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DLNR vs. Haleakala Ranch Company

ORIGINAL

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K. MAEDA, CLERK
SECOND CIRCUIT COURT
STATE OF HAWAII

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAI'I

PUBLIC ACCESS TRAILS HAWAI'I, a
Hawai'i Nonprofit Corporation;
and DAVID BROWN, JOE BERTRAM, III,
KEN SCHMITT; for themselves
individually, and on behalf of the
certified class members,

Plaintiffs,

vs.

HALEAKALA RANCH COMPANY, a
Hawai'i Corporation; STATE OF
HAWAI'I; WILLIAM AILA, JR. in his
official capacity as the Director
of the State of Hawai'i DEPARTMENT
OF LAND AND NATURAL RESOURCES and
chair of the State of Hawai'i
BOARD OF LAND AND NATURAL
RESOURCES; DEPARTMENT OF LAND AND
NATURAL RESOURCES; BOARD OF LAND
AND NATURAL RESOURCES; JOHN DOES
1-10, JANE DOES 1-10, AND DOE
PARTNERSHIPS, CORPORATIONS,
GOVERNMENTAL UNITS OR OTHER
ENTITIES 1-10,

Defendants.

DEPARTMENT OF LAND AND NATURAL
RESOURCES, STATE OF HAWAI'I,

Cross-claimant,

vs.

HALEAKALA RANCH COMPANY, a
Hawai'i Corporation,

Cross-claim Defendant.

CIVIL NO. 11-1-0031(3)
(Other Civil Action)

FINAL JUDGMENT; EXHIBIT
"1"; CERTIFICATE OF
SERVICE

I hereby certify that this is a full, true and
correct copy of the Original.

Clerk Second Circuit Court

FINAL JUDGMENT

A. ORIGINAL COMPLAINT: On January 18, 2011, Plaintiffs PUBLIC ACCESS TRAILS HAWAI'I, and DAVID BROWN, JOE BERTRAM III, and KEN SCHMITT, for themselves individually, and on behalf of all similarly situated persons, and on behalf of the general public, as a class (collectively "Plaintiffs") filed herein their original Complaint in the above matter, alleging seven causes of action against Defendant HALEAKALA RANCH COMPANY ("HRC"), Defendants WILLIAM AILA, JR., in his official capacity as the Director of the State of Hawai'i DEPARTMENT OF LAND AND NATURAL RESOURCES and Chair of the State of Hawai'i BOARD OF LAND AND NATURAL RESOURCES, DEPARTMENT OF LAND AND NATURAL RESOURCES, and BOARD OF LAND AND NATURAL RESOURCES (State Defendants hereinafter collectively referred to as the "State"), and OFFICE OF HAWAIIAN AFFAIRS ("OHA"). The seven causes of action were Count I (Public Trust); Count III [sic]¹ (Customary and Traditional Access); Count III (Highways Act of 1892 and HRS Section 264-1); Count IV (Quiet Title); Count V (Public Nuisance); Count VI (HRS 6E; Historic Preservation); and Count VII (Violation of Due Process of Law). Count VII (Violation of Due Process of Law) was asserted against the State only.

B. By Order Denying in Part and Granting in Part the

¹ The original Complaint contains a typographical error as there is no Count II. Instead, there are two counts entitled "Count III."

State of Hawai'i's Motion to Dismiss Complaint, said Order having been filed on June 7, 2011, the Court dismissed without prejudice Plaintiffs' 42 U.S.C. § 1983 claim (Count VII, Violation of Due Process).

C. By Order of Dismissal filed herein on August 18, 2011, the Complaint as to Defendant OHA was dismissed for want of service.

D. By Order Granting Plaintiffs' Motion to Certify a Class and Appoint Class Counsel, said Order having been filed on December 2, 2011, the Court initially certified Plaintiffs' class to include: "All pedestrians, non-motorized bicyclists and equestrians who, as members of the public, have been, or continue to be, denied access to "Haleakala Trail."²

E. By Order Granting Plaintiffs' Motion to Narrow Class Membership, said Order having been filed on September 10, 2012, the Court narrowed Plaintiffs' class to include: "All pedestrians who, as members of the public, have been or continue to be, denied access to "Haleakala Trail."

F. By stipulation filed December 10, 2012, Defendant OHA was removed from the proposed first amended complaint.

² "Haleakala Trail" as used herein refers to the Survey Description, identified as Exhibit SP-317 that the jury found to be the location of Haleakala Trail as opened, laid out, or built by the government during 1905.

G. STATE'S ORIGINAL CROSSCLAIM: By *ex officio* filing on March 6, 2013,³ the DEPARTMENT OF LAND AND NATURAL RESOURCES filed the DEPARTMENT OF LAND AND NATURAL RESOURCES' Cross Claim Against Defendant Haleakala Ranch Company asserting ownership of the Haleakala Trail in fee simple.

H. By Order filed March 27, 2013, the Court, pursuant to the Joint Prosecution Agreement, entered its Order of Dismissal Without Prejudice of all claims alleged in the original Complaint filed January 18, 2011⁴ against WILLIAM AILA, JR. in his official capacity as the Director of the State of Hawai'i Department of Land and Natural Resources and Chair of the State of Hawai'i Board of Land and Natural Resources, DEPARTMENT OF LAND AND NATURAL RESOURCES, and BOARD OF LAND AND NATURAL RESOURCES.

I. By Order Granting in Part (1) Defendant Haleakala Ranch Company's Motion for Separate Trials and (2) Plaintiffs' Motion for Separate Trials, said Order having been filed on May 3, 2013, the Court bifurcated this case into two phases. The Court established the following as the issues that were permitted to be tried in the first phase of trial:

³ The Cross Claim was filed in the Second Circuit on March 7, 2013.

⁴ The order for dismissal without prejudice of all claims against the State Defendants provided, in relevant part, "Plaintiffs hereby dismiss without prejudice all claims against the State Defendants alleged in the complaint filed on January 18, 20122." The reference to the year 20122 is an obvious typographical error. The Complaint was filed on January 18, 2011.

- (1) The STATE OF HAWAI'I'S Second Amended Cross Claim Against [Defendant] HALEAKALA RANCH COMPANY filed September 16, 2013, wherein the STATE OF HAWAI'I cross-claimed against HALEAKALA RANCH COMPANY to quiet title, pursuant to Hawai'i Revised Statutes ("HRS") Section 669-1(a) because Haleakala Trail is a trail and/or right of way covered by the Highways Act of 1892, now codified at HRS § 264-1;
- (2) The first element (public right of way) of Count V (Public Nuisance) of Plaintiffs PUBLIC ACCESS TRAILS HAWAI'I, DAVID BROWN, JOE BERTRAM, III, and KEN SCHMITT'S Second Amended Complaint, filed August 30, 2013; and
- (3) HALEAKALA RANCH COMPANY'S Crossclaim against the STATE OF HAWAI'I in which HALEAKALA RANCH COMPANY sought judgment that it is the sole and exclusive owner of the alleged trail.⁵

J. **FIRST AMENDED COMPLAINT:** On May 24, 2013, Plaintiffs filed their First Amended Complaint. In their First Amended Complaint, Plaintiffs incorporated all allegations, claims, and prayers set forth in their January 18, 2011 original

⁵ Presentation of this issue was by agreement of the parties.

Complaint. Additionally, the Complaint was amended to conform to the Order Denying in Part and Granting in Part the State of Hawai'i's Motion to Dismiss Complaint, said Order having been filed on June 7, 2011, the Order Granting Plaintiffs' Motion to Certify a Class and Appoint Class Counsel, said Order having been filed on December 2, 2011, the Order Granting Plaintiffs' Motion to Narrow Class Membership, said Order having been filed on September 10, 2012, the Stipulation to Remove OHA from the Proposed First Amended Complaint, said Stipulation having been filed on December 10, 2012, the Order Granting Plaintiffs' Motion for Leave to File First Amended Complaint to Reallege its 42 U.S.C. § 1983 Claim, said Order having been filed on November 21, 2012, the Order Granting Plaintiffs' Motion to Approve Joint Prosecution Agreement and Related Relief, said Order having been filed on February 4, 2013, the Order of Dismissal Without Prejudice of WILLIAM AILA, JR. in his official capacity as the Director of the State of Hawai'i Department of Land and Natural Resources and Chair of the State of Hawai'i Board of Land and Natural Resources, DEPARTMENT OF LAND AND NATURAL RESOURCES, BOARD OF LAND AND NATURAL RESOURCES, said Order having been filed on March 27, 2013, the DEPARTMENT OF LAND AND NATURAL Resources' Cross Claim Against HRC, said Cross Claim having been filed on March 6, 2013, and the Order Granting in Part, Denying in Part, Defendant HRC's Motion to Dismiss Defendant DEPARTMENT OF LAND

AND NATURAL Resources' Crossclaim Against HRC, said Order having been filed on March 25, 2013.⁶

K. **STATE'S FIRST AMENDED CROSSCLAIM:** By *ex officio* filing on May 29, 2013,⁷ the DEPARTMENT OF LAND AND NATURAL RESOURCES, STATE OF HAWAI'I, filed its First Amended Cross Claim Against Defendant HRC asserting ownership of the Haleakala Trail in fee simple.

L. By Order Granting Defendant Haleakala Ranch Company's Motion for More Definite Statement in Response to First Amended Complaint and First Amended Crossclaim, said Order having been filed on August 26, 2013, the Court ordered that a more definite statement be filed. In the alternative, and as agreed by the parties, the Court authorized the filing of an amended complaint without need for the filing of a motion for leave of court to file an amended complaint.

M. **WITHDRAWAL OF FIRST AMENDED COMPLAINT:** On August 30, 2013, pursuant to the Order Granting Defendant Haleakala

⁶ Plaintiffs' proposed first amended complaint named as Defendants HALEAKALA RANCH COMPANY, WILLIAM AILA, JR., in his official capacity as chair and member of the State of Hawai'i Board of Land and Natural Resources, Robert Pacheco, Ron Agor, Jerry Edlao, Dr. Samuel M. Gon III, David Goode, and John Morgan in their official capacities as members of the State of Hawai'i Board of Land and Natural Resources, DEPARTMENT OF LAND AND NATURAL RESOURCES, and BOARD OF LAND AND NATURAL RESOURCES, and OFFICE OF HAWAIIAN AFFAIRS. However, Robert Pacheco, Ron Agor, Jerry Edlao, Dr. Samuel M. Gon III, David Goode, and John Morgan in their official capacities as members of the State of Hawai'i Board of Land and Natural Resources, DEPARTMENT OF LAND AND NATURAL RESOURCES, and BOARD OF LAND AND NATURAL RESOURCES were not named as Defendants in the First Amended Complaint filed on May 24, 2013.

⁷ The First Amended Cross Claim was filed in the Second Circuit on May 30, 2013.

Ranch Company's Motion for More Definite Statement in Response to First Amended Complaint and First Amended Crossclaim, Plaintiffs filed a Notice of Withdrawal of their First Amended Complaint.

N. SECOND AMENDED COMPLAINT: On August 30, 2013, Plaintiffs filed their Second Amended Complaint. The Plaintiffs in the Second Amended Complaint were identified as PUBLIC ACCESS TRAILS HAWAI'I, and DAVID BROWN, JOE BERTRAM III, and KEN SCHMITT, for themselves individually, and on behalf of certified class members ("Plaintiffs"). The Defendants named in the Second Amended Complaint were HALEAKALA RANCH COMPANY, STATE OF HAWAI'I, WILLIAM AILA, JR., in his official capacity as the Director of the State of Hawai'i DEPARTMENT OF LAND AND NATURAL RESOURCES, and chair of the State of Hawai'i BOARD OF LAND AND NATURAL RESOURCES, DEPARTMENT OF LAND AND NATURAL RESOURCES, and BOARD OF LAND AND NATURAL RESOURCES (State Defendants hereinafter collectively referred to as the "State"). Plaintiffs asserted six causes of action in the Second Amended Complaint: Count I (Public Trust); Count II (Customary and Traditional Access); Count III (Highways Act of 1892 and HRS Section 264-1); Count IV (Quiet Title); Count V (Public Nuisance); and Count VI (HRS 6E; Historic Preservation). The Second Amended Complaint also named the STATE OF HAWAI'I as an additional State Defendant. Count VII (Violation of Due Process) of the original and First Amended

Complaint was not asserted as a claim in the Second Amended Complaint.

O. STATE'S SECOND AMENDED CROSSCLAIM: By *ex officio* filing on September 16, 2013,⁸ the DEPARTMENT OF LAND AND NATURAL RESOURCES, STATE OF HAWAI'I, filed its Second Amended Cross Claim against HRC asserting ownership of the Haleakala Trail in fee simple.

P. HRC CROSSCLAIM: On October 4, 2013, HRC filed its Crossclaim against the State OF Hawai'i asserting sole and exclusive ownership of the trail described in the State of Hawai'i's Cross Claim.

Q. Following the filing of the Second Amended Complaint and Crossclaims, the remaining parties to this case were:

1. Plaintiffs PUBLIC ACCESS TRAILS HAWAI'I, and DAVID BROWN, JOE BERTRAM III, and KEN SCHMITT, for themselves individually, and on behalf of certified class members;
2. Defendant/Crossclaimant STATE OF HAWAI'I, WILLIAM AILA, JR., in his official capacity as the Director of the State of Hawai'i DEPARTMENT OF LAND AND NATURAL RESOURCES, and chair of the State

⁸ The Second Amended Cross Claim was filed in the Second Circuit on September 17, 2013.

of Hawai'i BOARD OF LAND AND NATURAL RESOURCES,
DEPARTMENT OF LAND AND NATURAL RESOURCES, and
BOARD OF LAND AND NATURAL RESOURCES ; and

3. Defendant/Crossclaim Defendant HRC.

R. Upon the filing of the Second Amended Complaint and
Crossclaims, the claims in this case were:

1. Count I (Public Trust);
2. Count II (Customary and Traditional Access);
3. Count III (Highways Act of 1892 and HRS Section
264-1);
4. Count IV (Quiet Title);
5. Count V (Public Nuisance);
6. Count VI (HRS 6E; Historic Preservation);
7. The State's Cross Claim against HRC; and
8. HRC's Crossclaim against the State.

S. As noted above, the Court bifurcated this case into
two phases. The following claims/crossclaims were tried in Phase
One of the case:

1. The STATE OF HAWAI'I'S Second Amended Cross Claim
Against HRC, said Cross Claim having been filed on
September 16, 2013, wherein the STATE OF HAWAI'I
cross-claimed against HRC to quiet title, pursuant
to Hawai'i Revised Statutes ("HRS") Section 669-
1(a) because Haleakala Trail is a trail and/or

right of way covered by the Highways Act of 1892, now codified at HRS § 264-1;

2. HRC'S Crossclaim against the STATE OF HAWAI'I in which HRC sought judgment that it was the sole and exclusive owner of the Haleakala trail.
3. The first element (public right of way) of Count V (Public Nuisance) of Plaintiffs' Second Amended Complaint.

T. All matters relating to the first phase of trial were tried and adjudicated through the following orders of this Court:

1. Order Denying in Part and Granting in Part Haleakala Ranch Company's Motion [filed January 22, 2014] for Summary Judgment on Counts III and IV of Plaintiffs' Second Amended Complaint filed August 30, 2013, said Order having been filed on March 18, 2014, wherein the Court ruled that (1) Count III of Plaintiffs' Second Amended Complaint relating to the Highways Act of 1892 and HRS § 264-1, does not create a private right of action, and (2) Plaintiffs do not have standing independent of their other claims, or independent of the State, to quiet title. Notwithstanding the foregoing, the Court ruled that Plaintiffs were

authorized to seek conclusions of law and findings of fact that there is a public right of way, including under the Highways Act of 1892 and HRS § 264-1, under their other causes of action, including Court V (Public Nuisance) of the Second Amended Complaint;

2. Judgment on First Phase of Trial Relating to:
 - (1) Defendant-Crossclaimant STATE OF HAWAII'S Second Amended Crossclaim [Filed 9/16/2013] for Quiet Title Against Defendant HALEAKALA RANCH COMPANY; and (2) the First Element (Public Right of Way) of Count V (Public Nuisance Against Defendant HALEAKALA RANCH COMPANY) of Plaintiffs' Second Amended Complaint [Filed 8/30/13], said Judgment having been filed on December 19, 2014 ("Phase One Judgment");
3. Order Granting, in Part, Plaintiffs' Motion for Attorneys' Fees and Costs for the First Phase of Trial, said Order having been filed on March 4, 2015;
4. Order Awarding Plaintiffs' Attorneys' Fees and Costs for Phase One of Trial, said Order having been filed on May 19, 2015; and

5. Order Denying Plaintiffs' Second Motion for Attorneys' Fees and Costs for Phase One of Trial [filed 5/6/2015], said Order having been filed on July 13, 2015.

U. At the end of the first phase of trial, in the Phase One Judgment, the Court declared and ordered in said Judgment filed on December 19, 2014 as follows:

1. Haleakala Trail as opened, laid out, or built by the Government in 1905 is six (6.0) feet wide and its centerline description is as set forth in the Survey Description, attached hereto and made a part hereof as Exhibit "1."
2. Haleakala Trail is a public right of way under the Highways Act of 1892 by virtue of being opened, laid out, or built by the Government in 1905.
3. Haleakala Trail is a public right of way under the Highways Act of 1892 by virtue of being the successor trail to a trail in existence before 1892.
4. Haleakala Trail is a public right of way by virtue of being the successor trail to a trail in existence before the Mahele of 1848.

5. Haleakala Trail has not been abandoned by the Government by due process of law.
6. The State owns Haleakala Trail in fee simple.
7. The State has met all the requirements pursuant to HRS Chapter 669 to quiet title to Haleakala Trail in fee simple absolute as against HALEAKALA RANCH COMPANY, and free and clear of any and all liens, interests, and encumbrances in favor of HALEAKALA RANCH COMPANY.
8. Haleakala Trail is a public right of way and therefore Plaintiffs have proven the first element of their public nuisance claim against HALEAKALA RANCH COMPANY.
9. HALEAKALA RANCH COMPANY failed to prove its Crossclaim against the STATE OF HAWAI'I in which HALEAKALA RANCH COMPANY sought judgment that it is the sole and exclusive owner of the alleged trail.

Now, therefore, the Phase One Judgment is confirmed and

IT IS HEREBY ORDERED, ADJUDGED, DECREED AND DECLARED as follows:

1. Haleakala Trail as opened, laid out, or built by the Government in 1905 is six (6.0) feet wide and its centerline description is as set

forth in the Survey Description, attached hereto and made a part hereof as Exhibit "1."

2. Haleakala Trail is a public right of way under the Highways Act of 1892 by virtue of being opened, laid out, or built by the Government in 1905.
3. Haleakala Trail is a public right of way under the Highways Act of 1892 by virtue of being the successor trail to a trail in existence before 1892.
4. Haleakala Trail is a public right of way by virtue of being the successor trail to a trail in existence before the Mahele of 1848.
5. Haleakala Trail has not been abandoned by the Government by due process of law.
6. The State owns Haleakala Trail in fee simple.
7. The State has met all the requirements pursuant to HRS Chapter 669 to quiet title to Haleakala Trail in fee simple absolute as against HALEAKALA RANCH COMPANY, and free and clear of any and all liens, interests, and encumbrances in favor of HALEAKALA RANCH COMPANY.
8. Haleakala Trail is a public right of way and therefore Plaintiffs have proven the first

element of their public nuisance claim
against HALEAKALA RANCH COMPANY.

9. HALEAKALA RANCH COMPANY failed to prove that
its Crossclaim against the STATE OF HAWAI'I
in which HALEAKALA RANCH COMPANY sought
judgment that it is the sole and exclusive
owner of the alleged trail.

All remaining matters relating to the **second phase** of
trial were settled or dismissed through the following:

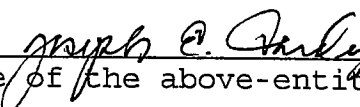
1. Stipulation for Dismissal Without Prejudice of
Defendant HALEAKALA RANCH'S Crossclaim Against the
STATE OF HAWAI'I Filed 10/04/2013, said
Stipulation having been filed November 21, 2014,
through which HRC dismissed its remaining claims
against the State that were not adjudicated
through the first phase of trial; and
2. Order of Dismissal with Prejudice of All Remaining
Claims against Defendant Haleakala Ranch Company
in Phase Two of the Case and Order of Dismissal
without Prejudice of All Claims against the State
Defendants, said Order having been filed on July
11, 2016.

There are no remaining claims or other matters relating
to this action to be adjudicated. Therefore, pursuant to Hawai'i

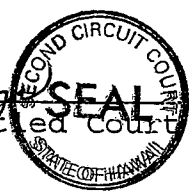
Rules of Civil Procedure, Rule 54(b) and 58, the Court expressly directs that final judgment be entered as there is no just reason for delay.

Any and all other remaining claims, if there be any, are dismissed with prejudice.

DATED: Wailuku, Hawai'i, July 11, 2016.



Judge of the above-entitled Court



**CENTERLINE OF HALEAKALA CRATER TRAIL
BASED ON "1922 MAP" AND FIELD INSPECTIONS**

AFFECTING TMK 2-2-3-005-004

BEGINNING AT THE NORTHWESTERN END OF THE CENTERLINE OF THIS HALEAKALA CRATER TRAIL, AT THE CENTER OF THE SOUTHWESTERN TERMINUS OF OLINDA ROAD, A PUBLIC RIGHT-OF-WAY, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUU NIANIAU", STATE PLANE COORDINATES, NAD83, ZONE 2, BEING 171,001.71 FEET NORTH AND 1,774,444.78 FEET EAST AND RUNNING BY GRID AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:

| | | | |
|----|---------|------|-----------------------------------|
| 1 | 306°00' | 553 | FEET AFFECTING TMK 2-2-3-005-004; |
| 2 | 29°20' | 160 | FEET AFFECTING TMK 2-2-3-005-004; |
| 3 | 56°15' | 300 | FEET AFFECTING TMK 2-2-3-005-004; |
| 4 | 1°55' | 80 | FEET AFFECTING TMK 2-2-3-005-004; |
| 5 | 289°00' | 390 | FEET AFFECTING TMK 2-2-3-005-004; |
| 6 | 316°50' | 375 | FEET AFFECTING TMK 2-2-3-005-004; |
| 7 | 334°55' | 290 | FEET AFFECTING TMK 2-2-3-005-004; |
| 8 | 332°40' | 1080 | FEET AFFECTING TMK 2-2-3-005-004; |
| 9 | 358°55' | 300 | FEET AFFECTING TMK 2-2-3-005-004; |
| 10 | 302°10' | 550 | FEET AFFECTING TMK 2-2-3-005-004; |
| 11 | 331°30' | 1200 | FEET AFFECTING TMK 2-2-3-005-004; |
| 12 | 324°25' | 965 | FEET AFFECTING TMK 2-2-3-005-004; |
| 13 | 336°20' | 600 | FEET AFFECTING TMK 2-2-3-005-004; |
| 14 | 310°20' | 1400 | FEET AFFECTING TMK 2-2-3-005-004; |
| 15 | 308°00' | 290 | FEET AFFECTING TMK 2-2-3-005-004; |
| 16 | 2°55' | 210 | FEET AFFECTING TMK 2-2-3-005-004; |
| 17 | 45°15' | 470 | FEET AFFECTING TMK 2-2-3-005-004; |
| 18 | 62°10' | 310 | FEET AFFECTING TMK 2-2-3-005-004; |
| 19 | 329°30' | 710 | FEET AFFECTING TMK 2-2-3-005-004; |
| 20 | 352°20' | 650 | FEET AFFECTING TMK 2-2-3-005-004; |
| 21 | 349°30' | 600 | FEET AFFECTING TMK 2-2-3-005-004; |
| 22 | 351°10' | 570 | FEET AFFECTING TMK 2-2-3-005-004; |
| 23 | 1°15' | 1240 | FEET AFFECTING TMK 2-2-3-005-004; |
| 24 | 315°25' | 425 | FEET AFFECTING TMK 2-2-3-005-004; |
| 25 | 15°50' | 375 | FEET AFFECTING TMK 2-2-3-005-004; |
| 26 | 338°50' | 610 | FEET AFFECTING TMK 2-2-3-005-004; |
| 27 | 85°45' | 150 | FEET AFFECTING TMK 2-2-3-005-004; |
| 28 | 30°10' | 595 | FEET AFFECTING TMK 2-2-3-005-004; |
| 29 | 356°50' | 475 | FEET AFFECTING TMK 2-2-3-005-004; |
| 30 | 50°50' | 210 | FEET AFFECTING TMK 2-2-3-005-004; |
| 31 | 20°50' | 630 | FEET AFFECTING TMK 2-2-3-005-004; |
| 32 | 310°10' | 545 | FEET AFFECTING TMK 2-2-3-005-004; |

| | | | |
|----|---------|------|--|
| 33 | 339°40' | 360 | FEET AFFECTING TMK 2-2-3-005-004; |
| 34 | 226°50' | 1205 | FEET AFFECTING TMK 2-2-3-005-004; |
| 35 | 317°50 | 490 | FEET OVER AND ACROSS CRATER ROAD AND AFFECTING TMK 2-2-3-005-004; |
| 35 | 270°00' | 420 | FEET AFFECTING TMK 2-2-3-005-004; |
| 36 | 339°00' | 280 | FEET AFFECTING TMK 2-2-3-005-004; |
| 37 | 252°10 | 310 | FEET AFFECTING TMK 2-2-3-005-004; |
| 38 | 237°45' | 550 | FEET AFFECTING TMK 2-2-3-005-004; |
| 39 | 241°55' | 385 | FEET AFFECTING TMK 2-2-3-005-004; |
| 40 | 339°40' | 345 | FEET AFFECTING TMK 2-2-3-005-004; |
| 41 | 311°40' | 310 | FEET AFFECTING TMK 2-2-3-005-004; |
| 42 | 265°30' | 430 | FEET AFFECTING TMK 2-2-3-005-004; |
| 43 | 272°20' | 550 | FEET AFFECTING TMK 2-2-3-005-004; |
| 44 | 281°00' | 258 | FEET TO THE WESTERN BOUNDARY OF HALEAKALA NATIONAL PARK AND THE END OF THE HALEAKALA TRAIL AFFECTING TMK 2-2-3-005-004; |

I hereby certify that a copy
of the foregoing was served upon
the following on July 11, 2016:

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Clerk