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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

HONOLULUTRAFFIC.COM;
CLIFF SLATER; BENJAMIN J.
CAYETANO; WALTER HEEN;
HAWAII'S THOUSAND
FRIENDS; THE SMALL
BUSINESS HAWAII
ENTREPRENEURIAL
EDUCATION FOUNDATION;
RANDALL W. ROTH; DR.
MICHAEL UECHI; and THE
OUTDOOR CIRCLE,

Plaintiffs,

v.

FEDERAL TRANSIT
ADMINISTRATION; LESLIE
ROGERS, in his official capacity
as Federal Transit Administration
Regional Administrator; PETER

Case No. 11-00307 AWT

**DECLARATION OF
MICHAEL
KUMUKAUOHA LEE IN
SUPPORT OF
PLAINTIFFS' REQUEST
FOR INJUNCTIVE AND
DECLARATORY RELIEF**

Hon. A. Wallace Tashima

Action Filed: May 12, 2011
Trial Date: None Set

M. ROGOFF, in his official capacity as Federal Transit Administration Administrator; UNITED STATES DEPARTMENT OF TRANSPORTATION; RAY LAHOOD, in his official capacity as Secretary of Transportation; THE CITY AND COUNTY OF HONOLULU; WAYNE YOSHIOKA, in his official capacity as Director of the City and County of Honolulu Department of Transportation.

Defendants.

and

FAITH ACTION FOR COMMUNITY EQUITY; THE PACIFIC RESOURCE PARTNERSHIP; MELVIN UESATO

Intervenor Defendants.

I, Michael Kumukauoha Lee, declare as follows:

1. I am Hawaiian. My mother is Hawaiian and my father was Hawaiian.
2. I am a member of Hawaii's Thousand Friends.
3. Planting and gathering limu (or seaweed) are long-standing Hawaiian traditions. Other traditional practices make use of limu gathered from the shoreline.
4. My Hawaiian grandfather, Kino Valentine Guerrero, taught me about limu. He was taught by his Hawaiian mother, Anna Kanamu Ka

‘aimoku and her sisters. Ana Kanamu’s mother was taught by her grandfather, Kalulu, and her mother Kuwe ‘e. My grandfather’s grandparents planted seaweed in Miloli ‘i in the 1880’s as Queen Lili ‘uokalani did elsewhere.

5. My grandfather fished for 60 years and picked seaweed off of Ewa Beach and elsewhere. My grandfather taught me about limua, or Ke Akua, in the limu, which makes limu sacred. In 1960 my grandfather identified on a map of O’ahu the areas where he picked seaweed. This document showed that my grandfather picked seaweed off of Ewa Beach.

6. In volume II, page 396 of an 1880 book by Abraham Fornander called *The Polynesian Race*, my eighth great grandfather is referred to in the Chant of Kualii. This chant demonstrates that my eighth great grandfather picked seaweed, and it demonstrates this Hawaiian cultural gathering right as far back as 1615 — a right that I continue to this day some 400 years later in the same location.

7. I can identify approximately seventy different types of seaweed by sight.

8. I have lived in the Ewa area for over 13 years. I have used the area to gather seaweed and to teach others. I am a Kahunalapaauokekaiolimu, a Native Hawaiian practitioner of limu medicine. I also perform cultural practices related to communicating and honoring my ancestors.

9. On January 28, 2004, I was recognized as a Hawaiian Cultural Practitioner by the City Council of Honolulu and I received a certificate

honoring the Ewa Limu Project. I co-founded the Ewa Limu Project in 1999 to help restore the seaweed along the Ewa coastline and to educate the community.

10. There exists an extensive system of karst in the Ewa area (and other areas near it). The karst cave system was traditionally used for burials, including royal burials. An article entitled "Burial of the Last Prince of Kawaii" by W.D. Alexander, published in the Annual Report of the Hawaiian Historical Society, Volume 1-21 (1893) describes my fourth great aunt, Miriam Kekauonohi burying the remains of her husband, Prince Keali'iahonui in a karst cave near in 1849. A true and correct copy of that article is attached hereto as Exhibit A.

11. Fresh water flowing through underground karst cave systems is also the source of nutrients for algae and limu living along the sea coast. The algae and limu, in turn, are critically important to traditional cultural practice, both directly (direct planting, harvesting, and use of limu) and indirectly (by nourishing other sea life that Native Hawaiians use for traditional ceremonies). I am concerned that if the karst system is disrupted or destroyed, this culturally-important network of resources would not survive.

12. Matt McDermott, a contract archaeologist associated with the Honolulu High-Capacity Transit Corridor Project (the "Project"), provided me with a map showing the area near Hoopili where the Project (in green) intersects with the karst cave system (in red) which leads to Ewa Beach. A

true and correct copy of that map is attached hereto as Exhibit B. A true and correct copy of a map of the watershed in this area is attached hereto as Exhibit C.

13. Damage to the karst cave system in this area would severely threaten my cultural practice by disrupting the flow of fresh water to the area of Ewa Beach, where I engage in my traditional cultural practice. My cultural practice is also threatened increased urban and stormwater runoff associated with construction activities, which quickly travels through porous karst features and contaminates subsurface water.

I declare, under penalty of perjury that the foregoing is true and correct.

Executed _____, 2012
at _____, Hawaii


MICHAEL KUMUKAUOHA LEE