had to analyze  
20 certain factors.

21 One of them was the legislative  
22 history and the language of the Act. In doing  
23 so, the court in Keaukaha made that little side  
24 comment, now.

25 MR. LARDIZABAL: That's what

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1 they're using?

2 MR. LUCAS: Yes.

3 MR. LARDIZABAL: Okay.

4 THE CHAIR: Okay.

5 Mr. Dulles, have you got any  
6 questions for them?

7 MR. DULLES: No questions.

8 THE CHAIR: Okay.

9 I'd like to -- on behalf of the  
10 Advisory Committee, Mr. Murakami and Mr. Lucas,  
11 thank you so much for your exhaustive research  
12 into this matter.

13 You will be contacted, and I know  
14 that we can work hand in hand with some  
15 solutions for our final report. Thank you so  
16 much, gentlemen.

17 MR. LUCAS: Thank you.

18 MR. MURAKAMI: Thank you.

19 THE CHAIR: Now I would like to  
20 call upon the current legislative and policy  
21 issues. Mr. Williamson Chang, Director of the  
22 Native Hawaiian Advisory Council.

23 I would like you to state your  
24 name.

25 I would like to apologize, first

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1 of all, for going into your time, but this was  
2 a very informative thing we have to cover.

3 State your name, please, and who  
4 you represent, and if you have a prepared  
5 statement, if you could summarize and then we  
6 can ask you questions on it.

7 Have you got one?

8 MR. CHANG: I do not have a  
9 prepared statement.

10 THE CHAIR: Okay. Go ahead.

11 MR. CHANG: There is no need for  
12 an apology. The issues are important, and I  
13 understand.

14 THE CHAIR: Thank you.

15 MR. CHANG: My name is Williamson  
16 B.C. Chang. It is stated on the agenda that  
17 I'm a director of the Native Hawaiian Advisory  
18 Council. That is correct. That's a 501C  
19 community organization whose purpose is to  
20 provide Native Hawaiians with free legal  
21 assistance as to water rights.

22 However, I am testifying today  
23 here in strictly a personal capacity. My  
24 remarks are not to be attributed to that  
25 organization, nor to any other institution that

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1 I have been affiliated with.

2 I would also like to make it clear  
3 on the record that as of June 30, I was no  
4 longer special counsel for the United States  
5 Senate Select Committee on Indian Affairs, and  
6 I left the employment of Senator Daniel Inouye.

7 I have checked with the United  
8 States Select Committee on Ethics. There is no  
9 problem with testifying before this Commission  
10 under the so-called Deaver Rule, the one with  
11 the prohibition against lobbying. So clearly  
12 the testimony is exempt, and clearly when one  
13 is not representing any organization, one is  
14 not lobbying.

15 That aside, I would like to say  
16 that I will not get into -- I think I have only  
17 got a half an hour. I would like to just  
18 simply present the big picture of what I see as  
19 the long-term and the short-term reasons for  
20 the Federal refusal to admit their  
21 responsibility as trustees to the Hawaiians.

22 The anecdote that I would like to  
23 start with, it was at the last hearing that  
24 Senator Inouye held in Honolulu. It was a  
25 follow-up hearing on the "purpose clause,"

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1 and the hearings were in Molokai and in  
2 Honolulu.

3                   At the last afternoon in Honolulu,  
4 what someone on the panel -- and this included  
5 Senator McCain who said something about  
6 Indians, and a gentleman in the first row,  
7 obviously Hawaiian, shouted out, "We're not  
8 Indians." There was a hush-hush-hush.

9                   I would like to say that this is  
10 the issue: Are Hawaiians Indians or not? It  
11 cannot be explained that simply, but frankly,  
12 they are not. As a law professor, my opinion  
13 is that Hawaiians are not Indians, and this is  
14 the whole reason we have this problem.

15                   Let me start by saying that the  
16 United States' relationship with the Hawaiian  
17 nation, Hawaiian people, is absolutely unique,  
18 and that is the reason why placing them within  
19 the Indian context is primarily a matter of  
20 practical significance; that the United States  
21 will not even dare to explore its true  
22 relationship with the Hawaiian people because  
23 it raises issues that undermine the fundamental  
24 concepts on which this nation was based,  
25 namely, that Hawaii, as everyone knows, was a

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1 nation that was annexed.

2           What other nation has the United  
3 States completely annexed? None. We cannot  
4 compare the annexation of Hawaii with the so-  
5 called Louisiana Purchase or the Oregon  
6 Purchase, the annexation of Texas, because  
7 those were basically acquisitions of property,  
8 not political sovereignty.

9           People forget that the use of the  
10 term, "annexation," in the Hawaiian context is  
11 misleading. When France sold Louisiana to the  
12 United States, that was an annexation of  
13 property. There are constitutional provisions  
14 under two property clauses that allow Congress  
15 to do this. But the annexation of Hawaii was  
16 the annexation of the political rights and  
17 independence of a complete nation against its  
18 will.

19           It cannot be compared with Texas,  
20 either, because the annexation of Texas did not  
21 dissolve Mexico, which was claiming Texas, as  
22 well.

23           The annexation of Hawaii wiped off  
24 the face of the Earth a nation by a unilateral  
25 act of the United States Congress in a joint

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1 resolution.

2           First, if one does a cursory  
3 review of the United States Constitution, there  
4 is no power in the United States to annex a  
5 political entity. It can buy property. No  
6 problem. But point to me where in the  
7 Constitution the United States has the power  
8 without a plebiscite to annex a nation.

9           Of course, the modern parallel is  
10 Lithuania, which is a country that was annexed  
11 by a joint agreement of Hitler and Stalin. It  
12 was a separate country, but at least there was  
13 the legal fiction of a vote of the people.

14           So the problem that we have here  
15 is that Hawaiians are not Indians. Indians  
16 claim a nation-to-nation relationship based on  
17 Supreme Court definitions of what a nation is,  
18 but first there must be a declaration that the  
19 Indian tribe is a tribe. In other words, there  
20 is a legal distinction between recognized  
21 tribes and non-recognized tribes.

22           There are approximately 400  
23 recognized tribes and 20 non-recognized tribes.  
24 You have to meet a list of criteria to become a  
25 recognized tribe. What is the criteria? Well,

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1 you have to be in existence for so long. You  
2 have to have a leader. You have to have  
3 customary law. You have to have an area that  
4 you considered your own. So people ask: Are  
5 Hawaiians a tribe? And they say, "of course."  
6 But that's like saying France is a tribe. Of  
7 course, France has got an organization, a  
8 government. But France is more than a tribe.  
9 It's a nation.

10           Hawaii had a legal code. It did  
11 not have customary law. It had the legal code  
12 that it has today, the land court system. In  
13 other words, to say Hawaiians were a tribe and  
14 therefore to jigsaw within Indian rights is to  
15 miss completely the unique status of the  
16 Hawaiian situation.

17           In other words, Hawaiians are not  
18 a tribe. Hawaiians are a nation. Therefore,  
19 the reason that we should be before you and the  
20 Civil Rights Commission is not race  
21 discrimination, it's national origin  
22 discrimination.

23           In other words, Hawaiians may be a  
24 race, but what would the race be? Polynesian.  
25 What they are, are a nation of citizens being

1 discriminated against, and that may include  
2 people who were loyal citizens of Hawaii  
3 without Hawaiian blood. A loyal Chinese  
4 citizen is a member, a citizen of a nation. In  
5 other words, the idea is not tribal status but  
6 citizenship. That's how I see it.

7                   Now, the problem is, the United  
8 States has gone through a heart-wrenching  
9 debate with its conscience about Hawaiians.  
10 Well, unfortunately, that debate took place 10  
11 years ago.

12                   When the United States made a  
13 decision to annex Hawaii, if you examine the  
14 congressional documents and the public  
15 statements and the newspaper clippings from  
16 that era, it took 10 years, and it was the main  
17 issue of the United States political debate.  
18 It wasn't like someone slipped this one  
19 through. Many, many people, including  
20 congressmen and senators, saw this as an  
21 immoral act; they did not want Congress to do  
22 this.

23                   So if you study the 10-year period  
24 after the overthrow -- Well, it's a 5-year  
25 period, but going back -- and you examine the

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1 newspapers from Maine, Minnesota, and Iowa,  
2 editorials against the annexation of Hawaii,  
3 people knew that this was fundamentally wrong,  
4 against the principles of the Declaration of  
5 Independence, and also a stupid thing to do.

6           So there are people that are  
7 heroes that we don't know about, senators from  
8 Maine, senators from Indiana who got up on the  
9 floor and said, "This is wrong." So what does  
10 that prove in terms of the United States  
11 Federal responsibility? It proves that this  
12 was unique. And ultimately, of course, those  
13 congressmen who desired annexation won out.  
14 But let me point out that in the years prior to  
15 1893, all of the discussions of the United  
16 States and Hawaii becoming one nation were to  
17 utilize the legal mechanism of the treaty:  
18 Both sides sign.

19           This was not done by treaty.  
20 Treaty could not have been accomplished. This  
21 was done by annexation, simply a resolution of  
22 Congress. And you know that a resolution is  
23 not a law; it is a rather easy thing to pass in  
24 the State Legislature if you want something to  
25 simply be on the record.

1                   Why a resolution, the weakest form  
2 of congressional action? Because there were  
3 enough senators -- And only the Senate can  
4 approve a treaty on a two-thirds majority --  
5 enough senators were against the annexation of  
6 Hawaii that that treaty did not pass.

7                   So the end run political play was,  
8 the President of the United States, who had won  
9 his election based on expansionism in the  
10 Pacific -- He campaigned on "We want to become  
11 an empire; we want the Philippines; we want  
12 Hawaii" -- he won by simply proposing that  
13 Congress pass a joint resolution accepting the  
14 gift offer from the provisional Hawaiian  
15 government led by Sanford Dole.

16                   That joint resolution only  
17 required a majority vote, and they had a  
18 majority in the Senate and they had a majority  
19 in the House. But let me tell you that if you  
20 examine the congressional history, it was a  
21 very, very tough fight. Why? Because they  
22 knew that this was wrong.

23                   Basically the reason for the  
24 annexation of Hawaii had nothing to do with --  
25 anything to do with the Hawaiian people. It

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1 wasn't like the British wanting to civilize the  
2 Hawaiians. The Hawaiian people were viewed as  
3 a nation with a culture, a nation with a  
4 history. The particular reasons for  
5 annexation of Hawaii were, one, geopolitical in  
6 terms of its strategic location, and the second  
7 was economic.

8                   Now, a compromise was struck in  
9 Congress at that time by the opponents of  
10 annexation with those who wanted it. Either  
11 the sugar barons or the military, led by the  
12 Navy, wanted Hawaii as their coaling station.

13                   The deal was basically this:  
14 "Okay, this is an immoral act, but you promised  
15 us that if you take over Hawaii, you preserve  
16 the day-to-day lifestyle, customs and  
17 traditions of the Hawaiian people. They are  
18 good people. We want to be sure that their  
19 life goes on as before. You can change the  
20 political status of Hawaii from nation to  
21 territory, but promise us that you will not  
22 destroy this race of people.

23                   Few people know about this to  
24 date.

25                   THE CHAIR: Let me interrupt you.

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1                   What we have to do, we have to  
2 kind of confine ourselves to the core  
3 questions. I mean, you know, it's beautiful  
4 what you're coming out with, but our time  
5 constraints don't allow us to go into stuff  
6 like this. So mainly this body is looking for  
7 direct recommendations from you as to how our  
8 final report can be put together to make an  
9 impression on our Commission's recommendations  
10 to the President and the Congress.

11                   So if you can confine your --

12                   MR. CHANG: I promise you I will  
13 compress everything I say.

14                   THE CHAIR: Well, okay.

15                   MR. CHANG: You just let me know  
16 if I'm wandering, okay?

17                   THE CHAIR: I will.

18                   MR. CHANG: All right. You do  
19 that.

20                   What I'm simply saying is that  
21 three documents -- and the one that we're  
22 concerned with is the third -- the first is  
23 the Newlands (phonetic) Resolution on  
24 Annexation, the second is the Act of 1900, and  
25 the final one is the 1921 White House

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1 Commission Act -- were structured around a  
2 compromise of the promise to keep Hawaiians  
3 basically living in their lifestyle.

4           The Annexation document says:  
5 "The public lands, the so-called ceded lands,  
6 taken from the Hawaiian government shall be  
7 used for the inhabitants of Hawaii" which, at  
8 that time, meant Hawaiians. In other words,  
9 the whole point of the so-called 5F Trust that  
10 we see today was, Hawaiians were to be  
11 protected.

12           The 1900 Organic Act that was  
13 restated -- but the thing is, the people who  
14 administered both acts did not understand the  
15 unique public trust relationship, and by 1920  
16 Hawaiians had been totally left out, so  
17 Congress entered into a special congressional  
18 act setting aside from those lands special  
19 lands for Hawaiians.

20           The key issue, Chairman Maxwell,  
21 is that by the time of statehood the term  
22 "inhabitants of Hawaii" was read in the wrong  
23 context. It was read in the context of 1959 as  
24 opposed to 1898.

25           And who do we have in Hawaii in

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1 1959? Hawaiians are a substantial minority,  
2 and the term "inhabitants of the islands" was  
3 read to be "general public," so that the 5F  
4 Trust gets read as a trust that includes the  
5 general public, meaning all the other people  
6 who came afterwards. That explains a lot of  
7 the reluctance of the State to introduce a 5F  
8 Trust for Hawaiians.

9                   Now, let's turn over to the issue  
10 of today, which is the Hawaiian Homes  
11 Commission Act. Now, the Hawaiian Homes  
12 Commission Act -- I said Hawaiians are not  
13 Indians. What are they doing under the U.S.  
14 Senate's Select Committee on Indian Affairs?  
15 That's a very good question.

16                   As you know, the Hawaiian Homes  
17 Commission's amendments go first to the Energy  
18 and Public Lands Committee of the Senate,  
19 because Hawaiian lands are public lands. But  
20 there is an agreement that given the indigenous  
21 status of Hawaiians, the Senate Select  
22 Committee on Indian Affairs has paramount  
23 jurisdiction.

24                   So where does the Federal trust  
25 begin from? It begins from the compromise

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1 struck in Congress and continued through 5F,  
2 which has been misinterpreted in terms of the  
3 general public. The reason that the Federal  
4 government refuses to acknowledge its  
5 obligation is that at the time of statehood,  
6 the deal that was struck was: We give you  
7 statehood, you take care of the Hawaiians. We  
8 don't want any more responsibility.

9           The problem is, the people who  
10 negotiated that agreement did not represent the  
11 Hawaiian nation, and therefore they did not --  
12 and neither did they understand the original  
13 compromise struck by Congress in 1898. Hence  
14 the Federal government does not want to  
15 acknowledge that arrangement, and, if it is  
16 pushed to acknowledge it as Hawaiians being a  
17 tribe, they have some fairly good legal  
18 arguments, which are: They're more than a  
19 tribe; they're not really a tribe; they're not  
20 a recognized tribe.

21           The Interior Department has been  
22 using that to deny Federal responsibility. But  
23 what I'm saying the big picture is, is that  
24 Congress itself has forgotten the compromise  
25 that created initial Federal responsibility.

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1                   The purpose of Senator Inouye's  
2 work has been to return to Congress, to remind  
3 them that it was they who created the fiduciary  
4 duty, and it's their administrators up until  
5 statehood who misapplied and did not interpret  
6 it correctly. It is their negotiators who let  
7 the State off the hook in terms of defining  
8 who are the beneficiaries of the 5F Trust, as  
9 well as Hawaiian Homes Commission Trust.

10                   So this is why it's so  
11 complicated.

12                   THE CHAIR: Okay.

13                   Any questions from the panel?

14                   I have to advise you that the  
15 audience can't hear the panel members, so  
16 please speak into the microphone.

17                   MR. LARDIZABAL: Mr. Chairman.

18                   Mr. Chang, you stated that for  
19 statehood, a deal was struck. Are there any  
20 records indicating that these feds did convey  
21 and the State agreed to the conveyance of that  
22 responsibility, or is this just your opinion  
23 that we've heard?

24                   MR. CHANG: I don't understand the  
25 question.

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1 MR. LARDIZABAL: Well, you say a  
2 deal was struck. Was there any records to show  
3 that the State accepted the responsibility that  
4 the feds got out of?

5 MR. CHANG: Well, I won't say yes  
6 or no, because I would like to do legal  
7 research on that.

8 What I would say is that to me,  
9 clearly the Federal government is saying that  
10 "As of 1959, we are not responsible for  
11 Hawaiian Homes or 5F."

12 And if you look at the records,  
13 the records that I have looked at, there was  
14 much discussion on who 5F and Hawaiian Homes --  
15 the Federal government was very worried that  
16 the State would not take care of HH. Many  
17 promises had to be made.

18 If one looks at the discussion --  
19 the papers -- the negotiations for statehood,  
20 it's clear that the Federal government was  
21 worried that the State would not fulfill its  
22 obligation. But they did not -- but one of the  
23 compromises of statehood is: "If you want to  
24 be a state, take care of your own people. We  
25 don't want a continuing obligation."

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1                   Now, I don't consider that to be a  
2 valid legal reason for them signing off  
3 because, one, the Hawaiian people were not  
4 represented in these negotiations. Can you  
5 consider the territorial government to have  
6 represented the nation that was destroyed in  
7 1893?

8                   In other words, Hawaiians were  
9 looked upon as if they were one of the many  
10 different races in Hawaii as opposed to a  
11 separate national entity that lost its  
12 citizenship. It was not just a low-income  
13 group that needed special help, but had a  
14 particular legal claim that had never before  
15 been recognized in American history.

16                   THE CHAIR: Thank you.

17                   Any more questions?

18                   Mr. Dulles?

19                   MR. DULLES: No.

20                   MS. DALY: Do you have any  
21 specific recommendation that could help this  
22 Committee prepare its report, something that is  
23 very important for us to state or something  
24 that we should do that's specific?

25                   MR. CHANG: Well, the history that

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1 I've given you is the first thing that must be  
2 made clear: that Congress does not remember  
3 the compromise, that it itself did this awful  
4 deed, in other words, annexed a people without  
5 any votes, completely against American  
6 principles.

7                   It did this awful deed only by  
8 promising the Hawaiians that the Hawaiians  
9 could live in the lifestyle that they had, as  
10 they did before. That was the whole point of  
11 the Hawaiian Homes Program. But they got it  
12 all wrong.

13                   Hawaiians cannot be simply plugged  
14 into American institutions like 40 acres and a  
15 mule. Hawaiians live in a communal system  
16 around valleys. They didn't have property.  
17 They forgot all that.

18                   So the first point is that  
19 Congress must be reminded that it must -- in a  
20 series of bills starting with the "purpose  
21 clause", in my mind, then going to the Trust  
22 Council bill -- realize that it had this  
23 responsibility, that it is explicit. It's not  
24 just something that's floating around there.  
25 It's in the Hawaiian Homes Commission Act. It

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1 must be corrected.

2 MS. DALY: I know how lawyers love  
3 to talk, so I won't encourage you, but I just  
4 think what you're saying, really, is education;  
5 That's the main thing. You can try to educate  
6 these people.

7 MR. CHANG: Well, I understand  
8 that you're basically advisory. Well, one  
9 thing that you can do is to educate Congress.  
10 They feel that the Hawaiian claims to health  
11 funds are the claims of poor people who need it  
12 simply because they're poor. That's not true.  
13 The claims go back clear to the destruction of  
14 a national entity, now, which is totally  
15 unique.

16 I mean, they view us as a welfare  
17 program, a food stamp program, and therefore  
18 we're, you know, competing only if we can show  
19 that we're hardship cases. That is not the  
20 issue.

21 Yes?

22 THE CHAIR: However, we have got  
23 to bear in mind -- and I think we have to keep  
24 apart the fact that the annexation or the  
25 Hawaiian Homes Act is not any sort of

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1 reparation because of the annexation. That has  
2 to be not linked together with reparations.  
3 It's two separate -- it's a separate issue.

4 MR. CHANG: I agree totally. The  
5 Hawaiian Homes Commission Act is explicit. It  
6 is the lands withdrawn from the public lands  
7 that were set aside for the Hawaiians, and  
8 Congress saw that their administrators were  
9 failing so they wanted to make it very clear  
10 what the purpose of the things is. It is not  
11 reparations. Of course not.

12 It was -- we aren't even  
13 fulfilling the promise we made to you in the  
14 beginning. Reparations go back to that initial  
15 annexation. The compromise was an unholy  
16 compromise. But even the promises they made  
17 -- The devil's promise to take care of you in  
18 exchange for your citizenship -- they're not  
19 even fulfilling that. That's the awful part of  
20 it.

21 MS. SAUNDERS: Mr. Chairman?

22 THE CHAIR: Yes.

23 MS. SAUNDERS: Mr. Chang, the  
24 United States government in its relationship to  
25 the Trust Territory of the Pacific Islands had

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1 recognized that local custom should be  
2 incorporated with American legal precedent.

3           Was there any recognition in the  
4 annexation that Hawaiian custom would have any  
5 legal standing?

6           MR. CHANG: Yes. But the point  
7 is, when Hawaii was annexed, it was not a tribe  
8 of people who did not have written laws. It  
9 was a sophisticated nation with an extremely  
10 sophisticated legal system. There's no problem  
11 with looking at the legal system there and  
12 saying, "This is the law of Hawaii."

13           In that law itself, it recognizes  
14 customary law.

15           THE CHAIR: Thank you.

16           Ozzie?

17           MR. STENDER: Only one, Mr.  
18 Williamson.

19           What is the vehicle that is needed  
20 to correct the wrong that was done at  
21 annexation and to get the Federal government to  
22 admit to the issue you mentioned? What is the  
23 issue of that bill that you passed through  
24 Congress, that you sue the Federal government  
25 -- or what is the vehicle that we need to

1 correct that wrong?

2 MR. CHANG: The most viable  
3 vehicle is, the Federal government is sitting  
4 on 400,000 acres of land, of ceded lands,  
5 federally-occupied ceded lands that are not  
6 paid for, nor are they paying rent. When they  
7 start a national park somewhere else, they buy  
8 it. How about paying some rent or giving it  
9 back?

10 THE CHAIR: Okay.

11 Mr. Chang, thank you so much for  
12 your participation in this meeting of ours,  
13 fact-finding meeting, and your comments will be  
14 taken into consideration and into our final  
15 report. Thank you.

16 MR. CHANG: Thank you, Mr.  
17 Chairman.

18 THE CHAIR: I would like to call  
19 up now Mililani B. Trask, Kia 'Aina, Ka Lahui  
20 Hawai'i, and Colette Machado, Ke Kua'aina  
21 Honaunau (sic) Hou.

22 MS. MACHADO: Hanauna.

23 THE CHAIR: Hanauna, sorry.

24 Never offend someone from Molokai.

25 MS. MACHADO: Not if you want me

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1 to carve you a dugout.

2 THE CHAIR: I would like for you  
3 to state your name and who you represent. If  
4 you have written testimony, if you can,  
5 summarize it, so to speak, instead of going  
6 over it. Then we can ask you a lot of  
7 questions.

8 MS. TRASK: Aloha, Charlie --

9 THE CHAIR: Aloha.

10 MS. TRASK: -- and members of this  
11 Commission. It's a pleasure to be here again  
12 to present testimony for you.

13 I am here in my capacity as Kia  
14 'Aina of Ka Lahui to represent our 7,000 Native  
15 citizens. When you were here in 1988, we had  
16 just completed our first constitutional  
17 convention. At that time, we had 250 members.  
18 Since that time, we have enrolled 7,000 Native  
19 Hawaiians into our nation.

20 We recently completed an election  
21 which was certified by the League of Women  
22 Voters, and we now have a seated legislature  
23 representing 33 districts. We have 64 Native  
24 Hawaiian and Hawaiian elected representatives  
25 and an executive of four people, of which I

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1 happen to be the governor.

2           The letter that I received from  
3 the Civil Rights Commission posed certain  
4 questions for me and asked me to respond, to  
5 make answers to them. In my testimony, what  
6 I've done is, I've divided my testimony into  
7 three parts. The first are responses -- brief  
8 -- to those specific interrogatories that were  
9 posed.

10           In the second part of my  
11 testimony, what I've done is try to direct your  
12 attention to what I feel is the larger problem,  
13 which is an inherent conflict of interest both  
14 by the State and the Federal government with  
15 regards to the Hawaiian Home Lands as well as  
16 the ceded lands.

17           And then in the third part of my  
18 testimony, I am presenting for your  
19 consideration some short-term recommendations,  
20 as well as some long-term recommendations.

21           Firstly, under responses to  
22 interrogatories: Have the Federal and State  
23 governments met their trust obligations to the  
24 Native Hawaiian people under the Hawaiian Homes  
25 Commission Act? With regards to the United

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1 States, the answer is no.

2 I am in possession of the letters  
3 that have been sent to you by Interior, as well  
4 as the letter sent by Interior to Senator  
5 Inouye in October. The Department of the  
6 Interior has retracted the position that it  
7 stated to this Commission in 1979. The  
8 documents before me indicate that, in fact, the  
9 Department of the Interior is now relying upon  
10 footnote number 7, which appears at the bottom  
11 of the page half-way through the Keaukaha  
12 decision. Interior's legal basis of relying  
13 upon this is pretty thin. The Keaukaha case  
14 did not address, and the question of Federal  
15 obligation was not briefed or argued in  
16 Keaukaha.

17 That little footnote -- was -- is  
18 dicta in the case, and legally it means  
19 absolutely nothing. What it means politically,  
20 though, is a matter of great import. What it  
21 means is that the Department of the Interior is  
22 trying to escape out of its obligations. And  
23 this Commission is very well aware what was  
24 happening in 1979.

25 You were beginning your inquiry.

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1 Where we are 11 years later is that the  
2 evidence of the extensiveness of the breach,  
3 the injury, and the cost for repairing the  
4 trust is now very clear, and so Interior is  
5 changing its mind. I feel that Interior's  
6 position is bad faith, and I think that there  
7 are other incidents of bad faith that I would  
8 like you to look at.

9           In 1989, we had Ms. Ruth Van  
10 Cleve, who was a commissioner with me on the  
11 State-Federal Task Force. She worked with me  
12 for nine months. We have her coming in to  
13 testify before Senator Inouye, saying that the  
14 State was in compliance with the  
15 recommendations of the Federal-State Task  
16 Force.

17           Ms. Van Cleve had flown into the  
18 state 24 hours earlier. She had not, from 1983  
19 to 1989, monitored any of the State's  
20 activities, and yet she flew in, paid by  
21 Interior, and made a statement that there was  
22 compliance.

23           We also have both Ms. Van Cleve  
24 and Tim Glidden appearing before Senator  
25 Bennett Johnston's committee in March of 1990,

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1 and I really hope that this Commission will get  
2 a copy of the oral transcript of their  
3 testimony before Senator Bennett Johnston.

4           They were asked -- with regards to  
5 their review of the proposed amendments of the  
6 Hawaiian Homes Commission Act, they were asked  
7 what they actually did to review those  
8 amendments and the impact of those amendments.  
9 Ms. Van Cleve's statement was that they  
10 basically read the documents to see if there  
11 were any typographical errors. I think that  
12 that is clear indication of where Interior is  
13 coming from.

14           The State has failed miserably to  
15 uphold its trust obligations. You don't have  
16 to go much further than the 1989 audit of the  
17 Department of Hawaiian Home Lands to have the  
18 evidence on that. Now, the Deloitte Haskins &  
19 Sells audit was a soft audit, but although  
20 that was true, they could not in any way hide  
21 the extensiveness of the problems with the  
22 Department.

23           The State itself has undertaken  
24 procedures to avoid funding the Department of  
25 Hawaiian Home Lands while making it appear as

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1 though they are funding the Department. In my  
2 testimony, I have attached for your review the  
3 HUD memo that was sent by the local HUD office  
4 to the national.

5           When you talk -- when you see the  
6 campaign propaganda that's coming out, the  
7 statement is that the State has provided \$80  
8 million to the Department of Hawaiian Home  
9 Lands. When you read the legislation, you'll  
10 see that about 26 million was grant; the other  
11 50 million was bondable.

12           The bonding requirement was  
13 imposed upon the fiscal appropriation with full  
14 knowledge of the Governor and the legislature  
15 that the Department by statute would not be  
16 able to float \$50 million in bonds. You can't  
17 float that kind of bonding unless you have the  
18 liquid capital to pay back the bond.

19           So if you say, "Department, here's  
20 50 million. All you have to do is float bonds"  
21 -- And there's not a single lending institution  
22 in the State that will give them a bond, and  
23 their own capital flow will not cover more than  
24 \$15 million worth of bonds -- you know that  
25 they're not going to use the money, and in fact

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1 the money will lapse back at the end of the  
2 period to the State.

3           We've got 20,900 Native families  
4 waiting. I don't see a possibility of settling  
5 them in the next 100 years. We have a very  
6 valuable second trust that should be made  
7 available to our people in the Ceded Lands  
8 Trust. We have instead the State enacting  
9 legislation in the form of H.B.2896 that  
10 waives the Native claim to 1.4 million acres of  
11 ceded lands. Those lands, and access to them  
12 and revenues, are needed by the beneficiaries  
13 of the Department of Hawaiian Home Lands if we  
14 are to address this problem.

15           Interrogatory two: To what extent  
16 has the State and Federal government responded  
17 to the specific findings and recommendations of  
18 the Task Force?

19           The State has undertaken certain  
20 cosmetic steps to resolve their accounting  
21 problems. They failed to pursue recovery of  
22 Lualualei until the statute had run. In my  
23 estimation, the State in passing the right-to-  
24 sue statute did not at all address the concerns  
25 of the Task Force.

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1           The Task Force wanted to seek  
2 State and Federal action with a right to sue  
3 that would allow beneficiaries to have access  
4 to their lands, monies to build homes, monies  
5 in the form of back rent. When you look at the  
6 State standing-to-sue statute that was passed,  
7 it says that Hawaiians can sue, but if they sue  
8 and win, the court cannot give them either land  
9 or money, and the court must return their land  
10 and money back to the State trustees that have  
11 just been found in breach of trust. If that's  
12 not an example of bad faith, I really don't  
13 know what is.

14           On the Federal side, we have had  
15 some fiscal appropriation in the last two  
16 years. We had about 2.4 million Federal  
17 dollars come down. These came down as  
18 discretionary funds from HUD.

19           I would like to point out that  
20 these funds came down for the infrastructure of  
21 the Pahe'ehe'e Ridge Association, primarily  
22 because when you were here in 1988, I submitted  
23 testimony to you pointing out that the civil  
24 rights of the Pahe'ehe'e Ridge Association had  
25 been violated.

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1                   By testimony presented by Ilimoki  
2 Iliiaia (phonetic) against them in the State  
3 Legislature. And as a result of that, the  
4 Department, working with Senator Inouye, was  
5 able to bring down this amount of funding.

6                   In 1989, the Affordable Housing  
7 Alliance and the Gibson Foundation, of which I  
8 am executive director, presented requests to  
9 Senator Inouye for amending the HUD laws so  
10 that we could have access to programs for  
11 elderly housing, mortgage insurance. Senator  
12 Inouye's staff refused to carry the  
13 legislation.

14                   We worked this last year to have  
15 the legislation put into the House through Pat  
16 Saiki. We cleared the House yesterday, and we  
17 are currently using that approach to get  
18 Senator Inouye now to support identical  
19 language so that we can move that through. We  
20 did not receive the support of Hawaiian Homes  
21 Commission Act or the Department of Hawaiian  
22 Home Lands in these efforts, but nevertheless  
23 that is something moving on the Federal level.

24                   We have tried for many years to  
25 get Federal standing to sue. I've attached my

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1 testimony on this matter for you to review. We  
2 have not been successful. I would like to you  
3 read the exhibits to my testimony.

4           There's a letter in there to me  
5 from Senator Inouye dated 1988 saying that he  
6 would not -- would not -- move legislation for  
7 Federal standing to sue because he had been  
8 asked to hold off by the Governor, who was  
9 preparing a land settlement of the ceded  
10 lands.

11           This letter came to me in 1988.  
12 The legislation depriving our people of their  
13 ceded land entitlements did not come out  
14 publicly until 1989. I consider that this  
15 letter is evidence that Senator Inouye was well  
16 aware that the State and the Office of Hawaiian  
17 Affairs were taking action to gut the Native  
18 entitlements for the ceded land.

19           In 1990, we have legislation being  
20 proposed as a "purpose clause." The State bill  
21 3236, the Federal corollary being 349, Ka Lahui  
22 and I oppose that legislation. In seven and a  
23 half weeks we got 32,000 signatures against the  
24 Inouye purpose bill. What it does is it's  
25 cosmetic, and it's campaign-year grandstanding.

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1                   We do not need a "purpose clause"  
2 to the Hawaiian Homes Commission Act saying  
3 that there is a Federal trust obligation unless  
4 we can have, number one, same way to enforce  
5 that obligation; number two, some clear  
6 definition as to what the Federal obligation to  
7 our people really is; and number three, the  
8 financing to achieve the goal.

9                   If you look at the Native American  
10 cases that have been coming before the Supreme  
11 Court of this country for the last 15 years,  
12 what you're going to see is 15, 20, 30 years  
13 worth of litigation because Indians got a  
14 statement saying, "The Federal government has a  
15 trust obligation to you, but they never defined  
16 it."

17                   We don't want to be in that  
18 position, and we don't to see 3236 passed into  
19 law. That legislation is dead in Washington.  
20 I have just returned from Washington. There is  
21 a possibility that it will move again next  
22 session, but we will oppose it unless the  
23 substantive amendments are made that we have  
24 requested.

25                   Interrogatory three: What

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1 assistance do we have from the Federal and  
2 State to implement the Act? We have 2.4  
3 Federal dollars. The State has made some  
4 nominal efforts to finance.

5 Interrogatory number four: Are  
6 the existing Federal oversight and State  
7 administrative mechanisms adequate to assure  
8 effective implementation?

9 The answer is no. There really is  
10 no Federal oversight mechanism in place.  
11 There's Tim Glidden saying, "I have the  
12 responsibility," but not doing much other than  
13 reading for typographical errors.

14 We have a State administration  
15 that cannot function properly, has a 42 percent  
16 staff vacancy in its Honolulu office, is  
17 woefully underfunded, and we do not have  
18 access to the State or Federal courts for  
19 meaningful judicial review. We have really no  
20 State or Federal oversight mechanisms really in  
21 place.

22 I would like to point out in this  
23 that just this past June, the Senate Select  
24 Committee in Washington had hearings on a piece  
25 of legislation that could have addressed this

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1 problem, the oversight problem. And what it  
2 was, was, it was Bill 2451 creating a special  
3 trust oversight office, person, counsel within  
4 the Department of the Interior.

5           That person, Federal trust  
6 counsel, was to look after the Federal uses and  
7 obligations relating to Indian trust assets.  
8 Not only were Hawaiians not included in the  
9 bill, but the bill was circulated in Hawaii  
10 stamped "Confidential" all across the top of  
11 it, and I got a copy of it quite by accident.  
12 I filed it as an exhibit.

13           Ask yourself this question: Why  
14 is Federal legislation dealing with Federal  
15 trust oversight to Native Americans coming for  
16 hearing within one week in Washington, D.C. --  
17 why is that legislation not circulated in  
18 Hawaii and, instead, transmitted to Eddie Ayau  
19 of the Native Hawaiian Legal Corporation staff  
20 and to Inouye's home office stamped  
21 "Confidential"?

22           How is it possible that Federal  
23 legislation impacting Native benefits should be  
24 held confidential from the public? I think  
25 that this is a good indication of the great

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1 care that is being taken on the part of certain  
2 Federal delegates to make sure that we are not  
3 included and that these problems are not  
4 addressed.

5                   What specific recommendations do I  
6 have for you? Firstly, you know, people are  
7 saying that this Commission doesn't really have  
8 a lot of power, this Commission really can't do  
9 anything but advise. I want to urge you to do  
10 the best job you can.

11                   What we need is a detailed report  
12 documenting the extensiveness of the State and  
13 the Federal governments' breach of trust and  
14 their fiduciary obligations to our people. We  
15 need to have included in your reports specific  
16 references to testimony given by the Native  
17 beneficiaries at the Select Committee oversight  
18 hearings.

19                   We've had oversight hearings by  
20 Inouye in August of 1988, August of 1989, and  
21 May of 1990. The great wealth of the data is  
22 available for you. If we do not have a  
23 strongly worded and detailed report, we cannot  
24 in any event move legislation to correct the  
25 situation in Washington.

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1                   And let me tell you that in my  
2 meetings with Interior last week and also  
3 Justice, in Washington, they expressed great  
4 concern and anxiety and fear that this  
5 Commission may in fact do just that, because  
6 what they're banking on is that we'll go into  
7 Congress with legislation to correct this, that  
8 the testimony and the opposition of Interior or  
9 Justice would be sufficient to kill it.

10                   What they're worried about is that  
11 a strongly worded and supportive report from  
12 this Committee itself would be seen by Congress  
13 as reason to push aside Justice and Interior's  
14 opposition to legislation that we need.

15                   Point number two, we need access  
16 to Federal courts ourselves so that we can  
17 bring litigation to stop the wasting of the  
18 Hawaiian Homes and Ceded Lands Trusts. In my  
19 right-to-sue testimony, it has been included.  
20 It's very detailed.

21                   I'd like to see an amendment to 32  
22 USC 3761 that would allow us to go into the  
23 Federal courts. Other Native Americans have  
24 had the opportunity to go into court. I think  
25 that those -- that recommendation in your

1 report needs to be made clearly to the House  
2 and the Senate Judiciary Committees. You  
3 cannot take this to House Interior Committee.  
4 You cannot take this to Senator Inouye's Senate  
5 Select Committee.

6           Read my testimony. I have tried  
7 for seven years to get him to introduce the  
8 legislation, and he will not do it. And so the  
9 correct recommendation on that point goes to  
10 the Judiciary Committees of the Senate and the  
11 House of the United States Congress.

12           Also, we need to have an immediate  
13 request to the Department of the Interior to  
14 initiate investigation and, if necessary,  
15 litigation based on the 1990 OHA audit and the  
16 1989 DHHL audit against the State for breach  
17 of both the Hawaiian Homes and the Ceded Lands  
18 Trusts. This action needs to be taken  
19 immediately because what we need to do is  
20 preserve available lands, waters, and fiscal  
21 appropriations so that we can accomplish the  
22 goal.

23           Right now, the State is moving to  
24 block the trust transfer land, put our waters  
25 on Molokai under the State and the County water

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1 plans. If we delay for another four to five  
2 years, these lands and natural resources and  
3 waters will be transferred out, and they will  
4 be put under contract to other non-Hawaiian  
5 parties. We cannot delay.

6 This Commission needs to take a  
7 look at what the real, overriding problem is.  
8 You can't just focus on the Hawaiian Homes  
9 Commission Act.

10 The situation is simply this:  
11 We've got State and Federal trustees who have  
12 helped themselves, historically, to the Native  
13 lands. They're in it up to their necks. There  
14 is a great deal of collusion. If you look at  
15 Lualualei, the Federal contract with the State  
16 to control Lualualei, who do you think wrote  
17 that contract? The State Attorney General and  
18 the Department of Justice. Do you think that  
19 either of those attorneys is going to support  
20 or initiate litigation to find themselves in  
21 breach of trust? I don't think so.

22 What we really have as a larger  
23 problem is an inherent conflict of interest,  
24 because the State and the Federal governments  
25 have other needs and other uses for these

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1 lands. The Federal government wants to use  
2 Hawaiian Home Lands for military bases. They  
3 don't want to pay rent. They want to hold on  
4 to 1,000 acres of ceded lands, thousands of  
5 acres. They don't want to pay rent.

6           The fact is that the problem, the  
7 larger problem, is untenable. I know that  
8 members of this Commission have discussed some  
9 way of reorganizing the Department of Hawaiian  
10 Home Lands, some way of combining the trusts.  
11 Should we put it under some Federal agency?  
12 Should we reorganize under the State?

13           I would submit to you that the  
14 conflict of interest is such that no matter  
15 what plan you choose to reorganize, if you  
16 place it under any State or Federal agency, you  
17 will not be providing us with the remedy that  
18 will address the problems.

19           Part of the problem is the  
20 Democratic Party political network. I want to  
21 go on record in my testimony for pointing out  
22 what the situation is. We have, clearly,  
23 situations of a breach. I'm not just talking  
24 about 1983, action for civil rights, but  
25 there's more than sufficient evidence for 1985,

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1 collusion on the part of State and Federal  
2 employees to deny the Native Hawaiian people  
3 their rights, civil rights.

4           Let me point out Exhibit K,  
5 interoffice memo, again stamped "Confidential,"  
6 from the Senate Select Committee staff to  
7 Senator Inouye, indicating that they have to  
8 have strict control over the oversight  
9 hearings in Hawaii, that they have to conform  
10 to and provide special services to State  
11 witnesses.

12           And let me say for the record that  
13 prior to the May 1990 hearing of Senator  
14 Inouye, Maui police officers were dispatched to  
15 the homes and the businesses of Ka Lahui  
16 members to encourage them not to show up and  
17 present testimony. I have an exhibit in my  
18 testimony that I sent to the Mayor. I have  
19 asked for an investigation of this.

20           We are entitled to present  
21 testimony to the Senate Select Committee. We  
22 consider it a violation of our civil rights  
23 when police officers come out saying that  
24 they're bringing a message from the Sergeant-  
25 at-Arms of the Senate Select Committee and

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1 that perhaps we shouldn't show up to testify.

2 We're asking that you follow up  
3 with the Mayor and follow up with Mr. Henry  
4 Giugni in the Senate to find out exactly why he  
5 is investigating Ka Lahui members. There was  
6 absolutely no reason for that.

7 THE CHAIR: Excuse me, Haunani.

8 MS. TRASK: It's Mililani.

9 MS. MACHADO: Mililani.

10 THE CHAIR: Excuse me a second  
11 time.

12 Please try to confine -- we've got  
13 to recognize Colette.

14 MS. TRASK: Okay. I'll sum up in  
15 about five minutes.

16 With regards to what the  
17 continuing controversy is, it's simply a  
18 question of who is going to pick up the tab.  
19 Hoaliku Drake sent me a letter this past  
20 legislative session saying that in order to  
21 meet infrastructure needs for two-thirds of  
22 the waiting list, the bill was at \$900 million.  
23 The Governor, the Attorney General fought us on  
24 the right to sue, saying that if we had the  
25 right, we would bankrupt the State. We lost

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1 the legislation.

2           Six months later, the Governor  
3 came out on the front page of the paper  
4 announcing that the State of Hawaii, being the  
5 smallest state of the union, would be enjoying  
6 a budget surplus for 1988 and 1989 in the  
7 amount of \$900 million.

8           What the situation is, is simply  
9 this -- And I propose this to you as a very  
10 interesting question for you, because I have  
11 researched the Civil Rights Commission  
12 documents: What you have in Hawaii is, you  
13 have the United States and the State, by the  
14 actions of their agencies and their agents,  
15 undertaking a course of conduct with respect to  
16 our people that manifests a pervasive scheme of  
17 discrimination based on race and national  
18 origin.

19           Native Hawaiians are Native  
20 Americans. We are not Indians. We are Native  
21 Americans, and we are not allowed the special  
22 status and protections of other Native American  
23 classes, and that is a classic jurisdictional  
24 problem for this Commission. We're not  
25 Indians, but we are Native Americans.

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1           The question is: Why do other  
2 Native Americans have separate governing  
3 bodies, why do they control their lands, why do  
4 they have the right to tax, why do they have  
5 the right to go to court, and we as Native  
6 Hawaiians do not? The answer is very simple:  
7 Because of our race and because of our  
8 national origin. And this Commission has got  
9 to address that and take the bull by the horns.

10           I'm recommending in the short term  
11 that we have the creation of a Federal  
12 authority, a Federal authority whose members  
13 should be seven Hawaiians with a background in  
14 housing, finance, land development, and  
15 economic self-sufficiency.

16           We're going to need counsel on the  
17 part, hopefully, of the Civil Rights Division  
18 for Justice, and we need that in three to five  
19 years so that we can build the homes, put in  
20 the infrastructure, and sue the Federal and  
21 State governments for the capital that we need  
22 to get the job done.

23           Following the termination of the  
24 Federal authority, I am recommending that we  
25 move into the recognition of a sovereign entity

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1 or entities under the Federal policy, and to  
2 respond to what the question was earlier --  
3 How are we going to do this? -- Ka Lahui  
4 proposes a mechanism where democratic and  
5 elective -- we recognize that other sovereign  
6 groups exist. Let me say to you that I --

7 THE CHAIR: Thirty seconds.

8 MS. TRASK: -- that I do not  
9 accept the idea that we all have to be crammed  
10 into one model. If there can be 16 Sioux  
11 nations in this country and 5 Onandaga  
12 nations, I don't see why there can't be more  
13 done to accommodate the Hawaiian people.

14 Ka Lahui would like to include  
15 everyone, but if people wish to have their own  
16 mechanism, Ka Lahui would respect that.

17 THE CHAIR: Thank you. Thank you,  
18 Mililani.

19 Sorry, Colette.

20 MS. MACHADO: Oh, no, don't  
21 apologize.

22 Basically, I'm going to pull down  
23 everything previously, because I've been  
24 speaking as attorney, so having some legal  
25 relationship either with the non-profit entity

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1 or even working for sovereignty like Mililani.

2 I come to you today merely as a  
3 Native Hawaiian who is on the wait list, that  
4 is a third-generation Native Hawaiian client or  
5 Native Hawaiian eligibility.

6 I'm real confused as to -- I'm on  
7 the wait list. Again, I have half-Hawaiian.  
8 My mother is pure Hawaiian; she's on the  
9 homestead. I am the next-named successor. My  
10 grandparents were one of the original seven  
11 families that started the pioneering approach  
12 in Kalamaula. So I'm still waiting. I have  
13 been waiting for 14 years.

14 My mother was provided a  
15 homestead. Then it was taken away because we  
16 were on welfare on Molokai. She comes down to  
17 -- we try to make a new life on Oahu. She  
18 applies. They take her application. Finally,  
19 in 1976 they want to give her a lot in  
20 Waimanalo, and they found out that she cannot  
21 accept the lot because she was already given  
22 one and she gave it up. She gave it up not  
23 based on her own willfulness. Because the  
24 Department felt that financially she could not  
25 make payment.

1           So you look at my history in the  
2 last 16 years. You come from a pioneer's  
3 courageous background, and you come -- with my  
4 mother, in the last 16 years, getting screwed  
5 by the Department. Here she was waiting for a  
6 homestead when we moved to Oahu. When she was  
7 finally given one they told her, "Sorry, Mrs.  
8 Machado. You were given one, but you gave it  
9 back. Our policy states that you can only have  
10 one. Let me see how much Hawaiian your husband  
11 has."

12           So my father, who is a little over  
13 three-quarters Hawaiian, is now the lessee, and  
14 my mom is pure Hawaiian. And I am now on  
15 Molokai waiting to get a homestead. This is my  
16 introduction.

17           I also served on the Hawaiian  
18 Homes Commission under Judge Georgeanna Padeken  
19 and also with the State Land Use Commission.  
20 I have been the bureaucratic route, and  
21 I believe that is not the way to make the kind  
22 of changes that make permanent impact on people  
23 like my family and others in the home and  
24 throughout our state.

25           I have been actively involved on

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1 Molokai, not only as a want-to-be or I-want-to-  
2 be-on-the-homestead, but also as a community  
3 organizer protecting our water resources. We  
4 have approximately 25,000 acres that we  
5 abandoned because Hawaiians have had difficulty  
6 with getting the adequate resources to begin  
7 the first steps in self-determination and  
8 self-esteem and to get some self-pride as being  
9 Hawaiians.

10                   The lands we abandoned because  
11 previously the State entered into an agreement  
12 with the pineapple plantation, which was Dole  
13 and Del Monte, for a master lease agreement  
14 where these abandoned 35 acre lots would be  
15 then taken under their use to cultivate  
16 pineapple and, in return, the homesteaders  
17 would get a measly 100 to 200 dollars in  
18 December during the bonus season. "You will  
19 get a Christmas bonus."

20                   When the plantations decide to  
21 pull out, they take everything, including this  
22 agreement, and the lands get back -- returned  
23 to them very fouled with all this pesticide  
24 that was pumped into the ground, all this  
25 plastic, paper. Nothing can be done on the

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1 land for over 10 years. And even now in these  
2 certain areas, these things cannot be  
3 developed.

4                   So what we see here is that a race  
5 of people, a group of homesteaders,  
6 individuals, let the State, through this  
7 agreement to the private so-called plantations,  
8 to utilize the land, and when they were tired  
9 of us, they decided to leave because we were so  
10 costly, and these lands were left there. And  
11 the monies that were given to support these  
12 individual families were then taken away.

13                   Then you have other individuals  
14 that are non-Native Hawaiians that come in --  
15 and I'm talking this is happening on Molokai.  
16 This is not something that is going to happen;  
17 it is happening, and continues to happen --  
18 where you enter into a third-party agreement  
19 with a non-Native Hawaiian that comes in, picks  
20 up like the pineapple plantations, and say,  
21 "I want to contract your property, your lands,  
22 and generate some income for you by farming."  
23 What this does is that this one non-Native  
24 Hawaiian controls the market on watermelon, he  
25 controls the market on tomatoes.

1                   Sweet potatoes, that's solely  
2 owned by Hawaiians. Sweet potatoes from  
3 Molokai -- Molokai is the sweet potato kings.  
4 That's done by two Hawaiian families that are  
5 homesteaders: the Mokuau family and the Apo  
6 family.

7                   And that's it. The rest of the  
8 produce that comes from the island is held by  
9 one haole -- His name is Larry Jefts -- who  
10 also is the chairman of our Water Commission  
11 for Maui County, unquote. That tells you  
12 something else that's happening within what we  
13 call secondary government level, which is our  
14 county.

15                   Anyway, farmers were -- at some  
16 point in our history a few years ago, there was  
17 approximately 25 young Native Hawaiian farmers  
18 that inherited successor lands that were  
19 farming. This guy comes in, squashes them.  
20 Mac Poepoe, who is now a farmer, cried. He  
21 would prefer leaving his lettuce rot in the  
22 field, and his eggplant, because it was not  
23 worth his time because he couldn't get any  
24 income value to what was put into it. He went  
25 under.

1           There are testimony given on this  
2 third-party agreement arrangement by his wife  
3 before Senator Inouye some years ago. There is  
4 also testimony given to Senator Inouye recently  
5 over the use of water.

6           Molokai is now fighting with Tokyo  
7 Kosan, because they want to amend our community  
8 plan, take 2,300 acres and place it into a  
9 special project area that would put in two golf  
10 courses, the only golf course school in our  
11 Pacific, along with creating this high-class  
12 development of 1,200 acres. And they want  
13 Phase 2 to be strictly what they call a project  
14 district.

15           The bottom line is: They have  
16 insufficient water. The power is still with  
17 the homesteaders because of our priority rights  
18 to the aquifer that sits on land that is  
19 Hawaiian Homes inventory for our people.

20           There is this going on  
21 continuously, even as we speak. Next week  
22 Wednesday is the hearing before the Planning  
23 Commission to review the environmental  
24 assessment prepared by Tokyo Kosan for the  
25 proposed golf course and amendments to our

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1 Molokai Community Plan.

2           There is also a signed -- It gets  
3 crazier -- right of entry with the Department  
4 of Hawaiian Homes. This is where Tokyo Kosan,  
5 who inherited this lease from the ranch, will  
6 be laying a 24-inch water line to the resort.

7           The Kualapuu Aquifer's sustainable  
8 year is limited. Hawaiians to the State MIS  
9 arrangement with the development down on the  
10 west end with the ranch and the State of  
11 Hawaii has two-third preference. Our water is  
12 depleting.

13           Do you know what the outcome is,  
14 the bottom line? Hawaiians don't need the  
15 water, because they don't farm. They farm  
16 derelict cars, and they got -- they just don't  
17 farm, period. These are the simple things that  
18 people talk about Hawaiians in general, in a  
19 rich homeland area like Molokai where the water  
20 is still the cheapest in all of Hawaii and  
21 where there's access with priority rights and  
22 superior rights are clearly defined as being  
23 for Native Hawaiians. But yet we're still  
24 being prevented.

25           THE CHAIR: Colette?

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1 MS. MACHADO: That's it. That's  
2 it.

3 THE CHAIR: Okay. Thank you.  
4 Panel? Questions from the panel?  
5 John?

6 MR. DULLES: No, thank you,  
7 Mr. Chairman.

8 THE CHAIR: Okay. Let me ask a  
9 question.

10 Colette -- And even Mili --  
11 knowing the frustration we all have, knowing  
12 the limitations this Committee has, we're  
13 sitting here because we have a hope of trying  
14 to come up with something that we can present  
15 to our commissioners in Washington that they  
16 can lobby the President -- Our commissioner,  
17 Art Fletcher, is a very close friend of the  
18 President -- or Congress, per se, that can  
19 immediately correct some of the ills, not the  
20 long-term ills but immediately, some statement,  
21 some positive wording that we could work out in  
22 our final report.

23 So in other words, what I'm trying  
24 to ask is -- I know this is -- all the problems  
25 that you pointed out, this is fantastic. It's

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1 going to be compiled. But something that's  
2 simple that our commissioner, our Chairman, can  
3 go up to the President and say, "You know, the  
4 Hawaiians need blank, the Hawaiians need this,  
5 the Hawaiians need that, we have to try to help  
6 them to get some of their land back."

7                   Millie, can you try and respond on  
8 this, please?

9                   MS. TRASK: Yeah. I think really  
10 what needs to be done is set out a good,  
11 detailed report, and I would support taking it  
12 both directly to the President as well as  
13 making it available to the various committees  
14 of the Congress, and also, I think -- and also  
15 to the State -- the Federal agencies. You've  
16 got to involve Justice and Interior.

17                   THE CHAIR: Yeah, but try let me  
18 just interrupt you by saying that we have --  
19 our guidelines are such that we got to come up  
20 with a report. Our report got to go to our  
21 commissioners, and they will then pass it  
22 through. That's what I mean.

23                   So I know you have something for  
24 us. Maybe, because of our time, can you make  
25 something that I just asked about, some

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1 definite questions?

2 MS. TRASK: See, the thing is that  
3 I think that whether you go to the Congress or  
4 whether you go to the President, you're going  
5 to have to provide them background on what the  
6 problem is. Now, the executive -- there's a  
7 suggestion coming out of the Senate that new  
8 federalism for Native Americans be changed and  
9 that there be direct executive agreement  
10 between the Native people and the President of  
11 the United States.

12 Now, this is being provided,  
13 again, for Indians, and what it is, it's  
14 available only to those that are Federally  
15 acknowledged, and it gives them a portion of  
16 the Federal Indian budget based on their  
17 population. You know, that is one approach  
18 that might be proposed.

19 In my meetings with the people in  
20 Washington, they look at new federalism as  
21 taking 5 to 10 years. You know, Charlie, it's  
22 not going to be anything quick.

23 THE CHAIR: No, but what I hear  
24 you saying, and many of the previous speakers,  
25 is that first our commissioners, our commission

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1 -- our report has to contain the fact that we  
2 have to be recognized as a nation, as a  
3 sovereign, and that we had a sovereign nation  
4 and it was taken away from us, but we haven't  
5 lost that yet.

6 MS. TRASK: What I'm saying is,  
7 number one, we need to create for Hawaiian  
8 Home Lands a Federal authority so that we can  
9 gather the lands and move ahead with housing.  
10 I do not wish to have the waiting list growing  
11 to 25,000 while we're strategizing how to  
12 address the sovereign issues.

13 : In the short run, recommendations  
14 for access to the court, Interior, to sue the  
15 State, and also move on the authority is the  
16 three- to five-year recommendation. Upon the  
17 closing of the authority, we can then address  
18 the sovereign question. But there will have to  
19 be specific legislation passed by Congress, or  
20 executive agreement similar to what the new  
21 federalism proposes. Those are really the only  
22 two avenues that I can see, because this  
23 touches upon the Admissions Act of the State.

24 So you're going to have to have  
25 special legislation, I think. But I'm willing

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1 to work with the President on it. And frankly,  
2 it's something that I intend to pursue myself  
3 within the next six months, is approaching the  
4 executive. You know, that's why we've gone to  
5 Congress to lay that foundation.

6 But immediate action to protect  
7 the trust, to protect the waters of Molokai.  
8 You see, these things cannot wait for  
9 resolution and framing of the larger sovereign  
10 question. That's why I'm saying that we've got  
11 to have an authority created. We've got to  
12 have Justice come in and act and move to  
13 enjoin the wasting of Molokai's water.

14 THE CHAIR: Okay. Thank you.

15 Do we have a question for Colette?  
16 John?

17 MR. DULLES: I do.

18 THE CHAIR: Use the mike, please,  
19 John.

20 MR. DULLES: Colette, you stated  
21 that Native Hawaiians are not farming on  
22 Molokai, yet when I came to visit you and I  
23 drove around the island, there's great,  
24 valuable land, there's water, and the Native  
25 Hawaiian people are not farming.

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1           Is that, once again, the absence  
2 of the Department of Hawaiian Home Lands having  
3 a management plan, or what is the explanation  
4 for that land not being used in a productive  
5 manner by Native Hawaiian people? I don't  
6 understand.

7           MS. MACHADO: When I mentioned  
8 that there were -- those individuals that  
9 initially started the farming program under  
10 the Hawaiian Homes entity, the bulk of them  
11 went under. These were going to be the lead  
12 farmers in a lot of the vegetable crops that we  
13 have in the State of Hawaii, along with  
14 watermelon.

15           So initially -- that group has  
16 dwindled because they can't get a competitive  
17 price. The rest of those that are farming are  
18 those that do what you saw a lot of; it was  
19 third parties, that haole boy in there farming  
20 Hawaiian lands and controlling the market.  
21 What you saw was those who -- you saw the sweet  
22 potato farming area is totally controlled by  
23 two Hawaiian families.

24           There are subsistence going on.  
25 There are intermittent kind of crops that are

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1 produced by families, but there is really not a  
2 consistent group except for those that are  
3 doing green onion, and now we're forming a taro  
4 association to do dry-land taro for chipping  
5 purposes.

6                   But there is that development.  
7 We're talking 3, 4, 5 acres. We're not talking  
8 tracts of land. It used to be farmed by the  
9 other 25 that had access to the only leases to  
10 farm up to 400 acres.

11                   THE CHAIR: Do you got a follow-  
12 up, John?

13                   MR. DULLES: It just appears to me  
14 that Molokai could be a model of some creative  
15 and innovative, imaginative approaches,  
16 economic development. The land is there. The  
17 water is there.

18                   MS. MACHADO: We've been fighting  
19 for meters. Thank goodness that somebody heard  
20 us in Congress. These homesteaders are going  
21 to get a cost-sharing through the Department of  
22 Ag so they can get access. \$4,000 to hook up  
23 to get a water meter from the State, and the  
24 water should be free for Hawaiians. That's not  
25 even -- that's not even calculating the



1 filtering system and the lateral lines to the  
2 rows.

3           Equipment. You need equipment to  
4 rip and rotivate. You need a tractor. You  
5 need a lot of sorts of things. You need  
6 valves. All of these things, calculated, talks  
7 resources. There's also a large delinquency  
8 problem with the Department for ag loans that  
9 were provided. So, again, they raise their  
10 hands and say, "Oh, we're not going to give any  
11 monies." So resources are lacking.

12           Okay. We're perfect. We want to  
13 be the bread basket of the State of Hawaii. We  
14 have access to the lands. Hawaiians can  
15 control the market in key vegetable crops.  
16 There is a positive future ahead of us, for  
17 Native Hawaiians on Molokai. The access to  
18 land and water is what we need.

19           We need help from the Federal  
20 government to install a first secondary  
21 windbreak system. The flat plants are heavy  
22 with the winds that rip off from the northern  
23 shoreline. These things are lacking. We need  
24 help to fill in -- primary and secondary  
25 windbreak system.

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1                   During the dry months, the weeds  
2 grow, and when the fire lights, it just goes.  
3 Those are the things that we've been appealing  
4 to the government. Nothing has occurred.  
5 We're sort of a lower priority.

6                   So resources obviously is  
7 important. We want a full investigation. I'm  
8 not sure how you do it. I'm not sure if you  
9 can appoint and identify in your report that  
10 somebody in the Justice Department or  
11 independent counsel -- we've said this through  
12 our water petition that we filed with the  
13 senator's office.

14                   We also made it known that we want  
15 a water moratorium on the State Water  
16 Commission before they start designating where  
17 these waters go. Development or Hawaiians?  
18 We're talking survival.

19                   MR. DULLES: I don't think you  
20 need investigations or studies. I think you  
21 need some action.

22                   MS. MACHADO: Can you give it to  
23 us?

24                   MR. DULLES: I think you've waited  
25 too long.

1 THE CHAIR: Thank you.

2 Tony?

3 MR. VERICELLA: Yes.

4 This is for Ms. Trask.

5 In terms of the first step, what  
6 you're saying is the establishment of the  
7 Federal authority, and I -- you know, given all  
8 the information and testimony so far, that  
9 seems to be a very good first step and  
10 recommendation. And I certainly agree that  
11 has to go before the sovereignty issue ever  
12 starts.

13 MS. TRASK: Uh-huh.

14 MR. VERICELLA: The sovereignty  
15 issue would just take too long relative to the  
16 current problems.

17 But in the establishment of this  
18 Federal authority, how do you envision that  
19 effectively working with respect to the DHHL  
20 and OHA and in terms of Hawaiian Home lands and  
21 the ceded lands? And how do you envision it  
22 actually working? Who would control what? Who  
23 would have responsibility over what? How would  
24 they interface within the State and the various  
25 Hawaiian organizations?

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1 MS. TRASK: You know, let me just  
2 say that in my recommendations -- excuse me.  
3 My previous statement was what this Commission  
4 could do. The sovereignty is here and now. Ka  
5 Lahui's government exists and the issue is on  
6 the agenda. We are moving that independently.

7 MR. VERICELLA: I understand that.  
8 I mean, in recognition -- with the U.S.  
9 government recognizing that.

10 MS. TRASK: Right.

11 MR. VERICELLA: That's a different  
12 issue.

13 MS. TRASK: That's right.

14 MR. VERICELLA: That's a longer  
15 term issue.

16 MS. TRASK: Right, that's a little  
17 bit longer term.

18 When I look at the authority, what  
19 I'm doing is really going back to the  
20 recommendation that we made as Federal-State  
21 Task Force commissioners, and we had workshops  
22 on it, and there was a great deal of  
23 information that was provided to us, some of  
24 which I've xeroxed and put into my exhibits.

25 But what we were looking at was

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1 changing the structure of the Department only  
2 at the upper level. We're not going to be  
3 firing people, moving documents, or changing  
4 -- you know, leave the building where it is,  
5 leave everybody where it is. The problem is  
6 that instead of having commissioners that are  
7 political appointees, what you have are -- what  
8 I'm recommending is seven Hawaiians with the  
9 background.

10 I want my own people there,  
11 whether they're of Native blood or not, but I  
12 want seven Hawaiians who demonstrate the  
13 capacity and the commitment to resolve this  
14 problem put into positions and given the powers  
15 of an authority so they can levy taxes; so  
16 that they can say to Justice, "Get in there and  
17 bring the suits right now. I need the back  
18 rental to put in these homes"; so that they can  
19 say to Justice, "Enjoin the application of the  
20 statewide code right now on Molokai. We cannot  
21 have the Kualapuu Water Reserve drawn down."

22 The thing is that when you have an  
23 authority, what an authority really is, is it's  
24 a political mechanism that is short-term, that  
25 is task-oriented, and the tasks and the steps

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1 were laid out in the Federal-State Task Force  
2 report: some creative approaches to financing,  
3 some prototype models for housing.

4           But we're also going to need the  
5 ability to levy and collect taxes and to  
6 collect that back rent. And I'll tell you why.  
7 From Ka Lahui's perspective, self-sufficiency  
8 means that you don't lay it on the shoulders of  
9 the taxpayers for time immemorial.

10           If the private sector is using  
11 Hawaiian lands -- Including the military, I'm  
12 afraid -- then it's time for the users to pay  
13 the rent. I think that it's extremely unfair  
14 to lay it on the taxpayers. We've got some  
15 people -- you look at the DHHL appendix, all  
16 the general leases going out. My goodness, we  
17 could be making quite a bit of revenue off of  
18 that, and that's how I see the authority  
19 working.

20           It would not impact the staffing  
21 and the building of the DHHL, but it would  
22 change at the upper level. Who would be there  
23 to administer this program? You cannot have  
24 people who are political appointees, who are  
25 ingratiated to the State taking action that's

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1 going to be directly accusatory of their boss.

2 And I say this as a general statement.

3 I'm working now with Hoaliku and  
4 Nathaniel and the rest of these people, and  
5 they're good people. But let's appreciate the  
6 political nature of the situation.

7 With regard to OHA, I don't  
8 really see it having any impact on OHA. OHA  
9 has never done a single thing for Native  
10 Hawaiian homesteaders. I see it impacting the  
11 ceded lands, because OHA has tied up a deal  
12 with the Governor to prevent the DHHL program  
13 from having any access to those lands. And  
14 I also see it having a potential impact on the  
15 \$100 million pay-off to OHA.

16 In the legislature, I was in there  
17 saying, "Let's take the 100 million. That's  
18 ceded lands revenues. Let's put it to meet the  
19 needs of the homesteaders who are their  
20 beneficiaries."

21 THE CHAIR: Okay.

22 MS. TRASK: We did not get the  
23 action.

24 THE CHAIR: We're going to have to  
25 move on.

1 Julie.

2 MS. PUZON: I would like to  
3 address this to Mililani Trask.

4 You mentioned earlier that the  
5 significance of our report could be to counter  
6 the negative efforts from Justice and Interior.  
7 I think we all appreciate that assessment, and  
8 it would give us an added sense of importance  
9 for the work that we're doing.

10 I would like to ask you: Based on  
11 the time that you have spent in Washington,  
12 D.C., do you sense support in any areas of  
13 Congress? Some of the people who testified  
14 earlier said that things have changed very much  
15 politically since the 1970's when it was much  
16 easier for Native Americans to gain their  
17 rights, and the times have changed now. What  
18 I'm looking for is some kind of encouragement  
19 or optimism about possibilities in Washington.

20 And also, do you feel that our  
21 congressional delegation can and should be  
22 making more vigorous efforts to support Federal  
23 legislation to enfranchise Hawaiians?

24 MS. TRASK: Let me take those one  
25 step at a time.



1           On the D.C. question, there is no  
2 doubt that in the last 10, 15 years -- And this  
3 is not only true in Congress but also with  
4 regards to litigation in the Federal courts up  
5 to the Supreme Court -- there has been a  
6 distinct turning away from the more creative  
7 political atmosphere that was for Native  
8 Americans, and it's now swinging on the  
9 conservative side. That is a general  
10 indication that gives me some concern.

11           But my week in Washington, I went  
12 to the two committees in the Senate as well as  
13 in the House, their staffers, and Interior and  
14 Justice, and what I found was a great deal of  
15 interest with regard to the Hawaiian question:  
16 senators, congressmen saying to me, you know,  
17 "Are you trying to say that Hawaiians are not  
18 really allowed to control their lands? How is  
19 this possible?"

20           And my response to them was, "How  
21 is it possible that for 10 years we had Senate  
22 Select Committee oversight hearings, and you  
23 are a ranking Democrat and you've never had a  
24 report from the chair? Have you considered  
25 that?"

1           There was not only a great deal of  
2 interest, but there was encouragement, and they  
3 suggested that we either obtain a professional  
4 lobbyist or that we continue to come to  
5 Congress. The House of Representatives has not  
6 had oversight hearings here since the early  
7 eighties, when we were all before them for  
8 reparations. And I told them, "Gentlemen, this  
9 is not reparations. This is a question of  
10 civil rights violation. Why is a special class  
11 of Native Americans not being afforded the  
12 special privileges?"

13           A great deal of interest on that  
14 point. Their feeling was that if this type of  
15 material were made available to them, such a  
16 detailed report as could be coming from here,  
17 it would certainly justify their coming down to  
18 conduct their own oversight hearings. They  
19 told me very clearly that the mistake we have  
20 made politically is putting all our eggs in the  
21 basket of the Senate Select Committee, knowing  
22 that there was conflict of interest on the part  
23 of the State and Federal delegates.

24           And that brings me to your second  
25 question. I think that when you look at my

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1 testimony, you know, when you hear what Colette  
2 is saying, I mean, we've all been here for  
3 years. We've all presented volumes of  
4 testimony to Senator Inouye. We went through  
5 the whole thing trying to get reparations.

6           We have not seen a response from  
7 the Federal delegation because they are  
8 Democrats and they protect the state Democratic  
9 Party here. And for this reason my feeling is,  
10 yes, Ka Lahui will continue to work with them.  
11 But we are now going to Washington to work with  
12 other people.

13           And we are also supporting  
14 different candidates going into Congress. I  
15 mean, we've tried every possible thing with  
16 Akaka and Inouye. No response for 14 and 31  
17 years. We've got to go other places. We've  
18 got to take the incentive to do that.

19           The Hawaii delegation -- certainly  
20 we'll continue to try to work with them, but as  
21 Colette says, we've presented the testimony  
22 three years in a row. And in the Senate I was  
23 told that the protocol in the Senate is, you  
24 have an oversight hearing, and within six  
25 months you generate the legislation.

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1 I had Senator DeConcini's aide  
2 tell me, "We haven't been able to figure out  
3 what's going on, and we're on the Senate Select  
4 Committee. We've had oversight hearings for  
5 three years in a row, but for some reason we  
6 don't see any legislation coming out for your  
7 folks." I said, "Well, what's your assessment  
8 of it?" She said, "Well, you know, he's the  
9 chair of the committee. We thought he was just  
10 going down there for a vacation with the staff,  
11 because there's no legislation coming out."

12 The thing is that there's many  
13 other committees in the Senate and also in the  
14 House, and there's people who want to help us,  
15 Republican and Democrat. They do not see this  
16 as a partisan issue. Partisan politics was not  
17 coming into play up there. They see it as a  
18 human rights issue.

19 THE CHAIR: Okay. I've got to  
20 allow one more, and Kamaki, you will have your  
21 15 minutes that I'm cutting into. We're going  
22 into the lunch hour, but this is very  
23 important.

24 Barry.

25 MR. SHAIN: This is for both of

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1 you. Thanks to both of you for coming over  
2 from Molokai, because I think it's my favorite  
3 island.

4 MS. MACHADO: Thank you.

5 MR. SHAIN: I've spent quite a bit  
6 of time over there.

7 Apparently there's been at least a  
8 breach of morality by DHHL, it sounds like by  
9 the Federal government, by the State  
10 government. What is the system that you would  
11 like to see come up to make this work?

12 Some of the parts, Mili, of your  
13 model that are kind of upsetting to me are  
14 giving the Federal government the right to sue  
15 when in fact they haven't been vigorous when  
16 they did have the right to sue before, leaving  
17 it in the hands of the DHHL when in fact they  
18 haven't been able to administer the land, by  
19 what you've said. And is there a need for  
20 another entity just to receive funding, and how  
21 would that entity work in terms of representing  
22 the Hawaiian people truly?

23 MS. TRASK: Let me clarify what  
24 I just said. I don't believe that we need to  
25 give the Federal government the right to sue.

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1 They have it, but they're not utilizing it.  
2 That's why I'm requesting that there be a  
3 strongly worded recommendation that the  
4 provisions of 28 USC 1361 and 1362 be amended  
5 to allow us to go to Federal district court  
6 ourselves.

7           On the second point, with regards  
8 to allowing DHHL to control the lands, I'm not  
9 suggesting that. I'm suggesting that the  
10 restructuring occur and that there be a Federal  
11 authority in the short term to address the  
12 immediate problems, that the President of the  
13 United States appoint seven members who are  
14 Hawaiian upon the recommendation of the  
15 homestead associations and the general  
16 community not upon recommendations of Justice  
17 and Interior and the government, but the  
18 homestead associations and the general  
19 Hawaiian community.

20           We make the recommendations, we  
21 have the President appoint that, and we let  
22 this authority go for three to five years and  
23 give it the opportunity to litigate as well as  
24 collect revenues that we need. Upon the  
25 termination of that specific period -- because

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1 authorities must terminate; it cannot go on  
2 forever. And upon the termination of that,  
3 segregate out our lands, set aside the Native  
4 lands, including a fair portion of the ceded  
5 lands, and allow the Native governing entity or  
6 entities to take the ball and proceed.

7           We are the wealthiest Native  
8 Americans in this country when you look at our  
9 Hawaiian Homes, ceded lands, natural resources,  
10 waters. We are the wealthiest. We are capable  
11 of generating the revenues. If John Waihee can  
12 come up with a budget surplus of \$900 million  
13 in two years, he is generating this off of the  
14 State's use of our trust lands.

15           We're capable of doing this  
16 instead of dumping it on the shoulders of the  
17 taxpayers. Wardship transfers responsibility  
18 to the pocket of the taxpayers of the State and  
19 Federal government, and that's who we are.  
20 That's who I am, and I'd rather do it as a  
21 Native nation in conjunction with a Federal  
22 policy. I don't want to be an Indian.

23           THE CHAIR: Thank you.

24           Okay. I would like to thank you,  
25 Mili and Colette, for giving us a very

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1 informative presentation.

2 I now would like to call upon  
3 Kamaki Kanahele, President, State Council of  
4 Hawaiian Homestead Associations.

5 State your name and who you  
6 represent. If you have a prepared statement,  
7 you can summarize as we go around because I'm  
8 sure we have a lot of questions to ask.

9 MR. KANAHELE: Mr. Chairman, I am  
10 most grateful for the talented legal counsels  
11 that have come before me because it's very  
12 obvious that the issues are extremely  
13 technical, involved, and in mechanisms of law  
14 and in policies there are a range of  
15 complicated things that --

16 THE CHAIR: Excuse me, Kamaki.

17 Could I have some order here,  
18 please? Thank you.

19 Kamaki, go ahead.

20 MR. KANAHELE: -- our everyday  
21 Hawaiians on Hawaiian Homestead lands would  
22 find absolutely confusing.

23 If you're wondering why this room  
24 is not filled with hundreds of Native Hawaiians  
25 who live on the land, then you need to know

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1 that it would be impossible for them to have,  
2 because their priority is getting to work and  
3 trying to make a living.

4           The complications are not -- for  
5 us is that complicated. The homestead I belong  
6 to, the average income in Nanakuli is between  
7 11,000 and 13,000 a year, requiring at least  
8 two or three adults to be working out of one  
9 family, reaching approximately 35,000 to  
10 39,000 dollars a year, barely paying for a  
11 mortgage and therefore barely able to eat, and  
12 that is three jobs, usually, to work. So our  
13 Hawaiians, when you discuss the technical,  
14 legal issues of what and how you can make their  
15 lives better, they're out there trying to make  
16 their lives better, and that's an extremely  
17 difficult time.

18           May I please for the first time  
19 introduce to you the SCHHA, since this is our  
20 first presentation before the Committee. I am  
21 Kamaki Kanahale, Chairman of the State Council  
22 of Hawaiian Homestead Associations. The  
23 acronym is pronounced, SCHHA. Today the SCCHA  
24 consists of the boards of 24 individual  
25 Hawaiian homestead associations.

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1                   By the way, I officially welcome  
2 the two new boards to the SCCHA membership.  
3 They are Kalamaula Homestead Association and  
4 One Alii Homestead, located on the island of  
5 Molokai.

6                   In the audience today is the  
7 president of Keka (phonetic) Homestead, Mr.  
8 Juny Stuart (phonetic), and a member of my  
9 executive board, Kahiko Okalani Ross  
10 (phonetic). To my right is also a member of  
11 the State Executive SCCHA Board, Ekela  
12 Andrade.

13                   In order to be a member of the  
14 SCCHA, one must be elected to his or her  
15 individual association's boards. It is  
16 estimated that members of the SCCHA represent a  
17 total homestead population of 27,000 Native  
18 Hawaiians on the land, making it the largest  
19 Native Hawaiian organization in the state. The  
20 SCHHA is also in the process of inviting the  
21 19,000 members on the waiting list into our  
22 organization.

23                   Mr. Chairman, the State Council of  
24 Hawaiian Homestead Associations takes its first  
25 step in presenting before you, this

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1 distinguished Committee, itself. In doing  
2 so, it is trying to present its petition of  
3 long-standing neglect by both Federal and State  
4 governments.

5                   Because of time, I would like to  
6 get right to the point. The testimony that  
7 I have before you I hope you will keep for the  
8 record and read yourself through it. They are  
9 recommendations. In many ways the majority of  
10 them are the recommendations that have been  
11 put to you by Ms. Trask and Bill Chang, and  
12 many of the recommendations also are included  
13 that have come from the two representatives  
14 from NHLC.

15                   Our Hawaiian situation on the land  
16 -- And we represent those who are on the land  
17 -- are complicated in the fact that we have to  
18 live daily, which is a very difficult task.  
19 The position, then, for us as the SCCHA is for  
20 the first time in Hawaiian history, this, the  
21 largest Native organization, has decided that  
22 to make a difference in our lives, we voted to  
23 support a position on self-governance and self-  
24 government.

25                   The council feels that as Native

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1 Hawaiians with an ancient land base of 200,000  
2 acres presently designated Hawaiian Homestead  
3 land, it does require the implementation of  
4 such a government to exist and will look  
5 towards opportunities of support from this  
6 Committee. We request from this Committee  
7 support of this effort in allowing us your  
8 expertise, with recommendations to be brought  
9 from you to us in beginning to structure such  
10 an entity.

11                   From the Federal Select Committee  
12 we would like to ask and recommend that you  
13 educate yourselves. The SCCHA requests that  
14 this Committee request the minutes and the  
15 records of all of these hearings as an official  
16 accounting. The hearings I refer to are the  
17 hearings chaired by Senator Daniel Inouye when  
18 the Senate Select Committee did come to Hawaii.  
19 It is vital that you receive all of those  
20 records for your edification.

21                   In the land review model, it is  
22 very important that you select just a few to  
23 give you a general overview of the impact of  
24 the alienation of we Hawaiians by (sic) our  
25 lands. At this time, I recommend -- the SCCHA

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1 recommends that the Committee orientate itself  
2 in a sample of the abuses by recommending a  
3 review of the Lualualei acquisition by the  
4 Federal government and a review of  
5 gubernatorial executive orders issued prior to  
6 statehood. That will give you a quick and  
7 instant array of incidences of breaches by both  
8 governments. We request that this Committee  
9 support a full Federal audit of the lands under  
10 this Act.

11                   Also, with regard to the Federal-  
12 State Task Force, we -- the SCCHA has also been  
13 aware that the recommendations for compliance,  
14 so we have been told, have been met. We  
15 therefore recommend that the Committee request  
16 from the Department of Hawaiian Home Lands its  
17 listing of its efforts in accomplishing these  
18 recommendations thus far for public record. We  
19 have seen none, although we have been told  
20 that the compliance has been met by the State.  
21 We are concerned because we have absolutely  
22 benefited by none of it.

23                   In ceded lands, we request the  
24 Committee look into the laws that are provided  
25 as it affects the 5F Trust and its

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1 beneficiaries. We also request Federal  
2 judiciary review of the commitments made prior  
3 to the state's acceptance into the Union and up  
4 to the present time. In the dispensing of  
5 their fiduciary duties in the management of  
6 both trusts by both governments, the council  
7 feels that too many attempts have been made to  
8 break both trusts without consideration and/or  
9 participation of its beneficiaries.

10                   With regard to water, the  
11 recommendations that we set forth today also  
12 carries with the recommendations that have been  
13 brought forth by Mililani and our other legal  
14 counsels here. Our water rights must be known.  
15 You need to educate yourselves on it so when  
16 you present yourselves before the executive  
17 branch of this nation's government, clarity and  
18 specificity can be certainly presented well by  
19 your Committee.

20                   In the standing to sue, the SCCHA  
21 recommends that corrective action come from you  
22 and your support group, to occur by the  
23 implementation of our immediate right to sue in  
24 Federal courts. It is a priority for us, and  
25 we recommend that you look into it very well,

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1 with our highest recommendation that this be  
2 item number one.

3           Our cultural rights and concerns  
4 are also recommended within my presentation.  
5 Housing, community and economic development --  
6 we stand by the positions that have been  
7 presented by the councils that have come before  
8 us. The effort that needs to be translated for  
9 you today is important.

10           However, we are concerned that too  
11 much rhetoric has occurred over the many years,  
12 as Native Hawaiians on Hawaiian homelands and  
13 off Hawaiian homelands, that the SCCHA  
14 recommends at this time, also, that we test the  
15 system.

16           Although we may carry our mission  
17 well here in Hawaii and then a mission to  
18 Washington, D.C., in my 10 years as a fed in  
19 Washington, D.C., I find that we have not even  
20 begun to fight if we insist on remaining in  
21 Hawaii and fighting from these grounds. The  
22 complications of politics in Washington, D.C.,  
23 are too confusing, too frustrating, and they  
24 are not very truthful people, when you come  
25 down to it.

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1                   So we would like to ask this  
2 Committee to test the skill and the loyalty and  
3 the commitment of the Federal and State  
4 government. We ask, then, that our priority  
5 for your support in presentation in your report  
6 be, first, a test to implement our right to sue  
7 in Federal court, implement fully the  
8 recommendations of the Federal-State Task  
9 Force, and works towards the first phase of  
10 reparations. These three items we would like  
11 to test and have the support of the Committee  
12 and add it to their records.

13                   We are the largest Native Hawaiian  
14 people on the land. We do not trust the  
15 system. We have suffered too much by it.  
16 Although a range of venues have been presented  
17 before you today, our distrust is a solid one  
18 and we would like to, in turn, test it. We  
19 ask, then, our submission for only these three  
20 points. We look for it as an effort to trust  
21 loyalty within our own membership, within the  
22 State, as well as within the Federal  
23 government.

24                   Simple as it may seem, it is  
25 almost an impossibility as we hear of it today.

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1 Everything has been set aside for the  
2 Hawaiians, and we on the land and off the land  
3 have suffered by so much not being done and too  
4 many promises.

5 I submit the entire report before  
6 you, with the recommendations enclosed and  
7 would like to now introduce the wonderful lady  
8 sitting next to me. She sits as part of our  
9 team. Her name is Ekela Andrade. She is a  
10 rancher on the beautiful island of Hawaii,  
11 Waimea homestead.

12 Thank you, Mr. Chairman.

13 THE CHAIR: Thank you, Kamaki.

14 MS. ANDRADE: Ladies and gentlemen  
15 of the Advisory Council and ladies and  
16 gentlemen of the audience, aloha.

17 My name is Ethel Andrade, and  
18 I bring you greetings and best wishes from  
19 Puukapu Homestead on the island of Hawaii.  
20 I am one of the original 48 pioneers awarded  
21 300 acres on July 11, 1952. Yes, I have  
22 farmed my land in accordance to the Act for 38  
23 years.

24 I run 200 head of Hereford Angus  
25 Brangus beef cattle. No, I do not sub-lease;

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1 I work my own land, 305 acres. I have received  
2 three awards from the State Conservation  
3 Service for outstanding ranching. I live on  
4 one acre in Kuhio Village in Kuhio Homes, and  
5 I received three awards from Governor Burns for  
6 outstanding home care.

7                   It is with this background that  
8 I appear before you to share with you the life  
9 on a homestead. In my experience, it has been  
10 38 years. Just abutting our homestead -- first  
11 of all, Hawaii, on the Big Island, totals  
12 108,000 acres of Hawaiian home lands. This is  
13 the largest home lands in the State of Hawaii,  
14 of which 21,000 acres is presently being  
15 homesteaded by Native Hawaiians.

16                   Abutting our area, 295 acres in  
17 Humuula is leased to the U.S. Army for 65 years  
18 for the sum of \$1 for the whole term. We  
19 Hawaiians pay \$1 per year lease.

20 Secondly, abutting my 300 acres at Puukapu are  
21 200 acres of prime ranch land that has been  
22 given to the University of Hawaii for  
23 ranching, learning what we have forgotten in 38  
24 years, for free.

25                   It was only through the efforts of

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1 one Sonny Kaniho, who demonstrated, who got  
2 jailed, that the consciousness of the  
3 unconscious was brought to the public. So  
4 finally this 200 acres was withdrawn from the  
5 State use for free, and now open, hopefully,  
6 for new awards.

7           My concern is principally -- I  
8 have advocated the placing on the lands of my  
9 fellow Hawaiians on the 1952 list. I was one  
10 of 48 fortunate to be granted 300 acres. The  
11 subsequent list of lessees were lost,  
12 discarded. Through the efforts of Sonny Kaniho  
13 it was found in archives. It's alive today.  
14 And for 38 years, we have come before the  
15 Commission in public hearings asking that the  
16 1952 list be placed on the land.

17           Ladies and gentlemen, we have the  
18 land. I have documents here that I will submit  
19 as exhibits, in addition to the documents that  
20 you have, that will explain how this can be  
21 done, and they are all exhibited. I also have  
22 copies of our presentation before the Senate  
23 hearing in August of how the wrongs can be  
24 righted.

25           And I have before me also the

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1 plight of the Hawaiian estranged on his own  
2 land of his land. This is a true story of a  
3 Hawaiian boy raised on Hawaiian Homes land in  
4 Kahua Ranch, where his grandparents were  
5 evicted from the land.

6                   At the age of 22, he joined the  
7 United States Air Force, hoping to do good for  
8 his country. After 38 years in the armed  
9 forces, he returned back -- after doing good  
10 for people throughout the world, coming back to  
11 his homestead and finding out that his father  
12 died on the Hawaiian Homes wait list, that he,  
13 too, is on the wait list, and the injustice  
14 that carried on from 1952.

15                   Because of his consciousness --  
16 And we consider him a crusader of all Hawaiian  
17 people who have been judged wrong -- I want to  
18 share with you that he has been jailed eight  
19 times, and through his personal sacrifice we  
20 have raised the consciousness of the  
21 unconscious administration and the plight of  
22 the Hawaiian has improved.

23                   This past Saturday, Sonny Kaniho  
24 again demonstrated on the land abutting our  
25 lands in Puukapu that is being leased to non-

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1 Hawaiians, and he was arrested on Saturday,  
2 July 28th. His hearing will come before the  
3 magistrate on the 15th of this month. It will  
4 be the ninth time that he has been arrested and  
5 jailed.

6                   When a man gives his life, ladies  
7 and gentlemen, it is because he cares. And I  
8 hope between 4:00 and 5:00 he will come back.  
9 At this precise moment, Mr. Kaniho -- Who the  
10 state of Hawaii considers a crusader for  
11 Hawaiian rights, the Prince Kuhio of the  
12 nineties, the eighties, the seventies, and the  
13 sixties -- he is on the steps of the Capitol  
14 demonstrating to the Governor for the  
15 consciousness of the unconscious.

16                   And I submit this to you as a  
17 story that is true and that continues, and also  
18 the exhibit that appeared in the local paper  
19 when he was good enough to warn the institution  
20 that he was going to demonstrate. The police  
21 arrested him. He also wrote to the Governor  
22 and said, "I have been arrested, I am waiting  
23 to talk with you, I have asked to talk to you  
24 for four years and you have refused me."

25                   So, ladies and gentlemen, I submit

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1 this to you. When you invited me here today,  
2 you asked me for my specific recommendations of  
3 what can be done. I would like to share with  
4 you as a Hawaiian, as a homesteader who lived  
5 through the ranks for 38 years. I have seen  
6 the injustice throughout the years.

7 I would specifically wish to  
8 recommend, number one, that a Federal legal  
9 attorney be assigned to each island to work  
10 with the homesteaders in support of the Native  
11 Hawaiian Legal Corporation because of its  
12 limited funding, because the Hawaiians have not  
13 had legal advice.

14 The Act is intact and perfect, but  
15 the administration manages to bring in rules  
16 and regulations to confuse the homesteader and  
17 the Hawaiians on the wait list. We need this  
18 Federal legal counsel, somebody to protect us.  
19 We have no protection.

20 Number two, I recommend that the  
21 Hawaiian Homes Commission be elected from  
22 qualified homesteaders on the land, off the  
23 land, who are qualified to serve, equivalent to  
24 the legislators of the State of Hawaii, with  
25 salary and the benefits, for the terms as

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1 elected by the homesteaders. Who else but the  
2 homesteaders have a right to decide its own  
3 destiny?

4 Ladies and gentlemen, for 70 years  
5 we have been kicked around. Too long. We are  
6 qualified homesteaders. We are educated. We  
7 know our problems. We should decide our  
8 destiny. The appointment system by the  
9 administration does not work, has not worked,  
10 will not work. I know. I've lived it.

11 We've campaigned. Hawaii has the  
12 biggest number of acreages. We campaigned for  
13 10 years for two commissioners of the Big  
14 Island. When we finally got that commissioner  
15 several months ago, he was not of the Hawaiian  
16 community, but he was very receptive to the  
17 community.

18 After a year serving as a  
19 commissioner, he was like another peg on the  
20 board. He did not respond. This is the common  
21 practice when you have appointments by the  
22 administration. The appointees become  
23 conducive to the administration. When we  
24 called and said this was happening -- "I'm  
25 sorry, I'm too busy." You see, they become

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1 blase, uninterested, unconcerned because of  
2 the pressures of the administration.

3 Ladies and gentlemen, my third  
4 recommendation is, Department of Hawaiian Home  
5 Lands should be staffed, must be staffed by  
6 qualified Native Hawaiians from the homestead  
7 who knows its own problems, who knows the aina.  
8 They are people of the aina. They have the  
9 feel of the aina.

10 How does it faze you to go to  
11 Hawaiian Homes to apply for your land and have  
12 a non-Hawaiian tell you, "You have no kumu  
13 ohana, no genealogy; go back and research."  
14 Yet your father, your brother, your sister on  
15 the land for 30 years. You understand what I  
16 am saying? My phone rings 24 hours a day. 24  
17 hours a day Sonny's phone rings. We sit, we  
18 pule, and we're -- "What can we do?"

19 I bring these recommendations to  
20 you. We are a people of intelligence. We want  
21 to decide our own destiny. For the first time  
22 in our history of 70 years as homesteaders, the  
23 Hawaiian Homes Associations Council under the  
24 leadership of Mr. Kanahale will be meeting for  
25 the first time with the Department of Hawaiian

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1 Homes staff, with its Commission and its  
2 chairman, on the island of Maui, just because  
3 of the persistent efforts of Mr. Kanahale.  
4 This is the first time in 70 years. Well,  
5 maybe that's a toe in the door.

6           But because of my 38 years of  
7 experience, let me tell you we need your help.  
8 We need for you to recommend to upstairs that  
9 we are -- they have placed us in this position,  
10 and they have made us activists.

11           The samples of the lands on Hawaii  
12 that are being used for free is not only on the  
13 Big Island; it's throughout the State. The  
14 Federal government owes us reciprocation  
15 retroactive from day one. The State owes us  
16 the use of our lands, our water rights, from  
17 day one.

18           With the funding back from the  
19 State and the Federal, ladies and gentlemen, we  
20 are prepared to run our own business. We are  
21 self-governed. I am an example. We can run  
22 ourselves and ask you for your consciousness to  
23 join our consciousness, and I thank you for  
24 your aloha.

25           Mahalo.

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1                   THE CHAIR: Let me express the  
2 fact that I know exactly how you feel. I have  
3 been on the waiting list for 27 years for  
4 Molokai, from 1963. And then they lost my  
5 application for 10 years, so 15 years. Then I  
6 got found again, had to resubmit a kumu ohana,  
7 spend \$500 to search my kumu ohana.

8                   And because one of my ancestors  
9 was linked with somebody else down here, we  
10 held up a -- who tried to protect his home.  
11 And they said, "Well, you cannot. You belong  
12 to him." So, you know, it hurts. And I feel  
13 your frustration, and it's been too long.

14                   MS. ANDRADE: Mr. Chairman, thank  
15 you so much for sharing.

16                   THE CHAIR: Thank you.

17                   Questions?

18                   MR. STENDER: I have a question  
19 for both Ethel and Kamaki.

20                   With the council being formed in  
21 your first meeting and your, I guess, wish to  
22 have better representation at the Commission  
23 level, do you see that maybe the council can  
24 act as maybe an advisory board to the Hawaiian  
25 Homes rather than the Commission in its --

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1 MR. KANAHELE: I think what we are  
2 looking at as Ekela has just stated, in a  
3 couple of weeks we're sitting as beneficiaries  
4 for the first time in 70 years with the entire  
5 Commission and hopefully a large number of  
6 their staff. That would be definitely one of  
7 the things that I would be putting before the  
8 council, and to hear the reactions of the  
9 Department.

10 We're sort of going to be feeling  
11 out one another. Imagine. Beneficiaries  
12 have never sat for three days in a massive  
13 conference like this in 70 years with the  
14 people who administrate them. So it's going to  
15 be a very historical conference.

16 But, Ozzie, you're right. The  
17 question needs to be asked, and we will be  
18 asking specifically that question. And who  
19 knows? I'll let you know the results, and  
20 maybe it will provide you that answer.

21 MS. ANDRADE: Mr. Stender, I would  
22 like to add that we are three years old. We'll  
23 be three years old in August. And I think  
24 we've come a long ways. We feel good about  
25 ourselves. We feel that we are qualified to

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1 run our own affairs.

2 All we need is the kala that they  
3 owe us and all we need is to have our water  
4 rights returned to us that they have taken. We  
5 have the land base. As the Chairman has  
6 stated, we do have the land base. We have some  
7 water on our lands that they have diverted.

8 We would like that back, and we  
9 think we can help ourselves. As it is now,  
10 without any support, we're helping each other.  
11 So we feel good about that. We feel we have a  
12 good future.

13 Yes, sir?

14 MR. STENDER: One other question.  
15 You mentioned the hundred-or-so-thousand  
16 acres --

17 MS. ANDRADE: Yes.

18 MR. STENDER: -- on Hawaii. And  
19 I'm just quickly trying to calculate how much  
20 has been awarded. It must be some 90,000 acres  
21 or more awarded, untouched.

22 MS. ANDRADE: You're absolutely  
23 right there, at least to private people. But  
24 what I'd like to do, since you touched on that  
25 -- I think that's very interesting for you, to

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1 know that the Department is considering making  
2 land awards of 5, 10, and 20 acre parcels,  
3 coincidentally, in September, just prior to  
4 election.

5 I would like to mention that 33  
6 acres were awarded five years ago at Puupelehu  
7 by the reservoir, and these people have moved  
8 from Honolulu to Waimea. They're renting  
9 houses in Waimea at \$800 a month, and they've  
10 waited for five years.

11 And then in Puukapu, where my  
12 ranch is, they awarded 5-acre parcels to 85  
13 farmers, parcels to 85 farmers, and Ilihu  
14 (phonetic) is one of them, our state  
15 treasurer. And she sat on that property for  
16 seven years, not being able to use the  
17 property.

18 And down in Kawaihae on the Golden  
19 Coast, we have 105 homesteaders awarded lots  
20 five to seven years ago, and they're right on  
21 the highway with utilities and infrastructure,  
22 but they haven't been able to reside on their  
23 land. By hook or crook some of them have built  
24 on the land.

25 But these are things that we need

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1 to sit with the Department, have a master plan.  
2 We've asked for it. We worked before with the  
3 other guys that were there, and new guys come  
4 on, new ideas. And now in September, so  
5 conveniently before election, the Department is  
6 announcing that they're going to award new  
7 lands, and they're reduced from 300 acres to --  
8 but I'll hand this in so that you see the  
9 summary.

10 MR. STENDER: Does the Department  
11 intend to meet with the homesteaders  
12 periodically?

13 MS. ANDRADE: No. This has been  
14 our largest -- in the past, we did meet with  
15 -- when we had a 10-year plan going for  
16 Kawaihae and Waimea. But then when you get new  
17 commissioners and new chairmen, you know, they  
18 scrap the whole thing and they start from  
19 scratch. They drive you nuts.

20 MR. KANAHELE: Ozzie, as a point  
21 of clarification, the Department does meet on a  
22 monthly basis on designated sites, but it is,  
23 for the record, that opportunity and the only  
24 opportunity that beneficiaries have.

25 If they miss that one meeting --

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1 by the way, for example, when they go to Kekaha  
2 on Kauai, which is completely on the other side  
3 of the island from Anahola, Anahola has to go  
4 all the way to that side, and if you miss that  
5 one meeting, you're not seen for another year.  
6 But on a monthly basis, they do meet island by  
7 island.

8 MS. ANDRADE: But it's not  
9 sufficient.

10 MR. STENDER: Thank you.

11 THE CHAIR: Any more questions?

12 MS. PANUI: Yes.

13 THE CHAIR: Yes?

14 MS. PANUI: Aloha, Kamaki.

15 MR. KANAHELE: Aloha.

16 MS. PANUI: In your past  
17 experience as administrator for the Office of  
18 Hawaiian Affairs, how do you now see OHA as  
19 helping to implement Hawaiian Homes in their  
20 endeavors to get people on the land?

21 MR. KANAHELE: Number one, I hope  
22 they keep their mitts off of it. I see OHA as  
23 a State government agency that has a specific  
24 mandate. They do not consider themselves a  
25 service-oriented organization. But their

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1 mandate is very clear.

2           By the way, it's completely  
3 separate from the Department of Hawaiian Home  
4 Lands. Their participation with the  
5 beneficiaries or the Department of Hawaiian  
6 Home Lands, I would like just sitting down and  
7 finding out how that can work. It has not yet  
8 done so.

9           I have just been told that just  
10 recently, which is about a week or so ago --  
11 I stand corrected -- that is the first time  
12 that the entire Hawaiian Homes Commission and  
13 the trustees ever sat down on a social basis to  
14 get together. In the time that I have been in  
15 OHA, that never, ever happened.

16           MS. PANUI: You see some hope for  
17 the future, then?

18           MR. KANAHELE: Absolutely,  
19 absolutely. We have to sit down and work  
20 together.

21           THE CHAIR: Thank you.

22           Any more questions?

23           Julie?

24           MS. PUZON: I'd like to address  
25 this question to both of you.

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1           In Mr. Lucas' written report to  
2 us, he noted that in 1978 the constitutional  
3 convention allowed for leases between the  
4 Hawaiian Home Lands Department and other  
5 governmental agencies to be withdrawn at any  
6 time.

7           I have looked at the annual report  
8 of the Department, the 1989 report, and in the  
9 back there's a very detailed listing of many,  
10 many leases which have been negotiated by the  
11 Department since 1978. Many of these are to  
12 Federal, State, and City agencies for  
13 ridiculously low rates. They're well below  
14 market value.

15           To your knowledge, have any of  
16 these leases ever been withdrawn according to  
17 the provisions of the constitutional  
18 convention?

19           MR. KANAHELE: I think, to my  
20 personal knowledge, none. They have just  
21 waited until the leases ran out, and then, of  
22 course, a year or so before, come back in to  
23 renegotiate. But I know of absolutely none  
24 that have been withdrawn for any reason  
25 whatsoever, which is unfortunate.

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1 MS. PUZON: Thank you.

2 THE CHAIR: Thank you.

3 Okay. I would like to personally  
4 -- Kamaki and Ms. Andrade, thank you so much  
5 for your participation. Hopefully your  
6 comments will be included, and when we make our  
7 report you will be contacted prior to  
8 submittal. Thank you so much.

9 MR. KANAHELE: Mr. Chairman,  
10 I would like to take just a few more seconds.

11 It is very important for the State  
12 council to pay special heed and respect to the  
13 work that has been been done for us by Mr. John  
14 Foster Dulles. I think his sensitivity in  
15 coming to each of us, recognizing an  
16 opportunity that we should have, recognizing  
17 the sensitivity of the people on the land and  
18 off the land, needs to be credited and highly  
19 praised. He is a very wonderful man. I do  
20 that for the record.

21 THE CHAIR: Thank you.

22 MS. ANDRADE: I would like to  
23 second that, Mr. Chairman.

24 THE CHAIR: Thank you.

25 MS. ANDRADE: Thank you so much.

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1 THE CHAIR: And now we will break  
2 for lunch. Exactly at 1:00 o'clock we'll  
3 reconvene, and we're going to the government  
4 panel, the Hawaiian Homes, the Governor,  
5 Attorney General. Thank you.

6 (Recessed: 12:10 p.m.)

7 (Resumed: 1:00 p.m.)

8 THE CHAIR: I would like to call  
9 this meeting to order.

10 We are going to take a short  
11 recess.

12 (Recessed at 1:03 p.m.)

13 THE CHAIR: Let me call this  
14 meeting back to order.

15 Let me call upon the State  
16 government panel, which consists of Hoaliku  
17 Drake, Rod Burgess, Bill Tam, and Pat Brandt of  
18 the Governor's Office.

19 As soon as you're ready, Pat,  
20 would you want to come up?

21 Would you please state your name  
22 and who you're representing.

23 MS. BRANDT: Do you want me to  
24 start?

25 THE CHAIR: Yes.  
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1 MS. BRANDT: Okay.

2 Good afternoon, Commissioners,  
3 Mr. Maxwell and staff and members. My name is  
4 Patricia Brandt with the Governor's staff, and  
5 I'm here today to present a written statement  
6 on behalf of the Governor to the Civil Rights  
7 Advisory Committee.

8 Basically, I just want to say that  
9 because we are in the midst of negotiations on  
10 several issues and ready to present papers and  
11 packages resolving several of these issues, we  
12 felt that it would be inappropriate to discuss  
13 the kinds of negotiations that were going on.  
14 However, in respect to the Committee and their  
15 role, we have provided you background  
16 information, a status report, and some history  
17 on what the problem is and where we are at.

18 For the benefit of the  
19 Commissioners and the audience, I would just  
20 like to say that basically there have been many  
21 things going on and many panels, congressional  
22 panels, here in the last year, and reams of  
23 information that have been prepared documenting  
24 the problems and the activities going on to  
25 resolve those problems within the Hawaiian

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1 community.

2           Basically our position is that  
3 with all of the good things going on, we would  
4 like to keep in touch with you and keep you  
5 posted, because we will have a lot of progress  
6 to report in the next few months.

7           The Governor has also attached  
8 copies of pertinent bills and testimonies that  
9 might be helpful to you in following the  
10 progress of the negotiations and the  
11 legislation regarding Hawaiian activities.

12           Thank you.

13           THE CHAIR: Okay.

14           Questions for Ms. Brandt, panel?

15           MR. CAHILL: Is she submitting a  
16 written statement?

17           THE CHAIR: She is submitting a  
18 written statement, and she is open for  
19 questions right now.

20           MR. CAHILL: Will we each get a  
21 copy of the written statement?

22           THE CHAIR: I think you have  
23 already. It's in front of you.

24           MR. DULLES: It's entitled,  
25 "Statement to the Hawaii Advisory Committee,

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1 Executive Chambers." It has been distributed.

2 THE CHAIR: And I'm not quite  
3 aware if she is able to -- well, we had core  
4 questions, like I had asked you earlier -- told  
5 you earlier, and it was specific questions.

6 MS. BRANDT: Yes.

7 THE CHAIR: However --

8 MS. BRANDT: Mr. Maxwell, as  
9 the Governor indicated, he was not able to  
10 participate in the panel. For your  
11 information, he is -- was supposed to be home  
12 yesterday, but because of weather conditions  
13 his flight was cancelled. So they are in the  
14 air now, on their way, and therefore he has  
15 opted to provide written testimony. I am not  
16 prepared to participate with the panel at this  
17 point.

18 THE CHAIR: Okay.

19 Panel? John? Any questions? She  
20 said she couldn't --

21 MR. DULLES: No. I think she came  
22 to deliver a statement --

23 THE CHAIR: Okay, great.

24 MR. DULLES: -- for the record on  
25 behalf of the Governor, Mr. Maxwell.

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1 THE CHAIR: Okay.

2 The next person I see is Bill Tam.

3 Do you want to --

4 MR. TAM: I'll defer to Mrs.  
5 Drake.

6 THE CHAIR: Okay.

7 Auntie Hoaliku, go ahead.

8 MS. DRAKE: Mahalo.

9 Vice Chairman Charles Maxwell,  
10 distinguished members of the Hawaii Advisory  
11 Committee, ladies and gentlemen, ano ae me  
12 kealoha ia ou kou apau.

13 THE CHAIR: Ano ae.

14 MS. DRAKE: Ano ae.

15 I'm Hoaliku Drake, Chairman of the  
16 Hawaiian Homes Commission and Department of  
17 Hawaiian Home Lands. Thank you for the  
18 invitation to provide information relating to  
19 the implementation of the Hawaiian Homes  
20 Commission Act of 1920, as amended, especially  
21 with regard to Federal and State action to meet  
22 their obligations under their law.

23 The Hawaiian Homes Commission Act  
24 was enacted by the United States Congress in  
25 1921 and administered through the Territory of

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1 Hawaii. Upon statehood, as a compact between  
2 the State of Hawaii and the United States of  
3 America, and as a condition of admission,  
4 Hawaii adopted the Hawaiian Homes Commission  
5 Act as a provision of its constitution. Ladies  
6 and gentlemen, this was in 1959. It's not  
7 noted here.

8 THE CHAIR: E kala mai au. MS.

9 DRAKE: Ae.

10 THE CHAIR: We have your statement  
11 in total.

12 MS. DRAKE: Yes.

13 THE CHAIR: If you could possibly  
14 just give highlights, it would be easier for  
15 you, instead of reading it all, and we would be  
16 very satisfied, and then we can ask you  
17 questions.

18 MS. DRAKE: Certainly.

19 THE CHAIR: Thank you.

20 MS. DRAKE: What we have --  
21 perhaps in touching on many of the concerns  
22 that were touched upon when congressional  
23 hearings were conducted in August of last year,  
24 much of the testimony by the Native Hawaiian  
25 people, by the agencies, after the Governor had

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1 called many of the State agencies together to  
2 meet as a task force, what really emanated from  
3 this task force was the need for housing.

4           If you will look at my testimony,  
5 it will touch upon this great need. In order  
6 to meet these needs, we have come up with a  
7 plan, and this plan is a master-planned  
8 community. The master-planned community will  
9 be part of one of our divisions within the  
10 Department. We have been working with HFDC  
11 and training our staff to implement this  
12 master-planned community.

13           We are starting out at Kawaihae.  
14 I'm not going directly page by page, but I'm  
15 giving you an overview. Kawaihae, to my mind,  
16 is a very exciting place because the lands  
17 abutting the port there belongs to Hawaiian  
18 Homes.

19           So when you move a large group of  
20 people from any area, you need to provide them  
21 with jobs. You need to provide them with a  
22 stable economy for their families. So if  
23 you're thinking in terms of 3,500 homes in a  
24 planned community where churches, subdivisions  
25 -- where we'll be having commercial types of

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1 businesses to support those 3,500 families that  
2 will be moving into this planned community, we  
3 are working with Kohala Ranch to make sure that  
4 this area is planned well, and including with  
5 the vision for our people to have beautiful  
6 homes.

7           What they need, whether it will be  
8 rental units, whether it will be for kupuna  
9 housing, whether it will be for condos, or  
10 whatever needs that they may have, this is what  
11 the planned community will address. There will  
12 be multi-unit homes, different kinds of homes.  
13 They'll have smaller homes. they'll have some  
14 large homes, because many of our Hawaiian  
15 people have the kala and can afford homes,  
16 beautiful homes. All that they need are the  
17 lands and the opportunity to do so.

18           So these are some of the visions  
19 that we have. And it's not a vision; it is  
20 going to happen, because we're planning it, and  
21 we're planning it well. We have had a  
22 reorganization, and Lardizabal has given us the  
23 okay -- Of course, with the Governor -- for our  
24 reorganization. I'm just hoping I'm talking to  
25 the right person. But anyways, I'm just

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1 touching on some of the things that we're  
2 talking about.

3 Under the Federal Task Force, I  
4 know that we've submitted in addition in  
5 answering the 134 recommendations that came out  
6 of the Task Force, and if you -- you have not  
7 had the opportunity to read all the comments,  
8 but you will see that much of the  
9 recommendations have been fulfilled, and I'm  
10 really very happy about this..

11 We're taking a beneficiary survey  
12 which will be completed in December of this  
13 year. On the basis of this, we will be able to  
14 address the needs of our applicants.

15 I would like to touch on the fact  
16 that you have heard many testimonies about  
17 applications being in the number of 20,000, but  
18 you have to realize that of this 20,000  
19 applications, in many of our families, husband  
20 has applied for two applications, both a farm  
21 lot and a resident lot or an agricultural lot,  
22 and the wife has also applied.

23 So you have a family of five,  
24 let's say. A son who's 18 and a daughter who's  
25 21 have had two applications each that they

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1 have submitted. So after refining all of this,  
2 we actually -- applicants now, the number of  
3 applicants total approximately 12,000, and not  
4 the 20,000 that has been loosely thrown about  
5 through many hearings that I have attended and  
6 up in the legislature. I certainly want to set  
7 that matter straight.

8           We have many financial options and  
9 of course FHA has been a boon to us because  
10 they have been able to assist us in meeting  
11 much of our needs, so that much of the monies  
12 that we are able to receive from the  
13 legislature can go into infrastructure.

14 Farmer's Loan has been another help for our  
15 people, and of course we have submitted loans  
16 to our own people for the constructions of  
17 their residences.

18           The problem is, we do have a gap  
19 group, and this is where I think OHA would be  
20 able to assist us: in making loans to this gap  
21 group, who would not be able to -- would not be  
22 able to qualify for FHA because of their  
23 income and the number of people that are within  
24 the family home. They would not be able to  
25 qualify for Farmers Loan.

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1                   So therefore this gap group --  
2 which is quite a number of people since we're  
3 working now with these people to put them on  
4 homes. We've found that this gap group needs  
5 special attention and special help. I feel  
6 that this is where OHA can assist us: in  
7 giving a low-interest loan to these people who  
8 do not qualify for these other loans.

9                   We have received over \$80 million  
10 from the State legislature in the last two  
11 bienniums, five years. Unfortunately, I cannot  
12 say that of the Federal government. In the  
13 last 70 years we have not received any kala at  
14 all, any monies. But historically, the last  
15 two years we were able to obtain \$2.4 million  
16 of community development block grant funds  
17 which have been very helpful in Pahe'ehe'e  
18 Ridge.

19                   If we were able or if we are able  
20 to get more kala from the Federal government,  
21 this would be very helpful. If they would only  
22 match the State government, then we Hawaiians  
23 would not need to go to seek funds elsewhere.

24                   The Federal government, to my  
25 mind, has not fulfilled their trust

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1 obligations to us. The Department of the  
2 Interior, which has the trust responsibility to  
3 the Native Hawaiians, has given us nothing but  
4 lip service.

5           In my last trip to Washington,  
6 I spoke with them about getting someone to  
7 survey all of our lands. They were very  
8 helpful, and the gentleman will be down here in  
9 two weeks. But he will also take an assessment  
10 as to the cost factor involved, because there  
11 is no kala coming from the Federal government.  
12 We will have to go the route to our  
13 congressional delegation, who were responsible  
14 for the \$2.4 million coming to us from CDBG,  
15 and not the executive branch of government.

16           We Hawaiians, I believe, have been  
17 bisected. We've had our hearts opened. We've  
18 cried. And I want to stop that. We don't need  
19 to do that. Our dignity is intact. We have to  
20 move forward.

21           I believe with the help of  
22 Governor Waihee and the legislature -- who has  
23 given us the ability to start building 450  
24 homes this year and 1,200 homes next year. We  
25 have a goal of 1,400 homes in the next decade

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1 at a cost of 2.4 billion.

2           You know, many people say, "Now,  
3 Mrs. Drake, you must be crazy to be asking this  
4 kind of monies." But no. This is a fact.

5 This is a need that must be fulfilled. Whether  
6 we are going to get it from the Federal  
7 government, whether we're going to get it from  
8 the State legislature, whether OHA will be able  
9 to kokua us, I know there is an answer.

10 Whether we from our own revenues will be able  
11 to take care of this amount of money, we will  
12 accomplish these goals.

13           I was first brought on by the  
14 Governor, and my first mandate was to build  
15 homes and put people on the land. The  
16 commissioners themselves, when I met with them,  
17 gave me this mandate to build homes and get  
18 people back on the land. And I am carrying  
19 out this mandate, and I need help. I can't do  
20 this alone.

21           I've gone back to the people.  
22 I've gone back to the homesteaders. Every  
23 meeting where I meet with them, I talk to them  
24 about the political process and how important  
25 it is that they themselves elect the right

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1 officials, that they themselves make sure that  
2 doors at the counties are open, so when I go on  
3 the islands, they can take me to meet their  
4 mayor, they can take me to meet their council  
5 people.

6           The political process is very,  
7 very important for our people. So what I have  
8 done, I have enlisted the aid of all the  
9 homestead associations. I have gone back to  
10 the grassroots people for help. And with them,  
11 I am able to move mountains, because they are  
12 the people, they are the grassroots people.  
13 Without them, you and I would not exist.

14           People talk about land as being  
15 the most important thing, but it's not the land  
16 that's important. It's the people. They're  
17 the most important part of our assets. Without  
18 them, land would not be necessary. But land is  
19 there to feed them. Land is there to clothe  
20 them. Land is there to quench their thirst.  
21 Land is there to shelter them, to keep them  
22 warm, and to love them.

23           That is what our aina is about.  
24 I've been hearing nothing but aina, aina,  
25 aina. It's not the aina that's important.

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1 It's the people that's important. Without them  
2 to love them, without them to support us, we  
3 are nothing. You -- all of you folks are  
4 nothing. We are all sitting here because of  
5 their needs.

6 I may be carrying on. Please  
7 forgive me. But I'm been on every island.  
8 I was on Maui, and I went up for a small  
9 subdivision that the county has given me so  
10 much problems on. Just 40 homes being built.  
11 Now they're asking additional sidewalks,  
12 additional other things.

13 I could use the power of Hawaiian  
14 Homes to circumvent all of those things, but we  
15 are lawful people. We are abiding by the  
16 county rules for safety and health sake. Now,  
17 this is why I'm going to our people. They have  
18 to take me to their mayor, and they had better  
19 put him in or out, and they'd better get that  
20 county moving.

21 That really hurt me when I went  
22 there and listened to them making excuses. All  
23 I ask is that our 40 homesteaders be allowed to  
24 move into that subdivision right away. What do  
25 they do? They tell us, we're putting in --

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1 there's an 8-inch water main running alongside  
2 of that. They expect us to put a 12-inch main.  
3 I says, "Okay. We'll put a 12-inch main."

4 That adds to the cost of the  
5 subdivision cost. That puts up the \$45,000 per  
6 infrastructure lot up to 50. The additional  
7 cost that they're asking us to do may even go  
8 up to 75,000 per lot. That's just ridiculous.

9 But I've gone back to the people  
10 where the power is. Maui will be moving to  
11 help me, to resolve that particular problem  
12 that I have. It's not only money. It's the  
13 political process that is so necessary for our  
14 people to understand for our people to move  
15 government so that I can build, so that I can  
16 make sure that they can return to the land.

17 It's very easy for you to say, "We  
18 give you this amount of money. Go build your  
19 houses." That's not the way it is, because you  
20 have subdivision plans, planning and designing  
21 of these subdivisions, and when the County  
22 starts playing politics with the lives of our  
23 people, that's about time when we should be  
24 moving our people to respond to them, because  
25 they vote for those very, very people.

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1                   Excuse me for carrying on the way  
2 I am.

3                   THE CHAIR: No, no. No problem.

4                   I just want to make you aware of  
5 the fact that this Committee in its advisory  
6 status has been addressing this problem for  
7 almost 13 years, from the early -- well, from  
8 about 1978. And in 1980, you know, we came out  
9 with this breach of trust --

10                  MS. DRAKE: Yes.

11                  THE CHAIR: -- which culminated  
12 other interests into finding that the -- in  
13 fact, having the task force created and having  
14 the 16 illegal executive orders.

15                  I mirror your frustration. We  
16 mirror your frustration. We're not happy  
17 having these hearings unless it has something  
18 positive. We're all trying to grasp for some  
19 vehicle that can serve our people. You and  
20 I agree, got to agree, that from 1920 to now,  
21 this Act has been misconstrued, misled and  
22 mishandled by all phases of government.

23                  We have to agree on that, because  
24 there is somebody here -- if it's not the  
25 United States government, if it's not the State

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1 of Hawaii, somebody has to take the blame,  
2 number one, first, for mishandling this Act,  
3 whether it be in 1920, 1940, 1960 or now,  
4 because if we plan -- what this Committee has  
5 to do is gather information, recommend to our  
6 commissioners that they recommend to the  
7 President or Congress.

8                   So we're asking you, I am asking  
9 you: Do you see any recommendation? You have  
10 the core questions we submitted to you. How  
11 can we help the Hawaiian Homes in our final  
12 report that we come up with? Do you have any  
13 recommendations on that?

14                   MS. DRAKE: Yesterday, we went on  
15 a journey to Lualualei. I know you were taken  
16 by the beauty of the land and by the values and  
17 beautiful area that Lualualei is situated at.  
18 I know you also noted the many structures and  
19 areas where the storage of live ammunition and  
20 other kinds of equipment were stored. You also  
21 realized the magnitude of clearing up such an  
22 area would entail.

23                   We have been to court on this  
24 issue. Senator Inouye has spoken with our  
25 commissioners and he has spoken with the

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1 homestead associations and with other groups,  
2 and he has come up with some recommendations  
3 that if we do want to go back into court, there  
4 may be the possibility of us not winning in the  
5 judiciary arena.

6 His other recommendation is that  
7 he do it as a part of his congressional  
8 negotiations with other senators and through  
9 Congress. I look at the Defense Department,  
10 and they have problems at this time because  
11 they're recalling much of the American troops  
12 home.

13 What I would like to see --  
14 because it would take millions of dollars to  
15 right the wrong of Lualualei with the many  
16 kinds of ammunitions that are stored there and  
17 what has been done to that land. And I look  
18 at Bellows Field and I look at Barber's Point,  
19 and I would like to recommend that this body  
20 recommends that a fair exchange of lands be  
21 made. Much of the bases will be closing down.  
22 If this is so, then this is the time when we  
23 need to sit at tables and -- to do some kind of  
24 recommendation.

25 But I also would like to insert

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1 here, because I have lived in that area for 40  
2 years down in Nanakuli, Lualualei has been good  
3 to that community. The Navy has been good to  
4 that community. It has provided jobs for our  
5 people. It has provided a good kind of  
6 community relationship between the military and  
7 the Hawaiian community there. And there is a  
8 good kind of relationship.

9                   But because this goes beyond that,  
10 of this goodness that has happened within our  
11 community by providing jobs for our people, my  
12 recommendation is that if they want to retain  
13 Lualualei, then they should come to the table,  
14 pay us for the past compensation use of that  
15 land at fair market value, and pay for the  
16 compensation use of the land at this particular  
17 time, look at exchanging that land for Barber's  
18 Point and Bellows Field.

19                   It's not too farfetched. I think  
20 that can happen because the time is right. But  
21 these kinds of things need to be addressed.

22                   THE CHAIR: Thank you.

23                   Questions from the panel?

24                   MS. PUZON: I would like to add,

25 Mrs. Drake: Regarding Lualualei, you said that

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1 the Navy has been very helpful in providing  
2 jobs to residents of the area. In the August  
3 newsletter of OHA, there was an editorial by  
4 Frenchy DeSoto about health hazards caused by  
5 naval facilities at Lualualei, specifically by  
6 electromagnetic radiation and very high rates  
7 of serious illnesses.

8                   Is this a concern?

9                   MS. DRAKE: I believe this is a  
10 concern of anyone in the community, especially  
11 when the Board of Health came out with a  
12 report. But since then they have rescinded  
13 this alert to the community and have come out  
14 that in their testing, they have found this not  
15 to be true.

16                   I think many times we need to look  
17 at whether these kinds of reports are for  
18 alerting the community, and then when they're  
19 found not to be true and then -- let us know  
20 it's not true. So I don't know who to believe.  
21 But the Department of Health has rescinded that  
22 alert at this time.

23                   MS. PANUI: Aloha, Auntie.

24                   You have made a recommendation  
25 that the Federal -- on the Federal level for

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1 the exchange of lands that have been used by  
2 the Federal government.

3 My question -- and I am a new  
4 member to this Committee, but I have lived for  
5 years as a homesteader, and the frustrations  
6 coming from the homesteader, looking at missing  
7 lands.

8 How do you propose -- or how would  
9 you recommend to the State that they go about  
10 compensating Hawaiians for these missing lands?

11 MS. DRAKE: We are now in  
12 negotiations with the Department of Land and  
13 Natural Resources, the Office of State Planning  
14 representing the Governor, and ourselves. We  
15 already have identified all these parcels of  
16 lands, both private and lands that were sold  
17 that belong to the Department of Hawaiian  
18 Homes.

19 These are the things that Pat was  
20 just talking to you about and at this time  
21 we're not at liberty to disclose, because of  
22 the negotiations, proceedings going on. But  
23 I can assure you we are doing something about  
24 it.

25 MS. PANUI: Will that include

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1 access both to the mountains and to the  
2 beaches? Because many of these parcels have  
3 excluded Hawaiians from those areas.

4 MS. DRAKE: We're addressing all  
5 of these land controversies at this time, every  
6 land controversy, and we're documenting all of  
7 these parcels of land.

8 MR. LARDIZABAL: Mrs. Drake, I'm  
9 impressed with your testimony, but you  
10 mentioned something about the frustration with  
11 the County.

12 Are they being cooperative in  
13 general, or is this just one coincidence about  
14 the -- their own planning, health plan  
15 programs?

16 MS. DRAKE: Well, the County of  
17 Maui, we had this -- when I came aboard, these  
18 40 people had waited four years. First of all,  
19 the County had to be informed that we did not  
20 need to go through county zonings --

21 MR. LARDIZABAL: Right.

22 MS. DRAKE: -- that we were --  
23 that we did not need to meet these kinds of  
24 laws. It took them a year to -- for our legal  
25 department to finally persuade their legal

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1 department that we did not need to go through  
2 the ordinances, through the zoning codes.

3           So then another thing happened.  
4 We tested the soil, and then we needed Board of  
5 Health to come forth and say whether or not we  
6 would be able to -- oh, we needed to hook on to  
7 the sewer line. The sewer line was about a  
8 mile or two miles away. So there were many  
9 things that were needed to be done that we were  
10 able to accomplish and were willing to do.

11           It's the things that have  
12 transpired lately that added onto the cost.  
13 First of all, they didn't require us to have  
14 sidewalks. Now they're telling us to put in  
15 sidewalks. Then they said we didn't need to  
16 go underground for our utilities, for our  
17 lights. Now we've got to go underground for  
18 utilities.

19           Now, this subdivision was first  
20 started -- plans were started about three years  
21 ago, and today -- it's just one thing after  
22 another. I've spoken with the Mayor, and as  
23 you know and I know, when the Mayor has served  
24 his office and his term of office is almost  
25 over, he does not carry the amount of weight

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1 that he normally would if he was just working  
2 his four-year term.

3                   The City Council is running for  
4 office. Everybody's running for office, and  
5 so --

6                   MR. LARDIZABAL: Mrs. Drake, my  
7 question really is: Are you required by the  
8 County general plans and/or ordinances to  
9 follow them, or can they be waived for  
10 construction?

11                   MS. DRAKE: We can do this, but  
12 we want our subdivisions to be taken care --  
13 the roads to be cared for by the County. We  
14 want our people to receive all the benefits  
15 from the County. If we don't adhere to County  
16 rules, then they will say, "You take care of  
17 your own roads. You take care of all the other  
18 things that would support the subdivision."

19                   MR. LARDIZABAL: Thank you.

20                   THE CHAIR: That's sewage and  
21 everything else? If you don't comply with  
22 their --

23                   MS. DRAKE: That's right.

24                   THE CHAIR: Barry?

25                   MR. SHAIN: I guess I've been

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1 involved in this issue for the last eight years  
2 with Charlie, sitting here on the Commission,  
3 and the last eight years, I've been sitting  
4 here listening about how the State can't get  
5 the County to do this and how the Federal  
6 government doesn't want to do this, how there  
7 aren't resources here, how OHA isn't  
8 cooperating here.

9                   Somewhere, somebody is responsible  
10 for this, and the ultimate place I see the  
11 responsibility is at the Department of Hawaiian  
12 Home Lands. Now, it's not the negative  
13 responsibility, but the responsibility to get  
14 the job done.

15                   MS. DRAKE: I do that.

16                   MR. SHAIN: Okay.

17                   I would like to know if you think  
18 -- after decades of people waiting for land,  
19 do you believe the Department of Hawaiian Home  
20 Lands still has a viable trust? We've talked  
21 about trust breach from the Federal government;  
22 we've talked about trust breach from the State  
23 government; we've talked about lack of trust  
24 with some of the other Hawaiian organizations.

25                   Do you believe that there's

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1 enough trust left in the Hawaiian grassroots  
2 community, as you put it, for the Hawaiian  
3 Home Lands to turn things around and to put  
4 people on the land, and that people are going  
5 to sit here for another 10 or 11 years and wait  
6 to hear about 12-inch water pipes and waiting  
7 to hear about sidewalks being put in? Because  
8 it's the same thing we heard 16 months ago in  
9 testimony. That's my question to you. Did you  
10 find out in the community a lot of trust for  
11 the Hawaiian Home Lands Commission?

12 MS. DRAKE: Sir, I am from the  
13 grassroots. I'm a people person. If anybody  
14 knows people, it's me. That's my business.  
15 I know the political ramifications. I know  
16 what it is to go and massage the counties.  
17 I know what it is to go and massage the  
18 political system. That's the reality of life.  
19 That's what part of being a director is all  
20 about.

21 I was sharing with you the things  
22 -- some of the things that have been happening.  
23 If it sounds familiar to you, then you know  
24 that this has happened in the past. It will  
25 always be there. It's a reality of life for

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1 any department.

2           But when you talk in terms of our  
3 people -- and these are the Native Hawaiians  
4 who are homesteaders -- this is the first time  
5 that we are -- now, with the SCCHA, we have  
6 funded a convention, and we are going back to  
7 our people, because -- I don't know if you were  
8 listening to me, but I explained to you that it  
9 wasn't the land, it wasn't anything else. It's  
10 the people that are important, and fulfilling  
11 the needs of these people.

12           I was sharing with you many of the  
13 things that have happened on Maui, and it was  
14 only one incident. It was not many. We have  
15 many good things that are happening on Hawaii.  
16 Their council fully supports us, fully supports  
17 my role there as the Director of Hawaiian Home  
18 Lands. They are working in concert, full  
19 concert with us. And this is where Charles  
20 and I have to sit down and talk about the  
21 realities of the politics of what is going on  
22 in Maui.

23           I realize these things because  
24 I have gone to the people for help, not to you,  
25 to the people, because it's from the people

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1 where the power exists. It's not all of us  
2 here. It's the people. Unless the people  
3 support me in this program, nothing is going to  
4 happen.

5 MR. SHAIN: I want to try to get  
6 that question answered.

7 Do you still consider that the  
8 Department of Hawaiian Home Lands has the trust  
9 of the people?

10 MS. DRAKE: Yes.

11 MR. SHAIN: Absolutely?

12 MS. DRAKE: Absolutely.

13 MR. SHAIN: Okay. That's  
14 question number one.

15 Question number two: I think we  
16 last had hearings in 1988.

17 THE CHAIR: 1989.

18 MR. SHAIN: Yeah.

19 How many new home lands and how  
20 many people have been put on the home lands  
21 since that time?

22 MS. DRAKE: I don't know.

23 John, can you answer that  
24 question?

25 John is my deputy, and he's been

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1 around a long time. I've only been on eight  
2 months.

3 THE CHAIR: Would you take a mike,  
4 sir, please?

5 Could you state your name and your  
6 position, please?

7 MR. ROWE: My name is John Rowe.  
8 I'm the Deputy Director for the Department of  
9 Hawaiian Home Lands.

10 In response to your question, back  
11 in 1984/85, the Department awarded 2,500 lots.  
12 Approximately 2,000 of those lots were  
13 unimproved. We have gone back now and we have  
14 begun to put in the improvements. And we also  
15 have implemented a program to construct 450  
16 homes during 1990, which will be our primary  
17 source of home construction since the last  
18 hearing.

19 MR. SHAIN: Okay. So nothing has  
20 taken place since the last hearing until today,  
21 though?

22 MR. ROWE: It has.

23 MS. DRAKE: It has.

24 MR. ROWE: It has. We've at least  
25 -- we've started -- we have programs in which

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1 we have requests from contractors that we're  
2 looking at who will build 50 homes in Hilo,  
3 approximately 40 homes on Maui, approximately  
4 35 homes on Kauai. We already have under  
5 construction 45 homes, so we already have  
6 started.

7 MR. SHAIN: Okay.

8 My next question is: Out of the  
9 \$80 million budget, how much of that is  
10 supposed to be bonds that you're supposed to  
11 issue yourself?

12 MR. ROWE: Approximately 43  
13 million.

14 MR. SHAIN: Okay.

15 And do you have -- I believe you  
16 need assets to write against the bonds. Do you  
17 have assurances from the banks now that they  
18 will underwrite those -- that \$43 million  
19 float?

20 MR. ROWE: At this time, we're  
21 working with a -- an underwriter to the  
22 Department of Budget and Finance, and they have  
23 assured us that it is feasible -- We're still  
24 in the implementation stages -- that it is  
25 feasible for us to do so based on the income

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1 that we would want to dedicate for repayments.  
2 It is the Department's intention not to float  
3 more than \$25 million.

4 MR. SHAIN: So, in other words,  
5 you have 37 million in actual money, and you  
6 have a right to write a bond for up to 43  
7 million, but you'll only write a bond for about  
8 25 million, correct?

9 MR. ROWE: Yes.

10 MR. SHAIN: And that's if you can  
11 get the bond underwritten with your current  
12 assets?

13 MR. ROWE: Well, it's not the  
14 current assets that will underwrite the bond.  
15 The bond will be based on the income that --  
16 the income that we dedicate towards the  
17 program.

18 MR. SHAIN: In September of 1988,  
19 a letter was written to Ilima Piianaia, and I  
20 guess the request was followed up with two  
21 other requests. These were all signed, I  
22 believe, by Charlie. And then in March of  
23 1990, the Commission was told that we need to  
24 get a response to these questions, and we still  
25 haven't.

1 I guess this is a follow-up to  
2 Ruth's questions, and it has to do with the  
3 rights of Native Hawaiians to engage in hunting  
4 for their economic self-sufficiency, the idea  
5 on leased land on Maui, to be able to use the  
6 beach for fishing and things like that.

7 I don't believe the Commission has  
8 received a response yet. I was wondering if  
9 you could give us a time when we could get a  
10 response to that.

11 MS. DRAKE: Yes. I think we need  
12 to work with some agency, because in the past  
13 what has been found is that a lot of people  
14 that have been going on to private or Hawaiian  
15 Homestead lands have been trashing the area.  
16 They have stolen cattle.

17 THE CHAIR: Excuse me.

18 MS. DRAKE: I'm just telling you  
19 what we've found and what we're going to do  
20 about it.

21 We need to be working with  
22 agencies, and this is what -- DLNR, we've met  
23 on this, and we're finding community agencies  
24 who will be responsible to make sure those  
25 people who go onto the land will be there who

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1 are Hawaiians. I'm talking about Native  
2 Hawaiians.

3 THE CHAIR: Auntie Hoaliku --

4 MS. DRAKE: Yes?

5 THE CHAIR: -- you are speaking  
6 directly about an incident that I am involved  
7 with, Kahikinui --

8 MS. DRAKE: Yes.

9 THE CHAIR: -- 15,000 acres --

10 MS. DRAKE: I know.

11 THE CHAIR: -- and Maui Factors  
12 closed the right of way. It has no given right  
13 by any man that I got to check with. It's my  
14 right to transfer that land and go to the  
15 ocean. They have alienated us of this right by  
16 closing all the public right of ways. And  
17 15,000 acres that they are in control of, they  
18 give to who they want to --

19 MS. DRAKE: I see.

20 THE CHAIR: -- if you are nice to  
21 that company, which is the former mayor, Elmer  
22 Carvalho.

23 Furthermore, that letter also asks  
24 -- and I've been asking this question for 10  
25 years. Maui Factors leases 15,000 acres --

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1 and I said this in 1988, that they are using  
2 36,000 acres from Hawaiian Homes property and  
3 they're only paying for 15,000. And we cannot  
4 go down to the ocean to fish or cannot shoot  
5 goats, which was traditional before, before  
6 these people. When Ulupalakua Ranch had it,  
7 they let the Hawaiians go fish and hunt.

8 I've asked this question for  
9 years, and I have not gotten the answer.  
10 That's frustrating.

11 MS. DRAKE: May I speak --  
12 Charles, may I speak with you more fully on  
13 this matter --

14 THE CHAIR: Sure. Definitely.

15 MS. DRAKE: -- when we're pau  
16 here?

17 THE CHAIR: Sure.

18 MS. DRAKE: Fine.

19 THE CHAIR: Good.

20 MR. SHAIN: My next question is:  
21 At the last hearing, I remember it came to our  
22 attention -- I went back over the testimony,  
23 and we know in Hawaii that beachfront land is  
24 considered prime land just by seeing the  
25 purchase prices around Kahala.

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1                   Do you believe that Hawaiian Home  
2 Lands is receiving fair compensation for beach  
3 parks that the City is leasing? My question  
4 number one.

5                   And to follow up on Ruth's and now  
6 Charlie's questions, do you also feel that it's  
7 fair when Native Hawaiians decide to camp on  
8 Hawaiian home land that happens to be leased to  
9 the City that they should be arrested for  
10 that?

11                   MS. DRAKE: At this particular  
12 time -- there was litigation. You're speaking  
13 on Kauai, about the island of Kauai? Is this  
14 what you're speaking about?

15                   MR. SHAIN: I'm also thinking  
16 about Waimanalo Beach Park, too.

17                   MS. DRAKE: Waimanalo Beach Park  
18 -- the people who live across -- it's being  
19 fully used by Hawaiian homesteaders. Waimanalo  
20 Beach Park -- the residents themselves asked  
21 the people to move off the beaches because they  
22 were not even permitted to go on to their own  
23 beaches. You talking about an area that you  
24 know nothing about, because I was involved  
25 during that period of time.

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1           The people themselves who lived in  
2 the homestead were not even permitted to go  
3 over. Why? Because there was -- people just  
4 went there and squatted. They were not even  
5 allowed -- their children were stopped from  
6 going onto the beaches.

7           THE CHAIR: Okay. Let's have some  
8 order.

9           Continue.

10          MS. DRAKE: I'm talking in terms  
11 of the people in Waimanalo. We came up with a  
12 pact. I remember Mrs. Georgeanna Padeken, who  
13 was chairman at the time, and we met with  
14 community groups, and that problem was  
15 resolved. Because the people wanted those  
16 lands returned to them, because the  
17 homesteaders themselves are in complete use of  
18 that Waimanalo Homestead lands, that beach  
19 lands.

20           It's right across the street from  
21 where the homesteaders live. Their children  
22 walk across. Their children play there. The  
23 families go there, they use the pavilion.  
24 That's their beach. They've planted their flag  
25 on that area. That's their beach. It's the

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1 Hawaiian homesteaders beach.

2 THE CHAIR: Barry, response?

3 MR. CAHILL: Mrs. Drake?

4 MS. DRAKE: Yes?

5 MR. CAHILL: This is unrelated to  
6 what's gone on before.

7 THE CHAIR: Use the mike, please.

8 MR. CAHILL: Okay.

9 This is unrelated to what's gone  
10 on before. I believe the Departments of  
11 Interior and Justice have the responsibility to  
12 ensure enforcement of this State's obligation  
13 in carrying out the Act of 1921.

14 Have either or both of these  
15 Federal departments conducted a formal  
16 evaluation of the Department of Hawaiian Home  
17 Lands, and, if so, have they ever indicated an  
18 interest or an awareness of your department's  
19 problems and frustrations, or have they been  
20 supportive in any way, if they have been  
21 around?

22 MS. DRAKE: Well, in 198- -- the  
23 Task Force that was formed, the Department of  
24 Interior did send down their attorney, Ruth Van  
25 Cleve.

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1 MR. CAHILL: What year was that,  
2 please?

3 MS. DRAKE: 1982.

4 MR. CAHILL: Okay.

5 MS. DRAKE: 1982, the Task Force  
6 did send down Department of Interior to  
7 represent the Interior. And they took an  
8 active part in that task force, and the  
9 recommendations that did come forth from this  
10 task force are answered in the attachments that  
11 are submitted before you.

12 MR. CAHILL: Yeah.  
13 Have you ever heard from them  
14 since 1982?

15 MS. DRAKE: They have been  
16 very --

17 MR. CAHILL: You don't have to say  
18 it.

19 MS. DRAKE: They have responded  
20 to letters from us. We've been in contact.

21 MR. CAHILL: All right. Thank  
22 you.

23 MS. DRAKE: Thank you.

24 THE CHAIR: If I may recognize --  
25 Helen?

1 MS. NAGTALON-MILLER: Thank you.

2 In your testimony on your goal,  
3 you mentioned -- and I quote -- that the  
4 "department's primary goal is the placement of  
5 Native Hawaiians on Hawaiian homelands. Our  
6 goal for the next 10 years is to deliver more  
7 than 14,000 lots and homes at an estimated cost  
8 of \$2.4 billion."

9 MS. DRAKE: Yes.

10 MS. NAGTALON-MILLER: "This  
11 figure includes \$925 million for off- and  
12 on-site infrastructure."

13 MS. DRAKE: Yes.

14 MS. NAGTALON-MILLER: My question  
15 is: What is your plan to fulfill those aspects  
16 of your goal that don't require money, more  
17 personnel, et cetera?

18 You said that you've been on the  
19 job for six, seven months.

20 MS. DRAKE: For eight months.

21 MS. NAGTALON-MILLER: For eight  
22 months.

23 In a way, I'm probably putting you  
24 on the spot, but we need this information as  
25 members of the Committee.

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1 MS. DRAKE: Are you talking about  
2 the operating budget?

3 MS. NAGTALON-MILLER: Well, I'm  
4 talking about what you have here as your goal,  
5 that you want to put these many more people on  
6 the land and so forth.

7 My question is: What do you plan  
8 to do with those aspects of this particular  
9 plan that doesn't require money? I guess I'm  
10 talking about your role as the head of this  
11 Department.

12 MS. DRAKE: My role is to  
13 administrate --

14 MS. NAGTALON-MILLER: Yes.

15 MS. DRAKE: -- this program; and  
16 my staff's role, to come up with the plans.

17 MS. NAGTALON-MILLER: Right. As  
18 the head of this particular department --  
19 because I think you're aware that we are trying  
20 to get some facts and some information so that  
21 we would know what to recommend in our report.  
22 So this is very important to us.

23 MS. DRAKE: Well, the bottom line  
24 is more money. That's really the bottom line.  
25 If I'm able to come up with more money, I'm

1 able to -- well, first of all, I would like to  
2 share with you that prior to 1988, the monies  
3 that were utilized from our general leases, our  
4 revenue kinds of monies that we received, were  
5 used for our operating budget.

6           In 1988, for the first time in  
7 history, the legislature appropriated enough  
8 monies for us so that we were able now to fund  
9 our employees, and we have 98 civil service  
10 employees.

11           What I would like to see happen is  
12 to hire more technical people, more engineers.  
13 I would like to hire a hydrologist, and I would  
14 like to hire more people in identifying our  
15 water needs. They will be at the Planning  
16 Department on special projects.

17           But I believe this need is very,  
18 very apparent, because without water we will  
19 not be able to build the many houses that we're  
20 talking in terms of. Many of the departments  
21 that we're talking about, I'm looking for ways  
22 and means so that we'll be able to get these  
23 technical people aboard.

24           MS. NAGTALON-MILLER: Mrs. Drake,  
25 I think that my concern is that -- I realize

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1 that if we had more money, we could do  
2 something.

3 MS. DRAKE: Yes.

4 MS. NAGTALON-MILLER: All of us  
5 are in agreement.

6 But at the same time, there must  
7 be some aspects of your job, your task, as head  
8 of the Department that really didn't require  
9 money. And I'm sure --

10 MS. DRAKE: Certainly.

11 MS. NAGTALON-MILLER: -- you're  
12 more familiar with that than I am.

13 MS. DRAKE: Certainly. What we  
14 have been doing at this particular time -- and  
15 we would like to share with you -- we've been  
16 working with other landholders and other  
17 Hawaiian agencies in coming up with perhaps  
18 sharing some of their know-how and their wisdom  
19 as to how they were able to develop some of  
20 their lands. They're coming back and sharing  
21 with us.

22 We at this particular time have  
23 formed committees to look at some of our  
24 pastoral lots which we will be awarding in  
25 September sometime, and we're talking about

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1 larger lots than those that were originally  
2 planned. I'm -- because it was passed by the  
3 Commission, I'm sure we will be addressing some  
4 of these things that you're talking about right  
5 now.

6                   We're linking up with the Office  
7 of Hawaiian Affairs. Last Sunday during lunch  
8 was the first time historically that the  
9 Department and the Office of Hawaiian Affairs  
10 were able to meet and just sit down to talk  
11 with one another, to get to know who we are,  
12 who you are, sharing these kinds of  
13 philosophies, one with the other.

14                   Hopefully, this relationship may  
15 bloom into where we will be able to work with  
16 them so that they can include us in their plans  
17 and include us, perhaps, on some of the loans  
18 that I was talking about with gap groups that  
19 we were not able to fund, and maybe looking  
20 into other avenues that they could include us  
21 in their plans.

22                   So these are some of the things  
23 that we're doing.

24                   MS. NAGTALON-MILLER: Are there  
25 things that you could do without waiting for

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1 the other person to invite you?

2 MS. DRAKE: I don't wait for  
3 anybody to invite me. I invite them.

4 MS. NAGTALON-MILLER: Could you  
5 just detail for us a little bit for us. What I  
6 think we're interested in knowing is that there  
7 must be some things in here that don't require  
8 money for improvement of the Department, and I  
9 think I would like to hear a little bit more  
10 about that.

11 MS. DRAKE: Are you talking about  
12 the programs?

13 THE CHAIR: Maybe I can clarify  
14 what she means.

15 MS. DRAKE: Yes?

16 THE CHAIR: One of them might be  
17 -- like she's aware that we had several  
18 hearings already and heard that there's people  
19 that have died that are waiting on the list,  
20 that there's people here like Sonny Kaniho  
21 waiting 45 years for a house.

22 Two years ago we asked this  
23 question: Will you give precedence to these  
24 people to get lots first, while us who has  
25 waited 27 years can wait another 5 or 10 or 15?

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1 Do they have precedence?

2 MS. DRAKE: You're talking about  
3 the pastoral list.

4 THE CHAIR: Well, whatever.

5 MS. DRAKE: Yes.

6 THE CHAIR: Not necessarily.

7 Any applicant -- And that was my  
8 question two years ago -- any applicant that  
9 has waited a hell of a long time, and they're  
10 old, they need a place to stay; do they have  
11 precedence?

12 MS. DRAKE: If they're on the  
13 list and they're way up on the list -- can you  
14 explain?

15 THE CHAIR: Yeah.

16 So if they're waiting 30 years and  
17 45 years and all, they must be --

18 MS. DRAKE: They must be up there.

19 THE CHAIR: Right. That's what I  
20 mean.

21 MS. DRAKE: In order to be  
22 awarded, sure.

23 THE CHAIR: Can they be considered  
24 first, is what I asked two years ago.

25 MS. NAGTALON-MILLER: And that

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1 doesn't require money. That's what I'm asking  
2 you.

3 THE CHAIR: Yeah.

4 MS. DRAKE: You're talking about  
5 the program itself. You're talking in terms of  
6 the circumvention of that list --

7 THE CHAIR: Implementation.

8 MS. DRAKE: -- and whether or not  
9 we weigh one over the other.

10 THE CHAIR: Right.

11 MS. DRAKE: We have rules. We  
12 have to abide by the rules. You're talking  
13 about the circumvention of that list.

14 MS. NAGTALON-MILLER: No, I don't  
15 mean circumvention. I realize that people have  
16 to have rules and regulations, but I think I'm  
17 thinking about changes or directions that could  
18 be undertaken that will not require money or  
19 waiting for Washington to do their part.

20 MS. DRAKE: I think this  
21 department has looked into areas where you're  
22 talking in terms of social needs. We looked at  
23 some of the elderly who are in need of  
24 transferring their lots because -- Papakolea,  
25 they're up in a high area where they can't walk

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1 down the stairs anymore, and they would like to  
2 exchange their homes to a flat area.

3                   We have conducted these changes.  
4 Where there has been needs for reconstruction  
5 or because of their age they needed to move  
6 from one island to the other, we have helped  
7 them do this. I think on a one-to-one basis we  
8 are addressing their needs as they come forth.

9                   MS. NAGTALON-MILLER: I guess the  
10 reason why I'm pursuing this is that I see this  
11 as very interesting testimony, because you do  
12 have a goal of master-planned communities. And  
13 yet I realize that from the hearings we've had,  
14 consultations we've had -- and today is no  
15 exception -- we realize that there are problems  
16 and people have come forth with them.

17                   And so as a member of the  
18 Committee, I'd like to understand what the  
19 problem is so that we can come up with a clear  
20 idea of recommendations and so on. That's why  
21 I'm pursuing this --

22                   MS. DRAKE: Certainly.

23                   MS. NAGTALON-MILLER: -- set of  
24 questions.

25                   If you were to take that goal that

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1 you have described here and try to put them  
2 down into very different -- in little tasks  
3 that might have to be undertaken, which ones  
4 would be the ones that you feel are very  
5 important to do so that some of the needs of  
6 the Hawaiian community will be met apropos this  
7 problem?

8 MS. DRAKE: Our community,  
9 I think, ranges a wide spectrum of needs. When  
10 you look at some of the needs of our elderly,  
11 they are no longer able to take care of their  
12 homestead. They need a smaller area to live  
13 in. They would like to move into a seniors'  
14 center where other kupunas would be there, so  
15 that they could be able to socialize.

16 We, along with Alu Like, have come  
17 forth -- Because Alu Like had some Federal  
18 funds -- come forth with some programs for our  
19 senior citizens, and we've targeted these  
20 groups to service them with meals. We've  
21 targeted these groups so that they're able to  
22 come into schools, our community buildings that  
23 OHA has -- I mean, that Alu Like has --

24 THE CHAIR: Excuse me, kala mai,  
25 ma'am.

1 MS. DRAKE: Yes.

2 THE CHAIR: I'm going to have to  
3 move off this subject because we have other  
4 questions that need to be answered.

5 MS. NAGTALON-MILLER: Certainly.

6 THE CHAIR: If you don't mind.

7 MS. NAGTALON-MILLER: Right.

8 Thank you.

9 MS. DALY: As a new member of this  
10 Committee, I'm very conscious of the  
11 frustrations of all the people, of Native  
12 Hawaiians, because there's so many things that  
13 seem as though they're about to happen and they  
14 fall through the cracks. This question is  
15 based on that awareness.

16 I understand that there is a  
17 cabinet-level task force set up as a result of  
18 an August, 1989 congressional hearing, and I  
19 just wonder if you would be able to briefly  
20 discuss, you and your assistant, the results of  
21 this task force, a cabinet-level task force.

22 MS. DRAKE: This task force,  
23 I believe, has come together and assessed the  
24 needs and the many programs and services that  
25 the Native Hawaiians now receive. Their health

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1 needs have been addressed. Many of the social  
2 problems in housing, in elderly programs, all  
3 of these were assessed.

4           And when they were put together  
5 -- This is what I was talking about -- even  
6 though the education portion came through  
7 Federal, the State monies went into education  
8 and many private monies went into education for  
9 the Native Hawaiians. This wide area of  
10 services to our Native Hawaiians came together.  
11 And really what filtered through this whole  
12 thing was the need for housing, and that's what  
13 happened at these meetings.

14           Every -- they met. They talked  
15 about health in one area, what were the  
16 services being provided to the Native  
17 Hawaiian, what were the health services being  
18 met, how were they being met, and the number of  
19 dollars that were going into the programs.

20           These were all reports that came  
21 forth. We'll submit something for you on that.  
22 And then what finally resulted was -- and what  
23 really came out and emanated from this group  
24 was the need for homes for our Native  
25 Hawaiians.

1 THE CHAIR: Anthony?

2 MR. VERICELLA: Yes.

3 I just want to get into the record  
4 and actually commend you on voicing for the  
5 first time today: The real heart of the issue  
6 from this Advisory Committee's standpoint to  
7 the U.S. Civil Right Commission should indeed  
8 be the rights of the people, of the Native  
9 Hawaiian people, and in which way, if any --  
10 and there certainly have been many ways that  
11 they have either been discriminated against or  
12 injustices have been applied to them.

13 And I think that even though the  
14 critical need stems back to the land, the  
15 resources for using the land, or incomes  
16 generated from lands, whether they are used  
17 directly or just used as an income source for  
18 the Hawaiian people, those are certainly the  
19 critical assets and critical needs of the  
20 Native Hawaiian people.

21 But it's the human and civil  
22 rights of those people that is the proper  
23 approach for this Committee to properly take  
24 with regards to the U.S. Civil Rights  
25 Commission, and that is the way in which to get

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1 the critical needs for the people, which are  
2 the land and the water and the income, past,  
3 present, and future, from other folks using the  
4 land, is to attack it from the civil rights  
5 standpoint, from the human rights standpoint,  
6 and the fact that the Native Hawaiians have  
7 indeed been discriminated against and  
8 injustices have been applied to them

9                   And that's the tack that we should  
10 be taking on the Advisory Committee side. And  
11 that's one point.

12                   With respect to the various  
13 Hawaiian organizations and who has  
14 responsibility and who doesn't have  
15 responsibility, just like our approach up here  
16 should be to -- and I think where we'll get the  
17 most bang for our buck, so to speak, is on the  
18 human and civil rights side, likewise for the  
19 Native Hawaiian people and all of the various  
20 Hawaiian organizations. You will get the most  
21 bang for your buck if it is finally possible  
22 for all of your organizations to set aside your  
23 various differences and sit down and as one  
24 body and one unit make a much stronger voice,  
25 and be prepared to put aside who's right and

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1 who has the right approach, who has the wrong  
2 approach.

3           The only approach is to get back  
4 the rights that you -- that were taken away  
5 from you and the resources that were taken  
6 away from you. That should be the singular  
7 focus of your intention.

8           THE CHAIR: Okay. Could I have a  
9 little bit of order here, please?

10           Go ahead, Barry.

11           MR. SHAIN: The 2.4 billion,  
12 what's that for?

13           MR. ROWE: The 2.4 billion is --  
14 approximately 925 million will be for off-site  
15 and on-site infrastructure, and one -- the  
16 remainder, a little over 1.4 billion, will be  
17 for home construction funds.

18           MR. SHAIN: How many families does  
19 that reflect?

20           MR. ROWE: That would be for the  
21 minimum of 14,000.

22           MR. SHAIN: 14,000.

23           My calculator may be wrong, but  
24 that would take us at about 1.8 million per  
25 family. Is that possible? What does it come

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1 to?

2 MR. ROWE: I don't have the exact  
3 figures --

4 MR. SHAIN: Does anybody have a  
5 calculator on them? My calculator only went up  
6 into the millions. What is it? About 1.8  
7 million per thing?

8 So it's 180,000.

9 So in other words, without land  
10 acquisition, because we already own the land,  
11 it's going to be \$180,000 per family? Is that  
12 what you're saying? That's just to build  
13 14,000 units which we should be able to do  
14 wholesale? Is that what you're saying?

15 MR. ROWE: Well, our plans include  
16 starting from now with an inflation factor over  
17 the 10 years, to bring it back to what the  
18 overall needs would be over the next 10 years.  
19 If it was --

20 MR. SHAIN: Excuse me. I don't  
21 mean to interrupt, but I will interrupt now.

22 The bottom line of what you're  
23 saying is \$180,000?

24 MR. ROWE: The bottom line, what  
25 we're saying is, we estimated our cost to be

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1 approximately \$80,000. And I don't have all  
2 the reports here to make it -- as to the  
3 mathematics, but the approximate cost that we  
4 were using per lot came up to approximately 80  
5 to 90 thousand per unit for the infrastructure  
6 and the home.

7 MR. SHAIN: I don't know. We're  
8 missing a few billion dollars here somewhere,  
9 so --

10 MR. ROWE: I'll be happy to go  
11 back and review our figures and --

12 MR. SHAIN: Maybe I'm  
13 oversimplifying it, but all I'm really doing is  
14 dividing 14,000 into 2.4 billion, and that's  
15 not \$80,000 per unit. I mean, maybe that's --

16 MR. ROWE: Well, I don't have my  
17 calculator here.

18 MR. SHAIN: I guess maybe we can't  
19 look at it that way.

20 MR. ROWE: Yeah. You know, all  
21 we're saying is that we wanted to build 14,000  
22 homes over the next 10 years, and what will  
23 that cost.

24 MR. SHAIN: Over the next 10  
25 years.

1                   Okay. So in other words, what  
2 you're hopefully predicting is, over the next  
3 10 years you're going to retire your entire  
4 waiting list?

5                   MR. ROWE: Yes.

6                   MR. SHAIN: And add another 2,000  
7 people to that, 2,000 families to that, and  
8 also get them settled on the land?

9                   MR. ROWE: Yes. We anticipated  
10 what our current needs were for homes and what  
11 the increase is, the net increase in the  
12 waiting list would be over the next nine years.  
13 Okay?

14                   MR. SHAIN: Okay.

15                   Have you thought -- it was told to  
16 us today -- And it's something I didn't know in  
17 the past -- that ancient Hawaiians before  
18 haoles came were communal people?

19                   Have you looked into alternatives  
20 in terms of -- instead of your standard lot  
21 house, building structure, having the people  
22 live in a more communal way and possibly having  
23 the farms also operating in a more communal  
24 way? I mean, the structure has worked in other  
25 countries around the world.

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1 MR. ROWE: We're looking at  
2 alternatives, yes.

3 MR. SHAIN: Okay.

4 THE CHAIR: A last question?

5 MR. SHAIN: No.

6 THE CHAIR: Thank you.

7 John?

8 MR. DULLES: Yes. I'll try to be  
9 brief.

10 I want to commend Mrs. Drake for  
11 putting this figure out here. I think that one  
12 of the reasons that people are afraid of this  
13 Hawaiian Homes Commission Act is the expense  
14 that's going to be required to make the  
15 reality, and I think we have to confront the  
16 reality. And I don't know if it's 2.4 billion,  
17 but it's a large amount of money that's going  
18 to be required, and somebody's got to come up  
19 with it.

20 And the question is: Would you  
21 agree or disagree that the State was in  
22 compliance with the funding provisions, Article  
23 12, Section 1 of the 1978 Constitutional  
24 Convention, which it's my understanding commits  
25 the State to full funding to implement the

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1 purposes of the Hawaiian Homes Commission Act,  
2 the responsibility of which has been accepted  
3 by the State of Hawaii?

4                   And I'll ask the same question to  
5 Senator Crozier, but I would like your view on  
6 that.

7                   MS. DRAKE: I think the -- I  
8 didn't hear the last portion of your question.

9                   MR. DULLES: It's my understanding  
10 that under the Constitutional Convention of  
11 1978 --

12                   MS. DRAKE: Yes.

13                   MR. DULLES: -- Article 12, the  
14 State of Hawaii committed itself to full  
15 funding for the implementation of the Hawaiian  
16 Homes Commission Act. That was an amendment to  
17 the Constitution of the State of Hawaii.

18                   In view of the resources that you  
19 presently have from the State and other  
20 sources, and in view of the estimated cost of  
21 over \$2 billion to achieve the purposes of the  
22 goal, is the State of Hawaii in compliance with  
23 the full-funding provisions of the  
24 Constitutional Convention of 1978, is my  
25 question.

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1 MR. ROWE: The article you speak  
2 of I believe called attention that the  
3 legislature would assure that sufficient  
4 operating funds from the following list are  
5 made available to the Department of Hawaiian  
6 Home Lands. The legislature, prior to 1988,  
7 had looked upon that by their approving our  
8 budget in which we were using -- utilizing our  
9 own funds, was in response to that article.

10 Since 1988, however, because  
11 Governor Waihee has included the funding  
12 request for our operating budget, they have  
13 since fully funded our permanent costs. Now,  
14 that, we feel is adequate until we make  
15 additional requests for additional permanent  
16 employees.

17 In terms of the infrastructure  
18 needs, if you look at the over \$2 billion that  
19 we need, we believe that our becoming eligible  
20 for FHA-insured financing is a possibility for  
21 funding being provided for home construction.  
22 Therefore, what we need to do is create  
23 approximately 925 million for the off-site and  
24 on-site infrastructure.

25 The State is currently providing,

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1 over the last few years, approximately \$20  
2 million of that cost. We would need something  
3 like \$100 million. Now, that is not that we  
4 -- the executive branch and the legislature  
5 needs to take a look at it.

6           You know, like the lady had asked  
7 the question earlier, what -- is there  
8 something else you can do? And the frustration  
9 of this program is that we sometimes deviate  
10 from what our goal is, to put it -- to put  
11 people on the land.

12           We're looking at attaining the 925  
13 million right now. We don't have it, but we  
14 cannot deviate because we don't have all the  
15 resources now. We need to just keep going  
16 until we have the money. It may take us one  
17 year or it may take us five years, but we're  
18 committed for once and for all: putting people  
19 on the land and not having them wait 20 or 30  
20 years on some waiting list.

21           MR. DULLES: Well, my  
22 understanding is that you have set your goal.  
23 In 10 years, this is what you want to deliver.  
24 This is what it's going to cost to get it done.  
25 Now, whose responsibility is it to fund it?

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1 What? The income-generating leases? Certainly  
2 that could not be your approach. Certainly not  
3 the Federal government, which has come up with  
4 less than \$2 million.

5           If the State is responsible for  
6 implementation of the Act, then why not the  
7 legislature and the executive branch of the  
8 State? I'm asking you. You've stated your  
9 goal, and this is what you need to get the job  
10 done; whose responsibility is it to get those  
11 funds so you can get the job well done?

12           MR. ROWE: We think it will be our  
13 responsibility, working in conjunction with our  
14 State legislature on obtaining those kinds of  
15 funds.

16           MR. DULLES: So when you go to the  
17 Governor and you go to the Department of Budget  
18 and Finance, you're going to request full  
19 funding to achieve the purposes of implementing  
20 the Act as per your goal; is that correct or  
21 not correct?

22           MR. ROWE: That's a possibility.

23           MR. DULLES: Sir, I encourage you  
24 to pursue it.

25           MR. ROWE: Within the reality of

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1 what the State funding resources can provide to  
2 us.

3 MR. DULLES: And very briefly, the  
4 Federal-State Task Force recommended a  
5 comprehensive management audit of the  
6 Department.

7 Do you know if this has been  
8 completed, and, if so, could you make a copy of  
9 it available, the management audit that was  
10 proposed by the Federal-State Task Force in  
11 1983? Has that been conducted, to your  
12 knowledge?

13 MR. ROWE: Yes, and we can make  
14 you a copy of it.

15 MR. DULLES: Okay. All right.

16 What efforts are being made by  
17 your department to make sure that all the  
18 leases and licenses are yielding a fair level  
19 of compensation? Is that part of the review  
20 process that's under way, and, if so, can you  
21 tell us what time you expect to finish that  
22 task so that we might have some idea of the  
23 results?

24 MR. ROWE: Working in conjunction  
25 with the staff of the Governor and the

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1 Department of Land and Natural Resources, we  
2 expect to have a package to present to the  
3 State legislature by the start of the 1991  
4 session in January of 1991.

5 MR. DULLES: Which will include  
6 that information?

7 MR. ROWE: Yes.

8 MR. DULLES: Thank you very much.

9 THE CHAIR: I have a question.  
10 How much land does the Hawaiian Homes have? We  
11 asked this question two years ago; they were  
12 uncertain. Do you have any information how  
13 much at the present time Hawaiian Homes own or  
14 control, approximately?

15 MR. ROWE: Approximately 187,000  
16 acres.

17 THE CHAIR: At one time, when the  
18 Act was consummated, it was for 230,000. Was  
19 there any feasible answer as to what happened  
20 to that lost acreage?

21 MR. ROWE: Well, the land issue  
22 was presented -- how it's described in Section  
23 203 of the Act is, say, to give approximately  
24 5,000 acres in a certain area, and then it  
25 provides exclusions, like lands that were

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1 presently under sugar cultivation or lands  
2 that were in conservation. Later on, it had  
3 come down to being identified at 203,000  
4 acres.

5           We have since said that 187,000  
6 acres, after you take out all these exclusions,  
7 are what we have right now. This is what  
8 everyone agrees is Hawaiian Homes land. Then  
9 as part of the controversies, we are also  
10 making additional claims of other lands that we  
11 feel belong to us.

12           THE CHAIR: If you see that the  
13 general leases aren't bringing in enough or was  
14 under -- substandard to start off with, are  
15 you cancelling their leases or asking them for  
16 more money?

17           MR. ROWE: Well, at this point,  
18 actually that question really relates, also,  
19 back to our ability to float \$43 million in  
20 revenue bonds. One of the reasons that the  
21 Department has chosen to only float 25 million  
22 is that to effectively float 43 million, we  
23 would have to use all of our general lease  
24 revenues, including some of the revenues from  
25 large landholdings that are in pastoral or farm

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1 general leases.

2           So what we did was, we know that  
3 perhaps 50 to 60 thousand acres of those lands,  
4 those general leases, will be coming due over  
5 the next two or three years, and we do not  
6 intend to extend those leases.

7           THE CHAIR: Okay. You know, I  
8 would like to think this means that it might be  
9 -- but I see lost income that has been lost  
10 since I found out about it over the last 10  
11 years. I have written letters that you might  
12 have in your files -- and that you can get  
13 added income if you stop next week Monday. In  
14 Kahikinui, Maui Factors, like I said, is using  
15 15,000 acres. They're leasing only 15,000, but  
16 because they don't have a fence line mauka of  
17 the 15,000, they're using 36,000 acres of  
18 Hawaiian Homes land.

19           So you should go into their lease  
20 and look at the back rent and ask them for  
21 monies from 20 years ago that you leased them  
22 these lands that they've been using 36,000  
23 acres. You would get a hell of a lot of money,  
24 thousands of dollars that's there.

25           MS. DRAKE: Thank you very much,

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1 Charles.

2 THE CHAIR: And I honestly expect  
3 to have an answer in writing as to what has  
4 been done, and I'm not going to wait two years.

5 Thank you.

6 Any more questions?

7 Okay. Personally I would like to  
8 thank you, Auntie Hoaliku, for coming out and  
9 bearing your soul to us. It was very touching.  
10 This is a tremendous problem that we're all  
11 affected with. And it is enough of these  
12 hearings, and it's enough that we've been  
13 divided, and if we are Hawaiians and we believe  
14 in the people -- The people is land, land is  
15 people; they both work together -- then we all  
16 get on our horse and put our differences aside  
17 and sit down and really work together, if we  
18 really, truly feel that we're representing the  
19 people.

20 Thank you.

21 MS. DRAKE: Thank you very much,  
22 Mr. Chairman, and I would like to again express  
23 my mahalo. And also your goals in organizing  
24 and our people going forth as one people are my  
25 goals. And I ask -- and I go back to our

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1 people to ask for their kokua in fulfilling my  
2 position as Chairman of the Hawaiian Home  
3 Lands. Mahalo.

4 THE CHAIR: Okay, Mr. Tam? Or do  
5 you want Mr. Burgess to go? You still have a  
6 lot of time.

7 Mr. Burgess, would you state your  
8 name and who you represent, and if you have a  
9 prepared statement, which I know you do, can  
10 you just give us a synopsis of it as we go  
11 along, because then we can ask you questions.  
12 You don't have to read it verbatim.

13 MR. BURGESS: Aloha, ladies and  
14 gentlemen.

15 THE CHAIR: Excuse me, Rod. Would  
16 you wait a second.

17 MR. BURGESS: My name is Rodney  
18 Keliimahiai Burgess III. I am the Vice  
19 Chairman for the Office of Hawaiian Affairs.

20 I am also the oldest son of Rodney  
21 Keliimahiai Burgess, who was on the 1952  
22 pastoral list that mysteriously disappeared.  
23 My dad died 30 years later never having  
24 received an award, and until this day my family  
25 is not in receipt of any of the Hawaiian home

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1 lands that I believe were set aside to  
2 resettle our people.

3 I am one of nine trustees who were  
4 elected by the Hawaiian people, and on behalf  
5 of the Board I would like to thank you for this  
6 opportunity to deliver testimony.

7 As you know, OHA took an active  
8 and responsible role in the Federal-State Task  
9 Force study which was conducted in 1982, so  
10 much so that it was the Office of Hawaiian  
11 Affairs that in part funded that report.

12 When the Federal-State Task Force  
13 was appointed and various members were  
14 appointed to that commission by both the  
15 Governor and the Secretary of the Interior --  
16 James Watt at that time -- that task force  
17 received no Federal funds with which to  
18 accomplish its mission.

19 Once again the Hawaiian people had  
20 to chip in, OHA contributing \$50,000, Hawaiian  
21 Homes contributing \$50,000, and the Department  
22 of Interior contributing \$35,000 in in-kind  
23 services for us to conduct the report study,  
24 which took nine months and consummated in 136  
25 recommendations.

1 I think the report of my testimony  
2 which I wish to read begins on page 2, and it  
3 expounds upon -- since the publication of the  
4 Task Force Report in 1983, advances have been  
5 made toward repairing the trust. At the State  
6 level, some of these efforts include:

7 The incorporation of  
8 administrative cost of the Department of  
9 Hawaiian Home Lands on a massed basis in the  
10 executive budget, which goes back to the  
11 question that John Dulles just recently asked  
12 of the previous panelists.

13 Prior to that, it was up to the  
14 Department to generate its own revenue via  
15 leasing of its lands in order to underwrite its  
16 administrative budget. The intent of the  
17 constitutional amendment back in 1978 was to  
18 alleviate the Department of using its lands at  
19 the expense of the intended beneficiary and to  
20 place that burden instead on the appropriate  
21 party, that being the administration of the  
22 State of Hawaii. In spite of the fact that it  
23 was a 1978 ConCon amendment, it was not until  
24 the change in administration from the Ariyoshi  
25 administration, who refused to address that, to

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1 the Waihee administration that the intended  
2 purpose of that constitutional amendment was  
3 fully implemented. And, yes, in fact the  
4 Department's administrative budget is now  
5 being underwritten at the State level.

6           Two, the cancellation of  
7 Territorial and State gubernatorial executive  
8 orders which had illegally set aside 28  
9 thousands of trust lands for non-beneficiary  
10 uses. These executive orders were cancelled,  
11 and these lands are now back in the possession  
12 of the Department of Hawaiian Home Lands.  
13 These do not include, however, lands that  
14 continue to remain under Federal jurisdiction  
15 illegally.

16           Three, a negotiated land exchange  
17 between Hawaiian Homes and the State to replace  
18 the value of trust lands used for state  
19 airports. To expound a bit on that, Molokai  
20 Airport in Hoolehua and Waimea Airport on the  
21 Big Island were built on Hawaiian home lands.  
22 The Department received no rent for them for  
23 many, many, many years.

24           Finally, as a result of the State  
25 Task Force findings and as a result of a march

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1 by our beneficiaries to the Hilo Airport, that  
2 the State admitted -- and backed up by a court  
3 ruling -- that the lands were in fact trust  
4 lands, and an exchange occurred between the  
5 Department and the State administration, and  
6 the Department received lands at Fort Shafter  
7 Flats which do generate revenue, as a resolve  
8 to that situation.

9                   Four, in 1989, a legislative  
10 appropriation of \$51.5 million for Hawaiian  
11 Homes infrastructure.

12                   Five, a 1990 legislative  
13 appropriation of an additional \$20 million for  
14 Hawaiian Homes infrastructure.

15                   Six, an accelerated award program  
16 assigning raw land to the eligible Native  
17 Hawaiian.

18                   Seven, an extension of the term of  
19 lease from 99 years to 199 years to assure that  
20 eligible beneficiaries can remain on the land.

21                   Eight, an expansion of water  
22 rights for Hawaiian Homes by the 1990  
23 legislature. And I understand that will be  
24 covered later.

25                   Nine, a recommendation passed by

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1 the 1990 legislature for the "purpose clause"  
2 of the Act which clarifies the Act, facilitates  
3 the settlement of Native Hawaiians on the land,  
4 and reaffirms the fiduciary responsibility of  
5 the Federal government to Native Hawaiians,  
6 which again answers Mr. Dulles' question.

7           Ten, an aggressive commitment  
8 within and in the current State government to  
9 responsibly address the fulfillment of trust  
10 goals.

11           At the Federal level, these  
12 nominal advances have been made:

13           One, an appropriation of \$1.3  
14 million for Hawaiian Homes infrastructure in  
15 the 1988 Federal budget, the first such  
16 appropriation in the 50-year history of the  
17 trust.

18           An additional 1.16 million  
19 appropriated in the 1990 fiscal year has been  
20 allocated by HUD in community development block  
21 grants for infrastructure. Additional grants  
22 under this program are being considered, so we  
23 are told.

24           And lastly, the availability of  
25 FHA-backed loans for Hawaiian Homes lessees

1 recently announced by our congressional  
2 delegation.

3           Within the Department of Hawaiian  
4 Home Lands, new methods of providing homes for  
5 beneficiaries are being explored. Foremost  
6 among these is the concept of master-planned  
7 communities which would provide a range of  
8 housing options for beneficiaries as well as  
9 small business opportunities.

10           While these advances are certainly  
11 welcome, much more remains to be done. As you  
12 know, the pressing problem is the interminable  
13 wait for so many qualified beneficiaries, a  
14 wait that often amounts to a denial of benefits  
15 because beneficiaries die before awards can be  
16 made.

17           We believe there are two major  
18 causes for this unconscionable wait. The most  
19 galling is the historic practice of the Federal  
20 government in illegally setting aside trust  
21 lands for military purposes, à la Lualualei.  
22 Enough land has been taken from the Hawaiian  
23 Homes trust corpus by the Federal government to  
24 satisfy the needs of all those beneficiaries on  
25 the waiting list.

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1           Efforts to pursue the return of  
2 such lands set aside in this manner have ended  
3 in a Catch-22 ruling, a declaration that the  
4 statute of limitations had run out even before  
5 the law permitting such lawsuits was enacted,  
6 and now we're playing the game with Senator  
7 Inouye, trying to get these lands returned.

8           The second major cause of the  
9 year-after-year wait is the lack of funds  
10 available to the Department of Hawaiian Home  
11 Lands. The trust lands are often isolated,  
12 waterless and harsh lands. It requires large  
13 amounts of cash outlay to equip the lots with  
14 basic infrastructure.

15           The rest speaks for itself. But  
16 to answer the questions that Mr. Shaw (sic)  
17 raised earlier, yes, it does cost \$180,000 to  
18 deliver one lot, Mr. Shaw, and the reason for  
19 that is not only your on-site improvements, but  
20 the mere nature of the lands that were set  
21 aside.

22           To return in 1920, they were those  
23 lands that were inarable and non-productive for  
24 use agriculturally that were set aside. They  
25 were those lands that were away from your water

1 sources. And it is the off-site improvements,  
2 such as the development of water sources, that  
3 require much cash outlay before some of these  
4 properties can be put in position for awarding.

5           The problems facing Hawaiian Homes  
6 are intensified by an explosion in beneficiary  
7 interest in the land. Spurred by the  
8 acceleration program in the 1983 waiting list  
9 of 7,900 has tripled to approximately 20,000.

10           This Committee is Federally  
11 empowered. I see dramatic affirmative action  
12 by the State, a restoring and reaffirming the  
13 trust of the Department of Hawaiian Home Lands  
14 where little or no progress has been made at  
15 the national level.

16           It is time to -- and I put forth  
17 four recommendations. One: Encourage a  
18 Federal right to sue with retroactive  
19 application to 1921. After a long and vigorous  
20 fight, we Hawaiians were able to obtain at a  
21 State level in 1988, with many conditions, the  
22 right to sue the State for breaches in their  
23 trust responsibilities.

24           Yet it is our position that upon  
25 the establishment of the Hawaiian Homes

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1 Commission Act in 1920, at a time prior to  
2 statehood, when all the lands that the United  
3 States received as a result of the Treaty of  
4 Annexation in 1897 in which we Hawaiians  
5 surrendered 2.5 million acres of our own lands,  
6 it is our contention that the trust  
7 responsibilities of the Federal government was  
8 not abrogated under the statehood Admissions  
9 Act and that that trust responsibility remains  
10 still today.

11                   So we should not be ashamed to  
12 say, "Federal government, you guys are still  
13 responsible. If you want to be irresponsible,  
14 then you return to us Hawaiian people all of  
15 the land that you took, because you still owe  
16 another 400,000 acres of our land."

17                   What happened in 1920, under this  
18 program that was set aside to offer piecemeal  
19 settlement to our people by giving us 200,000  
20 acres of land that other people had no use for,  
21 with no funds with which to properly develop  
22 them for homesteading purposes, continues still  
23 to this day.

24                   Under the statehood Admissions  
25 Act, all what they did was pass the buck. Why

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1 are we having such a difficult time today  
2 administering the program? Because the feds  
3 passed the buck. As a condition of statehood  
4 and under the statehood Admissions Act, the  
5 feds merely said, "Here, State of Hawaii, it is  
6 now your responsibility to administer the  
7 Hawaiian Homes Act that we instituted," with  
8 gross limitations: no funding, no process with  
9 which to obtain the objectives of the Act,  
10 which was to put our people back on the lands,  
11 the lands that were stolen from our people.

12           And here we sit here chasing each  
13 other as to whose responsibility it is to  
14 correct this situation. The responsibility is  
15 crystal clear in many of our minds. It is the  
16 continued responsibility of the Federal  
17 government. Why? Because they continue to  
18 hold until this day the balance of our lands,  
19 lands that we can generate revenue on to cure  
20 our own problems, to go put in our own  
21 infrastructure.

22           When do we start receiving rents  
23 on Pearl Harbor, Fort Shafter, Bellows Field,  
24 Schofield, Pohakuloa, Puu Honua Honaunau? And I  
25 can go on and on and on.

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1           We're dealing with the problem on  
2 such a piecemeal basis that we find ourselves  
3 chasing our tail. Let's get to the bigger  
4 problem.

5           We Hawaiians, although it was  
6 well-intended under the national policy of  
7 colonialization, have never succumbed our  
8 culture and what we are.

9           We are a separate people. We come  
10 from a separate culture. Hawaii is our home  
11 lands. We cannot go back Ireland. We cannot  
12 go back to the Philippines. We can't go back  
13 to China. Where do we go back to? Hawaii is  
14 our home.

15           What is shameful that is now  
16 happening, while we trying and correct some of  
17 these problems over at Hawaiian Homes, is the  
18 total displacement of our people. Our  
19 statistics show that the State of Hawaii, 1  
20 million people, we Hawaiians comprise 210,000  
21 of that. We represent 20 percent of the  
22 population of the state. Do you know what's  
23 frightening? There are 200,000 of us on the  
24 continental United States, and we do not know  
25 how much more in other places of the world.

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1                   Why are they back there? They are  
2 back there because they have been displaced  
3 from their homeland, because there is no  
4 opportunity here for them, because they cannot  
5 afford a \$300,000 home. So they're at  
6 Pocatello, Idaho, because that's the only place  
7 that they can afford.

8                   Do not they have a right superior  
9 to the rights of the many visitors that  
10 subsequently make Hawaii their home, to a piece  
11 of their own land? Do they not have to  
12 maintain their birthrights until this day? Our  
13 contention is that they do.

14                   Sorry for deviating, but I have  
15 three more issues to cover here.

16                   THE CHAIR: If you can encapsulize  
17 those issues, Mr. Burgess.

18                   MR. BURGESS: Okay.

19                   Issue number two, abrogation of  
20 all illegal set-asides and the return of such  
21 lands to the trust.

22                   There is no issue in Lualualei's  
23 situation. I mean, there is no doubt that the  
24 lands were illegally taken from the trust, and  
25 the trust should be made whole. And that is

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1 the civil right of our people.

2           Three, include Native Hawaiians  
3 in all Federal programs and funding available  
4 to other native groups, from housing guarantees  
5 to water development to rural electrification  
6 programs. There are existing Federal programs  
7 that, remarkably so, is not available to the  
8 Department of Hawaiian Home Lands.

9           Although a major breakthrough was  
10 made in the way of FHA, that is only the tip of  
11 the iceberg. There are many other Federal  
12 programs that could assist in off-site  
13 development costs that would accelerate this  
14 process, and -- to answer Mr. Shaw's question  
15 in a more appropriate manner that would make  
16 more rational sense.

17           Four, to honor the Hawaiian  
18 people in a trust relationship by upholding  
19 rather than avoiding responsibility.

20           With that, gentlemen, is the end  
21 of my testimony.

22           THE CHAIR: Yeah.

23           Let me make a correction for the  
24 record. You're referring to Mr. Shain, not  
25 Shaw.

1 MR. BURGESS: Shain. I'm sorry.

2 THE CHAIR: Okay. Questions from  
3 the panel?

4 Yes, Ozzie.

5 MR. STENDER: Only to make one  
6 comment, Rod. As you went through the list of  
7 things that you felt that the State was doing  
8 and the feds were doing, I got the feeling  
9 early on that you were satisfied with what is  
10 being done. But in your closing four points --  
11 and you eloquently stated that not enough is  
12 being done.

13 And is that correct? Is that  
14 your --

15 MR. BURGESS: Yes.

16 MR. STENDER: -- manao on it,  
17 and --

18 MR. BURGESS: I'm saying that the  
19 present administration has accepted their  
20 responsibility and is moving in a very positive  
21 manner.

22 MR. STENDER: As the State is  
23 concerned?

24 MR. BURGESS: At a State level.

25 MR. STENDER: But as far as the

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1 Federal government's trust responsibility,  
2 that's been abrogated?

3 MR. BURGESS: Yes.

4 And I say that also as a member of  
5 the Federal-State Task Force that I was a  
6 member of. One of the recommendations was that  
7 a closer working relationship be established  
8 between what's going on here in Hawaii under  
9 the program and the Federal government.

10 And the answer to that was the  
11 appointment of somebody over in Department of  
12 Interior that was to serve as this liaison.  
13 Her name is Cleve or something.

14 MR. STENDER: Yes.

15 MR. BURGESS: And while that  
16 occurred initially, it subsequently broke it  
17 down. And when you have people in the  
18 Department of the Interior that are so far down  
19 the ladder that decision making becomes near  
20 impossible, that is not my idea of opening up  
21 communications between and reaffirming trust  
22 responsibilities.

23 I sincerely believe that a more  
24 definite mechanism needs to be established,  
25 needs to be established.

1 MR. STENDER: Thank you.

2 THE CHAIR: Any more questions?

3 Okay.

4 If not, Mr. Burgess, thank you for  
5 your participation. This Committee would like  
6 to compliment you on your presentation.

7 MR. STENDER: Thank you.

8 THE CHAIR: Thank you.

9 Mr. Tam?

10 MR. TAM: Mr. Maxwell and members  
11 of the Committee, my name is Bill Tam. I'm  
12 with the Attorney General's Office.

13 Mr. Paty regrets that he's unable  
14 to be here today, and he asked me to come to  
15 address specifically the issue regarding water.  
16 Therefore, what I have done is attached a cover  
17 sheet on Mr. Paty's testimony and attached  
18 testimony which the Attorney General provided  
19 to Senator Inouye's committee recently on  
20 Molokai. I think that will give you the most  
21 recent update with regard to the situation  
22 regarding Hawaiian Homes and water.

23 I would like to cover a couple of  
24 things very quickly. I know your time is  
25 short. I would point out before I just address

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1 water. With regard to executive orders which  
2 were cancelled and those lands on which State  
3 facilities still exist, as Mrs. Drake  
4 indicated, there are active negotiations to  
5 resolve those through land exchanges.

6 A number of them have already  
7 occurred. I think you can look forward, as she  
8 indicated, to hearing more about them in a  
9 report in January 1991.

10 Secondly, with regard to Hawaiian  
11 home lands presently administered by the  
12 Department of Land and Natural Resources, the  
13 Department of Land and Natural Resources does  
14 that on behalf of Hawaiian Homes, and any time  
15 they wish those lands back to administer  
16 directly, they have the authority to withdraw  
17 them. So actually the State is incurring the  
18 administrative cost of administering the lands  
19 for Hawaiian Homes.

20 To focus very briefly on water, as  
21 Rod Burgess pointed out, most of the Hawaiian  
22 home lands tend to be in arid areas. In terms  
23 of water to develop Hawaiian home lands, the  
24 question is money in order to drill wells.  
25 Very little of that water is going to come from

1 surface sources.

2                   Nonetheless, I should inform you  
3 that last October, the Federal district court,  
4 the Federal Ninth Circuit, issued a decision in  
5 the Robinson case which has given the Water  
6 Commission a great deal of authority in order  
7 to help resolve remaining water issues.

8                   I won't go into the details of  
9 that other than to state this is important for  
10 providing the flexibility of providing the  
11 water to Hawaiian Homes and to other current  
12 users.

13                   Very briefly, Hawaiian Homes has  
14 four kinds of water interests which you may be  
15 interested in. Under Section 221 of their Act,  
16 they have some very strong rights to cull water  
17 that is on State lands: for agricultural  
18 purposes, for aquaculture, for livestock, for  
19 domestic purposes. In effect, they get a first  
20 call of water derived from public lands.

21                   It's our position that if money is  
22 available and the infrastructure can be  
23 developed, the State will ensure that Hawaiian  
24 Homes always has access, legal access, to the  
25 water which it needs. As it's been pointed

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1 out before, the legal problem is not a serious  
2 issue. The serious issue is going to be the  
3 cost of getting pipes and wells to places where  
4 the water is.

5           Frankly, time is going to be a  
6 critical factor, because as other people  
7 develop water that's close by, the real issue  
8 for Hawaiian Homes is going to become how soon  
9 and how far away do they have to go in order to  
10 get the water they need. So it's not just  
11 money generally, but money now as opposed to  
12 money later.

13           That's going to be a critical  
14 issue on Molokai, where the Water Commission is  
15 looking at the situation with regard to the  
16 aquifers there and has under review the  
17 question of whether to designate that area in  
18 the Water Code.

19           Secondly, Hawaiian Homes has  
20 rights under Section 168(4) involving the  
21 Molokai irrigation system. They have rights as  
22 landowners, as any other private landowner  
23 would have it, and there are also rights  
24 protected by the Hawaii Constitution, which I  
25 will very briefly summarize.

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1           The language in the Hawaii State  
2 Constitution, amended in 1978, requires that  
3 the State assure appurtenant rights, whether  
4 used or not, and the appurtenant rights are  
5 essentially the lands that were in taro  
6 production at the time of the Mahele; those are  
7 mostly kuleana lands. Secondly, existing  
8 correlative rights, which are groundwater uses  
9 that were in existence at the time of the  
10 Constitution. And third, repairing uses that  
11 were in existence at the time of the  
12 constitutional amendment. Those are very  
13 important rights.

14           I realize this is very technical,  
15 but if I can summarize very briefly, the Water  
16 Commission will be having meetings between the  
17 staffs of the Hawaiian Homes Commission and the  
18 Water Commission, and the two commissions  
19 expect to be jointly briefed by their staffs  
20 within the next six to eight weeks. We have a  
21 dialogue in process in that regard, and I'm  
22 going to be trying to assist Hawaiian Homes in  
23 looking at what water resources they have.

24           I think it's probably more useful  
25 if I'm available for questions, rather than

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1 trying to go into the details of this. So I'd  
2 be glad to answer any questions you have.

3 MR. LARDIZABAL: As a member of  
4 the Committee, any questions of Mr. Tam?

5 If not, I'll begin one, Mr. Tam.  
6 Just a few minutes here.

7 One is, again I hear the same  
8 story that the lands available are all arid  
9 lands. In your opinion, was that by design by  
10 the Federal government?

11 MR. TAM: I don't think it was by  
12 design by the Federal government.

13 MR. LARDIZABAL: By whom?

14 MR. TAM: But the manner in which  
15 it was written -- I'm not personally familiar  
16 with the Congressional Record on the Hawaiian  
17 Homes Commission Act; the others might be.  
18 When you exclude by definition sugar cane  
19 lands, those lands were the most arable lands,  
20 obviously. So by putting that exclusion in,  
21 you've by definition taken out --

22 MR. LARDIZABAL: Someone made a  
23 decision on the cane lands first. Who was  
24 that? The Federal government?

25 MR. TAM: It was in the process of

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1 negotiating for the Act, and you would have to  
2 go back into the history of the Act to  
3 determine that. I'm not familiar enough with  
4 that history to tell you.

5 MR. LARDIZABAL: I'm just trying  
6 to get down to the trust again, see. It's a  
7 trust issue.

8 MR. TAM: Well, it was in the  
9 congressional Act. So as the Hawaiian Homes  
10 Commission Act was being negotiated through  
11 Congress, it was the House and the Senate  
12 members in their negotiations that made that  
13 decision.

14 MR. LARDIZABAL: Members, do you  
15 have any other questions?

16 If not, we'll take about a one- or  
17 two-minute break and wait for the chairperson  
18 to come back.

19 Thank you, Mr. Tam.

20 (Recess taken at 3:15 p.m.)

21 THE CHAIR: Let me call this  
22 meeting back to order.

23 I would like to call Senator  
24 Mike Crozier. State your name and who you  
25 represent, Mr. Crozier.

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1                   SENATOR CROZIER: Good afternoon,  
2 Mr. Chairman, members of the Hawaii Advisory  
3 Committee. I am Senator Mike Crozier, Chairman  
4 of the Senate Committee on Housing and Hawaiian  
5 Affairs of the State of Hawaii in the Senate.

6                   I was going to summarize my  
7 testimony, but you folks may miss out on some  
8 pertinent points. I know most of this you've  
9 heard already, but to give a complete picture,  
10 I would like to read the whole testimony, if  
11 that's okay.

12                   THE CHAIR: That's okay. Go  
13 ahead.

14                   SENATOR CROZIER: The State of  
15 Hawaii has been, is, and will be committed to  
16 implementing its responsibilities under the  
17 Hawaiian Homes Commission Act. In 1983 the  
18 Federal-State Task Force Report on the  
19 application of the Hawaiian Homes Commission  
20 Act made over 100 suggestions to the United  
21 States and the State of Hawaii to improve  
22 implementation, and the State, using those  
23 suggestions as a guideline, has worked hard to  
24 improve the status of Native Hawaiians waiting  
25 for homestead properties.

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1           The Federal government has not  
2 been so quick to follow, and I welcome the  
3 willingness of the United States to accept its  
4 trust responsibilities and to become actively  
5 involved in resolving these issues.

6           The Hawaiian Homes Commission Act  
7 of 1920 was adopted by the United States and  
8 the Territory of Hawaii to aid the Native  
9 Hawaiians who had been displaced from their  
10 lands. The Act envisioned leasing certain  
11 lands to Native Hawaiians for residential,  
12 agricultural, or pastoral purposes.

13           Unfortunately, the lands placed in  
14 trust were largely isolated, unimproved lots,  
15 and for many years little was done by either  
16 the United States or the State of Hawaii to  
17 actually place Native Hawaiians on these sites.

18           In 1983 a Federal-State Task Force  
19 was convened to review progress under the Act,  
20 and the State, following the Task Force's  
21 recommendations, began a serious effort to  
22 carry out its trust responsibilities.

23           The success or the failure of the  
24 Federal or State governments in implementing  
25 the Act will ultimately be measured by how well

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1 or poorly we do in getting the Native Hawaiians  
2 back on the land. We're doing better now than  
3 before. We have never done very well.

4           The condition of the waiting list  
5 needs immediate attention. At the present,  
6 there are over 18,000 applications pending for  
7 residential, agricultural, and pastoral lands,  
8 and 28 percent of the applicants -- over 5,000  
9 people -- have been on the list for over ten  
10 years.

11           Some have been on the list for 30  
12 to 40 years. Both the length of the list and  
13 the length of the wait make the vast majority  
14 of Native Hawaiian people despair of ever  
15 receiving an award of land.

16           The main problem in putting people  
17 on the land where they belong is lack of  
18 infrastructure. The vast majority of land is  
19 uncleared and unimproved. It is estimated to  
20 cost between \$30,000 to \$45,000 per residential  
21 lot to clear it and to bring in basic  
22 infrastructural needs such as water, sewers,  
23 roads, and electricity, and the cost is even  
24 higher for agricultural and pastoral land.

25           Given this high cost of bringing

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1 infrastructure to each lot, the Department has  
2 been unable to afford to improve all the lands  
3 by itself. During the acceleration period of  
4 the mid-1980's in which the Department tried to  
5 get the lots to people as fast as they could,  
6 approximately 2,500 awards were made, but only  
7 400 were improved lots on which homes could be  
8 built.

9                   The unfortunate result is that  
10 many awardees technically have land but cannot  
11 live there because they lack the resources to  
12 improve the lands themselves. Awardees face a  
13 difficult, almost impossible time obtaining  
14 funds to improve their lots.

15                   For example, FHA and Farmer's Home  
16 (FMHA) both require subdivision approval, which  
17 is impossible on these unimproved lots.  
18 However, without improvements, the counties  
19 will not grant subdivision approval, and  
20 without subdivision approval, building permits  
21 will not be issued. Thus many supposedly lucky  
22 awardees have found their awards of isolated,  
23 unimproved, scrub brush-covered lands are a  
24 cruel sham.

25                   The DHHL has a building program,

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1 although due to lack of funds, it is far below  
2 the actual need. This year, only 449 homes  
3 will be built. At this rate, it will be over  
4 40 years before all applicants are housed.

5 My Senate committee has  
6 jurisdiction over Hawaiian Home Lands issues,  
7 as well as those of the homeless. To a great  
8 degree, both are connected, and neither can be  
9 ignored. It is no small irony, and a tragic  
10 one, that a recent study of the plight of the  
11 homeless in Hawaii found that 27.8 percent, or  
12 2,327 of Hawaii's homeless, are of Hawaiian or  
13 part-Hawaiian ancestry.

14 Of this number, 56 percent are at  
15 least 50 percent Hawaiian, thus eligible for  
16 the Hawaiian Home Lands programs, and over 33  
17 percent of those have already applied for  
18 Hawaiian Home Lands.

19 The 1983 Task Force Report made  
20 many specific recommendations to the State and  
21 Federal governments. The State has stepped up  
22 the programs administered through the  
23 Department of Hawaiian Home Lands and has  
24 enacted legislation to improve the situation.

25 I would like to just deviate for a

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1 second here. Last year, Senator Dan Inouye had  
2 congressional hearings where he went around the  
3 state to take testimony from Native Hawaiians  
4 on each island. Because I was the chair of the  
5 Hawaiian programs committee, he invited me to  
6 sit on his panel.

7                   During those hearings, we learned  
8 a lot, and much of the bills that were passed  
9 this year, or resolutions passed this year,  
10 came out of those hearings. I would like to go  
11 through the list of different bills that for  
12 both the Task Force and the congressional  
13 hearings was the starting grounds to resolve  
14 problems:

15                   First, preserving Native Hawaiian  
16 water rights;

17                   Two, giving Native Hawaiians, as  
18 trust beneficiaries under the Act, the right to  
19 sue the State to enforce the Act;

20                   Three, added powers to the  
21 Hawaiian Homes Commission to allow it to  
22 develop the lands for residential use, either  
23 by itself or through private developers, and to  
24 issue revenue bonds to finance these  
25 developments;

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1           Four, increasing the amount of  
2 loan monies available to lessees;

3           Five, allowing the lease period to  
4 be extended to avoid displacing families who  
5 have been on one leasehold for an extended  
6 period of time, from 99 to 199 years;

7           Six, drafting a preamble -- And  
8 this is the one that represents the Dan Inouye  
9 hearings -- drafting a preamble for the  
10 Hawaiian Homes Commission Act to give it focus  
11 and purpose.

12           The three main parts of that Act  
13 is: one, making Hawaiian Home Lands permanent  
14 The way the Act is written now, it's vague.  
15 Two, to recognize that the Native Hawaiians  
16 have the right to self-determination. And the  
17 third, which speaks much to the basic  
18 infrastructural problems of the Hawaiian Homes  
19 Commission Act, to have the Federal government  
20 recognize its fiduciary responsibility and help  
21 to fund the infrastructure needs of the Native  
22 Hawaiians.

23           There are two other areas that I  
24 would like to -- well, three other areas that I  
25 would like to touch upon that the legislature

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1 had -- And it's not in my prepared text -- that  
2 we put in this year. It has much to do with  
3 the impact of -- earlier Mr. Dulles stepped  
4 away, where he talked about the State  
5 constitution.

6 I was a delegate to the 1978  
7 Constitutional Convention, and I sat in on the  
8 Hawaiian Affairs Committee. In fact, I've  
9 almost always sat on the Hawaiian Affairs  
10 Committee in my legislative period. Only for  
11 two years I did not sit there. So I have, I  
12 think, a depth of knowledge, from the  
13 legislative perspective, of the Hawaiian  
14 Affairs. Being part-Hawaiian, I also  
15 understand the needs of the people.

16 One of things we did is -- right  
17 now, for the first time, the legislature  
18 authorized the State government to transfer 12  
19 acres of State lands into Hawaiian Home Lands,  
20 and this is at the slopes of Papakolea, the  
21 area called Kalamai Nei (phonetic). And this  
22 is targeted to be used for senior citizen  
23 housing.

24 This is a legislative initiative.  
25 You know, Governor Waihee has put in a lot of

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1 programs, but I think the legislature should be  
2 thrown a couple of bones, too, and this is one  
3 of them.

4           The other area that we worked on  
5 was -- right now, there's many Hawaiians living  
6 on revocable permit type leases throughout the  
7 state. Actually, there's about 50 families  
8 that have been living on these State-owned  
9 lands, and some of these families have lived  
10 there for generations and generations. They're  
11 on month-to-month leases; they can be kicked  
12 off at any time. Families have been living  
13 there for 70 years, and they cannot get  
14 mortgages for those homes because they are  
15 month-to-month. Some of these homes are  
16 literally collapsing because of age.

17           We have put in a resolution -- And  
18 it's passed -- to have the Department of Land  
19 and Natural Resources set up some kind of  
20 mechanism to transfer those lands where Native  
21 Hawaiians who have been living there for  
22 generations, to move those lands from DLNR  
23 directly into Hawaiian Home Lands, thereby  
24 expanding the Hawaiian Home Lands, giving many  
25 of -- 50 families, Native Hawaiian families, an

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1 opportunity to have land that they can call  
2 their own. Right now, they are month-to-month.  
3 They don't know what they're going to do.

4           These are some of the things that  
5 the legislature has done. Another point that  
6 -- I wish Mr. Dulles was here, because he was  
7 talking about the Constitution. As I said, I  
8 was a member of that committee, and when you  
9 work on the committee, there's certain little  
10 things that you contribute to the committee and  
11 always stays with you that's like your little  
12 baby, and you always are watching out for that.

13           Well, one of the things that I  
14 contributed was, any time, up until the  
15 Constitutional Convention, the Hawaiian Home  
16 Lands received 30 percent of the revenues from  
17 any lands that was under sugar cane  
18 cultivation. In the ConCon, we changed that to  
19 say, Not only do the Hawaiian Home Lands  
20 receive 30 percent of the rents received from  
21 lands under sugar cultivation, but any time  
22 those lands were used for any other activity,  
23 any time those lands were sold, any time those  
24 lands were transferred, Hawaiian Home Lands  
25 would get 30 percent.

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1 Well, somehow the executive branch  
2 stopped paying attention to that little section  
3 of the Constitution, and in the island of  
4 Kauai, the area called Hanapepe Cliffslides, the  
5 HFDC, Housing Finance and Development  
6 Corporation, swapped State-owned lands which  
7 had sugar cane on it, swapped it with another  
8 State agency, with the Department of Health, an  
9 equal swap, so that they could build affordable  
10 houses in Hanapepe.

11 That's commendable. That's great.  
12 But they forgot to read the law. Any time you  
13 transfer lands, Hawaiian Home Lands had to get  
14 their 30 percent of the value. The legislature  
15 has now directed the Auditor and the Office of  
16 State Planning to come up with some kind of  
17 mechanism so that Hawaiian Home Lands gets  
18 their 30 percent for those lands transferred,  
19 both at Hanapepe Cliffslides and also at  
20 Lahaina, the 1,000 acres right behind the civic  
21 center.

22 This also goes for OHA. The  
23 Lahaina Civic lands is ceded lands. We need to  
24 make sure that when HFDC develops State lands,  
25 that Hawaiian Home Lands and OHA gets --

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1 Hawaiian Homes gets their 30 percent and OHA  
2 gets their 20 percent.

3           These are initiatives that came  
4 out of the legislature. I'm pretty proud of  
5 that, and I stand proud that I was right at the  
6 forefront helping this legislation to get  
7 through.

8           Back to my testimony. The State  
9 has also made a serious financial commitment to  
10 the implementation of this Act. The 1983  
11 Federal-State Task Force Report recommended  
12 that the Federal and State governments each  
13 contribute \$25 million for five years to  
14 finance the Department of Hawaiian Home Lands  
15 development program.

16           To date, the State has contributed  
17 over \$100 million, while the Federal government  
18 has contributed, from 1921 until today, only  
19 \$1.2 million this past year, and that money was  
20 earmarked for Pahee Ridge/Lualualei farm lots,  
21 not residential lots.

22           Actually, they found a loophole to  
23 get those monies to Hawaiian Home Lands. It  
24 has something to do -- because the pipeline  
25 runs right out alongside the DLNR lands. If

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1 they didn't have that little loophole in there,  
2 Pahee Ridge wouldn't have got those monies.

3 I compliment the farmers for  
4 chasing that money, and I compliment Mililani  
5 Trask, who was the one who was able to really  
6 focus in on the law and find a mechanism to get  
7 those monies. But it wasn't a straight-out  
8 grant to Hawaiian Home Lands. They found a  
9 loophole.

10 It is now time for the Federal  
11 government to live up to its promises to help  
12 the Native Hawaiian people. With Federal aid,  
13 the State can move farther and faster to  
14 correct the wrongs inflicted on the Native  
15 Hawaiians.

16 The State has repeatedly asked for  
17 specific assistance from the Federal  
18 government in its role as trustee to the Native  
19 Hawaiian people, but responses have been slow  
20 in coming. The Federal government can provide  
21 needed financial assistance, of which there has  
22 been very little, by program assistance, by  
23 renegotiating the leases of thousands and  
24 thousands of acres of home lands that it  
25 currently leases at a nominal rent.

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1                   Currently the Federal government  
2 holds eight leases with a total acreage of  
3 2,223 acres with a total rent payment of only  
4 \$34,290 per year, or \$15.47 per acre. This  
5 rate is ridiculously inadequate. If those  
6 leases were renegotiated at the market rate,  
7 the Department of Hawaiian Home Lands would  
8 have hundreds of thousands, perhaps millions,  
9 more dollars with which it could supply  
10 infrastructure to the lands.

11                   The State has repeatedly suggested  
12 ways by which the Federal government can  
13 fulfill its duties and responsibilities to the  
14 Native Hawaiian peoples. In the past, the  
15 State has requested the Congress to:

16                   Establish a Native Hawaiian  
17 rehabilitation guarantee loan fund to enable  
18 awardees to develop infrastructure for the  
19 lots;

20                   Provide financial and program  
21 support for the implementation of the Hawaiian  
22 Homes Program;

23                   Urging Congress to pass the right-  
24 to-sue legislation for the benefit of Native  
25 Hawaiian beneficiaries of the trust.

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1           You know, once that bill passed  
2 the State, the right to sue, in the State  
3 government, much has been done. When you got a  
4 pit bull chasing you at the heels, you move  
5 fast. Even the Federal government should allow  
6 something like that to happen so that, that  
7 way, the Federal government would have to get  
8 up and start moving.

9           And the State has requested the  
10 Department of the Interior to conduct an  
11 investigation into the recovery of homestead  
12 lands at Lualualei and Keaukaha.

13           This past session alone, the State  
14 has called on various agencies to terminate  
15 their leases of 374 acres of land that they  
16 rent at a nominal rent and to renegotiate the  
17 rent at a market rate.

18           For example, on the island of --  
19 Kekaha, there's 27 acres, nominal rent; at  
20 Keaukaha, 53 acres, very small rent. But can  
21 you believe 295 acres at Puhakuloa for \$1 for  
22 65 years. That lease doesn't expire until the  
23 year 2029.

24           People make the comment, "Well,  
25 the general economy of the Big Island has

1 benefited by the activities up at Puhakuloa,"  
2 but does the Native Hawaiian benefit by that?  
3 That is the question. It's their lands. They  
4 should have a fair return on those properties.  
5 Ladies and gentlemen, I ask you folks to take a  
6 serious look at that.

7                   There is no question but the  
8 annexation of the Hawaiian Islands, while  
9 favorable to the people of the United States,  
10 has had a harsh impact on the Native Hawaiians.  
11 As long as any Native Hawaiian beneficiary is  
12 without a home in this land, we will have work  
13 to do.

14                   As long as we are unwilling or  
15 unable to translate the promise of the Hawaiian  
16 Homes Commission Act into a tangible benefit,  
17 then we will have far to go in our role as  
18 responsible trustees. The awarding of  
19 unimproved, uninhabitable lands without a  
20 reasonably loan or loan guaranty program does  
21 not confer any benefit; it merely fosters an  
22 illusion.

23                   Hawaii is a small state that is  
24 not materially rich. We have little heavy  
25 industry or manufacturing base, and we import

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1 the overwhelming majority of our energy  
2 resources. Our wealth stems from the kindness  
3 and generosity, the Aloha Spirit of our people.  
4 Despite having to cope with one of the highest  
5 costs of living with only average wages, the  
6 people of Hawaii have demonstrated a  
7 willingness to give.

8           It is not my intent to try to  
9 point fingers or place responsibility for the  
10 failures of the past. There is more than  
11 enough for all. The real question is what we  
12 will do and where we will go from here. In  
13 recent years, the State of Hawaii has made  
14 excellent progress in implementing the  
15 recommendations of the Federal-State Task  
16 Force, and also the recommendations that came  
17 out of Senator Inouye's hearings this past  
18 August. I would expect that the United States  
19 of America must do no less.

20           Thank you, ladies and gentlemen.

21           THE CHAIR: Julie?

22           MS. PUZON: Senator Crozier, you  
23 mentioned that you had a role in the Senate  
24 oversight hearings. I wanted to ask you: Has  
25 any Federal legislation resulted from those

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1 hearings?

2                   SENATOR CROZIER: Well, the -- all  
3 -- no, most legislation that eventually get  
4 into the Hawaiian Homes Commission Act has to  
5 be approved both by the legislature and  
6 Congress. There's nothing been generated --  
7 let me take that back.

8                   There's been some legislation  
9 moving from the Federal side. I don't know all  
10 of it, but there's -- this morning in the  
11 paper, there's some language changes made in  
12 the FHA and Farmers Home so that Native  
13 Hawaiians on Hawaiian home lands can now  
14 participate in those <sup>\*</sup>programs. That was one of  
15 the major issues that was talked about during  
16 the hearings.

17                   THE CHAIR: Let me clarify that,  
18 Mike. I think she means the "purpose clause"  
19 hearings that we had. Was any legislation  
20 derived out of those hearings?

21                   SENATOR CROZIER: Okay. That  
22 "purpose clause" passed the State Legislature.  
23 It is my impression that it has not been  
24 introduced into Congress yet. I am under the  
25 impression that it will be introduced next

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1 year, in January. And may I suggest that  
2 Senator Inouye will be working hard in that  
3 area in the Senate. You need someone in the  
4 House of Representatives who knows the Act  
5 quite well.

6 MS. PUZON: I brought that up  
7 because one of our speakers this morning  
8 mentioned that people in Washington, D.C. --  
9 specifically, congressional staffers -- have  
10 said that legislation normally should be  
11 introduced within six months after an oversight  
12 hearing.

13 SENATOR CROZIER: Well, that's  
14 someone's opinion. I cannot answer to that.

15 THE CHAIR: Well, for your  
16 opinion, Mike, I know the fact that -- speaking  
17 with the Select Committee myself, that the  
18 legislation is dead in the --

19 SENATOR CROZIER: May I suggest,  
20 what did Senator Inouye say?

21 THE CHAIR: For this year, it's  
22 dead.

23 SENATOR CROZIER: Okay. That's  
24 fine. For this year.

25 Everybody's gearing up for

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1 elections, anyway.

2 MR. LARDIZABAL: Senator Crozier,  
3 I appreciate your coming to this Committee.

4 I have one question about the  
5 powers of the legislature. Do you feel that  
6 the legislature has some powers of taxation or  
7 charging of rent to the Federal government for  
8 use of home lands?

9 SENATOR CROZIER: We would like  
10 to, but, no.

11 MR. LARDIZABAL: No?

12 SENATOR CROZIER: The Hawaiian  
13 Homes Commission Act is a compact with both the  
14 Federal and State governments. If either side  
15 does not go along with changes within the Act,  
16 then those -- well, we take -- the State takes  
17 the position that both sides have to agree to  
18 any changes. The Federal government does not.  
19 The Federal government feels that they can make  
20 changes and can ram it down the State's throat.

21 MR. LARDIZABAL: So in your  
22 opinion, there is nothing in the legislature  
23 that can be done on a State level to somehow  
24 get the feds to pay any fees?

25 SENATOR CROZIER: Just wake up

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1 their social conscience and make them realize  
2 that they have a fiduciary responsibility. But  
3 we cannot as a government -- as one institution  
4 tell another institution what to do. We don't  
5 have that power.

6 MR. LARDIZABAL: Thanks.

7 THE CHAIR: On the same line,  
8 Mike, you don't have the power to make a  
9 resolution from the legislature to ask --

10 SENATOR CROZIER: Oh, we have a  
11 lot of those. We have a lot that we ask.

12 THE CHAIR: And that has no water  
13 if it's not --

14 SENATOR CROZIER: We're showing  
15 that we represent the broader community of the  
16 people of Hawaii, and we're making a statement  
17 saying, "The people of Hawaii want to do this.  
18 If you need support in this area, you have" --  
19 our state is saying, "Let's do it." But that's  
20 all it is, we're just asking and notifying  
21 them. We cannot demand.

22 THE CHAIR: The reason -- well, I  
23 think you can demand, but your demands won't be  
24 heard, but the fact is that you have demanded.  
25 If you demand, this Commission demands, and

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1 everybody else that's with the State demands,  
2 they're going to have to listen.

3 SENATOR CROZIER: Yeah, they'll  
4 listen, but we cannot make them, force them to  
5 change.

6 THE CHAIR: I understand that.

7 SENATOR CROZIER: Yeah.

8 THE CHAIR: But at least we have  
9 to have that first step.

10 SENATOR CROZIER: Yes.

11 Much of this legislation that I've  
12 talked about, we've already sent to Congress  
13 positions that we've taken. You know, the one  
14 about renegotiating the general leases with the  
15 Federal government, we've sent that to Congress  
16 already telling them, "You know, you should  
17 renegotiate the leases." If they want to  
18 listen, hey, that's great. If they don't want  
19 to listen, we're powerless.

20 THE CHAIR: John Dulles, do you  
21 have a question?

22 MR. DULLES: No, but I believe Mr.  
23 Stender does.

24 THE CHAIR: Ozzie?

25 MR. STENDER: Just a couple of

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1 questions, Mike.

2           One that we've been hearing for  
3 most of the day as far as consensus among all  
4 the speakers that we hear today, that, one,  
5 there's been an injustice to the Hawaiian  
6 people; that the Federal government is  
7 abrogating its trust responsibility to the  
8 Hawaiian people; and that there is a need to  
9 get the Federal government to accept  
10 responsibility.

11           But with each group -- and I  
12 attended some of the hearings that Senator  
13 Inouye had this summer, and the major groups,  
14 I guess, is Ka Lahui, D.H.H.L., OHA, and now  
15 we have the Homestead Association and, of  
16 course, the State government. Is there a way  
17 that you can, or somebody could get these key  
18 groups together to come out with a solid  
19 statement together?

20           Right now, we see a lot of  
21 disagreements and dissensions between these  
22 groups which are the key groups. Do you see  
23 any hope in trying to do that?

24           SENATOR CROZIER: You know, when  
25 you create an institution or a government or an

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1 organization, no matter what rules you have,  
2 its personalities ultimately will make the  
3 difference. I don't know if she's still here,  
4 but she may feel embarrassed at this, but we  
5 have a lady that's now running the Hawaiian  
6 Home Lands who has set a new tone.

7 I was fortunate enough to attend a  
8 meeting in Wailuku a couple days ago, and that  
9 meeting, one individual came up and shared his  
10 manao, and he got quite emotional. You could  
11 see that he was frustrated. He felt that he  
12 had grievances that was not being listened to.  
13 After he shared those thoughts, Mrs. Drake,  
14 Mama Drake, got up from the table, walked  
15 around, and hugged the gentleman, showed him  
16 some aloha.

17 That set the tone for the rest of  
18 the day -- the rest of the evening. You know,  
19 many times -- see, I'm the chair of the  
20 Hawaiian Programs Committee; it's called  
21 "Emotionally Charged Committee." There's a lot  
22 of energy going in there. But since Mama Drake  
23 has been on board, she has been able to bring  
24 people together so that people put down their  
25 differences and work for a common purpose.

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1 Maybe she's a person that can do it.

2 MR. STENDER: So there's a hope?

3 SENATOR CROZIER: Yes.

4 MR. STENDER: The other --

5 SENATOR CROZIER: Excuse me.

6 How about give Mama Drake a big  
7 hand? She deserves it.

8 (Applause from attendees.)

9 MR. STENDER: The other question  
10 which was raised -- well, I guess the  
11 suggestion made this morning was the idea of  
12 appointing a master or an ombudsman to oversee  
13 the activities of Hawaiian Homes, and this is a  
14 land issue question until you get some  
15 organization started to do it, because it truly  
16 is -- and I see some of it -- a conflict of  
17 interest, you know, between the State and the  
18 Federal government and the DHHL.

19 If that might be an idea that  
20 might be proposed, because it's difficult, I  
21 believe, for the State to try to be -- you  
22 know, try to be, I guess, the mouse guarding  
23 the cheese kind of thing. And if -- this idea  
24 of a master ombudsman to be the disinterested  
25 party to oversee the activities of the three

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1 parties, which is the DHHL, the feds, and the  
2 State.

3                   SENATOR CROZIER: Mr. Stender, you  
4 make me shudder when you mention a master.  
5 Your whole commission here is designed to get  
6 away from the concept of the master. No. No  
7 more "Yes, sir, master." No more of that.  
8 Supposed to be able to have -- make their  
9 decisions on their own.

10                   I'd like to give one example of  
11 that. In this last legislature we had an audit  
12 of OHA, and in the audit they made certain  
13 recommendations. And after going through that  
14 exercise, as the chair of the committee I  
15 realized that OHA was essentially acting as an  
16 agency.

17                   The trustees would put a budget  
18 together and then they would bring it to the  
19 legislature, and then we would redo the budget.  
20 We put in laws in there saying, "OHA, before  
21 you come to the legislature, you got to turn  
22 around and go back to the people and share with  
23 them what your recommendations are, and you let  
24 them input what they want to do," the same way  
25 the City Council does.

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1           The Mayor creates a budget. He  
2 sends it to the City Council, the City Council  
3 opens it up to the people, the people react,  
4 then the City Council redoes the budget. The  
5 legislature does the same thing. They create  
6 -- the government creates a budget, we take it  
7 apart, we let the constituencies have input  
8 into it, then we finally vote on it.

9           We put in a law so that OHA had  
10 to do the same thing. Before they sent the  
11 budget to the legislature, they had to go back  
12 to the people and have discourse and dialogue  
13 over the proposed budget. This is self-  
14 determination. This is completely opposite of  
15 having a master.

16           I prefer to let Native Hawaiians  
17 figure out a way of solving their problems,  
18 versus government putting in someone to oversee  
19 them.

20           A good example -- may I just add  
21 one more point. A good example is that OHA is  
22 going to receive \$100 million. They received  
23 70 million, and they're going to receive  
24 another \$100 million. Many of the people who  
25 came to testify suggested to the committee that

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1 we tell OHA that these monies should go to  
2 Hawaiian Home Lands.

3 I believe a lot of those monies  
4 should go to Hawaiian Home Lands. However, I  
5 believe in the concept of self-determination.  
6 I believe that the Native Hawaiian or the  
7 Hawaiian people have elected those trustees,  
8 and amongst themselves, they determine where  
9 the monies goes. I'm sure most -- a lot of it  
10 will go to Hawaiian Home Lands, but it is self-  
11 determination, people working amongst  
12 themselves deciding where the monies goes.

13 I have a big problem with the idea  
14 of a master.

15 THE CHAIR: Okay. You have a  
16 further comment, Ozzie?

17 MR. STENDER: No. That's it.

18 Thank you.

19 THE CHAIR: Barry?

20 MR. SHAIN: Charlie, I'd like to  
21 go back on that point of a master or ombudsman  
22 or whatever you want to call it and redefine  
23 it.

24 You mentioned OHA as a good  
25 example. OHA has an executive director.



1 SENATOR CROZIER: Yeah.

2 MR. SHAIN: Okay. The executive  
3 director isn't the master. He's the  
4 implementer of what the people want.

5 SENATOR CROZIER: Staff. He's  
6 staff.

7 MR. SHAIN: A staff person.

8 SENATOR CROZIER: Yeah.

9 MR. SHAIN: When we talked about a  
10 master -- and I think -- speaking probably for  
11 -- I don't know if I speak for Ozzie down  
12 there, but we're talking about somebody who  
13 can get an implementation done here, who can  
14 work with all the parties who are responsible.  
15 Okay? He can go in, have a budget to have an  
16 independent audit done on the land, an  
17 independent audit on what's taking place, and  
18 that's what I guess we're talking about as  
19 having a master.

20 SENATOR CROZIER: I will say, if  
21 you would like to have a master, let the Native  
22 Hawaiian community create the master.

23 MR. SHAIN: That's fine.

24 SENATOR CROZIER: Not something  
25 the executive branch of either the Federal or

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1 State government creates. It's something that  
2 they wrestle amongst themselves.

3 MR. SHAIN: The one thing is,  
4 everything that has been created has been  
5 created for the Hawaiian people.

6 SENATOR CROZIER: Yeah.

7 MR. SHAIN: Okay? Not by the  
8 Hawaiian people.

9 SENATOR CROZIER: That's right.

10 MR. SHAIN: So I absolutely agree  
11 with you, and I'm not saying -- but at this  
12 point in time, the reality of the situation is,  
13 we're still sitting here with a waiting list of  
14 somewhere between 12,000 to 15,000 people.  
15 Okay?

16 What is it?

17 AUDIENCE MEMBER: 20,000.

18 MR. SHAIN: 20,000, 12,000,  
19 whatever the number is, it's untenable. It's  
20 not a nice number whatever it is.

21 SENATOR CROZIER: Sure.

22 MR. SHAIN: Sovereignty for the  
23 Hawaiian people is down the road, even by the  
24 most optimistic people who are looking for it  
25 but still have that vision. Something has got

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1 to change here in terms of getting the land to  
2 the people, getting the compensation to the  
3 people. And if it's not a master to do the  
4 implementation, what is your plan?

5                   SENATOR CROZIER: To have this  
6 Civil Rights Commission take a position telling  
7 the executive branch to support getting Federal  
8 funds to the Native Hawaiians and Hawaiian Home  
9 Lands. That's what I expect from this  
10 Commission right here: to take that bold step.  
11 Money talks. Everything else walks.

12                   MR. SHAIN: Okay. From this one  
13 member, I think you're going to -- you will be  
14 getting that.

15                   SENATOR CROZIER: Thank you.

16                   THE CHAIR: Any more questions  
17 here?

18                   Al?

19                   MR. LARDIZABAL: Senator, a couple  
20 of years ago the State Legislature passed and  
21 set up the State of Hawaii Civil Rights  
22 Commission.

23                   The question is: Do you feel that,  
24 that organization has the legal powers now to  
25 go set the legal action against the State and

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1 the Federal government for breach of trust, or  
2 at least to make them do something?

3           SENATOR CROZIER: I know you can  
4 do that against the State, take on the  
5 executive branch. I know you can do that. I  
6 don't know if you have the right to do that  
7 against the Federal government. But it would  
8 be a good test.

9           MR. LARDIZABAL: Because the issue  
10 is one of Hawaiians', native people's civil  
11 rights, human rights, and I think it might be a  
12 test case.

13           SENATOR CROZIER: Yeah. I'd be  
14 glad to come and testify if you do that.

15           THE CHAIR: Faye?

16           MS. DALY: Most of the people who  
17 testified today have mentioned the fact that  
18 the Native Hawaiians don't have the right to  
19 sue the Federal government, and I don't know if  
20 the legislature is in any position to work with  
21 those people who are concerned about that. If  
22 nothing more, a strongly worded resolution the  
23 legislature could come up with with the  
24 Governor that this is an important right, that  
25 the people want to be able to sue the Federal

1 government.

2 I was very pleased to see that the  
3 legislature has allowed people to sue the  
4 State. I think that's a step, and if anything  
5 can be done to help with the same right to sue  
6 the Federal government, I think it would be  
7 wonderful, if you could think of something  
8 creative and effective to do.

9 SENATOR CROZIER: I think you  
10 brought up a good point. Because of the right  
11 to sue, we're moving. And it's like I  
12 mentioned earlier: There's a pit bull up there  
13 chasing us, so we're moving along. We don't  
14 want to get bit.

15 And if the Federal government had  
16 something like that, maybe we could get  
17 something done for the Native Hawaiians.

18 THE CHAIR: Emmett?

19 MR. CAHILL: Senator, I reside on  
20 the Big Island, and I happened to be there last  
21 August when you and Senator Inouye were on that  
22 panel of Hawaiian affairs, lands concerns. And  
23 I might tell you there was a great deal of  
24 appreciation among the people I knew that you  
25 were present.

1 I was there on behalf of this  
2 Committee because I live on that island, and I  
3 learned a lot. I also know that 57 percent of  
4 the Hawaiian home lands are on Hawaii.

5 Has any consideration ever been  
6 given to establishing a satellite office on the  
7 island of Hawaii for the benefit of those  
8 people who can't get to Honolulu with their  
9 Hawaiian home lands affairs and so forth, since  
10 the majority of the land is on that island?

11 SENATOR CROZIER: Well, they  
12 already have a office there in Hilo.

13 MR. CAHILL: What's it called?

14 SENATOR CROZIER: Hn Home Lands,  
15 Office.

16 MR. CAHILL: All right.

17 SENATOR CROZIER: And there's one  
18 also up in Waimea.

19 MR. CAHILL: Okay. That answers  
20 my question. Thank you.

21 In the first page of your  
22 testimony, you refer to: "The lands placed in  
23 trust were largely isolated and unimproved  
24 lands."

25 SENATOR CROZIER: Uh-huh.

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1 MR. CAHILL: This is a two-part  
2 question. First, who at that time do you  
3 recall, if any, were the decision makers, and  
4 can you expand upon the type of land you're  
5 referring to?

6 SENATOR CROZIER: Well, you know,  
7 it's common knowledge that it was the sugar  
8 barons of the time when you talk about -- this  
9 was just at the beginning of the Big Five. The  
10 Big Five had not been fully developed yet. But  
11 it's still that same family organizations: the  
12 missionary types and the colonial people that  
13 came in and got hold of the lands.

14 MR. CAHILL: Okay.

15 SENATOR CROZIER: So they made  
16 sure that they kept the best sugar lands. And  
17 I don't want to repeat the whole story.  
18 Everybody knows the story, that whole thing.  
19 So they kept the best sugar lands and they  
20 moved the other -- gave the Native Hawaiians  
21 the arid lands.

22 But you know, these arid lands --  
23 you're right. We got lousy lands. But today  
24 -- my favorite project I like to talk about is  
25 the Keokea project up in the Kula lands.

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1 Okay. The Department of Hawaiian Home Lands  
2 owns lands from Kula, the Kula Road, all the  
3 way down to about a mile above Kihei Bypass  
4 Road.

5 I refuse to call those lands, "the  
6 Kula lands," because when people look up, they  
7 always look to the top. Because you say "the  
8 Kula lands," they look to the top. I wish we  
9 had named those lands, "the Kihei Uka lands,"  
10 so they only look one-third of the way up the  
11 mountainside.

12 MR. CAHILL: Uh-huh.

13 SENATOR CROZIER: And that's all  
14 Hawaiian home lands.

15 If they realized those lands are  
16 on a nice, gentle grade, easy to be developed,  
17 right next to a major job base, you could put a  
18 lot of Native Hawaiians on the land.

19 I've been able to drive through  
20 all of those lands. I can see the potential.  
21 Maybe those lands were the bad lands before,  
22 but they're not the bad lands anymore. They're  
23 located -- strategically located in good  
24 locations, and then Hawaiian Home Lands should  
25 take a look at that.



1 THE CHAIR: I think they have,  
2 because I'm -- it's right above my home.

3 In fact, I applied for there.  
4 Typically -- they awarded 357 awards, but  
5 because of archaeological sites they found,  
6 they had to take it all back. So -- plus the  
7 water. It's the most fertile land on Maui, but  
8 there's no water.

9 SENATOR CROZIER: I was fortunate  
10 enough, or unfortunate enough, when I went  
11 through the tour of those lands -- we started  
12 from the bottom, went all the way up to the  
13 highway, and we visited one of the  
14 archaeological sites.

15 It was a small heiau, and you  
16 could see that the cattle had been roaming on  
17 top of the heiau, and you can understand how we  
18 knew the cattle was up there.

19 THE CHAIR: Okay. Any more  
20 questions for Senator Crozier?

21 Yes. Go ahead.

22 MS. NAGTALON-MILLER: I wonder,  
23 from where you sit now, do you think -- are  
24 there things that could be done in the  
25 legislature that hasn't already been done to

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1 continue to improve the situation?

2           SENATOR CROZIER: It's an ongoing  
3 process. You know, we've taken as many issues  
4 as we can and we worked it through, and we  
5 will continue to work.

6           I don't want to make any political  
7 speeches, okay? But I have ideas for Congress,  
8 for what Congress can do. Maybe to shift back  
9 to the legislature at this time -- my computer  
10 has turned off that section of knowledge for  
11 now. Excuse me. I'm not trying to be  
12 arrogant, but that's the realities.

13           MS. NAGTALON-MILLER: But I'm very  
14 interested in the legislature, because in your  
15 last page, you did mention that it's not your  
16 intent to try to point fingers or place  
17 responsibility for the failures of the past.  
18 And yet our duties as members of this Committee  
19 is, we have to find out where things could be  
20 changed so that there could be improvement,  
21 because we see all these reports.

22           SENATOR CROZIER: Well, my  
23 suggestion to you is, like I said earlier, join  
24 the State Legislature and recommend to the  
25 executive branch.

1           Now, the executive branch has been  
2 dragging their heels, you know. They've been  
3 dragging their heels. Recommend to them to  
4 join us in the legislation that we pass.  
5 Support our amendments that we're sending to  
6 Congress. That's something that can be done.

7           MS. NAGTALON-MILLER: Is there  
8 anything that you or people like you could do  
9 to also influence your colleagues? Because we  
10 do -- as a member of the public, do have  
11 influence on the legislature, too? Because we  
12 do talk to people there.

13           SENATOR CROZIER: Uh-huh.

14           MS. NAGTALON-MILLER: But at the  
15 same time, there is such a thing as colleagues  
16 talking to colleagues about certain things. So  
17 I wonder whether or not --

18           SENATOR CROZIER: There's two  
19 issues that I live and die at the legislature.  
20 One is housing, and the other is Hawaiian  
21 programs. I'm always involved in those two  
22 issues. I'm always talking about them, and I  
23 try my best in those two areas.

24           MS. NAGTALON-MILLER: As a  
25 committee, we're very much interested in

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1 finding out what can be done, because we talk  
2 about responsibilities. It has come up often  
3 that it would be the Federal level and the  
4 State level.

5                   SENATOR CROZIER: Yeah. The State  
6 is far ahead of the Federal level. We're  
7 trying to tell the Federal, "Come on. Catch up  
8 to us so we can move forward." We've passed  
9 bills needing Federal approval, and they  
10 haven't been approved. Either make a decision  
11 that they're not going to approve it, or  
12 approve it, but do something. Just don't let  
13 it hang out there. Okay?

14                   THE CHAIR: Thank you so much,  
15 Senator, for sharing your thoughts and your  
16 beautiful presentation. This Committee would  
17 like to thank you for your participation.

18                   SENATOR CROZIER: Thank you, Mr.  
19 Chairman. Thank you, Committee members.

20                   THE CHAIR: Okay. Now I'd like to  
21 open up -- call up Haunani Apoliona of Alu  
22 Like.

23                   (Recessed from 3:55 to 4:05 p.m.)

24                   THE CHAIR: Let me call this  
25 meeting to order.

1           If you can all take your chairs,  
2 please.

3           Haunani, will you state your name  
4 and your organization.

5           MS. APOLIONA: Aloha, members of  
6 the Hawaii Advisory Committee, United States  
7 Commission on Civil Rights.

8           My name is Haunani Apoliona,  
9 Program Operations Director of Alu Like, a  
10 non-profit organization established in 1975 to  
11 provide a multiple human service system to the  
12 Hawaiian community state-wide.

13           I'm testifying on behalf of Masaru  
14 Oshiro, President and Chief Executive Officer,  
15 who is unable to be here today.

16           Your letter indicated interest in  
17 receiving our views on the extent to which the  
18 Federal government and the State of Hawaii are  
19 meeting their obligations for fulfilling the  
20 Hawaiian Homes Commission Act of 1920.

21           Alu Like has participated in the  
22 past two public forums convened by your  
23 Committee in August of 1979 and September of  
24 1988. Our testimony will further update our  
25 activities since our last report.

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1           First, a brief background of our  
2 organization will provide you with a basis to  
3 understand Alu Like's relationship with the  
4 Department of Home Lands, the State agency  
5 mandated to implement the Hawaiian Homes  
6 Commission Act of 1920.

7           The mission of Alu Like is to  
8 assist Hawaiians to achieve social and economic  
9 excellence. To carry out this mission, Alu  
10 Like has identified four major program areas of  
11 employment, education, health and social  
12 service, and economic development.

13           Alu Like projects such as the  
14 Hawaii Computer Training Center and the Native  
15 Hawaiian Development Center prepare Hawaiians  
16 to enter the business community and compete  
17 with others in this multi-ethnic society.

18           During the summer of 1989, Alu  
19 Like provided testimonies before the United  
20 States Senate Select Committee on Indian  
21 Affairs, chaired by the Honorable Senator  
22 Daniel K. Inouye.

23           During the public hearings  
24 scheduled on all the major Hawaiian islands, we  
25 shared our views on our working relationship

1 with the Department of Home Lands and the  
2 mutual effort to serve the human service needs  
3 of residents living in Hawaiian home lands.  
4 Copies of these testimonies are appended to  
5 this presentation, which I believe you all have  
6 by now.

7                   Since September, 1989 Alu Like has  
8 implemented a major program designed to service  
9 elderly Hawaiians, many residing on Hawaiian  
10 homestead lands. Keola Puna No Na Kapuna  
11 (phonetic), Good Health in Living for the  
12 Elderly Project, includes goals to serve  
13 nutritious meals, provide health assessment,  
14 self-care training, cultural and  
15 informational services, as well as recreational  
16 activities.

17                   Of the five project sites, four  
18 are located within Hawaiian homestead  
19 communities. They are on Kauai at Anahola,  
20 Maui at Paukukala (phonetic), Molokai at Hoole  
21 Homestead (phonetic), and on the island of  
22 Hawaii at Keaukaha, and on Oahu a project site  
23 is located in the community of Waimanalo,  
24 another homestead area.

25                   During the past two State

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1 legislative sessions, Alu Like has provided  
2 numerous testimonies supporting the efforts of  
3 the Department of Home Lands to obtain more  
4 resources to do its job. To a large extent,  
5 the Department has been successful, and we look  
6 forward to further improvements in these  
7 overall efforts.

8                   We wish to identify two new joint  
9 projects which will ultimately benefit all  
10 Native Hawaiian lessees, as well as those who  
11 might be eligible for Hawaiian home lands. The  
12 first of the two projects is profiles of  
13 population in Hawaiian home lands.

14                   THE CHAIR: Haunani?

15                   MS. APOLIONA: Yes?

16                   THE CHAIR: E kala mai. Can you  
17 encapsulize? We have your statement. Can you  
18 kind of encapsulize, go through it?

19                   MS. APOLIONA: Well, basically, we  
20 wanted to share these two new opportunities,  
21 Hawaiian profiles of population in Hawaiian  
22 home lands areas that will look at census data  
23 of 1980 and compile profiles of the population  
24 in the census tract that approximates Hawaiian  
25 home lands area. Such data as it's analyzed

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1 will be valuable for the Department as well as  
2 to Alu Like for ongoing program planning,  
3 development, and service delivery.

4           The second of the two projects  
5 suggests a genealogy task force which has been  
6 mandated by State legislation. Of course, as  
7 you all know, genealogy and verification of  
8 Native Hawaiian blood quantum is essential for  
9 successful application to the Department of  
10 Home Lands for eligibility for homesteads.

11           At the policy-making level, Alu  
12 Like continues to work closely with the  
13 Department of Home Lands in that one of our  
14 long-term Alu Like board members recently has  
15 been appointed and sworn in as a commissioner  
16 of the Commission. Her name is Mrs. Ann  
17 Nathaniel.

18           She served as chair in the  
19 early eighties on the Interior Department  
20 Federal-State Task Force on Hawaiian Home  
21 Lands, which investigated the many concerns  
22 which have been raised then and continue to be  
23 raised now.

24           In her individual capacity, as  
25 well as a member of the Alu Like board of

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1 directors, Mrs. Nathaniel continues to provide  
2 leadership to the Task Force in its  
3 deliberations, and we are happy that Mrs.  
4 Nathaniel continues to serve all Hawaiians  
5 through her association with the Department and  
6 Alu Like.

7                   Mrs. Drake, Hoaliku Drake, in her  
8 capacity as Chair of the Hawaiian Homes  
9 Commission is a strong member of Hawaiian  
10 Services Institutions and Agencies. This is a  
11 coalition of participating agencies and  
12 includes Alu Like, the Bishop Museum, Eolamau  
13 (phonetic), Kamehameha Schools, Bishop Estate,  
14 Lunalilo Trust, the Office of Hawaiian Affairs  
15 and the Queen Liliuokalani Childrens Center.

16                   The primary purpose of this  
17 coalition of Hawaiian agencies is to provide  
18 the chief executive officers the opportunity to  
19 keep each other informed of agency activities  
20 and to avoid duplication of efforts in service  
21 to the Hawaiians, and wherever possible HSIA  
22 organizations do enter into single- or multi-  
23 project agreements to work and enhance service  
24 delivery capacities across the state.

25                   Much more can and must be done to

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1 improve the current situation faced by  
2 homesteaders and those on the waiting list.  
3 Rather than pointing fingers, Alu Like desires  
4 to work with all levels of government and  
5 private sectors to address existing problems.

6                   We hope that the Hawaii Advisory  
7 Committee's report to the United States  
8 Commission on Civil Rights will convey the  
9 theme of cooperation and support for all  
10 organizations whose primary interest is the  
11 improvement in the quality of life for all  
12 Native Hawaiians.

13                   Mahalo for the opportunity to  
14 share our thoughts.

15                   THE CHAIR: Thank you, Haunani.

16                   Any comments, questions?

17                   Thank you so much, Haunani.

18                   I would like to call upon Sonny  
19 Kaniho.

20                   Sonny, I'm really happy that you  
21 could make it today, and I personally would  
22 like to recognize the effort that you have put  
23 in in trying to right the wrongs that have been  
24 done to your family and to the people. Mahalo  
25 nui loa.

1 MR. KANIHO: Thank you.

2 Mr. Chairman, members, aloha.

3 My name is Sonny Kaniho. I'm  
4 going to make my thing real fast. I'm just  
5 going to -- what I have here is a document, and  
6 i'm going to hand it in after I get through.

7 My first document relates to a  
8 waiting list, Papakolea waiting list, and these  
9 people been on the waiting list for 44 years.  
10 I think that's bad. So what I'm going to do,  
11 I'm going to get together with the Department  
12 on this thing here, and whatever results I get,  
13 I'll send them right up to the office. That's  
14 number one.

15 Here I have the minutes of the  
16 Department here in 1961. This one here relates  
17 to John Waihee. That's Governor Waihee's  
18 father. The Commission told him if he wants  
19 Hawaiian Homes land, he has to sell his real  
20 estate, and I think that is wrong, too. But  
21 I'll check with the Department and see what  
22 it's all about. I think that wrongdoing must  
23 be compensated. Thank you.

24 I got my last one right here,  
25 relates to the Hawaiian Homes Commission. It's

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1 1972. They have 28 applicants' applications in  
2 their office. That's what they state. They  
3 say, to date the Hawaiian Homes Commission has  
4 28 applicants, all residents of Ka'u. They  
5 only find one; they can't find the rest of  
6 them. I'll write to the Department and I'll  
7 get this information to your office.

8 Thank you.

9 THE CHAIR: Thank you, Sonny.

10 Questions, panel?

11 MS. PANUI: Comment.

12 THE CHAIR: Yes.

13 MS. PANUI: I'm glad to see you  
14 here.

15 I have a comment to make, to  
16 share. When I first moved out to Hawaiian home  
17 lands, I was appalled to find out that some of  
18 the administrative rules said that if you had  
19 \$27,000 in assets you had to sell your assets.  
20 All the while, I live in Anahola. Looking  
21 around, there were people in Anahola, that had  
22 a lot of tracts of land, still residing on the  
23 homestead.

24 So you can see that at that time,  
25 there was preferential treatment. Some people

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1 could have lots of tracts of land, personal  
2 land, and reside on the Hawaiian homes, while  
3 other people had to sell their assets. And  
4 that's true; that is fact.

5 THE CHAIR: Thank you.

6 Any more comments?

7 Faye?

8 MS. DALY: Mr. Kaniho, I don't  
9 believe you were here this morning. I believe  
10 it was Ethel Andrade who said what a wonderful  
11 person you are, how self-sacrificing, and all  
12 of the times you've been arrested, and I want  
13 to congratulate you for your advocacy.

14 (Applause from participants.)

15 THE CHAIR: Thank you.

16 Any more?

17 Sonny, before you go, you talk to  
18 John Dulles, and he'll give you government  
19 envelopes that when you get the information,  
20 just pop them in the mail, and it will go  
21 directly to our office in L.A.

22 MR. KANIHO: All right.

23 THE CHAIR: Okay?

24 MR. KANIHO: Okay. Thank you  
25 again.

1 THE CHAIR: Mahalo nui loa, Sonny.  
2 I would like to call upon Martina  
3 T. Whitehead.

4 I'll basically control the time  
5 that you speak, based on the other people  
6 that we have, so everybody that comes up now,  
7 I mean, you know, I'll kind of hold the time  
8 together.

9 Go ahead.

10 MS. WHITEHEAD: Ladies and  
11 gentlemen, aloha.

12 My name is Martina Whitehead. I'm  
13 a 1952 Hawaiian homestead pioneer farmer from  
14 Puukapu, Waimea, Hawaii.

15 For 38 years, I believe there was  
16 incidents occurred that the State of Hawaii,  
17 its position, its political policies -- and  
18 also to mention Senator Daniel Inouye, who has  
19 served Hawaii in Congress for 30 years, and  
20 also other Hawaiian congressmen and senators  
21 knowingly assisted the State of Hawaii, which  
22 helped to cause a breach of trust to the Native  
23 Hawaiians.

24 The ceded lands set aside for  
25 Native Hawaiians and the revenue from ceded

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1 lands for the rehabilitation and for the  
2 support of the Hawaiian home lands. The Native  
3 Hawaiian grant the State of Hawaii receives  
4 does not go to the most needed programs that  
5 directly benefit Native Hawaiians.

6 For example, in 1952, there was  
7 eight Hawaiian homestead farmers. The farmers  
8 and renters that lived in Waimea before the  
9 Hawaiian homestead awards was gainfully  
10 employed by Parker Ranch, Honokaa Sugar  
11 Company, the Department of Water Works, and  
12 other employment in the district.

13 As for the Hawaiians that  
14 relocated from other islands, jobs were scarce.  
15 In 1953, January, there was no Hawaiian Homes  
16 loan program that we could immediately apply  
17 for a loan to purchase tractors, machines,  
18 chemicals, and having an operating fund.

19 We approached the Hawaiian Homes  
20 chairman, Daniel Inouye, and later the  
21 chairman, Samuel King. They said there was no  
22 -- there was money available, but we got no  
23 action until, by letter, we contacted the  
24 Hawaiian Homes commissioner for the island of  
25 Hawaii, and we got the attention of

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1 Commissioner Richard Furtado to hear us and  
2 present our plea to the Hawaiian Homes  
3 chairman and to the commissioners.

4 In 1953, a loan was approved, but  
5 not until August of 1954, when a farm loan  
6 became available for us to use. After waiting  
7 so long, two farmer gave up their farm leases  
8 due to hardship and political harassment.

9 I need to mention to you, prior to  
10 our 1952 award, the fact that the Territory  
11 wanted to transfer to the State of Hawaii.  
12 Speaking of the Democratic rule, the political  
13 island party contemplated an exchange of HHL  
14 Puukapu farmland for the Lalamilo (phonetic)  
15 ceded lands to put the Hawaiian Homes farmers  
16 on Alanamila land.

17 They did plan to put Puukapu  
18 farmland up for sale to the public for a price  
19 of 15 cents per square foot. This did not take  
20 place. Our appreciation goes out to the  
21 Hawaiian Civic Club, to Edith Ariohi Moore  
22 (phonetic), and others that made it possible  
23 for having Puukapu farm awards to Native  
24 Hawaiians.

25 THE CHAIR: E kala mai. E kala

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1 mai.

2 MS. WHITEHEAD: Yes.

3 THE CHAIR: Auntie, can you --  
4 the rest of your -- there's bout three or four  
5 more pages of your testimony. Can you just  
6 make it summarize or go down and just tell us  
7 your manao from within?

8 MS. WHITEHEAD: Okay.

9 THE CHAIR: The rest of your  
10 statement, please?

11 MS. WHITEHEAD: Okay.

12 Well, experienced hardships from  
13 the local established farmers in the community  
14 who tried to discourage us from farming, to  
15 compete with the certain challenges. Those are  
16 the days we experienced floods from the  
17 mountain flow off the McGoon land and got the  
18 overflow, which was damaging to our crops.  
19 There was a wind storm, the heavy drought  
20 spells, for which the Territory and, after, the  
21 State of Hawaii called disaster emergency.

22 I need to express these things in  
23 order that you --

24 THE CHAIR: You see, Auntie, this  
25 is the worst part of my job, is that I really

1 don't want to do this, but we don't have the  
2 time. There's a lot of people more --

3 MS. WHITEHEAD: Okay.

4 THE CHAIR: -- and if I allow you,  
5 I going have to allow everybody, and we not  
6 going home tonight.

7 MS. WHITEHEAD: Okay.

8 THE CHAIR: Okay, Auntie. E kala  
9 mai.

10 MS. WHITEHEAD: All right.

11 The Puukapu Hawaiian farmers were  
12 not able to qualify to apply for any of the  
13 disaster loans from the FHA and other loan  
14 institutions. There was -- okay.

15 Then we go on to -- we took steps  
16 to try to alleviate some of the obstacles.  
17 So in 1956, a 60-million gallons -- I got to  
18 mention this, Charlie -- irrigation water  
19 reservoir was built on Hawaiian Homes land.

20 This reservoir was to service the  
21 Hawaiian homestead farmers and renters. The  
22 State of Hawaii claimed that we did not want  
23 the irrigation water because we had enough  
24 rainfall that was sufficient to our farm needs.  
25 This statement was false.

1           The Territory of Hawaii offered us  
2 irrigations by gravity flow at \$30 per acre a  
3 month, whether we used the water or not. We  
4 wanted a service meter but was turned down.  
5 Okay.

6           Hawaiian Homes allowed a bypass of  
7 the 60-million gallon line irrigation to  
8 service the Lalamilo State Farm, okay? The  
9 Territory wanted to exchange, for Puukapu  
10 farmland, the State farmland, and the  
11 irrigation water was offered to the State farm,  
12 Lalamilo Farms, for 8 cents per thousand  
13 gallons, while we haul our water from our homes  
14 for farm spraying.

15           And so later we established a  
16 pooling agreement with the Soil Conservation  
17 where we had domestic water at our farm at 55  
18 cents per thousand gallons. So there you see  
19 that breach of trust.

20           THE CHAIR: Okay, Auntie, uh --

21           MS. WHITEHEAD: In closing --

22           THE CHAIR: Go ahead, Auntie.

23 Close. Go ahead, Auntie.

24           MS. WHITEHEAD: Okay. Let me see.

25           In closing -- what I wanted to

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1 say?

2 THE CHAIR: I'm sorry. I  
3 interrupted you, Auntie.

4 MS. WHITEHEAD: I therefore  
5 recommend that the provisions in the State  
6 Constitution be changed -- to amend the  
7 Constitution at this time, that the next  
8 Hawaiian generation, our children, to have the  
9 privilege to address this issue of the blood  
10 quantum. Okay.

11 Perhaps 15 or 20 years from now,  
12 and also after the State of Hawaii has enabled  
13 and allowed Native Hawaiians their rightful  
14 treatment -- where are our civil rights? When  
15 can our civil rights be addressed? We want  
16 action now.

17 I also therefore recommend a  
18 Federal subsidy program to be allowed to  
19 Hawaiian Homes farmers and renters to recover  
20 from the catastrophe, the poor loan system in  
21 the State of Hawaii program of HHL Department  
22 since 1952 for the rehabilitation of Native  
23 Hawaiians.

24 There are Federal subsidies for  
25 U.S. citizen farmers and renters, and being the

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1 case that we are such, do we have the right to  
2 consideration for these grants and programs?

3 THE CHAIR: Thank you, Auntie.  
4 Mahalo.

5 The next speaker is Lila M.  
6 Hubbard. And I'm so happy you're not one of  
7 the kapunas, because I can cut you off at the  
8 pass.

9 MS. HUBBARD: I was fighting with  
10 the DOT this morning and left my prepared  
11 speech.

12 My name is Lila Malina Hubbard,  
13 and I'm with Pro-Hawaiian Sovereignty, the  
14 educational arm of Kapaupaukau (phonetic)  
15 Coalition of Hawaiian Organizations working for  
16 sovereignty and the founder of Makoekaipa, the  
17 strong warriors to fight corruption and the  
18 corrupted.

19 This is the problem; this is the  
20 enemy. The enemy is lack of communication and  
21 truth in our state. It looks like OHA did  
22 something; they didn't. OHA wouldn't even  
23 give our Homes Committee money. They didn't  
24 have money, but somehow they found money for  
25 our trustees to fly first-class to Washington

1 and to have a nice hotel.

2           Our people just went up with what  
3 they could scrounge, their round-trip, and now  
4 they have to scrounge the \$8,000 for the  
5 container for the bones, and this is the truth.  
6 And this garbage circulates in the Hawaiian  
7 community, and the truth does not come out.  
8 They are playing with our minds and the minds  
9 of all the Hawaiian people.

10           And this is -- I put partly on the  
11 United States' head, because you have come into  
12 our country illegally and have operated a  
13 government illegally. And you simply  
14 perpetuate this illegal take-over, and I think  
15 you need to do something about that.

16           Okay. Specifically, a number of  
17 things should be done. You use Western law to  
18 steal our lands. Our lands supposedly cannot  
19 be sold, but they can certainly be transferred  
20 and exchanged, and they are transferring and  
21 exchanging like crazy, so that there are no  
22 ceded lands for the Hawaiians.

23           And that's basically what we're  
24 talking about here. Land is power, and they  
25 don't want the Hawaiians to have any power.

1 They don't want to uplift us economically. And  
2 these programs and doles given to us, where  
3 does most of the money go? Up above, and very  
4 little to the Hawaiian people. And we are  
5 angry.

6                   And even now, our rights are taken  
7 away from us. Last week, two commercial  
8 fishermen, one full-blooded Hawaiian, these two  
9 men were told to remove their nets from Makua  
10 where they had been fishing for years. And  
11 they were told by the military and H.P.D. and  
12 given no explanation because, you see,  
13 Hawaiians are nothing here. We're treated,  
14 really, basically worse than dogs in our own  
15 country.

16                   To alleviate this, what you need  
17 to do is recognize our sovereignty. We are a  
18 nation.

19                   THE CHAIR: Summarize in two  
20 minutes, please.

21                   MS. HUBBARD: Okay.

22                   What you need to do is to call for  
23 a moratorium on all ceded land movement and to  
24 investigate the disposition of our land since  
25 1959. This is a "reso" in the legislature that

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1 did not pass.

2                   Let us, the Hawaiians, develop our  
3 ceded lands. We have the brains, and they  
4 should be -- there should be a master plan for  
5 all of DHHL, and we should have duplexes  
6 because a lot of our people can't afford the  
7 note. Why not?

8                   We should, furthermore, think of  
9 economic opportunities in our DHHL areas. We  
10 will have sophisticated tourists in the  
11 future, so why not bed-and-breakfasts? And  
12 there are other things that we Native Hawaiians  
13 and Hawaiians can do. But there doesn't seem  
14 to be much creativity when it means lifting the  
15 economic standards of the Hawaiians.

16                   And the key, really, the key to  
17 the uplift of the Hawaiians is education. We  
18 are put down in the public schools. I know,  
19 because I teach there.

20                   Thank you.

21                   THE CHAIR: Thank you.

22                   I would now like to call up Harold  
23 Uhane Jim. Mr. Jim?

24                   Have you got a prepared statement?

25                   MR. JIM: Yeah, and I want to make

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1 it short.

2 THE CHAIR: Good. Thank you.

3 MR. JIM: By the way, my name is  
4 Harold Uhane Jim. Before I go on and start,  
5 I would like to say my aloha.

6 I am -- I represent the members  
7 of Apunio O Hawaii (phonetic), a new  
8 organization. This organization is just made  
9 up of Hawaiian applicants and lessees in the  
10 Hawaiian Homes Commission Act as members.

11 I have flown here from Kauai here  
12 at the last minute, so I didn't bring any  
13 testimony. I just want to give some of the  
14 findings that we have monitored in the State  
15 back in 1975 up to today.

16 It's such a long, drastic or very  
17 emotional status that -- what's happened, and  
18 I would like to make some recommendations to  
19 the Civil Rights, with some of our issues, it's  
20 on human rights now.

21 There's tremendous violations.  
22 I mean, I think we're all aware. But I think  
23 the violations -- and I'm hearing all these  
24 testimonies -- but I don't hear anything about  
25 the State of Hawaii and the commissioners

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1 following the provisions of the 1920 Act, and  
2 it's constantly being broken.

3                   And I think what these  
4 commissioners have to look at is to give the  
5 commissioners, the Department of Hawaiian  
6 Homes, or the State on the Admission Act and  
7 the Constitution was adopted and Article 12,  
8 Section 2, where there was a compact between  
9 the Federal government, and we find that our  
10 rights on the Constitution have been violated  
11 tremendously.

12                   I would like to mention one  
13 incident -- there's more -- and I think the  
14 most drastic one I want to point out is, that  
15 I heard earlier about, the Waimanalo issue this  
16 gentleman just brought out, about evictions of  
17 Native Hawaiians off those lands.

18                   And I think some of the people  
19 fail to understand what the whole concept was,  
20 and I'd like to point that out as an example.  
21 Native Hawaiians in Waimanalo, when they were  
22 threatened to be evicted on Saturday, somewhere  
23 around April the 23rd and 24th, they asked the  
24 advice for a group called Ohane Kahea  
25 (phonetic) to assist them.

1           So we said that their failure of  
2 due process -- and one of the reasons we did  
3 that was that there was no contract signed  
4 between the County and the Department of  
5 Hawaiian Homes on those lands, and they were  
6 going to evict Native Hawaiians according to  
7 that.

8           So on the following the Monday,  
9 the contract has been signed by the Department  
10 of Hawaiian Home Lands with the commissioners.  
11 And they set forth at a hearing on a Tuesday  
12 -- and this particular Tuesday, they called the  
13 Native Hawaiians -- and one of the questions  
14 was brought out to the commissioners and the  
15 chairman of Hawaiian Homes: Did you sign the  
16 contract?

17           The answer was, she did. It was  
18 on a Monday prior to meeting those people.  
19 Some Native Hawaiians felt that their rights  
20 and human rights were violated. They went up  
21 and hanged themselves, right in the front of  
22 the commissioners. And that has not been  
23 brought out.

24           THE CHAIR: You have a minute and  
25 a half to summarize.

1 MR. JIM: So what I'm really  
2 trying to say, that the contract was brought  
3 out on the 25th. There were prior evictions,  
4 prior to that on Hawaiian home lands, and there  
5 was the executive order of 11/25 in Nanakuli,  
6 the beach frontage, four acres, evicted Native  
7 Hawaiians off those lands.

8 Those Hawaiians didn't have their  
9 due process. A contract wasn't signed. I have  
10 a feeling I want to share with you, that the  
11 State as trustee standing there and monitoring  
12 to kick those Hawaiians off those lands, were  
13 they monitoring the policemen, to handcuff  
14 them who don't have jurisdiction on those lands  
15 to evict those Native Hawaiians in Nanakuli?  
16 The answer to that is no.

17 I have documentations that I'd  
18 like to present of court cases. I'm one of the  
19 founders of the Aki vs. Beamer in 1975. My  
20 uncle, it was. We were fighting for Native  
21 Hawaiians' rights from that time.

22 THE CHAIR: Excuse me. You have  
23 30 seconds.

24 MR. JIM: Today there's a lot of  
25 violations. So my manao to you -- I don't have

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1 the time here, because I'm short of time,  
2 because that's always the case with Native  
3 Hawaiians.

4                   When you have documents, they  
5 don't want to see anything. With respect to  
6 this Committee, we have gone through all these  
7 hearings about the same thing.

8                   THE CHAIR: Let me interrupt you a  
9 second.

10                   MR. JIM: Can I --

11                   THE CHAIR: Let me interrupt you.

12                   Whatever documents you have, we'll  
13 gladly share it. This is what we're for.

14                   MR. JIM: Okay.

15                   THE CHAIR: But your verbal  
16 testimony will have to follow the rules. Okay?  
17 Continue.

18                   MR. JIM: So what I'm going to  
19 do --

20                   THE CHAIR: 15 seconds.

21                   MR. JIM: -- and I would like to  
22 ask this Committee, because of the short time,  
23 the Committee that's paid my plane fare to come  
24 here and give my manao: I have documentations  
25 here, and I with respect would like to have

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1 this be taken care of and written. And I have  
2 testimonies here and the whole bit.

3 I need 30 days to submit these  
4 things to you regarding the findings. Is that  
5 possible?

6 THE CHAIR: Yes. It's possible,  
7 and our staff will give you envelopes so that  
8 it won't cost you nothing.

9 MR. JIM: Thank you.

10 THE CHAIR: Thank you.

11 Any questions, panel? No?

12 I'd like to recognize Maui Loa.

13 MR. PRICE: We're together,  
14 Kamuela Price. That's right.

15 THE CHAIR: But he filled out the  
16 application.

17 If you want to speak -- I don't  
18 see your name.

19 MR. PRICE: It's on the next one.  
20 We're together; we came together. Kamuela  
21 Price.

22 THE CHAIR: Okay.

23 John? Can you give him permission  
24 to do that, Mr. Price?

25 MR. DULLES: If they came

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1 together, it's in order.

2 THE CHAIR: And they filled out  
3 the application.

4 MR. DULLES: Did you get the  
5 form?

6 THE CHAIR: Yeah, he did. I have  
7 it here.

8 Okay. Go ahead, Maui Loa.

9 MR. LOA: Well, I'd like our  
10 advisory counsel to speak first.

11 MR. PRICE: I think it's better,  
12 because I'll set the stage for what Maui is  
13 going to say.

14 Mr. Chairman, members of the  
15 Hawaii Advisory Committee, honorable members of  
16 the staff, my name is Kamuela Price. I'm the  
17 advisory counsel to the Hou (phonetic)  
18 Hawaiians and part of the Hou Paralegal  
19 Service.

20 Attached is some testimony that we  
21 made before various government bodies  
22 pertaining to the civil rights of our  
23 constituents, the Native Hawaiians, as defined  
24 in the Hawaiian Homestead and the 5F provisions  
25 of the Hawaii Admissions Act.

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1                   Now, you're a civil rights  
2 committee, so what you're really down here,  
3 I imagine, for is how to protect the rights of  
4 Native Hawaiians, as defined in the Hawaiian  
5 Homestead and the 5F provisions of the  
6 Admissions Act. In essence, that's Native  
7 Hawaiians of 50 percent aboriginal blood or  
8 more.

9                   I think that the problem as it is  
10 right now is the Native Hawaiian doesn't have  
11 any rights that are enforceable. Now, our  
12 first recommendation to you is that you  
13 instruct Congress not to tamper with the  
14 Hawaiian Homestead and the 5F provisions of the  
15 Hawaiian Homes Commission Act, and thereby  
16 protect the integrity of the United States  
17 government and save the Native Hawaiians from  
18 cultural extinction.

19                   I think you should also instruct  
20 Congress that the Hou Hawaiians have the State  
21 government in court right now for not living up  
22 to the Hawaiian Homestead and 5F provisions,  
23 and that's why they wanted to change them.

24                   Our attorney says he's never heard  
25 of a case where Congress, while you were

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1 challenging a trust -- that Congress would  
2 change that trust, because the trust deals with  
3 two things: its purpose, and who it's  
4 beneficiary is.

5           Now, if you change the purpose and  
6 the beneficiary of that trust, then you don't  
7 have a trust anymore, and you are depriving all  
8 of those Hawaiians who came under that trust of  
9 their civil rights. I think that's the issue  
10 here that's involved.

11           Now, there's a couple other things  
12 that I would like to touch on because --

13           THE CHAIR: You have a minute and  
14 a half.

15           MR. PRICE: All right.

16           It's very important that we don't  
17 have any civil rights because there's no legal  
18 organizations that are being funded in the  
19 State of Hawaii that will take care of the  
20 civil rights of Native Hawaiians.

21           You have to realize the Native  
22 Hawaiians that you're asked to think about is  
23 the poor. You've been told, no, that's not the  
24 one; if you're not poor, you can get people,  
25 but if you are poor, you can't. And therefore,

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1 the people that we speak for are the ones who  
2 don't have their homestead.

3 Now, the proportion of people who  
4 have homesteads by testimony today from those  
5 who don't, is we have 200,000 people who are  
6 going to come under some kind of a law here,  
7 but there's 12,000 on that list. So we're  
8 outnumbered 15 to 1.

9 We are the people that need civil  
10 rights. The 200,000 have money, they have  
11 spokesmen, they have Alu Like, they have all  
12 these people, OHA, speaking on their behalf  
13 with millions of dollars.

14 THE CHAIR: You have 10 seconds.

15 MR. PRICE: All right.

16 I would hope that you folks would  
17 go back and recommend to Congress: There's a  
18 small group of Hawaiians who we owe something  
19 to; they're the ones that we made a treaty with  
20 or a compact with, and that those are the  
21 people that we owe civil rights, and we  
22 shouldn't allow to open the door to others  
23 until we can take care of the obligation that  
24 the United States has made up to this point.

25 Thank you.

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1 THE CHAIR: Thank you, Mr. Price.  
2 Maui Loa.

3 MR. LOA: Aloha, Chairman and  
4 members of this Committee.

5 THE CHAIR: Excuse me, Maui Loa.  
6 Do we have your statement.

7 MR. LOA: May I say something  
8 first?

9 THE CHAIR: Listen. Wait. We  
10 have a whole stack from you. If your statement  
11 is here, would you then encapsulize?

12 MR. LOA: Yes, I am.

13 THE CHAIR: Sure, go ahead.

14 MR. LOA: Aloha, members of the  
15 United States Commission on Civil Rights in  
16 Hawaii.

17 My name is Maui Loa, and I'm the  
18 hereditary chief of the Hou Hawaiians. We are  
19 the advocacy group that originally petitioned  
20 the Secretary of the Interior for inclusion of  
21 Native Hawaiians as Native Americans.

22 We are also the group that asked  
23 the Secretary of the Interior to enforce the  
24 Hawaiian Homestead provisions and the Hawaii  
25 Admissions Act which the Hawaiian homestead

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1 spirit was made part of.

2           It's not easy to summarize all of  
3 our grievances in a few words. But I would  
4 like to just say this, on something that took  
5 place in Hawaii, that the Civil Rights  
6 Commission didn't even send a letter of concern  
7 to a pure Hawaiian woman, which was my mother,  
8 senior in age, who was illegally forced by a  
9 SWAT team, 4:00 in the morning, off of  
10 ancestral burial grounds, without due process  
11 of the law, that the Bishop Estate, through  
12 their power, forced the judge to come out  
13 without due process of law and force my mother  
14 and my crippled brother off the sacred grounds  
15 which traditionally is a place of refuse for  
16 the old and the crippled and the women and the  
17 children.

18           There was not one -- not even a  
19 letter sent out that there was such a group of  
20 people in Hawaii that would recognize the  
21 individual violations. Because you're taking  
22 on a task that nobody could do for 69 years.

23           Now, that's a great task to do  
24 that, but you can't take on individual  
25 situations of civil rights violations of many

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1 native incidents. There's many incidents in  
2 Hawaii every day. There's women whose children  
3 are taken away from them. There's women living  
4 out in the bushes that don't have a shelter  
5 over their heads. There's so many violations  
6 out there that's real.

7           The home lands right is only one  
8 of the rights. Now, I'm a native artist, and  
9 I don't have the freedom to put my art out and  
10 earn, so I can subsist in Hawaii. I am fined  
11 administrative fines of \$400 a day when I open  
12 my trading post in the North Shore on our  
13 church lands. And these are the kind of  
14 harassments that we have, because that's the  
15 bottom line.

16           Our art alone could generate --  
17 one-tenth of one percent is \$20 million in the  
18 art and craft and tourist related area. It's  
19 one-tenth of one percent.

20           THE CHAIR: Okay. You've got 15  
21 seconds to finish.

22           MR. LOA: So this is a gift I'd  
23 like to give in the spirit of the Federal  
24 government joining hands with the local  
25 government and finding the solution, the

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1 promises that were made to us. As the chief of  
2 the Hou Hawaiians, I'd like to give this to  
3 you.

4 THE CHAIR: Thank you.

5 Wait. Let me just clarify one  
6 statement you made.

7 We do not investigate -- this body  
8 does not investigate individual complaints. We  
9 recommend. We're only advisory. We recommend  
10 when it deals with a class of people in total.  
11 We recommend to the commissioners in  
12 Washington, and they, in turn, have the power  
13 to ask Congress and the President to act on it.

14 But your views, whatever you  
15 submitted, will be considered by this  
16 Committee, will be part of the record.

17 MR. LOA: What do you do for a  
18 woman who's on the way to the spirit lands,  
19 waited 40 years for the home lands? What do  
20 you do about that?

21 THE CHAIR: Well, that's something  
22 that this body can't address. That's for sure.

23 MR. LOA: Wouldn't you feel there  
24 should be an emergency?

25 THE CHAIR: Of course, but we're

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1 not the body to --

2 MR. LOA: Not some 10 year thing  
3 you guys came out with in 1980.

4 THE CHAIR: The breach of trust,  
5 right?

6 MR. LOA: This is 1990.

7 THE CHAIR: Right.

8 MR. LOA: How many natives you  
9 think passed on?

10 THE CHAIR: At least we tried,  
11 though. Do you understand? We tried. And we  
12 are constantly trying, like you are. So you  
13 cannot point the finger to different people of  
14 different ages, because we are all trying.

15 Thank you.

16 MR. LOA: Thank you.

17 THE CHAIR: Next up?

18 I encourage everyone to submit  
19 their written testimony, and the record will be  
20 open for 10 days. And if you need envelopes to  
21 mail your testimonies out, please contact our  
22 staff.

23 The next one in line is Virginia  
24 Kepano, I believe. Correct me if I have the  
25 wrong -- State your name, and if you're



1 representing yourself or your organization.

2 MS. KEPANO: My name is Virginia  
3 Kepano.

4 THE CHAIR: Excuse me, could you  
5 please speak into the mike directly? Yes.  
6 Thank you.

7 MS. KEPANO: My name is Virginia  
8 Kepano. I am a homesteader in Papakolea. This  
9 is my husband. He is 100 percent Hawaiian.  
10 I have three 50 percent Hawaiian children, six  
11 grandchildren who are more than 50 percent, and  
12 two great-grandchildren who are almost three-  
13 quarters Hawaiian.

14 I wish to speak to the issue of  
15 civil rights. In 1962, my husband and  
16 I brought before the State Legislature -- in  
17 '62, '64, and '66, the issue of civil rights  
18 for the Native Hawaiians and the human rights  
19 question. Now, this many years later we're  
20 still at it.

21 We belong to a group that is very  
22 interested in pursuing the civil rights  
23 question and the human rights question for  
24 Hawaiians. It is a long and well-established  
25 fact, and well- and widespread recognized that

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1 the failure of the State to fulfill its  
2 commitment to the Native Hawaiian has been the  
3 very first violation of civil rights in the  
4 State of Hawaii.

5 Long overdue has been the  
6 recognition that this must be addressed. So  
7 because you are here today, we are very  
8 concerned with what you're going to take back  
9 to Washington, D.C. We realize that the  
10 inherent right of the Native Hawaiian has been  
11 violated, the inherent right to the gathering  
12 rights, to access to the ocean, to access to  
13 his assets, his financial assets, has been  
14 denied the Native Hawaiian.

15 Now, in the past, whichever  
16 philosophy you adhere to or follow, we have  
17 been told that at one time there were  
18 1,500,000; different figures have been offered  
19 for public scrutiny as to how many Hawaiians  
20 resided and subsisted in these islands. They  
21 were self-sufficient. There were no ships  
22 here. People were self-sufficient in that they  
23 provided for whatever the population was at  
24 that time.

25 Before contact, we really don't

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1 know. Because there have been many books  
2 written on this, we do have a pretty good idea.  
3 Now we know that there are less than 9,000  
4 Native Hawaiians. This is a pretty big demise  
5 of a people. I introduce to you the fact that  
6 there has been not only genocide, but it has  
7 been perhaps a deliberate attempt to do away  
8 with the native people.

9 We're facing the fact today that  
10 passing within 500 miles of our islands are  
11 deadly weapons that can destruct the world  
12 three times over.

13 THE CHAIR: 15 seconds.

14 MS. KEPANO: Okay.

15 The Hawaiians have had no due  
16 process. No one ever asks the Native  
17 Hawaiians. Mr. Maxwell, we get three minute at  
18 very important hearings like this. We object  
19 to this. We are going to pursue through the  
20 international arena the question of the civil  
21 rights, the abrogation, the violation of the  
22 human rights of the Native Hawaiian.

23 Thank you very much.

24 THE CHAIR: Thank you.

25 I understand the frustration

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1 when I testify in public hearings, and I have  
2 to testify only for three minutes. But if you  
3 have compiled your testimony and you submit it,  
4 it could be 10,000 pages, and it would be noted  
5 in the record. But we have to be fair. That's  
6 the reason you have only three minutes.

7 MS. KEPANO: We'll compile 10,000  
8 pages for your edification and see that you get  
9 it.

10 THE CHAIR: You have 10 days.

11 MS. KEPANO: Mr. Dulles assured me  
12 that I could mail it in.

13 THE CHAIR: 10 days to do it.

14 MS. KEPANO: And we have 10 days.

15 THE CHAIR: Thank you, ma'am.

16 MS. KEPANO: Mahalo.

17 THE CHAIR: The next is Auntie  
18 Peggy Ha'o Ross.

19 MS. ROSS: My name is Peggy Ha'o  
20 Ross. I am the leader and spiritual leader of  
21 my people, from 26,000 to 36,000 of us. We  
22 started because we wanted to get our identity  
23 in order throughout the State of Hawaii back in  
24 1970.

25 Yesterday we had a forum. We were

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1 talking about Hawaiian sperm bank, and what got  
2 me on this -- what do you call this -- becoming  
3 an activist in this movement of the Hawaiian  
4 people was because of the Hawaiian Homes  
5 Commission Act. It says the definition, to be  
6 qualified on the Hawaiian Homes Commission Act  
7 or to be qualified on Hawaiian homestead, you  
8 have to prove that you are a -- what do you  
9 call it -- the definition of Native Hawaiian  
10 was you have to prove that you are a descendant  
11 of those prior to 1778.

12                   Now, if you look very closely, it  
13 says the races -- R-A-C-E with plural:  
14 R-A-C-E-S. That meant it had nothing to do  
15 calling us Hawaiians. It meant that anybody  
16 could be on Hawaiian homestead land. It says  
17 it's only a native definition. It says we have  
18 to prove that we are -- what do you call it --  
19 by that definition that we are of the races.

20                   It's plural. It had nothing to do  
21 -- because there were Vancouvers, there were  
22 Davises and Youngs and all kinds of people here  
23 prior to 1778, long before Captain Cook came  
24 here. And anyway, prior to 1778, the United  
25 States Constitution didn't exist.

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1                   My problem, right now I have 10  
2 children, 52 grandchildren, and 14 great-  
3 grandchildren, and I just recently found out I  
4 have one black one, and I'm really proud of  
5 them because their Japanese, Chinese,  
6 Portuguese and Hawaiian, all nationalities.  
7 I've got all.

8                   What bothers me is that the blood  
9 line in about 50 years -- maybe in less than  
10 100 years, there won't be no more Hawaiian  
11 blood. And I asked some of our Hawaiian people  
12 who talk about being Hawaiian. Some will say,  
13 well, I'm 25 percent or 32 percent. I say,  
14 what part of you is speaking for the Hawaiian?  
15 Is it that 75 percent is speaking for that  
16 little bit of you?

17                   So, you know, it's real difficult.  
18 We have this problem. We have to find out  
19 identify. All the doors here in the State of  
20 Hawaii was closed to that. We had to  
21 legislate to open up all those old records that  
22 were held in the courts. And the Board of  
23 Health, they didn't allow us to see those  
24 papers.

25                   And now, today, after 20 years of

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1 fighting with this State government to go get  
2 all this information out for the Hawaiians to  
3 find their identity. And a lot of the  
4 genealogies was incomplete, and the Hawaiian  
5 Homestead now -- they say we have 20,000.

6           No, we have more than 20,000  
7 Hawaiians out there who don't want no part of  
8 the Hawaiian Homes Commission Act because of  
9 what they have already seen.

10           THE CHAIR: 30 seconds.

11           MS. ROSS: I'm happy to say,  
12 I knew already that I had 30 seconds.

13           But anyway, I wanted to pinpoint  
14 about this newspaper here. This is OHA  
15 newspaper. And we were just having a forum  
16 yesterday. We were talking; there were three  
17 men and two women, and we were sitting and  
18 discussing about our blood quantum.

19           In about 50, 75 years, there  
20 probably won't be enough blood to be on that  
21 Hawaiian Homes Commission Act according to that  
22 Act. And here I see the OHA -- I was so  
23 surprised when I saw this -- it says, Wanted:  
24 Urgently need Native Hawaiian and part-Hawaiian  
25 donors. Help a childless couple have a baby.

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1 Cash payment. Anonymous. Confidential.

2 Hawaiian Sperm Bank.

3                   And I was just telling all my  
4 menfolks, I said, you know, we're going to have  
5 a sperm bank, so then we can save that blood,  
6 because it's going to be -- it's the rare  
7 species of the human race.

8                   THE CHAIR: Thank you, Auntie  
9 Peggy.

10                   MS. ROSS: Thank you, Charlie.  
11 Aloha.

12                   THE CHAIR: Thank you.  
13 Let me call Alan Murakami.

14                   Now, according to this, Auntie  
15 Peggy, you plan to submit testimony. Can you  
16 get an envelope so you can submit it?

17                   MS. ROSS: Yes, I will be  
18 submitting.

19                   THE CHAIR: Thank you.

20                   Mr. Murakami?

21                   MR. MURAKAMI: I wanted to make a  
22 couple of points, in hearing some of the  
23 previous testimony.

24                   In my review of the responses of  
25 Ilima Pi'ianaia, then the director of the

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1 Department of Hawaiian Home Lands back in  
2 August of 1989, she responded to a question  
3 posed to her by the Committee and stated that  
4 in the current biennium, the Department is  
5 currently funded only by 42 percent of the  
6 general funds of the State in their operating,  
7 non-CIP budget.

8                   Now, I found that curious because  
9 all along, I had assumed when the Department  
10 had stated that it had fully funded all of its  
11 positions, permanent positions, that that meant  
12 that they were fully funded by general funds of  
13 the State of Hawaii, and they were no longer  
14 relying on the general lease revenues of the  
15 lands that are in the Hawaiian Homes inventory.

16                   But apparently that's not true  
17 according to my discussions with staff just a  
18 few minutes ago. What the true situation is,  
19 is that the -- actually, the 58 percent of the  
20 operating, non-CIP budget is still being funded  
21 by general lease revenues.

22                   And so my question to them was:  
23 Why was this not matched by general fund  
24 revenues as well? And apparently there is some  
25 restriction, and I'm not sure too much about

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1 this, because I'm not familiar with the laws on  
2 general funds. But apparently there's some  
3 restriction on the ability to pay for the  
4 temporary exempt positions that the Hawaiian  
5 Homes Department is utilizing in staffing.

6 THE CHAIR: 30 seconds.

7 MR. MURAKAMI: Okay.

8 Secondly, I have heard some  
9 discussion about opposition to the so-called  
10 Purpose Bill, and why it's not needed.  
11 Frankly, I cannot understand the rationale for  
12 that, how people would urge that a trustee  
13 relationship be enforced with the United  
14 States, and at the same time argue against the  
15 Purpose Bill.

16 The Purpose Bill is meant to  
17 clarify that relationship, to strengthen it, to  
18 strengthen the case for greater Federal  
19 involvement, and I can see no reason why the  
20 Purpose Bill in any way can harm the case of  
21 the Native Hawaiians seeking greater assistance  
22 from the U.S. government..

23 So I would just urge whoever is  
24 seeking to oppose this bill to really look at  
25 the merits of it and try to determine why they

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1 are opposing it on the merits, because I cannot  
2 understand why there is this opposition.

3 THE CHAIR: Thank you, Alan.

4 Can you submit any further  
5 information on this, if you want to?

6 MR. MURAKAMI: I would be happy  
7 to.

8 THE CHAIR: Thank you.

9 The next one is Ethel Andrade.

10 MS. ANDRADE: Mr. Chairman, I will  
11 very briefly --

12 THE CHAIR: Thank you.

13 MS. ANDRADE: -- make a very brief  
14 statement.

15 Number one, I was just handed this  
16 1952 wait list which pertains to the Puukapu  
17 lots that will be awarded in September. It  
18 totals 1,400 acres, and this decision was made  
19 on Wailuku, Maui, while this whole concept  
20 takes place in Puukapu.

21 I want to call to your attention,  
22 (a) there will be -- there are 1,400 acres  
23 being divided by 182 applicants on the list, of  
24 which 8 applicants will receive 100 acres of  
25 prime land, 8 applicants will receive 200 acres

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1 of arid, poor, bad land, the balance being 166  
2 homesteaders that will be squished into 10-,  
3 15-, and 20-acre parcels.

4 My concern is we were promised  
5 that before this was presented to the  
6 community, that the Association in our area  
7 would have a chance to sit with the staff and  
8 discuss it, which did not happen.

9 And I submit to you, just for the  
10 record, because Dr. Byrd Smith was engaged by  
11 the Department from the University of Hawaii,  
12 and on his survey last year of this entire  
13 1,400 acre premises, he noted and recommended  
14 that 200 head was necessary to be viable for a  
15 livelihood in that area of 1,400 acres.

16 I submit this with concern for the  
17 182 people that will be squished in this area.  
18 It happens to be adjacent to my land in  
19 Puukapu. As a matter of record, I have  
20 submitted a plan with the staff, and I hope  
21 that you have a chance to review it.

22 My concern -- our concern is that  
23 the applicants were not a part of this  
24 decision-making process. I've heard earlier  
25 that the homesteader has a right to be a part

1 of the planning, and this was not done. I was  
2 told, and I was handed this, and I want to  
3 submit it.

4 THE CHAIR: 30 seconds.

5 MS. ANDRADE: I wish to submit it  
6 to you for your consideration.

7 In conclusion, Mr. Chairman,  
8 mahalo.

9 THE CHAIR: Thank you.

10 Leona Atcherly.

11 Have you got a prepared statement?

12 MS. ATCHERLY: The race of Native  
13 Hawaiians of 100 percent to 50 percent of blood  
14 quantum are in greater danger of media, legal,  
15 and sympathetic genocide here at home than the  
16 political genocide being meted out in  
17 Washington, D.C.

18 I have come here today to  
19 articulate those factors because they are more  
20 incumbent upon us now than the ongoing  
21 historical problems concerning the Department  
22 of Hawaiian Home Lands. You have Exhibit G,  
23 and you also have a very important Exhibit E in  
24 there that relates to this testimony.

25 The homestead situation is

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1 admittedly a stalemate because of the  
2 distractions of certain acts created from this  
3 past legislative session. The solution for  
4 bringing the Department under the jurisdiction  
5 of the beneficiaries themselves will have to be  
6 put on hold until the Native Hawaiians are  
7 funded to organize themselves into a cohesive  
8 social-political whole.

9                   In the interim, recommendations  
10 are abundant, but the practical order to get  
11 things moving along will have to come from the  
12 U.S. Attorney General's Office -- at least,  
13 I presume.

14                   Recently, some alarming  
15 developments about which I have taken the time  
16 to examine and analyze have come out involving  
17 activities of --

18                   THE CHAIR: Let me correct you  
19 right here. You can use Ka Lahui, but leave  
20 her name out.

21                   MS. ATCHERLY: Well, you have the  
22 documentation --

23                   THE CHAIR: That's the Federal  
24 mandate that we have.

25                   MS. ATCHERLY: Right.

1                   But you have the documentation  
2 that's Exhibit E.

3                   THE CHAIR: Well, submit it and  
4 we'll see.

5                   MS. ATCHERLY: Yeah. That's a  
6 newspaper article that I'm quoting.

7                   THE CHAIR: Continue, but leave  
8 her name out.

9                   MS. ATCHERLY: All right.  
10 Because it's a quotation; it comes  
11 from --

12                   THE CHAIR: Continue.

13                   MS. ATCHERLY: -- a very serious  
14 stress to us, because of the projected nature  
15 of Ka Lahui.

16                   What I think is unimportant. But  
17 what happens and the legal standing of the  
18 Homestead Act's beneficiaries makes Senator  
19 Inouye look like a saint by comparison. This  
20 is why -- I'm citing a prime example of what  
21 can happen when a chain of events generates  
22 more problems than we can readily understand.

23                   First of all, the sovereign  
24 nation fantasy covers an arsenal of ideas to  
25 interject claims of various percentages -- 25

1 percent, 100 percent -- of the homestead lands  
2 and the ceded lands. Media exploitation is  
3 also used to implant public psychosis that our  
4 race is on the verge of extinction.

5           Secondly, this kind of  
6 self-empowerment has prompted that certain  
7 person to go to Washington for the sole goal of  
8 making law to establish that sole party as the  
9 virtual mandate of our resources. For us, that  
10 would mean the loss of our entitlements to Ka  
11 Lahui.

12           Thirdly, the price of being given  
13 such so-called help is the surrender of our  
14 legal entitlements to Ka Lahui, and the Native  
15 Hawaiians are not aware of such a one-sided  
16 presumption. Then the first and second  
17 procedures become more desperate and  
18 dangerous.

19           So, with the help of friends, this  
20 person has formulated a plan that leads to  
21 three forms of genocide of the race of 100  
22 percent to 50 percent Native Hawaiians. The  
23 first genocide is media, the second genocide is  
24 legal, and the third genocide is obligation.  
25 In Exhibit G, I have pointed out three forms of

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1 political genocide.

2                   But while legislators can be  
3 held up to public scrutiny, and there is ample  
4 warning when things are about to happen --

5                   THE CHAIR: 30 seconds.

6                   MS. ATCHERLY: Okay.

7                   -- and the individual is not  
8 subject to accountability for the actions  
9 taken.

10                   The last thing I have to touch on  
11 is organized reinforcement, and I'd like to  
12 jump down and say that what I keep repeating  
13 all the time is that we need to become  
14 organized and educated about ourselves, and  
15 from this we will be able to take better care  
16 and show better accountability of our resources  
17 than any other institution on the face of this  
18 Earth.

19                   Thank you all, and aloha.

20                   THE CHAIR: Thank you.

21                   If you need envelopes to submit  
22 your testimony to the Commission to mail, you  
23 have 10 days to do it.

24                   Thank you so much.

25                   MS. ATCHERLY: All right. Thank

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1 you.

2 THE CHAIR: Mr. Joseph Nakea.

3 I'm sorry, I cannot recognize you.

4 I recognize Mr. Nakea.

5 If any of the audience have  
6 anything to say, please talk to the staff.

7 Go ahead, Mr. Nakea.

8 MR. NAKEA: Thank you for letting  
9 me speak.

10 My name is Joseph Nakea, and I've  
11 been on the 1952 list and I still haven't got  
12 that pasture land yet.

13 My main concern is, since you're  
14 going to the President, all of you who is going  
15 to the President: Read my lips. I'm asking  
16 the President and Congress to relinquish the  
17 hold on Hawaiians and the lands that they  
18 stole, and let the Hawaiians run their own land  
19 and give them all the tax money that is going  
20 to the I.R.S.

21 Thank you.

22 THE CHAIR: Thank you, sir.

23 Is that our list? Is that it?

24 Okay. Should I read the closing  
25 statement before I recognize? No? Okay.

1                   We'll take a short recess.

2                   (Brief recess.)

3                   THE CHAIR: Let me call this  
4 meeting back to order.

5                   Please realize that we're going to  
6 recognize Mr. Hopkins. It's after 5:00, and  
7 we've got to close down soon because of Federal  
8 constraints. So we have three more people, and  
9 that's it. And I promise you, I will be terse  
10 with you.

11                   Mr. Hawkins, go ahead. You got  
12 the floor.

13                   MR. HOPKINS: Mr. Chairman,  
14 honorable members of the Committee, I am Ben  
15 Hopkins. I'm speaking as an individual  
16 citizen. I am a resident of the island of  
17 Oahu.

18                   I'm not a Native Hawaiian, but  
19 I am a citizen of Hawaii who has a sense of  
20 justice. I and others like me have come to  
21 know something of the Hawaiian home lands story  
22 from newspapers, magazines, and from our  
23 Hawaiian friends. It is a sad story, a  
24 shocking story, one that produces feelings of  
25 outrage and shame for our State and our

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1 country.

2 THE CHAIR: Excuse me, sir.

3 Could I have some quiet here,  
4 please.

5 Go ahead.

6 MR. HOPKINS: It is tempting to  
7 attack those who have played a part in this  
8 story of legal rights ignored or trampled. But  
9 there are other people much better qualified  
10 than I to do this.

11 And, in any event, the important  
12 thing now is to leave the past behind and go  
13 forward on a new road, the road of action and  
14 rapid progress, instead of the old road of  
15 administrative delays, official excuses, and  
16 hearings that lead nowhere, followed by more  
17 hearings that lead nowhere.

18 The need now is the same as  
19 always. It is for powerful, commanding action  
20 by those who have the authority and the  
21 responsibility to implement the law. Let me  
22 elaborate on that just a little bit.

23 THE CHAIR: You have about a  
24 minute to do that.

25 MR. HOPKINS: Okay.

1           As I've listened to the hearing  
2 here, I think we're getting lost in our  
3 rhetoric. What we're talking about here is the  
4 use and abuse of power. The Governor of the  
5 State of Hawaii and the legislature and the  
6 President of the United States and the Congress  
7 have ample power to set this matter right in a  
8 very short time.

9           All they need is the intention to  
10 use that power. And if they don't use it, we  
11 should elect somebody who will. There are  
12 thousands of people on these islands who are  
13 not Native Hawaiians but who share in some  
14 measure the frustration, the disappointment,  
15 and the outrage of those who have waited for so  
16 long to receive what is rightfully theirs.

17           All the people of Hawaii will be  
18 served if this Committee and the Commission  
19 will do everything in their power to bring  
20 about immediate and effective action. The  
21 first step that should be taken is to give back  
22 to Native Hawaiians complete and exclusive  
23 control over all lands designated as home  
24 lands, free of taxation or any other  
25 interference by State or Federal governments.

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1 THE CHAIR: Thank you.

2 MR. HOPKINS: The legal term for  
3 such a degree of control is "sovereignty."

4 THE CHAIR: Thank you, sir.

5 MR. HOPKINS: To all Americans,  
6 I say --

7 THE CHAIR: That's it.

8 MR. HOPKINS: -- let us heal a  
9 festering wound in our family with a bold move  
10 toward justice for this great people who have  
11 suffered so much and who continue to give so  
12 much inspiration to the world.

13 Let us do what we know to be  
14 right, and let's do it now, not later.

15 THE CHAIR: Tiny Niau, would you  
16 come up?

17 MS. NIAU: Just a short statement.

18 I want to ask to have my name  
19 deleted from Leona Atcherly's paper. I did not  
20 give no right to use my name at all. This  
21 woman just goes all around -- and we live in  
22 the same community -- and she does not have no  
23 followers.

24 THE CHAIR: Okay. It will be  
25 noted.

1 MS. NIAU: So she uses people like  
2 me. And I want it to be deleted.

3 THE CHAIR: We will.

4 MS. NIAU: Okay.

5 THE CHAIR: We'll definitely take  
6 it out.

7 MS. NIAU: Thank you.

8 THE CHAIR: Thank you.

9 Billie Beamer.

10 MS. BEAMER: Good evening. My  
11 name is Billie Beamer. I am the former  
12 chairman of the HHC, and I will adhere to your  
13 two-and-a-half minutes that you have  
14 appropriated to me.

15 Your primary question -- has there  
16 been a breach of trust -- is elementary, and  
17 it's ludicrous that we've been asking this same  
18 question for 10 years.

19 Money is not the major culprit.  
20 Management is. This is a development  
21 department, and we should be building homes and  
22 putting people on the land. So I ask you this  
23 afternoon that one of the major problems  
24 concerning the Department is due process.

25 We wrote to you, asking you to

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1 look into it. We got a response back from  
2 Mr. Montez who said that it was not your  
3 concern, that it was legislative matter, and we  
4 should refer to the Congress or to our  
5 legislators. So we took you off our mailing  
6 list because we could get no assistance there.

7 I do recommend, number one, that a  
8 major audit is necessary, just as the new  
9 federalism conducted an audit by the Indians  
10 for the Indian program.

11 I disagree with those who say,  
12 let's forget about the past, because there are  
13 many lessons to be learned from the past, and  
14 we are not going to repeat them. But while you  
15 are studying the past, you can be building  
16 homes.

17 You need not just hold these  
18 hearings and have major departments testify  
19 first, and the citizens last. It should be the  
20 other way around, because major departments  
21 cannot come out and say that their chief  
22 executive has been doing a poor job.

23 And second, we have no access to  
24 the provisions of the agreement with the  
25 Governor regarding the ceded lands. That is

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1 questionable, and that should be looked into.

2           And third, we have never had any  
3 access or public accounting regarding the \$143  
4 million received from the Federal government.  
5 So I ask that you look into a major audit, and  
6 you do your own investigating, instead of  
7 depending on input from governmental entities  
8 who are going to present favorable testimony  
9 regarding their departments.

10           Thank you.

11           THE CHAIR: Thank you.

12           Okay. I have a closing statement  
13 to read.

14           The Hawaiian Advisory Committee is  
15 indebted to everyone who has contributed to the  
16 success of this meeting. We are especially  
17 grateful to all of the presenters who have  
18 voluntarily given up their time, energies, and  
19 considerable expertise.

20           Your substantive contributions to  
21 the Committee's work and to the work of the  
22 United States Commission on Civil Rights are  
23 greatly appreciated. All the participants have  
24 provided us with a wealth of information and  
25 with opinions, perspective, and recommendations

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1 which will help guide us in formulating our  
2 recommendation to the United States Commission  
3 on Civil Rights. We are fortunate to have such  
4 dedicated, knowledgeable, and committed people  
5 in this state.

6           We wish express special thanks to  
7 the Native Hawaiian Legal Corporation for its  
8 assistance to the Advisory Committee, and to  
9 the staff of the United States Commission on  
10 Civil Rights, in preparing for this meeting.

11           We also wish to thank the members  
12 of the audience who attended this meeting and  
13 demonstrated their concern for the issues being  
14 addressed. Thanks also to the media and to our  
15 court reporter.

16           Based upon the information  
17 collected at this meeting, along with the  
18 transcripts of a public forum convened by the  
19 Committee in September, 1988, a report will  
20 now be prepared for the United States  
21 Commission on Civil Rights. This will serve to  
22 update an earlier Advisory Committee report,  
23 Breach of Trust? Hawaiian Home Lands, released  
24 in 1980.

25           As noted earlier, the record of

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1 this meeting will remain open for 10 days. You  
2 can submit additional statements and exhibits  
3 to our Western Regional Division in Los  
4 Angeles. The address is 3360 Wilshire  
5 Boulevard, Suite 810, Los Angeles, California,  
6 90010.

7 We have a difficult task ahead of  
8 us, but you have greatly facilitated our work.

9 I wish also to express my  
10 gratitude to my fellow Advisory Committee  
11 members who have served on this body without  
12 compensation, but who share in the conviction  
13 that the struggle for human rights is worthy of  
14 their highest devotion.

15 Thank you all.

16 The meeting is adjourned.

17 (Adjourned at 5:20 p.m.)

18 -oOo-

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## CERTIFICATE

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3  
4 I, JOAN IZUMIGAWA, hereby certify that the  
5 foregoing is a full, true and correct statement of the  
6 proceedings had and the testimony given by the witnesses at  
7 the hearing held August 2, 1990, as taken down by me  
8 in stenotype and thereafter transcribed into typewriting  
9 under my supervision.  
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Joan Izumigawa