

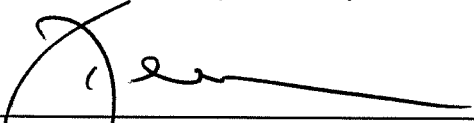


COMES NOW KAHEA: THE ENVIRONMENTAL ALLIANCE, by and through its above-named counsel, and hereby submits its Seventh Supplemental Exhibit (Exhibit B.54 and B.55) Designation.

Exhibit No.	Description	Rec'd Into Evidence
B.54	The Hawaii Independent Article (January 21, 2015): Cultural practitioners, environmentalists deliver Mauna Kea demands to Governor	
B.55	Honolulu Star Advertiser Editorial Article (March 10, 2014): Hawaii's ecosystem harmed by building on Mauna Kea	

DATED: Kailua, Hawaii, 1/5/17

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VERBATIM

## **Cultural practitioners, environmentalists deliver Mauna Kea demands to Governor**

No further build-up on Mauna Kea, refusal to accept new UH lease top the list.

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 Hawaii Independent Staff in Thirty-Meter Telescope  January 21, 2015 01:00 PM

We are reaching out to you in your capacity as the highest executive authority in the state of Hawai'i. You have inherited the state's decades-long failure to protect Mauna Kea and the rights of Native Hawaiians and Hawai'i's public therein as detailed below.

## 1) Cumulative Impacts to the Cultural and Natural Resources are Adverse, Significant and Substantial

The National Aeronautics and Space Administration (NASA) conducted the first and only federal Environmental Impact Statement (FEIS) in the history of astronomy development atop Mauna Kea. The federal court found that the original NASA Environmental Assessment (EA) was inadequate and the court compelled them to start over. NASA then opted to complete the full and more rigorous EIS. The NASA FEIS findings concluded: “That the cumulative impact of thirty years of astronomy development atop Mauna Kea has resulted in ‘substantial, adverse and significant’ impacts to the cultural and natural resources of Mauna Kea”.

The NASA EIS would not have been done if NASA had not been sued by the Office Of Hawaiian Affairs on behalf of the Mauna Kea Hui (a group of Native Hawaiians, recreational users, and members of the public who have doggedly fought for the protection of Mauna Kea, often at their own physical and financial expense).

## 2) Such Environmental Impacts are Unacceptable under the Law

We stand on the findings of the NASA FEIS and therefore cannot support the University/TMT’s request for a new 65 year lease. The NASA environmental findings mean that neither TMT nor any other development can be approved without being in violation of the Mauna Kea Conservation District (MKCD) rules and regulations. Namely HAR §13-5-30(c)(4) “The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region”.

3) The State itself has already found that both DLNR and UH have failed to protect the natural and cultural resources of Mauna Kea. Please see the appended document put together by the Sierra Club that highlights the key findings of the 1998 state Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve. Such findings include “Both the university and the (DLNR) failed to develop and implement adequate controls to balance the environmental concerns with astronomy development.” (p. 34, 15) UH claims that changes have been made to correct the many violations and failings enumerated in the report, but we maintain that nothing substantive has changed regarding their management of Mauna Kea.

During your tenure as governor, we ask you to take specific action to restore the balance between the appropriate use and the conservation of Mauna Kea that the University of Hawai'i's (UH) mismanagement and overexploitation has undone. The following is a nonexclusive list of such actions:

**(1) No additional construction on Mauna Kea.**

- a. Advise BLNR to permit no further construction, permitting, or leasing of Mauna Kea lands;
- b. Advise the UH Board of Regents to require the TMT Observatory Corporation to halt construction;

These actions are particularly appropriate pending the full judicial resolution of the pending appeal of the BLNR's conservation district use permit (CDUP) for the construction of the Thirty-Meter Telescope (TMT) and the ongoing environmental review of the State's general lease agreement (S-4191) with UH for the use of Mauna Kea;

**(2) Refuse to accept UH's proposal for a new general lease** and the related Environmental Impact Statement Preparation Notice (now out for public comment) pending the full judicial resolution of the appeal of BLNR's conservation district use permit for the construction of the Thirty-Meter Telescope;

**(3) Refuse to accept UH's future final environmental impact statement (EIS) for a new master lease** under gubernatorial authorities pursuant to Hawai'i Administrative Rule (HAR) §§ 11-200-4(a)(1) and -23(a); unless UH fully demonstrates – without relying on putative “economic benefits” as mitigation - that no cumulative, substantial, adverse impacts to Mauna Kea cultural and natural resources from existing or future land uses will occur; and

**(4) Create a community-based authority to manage Mauna Kea.** This was the primary recommendation in “Mauna Kea – The Temple,” submitted by Mauna Kea Anaina Hou and the Royal Order of Kamehameha I to the Board of Land and Natural Resources (BLNR). This hui of land managers would be composed of Native Hawaiian cultural practitioners, environmental conservationists, other rights-holders, government agencies (the Department of Land and Natural Resources' (DLNR) Office of Conservation and Coastal Lands (OCCL) and the State Historic Preservation Division (SHPD), Hawai'i county representatives, and other community stakeholders. We've enclosed a copy of the Temple report with this memo. To be called a community-based management authority, the members must be vetted and chosen by the community and it must have decision making

MEMBERS MUST BE VETTED AND CHOSEN BY THE COMMUNITY, AND IT MUST HAVE DECISION MAKING authority. The current Office of Mauna Kea Management board members are appointed by the UH Hilo Chancellor and the current cultural advisory board, Kahu Kū Mauna, lacks decision making power.

With UH seeking a new master lease for the use of Mauna Kea and the impending construction of the Thirty-Meter Telescope, we urge you to take swift action. Please contact us at your earliest convenience to discuss the above actions and the future of our sacred mauna.

**Collections**

**Thirty-Meter Telescope**

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**DISCUSSION**

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## Editorial | Island Voices

# Hawaii's ecosystem harmed by building on Mauna Kea

Jonathan Kamakawiwo'ole Osorio

March 10, 2014

We must not understand the University of Hawaii Board of Regents' vote to approve a sublease for the Thirty Meter Telescope (TMT) on Mauna Kea as a vote for "science."

It was a vote against a collective obligation to protect Hawaii's public trust resources. It was unwise.

A recent Star-Advertiser editorial was right — the need to balance astronomy-related development and protections for Native Hawaiian cultural resources and Mauna Kea's fragile ecosystems has never been greater ("UH regents right to OK telescope," Our View, Star-Advertiser, Feb. 24).

But this need should not be driven by the claims of the global research community. Nor should it be driven only by a desire to provide employment.

Achieving a balance of uses of Mauna Kea, rather, requires that we turn to history and the laws put in place to provide for such a balance.

In 1968, the state Board of Land and Natural Resources (BLNR) leased these (un)ceded lands to UH for, among other things, the construction of "an observatory." More than 50 years later, 12 observatories, supporting facilities, roads and parking lots, inhabit the summit — and UH has still not agreed to impose a limit on the number of telescopes that may be built.

Mauna Kea's summit comprises conservation district lands, which means that development cannot occur unless it meet eight criteria — including a prohibition



against "substantial adverse" impacts.

Mauna Kea was found to have sustained such substantial impacts years prior to TMT sublease vote. Former BLNR officials raised this in their comments on the TMT proposal prior to the current BLNR's approval of the project.

We are a hui of Hawaiian practitioners, activists and environmentalists who have raised the state's failure to follow its own laws as a legal claim in the Third Circuit Court. A decision favoring the TMT would not be a "victory," as the Star-Advertiser editorial asserts, but the latest in a series of demands that Native Hawaiians relinquish sacred places to the "economy."

In more recent history, BLNR deferred its consideration of a master lease of Mauna Kea to UH pending completion of an environmental impact statement. As Office of Mauna Kea Management board member Hannah Kihilani Springer noted, it's a "little odd" to approve a sublease when the master lease has not been approved yet.

The UH Board of Regents' approval of the TMT sublease, prior to resolution of issues concerning the impacts of UH's mismanagement of the summit areas and the propriety of further construction in the Mauna Kea conservation district, is imprudent.

The Star-Advertiser and others misunderstand what is at stake in expanding industrial development on Mauna Kea. The prospect of gaining the recognition from the "global research community" cannot displace our need to better balance conservation uses of Mauna Kea against a seemingly ever-increasing demand for astronomy-related development. At stake is our ability to carry a cultural legacy and public trust obligations that undergird us as a people of Hawaii.

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**BOARD OF LAND AND NATURAL RESOURCES**

**STATE OF HAWAII**

In the Matter of: ) Case No. BLNR-CC-16-002  
)  
A Contested Case Hearing Re: ) **CERTIFICATE OF SERVICE**  
Conservation District Use Permit )  
(COUP) HA-3568 for the Thirty Meter )  
Telescope at the Mauna Kea Science )  
Reserve, Kahohe Mauka, Hamakua )  
District, Island of Hawai'i, TMK (3) 4-4-015:009 )  
\_\_\_\_\_)

**CERTIFICATE OF SERVICE**

We hereby certify that a copy of the foregoing was served on the following via email unless otherwise specified below:

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1/5/17

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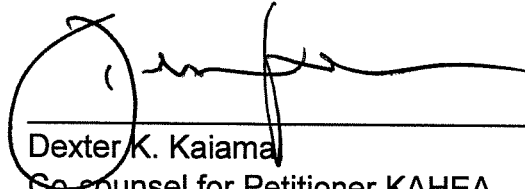
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