

Governor Neil Abercrombie  
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Honolulu, Hawai'i 96813

The Mauna Kea Hui  
c/o KAHEA: The Hawaiian-Environmental Alliance  
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*Regarding the proposed Army Pōhakuoa Training Area (PTA) and Thirty Meter Telescope (TMT) Expansion Projects, Proposed for Pōhakuoa and Mauna Kea, Hawai'i Island*

February 16, 2011

Aloha Pumehana Governor Abercrombie,

We write to you today with a sense of great urgency and heavy hearts, to ask you to consider the immense impacts the Pōhakuoa Training Area (PTA) and the Thirty Meter Telescope (TMT) expansion projects will have on the lands and the people of Hawai'i. There is urgency because the Board of Land and Natural Resources (BLNR) is scheduled to consider the TMT's construction permit, perhaps as early as next week, and because the PTA expansion has already begun (i.e. on Mauna Loa).

**Aloha assures that the life of the land is perpetuated in righteousness**

We were inspired when you embraced the principles of Aloha in your campaign, when you called upon the people to join you in realizing a better future for Hawai'i Nei. We thank you for your many good works of Aloha throughout the years and congratulate you on your successful election--truly inspiring. To keiki o ka 'āina and kama'āina alike, Aloha is not just a word for boosting tourist industry profits, it is the breath of life and a state of being. Aloha is the truth that necessarily invokes righteous action. You so eloquently affirmed this in your speeches before the people holding that Aloha is what "...defines us". When we honor a healing truth, Aloha is magnified, bringing blessings to all upon the land. This is how the life of the land is perpetuated in righteousness.

While we hope to have many occasions to work with you for a better future, we pray that after careful review of the facts presented herein regarding the proposed astronomy and military expansion projects, that you will reconsider your support for these immensely destructive projects, and join the people to find more reasonable, just, equitable and pono alternatives for the benefit of our present and future generations. We have faith in your leadership and believe a better future is close at hand, but will require us to stop relying on antiquated destructive paradigms, to redefine "progress" and to collectively embrace the true spirit of Aloha 'Āina.

**The Land and People are One**

The Kūpuna remind us that the land and the people are one in the same; in other words, when we destroy the land we destroy our selves. Congress affirmed our Kūpuna's

teachings holding “[T]he health and well-being of Native Hawaiian people is intrinsically tied to the deep feelings and attachment to the land.” (Pub. L. No. 103-150). The U.S. Admissions Act (The Statehood Compact) established a trust obligation whereby the state acts as a trustee of the land on behalf of the rights holders (the native Hawaiians and the general public). The Admissions Act establishes the scope of your authority as Governor, expressly requiring you to hold all “state lands” for “the betterment of the conditions of the native Hawaiians and the general public” regardless of who is using or leasing the land.

The laws of Hawai‘i and the U.S. place the burden upon you and your entire administration to demonstrate how projects, such as the TMT and PTA expansions will better the conditions of the people of Hawai‘i and protect the public trust. This is an immense burden, Governor, but not one you alone are called upon to fulfill, as we *all* carry this kuleana for Hawai‘i and the world. We pledge our hard work to assist you to find righteous and just solutions. We pledge our commitment to that which gives us life—we pledge our commitment to Aloha!

## **I. MAUNA KEA -- A Moral Dilemma**

Understanding the Mauna Kea controversy is easy. Understanding the political controversy and associated implications is not complicated, when considering the heart and sacred nature of Mauna Kea itself. For millennia, Mauna Kea has been a cultural, spiritual and religious place of worship for the Hawaiian people. Mauna Kea represents the zenith of the Hawaiian people’s ancestral ties to creation itself. It is a temple of the highest order, as the meeting place of the heavens and the earth, and abode of the Creator – the Supreme Being.

Mauna Kea’s holiness is recognized throughout all of Polynesia. Recently, Mauna Kea was honored among the many holy places of the world, by the National Geographic Society (January 2011) Special Edition titled, “The Earth’s Holiest Places: Sacred Journeys.” Understanding the significance of Mauna Kea as a temple and holy place of worship provides easy context to the on going astronomy controversy.

For example, the Mitsubishi Corporation did not build the Japan National Telescope (Subaru) atop Mount Fuji, because Mount Fuji is a holy place and a national icon. The governments of France, United Kingdom and Canada did not build their telescopes atop Stonehenge, Westminster Abby, the Vatican, Mount Sinai, Mecca or any other revered holy site, because these sites are considered holy. No telescope development or desecration at these sites would be considered, even if these sites were good for their astronomy and/or economies.

None of the countries operating atop Mauna Kea now, would consider injecting five hundred thousand gallons of human waste and toxic waste into the ground around other famous holy sites, because to do so, would elicit utter outrage by those that worship and revere these sites. Yet, the State of Hawai‘i, for more than forty (40) years has allowed foreign counties to repeatedly desecrate and destroy our holy site—Mauna Kea.

**The question before you, Governor**, is simple: do the holy places of the Hawaiian people, ***not*** deserve the same respect and treatment as other holy places in the world. Are the Hawaiian people ***not*** entitled to freedom of religion or equal treatment and protection under the law? Do the Hawaiian people have the freedom to continue to practice their spirituality and religion in the environment of their belief, in their own homeland, as they have for thousands of years ***or not?***

## **Legal obligations**

Even if the moral questions fail your measure of justice and righteousness there are legal questions that also come into play and they are as follow:

**(NOTE:** Please see attached (1) The Report titled “Mauna Kea the Temple: Protecting the Sacred Resource Report” (2000); (2) the accompanying video titled “Mauna Kea: Temple Under Siege” both of which are instructive as they highlight the voices of the people, legal arguments that have since been upheld by every court we have entered; (3) our funding suggestions (i.e. rent paid by the observatories to help offset the taxpayers burdens); and (4) Third Circuit Court Ruling in Mauna Kea ‘Anaina Hou, et al v. BLNR (2007)).

### **A. Burdening native Hawaiians, the Public and the Courts**

For more than fifteen (15) years we have had to appeal to the courts (federal and state) to compel the State and its agents (BLNR) to fulfill its obligations under the Public Trust—which is a non-transferable fiduciary duty to the right-holders (native Hawaiians and the general public) to protect our rights, access and interests on all state lands. In all cases the courts found in our favor and against the state and federal government’s actions. The taxpayers paid for the government lawyers to fight against the very people the laws were written to protect—the people of Hawai’i. **Where is the justice in this, Governor?**

### **B. \$1.00 per year lease rent violates the law**

The one dollar (\$1.00 per year) lease rents paid by the foreign observatories violates the law. For decades rich foreign Countries and corporations have been forcing state tax payers to subsidize their activities atop Mauna Kea, by paying only one dollar (\$1.00) per year in lease rent for the use of the lands of Mauna Kea. Such practices are prohibited under the law, since state law (H.R.S. 171, -17, -18,) requires “fair-market” lease rents be collected for the use of all state and conservation lands.

Governor, recently you suggested cutting retiree’s benefits to help balance the State’s budget, while the foreign Countries and corporations pay only \$1.00 dollar per year for Mauna Kea. Are these rich Countries and their corporations above the law? Why must the retiree’s, who have spent their lives paying into the system, now, be saddled with the burden of fixing our problems while the foreign countries violate the laws of this state? **Where is the justice in this, Governor?**

### **C. Science not above the law**

The Thirty Meter Telescope (TMT) proposed for Mauna Kea will be as high as an eighteen (18) story building, and have a foot print nearly as large as nine (9) football fields. Construction projects like this as well as those previously build are not permitted area of conservation. The NASA Environmental Impact Statement (EIS) included the TMT (previously named the Next Generation Large Telescope) found the cumulative impacts (i.e. the impact of the past, present and reasonable foreseeable future impacts) of astronomy development atop Mauna Kea has resulted in ***significant, substantial and adverse impact on the cultural and natural resources of Mauna Kea.***

The State law bar BLNR from issuing permits to projects that will have adverse and significant impacts on the cultural and natural resources in the Mauna Kea

Conservation District. BLNR cannot possibly approve the TMT project without violating its own rules and associated statutes.

#### **D. Ignoring the rule of law**

The Third Circuit Court ruled in our favor, finding the University's (UH) management plan inadequate, affirming the entire summit of Mauna Kea be protected and finally ordering the state to complete a comprehensive management plan (CMP) for the protection of the cultural and natural resources (not astronomy), before any further development is considered.

Recently, the UH superseding the BLNR's public duty, hired a public relations firm to produce yet another management plan that BLNR approved this plan. THE UH plan is currently being reviewed by the Intermediate Court of Appeals (ICA). It is inappropriate for the proponents of the TMT to be seeking a construction permit while the court is reviewing the adequacy of that document. What kind of precedence does this set to have a state agency ignore the courts role (i.e. the rule of law)? **Where is the justice in this, Governor?**

#### **E. TMT not billion dollar project for Hawai'i**

The TMT is not the biggest telescope in the world as reported. The world's largest telescope is the European Extremely Large Telescope (EELT), currently being built in Chile. Both the EELT and the TMT are meant to be proto-type telescopes, designed to test the possibilities of building even larger telescopes such as 100-200 meter class telescopes in the near future. The EELT is 42 meters and will be able to fulfill this test so the TMT is not necessary.

Even if the TMT were necessary, the project needs \$700 million more dollars for completion. The National Science Foundation (NSF) has not committed funding for it. It is hard for non-essential projects such as astronomy projects to argue for large sums of public monies during such fiscally challenging times. BLNR should not be considering construction permits for unfunded projects. What happens if TMT begins building but cannot finish the project?

Lastly, the TMT is not a billion dollar project for Hawai'i, because if they get money it will be paid to the Canadian and Californian companies that have been given the contracts to design and build the mirrors and dome structure.

## **II. POHAKU LOA---The land of the night of long prayer**

Pōhakuloa resides in the ahupua'a of Kaohe, which is the name given the Kane's bamboo water carrier. Kaohe encompasses Mauna Kea, Mauna Loa and all of Pōhakuloa areas. This is the land were the fresh water for the entire island of Hawai'i originates and flows from.

### **A. Destroying Islands**

Live fire training at Pōhakuloa has been occurring for over 50 years. The existing footprint of the live fire area is two times the size of the island of Kaho'olawe (Kaho'olawe is about 28,000 acres). Live fire at PTA includes, aerial bombardment (B-52s, stealth bombers, fighter jets, attack helicopters, with heavy artillery, rockets and missile fire etc.) conducted near public access and residential areas (i.e. Saddle Road, Ahu-a-Umi Heiau,

Umi's Trails, Kaumana, Waiki'i, Waimea etc.). Live fire and the unexploded ordinances (UXO) left behind means the land is destroyed and without major clean up efforts will remain off limits (rendered inaccessible and unusable) to the people of Hawai'i forever.

The State of Hawai'i has allowed the military to use this land, by issuing long term leases that end in the near future (i.e. 2026). However, while long term leases grant the right of use, they do not grant exclusivity, private property rights, nor do they grant to right to destroy (or render the lands inaccessible or unusable), because the state maintains the responsibility over all resources, including water, minerals, historic, cultural and religious properties and their associated uses regardless of the who the lessee may be.

Recently however, the military has submitted numerous proposals to expand the footprint by at least 44, 000 acres (nearly 1.4 times the size of Kaho'olawe). Thus far no clean up provisions for PTA have been implemented and now the military is seeking to take significant parts of Mauna Loa (it has already begun construction in the 36,000 acres), significant parts of Mauna Kea (8,000 acres for the Helicopter training), and the taking of pristine forest lands down slope of the Battle Area Complex of PTA (where over 100 caves/cave complexes have been identified).

### **B. Support training not destruction**

While we recognize the need to train our young men and women (hopefully not to have to kill) in order to have a fighting chance of survival in war; however, training does not require live fire, and if it does, then perhaps we are not the advanced and powerful military force we claim to be. How does it make sense to send people to be killed defending our land when we are destroying the very land they are supposed to be defending? What is the point of destroying the equivalent of four Kaho'olawe's on Hawai'i Island with our own bombs?

As you are aware Governor, as a former supporter of the righteous return of Kaho'olawe, more than \$450 million taxpayer dollars paid out for the clean up of the island. It is still not cleaned and may never be to the satisfaction of the Public Trust. In short the methodology we are currently using, whereby the military destroys and moves on to destroy another area, is causing the taxpayers to pay twice--first for the destruction and second for the clean up. The clean up of PTA will be similar to Kaho'olawe only four times greater in area and costs. Clean-up of PTA is estimated to cost about \$600 million dollars. **How is this reasonable? How is this sustainable? Where is the logic in this destructive paradigm? Where is the righteousness in this, Governor?**

### **III. CONCLUSION**

We were inspired when President Obama announce his plans to cut the military budget and to veto earmarks, because the majority of the national funding used for past Mauna Kea and Pōhakuloa projects have come from the military budget and earmarks (i.e. including \$32 million dollars earmarks for the 'Imiloa Astronomy Center). We have faith you will uphold the national policy. We have faith you will act decisively to find a clear path in Aloha for true change. We have faith you will honor the very spirit codified in the land that nourishes us and gives us life. In keeping with the urgency of the situation, we look forward to meeting with you to discuss in greater detail our concerns regarding the proposed Pōhakuloa and Mauna Kea expansion projects.

We thank you very much for your time and consideration.

In Aloha we remain,

Ali'i Sir Mr. Paul K. Neves of the Royal Order of Kamehameha I

Ms. Kealoha Pisciotta of Mauna Kea Anaina Hou

Mr. Clarence Kukauakahi Ching, Individual Hawaiian Practitioner

Ms. Miwa Tamanaha of KAHEA: The Hawaiian-Environmental Alliance

Cc:

President Barack Obama

Director William Ailā, Department of Land and Natural Resources