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**BOARD OF LAND AND NATURAL RESOURCES**

**FOR THE STATE OF HAWAI'I**

IN THE MATTER OF

Case No. BLNR-CC-16-002

A Contested Case Hearing Re Conservation  
District Use Permit (CDUP) HA-3568 for the  
Thirty Meter Telescope at the Mauna Kea  
Science Reserve, Kaohe Mauka, Hamakua  
District, Island of Hawai'i, TMK (3) 4-4-  
015:009

**PERPETUATING UNIQUE  
EDUCATIONAL OPPORTUNITIES,  
INC.'S PROPOSED MINUTE ORDER  
GRANTING PERPETUATING UNIQUE  
EDUCATIONAL OPPORTUNITIES,  
INC.'S MOTION TO SET ISSUES  
[Doc-99]; EXHIBIT "A"; CERTIFICATE  
OF SERVICE**

**PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES, INC.'S PROPOSED  
MINUTE ORDER GRANTING PERPETUATING UNIQUE EDUCATIONAL  
OPPORTUNITIES, INC.'S MOTION TO SET ISSUES [Doc-99]**

COMES NOW PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES, INC.

("PUEO"), by and through its undersigned counsel, and hereby respectfully submits the  
following proposed minute order granting PUEO's Motion to Set Issues (Exhibit A).

Dated: Hilo, Hawai'i, September 9, 2016.



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NEWTON J. CHU  
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EDUCATIONAL OPPORTUNITIES, INC.

# **EXHIBIT A**

**PROPOSED MINUTE ORDER GRANTING PERPETUATING UNIQUE  
EDUCATIONAL OPPORTUNITIES, INC.’S MOTION TO SET ISSUES [Doc-99]**

On July 18, 2016, Perpetuating Unique Educational Opportunities, Inc. (“PUEO”) filed its Motion to Set Issues [Doc-99] (“Motion”). The following documents were filed in response to the Motion:

- On July 20, 2016, the Temple of Lono filed its opposition to the Motion [Doc-119].
- On August 1, 2016, the University of Hawai‘i at Hilo (“UHH”) filed its substantive joinder to the Motion [Doc-140].
- On August 1, 2016, TMT International Observatory, LLC filed its substantive joinder to the Motion [Doc-152].
- On August 1, 2016, Petitioners Mauna Kea Anaina Hou, et al. filed its position statement to the Motion [Doc-164].
- On August 9, 2016, Harry Fergerstrom (“Mr. Fergerstrom”) filed his opposition to the Motion [Doc-186].
- On August 10, 2016, Mehana Kihoi filed a joinder to Mr. Fergerstrom’s opposition to the Motion [Doc-195].
- On August 22, 2016, UHH filed its supplemental comments on the Motion [Doc-242].

The Motion came on for hearing before this Hearings Officer on August 29, 2016. Per the request of this Hearings Officer at the hearing, PUEO submitted its proposed minute order granting the Motion on September 9, 2016. The parties had until September 19, 2016 to respond to PUEO’s proposed minute order.

This Hearings Officer having considered the Motion, all other written and oral submissions of counsel and parties related thereto, the entire record, and for good cause shown,

IT IS HEREBY ORDERED that the Motion is GRANTED pursuant to Hawai‘i Administrative Rules (“HAR”) §13-1-36(a) and all other applicable rules of HAR Title 13, Chapter 1, Rules of Practice and Procedure. This Hearings Officer finds that the following issues may be addressed during this contested case hearing:

1. Is the proposed land use, including the plans incorporated in the application, consistent with the eight criteria in HAR § 13-5-30(c) and other applicable rules in HAR, Title 13, Chapter 5, Conservation District?
2. Is the proposed land use consistent with article XII, section 7 of the Hawai‘i State Constitution?
3. Is the proposed land use consistent with Ka Pa‘akai O Ka‘Aina v. Land Use Comm’n, State of Hawai‘i, 94 Hawai‘i 31, 7 P.3d 1068 (2000)?
4. Is the proposed land use consistent with applicable provisions of Chapter 183C of the Hawai‘i Revised Statutes?
5. Does the public trust doctrine apply to the proposed land use and, if it does, is the proposed land use consistent with the public trust doctrine?

This Hearings Officer finds that the following issues will not be addressed in this contested case hearing:

1. The sovereignty of the Kingdom of Hawai‘i or any other issues relating to the purported existence of the Kingdom of Hawai‘i.
2. Challenges to the legal status of the State of Hawai‘i.
3. Challenges to the State’s ownership of and title to the lands comprising the summit area of Mauna Kea

The above issues present non-justiciable political questions that are outside the subject matter jurisdiction of this Hearings Officer and are therefore not issues for this contested case hearing.

Dated: Honolulu, Hawai‘i, September 23, 2016

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Judge Riki May Amano (Ret.)  
Hearings Officer

**BOARD OF LAND AND NATURAL RESOURCES**  
**FOR THE STATE OF HAWAI'I**

IN THE MATTER OF

A Contested Case Hearing Re Conservation District Use Permit (CDUP) HA-3568 for the Thirty Meter Telescope at the Mauna Kea Science Reserve, Kaohe Mauka, Hamakua District, Island of Hawai'i, TMK (3) 4-4-015:009

Case No. BLNR-CC-16-002

**CERTIFICATE OF SERVICE**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served on the following via the manner

listed below:

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DATED: Hilo, Hawai‘i, September 9, 2016.



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