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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

Case No. BLNR-CC-16-002

**PROPOSED MINUTE ORDER NO. \_\_\_\_\_ DENYING KAMAHANA KEALOHA: MOTION INVOKING QUO WARRANTO, RESPECTFULLY, A DEMAND OF JURISDICTION; DECLARATORY JUDGMENT ON A CONSTITUTIONAL ISSUE/VIOLATION RESUBMITTED 8/8/2016 [DOC 180]; CERTIFICATE OF SERVICE**

**PROPOSED MINUTE ORDER NO. \_\_\_\_\_ DENYING KAMAHANA KEALOHA: MOTION INVOKING QUO WARRANTO, RESPECTFULLY, A DEMAND OF JURISDICTION; DECLARATORY JUDGMENT ON A CONSTITUTIONAL ISSUE/VIOLATION RESUBMITTED 8/8/2016 [DOC 180]**

On August 1, 2016 Brannon Kamahana Kealoha initially filed a Quo Warranto, Demand of Jurisdiction (Doc 161), which was discussed at the August 5, 2016 Prehearing

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Conference. At that time, the Hearings Officer found that Doc 161 the Quo Warranto was not a motion and, therefore, a decision was not necessitated by its filing. The Hearings Officer, however, gave Mr. Kealoha the opportunity to file an appropriate motion, if he chose to. Subsequently, on August 8, 2016, Mr. Kealoha filed his Motion Invoking Quo Warranto, Respectfully, a Demand of Jurisdiction; Declaratory Judgment on a Constitutional Issue/Violation Resubmitted 8/8/2016 (Doc 180) (“Motion”). In response to the Motion, the following documents were submitted by various parties:

Doc No.	Title	Date filed w/BLNR	Counsel/Party
184	TMT International Observatory, LLC’s Opposition to Kamahana Kealoha: Motion Invoking quo Warranto, Respectfully, A Demand of Jurisdiction; Declaratory Judgment on a Constitutional Issue/Violation Resubmitted 8/8/2016	8/09/16	TMT International Observatory, LLC
189	Kamahana Kealoha: Response to TMT International Observatory, LLC’s Opposition to Motion Invoking Quo Warranto, Respectfully, A Demand of Jurisdiction; Declaratory Judgment on a Constitutional Issue/Violation Resubmitted 8/8/2016	8/10/16	Brannon Kamahana Kealoha
202	The University of Hawaii at Hilo’s Joinder to TMT International Observatory, LLC’s Opposition to Kamahana Kealoha: Motion Invoking quo Warranto, Respectfully, A Demand of Jurisdiction; Declaratory Judgment on a Constitutional Issue/Violation Resubmitted 8/8/2016	8/11/16	University of Hawaii-Hilo
206	Opposition to TMT International Observatory’s Opposition to Kamahana	8/11/16	Harry Fergerstrom

Doc No.	Title	Date filed w/BLNR	Counsel/Party
	Kealoha Motion Invoking Quo Warranto		
239	(A) Response to University of Hawaii Oppositions Doc 139, 194, 196, 197, 198, 199, 200, 201, 202; (B) Support Kamahana Kealoha Quo Warranto Doc 180, et al.	8/22/16	Stephanie Tabbada

The Motion (Doc 180) was heard before this Hearings Officer on August 12, 2016, at a Third Pre-Hearing Conference held in Hilo. The following persons were present:

Julie China, Deputy Attorney General

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

Timothy Lui-Kwan and John Manaut, Attorneys for the University of Hawaii-Hilo

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

Lincoln Ashida, Attorney for Perpetuating Unique Educational Opportunities Inc. (“PUEO”)

David Louie, Attorney for the Attorney General Doug Chin, for the Department of the Attorney General, and Individual Deputy Attorneys General

Lanny Sinkin for Temple of Lono

Harry Fergerstrom

Richard DeLeon

Mehana Kihoi

C.M. Kahookahi Kanuha

Joseph Camara

Jennifer Leina`ala Sleightholm

Stephanie-Malia Tabbada

Tiffnie Kakalia

Dwight Vicente

Cindy Freitas

William Freitas

Brannon Kamahana Kealoha  
Kalikolehua Kanaele

This Hearings Officer having considered the Motion, 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 Motion is DENIED. This Hearings Officer finds that she does not have the authority and/or jurisdiction to grant the relief being sought in this Motion. Pursuant to Hawai'i Revised Statutes Chapter 659, Mr. Kealoha's request for quo warranto should be addressed to a circuit court, not this Hearings Officer. The Motion is also denied insofar as it raises non-justiciable political questions that are outside of this Hearings Officer's subject matter jurisdiction.

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, \_\_\_\_\_.

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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:

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DATED: Honolulu, Hawaii,      OCT 5 2016     



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