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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF HAWAI‘I

MĀLAMA MĀKUA, a Hawai‘i non-)	Civil No. 00-00813 SOM KJM
profit,)	
)	JOINT NOTICE REGARDING
Plaintiff,)	SECOND MODIFICATION OF
)	CULTURAL ACCESS
v.)	AGREEMENT; EXHIBIT “1;”
)	CERTIFICATE OF SERVICE
JAMES MATTIS, Secretary)	
of Defense; and MARK ESPER,)	
Secretary of the United States Army,)	
)	
Defendants.)	
)	
)	

JOINT NOTICE REGARDING SECOND
MODIFICATION OF CULTURAL ACCESS AGREEMENT

PLEASE TAKE NOTICE THAT, pursuant to paragraph 13 of the
Settlement Agreement and Stipulated Order in Mālama Mākua v. Rumsfeld, et al.,
Civ. No. 00-00813 SOM LEK (D. Haw. Oct . 4, 2001) (“2001 Settlement”),

Mālama Mākua, the Secretary of Defense, now James Mattis, and the Secretary of the Army, now Mark Esper, (collectively “the Parties”), established the protocols for cultural access to Makua Military Reservation (“MMR”), which were set forth in the document entitled “Appendix B, Daytime and Overnight Access to Makua Military Reservation for Cultural Access” (filed July 19, 2002). Paragraph 9 of Appendix B authorizes the modification of the cultural access protocols by mutual consent of the parties.

The Parties mutually consent that Appendix B, Section 8 (“Activities While Present on Makua Military Reservation”), Subsection C (“Limitations on Activities”), Item 8, subparagraph 8.b, as modified by the First Modification to Appendix B, Daytime and Overnight Access to Makua Military Reservation (“MMR”) for Cultural Access (dated and filed herein on December 18, 2008), be further modified as set forth in “Second Modification to Appendix B, Daytime and Overnight Access to Makua Military Reservation (“MMR”) for Cultural Access,” attached hereto as Exhibit “1.”

The terms of this modification have been negotiated at arm’s length among knowledgeable parties represented by experienced counsel. As a result, the rule of “interpretation against draftsman” shall not apply in any dispute over interpretation of the terms of this modification. Should any court with jurisdiction to enforce the 2001 Settlement declare or determine that this modification is illegal or invalid, the

validity of the remaining parts, terms, or provisions of Appendix B shall not be affected thereby and said modification shall be deemed not a part of Appendix B.

This modification shall apply to and be binding upon the Parties, their members, delegates, and assigns. The undersigned representatives certify that they are authorized by the Party or Parties that they represent to enter into this modification of Appendix B, and to execute and legally bind that Party or Parties to the terms and conditions of this modification.

Executed this 9th day of May, 2018, at Honolulu, Hawaii.

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/s/ David L. Henkin
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