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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>CONCISE STATEMENT OF</b>
v.	)	<b>FACTS IN SUPPORT OF</b>
	)	<b>MOTION FOR SUMMARY</b>
UNITED STATES DEPARTMENT OF	)	<b>JUDGMENT</b>
ENERGY, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

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Pursuant to LR 56.1, defendants United States Department of Energy and National Science Foundation (“Federal Defendants”) submit the following concise statement of material facts as to which there are no genuine issues to be tried. This statement only includes facts that are pertinent to Federal Defendants’ summary judgment motion, not the entire case:<sup>1/</sup>

1. The Large Hadron Collider (“Collider” or “LHC”) is a particle accelerator straddling the French-Swiss border. Fed. Defs.’ Decl. of Bruce Strauss (“Strauss Decl.”) ¶ 6. The Collider consists of a ring--approximately 27 kilometers (about 17 miles) in circumference--of superconducting magnets and particle accelerating structures, located 100 meters (about 330 feet) underground. Id. The Collider is designed to accelerate proton particles nearly to the speed of light and collide them at the center of four large detectors designed to passively observe these collisions. Id. ¶ 7.

2. The Collider is the product of more than a decade of planning and collaboration headed by the European Organization for Nuclear Research

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<sup>1/</sup>The facts in this statement only relate to Defendants’ argument that Plaintiffs’ claims are time-barred. See Fed. Defs.’ Mem. at 32-34. The remainder of the arguments in Federal Defendants’ motion are brought through a motion to dismiss under Federal Rule of Civil Procedure 12(b)(1). See id. at 1 n.1.

(“CERN”), an intergovernmental organization whose membership does not include the United States. See Strauss Decl. ¶ 6.

3. In December 1997, the United States--through DOE and NSF--entered into an international cooperation agreement with CERN (“1997 Agreement”). See id. ¶ 8; see also id., Attach. 4. The 1997 Agreement provided that the United States would assist in the construction of some superconducting magnets to be placed in the Collider. See Strauss Decl., Attach. 4 at 3-4 (Article III). This resulted in the United States providing assistance in the construction of 38 of more than 1800 superconducting magnets to be placed in the accelerator. See Strauss Decl. ¶ 20. The 1997 Agreement also provided that the United States would participate in the construction of two detectors, known as the Compact Muon Solenoid (“CMS”) and A Toroidal LHC Apparatus (“ATLAS”) detectors (collectively, “Detectors”). See id. ¶ 20; id., Attach. 4 at 4 (§ 3.2).

4. Pursuant to the 1997 Agreement, DOE and NSF contributed a total of \$531 million toward construction of the Collider. See Strauss Decl. ¶¶ 14, 21, 22; Fed. Defs.’ Decl. of Morris Pripstein (“Pripstein Decl.”) ¶ 7. NSF, which contributed a total of \$81 million to construction of the Detectors (Pripstein Decl. ¶ 7), expended such funds by entering into cooperative agreements in 1999 with Northeastern and Columbia Universities. See id. ¶¶ 9(a), 9(b) & Attachs. B, C.

5. DOE, which contributed a total of \$450 million toward construction costs, began funding the construction of the Collider in 1998. See Strauss Decl. ¶¶ 18, 19. From 1998 through 2005, DOE spent \$200 million on the construction of the accelerator components. Id. From 1998 through 2007, DOE spent \$250 million on the construction of the Detectors. Id.; see also id., Attach. 9. DOE made these expenditures by providing funding to several national laboratories for construction, pre-installation testing, and delivery of LHC accelerator components, and for assistance to CERN with detector installation and verification testing. Id. ¶ 19.

6. Plaintiffs' suit was filed in March 2008. See Pls.' Compl. (Doc. No. 1). More than eight years elapsed between the time that NSF or DOE first decided to fund the construction of the Magnets and Detectors, and the date that Plaintiffs filed suit.

Respectfully submitted this 24th day of June 2008.

Respectfully submitted,

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Dated: June 24, 2008

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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' CONCISE STATEMENT OF FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT was served on the following at their last known addresses:

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

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