

Letter of Understanding Pertaining to the Island of Kaho'olawe

In the spirit of Kukulū Ke Ea A Kanaloa, this letter of understanding has been signed by the Kaho'olawe Island Reserve Commission (KIRC) on behalf of the State of Hawai'i and the Protect Kaho'olawe 'Ohana (hereinafter referred to as 'Ohana) to mutually acknowledge and clarify the ongoing role of the 'Ohana as Ke Kahu O Ka 'Aina for the island of Kahoolawe, Kohemalamalamaokanaloa.

The 'Ohana and the U.S. Navy entered into a Consent Decree in 1980, which was entered as a final judgment in Noa Emmett Aluli, et al, v. Harold Brown, et al., United States District Court of the District of Hawai'i, Civil Action No. 76-0380.

Under the Consent Decree, the 'Ohana is provided access to the island for a minimum of 4 days and up to as many as 10 days for 10 months every year for religious, cultural, educational, and scientific activities. During these accesses under the Consent Decree from 1980 to present the 'Ohana took over 5,000 kupuna, makua, 'opio, teachers, and students to the island to experience and learn from the island, a living and spiritual entity. The 'Ohana rededicated heiau and shrines; constructed new cultural structures including a pa hula and a mua ha'i kupuna; conducted annual makahiki ceremonies and other religious ceremonies; assisted in the survey and stabilization of historical cultural archaeological sites; conducted natural resource restoration projects; and protected Hawaiian burials on the island. The 'Ohana also monitored the Navy and its military uses, soil conservation projects, ordnance clean up, goat eradication, and historic site management. In a Memorandum of Understanding (MOU) with the Secretary of Navy KIRC acknowledged that as long as the Consent Decree remains in effect, the 'Ohana will continue to have access to Kaho'olawe.

Through this letter KIRC acknowledges that the 'Ohana has, through its endeavors as ke kahu o ka 'aina for the moku of Kaho'olawe under the Consent Decree from 1980 through 1994, essentially assumed the rights and responsibilities of hoa'aina for the island. Hoa'aina is interpreted in Hawaiian law as meaning tenant, caretaker and occupant. The KIRC recognizes that the 'Ohana has exercised the rights and responsibilities of hoa'aina pursuant to the Hawai'i Revised Statutes 7 - 10 and the Hawai'i State Constitution Article XII. Section 7. The KIRC further recognizes the established pattern of access by the 'Ohana and its right to continue that access in the event that the Consent Decree is no longer in effect, subject to safety and logistical requirements of the cleanup/restoration activity contemplated in the State/Navy MOU.

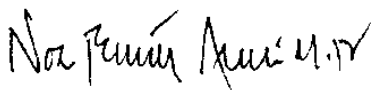
The 'Ohana acknowledges that the island has been a bombing target since 1940 and that the KIRC is the landowner of the island, holding it in trust for the sovereign native Hawaiian entity when it is re-established and recognized by the state and federal governments. Therefore, the 'ohana will exercise its right of access for a minimum of 10 days a month, as coordinated in advance with the KIRC. Under the Consent Decree, the 'Ohana will continue to request and review its access dates and activities during semi-annual negotiations with the U.S. Navy. For purposes of coordination, the dates and activities will be forwarded to the KIRC for its information. In the event that the Consent Decree is no longer in effect, the 'Ohana will forward its access requests directly to the KIRC for its review and approval, every six months. However, ultimate approval for all access will be obtained by the 'Ohana from the United States Navy as long as the Navy controls access to the island. Unless specifically agreed to, access will be exercised at no cost to the State of Hawaii and the 'Ohana shall defend, indemnify and hold harmless the KIRC against claims arising out of injuries or damages to its members or property in the use of the Kaho'olawe Island Reserve.

The KIRC, in consultation with the 'Ohana and the Edith Kanaka'ole Foundation, will develop cultural use protocol for access to the Kaho'olawe Island Reserve. The 'Ohana and the KIRC agree that such a protocol is essential for adequate protection and proper respect of cultural resources within the reserve. The 'Ohana shall adhere to the cultural use protocol and enforce it while the 'Ohana and its guests are in the reserve. The KIRC shall require compliance with the cultural use protocol to all parties granted KIRC access approval, and shall endeavor to have the cultural use protocol be made an enforceable part of all contracts issued by the Navy.

Approved by the Kaho'olawe Island Reserve Commission: February 16, 1995

For the
Kaho'olawe Island Reserve Commission


For the
Protect Kaho'olawe 'Ohana

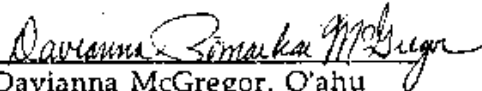


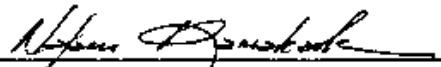
Noa Emmett Aluli, M.D.
Chairman,



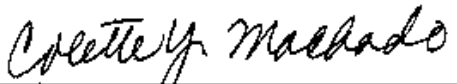
Leslie Kuloloio, Maui
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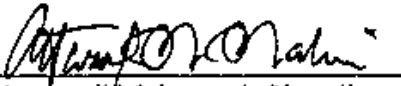

A. Frenchy De Soto
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Nalani Kanakaole

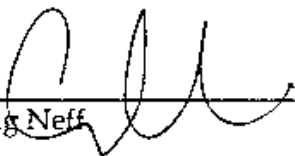

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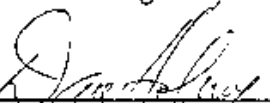

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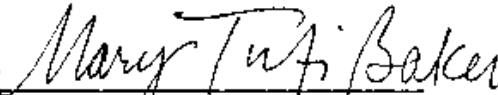

Brian Miskae

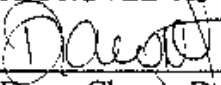

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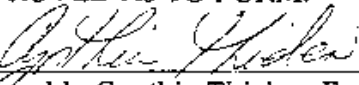

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