

CARLSMITH BALL LLP

IAN L. SANDISON 5597
TIM LUI-KWAN 2271
JOHN P. MANAUT 3989
ASB Tower, Suite 2100
1001 Bishop Street
Honolulu, HI 96813
Tel No. 808.523.2500
Fax No. 808.523.0842
isandison@carlsmith.com
tluikwan@carlsmith.com
JPM@carlsmith.com

Attorneys for Applicant
UNIVERSITY OF HAWAI'I AT HILO

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

2016 OCT -5 P 2:16

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

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

Case No. BLNR-CC-16-002

[PROPOSED] MINUTE ORDER NO. _____ DENYING BRANNON KAMAHANA KEALOHA'S MOTION DEMANDING INVENTORY OF THE SO-CALLED CEDED LANDS CONTAINING THE SPECIFIC LAND AND PARCEL THE TIO PLANS TO BE SUB-LEASED BY UH WHO LEASES SAID LANDS FROM THE BLNR, A SURVEY OF THESE LANDS ALSO, FILED AUGUST 10, 2016 [DOC. 191]; CERTIFICATE OF SERVICE

[PROPOSED] MINUTE ORDER NO. _____ DENYING BRANNON KAMAHANA KEALOHA'S MOTION DEMANDING INVENTORY OF THE SO-CALLED CEDED LANDS CONTAINING THE SPECIFIC LAND AND PARCEL THE TIO PLANS TO BE SUB-LEASED BY UH WHO LEASES SAID LANDS FROM THE BLNR, A SURVEY OF THESE LANDS ALSO, FILED AUGUST 10, 2016 [DOC. 191]

On August 29, 2016, a hearing on Brannon Kamahana Kealoha's ("Movant") Motion Demanding Inventory of the So-Called Ceded Lands Containing the Specific Land and Parcel that TIO Plans to be Sub-Leased by UH Who Leases Said Lands from the BLNR, A Survey of

these Lands Also [Doc. 191], filed August 10, 2016 (“**Motion**”), was held in Hilo, Hawai‘i, at 1175 Manono, Hawaii Community College Cafeteria. Kealoha was not present for the hearing.

The following persons were present:

Julie H. China, Esq., Deputy Attorney General
 Richard N. Wurdeman, Esq., for Mauna Kea Anaina Hou, for and with Kealoha Pisciotta, Clarence Kukauakahi Ching, Pualani Case, and E. Kalani Flores, with Keomailani Van Gogh.
 Timothy Lui-Kwan, Esq. and John P. Manaut, Esq., for the University of Hawai‘i-Hilo (“**UH-Hilo**”).
 J. Douglas Ing, Esq. and Ross Shinyama, Esq. for TMT International Observatory, LLC. (“**TIO**”).
 Lincoln Ashida, Esq. for Perpetuating Unique Educational Opportunities Inc. (“**PUEO**”).
 Lanny Alan Sinkin for Lono Temple with Kahuna Nobriga
 Kalikolehua Kanaele
 Harry Fergerstrom
 Richard DeLeon
 Mehana Kihoi
 C. M. Kaho‘okahi Kanuha
 Joseph Kualii Lindsey Camara
 Jennifer Leina‘ala Sleightholm
 Stephanie-Malia Tabbada
 Tiffnie Kakalia
 Dwight J. Vicente
 Cindy Freitas
 William K. Freitas
 Wilma Holi (witness)
 Patricia Ikeda (witness)
 David Louie, Esq. for the Attorney General and Department of the Attorney General.

In relation to the Motion, the following documents were considered:

Doc. No.	Title	Date	Counsel/Party
237	The University of Hawai‘i at Hilo’s Memorandum in Opposition to Brannon Kamahana Kealoha Kealoha’s Invoking American Law; Motion Demanding Inventory of the So-Called Ceded Lands Containing the Specific Land and Parcel that TIO Plans to be Sub-Leased by UH Who Leases Said Lands from the BLNR, A Survey of these Lands Also	08/22/2016	UH-Hilo
142	TMT International Observatory, LLC’s Substantive Joinder to Applicant The University of Hawai‘i at Hilo’s Memorandum in Opposition to Brannon Kamahana	08/22/2016	TIO

	Kealoha's Invoking American Law; Motion Demanding Inventory of the So-Called Ceded Lands Containing the Specific Land and Parcel that TIO Plans to be Sub-Leased by UH Who Leases Said Lands from the BLNR, A Survey of these Lands Also		
--	--	--	--

The Motion, all related and oral submissions from counsels and/or parties, all applicable law, and the entire record have been considered by the Hearing Officer. As set forth in Minute Order No. 13, the deadline for all pre-hearing motions was July 18, 2016. Because the present Motion was not filed until August 10, 2016, the Hearing Officer finds that the Motion is untimely. Furthermore, the Motion reiterates the same arguments made by Movant in his prior Motion Invoking Quo Warranto, respectfully, a Demand of Jurisdiction; Declaratory Judgment on a Constitutional Issue/Violation [Doc. 180], filed on July 25, 2016. Therefore,

IT IS HEREBY ORDERED that the Motion is DENIED.

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 for reconsideration of this minute order shall be treated as a non-hearing motion unless otherwise ordered by this Hearing Officer.

DATED: Honolulu, Hawai'i, October __, 2016.

Judge Riki May Amano (Ret.)
Hearing Officer

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

Contested Case Hearing Re Conservation
District Use Application (CDUA) HA-3568 for
the Thirty Meter Telescope at the Mauna Kea
Science Reserve, Ka'oho Mauka, Hāmakua,
Hawai'i, TMK (3) 4-4-015:009

Case No. BLNR-CC-16-002

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned certifies that the above-referenced document was served upon the following parties by email unless indicated otherwise:

DLNR Office of Conservation and Coastal
Lands ("OCCL")
dlnr.maunakea@hawaii.gov

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

DAVE M. LOUIE, ESQ.
CLIFFORD K. HIGA, ESQ.
NICHOLAS R. MONLUX, ESQ.
Kobayashi Sugita & Goda, LLP
dml@ksglaw.com
ckh@ksglaw.com
nrm@ksglaw.com
Special Deputy Attorneys General for
ATTORNEY GENERAL DOUGLAS S. CHIN,
THE DEPARTMENT OF THE ATTORNEY
GENERAL, and DEPUTY ATTORNEYS
GENERAL IN THEIR CAPACITY AS
COUNSEL FOR THE BOARD OF LAND AND
NATURAL RESOURCES and HEARING
OFFICER

WILLIAM J. WYNHOFF, ESQ.
Deputy Attorney General
bill.j.wynhoff@hawaii.gov
Counsel for the BOARD OF LAND AND
NATURAL RESOURCES

J. DOUGLAS ING, ESQ.
douging@wik.com
ROSS T. SHINYAMA, ESQ.
rshinyama@wik.com
Watanabe Ing LLP
*Counsel for TMT INTERNATIONAL
OBSERVATORY, LLC*

RICHARD NAIWIEHA WURDEMAN, ESQ.
rnwurdeman@rnwlaw.com
*Counsel for Petitioners MAUNA KEA ANAINA
HOU; CLARENCE KUKAUAKAHI CHING;
FLORES-CASE OHANA; DEBORAH J.
WARD; PAUL K. NEVES; and KAHEA: THE
HAWAIIAN ENVIRONMENTAL ALLIANCE*

JOSEPH KUALII LINDSEY CAMARA
kualiic@hotmail.com

HARRY FERGERSTROM
P.O. Box 951
Kurtistown, HI 96750
hankhawaiian@yahoo.com
(via email & U.S. mail)

WILLIAM FREITAS
pohaku7@yahoo.com

TIFFNIE KAKALIA
tiffniekakalia@gmail.com

BRANNON KAMAHANA KEALOHA
brannonk@hawaii.edu

GLEN KILA
makakila@gmail.com

JENNIFER LEINA'ALA SLEIGHTHOLM
leina.ala.s808@gmail.com

LANNY ALAN SINKIN
lanny.sinkin@gmail.com
Representative for the Temple of Lono

LINCOLN S.T. ASHIDA, ESQ.
lsa@torkildson.com
NEWTON J. CHU, ESQ.
njc@torkildson.com
Torkildson, Katz, Moore, Hetherington &
Harris
*Counsel for PERPETUATING UNIQUE
EDUCATIONAL OPPORTUNITIES (PUEO)*

DWIGHT J. VICENTE
2608 Ainaola Drive
Hilo, HI 96720-3538
(no email; mailing address only)

RICHARD L. DELEON
kekaukike@msn.com

CINDY FREITAS
hanahanai@hawaii.rr.com

C. M. KAHO'OKAHI KANUHA
kahookahi@gmail.com

KALIKOLEHUA KANAELE
akulele@yahoo.com

MEHANA KIHAI
uhiwai@live.com

MAELANI LEE
maelanilee@yahoo.com

STEPHANIE-MALIA:TABBADA
s.tabbada@hawaiiantel.net

HARVEY E. HENDERSON, JR., ESQ.,
Deputy Attorney General
harvey.e.hendersonjr@hawaii.gov
*Counsel for the Honorable DAVID Y. IGE, and
BLNR Members SUZANNE CASE and
STANLEY ROEHRIG*

DATED: Honolulu, Hawai'i, October 5, 2016.



IAN L. SANDISON
TIM LUI-KWAN
JOHN P. MANAUT

Attorneys for Applicant
UNIVERSITY OF HAWAI'I AT HILO