

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](mailto:isandison@carlsmith.com)  
[tluikwan@carlsmith.com](mailto:tluikwan@carlsmith.com)  
[JPM@carlsmith.com](mailto:JPM@carlsmith.com)

RECEIVED  
OFFICE OF CONSERVATION  
AND COASTAL LANDS

2016 OCT -5 P 2:17

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

Attorneys for Applicant  
UNIVERSITY OF HAWAI'I AT HILO

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 PETITIONERS'  
REQUEST FOR CONTINUANCE ON  
SUBMISSIONS AND NEXT HEARING  
DATE [DOC. 81] AND PETITIONERS'  
SUPPLEMENTAL REQUEST FOR  
CONTINUANCE ON SUBMISSIONS  
AND NEXT HEARING DATE [DOC.  
83]; CERTIFICATE OF SERVICE**

**[PROPOSED] MINUTE ORDER NO. \_\_\_\_\_ DENYING PETITIONERS' REQUEST FOR  
CONTINUANCE ON SUBMISSIONS AND NEXT HEARING DATE [DOC. 81] AND  
PETITIONERS' SUPPLEMENTAL REQUEST FOR CONTINUANCE ON  
SUBMISSIONS AND NEXT HEARING DATE [DOC. 83]**

On August 5, 2016, a hearing on Petitioners Mauna Kea Anaina Hou et al.'s *Request for  
Continuance on submissions and Next Hearing Date* [Doc. 81], filed on July 11, 2016, and  
Petitioners Mauna Kea Anaina Hou et al.'s *Supplemental Request for Continuance on  
Submissions and Next Hearing Date* [Doc. 83], filed on July 12, 2016 (collectively,

“**Petitioners’ Motions**”), was held in Hilo, Hawai‘i at the YMCA Building, located at 300 West Lanikaula Street.

The following persons were present:

Julie H. China, Esq., Deputy Attorney General and William Wynhoff, Esq., Deputy Attorney General  
 Stephen Michael Cain, Staff Planner  
 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., John P. Manaut, Esq. and Ian Sandison, Esq., for the University of Hawai‘i-Hilo (“**UH-Hilo**”), with David Lonborg, Esq., Stephanie Nagata and Bob McLaren.  
 J. Douglas Ing, Esq. and Ross Shinyama, Esq. for TMT International Observatory, LLC. (“**TIO**”), with Sandra Dawson.  
 Lincoln Ashida, Esq. for Perpetuating Unique Educational Opportunities Inc. (“**PUEO**”), with Bill Brown.  
 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  
 Maelani Lee  
 Stephanie-Malia Tabbada  
 Tiffnie Kakalia  
 Dwight J. Vicente  
 Brannon Kamahana Kealoha  
 Cindy Freitas  
 William K. Freitas  
 Ivy McIntosh (witness)  
 Wilma Holi (witness)  
 Patricia Ikeda (witness)  
 David Louie, Esq. for the Attorney General and Department of the Attorney General.

In relation to Petitioners’ Motions, the following documents were considered:

<b>Doc. No.</b>	<b>Title</b>	<b>Date</b>	<b>Counsel/Party</b>
85	TMT International Observatory LLC’s Response to Petitioners’ Request for Continuance on Submissions and Next Hearing Date	07/14/2016	TIO
86	UH-Hilo’s Opposition to Petitioners’ Request for Continuance on Submissions and Next hearing Date	07/14/ 2016	UH-Hilo
87	Petitioners Mauna Kea Anaina Hou et al.’s Reply	07/14/2016	Petitioners

	to TMT International Observatory LLC's and UH Responses		
88	Joining of Motions for Continuance with Richard Naiwi Wurdeman's Motion, and Opposition to UH Opposition to Richard Naiwi Wurdeman's Motion for Continuance	07/15/2016	Kalikolehua Kanaele
93	TMT International Observatory's Response to Petitioners' Request for a Continuance of the Motions Deadline	07/18/2016	TIO

Petitioners' Motion seeks a continuation of the July 18, 2016 deadline for submission of pre-hearing motions, as well as the August 5, 2016 hearing date.

Petitioners' Motions, all related and oral submissions from counsels and/or parties, the Proposed Minute Order and all submissions related thereto, all applicable law, for and the entire record having been considered, the Hearing Officer finds that Petitioner failed to demonstrate good cause to continue the hearing date and submission deadlines. At the June 17, 2016 hearing, the Hearing Officer set the deadline for pre-hearing motions at 4:00 p.m. on July 18, 2016, and set the date of the next hearing for August 5, 2016 at 10:00 a.m.

As an initial matter, Petitioners' Motions are now moot. The deadlines have passed with the Petitioners filing multiple pre-hearing motions and participating in both the August 5, 2016 and August 12, 2016 hearings on those motions. Moreover, Petitioners' motions are nonetheless denied on their merits because the Hearing Officer had full discretion and authority to set these deadlines under Hawai'i Revised Statutes § 13-1-36. Additionally, the dates were reasonable and practical for the purposes of this contested case. Petitioners' failed to demonstrate good cause to continue the hearing date or submission deadlines. Therefore,

IT IS HEREBY ORDERED that Petitioners' Motions are 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'ohē Mauka, Hāmākua,  
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](mailto:dlnr.maunakea@hawaii.gov)

MICHAEL CAIN  
Office of Conservation and Coastal Lands  
1151 Punchbowl Street, Room 131  
Honolulu, HI 96813  
[michael.cain@hawaii.gov](mailto: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](mailto:dml@ksglaw.com)  
[ckh@ksglaw.com](mailto:ckh@ksglaw.com)  
[nrm@ksglaw.com](mailto: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](mailto:bill.j.wynhoff@hawaii.gov)  
*Counsel for the BOARD OF LAND AND*  
*NATURAL RESOURCES*

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

RICHARD NAIWIEHA WURDEMAN, ESQ.  
[rnwurdeman@rnwlaw.com](mailto: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](mailto:kualiic@hotmail.com)

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

WILLIAM FREITAS  
[pohaku7@yahoo.com](mailto:pohaku7@yahoo.com)

TIFFNIE KAKALIA  
[tiffniekakalia@gmail.com](mailto:tiffniekakalia@gmail.com)

BRANNON KAMAHANA KEALOHA  
[brannonk@hawaii.edu](mailto:brannonk@hawaii.edu)

GLEN KILA  
[makakila@gmail.com](mailto:makakila@gmail.com)

JENNIFER LEINA'ALA SLEIGHTHOLM  
[leina.ala.s808@gmail.com](mailto:leina.ala.s808@gmail.com)

LANNY ALAN SINKIN  
[lanny.sinkin@gmail.com](mailto:lanny.sinkin@gmail.com)  
*Representative for the Temple of Lono*

LINCOLN S.T. ASHIDA, ESQ.  
[lsa@torkildson.com](mailto:lsa@torkildson.com)  
NEWTON J. CHU, ESQ.  
[njc@torkildson.com](mailto: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](mailto:kekaukike@msn.com)

CINDY FREITAS  
[hanahanai@hawaii.rr.com](mailto:hanahanai@hawaii.rr.com)

C. M. KAHO'OKAHI KANUHA  
[kahookahi@gmail.com](mailto:kahookahi@gmail.com)

KALIKOLEHUA KANAELE  
[akulele@yahoo.com](mailto:akulele@yahoo.com)

MEHANA KIHAI  
[uhiwai@live.com](mailto:uhiwai@live.com)

MAELANI LEE  
[maelanilee@yahoo.com](mailto:maelanilee@yahoo.com)

STEPHANIE-MALIA: TABBADA  
[s.tabbada@hawaiiantel.net](mailto:s.tabbada@hawaiiantel.net)

HARVEY E. HENDERSON, JR., ESQ.,  
Deputy Attorney General  
[harvey.e.hendersonjr@hawaii.gov](mailto: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