



# E Kūlike kākou

## *Stand together*

*The community has lost faith that the process is being conducted lawfully and with honor.*

- **Incomplete EIS — Federal Oversight Body Confirms Deficiency.** The Advisory Council on Historic Preservation found the Air Force's adverse effect submission incomplete under 36 CFR § 800.11(e) on February 7, 2025 (namely that it did not provide "*copies or summaries of any views provided by consulting parties, to include federally recognized Indian tribes or Native Hawaiian organizations*"). As of February 13, 2026, the Air Force has not responded.
- **Community Engagement Denied While Military Purchases Media Access.** The Air Force has not presented key decision-makers in community requests for meetings, yet simultaneously funds "sponsored content" on Hawaii News Now through its Military & Community Relations Office (MACRO).
- **Hawai'i Environmental Policy Act (HEPA) Avoidance.** The Air Force initially committed to HEPA compliance, then redesigned the project specifically to avoid triggering HRS § 343-5(a) despite the site remaining entirely within the State Conservation District.
- **Unresolved Diesel Fuel Contamination on Sacred Ground.** The 700-gallon diesel spill of January 2023 remains incompletely remediated three years later. Arsenic has been detected in site soils above restricted Environmental Action Levels.
- **Intergenerational Harm and Broken Process.** Kilakila 'O Haleakalā spent seven years in litigation through the Native Hawaiian Legal Corporation, won two Hawai'i Supreme Court cases, and the telescope was built anyway. Justice Michael Wilson's 102-page dissent warned that the forces aligned against the community were "vast" and that only "the conscience and courage" of institutions could protect those without political power. Six years later, the same community faces the same pattern — and the Air Force's own facilitation structure places the project proponent as the facilitator of cultural consultation.

## Incomplete EIS: Federal Oversight Confirms Deficiency

**Core Finding:** The Advisory Council on Historic Preservation (ACHP) determined that the Air Force’s adverse effect notification under Section 106 of the National Historic Preservation Act was incomplete. The Air Force has not responded in over one year.

### Timeline of Documented Failures

- **January 28, 2025:** Air Force submits adverse effect notification to ACHP under 36 CFR § 800.6(a)(1).
- **February 7, 2025:** ACHP responds (Dana Daniels, Historic Preservation Technician) stating the submission “did not include all of the required information specified in 36 CFR § 800.11(e).” Specifically, the ACHP requested “copies or summaries of any views provided by consulting parties, to include federally recognized Indian tribes or Native Hawaiian organizations as appropriate, the public, and the Hawaii State Historic Preservation Officer.” (ACHP Project Number 022091)
- **February 13, 2026:** Jaime Loichinger, Director of the Office of Federal Agency Programs at ACHP, confirmed via email: “The ACHP has not received a response to our February 7, 2025 letter.”

### Pattern of One-Way Communication

Appendix B of the DEIS contains outgoing Air Force correspondence to agencies (USFWS, SHPD, FAA, NHOs) but contains no inbound responses or documented dialogue. The consultation record demonstrates notification, not consultation. The Air Force claims it has conducted “early and meaningful consultation,” yet the federal body responsible for overseeing Section 106 compliance cannot confirm this because the Air Force never provided the required documentation.

#### LEGAL BASIS

Section 106, National Historic Preservation Act (54 U.S.C. § 306108); 36 CFR § 800.11(e) requiring submission of consulting party views; 36 CFR § 800.6(a)(1) adverse effect notification; DoDI 4710.03 (Consultation with Native Hawaiian Organizations) mandating “early and meaningful consultation” with proper documentation.

#### SOURCE DOCUMENTS

ACHP letter to Charlie Lawton, February 7, 2025 (DEIS Appendix B); Email from Jaime Loichinger, ACHP Director, February 13, 2026; AMOS STAR DEIS, Section 1.7.2 and Appendix B (January 2026).

## Community Engagement Denied; Military Purchases Media Access

**Core Finding:** The Air Force has declined direct community engagement while simultaneously investing in paid media promotion through its Military & Community Relations Office (MACRO), creating a public narrative without genuine dialogue.

### Community Attempts to Engage

- A cultural advisor with existing connections, offered to facilitate a meeting between community members and Space Force leadership. The Space Force General was unavailable for this meeting.
- On February 13, 2026, we emailed Charlie Lawton at U.S. Space Force requesting information on the status of the Section 106 consultation and opportunities for community participation. The email was copied to Native Hawaiian cultural practitioners and community leaders. No response received to date.

### Simultaneous Paid Media Campaign

While declining direct community engagement, the U.S. Space Force Indo-Pacific has purchased “sponsored” media segments on Hawaii News Now through the Military & Community Relations Office (MACRO). These paid placements provide both staff and footage to promote the Space Force’s Indo-Pacific mission. The community receives form-letter responses and public hearing notices; the television audience receives glowing, professionally produced, military-funded content with no disclosure of the contested nature of the AMOS STAR proposal.

#### **SIGNIFICANCE**

DoDI 4710.03 mandates that DoD components “conduct early and meaningful consultation, maintain proper documentation of all consultation, ensure transparency through open communication and information sharing.” Refusing direct meetings while purchasing favorable media coverage contradicts the spirit and letter of this instruction. The community’s democratic opposition — 89% of scoping comments opposed the project, the Council voted unanimously against it, and the Mayor expressed opposition — is not reflected in the Air Force’s public communications.

#### **SOURCE DOCUMENTS**

Email t to Charlie Lawton, February 13, 2026; Maui Now, “Air Force advances plans to build 7 more telescopes on Haleakālā as fuel spill cleanup continues,” February 15, 2026; AMOS STAR DEIS Scoping Report, Section 5.0 (89% opposition); Maui County Resolution 24-103; Hawaii News Now MACRO-sponsored segments.

## Bridging Hawai'i communities and the U.S. Space Force



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Hawaii's Military and Community Relations Office (MACRO) serves as a vital bridge between local communities and the U.S. Department of Defense, fostering dialogue, transparency, and collaboration on issues that impact shared spaces and priorities. Through education and strategic engagement, MACRO helps create opportunities for mutual understanding—making conversations like this inside look at U.S. Space Forces–Indo-Pacific possible. From safeguarding space systems that support daily life to building strong partnerships across the Indo-Pacific and right here at home, the Space Force's presence in Hawai'i reflects a commitment to peace through strength, community kuleana, and long-term support for the state's people and economy.

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## Hawai'i Environmental Policy Act (HEPA) Avoidance

**Core Finding:** The Air Force initially committed to conducting its environmental review under both NEPA and HEPA, then redesigned the project specifically to avoid triggering state environmental review — despite the entire project remaining within the State Conservation District.

### Documented Timeline

- **April 10, 2024:** Air Force scoping letter explicitly states the EIS would be prepared “in accordance with the Hawai'i Environmental Policy Act (HEPA).”
- **May 2024:** Public scoping meetings held in Kahului, Pukalani, and Kihei under the premise of dual NEPA/HEPA compliance.
- **January 2026:** DEIS published under NEPA only. Section 1.1 states: “Through the evolution of the project design, the Proposed Action no longer triggers the applicability of HEPA.”

### The Mechanism

HEPA was originally triggered because a proposed utility easement would have involved “the use of state land within the State Conservation District” under HRS § 343-5(a)(1) and (2). The Air Force redesigned the project to avoid crossing state land for utilities, thereby claiming HEPA no longer applies. However, the project site itself remains entirely within the State Conservation District. The question of whether a redesign intended to avoid utility easements is sufficient to eliminate HEPA review for a project within a Conservation District has not been publicly resolved by DLNR.

### Outstanding Questions Sent to DLNR

On February 13, 2026, a formal inquiry was sent to DLNR Chairperson Dawn Chang and Acting Administrator Ian Hirokawa requesting clarification on whether DLNR has formally concurred with the Air Force's position that HEPA no longer applies. This inquiry also addresses the status of the FAA-to-Air Force land transfer under Governor's Executive Order No. 1808, species protection concessions, and the diesel spill remediation. A response has not yet been received.

#### LEGAL BASIS

Hawai'i Environmental Policy Act, HRS Chapter 343; HRS § 343-5(a)(1) and (2) — use of state or county land or funds within a Conservation District; HAR § 11.200.1; HAR § 13-5-1 (intent of Conservation District to conserve, protect, and preserve natural and cultural resources).

#### SOURCE DOCUMENTS

Air Force scoping letter, April 10, 2024; AMOS STAR DEIS, Section 1.1 (January 2026); Letter to DLNR, February 13, 2026; Project website statement on HEPA applicability.

This EIS assesses the potential environmental, social, economic, historic, and cultural impacts of the Proposed Action and alternatives and was prepared in accordance with the National Environmental Policy Act (NEPA), as amended by the Fiscal Responsibility Act of 2023 (Public Law 118-5; FRA); Department of Defense (DoD) NEPA Implementing Procedures; and Federal Aviation Administration (FAA) Order 1050.1F, Environmental Impacts: Policy and Procedures.

The AMOS STAR EIS was initially being developed in accordance with the Hawai'i Environmental Policy Act (HEPA) (Hawai'i Revised Statutes [HRS] Chapter 343) and Hawai'i Administrative Rules (HAR) (§ 11.200.1) as well as NEPA because a proposed new utility easement would have involved the use of state land within the State Conservation District (HRS § 343-5(a)(1) and (2)). However, through the evolution of the project design, the Proposed Action no longer triggers the applicability of HEPA.

## **1.2 BACKGROUND**

AFRL's mission includes responsibility for advancing technologies that improve the nation's capability to maintain space domain awareness (SDA). One responsibility is to track the approximately 48,900 space objects, which includes active spacecraft and pieces of debris larger than 4 inches in diameter in Earth's orbit over its Pacific area of responsibility. AFRL must continuously improve its ability to maintain SDA as the number, size, locations, and capabilities of man-made objects in space change over time.

## Unresolved Diesel Fuel Contamination and Soil Hazards

**Core Finding:** The January 2023 diesel spill of 700+ gallons at the Maui Space Surveillance Complex remains incompletely remediated after three years. The DEIS also documents arsenic contamination above restricted Environmental Action Levels in project site soils. No “No Further Action” letter has been issued.

### The Diesel Spill

- **January 29, 2023:** U.S. Space Force reported 700+ gallons of diesel fuel spilled at the MSSC generator on the summit of Haleakāhā.
- **February 2023:** Brigadier General Anthony Mastalir acknowledged the site was on sacred ground and promised the military would go “above and beyond” industry-standard remediation.
- **Mid-2024:** Dane Uluwehiokalani Maxwell, cultural advisor, reported remediation remained incomplete. A small working group convened but, per Maxwell, produced no meaningful outcomes. Tiare Lawrence reports engagement lacks substance or detail.
- **February 2026:** Maui Now reports cleanup “continues” as the Air Force advances its AMOS STAR proposal. No “No Further Action” letter has been issued by state regulators.

### Existing Soil Contamination at the Project Site

The DEIS documents a 2022 hazardous material survey of the AMOS STAR site. Arsenic was detected at 97 parts per million around Building 1010, exceeding the Hawai‘i DOH Tier 1 restricted (commercial/industrial) Environmental Action Level of 95 ppm. Additional contaminants identified include lead, mercury, silver, PCBs, asbestos-containing materials, lead-based paint, and chromate copper arsenate (CCA) in building framing. The DEIS proposes “engineering controls” such as water misting and placing contaminated soil under 2 feet of clean fill, as removal of soil at this contamination level cannot just be moved or dumped anywhere. However, such a containment-in-place strategy must be considered alongside a lack of surveys for high level aquifers in this particular region and their connection to the larger groundwater supply.

#### WATERSHED CONTEXT

The East Maui watershed begins at the summit of Haleakāhā and is the island’s largest water producer. As documented in Maui County Resolution 24-103 and the Maui Island Plan, protecting this watershed is among the County’s highest priorities. The DEIS dismissed groundwater impacts from detailed review.

#### SOURCE DOCUMENTS

AMOS STAR DEIS, Section 3.9 and Figure 3.9-1 (soil sampling results); Maui County Resolution 24-103 (June 5, 2024); Maui Now, February 15, 2026; MNA Environmental hazardous material survey, 2022; Maui Island Plan (watershed protection priorities).

## Intergenerational Harm and a Broken Process

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### Core Finding:

The community has engaged in decades of good-faith participation in federal and state environmental and cultural consultation processes. The documented record — including seven years of litigation by Kilakila 'O Haleakalā through the Native Hawaiian Legal Corporation, a 102-page Hawai'i Supreme Court dissent condemning the power imbalance, and a cycle of opposition that has now spanned three generations — demonstrates that these processes have not protected the community or the mountain. When the project proponent simultaneously serves as the facilitator of consultation, the process is structurally compromised.

### The Kilakila Legal Record (2005–2017)

Kilakila 'O Haleakalā was established in 2005 under the leadership of the late Kahu Charles Kauluwehi Maxwell Sr. (Ed Lindsey). With representation from the Native Hawaiian Legal Corporation (NHLC), Kilakila filed four lawsuits between 2010 and 2012 challenging the Board of Land and Natural Resources' (BLNR) decision-making process for what became the Daniel K. Inouye Solar Telescope (DKIST).

Kilakila won two of those cases. In one, the Hawai'i Supreme Court determined in 2013 that *"The BLNR should have held a contested case hearing as required by law and requested by Kilakila prior to decision making on UH's application."* In another, the court ordered the University of Hawai'i to release records it had withheld related to political pressure on the telescope's approval. Despite these victories, the \$344 million DKIST was built and became fully operational in 2020.

The legal precedent established by Kilakila on Haleakalā became the primary basis for the Hawai'i Supreme Court's 2015 reversal of the BLNR's decision to approve the Thirty Meter Telescope on Mauna Kea — a landmark victory for Native Hawaiian communities statewide that originated from the suffering and persistence of the Haleakalā community.

### A Supreme Court Justice's Warning

In his 102-page dissent on the final DKIST ruling, Hawai'i Supreme Court Justice Michael Wilson wrote:

*"A hallmark of due process to which all parties are entitled in this case is an impartial decision-maker who receives evidence subject to public view — an impartial decision-maker equally accessible to all parties, whose decision is based on the evidence and law, with no regard to which party may be the most powerful politically or economically."*

Justice Wilson further observed: *"Appellant has long recognized that although the facts and the law were firmly on its side, its chances of success before the BLNR were non-existent; and that its chances of success before the circuit and intermediate court of appeals were virtually nil. The forces aligned against the Appellant were vast: the senior U.S. senator, a Congressman-turned-Governor, labor pressure, and business interests. The only hope that those without political power have is the conscience and courage of this court."*

NHLC attorney David Frankel stated: *"It is also profoundly disappointing that this court appears, at least in this instance, to have abandoned its rigorous review of agency decision making."*

## The Cycle Repeats

Six years after DKIST became operational, the community now faces another major expansion proposal at the same summit. In 2015 and 2017, Native Hawaiians were arrested for peacefully opposing DKIST construction. The community organized, litigated, testified, protested, and won legal victories — and the telescope was built anyway. As Kilakila president Kī'ope Raymond has stated: *"The military has already been clearly told from many different perspectives that the public does not want more telescopes."*

Yet Raymond also draws strength from precedent: *"The United States military has been stopped before,"* referencing the movement to end the bombing of Kaho'olawe.

## The Facilitator Problem

The Air Force presents its consultation working groups as evidence of community engagement. However, as community members have observed: *"The desecrator is the facilitator."* The entity proposing to build on a Traditional Cultural Property of the highest significance is the same entity managing the consultation process, setting the timelines, defining the scope of "mitigation," and determining what counts as "meaningful" engagement. This is not a neutral process. The ACHP's finding that the Air Force failed to submit consulting party views confirms that the perspectives of those most affected are not reaching the bodies designed to protect them.

## The Human Cost

The DEIS scoping report itself acknowledges that community comments raised "multigenerational trauma" and "mental health impacts" linked to cumulative DoD activities in Hawai'i. Community leaders have spent years — in some cases decades — attending meetings, filing comments, engaging in litigation, and organizing opposition, only to see projects proceed regardless. The toll on families is real and compounding: the same leaders who fought DKIST in their thirties are now fighting AMOS STAR in their forties and fifties, with their children watching a process that promises fairness and delivers a predetermined outcome.

The community does not reject lawful process. The community has lost faith that this process is being conducted lawfully.

### THE COMMUNITY'S POSITION

If the consultation process required by federal law is not honored — if the ACHP's requests go unanswered for over a year, if HEPA review is engineered away, if contaminated sites are built upon rather than remediated, if seven years of litigation produce legal victories that change nothing on the ground, and if the voices of 89% of the public and a unanimous County Council are treated as procedural inconveniences — then the legal framework designed to protect communities exists only on paper. As Justice Wilson warned, the only hope for those without political power is the conscience and courage of the institutions entrusted with the law. We ask the Mayor's office to stand with the community in demanding that the process be honored before any decision is made.

### SOURCE DOCUMENTS

Ka Wai Ola (Office of Hawaiian Affairs), "Haleakalā protest sets precedent for Mauna Kea," January 2017 (submitted by Native Hawaiian Legal Corporation); Maui Now, "Air Force advances plans to build 7 more telescopes on Haleakalā as fuel spill cleanup continues," February 15, 2026; AMOS STAR DEIS Scoping Report, Sections 4.4.4.4, 4.4.5.2 (multigenerational trauma); Maui County Resolution 24-103; ACHP letter, February 7, 2025; Kilakila 'O Haleakalā v. Board of Land and Natural Resources (Hawai'i Supreme Court, 2013 and 2015).

# Haleakalā protest sets precedent for Mauna Kea

Submitted by the Native Hawaiian Legal Corp.

One of the privileges of working at the Native Hawaiian Legal Corporation is witnessing the courage and strength of our clients, especially in the face of setbacks. Last year, 2016, provided NHLC with one of those opportunities and we want to recognize the seven year legal battle involving Kilakila ‘O Haleakalā (Kilakila), NHLC’s organizational client that sought to protect the sacredness of Haleakalā.

In 2010, Kilakila challenged the State Land Board’s (BLNR) decision to allow the University of Hawai‘i to begin construction on the gigantic solar telescope complex (in addition to the observatory, plans called for the construction of an operations building, utility build-

ing, wastewater treatment plant and parking lot) in an area in the State’s conservation district. This classification recognizes that the area contains unique cultural, archaeological and natural resources or is a fragile ecosystem. Consequently, before any construction can take place in a conservation district, one must show how the project will either not have an adverse impact on the area or that the impact may be sufficiently and specifically mitigated.

Kilakila argued that the university never proved its case and failed to explain how it had overcome a final Environmental Impact Statement that said the complex would have major negative impacts to cultural resources that could not be mitigated. The university had attached the report to its 2010 permit request to the



Efforts to protect Haleakalā set precedent for Mauna Kea.  
- Photo: Blaine Ferguson

BLNR to commence construction.

Over the past seven years and on four separate occasions, Kilakila requested a halt to construction so the legal process could proceed in a meaningful manner. Its requests were denied each time. Kilakila appealed the State’s decisions and, in 2013, the Hawai‘i Supreme Court determined that “The BLNR should have held a contested case hearing as required by law and requested by Kilakila prior to decision making on UH’s application.” The Court’s decision came more than a year after the contested case concluded and the Board had approved the permit yet again. In the meantime the telescope construction was underway.

Despite its inability to halt the telescope’s construction and the repeated disappointments, Kilakila persisted in its pursuit of justice. While the Court’s 2013 decision failed to protect Haleakalā, the legal precedent set by Kilakila became the primary basis for the Supreme Court’s 2015 reversal of the BLNR’s decision to approve the Thirty Meter Telescope on Mauna Kea. Like Haleakalā, the BLNR approved the permit prior to a hearing on the matter. While construction was set to begin before the Supreme Court’s 2015 ruling, it has been halted and the hearing is now in process.

The TMT controversy brought renewed attention to Haleakalā

as groups fought to stop further construction of the re-named Daniel K. Inouye Telescope (DKIST) atop Haleakalā while two Supreme Court cases remained pending including Kilakila’s challenge to the second permit.

The TMT decision confirmed the long held belief that in order to give petitioners their constitutional due process a contested case hearing must be held before the BLNR rules.

Nevertheless, in early October of this year, with the 14-story DKIST telescope more than halfway built, the Hawai‘i State Supreme Court issued a decision in which it upheld the BLNR’s subsequent approval of the CDUP, ruling against Kilakila as to all issues of procedural unfairness and this time determining that the telescope project met the criteria for building in the conservation district. Nearly two years had passed from the day the case was argued before the Court issued its three to two decision.

“The decision brought feelings of despair. But, I have had time to think,” said Kiope Raymond, head of Kilakila. “I find my resolve to protect what I consider sacred – which includes all ‘āina, land and sea – even more strengthened. Kilakila’s gratitude to the NHLC, representing those of us without the legal or financial ability to continue to fight for justice for the ‘āina, our kūpuna, and our beliefs, cannot be overstated. The IFA (Institute for Astronomy) may have the State Supreme Court’s OK to build on our mountaintop but I believe that, for Haleakalā, we will always have the moral high ground. That will never be relinquished.”

In NHLC’s motion to have the court reconsider its October decision, attorney David Frankel wrote, “It is also profoundly disappointing that this court appears, at least in this instance, to have abandoned its rigorous review of agency decision making... From the Appellant’s per-

spective, the BLNR’s decision was result-oriented; a post hoc rationalization for a preordained result in which economic interests overrode any concern for the resources of the conservation district. The BLNR’s decision involved superficial analysis, unsupported conclusions, illogical non-sequiturs, and empty rhetoric in place of ‘reasonable clarity.’

“Appellant has long recognized that although the facts and the law were firmly on its side, its chances of success before the BLNR were non-existent; and that its chances of success before the circuit and intermediate court of appeals were virtually nil. The forces aligned against the Appellant were vast: the senior U.S. senator, a Congressman-turned-Governor, labor pressure, and business interests. The only hope that those without political power have is the conscience and courage of this court.”

In his 102-page dissent, Justice Michael Wilson eloquently described why Kilakila was entitled to a bonafide contested case hearing.

“A hallmark of due process to which all parties are entitled in this case is an impartial decision-maker who receives evidence subject to public view—an impartial decision-maker equally accessible to all parties, whose decision is based on the evidence and law, with no regard to which party may be the most powerful politically or economically.”

Although the legal challenges could not overcome the overwhelming political interests in seeing the DKIST built, Kilakila’s legacy in standing up and speaking out against overwhelming odds is an important one as is the Court’s end to the BLNR’s practice that denied petitioners their right to due process. Native Hawaiian Legal Corporation has the utmost respect and aloha for Kilakila and all its supporters for their commitment, dedication to aloha ‘āina against all odds. ■

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