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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 SHELLEY STEPHENS'  
REQUEST TO BE PART OF  
CONTESTED CASE HEARING [DOC.  
213]; CERTIFICATE OF SERVICE**

**[PROPOSED] MINUTE ORDER NO. \_\_\_ DENYING SHELLEY STEPHENS'  
REQUEST TO BE PART OF CONTESTED CASE HEARING [DOC. 213]**

On August 17, 2016, Shelley C. Stephens filed a *Request to be Part of Contested Case Hearing* [Doc. 213] (“**Request**”). There were no oppositions, joinders, or other responses to the Request, and the Request was not addressed at any prior hearing or by any prior order.

The Request, all related and oral submissions from counsels and/or parties, the Proposed Minute Order and all submissions related thereto, all applicable law, and the entire record having been considered by the Hearing Officer, and for good cause shown, the Hearing Officer finds

that the Request is untimely and does not state an adequate basis to admit Shelley C. Stephens as a party to this contested case proceeding.

At the May 16, 2016 pre-hearing conference, the Hearing Officer set a deadline of May 29, 2016 for intervention applications. This deadline was confirmed in Minute Order No. 7, filed on May 26, 2016. The Request, which is operatively an intervention application, was filed on August 17, 2016, well after the deadline for intervention applications. Although the Request indicates that a motion for intervention in the contested case was “sent” on May 29, 2016, there is no record of any such motion or request for intervention having been filed with the Board of Land and Natural Resources or served on the parties. Therefore, the Hearing Officer is unable to consider the May 29, 2016 letter setting out comments on the Lease to the University of Hawai‘i as a request for intervention as a party in the contested case hearing. Accordingly, neither the Request filed on August 17, 2016 nor the letter sent on May 29, 2016 were timely submitted nor satisfied the requirements for requesting admission as a party in these proceedings.

Notwithstanding the untimeliness of the Request and the failure to establish a sufficient basis for admission as a party to this contested case proceeding, the Requestor has failed to appear or participate in any of the ongoing proceedings in this matter. Even if the Request was sufficient to establish a basis to seek intervention and even if there was good cause for Requestor’s untimely submission or failure to personally appear at any of the prehearing proceedings in the matter, the Hearing Officer finds that the issues and interests raised in the Request are the same as those raised by parties who are already admitted to this proceeding, and the admission of Ms. Stephens as a party will not add substantially new relevant information and will contribute to making this proceeding inefficient and unmanageable. To

the extent that the Request raises arguments related to the Antiquities Act, the Apology Resolution, and other issues related to Native Hawaiian Sovereignty, the Hearing Officer does not have jurisdiction to decide such issues. Therefore,

IT IS HEREBY ORDERED that the Request is DENIED.

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

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Judge Riki May Amano (Ret.)  
Hearing Officer

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

IN THE MATTER OF

Contested Case Hearing Re Conservation  
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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:

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



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