BOARD OF LAND AND NATURAL RESOURCES STATE OF HAWAI'I

IN THE MATTER OF) Docket No. BLNR-CC-HA-22-02
The Petition of Mauna Kea Hui for a Declaratory Order Filed May 24,2021) MINUTE ORDER NO.6;
) Exhibits A-I
) CERTIFICATE OF SERVICE
)
	1

MINUTE ORDER NO. 6

On May 24, 2021, Petitioners MAUNA KEA ANAINA HOU, KEALOHA PISCIOTTA, CLARENCE KUKAUAKAHI CHING, DEBORAH J. WARD, PAUL NEVES, and KAHEA: THE HAWAIIAN-ENVIRONMENTAL ALLIANCE (collectively, "Petitioners" or the "Mauna Kea Hui") filed a "Motion to Reopen Hearing to Hear Motion to Confirm Non-Compliance With Condition No. 4, or Alternatively, Petition for Declaratory Orders Concerning the Same" (the "Motion") under the caption of Contested Case No. BLNR-CC-16-002. The Motion is attached hereto as **Exhibit A**.

Contested Case No. BLNR-CC-16-002 was fully decided upon the issuance of Findings of Fact, Conclusions of Law and Decision and Order (hereinafter, the "D&O") on September 27, 2017. The D&O was upheld by the Hawai'i Supreme Court in *Matter of Conservation Dist. Use Application HA-3568*, 143 Hawai'i 379,431 P.3d 752 (2018).

The Board of Land and Natural Resources ("Board") considers Petitioner's Motion as a petition for a declaratory ruling pursuant to Hawai'i Revised Statutes ("HRS")§ 91-8 and HAR§ 13-1-27 rather than a motion for reconsideration of the D&O. On October 20, 2021, the Board issued Minute Order 1 which granted the Petitioners' motion to the extent it seeks to open a new proceeding for a declaratory ruling for the limited purpose of determining whether UHH has complied with Condition No. 4 of the CDUP. Minute Order 1 is attached hereto as **Exhibit B**.

The parties named in the petitioners' Certificate of Service were invited to file briefings in response to the motion and replies in support of the motion.

On October 31, 2021, The Temple of Lono filed a brief in response to the motion (**Exhibit C**). On November 3, 2021, Cindy Freitas filed a brief in response to the motion (**Exhibit D**). On December 3, 2021, the Flores-Case 'Ohana filed a memorandum in support of Mauna Kea Hui's motion (**Exhibit E**). The Temple of Lono, Cindy Freitas, and the Flores-Case 'Ohana are also collectively included in the reference to "Petitioners."

On November 4, 2021, TMT International Observatory LLC filed a memorandum in opposition to the Mauna Kea Hui motion (**Exhibit F**). On November 4, 2021, the University of Hawai'i at Hilo (UHH) filed a joinder to TMT International Observatory's memorandum (**Exhibit**

G). On November 4, 2021 Perpetuating Unique Educational Opportunities ("PUEO") filed a joinder to TMT International Observatory's memorandum (**Exhibit H**). TMT, UHH, and PUEO are collectively referred to as "Respondents."

The Board will hold oral arguments regarding the issues raised in the motion, responses, and replies on Friday, October 6, 2023, commencing at 1:00 p.m. The hearing will be held remotely via Zoom. A link will be provided to Petitioners and Respondents are collectively referred to as "Parties." The hearing will be livestreamed at www.youtube.com/c/boardoflandandnaturalresourcesdlnr.

Oral arguments will be limited to the Parties that have filed written briefs in this declaratory proceeding. Each Petitioner shall have fifteen minutes to present their arguments, followed by each Respondent who shall also have fifteen minutes each. Petitioners Mauna Kea Hui, represented by Richard Naiwieha Wurdeman and the Law Office of Bianca Isaki, shall present first, followed by the remaining Petitioners. Respondent TMT International Observatory shall present first for the Respondents, followed by the remaining Respondents. Time cannot be transferred from one Party to another.

Petitioners may elect to reserve time from their fifteen minutes for rebuttal arguments. Rebuttal arguments will take place once all parties have completed their initial arguments.

The Board may elect to ask questions of any party once they have completed arguments; this time will not count towards the total.

Five business days prior to the hearing, Petitioner Mauna Kea Hui shall submit the order in which Petitioners will be presenting oral arguments to the Custodian of the Records at michael.cain@hawaii.gov. Respondent TMT International Observatory, LLC shall do the same for Respondents.

Requests to change this Minute Order shall be by motion filed within ten business days following the date of this Minute Order.

Parties shall submit proposed orders to the Custodian of the Records ten business days after the transcript is prepared.

The index of the responses and replies is attached hereto as **Exhibit I**, and all filings are available online at dlnr.hawaii.gov/occl/tmt, Table 3, "2021 Petition."

No additional filings will be accepted in this case.

DAWN N.S. CHANG, Chairperson
Board of Land and Natural Resources

Aimee Clise Kell'i Barnes

AIMEE KELI'I BARNES, Board Member

DOREEN NĀPUA CANTO, Board Member

Riley Smith

RILEY SMITH, Board Member

KAREN ONO, Board Member

WESLEY KAIWI NUI YOON, Board

Member

DATED: Honolulu, Hawai'i: Aug 4, 2023

RICHARD NAIWIEHA WURDEMAN 6015-0

Attorney at Law, A Law Corporation Pauahi Tower, Suite 720 1003 Bishop Street Honolulu, Hawai'i 96813 (808) 536-0634 RNWurdeman@RNWLaw.com

LAW OFFICE OF BIANCA ISAKI Bianca K. Isaki 9977 1720 Huna Street, 401B Honolulu, Hawai'i 96837 (808) 927-5606

bianca.isaki@gmail.com

Attorneys for the Mauna Kea Hui MAUNA KEA ANAINA HOU, KEALOHA PISCIOTTA; CLARENCE KUKAUAKAHI CHING; DEBORAH J. WARD; PAUL K. NEVES; and KAHEA: THE HAWAIIAN-ENVIRONMENTAL ALLIANCE

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

In the Matter of:)	Case No. BLNR-CC-16-002
)	
A Contested Case Hearing Re Conservation)	MAUNA KEA HUI'S MOTION TO REOPEN
District Use Permit (CDUP) HA-3568 for the)	HEARING TO HEAR MOTION TO CONFIRM
Thirty Meter Telescope at the Mauna Kea)	NON-COMPLIANCE WITH CONDITION NO. 4
Science Reserve, Kaohe Mauka, Hamakua)	OR, ALTERNATIVELY, PETITION FOR
District, Island of Hawai'i, TMK (3) 4-4-)	DECLARATORY ORDERS CONCERNING THE
015:009)	SAME; MEMORANDUM IN SUPPORT OF
)	MOTION; DECLARATION OF CLARENCE
)	KUKAUAKAHI CHING; EXHIBITS "01"-"07";
)	CERTIFICATE OF SERVICE
)	

MAUNA KEA HUI'S MOTION TO REOPEN HEARING TO HEAR MOTION TO CONFIRM NON-COMPLIANCE WITH CONDITION NO. 4, OR, ALTERNATIVELY, FOR DECLARATORY ORDERS CONCERNING THE SAME

MAUNA KEA ANAINA HOU, an unincorporated association, KEALOHA PISCIOTTA; CLARENCE KUKAUAKAHI CHING; DEBORAH J. WARD; PAUL K. NEVES; and KAHEA: THE HAWAIIAN ENVIRONMENTAL ALLIANCE, a domestic non-profit corporation ("Mauna Kea Hui")

Exhibit A Mauna Kea Hui's Motion respectfully submit this motion to reopen contested case proceedings for the limited purpose of hearing a motion to confirm Permittee UNIVERSITY OF HAWAI'I HILO's (UHH) has not complied with Condition No. 4 of Conservation District Use Permit (CDUP) HA-3568 (Condition No. 4) in the above captioned proceedings. In the alternative, this submission may be construed as a petition for declaratory orders also concerning UHH's present non-compliance with Condition No. 4 to the extent that such relief would be forthcoming under the alternative procedure. Reopening the contested case hearing is appropriate in light of the reasons UHH is unable to comply with permit conditions and has incorrectly represented to Department administrators that it has so complied. Due process requires the Board to allow all parties to present evidence prior to making a discretionary decision on whether UHH's actions merit extension of deadlines.

This motion is submitted pursuant to Hawai'i Revised Statutes §§ 91-8, 91-9, 91-10, and 91-13.5; and Hawai'i Administrative Rules §§ 13-1-11, -12(d), -27, -34; -5-43.

DATED: Honolulu, Hawai'i

May 24, 2021

RICHARD NAIWIEHA WURDEMAN ATTORNEY AT LAW, A LAW CORPORATION

Branca Issli

LAW OFFICE OF BIANCA ISAKI BIANCA ISAKI Attorneys for Petitioners

Exhibit A Mauna Kea Hui's Motion

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

In the Matter of:)	Case No. BLNR-CC-16-002
)	
A Contested Case Hearing Re Conservation District)	MEMORANDUM IN SUPPORT OF MOTION
Use Permit (CDUP) HA-3568 for the Thirty Meter)	
Telescope at the Mauna Kea Science Reserve, Kaohe)	
Mauka, Hamakua District, Island of Hawai'i, TMK)	
(3) 4-4-015:009)	
)	

MEMORANDUM IN SUPPORT OF MOTION

MAUNA KEA ANAINA HOU, an unincorporated association, KEALOHA PISCIOTTA; CLARENCE KUKAUAKAHI CHING; DEBORAH J. WARD; PAUL K. NEVES; and KAHEA: THE HAWAIIAN ENVIRONMENTAL ALLIANCE, a domestic non-profit corporation ("Mauna Kea Hui") respectfully submit this motion to reopen contested case proceedings for the limited purpose of hearing and deciding a motion to confirm Permittee UNIVERSITY OF HAWAI'I HILO's (UHH) has not complied with Condition No. 4 of Conservation District Use Permit (CDUP) HA-3568 (Condition No. 4) in the above captioned proceedings. In the alternative, this submission may be construed as a petition for declaratory orders also concerning UHH's present non-compliance with Condition No. 4 to the extent that such relief would be forthcoming under the alternative procedure. Reopening the contested case hearing is appropriate in light of the reasons UHH is unable to comply with permit conditions and has incorrectly represented to Department administrators that it has so complied. Due process requires the Board to allow all parties to present evidence prior to making a discretionary decision on whether UHH's actions merit extension of deadlines.

I. Background

On September 27, 2017, the Board approved the UHH permit when it issued Findings of Fact, Conclusions of Law, and a Decision and Order in the above-captioned proceedings (2017 Board Order). The UHH permit was thus subject to Standard Condition No. 4, which states:

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.

¹ Standard Condition No. 4 is required under OCCL rules. HAR §13-5-42(a)(8). Exhibit A

Mauna Kea Hui's Motion 1

By letter received July 30, 2019, UHH requested a two year extension of time to comply with Standard Condition No. 4 of the permit. Declaration of Clarence Kukauakahi Ching (Ching Decl.) ¶2, Exh. 01. In its request, UHH cited June 25, 2019 testing of GPS equipment and partial survey of the Submillimeter Array access road and July 12, 2019 survey of underground fiber optic and electrical lines as evidence that it had initiated construction in addition to its two-year extension request. Exh. 01 at 4.

By letter dated July 30, 2019, Suzanne Case, chair of the Board, wrote to UHH, recognizing the June 25, 2019 and July 12, 2019 actions and that UHH was unable to move its construction equipment to the project site on July 15, 2019. Ching Decl. ¶2; Exh. 02 at 1-2. Under these facts, the Board chair determined UHH "made a good faith effort to comply with the deadlines contained in the permit" and granted the extension to September 26, 2021 without a hearing.

By letter dated April 28, 2021, UHH wrote to the Administrator of the Office of Conservation and Coastal Lands (OCCL) to notify him of "initiation of work and/or construction" for the TMT in compliance with General Condition No. 4. Ching Decl. ¶3; Exh. 03. In support of their assertion that construction had initiated, UHH cited activities taking place between June 20, 2019 and July 16, 2019, prior to the Board Chair's July 30, 2019 letter granting UHH's extension request. Exh. 03 at 2. In addition to the June 25, 2019 and July 12, 2019 actions, UHH cited inspections for invasive species on July 15, 2019, a "Kick-Off Meeting" between TMT and its contractors to discuss construction on July 8, 2019, and removal of an ahu on June 20, 2019. Id.

The April 28, 2021 letter posted to the DLNR website has a stamp stating "approved", signed by Suzanne Case and dated May 4, 2021. Exh. 03 at 3.

II. Mauna Kea Hui is a party to proceedings on the UHH permit.

CDUP No. HA-3568 permits UHH to allow the Thirty-Meter Telescope International Observatory (TMT) to construct the largest telescope in the world and the tallest building on the island in the fragile ecosystem and highly sacred grounds of the summit of Mauna Kea. Parties have constitutional rights under articles XI, §9 and XII, §7 to a clean and healthful environment and to protections for their traditional and customary practices as has been recognized in several Hawai'i Supreme Court opinions concerning this permit. In re Conservation District Use Application HA-3568, 143 Hawai'i 379, 431 P.3d 752 (2018); Mauna Kea Anaina Hou v. Board of Land & Natural Resources, 136 Hawai'i 376, 363 P.3d 224 (2015). Mauna Kea Hui members are parties to this contested case, through which they seek to protect their rights.

III. Mauna Kea Hui's positions and supporting authorities.

Mauna Kea Hui's positions are: (1) DLNR incorrectly approved UHH's claims to have initiated Mauna Kea Hui's Motion 2

Exhibits page 4

Exhibit A

work on the land or TMT construction; (2) the DLNR chairperson's summary approval of UHH's request prejudiced the due process rights of the Mauna Kea Hui because the reasons UHH cannot comply with Condition No. 4 require full examination by the Board, at which time the Board should reconsider its initial grant of the permit in 2017; (3) UHH's letter to OCCL constituted an improper request for a determination of conditions exercised under an unlawful rule; and, (4) UHH failed to provide supportive documentation for its claim to have initiated work on the land or construction of the TMT.

A. <u>DLNR incorrectly approved UHH initiation of work on the land or TMT construction.</u>

Extensions of time to initiate UHH's project were require to be "based on supportive documentation from the applicant." HAR §13-5-43(b). Documents submitted by UHH consisted in a three page letter that rather established UHH previously conceded its actions did not constitute initiation of work on the land or TMT construction and constituted unpermitted removal of structures in the conservation district. Exh. 03. UHH's submissions are deficient to meet requirements of the rule and the DLNR chairperson clearly exceeded her authority in approving UHH's request. *Id.* at 3.

1. DLNR chair is estopped from asserting actions constituting good cause to extend time to comply with Condition No. 4 also constitute compliance with Condition No. 4.

UHH's "notice of initiation of work and/or construction" apparently sought approval from DLNR staff for their interpretation of 2019 actions as "work done or construction to be done on the land" in compliance with Condition No. 4. Exh. 03 at 1. DLNR's chair approved the same a day after receipt. *Id.* at 3. Previously by letter dated July 30, 2019, DLNR's chair, then signing as, chair of the Board, recognized substantially the same June 25, 2019 and July 12, 2019 actions as good cause for the first extension of the permit as those UHH again cited in its May 3, 2021 letter as reasons that it had complied with Condition No. 4. *Compare* Exh. 02 at 1-2 *and* Exh. 03 at 1-2. That is, the DLNR chair's previous determination that 2019 actions constituted good cause for an extension to September 26, 2021 to initiate construction cannot also constitute initiation of construction under the doctrine of judicial estoppel. *See Rosa v. CWJ Contractors, Ltd.*, 4 Haw. App. 210, 218, 664 P.2d 745, 751 (1983) ("[a] party will not be permitted to maintain inconsistent positions or to take a position in regard to a matter which is directly contrary to, or inconsistent with, one previously assumed by him, at least where he had, or was chargeable with, full knowledge of the facts, and another will be prejudiced by his action.") (quoting 28 Am. Jur.2d Estoppel and Waiver § 68, at 694-95 (1966).

DLNR's July 30, 2019 approval letter request for extension took the position that UHH's testing of GPS equipment, partial survey of the Submillimeter Array access road, and survey of underground fiber

optic and electrical lines did not constitute work or construction on the land, but rather were good cause to extend the time for compliance. Exh. 01. DLNR cannot recognize the same actions as both reasons to extend time for Condition No. 4 compliance and also, nearing the expiry of that extension, as evidence of Condition No. 4 compliance. Doing so clearly exceeds the bounds of reason and violates principles of judicial estoppel.

2. No construction or work on land was initiated under the plain and ordinary meaning of the terms.

UHH has not initiated work "on the land" or TMT construction under the plain, ordinary meaning of the terms "work . . . on the land" or "construction to be done[.]" HAR §13-5-42(a)(8) ("Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed[.]").

"To effectuate a statute's plain language, its words must be taken in their ordinary and familiar signification, and regard is to be had to their general and popular use. In conducting a plain meaning analysis, [a] court may resort to legal or other well accepted dictionaries as one way to determine the ordinary meaning of certain terms not statutorily defined." *Wells Fargo Bank, N.A. v. Omiya*, 142 Hawai'i 439, 449-50, 420 P.3d 370, 380-81 (2018). "Construction" is defined to mean the "building of something, typically a large structure." Lexico.com by *Oxford English Dictionary* (accessed May 20, 2021). Read *in pari materia*, the term "work . . . on the land" did not mean, for instance, sitting on the parcel and working on a laptop, but rather ground-disturbing work associated with the building of the TMT. *Wells Fargo*, 142 Hawai'i at 450, 420 P.3d at 381 ("laws in pari materia, or upon the same subject matter, shall be construed with reference to each other. What is clear in one statute may be called upon in aid to explain what is doubtful in another.").

Activities UHH claim occurred as "work on land" or "construction" are so far outside of commonly understood definitions as to constitute a de facto revision of permit conditions that is outside of the DLNR chair's authority and is not permitted under any rule. UHH April 28, 2021 letter additionally listed inspections for invasive species, meeting with contractors, and removal of an ahu, which also do not constitute initiation of construction. Inspections of vehicles for compliance with invasive species requirements are not "work on the land" and do not construct the TMT. Nor do "discussions" with contractors. All actions alleged to constitute compliance with Condition No. 4 took place prior to UHH's July 30, 2019 request for extension.

Exhibit A Mauna Kea Hui's Motion 3. Unpermitted destruction of the ahu supports the need for Board review of its permit approval.

To the extent UHH's destruction of an "unpermitted" ahu occurred on the TMT site, UHH failed to obtain a permit for this purpose. Permits are required for "land use", which is defined to include: "grading, removing, harvesting, dredging, mining, or extraction of any material or natural resource on land" and the "construction, reconstruction, demolition, or alteration of any structure, building, or facility on land." HAR §13-5-2 (emphasis added). UHH's alleged unpermitted removal of an ahu did not constitute construction of the TMT and supports the need for further Board oversight.

In any case, UHH's action is more so evidence of its continued inability to initiate construction of the TMT than of having initiated construction or work on the land. Construction of ahu, including and especially those that are unpermitted, are evidence of ongoing and vibrant traditional and cultural practices that have not been adequately addressed or protected under the current permit. Ching Decl. ¶9. That is, the thriving of Hawaiian cultural practice has given rise to expanded awareness and activity on Mauna Kea that includes constructing ahu and protection of these lands as part of a sacred trust. *Id.* ¶10. Additionally, many traditional and customary practitioners either do not recognize permit requirements for their religious practices or lack the ability to obtain special use permits or conservation district use permits for land uses under HAR §13-5-2. *Id.* ¶11. UHH does not reasonably rely on an unreasonable regulation of Kānaka Maoli traditional and customary practices as evidence of its compliance with Condition No. 4.

B. <u>DLNR's summary and unlawful approval of "initiated" construction prejudiced Mauna Kea Huidue process rights to enforcement of permit conditions.</u>

Mauna Kea Hui's rights and interests in the enforcement and proper interpretation of Condition No. 4 as parties to the contested case that resulted in the 2017 Board Order. The Board's 2017 Order represented that permit conditions, including Condition No. 4 would render the TMT project compliant with applicable laws. 2017 Order (FOFs ¶¶131, 156, 441-43, 454, 490, 931; COLs ¶¶133-35, 247, 509). For instance, this Board concluded:

By following the applicable provisions of the various relevant plans, sub-plans, and permit conditions, UH Hilo and the TIO will conserve, protect, and preserve the important natural and cultural resources of the State, will promote the long-term sustainability of those resources, and will promote the health, safety, and welfare of the public.

COL ¶134. UHH's noncompliance with Condition No. 4 undermines the Board's conclusion as to the conservation, protection, and preservation of important natural and cultural resources, amongst other things. The purpose of time limits on conservation district use permits, including UHH's permit, is to allow the Board to revisit applicants' representations of its projects and any changed conditions or

unexpected circumstances. UHH's concession that it has not been able to construct the TMT requires the Board to re-examine the permit.

Changed conditions and unexpected circumstances exist in regard to UHH's permit. The fact of the many thousands of people seeking to express their opposition to further construction on Mauna Kea in 2019 was not before the Board when it issued its 2017 Order. Ching Decl. ¶12. During the 2021 legislative session, the House of Representatives assembled a working group to revisit the propriety of UHH's management of Mauna Kea under House Resolution No. 33. *Id.* ¶13.

Further, project proponents apparently lack at least \$1 billion in funding to construct the TMT and have sought to make up their shortfall through public funding, specifically from the National Science Foundation (NSF). Ching Decl. ¶¶5-6, 14, Exh. 05, 06. Even if NSF provides funding, the TMT would have to conduct federal permitting processes - such as National Environmental Policy Act environmental review and National Historic Preservation Act section 106 consultation - that could span several years. *Id.*

More recently, the Canadian Astronomical Association (CASCA) issued the following statement: "Unless the TMT project has consent from the Native Hawaiians, Canada's astronomical community cannot support its construction on Maunakea." Ching Decl. ¶¶8, Exh. 07. The present potential loss of support from the Canadian partner in the project pivots on TMT project proponents' failure to have sought and obtained consent. *Id.* ¶15. In December 2020, DLNR presented an "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Plan" that found the University's management entity had not implemented the plan in three areas, including consultation, education, and outreach to the community and Hawaiian cultural practitioners in particular. *Id.* ¶¶7, 16, Exh. 06.

The reasons UHH cannot comply with Condition No. 4 require full examination by the Board, at which time the Board should reconsider its initial grant of the permit in 2017. The DLNR chairperson's summary approval of UHH's request prejudiced the due process rights of the Mauna Kea Hui to raise these issues before the Board as part of this contested case, or alternatively through Board action on a second request for extension of time to comply. HAR §13-5-43(b) ("[t]ime extensions may be granted by the board upon the second or subsequent request for a time extension on a board permit, based on supportive documentation from the applicant.").

C. No rule permits DLNR's approval of UHH's notice of initiation.

UHH's "notice of initiation" sought to short-cut processes for determining the constitution of "work and/or construction on the land", which would otherwise require filing of a petition for declaratory orders, and further to evade requirements that the Board review extensions beyond the first request. HAR

§13-5-43(b). As set forth *supra* Part II.A-B, DLNR lacked authority to issue a de facto revision of permit conditions by "approv[ing]" UHH's notice of initiation. Under HRS §91-1, a "rule" is defined as:

each agency statement of general or particular applicability and future effect that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term does not include regulations concerning only the internal management of an agency and not affecting private rights of or procedures available to the public, nor does the term include declaratory rulings issued pursuant to section 91-8, nor intra-agency memoranda.

Id. DLNR's revision of Condition No. 4 constitutes an "agency statement of general or particular applicability and future effect" that implemented the prescribed conditions that are enforceable at law and thus constitutes a "rule" under HRS § 91-1. Agencies are required to promulgate such rules through procedures set forth under HRS § 91-3.

Rulemaking is "not a matter of agency discretion . . . every agency action is 'a recognizable rule or an order' under the [Florida Administrative Procedures Act] or is 'incipiently a rule or order.'" *Fla. Stat. S. Baptist Hosp. of Fla. v. Agency for Health Care Admin.*, 270 So. 3d 488, 503 (Fla. App. 2019) quoting Florida Statutes § 120.54(1) & *Friends of Hatchineha, Inc. v. State, Dep't of Envtl. Regulation*, 580 So.2d 267, 271 (Fla. 1st DCA 1991). "[T]he purpose of rule-making is to govern the future conduct of groups and individuals[.]" *Pila a 400, LLC v. Bd. of Land & Nat. Res.*, 132 Hawai i 247, 264, 320 P.3d 912, 929 (2014).

Whether or not DLNR has a written description of the DLNR chairperson's ability to issue condition revisions is of no consequence to whether the chair operated under an unlawful rule. *See Nuuanu Valley Ass'n v. City of Honolulu*, 119 Hawai'i 90, 99-100, 194 P.3d 531, 540-41 (2008) (city's unwritten policy of refusing to disclose records under circumstances was a rule and not "internal management" because the policy "affects the procedures available to the public, and implements, interprets, or prescribes policy, or describes the procedure or practice requirements of" the city); *Hawai'i Prince Hotel Waikiki Corp.* v. *City & County of Honolulu*, 89 Hawai'i 381, 393, 974 P.2d 21, 33 (1999) (a city appraiser's methodology was held "clearly a 'rule' within the meaning of HRS § 91-1(4)" because it was based on the appraiser's interpretation of ordinances and would "undoubtedly affect[] the assessed value of" existing and future properties), *declined to overrule in Alford v. City & County of Honolulu*, 109 Hawai'i 14, 122 P.3d 809 (2005).

The Chair's summary approval of UHH's "notice of initiation" operated under an unlawful rule for failure to have been properly promulgated under HRS § 91-3 procedures. The Mauna Kea Hui pray this Board strike the Chair's approval as having been exercised under unlawful rules. UHH's de facto request

for revision of permit conditions should be brought before the Board as part of contested case proceedings or, at minimum, through a request for a second time extension to comply with permit conditions.

D. <u>UHH failed to submit supportive documentation establishing it initiated work on the land or construction of the TMT.</u>

Extensions of time to initiate UHH's project were require to be "based on supportive documentation from the applicant." HAR §13-5-43(b). Documents submitted by UHH consisted in a three page letter that rather established UHH previously conceded its actions did not constitute initiation of work on the land or TMT construction and constituted unpermitted removal of structures in the conservation district. Exh. 03. UHH's submissions are deficient to meet requirements of the rule and the DLNR chairperson clearly exceeded her authority in approving UHH's request. *Id.* at 3.

IV. Alternative relief in the form of declaratory orders requested

Should the Board seek an alternative ground for granting requested relief, Mauna Kea Hui seeks declaratory orders stating UHH has not initiated construction so as to comply with Condition No. 4. The Board is empowered to grant declaratory orders. HRS §91-8.

The Mauna Kea Hui is represented by co-counsel, whose names, addresses, and telephone numbers are provided above. HAR § 13-1-27(b)(1). Petitioners are parties with legal rights and interests described *supra* Part I, and are submitting this petition to enforce Condition No. 4 of the permit. *Id.*(b)(2).

In question are the DLNR chairperson's approval of UHH's April 28, 2021 request for confirmation of its notice of initiation and the application of HAR §13-5-43(b) (time extensions) and HAR §13-5-42(a)(8) (standard conditions), as set forth *supra* Part III; and that the DLNR chair's approval of UHH's request for permit condition revisions constituted a "rule" that is required to be promulgated under procedures set forth by HRS §91-3, as set forth *supra* Part IV. HAR § 13-1-27(b)(3). Parts III and IV *supra* in this memorandum of authorities also set forth Petitioner's positions on the correct interpretation and application of these rules and authorities to the facts before the Board. HAR § 13-1-27(b)(4), (5). Finally, each petitioner's signature is affixed below:

KEALOHA PISCIOTTA, President
MAUNA KEA ANAINA HOU, Petitioner

PAUL NEVES, Petitioner

CLARENCE KŪKAUAKAHI CHING, Petitioner

J. Muneoka

SHELLEY MUNEOKA, Treasurer, KAHEA: THE HAWAIIAN-ENVIRONMENTAL ALLIANCE, Petitioner Deborah Ward

DEBORAH J. WARD, Petitioner

V. Conclusion

For the foregoing reasons, the Mauna Kea Hui requests this Board reopen its contested case hearings for the limited purpose of hearing and deciding this motion to confirm UHH's noncompliance with Condition No. 4, or in the alternative, entering declaratory orders confirming the same.

DATED: Honolulu, Hawai'i May 24, 2021

/s/ Richard Naiwieha Wurdeman RICHARD NAIWIEHA WURDEMAN ATTORNEY AT LAW, A LAW CORPORATION

Branca Isali

LAW OFFICE OF BIANCA ISAKI BIANCA ISAKI Attorneys for the Mauna Kea Hui

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

In the Matter of:)	Case No. BLNR-CC-16-002
)	
A Contested Case Hearing Re Conservation District)	DECLARATION OF CLARENCE
Use Permit (CDUP) HA-3568 for the Thirty Meter)	KUKAUAKAHI CHING
Telescope at the Mauna Kea Science Reserve, Kaohe)	
Mauka, Hamakua District, Island of Hawai'i, TMK)	
(3) 4-4-015:009)	
)	

DECLARATION OF CLARENCE KUKAUAKAHI CHING

- I, CLARENCE KUKAUAKAHI CHING, declare under penalty of law that the following is true and correct.
- 1. I am a member of the Mauna Kea Hui, which includes MAUNA KEA ANAINA HOU, KEALOHA PISCIOTTA; CLARENCE KUKAUAKAHI CHING; DEBORAH J. WARD; PAUL K. NEVES; and KAHEA: THE HAWAIIAN-ENVIRONMENTAL ALLIANCE in the above entitled proceedings.
- 2. Attached as Exhibit "01" is a true and correct copy of the letter from Bonnie Irwin, Chancellor of the University of Hawai'i at Hilo, to Suzanne Case, Chair of the Board of Land and Natural Resources, dated July 30, 2019, requesting a two year extension of time to comply with Standard Condition No. 4 of the permit, which was obtained from the DLNR Office of Conservation and Coastal Lands (OCCL) online file repository available at: https://dlnr.hawaii.gov/occl/files/2019/08/Extension-HA-20-04.pdf?fbclid=IwAR2JXP_ht-juyKcvJLXHMHYGEe2o07r-7Uy_My7INelh_FgHu3BXP41LFiE
- 3. Attached as Exhibit "02" is a true and correct copy of the letter from Suzanne Case, Chair of the Board of Land and Natural Resources, to Bonnie Irwin, Chancellor of the University of Hawai'i at Hilo (UHH), dated July 30, 2019, granting the latter's two year extension of time to comply with Standard Condition No. 4 of the permit, which letter was also obtained from the OCCL online file repository.
- 4. Attached as Exhibit "03" is a true and correct copy of the letter UHH wrote to the OCCL Administrator to notify him of "initiation of work and/ or construction" for the TMT in compliance with General Condition No. 4, dated April 28, 2021, obtained from the OCCL online file repository *available at*: https://dlnr.hawaii.gov/occl/files/2021/05/3568-TMT-Notice-of-start-of-construction-May-2021.pdf?fbclid=IwAR1pWFJLjbLkguhUfVGmRh_oF98HLMq_OX5bgOTsQSaAuhwb47TBICRnHxg.
 - 5. Attached as Exhibit "04" is a true and correct copy of the National Science Foundation's

Statement on U.S. Extremely Large Telescope program proposals, published on August 13, 2020 available at: https://www.nsf.gov/news/news_summ.jsp?cntn_id=301034

- 6. Attached as Exhibit "05" is a true and correct copy of the Associated Press news article titled, "Science foundation discusses funding giant Hawaii telescope," published on August 21, 2020 available at: https://apnews.com/article/technology-hi-state-wire-business-travel-us-news-dafc755bda17dcb5d78f2f7f14b7894c
- 7. Attached as Exhibit "06" is a true and correct copy of the December 2020, DLNR "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Plan" *available at:* https://dlnr.hawaii.gov/occl/files/2020/12/Kuiwalu-Report.pdf.
- 8. Attached as Exhibit "07" is a true and correct copy of "Commending CASCA's Decision Not to Support TMT Without Native Hawaiian Consent," (accessed May 19, 2021) available at: https://kanaeokana.net/noconsent.
- 9. Construction of ahu, including and especially those that are unpermitted, are evidence of ongoing and vibrant traditional and cultural practices that have not been adequately addressed or protected under the current permit.
- 10. The thriving of Hawaiian cultural practice has given rise to expanded awareness and activity on Mauna Kea that includes constructing ahu and protection of these lands as part of a sacred trust.
- 11. Additionally, many traditional and customary practitioners either do not recognize permit requirements for their religious practices or lack the ability to obtain special use permits or conservation district use permits for land uses under HAR §13-5-2.
- 12. The fact that many thousands of people seeking to express their opposition to further construction on Mauna Kea in 2019 was not before the Board when it issued its 2017 Order.
- 13. During the 2021 legislative session, the Hawai'i state House of Representatives assembled a working group to revisit the propriety of UHH's management of Mauna Kea under House Resolution No. 33.
- 14. Project proponents apparently lack \$1 billion in funding to construct the TMT and have sought to make up their shortfall through public funding, specifically from the National Science Foundation (NSF). Even if the NSF provides such funding, the TMT would have to conduct federal permitting processes such as National Environmental Policy Act environmental review and National Historic Preservation Act section 106 consultation that could span several years.
 - 15. More recently, the Canadian Astronomical Association (CASCA) issued the following

statement: "Unless the TMT project has consent from the Native Hawaiians, Canada's astronomical community cannot support its construction on Maunakea." There is now the potential loss of support from the Canadian partner in the project that pivots on TMT project proponents' failure to have sought and obtained consent.

16. In December 2020, DLNR presented an "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Plan" that found the University's management entity had not implemented the plan in three areas, including consultation, education, and outreach to the community and Hawaiian cultural practitioners in particular.

DECLARANT FURTHER SAYETH NAUGHT

DATED: Kamuela, Hawai'i May 21, 2021

Clarence Ching

CLARENCE KUKAUAKAHI CHING

DECLARANT



July 30, 2019

Ms. Suzanne Case Chairperson Board of Land and Natural Resources Kalanimoku Building 1151 Punchbowl Street, Room 130 Honolulu, Hawai'i 96813



Subject:

Request for Extension of Time for General Condition No. 4 of Conservation District Use Permit (CDUP) HA-3568 (Thirty Meter Telescope) at the Mauna Kea Science Reserve, Ka'ohe Mauka, Hamakua, Hawai'i; TMK (3) 4-4-015:009

Dear Chairperson Case:

As you are aware, the University of Hawai'i ("UH") is the permittee with respect to Conservation District Use Permit ("CDUP") HA-3568, which the Board of Land and Natural Resources ("BLNR") issued on September 28, 2017 for the Thirty Meter Telescope (the "TMT Project").

General Condition No. 4 of the CDUP ("General Condition No. 4") states that:

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[.]

Although BLNR issued its decision and order ("D&O") approving the CDUP on September 28, 2017, BLNR (as evidenced by the certificate of service attached to the D&O) served the requisite certified copy of the D&O upon the parties via U.S. mail on October 4, 2017. See HAR § 13-1-38 (providing that "[d]ecisions and orders shall be served by mailing certified copies thereof to each party at the party's address of record"). By operation of HAR §13-1-13.2, "[w]henever a person has the right or is required to do some act within a prescribed period after the service of a document upon the person and the document is served by mail, two days shall be added to the prescribed period."

Exhibit A Mauna Kea Hui's Motion

EXHIBIT "01"

200 W. Kāwili St. Hilo, Hawai'i 96720-4091 Telephone: (808) 932-7348 Fax: (808) 932-7338 hilo.hawaii.edu

An Equal Opportunity/Affirmative Action Institution Exhibits page 15

In addition, HAR § 13-1-13 provides that the computation of time for BLNR's Rules of Practice and Procedure is governed by Hawaii Revised Statutes ("HRS") § 1-29. In turn HRS § 1-29 provides in relevant part that: "The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a Sunday or holiday and then it is also excluded."

Applying the foregoing, UH understands that the deadline to "initiate[]" any "work" or "construction" on the permitted land (the TMT Project site) pursuant to General Condition No. 4 is currently Monday, October 7, 2019 (i.e., two calendar years after service of the certified copy of the D&O on October 4, 2017, plus two additional calendar days by operation of HAR § 13-1-13.2 because the certified copy was sent via U.S. mail, plus one additional day pursuant to HAR § 13-1-13 and HRS § 1-29 because October 6, 2019 is a Sunday). For the avoidance of doubt, UH respectfully requests BLNR's confirmation of the current deadline, whether it is October 7, 2019, or another date.

As described below, and based on information provided by TMT International Observatory LLC ("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 that the two year deadline prescribed by General Condition No. 4 has been met. Without waiving the foregoing, and given the current limitations on access to the site, however, TIO has asked that UH request, out of an abundance of caution, a two-year extension of the current deadline to initiate construction, which by our calculation would extend the deadline to, and including, October 7, 2021. This letter constitutes UH's request for such an extension.

UH's request is governed by HAR § 13-5-43(a) and (b), which provide:

§13-5-43 Time extensions. (a) Permittees may request time extensions for the purpose of extending the period of time to comply with the conditions of a permit.

(b) Time extensions may be granted as determined by the chairperson on all departmental permits and on the first request for extension of a board permit of up to two years to initiate or complete a project, based on supportive documentation from the applicant.²

The CDUP is a "board permit" because it is "a permit approved by the board of land and natural resources." See HAR § 13-5-2. This is UH's first request for an extension

¹ See letter of July 29, 2019, from J. Douglas Ing to Carrie Okinaga, attached hereto as Attachment 1.

² The various documents related to the legal challenges and eventual granting of the CDUP, referred to in this letter (most if not all of which are part of DLNR's records), and Attachment 1 hereto provide supportive documentation Exhibit A related to this request

of time "to initiate" the "project," and thus pursuant to HAR § 13-5-43(b), the BLNR chairperson has the authority to consider and grant the extension for up to two years.

UH believes that this request for an extension of the two year deadline is reasonable and appropriate under the circumstances, and that good cause exists to grant the extension.

As BLNR is aware, following the issuance of the CDUP on September 28, 2017, the petitioners and interveners in the underlying contested case hearing (collectively, the "Petitioners") filed various appeals of BLNR's D&O granting the CDUP with the Hawai'i Supreme Court. Despite the court's expedited consideration of the appeals, the appellate process extended for over a year after the issuance of the CDUP. More specifically, following a lengthy briefing process, in which Petitioners filed several procedural motions and extensions to file their briefs, the briefing in the principal appeals was completed on May 3, 2018. The Hawai'i Supreme Court heard oral argument on the appeals on June 21, 2018 and issued the opinion of the court affirming the D&O on October 30, 2018. Following the Petitioners' motions for reconsideration, the Supreme Court issued amended opinions on November 30, 2018, and its judgments on appeal on December 26, 2018.

Following the affirmance of the CDUP, UH understands that TIO accelerated its preparation to resume construction, including working diligently with the Office of Maunakea Management ("OMKM") and the Department of Land and Natural Resources ("DLNR") to fulfill compliance requirements; applying to government agencies to secure the permits necessary to resume construction; and preparing for access to the site.

Among other communications and meetings, the civil construction package for the TMT Project was submitted to DLNR for review on February 4, 2019 pursuant to General Condition No. 5 of the CDUP, which requires the submission of "construction and grading plans and specifications" for the project to DLNR "for approval for consistency with the conditions of the permit and the declarations set forth in the permit application." Thereafter, staff from DLNR's Office of Conservation and Coastal Lands ("OCCL") met with TIO's design team on March 11, 2019 to review and discuss the civil construction package and other construction documents.

On April 8, 2019, pursuant to Special Condition No. 32 of the CDUP (which provides, *inter alia*, that DLNR will issue a notice to proceed once it "demonstrates [to DLNR] compliance with the preconstruction conditions and mitigation measures contained in the decision"), UH requested a notice to proceed from DLNR. In its request, UH informed DLNR that UH had received a notice from TIO indicating its intent to initiate construction and that OMKM "is satisfied that the TMT project has complied with all the pre-construction conditions and mitigation measures related to the start of construction for the Phase I, Civil Package."

Concurrently with the foregoing, UH understands that TIO worked diligently to obtain, renew or extend all other government permits necessary to resume construction, and

Mauna Kea Hui's Motion

that the last such permit necessary to proceed, the grading and stockpiling permit, was issued on May 31, 2019.

On June 19, 2019, DLNR issued the Notice to Proceed for the TMT Project, stating that "[b]ased on review of the information [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."

UH is aware that TIO planned, and was ready and able, to begin moving its heavy construction equipment to the TMT Project site during the week of July 15, 2019. As BLNR is aware, however, TIO was unable to move the equipment to the site due to ongoing demonstrations at the Daniel K. Inouye Highway and Mauna Kea Access Road, which, to date, are continuing.

Although, due to circumstances beyond TIO's and UH's control, TIO has not been able to move its heavy construction equipment to the TMT Project site to date, UH reasonably believes that TIO has initiated "work" and/or "construction" at the site as of the date of this letter. As reported by TIO, the work at the TMT Project site following the issuance of the Notice to Proceed through the date of this letter has included among other things the following:

- June 25, 2019 Goodfellow Bros. Inc. ("GBI") and M3
 Construction Management ("M3") 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 to the
 telescope operations; and
- July 12, 2019 To mitigate the risk of damaging the SMA fiber optics, GBI, M3 and SMA representatives located and surveyed the underground fiber optic and electrical lines in preparation of mobilizing the heavy equipment to the project site.

Given the foregoing as reported by TIO, UH believes that these activities at the TMT Project site to date are reasonably sufficient to meet the provision of General Condition No. 4 that "[a]ny work done or construction to be done on the land shall be initiated within two (2) years of the approval of such use[.]"

Without waiver of the foregoing position, having consulted with TIO, and out of an abundance of caution, however, UH formally requests a two-year extension of the construction commencement deadline provision in General Condition No. 4. As described in detail above, circumstances beyond UH's and TIO's control, including an

Exhibit A
Mauna Kea Hui's Motion

appellate process that took over a year to conclude and the current demonstrations preventing access to the site, have all substantially delayed TIO's efforts to move its heavy equipment to the site and continue substantial construction activities. As also noted above, TIO has been diligent and timely in its efforts to resume construction, and has worked cooperatively and expeditiously with OMKM, DLNR and other government agencies to obtain the Notice to Proceed and all other required permits to construct the TMT Project at the site. In short, UH believes that TIO has demonstrated, and has acted in, good faith in its substantial efforts to timely move this project forward.

Based the foregoing, UH respectfully requests, pursuant to HAR § 13-5-43(a) and (b), that this request for an extension of time be granted, and that the deadline prescribed by General Condition No. 4 of CDUP HA-3568 to initiate work or construction at the TMT Project site be formally extended to, and including, October 7, 2021.

Thank you for your attention to this matter, and please contact me with any questions.

Sincerely yours,

Gariah-Mani Jomes
Bonnie D. Irwin

Chancellor

c: Office of Maunakea Management TMT International Observatory LLC

ATTACHMENT 1



July 29, 2019

VIA EMAIL

Carrie Okinaga, Esq.
Vice President for Legal Affairs
University General Counsel
University of Hawaii
2444 Dole Street
Bachman Hall 110
Honolulu, Hawaii 96822

Re: Request for Extension of Time for General Condition No. 4 of Conservation District Use Permit (CDUP) HA-3568 (Thirty Meter Telescope) at the Mauna Kea Science Reserve, Ka'ohc Mauka, Hamakua, Hawai'i; TMK (3) 4-4-015:009

Dear Ms. Okinaga:

As you are aware, the University of Hawaii ("UH") is the permittee with respect to Conservation District Use Permit ("CDUP") HA-3568, which the Board of Land and Natural Resources ("BLNR") issued on September 28, 2017 for the Thirty Meter Telescope project (the "TMT Project").

General Condition No. 4 of the CDUP provides, among other requirements, that "[a]ny work done or construction to be done on the land shall be initiated within two (2) years of the approval of such use[.]" By operation of the applicable administrative rules, TMT International Observatory LLC ("TIO") understands that the current deadline to "initiate" the work or construction at the TMT Project site is October 7, 2019.

TIO has worked expeditiously and diligently to meet the deadline to commence work at the TMT Project site, including working cooperatively with Office of Maunakea Management and the Department of Land and Natural Resources to obtain the Notice to Proceed and timely obtaining all other necessary permits required to resume construction. TIO also believes that, since the issuance of the Notice to Proceed, it has in fact "initiated" "work" and/or "construction" at the TMT Project site through various activities at the site, including the removal of unpermitted ahu, and by conducting various site surveys. That said, given

Carrie Okinaga, Esq. July 29, 2019 Page 2

circumstances beyond TIO's control (including a lengthy appellate process and the current situation involving protestors blocking access to the site), TIO's heavy equipment access to the site has been substantially delayed.

Given the foregoing, and out of an abundance of caution, TIO respectfully requests that UH request that the chairperson of the Board of Land and Natural Resources formally extend the deadline in General Condition No. 4 by a period of two years, or until October 7, 2021. While TIO does not waive, and expressly preserves, its position that work has been initiated in compliance with the deadline in General Condition No. 4, TIO believes that a formal extension of the deadline will allow the parties to appropriately focus on other matters required to move this project forward.

Thank you for your attention to this matter, and please contact me with any questions.

Very truly yours,

WATANABE ING LLP

J. DOUGLAS ING

cc:

Edward Stone
Gary Sanders

Office of Mauna Kea Management

Gary Takeuchi

731693

DAVID V. IGE





STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

OFFICE OF CONSERVATION AND COASTAL LANDS POST OFFICE BOX 621 HONOLULU, HAWAII 96809

ref:OCCL:MC

Bonnie D. Irwin, Chancellor Office of the Chancellor University of Hawai'i at Hilo 200 W. Kāwili Street Hilo, HI 96720-4091

Dear Ms. Irwin,

SUBJECT:

EXTENSION OF PROCESSING DEADLINES: Conservation District Use Permit (CDUP) HA-3568

Thirty Meter Telescope (TMT)

Mauna Kea Science Reserve, Ka'ohe Mauka, Hāmakua District, Hawai'i

Tax Map Key (TMK) parcel (3) 4-4-015:009

The Department of Land and Natural Resources (DLNR) has reviewed your request for a two-year extension on the construction deadlines contained in Conservation District Use Permit (CDUP) HA-3568 regarding the Thirty Meter Telescope on the above subject parcel.

The permit was approved by the Board of Land and Natural Resources via a Decision and Order on September 27, 2017. Pursuant to General Condition 4 of the CDUP:

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.

On June 19, 2019 DLNR's Office of Conservation and Coastal Lands (OCCL) approved the Civil Package construction plans, and the Department issued TMT a Notice to Proceed with construction.

On July 30, 2019 the University notified the Department that the following work has been conducted since the Notice to Proceed was issued:

- On June 25, 2019 contractors met at the project site to test GPS equipment and to verify the benchmark locations and coordinates with the existing site survey.
- On the same date a partial survey of the access road was completed.
- On July 12, 2019 contractors met with representatives from the Smithsonian Submillimeter Array (SMA) to locate and survey the SMA fiber optics and electric lines in order to mitigate the risk of damage to the cables when heavy equipment is mobilized at the site.

Exhibit A Mauna Kea Hui's Motion



SUZANNE D. CASE CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA

M. KALEO MANUEL DEPUTY DIRECTOR - WATER

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

STATE PARKS

Extension HA-20-04

JUL 3 0 2019

During the week of July 15, 2019, the permittee attempted to move construction equipment to the project site; however, the permittee was unable to access the site due to on-going demonstrations along the Daniel K. Inouye Highway and the Mauana Kea Access Road.

The University is requesting a two-year extension to the initiation deadline contained in CDUP HA-3568 for two reasons:

- 1. Construction was delayed for thirteen months after the Board issued their Decision and Order while the permit went through the appellate process; the permit was finally upheld by the Supreme Court of the State of Hawai'i on October 30, 2018; and
- 2. Demonstrations along the access road to the summit of Mauna Kea have prevented construction crews from accessing the site.

Extension Request

A two year-extension of the permit conditions would give a new initiation deadline of September 26, 2021.

Discussion

The authority to grant time extensions on this permit lies with the Chair of the Board of Land and Natural Resources, pursuant to Hawai'i Administrative Rules (HAR) § 13-5-43 Time Extensions (a) Permittees may request time extensions for the purpose of extending the period of time to comply with the conditions of the permit, and (b) Time extensions may be granted as determined by the chairperson on all departmental permits and on the first request for an extension of a board permit of up to two years to imitate or complete a project, based on supportive documentation from the applicant.

The University has submitted documentation that shows that they have made a good faith effort to comply with the deadlines contained in the permit, and the Department has no objections to issuing the requested time extension.

Decision

The deadline to initiate construction set forth in General Condition 4 of Conservation District Use Permit (CDUP) HA-3568 for the Thirty Meter Telescope at the Mauna Kea Science Reserve, Ka'ohe Mauka, Hāmakua District, Hawai'i, TMK (3) 4-4-015:009 is extended to September 26, 2021.

Sincerely

cre Q Case SUZANNE D CASE, Chairperson

Board of Land and Natural Resources

Exhibit A Mauna Kea Hui's Motion



2021 WAY - 3 P 12: 19

NATURAL RESOURCES STATE OF MAWAII

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

200 W. Kāwili St. Hīlo, Hawai'i 96720-4091 Telephone: (808) 932-7348 Fax: (808) 932-7338 Mr. Samuel Lemmo April 28, 2021 Page 2

[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. 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

Mr. Samuel Lemmo April 28, 2021 Page 3

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

11

DATE: 5 14 120

REFERENCE NO.

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

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 Exhibit A General Condition No. 4." Id.

Mauna Kea Hui's Motion





NSF statement on U.S. Extremely Large Telescope program proposals

August 13, 2020

Due to Privacy Act restrictions, NSF typically cannot identify the organizations or associated details of funding proposals it receives. However, three organizations publicly disclosed their submission of proposals to NSF for planning and design of a U.S. Extremely Large Telescope program. NSF can, therefore, confirm receipt of proposals from the organizations developing the Giant Magellan Telescope (GMT), the Thirty Meter Telescope (TMT), and NSF's NOIRLab (a federally funded research and development center).

NSF understands that potential construction of TMT on Maunakea is a sensitive issue and plans to engage in early and informal outreach efforts with stakeholders, including Native Hawaiians, to listen to and seek an understanding of their viewpoints. If NSF ultimately initiates a formal federal environmental review process, this advance outreach would serve as a precursor to it.

NSF's receipt of a proposal and its initiation of an informal outreach effort are not reflective of NSF's position regarding any project. To request a discussion with NSF related to Maunakea and potential NSF involvement in the TMT project, please contact us by e-mail at: AST-MK@nsf.gov (mailto:AST-MK@nsf.gov).

The U.S. National Science Foundation propels the nation forward by advancing fundamental research in all fields of science and engineering. NSF supports research and people by providing facilities, instruments and funding to support their ingenuity and sustain the U.S. as a global leader in research and innovation. With a fiscal year 2021 budget of \$8.5 billion, NSF funds reach all 50 states through grants to nearly 2,000 colleges, universities and institutions. Each year, NSF receives more than 40,000 competitive proposals and makes about 11,000 new awards. Those awards include support for cooperative research with industry, Arctic and Antarctic research and operations, and U.S. participation in international scientific efforts.

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Science foundation discusses funding giant Hawaii telescope

August 21, 2020

Exhibit A



HONOLULU (AP) — The National Science Foundation has launched an informal outreach to Hawaii about possible funding efforts for the stalled Thirty Meter Mauna Kea Hui's Motion Project.

The effort by the nation's top funder of basic research could lead to a huge influx of cash for the astronomy

EXHIBIT "05"

Thursday.

Funding efforts could also trigger a regulatory process adding two years or more to a construction timeline that is far behind schedule. The project recently announced the start of construction was delayed until spring.

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The foundation said in a statement it plans to reach out to "stakeholders, including Native Hawaiians," to understand their viewpoints.

Protesters blocked the 6.27-mile (10-kilometer) access road to the summit of Mauna Kea, Hawaii's tallest mountain, in a demonstration against the project from July through December 2019. Telescope opponents said the project would desecrate land considered sacred by some Native Hawaiians.

The foundation said its outreach would serve as a precursor to a formal federal environmental review process.

The Thirty Meter Telescope project has teamed with the Giant Magellan Telescope planned in Chile and the U.S. National Optical-Infrared Astronomy Research Laboratory to propose the U.S. Extremely Large Telescope Program.

The partnership, which is partly an effort to obtain additional funding, proposes to offer U.S. astronomers complete viewing coverage of the skies in the Northern and Southern hemispheres.

Thirty Meter Telescope officials recently submitted a planning and design proposal to the science foundation aimed at obtaining major funding for \$1 billion added to the project's cost due to construction delays, inflation and other factors.

Under the proposal, the foundation would contribute \$850 million each to the Thirty Meter Telescope and the Giant Magellan Telescope.

Funding approval would trigger the creation of a federal environmental impact statement and National Historic Preservation Act Section 106 consultation, a process of

Exhibit A Mauna Kea Hui's Motion or more.

"It will lead to very significant outreach, another opportunity to listen and learn and a renewed

Science foundation discusses funding giant ...

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Santa Cruz astronomy professor and Thirty Meter Telescope board member, said last month.

Kealoha Pisciotta, leader of the Mauna Kea Hui group that opposes the telescope, said her group and others are prepared to challenge federal environmental documents.

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Exhibit A
Mauna Kea Hui's Mauna Kapi — Photos taken by a ...

INDEPENDENT EVALUATION OF THE IMPLEMENTATION OF THE MAUNA KEA COMPREHENSIVE MANAGEMENT PLAN

Prepared for Department of Land and Natural Resources

By Kuʻiwalu

December 2020

EXHIBIT "06"

Exhibit A Mauna Kea Hui's Motion

EXECUTIVE SUMMARY

It has been over ten (10) years since the approval of the Mauna Kea Comprehensive Management Plan (CMP), ¹ and the emotions related to Mauna Kea have not diminished but, to the contrary, have intensified and polarized the community. We recognize that the current issues related to Mauna Kea, in particular the construction of the Thirty Meter Telescope (TMT), is a contentious issue. To be very clear, this Report is not for or about TMT. The purpose of this Report is to provide the Department of Land and Natural Resources (DLNR) an independent evaluation of the University of Hawai'i (UH), specifically the Office of Mauna Kea Management's (OMKM), implementation of the CMP management actions contained in Section 7 of the CMP and the public input on how effective UH is managing Mauna Kea. This Report is intended to be a resource to DLNR and the Board of Land and Natural Resources (BLNR) as it reviews UH's current and potential future management of the state conservation lands at Mauna Kea.

Gathering and incorporating public input into the evaluation process was a critical component of this Report. Due to the COVID-19 restrictions, we were challenged with providing an appropriate venue for the public and stakeholders to, (1) get current and accurate information about the management actions (MA) UH is required to implement under the CMP, and (2) provide a transparent and fair opportunity for public input into the UH's implementation of the CMP. We assembled a comprehensive range of tools to provide information and to solicit public input, from email updates, virtual public meetings, dedicated website, and a Facebook page, to small virtual talk story sessions. Throughout the evaluation process, we engaged almost 500 individuals and organizations. We recognize that we may not have heard from everyone, but we believe the range and interests of the participants is reflective of the general public and stakeholders in Mauna Kea.

The Report consists of three assessments. First, OMKM's self-assessment of their implementation of the CMP. Second, the public's assessment, based upon the comments we received. And third, the independent evaluation utilizing the logic model approach that took into consideration UH's self-assessment, the public input, the timeliness of OMKM's implementation of MAs, and whether UH's implementation of the 103 MAs achieved the desired outcomes as set forth in the CMP.

With respect to UH's self-assessment, the OMKM 2020 Annual Report to the Board of Land and Natural Resources, Status of the Implementation of the Mauna Kea Comprehensive Management Plan (OMKM 2020 Annual Report to BLNR) essentially concludes that "most management actions have either been

i

Exhibit A

Mauna Kea Comprehensive Management Plan for the UH Management Areas, April 2009 (hereinafter CMP), Executive Summary, page v.

implemented or are in progress." For the most part, the UH Management Entities² believe they have made considerable progress in effectively implementing the CMP MAs and are, in fact, better managing and protecting the cultural and natural resources. However, there is a difference of opinion between UH-Hilo Management Entities (UH-Hilo Entities)³ and the larger UH System with respect to the public's perception of how effective OMKM is in managing the state conservation lands at Mauna Kea. Accordingly, "in response to past criticisms" the UH Board of Regents (BOR) adopted Resolution 19-03 to take timely action to comply with the management plans, including cultural education and community outreach, decommissioning, and reorganization and restructuring the UH governance structure in their management of Mauna Kea.

The public's assessment of how effectively UH has implemented the CMP has primarily varied depending on whether they are in favor or opposition of telescope development on Mauna Kea. Those who support existing and future telescope development on Mauna Kea believe that OMKM has adequately implemented the CMP MAs to preserve and protect the cultural and natural resources on Mauna Kea. For those who do not support continued telescope development on Mauna Kea beyond 2033, the expiration of the existing state lease, they believe that UH continues to mismanage Mauna Kea as concluded in the 1998 State Auditor's Report. In particular, those in opposition believe that UH continues to advocate telescope development over the protection and preservation of the resources.

Finally, the independent evaluation found that OMKM has made progress in implementing most of the CMP MAs, and in many regards OMKM is effectively managing the activities and uses on Mauna Kea to better protect the natural and cultural resources. We heard many comments that the cultural and natural resources on the state conservation lands on Mauna Kea are some of the best managed and protected lands in the entire State. The area is clear of trash, the invasive species are being removed not only by OMKM but volunteer groups, and the OMKM Rangers to ensure public safety on Mauna Kea.

Exhibit A

[&]quot;UH Management Entities" include the UH Board of Regents (BOR), UH President, Institute for Astronomy (IfA), Executive Director of Maunakea Stewardship, UH Hilo Chancellor, Mauna Kea Management Board (MKMB), OMKM, Kahu Ku Mauna (KKM) and OMKM Rangers.

UH-Hilo Management Entities (UH-Hilo Entities) include UH-Hilo Chancellor, MKMB, OMKM, KKM, and OMKM Rangers.

UH BOR Resolution 19-03, Adopted November 6, 2019, Amended, July 1, 2020 (BOR Resolution 19-03).

However, the independent evaluation also found that OMKM has not effectively implemented the CMP in three major areas. First, the adoption of the administrative rules was untimely. In 2009, the same year that the CMP was approved, UH obtained legislative authorization to adopt administrative rules to manage the activities on Mauna Kea to ensure the protection of the resources. However, the rules did not become effective until 2020. UH's failure to timely adopt administrative rules has limited their ability to manage public access and regulate commercial activities, essentially hampering their ability to protect the resources and public health and safety on Mauna Kea.

Second, members of the Native Hawaiian community, both those who oppose and support UH's management of Mauna Kea, were not consulted on matters related to cultural and resources issues. The CMP specifically identifies the Native Hawaiian stakeholders to include families with cultural and lineal connections to Mauna Kea, Kūpuna, cultural practitioners, the Office of Hawaiian Affairs and other Native Hawaiian groups. Representatives from these stakeholder groups have consistently commented that they were not consulted by OMKM on cultural issues, including removal of family shrines, stacking of Pōhaku, and identification of cultural sites.

Third, OMKM did not effectively engage with the community, in particular, members of the Native Hawaiian community, on education and outreach efforts, including decision-making process related to the management of Mauna Kea. Many Native Hawaiians on Hawaii Island feel disengaged and disrespected by OMKM. In particular, there is an absence of genuine consultation with the Native Hawaiian community that has resulted in greater mistrust of UH. Even with the Native Hawaiian constituency who strongly support OMKM and telescope development, OMKM has not taken the opportunity to involve them in their community outreach efforts.

Unfortunately, these inadequacies by OMKM have overshadowed their progress in the otherwise effective implementation of many of the CMP MAs.

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ACRONYMS

ACT Activities and Uses (Comprehensive Management Plan Management

Action)

AR Astronomical Resources (CMP MA)
BLNR Board of Land and Natural Resources

BOR Board of Regents

C Construction Guidelines (CMP MA)
CDUA Conservation District Use Application
CDUP Conservation District Use Permit
CIA Cultural Impact Assessment

CMP Mauna Kea Comprehensive Management Plan

CR Cultural Resources (CMP MA)

DHHL Department of Hawaiian Home Lands, State of Hawaiii
DLNR Department of Land and Natural Resources, State of Hawaiii
DOCARE Division of Conservation and Resource Enforcement, DLNR

DOFAW Division of Forestry and Wildlife, DLNR

EA Environmental Assessment
EIS Environmental Impact Statement
EO Education and Outreach (CMP MA)

FLU Future Land Use (CMP MA)
HAR Hawai'i Administrative Rules
HRS Hawai'i Revised Statutes
IfA Institute for Astronomy, UH

IM Infrastructure and Maintenance (CMP MA)

KKM Kahu Ku Mauna MA Management Action

MCP Management Component Plan

MEU Monitoring, Evaluation and Updates (CMP MA)

MKMB Mauna Kea Management Board

MKSS Mauna Kea Observatories Support Services

NAR Natural Area Reserve, DLNR
NHO Native Hawaiian Organization
NR Natural Resources (CMP MA)
NRHP National Register of Historic Places

NSF National Science Foundation

OCCL Office of Conservation and Coastal Lands, DLNR

OEQC Office of Environmental Quality Control

OHA Office of Hawaiian Affairs

OI Operations and Implementation (CMP MA)
OMKM Office of Mauna Kea Management, UH

OMMP Operations, Monitoring, and Maintenance Plan

P Permitting and Enforcement (CMP MA)
SHPD State Historic Preservation Division, DLNR

SR Site Recycling, Decommissioning, Demolition and Restoration (CMP)

MA)

TCP Traditional Cultural Property
TMT Thirty Meter Telescope
UH University of Hawai'i
UH-Hilo University of Hawai'i at Hilo

Exhibit A

Mauna Kea Hui's Motion

INTRODUCTION

In 1968, BLNR issued a 65-year General Lease No. S-4191 to UH for approximately 11,288 acres of state conservation lands. Of the 11,288 acres, approximately 525 acres is designated as the Astronomy Precinct and the remaining 10,763 acres is designated as Natural and Cultural Preservation Area. The state lease will expire in 2033. UH has indicated that it intends to seek a new lease with BLNR for the 11,288 acres currently under General Lease No. S-4191 and 19 acres known at Hale Pōhaku under General Lease No. S-5529.6

Over ten years ago in 2009, Kuʻiwalu Consulting and its Project Team, ⁷ developed the CMP for the UH Management Areas. ⁸ The CMP MA related to Monitoring, Evaluation, and Updates MEU-1, ⁹ requires UH, through OMKM, to produce annual progress reports describing in detail the management goals, objectives, and actions for the year and what progress was made towards meeting them. In August 2020 we received from UH, the OMKM 2020 Annual Report to BLNR. In addition to annual progress reports, MEU-1 requires OMKM to prepare Five-Year Outcome Analysis Reports that describes the status of the various management programs, progress towards meeting CMP goals, and other relevant information. OMKM is in the process of completing its first five-year review.

Since OMKM will be submitting its first Five-Year Progress Report and UH has announced its intent to file an EIS for a new state lease, DLNR sought an independent evaluation of UH's current management of Mauna Kea under the CMP. More specifically, DLNR sought an independent evaluation of not only UH's implementation of the CMP but also UH's adherence to the CMP and the effectiveness of its management strategies and governance structures in preserving and protecting the valuable cultural and natural resources on the state conservation lands.

Exhibit A MEU-1 refers to Mauna Kea Hui's Motion

1

The Astronomy Precinct and Natural and Cultural Preservation Area were designated by UH in its 2000 Mauna Kea Science Reserve Master Plan (Master Plan). The Master Plan called for 525 acres of the summit area leased land to be designated an Astronomy Precinct where the astronomy development was to be consolidated to maintain a close grouping of astronomy facilities, roads, and support infrastructure. CMP page 3-1. The Master Plan was approved by the UH BOR but not adopted or approved by BLNR. CMP page 3-8.

⁶ UH's notice of intent to file an environmental impact statement (EIS) for the state leased lands was published in the Office of Environmental Quality Control (OEQC) February 23, 2018 Environmental Bulletin.

The Project Team that developed the CMP consisted of The Edith Kanaka'ole Foundation, Rechtman Consulting, McNeil Wilson, Sustainable Resources Group International, Inc., and Pacific Consulting Services.

The UH Management Areas is described in Section 3.1.1 of the CMP as beginning "at approximately 9,200 ft. (2,804 m) on Mauna Kea and extends to the summit, at 13,796 ft. (4,205 m), encompassing three distinct areas: the Mauna Kea Science Reserve (Science Reserve), the mid-level facilities at Hale Pōhaku, and the Summit Access Road (see Figure 3-1). These areas are collectively referred to as the 'UH Management Areas.' The UH Management Areas on Mauna Kea are classified in the resource subzone of the state conservation district lands (see Section 3.4.2)." See CMP at page 3-16.

MEU-1 refers to Monitoring, Evaluation and Updates (MEU). See CMP at page 7-64.

DLNR'S INDEPENDENT EVALUATION OF UH'S IMPLEMENTATION OF THE CMP

PURPOSE OF THE INDEPENDENT EVALUATION REPORT

The purpose of *this* Independent Evaluation Report (Report) is to (1) evaluate the effectiveness of UH, specifically OMKM's, ¹⁰ implementation of the specific Management Component Plans (MCP) found in Section 7 of the CMP, and (2) to evaluate the efficiency of the governance structure in managing the cultural and natural resources within state conservation lands under lease to UH. Ultimately, this Report will provide DLNR and BLNR the relevant information, including extensive public input, as they consider the management of the state conservation lands during the current lease term and beyond, in any future lease.

INDEPENDENT EVALUATION PROCESS

Fact Gathering

The independent evaluation process focused on OMKM's implementation of the CMP MAs within the MCPs and UH's governance structure in managing Mauna Kea and the Mauna Kea Science Reserve. The Project Team¹¹ gathered relevant information from files of DLNR, UH, various litigation involving Mauna Kea, 1998 state auditor report and follow-up audit reports, relevant print and social media, and other related materials. We also provided UH the opportunity to submit all relevant documents on their implementation of the CMP. In response to the request, UH emailed a comprehensive list of documents and links supporting their implementation of the CMP. All information that was provided to Ku'iwalu was uploaded to the CMP evaluation website, www.evaluatetheCMP.com.

We also reviewed materials related to the implementation of the CMP and Mauna Kea in general, from other stakeholders, including but not limited to the Sierra Club of Hawai'i, Protect Mauna Kea, KAHEA, IfA, 'Imiloa Astronomy Center, Hawai'i Unity & Liberation Institute, Hawai'i Forest & Trails, EnVision Maunakea, Office of Hawaiian Affairs (OHA), Imua TMT, and the TMT International Observatory.

Exhibit A

Section 7.4.1 of the CMP states that the OMKM will be responsible for implementing the CMP and ensuring adherence to its provisions. However, for purposes of this Report, since the state lease is issued to UH, the UH will be generally referenced as responsible for the implementation of the CMP unless the action is specifically undertaken by OMKM, then OMKM will be referenced.

¹¹ The Project Team for this Report includes SMS Research, People Strategies Hawai'i LLC, and Ku'iwalu.

Ku'iwalu sent a letter dated May 19, 2020 to Dr. Gregory Chun, UH's Executive Director of Maunakea Stewardship, providing them an "opportunity to furnish Ku'iwalu with all relevant information, which could include reports, studies, annual reports, meeting notes, community comments, administrative rule-making, response to auditor's reports, etc. that document UH's performance, operations, and the management of Mauna Kea consistent with the CMP." Dr. Chun was identified as UH's Point of Contact for the independent evaluation.

Public Engagement Process

As part of the evaluation process, Kuʻiwalu proposed to develop and implement a culturally sensitive and robust public engagement process, similar to the community outreach process utilized in the preparation of the CMP that was approved in 2009. At the onset, Kuʻiwalu was challenged by the constraints and uncertainties of the COVID-19 restrictions on social distancing and travel to Hawaiʻi Island. Thus, Kuʻiwalu utilized a variety of non-traditional approaches to engage the general public and stakeholders to solicit their input on UH's implementation of the CMP and stewardship of Mauna Kea. The following methods were used to solicit public input: email updates, stakeholder meetings, virtual public meetings, website, Facebook, and direct contact with Kuʻiwalu.

Development and Implementation of the Evaluation Model

SMS Research, based upon their experience and expertise, developed and conducted the independent evaluation. To start, they did a thorough review of the CMP and examined all the documents provided during the fact gathering phase. They relied upon the documents provided by UH, including OMKM's 2020 Annual Report to BLNR, ¹³ MKMB meeting minutes, reports, studies, and other relevant documents. They also reviewed and considered all documents related to the CMP provided by other organizations, comments from stakeholder and virtual public meetings, website comments, and comments that were submitted directly to Ku'iwalu through phone calls and emails.

SMS Research then developed an evaluation model based upon the Logic Model Approach. This approach focuses on which MAs were completed by OMKM and the impact of those activities or actions on achieving the desired outcomes as set forth in each of the MCPs. The time period examined was UH's implementation of the CMP from 2010 to present.

Final Report

The Report includes three sets of evaluations. First, the Report includes UH's self-assessment based upon the OMKM 2020 Annual Report to BLNR. Second, the Report includes the public's assessment of how effectively UH implemented the CMP MAs, based upon comments from stakeholder meetings, the three virtual public meetings, comments submitted on the website or by email directly to Ku'iwalu. Third, the Report includes the independent evaluation based upon the logic model that took into consideration UH's self-assessment, public input, whether UH's action achieved the desired outcomes, and the timeliness of completion by UH to meet the desired outcomes.

The Report will be submitted to DLNR by December 31, 2020 and uploaded to the CMP website for public consumption.

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Exhibit A Appendix A7 is a copy of the OMKM 2020 Annual Report to BLNR. Mauna Kea Hui's Motion

MANAGEMENT OF MAUNA KEA

Before delving into the public comment and evaluation model, we believe it is important to have an understanding of the historical background on management of Mauna Kea to provide context for the CMP MAs, MCP desired outcomes, and goals which set the framework for the Logic Model Approach.¹⁴ A brief history timeline of the management of Mauna Kea is shown in Figure 1.

MANAGEMENT OF MAUNA KEA PRIOR TO 1968

In the early 1960's, the federal government, through the National Aeronautics and Space Administration, was increasing funds to test, develop, design, and construct telescope facilities around the country. Due to accessibility, initial testing was conducted at Haleakalā, on Maui Island. In 1963, Governor John Burns provided funds to build an access trail to the summit of Mauna Kea for observatory testing. In 1964, after testing, UH concluded that Mauna Kea was an exceptional site for an astronomical observatory. In that same year, the State Land Use Commission placed the lands on Mauna Kea within the state's conservation district under the management jurisdiction of BLNR.¹⁵

MANAGEMENT OF MAUNA KEA UNDER GENERAL LEASE NO. S-4191

In 1967, UH established the IfA to plan for telescope development on Mauna Kea. The following year, UH applied to BLNR for a 65-year lease of the state conservation lands at Mauna Kea to establish the Mauna Kea Science Reserve. Management of the state leased lands was primarily by IfA to further their mission to conduct and promote world-class astronomical research. From 1968 to 2002, thirteen telescopes were built on the summit of Mauna Kea.

Exhibit A

We also recognize that this Report will be broadly reviewed, thus this background information on management of Mauna Kea will provide the relevant context when reviewing the Report.

See CMP Section 3.2, at pages 3-5 for complete History of Planning and Management of Mauna Kea. Additionally, Hawaii Revised Statutes (HRS), Chapter 205-2 describes the state four land use districts; urban, rural, agricultural, and conservation. Conservation districts include areas necessary for protection and preservation of resources.

During this same period of time, local groups, including hunters, cultural practitioners, conservationists, and others raised concerns about the increased development of telescopes on the summit of Mauna Kea with no management or care for the cultural and natural resources. 16 From 1974 to 2000, DLNR and UH attempted to respond to the community concerns to improve management control over not only telescope development, but the proliferation of unregulated commercial and recreational use of Mauna Kea. BLNR adopted the 1977 DLNR Mauna Kea Plan, 1980 Hale Pōhaku Complex Development Plan, 1985 Mauna Kea Management Plan, and 1995 Revised Management Plan for the UH Management Areas on Mauna Kea. Similarly, in 1982 the UH BOR approved the Research and Development Plan for Mauna Kea Science Reserve, in 1983 the Mauna Kea Science Reserve Complex Development Plan, and in 2000 the Mauna Kea Science Reserve Master Plan.

[.]

State Auditor's Report "Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve," Report No. 98-6, February 1998, page 45.

Figure 1: Brief History Timeline of Management of Mauna Kea



THE STATE AUDIT OF THE MANAGEMENT OF MAUNA KEA

In response to the "growing concerns" over the protection of Mauna Kea's cultural and natural resources, the 1997 Hawaii State Legislature, through Senate Concurrent Resolution No. 109, requested the State Auditor to conduct an audit of the management of Mauna Kea and the Mauna Kea Science Reserve. The audit was completed in February 1998, and specifically noted that the "conditions of the lease, the plan(s) developed, and the Conservation District Use Application (CDUA) process were all designed to allow the university's use of the lands without causing excessive damage to the fragile environment. However, the university's focus on pursuing its own interests has led to conditions and practices that have countered or weakened these processes." 17

The audit indicated that UH primarily focused on development of the summit of Mauna Kea for some of the most powerful astronomical instruments in the world. While these telescopes enhanced the university's prestige and status around the astronomical community, "both the university and the department18 failed to develop and implement adequate controls to balance the environmental concerns with astronomy development."19

The audit concluded that,

Over thirty years have passed since construction of the first telescope on Mauna Kea. During this period, little was done to protect its natural The university, as the leaseholder, should have provided resources. sufficient protection to the natural resources and controlled public access These requirements have not been adequately met. Department of Land and Natural Resources, in its role as landlord, should have overseen the university's activities and enforced permit conditions and regulations in protecting the State's interests. Neither state agency has been proactive in maintaining the conservation district.²⁰

The audit made several recommendations for UH and DLNR to improve the management of Mauna Kea and the Mauna Kea Science Reserve. Since 1998. the state auditor has conducted four follow-up audits to assess UH and DLNR's implementation of their specific recommendations to improve the management of Mauna Kea and the Mauna Kea Science Reserve. The follow-up audits were done

Exhibit A Mauna Kea Hui's Motion

While the 1998 Audit addressed both UH and DLNR's management of Mauna Kea and the Mauna Kea Science Reserve, for purposes of this Report, we will be focusing only on UH's management of Mauna Kea under the CMP.

ld, page 15. ld, pages 34-35.

in 2005,²¹ 2014,²² 2017,²³ and 2019.²⁴ In general, the follow-up audits found that UH had made improvements in managing Mauna Kea, including the adoption of the CMP. However, consistent in all the audits, was UH's failure to adopt administrative rules governing public and commercial activities to ensure effective management and enforcement for the protection and preservation of the natural and cultural resources.²⁵

DEVELOPMENT AND MANAGEMENT OF MAUNA KEA UNDER THE CMP

The CMP was developed to address many of the past concerns by providing a resource management framework to preserve and protect cultural and natural resources by managing existing and future activities and uses on Mauna Kea. Some of the past concerns were noted in the 1998 Auditor's Report, including over emphasis on telescope development and lack of acknowledgement of the cultural significance of Mauna Kea. The CMP was also developed to comply with the legislative intent of conservation lands, 26 and judicial decisions, including Judge Hara's decision and the Ka Pa'akai analytical framework related to the protection of Native Hawaiian rights.

Exhibit A Nativ

Follow-Up Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve, Report No. 05-13, December

²² Follow-Up Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve, Report No. 14-07, August 2014.

Follow-Up on Recommendations from Report No. 14-07, Follow-Up Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve, Report No. 17-06, July 2017.

Report on the Implementation of State Auditor's Recommendations 2014-2017, Report No. 19-15, November 2019.

²⁵ UH Administrative Rules, Chapter 20-26 entitled Public and Commercial Activities on Mauna Kea Lands was adopted by the BOR on November 6, 2019, signed by the Governor, and became effective on January 23, 2020.

HRS, §183C-1, states that "The legislature finds that lands within the state land use conservation district contain important natural resources essential to the preservation of the State's fragile natural ecosystems and the sustainability of the State's water supply. It is therefore, the intent of the legislature to conserve, protect, and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare."

Mauna Kea Anaina Hou, et al. v. Board of Land and Natural Resources, Civ. No. 04-1-397, Decision and Order dated January 19, 2007 (Judge Hara's decision). Pursuant to Judge Hara's decision, BLNR shall approve a comprehensive management plan that considers multiple uses as a precondition for any future development on Mauna Kea.

²⁸ Ka Pa'akai O Ka 'Aina v. Land Use Commission, 94 Haw. 31, 7 P.3d 1068 (2000) (Ka Pa'akai). The Hawai'i Supreme Court in its decision in Ka Pa'akai provides government agencies an analytical framework to ensure the protection and preservation of valued cultural, historical, and natural resources. Section 2.3.3 of the CMP specifically describes how the CMP applied the analytical framework to ensure that the constitutionally guaranteed traditional and customary Native Hawaiian rights and cultural, historical, and natural resources are preserved and protected.

In addition to the legal requirements, the CMP was developed based upon an extensive community engagement process. The basis for the consultation process was an acknowledgment by UH that past planning and management efforts had not fully engaged the community or genuinely considered their concerns. The CMP aptly summarizes this sentiment:

During the recent Outrigger Telescope permitting process, many in the Hawaiian community experienced frustration as they attempted to express their perspectives and suffered psychological and spiritual hurt as their values and traditions were not given the attention and respect they deserved. As a result, they lost trust in the University as a responsible steward of the UH Management Areas and criticized the University for circumventing its own management policies. Subsequently, many individuals dissociated themselves from the process or resorted to other venues to express their views and advocate their position.²⁹

The CMP was prepared in a methodical manner, primarily based upon the *Ka Pa'akai* analytical framework, to form the foundation for the 103 MAs. These MAs are designed to preserve and protect the cultural and natural resources by managing the existing and futures uses and activities on Mauna Kea.

- Section 1 Cultural Orientation. Introduces the reader or user of the CMP to the cultural significance of Mauna Kea from a historical and contemporary use perspective;³⁰
- Section 2 Introduction. Describes the CMP as an integrated planning tool
 for resource management, drawing upon the Hawaiian approach to
 managing cultural and natural resources as well as contemporary sciencebased management approaches. This section also describes the CMP
 goals, objectives, and desired outcomes upon which we evaluate whether
 UH's implementation of the CMP is in furtherance of these goals;
- Section 3 Management Environment. Provides an overview of the physical UH Management Areas, history of the previous planning and management plans, and describes the management responsibilities over Mauna Kea;
- Section 4 Community Engagement Process. This process recognized that many in the public, especially the Native Hawaiian community on Hawaii Island felt anger, hurt and mistrust towards UH for not involving them in management decisions related to Mauna Kea. This section describes the culturally sensitive community engagement process based upon cultural values and the non-traditional methods of engagement to ensure meaningful participation by the public;

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²⁹ CMP, page 4-1.

We acknowledge that not all Native Hawaiians may share the view that Mauna Kea is culturally significant. During the public engagement process for this Report, there is a strong Native Hawaiian constituency that assert Mauna Kea is not culturally sacred and in fact, the CMP's assertion that Mauna Kea is culturally significant is offensive to this Native Hawaiian constituency. However, during the community engagement process for the development of the CMP, there was overwhelming sentiment by many of the Native Hawaiian stakeholders that participated in the process, that Mauna Kea is culturally significant.

- Section 5 Cultural and Natural Resources. The CMP relied upon previous documentation to identify the valued cultural resources, ³¹ historic and archaeological resources, and natural resources. Section 5 is the 1st step in the Ka Pa'akai analysis to identify the valued cultural, natural, and historic resources within the state conservation lands;
- Section 6 Human Environment. This section described all the existing and future activities and uses on Mauna Kea and the threats to the cultural, natural, and historic resources. Section 6 is the 2nd step in the *Ka Pa'akai* analysis to determine the impacts that the proposed management framework would have on the valued resources:
- Section 7 Management Component Plans. Section 7 is the 3rd step in the Ka Pa'akai analysis that identifies the feasible actions, MAs, or mitigation measures to reasonably protect the valued cultural, natural, and historic resources. This is the heart of the CMP that sets forth desired outcomes for each of the MCPs, specific MAs that UH, and specifically OMKM, is required to implement to ensure the protection and preservation of the cultural and natural resources.

The CMP was approved by BLNR on April 7, 2009 and the UH BOR on April 16, 2009. As a condition of BLNR approval, four sub-plans were required to be developed within one year of approval of the CMP. The four sub-plans include: (1) Natural Resource Management Plan for the UH Management Areas on Mauna Kea (September 2009), (2) Cultural Resources Management Plan for the UH Management Areas on Mauna Kea (October 2009), (3) Mauna Kea Public Access Plan (January 2010), and (4) Decommissioning Plan for the Mauna Kea Observatories (January 2010).

In particular, the CMP relied upon the extensive ethnographic interviews and cultural reports prepared by Kepa and Onaona Maly. Maly, K and O. Maly (2005). *Mauna Kea, ka piko Kaulana o ka aina: Mauna Kea, the famous summit of the land*. Hilo, HI, Kumu Pono Associates LLC: 650 p.; Maly, K. and O. Maly (2006). *Appendix A: Mauna Kea-Ka Piko Kaulana o Ka 'Aina*.

PUBLIC ENGAGEMENT PROCESS AND SUMMARY

The public engagement process and summary is a critical component of not only the independent evaluation but the path forward for stewardship of Mauna Kea. When contracting with Kuʻiwalu, DLNR emphasized the importance of an extensive public engagement process to fully inform them and BLNR of the public's sentiments about current and future stewardship of Mauna Kea. Public sentiments include stakeholders to Mauna Kea and the general public. Thus, in addition to the technical evaluation of UH's implementation of the CMP, this Report includes the public's assessment of UH's management or stewardship and governance of Mauna Kea.

Almost everyone has an opinion or comment on Mauna Kea. However, not all comments are necessarily related to the implementation of the CMP. ³² For the integrity of the independent evaluation, we wanted to ensure that the public assessment and UH's assessment were comparing "apples with apples," in other words, comparing the same CMP MCPs. Thus, while we read all of the comments, for the purposes of the independent evaluation, we considered those comments that were specifically related to UH's implementation of CMP MAs. However, this does not diminish or disregard the time people took to submit their comments or the strong sentiments that were expressed in their comments. For those who submitted comments within the comment deadline, we have listed their names on Appendix A1.³³ We have greatly appreciated all of the comments that were submitted.

STAKEHOLDERS AND GENERAL PUBLIC

Similar to the CMP community engagement process, there are families, organizations, and agencies who have an active (and in some cases, cultural or lineal) relationship to Mauna Kea. There are certain stakeholders whose views and perspectives were given careful consideration because of their cultural, legal, or regulatory affiliation with Mauna Kea. They include the following:

- UH Management Entities
- Families who have cultural or lineal connections to Mauna Kea
- Hawaiian Cultural and Religious Practitioners
- Astronomical Community
- Aha Moku Advisory Committee

Exhibit A

In fact, many comments we received were either for or against the construction of TMT on Mauna Kea. While this Report is not for or about TMT, Hawaiian sovereignty, ceded lands, compensation, or renewal of the state lease, many of the comments we received were about these topics. This Report briefly describes some of these comments in the Section titled "Issues and Concerns beyond the Scope of this Report."

Appendix A1 is a comprehensive list of all the individuals and groups we engaged with during the CMP evaluation process. This list includes those who may have received email updates, participated in stakeholder meetings, attended virtual public meetings, left a comment on the website, or emailed a comment directly to Ku'iwalu.

- OHA
- Environmental Groups
- Hawaiian Educational and Business Organizations
- Commercial and Recreational users
- Elected Officials
- Government Agencies

In addition to stakeholders, the viewpoints of the general public are important and were given due consideration in the evaluation process.

CONSULTATION PROCESS AND METHODS

As previously noted, Kuʻiwalu utilized a variety of non-traditional approaches to engage the general public and stakeholders to solicit their input on UH's implementation of the CMP and stewardship of Mauna Kea. We engaged with nearly 500 individuals or organizations during the evaluation process.³⁴ The following methods were used to solicit public input:

Email Updates

- 1st email May 15, 2020. Ku'iwalu initially emailed letters to those individuals or groups who were consulted during the preparation of the CMP in 2009. In addition, emails were sent to a list of known stakeholders involved in Mauna Kea at the time. The first email included a letter introducing Ku'iwalu, a copy of DLNR's May 15, 2020 Press Release announcing their review of the Mauna Kea CMP, the CMP Report and CMP Appendices from April 2009. Appendix A2 is a copy of the email, and attachments of Ku'iwalu's Introduction Letter, and DLNR's Press Release;³⁵
- 2nd email July 23, 2020. The 2nd email update included a letter that announced the launch of the Project Website www.evaluatetheCMP.com and Facebook page (Share Your Mana'o on the Mauna Kea CMP). The letter indicated that the website provides easy access to the CMP, reference documents provided by UH, as well as other resources. It also explained ways to provide comments and give input during the evaluation process. As the process proceeded, the email updates were expanded to include those who participated in stakeholder meetings, those who registered for the virtual public meetings, or those who may have submitted comments. Appendix A2.1 is a copy of the email and the July 23, 2020 letter;

See Appendix A1.

The April 2009 CMP Report and CMP Appendices can be found on DLNR's website.

- 3rd email August 26, 2020. The 3rd email update announced the three virtual public meetings as well as information of the many different ways to provide comments before the October 16, 2020 comment deadline.³⁶ Appendix A2.2 is a copy of the email;
- 4th email September 3, 2020. The 4th email update announced the three virtual public meetings and how to register for each meeting. It also provided a link to the website to participate in a number of informal community polls. Appendix A2.3 is a copy of the email sent to the expanded list of stakeholders;
- 5th email September 24, 2020. The 5th email was a reminder to register in advance for the virtual public meetings. Appendix A4 is a copy of the email reminder.
- 6th email December 2020. The 6th email will be to announce that the Report has been submitted to DLNR and posted on the website for thirty (30) days, thereafter the website will be removed since the Report has been submitted. DLNR will then provide a link to the Report on its Mauna Kea website. The email will be sent to the comprehensive list referenced in Appendix A1.

Individual and Stakeholder Meetings

Kuʻiwalu convened over forty (40) virtual stakeholder meetings and telephone conferences during the course of the evaluation process. The small talk story meetings permitted discussions that could be candid, confidential, and respectful. The meetings ranged from 1-2 hours and focused on getting specific comments on UH's implementation of the CMP MAs and their stewardship of Mauna Kea. These stakeholder meetings ranged from the various UH Management Entities who have a role in the management of Mauna Kea, relevant DLNR Divisions, cultural and religious practitioners, individuals and families who have cultural or lineal connections to Mauna Kea, NHOs, Observatories, Imua TMT, KAHEA, Kiaʻi Alakaʻi and elected officials. Appendix A3 is a list of stakeholders we met with. This list of stakeholders was added to the list for email updates.

Virtual Public Meetings

In an effort to reach out to the broader public, we held three virtual public meetings. The meetings were scheduled on different days of the week and at different times to make them more accessible to the public. Those wanting to attend the virtual meetings were required to register in advance in order to receive a link to attend the meetings. Appendix A4 is a list of those who registered for each of the three virtual public meetings. In general, more people registered than actually joined the meeting.

The deadline for comments was extended to November 5, 2020 as posted on the website.

During each of the two-hour virtual public meetings, we provided a brief presentation on the CMP and evaluation process. However, most of the meeting was dedicated to providing the public with an opportunity to give specific comments on UH's implementation of the CMP MAs. Appendix A4 also includes a copy of the meeting agenda, and the power point presentation that was shared at the meeting.

Website

We created a dedicated website as another means to inform, educate, and solicit public input on the independent evaluation, www.evalutetheCMP.com. Not only did the website provide information about the CMP, the evaluation process, and links to an exhaustive listing of resource materials related to Mauna Kea, but one of the primary purposes for the website was to provide the public another platform to submit comments. We received approximately 70 comments through the website. Individuals could leave comments, but their comments could not be viewed by others. Appendix A5 is a copy of some of the information posted on the website. The comments are not included in the Appendix because we did not get permission and most of the comments were not specifically related to the implementation of the CMP.

Facebook

At the time we launched the website, we launched a Facebook page as a social media platform to supplement the website. The Facebook page was an additional way of distributing information and announcements. No public comments were permitted to be posted to the Facebook page, but viewers were directed to the website to leave their comments.

Comments Submitted to Ku'iwalu Related to UH's implementation of the CMP

Besides the methods noted above, some comments were sent directly to Kuʻiwalu. For example, we received written comments from the OHA, Imua TMT, Kimo Stone, Mililani Trask on behalf of Wahine Apapalani Hawaiian Cultural Practitioners, Bianca Isaki on behalf of KAHEA, Senator Kurt Fevella, Thayne Currie, Flores-Case 'Ohana, and numerous email form submissions from Mauna 'Aelike/Consensus Building 'Ohana.³⁷

Appendix A6 is a copy of these comments.

Appendix A6 includes a copy of Kealoha Pisciotta's comments on behalf of Mauna Kea Anaina Hou, Mauna Kea Hui, Mauna Kea Moku Nui 'Aelike/Consensus Building 'Ohana and a copy of one of the form submissions received via email from Mauna 'Aelike/Consensus Building 'Ohana whose contents are identical to Kealoha Pisciotta's comments. We did not include in Appendix A1 all of the names who submitted Mauna 'Aelike/Consensus Building 'Ohana forms after November 5, 2020, the extended deadline to submit comments as posted on the website.

SUMMARY OF THE COMMENTS RELEVANT TO UH'S IMPLEMENTATION OF THE CMP³⁸

While the next section of the Report will include the public's assessment of UH's implementation of the CMP, this section of the Report will summarize some of the major themes specifically relevant to UH's implementation of the CMP. The Section titled "issues and Comments beyond the Scope of the CMP" will summarize or list some of the comments that are beyond the scope of the implementation of the CMP but should be considered in broader decision making related to Mauna Kea.

The cultural value of Mauna Kea continues to be "unrecognized" by UH as are the rights of Native Hawaiian cultural and religious practitioners

From the building of the initial telescopes in 1968 to the 1998 Auditor's Report, and to the implementation of the CMP, a consistent concern has been that UH has primarily focused on telescope development on Mauna Kea and the cultural value of Mauna Kea has been disregarded or largely unrecognized.³⁹ While we received comments from some Native Hawaiians who assert that Mauna Kea is not sacred, we received many more comments from members of the Native Hawaiian community and the general public that Mauna Kea is culturally significant. We also received specific comments from individuals and families who continue to exercise traditional and customary practices on Mauna Kea that have not been consulted with and felt that their rights have been disregarded or disrespected by OMKM.

For example, there was strong sentiment by Native Hawaiians active in the protest on Mauna Kea that the determination by OMKM as to what cultural resources and historic sites are significant, including the removal of some of those resources is not only inconsistent with the CMP but it also violates their constitutional protections under Article XII, Section 7 of the Hawaii State Constitution. They specifically assert that there has been little or no consultation with known families who have cultural or lineal connections to Mauna Kea, Kūpuna, and cultural and religious practitioners before the removal of these resources. They assert that these actions by OMKM are inconsistent with CMP MA CR-1, CR-4, CR-5, CR-6, CR-7, CR-8, CR-9, and CR-10.

Another example noted in the comments we received was that UH's initial draft of the administrative rules proposed to regulate Native Hawaiian traditional and customary rights while providing exemptions for commercial users. The commenters note that only after vocal opposition to the draft rules, were the final administrative rules revised to provide that "Native Hawaiian traditional and

Exhibit A

The comments provided during this process shall only be used for this independent evaluation. No permission has either been sought or granted to use the information, comments, or disclosures beyond this Report. No specific comments are attributed to any individual as we did not request nor receive permission to do so.
39 1998 Audit Report, Summary page.

customary rights as recognized and protected under article XII, section 7, of the Hawai'i State Constitution shall not be abridged."⁴⁰

There is a lack of genuine community engagement and cultural education by UH as required by the CMP.

A consistent comment from outside of UH Management Entities is that there has not been genuine community outreach and cultural education as required by CMP MA EO-1, EO-2, EO-3, and EO-7. Even some UH Management Entities note that this is one area in the CMP that UH could improve on. Comments by UH-Hilo Entities believe that community engagement was primarily through MKMB meetings and UH BOR meetings as these meetings are open to the public. UH-Hilo Entities felt that beyond the MKMB publicly noticed meetings, it was the role of the UH System in Mānoa to manage the communications with the community because UH-Hilo Entities do not have the resources, given that most of them are voluntary boards.

In addition to OMKM's deficiencies noted above, the CMP MA related to Education and Outreach, there were comments that OMKM failed to inform the public of the results of the management activities in a timely manner and failed to timely complete the five-year review as required under CMP MA MEU-1 and MEU-2, respectively.

With respect to cultural consultation, UH-Hilo Entities believe that it is the kuleana of KKM to engage with the Native Hawaiian community because of their cultural experience and expertise. Although KKM meetings are not subject to the sunshine law and therefore not required to be open to the public, KKM is comfortable in making their collective recommendations to OMKM based upon their cultural experience and expertise. Like MKMB, members of KKM commented that they are a voluntary board who are doing the best they can with their limited resources. KKM has provided OMKM recommendations on removal of offerings, scattering of human remains, construction of new cultural features including stacking of rocks, and they review any proposed changes by observatories to their facilities on Mauna Kea. Although most of the UH Management Entities believe they are in compliance with the CMP, the UH BOR has directed the 'Imiloa Astronomy Center to take a more active role in community engagement and cultural education.⁴¹

Exhibit A

Mauna Kea Hui's Motion

Section 20-26-3, Hawaii Administrative Rules (HAR).

University of Hawai'i Board of Regents Resolution 19-03, Adopted November 6, 2019, Amended, July 1, 2020 (BOR Resolution 19-03). BOR Resolution 19-03 specifically determined that there remain unmet responsibilities and ongoing compliance issues that have delayed completion of certain recommendations and requirements under the Management Plans. Action Item No. 5 specifically provides, "In collaboration with OMKM and MKSS, the 'Imiloa Astronomy Center shall develop a suite of educational programs regarding Maunakea including but not limited to Native Hawaiian culture, history, environmental, and biological considerations designed for tour guides and drivers, employees, contractors, recreational users, scientists and observatory workers, and visitors, as required by the Management Plan, by August 31, 2020. OMKM shall report to the Board of Regents on its plans and progress to implement said educational programs at its February 2020 meeting. Administration shall make a budget request during the 2020 legislative session to fund this action item."

UH has generally done a good job in managing the cultural and natural resources, but there is no independent review or accountability on the integrity of the studies or reports, and the completion of many of the CMP actions are overdue.

Most of the comments we heard from government agencies, observatories, commercial and recreational users, and some Native Hawaiians, expressed that the cultural and natural resources are being better managed and protected by OMKM than prior to the 1998 Audit. Many have indicated that the wekiu bug population has increased, the historic sites are being monitored regularly under the archaeological monitoring plan, the OMKM Rangers are doing a great job educating visitors about staying on the trail and picking up their trash, the Mauna Kea silversword population has increased, and the access road is better maintained, especially during the snowy winter season.

On the other hand, we also heard comments that archaeological monitoring plans were long overdue, that the reports indicating the wekiu bug population increase were to support delisting it from the endangered species list, that the archaeological work for the northern plateau was altered to show no cultural sites where TMT is going to be built, and that cultural descendants from the area were never consulted on those reports. These comments are related to MAs NR-1⁴² to NR-18. This independent evaluation did not review the reports or studies referenced by OMKM for accuracy or scientific integrity.

There is an inherent conflict of interest by having UH as the lessee of the state conservation lands and the applicant for new telescope development.

We heard strong comments from members of the Native Hawaiian community that UH's role to advocate for new telescope development as the applicant for the CDUA conflicts with UH's ability to properly manage and protect the valued cultural and natural resources within the state conservation lands. In relevant part, Section 7.3.4 of the CMP related to Future Land Uses specifically emphasized that "the CMP manages resources, it does not advocate or promote new telescope development."

Contrary to the CMP, the dual roles of UH as land manager and as developer creates at least an appearance of a conflict of interest that have caused some Native Hawaiians to question the credibility and integrity of the scientific, historic, cultural, and environmental reports that OMKM produced pursuant to the CMP MAs. Some comments specifically noted that CMP MA FLU-2 required UH to develop land use zones in the Astronomy Precinct and the goal of this process was to refine telescope siting areas defined in the 2000 Master Plan based upon updated cultural and natural resource information. For example, TMT is being proposed to be built in the northern plateau in an area where the 2000 Master Plan

Exhibit A 42 NR refers to Natural Resources (NR). See CMP section 7.1.2. Mauna Kea Hui's Motion

says no telescope development. This conflict of interest adds to the diminished trust between UH and many members of the Native Hawaiian community.

We also heard comments from UH-Hilo Entities that it was "awkward" having UH as the applicant for the CDUA for TMT. In fact, they felt their relationship with members of the Native Hawaiian community changed when they became the applicant for the TMT CDUA; they felt they were no longer viewed as being neutral land managers but telescope developers. Beyond the issue of the appearance of a conflict of interest, the UH Management Entities have commented that ideally, they would prefer having a smaller state lease of only the 525 acres of the Astronomy Precinct and contribute funds to DLNR or another appropriate entity to manage the 10,000 acres consisting of the Natural and Cultural Preservation Area. Similar comments were made by some of the observatories. There were a few comments that wanted to explore the possibility of having a Native Hawaiian entity or third party manage all the state conservation lands or at least the 10,000 acres of Natural and Cultural Preservation Area.

The current UH governance structure is not effective in managing Mauna Kea.

It is worth noting that most of the comments related to the effectiveness of the governance structure was made by UH Management Entities. The UH-Hilo Entities strongly believe that decision making related to Mauna Kea needs to be made by UH-Hilo Entities on Hawai'i Island. In addition, these same entities believe that OMKM is doing a fairly good job in implementing the CMP.

On the other hand, several of the UH Management Entities outside of UH-Hilo believe that the public perception is that OMKM is not doing a good job stewarding Mauna Kea. They believe that OMKM has not engaged the community, in particular members of the Native Hawaiian community. They also believe that OMKM has not effectively developed cultural education materials, information, or opportunities to collaborate with members of the Native Hawaiian community and organizations to promote cultural education and understanding of Mauna Kea. In response to the perceived deficiency, UH BOR Resolution 19-03 has proposed and begun implementing structural changes to the management of Mauna Kea.

With respect to the broader public comments on the effectiveness of the UH governance structure, most see UH as one entity. They either believe that the UH existing structure is doing a good job, or they believe that UH is mismanaging Mauna Kea and there is very little in between. There were a few comments that wanted to explore the possibility of having a Native Hawaiian entity or third party manage all the state conservation lands or at least the 10,000 acres of Natural and Cultural Preservation Area.

BOR Resolution 19-03. Action Item No. 9 provides in relevant part, "As part of the reorganization and restructuring plan, an in-depth analysis will be done to determine whether the management of the Maunakea Science Reserve would be better served if transferred to a governmental authority or other third party entity, or through alternate management mechanisms."

ISSUES AND COMMENTS BEYOND THE SCOPE OF THE CMP

There were numerous comments that were beyond the scope of the implementation of the CMP. We did not want to discount these comments as some of these issues had been identified in the CMP (see Section 2.1.4) and continue to linger as unresolved issues. Similar to the CMP, we wanted to respect and honor those comments by noting them below for appropriate consideration beyond this Report.

UH has not kept its "promises" to remove telescopes from Mauna Kea before proposing new telescope development.

This comment primarily related to the issue of timely decommissioning telescopes from the summit of Mauna Kea before any new telescope is constructed. As noted in the CMP, "the basis for this [decommissioning] was not only to preserve a 'zero net gain' of telescopes, but also because of the recognition that decommissioning is perhaps the most tangible form of actually listening to the community's concerns that before new telescopes can be considered some obsolete facilities must come down."44 In listening to members of the Native Hawaiian community, for many who say UH hasn't kept their promises, they refer to UH's representation s during the early years of the state lease that there would only be 13 telescopes. But now, UH is proposing the world's largest telescope (TMT) before removing any telescope; 13 to 0.45 We also heard from non-Native Hawaiians, that in order to show some good will, UH needs to facilitate the decommissioning process. In response, the UH BOR has established an accelerated schedule for the decommissioning of up to possibly five (5) telescopes. However, there are many people in the community, including Native Hawaiians, who would like to see the retention of existing telescopes that are not obsolete as well as the construction of TMT because of the educational and economic benefits beyond the lease termination in 2033.

UH should not be managing the cultural and natural resources and should only manage the astronomy precinct.

Similar to the comments we heard related to governance, there were many comments, both from within UH and external to UH, that expressed that UH should not be managing the 10,763 acres of Natural and Cultural Preservation Area. Some of the comments expressed by UH Management Entities are that managing the state conservation lands to preserve and protect resources is outside of UH's mission of education. Other comments, especially by members of the Native Hawaiian community is that UH should not be managing any of the state

Mauna Kea Hui's Motion

CMP, page 4-6.

Some within the Native Hawaiian community say 13 telescopes for astronomy and 0 telescopes have come down for the Native Hawaiian community.

BOR Resolution 19-03. Action item No. 1 relates to the decommissioning of the Caltech Submillimeter Observatory and the Hokukea sites. Action item No. 2 relates to establishing a schedule for the decommissioning process of the two sites by December 31, 2021. Action item No. 4 sets a date of December 30, 2025 to determine decommissioning of three (3) additional observatory sites, if required.

conservation lands at Mauna Kea because they do not have the cultural expertise to be stewarding one of the most significant cultural resources to the Native Hawaiian community. On the other hand, there were comments that if the 10,763 acres were to be returned to DLNR to manage, DLNR does not have the resources or capacity to preserve and protect the cultural and natural resources within the preservation area; the resources are better protected under UH. In addition, UH's management, especially by the OMKM Rangers, of the state conservation lands, provides additional protection to the adjacent DLNR's Mauna Kea Ice Age Natural Area Reserve and the State Mauna Kea Forest Reserve.

There is presumption that BLNR is going to renew the state lease to UH for the state conservation lands at Mauna Kea.

We received many comments that the renewal of the state lease to UH is a "done deal" because BLNR would not have approved the sublease to TMT if they did not anticipate renewing the state lease to UH. There were many comments by members of the Native Hawaiian community, that the state process is not fair, and it favors telescope development. For this reason, several of those same community members expressed that they do not trust UH, DLNR, or even the independence of this Report.

Other issues raised that were beyond the scope of the CMP and not fully discussed.

Rather than going into great detail, the following is a list of those issues:

- Use of ceded lands which have been "stolen" from the Hawaiian Kingdom;
- \$1 a year for lease rent does not accurately reflect the market value of the free telescope viewing time to UH;
- Ownership of the access road;
- Role of the Department of Hawaiian Home Lands in the management of Mauna Kea;
- Establish a Mauna Kea Reserve Commission, similar to the Kahoʻolawe Island Reserve Commission, to oversee the management of Mauna Kea;
- There are really more than 13 telescopes on Mauna Kea because some observatories have multiple facilities; and
- The State should use the federal Section 106 consultation process to engage Native Hawaiian individuals and organizations.

EVALUATION PROCESS AND OUTCOME

CMP REPORTING AND EVALUATION REQUIREMENTS

Section 7 of the CMP, describes the natural progression from (1) the MAs that are needed to address the various management needs, (2) that the MAs are organized by topic into four (4) major MCPs, (3) the MCPs were developed using the best available scientific and cultural information and community input, to support the **mission** to preserve, protect and enhance the cultural and natural resources within the UH Management Areas, and (4) each MCP emphasized the importance of coordinating with other agencies, adjacent landowners, and other stakeholders, including cultural practitioners and families with cultural or lineal connections to Mauna Kea to incorporate Native Hawaiian cultural values and traditional knowledge into management planning and activities.⁴⁷

The Mission of the Office of Mauna Kea Management is to achieve harmony, balance and trust in the sustainable management and stewardship of Mauna Kea Science Reserve through community involvement and programs that protect, preserve and enhance the natural, cultural and recreational resources of Maunakea while providing a world-class center dedicated to education, research and astronomy.

Section 7.4.2 of the CMP outlines the process for monitoring, evaluating, and updating the CMP to meet the "desired outcomes" as set forth in the CMP. The purpose of the desired outcome is to "determine whether management actions are achieving the goals of the CMP and to provide a process for improving and updating management strategies through evaluation and revisions of the CMP." To determine whether the desired outcomes have been achieved, the CMP requires regular monitoring and evaluation of the CMP to determine if the management actions are effective over time and are meeting management needs to ensure the best possible protection is afforded Mauna Kea's resources. Pursuant to the adaptive management approach, evaluations should be done annually with review and revisions occurring every 5 years as updated information on the resources become known. Five-year evaluations and revisions should include consultation with federal and state agencies and the local community, to

Exhibit A management act
Mauna Kea Hui's Motion

⁴⁷ CMP, page 7-1.

⁴⁸ "Desired Outcome" summarizes the goal(s) of the management component plans. CMP, page 7-1.

⁴⁹ CMP, page 7-63.

MA MEU-1 requires "OMKM to provide an annual progress report describing in detail the management goals, objectives, and actions for the year and what progress was made towards meeting them. The Progress Report should also describe actions to be taken to improve the program for the next year(s). The Progress Report is not intended to be a status report on the resources in the UH Management Areas; rather, it is meant to inform management and stakeholders of the progress of the program and direction it is to take in the future." In addition, MEU-1 requires OMKM to provide Five Year Outcome Analysis Reports. CMP, at page 7.65.

MA MEU-2 provides that the CMP should be updated every five years, based on data collected during various program management activities (e.g. natural or cultural resources monitoring, research projects). Id.

inform stakeholders on program progress, and to gather input on changes or additions to management activities.

While OMKM has submitted annual reports to BLNR on their implementation of the MAs, OMKM has not prepared the Five-Year Outcome Analysis Report (Analysis Report). Presumably, the Analysis Report would have utilized the adaptive management approach and summarized the data collected during the monitoring and research studies to determine the effectiveness of the management actions on preserving and protecting the resources on Mauna Kea. Thus, in the absence of the Analysis Report, we had to utilize an alternative evaluation model to conduct the independent evaluation.

THE LOGIC MODEL METHOD WAS USED TO CONDUCT THE INDEPENDENT EVALUATION

Based upon the Project Team's experience and expertise, a Logic Model⁵² approach was determined to be the most appropriate to conduct the independent evaluation of OMKM's implementation of the CMP. This model specifically focuses on whether the MAs that were completed (output) by OMKM achieved the desired outcomes as set forth in each of the MCPs. Each MCP identified MAs to address the needs⁵³ in order to achieve the desired outcomes.

There are four (4) MCPs:

- 7.1 Understanding and protecting Mauna Kea's Cultural and Natural Resources
 - 7.1.1 Native Hawaiian Cultural Resources
 - 7.1.2 Natural Resources
 - o 7.1.3 Education and Outreach
 - o 7.1.4 Astronomy Resources
- 7.2 Managing Access, Activities and Uses
 - o 7.2.1 Activities and Use
 - o 7.2.2 Permitting and Enforcement

A logic model is a systematic and visual way to present and share an understanding of the relationship among resources that were chosen to operate your program, the activities you plan, and the changes or results you hope to achieve." W.K. Kellogg Foundation 2004, http://toolkit.pellinstitute.org/evaluation-guide/plan-budget/using-a-logic-model/

The CMP defines "Need" as the background information on what type of management actions are needed to achieve the desired outcome and why they are needed. To achieve the desired outcomes, management needs were developed in four areas: education, information gathering, management measures, and rules and enforcement.

- 7.3 Managing the Built Environment
 - o 7.3.1 Infrastructure and Maintenance
 - 7.3.2 Construction Guidelines
 - o 7.3.3 Site Recycling, Decommissioning, Demolition and Restoration
 - o 7.3.4 Considering Future Land Use
- 7.4 Managing Operations
 - o 7.4.1 Operations and Implementation
 - o 7.4.2 Monitoring, Evaluation, and Updates

For the independent evaluation, the Project Team reviewed, (1) the MCP MAs and desired outcomes, (2) OMKM's implementation of the MAs based upon their annual reports and updates, (3) public input based upon comments provided through the website, the three virtual community meetings, and stakeholder input, and (4) the specific impact of OMKM's actions to achieve the desired outcomes. The details of these reviews are included in Appendix B.

However, for ease of review, we have prepared a Summary of the Independent Evaluation for each MCP in tables below. Each table has five columns as shown:

MCP Section and Desired	OMKM Implementation	Public Input	Independent Evaluation of Impact	Recommendations
Outcome	Status	put	on Outcome	

The content of each column is described below:

- The MCP Section and Desired Outcome as specifically provided in the CMP;
- 2. The **OMKM Implementation Status** shows the total number of actions or activities implemented in that specific section and the action status reported in the OMKM 2020 Annual Report;⁵⁴
- Public⁵⁵ Input summarizes a range of some of the comments we received from the three virtual community meetings, comments, website, and stakeholder meetings;

Exhibit A

OMKM 2020 Annual Report to the Board of Land and Natural Resources, Status of the Implementation of the Mauna Kea Comprehensive Management Plan. See Appendix A.7

[&]quot;Public" includes interested stakeholders and general public. See Section titled "Stakeholders and General Public" and Appendix A1.

- 4. The *Independent Evaluation of Impact on Outcome* is a qualitative assessment by the Project Team based primarily on public input.⁵⁶ Three levels are indicated: "Good progress on achieving Outcome," "Some progress on achieving Outcome," and "Minimal progress on achieving Outcome."
- 5. **Recommendations** include the type of metric that could be developed in the CMP revision to track outcomes more quantitatively.

Exhibit A

Mauna Kea Hui's Motion

The CMP utilized key concepts from adaptive management in developing the management actions. "Adaptive management is defined as a systematic process for continually improving management policies and practices for resource protection by learning from the outcomes of past and current management activities. Adaptive management recognizes that there is a level of uncertainty about the 'best policy or practice for a particular management issue, and therefore requires that each management decision be revisited in the future to determine if it is providing the desired outcome. Management actions in a plan guided by adaptive management can be viewed as hypotheses and their implementation as test of those hypotheses. Once an action has been completed, the next, equally important, step in an adaptive management protocol is the assessment of the actions effectiveness (results). A review and evaluation of the results allows managers to decide whether to continue the action or to change course. This experimental approach to resource management means that regular feedback guides mangers' decision and ensure that future strategies better define and approach the objective of the management plan." CMP, page 2-6. Since the CMP had not been previously evaluated based a set of metrics or measures, the Project Team has to rely public and other government agencies input to assess whether OMKM effectively implemented the CMP to achieve the desired outcomes.

Table 1: Summary Table on the Independent Evaluation on Achieving the Desired CMP Outcomes

MCP Section & Desired Outcome	OMKM's	Public	Independent Evaluation of Impact on	Recommendations
	Self-Assessment	Input	Desired Outcome	
7.1 Understanding and Protecting Mauna				
7.1.1 Native Hawaiian Cultural Resources: Increase understanding and appreciation of Native Hawaiian history and cultural practices related to Mauna Kea to ensure that these practices are protected and respected. Identify, document the condition of, and protect cultural resources and historic properties in the UH Management Areas.	Of the 14 Actions: Five are "ongoing" Nine are "completed." Training and educational programs have been developed. Many cultural practices have been protected with the HAR. HAR Chapter 2-26 was not adopted until January 2020. OMKM placed ads inviting community members to participate in talk story session. KKM hosted one talk story session on matters related to CMP actions, with representatives from DLNR, DHHL, OHA and members of the Native Hawaiian community.	Materials and training programs developed have insufficient content from Native Hawaiian cultural perspectives and materials prepared by OMKM shows a lack of cultural sensitivity and understanding. Cultural stakeholders feel they have not been consulted about content and protocols on cultural issues or practices. KKM review is not sufficient. KKM meetings are not open and they have not consulted with cultural stakeholders. OMKM has removed cultural offerings, ahus, stackings of pōhaku, and cultural features, without consulting with families who have cultural and lineal connections to Mauna Kea, Kūpuna, cultural practitioners, OHA, and other NHOs (hereinafter collectively NHOs). There is a lack of Hawaiian decision making in matters related to identification and protocols related to cultural resources. Cultural and religious practitioners felt the initial draft admin rules violated Art XII, Section 7. There is a lack of cultural presence on Mauna Kea because all you see are observatories. The archaeological documents are not subject to independent scrutiny. The archaeological monitoring reports have not been timely submitted.	Specific actions have been completed or are ongoing. However, the admin rules to protect the cultural resources was not codified until January 2020. Unclear if the materials and training programs are sufficient to increase understanding of Native Hawaiian history and cultural practices related to Mauna Kea.	Actions should be completed in a timelier fashion When developing materials related to Native Hawaiian history and cultural practices, NHOs should be involved in developing and reviewing the materials and providing suggestions. There needs to be greater clarity of the role of KKM with respect to engaging and coordinating with NHOs on cultural issues and protocols.

MCP Section & Desired Outcome	OMKM's	Public	Independent Evaluation of Impact on	Recommendations
	Self-Assessment	Input	Desired Outcome	
7.1.2 Natural Resources: Increase understanding of the status of natural resources (biotic and abiotic) and identify threats to these resources in order to better protect and preserve unique geological features, ecosystem functions, subalpine and alpine habitats, and biological communities through adaptive management of stressors and threats.	Of the 18 Actions Two are "completed/ongoing" 15 are "ongoing" The status of NR-14 requiring use of adaptive management to review programs annually and update CMP every 5 years based on results of program review, is reported as "ongoing." However, it is unclear if programs have been reviewed annually. Also, there had not been a revision of the CMP since the original. HAR effective January 2020 to limit threats to natural resources. Studies were undertaken, and plans developed and implemented.	OMKM has done a good job managing natural resources by managing invasive species, protecting the wekiu bug habitat, and conducting biological studies. Baseline surveys took time but are especially important to develop long term management programs. Unsure how to access some of the studies. Studies are not subject to public or peer scrutiny.	Good progress on Achieving Desired Outcome OMKM has done a good job at increasing the understanding of the status of natural resources and identifying threats. The public needs to better understand what is being studied and the results of those studies. Over the past ten years are the natural resources on Mauna Kea in better condition? Same? Worse? What needs to be focused on in the next ten years? People need to know how to access studies.	Studies should be easily accessible to the public – available to download online. Develop a Natural Resources Dashboard that shows metrics that track the status of natural resources, for example: annually what is the number of invasive species? Show a report card on the health of the natural resources.

Self-Assessment 7.1.3 Education & Outreach: Build & maintain a constituency to engage in active and meaningful stewardship of Manua Kea, through education and involvement of the public, to apply of enhance conservation, and sustain the natural, cultural, and satronomical resources of Manua Kea. Developed orientation program for people working on Manua Kea. Output measures provided in the 2020 Annual Report to DLNR: Output measures provided in the 2020 Annual Report to DLNR: Approximately 1,500 individuals have a current, valid orientation certificate. 1.24 community updates conducted over incurrent, valid orientation certificate. 1.24 community updates conducted over incurrent, valid orientations in the Manuakea Speakers Series. 110 OMKEM. E-revelletters issued over nine years, and 102 Attronomy E-nevelletters issued over nine years, and 102 Autronomy E-nevelletters issued over nine years, and 102 Autronomy E-nevelletters issued over nine yea	MCD G d C D d 10 d	01 #21 #	B 11		D 14
7.1.3 Education & Outreach: Build & maintain a constituency to engage in active and meaningful stewardship of Mama Kea, through education and involvement of the public, to support, enhance conservation, and sustain the natural, cultural, and astronomical resources of Mauna Kea. Output measures provided in the 2020 Annual Report to DLNR: Approximately 1,500 individuals have a current, valid orientation conducted over rine years, and 10 symposiums, conferences and special events conducted over rine years, and 19 symposiums, conferences and special events conducted over rine years, and 19 symposiums, conferences and special events conducted over rine years, and 10 symposiums, conferences and special events conducted over rine years, and 20 symposiums, conferences and special events conducted over rine years, and 20 symposiums, conferences and special events conducted over rine years, and 20 symposiums, conferences and special events conducted over rine years, and 20 symposiums, conferences and special events conducted over rine years, and 40 social media presence, YouTube video, and would be required to take the orientation training or video before accessing Mama Kea. Two brochures developed and updated, social media presence, YouTube video, and would be required to take the orientation training or video before accessing Mama Kea. Two brochures developed and updated, social media presence, YouTube video, and woune-people orientation program for people domination the torientation straining or video before accessing Mama Kea. The education and which the broader community beyond their supporters. The public does not know all the good things that are happening on Mama Kea. Uth does not do a good job communicating to the public about the work being done on Mama Kea. The relative supporters. The public does not know all the good things that are happening on Mama Kea. Uth does not done work the work being done on Mama Kea. The relative supporters. The relative supporters. The relative supporters. The relati	MCP Section & Desired Outcome	OMKM's Solf Assessment	Public	Independent Evaluation of Impact on	Recommendations
58 projects with 1,493 volunteers conducted over nine years. There are members of the Native Hawaiian community who do not believe Mauna Kea is sacred and would like to see telescope use continue on Mauna Kea. 'Imiloa's A Hua He Inoa: Hawaiian Culture Based Celestial Naming program is globally known and admired.	Build & maintain a constituency to engage in active and meaningful stewardship of Mauna Kea, through education and involvement of the public, to support, enhance conservation, and sustain the natural, cultural, and astronomical	Of the eight Actions Six are "ongoing" One is "completed/ongoing" One is "In progress." Developed orientation program for people working on Mauna Kea. There have been outreach efforts in schools and with volunteers. Output measures provided in the 2020 Annual Report to DLNR: Approximately 1,500 individuals have a current, valid orientation certificate. 124 community updates conducted over 12 years, 63 community outreach events conducted over nine years, and 19 symposiums, conferences and special events conducted over eight years. 30 presentations in the Maunakea Speakers Series. 110 OMKM E-newsletters issued over nine years, and 102 Astronomy E-newsletters issued over six years. Two brochures developed and updated, social media presence, YouTube video, and young-people oriented materials.	Input There has been little community engagement and outreach. OMKM needs to develop relationships with the broader community beyond their supporters. The public does not know all the good things that are happening on Mauna Kea. UH does not do a good job communicating to the public about the work being done on Mauna Kea. The orientation video lacks Native Hawaiian cultural perspective and sensitivity of the long-standing hurts, pains, and concerns by the Native Hawaiian community on imbalance between protecting cultural resources and pursuing telescope development. Visitors should be required to take the orientation training or video before accessing Mauna Kea summit to ensure a better understanding of the cultural resources on Mauna Kea. OMKM and KKM have not consulted with NHOs in decision making for management of Mauna Kea. The educational materials lack the cultural perspective. There are members of the Native Hawaiian community who do not believe Mauna Kea is sacred and would like to see telescope use continue on Mauna Kea. 'Imiloa's A Hua He Inoa: Hawaiian Culture Based Celestial Naming program	Minimal progress on Achieving Outcome. A lot of actions have taken place and been documented by OMKM. However, in the actions undertaken it is unclear if the programs have achieved the desired outcome of building and maintaining a larger and/or stronger constituency to steward Mauna Kea. Also, no sense of how far the programs have reached – for example, the number of unique volunteers v. total number at	Outcome measures could include OMKM implementing metrics on the impact their activities have had on building their constituency; whether workers and visitors to Mauna Kea have increased their awareness and appreciation of Mauna Kea's cultural, historical, and natural resources. In addition, recommend measuring how well the community's perception of transparency and involvement have changed. In addition to those who work on Mauna Kea, visitors should be required to watch the video to familiarize themselves with the cultural significance of Mauna Kea. Utilize 'Imiloa Astronomy Center to develop culturally based materials to educate and raise awareness of the cultural and natural resources on Mauna Kea, including the A Hua He Inoa program. Utilize 'Imiloa Astronomy Center to

MCP Section & Desired Outcome	OMKM's	Public	Independent Evaluation of Impact on	Recommendations
NICI Section & Desired Outcome	Self-Assessment	Input	Desired Outcome	Recommendations
7.1.4 Astronomy Resources: Maintain Mauna Kea's unique environment that makes it a premiere location for astronomical observation. Operate the scientific reserve as a buffer zone to prevent the intrusion of activities incompatible with the use of the land as a scientific complex or observatory.	Of the two Actions Two are "Ongoing" Administrative rules became effective in January 2020. Working on monitoring and minimizing the light pollution, radio frequency interference and dust.	Astronomy stakeholders believe that OMKM is doing a good job in managing the area. They believe that OMKM could have more regular, ongoing communications rather than waiting until big issues arise.	Good progress on Achieving Outcome The Administrative rules were passed to formalize protection of the area for astronomy. Timing could have been faster.	Outcome measures could include an annual survey of astronomical stakeholders tracking how well OMKM has done in maintaining the unique environment of Mauna Kea.
7.2 Managing Access, Activities and Uses				
7.2.1 Activities and Uses: Retain and enhance recreational and cultural activities, ensure regulation of commercial activities, and support scientific studies while maintaining adequate protection of resources, educating users regarding resource sensitivity, and ensuring the health and safety of those visiting or working at Mauna Kea.	Of the 12 Actions Eight are "Complete/Ongoing" Four are "Ongoing" Administrative rules became effective in January 2020. OMKM initiated a study in 2019 to assess the capacity for commercial tour operations.	The community is generally positive about how OMKM has maintained and protected the resources on Mauna Kea. The feeling is that the area has improved significantly under the OMKM management. Rangers received many compliments on their knowledge and guidance that they provide to visitors. There needs to be better management limiting the number of cars allowed to drive the access road to the summit. UH is considering a shuttle service to manage access by visitors. Some of the commercial operators conduct their own cultural orientation to their customers to ensure that they conduct themselves in a respectful and appropriate manner when on Mauna Kea.	Good progress on Achieving Outcome The Administrative rules were passed to codify restrictions and regulations. Timing could have been faster.	Outcome measures could include periodic surveys of Mauna Kea visitors, commercial tour operators, and others accessing the site on how well OMKM is managing the area.

MCP Section & Desired Outcome	OMKM's	Public	Independent Evaluation of Impact on	Recommendations
	Self-Assessment	Input	Desired Outcome	
7.2.2 Permitting & Enforcement: Achieve compliance with existing and any new policies and regulations designed to manage and minimize human impacts, to preserve and protect Mauna Kea's resources.	Of the eight Actions Six are "Ongoing" Two are "Completed" Administrative rules became effective in January 2020. Since 2000, there were 103 community engagement and outreach actions taken related to the development of the administrative rules, including updates, consultations, briefings, open houses, and public hearings.	Generally positive feedback on the level of policies and regulations. Positive level of enforcement primarily attributed to the Rangers. Rangers are doing a good job of educating visitors to stay on the trails and not to park their cars where they can damage the natural and cultural resources. There needs to be better management of the commercial operators and increased fees towards management of Mauna Kea resources; as there is unlimited access by recreational users (tourists), yet cultural practitioners are regulated. Lack of coordination and clarity between County enforcement and DOCARE on jurisdiction of access road.	Good progress on Achieving Outcome The Administrative rules were passed to codify restrictions and regulations, but it took over 10 years to adopt the rules.	
7.3 Managing the Built Environment		Jurisdiction of access road.		
7.3.1 Infrastructure and Maintenance: Manage the built environment by implementing an Operations, Monitoring and Maintenance Plan (OMMP) containing specific maintenance strategies and protocols that will result in minimal disruptions to activities and uses, minimize impacts to the resources, and ensure that permittees remain compliant with their CDUP requirements.	Of the 14 Actions Ten are "Ongoing" Three are "Completed/Ongoing" One is "In Progress" Administrative rules became effective in January 2020. An Operations Monitoring and Maintenance Plan was reviewed by KKM and approved by MKMB. Procedures have been put in place and studies are being conducted.	Generally positive feedback on how OMKM is managing and maintaining the infrastructure within the area. Many of the existing observatories are incorporating sustainable technologies into their facilities.	Good progress on Achieving Outcome The Administrative rules were passed to codify restrictions and regulations. Timing could have been faster.	Recommend reporting on the outcome of the various studies being conducted and how those studies will be used in the future.
7.3.2 Construction Guidelines: Minimize adverse impacts to resources during all phases of construction, through use of innovative best management practices.	Of the nine Actions Nine are "Ongoing" TMT is the first project requiring construction guidelines. All the guidelines have been included as part of the proposed TMT Management Plan in its CDUA.	Given that construction has yet to begin, no feedback on how well the adverse impacts have been minimized. KKM is reviewing any construction activity that could involve ground disturbance, to ensure cultural resources are not disturbed.	Good progress on Achieving Outcome	

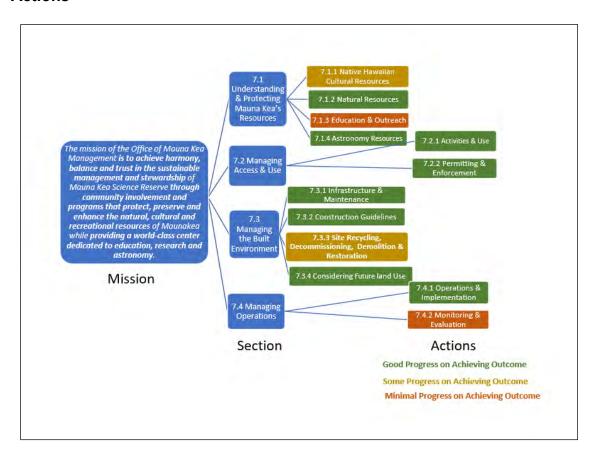
MCP Section & Desired Outcome	OMKM's	Public	Independent Evaluation of Impact on	Recommendations
NICI Section & Desired Outcome	Self-Assessment	Input	Desired Outcome	recommendations
7.3.3 Site Recycling, Decommissioning,	Of the three Actions	Feedback has focused on the observatories	Some Progress on Achieving Outcome	
Demolition, and Restoration:	 Three are "Ongoing" 	that are no longer in use on Mauna Kea.		
To the extent possible, reduce the area		Actions to begin the decommissioning	Decommissioning requirements included	
disturbed by physical structures within the	All the actions have been incorporated into	process only started in 2019, leaving	in the TMT Management Plan.	
UH Management Areas by upgrading and	planning for TMT, the first new facility.	community members to wonder why it		
reusing buildings and equipment at		took so long.	Actions on decommissioning some of the	
existing locations, removing obsolete	The 2010 Decommissioning Plan has a		sites only began in 2019.	
facilities, and restoring impacted sites to	defined process. Two of the sites have	UH represented/promised to the		
pre-disturbed condition.	started the process in 2019.	community no more than 13 telescopes would be built on Mauna Kea. UH should		
		have timely decommissioned some		
		telescopes before new telescopes are		
		constructed (TMT). There is at least one		
		telescope on Mauna Kea that is not in use,		
		but there has been no attempt to remove it.		
		At the end of the state lease in 2032, all		
		the telescopes need to be decommissioned		
		and the site restored.		
		The CMP does not require		
		decommissioning of telescopes that are not		
		obsolete.		
		DOD through Developing 10 02 has		
		BOR, through Resolution 19-03, has established a schedule to timely		
		decommission at least two telescopes by		
		December 2021 and a determination		
		whether to decommission possibly three		
		more telescopes by December 2021.		
7.3.4 Considering Future Land Use:	Of the seven Actions	Community input has been both for and	Good progress on Achieving Outcome	
To protect cultural and natural resources in	All seven are "Ongoing"	against constructing TMT.	1 3	
the assessment of future projects.	,	~ ~ ~		
	Of the seven actions in the plan, all have	TMT is being proposed to be developed in		
	been incorporated in planning for TMT, the	an area that is outside of the 2000 Master		
	first new facility.	Plan because OMKM has not developed a		
		map of land use where development will		
	UH President Lassner confirmed that TMT	not be allowed.		
	will be the last telescope to be built on			
	undisturbed land.			
		<u> </u>		

MCP Section & Desired Outcome	OMKM's	Public	Independent Evaluation of Impact on	Recommendations
Met steller a steller success	Self-Assessment	Input	Desired Outcome	THE COMMISSION OF THE PARTY OF
7.4 Managing Operations		•		
7.4.1 Operations and Implementation: Conduct effective operations to support management that is focused on resource protection, education, and public safety.	Of the 5 Actions Two are "Ongoing" Two are "Completed" One is "Completed Ongoing" MKMB meets regularly, holds public meetings which includes consultation with KKM. OMKM, KKM and MKMB are responsible for the review of projects proposed for UH's managed lands compliance with DLNR conservation district rules and the CMP. Public can attend the MKMB meetings.	Public comments were mixed on this MA. The observatories feel that OMKM and MKSS are doing a good job with operation and maintenance. Other government agencies, including DLNR, feel that OMKM and the Rangers are doing a really good job managing the land uses to preserve and protect the cultural and natural resources. The Rangers are the "eyes and ears" on Mauna Kea, they ensure public safety for everyone. There has been great improvement since the 1998 Audit report. There were public comments, especially from members of the Native Hawaiian community that there has been no involvement or discussion with the community and stakeholders on resource management. There is disconnect between UH-Hilo Management Entities and UH Systems.	Good progress on Achieving Outcome	
7.4.2 Monitoring, Evaluation, and Updates: Determine whether management actions are achieving the goals of the CMP and provide a process for improving and updating management strategies through evaluation and revisions of the CMP.	Of the three Actions • Three are "Ongoing" MEU-2 requires OMKM to "conduct regular updates of the CMP that reflect outcomes of the evaluation process, and that incorporate added information about the resources." OMKM is in the process of drafting the 5-year Outcome Analysis Report.	Unclear if OMKM has evaluated whether the CMP actions they have undertaken has made progress on achieving stated Desired Outcomes. The public has not been involved nor provided input into OMKM's annual reports to BLNR. OMKM has not completed a 5- year CMP update since the approval of the CMP.	Minimal progress on Achieving Outcome. If the CMP had been reviewed and updated in a timely manner, it is likely that Outcome measures would have been developed and tracked over time.	Develop appropriate measures to track progress being made toward achieving Desired Outcomes. These measures will serve as indicators of whether progress is being made or if actions need to be adjusted to better achieve the Outcomes.

OVERALL SUMMARY OF OMKM'S IMPLEMENTATION OF THE CMP

The diagram below illustrates how the MCPs of the CMP connect to achieve OMKM's Mission. The color codes are the same as used in the Evaluation of Impact on Outcomes. Under the four (4) MCPs, there are twelve (12) desired outcomes. Overall, good progress was made on achieving eight of the desired outcomes; some progress was made on achieving two of the desired outcomes and minimal progress was made on achieving two of the desired outcomes.

Figure 2: The Links Between the OMKM Mission and MCP Management Actions



AREAS WHERE OMKM HAS NOT EFFECTIVELY IMPLEMENTED THE CMP TO ACHIEVE THE DESIRED OUTCOMES

As noted above, OMKM has made, in some cases, significant strides in implementing the CMP to achieve the desired outcomes, particularly in the areas of the "nuts and bolts" of managing the land uses and activities and supporting astronomy. However, in the areas of Native Hawaiian Cultural Resources, Education and Outreach, decommissioning, and evaluation, OMKM has not effectively achieved the desired outcomes. Based primarily on public input, the

Exhibit A Mauna Kea Hui's Motion following are some of the significant "disconnects" between OMKM and the public, in particular, the Native Hawaiian community, in achieving the desired outcomes:

Outreach and communications

Insufficient outreach and communications with stakeholders and the community resulted in many not knowing what was taking place on Mauna Kea. For example, OMKM conducted many studies, but stakeholders did not understand how to access them. There is no dashboard that shows the conditions of natural resources on Mauna Kea such as number of invasive species reported, number of visitors, etc. overtime. Accessing documents shared at MKMB meetings requires accessing the OMKM website, and multiple clicks to find the right documents.

Cultural Education

Materials and programs developed to educate staff and visitors about Mauna Kea lacked the Native Hawaiian perspective on its importance. Native Hawaiian practitioners, Families who have cultural or lineal connections to Mauna Kea, and NHOs feel they were not adequately or regularly consulted and/or informed about actions taking place on Mauna Kea.

Failure to timely implement certain MAs

OMKM did not complete many of the actions until recently. The HAR related to Mauna Kea was only approved in January 2020. Likewise, the decommissioning process of two telescopes did not begin until 2019. This lack of progress in decommissioning has diminished the public trust in OMKM's management of Mauna Kea.

OMKM's updates do not include metrics to evaluate progress towards achieving the desired outcomes

Plan 7.4.2 requires OMKM to "conduct regular updates of the CMP that reflect outcomes of the evaluation process, and that incorporates new information about the resources." The annual reports to BLNR update the status of the plans' actions. It does not address progress made toward achieving the Desired Outcome of the MCP. Evaluation of Desired Outcomes could have led to identifying metrics to track outcomes and improve actions.

CONCLUSION

The purpose of the independent evaluation was to, (1) evaluate the effectiveness of UH, and specifically OMKM's implementation of the MCPs, and (2) evaluate UH's efficiency and the governance structure in managing the cultural and natural resources within the UH Management Areas under the CMP. UH's self-assessment and many of the public comments which included members of the Native Hawaiian community and government agencies, have acknowledged that OMKM has implemented most of the 103 MAs within the MCPs. Many have commented that OMKM has effectively implemented many of the MAs that have resulted in protecting and preserving the cultural and natural resources within the state conservation lands.

However, in the areas of untimely adoption of the administrative rules, cultural resources, and education and community outreach, especially with the Native Hawaiian stakeholders, the efforts by OMKM have been ineffective to achieve the desired outcome. The desired outcome is to increase understanding and appreciation of Native Hawaiian history and cultural practices related to Mauna Kea to ensure that these practices are protected and respected. While there are Native Hawaiians who believe OMKM's actions have been respectful of the Hawaiian culture, the greater sentiment was a deep feeling of disrespect by OMKM's actions in managing Mauna Kea, as well as UH's action in pursuing telescope development over protecting the resources.

With respect to the efficiency of UH's governance structure in managing the state conservation lands at Mauna Kea, the UH BOR appears to be internally addressing this issue through their Resolution 19-03. They have taken steps towards developing a reorganization and restructuring plan that would consider an alternative governance and management mechanisms to improve operations and management to make it more efficient, effective, and transparent.

In conclusion, UH, and specifically OMKM, has implemented most of the CMP MAs, and in many cases, effectively implemented them to achieve the desired outcomes of protecting the resources. Unfortunately, the MA related to cultural resources that was designed to respect the Hawaiian cultural practices and resources, and MA related to education and outreach that was intended to restore trust between UH and the Native Hawaiian community have not been effectively implemented. Management plans are created with the best of intentions; but ultimately, the proof is in the implementation.

COMMENDING CASCA'S **DECISION NOT** TO SUPPORT TMT WITHOUT **NATIVE** HAWAIIAN CONSENT

One of the TMT project's biggest and long standing supporters, the Canadian Astronomical Association (CASCA), now proclaims that "unless the TMT project has consent from the Native Hawaiians. Canada's astronomical community cannot support its construction on Maunakea."

One of the TMT project's biggest and long standing supporters, the Canadian Astronomical Association (CASCA), now proclaims:

Exhibit A Mauna Kea Hui's Motion





"Unless the TMT project has consent from the Native Hawaiians, Canada's astronomical community cannot support its construction on Maunakea." This statement was shared by Dr. Kim Venn this past Tuesday at CASCA's Annual Meeting that CASCA is holding online this week. Dr. Venn is one of three Canadian TMT Board Members and a member of the CASCA/ACURA TMT Advisory Committee (CATAC).

Many of us also saw a screenshot of Dr. Venn's presentation slide shared by Dr. Bryan Gaensler on Twitter. Dr. Gaensler is CASCA's co-chair of its Long Range Plan 2020 Panel.

Also conveyed in the screenshot shared by Dr. Gaensler of Dr. Venn's presentation was the following:

"As excited as we are about the scientific potential and engineering excellence of the TMT, we believe that astronomical discovery cannot come at the expense of human rights for the people on whose lands we operate our telescopes anywhere in the world. This position is consistent with CASCA's Long Range

In 2019, in response to hundreds of kia'i peacefully assembling to oppose the construction of the TMT, police showed up in force in full riot gear. Photo: Hawai'i Tribune Herald

"Unless the TMT project has consent from the Native Hawaiians, Canada's astronomical community



Plan 2020." Indeed, CASCA's Long Range Plan (p. 115) notes the following:

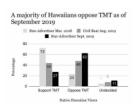
"The nature of astronomy is such that sites in isolated or sparsely populated areas often best meet the scientific requirements for experiments and observatories. As a consequence, astronomy has long benefited from building telescopes and other facilities on carefully chosen locations in Canada and throughout the world (e.g., Hawai'i, South Africa, Australia, Chile). However, these same sites often either belong to or have substantial cultural, environmental or economic significance to Indigenous Peoples, traditional title holders or other long standing local communities.

"There have been many instances when astronomy projects have gone ahead over the objections of Indigenous Peoples, or where commitments or promises made by astronomers to local communities have not been fully met. Looking to the future, Canadian astronomers must ensure that their ethics and values apply to the interactions with society that result from the creation and operation of astronomical facilities. The astronomy community must consequently engage meaningfully and Exhibit A

^{://kanaeokana.net/nocoasent} Hui's Motion

cannot support its construction on Maunakea."

- Dr. Kim Venn, TMT board member, and a member of the CASCA/ACURA TMT Advisory Committee (CATAC)



TMT proponents often like to cite poll data showing support for the project. However, poll data from the Star Advertiser and the Civil Beat over a

sincerely with Indigenous and local communities as soon as potential projects are conceived, should seek consent from those who would be affected before proceeding with a project, and must sustain engagement and consent throughout the lifetime of projects that go forward."

5/21/2021

As a result, the CASCA Long Range Plan (p. 16) offers this conclusion:

"We recommend that the Canadian astronomical community (e.g., ACURA, CASCA and NRC-HAA) work together with Indigenous representatives and other relevant communities to develop and adopt a set of comprehensive guiding principles for the locations of astronomy facilities and associated infrastructure in which Canada participates. These principles should be centred on consent from the Indigenous Peoples and traditional title holders who would be affected by any astronomy project. In addition, when such consent does not exist, the principles should recognize that the use or threat of force is an unacceptable avenue for developing or accessing an astronomical site. The principles should also acknowledge that

period of two years actually shows eroding support, and in the case of Native Hawaiians, outright opposition.

3/7 https://kanaeokana.net/noconsent 4/7

Exhibits page 74

• Truth and Reconciliation Commission of

Canada: https://www.rcaanc-

cirnac.gc.ca/eng/1450124405592/1529106060525

· Truth and Reconciliation Commission of

Canada, Calls to Action:

http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf

• United Nations Declaration on the Rights of

Indigenous Peoples:

https://undocs.org/A/RES/61/295

ongoing consent from Indigenous Peoples and continuing consultation with all relevant local communities are both essential throughout a project's lifetime. These principles should be developed as soon as possible, and then applied to all future Canadian participation in new or existing astronomical programs, projects and national and international facilities. Engagement and implementation should be consistent with the spirit of the Calls to Action of the Truth and Reconciliation Commission of Canada and of the United Nations Declaration on the Rights of Indigenous Peoples."

We commend CASCA and its members who are affirming that absent consent of Native Hawaiians, the TMT cannot be built and that the use or threat of violence is not an acceptable course of action to access astronomical sites.

Links:

CASCA website: https://casca.ca/

TMT Board Members:
 https://www.tmt.org/page/governance

 CASCA's Long Range Plan: https://casca.ca/wpIn the early morning of July 15th, 2019, 8 kia'i chained themselves to a grate on

laying their bodies down in a selfless act of aloha 'āina.

Mauna Kea Access Road,

Exhibit A

Exhibit A

:://kapagokana.net/noconsent
Valuna Kea Hui's Motion

4:0	00	

No kuʻu lāhui e hāʻawi pau a i ola mau. Video: Mikey Inouye

5/7 https://kanaeokana.net/noconsent 6/7

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

In the Matter of:)				
A Contested Case Hearing Re: Conservation District) CERTIFICATE OF SERVICE					
Use Permit (CDUP) HA-3568)				
<u>CEI</u>	RTIFICATE OF SERVICE				
We hereby certify that a copy o the	e foregoing was served on the following	owing via amail unless			
otherwise specified below:	e foregoing was served on the fone	owing via chian unless			
Bin C. Li,	Watanabe lng LLP	Maelani Lee			
1151 Punchbowl, Room 131	rshinyama@wik.com	maelanilee@yahoo.com			
Honolulu, HI 96813	douging@wik.com	muerum ee @jum ee ee m			
bin.c.li@hawaii.gov	Counsel for TMT International	Lanny Alan Sinkin			
DLNR.CO.APO@hawaii.gov	Observatory, LLC	lanny.sinkin@gmail.com			
(original+ digital copy)	· · · · · · · · · · · · · · · · · · ·	The Temple of Lono			
(0 0 1)	Harry Fergerstrom	1 3			
Linda Chow	hankhawaiian@yahoo.com	Kalikolehua Kanaele			
Julie China, Deputies Attorney General	,	akulele@yahoo.com			
Linda.L.Chow@hawaii.gov	Richard L DeLeon	<i>_</i> ,			
julie.h.china@hawaii.gov	kekaukike@msn.com	Stephanie-Malia:Tabbada			
Counsel for the Bd of Land & Natural Res.		s.tabbada@hawaiiantel.net			
	Mehana Kihoi				
Carlsmith Ball LLP	uhiwai@live.com	Tiffnie Kakalia			
isandison@carlsmith.com		tiffniekakalia@gmail.com			
Counsel for University of Hawai'i at Hilo	C. M. Kaho'okahi Kanuha				
	kahookahi@gmail.com	Glen Kila			
J. Leina'ala Sleightholm		makakila@gmail.com			
leina.ala.s808@gmail.com	Joseph Kualii Lindsey Camara				
	kualiic@hotmail.com	Dwight J. Vicente			
Torkildson, Katz, Moore, & Harris		dwightjvicente@gmail.com			
lsa@torkildson.com	Cindy Freitas				
njc@torkildson.com	hanahanai@hawaii.rr.com	Brannon Kamahana Kealoha			
Counsel for Perpetuating Unique		brannonk@hawaii.edu			
Educational Opportunities (PUEO)	William Freitas				

DATED: Honolulu, Hawai'i May 24, 2021

William Freitas pohaku7@yahoo.com

> /s/ Richard Naiwieha Wurdeman RICHARD NAIWIEHA WURDEMAN

ATTORNEY AT LAW, A LAW CORPORATION



LAW OFFICE OF BIANCA ISAKI BIANCA ISAKI Attorneys for the Mauna Kea Hui

Exhibit A Mauna Kea Hui's Motion

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

IN THE MATTER OF)	Case No. HA-22-02
The Petition of Mauna Kea Hui for a Declaratory Order Filed May 24, 2021)	MINUTE ORDER NO. 1;
)	EXHIBIT "A"
	j	CERTIFICATE OF SERVICE
)	
)	
)	

MINUTE ORDER NO. 1

On May 24, 2021, Petitioners MAUNA KEA ANAINA HOU, KEALOHA PISCIOTTA, CLARENCE KUKAUAKAHI CHING, DEBORAH J. WARD, PAUL NEVES, and KAHEA: THE HAWAIIAN-ENVIRONMENTAL ALLIANCE (collectively, "Petitioners" or the "Mauna Kea Hui") filed a "Motion to Reopen Hearing to Hear Motion to Confirm Non-Compliance With Condition No. 4, or Alternatively, Petition for Declaratory Orders Concerning the Same" (the "Motion") under the caption of Contested Case No. BLNR-CC-16-002. The Motion is attached hereto as Exhibit "A".

Contested Case No. BLNR-CC-16-002 was fully decided upon the issuance of Findings of Fact, Conclusions of Law and Decision and Order (hereinafter, the "D&O") on September 27, 2017. The D&O was upheld by the Hawai'i Supreme Court in *Matter of Conservation Dist. Use Application HA-3568*, 143 Hawai'i 379, 431 P.3d 752 (2018).

Petitioner's Motion does not seek reconsideration of the D&O and does not comply with the requirements of Hawai'i Administrative Rule ("HAR") § 13-1-39, which governs the reconsideration of a Board's decision on the merits. Instead, Petitioner's Motion seeks a determination that Permittee UNIVERSITY OF HAWAI'I AT HILO ("UHH") has not complied with Condition No. 4 of Conservation District Use Permit HA-3568 (hereinafter, the "CDUP"), which was issued by the Board pursuant to the D&O. The Board of Land and Natural Resources ("Board") considers Petitioner's Motion as a petition for a declaratory ruling pursuant to Hawai'i Revised Statutes ("HRS") § 91-8 and HAR § 13-1-27 rather than a motion for reconsideration of the D&O.

Accordingly, the Board hereby GRANTS the Petitioners' Motion to the extent it seeks to open a new proceeding for a declaratory ruling for the limited purpose of determining whether

UHH has complied with Condition No. 4 of the CDUP. The parties named in the Certificate of Service of Petitioners' Motion are invited to file any briefing in response to the Petitioners' Motion within fifteen (15) days of service of this Minute Order. Petitioners may file a reply in support of their Motion within ten (10) days of service of any briefings in response. The Board will consider the arguments raised in the Motion, response, and reply without a hearing.

DATED: Honolulu, Hawaii, Oct 20, 2	2021 ·
	Same Q. Code
	SUZANNE D. CASE, Chairperson Board of Land and Natural Resources
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CHRISTOPHER YUEN, Board Member	DOREEN NĀPUA CANTO, Board Member
	Samly M
THOMAS OI, Board Member	SAMUEL "OHU" GON III, Board Member
vernon char	
VERNON CHAR, Board Member	WESLEY "KAIWI" TOON, Board Member

UHH has complied with Condition No. 4 of the CDUP. The parties named in the Certificate of Service of Petitioners' Motion are invited to file any briefing in response to the Petitioners' Motion within fifteen (15) days of service of this Minute Order. Petitioners may file a reply in support of their Motion within ten (10) days of service of any briefings in response. The Board will consider the arguments raised in the Motion, response, and reply without a hearing.

DATED: Honolulu, Hawaii,	 .
	SUZANNE D. CASE, Chairperson Board of Land and Natural Resources
CHRISTOPHER YUEN, Board Member	DOREEN NĀPUA CANTO, Board Member
THOMAS OI, Board Member	SAMUEL "OHU" GON III, Board Member
VERNON CHAR, Board Member	WESLEY KAIWI NUI YOON, Board Member

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DATED: Honolulu, Hawaii,	
	SUZANNE D. CASE, Chairperson Board of Land and Natural Resources
CHRISTOPHER YUEN, Board Member	DOREEN NĀPUA CANTO, Board Member
THOMAS OI, Board Member	SAMUEL "OHU" GON III, Board Member
VERNON CHAR, Board Member	WESLEY "KAIWI" TOON, Board Member

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DATED: Honolulu, Hawaii,	•
	SUZANNE D. CASE, Chairperson Board of Land and Natural Resources
CHRISTOPHER YUEN, Board Member	DOREEN NĀPUA CANTO, Board Member
THOMAS OI, Board Member	SAMUEL "OHU" GON III, Board Member
VERNON CHAR, Board Member	WESLEY "KAIWI" TOON, Board Member

EXHIBIT "A"

RICHARD NAIWIEHA WURDEMAN 6015-0

Attorney at Law, A Law Corporation Pauahi Tower, Suite 720 1003 Bishop Street Honolulu, Hawai'i 96813 (808) 536-0634 RNWurdeman@RNWLaw.com

LAW OFFICE OF BIANCA ISAKI Bianca K. Isaki 9977 1720 Huna Street, 401B Honolulu, Hawai'i 96837 (808) 927-5606

bianca.isaki@gmail.com

Attorneys for the Mauna Kea Hui MAUNA KEA ANAINA HOU, KEALOHA PISCIOTTA; CLARENCE KUKAUAKAHI CHING; DEBORAH J. WARD; PAUL K. NEVES; and KAHEA: THE HAWAIIAN-ENVIRONMENTAL ALLIANCE

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

In the Matter of:)	Case No. BLNR-CC-16-002
)	
A Contested Case Hearing Re Conservation)	MAUNA KEA HUI'S MOTION TO REOPEN
District Use Permit (CDUP) HA-3568 for the)	HEARING TO HEAR MOTION TO CONFIRM
Thirty Meter Telescope at the Mauna Kea)	NON-COMPLIANCE WITH CONDITION NO. 4
Science Reserve, Kaohe Mauka, Hamakua)	OR, ALTERNATIVELY, PETITION FOR
District, Island of Hawai'i, TMK (3) 4-4-)	DECLARATORY ORDERS CONCERNING THE
015:009)	SAME; MEMORANDUM IN SUPPORT OF
)	MOTION; DECLARATION OF CLARENCE
)	KUKAUAKAHI CHING; EXHIBITS "01"-"07";
)	CERTIFICATE OF SERVICE
)	

MAUNA KEA HUI'S MOTION TO REOPEN HEARING TO HEAR MOTION TO CONFIRM NON-COMPLIANCE WITH CONDITION NO. 4, OR, ALTERNATIVELY, FOR DECLARATORY ORDERS CONCERNING THE SAME

MAUNA KEA ANAINA HOU, an unincorporated association, KEALOHA PISCIOTTA; CLARENCE KUKAUAKAHI CHING; DEBORAH J. WARD; PAUL K. NEVES; and KAHEA: THE HAWAIIAN ENVIRONMENTAL ALLIANCE, a domestic non-profit corporation ("Mauna Kea Hui")

respectfully submit this motion to reopen contested case proceedings for the limited purpose of hearing a motion to confirm Permittee UNIVERSITY OF HAWAI'I HILO's (UHH) has not complied with Condition No. 4 of Conservation District Use Permit (CDUP) HA-3568 (Condition No. 4) in the above captioned proceedings. In the alternative, this submission may be construed as a petition for declaratory orders also concerning UHH's present non-compliance with Condition No. 4 to the extent that such relief would be forthcoming under the alternative procedure. Reopening the contested case hearing is appropriate in light of the reasons UHH is unable to comply with permit conditions and has incorrectly represented to Department administrators that it has so complied. Due process requires the Board to allow all parties to present evidence prior to making a discretionary decision on whether UHH's actions merit extension of deadlines.

This motion is submitted pursuant to Hawai'i Revised Statutes §§ 91-8, 91-9, 91-10, and 91-13.5; and Hawai'i Administrative Rules §§ 13-1-11, -12(d), -27, -34; -5-43.

DATED: Honolulu, Hawai'i

May 24, 2021

RICHARD NAIWIEHA WURDEMAN ATTORNEY AT LAW, A LAW CORPORATION

Branca Issli

LAW OFFICE OF BIANCA ISAKI BIANCA ISAKI Attorneys for Petitioners

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

In the Matter of:)	Case No. BLNR-CC-16-002
)	
A Contested Case Hearing Re Conservation District)	MEMORANDUM IN SUPPORT OF MOTION
Use Permit (CDUP) HA-3568 for the Thirty Meter)	
Telescope at the Mauna Kea Science Reserve, Kaohe)	
Mauka, Hamakua District, Island of Hawai'i, TMK)	
(3) 4-4-015:009)	
)	

MEMORANDUM IN SUPPORT OF MOTION

MAUNA KEA ANAINA HOU, an unincorporated association, KEALOHA PISCIOTTA; CLARENCE KUKAUAKAHI CHING; DEBORAH J. WARD; PAUL K. NEVES; and KAHEA: THE HAWAIIAN ENVIRONMENTAL ALLIANCE, a domestic non-profit corporation ("Mauna Kea Hui") respectfully submit this motion to reopen contested case proceedings for the limited purpose of hearing and deciding a motion to confirm Permittee UNIVERSITY OF HAWAI'I HILO's (UHH) has not complied with Condition No. 4 of Conservation District Use Permit (CDUP) HA-3568 (Condition No. 4) in the above captioned proceedings. In the alternative, this submission may be construed as a petition for declaratory orders also concerning UHH's present non-compliance with Condition No. 4 to the extent that such relief would be forthcoming under the alternative procedure. Reopening the contested case hearing is appropriate in light of the reasons UHH is unable to comply with permit conditions and has incorrectly represented to Department administrators that it has so complied. Due process requires the Board to allow all parties to present evidence prior to making a discretionary decision on whether UHH's actions merit extension of deadlines.

I. Background

On September 27, 2017, the Board approved the UHH permit when it issued Findings of Fact, Conclusions of Law, and a Decision and Order in the above-captioned proceedings (2017 Board Order). The UHH permit was thus subject to Standard Condition No. 4, which states:

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.

¹ Standard Condition No. 4 is required under OCCL rules. HAR §13-5-42(a)(8). Exhibit B

Minute Order 1

By letter received July 30, 2019, UHH requested a two year extension of time to comply with Standard Condition No. 4 of the permit. Declaration of Clarence Kukauakahi Ching (Ching Decl.) ¶2, Exh. 01. In its request, UHH cited June 25, 2019 testing of GPS equipment and partial survey of the Submillimeter Array access road and July 12, 2019 survey of underground fiber optic and electrical lines as evidence that it had initiated construction in addition to its two-year extension request. Exh. 01 at 4.

By letter dated July 30, 2019, Suzanne Case, chair of the Board, wrote to UHH, recognizing the June 25, 2019 and July 12, 2019 actions and that UHH was unable to move its construction equipment to the project site on July 15, 2019. Ching Decl. ¶2; Exh. 02 at 1-2. Under these facts, the Board chair determined UHH "made a good faith effort to comply with the deadlines contained in the permit" and granted the extension to September 26, 2021 without a hearing.

By letter dated April 28, 2021, UHH wrote to the Administrator of the Office of Conservation and Coastal Lands (OCCL) to notify him of "initiation of work and/ or construction" for the TMT in compliance with General Condition No. 4. Ching Decl. ¶3; Exh. 03. In support of their assertion that construction had initiated, UHH cited activities taking place between June 20, 2019 and July 16, 2019, prior to the Board Chair's July 30, 2019 letter granting UHH's extension request. Exh. 03 at 2. In addition to the June 25, 2019 and July 12, 2019 actions, UHH cited inspections for invasive species on July 15, 2019, a "Kick-Off Meeting" between TMT and its contractors to discuss construction on July 8, 2019, and removal of an ahu on June 20, 2019. *Id*.

The April 28, 2021 letter posted to the DLNR website has a stamp stating "approved", signed by Suzanne Case and dated May 4, 2021. Exh. 03 at 3.

II. Mauna Kea Hui is a party to proceedings on the UHH permit.

CDUP No. HA-3568 permits UHH to allow the Thirty-Meter Telescope International Observatory (TMT) to construct the largest telescope in the world and the tallest building on the island in the fragile ecosystem and highly sacred grounds of the summit of Mauna Kea. Parties have constitutional rights under articles XI, §9 and XII, §7 to a clean and healthful environment and to protections for their traditional and customary practices as has been recognized in several Hawai'i Supreme Court opinions concerning this permit. *In re Conservation District Use Application HA-3568*, 143 Hawai'i 379, 431 P.3d 752 (2018); *Mauna Kea Anaina Hou v. Board of Land & Natural Resources*, 136 Hawai'i 376, 363 P.3d 224 (2015). Mauna Kea Hui members are parties to this contested case, through which they seek to protect their rights.

III. Mauna Kea Hui's positions and supporting authorities.

Mauna Kea Hui's positions are: (1) DLNR incorrectly approved UHH's claims to have initiated

Exhibit B

work on the land or TMT construction; (2) the DLNR chairperson's summary approval of UHH's request prejudiced the due process rights of the Mauna Kea Hui because the reasons UHH cannot comply with Condition No. 4 require full examination by the Board, at which time the Board should reconsider its initial grant of the permit in 2017; (3) UHH's letter to OCCL constituted an improper request for a determination of conditions exercised under an unlawful rule; and, (4) UHH failed to provide supportive documentation for its claim to have initiated work on the land or construction of the TMT.

A. DLNR incorrectly approved UHH initiation of work on the land or TMT construction.

Extensions of time to initiate UHH's project were require to be "based on supportive documentation from the applicant." HAR §13-5-43(b). Documents submitted by UHH consisted in a three page letter that rather established UHH previously conceded its actions did not constitute initiation of work on the land or TMT construction and constituted unpermitted removal of structures in the conservation district. Exh. 03. UHH's submissions are deficient to meet requirements of the rule and the DLNR chairperson clearly exceeded her authority in approving UHH's request. *Id.* at 3.

1. DLNR chair is estopped from asserting actions constituting good cause to extend time to comply with Condition No. 4 also constitute compliance with Condition No. 4.

UHH's "notice of initiation of work and/or construction" apparently sought approval from DLNR staff for their interpretation of 2019 actions as "work done or construction to be done on the land" in compliance with Condition No. 4. Exh. 03 at 1. DLNR's chair approved the same a day after receipt. *Id.* at 3. Previously by letter dated July 30, 2019, DLNR's chair, then signing as, chair of the Board, recognized substantially the same June 25, 2019 and July 12, 2019 actions as good cause for the first extension of the permit as those UHH again cited in its May 3, 2021 letter as reasons that it had complied with Condition No. 4. *Compare* Exh. 02 at 1-2 *and* Exh. 03 at 1-2. That is, the DLNR chair's previous determination that 2019 actions constituted good cause for an extension to September 26, 2021 to initiate construction cannot also constitute initiation of construction under the doctrine of judicial estoppel. *See Rosa v. CWJ Contractors, Ltd.*, 4 Haw. App. 210, 218, 664 P.2d 745, 751 (1983) ("[a] party will not be permitted to maintain inconsistent positions or to take a position in regard to a matter which is directly contrary to, or inconsistent with, one previously assumed by him, at least where he had, or was chargeable with, full knowledge of the facts, and another will be prejudiced by his action.") (quoting 28 Am. Jur.2d Estoppel and Waiver § 68, at 694-95 (1966).

DLNR's July 30, 2019 approval letter request for extension took the position that UHH's testing of GPS equipment, partial survey of the Submillimeter Array access road, and survey of underground fiber

optic and electrical lines did not constitute work or construction on the land, but rather were good cause to extend the time for compliance. Exh. 01. DLNR cannot recognize the same actions as both reasons to extend time for Condition No. 4 compliance and also, nearing the expiry of that extension, as evidence of Condition No. 4 compliance. Doing so clearly exceeds the bounds of reason and violates principles of judicial estoppel.

2. No construction or work on land was initiated under the plain and ordinary meaning of the terms.

UHH has not initiated work "on the land" or TMT construction under the plain, ordinary meaning of the terms "work . . . on the land" or "construction to be done[.]" HAR §13-5-42(a)(8) ("Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed[.]").

"To effectuate a statute's plain language, its words must be taken in their ordinary and familiar signification, and regard is to be had to their general and popular use. In conducting a plain meaning analysis, [a] court may resort to legal or other well accepted dictionaries as one way to determine the ordinary meaning of certain terms not statutorily defined." *Wells Fargo Bank, N.A. v. Omiya*, 142 Hawai'i 439, 449-50, 420 P.3d 370, 380-81 (2018). "Construction" is defined to mean the "building of something, typically a large structure." Lexico.com by *Oxford English Dictionary* (accessed May 20, 2021). Read *in pari materia*, the term "work . . . on the land" did not mean, for instance, sitting on the parcel and working on a laptop, but rather ground-disturbing work associated with the building of the TMT. *Wells Fargo*, 142 Hawai'i at 450, 420 P.3d at 381 ("laws in pari materia, or upon the same subject matter, shall be construed with reference to each other. What is clear in one statute may be called upon in aid to explain what is doubtful in another.").

Activities UHH claim occurred as "work on land" or "construction" are so far outside of commonly understood definitions as to constitute a de facto revision of permit conditions that is outside of the DLNR chair's authority and is not permitted under any rule. UHH April 28, 2021 letter additionally listed inspections for invasive species, meeting with contractors, and removal of an ahu, which also do not constitute initiation of construction. Inspections of vehicles for compliance with invasive species requirements are not "work on the land" and do not construct the TMT. Nor do "discussions" with contractors. All actions alleged to constitute compliance with Condition No. 4 took place prior to UHH's July 30, 2019 request for extension.

3. Unpermitted destruction of the ahu supports the need for Board review of its permit approval.

To the extent UHH's destruction of an "unpermitted" ahu occurred on the TMT site, UHH failed to obtain a permit for this purpose. Permits are required for "land use", which is defined to include: "grading, removing, harvesting, dredging, mining, or extraction of any material or natural resource on land" and the "construction, reconstruction, demolition, or alteration of any structure, building, or facility on land." HAR §13-5-2 (emphasis added). UHH's alleged unpermitted removal of an ahu did not constitute construction of the TMT and supports the need for further Board oversight.

In any case, UHH's action is more so evidence of its continued inability to initiate construction of the TMT than of having initiated construction or work on the land. Construction of ahu, including and especially those that are unpermitted, are evidence of ongoing and vibrant traditional and cultural practices that have not been adequately addressed or protected under the current permit. Ching Decl. ¶9. That is, the thriving of Hawaiian cultural practice has given rise to expanded awareness and activity on Mauna Kea that includes constructing ahu and protection of these lands as part of a sacred trust. *Id.* ¶10. Additionally, many traditional and customary practitioners either do not recognize permit requirements for their religious practices or lack the ability to obtain special use permits or conservation district use permits for land uses under HAR §13-5-2. *Id.* ¶11. UHH does not reasonably rely on an unreasonable regulation of Kānaka Maoli traditional and customary practices as evidence of its compliance with Condition No. 4.

B. <u>DLNR's summary and unlawful approval of "initiated" construction prejudiced Mauna Kea Huidue process rights to enforcement of permit conditions.</u>

Mauna Kea Hui's rights and interests in the enforcement and proper interpretation of Condition No. 4 as parties to the contested case that resulted in the 2017 Board Order. The Board's 2017 Order represented that permit conditions, including Condition No. 4 would render the TMT project compliant with applicable laws. 2017 Order (FOFs ¶¶131, 156, 441-43, 454, 490, 931; COLs ¶¶133-35, 247, 509). For instance, this Board concluded:

By following the applicable provisions of the various relevant plans, sub-plans, and permit conditions, UH Hilo and the TIO will conserve, protect, and preserve the important natural and cultural resources of the State, will promote the long-term sustainability of those resources, and will promote the health, safety, and welfare of the public.

COL ¶134. UHH's noncompliance with Condition No. 4 undermines the Board's conclusion as to the conservation, protection, and preservation of important natural and cultural resources, amongst other things. The purpose of time limits on conservation district use permits, including UHH's permit, is to allow the Board to revisit applicants' representations of its projects and any changed conditions or

unexpected circumstances. UHH's concession that it has not been able to construct the TMT requires the Board to re-examine the permit.

Changed conditions and unexpected circumstances exist in regard to UHH's permit. The fact of the many thousands of people seeking to express their opposition to further construction on Mauna Kea in 2019 was not before the Board when it issued its 2017 Order. Ching Decl. ¶12. During the 2021 legislative session, the House of Representatives assembled a working group to revisit the propriety of UHH's management of Mauna Kea under House Resolution No. 33. *Id.* ¶13.

Further, project proponents apparently lack at least \$1 billion in funding to construct the TMT and have sought to make up their shortfall through public funding, specifically from the National Science Foundation (NSF). Ching Decl. ¶¶5-6, 14, Exh. 05, 06. Even if NSF provides funding, the TMT would have to conduct federal permitting processes - such as National Environmental Policy Act environmental review and National Historic Preservation Act section 106 consultation - that could span several years. *Id.*

More recently, the Canadian Astronomical Association (CASCA) issued the following statement: "Unless the TMT project has consent from the Native Hawaiians, Canada's astronomical community cannot support its construction on Maunakea." Ching Decl. ¶¶8, Exh. 07. The present potential loss of support from the Canadian partner in the project pivots on TMT project proponents' failure to have sought and obtained consent. *Id.* ¶15. In December 2020, DLNR presented an "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Plan" that found the University's management entity had not implemented the plan in three areas, including consultation, education, and outreach to the community and Hawaiian cultural practitioners in particular. *Id.* ¶¶7, 16, Exh. 06.

The reasons UHH cannot comply with Condition No. 4 require full examination by the Board, at which time the Board should reconsider its initial grant of the permit in 2017. The DLNR chairperson's summary approval of UHH's request prejudiced the due process rights of the Mauna Kea Hui to raise these issues before the Board as part of this contested case, or alternatively through Board action on a second request for extension of time to comply. HAR §13-5-43(b) ("[t]ime extensions may be granted by the board upon the second or subsequent request for a time extension on a board permit, based on supportive documentation from the applicant.").

C. No rule permits DLNR's approval of UHH's notice of initiation.

UHH's "notice of initiation" sought to short-cut processes for determining the constitution of "work and/or construction on the land", which would otherwise require filing of a petition for declaratory orders, and further to evade requirements that the Board review extensions beyond the first request. HAR

§13-5-43(b). As set forth *supra* Part II.A-B, DLNR lacked authority to issue a de facto revision of permit conditions by "approv[ing]" UHH's notice of initiation. Under HRS §91-1, a "rule" is defined as:

each agency statement of general or particular applicability and future effect that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term does not include regulations concerning only the internal management of an agency and not affecting private rights of or procedures available to the public, nor does the term include declaratory rulings issued pursuant to section 91-8, nor intra-agency memoranda.

Id. DLNR's revision of Condition No. 4 constitutes an "agency statement of general or particular applicability and future effect" that implemented the prescribed conditions that are enforceable at law and thus constitutes a "rule" under HRS § 91-1. Agencies are required to promulgate such rules through procedures set forth under HRS § 91-3.

Rulemaking is "not a matter of agency discretion . . . every agency action is 'a recognizable rule or an order' under the [Florida Administrative Procedures Act] or is 'incipiently a rule or order.'" *Fla. Stat. S. Baptist Hosp. of Fla. v. Agency for Health Care Admin.*, 270 So. 3d 488, 503 (Fla. App. 2019) quoting Florida Statutes § 120.54(1) & *Friends of Hatchineha, Inc. v. State, Dep't of Envtl. Regulation*, 580 So.2d 267, 271 (Fla. 1st DCA 1991). "[T]he purpose of rule-making is to govern the future conduct of groups and individuals[.]" *Pila a 400, LLC v. Bd. of Land & Nat. Res.*, 132 Hawai i 247, 264, 320 P.3d 912, 929 (2014).

Whether or not DLNR has a written description of the DLNR chairperson's ability to issue condition revisions is of no consequence to whether the chair operated under an unlawful rule. *See Nuuanu Valley Ass'n v. City of Honolulu*, 119 Hawai'i 90, 99-100, 194 P.3d 531, 540-41 (2008) (city's unwritten policy of refusing to disclose records under circumstances was a rule and not "internal management" because the policy "affects the procedures available to the public, and implements, interprets, or prescribes policy, or describes the procedure or practice requirements of" the city); *Hawai'i Prince Hotel Waikiki Corp.* v. *City & County of Honolulu*, 89 Hawai'i 381, 393, 974 P.2d 21, 33 (1999) (a city appraiser's methodology was held "clearly a 'rule' within the meaning of HRS § 91-1(4)" because it was based on the appraiser's interpretation of ordinances and would "undoubtedly affect[] the assessed value of" existing and future properties), *declined to overrule in Alford v. City & County of Honolulu*, 109 Hawai'i 14, 122 P.3d 809 (2005).

The Chair's summary approval of UHH's "notice of initiation" operated under an unlawful rule for failure to have been properly promulgated under HRS § 91-3 procedures. The Mauna Kea Hui pray this Board strike the Chair's approval as having been exercised under unlawful rules. UHH's de facto request

for revision of permit conditions should be brought before the Board as part of contested case proceedings or, at minimum, through a request for a second time extension to comply with permit conditions.

D. <u>UHH failed to submit supportive documentation establishing it initiated work on the land or construction of the TMT.</u>

Extensions of time to initiate UHH's project were require to be "based on supportive documentation from the applicant." HAR §13-5-43(b). Documents submitted by UHH consisted in a three page letter that rather established UHH previously conceded its actions did not constitute initiation of work on the land or TMT construction and constituted unpermitted removal of structures in the conservation district. Exh. 03. UHH's submissions are deficient to meet requirements of the rule and the DLNR chairperson clearly exceeded her authority in approving UHH's request. *Id.* at 3.

IV. Alternative relief in the form of declaratory orders requested

Should the Board seek an alternative ground for granting requested relief, Mauna Kea Hui seeks declaratory orders stating UHH has not initiated construction so as to comply with Condition No. 4. The Board is empowered to grant declaratory orders. HRS §91-8.

The Mauna Kea Hui is represented by co-counsel, whose names, addresses, and telephone numbers are provided above. HAR § 13-1-27(b)(1). Petitioners are parties with legal rights and interests described *supra* Part I, and are submitting this petition to enforce Condition No. 4 of the permit. *Id.*(b)(2).

In question are the DLNR chairperson's approval of UHH's April 28, 2021 request for confirmation of its notice of initiation and the application of HAR §13-5-43(b) (time extensions) and HAR §13-5-42(a)(8) (standard conditions), as set forth *supra* Part III; and that the DLNR chair's approval of UHH's request for permit condition revisions constituted a "rule" that is required to be promulgated under procedures set forth by HRS §91-3, as set forth *supra* Part IV. HAR § 13-1-27(b)(3). Parts III and IV *supra* in this memorandum of authorities also set forth Petitioner's positions on the correct interpretation and application of these rules and authorities to the facts before the Board. HAR § 13-1-27(b)(4), (5). Finally, each petitioner's signature is affixed below:

KEALOHA PISCIOTTA, President
MAUNA KEA ANAINA HOU, Petitioner

PAUL NEVES, Petitioner

CLARENCE KŪKAUAKAHI CHING, Petitioner

J. Muneoka

SHELLEY MUNEOKA, Treasurer, KAHEA: THE HAWAIIAN-ENVIRONMENTAL ALLIANCE, Petitioner Deborah Ward_

DEBORAH J. WARD, Petitioner

V. Conclusion

For the foregoing reasons, the Mauna Kea Hui requests this Board reopen its contested case hearings for the limited purpose of hearing and deciding this motion to confirm UHH's noncompliance with Condition No. 4, or in the alternative, entering declaratory orders confirming the same.

DATED: Honolulu, Hawai'i May 24, 2021

/s/ Richard Naiwieha Wurdeman RICHARD NAIWIEHA WURDEMAN ATTORNEY AT LAW, A LAW CORPORATION

Branca Isali

LAW OFFICE OF BIANCA ISAKI BIANCA ISAKI Attorneys for the Mauna Kea Hui

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

In the Matter of:)	Case No. BLNR-CC-16-002
)	
A Contested Case Hearing Re Conservation District)	DECLARATION OF CLARENCE
Use Permit (CDUP) HA-3568 for the Thirty Meter)	KUKAUAKAHI CHING
Telescope at the Mauna Kea Science Reserve, Kaohe)	
Mauka, Hamakua District, Island of Hawai'i, TMK)	
(3) 4-4-015:009)	
)	

DECLARATION OF CLARENCE KUKAUAKAHI CHING

- I, CLARENCE KUKAUAKAHI CHING, declare under penalty of law that the following is true and correct.
- 1. I am a member of the Mauna Kea Hui, which includes MAUNA KEA ANAINA HOU, KEALOHA PISCIOTTA; CLARENCE KUKAUAKAHI CHING; DEBORAH J. WARD; PAUL K. NEVES; and KAHEA: THE HAWAIIAN-ENVIRONMENTAL ALLIANCE in the above entitled proceedings.
- 2. Attached as Exhibit "01" is a true and correct copy of the letter from Bonnie Irwin, Chancellor of the University of Hawai'i at Hilo, to Suzanne Case, Chair of the Board of Land and Natural Resources, dated July 30, 2019, requesting a two year extension of time to comply with Standard Condition No. 4 of the permit, which was obtained from the DLNR Office of Conservation and Coastal Lands (OCCL) online file repository available at: https://dlnr.hawaii.gov/occl/files/2019/08/Extension-HA-20-04.pdf?fbclid=IwAR2JXP_ht-juyKcvJLXHMHYGEe2o07r-7Uy_My7INelh_FgHu3BXP41LFiE
- 3. Attached as Exhibit "02" is a true and correct copy of the letter from Suzanne Case, Chair of the Board of Land and Natural Resources, to Bonnie Irwin, Chancellor of the University of Hawai'i at Hilo (UHH), dated July 30, 2019, granting the latter's two year extension of time to comply with Standard Condition No. 4 of the permit, which letter was also obtained from the OCCL online file repository.
- 4. Attached as Exhibit "03" is a true and correct copy of the letter UHH wrote to the OCCL Administrator to notify him of "initiation of work and/ or construction" for the TMT in compliance with General Condition No. 4, dated April 28, 2021, obtained from the OCCL online file repository *available at*: https://dlnr.hawaii.gov/occl/files/2021/05/3568-TMT-Notice-of-start-of-construction-May-2021.pdf?fbclid=IwAR1pWFJLjbLkguhUfVGmRh_oF98HLMq_OX5bgOTsQSaAuhwb47TBICRnHxg.
 - 5. Attached as Exhibit "04" is a true and correct copy of the National Science Foundation's

Statement on U.S. Extremely Large Telescope program proposals, published on August 13, 2020 available at: https://www.nsf.gov/news/news_summ.jsp?cntn_id=301034

- 6. Attached as Exhibit "05" is a true and correct copy of the Associated Press news article titled, "Science foundation discusses funding giant Hawaii telescope," published on August 21, 2020 available at: https://apnews.com/article/technology-hi-state-wire-business-travel-us-news-dafc755bda17dcb5d78f2f7f14b7894c
- 7. Attached as Exhibit "06" is a true and correct copy of the December 2020, DLNR "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Plan" *available at:* https://dlnr.hawaii.gov/occl/files/2020/12/Kuiwalu-Report.pdf.
- 8. Attached as Exhibit "07" is a true and correct copy of "Commending CASCA's Decision Not to Support TMT Without Native Hawaiian Consent," (accessed May 19, 2021) available at: https://kanaeokana.net/noconsent.
- 9. Construction of ahu, including and especially those that are unpermitted, are evidence of ongoing and vibrant traditional and cultural practices that have not been adequately addressed or protected under the current permit.
- 10. The thriving of Hawaiian cultural practice has given rise to expanded awareness and activity on Mauna Kea that includes constructing ahu and protection of these lands as part of a sacred trust.
- 11. Additionally, many traditional and customary practitioners either do not recognize permit requirements for their religious practices or lack the ability to obtain special use permits or conservation district use permits for land uses under HAR §13-5-2.
- 12. The fact that many thousands of people seeking to express their opposition to further construction on Mauna Kea in 2019 was not before the Board when it issued its 2017 Order.
- 13. During the 2021 legislative session, the Hawai'i state House of Representatives assembled a working group to revisit the propriety of UHH's management of Mauna Kea under House Resolution No. 33.
- 14. Project proponents apparently lack \$1 billion in funding to construct the TMT and have sought to make up their shortfall through public funding, specifically from the National Science Foundation (NSF). Even if the NSF provides such funding, the TMT would have to conduct federal permitting processes such as National Environmental Policy Act environmental review and National Historic Preservation Act section 106 consultation that could span several years.
 - 15. More recently, the Canadian Astronomical Association (CASCA) issued the following

statement: "Unless the TMT project has consent from the Native Hawaiians, Canada's astronomical community cannot support its construction on Maunakea." There is now the potential loss of support from the Canadian partner in the project that pivots on TMT project proponents' failure to have sought and obtained consent.

16. In December 2020, DLNR presented an "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Plan" that found the University's management entity had not implemented the plan in three areas, including consultation, education, and outreach to the community and Hawaiian cultural practitioners in particular.

DECLARANT FURTHER SAYETH NAUGHT

DATED: Kamuela, Hawai'i May 21, 2021

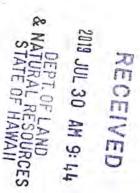
Clarence Ching

CLARENCE KUKAUAKAHI CHING DECLARANT



July 30, 2019

Ms. Suzanne Case Chairperson Board of Land and Natural Resources Kalanimoku Building 1151 Punchbowl Street, Room 130 Honolulu, Hawai'i 96813



Subject:

Request for Extension of Time for General Condition No. 4 of Conservation District Use Permit (CDUP) HA-3568 (Thirty Meter Telescope) at the Mauna Kea Science Reserve, Ka'ohe Mauka, Hamakua, Hawai'i; TMK (3) 4-4-015:009

Dear Chairperson Case:

As you are aware, the University of Hawai'i ("UH") is the permittee with respect to Conservation District Use Permit ("CDUP") HA-3568, which the Board of Land and Natural Resources ("BLNR") issued on September 28, 2017 for the Thirty Meter Telescope (the "TMT Project").

General Condition No. 4 of the CDUP ("General Condition No. 4") states that:

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[.]

Although BLNR issued its decision and order ("D&O") approving the CDUP on September 28, 2017, BLNR (as evidenced by the certificate of service attached to the D&O) served the requisite certified copy of the D&O upon the parties via U.S. mail on October 4, 2017. See HAR § 13-1-38 (providing that "[d]ecisions and orders shall be served by mailing certified copies thereof to each party at the party's address of record"). By operation of HAR §13-1-13.2, "[w]henever a person has the right or is required to do some act within a prescribed period after the service of a document upon the person and the document is served by mail, two days shall be added to the prescribed period."

Exhibit B
Minute Order 1

EXHIBIT "01"

200 W. Kāwili St. Hilo, Hawai'i 96720-4091 Telephone: (808) 932-7348 Fax: (808) 932-7338 hilo.hawaii.edu

An Equal Opportunity/Affirmative Action Institution Exhibits page 97

In addition, HAR § 13-1-13 provides that the computation of time for BLNR's Rules of Practice and Procedure is governed by Hawaii Revised Statutes ("HRS") § 1-29. In turn HRS § 1-29 provides in relevant part that: "The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a Sunday or holiday and then it is also excluded."

Applying the foregoing, UH understands that the deadline to "initiate[]" any "work" or "construction" on the permitted land (the TMT Project site) pursuant to General Condition No. 4 is currently Monday, October 7, 2019 (i.e., two calendar years after service of the certified copy of the D&O on October 4, 2017, plus two additional calendar days by operation of HAR § 13-1-13.2 because the certified copy was sent via U.S. mail, plus one additional day pursuant to HAR § 13-1-13 and HRS § 1-29 because October 6, 2019 is a Sunday). For the avoidance of doubt, UH respectfully requests BLNR's confirmation of the current deadline, whether it is October 7, 2019, or another date.

As described below, and based on information provided by TMT International Observatory LLC ("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 that the two year deadline prescribed by General Condition No. 4 has been met. Without waiving the foregoing, and given the current limitations on access to the site, however, TIO has asked that UH request, out of an abundance of caution, a two-year extension of the current deadline to initiate construction, which by our calculation would extend the deadline to, and including, October 7, 2021. This letter constitutes UH's request for such an extension.

UH's request is governed by HAR § 13-5-43(a) and (b), which provide:

§13-5-43 Time extensions. (a) Permittees may request time extensions for the purpose of extending the period of time to comply with the conditions of a permit.

(b) Time extensions may be granted as determined by the chairperson on all departmental permits and on the first request for extension of a board permit of up to two years to initiate or complete a project, based on supportive documentation from the applicant.²

The CDUP is a "board permit" because it is "a permit approved by the board of land and natural resources." See HAR § 13-5-2. This is UH's first request for an extension

¹ See letter of July 29, 2019, from J. Douglas Ing to Carrie Okinaga, attached hereto as Attachment 1.

² The various documents related to the legal challenges and eventual granting of the CDUP, referred to in this letter (most if not all of which are part of DLNR's records), and Attachment 1 hereto provide supportive documentation Exhibit B related to this request

of time "to initiate" the "project," and thus pursuant to HAR § 13-5-43(b), the BLNR chairperson has the authority to consider and grant the extension for up to two years.

UH believes that this request for an extension of the two year deadline is reasonable and appropriate under the circumstances, and that good cause exists to grant the extension.

As BLNR is aware, following the issuance of the CDUP on September 28, 2017, the petitioners and interveners in the underlying contested case hearing (collectively, the "Petitioners") filed various appeals of BLNR's D&O granting the CDUP with the Hawai'i Supreme Court. Despite the court's expedited consideration of the appeals, the appellate process extended for over a year after the issuance of the CDUP. More specifically, following a lengthy briefing process, in which Petitioners filed several procedural motions and extensions to file their briefs, the briefing in the principal appeals was completed on May 3, 2018. The Hawai'i Supreme Court heard oral argument on the appeals on June 21, 2018 and issued the opinion of the court affirming the D&O on October 30, 2018. Following the Petitioners' motions for reconsideration, the Supreme Court issued amended opinions on November 30, 2018, and its judgments on appeal on December 26, 2018.

Following the affirmance of the CDUP, UH understands that TIO accelerated its preparation to resume construction, including working diligently with the Office of Maunakea Management ("OMKM") and the Department of Land and Natural Resources ("DLNR") to fulfill compliance requirements; applying to government agencies to secure the permits necessary to resume construction; and preparing for access to the site.

Among other communications and meetings, the civil construction package for the TMT Project was submitted to DLNR for review on February 4, 2019 pursuant to General Condition No. 5 of the CDUP, which requires the submission of "construction and grading plans and specifications" for the project to DLNR "for approval for consistency with the conditions of the permit and the declarations set forth in the permit application." Thereafter, staff from DLNR's Office of Conservation and Coastal Lands ("OCCL") met with TIO's design team on March 11, 2019 to review and discuss the civil construction package and other construction documents.

On April 8, 2019, pursuant to Special Condition No. 32 of the CDUP (which provides, *inter alia*, that DLNR will issue a notice to proceed once it "demonstrates [to DLNR] compliance with the preconstruction conditions and mitigation measures contained in the decision"), UH requested a notice to proceed from DLNR. In its request, UH informed DLNR that UH had received a notice from TIO indicating its intent to initiate construction and that OMKM "is satisfied that the TMT project has complied with all the pre-construction conditions and mitigation measures related to the start of construction for the Phase I, Civil Package."

Concurrently with the foregoing, UH understands that TIO worked diligently to obtain, renew or extend all other government permits necessary to resume construction, and Exhibit B

that the last such permit necessary to proceed, the grading and stockpiling permit, was issued on May 31, 2019.

On June 19, 2019, DLNR issued the Notice to Proceed for the TMT Project, stating that "[b]ased on review of the information [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."

UH is aware that TIO planned, and was ready and able, to begin moving its heavy construction equipment to the TMT Project site during the week of July 15, 2019. As BLNR is aware, however, TIO was unable to move the equipment to the site due to ongoing demonstrations at the Daniel K. Inouye Highway and Mauna Kea Access Road, which, to date, are continuing.

Although, due to circumstances beyond TIO's and UH's control, TIO has not been able to move its heavy construction equipment to the TMT Project site to date, UH reasonably believes that TIO has initiated "work" and/or "construction" at the site as of the date of this letter. As reported by TIO, the work at the TMT Project site following the issuance of the Notice to Proceed through the date of this letter has included among other things the following:

- June 25, 2019 Goodfellow Bros. Inc. ("GBI") and M3
 Construction Management ("M3") 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 to the
 telescope operations; and
- July 12, 2019 To mitigate the risk of damaging the SMA fiber optics, GBI, M3 and SMA representatives located and surveyed the underground fiber optic and electrical lines in preparation of mobilizing the heavy equipment to the project site.

Given the foregoing as reported by TIO, UH believes that these activities at the TMT Project site to date are reasonably sufficient to meet the provision of General Condition No. 4 that "[a]ny work done or construction to be done on the land shall be initiated within two (2) years of the approval of such use[.]"

Without waiver of the foregoing position, having consulted with TIO, and out of an abundance of caution, however, UH formally requests a two-year extension of the construction commencement deadline provision in General Condition No. 4. As described in detail above, circumstances beyond UH's and TIO's control, including an

appellate process that took over a year to conclude and the current demonstrations preventing access to the site, have all substantially delayed TIO's efforts to move its heavy equipment to the site and continue substantial construction activities. As also noted above, TIO has been diligent and timely in its efforts to resume construction, and has worked cooperatively and expeditiously with OMKM, DLNR and other government agencies to obtain the Notice to Proceed and all other required permits to construct the TMT Project at the site. In short, UH believes that TIO has demonstrated, and has acted in, good faith in its substantial efforts to timely move this project forward.

Based the foregoing, UH respectfully requests, pursuant to HAR § 13-5-43(a) and (b), that this request for an extension of time be granted, and that the deadline prescribed by General Condition No. 4 of CDUP HA-3568 to initiate work or construction at the TMT Project site be formally extended to, and including, October 7, 2021.

Thank you for your attention to this matter, and please contact me with any questions.

Sincerely yours,

Gariah-Mani Jomes
Bonnie D. Irwin

Chancellor

c: Office of Maunakea Management TMT International Observatory LLC

ATTACHMENT 1



July 29, 2019

VIA EMAIL

Carrie Okinaga, Esq.
Vice President for Legal Affairs
University General Counsel
University of Hawaii
2444 Dole Street
Bachman Hall 110
Honolulu, Hawaii 96822

Re: Request for Extension of Time for General Condition No. 4 of Conservation District Use Permit (CDUP) HA-3568 (Thirty Meter Telescope) at the Mauna Kea Science Reserve, Ka'ohc Mauka, Hamakua, Hawai'i; TMK (3) 4-4-015:009

Dear Ms. Okinaga:

As you are aware, the University of Hawaii ("UH") is the permittee with respect to Conservation District Use Permit ("CDUP") HA-3568, which the Board of Land and Natural Resources ("BLNR") issued on September 28, 2017 for the Thirty Meter Telescope project (the "TMT Project").

General Condition No. 4 of the CDUP provides, among other requirements, that "[a]ny work done or construction to be done on the land shall be initiated within two (2) years of the approval of such use[.]" By operation of the applicable administrative rules, TMT International Observatory LLC ("TIO") understands that the current deadline to "initiate" the work or construction at the TMT Project site is October 7, 2019.

TIO has worked expeditiously and diligently to meet the deadline to commence work at the TMT Project site, including working cooperatively with Office of Maunakea Management and the Department of Land and Natural Resources to obtain the Notice to Proceed and timely obtaining all other necessary permits required to resume construction. TIO also believes that, since the issuance of the Notice to Proceed, it has in fact "initiated" "work" and/or "construction" at the TMT Project site through various activities at the site, including the removal of unpermitted ahu, and by conducting various site surveys. That said, given

Carrie Okinaga, Esq. July 29, 2019 Page 2

circumstances beyond TIO's control (including a lengthy appellate process and the current situation involving protestors blocking access to the site), TIO's heavy equipment access to the site has been substantially delayed.

Given the foregoing, and out of an abundance of caution, TIO respectfully requests that UH request that the chairperson of the Board of Land and Natural Resources formally extend the deadline in General Condition No. 4 by a period of two years, or until October 7, 2021. While TIO does not waive, and expressly preserves, its position that work has been initiated in compliance with the deadline in General Condition No. 4, TIO believes that a formal extension of the deadline will allow the parties to appropriately focus on other matters required to move this project forward.

Thank you for your attention to this matter, and please contact me with any questions.

Very truly yours,

WATANABE ING LLP

J. DOUGLAS ING

cc:

Edward Stone
Gary Sanders
Office of Mauna Kea Management
Gary Takeuchi

731693

DAVID V. IGE





STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

OFFICE OF CONSERVATION AND COASTAL LANDS POST OFFICE BOX 621 HONOLULU, HAWAII 96809

ref:OCCL:MC

Bonnie D. Irwin, Chancellor Office of the Chancellor University of Hawai'i at Hilo 200 W. Kāwili Street Hilo, HI 96720-4091

JUL 3 0 2019

Extension HA-20-04

SUZANNE D. CASE CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA

M. KALEO MANUEL DEPUTY DIRECTOR - WATER

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

STATE PARKS

Dear Ms. Irwin,

SUBJECT:

EXTENSION OF PROCESSING DEADLINES: Conservation District Use Permit (CDUP) HA-3568

Thirty Meter Telescope (TMT)

Mauna Kea Science Reserve, Ka'ohe Mauka, Hāmakua District, Hawai'i

Tax Map Key (TMK) parcel (3) 4-4-015:009

The Department of Land and Natural Resources (DLNR) has reviewed your request for a two-year extension on the construction deadlines contained in Conservation District Use Permit (CDUP) HA-3568 regarding the Thirty Meter Telescope on the above subject parcel.

The permit was approved by the Board of Land and Natural Resources via a Decision and Order on September 27, 2017. Pursuant to General Condition 4 of the CDUP:

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.

On June 19, 2019 DLNR's Office of Conservation and Coastal Lands (OCCL) approved the Civil Package construction plans, and the Department issued TMT a Notice to Proceed with construction.

On July 30, 2019 the University notified the Department that the following work has been conducted since the Notice to Proceed was issued:

- On June 25, 2019 contractors met at the project site to test GPS equipment and to verify the benchmark locations and coordinates with the existing site survey.
- On the same date a partial survey of the access road was completed.
- On July 12, 2019 contractors met with representatives from the Smithsonian Submillimeter Array (SMA) to locate and survey the SMA fiber optics and electric lines in order to mitigate the risk of damage to the cables when heavy equipment is mobilized at the site.



During the week of July 15, 2019, the permittee attempted to move construction equipment to the project site; however, the permittee was unable to access the site due to on-going demonstrations along the Daniel K. Inouye Highway and the Mauana Kea Access Road.

The University is requesting a two-year extension to the initiation deadline contained in CDUP HA-3568 for two reasons:

- 1. Construction was delayed for thirteen months after the Board issued their Decision and Order while the permit went through the appellate process; the permit was finally upheld by the Supreme Court of the State of Hawai'i on October 30, 2018; and
- 2. Demonstrations along the access road to the summit of Mauna Kea have prevented construction crews from accessing the site.

Extension Request

A two year-extension of the permit conditions would give a new initiation deadline of September 26, 2021.

Discussion

The authority to grant time extensions on this permit lies with the Chair of the Board of Land and Natural Resources, pursuant to Hawai'i Administrative Rules (HAR) § 13-5-43 Time Extensions (a) Permittees may request time extensions for the purpose of extending the period of time to comply with the conditions of the permit, and (b) Time extensions may be granted as determined by the chairperson on all departmental permits and on the first request for an extension of a board permit of up to two years to imitate or complete a project, based on supportive documentation from the applicant.

The University has submitted documentation that shows that they have made a good faith effort to comply with the deadlines contained in the permit, and the Department has no objections to issuing the requested time extension.

Decision

The deadline to initiate construction set forth in General Condition 4 of Conservation District Use Permit (CDUP) HA-3568 for the Thirty Meter Telescope at the Mauna Kea Science Reserve, Ka'ohe Mauka, Hāmakua District, Hawai'i, TMK (3) 4-4-015:009 is extended to September 26, 2021.

Sincerely

cre Q Case SUZANNE D. CASE, Chairperson

Board of Land and Natural Resources



2021 WAY -3 2 12: 19

NATURAL PESUURCES STATE OF MANAIL

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

EXHIBIT "03"

200 W. Kāwili St. Hīlo, Hawai'i 96720-4091 Telephone: (808) 932-7348 Fax; (808) 932-7338 hilo hawaii edu

Exhibit B

Mr. Samuel Lemmo April 28, 2021 Page 2

[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. 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

Mr. Samuel Lemmo April 28, 2021 Page 3

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

19

REFERENCE NO.

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

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 Exhibit Beneral Condition No. 4." Id.

Minute Order 1





NSF statement on U.S. Extremely Large Telescope program proposals

August 13, 2020

Due to Privacy Act restrictions, NSF typically cannot identify the organizations or associated details of funding proposals it receives. However, three organizations publicly disclosed their submission of proposals to NSF for planning and design of a U.S. Extremely Large Telescope program. NSF can, therefore, confirm receipt of proposals from the organizations developing the Giant Magellan Telescope (GMT), the Thirty Meter Telescope (TMT), and NSF's NOIRLab (a federally funded research and development center).

NSF understands that potential construction of TMT on Maunakea is a sensitive issue and plans to engage in early and informal outreach efforts with stakeholders, including Native Hawaiians, to listen to and seek an understanding of their viewpoints. If NSF ultimately initiates a formal federal environmental review process, this advance outreach would serve as a precursor to it.

NSF's receipt of a proposal and its initiation of an informal outreach effort are not reflective of NSF's position regarding any project. To request a discussion with NSF related to Maunakea and potential NSF involvement in the TMT project, please contact us by e-mail at: AST-MK@nsf.gov (mailto:AST-MK@nsf.gov).

The U.S. National Science Foundation propels the nation forward by advancing fundamental research in all fields of science and engineering. NSF supports research and people by providing facilities, instruments and funding to support their ingenuity and sustain the U.S. as a global leader in research and innovation. With a fiscal year 2021 budget of \$8.5 billion, NSF funds reach all 50 states through grants to nearly 2,000 colleges, universities and institutions. Each year, NSF receives more than 40,000 competitive proposals and makes about 11,000 new awards. Those awards include support for cooperative research with industry, Arctic and Antarctic research and operations, and U.S. participation in international scientific efforts.

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Science foundation discusses funding giant Hawaii telescope

August 21, 2020



Exhibit B Minute Order 1 HONOLULU (AP) — The National Science Foundation has launched an informal outreach to Hawaii about possible funding efforts for the stalled Thirty Meter Telescope project.

The effort by the nation's top funder of basic research could lead to a huge influx of cash for the astronomy

EXHIBIT "05"

Thursday.

Funding efforts could also trigger a regulatory process adding two years or more to a construction timeline that is far behind schedule. The project recently announced the start of construction was delayed until spring.

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The foundation said in a statement it plans to reach out to "stakeholders, including Native Hawaiians," to understand their viewpoints.

Protesters blocked the 6.27-mile (10-kilometer) access road to the summit of Mauna Kea, Hawaii's tallest mountain, in a demonstration against the project from July through December 2019. Telescope opponents said the project would desecrate land considered sacred by some Native Hawaiians.

The foundation said its outreach would serve as a precursor to a formal federal environmental review process.

The Thirty Meter Telescope project has teamed with the Giant Magellan Telescope planned in Chile and the U.S. National Optical-Infrared Astronomy Research Laboratory to propose the U.S. Extremely Large Telescope Program.

The partnership, which is partly an effort to obtain additional funding, proposes to offer U.S. astronomers complete viewing coverage of the skies in the Northern and Southern hemispheres.

Thirty Meter Telescope officials recently submitted a planning and design proposal to the science foundation aimed at obtaining major funding for \$1 billion added to the project's cost due to construction delays, inflation and other factors.

Under the proposal, the foundation would contribute \$850 million each to the Thirty Meter Telescope and the Giant Magellan Telescope.

Exhibit B Minute Order 1

Funding approval would trigger the creation of a federal environmental impact statement and National Historic Preservation Act Section 106 consultation, a process of two years or more.

"It will lead to very significant outreach, another opportunity to listen and learn and a renewed

Science foundation discusses funding giant ...

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Santa Cruz astronomy professor and Thirty Meter Telescope board member, said last month.

Kealoha Pisciotta, leader of the Mauna Kea Hui group that opposes the telescope, said her group and others are prepared to challenge federal environmental documents.

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INDEPENDENT EVALUATION OF THE IMPLEMENTATION OF THE MAUNA KEA COMPREHENSIVE MANAGEMENT PLAN

Prepared for Department of Land and Natural Resources

By Kuʻiwalu

December 2020

EXHIBIT "06"

Exhibit B
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EXECUTIVE SUMMARY

It has been over ten (10) years since the approval of the Mauna Kea Comprehensive Management Plan (CMP), ¹ and the emotions related to Mauna Kea have not diminished but, to the contrary, have intensified and polarized the community. We recognize that the current issues related to Mauna Kea, in particular the construction of the Thirty Meter Telescope (TMT), is a contentious issue. To be very clear, this Report is not for or about TMT. The purpose of this Report is to provide the Department of Land and Natural Resources (DLNR) an independent evaluation of the University of Hawai'i (UH), specifically the Office of Mauna Kea Management's (OMKM), implementation of the CMP management actions contained in Section 7 of the CMP and the public input on how effective UH is managing Mauna Kea. This Report is intended to be a resource to DLNR and the Board of Land and Natural Resources (BLNR) as it reviews UH's current and potential future management of the state conservation lands at Mauna Kea.

Gathering and incorporating public input into the evaluation process was a critical component of this Report. Due to the COVID-19 restrictions, we were challenged with providing an appropriate venue for the public and stakeholders to, (1) get current and accurate information about the management actions (MA) UH is required to implement under the CMP, and (2) provide a transparent and fair opportunity for public input into the UH's implementation of the CMP. We assembled a comprehensive range of tools to provide information and to solicit public input, from email updates, virtual public meetings, dedicated website, and a Facebook page, to small virtual talk story sessions. Throughout the evaluation process, we engaged almost 500 individuals and organizations. We recognize that we may not have heard from everyone, but we believe the range and interests of the participants is reflective of the general public and stakeholders in Mauna Kea.

The Report consists of three assessments. First, OMKM's self-assessment of their implementation of the CMP. Second, the public's assessment, based upon the comments we received. And third, the independent evaluation utilizing the logic model approach that took into consideration UH's self-assessment, the public input, the timeliness of OMKM's implementation of MAs, and whether UH's implementation of the 103 MAs achieved the desired outcomes as set forth in the CMP.

With respect to UH's self-assessment, the OMKM 2020 Annual Report to the Board of Land and Natural Resources, Status of the Implementation of the Mauna Kea Comprehensive Management Plan (OMKM 2020 Annual Report to BLNR) essentially concludes that "most management actions have either been

i

Mauna Kea Comprehensive Management Plan for the UH Management Areas, April 2009 (hereinafter CMP), Executive Summary, page v.

implemented or are in progress." For the most part, the UH Management Entities² believe they have made considerable progress in effectively implementing the CMP MAs and are, in fact, better managing and protecting the cultural and natural resources. However, there is a difference of opinion between UH-Hilo Management Entities (UH-Hilo Entities)³ and the larger UH System with respect to the public's perception of how effective OMKM is in managing the state conservation lands at Mauna Kea. Accordingly, "in response to past criticisms" the UH Board of Regents (BOR) adopted Resolution 19-03 to take timely action to comply with the management plans, including cultural education and community outreach, decommissioning, and reorganization and restructuring the UH governance structure in their management of Mauna Kea.

The public's assessment of how effectively UH has implemented the CMP has primarily varied depending on whether they are in favor or opposition of telescope development on Mauna Kea. Those who support existing and future telescope development on Mauna Kea believe that OMKM has adequately implemented the CMP MAs to preserve and protect the cultural and natural resources on Mauna Kea. For those who do not support continued telescope development on Mauna Kea beyond 2033, the expiration of the existing state lease, they believe that UH continues to mismanage Mauna Kea as concluded in the 1998 State Auditor's Report. In particular, those in opposition believe that UH continues to advocate telescope development over the protection and preservation of the resources.

Finally, the independent evaluation found that OMKM has made progress in implementing most of the CMP MAs, and in many regards OMKM is effectively managing the activities and uses on Mauna Kea to better protect the natural and cultural resources. We heard many comments that the cultural and natural resources on the state conservation lands on Mauna Kea are some of the best managed and protected lands in the entire State. The area is clear of trash, the invasive species are being removed not only by OMKM but volunteer groups, and the OMKM Rangers to ensure public safety on Mauna Kea.

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[&]quot;UH Management Entities" include the UH Board of Regents (BOR), UH President, Institute for Astronomy (IfA), Executive Director of Maunakea Stewardship, UH Hilo Chancellor, Mauna Kea Management Board (MKMB), OMKM, Kahu Ku Mauna (KKM) and OMKM Rangers.

UH-Hilo Management Entities (UH-Hilo Entities) include UH-Hilo Chancellor, MKMB, OMKM, KKM, and OMKM Rangers.

UH BOR Resolution 19-03, Adopted November 6, 2019, Amended, July 1, 2020 (BOR Resolution 19-03).

However, the independent evaluation also found that OMKM has not effectively implemented the CMP in three major areas. First, the adoption of the administrative rules was untimely. In 2009, the same year that the CMP was approved, UH obtained legislative authorization to adopt administrative rules to manage the activities on Mauna Kea to ensure the protection of the resources. However, the rules did not become effective until 2020. UH's failure to timely adopt administrative rules has limited their ability to manage public access and regulate commercial activities, essentially hampering their ability to protect the resources and public health and safety on Mauna Kea.

Second, members of the Native Hawaiian community, both those who oppose and support UH's management of Mauna Kea, were not consulted on matters related to cultural and resources issues. The CMP specifically identifies the Native Hawaiian stakeholders to include families with cultural and lineal connections to Mauna Kea, Kūpuna, cultural practitioners, the Office of Hawaiian Affairs and other Native Hawaiian groups. Representatives from these stakeholder groups have consistently commented that they were not consulted by OMKM on cultural issues, including removal of family shrines, stacking of Pōhaku, and identification of cultural sites.

Third, OMKM did not effectively engage with the community, in particular, members of the Native Hawaiian community, on education and outreach efforts, including decision-making process related to the management of Mauna Kea. Many Native Hawaiians on Hawaii Island feel disengaged and disrespected by OMKM. In particular, there is an absence of genuine consultation with the Native Hawaiian community that has resulted in greater mistrust of UH. Even with the Native Hawaiian constituency who strongly support OMKM and telescope development, OMKM has not taken the opportunity to involve them in their community outreach efforts.

Unfortunately, these inadequacies by OMKM have overshadowed their progress in the otherwise effective implementation of many of the CMP MAs.

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ACRONYMS

ACT Activities and Uses (Comprehensive Management Plan Management

Action)

AR Astronomical Resources (CMP MA) Board of Land and Natural Resources BLNR

BOR **Board of Regents**

C Construction Guidelines (CMP MA) Conservation District Use Application **CDUA** Conservation District Use Permit **CDUP** Cultural Impact Assessment CIA

Mauna Kea Comprehensive Management Plan CMP

CR Cultural Resources (CMP MA)

Department of Hawaiian Home Lands, State of Hawaiii DHHL Department of Land and Natural Resources, State of Hawai'i DLNR **DOCARE** Division of Conservation and Resource Enforcement, DLNR

Division of Forestry and Wildlife, DLNR DOFAW

EΑ **Environmental Assessment** EIS **Environmental Impact Statement** ΕO Education and Outreach (CMP MA)

FLU Future Land Use (CMP MA) Hawai'i Administrative Rules HAR HRS Hawai'i Revised Statutes lfΑ Institute for Astronomy, UH

Infrastructure and Maintenance (CMP MA) IM

KKM Kahu Ku Mauna MA Management Action

MCP Management Component Plan

Monitoring, Evaluation and Updates (CMP MA) MEU

Mauna Kea Management Board **MKMB**

MKSS Mauna Kea Observatories Support Services

NAR Natural Area Reserve, DLNR NHO Native Hawaiian Organization Natural Resources (CMP MA) NR National Register of Historic Places NRHP

NSF National Science Foundation

OCCL Office of Conservation and Coastal Lands, DLNR

OFOC Office of Environmental Quality Control

OHA Office of Hawaiian Affairs

Operations and Implementation (CMP MA) OI Office of Mauna Kea Management, UH **OMKM**

Operations, Monitoring, and Maintenance Plan **OMMP**

Р Permitting and Enforcement (CMP MA) SHPD State Historic Preservation Division, DLNR

Site Recycling, Decommissioning, Demolition and Restoration (CMP SR

MA)

TCP Traditional Cultural Property TMT Thirty Meter Telescope UH University of Hawai'i University of Hawai'i at Hilo **UH-Hilo**

Exhibit B

Minute Order 1

INTRODUCTION

In 1968, BLNR issued a 65-year General Lease No. S-4191 to UH for approximately 11,288 acres of state conservation lands. Of the 11,288 acres, approximately 525 acres is designated as the Astronomy Precinct and the remaining 10,763 acres is designated as Natural and Cultural Preservation Area. The state lease will expire in 2033. UH has indicated that it intends to seek a new lease with BLNR for the 11,288 acres currently under General Lease No. S-4191 and 19 acres known at Hale Pōhaku under General Lease No. S-5529.6

Over ten years ago in 2009, Kuʻiwalu Consulting and its Project Team, ⁷ developed the CMP for the UH Management Areas. ⁸ The CMP MA related to Monitoring, Evaluation, and Updates MEU-1, ⁹ requires UH, through OMKM, to produce annual progress reports describing in detail the management goals, objectives, and actions for the year and what progress was made towards meeting them. In August 2020 we received from UH, the OMKM 2020 Annual Report to BLNR. In addition to annual progress reports, MEU-1 requires OMKM to prepare Five-Year Outcome Analysis Reports that describes the status of the various management programs, progress towards meeting CMP goals, and other relevant information. OMKM is in the process of completing its first five-year review.

Since OMKM will be submitting its first Five-Year Progress Report and UH has announced its intent to file an EIS for a new state lease, DLNR sought an independent evaluation of UH's current management of Mauna Kea under the CMP. More specifically, DLNR sought an independent evaluation of not only UH's implementation of the CMP but also UH's adherence to the CMP and the effectiveness of its management strategies and governance structures in preserving and protecting the valuable cultural and natural resources on the state conservation lands.

Exhibit B Minute Order 1

The Astronomy Precinct and Natural and Cultural Preservation Area were designated by UH in its 2000 Mauna Kea Science Reserve Master Plan (Master Plan). The Master Plan called for 525 acres of the summit area leased land to be designated an Astronomy Precinct where the astronomy development was to be consolidated to maintain a close grouping of astronomy facilities, roads, and support infrastructure. CMP page 3-1. The Master Plan was approved by the UH BOR but not adopted or approved by BLNR. CMP page 3-8.

⁶ UH's notice of intent to file an environmental impact statement (EIS) for the state leased lands was published in the Office of Environmental Quality Control (OEQC) February 23, 2018 Environmental Bulletin.

The Project Team that developed the CMP consisted of The Edith Kanaka'ole Foundation, Rechtman Consulting, McNeil Wilson, Sustainable Resources Group International, Inc., and Pacific Consulting Services.

The UH Management Areas is described in Section 3.1.1 of the CMP as beginning "at approximately 9,200 ft. (2,804 m) on Mauna Kea and extends to the summit, at 13,796 ft. (4,205 m), encompassing three distinct areas: the Mauna Kea Science Reserve (Science Reserve), the mid-level facilities at Hale Pōhaku, and the Summit Access Road (see Figure 3-1). These areas are collectively referred to as the 'UH Management Areas.' The UH Management Areas on Mauna Kea are classified in the resource subzone of the state conservation district lands (see Section 3.4.2)." See CMP at page 3-16.

MEU-1 refers to Monitoring, Evaluation and Updates (MEU). See CMP at page 7-64.

DLNR'S INDEPENDENT EVALUATION OF UH'S IMPLEMENTATION OF THE CMP

PURPOSE OF THE INDEPENDENT EVALUATION REPORT

The purpose of *this* Independent Evaluation Report (Report) is to (1) evaluate the effectiveness of UH, specifically OMKM's, ¹⁰ implementation of the specific Management Component Plans (MCP) found in Section 7 of the CMP, and (2) to evaluate the efficiency of the governance structure in managing the cultural and natural resources within state conservation lands under lease to UH. Ultimately, this Report will provide DLNR and BLNR the relevant information, including extensive public input, as they consider the management of the state conservation lands during the current lease term and beyond, in any future lease.

INDEPENDENT EVALUATION PROCESS

Fact Gathering

The independent evaluation process focused on OMKM's implementation of the CMP MAs within the MCPs and UH's governance structure in managing Mauna Kea and the Mauna Kea Science Reserve. The Project Team¹¹ gathered relevant information from files of DLNR, UH, various litigation involving Mauna Kea, 1998 state auditor report and follow-up audit reports, relevant print and social media, and other related materials. We also provided UH the opportunity to submit all relevant documents on their implementation of the CMP. In response to the request, UH emailed a comprehensive list of documents and links supporting their implementation of the CMP. All information that was provided to Ku'iwalu was uploaded to the CMP evaluation website, www.evaluatetheCMP.com.

We also reviewed materials related to the implementation of the CMP and Mauna Kea in general, from other stakeholders, including but not limited to the Sierra Club of Hawai'i, Protect Mauna Kea, KAHEA, IfA, 'Imiloa Astronomy Center, Hawai'i Unity & Liberation Institute, Hawai'i Forest & Trails, EnVision Maunakea, Office of Hawaiian Affairs (OHA), Imua TMT, and the TMT International Observatory.

Exhibit B Was Minute Order 1

Section 7.4.1 of the CMP states that the OMKM will be responsible for implementing the CMP and ensuring adherence to its provisions. However, for purposes of this Report, since the state lease is issued to UH, the UH will be generally referenced as responsible for the implementation of the CMP unless the action is specifically undertaken by OMKM, then OMKM will be referenced.

¹¹ The Project Team for this Report includes SMS Research, People Strategies Hawai'i LLC, and Ku'iwalu.

Ku'iwalu sent a letter dated May 19, 2020 to Dr. Gregory Chun, UH's Executive Director of Maunakea Stewardship, providing them an "opportunity to furnish Ku'iwalu with all relevant information, which could include reports, studies, annual reports, meeting notes, community comments, administrative rule-making, response to auditor's reports, etc. that document UH's performance, operations, and the management of Mauna Kea consistent with the CMP." Dr. Chun was identified as UH's Point of Contact for the independent evaluation.

Public Engagement Process

As part of the evaluation process, Kuʻiwalu proposed to develop and implement a culturally sensitive and robust public engagement process, similar to the community outreach process utilized in the preparation of the CMP that was approved in 2009. At the onset, Kuʻiwalu was challenged by the constraints and uncertainties of the COVID-19 restrictions on social distancing and travel to Hawaiʻi Island. Thus, Kuʻiwalu utilized a variety of non-traditional approaches to engage the general public and stakeholders to solicit their input on UH's implementation of the CMP and stewardship of Mauna Kea. The following methods were used to solicit public input: email updates, stakeholder meetings, virtual public meetings, website, Facebook, and direct contact with Kuʻiwalu.

Development and Implementation of the Evaluation Model

SMS Research, based upon their experience and expertise, developed and conducted the independent evaluation. To start, they did a thorough review of the CMP and examined all the documents provided during the fact gathering phase. They relied upon the documents provided by UH, including OMKM's 2020 Annual Report to BLNR, ¹³ MKMB meeting minutes, reports, studies, and other relevant documents. They also reviewed and considered all documents related to the CMP provided by other organizations, comments from stakeholder and virtual public meetings, website comments, and comments that were submitted directly to Ku'iwalu through phone calls and emails.

SMS Research then developed an evaluation model based upon the Logic Model Approach. This approach focuses on which MAs were completed by OMKM and the impact of those activities or actions on achieving the desired outcomes as set forth in each of the MCPs. The time period examined was UH's implementation of the CMP from 2010 to present.

Final Report

The Report includes three sets of evaluations. First, the Report includes UH's self-assessment based upon the OMKM 2020 Annual Report to BLNR. Second, the Report includes the public's assessment of how effectively UH implemented the CMP MAs, based upon comments from stakeholder meetings, the three virtual public meetings, comments submitted on the website or by email directly to Ku'iwalu. Third, the Report includes the independent evaluation based upon the logic model that took into consideration UH's self-assessment, public input, whether UH's action achieved the desired outcomes, and the timeliness of completion by UH to meet the desired outcomes.

The Report will be submitted to DLNR by December 31, 2020 and uploaded to the CMP website for public consumption.

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Exhibit B ¹³ Appendix A7 is a copy of the OMKM 2020 Annual Report to BLNR.

MANAGEMENT OF MAUNA KEA

Before delving into the public comment and evaluation model, we believe it is important to have an understanding of the historical background on management of Mauna Kea to provide context for the CMP MAs, MCP desired outcomes, and goals which set the framework for the Logic Model Approach.¹⁴ A brief history timeline of the management of Mauna Kea is shown in Figure 1.

MANAGEMENT OF MAUNA KEA PRIOR TO 1968

In the early 1960's, the federal government, through the National Aeronautics and Space Administration, was increasing funds to test, develop, design, and construct telescope facilities around the country. Due to accessibility, initial testing was conducted at Haleakalā, on Maui Island. In 1963, Governor John Burns provided funds to build an access trail to the summit of Mauna Kea for observatory testing. In 1964, after testing, UH concluded that Mauna Kea was an exceptional site for an astronomical observatory. In that same year, the State Land Use Commission placed the lands on Mauna Kea within the state's conservation district under the management jurisdiction of BLNR.¹⁵

MANAGEMENT OF MAUNA KEA UNDER GENERAL LEASE NO. S-4191

In 1967, UH established the IfA to plan for telescope development on Mauna Kea. The following year, UH applied to BLNR for a 65-year lease of the state conservation lands at Mauna Kea to establish the Mauna Kea Science Reserve. Management of the state leased lands was primarily by IfA to further their mission to conduct and promote world-class astronomical research. From 1968 to 2002, thirteen telescopes were built on the summit of Mauna Kea.

Exhibit B Annute Order 1

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We also recognize that this Report will be broadly reviewed, thus this background information on management of Mauna Kea will provide the relevant context when reviewing the Report.

See CMP Section 3.2, at pages 3-5 for complete History of Planning and Management of Mauna Kea. Additionally, Hawaii Revised Statutes (HRS), Chapter 205-2 describes the state four land use districts; urban, rural, agricultural, and conservation. Conservation districts include areas necessary for protection and preservation of resources.

During this same period of time, local groups, including hunters, cultural practitioners, conservationists, and others raised concerns about the increased development of telescopes on the summit of Mauna Kea with no management or care for the cultural and natural resources. ¹⁶ From 1974 to 2000, DLNR and UH attempted to respond to the community concerns to improve management control over not only telescope development, but the proliferation of unregulated commercial and recreational use of Mauna Kea. BLNR adopted the 1977 DLNR Mauna Kea Plan, 1980 Hale Pōhaku Complex Development Plan, 1985 Mauna Kea Management Plan, and 1995 Revised Management Plan for the UH Management Areas on Mauna Kea. Similarly, in 1982 the UH BOR approved the Research and Development Plan for Mauna Kea Science Reserve, in 1983 the Mauna Kea Science Reserve Complex Development Plan, and in 2000 the Mauna Kea Science Reserve Master Plan.

State Auditor's Report "Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve," Report No. 98-6, February 1998, page 45.

Figure 1: Brief History Timeline of Management of Mauna Kea



THE STATE AUDIT OF THE MANAGEMENT OF MAUNA KEA

In response to the "growing concerns" over the protection of Mauna Kea's cultural and natural resources, the 1997 Hawai'i State Legislature, through Senate Concurrent Resolution No. 109, requested the State Auditor to conduct an audit of the management of Mauna Kea and the Mauna Kea Science Reserve. The audit was completed in February 1998, and specifically noted that the "conditions of the lease, the plan(s) developed, and the Conservation District Use Application (CDUA) process were all designed to allow the university's use of the lands without causing excessive damage to the fragile environment. However, the university's focus on pursuing its own interests has led to conditions and practices that have countered or weakened these processes." ¹⁷

The audit indicated that UH primarily focused on development of the summit of Mauna Kea for some of the most powerful astronomical instruments in the world. While these telescopes enhanced the university's prestige and status around the astronomical community, "both the university and the department¹⁸ failed to develop and implement adequate controls to balance the environmental concerns with astronomy development." ¹⁹

The audit concluded that,

Over thirty years have passed since construction of the first telescope on Mauna Kea. During this period, little was done to protect its natural resources. The university, as the leaseholder, should have provided sufficient protection to the natural resources and controlled public access and use. These requirements have not been adequately met. The Department of Land and Natural Resources, in its role as landlord, should have overseen the university's activities and enforced permit conditions and regulations in protecting the State's interests. Neither state agency has been proactive in maintaining the conservation district.²⁰

The audit made several recommendations for UH and DLNR to improve the management of Mauna Kea and the Mauna Kea Science Reserve. Since 1998, the state auditor has conducted four follow-up audits to assess UH and DLNR's implementation of their specific recommendations to improve the management of Mauna Kea and the Mauna Kea Science Reserve. The follow-up audits were done

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¹⁷ Id, page 15

While the 1998 Audit addressed both UH and DLNR's management of Mauna Kea and the Mauna Kea Science Reserve, for purposes of this Report, we will be focusing only on UH's management of Mauna Kea under the CMP.

ld, page 15.

in 2005,²¹ 2014,²² 2017,²³ and 2019.²⁴ In general, the follow-up audits found that UH had made improvements in managing Mauna Kea, including the adoption of the CMP. However, consistent in all the audits, was UH's failure to adopt administrative rules governing public and commercial activities to ensure effective management and enforcement for the protection and preservation of the natural and cultural resources.²⁵

DEVELOPMENT AND MANAGEMENT OF MAUNA KEA UNDER THE CMP

The CMP was developed to address many of the past concerns by providing a resource management framework to preserve and protect cultural and natural resources by managing existing and future activities and uses on Mauna Kea. Some of the past concerns were noted in the 1998 Auditor's Report, including over emphasis on telescope development and lack of acknowledgement of the cultural significance of Mauna Kea. The CMP was also developed to comply with the legislative intent of conservation lands, 26 and judicial decisions, including Judge Hara's decision and the Ka Pa'akai analytical framework related to the protection of Native Hawaiian rights.

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Follow-Up Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve, Report No. 05-13, December 2005

²² Follow-Up Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve, Report No. 14-07, August 2014.

Follow-Up on Recommendations from Report No. 14-07, Follow-Up Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve, Report No. 17-06, July 2017.

Report on the Implementation of State Auditor's Recommendations 2014-2017, Report No. 19-15, November 2019.

11H Administrative Pules, Chapter 20-26 entitled Public and Commercial Activities on Maura Kea Lands was adopted.

²⁵ UH Administrative Rules, Chapter 20-26 entitled Public and Commercial Activities on Mauna Kea Lands was adopted by the BOR on November 6, 2019, signed by the Governor, and became effective on January 23, 2020.

HRS, §183C-1, states that "The legislature finds that lands within the state land use conservation district contain important natural resources essential to the preservation of the State's fragile natural ecosystems and the sustainability of the State's water supply. It is therefore, the intent of the legislature to conserve, protect, and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare."

Mauna Kea Anaina Hou, et al. v. Board of Land and Natural Resources, Civ. No. 04-1-397, Decision and Order dated January 19, 2007 (Judge Hara's decision). Pursuant to Judge Hara's decision, BLNR shall approve a comprehensive management plan that considers multiple uses as a precondition for any future development on Mauna Kea.

Ka Pa'akai O Ka 'Aina v. Land Use Commission, 94 Haw. 31, 7 P.3d 1068 (2000) (Ka Pa'akai). The Hawai'i Supreme Court in its decision in Ka Pa'akai provides government agencies an analytical framework to ensure the protection and preservation of valued cultural, historical, and natural resources. Section 2.3.3 of the CMP specifically describes how the CMP applied the analytical framework to ensure that the constitutionally guaranteed traditional and customary Native Hawaiian rights and cultural, historical, and natural resources are preserved and protected.

In addition to the legal requirements, the CMP was developed based upon an extensive community engagement process. The basis for the consultation process was an acknowledgment by UH that past planning and management efforts had not fully engaged the community or genuinely considered their concerns. The CMP aptly summarizes this sentiment:

During the recent Outrigger Telescope permitting process, many in the Hawaiian community experienced frustration as they attempted to express their perspectives and suffered psychological and spiritual hurt as their values and traditions were not given the attention and respect they deserved. As a result, they lost trust in the University as a responsible steward of the UH Management Areas and criticized the University for circumventing its own management policies. Subsequently, many individuals dissociated themselves from the process or resorted to other venues to express their views and advocate their position.²⁹

The CMP was prepared in a methodical manner, primarily based upon the *Ka Pa'akai* analytical framework, to form the foundation for the 103 MAs. These MAs are designed to preserve and protect the cultural and natural resources by managing the existing and futures uses and activities on Mauna Kea.

- Section 1 Cultural Orientation. Introduces the reader or user of the CMP to the cultural significance of Mauna Kea from a historical and contemporary use perspective;³⁰
- Section 2 Introduction. Describes the CMP as an integrated planning tool
 for resource management, drawing upon the Hawaiian approach to
 managing cultural and natural resources as well as contemporary sciencebased management approaches. This section also describes the CMP
 goals, objectives, and desired outcomes upon which we evaluate whether
 UH's implementation of the CMP is in furtherance of these goals;
- Section 3 Management Environment. Provides an overview of the physical UH Management Areas, history of the previous planning and management plans, and describes the management responsibilities over Mauna Kea;
- Section 4 Community Engagement Process. This process recognized that many in the public, especially the Native Hawaiian community on Hawaii Island felt anger, hurt and mistrust towards UH for not involving them in management decisions related to Mauna Kea. This section describes the culturally sensitive community engagement process based upon cultural values and the non-traditional methods of engagement to ensure meaningful participation by the public;

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²⁹ CMP, page 4-1.

We acknowledge that not all Native Hawaiians may share the view that Mauna Kea is culturally significant. During the public engagement process for this Report, there is a strong Native Hawaiian constituency that assert Mauna Kea is not culturally sacred and in fact, the CMP's assertion that Mauna Kea is culturally significant is offensive to this Native Hawaiian constituency. However, during the community engagement process for the development of the CMP, there was overwhelming sentiment by many of the Native Hawaiian stakeholders that participated in the process, that Mauna Kea is culturally significant.

- Section 5 Cultural and Natural Resources. The CMP relied upon previous documentation to identify the valued cultural resources, ³¹ historic and archaeological resources, and natural resources. Section 5 is the 1st step in the Ka Pa'akai analysis to identify the valued cultural, natural, and historic resources within the state conservation lands;
- Section 6 Human Environment. This section described all the existing and future activities and uses on Mauna Kea and the threats to the cultural, natural, and historic resources. Section 6 is the 2nd step in the *Ka Pa'akai* analysis to determine the impacts that the proposed management framework would have on the valued resources:
- Section 7 Management Component Plans. Section 7 is the 3rd step in the Ka Pa'akai analysis that identifies the feasible actions, MAs, or mitigation measures to reasonably protect the valued cultural, natural, and historic resources. This is the heart of the CMP that sets forth desired outcomes for each of the MCPs, specific MAs that UH, and specifically OMKM, is required to implement to ensure the protection and preservation of the cultural and natural resources.

The CMP was approved by BLNR on April 7, 2009 and the UH BOR on April 16, 2009. As a condition of BLNR approval, four sub-plans were required to be developed within one year of approval of the CMP. The four sub-plans include: (1) Natural Resource Management Plan for the UH Management Areas on Mauna Kea (September 2009), (2) Cultural Resources Management Plan for the UH Management Areas on Mauna Kea (October 2009), (3) Mauna Kea Public Access Plan (January 2010), and (4) Decommissioning Plan for the Mauna Kea Observatories (January 2010).

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In particular, the CMP relied upon the extensive ethnographic interviews and cultural reports prepared by Kepa and Onaona Maly. Maly, K and O. Maly (2005). *Mauna Kea, ka piko Kaulana o ka aina: Mauna Kea, the famous summit of the land.* Hilo, HI, Kumu Pono Associates LLC: 650 p.; Maly, K. and O. Maly (2006). *Appendix A: Mauna Kea-Ka Piko Kaulana o Ka 'Aina*.

PUBLIC ENGAGEMENT PROCESS AND SUMMARY

The public engagement process and summary is a critical component of not only the independent evaluation but the path forward for stewardship of Mauna Kea. When contracting with Kuʻiwalu, DLNR emphasized the importance of an extensive public engagement process to fully inform them and BLNR of the public's sentiments about current and future stewardship of Mauna Kea. Public sentiments include stakeholders to Mauna Kea and the general public. Thus, in addition to the technical evaluation of UH's implementation of the CMP, this Report includes the public's assessment of UH's management or stewardship and governance of Mauna Kea.

Almost everyone has an opinion or comment on Mauna Kea. However, not all comments are necessarily related to the implementation of the CMP. ³² For the integrity of the independent evaluation, we wanted to ensure that the public assessment and UH's assessment were comparing "apples with apples," in other words, comparing the same CMP MCPs. Thus, while we read all of the comments, for the purposes of the independent evaluation, we considered those comments that were specifically related to UH's implementation of CMP MAs. However, this does not diminish or disregard the time people took to submit their comments or the strong sentiments that were expressed in their comments. For those who submitted comments within the comment deadline, we have listed their names on Appendix A1.³³ We have greatly appreciated all of the comments that were submitted.

STAKEHOLDERS AND GENERAL PUBLIC

Similar to the CMP community engagement process, there are families, organizations, and agencies who have an active (and in some cases, cultural or lineal) relationship to Mauna Kea. There are certain stakeholders whose views and perspectives were given careful consideration because of their cultural, legal, or regulatory affiliation with Mauna Kea. They include the following:

- UH Management Entities
- Families who have cultural or lineal connections to Mauna Kea
- Hawaiian Cultural and Religious Practitioners
- Astronomical Community
- Aha Moku Advisory Committee

In fact, many comments we received were either for or against the construction of TMT on Mauna Kea. While this Report is not for or about TMT, Hawaiian sovereignty, ceded lands, compensation, or renewal of the state lease, many of the comments we received were about these topics. This Report briefly describes some of these comments in the Section titled "Issues and Concerns beyond the Scope of this Report."

Appendix A1 is a comprehensive list of all the individuals and groups we engaged with during the CMP evaluation process. This list includes those who may have received email updates, participated in stakeholder meetings, attended virtual public meetings, left a comment on the website, or emailed a comment directly to Ku'iwalu.

- OHA
- Environmental Groups
- Hawaiian Educational and Business Organizations
- Commercial and Recreational users
- Elected Officials
- Government Agencies

In addition to stakeholders, the viewpoints of the general public are important and were given due consideration in the evaluation process.

CONSULTATION PROCESS AND METHODS

As previously noted, Kuʻiwalu utilized a variety of non-traditional approaches to engage the general public and stakeholders to solicit their input on UH's implementation of the CMP and stewardship of Mauna Kea. We engaged with nearly 500 individuals or organizations during the evaluation process.³⁴ The following methods were used to solicit public input:

Email Updates

- 1st email May 15, 2020. Ku'iwalu initially emailed letters to those individuals or groups who were consulted during the preparation of the CMP in 2009. In addition, emails were sent to a list of known stakeholders involved in Mauna Kea at the time. The first email included a letter introducing Ku'iwalu, a copy of DLNR's May 15, 2020 Press Release announcing their review of the Mauna Kea CMP, the CMP Report and CMP Appendices from April 2009. Appendix A2 is a copy of the email, and attachments of Ku'iwalu's Introduction Letter, and DLNR's Press Release;³⁵
- 2nd email July 23, 2020. The 2nd email update included a letter that announced the launch of the Project Website www.evaluatetheCMP.com and Facebook page (Share Your Mana'o on the Mauna Kea CMP). The letter indicated that the website provides easy access to the CMP, reference documents provided by UH, as well as other resources. It also explained ways to provide comments and give input during the evaluation process. As the process proceeded, the email updates were expanded to include those who participated in stakeholder meetings, those who registered for the virtual public meetings, or those who may have submitted comments. Appendix A2.1 is a copy of the email and the July 23, 2020 letter;

See Appendix A1.

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The April 2009 CMP Report and CMP Appendices can be found on DLNR's website.

- 3rd email August 26, 2020. The 3rd email update announced the three virtual public meetings as well as information of the many different ways to provide comments before the October 16, 2020 comment deadline.³⁶ Appendix A2.2 is a copy of the email;
- 4th email September 3, 2020. The 4th email update announced the three virtual public meetings and how to register for each meeting. It also provided a link to the website to participate in a number of informal community polls. Appendix A2.3 is a copy of the email sent to the expanded list of stakeholders;
- 5th email September 24, 2020. The 5th email was a reminder to register in advance for the virtual public meetings. Appendix A4 is a copy of the email reminder.
- 6th email December 2020. The 6th email will be to announce that the Report has been submitted to DLNR and posted on the website for thirty (30) days, thereafter the website will be removed since the Report has been submitted. DLNR will then provide a link to the Report on its Mauna Kea website. The email will be sent to the comprehensive list referenced in Appendix A1.

Individual and Stakeholder Meetings

Kuʻiwalu convened over forty (40) virtual stakeholder meetings and telephone conferences during the course of the evaluation process. The small talk story meetings permitted discussions that could be candid, confidential, and respectful. The meetings ranged from 1-2 hours and focused on getting specific comments on UH's implementation of the CMP MAs and their stewardship of Mauna Kea. These stakeholder meetings ranged from the various UH Management Entities who have a role in the management of Mauna Kea, relevant DLNR Divisions, cultural and religious practitioners, individuals and families who have cultural or lineal connections to Mauna Kea, NHOs, Observatories, Imua TMT, KAHEA, Kiaʻi Alakaʻi and elected officials. Appendix A3 is a list of stakeholders we met with. This list of stakeholders was added to the list for email updates.

Virtual Public Meetings

In an effort to reach out to the broader public, we held three virtual public meetings. The meetings were scheduled on different days of the week and at different times to make them more accessible to the public. Those wanting to attend the virtual meetings were required to register in advance in order to receive a link to attend the meetings. Appendix A4 is a list of those who registered for each of the three virtual public meetings. In general, more people registered than actually joined the meeting.

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Exhibit B 36 The deadline for comments was extended to November 5, 2020 as posted on the website.

During each of the two-hour virtual public meetings, we provided a brief presentation on the CMP and evaluation process. However, most of the meeting was dedicated to providing the public with an opportunity to give specific comments on UH's implementation of the CMP MAs. Appendix A4 also includes a copy of the meeting agenda, and the power point presentation that was shared at the meeting.

Website

We created a dedicated website as another means to inform, educate, and solicit public input on the independent evaluation, www.evalutetheCMP.com. Not only did the website provide information about the CMP, the evaluation process, and links to an exhaustive listing of resource materials related to Mauna Kea, but one of the primary purposes for the website was to provide the public another platform to submit comments. We received approximately 70 comments through the website. Individuals could leave comments, but their comments could not be viewed by others. Appendix A5 is a copy of some of the information posted on the website. The comments are not included in the Appendix because we did not get permission and most of the comments were not specifically related to the implementation of the CMP.

Facebook

At the time we launched the website, we launched a Facebook page as a social media platform to supplement the website. The Facebook page was an additional way of distributing information and announcements. No public comments were permitted to be posted to the Facebook page, but viewers were directed to the website to leave their comments.

Comments Submitted to Ku'iwalu Related to UH's implementation of the CMP

Besides the methods noted above, some comments were sent directly to Kuʻiwalu. For example, we received written comments from the OHA, Imua TMT, Kimo Stone, Mililani Trask on behalf of Wahine Apapalani Hawaiian Cultural Practitioners, Bianca Isaki on behalf of KAHEA, Senator Kurt Fevella, Thayne Currie, Flores-Case 'Ohana, and numerous email form submissions from Mauna 'Aelike/Consensus Building 'Ohana.³⁷

Appendix A6 is a copy of these comments.

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Appendix A6 includes a copy of Kealoha Pisciotta's comments on behalf of Mauna Kea Anaina Hou, Mauna Kea Hui, Mauna Kea Moku Nui 'Aelike/Consensus Building 'Ohana and a copy of one of the form submissions received via email from Mauna 'Aelike/Consensus Building 'Ohana whose contents are identical to Kealoha Pisciotta's comments. We did not include in Appendix A1 all of the names who submitted Mauna 'Aelike/Consensus Building 'Ohana forms after November 5, 2020, the extended deadline to submit comments as posted on the website.

SUMMARY OF THE COMMENTS RELEVANT TO UH'S IMPLEMENTATION OF THE CMP³⁸

While the next section of the Report will include the public's assessment of UH's implementation of the CMP, this section of the Report will summarize some of the major themes specifically relevant to UH's implementation of the CMP. The Section titled "issues and Comments beyond the Scope of the CMP" will summarize or list some of the comments that are beyond the scope of the implementation of the CMP but should be considered in broader decision making related to Mauna Kea.

The cultural value of Mauna Kea continues to be "unrecognized" by UH as are the rights of Native Hawaiian cultural and religious practitioners

From the building of the initial telescopes in 1968 to the 1998 Auditor's Report, and to the implementation of the CMP, a consistent concern has been that UH has primarily focused on telescope development on Mauna Kea and the cultural value of Mauna Kea has been disregarded or largely unrecognized.³⁹ While we received comments from some Native Hawaiians who assert that Mauna Kea is not sacred, we received many more comments from members of the Native Hawaiian community and the general public that Mauna Kea is culturally significant. We also received specific comments from individuals and families who continue to exercise traditional and customary practices on Mauna Kea that have not been consulted with and felt that their rights have been disregarded or disrespected by OMKM.

For example, there was strong sentiment by Native Hawaiians active in the protest on Mauna Kea that the determination by OMKM as to what cultural resources and historic sites are significant, including the removal of some of those resources is not only inconsistent with the CMP but it also violates their constitutional protections under Article XII, Section 7 of the Hawaii State Constitution. They specifically assert that there has been little or no consultation with known families who have cultural or lineal connections to Mauna Kea, Kūpuna, and cultural and religious practitioners before the removal of these resources. They assert that these actions by OMKM are inconsistent with CMP MA CR-1, CR-4, CR-5, CR-6, CR-7, CR-8, CR-9, and CR-10.

Another example noted in the comments we received was that UH's initial draft of the administrative rules proposed to regulate Native Hawaiian traditional and customary rights while providing exemptions for commercial users. The commenters note that only after vocal opposition to the draft rules, were the final administrative rules revised to provide that "Native Hawaiian traditional and

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The comments provided during this process shall only be used for this independent evaluation. No permission has either been sought or granted to use the information, comments, or disclosures beyond this Report. No specific comments are attributed to any individual as we did not request nor receive permission to do so.
39 1998 Audit Report, Summary page.

customary rights as recognized and protected under article XII, section 7, of the Hawai'i State Constitution shall not be abridged."⁴⁰

There is a lack of genuine community engagement and cultural education by UH as required by the CMP.

A consistent comment from outside of UH Management Entities is that there has not been genuine community outreach and cultural education as required by CMP MA EO-1, EO-2, EO-3, and EO-7. Even some UH Management Entities note that this is one area in the CMP that UH could improve on. Comments by UH-Hilo Entities believe that community engagement was primarily through MKMB meetings and UH BOR meetings as these meetings are open to the public. UH-Hilo Entities felt that beyond the MKMB publicly noticed meetings, it was the role of the UH System in Mānoa to manage the communications with the community because UH-Hilo Entities do not have the resources, given that most of them are voluntary boards.

In addition to OMKM's deficiencies noted above, the CMP MA related to Education and Outreach, there were comments that OMKM failed to inform the public of the results of the management activities in a timely manner and failed to timely complete the five-year review as required under CMP MA MEU-1 and MEU-2, respectively.

With respect to cultural consultation, UH-Hilo Entities believe that it is the kuleana of KKM to engage with the Native Hawaiian community because of their cultural experience and expertise. Although KKM meetings are not subject to the sunshine law and therefore not required to be open to the public, KKM is comfortable in making their collective recommendations to OMKM based upon their cultural experience and expertise. Like MKMB, members of KKM commented that they are a voluntary board who are doing the best they can with their limited resources. KKM has provided OMKM recommendations on removal of offerings, scattering of human remains, construction of new cultural features including stacking of rocks, and they review any proposed changes by observatories to their facilities on Mauna Kea. Although most of the UH Management Entities believe they are in compliance with the CMP, the UH BOR has directed the 'Imiloa Astronomy Center to take a more active role in community engagement and cultural education.⁴¹

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Section 20-26-3, Hawaii Administrative Rules (HAR).

University of Hawai'i Board of Regents Resolution 19-03, Adopted November 6, 2019, Amended, July 1, 2020 (BOR Resolution 19-03). BOR Resolution 19-03 specifically determined that there remain unmet responsibilities and ongoing compliance issues that have delayed completion of certain recommendations and requirements under the Management Plans. Action Item No. 5 specifically provides, "In collaboration with OMKM and MKSS, the 'Imiloa Astronomy Center shall develop a suite of educational programs regarding Maunakea including but not limited to Native Hawaiian culture, history, environmental, and biological considerations designed for tour guides and drivers, employees, contractors, recreational users, scientists and observatory workers, and visitors, as required by the Management Plan, by August 31, 2020. OMKM shall report to the Board of Regents on its plans and progress to implement said educational programs at its February 2020 meeting. Administration shall make a budget request during the 2020 legislative session to fund this action item."

UH has generally done a good job in managing the cultural and natural resources, but there is no independent review or accountability on the integrity of the studies or reports, and the completion of many of the CMP actions are overdue.

Most of the comments we heard from government agencies, observatories, commercial and recreational users, and some Native Hawaiians, expressed that the cultural and natural resources are being better managed and protected by OMKM than prior to the 1998 Audit. Many have indicated that the wekiu bug population has increased, the historic sites are being monitored regularly under the archaeological monitoring plan, the OMKM Rangers are doing a great job educating visitors about staying on the trail and picking up their trash, the Mauna Kea silversword population has increased, and the access road is better maintained, especially during the snowy winter season.

On the other hand, we also heard comments that archaeological monitoring plans were long overdue, that the reports indicating the wekiu bug population increase were to support delisting it from the endangered species list, that the archaeological work for the northern plateau was altered to show no cultural sites where TMT is going to be built, and that cultural descendants from the area were never consulted on those reports. These comments are related to MAs NR-1⁴² to NR-18. This independent evaluation did not review the reports or studies referenced by OMKM for accuracy or scientific integrity.

There is an inherent conflict of interest by having UH as the lessee of the state conservation lands and the applicant for new telescope development.

We heard strong comments from members of the Native Hawaiian community that UH's role to advocate for new telescope development as the applicant for the CDUA conflicts with UH's ability to properly manage and protect the valued cultural and natural resources within the state conservation lands. In relevant part, Section 7.3.4 of the CMP related to Future Land Uses specifically emphasized that "the CMP manages resources, it does not advocate or promote new telescope development."

Contrary to the CMP, the dual roles of UH as land manager and as developer creates at least an appearance of a conflict of interest that have caused some Native Hawaiians to question the credibility and integrity of the scientific, historic, cultural, and environmental reports that OMKM produced pursuant to the CMP MAs. Some comments specifically noted that CMP MA FLU-2 required UH to develop land use zones in the Astronomy Precinct and the goal of this process was to refine telescope siting areas defined in the 2000 Master Plan based upon updated cultural and natural resource information. For example, TMT is being proposed to be built in the northern plateau in an area where the 2000 Master Plan

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Exhibit B 42 NR refers to Natural Resources (NR). See CMP section 7.1.2.

says no telescope development. This conflict of interest adds to the diminished trust between UH and many members of the Native Hawaiian community.

We also heard comments from UH-Hilo Entities that it was "awkward" having UH as the applicant for the CDUA for TMT. In fact, they felt their relationship with members of the Native Hawaiian community changed when they became the applicant for the TMT CDUA; they felt they were no longer viewed as being neutral land managers but telescope developers. Beyond the issue of the appearance of a conflict of interest, the UH Management Entities have commented that ideally, they would prefer having a smaller state lease of only the 525 acres of the Astronomy Precinct and contribute funds to DLNR or another appropriate entity to manage the 10,000 acres consisting of the Natural and Cultural Preservation Area. Similar comments were made by some of the observatories. There were a few comments that wanted to explore the possibility of having a Native Hawaiian entity or third party manage all the state conservation lands or at least the 10,000 acres of Natural and Cultural Preservation Area.

The current UH governance structure is not effective in managing Mauna Kea.

It is worth noting that most of the comments related to the effectiveness of the governance structure was made by UH Management Entities. The UH-Hilo Entities strongly believe that decision making related to Mauna Kea needs to be made by UH-Hilo Entities on Hawai'i Island. In addition, these same entities believe that OMKM is doing a fairly good job in implementing the CMP.

On the other hand, several of the UH Management Entities outside of UH-Hilo believe that the public perception is that OMKM is not doing a good job stewarding Mauna Kea. They believe that OMKM has not engaged the community, in particular members of the Native Hawaiian community. They also believe that OMKM has not effectively developed cultural education materials, information, or opportunities to collaborate with members of the Native Hawaiian community and organizations to promote cultural education and understanding of Mauna Kea. In response to the perceived deficiency, UH BOR Resolution 19-03 has proposed and begun implementing structural changes to the management of Mauna Kea.

With respect to the broader public comments on the effectiveness of the UH governance structure, most see UH as one entity. They either believe that the UH existing structure is doing a good job, or they believe that UH is mismanaging Mauna Kea and there is very little in between. There were a few comments that wanted to explore the possibility of having a Native Hawaiian entity or third party manage all the state conservation lands or at least the 10,000 acres of Natural and Cultural Preservation Area.

⁴³ BOR Resolution 19-03. Action Item No. 9 provides in relevant part, "As part of the reorganization and restructuring plan, an in-depth analysis will be done to determine whether the management of the Maunakea Science Reserve would be better served if transferred to a governmental authority or other third party entity, or through alternate management mechanisms."

ISSUES AND COMMENTS BEYOND THE SCOPE OF THE CMP

There were numerous comments that were beyond the scope of the implementation of the CMP. We did not want to discount these comments as some of these issues had been identified in the CMP (see Section 2.1.4) and continue to linger as unresolved issues. Similar to the CMP, we wanted to respect and honor those comments by noting them below for appropriate consideration beyond this Report.

UH has not kept its "promises" to remove telescopes from Mauna Kea before proposing new telescope development.

This comment primarily related to the issue of timely decommissioning telescopes from the summit of Mauna Kea before any new telescope is constructed. As noted in the CMP, "the basis for this [decommissioning] was not only to preserve a 'zero net gain' of telescopes, but also because of the recognition that decommissioning is perhaps the most tangible form of actually listening to the community's concerns that before new telescopes can be considered some obsolete facilities must come down."44 In listening to members of the Native Hawaiian community, for many who say UH hasn't kept their promises, they refer to UH's representation s during the early years of the state lease that there would only be 13 telescopes. But now, UH is proposing the world's largest telescope (TMT) before removing any telescope; 13 to 0.45 We also heard from non-Native Hawaiians, that in order to show some good will, UH needs to facilitate the decommissioning process. In response, the UH BOR has established an accelerated schedule for the decommissioning of up to possibly five (5) telescopes. However, there are many people in the community, including Native Hawaiians, who would like to see the retention of existing telescopes that are not obsolete as well as the construction of TMT because of the educational and economic benefits beyond the lease termination in 2033.

UH should not be managing the cultural and natural resources and should only manage the astronomy precinct.

Similar to the comments we heard related to governance, there were many comments, both from within UH and external to UH, that expressed that UH should not be managing the 10,763 acres of Natural and Cultural Preservation Area. Some of the comments expressed by UH Management Entities are that managing the state conservation lands to preserve and protect resources is outside of UH's mission of education. Other comments, especially by members of the Native Hawaiian community is that UH should not be managing any of the state

CMP, page 4-6.

Some within the Native Hawaiian community say 13 telescopes for astronomy and 0 telescopes have come down for the Native Hawaiian community.

BOR Resolution 19-03. Action item No. 1 relates to the decommissioning of the Caltech Submillimeter Observatory and the Hokukea sites. Action item No. 2 relates to establishing a schedule for the decommissioning process of the two sites by December 31, 2021. Action item No. 4 sets a date of December 30, 2025 to determine decommissioning of three (3) additional observatory sites, if required.

conservation lands at Mauna Kea because they do not have the cultural expertise to be stewarding one of the most significant cultural resources to the Native Hawaiian community. On the other hand, there were comments that if the 10,763 acres were to be returned to DLNR to manage, DLNR does not have the resources or capacity to preserve and protect the cultural and natural resources within the preservation area; the resources are better protected under UH. In addition, UH's management, especially by the OMKM Rangers, of the state conservation lands, provides additional protection to the adjacent DLNR's Mauna Kea Ice Age Natural Area Reserve and the State Mauna Kea Forest Reserve.

There is presumption that BLNR is going to renew the state lease to UH for the state conservation lands at Mauna Kea.

We received many comments that the renewal of the state lease to UH is a "done deal" because BLNR would not have approved the sublease to TMT if they did not anticipate renewing the state lease to UH. There were many comments by members of the Native Hawaiian community, that the state process is not fair, and it favors telescope development. For this reason, several of those same community members expressed that they do not trust UH, DLNR, or even the independence of this Report.

Other issues raised that were beyond the scope of the CMP and not fully discussed.

Rather than going into great detail, the following is a list of those issues:

- Use of ceded lands which have been "stolen" from the Hawaiian Kingdom;
- \$1 a year for lease rent does not accurately reflect the market value of the free telescope viewing time to UH;
- Ownership of the access road;
- Role of the Department of Hawaiian Home Lands in the management of Mauna Kea;
- Establish a Mauna Kea Reserve Commission, similar to the Kahoʻolawe Island Reserve Commission, to oversee the management of Mauna Kea;
- There are really more than 13 telescopes on Mauna Kea because some observatories have multiple facilities; and
- The State should use the federal Section 106 consultation process to engage Native Hawaiian individuals and organizations.

EVALUATION PROCESS AND OUTCOME

CMP REPORTING AND EVALUATION REQUIREMENTS

Section 7 of the CMP, describes the natural progression from (1) the MAs that are needed to address the various management needs, (2) that the MAs are organized by topic into four (4) major MCPs, (3) the MCPs were developed using the best available scientific and cultural information and community input, to support the **mission** to preserve, protect and enhance the cultural and natural resources within the UH Management Areas, and (4) each MCP emphasized the importance of coordinating with other agencies, adjacent landowners, and other stakeholders, including cultural practitioners and families with cultural or lineal connections to Mauna Kea to incorporate Native Hawaiian cultural values and traditional knowledge into management planning and activities.⁴⁷

The Mission of the Office of Mauna Kea Management is to achieve harmony, balance and trust in the sustainable management and stewardship of Mauna Kea Science Reserve through community involvement and programs that protect, preserve and enhance the natural, cultural and recreational resources of Maunakea while providing a world-class center dedicated to education, research and astronomy.

Section 7.4.2 of the CMP outlines the process for monitoring, evaluating, and updating the CMP to meet the "desired outcomes" as set forth in the CMP. The purpose of the desired outcome is to "determine whether management actions are achieving the goals of the CMP and to provide a process for improving and updating management strategies through evaluation and revisions of the CMP." To determine whether the desired outcomes have been achieved, the CMP requires regular monitoring and evaluation of the CMP to determine if the management actions are effective over time and are meeting management needs to ensure the best possible protection is afforded Mauna Kea's resources. Pursuant to the adaptive management approach, evaluations should be done annually with review and revisions occurring every 5 years as updated information on the resources become known. Five-year evaluations and revisions should include consultation with federal and state agencies and the local community, to

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⁴⁷ CMP, page 7-1.

⁴⁸ "Desired Outcome" summarizes the goal(s) of the management component plans. CMP, page 7-1.

⁴⁹ CMP, page 7-63.

MA MEU-1 requires "OMKM to provide an annual progress report describing in detail the management goals, objectives, and actions for the year and what progress was made towards meeting them. The Progress Report should also describe actions to be taken to improve the program for the next year(s). The Progress Report is not intended to be a status report on the resources in the UH Management Areas; rather, it is meant to inform management and stakeholders of the progress of the program and direction it is to take in the future." In addition, MEU-1 requires OMKM to provide Five Year Outcome Analysis Reports. CMP, at page 7.65.

MA MEU-2 provides that the CMP should be updated every five years, based on data collected during various program management activities (e.g. natural or cultural resources monitoring, research projects). Id.

inform stakeholders on program progress, and to gather input on changes or additions to management activities.

While OMKM has submitted annual reports to BLNR on their implementation of the MAs, OMKM has not prepared the Five-Year Outcome Analysis Report (Analysis Report). Presumably, the Analysis Report would have utilized the adaptive management approach and summarized the data collected during the monitoring and research studies to determine the effectiveness of the management actions on preserving and protecting the resources on Mauna Kea. Thus, in the absence of the Analysis Report, we had to utilize an alternative evaluation model to conduct the independent evaluation.

THE LOGIC MODEL METHOD WAS USED TO CONDUCT THE INDEPENDENT EVALUATION

Based upon the Project Team's experience and expertise, a Logic Model⁵² approach was determined to be the most appropriate to conduct the independent evaluation of OMKM's implementation of the CMP. This model specifically focuses on whether the MAs that were completed (output) by OMKM achieved the desired outcomes as set forth in each of the MCPs. Each MCP identified MAs to address the needs⁵³ in order to achieve the desired outcomes.

There are four (4) MCPs:

- 7.1 Understanding and protecting Mauna Kea's Cultural and Natural Resources
 - 7.1.1 Native Hawaiian Cultural Resources
 - 7.1.2 Natural Resources
 - 7.1.3 Education and Outreach
 - o 7.1.4 Astronomy Resources
- 7.2 Managing Access, Activities and Uses
 - o 7.2.1 Activities and Use
 - o 7.2.2 Permitting and Enforcement

A logic model is a systematic and visual way to present and share an understanding of the relationship among resources that were chosen to operate your program, the activities you plan, and the changes or results you hope to achieve." W.K. Kellogg Foundation 2004, http://toolkit.pellinstitute.org/evaluation-guide/plan-budget/using-a-logic-model/

The CMP defines "Need" as the background information on what type of management actions are needed to achieve the desired outcome and why they are needed. To achieve the desired outcomes, management needs were developed in four areas: education, information gathering, management measures, and rules and enforcement.

- 7.3 Managing the Built Environment
 - o 7.3.1 Infrastructure and Maintenance
 - 7.3.2 Construction Guidelines
 - 7.3.3 Site Recycling, Decommissioning, Demolition and Restoration
 - o 7.3.4 Considering Future Land Use
- 7.4 Managing Operations
 - o 7.4.1 Operations and Implementation
 - o 7.4.2 Monitoring, Evaluation, and Updates

For the independent evaluation, the Project Team reviewed, (1) the MCP MAs and desired outcomes, (2) OMKM's implementation of the MAs based upon their annual reports and updates, (3) public input based upon comments provided through the website, the three virtual community meetings, and stakeholder input, and (4) the specific impact of OMKM's actions to achieve the desired outcomes. The details of these reviews are included in Appendix B.

However, for ease of review, we have prepared a Summary of the Independent Evaluation for each MCP in tables below. Each table has five columns as shown:

MCP Section and Desired	OMKM Implementation	Public Input	Independent Evaluation of Impact	Recommendations
Outcome	Status	put	on Outcome	

The content of each column is described below:

- The MCP Section and Desired Outcome as specifically provided in the CMP;
- The OMKM Implementation Status shows the total number of actions or activities implemented in that specific section and the action status reported in the OMKM 2020 Annual Report;⁵⁴
- Public⁵⁵ Input summarizes a range of some of the comments we received from the three virtual community meetings, comments, website, and stakeholder meetings;

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OMKM 2020 Annual Report to the Board of Land and Natural Resources, Status of the Implementation of the Mauna Kea Comprehensive Management Plan. See Appendix A.7

⁵ "Public" includes interested stakeholders and general public. See Section titled "Stakeholders and General Public" and Appendix A1.

- 4. The *Independent Evaluation of Impact on Outcome* is a qualitative assessment by the Project Team based primarily on public input.⁵⁶ Three levels are indicated: "Good progress on achieving Outcome," "Some progress on achieving Outcome," and "Minimal progress on achieving Outcome."
- 5. **Recommendations** include the type of metric that could be developed in the CMP revision to track outcomes more quantitatively.

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The CMP utilized key concepts from adaptive management in developing the management actions. "Adaptive management is defined as a systematic process for continually improving management policies and practices for resource protection by learning from the outcomes of past and current management activities. Adaptive management recognizes that there is a level of uncertainty about the 'best policy or practice for a particular management issue, and therefore requires that each management decision be revisited in the future to determine if it is providing the desired outcome. Management actions in a plan guided by adaptive management can be viewed as hypotheses and their implementation as test of those hypotheses. Once an action has been completed, the next, equally important, step in an adaptive management protocol is the assessment of the actions effectiveness (results). A review and evaluation of the results allows managers to decide whether to continue the action or to change course. This experimental approach to resource management means that regular feedback guides managers' decision and ensure that future strategies better define and approach the objective of the management plan." CMP, page 2-6. Since the CMP had not been previously evaluated based a set of metrics or measures, the Project Team has to rely public and other government agencies input to assess whether OMKM effectively implemented the CMP to achieve the desired outcomes.

Table 1: Summary Table on the Independent Evaluation on Achieving the Desired CMP Outcomes

MCP Section & Desired Outcome	OMKM's	Public	Independent Evaluation of Impact on	Recommendations
	Self-Assessment	Input	Desired Outcome	
7.1 Understanding and Protecting Mauna				
7.1.1 Native Hawaiian Cultural Resources: Increase understanding and appreciation of Native Hawaiian history and cultural practices related to Mauna Kea to ensure that these practices are protected and respected. Identify, document the condition of, and protect cultural resources and historic properties in the UH Management Areas.	Of the 14 Actions: Five are "ongoing" Nine are "completed." Training and educational programs have been developed. Many cultural practices have been protected with the HAR. HAR Chapter 2-26 was not adopted until January 2020. OMKM placed ads inviting community members to participate in talk story session. KKM hosted one talk story session on matters related to CMP actions, with representatives from DLNR, DHHL, OHA and members of the Native Hawaiian community.	Materials and training programs developed have insufficient content from Native Hawaiian cultural perspectives and materials prepared by OMKM shows a lack of cultural sensitivity and understanding. Cultural stakeholders feel they have not been consulted about content and protocols on cultural issues or practices. KKM review is not sufficient. KKM meetings are not open and they have not consulted with cultural stakeholders. OMKM has removed cultural offerings, ahus, stackings of pōhaku, and cultural features, without consulting with families who have cultural and lineal connections to Mauna Kea, Kūpuna, cultural practitioners, OHA, and other NHOs (hereinafter collectively NHOs). There is a lack of Hawaiian decision making in matters related to identification and protocols related to cultural resources. Cultural and religious practitioners felt the initial draft admin rules violated Art XII, Section 7. There is a lack of cultural presence on Mauna Kea because all you see are observatories. The archaeological documents are not subject to independent scrutiny. The archaeological monitoring reports have not been timely submitted.	Some Progress on Achieving Outcome Specific actions have been completed or are ongoing. However, the admin rules to protect the cultural resources was not codified until January 2020. Unclear if the materials and training programs are sufficient to increase understanding of Native Hawaiian history and cultural practices related to Mauna Kea.	Actions should be completed in a timelier fashion When developing materials related to Native Hawaiian history and cultural practices, NHOs should be involved in developing and reviewing the materials and providing suggestions. There needs to be greater clarity of the role of KKM with respect to engaging and coordinating with NHOs on cultural issues and protocols.

MCP Section & Desired Outcome	OMKM's	Public	Independent Evaluation of Impact on	Recommendations
	Self-Assessment	Input	Desired Outcome	
7.1.2 Natural Resources: Increase understanding of the status of natural resources (biotic and abiotic) and identify threats to these resources in order to better protect and preserve unique geological features, ecosystem functions, subalpine and alpine habitats, and biological communities through adaptive management of stressors and threats.	Of the 18 Actions Two are "completed/ongoing" 15 are "ongoing" The status of NR-14 requiring use of adaptive management to review programs annually and update CMP every 5 years based on results of program review, is reported as "ongoing." However, it is unclear if programs have been reviewed	OMKM has done a good job managing natural resources by managing invasive species, protecting the wekiu bug habitat, and conducting biological studies. Baseline surveys took time but are especially important to develop long term management programs. Unsure how to access some of the studies.	Good progress on Achieving Desired Outcome OMKM has done a good job at increasing the understanding of the status of natural resources and identifying threats. The public needs to better understand what is being studied and the results of those studies.	Studies should be easily accessible to the public – available to download online. Develop a Natural Resources Dashboard that shows metrics that track the status of natural resources, for example: annually what is the number of invasive species? Show a report card on the health of the natural resources.
	annually. Also, there had not been a revision of the CMP since the original. HAR effective January 2020 to limit threats to natural resources. Studies were undertaken, and plans developed and implemented.	Studies are not subject to public or peer scrutiny.	Over the past ten years are the natural resources on Mauna Kea in better condition? Same? Worse? What needs to be focused on in the next ten years? People need to know how to access studies.	

MCP Section & Desired Outcome	OMKM's	Public	Independent Evaluation of Impact on	Recommendations
	Self-Assessment	Input	Desired Outcome	
7.1.3 Education & Outreach: Build & maintain a constituency to engage in active and meaningful stewardship of Mauna Kea, through education and involvement of the public, to support, enhance conservation, and sustain the natural, cultural, and astronomical resources of Mauna Kea.	Of the eight Actions Six are "ongoing" One is "Completed/ongoing" One is "In progress." Developed orientation program for people working on Mauna Kea. There have been outreach efforts in schools and with volunteers. Output measures provided in the 2020 Annual Report to DLNR: Approximately 1,500 individuals have a current, valid orientation certificate. 124 community updates conducted over 12 years, 63 community outreach events conducted over nine years, and 19 symposiums, conferences and special events conducted over eight years. 30 presentations in the Maunakea Speakers Series. 110 OMKM E-newsletters issued over nine years, and 102 Astronomy E-newsletters issued over six years. Two brochures developed and updated, social media presence, YouTube video, and young-people oriented materials. 58 projects with 1,493 volunteers conducted over nine years.	There has been little community engagement and outreach. OMKM needs to develop relationships with the broader community beyond their supporters. The public does not know all the good things that are happening on Mauna Kea. UH does not do a good job communicating to the public about the work being done on Mauna Kea. The orientation video lacks Native Hawaiian cultural perspective and sensitivity of the long-standing hurts, pains, and concerns by the Native Hawaiian community on imbalance between protecting cultural resources and pursuing telescope development. Visitors should be required to take the orientation training or video before accessing Mauna Kea summit to ensure a better understanding of the cultural resources on Mauna Kea. OMKM and KKM have not consulted with NHOs in decision making for management of Mauna Kea. The educational materials lack the cultural perspective. There are members of the Native Hawaiian community who do not believe Mauna Kea is sacred and would like to see telescope use continue on Mauna Kea. 'Imiloa's A Hua He Inoa: Hawaiian Culture Based Celestial Naming program is globally known and admired.	Minimal progress on Achieving Outcome. A lot of actions have taken place and been documented by OMKM. However, in the actions undertaken it is unclear if the programs have achieved the desired outcome of building and maintaining a larger and/or stronger constituency to steward Mauna Kea. Also, no sense of how far the programs have reached – for example, the number of unique volunteers v. total number at each session.	Outcome measures could include OMKM implementing metrics on the impact their activities have had on building their constituency; whether workers and visitors to Mauna Kea have increased their awareness and appreciation of Mauna Kea's cultural, historical, and natural resources. In addition, recommend measuring how well the community's perception of transparency and involvement have changed. In addition to those who work on Mauna Kea, visitors should be required to watch the video to familiarize themselves with the cultural significance of Mauna Kea. Utilize 'Imiloa Astronomy Center to develop culturally based materials to educate and raise awareness of the cultural and natural resources on Mauna Kea, including the A Hua He Inoa program. Utilize 'Imiloa Astronomy Center to take a more active role in community outreach.

MCP Section & Desired Outcome	OMKM's	Public	Independent Evaluation of Impact on	Recommendations
Mer section & Sesired Outcome	Self-Assessment	Input	Desired Outcome	Recommendations
7.1.4 Astronomy Resources: Maintain Mauna Kea's unique environment that makes it a premiere location for astronomical observation. Operate the scientific reserve as a buffer zone to prevent the intrusion of activities incompatible with the use of the land as a scientific complex or observatory.	Of the two Actions Two are "Ongoing" Administrative rules became effective in January 2020. Working on monitoring and minimizing the light pollution, radio frequency interference and dust.	Astronomy stakeholders believe that OMKM is doing a good job in managing the area. They believe that OMKM could have more regular, ongoing communications rather than waiting until big issues arise.	Good progress on Achieving Outcome The Administrative rules were passed to formalize protection of the area for astronomy. Timing could have been faster.	Outcome measures could include an annual survey of astronomical stakeholders tracking how well OMKM has done in maintaining the unique environment of Mauna Kea.
7.2 Managing Access, Activities and Uses	•	•	•	•
7.2.1 Activities and Uses: Retain and enhance recreational and cultural activities, ensure regulation of commercial activities, and support scientific studies while maintaining adequate protection of resources, educating users regarding resource sensitivity, and ensuring the health and safety of those visiting or working at Mauna Kea.	Of the 12 Actions Eight are "Complete/Ongoing" Four are "Ongoing" Administrative rules became effective in January 2020. OMKM initiated a study in 2019 to assess the capacity for commercial tour operations.	The community is generally positive about how OMKM has maintained and protected the resources on Mauna Kea. The feeling is that the area has improved significantly under the OMKM management. Rangers received many compliments on their knowledge and guidance that they provide to visitors. There needs to be better management limiting the number of cars allowed to drive the access road to the summit. UH is considering a shuttle service to manage access by visitors. Some of the commercial operators conduct their own cultural orientation to their customers to ensure that they conduct themselves in a respectful and appropriate manner when on Mauna Kea.	Good progress on Achieving Outcome The Administrative rules were passed to codify restrictions and regulations. Timing could have been faster.	Outcome measures could include periodic surveys of Mauna Kea visitors, commercial tour operators, and others accessing the site on how well OMKM is managing the area.

MCP Section & Desired Outcome	OMKM's	Public	Independent Evaluation of Impact on	Recommendations
	Self-Assessment	Input	Desired Outcome	
7.2.2 Permitting & Enforcement: Achieve compliance with existing and any new policies and regulations designed to manage and minimize human impacts, to preserve and protect Mauna Kea's resources.	Of the eight Actions Six are "Ongoing" Two are "Completed" Administrative rules became effective in January 2020. Since 2000, there were 103 community engagement and outreach actions taken related to the development of the administrative rules, including updates, consultations, briefings, open houses, and public hearings.	Generally positive feedback on the level of policies and regulations. Positive level of enforcement primarily attributed to the Rangers. Rangers are doing a good job of educating visitors to stay on the trails and not to park their cars where they can damage the natural and cultural resources. There needs to be better management of the commercial operators and increased fees towards management of Mauna Kea resources; as there is unlimited access by recreational users (tourists), yet cultural practitioners are regulated. Lack of coordination and clarity between County enforcement and DOCARE on	Good progress on Achieving Outcome The Administrative rules were passed to codify restrictions and regulations, but it took over 10 years to adopt the rules.	
		jurisdiction of access road.		
7.3 Managing the Built Environment				_
7.3.1 Infrastructure and Maintenance: Manage the built environment by implementing an Operations, Monitoring and Maintenance Plan (OMMP) containing specific maintenance strategies and protocols that will result in minimal disruptions to activities and uses, minimize impacts to the resources, and ensure that permittees remain compliant with their CDUP requirements.	Of the 14 Actions Ten are "Ongoing" Three are "Completed/Ongoing" One is "In Progress" Administrative rules became effective in January 2020. An Operations Monitoring and Maintenance Plan was reviewed by KKM and approved by MKMB. Procedures have been put in place and studies are being conducted.	Generally positive feedback on how OMKM is managing and maintaining the infrastructure within the area. Many of the existing observatories are incorporating sustainable technologies into their facilities.	Good progress on Achieving Outcome The Administrative rules were passed to codify restrictions and regulations. Timing could have been faster.	Recommend reporting on the outcome of the various studies being conducted and how those studies will be used in the future.
7.3.2 Construction Guidelines: Minimize adverse impacts to resources during all phases of construction, through use of innovative best management practices.	Of the nine Actions Nine are "Ongoing" TMT is the first project requiring construction guidelines. All the guidelines have been included as part of the proposed TMT Management Plan in its CDUA.	Given that construction has yet to begin, no feedback on how well the adverse impacts have been minimized. KKM is reviewing any construction activity that could involve ground disturbance, to ensure cultural resources are not disturbed.	Good progress on Achieving Outcome	

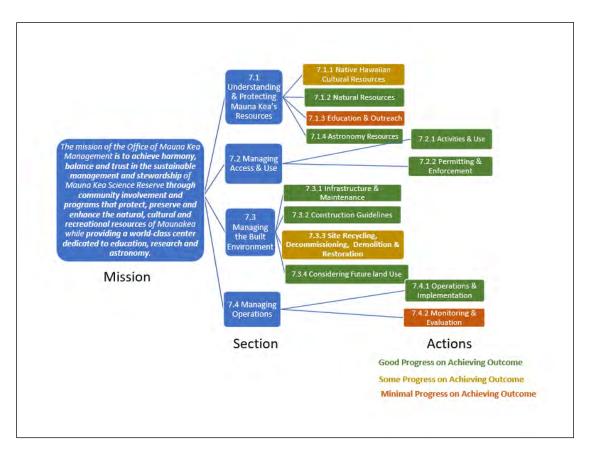
MCP Section & Desired Outcome	OMKM's	Public	Independent Evaluation of Impact on	Recommendations
	Self-Assessment	Input	Desired Outcome	
7.3.3 Site Recycling, Decommissioning, Demolition, and Restoration: To the extent possible, reduce the area disturbed by physical structures within the UH Management Areas by upgrading and reusing buildings and equipment at existing locations, removing obsolete facilities, and restoring impacted sites to pre-disturbed condition. 7.3.4 Considering Future Land Use: To protect cultural and natural resources in the assessment of future projects.	Of the three Actions Three are "Ongoing" All the actions have been incorporated into planning for TMT, the first new facility. The 2010 Decommissioning Plan has a defined process. Two of the sites have started the process in 2019. Of the seven Actions All seven are "Ongoing" Of the seven actions in the plan, all have been incorporated in planning for TMT, the first new facility.	Feedback has focused on the observatories that are no longer in use on Mauna Kea. Actions to begin the decommissioning process only started in 2019, leaving community members to wonder why it took so long. UH represented/promised to the community no more than 13 telescopes would be built on Mauna Kea. UH should have timely decommissioned some telescopes before new telescopes are constructed (TMT). There is at least one telescope on Mauna Kea that is not in use, but there has been no attempt to remove it. At the end of the state lease in 2032, all the telescopes need to be decommissioned and the site restored. The CMP does not require decommissioning of telescopes that are not obsolete. BOR, through Resolution 19-03, has established a schedule to timely decommission at least two telescopes by December 2021 and a determination whether to decommission possibly three more telescopes by December 2021. Community input has been both for and against constructing TMT. TMT is being proposed to be developed in an area that is outside of the 2000 Master Plan because OMKM has not developed a	Some Progress on Achieving Outcome Decommissioning requirements included in the TMT Management Plan. Actions on decommissioning some of the sites only began in 2019. Good progress on Achieving Outcome	
	UH President Lassner confirmed that TMT will be the last telescope to be built on undisturbed land.	map of land use where development will not be allowed.		

MCP Section & Desired Outcome	OMKM's	Public	Independent Evaluation of Impact on	Recommendations
Met steller a steller success	Self-Assessment	Input	Desired Outcome	THE COMMISSION OF THE PARTY OF
7.4 Managing Operations		•		
7.4.1 Operations and Implementation: Conduct effective operations to support management that is focused on resource protection, education, and public safety.	Of the 5 Actions Two are "Ongoing" Two are "Completed" One is "Completed Ongoing" MKMB meets regularly, holds public meetings which includes consultation with KKM. OMKM, KKM and MKMB are responsible for the review of projects proposed for UH's managed lands compliance with DLNR conservation district rules and the CMP. Public can attend the MKMB meetings.	Public comments were mixed on this MA. The observatories feel that OMKM and MKSS are doing a good job with operation and maintenance. Other government agencies, including DLNR, feel that OMKM and the Rangers are doing a really good job managing the land uses to preserve and protect the cultural and natural resources. The Rangers are the "eyes and ears" on Mauna Kea, they ensure public safety for everyone. There has been great improvement since the 1998 Audit report. There were public comments, especially from members of the Native Hawaiian community that there has been no involvement or discussion with the community and stakeholders on resource management. There is disconnect between UH-Hilo Management Entities and UH Systems.	Good progress on Achieving Outcome	
7.4.2 Monitoring, Evaluation, and Updates: Determine whether management actions are achieving the goals of the CMP and provide a process for improving and updating management strategies through evaluation and revisions of the CMP.	Of the three Actions • Three are "Ongoing" MEU-2 requires OMKM to "conduct regular updates of the CMP that reflect outcomes of the evaluation process, and that incorporate added information about the resources." OMKM is in the process of drafting the 5-year Outcome Analysis Report.	Unclear if OMKM has evaluated whether the CMP actions they have undertaken has made progress on achieving stated Desired Outcomes. The public has not been involved nor provided input into OMKM's annual reports to BLNR. OMKM has not completed a 5- year CMP update since the approval of the CMP.	Minimal progress on Achieving Outcome. If the CMP had been reviewed and updated in a timely manner, it is likely that Outcome measures would have been developed and tracked over time.	Develop appropriate measures to track progress being made toward achieving Desired Outcomes. These measures will serve as indicators of whether progress is being made or if actions need to be adjusted to better achieve the Outcomes.

OVERALL SUMMARY OF OMKM'S IMPLEMENTATION OF THE CMP

The diagram below illustrates how the MCPs of the CMP connect to achieve OMKM's Mission. The color codes are the same as used in the Evaluation of Impact on Outcomes. Under the four (4) MCPs, there are twelve (12) desired outcomes. Overall, good progress was made on achieving eight of the desired outcomes; some progress was made on achieving two of the desired outcomes and minimal progress was made on achieving two of the desired outcomes.

Figure 2: The Links Between the OMKM Mission and MCP Management Actions



AREAS WHERE OMKM HAS NOT EFFECTIVELY IMPLEMENTED THE CMP TO ACHIEVE THE DESIRED OUTCOMES

As noted above, OMKM has made, in some cases, significant strides in implementing the CMP to achieve the desired outcomes, particularly in the areas of the "nuts and bolts" of managing the land uses and activities and supporting astronomy. However, in the areas of Native Hawaiian Cultural Resources, Education and Outreach, decommissioning, and evaluation, OMKM has not effectively achieved the desired outcomes. Based primarily on public input, the

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following are some of the significant "disconnects" between OMKM and the public, in particular, the Native Hawaiian community, in achieving the desired outcomes:

Outreach and communications

Insufficient outreach and communications with stakeholders and the community resulted in many not knowing what was taking place on Mauna Kea. For example, OMKM conducted many studies, but stakeholders did not understand how to access them. There is no dashboard that shows the conditions of natural resources on Mauna Kea such as number of invasive species reported, number of visitors, etc. overtime. Accessing documents shared at MKMB meetings requires accessing the OMKM website, and multiple clicks to find the right documents.

Cultural Education

Materials and programs developed to educate staff and visitors about Mauna Kea lacked the Native Hawaiian perspective on its importance. Native Hawaiian practitioners, Families who have cultural or lineal connections to Mauna Kea, and NHOs feel they were not adequately or regularly consulted and/or informed about actions taking place on Mauna Kea.

Failure to timely implement certain MAs

OMKM did not complete many of the actions until recently. The HAR related to Mauna Kea was only approved in January 2020. Likewise, the decommissioning process of two telescopes did not begin until 2019. This lack of progress in decommissioning has diminished the public trust in OMKM's management of Mauna Kea.

OMKM's updates do not include metrics to evaluate progress towards achieving the desired outcomes

Plan 7.4.2 requires OMKM to "conduct regular updates of the CMP that reflect outcomes of the evaluation process, and that incorporates new information about the resources." The annual reports to BLNR update the status of the plans' actions. It does not address progress made toward achieving the Desired Outcome of the MCP. Evaluation of Desired Outcomes could have led to identifying metrics to track outcomes and improve actions.

CONCLUSION

The purpose of the independent evaluation was to, (1) evaluate the effectiveness of UH, and specifically OMKM's implementation of the MCPs, and (2) evaluate UH's efficiency and the governance structure in managing the cultural and natural resources within the UH Management Areas under the CMP. UH's self-assessment and many of the public comments which included members of the Native Hawaiian community and government agencies, have acknowledged that OMKM has implemented most of the 103 MAs within the MCPs. Many have commented that OMKM has effectively implemented many of the MAs that have resulted in protecting and preserving the cultural and natural resources within the state conservation lands.

However, in the areas of untimely adoption of the administrative rules, cultural resources, and education and community outreach, especially with the Native Hawaiian stakeholders, the efforts by OMKM have been ineffective to achieve the desired outcome. The desired outcome is to increase understanding and appreciation of Native Hawaiian history and cultural practices related to Mauna Kea to ensure that these practices are protected and respected. While there are Native Hawaiians who believe OMKM's actions have been respectful of the Hawaiian culture, the greater sentiment was a deep feeling of disrespect by OMKM's actions in managing Mauna Kea, as well as UH's action in pursuing telescope development over protecting the resources.

With respect to the efficiency of UH's governance structure in managing the state conservation lands at Mauna Kea, the UH BOR appears to be internally addressing this issue through their Resolution 19-03. They have taken steps towards developing a reorganization and restructuring plan that would consider an alternative governance and management mechanisms to improve operations and management to make it more efficient, effective, and transparent.

In conclusion, UH, and specifically OMKM, has implemented most of the CMP MAs, and in many cases, effectively implemented them to achieve the desired outcomes of protecting the resources. Unfortunately, the MA related to cultural resources that was designed to respect the Hawaiian cultural practices and resources, and MA related to education and outreach that was intended to restore trust between UH and the Native Hawaiian community have not been effectively implemented. Management plans are created with the best of intentions; but ultimately, the proof is in the implementation.

COMMENDING CASCA'S DECISION NOT TO SUPPORT TMT WITHOUT NATIVE HAWAIIAN CONSENT

5/21/2021

One of the TMT project's biggest and long standing supporters, the Canadian Astronomical Association (CASCA), now proclaims that "unless the TMT project has consent from the Native Hawaiians, Canada's astronomical community cannot support its construction on Maunakea."

One of the TMT project's biggest and long standing supporters, the Canadian Astronomical Association (CASCA), now proclaims:

Exhibit B

DES://kanaeokana.net/nocensent

Wilnute Order 1



"Unless the TMT project has consent from the Native Hawaiians, Canada's astronomical community cannot support its construction on Maunakea." This statement was shared by Dr. Kim Venn this past Tuesday at CASCA's Annual Meeting that CASCA is holding online this week. Dr. Venn is one of three Canadian TMT Board Members and a member of the CASCA/ACURA TMT Advisory Committee (CATAC).

Many of us also saw a screenshot of Dr. Venn's presentation slide shared by Dr. Bryan Gaensler on Twitter. Dr. Gaensler is CASCA's co-chair of its Long Range Plan 2020 Panel.

Also conveyed in the screenshot shared by Dr. Gaensler of Dr. Venn's presentation was the following:

"As excited as we are about the scientific potential and engineering excellence of the TMT, we believe that astronomical discovery cannot come at the expense of human rights for the people on whose lands we operate our telescopes — anywhere in the world. This position is consistent with CASCA's Long Range

In 2019, in response to hundreds of kia'i peacefully assembling to oppose the construction of the TMT, police showed up in force in full riot gear. Photo: Hawai'i Tribune Herald

"Unless the TMT project has consent from the Native Hawaiians, Canada's astronomical community



2/7

Plan 2020." Indeed, CASCA's Long Range Plan (p. 115) notes the following:

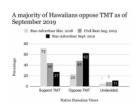
"The nature of astronomy is such that sites in isolated or sparsely populated areas often best meet the scientific requirements for experiments and observatories. As a consequence, astronomy has long benefited from building telescopes and other facilities on carefully chosen locations in Canada and throughout the world (e.g., Hawai'i, South Africa, Australia, Chile). However, these same sites often either belong to or have substantial cultural, environmental or economic significance to Indigenous Peoples, traditional title holders or other long standing local communities.

"There have been many instances when astronomy projects have gone ahead over the objections of Indigenous Peoples, or where commitments or promises made by astronomers to local communities have not been fully met. Looking to the future, Canadian astronomers must ensure that their ethics and values apply to the interactions with society that result from the creation and operation of astronomical facilities. The astronomy community must consequently engage meaningfully and Exhibit B

://kanaeekana.net/nocensent MINUTE Order 1

cannot support its construction on Maunakea."

- Dr. Kim Venn, TMT board member, and a member of the CASCA/ACURA TMT Advisory Committee (CATAC)



TMT proponents often like to cite poll data showing support for the project. However, poll data from the Star Advertiser and the Civil Beat over a

sincerely with Indigenous and local communities as soon as potential projects are conceived, should seek consent from those who would be affected before proceeding with a project, and must sustain engagement and consent throughout the lifetime of projects that go forward."

5/21/2021

As a result, the CASCA Long Range Plan (p. 16) offers this conclusion:

"We recommend that the Canadian astronomical community (e.g., ACURA, CASCA and NRC-HAA) work together with Indigenous representatives and other relevant communities to develop and adopt a set of comprehensive guiding principles for the locations of astronomy facilities and associated infrastructure in which Canada participates. These principles should be centred on consent from the Indigenous Peoples and traditional title holders who would be affected by any astronomy project. In addition, when such consent does not exist, the principles should recognize that the use or threat of force is an unacceptable avenue for developing or accessing an astronomical site. The principles should also acknowledge that

period of two years actually shows eroding support, and in the case of Native Hawaiians, outright opposition.

3/7 https://kanaeokana.net/noconsent 4/7

· Truth and Reconciliation Commission of

Canada: https://www.rcaanc-

cirnac.gc.ca/eng/1450124405592/1529106060525

Truth and Reconciliation Commission of

Canada, Calls to Action:

http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf

• United Nations Declaration on the Rights of

Indigenous Peoples:

https://undocs.org/A/RES/61/295

ongoing consent from Indigenous Peoples and continuing consultation with all relevant local communities are both essential throughout a project's lifetime. These principles should be developed as soon as possible, and then applied to all future Canadian participation in new or existing astronomical programs, projects and national and international facilities. Engagement and implementation should be consistent with the spirit of the Calls to Action of the Truth and Reconciliation Commission of Canada and of the United Nations Declaration on the Rights of Indigenous Peoples."

We commend CASCA and its members who are affirming that absent consent of Native Hawaiians, the TMT cannot be built and that the use or threat of violence is not an acceptable course of action to access astronomical sites.

Links:

CASCA website: https://casca.ca/

TMT Board Members:
 https://www.tmt.org/page/governance

 CASCA's Long Range Plan: https://casca.ca/wpIn the early morning of July 15th, 2019, 8 kia'i chained themselves to a grate on

laying their bodies down in a

Mauna Kea Access Road,

selfless act of aloha 'āina.

Exceptent/uploads/2021/04/20UOT001_CASCA_LRP_EN_vFA2.0.pdf

04:00

No kuʻu lāhui e hāʻawi pau a i ola mau. Video: Mikey Inouye

5/7 https://kanaeokana.net/noconsent 6/7

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

In the Matter of:)			
A Contested Case Hearing Re: Conservation	A Contested Case Hearing Re: Conservation District) CERTIFICATE OF SERVICE			
Use Permit (CDUP) HA-3568				
CER	TIFICATE OF SERVICE			
We hereby certify that a copy o the	foregoing was served on the follow	wing via email unless		
otherwise specified below:				
Bin C. Li,	Watanabe lng LLP	Maelani Lee		
1151 Punchbowl, Room 131	rshinyama@wik.com	maelanilee@yahoo.com		
Honolulu, HI 96813	douging@wik.com			
bin.c.li@hawaii.gov	Counsel for TMT International	Lanny Alan Sinkin		
DLNR.CO.APO@hawaii.gov	Observatory, LLC	lanny.sinkin@gmail.com		
(original+ digital copy)	•	The Temple of Lono		
	Harry Fergerstrom	. 3		
Linda Chow	hankhawaiian@yahoo.com	Kalikolehua Kanaele		
Julie China, Deputies Attorney General	_ ,	akulele@yahoo.com		
Linda.L.Chow@hawaii.gov	Richard L DeLeon	<i></i>		
julie.h.china@hawaii.gov	kekaukike@msn.com	Stephanie-Malia:Tabbada		
Counsel for the Bd of Land & Natural Res.		s.tabbada@hawaiiantel.net		
3	Mehana Kihoi			
Carlsmith Ball LLP	uhiwai@live.com	Tiffnie Kakalia		
isandison@carlsmith.com		tiffniekakalia@gmail.com		
Counsel for University of Hawai'i at Hilo	C. M. Kaho'okahi Kanuha	<u></u>		
3 7 3	kahookahi@gmail.com	Glen Kila		
J. Leina'ala Sleightholm	೦ಠ	makakila@gmail.com		
leina.ala.s808@gmail.com	Joseph Kualii Lindsey Camara	8		
	kualiic@hotmail.com	Dwight J. Vicente		

Torkildson, Katz, Moore, & Harris lsa@torkildson.com njc@torkildson.com Counsel for Perpetuating Unique Educational Opportunities (PUEO)

DATED: Honolulu, Hawai'i

William Freitas pohaku7@yahoo.com

hanahanai@hawaii.rr.com

Cindy Freitas

May 24, 2021

/s/ Richard Naiwieha Wurdeman RICHARD NAIWIEHA WURDEMAN ATTORNEY AT LAW, A LAW CORPORATION

Branca Isali

LAW OFFICE OF BIANCA ISAKI **BIANCA ISAKI** Attorneys for the Mauna Kea Hui

Exhibit B Minute Order 1 dwightjvicente@gmail.com

Brannon Kamahana Kealoha brannonk@hawaii.edu

CERTIFICATE OF SERVICE

The o	undersigned	hereby	certifies that a	copy of the	following	documents:
	anacioibnea	1101007	certifies that a	COPY OF LIN	- 10110 ** 1115	accuments.

1. Minute Order No. 1, Dated Oct 20, 2021

Was duly served upon the following parties, by email, on $\frac{\text{Oct } 20,2021}{}$:

Linda L.W. Chow
Laure K. Chun
Deputy Attorneys General
Linda.L.Chow@hawaii.gov
Lauren.K.Chun@hawaii.gov
Attorneys for the Board of Land
and Natural Resources

Jesse K. Souki
Associate General Counsel
University of Hawai'i
souki@hawaii.edu
Attorney for University of
Hawai'i, Hilo

J. Leina'ala Sleightholm leina.ala.s808@gmail.com

Lincoln S.T. Ashida
Newton J. Chu
Torkildson, Katz, Moore, &
Harris
Isa@torkildson.com
njc@torkildson.com
Attorneys for Perpetuating
Unique Educational
Opportunities (PUEO)

J. Douglas Ing
Brian A. Kang
Ross Shinyama
Summer H. Kaiawe
Watanabe Ing LLP
douging@wik.com
bkang@wik.com
rshinyama@wik.com
skaiawe@wik.com
Attorneys for TMT
International
Observatory, LLC

Harry Fergerstrom hankhawaiian@yahoo.com

Richard L DeLeon kekaukike@msn.com

Mehana Kihoi uhiwai@live.com

C. M. Kaho'okahi Kanuha kahookahi@gmail.com

Joseph Kualii Lindsey Camara kualiic@hotmail.com

Cindy Freitas hanahanai@hawaii.rr.com Maelani Lee

maelanilee@yahoo.com

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

Kalikolehua Kanaele akulele@yahoo.com

Stephanie-Malia: Tabbada <u>s.tabbada@hawaiiantel.net</u>

Tiffnie Kakalia tiffniekakalia@gmail.com

Glen Kila makakila@gmail.com

Dwight J. Vicente dwightjvicente@gmail.com

Brannon Kamahana Kealoha brannonk@hawaii.edu

William Freitas pohaku7@yahoo.com

DATED: Honolulu, Hawaii, Oct 20, 2021

5 Michael Cain

Michael Cain
Custodian of Records
Board of Land and Natural Resources

Exhibit B
Minute Order 1

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF)	Case No. HA-22-02
)	
)	Temple of Lono
The Petition of Mauna Kea Hui for Declaratory)	Brief in Response to
Order Filed May 24, 2021)	Petitioners' Motion
)	
)	CERTIFICATE OF SERVICE

TMT offers the following actions that TMT considers sufficient to demonstrate that construction of TMT has begun.

- 1. Testing of GPS equipment
- 2. Partial survey of an access road
- 3. Survey of underground fiber optic and electrical lines
- 4. Inspection for invasive species
- 5. A "kickoff meeting" between TMT staff and contractors to discuss construction
- 6. Removal of an ahu.

The determination of whether the TMT has begun construction should rely on common sense and be guided by a reasonable person standard.

Common sense says that merely testing GPS equipment is hardly an activity that can be considered to fall within the boundaries of "construction."

Similarly, surveying an access road is a non-invasive action that in no way changes the nature or characteristics of the property, i.e. demonstrates no evidence of construction.

Surveying fiber optic and electrical lines that are already in place would more appropriately be termed "taking inventory" than initiating construction.

A walk about to see whether any invasive species are found is similarly a "taking inventory" type of action.

While the meeting between TMT staff and the contractors is termed a "kick off" meeting, kick offs are normally followed by the initiation of the game. The game of constructing the TMT was not begun at that meeting or subsequently.

There was no follow on activity subsequent to the very limited activity argued by the TMT as beginning construction. The actions proffered as a basis for finding construction has begun did

Exhibit C
Temple of Lono Brief

Office of Conservation and Coastal Lands
Department of Land and Natural Resources
State of Hawaii
Oct 31 2021 06:32

not initiate a continuing construction process. Those actions are isolated visits to the construction site.

For TMT to use the desecration of an ahu as proof construction of TMT was begun only reinforces the nature of the TMT's complete insensitivity to Native Hawaiian objections to the project. The destruction of the ahu is evidence of racism or religious bigotry, not construction.

TMT applied for an extension of the permit after some of the actions at issue now had already been taken. Now TMT is arguing that those same acts are evidence that construction has begun. TMT cannot have it both ways. Either those acts did not demonstrate that construction had begun, so the first extension was necessary, or they did demonstrate construction had begun, so the application for the first extension was unnecessary.

Common sense (and the law) preclude DLNR using the activities they earlier found to be a. basis for extending the permit expiration date to also be used to argue that construction already began.

The TMT argument is that these activities taken as a whole provide sufficient evidence to conclude that construction has begun. The more any of the six arguments are found to be insufficient to be considered as supporting the premise that construction has begun, the weaker the TMT position becomes.

A reasonable person evaluating the proffered actions would find each of them to be a de minimis activity not satisfying the requirements of a State-granted permit.

Indeed an examination of each proffered action finds them to be insufficient individually and cumulatively.

Construction has not begun and any further extension is unwarranted.

Dated: October 31, 2021	
	Lanny Sinkin
	Representing the Temple of Lono

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the following documents:

1. Temple of Lono Brief in Response to Petitioner's Motion

was duly served upon the following parties, by email, on October 31, 2021

Linda L.W. Chow J. Douglas Ing Maelani Lee Laure K. Chun Brian A. Kang maelanilee@yahoo.com **Deputy Attorneys General** Ross Shinyama Lanny Alan Sinkin Linda.L.Chow@hawaii.gov Summer H. Kaiawe lanny.sinkin@gmail.com Lauren.K.Chun@hawaii.gov Watanabe Ing LLP The Temple of Lono Attorneys for the Board of Land douging@wik.com and Natural Resources bkang@wik.com Kalikolehua Kanaele rshinyama@wik.com akulele@vahoo.com Jesse K. Souki skaiawe@wik.com Associate General Counsel Attorneys for TMT Stephanie-Malia:Tabbada University of Hawai'i International s.tabbada@hawaiiantel.net souki@hawaii.edu Observatory, LLC Attorney for University of Tiffnie Kakalia Hawai'i, Hilo Harry Fergerstrom tiffniekakalia@gmail.com hankhawaiian@yahoo.com Glen Kila Lincoln S.T. Ashida makakila@gmail.com Richard L DeLeon Newton J. Chu kekaukike@msn.com Torkildson, Katz, Moore, & Dwight J. Vicente Harris dwightjvicente@gmail.com Mehana Kihoi lsa@torkildson.com uhiwai@live.com njc@torkildson.com Brannon Kamahana Kealoha Attorneys for Perpetuating brannonk@hawaii.edu C. M. Kaho'okahi Kanuha Unique Educational

Joseph Kualii Lindsey Camara Richard Naiwieha Wurdeman kualiic@hotmail.com RNWurdeman@RNWLaw Bianca Isaki bianca.isaki @gmail.com Attorneys for the Mauna Kea

Cindy Freitas hanahanai@hawaii.rr.com

kahookahi@gmail.com

Michael Cain Michael.cain@hawaii.gov Custodian of the Records

leina.ala.s808@gmail.com

kukulukuula@gmail.com

J. Leina'ala Sleightholm

William Freitas

DATED:	
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Opportunities (PUEO)

/s/ Lanny Alan Sinkin lanny.sinkin@gmail.com

Hui

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF)	Case No. HA -22 -02
The Petition of Mauna Kea Hui for Declaratory)	Cindy Freitas Brief in Response to
Order Filed May 24, 2021)	Petitioners' Motion
)	CERTIFICATE OF SERVICE

Permittee University of Hawai'i Hilo (UHH) has claim the following of the General Condition 4 of the Conservation District Use Permit (CDUP) HA-3568. Petition disagree.

- 1. 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 Partner 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;
- 3. 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;
- 4. 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
- 6. 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.

Exhibit D Cindy Freitas Brief Received
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
State of Hawaii
Nov 03 2021 14:07

UHH has not met the General Condition 4 of the CDUP HA-3568.

All of the items listed below were done prior to the approval and issuance of the CDUP Application (dated September 2, 2010)

Petitioner asserts that UHH did not meet the General Condition 4 of the CDUP HA-3568

1. In the CDUP HA-3568 under 2.2.1 Cultural Resources reads as follows;

"Mauna Kea is still a focus of many traditional and customary Native Hawaiian cultural practices and beliefs. It is a source of inspiration and object of reverence for many Hawaiians. Ongoing cultural practices involving Mauna Kea include:

Performance of prayer and ritual observances important for reinforcement of an individual's Hawaiian spirituality, including the ERECTION OF AHU OR SHRINES." *See Exhibit 1*.

- 2. In the CDUP HA-3568 Under Table 4: Management Actions Detailing in the Mauna Kea Comprehension Management Plan (CMP). *See Exhibit 2*.
- 3. Stephanie Nagata Tr. December 8, 2016; Vol 14; Page114:2-25, Page 115:1-25. *See Exhibit 3 reads*, "Has the Office of Mauna Kea Management finalized any rules regarding construction of new Hawaiian cultural features, placement and removal of offerings?

 Office of Mauna Kea Management has not adopted any rules regarding the treatment handling and or removal of any Hawaiian cultural structures. Therefor HRS 711-1107 was committed by the UHH. Also HRS 711-1107 was not in force.
 - a. DLNR administration rules 13-5-2(4) reads "Land Use"

The construction, reconstruction, demolition, or alteration of any structure, building, or facility on land. For purposes of this chapter, harvesting and removing does not include the taking of aquatic life or wildlife that is regulated by state fishing and hunting laws nor the gathering of natural resources for personal, noncommercial use or pursuant to **Article 12**, **Section 7** of the Hawaii State Constitution or section 7-1, HRS, relating to certain traditional and customary Hawaiian practices.

"Natural resource" means resources such as plants, aquatic life and wildlife, cultural, historic, recreational, geologic, and archeological sites, scenic areas, ecologically significant areas, watersheds, and minerals.

- b. BLNR FOF & COL reads.. 692. The new structures (ahu) built on or near the TMT Project site are modern practices because they were built within the last two years and appear to be, at least in part, for the purpose of protesting the TMT Project by W. Freitas and others. (Nees) Tr. 12/05/16 at 253:14-22; Tr. 3/2/17 at 259:4-262:17, 268:13-24. The two ahu were encountered by Rechtman during a field reconnaissance survey of the TMT Project site and the access road on July 7, 2015. (Rechtman) Tr. 12/20/16 at 169:16-21. It has not been conclusively established that the two uprights are in fact on the TMT Project site, but they are near the boundary of the TMT Project site. (Rechtman) Tr. 12/20/16 at 88:6-14
- 4. In the CDUP HA-3568 under Appendix B Construction Plan page B-2 to page B-6 had been full fill in the application process by making sure that all was met on September 1, 2010. See Exhibit 4 a, b, c, d, e, f, and g.

Exhibit D

Cindy Freitas Brief Grading, Underground Utilities, and Foundation. See Exhibit 4 a

- b. 1.2.1 Rock Movement Plan. See Exhibit 4 b
- c. 1.2.3 Access Way. See Exhibit 4 c
- d. Figure B-1: Cross Section of Access Way in Southernmost Cinder Section Overlapping 4 wheel Drive Road. *See Exhibit 4 d*
 - Figure B-2: General Cross Section of Access Way in Lava Flow Section Overlapping SMA Rd.
- e. B-3: General Cross Section of Access Way in Lava Flow Section Overlapping 4 wheel Drive Rd. *See Exhibit 4 e*
- f. CDUP HA-3568 page 271 "Civil Overall Plan" dated 9-1-10. *See Exhibit 4 f* .Gray Sanders Tr. January 3, 2017; Vol 20; Page 104:6-24. See Exhibit 4 g

Therefor the UHH has not met Condition 4 of the CDUP HA-3568. UHH the CDUP HA 3568 should not be extended.

November 3, 2021	
	/s/
	Cindy Freitas Petitioner

2.0 Existing Conditions

2.1 Ownership

The TMT Observatory and Access Way would be located on Mauna Kea in the MKSR on Hawai'i Island in the State of Hawai'i. The Batch Plant Staging Area is also within the MKSR. The entire 1,288-acre MKSR is owned by the State of Hawai'i and is designated as part of the State of Hawai'i Conservation District Resource subzone and is leased to the University under General Lease S-4191. The building and operation of the TMT Observatory on Mauna Kea will require a sublease of the area from the University. The sublease will be subject to approval first by the TMT Board and University of Hawai'i Board of Regents (UH BOR) followed by approval by BLNR.

2.2 Resources in Project Area

2.2.1 Cultural Resources

Cultural resources is a term that encompasses both physical features, typically referred to as historic properties, as well as cultural practices and beliefs. Each of these resource types are described separately here.

Cultural Practices and Beliefs

The CMP, including the CRMP subplan, as well as the Cultural Impact Assessment (CIA) conducted during the preparation of the EIS for the TMT Project, the CIA prepared for the 2000 Master Plan, and other cultural studies performed on behalf of OMKM provide detailed descriptions of the cultural practices and beliefs surrounding Mauna Kea. Those descriptions are briefly summarized here.

Native Hawaiian traditions state that ancestral akua (gods, goddesses, deities) reside within the mountain summit area. These personages are embodied within the Mauna Kea landscape and they are believed to be physically manifested in earthly form as various pu'u (hills) and as the waters of Lake Waiau. Because these akua are connected to the Mauna Kea landscape in Hawaiian genealogies, and because elders and akua are revered and looked to for spiritual guidance in Hawaiian culture, Mauna Kea is considered a sacred place.

Mauna Kea is still a focus of many traditional and customary Native Hawaiian cultural practices and beliefs. It is a source of inspiration and object of reverence for many Hawaiians. Ongoing cultural practices involving Mauna Kea include:

- Performance of prayer and ritual observances important for the reinforcement of an individual's Hawaiian spirituality, including the erection of ahu or shrines.
- Collection of water from Lake Waiau and snow from the summit in general for a variety of healing and other ritual uses.
- Deposition of piko (umbilical cords) at Lake Waiau and the summit peaks of Mauna Kea.

Cindy Freitas Brief

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

CMP	Subplans	Management Action	Applicability to TMT Project
7.1.1 N	lative Hawaiian C	ultural Resources	
CR-1	NRMP 4.4.2 CRMP 4.3.3 PAP 4.2, 5.2, 6.1	Kahu Kū Mauna shall work with families with lineal and historical connections to Mauna Kea, cultural practitioners, and other Native Hawaiian groups, including the Mauna Kea Management Board's Hawaiian Culture Committee, toward the development of appropriate procedures and protocols regarding cultural issues.	Not Applicable
CR-2	CRMP 2.4.2.1	Support application for designation of the summit region of Mauna Kea as a Traditional Cultural Property, per the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 et seq. in consultation with the larger community.	Not Applicable
CR-3	NRMP 4.4.2 CRMP 4.3.3 PAP 4.2, 5.2, 6.1	Conduct educational efforts to generate public awareness about the importance of preserving the cultural landscape.	Directly Applicable
CR-4	CRMP 4.2.1.1	Establish a process for ongoing collection of information on traditional, contemporary, and customary cultural practices,	Not Applicable
CR-5	CRMP 4.2.1.3 PAP 6.3. 6.8	Develop and adopt guidelines for the culturally appropriate placement and removal of offerings.	Indirect
CR-6	CRMP 4.2.1.5 PAP 2.7.2, 6.3	Develop and adopt guidelines for the visitation and use of ancient shrines.	Indirect
CR-7	CRMP 4.2.1.6	Kahu Kū Mauna shall take the lead in determining the appropriateness of constructing new Hawaiian cultural features.	Indirect
CR-8	CRMP 4.2.1.7	Develop and adopt a management policy for the UH Management Areas on the scattering of cremated human remains.	Indirect
CR-9	CRMP 4.2.1.8 PAP 6.8	A management policy for the culturally appropriateness of building ahu or "stacking of rocks" will need to be developed by Kahu Kū Mauna who may consider similar policies adopted by Hawai'i Volcanoes National Park.	Indirect
CR-10	CRMP 4.3.1 PAP 5.2	Develop and implement a historic property monitoring program to systematically monitor the condition of the historic district and all historic properties, including cultural sites and burials.	Not Applicable
CR-11	CRMP 4.3.7	Complete archaeological survey of the portions of the Summit Access Road corridor under UH management.	Not Applicable
CR-12	CRMP 4.2.7	Consult with Kahu Kū Mauna about establishing buffers (preservation zones) around known historic sites in the Astronomy Precinct, to protect them from potential future development.	Indirect
CR-13	CRMP 4.3.2, 4.3.7	Develop and implement a burial treatment plan for the UH Management Areas in consultation with Kahu Kū Mauna Council, MKMB's Hawaiian Culture Committee, the Hawaii Island Burial Council, recognized lineal or cultural descendants, and SHPD.	Not Applicable

Exhibit D

<u> </u>	113	T	115
11:42 1	perspective it has, but we've taken it although	11:44 1	Kea Management Board for their review, input and
11:42 2	not required we've taken it to Mauna Kea Management	11:44 2	approval.
11:42 3	Board for their review and input.	11:44 3	Q So what is the next step?
11:42 4	Q So you still haven't answered the question,	11:44 4	A Then once then we would have a policy in
11:42 5	a legal yes or no question.	11:44 5	place regarding those particular actions.
11:42 6	MR. FLORES: So can I ask the Hearing	11:44 6	Q Who approved those policies?
11:42 7	Officer to ask the witness to please answer the	11:44 7	A We were taking it to the Mauna Kea
11:42 8	question correctly?	11:44 8	Management Board for their review and approval.
11:42 9	HEARINGS OFFICER AMANO: Would you repeat	11:44 9	Q Has the Mauna Kea Management Board approved
11:42 10	question, please?	11:44 10	those policies?
11:42 11	MR. FLORES: Yes.	11:44 11	A Not yet.
11:42 12	Q (By Mr. Flores): Has the Office of Mauna	11:45 12	Q Okay. That's the question I mean,
11:42 13	Kea Management finalized any rules regarding	11:45 13	that's the answer I was looking for. Thank you. It
11:42 14	construction of new Hawaiian cultural features?	11:45 14	was really a yes or no answer.
11:42 15	MR. LUI-KWAN: I'm going to object, vague	11:45 15	So has the Office of Mauna Kea Management
11:42 16	and ambiguous. As to rules, I know the previous	11:45 16	finalized any policies regarding the building of 'ahu
11:42 17	cross-examiner he used rules in a different	11:45 17	or standing rocks?
11:42 18	fashion, and I think maybe that might be confusing	11:45 18	A No.
11:42 19	the witness in terms of what they may mean by	11:45 19	Q Okay.
11:42 20	finalizing the rules.	11:45 20	I guess I should go back to the first
11:42 21	HEARINGS OFFICER AMANO: Do you understand	11:45 21	questions: Has the Office of Mauna Kea Management
11:43 22	the question?	11:45 22	finalized any policies regarding construction of any
11:43 23	THE WITNESS: Not really.	11:45 23	new Hawailan culture features?
11:43 24	MR. FLORES: Well, I mean	11:45 24	A No.
11:43 25	HEARINGS OFFICER AMANO: Maybe you can	11:45 25	Q Thank you.
l .	McMANUS COURT REPORTERS 808-239-6148	1	MANANUS COURT REPORTERS 600 000 C440
	WICINIANUS COURT REPORTERS 606-239-0146		McMANUS COURT REPORTERS 808-239-6148
	114		116
11:43 1	rephrase.	11:45 1	116 I'm going to bring your attention to
11:43 2	rephrase. MR. FLORES: Rephrase.	11:45 2	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that.
11:43 2 11:43 3	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management	11:45 2 11:46 3	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural
11:43 2 11:43 3 11:43 4	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the	11:45 2 11:46 3 11:46 4	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of
11:43 2 11:43 3 11:43 4 11:43 5	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features?	11:45 2 11:46 3 11:46 4 11:46 5	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe,
11:43 2 11:43 3 11:43 4 11:43 5 11:43 6	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No.	11:45 2 11:46 3 11:46 4 11:46 5 11:46 6	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you.	11:45 2 11:46 3 11:46 4 11:46 5 11:46 6 11:46 7	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan.
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings?	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings? A Can I qualify this? Being those particular	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and you're looking at Table 5.1.
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings? A Can I qualify this? Being those particular management items are not in the draft administrative	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and you're looking at Table 5.1. So once again the table is entitled summary
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings? A Can I qualify this? Being those particular management items are not in the draft administrative rules.	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and you're looking at Table 5.1. So once again the table is entitled summary of management actions. Is that correct?
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings? A Can I qualify this? Being those particular management items are not in the draft administrative rules. Q And where are they?	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and you're looking at Table 5.1. So once again the table is entitled summary of management actions. Is that correct? A Yes.
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings? A Can I qualify this? Being those particular management items are not in the draft administrative rules. Q And where are they? A They're policies.	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and you're looking at Table 5.1. So once again the table is entitled summary of management actions. Is that correct? A Yes. Q And the page you have before you is page
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings? A Can I qualify this? Being those particular management items are not in the draft administrative rules. Q And where are they? A They're policies. Q When you say "policies", whose policies?	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and you're looking at Table 5.1. So once again the table is entitled summary of management actions. Is that correct? A Yes. Q And the page you have before you is page 5.2 from Exhibit A-11; is that correct?
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings? A Can I qualify this? Being those particular management items are not in the draft administrative rules. Q And where are they? A They're policies. Q When you say "policies", whose policies?	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and you're looking at Table 5.1. So once again the table is entitled summary of management actions. Is that correct? A Yes. Q And the page you have before you is page 5.2 from Exhibit A-11; is that correct?
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings? A Can I qualify this? Being those particular management items are not in the draft administrative rules. Q And where are they? A They're policies. Q When you say "policies", whose policies? A They're policies that were required under	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and you're looking at Table 5.1. So once again the table is entitled summary of management actions. Is that correct? A Yes. Q And the page you have before you is page 5.2 from Exhibit A-11; is that correct? A I'm not exactly sure, I'm taking your word
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings? A Can I qualify this? Being those particular management items are not in the draft administrative rules. Q And where are they? A They're policies. Q When you say "policies", whose policies? A They're policies that were required under the comprehensive management plan.	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and you're looking at Table 5.1. So once again the table is entitled summary of management actions. Is that correct? A Yes. Q And the page you have before you is page 5.2 from Exhibit A-11; is that correct? A I'm not exactly sure, I'm taking your word for it.
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings? A Can I qualify this? Being those particular management items are not in the draft administrative rules. Q And where are they? A They're policies. Q When you say "policies", whose policies? A They're policies that were required under the comprehensive management plan. Q Okay.	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and you're looking at Table 5.1. So once again the table is entitled summary of management actions. Is that correct? A Yes. Q And the page you have before you is page 5.2 from Exhibit A-11; is that correct? A I'm not exactly sure, I'm taking your word for it. Q That is Exhibit A-11. Are you taking my
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings? A Can I qualify this? Being those particular management items are not in the draft administrative rules. Q And where are they? A They're policies. Q When you say "policies", whose policies? A They're policies that were required under the comprehensive management plan. Q Okay. So has the Office of Mauna Kea Management	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and you're looking at Table 5.1. So once again the table is entitled summary of management actions. Is that correct? A Yes. Q And the page you have before you is page 5.2 from Exhibit A-11; is that correct? A I'm not exactly sure, I'm taking your word for it. Q That is Exhibit A-11. Are you taking my word that it's page 5.2 5-2.
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings? A Can I qualify this? Being those particular management items are not in the draft administrative rules. Q And where are they? A They're policies. Q When you say "policies", whose policies? A They're policies that were required under the comprehensive management plan. Q Okay. So has the Office of Mauna Kea Management finalized these policies regarding the placement and	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and you're looking at Table 5.1. So once again the table is entitled summary of management actions. Is that correct? A Yes. Q And the page you have before you is page 5.2 from Exhibit A-11; is that correct? A I'm not exactly sure, I'm taking your word for it. Q That is Exhibit A-11. Are you taking my word that it's page 5.2 5-2. HEARINGS OFFICER AMANO: No, that it's
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings? A Can I qualify this? Being those particular management items are not in the draft administrative rules. Q And where are they? A They're policies. Q When you say "policies", whose policies? A They're policies that were required under the comprehensive management plan. Q Okay. So has the Office of Mauna Kea Management finalized these policies regarding the placement and removal of offerings?	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and you're looking at Table 5.1. So once again the table is entitled summary of management actions. Is that correct? A Yes. Q And the page you have before you is page 5.2 from Exhibit A-11; is that correct? A I'm not exactly sure, I'm taking your word for it. Q That is Exhibit A-11. Are you taking my word that it's page 5.2 5-2. HEARINGS OFFICER AMANO: No, that it's A-11.
11:43	rephrase. MR. FLORES: Rephrase. Q Has the Office of Mauna Kea Management finalized any administrative rules regarding the construction of new Hawaiian cultural features? A No. Q Thank you. Has the Office of Mauna Kea Management finalized any administrative rules regarding the placement and removal of offerings? A Can I qualify this? Being those particular management items are not in the draft administrative rules. Q And where are they? A They're policies. Q When you say "policies", whose policies? A They're policies that were required under the comprehensive management plan. Q Okay. So has the Office of Mauna Kea Management finalized these policies regarding the placement and removal of offerings? D We have taken to Kahu Ku Mauna, and it's other policy Bit Taxagement Page 19	11:45	I'm going to bring your attention to Exhibit A-11. And I'll provide you a copy of that. Looking at Exhibit A-11 entitled A Cultural Resources Management Plan for the University of Hawaii management areas on Mauna Kea, Ka'ohe, Hamakua, Hawaii Island, State of Hawaii TMK (3)4-4-015, parcel 09 and 12, a sub-plan for the Mauna Kea comprehensive management plan. And we're bring your attention to Page 5-2. It's the bottom. So Exhibit A-11, page 5-2 and you're looking at Table 5.1. So once again the table is entitled summary of management actions. Is that correct? A Yes. Q And the page you have before you is page 5.2 from Exhibit A-11; is that correct? A I'm not exactly sure, I'm taking your word for it. Q That is Exhibit A-11. Are you taking my word that it's page 5.2 5-2. HEARINGS OFFICER AMANO: No, that it's A-11. MR. FLORES: Okay. I affirm that it's from

- National Pollutant Discharge Elimination System (NPDES) permit. The Project will obtain a Notice of General Permit Coverage (NGPC) for general construction activities. The contractor will prepare a Site-Specific Best Management Practice (BMP) plan and submit it to the State of Hawai, Department of Health (HDOH) for review prior to construction. The BMP plan will include a Materials Storage/Waste Management Plan and Spill Prevention and Response Plan; the plan will include measures outlined in Sections 3.15.1 and 3.15.2 of the Final EIS, including measures related to Erosion and Water Quality, Solid and Hazardous Materials and Waste, Air Quality and Lighting, and Additional Disturbance and Encroachment. This permit and component plans will comply with CMP Management Action C-2.
- Noise permit and noise variance. TMT's contractor will obtain and comply with both a noise permit and a noise variance, as applicable.
- Oversize and Overweight Vehicles Permit (OOVP). TMT's contractor will obtain and comply with an OOVP, as applicable.

1.1 Schedule

The conceptual Project construction schedule is presented in Table B-1. Project construction could begin as early as 2011 and take approximately seven years to complete.

Table B-1: Anticipated Construction Timeline

Phase	Start	End
Grading and foundation	2011	2013
Access Way	2011	2012
TMT Observatory 13N Site grading	2011	2012
TMT Observatory foundation	2012	2013
Electrical upgrades	2012	2012
Observatory construction	2012	2017
Dome assembly (exterior cranes active)	2013	2015
Internal telescope assembly	2015	2017
Support building construction (including foundation)	2015	2017
Observatory finish	2015	2017
Batch Plant Staging Area restoration/naturalization	2017	2017
Telescope/instrument testing	2017	2018

Source: TMT Observatory Corporation, July 17, 2010.

Drawings illustrating the construction phasing are provided in Attachment A.

Construction activities will take place 12-15 hours a day, seven days a week; however, work times will vary depending on activities and some special operations or construction phases will require longer work hours. Winter weather conditions at the TMT Observatory site will interrupt construction at times, until the dome is completed.

1.2 Grading, Underground Utilities, and Foundation

This section discusses ground level and underground construction activities. The grading of the Access Way and TMT Observatory will take place first, followed by TMT Observatory

Exhibit D Cindy Freitas Brief

Exhibit 4 a

foundation work. Plans, which illustrate proposed changes in contours, are included in Attachment B.

1.2.1 Rock Movement Plan

Project construction will require the excavation of rock from the TMT Observatory site and along the Access Way. Along the Access Way, the need to excavate rock is primarily governed by the need to generate a smoothly sloping road and the need to bury utilities within the Access Way. At the TMT Observatory site, excavation is necessary to prepare a level work surface plus place a foundation for the telescope and the observatory dome. TMT and their contractor will prepare a Rock Movement Plan prior to construction in compliance with CMP Management Action C-3 and submit it to the Office of Mauna Kea Management (OMKM) for review and approval. The Rock Movement Plan will detail excavation and grading activities.

Preliminary engineering plans indicate that the total volume of excavated material ("cut" material) will be 64,000 cubic yards. These preliminary engineering plans, which illustrate proposed changes in contours, are included in Attachment B. The estimated cut and fill volumes are based on geotechnical assumptions concerning the subsurface in the area and could change following the completion of geotechnical borings. As summarized in Table B-2, roughly 32,000 cubic yards of the cut material will be reused at the TMT Observatory site or Access Way. An estimated 32,000 cubic yards of material will be excess cut and will be used to provide some restoration of the Batch Plant Staging Area and a portion of which will be stored at a location designated by OMKM for use as determined by OMKM. By using most of the material on the TMT Observatory site and Access Way, that material will be available for later use to restore the TMT Observatory site and the portion of the Access Way exclusively used by TMT during decommissioning.

Table B-2: Estimated Cut and Fill Volumes

Site	Cut	Fill
Site	(cubic yards)	(cubic yards)
TMT Observatory 13N site	34,000	29,000
Access Way	30,000	3,000
Batch Plant Staging Area	None	30,000
Saved for OMKM Use	NA	2,000

Source: TMT Observatory Corporation, July 17, 2010.

No soil or cinder that originates off the mountain used as fill within the Conservation District. Some courser material from on-island quarries will be transported to the TMT Observatory site and used under concrete foundation slabs as "base course". Aggregate from on-island quarries will also be used to make the foundation concrete.

1.2.2 Batch Plant

TMT will re-establish a temporary concrete batch plant at the previously utilized "Batch Plant Staging Area". Prior to utilizing the Batch Plan Staging Area, the site will be cleared of invasive species to the extent practicable, if any are observed by a biologist inspecting the area prior to use. Best management practices (BMPs) will also be installed to (a) limit the potential for the later establishment of invasive species; (b) limit the production of dust and mud; (c) limit and

Exhibit D Cindy Freitas Brief

Exhibit 4 b

control stormwater run-on, runoff, and quality; and (d) prevent disturbance of undisturbed areas beyond the previously disturbed batch plant area.

The batch plant will be required to produce roughly 5,900 cubic yards of concrete for the TMT Observatory foundations. As discussed above, this volume is an estimate based on geotechnical assumptions concerning the subsurface in the area and could change following the completion of geotechnical borings.

No mass grading of the Batch Plant Staging Area is planned prior to use of the site as a batch plant other than the storage of excess material from the TMT Observatory site and Access Way within the area. The stored material will be placed such that the entire Batch Plant Staging Area can be utilized (i.e., it will be graded and compacted after placement so that it can be driven over rather than left in a pile). The Project will utilize the area using a layout similar to that used by previous projects that utilized the area as a batch plant. During the Project's use of the Batch Plant Staging Area there will be temporary stockpiles of soil and rock, a concrete batch plant, and construction materials staged within the area.

Once the Project"s use of the Batch Plant Staging Area is complete, the stored excess material will be regraded. The excess material will be utilized to restore/naturalize the Batch Plant Staging Area to the degree practicable. A portion or all of the excess material will be spread over a portion of the Batch Plant Staging Area in such a way as to create a rough, more natural surface that could not be driven over. Some of the excess material may be left in a stockpile within the Batch Plant Staging Area depending on OMKM"s desires. This restoration of the Batch Plant Staging Area would reduce the size of the Batch Plant Staging Area that could be used for parking and other uses following the construction of the TMT Observatory; however, the restored area could be temporarily reclaimed as a staging area by future projects, if needed.

1.2.3 **Access Way**

The Access Way has two distinct sections (1) the southernmost portion where the Access Way will follow existing roads on cinder, and (2) the rest of the Access Way where it will primarily follow existing roads on lava flows. These two sections are discussed below.

Southernmost Cinder Section

Generally, grading along the Access Way will be performed to achieve a smooth and level travel surface. In the cinder section, the existing 4-wheel drive road (the "jeep trail") travel surface has degraded over the years and no longer provides a level travel surface. Where the Access Way occurs on the cinder lower slope of Pu, u Hau, oki, the Access Way features will be as illustrated in Figure B-1 – a 12 foot wide paved travel way (1 lane), a four foot paved shoulder with drainage channel and guardrail, and slope graded to 2.5:1.

Exhibit 4 c

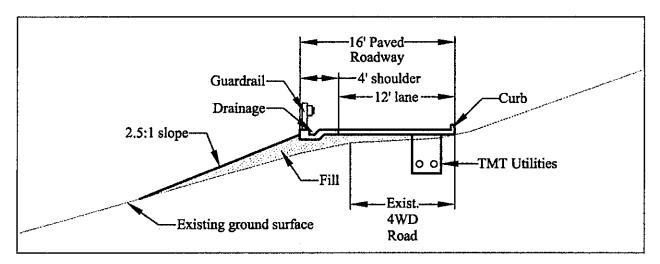


Figure B-1: Cross Section of Access Way in Southernmost Cinder Section Overlapping 4-Wheel Drive Road

Lava Flow Section

Generally, grading along the Access Way will be performed to achieve a smooth travel surface. In the lava flow section the Access Way will follow an existing SMA road and the 4-wheel drive road through Area E. Although the SMA road already provides a smooth travel surface, grading will be done to raise the grade of the travel surface in order to protect the SMA utilities under the roadway, as illustrated in Figure B-2. During early construction activities when sufficient material has not been cut to install the 18-inch cushion over the SMA utilities as shown in the figure, steel plates will be used to cover and protect the SMA utilities until sufficient material is available.

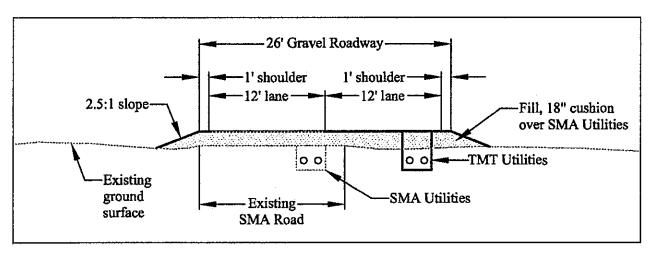


Figure B-2: General Cross Section of Access Way in Lava Flow Section Overlapping SMA Road

In addition to the steps discussed above to protect the SMA utilities where the SMA utilities and TMT utilities run parallel to each other, additional measures will be taken where they cross.

They will cross at two points – (1) where the SMA road branches to a SMA pad on the east side Exhibit D

Cindy Freitas Brief

of the SMA Area near where the Access Way comes off the cinder cone, and (2) where the SMA road and the 4-wheel drive road split. At those locations additional measures will be taken to protect the SMA utilities, including the use of steel plates and additional cushion so that the TMT utilities can cross over the SMA utilities but still provide the necessary cover over the TMT utilities.

The 4-wheel drive road portion in the cinder cone section will have to be graded to a greater extent because it is not straight and the slope changes dramatically. Throughout the lava flow section, the Access Way features will be as illustrated in Figure B-3 – a 24 foot wide gravel travel way (two lanes), one foot shoulders, and slopes graded to 2.5:1. The slopes beyond the shoulder of the Access Way will vary depending on the topography and steeper embankment slopes may be used depending on geotechnical conditions encountered.

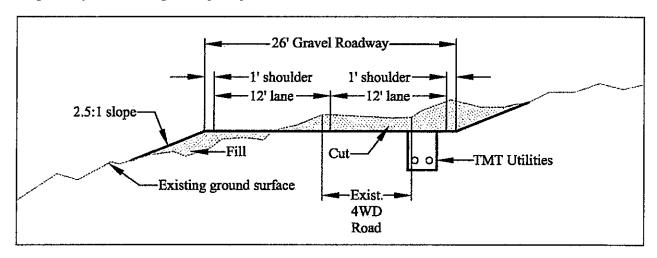


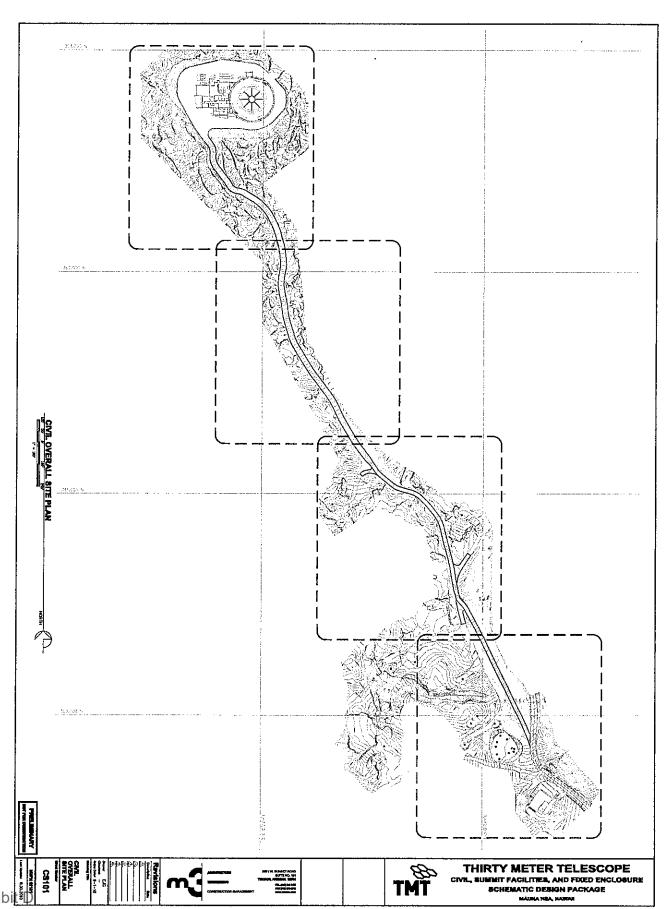
Figure B-3: General Cross Section of Access Way in Lava Flow Section Overlapping 4-Wheel Drive Road

Utilities

A trench for electrical and communications lines will be excavated along the Access Way on one side of the road as illustrated in Figure B-1, Figure B-2, and Figure B-3. The conduits will be encased in concrete per governing code requirements. Excavated material will be used to raise the Access Way road surface where required to improve grades on the road and to provide a smooth and level driving surface where a rough surface from excavation will otherwise be exposed.

1.2.4 TMT Observatory

The limits of grading activities (the area that will be affected by the cut and fill), the existing contours, and proposed contours at the TMT Observatory 13N site are shown in Figure B-4. Grading and foundation details are illustrated on preliminary plans included in Attachment A and B.



Cindy Freitas Brief

i		101	T			103
11:17 1	details p	rovided here represent the current design?	11:20	1	Q	And what kind of appearance will we will
11:17 2	-	ible that you might have answered this	11:21	2	this thin	g look like? In other words, would it be
11:17 3	before, l	out I thought I would try to get the actual	11:21	3	it's a	would it be a shiny kind of, glossy kind of
11:18 4	facts mo	re clearly.	11:21	4	finish, w	ould it be a buffed, dull kind of surface,
11:18 5	Α	I think I answered it before.	11:21	5	what	or have you decided?
11:18 6	Q	Okay. Okay.	11:21	6	Α	We haven't decided. Your question is
11:18 7		On the same page in the last paragraph, you	11:21	7	well-fo	unded. So if you look at Exhibit C-3, you see
11:18 8	begin sa	ying:	11:21	8	a gene	al representation. It's not highly polished
11:18 9		The TMT Adaptive Optics (AO) System, you	11:21	9	like a n	nirror
11:18 10	say, The	TMT Observatory will be the first	11:21	10	Q	Yes,
11:18 11	optical/ir	nfrared observatory of its size to integrate	11:21	11	Α	a real mirror, and it's not very dull.
11:18 12	AO into i	ts original design.	11:21	12	Q	Although you say somewhere, I believe, that
11:18 13		Is that correct?	11:21	13	it will re	flect something about the sky or the colors
11:18 14	Α	Correct.	11:21	14	of sky o	r the colors of the ground or something like
11:18 15	Q	Are you saying that the Giant Magellan and	11:21	15	that?	
11:18 16	the EELT	don't use AO in their designs?	11:21	16	Α	Right. It will be reflective enough so
11:19 17	Α	I can't speak to how they're integrating it	11:21	17	that it	will reflect the colors of sky, but it won't
11:19 18	into the	design. I believe they are I believe we	11:21	18	be so h	ighly polished and reflective that it's like a
11:19 19	may hav	ve we may have been doing it first, but that's	11:21	19	mirror	
11:19 20	a detail	So your question is what now?	11;21	20	Q	I see.
11:19 21	Q	In fact, we may not know, you know, what	11:21	21	Α	and the exact level of reflectivity or
11:19 22	the detai	ls of their developments are?	11:21	22	specula	rity will be decided when we choose the paint
11:19 23	Α	Today, I don't.	11:22	23	with th	e contractor.
11:19 24	Q	And then when you say "of its size", do you	11:22	24	Q	I see.
11:19 25	mean, lil	ce, specifically 30 meters, or are you	11:22	25		So you didn't happen to bring a sample of
	 	McMANUS COURT REPORTERS (808) 239-6148				McMANUS COURT REPORTERS (808) 239-6148
		102				104
11:19 1	talking a	bout these large segmented telescopes?	11:22	1	this	
11:19 2	Α	I'm talking about large telescopes in	11:22	2	Α	No.
11:19 3	general.		11:22	3	Q	or possibilities of what this outside
11:19 4	Q	Not necessarily one just all 30 meters?	11:22	4	_	might look like with you?
11:19 5	A	Not just 30 meters, but large.		5	A	No.
11:19 6	Q	It could be the 39 meters of the EELT or	11:22	6	Q	On the bottom of Page 7, you say:
11:19 7	_	ler Magellan?	11:22	7		Finally, some site preparation for the TMT
11:19 8	Α	Right, right, right.		8	4.1	
11:20 9	_		11:22		-	reaking was done in 2015 also within the TMT
	Q	On Page 5, that's paragraph number four,	11:22	9	groundb site bou	ndaries.
11:20 10	Q you say:		11:22 11:22	9 10	site bou	ndaries. Now, I believe that early on you testified
11:20 10 11:20 11	you say:	The Calotte dome base, cap, and shutter	11:22 11:22 11:22	9 10 11	site bou	ndaries. Now, I believe that early on you testified rading permit had been obtained by the
11:20 10 11:20 11 11:20 12	you say:	The Calotte dome base, cap, and shutter s will appear rounded and smooth and have a	11:22 11:22 11:22 11:22	9 10 11 12	site bou	ndaries. Now, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct?
11:20 10 11:20 11 11:20 12 11:20 13	you say: structure reflective	The Calotte dome base, cap, and shutter	11:22 11:22 11:22 11:22 11:22	9 10 11 12 13	site bour that a gr contract	ndaries. Now, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct? For the groundbreaking?
11:20 10 11:20 11 11:20 12 11:20 13 11:20 14	you say: structure reflective correct?	The Calotte dome base, cap, and shutter s will appear rounded and smooth and have a aluminum-like exterior coating, is that	11:22 11:22 11:22 11:22 11:22 11:22	9 10 11 12 13	site bour that a gr contract A Q	ndaries. Now, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct? For the groundbreaking? Yes.
11:20 10 11:20 11 11:20 12 11:20 13 11:20 14 11:20 15	structure reflective correct?	The Calotte dome base, cap, and shutter s will appear rounded and smooth and have a aluminum-like exterior coating, is that	11:22 11:22 11:22 11:22 11:22 11:22	9 10 11 12 13 14	that a gi contract A Q	ndaries. Now, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct? For the groundbreaking? Yes. Yes. The grading
11:20 10 11:20 11 11:20 12 11:20 13 11:20 14 11:20 15 11:20 16	you say: structure reflective correct? A Q	The Calotte dome base, cap, and shutter s will appear rounded and smooth and have a aluminum-like exterior coating, is that Correct. What you mean when you say a "reflective	11:22 11:22 11:22 11:22 11:22 11:22 11:22	9 10 11 12 13 14 15	that a green contract A Q A	ndaries. Now, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct? For the groundbreaking? Yes. Yes. The grading — And the accessway, I believe, he's already
11:20 10 11:20 11 11:20 12 11:20 13 11:20 14 11:20 15 11:20 16 11:20 17	structure reflective correct? A Q aluminum	The Calotte dome base, cap, and shutter s will appear rounded and smooth and have a aluminum-like exterior coating, is that Correct. What you mean when you say a "reflective n-like exterior coating"?	11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22	9 10 11 12 13 14 15 16	that a green contract A Q A Q testified	Now, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct? For the groundbreaking? Yes. Yes. The grading — And the accessway, I believe, he's already
11:20 10 11:20 11 11:20 12 11:20 13 11:20 14 11:20 15 11:20 16 11:20 17 11:20 18	structure reflective correct? A Q aluminum	The Calotte dome base, cap, and shutter is will appear rounded and smooth and have a caluminum-like exterior coating, is that Correct. What you mean when you say a "reflective in-like exterior coating"? The dome will be made of steel, plain	11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22	9 10 11 12 13 14 15 16 17	that a green contract A Q A Q testified	Now, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct? For the groundbreaking? Yes. Yes. The grading — And the accessway, I believe, he's already Well, I believe that grading permit was for
11:20 10 11:20 11 11:20 12 11:20 13 11:20 14 11:20 15 11:20 16 11:20 17 11:20 18 11:20 19	structure reflective correct? A Q aluminum A common	The Calotte dome base, cap, and shutter s will appear rounded and smooth and have a aluminum-like exterior coating, is that Correct. What you mean when you say a "reflective n-like exterior coating"? The dome will be made of steel, plain a steel. It will be painted with a reflective	11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22	9 10 11 12 13 14 15 16 17 18	that a green contract A Q A Q testified A the enti	Now, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct? For the groundbreaking? Yes. Yes. The grading — And the accessway, I believe, he's already Well, I believe that grading permit was for the civil package that included the
11:20 10 11:20 11 11:20 12 11:20 13 11:20 14 11:20 15 11:20 16 11:20 17 11:20 18 11:20 19 11:20 20	structure reflective correct? A Q aluminum A common	The Calotte dome base, cap, and shutter s will appear rounded and smooth and have a aluminum-like exterior coating, is that Correct. What you mean when you say a "reflective n-like exterior coating"? The dome will be made of steel, plain a steel. It will be painted with a reflective at will have a metallic component in the	11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22	9 10 11 12 13 14 15 16 17 18 19 20	that a ground th	Now, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct? For the groundbreaking? Yes. Yes. The grading And the accessway, I believe, he's already Well, I believe that grading permit was for the civil package that included the breaking and all of the work in the civil
11:20 10 11:20 11 11:20 12 11:20 13 11:20 14 11:20 15 11:20 16 11:20 17 11:20 18 11:20 19 11:20 20 11:20 21	structurer reflective correct? A Q aluminum A common paint the paint to	The Calotte dome base, cap, and shutter s will appear rounded and smooth and have a aluminum-like exterior coating, is that Correct. What you mean when you say a "reflective in-like exterior coating"? The dome will be made of steel, plain in steel. It will be painted with a reflective at will have a metallic component in the make the paint reflective, and it will look	11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22	9 10 11 12 13 14 15 16 17 18 19 20	that a ground a groun	Now, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct? For the groundbreaking? Yes. Yes. The grading And the accessway, I believe, he's already Well, I believe that grading permit was for the civil package that included the breaking and all of the work in the civil a including the accessway
11:20 10 11:20 11 11:20 12 11:20 13 11:20 14 11:20 15 11:20 16 11:20 17 11:20 18 11:20 19 11:20 20 11:20 21 11:20 22	structurereflective correct? A Q aluminum A commor paint the	The Calotte dome base, cap, and shutter s will appear rounded and smooth and have a aluminum-like exterior coating, is that Correct. What you mean when you say a "reflective in-like exterior coating"? The dome will be made of steel, plain in steel. It will be painted with a reflective at will have a metallic component in the make the paint reflective, and it will looking like an aluminized surface.	11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:23 11:23	9 10 11 12 13 14 15 16 17 18 19 20 21	that a green contract A Q A Q testified A the entigrounding package	Now, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct? For the groundbreaking? Yes. Yes. The grading — And the accessway, I believe, he's already Well, I believe that grading permit was for the civil package that included the breaking and all of the work in the civil e including the accessway — I see.
11:20 10 11:20 11 11:20 12 11:20 13 11:20 14 11:20 15 11:20 16 11:20 17 11:20 18 11:20 19 11:20 20 11:20 21 11:20 22 11:20 23	structure reflective correct? A Q aluminum A common paint the paint to somethinibit [Q	The Calotte dome base, cap, and shutter s will appear rounded and smooth and have a aluminum-like exterior coating, is that Correct. What you mean when you say a "reflective m-like exterior coating"? The dome will be made of steel, plain a steel. It will be painted with a reflective at will have a metallic component in the make the paint reflective, and it will look ng like an aluminized surface. Okay.	11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:23 11:23 11:23	9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	that a green contract A Q A Q testified A the enti ground package Q A	Now, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct? For the groundbreaking? Yes. Yes. The grading And the accessway, I believe, he's already? Well, I believe that grading permit was for the civil package that included the breaking and all of the work in the civil including the accessway I see. and the rough grading of the site. It's
11:20 10 11:20 11 11:20 12 11:20 13 11:20 14 11:20 15 11:20 16 11:20 17 11:20 18 11:20 19 11:20 20 11:20 21 11:20 22 11:20 23 11:20 (24)	structure reflective correct? A Q aluminum A common paint the paint to somethinibit [Q] dy Freits	The Calotte dome base, cap, and shutter s will appear rounded and smooth and have a aluminum-like exterior coating, is that Correct. What you mean when you say a "reflective in-like exterior coating"? The dome will be made of steel, plain in steel. It will be painted with a reflective at will have a metallic component in the make the paint reflective, and it will look ing like an aluminized surface. Okay.	11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:23 11:23 11:23 11:23	9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	that a great contract A Q A Q testified A the enti ground package Q A a single	Now, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct? For the groundbreaking? Yes. Yes. The grading And the accessway, I believe, he's already Well, I believe that grading permit was for re civil package that included the breaking and all of the work in the civil including the accessway I see. and the rough grading of the site. It's grading permit.
11:20 10 11:20 11 11:20 12 11:20 13 11:20 14 11:20 15 11:20 16 11:20 17 11:20 18 11:20 19 11:20 20 11:20 21 11:20 22 11:20 23	structure reflective correct? A Q aluminum A common paint the paint to somethinibit [Q	The Calotte dome base, cap, and shutter s will appear rounded and smooth and have a aluminum-like exterior coating, is that Correct. What you mean when you say a "reflective in-like exterior coating"? The dome will be made of steel, plain in steel. It will be painted with a reflective at will have a metallic component in the make the paint reflective, and it will look ing like an aluminized surface. Okay. Okay. Okay. McMANUS COURT REPORTERS (808) 239	11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:23 11:23 11:23 11:23	9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	that a great contract A Q A Q testified A the enti ground package Q A a single	Mow, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct? For the groundbreaking? Yes. Yes. The grading And the accessway, I believe, he's already Well, I believe that grading permit was for re civil package that included the breaking and all of the work in the civil a including the accessway I see. and the rough grading of the site. It's a grading permit. So my question to you is: Is the was McMANUS COURT FEMPIONE 17608 239-6148
11:20 10 11:20 11 11:20 12 11:20 13 11:20 14 11:20 15 11:20 16 11:20 17 11:20 18 11:20 19 11:20 20 11:20 21 11:20 22 11:20 23 11:20 23 11:20 24 11:20 25	structure reflective correct? A Q aluminum A common paint the paint to somethinibit [Q] dy Freits	The Calotte dome base, cap, and shutter s will appear rounded and smooth and have a aluminum-like exterior coating, is that Correct. What you mean when you say a "reflective in-like exterior coating"? The dome will be made of steel, plain in steel. It will be painted with a reflective at will have a metallic component in the make the paint reflective, and it will look ing like an aluminized surface. Okay. Okay. Okay. McMANUS COURT REPORTERS (808) 239	11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:22 11:23 11:23 11:23 11:23	9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	that a great contract A Q A Q testified A the enti ground package Q A a single	Mow, I believe that early on you testified rading permit had been obtained by the or to do this work? Is that correct? For the groundbreaking? Yes. Yes. The grading And the accessway, I believe, he's already Well, I believe that grading permit was for re civil package that included the breaking and all of the work in the civil a including the accessway I see. and the rough grading of the site. It's a grading permit. So my question to you is: Is the was McMANUS COURT FEMPIONE 17608 239-6148

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the following documents:

1. Cindy Freitas Breif in Response to Petitioner's Motion Was duly served upon the following parties, by email, on November 3, 2021

Linda L.W. Chow Laure K. Chun Deputy Attorneys General Linda.L.Chow@hawaii.gov Lauren.K.Chun@hawaii.gov Attorneys for the Board of Land and Natural Resources

Jesse K. Souki Associate General Counsel University of Hawai'i souki@hawaii.edu Attorney for University of Hawai'i, Hilo

Lincoln S.T. Ashida Newton J. Chu Torkildson, Katz, Moore, & Harris Isa@torkildson.com njc@torkildson.com Attorneys for Perpetuating Unique Educational Opportunities (PUEO)

Richard Naiwieha Wurdeman RNWurdeman@RNWLaw Bianca Isaki bianca.isaki @gmail.com Attorneys for the Mauna Kea Hui

J. Douglas Ing Brian A. Kang Ross Shinyama Summer H. Kaiawe Watanabe Ing LLP douging@wik.com bkang@wik.com rshinyama@wik.com skaiawe@wik.com Attorneys for TMT International Observatory, LLC

Harry Fergerstrom hankhawaiian@yahoo.com

Richard L DeLeon kekaukike@msn.com

Mehana Kihoi uhiwai@live.com

C. M. Kaho'okahi Kanuha kahookahi@gmail.com

Joseph Kualii Lindsey Camara kualiic@hotmail.com

Cindy Freitas hanahanai@hawaii.rr.com Maelani Lee maelanilee@yahoo.com

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

Kalikolehua Kanaele akulele@yahoo.com

Stephanie-Malia: Tabbada s.tabbada@hawaiiantel.net

Tiffnie Kakalia tiffniekakalia@gmail.com

Glen Kila makakila@gmail.com

Dwight J. Vicente dwightjvicente@gmail.com

Brannon Kamahana Kealoha brannonk@hawaii.edu

William Freitas kukulukuula@gmail.com

J. Leina'ala Sleightholm leina.ala.s808@gmail.com

Michael Cain Michael.cain@hawaii.gov Custodian of the Records

DATED: November 3, 2021

Cindy Freitas Petitioner

E. Kalani Flores, Flores-Case 'Ohana P.O. Box 6918

Kamuela, Hawaii 96743 Email: **08ef80@gmail.com**

BOARD OF LAND AND NATURAL RESOURCES STATE OF HAWAI'I

IN THE MATTER OF)	Case No. HA-22-02
)	
The Petition of Mauna Kea Hui for a)	MEMORANDUM IN SUPPORT OF
Declaratory Order Filed May 24, 2021.)	MAUNA KEA HUI'S MOTION TO
)	REOPEN HEARING TO HEAR
)	MOTION TO CONFIRM
)	NON-COMPLIANCE WITH
)	CONDITION NO. 4, OR,
)	ALTERNATIVELY, PETITION FOR
)	DECLARATORY ORDERS
)	CONCERNING THE SAME;
)	DECLARATION OF E. KALANI
)	FLORES; EXHIBITS "A" - "H";
)	CERTIFICATE OF SERVICE
)	
)	
)	

MEMORANDUM IN SUPPORT OF MAUNA KEA HUI'S MOTION TO REOPEN HEARING TO HEAR MOTION TO CONFIRM NON-COMPLIANCE WITH CONDITION NO. 4, OR, ALTERNATIVELY, PETITION FOR DECLARATORY ORDERS CONCERNING THE SAME

I. INTRODUCTION

E. KALANI FLORES ("Flores"), in capacity as an individual as well as a representative of the FLORES-CASE 'OHANA ("FCO"), respectfully files this Memorandum in Support ("Memorandum") of the Mauna Kea Hui's Motion to Reopen Hearing to Hear Motion to

Exhibit E Flores-Case Ohana Memorandum Received Office of Conservation and Coastal Lands Department of Land and Natural Resources State of Hawaii Dec 03 2021 16:29 Confirm Non-Compliance with Condition No. 4, or, Alternatively, Petition for Declaratory Orders Concerning the Same ("Motion").

On October 20, 2021, the Board of Land and Natural Resources issued Minute Order No. 1 in this matter, granting Petitioners MAUNA KEA ANAINA HOU, KEALOHA PISCIOTTA, CLARENCE KUKAUAKAHI CHING, DEBORAH J. WARD, PAUL NEVES, and KAHEA: THE HAWAIIAN-ENVIRONMENTAL ALLIANCE's (collectively, "Petitioners") request to open a new proceeding for a declaratory ruling for the limited purpose of determining whether Permittee UNIVERSITY OF HAWAI'I AT HILO ("UHH") has complied with Condition No. 4 of Conservation District Use Permit HA-3568. The Board served Minute Order No. 1 via email on the parties named in the Certificate of Service attached to Petitioners' Motion, filed May 24, 2021. Minute Order No. 1 invited the parties named in the Certificate of Service to file a briefing in response to the Petitioners' Motion within fifteen (15) days of service of the Minute Order, and provided Petitioners ten (10) days after service of any responsive briefings to file a reply.

On November 8, 2021, E. KALANI FLORES ("Flores"), as an individual and on behalf of the FLORES-CASE 'OHANA, filed a document entitled "State of Hawai'i Board of Land and Natural Resources Failure to Properly Serve Minute Order No. 1 to the Flores-Case 'Ohana" ("Flores Request"). The Flores Request asserted that Flores and the Flores-Case 'Ohana were parties in Contested Case No. BLNR-CC-16-002 pertaining to the Thirty Meter Telescope ("TMT") project and requested leave to file a responsive brief and a reply brief in this instant declaratory action.

On November 19, 2021, the BLNR issued Minute Order No. 2, granting Flores/FCO leave to file a responsive brief to the Petitioners' Motion within fifteen (15) days of service of Minute Order No. 2.

II. FLORES/FCO'S SUPPORTING POSITIONS

The Flores/FCO's positions on this matter substantively support and concur with the Mauna Kea Hui's positions: (1) DLNR incorrectly approved UHH's claims to have initiated work on the land or TMT construction; (2) the DLNR chairperson's summary approval of UHH's request prejudiced the due process rights of the Mauna Kea Hui because the reasons UHH cannot comply with Condition No. 4 require full examination by the Board, at which time the Board should reconsider its initial grant of the permit in 2017; (3) UHH's letter to OCCL constituted an

Exhibit E

improper request for a determination of conditions exercised under an unlawful rule; and, (4) UHH failed to provide supportive documentation for its claim to have initiated work on the land or construction of the TMT.

The Flores/FCO provides the following arguments and facts in support of the Mauna Kea Hui's Motion.

A. DLNR incorrectly approved initiation of construction work for the TMT project as UHH wasn't in compliance with all preconstruction conditions and mitigation measures of HA-3568 CDUP.

The Flores/FCO argue further that in order for DLNR to correctly approve UHH's claims to have initiated work on the land or construction of the TMT, UHH must have met all preconstruction conditions and mitigation measures of HA-3568 CDUP ("CDUP") before it could have commenced with any work or construction on the land as stipulated in General Condition No. 4. In the same manner that DLNR incorrectly approved UHH's claims to have met this condition, DLNR also erred by failing to ensure UHH was in compliance with all preconstruction conditions and mitigation measures of the CDUP prior to issuing the Notice To Proceed: Conservation District Use Permit (CDUP) HA-3568 Thirty Meter Telescope (TMT); Mauna Kea Science Reserve, Kaʻohe Mauka, Hāmakua District, Hawaiʻi TMK (3) 4-4-015:009 ("Notice to Proceed"), dated June 19, 2019, to UHH. Exh. A. Based upon this Notice to Proceed, it is very apparent that DLNR relied solely upon the Request for Notice to Proceed with Construction, CDUP HA-3568 for the Thirty Meter Telescope at the Mauna Kea Science Reserve, Ka'ohe Mauka, Hamakua, Hawai'i TMK (3) 4-4-015:009 ("Request"), dated April 8, 2019, sent by UHH Interim Chancellor to Office of Conservation and Coastal Lands ("OCCL") Administrator to assert that preconstruction conditions and requirements were fulfilled in order to meet Special Condition No. 32.2 Exh. B. This special condition is directly connected to and is

¹ General Condition No. 4: Any work done or construction to be done on the land shall be initiated within two (2) years of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and, unless otherwise authorized, shall be completed within twelve (12) years of the approval. The UH Hilo shall notify the Department in writing when construction activity is initiated and when it is completed.

² Special Condition No. 32: No construction work shall be initiated until the Applicant demonstrates compliance with all preconstruction conditions and mitigation measures

a prerequisite to General Condition No. 4 as it references the "construction work" to be "initiated" after UHH "demonstrates compliance with all preconstruction conditions and mitigation measures specifically required in this decision." However, UHH failed to properly demonstrate that it met all preconstruction conditions and mitigation measures in order to fulfill General Condition No. 4.

In addition, DLNR failed, due to the lack of proper oversight, to verify that UHH was in compliance with all CDUP General Conditions including, but not limited to Nos. 1 and 3, prior to issuing this Notice:

- 1. UH Hilo shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State, and County governments, and applicable parts of the HAR § 13-5 et seq.;
- 3. UH Hilo shall comply with all applicable Department of Health administrative rules;

Likewise, DLNR failed, due to the lack of proper oversight, to verify that UHH was in compliance with all CDUP Special Conditions including, but not limited to No. 32.

In the same manner that UHH failed to provide supportive documentation for its claim to have initiated construction work on the land, UHH also failed to provide complete documentation for its claim that it met all CDUP preconstruction conditions and requirements.

Any type of construction activities that were asserted to have occurred on or after June 12, 2019 would have been in violation of HA-3568 CDUP preconstruction conditions as UHH or the TMT International Observatory LLC ("TIO") did not have a valid National Pollutant Discharge Elimination System ("NPDES") permit which had expired June 11, 2019. Said original permit, NPDES Permit No. HI S000431, was issued by the State of Hawai'i Department of Health ("DOH") to permittee TMT Observatory Corporation effective June 12, 2014. Furthermore, the DOH issued a notice on May 23, 2019 for a public hearing that was held on June 25, 2019 for the renewal application of this NPDES permit. The appropriate course of action for DLNR at this time would have been to wait until DOH's public hearing and/or contested case hearing was held to determine if any issues of concern might be brought up prior to issuing the Notice to Proceed. Commencing any type of construction work without a valid NPDES permit would also have been a violation of both state and federal laws.

specifically required in this decision. Once this condition has been satisfied, the Department will Exhibit Ex

Flores-Case Ohana Memorandum

A renewal application for this NPDES permit was improperly submitted to the DOH and as such was invalid at the time UHH and TIO asserted that construction work was initiated.

These are the facts pertaining to this permit:

- 1. NPDES Permit No. HI S000431 ("original permit") was issued June 11, 2014 to the **TMT Observatory Corporation**, <u>not</u> to the TMT International Observatory LLC (TIO). Exh. C.
- 2. This NPDES permit expired on June 11, 2019.
- 2. TMT Observatory Corporation did <u>not</u> transfer this NPDES permit to TIO by executing a request for either a transfer of ownership or minor modification in accordance with state and federal laws <u>prior</u> to this permit expiring.
- 3. Instead, TIO proceeded ahead to renew NPDES Permit No. HI S000431 without satisfying the statutory and regulatory requirements for a Renewal Individual NPDES application as evidenced in the *Transmittal Requirements and Certification Statement for E-Permitting Individual NPDES Application Submissions*, dated November 16, 2018. Exh. D.
- 4. Due to the original permit having expired and the failure to complete a transfer of ownership or minor modification, TIO was required to submit a **new** NPDES application.
- 5. DOH issued a notice on May 23, 2019 of a public hearing regarding NPDES Permit No. HI S000431 that was held on June 25, 2019. Due to the DOH having technical issues in receiving public comment through email, the comment period was extended to July 9, 2019.
- 6. DOH finally provided a response to public hearing comments six months later on January 9, 2020 (Doc. 01011PCTM.20).
- 7. DOH later issued a notice to TIO, Rescinding National Pollutant Discharge Elimination System (NPDES) Revised Draft Permit for TMT International Observatory Mauna Kea, Island of Hawaii, Hawaii Permit No. HI S000431, dated Mach 3, 2021. Exh. E.
- 8. A contested case hearing was scheduled to begin February 2021, but was cancelled after the notice regarding rescinding the NPDES permit was issued.
- 9. DOH re-published its notice regarding this NPDES permit on April 8, 2021.

It is very evident that the TMT Observatory Corporation and TIO are two separate legal entities as was affirmed in the BLNR's *Findings of Fact, Conclusions of Law and Decision and Order* (Case No. BLNR-CC-16-002) as noted in the finding of facts Nos. 224 and 225.

It was further noted that TIO assumed ownership and control of the TMT project, including its assets and liabilities, through the *Asset and Employee Transfer Agreement* ("Transfer Agreement"), dated October 1, 2016, between TMT Observatory Corporation and TIO. Exh. F. However, TMT Observatory Corporation failed to transfer its interest and ownership to the NPDES permit as it was clearly omitted from Schedule 1.1 of this Transfer Agreement. TIO then attempted to transfer this expired NPDES permit through an after-the-fact *Bill of Sale and Assignment Agreement*, dated September 30, 2020, between TMT Observatory Corporation and TIO. Exh. G. This action further affirmed that TIO was <u>not</u> in possession of the required NPDES at the time UHH asserted that construction work was initiated. It is also undisputed that the original NPDES Permit No. HI S000431 holder, TMT Observatory Corporation, failed to execute either a transfer of ownership or minor modification designating TIO as the new permittee prior to DLNR issuing its Notice to proceed with construction work.

Conclusively, UHH could not have been able to legally commence with any work or construction on the land in order to meet Condition No. 4 if it didn't meet all preconstruction conditions and mitigation measures of the CDUP as stipulated in Special Condition No. 32. In addition, UHH failed to demonstrate and provide supportive documentation for its claim that it met all preconstruction conditions and mitigation measures of the CDUP as well as Condition No. 4. Likewise, DLNR failed to verify UHH's claims that it met all preconstruction conditions and mitigation measures of the CDUP as well as Condition No. 4.

This is an ongoing pattern dating back several decades of DLNR failing its statutory duty and responsibility to ensure that the University of Hawai'i as the lessee of the Mauna Kea lands within a conservation district are in compliance with its permits. This matter was previously identified by the Office of the Auditor as stated in the *Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve* (Report No. 98-6, February 1998) that it "found that permit conditions, requirements, and regulations were not always enforced" by DLNR.

It was also stated in the Summary of the *Follow-Up Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve* (Report No. 05-13, December 2005) that DLNR "has not provided a mechanism to ensure compliance with lease and permit requirements in protecting

and preserving Mauna Kea's natural resources. Although the department is mandated to protect resources, it has not regularly monitored the university for compliance with conservation district use permit requirements." As a result of this lack of oversight by DLNR, the cumulative impacts upon Mauna Kea's natural, cultural, and historic resources have been adverse, substantial, and significant.

This same *Follow-up Audit* (2005) also stated that "The university also does not appear to systematically monitor its tenant observatories for compliance with conservation district use permit requirements and was recently fined \$20,000 for violations in May 2004."

B. UHH failed to provide supportive documentation and instead asserted inaccurate and false statements for its claim to have initiated construction work.

It's very apparent that the UHH's *Notice of Initiation of Work and/or Construction for the Thirty Meter Telescope Project, CDUP-A-3568, General Condition No. 4* ("Notice of Initiation"), dated April 28, 2021, submitted to OCCL Administrator was filled with unsubstantiated, inaccurate, and false statements relevant to this matter that wasn't properly checked and verified by DLNR. Petitioner's Exh. 03.

It's clearly discernible that this Notice of Initiation was based in part on UHH's *Request* for Extension of Time for General Condition No. 4 of Conservation District Use Permit (COUP) HA-3568 (Thirty Meter Telescope) at the Mauna Kea Science Reserve, Ka'ohe Mauka, Hamakua, Hawai'i; TMK (3) 4-4-015:009 ("Request for Extension"), dated June 30, 2019, sent by UHH Chancellor to BLNR Chairperson. Petitioner's Exh. 01.

Based upon the extremely brief timeline of approval by DLNR of UHH's Request for Extension, it's very evident that DLNR failed to properly check and verify the statements in this request when it was approved on the same day, July 30, 2019, it was received as noted in BLNR Chairperson's Extension of Processing Deadlines: Conservation District Use Permit (CDUP) HA-3568 Thirty Meter Telescope (TMT); Mauna Kea Science Reserve, Ka'ohe Mauka, Hāmakua, Hawai'i; Tax Map Key (TMK) parcel (3) 4-4-015:009 ("Extension of Processing Deadlines"), dated July 30, 2019, sent to the UHH Chancellor. Petitioner's Exh. 02. Likewise, it's very evident that UHH failed to properly check and verify the statements in their request that was drafted based upon the email sent only a day before by TIO's attorney firm, Watanabe Ing

LLP, to the Vice President for Legal Affairs, University General Counsel, dated July 29, 2019. Petitioner's Exh. 01. Below is an excerpt from this email;

TIO also believes that, since the issuance of the Notice to Proceed, it has in fact "initiated" "work" and/or "construction" at the TMT Project site through various activities at the site, including the removal of unpermitted ahu, and by conducting various site surveys.

UHH's Notice of Initiation was filled with unsubstantiated, inaccurate, and false statements that wasn't properly checked and verified by DLNR.

Firstly, the deadline to initiate construction set forth in Condition No. 4 was extended to **September 26, 2019** as noted in BLNR Chairperson's Extension of Processing Deadlines - <u>not</u> September 28, 2019 as noted in UHH's Notice of Initiation. This is the initial example of several inaccurate and false statements contained in this notice.

The assertion that the removal of *ahu* on **June 20, 2019** from the northern plateau of Mauna a Wākea at or near the proposed TMT project site is being considered a form of initiating construction work is absolutely false for the following reasons; 1) the removal of *ahu* and any associated *ho 'okupu* on this date was actually led and executed by multiple law enforcement agencies including the Division of Conservation and Resources Enforcement ("DOCARE") law enforcement officers of DLNR, not by UHH or TIO representatives; 2) News reports and DLNR's own records would demonstrate their their personnel were directly involved with the physical removal and disposal of the *ahu* and any associated *ho 'okupu* on this date and these items were then transported to the DOCARE facility in Hilo; Exh. H. and 3) UHH and TIO haven't provided any evidence or witnesses to substantiate their assertion.

The other assertions that the meetings and/or surveys held on **June 25**, **July 8 and 12**, **2019** should be considered a form of initiating construction work is absolutely false for the following reasons; 1) These types of meetings are identified as "pre-construction conferences" in the TMT Project Management Plan that was included as part of the CDUP; 2) Surveys, such as land, biological, and archaeological surveys, are typically done prior to any construction work

³ News conference: TMT receives notice to proceed from the state. Video of news conference can be found at: https://www.youtube.com/watch?v=0AJ9xEMsZRs

and are also considered pre-construction activities; and 3) If these activities are being considered as construction work, then an independent on-site construction monitor would have been required to be present at all times construction activity is underway at the TMT site. Likewise, archaeological and cultural monitors are required to be present during all ground-disturbing activities. The requirement for monitors is stipulated in the TMT Project Management Plan and Comprehensive Management Plan. Such monitors weren't listed as being present on those dates. If these meetings and surveys are being considered "construction work", then these activities would constitute violations of General Condition No. 8.4 If so, then BLNR should be holding UHH accountable for these violations of the CDUP, not unlawfully affirming an initiation of construction work.

The Big Island Invasive Species Committee's inspection of TIO's construction equipment and vehicles on **July 15, 2019** is another false assertion in UHH's Notice of Initiation as this type of activity is considered a preconstruction requirement as stipulated in the TMT Project Management Plan and this activity didn't even occur on Mauna Kea.

UHH's other absurd assertion is that mobilizing construction vehicles and equipment on **July 16, 2019** equates to construction work. This would set a new undesirable precedent for future CDUPs for such general conditions. If a future CDUP permittee attempted to mobilize construction equipment, but failed to do so before a deadline, such a condition would be considered met. Case in point, if a project developer or CDUP permittee attempted to mobilize construction equipment to a project site, but such transport was halted due to an accident, vehicle breakdown, natural disaster, or other circumstances that prevented from actually initiating construction work, such an attempt could be claimed as meeting this permit condition. Instead of making such a false claim, the permittee has the recourse to request a first extension from the BLNR Chair. If an extension is granted, but circumstances still prevent initiation of construction work to meet this particular permit condition, the permittee has an additional recourse to request a second extension from the BLNR pursuant to HAR §13-5-43.⁵]

-

⁴ General Condition No. 8: The TMT Project will comply with any terms and conditions outlined in the Comprehensive Management Plan and associated sub-plans.

⁵ HAR §13-5-43 Time extensions. (a) Permittees may request time extensions for the purpose of extending the period of time to comply with the conditions of a permit. (b) Time extensions may be granted as determined by the chairperson on all departmental permits and on the first request for extension of a board permit of up to two years to initiate or complete a project, based on supportive documentation from the applicant. (c) Time extensions may be granted by the

The extent of unsubstantiated, inaccurate, and false statements noted in UHH's Notice of Initiation demonstrate a lack of integrity and a failure to provide acceptable oversight by UHH of the TMT project and associated activities.

It's very obvious that General Condition No. 4 pertains to construction work on the proposed site which is very distinct from preconstruction activities.⁶ Otherwise, this type of general condition would be considered irrelevant for CDUPs if preconstruction activities are now being considered as an initiation of construction.

Furthermore, the two year-extension of the permit, granted by the BLNR Chairperson, clearly stipulated "a new initiation deadline of September 26, 2021." It's undisputed that UHH failed to request a second extension prior to this deadline. Neither did the BLNR grant a second extension pursuant to HAR §13-5-43 (c)(d). It's uncertain as to why UHH didn't request a second extension in a timely manner since it submitted a request for the first extension. It appears that UHH, TIO, and/or their consultants/attorneys were trying to avoid public input and scrutiny if this second request for extension was brought before the BLNR for consideration.

C. <u>DLNR's summary and unlawful approval of "initiated" construction prejudiced</u> due process rights to enforcement of permit conditions.

Flores/FCO also contend that BLNR chairperson's summary approval of UHH's Notice of Initiation prejudiced the due process rights of the Mauna Kea Hui as well as Flores/FCO and other parties to contested case hearing (No. BLNR-CC-16-002), for the similar reasons noted in the Petitioners' Motion.

board upon the second or subsequent request for a time extension on a board permit, based on supportive documentation from the applicant. (d) Unless otherwise authorized, all time extensions shall be submitted to the department prior to the expiration deadline. (e) If a time extension request is received after the expiration deadline, it shall be forwarded to the board for review. If a request for a time extension is not received within one year after the expiration deadline, the permit shall be void.

⁶ General Condition No. 4 is stipulated as a standard condition of any land use permitted within the conservation district pursuant to HAR §13-5-42 (a)(8).

III. CONCLUSION

Based on all of the reasons presented herein and any reasons appearing of record, Flores/CFO

supports the Petitioners' request that the BLNR reopen its contested case hearings for the limited

purpose of hearing and deciding this motion to confirm UHH's noncompliance with Condition

No. 4, or in the alternative, entering declaratory orders confirming the same. Flores/CFO also

contend that UHH was not in compliance with other conditions of CDUP HA-3568 and that

BLNR/DLNR failed in their statutory duties and obligations to ensure compliance with these

permit conditions and requirements in protecting and preserving Mauna a Wākea's natural and

cultural resources within a conservation district. Likewise, UHH has also demonstrated that it

doesn't have the capacity and expertise to properly manage astronomy development such as the

TMT project to ensure that TIO, project owner, is in compliance with its permit conditions and

requirements. As such, members of the public should have a means and method for notifying the

BLNR/DLNR when there are noncompliance issues associated with BLNR issued permits.

DATED: Pu'ukapu, Hawai'i, December 3, 2021

/s/ E. Kalani Flores

E. KALANI FLORES

Exhibit E

Flores-Case Ohana Memorandum

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Exhibits page 187

BOARD OF LAND AND NATURAL RESOURCES STATE OF HAWAI'I

IN THE MATTER OF)	Case No. HA-22-02
)	
The Petition of Mauna Kea Hui for a)	DECLARATION OF E. KALANI
Declaratory Order Filed May 24, 2021.)	FLORES
)	

DECLARATION OF E. KALANI FLORES

- I, E. KALANI FLORES, hereby declare as follows:
- 1. I am a member of the Flores-Case 'Ohana.
- 2. The Flores-Case 'Ohana is an unincorporated association of a Kanaka Maoli (aka Native Hawaiian) family whose members reside on Hawai'i Island and who engage in Native Hawaiian traditional and customary practices on Maua a Wākea, also referred to as Mauna Kea.
- 3. I have the authority to represent the Flores-Case 'Ohana in this matter before the State of Hawai'i Board of Land and Natural Resources ("BLNR").
- 4. I make this declaration in lieu of an affidavit and based on personal knowledge and the records and files of this matter.
- 5. Attached hereto as Exhibit "A" is a true and correct copy of the *Notice To Proceed: Conservation District Use Permit (CDUP) HA-3568 Thirty Meter Telescope (TMT); Mauna Kea Science Reserve, Ka 'ohe Mauka, Hāmakua District, Hawai 'i TMK (3) 4-4-015:009, dated June 19, 2019, sent by BLNR Chairperson, Suzanne D. Case, to UHH Interim Chancellor, Marcia Sakai, obtained from the OCCL online file repository available at: https://dlnr.hawaii.gov/occl/tmt/*
- 6. Attached hereto as Exhibit "B" is a true and correct copy of the *Request for Notice to Proceed with Construction, CDUP HA-3568 for the Thirty Meter Telescope at the Mauna Kea Science Reserve, Ka 'ohe Mauka, Hamakua, Hawai 'i TMK (3) 4-4-015:009*, dated April 8, 2019, a copy without all attachments, sent by UHH Interim Chancellor, Marcia Sakai, to OCCL Administrator, Samuel Lemmo, obtained from the OCCL online file repository available

at: https://dlnr.hawaii.gov/occl/tmt/

Exhibit E

Flores-Case Ohana Memorandum

- 7. Attached hereto as Exhibit "C" is a true and correct copy of NPDES Permit No. HI S000431 issued June 11, 2014 to the TMT Observatory Corporation, obtained from the OCCL online file repository available at: https://dlnr.hawaii.gov/occl/tmt/
- 8. Attached hereto as Exhibit "D" is a true and correct copy of the *Transmittal Requirements and Certification Statement for E-Permitting Individual NPDES Application Submissions*, dated November 16, 2018, a copy without all attachments (i.e. NOI Form C, maps), obtained from the DOH Clean Water Branch Public Notices and Updates webpage at: https://health.hawaii.gov/cwb/clean-water-branch-home-page/public-notices-and-updates/
- 9. Attached hereto as Exhibit "E" is a true and correct copy of the *Rescinding*National Pollutant Discharge Elimination System (NPDES) Revised Draft Permit for TMT
 International Observatory Mauna Kea, Island of Hawaii, Hawaii Permit No. HI S000431, dated
 Mach 3, 2021.
- 10. Attached hereto as Exhibit "F" is a true and correct copy of the *Asset and Employee Transfer Agreement*, dated October 1, 2016, between TMT Observatory Corporation and TIO.
- 11. Attached hereto as Exhibit "G" is a true and correct copy of the *Bill of Sale and Assignment Agreement*, dated September 30, 2020, between TMT Observatory Corporation and TIO.
- 12. Attached hereto as Exhibit "H" is a true and correct copy of the Hawaii News Now news report, *Activists pledge more protests as Thirty Meter Telescope construction given green light to proceed*, published: June 21, 2019 at 7:55 AM HST, obtained from the Hawaii News Now webpage at:

https://www.hawaiinewsnow.com/2019/06/20/authorities-dismantle-structures-mauna-kea-set-up-by-tmt-protesters/

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Pu'ukapu, Hawai'i, December 3, 2021

/s/ E. Kalani Flores

E. KALANI FLORES

BOARD OF LAND AND NATURAL RESOURCES STATE OF HAWAI'I

IN THE MATTER OF)	Case No. HA-22-02
)	
The Petition of Mauna Kea Hui for a)	MEMORANDUM IN SUPPORT OF
Declaratory Order Filed May 24, 2021.)	MAUNA KEA HUI'S MOTION TO
)	REOPEN HEARING TO HEAR
)	MOTION TO CONFIRM
)	NON-COMPLIANCE WITH
)	CONDITION NO. 4, OR,
)	ALTERNATIVELY, PETITION FOR
)	DECLARATORY ORDERS
)	CONCERNING THE SAME;
)	DECLARATION OF E. KALANI
)	FLORES; EXHIBITS "A" - "H";
)	CERTIFICATE OF SERVICE
	_	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced documents were served upon the following parties by the means indicated below:

Linda L.W. Chow	Richard Naiwieha	Attorneys for Perpetuating
Laure K. Chun	Wurdeman	Unique Educational
Deputy Attorneys General	RNWurdeman@	Opportunities (PUEO)
Linda.L.Chow@hawaii.gov	RNWLaw.com	
Lauren.K.Chun@hawaii.gov	Bianca Isaki	J. Douglas Ing
Attorneys for the Board of	bianca.isaki@gmail.com	Brian A. Kang
Land and Natural Resources	Attorneys for the Mauna	Ross Shinyama
	Kea Hui	Summer H. Kaiawe
Jesse K. Souki		Watanabe Ing LLP
Associate General Counsel	Lincoln S.T. Ashida	douging@wik.com
University of Hawai'i	Newton J. Chu	bkang@wik.com
souki@hawaii.edu	Torkildson, Katz, Moore, &	rshinyama@wik.com
Attorney for University of	Harris	skaiawe@wik.com
Hawai'i, Hilo	lsa@torkildson.com	Attorneys for TMT
	njc@torkildson.com	International

Exhibit E Flores-Case Ohana Memorandum

Observatory, LLC	Cindy Freitas	Glen Kila
	hanahanai@hawaii.rr.com	makakila@gmail.com
Harry Fergerstrom	Maelani Lee	Dwight J. Vicente
hankhawaiian@yahoo.com	maelanilee@yahoo.com	dwightjvicente@gmail.com
Richard L Deleon	Lanny Alan Sinkin	Brannon Kamahana Kealoha
kekaukike@msn.com	lanny.sinkin@gmail.com	brannonk@hawaii.edu
	The Temple of Lono	
Mehana Kihoi		William Freitas
uhiwai@live.com	Kalikolehua Kanaele akulele@yahoo.com	pohaku7@yahoo.com
C. M. Kaho'okahi Kanuha		J. Leina'ala Sleightholm
kahookahi@gmail.com	Stephanie-Malia Tabbada s.tabbada@hawaiiantel.net	leina.ala.s808@gmail.com
Joseph Kualii Lindsey		Michael Cain
Camara	Tiffnie Kakalia	Michael.cain@hawaii.gov
kualiic@hotmail.com	tiffniekakalia@gmail.com	Custodian of the Records

DATED: Pu'ukapu, Hawai'i, December 3, 2021

/s/ E. Kalani Flores
E. KALANI FLORES

DAVID V IGE HAWAII





STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621 HONOLULU, HAWAII 96809

CDUP HA-3568

JUN 1 9 2019

SUZANNE D. CASE

BOARD OF LAND AND NATURAL RESOURCES MMISSION ON WATER RESOURCE MANAGEME

ROBERT K. MASUDA M. KALEO MANUEL DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BURGAUD OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND DESOURCES ENFORCEMENT
ENGUNEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE SLAND RESERVE COMMISSION
KAHOOLAWE SLAND RESERVE COMMISSION

STATE PARKS

REF: OCCL: MC

Marcia Sakai, Interim Chancellor University of Hawai'i at Hilo 200 West Kāwili Street Hilo, HI 96720

SUBJECT:

NOTICE TO PROCEED: CONSERVATION DISTRICT USE PERMIT (CDUP) HA-3568

Thirty Meter Telescope (TMT)

Mauna Kea Science Reserve, Ka'ohe Mauka, Hāmakua District, Hawai'i

TMK (3) 4-4-015:009

The Department of Land and Natural Resources (DLNR) has received and reviewed the following documents related to Conservation District Use Permit (CDUP) HA-3568 for the Thirty Meter Telescope:

- 1. Civil Construction Package
- 2. Best Management Practices for the Civil Construction Package
- 3. Recreation Parking Plan
- 4. Mitigation measure matrix for compliance with CDUP HA-3568 general and special conditions

The BLNR approved CDUP HA-3568 for TMT in a Decision and Order in October 2017. The documents were submitted in support of the following two conditions of the permit:

General Condition No. 5. Before proceeding with any work authorized by the Board, UH Hilo shall submit four copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three of the copies will be returned to UH Hilo. Plan approval by the Chairperson does not constitute approval required from other agencies.

Special Condition No. 32: Construction can be initiated once the permittee demonstrates compliance with the preconstruction conditions and mitigation measures contained in the Decision. The Department is required to review the construction and grading plans for consistency with the permit. Once the construction and grading plans

have been signed and the preconstruction conditions have been met the Department will issue a Notice to Proceed to TMT.

The Civil Construction Package was submitted to DLNR on February 3, 2019. The Civil Construction Package prepares the site for construction, and involved batch plant site, the access way, and the TMT site for construction. Staff from the Office of Conservation and Coastal Lands (OCCL) met with the TMT design team to review the construction documents on March 11, 2019. The plans that were submitted are consistent with the Environmental Impact Statement (EIS) and the Conservation District Use Application (CDUA).

The mitigation measures required by the CDUP include actions related to historic resources, archaeological and cultural monitoring, materials waste management and spill prevention, waste minimization, cultural and natural resources training for project employees and contractors, arthropod monitoring, safety and accident prevention, and invasive species prevention and control.

Additional mitigation measures were agreed to in the Final Environmental Impact Statement and the TMT Management Plan. These include actions related to access way paving and design, arthropod monitoring, noise pollution, noise permit and noise variance, independent construction monitors, best management practices documentation, a rock movement plan, decommissioning, site documentation, construction mitigation measures, a cultural and archaeological monitoring plan, an NPDES permit, and an oversize and overweight vehicles permitting plan.

Based upon our review of the information you 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.

If you have any questions, please feel free to contact Michael Cain at the Office of Conservation and Coastal Lands (OCCL) at 808-587-0048.

Sincerely

Suzanne D. Case, Chairperson

Board of Land and Natural Resources

Stephanie Nagata, Director, OMKM
 Gary Sanders, Project Manager, TMT
 DLNR – Land Division, Division of Forestry and Wildlife, Division of Conservation and Resource Enforcement
 County Planning Department
 Jim Hayes, Planning Solutions Inc.



April 8, 2019

Mr. Samuel Lemmo
Administrator
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
1151 Punchbowl Street, Room 131
Honolulu, Hawaii 96813

Subject:

Request for Notice to Proceed with Construction, CDUP HA-3568 for the Thirty Meter Telescope at the Mauna Kea Science Reserve, Ka'ohe Mauka,

Hamakua, Hawai'i TMK (3) 4-4-015:009

Dear Mr. Lemmo:

The University of Hawai'i at Hilo respectfully requests a notice to proceed with the construction of the Thirty Meter Telescope (TMT) project. This notice is a requirement of Special Condition 32 of CDUP HA-3568:

"No construction work shall be initiated until the Applicant demonstrates compliance with all preconstruction conditions and mitigation measures specifically required in this decision. Once this condition has been satisfied, the Department will issue [a] notice to proceed with construction"

The Office of Maunakea Management received a notice from TMT International Observatory LLC (TIO) indicating its intent to start construction. The Office reviewed the conditions of the CDUP and is satisfied that the TMT project has complied with all the pre-construction conditions and mitigation measures related to the start of construction for the Phase I, Civil Package. A table containing all the CDUP conditions and compliance actions is attached. The table also indicates whether the CDUP condition is a pre-construction requirement. Also attached is a matrix listing all mitigation measures and management actions required in the documents identified in General Conditions 6, 7, 8 and 9, and the project's fulfillment of the pre-construction measures. Enclosed is a copy of the TMT project's Best Management Practices for the Civil Construction Package the overarching policy manual for this phase of construction.

200 W. Kāwili St. Hilo, Hawai'i 96720-4091 Telephone: (808) 932-7348 Fax: (808) 932-7338 hilo.hawaii.edu An Equal Opportunity/Affirmative Action Institution Mr. Samuel Lemmo April 8, 2019 Page 2

The TIO has not yet determined when it plans to start construction, but intends to commence construction before the expiration of the two-year limit specified in General Condition 4 of the subject CDUP which was issued on September 27, 2017.

We look forward to receiving a notice to proceed. Should you have any questions or require additional information, please contact Stephanie Nagata, Director, Office of Maunakea Management at (808) 933-0734 or by email at nagatas@hawaii.edu.

Sincerely yours,

Marcia Sakai

Interim Chancellor

Marur Shai

Attachments

c: Stephanie Nagata, Director, OMKM Gary Sanders, Project Manager, TMT

		PRE-	
ITEM	TASKS	CONSTRUCTION	COMMENTS
GENER	RAL CONDITIONS		
GC1	UH Hilo shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State, and County governments, and applicable parts of the HAR § 13-5 et seq.	X	UH Hilo acknowledges and concurs to the best of its knowledge that it has complied with and will continue to comply with all applicable statutes, ordinances, rules, regulations, and conditions, including HAR Chapter 13-5.
GC2	UH Hilo shall obtain appropriate authorization from the Department for the occupancy of state lands, if applicable.	X	UH was granted General Lease S-4191 for the Mauna Kea Science Reserve in 1968.
GC3	UH Hilo shall comply with all applicable Department of Health administrative rules.	X	UH Hilo acknowledges and concurs. TMT has obtained a National Pollutant Discharge Elimination System (NPDES) permit. TMT has also obtained a Community Noise permit, which is required for normal work hours. Even though TMT does not plan on working outside normal work hours during the civil construction phase, it has obtained a Community Noise Variance.
	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.	X	Any work done or construction shall comply with the 2-year and 12-year requirements in consultation with DLNR. UH Hilo shall notify DLNR in writing when TMT starts construction and when it is completed.
	Before proceeding with any work authorized by the Board, UH Hilo shall submit four copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three of the copies will be returned to UH Hilo. Plan approval by the Chairperson does not constitute approval required from other agencies.		The four copies of the construction drawings and construction specifications were submitted to DLNR on February 4, 2019.
	All representations relative to mitigation set forth in the Environmental Impact Statement and Conservation District Use Application are incorporated and adopted as conditions of the permit.	Х	UH Hilo and TMT acknowledges and concurs.
	All mitigation measures and management actions contained in the Historic Preservation Mitigation		UH Hilo and TMT acknowledge and concur. These plans were all attachments to the

ITEM	TASKS	PRE- CONSTRUCTION	COMMENTS
	Plan, Construction Plan, Historical & Archaeological Site Plan, Maintenance Plan, and Arthropod Monitoring Plan, are incorporated as conditions of this permit.		CDUA.
GC8	The TMT Project will comply with any terms and conditions outlined in the Comprehensive Management Plan and associated sub-plans.	X	UH Hilo and TMT acknowledge and concur. Terms and conditions of the Comprehensive Management Plan and subplans are incorporated in the TMT Management Plan, which was incorporated into the CDUA.
GC9	The TMT Management Plan is approved, including all specific management actions articulated in the TMT Management Plan including, Cultural Resources Management, Natural Resources Management, Education & Outreach, Astronomical Resources, Permitting and Enforcement, Infrastructure and Maintenance, Construction Guidelines, Site Recycling, Decommissioning, Demolition & Restoration, Future Land Uses, and Monitoring, Evaluation & Updates. These management actions and their associated mitigation measures are incorporated as conditions of this permit.	X	UH Hilo and TMT acknowledge and concur. The TMT Management Plan was incorporated into the CDUA.
SPECI/	AL CONDITIONS		
SC1	Ensuring that employees attend mandatory cultural and natural resources training with a minimum of one days' training.		In addition to participation in the annual cultural and natural resources training, employees shall attend a minimum one-day training. TMT employees have been taking the orientation annually since 2013.
SC2	Working with the 'Imiloa Astronomy Center, OMKM, and Kahu Kū Mauna to develop informational exhibits for visitors regarding the natural, cultural and archaeological resources of Mauna Kea that could be used at the Mauna Kea VIS, 'Imiloa, TMT facilities, and other appropriate locations.		'Imiloa, Maunakea Observatories Support Services and OMKM are working on exhibit designs for the Visitor Information Station (VIS). Additional exhibits that may be used at the TMT facilities and 'Imiloa, and/or updates to the VIS will be also be explored following completion of the VIS exhibits. TMT is committed to working with the respective entities a few years after the start of construction.
SC3	Funding the re-naturalization of the closed access road on Pu'u Poli'ahu, partial re-naturalization of the batch plant staging area after construction has been completed, and camouflaging of the utility pull boxes in certain locations to reduce the visual impact from the summit area.		TMT is committed to funding and executing the re-naturalization of the vehicular road to the top of Pu'u Poli'ahu. Upon completion of construction of the TMT project, TMT will fund and execute the partial renaturalization of the batch plant. Also upon completion of the installation of all electrical

ITEM	TASKS	PRE- CONSTRUCTION	COMMENTS
			upgrades and in consultation with Kahu Kū Mauna, TMT will camouflage the utility pull boxes to reduce visual impacts in the summit area.
SC4	Implementing an invasive species control program.	X	TMT's invasive species control program is included in TMT's Best Management Practices. TMT is also required to comply with OMKM's Invasive Species Management Plan (ISMP). TMT secured the services of the Big Island Invasive Species Committee to assist with inspections required in OMKM's ISMP.
SC5	Working with OMKM to develop and implement a wēkiu bug habitat restoration study.		TMT is committed to working with OMKM on the wēkiu bug habitat restoration study. TMT has consulted with OMKM on the habitat proposal.
SC6	Implementing the "Zero Waste Management" policy.		The design of TMT is based on a zero waste policy. For example, TMT will have a closed wastewater system.
SC7	Filling employment opportunities locally to the greatest extent possible.		All TMT positions are advertised in Hawai'i County. TMT is building its administrative support staff and has recently filled several positions, including one Hawai'i Office Administrator, one Accounts Payable Specialist, one Senior Technical Manager, and one Environmental, Safety & Compliance Officer.
SC8	Mandating that employees traveling beyond Hale Põhaku take part in a ride-sharing program using project vehicles.		A ride-sharing program is incorporated in the TMT Management Plan and Best Management Practices.
SC9	Using energy savings devices such as solar hot water systems, photovoltaic power systems, energy efficient light fixtures, and Energy Star rated appliances.		Energy efficient light fixtures are part of the TMT design and appliances will also meet this condition.
SC10	The University will decommission three telescopes permanently, as soon as reasonably possible, and no new observatories will be constructed on those sites. This commitment will be legally binding on the University and shall be included in any lease renewal or extension proposed by the University for Mauna Kea.		UH has committed to decommission three telescopes. The Caltech Submillimeter Observatory is currently undergoing the decommissioning process pursuant to the BLNR approved Decommissioning Plan. UHH removed the telescope from its summit facility and submitted its Notice of Intent to decommission to the Maunakea Management Board.

ITEM	TASKS	PRE- CONSTRUCTION	COMMENTS
			UH anticipates submitting a notice of intent to decommission UKIRT by the end of 2020 and initiate the physical dismantling 2024.
SC11	Notwithstanding any lease renewal or extension, consistent with the Decommissioning Plan, at least two additional facilities will be permanently decommissioned by December 31, 2033, including the Very Long Baseline Array antenna and at least one additional observatory.		UH has committed to decommission, by the end of the current master lease, VLBA and one additional observatory.
SC12	Providing \$1 million annually, adjusted for inflation, for "Community Benefits Package" which will commence with construction and continue through the term of the sublease. The package will be administered via The Hawai'i Island New Knowledge (THINK) Fund Board of Advisors. In addition to the types of programs, described in the "Community Benefits Package" in the Findings of Fact, at least \$5,000 annually of the \$1 million shall support a program or programs to assist at risk youth, specifically focusing on the children of incarcerated parents.		TMT has been making annual contributions to the THINK Fund since 2014. Seventy-five percent of the contributions are made to the Hawai'i Community Foundation and twenty-five percent to Ke Ali'i Pauahi Foundation. The last contribution occurred February 2019. Hawai'i Community Foundation is currently seeking proposals from Hawai'i Island non-profit organizations that work with children of incarcerated parents for the administration of the annual \$5,000.
SC13	The Board of advisors shall ensure that a reasonable amount of funding is directed at programs for the most vulnerable and underserved members of Hawai'i Island communities so that they can participate in our technological future.		TMT has informed Hawai'i Community Foundation that the funds are to be distributed according to this CDUP condition.
SC14	The funding shall be distributed with reasonable promptness and not be used to build a permanent endowment.		TMT acknowledges and concurs.
	Partnering with other institutions to implement a Workforce Pipeline Program, headed by at least one full-time position through the Community Outreach office, to prepare local residents for jobs in science, engineering, and technical fields.		Workforce Pipeline Program funding has been ongoing for ten years and will continue. The program is in partnership with UH Hilo, Hawai'i Community College, Department of Education, Department of Business Economic Development and Tourism, and a number of non-profit organizations. High school and college internships and mentorships are being funded for Hawai'i Island students.
	UHH will ensure that the survey of the power line corridor easement complies with DLNR standards and is in accordance with the conditions contained in the grant of easement (including the		UH Hilo acknowledges the completion of the survey and implementation of this condition pursuant to the approved grant of easement is required prior to HELCO's commencement

ITEM	TASKS	PRE- CONSTRUCTION	COMMENTS
	Mauna Kea Ice Age Natural Area Reserve) that was approved by the BLNR in August 1985. The University will provide copies of the survey to DOFAW.		of work to upgrade the power line.
SC17	OMKM will consult with the U.S. Fish and Wildlife Service and experts who are advising OMKM, including representatives from the DLNR regarding surveys of the wēkiu bug and invertebrates along the utility corridor, including Pu'u Hau Kea and the pu'u west of the Parking Area 1.		OMKM has been working with the Wēkiu Bug Scientific Committee since 2003. This committee, which includes representatives from DLNR and scientists, reviews data, and advises on survey and research efforts related to the Wēkiu Bug, arthropods and invasive species. The U.S. Fish and Wildlife Service serves in an advisory capacity to the committee.
SC18	The construction contractor will be required to minimize the visual changes to land within the utility line right-of-way during utility upgrades. Any disturbance outside of the easement area of the construction corridor will be restored to the extent possible.		HELCO has been made aware of these conditions. Should disturbances occur, TMT will, to the fullest extent possible, restore any disturbance made outside the easement area.
SC19	UH Hilo will present a plan for handling recreational parking during construction to the OCCL for review and approval, at least one month prior to beginning construction.	X	Recreational parking is being set aside in the batch plant area. OMKM consulted with Hawai'i Island Natural Area Reserve staff in the development of the plan. The parking plan is included in the construction documents and will be installed during the Phase I construction phase. The parking plan was submitted to DLNR on February 4, 2019.
SC20	Following construction, TMT shall keep their area clean and free of trash or unattended tools and equipment, unless authorized in writing by OMKM and OCCL.		TMT acknowledges and concurs. Upon completion of construction, OMKM shall include the TMT site in the twice-annual inspections of observatories for compliance with their permit.
	The Archaeological Monitoring Plan will be submitted to the State Historic Preservation Division for review and approval prior to the onset of construction.	Х	TMT's Archaeological Monitoring Plan was approved by SHPD in May 2013.
SC22	Sublease rent will be deposited into the Mauna Kea Lands Management Special Fund, and only used for management of Mauna Kea and related purposes as provided by law.		UH Hilo/OMKM confirms that all TMT sublease payments are deposited into the Mauna Kea Lands Management Special Fund and are used for management of Maunakea.
i e	UH Hilo/OMKM will notify OCCL of the date of the twice-annual inspections of the project site and allow Department staff to attend if available.		UH Hilo/OMKM acknowledges and concurs.
	UH Hilo/OMKM will provide OCCL and BLNR a copy of TIO's annual report to OMKM, as		UH Hilo/OMKM acknowledges and concurs.

ITEM	TASKS	PRE- CONSTRUCTION	COMMENTS
	required by Section 5.3 of the TMT Management Plan.		
SC25	UH Hilo will allow BLNR to name a DLNR representative to participate in the CMP five-year management review process.		On January 25, 2019, the Board of Land and Natural Resources delegated the responsibility to appoint a DLNR representative to the Chair.
SC26	When provided or required, potable water supply and sanitation facilities shall have the approval of the Department of Health and the county Board of Water Supply.		UH Hilo requires TMT to submit copies of approvals from the Department of Health and Hawai'i County Department of Water Supply.
SC27	UH Hilo understands and agrees that this permit does not convey any vested rights or exclusive privilege.	X	UH Hilo acknowledges and concurs.
SC28	In issuing this permit, the Department and Board have relied on the information and data that UH Hilo has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.		UH Hilo acknowledges and concurs.
SC29	Where any interference, nuisance, or harm may be caused, or hazard established by the use, UH Hilo shall be required to take the measures to minimize or eliminate the interference, nuisance, harm, or hazard.		UH Hilo acknowledges and concurs. UH Hilo shall work with TMT to take required measures should any of these occur.
	Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact the State Historic Preservation Division (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary; the Applicant will also notify the Office of Hawaiian Affairs at the same time.		TMT shall follow the protocols described in the Archaeological Monitoring and Historic Preservation Mitigation plans. If inadvertent burials are encountered, TMT shall follow the protocols in OMKM's Burial Treatment Plan that was approved by the State Historic Preservation Division.
SC31	During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities.		OMKM rangers regularly patrol and monitor construction activities. They will address activities described in this condition.
	No construction work shall be initiated until the Applicant demonstrates compliance with all	X	UH Hilo/OMKM acknowledges and concurs. Pre-construction CDUP permit conditions

ITEM	TASKS	PRE- CONSTRUCTION	COMMENTS
	preconstruction conditions and mitigation measures specifically required in this decision. Once this condition has been satisfied, the Department will issue notice to proceed with construction.		have been addressed and are summarized herein.
SC33	TIO shall set aside funds annually in a sufficient amount to allow for site observatory and access way site restoration.		Pursuant to its sublease agreement with UH, TMT developed a Decommissioning Funding Plan which calls for the establishment of a sinking fund that will cover the cost of decommissioning. At the start of operations, TMT shall set aside \$1 million annually for the 50-year life of the project.
SC34	Daytime activities at TMT will be minimized on up to four days per year, as identified by Kahu Kū Mauna.		Upon consultation with Kahu Kū Mauna the four days when TMT activity is minimized are the Winter and Summer solstices and Vernal and Autumnal equinoxes.
SC35	UHH shall consult with the Kahu Kū Mauna Council and cultural practitioners to the extent feasible to plan for, and establish, an appropriate area on Mauna Kea, within the MKSR, to be used by native Hawaiians for religious and cultural purposes; provided that this condition shall not affect the timing of TMT construction or operation.		While Kahu Kū Mauna acknowledges that the public lands on Maunakea are accessible to native Hawaiian cultural practitioners, they have begun deliberating on a set-aside area to be used specifically by native Hawaiian practitioners for the exercise of traditional and customary practices.
SC36	UHH shall allow reasonable access to the area established under Condition 35 for the exercise of any native Hawaiian traditional and customary practices to the extent feasible, reasonable, and safe. The allocation of this area shall be in addition to all other cultural and access rights of native Hawaiians to other areas of Mauna Kea as provided by law or by other conditions set forth herein.		UH Hilo acknowledges and concurs. See SC35.
SC37	In order to enhance the Hawaiian cultural presence on Mauna Kea, UHH shall include products and handicrafts with a native Hawaiian cultural theme among those sold at the Mauna Kea VIS, and explore whether an expanded area for specifically native Hawaiian crafts can be accommodated at or near the VIS.		The Visitor Information Station (VIS) sells locally made handicrafts with native Hawaiian cultural theme and continues to expand its offerings.
	UHH shall implement a cooperative internship and mentorship program between personnel working at the astronomy facilities on Mauna Kea and Hawaiian communities.		Maunakea Scholars is an educational program engaging local high school students who work with mentors (primarily graduate students at UH's Institute for Astronomy) in developing astronomy research proposals.

		T	
ITEN	TASKS	PRE- CONSTRUCTION	COMMENTS
			The students compete among themselves for time on the world's most powerful telescopes. This program is jointly sponsored by the Hawai'i Department of Education, Maunakea Observatories and University of Hawai'i. The program has reached over 400 high school students from all the major Hawaiian islands.
			Maunakea Observatories participate in the Akamai Workforce Initiative, which provides college students with summer internships at observatories and high- tech companies in Hawai'i. The program fosters advanced education for Hawai'i students (80 percent graduated from a Hawai'i high school or were born in Hawai'i), and increased participation of underrepresented and underserved populations in STEM.
SC39	UHH and TIO shall develop a plan to implement and extend early entry programs for at-risk children of Hawaiian ancestry and other at-risk youth in the community of UH Hilo. The early entry program shall provide educational opportunities in STEM-related and other		UHH/OMKM and Maunakea observatories offer a number of initiatives described in this condition. Maunakea Scholars and Akamai program described in SC38 are two such examples.
	 curriculum such as the following: (a) Astronomy, math, science, engineering, environmental science and technical support careers at astronomy facilities; (b) Hawaiian language and culture; (c) Navigation; (d) Geology; 		UHH has supported the development of navigation curriculum in use by Keaukaha One Youth Development and Ka Haka 'Ula Ke'elikōlani offers early immersion education at Ke Kula 'O Nāwahīokalani'ōpu'u and develops/distributes curriculum through Hale Kuamo'o
	(d) Geology; (e) Biology and agriculture; (f) Law Enforcement/criminal justice; (g) New disciplines of learning dependent on career fields needed; and (h) On-the-job training as necessary. UHH/TIO shall report to BLNR on the progress of	l s b n to	Imiloa brings together members of the lawaiian and astronomy communities to hare a common vision for the future, bringing information about the cultural and atural history of Maunakea to students, eachers, our local residents, and visitors
	this condition prior to the completion of TMT construction; provided that progress on this condition or lack thereof shall not affect the construction or operation of the TMT Project and provided further that it requires no commitment for funding other than staff time for plan development.	P o H p d	rom around the world. 'Imiloa links to early olynesian navigation history and knowledge if the night skies, and today's renaissance of awaiian culture and wayfinding with arallel growth of astronomy and scientific evelopments on Hawai'i Island. 'Imiloa has iloted a grant-funded navigation program nce 2008 and is currently seeking to

ITEM	TASKS	PRE- CONSTRUCTION	COMMENTS
		:	institutionalize this program. OMKM has for the past 15+ years been engaged in environmental studies including biological and physical research and survey. These programs are collaborations with UHH and Mānoa faculty, undergraduate and graduate students. Beginning in 2012 OMKM participates annually in the Pacific Internship Program for Exploring Science (PIPES) program by hiring two – three summer interns. This program is committed to increasing the recruitment and retention of local students, especially those of native Hawaiian ancestry, into fields of study, and ultimately careers, related to the natural resources of Hawai'i and The Pacific Region.
	UHH shall make reasonable accommodations for the use of facilities at Hale Pōhaku for the Hawaiian Language and Hawaiian Studies programs at UHH and HCC, along with their continued use by others.		Halepōhaku is available for use for educational purposes, including meetings, workshops, and retreats.
	Kahu Kū Mauna shall review policies concerning the construction and retention of personal or group shrines such as 'ahu, and recommend policies to OMKM and/or BLNR as appropriate, within 18 months.		Kahu Kū Mauna developed a policy on the construction of new cultural features. This policy was approved by the Maunakea Management Board in May 2018.
	UHH and OMKM are allowed to take reasonable measures consistent with law, including limitations on the use of the TMT Access Way, if necessary for the security of the TMT Observatory.		UH Hilo/OMKM acknowledges and concurs.
	Other terms and conditions as may be prescribed by the Chairperson.		UH Hilo/OMKM acknowledges and concurs.

NEIL ABERCROMBIE GOVERNOR OF HAWAI



LINDA ROSEN, M.D., M.P.H. DIRECTOR OF HEALTH

> In reply, please refer to EMD/CWB

06007PCTM.14

June 12, 2014

Mr. Gary Sanders
Project Manager
TMT Observatory Corporation
1200 E. California Boulevard, Mail Code 102-8
Pasadena, California 91125

Dear Mr. Sanders:

In accordance with the provisions of the Clean Water Act, Hawaii Revised Statutes, Chapter 342D; and Hawaii Administrative Rules, Chapters 11-54 and 11-55, the Department of Health (DOH), Clean Water Branch (CWB) has reviewed the following application for a National Pollutant Discharge Elimination System (NPDES) permit to discharge storm water run-off associated with construction activity:

<u>Facility</u>	Permit No.
Thirty Meter Telescope Observatory Mauna Kea, Island of Hawaii, Hawaii	HI S000431

The public notice of our proposed action was published in the *Honolulu Star-Advertiser* on **Thursday**, **May 1, 2014**, regarding the above application.

After consideration of the expressed views of all interested persons and agencies, pertinent Federal and State statutes and rules regarding the discharge, the DOH hereby issues the enclosed NPDES permit for the discharge referred to above. This action does not constitute a significant change from the tentative determination set forth in the public notice.

This permit will take effect on June 12, 2014.

Please complete the DOH Customer Satisfaction Survey regarding your experience in applying for this permit. This brief survey is available on the e-Permitting Portal located at: https://eha-cloud.doh.hawaii.gov/epermit/View/home.aspx. Please use the Application Finder button and search for the "Customer Satisfaction Survey."

Exhibit E
Flores-Case Ohana Memorandum

Should you have any questions, please contact the Enforcement Section or Mr. Colin Maruoka of the Engineering Section, CWB, at (808) 586-4309.

Sincerely,

STUART YAMADA, P.E., CHIEF

Environmental Management Division

CTM:tg

Enclosure: NPDES Permit

c: Water Division (WTR-5), CWA Standards and Permits Office, EPA, Region 9 (w/encls.) [via e-mail sablad.elizabeth@epamail.epa.gov only]

Ms. Jan Reichelderfer, PB Americas Inc.

(w/encls.) [via e-mail reichelderfer@pbworld.com only]

Mr. Paul Gillett, TMT Observatory Corporation (w/encls.) [via e-mail pgillett@tmt.org only]

Mr. Jim Hayes, PB Americas Inc.

(w/encls.) [via e-mail hayesj@pbworld.com only]

AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. §1251 et seq.; the "Act"); Hawaii Revised Statutes, Chapter 342D; and Hawaii Administrative Rules (HAR), Chapters 11-54 and 11-55, Department of Health (DOH), State of Hawaii;

TMT OBSERVATORY CORPORATION

(hereinafter PERMITTEE),

is authorized to discharge storm water associated with construction activities from the Thirty Meter Telescope (TMT) Observatory project site located at 13-North Site in Area E of the Astronomy Precinct, Mauna Kea Science Reserve and Hale Pohaku on Mauna Kea, Mauna Kea, Island of Hawaii, Hawaii, TMKs: (3) 4-004-015:009 and (3) 4-004-015:012 to the receiving State waters identified in the table below:

Discharge Point No.	Receiving State Water	Classification	Latitude (N)	Longitude (W)
1	Kemole Gulch	Class 2, Inland	19.845833°	155.500278°
2	Kuupahaa Gulch	Class 2, Inland	19.860556°	155.497500°
3	Puupohakuloa Gulch	Class 2, Inland	19.810000°	155.509444°
4	Pohakuloa Gulch	Class 2, Inland	19.787500°	155.496944°
5	Wailuku River	Class 2, Inland	19.711944°	155.307500°

in accordance with the general requirements, discharge monitoring requirements and other conditions set forth herein, and in the attached DOH "Standard NPDES Permit Conditions," that is available on the DOH, Clean Water Branch (CWB) website at http://health.hawaii.gov/cwb/site-map/home/standard-npdes-permit-conditions/.

All references to Title 40 of the Code of Federal Regulations (CFR) are to regulations that are in effect on July 1, 2013, except as otherwise specified. Unless otherwise specified herein, all terms are defined as provided in the applicable regulations in Title 40 of the CFR.

This permit will become effective on June 12, 2014.

This permit and the authorization to discharge will expire at midnight, **June 11, 2019.**

Signed this 12th day of June, 2014.

(For) Director of Healtl

Exhibit E Flores-Case Ohana Memorandum

FINAL PERMIT June 12, 2014

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	TACHMENT: ANDARD NPDES PERMIT CONDITIONS (VERSION 14)		

PART A
PERMIT NO. HI S000431
Page 3

A. GENERAL REQUIREMENTS

The Permittee shall:

- 1. Comply with all materials submitted in and with the application, dated March 31, 2014.
- 2. Retain a copy of the application, including other related materials, and this permit at the job site or at a nearby field office.
- 3. Design, operate, implement, and maintain the project Site-Specific Best Management Practices (BMPs) Plan to ensure that storm water discharges associated with construction activities will not cause or contribute to a violation of applicable State water quality standards.
- 4. Implement the project Site-Specific BMPs Plan as often as needed to improve the quality of storm water discharges or when instructed by the Director of Health (Director).
- 5. Not cause or contribute to a violation of the basic water quality criteria as specified in HAR, Chapter 11-54, Section 11-54-4.
- 6. Inspect, at a minimum of once per week, the receiving state waters, storm water runoff and control measures and BMPs to detect violations of and conditions which may cause or contribute to a violation of the basic water quality criteria as specified in HAR, Chapter 11-54, Section 11-54-4 (e.g., the Permittee shall look at storm water discharges and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life).
- 7. Immediately stop, reduce, or modify construction, or implement new or revised BMPs as needed to stop or prevent a violation of the basic water quality criteria as specified in HAR, Chapter 11-54, Section 11-54-4.
- 8. Review the effectiveness and adequacy of the implemented Site-Specific BMPs Plan(s) and Erosion and Sediment Control (ESC) Plan(s) at a minimum of once per week, and update the plan as often as necessary. Any changes(s) to the Site-Specific BMPs Plans and/or ESC Plans or correction(s) to information already on file with the CWB shall be maintained onsite and be available upon request.

PART A
PERMIT NO. HI S000431
Page 4

9. Know that Mr. Paul Gillett of TMT Observatory Corporation is recognized as the duly authorized representative to submit all information/documents for compliance with the NPDES conditions. A new authorized representative may be appointed in accordance with Part B.8.

PART B
PERMIT NO. HI S000431
Page 5

B. REPORTING REQUIREMENTS

The Permittee shall:

1. Submit the following information in accordance with Part B.8. of this permit to the CWB for review and comment at least 30 calendar days before the start of construction activities.

All questions/concerns that the DOH may have must be answered to the satisfaction of the CWB.

- a. The County-approved ESC Plan and/or Grading Permit.
- b. Operator or General Contractor information
- 2. BMPs used for land disturbance activities shall be located upland and treat all upland pollutants prior to any discharge. These BMPs shall be designed and implemented to ensure all upland pollutants are prevented from discharging to State waters. BMPs for in-water work shall be designed and implemented to ensure compliance with all applicable WQS.
- 3. Notify the Director of the construction start date in accordance with Part B.8. within seven (7) calendar days before the start of construction activities.
- 4. Complete and submit the Solid Waste Disclosure Form for Construction Sites to the DOH, Solid and Hazardous Waste Branch, Solid Waste Section as specified on the form at least 30 calendar days before the start of construction activities. The form can be downloaded at: http://health.hawaii.gov/shwb/files/2013/06/swdiscformnov2008.pdf.
- 5. Submit any changes to information on the CWB Individual NPDES Form in accordance with Part B.8. as soon as changes arise. The Permittee shall properly address all related concerns and/or comments to the CWB's satisfaction.
- 6. Immediately notify the Director of all incidences of noncompliance and identify the pollutant(s) source(s) and the proposed and implemented control or mitigative measures as required in Section 16 of the "Standard NPDES Permit Conditions".
- 7. Complete and submit the Notice of Cessation in accordance with Part B.8. within 14 calendar days of completion of the subject project.

PART B PERMIT NO. HI S000431 Page 6

- 8. All reports, notifications, and updates to information on file shall be submitted through the CWB Compliance Submittal Form for Individual NPDES Permits and Notice of General Permit Coverages (NGPCs). This form is accessible through the e-Permitting Portal website at:

 https://eha-cloud.doh.hawaii.gov/epermit/View/home.aspx. If not already registered, you will be asked to do a one-time registration to obtain your login and password. After you register, click on the Application Finder tool to locate the form. Follow the instructions to complete and submit this form. All submissions shall include a CD or DVD containing the downloaded e-Permitting submission and a completed Transmittal Requirements and Certification Statement for e-Permitting NPDES/NGPC Compliance Submissions Form, with original signature and date.
- 9. Include the following certification statement, NPDES permit number, and original signature on each submittal in accordance with HAR, Chapter 11-55, Section 11-55-07(b). Failure to provide this information on future correspondence or submittals may be a basis for delay of the processing of the document(s).
 - "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."
- 10. The Permittee shall develop and submit a facility-specific waste load allocation (WLA) implementation and monitoring plan to the Director when a Total Maximum Daily Load, which specifies WLAs applicable to the Permittee's discharge, is approved by the EPA within one (1) year of notification of the approval date.

C. BEST MANAGEMENT PRACTICES (BMPs)

- 1. The Permittee shall:
 - a. Refrain from performing any work during heavy rainstorms.
 - b. Prevent loose particles, sand, soil, silt, and other construction debris at the project site from being washed away by storm water runoff to drainage systems and to State waters.
 - c. Remove the excavated material as soon as possible or at the end of each work day. The excavated material shall be disposed in a State and/or County-approved landfill site.
 - d. Not discharge water used for dust control to State waters.
 - e. Not discharge water used for irrigation to State waters.
 - f. Not discharge hydrotesting effluent to State waters without an appropriate NPDES permit.
 - g. Not discharge dewatering effluent to State waters without an appropriate NPDES permit.
 - h. Not stockpile unprotected materials on-site without implementing the appropriate BMPs for the stockpile(s).
 - i. Wash-down vehicles and/or equipment and concrete truck drums only at designated areas and not discharge the wash waters to State waters. The concrete wash water shall not be allowed to infiltrate into the ground.
 - j. Assure that the implemented BMPs are effective and the discharge effluent is in compliance with the basic State water quality standards.
- 2. The following special conditions apply to all land disturbance work conducted under this permit:
 - a. Construction Management Techniques
 - (1) Clearing and grubbing shall be held to the minimum necessary for grading and equipment operation.

PART C
PERMIT NO. HI S000431
Page 8

- (2) Construction shall be sequenced to minimize the exposure time of the cleared surface area.
- (3) Construction shall be staged or phased for large projects. Areas of one (1) phase shall be stabilized before another phase is initiated. Stabilization shall be accomplished by temporarily or permanently protecting the disturbed soil surface from rainfall impacts and runoff.
- (4) Erosion and Sediment Control Measures shall be in place and functional before earth moving operations begin. These measures shall be properly constructed and maintained throughout the construction period.
- (5) All control measures shall be checked and repaired as necessary, for example, weekly in dry periods and within 24 hours after any rainfall of 0.5 inches or greater within a 24-hour period. During prolonged rainfall, daily checking is necessary. The Permittee shall maintain records of checks and repairs.
- (6) The Permittee shall maintain records of the duration and estimated volume of storm water discharge(s).
- (7) A specific individual shall be designated to be responsible for erosion and sediment controls on each project site.

b. Vegetation Controls

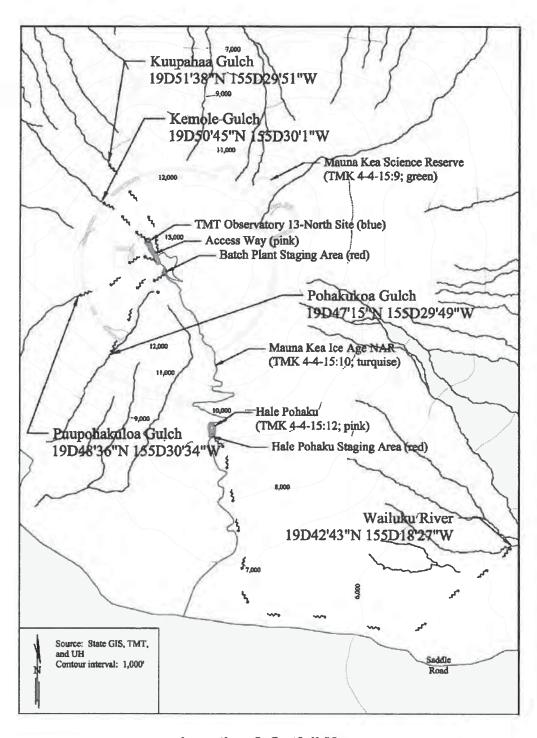
- (1) Pre-construction vegetative ground cover shall not be destroyed, removed, or disturbed more than 20 calendar days prior to land disturbance.
- (2) Temporary soil stabilization with appropriate vegetation shall be applied on areas that will remain unfinished for more than 30 calendar days.
- (3) Permanent soil stabilization with perennial vegetation or pavement shall be applied as soon as practical after final grading. Irrigation and maintenance of the perennial vegetation shall be provided for 30 calendar days or until the vegetation takes root, whichever is shorter.

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c. Structural Controls

- (1) Storm water flowing toward the construction area shall be diverted by using appropriate control measures, as practical.
- (2) Erosion Control Measures shall be designed according to the size of disturbed or drainage areas to detain runoff and trap sediment.
- (3) Water must be discharged in a manner that the discharge shall not cause or contribute to a violation of the basic water quality criteria as specified in HAR, Chapter 11-54, Section 11-54-4.

D. MAPS



Location & Outfall Map

Exhibit E Flores-Case Ohana Memorandum

FINAL PERMIT June 12, 2014



TRANSMITTAL REQUIREMENTS AND CERTIFICATION STATEMENT FOR E-PERMITTING INDIVIDUAL NPDES APPLICATION SUBMISSIONS

1.	Submission and File Numbers
	e-Permitting Submission #: HNJ-C0E1-MHW8X
	I am submitting a (check only one):
	☐ Initial Individual NPDES application.
	☐ Revised Individual NPDES application, Permit Number:
	⊠ Renewal Individual NPDES application, Permit Number: HI S000431
2.	Certification Statement
	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. Signature Date Signed Date Signed
3.	 Transmittal Requirements (Check all.) ☑ I have read the instructions on Page 2. ☑ If I do not follow all of the instructions on Page 2, I acknowledge that: a. This submittal will not be accepted by the Clean Water Branch (CWB); b. Processing of my NPDES application will not begin; c. I am delaying the processing of my NPDES application; and d. The CWB may deny my request for NPDES permit coverage with or without prejudice. ☑ The signature provided in Item No. 2 is an original signature. ☑ My CD or DVD is attached. This CD or DVD contains only the downloaded e-Permitting submission identified in Item No. 1 above. I have not altered this file.
4.	Filing Fee [Check the applicable box(es).] ☐ A \$1000 check made payable to the State of Hawaii is attached. ☐ The filing fee was paid online through the e-Permitting Portal. ☐ I am submitting a revised Individual NPDES application. My filing fee has already been
Exhibit E Flores-Cas	paid under the initial submittal. □ I am a State agency, and I am requesting a Bill for Collection.

IMPORTANT INSTRUCTIONS:

You are required to follow these instructions to complete your e-Permitting Individual NPDES application initial, revised, or renewal submittal. Failure to follow all of these instructions will delay the processing of your submittal and may result in the denial of your request for NPDES permit coverage. **Processing of your submission will not begin until the Clean Water Branch (CWB) receives all of the items below.**

Item No. 1 – Submission and File Numbers

- a. Enter your e-Permitting Submission #. You may find your unique e-Permitting Submission # (e.g. 15H-ZGVV-421H) in your History Link of the e-Permitting Portal. If you are submitting a revised Individual NPDES application, the e-Permitting Submission # will contain the version (e.g. 15H-ZGVV-421H, v1).
- b. Check only one (1) box to indicate if you are submitting an Initial Individual NPDES application (new submittal), a Revised Individual NPDES application (revised submittal to address CWB comments), or a Renewal Individual NPDES application (submittal to renew existing Individual NPDES permit coverage).
- c. Enter your permit number if you are revising an Initial Individual NPDES application to respond to CWB comments. The CWB comments will contain the permit number. You will not need to provide a permit number if you are submitting an Initial Individual NPDES application.

Item No. 2 – Certification Statement

- a. This is the certification statement for the e-Permitting submission # identified in Item No. 1.
- b. Enter the Printed First and Last Name.
 - i. For initial and renewal submittals, the Printed First and Last Name must be the Certifying Person identified in Section No. 2 of the e-Permitting Individual NPDES application form.
 - ii. For revised submittals, the Printed First and Last Name may be either the Certifying Person identified in Section No. 2 of the e-Permitting Individual NPDES application form or the duly authorized representative identified in Section No. 8 of the e-Permitting Individual NPDES form.
- c. Enter the Date Signed.
- d. Provide an original Certification signature (hard copy of this form).

 Someone else may sign "for" the individual listed in the Printed First and Last Name.

Item No. 3 – Transmittal Requirements

- a. You are required to check all of the boxes.
- b. Provide a CD or DVD containing the e-Permitting submission in PDF or ZIP.

 To download the submission, click on the History Link in the e-Permitting Portal (after you submitted the application). Locate your submission and press the view button under the Action column. Then you may either:
 - i. Press the Print button, scan the document, save the document as a PDF, and save the PDF and all your attachments on the CD or DVD; or
 - ii. Press the Print Screen button on your keyboard, paste the image into a text editor (e.g. MS Word), convert the text file as a PDF, and save the PDF and all your attachments on the CD or DVD; or
 - iii. Press the Download Submission button. A PDF file will be generated if you have no attachments. A ZIP file will be created if you have attachments. Save the PDF or ZIP file on the CD or DVD.

Do not add additional files to the CD or DVD. Your CD or DVD shall match your e-Permitting submission #.

Exhiliter No. 4 – Filing Fee Flores-Case Ohana Memorandum

- a. You are required to check only one (1) of the boxes.
- b. A \$1000 filing fee is required for all Initial Individual NPDES applications.
- c. A \$1000 filing fee is required for all Renewal Individual NPDES applications.
- d. If you are a State agency, you may request a Bill for Collection even if paying online.

Additional

a. Mail or deliver this form and all attachments to the Department of Health, Clean Water Branch, Hale Ola, Room 225, 2827 Waimano Home Road, Pearl City, Oahu, Hawaii 96782.



November 29, 2018

Department of Health Clean Water Branch Hale Ola Building, Room 225 2827 Waimano Home Road Pearl City, Hawai'i 96782

Subject: e-Permitting Submittal # HNJ-C0E1-MHW8X

Notice of Intent, Form C, Individual Permit Renewal

Thirty Meter Telescope Maunakea, Hawai'i

Dear Sir or Madam:

Please find enclosed the required certification statement and DVD containing the downloaded submission from the e-Permitting portal. The permit fee has been paid on-line.

If you have any questions or require additional items, please contact me at 550-4559. Planning Solutions, Inc. and the TMT International Observatory appreciate your attention to this matter.

Sincerely,

Jim Hayes

Principal Planner

Enclosures:

Certification Statement

DVD

cc: Paul Gillett, via electronic mail

version

(Submission #: HNJ-C0E1-MHW8X, version 1)

Summary

Active Steps:

Submission#: HNJ-C0E1-MHW8X Date Submitted: 11/29/2018 3:01 PM

Form: version (CWB Individual NPDES Form) Status: Submitted

Submitted By: James T Hayes **Submission** James T Hayes

Creator:

File/Reference Reference #:

Description: CWB Individual NPDES Form

Assign To

Notes

There are currently no Submission Notes.

Details

1a. New NPDES Application

I read HAR, Chapters 11-54 and 11-55. I certify that I am submitting this NPDES application since my project/facility/activity/discharge and my organization will comply with these rules and the NPDES Permit that the DOH may issue for my project/facility/activity/discharge. I certify that I will design, implement, operate, and maintain appropriate treatment/controls to ensure that my activity/discharge will not violate HAR, Chapters 11-54 and 11-55.

Yes.

Is your submission for a new NPDES permit (Initial Individual NPDES permit application or a Revised Individual NPDES permit application)?

No, my submission is a Renewal Individual NPDES application.

If you selected "Yes" above, please complete the rest of this section. Skip Section 1b and proceed to Section 2. If you selected "No" above, please skip the remainder of this section and proceed to Section 1.b.

NPDES permits cannot be issued for "after the fact" discharges/activities. For new NPDES applications, you are required to certify below that the information provided in this NPDES application does not include "after the fact" discharges/activities.

NONE PROVIDED

You are required to report any discharges/activities associated with your project/facility that started before obtaining NPDES permit coverage. This only applies to discharges to State waters and activities that require NPDES permit coverage [e.g. construction activities that disturb one (1) acre or more]. Please select one (1) of the options below.

NONE PROVIDED

I certify under penalty of law that my proposed discharge will not impair any State water (including but not limited to rivers, streams, wetlands, ponds, ground waters, and ocean), Native Hawaiian cultural resources (including but not limited to burial sites/iwi, heiau, and taro loi), or the exercise of traditional Native Hawaiian cultural practices

Yes. I certify.

If you answered No above, describe the step(s) you will take to reasonably protect those State waters, Native Hawaiian Exhibit resources, or exercise of traditional Native Hawaiian cultural practices. Please only include the steps that have been accepted by Flores - the Officer Hawaiian Affairs and other appropriate agencies. Note: It is your responsibility under the Constitution of the State of Hawaii to mitigate any impacts.

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1b. Renewal NPDES Application

Provide the previously assigned Permit Number (e.g. HI0021841).

Historic Effluent Limitations and Monitoring Data Spreadsheet

You are required to download and complete the Historic Effluent Limitations and Monitoring Data Spreadsheet below only if your NPDES permit contains numeric effluent limitations. This does not apply to NPDES permits for discharges of storm water associated with construction activities.

Historic Effluent Limitations and Monitoring Data Spreadsheet

Upload Completed Historic Effluent Limitations and Monitoring Data Spreadsheet- Attachment

NONE PROVIDED

Comment: NONE PROMDED

Provide a summary of all DOH-CWB and/or U.S. EPA inspections conducted at your facility during the current permit term. Include the inspection date, findings, and all corrective actions. This applies to all NPDES permits.

None

Please report all of your existing NPDES permit submittal requirements. List the required submittal (e.g. DMR, Nutrient Management Plan, BMP Plan, TRE/TIE, etc.); the due date; and your submittal date. This applies to all NPDES permits.

Condition B.1.a. The County-approved ESC Plan and/or Grading Permit; no due date; submitted 8/13/14. Condition B.1.b. Operator or General Contractor information; no due date; submitted 8/12/14. Condition B.3. Notification of Start; no due date; submitted 9/11/2014. Condition B.4. Solid Waste Disclosure Form for Construction Sites; no due date; submitted 8/14/14. Condition B.10. Waste Load Allocation (WLA) Implementation and Monitoring Plan; no due date; has not been submitted (TMDLs have not been established for the project area so this requirement has not been triggered.

Effluent Violation Spreadsheet

You are required to download and complete the Effluent Violation Spreadsheet below only if your NPDES permit contains numeric effluent limitations. This does not apply to NPDES permits for discharges of storm water associated with construction activities.

Effluent Violation Spreadsheet

Upload Completed Effluent Violation Spreadsheet- Attachment

NONE PROMDED

Comment: NONE PROVIDED

Please describe all actions you have taken to prevent all of the violations above from occurring again. You are required to provide this information with your renewal application. The DOH-CWB will take this into consideration when deciding whether to renew your permit or deny your renewal application. Pursuant to HAR 11-55-17, noncompliance by the Permittee with any conditions of the NPDES permit is grounds for denial of the renewal NPDES application.

NONE PROVIDED

2. Owner Information

Owner Legal Name

TMT International Observatory

Owner Department

NONE PROVIDED

Owner Division

Exhibit E

Flores-Conse Maina Main-Memorandum

100 West Walnut Street, Suite 300

Exhibits page 222

Pasadena, CA921124 Owner's Street Address 100 West Walnut Street, Suite 300 Pasadena, CA91124 Owner Type Industrial - Private Project Signatory Type The person certifying this NPDES application must meet one of the following descriptions and be employed by the Owner. Please identify your appropriate signatory type based on the items listed below. State Agency. I certify that for a state agency, I am a principal executive officer or ranking elected official. Municipal Agency. I certify that for a municipal agency, I am a principal executive officer or ranking elected official. Non-Federal Public Agency. I certify that for a non-federal public agency, I am a principal executive officer or ranking elected official. Federal Agency. I certify that for a federal agency, I am the chief executive officer of the agency, or I am the senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency. Partnership: I certify that I am a general partner for a partnership. Proprietorship: I certify that I am the proprietor for a sole proprietorship. Corporation Officer: I certify that for a corporation, I am the President, Vice President, Secretary, or Treasurer of the corporation and in charge of a principal business function, or I perform similar policy or decision-making functions for the corporation. Corporation Manager: I certify that for a corporation, I am the Manager of one or more manufacturing, production, or operating facilities and am authorized to make management decisions which govern the operation of the regulated facility or facilities including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations. I can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements and authority to sign documents has been assigned or delegated to me in accordance with corporate procedures. Trust: I certify that for a trust, I am a trustee.

LLC: I certify that for a limited liability company (LLC), I am the Manager or a Member authorized to make management decisions for the LLC and am in charge of a principal business function, or I perform similar policy or decisionmaking functions for the LLC.

Please Select the Signatory Type based on the above descriptions.

Corporation Manager

Certifying Person Salutation

Mr.

Exhibit Ecrifying Person First Name
Flores-Case Ohana Memorandum
Gary

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Certifying Person Last Name

Sanders

Certifying Person Title

Project Manager

Certifying Person Email Address

sanders@tmt.org

Certifying Person Phone Number (e.g., 555-555-555)

626-395-2997

Certifying Person Alternate Phone Number (cell) (e.g., 555-555-555)

808-896-6963

Certifying Person Fax Number (e.g., 555-555-5555)

626-296-1887

The Owner's contact person may be the staff person with direct responsibility for the facility or project, not necessarily the certifying or "responsible" person.

Owner Contact Person's Salutation

Mr

Owner Contact Person's First Name

Paul

Owner Contact Person's Last Name

Gillett

Owner Contact Person's Position Title

Facilities Department Head

Owner Contact Person's Email

pgillett@tmt.org

Owner Contact Person's Phone number (e.g., 555-555-5555)

626-395-1654

Owner Contact Person's Alternate Phone Number (cell) (e.g., 555-555-5555)

808-315-2587

Owner Contact Person's Fax number (e.g., 555-555-5555)

626-296-1887

3. Operator or General Contractor Contact Information

Will Operator or General Contractor information be submitted at least 30 calendar days before the start of construction activities?

No (operator/general contractor information is provided below)

Operator/General Contractor Legal name

Exhibit EGoodfellow Bros., LLC

Flores-Case Ohana Memorandum Operator/General Contractor Department

Page 4 of 17

NONE PROVIDED

Operator/General Contractor Division

NONE PROVIDED

Operator/General Contractor Mailing address

P.O. Box 383729 Waikoloa, HI 96738

Operator/General Contractor Street address:

68-1244 Waikoloa Road Waikoloa, HI 96738

Operator/General Contractor Contact Person's Salutation

Mr.

Operator/General Contractor Contact Person's First Name

John

Operator/General Contractor Contact Person's Last Name

Makoff

Operator/General Contractor Contact Person's Position Title

Regional Manager

Operator/General Contractor Contact Person's Email

johnm@goodfellowbros.com

Operator/General Contractor Contact Person's Phone number (e.g., 555-555-5555)

808-887-6511

Operator/General Contractor Contact Person's Alternate Phone Number (cell) (e.g., 555-555-5555)

808-960-4648

Operator/General Contractor Contact Person's Fax number (e.g., 555-555-5555)

808-887-6522

4. Facility/Project Information

Enter the Facility or Project Name

The Facility or Project Name will appear on all correspondence, official files, and permits.

Facility or Project Name

TMT International Observatory

Provide the Mailing Address

The mailing address may be the mailing address of the facility's or project's contact person.

Mailing Address

100 West Walnut Street, Suite 300 Pasadena, CA 91124

Exhibit Frovide the Street Address

Flores-Case Ohana Memorandum

The street address is the facility or project location with respect to identifiable street names or adjacent developments or properties (i.e., 1234 15th Drive or northwest corner of 1st Street and X Avenue).

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Street Address (i.e. the location of the project or facility)

Mauna Kea Summit Loop Road, Area E

Provide the Facility/Project Contact Person information.

Provide the facility/project contact person information. The facility/project contact person can be anyone (e.g. consultant, staff, etc.).

Facility/Project Contact Person Salutation

Facility/Project Contact Person's First Name

John

Facility/Project Contact Person's Last Name

Makoff

Facility/Project Contact Person's Title

Regional Manager

Facility/Project Contact Person's Email

johnm@goodfellowbros.com

Facility/Project Contact Person Phone Number (e.g., 555-555-555)

Facility/Project Contact Person Alternate Phone Number (cell) (e.g., 555-555-5555)

808-960-4648

Facility/Project Contact Person Fax Number (e.g., 555-555-555)

808-887-6522

Facility/Project Front Gate Location Coordinates or Start of Linear Construction Location Coordinates

19.82769937757558,-155.47941337260704

NONE PROMDED

5. Tax Map Key (TMK) No.

Facility/Project Tax Map Key (TMK) Number(s)

You are required to download and complete the TMK spreadsheet below. All TMK numbers involved in the facility/project need to be disclosed. Aminimum of one (1) TMK is required.

TMK Spreadsheet

Upload Completed TMK Spreadsheet- Attachment

TMK NPDES Spreadsheet-TMT.xlsx-11/16/2018 03:29 PM

Comment: NONE PROMDED

6. Receiving State Water(s) Information (1)

HAR, Section 11-54-1 defines State waters as:All waters, fresh, brackish, or salt around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, and lakes; provided that drainage ditches, ponds, and reservoirs required as part of a water pollution control system are excluded. This chapter applies to all state waters, including Exhibit wetlands, subject to the following exceptions: (1) This chapter does not apply to groundwater. (2) This chapter does not apply to ditches, flumes, ponds and reservoirs that are required as part of a water pollution control system. (3) This chapter does not apply to Flores - Gitches, humas, pands, and reservoirs that are used solely for irrigation and do not overflow into any other state waters, unless such ditches, flumes, ponds, and reservoirs are waters of the United States as defined at 40 C.F.R. 122.2.

Exhibits page 226

11/29/2018 3:21:24 PM Page 6 of 17 A receiving State water is the first State water that receives the discharge. Note: You must identify a receiving State Water before an NPDES permit can be issued. Identify the receiving State water name in relation to the facility or project site based on the topography or contours of the land, excluding evaporation, percolation, retention, detention, etc. The receiving State water must be a surface water. Sample responses for this item include: Pacific Ocean at Sandy Beach, Honolulu Harbor, Pearl Harbor, Aiea Stream, Unnamed Stream Kaloi Gulch, Unnamed Dry Gulch, Unnamed Wetlands, etc.

Receiving State Waters Name

Kemole Gulch

Select the receiving State water CLASSIFICATION:

Classifications are defined in HAR, Chapter 11-54 and on the Water Quality Standards Maps available on the CWB website. The Water Quality Standards Maps are provided for general information only and are to be used in conjunction with HAR, Chapter 11-54. Click on the link below to download a copy of HAR, Chapter 11-54.

HAR, Chapter 11-54

The Water Quality Standards Maps can be found by clicking on the link below.

Water Quality Standards Maps

Receiving State Water Classification

Class 2, Inland

Coordinates of the Discharge Point into State waters

Provide the coordinates of the discharge point (in decimal degrees) where discharge from the facility or construction site first enters the receiving State water. If the discharge first enters a storm drainage system, provide the discharge point coordinates for the outfall where the storm drainage system enters State waters. If the storm water discharge enters the receiving State water as a sheet flow, provide the coordinates based on the limits of discharge. For Example: Type: Discharge Point 1 (From) Latitude 21.274685 N, Longitude 158.012768 W(Click the "+" button in the tab heading row above to enter the next location) Then type: Discharge Point 1 (To) Latitude 21.304811N, Longitude 158.022721 W

Properly label the discharge points with numbers (i.e., Discharge Point No. 1, Discharge Point No. 2, etc.) which correspond to the location map(s) and flow chart(s) submitted.

Discharge Point label

Kemole Gulch

Discharge Point

19.846013436267245,-155.5002144512972

NONE PROMDED

List all discharges at this discharge point (e.g. storm water associated with construction activities; storm water associated with industrial activities; hydrotesting waters; dewatering effluent; cooling water; secondary treated wastewater effluent; etc.).

storm water associated with construction activities

Is the receiving State water on the Section 303(d) List?

Click on the link below to view the Section 303(d) List.

Section 303(d) List

Is the receiving State water on the Section 303(d) List?

No

If your Receiving Water is on the Section 303(d) List, please provide the impairment pollutant(s).

Exhibit ENONE PROMDED

Flores-Case Changa Memorandum receiving State waters?

Yes Exhibits page 227

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If YES was selected, click the "+" button in the tab area at the top of this section to describe additional discharge points into receiving State waters.

6. Receiving State Water(s) Information (2)

HAR, Section 11-54-1 defines State waters as:All waters, fresh, brackish, or salt around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, and lakes; provided that drainage ditches, ponds, and reservoirs required as part of a water pollution control system are excluded. This chapter applies to all state waters, including wetlands, subject to the following exceptions: (1) This chapter does not apply to groundwater. (2) This chapter does not apply to ditches, flumes, ponds and reservoirs that are required as part of a water pollution control system. (3) This chapter does not apply to ditches, flumes, ponds, and reservoirs that are used solely for irrigation and do not overflow into any other state waters, unless such ditches, flumes, ponds, and reservoirs are waters of the United States as defined at 40 C.F.R. 122.2.

A receiving State water is the first State water that receives the discharge. Note: You must identify a receiving State Water before an NPDES permit can be issued. Identify the receiving State water name in relation to the facility or project site based on the topography or contours of the land, excluding evaporation, percolation, retention, detention, etc. The receiving State water must be a surface water. Sample responses for this item include: Pacific Ocean at Sandy Beach, Honolulu Harbor, Pearl Harbor, Aiea Stream, Unnamed Stream Kaloi Gulch, Unnamed Dry Gulch, Unnamed Wetlands, etc.

Receiving State Waters Name

Kuupahaa Gulch

Select the receiving State water CLASSIFICATION:

Classifications are defined in HAR, Chapter 11-54 and on the Water Quality Standards Maps available on the CWB website. The Water Quality Standards Maps are provided for general information only and are to be used in conjunction with HAR, Chapter 11-54. Click on the link below to download a copy of HAR, Chapter 11-54.

HAR, Chapter 11-54

The Water Quality Standards Maps can be found by clicking on the link below.

Water Quality Standards Maps

Receiving State Water Classification

Class 2, Inland

Coordinates of the Discharge Point into State waters

Provide the coordinates of the discharge point (in decimal degrees) where discharge from the facility or construction site first enters the receiving State water. If the discharge first enters a storm drainage system, provide the discharge point coordinates for the outfall where the storm drainage system enters State waters. If the storm water discharge enters the receiving State water as a sheet flow, provide the coordinates based on the limits of discharge. For Example: Type: Discharge Point 1 (From) Latitude 21.274685 N, Longitude 158.012768 W(Click the "+" button in the tab heading row above to enter the next location) Then type: Discharge Point 1 (To) Latitude 21.304811N, Longitude 158.022721 W

Properly label the discharge points with numbers (i.e., Discharge Point No. 1, Discharge Point No. 2, etc.) which correspond to the location map(s) and flow chart(s) submitted.

Discharge Point label

Kuupahaa Gulch

Discharge Point

19.860556,-155.4975 NONE PROMDED

Exhibit E

List all discharges at this discharge point (e.g. storm water associated with construction activities; storm water associated with a storm

Storm water associated with construction activities

Exhibits page 228

Is the receiving State water on the Section 303(d) List?

Click on the link below to view the Section 303(d) List.

Section 303(d) List

Is the receiving State water on the Section 303(d) List?

No

If your Receiving Water is on the Section 303(d) List, please provide the impairment pollutant(s).

NONE PROMDED

Are there additional discharge points into receiving State waters?

Yes

If YES was selected, click the "+" button in the tab area at the top of this section to describe additional discharge points into receiving State waters.

6. Receiving State Water(s) Information (3)

HAR, Section 11-54-1 defines State waters as:All waters, fresh, brackish, or salt around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, and lakes; provided that drainage ditches, ponds, and reservoirs required as part of a water pollution control system are excluded. This chapter applies to all state waters, including wetlands, subject to the following exceptions: (1) This chapter does not apply to groundwater. (2) This chapter does not apply to ditches, flumes, ponds and reservoirs that are required as part of a water pollution control system. (3) This chapter does not apply to ditches, flumes, ponds, and reservoirs that are used solely for irrigation and do not overflow into any other state waters, unless such ditches, flumes, ponds, and reservoirs are waters of the United States as defined at 40 C.F.R. 122.2.

A receiving State water is the first State water that receives the discharge. Note: You must identify a receiving State Water before an NPDES permit can be issued. Identify the receiving State water name in relation to the facility or project site based on the topography or contours of the land, excluding evaporation, percolation, retention, detention, etc. The receiving State water must be a surface water. Sample responses for this item include: Pacific Ocean at Sandy Beach, Honolulu Harbor, Pearl Harbor, Aiea Stream, Unnamed Stream Kaloi Gulch, Unnamed Dry Gulch, Unnamed Wetlands, etc.

Receiving State Waters Name

Puupohakuloa Gulch

Select the receiving State water CLASSIFICATION:

Classifications are defined in HAR, Chapter 11-54 and on the Water Quality Standards Maps available on the CWB website. The Water Quality Standards Maps are provided for general information only and are to be used in conjunction with HAR, Chapter 11-54. Click on the link below to download a copy of HAR, Chapter 11-54.

HAR, Chapter 11-54

The Water Quality Standards Maps can be found by clicking on the link below.

Water Quality Standards Maps

Receiving State Water Classification

Class 2, Inland

Coordinates of the Discharge Point into State waters

Provide the coordinates of the discharge point (in decimal degrees) where discharge from the facility or construction site first enters the receiving State water. If the discharge first enters a storm drainage system, provide the discharge point coordinates for the outfall where the storm drainage system enters State waters. If the storm water discharge enters the receiving State water as a sheet flow, provide the coordinates based on the limits of discharge. For Example: Type: Discharge Point 1 (From) Latitude 21.274685 N, Longitude 158.012768 W(Click the "+" button in the tab heading row above to enter the next location) Then type: Discharge Point 1 (To) Latitude

Flores-Ga3648 AhanauMa58.6222 200 Wm

Exhibits page 229

Properly label the discharge points with numbers (i.e., Discharge Point No. 1, Discharge Point No. 2, etc.) which correspond to the location map(s) and flow chart(s) submitted.

Discharge Point label

Puupohakuloa Gulch

Discharge Point

19.809768947346164,-155.50930258752993

NONE PROMDED

List all discharges at this discharge point (e.g. storm water associated with construction activities; storm water associated with industrial activities; hydrotesting waters; dewatering effluent; cooling water; secondary treated wastewater effluent; etc.).

Storm water associated with construction activities

Is the receiving State water on the Section 303(d) List?

Click on the link below to view the Section 303(d) List.

Section 303(d) List

Is the receiving State water on the Section 303(d) List?

Nο

If your Receiving Water is on the Section 303(d) List, please provide the impairment pollutant(s).

NONE PROVIDED

Are there additional discharge points into receiving State waters?

Yes

If YES was selected, click the "+" button in the tab area at the top of this section to describe additional discharge points into receiving State waters.

6. Receiving State Water(s) Information (4)

HAR, Section 11-54-1 defines State waters as:All waters, fresh, brackish, or salt around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, and lakes; provided that drainage ditches, ponds, and reservoirs required as part of a water pollution control system are excluded. This chapter applies to all state waters, including wetlands, subject to the following exceptions: (1) This chapter does not apply to groundwater. (2) This chapter does not apply to ditches, flumes, ponds and reservoirs that are required as part of a water pollution control system. (3) This chapter does not apply to ditches, flumes, ponds, and reservoirs that are used solely for irrigation and do not overflow into any other state waters, unless such ditches, flumes, ponds, and reservoirs are waters of the United States as defined at 40 C.F.R. 122.2.

A receiving State water is the first State water that receives the discharge. Note: You must identify a receiving State Water before an NPDES permit can be issued. Identify the receiving State water name in relation to the facility or project site based on the topography or contours of the land, excluding evaporation, percolation, retention, detention, etc. The receiving State water must be a surface water. Sample responses for this item include: Pacific Ocean at Sandy Beach, Honolulu Harbor, Pearl Harbor, Aiea Stream, Unnamed Stream Kaloi Gulch, Unnamed Dry Gulch, Unnamed Wetlands, etc.

Receiving State Waters Name

Pohakuloa Gulch

Select the receiving State water CLASSIFICATION:

Classifications are defined in HAR, Chapter 11-54 and on the Water Quality Standards Maps available on the CWB website. The Water Quality Standards Maps are provided for general information only and are to be used in conjunction with HAR, Chapter 11-54. Click on Exhibit He link below to download a copy of HAR, Chapter 11-54.

Flores-Case Qhana Memorandum

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The Water Quality Standards Maps can be found by clicking on the link below.

Water Quality Standards Maps

Receiving State Water Classification

Class 2. Inland

Coordinates of the Discharge Point into State waters

Provide the coordinates of the discharge point (in decimal degrees) where discharge from the facility or construction site first enters the receiving State water. If the discharge first enters a storm drainage system, provide the discharge point coordinates for the outfall where the storm drainage system enters State waters. If the storm water discharge enters the receiving State water as a sheet flow, provide the coordinates based on the limits of discharge. For Example: Type: Discharge Point 1 (From) Latitude 21.274685 N, Longitude 158.012768 W(Click the "+" button in the tab heading row above to enter the next location) Then type: Discharge Point 1 (To) Latitude 21.304811N, Longitude 158.022721 W

Properly label the discharge points with numbers (i.e., Discharge Point No. 1, Discharge Point No. 2, etc.) which correspond to the location map(s) and flow chart(s) submitted.

Discharge Point label

Pohakuloa Gulch

Discharge Point

19.875692,-155.496944 NONE PROMDED

List all discharges at this discharge point (e.g. storm water associated with construction activities; storm water associated with industrial activities; hydrotesting waters; dewatering effluent; cooling water; secondary treated wastewater effluent; etc.).

Storm water associated with construction activities

Is the receiving State water on the Section 303(d) List?

Click on the link below to view the Section 303(d) List.

Section 303(d) List

Is the receiving State water on the Section 303(d) List?

No

If your Receiving Water is on the Section 303(d) List, please provide the impairment pollutant(s).

NONE PROMDED

Are there additional discharge points into receiving State waters?

Yes

If YES was selected, click the "+" button in the tab area at the top of this section to describe additional discharge points into receiving State waters.

6. Receiving State Water(s) Information (5)

HAR, Section 11-54-1 defines State waters as:All waters, fresh, brackish, or salt around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, and lakes; provided that drainage ditches, ponds, and reservoirs required as part of a water pollution control system are excluded. This chapter applies to all state waters, including wetlands, subject to the following exceptions: (1) This chapter does not apply to groundwater. (2) This chapter does not apply to ditches, flumes, ponds and reservoirs that are required as part of a water pollution control system. (3) This chapter does not apply to ditches, flumes, ponds, and reservoirs that are used solely for irrigation and do not overflow into any other state waters, unless such ditches, flumes, ponds, and reservoirs are waters of the United States as defined at 40 C.F.R. 122.2.

Exhibit E

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A receiving State water is the first State water that receives the discharge. Note: You must identify a receiving State Water before an Exhibits page 231

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NPDES permit can be issued. Identify the receiving State water name in relation to the facility or project site based on the topography or contours of the land, excluding evaporation, percolation, retention, detention, etc. The receiving State water must be a surface water. Sample responses for this item include: Pacific Ocean at Sandy Beach, Honolulu Harbor, Pearl Harbor, Aiea Stream, Unnamed Stream Kaloi Gulch, Unnamed Dry Gulch, Unnamed Wetlands, etc.

Receiving State Waters Name

Wailuku River

Select the receiving State water CLASSIFICATION:

Classifications are defined in HAR, Chapter 11-54 and on the Water Quality Standards Maps available on the CWB website. The Water Quality Standards Maps are provided for general information only and are to be used in conjunction with HAR, Chapter 11-54. Click on the link below to download a copy of HAR, Chapter 11-54.

HAR, Chapter 11-54

The Water Quality Standards Maps can be found by clicking on the link below.

Water Quality Standards Maps

Receiving State Water Classification

Class 2. Inland

Coordinates of the Discharge Point into State waters

Provide the coordinates of the discharge point (in decimal degrees) where discharge from the facility or construction site first enters the receiving State water. If the discharge first enters a storm drainage system, provide the discharge point coordinates for the outfall where the storm drainage system enters State waters. If the storm water discharge enters the receiving State water as a sheet flow, provide the coordinates based on the limits of discharge. For Example: Type: Discharge Point 1 (From) Latitude 21.274685 N, Longitude 158.012768 W(Click the "+" button in the tab heading row above to enter the next location) Then type: Discharge Point 1 (To) Latitude 21.304811N, Longitude 158.022721 W

Properly label the discharge points with numbers (i.e., Discharge Point No. 1, Discharge Point No. 2, etc.) which correspond to the location map(s) and flow chart(s) submitted.

Discharge Point label

Wailuku River

Discharge Point

19.711944,-155.3075 NONE PROMDED

List all discharges at this discharge point (e.g. storm water associated with construction activities; storm water associated with industrial activities; hydrotesting waters; dewatering effluent; cooling water; secondary treated wastewater effluent; etc.).

Storm water associated with construction activities

Is the receiving State water on the Section 303(d) List?

Click on the link below to view the Section 303(d) List.

Section 303(d) List

Is the receiving State water on the Section 303(d) List?

Yes

If your Receiving Water is on the Section 303(d) List, please provide the impairment pollutant(s).

NO3+NO2

Are there additional discharge points into receiving State waters?

Exhibit E_{No}

Flores-Case Ohana Memorandum

If YES was selected, click the "+" button in the tab area at the top of this section to describe additional discharge points in the tab area at the top of this section to describe additional discharge points.

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State waters.

7. Receiving Drainage System(s) Information (1)

Does the discharge enter a STORMWATER DRAINAGE SYSTEM before discharging into the receiving State waters?

No

If YES selected, provide the information for ALL of the following questions in this section.

Drainage System Owner's Name

NONE PROVIDED

Drainage System Owner's Approval

Please submit the Drainage System owner's approval to allow the subject discharge to enter their Drainage System. If the project owner also owns the Drainage System, you do not have to submit the approval.

Drainage System Owner's Approval to Discharge- Attachment

NONE PROMDED

Comment: NONE PROMDED

Please note that if you did not attach the Drainage System Owner's Approval to this application, you are required to submit the Approval to Discharge at least 30 calendar days before the start of contruction activities or discharge, whichever is sooner.

Will Drainage System Owner's approval be submitted at least 30 calendar days before start of construction?

NONE PROVIDED

If the Drainage System Owner is the same as the Owner of this Project, please select one of the following.

NONE PROMDED

Are there additional Drainage Systems that may receive stormwater runoff from the project?

NONE PROVIDED

If YES was selected, click the "+" button in the tab area at the top of this section to provide additional Receiving Drainage System information.

8. Authorized Representative

Authorization

The Certifying Person hereby authorizes the named individual or any individual occupying the named position of the company/organization listed below to act as our representative to submit information/documents necessary to complete the NPDES application to discharge to State waters from the subject facility. Our representative is further authorized to submit information/documents for compliance with the NPDES permit conditions, except submittal of the Notice of Cessation (NOC). The Owner hereby agrees to comply with and be responsible for all NPDES permit conditions. This authorization begins with NPDES application processing and ends upon receipt of the NOC by the CWB. The Owner authorizes the duly authorized representative to submit additional information/documents necessary to complete the NPDES application and to submit information/documents to comply with the NPDES permit conditions. The Owner is responsible for all information/documents submitted by the duly authorized representative for completion of the NPDES application and for compliance with the NPDES permit conditions. The Certifying Person is required to sign the NOC Form for the project. After receipt of the NOC for the project, the duly authorized representative is no longer recognized by the CWB. The responsibility of the authorized representative cannot be delegated to an outside consultant with no financial responsibility for the company - they cannot sign as the "authorized representative" on behalf of the Owner. This requirement stems from the fact that self-reporting is critical under the Clean Water Act and Hawaii Water Pollution statutes; reports filed with CWB can have serious legal consequences, including possible civil and even criminal liability. The Owner in signing reports, therefore,

Flores-Case Ohana Memorandum

The Certifying Person attests that the authorized representative 1) meets the requirements of HAR 11-55-07(b) and 2) has Exhibits page 233

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financial responsibility within the corporation/organization who can attest to the accuracy of reports either because he or she participated in the preparation of the report, or supervises those who did prepare it and can attest that those individuals followed standard protocols that ensure the accuracy of the report. Both the Certifying Person and authorized representative understand that they can be subject to civil and criminal liability for non-compliance with NPDES permit conditions, non-compliance with HAR Chapters 11-54 and 11-55, and for falsifying information.

Yes. I certify that the above is true.

Authorized Representative Contact Information

Complete the following for your Authorized Representative.

Authorized Representative Company/Organization Name

Goodfellow Bros., LLC

Authorized Representative Department

NONE PROMDED

Authorized Representative Division

NONE PROMDED

Authorized Representative Mailing Address

P.O. Box 383729 Waikoloa, HI 96738

Authorized Representative Street Address

68-1244 Waikoloa Road Waikoloa, HI 96738

Authorized Representative First Name

John

Authorized Representative Salutation

Mr.

Authorized Representative Last Name

Mahoff

Authorized Representative Email Address

johnm@goodfellowbros.com

Authorized Representative Phone (e.g., 555-555-555)

808-887-6511

Authorized Representative Alternate Phone (cell) (e.g., 555-555-555)

808-960-4648

Authorized Representative Fax (e.g., 555-555-5555)

808-887-6522

9. Discharge Specific Attachments

a. Please select the form(s) for the discharge/activity you are requesting NPDES permit coverage. You may cover multiple discharges under one (1) NPDES permit application.

_Form C - Discharges of storm water associated with construction activities.

Exhibit E

Flores-Gabon Cad and complete appropriate form (s).

For all of the discharges/activities you are requesting NPDES permit coverage (Section 9.a above), please download and complete all 34

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of the appropriate forms (Section 9.d below).

c. Upload completed form(s).- Attachment

NOIFormC-TMT.pdf - 11/29/2018 02:52 PM

Comment: NONE PROMDED

d. Discharge specific forms.

Please see below for all of the discharge specific forms. A description of the discharge/activity is provided. Click on the link to download the form.

Form B - Discharges of storm water associated with industrial activities. NPDES permit coverage is required for discharges of storm water runoff associated with industrial activity(ies), as categorized in 40 CFR 122.26(b)(14)(i) through 122.26(b)(14)(ix) and 122.26(b) (14)(xi).

Click on this link to download Form B.

Form C - Discharges of storm water associated with construction activities. NPDES permit coverage is required for activities that disturb one (1) acre or more of total land area. NPDES permit coverage is also required for activities that disturb less than one (1) acre of total land area that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more of total land area [40 CFR 122.26(b)(15)]. Land disturbance includes, but is not limited to clearing, grading, grubbing, uprooting of vegetation, demolition (even if leaving foundation slab), staging, stockpiling, excavation into pavement areas which go down to the base course, and storage areas (including areas on the roadway to park equipment if these areas are blocked off from public usage, grassed areas, or bare ground).

Click on this link to download Form C.

Form D - Discharges of treated effluent from leaking underground storage tank remedial activities. NPDES permit coverage is required for the release or discharge of treated ground water to State waters from the cleanup (or remedial action) of underground storage tanks that have leaked petroleum hydrocarbons.

Click on this link to download Form D.

Form E - Discharges of once through cooling water less than (1) million gallons per day. NPDES permit coverage is required for discharges to State waters of once through cooling water with a total flow of less than one (1) million gallons per day. "once through cooling water" means water passed through the main cooling condensers one or two times for the purpose of removing waste heat.

Click on this link to download Form E.

Form F - Discharges of hydrotesting waters. NPDES permit coverage is required for the release or discharge of hydrotesting waters to State waters. "Hydrotesting Waters" means water used to test the integrity of a tank or pipeline, pipeline disinfection, and/or pipeline flushing.

Click on this link to download Form F.

Form G - Discharges of construction activity dewatering. NPDES permit coverage is required for discharges to State waters of construction activity dewatering effluent. "Dewatering Effluent" is any type of water (e.g. ground water, storm water, stream water, ocean water, etc.) pumped from a construction area.

Click on this link to download Form G.

Form H - Discharges of treated process wastewater associated with petroleum bulk stations and terminals. NPDES permit coverage is required for discharges to State waters of treated process wastewater effluent from petroleum bulk stations and terminals. Treated process wastewater effluent includes tank water draws, product displacement process wastewater, wash down and fire hydrant system test waters, service station tank draws, recovered groundwater, and contaminated storm water runoff from the product storage and handling areas.

Click on this link to download Form H.

Form I - Discharges of treated process wastewater associated with well drilling activities. NPDES permit coverage is required for discharges to State waters of treated process wastewater associated with well drilling activities. Treated process wastewater includes Exhibit

Flores-Case On and advised from dum

Exhibits page 235

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Form K - Discharges of storm water and certain non-storm water discharges from small Municipal Separate Storm Sewer Systems (MS4s). NPDES permit coverage is required for storm water and certain non-storm water discharges to State waters from small MS4s.

Click on this link to download Form K.

Form L - Discharges of circulation water from decorative ponds or tanks. NPDES permit coverage is required for discharges to State waters of circulation water from decorative ponds or tanks containing fish or other aquatic species.

Click on this link to download Form L.

Form M-Point source discharges from the application of pesticides. NPDES permit coverage is required for the application of pesticides to State waters.

Click on this link to download Form M.

Form 2A - Pollutant discharges from a publicly owned treatment works to a State water.

Click on this link to download Form 2A

Form 2B - Pollutant discharges from a concentrated animal feeding operation or aquatic animal production facility to a State water.

Click on this link to download Form 2B.

Form 2C - Discharges of wastewater to a State water from an existing facility, other than described in Form 2A and 2B.

Click on this link to download Form 2C.

Form 2D - Discharges of process wastewater to a State water from a new, proposed facility, other than described in Form 2A and 2B. Process wastewater is water that comes into direct contact with or results from the production or use of raw materials, intermediate product, finished product, byproduct, waste product, or wastewater.

Click on this link to download Form 2D.

Form 2E - Discharges of nonprocess wastewater which is not regulated by effluent limitation guidelines or new source performance standards. This form is intended primarily for use by dischargers (new or existing) of sanitary wastes and noncontact cooling water. It may not be used for discharges of storm water runoff or by educational, medical, or commercial chemical laboratories, or by publicly owned treatment works.

Click on this link to download Form 2E.

Form 2S - Sewage sludge (biosolids) for new and existing treatment works treating domestic sewage.

Click on this link to download Form 2S.

ZID/ZOM Form - Zone of Initial Dilution/Zone of Mixing.

Click on this link to download the ZOM Form.

Attachments

Date	Attachment Name	Context	Confidential?
11/16/2018 3:29 PM	TMK NPDES Spreadsheet-TMT.xlsx	v1 - 5. Tax Map Key (TMK) No.	No
11/29/2018 2:52 PM	NOIFormC-TMT.pdf	v1 - 9. Discharge Specific Attachments	No

Status History

Date	User	Processing Status
Exhibit E 11/16/2018 10:38:49 AM	James T Hayes	Draft
Flores-01/29/2013/13/29 PMemorandum	James T Hayes	Submitted

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Processing Steps			
Step Name	Assigned To/Completed By	Date Completed	
Application Submitted	James T Hayes	11/29/2018 3:01:28 PM	
Assign To			
In Review			
Pending Applicant Action			
Issue NPDES Permit			

Exhibit E Flores-Case Ohana Memorandum

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DAVID Y. IGE



ELIZABETH A. CHAR, M.D.

In reply, please refer to: EMD/CWB

03003PCTM.21

March 3, 2021

Mr. Gary Sanders Project Manager TMT International Observatory, LLC 100 West Walnut Street, Suite 300 Pasadena, California 91124

Attention: Mr. Paul Gillett

Facilities Department Head

Dear Mr. Sanders:

Subject: Rescinding National Pollutant Discharge Elimination System (NPDES)

Revised Draft Permit for TMT International Observatory

Mauna Kea, Island of Hawaii, Hawaii

Permit No. HI S000431

The Department of Health (DOH), Clean Water Branch (CWB) rescinds and voids the documents identified below:

- Document No. 02038PCTM.19a, dated March 7, 2019, Notice of Proposed Water Pollution Control Permit for Thirty Meter Telescope International Observatory NPDES Permit No. HI S000431;
- Draft form of Authorization to Discharge Under the National Pollutant
 Discharge Elimination System with respect to Permit No. HI S000431 dated
 March 7, 2019;
- 3. Document No. 02038PCTM.19c, dated March 7, 2019, Permit Rationale related to NPDES Permit No. HI S000431;
- 4. Document No. 01011PCTM.20, dated January 9, 2020, relating to DOH's response to public comments.

EXHIBIT "E"

Mr. Gary Sanders March 3, 2021 Page 2

The documents were worded in a way that may imply that the Director of Health has made certain determinations with respect to the permit application related to Docket No. HI S000431. The DOH will issue a new tentative recommendation in accordance with applicable statute and rules.

Please review the enclosed Revised Draft NPDES permit and submit any comments you may have on this document to the CWB within 14 calendar days from the date of this letter.

If you do not have any comments, please choose a date for the public notice in the Hawaii Tribune Herald. You can contact the Hawaii Tribune Herald (contact: Ms. Lisa Kaukani, Tel: (808) 529-4344 or e-mail: lkaukani@staradvertiser.com) to find out when the public notice can be published. Please set the public notice date on a Thursday at least 9 calendar days from the time you inform the CWB of the publication date. Once you provide the CWB with the publication date, the public notice package will be prepared and sent to you.

The publication in the newspaper is for 1 day only. The public comment period is for 30 calendar days. Failure to publish the public notice on the specified date may result in denial of your NPDES Application. If the public notice generates sufficient interest, a public hearing will be held. Comments from the public will be received by the CWB for a period of 30 calendar days. Please be aware that all timely submitted public comments previously received by the DOH in response to the March 7, 2019, Public Notice and May 23, 2019, Notice of Public Hearing will be automatically included in the record for any proposed determination that will be considered prior to any final determination in Docket No. HI S000431.

Please also be aware that you are required to pay for all publication costs in accordance with Hawaii Administrative Rules §11-55-09(d) which states "[a]II publication and mailing costs associated with the public notification of the director's tentative determinations with respect to the NPDES permit application shall be paid by the owner or operator to the appropriate publishing agency or agencies determined by the director. The owner or operator shall submit the original signed affidavit of publication to the department within four weeks of the publication date. Failure to provide and pay for public notification, as deemed appropriate by the director, is a basis to delay issuance of an individual permit."

For future submittals, include Permit No. HI S000431 and the following certification statement in your cover letter:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Should you have any questions, please contact Mr. Colin Maruoka of the Engineering Section, CWB, at (808) 586-4309.

Sincerely,

ALEC WONG, P.E., CHIEF

Clean Water Branch

Ilm Wong

CTM

Enclosures: 1. Revised Draft NPDES Permit

2. Permit Rationale

c: Water Division (WTR-5), CWA Standards and Permits Office, EPA, Region 9 [via e-mail kozelka.peter@epa.gov only]

Mr. James T. Hayes, Planning Solutions, Inc. [via e-mail <u>jim@psi-hi.com</u> only] Ms. Jon Makoff, Goodfellow Bros., LLC [via e-mail johnm@goodfellowbros.com only]

Mr. Ian Sandison, Watanabe Ing LLP [via e-mail <u>isandison@wik.com</u> only]

Mr. Paul Gillett, TMT International Observatory, LLC

[via e-mail pgillett@tmt.org only]

TMT INTERNATIONAL OBSERVATORY LLC

- and -

TMT OBSERVATORY CORPORATION

ASSET AND EMPLOYEE TRANSFER AGREEMENT



Hogan Lovells US LLP 875 3rd Avenue, New York, NY 10022, USA

EXHIBIT "F"

Exhibit E Flores-Case Ohana Memorandum CLAUSE

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BETWEEN:

- (1) **TMT International Observatory LLC**, a Delaware limited liability company ("Buyer"); and
- (2) **TMT Observatory Corporation**, a California non-profit membership corporation ("**Seller**" and, together with Buyer, the "**Parties**").

WHEREAS:

- (A) Seller owns certain Assets (as defined below) and is a party to certain Plans (as defined below).
- (B) WHEREAS, Buyer wishes to purchase from Seller, and Seller wishes to sell, assign and transfer to Buyer, all right, title and interests of the Seller in and to the Assets.
- (C) WHEREAS, Seller wishes to assign, and Buyer wishes to assume, the Plans.

IT IS AGREED:

1. SALE AND PURCHASE OF ASSETS

1.1 Transfer of Assets.

Subject to the terms and conditions hereof, Seller hereby sells, transfers, assigns and delivers to Buyer, and Buyer purchases from Seller, all right, title and interest of Seller in and to the assets listed on Schedule 1.1 (collectively, the "Assets"), free and clear of all liabilities, obligations, liens and encumbrances. Effective as of the Closing Date, Seller, for good and valuable consideration received, irrevocably conveys, transfers, assigns and delivers to Buyer, all of Seller's right, title and interest in, to and under all of the Assets, pursuant to this Agreement, TO HAVE AND TO HOLD such Assets to Buyer, its successors and assigns, for their exclusive use and benefit forever.

1.2 No Other Assumption of Liabilities.

Except to the extent provided in Section 2, the Buyer does not assume any obligation or liability of the Seller, and the Seller will continue to be liable for any and all liabilities of the Seller.

1.3 Closing.

(a) The closing of the sale and purchase of the Assets and the assignment and assumption of the Plans (the "Closing") shall take place on October 1, 2016 or on such other date as the parties may agree to in writing (the "Closing Date").

1.4 Consideration.

The consideration for the assignment, transfer and delivery of the Assets by Seller to Buyer and subject to the terms and conditions hereof, shall be:

- (a) the undertaking by the Buyer (which undertaking the Buyer hereby gives) to offer employment to all of the Seller's employees on substantially the same terms as those employees are presently employed by the Seller; and
- (b) the agreement by the Buyer to assume the Plans, as stated in Section 2.3 of this Agreement.

1.5 Allocation of Value of Consideration for Assets.

The parties agree to allocate the value of the consideration for purposes, including tax and financial accounting purposes, of the Assets in accordance with Schedule 1.5 (which the parties agree was determined in an arm's length negotiation). The value of the consideration shall be allocated among the Assets in accordance with Section 1060 of the Code. The parties will each report the federal, state and local Tax consequences of the purchase and sale contemplated hereby (including the filing of Internal Revenue Service Form 8594) in a manner consistent with Schedule 1.5, will cooperate with each other in connection with the preparation, execution and filing of all tax returns related to such allocation, and will promptly advise each other regarding the existence of any tax audit, controversy or litigation related to such allocation.

2. EMPLOYMENT MATTERS

2.1 Employment of Seller's Employees.

- (a) Subject to compliance with applicable Law, beginning on the date hereof Seller shall use its commercially reasonable efforts to provide Buyer access to each Seller Employee and shall cooperate with Buyer to communicate to the Seller Employees the details of the proposed terms and conditions of their employment with Buyer.
- (b) Subject to compliance with applicable Law, including all applicable privacy laws, beginning on the date hereof and upon Buyer's reasonable request, Seller shall provide Buyer information and access to Seller Employees and books and records with respect to the employment terms and conditions of Seller Employees.
- (c) This Agreement is not intended to, and does not, create any rights or obligations to or for the benefit of anyone other than Buyer and Seller.

2.2 Release and Indemnification.

Notwithstanding any provision of this Agreement, Seller shall remain responsible, and shall indemnify and hold harmless Buyer, for any and all liabilities, obligations, commitments, costs, damages, losses, claims and expenses (including without limitation, reasonable attorneys' fees and expenses in connection with any action, suit or proceeding brought against Buyer) ("Losses") related to or in respect of the claims of any Seller Employee relating to or arising in connection with any and all (i) workers' compensation benefits arising in connection with any occupational injury or disease, or (ii) any other employment-related matters arising in connection with an event or practice, in each case to the extent occurring or existing on or prior to the Closing Date. Buyer shall be responsible, and shall indemnify and hold harmless Seller, for any and all Losses related to or in respect of the claims of any Seller Employee that becomes an employee of Buyer relating to or arising in connection with

any and all (i) workers' compensation benefits arising in connection with any occupational injury or disease, or (ii) any other employment-related matters arising in connection with an event or practice, in each case to the extent occurring or existing after the Closing Date.

2.3 **Assignment and Assumption of Plans.**

Seller maintains that certain TMT Observatory Corporation Voluntary Tax-Deferred Annuity Program and that certain TMT Observatory Corporation Defined Contribution Retirement Plan (each, a "Plan", and together, the "Plans"). The Plans were each amended and restated on January 1, 2009, and subsequently amended on December 22, 2010. As a material condition of this Agreement, effective as of the Closing Date Buyer assumes and agrees to be bound by all of Seller's obligations under the Plans, and Seller shall have no further obligations with respect to the Plans. Buyer further agrees to perform all obligations as plan sponsor of the Plans and to take any and all actions necessary to implement, maintain, and administer the Plans in accordance with applicable state and federal laws upon assumption of the Plans.

2.4 Seller's Representations and Warranties Related to the Plans.

(a) Validity, etc.

To Seller's actual knowledge, each of the Plans is valid and binding and is in full force and effect, and Seller is not in material breach under the terms of, and has not provided any notice of any intention to terminate or modify, any such Plan, except (i) as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and general principles of equity (regardless of whether considered in proceeding at law or in equity) or (ii) where the failure to be legal, valid, binding or enforceable could not, individually or in the aggregate, be or reasonably be expected to be material.

(b) No Consent Required.

To Seller's actual knowledge, no consent of any third party is required under any Plan as a result of or in connection with the execution, delivery and performance of this Agreement or the consummation of the transactions contemplated hereby, other than where the failure to obtain such consent could not reasonably be expected to have, individually or in the aggregate, a material effect. Complete copies of (i) each Plan (including all modifications and amendments thereto and waivers thereunder) and (ii) all form contracts, agreements or instruments used in and material to the administration of each Plan have been made available to Buyer.

(c) Liability; Compliance.

- (i) Neither of the Plans are (i) a "multiemployer plan" (within the meaning of Section 3(37) of ERISA), (ii) a "multiple employer plan" (within the meaning of Section 413(c) of the Code), or (iii) a single employer plan or other pension plan subject to Title IV or Section 302 of ERISA or Section 412 of the Code.
- (ii) Each Plan meets the requirements of Code Section 403(b).

- (iii) Each Plan has been operated in all material respects in accordance with its terms and in compliance in all material respects with the Code, ERISA, and applicable Law.
- (iv) Except as would not reasonably be expected to become a liability of Buyer or its Affiliates, to Seller's actual knowledge no Seller Benefit Plan exists that, as a result of this Agreement or the transactions contemplated hereby, alone or together with any other event, could reasonably be expected to (i) result in severance pay or any increase in severance pay to any Seller Employee, (ii) accelerate the time of payment or vesting or result in any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, increase the amount payable under, or result in any other material obligation pursuant to, any Seller Benefit Plan in respect of any Seller Employee, (iii) result in the creation or imposition of any Lien on any Asset, or (iv) result in any payment (whether in cash or property or the vesting of property) to any "disqualified individual" (as such term is defined in Treasury Regulation Section 1.280G-1) that could reasonably be construed, individually or in combination with any other such payment, to constitute an "excess parachute payment" (as defined in Section 280G(b)(1) of the Code).

2.5 Buyer's Authority to Sponsor Plans.

Buyer represents and warrants that it has full power and authority to sponsor and maintain the Plans. Buyer represents and warrants that it is an employer described in Code section 501(c)(3) which is exempt from tax under Code section 501(a).

3. REPRESENTATIONS AND WARRANTIES OF SELLER

As of the date hereof and as of the Closing Date, Seller represents and warrants to Buyer as follows:

3.1 Status, Authorization, etc.

Seller is a corporation duly organized, validly existing and in good standing under the laws of California. Seller has the corporate power and authority to execute and deliver this Agreement, to perform fully its obligations hereunder, and to consummate the transactions contemplated hereby. The execution and delivery by Seller of this Agreement, and the consummation of the transactions contemplated hereby, have been duly authorized by all requisite corporate action of Seller. Seller has duly executed and delivered this Agreement. This Agreement is, and on the Closing Date will be, a legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except (i) as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and general principles of equity (regardless of whether considered in proceeding at law or in equity) or (ii) where the failure to be legal, valid, binding or enforceable could not, individually or in the aggregate, be or reasonably be expected to be material.

3.2 No Conflicts, etc.

- (a) The execution, delivery and performance by Seller of this Agreement, and the consummation of the transactions contemplated hereby, do not and will not (i) materially conflict with, contravene, result in a material violation or breach of (with or without the giving of notice or the lapse of time or both), give rise to a right or claim of termination, modification or vesting, or result in the creation of any Lien upon any of the Assets under any applicable Law, or (ii) conflict with, contravene, result in a violation or breach of (with or without the giving of notice or the lapse of time or both), give rise to a right or claim of termination, modification or vesting, or result in the creation of any Lien upon any of the Assets under the Organizational Documents of Seller.
- (b) No Governmental Approval or other Consent is required to be obtained or made by Seller or any of its Affiliates in connection with the execution and delivery of this Agreement or the consummation or performance of the transactions contemplated hereby, the failure of which to obtain or make could reasonably be expected to have, individually or in the aggregate, a material effect on the Assets or each of the Plans.

3.3 Title to Assets.

Seller has good and valid title to all of the Assets. Seller's title to the Assets is free and clear of any and all Liens save for such Liens as will be discharged on or before Closing. SELLER SELLS, ASSIGNS, TRANSFERS AND CONVEYS THE ASSETS TO BUYER "AS IS" AND "WHERE IS", WITH NO REPRESENTATIONS OR WARRANTIES AS TO MERCHANTABILITY, FITNESS OR USE.

3.4 Employees, Labor Matters, etc.

- (a) There are no collective bargaining agreements to which Seller is a party or by which Seller is bound with respect to any Seller Employees and there are no labor unions or other organizations or groups representing or purporting to represent or attempting to represent any Seller Employees.
- (b) (i) To the actual knowledge of Seller, there are no formal organizational campaigns, petitions or other material unionization activities seeking recognition of a bargaining unit related to the operations of the Seller, (ii) there are no strikes or work stoppages pending or, to the knowledge of Seller, threatened with respect to Seller Employees and (iii) no such strike or work stoppage has occurred within the three (3) years preceding the date of this Agreement. Seller is in compliance, in all material respects, with respect to Seller Employees, in all material respects with all applicable Laws respecting labor, employment, fair employment practices, terms and conditions of employment, workers' compensation, occupational safety and health requirements, employee and independent contractor classification, immigration matters, the WARN Act, the FLSA, employment discrimination, equal opportunity, employee leave issues and unemployment insurance and related matters.
- (c) No current or, to the actual knowledge of Seller, former Seller Employees are covered by non-competition agreements in place with respect to the Seller.

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3.5 **EXCLUSIVITY OF REPRESENTATIONS.**

The representations and warranties of Seller set forth in Section 2 and this Section 3 are the only representations and warranties made by Seller with respect to the Assets or the Plans. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SPECIFICALLY SET FORTH IN SECTION 2 AND THIS SECTION 3, OR ANY CERTIFICATE DELIVERED UNDER THIS AGREEMENT, SELLER SPECIFICALLY DISCLAIMS AND MAKES NO REPRESENTATION, WARRANTY OR GUARANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER.

4. REPRESENTATIONS AND WARRANTIES OF BUYER

As of the date hereof and as of the Closing Date, Buyer represents and warrants to Seller as follows:

4.1 Corporate Status; Authorization, etc.

Buyer is a limited liability company, duly organized, validly existing and in good standing, under the laws of the jurisdiction of its organization with full corporate power and authority to execute and deliver this Agreement, to perform fully its obligations hereunder and to consummate the transactions contemplated hereby. The execution and delivery by Buyer of this Agreement, and the consummation of the transactions contemplated hereby, have been duly authorized by all requisite corporate action of Buyer. Buyer has duly executed and delivered this Agreement. This Agreement is a valid and legally binding obligation of Buyer, enforceable against Buyer in accordance with its terms, except (i) as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and general principles of equity (regardless of whether considered in proceeding at law or in equity) or (ii) where the failure to be legal, valid, binding or enforceable could not, individually or in the aggregate, be or reasonably be expected to be material.

4.2 No Conflicts, etc.

The execution, delivery and performance by Buyer of this Agreement, and the consummation of the transactions contemplated hereby, do not and will not conflict with or result in a violation of or under (with or without the giving of notice or the lapse of time, or both) (i) the Organizational Documents of Buyer, (ii) any Law applicable to Buyer or any of its Affiliates or any of their properties or assets or (iii) any contract, agreement or other instrument applicable to Buyer or any of its Affiliates or any of their properties or assets, except, in the case of clause (iii), for violations and defaults that, individually and in the aggregate, have not and will not materially impair the ability of Buyer to perform its obligations under this Agreement. No Governmental Approval or other Consent is required to be obtained or made by Buyer in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated thereby.

4.3 **EXCLUSIVITY OF REPRESENTATIONS.**

The representations and warranties of Buyer set forth in Section 2 and this Section 4 are the only representations and warranties made by Buyer. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SPECIFICALLY SET FORTH IN SECTION 2

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AND THIS SECTION 4 OR ANY CERTIFICATE DELIVERED UNDER THIS AGREEMENT, BUYER SPECIFICALLY DISCLAIMS AND MAKES NO REPRESENTATION, WARRANTY, GUARANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER.

COVENANTS

5.1 Covenants of Seller.

(a) Closing Date.

From the date hereof until the Closing Date, Seller shall not:

- (i) Take any actions, or expressly permit any actions to be taken, which may result in a material impairment of the value of the Assets including, without limitation, the creation of any Liens which may affect the Assets.
- (ii) Take any actions, or expressly permit any actions to be taken, with respect to the Plans which would materially increase the Seller's obligations or materially decrease the Seller's rights, or materially increase the obligations of Buyer or materially decrease the rights of Buyer after assumption of such Plans, related to the Plans.

(b) Further Assurances.

Following the Closing, Seller shall from time to time execute and deliver such additional instruments, documents, conveyances or assurances and take such other actions as shall be necessary, or otherwise reasonably requested by Buyer, to confirm and assure the rights and obligations provided for in this Agreement and render effective the consummation of the transactions contemplated hereby.

5.2 Covenants of Buyer.

(a) Further Actions.

- (i) Buyer shall use its commercially reasonable efforts to take all actions and to do all things necessary, proper or advisable to consummate the transactions contemplated hereby by the Closing Date.
- (ii) Buyer shall, as promptly as practicable, file or supply, or cause to be filed or supplied, all applications, notifications and information required to be filed or supplied by Buyer pursuant to applicable Law in connection with this Agreement and the consummation of the transactions contemplated hereby.

(b) Further Assurances.

Following the Closing, Buyer shall, and shall cause its Affiliates, from time to time, to execute and deliver such additional instruments, documents, conveyances or assurances and take such other actions as shall be necessary, or otherwise reasonably requested by Seller, to confirm and assure the rights and obligations provided for in this Agreement and render effective the consummation of the transactions contemplated hereby.

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(c) Taxes.

Buyer agrees to promptly pay all sales, transfer, use or other taxes, duties, claims or charges imposed on and/or related to the sale of the Assets to Buyer under this Agreement by any tax authority or other governmental agency and to defend, indemnify and hold Seller harmless from and against any such taxes, duties, claims, or charges for payment thereof by any tax authority or other governmental agency.

(d) Waiver of Any Bulk Sales Obligations.

Buyer hereby waives compliance by Seller with any applicable bulk sales requirements imposed by Law in connection with the transaction contemplated by this Agreement.

6. CONDITIONS PRECEDENT

6.1 Conditions to Obligations of Each Party.

The obligations of the parties to consummate the transactions contemplated hereby shall be subject to the fulfillment on or prior to the Closing Date of the following conditions:

(a) No Injunction, etc.

Consummation of the transactions contemplated hereby shall not have been restrained, enjoined or otherwise prohibited by any applicable Law, including any order, injunction, decree or judgment of any court or other Governmental Authority, and no proceeding challenging such transactions shall have been initiated. No court or other Governmental Authority shall have determined any applicable Law to make illegal the consummation of the transactions contemplated hereby, and no proceeding with respect to the application of any such applicable Law to such effect shall be pending.

(b) Section 5913 of the California Corporations Code

Twenty days shall have elapsed after Seller has given notice to the Attorney General of California under Section 5913 of the California Corporations Code and the Attorney General shall have taken no action to prevent the Closing or to impose any material conditions in relation to the Closing or the Attorney General has given the corporation a written waiver of Section 5913 as to the Closing.

6.2 Conditions to Obligations of Buyer.

The obligations of Buyer to consummate the transactions contemplated hereby shall be subject to the fulfillment (or waiver by Buyer) on or prior to the Closing Date of the following additional conditions:

(a) Representations, Performance, etc.

The representations and warranties of Seller contained in this Agreement shall be true and correct in all respects (in the case of any representation or warranty containing any materiality qualification) or in all material respects (in the case of any

representation or warranty without any materiality qualification), at and as of the date hereof and on and as of the Closing Date with the same effect as though made on and as of such date, except, in each case, where the failure of such representation or warranty to be true and correct, could not, individually or in the aggregate, reasonably be expected to be deemed material to the Assets or the Plans. Seller shall have duly performed and complied in all material respects with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

(b) Related Agreements

Each of (i) the Amended and Restated Contribution Agreement between Buyer and California Institute of Technology, (ii) the Amended and Restated Contribution Agreement between Buyer and The Regents of the University of California, and (iii) the Task Framework Agreement by and among Buyer, California Institute of Technology, and The Regents of the University of California shall have been executed by and delivered to each of the respective parties thereto and shall be effective as of the Closing Date.

(c) Seller Employees.

Each of the Seller Employees to which Buyer has made an offer of employment shall have accepted such offer.

(d) Transfer Documents.

Seller shall have executed and delivered to Buyer at or before the Closing all documents, certificates and agreements necessary to transfer to Buyer good and valid title to the Assets, free and clear of any and all Liens thereon.

6.3 Conditions to Obligations of Seller.

The obligation of Seller to consummate the transactions contemplated hereby shall be subject to the fulfillment (or waiver by Seller), on or prior to the Closing Date, of the following additional conditions:

(a) Representations, Performance, etc.

The representations and warranties of Buyer contained in this Agreement shall be true and correct in all respects (in the case of any representation or warranty containing any materiality qualification) or in all material respects (in the case of any representation or warranty without any materiality qualification), at and as of the date hereof and on and as of the Closing Date with the same effect as though made at and as of such date, except, in each case, where the failure of such representation or warranty to be true and correct, could not, individually or in the aggregate, reasonably be expected to prevent or materially delay the performance by Buyer of its obligations hereunder or the consummation by Buyer of the transactions contemplated hereby. Buyer shall have duly performed and complied in all material respects with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or on the Closing Date. Buyer shall have delivered to Seller a

certificate, dated as of the Closing Date and signed by its duly authorized officer, to the foregoing effect.

7. **TERMINATION**

7.1 Termination.

This Agreement may be terminated at any time prior to the Closing Date:

- (a) by the written agreement of Buyer and Seller;
- (b) by Buyer if there has been a material breach on the part of Seller of any representation, warranty, covenant or agreement of Seller set forth herein, which breach, if not a willful breach, has not been cured within forty-five (45) days; or
- (c) by Seller if there has been a material breach on the part of Buyer of any representation, warranty, covenant or agreement of Buyer set forth herein, which breach, if not a willful breach, has not been cured within forty-five (45) days.

7.2 Effect of Termination.

In the event of the termination of this Agreement pursuant to the provisions of Section 7.1, this Agreement shall become void and have no effect, without any liability to any Person in respect hereof or of the transactions contemplated hereby on the part of any party hereto, except as specified in Section 9.1 and except for any liability resulting from such party's breach of this Agreement.

8. **DEFINITIONS**

8.1 **Definition of Certain Terms.**

The terms defined in this Section 8.1, whenever used in this Agreement, shall have the respective meanings indicated below for all purposes of this Agreement.

"Affiliate" of a Person means a Person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the first Person. "Control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of a person, whether through the ownership of voting securities, by contract or credit arrangement, as trustee or executor, or otherwise.

"Agreement" means this Asset Purchase Agreement, including the Schedules hereto.

"Article" has the meaning given to such term in Section 8.2.

"Assets" has the meaning given to such term in Section 1.1.

"Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required to close.

"Buyer" has the meaning given to such term in the preamble of this Agreement.

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"Closing" has the meaning given to such term in Section 1.3.

"Closing Date" has the meaning given to such term in Section 1.3.

"Code" means the Internal Revenue Code of 1986, as amended.

"Consent" means any consent, approval, authorization, waiver, permit, grant, franchise, concession, agreement, license, exemption or order of, registration, certificate, declaration or filing with, or report or notice to, any Person, including any Governmental Authority.

"\$" or "dollars" means lawful money of the United States of America.

"Employee Benefit Plan" means each written or oral employee benefit plan, scheme, program, policy, arrangement and contract (including, but not limited to, any "employee benefit plan," as defined in Section 3(3) of ERISA, whether or not subject to ERISA, and any retirement, welfare benefit, fringe benefit, stock option or other equity-based compensation, bonus, sales or other incentive, supplemental retirement, deferred compensation, retiree health, life insurance, cafeteria, vacation, and any employment, consulting, non-competition, non-solicitation, tax gross-up, collective bargaining, termination, retention, change in control or severance plan, program, policy, arrangement or contract) that is maintained or contributed to by Seller or any of its Affiliates or any Person that is an ERISA Affiliate for the benefit of its or their current or former employees.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" means, with respect to any Person, any trade or business, whether or not incorporated, which together with such Person, is treated as a single employer under Section 414 of the Code.

"Exhibit" has the meaning given to such term in Section 8.2.

"FLSA" means the Fair Labor Standards Act, as amended.

"Governmental Approval" means any Consent of, with or to any Governmental Authority.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof, any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any governmental authority, agency, department, board, commission or instrumentality of the United States or a foreign nation or jurisdiction, any State of the United States or any political subdivision of any thereof, any court, tribunal or arbitrator, and any self-regulatory organization.

"Law" means any law, statute, ordinance, rule, regulation (including those promulgated by self-regulatory organizations with jurisdiction over a party), judgment, injunction, order or decree applicable to the Seller, the Assets or the Plans.

"Lien" means any mortgage, pledge, hypothecation, right of others, claim, security interest, encumbrance, lease, sublease, license, occupancy agreement, adverse claim or interest, easement, covenant, encroachment, burden, title defect, title retention agreement, voting trust agreement, interest, equity, option, lien, right of first refusal, charge or other restrictions

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or limitations of any nature whatsoever, including but not limited to such as may arise under any contract.

"Losses" has the meaning given to such term in Section 2.2.

"Organizational Documents" means the certificate of incorporation and by-laws, certificate of formation and limited liability company agreement, partnership agreement or other organizational documents of an entity, and any side letters entered into in connection with any of the foregoing.

"Parties" has the meaning given to such term in the preamble of this Agreement.

"**Person**" means any natural person, firm, partnership, association, corporation, company, trust, business trust, Governmental Authority or other entity.

"Plan" or "Plans" have the meaning given to such terms in Section 2.1.

"Schedule" has the meaning given to such term in Section 8.2.

"Section" has the meaning given to such term in Section 8.2.

"Seller" has the meaning given to such term in the preamble of this Agreement.

"Seller Benefit Plans" means each Employee Benefit Plan that provides benefits or compensation in respect of any current or former Seller Employee (including, for avoidance of doubt, those Employee Benefit Plans that provide benefits or compensation in respect of the Seller Employees and employees of Seller and its Affiliates who are not Seller Employees).

"Seller Employee" means each employee of Seller including such individuals who are not actively at work due to an authorized leave of absence for vacation, holiday, illness, jury duty, bereavement leave, military leave, short-term or long-term disability leave, workers' compensation or other authorized leave of absence.

"WARN Act" means the Worker Adjustment and Retraining Notification Act, as amended.

8.2 Construction.

Unless the context otherwise requires, as used in this Agreement: (i) "or" is not exclusive; (ii) "including" and its variants mean "including, without limitation" and its variants; (iii) words defined in the singular have the parallel meaning in the plural and vice versa; (iv) words of one gender shall be construed to apply to each gender; (v) the terms "hereof", "herein", "hereby", "hereto", and derivative or similar words, refer to this entire Agreement, including the Schedules hereto; (vi) the terms "Article", "Section", "Exhibit" and "Schedule" refer to the specified Article, Section, Exhibit or Schedule of or to this Agreement; (vii) any grammatical form or variant of a term defined in this Agreement shall be construed to have a meaning corresponding to the definition of the term set forth herein; (viii) a reference to any Person includes such Person's successors and permitted assigns; and (ix) any reference to "days" means calendar days unless Business Days are expressly specified. If any action under this Agreement is required to be done or taken on a day that is not a Business Day, then such

action shall not be required to be done or taken on such day but on the first succeeding Business Day thereafter.

9. MISCELLANEOUS

9.1 Expenses.

Except as otherwise specifically provided in this Agreement, Seller, on the one hand, and Buyer, on the other hand, shall bear their respective expenses, costs and fees (including attorneys' and auditors' fees) in connection with the transactions contemplated hereby, including the preparation, execution and delivery of this Agreement and compliance herewith, whether or not the transactions contemplated hereby shall be consummated.

9.2 Severability.

If any provision of this Agreement, including any phrase, sentence, clause, Section or subsection, is inoperative or unenforceable for any reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever.

9.3 Notices.

All notices, requests, demands, waivers and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered personally, (b) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, (c) sent by next-day or overnight mail or delivery or (d) via e-mail to each e-mail address listed below for each party, and shall be given:

(a) if to Buyer, to

TMT International Observatory, LLC 100 West Walnut Street Suite 300 Pasadena, CA 91124

Attn: Gary Sanders, Project Director

Email: sanders@tmt.org

with a copy to:

Hogan Lovells US LLP 875 Third Avenue New York, New York 10022 Attn: Mike Matheou

Email: mike.matheou@hoganlovells.com

(b) if to Seller, to

TMT Observatory Corporation 100 West Walnut Street Suite 300

Exhibit E Flores-Case Ohana Memorandum Pasadena, CA 91124 Attn: David Goodman Email: rgoodman@tmt.org

or, in each case, at such other address as may be specified in writing to the other parties hereto.

All such notices, requests, demands, waivers and other communications shall be deemed to have been received (\underline{w}) if by personal delivery, on the day after such delivery, (\underline{x}) if by certified or registered mail, on the third Business Day after the mailing thereof, or (\underline{y}) if by next-day or overnight mail or delivery, on the day delivered.

9.4 Miscellaneous.

(a) **Headings.**

The headings contained in this Agreement are for purposes of convenience only and shall not affect the meaning or interpretation of this Agreement.

(b) Entire Agreement.

This Agreement (including the Schedules hereto) constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

(c) Counterparts.

This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall together constitute one and the same instrument.

(d) **Arbitration.**

Any dispute, claim or controversy between Buyer and Seller arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined exclusively by arbitration in Los Angeles, California before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules. Judgment on an arbitration award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

(e) Governing Law and Jurisdiction.

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California, without reference or regard to conflict of law or choice of law rules or principles. The Parties acknowledge that this Agreement evidences a transaction involving interstate commerce. Notwithstanding the first provision in this Section 9.4(e) with respect to applicable substantive law, any arbitration conducted pursuant to the terms of this Agreement shall be governed by the Federal Arbitration Act (9 U.S.C., Secs. 1-16). Any action or proceeding by either

Exhibit E

of the parties to enforce this Agreement, compel arbitration, enforce any arbitration award or for specific performance or other equitable relief shall be brought only in a state or federal court located in Los Angeles County, California. The parties hereby irrevocably submit to the exclusive jurisdiction of such courts and waive the defense of inconvenient forum to the maintenance of any such action or proceeding in such venue.

(f) Binding Effect.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(g) Assignment.

This Agreement shall not be assignable or otherwise transferable by either party hereto without the prior written consent of the other party hereto.

(h) **No Third Party Beneficiaries.**

Nothing in this Agreement shall confer any rights upon any Person other than the parties hereto and their respective successors and permitted assigns.

(i) Amendment; Waivers, etc.

No amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by the party against whom enforcement of the amendment, modification, discharge or waiver is sought. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the party granting such waiver in any other respect or at any other time. Neither the waiver by any of the parties hereto of a breach of or a default under any of the provisions of this Agreement, nor the failure by any of the parties, on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder, shall be construed as a waiver of any other breach or default of a similar nature, or as a waiver of any of such provisions, rights or privileges hereunder. The rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies that any party may otherwise have at law or in equity.

Signed by:

TMT International Observatory LLC

Authorized signatory of TMT International Observatory LLC

Name of Authorized Signatory of TMT International Observatory LLC (printed)

TMT Observatory Corporation

Joodhan Digra Goodd DN: cr Obser email:

Digitally signed by David Goodman DN: cn=David Goodman, o=TMT Observatory Corporation, ou, email=goodman@tmt.org, c=US Date: 2016.09.30.12:44:40-07:00'

Authorized Signatory of TMT Observatory Corporation

David Goodman

Name of Authorized Signatory of TMT Observatory Corporation (printed)

SCHEDULE 1.1

ASSETS

Asset Description
GigapixelCam
Global Safety Controller and Remote I/O unit 1
Local Safety Controller
2010 4 Runner
CCD SIM
PTC Software/ESD only - Creo Essentials
RESONANT, HIGH-Q ELECTRO-OPTIC PHASE MODULATOR MA.
TUNABLE FREQ: MIN. 1.6-1.8 GHZ
DELL PRECISION T7600
RTC TESTBED
RSLogix 5000 Professional Edition Software
Workstation W4920XT-1-CL2
Workstation W4920XT-1-CL2
LABVIEW REALTIME COMPACTRIO DEVELOPMENT SYSTEM
CCD SIM
TMT Board Rm A/V Eq: 4(65")/HDX9004/Eagle Eye Camera/2(R-3650
Skrs)/8(CT550 Spkrs)
TMT North Conf Rm A/V Eq: 4(65")/HDX9004/Eagle Eye Camera/2(R-3650
Skrs)/ 8 (CT550 Spkrs)
TMT South Conf Rm A/V Eq: 4(65")/VSX8000/2(R-3650 Skrs)/ 8 (CT550 Spkrs)
Meeting Room 1 Audio Visual Unit
Copying Machine
BRIDGE, VIDEO CONFERENCING
Copying Machine
Project Mgr's Office (G. Sanders A/V Equipment)
TMT FOYER A/V EQPMT: 2(55")
CSI (A/V)
Meeting area 4 aw eqmpt
TMT North Conf Rm A/V Eq: 4(65")/HDX9004/Eagle Eye Camera/2(R-3650
Skrs)/ 8 (CT550 Spkrs)
TMT South Conf Rm A/V Eq: 4(65")/VSX8000/2(R-3650 Skrs)/ 8 (CT550 Spkrs)
System, Digital Image Motion Monitor (DIMM)
Analyzer, Four Channel Signal
SYSTEM, SPECTROPHOTOMETER W/ COMPUTER AND SOFTWARE
DISTANCE MEASURING INTERFEROMETER SYSTEM
TMT MIRROR FABRICATION VERTICAL SLIDE MECHANISM
Mobile Video Teleconferencing Unit
SITE TESTING DATA ARCHIVE SERVER
Site Testing Data Archive Server

Exhibit E

Flores-Case Ohana Memorandum

Dell Precision 690
PLOTTER PRINTER
Digital Imaging Systems
Computer
Shack Hartmann Microlens Array
Exposure 8' x 10' Backwall Display - Job Number 271-29

SCHEDULE 1.5

ALLOCATION

Asset Description	Value of Consideration
GigapixelCam	\$11,725.83
Global Safety Controller and Remote I/O unit 1	\$10,698.25
Local Safety Controller	\$8,279.42
2010 4 Runner	\$7,675.73
CCD SIM	\$7,128.60
PTC Software/ESD only - Creo Essentials	\$5,489.76
RESONANT, HIGH-Q ELECTRO-OPTIC PHASE MODULATOR MA. TUNABLE FREQ: MIN. 1.6-1.8 GHZ	\$3,348.05
DELL PRECISION T7600	\$2,877.57
RTC TESTBED	\$1,690.75
RSLogix 5000 Professional Edition Software	\$1,514.01
Workstation W4920XT-1-CL2	\$1,421.45
Workstation W4920XT-1-CL2	\$1,299.69
LABVIEW REALTIME COMPACTRIO DEVELOPMENT SYSTEM	\$1,168.73
CCD SIM	\$762.20
TMT Board Rm A/V Eq: 4(65")/HDX9004/Eagle Eye Camera/2(R-3650 Skrs)/8(CT550 Spkrs)	\$11,700.81
TMT North Conf Rm A/V Eq: 4(65")/HDX9004/Eagle Eye Camera/2(R-3650 Skrs)/ 8 (CT550 Spkrs)	\$7,082.99
TMT South Conf Rm A/V Eq: 4(65")/VSX8000/2(R-3650 Skrs)/ 8 (CT550 Spkrs)	\$7,082.99
Meeting Room 1 Audio Visual Unit	\$5,007.81
Copying Machine	\$1,734.84
BRIDGE, VIDEO CONFERENCING	\$2,696.59
Copying Machine	\$1,255.84
Project Mgr's Office (G. Sanders A/V Equipment)	\$869.77
TMT FOYER A/V EQPMT: 2(55")	\$734.92
CSI (A/V)	\$656.55
Meeting area 4 aw eqmpt	\$627.89
TMT North Conf Rm A/V Eq: 4(65")/HDX9004/Eagle Eye Camera/2(R-3650 Skrs)/ 8 (CT550 Spkrs)	\$1,495.91
TMT South Conf Rm A/V Eq: 4(65")/VSX8000/2(R-3650 Skrs)/ 8 (CT550 Spkrs)	\$1,495.91
System, Digital Image Motion Monitor (DIMM)	\$16,540.56
Analyzer, Four Channel Signal	\$890.46
SYSTEM, SPECTROPHOTOMETER W/ COMPUTER AND SOFTWARE	\$7,153.24
DISTANCE MEASURING INTERFEROMETER SYSTEM	\$3,862.06
TMT MIRROR FABRICATION VERTICAL SLIDE MECHANISM	\$2,084.03

Exhibit E Flores-Case Ohana Memorandum

Mobile Video Teleconferencing Unit	\$851.77
SITE TESTING DATA ARCHIVE SERVER	\$1,903.57
Site Testing Data Archive Server	\$640.58
Dell Precision 690	\$567.19
PLOTTER PRINTER	\$662.02
Digital Imaging Systems	\$1,339.85
Computer	\$2,487.06
Shack Hartmann Microlens Array	\$1,126.83
Exposure 8' x 10' Backwall Display - Job Number 271-29	\$842.27
TOTAL	\$151,854.83

BILL OF SALE AND ASSIGNMENT AGREEMENT

This Bill of Sale and Assignment (this "<u>Assignment</u>"), dated as of September 30, 2020, is entered into by TMT Observatory Corporation, a California nonprofit public benefit corporation ("Assignor") and TMT International Observatory LLC, a Delaware limited liability company ("<u>Assignee</u>" and, collectively, the "<u>Parties</u>").

WHEREAS, Assignor was formed in 2003 by the California Institute of Technology ("<u>Caltech</u>") and the University of California ("<u>UC</u>") for the purpose of fostering astronomy through the building and operation of a thirty-meter telescope (the "<u>TMT Project</u>");

WHEREAS, Assignee was formed in May 2014 and is comprised of Caltech, UC, the National Institutes of Natural Sciences of Japan, the National Astronomical Observatories of the Chinese Academy of Sciences, the Department of Science and Technology of India, and the National Research Council of Canada;

WHEREAS, Assignee was formed, among other reasons, so that the voting power and telescope observing time could vary amongst its members proportionate to their respective contributions to the TMT Project;

WHEREAS, Assignee is the current owner of the TMT Project and is organized and operated to provide for the observation and collection of images and information from deep space to advance human knowledge of astronomy and the origins of the universe by and through the execution of the TMT Project, and the means and methods of advancing this purpose is for Assignee's members to, among other things, develop, design, finance, construct, commission, operate and decommission a next generation segmented mirror telescope and associated observatory;

WHEREAS, on or around June 12, 2014, the Hawaii Department of Health issued a National Pollutant Discharge Elimination System Permit No. HI S000431 (the "NPDES Permit") to Assignor;

WHEREAS, Assignor and Assignee previously entered into that Asset and Employee Transfer Agreement (the "<u>Asset Purchase Agreement</u>"), effective on or about October 1, 2016 (the "<u>Effective Date</u>"), pursuant to which Assignor transferred to Assignee substantially all of its assets and Assignee assumed substantially all of Assignor's liabilities in connection therewith, in each case in accordance with the terms of the Asset Purchase Agreement, and since that date Assignor has continued the business and operations related to the assets assigned by Assignee;

WHEREAS, the understanding of the Parties is that Assignee is serving as the successor-in-interest to the NPDES Permit that issued to Assignor, and Assignee has been acting in such capacity as pertains to the NPDES Permit since 2016;

WHEREAS, the Parties have determined that the NPDES Permit was mistakenly omitted from Schedule 1.1 of the Asset Purchase Agreement, which sets forth the assets to be transferred thereunder by Assignor, even though it was intended that substantially all of the operating assets related to the TMT Project be transferred to Assignee; and

Exhibit E Flores-Case Ohana Memorandum \\DC - 041753/000001 - 15592818 v3 WHEREAS, in accordance with the terms of the Asset Purchase Agreement and pursuant to the "further assurances" clause in <u>Section 5.1(b)</u> thereof, Assignor desires to confirm transfer and assignment of the NPDES Permit to Assignee effective as of the Effective Date.

NOW, THEREFORE, Assignor, in consideration of the premises, covenants and agreements contained herein and in the Asset Purchase Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby agrees as follows:

- 1. <u>Sale and Assignment of NPDES Permit</u>. Assignor hereby, as of the Effective Date, irrevocably assigns, transfers, conveys and delivers to Assignee the NPDES Permit and all of Assignor's rights, title and interest in the NPDES Permit. Notwithstanding anything to the contrary in the Asset Purchase Agreement, the Parties acknowledge and agree that Assignor assigns, transfers, conveys and delivers the NPDES Permit to Assignee (i) "as is" and "where is" with no representations or warranties as to merchantability, fitness or use and (ii) without any representation, warranty, guaranty, express of implied, as to any matter whatsoever. As consideration for assignment of the NPDES Permit, Assignee accepts all responsibility, coverage, and liability associated with the NPDES Permit effective as of the Effective Date and agrees to indemnify and hold Assignor harmless in connection with any matters arising from the same.
- 2. <u>Further Assurances</u>. At the sole cost and expense of Assignee, each of the Parties shall take all further actions necessary to effectuate the transactions contemplated hereby and to evidence the assignment and transfer of the NPDES Permit to Assignee, including to execute such further assignments or other documents as may be reasonably requested for the purpose of giving effect to, or evidencing or giving notice of, the transfer contemplated by this Assignment.
- 3. <u>Governing Law.</u> This Assignment shall be governed by, and interpreted in accordance with, the laws of the State of California, without reference or regard to conflict of law or choice of law rules or principles.

[Signature Page Follows]

IN WITNESS WHEREOF, each of Assignor and Assignee has caused this Bill of Sale and Assignment to be duly executed effective as of the Effective Date.

ASSIGNOR:

TMT OBSERVATORY CORPORATION

Goodman

Name: David Goodman

DocuSigned by:

Title: Chief Operating Officer and Treasurer

ASSIGNEE:

TMT INTERNATIONAL OBSERVATORY LLC

DocuSigned by:

Name: Diana Jergovic Title: Board Secretary



Activists pledge more protests as Thirty Meter Telescope construction given green light to proceed



By HNN Staff

Published: Jun. 21, 2019 at 7:55 AM HST



HONOLULU, Hawaii (HawaiiNewsNow) - Activists say hundreds are planning to protest Mauna Kea construction when it begins, and they say they're ready to be arrested if that's what it takes.

EXHIBIT "H"

Exhibit E Flores-Case Ohana Memorandum





Officers arrested Kahookahi Kanuha on Thursday morning atop Mauna Kea in an apparent sign that construction of the TMT project is ramping up. (Image: Jennifer Ruggles)

"I just don't think anyone is going to budge and they are probably going to have to to use force," said Healani Sonoda-Pale, of Ka Lahui Hawaii Political Action Committee.

The statements came after multiple law enforcement agencies headed up to Mauna Kea early Thursday morning to dismantle structures and shrines built by Native Hawaiian activists, clearing the way for construction crews. One protester was arrested on the mountain.



The state operation happened a day after the state issued the Thirty Meter Telescope project a "notice to proceed" with construction, a decade after the \$2 billion telescope was first announced.

In a news conference, Gov. David Ige said construction of the project is set to begin "sometime this summer," but no actual kick-off date has been released.

[Read more: Construction of Thirty Meter Telescope expected to take 10 years to complete]

Ige said that's because the start date is still being hammered out. "We will proceed in a way that respects the people and place and culture that make Hawaii unique," he said.



Exhibit E

Flores-Case Ohana Memorandum

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Meanwhile, Big Island Mayor Harry Kim pledged to use county resources to keep protests peaceful.

"I would assume no different than any other time," he said. "This will be to keep the area safe of trespassers or demonstrators in their designated area and I understand that anywhere along Saddle Road is county jurisdiction."





State Department of Land and Natural Resources officers arrived on Mauna Kea around 3 a.m. Thursday and split into groups, dismantling the structures. The road to the summit was also blocked.

Activist Kahookahi Kanuha was arrested during the operation and released Thursday afternoon.

He told Hawaii News Now that officers took him into custody because "I simply wanted to be able to record and document what they were gonna do and how they were gonna do."

Kanuha said he wanted to record "so that we can show the world exactly what the state of Hawaii thinks about Hawaiians and how they treat them, how they treat our culture, and how they treat our spiritual beliefs and practices, which is basically to treat it like a bulldozer and just ram through all of it."



The structures dismantled Thursday included one that had been built across the street from the Mauna Kea Visitor's Center in the early days of the protest encampment in 2015, following blockade arrests.

Activist Billy Freitas was at the scene Thursday and said 20 to 30 officers accompanied by state workers took the structure down and trucked it away.

"They posted a sign that says 'notice of disposition of abandoned or seized property,'" he said. "It was never abandoned, we have personal things in theres." Case Ohana Memorandum

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WEEKDAYS 4PM





Demonstrators say that structure went up several months ago.

There were also two ahu, or shrines, at Mauna Kea's summit that were dismantled. Activists said the shrines were built for religious purposes, and they consider the state's actions desecration.

Attorney General Clare Connors said the shrines and structures were taken down "very carefully," and will be stored for pick up.



She also told reporters Thursday that the state wants to protect everyone's rights, including those of protesters and construction workers.

"There is a difference of course between lawful speech and unlawful conduct," she said. "When construction proceeds, the individuals working on Mauna Kea are going to need safe access."





In a statement, TMT International Observatory board of governors Chairman Henry Yang said he was pleased that the state had issued the "notice to proceed" and formulated a plan for ensuring construction workers can get to the summit.



"We remain committed to being good stewards of Mauna Kea, and to honoring and respecting the culture and traditions of Hawaii," he said.

"It has been a long process to get to this point. We are deeply grateful to our many friends and community supporters for their advice and for their encouragement and support of the TMT project over the years."

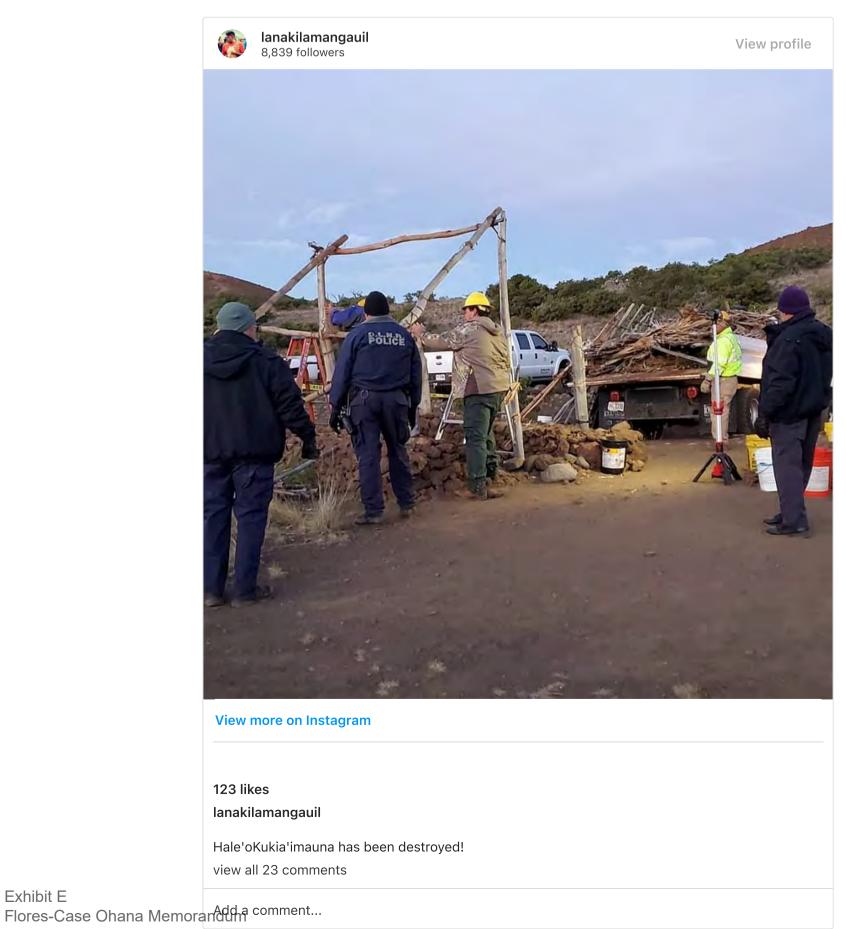


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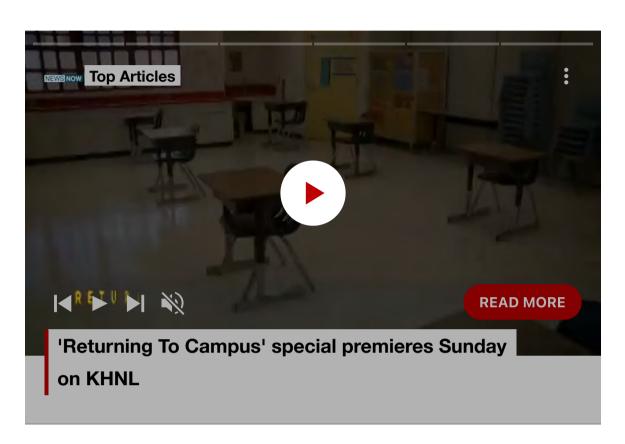
space and millions of years back in time, to when the first stars and galaxies were formed in the universe.

But opposition to TMT was immediate — and remains strong, raising questions about whether future protests might block construction vehicles seeking access to the mountain.

That's what happened in 2015, when many activists were arrested while blocking construction crews from what they considered a sacred Native Hawaiian space.

This story will be updated.

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WATANABE ING LLP

A Limited Liability Partnership

J. DOUGLAS ING 1538-0 ROSS T. SHINYAMA 8830-0 SUMMER H. KAIAWE 9599-0

First Hawaiian Center

999 Bishop Street, Suite 1250

Honolulu, Hawai'i 96813

Telephone No. (808) 544-8300

E-Mails: douging@wik.com; rshinyama@wik.com;

skaiawe@wik.com

Attorneys for

TMT INTERNATIONAL OBSERVATORY LLC

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF Case No. HA-22-02

The Petition of Mauna Kea Hui for a Declaratory Order Filed May 24, 2021.

TMT INTERNATIONAL OBSERVATORY LLC'S MEMORANDUM IN OPPOSITION TO MAUNA KEA HUI'S MOTION TO REOPEN HEARING TO HEAR MOTION TO CONFIRM NON-COMPLIANCE WITH CONDITION NO. 4, OR,

ALTERNATIVELY, PETITION FOR

DECLARATORY ORDERS CONCERNING THE SAME;

DECLARATION OF FENGCHUAN LIU;

DECLARATION OF COUNSEL:

EXHIBITS "A" - "C"; CERTIFICATE OF

SERVICE

Received
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
State of Hawaii
Nov 04 2021 13:09

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TMT INTERNATIONAL OBSERVATORY LLC'S MEMORANDUM IN OPPOSITION TO MAUNA KEA HUI'S MOTION TO REOPEN HEARING TO HEAR MOTION TO CONFIRM NON-COMPLIANCE WITH CONDITION NO. 4, OR, ALTERNATIVELY, PETITION FOR DECLARATORY ORDERS CONCERNING THE SAME

I. <u>INTRODUCTION</u>

TMT International Observatory LLC ("TIO") opposes Mauna Kea Anaina Hou, Kealoha Pisciotta, Clarence Kukauakahi Ching, Deborah J. Ward, Paul K. Neves and KAHEA: The Hawaiian Environmental Alliance's (collectively, "Petitioners") Motion to Reopen Hearing to Hear Motion to Confirm Non-Compliance with Condition No. 4, or, Alternatively, Petition for Declaratory Orders Concerning the Same ("Motion").

On October 20, 2021, the Board of Land and Natural Resources ("BLNR") issued Minute Order No. 1, stating that BLNR will consider the Motion solely as a petition for a declaratory ruling pursuant to Hawai'i Revised Statues ("HRS") § 91-8 and Hawai'i Administrative Rules ("HAR") § 13-1-27 rather than a motion for reconsideration of the Findings of Fact, Conclusions of Law and Decision and Order ("D&O") granting Conservation District Use Permit No. HA-3568 for the TMT Project (the "CDUP"). 1

¹ While this Memorandum in Opposition therefore only addresses the Petitioners' request for a declaratory ruling, TIO notes for the record that BLNR's determination that there is no legal basis to "reopen" the contested case hearing is correct. Petitioners participated in the sixteenmonth contested case hearing resulting in the CDUP, which was affirmed by the Hawai'i Supreme Court in its entirety over three years ago. *See In the Matter of Contested Case Hearing Re Conservation District Use Application (CDUA) HA-3568*, 143 Hawai'i 379, 431 P.3d 752 (2018) ("*Mauna Kea III*"). Petitioners do not seek reconsideration of the CDUP; however, even if they were to do so, under any measure, the time for reconsidering the CDUP has long passed. Nor is there any information not previously available that would affect the issuance of the CDUP or a substantial injustice that would merit a request to reconsider the CDUP itself. *See* HAR § 13-1-39(a). To the extent that Petitioners seek further review of BLNR's determination that there is no basis to reopen the contested case hearing, TIO reserves all arguments on this issue.

Exhibit F
TMT Memorandum

As discussed in detail below, BLNR should deny the Petition in its entirety because:

- Petitioners' request for a declaratory order is procedurally defective, because under established law, the declaratory ruling procedure cannot be used to review previously-made agency decisions;
- 2. Even assuming BLNR considers the substance of the Petitioners' allegations, permittee the University of Hawai'i Hilo ("UH Hilo"), through TIO's work done and/or construction done at the TMT Project site, timely and properly met the requirements of Condition No. 4; and
- 3. Since Petitioners (individually or as members of various organizations) actively participated in the protests and/or coordinated with others engaging in the protests to block access to the TMT Project site (and thus contributed to the delays that Petitioners now complain of), the Petition should be denied on principles of equity and fairness.

II. ARGUMENT

A. Petitioners' request for a declaratory ruling must be denied because it is an attempt to review an already-made agency decision.

Petitioners seek a declaratory ruling that UH Hilo "has not initiated construction so as to comply with Condition No. 4." *See* Petition at 8. This request must be denied.

Hawai'i Administrative Rules § 13-1-27(a) provides that "the board may issue a declaratory order regarding the applicability of any statutory provision or of any rule or order of the board." Hawai'i law is clear, however, that the administrative declaratory ruling process is not a proper means to review specific agency decisions that have <u>already</u> been rendered. *See Citizens Against Reckless Development v. Zoning Bd. of Honolulu*, 114 Haw. 184, 196, 159 P.3d 143, 155 (2007) ("Card"). As the Hawai'i Supreme Court determined in Card, this is because

the declaratory order statute (which is substantively identical² to the relevant provisions of HAR § 13-1-27(a)), plainly makes clear that the procedure is "meant to provide a means of seeking determination of whether and in what way some statute, agency rule or order *applies* to the factual situation raised by an interested person." *See Card*, 114 Haw. at 196-197, 159 P.3d. at 155-156. The Court therefore concluded that:

Reading HRS § 91-8 in a common sense fashion, and bearing in mind the plain meaning of the term "applicability," it cannot seriously be maintained that the procedure was intended to review already-made agency decisions. For such decisions, like the DPP Director's issuance of the CUP to Wal–Mart, the agency has already spoken as to the "applicability" of the relevant law to the factual circumstances at hand—implicitly or explicitly it has found the relevant legal requirements to be met. There is no longer a question of how the relevant laws, in this case the LUO, "apply."

Use of the declaratory ruling procedural device only makes sense where the applicability of relevant law is <u>unknown</u>, either because the agency <u>has not yet acted upon particular factual circumstances</u>, or for some other reason the applicability of some provisions of <u>law have not been brought into consideration</u>.

Card, 114 Haw. at 197, 159 P.3d at 156 (footnote and citation omitted) (emphasis added).

Turning to this matter, on May 4, 2021, the BLNR chairperson approved UH Hilo's April 28, 2021 request to the Office of Conservation and Coastal Lands to find that UH Hilo met Condition No. 4. *See* Petition at Ex. 3. Accordingly, it is undisputed that BLNR has <u>already</u> made a decision that UH Hilo met Condition No. 4, and there is no pending question of how BLNR "applies" Condition No. 4 of the CDUP to the current factual situation regarding the "work done or construction . . . done on the land" because BLNR has <u>already</u> spoken.

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² Hawai'i Revised Statutes ("HRS") § 91-8 provides in relevant part that "[a]ny interested person may petition an agency for a declaratory order as to the applicability of any statutory provision or of any rule or order of the agency."

Accordingly, pursuant to *Card*, Petitioners' request for a declaratory ruling to ostensibly find that UH Hilo "has not initiated construction so as to comply with Condition No. 4" must be denied because it is an improper request to review an already-made agency decision given BLNR's determination on the applicability (and fulfillment) of Condition No. 4.³

- B. Even assuming the Board considers the Petitioners' substantive arguments, the Petition must be denied.
 - 1. UH Hilo (through TIO) timely met the Condition No. 4 requirement that "[a]ny work done or construction to be done on the land shall be initiated within two (2) years of the approval of such use[.]"

Although BLNR should deny the Petition for the foregoing reasons, even assuming BLNR considers the Petitioners' substantive arguments, the Petition must still be denied.

Petitioners essentially argue that any "work done" or "construction to be done on the land" are synonymous in the sense that "ground-disturbing work associated with the building of the TMT" is required for both. *See* Petition at 4.

As an initial matter, Condition No. 4 does <u>not</u> state -- that "[a]ny work done₂ or construction to be done₂ on the land" shall be initiated within two years of the approval of the use (commas and emphases added). Instead, Condition No. 4 plainly provides that "[a]ny work done <u>or</u> construction to be done on the land" shall be initiated within the prescribed period. (Emphasis added).

Thus, the clause "any work done" is substantively distinct from "construction to be done on the land," since it is a cardinal rule of statutory construction that "courts are bound to give effect to all parts of a statute, and that no clause, sentence, or word shall be construed as

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³ TIO reserves, and does not waive, arguments on the other possible non-exclusive bases under HAR § 13-1-27(f) in which BLNR may refuse to issue a declaratory order, including, but not limited to, that the issuance of the declaratory order may adversely affect the interests of the Board in litigation that may reasonably be expected to arise, and/or for other good cause.

superfluous, void, or insignificant if a construction can be legitimately found which will give force to and preserve all words of the statute." *State v. Kaakimaka*, 84 Hawai'i 280, 289-90, 933 P.2d 617, 626-27 (1997) (citation omitted). Petitioners' flawed interpretation, which renders the phrase "[a]ny work done" as superfluous and without a separate meaning, must be rejected.

Moreover, the CDUP conditions, when read as a whole as required, also demonstrate that the scope of "any work done" within the context of Condition No. 4 is intended to be distinct from "construction to be done on the land." This is because the next condition in the CDUP (Condition No. 5) provides that "[b]efore proceeding with any work authorized by the Board," UH Hilo is required to submit copies of the construction and grading plans and specifications to the Chairperson or designee for approval (emphasis added). The Board's decision to only use the clause "work" in Condition No. 5 instead of "any work or construction to be done on the land" (as with Condition No. 4) is material.

The same general principles that apply to statutory interpretation also apply to the interpretation of administrative rules. *Allstate Ins. Co. v. Ponce*, 105 Hawai'i 445, 454, 99 P.3d 96, 105 (2004) (citation omitted). When construing a statute, "laws *in pari materia*, or upon the same subject matter, shall be construed with reference to each other." HRS § 1-16; *State v. Villeza*, 85 Hawai'i 258, 273, 942 P.2d 522, 537 (1997) (citing *Richardson v. City and County of Honolulu*, 76 Hawai'i 46, 55, 868 P.2d 1193,1202 (1994) (internal brackets omitted)). "[W]here a statute with reference to one subject contains a given provision, the omission of such provision from a similar statute concerning a related subject is significant to show that a different legislative intent existed." *State v. Rodgers*, 68 Haw. 438, 442, 718 P.2d 275, 277 (1986) (ellipses and citations omitted).

Thus, the Board's decision to refer to "work" in the relevant clause in Condition No. 5 must be presumed to be intentional and is significant to show that the Board intended "work" to be distinct from the clause "construction to be done on the land" in Condition No. 4.

This reading is consistent with common practice with respect to the development of large telescope projects, such as the TMT Project, which require extensive on-site (and site-related) coordination, testing, and surveying work (among other work), which do not necessarily require ground-disturbing activities in advance of actual physical construction on the land. *See*Declaration of Fengchuan Liu, attached hereto ("Liu Decl.").

Condition No. 5 reasonably contemplates that prior to such site-related "work," UH Hilo was required to submit construction and grading plans to the BLNR Chairperson to ensure consistency with the conditions of the CDUP. Stated another way, by using the word "work" in Condition No. 5, BLNR reasonably and prudently sought to assure that even prior to ground-disturbing construction on the land for the TMT Project, on-site and site-related "work," such as on-site testing and surveying, would be consistent with the CDUP.

UH Hilo submitted the required project construction and grading plans (and specifications) to BLNR on February 4, 2019, and on June 17, 2019, BLNR issued a notice to proceed. *See* Liu Decl.; Letter from BLNR to UH Hilo dated June 19, 2019, attached as Exhibit "A". Thereafter, TIO commenced the on-site and site-related "work" and/or construction on the land pursuant to Condition No. 4. *See* Liu Decl.; Petition at Exs. 1-3. As noted in UH Hilo's correspondence to BLNR in support of compliance with Condition No. 4, this work and/or construction on the land included, among other activities, the following:

- June 20, 2019 Unpermitted ahu removed near project site.⁴
- June 25, 2019 Meeting at project site with Goodfellow Bros, Inc. ("GBI"), the civil contractor for the TMT Project, and M3 Construction Management ("M3"), the construction manager for the TMT Project, 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 on Mauna Kea was completed on the same date for accuracy in comparison to the owner-furnished survey.
 - O Personnel from the SMA and James Clerk Maxwell radio telescopes also joined the construction crew on-site on the same date 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 All consultants and contractors met for a pre-construction meeting at the Waikoloa Marriott to discuss procedures, safety, and requirements for the TMT Project.
- July 12, 2019—GBI, M3, and SMA representatives located and surveyed the underground fiber optic and electrical lines on Mauna Kea in preparation of mobilizing the heavy equipment to the TMT project site to mitigate the risk of damaging the SMA fiber optics.

⁴ Even under the Petitioners' erroneous interpretation of Condition No. 4, the removal of the unpermitted ahu plainly constituted ground-disturbing "construction . . . on the land," and therefore BLNR, if it considers the Petitioners' substantive arguments, may properly find that UH Hilo, through TIO, met the extended deadline on those grounds alone. Apparently realizing this, Petitioners object to the removal of the unpermitted ahu. See Petition at 5. This objection, however, was previously considered (and rejected) by BLNR during the contested case hearing for the TMT Project. See D&O at FOF 690, 692-693, 701, 791, and Conclusion of Law ("COL") 383 (finding that two ahu were built in 2015 on or near the TMT Project site as "modern" and "contemporary" practices to protest and interfere with the project; "were not placed in accordance with any recognized traditional practice"; and concluding that this protest in the form of building "in the right-of-way of another person is obviously not an accepted native Hawaiian tradition and custom," and "[n]or does it conform to the PASH requirement that practices be reasonable.") The Hawai'i Supreme Court in Mauna Kea III favorably cited these findings and conclusion. See Mauna Kea III, 143 Hawai'i at 396, 431 P.3d at 769 (noting that "The BLNR concluded that the two ahu built on the Access Way in 2015 as protests against the TMT did not constitute a traditional and customary right of practice, and in any event did not meet PASH's requirement of reasonableness." (Citation omitted)). The removal of the unpermitted ahu were therefore proper and consistent with the CDUP and applicable law.

• 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.

See Liu Decl.; Petition at Exs. 1-3.

Given the foregoing, and under applicable law, the clause "any work done" is distinct from the clause "construction to be done on the land" in Condition No. 4, and TIO timely initiated "work" and/or "construction on the land" for the TMT Project to satisfy the condition.⁵

Petitioners' arguments for a contrary reading of Condition No. 4 are unpersuasive, and Petitioners offer no legal authority to support their narrow definition of "work" as requiring "ground-disturbing" activities. Petitioners, for example, cite to the *Oxford English Dictionary* definition of "construction" to argue that since that dictionary defines "construction" to mean "building of something, typically a large structure," the term "work" must also be construed as requiring "ground disturbing work". *See* Petition at 4 (citing *Lexico.com by Oxford English Dictionary*).

Petitioners' argument is illogical and unsupported given that the <u>same</u> dictionary defines "work" as, among other definitions, "[a]ctivity involving mental or physical <u>effort</u> done in order to achieve a purpose or result," and "[a] <u>task or tasks to be undertaken</u>; something a person or thing has to do." *See work, Lexico.com by Oxford English Dictionary*,

https://www.lexico.com/en/definition/work?locale=en (Emphasis added). Thus, under Petitioners' own authority, "work" does not necessarily require simultaneous physical change or

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⁵ Thus, even assuming BLNR concludes the Condition No. 4 should be interpretated as requiring both "work" and "construction" to be "done on the land," TIO timely met the extended construction deadline, since much of the described "work" (including surveying, testing, etc.) was indisputably "done on the land".

activity, but includes activities involving mental or physical "efforts" and "tasks" "to achieve" a subsequent result.

Similarly, the other major dictionary often cited by the Hawai'i Supreme Court (the Merriam-Webster Dictionary)⁶ defines "construction" as "the act or result of constructing, interpreting, or explaining," as well as "the process, art, or manner of constructing something[.]" See construction, Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/construction (emphasis added). Thus, even under a commonly-accepted definition of "construction," the word encompasses more than an act of physically changing something -- such as ground-disturbing activity -- and also encompasses an "interpretation" and "process," which clearly occurred with respect to the TMT Project in timely compliance with Condition No. 4.8

⁶ See, e.g., State v. Bright, 147 Hawai'i 164, 170, 465 P.3d 611, 617 (2020) (citing both the Oxford English Dictionary and the Merriam-Webster Dictionary for the definition of the word "neutral").

⁷ TIO notes that this definition is also consistent with the definition of "construction" under HRS § 103D-104, which relates to public procurement. Under that statute, "construction" means "the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. The term includes the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property." Accordingly, under this definition, "construction" encompasses more than "ground-disturbing activity" and also includes the "process" of improving real property and the routine maintenance of real property.

⁸ Similarly, the Merriam-Webster dictionary defines "work" as, among other definitions, "to perform or carry through a task requiring sustained effort or continuous operations," and "to function or operate according to plan or design". *See work, Merriam-Webster Dictionary*, https://www.merriam-webster.com/dictionary/work. The surveying and other site work for the TMT Project were indisputably part of efforts to "function or operate according to [the] plan and design" for the TMT Project approved by BLNR.

2. BLNR was not estopped from considering the work that had occurred in connection with the TIO Project prior to July 30, 2019 as a basis for determining that UH Hilo timely complied with Condition No. 4.

Petitioners erroneously argue that BLNR was "judicially estopped" from relying upon work done in connection with the TMT Project as a basis for its May 4, 2021 determination that UH Hilo timely met Condition No. 4 because BLNR also cited some of that work in connection with its July 30, 2019 approval of UH Hilo's request to extend the time to comply with Condition No. 4. *See* Petition at 3-4.

Under the doctrine of judicial estoppel, a "party" is not permitted to maintain inconsistent positions or to take a position in regard to a matter which is directly contrary to, or inconsistent with, one previously assumed by the party. *See Lee v. Puamana Comm. Assoc.*, 109 Hawai'i 561, 576, 128 P.3d 874, 889 (2006). Accordingly, the doctrine of judicial estoppel applies -- if at all -- to a party, and not a decision-maker, such as BLNR here. Even assuming the doctrine applies to BLNR, however, BLNR was not "judicially estopped" from concluding that UH Hilo timely complied with Condition No. 4.

As the Hawai'i Supreme Court noted in *Lee* (a decision subsequent to the 1983 *Rosa* case relied upon by Petitioners), the application of the doctrine of judicial estoppel requires the following considerations:

First, a party's later position must be "clearly inconsistent" with its earlier position. Second, courts regularly inquire whether the party has succeeded in persuading a court to accept that party's earlier position, so that judicial acceptance of an inconsistent position in a later proceeding would create the perception that either the first or the second court was misled[.] Absent success in a prior proceeding, a party's later inconsistent position introduces no risk of inconsistent court determinations, and thus poses little threat to judicial integrity. A third consideration is whether the party seeking to assert an inconsistent position would derive an unfair advantage or impose an unfair detriment on the opposing party if not estopped.

See Lee, 109 Hawai'i at 576, 128 P.3d at 889 (citing New Hampshire v. Maine, 532 U.S. 742, 750-751 (2001) (citations and quotation marks omitted)).

None of these considerations apply to BLNR's determination that UH Hilo complied with Condition No. 4. First, BLNR's May 4, 2021 determination that UH Hilo timely complied with Condition No. 4 is not inconsistent at all (much less "clearly inconsistent") with its July 30, 2019 approval of an extension of time to comply with the condition. Nothing in BLNR's July 30, 2019 approval of the extension request indicates that BLNR rejected or disagreed with UH Hilo's assertion and express reservation that TIO's work on the TMT Project since BLNR issued the notice to proceed constituted "work done or construction to be done on the land" for purposes of compliance with Condition No. 4. *See* Petition at Ex. 2. Thus, BLNR's May 4, 2021 concurrence that UH Hilo timely complied with Condition No. 4 was not "clearly inconsistent" with BLNR's earlier decision to grant the extension.

The second factor cited in *Lee* (whether a party has succeeded in persuading a court to accept that party's earlier position) demonstrates that judicial estoppel does not apply to BLNR, because that factor relates to actions by <u>parties</u> that may influence a court or decision-maker. Nevertheless, it is clear that BLNR did not take a clearly inconsistent position (or was persuaded to do so), nor was BLNR or any party "misled" given UH Hilo's (and TIO's) clear and unambiguous assertion and reservation that "work done or construction to be done on the land" had timely taken place in compliance with Condition No. 4.

Applying the third factor cited in *Lee*, since BLNR did not take an inconsistent position at any time with respect to Condition No. 4, there was no "unfair advantage" or "unfair detriment"

to anyone -- BLNR, UH Hilo, TIO or Petitioners from BLNR's conclusion that UH Hilo timely complied with Condition No. 4.9

Moreover, for similar reasons, even if Petitioners belatedly attempt to argue that judicial estoppel should apply to UH Hilo and TIO, BLNR must find that the doctrine does not apply. As noted above, both UH Hilo and TIO, in their respective correspondence on this issue, expressly and repeatedly stated their positions that Condition No. 4 had in fact been timely met, and both UH Hilo and TIO did not waive their positions on this issue. See Petition at Ex. 1 (UH Hilo letter to BLNR dated July 30, 2019 stating in part, "As described below, and 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," and that the request for an extension was made without "waiving the foregoing," and "out of an abundance of caution"); Petition at Ex. 2 (Letter from TIO counsel to UH Hilo noting that TIO believed "it has in fact 'initiated' 'work' and/or 'construction' at the TMT Project site; the request for an extension was being made "out of an abundance of caution"; and TIO "does not waive, and expressly preserves, its position that work has been initiated in compliance with the deadline in General Condition No. 4[.]").

⁹ Since BLNR did not take an inconsistent position with respect to UH Hilo's (and TIO's) assertion and express reservation that "work done or construction to be done on the land" had taken place, BLNR could not have "wilfully caused" another person to erroneously believe otherwise (and others could not have reasonably relied on such an erroneous belief); accordingly, the doctrine of equitable estoppel also does not apply against BLNR. See Maria v. Freitas, 73 Haw. 266, 273, 832 P.2d 259, 264 (1992) (noting that equitable estoppel requires proof that one person "wilfully caused another person to erroneously believe a certain state of things, and that person reasonably relied on this erroneous belief to his or her detriment"); State v. Zimring, 58 Haw. 106, 125, 566 P.2d 725, 738 (1977) (rejecting application of equitable estoppel against the State where State claimed an interest in a parcel seven years after plaintiffs purchased parcel). Moreover, it is well-recognized that the doctrine of equitable estoppel against the government is not favored, and the doctrine may not be used in such a way as to hinder the state in the exercise of its sovereign power. See Garner v. State Dept. of Education, 122 Hawai'i 150, 159, 223 P.3d 215, 224 (App. 2009).

Given the foregoing, UH Hilo and TIO did not take "clearly inconsistent" positions regarding timely compliance with Condition No. 4, and BLNR could not have been misled by UH Hilo's and TIO's representations. As such, there was clearly no "unfair advantage" or "unfair detriment" to anyone created by UH Hilo's and TIO's statements on this issue. ¹⁰

3. BLNR's approval of UH Hilo's notice of compliance with Condition No. 4 did not constitute improper agency "rulemaking".

Petitioners also argue that UH Hilo's April 28, 2021 letter notifying BLNR of "work done or construction . . . done on the land" was a "short-cut process[]" for determining compliance with Condition No. 4, and that BLNR's determination that the condition had been met constituted improper agency "rulemaking". *See* Petition at 6-7. Petitioners' arguments are groundless.

Petitioners fail to explain how UH Hilo's notification to BLNR of compliance with Condition No. 4 via its letter dated April 28, 2021 constitutes a "short-cut process". Nothing in the CDUP (or any legal authority) required UH Hilo to file a petition for declaratory order to assert compliance with the condition as Petitioners seem to suggest. *See* Petition at 6. Instead, UH Hilo did exactly what should have been done with respect to notifying BLNR of compliance

886 (quoting *Han v. Yang*, 84 Hawai'i 162, 174 n.18, 931 P.2d 604, 616, n.18 (App. 1997) (brackets omitted)). Neither UH Hilo nor TIO admitted or conceded at any time that UH Hilo did not timely comply with Condition No. 4, and in fact, both TIO and UH Hilo vigorously

asserted otherwise.

¹⁰ For substantially the same reasons, the doctrine of judicial admissions does not apply to UH Hilo and TIO. A judicial admission is "a formal statement . . . in the course of a judicial proceeding that removes an admitted fact from the field of controversy [and] . . . is a voluntary concession of fact by a party during judicial proceedings." *Lee*, 109 Hawai'i at 573, 128 P.3d at 886 (quoting *Han v. Yang*, 84 Hawai'i 162, 174 n.18, 931 P.2d 604, 616, n.18 (App. 1997)

with the condition pursuant to the CDUP: UH Hilo timely notified BLNR in writing of compliance with the condition and the reasons therefor. 11

Nor did BLNR's approval of UH Hilo's notice of compliance with Condition No. 4 constitute agency "rulemaking". Petitioners' entire analysis on this issue rests on a false premise, because their erroneous argument that BLNR engaged in agency "rulemaking" is based on a gross mischaracterization of BLNR's actions in approving the notice. BLNR's approval of UH Hilo's April 28, 2021 notice was made pursuant to Condition No. 4 of the CDUP. BLNR's approval was not to "evade requirements that the Board review extensions beyond the first request," as Petitioners argue (Petition at 6), because the UH Hilo's April 28, 2021 notice plainly did <u>not</u> seek a further extension. See Petition at Ex. 3. Nor did BLNR's approval of UH Hilo's notice of compliance with Condition No. 4. somehow result in the "issue[ance] [of] a de facto revision of permit conditions," as Petitioners further argue. See Petition at 7.

The provisions and requirements of Condition No. 4 remained the same before and after BLNR's approval of UH Hilo's notice of compliance with the condition. Simply stated, BLNR determined that UH Hilo complied with an existing condition of the CDUP. BLNR's act in

¹¹ Petitioners also appear to take issue with the form of UH Hilo's notification to BLNR of compliance with Condition No. 4. See Petition at 8 (arguing that UH Hilo's "submissions are deficient to meet requirements of the rule and the DLNR chairperson clearly exceeded her authority in approving [UH Hilo's] request.") Since Petitioners fail to articulate any reasons whatsoever for their claim that the notice was somehow "deficient," BLNR must disregard the argument. Nevertheless, UH Hilo's April 28, 2021 letter sufficiently articulated the reason for the notice and the specific work completed by TIO. See Petition at Ex. 3. Moreover, it is undisputed that BLNR had previously received and reviewed substantial information regarding the TMT Project, including, but not limited to, the July 29, 2019 and July 30, 2019 prior correspondence regarding Condition No. 4, as well as the construction and grading plans submitted by UH Hilo on February 4, 2019 and approved by BLNR on June 17, 2019. See Liu Decl.

approving the notice did not result in a "revision" of Condition No. 4 (or any other provision of the CDUP). 12

Accordingly, instead of engaging in rulemaking, which "affects the rights of individuals in the abstract," BLNR properly exercised its authority under the CDUP and applicable law to approve the notice of compliance with Condition No. 4 -- a concrete action that specifically affected UH Hilo and TIO. *See In re Water Use Permit Applications*, 94 Hawai'i 97, 169, 9 P.3d 409, 481 (2000) (quoting 1 Kenneth C. Davis, *Administrative Law Treatise* § 5.01 (1958) (Emphasis added)).

4. BLNR was not required to hold a contested case hearing on UH Hilo's notice of compliance with Condition No. 4.

For similar reasons, BLNR was not required to hold a contested case hearing on UH Hilo's April 28, 2021 notice of compliance with Condition No. 4 as Petitioners suggest. *See* Petition at 7 ("[UH Hilo's] de facto request for revision of permit conditions should be brought before the Board as part of contested case proceedings, or at a minimum, through a request for a second time extension to comply with permit conditions.")

Again, Petitioners' argument that UH Hilo's April 28, 2021 notice of compliance with Condition No. 4 constituted a "revision" to the CDUP is clearly refuted by the notice itself. The notice set forth the reasons for compliance with Condition No. 4, and it plainly did not seek a further extension of the construction initiation deadline.

¹² To the extent Petitioners argue that a notice of compliance with each and every condition of the CDUP must be approved solely by the Board (instead of the Chairperson on behalf of the Board), such an argument would be incorrect. Neither the CDUP nor the BLNR's administrative rules require Board approval of compliance with each condition. In fact, HAR § 13-5-42(b) provides that the "chairperson or board" are responsible for determining compliance with the standard conditions.

Petitioners do not cite to any rule or other law that requires a contested case hearing for notices of compliance with permit conditions. In fact, the CDUP provides that in the case of alleged noncompliance with permit conditions, the "chairperson shall first attempt to secure compliance from the responsible party, and if unsuccessful, shall bring the matter to the board[.]" D&O at 271.¹³

C. BLNR should consider Petitioners' unclean hands in raising objections to UH Hilo's notice of compliance.

As UH Hilo explained in its July 30, 2019 letter to BLNR, although TIO had timely initiated "work" or "construction . . . on the land" in compliance with Condition No. 4, due to "current limitations on access to the [TMT Project] site," UH Hilo, without waiving the foregoing, and out of an abundance of caution, sought the extension of time. *See* Petition at Ex. 1. UH Hilo explained that:

¹³ A contested case hearing for the approval of UH Hilo's notice of compliance with Condition No. 4 was also not required by constitutional due process under these circumstances. Even assuming a constitutionally cognizable property interest, "[d]ue process is not a fixed concept requiring a specific procedural course in every situation," and due process "is flexible and calls for such procedural protections as the particular situation demands." See Sandy Beach Def. Fund v. City and County of Honolulu, 70 Haw. 361, 378, 773 P.2d 250, 261 (1989). As demonstrated above, nothing in UH Hilo's April 28, 2021 notice of compliance with Condition No. 4 (nor BLNR's approval of the notice) changed any aspect of the CDUP, and the CDUP clearly empowered the BLNR chairperson to determine compliance (or seek compliance) with all conditions as applicable. In addition, Petitioners will have an opportunity to further present their arguments on UH Hilo's compliance with Condition No. 4 through the briefing permitted by BLNR in Minute Order No. 1. Finally, to the extent that Petitioners assert that UH Hilo cannot comply with the CDUP because of alleged "changed conditions and unexpected circumstances," Petitioners previously and repeatedly raised these, and other, arguments in the contested case hearing on the conservation district use application, and therefore received substantial due process on these issues. See, e.g. D&O at FOF 359-362 (rejecting Petitioner Ching's argument that CDUP should be denied because TIO does not yet have all the funds necessary to complete the project); D&O at FOF 690, 692-693, 701, 791 and COL 383 (rejecting Petitioners' argument that unpermitted ahu were improperly removed). See also generally D&O (recognizing testimony from numerous individuals and organizations (including Petitioners) that opposed the project, as well as many that strongly supported the TMT Project).

UH is aware that TIO planned, and was ready and able, to begin moving its heavy construction equipment to the TMT Project site during the week of July 15, 2019. As BLNR is aware, however, TIO was unable to move the equipment to the site due to ongoing demonstrations at the Daniel K. Inouye Highway and Mauna Kea Access Road, which, to date, are continuing.

See Petition at Ex. 1.

Similarly, TIO, in its July 29, 2019 letter to UH Hilo explained:

TIO also believes that, since the issuance of the Notice to Proceed, it has in fact "initiated" "work" and/or "construction" at the TMT Project site through various activities at the site, including the removal of unpermitted ahu, and by conducting various site surveys. That said, given circumstances beyond TIO's control (including a lengthy appellate process and the current situation involving protestors blocking access to the site), TIO's heavy equipment access to the site has been substantially delayed.

See Petition at Ex. 1 (Attachment 1).

TIO's contractors attempted to move heavy construction equipment to the TMT Project site on July 16, 2019, but the convoy was blocked by protestors near Mauna Kea Access Road, and access to the site remained physically blocked for weeks. *See* Liu Decl.

As widely reported in the media, virtually all the Petitioners (individually or as members of various organizations) actively participated in the protests and/or coordinated with others engaging in the protests to block access to the TMT Project site. *See, e.g. Judge denies petition for TRO against TMT*, Hawaii Tribune-Herald, July 23, 2019,

https://www.westhawaiitoday.com/2019/07/23/hawaii-news/judge-denies-petition-for-tro-against-tmt/ (noting lawsuit filed in State Circuit Court by Petitioners Maunakea Anaina Hou, Kealoha Pisciotta, Paul K. Neves, Clarence Ching and others to halt construction of the TMT Project); Jennifer Sinco Kelleher and Caleb Jones, *Hawaii protesters press on to stop telescope, face arrest*, Associated Press, July 17, 2019,

https://apnews.com/article/41ffb293900c49ae951a4356f3f27eac
(quoting Petitioner Kealoha
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Pisciotta); Hawaiian Activists Block Mauna Kea Summit Over Telescope Project, Rising Up
With Sonali, https://risingupwithsonali.com/hawaiian-activists-block-mauna-kea-summit-over-telescope-project/ (interview with Petitioner Kealoha Pisciotta as President of Petitioner Mauna Kea Anaina Hou); Blaze Lovell, TMT Protest Camp Packs Up Due to COVID-19, Civil Beat,
March 25, 2020, https://www.civilbeat.org/beat/tmt-protest-camp-packs-up-due-to-covid-19/ (quoting Petitioner Paul Neves as leader of a "key group in the protest against the telescope," and noting that "[s]o far, the protesters have successfully halted telescope construction[.]");
Michael Brestovansky, High court hears case of group that supported TMT protesters, Hawaii
Tribune Herald, May 21, 2021,

https://www.hawaiitribune-herald.com/2021/05/21/hawaii-news/high-court-hears-case-of-group-that-supported-tmt-protesters/ (discussing case involving donations to Petitioner KAHEA: The Hawaiian-Environmental Alliance, which supported protesters).

Numerous publicly-accessible social media posts by Petitioners and others also document many of the Petitioners' concerted efforts to physically block access to the TMT Project site.

See, e.g. Paul Neves, Facebook (November 7, 2020, 11:02 a.m.),

https://www.facebook.com/photo.php?fbid=3998270586852995&set=pb.100000102806231.-2207520000..&type=3 (photograph of Petitioner Paul Neves at protest site near Mauna Kea Access Road); Clarence Ching, Facebook (July 15, 2021, 3:00 p.m.),

https://www.facebook.com/ku.ching.3/posts/10160094297537565 (photographs and post commemorating blockage of Mauna Kea Access Road on July 15, 2019); and Pu'uhonua o Pu'uhuluhulu Maunakea, Facebook (July 20, 2019, 12:15 a.m.),

https://www.facebook.com/puuhuluhulu/posts/2106094953027144 (video of protestors,

including Petitioner Kealoha Pisciotta, blocking access to Mauna Kea Access Road) (collectively attached hereto as Exhibit "C").

Thus, substantially the same organizations and individuals who are now raising objections to UH Hilo's alleged "noncompliance" with Condition No. 4 in this proceeding are the same organizations and individuals, among others, who caused or advocated for the delay in the transport of heavy equipment to the TMT Project site, which was a basis for UH Hilo's request (out of an abundance of caution and with the reservation of all rights) to request an extension of the Condition No. 4 deadline.

In other words, Petitioners are objecting to an extension of Condition No. 4, which would not have been necessary to request (and grant), but for the Petitioners' acts, with others, in supporting and participating in protests to physically stop TIO from proceeding with additional work and construction at the TMT Project site in furtherance of Condition No. 4. Simply put, Petitioners' objections in this proceeding are of their own making.

Under the doctrine of unclean hands, a person "who comes into equity must come with clean hands." *See 7's Enters, Inc. v. Del Rosario*, 111 Hawai'i 484, 494, 143 P.3d 23, 33 (2006). Administrative agencies have the discretion to take into account equitable considerations. *See Southern Foods Group, L.P. v. State Dept. of Educ.*, 89 Hawai'i 443, 452, 974 P.2d 1033, 1042 (1999) (noting that administrative agency discretion, "When invoked as a guide to judicial action it means a sound discretion, that is to say, a discretion exercised not arbitrarily or wilfully, but with regard to what is right and equitable under the circumstances and the law, and directed by the reason and conscience of the judge to a just result") (quoting *Booker v. Midpac Lumber Co.*, 65 Haw. 166, 172, 649 P.2d 376, 380 (1982) (citations and internal brackets omitted)) (Emphasis added).

BLNR should find that Petitioners have brought this proceeding with unclean hands,

because they, with others, actively worked to advocate, manufacture and/or coordinate the very

situation that they now seek to obtain relief from. As a matter of equity and fairness (as well as

in the interests of good and sound public policy), Petitioners' attempt to challenge the very same

BLNR actions that they themselves necessitated should not be condoned by BLNR, and the

Petition should be denied.

III. **CONCLUSION**

Based on all of the reasons asserted herein and any reasons appearing of record, TIO

respectfully requests that BLNR deny the Petition in its entirety.

DATED: Honolulu, Hawai'i, November 4, 2021.

/s/ Ross T. Shinyama

J. DOUGLAS ING

ROSS T. SHINYAMA

SUMMER H. KAIAWE

Attorneys for

TMT INTERNATIONAL OBSERVATORY LLC

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

Case No. HA-22-02

The Petition of Mauna Kea Hui for a Declaratory Order Filed May 24, 2021.

DECLARATION OF FENGCHUAN LIU

DECLARATION OF FENGCHUAN LIU

- I, FENGCHUAN LIU, hereby declare as follows:
- 1. I am the Project Manager for the Thirty Meter Telescope project (the "TMT Project") for TMT International Observatory LLC ("TIO").
- 2. I make this declaration in lieu of an affidavit and based on personal knowledge and the records and files maintained by TIO.
 - 3. I have a Ph.D. in Physics from the University of Washington, Seattle.
- 4. Prior to serving as the Project Manager for the TMT Project, I was the acting Project Manager beginning in December, 2020, and I was the Deputy Project Manager since October, 2015.
- 5. As the Project Manager, I have overall responsibility for managing the design and construction of the TMT Project, and as such, I have been involved with the design, engineering, and construction of the TMT Project.
- 6. Condition No. 5 of the Decision and Order granting the Conservation District Use Permit for the TMT Project (the "CDUP") required that "[b]efore proceeding with any work authorized by the Board, UH Hilo shall submit four copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for

consistency with the conditions of the permit and the declarations set forth in the permit application."

- 7. In the context of the CDUP and Condition No. 5, and based upon common practice with respect to the development of large telescope projects, TIO interpreted the word "work" in Condition No. 5 as distinct from "construction to be done on the land" as stated in Condition No. 4.
- 8. This is because the development of large telescope projects, such as the TMT Project, require extensive on-site and site-related coordination, testing, and surveying work (among other work), which do not necessarily require ground-disturbing activities in advance of actual, physical construction on the land.
- 9. On February 4, 2019, pursuant to Condition No. 5 of the CDUP, UH Hilo submitted to the Board of Land and Natural Resources ("BLNR") Chairperson the required construction and grading plans and specifications for the TMT Project for approval, which included the TMT Project civil package construction documents (the "TMT Project Civil Package") prepared by TIO and its consultants.
- 10. The TMT Project Civil Package noted that the scope of work for the project included the construction of the Thirty Meter Telescope site, access road and underground utility conduits.
- 11. Attached hereto as Exhibit "A" is a true and correct copy of a letter dated June 19, 2019 from BLNR to the University of Hawai'i at Hilo ("UH Hilo") (with a copy to TIO) noting that the TMT Project met the preconstruction requirements in the CDUP and that BLNR was therefore issuing a notice to proceed with construction of the TMT Project.

- 12. After receiving the notice to proceed, TIO continued to work expeditiously and diligently to commence work and/or construction on the land for the TMT Project pursuant to, and consistent with, the CDUP, including Condition No. 4 of the CDUP.
- 13. This work and/or construction on the land after June 19, 2019 included the following:
 - a. June 20, 2019 Removal of unpermitted ahu, which involved ground disturbance activities;
 - b. June 25, 2019 M3 and Goodfellow Bros. Inc. ("GBI") met at the TMT
 Project site to test the GPS equipment and verify the benchmark locations and coordinates with the existing site survey;
 - c. June 25, 2019 A partial survey of the Submillimeter Array ("SMA") access road (which would be used to access the TMT Project access road and site)
 was completed for accuracy in comparison to the owner-furnished survey;
 - d. June 25, 2019 Personnel from the SMA and the James Clerk Maxwell radio telescopes joined the construction crew to coordinate the GPS system and verify the impact on telescope operations;
 - e. July 8, 2019 All consultants and contractors met for a pre-construction meeting at the Waikoloa Marriott to discuss procedures, safety, and requirements for the TMT Project;
 - f. July 12, 2019 GBI, M3 and SMA representatives met to locate and survey the SMA underground fiber optic and electrical lines to mitigate the risk of damaging the fiber optics and in preparation of mobilizing heavy equipment to the TMT Project site;

- g. July 16, 2019 TIO mobilized approximately 18 vehicles and heavy construction equipment, including a 980 Loader, D6 Dozer, WA320 Loader and Mini-Ex/Roller for transport to the TMT Project site.
- 14. Attached hereto as Exhibit "B" are true and correct copies of oversize and/or overweight vehicle and load permits from the State of Hawai'i Department of Transportation and the County of Hawai'i Department of Public Works for TIO's vehicles and heavy construction equipment.
- 15. Although TIO was ready and able to move its vehicles and heavy construction equipment to the TMT Project site on July 16, 2019, the vehicles were physically blocked by protestors near the entrance to the Mauna Kea Access Road and could not proceed past that point.
- 16. Although TIO continued to be ready and able to move its vehicles and heavy construction equipment to the TMT Project site after July 16, 2019, after weeks of continued protestor activity near the entrance of Mauna Kea Access Road, TIO made a decision to suspend the mobilization of the equipment to the site indefinitely.

I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Pasadena, California, November 4, 2021.

Tengchuan hin

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

Case No. HA-22-02

The Petition of Mauna Kea Hui for a Declaratory Order Filed May 24, 2021.

DECLARATION OF COUNSEL

DECLARATION OF COUNSEL

I, ROSS T. SHINYAMA, hereby declare as follows:

- 1. I am an attorney with the law firm of Watanabe Ing LLP, and one of the attorneys for TMT International Observatory LLC ("TIO").
- 2. I make this declaration in lieu of an affidavit and based on personal knowledge and the records and files of this matter.
- 3. Attached hereto as Exhibit "C" are true and correct copies of publicly-accessible social media posts by or relating to Petitioners Paul Neves, Clarence Ching, Kealoha Pisciotta and other individuals and organizations documenting their efforts to physically block access to the TMT Project site.
- 4. These social media posts were accessed by my office on or about November 4, 2021 at the URL links noted in the attached memorandum in opposition.

I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Honolulu, Hawaii, November 4, 2021.

/s/ Ross T. Shinyama ROSS T. SHINYAMA

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

Case No. HA-22-02

The Petition of Mauna Kea Hui for a Declaratory Order Filed May 24, 2021.

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date indicated below, a true and correct copy of the foregoing was duly served via email to the following parties:

Linda L.W. Chow
Lauren K. Chun
Deputy Attorneys General
Linda.L.Chow@hawaii.gov
Lauren.K.Chun@hawaii.gov
Attorneys for the Board of Land

Jesse K. Souki
Associate General Counsel
University of Hawai'i
souki@hawaii.edu
Attorney for University of
Hawai'i, Hilo

and Natural Resources

Lincoln S.T. Ashida
Newton J. Chu
Torkildson, Katz, Moore, & Harris
<u>lsa@torkildson.com</u>
njc@torkildson.com
Attorneys for Perpetuating

Attorneys for Perpetuating Unique Educational Opportunities (PUEO)

Richard Naiwieha Wurdeman
RNWurdeman@RNWLaw
Bianca Isaki
bianca.isaki @gmail.com
Attorneys for the Mauna Kea Hui

Harry Fergerstrom hankhawaiian@yahoo.com

Richard L DeLeon kekaukike@msn.com

Mehana Kihoi uhiwai@live.com

C. M. Kaho'okahi Kanuha kahookahi@gmail.com

Joseph Kualii Lindsey Camara kualiic@hotmail.com

Cindy Freitas hanahanai@hawaii.rr.com

Maelani Lee maelanilee@yahoo.com

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

Kalikolehua Kanaele akulele@yahoo.com

Stephanie-Malia:Tabbada s.tabbada@hawaiiantel.net

Tiffnie Kakalia tiffniekakalia@gmail.com

Glen Kila makakila@gmail.com

Dwight J. Vicente dwightjvicente@gmail.com

Brannon Kamahana Kealoha brannonk@hawaii.edu

William Freitas kukulukuula@gmail.com

J. Leina'ala Sleightholm leina.ala.s808@gmail.com

Michael Cain

Michael.cain@hawaii.gov

Custodian of the Records

DATED: Honolulu, Hawai'i, November 4, 2021.

/s/ Ross T. Shinyama

J. DOUGLAS ING
ROSS T. SHINYAMA
SUMMER H. KAIAWE
Attorneys for
TMT INTERNATIONAL OBSERVATORY LLC

DAVID Y. IGE





STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621 HONOLULU, HAWAII 96809

REF: OCCL: MC

Marcia Sakai, Interim Chancellor University of Hawai'i at Hilo 200 West Kāwili Street Hilo, HI 96720

SUBJECT:

NOTICE TO PROCEED: CONSERVATION DISTRICT USE PERMIT (CDUP) HA-3568

Thirty Meter Telescope (TMT)

Mauna Kea Science Reserve, Ka'ohe Mauka, Hāmakua District, Hawai'i

TMK (3) 4-4-015:009

The Department of Land and Natural Resources (DLNR) has received and reviewed the following documents related to Conservation District Use Permit (CDUP) HA-3568 for the Thirty Meter Telescope:

- 1. Civil Construction Package
- 2. Best Management Practices for the Civil Construction Package
- 3. Recreation Parking Plan
- 4. Mitigation measure matrix for compliance with CDUP HA-3568 general and special conditions

The BLNR approved CDUP HA-3568 for TMT in a Decision and Order in October 2017. The documents were submitted in support of the following two conditions of the permit:

General Condition No. 5. Before proceeding with any work authorized by the Board, UH Hilo shall submit four copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three of the copies will be returned to UH Hilo. Plan approval by the Chairperson does not constitute approval required from other agencies.

Special Condition No. 32: Construction can be initiated once the permittee demonstrates compliance with the preconstruction conditions and mitigation measures contained in the Decision. The Department is required to review the construction and grading plans for consistency with the permit. Once the construction and grading plans

AQUATIC RESOURCES
BOATING AND OCEAN RECERTION
BOATING AND OCEAN RECERTION
COMMISSION ON WATER RESOURCES MANAGEMENT
CONSERVATION AND RESOURCES ENFORCEMENT
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SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA M. KALEO MANUEL EPUTY DIRECTOR - WATER

CDUP HA-3568

JUN 1 9 2019

have been signed and the preconstruction conditions have been met the Department will issue a Notice to Proceed to TMT.

The Civil Construction Package was submitted to DLNR on February 3, 2019. The Civil Construction Package prepares the site for construction, and involved batch plant site, the access way, and the TMT site for construction. Staff from the Office of Conservation and Coastal Lands (OCCL) met with the TMT design team to review the construction documents on March 11, 2019. The plans that were submitted are consistent with the Environmental Impact Statement (EIS) and the Conservation District Use Application (CDUA).

The mitigation measures required by the CDUP include actions related to historic resources, archaeological and cultural monitoring, materials waste management and spill prevention, waste minimization, cultural and natural resources training for project employees and contractors, arthropod monitoring, safety and accident prevention, and invasive species prevention and control.

Additional mitigation measures were agreed to in the Final Environmental Impact Statement and the TMT Management Plan. These include actions related to access way paving and design, arthropod monitoring, noise pollution, noise permit and noise variance, independent construction monitors, best management practices documentation, a rock movement plan, decommissioning, site documentation, construction mitigation measures, a cultural and archaeological monitoring plan, an NPDES permit, and an oversize and overweight vehicles permitting plan.

Based upon our review of the information you 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.

If you have any questions, please feel free to contact Michael Cain at the Office of Conservation and Coastal Lands (OCCL) at 808-587-0048.

Sincerely,

Suzanne D. Case, Chairpersor

Board of Land and Natural Resources

Stephanie Nagata, Director, OMKM
 Gary Sanders, Project Manager, TMT
 DLNR – Land Division, Division of Forestry and Wildlife, Division of Conservation and Resource Enforcement
 County Planning Department
 Jim Hayes, Planning Solutions Inc.

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Date Stamp

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DIRECTOR OF TRANSPORTATION

TITLE

Exhibits page 306 HAVAII DISTRICT ENGINEER

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SPECIAL CONDITIONS:

TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each move.

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS
GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS
ON STATE HIGHWAYS

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10.00° to 11.99°	9,00° to 11.99°	9.90' to 11.99'	\$4.00' to \$4.99'	14.00" to 15,99"	Private Front & Rear Escorts
Not Applicable	Not Applicable	Not Applicable	12.00° to 13.99°	12.00' to 13.99'	Private Front Escort
South Kons Bait Road Rts. 11 X Macill Rd. To Horas Jet MP 89.0	Akoni Pule Hayy Route 270 Amakea Stibo Rd (b. Pojoto Valley MP 23.8 to MP 28.9	Kobali St. Rdulite 280 Kawalita Rdi 570koni Pole Hwy. MP20 to MP218	Pusinako St. ette 2000 Kajusa Ave. To Komonana St. MP 0:16 To MP 1:63	With Tark Lates	ESCORT REQUIREMENTS
i	CHILLES ON SIAIR INSING	GENERAL CONDITIONS FOR CYERSIZE ANDIOR OVERWEIGHT VEH	CRU TOK CYTKUKE A	GENERAL CONDI	A

^{*} Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F TMT Memorandum

chibits page 309

Heights 16.00 and greater	See special requirements within Kailua-Kona Urban Area (see page 1)
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 14.01' to 15.00'	Permit Required
Heights up to 14.00'	Follow other requirements
Permit applicant shall be resp	onsible to check overhead clearances along the route.
Carrier Control	

u prieste rigini. Eliza de la production de la companya de la comp	TEN CONTRACTOR CONTRAC
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required.
70.01' To 80.00'	Provide private front escort
80.01' To 100.00'	Provide private front and rear escorts
Over 100,00°	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

MAGNITUM WHISE IN A STREET STREET OF THE STR	an projections are as follows:
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

The state of the s	glerek ewo below
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph belaw speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

RESKRENJERO - A

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- . Urban Hilo Area (Walluku Bridge to Kawailani Street)
- b. Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kallua-Kona Urban Area (see page 1)

so bid seems away

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following:

- a. Pualnako Street (Kanoalehua Avenue to Komohana Street)
- Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

Exceptions may be allowed in opposite direction of peak traffic flow

NUMBER TOO	eves.	The state of the s
Night mo	oves must be approved by the Design E requirements are as follows :	ngineer or District Engineer.
a.	Provide police front and rear escorts	The second secon
b.	Provide full illumination of extremities of	load (Flood Lights)
C.	Provide side running lights	
Other rec	quirements may be required by the permit i	sulng office or as required by law

WEIGHT LIMITATIONS:

Weight limitations are subject to review and approval as follows:

170.01.	•		A STATE OF THE PARTY OF THE PAR
PARTONIA DE PARTONIA	mulius:		
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

	Single Axle > 42	000 lbs. or	Tandem or Tridem	Axie > 60,000 lbs.
Bridge Restricitons	Meximum No stopp No other	speed over structi). ige during crossin is.	i MPH. g except passenger vehicles.
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Spacing: Last Tractor Axle to First Trailer Axle or	Combined Weight Trailer Axles	Approval Authority
	85,000 lbs. or less		80,000 lbs, or less	Hawaii District Approval
W = 900(L+40)	> 65,000 lbs.	< 28.00-ft.	> 80,000 lbs	Requires Honolulu (HWY-DB) Approva
BRIDGES WITH LESS CAPACITY	Route 190, Weim MAX. WEIGHT P Ninole Bridge (M Hilea Bridge (M Route 11, past Pa Every overweight ANY BRIDGE UN	P 57.72) shala permit must go to Ht IDER CONSTRUCT!	Aamaka Niulii Bri Route 27 WY-DB in Honolulu ON	0, past Halaula for approval until turther notice.
			em anoilibnos iznoi	y be required depending on detouring repaired or reconstructed.

Content Restrictions and/or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc. In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahualoa, Waiohinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.) Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking Association shall be informed of these revisions.

This space for issuing office;
APPLICATION NO. 190551XB
D 0

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 07/15R)

Date Stomp				D/OR C	VERWI				T LOADS
					Da	_{1e} 7/3/19	min - Administration - 115 - 115 - 115 - 115 - 115	• • ·	ay and administration of the second
Pursuant to Chapter 25 a special permit to authorize the 6 or both, which exceed the provision	neesting or mo	versont nf a vel	hiele or combi	antion of Yenii	des or special c	DODIE COMPRIC	quests the Dire nt of dimension	ctor of Fransj is or weights,	oortation to issue including loads
ISSUE PERMIT TO: Name of owner (or lessee) of vehicle	Island Tops	alt	· · · · · · · · · · · · · · · · · · ·		·mark.		Fax: 808-		.
Address: Po Box 1999			· · · · · · · · · · · · · · · · · · ·				Phone: 808-89	6-3273	
MOVEMENT: Oversize	Overwer	திர 🖾 🔿	rersize and Ove	rrveight [Flag Projects	ions 🗓 Lig	thus 🗆 W	ideland Sign	
THIS APPLICATION IS FOR. ROUTE OF TRAVEL:	☑ Single Trip	o 🗆 Cont	inuous Trip	□ Asmid					
Origin: waikolos quarry				Destin	nikan MAUNA	KEA OBSER	ATORY	·	annimation that up to
Over Roules: on to walkold	a rd on to hwy	190an to hwy	200 on to ma	una kea acce	as road				1 . 10 · 1919 - Mary -
	. 1000					more compared by the control of the		on New M	the Hill is come demander sufficient.
establish ribida		AN . 1500 FE	may make	era motora aleme amenengan mera mena i fle a af	name types :				a district standardistriction
All Control of the Principles of the Control of the		. <u></u>				([%	we also a co	
(THIS PERMF ☐ 0830 to 1500 HRS	F VALID ON ST 0 oi 0081		YS ONLY - C 01 0630 €		es subject# □ Ø v	o che col	MY REGULA IT RDAY, SUI	NTIONS) NDAY, & HOL	JDAYS
DATE OF MOVEMENT: 7/17/19-8	/17/19	Vangeti: - 1 1				g and the second		. *	
OBJECT OR LOAD				Air		and the			
Owner: good fellow broth	NAME		~ · · · · · · · · · · · · · · · · · · ·	7	and the second	68-124 (cóñ) (t4 waikoloa rd		. ,
Object or load to be moved.	336 excavator	BH513	51	ALA WEIGHT. SI	ATTACHMENT	s.t/c	***************************************	Sendonada r	
WHT= 82000 L=36'8" V	/= 11'3" H= 1	12'	//}	- Comment of	· · · · ·	معدومي ساجهد عدد عد			
Method of movement: mou	nted on		200		VGD BY, UNDER C	UL BOUGS ETA			
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Check which and TRUCK	TRACTOR	20 Brit	PAILER TRAILER] DOLLY			PRIVATE E	
OTHER	ď.	์ เมื่อรมศิ	%					veruil Damensi aniçle Including	
Make: Peterbill		Aspen				w	Width	11 n.	3 in
No. of Axles ² 4	-15-5	189998		\$ P			Length	73 e	
Gross Wt. (lbs.) 85000		30000			~~~~		Rear Project		····
Tota Wt. (lbs.) 23050	<u> </u>	276HYJ		~~~~~			Length	n	in.
License: 542HDY	ng at i ti nggay ayan ta magba of Pa	- Macondonia					Height	Λ	103.
In contact with Pavement	FRONT	AXLE 2	VXIE3	AXLE4	AXLE 5	AXLE 6	AXLE 7	AXLE 8	AXLE 9
Gross WL (lbs.) Empty	10886	9007	9007	9007	5053	5053	5053		
With Load	11893	21098	21097	21097	19961	19961	19961		
No of Wheels	2	2	4	4	4	4	4		
Tire Sizes	31522.5	31522.5	31522.5	31522.5	31522.5	31522.5	31522.5		
Axle Spacing (fl. & în.)	13'	11" 4"	5" 4'	9" 3	5'8" 5	'Z" 5'	2"		
The undersigned hereby cer place and that said vehicle shall be moved	rifies that the aboved in compliant	ove-described v e with the tenns	ehicle shull be i s set forth in the	reduced in the Special Perni	musinum practi is.	cable dimension			ieni (akes
See General & Special Conditi	•			eight/			remainree		24-0
vehicles and loads over State F	ngnways incl	uden as attac	annems.		Ву		Jennifer Card	ines	
Permission to operate the ab				L PERMI		the date and tim	e os dued show	on the analisa	gion is howhy
Permission to operate the ab priviled subject, however, to the Gener Office 07/05/19	ove-uescribed of al Canditions an	versize andror of diany Special P	rovisions stated	on the reverse Approved.	sidů.	DR OF TS TO AC	· F	on an abbuer	wan ke musuy

E^{X} styles of subject powerer to the Gene	fai	C	andition	េណជ	lany Special Provisions stated or	the reverse sid
TMT Memorandum		,			Performance and a facility of the property of the decay of the Article Control Article Control	Approved.
Permit No.: 19-H-0551						

Permit Fee: \$ 25.00

HAWAII DISTRICT ENGINEEE Xhibits page 312

and/or objects ex	ໆ 1-8321 630 liance with Section	1 291-36, Hawai'i Re	DATE PERMIT NO vised Statu	o. <u>19-#-</u> utes, permission	(9 - 0 / 8 CGF1 to move heavy vehicle 4 and 35, Hawai'i Rev	es
Statutes.						•
	ns and weight of I			 -		
Height: 13	Feet	Inches	Length: _	73 Feet	Inches	
Weight (2000 Lbs.		Width: _	1/Feet	3 Inches	
Type of Object o	r Equipment	336 EXCUN	Her	04512)	
Route of Travel:	Origin 6.49	Willder Ourm				
110410 41 114111						
Over Routes:		_				
bridges, roads, i County of Hawa notified of the ro to such movement	Time: Find straighted applicant ife and/or property if and its officers oute and time of each otherwise this.	om 6:30 It agrees to assume of from such operation or employees from a	full respons n or moving ny suite or the Police i lered vold.	To	ss or damages to Cou mnify and hold harmle ice Department shall b proval shall be obtain	nty ss the
			(-11×10),	520	<u> </u>	
			BA:	(Siectronic signs	ature accepted)	
FIRM EMAIL:	Jennifer. S	Trita A ISIA	nd 12450	7. com		
Additional Cond 1) Esc	itions (for DPW us corts: Police Private	se only): Front Rear				
2) 🗌	Check Vertical (Clearance (vehicles	over 14'-0"	in height)		
3) 🗀	Maintain tempo	rary bridge reinforce	ment at mil	te post 51, Sado	lle Road.	
			,	•		
				Qe C	r Director	
ce: Applicant Hawai'i Pe				•		
	olice Dept (Fax: 96	1-2228)				

County of Hawai'l is an Equal Opportunity Provider and Employer.

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS

GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS

	Highways With	Distinato St. Dia John	A LUCISHE NATURAL VIOLENTA	Printer St. Div. Or Callette Mary Co. Callette St. St. Co. Callette St. Callette St	Exhik
Widerijaveli ange	Wide Travel Lanes	*Kijauea Ave. To Komohana St. * MP 0.16 To MP 1.63	Kawaihae Rd. to Akoni Pule Hwy. MP 2.0 to MP 21.8	Alnakea Subd. Rd. to Pololu Valley MP 23.8 to MP 28.9	
Private Front Escort	12.00° to 13.99°	12.00' to 13.99'	Not Applicable	Not Applicable	Not Applicable
Private Front & Rear Escorts	14.00' to 15.99'	14.00' to 14.99'	9.00' to 11.99'	9.00' to 11.99'	10.00' to 11.99'
Police Front & Private Rear Escorts	16.00' to 18.99'	Not Applicable	12.00° to 13.99°	12.00' to 13.99'	12.00' to 13.99'
Police Front & Rear Escorts	17.00' to 17.99'	15.00' to 15.99'	14.00° to 14.99°	14.00' to 14.99'	14.00' to 14.99'
Two Police with One Private Front Escorts	18.00° to 19.99°	16.00° to 16.99'	15.00° to 15.89°	15.00' to 15.99'	15.00' to 15.99'
Special Approval & Requirements	20.00' and over	17.00" and over	16.00' and over	16.00" and over	16.00' and over
X	Nacient South Point Rd	R.11	Mamalahoa // Hawall Bar Road // Ric 180	Kawalhan Road Russes	Kallin Kona Urban Area
ESCORT REQUIREMENTS	Honuapo To South Point Rd	72.7		Welaka Bridge to Kawaliba Harbor	Weleka Bridge to Kawaliae Harbor Rts. 18 Honokohau Harbor (MP. 97.55)
Private Front Escort	10.0°0 to 10.99		10.0'0 to 10.99'	11.00' to 11.99'	Spacial Requirements
Private Front & Rear Escone	11 20 11 20				

ESCORT REQUIREMENTS	Nasienu South Point Rd. Rt.11 MP.60.8 To MP.69.5	Mamalahoa / Hawaii Bak Road Rto. 190 Keafni Ku Bridge to Scenic Lookou	Kawalhae Road Rus 19 Walaka-Bridge to Kawalhae Harbor MP 59 Hawal 3.2	Kawalhas Rosd Rus 19 Kailus Kora Urban Area Walaka Bridge to Kawalhas Harbor Rus 19 Honokohau Harbor (MP 97:85) WP 597 https://doi.org/10.1009/19.1009
Private Front Escort	10.0'0 to 10.99'		11.00° to 11.99°	Special Requirements
Private Front & Rear Escorts	11.0°0 to-14-89′	11.0°0.to-11.88°	12.00'-to_12.99'	-Greater-than-12.00' wide,
Police Front & Private Rear Escorts	12.0°0 to 13.99'	12.0'0 to 13.99'	13.0' to 13.99'	16.00' hìgh OR
Police Front & Rear Escorts	14.0°0 to 14.99°	14.00' to 14.99' Take Queen Kaahumanu Hwy Two Police With One Private Front Escorts For Route	14.00' to 14.99'	Slower than 10 MPH below posted Speed Limit
Notice to Public, Staging Plans and	A Desire Control of the Control of t	190	15.00' to 15.99'	Recommend Night Move (10:00 pm to
Two Police with One Private Front Escorts	15.0°0 to 15.99'	15.00' to 15.99' Take Queen Kashumanu Highway	15.00' to 15.99' Take Route 190 / Walkoloa Road And Follow Requirements *	5:80 em)
Special Approval & Requirements	16.00° and over	16.00' and over	16.00' and over	by-case basis upon request.)

^{*} Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F TMT Memorand

ibits page 314

The state of the s
the state of the s
nsible to check overhead clearances along the route.
Follow other requirements
Permit Required
Check Overpasses and Utility Crossings. May require special conditions.
See special requirements within Kailue-Kona Urban Area (see page 1)

MOVELENGTHS: Escott requirements for emp	nty and loaded moves are as follows
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required.
70.01' To 80.00'	Provide private front ascort
80.01' To 100.00'	Provide private front and rear escorts
Over 100.00'	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by Issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

	PRQUECTIONS: Escort (aqui)rements for front and/or res	ir projections are as follows:
Î	PROJECTION LENGTH	REQUIREMENT
1	4' to 10', less than 7' high	Provide private escort at projection
ľ	Greater than 10'	Additional requirements as determined by the issuing office

TRAVELING SPEED: EScontragolisments for allow moving vehicles Use highest posted speed limit on rous. LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

DISTANCE TRAVELED

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

PEAK HOURS:

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- a. Urban Hilo Area (Walluku Bridge to Kawailani Street)
- b. Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kallua-Kona Urban Area (see page 1)

SCHOOL TRAFFIC HOURS:

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on Wednesdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following :

- a. Puainako Street (Kanoelehua Avenue to Komohana Street)
- Exhibit F b. Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

TMT Wexpection of peak traffic flow

NIGHT	MOVES:
	oves must be approved by the Design Engineer or District Engineer. requirements are as follows :
a.	Provide police front and rear escorts
b.	Provide full illumination of extremities of load (Flood Lights)
G.	Provide side running lights
Other rec	quirements may be required by the permit issuing office or as required by law

WEIGHT LIMITATIONS:

Weight limitations are subject to review and approval as follows:

PAVEMENT STRUC	TURES:		The state of the s
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

BRIDGES:				
Bridge Restricitons	 No stopp No other 	speed over structure	ure not to exceed :). Ige during crossin	n Axie > 60,000 lbs. 5 MPH. ng except passenger vehicles.
MOST BRIDGES	Combined Weight Tractor Rear Axies or	Spacing: Last Tractor Axie to First Trailer Axie or	Combined Weight Trailer Axles	Approval Authority
W = 900(L+40)	65,000 lbs. or less > 65,000 lbs.	28.00-ft. or more < 28.00-ft.	80,000 lbs. or less > 80,000 lbs	Hawaii District Approvel Requires Honolulu (HWY-DB) Approval
BRIDGES WITH LESS CAPACITY	MAX. WEIGHT PE Ninole Bridge (M Hilea Bridge (M Route 11, past Pal Every overweight (ANY BRIDGE UNI Width and length re	PA SIGN OF SANDEM = 61,00 AP 56.58) P 57.72) hala permit must go to HV DER CONSTRUCTION estrictions and addition	Aamaka Niulii Bri Route 270 VY-DB in Honolulu f	o Bridge (MP 25.58) dae (MP 27.28) 0, past Halaula for approval until further notice. / be required depending on detour ig repaired or reconstructed.

OTHER REQUIREMENTS:

unusual conditions.

Restrictions and/or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc.

ROAD GRADES:

In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahualoa, Walohinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.)

REVISIONS

Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking Association shall be informed of these revisions.

Exhibit F

SPECIAL CONDITIONS:

TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each move.

Exhibit F
TMT Memorandum

Date Stamp

Permit Fee: \$ 25.00

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 07/13R)

APPLICATION TO OPERATE OR TRANSPORT

Paresusant to Chapter 291 Section 36. Hewall flavited Statutes, as ancesied, the undersigned permitter in reflect in the filterior of Transportation of Statutes, as the undersigned permitter in reflects in the filterior of Transportation of Statutes, as the undersigned permitter in reflects in the filterior of Statutes, as ancesied. The undersigned permitter is reflected in the reflect of Statutes, as ancesided. The undersigned permitter is reflected in the statute of Statutes, as ancesided. The University of Statutes and Statutes, as ancesided. Statutes			JVERS	(ZE ANJ			HIGHY		UILA CE	
a good and contained an appearance of the chapter 271 Section 34 and Section 35, threat Review Statutes as asserted at the content of the mixture section of the previous of Chapter 271 Section 34 and Section 35, threat Review Statutes as asserted at the content of the mixture section of the previous of Chapter 271 Section 34 and Section 35, threat Review Statutes as asserted at the content of						Date	7/3/19	nice	♥ to a magain the second section to the second sec	, Marian, and an artist of the
SEVED PERANT TO: Name of owner (or listose) of vehicle: Island Topsol.	Pursuant to Chapter 391 Si special permit to authorize the oper-	rction 36. Has ation or move of Chanter 29	vall Revised S ment of a veh I Section 34 s	istues, as omer icle or combine nd Section 35,	aded, the unde ation of vehicle Hawaii Revisci	rsigned permit is or special mo il Statues, às at	tee beseby requ bite equipment acaded.	oests the Direc t of dintension	ctor of Transpo is or weights, is	ortation to iss octuding load
Address. Po Box 1999 MOVEMENT: Oversize Overwight Oversize and Overweight Prince: 109-599-3277 MOVEMENT: Oversize Overwight Oversize Overwight Oversize Oversi	SSUE PERMIT TO:			,				e aaa /	000 5300	
MOVEMENT: Oreruse Overwight Overwight Pitg Projections Light Wideland Sign This APPLICATION IS FOR: Single Trip Continuous Trip Annual Over Routes* on to well-boths of on to havy 190 on to maxima less appears field Over Routes* on to well-boths of on to havy 190 on to maxima less appears field Over Routes* on to well-boths of on to havy 190 on to maxima less appears field Over Routes* on to well-boths of on to havy 190 on to maxima less appears field Over Routes* on to well-boths of 1800 to 6500 HRS O010 to 0500 HRS	lance of owner (or lessee) of vehicle: [5	Hand Topsoi		.,						··
MOVEMENT: Onestal Overweight Overweight Overweight Or Page Projections Light Wildhout Signs THIS APPLICATION IS FOR: Or Signs Trip Countinuous Trip Anneal ROUTE OF TRAVEL: Origin: Maikodos quarry Desiration: MAUNA KEA OBSERVATORY Over Routes: On to walkolos of on to hely 1900n to hely 200 on to maxima kee access road (THIS PERMIT YALID ON STATE HIGHWAYS ONLY - OTHER ROUTES SUBJECT TO UTTLE COUNTY RECULLATIONS) Ostion to 1900 hits 1800 in 6500 hits 1800 in 6	oddress: Po Box 1999	******* ** **					Р	hane: 308-69	6-3273	
Origin: walkfold quarry Over Rootes: On to walkfolds of on to huly 190on to huly 200 on to matural Sea access road CTHIS PERMIT VALID ON STATE HICHWAYS ONLY - OTHER ROUTES SUBJECT/YOUTING, COURTY REQULATIONS) G830 to 1900 HRS	HOVEMENT: Oversize THIS APPLICATION IS FOR:		_			Flag Projection	ս □ եթքե	ns □Wi	idelonti Sign	
Over Rosiles: On to welklotes and on to heavy 190on to hwy 200 on to maxima lead access road (THIS PERMIT VALID ON STATE HIGHWAYS ONLY - OTHER ROUTES SUBJECT/TO LITTLE COUGHT REGULATIONS) 0830 to 1500 HRS					Destinat	on: MAUNA F	(EA OBSERV/	ATORY		
(THIS PERMIT VALID ON STATE HIGHWAYS ONLY - OTHER ROUTES SUBJECT/TO LITTLE COURSTY REGULATIONS) 0830 to 1500 HRS			done to busy	200 on to mail						
(THIS PERMIT VALID ON STATE HIGHWAYS ONLY - OTHER ROUTES SUBJECTION OF THE COUNTY REQUILATIONS) 0830 to 1300 Hz 1300 Hz 1200 to 6500 Hz 0200 to 650	Over Routes: on to watkongs in	d bu to hwy	3000 10 1107	200 01 10 11110			. ,			······································
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DATE OF MOVEMENT: 7/17/19-8/17/19 OBJECT OR LOAD Owner: good fellow brothers MAJE Object or load to be moved. 336 excavator BH514 WHT= 82000 L-926° W- 1/3" H= 12' Method of movement: mounted on TRUCK TRACTOR OTHER OTH	,	1,44. 9. 1819*****		AND THE PARTY OF T		***************************************	~(<u>`</u>	ķ		
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ermit No.: 19-H-0552 By HAWAII DISTRICT ENGINEER Exhibits	rmit No.: 13-17-0002					~; .	HAINI	J JI DISTRICT	ENGINEEREX	hibits pag

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man and and Dublic Morton	NO. 56-19-020
Department of Public Works County of Hawai'i	DATE:
Hilo, Hawal'i Phone: (808) 961-8321 Fax: (808) 961-8630	STATE PERMIT NO. 19-14-0552 190552/B
In compliance with Section 291-36, and/or objects exceeding the height, width a Statutes.	Hawall Revised Statutes, permission to move heavy vehicles and length specified in Sections 291-34 and 35, Hawall Revised .
Overall dimensions and weight of loaded ve	hicle:
Height: 13 Feet inches	Length: 73 Feet 7 Inches
Weight: 8200 Lbs.	Width: // Feet3 Inches
Type of Object or Equipment 336	excavator DH514
	a Oung
	of Wailwoon
Over Routes: Onto wear work	
And the comment of the control of th	
madd og i vygga ar gyndolg i hindr nigwaranfoligad gyfail at ar i f y y hindrafyddiaddiadgyr o fy	
Time of Movement: Date 7/17/	114-8/17/19 130 TO 15100
Time: From	130 To 15100
bridges, roads, life and/or property from su	to assume full responsibility for any loss or damages to County ch operation or moving and shall indemnify and hold harmless the yees from any suits or claims. The Police Department shall be ment; also the Police Department's approval shall be obtained prior ill be considered vold.
FIRM PHONE: 882-7911	EIRAN TSIAND TOPSON
FIRM FAX: 696-6330	BY: (Securonic signature accepted)
FIRM EMAIL: Jennifer. Soulan	(Recepting signature accepted) On DS/4011 104507.com
Additional Conditions (for DPW use only): 1) Escorts: Police Private	Front Rear
2) Check Vertical Clearand	æ (vehides over 14'-0" in height)
3) Maintain temporary brid	ge reinforcement at mile post 51, Saddle Road.
	O.e. Confor Director
cc: Applicant Hawai'i Police Dept. (Fax: 961-2228)	
DPW Form 11 Revised 08/04/12 County of Hausei ¹	is an Equal Opportunity Provider and Employer.

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATI

3	OF NEXHE CON	JI TORO FOR OVERSIZE A	NU/OR OVERWEIGHT VE	GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS	ibi
ESCORT REQUIREMENTS	Hullways With 11-FL To 12-FL With Travel Lanse	Punitako St. 1868, 2800 Kiljaina Ave, Tokkomotjana St. MP 0.16 To MP 163	ualijako Št. 17(6, 2006) Koji jaja (4)1, Hg. 1835, 250 Jea Ave, To Komehana St. Kawaijisa Rd. Je Atkon Pule MP 0.16 To MR 1163 Hwy. MR 22015 MR 21, 8	Akoni Pule Hwy. Rojins 270. Ainakea Sijist Rd. (C.Pajoin Yalisy M.P 23.8 J. Hwy. Rojins 270.	South Rong Belt Road Rts: 11 ^H Milosi Rd To Honalo Joi MP 89.0 To MP 173.9
Private Front Escort	12.00' to 13.99'	12.00° to 13.99°	Not Applicable	Not Applicable	Not Applicable
Private Front & Rear Escorts	14.00" to 15.99"	14,00° to 14,99°	9.00° to 11.98′	9.00° to 11.99°	10.00' to 11.99'
Police Front & Private Rear Escorts	16.00' to 16.99'	Not Applicable	12.00° to 13.99°	12.00' to 13.98'	12,00' to 13,99'
Police Front & Rear Escorts	17.00' to 17.99'	15.00' to 15.99'	14.00° to 14.99°	14.00' to 14.99'	14.00' to 14.99'
Notice to Public, Staging Plans and Two Police with One Private Front Escorts *	18.00' to 19.99'	16.00° to 16.99°	15.00° to 15.99°	15.00' to 15.99'	15.00' to 15.99'
Special Approval & Requirements	20.00' and over	17.00' and over	16.00' and over	16,00' and over	16.00° and over

And the second s				
ESCORT REQUIREMENTS	Manjeliù South Point Rd. Rt.11 Honuard To South Point Rd. MP 69.9 To MP 69.6	Keamulu Biblish Koad. Rte, 180 Keamulu Biblish Koad. Rte, 180 Keamulu Biblish Koad. Rte, 180	Kawaihae Road Rts, 19 Welake Bridge to Kawaihae Harbor	Kallua-Kona Urban Area Rus. 19 Honokonau Harbor (MP 97.55)
Private Front Escort	10.0'0 to 10.99'	10.0°C to 10.98°		Special Requirements
Private Front & Rear Escorts	11.0°0 to 11.98°	11.0°0 to 11.99°	12.00' to 12.99'	Greater than 12 (H) wide
Police Front & Private Rear Escorts	12.0'0 to 13.99'	12.0'0 to 13.99'	13.0° to 13.99°	45 OO high OR
				rotoo riigh Cir
Police Front & Rear Escorts	14.0'0 to 14.99'	14.00' to 14.99' Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route 190 *	14.00° to 14.99°	Slower than 10 MPH below posted Speed Limit
Notice to Public, Staging Plans and Two Police with One Private Front Escorts	15.0°0 to 15.99°	15.00° to 15.99° Take Queen Kaahumanu Highway	15.00' to 15.99' Take Route 190 / Waikoba Road	Recommend Night Move (18:00 pm to 5:00 am)
Special Approval & Requirements	18.00° and over	16 07	CINE COLOR MOLINETIES	(Day moves may be approved on a case-
\$		10:00	יטייס פוע ספנו	1

^{*} Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F
TMT Memorandum

ibits page 320

104491	onsible to check overhead clearances along the route.
Permit applicant shall be response	AND HOSTING SCHOOL STREET, STR
Heights up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Kaliua-Kona Urban Area (see page 1)

NOVE UNIVERSES	syanti (actat robves aferar follows
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required.
70.01' To 80.00'	Provide private front escort
80.01' To 100.00'	Provide private front and rear escorts
Over 100.00'	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-toot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

ET NEW JEST 180489 ESSENCE PROJECTE AND TO THE OTHER OFFICE PROJECTIONS ARE ASSIGNOUS.	
PROJECTION LENGTH REQUIREMENT	\$4 0 mpc 3 5500 (Maryland Str.) 5 th 3 cm marks are marked to the Str. (1) cm marked to the street of the street o
4' to 10', less than 7' high Provide private escort at projection	
Greater than 10' Additional requirements as determined by the issuing of	office

TOWNED INCOMESSA TO SEE OF SERVICE TOWNERS OF SERVICE SERVICES FOR THE SERVICE SERVICE SERVICES	Biekarpowe. pelove
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

The state of the s Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- Urban Hilo Area (Wailuku Bridge to Kawailani Street) a.
- Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town) b.

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following

- Pusinako Street (Kancelehua Avenue to Komohana Street)
- Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

Exhibit F^{b.} Exceptions may be allowed in opposite direction of peak traffic flow

MISSEL	
	oves must be approved by the Design Engineer or District Engineer. I requirements are as follows :
a.	Provide police front and rear escorts
b.	Provide full illumination of extremities of load (Flood Lights)
C.	Provide side running lights
Other rec	quirements may be required by the permit issuing office or as required by law

WEIGHT LIMITATIONS:

Weight limitations are subject to review and approval as follows:

PAY CONCATON OF	gruidents.		
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

PAGESTY.				
Bridge Restricitons	2. No stopp 3. No other	speed over struct	ture not to exceed e. dge during crossin its.	n Axle > 60,000 lbs. 5 MPH. ng except passenger vehicles.
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Spacing: Last Tractor Axis to First Trailer Axis or	Combined Weight Trailer Axies	Approval Authority
W ≈ 900(L+40)	65,000 lbs. or less > 65,000 lbs.	28.00-ft. or more < 28.00-ft.	80,000 lbs. or less > 80,000 lbs	Hawaii District Approval Requires Honolulu (HWY-D8) Approval
BRIDGES WITH LESS CAPACITY	MAX. WEIGHT PE Ningle Bridge (M) Hilea Bridge (M) Route 11, past Pai Every overweight (ANY BRIDGE UN) Width and length (ea side of Saddle Ro ER TANDEM = 61,00 MP 56,58) > 67,72) hala permit must go to HV DER CONSTRUCTIONS and addit	Aamaka Niulii Bri Route 27t VY-DB in Honolulu f ON	b Bridge (MP 26.58) dge (MP 27.28) D, past Halauta or approval until further notice. The required depending on detouring repaired or reconstructed.

OTHER REQUIREMENTS:

National Control of Con-

Restrictions and/or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc.

Fee Company

In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahualoa, Waiohinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.)

FEMORITIE

Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking Association shall be informed of these revisions.

Exhibit F

TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each

Exhibit F
TMT Memorandum

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 07/15R)

APPLICATION TO OPERATE OR TRANSPORT OVERSIZE AND/OR OVERWEIGHT VEHICLES AND LOADS **OVER STATE HIGHWAYS**

					Der	le 7/13/19			
Pursuant to Chapter 291 a special permit to authorize the op- or both, which exceed the provision	eretion or mov	rement of a ve	bicle or combin	aidey lo nohac	les or special a	pobile equipme	quests the Dire ent of dimensio	etor of Trans ns or weights.	partation to is including load
ISSUE PERMIT TO:									
Name of owner (or lessee) of vehicle:	Island Toped	oit .			total a specificate com-	na faronaji neg sedilense faranti seba diti s	Fax: 808-	695-5330	
Address: Po Box 1999				· palanza nan	-		Phone 808-85	16-3273	
MOVEMENT Oversize	Overweig	ght 🖾 O	versize and Ove	aweight [Fing Projecti	ons 🏻 Li	ghis 🔲 W	ideload Sign	
THIS APPLICATION IS FOR:	🖾 Single Trip	☐ Cont	inuous Trip	Annual					
ROUTE OF TRAVEL:									
Ozigin: waikoloa quarry			····	Destina	tion: MAUNA	KEA OBSER	VATORY	a and a second at the second s	······································
Over Routes: on to walkolon	rd on to hwy	190 on to hwy	/ 200 on to ma	una kaa ecce	es road				NAME OF BUILDING STATE OF STATE OF
- Tanks		~ ************************************	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,						
Harris Warren (), for interpreted to the edition of a water in grant	and the west of the first of the	er van w	Annual Assetts, Science States						
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water the second					a age a proposition or appropria	-4	<u> </u>		
(THIS PERMIT)	YALID ON ST	ЖНОІН ЭТА	AYS ONLY - C	THER ROUTE	S SUBJECT	ben ka co	Y REGUL	ATIONS)	
□ 0830 to 1500 HRS	🖾 1860 to 0:		□ 0030 to		Дибм	ONEWERC	TURDAY, SU	VDAY, & HO	JDAYS
ATE OF MOVEMENT: 7/17/19-8/1	7/19				i Vigori	and Comme	Napage - said i		
BJECT OR LOAD				det.	n d	North Control			
Owner: Goodfellow brother	TE.			under e	Marine Commence	62-12-	44 walkoloa		
24,111,111,111,111	NAME	era sera società del Pura società il 1988		7		ADUAES	S		
Object or load to be moved:	on Willy Total	blade and an	718 C252	& weight, so	ATTACKMENT	3. ETC	rista se e e	a measure and or	constitution of the contract o
WHT= 109715 L=17'5" V	V= 10'4" H≈	13'4"	A STATE OF THE STA	A State of the Sta	en de Sangabayan pagga et en bis		PRINT OF THE PRINT OF THE PRINT OF THE		
onus.	ed an	2 1 100000	E An	Nation .					
Method of movement; mount		No.	AL VALUE CONTRACT	DUNTED ON, TOW	EO BY, UNDEX O	un power, etc		······	
₽ TRUCK		27 S.M.	PZAILER	a	DOLLY		ε	POLICE ES	CORT
heck which and DTRUCK-TE	RACTOR J	PER FUEL	TRAILER	a	JEEP] PRIVATE E	SCORT
U OTHER	W.	O OTHE	¥:					veralt Dimensi zhiole Includin	
ake: Peterbilt	elite	Aspen				and a suphus superior of the section	··· Width	A	in.
o, of Axlest		**************************************					Length	73 ft	/in,
oss Wt. (lbs.) 85000		189998	بالمقالبة والمتارية			***	_ Height Rear Project		in.
re Wt. (lbs.) 23050	· · · · · · · · · · · · · · · · · · · 	30,000					Length		in,
cense: 542HDY		276HYJ	wantes in propose the sector of		***		Height	t.	in,
In contact with Pavement	FRONT	AXLE 2	AXLE 3	AXLE 4	AXLE 5	AXLE 6	AXLE 7	AXLE 8	AXLE 9
-				9007	5053	5053	5053		
Gross Wt. (lbs.) Empty	10886	8007	9007			25000	25000	A	
With Load	12234	22600	26474	26474	25000	4	4		<u> </u>
No. of Wheels	2	2	4	4	4			14.000	
m/ 01	31522.5	31522.5	31522.5	31522.5	31522.5	31522.5	31522.6		L
Tire Sizes									

See General & Special Conditions to transport oversize and/or overweight vehicles and loads over State Highways included as attachments.

PERMITTEE Jennifer Cardines

MOITA DE

SPECIAL PERMIT

Permission to operate the above-described oversize and/or overweight vehicle and load over the coute on the date and time as when above on the application is hereby the permission to operate the above on the above on the application is hereby the permission to operate the above on the above

LATIIDIU		
TMT-Wemorandum-	The state of the s	Approved:
Permit No.: 19-H-0559		

HAVVAII DISTRICT ENGINEER EXhibits page 324

DIRECTOR OF TRANS

Pennit Fee: \$ 25.00

	<u> </u>
Department of Public Works	NO. 5/6-19-012
County of Hawal'l Hito, Hawai'l	DATE:
Phone: (808) 961-8321 Fax: (808) 961-8630	STATE PERMIT NO. 19055 94XBR
	6, Hawai'i Revised Statutes, permission to move heavy vehicles h and length specified in Sections 291-34 and 35, Hawai'i Revised
Overall dimensions and weight of loaded	vehide:
Height: 13 Feet 4 Inche	
Weight: 109715 Lbs.	Width: 10 Feet 4 Inches
Type of Object or Equipment D10	Doter:
Route of Travel: Origin Wailcold	on Quan
Destination 709	of whitevon Rel.
Over Routes: Onto warl	of whiteson Rd.
er magnetisk og skin ser med klade de skinkelse i er e nagsen ytt op klade 1994 i Mei e ken e	
Time of Movement: Date 7/19-//6	4 - 8/12/19
Time of wlovement. Date IIII Time: Erom	4 — 8/17/19 8:30 — то 16:00
bridges, roads, life and/or property from s	s to assume full responsibility for any lose or damages to County uch operation or moving and shall Indemnify and hold harmiese the
notified of the route and time of each moy	oyees from any suits or claims. <u>The Police Department shall be</u> ement: also the Police Department's approval shall be obtained prior
to such movement, otherwise this permit	
FIRM PHONE: 982-74//	FIRM: TS/and 745011 BY: (Exectionic signature accepted)
FIRM FAX: 646-5330	BY: (Eller of competing competed)
FIRM EMAIL: Schriker, South	alemand 14801, con
Additional Conditions (for DPW use only):	:
1) Escorts: Police Private	Front Rear
	ce (vehicles over 14'-0" in height)
3) Maintain temporary brid	ige reinforcement at mile post 51, Saddie Road.
	A A
	Car C Cor Director
cc; Applicant Hawai'i Police Dept. (Fax: 961-2228)	v
riamai once popul (i ani oo receo)	
DPW Form 11	

County of Hawai'lis an Equal Opportunity Provider and Employer.

Exhibit F TMT Memorandum

s e e

TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL.

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS
GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS

Slower than 10 MPH below posted Speed Limit Recommend Night Move (10:00 pm to 5:00 am) (Day moves may be approved on a case-					
Slower than 10 MPH below posted Speed Limit Recommend Night Move (10:00 pm to	15.00' to 15.99' Take Route 190 / Waikoloa Road And Follow Reguirements	15.00' to 15.99' Take Queen Kaahumanu Highway		15.0°0 to 15.99	Notice to Public, Staging Plans and Two Police with One Private Front Escorts *
	14.00' to 14.99'	14,00° to 14,99° Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route 190 •		14.0'0 to 14.99	Police Front & Rear Escorts
16.00' high OR	13.0° to 13.99°	12.0°0 to 13.99°	.99`	12.0°0 to 13.99	Police Front & Private Rear Escorts
Greater than 12.00' wide,	12.00° to 12.99°	11.0'0 to 11.99'		11.0°0 to 11.99	Private Front & Rear Escorts
Special Requirements	11.00° to 11.99°	10.0'0 to 10.99'		10.0°0 to 10.99	Private Front Escort
Raj lighton (MP 97.55)	Kawaihae Road Rto, 19 Walaka Bridge 15 Kawaihae Harbon MP-59 16 MP 3.4	Mamalahoa / Hawaij Beit Road, Rte. 190 Keamuki Badye to Scanic Lookout MP 13.0 to MP 27.7	**	Naalehu-South Point Rd Rt. Hontapo To South Point Rd MP 6019 ToiMP 695	ESCORTREQUIREMENTS
16.00 and over	16.00° and over	16.00' and over	17.00° and over	20.00' and over	Special Approval & Requirements
15.00° to 15.99°	15.00° to 15.99°	15.00' to 15.99'	16.00' to 16.99'	18.00° to 19.99°	Notice to Public, Staging Plans and Two Police with One Private Front Escorts *
14.00' to 14.99'	14.00° to 14.99°	14.00° to 14.99°	15.00' to 15.99'	17.00" to 17.99"	Police Front & Rear Escorts
12.00' (o 13.99'	12.00° to 13.99°	12.00' to 13.99'	Not Applicable	16.00" to 16.99"	Police Front & Private Rear Escorts
10,00' to 13.99'	9.00' to 11.99'	9.00' to 11.99'	14,00° to 14.99°	14.00' to 15.99'	Private Front & Rear Escorts
Not Applicable	Not Applicable	Not Applicable	12.00' to 13.99'	12.00' to 13.99'	Private Front Escort
South Kong East Road Rts. 415 By Midle Rd. To Honayo, Jc. MP 89.00 To MP 113.9	Akont Pute Hyp. Route 270 Amakes Subd Rd to Polojo Yalley MP 23.8 to MP 28.9	Kojnar al Rd. Rd. 250 Kajalina Rd. Ip Alkini Pule Hwy. MP 2.0 GMP 218	Highways With Puarinako St. Ette. 2000 Kohalar Mill. Rd. 1940 To 12 Ft. Killaues Ave. 16 Komentana St. Kayalinas Rd. IV 1950 To MP 1.63 Hwyt MP 2.0 Id	ALTER OF THE STATE	ESCORT REQUIREMENTS

Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F TMT Memorandum

ots page 327

BENERGE:	posible to check overhead clearances along the route.
Permit applicant shall be resp	onsible to check overhead clearances along the route.
Helghts up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15,00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Kailua-Kona Urban Area (see page 1)

malor supplications and a second seco	grande garden kalvas greves follows:
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70,00'	No escorts required.
70.01' To 80.00'	Provide private front escort
80.01° To 100.00°	Provide private front and rear escorts
Over 100.00°	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

<u>- Pikko Erzili (Pikisa</u> - Pikas Zesa Bilan epitas (partisin sanciza da	mpojections are as follows:
PROJECTION LENGTH	REQUIREMENT
4' to 10', less then 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

PROFESSION CONTROL OF THE CONTROL OF	raucistisva oplovi
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

Permittee may submit a request for the walving of escort requirements if move is less than one (1) mile long on State

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- Urban Hilo Area (Wailuku Bridge to Kawailani Street)
- Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town) b,

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following :

- Puainako Street (Kanoelehua Avenue to Komohana Street)
- Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

ibit F

Weerle		1
Night mo Minimum	ves must be approved by the Design Engineer or District Engineer. requirements are as follows:	
a.	Provide police front and rear escorts	
b.	Provide full Illumination of extremities of load (Flood Lights)	-
Ċ.	Provide side running lights	-
Other req	irements may be required by the permit ssuing office or as required by law	إ

WEIGHT LIMITATIONS:

Weight limitations are subject to review and approval as follows:

ev certero	TU R S:		
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

eecels:				
Bridge Restrictions	2. No stopp	speed over struct	ure not to exceed to e. dge during crossin ts.	Axle > 60,000 lbs. 5 MPH. Ig except passenger vehicles.
MOST BRIDGES	Combined Weight Tractor Rear Axies or	Spacing: Leat Tractor Axle to First Trailer Axle or	Combined Weight Trailer Axies	Approval Authority
W = 900(L+40)	85,000 lbs. or less	28.00-ft. or more	80,000 lbs. or less	Hawaii District Approval
44 - 900(5.40)	> 65,000 lbs.	< 28.00-ft.	> 60,000 lbs	Requires Honolulu (HWY-DB) Approval
BRIDGES WITH LESS CAPACITY	Kamakoa Bridge No. 1 (MP 4.63) Route 190, Waimea side of Saddle Road Jct. MAX. WEIGHT PER TANDEM = 61,000 lbs.			
	Ninole Bridge (M Hilea Bridge (M Route 11, past Pa Every overweight	<u>P 57.72)</u> ihala	Niulii Br Route 27	o Bridge (MP 26.58) idge (MP 27.28) 0, past Halaula for approval until further notice.
	ANY BRIDGE UNDER CONSTRUCTION Width and length restrictions and additional conditions may be required depending on detour road and construction limitations whenever a bridge is being repaired or reconstructed.			
gramman and security of make of Colory Processor and published a month of States of Colors of the Co			pamentantumine and the total of the property o	de la companya de management de la companya de la c

Restrictions and/or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc. In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahualoa, Waiohinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.)

Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking Association shall be informed of these revisions.

Exhibit F

This space for issuing office:		
APPLICATION NO. 190563		
Date Stamp		

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 07/15R)

APPLICATION TO OPERATE OR TRANSPORT OVERSIZE AND/OR OVERWEIGHT VEHICLES AND LOADS **OVER STATE HIGHWAYS** Date 7/3/19 Pursuant to Chapter 291 Section 36, Hawali Revised Statues, as amended, the undersigned permittee hereby requests the Director of Transportation to issue a special permit to authorize the operation or movement of a vehicle or combination of vehicles or special mobile equipment of dimensions or weights, including loads or both, which exceed the provisions of Chapter 291 Section 34 and Section 35, Hawali Revised Statues, as amended. Fax: 808-696-5330 Name of owner (or lessee) of vehicle: Island Topscil Phone: 808-896-3273 Address; Po Box 1999 ☐ Plag Projections 🗆 Lights ☐ Wideload Sign ☑ Cversize and Overweight MOVEMENT: ☐ Overweight THIS APPLICATION IS FOR: Single Trip Continuous Tisp Annua! ROUTE OF TRAVEL: Destination: MAUNA KEA OBSERVATORY Origin: WAIKOLOA QUARRY GBI YARD Over Routes; ON TO WAIKOLOA RD ON TO HWY 190 ON TO HWY 200 ON TO MAUNAKEA ACCESS ROAD (THIS PERMIT VALID ON STATE HIGHWAYS ONLY - OTHER ROUTES SUBJECTED OF MODEMEN STURDAY, SUNDAY, & HOLIDAYS ☐ 1800 to 0500 HRS ☐ 0030 tg 0500 HRS Ø 0810 to 1500 HRS DATE OF MOVEMENT: 7/17/19-8/17/19 OBJECT OR LOAD 62-1244 Walkeles Owner: Goodfellow brothers Object or load to be moved: DT6XL-VPAT DOZER G268 GT AND WEITHIT SIEN ATTACHMENTS, LTG WHT= 47406 L= 16'3" W= 137" H= 10'6" Method of movement: mounted on R MOUNTED ON TOWED BY, UNDER OWN POWER, ETC D DOLLY POLICE ESCORT MMI-75 AILER Z TRUCK Check which and PRIVATE ESCORT EQFINE TRAILER □ JSEP □ TRUCK-TRACTOR supply information Depriner Overall Dimensions of ☐ OTHER Vehicle Including Load ASPEN Make: Peterbilt Width No. of Axles: 4 157202 Height Oross Wt. (lbs.) 85000 Rear Projection: Tare Wt. (ibs.) 23050 License: 542HDY 402MUJ Height AXLE 9 AXLE 6 AXLE 2 AXLE 8 AXLE 2 AXLE 3 AXLE 4 AXLE 5 FRONT In contact with Pavement 4760 4760 8361 10886 6361 8361 Gross Wt. (lbs.) Empty 13253 13253 13253 145472 15472 With Lond 11479 15472 á 4 4 S No. of Wheels 31522.5 31522.5 31522.5 31522.5 Ø1522.5 31522.5 31522.5 Tire Sizes Axle Spacing (ft. & in) The undersigned hereby pertules that the above-described vehicle shall be reduced to the minimum practicable dimension and weight before any movement takes place and that said vehicle shall be moved in compliance with the terms set forth in the Special Permit. Island Topsoil See General & Special Conditions to transport oversize and/or overweight vehicles and loads over State Highways included as attachments. SPECIAL PERMIT Exhibit Exmission to operate the above-described oversize and/or overweight vehicle and load over the route on the date and time as granted, subject, however, to the General Conditions and any Special Provisions stated on the reverse side. Askted above on the application is hereby

TM, Memorandum

Exhibits page 330

Permit Fee: \$ 5.00

Permit No.: 19-H-0553

HAWAII DISTRICT ENGINEER

DIRECTOR OF TRAM

		r=/
Department of Pui County of Flawai'l		NO. 5/6-19-015
Hilo, Hawai'i Phone: (808) 961- Fax: (808) 961-86		DATE: STATE PERMIT NO. 190553
in compile and/or objects exc Statutes.	ance with Section 291-36, seeding the height, width a	Hawai'i Revised Statutes, permission to move heavy vehicles and length specified in Sections 291-34 and 35, Hawai'i Revised
Overall dimension	s and weight of loaded ve	hide:
		Length: 16 Feat 3 Inches
Weight: <u>474</u>		Width: 13 Feet 7 Inches
Type of Object or	Foultoment DT6X	1-VPAT DOZA C218
* *		n augm
110010 01 1101011		of watroson Rd
		Road.
Over Routes:	Oil in the second	Man.
Time of Movemen	it: Date 7/17/19	1 -8117/19
.,,,,,	Time: From	1 -8117/19 11320 To 15:80
The unde bridges, roads, life County of Hawai'i notified of the rout	rsigned applicant agrees to e and/or property from suc- and its officers or employ te and time of each move	to assume full responsibility for any loss or damages to County on operation or moving and shall indemnify and hold harmless the rees from any suits or claims. The Police Department shall be ment; also the Police Department shall be
The under bridges, roads, life County of Hawai's notified of the route such movemen	rsigned applicant agress of and/or property from such and its officers or employ to and time of each move to otherwise this permit with the pe	to assume full responsibility for any loss or damages to County on operation or moving and shall indemnify and hold harmless the rees from any suits or claims. The Police Department shall be ment; also the Police Department shall be obtained prior it be considered void.
The under bridges, roads, life County of Hawai's notified of the route such movemen	rsigned applicant agress of and/or property from such and its officers or employ to and time of each move to otherwise this permit with the pe	to assume full responsibility for any loss or damages to County on operation or moving and shall indemnify and hold harmless the rees from any suits or claims. The Police Department shall be ment; also the Police Department shall be obtained prior it be considered void.
The under bridges, roads, life County of Hawai's notified of the rout to such movement FIRM PHONE:	rsigned applicant agrees to and/or property from such and its officers or employ te and time of each move it, otherwise this permit with 1982-7911	to assume full responsibility for any loss or damages to County on operation or moving and shall indemnify and hold harmless the rees from any suits or claims. The Police Department shall be ment; also the Police Department's approval shall be obtained prior if be considered void. FIRM: TS/and TOFSoil BY:
The under bridges, roads, life County of Hawai's notified of the rout to such movement FIRM PHONE:	rsigned applicant agress of and/or property from such and its officers or employ to and time of each move to otherwise this permit with the pe	to assume full responsibility for any loss or damages to County on operation or moving and shall indemnify and hold harmless the rees from any suits or claims. The Police Department shall be ment; also the Police Department's approval shall be obtained prior if be considered void. FIRM: TS/and TOFSoil BY:
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The under bridges, roads, life County of Hawai's notified of the rout to such movement FIRM PHONE: FIRM FAX: FIRM EMAIL: J Additional Conditional C	rsigned applicant agress to and/or property from such and its officers or employ to and time of each move it, otherwise this permit with 1982-7911 690-6330 Lenn For Sonzo & Points (for DPW use only): with Police Forward	to assume full responsibility for any loss or damages to County on operation or moving and shall indemnify and hold harmless the rees from any suits or claims. The Police Department shall be ment; also the Police Department's approval shall be obtained prior if be considered void. FIRM: TS/and TOPSo'l BY: (Electronic signature accepted) Front Rear
The under bridges, roads, life County of Hawai'i notified of the rout to such movement FIRM PHONE: FIRM FAX: FIRM EMAIL: Additional Conditional Con	rsigned applicant agress to and/or property from such and its officers or employ to and its officers or employ to and time of each move it, otherwise this permit with \$62-7911 \$690-6330 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$1	to assume full responsibility for any loss or damages to County on operation or moving and shall indemnify and hold harmless the rees from any suits or claims. The Police Department shall be ment; also the Police Department's approval shall be obtained prior if be considered void. FIRM: TS/and TOPSo'l BY: (Electronic signature accepted) Front Rear (vehicles over 14'-0' in height)
The under bridges, roads, life County of Hawai'i notified of the rout to such movement FIRM PHONE: FIRM FAX: FIRM EMAIL: Additional Conditional Con	rsigned applicant agress to and/or property from such and its officers or employ to and its officers or employ to and time of each move it, otherwise this permit with \$62-7911 \$690-6330 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$1	to assume full responsibility for any loss or damages to County on operation or moving and shall indemnify and hold harmless the rees from any suits or claims. The Police Department shall be ment; also the Police Department's approval shall be obtained prior if be considered void. FIRM: TS/and TOPSo'l BY: (Electronic signature accepted) Front Rear
The under bridges, roads, life County of Hawai'i notified of the rout to such movement FIRM PHONE: FIRM FAX: FIRM EMAIL: Additional Conditional Con	rsigned applicant agress to and/or property from such and its officers or employ to and its officers or employ to and time of each move it, otherwise this permit with \$62-7911 \$690-6330 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$1	to assume full responsibility for any loss or damages to County on operation or moving and shall indemnify and hold harmless the rees from any suits or claims. The Police Department shall be ment; also the Police Department's approval shall be obtained prior if be considered void. FIRM: TS/and TOPSO') BY: (Electronic signature accepted) Front Rear (vehicles over 14'-0" in height) e reinforcement at mile post 51, Saddle Road.
The under bridges, roads, life County of Hawai'i notified of the rout to such movement FIRM PHONE: FIRM FAX: FIRM EMAIL: Additional Conditional Con	rsigned applicant agress to and/or property from such and its officers or employ to and its officers or employ to and time of each move it, otherwise this permit with \$62-7911 \$690-6330 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$1	to assume full responsibility for any loss or damages to County on operation or moving and shall indemnify and hold harmless the rees from any suits or claims. The Police Department shall be ment; also the Police Department's approval shall be obtained prior if be considered void. FIRM: TS/and TOPSo'l BY: (Electronic signature accepted) Front Rear (vehicles over 14'-0' in height)
The under bridges, roads, life County of Hawai'i notified of the rout to such movement FIRM PHONE: FIRM FAX: FIRM EMAIL: Additional Conditional Con	rsigned applicant agress to and/or property from such and its officers or employ to and its officers or employ to and time of each move it, otherwise this permit with \$62-7911 \$690-6330 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$10000 \$1	to assume full responsibility for any loss or damages to County on operation or moving and shall indemnify and hold harmless the rees from any suits or claims. The Police Department shall be ment; also the Police Department's approval shall be obtained prior if be considered void. FIRM: TS/and TOPSO') BY: (Electronic signature accepted) Front Rear (vehicles over 14'-0" in height) e reinforcement at mile post 51, Saddle Road.
The under bridges, roads, life County of Hawai'i notified of the rout to such movement FIRM PHONE: FIRM FAX: FIRM EMAIL: Additional Conditional Con	rsigned applicant agress to and/or property from such and its officers or employ to and its officers or employ to and time of each move to and time of each move to the time of time of time of the time of ti	to assume full responsibility for any loss or damages to County on operation or moving and shall indemnify and hold harmless the rees from any suits or claims. The Police Department shall be ment; also the Police Department's approval shall be obtained prior if be considered void. FIRM: TS/and TOPSO') BY: (Electronic signature accepted) Front Rear (vehicles over 14'-0" in height) e reinforcement at mile post 51, Saddle Road.

County of Hawai'i is an Equal Opportunity Provider and Employer.

Exhibit F TMT Memorandum

HAWAII DISTRICT OVERSIZE ANDIOR OVERWEIGHT REQUIREMENTS

ESCORT REQUIREMENTS	
Highways With 11-71 To 12-Ft Wide Travel Lanes	GENERAL CON
Pusinako St. Etg. 2000 Kiljausa Ave. To Komojana St. MP 0:16 To MP 163	DITIONS FOR OVERSIZE A
Kohalu ylu, Bar, Bar, 240 Kayalinga Rui Ja-Rughi Pule Haya NiP-240 to NiP-24.8	ND/OR OVERWEIGHT VE
Akoni Pule Hyy, Route 270 Amakea Siliot, Rd. (b. Poloni Yalley MP 23.8 to MP 28.9	HICLES ON STATE HIGHWAYS
South Roya Balt Road Rio. Michigan To Honaro Jet. MP 8 10 MP 113.9	0

Kallus-Kons Urban Area Rts. 19 Honokolisu Harbor (MP 97.55) to Rts. 11 Honalo (MP 113.6)	Kawaihae Road Rte, 18 Waiaka Bridge to Kawaihae Harbor MP 59.1 to MP 3.4	Mamalahoa / Hawall Bell Road, Rte. 199 Keamuku Bridge to Scenic Lookout MP 13.0 to MP 27.7		Naalenu-South Point Rd. Rt.11 Honuapo To South Point Rd. MP 60,8 To MP 68.5	ESCORT REQUIREMENTS
16.00' and over	16.00° and over	16.00' and over	17.00° and over	20.00' and over	Special Approval & Requirements
15.00° to 15.99°	15.00° to 15.99°	15.00' to 15.99'	16.00' to 16.99'	18.60' to 19.99'	Notice to Public, Staging Plans and Two Police with One Private Front Escorts.
14.00° to 14.99°	14.00' to 14.99"	14.00' to 14.98'	15.00' to 15.99'	17.00' to 17.99'	Police Front & Rear Escorts
12.00' to 13.99'	12.00' to 13.89'	12.00° to 13.99°	Not Applicable	16.00' to 16.99'	Police Front & Private Rear Escorts
10.00° to 11.99°	9,00° to 11,99°	9.00' to 11.99'	14.00' to 14.99'	14.00' to 15.89'	Private Front & Rear Escorts
Not Applicable	Not Applicable	Not Applicable	12.00° to 13.98°	12.00' to 13.99'	Private Front Escort

^{*} Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F TMT Memorandum

Exhibits page 332

Posmit applicant shall be reson	insible to chack overhead clearances along the route.
Heights up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Kailua-Kona Urban Area (see page 1)

NAMES OF MEMBERS	Swolloffsq:eigises;gieps:foliows:
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required.
70.01' To 80.00'	Provide private front escort
80.01' To 100.00'	Provide private front and rear escorts
Over 100.00	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

Pucoustrelians. Epicological presidents frumbant accidonal	iligrojections are as follows:
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

TERMINISTER CONTROL SERVICE STREET S	gerstbyvti Delov
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

Permittee may submit a request for the waiving of escort regulrements if move is less than one (1) mile long on State Highway

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- Urben Hilo Area (Wailuku Bridge to Kawailani Street)
- Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town) Ь,

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following :

- Puainako Street (Kanoelehua Avenue to Komohana Street)
- Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

Exceptions may be allowed in opposite direction of peak traffic flow

NEEDY	
Night me Minimum	oves must be approved by the Design Engineer or District Engineer. I requirements are as follows:
a.	Provide police front and rear escorts
b.	Provide full illumination of extremitles of load (Flood Lights)
C.	Provide side running lights
Other req	uirements may be required by the permit issuing office or as required by law

WEIGHT LIMITATIONS:

Weight limitations are subject to review and approval as follows:

PARCEL PROPERTY	NULES:			
SINGLE AXLE	TANDEM AXLE		TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to	90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.		90,000 lb, Rte 11 only	Requires Honolulu (HWY-LS) Approvel

WANDS I				
Bridge Restrictions	2. No stopp 3. No other	speed over struc	ture not to exceed to the control of	n Axie > 60,000 lbs. 5 MPH. Ig except passenger vehicles.
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Specing: Lest Tractor Axis to First Trailer Axis or	Combined Weight Traller Axles	Approval Authority
W = 900(L+40)	65,000 lbs. or less > 65,000 lbs.	28,00-ft. or more < 28,00-ft.	80,000 lbs. or less > 80,000 lbs	Hawaii District Approval Requires Honolulu (HWY-D8) Approval
BRIDGES WITH LESS CAPACITY	MAX. WEIGHT PE Ninole Bridge (M Hilea Bridge (Mf Route 11, past Pal Every overweight p	ea side of Saddle Ro ER TANDEM = 61,0 MP 56,69) P 57,72) hala permit must go to Ho DER CONSTRUCT	Aamaka Niulii Bri Route 270 WY-OB in Honolulu f ION	p. Bridge (MP 26.58) dge (MP 27.28) D, past Halaula for approval until further notice. To be required depending on detouring repaired or reconstructed.

OTHER REQUIREMENTS:

Restrictions and/or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc.

ad template rise

In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahualoa, Waiohlnu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.)

Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking Association shall be informed of these revisions.

Exhibit F

TMT Memorandum

TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require potice escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each

This space for issuing office:
APPLICATION NO.
Date Stamp

Pennit No . 19-H-0555 Permit Fee: \$ 5.00

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 07/15R)

Exhibits page 336

ADDITION TO OPERATE OR TRANSPORT

		OVERS	IZE AN	D/OR O	VERWE STATE	IGHT V		ES AND	LOADS
REF#180454				0.2.		7040			witerMala en. 17 - 18 mm
Pursuant to Chapter 2				44 _ et =ele	ucionad narmi	Has baraby re	nivite the Diere	dar of Transo	ortalion to issue
Pursuant to Chapter 2' a special permit to authorize the c or both, which exceed the provision	anaan kan an mat	ansant of a vel	siere or rombin	ATION OF VERICE	יווו זוורוססס גס ני	omic compace	n of dimension	s or weights. i	neluding lands
ISSUE PERMIT TO	blood Tanas	eff					Fax: 808-6	596-5330	
Hame of owner (or lessee) of vehicl	e: signo iopar	**************************************		,			Phone: 808-89	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	Milder Co. 19 . No commendate Street
Address: Po Box 1999		~ · ·					_	deload Sign	
MOVEMENT: D Oversize	☐ Overwei		ersize and Ove		Flag Projectio	ng □ Lig	ואים מע	ດຣາຄສຕ ວາສີນ	
THIS APPLICATION IS FOR:	☑ Single Trip	Li Conti	inuous Trip	Annual 🗔					
ROUTE OF TRAVEL:					MALINIA S	/CA (1868).	/AT/DDV		
Origin: WAIKOLOA QUA			***************************************		ion MAUNA				
Over Routes: ON TO WAI	KCLOA ROAD	ON TO HWY	190 ON YO H	AY 200 ON TO	MAUNAKEA	ACCESS RC	JAD		
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and state of the s	negotectures of a secretary and the table	aga a Majariya isaga - a - 1989		e gran, australiani i i i i i i i i i i i i i i i i i i	gan in y i deployment was	A STATE OF THE PARTY OF THE PAR	.		
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	T VALID ON ST				S SUBJECT	OUT OF COL	WYY REGULA TURDAY, SUP	ATIONS) (DAY & HOL	IDAY\$
(1) 0830 to 1500 HRS	[] 1800 to 0	500 HRS	☐ 0030 æ	OSOO MKS		15 miles	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		,4,4
DATE OF MOVEMENT: 7/17/18-	8/17/19	سنبیب ، ین							
BJECT OR LOAD				4000		#\$r.			
Owner: good fallow broth	1612			- State of the sta		62-12-	14 Walkoloa		
Object or load to be moved	NAME	k DE233		<i>I.</i> 1). *.				
-			Afficial.	92). S	ATTACHMENT	, साद			
WHT= 72399 L= 35'7"	' W= 11'3" }	!= 12'3"	· -y/}						and printed and the second second second
Method of movement	unted on			Water ou Toy	ED BY, UNDFA O	WN POWER ETC			
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TRUCK		ET WALL	RAILER (RAILER		DOLLY		_] PRIVATE E	
upply information	-TRACTOR	Энта 🔲		·			0	verall Dintensi	ons of
iske Peterbill	***	Aspen	na noo search welderer - P	···				hicle including	g Load 3 in
to of Axles: 4	\$ 44 mar.		popularies and the second				Length	73 ft	7 in.
ross Wc (lbs) 85000		157202					Height	13 n	3 in
are Wt. (lbs.) 23050	V	27200		w. A. (50) - (5) #2 of (5) /s - (-)			Rear Project	ction:	un.
icense: 542HDY		402MUJ		and the second second			Height	R.	m.
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In contact with Pavement	FRONT	AXLE2	AXLE 3	AXLE 4	AXLE 5	AXLE 6	AXLE 7	ANLE 0	AXCC
Gross Wt. (lbs.) Empty	10886	8361	8361	8361	4760	4760	4760		
With Lond	11791	19221	19222	19222	17731	17731	17731		
No. of Wheels	2	2	4	4	4	44	4		district and an income of the control of the contro
Tire Sizes	31522,5	31522.5	31522.5	31522.5	31522.5	31522.5	31522.5		<u> </u>
Axle Spacing (ft. & in.)	- 13	111 4	'6° 4	'9'	5'B*	5'	5'		
Tt d d hamby a	enifier that the nh	nve-described	vehicle shall be	reduced to the	ninimum practí	enote dunensio	n and weight be	fore any mover	nent takes
ace and that said vehicle shall be m	oved in combining	SE WITH THE IEIN	12 26f 30j ili 43j Oj	E Shecisti I ettisi	t.		Island Tops		_
lee General & Special Condi	tions to transp	ort oversize	and/or over	veight			PERMITTEE	Acres	The Sal
chicles and loads over State	righways inc	HUGGU AS BILL			B}:		Jennifer Car	····~ fiff	
			SPECIA	AL PERMI'	F we the cours as	the dose and tim	te as suidal abov	e on the applic	ation is hereby
Termission to operate the anted, subject, however, to the Gen	above-described (eral Conditions ar	oversize and/or nd any Special i	overweight ven Provisions state	g an the texetse	side.	y III III	\//		
T Memorandum				Annoved		OR OF TRAFF	NOTE ATION		

Department of Public Works NO. 574 - 19 - 614
County of Hawai'i
Hilo, Hawai'i DATE: Phone: (808) 961-8321 Fax: (808) 961-8630 STATE PERMIT NO. 780454
In compliance with Section 291-36, Hawai'l Revised Statutes, permission to move heavy vehicles and/or objects exceeding the height, width and length specified in Sections 291-34 and 35, Hawai'l Revised Statutes.
Overall dimensions and weight of loaded vehicle:
Height: 12 Feet 3 Inches Length: 35 Feet 7 Inches
Weight: 72399 Lbs. Width: // Feet 3 inches
Type of Object or Equipment 740 ROCIL TRIEK
Route of Travel: Origin Wullolon Quant
Destination Tofof Wowllaka
Over Routes: UNTO Christon Ad
Time of Movement: Date 7/17/19 -8/13/14
Time of Movement: Date 7/17/19 -8/13/14 Time: From 8/30 To /5:00
The undersigned applicant agrees to assume full responsibility for any loss or damages to County bridges, roads, life and/or property from such operation or moving and shall indemnify and hold harmless to County of Hawai'l and its officers or employees from any suits or claims. The Police Department shall be notified of the route and time of each movement; also the Police Department's approval shall be obtained to such movement, otherwise this permit will be considered void.
FIRM PHONE: 882-7911 FIRM: ISIGNED TOPSOIT
FIRM FAX: 696-6330 BY:
FIRM FAX: 696-6330 BY: (Ellestronic signature accepted) FIRM EMAIL: Jennibr. Sonza Bl. I. Stand 74501 Com
Additional Conditions (for DPW use only): 1) Escorts: Police Front - Rear
2) Check Vertical Clearance (vehicles over 14'-0" in height)
3) Maintain temporary bridge reinforcement at mile post 51, Saddle Road.
Qo Corrector
cc: Applicant Hawai'i Police Dept. (Fax: 951-2228)
Classiff Gross Debt / Gross of Cares

County of Hawai't is an Equal Opportunity Provider and Employer.

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS
GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS

The second secon					
ESCORT REQUIREMENTS	Highways with 11 11 10 12 Fu	Highways With Flamako St. PKG 2000 14-PK To 12-Fb Kusues AVB To Komonana St. 144 Traval Lames MP 0:16 To NP 1:93	Konsas Mr. Hd. Rus 250 Kawajise Rd. lo Akoni Pdie Hwy. MP230 is MP218	Akoni Pute Hey) Roots 2/0 Anakea Subd. Rd. to Poloti Valley MP 23.8 to MP 28.9	South Kona Ball Road Ria 191 May Rd To Honat Ut MP 899
Private Front Escort	12.00' to 13.99'	12.00' to 13.98'	Not Applicable	Not Applicable	Not Applicable
Private Front & Rear Escorts	14.00' to 15.99'	14.00° to 14.99'	9.00° to 11.89°	9.00' to 11.99'	18.00' to 11.99'
Police Front & Private Rear Escorts	16.00' to 16.99'	Not Applicable	12.00' to 13.99'	12.00' to 13.99'	12.00' to 13.99'
Police Front & Rear Escorts	17.00° to 17.89°	15.00' to 15.99'	14.00' to 14.99'	14.00° to 14.99°	14.00' to 14.99'
Notice to Public, Staging Plans and Two Police with One Private Front Escorts	18.00' to 19.99'	16.00' to 16.99'	15.00' to 15.99'	15.00' to 15.99"	15.00' to 15.99'
Special Approval & Requirements	20.00' and over	17.00' and over	16.00' and over	16.00° and over	16.00' and over

by-case basis upon request.)	16.00' and over	16.00' and over	16.00' and over	Special Approval & Requirements
(They moves may be approved on a case-	15.00' to 15.99' Take Route 190 / Waikoka Road And Follow Requirements	15.00' to 15.99' Take Queen Kaahumanu Highway	15.0'0 to 15.99'	Two Police with One Private Front Escorts
Slower than 10 MPH below posted Speed Limit	14.00' to 14.99'	14.00' to 14.99' Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route 190 *	14,0°0 to 14,99°	Police Front & Rear Escorts
16.00' high OR	13.0° to 13.99°	12.0°0 to 13.99°	12.0°0 to 13.99°	Police Front & Private Rear Escorts
Greater than 12.00-wide,	12.00°-to-12.89°	14:000-to-14:99'	11-010-to-11-99	Private Front & Rear Escorts
Special Requirements	11.00' to 11.99'	10.0'0 to 10.99'	10.0°0 to 10.99'	Private Front Escort
Kajiua-Kona Urban Area (25.5) Rte. 19 Honokohan Harbor (MP 97.55) to Rte. 11 Hohalo (MP 113.8)	Waaya Bridge to Kayahas Harbor Waaya Bridge to Kayahas Harbor MP 59/1 to MP 3.44	Maggalahoz J Hawaii Belf Road, Rte. 190 Keamuku Bridge ti Scenic Lookout Nic 13.0 to MP 27.7	Naalehu-South Rollited Rt.11 Kat Hondepo To South Rollited Seri, MR 60:9 To MP 89!5	IREMENTS.

^{*} Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F
TMT Memorandum

ibits page 338

avēre:	
'Permit applicant shall be respo	onsible to check overhead clearances along the route.
Heights up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Kailua-Kona Urban Area (see page 1)

MANUFLYE (MANUFLY) (MANUFLY)	prantfloadetinisyas:enerestollows
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorte required.
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	angual actions ace so follows:
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

TOWNER CONFERNATION OF THE PROPERTY OF THE PRO	Jareshown:Eqlox
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas: Urban Hilo Area (Wailuku Bridge to Kawailani Street) Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town) b. Exceptions may be allowed in opposite direction of peak traffic flow

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- Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

VEXPENSIONS THEY be allowed in opposite direction of peak traffic flow

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Vigiting	nowes oves must be approved by the Design E	ngineer or District Engineer.
Minimum	requirements are as follows :	
a.	Provide police front and rear escorts	
ь.	Provide full illumination of extremities of	load (Flood Lights)
C.	Provide side running lights	
Other req	quirements may be required by the permit is	suing office or as required by law

WEIGHT LIMITATIONS:

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DAIGNES .				
Bridge Restricitons	2. No stopp 3. No other	speed over struct	ure not to exceed to e. dge during crossin ts.	ı Axle > 60,000 ibs. 5 MPH. ıg except passenger vehicles.
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Spacing: Last Tractor Axie to First Trailer Axie or	Combined Weight Traller Axles	Approval Authority
W ≈ 900(L+40)	65,000 lbs. or less	28.00-ft. or more	80,000 lbs. or less	Hawaii District Approval
*** ** \$00(2**(5)	> 65,000 lbs.	< 28.00-ft.	> 80,000 lbs	Requires Hondulu (HWY-DB) Approval
BRIDGES WITH LESS CAPACITY	MAX. WEIGHT PE Ninole Bridge (M Hilea Bridge (M) Route 11, past Pa Every overweight ANY BRIDGE UN	PER TANDEM = 61,00 AP 56,58) P 57,72) hata permit must go to HV DER CONSTRUCTION	Aamaka Niulii Bri Route 270 VY-DB in Henolulu I ON	o Bridge (MP 26,58) dge (MP 27,28) 0, past Halavia for approval until further notice. y be required depending on detouring repaired or reconstructed.

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Exhibit F

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FOR ALL MOVES

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NOTIFICATION:

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This space for issuing office:			
APPLICATION NO. 190566			

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 07/15R)

APPLICATION TO OPERATE OR TRANSPORT

		OVERS	AZID MIN	OVE	R STATI	E HIGH	WAYS	2011112	LOADS
					Dat	e 7/3/19	managan managan sa		
Pursuant to Chapter 2 a special permit to sutherize the or both, which exceed the provisi							quests the Dire at of Ulmensio	celor of Transp os or weights, i	ortation to iss poluding load
ISSUE PERMIT TO:	Inland Toppe	λít.					Fax: 808	-696-5330	
Name of owner (or lessee) of vehic	le: Island Tops				The second second		Phone: 608-6	······	. , , , , , , , , , , , , , , , , , , ,
Address: Po Box 1999				_	Flag Projectio			idelaad Sign	
MOVEMENT: D Oversize	☐ Overwei,		rersize and Ove muous Trip	rweight ∟ □ Annua!	T Liss Lighterin	1005 - C16	şia w n	ingipas digi	
THIS APPLICATION IS FOR: ROUTE OF TRAVEL:	E Single Trip	רקון ניין ניין	moom 11th	- Allinear					
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Over Routes: ON TO WAR									
Over Routes: Of 10 444	ROLONTIOND			41				Principal Management	***************************************
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DATE OF MOVEMENT: 7/17/19-	8/17/19				__\				
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Owner; good fellow broth	nere Name	======			-	62-12-	44 Waikoloa		
Object or load to be moved		k DE238						e	
			51	FAS WEIGHT. SY	ATTACHMENT	3. ETC			
			Spannet B.	Mount					
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Method of movement: mo Method of movement: Mo TRUCK Check which and Upoly information	unted on	22 CO (1)	PANLER TRAILER		DOLLY	WN POWER, ETC	(Vidih	D PRIVATE E Overnil Dimension Tehiole Including 11 0.	SCORT ons of Logar in.
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	E1, 16 - 017
Department of Public Works County of Hawai'i	NO. 5/6-19-017
Hilo, Hawai'i	DATE:
Phone: (808) 961-8321 Fax: (808) 961-8630	STATE PERMIT NO. 19-4-0655 1905.56
	6, Hawal'i Revised Statutes, permission to move heavy vehicles and length specified in Sections 291-34 and 35, Hawai'i Revised
Overall dimensions and weight of loaded	
Height: 12 Feet 3 Inche	s Length: $\frac{73}{1}$ Feet $\frac{7}{1}$ Inches
Weight: 72399 Lbs.	Width: 11 Feet 3 inches
Type of Object or Equipment 740	BOOK THUK DE238
Route of Travel: Origin Locallola	Query.
Destination 700	of waithora
Over Routes: ONTO waille	na Raud.
galan magar kul dalan - () - hayadaga galan ayalan dalah kalan sa a sa kala ka ka k	to a section of the s
#P/Mphilips // majaray yaqqaqa arayadasa itsi baqaabasa sidaaba // yaqaasa //	
Time of Movement: Date 7/17	119 - Blogher
Time: From \mathcal{L}	119 - Blogling 3130 ym To 151000m
bridges, roads, life and/or property from a	s to assume full responsibility for any loss or damages to County uch operation or moving and shall indemnify and hold harmless the oyees from any suits or claims. The Police Department shall be rement; also the Police Department's approval shall be obtained prior will be considered vold.
	FIRM: ISUARD TOPSON
FIRM FAX: 696-5330 FIRM EMAIL: Junnifor, South	(\$\frac{1}{2}\sum_{\text{Solition}}\text{Conn}
Additional Conditions (for DPW use only) 1) Escorts: Police	<u> </u>
2) 🔲 Check Vertical Clearan	ce (vehicles over 14'-0" in height)
 Maintain temporary brid 	i ge reinforcement at mile post 51, Saddle Road.
	0.0
	for Director
cc: Applicant Hawai'i Police Dept. (Fex: 961-2228)	
DPW Form 11 Revised 06/04/12 County of Hewai!	ils an Equal Opportunity Provider and Employer.

TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS

by-case basis upon request.)	16.00' and over b	16.00° and over	**	16.00' and over	Special Approval & Requirements
5:00 am) (Day moves may be approved on a case-	15.00 to 15.99 5 Take Route 190 / Walkoloa Road And Follow Reguliements * (15.00' to 15.99' Take Queen Kaahumanu Highway	?s Take Quee	15.0°0 to 15.99°	Notice to Public, Staging Plans and Two Police with One Private Front Escorts *
Slower than 10 MPH below posted Speed Limit Recommend Night Maye (10:00 pm to		14.00' to 14.99' Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route 190 *	14 Take Queen Ka With One Priva	14.0°0 to 14.99'	Police Front & Rear Escorts
16.00' high OR	13.0° to 13.99°	12,0'0 to 13.99'	12	12.0'0 to 13.99'	Police Front & Private Rear Escorts
Greater than 12.00' wide,	12.00' to 12,99'	11.0'0 to 11.88'	11	11.0'0 to 11.89'	Private Front & Rear Escorts
Special Requirements	11,00° to 11.99°	10.0'0 to 10.99'		10.0°0 to 10.99'	Private Front Escort
Kajius Kojija Urban Area Rte 19 Honskollau Harbor (NP 97.55) to Rts: 11 Honsko (MP 113.8)	Kawainae Rood Rts, 18 Walaka Bridge D Kawainae Harbor NP 59 1 to NP 34	Mamalahoa / Hawall, Belt Road. Rts. 190 Keamuku Bridge to Scenic Lookout MENBO to MF 27:7	2 2 1 1	Naaleitu-South Point Rd. Rt. Hönuago To South Point Rd MP 69:9 To MP 69:5	ESCORT REQUIREMENTS
TOO THE COOK	10.00 and over	10,000 disa Gveti	17.00 and over	10.50 also care	about About a southern and a south
16 00° and over	45 Of and Over	40 OO' and awar	47 00° and 000°	20 OD' and over	Special Approval & Requirements
15.00' to 15.99'	15.00° to 15.99°	15.00° to 15.99°	16.00' to 16.99'	18.00' to 19.99'	Notice to Public, Staging Plans and Two Police with One Private Front Escorts *
14.00' to 14.99'	14.00° to 14.99°	14.00° to 14.99°	15.00' to 15.99'	17.00° to 17.99°	Police Front & Rear Escorts
12.00' to 13.89'	12.00' to 13.99'	12.00' to 13.99'	Not Applicable	16.00' to 16.99'	Police Front & Private Rear Escorts
10.00' to 11.99'	9.00° to 11.99°	9.00° to 11.98°	14.00 to 14.99'	14.00' to 15.99'	Private Front & Rear Escorts
Not Applicable	Not Applicable	Not Applicable	12.00' to 13.99'	12.00' to 13.99'	Private Front Escort
South Konn Best Road Rts. 15 Mildli Rd. 14 Honab Jot. MP 89.8 To MP 1339	Alkoni Pute Hwy, Route 270 Amakea Suxt, Rd. to Polofu Valley MP 23.8 to MP 28.9	Kohala Mr. Rdi Rhi 250 Kakalise Ru. Io Alon Pile Hwy. MP2.0 to MP 24.8	Pusitako St. Rts. 2000 Kitaba Ave, To Komensia St. MP 0:18 To MP 1,63	Highways With 11-PC To 12-PL KA Wilde Travel Lanes	ESCORT REQUIREMENTS

[&]quot; Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F TMT Memorandum

bits page 345

The second secon					
Permit applicant shall be response	onsible to check overhead clearances along the route.				
Heights up to 14.00'	Follow other requirements				
Heights 14.01' to 15.00'	Permit Required				
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.				
Heights 16.00 and greater	See special requirements within Kallua-Kona Urban Area (see page 1)				

(ACCUPACION SOLUTION	Evolici va ej geoverni in projekti di projekti po je p
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required.
70,01' To 80.00'	Provide private front escort
80.01' To 100.00'	Provide private front and rear escorts
Over 100.00 ^t	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

PROVINCE PRISE PROVINCE IN SECURITION OF THE PROVINCE TO	gilprojections areas follows:
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

Bok strawn below
ESCORT REQUIREMENTS
See Special Requirements within Kailua-Kona Urban Area (see page 1)
Provide police front and rear escorts
Special approval and additional requirements as determined by the issuing office

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- Urban Hilo Area (Wailuku Bridge to Kawailani Street)
- Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Konai Urban Area (see page 1)

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following :

- Puainako Street (Kancelehua Avenue to Komohana Street)
 - Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

Exceptions may be allowed in opposite direction of peak traffic flow

NIGHT	e <mark>ves</mark> 10 Maria 10 ma
Night mo Minimum	oves must be approved by the Design Engineer or District Engineer. I requirements are as follows:
a.	Provide police front and rear escorts
b.	Provide full Illumination of extremitles of load (Flood Lights)
C.	Provide side running lights
Other rec	quirements may be required by the permit issuing office or as required by law

WEIGHT LIMITATIONS:

Weight limitations are subject to review and approval as follows:

•		1	MANAGE TO THE PROPERTY OF THE
NAME AND STREET	9 <u>0(111</u> 55) ;		
Control of the second s	acceptance of the second secon		APPROVAL AUTHORITY
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITI
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

BELITERE 2:	Single Axle > 42,	.000 lbs. or	Tandem or Tridem	Axle > 60,000 lbs.	
Bridge Restricitons	1. Maximum speed over structure not to exceed 5 MPH. 2. No stopping on the structure. 3. No other vehicles on the bridge during crossing except passenger vehicles. 4. Provide front and rear escorts.				
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Spacing: Lest Tractor Axis to First Trailer Axis or	Combined Weight Trailer Axles	Approval Authority	
	65,000 lbs. or less	28,00-ft, or more	80,000 lbs. or less	Hawaii District Approval	
W = 900(L+40)	> 65,000 lbs.	< 28.00-fL	> 80,000 lbs	Requires Honolulu (HWY-DB) Approva	
BRIDGES WITH LESS CAPACITY	MAX. WEIGHT PI	es side of Søddle Ro ER TANDEM = 61,00 MP 56,58) P 57,72) ihala permit must go to HV DER CONSTRUCTIONS and additions	Aamaka Nitulii Bri Route 27 VY-DB in Honolulu i	o Bridge (MP 26,58) dge (MP 27,28) 0, past Halaula for approval until further notice. y be required depending on detour	

OTHER REQUIREMENTS: Restrictions and/or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc. Productions In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahualoa, Waiohinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.) Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking Association shall be informed of these revisions.

This space for issuing	office.
APPLICATION NO.	190583
. Date S	tamp

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 07/ISR)

APPLICATION TO OPERATE OR TRANSPORT OVERSIZE AND/OR OVERWEIGHT VEHICLES AND LOADS **OVER STATE HIGHWAYS**

					Dai	e 7/11/19	, garage congression		
Pursuant to Chapter 2 a special permit to authorize the or both, which exceed the provision	mare Has as mo	ve m entale ve	hicic ar combii	antian at veluc	ies or special a	լոննեն գոլուհու	equests the Dir ext of dimension	vetor of Trans, ons or weights,	portation to is including loss
ISSUE PERMIT TO.							E 909	000 E290	
Name of owner (or lessee) of vehicl	e; Island Tops	oil						1-696-5330	*****
Address: Po Box 1999	· war raytered Diffe						Phone: 808-8	96-3273	
MOVEMENT: Oversize	Overwe	ω _β ht 12 ⁷ Ο	ovO bes stletov	nveight [J Flag Projection	ons 🚨 Li	ghis 🗆 V	Videland Sign	
THIS APPLICATION IS FOR:	Single Tri	p 🛘 Comi	inuous Trip	Annus!					
ROUTE OF TRAVEL:						WEA ODEED	VA:EOOV		
Origis: walkolos Quany (ition. MAUNA				
Over Routes: ON TO WAI	KOLOA ROAD	ON TO HWY	180 ON TO H	WY 200 ON T	O MAUNAKE	A ACCESS R	OAD		
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response i mario non el troche con el comologia con el considera			br - Navi Barerania						
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	T VALID ON ST				es subjector	CHASE CO	LYGY REGUL	.ATIONS) INDAY, & HO	IDAVS
☐ 0830 to 1500 HRS	□ 1800 to €	SOU HRS	☐ 0630 to	0500 875	Light M	O'Notation 2	(100001,30	JADAT, & NO	MDA 10
DATE OF MOVEMENT: 7/17/19	17/19			·····		5.8 m -			
OBJECT OR LOAD				HICK.		All Control			
Owner: Goodfellow broth	918		.,			62-12 ADORES	44 Weikoloa		
Object or load to be moved	NAME TELESTACK	TC-421 K21	8	N N	À				
					ATTACHMENT	S. ETC			
WATT≃ 27800 L= 50 '	Λ⁄= 9′1" H≈ 9′	9"	-4-}	- Wasser					***************************************
Method of movement: mor	Intod on		ASTURNATION AND	ACOTED OU TO	VED BY LINDER O	WN POWER, EYC			··
) ************************************			,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		m water re	COPT
TRUCK Check which and		782. 1	MAILER	_] POFFA			☐ POLICE ES ☑ PRIVATE S	
supply information TRUCK	TRACTOR	Jaout Jarra Shtoti⊡	TRAILER		Jebr		[Overall Dimens	ions of
Make: Peterbilt	197	S ZSPEN					- Width	Vehicle Includin	g Load I in
Vo. of Axles: 4	(1000			- managar professorish salasinin			Length	73 A.	7in.
Dross Wt. (Ibs.) 85000		157202		**************************************			Height	a, v -	gy in.
Fare Wt. (lbs.) 23050		27200					Rear Proj		
License: 542HDY		402MUJ			ng ng galangan dyangan gab 18 (h. h. h. 17) d		Length	9' fr	яп. 18 in.
		,,	,	1		1		. 321 45 17	
In contact with Pavement	FRONT	AXLE 2	AXLE 3	AXLE 4	AXLE 5	AXLE 6	AXLE 7	AXLE 8	AXLE 9
Gross Wt. (lbs.) Empty	10886	8361	8361	8361	4760	4760	4760		
With Load	11234	12531	12531	12531	9741	9741	9741		
No. of Wheels	2	2	4	4	4	4	4		1
Tire Sizes	31522.5	31522,5	31522.5	31522.5	31522.5	31522.5	31522.5	<u> </u>	<u></u>
Axle Spacing (ft. & in.)	··· 13	11 4	G" 4'	9" 35	5'8"	5'	5'		
)	- 1				

Exhibit Permission to operate the above-described oversize and/or overweight vehicle and load over the route on the date and time as suffed above on the application is hereby subject, however, to the General Conditions and any Special Provisions stated on the reverse side.

FMT Memorandum	 engages als empressive constitutions	Approved:
Permit No.: 19-H-0583		

See General & Special Conditions to transport oversize and/or overweight

vehicles and loads over State Highways included as attachments.

Permit Fee: \$ 5.00

DIRECTOR OF TRANSPORTATION

Exhibits page 348 HAWAII DISTRICT ENGINEER

TILE

Island Topsoil

Jennifer Cardines

PENNITTEE

man	
Department of Public Works No. 576-19-019	AND THE STREET
County of Hawai's DATE:	
Phone: (808) 961-8321 Fax: (808) 961-8630 STATE PERMIT NO	
In compliance with Section 291-36, Hawai'i Revised Statutes, permission to move heavy vehi and/or objects exceeding the height, width and length specified in Sections 291-34 and 35, Hawai'l Rostatutes.	cles vised
Overall dimensions and weight of loaded vehicle:	
Height: 9 Feet 9 Inches Weight: 27800 Lbs. Length: 50 Feet	
Type of Object or Equipment Telle Steel 70:401	
Route of Travel: Origin Warillolan Queny	
Destination Top of war Twee Road	
and the second	
Over Routes: OVIV GONIACION (1884)	
Time of Movement: Date 7/17/19 - 7/18/19	
Time of Movement: Date 7/17/19 - 7/18/19 Time: From 8530 To 15:00	
The undersioned applicant agrees to assume full responsibility for any loss or damages to Co	งขกโง
bridges, roads, life and/or property from such operation or moving and shall indemnify and hold harm County of Hawai'i and its officers or employees from any suits or claims. The Police Department shall	less the
notified of the route and time of each movement; also the Police Department's approval shall be obtained.	rong beni
to such movement, otherwise this permit will be considered void.	
FIRM PHONE: 882-79// FIRM: ISIGNA TEXTSON	
FIRM FAX: 696-6330 BY: (Electronic signature accepted)	
FIRM EMAIL: Jannier South OLTSmal TOKEN Com	
Additional Conditions (for DPW use only):	
1) Escorts: Police Front Private Reer	
 Check Vertical Clearance (vehicles over 14'-0" in height) 	
 Maintain temporary bridge reinforcement at mile post 51, Saddle Road. 	
5) [] Walitzait (emporary b) logo restrict content as this poor on, occasio restrict	
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TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each move.

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS

Police Front & Private Rear Escorts

12.00' to 13.99' 14.00' to 15.99' 16.00' to 16.99'

> 12.00' to 13.99' 14.00' to 14.98'

Not Applicable

Not Applicable 9.00" to 11.98" 12.00" to 13.99"

Not Applicable 9.00' to 11.99' 12.00' to 13.99'

10.00' to 11.99'

Private Front & Rear Escorts

Private Front Escort

ESCORT REQUIREMENTS

Pusinsko St. Rtg. 2000. Kilausa Ave. To Komodana St. MP 0.16 To MP 1.63

Akani Pule Hyy, Route 270.
Alnakea Subd. Rd. to Pololo Valley
MP 23.8 to MP 28.9

by-case basis upon request.)	16.00' and over	16.00' and over	16.00' and over	Special Approval & Requirements
5:00 am) (Day moves may be approved on a case-	Take Route 190 / Walkoloa Road And Follow Requirements	15.00' to 15.30' Take Queen Kaahumanu Highway	15.0°0 to 15.98°	Notice to Public, Staging Plans and Two Police with One Private Front Escorts. "
Slower than 10 MPH below posted Speed Limit Recommend Night Move (10:00 pm to	and the state of t	14.00' to 14.99' Take Queen Kashumanu Hwy., Two Police With One Privata Front Esconts For Route 190 *	14.900 to 14.99°	Police Front & Rear Escorts
16.00' hìgh OR	13.9° to 13.99°	12.0°0 to 13.99′	12.0'0 to 13.89'	Police Front & Private Rear Escorts
Greater than 12,00' wide.	12.00' to 12.99'	11,0'0 to 11.99'	11.0'0 to 11.99'	Private Front & Rear Escorts
Special Requirements	31.00° to 11.99°	10.0'0 to 10.99	10.0'0 to 10.99'	Private Front Escort
Kawaijijas Road Rts. 19 Kajija Kona Urban Area Vyajaka Bridge to Kajwajhae Harbor Rts. 19 Honekohau Harbor (MP 97.55). MP:59:1 to MP 3.4 To Rts: 11 Honelo (MP 113.5)	Kawalijae Road Rts, 19 Walaka Bridge to Kawalijae Hatbor MP 59 1 lo MP 3.4	Mamajahos / Hawaii Belf Road, Ris 190 Keantus Bridge to Scantic Lockout Mo 13.0 to MP 27.7	Naatehu-South Point Rd. Rt.11 Hovelapo To South Point Rd. MP.60.9 To MP.69.5	ESCORT REQUIREMENTS
16,00° and over	18.00' and over	17 (ii) and over (6,00) and over	20.00' and over 17 00':	Special Approval & Requirements
15.00° to 15.99°	15.00° to 15.99°	16.00° to 15.99° 15.00° to 15.98°	18.00° to 19.95° 16.00° t	Notice to Public, Staging Plans and Two Police with One Private Front Escorts
14,00' to 14,99'	14.00' to 14.99'	2 (5.99° 14.00° to 14.99°	17.00' to 17.99' 15.00' to 15.98'	Police Front & Rear Escorts

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Exhibit F TMT Memorandum Sputh Rona Bell Road Rús. 15k Mildir Rd. To Honah Jct. MF 89.9 Not Apr."

HETETO'S				
Permit applicant shalt be responsible to check overhead clearances along the route.				
Heights up to 14.00'	Follow other requirements			
Heights 14.01' to 15.00'	Permit Required			
Heights over 15.00' Check Overpasses and Utility Crossings. May require special conditions.				
Heights 16.00 and greater See special requirements within Kailua-Kona Urban Area (see page 1)				

wick respect opens Respective colores of longer stop	skarininadari nivias areses follows
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70,00'	No escorts required,
70.01' To 80.00'	Provide private front escort
80.01' To 100.00'	Provide private front and rear escorts
Over 100.00'	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

Progression of the section of the se	Bif projectiona/arezno/follows
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

resource published the production of the second sec	espenificator beliefut
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

Mary and an arministration

Permittee may submit a request for the walving of excort requirements if move is less than one (1) mile long on State Highway

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to

5:00 p.m., unless otherwise noted, for the following areas:

- Urban Hilo Area (Wailuku Bridge to Kawailani Street)
- Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town) b.

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following :

- Puainako Street (Kanoelehua Avenue to Komohana Street)
 - Route 139 (Old Keesau-Pahoa Road, Kesau Town Section)

Exceptions may be allowed in opposite direction of peak traffic flow

NIGHTN	riogresa	
Night me Minimum	oves must be approved by the Design E requirements are as follows :	ngineer or District Engineer.
а.	Provide police front and rear escorts	
b.	Provide full Illumination of extremities of	load (Flood Lights)
C.	Provide side running lights	
Other rec	quirements may be required by the permit is	ssuing office or as required by law

WEIGHT LIMITATIONS:

Weight limitations are subject to review and approval as follows:

CHANGING DU ISTINUA	ariges,		
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

	Single Axle > 42,			Axie > 60,000 lbs.
Bridge Restrictions	2. No stopp 3. No other	speed over structure ing on the structure vehicles on the brid ront and rear escort	ige during crossins.	s MPH. g except passenger vehicles.
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Spacing: Last Tractor Axie to First Trailer Axie or	Combined Weight Trailer Axles	Approval Authority
	65,000 lbs. or less	28.00-ft. or more	80,000 lbs. or less	Hawall District Approval
W = 900(L+40)	> 85,000 fbs.	< 28.00-R.	> 80,000 lbs	Requires Honolulu (HWY-DB) Approve
BRIDGES WITH LESS CAPACITY	MAX. WEIGHT PORTION OF THE PROPERTY OVERWEIGHT IN ANY BRIDGE UN	P 57.72) hala permit must go to HV	Asmaka Niulii Bri Route 27 VY-DB in Honolulu	o Bridge (MP 26.58) dge (MP 27.28) 0, past Halaula for approval until further notice. y be required depending on detour

OTHER REQUIREMENTS:

Restrictions and/or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc.

In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawalhae Road, Alaualoa, Waighinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.)

Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking

Association shall be informed of these revisions.

Exhibit F

TMT Memorandum

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This space for issuing office:
APPLICATION NO.
Date Stamp

Pennit No : 19-H-0574

Permit Fec. \$ 25.00

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C - 07/15R)

Exhibits page 354

HAWAII DISTRICT ENGINEER

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ref # 180209XBR Pursuant to Chapter 25 # special permit to authorize the o or both, which exceed the provision	nacedon ac mo	vament of a va	difele ar combi	nation of vehic	lersigned perm les or anecial n	ittee hereby n	equeses the Dir	ector of Trans	nartation to issu
ISSUE PERMIT TO: Name of owner (or leasee) of vehicle	Island Top:	saíl					Fax: 808	-896-5330	
			on the comme	ment mesors rates . c.		,. ,e. *,	Phone: 808-8	96-3273	
Address Po Box 1999	——————————————————————————————————————			_	I Flag Projecti	ous 🗆 L		ideload Sign	1000 Tales 112
MOVEMENT: Oversize	☐ Overwe	_	wersize and Ovi	Erweight u	T Limit Lindert	MS (2)	1811G C 1	idayay oigii	
THIS APPLICATION IS FOR: ROUTE OF TRAVEL:	Single Tri	р ш сеп	tinugus Trip	D Ammai					
	NTS				MALINA	KEA OBSER	VATORY		
Origin: waikoloa Querry C						(101000)		·····	
Over Routes: on to welkale	ne road on to h	wy 190 on to	hwy 200 on lo	meunakea ac	cess road		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	····	
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☐ 0830 to 1300 HRS	🖾 1800 tg (0500 RRS	□ 6030 to	0000 HK3	ц _г ж, м	Ozenemen (S)	× - OKOK 1. 30	HDX (, it no	LIDA 13
DATE OF MOVEMENT: 7/17/19-8	/17/19						, adoption is the second in th		****
OBJECT OR LOAD				400	V				
Owner: good fellow broth	ərs		ده د سامه مودسا بند در در و را رد ر			62-12 ADDRC	44 Walkoloa		***************************************
Object or load to be moved:	NAME	IRO JAW CON	NE X219		} #)	ADDRC	33		
Object or load to be moved:		The state of the state of	3		L ATTACTOMENT	s, e7c			manderfor and Subscribe of termination
WHT=144000 L=68' V	V=10'6 H=1	4.5	//\	No.				mpph resident and the second	
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Make: Paterbill		HUNDE					V	chicle Includin	ugo.) g
	Page .	- XV		net in Court of Thomas			Width Length	74 fl	7 in i
No. of Axles: 4							Heighi	14 ft.	2 in.
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Tare Wt. (lbs.) 23050	· Affirmania		ermana e sella demokrative tre de la	The section of the se			Length		in.
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in contact with Pavement	FRONT	AXLE 2	AXLE I	AXLE4	AXLE 5	AXLE 6	AXLE 7	AXLE 8	AXLE 9
Gross Wt. (lbs.) Empry	10886	9007	9007	9007	0	0	0	9	
With Load	12870	20801	38826	38826	17646	17646	17646	17648	
No. of Wheels	2	2	4	4	4	4	4	4	
	31522,5	31522.5	31522.5	31522,5	31522.5	31522.5	31522.5	31522,5	
Tire Sizes	·			L	L		5'	5	
Axle Spacing (ft. & in.)	- 13'								
The undersigned hereby certagon and that said vehicle shall be mov	efies that the ab	ove-described v se with the term	rehicle shall be s set forth in the	reduced to the o e Special Permi	ninimum practio L	cable dimensio			ient urkes
See General & Special Condition				veight	A CASE DAMAGNA METERS	····	island Tops		P.14/12
vehicles and loads over State H	ighways inci	luded as atta	chments.		Ву:		Jannifer Cer	dines	Melle
			SPECIA	L PERMIT	•		1		
hibit Fermission to operate the ab- runted; subject, however, to the Gener	ove-described o	versize and/or o d any Soecial P	rerweight vehi	icle and load ov I on the reverse	er the route on t side	he date and tim	ne as stiffed abov	e on the applic	ation is hereby
IT Memorandum				Anproved:		R OF TRAMS	. 1 \ 11		

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Department of Public Works No. 5/6-19-023	
County of Harwai'i	
Phone: (808) 961-8321 171/35 V P R	
Fax: (808) 961-8630 STATE PERMIT NO. 10100 AUTO	
In compliance with Section 291-36, Hawai'i Revised Statutes, permission to move heavy vehicle and/or objects exceeding the height, width and length specified in Sections 291-34 and 35, Hawai'i Revisatives.	les deed
Overall dimensions and weight of loaded vehicle:	
Height: 4 Feet 2 Inches Length: 58 Feet Inches	
Weight: 144000 Lbs. Width: 10 Feet 6 Inches	
Type of Object or Equipment Thunderbird Jaiv Cone K219	
Sincipola a Award	***************************************
Top of Wallated David	
sola 1.10.1000 Rom	
Over Routes: (ATTI) MALEVIVU 1700	
A	
Time of Movement: Date 7 17 19 8 17 19	
Time: From 8:30 To 1500	
The undersigned applicant agrees to assume full responsibility for any loss or damages to Coubridges, roads, life and/or property from such operation or moving and shall indemnify and hold harmle County of Hawai'i and its officers or employees from any suits or claims. The Police Department shall be notified of the route and time of each movement, elso the Police Department's approval shall be obtain to such movement, otherwise this permit will be considered void. FIRM PHONE: 883.7911 FIRM: 5100 100011	155 ino 196
FIRM FAX: 696-5330 BY: 528-50-50	
FIRM EMAIL: Oprothy Souza @ Istardtopsoil Com (Electronic signature accepted)	
Additional Conditions, (for DPW use only): 1) Escorts: Police Front Private Rear	
2) Check Vertical Clearance (vehicles over 14'-0" in height)	
 Maintain temporary bridge reinforcement at mile post 51, Saddle Road. 	
tor Olrector	***************************************
co: Applicant Hawai'i Police Dept. (Fax: 961-2228)	
OPN Form 11	
กลห่องข่างสงยน County of Hawai'l is an Equal Opportunity Provider and Employer.	

Exhibit F
TMT Memorandum

TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each move

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS
GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS

ESCORT REQUIREMENTS	Highways With 11-Ft. To 12-Ft. Widelfravoll-ance	Puairiako St. Rig. 2900 Kliausa Ave. To komonaria St. MP 0.16 To MP 1/63	Kohaja Mh. Rd. Rte. 250 Kawajinae Rd. to ARdii Pilie Hwy. MP 2.0 to MP 21.8	Yalley Yalley	South Rons Balt Road Rto. 11X Milosi Rd. To Honalo Jot. MP 89.0 To MP 113.9
Private Front Escort	12.00' to 13.99'	12.00' to 13.99'	Not Applicable	Not Applicable	Not Applicable
Driveto Rouse & Close Manager & Comment	16 00° to 15 00°	14 no to 14 99.	9.00' to 11.99'	9.00' to 11.99'	10,00 6 11,99
Filedia Control	11.05 \$ 10.00			The second secon	
Police Front & Private Rear Escorts	16.00° to 16.99°	Not Applicable	12.00' to 13.99'	12.00' to 13.99'	32.00 to 13.98
Police Front & Rear Escorts	17.00' to 17.99'	15.00° to 15.99°	14.00° to (4.99°	14.00° to 14.99°	14,00° to 14,99°
Notice to Public, Staging Plans and Two Police with One Private Front	18.90° to 19.99°	76.00° to 15.99°	15.00° to 15.99°	15.00° to 15.99°	15.00' to 15.99'
Special Approval & Requirements	20.00° and over	17.00° and over	16.00' and over	\$5,00° and over	16,00° and over

Oh-1996 Good and and and and and and and and and an	15,00" and over	16.00' and over	16,00' and over	Special Approval & Requirements
(Day moves may be approved on a case-	Take Route 190 / Waikoloa Road And Follow Requirements *	15.00' to 15.99' Take Queen Kaahumanu Highway	15.0°0 to 15.99°	Notice to Public, Staging Plans and Two Police with One Private Front Escorts
Slower than 10 MPH below posted Speed Limit Recommend Night Move (10:00 pm to	14.00' to 14.93'	14.00' to 14.99' Take Queen Kaahumanu Hwy. Two Police With One Private Front Escorts For Route 190 *	{4.0'0 to 14.99'	Police Frant & Rear Escorts
16.00° high OR	13.0° to 13.99°	12.000 to 12.99'	12.0°0 to 13.99'	Police Front & Private Rear Escorts
Greater than 12.00' wide.	12.00° to 12.99°	11.0'0 to 11.98'	11.0°0 to {1.99°	Private Front & Rear Escorts
Special Requirements	11.00° to 11.99°	10.000 to 10.99	10,9'0 to 10,99'	Private Front Escort
Kaljua-Kona Urban Area Rte. 19 Honokohau Harbor (MP 97.55) to Rtib 411 Honalo (MP 113.8)	Kawaihae Road Rte, 19 Waiaka Bridge to Kawaihae Harbor MP 59,1 to MP 3,4	Mamalahoa / Hawaii Belt Road. Rte. 190 Keamuku Bridgejto Scenic Lookout MP 13.0 to MP277	Nealehu-South Point Rd. Rt.11 Historia To South Point Rd. MP 60.9 To MP 69.5	ESCORT REQUIREMENTS
The second secon				

Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F TMT Memorandun

ib<mark>i</mark>ts page 357

rate (
Permit applicant shall be respondent	onsible to check overhead clearances along the route.
Heights up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Kailua-Kona Urban Area (see page 1)

LOAD LENGTHS ESCORT REQUIREMENTS Up To 70.00' No escorts required. 70.01' To 80.00' Provide private front escort 80.01' To 100.00' Provide private front and rear escorts Over 100.00' Provide police front and rear escorts. May require special conditions.	MOVEMBREETS	Topadd/logifed moxes: ejecum/olicus.
70,01' To 80.00' Provide private front escort 80.01' To 100.00' Provide private front and rear escorts	LOAD LENGTHS	ESCORT REQUIREMENTS
80.01' To 100.00' Provide private front and rear escorts	Up To 70.00'	No escorts required.
	70.01' To 80.00'	Provide private front escort
Over 100.00' Provide police front and rear escorts. May require special conditions.	80.01' To 100.00'	
	Over 100.00'	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

FACTORIONS	skritolections/are as/fallows:
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

TO STATE OF THE ST	/argisplaxia/deldve:
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kallua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special epproval and additional requirements as determined by the issuing office

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- Urban Hilo Area (Wailuku Bridge to Kawailani Street)
- Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town) b.

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following :

- Puainako Street (Kanoelehua Avenue to Komohana Street)
- Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

Exceptions may be allowed in opposite direction of peak traffic flow

NO. TE	OVE	77600491
Night mo	oves must be approved by the Design E requirements are as follows :	ngineer or District Engineer.
a.	Provide police front and rear escorts	And the second s
b.	Provide full illumination of extremities of	load (Flood Lights)
c.	Provide side running lights	The second secon
Other red	uirements may be required by the permit i	ssuing office or as required by law

Weight limitations are subject to review and approval as follows:

			The state of the s
parenears ac	YILLESS 1		
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 b. Rte 11 on	y Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 tb. Rte 11 onl	y Requires Honolulu (HWY-LS) Approval

	aran ar			MARCONIC SCHOOL	
	Single Axie > 42		Tandem or Tridem		
Bridge Restrictions	 No stopping on the structure. No other vehicles on the bridge during crossing except passenger vehicles. Provide front and rear escorts. 				
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Spacing: Last Tractor Axle to First Trailer Axle or	Combined Weight Trailer Axles	Approval Authority	
	65,000 lbs. or less	28,00-ft, or more	80,000 lbs. or less	Hawali District Approval	
W = 900(L+40)	> 65,000 lbs.	< 28.00-fl.	> 80,000 lbs	Requires Honolulu (HWY-DB) Approva	
	Route 190, Walm	No. 1 (MP 4.63) ea side of Saddle Ro ER TANDEM = 61,00 MP 56.58)	00 lbs. Aamaka	o Bridge (MP 26.58)	
BRIDGES WITH LESS CAPACITY	Hilea Bridge (MP 57.72) Route 11, past Pahala Every overweight permit must go to HWY-DB in Honolulu for approval until further notice.				
	ANY BRIDGE UNDER CONSTRUCTION Width and length restrictions and additional conditions may be required depending on detour road and construction limitations whenever a bridge is being repaired or reconstructed.				

OTHER REQUIREMENTS:

Restrictions and/or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc.

In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahualoa, Waiohinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.)

Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking Association shall be informed of these revisions.

Exhibit F

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This space for issuing office:	
APPLICATION NO	. garage and a second

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 07/ISR)

ADDITION TO OPERATE OR TRANSPORT

				D/OR O OVE		IGHT V	EHICL.		LOADS
ref# 180526X 8 R					Date	7/3/19	a semina an	······································	
Pursuant to Chapter 2 a special permit to authorize the or both, which exceed the provisi	onezation or mov	vernent of a ye	hiele or combi	nation of yehici	ies o <i>r s</i> pecial m	opue equipme	quests the Dire at of dimension	etor of Transf 1st or weights, i	ortetion to issu iscluding loads
ISSUE PERMIT TO							East ADE	696 -5330	
Name of owner (or lessee) of vahio	le: Island Tops			···					
Address. Pa Box 1899	4 of 141554 markets/mm		gan egistekeren i kara a egir " e e	property and the state of the s			_		· · · · · · · · · · · · · · · · · · ·
MOVEMENT. Oversize	□ Overwei		versize and Ove		Flag Projection	ouz 🗖 feE	µhts ∟ W	ideload Sign	
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Over Rones: on to walke	os road on to hy	vy 190 ол to I	wy 200 on to	maunaken sc	ess road				
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· · page and · · · · · · · · · · · · · · · · · · ·		···	arangan ber asaran		~ n essens			* ***** ** ** ************************	
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DBJECT OR LOAD				dice.		A.S.			
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Object or load to be moved		K227					*****	ar war -,	(4.5 ph A. 1 ph. P. 1 ph. Malandage or major m
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apply information OTHER	al.	Цютне						ienamii Ilmovi	
laker Peterbilt	K Do.	urone cru	sher	(1.84.04.04.1.1.1.	**************************************	and an analysis of the second	Width	President and the second	in.
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are Wt. (libs.) 2005()		123,000		name to the polarisms	atant afa besse e e e e e e e e e e e e e e e e e	en which is a management a	Longili	**************************************	is.
ioanse: 542HCY	and an an an analysis and an analysis and an						- Height	A	in.
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With Load	12581	2	4	4	4	4	d	d	
No. of Wheels	31522.5	31522.5	31522.5	31522.5	11/24.5	11/24.5	11/24.5	11/24.5	
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			SPECU	AL PERMIT			1	//	
Permy ssion to operate the could be be to the Gene	have described or	versize and/or	overweight ven	icle and load ov	er the route oo f side.	he date and trm	e as sin f id abov	e on the applica	itien is hereby
	am Conditions w	и зиу эрсени г	Monthly Miles						
/Toldemorandum	•			Anarayed:		R OF TRANS			

TMT:Memorandum Permit No. 19-1-0560

Sennit Pee: \$ 25.00

HAWAII DISTRICT ENGINEER EXHIBITS PAge 360

Department of Public Works NO. 576-19-011
County of Hawai'i Hilo, Hawai'i DATE:
Phone: (808) 961-8321 Fax: (808) 961-8630 STATE PERMIT NO
In compliance with Section 291-36, Hawai'i Revised Statutes, permission to move heavy vehicles and/or objects exceeding the height, width and length specified in Sections 291-34 and 35, Hawai'i Revised Statutes.
Overall dimensions and weight of loaded vehicle:
Height: 12 Feet Inches Langth: 55 Feet Inches
Weight 12300 Lbs. Width: 10 Feet Inches
Type of Object or Equipment Conc Crashar, K227
Route of Travel: Origin Wailcolon Quany
Destination TUP of walkda Rd
Over Routes: On N Wailloon Rd.
Time of Movement Date 7/17/19 -8/17/19
Time of Movement Date $\frac{7}{17}\frac{19}{9} = \frac{8}{17}\frac{19}{9}$ To $\frac{15}{15}\frac$
The undersigned applicant agrees to assume full responsibility for any loss or damages to County
bridges, roads, life and/or property from such operation or moving and shall indemnify and hold hamiless the
County of Hawai' and its officers or employees from any suits or claims. The Police Department shall be notified of the route and time of each movement; also the Police Department's approval shall be obtained prior
to such movement, otherwise this permit will be considered void.
FIRM PHONE: 382-1911 FIRM: ISland TOPSOIT
FIRM FAX: 696-5330 BY: (Electronic signature accepted)
FIRM EMAIL: Junitar - Soute Of Island Tipstail. com
Additional Conditions (for DPW use only):
1) Escorts: Police Front Private Rear
Check Vertical Clearance (vehicles over 14'-0" in height)
 Maintain temporary bridge reinforcement at mile post 51, Saddle Road.
^ ^ ^
Oa. C. for Director
cc: Applicant Hewal't Police Dept. (Fax: 961-2228)
DPW Form 11
Revised 06/04/12 County of Hawai'i is an Equal Opportunity Provider and Employer.

1100

SPECIAL CONDITIONS:

TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS

GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS

by-case basis upon request.)	16,00' and over by	6.00° and over	n e artesteretteinin	16,00° and over	Special Approval & Requirements
5:00 am) (Day moves may be approved on a case-	15.00' to 15.99' Take Route 190 / Walkoloa Road And Follow Requirements (D	15.00' to 15.99' Take Queen Kaahumanu Highway		15.0°0 to 15.99	Notice to Public, Staging Plans and Two Police with One Private Front Escorts
Slower than 10 MPH below posted Speed Limit Recommend Night Move (10:00 pm to	14,00° to 14,99° Lir	14.00' to 14.99' Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route 190 *		14.0°0 to 14.98°	Police Front & Rear Escorts
16.00' high OR	13.0' to 13.99'	12.0'0 to 13.99'		12.0°0 to 13.99°	Police Front & Private Rear Escorts
Greater than 12.00-wide,		11:0'040-14:99'	da armen ser	11:0'0-to 11:99	Private Front & Rear Escorts
Special Requirements	**********	10.0'0 to 10.99'		10.0°0 to 10.99	Private Front Escort
Kajua Koja Urban Area 19 Torgkohau Harbor (MP 97.56) 10 Rys. 11. Honalo (MP 113.8)	Kawaihae Roads Rte, 193 / / Walaka Bridge to Kayaihae Harbor o R 13 MP 36 11 to MP 3.4	Wamalahoa / Hawaii Bet Road, Rte. 180 Keamuku Brode no Scaliic Lookout Mezil 3 010 MP 27.7	7. Rd. 11	Nanenu-South Bolitt Rd Honuspo To South Bolitt Honuspo To South Bolitt Honuspo To Nove Bass	ESCORT REQUIREMENTS
16.00' and over	16.00° and over	16.00' and over	17.00' and over	20.00' and over	Special Approval & Requirements
15.00° to 15.98°	15.00° to 15.99°	15.00' to 15.99'	16.00° to 16.99°	16.00' to 19.99'	Notice to Public, Staging Plans and Two Police with One Private Front Escorts
14.00° to 14.99'	14.00° to 14.99'	14.00° to 14.99°	15.00° to 15.99'	17.00" to 17.99"	Police Front & Rear Escorts
12.00' to 13.99'	12.00' to 13.99'	12.00' to 13.99'	Not Applicable	16.00" to 16.99"	Police Front & Private Rear Escorts
10.00' to 11.99'	9.00° to 11.99′	9,00' to 11.99'	14.00' to 14.99'	14.00° to 15.99°	Private Front & Rear Escorts
Not Applicable	Not Applicable	Not Applicable	12.00' to 13.99'	12.00' to 13.99'	Private Front Escort
South Kong Ball Read Rt Wildlind To Mp 113.9	Akoni Pule Hyyy Route 270 Amakea Subo Roi () Rojoju Valley MF 23 & to MD2869	Kohais M. Rd, Rts. 280 Kawahas Rd, Ib Akon Pule Hwy, MP220 to MP218	Puainako St. Ree 2000 Kajausa Ave. To Komorjana St. 333 MP 0.16 To MP 1.63	Highways With N. For To 12-Fe Wide Travel Daylos	ESCORT REQUIREMENTS
its page 363	EHICLES ON STATE HIGHWAYS	HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQ	GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT REQ	GENERAL COND	

[&]quot; Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Redio Communications (escorts and permit vehicles).

Exhibit F TMT Memorandum r 10/1:

arsar.	
Permit applicant shall be resp	onsible to check overhead clearances along the route.
Heights up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16,00 and greater	See special requirements within Kallua-Kona Urban Area (see page 1)

Medical States Execution (even) to find to	Versit from the purious abstrate to thoses:
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required.
70.01′ To 80.00′	Provide private front escort
80.01' To 100.00'	Provide private front and rear escorts
Over 100,00'	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide paverment traveled ways only. Requirements for Highways with narrow lanes are determined by Issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

ARCONCETTORS: General demands to the sent encounter	arprojections are sub-follows.
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

The second secon	sagers Bo War Optower
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office
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areasone en avent.

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

PER MONEDURA

Oversized and overweight vehicles movements are restricted from the hours of 8:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- a. Urban Hilo Area (Wailuku Bridge to Kawailani Street)
- b. Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

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Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following :

- a. Puainako Street (Kanoelehua Avenue to Komohana Street)
- =xhibit ▶ Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)
- TM Extentions may be allowed in opposite direction of peak traffic flow

HUSE		
Night mo Minimum	ves must be approved by the Design Engineer or District Engineer. equirements are as follows :	
8,	Provide police front and rear escorts	
b.	Provide full illumination of extremities of load (Flood Lights)	
C.	Provide side running lights	
Other rec	irements may be required by the permit issuing office or as required by law	

Weight limitations are subject to review and approval as follows:

yaveyteettemat	Transco)		
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

	Single Axie > 42,			Axie > 60,000 lbs.		
Bridge Restricitons	1. Maximum speed over structure not to exceed 5 MPH. 2. No stopping on the structure. 3. No other vehicles on the bridge during crossing except passenger vehicles. 4. Provide front and rear escorts.					
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Spacing: Last Tractor Axle to First Trailer Axle or	Combined Weight Trailer Axles	Approval Authority		
M - 000// (40)	65,000 lbs. or less	28,00-ft. or more	80,000 lbs. or less	Hawaii District Approvat		
W = 900(L+40)	> 65,000 lbs.	< 28.00-ft.	> 80,000 lbs	Requires Honolulu (HWY-DB) Approva		
BRIDGES WITH LESS CAPACITY	MAX. WEIGHT PI	ea side of Saddle Ro ER TANDEM = 61,00 MP 56:58) P 57:72) hala permit must go to HV DER CONSTRUCTIONS Restrictions and additions	Aamaka Niulii Bri Route 27 VY-DB in Honolulu i ON	o Bridge (MP 26.58) dge (MP 27.28) 0, past Halaula for approval until further notice. y be required depending on detouring repaired or reconstructed.		

Restrictions and/or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc. Possible In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahualoa, Waiohinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.) Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking Association shall be informed of these revisions.

Exhibit I

This space for issuing office:
APPLICATION NO. 190557
Date Stamp
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State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 07/15R)

APPLICATION TO OPERATE OR TRANSPORT

		OVERS	SIZE AIN			E HIGH			LOADS
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Pursuant to Chapter 2 a special permit to authorize the or both, which exceed the provision	91 Section 36. F operation or mo	lawnil Revised ovement of a vo 191 Section 34	Statues, as am thicle or combi- and Section 3:	sended, the one instign of yells 5. Hassaii Revis	lersigaed pern	nittee heroby ro nobile equipme			
ISSUE PERMIT TO:	4,2, 0, 0,12,11								
Name of owner (or leases) of vehic	ie: Island Tops	soil					Fax: 808-	-696-533B	
Address: Po Box 1999							Phone: 808-89	96-3273	
MOVEMENT: Oversize	Overwe	ight ⊠ O	versize and Ov	erweight [Flag Projecti	ions 🗆 Li	ghts 🗀 w	fideload Sign	
THIS APPLICATION IS FOR:	20 Single Tri	ір 🏻 Солі	tinuous Trip	☐ Annual					
ROLITE OF TRAVEL:									
Origin: WAIKOLOA QUA	RRY GBI YAR	0		Destina	ation: MAUNA	KEA OBSER	VATORY		
Over Routes: ON TO WAI	KOLOA RD O	1 TO HWY 190	ON TO HW	Y 200 ON TO	MAUNAKEA A	CCESS ROAD	3		
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Gross Wt. (lbs.) Empty	10886	8361	5361	8361	4760				·····
		18312	18312	18312	16643	16646	16645		
With Load	11715			-					
With Load	2	2	4	4	4	4	1		
			31522.5	31522.6	31522.5	31622.5	31522.5		*********
No. of Wheels Tire Sizes	2	31522.5	31522.5	31522.6	31522.5		31522.5		
No. of Wheels Tire Sizes Axle Spacing (ft. & in.) The undersigned beenly see	2 31522.5 13'	2 31522.5 11' 4'	31522.5 6* - 4	31522.5	31522.5	31622.5	31522.5		ont takes
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No. of Wheels Tire Sizes Axle Spacing (ft. & in.) The undersigned hereby core and that said vehicle shall be mo ac General & Spacial Conditions and loads over State F	31522.5 13' tifies that the aboved in compliant ons to transp lighways inc.	31522.5 11' 4' ove-described vew with the term ort oversize studed as attached as attache	31522.5 6 4 rehicle shoil be a set both in the and/or overvichments. \$PBC1/	31522.5 '9' - 36 reduced to the re Special Pointiveight	31522.5 "B" "B" "B" "B" "B" "B" "B" "	31622.5	31522.5 3 and weight bei Island Topse Seamtree Janeifer Care	fines	IIN
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Department of Public Works County of Hawai'l Hilo, Hawai'i Phone: (808) 961-8321 Fax: (808) 981-8630	NO. 576-19-016 DATE: STATE PERMIT NO. 19-14-0567 Hewai'i Revised Statutes, permission to move heavy vehicles
and/or objects exceeding the height, width Statutes.	and length specified in Sections 291-34 and 35, Hawai'i Revised
Weight: 66 337 Lbs.	Length: 73 Feet 7 inches Width: 11 Feet 7 inches
Type of Object or Equipment 980	Loader 1188 County
Route of Travel: Origin Walkage	- Qwng
	of waikalon Rd.
Over Routes: CNTO Lycu'llodo	~ Road
4-4-5-4-6-4-6-4-6-4-6-4-6-4-6-4-6-4-6-4-	
Time of Movement: Date 7/17	119 - \$117/19 8130 Am To 15:00 Pm
The undersigned applicant agrees bridges, roads, life and/or property from su	s to assume full responsibility for any loss or damages to County uch operation or moving and shall Indemnify and hold harmless the oyees from any suits or dalms. The Police Department shall be ement; also the Police Department's approval shall be obtained prior
FIRM PHONE: 881-7911	FIRM: ISland TCPSoil
FIRM FAX: 696-5330	BY: (Sectionic signature accepted)
FIRM EMAIL: Junifor, Sonfor at	Estant 18750'i Con
Additional Conditions (for DPW use only): 1) Escorts:	: Front Rear
2) Check Vertical Clearand	ce (vehicles over 14'-0' in height)
3) Maintain temporary brid	ige reinforcement at mile post 51, Saddle Road.
	Oa Cor Director
cc: Applicant Hewel'i Police Dept. (Fax: 961-2228)	
DPW Form 11 Revised 06/04/12 County of Hawal'i	is an Equal Opportunity Provider and Employer.

SPECIAL CONDITIONS:

TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each

Exhibit F TMT Memorandum

Exhibits page 368

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS
GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS

by-case basis upon request.)	16.00' and over b	16.00' and over	over	16.00' and over	Special Approval & Requirements
5:00 am) 5:00 am)	15.00' to 15.99' Take Route 190 / Waikoloa Road And Follow Requirements *	15,00' to 15,99' Take Queen Kaahumanu Highway		15.0°0 to 15.99	Notice to Public, Staging Plans and Two Police with One Private Front Escorts *
Slower than 10 MPH below posted Speed Limit Recommend Night Move (10:00 pm to	14.00° to 14.99° Li	14.00' to 14.99' Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route 190 *		14.0°0 to 14.99	Police Front & Rear Escorts
16.00' high OR	13.0° to 13.99′	12.0'0 to 13.99'		12.0°0 to 13.99	Police Front & Private Rear Escorts
Greater than 12:00 wide,	12.00° to 12.99° Gi	11.0'0 to 11.99'		14:0'0:to-14:99	Private Front & Rear Escorts
Special Requirements	11.00' to 11.99'	10.0'0 to 10.99'		10,0'0 to 10,99	Private Front Escon
Kailua Kona Urban Area (1945) the 19 Honokohau Harbox (MP 97.55): 16 Rts. 11 Honalo (MP 113.8)	Kawailiae Road Rts 19-03 Walaka Bridgello Kawailiae Harbor R	Mamalahoa i Hāwaji Beli Road, Rtto 1901 Keamuku Bridge to Scanic Roatout NP. 13:010 MP 27.7	Rt.11 (Rd.	Nanienu-South)Point Rd. Rt. Schloniaso I d Somm Point Rd. MP 6018 To MP 6815	ESCORT REGUIREMENTS
16.00° and over	16.00' and over	16.00° and over	17.00' and over	20.00' and over	Special Approval & Requirements
15.00' to 15.99'	15.00' to 15.99'	15.00' to 15.99'	16.00' to 16.99'	18.00' to 19.99'	Notice to Public, Staging Plans and Two Police with One Private Front Escorts
14.00° to 14.99°	14.00' to 14.99'	14,00' to 14,99'	15.00° to 15.99°	17.00' to 17.89'	Police Front & Rear Escorts
12.00° to 13.99°	12.00' to 13.99'	12.00' to 13.99'	Not Applicable	16.00' to 16.89'	Police Front & Private Rear Escorts
10.00' to 11.99'	9.00° to 11.99°	9.00° to 11.99°	14.00° to 14.99°	14.00' to 15.99'	Private Front & Rear Escorts
Not Applicable	Not Applicable	Not Applicable	12.00' to 13.99'	12.00' to 13.99'	Private Front Escort
South Kona Bell Road Rto. 18 Milblir RG To Honak Jc. MP 890 No. 10 MP 113.9	Akoni Puje Hwy. Rojus 270 Amaksa Subd. Rd. (b. Poloid Yalley MP 23.8 to MP 28.9	Kohala Mt. Rd. Rds. 220. Kawalida Rd. fo Avoni Pule Hwy. MP 2.0 to MP 21.6	Pusinako St., Ria, 2000 Kilausa Ave, To Komprana St. MP 0 18 To MP 1.63	Highways With 11-Ft To 12-Ft Wide Travel Lanes	ESCORT REQUIREMENTS

^{*} Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F TMT Memorandum

AT Memorandum

its page 369

Manage	
Permit applicant shall be responded	onsible to check overhead clearances along the route.
Heights up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Keilua-Kona Urban Area (see page 1)

A CAN ENGINEER (TOTAL)	ilgraphi ligates rigivas ejeserfollosus
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required;
70.01' To 80.00'	Provide private front escort
80,01' To 100.00'	Provide private front and rear escorts
Over 100,00'	Provide police front and rear escorts, May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

eneghen (elest) Genomen general (elest)	ripielections are as follows:
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
	Additional requirements as determined by the issuing office

Eli Kakalan profesionali Profesionali Salan Salan Salan Salan Salan Profesionali Salan Sal	seeran para dela vi
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

O) TO PARTICIPATE OF THE STATE OF THE STATE

Permittee may submit a request for the walving of escort requirements if move is less than one (1) mile long on State Highway

GENELENUES»

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- a. Urban Hilo Area (Wailuku Bridge to Kawailani Street)
- b. Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

araiteri kiraterita unders

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on Wednesdays, for the following:

- a. Puainako Street (Kanoelehua Avenue to Komohana Street)
- Exhibit F Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

TM TEXCHOLOR MAN BE Allowed in opposite direction of peak traffic flow

(NIOHT)	COVES oves must be approved by the Design	Findinger of District Engineer.
Minimum	requirements are as follows:	
8.	Provide police front and rear escorts	
b.	Provide full Illumination of extremities	of load (Flood Lights)
C.	Provide side running lights	
Other red	quirements may be required by the permi	issuing office or as required by law

Weight limitations are subject to review and approval as follows:

PROVENEST STRUCT	nu ne ny		
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

ebitogen .		Berthelmannen		
Bridge Restrictions	2. No stopp 3. No other	n speed over structi ing on the structure vehicles on the brid ront and rear escor	ure not to exceed ! e. Ige during crossin ts.	Axie > 60,000 lbs. 5 MPH. Ig except passenger vehicles.
MOST BRIDGES	Combined Weight Tractor Rear Axies or	Spacing: Last Tractor Axle to First Trailer Axle or	Combined Weight Traller Axles	Approval Authority
	65,000 lbs. or less	28.00-ft. or more	80,000 lbs. or less	Hawali District Approval
W = 900(L+40)	> 65,000 lbs.	< 28.00-ft.	edi 000,08 <	Requires Honolulu (HWY-DB) Approval
BRIDGES WITH LESS CAPACITY	MAX. WEIGHT Pi	ea side of Saddle Rose ER TANDEM = 61,00 MP 56,58) P 57,721 inala permit must go to HV DER CONSTRUCTION PERMITS AND ADDITION PER	Aamaka Niulii Bri Route 27 VY-DB In Honolulu I ON Ional conditions ma	o Bridge (MP 26.58) dge (MP 27.28) O, past Halaula for approval until further notice. y be required depending on detouring repaired or reconstructed.

Control of the control of these revisions. Control of these revisions and or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc. In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawalhae Road, Ahualoa, Waiohinu, Kohala Mountain Road, Kuekini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.) Provisions described above are subject to change at any time and on a case by case basis. The Hawall Trucking Association shall be informed of these revisions.

This space for issuing office
APPLICATION NO.
Dota Stome

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 07/15R)

, Date Stemp	-								
								ANSPOR	
	Ì	OVER	SIZE AP					LES AND	LOADS
				OVE	R STAT	E HIGH	WAYS		
REF# 180509					Ds	rie <u>7/3/</u> 19	namental annual (Miles Steppe)	M 17	
Pursuant to Chapter 2 a special permit to authorize the or both, which exceed the provisi	overation or me	vement of a v	enicle or comb	ination of vehi	cies or special i	nobile equipm	equests the Di ent of dimens	irector of Trans ions or weights,	portation to issu including loads
ISSUE PERMIT TO:									
Name of owner (or lessee) of vehic	le: Island Tops	ioil	and are the second that the	, , , , , , , , , , , , , , , , , , , ,				8-696-5330	
Address: Po Sox 1999	*************			gita na na anakanarangangan manawaran			Phone: 808-	896-3273	
MOVEMENT: Oversize	Overwe	ight 🖬 C)versize and Ov	erweight l	☐ Flag Projecti	ions 🛭 L	ighis 🗆	Wideload Sign	
THIS APPLICATION IS FOR: ROUTE OF TRAVEL:	Single Tri	p 🖸 Can	(іпионя Ттір	☐ Annual					
Origin: WAIKOLOA QUA	RRY GBI YAR	D		Destin	ation. MAUNA	KEA OBSER	VATORY		
Over Routes on to walko			hwy 200 on to	maunakea ac	cess road			•	
OASI Iduales					54 three	and to seem of the death of the seems	**************************************	on the state of th	court can , true abole sectorities
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	The delication of the second o	~ ****			and the second	- <u>A</u>	<u> </u>		ber i der
(THIS PERMI	T VALID ON S	rate Highw	AYS ONLY - (OTHER ROUT					
☐ 0830 to 1500 HRS	1800 to	0500 HRS	D 0030 (c	0500 HRS	Q (A) M	OWMFROM	TURDAY, S	UNDAY, & HOL	.IOAYS
DATE OF MOVEMENT: 7/17/19	8/17/19		· · · · · · · · · · · · · · · · · · ·		()()		4 mm = 2 4 6 4 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		
OBJECT OR LOAD				• મ ે					
Owner: Goodfellow broth	егз						44 Waikoloa		
	NAME	AL 10470		1		ADURE	\$\$		
Object or load to be moved	CONTROL	4N CP110	.cools	A & WEIGHT, S	ATTACHNENT	इ. हार		at a to company of the	
WHT= 30000 L= 45'2"	W= 4' H= 1	2'		and the second	and a second section	· was a superior probability			. The section of the section of
Method of movement: mor	inted on					· · ·		· · · · · · · · · · · · · · · · · · ·	
	~		ME PUPILITY E M	101,70 Gatyano	YED BY, UNDER O	wn power etc			
Check which and		102.4	HAILER] OOLLY			D POLICE ES	
upply information TRUCK-	TRACTOR	, FUY (LETT) FOR NOVEL	trailer 6] JEEP			Overall Dimension	
Make: Peterbilit	M.	CONTRO	Triba maria				1	Vehicle Including	Load
to, of Axles: 4	Contract of the second						··· Width Length _	<u>ა</u> ი. 73 გ	7 in
Grass Wt. (lhs.) 85000		Marie,					Height	12 n	in
are Wt. (lbs.) 23050		30,000					Rent Proj	ection:	
icensa: 542HDY							Length		in.
	no di contracto del colo di secolo d		·				Height _		, Al.
In contact with Payement	FRONT	AXLE 2	AXLE3	AXLE 4	AXLES	AXLE 6	AXLE 7	AXLE 8	AXLE 9
Gross Wt. (lbs.) Emply	10886	4054	4055	4055	0	0	0		
With Load	11261	8553	8554	8554	5376	5376	5376		
No. of Wheels	2	2	4	4	4	4	4	ref# 780509	
Tire Sizes	31522.5	31522.5	31522.5	31522,5	31522.5	31522.5	31522.5	<u> </u>	
Axle Spacing (fl. & in.)	13'	11" 4"	6" 4'	'9" 35	'8" 5	3°	5'		
The undersigned hereby cer ace and that said vehicle shall be mo	tifies that the aboved in compliance	ove-described to e with the term	rehicle shall be s sel forth in th	reduced to the r c Special Permi	ninimum practis	enble dimension			ent takes
ee General & Special Conditi				veight			Island Tops	soil	-
ehicles and loads over State F	lighways inci	uded as atta	chmants.		Ву:		Jonniler Ca	rdinos	
				L PERMIT			1	per per ser	
hibit Permission to operate the ab anted; subject however, to the Gener	ove-described o	versize and/or o	verweight vehi vovisions stated	ele and load over l on the reverse	er the route on t side.	he date and tim	odu b 🎧 sa sa	ve on the applica	tion is hereby
T Memorandum		observ,		Approved:		, IR OF TRANS	ALL TION		

Exhibits_page 372

Permit Fee: \$ 5.00

Permit No.: 19-H-0558

HAVVAII DISTRICT ENGINEER

Department of Public Works County of Hawai'i Hilo, Hawai'i Phone: (808) 961-8321 Fax: (808) 961-8630 STATE PERMIT NO.
In compliance with Section 291-36, Hawai'i Revised Statutes, parmission to move heavy vehicles and/or objects exceeding the height, width and length specified in Sections 291-34 and 35, Hawai'i Revised Statutes.
Overall dimensions and weight of loaded vehicle:
Height: 12 Feet inches Length: 45 Feet 2 inches
Weight: 30,000 Lbs. Width: 8 Feet Inches
Type of Object or Equipment Contard Van
Route of Travel: Origin William Quarry
Destination Top of Waiklow Rd
Over Routes: UND Waskolum RU
AND ADDRESS OF THE PROPERTY OF
Time of Movement: Date 7/17/19 - 8/17/19 Time: From 8/30 To 15:00
The undersigned applicant agrees to assume full responsibility for any loss or damages to County bridges, roads, life and/or property from such operation or moving and shall indemnify and hold harmless the County of Hawai'i and its officers or employees from any suits or claims. The Police Department shall be notified of the route and time of each movement; also the Police Department's approval shall be obtained prior to such movement, otherwise this permit will be considered void.
FIRM PHONE: 882-791/ FIRM: \$\frac{1}{2}\frac{1}{4}\frac{1}{6}\frac{1}{2}\frac
FIRM FAX: 696 5330 BY: (Electronic signature eccepted)
FIRM EMAIL: Jennifor. Souza & BSWAND TRASON. CON
Additional Conditions (for DPW use only): 1) Escorts:
2) Check Vertical Clearance (vehicles over 14'-0" in height)
2) Check Vertical Clearance (vehicles over 14'-0" in height) 3) Maintain temporary bridge reinforcement at mila post 51, Saddle Road.
2) Check Vertical Clearance (vehicles over 14'-0" in height)
2) Check Vertical Clearance (vehicles over 14'-0" in height) 3) Maintain temporary bridge reinforcement at mila post 51, Saddle Road.

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS
GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS

		THE PARTY OF THE P	TANKET OF FINISHED AND	CONTRACTOR OF CONTROL AND CONTRACTOR CONTRAC	ni
ESCORT REQUIREMENTS	Highways, With 1455 To 1251 With Travel Lanes	Puainako St. Rtg. 2000 Kilauta: Ave. To Komoljana St. MP 0.16 To MP 163	8 12.40 (0.02.40). (bet: 80.04 (650); or 98 Better 560; 744 (650); or 14.50 (650);	Akoni Pule Hyy. Route 270. Sputh Kong Bet Rout Rie 17 Anakes Subd Rd. to Poloir Valley Milipil Rd. To Honsic Jct. MP 89 0 MP 23.8 to MP 28.9	South Kona Belt Road Rie 11 Milder To Honalo Jol MP 890 To MP 1338
Private Front Escort	12.00' to 13.98'	12.00° to 13.99°	Not Applicable	Not Applicable	Not Applicable
Private Front & Rear Escorts	14.00° to 15.99°	14.00' to 14.99'	9.00° to 11.99°	9.00' to 11.99'	10.00' to 11.99'
Police Front & Private Rear Escorts	16.00' to 16.98'	Not Applicable	12.00° to 13.99°	12.00' to 13.89'	12.00' to 13,99'
Police Front & Rear Escorts	17.00° to 17.99°	15.00° to 15.99°	14.00° to 14.99°	14.00' to 14.99'	14.00' to 14.99'
Notice to Public, Staging Plans and Two Police with One Private Front Escorts	18.00° to 19.99°	16.00° to 16.99°	15.00° to 15.99°	15.00° to 15.99°	15.00° to 15.99°
Special Approval & Requirements	20.00" and over	17.00' and over	16.00' and over	16.00' and over	16,00' and over

ESCORT REQUIREMENTS	Nacionu South Bolnt Rd. Rt.11	Mamalahos / Hawaii Belf Road, Rte. 180		Kailua-Kona Urban Area
	WIR 60.9 To MR 69.5	MP 30 10 WP 277	MP 59.1 to MP 3.4	to Rib: 11(Honalo (MP 113.8)
Private Front Escort	10.0'0 to 10.99'	10.0'0 to 10.99'	11.00° to 11.99°	Special Requirements
Private Front & Rear Escorts	14 070 1-14 000			
Color of the second	17.0'0'to 17.99	11.000 to 11.99	12.00' to 12.98'	Greater than 12.00' wide.
Police Front & Private Rear Escorts	12.0'0 to 13.99'	12.000 to 13.99'	13,0' to 13.99'	16.00' high OR
		14 00' to 14 99'		Q
Police Front & Rear Escorts	14.0'0 to 14.99'	Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route	14.00° to 14.99°	Slower than 10 MPH below posted Speed Limit
Notice to Public, Staging Plans and			15 00' to 15 00'	Recommend Night Move (10:00 pm to
Esports *	15.0'0 to 15.99'	15.00 to 15.99° Take Queen Kaahumanu Highway	Take Route 190 / Walkoloa Road	5:00 am)
Special Approval & Requirements	16.00' and over	16.00' and over	16.00' and over	(Day moves may be approved on a case- by-case basis upon request.)

^{*} Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F TMT Memorand

nibits page 374

ARMS (N.)	
Permit applicant shall be response	onsible to check overhead clearances along the route,
Heights up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15,00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Kallua-Kona Urban Area (see page 1)

OVERNI SOUNCE	hyandulosded rozkos ateras tollows
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70,00'	No escorts required.
70.01' To 80.00'	Provide private front escort
80,01' To 100.00'	Provide private front and rear escorts
Over 100.00°	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by Issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

FRAMENTONES.	ay projections:arasas:folloys:
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

The state of the state of the state of	(aserstycoxa) belove:
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kallua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

Oversized and overweight vehicles movements are restricted from the hours of 8:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

a. Urban Hilo Area (Wailuku Bridge to Kawailani Street)

b. Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

Besidas Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following

- a. Puainako Street (Kanoalehua Avenue to Komohana Street)
- Exhibit Fb. Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

MT REPARTIONS METUPIFALLOWED IN opposite direction of peak traffic flow

LAICHEL	
	oves must be approved by the Design Engineer or District Engineer. or requirements are as follows:
a.	Provide police front and rear escorts
b.	Provide full Illumination of extremities of load (Flood Lights)
C,	Provide side running lights
Other rec	quirements may be required by the permit issuing office or as required by law

Weight limitations are subject to review and approval as follows:

EAVENTED FREE	ertories.		
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 fbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

ERIEDPES &				
Bridge Restricitons	2. No stopp 3. No other	n speed over struct	ure not to exceed a e. dge during crossin	n Axle > 60,000 lbs. 5 MPH. ng except passenger vehicles.
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Spacing: Last Tractor Axle to First Trailer Axle or	Combined Weight Trailer Axles	Approval Authority
W = 900(L+40)	65,000 lbs. or less	28.00-ft, or more	80,000 ibs. or less	Hawaii District Approval
11 000/2 10)	> 65,000 lbs.	< 28.00-ft.	> 80,000 lbs	Requires Honolulu (HWY-DB) Approval
BRIDGES WITH LESS CAPACITY	MAX. WEIGHT PI	ea side of Saddle Ro ER TANDEM = 61,80 MP 56,58) P 57,72) hala permit must go to HV DER CONSTRUCTION estrictions and addition	Aamakac Niulii Bri Route 270 VY-DB in Honolulu f DN onal conditions may	past Halaula or approval until further notice. r be required depending on detour
	road and construct	estrictions and additi tion limitations whene	ever a bridge is bein	g repaired or reconstructed.

OTHER REQUIREMENTS:

Restrictions and/or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc.

CONTRACTOR

in areas without truck climbing lanes, trucks should gull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahualoa, Waiohinu, Kohala Mountain Road, Kuskini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.)

Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking Association shall be informed of these revisions.

Exhibit F

This space for issuing office:
APPLICATION NO. 190554 Date Stamp

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT +003 (HWY-C 07/15R)

APPLICATION TO OPERATE OR TRANSPORT OVERSIZE AND/OR OVERWEIGHT VEHICLES AND LOADS OVER STATE HIGHWAYS

DIRECTOR OF TRA

HAWAII DISTRICT ENGINEER

Exhibits page 377

					Da	le 7/3/19	ر رساسس موس		
Paravant to Chapter a special permit to authorize the or both, which exceed the pravis	oncestion or mo	vementals ve	hiele ar combi	nation of yehi	cles or special n	nobile equipme:	juests the Dire nt of dinsensio	ector of Trans as or weights,	nortation to including to
ISSUE PERMIT TO:							F 000		
Name of owner (or lessee) of vehic	cie: Island Tops	100	ra rasand aras saar not die analisean arre as ne' i bi	of any section on their statement				-696-5330	
Address: Po 8ox 1999		,					Phone: 808-89		
MOVEMENT: Oversize	Overwe		versize and Ow		☐ Flag Projecti	ons 🗆 Lig	his □₩	ideload Sign	
THIS APPLICATION IS FOR:	🛭 Single Tri	ip 🖸 Cent	qisT Buouni	☐ Annual					
ROUTE OF TRAVEL:		_			ATALIANA	NEV UBCEDA	4TOBV		
Origin: WAIKOLOA QU/						KEA OBSERV			
Over Routes: ON TO WA	IKOLOA RD ON	1 TO HWY 190	ON TO HVA	200 ON TO	MAUNAKEA A	CCESS ROAD			**************************************
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DATE OF MOVEMENT: 7/17/19	-8/17/19								
OBJECT OR LOAD	·····		**************************************				11. 24.77 ft Water a 1871		
Owner: Goodfellow broth	hare					62-124	4 Waikoloa		
	NAME	Acceptance thereases				ADDRESS			
Object or load to be moved	4: WA 320 LOA	DER XL0655		TANK WEIGHT SI	e. E./ Attachment	s erc	·		
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Method of movement: Mo	******		an windship wa	סטאינפט טא, דם/	VED BY, UNDER O	WN FOWER, ETL:			
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TMcToMemorandum Approved

Permit No.: 19-H-0554

Pennit Fee: § 5.00

Department of Public Works	NO. 574-19-021
County of Hawai'i ' Hilo, Hawai'i	DATE:
Phone: (808) 961-8321 Fex: (808) 961-8630 STATE F	DATE: ERMIT NO. 19-H-0554 / 190554
In compliance with Section 291-36, Hawai'i Re and/or objects exceeding the height, width and length s Statutes.	vised Statutes, permission to move heavy vehicles pecified in Sections 291-34 and 35, Hawal'i Revised
Overall dimensions and weight of loaded vehicle:	
Height: // Feet 6 Inches	Length: 73 Feel 7 Inches
Weight 34/2% Lbs.	Width: B Feet 6 Inches
Type of Object or Equipment 4 320 La	ender XLOUSS
Route of Travel: Origin Wailloam Own	7
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	each.
	The second was the second control of the second sec
The Thirty of D	lorg to the
Time of Movement: Data #11719 - 81	17/19 To 15:00
bridges made life and/or property from euch operation	full responsibility for any loss of damages to County nor moving and shall indemnity and hold harmless the
County of Howel's and its officers or employees from 8	ny suits or claims. <u>The Police Department shall be</u> the Police Department's approval shall be obtained prior
to such movement, otherwise this permit will be consid	ered void.
FIRM PHONE: 882-7411	FIRM: I Stund TOPSQ'1
FIRM FAX: 696 - 5332	BY: Mu Cu
FIRM EMAIL: Jennier Son 2- B. ISOM	BY: (Eléctronic signature accepted) / TOPEn'i. cun
Additional Conditions (for OPW use only): 1) Escorts:	
2) [] Check Vertical Clearance (vehicles of	over 14'-0" in height)
Maintain temporary bridge reinforcer	ment at mile post 51, Saddle Road.
	1 4
	Car Cara- for Director
	TO THE STATE OF TH
cc: Applicant Hawai'i Police Dept. (Fax: 981-2228)	
DPW Form 11	
Revised 06/04/12 County of Hawaiii is an Equal	

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS

GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON

	CHICAN CORE	CHICKE CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHIC	WE/CX CYTXWEIGHT VE	HICKES ON STATE HIGHWAYS	bi
ESCORT REQUIREMENTS Highways With Wide Travellanes	Highways With	Highways With Pusinako St. Rts. 2000 History College: Kilauss Ave. To Komohana St. Wide Travel Lanes MP 0.16 To MP 1.63	Kohale Mt. Rd. Rts. 280 Kawaihae Rd. to Akoni Pule Hwy. MP 2.0 to MP 21.8	Akont Pule Hwy. Route 270 Amakea Subd. Rd. to Pololu Valley MP 23.8 to MP 28.9	South Kona Belt-Road Rte. 14 Mibili Rd. To Honsio Jct. MP 89.0 To MP 113.9
Private Front Escort	12.00° to 13.99°	12.00' to 13.99'	Not Applicable	Not Applicable	Not Applicable
Private Front & Rear Escorts	14.00' to 15.99'	14.00' to 14.99'	9.00° to 11.99°	9.00° to 11,99°	10.00° to \$1.99°
Police Front & Private Rear Escorts	16.00' to 16.99'	Not Applicable	12.00° to 13.99'	12.00' to 13.99'	12.00' to 13.99'
Police Front & Rear Escorts	17.00' to 17.99'	15.00° to 15.99°	14.00° to 14.99°	14.00' to 14.99'	14.00' to 14.99'
Notice to Public, Staging Plans and Two Police with One Private Front Escorts	18.00° to 19.99°	16.00" to 16.99"	15.00° to 15.98°	15.00' to 15.99'	15.00° to 15.99°
Special Approval & Requirements	20.00' and over	17.00' and over	16.00° and over	16,00° and over	16.00° and over

by-case basis upon request.)	16,00' and over	16.00' and over	16.00' and over	Special Approval & Requirements
5:00 am)	15.00' to 15.99' Take Route 190 / Waikoloa Road And Follow Requirements *	15.00' to 15.99' Take Queen Kaahumanu Highway	15.0'0 to 15.99'	Two Police with One Private Front Escorts •
Slower than 10 MPH below posted Speed Limit	14.00' to 14.99'	14.00' to 14.99' Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route 190 *	14.0'0 to 14.99'	Police Front & Rear Escorts
16.00' high OR	13.0° to 13,88°	12.00 to 13.99'	12.0'0 to 13.99'	Police Front & Private Rear Escorts
Greater than 12.00 wide	12.00' to 12.99'	11.0,0_to_11.99	11.000 to 11.99'	Private Front & Rear Escorts
Special Requirements	11.00° to 11.99°	10.0'0 to 10.89'	10.0'0 to 10.99'	TIMAGE FIGHT ESCOT
Kellua-Kona Urban Area Riz: 19 Honokohau Harbor (MP 97.55) to Riz: 11 Honaio (MP 113.8)	Kawaihae Road Rtv. 19 Waiska Bridge to Kawaihae Harbor MP 59 1 to MP 3.4	Mamalathoa / Hawaii Bett Road, Rte. 190 Keemuku Bridge to Scenic Lookout MP 13:0 to MP 27:7	Naglehu:South Point Rd Rt 11 Honuapo To South Point Rd MP 8019 To MP 69.5	ESCORT REQUIREMENTS

^{*} Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

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Exhibit F
TMT Memorandum

bits page 379

HEIGHT	Service Control of the Control of th
Permit applicant shall be response	onsible to check overhead clearances along the route.
Heights up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Kailua-Kona Urban Area (see page 1)

MOVE LENGTHS: Escont requirements for empty	and loaded moves are as follows
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required,
70.01' To 80.00'	Provide private front escort
B0.01' To 100.00'	Provide private front and rear escorts
Over 100.00°	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

PROJECTIONS: Escont requirements for fight and/orte	ar projections energia follows
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the Issuing office

TRAVELING SPEED: Escot Edulinements for atom moving vehicles Use highest posted speed limit on route	are shown below.
LOADED VEHICLE OPERATING SPEED Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

DICTANCE TO SVELED

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

PEAK HOURS

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted for the following areas:

- a. Urban Hilo Area (Wailuku Bridge to Kawailani Street)
- b. Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Regulrements within Kailua-Kona Urban Area (see page 1)

SCHOOL TRAFFIC HOURS:

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following :

- a. Puainako Street (Kanoelehua Avenue to Komohana Street)
- Exhibit F b. Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)
- TMT Acceptions may be allowed in opposite direction of peak traffic flow

	NOVES: oves must be approved by the Design Engineer or District Engineer. requirements are as follows:
a.	Provide police front and rear escorts
b.	Provide full illumination of extremities of load (Flood Lights)
C.	Provide side running lights
Other rec	uirements may be required by the permit issuing office or as required by law

Weight limitations are subject to review and approval as follows:

PAVEMENTSTRUC	TURES:		
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

BRIDGES:	Mary Comments		1 1 1 1 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	
Bridge Restricitons	2. No stopp 3. No other	n speed over structi	ure not to exceed to	n Axie > 60,000 lbs. 5 MPH. ng except passenger vehicles.
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Spacing: Last Tractor Axle to First Trailer Axle or	Combined Weight Trailer Axles	Approval Authority
W = 900(L+40)	65,000 lbs. or less	28.00-ft, or more < 28.00-ft,	80,000 lbs. or less > 80,000 lbs	Hawaii District Approval Requires Honolulu (HWY-DB) Approval
BRIDGES WITH LESS CAPACITY	Kamakoa Bridge No. 1 (MP 4.63) Route 190, Waimea side of Saddle Road Jct. MAX. WEIGHT PER TANDEM = 61,000 lbs. Ninote Bridge (MP 56.58) Aamakao Bridge (MP 26.58) Hilea Bridge (MP 57.72) Niulii Bridge (MP 27.28) Route 11, past Pahala Every overweight permit must go to HWY-DB in Honolulu for approval until further notice. ANY BRIDGE UNDER CONSTRUCTION Width and length restrictions and additional conditions may be required depending on detour road and construction limitations whenever a bridge is being repaired or reconstructed.			

OTHER REQUIREMENTS:

UNUQUAL CONDITIONS:

Restrictions and/or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc.

ROAD GRADES:

In areas without truck climbing lanes, trucks should put over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahuatoa, Watchinu, Kohata Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.)

REVISIONS:

Provisions described above are subject to change at any time and on a case by case basis. The Hawali Trucking Association shall be informed of these revisions.

Exhibit f

SPECIAL CONDITIONS:

TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each

This space for issuing office:		
APPLICATION NO. 190568		
Date Stomp		

Permit Fee: \$ 5.00

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4:005 (HWY-C 07/15R)

APPLICATION TO OPERATE OR TRANSPORT

				D/OR O' OVEI	VERWE		EHICL		
	4				Date	7/08/19	- and state of the		
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lame of owner (or lessee) of vehicle	e: BJ'S EXCAV	ATION & HA	ULING CO.,IN	C	gapung penggi di pingka terjan			·	
duress; PO BOX 1867 KAILUA-							Phone: 808-3	31-8120	
IOVEMENT: Oversize	Overwei	_	vO bnu oxiensv	enveigh 🗆	Flag Projectio	ans 🗖 Lig	phus 🗀 W	lideland Sign	
HIS APPLICATION IS FOR:	🛭 Single Trip	Case	inuous Trip	🗖 Anoual					
DUTE OF TRAVEL:									
Origin: GOODFELLOW R				Destinat					
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Owner; GOOOFELLOW	BROTHERS IN	С			- Lower	58-124		A ROAD, WAIN	AEA 96743
Object or load to be moved:	WA320 WHE	EL LOADER-)	(10655		BS, 31'L. 8'6' TTTACHMENTS	W, 10'6"H		magasa Ariya iy dalah s aan marre iyo a	
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s WI, (lbs.) 58,000			and a second control of the second control o			and not the transfer of	Rear Proje	12 n	in.
Wt. (lbs.) 19,022		22,500			,	CONTRACTOR CONTRACTOR CONTRACTOR	Length	lı.	m.
nse: 621HDX		550HZE					Height	n	is.
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ross Wt. (los) Empty	11888	3568	3568	750C	7500	7500	TOPERSON STATES		
With Load	12046	11314	11314	13656	13656	13656			e regresa i ale lidga, quema e add ladas e
a, of Wheels	2	4	4	4	4	4			
ire Sizes	24,50	24.50	24.50	24.50	24.50	24,50			
alz Spacing (A. & in.)	15.	.50 4.	50 46	1.10 4.2	20 4.3	20			
The undersigned hereby car				reduced to the ir	ninintum praetie	able dintension	and weight be	fore any movem	ent inkes
and that said vehicle shall be mo-	ved in compliant	ic with the somi	s set forth in th	e Special Pernis	K	nAme	OKINIA.	1	
General & Special Conditi				veight		14/20	PERMITTEE		
icles and loads over State I	ugnways mel	uced as atta	ciunents.		Ву:	€7.2 EXC	VATION & H	AULING CO.,I	NC
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Permission to operate the ab ed: subject, however, to the Gener	iove-described o al Conditions an	versize aud/or (d any Special F	verweight vein rovisions statet	icle and load ove I on the teverte	r me rome on n side.	ne gas and dan	F. L. III	e on me approx	
Pylogra			va	Approved.		IR OF TRANS	PANTO		
Memorandum					Ву:		W		
						HAWA	II DISTRICT I	еивімеєя <mark>Е</mark> Х	hibits pag
nit Fee: \$ 5.00					***************************************		Tifficial		

Special Approval & Requirements Police Front & Rear Escorts Police Front & Private Rear Escorts Private Front & Rear Escorts Special Approval & Requirements Two Police with One Private Police Front & Rear Escorts Police Front & Private Rear Escorts Private Front & Rear Escorts Notice to Public, Two Police with Private Front Escor Natice to Public. Whenever Three (3) Escorts Are ESCORT REQUIREMENTS . Staging I taging Plan One Private I j Plans and vate Front 574-19-024 Department of Public Works County of Hawai'i Hilo, Hawaii Phone: (808) 961-8321 Fax: (808) 961-8630 STATE PERMIT NO. in compliance with Section 291-36, Hawai'l Revised Statutes, permission to move heavy vehicles and/or objects exceeding the height, width and length specified in Sections 291-34 and 35, Hawal'l Revised Statutes. Overall dimensions and weight of loaded vehicle: inches Weight: Type of Object or Equipment Route of Travel: Origin Destination Over Routes: Time of Movement: LUN Time: From UX7 To The undersigned applicant agrees to assume full responsibility for any loss or damages to County bridges, roads, life and/or property from such operation or moving and shall indemnify and hold harmless the County of Hawai'i and its officers or employees from any suits or claims. The Police Department shall be notified of the route and time of each movement; also the Police Department's approval shall be obtained prior to such movement, otherwise this permit will be considered void FIRM PHONE: FIRM: FIRM FAX: BY: (Electronic signature accepted) .em FIRM EMAIL: Additional Conditions (for DPW use only) Police Police Private Front 1) Escorts: :Rear Check Vertical Clearance (vehicles over 14'-8" in height)

Exhibit F

cc: Applicant

TMT Memorand Uniqual Police Dept. (Fax: 961-2228)

PER WATER	
Permit applicant shall be resp	onsible to check overhead clearances along the route.
Heights up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15,00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Kailua-Kona Urban Area (see page 1)

Magazines artige	Rymingareamores attracticionemi
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required.
70,01' To 80,00'	Provide private front escort
80.01' To 100.00'	Provide private front and rear escorts
Over 100.00'	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow tanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

W. Carlos Santos de Locales	(circeptors are as follows
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

16 mph to 25 mph below speed limit	Provide police front and rear escorts Special approval and additional requirements as determined by the
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
A CONTRACT OF SECURIOR CONTRACTOR	

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

Oversized and overweight vehicles movements are restricted from the hours of 8:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- a. Urbaл Hilo Area (Walluku Bridge to Kawallani Street)
- b. Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

The second second

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following :

- a. Puainako Street (Kanoelehua Avenue to Komohana Street)
- b. Route 139 (Oid Keaau-Pahoa Road, Keaau Town Section)

EXENDING may be allowed in opposite direction of peak traffic flow

Night m	oves must be approved by the Design Engineer or District Engineer. requirements are as follows:
a.	Provide police front and rear escorts
b.	Provide full illumination of extremities of load (Flood Lights)
c.	Provide side running lights
Other rec	quirements may be required by the permit issuing office or as required by law

Weight limitations are subject to review and approval as follows:

Control of the Control	MARKE .		
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

NE PERE					
Bridge Restricitons	Maximun No stopp No other	000 lbs. or n speed over structure ing on the structure vehicles on the brid ront and rear escort	ire not to exceed 5 Ige during crossin		
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Spacing: Last Tractor Axle to First Trailer Axle or	Combined Weight Trailer Axles	Approval Authority	
W = 900(L+40)	65,000 lbs. or less	28.00-ft. or more	80,000 lbs. or less	Hawaii District Approval	
11 000(2 /0/	> 65,000 lbs.	< 28.00-ft.	> 80,000 lbs	Requires Honolulu (HWY-DB) Approval	
BRIDGES WITH LESS	Kamakoa Bridge No. 1 (MP 4.63) Route 190, Waimea side of Saddle Road Jct. MAX. WEIGHT PER TANDEM = 61,000 lbs. Ninole Bridge (MP 56.58)				
CAPACITY	Every overweight permit must go to HWY-D8 in Honolulu for approval until further notice. ANY BRIDGE UNDER CONSTRUCTION Width and length restrictions and additional conditions may be required depending on detour road and construction limitations whenever a bridge is being repaired or reconstructed.				
	road and construc	TON HUBBIOUS WIELD	svel a plidde is pell	and the state of the second state of the second sec	

OTHER REQUIREMENTS:

Restrictions and/or additional conditions may be required for special events such as the Ironman Triathion, parades, road races, highway construction, etc.

in areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawainae Road, Ahusloa, Waiohinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falis Road.)

Provisions described above are subject to change at any time and on a case by case basis. The Hawail Trucking Association shall be informed of these revisions.

Exhibit F TMT Memorandum

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 07/15R)

APPLICATION TO OPERATE OR TRANSPORT OVERSIZE AND/OR OVERWEIGHT VEHICLES AND LOADS OVER STATE HIGHWAYS

					Dat	7/08/19		ptipe i r va i regiona	may to be sometiments
Pursuant to Chapter 2 a special permit to authorize the or both, which exceed the provisi	oneration as ma	vement of a ve	biele ar combi	nation of vehic	les or special m	iabije egilipilič	quests the Dira at of dimensio	etar of Transç as or weights, i	ortation to issued including loads
SSUE PERMIT TO.									
Name of owner (or lessec) of rehic	le: BJ'S EXCA	VATION & HA			- //			APS or rates a consider the degree to contrade	
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MOVEMENT: Oversize	Overwe	¢ght ☑ O	versize and Ove	_] Flag Projection			ideload Sign	
HIS APPLICATION IS FOR:	Single Tri	p 🖵 Cont	tinuons Trip	☐ Annua!					
DUTE OF TRAVEL:									
Origin: GOODFELLOW!	BROTHERS IN	C		Destina	tton: MAUNA	KEA OBSER	ATORY-TMT		
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TE OF MOVEMENT: 7/17/19-	צוו/ווע						***************************************		
JECT OR LOAD				4		***			
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oly information	TRACTOR	Clarine	JRAIL ER	L.	1661		f	verall Dimensio	*******************
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ire Sizes	24.50	24.50	24,50	24.50	22.50	22.50	22.50	22.50	
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The undersigned hereby cer and that said vehicle shall be mo	ved in complian		andfar avenu	veight	**************	1\1111	PERMITTER	m.	
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euid that said vehicle shall be mo General & Special Conditi	ved in compliand ions to transp			·	Ву:	BJ'S EXC	H & MOITAVA	AULING CO.,I	NÇ
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Department of Public Works County of Hawai'i Hito, Hawai'i Phone: (808) 961-8321 Fax: (808) 961-8630 In compliance with Section 291-36, Hawai'l Revised Statutes, permission and/or objects exceeding the height, width and length specified in Sections 291-3 Statutes.	to move heavy vehicles
Weight: 104716 Lbs. Width: 10 Feet Type of Object or Equipment DIUT DULY NO MADE C252 Route of Travel: Origin UDA FULL NO MADE C252 Destination WUMA KA MELVATURA	
SIBMEAN: 808: 7171-6120 BY: KINTIM	oss or damages to County amnify and hold harmless the olice Department shall be
Private Rear 2) Check Vertical Clearance (vehicles over 14'-0" in height) 3) Maintain temporary bridge reinforcement at mile post 51, Sad Cac C Applicant Hawaii Police Dept. (Fex: 961-2228)	
DPW Form 11 Revised 06/04/12 County of Hawai'i is an Equal Opportunity Provider and	Employer.

SPECIAL CONDITIONS:

TRAVELING SPEED:

. . . .

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each move.

Exhibit F
TMT Memorandum

		***	•			
	5:00 am) (Day moves may be approved on a case-	15.00 to 15.99' Take Route 190 / Waikoloa Road And Follow Reguirements • (Da	15,00° to 15.99° Take Queen Kaahumanu Highway		15.0°0 to 15.99	Notice to Public, Staging Plans and Two Police with One Private Front Escorts *
ted Speed	Slower than 10 MPH below posted Speed Limit Percempend Night Move /10:00 pm to	14,00° to 14.99° Limit	14.00' to 14.99' Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route 190 *		14.0°0 to 14.99	Police Front & Rear Escorts
	16.00' high OR	13.0° to 13.99°	12.0'0 to 13.99'		12.0'0 to 13.99	Police Front & Private Rear Escorts
	Greater than 12.00' wide,	12.00' to 12.99' Gre	11.0'0 to 11.98'		11.0'0 to 11.99	Private Front & Rear Escorts
	Special Requirements	11.00' to 11.99' Spe	10.0'0 to 10.99'		10.0'0 to 10.99	Private Front Escort
98. (P 97.55)	Kaliua-Kona Urban Area b. 19 Honokohau Harbor (MP 97:55) to Rte: 11:Honako (MP 113:8)	Kawaihae Roed Rte 19 Kaliūa-Kona Urban Area	Mamalahoa / Hawaii Belt Road: Rts. 190 Keamuku Bridge to Scenic Lookout (* 25) A	32	Naatehu South Point Rd? IRt.11 Honuspo To South Point Rd MP 60.9 To MP 60.5	ESCORT REQUIREMENTS
	16,00° and over	16.00' and over	16.00' and over	17.00" and over	20.00' and over	Special Approval & Requirements
	15.00' to 15.99'	15.00' to 15.99'	15.00' to 15.99'	15.00' to 16.99'	18.00° to 19.99°	Notice to Public, Staging Plans and Two Police with One Private Front Escorts
	14,00' to 14,99'	14.00' to 14.99'	14.00' to 14.99'	15.00' to 15.99'	17.00' to 17.99'	Police Front & Rear Escorts
	12,00° to 13.99°	12.00' to 13.99'	12.00' to 13.99'	Not Applicable	16.00° to 16.98°	Police Front & Private Rear Escorts
	10.00° to 11.99°	9.00° to 11.99°	9.00' to 11.99'	14.00' to 14.99'	14.00" to 15.99"	Private Front & Rear Escorts
	Not Applicable	Not Applicable	Not Applicable	12,00' to 13.99'	12.00° to 13.99°	Private Front Escort
Rte. 11 89 D Exhil	South Kong Bait Road Rte, 11 Miloti Rd. To Honalo Jd. MP 89.0 To MP 113.9	Akoni Pule Hwy. Roupe 279 Ainakea Subd. Rd to Pololu Valley MP 23.8 to MP 28.9	Kotaja Mt. Rd. Rts. 250 Kayalba Rd. to Aloni Pule Hwy. MP 2.0 to MP 218	Puanako St. Rto. 2000 Kilauea Ave. To Komohana St. MP 0.16 To MP 1.63	Highways With 11-Et To 12-Ft. Wide Travel Lanes	ESCORT REQUIREMENTS
bits page 3		QUIREMENTS EHICLES ON STATE HIGHWAYS	HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQ ONS FOR OVERSIZE AND/OR OVERWEIGHT VEH	HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQ	GENERAL CONDI	
90						

^{*} Whenever Three (3) Escorts Are Required, Ali Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Special Approval & Requirements

16.00° and over

16.00' and over

16.00' and over

by-case basis upon request.) Exhibit F TMT Memorandum

HEIGHT.	
Permit applicant shall be resp	onsible to check overhead clearances along the route.
Heights up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Kailua-Kona Urban Area (see page 1)

Over 100.00'	Provide police front and rear escorts. May require special conditions.
80.01' To 100.00'	Provide private front and rear escorts
70.01° To 80.00'	Provide private front escort
Up To 70.00'	No escorts required.
LOAD LENGTHS	ESCORT REQUIREMENTS
HVELLENGTHES: portunguises ands for emi	ifreriti loaded moves are asifollows

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

PROJECTIONS: Escentification from and/or re	ar projections are as follows:
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

TIMATELING SPEED: Escoth lequipements for allow moving vehicles Use highest posted appeal limit on route.	
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and reer escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

DISTANCE WAVELED

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

PEAK HOURS:

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- a. Urban Hilo Area (Walluku Bridge to Kawailani Street)
- b. Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

SCHOOL TRAFFIC HOURS:

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following:

- a. Puainako Street (Kanoelehua Avenue to Komohana Street)
- b. Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

Exceptions may be allowed in opposite direction of peak traffic flow

TMT Memorandum

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NIGHTA	10VES
Nightm	oves must be approved by the Design Engineer or District Engineer. In requirements are as follows:
a.	Provide police front and rear escorts
b.	Provide full illumination of extremities of load (Flood Lights)
C.	Provide side running lights
Otherre	quirements may be required by the permit issuing office or as required by law

Weight limitations are subject to review and approval as follows:

PAYEMENT STRUG	AVEES:		The same of the sa
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawali District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

2. No stopp 3. No other 4. Provide f Combined Weight Tractor	n speed over structu- ling on the structure vehicles on the brid ront and rear escort Spacing: Last Tractor Axie to First Trailer Axie or	Ige during crossin	MPH. g except passenger vehicles. Approval Authority
Weight Tractor Rear Axies or	Tractor Axie to	******	Appenial Authority
65,000 lbs. or less		Axies	White ar various
	28.00-ft. or more	80,000 lbs. or less	Hawali District Approval
> 65,000 lbs.	< 28.00-ft.	> 80,000 fbs	Requires Honolulu (HWY-DB) Approva
MAX. WEIGHT PI Ninole Bridge (I Hilea Bridge (M Route 11, past Pa Every overweight	ea side of Saddle Ros ER TANDEM = 61,00 MP 56.58) P 57.72) thala permit must go to HW	Asmaks Niulii Bri Route 270), past Haiaula
	Route 190, Walmon MAX. WEIGHT Policy of the Miles Bridge (Miles Bridge (Miles Property overweight ANY BRIDGE UN	MAX. WEIGHT PER TANDEM = 61,00 Ninole Bridge (MP 58.58) Hilea Bridge (MP 57.72) Route 11, past Pahala Every overweight permit must go to HW ANY BRIDGE UNDER CONSTRUCTION	Route 190, Waimea side of Saddle Road Jct. MAX. WEIGHT PER TANDEM = 61,000 lbs. Ninole Bridge (MP 58.58) Alamakse Hilea Bridge (MP 57.72) Niulii Bri

OTHER REQUIREMENTS:

UNUSUAL CONDITIONS:

Restrictions and/or additional conditions may be required for special events such as the tronman Triathlon, parades, road races, highway construction, etc.

ROAD OFADES:

In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahualoa, Walohinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain Vlew to Glennwood, Akaka Falls Road.)

REVISIONS:

Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking Association shall be informed of these revisions.

Exhibit F

TMT Memorandum

This space for issuing office:								
APPLICATION NO. 1905828								
Date Stamp								

Permit Fee. \$ 5.00

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 07/ISR)

APPLICATION TO OPERATE OR TRANSPORT

	(OVERSI	ZE ANL	OVER	STATE	HIGHW	'AYS		JUADS	
		Date 7/08/19								
Pursuant to Chapter 291 a special permit to authorize the op or both, which exceed the provision							ests the Direc of dimensions	tor of Transpo or weights: in	riation to issu cluding loads	
ISSUE PERMIT TO: Name of owner (or lessee) of vehicle:	BJ'S EXCAVA	TION & HAU	LING CO.,INC	and a market of the later party					-	
Address: PO BOX 1867 KAILUA-KONA HJ 96745					Phone: B08-331-8120					
Address: PO SOX 1887 MILLON-N MOVEMENT: Oversize	Overweigh	_	ersize and Over	_	Flag Projection			letoad Sign		
, , , , , , , , , , , , , , , , , , ,	Single Trip	Contin	ι ασικ Τείρ	langan 🔲						
ROUTE OF TRAVEL:	•									
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BJECT OR LOAD				A CANADA		5)°-				
Owner: GOODFELLOW B	ROTHERS INC					68-1244 ADDRESS	WAIKOLOA	ROAD, WAIM	EA 96743	
Object or lead to be moved:	NAME		8H514	81,90	BS, 37°L, 11°	2'1V, 12'H				
Object or load to be moved:	CAT 330 EXO		- 12D	WEIGHT, SU	ATTACHMENTS	Fic				
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lross Wt. (lbs.) 79,000					All the second s		Rear Proje			
are Wt. (16s.) 25,340	· · · · · · · · · · · · · · · · · · ·	23,880			18165-1,1,		Length	A	in.	
icense: 449HDU		608HZC					Height	ft	in	
in contact with Pavement	FRONT	AXLE 2	AXLE3	AXLE 4	AXLE 5	AXLE 6	AXLE 7	AXLE 8	AXLE 9	
Gross WL (lbs) Emply	14320	3673	3673	3673	5970	59 70	5970	5970		
	14741	17389	17389	17389	16047	16047	18047	16047	************	
With Load		2	4	4	4	4	4	4		
With Load	,		3					22.50		
No. of Wheels	24.60		21.50	24.50	22.50	22,50	22.50	;		
	24.50	24.50	21.50	1	1			20		
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Department of Public Works County of Hawai'i Hilo, Hawai'i Phone: (808) 981-8321 Fax: (808) 961-8630 In compliance with Section 291-36, Hawai'i Revised Statutes, permission to move heavy vehicles and/or objects exceeding the height, width and length specified in Sections 291-34 and 35, Hawai'i Revised Statutes. Overall dimensions and weight of loaded vehicle: Height: 12 Feet 0 Inches Length: Feet 1 Inches Weight 81000 Lbs. Width: Feet 1 Inches Type of Object or Equipment CGT 7700 EV IN-1514 Route of Travel: Origin 1100 EV IN-1514
Over Roules: Kill in Manna Kla Chier vanny Over Roules: Kill in Man Klain in Nunway 190, Over Roules: Kill in Man K Innuk 2004, Ith in Manna Kill in Wild
Time of Movement: Date 7/17/19 8/17/19 Time: From 870 To 1500
The undersigned applicant agrees to assume full responsibility for any loss or damages to County bridges, roads, life and/or property from such operation or moving and shall indemnify and hold harmless the County of Hawai'i and its officers or employees from any suits or claims. The Police Department shall be notified of the route and time of each movement; also the Police Department's approval shall be obtained prior to such movement, otherwise this permit will be considered void.
FIRM PHONE: 808.277.8140 FIRM FAX: 808.777.8140 BY: KINTIN LYNNAM (Electronic signature accepted)
FIRM EMAIL: <u>DISEXCULATION OBJEKTION COM</u>
Additional Conditions (for DPW use only): 1) Escorts:
2) Check Vertical Clearance (vehicles over 14'-0" in height)
 Maintain temporary bridge reinforcement at mile post 51, Saddle Road.
Cor Director
oc: Applicant Hawai'i Police Dept. (Fax: 961-2228)
DPW Form 11 Revised 06/04/12 County of Hawal'i is an Equal Opportunity Provider and Employer.

TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each move.

			the second control of the control of	-	
Not Applicable	Not Applicable	Not Applicable	12.00' to 13.99'	12.00' to 13.99'	
Te MP 413.9	S S	Hwy MP 20 to MP 21.8	MP 0.16 To MP 1.63	Wide Travel Lanes	SE SE
South Kona Belt Road Rie 11 x	3	Koliaja Mt. Rd. Rts. 250	Highways Wifth Pushako St. Rtp. 2000 Kofiala ML Rd. Rtb. 250 Akoni Pula Hwy. Route 2	Highways with	
ibits	WAY	NDIOR OVERWEIGHT VEH	GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGH	GENERAL CONE	
s paę	UREMENTS	HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS	HAWAII DISTRICT OVERSIZ		
ge 3					
396					

Private Front & Rear Escorts

14.00' to 15.99' 12,00' to 13,99'

14.00' to 14.99' 12.00' to 13.99'

9.00' to 11.99' Not Applicable

9,00" to 11.99" Not Applicable

Private Front Escort

ESCORT REQUIREMENTS

Special Approval & Requirements	Notice to Public, Staging Plans and Two Police with One Private Front Escorts	Police Front & Rear Escorts	Police Front & Private Rear Escorts	Private Front & Rear Escorts	Private Front Escort	ESCORT REQUIREMENTS	Special Approval & Requirements	Notice to Public, Staging Plans and Two Police with One Private Front Escorts	Police Front & Rear Escorts	Police Front & Private Rear Escorts
16.00° and over	15.0'0 to 15.89'	14.0'0 to 14.99'	12.0'0 to 13.99'	11.0'0 to 11.99'	10.0'0 to 10.99'	Naatehu-South Point Rd. Rt.11 Honuepo To South Point Rd. Nip 60 9 To MP 69 5	20.00' and over 1	18.00° to 19.99°	17.00° to 17.98°	16.00' to 16.99' N
16.00° and over	15.00' to 15.99' Take Queen Kaahumanu Highway	14.00' to 14.99' Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route 190 *	12.0°0 to 13.99°	11.0'0 to 11.99'	10.0'0 to 10.98'	Mamatanoa / Hawaii Bek Road: Rte: Keamuku Bridge to Scenic Lookout MP130 to MP277	17.00' and over 16.00' and over	16.00° to 16.99° 15.00° to 15.99°	15.00' to 15.99' 14.00' to 14.99'	Not Applicable 12.00' to 13.99'
16.00' and over	15.00' to 15.99' Take Route 190 / Waikoloa Road And Follow Requirements *	14.00° to 14.99°	13.0' to 13.99'	12.00' to 12.99'	11.00 to 11.99	Manathae Road Rte 19 255 Walaka Bridge to Kawalhae Herbot MP 59 1 to MP 3.4 77	16.00' and over	15.00° to 15.99°	34.00° to 14.99°	12.00' to 13.99'
by-case basis upon request.)	5:00 am) (Day moves may be approved on a case-	Slower than 10 MPH below posted Speed Limit Recommend Night Move (10:00 pm to	16.00' high OR	Greater than 12.00' wide,	Special Requirements	90. Kawaihae Road Rie 19 355 Kalius-Kona Urban Area Walaka Bridge to Kawaihae Harbot Rie 19 Hömbko kat Harbot (MP 97.55) MP 59 1 to MP 3.4 7 Korte: 11 Honato (MP 113.8)	16.00° and over	15.00° to 15.99°	14.00° to 14.99°	12.00' to 13.99'

Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F TMT Memorandum 10/15/

12、 我们是最后的人,但是一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个	while to shock overhead clearances along the route
Permit applicant shall be respond	onsible to check overhead clearances along the route.
Heights up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15.00'	Check Overpasses and Utility Crossings, May require special conditions.
Heights 16.00 and greater	See special requirements within Kailua-Kona Urban Area (see page 1)

MOVE LENGTHS: Facilit cedulicementation emp	ky ang loaded moves are as follows
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required.
70.01' To 80.00'	Provide private front escort
80.01' To 100.00'	Provide private front and rear escorts
Over 100.00'	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

PROJECTIONS. Establishments for front and/or/res	r projections are as follows:
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

TRAVELING SPEED: Escorts requirest ante for slow mouling vehicles Use bighest posted speed limit on route.	; age shown\below.
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

DISTANCE TRAVELED.

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

PEAK HOURS 2

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- Urban Hilo Area (Wailuku Bridge to Kawailani Street)
- Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

SCHOOL TRANSFIG HOURS:

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following:

- a. Puainako Street (Kanoelehua Avenue to Komohana Street)
- b. Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

Exceptions may be allowed in opposite direction of peak traffic flow

TMT Memorandum

NICHT S	12/45
Night m	oves must be approved by the Design Engineer or District Engineer. In requirements are as follows:
a.	Provide police front and rear escorts
b.	Provide full illumination of extremities of load (Flood Lights)
C.	Provide side running lights
Other red	quirements may be required by the permit issuing office or as required by law

WEIGHT LIMITATIONS:

Weight limitations are subject to review and approval as follows:

PAVEMENT STRUC	TURES		The state of the s
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

BRIDGES	Managadiya (Masa)					
Bridge Restrictions	Single Axie > 42,000 lbs. or Tandem or Tridem Axie > 60,000 lbs. 1. Maximum speed over structure not to exceed 5 MPH. 2. No stopping on the structure. 3. No other vehicles on the bridge during crossing except passenger vehicles. 4. Provide front and rear escorts.					
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Spacing: Last Tractor Axie to First Trailer Axie or	Combined Weight Trailer Axles	Approval Authority		
W ≈ 900(L+40)	95,000 lbs. or less > 65,000 lbs.	28.00-ft, or more < 28.00-ft.	80,000 lbs. or less > 80,000 lbs	Hawaii District Approval Requires Honolulu (HWY-DB) Approval		
BRIDGES WITH LESS CAPACITY	Noute 190, Waims MAX. WEIGHT PI Ninole Bridge (II Hitea Bridge (IM Route 11, past Pa Every overweight ANY BRIDGE UN Width and length	P 57.72) hala permit must go to HV DER CONSTRUCTION restrictions and addition	Asmaka Niulii Bri Route 27 VY-DB in Honofulu ON	o Bridge (MP 26.58) dge (MP 27.28) O, past Halaula for approval until further notice. y be required depending on detouring repaired or reconstructed.		

OTHER REQUIREMENTS:

UNUSUAL CONDITIONS:

Restrictions and/or additional conditions may be required for special events such as the fronman Triathlon, parades, road races, highway construction, etc.

ROAD GRACES:

In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahuatoa, Walohinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.)

HEVISIONS:

Provisions described above are subject to change at any time and on a case by case basts. The Hawaii Trucking Association shall be informed of these revisions.

Exhibit F
TMT Memorandum

This space for issuing office:								
APPLICATION NO. 190581B								
Date St	tamp							

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 01/15R)

......

APPLICATION TO OPERATE OR TRANSPORT OVERSIZE AND/OR OVERWEIGHT VEHICLES AND LOADS OVER STATE HIGHWAYS

					Date	7/08/19			annidam an disemberian
Pursuant to Chapter 25 a special permit to suthorize the our both, which exceed the provision	auroline or mor	JEWICHE OF G VC	bicle ar cambii	ICHOR OF VEHICLE	es or special ni	ousse equisimoi	uesta the Dire t of dimension	ctor of Transp is or weights, i	ertation to iss neluding toad!
SSUE PERMIT TO:				_					
ame of owner (or lessee) of vehicle	BJ'S EXCAV	ATION & HAL	JLING CO.,IN	<u>C</u>	and the second				
ddress: PO BOX 1887 KAILUA-	KONA HI 9674	5				1	hone: 808-33	1-8120	
OVEMENT:	Overwei	ght 🖾 O	versize and Ove	sweight 🛘	Fing Projectio	ıns 🗖 Lig	bis 🖸 W	ideload Sign	
HIS APPLICATION IS FOR:	🛭 Single Trip	Cont	inuous Trip	□ Amusal					
UTE OF TRAVEL:									
Origin: GOODFELLOWE	ROTHERS			Destroat	ion; MAUNA	KEA OBSERV	ATORY-TMT		
Over Routes: RIGHT ON									ACCESS
ROAD TO THE TOP						A			<u></u>
		Management of the state	-0-21-			1000	¥e.		
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☐ 0830 to 1500 HRS	☐ 3800 to 0	500 HRS	CD 6030 to	0500 HRS	THO W	Mary Car	TUKDAY, SU	ADAA' & ROF	IOV 12
E OF MOVEMENT: 7/17/19-6	V17/19	* 111.4 # Pro 44.675. 177.4		.,	J. W.			para store t	
ECT OR LOAD				de Santa	1	A.			
Owner: GOODFELLOW	BROTHERS IN	С		ar Cales	Contract of the Contract of th			ROAD, WAIA	EA 96743
	NAME					ANDRES			
Object or load to be moved:	CAT 336 EXC	AVATOR S/N	BH513		BS, 37'L, 11				\$ 000 TO \$
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y information DOTHER	MONETOK A	DESTHE	100 c				C	versil Dimensio	ons of
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of Axios: 4		No.				~***	_ Length	69 n.	7 is.
WL (165.) 79,000		160,000					Height	14 n.	O in.
Wi. (lbs.) 25,340	V	23,880					Rear Proje	ction:	
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contact with Pavement	FRONT	AXLE 2	AXLE 3	AXLE 4	AXLE 5	AXLE 6	AXLE 7	AXLE 8	AXLE 9
rass Wt. (ibs.) Emply	14320	3673	3673	3673	5970	5970	5970	5970	
With Load	14741	17389	17389	17389	16047	16047	16047	16047	- America maybaga maq
n, of Wheels	2	5	4	4	4	4	4	4	ar, dera a 444 1 ar/a arren - alema
ire Sizes	24,50	24.50	24.50	24.50	22.50	22.50	22.50	22.50	
de Spacing (ft. & in.)	15	I		50 34.	30 4.	20 4.	20 4.	20	
						eable dimension	and weight ha	fore one movem	ent takes
The undersigned hereby cer and that said vehicle shall be mo	tities that the ab ved in compliant	ove-described vice with the term	remoie shair be is set forth in th	realiced to she n e Special Permit		Via A	6. 11	elaa aa	
General & Special Conditi						<i>N(ji)</i>	(NV (K)	ywo	
cles and loads over State I	_				By.	8J'S EXC	H & HOJTAVA	AULING CO.,I	NC
			SPECIA	L PERMIT			1		
Permission to operate the at	ove-described a	versize and/or (overweight vehi	cle and load ove	r the route on t	he date and tim	e as stated abov	e on the applica	tlan is hereby
d; subject, however, to the Gener	nd Conditions at	id any Special f	rovisions stated	d on the reverse	side.		51		
에 내용				Approved.	DIRECTO	OR OF TRANSI	117912-		
Memorandum					Ву:		122M)		
The state of the s						HAWA	, II DISTRICT E	NGINEEREX	hihita sa=
il Fee. 3 5.00							TITLE	_ X	HIDIES page

•	NO. 5/6-19-028
Department of Public Works	NO. 16-14
County of Hawai'i Hito, Hawai'i	DATE: 1\\L\A
Phone: (808) 961-8321 Fax: (808) 961-8630 STATE PE	ERMIT NO. 19-H-(178)
In compliance with Section 291-36, Hawai'i Rev and/or objects exceeding the height, width and length statutes.	ised Statutes, permission to move heavy vehicles pecified in Sections 291-34 and 35, Hawai'i Revised
Overall dimensions and weight of loaded vehicle:	
Height: 1 Feet 1 Inches	Length: M Feet 0 Inches
Weight: XIAUU Lbs.	Width: 11 Feet 2 Inches
Type of Object or Equipment (III) 776 E X	क्रमण्गण
Route of Travel: Origin (NATURN W)	thine
Destination Mauma KILL	onsenatmy
	right in Highway 100,
Tetton daniel + Inmut	MAAT, 18H ON THUMBY KOA
<u> </u>	
grant hank communications of projects decommended as a finite service of the communication of	
Time of Movement: Date 7/17/14 9/1	7/19
Time: From \$170	то 1700
The undersioned applicant agrees to assume fi	ull responsibility for any loss or damages to County
bridges, roads, life and/or property from such operation County of Hawai'l and its officers or employees from an	or moving and shall indemnity and noid narmless the
notified of the route and time of each movement; also the	he Police Department's approval shall be obtained phor
to such movement, otherwise this permit will be consider	FIRM: 1973 Excupation of Hawling
FIRM PHONE: 808:11-7477	Vicilian Warried
FIRM FAX: 808 1/11 8190	BY: Niff[W WITHWO (Clectronic signature accepted)
FIRMEMAIL: <u>bj.c.x.cavation.abjskona</u>	· cum
Additional Conditions (for DPW use only): 1) Escorts:	
2) Check Vertical Clearance (vehicles of	over 14'-0" in height)
3) Maintain temporary bridge reinforcer	ment at mile post 51, Saddle Road.
	Ω . Ω
	110 1 -
	Or Director
ec. Annicant	Our Director
cc: Applicant Hawai'l Police Dept. (Fax: 961-2228)	Or Director
Hawai'! Police Dept. (Fax: 961-2228) OPW Form 11	Or Director
Hawai'i Police Dept. (Fax: 961-2228)	Opportunity Provider and Employer.
Hawai'i Police Dept. (Fax: 961-2228)	

TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each move.

GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS

A	CHINE TANK CON	JITONO FOR OVERSIZE AP	EDICA CYCANGGICAL VE	GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS	oits
ESCORT REQUIREMENTS	Highways With 11-Ft To 12-Ft Wide Watel Lanes	Puainako St. Rip. 2000 Kifausa Ave: To Komonana St. MP 0.16 To MP 1.63	Konaja Mr. Rd. Rts. 280 Kawainae Rd to Akon Pula Hwy. MP 2.0 to MP 21.8	Akoni Pule Hwy. Route 270 Anakea Subd. Rd. to Polotu Valley MP 23.8 to MP 28.9	South Konju Balt Road Ris. 1111 Milejir Rd. To Monalo Jct. MP 89.0
Private Front Escort	12.00' to 13.99'	12.00° to 13.99°	Not Applicable	Not Applicable	Not Applicable
Private Front & Rear Escorts	14.00° to 15.99°	14.00° to 14.99°	9.00' to 11.99'	9.00' to 11.99'	10.00' to 11.99'
Police Front & Private Rear Escorts	16.00' to 16.99'	Not Applicable	12.00' to 13.99'	12.00' to 13.99'	12.00' to 13.99'
Police Front & Rear Escorts	17.00' to 17.99'	15.00' to 15.99'	14.00° to 14.99°	14.00' to 14.99'	14.00° to 14.99°
Two Police with One Private Front Escorts	18.00' to 19.99'	16.00' to 16.99'	15.00' to 15.98'	15.00° to 15.99°	15.00' to 15.99'
Special Approval & Requirements	20.00' and over	17.00° and over	16,00' and over	16.00' and over	16.00' and over

Special Approval & Requirements	Notice to Public. Staging Plans and Two Police with One Private Front Escorts *	Police Front & Rear Escorts	Police Front & Private Rear Esconts	Private Front & Rear Escorts	Private Front Escort	ESCORT REQUIREMENTS 4 Name
16.00' and over	15.0°0 to 15.99°	14.0°0 to 14.98°	12.0'0 to 13.99'	11.0'0 to 11.99'	10.0'0 to 10.99'	lehu South Point,Rd. Rt.11 onuano To South Point Rd. MP 609 To MP 89.5*
16.00' and over	15.00' to 15.99' Take Queen Kaahumanu Highway	14.00' to 14.99' Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route 190 *	12.0°0 to 13.99°	11.0'0 to 11.99'	10.0°0 to 10.99°	Nasiehu-South PointjRd. Rt.11 Mamajahoa/iHjawaji Belt Road Rte. 190 Lata Kawajihae Road Rte. 19 Z. Kajida Kona Urban Area. ESCORT REQUIREMENTS → Honuapo To South Point Rd. Keamuku Bridge to Scenic Lookout J. Wajake Bridge to Kawajihae Harbos. Rte. 19. Honokohati Harbos (MP 97.55) *** MP 60 9 To MP 68 5** ** MP 630 to MP 27.77 ** MP 59 1 to MP 34 5** ** to Rte. 11. Honato (MP 113.8)
16.00° and over	15,00' to 15,99 Take Route 190 / Waikoloa Road And Follow Requirements *	14.00° to 14.99′	13.0' to 13.99'	12,00° to 12.99°	11.00' to 11.99'	s Ala Kawathae Road (Rig/19) (Walaka Bridge to Kawathae Harbot S MP 59.1 to MP 324-53) (A
by-case basis upon request)	Recontined Night Move (10:00 pm to 5:00 am)	Slower than 10 MPH below posted Speed Limit	16,00' high OR	Greater than 12.00' wide,	Special Requirements	Kallūs-Koria Urban Area Rie 19 Honokohaŭ Harbot (MP 97.55) to Rie 11 Honato (MP 113.8)

^{*} Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F TMT Memorandum

its page 402

HEIGHT	
Permit applicant shall be response	onsible to check overhead clearances along the route.
Heights up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Kailua-Kona Urban Area (see page 1)

VE LENGTHS : y, resultenumbs for emis	ty and loaded/moves are as follows
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required.
70.01' To 80.00'	Provide private front escort
80.01' To 100.00'	Provide private front and rear escorts
Over 100.00'	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow tanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

PROJECTIONS: Escatinatifications for four and/or rea	ar projections are as follows
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

TRAVELING SPEED: Excert capifements for sportmoving vehicles (Use digress posted except limit or route, LOADED VEHICLE OPERATING SPEED	
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

DISTANCE TRAVELED.

Permittee may submit a request for the walving of escort requirements if move is less than one (1) mile long on State Highway

Control of the Contro

PEAK HOURS:

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas

- Urban Hilo Area (Wailuku Bridge to Kawailani Street)
- b. Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

SCHOOL TRAFFIC HOURS:

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following :

- Puainako Street (Kanoelehua Avenue to Komohana Street)
- b. Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

Exceptions may be allowed in opposite direction of peak traffic flow

TMT Memorandum

	State Control of the
Menry	10V-25-1
Night mo Minimum	oves must be approved by the Design Engineer or District Engineer. I requirements are as follows:
a.	Provide police front and rear escorts
b.	Provide full illumination of extremities of load (Flood Lights)
C,	Provide side running lights
Other red	quirements may be required by the permit issuing office or as required by law

WEIGHT LIMITATIONS :

Weight limitations are subject to review and approval as follows:

PAYEMENT SERUC	TÜRES:		
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 fb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

RIDRES:				
	Single Axie > 42,			Axle > 60,000 lbs.
Bridge Restricitons	Maximun No stopp No other	speed over structure	Ige during crossin s.	6 MPH. Ig except passenger vehicles.
MOST BRIDGES	Combined Weight Tractor Rear Axies or	Spacing: Last Tractor Axle to First Trailer Axle or	Combined Weight Trailer	Approval Authority
	65,000 lbs. or less	28.00-ft, or more	80,000 lbs. or less	Hawaii District Approval
W = 900(L+40)	> 65,000 lbs.	< 28.00-ft.	edi 000,08 <	Requires Honolulu (HWY-DB) Approva
BRIDGES WITH LESS CAPACITY	MAX. WEIGHT P Ninole Bridge (M Hilea Bridge (M Route 11, past Pa Every overweight ANY BRIDGE UN	ea side of Saddle Ro. ER TANDEM # 61,00 MP 56,58) P 57,72) shala permit must go to HV	Aamska Niulii Bri Route 27 VY-DB in Honolulu	0, past Halaula for approval until further notice.
	Width and length road and construct	restrictions and addit ction limitations when	ional conditions ma ever a bridge is bei	y be required depending on detouring repaired or reconstructed.

OTHER REQUIREMENTS:

UNUSUME CONDITIONS

Restrictions and/or additional conditions may be required for special events such as the Ironman Triathion, parades, road races, highway construction, etc.

ROAD GRADES:

In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahualoe, Walohinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.)

revisions.

Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking Association shall be informed of these revisions.

Exhibit F **TMT Memorandum**

This space by issuing office:	
APPLICATION NO. 190576XB	

Permit Fee: \$ 25.00

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-805 (HWY-C 07/15R)

наwali district engineer xhibits page 405

					Date	7/08/19			~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~
Pursuant to Chapter 291 a special permit to nuthorize the upo or both, which exceed the provisions	eration as made	ATTACH LOT OF USE	icle or combuist	tion at veniete	S DE SIRCEMI IBU	one equitation	iests the Direc of dimension	tor of Transpo s or weights, in	ertation to i scluding los
ISSUE PERMIT TO:	e se excela	ATIONIA WALL	ו מוופ כט ואם						
Name of owner (or lessee) of vehicle;			LING COIIIC					. p.120	···········
Address: PO BOX 1867 KAILUA-KO	ONA HI 96745			_		_	hone: 608-331		
MOVEMENT: Oversize	Overweig		ersize and Over	_	Flag Projection	ns □ Ligh	G WH	deload Sign	
	Single Trip	U Conti	ntious Trip	☐ Asnual					
ROUTE OF TRAVEL					MALINA	CEA OBSERVA	TORY-TMT		
Origin. GOODFELLOW BR	OTHERS INC		erigin allen i s	Destinati	on. March		- 1		10050
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ROAD TO THE TOP			\$ \$ \$ 44 m m m m m m m m m m m m m m m m			***************************************			
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				400 m		° co 114.	ANAIKOLOA	ROAD, WAIN	IEA 96743
Owner: GOODFELLOW BE	ROTHERS IN	<u> </u>				ADDRESS			
Object or load to be moved:	CAT 349 EXC	AVATOR-BH	100		40'9"L. 11'2"				
			511	WEIGHT, SIZE	. ATTACHMENTS				
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Method of movement:	reconstructed :		A STATE OF A MO	WIED ON TOW	ED BY, UNDER OV	VN POWER, P. C.		A.c	
			* **					J POLICE ESC	
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	R ACTOR		MAILER		DOLLY			J PRIVATE E	
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Department of Public Works County of Hawai'i Hilo, Hawai'i Phone: (808) 961-8321 Fax: (808) 961-8630 STATE PERMIT NO. IAH - IDTU In compliance with Section 291-36, Hawai'i Revised Statutes, permission to move heavy vehicles and/or objects exceeding the height, width and length specified in Sections 291-34 and 35, Hawai'i Revised Statutes.	
Overall dimensions and weight of loaded vehicle:	
Height: 12 Feet 1 Inches Length: 10 Feet 4 Inches	
Weight IM, 200 Lbs. Width: 11 Feet 2 Inches	
Type of Object or Equipment (A) 2449 EX. 1241700	
Route of Travel: Origin According On Inthus Inc	
Destination Millia Kla Materiating	
Over Routes: Right in Maikitua Load Right in highway 190, 12th in duniel K incruje Read 19th on Mulina Kea Ulters read	
Time of Movement: Date 11714 - 91714 Time: From 170 To 170	non-contract of the second
The undersigned applicant agrees to assume full responsibility for any loss or damages to County bridges, roads, life and/or property from such operation or moving and shall indemnify and hold hamiless the County of Hawal'i and its officers or employees from any suits or claims. The Police Department shall be notified of the route and time of each movement; also the Police Department's approval shall be obtained put to such movement, otherwise this permit will be considered void.	<u>rior</u>
FIRM PHONE: 8/18/217. DATT FIRM: MS EXCULATION & MALLING	/
FIRM FAX: 818.771-8140 BY: KNATHA WI MUN	
FIRM EMAIL: WICDXCAVATIN DVICKUM . CIM (Electronic signature accepted)	
Additional Conditions (for DPW use only): 1) Escorts: Police Front Rear	
2) Check Vertical Clearance (vehicles over 14'-0" in height)	
 Maintain temporary bridge reinforcement at mile post 51, Saddle Road. 	
Ou Cor Director	
cc: Applicant Hawa!'i Police Dept. (Fex: 961-2228)	
DPW Form 11 Revised 06/04/12 County of Hawai'l is en Equal Opportunity Provider and Employer.	

TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE

	GENERAL CON	DITIONS FOR OVERSIZE A	ND/OR OVERWEIGHT VE	GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS	<u>S</u>
ESCORT REQUIREMENTS	male i meri mpik 14.81 01 1466 ilik akewildir	Plainato St. Rip. 2000; Kliausa Ave. To Komoljana St. MP 0 16 To MP 1 83	Kohaja Wt. Rd. Rds. 250 Kawailasa Rot to Akoni Pula- Hwy. MP 20 to MP 21.8	Akoni Pule Hwy. Route 270 Alnakea Subd. Rd. to Poloti Valley MP 238 to MP 28.9	South Kona Balt Road Rts: 115 Milbill Rd. To Honalo Jot. MP 89.00 To MP 113.9
Private Front Escort	12.00' to 13.99'	12.00' to 13.99'	Not Applicable	Not Applicable	Not Applicable
Private Front & Rear Escorts	14,00° to 15.99°	14.00' to 14.99'	9.00' to 11.99'	9.00' to 11.99'	10.00' to 11.99'
Police Front & Private Rear Escorts	16.00° to 18.99°	Not Applicable	12.00' to 13.99'	12.00' to 13.99'	12,00' to 13.99'
Police Front & Rear Escorts	17.00' to 17.99'	15.00" to 15.99"	14.00° to 14.99°	14.00° to 14.99°	14.00° to 14.99°
Notice to Public, Staging Plans and Two Police with One Private Front Escorts	18.00° to 19.99°	16.00° to 16.99°	15.00' to 15.99'	15.00° to 15.99°	15.00° to 15.99°
Special Approval & Requirements	20.00' and over	17.00° and over	16.00' and over	16.00' and over	16,00° and over

by-case basis upon request.)	16.00' and over	16.00' and over	16.00' and over	Special Approval & Requirements
5:00 am) (Day moves may be approved on a case-	15.00' to 15.99' Take Route 190 / Walkoloa Road And Follow Requirements *	15.00' to 15.99' Take Queen Kaahumanu Highway	15.0°0 to 15.99'	Notice to Public, Staging Plans and Two Police with One Private Front Escorts
Slower than 10 MPH below posted Speed Limit Recommend Night Move (10:00 pm to	14.00° to 14.99°	14.00' to 14.99' Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route 190 *	14.0'0 to 14.99'	Police Front & Rear Escorts
16.00' hìgh OR	13.0' to 13.99'	12.0'0 დ 13.99'	12.0'0 to 13.99'	Police Front & Private Rear Escorts
Greater than 12.00' wide,	12.00' to 12.99'	11.0'0 to 11.99'	11.0°0 to 11.99°	Private Front & Rear Escorts
Special Requirements	11.00" to 11.99"	10.0°0 to 10.99°	10.0'0 to 10.99'	Private Front Escort
Kajiua-Kona Urban Area Rts. 19 Honokohau Harbor (MP 97.55) to Rts. 11 Honalo (MP 113.8)	Kawaihae Road Rts. 19 Waiska Bridge to Kawaihae Harbor MP 59.1 to MP 3.4	Mamalahoa / Hawaii Belt Road. Rts. 190 Keamuku Bridge to Scenic Lookout MP 13.0 to MP 27.7	Ascort REQUIREMENTS AS Honus To South Point Rd. 3Rt.11	Richard Residence of the Control of

Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F TMT Memorandum 10/15/

page 408

Permit applicant shall be resp	onsible to check overhead clearances along the route.
Heights up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Kallua-Kona Urban Area (see page 1)

MOVE LENGTHS: Escan requirements for emp	ewollo) are an aevor belied the Vi
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required.
70.01' To 80.00'	Provide private front escort
80.01' To 100.00'	Provide private front and rear escorts
Over 100.00'	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

PROJECTION LENGTH REQUIREMENT 4' to 10', less than 7' high Provide private escort at projection	PROJECTIONS: Escoveral instruction for front and/b. rec	atoprojections are as follows:
4' to 10', less than 7' high Provide private escort at projection	PROJECTION LENGTH	REQUIREMENT
	4' to 10', less than 7' high	Provide private escort at projection
Greater than 10' Additional requirements as determined by the Issuing office	Greater than 10'	Additional requirements as determined by the Issuing office

TRAVELING SPEED: Eacort requirements for slew moving vehicles Use illighest posted agreed limition route.	
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

DISTRIBUTE TRAVELEDS

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

PEAK HOURG:

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- a. Urban Hilo Area (Wailuku Bridge to Kawailani Street)
- b. Route 130 and Route 139 (Keaau By-pass Road and Keeau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

SCHOOL TRAFFIC HOURS:

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following:

- Puainako Street (Kanoelehua Avenue to Komohana Street)
- b. Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

Exh Exceptions may be allowed in opposite direction of peak traffic flow

~ 4014 E104

MIGHTA	(eves)
Night m	oves must be approved by the Design Engineer or District Engineer. requirements are as follows :
8.	Provide police front and rear escorts
ъ.	Provide full illumination of extremities of load (Flood Lights)
C.	Provide side running lights
Other rec	puirements may be required by the permit issuing office or as required by law

WEIGHT LIMITATIONS:

Weight limitations are subject to review and approval as follows:

PAYEMENT STRUG	AVRES:	The state of the s	
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 fbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 anly	Requires Honolulu (HWY-LS) Approvel

PRINCES:				
Bridge Restricitons	 No stopp No other 	n speed over structuing on the structure	ire not to exceed ! Ige during crossin	Axie > 60,000 lbs. 5 MPH. g except passenger vehicles.
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Spacing: Last Tractor Axle to First Trailer Axle or	Combined Weight Trailer Axles	Approval Authority
W = 900(L+40)	65,000 lbs. or less	28.00-ft, ar more		Hawali District Approval
	> 65,000 lbs.	Requires Honolulu (HWY-DB) Approval		
BRIDGES WITH LESS CAPACITY	MAX. WEIGHT PI Ninole Bridge (II Hilea Bridge (IM Route 11, past Pa Every overweight ANY BRIDGE UN Width and length	ea side of Saddle Rose ER TANDEM = 61,00 MP 56.58) P 57.72) shala permit must go to HV DER CONSTRUCTION restrictions and addition	Agmaka Niulii Bri Route 270 VY-DB in Honolulu 1 DN onal conditions may	o Bridge (MP 26,58) dge (MP 27.28) 0, past Halaula for approval until further notice. y be required depending on detouring repaired or reconstructed.

OTHER REQUIREMENTS:

UNDSUAL CONDITIONS:

Restrictions and/or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc.

KOAD GRADES:

In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahualoa, Waiohinu, Kohaia Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glannwood, Akaka Falls Road.)

REVISIONS.

Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking Association shall be informed of these revisions.

Exhibit F **TMT Memorandum**

This space for issuing	office:
APPLICATION NO.	190572X
04-8	·

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 07/15R)

APPLICATION TO OPERATE OR TRANSPORT

		OVERS	12/15 21/11	OVER	STATE	HIGHV	VAYS		
					Date	7/08/19		engeligen in property and the	
Pursuant to Chapter 29 a special permit to authorize the a or both, which exceed the provision							uesis the Direct t of dimension	tor of Transp s or weights, in	ortation to is: neluding toad
ISSUE PERMIT TO:									
Name of owner (or lessee) of vehicle	BJ'S EXCAV								
Address: PO BOX 1887 KAILUA-	KONA HI 96745	5							
MOVEMENT: Oversize	🛘 Overweig	ght 🔀 🔿	versize and Over	weight 🗆	Flag Projection	ns 🖾 Lig	hts 🖾 Wi	deload Sign	
THIS APPLICATION IS FOR:	Surgle Trip	☐ Conti	qirT auconi	Lanund L					
ROUTE OF TRAVEL:									
Origin: GOODFELLOW 8	ROTHERS		~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	Destinoi	on: MAUNA I	ŒA OBSERV	ATORY-TMT	. The service of the Company	
Over Routes: RIGHT ON V	VAIKOLOA ROA	AD, RIGHT O	N HIGHWAY I	90, LEFT ON	DANIEL K INC	DUYE (SADDI	LE), LEFT ON	MAUNA KEA	ACCESS
· ·									
W	a nguyên ng dilandak kalin a manana kalin na wingin un			angendermanne sur street			i anno anno anno anno Na		MIN
Mary Mark to China Mary							·		
(THIS PERMI)	T VALID ON ST	ATE HIGHWA			SUBJECT	cell or con	Y REGULA	(ZKOIT)	
☐ 0830 to 1500 HRS	☐ 1800 to 0:	500 HRS	□ 0030 to	J300 HRS	□ □ AC MC	MERCEN	TURDAY, SUI	(BAY, & HOL	IDAYS
DATE OF MOVEMENT:			,		-				
OBJECT OR LOAD				4000		7			
Owner: GOODFELLOW	BROTHERS IN	C				68-124	4 WAIKOLOA	ROAD, WAIN	MEA 96743
			ะวาล	72.3991.5	; 35'7"L, 11'3		•		
Object or load to be moved.	740 ANT NOO		57	WEIGHT, SI					
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Method of movement: ON	TRAILER	400						•	,
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TRUCK		76.9	AILER		DOLLY			POLICE ES	
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OTHER	₩	ARAN. KI	Manage and services and services				V	hicle including	Load
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lo, of Axies. 4		160,000		~	······································		Height	tt n	1 in
iross Wt. (ibs.) 79,000	88	22880		-,		a high higher discharts of	Rear Projec		
are Wt. (ibs.) 21910		608HZC					Length	n	in
icense: 449HOU		500120					- Height	R	in
In contact with Pavenum	FRONT	AXLE 2	AXLE 3	AXLE4	AXLE 5	AXLE 6	AXLE 7	AXLE 8	AXLE 9
Gross Wt. (lbs.) Empty	14320	3673	3673	3673	5970	5970	5970	5970	
With Load	14710	15798	15798	15798	14878	14878	14878	14878	
	2	2	4	4	4	4	4	4	
No. of Wheels	}	*****	24,50	24.50	22.50	22.50	22,50	22.50	
		24.50					i		
Tire Sizes	24.50		:	1					
Tire Sizes Axle Spacing (ft. & in.)	- 15.						20 4.:		<u>-</u>
Tire Sizes Axle Spacing (ft. & in.)	- 15.	ove-described v	rehicle shall be r	educed to the m					
Tire Sizes Axie Spacing (ft. & in.) The undersigned hereby celace and that said vehicle shall be mo	15.	ove-described v e with the term	rehicle shall be a s set forth in the	educed to the m Special Permit					
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The Sizes Axte Spacing (ft. & in.) The undersigned hereby cease and that said vehicle shall be made General & Special Conditions.	15. Hiffes that the aboved in compliance ions to transport	ove-described ve with the term	rehicle shall be a s set forth in the and/or overw chments.	educed to the m Special Permit reight		able dimension		ore any movem	ient tokes
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Arde Spacing (ft. & in.) The undersigned hereby celese and that said vehicle shall be mose General & Special Conditivehicles and loads over State Fermission to operate the alaphed, intolect, however, to the General of Conditivehicles and Conditi	tifies that the aboved in compliance ions to transporting the lighways included the control of t	ove-described ve with the term ort oversize uded as attain versize ond/or of d any Special P	rehicle shall be as set forth in the and/or overwishments. SPECIA overweight vehicles stated	educed to the medical Permit relight L PERMIT the and load over the medical produced to the medical produced to the reverse second	By	BU'S EXC	and weight before the second s	OFE ANY MOVEST	nent tokes
Axle Spacing (ft. & in.) The undersigned hereby cereace and that said vehicle shall be mose General & Special Conditional Conditions and loads over State for the feet of the	tifies that the aboved in compliance ions to transporting the lighways included the control of t	ove-described ve with the term ort oversize uded as attain versize ond/or of d any Special P	rehicle shall be a set forth in the and/or overwichments. SPECIA	educed to the medical Permit relight L PERMIT the and load over the medical produced to the medical produced to the reverse second	By	BU'S EXCA	and weight bef M PERUITIEE AVATION & H.	OFE ANY MOVEST	nent tokes
The Sizes Axle Spacing (ft. & in.) The undersigned hereby cellace and that said vehicle shall be mose General & Special Conditivehicles and loads over State Fermission to operate the all public graphs of the General Space (7/5)/19	tifies that the aboved in compliance ions to transporting the lighways included the control of t	ove-described ve with the term ort oversize uded as attain versize ond/or of d any Special P	rehicle shall be as set forth in the and/or overwishments. SPECIA overweight vehicles stated	educed to the medical Permit relight L PERMIT the and load over the medical produced to the medical produced to the reverse second	By	BU'S EXC	and weight bef M PERUITIEE AVATION & H.	AULING CO.,	NC

	NO. 574-19-026
Department of Public W County of Hawai'i	DATE: 7/12/14
Hilo, Hawai'i Phone: (808) 961-8321 Fax: (808) 961-8630	STATE PERMIT NO. 19-11-0072
, , ,	Statutes nermission to move heavy vehicles
and/or objects exceedir Statutes.	or the height, width and length specified in Sections 291-34 and 35, Hawai'l Revised
	weight of loaded vehicle:
Height: U Fee	t 10 Inches Length: 10 Feet 1 Inches
Weight 72344	Lbs. Width: 1 Feet 3 Inches
Type of Object or Equip	
Route of Travel: Or	ion grafillen prother Inc
De	estination Maura Ra Williams
Over Routes:	n un majkulea ka kratt m thán vay 1911.
-137	indunial k. Indust edau, 107) in reduting the access
	d l d
Time of Movement:	Date 7/7/4 - 1/7/1/7
	Time: From 1870 To 1000
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	ted applicant agrees to assume full responsibility for any loss or damages to County also property from such operation or moving and shall indemnify and hold harmless the
County of Hawai'i and	its officers or employees from any suits of claims. The review supports of each movement; also the Police Department's approval shall be obtained prior
to such movement, of	herwise this permit will be considered void.
FIRM PHONE: 80	5 UT- 59TT FIRM: DK EXCAVITION G HAWING
FIRM FAX:	(Electronic signature accepted)
FIRM EMAIL: DI	excavation abjecting com
Additional Conditions 1) Escorts:	(for DPW use only): Police Front Private Rear
2) 🔲 Che	eck Vertical Clearance (vehicles over 14'-0" in height)
• • •	intain temporary bridge reinforcement at mile post 51, Saddle Road.
	Ce Confirmation
A	·
co: Applicant Hawai'i Police C	hept. (Fax: 961-2228) .
DPW Form 11 Revised 06/04/12	To all Constituting Devider and Employer
	County of Hawai'i Is an Equal Opportunity Provider and Employer.

TRAVELING SPEED:

٠.

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each move.

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	1	GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS	
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Special Approval & Requirements	Notice to Public, Staging Plans and Two Police with One Private Front Escorts "	Police Front & Rear Escorts	Police Front & Private Rear Escorts	Private Front & Rear Escorts	Private Front Escort	ESCORT REQUIREMENTS	Special Approval & Requirements	Notice to Public, Staging Plans and Two Police with One Private Front Escorts.	Police Front & Rear Escorts	Police Front & Private Rear Escorts	Private Front & Rear Escorts	Private Front Escort	ESCORT REQUIREMENTS	
16.00' and over	15.0°0 to 15.99	14,0'0 to 14.99	s 12.00 to 13.99	11.0'0 to 11.99	10.0°0 to 10.99	Naalehu-South Point Rd: "Rt.11" Horuspe To South Point Rd: "MP 60/9, To MP 69/5"	20.00° and over	18.00' to 19.99'	17.00° to 17.99°	16.00° to 16.99°	14.00' to 15.99'	12.00' to 13.99"	Highways With 14-FL To 12-FC Wide Travel Laries	GENERAL COND
ver			99'	99'	99'		17.00' and over	15.00' to 16.99'	15.00' to 15.99'	Not Applicable	14.00° to 14.99°	12.00' to 13.99'	Ptjainako St. Rtg. 2000. Kilausa Ave. To Kornohana St. MP 0.16 To MP 1.63	HAWAII DISTRICT ON
16.00' and over	15.00' to 15.99' Take Queen Kaahumanu Highway	14.00' to 14.99' Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route 190 *	12.0°0 to 13.99°	11.0'0 to 11,99'	10.0'0 to 10.99'	Mamalahos / Hawall Belt Road Rto 190 . * Keamuku Bridge to Scenic Lookoul	16.00' and over	15.00' to 15.99'	14.00° to 14.99°	12.00° to 13.99°	9.00" to 11.89"	Not Applicable	NO. KONATA MIL Rd. FQ. 250. TA SI KAWAIBAA Rd (to Akom) Fulo HWY. MP 2.0 to MP 2.1.8	HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS
16.00° and over	15.00' to 15.99' Take Route 190 / Waikoloa Road And Follow Requirements *	14,00° to 14.99°	13.0' to 13.99'	12.00° to 12.98°	11.00° to 11.99°	⇒ Kawaihae Road. Rte. 194 Waiaka Bridge to Kawaihae Haribot. ™ _4MP 59.1 to MP.3.4 %	16.00' and over	15.00° to 15.99°	14.00° to 14.99°	12.00° to 13.99°	9.00° to 11.99°	Not Applicable	Akoni Pule Pwy. Roure 270 e Amakea Subo. Rd. to Pololiu Valley MP 238 to MP 288	REQUIREMENTS VEHICLES ON STATE HIGHWAYS
by-case basis upon request.)	5:00 am) (Day moves may be approved on a case-	Slower than 10 MPH below posted Speed Limit Percommend Night Move (10:00 pm to	16.00' high OR	Greater than 12.00' wide,	Special Requirements	*Kawaihae Rosd: Rte. 194. Kailila-Kona Uthan Area Valaka Bridge to Kawaihae Haibas. Rue. 19 Honokojau Harbor (MP 97.55). **********************************	16.00' and over	15.00° to 15.99°	14.00' to 14.99'	12.00' to 13.99'	10.00' to 11.99'	Not Applicable	South Kong Beit Road, Rite 11 bi ey Misil Rd: To Honaio Jci. MP 89 0LL To MP 113 9	}

Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

PEGIT	
Permit applicant shall be resp	onsible to check overhead clearances along the route.
Heights up to 14.00'	Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Kallua-Kona Urban Area (see page 1)

MOVELENGTHS: Escart regularments for emp	sty and loaded moves are as follows
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required.
70.01' To 80.00'	Provide private front escort
80.01' To 10 0 .00'	Provide private front and rear escorts
Over 100.00'	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

PROJECTIONS: Escon mathements for front and/or re-	ar projections are es follows:
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

TRAVECING SPEED: Eacert requirements for slow moving vehicles Use Manest posted speed finition route.	ace shown below:
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

DISTANCE TRAVELED:

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

PEAN HOURS:

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- a. Urban Hilo Area (Wailuku Bridge to Kawailani Street)
- b. Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kallua-Kona Urban Area (see page 1)

SCHOOL TRAFFIC HOURS:

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following :

- a. Puainako Street (Kanoelehua Avenue to Komohana Street)
- b. Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

EXITIENTED TIONS may be allowed in opposite direction of peak traffic flow

NIGHTA	16LAS	
Sala Diamenta	And the state of t	was a second consideration and the food tree
	oves must be approved by the Design Engineer or District Engineer. Trequirements are as follows	
a.	Provide police front and rear escorts	The second specific section of the second se
b.	Provide full Illumination of extremities of load (Flood Lights)	
c.	Provide side running lights	g any angle parkaganana ana manaka wakana angkara angkama kanada Pama akkabah kuli k
Other red	quirements may be required by the permit issuing office or as required by law	المركب و المركبة المركب من المركبة والمركبة المركبة المركبة والمركبة المركبة المركبة والمركبة المركبة المركبة

WEIGHT LIMITATIONS:

Weight limitations are subject to review and approval as follows:

PAYEMENTSTRUC	VITURES :	and a substitution of the	
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 ibs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

PRIDGES:		Separate Sep				
Bridge Restricitons	2. No stopp 3. No other	n speed over structuing on the structure vehicles on the bridge on the bridge rout and rear escond	re not to exceed to lge during crossings.	Axle > 60,000 lbs. 6 MPH. g except passenger vehicles.		
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Spacing: Last Tractor Axle to First Trailer Axle or	Combined Weight Trailer Axles	Approval Authority		
W = 900(L+40)	65,000 lbs. or less	28.00-ft. or more		Hawaii District Approval		
the constitution and a believe the constitution of the constitutio	> 65,000 lbs.	< 28.00-ft.	> 80,000 lbs	Requires Honolulu (HWY-DB) Approval		
	Kamakoa Bridge No. 1 (MP 4.63) Route 190, Walmea side of Saddle Road Jct. MAX. WEIGHT PER TANDEM = 61,000 lbs.					
BRIDGES WITH LESS CAPACITY	Ninole Bridge (MP 56.58) Hilea Bridge (MP 57.72) Route 11, past Pahala Every overweight permit must go to HVVY-DB in Honolulu for approval until further notice.					
	ANY BRIDGE UNDER CONSTRUCTION Width and length restrictions and additional conditions may be required depending on detour road and construction limitations whenever a bridge is being repaired or reconstructed.					

OTHER REQUIREMENTS:

Unusual Conditions.

Restrictions and/or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc.

POAD SHADES:

in areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahualoa, Waiohinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akake Falis Road.)

REVISIONS:

Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking Association shall be informed of these revisions.

Exhibit F TMT Memorandum

بر his space for issuing office:						
APPLICATION NO.	190571X					
Date Stomp						

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

DOT 4-005 (HWY-C 07/ISR)

APPLICATION TO OPERATE OR TRANSPORT

OVERSIZE AND/OR OVERWEIGHT VEHICLES AND LOADS OVER STATE HIGHWAYS Date 7/08/19 Pursuant to Chapter 291 Section 36. Hawali Revised Statues, as amended, the undersigned permittee hereby requests the Director of Transportation to issue a special permit to authorize the operation or movement of a vehicle or combination of vehicles or special mobile equipment of dimensions or weights, including loads or both, which exceed the provisions of Chapter 291 Section 34 and Section 35. Hawali Revised Statues, as amended. ISSUE PERMIT TO: Name of owner (or lessee) of vehicle, BJ'S EXCAVATION & HAULING CO., INC Address: PO BOX 1867 KAILUA-KONA HI 96745 D Fing Projections ☐ Lights Wideload Sign Oversize and Overweight Oversize □ Overweight □ Annual Continuous Trip THIS APPLICATION IS FOR: Single Trip ROUTE OF TRAVEL: Destination: MAUNA KEA OSSERVATORY-TMT Origin: GOODFELLOW BROTHERS OVER ROUTES: RIGHT ON WAIKOLOA ROAD, RIGHT ON HIGHWAY 190, LEFT ON DANIEL K INQUYE (SADDLE), LEFT ON MAUNA KEA ACCESS ROAD TO THE TOP (THIS PERMIT VALID ON STATE HIGHWAYS ONLY - OTHER ROUTES SUBJE MOYEMEN FURDAY, SUNDAY, & HOLIDAYS ☐ 1800 to 0500 HRS ☐ 0030 to 0500 HRS ☐ 0830 to 1500 HRS DATE OF MOVEMENT: **OBJECT OR LOAD** 68-1244 WAIKOLOA ROAD, WAIMEA 96743 Owner GOODFELLOW BROTHERS INC NAME Object or load to be moved: 740 ART ROCK TRUCK-DE228 , 35'7"L, 11'3"W, 9'10"H 72,399C Method of movement: ON TRAILER MOUNTED ON, TOWED BY, UNDER OWN FOWER, ET Ø DOLLY POLICE ESCORT ☐ TRUCK Check which and PRIVATE ESCORT C) JEES TRUCK-TRACTOR supply information BHTHE ☐ OTHER Overall Dimensions of Vehicle including Load Make: 13' KENWORTH RAH KING Width No. of Axles: 4 150,000 Height Gross Wt. (lbs.) 79,000 Rear Projection: Tare W1, (lbs.) 21910 23880 Length License: 449HDU 608HZC Height Ĥ. AXLE 3 AXLE 9 AXLE 6 AXLE 7 FRONT AXLE 2 AXLE 3 AXLE 4 ANLES In confect with Payement 5970 5970 5970 5970 3673 3673 14320 36793 Grozs Wt. (lbs.) Empty 14878 14878 14878 14878 15798 15798 15798 With Load 14710 4 4 4 4 2 4 No. of Wheels 22.50 22,50 24.50 24,50 24.50 24 50 Tire Sizes 34.30 Axle Spacing (ft. & in.) ~ 15.20 -The undersigned hereby certifies that the above-described vehicle shall be reduced to the minimum practicable dimension and place and that said vehicle shall be moved in compliance with the terms set furth in the Special Permit. See General & Special Conditions to transport oversize and/or overweight vehicles and loads over State Highways included as attachments BU'S EXCAVATION & HAULING CO., INC SPECIAL PERMIT Permission to operate the above-described oversize and/or overweight vehicle and load over the route on the date and time as state//those on the application is hereby granted: subject, however, to the General Conditions and any Special Provisions stated to the reverse side.

EXILATION (19) TMT Memorandum	manda ade code ca. c	 Approved:	By
Permit Fee: \$ 25.00			HAWAII DISTRICT ENGINEERExhibits page 417

Department of Public Works NO. 5/6-19-825
County of Hawai'i Hito, Hawai'l DATE: 7/12/1/9
Phone: (808) 961-8321
Fax: (808) 961-8630 STATE PERMIT NO. 14-11-17
In compliance with Section 291-36, Hawai'i Revised Statutes, permission to move heavy vehicles and/or objects exceeding the height, width and length specified in Sections 291-34 and 35, Hawai'i Revised Statutes.
Overall dimensions and weight of loaded vehicle;
Height: 0 Feet 10 Inches Length: 717 Feet 7 Inches
Weight: 11 nam Lbs. Width: 11 Feet 3 Inches
Type of Object or Equipment 140 A VT KLIK TWCK DE27 8
Route of Travel: Origin UNITCION UNTHAS INC
Destination NUMMA KU MSELYATIN
Over Routes: Right (n, Markillin Ruad, Right in High may 190)
Lift in agine K. Injuly Gadale, let on milling
MA CITEM IVAY
COSTS SECRETARY CONTROL OF SECRETARY
Time of Movement: Date 7 17 19 - 817 14
Time: From 0370 To 100
The undersigned applicant agrees to assume full responsibility for any loss or damages to County
bridges, roads, life and/or property from such operation or moving and shall indemnify and hold harmless the County of Hawai'i and its officers or employees from any suits or daims. The Police Department shall be notified of the route and time of each movement; also the Police Department's approval shall be obtained prior
County of Hawai'l and its officers or employees from any suits or daims. The Police Department shall be notified of the route and time of each movement; also the Police Department's approval shall be obtained prior to such movement, otherwise this permit will be considered void.
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County of Hawai'l and its officers or employees from any suits or claims. The Police Department shall be notified of the route and time of each movement; also the Police Department's approval shall be obtained prior to such movement, otherwise this permit will be considered void. FIRM PHONE: \$\frac{18.71.19.71}{18.21.19.71}\$ FIRM: \$\frac{10.51.51.91}{19.51.51.91}\$ FIRM: \$\frac{10.51.51.91}{19.51.51.91}\$ FIRM: \$\frac{10.51.51.91}{19.51.51}\$ FIRM: \$\frac{10.51.51.91}{19.51.51}\$ BY: \$\frac{10.51.51.91}{19.51.51}\$ FIRM EMAIL: \$\frac{10.51.51.91}{19.51.51}\$ Additional Conditions (for DPW use only): 1) Escorts: \$\frac{10.51.51.91}{19.51.51}\$ Police \$\frac{10.51.51.91}{19.51.51}\$ Front \$\frac{10.51.51.91}{19.51.51}\$ Private \$\frac{10.51.51.91}{19.51.51}\$ Maintain temporary bridge reinforcement at mile post 51, Saddle Road.
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TRAVELING SPEED:

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOYES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each move.

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS

ESCORT REQUIREMENTS	Highways With 11 FL To 12 Ft Wide Travel Lanes	Puairako St. Rtp.:2000 Kuauwa Ave: To Komohana St. MP 0:16 To MP 1:63	Konaja Mt. Rd. Rtg. 250 Kawalhae Rd. to Akkam Pule Hwy. MP 2.0 to MP 218	Akoni Pule Hwy Route 279 Alnakea Suba, Rd. to Pololii Valley MP 23.6 to MP 28.9	South Koya, Belt Road Rts, 11 5 Michield To Honals Jot MF 89.0 To MP 113.9
Private Front Escort	12.00' to 13.99'	12.00' to 13.99'	Not Applicable	Not Applicable	Not Applicable
Private Front & Rear Escorts	14.00' to 15.99'	14.00° to 14.99°	9.00' to 11.99'	9.00' to 11.99'	10.00' to 11.99'
Police Front & Private Rear Escorts	16.00" to 16.99"	Not Applicable	12.00° to 13.99°	12.00' to 13.99'	12.00° to 13 99
Police Front & Rear Escorts	17.00° to 17.99°	15,00° to 15.99°	14.00° to 14.99°	14.00' to 14.99'	14.00° to 14.99
Notice to Public, Staging Plans and Two Police with One Private Front Escorts *	18.00' to 19.99'	16.00° to 16.99′	15.00° to 15.99°	15.00' to 15.99'	15.00° to 15 99
Special Approval & Requirements	20.00' and over	17.00' and over	16.00' and over	16.00° and over	16.00' and over

Special Approval & Requirements	Notice to Public, Staging Plans and Two Police with One Private Front Escorts	Police Front & Rear Escorts	Police Front & Private Rear Escorts	Private Front & Rear Escorts	Private Front Escort	ESCORT REQUIREMENTS
16.00' and over	15.0°C to 15.99'	14,0'0 to 14.99'	12.0'0 to 13.99'	11.0'0 to 11.99'	10.0'0 to 10.99'	Nasiehu-South Point Rd., Rt.11 Honuapo To South Point Rd., MP 60,9 To MP 69,55
16.00' and over	15.00° to 15.99° Take Queen Kaahumanu Highway	14.00" to 14.99' Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route 190 *	12.0'0 to 13.99'	11.0'0 to 11.99'	10.0'0 to 10.99'	Nasietiu South Point Rd., Rt.11 Mamalahoa / Hawaii Beit Road, Rte. 190 Kawaihaa Road, Rte. 19 Kalija-Kona Urban Area Escort Regulirements Hongapo To South Point Rd. Keamuku Bridge to Scenic Lookout Walaka Bridge to Kawaihae Harbo Rte. 19 Kean 19 Keamuku Bridge to Kawaihae Harbo Rte. 19 Kean
16.00' and over	15.00' to 15.99' Take Route 190 / Waikoloa Road And Follow Requirements *	14.00° to 14.99°	13.0° to 13.99°	12.00° to 12.99°	11.00' to 11.99'	Kewalhae Road Rie 19 Walaka Birdge to Kawaffae Harbon 2 NP 59 1 to MP 3 2
by-case basis upon request.)	(Day moves may be approved on a case-	Slower than 10 MPH below posted Speed Limit Spearment Night May 11:00 pm to	16.00' high O R	Greater than 12.00' wide,	Special Requirements	Kaljua-Kona Urban Area Rtie 19 Honokojjaŭ Hartior (MP 97.55) 55 Rtie 11 Honalo (MP 173.9)

^{*} Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F TMT Memorandum

bits page 420

HERONGT	
Permit applicant shall be resp Heights up to 14.00'	onsible to check overhead clearances along the route. Follow other requirements
Heights 14.01' to 15.00'	Permit Required
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Kailua~Kona Urban Area (see page 1)

LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required.
70.01' To 80.00'	Provide private front escort
80.01' To 100.00'	Provide private front and rear escorts
Over 100.00'	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

PROJECTIONS: Escont requirements for front and/or rea	ir grojections are as follows:
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater (han 10'	Additional requirements as determined by the issuing office

TRAVELING SPEED: Encora requirements for sport moving vehicles tues hathest possed speed traff on multip	
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

DISTANCE TRAVELED

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

PEAK HOURS

Oversized and overweight vehicles movements are restricted from the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- urban Hilo Area (Weiluku Bridge to Kawailani Street)
- B. Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

SCHOOL TRAFFICHOURS:

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following

- Puainako Street (Kanoelehua Avenue to Komohana Street)
- Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

Exceptions may be allowed in opposite direction of peak traffic flow

TMT Memorandum

MIGHT 4	OVES:
Night m	oves must be approved by the Design Engineer or District Engineer. requirements are as follows:
a.	Provide police front and rear escorts
b.	Provide full illumination of extremities of load (Flood Lights)
C.	Provide side running lights
Other rec	juirements may be required by the permit Issuing office or as required by law

WEIGHT LIMITATIONS:

Weight limitations are subject to review and approval as follows:

PAYEMBNI SURVE	AURES:2		
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

BRIDGES:				ALGORITHM TO THE TOTAL THE TOTAL TO THE TOTAL THE TOTAL TO THE TOTAL THE TOTAL TO T
Bridge Restricitons	2. No stopp 3. No other	n apead over structi	ure not to exceed to. Ige during crossin	i Axle > 60,000 lbs. 5 MPH. ig except passenger vehicles.
MOST BRIDGES	Combined Weight Tractor Rear Axles or	Specing: Last Tractor Axis to First Trailer Axis or	Combined Weight Trailer Axies	Approval Authority
W = 900(L+40)	65,000 lbs. or less > 65,000 lbs.	28.00-ft, or more < 28.00-ft,	80,000 lbs. or less > 80,000 lbs	Hawaii District Approval Requires Honolulu (HWY-D8) Approval
BRIDGES WITH LESS CAPACITY	MAX. WEIGHT Plus Ninole Bridge II Hiles Bridge II Route 11, past Pa Every overweight ANY BRIDGE UN Width and length	ea side of Saddle Rose ER TANDEM = 61,00 MP 56,58) P 57,72) hala permit must go to HV DER CONSTRUCTION Testrictions and additions	Aamaka Nlulii Bri Roule 27 VY-DB in Honolulu i DN onal conditions mat	o Bridge (MP 26.58) dge (MP 27.28) 0, past Halaula for approval until further notice. y be required depending on detouring repaired or reconstructed.

OTHER REQUIREMENTS:

UNUSUAL CONDITIONS:

Restrictions and/or additional conditions may be required for special events such as the Ironman Triathlon, parades, road races, highway construction, etc.

ROAD GRADES:

In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahualoa, Waiohinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.)

<u>Bevisions</u>:

Provisions described above are subject to change at any time and on a case by case basis. The Hawaii Trucking Association shall be informed of these revisions.

Exhibit F TMT Memorandum San Service goods.

issuing office:	
NNO. 190561	
Tale Stamp	
e de la companya de	

State of Hawaii DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION

(HWY-C 07/ISR)

APPLICATION TO OPERATE OR TRANSPORT OVERSIZE AND/OR OVERWEIGHT VEHICLES AND LOADS OVER STATE HIGHWAYS

Gross Wt. (lbs.) 58,000 120,000 Renr Projection: Tare Wt. (lbs.) 19,700 22,500 Length ft. License: 521HDX 550HZE Height ft.										
### ### ##############################						Date_	1/03/19			, . , ELAT . 1
ISSUE PERMIT TO: Name of owner (or lesses) of vehicle: BJS EXCAVATION & HAULING CO_INC	Pursuant to Chapter 291 a special permit to authorize the opt or both, which exceed the provisions	Section 36, Haw eration or move s of Chapter 291	vnif Revised St went of a vehic I Section 34 An	atues, as amend de or combinat d Section 35, H	ded, the under tion of vehicles lownii Revised	signed pernsitte or special mob Statues, as amo	e hereby requirent alle equipment	ests the Dirve of dimension	tor of Transpo or weights, in	rtation to i cluding los
Address: PD BOX 1887 KAILUJA-KONA HI 96745 MOVEMENT: Oversize Overweight Doverweight Plag Projections Displace Overweight Plag Projections Displace Displac										
Modern	Name of owner (or lessee) of vehicle:	BJ'S EXCAVA	TION & HAUL	ING CO.,INC					_R12f)	
MOVEMENT: Oversize Overweight Overweight	Address; PO 80X 1887 KAILUA-Ki	ONA HI 96745						-		ment of the second
THIS APPLICATION IS DOR: Dright: GOODFELLOW BOTHERS INC	MOVEMENT: 🗆 Oversize	Overweight	n 🖾 Ove		_	Flag Projections	: Litze	е с ии	iciona digii	
Origin: GOODFELLOW BOTHERS INC Detunation: MAUNA KEA OBSERVATORY Cover Routes: RIGHT ON WAIKOLOA ROAD, RIGHT ON HIGHWAY 199, LEFT ON DANIEL K INDUTYE (SADDLE). LEFT ON MAUNA KEA ACCESS HOAD TO THE TOP It. (THIS PERMIT VALID ON STATE HIGHWAYS ONLY - OTHER ROUTES SUBJECTED OF THE COLLEY Y REGULATIONS) CONDER SOUTH STATE HIGHWAYS ONLY - OTHER ROUTES SUBJECTED OF THE COLLEY Y REGULATIONS) DATE OF MOVEMENT: 7/17/19-8/17/19 DATE OF MOVEMENT: 7/17/19-8/17/19 Object or load to be moved: DB DOZER SINC288 41 65LBS, 16*1, 137*W, 106*H ADBRESS 41 65LBS, 16*2, 137*W, 106*H ADBRESS 42 6DOZER SINC288	THIS APPLICATION IS FOR:	Single Trip	☐ Contis	uous Trip	☐ Annual					
Over Route: RIGHT ON WAIKOLOA ROAD, RIGHT ON HIGHWAY 190, LEFT ON DANIEL K INDUYE (SADDLE). LEFT ON MAUNA KEA ACCESS ROAD TO THE TOP (THIS PERMIT VALID ON STATE HIGHWAYS ONLY - OTHER ROUTES SUBJICE OF CITY COLLEY Y REGULATIONS) 0330 to 1500 HRS						IV AIGHAU	EA OBSERVA	ATORY		
CTHIS PERMIT VALID ON STATE HIGHWAYS ONLY - OTHER ROUTES SUBJECT OF COLOR Y REGULATIONS) 0830 to 1500 HRS	Origin: GOODFELLOW BO	THERS INC								********
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(THIS PERMIT VALID ON STATE HIGHWAYS ONLY - OTHER ROUTES SUBJECT OF OCT 100 AND STATE HIGHWAYS ONLY - OTHER ROUTES SUBJECT ONLY - OTHER ROUTES		³ ti,						unane seran,		
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0830 to 1500 HRS	The second of th		. AM (PERMINE)	UE ONE V - OT	THER BOITES	SUBJECZEÓ	OF COU	Y REGULA	TIONS)	
DATE OF MOVEMENT: 7/17/19-8/17/19 OBJECT OR LOAD Owner: GOODFELLOW BROTHER INC NAME Object or load to be moved: D6 DOZER S/N.C266 ADDRESS Object or load to be moved: D6 DOZER S/N.C266 Object or load to be moved: D6 DOZER S/N.C266 ADDRESS ATTACHMENTS BY ATTACHMENTS BY ATTACHMENTS BY OPERALER OTHER OTHER OTHER OTHER OTHER OTHER OTHER ALL KING Make: 98'PETERBILT No. of Axies: 3 Gross Wt. (ibs.) 58,000 120,000 Tare Wt. (ibs.) 19,700 22,500 License: 52'HOX 550HZE In contact with Pavement FRONT AXIE 2 AXIE 3 AXIE 4 AXIE 5 AXIE 6 AXIE 7 AXIE 8 AXIE 7 AXIE 8 AXIE 7 AXIE 8 AXIE 7 No. of Wheels 2 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4				D 6030 to 8	1500 HRS	□ SUMO	MENT	FURDAY, SUI	IDAY, & HOL	IDAYS
Owner: GOODFELLOW BROTHER INC Country GOODFELLOW BROTHER INC NAME Object or load to be moved: D6 DOZER SINIC268 47 66.BS, 16°3 13°7°W, 10°6°H TRUCK OUT Check which and OUT TRUCK OUT OUT OUT OUT OUT OUT Check which and OUT OUT OUT OUT OUT OUT OUT Check which and OUT OUT OUT OUT OUT OUT OUT Check which and OUT OUT OUT OUT OUT OUT Check which and OUT OUT OUT OUT OUT OUT Check which and OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT OUT							P			
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Object or load to be moved: O6 OOZER SINIC268 47					ALC: NO.		68-124	4 WAIKOLOA	ROAD, WAIN	/EA 96743
Method of movement	Owner: GOODFELLOW B	NAME						**************************************		
Method of movement ON TRAILER Check which and supply information □ TRUCK □ TRAILER □ JEEP □ PRIVATE ESCORT □ PRIVATE ESCORT □ PRIVATE ESCORT □ OTHER	Object or load to be moved:	DE DOZER S/	N.C268	47,4	861.8S, 16'3	ATTACHMENTS	ETC		W	
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Police ESCORT	And the second s			A P						
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See General & Special Conditions to transport oversize and/or overweight	Check which and supply information Make: 98' PETERBILT Wo. of Axles: 3 Gross Wt. (ibs.) 58,000 Fare Wt. (ibs.) 19,700 License: 521HDX In contact with Pavement Grozs Wt. (ibs.) Empty With Load No. of Wheels Tire Sizes Axle Spacing (ft. & in) The undersigned hereby cerplace and that said vehicle shall be mo See General & Special Condit	FRONT (1886 12111 2 24.50 ————————————————————————————————————	20,000 22,500 550HZE AXLE 2 3568 14328 4 24.50 50 4. ove-described very with the terms out oversize	AXLE 3 AXLE 3 3568 14328 4 24.50 50 46. Technicle shall be a set forth in the and/or overw	AXLE 4 7500 16052 4 24.50 .10 4. reduced to the re	AXLE 5 7500 16052 4 24.50 20 4 minimum practice	AXLE 6 7500 16052 4 24.50 20	Width Length Height Renr Proje Length Height AXLE 7	PRIVATE 6 Overall Dimensis chicle Including 13	SCORT ons of g Lond 0 6 AXI.E
See General & Special Conditions to transport oversize and/or overweight vehicles and loads over State Highways included as attachments. By: BJS EXCAVATION & HAULING CO., INC	Check which and supply information Make: 98' PETERBILT Wo. of Axles: 3 Gross Wt. (ibs.) 58,000 Fare Wt. (ibs.) 19,700 License: 521HDX In contact with Pavement Grozs Wt. (ibs.) Empty With Load No. of Wheels Tire Sizes Axle Spacing (ft. & in) The undersigned hereby cerplace and that said vehicle shall be mo See General & Special Condit	FRONT (1886 12111 2 24.50 ————————————————————————————————————	20,000 22,500 550HZE AXLE 2 3568 14328 4 24.50 50 4. ove-described very with the terms out oversize	AXLE 3 AXLE 3 3568 14328 4 24.50 50 46. Technicle shall be a set forth in the and/or overw	AXLE 4 7500 16052 4 24.50 .10 4. reduced to the re	AXLE 5 7500 16052 4 24.50 20 4. minimum practic.	AXLE 6 7500 16052 4 24.50 20	Width Length Height Renr Proje Length Height AXLE 7	PRIVATE 6 Overall Dimensis chicle Including 13	SCORT ons of g Lond 0 6 AXI.E
vehicles and loads over State Highways included as attachments. By: BUS EXCAVATION & HAULING CO., INC. SPECIAL PERMIT SPECIAL PERMIT	Check which and supply information Make: 98' PETERBILT Wo. of Axles: 3 Gross Wt. (ibs.) 58,000 Fare Wt. (ibs.) 19,700 License: 521HDX In contact with Pavement Grozs Wt. (ibs.) Empty With Load No. of Wheels Tire Sizes Axle Spacing (ft. & in) The undersigned hereby cerplace and that said vehicle shall be mo See General & Special Condit vehicles and loads over State by	FRONT (1886 12111 2 24.50 ————————————————————————————————————	AXLE 2 3568 14328 4 24.50 50 4. ove-described ve with the term off oversize luded as atta	AXLE 3 AXLE 3 3568 14328 4 24.50 50 46. Technicle shall be a set forth in the and/or overwing the chiral state of the	AXCE 4 7500 16052 4 24.50 .10 4. reduced to the re Special Permi	AXLE 5 7500 16052 4 24.50 20 4. Ininimum practicit.	AXLE 6 7500 16052 4 24.50 20	Width Length Height Renr Proje Length Height AXLE 7	PRIVATE 6 Overall Dimensis chiele Including 13	SCORT ons of g Lond 0 6 AXI,E
vehicles and loads over State Highways included as attachments. SPECIAL PERMIT Permission to operate the above-described oversize and/or overweight vehicle and lond over the route on the date and time as sized above on the application is he applied; subject, however, to the General Conditions and any Special Provisions stated on the reverse side. OTRECTOR OF TRANSPORTED	Check which and supply information Make: 98' PETERBILT Wo. of Axles: 3 Gross Wt. (ibs.) 58,000 Tare Wt. (ibs.) 19,700 License: 521HOX In contact with Pavement Groza Wt. (ibs.) Empty With Load No. of Wheels Tire Sizes Axle Spacing (ft. & in) The undersigned hereby cerebrace and that said vehicle shall be mo See General & Special Condit vehicles and loads over State in the supplement of the General supplement of the Ge	FRONT (1886 12111 2 24.50 ————————————————————————————————————	AXLE 2 3568 14328 4 24.50 50 4. ove-described ve with the term off oversize luded as atta	AXLE 3 AXLE 3 3568 14328 4 24.50 50 46. Technicle shall be a set forth in the and/or overwing the chiral state of the	AXLE 4 7500 16052 4 24.50 .10 4. reduced to the receptor of the property of th	AXLE 5 7500 16052 4 24.50 20 4. minimum practic.	AXLE 6 7500 16052 4 24.50 20	Width Length Height Renr Proje Length Height AXLE 7 AXLE 7	PRIVATE 6 Overall Dimensis chiele Including 13	SCORT ons of g Lond 0 6 AXI,E
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Department of Pui County of Hawai'i Hilo, Hawai'i Phone: (808) 961- Fax: (808) 961-86	8321 DATE: 7/12/19
	nce with Section 291-36, Hawai'i Revised Statutes, permission to move heavy vehicles eading the helght, width and length specified in Sections 291-34 and 35; Hawai'i Revised
Overall dimension	s and weight of loaded vehicle;
Height:	Feet V inches Length: \(\frac{1}{U}\) Feet \(\frac{\gamma}{2}\) Inches
Weight: 41,40	Lbs. Width: 17 Feet 1 Inches
Type of Object or	Equipment Dy DITEY C ZIVS
Route of Travel:	origin Guild Fellon Writhers Inc
	Destination MULINA KUM ONSERVATEN
Over Routes:	FIGHT ON WAI KOLDA ROAD RIANT IN HIGH MAY 19. THE LA MANIEL K: INVILLE CCADATE) LET ON MANIA KEA UCERSC YOUR
Time of Movemen	t: Date 7/17/14 - 8/17/14 Time: From 8:700(1.M) To 1700
bridges, roads, life County of Hawai'i notified of the rout	signed applicant agrees to assume full responsibility for any loss or damages to County and shall indemnify and hold harmless the and/or property from such operation or moving and shall indemnify and hold harmless the and its officers or employees from any suits or claims. The Police Department shall be and time of each movement; also the Police Department's approval shall be obtained prior otherwise this permit will be considered void.
FIRM PHONE:	09 217 MTT FIRM: DTS Excavation & Hawling
FIRM FAX:	808. M. 8140 BY: KANHIL (KINELLE)
FIRM EMAIL:	USE Y CAVATIM QUICKUM . COM (Électronic sighature accepted)
Additional Condition 1) Escor	ons (for DPW use only): ts: Police Front Rear
2) 🗌	Check Vertical Clearance (vehicles over 14'-0" in height)
3) 🔲 🗆	Maintain temporary bridge reinforcement at mile post 51, Saddle Road.
	O.e.: C. (jør Director
cc: Applicant Hawai'i Polic	e Dept. (Fax: 961-2228)
DFW Form 11 Revised 06/04/12	County of Hawai'i is an Equal Opportunity Provider and Employer.

TRAVELING SPEED;

When traveling more than 25 mph below the speed limit, provide front and rear escorts and pull over when (conditions allow) at least every 15 minutes.

FOR ALL MOVES:

If the General Conditions require police escorts, but police escorts are not available, provide private front and rear escorts.

TRAFFIC CONTROL:

Permittee shall supply Traffic Control per Manual on Uniform Traffic Control Devices (MUTCD) as applicable to the conditions. Permittee shall submit a Traffic Control Plan to Hawaii District for approval prior to the movement of vehicles.

NOTIFICATION:

Permittee is allowed to move equipment 24 hours a day, 7 days a week for the period of the move and shall notify the Hawaii District Engineer at (808) 345-2105 a minimum of four (4) hours prior to each move.

HAWAII DISTRICT OVERSIZE AND/OR OVERWEIGHT REQUIREMENTS

	GENERAL CONI	DITIONS FOR OVERSIZE A	ND/OR OVERWEIGHT VE	GENERAL CONDITIONS FOR OVERSIZE AND/OR OVERWEIGHT VEHICLES ON STATE HIGHWAYS	its
ESCORT REQUIREMENTS	Highways With 11-EL To 12-FL Wide Travel Lanes	Pusinato St. Rte. 2000 Kilause Ave. To Komohara St. MP 0.16 To MP 1.63	Kohaja att. Rd. Rts. 250 Kawainae Rd to Akgri Pule Hwy. MP 2.0 to MP 218	Akoni Pule Hwy Roure 270 Ainakea Subd. Rd. to Poloiu Valley MP 23.8 to MP 28.9	South Kons Bell Road R Miloff Rd. To Honsis Jet M To MP (13.9
Private Front Escort	12.00' to 13.99'	12.00' to 13.9 9 '	Not Applicable	Not Applicable	Not Applicable
Private Front & Rear Escorts	14.00' to 15.99'	14.00° to 14.99°	9.00' to 11.99'	9.00' to 11.99'	10.00' to 11.59'
Police Front & Private Rear Escorts	16.00' to 16.99'	Not Applicable	12.00' to 13.99'	12.00' to 13.99'	12,00° to 13.99°
Police Front & Rear Escorts	17.00' to 17.99'	15.00' to 15.89'	14.00' to 14.99'	14.00' to 14.99'	14,00° to 14,99°
Notice to Public, Staging Plans and Two Police with One Private Front Escorts	18.00° to 19.99°	16.00' to 16.99'	15.00° to 15.99°	15.00° to 15.99°	15.00° to 15.99°
Special Approval & Requirements	20.00° and over	17.00' and over	16.00' and over	16.00' and over	15.00' and over

by-case basis upon request.)	16.00° and over	16.00' and over	16,00° and over	Special Approval & Requirements
5:00 am)	15.00' to 15.99' Take Route 190 / Waikoloa Road And Follow Requirements *	15.00' to 15.98' Take Queen Kaahumanu Highway	15.0°0 to 15.99°	Notice to Public, Staging Plans and Two Police with One Private Front Escorts
Slower than 10 MPH below posted Speed Limit	14,00° to 14.99°	14.00° to 14.99° Take Queen Kaahumanu Hwy., Two Police With One Private Front Escorts For Route 190 *	14.0'0 to 14.99'	Police Front & Rear Escorts
16.00" high OR	13.0' to 13.99'	12.0°0 to 13.99°	12.0'0 to 13.99'	Police Front & Private Rear Escorts
Greater than 12.00' wide,	12.00° to 12.99°	11.0°0 to 11.99'	11.0'0 to 11.99'	Private Front & Rear Escorts
Special Requirements	11.00° to 11.99°	10.0'0 to 10.98'	10.0'0 to 10.98'	Private Front Escort
Kaliua-Kona Urt Ria 19 Honokohau Ha Sto Rie 11 Honalo		Naatehi-South-Point Rd. Rt.11 Mamalahoa / Hawall Belt Road. Rts. 190: Kawaihae Road. Rts. 192: Kailia-Kona Urban Area Naatehi-South Point Rd. Rt.11 Mamalahoa / Hawail Belt Road. Rts. 190: Kawaihae Road. Rts. 19.2: Kailia-Kona Urban Area NP 60 9 To MP 69 5 1 MP 13.0 to MP 27.7 MP 13.8) MP 13.0 to MP 3.4-3 MP 3.4-3 MP 13.0 to MP 3.4-3 MP 13.8 MP	Naatehij South Point Rd. Rt.11 Honuapo To South Point Rd. NP 60 9 To MP 89 5	ESCORT REQUIREMENTS

^{*} Whenever Three (3) Escorts Are Required, All Vehicles Shall Have Radio Communications (escorts and permit vehicles).

Exhibit F TMT Memorandum

page 426

Permit applicant shall be resp Heights up to 14.00'	onsible to check overhead clearances along the route. Follow other requirements
Heights 14,01' to 15.00'	Permit Required
Heights over 15.00'	Check Overpasses and Utility Crossings. May require special conditions.
Heights 16.00 and greater	See special requirements within Kailua-Kona Urban Area (see page 1)

DVE LENGTHS: cod:requirements for emp	ty and loaded/moves are as follows
LOAD LENGTHS	ESCORT REQUIREMENTS
Up To 70.00'	No escorts required.
70,01' To 80.00'	Provide private front escort
80.01' To 100.00'	Provide private front and rear escorts
Over 100.00'	Provide police front and rear escorts. May require special conditions.

Above requirements apply to full 12-foot wide pavement traveled ways only. Requirements for Highways with narrow lanes are determined by issuing office. Consideration will be given to intermediate steering systems for minimizing of restrictions with documentation or certification of tracking ability of combinations.

PROJECTIONS: Escort requirements for front and/or re	ar projections are as follows:
PROJECTION LENGTH	REQUIREMENT
4' to 10', less than 7' high	Provide private escort at projection
Greater than 10'	Additional requirements as determined by the issuing office

TRAVELING SPRED: Equal regular regular slow moving vehicles Use highest possed speed insit on route.	are.shown.below.
LOADED VEHICLE OPERATING SPEED	ESCORT REQUIREMENTS
Speed limit to 15 mph below speed limit	See Special Requirements within Kailua-Kona Urban Area (see page 1)
16 mph to 25 mph below speed limit	Provide police front and rear escorts
More than 25 mph below speed limit	Special approval and additional requirements as determined by the issuing office

DISTANCE TRAVELED:

Permittee may submit a request for the waiving of escort requirements if move is less than one (1) mile long on State Highway

PEAK HOURS:

Oversized and overweight vehicles movements are restricted from the hours of 6.30 a.m. to 8.00 a.m. and 3:30 p.m. to 5:00 p.m., unless otherwise noted, for the following areas:

- a. Urban Hilo Area (Wailuku Bridge to Kawailani Street)
- b. Route 130 and Route 139 (Keaau By-pass Road and Keaau Town Junction to Pahoa Town)

Exceptions may be allowed in opposite direction of peak traffic flow

Also, see Special Requirements within Kailua-Kona Urban Area (see page 1)

SCHOOL TRAFFIC HOURS:

Besides Peak Hour Restrictions, oversized and overweight vehicle movements are restricted from the hours of 2:00 p.m. to 2:45 p.m. on weekdays (except Wednesdays) and 1:00 p.m. to 1:45 p.m. on Wednesdays, for the following :

- a. Puainako Street (Kanoelehua Avenue to Komohana Street)
- Route 139 (Old Keaau-Pahoa Road, Keaau Town Section)

Exceptions may be allowed in opposite direction of peak traffic flow

TMT Memorandum

AUMERA	ANY CE Co.
	MARCH STATE OF THE
Night me Minimum	oves must be approved by the Design Engineer or District Engineer. requirements are as follows:
a.	Provide police front and rear escorts
b.	Provide full illumination of extremities of load (Flood Lights)
C.	Provide side running lights
Other red	juirements may be required by the permit issuing office or as required by law

WEIGHT LIMITATIONS:

Weight limitations are subject to review and approval as follows:

PAYEMENT STRUG	TIMBES:	Company of the Compan	
SINGLE AXLE	TANDEM AXLE	TRIDEM AXLE	APPROVAL AUTHORITY
Up to 40,000 lbs.	Up to 80,000 lbs.	Up to 90,000 lb. Rte 11 only	Hawaii District Approval
Over 40,000 lbs.	Over 80,000 lbs.	Over 90,000 lb. Rte 11 only	Requires Honolulu (HWY-LS) Approval

BRIDGES:				
Bridge Restricitons	 No stopp No other 	speed over structi	s. Ige during crossin	
MOST BRIDGES	Combined Weight Tractor Rear Axies or	Spacing: Last Tractor Axie to First Trailer Axie or	Combined Weight Trailer Axles	Approval Authority
W = 900(L+40)	65,000 lbs. or less > 65,000 lbs.	28,00-ft. or more < 28,00-ft.	80,000 lbs. or less > 80,000 lbs	Hawaii District Approvel Requires Honolulu (HWY-DB) Approval
BRIDGES WITH LESS CAPACITY	MAX. WEIGHT PI Ninole Bridge (I Hilea Bridge (IM Route 11, past Pa Every overweight ANY BRIDGE UN Width and length	ea side of Saddle Ro. ER TANDEM = 61,00 MP 56.58) P 57.72) hala permit must go to HV DER CONSTRUCTION Testrictions and additional	Aamaka Niulii Bri Route 27: VY-D8 in Honolulu t ON ional conditions ma	o Bridge (MP 28.58) dge (MP 27.28) 0, past Halaula for approval until further notice. y be required depending on detouring repaired or reconstructed.

OTHER REQUIREMENTS:

unusual conditions:

Restrictions and/or additional conditions may be required for special events such as the fronman Triathlon, parades, road races, highway construction, etc.

ROAD GRADES:

In areas without truck climbing lanes, trucks should pull over immediately before and after steep prolong grades to allow the general public to pass. (E.g. Kawaihae Road, Ahuaioa, Walohinu, Kohala Mountain Road, Kuakini Highway, Keala-O-Keawe Road, Volcano Highway, Mountain View to Glennwood, Akaka Falls Road.)

REVISIONS:

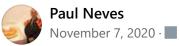
Provisions described above are subject to change at any time and on a case by case basis. The Hawali Trucking Association shall be informed of these revisions.

Exhibit F

10/27/21, 4:12 PM Facebook

facebook Log In





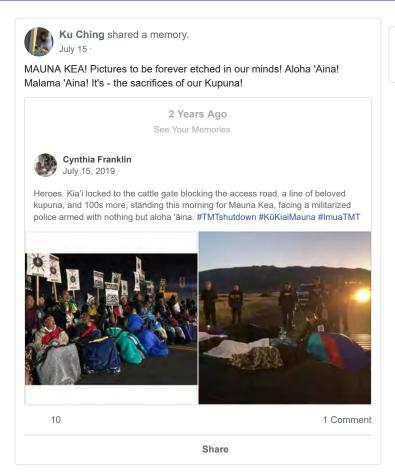


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Exhibit F Log In or Create New Account TMT Memorandum

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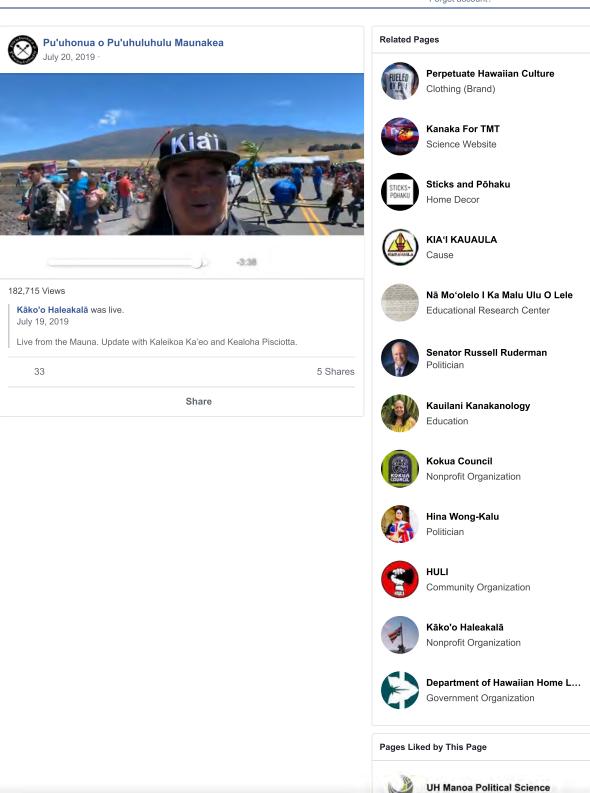
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Exhibit F Log In or TMT Memorandum

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Exhibit F Log In
TMT Memorandum

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CARRIE K. S. OKINAGA 5958-0

University General Counsel

GARY Y. TAKEUCHI 3261-0
University Deputy General Counsel

JESSE K. SOUKI 8213-0

Associate General Counsel

UNIVERSITY OF HAWAI'I

2444 Dole Street, Bachman Hall 110

Honolulu, Hawai'i 96822 Email: souki@hawaii.edu Telephone: (808) 956-2211 Facsimile: (808) 956-2109

Attorneys for

UNIVERSITY OF HAWAI'I AT HILO

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

The Petition of Mauna Kea Hui for a Declaratory Order Filed May 24, 2021.

Case No. HA-22-02

UNIVERSITY OF HAWAI'I AT HILO'S
SUBSTANTIVE JOINDER TO TMT
INTERNATIONAL OBSERVATORY LLC'S
MEMORANDUM IN OPPOSITION TO
MAUNA KEA HUI'S MOTION TO REOPEN
HEARING TO HEAR MOTION TO
CONFIRM NON-COMPLIANCE WITH
CONDITION NO. 4, OR, ALTERNATIVELY,
PETITION FOR DECLARATORY ORDERS
CONCERNING THE SAME; CERTIFICATE OF
SERVICE

UNIVERSITY OF HAWAI'I AT HILO'S SUBSTANTIVE JOINDER TO
TMT INTERNATIONAL OBSERVATORY LLC'S MEMORANDUM IN OPPOSITION TO
MAUNA KEA HUI'S MOTION TO REOPEN HEARING TO HEAR MOTION TO
CONFIRM NON-COMPLIANCE WITH CONDITION NO. 4, OR,
ALTERNATIVELY, PETITION FOR DECLARATORTY ORDERS CONCERNING THE SAME

The University of Hawai'i at Hilo ("University"), by and through its attorneys, hereby

substantively joins in TMT International Observatory LLC's ("TIO") "Memorandum in Opposition

to Mauna Kea Hui's Motion to Reopen Hearing to Hear Motion to Confirm-Non-Compliance

Exhibit G UHH Joinder Office of Conservation and Coastal Lands
Department of Land and Natural Resources
State of Hawaii
Nov 04 2021 14:28

with Condition No. 4, or, Alternatively, Petition for Declaratory Orders Concerning the Same" ("TIO Memo"), filed on November 4, 2021.

On May 24, 2021, Petitioners Mauna Kea Anaina Hou, Kealoha Pisciotta, Clarence Kukauakahi Ching, Deborah J. Ward, Paul K. Neves, and KAHEA: The Hawaiian-Environmental Alliance (collectively, "Petitioners") filed their "Motion to Reopen Hearing to Hear Motion to Confirm Non-Compliance With Condition No. 4, or Alternatively, Petition for Declaratory Orders Concerning the Same" ("Petition") with the Board of Land and Natural Resources ("Board"). In response to the Petition, the Board determined that the Petition does not seek reconsideration of the Decision and Order for Conservation District Use Permit ("CDUP") HA-3568 for the Thirty Meter Telescope on Maunakea ("TMT Project"), and does not comply with the requirements of Hawai'i Administrative Rules ("HAR") § 13-1-39, which governs the reconsideration of a Board's decision on the merits. Instead, the Board deemed the Petition a petition for a declaratory ruling pursuant to Hawai'i Revised Statutes § 91-8 and HAR § 13-1-27. Minute Order No. 1 at 1.

The Petition is part of an ongoing strategy of attempting to relitigate CDUP HA-3568, which was lawfully approved by the Board on September 17, 2017, as confirmed by the Hawai'i Supreme Court in 2018, to allow construction of the TMT Project. For example, here is a list of some of the litigation and challenges brought by one or combinations of the Petitioners to date:

(1) Appeal of the first TMT Project CDUP; the CDUP was overturned by the Hawai'i Supreme Court. *See Mauna Kea Anaina Hou v. Bd. of Land & Nat. Res.*, 136 Hawai'i 376, 363 P.3d 224 (2015) (includes all Petitioners as named parties except for Kealoha Pisciotta).

Exhibit G UHH Joinder

- (2) Appeal of CDUP HA-3568; the CDUP was affirmed by the Hawai'i Supreme Court.

 See Matter of Conservation Dist. Use Application HA-3568, 143 Hawai'i 379, 431

 P.3d 752 (2018) (includes all Petitioners as parties).
- (3) Lawsuit filed in the Hawai'i Circuit Court of the Third Circuit in July 2019, unsuccessfully arguing that TIO failed to post security for construction of the TMT Project; appeal to the Hawai'i Intermediate Court of Appeals pending. *See Mauna Kea Anaina Hou v. David Ige*, Civ. No. 19-1-0177 (includes all Petitioners as parties except for Deborah J. Ward and KAHEA).

The instant challenge filed by Petitioners is perhaps the most vexing as it attempts to read ambiguity into permit language where there is none.

The University substantively joins and supports the arguments for denying the Petition in its entirety as argued in the TIO Memo. First, Petitioners' request for a declaratory order is procedurally defective, because under established law, the declaratory ruling procedure cannot be used to review previously-made agency decisions. Second, even assuming the Board considers the substance of the Petitioners' allegations, as set out in the TIO Memo and approved by the Chair of the Board on May 4, 2021, Condition 4 has been satisfied: the removal of the unpermitted ahu; on-site testing and survey work; kick-off meeting with contractor and others to discuss construction procedures, safety and other requirements; and inspection, certification, and mobilization of the construction equipment constituted "[a]ny work done" or construction to be done on the land as required by Condition 4 of CDUP HA-3568, especially viewed in their entirety. And finally, since Petitioners (individually or as members of various organizations) actively participated in or supported the protests to actually block the heavy

construction equipment and vehicles from accessing the TMT Project site, the Petition should be denied outright based on equity and fairness. It would be an improper remedy for the Board to provide relief of any kind to Petitioners in such circumstances.

For the above reasons, the University substantively joins the TIO Memo and respectfully requests that the Board deny the Petition in its entirety.

DATED: Honolulu, Hawai'i, November 4, 2021.

/s/ Jesse K. Souki

CARRIE K. S. OKINAGA
University General Counsel
GARY Y. TAKEUCHI
University Deputy General Counsel
JESSE K. SOUKI
Associate General Counsel

Attorneys for UNIVERSITY OF HAWAI'I AT HILO

Exhibit G UHH Joinder

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BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

Case No. HA-22-02

The Petition of Mauna Kea Hui for a Declaratory Order Filed May 24, 2021.

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the following document:

UNIVERSITY OF HAWAI'I AT HILO'S SUBSTANTIVE JOINDER TO TMT INTERNATIONAL OBSERVATORY LLC'S MEMORANDUM IN OPPOSITION TO MAUNA KEA HUI'S MOTION TO REOPEN HEARING TO HEAR MOTION TO CONFIRM NON-COMPLIANCE WITH CONDITION NO. 4, OR, ALTERNATIVELY, PETITION FOR DECLARATORY ORDERS CONCERNING THE SAME

Was duly served upon the following parties, by email, on November 4, 2021:

Linda L.W. Chow
Laure K. Chun
Deputy Attorneys General
Linda.L.Chow@hawaii.gov
Lauren.K.Chun@hawaii.gov
Attorneys for the Board of
Land and Natural Resources

Lincoln S.T. Ashida
Newton J. Chu
Torkildson, Katz, Moore, &
Harris
Isa@torkildson.com
njc@torkildson.com
Attorneys for Perpetuating
Unique Educational
Opportunities (PUEO)

J. Douglas Ing
Brian A. Kang
Ross Shinyama
Summer H. Kaiawe
Watanabe Ing LLP
douging@wik.com
bkang@wik.com
rshinyama@wik.com
skaiawe@wik.com
Attorneys for TMT
International
Observatory, LLC

Harry Fergerstrom hankhawaiian@yahoo.com

Richard L DeLeon kekaukike@msn.com

Maelani Lee

maelanilee@yahoo.com

Lanny Alan Sinkin

lanny.sinkin@gmail.com
The Temple of Lono

Kalikolehua Kanaele akulele@yahoo.com

Stephanie-Malia:Tabbada s.tabbada@hawaiiantel.net

Tiffnie Kakalia

tiffniekakalia@gmail.com

Glen Kila

makakila@gmail.com

Exhibit G UHH Joinder Richard Naiwieha Wurdeman RNWurdeman@RNWLaw.com
Bianca Isaki
bianca.isaki @gmail.com
Attorneys for the Mauna Kea
Hui

Mehana Kihoi uhiwai@live.com

C. M. Kaho'okahi Kanuha kahookahi@gmail.com

Joseph Kualii Lindsey Camara kualiic@hotmail.com

Cindy Freitas hanahanai@hawaii.rr.com Dwight J. Vicente dwightjvicente@gmail.com

Brannon Kamahana Kealoha brannonk@hawaii.edu

William Freitas kukulukuula@gmail.com

J. Leina'ala Sleightholm leina.ala.s808@gmail.com

Michael Cain

<u>Michael.cain@hawaii.gov</u>

Custodian of the Records

DATED: Honolulu, Hawai'i, November 4, 2021.

/s/ Jesse K. Souki

CARRIE K. S. OKINAGA
University General Counsel
GARY Y. TAKEUCHI
University Deputy General Counsel
JESSE K. SOUKI
Associate General Counsel
Attorneys for Respondent
UNIVERSITY OF HAWAI'I AT HILO

TORKILDSON KATZ HETHERINGTON HARRIS & KNOREK Attorneys at Law, A Law Corporation

NEWTON J. CHU 6537-0

(njc@torkildson.com)

LINCOLN S. T. ASHIDA 4478-0

(lsa@torkildson.com)

120 Pauahi Street, Suite 312

Hilo, HI 96720

Telephone: (808) 961-0406 Facsimile: (808) 961-3815

Attorneys for PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES ("PUEO")

BOARD OF NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

Case No. HA-22-02

The Petition Of Mauna Kea Hui for a Declaratory Offer Filed May 24, 2021. PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES' ("PUEO") SUBSTANTIVE JOINDER TO TMT INTERNATIONAL OBSERVATORY LLC'S MEMORANDUM IN OPPOSITION TO MAUNA KEA HUI'S MOTION TO REOPEN HEARING TO HEAR MOTION TO CONFIRM NON-COMPLIANCE WITH CONDITION NO. 4, OR ALTERNATIVELY, PETITION FOR DECLARATORY ORDERS CONCERNING THE SAME, AS FILED ON NOVEMBER 4, 2021; CERTIFICATE OF **SERVICE**

PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES' ("PUEO") SUBSTANTIVE JOINDER TO TMT INTERNATIONAL OBSERVATORY LLC'S MEMORANDUM IN OPPOSITION TO MAUNA KEA HUI'S MOTION TO REOPEN HEARING TO HEAR MOTION TO CONFIRM NON-COMPLIANCE WITH CONDITION NO. 4, OR ALTERNATIVELY, PETITION FOR DECLARATORY ORDERS CONCERNING THE SAME, AS FILED ON NOVEMBER 4, 2021

PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES ("PUEO"), by and

through their undersigned counsel, substantively joins "TMT INTERNATIONAL nservation and Coastal Lands Exhibit H PUEO joinder

Department of Land and Natural Resources State of Hawaii Nov 04 2021 14:51

OBSERVATORY LLC'S MEMORANDUM IN OPPOSITION TO MAUNA KEA HUI'S MOTION TO REOPEN HEARING TO HEAR MOTION TO CONFIRM NON-COMPLIANCE WITH CONDITION NO. 4, OR ALTERNATIVELY, PETITION FOR DECLARATORY ORDERS CONCERNING THE SAME" as filed on November 4, 2021, with respect to consideration by the Board of Land and Natural Resources ("BLNR") of Petitioners MAUNA KEA ANAINA HOU, KEALOHA PISCIOTTA, CLARENCE KUKAUAKAHI CHING, DEBORAH J. WARD, PAUL K. NEVES, and KAHEA: THE HAWAIIAN ENVIRONMENTAL ALLIANCE'S (collectively "Petitioners") unclean hands in bringing this petition forward.

On July 16, 2019, our Island of Hawai'i observed the unfortunate incitement and use of physical barriers by Petitioners and other protesters of the Thirty Meter Telescope ("TMT"), in preventing the lawful passage of heavy equipment vehicles to the site of TMT on the Mauna Kea summit. The physical barriers illegally erected on the Mauna Kea Access Road was followed by what amounted to illegal camping and the building of unpermitted structures that trespassed on land owned by the State of Hawai'i.

Despite the protestors not being *Pono* in seeking to have their concerns adjudicated and decided by a court, they openly advocated that "Hawaiians" opposed the building of the TMT during their protest that involved the chaining of *kupuna* to the Mauna Kea Access Road. The protestors sought to essentially "hijack" the Native Hawaiian population in their misguided attempt to convince others that all Native Hawaiians opposed the building of the TMT.

PUEO always has, and always will, respect the right of all persons and entities to hold their beliefs. Controversies should be decided before recognized tribunals, such as the BLNR, and not on the cold pavement of the Access Road.

Exhibit H PUEO joinder However even controversies before a tribunal should not be the product of a person or a

party's own making. To now cry foul based upon the unlawful actions of those involved in the

physical protest is not *Pono*. Petitioners have not acted with *Ahonui*, but have instead allowed

their self-righteous beliefs to wander into the realm of desperation.

Whether you support the building of TMT or not, PUEO cannot support the bringing of

any claim based upon the complaining party's own doing. The government authorities on July

16, 2019 made the decision to stand down and not pursue a law enforcement resolution to the

protest. The unclean hands of the protestors should not be rewarded, based on the government's

actions in seeking a peaceful resolution.

PUEO appreciates the opportunity to Pa`a ka waha on this very important issue.

Based on the foregoing PUEO respectfully joins TMT International Observatories LLC's

opposition to deny the Petition, on the basis of the unclean hands doctrine.

DATED: Hilo, Hawai'i, November 4, 2021.

TORKILDSON KATZ HETHERINGTON HARRIS & KNOREK

Attorneys at Law, A Law Corporation

/s/ Lincoln S. T. Ashida

Newton J. Chu

Lincoln S. T. Ashida

Attorneys for PERPETUATING UNIQUE

EDUCATIONAL OPPORTUNITIES ("PUEO")

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BOARD OF NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

Case No. HA-22-02

The Petition Of Mauna Kea Hui for a Declaratory Offer Filed May 24, 2021.

CERTIFICATE OF SERVICE

RE: PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES' ("PUEO") SUBSTANTIVE JOINDER TO TMT INTERNATIONAL OBSERVATORY LLC'S MEMORANDUM IN OPPOSITION TO MAUNA KEA HUI'S MOTION TO REOPEN HEARING TO HEAR MOTION TO CONFIRM NON-COMPLIANCE WITH CONDITION NO. 4, OR ALTERNATIVELY, PETITION FOR DECLARATORY ORDERS CONCERNING THE SAME, AS FILED ON NOVEMBER 4, 2021

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date, a true and correct copy of the abovedescribed document was duly served upon the following, via electronic mail, as indicated below:

Linda L.W. Chow	Harry Fergerstrom	Maelani Lee
Lauren K. Chun	hankhawaiian@yahoo.com	maelanilee@yahoo.com
Deputy Attorneys General		
Linda.L.Chow@hawaii.gov		
Lauren.K.Chun@hawaii.gov		
Attorneys for the Board of		
Land and Natural Resources		
Jesse K. Souki	Richard L DeLeon	Lanny Alan Sinkin
Associate General Counsel	kekaukike@msn.com	lanny.sinkin@gmail.com
Associate General Counsel University of Hawai'i	kekaukike@msn.com	lanny.sinkin@gmail.com The Temple of Lono
	kekaukike@msn.com	
University of Hawai'i	kekaukike@msn.com	
University of Hawai'i	kekaukike@msn.com	
University of Hawaiʻi souki@hawaii.edu	kekaukike@msn.com	
University of Hawaiʻi souki@hawaii.edu Attorney for University of	kekaukike@msn.com	

Exhibit H PUEO joinder

Richard Naiwieha Wurdeman RNWurdeman@RNWLaw Bianca Isaki bianca.isaki @gmail.com Attorneys for the Mauna Kea Hui	Mehana Kihoi uhiwai@live.com	Kalikolehua Kanaele akulele@yahoo.com
J. Douglas Ing Ross Shinyama Summer H. Kaiawe Watanabe Ing LLP douging@wik.com rshinyama@wik.com skaiawe@wik.com Attorneys for TMT International Observatory, LLC	C. M. Kaho'okahi Kanuha kahookahi@gmail.com	Stephanie-Malia:Tabbada s.tabbada@hawaiiantel.net
	Joseph Kualii Lindsey Camara <u>kualiic@hotmail.com</u>	Tiffnie Kakalia tiffniekakalia@gmail.com
	Cindy Freitas hanahanai@hawaii.rr.com	Glen Kila makakila@gmail.com
		Dwight J. Vicente dwightjvicente@gmail.com
		William Freitas kukulukuula@gmail.com
		J. Leina'ala Sleightholm leina.ala.s808@gmail.com
		Michael Cain Michael.cain@hawaii.gov Custodian of the Records

DATED: Honolulu, Hawai'i, November 4, 2021.

TORKILDSON KATZ HETHERINGTON HARRIS & KNOREK Attorneys at Law, A Law Corporation

/s/ Lincoln S. T. Ashida

Newton J. Chu Lincoln S. T. Ashida

Attorneys for PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES ("PUEO")

Index to Contested Case HA-22-02 regarding the petition of Mauna Kea Hui for a declaratory order filed May 24, 2021

001	05-24-21	Mauna Kea Hui's motion to reopen hearing to hear motion for confirm non-compliance with condition no. 4, or, alternatively, petition for declaratory orders concerning the same; Memorandum in support of motion; Declaration of Clarence Kukaukahi Ching; Exhibits 01-07; COS
002	10-18-21	Request from the Law Office of Bianca Isaki for ruling or hearing on Mauna Kea Hui's motion to re-open hearing to hear motion to confirm non-compliance with condition no. 4, or, alternately, petition for declaratory orders concerning the same, filed May 24, 2021 in Docket No. BLNR CC-16-002.
003	10-20-21	Minute Order No. 1; Exhibit A; COS
004	10-31-21	Temple of Lono brief in response to petitioners' motion; COS
005	11-03-21	Cindy Freitas brief in response to petitioners' motion; COS
006	11-04-21	TMT International Observatory LLC's memorandum in opposition to Mauna Kea Hui's motion to reopen hearing to hear motion to confirm non-compliance with condition no. 4, or, alternatively, petition for declaratory order concerning the same; Declaration of Fengchuan Liu; Declaration of Counsel; Exhibits "A" – "C"; COS
007	11-04-21	University of Hawai'i at Hilo's substantive joinder to TMT International Observatory LLC's memorandum in opposition to Mauna Kea Hui's motion to reopen hearing to hear motion to confirm non-compliance with condition no. 4, or, alternatively, petition for declaratory orders concerning the same; COS
008	11-04-21	Perpetuating Unique Educational Opportunities' ("PUEO") substantive joinder to TMT International Observatory LLC's memorandum in opposition to Mauna Kea Hui's motion to reopen hearing to hear motion to confirm non-compliance with condition no. 4, or, alternatively, petition for declaratory orders concerning the same; COS
009	11-08-21	Flores-Case 'Ohana filing re State of Hawai'i Board of Land and Natural Resources failure to properly serve Minute Order No. 1 to the Flores-Case 'Ohana: Declaration of E. Kalani Flores; Exhibit A; COS
010	11-12-21	Mauna Kea Hui's reply to TMT International Observatory LLC's memorandum in opposition, University of Hawai'i at Hilo's substantive joinder to TMT International Observatory LLC's memorandum in opposition, and Perpetuating Unique Educational Opportunities' substantive joinder to TMT

		International Observatory LLC's memorandum in opposition; Declaration of Shelley Muneoka; Exhibits 08-10; COS
011	11-19-21	Minute Order 2; COS
012	12-03-21	Flores-Case Ohana memorandum in support of Mauna Kea Hui's motion to reopen hearing to hear motion to confirm non-compliance with Condition No. 4, or, alternatively, petition for declaratory orders concerning the same; Declaration of E. Kalani Flores; Exhibits A – H; COS
013	12-10-21	TMT International Observatory LLC's request to supplement record; Declaration of counsel; Exhibit A; COS
014	12-13-21	Mauna Kea Hui's memorandum in opposition to TMT International Observatory LLC's request to supplement the record; COS
015	06-06-22	Mauna Kea Hui's motion to submit new evidence, or alternatively, to request judicial notice of the same; Declaration of counsel; Exhibit A; COS
016	06-09-22	TMT International Observatory LLC's response to Mauna Kea Hui's motion to submit new evidence, or alternatively, to request judicial notice of the same; Declaration of counsel; Exhibit A; COS
017	06-09-22	University of Hawai'i at Hilo's substantive joinder to TMT International Observatory LLC's response to Mauna Kea Hui's motion to submit new evidence, or alternatively, to request judicial notice of the same; COS
018	06-13-22	Perpetuating Unique Educational Opportunities' (PUEO) joinder to TMT International Observatory LLC's response to Mauna Kea Hui's motion to submit new evidence, or alternatively, to request judicial notice of the same; COS
019	06-13-22	Perpetuating Unique Educational Opportunities' (PUEO) joinder to University of Hawai'i at Hilo's substantive joinder to TMT International Observatory LLC's response to Mauna Kea Hui's motion to submit new evidence, or alternatively, to request judicial notice of the same; COS
020	06-17-22	Flores / Flores-Case 'Ohana Memorandum in support of Mauna Kea Hui's motion to submit new evidence, or alternatively, to request judicial notice of the same; Declaration of E. Kalani Flores; Exhibits A-E; COS
021	02-23-23	Second request from the Law Office of Bianca Isaki for ruling or hearing on Mauna Kea Hui's motion to re-open hearing to hear motion to confirm non-compliance with condition no. 4, or, alternately, petition for declaratory orders concerning the same, filed May 24, 2021 in Docket No. BLNR CC-16-002.
022	01-24-22	Minute Order 3 regarding TIO's request to supplement record; COS
023	07-03-23	Minute Order 3 setting time and date of oral arguments; COS

024	07-18-23	Disclosure statement of BLNR Chair Dawn Chang; COS
025	07-19-23	Minute Order 5 deferring date of oral arguments; COS
026		Minute Order 6 setting date for oral arguments; COS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the following documents: Minute Order 6

Was duly served upon the following parties, by email, on Aug 4, 2023

Julie China
Deputy Attorneys General
julie.h.china@hawaii.gov
Attorneys for the Board of Land
and Natural Resources

Jesse K. Souki
Associate General Counsel
University of Hawai'i
souki@hawaii.edu
Attorney for University of
Hawai'i, Hilo

Lincoln S.T. Ashida
Newton J. Chu
Torkildson, Katz, Moore, &
Harris
Isa@torkildson.com
njc@torkildson.com
Attorneys for Perpetuating
Unique Educational
Opportunities (PUEO)

Richard Naiwieha Wurdeman RNWurdeman@RNWLaw
Bianca Isaki
bianca.isaki @gmail.com
Attorneys for the Mauna Kea
Hui

DATED: Honolulu, Hawaii, Aug 4, 2023 J. Douglas Ing
Brian A. Kang
Ross Shinyama
Summer H. Kaiawe
Watanabe Ing LLP
douging@wik.com
bkang@wik.com
rshinyama@wik.com
skaiawe@wik.com
Attorneys for TMT
International
Observatory, LLC

Harry Fergerstrom hankhawaiian@yahoo.com

Richard L DeLeon kekaukike@msn.com

Mehana Kihoi uhiwai@live.com

C. M. Kaho'okahi Kanuha kahookahi@gmail.com

Joseph Kualii Lindsey Camara kualiic@hotmail.com

Cindy Freitas makanainanqi@gmail.com

Flores-Case 'Ohana 08ef80@gmail.com Maelani Lee

maelanilee@yahoo.com

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

Kalikolehua Kanaele akulele@yahoo.com

Stephanie-Malia:Tabbada s.tabbada@hawaiiantel.net

Tiffnie Kakalia tiffniekakalia@gmail.com

Glen Kila makakila@gmail.com

Dwight J. Vicente dwightjvicente@gmail.com

Brannon Kamahana Kealoha brannonk@hawaii.edu

William Freitas kukulukuula@gmail.com

J. Leina'ala Sleightholm leina.ala.s808@gmail.com

S Michael Cain

Michael Cain Custodian of Records Board of Land and Natural Resources