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HILO

University of Hawai'i at Hilo Administration
Office of the Chancellor

OFFICE OF CONSERVATION
AND COASTAL LANDS

2021 MAY -3 P 12:19

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

April 28, 2021

Mr. Samuel Lemmo
Administrator
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
1151 Punchbowl Street, Room 131
Honolulu, Hawai'i 96813
sam.j.lemmo@hawaii.gov

Subject: Notice of Initiation of Work and/or Construction for the Thirty Meter Telescope Project, CDUP-HA-3568, General Condition No. 4

Dear Mr. Lemmo:

Pursuant to and in compliance with General Condition No. 4 of Conservation District Use Permit ("CDUP") HA-3568, the University of Hawai'i at Hilo ("UH Hilo") hereby notifies the Department of Land and Natural Resources ("DLNR") that (1) work done, and/or (2) construction done on the land (collectively "Project Activity") for the Thirty Meter Telescope Project ("TMT Project") was initiated within two (2) years of the Board of Land and Natural Resources' ("BLNR") approval of CDUP HA-3568. As detailed below, Project Activity was initiated by no later than July 16, 2019.

General Condition No. 4 of CDUP HA-3568 provides:

Any work done or construction to be done on the land shall be initiated within two (2) years of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and, unless otherwise authorized, shall be completed within twelve (12) years of the approval. The UH Hilo shall notify the Department in writing when construction activity is initiated and when it is completed.

BLNR approved CDUP HA-3568 on September 28, 2017. On June 19, 2019, DLNR issued the Notice to Proceed for the TMT Project, stating that "[b]ased on review of the information

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[UH] provided, the TMT project has met the preconstruction requirements contained in the CDUP and associated management plan. The Department thus issues TMT a Notice to Proceed.”

Subsequent to the issuance of the Notice to Proceed, and before the September 28, 2019 initiation deadline, the following Project Activity was initiated at the TMT Project site or in preparation for Project Activity to be performed at the TMT Project site:

- **June 20, 2019**—Unpermitted ahu removed.
- **June 25, 2019**—Goodfellow Bros, Inc. (“GBI”), the civil contractor for the TMT Project, and M3 Construction Management (“M3”), the construction manager for the TMT Project, met at the project site to test the GPS equipment, and verify the benchmark locations and coordinates with the existing site survey done by Engineering Partners. A partial survey of the Submillimeter Array (“SMA”) access road was completed for accuracy in comparison to the owner-furnished survey. Personnel from the SMA and James Clerk Maxwell radio telescopes joined the construction crew to coordinate the GPS system and verify the impact on the telescope operations. This was done to confirm on the ground boundaries of the access road and project site;
- **July 8, 2019**—Kick-Off Meeting between TMT International Observatory, LLC (“TIO”), GBI, M3, subcontractors, and others to discuss construction procedures, safety protocols, other requirements, and special concerns;
- **July 12, 2019**—GBI, M3, and SMA representatives located and surveyed the underground fiber optic and electrical lines in preparation of mobilizing the heavy equipment to the TMT project site to mitigate the risk of damaging the SMA fiber optics;
- **July 15, 2019**—The Big Island Invasive Species Committee (“BIISC”) inspected TIO construction equipment and vehicles. BIISC provides invasive species compliance certificates; and
- **July 16, 2019**—TIO attempted to access the TMT Project site. TIO mobilized 18 vehicles and equipment, including a 980 Loader, D6 Dozer, WA320 Loader, and Mini-Ex/Roller. Persons objecting to the TMT Project blocked TIO’s access to the TMT Project site for several months.

The above Project Activity was performed in accordance with DLNR approved construction plans.

Based on the above, UH Hilo reasonably believes and hereby notifies DLNR that Project Activity was initiated by no later than July 16, 2019.¹ Your acknowledgment and concurrence of

¹ By way of correspondence to Chairperson Suzanne Case, dated July 30, 2019, UH Hilo requested an extension of time as to General Condition No. 4. In making the request, UH Hilo stated that “based on information provided by [TIO], UH understands, as of the date of this letter, that ‘work’ and/or ‘construction’ has in fact been initiated at the TMT Project site, such

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the TMT Project's initiation of Project Activity are respectfully requested. Should you have any questions or require additional information, please contact me at 808-932-7348 or by email at bdirwin@hawaii.edu.



Bonnie D. Irwin, Chancellor
University of Hawai'i at Hilo

cc: Fengchuan Liu, Project Manager (acting), TMT, fliu@tmt.org

APPROVED

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

BY: by Leo Case

DATE: 5/4/2021

REFERENCE NO. _____

that the two year deadline prescribed by General Condition No. 4 has been met." Id. at 2. UH Hilo's extension request was made "[w]ithout waiving the foregoing." Id.

TIO also clearly stated in its July 29, 2019 correspondence to UH Hilo, which was attached as an exhibit to UH Hilo's July 30, 2019 correspondence, that "TIO does not waive, and expressly preserves, its position that work has been initiated in compliance with the deadline in General Condition No. 4." Id.