

Subject **Request to Access A Government Record:**  
From Ikemoto, Derick Y <Derick.Y.Ikemoto@hawaii.gov>  
To ekflores@hawaiiantel.net <ekflores@hawaiiantel.net>  
Cc Henderson, Jr., Harvey E <harvey.e.hendersonjr@hawaii.gov>  
Date 2016-07-18 02:46 PM

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- Notice to Requester – Flores – 07-18-16.pdf (368 KB)
- DLNR-000274 – DLNR-000446 – 07-18-16 Response to Flores 05-16-16.pdf (14 MB)

Mr. Flores:

In response to your Request to Access A Government Record (“Request”), dated May 16, 2016, to Sam Lemno, OCCL Administrator, Department of Land & Natural Resources, attached are the following:

1. Notice to Requester, dated July 18, 2016; and
2. Documents numbered DLNR-000274 through DLNR-000446

Please note that we have decided to waive the fees and costs for searching, reviewing, segregating and copying records and are making our disclosure of responsive records to you in its entirety.

Insofar as this response is only being sent electronically only, please respond to acknowledge receipt of this message.

Thanks.

Derick Y. Ikemoto  
Legal Assistant to Harvey E. Henderson, Jr.  
Major Litigation Unit  
Department of the Attorney General  
425 Queen Street  
Honolulu, HI 96813  
Telephone: (808) 586-2095  
E-Mail: Derick.Y.Ikemoto@hawaii.gov

**Confidentiality Notice:** This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any review, use, disclosure, or distribution by unintended recipients is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

B.02c-2

# ACKNOWLEDGMENT TO REQUESTER

**TO:** E. Kalani Flores  
**FROM:** Sam Lemno, OCCL Administrator, Department of Land & Natural Resources  
c/o Harvey E. Henderson, Jr., 586-1219, harvey.e.hendersonjr@hawaii.gov  
(Agency and name & telephone number of contact person at agency)

**DATE REQUEST RECEIVED:** Clarification received on June 17, 2016  
Request received on May 19, 2016

**DATE OF ACKNOWLEDGEMENT:** July 1, 2016

**GOVERNMENT RECORDS YOU REQUESTED:** (attach copy of request or provide brief description below)

1. See clarification to request submitted by E. Kalani Flores, dated June 16, 2016 (copy attached)
2. See Request to Access A Government Record submitted by E. Kalani Flores, dated May 16, 2016 (copy attached)

This acknowledgment is provided in accordance with section 2-71-13, Hawaii Administrative Rules ("HAR"), because the following extenuating circumstance(s) exist:

- Agency must consult with another person to determine whether the record is exempt from disclosure under chapter 92F, HRS.
- Request requires extensive agency efforts to search, review, or segregate the records, or otherwise prepare the records for inspection or copying.
- Agency requires additional time to respond to the request in order to avoid an unreasonable interference with its other statutory duties and functions.
- A natural disaster or other situation beyond the agency's control prevents the agency from sending a notice or responding to the request within ten business days.

Due to these extenuating circumstances, the agency will send you the written notice required by section 2-71-14, HAR, within a reasonable time not to exceed twenty business days following the date when the agency received your request. Among other things, this notice will inform you whether the agency intends (1) to disclose the record; (2) to deny access to all or part of the information in the requested record, identifying the portions that will not be disclosed and justifying the nondisclosure; or (3) that the agency is unable to disclose the record for the reasons given. The notice will also include the agency's good faith estimate of all fees that will be charged to the requester under section 2-71-19, HAR and the amount of prepayment required by the agency, if any.

If the agency is providing access to records, the agency will then:

- (1) Disclose the requested records within five business days after providing notice or, when applicable, after receiving a prepayment as provided for under section 2-71-19, HAR;

or

- (2) Disclose the requested records in increments because the requested records are voluminous. See HAR § 2-71-15. Each increment will be disclosed within twenty business days after either (A) the prior incremental disclosure (if one prepayment of fees is required and received) or (B) receipt of each incremental prepayment required.

For questions about this acknowledgment, please contact the person named above. Questions regarding compliance with the UIPA may be directed to the Office of Information Practices at 808-586-1400 or oip@hawaii.gov.

DATE: June 16, 2016  
TO: Sam Lemno, OCCL Administrator  
Department of Land and Natural Resources  
1151 Punchbowl Street, Rm 131  
Honolulu HI 96813  
Email: [dlnr.occl@hawaii.gov](mailto:dlnr.occl@hawaii.gov)

RECEIVED  
GENERAL-CAG  
2016 JUN 17 A 7 05

C/O: Harvey Henderson Jr.  
Email: [havey.e.hendersonjr.@hawaii.gov](mailto:havey.e.hendersonjr.@hawaii.gov)

*E. Kalani Flores*

FR: E. Kalani Flores  
P.O. Box 6918, Kamuela HI 96743  
Email: [ekflores@hawaiiantel.net](mailto:ekflores@hawaiiantel.net)

Aloha no e Mr. Lemno,

This letter is written to provide you with further clarification and description that you requested in response to my request for records submitted May 19, 2016. Please respond within the time provided for in HAR 2-71-13. *Mahalo nui loa* for your assistance with this matter! The following is my reply to your response:

**1. Please advise if you are requesting a single report or multiple report**

I am requesting any and all reports, communications, or other documents prepared in the relevant time frame (see below) which are responsive to my request.

**2. By independent analysis, do you mean an analysis prepared only by persons not employed by the state?**

No. I am requesting any independent analysis prepared by the DLNR, BLNR, and their staff, employees, officers, agents, or contractors. Independent analysis, as defined in *Ka Pa'akai O Ka'Aina v. Land Use Comm'n*, 94 Haw. 31, 7 P.3d 1068, 2000 Haw. LEXIS 302 (Haw. 2000) means an analysis, prepared by the reviewing agency, of the impacts of a proposed undertaking on Native Hawaiian traditional and customary practices. This analysis also includes a "balancing [of] the developer's interests with the needs of native Hawaiians[.]"

**3. Please advise impacts by who or what you are requesting analysis of.**

I am requesting analyses of the impacts of (1) the BLNR's Consent to the Sublease and Nonexclusive Easement Agreement Between TMT International Observatory LLC and The University of Hawai'i, presented as item D-19 at the June 27, 2014 meeting of the BLNR, (2) the Conservation District Use Permit HA-3568 for the Thirty Meter Telescope at the Mauna Kea Science Reserve, and (3) the proposed Mutual Cancellation of General Lease No. S-4191 and Issuance of New Direct Lease to UH for Mauna Kea Science Reserve Purposes, on Native Hawaiian traditional and customary practices in the relevant areas

**4. Please provide a time frame**

From 2009 till the present.

## REQUEST TO ACCESS A GOVERNMENT RECORD

**DATE:** May 16, 2016

**TO:** Sam Lemno, OCCL Administrator  
Department of Land & Natural Resources  
1151 Punchbowl Street, Rm. 131  
Honolulu, HI 96813  
Ph: (808) 587-0377  
Email: [dlnr.occl@hawaii.gov](mailto:dlnr.occl@hawaii.gov)

**FR:** E. Kalani Flores  
P.O. Box 6918, Kamuela HI 96743  
[ekflores@hawaiiintel.net](mailto:ekflores@hawaiiintel.net)

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

2016 MAY 19 A 9 56

RECEIVED  
OFFICE OF CONSERVATION  
AND COASTAL LANDS

### AS THE REQUESTER, I WOULD LIKE THE FOLLOWING GOVERNMENT RECORD:

I am hereby requesting pursuant to the Freedom of Information Act, the Hawaii Uniform Information Practices Act, and under other relevant authority, including due process, the following information:

(1) A copy of an independent analysis<sup>1</sup> that might have been completed by or for the State of Hawai'i Department of Land and Natural Resources (DLNR) and/or the Board of Land and Natural Resources (BLNR) to assess the impacts upon Native Hawaiian traditional and customary practices associated with those Mauna Kea lands<sup>2</sup> under the jurisdiction of the DLNR.

Please provide the requested material as soon as possible and not to exceed thirty (30) days.

**I WOULD LIKE:** (Please check one or more of the options below, as applicable)

- To inspect the government record
- A copy of the government record: (Please check only one of the options below.)
  - Pick up at agency (date and time):
  - Mail (address):
  - E-mail (address): [ekflores@hawaiiintel.net](mailto:ekflores@hawaiiintel.net)
  - Other, if available (please specify):
- If the agency maintains the records in a form other than paper, please advise in which format you would prefer to have the record.
  - Electronic     Audio     Other (please specify):
- Check this box if you are attaching a request for waiver of fees in the public interest (See waiver information on next page).

<sup>1</sup> As stipulated in the State Supreme Court decision rendered in *Ka Pa'akai O Ka 'Aina v. Land Use Commission*, (2000).

<sup>2</sup> Mauna Kea lands inclusive of Mauna Kea Science Reserve, Hale Pohaku mid-level facilities, Mauna Kea Game Management Area and Forest Reserve, Mauna Kea Ice Age Natural Area Reserve, and any other such lands within Ka'ohē, Hamakua District, Island of Hawai'i, TMK (3) 4-4-015.

## **WAIVER OF FEES IN THE PUBLIC INTEREST**

I, E. Kalani Flores, submit this waiver of fees in the public interest and I have the primary intention and ability to disseminate information to the public-at-large through various websites and social media. Likewise, this waiver is submitted based upon, Hawaii Administrative Rules, Section 2-71-32 as such:

- (1) The requested record pertains to the operations or activities of an agency;
- (2) The record is not readily available in the public domain; and
- (3) The requester has the primary intention and the actual ability to widely disseminate information from the government record to the public at large.

CONSERVATION DISTRICT USE APPLICATION HA-3568

SUBZONE: Resource

180-DAY EXP. DATE: 5 April 2011

Acceptance: 7 October 2010

APPLICANT: DR. DONALD STANLEY, CHANCELLOR  
University of Hawaii @ Hilo  
200 West Kawili Street, Hilo HI 96720

Stephanie Nagata 933.0734 / cell 557.5405

USE REQUESTED: THIRTY METER TELESCOPE PROJECT

DISTRICT/ISLAND: Mauna Kea Science Reserve, Kaiohe Mauka  
Hamakua, Hawaii

TAX MAP KEY: (3) 4-4-015:009

AREA/PARCEL:

AREA/USE:

PUBLIC HEARING:  YES  NO

PUBLIC HEARING DATE: \_\_\_\_\_

2 Dec 2010 - Hilo

BOARD ACTION:

3 Dec 2010 - Kona

Final EIS - 8 May 2010

LINDA LINGLE  
GOVERNOR OF HAWAII



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CONSERVATION  
DISTRICT LANDS

2011 MAR -7 P 1:32

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

Office of Conservation and Coastal Lands  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.  
INTERIM CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY M. KAULUKUKUI  
FIRST DEPUTY

WILLIAM M. IAN  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

CDUP: HA-3568

MAR - 3 2011

Dr. Donald Straney, Chancellor  
University of Hawai'i at Hilo  
200 West Kāwili Street  
Hilo, HI 96720

SUBJECT: CONSERVATION DISTRICT USE PERMIT (CDUP) HA-3568  
Thirty Meter Telescope(TMT)  
Mauna Kea Science Reserve, Ka`ohe Mauka, Hāmakua District, Hawai`i  
TMK (J) 4-4-015:009

This is to inform you that on February 25, 2011, the Board of Land and Natural Resources approved Conservation District Use Permit (CDUP) HA-3568 for the Thirty Meter Telescope at the Mauna Kea Science Reserve, Ka`ohe Mauka, Hāmakua District, Island of Hawai`i, TMK (3) 4-4-015:009, subject to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State, and County governments, and applicable parts of the Hawaii Administrative Rules, Chapter 13-5;
2. The applicant shall obtain appropriate authorization from the Department for the occupancy of state lands, if applicable;
3. The applicant shall comply with all applicable Department of Health administrative rules;
4. Any work done or construction to be done on the land shall be initiated within two (2) years of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and, unless otherwise authorized, shall be completed within twelve (12) years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;
5. Before proceeding with any work authorized by the Board, the applicant shall submit four copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three of the copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
6. All representations relative to mitigation set forth in the Environmental Impact Statement and Conservation District Use Application are incorporated as conditions of the permit;

7. All mitigation measures and management actions contained in the Historic Preservation Mitigation Plan, Construction Plan, Historical & Archaeological Site Plan, Maintenance Plan, and Arthropod Monitoring Plan, are incorporated as conditions of this permit;
8. The project will comply with any terms and conditions outlined in the Comprehensive Management Plan and associated Resource Sub Plans;
9. The TMT Management Plan is approved, including all specific management actions articulated in the TMT Management Plan including, Cultural Resources Management, Natural Resources Management, Education & Outreach, Astronomical Resources, Permitting and Enforcement, Infrastructure and Maintenance, Construction Guidelines, Site Recycling, Decommissioning, Demolition & Restoration, Future Land Uses, and Monitoring, Evaluation & Updates. These management actions and their associated mitigation measures are incorporated as conditions of this permit;
10. The following additional conditions shall be implemented by OMKM and TMT:
  - Ensuring that employees attend mandatory cultural and natural resources training;
  - Working with the Imiloa Astronomy Center and OMKM to develop information exhibits for visitors regarding the natural, cultural and archaeological resources of Mauna Kea;
  - Funding the re-naturalization of the closed access road on Poli'ahu, partially re-naturalize the batch plant staging area after construction, and camouflage the utility pull boxes in certain locations to reduce the visual impact from the summit area;
  - Implementing an invasive species control program;
  - Working with OMKM to develop and implement a habitat restoration study;
  - Implementing the "Zero Waste Management" policy;
  - Filling employment opportunities locally to the greatest extent possible;
  - Mandating that employees traveling beyond Hale Pohaku take part in a ride-sharing program using project vehicles;
  - Using energy savings devices such as solar hot water systems, photovoltaic power systems, energy efficient light fixtures, and the use of Energy Star rated appliances;
  - Providing \$1 million annually, adjusted for inflation, for "Community Benefits Package" which will commence with construction and continue through the term of the sublease. The package will be administered via The Hawai'i Island New Knowledge (THINK) Fund Board of Advisors; and
  - Partnering with other institutions to implement a Workforce Pipeline Program, headed by at least one full-time position through the Community Outreach office, to prepare local residents for jobs in science, engineering, and technical fields;
  - The University will ensure that the survey of the power line corridor easement complies with DLNR standards and is in accordance with the conditions contained in the grant of easement (including the Mauna Kea Ice Age Natural Area Reserve) that was approved by the BLNR in August 1985. The University will provide copies of the survey to DOFAW;
  - OMKM will consult with the U.S. Fish and Wildlife Service and experts who are advising OMKM, including representatives from the DLNR, on surveys of the wēkiu bug and invertebrates regarding surveys along the utility corridor, including Pu'u Hau Kea and the pu'u west of the Parking Area 1;

- The construction contractor will be required to minimize the visual changes to land within the utility line right-of-way during utility upgrades. Any disturbance outside of the easement area of the construction corridor will be restored to the extent possible;
  - The applicant will present a plan for handling recreational parking during construction to the OCCL for review and approval prior to beginning construction;
  - Following construction, TMT shall keep their area clean and free of trash or unattended tools and equipment, unless authorized by OMKK and OCCL;
  - The Archaeological Monitoring Plan will be submitted to the State Historic Preservation Division for review and approval prior to the onset of construction; and
  - TMT remains committed to paying a "substantial" amount for sublease rent. The rent would be deposited into the Mauna Kea Land Fund, and only used for management of Mauna Kea.
11. The University will notify OCCL of the date of the twice-annual inspections of the project site, and allow staff to attend if available;
  12. The applicant will provide OCCL and BLNR a copy of their annual report to OMKK;
  13. The applicant will allow BLNR to name a DLNR representative to participate in the five-year management review process;
  14. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the board of water supply;
  15. The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
  16. In issuing this permit, the Department and Board have relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
  17. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take the measures to minimize or eliminate the interference, nuisance, harm, or hazard;
  18. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact HPD (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary; the applicant will also notify OHA at the same time;
  19. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
  20. No construction work shall be initiated until the applicant demonstrates compliance with all pre-construction conditions and mitigation measures outlined in this report. Once this condition has been satisfied, the Department will issue notice to proceed with construction;
  21. If a contested case proceeding is initiated, no construction shall occur until a final decision is rendered by the Board in favor of the applicant or the proceeding is otherwise dismissed;

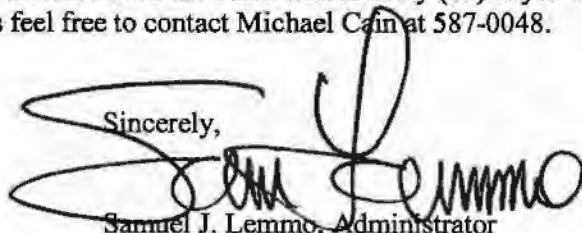
- 22. TMT shall set aside funds annually in a sufficient amount to allow for site observatory and access way site restoration;
- 23. Daytime activities at TMT will be minimized on up to four days per year, as identified by Kahu Kū Mauna;
- 24. Other terms and conditions as may be prescribed by the Chairperson; and
- 25. Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

In addition, the Board of Land and Natural Resources, on its own motion, decided to hold a contested case hearing and also delegated to the Chairperson the authority to select a hearings officer to conduct all hearings for one (1) contested case hearing, with respect to conservation district use application (CDUA) HA-3568 for the Thirty Meter Telescope by the University of Hawaii at Hilo.

The Department is in the process of retaining a Hearing Officer to preside over the contested case hearing process. You may wish to provide us with the contact information for the entity(s) that will be representing you in these matters.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days. Should you have any questions on any of these conditions feel free to contact Michael Cain at 587-0048.

Sincerely,



Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

Receipt acknowledged:

Donald D. Stanley  
Applicant's Signature

4 March 2014  
Date

- C: CHAIRPERSON/BLNR
- MAUNA KEA 'ANAINA HOU
- KAHEA ENVIRONMENTAL ALLIANCE
- KUKAUAKAHI (CLARENCE CHING)
- SIERRA CLUB
- E. KALANI FLORES
- COUNTY OF HAWAII (OFFICE OF THE MAYOR)
- DLNR, DOFAW (NARS)
- DLNR, LAND DIVISION
- DLNR, HISTORIC PRESERVATION

REF: OCCL: MC



O'ahu  
(808) 733-5562  
Hawaii Island  
(808) 935-0737

February 25, 2011

Board of Land & Natural Resources  
State of Hawaii  
Honolulu Hawaii 96813

Thank you for your volunteer time on behalf of the citizens of our great state!

Some of you know me as a past president of the Hawaii Island Chamber of Commerce. I come before you today as one of those citizens I spoke of during my tenure as President. A concerned citizen. Concerned about our economy, concerned about our children and their future, concerned about our community, concerned about our mountain. The chamber recognizes the great responsibility of caring for Mauna Kea. We testified many times that we are here to ensure that Mauna Kea's resources are protected while still allowing multiple uses of the mountain, not just to get a permit approved.

In my own selfish world of selling real estate one of the issues I deal with on a regular basis is the quality of our education system. People new to Hawaii hesitate to take positions here as doctors, teachers, farmers and yes, astronomers because of a less than great school system. However, programs such as Journey to the Universe have had an amazing impact in our public and private schools. It is most notable in the public schools. These types of programs bring the fun of learning STEM courses into the classroom and have reached so many more young people.

Without the astronomy community as a vital resource in my community I can't help but wonder how many young people would be left behind in the learning process? How many young people would never know the wonder of the sciences, or find the way to the healthcare field because math was a hurdle they could not overcome before? How many young people just got frustrated because school was too boring and never graduated, becoming another sad statistic? Sure we have a long way to go but thanks to the additional support TMT has generously committed to through its workforce and education pipeline programs, there will be a much needed community benefit with long-term effects to our community and to the State of Hawaii.

TMT and the astronomy industry are not just structures on the mountain top; they are human beings with the same love of family, community and Mauna Kea as the rest of us. Please approve this CDUA at this meeting and move this project forward for the sake of all generations in Hawaii.

With Aloha,

Mary Begier, Realtor®

Referral & Relocation Certified / 1998 Aloha Area Realtors Choice Award  
Certified Residential Specialist / Certified Residential Broker  
2001 Realtor® of the Year Hawaii Assoc. of Realtors®  
2001 Realtor® of the Year Hawaii Island Board of Realtors®  
2002 Realtor® of the Year Honolulu Board of Realtors®  
2003 President Honolulu Board of Realtors®  
2006-2011 Hawaii Island Commissioner Hawaii State Foundation on Culture & the Arts  
2007 President Hawaii Island Board of Realtors®  
2008-09 President Rotary Club of Hilo Bay  
2009-2010 President Hawaii Island Chamber of Commerce

O'ahu • 1188 Bishop Street, Suite 3412 • Honolulu, Hawaii'i 96813 • [www.MaryBegier.com](http://www.MaryBegier.com)

Hawaii Island • 101 Aupuni Street, Suite 315 • Hilo, Hawaii'i 96720 • Fax: (808) 935-8776

69104



O'ahu  
(808) 733-5562  
Hawai'i Island  
(808) 935-0737

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'11 FEB 28 P12:50

This is the <sup>DEPT. OF LAND & NATURAL RESOURCES STATE OF HAWAII</sup> testimony I had prepared for 2/25/2011 hearing but due to mechanical difficulty of our airplane I was unable to attend in a timely manner.

Please submit Thank You.

Mary

RECEIVED  
CONSERVATION  
DISTRICT LANDS  
2011 MAR - 1 P 2:49  
DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII



**LIFE OF THE LAND**



Friday, February 25, 2011

Adaline.F.Cummings@hawaii.gov

Board of Land and Natural Resources  
Kalanimoku Building, Room 132  
1151 Punchbowl St  
Honolulu, HI 96813

**Testimony:**

Agenda Item K-1 re Thirty Meter Telescope (CDUA HA-3568)	<b>OPPOSE</b>
Agenda Item K-2 re Thirty Meter Telescope Contested Case Proceeding	<b>SUPPORT</b>

**Aloha Chair Aila and Members of the Board!**

My name is Henry Curtis and I am the Executive Director of Life of the Land. Our mission is to preserve and protect the life of the land through sustainable land use and energy policies and to promote open government through research, education, advocacy, and litigation.

Life of the Land continues to be saddened by desecration of the sacred temple, Mauna Kea. In Native Hawaiian traditions, 'Kea' is also the abbreviated form of Wakea, the great sky god who, together with Papa, the earth mother, and other gods and forces created the Hawaiian Islands. The summit is the meeting point of Wakea and Papa. In this cultural context, the island of Hawai'i was the first-born offspring of this union, the eldest of the islands. Wakea and Papa also became the parents of the first Native Hawaiian man, Haloa, the first ancestor of the Hawaiian people. These beliefs about Mauna Kea make it highly significant and spiritual place to the Hawaiian people."

Over the years Kat and I have spoken to many kupuna, some whom have since left this world but continue to guide us, and the overwhelming comment we hear from them is that the astronomy community needs to share their resources, not continue to develop Mauna Kea. Auntie Eleanor Ahuna explained what Mauna Kea represents to the native people to us many years ago. When the Polynesians first came to Hawai'i, Mauna Kea was the first land they saw from their canoes. The



# Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803  
808.538.6616 hawaii.chapter@sierraclub.org

RE: AGENDA ITEM K. FOR THE MEETING OF THE BOARD OF LAND AND  
NATURAL RESOURCES DATED FRIDAY, FEBRUARY 25, 2011

## ITEM K. CONSERVATION AND COASTAL LANDS

1. Conservation District Use Application (CDUA) HA-3568 for the Thirty Meter Telescope by the University of Hawaii at Hilo, at Mauna Kea Science Reserve, Ka'ohē Mauka, Hamakua District, Island of Hawai'i, TMK: (3) 4-4-015:009
2. Request Decision-making by the Board (a) On its Own Motion to Hold a Contested Case Hearing or Grant Requests by Mauna Kea 'Anaina Hou, Fred Stone, KAHEA Environmental Alliance, Kukauakahi (Clarence Ching), and Sierra Club for a Contested Case Hearing, and (b) Appoint a Hearings Officer and Delegate to the Chairperson the Authority to Select Said Hearings Officer to Conduct All Hearings for One (1) Contested Case Hearing, with Respect to Conservation District Use Application (CDUA) HA-3568 for the Thirty Meter Telescope by the University of Hawaii at Hilo, at Mauna Kea Science Reserve, Ka'ohē Mauka, Hamakua District, Island of Hawai'i, TMK: (3) 4-4-015:009

Aloha. My name is Nelson Ho. I am Co-Chair of the statewide Mauna Kea Issues Committee for the Sierra Club and submitting this testimony on behalf of the Club. SC is outraged that the DLNR scheduled the meeting on Oahu. By holding the meeting in Honolulu, BLNR is presenting an undue hardship on those who wish to provide testimony and information about this CDUA. 82 people showed up to testify on the Big Island for Sam Lemmo's hearings, and more than half were in opposition, not one BLNR member showed up, not even the Big Island reps. We and the community are being denied an opportunity to fully present our case and inform your decision.

Sierra Club has actively spoken out about land mismanagement on the summit since the early 1970's. I was directly involved with the controversy on the mountain since 1995. In 1998, I was appointed by UH President Kenneth Mortimer to his Mauna Kea Advisory Committee, which to my disappointment, drafted the flawed 2000 UH Master Plan.

This staff report on the TMT CDUA is a reflection of the new paradigm of development on Mauna Kea. It is a polemic and smokescreen to cover up past actions DLNR SHOULD HAVE TAKEN BUT DID NOT. It attempts to put the blame on those who have sought to rebalance the priorities and protections on the mountain.

These recommendations justify bad political decisions made by DLNR and UH in the past, not rational planning decisions. These recommendations tell you the TMT is desirable in this Conservation District, despite its longterm industrial impacts, despite a flawed management

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scheme and despite adverse, cumulative and significant environmental and cultural impacts.

A decision to approve the TMT CDUA will continue the public subsidies which benefit some of the richest countries and institutions in the world. This is criminal at a time when this state is in such financial straits and cutting back on services to the public.

The staff submittal reveals A LOT of bias on the part of staff and fails to demonstrate a legally defensible justification for approving this CDUA.

There is a procedural flaw in the way you approved the UH CMP and how you are now processing the TMT CDUA. You can not grant approval of the TMT CDUA and proceed with a contested case hearing. BLNR must complete the contested case hearing process first, then make a decision based on the findings.

This CDUA is defective because the breaking and amending of the 1968 lease provisions should be explicitly discussed by the BLNR during this hearing process. Changes should Not made behind closed doors. This flawed CDUA process could unleash a whole new era of summit development, including even larger telescopes of 50 or 100 meters in size. ATMT approval will set up a paradigm whereby piece-meal cultural and natural resource protections happen only when development continues, which is a form of extortion.

The TMT CDUA proposal significantly erodes the value of environmental review by diminishing the criteria for assessing the significance of adverse impacts and their potential for halting or fundamentally altering a proposal.

This TMT' CDUA attempts to substitute a "community benefits package" for payment of fair market lease rents (as required by law) significantly harms community efforts to address longstanding lease rent inequities in the use of conservation lands for observatories without just, proper and legal compensation.

And Sam Lemmo wants to blame the Sierra Club for the sorry state of management should the TMT CDUA be disapproved. This sorry state of management is something Lemmo helped the UH establish to subsidize development and impoverish conservation efforts. And now he and the UH wants the BLNR to bless a Ponzi scheme where new telescopes must be welcomed or the management comes crashing down for lack of money.

Over the last 40 years of telescope development, large areas of the summit have been degraded or destroyed. The rapid expansion of the industrial footprint in Mauna Kea's conservation district has been enabled in part by the artificially high subsidies given to telescope developers. The artificially low rent paid on Mauna Kea results in not enough resources for protecting habitat, cultural sites, endangered species, water quality, and public access on the sacred summit. The State Board of Land and Natural Resources has repeatedly cited inadequate resources as the reason they cannot develop the comprehensive management plan required for the summit conservation district.

Because Sierra Club already requested a contested case hearing, there is no legal requirement for us to physically attend this meeting in Honolulu. You have our request on this agenda. We stand ready to file our formal written request for a contested case hearing by March 7th.



February 23, 2011

Department of Land and Natural Resources  
Board of Land and Natural Resources Board Members  
1151 Punchbowl Street  
Honolulu, HI 96813

RE: Support of approving the TMT CDUA

VIA EMAIL: [adaline.f.cummings@hawaii.gov](mailto:adaline.f.cummings@hawaii.gov)

Aloha Chair and Members of the Board:

My name is David S. De Luz, Jr. I am a 4<sup>th</sup> generation Big Island resident, along with my parents and 2 of my 3 siblings, my wife and 3 of our 4 children and 5 of our grandchildren. The Big Island is also home to our family business and we have been privileged to serve our community for over 50 years.

I believe this is important for you to know a little bit of who I am and what I do and why I strongly support the approval of the TMT CDUA. It is my belief that TMT is the renewed opportunity of allowing our island, our people and our communities the capacity to offer current and future generations of Big Islanders the ability to prepare us of an improved way of life thru the education and cultural initiatives that they will assist us in building.

In our business, and having the opportunity working both on the East and West sides of our island, I have encountered numerous individuals, companies and the like in coming to our island, reaping the benefits and leaving when things didn't work out for them. TMT on the other hand, took the time and a very concerted and deliberate effort to learn who we were, as a people, as a culture and as a community and took steps to reach out and make every effort to learn and understand who and what we are about.

Although there is no perfect solution and not all of our people and communities will concur with TMT's efforts, I believe that TMT thru it actions such as their commitment to the THINK fund and having the Hawaii Community Foundation administrate, working with local business, educations and various county and state agencies if drafting and formulating the infrastructure for local Big Island workforce pipeline implementation have demonstrated that they are here to stay and want to be part of our Big Island community.

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I and our business support the TMT CDUA because in our opinion, we believe that this project is in the BEST interest of our Big Island people and community.

We can continue to dwell on the past and what did not happen OR we can be bold and decide to move forward and continue to improve and learn from our past lesion, NOT repeat what did not work, but at the same time take what we have learned and leverage from these experiences that we mayto benefit our Island, its people, its culture and our communities.

I thank you for the opportunity to offer you my testimony and ask that you please consider approving the TMT CDUA.

Sincerely,

David S. De Luz, Jr.  
Vice President of Special Projects

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75-7737 Kuakini Hwy. Suite 208  
Kailua-Kona, HI 96740  
Phone: 329-1798 Fax: 329-8364  
www.Kona-Kohala.com info@kona-kohala.com

February 24, 2011

TO: State of Hawaii Land Board Members  
FROM: Kona-Kohala Chamber of Commerce  
SUBJECT: Support for TMT File No: CDUA HA-3568

Aloha Chair Aila and Members of the Land Board,

My name is Vivian Landrum, President/CEO of the Kona-Kohala Chamber of Commerce (KKCC). KKCC represents over **550** business members and is the leading business advocacy organization on the west side of Hawai'i Island. KKCC also actively works to enhance the environment, unique lifestyle and quality of life in West Hawai'i for both residents and visitor alike.

KKCC continues to express our full support for the Thirty Meter Telescope. This venture will create exciting educational opportunities for our children; support our local economy with much-needed jobs, not only with short-term construction, but also long-term high tech positions.

TMT will bring economic opportunities to our island, with these opportunities spreading out to the entire State. The project operations will require engineers, administration, project management, financial, information technology and service technicians. This will bring a much-needed boost to our local economy.

Opportunities for educational connections between our local community and the TMT are boundless. Support for, and the opportunity for participation in, STEM studies would be tremendous. This next-generation world-class telescope will raise our reputation as an outstanding destination for both visitors and residents alike.

Opponents of the project have voiced their concerns. We believe TMT has met these concerns by adequately addressing the overall design and physical placement of the telescope. The project's commitment to proper environmental stewardship and sustainable practices for the operations of the telescope is commendable. While cultural concerns need to be recognized and addressed, it is felt there is a place for both science and culture to coexist on Mauna Kea.

The Kona Kohala Chamber of Commerce continues to support the Thirty Meter Telescope project. Let's continue to move forward.

Mahalo,

A handwritten signature in cursive script that reads "Vivian Landrum".

Vivian Landrum  
President/CEO

Testimony in support of the Thirty Meter Telescope Project

Date of hearing: February 25, 2011, 9:00 a.m., Kalanimoku Building

To: Board Members

Department of Land and Natural Resources  
1151 Punchbowl Street, Room 130  
Honolulu, HI 96813

We fully support the planned Thirty Meter Telescope for Mauna Kea. As a recent national assessment in science of Hawaii's students revealed, we continue to rank poorly in comparison to other states. There are compelling needs to be addressed in science and technology related to our future economic sustainability, diversification, and growth, security, health and wellness, energy, global environmental crises, and innovation.

The Hawaii County Workforce Investment Board and Mauna Kea Observatories' Astronomy Workforce Survey, August 2010, provides an insight as to the need to expanded investment in science, technology and engineering education for pre-college students. Of the 80 per cent of the jobs in a typical observatory not in research fields, 57 per cent are in the technology fields which typically require a two or four year college level education. Of the technical observatory staff and administrative staff in a 2007 survey, 40 per cent were hired from overseas locations and 73 per cent were not Hawaii born. Projected to 2023, there is a potential of 299 jobs in the technical and administrative areas being awarded to those not born in Hawaii. Although the observatories would prefer to hire locally qualified applicants, they have found a lack of qualified professionals from Hawaii. From 2010-2023, there are a projected 473 jobs related to the observatories, of which 333 are in areas such as software, mechanical and electronic technologies. If this study is typical of technology oriented businesses in Hawaii, and if Hawaii would like to diversify its economy using innovation, it is critical that we invest deeply in science and technology education today.

The Thirty Meter Telescope's commitment to hire locally qualified applicants, and to provide a million dollars a year toward benefiting Big Island education, along with the new job opportunities, the mitigation plans to address the environmental and cultural needs, the spinoff economic benefits to the local community, and the future scientific discoveries to be made with the telescope and international participation of astronomers, are compelling reasons for advancing this important project for the benefit of Hawaii and the world.

Already, we have seen that the Thirty Meter Telescope has invested in initiatives that are impacting on education and students through grants and other support of Big Island students, schools and the community including internships, teacher workshops, and others.

Astronaut Ellison Onizuka's commencement words at Konawaena High School in 1980 are even more important today as we inspire the next generation of innovators, our future work force, in Hawaii.

*"If I can impress upon you only one idea...Let it be that the people who make this world run, whose lives can be termed successful, whose names will go down in the history books, are not the cynics, the critics, or the armchair quarterbacks.*

*They are the adventurers, the explorers, and doers of this world. When they see a wrong or problem, they do something about it. When they see a vacant place in our knowledge, they work to fill that void.*

*Rather than leaning back and criticizing how things are, they work to make things the way they should be. They are the aggressive, the self-starters, the innovative, and the imaginative of this world.*

*Every generation has the obligation to free men's minds for a look at new worlds...to look out from a high plateau than the last generation.*

*Your vision is not limited by what your eyes can see, but by what your mind can imagine. Many things that you take for granted were considered unrealistic dreams by previous generations. If you accept these past accomplishments as commonplace then think of the new horizons that you can explore.*

*From your vantage point, your education and imagination will carry you to places which we won't believe possible.*

*Make your life count - and the world will be a better place because you tried."*

It is our hope and dream that our state can provide the best opportunity for each and every student to make their life count. What will history record as to how we were accountable to them.

We ask for your support of the Thirty Meter Telescope.

Art and Rene Kimura  
Educational specialists

**Lehua Ka'uhane**



**Statement of Lehua Kauhane**  
Community member  
Before the

**BOARD OF LAND AND NATURAL RESOURCES**

Thursday February 25, 2011

In consideration of  
**The Thirty-Meter Telescope's request for a Conservation District Use Amendment**

Members of the Board:

It is difficult to conceive of a more sacred cultural landscape in all of the Hawaiian Islands than Maunakea, mountain-child of Wākea ("Sky Father" from whom Native Hawaiians descend), it is the tallest mountain in the world making it the piko (umbilical cord) of Hawai'i Island, the eldest, and a significant landmark for generations of Polynesian voyagers; home to numerous dieties; location of shrines unlike others found in Hawai'i; and resting place of the bones and piko of many families, figuratively and literally connecting them to the gods. It also holds significance as part of the Crown and Government lands of the Kingdom of Hawai'i in continuing political struggles. For the international science community, the summit of Maunakea is also significant, as the ideal site for the study of astronomy. Amid protest from the Native Hawaiian community, 13 telescopes have been built on the summit of Maunakea since the 1960s and now the largest, the Thirty-Meter Telescope (TMT), sits before the Board for consideration today.

According to Hawaii Administrative Rules (HAR) 13-5(c) there are eight criteria the board is *required* to apply in evaluating the merits of the TMT. I would like to address three of those criteria.

**HAR 13-5(c)4: The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community, or region;**

Mary Kawena Puku'i affirms that for Kānaka the spiritual belief system is firmly rooted in the personal experience of the physical world, in the experience of our "natural resources." In a Native Hawaiian world view, natural and cultural resources are one and the same. The well-being of one is dependant upon the well-being of the other. We find descriptions of the formation of the heavens, the islands, and all forms of life and nature, in the context of a genealogy, and the birth of children. This concept is grounded in cosmologies such as the Kumulipo, and is still a known reality for many Native Hawaiian today.

The entire summit region and the lower slopes of Maunakea are associated with and named for many gods and deities, and is a significant site for cultural practitioners. These associations are indicators of Maunakea's place in the cultural and natural history of Hawai'i as a sacred landscape with each part contributing to the whole cultural, historical and spiritual setting. Impacts of the TMT will not be confined to the footprint of the project area but will impact the entire summit as well as those communities that rely upon the mountain for physical and spiritual sustenance.

**HAR 13-5(c)5: The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels:**

The height of the mountain places it within the land division of the wao akua, or domain of the gods. The wao akua is the region where the clouds settle upon the mountain lands concealing the presence of the gods. Aside from our own stories that tell us this, a number of foreigners traveling through Hawaii island in the 1800s commented on the custom of the natives they encountered to refuse to travel to the summit (despite the fact that trails existed from all but one the districts on the island). Far from being an empty space, however, the lower slopes of the summit were regularly used by bird catchers and stone adz makers, and the lands at the summit were reserved for the gods.

**HAR 13-5(c)6: The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable:**

Starting in the early 1960s, Maunakea was promoted as a prime location for developing astronomical facilities by a group of business leaders on Hawai'i Island. A road was built to the summit in 1964, with the support of then Governor John A. Burns. After testing at the top of the mountain showed excellent conditions for astronomical observations, two facilities were constructed by the University of Hawai'i at the end of the decade. By the turn of the millennium, Maunakea was home to a total of 13 astronomical facilities, making it the largest concentration of telescopes in the world with facilities being operated by astronomers from at least ten countries. It is noteworthy that although practices associated with western astronomy have developed only within the past 45 years and constitute a relatively short period of time in the overall history of the mountain, these 45 years have also brought the most change to the natural and cultural landscape of the wao akua or domain of the gods. The TMT (18 stories, 8 acre

construction footprint) not only fails to preserve and improve upon the mountain, but instead forever alters the natural and sacred vista of the northern plateau.

In sum, I ask the board to uphold the law protecting our Conservation lands, reject the TMT permit application, and take long overdue steps to protect the future of Maunakea.

sight was so overwhelming to them that they have identified Mauna Kea as the piko (umbilical cord) ever since. That connection is indelible to the Kanaka Maoli and one that continues to be a guiding force for the first people of this land.

Life of the Land has been providing testimony and comments on documents about the astronomical development on Mauna Kea for many years. In the late 1990's, the scientific community acknowledged the destruction and desecration they have wreaked on this sacred temple. In their public mea culpa, they told the community that they had learned and recognized the error of their ways. They promised that they would be more mindful of the sacred ground they had defiled, while they were searching for the origins of life in the heavens.

I was so saddened when I had the privilege of going to the summit to see that this sacred resource had be turned into an industrial park. I was struck by the disregard of the astronomers who seemed oblivious to the destruction they were causing. To quote the poet Arundhati Roy: "I think my eyes were knocked open and they don't close. I sometimes wish I could close them and look away... But once you've seen certain things, you can't un-see them, and seeing nothing is as political an act as seeing something." While the scientists are searching for the origins of life, they are destroying the very sacred ground on which they are standing.

Life of the Land is deeply concerned with the cultural violation of Mauna Wakea.

We have reviewed the 1998 and 2005 legislative audits, and continue to believe that a comprehensive master plan is required BEFORE any more development can be even considered.

Mahalo,

Henry Curtis  
Executive Director

49042



# Subaru Telescope

National Astronomical Observatory of Japan  
650 North A'ohoku Place, Hilo, Hawaii 96720, U.S.A.

RECEIVED

2011 FEB 28 P 12:18 '11 FEB 25 P 1:17

DEPT OF LAND & NATURAL RESOURCES STATE OF HAWAII

February 22, 2011

Department of Land & Natural Resources  
Attn: Board Members  
1151 Punchbowl Street, Room 130  
Honolulu, Hawaii 96813

Re: Letter of Support

Dear Board Members:

On behalf of Subaru Telescope, it is my pleasure to write a letter in support of the Thirty Meter Telescope project at the summit of Mauna Kea.

The Thirty Meter Telescope (TMT) will be the most advanced and capable telescope in the world. With TMT, astronomers will be able to conduct research on fundamental problems in astronomy, such as the life in the extrasolar planets, the nature of the first galaxies, and future destiny of the Universe.

In conclusion, I fully support the efforts of the University of Hawaii at Hilo as they seek Conservation District Use Permit HA-3568 for the TMT project.

Sincerely yours,

Hideki Takami  
Interim Director  
Subaru Telescope, NAOJ



**UNIVERSITY  
of HAWAII**  
MĀNOA

DEPARTMENT OF LAND & NATURAL RESOURCES

RECEIVED

2011 FEB 24 A 11: 48

71 FEB 23 P1 23

February 22, 2011

William Ailā  
Chair, Board of Land and Natural Resources  
1151 Punchbowl Ave  
Honolulu, HI 96813

DEPT. OF LAND & NATURAL RESOURCES  
STATE OF HAWAII

DEPT. OF LAND & NATURAL RESOURCES  
STATE OF HAWAII

Aloha mai Kāua

First, congratulations on your appointment. I am completely sincere when I say that your selection was incredibly heartening to the entire activist community, because we believe that you are both honest and capable and will provide the kind of leadership that DLNR -- and all of the other divisions in the Department -- depend on. That leadership, we both know, has been simply inadequate for a very long time.

This Friday the Board will take up whether to approve the construction of the Thirty Meter Telescope on Mauna Kea. I am aware that there is support for this project from astronomers, and other members of the scientific community, the University of Hawai'i administration, businesspeople, especially in the construction industry, and even Hawaiians who hope that the construction and operation of the telescope will lead to economic growth and opportunities on Hawai'i island.

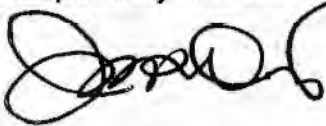
Opposing this are Hawaiian religious practitioners who regard the mountain and especially the summit as sacred, many environmentalists deeply concerned about the impact of the telescope community on this very important ecosystem and also concerned about the apparent disregard for federal and state statutes designed to protect environmentally sensitive areas as well as historic and cultural resources. Also opposing this project are Hawaiians like myself who believe that we Hawaiians have a special kuleana for any projects taking place on ceded lands. Our obligation to protect special cultural resources and to encourage the practice of traditional arts, sciences and religions requires that we speak out very clearly strongly against this project and the process by which it has, thus far, been allowed to proceed.

I am speaking out most strongly against the practice that allows the University of Hawai'i to essentially sublet out portions of the mountain for these expensive telescopes, property for which it pays the State the sum of 1 dollar per year, assuring that neither the public, DLNR, nor the Office of Hawaiian Affairs receives the revenues of a proper lease. These kinds of arranged uses of our lands do not look like good management and especially in these difficult times for

the state government, there needs to be a more disciplined approach to the use and fiduciary management of our 'āina. Approving this project would be just one more incident of a land management practice that really needs to come to an end.

I hope you will forgive the tone of this appeal. I am, like so many citizens of Hawai'i, deeply hopeful that this new governor and administration will do things differently than before. But to be honest with you, I don't really believe that we have a choice anymore. The Governor has said we are in crisis and must all make sacrifices. Let us make the business as usual model the first mōhai.

Respectfully and with Warmest Regards

A handwritten signature in black ink, appearing to read 'Jonathan K. Kamakawiwo'ole Osorio', written in a cursive style.

Jonathan K. Kamakawiwo'ole Osorio  
Professor of Hawaiian Studies  
Kamakakūokalani Center for Hawaiian Studies  
UHM

49063



# Subaru Telescope

National Astronomical Observatory of Japan  
650 North A'ohoku Place, Hilo, Hawaii 96720, U.S.A.

February 22, 2011

Department of Land & Natural Resources  
Attn: Board Members  
1151 Punchbowl Street, Room 130  
Honolulu, Hawaii 96813

2011 FEB 25 A 11:53  
DEPARTMENT OF LAND & NATURAL RESOURCES  
STATE OF HAWAII  
REGISTRATION  
LANDS

Re: Letter of Support

Dear Board Members:

On behalf of Subaru Telescope, it is my pleasure to write a letter in support of the Thirty Meter Telescope project at the summit of Mauna Kea.

The Thirty Meter Telescope (TMT) will be the most advanced and capable telescope in the world. With TMT, astronomers will be able to conduct research on fundamental problems in astronomy, such as the life in the extrasolar planets, the nature of the first galaxies, and future destiny of the Universe.

In conclusion, I fully support the efforts of the University of Hawaii at Hilo as they seek Conservation District Use Permit HA-3568 for the TMT project.

Sincerely yours,

Hideki Takami  
Interim Director  
Subaru Telescope, NAOJ

Working Together to Protect Native Hawaiian Customary and  
Traditional Rights and Hawai'i's Fragile Environment

1149 Bethel St., Ste 415 Honolulu, Hawai'i

808-524-8220 (phone and fax) KAHEA-alliance@hawaii.rr.com

[www.KAHEA.org](http://www.KAHEA.org)

Aloha Uncle William,

Just wanted you to know that  
we sent this letter to the Governor,  
regarding Mauna Kea - the telescope  
and the Army expansion.

Please contact us if you need  
anything.

E Malama,  
Marti



69046

Governor Neil Abercrombie  
Hawai'i State Capitol  
415 South Beretania Street, 5<sup>th</sup> Floor  
Honolulu, Hawai'i 96813

DEPT. OF LAND & NATURAL RESOURCES  
STATE OF HAWAII

RECEIVED

2011 FEB 24 A 11:48

71 FEB 22 P 1:02

The Mauna Kea Hui  
c/o KAHEA: The Hawaiian-Environmental Alliance  
1149 Bethel Street, #415  
Honolulu, Hawaii 96813

DEPT. OF LAND & NATURAL RESOURCES  
STATE OF HAWAII

DEPT. OF LAND & NATURAL RESOURCES  
STATE OF HAWAII

*Regarding the proposed Army Pōkauloa Training Area (PTA) and Thirty Meter Telescope (TMT) Expansion Projects, Proposed for Pōhakulaa and Mauna Kea, Hawai'i Island*

February 16, 2011

Aloha Pumehana Governor Abercrombie,

We write to you today with a sense of great urgency and heavy hearts, to ask you to consider the immense impacts the Pōhakuloa Training Area (PTA) and the Thirty Meter Telescope (TMT) expansion projects will have on the lands and the people of Hawai'i. There is urgency because the Board of Land and Natural Resources (BLNR) is scheduled to consider the TMT's construction permit, perhaps as early as next week, and because the PTA expansion has already begun (i.e. on Mauna Loa).

**Aloha assures that the life of the land is perpetuated in righteousness**

We were inspired when you embraced the principles of Aloha in your campaign, when you called upon the people to join you in realizing a better future for Hawai'i Nei. We thank you for your many good works of Aloha throughout the years and congratulate you on your successful election--truly inspiring. To keiki o ka 'āina and kama'āina alike, Aloha is not just a word for boosting tourist industry profits, it is the breath of life and a state of being. Aloha is the truth that necessarily invokes righteous action. You so eloquently affirmed this in your speeches before the people holding that Aloha is what "...defines us". When we honor a healing truth, Aloha is magnified, bringing blessings to all upon the land. This is how the life of the land is perpetuated in righteousness.

While we hope to have many occasions to work with you for a better future, we pray that after careful review of the facts presented herein regarding the proposed astronomy and military expansion projects, that you will reconsider your support for these immensely destructive projects, and join the people to find more reasonable, just, equitable and pono alternatives for the benefit of our present and future generations. We have faith in your leadership and believe a better future is close at hand, but will require us to stop relying on antiquated destructive paradigms, to redefine "progress" and to collectively embrace the true spirit of Aloha 'Āina.

**The Land and People are One**

The Kūpuna remind us that the land and the people are one in the same; in other words, when we destroy the land we destroy our selves. Congress affirmed our Kūpuna's

1

teachings holding “[T]he health and well-being of Native Hawaiian people is intrinsically tied to the deep feelings and attachment to the land.” (Pub. L. No. 103-150). The U.S. Admissions Act (The Statehood Compact) established a trust obligation whereby the state acts as a trustee of the land on behalf of the rights holders (the native Hawaiians and the general public). The Admissions Act establishes the scope of your authority as Governor, expressly requiring you to hold all “state lands” for “the betterment of the conditions of the native Hawaiians and the general public” regardless of who is using or leasing the land.

The laws of Hawai‘i and the U.S. place the burden upon you and your entire administration to demonstrate how projects, such as the TMT and PTA expansions will better the conditions of the people of Hawai‘i and protect the public trust. This is an immense burden, Governor, but not one you alone are called upon to fulfill, as we *all* carry this kuleana for Hawai‘i and the world. We pledge our hard work to assist you to find righteous and just solutions. We pledge our commitment to that which gives us life—we pledge our commitment to Aloha!

## I. MAUNA KEA -- A Moral Dilemma

Understanding the Mauna Kea controversy is easy. Understanding the political controversy and associated implications is not complicated, when considering the heart and sacred nature of Mauna Kea itself. For millennia, Mauna Kea has been a cultural, spiritual and religious place of worship for the Hawaiian people. Mauna Kea represents the zenith of the Hawaiian people’s ancestral ties to creation itself. It is a temple of the highest order, as the meeting place of the heavens and the earth, and abode of the Creator – the Supreme Being.

Mauna Kea’s holiness is recognized throughout all of Polynesia. Recently, Mauna Kea was honored among the many holy places of the world, by the National Geographic Society (January 2011) Special Edition titled, “The Earth’s Holiest Places: Sacred Journeys.” Understanding the significance of Mauna Kea as a temple and holy place of worship provides easy context to the on going astronomy controversy.

For example, the Mitsubishi Corporation did not build the Japan National Telescope (Subaru) atop Mount Fuji, because Mount Fuji is a holy place and a national icon. The governments of France, United Kingdom and Canada did not build their telescopes atop Stonehenge, Westminster Abby, the Vatican, Mount Sinai, Mecca or any other revered holy site, because these sites are considered holy. No telescope development or desecration at these sites would be considered, even if these sites were good for their astronomy and/or economies.

None of the countries operating atop Mauna Kea now, would consider injecting five hundred thousand gallons of human waste and toxic waste into the ground around other famous holy sites, because to do so, would elicit utter outrage by those that worship and revere these sites. Yet, the State of Hawai‘i, for more than forty (40) years has allowed foreign counties to repeatedly desecrate and destroy our holy site—Mauna Kea.

**The question before you, Governor**, is simple: do the holy places of the Hawaiian people, ***not*** deserve the same respect and treatment as other holy places in the world. Are the Hawaiian people ***not*** entitled to freedom of religion or equal treatment and protection under the law? Do the Hawaiian people have the freedom to continue to practice their spirituality and religion in the environment of their belief, in their own homeland, as they have for thousands of years ***or not?***

## **Legal obligations**

Even if the moral questions fail your measure of justice and righteousness there are legal questions that also come into play and they are as follow:

**(NOTE:** Please see attached (1) The Report titled "Mauna Kea the Temple: Protecting the Sacred Resource Report" (2000); (2) the accompanying video titled "Mauna Kea: Temple Under Siege" both of which are instructive as they highlight the voices of the people, legal arguments that have since been upheld by every court we have entered; (3) our funding suggestions (i.e. rent paid by the observatories to help offset the taxpayers burdens); and (4) Third Circuit Court Ruling in Mauna Kea 'Anaina Hou, et al v. BLNR (2007)).

### **A. Burdening native Hawaiians, the Public and the Courts**

For more than fifteen (15) years we have had to appeal to the courts (federal and state) to compel the State and its agents (BLNR) to fulfill its obligations under the Public Trust—which is a non-transferable fiduciary duty to the right-holders (native Hawaiians and the general public) to protect our rights, access and interests on all state lands. In all cases the courts found in our favor and against the state and federal government's actions. The taxpayers paid for the government lawyers to fight against the very people the laws were written to protect—the people of Hawai'i. **Where is the justice in this, Governor?**

### **B. \$1.00 per year lease rent violates the law**

The one dollar (\$1.00 per year) lease rents paid by the foreign observatories violates the law. For decades rich foreign Countries and corporations have been forcing state tax payers to subsidize their activities atop Mauna Kea, by paying only one dollar (\$1.00) per year in lease rent for the use of the lands of Mauna Kea. Such practices are prohibited under the law, since state law (H.R.S. 171, -17, -18,) requires "fair-market" lease rents be collected for the use of all state and conservation lands.

Governor, recently you suggested cutting retiree's benefits to help balance the State's budget, while the foreign Countries and corporations pay only \$1.00 dollar per year for Mauna Kea. Are these rich Countries and their corporations above the law? Why must the retiree's, who have spent their lives paying into the system, now, be saddled with the burden of fixing our problems while the foreign countries violate the laws of this state? **Where is the justice in this, Governor?**

### **C. Science not above the law**

The Thirty Meter Telescope (TMT) proposed for Mauna Kea will be as high as an eighteen (18) story building, and have a foot print nearly as large as nine (9) football fields. Construction projects like this as well as those previously build are not permitted area of conservation. The NASA Environmental Impact Statement (EIS) included the TMT (previously named the Next Generation Large Telescope) found the cumulative impacts (i.e. the impact of the past, present and reasonable foreseeable future impacts) of astronomy development atop Mauna Kea has resulted in ***significant, substantial and adverse impact on the cultural and natural resources of Mauna Kea.***

The State law bar BLNR from issuing permits to projects that will have adverse and significant impacts on the cultural and natural resources in the Mauna Kea

Conservation District. BLNR cannot possibly approve the TMT project without violating its own rules and associated statutes.

#### **D. Ignoring the rule of law**

The Third Circuit Court ruled in our favor, finding the University's (UH) management plan inadequate, affirming the entire summit of Mauna Kea be protected and finally ordering the state to complete a comprehensive management plan (CMP) for the protection of the cultural and natural resources (not astronomy), before any further development is considered.

Recently, the UH superseding the BLNR's public duty, hired a public relations firm to produce yet another management plan that BLNR approved this plan. THE UH plan is currently being reviewed by the Intermediate Court of Appeals (ICA). It is inappropriate for the proponents of the TMT to be seeking a construction permit while the court is reviewing the adequacy of that document. What kind of precedence does this set to have a state agency ignore the courts role (i.e. the rule of law)? **Where is the justice in this, Governor?**

#### **E. TMT not billion dollar project for Hawai'i**

The TMT is not the biggest telescope in the world as reported. The world's largest telescope is the European Extremely Large Telescope (EELT), currently being built in Chile. Both the EELT and the TMT are meant to be proto-type telescopes, designed to test the possibilities of building even larger telescopes such as 100-200 meter class telescopes in the near future. The EELT is 42 meters and will be able to fulfill this test so the TMT is not necessary.

Even if the TMT were necessary, the project needs \$700 million more dollars for completion. The National Science Foundation (NSF) has not committed funding for it. It is hard for non-essential projects such as astronomy projects to argue for large sums of public monies during such fiscally challenging times. BLNR should not be considering construction permits for unfunded projects. What happens if TMT begins building but cannot finish the project?

Lastly, the TMT is not a billion dollar project for Hawai'i, because if they get money it will be paid to the Canadian and Californian companies that have been given the contracts to design and build the mirrors and dome structure.

## **II. POHAKU LOA---The land of the night of long prayer**

Pōhakuloa resides in the ahupua'a of Kaohe, which is the name given the Kane's bamboo water carrier. Kaohe encompasses Mauna Kea, Mauna Loa and all of Pōhakuloa areas. This is the land were the fresh water for the entire island of Hawai'i originates and flows from.

### **A. Destroying Islands**

Live fire training at Pōhakuloa has been occurring for over 50 years. The existing footprint of the live fire area is two times the size of the island of Kaho'olawe (Kaho'olawe is about 28,000 acres). Live fire at PTA includes, aerial bombardment (B-52s, stealth bombers, fighter jets, attack helicopters, with heavy artillery, rockets and missile fire etc.) conducted near public access and residential areas (i.e. Saddle Road, Ahu-a-Umi Heiau,

Umi's Trails, Kaumana, Waiki'i, Waimea etc.). Live fire and the unexploded ordinances (UXO) left behind means the land is destroyed and without major clean up efforts will remain off limits (rendered inaccessible and unusable) to the people of Hawai'i forever.

The State of Hawai'i has allowed the military to use this land, by issuing long term leases that end in the near future (i.e. 2026). However, while long term leases grant the right of use, they do not grant exclusivity, private property rights, nor do they grant to right to destroy (or render the lands inaccessible or unusable), because the state maintains the responsibility over all resources, including water, minerals, historic, cultural and religious properties and their associated uses regardless of the who the lessee may be.

Recently however, the military has submitted numerous proposals to expand the footprint by at least 44, 000 acres (nearly 1.4 times the size of Kaho'olawe). Thus far no clean up provisions for PTA have been implemented and now the military is seeking to take significant parts of Mauna Loa (it has already begun construction in the 36,000 acres), significant parts of Mauna Kea (8,000 acres for the Helicopter training), and the taking of pristine forest lands down slope of the Battle Area Complex of PTA (where over 100 caves/cave complexes have been identified).

### **B. Support training not destruction**

While we recognize the need to train our young men and women (hopefully not to have to kill) in order to have a fighting chance of survival in war; however, training does not require live fire, and if it does, then perhaps we are not the advanced and powerful military force we claim to be. How does it make sense to send people to be killed defending our land when we are destroying the very land they are supposed to be defending? What is the point of destroying the equivalent of four Kaho'olawe's on Hawai'i Island with our own bombs?

As you are aware Governor, as a former supporter of the righteous return of Kaho'olawe, more than \$450 million taxpayer dollars paid out for the clean up of the island. It is still not cleaned and may never be to the satisfaction of the Public Trust. In short the methodology we are currently using, whereby the military destroys and moves on to destroy another area, is causing the taxpayers to pay twice--first for the destruction and second for the clean up. The clean up of PTA will be similar to Kaho'olawe only four times greater in area and costs. Clean-up of PTA is estimated to cost about \$600 million dollars. **How is this reasonable? How is this sustainable? Where is the logic in this destructive paradigm? Where is the righteousness in this, Governor?**

### **III. CONCLUSION**

We were inspired when President Obama announce his plans to cut the military budget and to veto earmarks, because the majority of the national funding used for past Mauna Kea and Pōhakuloa projects have come from the military budget and earmarks (i.e. including \$32 million dollars earmarks for the 'Imiloa Astronomy Center). We have faith you will uphold the national policy. We have faith you will act decisively to find a clear path in Aloha for true change. We have faith you will honor the very spirit codified in the land that nourishes us and gives us life. In keeping with the urgency of the situation, we look forward to meeting with you to discuss in greater detail our concerns regarding the proposed Pōhakuloa and Mauna Kea expansion projects.

We thank you very much for your time and consideration.

In Aloha we remain,

Ali'i Sir Mr. Paul K. Neves of the Royal Order of Kamehameha I

Ms. Kealoha Pisciotta of Mauna Kea Anaina Hou

Mr. Clarence Kukauakahi Ching, Individual Hawaiian Practitioner

Ms. Miwa Tamanaha of KAHEA: The Hawaiian-Environmental Alliance

Cc:

President Barack Obama

Director William Ailā, Department of Land and Natural Resources

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.  
INTERIM CHAIRPERSON  
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LAND  
STATE PARKS

File No. HA-3568

FEB 17 2011

Dr. Donald Straney, Chancellor  
University of Hawaii at Hilo  
200 W. Kāwili Street, Hilo, HI 96720

Dear Mr. Straney:

**Revised Notice**

Subject: Conservation District Use Application (HA-3568) for the Thirty Meter Telescope by the University of Hawaii at Hilo, at Mauna Kea Science Reserve, Ka'ohē Mauka, Hamakua District, Island of Hawai'i, TMK: (3) 4-4-015:009; Request For Decision-Making by the Board (a) On Its Own Motion Hold a Contested Case Hearing or Grant Requests by Mauna Kea 'Anaina Hou, Fred Stone, KAHEA Environmental Alliance, Kukauakahi (Clarence Ching), and Sierra Club for a Contested Case Hearing, and (b) Appoint a Hearings Officer and Delegate to the Chairperson the Authority to Select Said Hearings Officer to Conduct All Hearings for One (1) Contested Case Hearing

As a part of the Conservation District Use Application Process, we are sending you this revised notice. Please disregard the other notice you received on this matter. We are also attaching a revised staff report for item K-2.

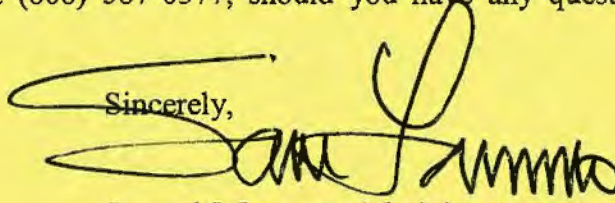
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In addition, we are scheduling item K-2, which includes a request for decision-making by the Board (a) on its own motion hold a contested case hearing or grant requests by Mauna Kea 'Anaina Hou, Fred Stone, KAHEA Environmental Alliance, Kukauakahi (Clarence Ching), and Sierra Club for a contested case hearing, and (b) appoint a hearings officer and delegate to the Chairperson the authority to select said hearings officer to conduct all hearings for one (1)

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Please contact Mr. Sam Lemmo at (808) 587-0377, should you have any questions on this matter.

Sincerely,

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Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

Attachments

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Mauna Kea Anaina Hou, et al



Dear Ms. Pisciotta:

**Revised Notice**

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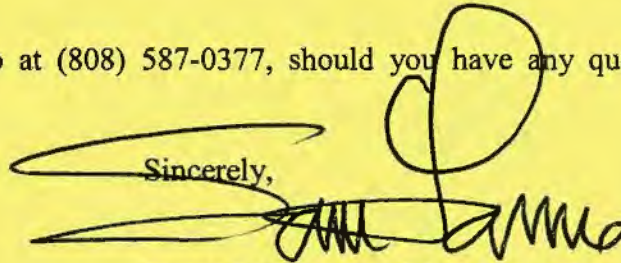
File No. HA-3568

FEB 17 2011

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Please contact Mr. Sam Lemmo at (808) 587-0377, should you have any questions on this matter.

Sincerely,

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Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

Attachments

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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File No. HA-3568

Deborah Ward, Chairperson  
Sierra Club, Hawaii Chapter

FEB 17 2011

Dear Ms. Ward:

**Revised Notice**

**Subject:** Conservation District Use Application (HA-3568) for the Thirty Meter Telescope by the University of Hawaii at Hilo, at Mauna Kea Science Reserve, Ka'ohē Mauka, Hamakua District, Island of Hawai'i, TMK: (3) 4-4-015:009; Request For Decision-Making by the Board (a) On Its Own Motion Hold a Contested Case Hearing or Grant Requests by Mauna Kea `Anaina Hou, Fred Stone, KAHEA Environmental Alliance, Kukauakahi (Clarence Ching), and Sierra Club for a Contested Case Hearing, and (b) Appoint a Hearings Officer and Delegate to the Chairperson the Authority to Select Said Hearings Officer to Conduct All Hearings for One (1) Contested Case Hearing

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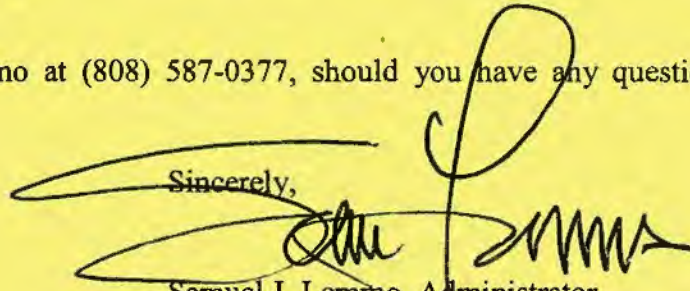
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Please contact Mr. Sam Lemmo at (808) 587-0377, should you have any questions on this matter.

Sincerely,

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Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

Attachments

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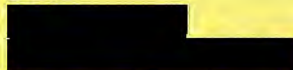
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File No. HA-3568

FEB 17 2011

Miwa Tamanaha, Executive Director  
Kahea



Dear Ms. Tamanaha:

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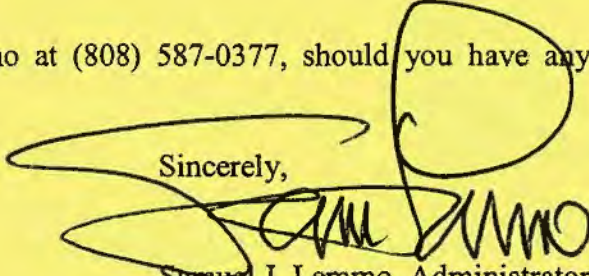
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Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

Attachments

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KAHOOLAWE ISLAND RESERVE COMMISSION  
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STATE PARKS

File No. HA-3568

Fred D. Stone, Ph.D.



FEB 17 2011

Dear Mr. Stone:

***Revised Notice***

Subject: Conservation District Use Application (HA-3568) for the Thirty Meter Telescope by the University of Hawaii at Hilo, at Mauna Kea Science Reserve, Ka'ohē Mauka, Hamakua District, Island of Hawai'i, TMK: (3) 4-4-015:009; Request For Decision-Making by the Board (a) On Its Own Motion Hold a Contested Case Hearing or Grant Requests by Mauna Kea `Anaina Hou, Fred Stone, KAHEA Environmental Alliance, Kukauakahi (Clarence Ching), and Sierra Club for a Contested Case Hearing, and (b) Appoint a Hearings Officer and Delegate to the Chairperson the Authority to Select Said Hearings Officer to Conduct All Hearings for One (1) Contested Case Hearing

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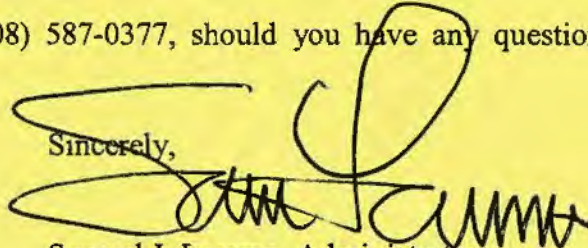
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Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

Attachments

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GOVERNOR OF HAWAII



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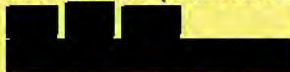
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STATE PARKS

File No. HA-3568

FEB 17 2011

Kukauakahi (Clarence Ching)



Dear Mr. Ching:

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As a part of the Conservation District Use Application Process, we are sending you this revised notice. Please disregard the other notice you received on this matter. We are also attaching a revised staff report for item K-2.

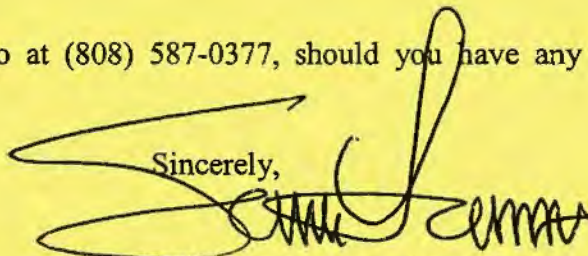
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In addition, we are scheduling item K-2, which includes a request for decision-making by the Board (a) on its own motion hold a contested case hearing or grant requests by Mauna Kea 'Anaina Hou, Fred Stone, KAHEA Environmental Alliance, Kukauakahi (Clarence Ching), and Sierra Club for a contested case hearing, and (b) appoint a hearings officer and delegate to the Chairperson the authority to select said hearings officer to conduct all hearings for one (1) contested case hearing.

We inform you that should you wish to be considered as a party in a contested case, you will need to file a petition with this office for a contested case hearing no later than ten calendar days after the close of the board meeting at which the CDUA was scheduled for disposition. We are attaching a copy of the revised K-2 staff report for your information and use. You should already have a copy of item K-1.

Please contact Mr. Sam Lemmo at (808) 587-0377, should you have any questions on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Samuel J. Lemmo', written over the word 'Sincerely,'.

Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

Attachments

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.  
INTERIM CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI  
FIRST DEPUTY

WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
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FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

File No. HA-3568

FEB 17 2011

Dr. Donald Straney, Chancellor  
University of Hawaii at Hilo  
200 W. Kāwili Street, Hilo, HI 96720

Dear Mr. Straney:

Subject: Conservation District Use Application (HA-3568) for the Thirty Meter Telescope by the University of Hawaii at Hilo, at Mauna Kea Science Reserve, Ka'ohē Mauka, Hamakua District, Island of Hawai'i, TMK: (3) 4-4-015:009; Request for Decision-Making for a Contested Case Hearing; Request for Authorization for the Appointment of a Hearings Officer to Conduct Hearings Relevant to Requests for a Contested Case Hearing.

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Please contact Mr. Sam Lemmo at (808) 587-0377, should you have any questions on this matter.

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Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

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LAND  
STATE PARKS

Deborah Ward  
Nelson Ho, Chairman  
Sierra Club, Hawaii Chapter

File No. HA-3568

FEB 17 2011

Dear Mr. Ho:

Subject: Conservation District Use Application (HA-3568) for the Thirty Meter Telescope by the University of Hawaii at Hilo, at Mauna Kea Science Reserve, Ka'ohē Mauka, Hamakua District, Island of Hawai'i, TMK: (3) 4-4-015:009; Request for Decision-Making for a Contested Case Hearing; Request for Authorization for the Appointment of a Hearings Officer to Conduct Hearings Relevant to Requests for a Contested Case Hearing.

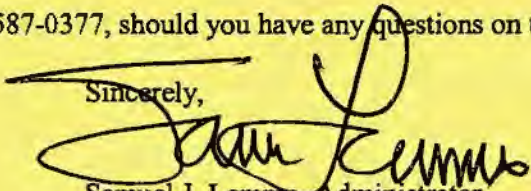
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Please contact Mr. Sam Lemmo at (808) 587-0377, should you have any questions on this matter.

Sincerely,

  
Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

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STATE PARKS

File No. HA-3568

Mauna Kea Anaina Hou, et al  
C/o Kealoha Pisciotta

FEB 17 2011

Dear Ms. Pisciotta:

**Subject:** Conservation District Use Application (HA-3568) for the Thirty Meter Telescope by the University of Hawaii at Hilo, at Mauna Kea Science Reserve, Ka'ohē Mauka, Hamakua District, Island of Hawai'i, TMK: (3) 4-4-015:009; Request for Decision-Making for a Contested Case Hearing; Request for Authorization for the Appointment of a Hearings Officer to Conduct Hearings Relevant to Requests for a Contested Case Hearing.

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Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

Attachments

DLNR-000319

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

File No. HA-3568

Kukauakahi (Clarence Ching)

FEB 17 2011

Dear Mr. Ching:

Subject: Conservation District Use Application (HA-3568) for the Thirty Meter Telescope by the University of Hawaii at Hilo, at Mauna Kea Science Reserve, Ka'ohē Mauka, Hamakua District, Island of Hawai'i, TMK: (3) 4-4-015:009; Request for Decision-Making for a Contested Case Hearing; Request for Authorization for the Appointment of a Hearings Officer to Conduct Hearings Relevant to Requests for a Contested Case Hearing.

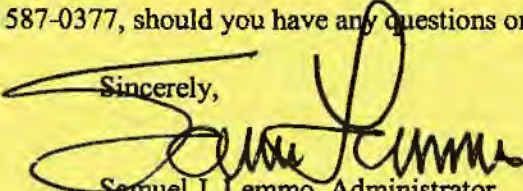
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Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

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DLNR-000320

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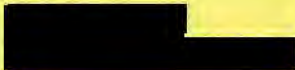
WILLIAM M. TAM  
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LAND  
STATE PARKS

File No. HA-3568

FEB 17 2011

Miwa Tamanaha, Executive Director  
Kahea



Dear Ms. Tamanaha:

Subject: Conservation District Use Application (HA-3568) for the Thirty Meter Telescope by the University of Hawaii at Hilo, at Mauna Kea Science Reserve, Ka'ohē Mauka, Hamakua District, Island of Hawai'i, TMK: (3) 4-4-015:009; Request for Decision-Making for a Contested Case Hearing; Request for Authorization for the Appointment of a Hearings Officer to Conduct Hearings Relevant to Requests for a Contested Case Hearing.

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Please contact Mr. Sam Lemmo at (808) 587-0377, should you have any questions on this matter.

Sincerely,

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Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

Attachments

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

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STATE PARKS

File No. HA-3568

FEB 17 2011

Fred D. Stone, Ph.D.

Dear Mr. Stone

Subject: Conservation District Use Application (HA-3568) for the Thirty Meter Telescope by the University of Hawaii at Hilo, at Mauna Kea Science Reserve, Ka'ohē Mauka, Hamakua District, Island of Hawai'i, TMK: (3) 4-4-015:009; Request for Decision-Making for a Contested Case Hearing; Request for Authorization for the Appointment of a Hearings Officer to Conduct Hearings Relevant to Requests for a Contested Case Hearing.

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Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

Attachments

January 5, 2011

Mr. Sam Lemmo, Administrator  
Office of Conservation and Coastal Lands  
Department of Land and Natural Resources  
1151 Punchbowl Street, Room 131  
Honolulu, Hawai'i 96813

**Subject: Conservation District Use Application (CDUA HA-3568):  
Thirty Meter Telescope Project  
Tax Map Keys: 3/4-4-015:009 (portion), Mauna Kea Science Reserve, Hawai'i Island**

Dear Mr. Lemmo:

We are pleased to submit responses to comments the Department received on the Conservation District Use Application (CDUA HA-3568) for the Thirty Meter Telescope (TMT) Project. Those comments were from the following organizations and individuals:

- State Department of Health-Clean Water Branch;
- Engineering Division of Department of Land and Natural Resources;
- Mauna Kea Anaina Hou, et al.;
- KAHEA – The Hawaiian-Environmental Alliance;
- Division of Fish and Wildlife of Department of Land and Natural Resources;
- E. Kalani Flores and B. Pualani Case;
- Cliff Souza;
- Fred Stone;
- Tom Peek; and
- Deborah Ward.

To simplify your examination, we have reproduced the text of the comments in *italics* before each response.

Please note that some of those comment letters contain inaccuracies or present misinformation as fact. In a few cases these are relevant to the application, and in these instances we have identified and attempted to correct the errors. In the many instances where those inaccuracies and/or misstatements are not relevant or material to the consideration of the CDUA, we have not attempted to correct the record.

**Alec Wong, P.E., Chief - State Department of Health, Clean Water Branch**

**Comment:**

*Please note that our review is based solely on the information provided in the subject document and its compliance with the Hawaii Administrative Rules (HAR), Chapters 11-54 and 11-55. You may be responsible for fulfilling additional requirements related to our program. We recommend that you also read our standard comments on our website at: <http://www.hawaii.gov/health/environmental/env-planning/landuse/CWB-standardcomment.pdf>.*

**Response:** Thank you for noting that your review is based solely on the requirements of HAR Chapters 11-54 and 11-55. The applicant and the University understand that the proposed TMT Project ("Project") is subject to other regulations as well, and it is the applicant's intention to comply with all federal, state, and county rules and regulations, including those cited. The Project will be applying for a NPDES general construction permit prior to performing any construction activities within the Conservation District, or elsewhere.

**Carty S. Chang, Chief Engineer – DLNR, Engineering Division**

**Comment:**

*The applicant should provide the water demands and calculations to the Engineering Division so it can be included in the State Water Projects Plan Update.*

**Response:** As indicated on page 3-120 of the Final EIS for the Project, the TMT Corporation estimates that the proposed TMT Observatory and Hilo Headquarters will consume approximately 480 gallons per day and 1,600 gallons per day, respectively. It will provide updated estimates of the Project's water demand to the DLNR Engineering Division, as requested, upon the Project obtaining a CDUP and completing any design modifications related to CDUP conditions that might affect water demand by the Project.

**Mauna Kea Anaina Hou, et al.**

**I. The TMT will, in fact, desecrate Mauna Kea**

**Comment 1.1:**

*We object and take exception to the recent public assertion made by the TMT staff and Board members claiming the TMT project will not desecrate Mauna Kea. The TMT staff do not have the expertise to make such claims. Uneducated claims prior to a comprehensive review are foregone conclusions that courts have repeatedly rejected.*

*Furthermore, Mauna Kea's cultural and religious significance is well documented in oral and written historical archives, as well as in legislative and court records. Since "time immemorial," Mauna Kea has been and continues to be held in reverence by the Hawaiian people as a Wahi Pana and Wahi Kapu. Mauna Kea is revered in the same way that other religions revere churches, temples, synagogues, and mosques.*

*The upper regions of Mauna Kea reside in Wao Akua, the realm of the Akua-Creator. It is the burial ground of the most sacred of our ancestors. It is considered the Temple of the Supreme Being and is acknowledged as such in many oral and written histories throughout Polynesia. It is home of Na Akua (the Divine Deities), Na'Aumakua (the Divine Ancestors), and the meeting place of Papa (Earth Mother) and Wakea (Sky Father) who are considered to be the progenitors of the Hawaiian People. It is where the Sky and Earth separated to form the Great-Expanse-of-Space and the Heavenly Realms. Lake Waiiau is considered (among other things) to be the doorway into the Po (i.e., the mystical realm of the ancestors). Mauna Kea in every respect represents the zenith of the Native Hawaiian people's ancestral ties to the process of creation itself.*

*The ceremonies and practices on Mauna Kea (practiced nowhere else) formed the basis of the navigational knowledge that allowed Hawaiians to navigate over ten million square miles of the Pacific Ocean millennia before modern science and before Captain Cook ever set eyes on Hawaii Nei. Hawaiian navigation is both a cultural and scientific contribution, not only to Hawai'i but also to the world and the global knowledge base.*

**Response:** Beliefs, and the feelings that accompany them, are highly personal and subjective in nature. The EIS and CDUA for the Project disclose that the summit region of Mauna Kea is a spiritual and sacred place for Native Hawaiians, relying on qualified sources for this opinion. They also make it clear that for those who hold the opinion that any development or disturbance of Mauna Kea by someone other than a Native Hawaiian is significant and unmitigable, the Project's added impact on cultural resources will be viewed as significant. Mauna Kea Anaina Hou, et al. clearly fall into this group. By consulting with the holders of a broad variety of opinions about the Project and incorporating their feedback into its management of its leased land on Mauna Kea, UH believes the ongoing activities it has proposed will be beneficial to the mountain.

With specific reference to the TMT Project, the TMT Corporation has proposed on-site mitigation measures meant to reduce the effects of the TMT observatory construction. Examples of these include locating the observatory off the summit ridge (which is considered the most sacred area on Mauna Kea) and away from known historic properties and designing its Access Way so as to require a minimum of ground disturbance and alteration. It has also committed to additional measures (e.g., restoring the access road on Pu'u Poli'ahu). Extensive programs of archaeological and cultural monitoring, governed by plans to be approved by the State Historic Preservation Division, the Kahu Ku Mauna, and other appropriate entities, will also be in place to prevent damage during construction activity.

**Comment 1.2:**

*Because of the unique elevation and conditions at the summit of Mauna Kea, there are a number of traditional and customary cultural and religious practices conducted on Mauna Kea that are conducted nowhere else on earth. Mauna Kea is also home to some of the most unique, rare and fragile plant and animal species in the world. These include the U'au (dark rumped petrel), Palila bird, Wēkiu bug, and Silversword. Many of the species found on Mauna Kea are considered threatened and/or endangered. They are also found only on Mauna Kea and nowhere else on earth.*

**Response:** The FEIS and CDUA acknowledge the traditional and customary cultural and religious practices, as well as the special biological resources found on Mauna Kea. See, for example, Sections 3.1, 3.4, 3.5 of the FEIS and Section 2.2 of the Natural Resources Management Plan. The FEIS and the TMT Management Plan also describe the many measures that the TMT Corporation and the University are taking to protect these resources (see, for example, Sections 3.4.3 and 3.15.1 of the FEIS and Sections 4.2 and 4.3 of the TMT Management Plan). Finally, plans for the TMT Project include measures designed to avoid, minimize, and mitigate potential effects.

**Comment 1.3:**

*The summit lands are designated conservation lands not only because of their unique cultural, historic, geological, and climatic features, but also because they are watershed lands. Mauna Kea is the principle aquifer for the island of Hawai'i. If these waters are contaminated, they can no longer be used for ceremonies, healing, and/or for drinking.*

**Response:** As a general point, the West Mauna Kea Aquifer that underlies the Project area is not the island's principal aquifer. In fact, the State Commission on Water Resource Management (CWRM) estimates that it accounts for only 1 percent of the total groundwater recharge that occurs on the island. Moreover, because of the very limited precipitation (rainfall and snowfall) that occurs in the summit, virtually none of the recharge to that West Mauna Kea Aquifer that does occur is in areas affected by the proposed Project. Instead, it takes place at lower elevations (especially in the 2,000' to 5,000' range) where rainfall is much higher (generally 100 inches per year or greater).

The physical changes to the ground that would be made as part of the proposed Project may actually increase recharge of the aquifer. This is because the drainage structures that would collect runoff from impermeable areas of the observatory and Access Way would concentrate the very small amount of rainfall and snow melt that does occur (estimated at less than 15 inches per year) into porous perimeter areas, potentially increasing the proportion that percolates to the water table rather than returning to the atmosphere through evaporation.

Similarly, there is no reason to believe that the proposed Project would contaminate groundwater recharge at the summit or otherwise reduce its suitability for ceremonial, healing, or drinking water use. The plans for the TMT Project include a zero-discharge wastewater system. All sanitary and washwaters will be collected in tanks, trucked off the mountain, treated and disposed of in approved facilities. To minimize the potential for an accidental spill while wastes are in transit down the mountain to the proper disposal site, no tank or containers being transported will be filled to the top. To further ensure the safe transport and disposal of hazardous waste, the Project will utilize only EPA-permitted and licensed contractors to transport hazardous wastes.

The TMT Observatory has been designed with features to prevent chemical spills that could potentially impact the environment. These features include using double walled tanks and piping with leak detection equipment where fuel and mirror washing wastewater is stored. Other pollution prevention measures include instituting a Waste Minimization Plan (WMP), implementing a Materials Storage/Waste Management Plan and component Spill Prevention and Response Plan (SPRP), mandatory training for all personnel handling hazardous materials and waste, and regular inspections of storage areas by a Safety and Health Officer.

**Comment 1.4:**

*Mauna Kea's highly protected status as a National Landmark, a National Historic District, and a State Conservation District are because of these unique, rare and fragile features. These natural resources are part of the public trust recognized in Hawai'i's Admission Act, the Hawai'i State Constitution, and in the judicially recognized public trust duties and responsibilities of the State. By comparison, the development of astronomy facilities, however valuable they may be in their own right, are not afforded this level of reverence and protection by our society. Unlike the summit district and the practices related to it, construction of astronomy facilities is not mentioned in any state statute or the constitution. It is not a protected public trust activity.*

**Response:** As stated in the EIS and CDUA, the Project, an astronomical observatory, is an identified use within the resource subzone (HAR 13-5-24) of a Conservation District (HRS 205-2), and consistent with the objectives of the resource subzone.

**II. The Intermediate Court of Appeals is reviewing the Mauna Kea case**

**Comment 2:**

*Again, the Mauna Kea case challenging the adequacy and legality of the University's CMP is pending in the Intermediate Court Appeals. We provide the following JUDICIAL NOTICE. The UH CMP may be overturned so the TMT project should not be moving forward and the BLNR should not be processing a telescope project CDUA for Mauna Kea until the court has rendered a verdict in the case, as this ignores the judicial process, violates due process and prejudices the parties.*

**Response:** The CMP was approved by the BLNR on April 9, 2009, with conditions. The four sub-plans required by CMP approval conditions have become available as follows: the Natural Resources Management Plan (NRMP) was available in September 2009, the Cultural Resources Management Plan (CRMP) was available in October 2009, and the Decommissioning Plan (DP) and Public Access Plan (PAP) were made available in January 2010. All four sub-plans were approved by the Board of Land and Natural Resources (BLNR) on March 25, 2010. Certain individuals and organizations requested a contested case proceeding for the CMP approval. The BLNR denied the request since a contested case hearing was not required by law and those requesting it did not establish either a property interest in the CMP or that the CMP would affect property in which they possessed an interest. The Circuit Court of the Third Circuit confirmed this decision on January 27, 2010.

**III. BLNR has not fulfilled the court order issued by Judge Hara**

**Comment 3:**

*Judge Hara's decision and order found the following:*

- (1) Pursuant to 183C of Hawai'i Revised Statutes, the purpose of the State's Conservation Districts is conservation;*
- (2) The resource that needs to be conserved is the entire summit area of Mauna Kea and not just the development area;*
- (3) The UH 2000 Master Plan is NOT, (A), an approved plan pursuant to BLNR rules and regulations and (B), is Not a comprehensive plan as contemplated by the rules and regulations.*
- (4) BLNR erred in issuing a permit to the NASA Outrigger Telescope Project, allowing piecemeal development proposals without having completed a Comprehensive Management Plan for the entire summit of Mauna Kea.*

*Unless and until Judge Hara's ruling is overturned, it is a matter of law that must be followed. Judge Hara ordered the BLNR to prepare and approve a Comprehensive Management Plan and the UH CMP is being challenged in the ICA, and may be overturned. The TMT should not be moving forward in contravention of the law. We incorporate by reference the state case Mauna Kea et al., v. BLNR, Civil No. 04-1-397, into the record.*

**Response:** See response to Comment 2 above. UH believes that the CMP is a comprehensive management plan for the UH-managed area that satisfies Judge Hara's Decision and Order. As evidenced by its approval of the CMP, the Board of Land and Natural Resources concurs. The ICA case referenced in the comment is a challenge of the Board's decision to deny the request for a contested case

hearing on the CMP. The fact that the Board's decision to deny the contested case request is being challenged does not stay the Board's decision to approve the CMP.

**IV. BLNR must comply with Hawai'i Supreme Court orders and instructions**

**Comment 4:**

*BLNR has a non-transferable fiduciary duty to protect Native Hawaiian rights and resources. The Supreme Court of Hawai'i has provided all state agencies with instructions to fulfill their duty. Expressly barring delegation of their duties to a sub-entity like the UH or a third party like Ku'iwalu. The TMT should not be moving in contravention of the State Supreme Court orders and instructions.*

*We incorporate by reference the Hawai'i Supreme Court case *Kapa'akai O Ka Aina v. Land Use Commission*, 94 Hawai'i 1, 7 P. 3rd 1068 (2000), to be fully integrated into the record.<sup>1</sup> (see also relevant section in the following footnotes).*

**Response:** The processing of the CDUA is not in contravention of State Supreme Court orders and instructions. Putting aside that the statement misconstrues the Ka Pa'akai decision, the BLNR did not delegate its responsibilities to another party. The University of Hawai'i consulted the DLNR during preparation of the CMP. The BLNR then reviewed the CMP, listened to testimony concerning the CMP, and ultimately approved the CMP with conditions. One of those conditions is that implementation of the CMP remains subject to BLNR oversight.

**V. The TMT will have significant, adverse and substantial impact on the cultural and natural resources of Mauna Kea**

**Comment 5:**

*In 2003, a federal lawsuit involving UC-Caltech and NASA compelled NASA to complete the first EIS ever conducted on Mauna Kea since 1968; and found "the cumulative impact the past, present and reasonably foreseeable astronomy developments have resulted in significant, adverse and substantial impacts to the cultural and natural resources of Mauna Kea."*

*We incorporated by reference the entire NASA Federal Environmental Impact Statement (EIS) and accompanying court records *OHA v. Sean O'Keefe*, Civil. No. 02-00227 SOM/BMK filed July 15, 2003 to be integrated into any and all TMT environmental review documents.*

*Furthermore, BLNR may not issue permits to projects that have adverse and significant impact to the natural and cultural resources. BLNR rules and regulations prohibit the approval of development projects in Conservation Districts that have "adverse and significant" impacts to the cultural and natural resources.*

*BLNR rules under HAR §13-5-30(c)(4) clearly state:*

*The proposed land use will not cause substantial adverse impacts to existing natural resources within the surrounding area, community or region etc.*

*The TMT should not be moving forward if the State could never legally grant a permit to build in the conservation district.*

*We incorporate by reference the relevant section of BLNR rules and regulations, including HAR §13-5-30, to be integrated into any and all TMT environmental review documents.<sup>2</sup> (See relevant sections in following footnotes).*

**Response:** The federal lawsuit in 2003 did not instigate or directly require an EIS be completed for the Outrigger Telescopes Project. The Court remanded the EA and instructed NASA to reassess the cumulative impacts. Later that same year, NASA announced its voluntary decision to go beyond the Court's direction and began preparing an EIS. In addition, the *Outriggers EIS* was not the first EIS ever prepared for activities conducted on Mauna Kea. A number of State of Hawai'i Chapter 343 EIS documents had been prepared previously, including an EIS for the *1983 Science Reserve Complex Development Plan* and an *EIS for the 2000 Master Plan*. The *Outrigger EIS* was the second NEPA EIS prepared for an astronomy project on Mauna Kea (the CSO EIS dated August 1982 was the first).

The TMT EIS and CDUA indicate that the existing cumulative impact to certain resources is already adverse and significant and the Thirty Meter Telescope Project and other foreseeable actions would not significantly increase or reduce the existing level of cumulative impact. Resources that have been significantly and adversely impacted by past actions will continue to be significantly and adversely impacted should the Project proceed. Similarly, resources that have been impacted to a degree that is currently characterized as less than significant would continue to be impacted to a degree that is less than significant should the Project proceed. In both cases, the Project and other foreseeable actions would incrementally add to the cumulative impact on the various resources, but would not tip any characterized level of cumulative impact from significant to less than significant, or vice versa.

Uses with potential environmental impacts may be authorized in the Conservation District provided those impacts are disclosed in the EIS and are avoided, minimized, and mitigated to the extent practicable. As the Draft and Final EIS discuss in Section 3.16, past and current actions have resulted in substantial, significant, and adverse impacts to certain resources and those impacts would continue to be substantial, significant, and adverse if the Project proceeds. However, as outlined in Final EIS Sections 3.2 through 3.15, the TMT Project individually will not result in any significant and adverse impacts. Moreover, other activities that the University has committed to implement under the CMP are designed to reduce and/or mitigate the effects of activities that were initiated in the past.

## **VI. The University and International observatories are in material breach of the General Lease**

### **Comment 6.1:**

*First, fair market rent has NOT been collected for the private, commercial use of public trust lands on Mauna Kea. The entire summit of Mauna Kea is section 5(f) public trust lands which is held "in trust" by the state for the Native Hawaiians and the general public. Hawaii Admissions Act, section 5(f) and Haw. Rev. Stats §§171-17 and -18 require the state to collect fair market value lease rent and to deposit the funds from the use of section 5(f) lands in the public lands trust fund.*

*While public lands are often set aside to public agencies for their own use at no cost, any subsequent transfer of an interest to third parties outside the Hawai'i government is subject to the fiduciary obligation to obtain fair market rent. Current lease agreements between UH, DLNR, and the foreign governments and corporations that operate telescopes on the summit seek only one dollar (\$1.00) per year in rent. This is unlawful and constitutes a breach of the*

*general lease. We incorporate by reference Haw. Rev. Statutes 171-17 and -18 and related public trust documents cited into the record.*

**Response:** While this comment does not pertain to the CDUA, we believe it is important to correct the record as it reflects a misunderstanding of the applicable law. State law (HRS §171-95) authorizes the BLNR to lease state land to government agencies at such rent and on such other terms and conditions as the BLNR may determine. It is common for BLNR to negotiate leases with nominal or no rent to governmental entities, including UH. The subleases for Mauna Kea observatories are also approved by BLNR as required by the lease, and the University anticipates that lease payments by the TMT Corporation will allow it to further enhance its management of the mountain's resources.

**Comment 6.2:**

*Secondly, the legal limits on the number and size of the observatories have already been exceeded. In the 1980's BLNR prepared and approved the 1983-85 management plan which limited the number of telescope allowed in Mauna Kea's Conservation District to thirteen (13), that is eleven (11) major and two (2) minor telescope facilities. There is no new plan that extends the telescope limits beyond the 13 established that has been adopted by BLNR.*

*The 1983-85 BLNR plan limited not just the number of facilities but the size of each facility. No telescope could exceed 125 feet in height and diameter. The telescope limits were established based on the best available science relating to the protection of the natural and cultural resources. The BLNR has categorically allowed UH to violate the telescope limits with the construction of the Gemini North Telescope, Very Large Array (VLBA) and the Smithsonian Telescope Array (consisting of over 24 telescope pads and support buildings spread over a half mile area). The TMT will also violate these limits. The TMT should not be moving forward if it will exceed legal limits on the telescopes allowed on Mauna Kea. We incorporate by reference the 1983-85 Mauna Kea Science Reserve Complex Development Plan documents into the record.*

**Response:** None of the plans that Mauna Kea Anaina Hou, et al. referenced remains in effect. Instead, they have been superseded by the 2000 Master Plan and the CMP and its sub-plans. Regardless of this fact, the following is provided to help understand and clarify the misconception concerning a limit on telescopes in the UH Management Area. Neither the number nor size of existing observatories on Mauna Kea exceeds "legal limits". In fact, there has never been a "legal" or BLNR-approved limit on the number of telescopes on Mauna Kea.

For a period of time, there was a UH plan limit but this no longer exists. In 1983, UH approved the *Mauna Kea Science Reserve Complex Development Plan (SRCDP)*. The SRCDP contained a UH-adopted limit of thirteen telescopes on Mauna Kea through the year 2000. UH adhered to that limit. The BLNR was aware of this aspect of the UH plan but did not adopt or approve it. The only portion of the SRCDP that was approved by BLNR was Chapter 7, the Management Plan, approved in 1985 as a UH/DLNR joint plan as part of CDUP HA-1573. The Management Plan did not address astronomy development or set any limit on such development.

In the year 2000, UH replaced the SRCDP with the *Mauna Kea Science Reserve Master Plan*, as the master plan for the UH Management Areas. The 2000 Master Plan does not contain a numerical limit on the number of telescopes. Moreover, as was the case for the SRCDP, the 2000 Master Plan has remained solely a UH plan and has not been adopted by BLNR. The UH/DLNR Management Plan approved in 1985 and revised in 1995 has now been superseded by the *Comprehensive Management Plan (CMP)*,

approved by both UH and BLNR. Although the 2000 Master Plan restricts development to the 525-acre Astronomy Precinct, as a matter of UH policy, neither the 2000 Master Plan nor the CMP contain a limit on the number of observatories. The 2000 Master Plan and the Decommissioning Plan (a CMP sub-plan) do contain additional constraints on astronomy development and numerous conditions and guidelines for such development.

## **VII. Complying with State and Federal Law**

### **Comment 7:**

*The TMT has not conducted federal level environmental or historic preservation reviews, as required by law. At the TMT Public EA/EIS Scoping meetings held in Keaukaha, on Hawaii Island, TMT representatives expressly stated that the TMT would only be conducting a state level EA/EIS pursuant to HRS Chapter 343. The reasons offered for this were that the TMT project had no public funds associated with the project. The TMT claims are not true. The TMT project has in fact received substantial federal funds from the National Science Foundation; constituting a major federal undertaking pursuant to National Environmental Policy Act (NEPA) and the National Historic Preservation Act. Please see NSF website. The TMT therefore must complete a federal EIS and Section 106 for the TMT project.*

*Please see <http://www.biasiandvideonews.com/maunakea/20081020dawson.htm>, for TMT representative comments cited above.*

*The University of Hawai'i (UH) has also recently received substantial federal funds for the astronomy under the University Affiliated Research Center (UARC), constituting a major federal undertaking. The University therefore is acting in a federal capacity and must comply with all federal law, including NEPA and NHPA.*

*The National Science Foundation has given the TMT Corporation substantial federal fund constituting a federal undertaking.*

*State law under HRS §343-5(2) (f) clearly states;*

*Whenever an action is subject to both the National Environmental Policy Act of 1969(Public Law 91-190) and the requirements of this chapter...agencies shall cooperate in fulfilling these requirements so that one document shall comply with all applicable laws.*

**Response:** The obligation to evaluate and disclose environmental impacts under the National Environmental Policy Act (NEPA) is triggered when a federal agency proposes a major federal action that would significantly affect the environment. Neither the University of Hawaii at Hilo (UH Hilo) nor the TMT Observatory Corporation is a federal agency. Further, neither UH Hilo nor the TMT Observatory Corporation has received funding or pledges of financial support from any Federal agency for activities that will or may significantly affect the environment, and neither entity has applied for any federally-issued permit or license. Therefore, the United States' obligations under NEPA have not been triggered.

Similarly, Section 106 of the National Historic Preservation Act (NHPA) imposes obligations on federal agencies, not state or local agencies or private entities. The actions of the National Science Foundation (NSF) to date are not an "undertaking" as defined by Section 106 and, thus, Section 106 consultation requirements have not been triggered by NSF's actions.

### **VIII. The Life Of The TMT Extends 23 Years Beyond the General Lease**

#### **Comment 8:**

*The TMT application and EIS claims the TMT will begin seven years of construction in 2011 and will have an expected design life of 50 years at which time it will be decommissioned. The General Lease issued by the State to the University in 1968 ends in the year 2033. If the life of the TMT is 50 years, it means the TMT is requesting the use of Mauna Kea 23 years beyond the term of the lease. The General Lease requires that in the year 2033 all facilities must be decommissioned and the land must be returned to its original state.*

*We object to any telescope to continue its existence beyond the 2033 lease termination.*

*We incorporate by reference the Mauna Kea Science Reserve General Lease No.S-4191 into the record.*

**Response:** As it stands the presence (or absence) of observatories is a matter that will be decided by the State in accordance with applicable laws and regulations.

The FEIS and CDUA contain all of the information the State needs to act upon the pending CDUA for the TMT Project. For example, as stated in Section 2.7.4 of the EIS, TMT Corporation understands that decommissioning and site restoration requirements will be included in the sublease. Examples can be seen in Section 3.10.3 of the EIS, which states: "The current UH lease expires in 2033 and the TMT Observatory will be required to be decommissioned and restore the site at that time, unless a new lease is obtained from the BLNR." Additional information about the lease is provided in Section 3.10.3 of the EIS, which states: "It is very probable that TMT, along with the existing observatories, would request UH seek a lease extension beyond 2033."

It is not within the scope of this CDUA to speculate on the nature or outcome of those future lease negotiations, which would include a master lease negotiation between DLNR and UH and the subsequent sublease negotiation between UH and TMT. The Board of Land and Natural Resources must review and approve all new leases for State Land, including areas that will be needed for the proposed Project.

### **IX. The TMT is big but not the biggest...actually**

#### **Comment 9:**

*The TMT is big but it will not be the biggest telescope on earth, as the TMT claims. The world's biggest telescope is called the European Extremely Large Telescope (E-ELT) that is being built in Cerro Armazones, Chile. The E-ELT is substantially bigger than the TMT, coming in at a stunning 42 meters as compared to the TMT's mere 30 meters. That is a big difference in size and seeing capability. The E-ELT is scheduled to be collecting first light by the year 2018. The TMT is supposed to obtain first light in 2018 also, that means the TMT will out matched before it even opens.*

*Arguably, the TMT is not technically necessary since the E-ELT is already moving ahead. The TMT proponents argue the TMT is needed because it will provide northern sky coverage that the E-ELT cannot. What does it matter what hemisphere the test for telescope size is actually conducted? There is no rational reason to destroy the sacred and delicate landscape of Mauna*

*Kea for a redundant project, such as the TMT. The tests for size can be accomplished by the larger E-ELT.*

*Extinction is a real possibility for a number of species living on Mauna Kea that can be found nowhere else on earth. Extinction is an unacceptable risk in this day and age. Extinction is forever! It's hard to rationalize the astronomer's claim that the TMT will help discover the origins of life while they continue to argue for compromising the endangered life forms here on Mauna Kea ...here on planet earth.*

**Response:** First, neither the TMT Corporation nor the University have claimed that the TMT will be the biggest telescope on earth. The purposes of the Project are outlined in Section 2.2 of the EIS. The purposes of the Project are scientific in nature, not the construction of the biggest telescope in the world.

Second, your attempt to dismiss the importance of location is misguided. Section 4.1.1, page 4-3, of the Final EIS discusses how latitude factors into the location of an observatory and affects its usefulness. The section states:

*Objects in the sky that can be seen at an observatory are dependent on the latitude, or the location of the observatory with respect to the earth's equator. This affects the science and research that can be conducted. Most important is the availability of specific astronomical observation targets, such as planets, stars, galaxies, and clusters, seen at different latitudes. For example, the nearest dwarf galaxies to the Milky Way Galaxy, the Large and Small Magellanic Clouds, are only observable efficiently from south of the equator. On the other hand, the nearest large spiral galaxy similar to the Milky Way Galaxy, Messier 31, is best observed from north of the equator. Other astrophysical objects, like the Galactic Center, can be observed from either hemisphere.*

The possibility that there may be other telescopes of similar, or even larger, size in existence during the life of the TMT will not prevent the TMT from achieving its purposes or objectives, which are discussed in Section 2.2 and 2.3 of the EIS. A telescope does not become redundant as soon as a larger one is built. The 3- and 4-meter class telescopes present on Mauna Kea today continue to conduct world-class science and enable new discoveries despite the existence of 8- and 10-meter class telescopes.

#### **KAHEA – The Hawaiian-Environmental Alliance**

##### ***I. TMT Contributes to the substantial, adverse and significant impact of telescopes.***

###### **Comment 1:**

*The TMT attempts to suggest that its contribution to this negative impact would be minimal and should therefore be ignored. But the reality is, the cumulative impact of past telescope construction on the summit cannot be circumvented. Any additional construction -- no matter how minor or mitigated -- will contribute to the on-going substantial, adverse, and significant negative consequences suffered in this unique and fragile environment. Such consequences are not allowed.*

**Response:** The EIS and CDUA indicate that the existing cumulative impact to certain resources is already adverse and significant but conclude that the Thirty Meter Telescope Project, when considered in conjunction with other foreseeable actions, would not significantly increase or reduce the existing level of cumulative impact. Resources that have been significantly and adversely impacted by past actions will

continue to be significantly and adversely impacted should the Project proceed. Similarly, resources that have been impacted to a degree that is currently characterized as less than significant would continue to be impacted to a degree that is less than significant should the Project proceed. In short, the Project in combination with other foreseeable actions implemented under the 2000 Master Plan and CMP would not tip any characterized level of cumulative impact from significant to less than significant, or vice versa.

As a matter of law, uses with potential environmental impacts may be authorized in the Conservation District provided those impacts are disclosed in the EIS and are avoided, minimized, and mitigated to the extent practicable. If this were not the case, no use or activity of any type would be permissible, which is not what the Conservation District Use Regulations state. As the Draft and Final EIS discuss in Section 3.16, past and current actions have resulted in substantial, significant, and adverse impacts to certain resources and those impacts would continue to be substantial, significant, and adverse if the Project proceeds. However, as outlined in Final EIS Sections 3.2 through 3.15, the TMT Project individually will not result in any significant and adverse impacts.

## **II. Substantial, adverse impacts are not permitted in the conservation district.**

### **Comment 2:**

*The regulations implementing Hawaii's conservation district protections are clear. To issue a permit for a land use in the conservation district, the applicant must demonstrate that:*

*"The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region."*

*This means that given the conclusions of the TMT EIS, CDUA, and Management Plan, the Department cannot legally grant the TMT a permit to build in the conservation district, no matter how well it mitigates its negative impacts.*

*In its application for a permit, the TMT ignores this requirement, along with four others, that must be satisfied before a conservation district use permit can be granted. These additional requirements include ensuring that:*

*- the land use is "compatible with the locality and surrounding areas [and] appropriate to the physical conditions and capabilities of the specific parcel," - "existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon;*

*- "subdivision of land will not be utilized to increase the intensity of land uses in the conservation district; and"*

*- the land use "will not be materially detrimental to the public health, safety and welfare."*

*Not surprisingly, instead of admitting that it is unable to satisfy these requirements, the TMT opted to simply ignore them in their application.*

*We have repeatedly highlighted that while the Department and Board are obligated by law to protect the natural and cultural resources of the conservation district, and the traditional, customary, and religious Native Hawaiian practices that are dependent upon them, there is no legal protection for or inherent right to build telescopes in the conservation district. It is a*

*privilege to do business on public land in the conservation district; a privilege reserved for those land uses that can demonstrate no substantial adverse harm to the public's resources. TMT cannot meet this burden and thus cannot be granted this construction permit.*

**Response:** KAHEA's assertion that the Department cannot legally grant the TMT a permit to build in the Conservation District, no matter how well it mitigates its negative impacts, is incorrect. The proposed use is compatible with the locality and surrounding areas and with other uses within the UH Management area on Mauna Kea and with the numerous specific plans and regulations that have been prepared for those lands (including the CMP). It is also appropriate to the physical conditions and capabilities of the specific parcel. No subdivision of land is planned, and the land use will not be materially detrimental to the public health, safety and welfare.

As stated in the EIS and CDUA, the Project, an astronomical observatory, is an identified use within the resource subzone (HAR 13-5-24) of a Conservation District (HRS 205-2), and consistent with the objectives of the resource subzone. Virtually any use within the Conservation District has the potential to alter the existing environment (i.e., to cause environmental impacts), and the purpose of the Conservation District regulations is to provide a means of authorizing such uses if they are compatible with the overall values that the regulations seek to preserve.

### **III. TMT is offensive**

#### **Comment 3:**

*The TMT's analysis of the consequences of building such a massive structure in such a pristine place are offensive. Despite the findings of every EIS evaluating telescopes on Mauna Kea, the TMT CDUA concludes that:*

*"while the introduced elements associated with existing observatories may have had an effect on the perceived quality of the observances conducted, or may have caused some practitioners to conduct their observances further away from the vicinity of the observatories, there is no evidence suggesting that the presence of the existing observatories has prevented or impacted those practices."*

*Astronomy facilities on the summit do prevent and impact cultural practice, ipso facto, that people are forced to hunt the summit for a quiet space with an uninterrupted viewplane in order to worship. The TMT's conclusion that construction of yet another massive telescope will not contribute to the undermining of traditional, customary and religious practice on the summit is like saying construction of a football stadium at the Vatican will not interfere with Catholic worship because there will probably be some pews left that can still see the stained glass windows. This is offensive. Who is the TMT to uproot our piko, disturb our burial grounds, alter the profile of our summit, and say it does not matter? This is not the kind of business that should be granted the privilege of doing business on Hawai'i's public trust conservation lands.*

**Response:** KAHEA's belief that construction of the TMT is offensive is acknowledged. However, in deciding upon the CDUA the Board must consider a wide range of factors, and both UH and the TMT Corporation believe that the effect of constructing and operating the TMT Project in conjunction with the management activities that the University has pledged to implement under the CMP will result in a net benefit to the Conservation District. Specific mitigation measures have been developed to prevent or reduce, to the extent possible, actions or results that may be perceived as offensive by some.

Specific on-site measures associated with the Project include the following:

- The TMT observatory structure is sited in a portion of the Northern Plateau that is more than 200 feet from all known historic properties and known or possible burials. As the EIS and CDUA disclose, there are 29 burials or possible burials within the 11,288-acre MKSR. None of those sites are within Area E, along the proposed Access Way, or in the Batch Plant Staging Area. Therefore, the Project will not impact any known or suspected burials in the MKSR.
- The visual effect of the observatory, including its visual impact from areas of cultural importance such as the summit of Kūkahau'ula, has been minimized through design steps such as reducing its size, finishing the support building and fixed structure exterior with a lava color, and finishing the dome with a reflective aluminum-like surface similar to that on the Subaru Observatory. The 13N site is also over a mile from and not visible from the summit of Kūkahau'ula, Pu'u Lili'noe, and Lake Waiau.
- To avoid the disposal of wastewater in the summit region (the discharge of wastewater within the summit region has been identified as an impact on cultural resources), the Project will implement a zero discharge wastewater system at the TMT Observatory and will remove all wastewater generated from the mountain for treatment elsewhere in an approved treatment facility.
- Minimization measures are proposed for the Access Way that reduce the potential for both physical and visual impacts to the historic properties known to be in the vicinity. The Access Way that TMT has proposed is limited to a single-lane road (from a previous design of two-lanes) and follows an existing single-lane, 4-wheel drive road that was previously disturbed for access and testing of the 13N site in the 1960s. The portion of the Access Way within the boundaries of Kūkahau'ula will be paved in order to reduce dust. Additionally, the pavement and guardrail will be a reddish color that blends with the surrounding area.
- Utilities and electrical and communication lines, will be placed almost entirely beneath the paved roadway instead of on a different or parallel alignment that would cause more ground disturbance.
- Funding for the restoration of the closed access road on Pu'u Poliahu to its natural state (to the extent possible) will be provided.
- Existing HELCO pull-boxes and other utility boxes that are visually distracting or intrusive at the summit and other key locations visible from other portions of Kūkahau'ula will be camouflaged by treating them so as to blend into the natural environment to the extent feasible. The method of treatment will be determined through consultation with Kahu Kū Mauna and may include one of the following options: painting the concrete and metal lid to match the surrounding natural colors; or affixing stones and cinders from near the utility box to the concrete using epoxy.

Additional mitigation measures that will be implemented as part of the undertaking include the following:

- Detailed archaeological and cultural monitoring programs, each governed by an approved plan, will be implemented and enforced for the duration of the Project.
- All Project participants, including construction personnel, will undergo cultural sensitivity training. The training is designed to impart an understanding of Mauna Kea's cultural landscape, including cultural practices, historic properties, and their vulnerability to damage. The training will also provide guidance and information on respectful and sensitive behavior and activities while in the summit region.
- Construction best management practices (BMPs) will also be implemented to avoid potential disturbance of land beyond the planned limits of disturbance.
- During the construction phase, TMT representatives will meet with OMKM and Kahu Kū Mauna to identify cultural events that would be sensitive to construction noise in the vicinity of the TMT

Observatory site. On up to four days per year, to be identified by Kahu Kū Mauna, TMT will endeavor to reduce construction noise and activities in the vicinity of cultural practices.

- During the operational phase, TMT Observatory operations will be reduced to minimize daytime activities on up to four days in observance of Native Hawaiian cultural practices. TMT will work with OMKM and Kahu Kū Mauna to determine days on which TMT activities will be reduced. While the observatory will be operated during these periods, this measure will involve having only a skeleton crew at the observatory, minimizing vehicle traffic, reducing noise and prohibiting visitors to the TMT Observatory.
- TMT will provide initial and then annual or as-needed tours of the TMT Observatory, with the Native Hawaiian community invited at least two weeks prior to the tour. Insofar as practicable, these tours will be scheduled on the days (up to four each year) on which cultural events are scheduled.

#### **IV. *Flawed process and conflicts of interest plague summit management***

##### **Comment 4a:**

###### ***A. Management Plan and Subplans Not Finalized***

*As the TMT acknowledges, a comprehensive management plan is a necessary prerequisite for the approval of any activity in the Mauna Kea conservation district. Both the CMP and subplans drafted by the University are currently undergoing legal review. The CMP is at the Intermediate Court of Appeals. The subplans, mandated as a condition to the adoption of the CMP, have been formally contested. The Department has yet to take action on our request for a contested case hearing on the subplans. It is wholly improper for the University to advance this permit application given these pending legal questions.*

**Response:** Neither the CMP nor the subplans are "currently undergoing legal review". The CMP was approved by the BLNR on April 9, 2009, with conditions. The four sub-plans required by CMP approval conditions have become available as follows: the Natural Resources Management Plan (NRMP) was available in September 2009, the Cultural Resources Management Plan (CRMP) was available in October 2009, and the Decommissioning Plan (DP) and Public Access Plan (PAP) were made available in January 2010. All four sub plans were approved by the Board of Land and Natural Resources (BLNR) on March 25, 2010. Certain individuals and organizations requested a contested case proceeding for the CMP approval. The BLNR denied the request since a contested case hearing was not required by law and those requesting it did not establish a property interest in the CMP or that the CMP would affect property in which they possessed an interest. This decision was confirmed by the Circuit Court of the Third Circuit on January 27, 2010.

##### **Comment 4b:**

###### ***B. TMT Agrees Management Plan is Not Comprehensive***

*One of our many challenges to the University's most recent version of a management plan is that it is not comprehensive. It appears that the TMT agrees. In its site-specific management plan, the TMT states "it should be noted that the CMP and subplans only apply to UH's managed lands on Mauna Kea and do not apply to all of Mauna Kea." If the University's "Comprehensive Management Plan" does not address the management needs of the conservation district encompassing the entire summit of Mauna Kea, then it is not*

*comprehensive. If this plan is not comprehensive, then new applications for land uses cannot be authorized under it.*

**Response:** The assertion that TMT agrees that the management plans are not comprehensive is completely incorrect. In fact, this comment suggests that the commenter misunderstands the scope of the University's CMP, which does include "...the entire summit of Mauna Kea". The management documents that the University and TMT Corporation have submitted in support of the CDUA fulfill the requirements for a 'Management Plan' for the entire parcel being considered for the siting of the TMT Observatory under the existing rules and regulations of the State Land Use Conservation District, and also satisfy the requirements for a 'Comprehensive Management Plan' under the proposed amendments to the above rules and regulations.

**Comment 4c:**

*C. The University Serves Conflicting Interests*

*On one side of the table, the University asserts itself as the objective land manager and enforcer of management activities on the summit of Mauna Kea. It hires 100% of the staff at the Office of Mauna Kea Management. It appoints 100% of the members on the Mauna Kea Management Board and the cultural advisory group, Kahu Ku Mauna. It holds meetings and makes decisions about the management of resources on the summit.*

*Then, at the same time, on the other side of the table, the University sits with the corporations and foreign governments seeking permission to exploit the conservation lands on the summit. The University facilitates and benefits from this ongoing exploitation of summit resources. Just as one example of the University's perverse incentive to encourage construction on the summit, the TMT repeatedly highlights throughout the CDUA and management plan that in order to construct the telescope the TMT corporation will make sublease payments directly to the University.*

**Response:** The proposed Project is in accordance with the approved CMP and sub-plans; it does not seek to advance University interests at the expense of other important values. The lease that the BLNR has issued to the University holds the University responsible for managing its lands in accordance with all applicable plans and regulations. Following through on its responsibilities, the Board of Regents established policy for managing its leased lands on Mauna Kea in the 2000 Mauna Kea Science Reserve Master Plan (Master Plan). The Master Plan calls for the establishment of the Office of Mauna Kea Management (OMKM) under the University of Hawaii at Hilo. This Office is dedicated solely to management of the University's managed lands on Mauna Kea. The Master Plan also calls for the establishment of a community-based management board (Mauna Kea Management Board [MKMB]) and a Native Hawaiian advisory council (Kahu Ku Mauna) to serve in advisory capacities to the UH Hilo Chancellor and OMKM on Mauna Kea management and cultural matters. All members of the MKMB and Kahu Kū Mauna are residents of the Island of Hawai'i and serve in a voluntary capacity.

It is not feasible or reasonable to have another entity which does not have the legal or fiscal responsibility and authority to carry out the University's lease's conditions to be put in charge of managing the University's lands. Pursuant to Act 132, all fees including sublease payments are to be deposited into the Mauna Kea lands special fund and are to be used for managing Mauna Kea lands.

***V. Significant questions remain unanswered***

**Comment 5:**

*It is our understanding the University of Hawaii is submitting this application "on behalf of the Thirty Meter Telescope Observatory Corporation." Why? TMT is the actual applicant. The TMT will hold the sublease, the TMT will be responsible for compliance with all expectations and conditions on the CDUP, the sublease, etc., so it should be TMT, not UH, applying for this privilege to build.*

**Response:** UH was the proposing agency in the Chapter 343 EIS document and the one requesting the CDUP because it holds the lease on the State conservation land being considered for the TMT Observatory. UH is also the permittee and applicant of current Conservation District Use Permits (CDUPs) for the Mauna Kea Science Reserve (MKSR). The TMT Observatory Corporation has applied to UH through the Master Plan project review process, which includes public input and review, to develop the TMT within the UH leased area. UH approved the TMT Project through that process and, therefore, has applied for the CDUP.

**Comment 6:**

*How does the University rationalize serving the conflicting roles of "applicant" and "manager" in this situation? What safeguards are in place to prevent events similar to the previous violations of CDUP conditions and state law by observatories?*

**Response:** The University, through OMKM, takes its role as manager of its managed lands on Mauna Kea seriously. This role is subject to oversight by the Board of Regents and ultimately the BLNR.

Amongst the managerial tasks assigned to OMKM is ensuring compliance with the BLNR-approved Comprehensive Management Plan and sub-plans. Should the BLNR grant a permit for the TMT Project, and if there are conditions attached, OMKM will be responsible for ensuring compliance with those conditions as well.

Currently, Mauna Kea rangers conduct twice-yearly inspections of all observatories within the Mauna Kea Science Reserve. All non-compliance issues, as well as concerns not included in their CDUP (such as trash around their facilities) are reported directly to the Directors of the facilities for compliance follow up. Conservation and Resource Enforcement personnel are also responsible for monitoring activities on the mountain and work to ensure that conditions of approval and regulatory requirements are complied with.

**Comment 7:**

*What is the carrying capacity of the summit? It is possible that the TMT is one too many telescopes? The 1983/85 Management Plan for Mauna Kea limited construction on the summit to only 2 minor and 11 major telescopes, less than 125 feet tall, based on the best available science. This limit was carried forward to the 1995 management plan because it made no mention of a limit or carrying capacity. Since the University's new "CMP" fails to mention any kind of limit on construction in this conservation district, it seems reasonable to rely on this limit again, until there is some scientific basis for changing.*

**Response:** This topic is previously discussed in the response to MKAH's comment 6.2. As explained there, the 1985/1995 Management Plan that KAHEA referenced is no longer in effect. Instead, it has

been superseded by the CMP and its subplans in accordance with court rulings. KAHEA's suggestion that the University reference the earlier documents is inappropriate and would subject the University to legal challenges.

As outlined in Section 8.1 of the Final EIS for the 2000 Master Plan, the carrying capacity of Mauna Kea for observatory development is large but difficult to define precisely. The existing 2000 Master Plan and CMP provide for observatory development to remain well under the carrying capacity of Mauna Kea; therefore, the carrying capacity is not a relevant point of discussion for the TMT Observatory CDUA and does not address the Project's potential impacts on the environment.

**Comment 8:**

*How many telescopes are currently on the summit? On page 1-5 of the application, TMT indicated there are 13 telescopes. On page 1-3, TMT said there are 12 telescopes. On page 1-4, they said 11. just FYI, we counted the structures indicated on figure 3-7 in the TMT management plan, entitled "Site Plan showing Existing and Proposes(sic) Uses," at least 32 telescope-related structures are indicated there.*

**Response:** As stated on page 1-5 of the CDUA, there are eleven observatories and one radio telescope on Mauna Kea. This count is based on the following definition:

*"An observatory includes the telescope(s), the dome(s) that contain the telescope(s), and the instrumentation and support facilities for the telescopes that fall under a common ownership."*

Various other documents have failed to differentiate between an observatory and a telescope or defined an observatory in a variety of different ways without consistency, and this accounts for most of the differences that you noted. We apologize for not having been clearer in the CDUA and accompanying documents, all references should have been to 11 observatories and one radio telescope.

**Comment 9:**

*How big is the TMT? On the first page of the CDUA, TMT said 8.7 acres. On page 1-11, TMT said 5 acres. On the architectural site plan (they forgot to put a page number on it), it says "4.5 acres (3.9 acres before "re-contouring")."*

**Response:** The 8.7-acres listed on the first page of the CDUA included land that would be used for the TMT telescope and the TMT Access Way. The 5-acre figure on page 1-11 was an approximate value (the text reads "roughly five acres") for the TMT site including the driveway. The 4.5-acre figure listed on the architectural site plan does not include land required for the driveway. In addition to these, the contractor for the TMT Project will re-use and then restore approximately 4 acres of land that has been used as a temporary construction staging area during work on previous projects within the Science Reserve.

In summary, the University is requesting permission for use of the following land areas within the Conservation District;

Long-term use	8.6 acres
Temporary use	4 acres
<b>Total use</b>	<b>12.6 acres</b>

**Comment 10:**

*Kahu Ku Mauna was allowed to identify four days for cultural practice where the TMT would "minimize daytime activities." Why did Kahu Ku Mauna only get four days? What about the many other important religious observances, such as Makahiki, funeral services, and other events where peace and quiet are prerequisite?*

**Response:** SHPD suggested four days as an appropriate amount to set aside, and the University has used that figure in its planning. The EIS and CDUA do not suggest that the TMT Project or other groups or individuals will constrain cultural practices in the summit region. The Project will comply with applicable rules, regulations, and requirements - including the CMP - concerning cultural resources and practices. The CMP states, on page 7-7, that "Native Hawaiian traditional and customary practices shall not be restricted, except where safety, resource management, cultural appropriateness, and legal compliance considerations may require reasonable restrictions." This means that Native Hawaiians currently have access to the summit and surrounding areas to exercise their customary practices all year-round, that they will continue to have such access; and that TMT will minimize its operations activity for up to four days. These four days have not yet been identified by Kahu Kū Mauna.

**Comment 11:**

*What is the operational noise level, in dBA, of the TMT? Considerable verbiage is given in the CDUA and EIS to how quiet the TMT will be, but an actual measurement of likely decibels created by this project is never given.*

**Response:** Contrary to this comment, anticipated noise from operation of the TMT Observatory is quantified in Section 3.13.3 of the FEIS. In particular, Figure 3-36 depicts the area where noise from the loudest equipment at the facility (the HVAC system exhaust) would likely reach 55 dBA.

**Comment 12:**

*The TMT mentions taking all the trash produced by the construction and use of this massive telescope to "an approved landfill or other waste disposal facility" on Hawaii Island. Where are these facilities located? The small county dumps on Hawaii are only allowed to accept: "Household refuse, residential do-it-yourself construction and demolition not exceeding 4 feet in length, soft compactable bulky items (mattresses, stuffed chairs, and couches) and residential self-hauled green waste."*

**Response:** The County of Hawai'i operates two landfills. One is the relatively small South Hilo Sanitary Landfill; the other is the large West Hawai'i Sanitary Landfill in Pu'uana'hulu. The County requires that commercial disposal be covered by a Landfill Disposal Permit, with applications available at the Department of Environmental Management office. Metal waste will be taken to appropriate recycling facilities in Hilo and Kona. We anticipate that most of the relatively limited volume of solid waste that will be generated will be transported to, and disposed of at, the West Hawai'i Sanitary Landfill.

**Comment 13:**

*Where would the TMT dispose of the toxic chemical wash wastewater produced weekly by mirror maintenance? What is in that water?*

**Response:** As stated in Section 2.8.4 of the CDUA, the waste collected from the mirror washing process will be collected, removed, and transported off site for treatment and disposal. Mirror washing wastewater may possibly contain low concentrations of certain low-toxicity dissolved metallic compounds; it is not expected to be characterized as hazardous waste, but will be treated as such until test results confirm that it is not. Regardless of the outcome of the testing, the mirror washing wastewater will be handled, transported, and disposed of using procedures similar to those used for hazardous materials as detailed in Section 2.9.3 of the CDUA and Section 3.8 of the Final EIS.

At this time, it is not known exactly where the wastewater will be taken as the options available when the first wastewater is generated could be different than the currently available options. However, similar wastewater is generated at observatories today and is treated at the Hilo Wastewater Treatment Plant.

**Comment 14:**

*How does the TMT manage to "not cause substantial adverse impact to existing natural resources within the surrounding area, community or region?"*

**Response:** As stated in Section 2.4 of the CDUA, the existing natural resources and potential impacts of the TMT Project are detailed in the attached Final Environmental Impact Statement (FEIS) which was accepted by the Governor of the State of Hawai'i on May 19, 2010. The potential Project impacts were evaluated within the framework of the Project's compliance with all applicable rules, regulations and requirements; the evaluation assumed implementation of the mitigation measures that had been proposed and implementation of relevant CMP management actions.

The proposed Project will operate in accordance with the TMT Management Plan, CMP and its sub plans as well as other relevant rules, regulations and requirements. As documented in the Final EIS for the TMT Project, the mitigation measures and management actions proposed in the TMT Management Plan found in Exhibit B of this CDUA and summarized in Table 2.1 of the application together with broader management and mitigation actions implemented in accordance with the CMP and sub plans will prevent substantial adverse impact.

**Comment 15:**

*How could the TMT ever "be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels?"*

**Response:** As stated in Section 2.5 of the CDUA, the proposed use is situated within the Astronomy Precinct and within the Mauna Kea Science Reserve on Hawai'i Island. Specifically, the Project will be located in Area E (site 13N) in the Northern Plateau, which is outside of the Kūkahau'ula summit area. As the Astronomy Precinct is the site of many existing astronomical observatories, the TMT Project will be compatible with existing land uses. As detailed in this CDUA, locating the TMT Project in Area E will result in less than significant impact on historic properties, cultural practices and Native Hawaiian rights, as well as viewplanes, species habitat and existing facilities. In addition to this, locating the TMT Project in Area E avoids any substantial impact to any cinder cone on Mauna Kea, including Kūkahau'ula. The TMT Project's observatory dome will also be coated with a reflective aluminum-like finish which reflects the colors of the sky and ground, helping the dome to blend in with the surrounding setting. This is intended to mitigate the Project's visual impacts. Based on all of this, the proposed TMT Project is compatible with the locality and surrounding areas and to the physical conditions and capabilities of the area.

**Comment 16:**

*How can the TMT be built and "the existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon?"*

**Response:** As stated in Section 2.6 of the CDUA and other supporting documentation, the proposed TMT Project will be sited in Area E and will have a minimal physical impact on the summit area cinder cones. The TMT Project will not be visible from the summit of Mauna Kea or from Lake Waiau but will be visible from within the Northern Plateau as well as the northern ridge of Kūkahau'ula, where other astronomical facilities are located and are visible. Views from the northern ridge of Kūkahau'ula are presently dominated by other astronomical facilities including Subaru, Keck and the Canada-France-Hawaii observatory. It should be noted that, due to the TMT Project's design, the TMT will be at a lower elevation and various changes have been made to the dome and support structure to minimize the Project's visibility. It will not block the view of Maui from the northern ridge. The Access Way for the Project incorporates design components that are intended to mitigate visual impacts, including the coloring of pavement (where used) to better blend with the surroundings. The Project, however, will still add a visual element to the Northern Plateau. From outside of the Mauna Kea summit area, the TMT Project will be visible to approximately 15 percent of the Hawai'i island population. This includes views from the town of Waimea and along portions of Highway 250. The Project will not substantially block or obstruct existing views of Mauna Kea from around the Island of Hawai'i. In the context of the existing observatories and the fact that the TMT Project will not obstruct existing views, its visual impact is less than significant. A visual impact analysis may be found in Section 3.5 of the Final EIS. Although the proposed TMT Project will add a new element to the Northern Plateau, no substantial change to the natural topography will occur.

**Comment 17:**

*If the University holds a lease for "one observatory" on Mauna Kea, then how can it be that more than 13 subleases have been issued for telescopes on the summit when the law requires that "subdivision of land will not be utilized to increase the intensity of land uses in the conservation district?"*

**Response:** The lease that the University holds does not limit astronomy use of the summit area to "one observatory". Moreover, as stated in Section 2.7 of the CDUA, the proposed TMT Project does not involve the subdivision of land.

**Comment 18:**

*How can the TMT ensure it "will not be materially detrimental to the public health, safety and welfare" when it will be hauling chemical wastewater and hazardous waste down to the county dump?*

**Response:** As stated in Section 2.8 of the CDUA, the proposed Project has been designed/will be operated in a manner that will preserve public health, safety, and welfare as established in the numerous design guidelines and government regulations to which it is subject. Additional information is provided in the FEIS. Both the CDUA and the FEIS make it clear that construction and operation of the TMT will not lead to "...hauling chemical wastewater and hazardous waste down to the County dump." On the contrary, such wastes will be transported to waste treatment and disposal facilities designed to handle them safely.

**Comment 19:**

*What is the decommissioning plan for the TMT? This should be an element of the CDUP and left for future negotiation.*

**Response:** Decommissioning of the TMT Observatory is discussed in Section 2.7.4 the EIS and Section 4.5.2 of the TMT Management Plan. They provide that the TMT Observatory and the extent of the Access Way exclusively used to access the TMT Observatory will be dismantled and the site restored at the end of the TMT Observatory's life in compliance with the Decommissioning Plan for the Mauna Kea Observatories, a Sub-Plan of the Mauna Kea Comprehensive Management Plan. Deconstruction and site restoration efforts will be managed by TMT with oversight by OMKM. A process similar to the MKMB-approved Project Review Process will be established to review, guide, and recommend the disposition of a site, including site restoration. Reviewers will include OMKM, Kahu Ku Mauna, and the MKMB Environment Committee, with MKMB approval required.

The steps will include preparation of a Site Decommissioning Plan (SDP), a Notice of Intent (NOI), Environmental Due Diligence Review, a Site Deconstruction and Removal Plan (SDRP), and a Site Restoration Plan (SRP).

**Comment 20:**

*Did the TMT commit to begin decommissioning by 2028, per the requirements of the University's management plan?*

**Response:** As stated in Section 2.7.4 of the EIS, the TMT Corporation understands that decommissioning and site restoration requirements will be included in the sublease for use of the land on which facilities would be located. As the current UH lease expires in 2033, decommissioning and site restoration must start prior to that time, unless a new lease is obtained from the BLNR.

**Comment 21:**

*Did the TMT commit to fully restore the northern plateau by 2033, when the University's lease for one observatory" expires? Hope so.*

**Response:** See previous response.

**Comment 22:**

*Does the TMT hope to stay pass [sic] the expiration of the University's lease in 2033?*

**Response:** As discussed in Section 3.10.3 of the EIS, the University believes it is likely that TMT, along with the existing observatories, will request that UH ask the Board of Land and Natural Resources to extend the lease beyond 2033. It is not within the scope of this CDUA to speculate on the nature or outcome of those future lease negotiations, which would likely include both a master lease negotiation between DLNR and UH and the subsequent sublease negotiation between UH and TMT.

**Paul J. Conry, Administrator – DOFAW**

**Comment 1:**

*The formal land Survey of the power line corridor easement must be completed following standard easement procedures of the DLNR-Land Division and to map and description standards of the DAGS. Draft and final maps should be provided to the DLNR-Division of Forestry and Wildlife for comments and record keeping.*

**Response:** The University will ensure that the survey will comply with DLNR – Land Division and Department of Accounting and General Services’ standards and in accordance with the conditions contained in the grant of easement (including the Mauna Kea Ice Age Natural Area Reserve) that was approved by the BLNR in August 1985. The University will provide copies to DOFAW as requested.

**Comment 2:**

*Surveys of Wēkiu bugs and other invertebrates should be conducted along the easement corridor prior to any construction disturbance, particularly at Pu‘u Hau Kea and at the Pu‘u west of Parking Area 1 along the Mauna Kea Access Road where the corridor cuts through the Mauna Kea Ice Age NAR at roughly 11,000 feet elevation.*

**Response:** The Office of Mauna Kea Management (OMKM) will consult with the U.S. Fish and Wildlife Service and experts who are advising OMKM, including representatives from the DLNR, on surveys of the wēkiu bug and invertebrates regarding surveys along the utility corridor, including Pu‘u Hau Kea and the pu‘u west of the Parking Area 1.

**Comment 3:**

*Prior to construction, HELCO and/or contractors working on the power lines will need to be held to the same project construction mitigation measures outlined in Section 4-2 of the CDUA.*

**Response:** The University will ensure applicable mitigation measures described in Section 4.2 of the CDUA will be implemented.

**Comment 4:**

*Prior to construction, the Mauna Kea Ice Age NAR Archeological Inventory Survey Report should be reviewed to assess if any sites are within close proximity of the power line corridor, construction monitors, including one with archeological expertise, should be provided.*

**Response:** The archaeological consultants surveyed this area for the Natural Area Reserves System. Based on their survey, they have concluded that there are no inventoried historic properties within 100 feet of the HELCO easement in the Mauna Kea Ice Age NAR.

**Comment 5:**

*Improvement to the power lines should use construction practices that will result in the lowest potential disturbance to the corridor. For, example, using cranes staged on the Mauna Kea Access Road to access certain pull boxes without the need to drive “off-road”.*

**Response:** The University will review proposed construction practices, including the possible use of a crane to ensure minimal disturbance to the corridor.

**Comment 6:**

*The power line corridor should be restored back to its current condition after the line improvements have been completed to reduce the appearance of the corridor scar on the landscape.*

**Response:** The construction contractor will be required to minimize the visual changes to land within the utility line right-of-way during utility upgrades. Any disturbance outside of the easement area will be restored to the extent possible. However, continuing maintenance access will be needed in order for the easement to function as a utility corridor and some evidence of the facilities, such as manholes or utility boxes, will remain.

**Comment 7:**

*If access and line improvement prove to be too difficult or impossible on the existing 20 foot wide corridor in the Mauna Kea Ice Age Natural Area Reserve or along the 25 foot corridor in the Mauna Kea Forest Reserve, consider re-routing those portions of the line to the Mauna Kea Access Road.*

**Response:** It is unlikely that the line improvements will prove too difficult along the existing corridor, but should this be the case, the University will consider re-routing as suggested if the additional (i.e., new) disturbance that re-routing would entail is acceptable to the Board of Land and Natural Resources.

**Comment 8:**

*Table 2.1. Summary of Potential Effects and Mitigation Measures*

*p. 2-16: "Arthropod monitoring will be performed prior to, during, and or two years following construction in the area of the access way on the alpine cinder cone habitat."*

*The introduction of non-native species, specifically predators such as ants, is the greatest threat to the persistence of populations of native arthropods on Mauna Kea. It is imperative that general arthropod monitoring be performed on all alpine desert habitat affected by TMT construction (access ways, staging areas, and construction sites). The monitoring should be directed at finding incipient populations of alien invasive species across the environment which is being modified. Monitoring directed at Wekiu bugs specifically should also be conducted in all habitat types where Wekiu bugs have been known to occur, per standard survey protocols approved by the Office of Mauna Kea Management Wekiu bug Scientific Committee.*

**Response:** The Invasive Species Prevention and Control Program calls for the type of monitoring for and eradication of invasive species that this comment suggests. The Office of Mauna Kea Management conducts annual surveys of the wēkiu bug and arthropods at Hale Pōhaku, summit batch plant and summit ridges, locations determined by scientists advising OMKM on wēkiu bug and arthropod matters.

**Comment 9:**

*2.4 Substantial Adverse Impact*

*p. 2-6: "In addition, the portion of the Access Way which follows and goes over an existing single-lane, 4-wheel drive road on the flank of the Puu Hauoki cinder cone will result in a minor disturbance of the Kūkaha'ula Historic Property."*

*It should be noted here that the access way will alter, and destroy, known Type 3 Wekiu bug habitat (this is noted in the table, but not in the text).*

**Response:** The comment is correct. As noted in Table 2.1, it will alter and destroy a small area (0.2 acre) of known Type 3 Wēkiu bug habitat. The text provided only general statements, with specifics being left to the extensive tabulation.

**Comment 10:**

*Table 4-1: Management Actions Detailed in the CMP and Subplans*

*p. 4-3: NR-15 and NR-16 are currently labeled 'not applicable' to TMT project. The designations should be changed to 'indirect'. Per the definition of 'indirect': "TMT would need to be aware of and comply with the outcome of the implementation of management actions by the University in the future. Based on the outcome of the management actions, requirements affecting the TMT Project directly or indirectly may occur. As appropriate, TMT may need to adjust operations to comply with those outcomes at some time in the future. TMT may also wish to adopt measures in advance of some management actions to help achieve or support the desired outcome of the management action."*

**Response:** The University understands the point you are making about the future, however, NR-15 and NR-16 call for inventories and monitoring to be performed by UH. They do not call for modifications to the management plans. Hence, we believe that "not applicable" is the better term.

As outlined in Chapter 5 of the TMT Management Plan, the TMT Management Plan will be updated every 5 years, as necessary, based on (a) updates to the Mauna Kea CMP; (b) based on strengths or weaknesses revealed through the monitoring and reporting program; (c) relevant new or modified laws, regulations, and policies; and (d) modifications to the operation of the TMT Observatory.

**Comment 11:**

*4.1.2 Natural Resource Management*

*p. 4-13: "In addition to this, TMT would monitor arthropod activity in the vicinity of the Access Way portion impacting sensitive, Type 3 Wekiu bug alpine cinder cone habitat. Monitoring will be performed prior to, during, and for at least two years after construction in this area."*

*Again, it is imperative that general arthropod monitoring be performed not just on access ways and in known Wekiu bug habitats, but on all alpine desert habitat affected by TMT construction (access ways, staging areas, and construction sites). It is possible that the introduction of an alien invasive species may occur in any area impacted by the construction process, and such an invasion would ultimately impact the entire alpine ecosystem.*

**Response:** The University shares your concern for careful monitoring of arthropods in the summit area of Mauna Kea. The existing Invasive Species Prevention and Control Program calls for the type of monitoring for and eradication of invasive species that this comment suggests. The Office of Mauna Kea Management conducts annual surveys of the wēkiu bug and arthropods at Hale Pōhaku, summit batch plant, and summit ridges, locations determined by scientists advising OMKM on wēkiu bug and arthropod matters.

**E. Kalani Flores & B. Pualani Case**

**Comment:**

*A Conservation District Use Permit (HA-3568) for the proposed Thirty Meter Telescope should not be granted at this time for the following reasons:*

*The TMT Final Environmental Impact Statement (FEIS) is an incomplete document as it has failed to consider and/or disclose the adverse impacts upon the ancestral akua (gods, goddesses, deities) and spirits connected to the summit of Mauna a Wākea. Thus, without this disclosure and consultation, this FEIS is incomplete and deficient. As such, this permit should not be approved at this time.*

**Response:** We must respectfully disagree with your statement that the TMT Final Environmental Impact Statement (FEIS) is an incomplete document. The Governor of the State of Hawai'i accepted the document on May 19, 2010, and the time for legal challenge has passed.

While we cannot evaluate the statements attributed here to the akua, we would note that the FEIS and CDUA provide extensive consideration of the spiritual, religious, and cultural importance of Mauna Kea to a number of groups who have carried out traditional practices in the summit region. For example, an extensive Cultural Impact Assessment (CIA) can be found at Appendix D of the FEIS. In addition, the Executive Summary and Section 3 of Volume I of the FEIS contain detailed presentations on these topics as well as interviews with modern-day practitioners and other persons who have identified Mauna Kea as a locus for activities important to their cultural beliefs and practices.

**Cliff Souza**

**Comment:**

*I would like to voice my opposition to the construction of the 30 meter telescope.*

*One reason being they are not providing access for the Fire Dept.'s fire engine. Also they are not providing a water supply for fire fighting. These are required by the Fire Dept for structures.*

*Over 10 years ago 4 men died and numerous workers were injured in a fire at the Subaru telescope. The fire could not be extinguished by the fire extinguishers they had on hand. No fire engines reached the fire scene because access was not provided. Prior to that fire there was a fire at the Keck obsv. in which 18 fire extinguishers were unable to extinguish that fire. No fire access or water were available for these 2 fires.*

*In prior years I have inquired at the Building & Fire Dept. about the lack of fire engine access and water supply for fire fighting and received only inadequate responses.*

*I feel the Building and Fire Dept.'s are negligent in allowing these structures without fire engine access and water supply for fire fighting. I feel the DLNR should not allow construction until fire protection is provided.*

**Response:** The University shares your concern for fire protection on Mauna Kea. Fire trucks and personnel have unrestricted access to the Mauna Kea summit region. The roads, including the new TMT Access Way, allow for fire truck access to all developed areas in the Mauna Kea summit region. The

response time for the County Fire Department is likely well over an hour due to the distance and road conditions. Therefore, UH and the observatories also have an agreement with the U.S. Army that allows its fire-fighting crew at the Pōhakuoa Training Area (PTA) to assist with fire emergencies. Unfortunately, even the crew from PTA would likely take 45 minutes to reach the summit region. That is why additional fire-detection/fire-suppression measures are discussed in the Project EIS and incorporated into the TMT Observatory's design.

As indicated in the FEIS, contractors working within the Conservation District will be responsible for producing and implementing a Fire Prevention and Response Plan that addresses fire risks during their activities. These plans will be prepared with the knowledge of long response times for County Fire Department or PTA fire fighting personnel to the Mauna Kea summit area. One aspect of the Fire Prevention and Response Plan will require contractors to notify the local fire department of activities and coordinate with them on a regular basis. Construction personnel will also be required to have cell phones or other communication equipment that provides coverage at the work site that can be used to contact the fire department immediately in the event of a fire. However, the risk of fire during construction will likely largely be managed through best management practices and procedures to avoid fire and extinguish fires with fire extinguishers. This is due to the lack of water storage during the construction period.

Once complete, the TMT Observatory will have two 25,000-gallon underground storage tanks for water storage as part of the fire suppression system. The tanks will be kept near full and their primary purpose will be fire suppression; water from the tanks can be used for manual fire fighting purposes and supply for the automatic fire sprinkler system within the Observatory. In addition, the computer room will be equipped with a gaseous fire suppression system. The Observatory will have an automatic fire detection system so that action can be taken immediately after a fire is initiated rather than after it has become well-established.

**Fred Stone, Ph.D.**

**Comment:**

*Throughout the TMT CDUA, the UH CMP is referred to as the "Mauna Kea CMP". This implies that the CMP includes areas outside the UH leases, such as the Natural Area Reserves and land adjacent to the Hale Pohaku site. It should be made clear to the UH applicants that they DO NOT have a right to use land in the Ice Age Natural Area Reserve. For example, utility trenches should not be built in the NAR. Management of the Ice Age NAR is the responsibility of the DLNR. The UH CMP is not a Comprehensive Management Plan for Mauna Kea, in that it includes ONLY the land leased to the UH.*

**Response:** At no point does the CDUA state or imply that the University can make commitments for land (e.g., the Natural Area Reserves) outside its control. Facilities related to astronomical use at the summit have been constructed within the *Ice Age Natural Area Reserve* only after obtaining the appropriate approvals.

**Tom Peek**

**Comment:**

*To reverse this "lax attitude", the Auditor urged the department to write its own comprehensive management plan for the mountaintop:*

*"The Department is required to prepare a comprehensive management plan for areas in the reserves system and is empowered to enforce the laws, rules and regulations applying to the reserves." (p.32)*

**Response:** This statement by the State Auditor, found under the heading "*A comprehensive management plan for the Mauna Kea Ice Age Natural Area Reserve has yet to be developed*", clearly refers to the lack of a comprehensive management plan for the Ice Age Natural Areas Reserve (NAR). It does not refer to the Mauna Kea Science Reserve (MKSR), which is not part of the NAR.

**Deborah Ward**

**Comment:**

*OMKM had convened a wēkiu bug (Nysius wekiucola) committee, which included Fred Stone and Frank Howarth, two of the scientists who recorded multiple thousands of the organisms unique to the Mauna Kea summit, in 1982, while conducting studies that led to an EIS, and subsequently to the recommendations in the Mauna Kea Science Reserve Complex management Plan... . After a precipitous decline in observed wekiu [bug] numbers, the wēkiu bug was considered for listing as an Endangered Species, and had been Category 1 (highest eligibility for listing). Negotiations between OMKM and USFWS have led to a downlisting of the wekiu bug status, but recovery efforts are ill-defined."*

**Response:** The University shares Ms. Ward's continuing interest in the status of wēkiu bug populations on Mauna Kea and is working hard to ensure that its activities do not cause undue harm to the species. Before discussing this in more detail, however, UH would like to clarify a few points mentioned in her comment.

The U.S. Fish and Wildlife Service determined that the wēkiu bug is a candidate for federal protection. Candidates are not categorized as either threatened or endangered. They are only categorized by priority. The wēkiu bug priority is an 8; low in priority. The determination of endangered or threatened is made when the species is listed.

"Category 1" is a term that has not been used by the USFWS for over 10 years; when it was used it did not mean "highest eligibility for listing." What it meant is that there was not enough information to consider the species for listing. Thus, there has not been a downlisting of the wēkiu bug status because it was never listed. The USFWS has set the priority for listing at 8 due to the relatively low magnitude of the threats and the fact that threats did not occur throughout the species range. All candidate priority numbers are based on this type of threat assessment, not on negotiations.

Dr. Stone and Dr. Howarth participated in the 1982 survey of the wēkiu bug. During that survey multiple thousands of wēkiu bugs were not only recorded, but captured. In a subsequent survey there appeared to be many fewer wēkiu bugs. However, it is not certain whether this resulted from differences in natural environmental factors such as the amount of snow fall, the development of observatories, the trapping and removal of significantly large number of wēkiu bugs during the surveys, or a combination of these and other factors.

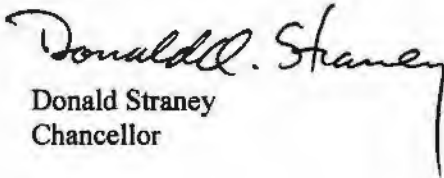
As for the TMT Project, it will not have a negative impact on the wēkiu bug, and TMT has agreed to work with OMKM on the development and implementation of a habitat restoration study. Depending on the results of this study, it could be used to support the design and implementation of a Habitat Restoration Plan in the future.

Page 29  
Mr. Sam Lemmo  
January 5, 2011

This letter addresses only those comments that raised questions about the CDUA. OCCL forwarded a number of other letters that provided no comments, are not applicable to the TMT CDUA, or were in support of the Project. UH extends its appreciation to all commenters for their review, input, and/or support.

If you have any questions in the future concerning environmental issues related to this Project, please call Helen Rogers of the UH Hilo Chancellor's Office at (808) 947-7444.

Sincerely,

  
Donald Straney  
Chancellor

Public Hearing on Conservation District Use Application (CDUA) HA-3568 for the University of Hawaii's proposed Thirty Meter Telescope at the Mauna Kea Science Reserve Center, Kāohe Mauka, Hamakua, Hawaii,

Speaker Sign Up Sheet

No.	Name	Affiliation (optional)	Contact Info (optional)
1	Ross Wilson		
2	Robert Chee		
3	Mike Kalekimi		
4	Skyler Rossetti		
5	DAVID A Byrne	Round City	
6	FRANK Commandador		
7	SAMUEL KALELEIKI	Kingdom of Hawaii	
8	Mike Gleason	Hawaii Island Chamber of Commerce	
9	Mikes Yoshioka	for State Rep. Jerry Chang	
10	Deborah Wael		
11	CORY HARDEN		
12	FRED STONE		
13	Inge Heyer		
14	TOM PEEK		
15	Catherine Robbins		
16	JON MIYATA		
17	Wallace Ishibashi		
18	Sally Miller		
19	Calen Kelly		
20	XINI BURKE		
21	ART TANIGUCHI		
22	Charles M. King	Playing Politics	
23	JULIA TABAHIMA	" "	
24	Bob Lindsay	OHA	
25	Jim Albertini	Maui'Atina	
26	Nelson Ho	Sierra Club	
27	Kealo ha Pisciotto	Mauna Kea Anainathu	

✓ 28	Jim Kennedy	Self	
✓ 29	Nimir TAMIMI	Self	
30	<del>Greg Adams</del>		
31	Dwight J. Visser	Hawaiian Kingd-	
✓ 32	<del>Hannah Ferguson</del>		
✓ 33	Ronald Fujiyoshi	self	
✓ 34	David DeLeon Jr	Self	
✓ 35	Mahina Patterson	SELF	
✓ 36	Jessie Cleghorn	self	
✓ 37	KALEO LUAM	SELF	
✓ 38	Dean Au	Hawaii Carpenters Union	
✓ 39	Nancy Cabral	Self	
✓ 40	Roxane Stewart	Self	
✓ 41	Randy Kurohara	JCCIH, SELF	
✓ 42	<del>Keaton P. Smith</del>	<del>mamakemama</del>	
✓ 43	Ikeo Vonboyl	mamakemama	
44	<del>John Smith</del>		
✓ 45	Kinei Sofu Niha	NRIP	
✓ 46	Kukana Kahi	CLARENCE CHING	
✓ 47	KIM LEE	SELF	
✓ 48	Kristine Howard	SELF	
✓ 49	Paul Neves	Royal Order of Kamehameha	
50	CHAD KALEPA		
51	JACK KALIK		
52	Denise Keenan		
53	GYLE KIMURA		
54	CRISP		
55	LU KELLY		
56	PETE LINDSEY		
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Public Hearing on Conservation District Use Application (CDUA) HA-3568 for the University of Hawaii's proposed Thirty Meter Telescope at the Mauna Kea Science Reserve Center, Kāohe Mauka, Hamakua, Hawaii,

Speaker Sign Up Sheet

No.	Name	Affiliation (optional)	Contact Info (optional)
1	E. Kalani Flores	Community	[REDACTED]
2	B. Pualani Case	"	
3	Kapulei Flores	"	
4	Hawane Rios	"	
5	C Mike Kido	PRP	[REDACTED]
6	Bob Trubell	Private	
7	BOB MEIERDIERCKS	HAWAII CARP UNION	
8	Jacqui Hower		
9	Greg Chun		
10	Viutan Landrum		
11	Richard HA		
12	Gene Leslie		[REDACTED]
13	Bob Lindry	OHA	
14	Curtis M. Noh	Calif. Wildlife	
15	DENNIS RATTINGER		
16	<del>XXXXXXXXXXXXXXXXXXXX</del>		
17	Marni Hecker		
18	Kihei Nihou		
19	SARA PECK	Community	
20	Kukunakahi		
21	DONNA WORDEN	KOHALA HEALTH	
22	JOSEPHINE KELIPIO		
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29	Cindy Armer		
30	DAVID B GOMES		
31	ANNIE E FIELD-GOMES	KAMUELA	
32	Russ Robinson	Kailua Kona	
33	Karolyn Picciotto	Hilo	
34	Deborah Ward	Kurikoum	
35	CIANO RAYBAYAN	Kona	
36	Alfredo GORMEZANO	Kailua	
37	Russ McPhee		
38	CLIFFORD LUTHERMORE		
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Testimonies

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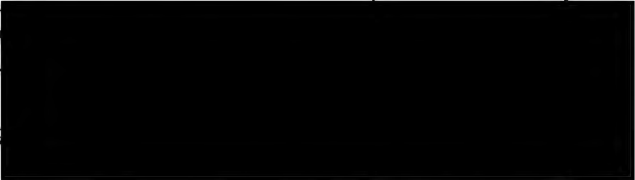
NAME

Organization

Contact info

X Donna Worden Kohala Health Library

X Josephine Keliipio



LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA N. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI  
ACTING FIRST DEPUTY

LENORE N. OHYE  
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AQUATIC RESOURCES  
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CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAROOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

REF:OCCL:MC  
CDUA: HA-3568

Acceptance Date: October 7, 2010  
180 Day Expiration Date: April 5, 2011

Dr. Donald Straney, Chancellor  
University of Hawai'i at Hilo  
200 West Kāwili Street  
Hilo, HI 96720

OCT 14 2010

Dear Dr. Straney,

**NOTICE OF ACCEPTANCE & ENVIRONMENTAL DETERMINATION**  
Conservation District Use Application HA-3568  
(Board Permit)

This acknowledges the receipt and acceptance for the processing of Conservation District Use Application (CDUA) HA-3568 for the proposed Thirty Meter Telescope (TMT) Project at the Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua District, Hawai'i, TMK (3) 4-4-015:009. The project area is in the Resource Subzone of the State Land Use Conservation District.

The University of Hawai'i (UH) is seeking a Conservation District Use Permit (CDUP) on behalf of the non-profit TMT Observatory Corporation<sup>1</sup>. The Corporation was founded in 2003 by the California Institute of Technology, the University of California, and the Association of Canadian Universities for Research in Astronomy. The National Astronomical Observatory of Japan (NAOJ) joined as a Collaborating Institution in 2008; the National Astronomical Observatories of the Chinese Academy of Sciences joined as an Observer in 2009; and India joined as an Observer in June 2010. Observer status is the first step in becoming a full partner in TMT.

The observatory is proposed for approximately 5 acres of land at the 13-North (13N) site in an area below the summit of Mauna Kea known as "Area E." The site is in the Mauna Kea Science Reserve. The Reserve encompasses most land within a 2.5 mile radius of the site of the UH 2.2-m telescope – in effect, all land above 3700 meters in elevation with the exception of a pie-shaped wedge set aside as the Mauna Kea Ice Age Natural Reserve.

The State-owned Science Reserve is leased by the University of Hawai'i, with day-to-day management delegated by the Board of Regents to the Office of Mauna Kea Management (OMKM).

There are currently thirteen working telescopes near the summit. Nine are for optical and infrared astronomy, three for submillimeter wavelength astronomy, and one for radio astronomy. These include the world's second largest optical telescope (the twin telescopes of the W. M. Keck Observatory), largest dedicated infrared telescope (UKIRT, the 3.8-meter United Kingdom Infrared Telescope), and largest submillimeter telescope (JCMT, the 15-meter James Clerk Maxwell Telescope).

<sup>1</sup> More information on the TMT Corporation can be found at [www.tmt.org](http://www.tmt.org)

Elements of the TMT proposal include:

- **The 30-Meter Telescope (TMT).**
  - The core of the project is a 30-meter in diameter aperture telescope composed of 492 individual mirror segments, secondary and tertiary mirrors directing the gathered light, and a network of interchangeable sensors and instruments that will collect and process the light.
  - The observatory will also integrate an 'adaptive optics' (AO) system composed of eight laser beams that will be beamed into the atmosphere to create an *asterism*, or group, of guide stars
- **The TMT Access Way.** The 3400-foot long Access Way will consist of an improved road and underground utilities connecting the Observatory with existing roads and utilities. For the most part the Access Way will follow an existing 4-wheel drive road and the wider roads that serve the SMA facility. Only 200 feet will not follow existing roads. The Access Way will be single lane where it crosses Pu`u Hau`oki, then two lanes for the remainder.
- **The Batch Plant Staging Area.** The Staging Area is a 4-acre site northwest of where the Mauna Kea Access Road forks near the summit. It will be partially restored, and used for storing bulk materials and a concrete Batch Plant. This is the same use the area was put to during prior construction activities on the mountain.
- **Hawaiian Electric and Light Company (HELCO) Upgrades.** The proposal calls for the repair and upgrades of electrical transformers and related equipment at the substation near Hale Pōhaku. The operation and maintenance of the existing utility lines was authorized under CDUP HA-1573. The substation is located approximately 2000 feet southwest of the main headquarters, and about 1000 feet from Mauna Kea Access Road. The new transformers will replace the existing ones on a 1:1 basis, and the fenced compound will not be expanded.

Due to the challenges encountered when undertaking high-altitude construction, the applicant is requesting that the period allowed for the start of construction if a CDUP is granted by two years, and that the total time allowed for construction be ten years.

The Mauna Kea Science Reserve Master Plan (2000) and the Mauna Kea Comprehensive Management Plan (2009) contain mitigative and management measures that address the overall impacts of the Science Reserve on the mountain's resources. This application also proposes the following project-level mitigation measures:

Cultural Beliefs and Practices; Historic Resources:

- TMT is proposed for the 13N Site, where it will not be visible from the culturally sensitive locations of the summit of Kūkahau`ula, Lake Waiau, or Pu`u Līlīnoe.
- The Access Way was designed to limit impact on cultural resources by limiting it to one lane in places, following the same alignment as the existing 4WD road on the flank of Pu`u Kau`oki, and coloring the pavement to blend with the surroundings.
- Employees will attend mandatory cultural and natural resources training.
- The facilities will be furnished with items to provide a sense of place.
- Daytime activities will be minimized on up to four days per year, as identified by Kahu Kū Mauna<sup>2</sup>.

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<sup>2</sup> Kahu Kū Mauna (Guardians of the Mountain) is a nine-member cultural advisory council named by the Mauna Kea Management Board (MKMB).

- Outreach staff will work with the `Imiloa Astronomy Center and OMKM to develop information exhibits for visitors regarding the natural, cultural and archaeological resources of Mauna Kea.

Biological Resources:

- The Access Way has been designed to limit its effect on wēkiu bug habitat.
- An invasive species control program will be implemented.
- A ride-sharing program will be implemented to reduce traffic, dust, and noise.
- Arthropod monitoring will be performed prior to, during, and for two years following construction in the area of the Access Way on the alpine cinder cone habitat.
- The applicant will work with OMKM to develop and implement a habitat restoration study.

Visual and Aesthetic Resources:

- The preferred site location is north of and below the summit.
- The dome has been designed to fit tightly around the telescope.
- The coating of the dome will be a reflective aluminum-like coating which will reflect the sky during the day, reducing visibility.

Other Resources:

- Wastewater will be collected and transported down the mountain for treatment.
- Employment opportunities will be filled locally to the greatest extent possible.
- TMT will dedicate funds to workforce development programs, including curriculum and program development.
- Employees traveling beyond Hale Pōhaku will take part in a mandatory ride-sharing program using project vehicles.
- Energy savings devices will include solar hot water systems, photovoltaic power systems, energy efficient light fixtures, and the use of Energy Star rated appliances.
- The project will place HVAC (Heating, Ventilating, and Air Conditioning) units indoors to reduce noise. Façade acoustical louvers and duct silencers will be used to further reduce noise.

TMT also proposes to implement the following programs and plans in order to mitigate potential impacts:

- A Cultural and Archaeological Monitoring Plan.
- An Invasive Species and Control Program.
- A Construction Best Management Practices (BMP) Plan.
- A Cultural and Natural Resources Training Plan for employees.
- A Materials Storage / Waste Management Plan, including a Spill Prevention and Response Plan.
- A Waste Minimization Plan, which will include the use of water-efficient fixtures, and incorporate audits of potable water use.
- A Workforce Development Program headed by at least one full-time position through the Community Outreach office.

If a CDUP is issued the building and operation of the TMT Observatory will require a sublease from UH, which leases the ceded lands from DLNR. The sublease would be subject to approval by the UH Board of Regents and the TMT Board, followed by approval by BLNR. The current UH lease expires in 2033, and the TMT Observatory will be required to either decommission and restore the site at that time or obtain a new lease from BLNR.

After reviewing the application, OCCL finds that:

1. The project is an identified land use pursuant to HAR §13-5-22, Identified Land Uses in the Resource Subzone, R-3 ASTRONOMY FACILITIES, (D-1) *Astronomy facilities under an approved management plan*. This land use requires a permit from the Board of Land and Natural Resources (BLNR). The Board has the final authority to grant, modify, or deny any permit application.

The BLNR approved the Mauna Kea Comprehensive Management Plan on April 9, 2009. The BLNR required the University to submit four sub-plans: a Natural Resources Management Plan, a Cultural Resources Management Plan, a Public Access Plan, and a Decommissioning Plan. The BLNR approved the four sub-plans on March 25, 2010.

2. Pursuant to HAR §13-5-40 HEARINGS (a) *Public hearings shall be held* (4) *On all applications determined by the chairperson that the scope of proposed use, or the public interest requires a public hearing on the application.*

OCCL will contact you shortly to coordinate the public hearing.

3. Pursuant to HAR §13-5-31 (4) *Permit applications*, the permit requires an environmental impact statement (EIS).

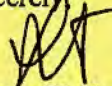
The Final EIS and associated ancillary documents were prepared under the supervision of the University of Hawai'i at Hilo, and were published in the May 8, 2010 edition of the *Environmental Notice*.

OCCL will submit a notice of this project for publication in the October 23, 2010 *Environmental Notice*.

The CDUA will be placed on the agenda of the Board of Land and Natural Resources for their consideration after all reviews and evaluations of the proposal have been made.

Should you have any questions, please contact Michael Cain at the OCCL at 587-0048.

Sincerely,



LAURA H. THIELEN, Chair  
Board of Land and Natural Resources

cc: DLNR – Land Division, Historic Preservation, DOFAW, Engineering, State Parks  
DBEDT – Energy, Resources, & Technology Division; Planning Office  
Department of Education  
Office of Hawaiian Affairs  
University of Hawai'i - Institute for Astronomy, Hawaiian Studies, Environmental Center  
The Office of Mauna Kea Management, 640 N. Aohoku Place, Room 203, Hilo, Hawaii 96720  
Kahu Kū Mauna, OMKM, 640 N. Aohoku Place, Room 203, Hilo, Hawaii 96720  
US Fish and Wildlife Service  
County of Hawai'i Planning Department  
Hawaii State Public Libraries – State Library, Hilo, Kailua-Kona, Thelma Parker (Kamuela)  
Bishop Museum  
US Senator Daniel Akaka  
US Rep. Mazie Hirono  
State Senators Kokubun, Takamine, Green

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
OFFICE OF CONSERVATION AND COASTAL LAND  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
  
PAUL J. CONRY  
ACTING FIRST DEPUTY  
  
LENORE N. OHYE  
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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

ref: OCCL.MC

CDUA HA-3568

OCT 14 2010

MEMORANDUM:

- To: DLNR
- \_\_\_ Historic Preservation Division
  - \_\_\_ Division of Forestry and Wildlife
  - \_\_\_ DOFAW – Natural Areas Reserves
  - \_\_\_ Land Division
  - \_\_\_ Engineering
  - \_\_\_ State Parks
- UNIVERSITY OF HAWAII
- \_\_\_ Institute for Astronomy
  - \_\_\_ Hawaiian Studies
  - \_\_\_ Environmental Center
  - \_\_\_ Office of Mauna Kea Management
  - \_\_\_ Kahu Kū Mauna
- OTHER STATE
- \_\_\_ DBEDT Energy Resources & Tech
  - \_\_\_ DBEDT Planning Office
  - \_\_\_ Department of Education
  - \_\_\_ Office of Hawaiian Affairs
  - \_\_\_ Department of Health
- \_\_\_ County of Hawaii Planning
  - \_\_\_ US Fish and Wildlife Service
  - \_\_\_ Bishop Museum
  - \_\_\_ Sierra Club Moku Loa Group

FROM: Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

SUBJECT: REQUEST FOR COMMENTS – CONSERVATION DISTRICT USE APPLICATION HA-3568  
Thirty Meter Telescope

LOCATIONS: Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua, Hawa'i, TMK (3) 4-4-015:009

Please find Conservation District Use Application (CDUA) HA-3568 for the University of Hawai'i at Hilo's proposed Thirty Meter Telescope (TMT) at Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua, Hawa'i, TMK (3) 4-4-015:009. We would appreciate any comments your agency or division has on the application.

We have additional hard copies available at our office for review. The CDUA is also available on our website at <http://hawaii.gov/dlnr/occl/manuals-reports>. The Final EIS and associated ancillary documents were prepared under the supervision of the University of Hawai'i at Hilo, and were published in the May 8, 2010 edition of the *Environmental Notice*. It is available in OEQC's online library at <http://oeqc.doh.hawaii.gov>.

Please contact Michael Cain at 587-0048, should you have any questions on this matter. If no response is received by the suspense date of November 23, 2010, we will assume there are no comments.

( ) Comments Attached

( ) No Comments

Signature

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
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ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

ref: OCCL.MC

CDUA HA-3568

The Honorable Billy Kenoi  
25 Aupuni Street  
Hilo, HI 96720

OCT 14 2010

Dear Mayor Kenoi:

SUBJECT: REQUEST FOR COMMENTS – CONSERVATION DISTRICT USE APPLICATION HA-3568  
Thirty Meter Telescope  
Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua, Hawa'i,  
TMK (3) 4-4-015:009

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Please contact Michael Cain at 587-0048, should you have any questions on this matter. If no response is received by the suspense date of November 23, 2010, we will assume there are no comments.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Lemmo".

Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

attachments: CD; Acceptance Letter

DLNR-000362

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

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ACTING FIRST DEPUTY

LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

ref: OCCL.MC

CDUA HA-3568

The Honorable Josh Green  
Hawaii State Capitol, Room 223  
415 South Beretania Street  
Honolulu, HI 96813

OCT 14 2010

Dear Senator Green:

SUBJECT: REQUEST FOR COMMENTS – CONSERVATION DISTRICT USE APPLICATION HA-3568  
Thirty Meter Telescope  
Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua, Hawa'i,  
TMK (3) 4-4-015:009

Enclosed please find Conservation District Use Application (CDUA) HA-3568 for the University of Hawai'i at Hilo's proposed Thirty Meter Telescope (TMT) at Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua, Hawa'i, TMK (3) 4-4-015:009. We would appreciate any comments your office has on the application.

We have additional hard copies available at our office for review. The CDUA is also available on our website at <http://hawaii.gov/dlnr/occl/manuals-reports>. The Final EIS and associated ancillary documents were prepared under the supervision of the University of Hawai'i at Hilo, and were published in the May 8, 2010 edition of the *Environmental Notice*. It is available in OEQC's online library at <http://oeqc.doh.hawaii.gov>.

Please contact Michael Cain at 587-0048, should you have any questions on this matter. If no response is received by the suspense date of November 23, 2010, we will assume there are no comments.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Lemmo".

✓ Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

attachments: CD; Acceptance Letter

DLNR-000363

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

PAUL J. CONRY  
ACTING FIRST DEPUTY

LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

ref: OCCL.MC

CDUA HA-3568

The Honorable Dwight Takamine  
Hawaii State Capitol, Room 204  
415 South Beretania Street  
Honolulu, HI 96813

OCT 14 2010

Dear Senator Takamine:

SUBJECT: REQUEST FOR COMMENTS – CONSERVATION DISTRICT USE APPLICATION HA-3568  
Thirty Meter Telescope  
Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua, Hawa'i,  
TMK (3) 4-4-015:009

Enclosed please find Conservation District Use Application (CDUA) HA-3568 for the University of Hawai'i at Hilo's proposed Thirty Meter Telescope (TMT) at Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua, Hawa'i, TMK (3) 4-4-015:009. We would appreciate any comments your office has on the application.

We have additional hard copies available at our office for review. The CDUA is also available on our website at <http://hawaii.gov/dlnr/occl/manuals-reports>. The Final EIS and associated ancillary documents were prepared under the supervision of the University of Hawai'i at Hilo, and were published in the May 8, 2010 edition of the *Environmental Notice*. It is available in OEQC's online library at <http://oeqc.doh.hawaii.gov>.

Please contact Michael Cain at 587-0048, should you have any questions on this matter. If no response is received by the suspense date of November 23, 2010, we will assume there are no comments.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Lemmo".

Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

attachments: CD; Acceptance Letter

DLNR-000364

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

PAUL J. CONRY  
ACTING FIRST DEPUTY

LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

ref: OCCL.MC

CDUA HA-3568

OCT 14 2010

The Honorable Russell Kokubun  
Hawaii State Capitol, Room 407  
415 South Beretania Street  
Honolulu, HI 96813

Dear Senator Kokubun:

SUBJECT: REQUEST FOR COMMENTS – CONSERVATION DISTRICT USE APPLICATION HA-3568  
Thirty Meter Telescope  
Mauna Kea Science Reserve, Ka`ohe Mauka, Hāmākua, Hawa`i,  
TMK (3) 4-4-015:009

Enclosed please find Conservation District Use Application (CDUA) HA-3568 for the University of Hawai`i at Hilo's proposed Thirty Meter Telescope (TMT) at Mauna Kea Science Reserve, Ka`ohe Mauka, Hāmākua, Hawa`i, TMK (3) 4-4-015:009. We would appreciate any comments your office has on the application.

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Please contact Michael Cain at 587-0048, should you have any questions on this matter. If no response is received by the suspense date of November 23, 2010, we will assume there are no comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel J. Lemmo".

Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

attachments: CD; Acceptance Letter

DLNR-000365

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

PAUL J. CONRY  
ACTING FIRST DEPUTY

LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

ref: OCCL.MC

CDUA HA-3568

The Honorable Mazie Hirono  
5-104 Prince Kuhio Bldg.  
300 Ala Moana Blvd.  
Honolulu, Hawai'i 96850

OCT 14 2010

Dear Representative Hirono:

SUBJECT: REQUEST FOR COMMENTS – CONSERVATION DISTRICT USE APPLICATION HA-3568  
Thirty Meter Telescope  
Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua, Hawa'i,  
TMK (3) 4-4-015:009

Enclosed please find Conservation District Use Application (CDUA) HA-3568 for the University of Hawai'i at Hilo's proposed Thirty Meter Telescope (TMT) at Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua, Hawa'i, TMK (3) 4-4-015:009. We would appreciate any comments your office has on the application.

We have additional hard copies available at our office for review. The CDUA is also available on our website at <http://hawaii.gov/dlnr/occl/manuals-reports>. The Final EIS and associated ancillary documents were prepared under the supervision of the University of Hawai'i at Hilo, and were published in the May 8, 2010 edition of the *Environmental Notice*. It is available in OEQC's online library at <http://oeqc.doh.hawaii.gov>.

Please contact Michael Cain at 587-0048, should you have any questions on this matter. If no response is received by the suspense date of November 23, 2010, we will assume there are no comments.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Lemmo".

Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

attachments: CD; Acceptance Letter

DLNR-000366

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

PAUL J. CONRY  
ACTING FIRST DEPUTY

LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

ref: OCCL.MC

CDUA HA-3568

The Honorable Daniel Akaka  
5-104 Prince Kuhio Bldg.  
300 Ala Moana Blvd. Rm 3-106  
Honolulu, Hawai'i 96850

OCT 14 2010

Dear Senator Akaka:

SUBJECT: REQUEST FOR COMMENTS – CONSERVATION DISTRICT USE APPLICATION HA-3568  
Thirty Meter Telescope  
Mauna Kea Science Reserve, Ka`ohe Mauka, Hāmākua, Hawa`i,  
TMK (3) 4-4-015:009

Enclosed please find Conservation District Use Application (CDUA) HA-3568 for the University of Hawai'i at Hilo's proposed Thirty Meter Telescope (TMT) at Mauna Kea Science Reserve, Ka`ohe Mauka, Hāmākua, Hawa`i, TMK (3) 4-4-015:009. We would appreciate any comments your office has on the application.

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Please contact Michael Cain at 587-0048, should you have any questions on this matter. If no response is received by the suspense date of November 23, 2010, we will assume there are no comments.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Lemmo".

Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

attachments: CD; Acceptance Letter

DLNR-000367

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

Laura H. Thielen  
Chairperson  
Board of Land and Natural Resources  
Commission on Water Resource Management

Paul J. Conry  
Acting First Deputy

Lenore N. Ohye  
Acting Deputy Director - Water

Aquatic Resources  
Boating and Ocean Recreation  
Bureau of Conveyances  
Commission on Water Resource Management  
Conservation and Coastal Lands  
Conservation and Resources Enforcement  
Engineering  
Forestry and Wildlife  
Historic Preservation  
Kahoolawe Island Reserve Commission  
Land  
State Parks

ref: OCCLMC

CDUA HA-3568

Hilo Public Library  
300 Waiānuenu  
Hilo, HI 96720

OCT 14 2010

Dear Librarian,

SUBJECT: REQUEST FOR COMMENTS – CONSERVATION DISTRICT USE APPLICATION HA-3568  
Thirty Meter Telescope  
Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua, Hawa'i,  
TMK (3) 4-4-015:009

Enclosed please find Conservation District Use Application (CDUA) HA-3568 for the University of Hawai'i at Hilo's proposed Thirty Meter Telescope (TMT) at Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua, Hawa'i, TMK (3) 4-4-015:009.

Please make this information readily available to those people who may wish to review it. Also, if possible, please advise that written comments regarding the proposed project must be postmarked by **November 23, 2010**, and should be mailed to: Department of Land and Natural Resources, Office of Conservation and Coastal Lands, PO Box 621, Honolulu, Hawaii 96809.

The CDUA is also available on our website at <http://hawaii.gov/dlnr/occl/manuals-reports>. The Final EIS and associated ancillary documents were prepared under the supervision of the University of Hawai'i at Hilo, and were published in the May 8, 2010 edition of the *Environmental Notice*. It is available in OEQC's online library at <http://oeqc.doh.hawaii.gov>.

Please contact Michael Cain at 587-0048, should you have any questions on this matter. If no response is received by the suspense date of November 23, 2010, we will assume there are no comments.

Sincerely,

Handwritten signature of Samuel J. Lemmo in black ink.

Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

attachments: CDUA; Acceptance Letter

DLNR-000368

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

PAUL J. CONRY  
ACTING FIRST DEPUTY

LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

ref: OCCL.MC

CDUA HA-3568

Kailua-Kona Public Library  
75-138 Hualalai Road  
Kailua-Kona, HI 96740

OCT 14 2010

Dear Librarian,

SUBJECT: REQUEST FOR COMMENTS – CONSERVATION DISTRICT USE APPLICATION HA-3568  
Thirty Meter Telescope  
Mauna Kea Science Reserve, Ka`ohe Mauka, Hāmākua, Hawa`i,  
TMK (3) 4-4-015:009

Enclosed please find Conservation District Use Application (CDUA) HA-3568 for the University of Hawai`i at Hilo's proposed Thirty Meter Telescope (TMT) at Mauna Kea Science Reserve, Ka`ohe Mauka, Hāmākua, Hawa`i, TMK (3) 4-4-015:009.

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Please contact Michael Cain at 587-0048, should you have any questions on this matter. If no response is received by the suspense date of November 23, 2010, we will assume there are no comments.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Lemmo", written over a printed name.

for Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

attachments: CDUA; Acceptance Letter

DLNR-000369

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

PAUL J. CONRY  
ACTING FIRST DEPUTY

LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

ref: OCCL.MC

CDUA HA-3568

Thelma Parker Public Library  
67-1209 Mamalahoa Hwy.  
Kamuela 96743-8429

OCT 14 2010

Dear Librarian,

SUBJECT: REQUEST FOR COMMENTS – CONSERVATION DISTRICT USE APPLICATION HA-3568  
Thirty Meter Telescope  
Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua, Hawa'i,  
TMK (3) 4-4-015:009

Enclosed please find Conservation District Use Application (CDUA) HA-3568 for the University of Hawai'i at Hilo's proposed Thirty Meter Telescope (TMT) at Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua, Hawa'i, TMK (3) 4-4-015:009.

Please make this information readily available to those people who may wish to review it. Also, if possible, please advise that written comments regarding the proposed project must be postmarked by **November 23, 2010**, and should be mailed to: Department of Land and Natural Resources, Office of Conservation and Coastal Lands, PO Box 621, Honolulu, Hawaii 96809.

The CDUA is also available on our website at <http://hawaii.gov/dlnr/occl/manuals-reports>. The Final EIS and associated ancillary documents were prepared under the supervision of the University of Hawai'i at Hilo, and were published in the May 8, 2010 edition of the *Environmental Notice*. It is available in OEQC's online library at <http://oeqc.doh.hawaii.gov>.

Please contact Michael Cain at 587-0048, should you have any questions on this matter. If no response is received by the suspense date of November 23, 2010, we will assume there are no comments.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Lemmo".

Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

attachments: CDUA; Acceptance Letter

DLNR-000370

LINDA LINGLE  
GOVERNOR OF HAWAII



LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT




STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

75 Aupuni Street, Room 204  
Hilo, Hawaii 96720  
PHONE: (808) 974-6203  
FAX: (808) 974-6222  
June 8, 2009

RECEIVED  
OFFICE OF CONSERVATION  
& COASTAL LANDS  
2009 JUN -9 A 8:15  
DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

MEMORANDUM

TO: Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

FROM: Kevin E. Moore, Hawaii District Land Agent 

SUBJECT: Draft Environmental Impact Statement  
Thirty Meter Telescope (TMT) Observatory Project  
Mauna Kea Forest Reserve, Ka'ohe, Hamakua, Hawaii

APPLICANT: University of Hawaii at Hilo  
TMKs: (3) 4-4-15:9. 12

Pursuant to your request for comments on the above matter, we offer the following:

The subject project site is located within the Mauna Kea Science Reserve, which is leased by the State to the University of Hawaii under General Lease No. S-4191. The proposed project appears to satisfy the character of use restriction under the lease, which is for "a scientific complex, including without limitation thereof an observatory, and as a scientific reserve . . . ." Any sublease under the lease requires the prior written approval of the Board of Land and Natural Resources. The Draft Environmental Impact Statement recognizes at page S-8 that a sublease from the University to the Thirty Meter Telescope operator will be required, and that the sublease will need the approval of the Board of Regents of the University as well as that of the Land Board.

C: Morris M. Atta, Administrator, Land Division

11A-09-249

**Subject: Draft Environmental Impact Statement  
Thirty Meter Telescope (TMT) Observatory Project  
Maunakea, Hawai'i**

RECEIVED  
DEPT. OF CONSERVATION  
TERRITORIAL LANDS

2009 MAY 26 A 8:30

Dear Participant:

The University of Hawai'i has prepared the attached Draft Environmental Impact Statement (DEIS), which was prepared pursuant to the EIS law (Hawai'i Revised Statutes, Chapter 343) and the EIS rules (Hawai'i Administrative Rules, Title 11, Chapter 200). Due to your interest expressed in the Project we are providing the document to you for review. The following information summarizes the Project and commenting process.

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

Name of Project: Thirty Meter Telescope Observatory Project  
Island: Hawai'i  
District: Hāmākua, South Hilo, and South Kohala  
TMK: 4-4-15: 9 and 12; 2-4-1: 7; and 6-7-2: undetermined parcel

Comments are required to be submitted or postmarked by July 7, 2009. Comments can be submitted via the website ([www.TMT-HawaiiEIS.org](http://www.TMT-HawaiiEIS.org)), the toll-free hotline (1-866-284-1716), at public meetings, or mailed to:

**Original to:**  
TMT Observatory Project  
Office of the Chancellor  
University of Hawai'i at Hilo  
200 W. Kāwili Street  
Hilo, Hawai'i 96720-4091

**Copy to:**  
Office of Environmental Quality Control  
235 South Beretania Street, Suite 702  
Honolulu, Hawai'i 96813

Public meetings will be held as follows:

Date	Area	Location	Time
June 16 (Tue)	Kamuela (Waimea)	Waimea Elementary School Cafeteria	5-8pm
June 17 (Wed)	Hilo	Hilo High School Cafeteria	4-8pm
June 18 (Thr)	Pāhoa / Puna	Pāhoa High School Cafeteria	5-8pm
June 22 (Mon)	Ka'ū / Pāhala	Ka'u High/Pāhala Elementary School Cafeteria	5-8pm
June 23 (Tue)	Hāwī / Kohala	Kohala High School Cafeteria	5-8pm
June 24 (Wed)	Kona	Kealakehe Elementary School Cafeteria	5-8pm
June 25 (Thr)	Honolulu	Farrington High School Cafeteria	5-8pm

A comment form is provided in Appendix C of the DEIS; however, comments do not need to be submitted on this form. The form is provided for convenience only.

If you no longer need this EIS, please recycle it. Thank you for your participation in the EIS process.

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Office of Conservation and Coastal Lands

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI  
FIRST DEPUTY

KEN C. KAWAHARA  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
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ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

REF:OCCL:MC

corr HA-09-249

MAY 28 2009

MEMORANDUM:

TO: DLNR  Office of the Chair  
 Historic Preservation Division  
 Forestry and Wildlife  
 DOCARE  
 Land Division  
 State Parks  
 Engineering

FROM: Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

A large, stylized handwritten signature in black ink, appearing to read "Samuel J. Lemmo".

SUBJECT: REQUEST FOR COMMENTS  
Draft Environmental Impact Statement  
Thirty Meter Telescope (TMT) Observatory Project  
Mauna Kea Forest Reserve, Ka'ohē, Hāmākua, Hawai'i

APPLICANT: University of Hawai'i at Hilo

TMKs: (3) 4-4-15:9, 12

The National Science Foundation has released the Draft Environmental Impact Statement for the proposed Thirty Meter Telescope (TMT) Observatory Project on Maunakea, Hawai'i. The 45-day public comment period will run through July 7, 2009.

The Office of Conservation and Coastal Lands (OCCL) will coordinate the response for the Department of Land and Natural Resources. We have a copy of the draft in our office for review; alternatively, you can view it online on the Department of Health's online EIS library at [oeqc.doh.hawaii.gov/default.aspx](http://oeqc.doh.hawaii.gov/default.aspx).

Please have all your comments to Michael Cain at OCCL by noon on Thursday, July 2. We will not be able to extend this time period. If we do not receive a response from your office by then we will assume you have no comments.

Please contact Michael Cain at 587-0048, should you have any questions on this matter.

DEPARTMENT OF LAND & NATURAL RESOURCES  
State of Hawai'i



Land Division - Planning Branch Database

Search Results

Number	Type / Proj. Name	Exp. Date	Decision Date	PH	Planner	Initiator
HA-442 (3) 4-4-15:9	CDUA ELEC CONDUIT		6/8/1973	<input type="checkbox"/>		UH: LM APPROVED
HA-527 (3) 4-4-15:9	CDUA Canada France Hawaii Telescope		5/24/1974	<input type="checkbox"/>		UH: CAN-FRAN-HAW TELESCOPE APPROVED
HA-640 (3) 4-4-15:9	CDUA Temporary Portable Infrared Telescope <i>al Tech (1/2)</i>		10/24/1975	<input type="checkbox"/>		DOWNNS INST, CAL TECH: LM APPROVED
HA-653 (3) 4-4-15:9	CDUA United Kingdom Infrared Telescope (UKIRT) bldg/acc rd/telescope/UKIRT fac		8/29/1975	<input type="checkbox"/>		UH: ASTRONOMY APPROVED
HA-746 (3) 4-4-15:9	CDUA TEMP CONSTR FAC		3/12/1976	<input type="checkbox"/>		SCIENCE RESEARCH COUNCIL REJECTED
HA-781 (3) 4-4-15:9	CDUA TEMP ACCESSORY		5/14/1976	<input type="checkbox"/>		SCIENCE RESEARCH COUNCIL, NIC APPROVED
HA-954 (3) 4-4-15:9	CDUA ATF CDUA 24 inch Air Force/UH Telescope (0.6 meter) 24 inch Planetary Patrol Telescope (0.6 meter) and 88 inch UH (2.2 meter)		9/9/1977	<input type="checkbox"/>		UH APPROVED
HA-955 (3) 4-4-15:9	CDUA IL BLDG EXT <i>Interim Power Plant</i>		9/9/1977	<input type="checkbox"/>		UH APPROVED
HA-1009 (3) 4-4-15:9	CDUA TSUNAMI WARNING <i>System 1/19/1978 components reporting relay</i>		1/19/1978	<input type="checkbox"/>		NOAA APPROVED
HA-1210 (3) 4-4-15:9	CDUA Physiological YSIOLOGICAL Research <i>(6 days)</i>		5/16/1980	<input type="checkbox"/>		UH APPROVED
HA-1221 (3) 4-4-15:9	CDUA SKI ACTV		7/25/1980	<input type="checkbox"/>		SKI SHOP HAWAII, INC. REJECTED
HA-1314 (3) 4-4-15:9	CDUA <i>ul</i> TA & OBSERVATION <i>3/10</i>		4/10/1981	<input type="checkbox"/>		UH APPROVED

1973

1966-1971  
(built prior to 1966)

<i>Number</i>	<i>Type / Proj. Name</i>	<i>Exp. Date</i>	<i>Decision Date</i>	<i>PH</i>	<i>Planner</i>	<i>Initiator</i>
HA-635 (3) 4-4-15:9	CDUA SCP FAC 635		10/8/1982	<input type="checkbox"/>		UH APPROVED
HA-1472 (3) 4-4-15:9	CDUA LK WAI'AU RSRCH		8/4/1982	<input type="checkbox"/>		KING, JOHN W./U.OF MINNESOTA APPROVED
HA-1492 (3) 4-4-15:9	CDUA Cal Tech submillimeter Observatory		12/17/1982	<input type="checkbox"/>		UH: HAROLD S. MATSUMOTO APPROVED
HA-1504 (3) 4-4-15:9	CDUA SKI TOUR&INSTR		4/22/1983	<input type="checkbox"/>		TERSTENJAK, NICHOLAS APPROVED
HA-1515 (3) 4-4-15:9	CDUA James Clark Maxwell Telescop		2/25/1983	<input type="checkbox"/>		UH APPROVED
HA-1654 (3) 4-4-15:9	CDUA SKI ACTV		12/14/1984	<input type="checkbox"/>		SKI SHOP HAWAII APPROVED
HA-2067 (3) 4-4-15:9	CDUA COMMERCIAL TOURS OF MAUNA KEA	5/18/1988	5/13/1988	<input checked="" type="checkbox"/>		HI RESORTS TRANSPORTATION CO. APPROVED
HA-2174 (3) 4-4-15:9	CDUA Very Long Baseline Array	2/6/1989	1/13/1989	<input checked="" type="checkbox"/>		UH: ASTRONOMY APPROVED
HA-2509 (3) 4-4-15:9	CDUA KECK 2 TELESCOPE & APPURTENANT DEVELOPMENT	5/6/1992	4/10/1992	<input type="checkbox"/>		UH-IFA APPROVED
HA-2691 (3) 4-4-15:9	CDUA Gemini North OBSERVATORY	6/20/1994	4/12/1994	<input type="checkbox"/>		U.H. INST. FOR ASTRONOMY APPROVED
HA-2728 (3) 4-4-15:12 (3) 4-4-15:9	CDUA Smithsonian SUBMILIMETER ARRAY TELESCOPE APPURTENANT STRUCTURES, SERVICE ROADS, ASSOCIATED INFRASTRUCTURE	1/9/1995	11/18/1994	<input type="checkbox"/>		UNIVERSITY OF HAWAII-IFA APPROVED
HA-2728 (3) 4-4-15:9	CDUA Smithsonian Telescope		11/18/1994	<input type="checkbox"/>	Alkire	UHifa COMPLETE
HA-3065 (3) 4-4-15:9	CDUA New Outrigger Telescopes at Keck Observatory	11/1/2004	10/29/2004	<input type="checkbox"/>	Hegger	University of Hawaii, Institute for Astronomy APPROVED
HA-3225 (3) 4-4-15:9	CDUA Site testing for new telescope development on North slopw of Mauna Kea	8/6/2005	4/8/2005	<input type="checkbox"/>	Lemmo	University of Hawaii, Institute for Astronomy APPROVED

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.  
INTERIM CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI  
INTERIM FIRST DEPUTY

WILLIAM M. TAM  
INTERIM DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

ref OCCL:MC  
CDUA HA-3568

Acceptance Date: October 7, 2010  
180 Day Expiration Date: April 5, 2010

DEC 20 2010

Dr. Donald Straney, Chancellor  
University of Hawai'i at Hilo  
200 West Kāwili Street  
Hilo, HI 96720

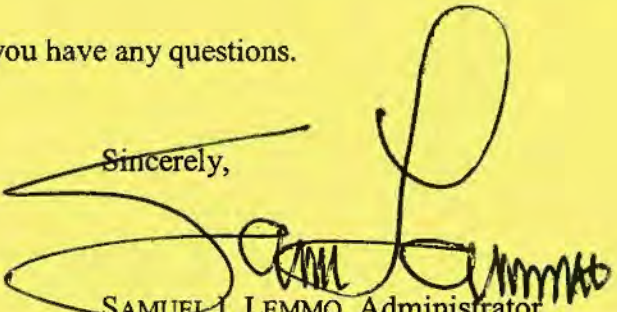
SUBJECT: PUBLIC COMMENTS  
Conservation District Use Application (CDUA) HA-3568  
Thirty Meter Telescope (TMT) Project  
Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua District, Hawai'i  
TMK (3) 4-4-015:009

Dear Dr. Straney,

This letter is regarding the processing of CDUA HA-3568. We have enclosed the testimony that the Office of Conservation and Coastal Lands (OCCL) has received as of December 15, 2010. We would be interested in your response to the issues that were raised in writing and at the Public Hearings.

Please contact Michael Cain at 587-0048 if you have any questions.

Sincerely,

  
SAMUEL J. LEMMO, Administrator  
Office of Conservation and Coastal Lands

c: Stephanie Nagata, Interim Director; Office of Mauna Kea Management  
University of Hawaii at Hilo; 640 N. Aohoku Place; Hilo, HI 96720

Public Hearing on Conservation District Use Application (CDUA) HA-3568 for the University of Hawaii's proposed Thirty Meter Telescope at the Mauna Kea Science Reserve Center, Kāohe Mauka, Hamakua, Hawaii,

Speaker Sign Up Sheet

No.	Name	Affiliation (optional)	Contact Info (optional)
1	Ross Wilson		
2	Robert Chee		
3	Mike Kalekimi		
4	Skyler Rossetti		
5	David Byrne	Round City	
6	Frank Commendador		
7	Samuel KALELEKI	Kingdom of Hawaii	
8	Mike Gleason	Hawaii Island Chamber of Commerce	
9	Mikes Yoshioka	for State Rep. Jerry Chang	
10	Deborah Ward		
11	CORY HARDEN		
12	FRED STONE		
13	Inge Heyer		
14	TOM PEEK		
15	Catherine Robbins		
16	JON MIYATA		
17	Wallace Ishibashi		
18	Sally Miller		
19	Galen Kelly		
20	XINI BURKE		
21	ART TANIUCHI		
22	Charles Mace	Playing Politics	
23	JULIA TABIUMA	" "	
24	Bob Lindsay	OHA	
25	Jim Albertini	Maui Aina	
26	Nelson Ho	Sierra Club	
27	Kealo ha Pisciotta	Mauna Kea Anainahu	

✓ 28	Jim Kennedy	Self	
✓ 29	Nimr TAMIMI	Self	
30	<del>Greg Adams</del>		
31	Dwight J. Visser	Hawaiian Kingd-	
✓ 32	<del>HARVEY FERGUSON</del>		
✓ 33	Ronald Fujiyoshi	self	
✓ 34	David DeLuz Jr	Self	
✓ 35	Mahina Patterson	SELF	
✓ 36	Jessie Cleghorn	self	
✓ 37	Kaleo LAM	SELF	
✓ 38	Dean Au	Hawaii Carpenters Union	
✓ 39	Nancy Cabral	Self	
✓ 40	Roxane Stewart	Self	
✓ 41	Randy Kurohara	JCCIH, Self	
✓ 42	<del>Keaton Pisciotta</del>	<del>maunakea aninohu</del>	
✓ 43	Iceo Von Bay L	maunakea aninohu	
44	<del>John DeLuz</del>		
✓ 45	Kinci Sofu Niha	NRIP	
✓ 46	Kukunakahi	CLARENCE CHING	
✓ 47	KIM LEE	SELF	
✓ 48	Kristine Hubat	SELF	
✓ 49	Paul Neves	Royal Order of Kamehameha	
50	CHAD KALEPA		
51	JACK KAWAIA		
52	JENISE RECENTI		
53	GYLE HUMPHREY		
54	CRISPIN		
55	LI KELLY		
56	PETE LINDSEY		
57			
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59			
60			

Public Hearing on Conservation District Use Application (CDUA) HA-3568 for the University of Hawaii's proposed Thirty Meter Telescope at the Mauna Kea Science Reserve Center, Kāohe Mauka, Hamakua, Hawaii,

Speaker Sign Up Sheet

No.	Name	Affiliation (optional)	Contact Info (optional)
1	E. Kalani Flores	community	[REDACTED]
2	B. Pualani Case	"	
3	Kapulei Flores	"	
4	Hawane Rios	"	
5	C Mike Kido	PRP	[REDACTED]
6	Bob Trubell	Private	
7	BOB MEIERDIERCKS	HUMAN CARE UNION	
8	Jacqui Hower		
9	Greg Chun		
10	Viutan Landrum		
11	Richard HA		
12	Gene Leslie		
13	Bob Lindsey	OHA	
14	Curtis M. Melu	Calofurde	
15	DENNIS PATINGER		
16	<del>XXXXXXXXXXXXXXXXXXXX</del>		
17	Marni Hecker		[REDACTED]
18	Kihei Nihou		
19	SARA PECK	Community	[REDACTED]
20	Kukauakahi		
21	DONNA WORDEN	KOHALA HEALTH	
22	JOSEPHINE KELIPIO		
23			
24			
25			
26			
27			

SPEAKER

Star

NO

KONA

T<sup>h</sup> RTY-METER TELESCOPE

PAGE 2

28				
29	Cindy Armer			
30	DAVID B GOMES			
31	ANNE E FIELD-GOMES	KAMUELA		
32	Russ Robinson	-Kailua Kona		
33	Kathleen Picciotto	Hilo		
34	Deborah Ward	Kurikoum		
35	CHAO RAYBAYAN	Kona		
36	Alfredo Gormazero	Kaunaloa		
37	Russ Meffert			
38	CLIFFORD LUTENSCHE			
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\*

Testify

or

optional

Name

Organization

Contact info

X Donna Worden  
X Josephine Keliipio

Kohala Health Library



## PETITION AGAINST FURTHER DEVELOPMENT ON MAUNA KEA

We, the undersigned, protest against any further development on the summit of Mauna a Wākea (also known as Mauna Kea) that causes further destruction of its sacred cultural landscape.

*Kanaka Maoli* (Native Hawaiians) never built any structures on this sacred summit because it is a significant *piko* of Hawai'i Island that connects to their *kūpuna* (ancestors).

No.	Name	Age
9/17/2010 1	Kapulej Flores	
2	Brenda Case Resendiz	
3	Saul Resendiz	
4	B Pua Day	
5	E. Kalani Jones	
9/18/2010 6	Delena Case	
7	Maulili Hickson	
8	Cindy Benson	
9	Wai Lin Duncan	
10	Dennis Johnson	
11	Sheri Thompson	
12	Norene Buzzy Hata	
13	Kia'i Lindsey	
14	<del>Kia'i Lindsey</del>	
15	Kuilei Aikau	
16	Nahe Tachera	
17	Kamelana Tachera	
18	<del>Wayne</del>	
19	Dee Dee Keakohani	
20	Kamuela Bertelmann	

No.	Name	Age
21	Holana Bertelmann	
22	Anabel Sanchez	
23	Naomi Tachera	
24	Pam Hoapili	
25	Cheyenne Aika	
26	Judy Yulbert	
27	Van	
28	Kamohie <del>McKee</del> <sup>McKee</sup>	
29	William Aika	
30	Felton	
31	Sheena Aika	
32	Made Zupark	
33	Kehaulani Marshall	
34	Kalāokahaka <sup>Akins</sup>	
35	Kaeli Bridges	
36	Kamehana Hurley	
37	Kylee Kawamura	
38	Elen Wills	
39	Keliko Hurley	
40	Ciara Lindsey	

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No.	Name	Age
41	Teighen Lindsey	
42	'Ekele Kahwanui	
43	Lei Iani Basham	
44	Keela Kahwanui	
45	Debra Bateman	
46	Jane Hutto	
47	Alan Kawana	
48	Cheri Olt	
49	[Signature]	
50	Jason Yamada	
51	Meredith Mahi	
52	Eva Maikani	
53	Shirley Kaupai	
54	Abraham Mahi	
55	Ikaika K. Mahi	
56	Keonana K. Mahi	
57	Joseph W.K. Lindsey	
58	Melissa KM Lindsey	
59	Kamalani Lindsey	
60	Pua Kaahaneie	

No.	Name	Age
61	Dean Kaahaneie	
62	Hineiro Kaahaneie	
63	KAMEI DELA PENA	
64	DELL DELA PENA	
65	Svenai Hoopai	
66	Jesse Hoopai	
67	Xyllona Hoopai	
68	Kander Hoopai	
69	ROBERT L. KEANUWIKI	
70	Kaiolshia Tolentino	
71	Kealii Bateman	
72	Keonana Ulloa	
73	Kala Thomas	
74	Kelani Opananu	
75	[Signature]	
76	Sydney Bennett	
77	Patricia Lindsey	
78	Kamela A.	
79	[Signature]	
80	Melanie Hill	

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No.	Name	Age
81	<i>[Signature]</i>	
82	Mehau	
83	Paul H. W.	
84	C. Alii Lee	
85	Sarah	
19/2010 86	Bridgett DeLeon	
87	Maceo Stevenson	
88	Mandy DeLeon	
89	Chelle Bitzky	
90	Jessyenne Lagout	
91	Shidehni Resendiz	
92	Diana LaRose	
93	W. Koroa Elliott	
94	Laura M. Lovelby	
95	Theresa Y. Lee	
96	John Malm	
97	Kylee Grubbs	
98	Emalam Case	
99	Kāhiki Ward	
100	Malia Reynolds	

No.	Name	Age
101	Mary Salamat	
102	Kalua Pulahana (aka)	
103	Loke Lani Kindler	
104	Melina van Hout	
105	Emily Nowka	
106	Kau'i Fernandez	
107	Susan E. Barton	
108	Keomalani Klu	
109	Dantana Lopez	
110	Thysson Ohu	
111	R. Keraiyuni Niau	
112	Yvonne Rios	
113	Hokulani Kaitiapa	
114	Quiliana Keckpa	
115	Kahekahe maki	
116	Anhea Puki	
117	Janelle Williams	
118	Wade Anakelee	
119	Steph. F. Peltz	
120	Terese Revick	

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No.	Name	Age
121	Keala Kahuanui	
122	Dave Gallagher	
123	Daniel Han	
124	Erina Lee	
125	Daynan Kouhi	
126	Kaenala Kaopu	
127	Maui Marks	
128	Tallexi Ancheta-Ross	
129	Arif Villa-Senor	
130	<del>Kim Foster</del>	
131	Stormy Oliveira	
132	Ryan Yuen	
133	Zaxsalya Guverpo	
134	Jordan Kaohimaunu	
135	Kyra Hannum	
136	Mary Jane Ward	
137	Rachel Higaki	
138	Leicha-May White	
139	Loan <del>Walker</del> Hansen	
140	Kehau Walker	

No.	Name	Age
141	Tammy Beggs	
142	Cyrene Andaya	
143	Tiana Supe	
144	Nairoa Falk	
145	Antolini Miche	
146	Luke Mitchell	
147	Matthew Bai	
148	Matthew Horne	
149	Brandy Iba-wong	
150	Janelle Dancel	
151	Nicole Kepoo	
152	EMi Kawakami	
153	Megan Kauli	
154	Marshall Marquez	
155	Helena Saito	
156	<del>Sharon Walker</del>	
157	<del>Debra Jones</del>	
158	Hohiulaila Leina Page Pagan	
159	Patrick Cootey	
160	Nissa Haraianan	

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No.	Name	Age
161	Ariehattao	
162	Pakalana	
163	Maua Kahi	
164	Milia Haw	
165	Saba Kauka	
166	Paulette Kahalopuna	
167	Lehua Kaulukiki	
168	James K. Kaulukiki	
169	Larry K. Kaupae	
170	Kapu Kaupae	
171	Keanuana K. Aldon	
172	Kaulana Medeiros	
173	Matt Kama	
174	Ida Hanohano	
175	Mary Curt	
176	Cathy Munder	
177	Malani	
178	Demi Murphy	
179	David Lee	
180	Ray Carson	

No.	Name	Age
181	Nui Murphy	
182	Stephanie Dana Chapman	
183	Jared Dana-Chapman	
184	Kelii Lee Gooden	
185	Mariah Case	
186	William Y. Case	
187	Luraine B. Case	
188	Kelii Lee Kahi	
189	Tehane Reynolds	
190	Shania Tupe	
191	Cydne Correia	
192	Mason DuPont	
193	COLE TAMARIE WOOD	
194	Aitra-Ray Dye-Tupe	
195	Loti Aholelei	
196	Justis Del Rosario	
197	Shelby Cook	
198	Sherry Anne Pancho	
199	Sharlene Bala	
200	Jennalynne Bala	

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No.	Name	Age
201	Walt	
202	Jonah Penick	
203	Glynn Jones	
204	Leona Robinson	
205	Alysa Kiihi	
206	Shoremaine Amy Mabea	
207	Kamachū Richards	
208	Shayla Downey	
209	Auis David-Chong	
210	Jamel White	
211	Spencer	
212	Haha	
213	Pan Lee	
214	Niiza Mae Bala	
215	Diamond Yoshimatsu	
216	Loni K. Okaniwa	
217	Ayla Silva	
218	Rachel Payne	
219	Miki'ala Whitehead	
220	Casey Lopez	

No.	Name	Age
221	Justin Vercruz	
222	Shania Souza	
223	Kelsey Decoito	
224	Carla <del>Falderman</del>	
225	James RRETO	
226	Ellena Koniko	
227	Halle V D e Ft Jus	
228	Kamakuna Ikaika	
229	Chyanu Miguel	
230	Paul Purdy	
231	John Kaana	
232	Josh Sanborn	
233	Zephan Apostadira	
234	Kymomi Medeiros	
235	Chantelle Cabalo	
236	Mike Medeiros	
237	Naenoa Cabalo	
238	Kaiana Cabalo	
239	Jeanne Clement	
240	Sara A. Mundon	

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No.	Name	Age
241	Mario Mardon	
242	Mell Kahaupuna	
243	<del>ERIN</del> Souza	
244	Yvonne Souza	
245	Jennifer Fischer	
246	Cerila Balberde	
247	Momia Naylor	
248	W. Charles Vickery	
249	Marie Alice Freund	
250	Catherine E. Lind	
251	Andy W. Fry	
252	Clark Gymnasm	
253	Kylie Gonsalves	
254	Myscal Gonsalves	
255	Alayne Gonsalves	
256	Lanakila Marguil	
257	Elijah Brouwer	
258	Kylee Ongi	
259	Katje Dupont-Kaul	
260	Nicole Bocalkos	

No.	Name	Age
261	Jacob Petero	
262	Cameron Howes	
263	Kyana Yamamoto	
264	Wishelwyn duone	
265	Waynna V	
266	Clyde Hagino	
267	Savannah Busstig	
268	Makena Francis	
269	Ikealoha Manriquez	
270	Sina O'Sell	
271	Talia Rivera	
272	Bruce Markor	
273	Kyleigh-Ann Keolanui	
274	Irene Peta Cruz	
275	Diana Villalobos	
276	Cherokee B. Barros.	
277	Sam Bajo	
278	Goth Juda	
279	Elbo Lakebol	
280	Ivonna Rakin	

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No.	Name	Age
281	Roslynn Takushi	
282	KRISTOPHER LINDSEY	
283	Tanja K. Spencer	
284	Tishia Keatoha Spencer	
285	Robby Kawika Giltner	
286	Paulette Spencer	
287	Erin Lindsey	
288	Hawca Yoshiori	
289	Tiana Espere	
290	Hilani Hanohano	
291	Mawa Puni	
292	Pūitiani A. Hanohano	
293	Maele Takushi	
294	Ron Atley	
295	Hanale Hanohano	
296	M. Hanohano	
297	Hanoli Hanohano	
298	Samuel Alay	
299	De Off	
300	Ulukai Naue	

No.	Name	Age
301	TuekeA Giltner	
302	Margaret Kawamoto	
303	Tehani Sekona	
304	Konani Mockchew	
305	Kalae Mockchew	
306	Uhane Mockchew	
307	Apa Takushi	
308	Charles Linozon	
309	Mālie Sarsona	
310	Delyn Redican	
311	Chelsea	
312	Kahikob Plunka	
313	[Signature]	
314	Kamalani Straus	
315	Ganuel Vegas	
316	Joe Lindsay	
317	Jamie Vegas	
318	Punohu	
319	Arman	
320	Kila Ferrera	

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No.	Name	Age	No.	Name	Age
321	HUALI TRASK	[REDACTED]	341	Keith Nesting	[REDACTED]
322	Paul Tanoue	[REDACTED]			
323	ANTJ. Kahookaulana	[REDACTED]			
324	Kumiko Kakoi	[REDACTED]			
325	Julian Miki	[REDACTED]			
326	Shelly Young	[REDACTED]			
327	CHERYL A. PUAILIHAI	[REDACTED]			
328	LORNA PK. PUAILIHAI	[REDACTED]			
329	Chie Nozaki	[REDACTED]			
330	Tomoko Yoshida	[REDACTED]			
331	JARRICK DASTICA	[REDACTED]			
332	Iren K KUKONO	[REDACTED]			
333	Arnold Domingo	[REDACTED]			
334	Dustan Lynn Jackson	[REDACTED]			
335	Cyndray T Kapu	[REDACTED]			
336	Moana O'Dell	[REDACTED]			
337	Marilynn Joseph W.	[REDACTED]			
338	Makana K...	[REDACTED]			
339	Jahphia Matthew N.	[REDACTED]			
340	Zechariah usalde	[REDACTED]			

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI  
ACTING FIRST DEPUTY

LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

REF:OCCL:MC  
CDUA: HA-3568

Acceptance Date: October 7, 2010  
180 Day Expiration Date: April 5, 2011

Dr. Donald Straney, Chancellor  
University of Hawai'i at Hilo  
200 West Kāwili Street  
Hilo, HI 96720

OCT 14 2010

Dear Dr. Straney,

**NOTICE OF ACCEPTANCE & ENVIRONMENTAL DETERMINATION**  
Conservation District Use Application HA-3568  
(Board Permit)

This acknowledges the receipt and acceptance for the processing of Conservation District Use Application (CDUA) HA-3568 for the proposed Thirty Meter Telescope (TMT) Project at the Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua District, Hawai'i, TMK (3) 4-4-015:009. The project area is in the Resource Subzone of the State Land Use Conservation District.

The University of Hawai'i (UH) is seeking a Conservation District Use Permit (CDUP) on behalf of the non-profit TMT Observatory Corporation<sup>1</sup>. The Corporation was founded in 2003 by the California Institute of Technology, the University of California, and the Association of Canadian Universities for Research in Astronomy. The National Astronomical Observatory of Japan (NAOJ) joined as a Collaborating Institution in 2008; the National Astronomical Observatories of the Chinese Academy of Sciences joined as an Observer in 2009; and India joined as an Observer in June 2010. Observer status is the first step in becoming a full partner in TMT.

The observatory is proposed for approximately 5 acres of land at the 13-North (13N) site in an area below the summit of Mauna Kea known as "Area E." The site is in the Mauna Kea Science Reserve. The Reserve encompasses most land within a 2.5 mile radius of the site of the UH 2.2-m telescope – in effect, all land above 3700 meters in elevation with the exception of a pie-shaped wedge set aside as the Mauna Kea Ice Age Natural Reserve.

The State-owned Science Reserve is leased by the University of Hawai'i, with day-to-day management delegated by the Board of Regents to the Office of Mauna Kea Management (OMKM).

There are currently thirteen working telescopes near the summit. Nine are for optical and infrared astronomy, three for submillimeter wavelength astronomy, and one for radio astronomy. These include the world's second largest optical telescope (the twin telescopes of the W. M. Keck Observatory), largest dedicated infrared telescope (UKIRT, the 3.8-meter United Kingdom Infrared Telescope), and largest submillimeter telescope (JCMT, the 15-meter James Clerk Maxwell Telescope).

<sup>1</sup> More information on the TMT Corporation can be found at [www.tmt.org](http://www.tmt.org)

Elements of the TMT proposal include:

- **The 30-Meter Telescope (TMT).**
  - The core of the project is a 30-meter in diameter aperture telescope composed of 492 individual mirror segments, secondary and tertiary mirrors directing the gathered light, and a network of interchangeable sensors and instruments that will collect and process the light.
  - The observatory will also integrate an 'adaptive optics' (AO) system composed of eight laser beams that will be beamed into the atmosphere to create an *asterism*, or group, of guide stars
- **The TMT Access Way.** The 3400-foot long Access Way will consist of an improved road and underground utilities connecting the Observatory with existing roads and utilities. For the most part the Access Way will follow an existing 4-wheel drive road and the wider roads that serve the SMA facility. Only 200 feet will not follow existing roads. The Access Way will be single lane where it crosses Pu`u Hau`oki, then two lanes for the remainder.
- **The Batch Plant Staging Area.** The Staging Area is a 4-acre site northwest of where the Mauna Kea Access Road forks near the summit. It will be partially restored, and used for storing bulk materials and a concrete Batch Plant. This is the same use the area was put to during prior construction activities on the mountain.
- **Hawaiian Electric and Light Company (HELCO) Upgrades.** The proposal calls for the repair and upgrades of electrical transformers and related equipment at the substation near Hale Pōhaku. The operation and maintenance of the existing utility lines was authorized under CDUP HA-1573. The substation is located approximately 2000 feet southwest of the main headquarters, and about 1000 feet from Mauna Kea Access Road. The new transformers will replace the existing ones on a 1:1 basis, and the fenced compound will not be expanded.

Due to the challenges encountered when undertaking high-altitude construction, the applicant is requesting that the period allowed for the start of construction if a CDUP is granted by two years, and that the total time allowed for construction be ten years.

The Mauna Kea Science Reserve Master Plan (2000) and the Mauna Kea Comprehensive Management Plan (2009) contain mitigative and management measures that address the overall impacts of the Science Reserve on the mountain's resources. This application also proposes the following project-level mitigation measures:

Cultural Beliefs and Practices; Historic Resources:

- TMT is proposed for the 13N Site, where it will not be visible from the culturally sensitive locations of the summit of Kūkahau`ula, Lake Waiau, or Pu`u Lilīnoe.
- The Access Way was designed to limit impact on cultural resources by limiting it to one lane in places, following the same alignment as the existing 4WD road on the flank of Pu`u Kau`oki, and coloring the pavement to blend with the surroundings.
- Employees will attend mandatory cultural and natural resources training.
- The facilities will be furnished with items to provide a sense of place.
- Daytime activities will be minimized on up to four days per year, as identified by Kahu Kū Mauna<sup>2</sup>.

<sup>2</sup> Kahu Kū Mauna (Guardians of the Mountain) is a nine-member cultural advisory council named by the Mauna Kea Management Board (MKMB).

- Outreach staff will work with the 'Imiloa Astronomy Center and OMKM to develop information exhibits for visitors regarding the natural, cultural and archaeological resources of Mauna Kea.

Biological Resources:

- The Access Way has been designed to limit its effect on wēkiu bug habitat.
- An invasive species control program will be implemented.
- A ride-sharing program will be implemented to reduce traffic, dust, and noise.
- Arthropod monitoring will be performed prior to, during, and for two years following construction in the area of the Access Way on the alpine cinder cone habitat.
- The applicant will work with OMKM to develop and implement a habitat restoration study.

Visual and Aesthetic Resources:

- The preferred site location is north of and below the summit.
- The dome has been designed to fit tightly around the telescope.
- The coating of the dome will be a reflective aluminum-like coating which will reflect the sky during the day, reducing visibility.

Other Resources:

- Wastewater will be collected and transported down the mountain for treatment.
- Employment opportunities will be filled locally to the greatest extent possible.
- TMT will dedicate funds to workforce development programs, including curriculum and program development.
- Employees traveling beyond Hale Pōhaku will take part in a mandatory ride-sharing program using project vehicles.
- Energy savings devices will include solar hot water systems, photovoltaic power systems, energy efficient light fixtures, and the use of Energy Star rated appliances.
- The project will place HVAC (Heating, Ventilating, and Air Conditioning) units indoors to reduce noise. Façade acoustical louvers and duct silencers will be used to further reduce noise.

TMT also proposes to implement the following programs and plans in order to mitigate potential impacts:

- A Cultural and Archaeological Monitoring Plan.
- An Invasive Species and Control Program.
- A Construction Best Management Practices (BMP) Plan.
- A Cultural and Natural Resources Training Plan for employees.
- A Materials Storage / Waste Management Plan, including a Spill Prevention and Response Plan.
- A Waste Minimization Plan, which will include the use of water-efficient fixtures, and incorporate audits of potable water use.
- A Workforce Development Program headed by at least one full-time position through the Community Outreach office.

If a CDUP is issued the building and operation of the TMT Observatory will require a sublease from UH, which leases the ceded lands from DLNR. The sublease would be subject to approval by the UH Board of Regents and the TMT Board, followed by approval by BLNR. The current UH lease expires in 2033, and the TMT Observatory will be required to either decommission and restore the site at that time or obtain a new lease from BLNR.

After reviewing the application, OCCL finds that:

1. The project is an identified land use pursuant to HAR §13-5-22, Identified Land Uses in the Resource Subzone, R-3 ASTRONOMY FACILITIES, (D-1) *Astronomy facilities under an approved management plan*. This land use requires a permit from the Board of Land and Natural Resources (BLNR). The Board has the final authority to grant, modify, or deny any permit application.

The BLNR approved the Mauna Kea Comprehensive Management Plan on April 9, 2009. The BLNR required the University to submit four sub-plans: a Natural Resources Management Plan, a Cultural Resources Management Plan, a Public Access Plan, and a Decommissioning Plan. The BLNR approved the four sub-plans on March 25, 2010.

2. Pursuant to HAR §13-5-40 HEARINGS (a) *Public hearings shall be held* (4) *On all applications determined by the chairperson that the scope of proposed use, or the public interest requires a public hearing on the application.*

OCCL will contact you shortly to coordinate the public hearing.

3. Pursuant to HAR §13-5-31 (4) *Permit applications*, the permit requires an environmental impact statement (EIS).

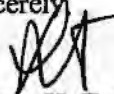
The Final EIS and associated ancillary documents were prepared under the supervision of the University of Hawai'i at Hilo, and were published in the May 8, 2010 edition of the *Environmental Notice*.

OCCL will submit a notice of this project for publication in the October 23, 2010 *Environmental Notice*.

The CDUA will be placed on the agenda of the Board of Land and Natural Resources for their consideration after all reviews and evaluations of the proposal have been made.

Should you have any questions, please contact Michael Cain at the OCCL at 587-0048.

Sincerely,



LAURA H. THIELEN, Chair  
Board of Land and Natural Resources

cc: DLNR – Land Division, Historic Preservation, DOFAW, Engineering, State Parks  
DBEDT – Energy, Resources, & Technology Division; Planning Office  
Department of Education  
Office of Hawaiian Affairs  
University of Hawai'i - Institute for Astronomy, Hawaiian Studies, Environmental Center  
The Office of Mauna Kea Management, 640 N. Aohoku Place, Room 203, Hilo, Hawaii 96720  
Kahu Kū Mauna, OMKM, 640 N. Aohoku Place, Room 203, Hilo, Hawaii 96720  
US Fish and Wildlife Service  
County of Hawai'i Planning Department  
Hawaii State Public Libraries – State Library, Hilo, Kailua-Kona, Thelma Parker (Kamuela)  
Bishop Museum  
US Senator Daniel Akaka  
US Rep. Mazie Hirono  
State Senators Kokubun, Takamine, Green

2010 SEP -2 P 3:17

September 2, 2010

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

Mr. Sam Lemmo, Administrator  
Office of Conservation and Coastal Lands  
Department of Land and Natural Resources  
1151 Punchbowl Street, Room 131  
Honolulu, Hawai'i 96813

**Subject: Conservation District Use Permit Application: Thirty Meter Telescope Project**  
**Tax Map Keys: 3/4-4-015:009 (portion), Mauna Kea Science Reserve, Island, County and State of Hawai'i**

Dear Mr. Lemmo:

On behalf of the TMT Observatory Corporation, the University of Hawai'i is pleased to submit the enclosed Conservation District Use Permit application for the proposed Thirty Meter Telescope Project (TMT project) within the Mauna Kea Science Reserve. Exhibit B in the application includes the required management plan as described in the Hawai'i Administrative Rules Title 13 Chapter 5-39(a), for which we are requesting separate approval. We believe that the TMT project and its management plan are completely consistent with the Mauna Kea Comprehensive Management Plan and its related sub-plans.

The TMT Observatory Corporation is a private non-profit corporation that will be responsible for constructing the TMT project and for managing its operations. The TMT project is currently a partnership among the TMT Observatory Corporation (TMT), the University of California (UC), the California Institute of Technology (Caltech) and the Association of Canadian Universities for Research in Astronomy (ACURA). The National Astronomical Observatory of Japan (NAOJ) is a collaborator and potential partner, and the National Astronomical Observatories of the Chinese Academy of Sciences (NAOC) and India's Department of Science and Technology (DST) are observers and potential partners in the TMT project.

If approved, the permit would allow the construction, operation, and eventual decommissioning of the Thirty Meter Telescope (TMT) Observatory and related facilities within an area below the summit of Mauna Kea that is known as "Area E". The proposed Observatory consists of the 30-meter telescope itself, the instruments that are attached to it to record data, the enclosing dome, the attached building containing support and maintenance facilities, and parking. The Observatory is proposed for approximately 5 acres of land in what is generally referred to as the 13-North (13N) site within the Astronomy Precinct of the MKSR.

In addition to the Observatory itself, the application covers the proposed TMT Access Way. The Access Way consists of an improved road and underground utilities (power and telecommunications) connecting the TMT Observatory with existing roads and utilities. It also provides for the use and partial restoration of the existing Batch Plant Staging Area during construction of the TMT Observatory and Access Way. Approximately 4 acres in size, the Batch Plant Staging Area is located at the top of the Mauna Kea Access Road, and its use as a construction staging area has been authorized in several previous CDUPs.

Finally, the University also proposes repairs and upgrades to the existing electrical transformers and related equipment within the Hawaii Electric and Light Company (HELCO) substation near Hale Pōhaku

and to the underground electrical wires from that substation to the start of the Access Way. Operation and maintenance of all of the existing utility lines are allowed under CDUP HA-1573.

In recognition of the complexity of the project and the unique conditions encountered when undertaking high-altitude construction, TMT requests that the period allowed for the start of construction after granting of the CDUP be at least two (2) years and that the total time allowed for completion of the project be at least ten (10) years after granting of the CDUP. We recognize that this is slightly longer than the target schedule included in the application, but we believe it is prudent given the circumstances.

In addition to the completed application form, we are enclosing both a paper and electronic copy of the Final Environmental Impact Statement (FEIS) for the project. The FEIS was accepted by the Governor on May 19, 2010, and the period during which lawsuits contesting the acceptance ended on August 7, 2010. We understand that twenty (20) additional copies of the completed CDUA and of the Chapter 343 documentation will be required at the time that you determine the application complete, and we will provide the copies in the format (paper and/or electronic) you request.

With respect to other submission requirements noted in your application instructions, the proposed action is situated many miles from the boundary of Hawai'i County's Special Management Area and does not involve work in or near the Special Management Area. Consequently, it will not require a Special Management Area Permit from the County of Hawai'i.

In accordance with your staff's instructions, we have attached a check for \$350 made payable to the State of Hawai'i to cover the \$100 application and the \$250 public hearing fee.

This submittal requires the signature of the landowner for its completion, and it is our understanding that the Department of Land and Natural Resources will arrange for that as part of its review of this submittal. We greatly appreciate the cooperation and help you have provided to us as we have prepared this application and look forward to continuing to work with you.

Please feel free to call me at (808) 974-7444 if you have any questions or require additional information regarding this submittal.

Sincerely,

  
Donald O. Straney  
Chancellor

Attachments

RECEIVED  
CONSERVATION  
LANDS

2010 AUG 12 P 3: 00

August 12, 2010

J &  
NATURAL RESOURCES  
STATE OF HAWAII

Sam,

Attached is a draft of the TMT CDUA for your review and comment. Thank you so much for agreeing to look it over. Please note that the routing for the TMT access road has not been finalized but it is nearly certain that the route that is shown in this draft CDUA will be used. Details regarding the road construction are currently being worked out, and we just need to finish getting everyone to sign off.

Current plans call for us to submit a final draft application to the Mauna Kea Management Board around August 18<sup>th</sup> for their review in preparation for their September 1 meeting. If you could get back to us with any questions or suggested changes by the end of the day on August 16<sup>th</sup> it would really help.

*Stephania Stegata*

12/01/2010



Deborah L  
Ward/DLNR/StateHIUS  
12/01/2010 09:37 AM

To Deborah.L.Ward@hawaii.gov  
cc  
bcc Stephen M Cain/DLNR/StateHIUS  
Subject News release from DLNR - PUBLIC HEARING ON  
PROPOSED 30 METER TELESCOPE AT MAUNA KEA

For Immediate Release: December 1, 2010

**PUBLIC HEARING ON PROPOSED 30 METER TELESCOPE AT MAUNA KEA**

HILO – The Department of Land and Natural Resources – Office of Conservation and Coastal Lands invites the public to testify at two public hearings on the Big Island this week on a conservation district use application for the proposed Thirty Meter Telescope (TMT) at the Mauna Kea Science Reserve, Kahohe Mauka, Hamakua, Hawaii, TMK (3) 4-4-015:009

Hearings are scheduled as follows:

Thursday December 2, 2010, 6 p.m. at the Hawaii County Council Room, 25 Aupuni Street, Hilo; and

Friday December 3, 2010, 6 pm. at the Gateway Center, Natural Energy Laboratory of Hawaii Authority (NELHA), 73-4460 Queen Kaahumanu Highway #101, Kailua-Kona

For more information about the proposed project and to download related documents, go to the OCCL website at <http://hawaii.gov/dlnr/occl/hearings-workshops>.

Persons unable to attend the hearing may submit testimony to Office of Conservation and Coastal Lands, P.O. Box 621, Honolulu, HI 96817, or via email to [Stephen.M.Cain@hawaii.gov](mailto:Stephen.M.Cain@hawaii.gov).

###

For more information news media may contact:  
Deborah Ward  
DLNR Public information specialist  
Phone: (808) 587-0320

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

PAUL J. CONRY  
ACTING FIRST DEPUTY

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CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

OCCL:MC

ref CDUA HA-3568

MEMORANDUM

TO: Laura H. Thielen, Chairperson  
Board of Land and Natural Resources

FROM: Samuel J. Lemmo, Administrator   
Office of Conservation and Coastal Lands

SUBJECT: Request to hold a public hearing

CDUA	APPLICANT AND USE	LOCATION	RATIONALE
HA-3568	University of Hawai'i, Thirty Meter Telescope	Mauna Kea Science Reserve Center, Kāohe Mauka, Hāmākua, Hawai'i, TMK (3) 4-4- 015:009	The Chairperson has determined that the scope of the proposed use or the public interest requires a public hearing on the application. Hawai'i Administrative Rules (HAR) Chapter 13-5-40(a)(4).

RECOMMENDATION

Pursuant to Chapter 183C, Hawai'i Revised Statutes (HRS), §13-5 HAR, and as authorized by the Board of Land and Natural Resources on December 1, 1994; it is recommended that the Chairperson:

1. Authorize a public hearing for the proposed action;
2. Authorize preparing and forwarding the hearing notice to the applicant and other affected persons; and
3. Appoint Samuel J. Lemmo, Administrator of the Office of Conservation and Coastal Lands, as the public hearing master or alternatively, appoint a representative of the Department as the public hearing master.

Under the authority delegated by the Board of Land and Natural Resources at its meeting of November 2, 1984, and as specified by §13-5-40(b), HAR, this request for a public hearing is hereby:

Approved

Disapproved

  
LAURA H. THIELEN, Chairperson  
Board of Land and Natural Resources

10/15/16  
Date

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

**NOTICE OF PUBLIC HEARINGS**  
**ON PROPOSED LAND USE**  
**WITHIN THE CONSERVATION DISTRICT**

DATE: Thursday December 2, 2010  
TIME: 6:00 P.M.  
PLACE: Hawaii'i County Council Room, 25 Aupuni Street, Hilo, Hawaii'i 96720

DATE: Friday, December 3, 2010  
TIME: 6:00 P.M.  
PLACE: Gateway Center, Natural Energy Laboratory of Hawaii Authority (NELHA)  
73-4460 Queen Kaahumanu Highway, #101, Kailua-Kona, HI 96740-2632

The Department of Land and Natural Resources (DLNR), State of Hawaii, pursuant to Chapter 183C, Hawaii'i Revised Statutes, will hold public hearings in Hilo and Kailua-Kona, Hawaii to receive testimony on the following:

**Conservation District Use Application (CDUA) HA-3568** for the University of Hawaii's proposed Thirty Meter Telescope at the Mauna Kea Science Reserve Center, Kāohe Mauka, Hamakua, Hawaii, TMK (3) 4-4-015:009.

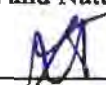
A copy of the application is available for inspection at:

- The Office of Conservation and Coastal Lands, Kalanimoku Building Room 131, 1151 Punchbowl Street, Honolulu, HI 96809
- Hawaii State Library, 478 S. King Street, Honolulu
- Hilo Public Library, 300 Waianuenu Ave, Hilo 96720
- Kailua Kona Public Library, 75-138 Hualalai Rd., Kailua Kona 96740
- Thelma Parker Public Library, 67-1209 Mamalahoa Hwy., Kamuela 96743-8429
- Online at [hawaii.gov/dlnr/occl/manuals-reports](http://hawaii.gov/dlnr/occl/manuals-reports)

The Final Environmental Impact Statement is available online at the Office of Environmental Quality Control, [oeqc.doh.hawaii.gov](http://oeqc.doh.hawaii.gov) (2010-05-08)

Any person may testify or present information on the application. Disabled individuals planning to attend the hearing are asked to contact the DLNR at the above address or phone Michael Cain at 587-0048 **at least three days in advance of the public hearing** to indicate if they have special needs which require accommodation.

Board of Land and Natural Resources

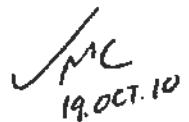
  
\_\_\_\_\_  
Laura Thielen, Chairperson

Dated: \_\_\_\_\_

10/15/10

PUBLICATION DATE: NOV - 3 2010

Honolulu Star Advertiser (Both)  
Hawaii Tribune Herald (Dec 2 Meeting)  
West Hawaii Today (Dec 3 Meeting)

  
19.OCT.10

**AFFIDAVIT OF PUBLICATION**

State of Hawaii )

) SS:

County of Hawaii )

LEILANI K. R. HIGAKI

, being first

duly sworn, deposes and says:

1. That she is the BUSINESS MANAGER of HAWAII TRIBUNE-HERALD, a

newspaper published in the City of HILO, State of Hawaii.

2. That the "...NOTICE OF PUBLIC HEARINGS ON PROPOSED LAND USE WITHIN THE CONSERVATION DISTRICT...Thursday December 2, 2010...etc.,"

of which a clipping from the newspaper as published is attached hereto, was published in said newspaper on the following date(s) \_\_\_\_\_

November 3, 2010, (etc.).  
24738r1

*Leilani KR Higaki*

Subscribed and sworn to before me

this 15th day of November, 2010.

*Sharon H. P. Ogata*

SHARON H. P. OGATA  
Notary Public, Third Circuit, State of Hawaii

My commission expires October 1, 2012

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

NOTICE OF PUBLIC HEARINGS  
ON PROPOSED LAND USE  
WITHIN THE CONSERVATION DISTRICT

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73-4460 Queen Kaahumanu Highway, #101, Kailua-Kona, HI 96740-2632

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- Kailua Kona Public Library, 75-136 Hualalai Rd., Kailua Kona 96740
- Thelma Parker Public Library, 67-1209 Mamalahoa Hwy., Kamuela 96743-8429
- Online at [hawaii.gov/dlnr/occl/manuals-reports](http://hawaii.gov/dlnr/occl/manuals-reports)

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Any person may testify or present information on the application. Disabled individuals planning to attend the hearing are asked to contact the DLNR at the above address or phone Michael Cain at 587-0048 **at least three days in advance of the public hearing** to indicate if they have special needs which require accommodation.

Board of Land and Natural Resources  
Laura Thiefen, Chairperson  
Dated: October 15, 2010

PUBLICATION DATE: November 3, 2010

(24738r1 Hawaii Tribune-Herald: November 3, 2010)

AFFIDAVIT OF PUBLICATION

IN THE MATTER OF
NOTICE OF PUBLIC HEARING

STATE OF HAWAII
City and County of Honolulu

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

NOTICE OF PUBLIC HEARINGS
ON PROPOSED LAND USE
WITHIN THE CONSERVATION DISTRICT

DATE: Thursday December 2, 2010
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96740-2632

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Conservation District Use Application (CDUA) MA-3568 for the University of Hawaii's proposed Thirty Meter Telescope at the Mauna Kea Science Reserve Center, Kahe Mauna, Hamakua, Hawaii, TMN (3) 4-4-015:009.

A copy of the application is available for inspection at:

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Hilo Public Library, 300 Waialanu Avenue, Hilo 96720
Kailua Kona Public Library, 75-138 Hualalei Rd., Kailua Kona 96740
Thelma Parker Public Library, 67-1209 Mamalahoe Hwy., Kamuela 96743-8429
Online at hawaii.gov/dlnr/occl/manuals-reports

The Final Environmental Impact Statement is available online at the Office of Environmental Quality Control, oeqc.doh.hawaii.gov (2010-05-08)

Any person may testify or present information on the application. Disabled individuals planning to attend the hearing are asked to contact the DLNR at the above address or phone Michael Cain at 587-0048 at least three days in advance of the public hearing to indicate if they have special needs which require accommodation.

Board of Land and Natural Resources

LAURA H. THIELEN, Chairperson
Dated: 10-15-10

(54247908 11/3/10)

Doc. Date: NOV - 3 2010 # Pages: 1
Notary Name: Patricia K. Reese First Judicial Circuit
Doc. Description: Affidavit of Publication
Notary Signature: Patricia K. Reese Date: NOV - 3 2010
Stamp of Seal: PATRICIA K. REESE, Notary Public, State of Hawaii, Commission No. 56487

Theresa Oyama being duly sworn, deposes and says that she is a clerk, duly authorized to execute this affidavit of Oahu Publications, Inc. publisher of The Honolulu Star-Advertiser and MidWeek, that said newspapers are newspapers of general circulation in the State of Hawaii, and that the attached notice is true notice as was published in the aforementioned newspapers as follows:

Honolulu Star-Advertiser 1 times on:
11/03/2010

Midweek Wed. 0 times on:

times on:

And that affiant is not a party to or in any way interested in the above entitled matter.

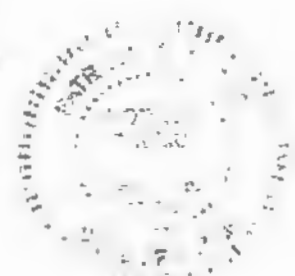
Theresa Oyama

Subscribed to and sworn before me this 3rd day

of Nov. A.D. 2010

Patricia K. Reese, Notary Public of the First Judicial Circuit, State of Hawaii

My commission expires: Oct 07 2014



d# 0000247908

LN: \_\_\_\_\_

10/13/2010



\*Georgie Espinueva\*  
<georgiee@nelha.org>  
10/13/2010 03:35 PM

To <Stephen.M.Cain@hawaii.gov>  
cc  
bcc  
Subject Gateway Center rental agreement for Dec. 3, 2010 6:00-9:00 p.m.

373.7391

ex 221

Hi Michael,

Attached is the rental agreement for your signature. I have also attached a map to the Gateway center. Please sign and return by fax or email to me. As far as payment for the rental you may provide a purchase order or do a journal voucher with our accounting office. Let me know and I will put you in contact with Jerrae Miranda from our accounting office. The amount will be for \$187.50 @ \$62.50/per hour X 3 hours.

Day of the event you will need to pick up the key to the Gateway center at the NELHA administration office 2 miles in from the entrance of Queen Kaahumanu Highway. Another map is attached to our office. You will be responsible to secure the building when you are done. I will explain where to return the key that day when it is picked up. Would it be possible to pick-up the key by 3:30p no later then 4:00 p.m.? I leave the office by 4:00 p.m. Let me know. Any questions please do not hesitate to contact me.

*Mahalo!*

*Georgie*

Georgie Espinueva, Secretary  
Natural Energy Laboratory of Hawaii Authority (NELHA)  
73-4460 Queen Kaahumanu Highway, #101  
Kailua-Kona, HI 96740  
PH.# 808-329-7341 Ext. 221 Fax # 808-326-3262

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any review, use, disclosure, or distribution by unintended recipients is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

---

**From:** Stephen.M.Cain@hawaii.gov [mailto:Stephen.M.Cain@hawaii.gov]

**Sent:** Monday, October 11, 2010 10:16 AM

**To:** Georgie Espinueva

**Subject:** Re: Address

Georgie,

Our mailing address is:

Office of Conservation and Coastal Lands  
Kalanimoku Building, Room 131  
1151 Punchbowl Honolulu HI 96809

DLNR-000404



# NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY

An Attached Agency of the Department of Business, Economic Development & Tourism, State of Hawaii



## RENTAL AGREEMENT

### FOR THE

## HAWAII GATEWAY ENERGY CENTER AT NELHA

Rental Agreement for the use of Hawaii Gateway Energy Center, at the Natural Energy Laboratory of Hawaii Authority (NELHA), Keahole Point, North Kona, Hawaii on the following date (s):

Date: Dec. 3, 2010 (Friday) Time: 6:00 – 9:00 p.m.

Number of People: 50+

The State of Hawaii, Natural Energy Laboratory of Hawaii Authority, hereby allows:

Company Name: DLNR-Office of Conservation & Coastal Lands

Address: 1151 Punchbowl St., Hon., HI 96809 Kalanimoku Bldg., Room 131

Telephone #: 587-0048 Fax #: 587.0322

Contact Person: Michael Cain

referred to as the "USER", to engage for **official business use**, the Gateway Center exclusively on the date (s) and time (s) specified.

The conditions under which this Agreement is granted are as follows:

1. Cancellation of a meeting without 48-hours prior notice, the user will be charged for the room reserved.
2. The Gateway Center rental hours are from 7:30 a.m. – 8:00 p.m.  
State of Hawaii Business hours are from 7:45 a.m. - 4:30 pm M-F excluding Holidays.
3. The Monday thru Friday rental rate shall be \$62.50 per hour minimum 2 hours. \$500.00 full day (8 hours) each additional hour @ \$50.00 per hour. Weekend rental rates are \$75.00 per hour.  
**Payment must be received day before or of event. Make checks payable to NELHA.**
4. A security deposit check as such will be required the day before the event. **(WAIVED)**
  - a. \$ 50.00 (Less than 50 people)
  - b. \$ 100.00 (More than 50 people)

The security deposit will be refunded or processed for refund on the first business day following the Special function.

- 5. PARKING: The user and all attendees (excluding holders of official disabled parking placards) shall park vehicles **outside** the NELHA fenced compound.
- 6. Smoking is not permitted in, or within 20 feet of the training room.
- 7. This notice is to inform you that alcoholic beverages may not be served within the Gateway facility or NELHA property.
- 8. The "USER" is responsible for any damages incurred on the State property and shall return and restore, at the "USER's" own cost, any equipment, materials, or other facilities to a condition that existed prior to the date of this Agreement. The "USER" shall remove all trash and other such items used out of the rooms and dispose in the nearest trash bin(s). The "USER" is responsible to clean any spillage on the floors immediately and wipe down tables and chairs of all debris so as to leave room furniture in the condition received.
- 9. The "USER" is responsible to turn off all lights and lock all doors.
- 10. The "USER" shall at all times, with respect to its activities and use of NELHA facilities, use due care for public safety and shall defend, hold harmless and indemnify the State of Hawaii, and NELHA, its officers, agents and employees from and against all claims, demands for damages, including claims for property damages, bodily injury or death, arising from, or caused by an act of omission on the part of the "USER" in the connection with the privileges granted herein.
- 11. It is expressly understood by USER that if atmospheric conditions or other Acts of God occur, NELHA is not responsible for changes in facility temperature or other factors beyond its control. In such events, no refund of the rental will be given.
- 12. Equipment Rental – following charges will be assessed for:\*

Built-In DVD Player w/ Projection Screen.....\$50.00 per day

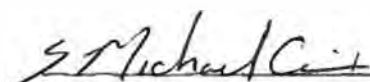
\* The "USER" shall be responsible to make arrangements prior to event to ensure equipment is available.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this

13<sup>th</sup> day of October 20 10.

By   
Ron Baird, Chief Executive Officer

Dated: 10/13/10

 S. MICHAEL CAIN  
Signature Print Name

Dated: 15 October 2010

Revised 05/07/09 RB/ge

**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**NOTICE OF PUBLIC HEARINGS**  
**ON PROPOSED LAND USE**  
**WITHIN THE CONSERVATION DISTRICT**

**DATE:** Thursday December 2, 2010

**TIME:** 6:00 P.M.

**PLACE:** Hawai'i County Council Room, 25 Aupuni Street,  
Hilo, Hawai'i 96720

**DATE:** Friday, December 3, 2010

**TIME:** 6:00 P.M.

**PLACE:** Gateway Center, Natural Energy Laboratory of Hawaii  
Authority (NELHA)  
73-4460 Queen Kaahumanu Highway, #101, Kailua-Kona,  
HI 96740-2632

The Department of Land and Natural Resources (DLNR), State of Hawaii, pursuant to Chapter 183C, Hawai'i Revised Statutes, will hold public hearings in Hilo and Kailua-Kona, Hawaii to receive testimony on the following:

**Conservation District Use Application (CDUA) HA-3568** for the University of Hawaii's proposed Thirty Meter Telescope at the Mauna Kea Science Reserve Center, Kaoho Mauka, Hamakua, Hawaii, TMK (3) 4-4-015:009.

A copy of the application is available for inspection at:

- The Office of Conservation and Coastal Lands, Kalanimoku Building Room 131, 1151 Punchbowl Street, Honolulu, HI 96809
- Hawaii State Library, 478 S. King Street, Honolulu
- Hilo Public Library, 300 Waiianuenue Ave, Hilo 96720
- Kailua Kona Public Library, 75-138 Hualalai Rd., Kailua-Kona 96740
- Thelma Parker Public Library, 67-1209 Mamalahoa Hwy., Kamuela 96743-8429
- Online at [hawaii.gov/dlnr/occl/manuals-reports](http://hawaii.gov/dlnr/occl/manuals-reports)

The Final Environmental Impact Statement is available online at the Office of Environmental Quality Control, [oeqc.doh.hawaii.gov](http://oeqc.doh.hawaii.gov) (2010-05-08)

Any person may testify or present information on the application. Disabled individuals planning to attend the hearing are asked to contact the DLNR at the above address or phone Michael Cain at 587-0048 at least three days in advance of the public hearing to indicate if they have special needs which require accommodation.

Board of Land and Natural Resources  
Laura Thielen, Chairperson  
Dated: 10/15/10

(No. 33146-West Hawaii Today: November 3, 2010)

AFFIDAVIT OF PUBLICATION

2010 NOV 10 A 8:17

State of Hawaii )  
County of Hawaii ) SS:

DEPT. OF LAND & NATURAL RESOURCES  
STATE OF HAWAII

Lorelei Logan, being first duly sworn, deposes and says:

1. That she is the Major Accounts Manager of WEST HAWAII TODAY, a newspaper published in the City of Kailua Kona, State of Hawaii.

2. That "NOTICE OF PUBLIC HEARINGS...." of which a clipping from the newspaper is attached hereto, was published in said newspaper on the following date(s) November 3, 2010 (etc.)

*Lorelei Logan*

Subscribed and sworn to before me  
this 4th day of November, 2010

*Lana Kaira*

Notary Public, Third Circuit,  
State of Hawaii



My Commission expires: August 4, 2013

# Page(s): 1

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

PAUL J. CONRY  
ACTING FIRST DEPUTY

LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Ref.:OCCL:MC

FILE NO. CDUA HA-3568

MEMORANDUM

TO: The Honorable Laura H. Thielen, Chair  
Board of Land and Natural Resources

FROM: Sam Lemmo, Administrator  
Office of Conservation and Coastal Lands

SUBJECT: Approval of the Department as Landowner for the Processing of Conservation District Use Application (CDUA) HA-3568 for use of State-owned lands for the proposed Thirty Meter Telescope (TMT) Project at the Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua District, Hawai'i, TMK (3) 4-4-015:009.

Attached for your consideration is Conservation District Use Application (CDUA) HA-3568 filed by the University of Hawai'i at Hilo for a Thirty-Meter Telescope (TMT) at the Mauna Kea Science Reserve. The Reserve is on State-owned land which is leased by the University.

OCCL has consulted with Land Division, Engineering Division, the Historic Preservation Division, the Division of Conservation and Resource Enforcement, and the Division of Forestry and Wildlife (DOFAW). The Divisions offered no objections to processing the application.

My staff recommends that the Department process the application.

As landowner, your signature is required to accept the CDUA for processing. Your decision to sign as landowner does not constitute your endorsement or approval of the proposed use.

STAFF RECOMMENDATION:

**That the application be signed and processed.**

CHAIRPERSON'S PREFERENCE: Please initial and date

1. Accept for processing: LT 10/10/10  
Initial Date

2. Reject for processing: \_\_\_\_\_  
Initial Date

cc: → NARS Section

LINDA LINGLE  
GOVERNOR OF HAWAII



LAURA H. THIELER  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUI  
ACTING FIRST DEPUTY  
LEMORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER

2010 SEP 27 A 8:00

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
HAWAIIAN ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
OFFICE OF CONSERVATION AND COASTAL LANDS

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

Ref: OCCL:MC

File NO.: CDUA HA-3568

MEMORANDUM:

SEP - 9

TO: DLNR  Division of Conservation and Resource Enforcement  
 Division of Forestry and Wildlife  
 Historic Preservation Division  
 Land Division  
 State Parks

FROM: Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

SUBJECT: Request to Process CDUA HA-3568  
Thirty Meter Telescope Project

TMK: (3) 4-4-015:009

LOCATION: Mauna Kea Science Reserve Center, Kāohe Mauka, Hāmākua, Hawai'i

The Office of Conservation and Coastal Lands (OCCL) has received Conservation District Use Application (CDUA) HA-3568 for the Thirty Meter Telescope Project proposed by the University of Hawai'i at Hilo on the above subject parcel. We have attached a disc containing the CDUA. The Final Environmental Impact Statement (EIS) for the proposal was published on May 8, 2010, and can be found in the EIS online library at [www.oecq.com](http://www.oecq.com).

The proposal involves the use of 8.7 acres of State-owned land. OCCL is seeking your Division's permission before accepting the application for processing and review. Please respond by Wednesday, September 22 so that we can initiate processing in a timely manner.

*Your decision to sign not constitute your endorsement or approval of the proposed use. If the application is accepted for processing we will follow up with your department for comments.*

Please contact Michael Cain at 587-0048, should you have any questions on this matter.

ADMINISTRATOR'S PREFERENCE: Please initial and date

1. Accept for processing: PJC 9/10/10  
Initial Date

2. Reject for processing: \_\_\_\_\_  
Initial Date

( ) Comments Attached  
 No Comments - *at this time*

Paul J Lemmo  
Signature

LINDA LINGLE  
GOVERNOR OF HAWAII



DIVISION OF CONSERVATION AND COASTAL LANDS

2010 SEP 30 P 2: 34

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
OFFICE OF CONSERVATION AND COASTAL LANDS  
STATE OF HAWAII  
POST OFFICE BOX 621  
HONOLULU HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
  
RUSSELL Y. TSUJI  
ACTING FIRST DEPUTY  
  
LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER  
  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Ref: OCCL:MC

File NO.: CDUA HA-3568

MEMORANDUM:

SEP - 9 10

TO: DLNR  Division of Conservation and Resource Enforcement  
 Division of Forestry and Wildlife  
 Historic Preservation Division  
 Land Division  
 State Parks

FROM: Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

SUBJECT: Request to Process CDUA HA-3568  
Thirty Meter Telescope Project

TMK: (3) 4-4-015:009

LOCATION: Mauna Kea Science Reserve Center, Kāohe Mauka, Hāmākua, Hawai'i

RECEIVED  
STATE PARKS  
10 SEP 10 P 2:26  
DEPARTMENT OF LAND AND NATURAL RESOURCES

The Office of Conservation and Coastal Lands (OCCL) has received Conservation District Use Application (CDUA) HA-3568 for the Thirty Meter Telescope Project proposed by the University of Hawai'i at Hilo on the above subject parcel. We have attached a disc containing the CDUA. The Final Environmental Impact Statement (EIS) for the proposal was published on May 8, 2010, and can be found in the EIS online library at [www.oegc.com](http://www.oegc.com).

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Please contact Michael Cain at 587-0048, should you have any questions on this matter.

ADMINISTRATOR'S PREFERENCE: Please initial and date

1. Accept for processing: SL 9/29/10  
Initial Date

2. Reject for processing: \_\_\_\_\_  
Initial Date

(X) Comments Attached  
(X) No Comments

Signature \_\_\_\_\_

LINDA LINGLE  
GOVERNOR OF HAWAII



RECEIVED  
2010 SEP 20 PM 12:49

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
  
RUSSELL Y. TSUIJ  
ACTING FIRST DEPUTY  
  
LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER  
  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAROOLAWA ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
OFFICE OF CONSERVATION AND COASTAL LANDS

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

Ref: OCCL:MC

File No.: CDUA HA-3568

MEMORANDUM:

TO: DLNR  Division of Conservation and Resource Enforcement  
 Division of Forestry and Wildlife  
 Historic Preservation Division  
 Land Division  
 State Parks

FROM: Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

SUBJECT: Request to Process CDUA HA-3568  
Thirty Meter Telescope Project

TMK: (3) 4-4-015:009

LOCATION: Mauna Kea Science Reserve Center, Kāohe Mauka, Hāmākua, Hawai'i

SEP - 9 2010

2010 SEP 14 11:27

RECEIVED  
DOCARE  
HILLO, HAWAII

The Office of Conservation and Coastal Lands (OCCL) has received Conservation District Use Application (CDUA) HA-3568 for the Thirty Meter Telescope Project proposed by the University of Hawai'i at Hilo on the above subject parcel. We have attached a disc containing the CDUA. The Final Environmental Impact Statement (EIS) for the proposal was published on May 8, 2010, and can be found in the EIS online library at [www.oecq.com](http://www.oecq.com).

The proposal involves the use of 8.7 acres of State-owned land. OCCL is seeking your Division's permission before accepting the application for processing and review. Please respond by Wednesday, September 22 so that we can initiate processing in a timely manner.

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Please contact Michael Cain at 587-0048, should you have any questions on this matter.

ADMINISTRATOR'S PREFERENCE: Please initial and date

- 1. Accept for processing: \_\_\_\_\_  
Initial Date
- 2. Reject for processing: \_\_\_\_\_  
Initial Date

( ) Comments Attached  
 No Comments

RECEIVED  
2010 SEP - 9 PM 3:45  
DOCARE  
DEPT. OF LAND AND  
NATURAL RESOURCES

Signature: James L. Willey  
CEBO IV #19  
East, Hi Dist.

Div. Conservation & Resources Enforcement

INVESTIGATION REPORT

1. REPORT NUMBER	HA 11-0072 LNR
2. INVESTIGATOR	James WELLER
4. DISTRICT	East Hawaii, South Hilo
8. OCCUPATION	CREO IV Officer

Classification	OCCL: CDUA, HA-3568	3. ISLAND	HAWAII								
5. COMPLAINANT (Firm Name if Business)	James Weller	6. SEX	M	RACE		AGE		7. D.O.B.		8. OCCUPATION	CREO IV Officer
9. ADDRESS		10. SCHOOL/EMPLOYED/SCHOOL ATTENDING	DLNR DOCARE	Res. Ph.		Bus. Ph.					
11. LOCATION OF OFFENSE AND CLOSEST INTERSECTING STREET	Mauna Kea Science Reserve Center, Mauna Kea access road.	12. DATE/TIME/DAY OCCURRED	NA	13. DATE/TIME REPORTED	09-14-10, 1200						
14. DESCRIBE LOCATION OF OFFENSE OR TYPE OF PREMISES	Mauna Kea Science Reserve Center, Kaohe Mauka, Hamakua, HI.	15. HOW REPORTED	Memorandum								

16. VEHICLE INVOLVED ( )	Year	Make	Model	Color(s)	License No.	I.D. Characteristics	
NA							
17. BOAT INVOLVED ( )	Length	Make	Model	Color(s)	Name	USCG Doc. No.	I.D. Characteristics
NA							
18. REGISTERED OWNER	Address					Res. Phone	

CODE C = Complainant D = Defendant W = Witness S = Suspect (fill in Composite Description) R = Reporting Person

19. NAME	Age	Sex	Code	Address	Res. Phone	Bus. Phone

20. SEX	Composite Description	Race	Age	Weight	Build	Hair	Eyes	Complex	Clothes/I.D. Characteristics

21. INVESTIGATION: 1. Insert a synopsis of the crime or incident. 2. Summarize details of the crime or incident. 3. Denote persons from whom statements taken and who took them. 4. Identify additional suspects and investigation

**CIRCUMSTANCES:** The office of Conservation & Coastal lands Division request Hawaii branch DOCARE on if we had any comments regarding CDUA application HA-3568, a Thirty Meter Telescope Project, located on the Mauna Kea Science Reserve Center, Kaohe Mauka, Hamakua, Hawaii. All documents sent along with a copy of the CDUA was reviewed. Interviews with Hawaii DOCARE Branch Manager Eric Kawamoto & Michael Cain of OCCL for more information was conducted.

In light of all the above, it is my determination that Hawaii Branch has "No Comments" to add to this CDUA case.

**CONCLUSION:** It is requested that this case be closed Record Only and a copy of this report be sent to OCCL Michael Cain for his perusal.

**Closed: Record Only**

22. REPORT WRITTEN BY:	<i>James Weller</i>	Badge No.	19	Date/Time	009-15-10, 1000	23. SUPERVISOR APPROVING	<i>[Signature]</i>	Badge No.	
24. DISPOSITION	( ) Unfounded	( ) Citation No.	( ) Arrested/Prosecuted	( ) Other/No Arrest					
25. Date/Time Reproduced		26. Distribution		27. Connecting Report No.					

LINDA LINGLE  
GOVERNOR OF HAWAII

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT



RECEIVED  
OFFICE OF CONSERVATION  
& COASTAL LANDS



2010 SEP 27 A 8:11 AM  
STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII  
25 Aupuni Street, Room 204  
Hilo, Hawaii 96720  
PHONE: (808) 974-6203  
FAX: (808) 974-6222  
September 21, 2010

RECEIVED  
LAND DIVISION  
2010 SEP 23 A 9:23  
DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

MEMORANDUM

TO: Morris M. Atta, Acting Administrator  
Land Division

FROM: Kevin E. Moore, Hawaii District Land Agent *Kevin Moore*

SUBJECT: Request to Process CDUA HA-3568  
Thirty Meter Telescope (TMT) Project  
Mauna Kea Science Reserve Center, Ka'ohe Mauka, Hamakua, Hawaii

APPLICANT: University of Hawaii at Hilo

TMKs: (3) 4-4-15:9

We have no comments on the subject CDUA HA-3568 that differ from those set forth in our Memorandum of June 8, 2009 to Sam Lemmo, Office of Conservation and Coastal Lands, regarding the Draft Environmental Impact Statement for the proposed project. We therefore recommend that OCCL accept the CDUA for processing.

Please let us know if you have any questions.

LINDA LINGLE  
GOVERNOR OF HAWAII



LAURA H. TRIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI  
ACTING FIRST DEPUTY

LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
OFFICE OF CONSERVATION AND COASTAL LANDS

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

Ref: OCCL:MC

File NO.: CDUA HA-3568

MEMORANDUM:

TO: DLNR  Division of Conservation and Resource Enforcement  
 Division of Forestry and Wildlife  
 Historic Preservation Division  
 Land Division  
 State Parks

FROM: Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

SUBJECT: Request to Process CDUA HA-3568  
Thirty Meter Telescope Project

TMK: (3) 4-4-015:009

LOCATION: Mauna Kea Science Reserve Center, Kāohe Mauka, Hāmākua, Hawai'i

SEP 23 9 2010  
RECEIVED  
LAND DIVISION  
DEPT. OF LAND & NATURAL RESOURCES  
STATE OF HAWAII

The Office of Conservation and Coastal Lands (OCCL) has received Conservation District Use Application (CDUA) HA-3568 for the Thirty Meter Telescope Project proposed by the University of Hawai'i at Hilo on the above subject parcel. We have attached a disc containing the CDUA. The Final Environmental Impact Statement (EIS) for the proposal was published on May 8, 2010, and can be found in the EIS online library at [www.oeqc.com](http://www.oeqc.com).

The proposal involves the use of 8.7 acres of State-owned land. OCCL is seeking your Division's permission before accepting the application for processing and review. Please respond by Wednesday, September 22 so that we can initiate processing in a timely manner.

*Your decision to sign not constitute your endorsement or approval of the proposed use.* If the application is accepted for processing we will follow up with your department for comments.

Please contact Michael Cain at 587-0048, should you have any questions on this matter.

ADMINISTRATOR'S PREFERENCE: Please initial and date

1. Accept for processing: SL 9/23/10  
Initial Date

2. Reject for processing: \_\_\_\_\_  
Initial Date

- ( ) Comments Attached
- ( ) No Comments

Samuel J. Lemmo  
Signature

## MAUNA KEA MANAGEMENT BOARD

640 N. A'ohoku Place, Room 203, Hilo, Hawai'i 96720

Telephone: (808) 933-0734; Fax: (808) 933-3208

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September 10, 2010

Dr. Charles Alcock, Director  
Smithsonian Astrophysical Observatory  
60 Garden Street  
Cambridge, MA 02138-01516

Subject: TMT Access Way

Dear Dr. Alcock:

I am writing in connection with your letter of August 31, 2010 to Patricia Cockett Bergin, Vice Chair of the Mauna Kea Management Board (MKMB). Your letter asked that MKMB refrain from recommending that the Conservation District Use Application (CDUA) for the Thirty Meter Telescope (TMT) be submitted to the State of Hawai'i, Department of Land and Natural Resources (DLNR).

We appreciate the concerns that motivated your letter. However, after considering all of the facts before us, including those presented in your August 31<sup>st</sup> letter, MKMB at its September 1, 2010, meeting recommended that the TMT CDUA be submitted to DLNR.

MKMB appreciates the scientific value of the Submillimeter Array (SMA) and understands the importance that the Smithsonian Astrophysical Observatory (SAO) attaches to it. MKMB also understands the SAO's desire that other long-planned astronomical uses on the mountain be implemented with due consideration to the SMA's needs. In particular, we are aware that the planned Access Way for the TMT project involves the use of an existing common roadway, and that care must be taken to avoid adverse impact on SMA operations and/or the fiber optic cable that SMA has installed beneath the existing roadway. Our recommendation concerning the readiness of the application for submittal took all of those concerns into consideration.

Your suggestion that the Final Environmental Impact Statement (Final EIS) is somehow incomplete because the Access Way is identified as an "unresolved issue" is incorrect. Governor Linda Lingle accepted the Final EIS on May 19, 2010. According to Hawaii law acceptance by the Governor is a formal determination that the Final EIS adequately describes identifiable environmental impacts, and satisfactorily responds to comments received during the review of the draft statement. Therefore the Final EIS is complete and in addition, the 60-day period to challenge Final EIS has expired. Further your assertion that the TMT CDUA is incomplete is also incorrect. As a practicable matter there really is no alternative to what is described in the CDUA, because construction of a road or utility corridor around pad 21 would have a much greater negative impact on the cultural landscape. DLNR makes the final determination whether the CDUA is complete. There is no requirement that every concern that has previously been raised be "resolved" before proceeding. Hence, your request that the MKMB stay its actions until all Access Way questions have been resolved to your satisfaction is inappropriate.

Dr. Charles Alcock  
September 10, 2010  
Page | 2

Please note that under SMA's sublease, SMA has a non-exclusive easement on portions of the road leading out to the TMT site and the University retains the right to use areas beyond SMA, provided that such use does not have a significant adverse impact on SMA operations. SMA, therefore, has an affirmative obligation not to interfere with traffic on the common access roads.

MKMB believes that existing roadways should be used and that excavation of undisturbed lands should be avoided. MKMB believes that adequate measures are available to ensure that installation of TMT's utility lines and fiber optic cables under the existing roadway and use of the existing common access road by TMT will not have a significant adverse impact on SMA operations.

MKMB encourages SAO and TMT to continue to work together to find reasonable measures that will make option 3, identified in the Final EIS, work for both parties and to ensure SAO's concerns are reasonably addressed. I believe that TMT is making an effort to make option 3 work through various proposals. I do not see a similar effort on SAO's part other than proposing to excavate undisturbed lands which is unacceptable. **MKMB, therefore, encourages SAO to work collegially which is how most of the parties that are fortunate enough to share the mountain seek to have their concerns heard and needs met.**

Sincerely,



Barry K. Taniguchi  
Chair  
Mauna Kea Management Board

c: Ray Blundell  
M. R. C. Greenwood  
Rolf Kudritzki  
Stephanie Nagata  
Gary Sanders  
Laura Thielen  
James Wilson



## Smithsonian Astrophysical Observatory

August 31, 2010

Ms. Patricia Cockett Bergin  
First Vice Chair  
Mauna Kea Management Board  
640 N. Aohoku Place, Room 203  
Hilo, Hawaii 96720

Dear Ms. Bergin,

I understand that the Mauna Kea Management Board will soon review the application of the Thirty Millimeter Telescope (TMT) for completeness prior to a submission to the Department of Land and Natural Resources for a use permit.

The Smithsonian Astrophysical Observatory operates the Submillimeter Array (SMA) on a site that will be impacted by the construction of the TMT. As you may be aware the Environmental Impact Statement (EIS) for the TMT expressly states that the Access Way for the TMT is an "unresolved" issue. As I understand the procedures, the Board is reviewing the draft use permit application for completeness. The location of the Access Way is of extraordinary importance to the SMA. The SMA is critically dependent upon fiber optic cables that run under the proposed access way. This fiber optic cable is a specialized, temperature-compensated type; the ability of the SMA to function as a coherent array depends entirely on this characteristic, combined with the damping of temperature fluctuations achieved by its burial in the ground. The sole manufacturer of this optical cable no longer makes the product and fiber having the same characteristics is not available from any other manufacturer. Should this cable be damaged, the operation and scientific output of the SMA would be severely compromised. Obviously without resolution of this critical issue the draft application cannot be considered complete.

SAO representatives have met four times with representatives of the TMT to discuss the access way and TMT utility alignments, and to discuss possible alternatives. Both parties have been working diligently to find an alternative that will protect the operation of the SMA. They have not yet found that solution.

I urge you and the Board to delay approving the draft use application until the TMT and SMA personnel have reached an acceptable resolution of this critical issue.

The Smithsonian Astrophysical Observatory has invested some two hundred million dollars in the SMA and it would be unreasonable to recommend proceeding with the TMT until this issue has been satisfactorily resolved. I should also point out that the SMA's sublease grants

SMITHSONIAN INSTITUTION  
60 Garden Street  
Cambridge MA 02138-1516  
[www.cfa.harvard.edu](http://www.cfa.harvard.edu)

Letter to Patricia Cockett Bergin  
August 31, 2010  
Page 2

to the Smithsonian Institution a right to peaceful enjoyment of the subleased site. The proposed access way will cross our subleased space and may violate the express terms of that sublease.

As noted above, the parties are working with good will to resolve this matter and I think it only fair to allow that process to proceed to a mutually satisfactory conclusion before the MKMB makes any recommendations with respect to what is now an incomplete EIS and what must therefore be an incomplete draft use application.

Sincerely,



Charles Alcock  
Director  
Smithsonian Astrophysical Observatory

Cc: Ray Blundell, Smithsonian Astrophysical Observatory  
Rolf Kudritzki, University of Hawaii  
Stephanie Nagata, Office of Mauna Kea Management  
Gary Sanders, Thirty Meter Telescope  
Laura Thielen, State of Hawaii Department of Land and Natural Resources  
James Wilson, Smithsonian Institution



UNIVERSITY  
of HAWAII  
SYSTEM

M.J.C. Greenwood, Ph.D.  
President

August 31, 2010

Via E-Mail: [calcock@cfa.harvard.edu](mailto:calcock@cfa.harvard.edu)

Dr. Charles Alcock, Director  
Smithsonian Astrophysical Observatory  
60 Garden Street  
Cambridge, MA 02138-01516

RE: TMT Access Way

Dear Dr. Alcock:

I am writing in connection with the Smithsonian Astrophysical Observatory's ("SAO") letter of August 20, 2010 to Gary Sanders at the Thirty Meter Telescope Corporation ("TMT").

In that letter, SAO reiterated its preferred solution for routing both roadway access and underground utilities around Submillimeter Array's ("SMA") pad 21. While SAO acknowledges that even a temporary road around antenna pad 21 - that would necessarily cut into the one of the cinder cones (Pu'u Hauoki) that comprise the historic property referred to as Kūkahau'ula - may prove unacceptable to other stakeholders, SMA requested that the plans for the temporary access way and the utility loop around pad 21 be provided to the Kahu Ku Mauna for a side-by-side comparison with the other options that would have access and utilities along and under the existing common access road that is currently shared with the SMA within the non-exclusive areas of the sublease for the SMA. It is our understanding that SAO is concerned that shared use of the existing common roadway, especially during the construction of the TMT, may have an adverse impact on operations of the SMA and/or the fiber-optic cable that SAO has installed beneath the common roadway. However, we conclude that adequate technical safeguards have been proposed to assure that shared use of the existing common road by TMT for its underground utilities and access would not impact SMA's cable and operations. For the reasons set out below, it is our position that construction of either a new temporary construction road or utility loop around pad 21 is neither necessary nor acceptable.

As indicated in SAO's letter, over the course of several months the University of Hawai'i (the "University") and TMT have negotiated in good faith with SAO with the intent of addressing SAO's concerns regarding the routing of the TMT access way. Representatives of the University and TMT have directly engaged representatives of SAO including through email correspondence, phone calls and, on several occasions, extensive meetings held on May 20, June 24, July 14, and August 4, 2010. These meetings are summarized in the schedule attached hereto as Exhibit A and demonstrate our continued good faith and patience in addressing SMA's concerns. On a number of occasions TMT engineering personnel have produced numerous technical studies and comprehensive proposals intended to adequately protect SMA's fiber-optic

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Email: [mjcgreenwood@hawaii.edu](mailto:mjcgreenwood@hawaii.edu)

An Equal Opportunity/Affirmative Action Institution

Dr. Charles Alcock  
August 31, 2010

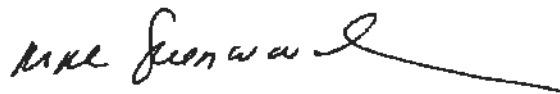
and utility cables. These options can be implemented without harm or interference with SMA utilities and infrastructure. Furthermore, various options are available to minimize TMT interference with SMA operations during TMT Observatory construction.

In addition, as the negotiations between SAO, TMT and the University have unfolded, the University has regularly consulted with various stakeholders regarding the TMT access way, including with the Historic Preservation Division of the Department of Land and Natural Resources ("SHPD") and with Kahu Kū Mauna Council, the Native Hawaiian advisory group advising the University on cultural matters pertaining to Mauna Kea. It should be noted that the University consulted with Kahu Kū Mauna Council at the Council's monthly meetings held on July 13, 2010 and August 11, 2010 regarding the TMT access way and SAO's proposal to construct a loop road and utility corridor around pad 21.

By letter dated August 25, 2010, Ed Stevens, Chair of Kahu Kū Mauna Council, confirmed the Council's position regarding the TMT access way; primarily that (1) the Council views the placement of a TMT Observatory utility corridor around SMA antenna pad 21 as unnecessary; (2) placement of TMT Observatory utilities beneath SMA fiber-optic and utility cables is preferable; and (3) use of the existing common access road for TMT access and utilities is strongly preferred. It should be noted that a SHPD representative has also indicated that increased disturbance of an undisturbed area, including the slopes of Pu'u Hauoki, is not preferable from a historic preservation point of view.

Now that (1) Kahu Kū Mauna Council has strongly indicated its position regarding the TMT access way, (2) it has become clear that sufficient technical options exist to assure SAO that the TMT access way will not interfere with SMA fiber-optic and utility cables, (3) TMT is proposing continued meetings with SMA to develop joint design and oversight activities for the access way installation, and (4) interference by TMT with SMA operations during TMT Observatory construction can be minimized, the University has decided to allow TMT to proceed with using the common access road for TMT access and utilities. The University intends to submit within the next week or so a Conservation District Use Application which reflects this decision. That is not to say that modifications that are sensitive to your concerns as the road is being built cannot be addressed by all in the future. Moving forward, as there are other issues to address regarding TMT's use of the common access road for access and utilities, we urge SAO to continue to work with TMT in addressing SAO's concerns.

Sincerely,



M.R.C. Greenwood, President  
University of Hawai'i

cc: Dr. Gary Sanders, TMT [Via E-Mail: [sanders@tmt.org](mailto:sanders@tmt.org)]

**Exhibit A**

<b>TMT Access Way Negotiations**</b>			
<b>Date</b>	<b>Type of Correspondence</b>	<b>Description:</b>	
May 20, 2010	Meeting	Mauna Kea site visit and meeting between personnel from the University, TMT and SAO.	Meeting included the following: 1. Site inspection. 2. Description of current TMT access way options. 3. Discussion of SAO's technical concerns with use of common access road.
June 24, 2010	Meeting	Meeting at University of Hawai'i, Institute for Astronomy to discuss SAO proposals.	Parties discuss the following: 1. SAO proposal of loop road and utility corridor around SMA pad 21. 2. SAO proposal of utility corridor around SMA pad 21. 3. TMT proposal of additional road adjacent to common access road.
July 14, 2010	Teleconference	Teleconference to discuss six options for TMT access way.	Prior to meeting, TMT submits to parties technical drawings of six TMT access way options. Parties discuss the six options, which include an option involving loop road and utility corridor around pad 21 and option involving TMT use of common access road for access and utilities.  Meeting results in TMT access way options narrowed to three options. However, meeting indicates that SAO strongly prefers options involving disturbance of undisturbed Mauna Kea terrain. Parties also agree to conduct survey to determine actual layout of SMA cables within common access road.
August 4, 2010	Meetings	Comprehensive meetings held at SAO's offices in Cambridge, Massachusetts, to discuss final three TMT access way options.	Meeting involves: 1. TMT presentation regarding entire TMT Observatory project. 2. Comprehensive TMT presentation regarding access way options including additional options involving use common access road by TMT for access and utilities with various measures to adequately protect SMA cabling. 3. Extensive discussion of additional options which involve use of the common access road by TMT for access and utilities with adequate protections developed for SMA cabling.
August 13, 2010	TMT Email Correspondence	Email from Gary Sanders, TMT, to Ray Blundell, SAO, and Rolf Kudritzki, University	TMT email indicating that TMT believes technical options exist that will adequately protect SMA cabling, and therefore, TMT believes that options involving a loop road and utility corridor around pad 21 are unnecessary. TMT proposes continued meetings with SMA to develop joint design and oversight activities for the access way installation.
August 20, 2010	SAO Letter Correspondence	Letter from Ray Blundell, SAO, to Gary Sanders, TMT	SAO letter indicating strong preference for, at minimum, routing of TMT utilities around pad 21 and desire to consult with Kahu Kū Mauna Council regarding resolving access way issues.

\*\*This schedule is not intended to document the entire history of negotiations between the University, TMT, and SAO regarding the TMT access way. There have been other correspondence between the parties that is not documented here.

**KAHU KU MAUNA COUNCIL**  
**c/o Ed Stevens**

Ms. Stephanie Nagata  
Interim Director  
Office of Mauna Kea Management  
University of Hawai'i at Hilo  
640 N. A'ohoku Place  
Hilo, HI 96720

Dear Stephanie,

I am writing to confirm Kahu Kū Mauna Council's position regarding the TMT access way, as well as to address SMA's concern expressed in its August 20<sup>th</sup> letter to Gary Sanders. In the letter SMA indicated it did not believe the opinions expressed by you were representative of the stakeholders.

On July 13<sup>th</sup> you informed the Council that SMA proposed putting a road around pad 21 and connecting near the junction of pad 20 as an alternative to using the existing road (Option 3 as described in the TMT EIS). The Council rejected the idea of putting a road around pad 21 **and was clear that SMA must share existing roadways which is consistent with the 2000 Master Plan's DESIGN GUIDELINES** (ref. Page XI-6 Roadway and Utility Development). Adding a road around pad 21 would directly increase SMA's footprint because the road would be the result of SMA's unwillingness to work out a reasonable solution using existing roads. SMA's footprint on the mountain already far exceeds any of the footprints of existing observatories.

At the Council's August 11<sup>th</sup> meeting, you presented, at the request of SMA, their proposal to route a utility corridor around pad 21. You also presented another TMT option (steel plate option) which would entail placing at the junctions of the 13N road and pads 21 and 20 a steel plate on the existing ground, covering it with fill, followed by the placement of TMT's utilities and an additional layer of fill. This would result in a gradual slope at the junctions of pad 21 and 20. TMT utilities will be placed under the existing grade of the road between the pad 21 and pad 20 junctions at least 10' away from where the SMA utilities currently lie.

The Council believes that putting a utility corridor around pad 21 would result in additional disturbance to Pu'u Hauoki, one of the cinder cones comprising Kūkahau'ula, which is recognized by the State Historic Preservation Division as a traditional cultural property. Also, because it would result in unnecessary disturbance to an unaltered landscape, the Council rejected putting a utility corridor around pad 21, again stressing the need to follow the Master Plan's design guideline to use existing infrastructure. The Council strongly feels that should SMA press for a utility corridor around pad 21, the Council will call for SMA to remove pad 21.

The Council voted unanimously to accept TMT's steel plate option with the condition that TMT try as much as possible to create a more natural look to the embankment and minimize the number of guard rails.

The Council also voted unanimously to approve the use of the existing road along the base of Pu'u Hauoki (Option 3) which connects to the SMA road near the junction of pad 21 with the condition that TMT minimize the number of guard rails.

The Council further stated that construction work around existing utilities is done safely all the time and SMA's concerns are exaggerated and unfounded. TMT could easily and safely put their utilities under SMA's and *this is the Council's preferred action*. (As a note, you do know that I am a retired District Manager from the telephone company, with extensive prior experience as Plant Superintendent for Construction operations. Work included overseeing installation, maintenance and quality testing of fiber optic cables).

Finally, the Council urges SMA to collaborate with TMT in working on a reasonable solution for using the TMT EIS Option 3. The use of this option utilizes existing infrastructure, minimizes excavation to undisturbed land, has less visual impacts, and is feasible from an engineering perspective without harm to SMA's lines. A decision by SMA to use Option 3 would be a symbolic gesture of SMA's good will and respect for Mauna Kea as a significant cultural resource.

Sincerely,



Ed Stevens, Chair  
Kahu Kū Mauna Council

c: Ray Blundell  
G. Sanders  
C. Alcock  
H. Yang  
L. Thielen  
R. Kudritzki  
J. Wilson  
Mauna Kea Management Board  
Kahu Kū Mauna Council

1789	KA	Hanalei	1985	Various	Loading & Unloading Commercial Passengers	Ono Mana Catamaran Cruises	c	Withdrawn
1790	OA	Koolauloa	1985	5-9-001:027	After-the-Fact Seawall	Aloha Marine Texaco	Exempt	Approved
1791	OA	Waialua	1985	6-1-002:005	Nonconforming Single Family Residential	Mr. Gary T.S. Lee	Exempt	Approved
1792	OA	Honolulu	1985	3-3-029:036	Single Family Residence	Mr. Frank Fistes	Exempt	Approved
1793	OA	Honolulu	1985	3-9-012:002	Mobile Radio Telephone Communication System	GTE Mibilnet Of Hawaii	Exempt	Approved
1793	OA	Honolulu	1985	3-9-012:004				
1794	OA	Waialua	1985	6-7-003:023	Microwave System Tower	DAGS. Div. Of Public Works	Exempt	Approved
1794	OA	Waialua	1985	6-7-003:025				
1794	OA	Wahiawa	1985	7-7-001:001				
1794A	OA	Waialua	1988	6-7-003:023	Expand the Microwave System Facility	Dept. of Budget & Finance	Exempt	Approved
1794A	OA	Waialua	1988	6-7-003:025				
1794A	OA	Wahiawa	1988	7-7-001:001				
1795	OA	Koolaupoko	1985	4-1-014:006	Conducting a Commercial Tour Boat Venture	Enchanted Isle Raft Expeditions	c	Returned
1796	MO	Molokai	1985	5-7-001:065	Rock Revetment to Protect Property	Carl Y. Watanabe, DDS	c	Withdrawn
1797	KA	Lihue	1986	3-9-001:001	Wailua River Hydroelectric Power Plan	BBB Power Associates	Exempt	Approved
1797	KA	Lihue	1986	3-9-002:001				
1797	KA	Lihue	1986	3-9-002:012				
1797	KA	Lihue	1986	3-9-002:014				
1797	KA	Lihue	1986	3-9-002:020				
1797	KA	Lihue	1986	3-9-002:021				
1797	KA	Lihue	1986	3-9-002:031				
1797	KA	Lihue	1986	3-9-002:033				
1797	KA	Lihue	1986	3-9-003:009				
1798	KA		1983					File Missing
1799	KA	Hanalei	1985	5-5-001:004	Commercial Boat Tours	Mr. John W. White	c	Unknown
1800	MO	Kahoolawe	1985	6-1-001:001	Boat Launch Ramp	Communicable Disease Division	Exempt	Approved
1801	MA		1983					
1802	KA	Hanalei	1986	5-3-005:006	Beach Transit & Commercial Canoe Sailing	Mr. Carlos Andrade	c	Returned
1803	OA	Honolulu	1985	3-3-034:001	Picnic Shelters & Storage Shed	Mr. & Mrs. T.E. Bonds	Exempt	Approved
1804	OA	Ewa	1985	9-9-010:006	Grading & Construction of Water Tank, Roadway	The Queen Emma Foundation	Exempt	Approved
1804	OA	Ewa	1985	9-9-010:010				
1804	OA	Ewa	1985	9-9-010:026				
1805	OA	Honolulu	1983				c	Approved
1806	KA	Hanalei	1985	5-9-003:001	Two-Car Garage & Pavement	Mr. Charles R. Wichman, Jr.	Exempt	Approved
1807	OA	Koolaupoko	1985	4-8-013:001	Development of Water Sys. & Construction Roadway	Hawaii Housing Authority	Exempt	Approved



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
OFFICE OF CONSERVATION AND COASTAL LANDS  
Honolulu, Hawaii

March 25, 2010

Board of Land and  
Natural Resources

REGARDING: Request for Approval of Natural Resources Management Plan, Cultural Resource Management Plan, Public Access Plan, Decommissioning Plan, Project Development and Management Framework, and Approval of Delegation of Implementing Authority from the University of Hawaii Board of Regents to the Office of Mauna Kea Management, Pursuant to the Mauna Kea Comprehensive Management Plan

APPLICANT: University of Hawaii

LANDOWNER: State of Hawaii, Leased to the University of Hawaii

LOCATION: Mauna Kea Science Reserve, Including Hale Pohaku, and Summit Access Road, Island of Hawaii

TMKs: TMK: (3) 4-4-15:9 (Science Reserve)  
TMK: (3) 4-4-15:12 (Hale Pohaku)

AREA OF PARCEL: +11,288 acres (Science Reserve)  
+ 19 acres (Hale Pohaku)

SUBZONE: Resource

Document Access: The Natural Resources Management Plan, Cultural Resource Management Plan, Public Access Plan, and Decommissioning Plan are too large to attach to this report and can be viewed on line at the following web address: <http://hawaii.gov/dlnr/occl/mauna-kea-management-plan/mauna-kea-management-plan>. Hard copies may also be reviewed at the Department of Land and Natural Resources, Land Division Office, at 75 Aupuni Street, Room 204, Hilo,

*25 amended*  
APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
MAR 25 2010

ITEM K-1

**Mauna Kea Comprehensive Management Plan  
Sub Plans**

or at 1151 Punchbowl Street, Honolulu, Room 131.  
Electronic (CD) copies of these plans may also be made  
available by written request.

**BACKGROUND:**

On April 9, 2009 the Board of Land and Natural Resources (BLNR) approved the Mauna Kea Comprehensive Management Plan (CMP) subject to eight (8) conditions (**Exhibit 1**). The BLNR action required UH to submit four (4) sub plans within one year of April 9, 2009: Natural Resources Management Plan; Cultural Resource Management Plan; Public Access Plan; Decommissioning Plan, including a financial element; and Project Development and Management Framework. The BLNR action also required UH to submit an annual status report on the development of each sub plan and a status report on the development of each management action<sup>1</sup>. Additionally, condition one (1) required the BLNR to approve any delegation of authority, for implementation of the CMP, from the University of Hawaii Board of Regents to the Office of Mauna Kea Management.

**DESCRIPTION OF AREA AND CURRENT USE:**

The Mauna Kea Science Reserve (MKSR) encompasses 11,288 acres of State land leased to the University of Hawaii (UH) under General Lease S-4191. According to the University of Hawaii, Institute for Astronomy (UHIfA), about 0.36 percent (40.5 acres) of the lease area is currently being used by observatories and related development. UH also controls + 19 acres of land at Hale Pohaku (mid-level facilities), which includes the support facilities for the observatories. The third area within the UH Management Area is the Summit Access Road that extends from Hale Pohaku to the boundary of the Mauna Kea Science Reserve, including a 400-yard wide corridor on either side of the road, excluding those areas within the adjacent Mauna Kea Ice Age Natural Area Reserve (**Exhibit 2, UH Management Areas**). Surrounding land uses include the Mauna Kea Ice Age Natural Area Reserve and the Mauna Kea Forest Reserve. The Science Reserve is located within the Resource subzone of the State Conservation District (**Exhibit 3, Conservation District Subzones**).

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<sup>1</sup> The first annual status report will be presented the Board at the April 8, 2010 Land Board Meeting.

**Mauna Kea Comprehensive Management Plan  
Sub Plans**

**PROPOSED ACTION**

UH is seeking the approval of the BLNR for the CMP sub plans under the BLNR's authority to consider such plans, pursuant to Chapter 183C, Hawaii Revised Statutes (HRS). The BLNR's authority to consider management plans falls under Section 183C-1, HRS, which states as follows:

The legislature finds that lands within the state land use conservation district contain important natural resources essential to the preservation of the State's fragile natural ecosystems and the sustainability of the State's water supply. It is therefore, the intent of the legislature to conserve, protect, and preserve the important natural resources of the State through **appropriate management** and use to promote their long-term sustainability and the public, health, safety and welfare.

The CMP was prepared in accordance with the Third Circuit Court's Decision and Order (Civ. No 04-1-397) in the Keck Outrigger Telescopes Appeal. The CMP is intended to be consistent with guidance found in the court's January 19, 2007 decision. In that matter, which resulted in the reversal of the Keck Outrigger Telescope Conservation District Use Permit (CDUP), the circuit court ruled that the Management Plan submitted and approved by the BLNR for the project was not comprehensive under Hawaii Administrative Rules (HAR) 13-5-24. The circuit court's conclusions of law suggested that any Management Plan for Mauna Kea would need to be "comprehensive" and should not be project-by-project based (which was the case in the Keck Outrigger Telescope), and that the Management Plan should cover multiple land uses within the larger overall areas that UH controls at the top on Mauna Kea in the Conservation District. The circuit court's decision also stipulated that a management plan would be a precondition to the granting of a CDUP for R3 (Astronomy Facilities).

The CMP builds on pre-existing management plans including the 1995 Management Plan for UH Management Areas (approved by the BLNR, and updated and incorporated into the CMP), and the 2000 Mauna Kea Master Plan (approved by the UH Board of Regents).

## Mauna Kea Comprehensive Management Plan Sub Plans

A Draft Environmental Assessment (EA) for the CMP was published in the OEQC Bulletin for public review on February 2, 2009. UH approved the EA on April 1, 2009, through the issuance of a Finding of No Significant Impact FONSI to the Environment.

All sub-plans are part of the overall management strategy being implemented for the UH Management Areas on Mauna Kea. These plans help OMKM meet its mission and to allow for multiple uses of the mountain while protecting resources. They provide detailed discussions of particular elements and related management solutions: NRMP (ecological issues); CRMP (cultural and archaeological resources); PAP (public access plan); and DP (decommissioning plan). All sub-plans contain lists that cross-reference Mauna Kea CMP management actions to related sections in the sub-plans to aid in implementation. Management on Mauna Kea requires collaboration and cooperation among the various stakeholders because there are overlapping jurisdictions and because ecosystems do not recognize political or property boundaries.

### CONTENTS OF CMP SUB PLANS

#### Natural Resources Management Plan

The Natural Resources Management Plan (NRMP) provides the implementing guidelines and framework for the protection of natural resources in the UH Management Areas. The NRMP provides a detailed assessment on the status and threats to natural resources and the development of a management program to conserve the resources. The NRMP was initiated as a project of the Mauna Kea Management Board (MKMB) Environment Committee, and is unique because it is the first plan to focus on the protection and preservation of natural resources in the UH Management Areas. The plan offers specific management actions to reduce the identified threats to natural resources and to guide adaptive responses to future threats.

The areas covered in the NRMP include some of Hawai'i's unique and rare alpine ecosystems. These fragile ecosystems are valuable resources to the citizens of Hawai'i and to the global community. The NRMP is based on a scientific framework that includes comprehensive review of existing scientific studies, biological inventories, historical documentation, and human uses of the area that identifies

**Mauna Kea Comprehensive Management Plan  
Sub Plans**

the current state of knowledge of resources, information gaps, threats, management activities and the effectiveness of current management actions. Community consultation was also part of the process, with surveys, email and phone interviews, and meetings held in Hilo and Honolulu to gather input from scientific experts, natural resource managers, and concerned members of the public.

The NRMP includes five component plans, which describe the core elements of the proposed management program. Each component plan explains why it is needed; details its goals and objectives; provides a brief review of the current understanding of the natural resources and management needs; and provides recommended management actions. Managers will use the NRMP as guidance, in concert with other management directives, to prioritize and implement relevant parts. It is not the intent of this plan that all of the management actions be implemented, but rather the best ones may be chosen depending on management priorities, situation, availability of funding, and the results of baseline inventories and long-term monitoring. An adaptive management approach will ensure that the management strategies reflect input received from inventory, monitoring and research activities in order to preserve and protect the natural resources of Mauna Kea.

*Natural Resource Inventory, Monitoring and Research Component Plan:* describes the development of an Inventory, Monitoring and Research (IM&R) program and identifies data gaps and information needs for the natural resources found within UH Management Areas. Comprehensive and well-designed IM&R programs allow managers to determine the status of natural resources, track changes in resources over time, identify new threats, measure progress towards meeting management objectives, and plan future research and management. IM&R needs are prioritized according to current understanding of the resources and data gaps. The IM&R program is divided into: baseline inventories, long-term monitoring, and research. To date, only limited baseline data has been collected on natural resources in UH Management Areas. Decisions on what resources to monitor over the long term will be based on the results of the baseline inventory and the objectives of the management program, including adhering to any legal requirements.

*Threat Prevention and Control Component Plan:* reviews current and potential threats to natural resources, and

**Mauna Kea Comprehensive Management Plan  
Sub Plans**

presents a range of management actions to deal with identified threats. For many threats, the magnitude of the impact will depend on the types of activities that occur on the land and the level of use - e.g., human uses and activities. Management activities to control or prevent threats will by necessity be focused primarily in areas of high impact.

*Natural Resources Preservation, Enhancement, and Restoration Component Plan:* describes and prioritizes preservation, enhancement, or restoration management activities to protect native plant and animal communities and their habitats.

*Education and Outreach Component Plan:* describes the continued development of OMKM's educational and outreach efforts and provides recommended education and outreach activities to improve understanding of the unique natural resources found within UH Management Areas to provide visitors and users with the information they need to understand and protect the natural resources.

*Information Management Component Plan:* describes the activities needed to successfully manage information on natural resources to inform management decisions. Recommendations include establishment of a geographic information system (GIS) system at OMKM, maintaining data, and continued support and improvement of the OMKM library.

The Mauna Kea Management Board (MKMB) approved the NRDP on October 14, 2009 followed by approval by the BOR on November 19, 2009.

Cultural Resources Management Plan

The Cultural Resources Management Plan (CRMP) provides OMKM with the tools it needs to meet its cultural resource management responsibilities in several ways. It begins by identifying key management objectives and goals that can be used in making budget decisions, assessing staffing needs, and setting up contracts for specialized services. The major objectives include:

- promoting a greater understanding of the rich cultural heritage of Mauna Kea;
- preserving and managing cultural resources in a sustainable manner so that future generations

**Mauna Kea Comprehensive Management Plan  
Sub Plans**

will be able share in and contribute to a better understanding of the historic properties that exist in the summit region, which is of major cultural significance to Hawaiians;

- maintaining opportunities for Native Hawaiians to engage in cultural and religious practices; and
- preserving the cultural landscape for the benefit of cultural practitioners, researchers, recreationalists, and other users.

The Management Plan is divided into three parts: (1) general management issues; (2) specific public and commercial uses, and (3) long-term management programs, plans, strategies and other needs.

The CRMP examines specific activities in terms of the potential threats or impacts that each may have on historic properties and presents appropriate mitigation measures to avoid or minimize impacts. In some cases there are existing policies and regulations that can be followed to protect cultural and archeological resources. In other cases, new policies, guidelines, or regulations are needed. For example, one of the issues addressed in the Management Plan is the perceived need for the Hawaiian community to consider the possible effects of on-going cultural and religious practices on historic properties. OMKM's cultural advisory group, the Kahu Kū Mauna Council, will take the lead in consulting with Hawaiian organizations and individuals with historical ties to Mauna Kea, cultural practitioners, and the Mauna Kea Management Board in developing procedures and protocols regarding cultural issues such as on-going cultural and religious practices including the construction of new shrines.

The Management Plan identifies several priority management actions: (1) preparation of a Burial Treatment Plan; and (2) preparation and implementation of a final Archaeological Monitoring Plan and development of a archeological monitoring program. OMKM can proceed with the preparation of these two mitigation plans once the archaeological inventory survey report for the Mauna Kea Science Reserve has been approved (sometime in early April).

The Mauna Kea Management Board (MKMB) approved the CRMP on October 14, 2009 followed by approval by the BOR on November 19, 2009.

Mauna Kea Comprehensive Management Plan  
Sub Plans

Public Access Plan

The Public Access Plan for the UH Management Areas on Mauna Kea (PAP) sets forth principles and policies to be used as guidelines for future administrative rules and management decisions/actions that will serve to protect the area's natural and cultural resources while enabling public and Native Hawaiian activities and uses. Throughout the PAP six key tenets are consistently stressed: (1) The UH Management Areas on Mauna Kea are public lands held in trust for Native Hawaiians and the general public by the State and UH; (2) Protection of public health and safety is of paramount importance when managing these public lands; (3) An informed public is best prepared to make good decisions and act responsibly while on Mauna Kea; (4) Native Hawaiian traditional and customary rights are legally and constitutionally protected and can be accommodated and reasonably regulated in the interest of public health and safety and protection of natural and cultural resources; (5) Management decisions and actions should be guided by reliable data; and (6) UH has the responsibility to establish rules to govern public activities. The rules are subject to review and approval by DLNR and should allow for a range of methods to control public activities, starting with the lowest levels of control.

Recognizing that diverse activities and purposes bring people into the Mauna Kea upper elevation lands, a key approach to developing the PAP was gathering information through in-depth interviews, small focus groups, and roundtable discussions. Emphasis was placed on interviewing people who had the most on-the-ground experience in Mauna Kea's challenging environment and extensive interaction with the variety of people who go there. This group included rangers (past and present), facility managers, DLNR resource managers, and enforcement authorities. Other stakeholders brought into the planning process included Native Hawaiian cultural practitioners and community leaders, hunters, astronomers, snow players, commercial tour operators and educators. In all, over 80 individuals were interviewed, participated in three small group meetings or two roundtable discussions.

Principles, policies, and recommendations are the product of integrating the information obtained from years of data collection, interviews, meetings and roundtable discussions

**Mauna Kea Comprehensive Management Plan  
Sub Plans**

with existing written reports, plans and studies about Mauna Kea and other relevant references. Recommendations are focused on education, interpretation and signage, resource protection, and continuing to monitor human impacts. A range of recommendations for new or improved access guidelines for commercial and non-commercial visitors is provided - e.g., maintaining a presence of interpretive and enforcement personnel to educate visitors and to provide deterrents for inappropriate behavior, improving signage to encourage visitors to stop at the visitor station, and providing alternatives to visitors at the midlevel facilities to reduce visitors in the summit area, just to name a few.

The Mauna Kea Management Board (MKMB) approved the Public Access Plan on January 19, 2010 followed by approval by the BOR on January 28, 2010.

Decommissioning Plan

The Decommissioning Plan describes a process for decommissioning observatories on Mauna Kea, including financial planning, that is acceptable to UH and DLNR. It clearly outlines expectations for both existing and future observatories on Mauna Kea and describes the roles of DLNR (land owner and lessor), UH (lessee), and the observatories (sublessees). Observatories that follow the decommissioning process outlined in this plan will ensure that all elements of the process adhere to all applicable statutes and local ordinances and are coordinated with and approved by UH and DLNR.

Decommissioning is initiated when a sublessee decides to cease operation due to changing priorities, lack of funding, or obsolescence; when the sublease expires; or if UH revokes a sublease. The plan defines decommissioning as a process that results in the partial or total removal of all structures associated with an observatory facility and the restoration of the site, to the greatest extent possible, to its pre-construction condition. Provisions for financial planning for decommissioning are included to ensure that adequate funds are available to pay for the costs of deconstruction and site restoration at the end of the life of the observatory.

The Decommissioning Plan outlines the decommissioning terms currently contained in the master lease and subleases and

**Mauna Kea Comprehensive Management Plan  
Sub Plans**

addresses potential terms for new and/or renegotiated subleases. The plan acknowledges the distinction between the requirements for existing and new and/or renegotiated subleases. In particular, it is recommended that existing sublesses utilize this process in the eventual removal of their observatories. The process and proposed requirements may also be included in any new or renegotiated leases or subleases in the Science Reserve.

Guidance for practical implementation of the decommissioning process including site restoration is presented, including specific details on the course of action to be implemented by sublesses to comply with terms of subleases related to decommissioning. The components of *Site Decommissioning Plan* for any decommissioning include: Notice of Intent, Environmental Due Diligence Review, Site Deconstruction and Removal Plan, Site Restoration Plan, and Decommissioning Funding Plan. CDUPs may be required as part of the decommissioning process when the observatory is demolished and provide the opportunity for BLNR to impose additional conditions.

UH addresses its goal of maintaining a world-class observatory complex and the role of telescope decommissioning in achieving limited growth to further protect natural and cultural resources at Mauna Kea. Current observatory plans (proposed construction, decommissioning) indicate, based on UH's current understanding, that there may be a total of ten observatories in the Astronomy Precinct by the end of the current master lease (2033). There are currently twelve telescopes in the Astronomy Precinct, and one outside the precinct (VLBA). The Decommissioning Plan does not address specific timelines or dates for decommissioning observatories, except that all decommissioning activities shall be completed by the end of the master lease, nor does it address the process of renegotiation of a new master lease or sublease agreements. It should be recognized that if no new lease is granted, the observatories will need to be removed and the site restored no later than the end of the master lease.

The Mauna Kea Management Board (MKMB) approved the Decommissioning Plan on January 19, 2010 followed by approval by the BOR on January 28, 2010.

Project Development Implementation Framework (Exhibit 4)

## Mauna Kea Comprehensive Management Plan Sub Plans

The basis for successful management of UH's managed lands on Mauna Kea is the 2000 Mauna Kea Science Reserve Master Plan (Master Plan). The goal of the Master Plan was to set UH on the right path by discontinuing past practices and gaining trust and support from the Hawai'i Island community. The key to successful management was to allow the Hawai'i Island community to lead in the management of the mountain by creating a new management structure under the University of Hawai'i at Hilo (UHH) replacing the top-down approach based out of Manoa. The intent of the Master Plan was a bottom-up approach to management while still keeping final decision making at the president and Board of Regents levels.

### New Management Structure

The new management structure consists of:

- Office of Mauna Kea Management (OMKM)
  - Reports directly to the UHH chancellor
  
- Mauna Kea Management Board (MKMB)
  - Composed of seven members of the Hawai'i Island Community
  - Advises the UHH chancellor
  
- Kahu Ku Mauna Council (KKMC)
  - Native Hawaiian council that advises the MKMB and UHH chancellor on cultural matters and issues

In addition to serving as advisory bodies, both the MKMB and KKMC provide input regarding the implementation of the Master Plan and CMP. They also provide input in the development of management policies. One of the key roles of the MKMB is their review, and with input from KKMC, recommend approval or denial of projects proposed for UH's managed lands on Mauna Kea.

The Mauna Kea Management Board (MKMB) developed a flowchart illustrating the Master Plan's project review and approval process including the identification of responsible parties and their respective roles. One of the categories of proposed projects are classified as major projects, in particular, observatory development. Processing major projects is a complicated process requiring extensive UH internal reviews and approvals, as well as coordination

**Mauna Kea Comprehensive Management Plan  
Sub Plans**

with State and/or Federal Environmental Impact Statement (EIS) and DLNR permitting processes.

The first step for all proposed projects is the classification of the project, whether it is minimal impact, minor or major. For minimal impact projects the MKMB reviews, approves and instructs the proposer to proceed with their project, pending approval, if required, by DLNR. Minimal impact projects involve little or no impact to the surrounding environment, such as the attachment of a camera or weather instrument to an existing building.

Minor projects include those that may have some ground disturbance to already disturbed areas and have little impact to the environment, such as adding a conduit in a shallow trench, or adding an escape external safety stairway. Major projects are large structural ones, including the development of observatories. For both minor and major projects, the MKMB recommends classification with final approval by the President. In addition, the MKMB can recommend minor project classification and approval concurrently, with final approval by the president. Major projects, are subjected to a rigorous design review process while simultaneously undergoing the EIS process. Approval of major projects requires the MKMB to first approve the final EIS followed by recommending approval of the project. The next step is review and recommendation by the UH Hilo chancellor, followed by the President. The BOR has the final authority for approving major projects.

Following BOR approval for major projects, the applicant is instructed to prepare their construction documents and the University submits a CDUA to DLNR. It should be noted that all uses (major or minor) are also subject to Hawaii Administrative Rules (Title 13-5), which is administered by the Department of Land and Natural Resources.

The Board of Regents approved the Project Development Implementation Framework on February 18, 2010.

Delegation of Authority

When OCCL originally presented this matter to the BLNR on April 8-9, 2009, staff was concerned whether the University had the necessary commitments in place to implement the CMP. Although it was clear that OMKM would be responsible

**Mauna Kea Comprehensive Management Plan  
Sub Plans**

for implementing the CMP and ensuring adherence to its provisions, OCCL was unsure in many cases who would develop each sub plan, and when this would be accomplished given the numerous sub plans identified in the CMP

On April 16, 2009, the University of Hawaii Board of Regents accepted the responsibility for implementing the CMP subject to oversight by the BLNR. At the same time, the BOR authorized and directed "through normal University governance channels the University of Hawai'i at Hilo, the Office of Mauna Kea Management, and the Mauna Kea Management Board to undertake implementation of the Comprehensive Management Plan including all conditions imposed by the Board of Land and Natural Resources and including any necessary ancillary activities and uses thereto" (BOR, Minutes, April 16, 2009).

Thus, among other things, OCCL will be seeking the BLNR's approval of the University of Hawaii's Board of Regents (BOR) delegation of implementing authority for the CMP to the University of Hawai'i at Hilo, Office of Mauna Kea Management and Mauna Kea Management Board, pursuant to condition one (1) of the BLNR's April 9, 2009 approval.

**DISCUSSION:**

Staff believes that the University has complied with the BLNR's requirements regarding the development of a Comprehensive Management Plan for Mauna Kea. Heretofore all land uses and activities that take place within UH managed areas will be evaluated according to these plans and processes, subject to future modifications based on an adaptive management framework.

A considerable amount of thought and effort has been devoted to the development of these plans and DLNR looks forward to achieving mutual objectives and goals through coordination with OMKM on the implementation of the plans. UH recognizes that BLNR retains final approval of uses/activities on the Mauna Kea but through these plans UH intends to carry out its stewardship responsibilities for managing Mauna Kea's unique and fragile cultural and natural resources. Staff believes that these plans along with better management capabilities within the UH system, will vastly improve our ability to protect and conserve Mauna Kea for the benefit of present and future generations.

**Mauna Kea Comprehensive Management Plan  
Sub Plans**

It is staff's understanding that the university will provide the BLNR with a status update of the development of each management action in the Comprehensive Management Plan at the April 8, 2010 Land Board meeting.

This approval of sub plans should not be considered as acceptance or approval of any pending or future project, plans or proposals contained therein. Such pending or future actions require a separate review and consideration by the Department or Board of Land and Natural Resources.

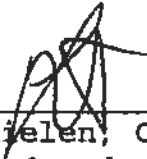
Thus, staff recommends as follows:

**RECOMMENDATION**

Based on the preceding analysis, staff recommends that the Board of Land and Natural Resources approve the University of Hawaii's Mauna Kea Comprehensive Management Plan, Sub Plans and Project Development and Management Framework, and approval of delegation of implementing authority from the University of Hawaii Board of Regents to the Office of Mauna Kea Management.

Respectfully submitted,

  
Samuel J. Lemmo, Administrator

  
\_\_\_\_\_  
Laura H. Thielen, Chairperson  
Board of Land and Natural Resources

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

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CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI  
FIRST DEPUTY

KEN C. KAWAHARA  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAOLOAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

APR 15 2009

Mr. David McClain, President  
University of Hawaii  
2444 Dole Street, Bachman Hall  
Honolulu, Hawaii 96822

Dear President McClain:

Subject: Mauna Kea Comprehensive Management Plan

This is to inform you that on April 9, 2009, the Board of Land and Natural Resources (BLNR) approved the University of Hawaii's Mauna Kea Comprehensive Management Plan (CMP), subject to the following conditions:

- 1) That the University of Hawaii Board of Regents (BOR) is the entity responsible for the implementation of the CMP, subject to the oversight of the BLNR. The BOR may delegate its responsibility with the accompanying authorities to another entity within the University system, subject to the approval of the BLNR;
- 2) That within one year of the BLNR approval of the CMP, the BOR or its authorized designee shall provide the BLNR in writing and in person with the following information:
  - Status of the development of each sub plan;
  - Status of the development of each management action;
- 3) That the BOR or its authorized designee shall continue to submit annual reports to the BLNR (in writing and in person), which shall include the items listed in condition No. 2;
- 4) That within one year of the BLNR approval of the CMP, or the submission of a Conservation District Use Application, whichever occurs sooner, the University shall submit for review and approval the following sub plans:
  - A cultural resources management plan;
  - A natural resources management plan;
  - A decommissioning plan, including a financial plan; and
  - A public access plan;
- 5) That amendments to the CMP shall be reviewed and approved first by the BOR, and second by the BLNR;

EXHIBIT

1

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- 6) That the BOR recognizes that by approving the CMP, the BLNR has not delegated any authority (not already in existence) to the University with respect to land use approvals, leasing, or public access at Mauna Kea;
- 7) That within one year of the BLNR approval the CMP, or the submission of a Conservation District Use Application, whichever occurs sooner, the BOR or its authorized designee shall provide the BLNR (for review and approval) with a management and implementation framework, that has been authorized by the BOR, for project developments within UH Management Areas that is consistent with the specific management actions, conditions and policies of the CMP;
- 8) That failure to comply with these conditions may subject the University to the imposition of additional conditions to ensure compliance with the CMP and any penalties allowed under the law.

Please have the BOR's authorized designee acknowledge receipt of this approval with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days.

Should you have any questions on any of these conditions, please feel free to contact me at 587-0377.

Sincerely,

  
 Sam Lemmo, Administrator  
 Office of Conservation and Coastal Lands

Receipt acknowledged:

  
 Applicant's Signature

Date

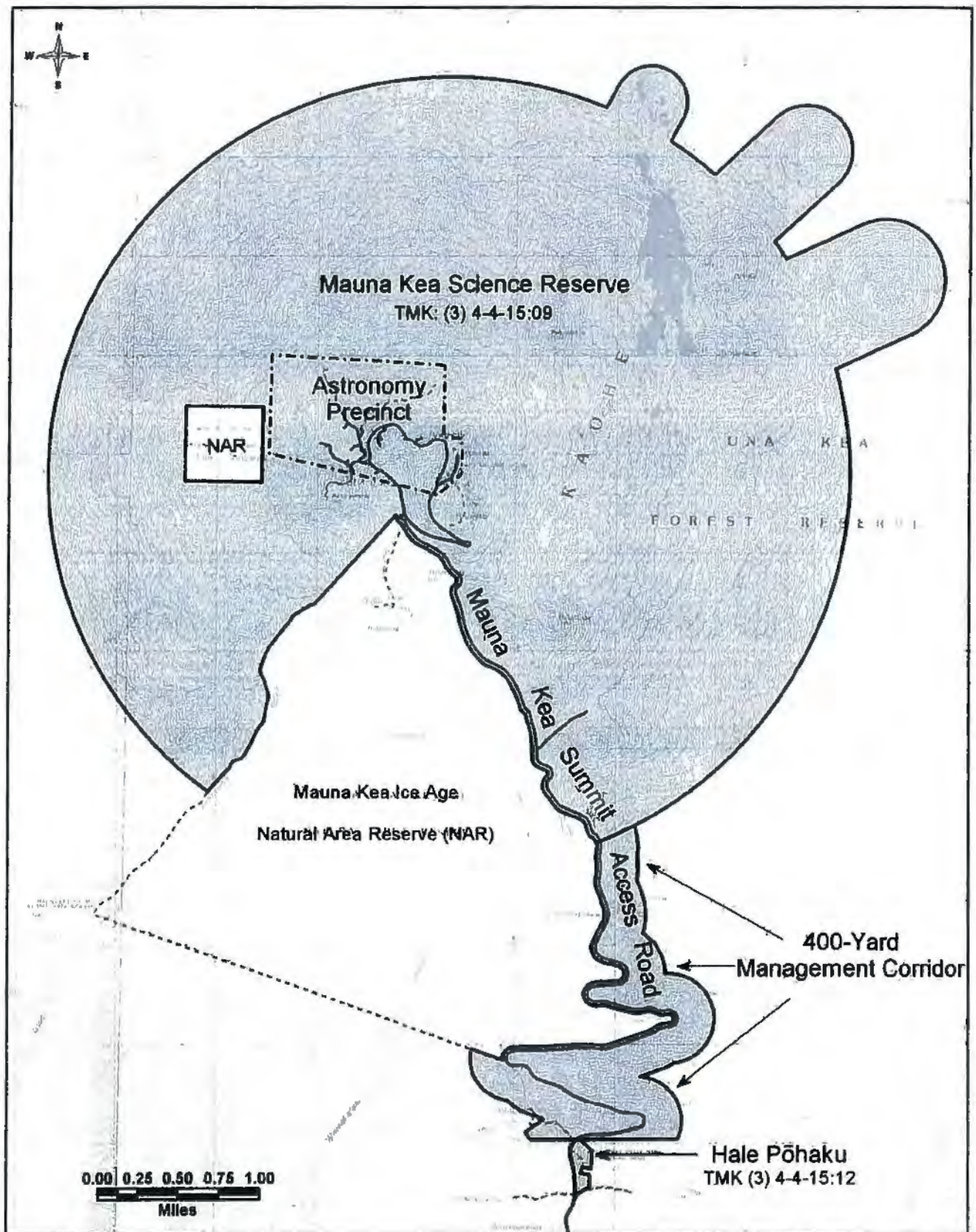
June 2, 2009

c: Chairperson, Board Members  
 Hawaii District Land Agent  
 Historic Preservation Division  
 NARS  
 Kuiwalu  
 OMKM

EXHIBIT

1

2 of 2



**UH Management Areas**

Draft Environmental Assessment for the  
Mauna Kea Comprehensive Management Plan (CMP)

**EXHIBIT 2**

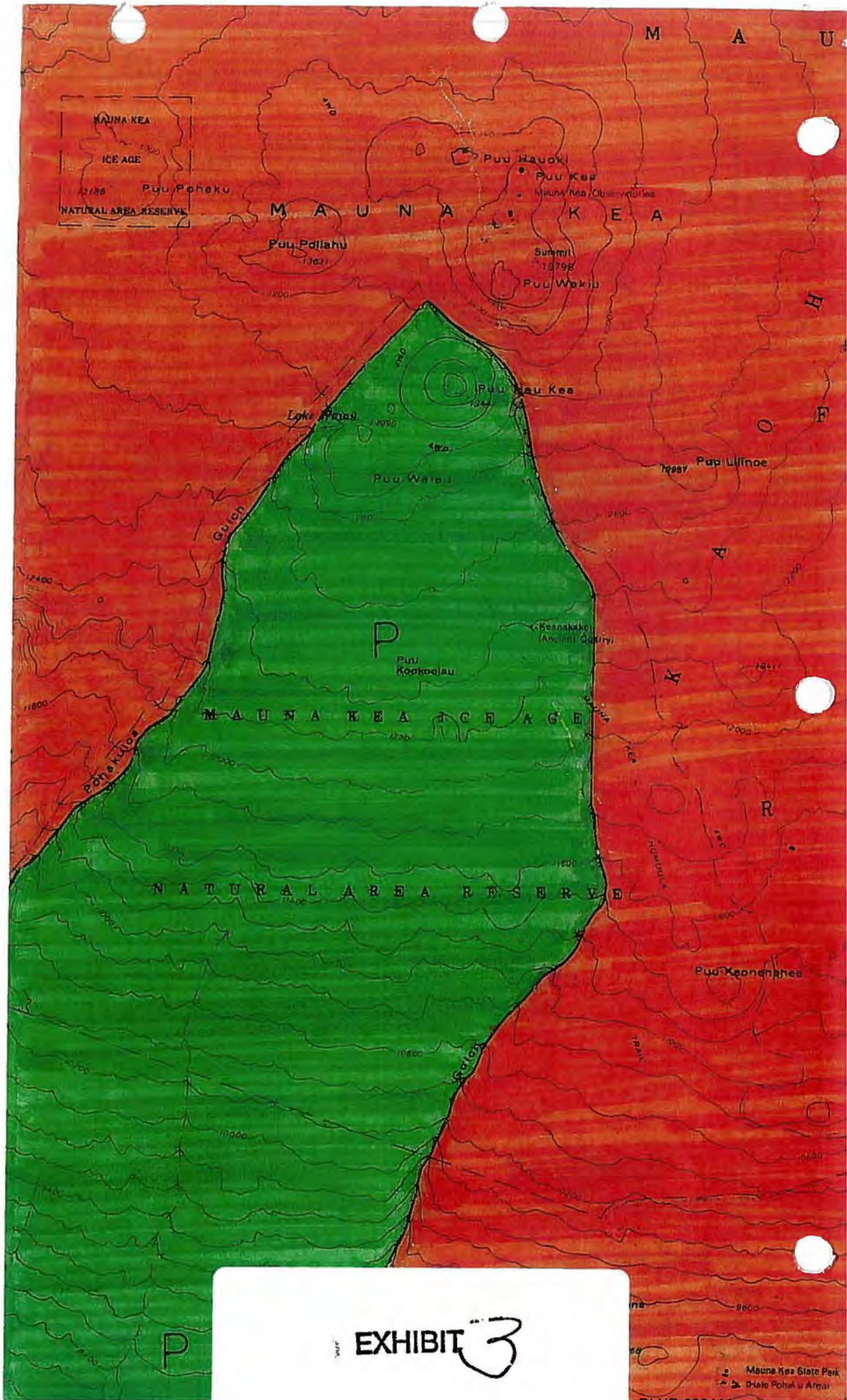


EXHIBIT 3

# AJOR PROJECT REVIEW STEPS

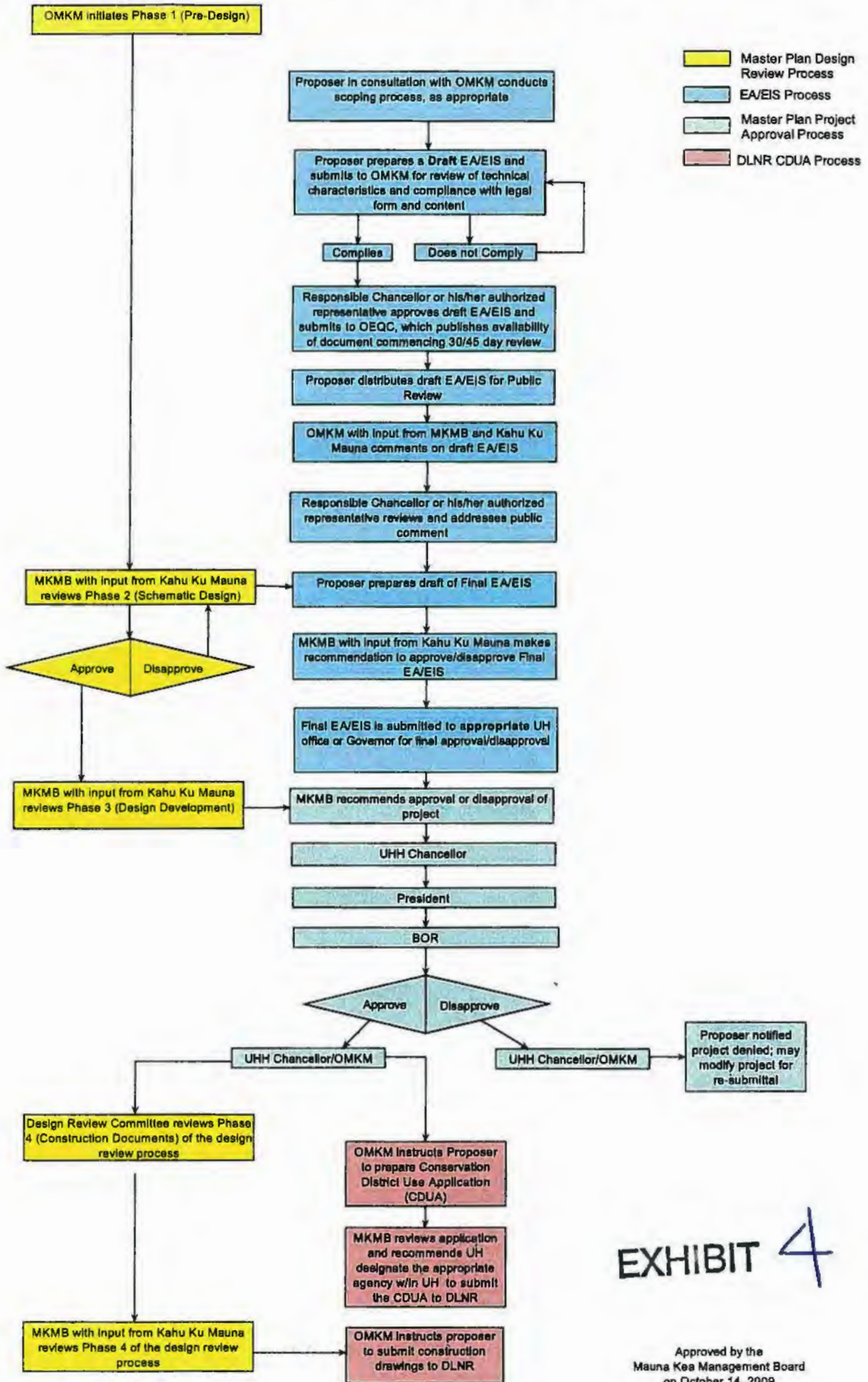
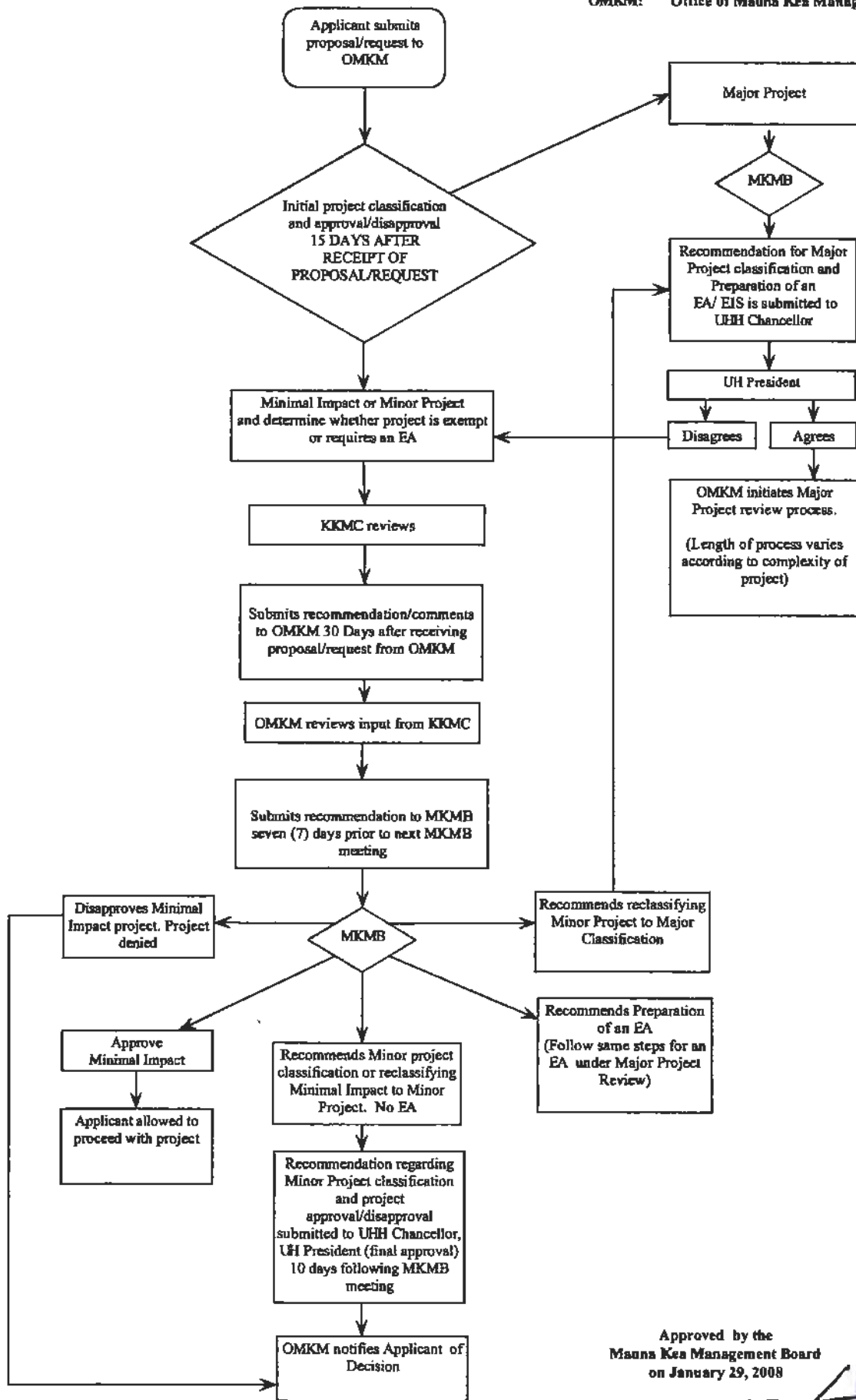


EXHIBIT 4 1 of 2

# SCHEDULE FOR PROCESSING PROPOSALS SUBMITTED TO OMKM

**KKMC:** Kahu Ku Mauna Council  
**MKMB:** Mauna Kea Management Board  
**OMKM:** Office of Mauna Kea Management



Approved by the  
 Mauna Kea Management Board  
 on January 29, 2008

EXHIBIT

4 2012