

520831

WATANABE ING LLP

A Limited Liability Law Partnership

**J. DOUGLAS ING #1538-0**

**ROSS T. SHINYAMA #8830-0**

**SUMMER H. KAIawe #9599-0**

First Hawaiian Center

999 Bishop Street, 23rd Floor

Honolulu, Hawaii 96813

Telephone No.: (808) 544-8300

Facsimile No.: (808) 544-8399

E-mails: rshinyama@wik.com

Attorneys for

**TMT INTERNATIONAL OBSERVATORY, LLC**

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

RECEIVED  
OFFICE OF CONSERVATION  
AND COASTAL LANDS

2016 OCT -5 P 1:38

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

Case No. BLNR-CC-16-002

**PROPOSED MINUTE ORDER NO. \_\_\_\_\_  
DENYING HARRY FERGERSTROM'S  
(1) MOTION TO RECONSIDER ALL  
MOTIONS, APPLICATION, AND/OR  
REQUEST FOR ADMISSION AS A  
PARTY OR OTHER PARTIES IN THIS  
MATTER; and (2) MOTION TO STRIKE  
ALL MOTIONS, APPLICATIONS,  
DECISIONS, ETC.; ESSENTIALLY  
MAKING MOOT THE ENTIRE  
HEARING [DOC 96]; CERTIFICATE OF  
SERVICE**

**PROPOSED MINUTE ORDER NO. \_\_\_\_ DENYING HARRY FERGERSTROM'S (1) MOTION TO RECONSIDER ALL MOTIONS, APPLICATION, AND/OR REQUEST FOR ADMISSION AS A PARTY OR OTHER PARTIES IN THIS MATTER; and (2) MOTION TO STRIKE ALL MOTIONS, APPLICATIONS, DECISIONS, ETC.; ESSENTIALLY MAKING MOOT THE ENTIRE HEARING [DOC 96]**

On July 18, 2016 Harry Fergerstrom filed a single document consisting of three motions [Doc 96]. This Order addresses the following two Motions: (1) Motion to Reconsider all Motions, Application, and/or Request for Admission or Intervention as a Party or other Parties in this Matter; and (2) Motion to Strike all Motions, Applications, Decisions, etc.; Essentially Making Moot the Entire Hearing (collectively referred to herein as the "Motions"). The following documents were submitted by various parties in response to the Motions:

Doc No.	Title	Date filed w/BLNR	Counsel/Party
122	Motion to Join	7/22/16	Kalikolehua Kanaele
123	Motion to Join	7/22/16	Richard DeLeon
144	TMT International Observatory, LLC's opposition to the Three Motions filed by Harry Fergerstrom (Doc 96)	8/01/16	TMT International Observatory, LLC

The Motions came on for hearing before this Hearings Officer on August 5, 2016, at a Pre-Hearing Conference held in Hilo. The following persons were present:

Julie China, Deputy Attorney General and William Wynhoff, Deputy Attorney General

Stephen Michael Cain, Staff Planner

Richard N. Wurdeman, Attorney for Mauna Kea Anaina Hou, et al.

Timothy Lui-Kwan, John Manaut, and Ian Sandison, Attorneys for the University of Hawaii-Hilo ("UHH")

J. Douglas Ing and Ross Shinyama, Attorneys for TMT International Observatory, LLC ("TIO")

Lincoln Ashida and Newton Chu, Attorneys for Perpetuating Unique Educational Opportunities Inc. (“PUEO”)

Lanny Sinkin for Temple of Lono  
Harry Fergerstrom  
Richard DeLeon  
Mehana Kihoi  
C.M. Kahookahi Kanuha  
Joseph Camara  
Jennifer Leina`ala Sleightholm  
Maelani Lee  
Stephanie-Malia Tabbada  
Tiffnie Kakalia  
Glen Kila  
Dwight Vicente  
Brannon Kamahana Kealoha  
Cindy Freitas  
William Freitas

This Hearings Officer having considered the Motions, 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 Motions are DENIED. This Hearings Officer finds that there is no legal basis to grant the Motions. The process used by this Hearings Officer to admit new parties to this contested case was authorized and consistent with the applicable Rules of Practice and Procedure found in Title 13, Chapter 1 of the Hawai'i Administrative Rules. There is also no legal basis to require UHH to resubmit its CDUP application.

The deadline for submission of any **motion** to reconsider this minute order shall be submitted no later than **Thursday, October 13, 2016 at 4:30 p.m.** Any **responses to motions to reconsider** shall be submitted no later than **Friday, October 14, 2016 at 4:30 p.m.**

Any motions to reconsider this Minute Order shall be treated as a non-hearing motion unless otherwise ordered by this Hearings Officer.

DATED: Honolulu, Hawaii, \_\_\_\_\_.

---

Judge Riki May Amano (Ret.)  
Hearings Officer

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

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,  
Hāmākua, Hawai'i, TMK (3) 4-4-015:009

BLNR Contested Case HA-16-02

**CERTIFICATE OF SERVICE**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the attached 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](mailto:michael.cain@hawaii.gov)  
*Custodian of the Records  
(original + digital copy)*

Office of Conservation and Coastal  
Lands  
[dlnr.maunakea@hawaii.gov](mailto:dlnr.maunakea@hawaii.gov)

Carlsmith Ball LLP  
[isandison@carlsmith.com](mailto:isandison@carlsmith.com)  
*Counsel for the applicant  
University of Hawai'i at Hilo*

Richard N. Wurdeman  
[RNWurdeman@RNWLaw.com](mailto: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*

Kalikolehua Kanaele  
[akulele@yahoo.com](mailto:akulele@yahoo.com)

Mehana Kihoi  
[uhiwai@live.com](mailto:uhiwai@live.com)

C. M. Kaho'okahi Kanuha  
[kahookahi@gmail.com](mailto:kahookahi@gmail.com)

Joseph Kualii Lindsey Camara  
[kualiic@hotmail.com](mailto:kualiic@hotmail.com)

Torkildson, Katz, Moore,  
Hetherington & Harris  
[lsa@torkildson.com](mailto:lsa@torkildson.com)  
[njc@torkildson.com](mailto:njc@torkildson.com)  
*Counsel for Perpetuating Unique  
Educational Opportunities (PUEO)*

J. Leina'ala Sleightholm  
[leinaala.mauna@gmail.com](mailto:leinaala.mauna@gmail.com)

Maelani Lee  
[maelanilee@yahoo.com](mailto:maelanilee@yahoo.com)

Lanny Alan Sinkin  
[lanny.sinkin@gmail.com](mailto:lanny.sinkin@gmail.com)  
*Representative for The Temple of  
Lono*

Harry Fergerstrom  
P.O. Box 951  
Kurtistown, HI 96760

Stephanie-Malia:Tabbada  
[s.tabbada@hawaiiantel.net](mailto:s.tabbada@hawaiiantel.net)

Tiffnie Kakalia  
[tiffniekakalia@gmail.com](mailto:tiffniekakalia@gmail.com)

Glen Kila  
[makakila@gmail.com](mailto:makakila@gmail.com)

Dwight J. Vicente  
2608 Ainaola Drive  
Hilo, Hawaiian Kingdom


Brannon Kamahana Kealoha  
[brannonk@hawaii.edu](mailto:brannonk@hawaii.edu)

Cindy Freitas  
[hanahanai@hawaii.rr.com](mailto:hanahanai@hawaii.rr.com)

William Freitas  
[pohaku7@yahoo.com](mailto:pohaku7@yahoo.com)

Richard L. DeLeon  
[kekaukike@msn.com](mailto:kekaukike@msn.com)

DATED: Honolulu, Hawaii,           OCT 5 2016          



J. DOUGLAS ING

ROSS T. SHINYAMA

SUMMER H. KAIawe

Attorneys for TMT International Observatory LLC