

## PSLU Committee

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**From:** Jennifer Ahia <jennahia@yahoo.com>  
**Sent:** Tuesday, February 04, 2020 8:46 PM  
**To:** PSLU Committee  
**Subject:** Testimony for Wednesdays Committee Meeting  
**Attachments:** PSLU 2 5 2020.pdf

Aloha,  
Mahalo for receiving this testimony.  
Best,  
Noelani Ahia  
808-269-9995

Testimony of Noelani Ahia  
February 5, 2020  
PSLU 16

Aloha mai kākou.

As you know, issues surrounding sand dunes on Maui are highly sensitive as sand is a common resting place for our iwi kupuna, bones of our ancestors. The iwi are planted back into the earth the way one would kanu a plant, so that it can live. Ola nā iwi! The collective mana that goes back into the `āina is there to provide physical sustenance and spiritual nourishment for future generations of kanaka maoli now and into eternity. This inheritance is our birthright and has been a part of our culture for thousands of years. It is a great distress to me that resource extraction was allowed to take place for decades in the sand dunes that demolished our iwi kupuna, treating them with the utmost disrespect and committing desecration of gargantuan proportions. It is because of this extractive process, which was followed by unethical development on top of ancient burial grounds, that many kanaka maoli people exist in distress, as the continued trauma ensues.

Under current laws, resource extraction is only allowed in certain zoning areas and requires a special use permit for other areas. For example, Sand mining is not a permitted use in the Wailuku-Kahului Project District 1 (Maui Lani) (MCC 19.78) and would require a Conditional Use Permit and/or a Special Use Permit. A Conditional Permit only permits a conditional use that is compatible with permitted uses (MCC 19.40.010) and a Special Use Permit (MCC 19.510.070) requires the same process as a change in zoning. It is not likely that Maui Lani could acquire a 'conditional use' or 'special use' to operate a Sand Mining project

MCC 20.08.040 - Permit—required. Unless otherwise provided in this chapter: D. A permit or exclusion pursuant to this chapter does not obviate the need to obtain other permits or approvals. One would need a special use permit and those permits are not available.

Our current law provides that no one can do resource extraction legally in a residential zone. Nonetheless, resource extraction is now the villain in the mo`olelo of what's left of the sand dunes. Let's recall that in 2017, Maui Lani Partners was issued a notice of violation for engaging in resource extraction without a special use permit. They were using their grading permit illegally. According to KHON's Gina Mangieri, Maui Lani Partners, aka the Mills Group, made \$30 million in 2016 from selling our sand. The trauma this has caused the community will linger for generations to come. The harm is irreparable.

In December of 2018, legislation was put forth which would have made it legal to extract up to 100,000 cubic yards in any zone without a permit.

That would have made sand mining legal in a residential zone, which is the exact opposite of what needs to happen. We must do better and work towards protection for such a valuable cultural treasure.

And it's wasn't *just* residential zones. That legislation would have made it legal to take minerals, ores, soils, or other solid matter including rock, gravel or sand, and topsoil in any zoning area up to 100,000 cubic yards. That equals approximately 130,000 tons of dry sand, 7,400 dump truck loads, 1,000 40 ft shipping containers, and 30 olympic size pools. And who will be there on site to police how much is taken?

Have we forgotten that the community plan requires the protection of Wahi pana including the Waihe'e dunes archeological complex and the Pu'uone sand dune formation from Kahului harbor to Waikapu.

MCC 2.80A "All agencies of the county shall comply with the provisions of the general plan. All community plans, zoning ordinances, subdivision ordinances and **administrative actions by county agencies shall conform to the provisions of the general plan.** The community plans...upon adoption by the council (become) part of the general plan of the county."

In 2017 the community, myself included, worked diligently to pass a temporary sand mining moratorium as we awaited the completion of the updated sand quantification study which is on the agenda today. The gist of the results of the study are that there's just not that much sand left, which pains me to think that the future generations will never know and experience the magnificence of the dunes, So much is gone. But this study has several flaws. Firstly, its list of cultural sites is grossly inadequate. We know from archeologist that have worked in the area that there are over 700 find sites of iwi kupuna in the Maui Lani project district. And that is just what has been recorded since burial laws were passed. We will never know the amount of iwi that were bulldozed and incinerated. This is cultural genocide.

Another issue with the study is the focus on using sand for beach replenishment. We heard countless testimonies in 2017 about the ecological problems with using inland sand for beach replenishment. It would be absolutely unacceptable to use the sand in this manner, both culturally and environmentally.

Resource Extraction is a global issue that is often centered on indigenous lands where native people have been dispossessed and forced to assimilate. Such is the case on Maui and while we need housing for our people, destroying Wahi Pana and desecrating Iwi is a continuation of settler colonialism, the model of destroy the native and replace everything in the settlers image. Kanaka Maoli have been surviving this structure for 127 years and this council can take action to change course and respect what's left of the dunes by legislating strong protections for both the place and the people who's bones still reverberate in the land.

The United Nations Declaration on the Rights of Indigenous Peoples states in Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to UPHOLD THEIR RESPONSIBILITIES to FUTURE GENERATIONS.

Our future generations deserve the places of their ancestors to be protected from desecration and it's OUR Kuleana to see that no more desecration occurs.