From our Executive Director: . . .

On October 3, 2014, the Native Hawaiian Legal Corporation will celebrate its 40th year as an advocate for Native Hawaiian justice. As we continue our journey towards justice, we are guided in our work by the following lines from “Kāulana Ni‘i Pua,” a song of loyalty written shortly after the illegal overthrow of the Kingdom of Hawai‘i:

Ha‘i ‘ina ʻa mālā ana ka puamana
Tell the story
Ka po‘e i aloha i ka ‘āina
Of the people who love their land

Please help us on that journey by making a donation using the enclosed envelope or online at our website, www.nhlchi.org.

Mahalo,
Moses K.N. Haia III

Honokaia `Ohana Settles With DHHL In Water Lawsuit

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In September 2013, in exchange for a Department of Hawaiian Home Lands (DHHL) promise to construct this water system, six pastoral homesteaders agreed to settle a 2009 lawsuit challenging the award of thousands of acres at Honokaia for homestead ranching. With this settlement, Honokaia homesteaders can now look forward to water availability for commercial homestead ranching, which includes “[p]roviding adequate amounts of water and supporting infrastructure, so that homestead lands will always be usable and accessible.”

Two of the initial plaintiffs in the lawsuit, Jimmy Akiona and Joe Papalimu, were founding members of the Aged Hawaiians, Jimmy’s grandson, TJ, who sued DHHL in 1990 to release thousands of acres of pastoral lands at nearby Pu‘ukapu. Uncle Jimmy had been waiting 38 years for pastoral homestead benefits under the Hawaiian Homes Commission Act (HHCA), the Honokaia `Ohana settled a lawsuit, which will result in the construction of a stock water system essential for homestead ranching at Honokaia, Hawai‘i Island.

Three of the original 11 `Ohana members, including Uncle Jimmy and Uncle Joe, passed away during the pendency of the lawsuit, before they could enjoy the water rights they so richly deserved. •

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In this issue

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Queen Ka‘ahumanu Highway Redesigned to Avoid Historic Sites

The Federal Highways Administration (FHWA) and the Hawai‘i Department of Transportation (HDOT) redesigned Phase Two of the Queen Ka‘ahumanu Highway Widening Project in Kona, Hawai‘i Island to minimize the harm to cultural sites in the Kaloko-Honokōhau area thanks to the persistence of Makani Hou—a community group, the Office of Hawaiian Affairs and other Native Hawaiian organizations (NHOs). In 2008, the National Park Service had expressed concerns related to undocumented historic properties in the project area as well as the lack of analysis of potential adverse effects on the adjacent historic landmarks and trails. The Office of Hawaiian Affairs expressed similar concerns regarding undocumented sites. The push from these agencies and NHOs resulted in the identification of 76 historic sites. The Office of Hawaiian Affairs expressed concerns related to the lack of analysis of potential adverse effects on the adjacent historic landmarks and trails.

As a result, the FHWA took over the Section 106 process, meaningfully engaged with NHOs in consultation meetings, seriously considered all NHO mitigation suggestions, conducted site visits to learn more about Kona’s cultural landscape, and—most significantly—redesigned the highway to avoid the majority of the historic sites in the right of way. As of publication, Makani Hou awaits an update from FHWA and HDOT regarding the status of the project.

Judge Rules Against Dept of Health in Birth Certificate Case

NHLC often receives calls from Native Hawaiians requesting assistance in amending their birth certificates to reflect the names of their natural fathers for the purpose of documenting their family genealogy so they may qualify for Hawaiian benefit programs. Although the State Department of Health (DOH) has a process for amending a birth certificate in their administrative rules, the DOH has staunchly refused to make such a change without a court order. In the past, NHLC has attempted to go to court to make such changes, but has been met with opposition from DOH who argues that the Uniform Parentage Act bars paternity-type actions for those older than age 21. In early October, NHLC obtained a favorable ruling from the First Circuit Court of the State Circuit Court of Robynn Lasalas, Leighton Pang Kee, and Vicki Ulsh, who had attempted to amend their birth certificates by way of a major administrative amendment, which accord- ing to the DOH’s own rules, does not require a court order. In accordance with DOH rules, they submitted strong DNA evidence, declarations from parents and/or other family members, as well as other documentary evidence that demonstrated the identity of their natural fathers. Nevertheless, DOH refused to amend their respective birth certificates without an order from court. On February 8, 2013 NHLC filed suit against the DOH, arguing that DOH has the authority to make these types of birth certificate amendments without a court order. The Court agreed with the interpretation of the law and ruled that relevant statutes and rules allow for the DOH to correct or amend birth certificates to reflect the identity of a person’s natural father via a major administrative amendment and that the DOH does have the authority to make such amendments without a court order. The DOH must now go back and evaluate the evidence as required by its rules and make a legitimate determination on Lasalas, Pang Kee, and Ulsh’s applications for major administrative amendments of their birth certificates.

Hale‘iwa Beach Park Mauka Safe in Public Hands

Hale‘iwa Beach Park Mauka is safe in public hands after the City and County of Honolulu’s attempt to sell the beloved North Shore park as a “remnant” to a private developer, Bryan Amona and Gabriel Kahuulelio, avid users of the mauka park, asked NHLC to help them stop the sale. NHLC filed a lawsuit on their behalf against the City and developer arguing that: (1) the City was not authorized to sell the park because (a) it did not follow the proper processes, and (b) the property itself was not subject to sale (i.e., it is not a “remnant” or “excess property.” The City also took the additional steps to preserve and improve the park, placing $500,000 in the City Budget for a public canoe hālau to be built on the park and revising the Public Infrastructure Map in the North Shore Sustainable Communities Plan Area to make the canoe hālau possible.

Moses Ho‘o and Mac Poepoe

2013 Native Hawaiian Advocate Award

Mac Poepoe

On September 5, 2013, NHLC proudly presented its 2013 Native Hawaiian Advocate award to Mac Poepoe for his dedication to ‘aumāna ‘aina that has revitalized the North- west coastline of Moloka‘i and raised awareness of the importance of Hawaiian-style stewardship and community self-management.

Alan Murakami’s 30th NHLC Anniversary

NHLC celebrated Alan and his dedication to the Hawaiian community at a small pa‘u hana celebration on October 1, 2013 at the Venue in downtown Honolulu. The night included speeches by Executive Director Moses Haia, former NHLC Executive Director Mahealani Wendt, Ed Wendt, Bill Tamayo, and Alan’s former secretary of nearly 30 years Carson Oreglia. Mahalo to everyone that came down and to all those that sent their aloha!

Over the years, Alan has represented clients in a number of high profile cases that have furthered Native Hawaiian rights law. Mahalo Alan for your 30 years of service!
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In 2010, NHLC contacted FHWA, raising Section 106 concerns as well as issues related to Section 4(f) of the Department of Transportation Act (which allows the approval of a transportation project only if (1) there is no prudent and feasible alternative to using the land, and (2) the project includes all possible planning to minimize harm to historic sites).

As a result, the FHWA took over the Section 106 process, meaningfully engaged with NHLC in consultation meetings, seriously considered all NHLC mitigation suggestions, and visited to learn more about Kona’s cultural landscape.

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In early October, NHLC obtained a favorable ruling from the First Circuit Court of the State Circuit Court of the First Circuit on behalf of Plaintiffs Roblynn Dasalia, Leighton Pang Kee, and Vicki Ulah, who had attempted to amend their birth certificates by way of a major administrative amendment, which according to the DOH’s own rules, does not require a court order. In accordance with DOH rules, they submitted strong DNA evidence, declarations from parents and/or other family members, as well as other documentary evidence that demonstrated the identity of their natural fathers. Nevertheless, DOH refused to amend their respective birth certificates without an order from the court.

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With this settlement, Honokaia homesteaders can now look forward to water availability 23 years after the Aged Hawaiians first sued to wrest homestead lands, instead of DHHL to the water system essential for homestead ranching at Honokaia, Hawai‘i Island.

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