



# ALOHA FOR ALL, INC.

Aloha is for everyone. Every citizen of Hawaii is entitled to the equal protection of the laws.

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June 21, 2010

The Honorable Senator Jeff Bingaman, Chairman and members of the  
Senate Committee on Energy and Natural Resources  
304 Dirksen Senate Building  
Washington, DC 20510  
Fax: (202) 224-6163

Re: Opposition to S. 359, Hawaii Capital National Heritage Area  
("HCNHA") Establishment Act.

Aloha Chairman Bingaman, Ranking Member Murkowski and all committee members.

S. 359 should be rejected for at least three reasons in addition to those ably stated by the Chinatown Improvement District website at:  
[www.chinatownimprovementdistrict.org/uploads/letterofconcerns.pdf](http://www.chinatownimprovementdistrict.org/uploads/letterofconcerns.pdf).

**First**, With deficit spending and the national debt digging the federal government (and present and future generations of federal taxpayers) deeper into the hole daily, why would Congress even think of imposing a "management plan" "subject to the approval of the Secretary of the Interior" on a large, densely populated part of Honolulu which is currently well served by local citizens acting in the free market under local laws?

Honolulu's Chinatown bounded by Beretania Street, Nuuanu Avenue, Nimitz Highway and River Street, is a small special design historic district located within the much larger proposed HCNHA. Forty years ago, when I bought an old run-down, neglected and essentially abandoned building in Chinatown, the entire district was in similar shabby condition. We "took the plunge" and a large mortgage, completely restored the historic building, found tenants for the first floor and moved my law office into the second floor. Historic Hawaii foundation gave us an award for the restoration.

Others before and after us also believed in the potential and also invested their blood, sweat, tears and money. Today, Chinatown is a vibrant, economically viable, bustling and delightful place. First Fridays every month bring crowds, young and old, visitors and locals. On every Chinese New Year, the Lion dances through the packed streets eating paper money to the beat of the drums and hundreds of firecrackers. Saint Patrick's Day is the biggest block party of the year. Entrepreneurs, art galleries, restaurants, open markets, performers, professionals, tattoo artists, visitors, families of diverse origins and ages exercise their unalienable rights to life, liberty and the pursuit of happiness with gusto.

I am a member of the board of the Chinatown Improvement District, which has supported the request of Chinatown land and business owners to withdraw Chinatown from the proposed NHA boundary map.

[www.chinatownimprovementdistrict.org/uploads/lettersupportingwithdrawl.pdf](http://www.chinatownimprovementdistrict.org/uploads/lettersupportingwithdrawl.pdf)

I agree with that request. If the car is not broke, don't fix it.

The reasons stated in this letter are my own as Chairman of Aloha for All, Inc, and do not necessarily reflect the views of the Chinatown Improvement District.

**Second**, The name of the proposed HCNHA is misleading. The capital district is only a tiny fraction of the total proposed national heritage area. If Congress finds some authority in the Constitution for it to impose a master plan on Hawaii's capital district, then the NHA footprint should cover only that district.

That would obviate any need for the federal government to worry about managing my home and neighborhood on Round Top where I have lived for over 50 years. For some unexplained reason my neighborhood and many other residential neighborhoods are also located in the proposed HCNHA. Why in the world would I or my neighbors or other residential neighborhoods **miles from the capital district**, want our homes and neighborhoods managed by the Department of the Interior or the National Park Service?

Moreover, even reducing the proposed footprint to the capital district would not explain why or how an additional layer of federal bureaucracy, imposing its own restrictions, would enhance the right of *all* the people of Hawaii to enjoy the benefit of the Hawaii capital district and the other ceded lands which are held in trust by the State of Hawaii for *all* the people of Hawaii.

Hawaii's Ceded Lands Trust, consisting of about 1.4 million acres including Iolani Palace and grounds and much of the rest of the public lands located in what is now referred to as the Hawaii capital district, was established by the Annexation Act in 1898 "solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes." The federal government has always

recognized the people of Hawaii as the equitable owners of all public lands in Hawaii.

In 1959, upon the admission of Hawaii into the Union, the United States transferred the approximately 1.4 million acres back to Hawaii and continued the trust first established in 1898 and made the State of Hawaii the trustee.

Under the Equal Footing doctrine, the equality of a new state with the other states will forbid a compact between a new state and the United States “limiting or qualifying political rights and obligations.” Having conveyed the ceded lands (including Iolani Palace and grounds and other ceded lands in the capital district and in the rest of the proposed NHA) to the State of Hawaii in trust, Congress may not now require that the State as trustee manage any of its public lands “subject to the approval of the Department of the Interior” or require the State to violate its fiduciary duty to *all* the people of Hawaii in its management of the capital district.

**Third**, “Theme 1” of the Hawaii Capital Cultural Coalition brochure (NATIVE HAWAIIANS’ STRUGGLE FOR CULTURAL PRESERVATION AND SELF DETERMINATION) suggests that the purpose of this NHA is inconsistent with the shared beliefs in unity and equality of the founding fathers of both the United States and the Kingdom of Hawaii.

For most of human history, human populations lived in a state of xenophobic isolation from each other, tempered by the need for trade and for exchanging spouses, but reinforced by differences in language and culture. In the modern world, the ease of travel has ended our mutual isolation bringing a loss in cultural diversity, yet it also brings the hope that we may not continue destroying each other with increasingly powerful weapons. Diamond, *The Third Chimpanzee: The Evolution and Future of the Human Animal*, Harpers Perennial 1992.

Kamehameha was not only the greatest of the Hawaiian chiefs but also one of the great men of world history because, in 1810 after bringing non-natives into his family and onto his forces, he united the Islands and its people. Kaahumanu, his widow, broke the ancient *Kapu* in 1819, soon adopted Christianity as the official religion of the Kingdom of Hawaii and decreed the establishment of schools teaching reading and writing in Hawaiian and English. In 1840, Kamehameha III gave Hawaii its first constitution which began, “God hath of one blood all nations of men to dwell on the earth in unity.” By the mid 1850’s the Kingdom of Hawaii was probably the most literate nation in the world.

Hawaii is justly admired as an integrated, racially blended society. It has been called a model for the rest of the country, perhaps for the world. But

some people in Hawaii find no comfort in integration and equality. For over several decades, a counter-current promoting special privileges for persons of Hawaiian ancestry has gradually developed and, to some extent become the accepted norm among those in Hawaii with a vested interest in continuing such racial distinctions between citizens.

Some of the most active and well-financed proponents of S. 359 advocate such views. See for example the Hawaii Capital Cultural Coalition website in which the recently hired Outreach Coordinator describes herself as a “strong supporter of Native Hawaiian self-determination.” That and the enclosed interview published May 29, 2007 in the Honolulu Star-Bulletin (<http://tinyurl.com/2bz2fm6>) suggest that at least one adverse consequence of this particular national heritage area, if it is adopted, would be to turn Hawaii back toward xenophobic hostility.

Included in the proposed NHA are Honolulu harbor and the container docks through which virtually all ocean cargo reaches Hawaii. With the Akaka bill lurking in the Senate and Hawaii’s melting pot simmering, this is no time to put the plan for management of Hawaii’s main commercial harbor, container yard and central corridor in the hands of persons hostile to the Constitution of the United States. The Constitution, in all its provisions, looks to an indestructible union composed of indestructible states. *Texas v. White*, 74 U.S. 700, 725 (1868).

Please reject S. 359; and preserve the United States as one nation under God, indivisible, with liberty and justice for all.

Very truly yours,

/s/ H. William Burgess  
H. William Burgess,

Chairman, Aloha for All, inc, a 501(c)(4) Hawaii non-profit corporation  
seeking to end government racial discrimination in Hawaii

Encl.