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HAWAII ADVISORY COMMITTEE  
UNITED STATES COMMISSION ON CIVIL RIGHTS  
HAWAIIAN HOMES UPDATE FORUM

SEPTEMBER 6, 1988

ILIKAI HOTEL  
HONOLULU, HAWAII

CCR  
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Meet.  
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BEFORE: PATRICIA A. MILLER, RPR, CP-CM, CSR #275

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

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

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

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

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

25 Also with us today is staff member John

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

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

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

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

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

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

25 To appraise federal laws and policies

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

23             MR. MAXWELL:    So noted.

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

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

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

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

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

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

18           Clean financial audits since 1985;

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

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

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

1 departments;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Issues of primary concern include:

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

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

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

25 Fourthly, financial resources. There

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

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

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

25 Out of these six issues, the department



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

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

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

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

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

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

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

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

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

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

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

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

1 signed House Joint Resolution 17 into law.

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

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

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

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

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

22 Okay. Are you completed?

23 MS. PIIANAIA: That completes my  
24 testimony.

25 MR. MAXWELL: Okay. Any questions from

1 the panel members?

2 MR. LARDIZABAL: Not at this time.

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

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

11 MS. PIIANAIA: Sure.

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

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

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

1 really, through page 9.

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

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

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

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

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

1 MR. MAXWELL: Any question on that?

2 Anybody?

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

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

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

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

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

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

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

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

13 MR. MAXWELL: Okay.

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

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

21 MS. PIIANAIA: Right.

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



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

8 Questions?

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

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

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

1 out a designation form.

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

12           Does that answer your question?

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

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

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

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

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

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

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

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

19 MS. SAUNDERS: Thank you.

20 MR. MAXWELL: John.

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

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

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

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

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

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

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

18 MR. DULLES: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

25 It's interesting because our landholding

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

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

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

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

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

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

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

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

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

18 MR. DULLES: Thank you.

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

1 connected up to the Hawaiian Homes Act in 1920.

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

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

19 MR. MAXWELL: Right.

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

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

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

10 MS. PIIANAIA: I agree. Yes.

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

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

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

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

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

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

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

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

1 from general leasing our land. We will --

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

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

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

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

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



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

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

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

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

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

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

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

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

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

1 effective?

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

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

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

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

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

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

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

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

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

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

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

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

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

13 MS. PIIANAIA: I am generally aware.

14 MR. MAXWELL: Okay.

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

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

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

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

5 Any other comments?

6 MS. MILLER: Yes.

7 MR. MAXWELL: Helen.

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

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

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

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

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

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

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

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

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

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

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

17 MR. MAXWELL: Okay. Any more?

18 Yes.

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



1 looked at that at all?

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

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

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

20 MR. MAXWELL: Thank you.

21 Any more questions?

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

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

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

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

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

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

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

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

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

16 MS. PIIANAIA: No.

17 MR. SHAIN: Expand.

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

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

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

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

17 Thank you.

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

23 MR. MAXWELL: Thank you.

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

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

2 MS. PIIANAIA: Yes.

3 MR. MAXWELL: Thank you.

4 MS. PIIANAIA: Thank you very much.

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

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

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

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

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

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

1 Aloha.

2 MR. MAXWELL: Aloha.

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

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

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

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

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

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

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

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

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

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

25 Fourth, as required by the State

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

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

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

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

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

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



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

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

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

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

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

25 In addition, the entire premise of

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Mahalo.

1 I would like to call Linda to come up if  
2 there are some questions.

3 MR. MAXWELL: Linda Delaney for the  
4 record.

5 MR. MAXWELL: State your position, Linda.

6 MS. DELANEY: I am Linda Delaney. I am  
7 the Lands Officer for the Office of Hawaiian  
8 Affairs.

9 MR. MAXWELL: And, Clarence, could you  
10 again state your position for the record.

11 MR. CHING: I am trustee from the Island  
12 of Oahu for the office.

13 MR. MAXWELL: Okay. Any questions?

14 MR. DULLES: What was your full name?  
15 Your full name?

16 MR. CHING: I'm Clarence F. T. Ching.

17 MR. MAXWELL: Okay. I had posed a  
18 question to Ilima pertaining to the Section 5F  
19 moneys that would impact directly recipients of the  
20 act. In fact, I explained to her that the 1920  
21 act, OHA was created, where you have two different  
22 Hawaiians, but the Section 5F money and the  
23 enabling act is a result -- the qualification is a  
24 result from the 1920 Hawaiian Homes Act.

25 My question to her was: The moneys that

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

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

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

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

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

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

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

15 MS. DELANEY: Uh-huh.

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

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

1 MR. MAXWELL: Right.

2 MS. DELANEY: That would not represent  
3 that kind of breakthrough that I think you would be  
4 looking for. For example, the State appropriated  
5 27 million for this biennium. That is still just  
6 almost seed money. So you are not talking about,  
7 even if those moneys were to be transferred, that  
8 it would make that kind of breakthrough funding  
9 available.

10 What you are talking about is that the  
11 OHA trust was established for native Hawaiians and  
12 Hawaiians. The 1.4 billion of the office, the  
13 trust revenues there, has been matched by the  
14 legislature to meet the needs of a much larger,  
15 dual class of beneficiaries. And so that kind of  
16 funding has worked for other programs. The idea of  
17 rehabilitation, meaning homesteading, ranching,  
18 those aspects of the program, are the missions of  
19 DHHL. The betterment of native Hawaiians and  
20 Hawaiians, which is the mandate of OHA, though  
21 often in harmony, are not synonymous.

22 MR. MAXWELL: Okay. Questions?

23 Okay. Having none then, we would like to  
24 thank you for appearing and giving your testimony.  
25 And we're going to now call upon the next group of



1 people.

2 We're going to take a short recess.

3 (Brief recess taken)

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

10 MS. ING: Aloha.

11 MR. MAXWELL: Aloha

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

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

16 MR. MAXWELL: Aloha.

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

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

1 of native Hawaiian land and traditional rights.

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

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

11 MR. MAXWELL: That's right.

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

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

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

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

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

25 The Hawaiian Homes Commission Act, passed

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

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

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

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

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

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

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

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

14 And, finally, an appropriate cash  
15 payment.

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

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

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

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

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

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

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

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

20 MR. MAXWELL: Sure. Mahalo.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 because it did not file its lawsuit early enough.

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

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



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

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

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

25                 Those who are beneficiaries remain

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

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

17 Thank you very much.

18 MR. MAXWELL: Thank you.

19 Any brief questions?

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

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

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

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

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

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

1 valuable.

2 Go ahead.

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

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

23 The concern that I heard from past --

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

25 MS. ING: Yes

1 MR. SHAIN: Why do we not just make more  
2 moneys available?

3 MS. ING: True. We have people,  
4 though --

5 MR. SHAIN: Instead of people living at a  
6 lower standard.

7 MS. ING: Well, that is a very  
8 subjective, you know, value, whether or not that is  
9 a lower standard

10 MR. SHAIN: Okay. Make the money  
11 available. I keep hearing DLNR makes this  
12 decision, the State makes this one, OHA makes this  
13 one. It would be really nice if the people could  
14 make their own decision.

15 MS. ING: I agree. Thank you.

16 MR. SHAIN: Once again, back to the  
17 question. Do you see under the current system  
18 Department of Hawaiian Home Lands, even with some  
19 of the fixes that you have mentioned here out of  
20 the last task force with computerization, et  
21 cetera,  
22 et cetera, do you see a fix available that you,  
23 your constituency, your organization, your  
24 organization, the other organizations you represent  
25 would be happy with?

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

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

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

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

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

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

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

25 MR. SHAIN: A few more questions.

1 MR. MAXWELL: Go ahead

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

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

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



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

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

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

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

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

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

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

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

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

9 MR. MAXWELL: Right.

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

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

17 Any more comments?

18 MR. SHAIN: Charlie, one last question.

19 MR. MAXWELL: Go ahead.

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

23 SPEAKER: Can't hear you.

24 MR. MAXWELL: Sorry.

25 MS. ING: My personal --

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

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

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

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

16 MR. MAXWELL: Spouse.

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

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

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

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

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

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

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

24 MR. OSHIRO: My name is Masaru Oshiro.

25 MR. MAXWELL: Excuse me. Is Maria Kaina

1 here with you?

2 MR. OSHIRO: I have not seen her.

3 MR. MAXWELL: Okay. Thank you.

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

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

12 MR. MAXWELL: Thank you.

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

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

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

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

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

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

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

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

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



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

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

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

16 Thank you for the opportunity to testify.

17 MR. MAXWELL: Okay. Any questions?

18 Thank you, Mr. Oshiro.

19 MR. OSHIRO: Thank you.

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

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

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

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

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

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

12 Okay. Go ahead, Alan.

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

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

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

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

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

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

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

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

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

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

1     reinstate the list in 1984.

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

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

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

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

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

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

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

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

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

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

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

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

16 MR. MAXWELL: Go ahead.

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

20 MR. MAXWELL: Sure.

21 Mrs. Aveiro, will you stand.

22 She has been on the list for 40 years.

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

25 MR. KANIHO: Helen Aveiro.



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

3           MR. MAXWELL: Talk into the mike.

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

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

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

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

25           But, however, we keep on continue to go

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

3 Charlie, excuse me.

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

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

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

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

1 native Hawaiians on Hawaiian Homes land.

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

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

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

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

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

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

13 MR. MAXWELL: Right.

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

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

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

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

1 revenues for the Department of Hawaiian Home Lands.

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

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

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

23 MR. MAXWELL: Great.

24 MR. KANIHO: Thank you.

25 MR. MAXWELL: Any questions?

1 Thank you, Sonny.

2 You had a question? Sorry.

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

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

1 MR. DULLES: Thank you very much.

2 MR. MAXWELL: Thank you.

3 Sonny.

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

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

18 Thank you.

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

22 MR. DULLES: Yes. Just go ahead.

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

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

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

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

18 Again, aloha.

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

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



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

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

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

1 of Ka Lahui for a two-year term.

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

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

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

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

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

1 be mentioned.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 of Hawaiian Affairs.

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

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

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

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

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

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

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

19           MR. MAXWELL: Let me interrupt you.

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

23           MS. TRASK: Yeah.

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

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

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

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

25           MR. MAXWELL: It is only because of the

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

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

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

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

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

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

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

25 MR. DULLES: You are on the record.

1 MR. MAXWELL: So continue.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (Brief recess taken)

25 MR. MAXWELL: Okay. Let me resume the

1 consultation.

2 And, Mililani, you're still up.

3 You left off. You had more to say?

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

5 MR. MAXWELL: Okay. Questions?

6 Yes, Barry.

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

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

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

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

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

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

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

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

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

25 MR. MAXWELL: Mililani, I am going to

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

4 Go ahead, Barry.

5 MR. SHAIN: Okay.

6 MR. MAXWELL: Into the mike.

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

10 MS. TRASK: Right.

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

13 MS. TRASK: Uh-huh

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

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



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

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

18 MR. MAXWELL: Okay.

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

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

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

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

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

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

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

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

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

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

15 MS. TRASK: Thank you, folks.

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

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

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

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

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

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

16 Thank you, Mr. Chairman.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19                Mahalo.

20                MR. MAXWELL: Thank you.

21                Any questions?

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

24                MS. ZENGER: Kekaha.

25                MR. MAXWELL: Oh, Kekaha.



1 MS. ZENGER: Aloha.

2 MR. MAXWELL: Aloha.

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

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

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

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

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

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

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

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

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

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

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

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

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

7 MS. ZENGER: Yes.

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

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

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

1 have to.

2 Thank you.

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

5 State your name and who you represent.

6 MR. SMITH: Aloha, board members.

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

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

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

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

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

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

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

5 That's all I have to say.

6 Thank you.

7 MR. MAXWELL: Thank you so much.

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

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

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

1 We would like to thank everybody.

2 And the meeting is now adjourned.

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

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## CERTIFICATE

1  
2  
3 I, PATRICIA A. MILLER, RPR, CP-CM, CSR  
4 #275, do hereby certify that:

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

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

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

18  
19  
20  
21 

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