



STATE OF HAWAII
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October 12, 2020

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Re: Correcting the Office of Hawaiian Affairs' Position on the Siting of the Thirty-Meter Telescope on Maunakea

Aloha mai e Distinguished Professors and Representatives of the Canadian Astronomical Society:

We write to advise you of the Office of Hawaiian Affairs' (OHA's) current and official position on the siting of the Thirty-Meter Telescope (TMT) on Maunakea, Hawai'i Island, which appears to have been mischaracterized in recent reports by the CASCA/ACURA TMT Advisory Committee (CATAC),¹ and which was not mentioned in the CATAC's final report to the LRP2020 Panel.² As we understand that the LRP2020 Panel is currently finalizing the text of its own final report due in mid-November, **we urge you to note that contrary to the CATAC's assertions in its October 2019 report entitled "Information and resources on TMT and Maunakea," OHA**

¹ CATAC, RESOURCES AND INFORMATION ON TMT AND MAUNAKEA 6 (2019), available at <https://casca.ca/wp-content/uploads/2019/10/Resources-and-information-on-TMT-and-Maunakea-FINAL-3.pdf>.

² CATAC, CATAC REPORT TO THE LONG-RANGE PLAN 2020 PANEL (2019), available at <https://casca.ca/wp-content/uploads/2019/09/Final-CATAC-Report-to-the-Long-Range-Plan-2020-Panel.pdf>.

and its Board of Trustees no longer support the siting of TMT on Maunakea, having withdrawn its previous 2009 statement of support on April 30, 2015.³ While OHA no longer has any official position on the siting of TMT, we are currently suing the State of Hawai‘i and the University of Hawai‘i for their collective longstanding and well-documented mismanagement of Maunakea.

As background, OHA is the State of Hawai‘i constitutionally-established body responsible for protecting and promoting the rights and interests of Native Hawaiians.⁴ OHA has substantive obligations to protect the cultural and natural resources of Hawai‘i for the agency’s beneficiaries.⁵ Accordingly, OHA is required to serve as the principal public agency in the State of Hawai‘i responsible for the performance, development and coordination of programs and activities relating to Native Hawaiians; assess the policies and practices of other agencies impacting Native Hawaiians; and conduct advocacy efforts for Native Hawaiians.⁶ It is with this kuleana (responsibilities) in mind that we submit to you the following clarification and comments.

We do appreciate the recognition in CATAC’s October 2019 report of the importance of obtaining “consent” from the Native Hawaiian community in the use and development of Maunakea, a mountain considered singularly sacred in Native Hawaiian belief. With regards to the issue of “consent,” we note that both the October 2019 report and CATAC’s prior, final report to the LRP2020 Panel provide extensive detail on how both the Native Hawaiian and larger communities remained highly divided on the use of Maunakea for the TMT throughout and beyond this consultation process, up to the present day. Accordingly, we urge you to resist the sentiment expressed in CATAC’s October report that the previous 2009 OHA Board of Trustees position supporting of the selection of Maunakea for the TMT was in some way an “indication that consent from Native Hawaiians had been obtained.”⁷ The size, magnitude, and duration of Native Hawaiian mobilization that has taken place over a span of decades, regarding the need to better manage and protect Maunakea – including the large contingent of elders who were arrested for their peaceful, but steadfast, stand against the construction of the TMT – indeed counsels the need to not take the matter of Native Hawaiian consent lightly, in any matter involving Maunakea. **Moreover, as it may relate to the LRP2020’s upcoming report and CASCA’s consideration of its priorities for the next decade, we urge you to note that as of April 30, 2015, the OHA Board of Trustees itself no longer supports the siting of the TMT on Maunakea.⁸**

To the extent that it may have a bearing on other priorities being discussed and proposed in the LRP2020 Panel’s final report and by CASCA itself, we also bring to your attention OHA’s longstanding and ongoing concerns regarding the mismanagement of Maunakea generally, and the historical and ongoing failure of the State of Hawai‘i and the University of Hawai‘i (UH) to ensure that Maunakea’s sacred lands, sites, and resources are appropriately protected. **Most**

³ See OHA Board of Trustees Meeting Minutes, Meeting of April 30, 2015 (Attachment 1).

⁴ HAW. CONST. ART. XII, § 5

⁵ See Haw. Rev. Stat. (“HRS”) Chapter 10 (2009).

⁶ HRS § 10-3 (2009).

⁷ CATAC, *supra* note 1, at 6.

⁸ *Supra* at 3.

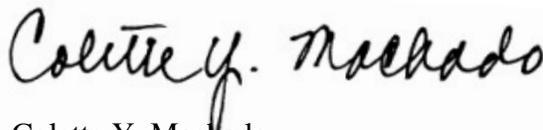
notably, and as CATAAC's reports appear to fail to mention, OHA is presently in litigation with both the State and UH regarding their control and decades-long mismanagement of Maunakea. OHA's legal complaint against the State and UH asserts and describes in detail the State's and UH's breaches of their fiduciary and contractual obligations to the mountain, and seeks, among other things, a rescission of UH's general lease of Maunakea. Further details on OHA's historical and ongoing concerns, including copies of correspondences, testimonies, and its legal complaint are provided in the attached letter and exhibits submitted by OHA's administration to Ku'iwalu LLC, a consultant being contracted by the State Department of Land and Natural Resources to evaluate the management of Maunakea.⁹

Mahalo nui loa for your attention to and consideration of this matter. Should you have any questions or wish to discuss this matter further, please contact Dr. Sylvia M. Hussey, OHA Chief Executive Officer, at 1-808-594-1973 or via e-mail at sylviah@oha.org, or have your staff contact Wayne Tanaka, OHA Public Policy Manager, at 1-808-594-1945 or via e-mail at waynet@oha.org.

‘O mākou iho nō me ka ‘oia‘i‘o,



Trustee Dan Ahuna
Chair, Ad Hoc Committee on Maunakea
Office of Hawaiian Affairs Board of Trustees



Colette Y. Machado
Chairperson
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Sylvia M. Hussey, Ed.D.
Ka Pouhana, Chief Executive Officer, Office of Hawaiian
Affairs

SMH:wt

Attachments

⁹ See Letter to Dawn N.S. Chang, Esq., Principal, Ku'iwalu, dated August 14, 2020 (Attachment 2).