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DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

2016 MAY 26 P 12:42

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

BOARD OF LAND AND NATURAL RESOURCES

FOR THE STATE OF HAWAII

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 Hawaii, TMK (3) 4-4-
015:009

Case No. BLNR-CC-16-002

**TMT INTERNATIONAL
OBSERVATORY, LLC'S
SUPPLEMENTAL MEMORANDUM IN
SUPPORT OF ITS MOTION TO HAVE
TMT INTERNATIONAL
OBSERVATORY, LLC ADMITTED AS A
PARTY IN THE CONTESTED CASE
HEARING, FILED APRIL 8, 2016;
CERTIFICATE OF SERVICE**

**TMT INTERNATIONAL OBSERVATORY, LLC'S SUPPLEMENTAL
MEMORANDUM IN SUPPORT OF ITS MOTION TO HAVE TMT INTERNATIONAL
OBSERVATORY, LLC ADMITTED AS A PARTY IN THE
CONTESTED CASE HEARING, FILED APRIL 8, 2016**

TMT International Observatory, LLC ("TIO") filed its Motion to Have TMT
International Observatory, LLC Admitted as a Party in the Contested Case Hearing ("Motion")
on April 8, 2016, promptly after the Board of Land and Natural Resources ("BLNR") filed
Minute Order No. 1 selecting Judge (Ret.) Riki May Amano ("Judge Amano") as the Hearings

Officer. TIO has been eagerly awaiting a decision on its Motion which was filed approximately 45 days ago. TIO has not been able to participate on issues of importance – i.e., the process, selection, and confirmation of the Hearings Officer. These issues have been briefed on numerous occasions by the existing parties and ruled upon by BLNR. Indeed, since TIO filed its Motion, the Petitioners have been permitted to brief, either through written objections or a motion, these important issues four times. The University of Hawai‘i at Hilo (“University”) has briefed the issues twice. BLNR has issued several minute orders regarding the process, selection, and confirmation of the Hearings Officer. See e.g., Minute Order No. 3 and Minute Order No. 4. Most recently, the Petitioners filed a motion for reconsideration of Minute Order No. 4. BLNR issued Minute Order No. 6 giving the University an opportunity to respond to the Petitioner’s motion for reconsideration by May 26, 2016. The BLNR is now aware of another non-disclosure.

In the interest of fairness to all parties, TIO requests that BLNR reconsider its Minute Order No. 4 and replace Judge Amano as Hearings Officer with its next alternate candidate.¹ This preemptive action must be taken by BLNR as it is the only option to ensure that this contentious issue and any alleged appearance of impropriety is resolved. This will also minimize any further delay caused by Judge Amano’s selection as Hearings Officer.²

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¹ TIO agrees that Petitioners’ objections to the process used by BLNR to, inter alia, select the list of potential Hearings Officers for this contested case are meritless. BLNR can pick the next alternate candidate from the list developed by its selection committee.

² TIO’s request is not and should not be construed as a lack of faith in Judge Amano’s abilities as a jurist. That is not the case. TIO’s request is simply being made to eliminate any potential risk of appeal that may result from Judge Amano’s selection as Hearings Officer and to minimize any further delay that has resulted because of her selection.

TIO also respectfully requests that BLNR or the next Hearings Officer immediately rule on its Motion so that it can provide its input on these critical issues.

DATED: Honolulu, Hawaii, May 26, 2016.

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TMT INTERNATIONAL
OBSERVATORY, LLC

BOARD OF LAND AND NATURAL RESOURCES

FOR THE STATE OF HAWAII

IN THE MATTER OF

Case No. BLNR-CC-16-002

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District, Island of Hawaii, TMK (3) 4-4-
015:009

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that on this day, a copy of the foregoing was duly served on the following parties
by mail, postage pre-paid to their last known address:

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DATED: Honolulu, Hawaii, May 26, 2016.

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