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 and NATIONAL SCIENCE FOUNDATION

UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

|                                |   |                               |
|--------------------------------|---|-------------------------------|
| LUIS SANCHO, WALTER L. WAGNER, | ) | Civil No. 08-00136-HG-KSC     |
|                                | ) |                               |
| Plaintiffs,                    | ) | <b>FEDERAL DEFENDANTS'</b>    |
|                                | ) | <b>NOTICE OF MOTION AND</b>   |
| v.                             | ) | <b>COMBINED MOTION TO</b>     |
|                                | ) | <b>DISMISS AND MOTION FOR</b> |
| UNITED STATES DEPARTMENT OF    | ) | <b>SUMMARY JUDGMENT AND</b>   |
| ENERGY, <i>et al.</i> ,        | ) |                               |
|                                | ) |                               |
| Defendants.                    | ) |                               |
|                                | ) |                               |

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PLEASE TAKE NOTICE that pursuant to Rule 12(b)(1), defendants United States Department of Energy and National Science Foundation (“Federal Defendants”) hereby move to dismiss the complaint for lack of subject matter jurisdiction as to all claims asserted by Plaintiffs Luis Sancho and Walter L. Wagner. Pursuant to Rule 56(b) of the Federal Rules of Civil Procedure, Federal Defendants also move for summary judgment on the grounds that Plaintiffs’ claims are time-barred. This Motion is based on the attached supporting memorandum, the attachments and declarations filed herewith, and such other matters and argument as may be presented at the hearing on the Motion, the date and time of which will be set and noticed by the Court.

Respectfully submitted this 24th day of June 2008.

Respectfully submitted,

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Dated: June 24, 2008

/s/ Brian C. Toth  
BRIAN C. TOTH

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**CERTIFICATE OF SERVICE**

I hereby certify that, on June 24, 2008, by the methods of service noted below, a true and correct copy of the foregoing FEDERAL DEFENDANTS' NOTICE OF MOTION AND COMBINED MOTION TO DISMISS AND MOTION FOR SUMMARY JUDGMENT and attached exhibits were served on the following at their last known addresses:

Served by first-class United States mail, postage prepaid:

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Dated: June 24, 2008

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