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**STATE OF HAWAI'I**

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

IN THE MATTER OF	)	CASE NO. BLNR-CC-16-002
	)	
Contested Case Hearing Re Conservation District	)	Minute Order No. 16
Use Application (CDUA) HA-3568 For the	)	(Third Pre-Hearing Conference)
Thirty Meter Telescope at the Mauna Kea Science	)	
Reserve, Ka'ohē Mauka, Hamakua, Hawai'i	)	
TMK (3) 4-4-015:009	)	
_____	)	Certificate of Service

**MINUTE ORDER NO. 16**  
**(Third Pre-Hearing Conference)**

On August 12, 2016, a Third Pre-Hearing Conference in the above-captioned matter, was held in Hilo, Hawai'i at the Hawaii Community College Cafeteria, 1175 Manono Street, Cafeteria, Hilo, Hawai'i. Present were:

- Richard N. Wurdeman, Esq. for Mauna Kea Anaina Hou, for and with Clarence Kukauakahi Ching, Deborah J. Ward, Kealoha Pisciotto, E. Kalani Flores and Keomailani Van Gogh;;
- Timothy Lui-Kwan, Esq., and John P. Manaut, Esq. for the University of Hawai'i-Hilo ("UH-Hilo").
- J. Douglas Ing, Esq. and Ross Shinyama, Esq. for TMT International Observatory, LLC. ("TIO")
- Mehana Kihoi
- C.M. Kaho'okahi Kanuha
- Harry Fergerstrom
- Joseph Kualii Lindsey Camara
- Jennifer Leina'ala Sleightholm
- Lincoln Ashida, Esq. for Perpetuating Unique Educational Opportunities, Inc. ("PUEO")
- Cindy Freitas
- William K. Freitas
- Kalikolehua Kanaele
- Stephanie-Malia:Tabbada

Tiffnie Kakalia  
Dwight J. Vicente  
Brannon Kamahana Kealoha  
Lanny Alan Sinkin and Kahuna Tamehameha Kamealoha Anumealin Nobriga for  
Temple of Lono  
David Louie, Esq. appearing specially on behalf of Attorney General Douglas  
Chin, Department of the Attorney General, and individual Deputy  
Attorneys General

Parties Richard Maele DeLeon, Maelani Lee and Glen Kila were not present. Glen Kila previously requested at a hearing on August 5, 2016, that he be excused on August 12, 2016, due to commitments related to his campaign for office on Maui; the Primary Election was scheduled to take place on August 13, 2016.

In addition, Hearing Officer Witnesses Patricia Ikeda and Wilma H. Holi were present.

The following matters were attended to and are hereby Ordered:

**Amended Filing/Submission Procedures.**

Previously, Minute Order No. 13 (Document 115), filed on July 21, 2016, set out document filing and submission procedures. Since the filing of Minute Order No. 13 on July 21, 2016 through August 12, 2016, a period of just over three weeks, an additional 90+ documents were uploaded to the Documents Library.

In an effort to maintain an accurate and orderly documents filing system for everyone to use effectively, all parties shall abide by the following procedures for filing and/or submission of documents, including but not limited to motions, objections, oppositions, replies, responses, joinders and other papers (**not emails and correspondence**) submitted for filing.

1. Both the original hard copy plus one digital copy in pdf or doc format of the filing/submission must be sent to the **DLNR Office of Conservation and Coastal Lands (“OCCL”), 1151 Punchbowl Street, Room 131, Honolulu, Hawai’i 96813**

or sent via email to [dlnr.maunakea@hawaii.gov](mailto:dlnr.maunakea@hawaii.gov). To the extent possible, digital copies of any submission must be contained in one single file.

2. All documents received by the OCCL by 4:30 p.m. will be uploaded to the Documents Library on the BLNR website, by the close of business on the next business day.
3. **Only documents will be filed. All emails and correspondences will NOT be filed and will not be uploaded to the Documents Library.** Instead, emails, correspondences and correspondence-like papers will be placed in the Correspondence File that the Hearing Officer will not be reviewing.
4. Be sure your document **clearly states** the purpose for which it is being filed; e.g. Motion for XYZ, Opposition to Motion for XYZ (Doc No. 123), Objection to Motion for XYZ (Doc No. 123), Joinder to Motion for XYZ (Doc No. 123), etc. **It is the responsibility of the submitting party to check that his or her document has been posted to the Documents Library.**
5. In addition, copies of the filing/submission shall be sent to all other parties. Service may be completed by email. **Remove from Certificates of Service, the following individuals:** (1) Judge Riki May Amano (ret.), the Hearing Officer; and (2) Julie China, Deputy Attorney General. **Add to Certificates of Service:** OCCL, [dlnr.maunakea@hawaii.gov](mailto:dlnr.maunakea@hawaii.gov).

**Site Visit to Mauna Kea.**

There will be a site visit to Mauna Kea on **Monday, September 26, 2016**. For health and safety reasons, only approved participants will be allowed on the site visit. Approved

participants will meet at Hale Pohaku at 10:00 a.m. to caravan together to pre-designated Sites. Please review the attached “Mauna Kea Hazards” and follow the precautions therein, if you intend to participate in the Site Visit.

Proposals regarding the locations to be visited, who will attend, and the procedures to be following during the Site Visit shall be submitted by the parties/counsels no later than five (5) business days after the filing of this Minute Order. Any responses, objections, oppositions, etc. shall be filed no later than ten (10) business days after the filing of this Minute Order.

**Contested Case Hearing.** The Contested Case Hearing is likely to be scheduled for several weekdays during the month of October, 2016. A more concrete schedule will be determined after a better estimate of the number of witnesses is ascertained. All parties shall submit the following documents prior to the contested case hearing, in accordance with deadlines to be established by the Hearing Officer at a pre-hearing conference and memorialized in an appropriate Minute Order:

- a. **Pre-hearing Statement.** The pre-hearing statement shall state the parties’ position on the issues to be decided in the contested case hearing. A deadline for submitting responses to pre-hearing statements will be established by the Hearing Officer.
- b. **Final Witness List with written direct testimony.** Each party shall submit a Final Witness List along with the written direct testimony of each witness listed attached to the Final Witness List. Parties who submit direct written testimony of a witness shall make the witness available for cross examination at the contested case hearing, if requested. Each witness called for cross-examination will be allowed to present a summary of his or her written direct testimony at the beginning of his or her testimony. The summary shall not exceed 10 minutes. Any party who wishes to call

a witness without submitting written direct testimony shall file a motion requesting permission to do so by a deadline to be established by the Hearing Officer. The motion shall state the name of the witness, a detailed summary of the witness' proposed testimony, a statement of why oral direct testimony should be allowed in lieu of written direct testimony.

- c. Exhibits and Exhibit Lists.** All exhibits shall be marked using the identification letter assigned to each party. Assigned identification letters are detailed on Attachment 2. Exhibit Lists shall be submitted prior to the contested case hearing using the format shown on Attachment 3. A deadline for submission of objections to exhibits will set by the Hearing Officer.
- d. Statement of Party Designating Witnesses to Cross-Examine.** If a party wishes to cross-examine a witness listed by another party, they shall submit a Statement of [Your Name] Designating Witnesses to Cross-Examine listing all witnesses they wish to cross-examine. Cross-examination shall be limited to the scope of direct examination, written or oral.

Table of Schedules

<b>August 29, 2016</b>  <b>2:00 p.m.-5:00 p.m.</b>	Hearing on remaining unheard motions. <b>Hawai'i Community College Cafeteria</b> <b>1175 Manono Street</b> <b>Hilo, Hawai'i 96720</b>  Parking on Campus. School is in session.
<b>September 26, 2016</b>	All approved participants to meet at Hale Pohaku at 10:00 a.m. You must have a 4-wheel drive. Please review Mauna Kea Hazards before the visit. Deadline for filing Motion to Reconsider Dismissal
<b>October 2016</b>	Contested Case Hearing, dates to be determined. All Direct Testimony will be by written submissions.

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



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Judge Riki May Amano (Ret.)  
Hearing Officer

# MAUNA KEA HAZARDS

## EXPOSURE TO ALTITUDE

The summit elevation is 13,796 feet (4,205 m). The oxygen level is greatly reduced and a person can experience shortness of breath and/or impaired judgement. Reduced atmospheric pressure at high altitudes may cause **altitude sickness** or result in the development of other life threatening conditions such as **pulmonary edema** (fluid in the lungs) and **cerebral edema** (fluid on the brain). Also because the summit is above much of the atmosphere that blocks the sun's damaging ultraviolet rays, individuals risk exposure to serious sunburn and eye damage, especially if there is snow on the ground.

### Precautions Before Ascending the Summit

- Prior to ascending the summit, acclimatize by spending at least ½ hour at the Visitor Information Station located at the 9,200 feet (2,804 m) elevation. This may lessen the intensity or onset of altitude sickness. If symptoms occur at this elevation, **do not** travel beyond the Visitor Information Station.
- Apply sunscreen and wear sunglasses and protective clothing.
- Hikers should register at the Visitor Information Station and use the buddy system.
- **DO NOT DRINK ALCOHOLIC BEVERAGES BEFORE OR DURING YOUR VISIT.**

### Persons at Risk

It is strongly advised the following individuals not travel above the Visitor Information Station:

- Pregnant women
  - Individuals with heart or respiratory problems
  - Individuals in poor physical condition
  - Children under the age of 16\*
- \* Extended exposure to high altitudes could cause permanent damage to children whose bodies are still developing.

### Symptoms of ALTITUDE SICKNESS include:

- Headaches
- Altered mental state
- Drowsiness
- Loss of balance
- Nausea
- Impaired reason

### Symptoms of PULMONARY EDEMA and CEREBRAL EDEMA include:

- Severe headaches
- Blue lips or fingernails
- Vomiting
- Disorientation
- Breathing difficulties
- Extreme drowsiness (could result in a coma)
- Coughing

**IF SYMPTOMS PERSIST OR BECOME SEVERE,  
IMMEDIATELY DESCEND TO A LOWER ELEVATION  
IT COULD MEAN A MATTER OF LIFE OR DEATH!**

## SNOW RECREATION

Because some of the slopes are very steep with rock outcroppings at the bottom, you are strongly advised **NOT TO USE** the following: **inner tubes, boogie boards, or other devices that are NOT equipped with braking mechanisms or which do NOT provide directional control on snow or ice.**

Due to the fragile environment and cultural significance of Mauna Kea AND safety to you and others using the mountain, **SNOW MOBILES OR ANY TYPE OF OFF-ROAD VEHICLES ARE PROHIBITED.**

- **THERE IS NO EQUIPMENT OR INFRASTRUCTURE AVAILABLE FOR ORGANIZED SNOW PLAY ON MAUNA KEA**
- **ALL SNOW RECREATION IS AT THE RISK OF THE INDIVIDUAL**

## FALLING ICE

During the winter ice regularly forms on the observatory buildings and other structures. As these ice formations melt large fragments fall to the ground without warning. You could be injured or your vehicle could be damaged.

**DO NOT APPROACH OBSERVATORY BUILDINGS AND OTHER STRUCTURES  
WHEN ICE IS PRESENT**

## WEATHER

Weather can change very rapidly resulting in severe conditions including freezing temperatures, snow storms, and high winds which can reach over 100 mph. "White-outs" caused by blowing snow and fog block all visibility. Road conditions can become hazardous due to deep snow drifts, freezing fog, and ice preventing vehicular passage. Visitors that are on the summit when severe weather occurs face a life-threatening situation. Severe weather conditions can last up to a week preventing immediate rescue. Should you get stuck in a severe winter storm, always stay with your vehicle.

### VISITOR ADVISORY

- Equip yourself with cold weather clothing
- EVACUATE AS SOON AS HAZARDOUS WEATHER CONDITIONS BEGIN TO OCCUR

## DRIVING

The summit access road is approximately eight miles long and includes steep inclines. The first five miles of the road is unpaved with poor traction, narrow sections, blind curves, and rocks on the road. In some places there may not be enough room for two-way traffic, especially when large trucks are on the road. Road clearing and maintenance equipment should be given the right of way. Stopping distances are greatly increased when there is snow or ice on the road. Drivers should expect to see a lot of vehicles and pedestrians on the road. Drivers should also be careful of the sun in their eyes during early morning and late afternoon.

### DRIVERS ARE CAUTIONED TO:

- Use 4-wheel drive vehicles
- Drive slowly (Note the speed limit is 25 mph)
- Always use 4-wheel drive **LOW RANGE** (to reduce brake failure and overheating)

## REMOTE LOCATION

Mauna Kea is a very remote location. There are no public accommodations, food or gasoline services. Observatory buildings are not open to the public. There are limited restroom facilities above the Visitor Information Station. The only public telephone above the Visitor Information Station is an emergency phone in the entrance to the University of Hawai'i 88-inch Telescope. Cellular phone coverage is unreliable on the Saddle Road, Mauna Kea Access Road and on the summit. Vehicles should be in good working condition, especially the brakes, and should contain sufficient fuel to return to Hilo or Waimea. Emergency services, including medical assistance, may be two hours away.

**ALL VISITORS ARE RESPONSIBLE FOR THEIR OWN SAFETY  
MINORS MUST BE ACCOMPANIED BY AN ADULT AT ALL TIMES  
TRAVEL IS AT YOUR OWN RISK**

## CONTACT INFORMATION

- Emergencies: 911
- Visitor Information Station: 961-2180
- Winter Conditions: 935-6268 (recording)

**OFFICE OF MAUNA KEA MANAGEMENT & MAUNA KEA SUPPORT SERVICES  
UNIVERSITY OF HAWAI'I**

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Thirty Meter Telescope at the Mauna Kea Science )  
Reserve, Ka'ohē Mauka, Hamakua, Hawai'i )  
TMK (3) 4-4-015:009 )  
\_\_\_\_\_ )

CASE NO. BLNR-CC-16-002

EXHIBIT IDENTIFICATION  
ASSIGNMENT

**EXHIBIT IDENTIFICATION ASSIGNMENT**

Assigned Letter	Party
A	University of Hawai'i at Hilo
B	Mauna Kea Anaina Hou, Kealoha Pisciotta, Clarence Kukauakahi Ching, Deborah J. Ward, Flores-Case Ohana, Paul Neves and KAHEA: The Hawaiian Environmental Alliance
C	TMT International Observatory, LLC
D	Harry Fergerstrom
E	Richard Maele DeLeon
F	Mehana Kihoi
G	C.M. Kaho'okahi Kanuha
H	Joseph Kualii Lindsey Camara
I	Perpetuating Unique Educational Opporunties, Inc.
J	Jennifer Laina'ala Sleightholm
K	Maelani Lee
L	Temple of Lono
M	Kalikolehua Kanaele
N	Stephanie-Malia:Tabbada
O	Tiffnie Kakalia
P	Glen Kila
Q	Dwight J. Vicente
R	Brannon Kamahana Kealoha
S	Cindy Freitas
T	William K. Freitas

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IN THE MATTER OF )  
 )  
Contested Case Hearing Re Conservation District )  
Use Application (CDUA) HA-3568 For the )  
Thirty Meter Telescope at the Mauna Kea Science ) [PARTY NAME] EXHIBIT LIST  
Reserve, Ka'ohē Mauka, Hamakua, Hawai'i )  
TMK (3) 4-4-015:009 )  
\_\_\_\_\_ )

**[PARTY NAME] EXHIBIT LIST**

<b>Exhibit No.</b>	<b>Description</b>	<b>Received Into Evidence</b>
A-1	Picture of xyz	
A-2	Letter dated xx/xx/xxxx from John Doe to Jane Doe	
A-3		

DATED: \_\_\_\_\_

\_\_\_\_\_

(Signature of party or representative)

ATTACHMENT 3

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

Contested Case Hearing Re Conservation  
District Use Application (CDUA) HA-3568  
for the Thirty Meter Telescope at the Mauna  
Kea Science Reserve, Ka'ohē Mauka,  
Hāmakua, Hawai'i, TMK (3) 4-4-015:009

BLNR Contested Case HA-16-02  
Document title: **Minute Order 16**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced document was served upon the following parties by the means indicated:

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Ching, Flores-Case 'Ohana, Deborah J.  
Ward, Paul K. Neves, and Kahea: The  
Environmental Alliance*

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*Witness for the Hearing Officer*

Signature:   
Name (Print): Michael Cain, Custodian of the Records  
Date: August 23, 2016