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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, Kahohe Mauka, Hamakua
District, Island of Hawai'i, TMK (3) 4-4-
015:009

**PERPETUATING UNIQUE
EDUCATIONAL OPPORTUNITIES,
INC.'s PRE-HEARING STATEMENT;
CERTIFICATE OF SERVICE**

**PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES, INC.'s
PRE-HEARING STATEMENT**

PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES, INC. ("PUEO"), by
and through its undersigned counsel, respectfully submits the following Pre-Hearing Statement.

I. PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES, INC.

PUEO is a Hawai'i non-profit corporation formed by Native Hawaiians that support the
pursuit of educational opportunities for children of Hawai'i. PUEO was formed to, *inter alia*,
share the interaction of Hawaiian culture and science and to research and educate the public on
the interaction of Hawaiian culture and science and to inspire exploration. The building of the
Thirty Meter Telescope atop Mauna Kea ("TMT" or "TMT Project") will greatly enhance the
educational opportunities for our children.

More importantly, PUEO's purposes include furthering "educational opportunities for the children of Hawai'i in the fields of science, technology, engineering and mathematics." Its board members and beneficiaries include native Hawaiians that reside in the Keaukaha-Pana'ewa Hawaiian Homesteads located in Hilo, Hawai'i. PUEO's board members include native Hawaiians who seek knowledge and understanding and exercise customary and traditional native Hawaiian rights on Mauna Kea.

For example, Mr. Shadd Keahi Warfield is a cultural practitioner from the lineage of ali'i (chiefs) and maka'ainana (commoners) who once oversaw the leadership and stewardship in caring for the people and places of this land. His lineal descendants can be traced to Kealakekua, South Kona, Punalu'u, Ka'u, Upolu, North Kohala, Kaupo and even Maui and Nu'u of the South Pacific. Mr. Warfield and his family, as descendants of this land have always accessed Mauna Kea to visit their heritage sites and to exercise other customary and traditional native Hawaiian rights.

II. THE CONTESTED CASE HEARING

In this case, the Hearing Officer has set forth three issues to be decided in the contested case hearing: (1) whether the Project is consistent with statutory and regulatory requirements for developments in the State Land Use Conservation District; (2) whether the Project is consistent with Article XII, Section 7 of the Hawai'i State Constitution and *Ka Pa'akai O Ka'Āina v. Land Use Comm'n. State of Hawai'i*, 94 Hawai'i 31, 7 P.3d. 1068 (2000); and (3) whether the Project is consistent with Article XI, Section 1 of the Hawai'i State Constitution and the public trust doctrine.

PUEO believes that the evidence to be adduced at the contested case hearing in this matter will reveal that all statutory and regulatory requirements for development in the State Land Use Conservation District will be met by both the University of Hawai'i and TMT.

With respect to the TMT project being consistent with Article XII, Section 7 of the Hawai'i State Constitution and *Ka Pa`akai O Ka` Aina v. Land Use Comm`n. State of Hawai`i, supra*, it is PUEO's belief and position that subject to the necessary evaluations and actions taken by the State of Hawai'i, adequate safeguards are in place to protect "all rights, customarily and traditionally exercised."¹

PUEO further believes that the TMT project is consistent with Article XI, Section 1 of the Hawai'i State Constitution and the Public Trust Doctrine.

Article XI, section 1 of the Hawai'i Constitution provides as follows:

CONSERVATION AND DEVELOPMENT OF RESOURCES

Section 1. For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawai'i's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

All public natural resources are held in trust by the State for the benefit of the people.

Again, subject to sufficient and adequate safeguards undertaken by the State of Hawai'i and TMT, PUEO believes the Public Trust Doctrine is preserved.

III. CONCLUSION

As PUEO President Warfield stated in his written testimony:

I know for a fact that culture and science can co-exist because we are currently doing it. I am most concerned for the educational opportunities of our children and strengthening

¹ The Hawai'i State Constitution requires the State recognize and protect customary and traditional native Hawaiian practices. Article XII, section 7 provides as follows:

The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.

positive self-esteem and cultural identity of our youth to foster their dreams and greatest aspirations. I strongly support astronomy on the summit of Maunakea as long as astronomy can commit to an educational outreach partnership through implementing Hawaiian language, culture and practice while strengthening science, mathematics and problem solving within our local communities and especially of our youth.

It is this balance of education and culture that PUEO strives to find and support.

Throughout these proceedings, PUEO has strived to do two things: (1) promote the best interests of educational opportunities for all of Hawai'i's children, and (2) allow ALL parties and persons to express their views without objection. At the conclusion of this contested case hearing, PUEO prays the Board approve the project's application, subject to adequate safeguards that protect and promote Hawaiian culture and education.

DATED: Hilo, Hawai'i, October 11, 2016.



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CERTIFICATE OF SERVICE

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

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