

RECEIVED

MAR - 4 2011

LINDA LINGLE  
GOVERNOR OF HAWAII

Office of Mauna Kea Management



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

Office of Conservation and Coastal Lands  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI  
FIRST DEPUTY

WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

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

CDUP: HA-3568

MAR - 3 2011

Dr. Donald Straney, Chancellor  
University of Hawai'i at Hilo  
200 West Kāwili Street  
Hilo, HI 96720

SUBJECT: CONSERVATION DISTRICT USE PERMIT (CDUP) HA-3568  
Thirty Meter Telescope(TMT)  
Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua District, Hawai'i  
TMK (3) 4-4-015:009

This is to inform you that on February 25, 2011, the Board of Land and Natural Resources approved Conservation District Use Permit (CDUP) HA-3568 for the Thirty Meter Telescope at the Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua District, Island of Hawai'i, TMK (3) 4-4-015:009, subject to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State, and County governments, and applicable parts of the Hawaii Administrative Rules, Chapter 13-5;
2. The applicant shall obtain appropriate authorization from the Department for the occupancy of state lands, if applicable;
3. The applicant shall comply with all applicable Department of Health administrative rules;
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 applicant shall notify the Department in writing when construction activity is initiated and when it is completed;
5. Before proceeding with any work authorized by the Board, the applicant 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 the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
6. All representations relative to mitigation set forth in the Environmental Impact Statement and Conservation District Use Application are incorporated as conditions of the permit;

7. All mitigation measures and management actions contained in the Historic Preservation Mitigation Plan, Construction Plan, Historical & Archaeological Site Plan, Maintenance Plan, and Arthropod Monitoring Plan, are incorporated as conditions of this permit;
8. The project will comply with any terms and conditions outlined in the Comprehensive Management Plan and associated Resource Sub Plans;
9. 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;
10. The following additional conditions shall be implemented by OMKM and TMT:
  - Ensuring that employees attend mandatory cultural and natural resources training;
  - Working with the 'Imiloa Astronomy Center and OMKM to develop information exhibits for visitors regarding the natural, cultural and archaeological resources of Mauna Kea;
  - Funding the re-naturalization of the closed access road on Poli`ahu, partially re-naturalize the batch plant staging area after construction, and camouflage the utility pull boxes in certain locations to reduce the visual impact from the summit area;
  - Implementing an invasive species control program;
  - Working with OMKM to develop and implement a habitat restoration study;
  - Implementing the "Zero Waste Management" policy;
  - Filling employment opportunities locally to the greatest extent possible;
  - Mandating that employees traveling beyond Hale Pohaku take part in a ride-sharing program using project vehicles;
  - Using energy savings devices such as solar hot water systems, photovoltaic power systems, energy efficient light fixtures, and the use of Energy Star rated appliances;
  - 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; and
  - 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;
  - The University 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 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;
  - OMKM will consult with the U.S. Fish and Wildlife Service and experts who are advising OMKM, including representatives from the DLNR, on surveys of the wēkiu bug and invertebrates regarding surveys along the utility corridor, including Pu'u Hau Kea and the pu'u west of the Parking Area 1;

- 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;
  - The applicant will present a plan for handling recreational parking during construction to the OCCL for review and approval prior to beginning construction;
  - Following construction, TMT shall keep their area clean and free of trash or unattended tools and equipment, unless authorized by OMKK and OCCL;
  - The Archaeological Monitoring Plan will be submitted to the State Historic Preservation Division for review and approval prior to the onset of construction; and
  - TMT remains committed to paying a “substantial” amount for sublease rent. The rent would be deposited into the Mauna Kea Land Fund, and only used for management of Mauna Kea.
11. The University will notify OCCL of the date of the twice-annual inspections of the project site, and allow staff to attend if available;
  12. The applicant will provide OCCL and BLNR a copy of their annual report to OMKM;
  13. The applicant will allow BLNR to name a DLNR representative to participate in the five-year management review process;
  14. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the board of water supply;
  15. The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
  16. In issuing this permit, the Department and Board have relied on the information and data that the applicant 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;
  17. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take the measures to minimize or eliminate the interference, nuisance, harm, or hazard;
  18. 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 HPD (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary; the applicant will also notify OHA at the same time;
  19. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
  20. No construction work shall be initiated until the applicant demonstrates compliance with all pre-construction conditions and mitigation measures outlined in this report. Once this condition has been satisfied, the Department will issue notice to proceed with construction;
  21. If a contested case proceeding is initiated, no construction shall occur until a final decision is rendered by the Board in favor of the applicant or the proceeding is otherwise dismissed;

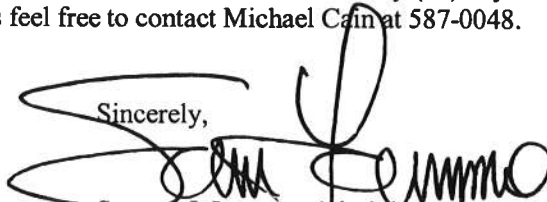
22. TMT shall set aside funds annually in a sufficient amount to allow for site observatory and access way site restoration;
23. Daytime activities at TMT will be minimized on up to four days per year, as identified by Kahu Kū Mauna;
24. Other terms and conditions as may be prescribed by the Chairperson; and
25. Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

In addition, the Board of Land and Natural Resources, on its own motion, decided to hold a contested case hearing and also delegated to the Chairperson the authority to select a hearings officer to conduct all hearings for one (1) contested case hearing, with respect to conservation district use application (CDUA) HA-3568 for the Thirty Meter Telescope by the University of Hawaii at Hilo.

The Department is in the process of retaining a Hearing Officer to preside over the contested case hearing process. You may wish to provide us with the contact information for the entity(s) that will be representing you in these matters.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days. Should you have any questions on any of these conditions feel free to contact Michael Cain at 587-0048.

Sincerely,



Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

Receipt acknowledged:

Donald D. Stanley  
Applicant's Signature

4 March 2011  
Date

C: CHAIRPERSON/BLNR  
MAUNA KEA 'ANAINA HOU  
KAHEA ENVIRONMENTAL ALLIANCE  
KUKAUAKAHI (CLARENCE CHING)  
SIERRA CLUB  
E. KALANI FLORES  
COUNTY OF HAWAII (OFFICE OF THE MAYOR)  
DLNR, DOFAW (NARS)  
DLNR, LAND DIVISION  
DLNR, HISTORIC PRESERVATION

REF: OCCL: MC