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DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Attorney for Petitioners

MAUNA KEA ANAINA HOU and KEALOHA
PISCIOTTA; CLARENCE KUKAUAKAHI CHING;
FLORES-CASE OHANA; DEBORAH J. WARD;
PAUL K. NEVES; and KAHEA: THE HAWAIIAN
ENVIRONMENTAL ALLIANCE, a domestic non-profit
Corporation

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

IN THE MATTER OF) Case No. BLNR-CC-16-002
)
) PETITIONERS MAUNA KEA
A Contested Case Hearing Re) ANAINA HOU, ET AL.'S
Conservation District Use Permit) MEMORANDUM IN OPPOSITION
(CDUP) HA-3568 for the Thirty Meter) TO MOTION FOR PROTECTIVE
Telescope at the Mauna Kea Science) ORDER FOR THE HONORABLE
Reserve, Kahohe Mauka, Hamakua) DAVID Y. IGE, SUZANNE CASE
District, Island of Hawaii,) AND STANLEY ROEHRIG, FILED
TMK (3) 4-4-015:009) ON AUGUST 8, 2016;
) DECLARATION OF COUNSEL;
) EXHIBITS "A" – "H"; and
) CERTIFICATE OF SERVICE
)
)

PETITIONERS MAUNA KEA ANAINA HOU, ET AL.'S MEMORANDUM
IN OPPOSITION TO MOTION FOR PROTECTIVE ORDER FOR
THE HONORABLE DAVID Y. IGE, SUZANNE CASE AND
STANLEY ROEHRIG, FILED ON AUGUST 8, 2016

Petitioners MAUNA KEA ANAINA HOU and KEALOHA PISCIOTTA, CLARENCE
KUKAUAKAHI CHING, FLORES-CASE OHANA, DEBORAH J. WARD, PAUL K.
NEVES, and KAHEA: THE HAWAIIAN ENVIRONMENTAL ALLIANCE, a domestic

non-profit corporation (also referred to herein collectively as "Mauna Kea Anaina Hou, Et Al. Petitioners" or "Petitioners"), by and through their counsel undersigned, and hereby submit their opposition to the Motion for Protective Order for the Honorable David Y. Ige, Suzanne Case and Stanley Roehrig, filed on August 8, 2016.

A. NO AUTHORITY EXISTS FOR THE ISSUANCE OF A PROTECTIVE ORDER AND THE REQUEST IS PREMATURE, NONETHELESS.

The instant Motion is apparently being brought in response to a reformatted witness list that was filed in the instant proceedings by the Mauna Kea Anaina Hou, Et Al. Petitioners on August 1, 2016. The same proposed witnesses were also named in the initial witness list that was filed by the Petitioners on July 18, 2016. To date, the Hearing Officer, at the hearing held on June 17, 2016, indicated that no discovery was going to be allowed in the instant proceeding. Furthermore, no subpoenas have been requested in the instant proceedings for any of the proposed witnesses in question, nor have any subpoenas been issued.

Protective orders are generally provided for under Hawaii Rules of Civil Procedure Rule 26(c) on matters dealing with discovery. This is not a discovery issue and, in fact, the Hearing Officer already ruled, at the hearing held on June 17, 2016, that discovery is not being allowed in the instant case. The procedure for challenging the calling of a witness by a party, if the party is served with a subpoena, is to file a motion to quash the subpoena. There is absolutely no procedural mechanism that provides for the issuance of a protective order in anticipation of a witness being potentially called at a contested case hearing as is being requested through the instant motion. The Motion should be denied outright.

Should a subpoena be issued and then served on one or more of the proposed witnesses in question, than a motion to quash the subpoena might be sought at that time. However, the instant request is both premature and without any basis.

B. GOVERNOR IGE AND CHAIR CASE ARE NOT PROTECTED BY ANY EXECUTIVE PRIVILEGE IN THE INSTANT CASE.

Without waiving the arguments set forth in Section A. above, while a Governor may arguably enjoy an executive privilege in certain circumstances, Board Chair Suzanne Case is certainly not a high level ranking governmental official to which any

such privilege would extend. Governor Ige and Chair Case seem to rely on cases involving, for example, the Secretary of Labor of the United States and the Secretary of Agriculture of the United States, in claiming an executive privilege. In fact, in one of the cases that Governor Ige and Chair Case cite in their Motion, the court, in that case, doubted that the plaintiffs in that case needed to meet the heightened standard in calling the Chief of Police of the City of San Francisco. See Deto v. City & County of San Francisco, 196 F.R.D. 362, 370 fn. 14 (N.D.Cal. 2000).

Nonetheless, Governor Ige concedes in his Motion that the executive privilege is not absolute and it is based on "high ranking government officials having greater duties and time constraints than other witnesses..." See page 2 of the Memorandum in Support of the Motion. Governor Ige's claim for being too busy and having greater duties is completely disingenuous. Since July alone, Governor Ige has personally met with members of P.U.E.O., Inc. to talk about the TMT Observatory project. See Exhibit "A," which is a true and correct copy of an article found on the P.U.E.O., Inc. web page, www.alohapueo.org, about a meeting that P.U.E.O., Inc. Board Members had with Governor Ige. The article is dated July 18, 2016. In addition, Governor Ige also appeared at a "community connection" in Hilo on August 9, 2016 to discuss his position with members of the public in Hilo about his positions on "the controversial" TMT Project and Mauna Kea. See Exhibit "B," attached hereto, which is a true and correct copy of a story entitled, "Ige pressed on TMT; Telescope talk dominates portion of Governor's visit," that was published on the Hawaii Tribune-Herald web page on August 11, 2016.

Similarly, and again while Suzanne Case certainly does not enjoy any such privilege, Chair Case has also appeared at community meetings in Hilo to discuss the TMT project in November of 2015 as a guest of the Japanese Chamber of Commerce and Industry of Hawaii at a luncheon held in the Imiloa Astronomy Center. See Exhibit "C," which is a true and correct copy of an article that appeared in the West Hawaii Today, published November 6, 2015, entitled, "DLNR chief vows to protect TMT contractors."

In addition, Governor Ige made the TMT project and the management on Mauna Kea a pivotal issue for his Administration when he decided to meet with various involved parties in 2015 and then came out with his ten-point management plan in May of 2015,

through which he admitted that ... "we have in many ways failed the mountain. Whether you see it from a cultural perspective or from a natural resource perspective, we have not done right by a very special place and we must act immediately to change that..." See Exhibit "D," attached hereto, which is a true and correct copy of the release that appeared on the Office of the Governor's web page, posted on May 26, 2015, and entitled, "Governor Ige's Transcribed Mauna Kea Story." The University of Hawaii subsequently publicly agreed to meet at least some of these matters. See Exhibit "E," attached hereto, which is a true and correct copy of a news release that appears on the University of Hawaii web page, entitled "UH implementation plan for improved stewardship of Maunakea," dated June 1, 2015. On November 17, 2015, UH President David Lassner (and not UH Hilo Chancellor Straney, who signed the initial CDUA application, and without authority as argued in the Petitioners' pending Motion to strike the CDUP application) and Suzanne Case signed a letter agreement that is a legally binding commitment by the University of Hawaii. See Exhibit "F," attached hereto, which is a true and correct copy of the November 17, 2015 letter that appears to be signed by Chair Suzanne Case and UH President David Lassner, and which appears on the University of Hawaii web page.

The instant case is not a situation where under Hawaii Rules of Civil Procedure Rule 30(b)(6), a party names a public or private corporation or governmental agency and then the party deponent designates one or more officers. The Governor is the one who announced his ten-point management plan and the Petitioners are unaware of anyone else in the Governor's office, who might be able to testify on his behalf specifically on this issue. It is the Governor's plan and he needs to live up to the promises of transparency that he made to the voters when he ran for the Office of Governor in 2014. If Governor Ige believes in the importance of Mauna Kea and the mismanagement on the Mauna, than he needs to step up to the plate and be the leader that he was elected to be and not try and hide behind purported privileges, especially when he continues to meet in private with other parties in this case on Mauna Kea and TMT issues.

As with this Hearing Officer allowing TMT International Observatory LLC and P.U.E.O., Inc. to be admitted as parties in the instant case, over the Petitioners'

strenuous objections, on the basis that the Hearing Officer believed that these parties could help the Hearing Officer in understanding the issues, the Governor should similarly be required to appear in these proceedings as a witness to help the Hearing Officer understand the issues. The Governor should also testify about how his decommissioning plan in trying to accommodate the TMT project is actually hurting astronomy education, rather than improving it, as the UH-Hilo's Hoku Kea, UH Hilo's teaching telescope, was apparently planned for decommissioning when the Governor came up with his ten-point management plan. See Exhibit "B," attached hereto. This issue flies right in the face of the purported educational benefits that UH, TIO, and P.U.E.O., Inc. want for this Hearing Officer to believe in these contested case hearings. Chair Case also needs to testify in these proceedings about the implementation of efforts to address the mismanagement on Mauna Kea and to talk about the November 17, 2015 agreement with the University of Hawaii.

C. NO QUASI-JUDICIAL IMMUNITY BARS BLNR CHAIR CASE AND BOARD MEMBER ROEHRIG FROM BEING CALLED AS WITNESSES IN THE INSTANT CONTESTED CASE HEARINGS.

First of all, the quasi-judicial immunity that is being discussed by Chair Case and Board Member Roehrig in their Motion for a protective order applies to situations when a commission or board member may be sued for decisions made in their capacity as board members. Quasi-judicial immunity is not applicable in the instant matter with them being called as witnesses in the instant case.

Chair Case is also being called in her capacity as the Director of the DLNR as well as Chair of BLNR to talk about the implementation efforts that have been taken and that will be taken, if at all, on the Governor's ten-point management plan as well as talking about agreements that were entered into with the University of Hawaii, all of which is discussed above in Section B.

As for Board Member Roehrig, he also cites the case of Grant v. Shalal, 989 F.2d 1332 (3rd Cir. 1993), in his Motion for a protective order. See page 4 of the Memorandum in Support of Motion. In that case, the U.S. Third Circuit Court of Appeals also found that the Court "fully recognize[s] that bias on the part of ALJ's may undermine the fairness of the administrative process. 'Trial before an 'unbiased judge'

is essential to due process." Grant, supra, at 1345 *quoting Johnson v. Mississippi*, 403 U.S. 212, 216, 91 S.Ct. 1778, 1780, 29 L.Ed.2d 423 (1971). "[A]ny tribunal permitted by law to try cases and controversies not only must be unbiased **but also must avoid even the appearance of bias**. Grant, supra, quoting Commonwealth Coatings Corp. v. Continental Casualty Co., 393 U.S. 145, 150, 89 S.Ct. 337, 340, 21 L.Ed.2d 301 (1968)(emphasis added).¹ The Hawaii Supreme Court similarly made such findings in Mauna Kea Anaina Hou v. Board of Land and Natural Resources, 136 Hawai'i 376, 363 P.3d 224 (2015).

With respect to Board member Roehrig, he is not being called to testify about his thought process in his decision-making capacity that he claims is a basis in precluding judges from being called as witnesses in the authorities that he cites in his Motion for a protective order. He is being called as a witness to be asked, among other things, why with Perpetuating Unique Educational Opportunities, Inc.'s Motion to Intervene, dated May 16, 2016, (DOC-33), a corporation that was newly formed in April of 2016, and an entity in which Shadd Keahi Warfield (See Doc 33) serves as its President, pending, and with an amendment of an ongoing lease agreement signed on April 18, 2016 by Stanley Roehrig as Trustee of the Stanley H. Roehrig Revocable Trust and Shadd Keahi Warfield of Keaukaha One Youth Development, and recorded on June 3, 2016, does he believe a disclosure was not necessary and a recusal not required on the grounds of even an appearance of bias before the said Board member voted on and signed off on Minute Order No. 9 (Order Denying Petitioners' Motion for Reconsideration of Minute Order No. 4, Filed on May 6, 2016 and/or Motion to Strike Selection Process and to Disqualify Various Members and Hearing Officer), dated June 3, 2016 (See Doc-63)? Please see Exhibit "G," attached hereto, which is a true and correct copy of the Fifth Amendment to Lease, recorded on June 3, 2016, in the Office of the Assistant Registrar. Petitioner Mehana Kihoi also points out in her pending

¹ In Grant, the Third Circuit Court of Appeals found that the proposed fact-finding of the federal district court was not necessary in that there were other procedures available, that included rules in place under which an ALJ would be prohibited from presiding in the case and through which disqualification motions were available to the claimant with subsequent judicial review. In addition, the Social Security Administration had convened a special panel to respond to allegations regarding the ALJ in that case.

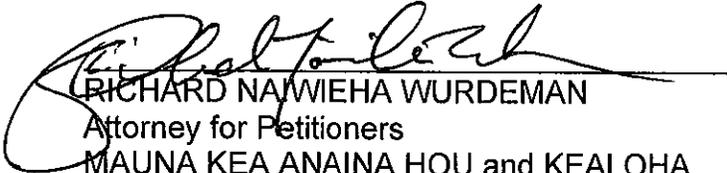
motion that Keaukaha One Youth Development's agent's address, Keahi Warfield, for Keaukaha One Youth Development, is the same mailing and agent address for Stanley H. Roehrig, AAL, LLLC, i.e. 101 Aupuni Street, Suite 124, Hilo, Hawaii 96720. Please also see "H," attached hereto, which are true and correct copies of DCCA records, on its website, for Keaukaha One Youth Development and Stanley H. Roehrig, AAL, LLLC, respectively.

Furthermore, with the Hearing Officer's and Board's counsel being represented by Deputy Attorney General Harvey E. Henderson, the attorney bringing the current motion, in HRS Chapter 92F records requests made of said counsel by the Mauna Kea Anaina Hou, Et Al. Petitioners, why are the Hearing Officer's and Board's counsel not addressing the above-referenced issues, instead of allowing their counsel, Harvey E. Henderson, to bring forward the instant motion in these proceedings in which they still remain as the Board's and Hearing Officer's counsel to try and prevent such information from being litigated? How is that ensuring a fair and impartial process as counsel and advisors?

For all of the foregoing arguments and authorities, the Petitioners respectfully request that the Motion for Protective Order be denied.

Respectfully submitted.

DATED: Honolulu, Hawaii, August 22, 2016.


RICHARD NAWIEHA WURDEMAN
Attorney for Petitioners
MAUNA KEA ANAINA HOU and KEALOHA
PISCIOTTA; CLARENCE KUKAUAKAHI
CHING; FLORES-CASE OHANA; DEBORAH
J. WARD; PAUL K. NEVES; and KAHEA: THE
HAWAIIAN ENVIRONMENTAL ALLIANCE, a
domestic non-profit Corporation

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

IN THE MATTER OF) Case No. BLNR-CC-16-002
)
) DECLARATION OF COUNSEL
A Contested Case Hearing Re)
Conservation District Use Permit)
(CDUP) HA-3568 for the Thirty Meter)
Telescope at the Mauna Kea Science)
Reserve, Kaohe Mauka, Hamakua)
District, Island of Hawaii,)
TMK (3) 4-4-015:009)
_____)
)

DECLARATION OF COUNSEL

I, RICHARD NAIWIEHA WURDEMAN, do declare as follows:

1. I am an attorney licensed to practice law in the State of Hawaii and I represent the Petitioners MAUNA KEA ANAINA HOU and KEALOHA PISCIOTTA; CLARENCE KUKAUAKAHI CHING; FLORES-CASE OHANA; DEBORAH J. WARD; PAUL K. NEVES; and KAHEA: THE HAWAIIAN ENVIRONMENTAL ALLIANCE, a domestic non-profit Corporation, in the above-entitled matter.

2. I am competent to testify to the matters set forth herein and do so on personal knowledge, unless otherwise indicated.

3. Attached hereto as Exhibit "A" is a true and correct copy of an article found on the P.U.E.O., Inc. web page, www.alohapueo.org, dated July 18, 2016.

4. Attached hereto as Exhibit "B" is a true and correct copy of a story entitled, "Ige pressed on TMT; Telescope talk dominates portion of Governor's visit," that was published on the Hawaii Tribune-Herald web page on August 11, 2016.

5. Attached hereto as Exhibit "C" is a true and correct copy of an article that appeared in the West Hawaii Today, published November 6, 2015, entitled, "DLNR chief vows to protect TMT contractors."

6. Attached hereto as Exhibit "D" is a true and correct copy of the release that appeared on the Office of the Governor's web page, posted on May 26, 2015, and entitled, "Governor Ige's Transcribed Mauna Kea Story."

7. Attached hereto as Exhibit "E" is a true and correct copy of a news release that appears on the University of Hawaii web page, entitled, "UH implementation plan for improved stewardship of Mauna Kea," dated June 1, 2015.

8. Attached hereto as Exhibit "F" is a true and correct copy of a November 17, 2015 letter agreement that appears on the University of Hawaii web page and that apparently was signed by UH President David Lassner and BLNR Chair Suzanne Case.

9. Attached hereto as Exhibit "G" is a true and correct copy of the Fifth Amendment to Lease, recorded on June 3, 2016, in the Office of the Assistant Registrar, State of Hawaii.

10. Attached hereto as Exhibit "H" are true and correct copies of Department of Commerce and Consumer Affairs ("DCCA") records from the DCCA website (under hbe.ehawaii.gov) relating to Keaukaha One Youth Development and Stanley H. Roehrig, AAL, LLLC, respectively.

11. I, RICHARD NAIWIEHA WURDEMAN, do declare under penalty of law do declare that the foregoing is true and correct to the best of my knowledge and belief.

DATED: Honolulu, Hawaii, August 22, 2016.

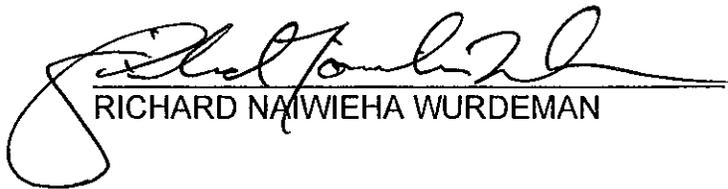

RICHARD NAIWIEHA WURDEMAN

EXHIBIT "A"

Governor Ige Meets with PUEO Leaders

Jul 18, 2016 | Events |



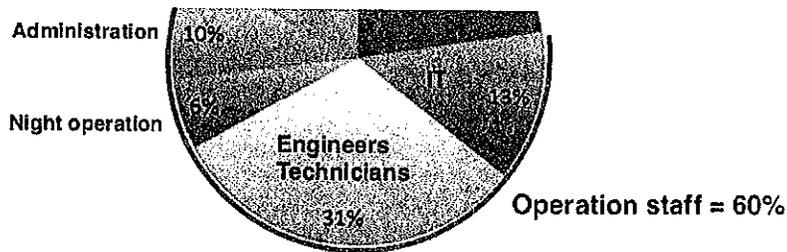
Governor Ige met briefly with leaders of PUEO to explain their role in the community and the types of educational and cultural opportunities each member has been providing and how they would like to see programs expanded in the future. This includes programs that are not just astronomy related. Keahi Warfield, president of PUEO, expressed how important it was to have a range of scientific fields participating in the educational process. His desire is to offer programs spanning educational fields from the ocean to the mountaintops.

It's very important to have options for kids so they can pursue the activities they find interesting. Perhaps they're more interested in hunting and Wildlife and Game Management might be what they prefer to study. We need more educational fields like Fisheries, Geology, Biology, as well as Astronomy, Math and Physics. These are the types of programs we want to build for the next generations.



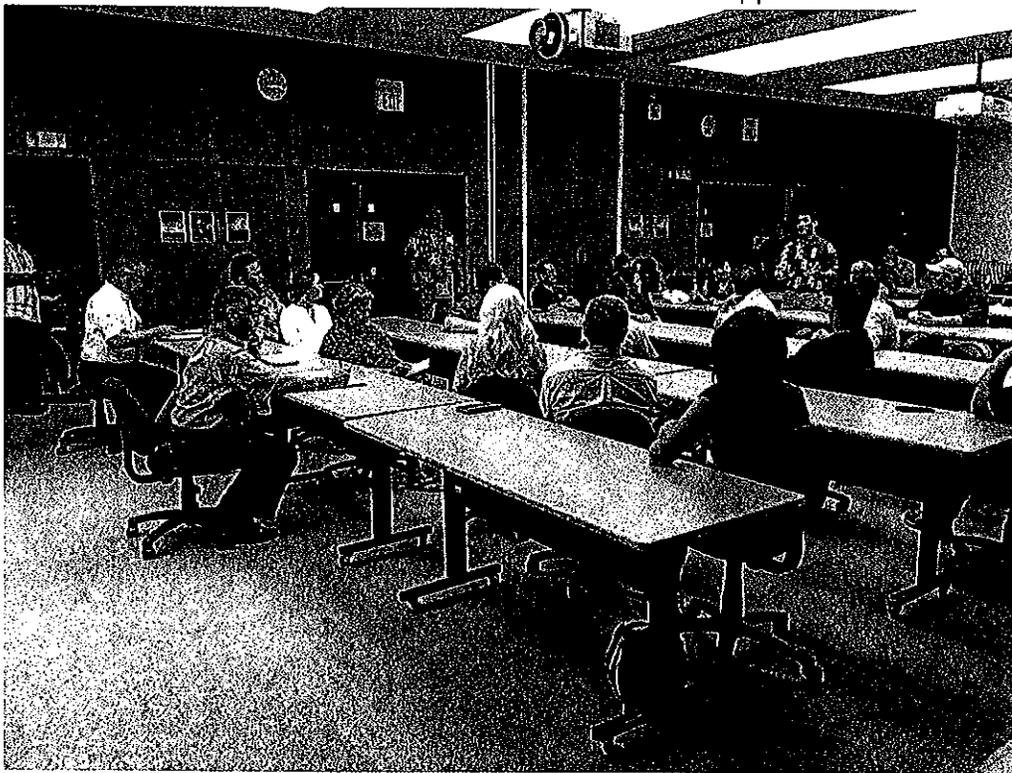
The meeting was opened up to the astronomy community where multiple students and teachers spoke of the unique educational opportunities that led them to become interest in scientific fields. They also discussed how they see the construction of the Thirty Meter Telescope (TMT) as a key part of increasing Hawaii's role in leading science and providing much needed jobs in the future.

The Subaru Telescope for example expressed the high rate of full time employment coming from Hawaii, with 42% of their staff being from the Islands in addition to 14 students from UHH and HCC. Students in the meeting discussed their top desire is to return to the islands to continue working in their fields and how a project like the TMT will ensure that a degree in Astronomy will grow the scientific jobs as well as many other jobs on the Island.



Also expressed to Governor Ige was the concern that students of science in Hawaii have become targets of bullying. This includes reducing some of them to tears over the difficult social situations in their lives, on top of all the worries they have with pursuing their difficult academic studies.

Many in the community expressed their gratitude to the PUEO leaders for helping them have a voice and for their sincere concerns about their future opportunities.



[Maunakea Skies: Future of UH Hilo Astronomy Program Talk Aug 19th](#)

[Gemini Telescope finds Jupiter Moon Io's Atmosphere Collapses and Reforms](#)

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Ige pressed on TMT; Telescope talk dominates portion of governor's visit

Published August 11, 2016 - 12:05am

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By TOM CALLIS Hawaii Tribune-Herald
Thirty Meter Telescope supporters and opponents attended a "community connection" Tuesday evening at University of Hawaii at Hilo to question Gov. David Ige about his positions on the controversial project and Mauna Kea.

But it was a much smaller telescope — UH-Hilo's Hoku Kea — that was on the mind of Niki Thomas.

"It's the future ... for kids," the astrophysicist student exclaimed as Ige responded to her question about plans to remove the tiny observatory from the mountain.

UH selected the broken teaching telescope, housed in an 18-foot-wide dome, as one of three to be removed from the mountain in response to Ige's request that 25 percent of existing observatories be decommissioned before TMT is operational.

Ige said he thought there was too much activity at the summit of the mountain, which some Native Hawaiians consider sacred.

"I do think it's about finding a balance," he said.

Ige made the request for a reduction in telescopes last year as part of his 10-point plan for Mauna Kea following protests that brought construction of the 180-foot-tall observatory to a halt. Since then, the project's land use permit has been remanded to the state Board of Land and Natural Resources and another contested case is underway, leaving the \$1.4 billion project's future uncertain.

Hoku Kea, which UH planned to replace at the time of the decommissioning decision, also remains in limbo.

UH moved ahead with replacing the telescope, possibly installing it on campus as a teaching tool until a better location is found.

Meanwhile, the Office of Mauna Kea Management Board of Directors delayed accepting decommissioning after hearing from Native Hawaiians in support of keeping the telescope on the mountain.

Pierre Martin, Hoku Kea director, said a new 28-inch telescope could be delivered in a few weeks.

Martin said UH is still reviewing potential sites off the mountain to place the telescope and a new dome.

"Until we hear more from (OMKM), this is where we stand," he said.

Thomas and a few other students spoke with Ige briefly after the meeting.

"I think he got it," Thomas said, though she wasn't sure if Ige would make any changes.

Ige was unavailable for comment after the meeting and Wednesday.

In responding to questions about TMT, he said at the community meeting that he felt like he arrived in the "middle of the movie." He was elected in 2014 following the project's initial review.

Ige also said he had no intention of calling out the National Guard during protests and is considering ways to make the review process for similar projects more centered around dialogue.

"I don't know how many times I've been accused of being on the verge of calling out the National Guard," he said, "when there really was no instance or information that I would do so.

"I don't know where this misinformation starts."

Email Tom Callis at tcallis@hawaiitribune-herald.com.



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 - Comments unrelated to the story.
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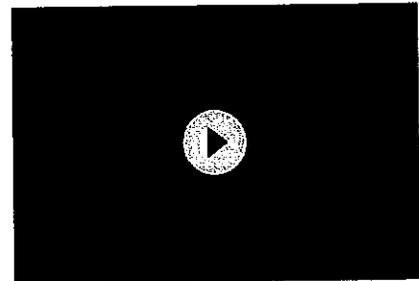


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Ige pressed on TMT; Telescope talk dominates portion of governor's visit

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A webcam image of Hoku Kea telescope atop Mauna Kea.

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Email Tom Callis at tcallis@hawaiitribune-herald.com.

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EXHIBIT "C"

DLNR chief vows to protect TMT contractors

Published November 6, 2015 - 1:30am

HOLLYN JOHNSON/Tribune-Herald Chair of the state DLNR Suzanne Case talks with Barry Taniguchi of KTA during the Japanese Chamber of Commerce and Industry of Hawaii "Talk Story" with Suzanne Case luncheon Thursday in the Moanahoku Room at 'Imiloa Astronomy Center.



By NANCY COOK LAUER West Hawaii Today

The contractors building the \$1.4 billion Thirty Meter Telescope on Mauna Kea have a

right to be up there, the chairwoman of the state Department of Land and Natural Resources said Thursday, adding that the state will enforce the laws over which it has jurisdiction to ensure they are unmolested by protesters.

DLNR chairwoman Suzanne Case was speaking to a mainly sympathetic audience at a luncheon in Hilo sponsored by the Japanese Chamber of Commerce and Industry of Hawaii.

“TMT has a right to move forward with its preliminary site work,” Case said. “They’ve gone up there two times; they have a right to continue. Our job is to make sure our enforcement personnel, as far as DLNR is concerned, our laws are upheld.”

Protesters, who have raised issues of Hawaiian sovereignty and concerns about environmental impacts, have blocked construction vehicles several times since late March. Dozens have been arrested on the mountain.

Case said enforcement to keep the road open is the county Police Department’s jurisdiction. The department did not respond to a detailed email and telephone message by press time Thursday.

“Obviously, it’s illegal for anyone to block roads,” Case said. “The county is responsible for enforcing that.”

The controversy has put a hold on grubbing and grading work by the TMT International Observatory.

Meanwhile, the Hawaii Supreme Court is considering a legal challenge of the project’s Conservation District land use permit. Following oral arguments in August, it’s unknown when the court will issue its ruling.

Asked if the state has assured the TMT contractors that their equipment and safety will be protected if they go back to work, Case referred the question to the governor’s office.

A spokeswoman for Gov. David Ige said Thursday the governor has said all along that TMT has the state permits and approvals to move ahead with the project and, as governor, he is required to ensure that TMT is able to move forward with the project.

Ige is out of the country, but he said at an Oct. 26 forum in Honolulu that, “When I

became governor, the state had made a decision to allow the project to proceed. As governor, I am responsible for assuring that the state can provide access for the TMT project as they are permitted and approved to do so.”

Still, at least one member of the audience Thursday had his doubts.

“It seems there’s a lack of will to enforce the law,” said Keith Marrack.

“It’s been relatively quiet lately, but we’ll be keeping a close eye on it,” Case replied.

Three representatives of the protesters, who call themselves “protectors” of the mountain, could not be reached for comment by press time Thursday.

A 3rd Circuit Court judge on Oct. 9 invalidated DLNR’s emergency rules limiting nighttime usage of Mauna Kea in a lawsuit filed by the Honolulu-based Native Hawaiian Legal Corporation on behalf of E. Kalani Flores. Camping in forest reserves and public hunting areas without a permit remains illegal under administrative rules.

The regulations were set to last 120 days after being signed into effect by Ige on July 14, shortly after construction of the TMT halted for the second time this year when a group of protesters who oppose the telescope project blocked Mauna Kea Access Road.

The group, composed of Native Hawaiian cultural practitioners, has been on the mountain since April.

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- The use of another person's real name to disguise your identity.
- Comments unrelated to the story.

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Links

EXHIBIT "D"



Governor of the State of Hawaii

(<http://governor.hawaii.gov>)

David Y. Ige (<http://governor.hawaii.gov>)

Home (<http://governor.hawaii.gov/>) » Latest News (<http://governor.hawaii.gov/category/newsroom/latest-news/>) , Main (<http://governor.hawaii.gov/category/main/>) , Newsroom (<http://governor.hawaii.gov/category/newsroom/>) »
Governor Ige's transcribed Mauna Kea story

GOVERNOR IGE'S TRANSCRIBED MAUNA KEA STORY

Posted on May 26, 2015 in [Latest News](http://governor.hawaii.gov/category/newsroom/latest-news/)
(<http://governor.hawaii.gov/category/newsroom/latest-news/>), [Main](http://governor.hawaii.gov/category/main/)
(<http://governor.hawaii.gov/category/main/>), [Newsroom](http://governor.hawaii.gov/category/newsroom/)
(<http://governor.hawaii.gov/category/newsroom/>)

Remarks of Governor David Ige as prepared

THE MAUNA KEA STORY, MAY 26, 2015

My role as Governor is to represent all the people of Hawai'i our people, especially on critical and controversial matters.

The issues surrounding Mauna Kea are contentious and on all sides very strongly felt. And because of that, the search for answers is very challenging and difficult.

In moving forward, I believe our core values need to be:

- The importance of respecting our host culture and the special places of Hawai'i.
- The critical role that science and technology play in the economic and educational life of our community. Our young people need to reach for the stars, literally and figuratively.
- Respect for the laws and the process of seeking and receiving approvals to do work in Hawai'i.
- The need in all of our work as government, and as people, to take the time to listen, and to learn, from each other and especially from those who feel they have not been heard.
- To act always with aloha.

In reflecting on those values, we have in many ways failed the mountain. Whether you see it from a cultural perspective or from a natural resource perspective, we have not done right by a very special place and we must act immediately to change that.....

TMT went through the appropriate steps and got the appropriate approvals. I do not doubt that they did more than any previous telescope to be a good neighbor.

This is in litigation at this time and the courts will ultimately have their say on this case.

In the meantime, however, TMT has the right to proceed with construction and they may proceed as far as I am concerned. And we will support and enforce their right to do so.

We also acknowledge the right to protest this activity. We will protect the right to peaceful protest and also will act to ensure the public safety and the right to use our roads for lawful purposes.

That is however not the end of the story, it is only the beginning.

It is my own belief that the activities of Native Hawaiians, and of our scientists, to seek knowledge and to explore our relationship with our cosmos and its creation can and should co-exist on the mountain.....

What has instead happened is that science has received most of the attention and it has gotten way ahead of culture in our work on the mountain. The proper balance between the two has been lost.

From my own personal experience on the mountain, with all the noise and crowding, I could not feel the same special feeling I felt the last time I was up there. It felt and still feels entirely wrong. It is a special place and we need to treat like a special place.

So what can we do to be better stewards of the mountain?

That is one of the key issues we have been talking about these last weeks, and we received input from multiple perspectives.

We received a petition from those protesting on the mountain asking that public hearings be held on any new lease to the University, that we deny any renewal to the University, that any new development be restricted including TMT, that fair market lease rent be charged and back rent sought, and that 20% of all revenues as provided by law. We received a petition from a young Native Hawaiian who wants to see TMT installed and astronomy encouraged. We received a citizens

group's request that the current EIS on the lease renewal be reopened for comment. And we have been part of several convened conversations with leaders of the Native Hawaiian community.

Based on those conversations and our own visits and meetings including many with strong supporters of the project, I am sharing with all of you my sense of how we go forward from here.

First, my responsibility begins with the State of Hawai'i and our need to change the way we exercise responsibility for the mountain.

1. We will change the management of the entire summit, all of which is state land, to bring cultural voices into the leadership structure so that all acts from here forward are sensitive to and observant of culture. We are establishing a Mauna Kea Cultural Council to work with the Board and the Department of Land and Natural Resources, and the Governor's Office, to do a better job. Among the tasks for this group will be the review of all leases and lease renewals, of all proposed rules impacting the mountain especially those relating to access, of any EIS preparation and any cultural impact assessments, of decommissioning plans and execution, working on leasing portions of the mountain to cultural groups, and the reconciliation of the various other uses of the mountain including native species protection and forestry. We are currently putting the group together and hope to make an announcement on that shortly. In asking people to be part of this work, I am not making support for TMT a requirement of those who agree to serve...
2. We are also committed to doing a much better job of monitoring compliance with all activities under any leases or sub-leases, and to act immediately if there are issues that need resolution. Such

action may include the reopening of current leases or the suspension of processing extension requests.

Second, the University of Hawai'i must do a better job in its stewardship of the mountain. If we are going to be a long term partner (and landlord) of the University, we expect the University to do its part as well:

1. The University must begin by being very forthright and public in accepting its need to do a better job in the future.
2. The University must formally and legally bind itself to the commitment that this is THE last area on the mountain where a telescope project will be contemplated or sought.
3. The University must decommission as many telescopes as possible with one to begin this year and a least 25% of all telescopes gone by the time TMT is ready for operation.
4. The University must restart the EIS process for its lease extension including a full cultural impact assessment as part of that process.
5. Access rules that significantly limit and condition non-cultural access to the mountain must be moved expeditiously through the process. There is far too much routine access to this special place and it cannot continue to carry this burden.
6. What I would hope to see is that future visitor access to the mountain be handled through the Native Hawaiian community so that visitors have a greater understanding of and respect for the cultural significance of the mountain. Anyone going on the mountain must receive training in the cultural aspects of the mountain and how to be respectful to the cultural areas.
7. I am asking that the University substantially reduce the length of its request for a lease extension. We need to ensure that the stewardship of the mountain is revisited in an appropriate period

and we all need to take another look at activities on the mountain in mid-century.

8. I am also asking the University to voluntarily return to full DLNR jurisdiction all lands not specifically needed for astronomy. This would involve over 10,000 acres and would allow for culture-based management of much of the mountain. This was an alternative proposed in their pending EIS document for their lease renewal request and would be a significant act of good faith in ensuring the proper balance of activities on the summit.
9. The University will ensure the full use of its scheduled telescope time.
10. Finally, I am asking the University to make a good faith effort to revisit the issue of greater payments by the existing telescopes now as well as requiring it in the new lease.

For all these activities, the University will set forth a schedule for their completion which must be done as expeditiously as possible.

Third, I am asking the TMT leadership to significantly increase the level of support they are providing Native Hawaiian students interested in the areas of science and technology. This can include admission and scholarships at their own institutions or partner institutions. First priority would be for students on Hawai'i Island and then to students statewide.

As in many areas of Hawai'i's life, we need to take a much longer view of our resources and to plan for them in ten years, forty and even a hundred years.

EXHIBIT "E"



UH implementation plan for improved stewardship of Maunakea

June 1, 2015 | UH News | 1 Comment



UH implementation plan for improved stewardship of Maunakea

from University of Hawai'i System

14:49

Statement from UH President David Lassner and UH Hilo Chancellor Donald Straney

Over the past months the University of Hawai'i has received substantial input regarding our stewardship of Maunakea. Governor David Ige's statement on May 26 is consistent with what we have heard from the community. We accept that the university has not yet met all of our obligations to the mountain or the expectations of the community. For that, we apologize and lay out this outline of an action plan for improving our stewardship. We will provide a more detailed schedule by July 2015 following additional consultations.

Some of these implementation measures have been recommended to us in the past. As we move forward, we commit to increased

engagement and active listening with the community, particularly from Kahu Kū Mauna, which has provided sage advice and guidance.

UH News

UH, Maunakea and TMT
UH on track to meet its commitments to contain its imprint on Mauna Kea, February 28, 2016

Hawai'i Supreme Court issues opinion on Thirty Meter Telescope permit, Dec. 2, 2015

The untold story of improvements in UH stewardship of Maunakea, Nov. 30, 2015

UH confirms TMT project is the last telescope site on Maunakea, Nov. 23, 2015

Third Maunakea observatory set for decommissioning, Oct. 21, 2015

UH Hilo decommissioning Hoku Ke'a telescope on Maunakea, July 7, 2015

UH implementation plan for improved stewardship of Maunakea, June 1, 2015

Lassner supports governor's Maunakea plan, May 26, 2015

Stewardship by UH to protect Maunakea for future generations, Apr. 15, 2015

Thirty Meter Telescope

Governor's statement, June 1, 2015: "I thank the University of Hawai'i for taking this initial step to improve the stewardship of Mauna Kea. I look forward to working together to make this plan a reality. Now comes the hard work as we move forward toward a new future for Mauna Kea."

Update and Background,
Mar. 3, 2015

TMT is the last new site

The Thirty Meter Telescope (TMT) will be the last new observatory site developed on Maunakea. Any new observatories may only be placed on existing sites. Both of these conditions are contained in the Decommissioning Plan for the Mauna Kea Observatories (PDF), approved by the Board of Land and Natural Resources in 2010. The university will meet with the Department of Land and Natural Resources (DLNR) to draft a document to make this commitment legally binding.

Project Sites

Thirty Meter Telescope
Office of Maunakea
Management
Maunakea & TMT

Background Documents

Audit of the Management of
Mauna Kea and the Mauna
Kea Science Reserve PDF
Maunakea Comprehensive
Management Plan
TMT Environmental Impact
Statement (EIS) PDF
UH Board of Regents Action
Memo: Approval of Sublease
PDF
UHERO study on the
Economic Impact of
Astronomy on the State of
Hawai'i

Adopting a decommissioning schedule

On May 28, the Caltech Submillimeter Observatory announced it will end operations in September 2015. They will be the first observatory to implement the Decommissioning Plan for the Mauna Kea Observatories, and should complete the process by 2018. We are discussing with the directors of other observatories a definitive schedule of decommissioning of other observatories. We will meet with the director of DLNR this week to review the administrative process for decommissioning. By the end of 2015 we will present an implementation plan for the removal of 25 percent of the summit observatories and the restoration of the sites by the time TMT is ready for operation.

Return of leased land to DLNR

We will consult with DLNR on how we can identify and return to their management lands that are currently part of the Mauna Kea Science Reserve that are not used for astronomy. We will accordingly modify our application for a new lease to reduce the total acreage that would be under university management.

Restarting the EIS for the master lease renewal

Over the past two months, we have heard many new ideas regarding the university's master lease for the Mauna Kea Science Reserve. We will restart the Environmental Impact Statement process for our new lease, enabling us to include additional options for consideration, and conduct a cultural impact assessment. The

requested term of the new lease will be substantially less than a 65-year extension.

Improved management of non-cultural access to Maunakea

We have been consulting with community groups to develop administrative rules for the Mauna Kea Science Reserve, including rules that would ensure cultural access while improving management of non-cultural access.

In June, we will begin a series of open house sessions for further public consultation and we will place particular attention on the scope of rules on access. We will have draft rules prepared by October 2015 to begin the formal public consultation phase of the rule making process.

Improved cultural research, education and training

We will work with Kahu Kū Mauna and other Native Hawaiian advisors to develop new cultural training and educational programs about Maunakea. Training is currently required for people working on the mountain and we will look for opportunities for improvement. We will develop training and education programs for visitors to ensure that all who come to Maunakea understand its cultural significance and how to respect the mountain. To ensure our cultural training and education programs are accurate, effective and continuing, we will establish at UH Hilo a new program to lead and evaluate our expanded cultural stewardship and educational activities related to Maunakea.

Full use of observing time

We confirm the university is making, and will continue to make, full use of its observing time at Maunakea observatories.

Increased financial support for stewardship

We will discuss with our sublessees the level of their investments in the operational and stewardship costs for the Mauna Kea Science Reserve as well as sublease payments under a new master lease.

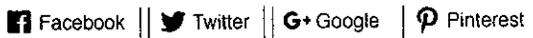
New scholarship programs

The governor asked TMT to increase its support to Native Hawaiian students, particularly those from Hawai'i Island, who wish to pursue

science and technology careers. UH recognizes its responsibilities in this area and we will launch a campaign for new scholarship programs for Hawai'i Island and Native Hawaiian students to increase their participation in the sciences. The university will allocate a portion of its observing time to UH Hilo for use in projects and programs to support greater participation and improved preparation of Hawai'i Island students for professional careers.



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Related Posts:

Stewardship by UH to protect Maunakea for future generations

Lassner supports governor's Maunakea plan

Thirty Meter Telescope update and background

UH Hilo decommissioning Hoku Ke'a telescope on Maunakea

Third Maunakea observatory set for decommissioning

Tags: astronomy, featured, Hawaiian, home, Maunakea, Office of Mauna Kea Management, TMT, UH Hilo, UH System

Category: Community, UH, Maunakea and TMT

[Trackback URL](#) | [Comments](#) [RSS Feed](#)

Malika says:

June 3, 2015 at 12:02 pm

If the 10,000 acres of land gets reverted back to DLNR, DLNR will do nothing like always. The upper level UH people (president, chancellor) don't care about the 10,000 acres but

(president, chancellor) don't care about the 10,000 acres but the actual land managers -the Office of MK Mgmt do care. They monitor all cultural sites, arthropods and invasive species throughout the 10,000 acres- they have reports proving this. Its true that UH doesn't use that land, but it seems like OMKM cares about all those cultural sites and species within the MKSR. The land managers should be consulted with in this discussion because apparently the upper level UH does not talk to OMKM, and really doesn't know what OMKM is doing or how the land managers feel about what the gov said.

Reply

Leave a Reply

Name (required)

Email (required, will not be published)

Website

Submit Comment

Notify me of follow-up comments by email

Notify me of new posts by email

« June 2015 anniversaries

Live music and cool ocean breeze at Waikīkī Aquarium »



EXHIBIT "F"



UNIVERSITY
of HAWAII
SYSTEM

David Lassner
President

November 17, 2015

Suzanne Case
Chairperson
Board of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawai'i 96813

Dear Chairperson Case:

By this letter, the University of Hawai'i clarifies and confirms that the Thirty Meter Telescope (TMT) project site is the last new area on the mountain where a telescope project will be contemplated or sought.

UH will decommission three telescopes permanently and as soon as possible though all must be completed before TMT can go into operation. No new observatories will be constructed on those sites.

This letter shall constitute a legally binding commitment and may be regarded as a condition of the University of Hawai'i's current lease(s) and of any lease renewal or extension proposed by the University.

A handwritten signature in black ink, appearing to read "David Lassner", written over a horizontal line.

David Lassner
President, University of Hawai'i

Affirmed:

A handwritten signature in black ink, appearing to read "Suzanne Case", written over a horizontal line.

Suzanne Case
Chairperson, Board of Land and Natural Resources

2444 Dole Street, Bachman Hall
Honolulu, Hawai'i 96822
Telephone: (808) 956-8207
Fax: (808) 956-5286

An Equal Opportunity/Affirmative Action Institution

EXHIBIT "G"

ZBAM



STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

June 03, 2016 8:02 AM

Doc No(s) T-9650210
on Cert(s) 581739, 582305
Issuance of Cert(s)



1 1/1 klm
B-32817283

/s/ NICKI ANN THOMPSON
ASSISTANT REGISTRAR

LAND COURT SYSTEM

REGULAR SYSTEM

KM

Return by Mail (✓) Pickup () To:

Nakamoto, Okamoto & Yamamoto (AMO)
187 Kapiolani Street
Hilo, HI 96720

TITLE OF DOCUMENT:

FIFTH AMENDMENT TO LEASE

PARTIES TO DOCUMENT:

Lessors: MAKANA KAI LIMITED PARTNERSHIP, a Hawaii limited partnership;
STANLEY HERBERT ROEHRIG and JANICE HODAPP ROEHRIG,
husband and wife;

Lessee: KEAUKAHA ONE YOUTH DEVELOPMENT, a Hawaii nonprofit
corporation, whose address is 101 Aupuni Street, Suite 124, Hilo, HI
96720.

Affects: TMK (3) 2-1-014: 016 and 039

This document
contains 14 pages.

FIFTH AMENDMENT TO LEASE

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, MAKANA KAI LIMITED PARTNERSHIP, a Hawaii limited partnership, whose address 87 Keokea Loop, Hilo, Hawaii 96720, STANLEY HERBERT ROEHRIG and JANICE HODAPP ROEHRIG, husband and wife, whose address 87 Keokea Loop, Hilo, Hawaii 96720, hereinafter collectively referred to as Lessors, and KEAUKAHA ONE YOUTH DEVELOPMENT, a Hawaii nonprofit corporation, whose address is 101 Aupuni Street, Suite 124, Hilo, HI 96720, hereinafter referred to as Lessee, entered into a Lease dated December 15, 2010 and recorded as Land Court Document No. 4053737 in the Office of the Assistant Registrar of the Land Court of the State of Hawaii and noted on Certificate of Title 581,739, as amended by that certain First Amendment to Lease dated April 26, 2012 and recorded as Land Court Document No. T-8151135 in said Office, that certain Second Amendment to Lease dated June 29, 2012 and recorded as Land Court Document No. T-8215370 in said Office, that certain Third Amendment to Lease dated December 5, 2012 and recorded as Land Court Document T-8389438 ¹ said amendments noted on Certificate of Title 581,739, in said Office, and further amended by that certain Fourth Amendment to Lease dated November 4, 2013 and recorded as Land Court Document T-8745124 in said Office, (hereinafter collectively "^{NPLAKM} Lease"), said ^{NPLAKM} amendments noted on Certificate of Titles 581,739 and 582,305, for a lease term from June 11, 2011 to December 31, 2016, covering that certain real property in Keaukaha, South Hilo, Hawaii, being Lot 1 area 27,542 square feet, shown on Map 1, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1301 of William Hardy Hill, and LOT 1, area 12,242 square feet, as shown on Map 1, filed in said Office of the Land Court of the State of Hawaii with Land Court

rp\leases\roehrigmakanakai5thamend

Consolidation No. 202, and noted on Certificate of Title 582,305; and

WHEREAS, the Lessors and Lessee wish to amend the Lease as follows:

1. Delete in its entirety Exhibit A and replace it with the map attached hereto as Exhibit A and made a part hereof.
2. Delete in its entirety Exhibit B and replace it with the Restated Special Terms of Lease attached hereto as Exhibit B and made a part hereof.
3. Delete in its entirety Exhibit C and replace it with the Restated Addendum to Special Terms of Lease attached hereto as Exhibit C and made a part hereof.
4. In all other respects, the terms and conditions of the Lease shall apply and be ratified by this document.

IN WITNESS WHEREOF, the Lessors and Lessee have executed these presents on this 18th day of April, 2016.

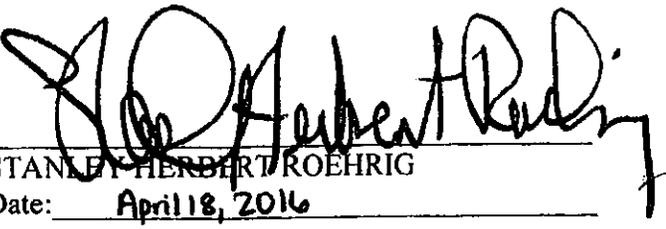
MAKANA KAI LIMITED PARTNERSHIP, a
Hawaii limited partnership

By: KEOKEA MAKAI, LLC, a Hawaii limited
liability company
Its General Partner

Its:


STANLEY H. ROEHRIG, Trustee of the
Stanley H. Roehrig Revocable Trust
Its Member

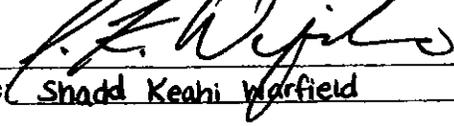
Date: April 18, 2016


STANLEY HERBERT ROEHRIG
Date: April 18, 2016


JANICE HODAPP ROEHRIG
Date: April 18, 2016

LESSOR

KEAUKAHA ONE YOUTH DEVELOPMENT

By: 
Name: Shadd Keahi Warfield

Its: Director

Date: April 18, 2016

LESSEE

STATE OF HAWAII)
)
 COUNTY OF HAWAII) SS:

On this 18th day of April, 2016, before me personally appeared STANLEY H. ROEHRIG, Trustee of the Stanley H. Roehrig Revocable Trust, to me personally known who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

L.S.

Amy K. Maneki
 Amy K. Maneki

Notary Public
 State of Hawaii
 My commission expires: 5/23/2018

Date of Document:	<u>undated</u>	# of Pages:	<u>14</u>
Name of Notary:	<u>Amy K. Maneki</u>	<u>Third</u>	Circuit
Document Description: Fifth Amendment to Lease			
<u>Amy K. Maneki</u>	<u>4/18/16</u>	<u>L.S.</u>	
Notary Signature	Date	(Seal or Stamp)	
NOTARY CERTIFICATION			

STATE OF HAWAII)
)
 COUNTY OF HAWAII) SS:

On this 18th day of April, 2016, before me personally appeared STANLEY HERBERT ROEHRIG, to me personally known who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Amy K. Maneki
 Amy K. Maneki

L.S.

Notary Public
 State of Hawaii
 My commission expires: 5/23/2018

Date of Document:	<u>undated</u>	# of Pages:	<u>14</u>
Name of Notary:	<u>Amy K. Maneki</u>	<u>Third</u>	Circuit
Document Description: Fifth Amendment to Lease			
<u>Amy K. Maneki</u>	<u>4/18/16</u>	<u>L.S</u>	
Notary Signature	Date	(Seal or Stamp)	
NOTARY CERTIFICATION			

STATE OF HAWAII)
)
 COUNTY OF HAWAII)

SS:

On this 18th day of April, 2016, before me personally appeared JANICE HODAPP ROEHRIG, to me personally known who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Amy K. Maneki
 Amy K. Maneki

L.S.

Notary Public
 State of Hawaii
 My commission expires: 5/23/2018

Date of Document:	<u>April 18, 2016</u>	# of Pages:	<u>14</u>
Name of Notary:	<u>Amy K. Maneki</u>	<u>Third</u>	Circuit
Document Description: Fifth Amendment to Lease			
<u>Amy K. Maneki</u>	<u>4/18/16</u>	<u>L.S.</u>	
Notary Signature	Date	(Seal or Stamp)	
NOTARY CERTIFICATION			

STATE OF HAWAII)
) SS:
COUNTY OF HAWAII)

On this 18th day of April, 2016, before me personally appeared Shadd Keahi Warfield of KEAUKAHA ONE YOUTH DEVELOPMENT, to me personally known who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

L.S. <

Amy K. Maneki
AMY K. MANEKI

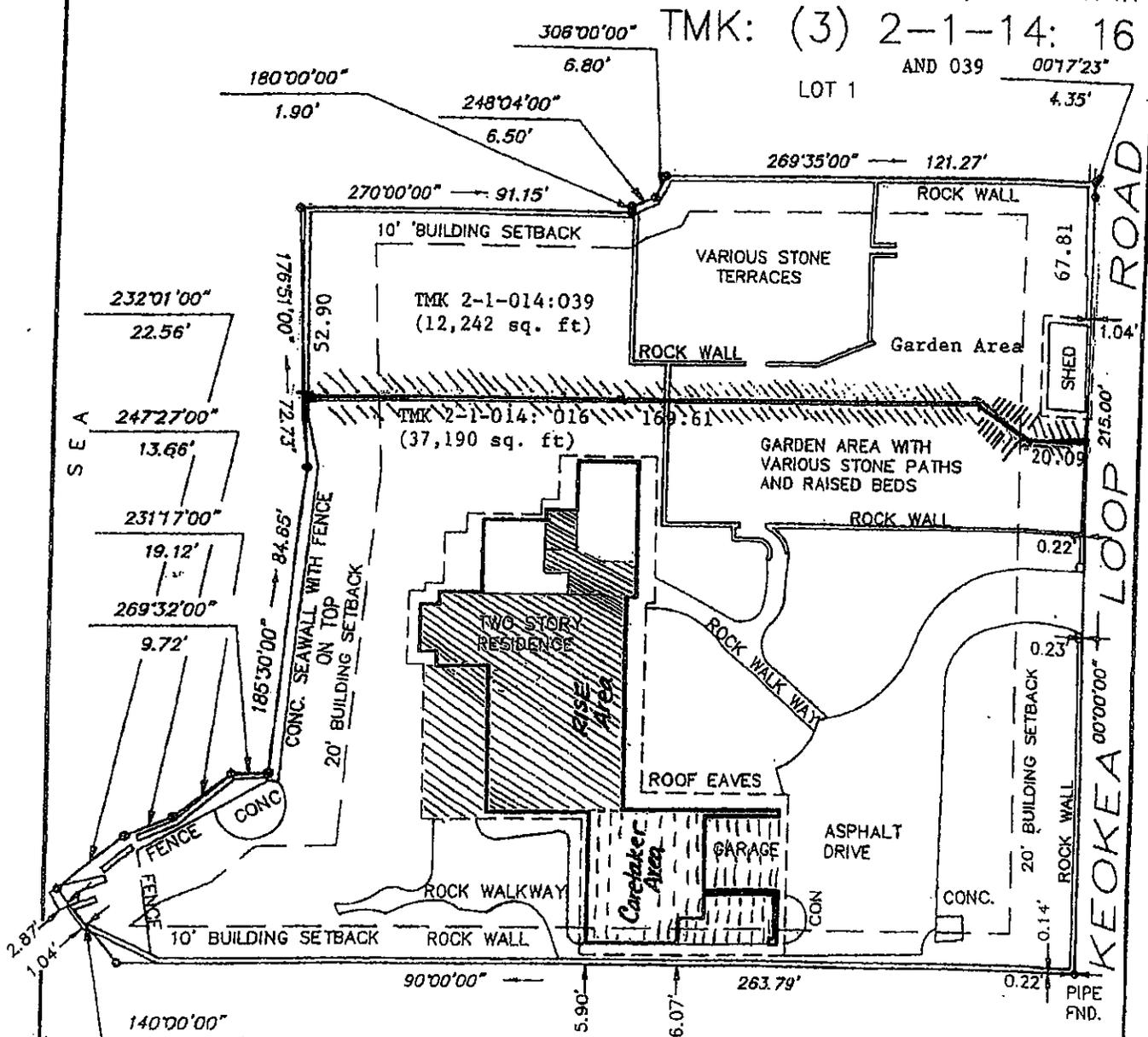
Notary Public
State of Hawaii
My commission expires: 5/23/2018

Date of Document:	<u>undated</u>	# of Pages:	<u>14</u>
Name of Notary:	<u>AMY K. MANEKI</u>	<u>Third</u>	Circuit
Document Description: Fifth Amendment to Lease			
<u>Amy K. Maneki</u>	<u>April 18, 2016</u>	<u>L.S.</u>	
Notary Signature	Date	(Seal or Stamp)	
NOTARY CERTIFICATION			

EXHIBIT A

MAP SHOWING EXISTING CONDITIONS
UPON LOTS 1 AND 2
KEAUKAHA SEASIDE LOTS
KEAUKAHA, SO. HILO, HAWAII, HAWAII

TMK: (3) 2-1-14: 16



Map shows approximate location of boundary of
TMK 2-1-014: 016 and 2-1-014:
039. For exact location, verify
using boundary pins



EXHIBIT B

RESTATED SPECIAL TERMS OF LEASE -

1. **Lessors:** **MAKANA KAI LIMITED PARTNERSHIP**, a Hawaii limited partnership
for TMK [3] 2-1-014-016
STANLEY HERBERT ROEHRIG and JANICE HODAPP ROEHRIG
for TMK [3] 2-1-014-039

Mailing Address: 87 Keokea Loop, Hilo, Hawaii 96720

2. **Lessee:** **KEAUKAHA ONE YOUTH DEVELOPMENT**

Mailing Address: 101 Aupuni Street, Suite 124, Hilo, HI 96720

3. **Date of Lease:** December 5, 2010

4. **Short Description of Property Leased:** Lot 1 and 2A, Land Court Map 1 of Land Court Application 1301 William Hardy Hill, TMK [3] 2-1-014-16, Lot 1, Land Court Map 2A of Land Court Application 1301 William Hardy Hill, TMK [3] 2-1-014-039, as more particularly described in Exhibit B of the Lease.

5. **Exhibit A attached to the Lease:** Yes No

6a. **Leasable area:** TMK [3] 2-1-014-016 (37,190 sq. feet) 6b. **CAM Percentage:** not applicable
TMK [3] 2-1-014-039 (12,242 sq. feet)

7a. **Beginning of Lease:** June 11, 2011 7b. **Ending of Lease:** December 31, 2016

8. **Rent (monthly):**

a. **Initial Rent:** \$1.00/year until June 30, 2012

b. **RISE Basic Rent:** July 1, 2012 – June 30, 2013: \$500/month plus amount equal to Hawaii GET on Basic Rent

July 1, 2013 – June 30, 2014: \$500/month plus amount equal to Hawaii GET on Basic Rent

c. **Custodian's Rent:** August 1, 2013 – June 30, 2014: \$300/month plus amount equal to Hawaii GET on Basic Rent

9. **Permitted Uses:** Described in Addendum 1

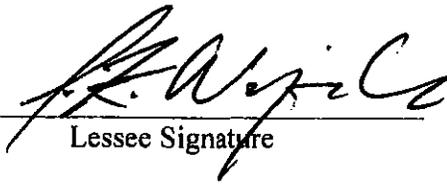
10. Initial Security Deposit: RISE: 1 Month Lease Rent
Custodian: 1 Month Rent

11. Lease Addendum Additional Provisions attached: Yes X No

12. Other Terms:



Lessor Signature



Lessee Signature

By Its: Member
Date: April 18, 2016

By Its: Director
Date: April 18, 2016

This document is a part of the Lease between Lessor & Lessee

EXHIBIT C

RESTATED ADDENDUM TO SPECIAL TERMS OF LEASE

1. Addendum 1. Permitted Uses. Educational uses consistent with the nonprofit purposes of Lessee. Lessee's activities under the RISE Program subject to the terms of the Restated Addendum to Special Terms of Lease and other terms of the Lease are part of the permitted use. Social gatherings on the leased premises utilized by the RISE Program must relate to the RISE Program for insurance purposes.
 - a. The RISE Program is to be conducted using the following areas of the leased premises: hale nui, meeting room, lanai, north entry, north bathroom, reasonable use of grounds. See Exhibit A. Lessee RISE Program will conduct repairs and maintenance as follows:
 - i. Maintenance of leased premises utilizing contract service personnel. Maintenance is to include:
 - Weekly sweeping and/or vacuuming of floors in area using
 - Damp mopping every other week
 - Weekly cleaning of bathroom including sink, tub and toilet
 - ii. Help remove coconut opalas approximately 2 times a year.
 - iii. Wash the screens and windows, and oil window hardware as follows: End of September, November, January, March, and June.
 - iv. Lessee (KOYD) will inspect leased premises the 1st week in October, December, February, April and July. Lessor and Lessee will confer if additional maintenance needs to be done.
 - v. Keahi Warfield shall have administrative control over the utilization of the leased premises utilized by the RISE program. He shall also be the custodian/caretaker of same.
 - b. Such use is subject to Addendum 3.
 - c. Custodial Area: See Exhibit A. The Custodial area consists of kitchen, living/bedroom, bathroom, garage, kitchen lanai (portion) and laundry room. The custodian may have social events on the lanai and yard when not being utilized by the RISE program.
 - i. Custodian is responsible for maintenance of custodian's area. Custodian is to

wash the screens and windows and oil window hardware as follows: End of September, November, January, March, and June.

ii. Lessee (KOYD) will inspect leased premises the 1st week in October, December, February, April and July. Lessor and Lessee will confer if additional maintenance needs to be done.

2. Addendum 2. With approval of Lessee, Lessee RISE Program will make any improvements to the RISE Program leased premises necessary for its uses, including renovations or additions to bathrooms, access to various parts of the leased premises, and signs. Lessee RISE Program shall obtain any permits or certificates related to said improvements and shall comply with all requirements of the Lease relating to improvements.
3. Addendum 3. Not Applicable.
4. Addendum 4. Lessee's improvements, repairs, and special provisions on maintenance. Lessor shall keep the grounds mowed and maintained. The riding mower is to be kept in the shed on the property or in the garage.
5. Addendum 5. Lessor's improvements and repairs. Lessor will make the following improvements and repairs to the property to County Code at its own expense: none.
6. Addendum 6. Lessee is occupying the entire leased premises. See Exhibit A. Section 12.0 on Common Areas is accordingly deleted.
7. Addendum 7. Additional Rent. No longer applicable.
8. Addendum 8. Early Occupancy. No longer applicable.
9. Addendum 9. Liability Insurance. Lessee's RISE Program shall acquire appropriate liability and other insurance as mandated by Kamehameha Schools Bishop Estate.

LESSOR

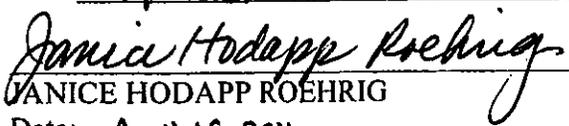
MAKANA KAI LIMITED PARTNERSHIP, a
Hawaii limited partnership

By: KEOKEA MAKAI, LLC, a Hawaii limited
liability company
Its General Partner

Its: 
STANLEY H. ROEHRIG, Trustee of the
Stanley H. Roehrig Revocable Trust
Its Member

Date: April 18, 2016

STANLEY HERBERT ROEHRIG

Date: April 18, 2016

JANICE HODAPP ROEHRIG
Date: April 18, 2016

LESSEE

KEAUKAHA ONE YOUTH DEVELOPMENT

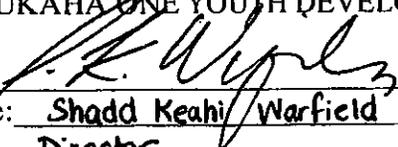
By: 
Name: Shadd Keahi Warfield
Its: Director
Date: April 18, 2016

EXHIBIT "H"

DCCA State of Hawaii

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Website URL: <http://hbe.ehawaii.gov/documents>

Business Information

MASTER NAME	KEAUKAHA ONE YOUTH DEVELOPMENT
BUSINESS TYPE	Domestic Nonprofit Corporation
FILE NUMBER	216258 D2
STATUS	Active
PURPOSE	THE CORPORATION IS ORGANIZED EXCLUSIVELY FOR CHARITABLE, EDUCATIONAL, AND SCIENTIFIC PURPOSES UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE, AS AMENDED, OR ANY FUTURE FEDERAL TAX CODE.
PLACE INCORPORATED	Hawaii UNITED STATES
INCORPORATION DATE	Jul 7, 2006
MAILING ADDRESS	61 KEOKEA LOOP HILO, Hawaii 96720 UNITED STATES
TERM	PER
AGENT NAME	KEAHI WARFIELD
AGENT ADDRESS	101 AUPUNI ST STE 124 HILO, Hawaii 96720 UNITED STATES

Annual Filings

FILING YEAR	DATE RECEIVED	STATUS
2016	Jul 19, 2016	Pending
2015	Jul 6, 2015	Processed
2014	Jul 7, 2014	Processed
2013	Jul 3, 2013	Processed
2012	Jul 18, 2012	Processed
2011	Jul 17, 2011	Processed
2010	Jul 7, 2010	Processed
2009	Jul 19, 2009	Processed
2008	Jul 31, 2008	Processed
2007	Jul 12, 2007	Processed

Officers

NAME	OFFICE	DATE
WARFIELD, SHADD KEAHI	P/D	Apr 20, 2016
OSORIO, ELROY TOM	V/D	Apr 20, 2016
AHU, NAOMI	S/T/D	Apr 20, 2016

DCCA State of Hawaii

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Website URL: <http://hbe.ehawaii.gov/documents>

Business Information

MASTER NAME	STANLEY H. ROEHRIG, AAL, LLLC
BUSINESS TYPE	Domestic Limited Liability Company (LLC)
FILE NUMBER	41756 C5
STATUS	Active
PURPOSE	ATTORNEY AT LAW
PLACE INCORPORATED	Hawaii UNITED STATES
REGISTRATION DATE	Dec 21, 2005
MAILING ADDRESS	101 AUPUNI ST STE 124 HILO, Hawaii 96720 UNITED STATES
CROSS REFERENCE NAME	STANLEY H. ROEHRIG, AAL, LLLC
MANAGED BY	MANAGER(S)
AGENT NAME	STANLEY H. ROEHRIG
AGENT ADDRESS	101 AUPUNI ST STE 124 HILO, Hawaii 96720 UNITED STATES

Annual Filings

FILING YEAR	DATE RECEIVED	STATUS
2015	Oct 4, 2015	Processed
2014	Oct 14, 2014	Processed
2013	Oct 4, 2013	Processed
2012	Oct 8, 2012	Processed
2011	Oct 10, 2011	Processed
2010	Oct 12, 2010	Processed
2009	Oct 4, 2009	Processed
2008	Oct 15, 2008	Processed
2007	Nov 11, 2007	Processed
2006	May 24, 2007	Processed

Officers

NAME	OFFICE	DATE
ROEHRIG, STANELY H	MGR	Dec 21, 2005

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

IN THE MATTER OF)	Case No. BLNR-CC-16-002
)	
)	CERTIFICATE OF SERVICE
A Contested Case Hearing Re)	
Conservation District Use Permit)	
(CDUP) HA-3568 for the Thirty Meter)	
Telescope at the Mauna Kea Science)	
Reserve, Kahohe Mauka, Hamakua)	
District, Island of Hawaii,)	
TMK (3) 4-4-015:009)	
_____)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date set forth below, a true and correct copy of the foregoing document was served on the following parties by the means indicated:

Michael Cain
Office of Conservation and Coastal
Lands
1151 Punchbowl, Room 131
Honolulu, HI 96813
michael.cain@hawaii.gov
Custodian of the Records
(original + digital copy)

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tluiquan@carlsmith.com
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Of Hawai'i at Hilo

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Observatory, LLC

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Newton J. Chu, Esq.
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Counsel for Perpetuating Unique
Educational
Opportunities (P.U.E.O)

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Lanny Alan Sinkin
lanny.sinkin@gmail.com
Representative for The Temple of Lono

Kalikolehua Kanaele
akulele@yahoo.com

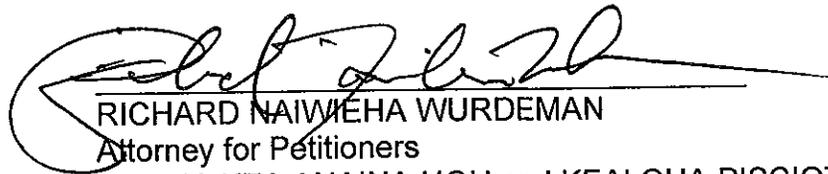
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Department of the Attorney General

DATED: Honolulu, Hawaii, August 22, 2016.



RICHARD NAWIÉHA WURDEMAN
Attorney for Petitioners

MAUNA KEA ANAINA HOU and KEALOHA PISCIOTTA;
CLARENCE KUKAUAKAHI CHING; FLORES-CASE
OHANA; DEBORAH J. WARD; PAUL K NEVES; and
KAHEA: THE ENVIRONMENTAL ALLIANCE, a domestic
non-profit Corporation