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Judge to hear appeal of Keck outrigger project

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While a University of Hawaii official recently talked publicly of making hooponopono -- a Hawaiian process of peace making -- with opponents of development on the summit of Mauna Kea, native Hawaiian and environmental groups are preparing to appeal the state Land Board's approval of NASA's \$50 million "outrigger" telescope project at the Keck observatory.

The hooponopono concept was raised by James Gaines, the university's vice president for research, who told a Honolulu newspaper in March the proposed peace initiative would likely include a Hawaiian forgiveness ceremony during which university officials would admit to past mistakes, a promise to manage the summit better, and a gift, possibly a privately funded scholarship.

But spokespersons for two groups that have been among the most vocal opponents of astronomy development on Mauna Kea -- Mauna Kea Anaina Hou and the Hawaii chapter of the Sierra Club -- were not approached by anyone from the university suggesting hooponopono. Deborah Ward, spokeswoman for the Hawaii chapter of the Sierra Club, also said she heard nothing about hooponopono from the university. Gaines did not return several telephone calls seeking comment for this article.

"I'm puzzled," said Kealoha Pisciotta of Mauna Kea Anaina Hou, one of several groups that filed the appeal of last October's state Land Board ruling approving the project following a contested case hearing that began in February 2003.

Mauna Kea Anaina Hou, the Sierra Club's Hawaii chapter, Royal Order of Kamehameha I, and native Hawaiian practitioner Clarence Ching are appealing the October ruling, claiming the university has mismanaged the 11,288-acre Mauna Kea Science Reserve on the summit by allowing too many telescopes, and harming Hawaiian cultural sites and potentially endangered species.

The appeal will be heard in Third Circuit Court June 17 by Judge Glen Hara, continuing a long-running battle over the future of Mauna Kea's summit, where 13 observatories have been constructed by universities and research consortiums on land owned by the state and leased to the university's Institute for Astronomy.

Leah Hong, the appellant's attorney, accuses the University of Hawaii of "decades of mismanagement," and claims that the IfA refuses to provide a management plan for Mauna Kea as required by the Land Board's rules. The IfA and Land Board "engaged in short-sighted and piecemeal development of astronomy facilities on Mauna Kea" in a "rush to build more and more astronomy facilities to enhance the prestige of its astronomy program," according to a brief filed with the appeal.

The appellants want the court to reverse the Land Board's ruling and find that the Outrigger project is not permitted under any current BLNR-approved management plan, and to require that the university to establish a long-term management plan for approval by the Land Board.

The university, meanwhile, complained in March that it "has waited nearly 3 1/2 years for resolution of all issues regarding the permit to build the Outrigger telescopes.

The lawsuit names the state Board of Land and Natural Resources, the university's IFA, Harry Fergestrom, and the Hawaii Island Development Board, Inc. as defendants. Fergestrom was aligned

with native Hawaiian opposition to the project during the contested case hearing but has not joined formally in the appeal, Pisciotta said. The entire proceedings of the case, however, including Fergestrom's testimony, is included in the appeal.

Astronomers worry that continued opposition to further development atop Mauna Kea could jeopardize plans to bring the next generation of large telescopes to Hawaii, including the world's largest telescope, a \$700 million project. Many native Hawaiians, meanwhile, consider the summit a sacred place that is being desecrated by development, and environmentalists say the continuing development on the summit could harm potentially endangered species.

The opponents wanted the board to wait for NASA to complete an Environmental Impact Study before considering the project. NASA undertook the \$1 million, year-long study under pressure from a lawsuit filed by the state Office of Hawaiian Affairs, challenging the validity of earlier environmental reports.

The completed EIS concluded that astronomy's cumulative impact on Mauna Kea is "substantial and adverse" to cultural and biological resources, and that the NASA outriggers would add "a small incremental impact" to the 20-year history of adverse effects.

That's why Pisciotta said wanted the Land Board to wait. "The (Land Board) is supposed to be the last check" on development, she said. "The EIS is supposed to be their source of information." The fact that astronomy has had a significant impact on Mauna Kea, according to the EIS, should have colored the board's decision, she said.

The Hawaii Island Economic Development Board, an organization of Big Island business interests which took part in the contested case hearing in support of the project, noted its "substantial and positive" impact on island socioeconomics. "Somehow we've got to get everybody to the table and discuss what those differences are," said Mark McGuffie, HIEDB director . Asked how that can be done in the face of opposition calling for halt to all new construction on the mountain, McGuffie said, "It's got to be done right and be inclusive."

Pisciotta said Mauna Kea Anaina Hou carried a plea for better relations and protection of the mountain to the Board of Regents and university president on Oahu four years ago, but, "University officials never responded to our proposal or our requests to meet with them to discuss the alternatives in it." She said recent meeting with university officials and state Legislators generated no mention of hooponopono.

"We can't help but wonder whether the university's apparent change of heart is also related to the community's current litigation challenging BLNR's recent approval of NASA's Keck Outrigger Telescopes."

Pisciotta group wants to stop further expansion of astronomy facilities on Mauna Kea. "Hawaiians have never asked the university to (apologize) ... principally because the damage done to Mauna Kea has hurt all of the people of Hawaii not just us."

And whatever happens in the coming appeal, Ward suggested a likely outcome. "There will be another appeal," she said.

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