

# Kupu‘āina Coalition

**Action Alert:**

Friday, November 14, 2008

**Contact:**

\*Derek Kauanoe: 489-5316

\*Davis Kahōkū Price: daprice@hawaii.edu

\*Jocelyn M. Doane: kupuaina@gmail.com

\*www.kupuaina.com, www.stopsellingcededlands.com

## **JOIN us at a Rally Calling on Governor Lingle to RESPECT NATIVE HAWAIIAN RIGHTS and WITHDRAW the Unnecessary Appeal of the Ceded Lands Case to the U.S. Supreme Court**

**WHAT:** In Commemoration of the 15<sup>th</sup> Anniversary of the 1993 Apology Resolution – Native Hawaiians Rally and **Call on Lingle to Withdraw the Appeal** to U.S. Supreme Court.

**WHEN:** **Monday, November 24th at 11:30 AM**

**WHERE:** State Capitol Rotunda

**WHO:** You, your ‘ohana, and friends in **RED** shirts.

**WHY:**

- Inform the public of the magnitude of this case and the **THREAT IT POSES TO NATIVE HAWAIIAN JUSTICE/RIGHTS.**
- This could prove to be the **MOST DAMAGING** case on Hawaiian Rights **EVER.** An adverse ruling could cripple reconciliation efforts, severely diminish Native Hawaiian rights, and lay the foundation for dismantling Native Hawaiian programs.
- This is a **NON-DIVISIVE** issue – a U.S. Supreme Court decision has negative implications for our entire community and **EVERY** Hawaiian.
- The U.S. Supreme Court could misinterpret and reduce the significance of the Apology Resolution, which recognizes the illegality of the overthrow and supports Native Hawaiian rights.
- The U.S. Supreme Court has the potential to adversely impact the way the people of Hawai‘i deal with issues on a local level. Unlike the State Supreme Court, the U.S. Supreme Court does not know Hawai‘i’s history and will not be affected by the resolution of local issues.
- Governor Lingle’s action is wholly inconsistent with her previous support of Native Hawaiians. She must be urged to **WITHDRAW** this appeal **IMMEDIATELY!**

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Fact Sheet:  
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## State v. OHA (Ceded Lands Case)

### Historical Background of Ceded Lands

- Ceded Lands are former Crown and Government lands held by the Kingdom of Hawai‘i for the purpose of benefiting the people of Hawai‘i.
- In 1898, approximately 1.8 million acres were “ceded” (transferred) to the United States. At this time, the U.S. implicitly recognized the trust nature of these lands.
- The 1959 Admission Act recognized the State’s obligation to administer the ceded lands for one or more of five trust purposes, including the betterment of conditions of Native Hawaiians.
- In 1978 the people of Hawai‘i amended the Hawai‘i Constitution and clarified that the State has a trust responsibility to Native Hawaiians.

### Hawai‘i Supreme Court Decision

- On January 31, 2008, the Hawai‘i Supreme Court, in a unanimous decision, held that the State has a responsibility to preserve ceded lands, until unrelinquished claims of Native Hawaiians are resolved. The Court placed a moratorium on the sale of ceded lands only until these claims are resolved.
- Our State Supreme Court based its determination on the state’s obligation to act as a trustee of ceded lands on behalf of Hawaiian beneficiaries, and state and federal acknowledgment of unrelinquished claims.
- In support of its holding the court referred to language from the 1993 Apology Resolution, as well as state laws that recognize the illegality of the overthrow, the transfer of lands without compensation, and Hawaiians unrelinquished claims to ceded lands.
- Governor Lingle and State Attorney General Bennett subsequently asked the United States Supreme Court to review the State Court’s decision. The Supreme Court will hear the case and is expected to issue a decision in Spring 2009.

**An adverse ruling from the U.S. Supreme Court could cripple reconciliation efforts, severely diminish NATIVE HAWAIIAN RIGHTS, and lead to the dismantling of Native Hawaiian programs. Native Hawaiian issues affect our entire community and it is important that individual Native Hawaiians, Native Hawaiian organizations, and the broader Hawai‘i community support a request for withdrawal.**