

**Mauna Kea Anaina Hou  
Royal Order of Kamehameha I  
Clarence Ching  
Sierra Club, Hawaii Chapter**



**MEDIA RELEASE**

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**Contact:** Kealoha Pisciotta (MKAH) 808-934-7668

Deborah J. Ward (Sierra Club) 808-966-7361 (706-206-1469 c)

Paul Neves (Royal Order) 808-935-9656

Clarence Ching 808-776-1198

Lea Hong (Alston Hunt Floyd & Ing) 441-6178 (w)/783-3653 (cell)

**HILO COURT RULES COMPREHENSIVE MANAGEMENT PLAN  
REQUIRED FOR SUMMIT OF MAUNA KEA**

Hilo, Hawai'i. – In a Memorandum of Decision dated August 3, 2006 and received by the parties on August 4, 2006, Third Circuit Judge Glenn S. Hara reversed the conservation district use permit (CDUP) granted by the Board of Land and Natural Resources (BLNR) to the University of Hawaii Institute of Astronomy (“UHIFA”) for the construction of up to six 1.8 meter Outrigger Telescopes around the existing Keck telescopes on the summit of Mauna Kea.. Judge Hara further held that administrative rules governing astronomy facilities required a comprehensive management plan for the summit of Mauna Kea.

Mauna Kea Anaina Hou, the Royal Order of Kamehameha I, the Sierra Club, Hawaii Chapter (Moku Loa Group), and Clarence Ching (“the Appellants”) appealed the BLNR’s CDUP for the Outrigger Project in November 2004 after lengthy contested case hearings through 2003-2004 in which Native Hawaiian lineal and cultural descendants, religious practitioners, and cultural experts such as Pua Kanaka`ole Kanahale, Kapa Maly, and Mililani B.Trask testified in the Appellants' favor. The Appellants other supporting witnesses included state and national environmental and resource management experts such as Fred D. Stone, PhD of Hilo, Brad Finney PhD of California, and Thomas King PhD of Washington D.C.

On appeal, the Appellants argued that the UHIFA’s CDUP and plan to build four (4) to six (6) more telescopes was inconsistent with the BLNR rules governing “astronomy facilities” in a conservation district like Mauna Kea. Appellants pointed out the “management plan” offered by the UHIFA covered only the Outrigger project. The “management plan” was not comprehensive, and did not cover the entire summit of Mauna Kea. The Appellants further claimed without a comprehensive management plan, the rights and resources of the people of Hawai'i remained at risk, citing the need for protection against hazardous and sewage waste contamination, candidate endangered species protection, public access and use, and the protection of Native Hawaiian traditional and customary rights and resources. Both BLNR and UHIFA argued that a single project “management plan” was sufficient to meet the requirements of the BLNR rules.

Judge Hara held that: “The resource that needs to be conserved, protected and preserved is the summit area of Mauna Kea, not just the area of the Project. Allowing management plans on a project by project basis would result in foreseeable contradictory management conditions for each project or the imposition of special conditions on some projects and not others. The result would be projects within a management area that did not conform to a comprehensive management plan, and would not be consistent with the purposes of appropriate management and promoting long term sustainability of the protected resource espoused by HRS Section 183C-2 [statute governing conservation districts].” The court further held that “BLNR failed to adhere to the provisions of HAR Chapter 13-5-24 [rules governing astronomy facilities] and appellants substantial rights have been prejudiced by the Board’s approval of UHIFA’s application for the Conservation district use permit and for approval of a management plan.

The Outrigger project has faced several setbacks. In 2003, a federal district court judge held that NASA's environmental assessment for the project was inadequate. Thereafter, NASA completed a more detailed environmental impact statement. In the EIS, NASA concluded that the cumulative impact of thirty years of astronomy development has had a significant, adverse, and substantial impact on the natural and cultural resources of Mauna Kea. In 2004, the Appellants appealed the CDUP granted to UHIFA. In early 2006, NASA announced plans to withdraw funding for the Outrigger project.

Kealoha Pisciotta, President of Mauna Kea Anaina Hou, commented: "I am thankful, I can only say Mahalo Ke Akua....this decision is a win for the people, the land and those things that are sacred..., I would like to thank Judge Hara for his thorough review of this complex case; I'm sure his job was not easy. I am thankful for all the hundreds of people who, for all these years, attended meeting after meeting for Mauna Kea. I am thankful for the film team Na Maka o Ka `Aina--for their PBS film, Mauna Kea. I am thankful for our brave lawyers who took our case when no one else would. I am thankful to the many Kupuna that have passed, such as Uncle Genesis Lee Loy, Auntie Kamakahuilani Von Oelhoffen and Auntie Leina`ala Apiki McCord, and others, too many to name, for they give us strength to carry on, and they are here with us always.

Deborah J. Ward, a representative for the Sierra Club, Hawaii Chapter, Moku Loa Group, said: "The Hawaii court of law has finally reinforced what the people of Hawaii have been saying about their love for Mauna Kea. Sierra Club is very gratified that the judge affirms the need for comprehensive planning for its protection. The club supports the development of a comprehensive management plan that is community based, incorporating multiple uses. It is time for the Department of Land and Natural Resources and the University of Hawaii to join community members in a cooperative spirit to build a plan that reflects the needs and uses of a broad spectrum of Hawaii's people.

It is clear that Mauna Kea is treasured by the people of Hawaii as a sacred place, as a wild landscape and as a natural habitat for unique organisms. Mauna Kea is beloved by people of the world as a special place to renew the mind and spirit, gain inspiration, and occasionally to recreate. The mountain, from sea to summit, must be managed to protect and restore the natural and cultural resources for generations to come. It is time the people of Hawaii and agencies with responsibilities for land management begin to develop a common vision for protection of the 'ahupua'a of Mauna Kea. "

Clarence Ching: "I'm ecstatic, Mahalo Ke Akua...This is a precedent setting case; it will help not only Mauna Kea but Haleakala as well, since Haleakala is also slated for more astronomy development."

Ali`i `Aimoku, Paul K. Neves of the The Royal Order of Kamehameha I: "We are grateful for the opportunity to serve the Poe Hawai`i (the people of Hawai'i). From the beginning we affirmed that the jurisdiction in Hawai`i rests with the right-holders not stakeholders, meaning Hawaiian Kingdom and its peoples, not the University of Hawai`i. We will continue to be involved in working with the people of Hawai`i towards lasting protection and oversight of Mauna Kea that the people can be proud of. We thank the people from all islands and the world for their prayers and support. We say deeply, Mahalo Ke Akua, Na Akua, Na Aumakua."

Lea Hong, one of the pro bono lawyers for the Appellants (along with William Tam and Dexter Kaiama), stated: "The plain language of the BLNR rules is clear. Comprehensive means comprehensive. It does not mean piecemeal. It does not mean project-by-project. I hope that BLNR will take Judge Hara's decision to heart and work with the community to protect the precious resource that is Mauna Kea and develop a long term comprehensive management plan for the summit of Mauna Kea that can be a model for other special places in Hawai`i and the nation."