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DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

Attorneys for  
GOVERNOR DAVID Y. IGE,  
SUZANNE CASE and  
STANLEY ROEHRIG

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

A Contested Case Hearing  
RE: Conservation District Use  
Permit (CDUP) HA-3468 for the  
Thirty Meter Telescope at the Mauna Kea  
Science Reserve, Kahoe Mauka, Hamakua  
District, Island of Hawai'i,  
TMK (3) 4-4-015:009.

Case No. BLNR-CC-160002

GOVERNOR DAVID Y. IGE, SUZANNE  
CASE AND STANLEY ROEHRIG'S  
MEMORANDUM IN OPPOSITION TO  
PETITIONERS' MOTION TO STRIKE  
MOTION FOR PROTECTIVE ORDER FOR  
THE HONORABLE DAVID Y. IGE,  
SUZANNE CASE AND STANLEY  
ROEHRIG FILED ON AUGUST 8, 2016,  
FILED ON AUGUST 10, 2016;  
CERTIFICATE OF SERVICE

GOVERNOR DAVID Y. IGE, SUZANNE CASE AND STANLEY ROEHRIG'S  
MEMORANDUM IN OPPOSITION TO PETITIONERS' MOTION TO STRIKE MOTION  
FOR PROTECTIVE ORDER FOR THE HONORABLE DAVID Y. IGE, SUZANNE CASE  
AND STANLEY ROEHRIG FILED ON AUGUST 8, 2016, FILED ON AUGUST 10, 2016

Petitioners' Motion to Strike the Motion for Protective Order for the Honorable David Y. Ige, Suzanne Case and Stanley Roehrig, Filed on August 8, 2016 ("Motion to Strike"), which was filed on August 10, 2016, lacks merit and must, therefore, be denied.

Petitioners argue at length that the Motion for Protective Order for the Honorable David Y. Ige, Suzanne Case and Stanley Roehrig ("Motion for Protective Order") is untimely because it was not filed on, or before, August 1, 2016, the motions filing deadline set by the Hearing Officer's Minute Order No. 13, dated July 21, 2016 ("Minute Order No.13").

Petitioners further argue that leave to file the Motion for Protective Order was not sought or obtained. See Memorandum in Support of Motion to Strike at 1-2.

Governor Ige, Chair Case and BLNR member Roehrig are not parties to the contested case hearing and are not, therefore, bound by Minute Order No. 13.<sup>1</sup> They are listed as witnesses on Petitioners' witness list and in this capacity (as individuals who Petitioners may call to testify at the hearing), they moved for a protective order which they are entitled to do without first seeking leave from the Hearing Officer.

Alternatively, Governor Ige, Chair Case and BLNR member Roehrig could have waited until they were served with subpoenas commanding them to appear at the hearing to file a motion to quash. However, rather than delay raising the issue of the impropriety of Petitioners

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<sup>1</sup> Based on their own argument, Petitioners, were not permitted to file the Motion to Strike. They are parties and are, therefore, bound by Minute Order No. 13. Accordingly, while they are entitled to oppose the Motion for Protective Order, Petitioners were not permitted to file the Motion to Strike.

calling these individuals as witnesses and possibly disrupting the hearing, Governor Ige, Chair Case and BLNR member Roehrig filed the Motion for Protective Order in order to resolve this issue in advance of the hearing.

In short, Petitioners' Motion to Strike is baseless and unwarranted. Petitioners are not prejudiced by the filing of the Motion for Protective Order at this time. To the contrary, the issue of whether Petitioners are entitled to call Governor Ige, Chair Case and BLNR member Roehrig as witnesses should be resolved promptly and in advance of the hearing.

DATED: Honolulu, Hawai'i, August 22, 2016.



HARVEY E. HENDERSON, JR.  
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SUZANNE CASE and STANLEY ROEHRIG

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

A Contested Case Hearing  
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District, Island of Hawai'i,  
TMK (3) 4-4-015:009.

Case No. BLNR-CC-160002

CERTIFICATE OF SERVICE

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I hereby certify that a copy of the attached motion was duly served on the following parties by electronic mail (e-mail) unless indicated otherwise on August 22, 2016:

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In their capacity as COUNSEL for  
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DATED: Honolulu, Hawai'i, August 22, 2016.

  
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