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BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

IN THE MATTER OF ) Case No. BLNR-CC-16-002  
)  
) **OPPOSITION TO PERPETUATING**  
A Contested Case Hearing Re ) **UNIQUE EDUCATIONAL OPPORTUNITIES**  
Conservation District Use Permit ) **INC.'S PROPOSED MINUTE ORDER**  
(CDUP) HA-3568 for the Thirty ) **GRANTING PERPETUATING UNIQUE**  
Meter Telescope at the Mauna ) **EDUCATIONAL OPPORTUNITIES, INC.'S**  
Science Reserve, Kaohe, Mauka, ) **MOTION TO SET ISSUES; MEMORANDUM**  
Hamakua District, Island of Hawaii ) **OF SUPPORT; COS**  
\_\_\_\_\_ ) Hearings Officer: Riki May Amano

**OPPOSITION TO PERPETUATING UNIQUE EDUCATIONAL  
OPPORTUNITIES, INC.'S PROPOSED MINUTE ORDER GRANTING  
PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES, INC.'S  
MOTION TO SET ISSUES (DOC-99)**

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Now comes Harry Fergerstrom in **OPPOSITION** to Perpetuating Unique Educational Opportunities Inc.'s, hereafter referred to as PUEO, proposed Minute Order Granting PUEO'S Motion to Set Issues. I find it offensive that the proposal comes in the form of a Minute Order Granting PUEO's Motion to Set Issues.

It suggest that the "Hearing's Officer " finds that the following issues **MAY** **BE ADDRESSED** during this contested case hearing.

Received  
Office of Conservation and Coastal Lands  
2016 Sept 18 3:20 pm  
Depatemen of Land and Natural Resources  
State of Hawaii

Further stating that the “Hearings Officer” finds the following issues **WILL NOT ADDRESSED** in this contested case. This is inaccurate, as the Hearings Officer did not “find” any of this.

The issues stated that **WILL NOT BE ADDRESSES** are essential to this case especially item (3) Challenges to the State’s ownership of and title to the lands comprising the summit area of Mauna Kea. On the original permit for the CDUA HA-3568 (Doc.R-1) claims that the owner of the property is the State of Hawaii.

### **MEMORANDUM OF SUPPORT OF OPPOSITION**

Hearing on the applicants standing and admission as parties was heard June 17, 2016. There was an opportunity to challenge admission of applicants prior to June 17 but even with very limited legal information, I am aware that **ONLY THOSE PREVIOUSLY ADMITTED AS PARTIES** could submit challenges. During the pre hearing on June 17<sup>th</sup> I attempted several times to raise objection but was stop by the hearings officer, pointing out that participation was allowed only after being admitted as a party, which did not happen until the ending of the hearing.

PUEO is an advocacy organization forming in April 2016 with the purpose of promoting the building of the Thirty Meter Telescope. While PUEO may have good intentions supporting educational opportunities for Hawaii's youth, their position is not different from the greater population. The purpose of a Contested Case is that there is a challenge to the permitting.

The items suggested NOT TO BE ADDRESSED are all inter connected. In the immediate case, Ownership of and Title to the lands comprising the summit area of Mauna Kea must be addressed.

Hawaii's Admissions Act, section 5(f) refers to these lands as "ceded lands", held in Trust as a condition for Statehood. As a Trustee, the State cannot claim ownership or Title. The lands comprising the summit area of Mauna Kea are part of the "ceded lands trust".

Dated: Sept. 18, 2016

Harry Fergerstrom

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## BOARD OF LAND AND NATURAL RESOURCES

### STATE OF HAWAII

IN THE MATTER OF ) Case No. BLNR-CC-16-002  
 ) ADDENDUM  
 ) **OPPOSITION TO PERPETUATING**  
A Contested Case Hearing Re ) **UNIQUE EDUCATIONAL OPPORTUNITIES**  
Conservation District Use Permit ) **INC.'S PROPOSED MINUTE ORDER**  
(CDUP) HA-3568 for the Thirty ) **GRANTING PERPETUATING UNIQUE**  
Meter Telescope at the Mauna ) **EDUCATIONAL OPPORTUNITIES, INC.'S**  
Science Reserve, Kaohe, Mauka, ) **MOTION TO SET ISSUES; MEMORANDUM**  
Hamakua District, Island of Hawaii ) **OF SUPPORT; COS**  
\_\_\_\_\_ ) Hearings Officer: Riki May Amano

**ADDENDUM: OPPOSITION TO PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES, INC.'S PROPOSED MINUTE ORDER GRANTING PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES, INC.'S MOTION TO SET ISSUES (DOC-99)**

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Now comes Harry Fergerstrom WITH AN ADDENDUM to my Opposition to PUEO'S proposed Minute Order Granting PUEO'S Motion to set issues (Doc.256)(Doc.99).

With regard to Challenges to the State's Ownership of and Title to the lands comprising the summit area of Mauna Kea. In my original opposition I clarified that as a trustee, the State cannot claim ownership or title as these lands are identified the Admissions Act as CEDED LANDS (5f). Continuing with this with this thought, further clarification is necessary.

Those lands identified as Ceded are in fact the illegally seized lands of the Hawaiian Kingdom, Crown and Government Lands. United States Public Law 103-150 (Apology

Resolution) makes several statements that are relative to the decision making process regarding the permit to build the Thirty Meter Telescope.

**Whereas, through the Newlands Resolution, the self-declared Republic of Hawaii ceded sovereignty over the Hawaiian Islands to the United States;**

**Whereas the Republic of Hawaii also ceded 1,800,000 acres of crown, government and public lands of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government;**

**Whereas the Congress, through the Newlands Resolution, ratified the cession, annexed Hawaii as part of the United States, and vested title to the lands in Hawaii in the United States;**

**Whereas the Newlands Resolution also specified that treaties existing between Hawaii and foreign nations were to immediately cease and be replaced by United States treaties with such nations;**

**Whereas the Newlands Resolution effected the transaction between the Republic of Hawaii and the United States Government;**

**Whereas the indigenous Hawaiian people never directly relinquished their claims to**

their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum;

Whereas the health and well-being of the Native Hawaiian people is intrinsically tied to their deep feelings and attachment to the land;

Whereas the long-range economic and social changes in Hawaii over the nineteenth and early twentieth centuries have been devastating to the population and to the health and well-being of the Hawaiian people;

Whereas the Native Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions;

I found the Apology Resolution (PL 103-150) to be helpful and offer it to the Hearing Officer to understand that the Hawaiian Claims are not frivolous and in fact are directly related to claims

that the State of Hawaii cannot claim ownership of or title to the lands comprising the summit of Mauna Kea.

Doc-247, Fergerstrom's memorandum of clarity states that this case is in fact a land

case and not a political question.

This hearing Officer is tasked with holding a contested case hearing regarding the BLNR's permitting for the building of the Thirty Meter Telescope on the Northwestern Plateau of the summit

of Mauna Kea. Ownership and Title is extremely important as the terms like ***FRAUDULANT CONVERSION/CONVERSION COMMITTED WITH THE INENT OF DEFRAUDING*** are key words when the project of the Thirty Meter Telescope is a **Multinational Investment**.

Dated: September 17, 2016

Harry Fergerstrom

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  
Opposition to PUEO'S proposed Minute  
Order Granting PUEO'S Motion to set issues;  
Memorandum of support; addendum; COS

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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dated: September 18, 2016

Signature:

Name (Print): Harry Fergerstrom Sept. 11, 2016