

BOARD OF LAND AND NATURAL RESOURCES

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

STATE OF HAWAI'I

2016 JUL 22 P 3:37

IN THE MATTER OF Contested Case Hearing Re)	Case No. BLNR-CC-16-002
Conservation District Use Application)	
(CDUA) HA-3568 For the Thirty Meter)	MINUTE ORDER NO.14 DENYING
Telescope at the Mauna Kea Science Reserve,)	DWIGHT J. VICENTE'S MOTION TO
Ka'ohē Mauka, Hamakua, Hawai'i, TMK (3))	DISQUALIFY JUDGE RIKI MAE AMANO
4-4-015:009)	(RET.); STATE OF HAWAII LACK OF
)	JURISDICTION TO HEAR THIS
)	CONTESTED CASE HEARING
)	
)	
)	

MINUTE ORDER NO. 14 DENYING DWIGHT J. VICENTE'S MOTION TO DISQUALIFY JUDGE RIKI MAE AMANO (RET.); STATE OF HAWAII LACK OF JURISDICTION TO HEAR THIS CONTESTED CASE HEARING

Mr. Vicente's motion seeks "to disqualify Judge Amano from hearing this contested case." In addition, the motion:

raises the issue that the State of Hawaii lacks jurisdiction to hear this contested case hearing based on the illegal annexation and overthrow of the Kingdom of Hawaii, further based on the Reciprocity Treaty as amended 1887.

No court has ever adopted these arguments. On the contrary, in *Hawaii v. Office of Hawaiian Affairs*, 556 U.S. 163 (2009), the United States Supreme Court discussed the historical background of overthrow, annexation, and admission. The Court stated the obvious: "In 1959, Congress admitted Hawaii to the Union" by way of the Admission Act. *Id.* at 168.

As to "ceded land" the Court noted:

- "The Newlands Resolution further provided that all 'property and rights' in the ceded lands are vested in the United States of America"
- the Organic Act "made clear that the new Territory consisted of the land that the United States acquired in 'absolute fee' under that resolution"

- the Admission Act granted those lands to the newly admitted State of Hawai‘i.

556 U.S. at 167-68.

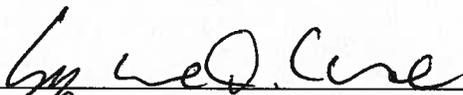
The Court specifically held that the State’s title to ceded land is “unclouded.” The State’s unclouded title is not affected by the Apology Resolution. *Id.* at 176.

The Board accordingly rejects the notions that State of Hawai‘i is not legally a State in the Union, that there is any issue with or cloud on the State’s title to the land at issue in this matter, or that the Board lacks jurisdiction.

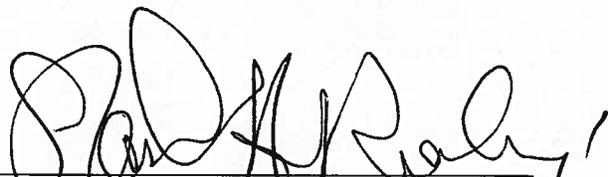
Mr. Vicente makes no specific argument as to disqualification of Judge Amano as hearing officer. He relies only on his jurisdictional arguments. .

For the reasons stated, Mr. Vicente’s motion is denied.

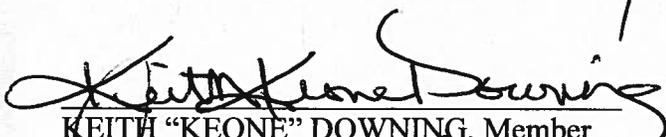
Dated: Honolulu, Hawai‘i, July 22, 2016.



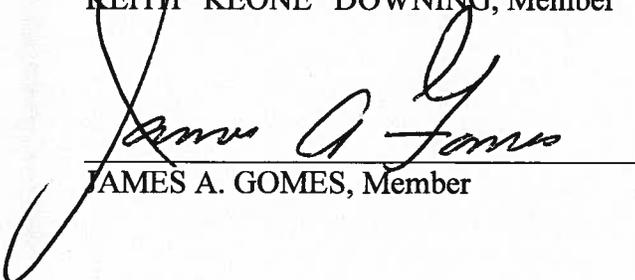
SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources



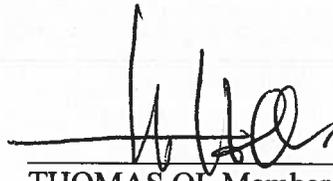
STANLEY H. ROEMRIG, Member



KEITH “KEONE” DOWNING, Member



JAMES A. GOMES, Member



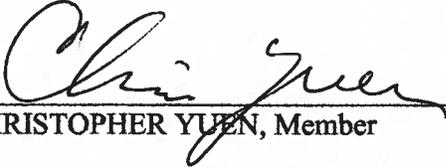
THOMAS OI, Member

ULALIA WOODSIDE, Member

CHRISTOPHER YUEN, Member

THOMAS OI, Member

ULALIA WOODSIDE, Member



CHRISTOPHER YUEN, Member

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'ōhe Mauka,
Hāmakua, Hawai'i, TMK (3) 4-4-015:009

BLNR Contested Case HA-16-02
Document title: Minute Order 14

CERTIFICATE OF SERVICE

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

Michael Cain
Office of Conservation and Coastal
Lands
1151 Punchbowl, Room 131
Honolulu, HI 96813
michael.cain@hawaii.gov
*Custodian of the Records
(original + digital copy)*

Judge Riki May Amano (Ret.)
rma3cc@yahoo.com
Hearing Officer

Julie China, Deputy Attorney General
julie.h.china@hawaii.gov
*Counsel for the Board of Land and
Natural Resources*

Carlsmith Ball LLP
isandison@carlsmith.com
*Counsel for the applicant University of
Hawaii at Hilo*

Richard N. Wurdeman
RNWurdeman@RNWLaw.com
*Counsel for the petitioners Mauna Kea
Anaina Hou, Clarence Kukauakahi
Ching, Flores-Case 'Ohana, Deborah J.
Ward, Paul K. Neves, and Kahea: The
Environmental Alliance*

Watanabe Ing LLP
rsinyama@wik.com
douging@wik.com
*Counsel for TMT International
Observatory, LLC*

Harry Fergerstrom
hankhawaiian@yahoo.com

Richard L DeLeon
kekaukike@msn.com

Mehana Kihoi
uhiwai@live.com

C. M. Kaho'okahi Kanuha
kahookahi@gmail.com

Joseph Kualii Lindsey Camara
kualiic@hotmail.com

Torkildson, Katz, Moore, Hetherington
& Harris
isa@torkildson.com
njc@torkildson.com
*Counsel for Perpetuating Unique
Educational Opportunities (PUEO)*

J. Leina'ala Sleightholm
leina.ala.s808@gmail.com

Maelani Lee
maelanilee@yahoo.com

Lanny Alan Sinkin
lanny.sinkin@gmail.com
Representative for The Temple of Lono

Kalikolehua Kanaele
akulele@yahoo.com

Stephanie-Malia:Tabbada
s.tabbada@hawaiiantel.net

Tiffnie Kakalia
tiffniekakalia@gmail.com

Glen Kila
makakila@gmail.com

Dwight J. Vicente
2608 Ainaola Drive
Hilo, Hawaiian Kingdom

Brannon Kamahana Kealoha
brannonk@hawaii.edu

Cindy Freitas
hanahanai@hawaii.rr.com

William Freitas
pohaku7@yahoo.com

Signature: 

Name (Print): MICHAEL CAIN

Date: July 22, 2016