

Harry Fergerstrom
PO Box 951
Kurtistown, Hawaii 96760
808 938-9994
hankhawaiian@yahoo.com

Board of Land and Natural Resources
State of Hawaii

In the Matter of)	Case No. BLNR-CC-16-002
)	
Contested Case Hearing Re)	Opposition to Pueo’s Motion to
Conservation District Use)	to Set the Issues; Memorandum
Permit (CDUP) HA-3568 for)	of Support; Certificate of
The Thirty Meter Telescope)	Service.
At the Mauna Kea Science)	
Reserve, Kaohe Mauka,)	Hearing Officer: Riki May
Hamakua District, Island of)	Amano
Hawaii , TMK (3) 4-4-015: 009)	
_____)	

OPPOSITION TO PUEO’S MOTION TO SET THE ISSUES

NOW COMES Harry Fergerstrom with an opposition to PUEO’S Motion to set the issues. PUEO’s Motion is trying to limit the scope of the hearing to just the eight criteria of a Conservation District Use

Permit. It fails to consider the unique sacred location of the conservation district, which is the sacred summit of Mauna Kea.

Mauna Kea continues to be regarded as a very sacred place to the Hawaiian and many others including the University of Hawaii, the Institute of Astronomy, and the Office of Mauna Kea Management. Mauna Kea is also identified as Ceded Lands, lands belonging to the Hawaiian Kingdom, Crown and Government lands.

In 1898, when the United States annexed the Hawaiian Islands and transformed them into a territory of the United States, the self-proclaimed “Republic of Hawaii” “ceded” about 1.8 million acres of lands to the United States.

This transfer remains surrounded by controversy, because the participation of U.S. military and diplomatic officials in the 1893 overthrow of the Kingdom of Hawaii has been recognized to be “illegal” and a violation of international law by the U.S. Congress in the 1993 Apology Resolution, which also says that the transfer of the lands in 1898 was “without the consent of or compensation to

the Native Hawaiian people of Hawaii or their sovereign government.”

Given the controversial nature of the lawful land ownership of Mauna Kea and the Traditional and Customary use of the sacred nature of the summit, the limiting or setting of issues as described in Pueo’s Motion would seriously detract from the legal issues regarding land ownership, Traditional and Religious and Cultural use.

Dated this day: August 9, 2016

Harry Fergerstrom

MEMORANDUM OF SUPPORT

ON JULY 18, 2016, Harry Fergerstrom filed a series of Motions (3)

- 1) Motion to Reconsider
- 2) Motion to Strike
- 3) Motion to Remove Officers

ON AUGUST 5, 2016, a hearing on the Motions took place at the YMCA building in Hilo, Island of Hawaii.

The present hearing officer, RIKI MAY AMANO, PATENTLY DENIED the first two Motions, 1) RECONSIDERATION, 2) to STRIKE. THESE MOTIONS WERE CONSTRUCTED RELYING ON A CLEAR READING OF TITLE 13 CHAPTER 5 SECTION 13-1-29 (REQUEST FOR A CONTESTED CASE HEARING) AND SECTION 13-1-31 (PARTIES).

Section 13-1-29 states in part “ an oral or written request for a contested case hearing MUST be made to the BOARD no later than the close of the Board meeting at which the subject matter of the

request is scheduled for board disposition. An agency or person so requesting a contested case MUST also file a written petition with the board for a contested case NO LATER than TEN calendar days after the close of the board meeting at which the matter was scheduled for disposition.

Section 13-1-31 Except as otherwise provided in section 13-1-31.1, parties to a contested case shall be determined within a reasonable time following the ten day period following the board meeting, the presiding officer shall notify all persons and agencies including the applicant or alleged violator, as the case may be, WHO TIMELY PETITIONED FOR THE CONTESTED CASE.....

It is the contention of this party that all of those accepted as parties to this contested case determined on July 17, 2016 were all not in compliance of the descriptions outlined in sections 13-1-29 and 13-1-31.

This information is critical to the continuance of this contested case and certainly relevant as PUEO is one of those parties admitted in this contested case as well as the other admitted on July 17, 2016. Certainly the Supreme Court nor the Circuit Court of the Third Circuit **FORCLOSED** on the idea of following established procedures outlined in **HAWAII ADMINISTRATIVE RULES TITLE 13 CHAPTER 5**.

The hearing officer refused to reveal how and why she determined that my motion were to be DENIED, and after further request for finding of fact and conclusions of law were rejected or otherwise negated regarding these DENIALS, this party calls FOUL, as this allows PUEO and other to continue without meeting the requirements for proceeding in this contested case.

Dated this day August 9, 2016

Harry Fergerstrom

CERTIFICATE OF SERVICE

I, HARRY FERGERSTROM, DO AFIRM UNDER THE PENALTIES OF
PURJURY, THAT A TRUE AND ACCURATE COPY OF THE
OPPOSITION TO PUEO’S MOTION TO SET THE ISSUES;
MEMORANDUM OF SUPPORT; AND A CERTIFICATE OF SERVICE
WAS SENT TO THE FOLLOWING VIA ELECTRONIC FILING WITH
HARD COPIES ALSO SENT TO MICHAEL CAIN AND MR. VINCENTE.