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Lay representative for Temple of Lono

BOARD OF LAND AND NATURAL RESOURCES

FOR THE STATE OF HAWAI'I

IN THE MATTER OF) Case No. BLNR-CC-16-002
)
A Contested Case Hearing Re Conservation)
District Use Permit (CDUP) (HA-3568 for) **TEMPLE OF LONO SECOND**
) **SUPPLEMENT**
The Thirty Meter Telescope at the Mauna) **TO MOTION TO STRIKE; COS**
Kea Science Reserve, Kaohe Mauka,)
)
Hamakua District, Island of Hawai'i,)
TMK (3) 4-4-015:009)
_____)

TEMPLE OF LONO SECOND SUPPLEMENT TO MOTION TO STRIKE

On October 13, 2016, a full twenty-four hours after the Temple filed its Motion to Strike for Failure to Serve or Extension of Time and Rescheduling of Hearing, Mr. Ross Shinyama, a representative of TIO, sent an email claiming that the TIO pleadings were timely served on all parties and provided an email purporting to be evidence of that service. Exhibits 1 and 2.

The Temple responded with an email reiterating the Temple actual experience as set forth in the Motion to Strike. Exhibit 3.

The Shinyama email is hardly dispositive of the issues raised by the failure to serve. The response is just an email without any formal pleading that would have include signed declarations.

Received
Office of Conservation and Coastal Lands
2016 Oct 13 8:07 pm
Department of Land and Natural Resources
State of Hawaii

In theory, through a declaration, Frances Soares would explain why a blank email went out to parties on October 11 at almost exactly the time the missing pleadings would have been filed.

Also, in theory, through a declaration, Ms. Yamamoto would explain what steps she took to ensure service on all parties and what, if any, working relationship she has with Frances Soares.

Finally, in theory, through a declaration, a TIO representative would offer a reasonable explanation as to why the blank email from Frances Soares replaced the service email of Ms. Yamamoto.

Once all the fact are known, the Hearing Officer can determine whether those facts warrant striking the pleadings.

Regardless of the determination on that question, the fact remains that the TIO pleadings did not reach many of the other parties until two full days after the deadline.

That delay is sufficient basis for extending the time to prepare for the Contested Case Hearing by the time lost in the TIO service failure and the consequent continuing of the Hearing for two days.

Dated: October 13, 2016

_____/s/_____
Lanny Alan Sinkin
Lay representative for Temple of Lono

From: Ross T. Shinyama <RShinyama@wik.com>
Subject: RE: BLNR-CC-16-002 Temple of Lono Supplement to Motion to Strike
Date: October 13, 2016 5:35:19 PM HST
To: Lanny Sinkin <lanny.sinkin@gmail.com>, Michael Cain <michael.cain@hawaii.gov>, Kealoha Pisciotta-Keomailani Von Gogh <keomaivg@gmail.com>, Clarence Ching <kahiwaL@cs.com>, Uncle Kalani Flores <ekflores@hawaiiantel.net>, Pua Case <puacase@hawaiiantel.net>, Deborah J. Ward <cordylinecolor@gmail.com>, Paul K. Neves <kealiikea@yahoo.com>, Bianca Isaki <bianca@kahea.org>, Ian Sandison <isandison@carlsmith.com>, Tim Lui-Kwan <tluikwan@carlsmith.com>, John P. (Pete) Manaut <jpm@carlsmith.com> and 21 more...
Cc: Ellen A. Yamamoto EYamamoto@wik.com

Mr. Sinkin:

Per the attached email, Ellen Yamamoto of my office served you via email on October 11, 2016 at 4:56 pm with TIO's Prehearing Statement, Final Witness List and Written Testimonies, and Exhibit List and Exhibits C-1 through C-34. Ms. Yamamoto did not receive any bounce-back message indicating that her email did not go through to you. Consequently, your claims of not being timely served are incorrect. If you wish to have Ms. Yamamoto resend her October 11 email to you, please let me know.

Thank you,
Ross

Ross T. Shinyama, Esq.
Watanabe Ing LLP
Telephone: (808) 544-8300
Direct Line: (808) 544-8307

CONFIDENTIALITY NOTE: This transmission and the information contained in this transmission is private and confidential and is only intended to be sent to and received and used by the individuals or entities designated above. If the reader of this transmission is not the intended recipient, you are hereby notified that this transmission and its contents are proprietary to and the exclusive property of the

sender's company, and that any use, dissemination, distribution, or copy of this transmission is strictly prohibited. If you have received this transmission in error, please immediately notify the sender by e-mail, and return the original transmission to the sender at the address above or destroy or delete said transmission. Thank You!

From: Ellen A. Yamamoto <EYamamoto@wik.com>

Subject: TMT/BLNR Case No. BLNR-CC-16-002

Date: October 11, 2016 4:55:43 PM HST

To: Michael Cain <michael.cain@hawaii.gov>, DLNR Office of Conservation and Coastal Lands <dlnr.maunakea@hawaii.gov>, Ian Sandison <isandison@carlsmith.com>, Richard Naiwieha Wurdeman <RNWurdeman@RNWLaw.com>, akulele@yahoo.com, uhiwai@live.com, Kahookahi Kanuha <kahookahi@gmail.com>, Joseph Camara <kualiic@hotmail.com>, Isa@torkildson.com Ashida <isa@torkildson.com>, njc@torkildson.com Chu <njc@torkildson.com>, leina'ala s <leina.ala.s808@gmail.com>, Maelani Lee <maelanilee@yahoo.com>, Lanny Sinkin <lanny.sinkin@gmail.com>, s.tabbada@hawaiiantel.net, tiffniekakalia Kakalia <tiffniekakalia@gmail.com>, Glen Kila <makakila@gmail.com>, Brannon Kealoha <brannonk@hawaii.edu>, Cindy Freitas <hanahanai@hawaii.rr.com>, pohaku7@yahoo.com Freitas <pohaku7@yahoo.com>, Richard L. DeLeon <kekaukike@msn.com>, Tim Lui-Kwan <tluikwan@carlsmith.com>, John P. (Pete) Manaut <jpm@carlsmith.com>, Lindsay N. McAneeley <lmcaneley@carlsmith.com>, Uncle Kalani Flores <ekflores@hawaiiantel.net>, Paul K. Neves <kealiikea@yahoo.com>, Kealoha Pisciotta-Keomailani Von Gogh <keomaivg@gmail.com>, Pua Case <puacase@hawaiiantel.net>, Bianca Isaki <bianca@kahea.org>, Clarence Ching <kahiwaL@cs.com>, Deborah J. Ward <cordylinecolor@gmail.com>

Cc: J. Douglas Ing <DougIng@wik.com>, Ross T. Shinyama <RShinyama@wik.com>, Summer H. Kaiawe <SKaiawe@wik.com>, Denise H. Kameda <DKameda@wik.com>, Charlene M. Moriwaki <CMoriwaki@wik.com>

All,

Attached for your information are the following documents filed on behalf of TMT International Observatory, LLC:

- 1) TIO Prehearing Statement
- 2) TIO Final Witness List and Written Testimonies
- 3) TIO Exhibit List and Exhibits 1 thru 34

Please click on the link below to download the attachments.

EXHIBIT 2

ShareFile Attachments	
Title	Size
TIO EXH C-1.pdf	102.3 KB
TIO EXH C-10.pdf	36.2 KB
TIO EXH C-11.pdf	25.1 KB
TIO EXH C-12.pdf	1.2 MB
TIO EXH C-13.pdf	45.4 KB
TIO EXH C-14.pdf	1 MB
TIO EXH C-15.pdf	351.8 KB
TIO EXH C-16.pdf	310.4 KB
TIO EXH C-17.pdf	55.5 KB
TIO EXH C-18.pdf	122.7 KB
TIO EXH C-19.pdf	89.1 KB
TIO EXH C-2.pdf	1.2 MB
TIO EXH C-20.pdf	100.3 KB
TIO EXH C-21.pdf	102 KB
TIO EXH C-22.pdf	110.9 KB
TIO EXH C-23.pdf	68.6 KB
TIO EXH C-24.pdf	1.6 MB
TIO EXH C-25.pdf	895.5 KB
TIO EXH C-26.pdf	2.7 MB
TIO EXH C-27.pdf	1.7 MB
TIO EXH C-28.pdf	1.2 MB
TIO EXH C-29.pdf	962.9 KB
TIO EXH C-3.pdf	94.4 KB
TIO EXH C-30.pdf	402.1 KB
TIO EXH C-31.pdf	622.8 KB
TIO EXH C-32.pdf	4.6 MB
TIO EXH C-33.pdf	125.6 KB
TIO EXH C-34.pdf	790.5 KB
TIO EXH C-4.pdf	566.6 KB
TIO EXH C-5.pdf	309.6 KB
TIO EXH C-6.pdf	525.9 KB
TIO EXH C-7.pdf	299.9 KB
TIO EXH C-8.pdf	36.4 KB
TIO EXH C-9.pdf	36.3 KB
TIO Exhibit List.pdf	188.1 KB
TIO Final Witness List and Written Testimonies.pdf	47.2 MB
TMT International Observatory, LLC's Pre-Hearing Statement; Exhibit 1; COS.pdf	3.6 MB

[Download Attachments](#)

Ellen Yamamoto uses ShareFile to share documents securely.

EXHIBIT 2

From: Lanny Sinkin <lanny.sinkin@gmail.com>
Subject: Re: BLNR-CC-16-002 Temple of Lono Supplement to Motion to Strike
Date: October 13, 2016 6:17:59 PM HST
To: Ross T. Shinyama <RShinyama@wik.com>
Cc: Lanny Sinkin <lanny.sinkin@gmail.com>, Michael Cain <michael.cain@hawaii.gov>, Kealoha Pisciotta-Keomailani Von Gogh <keomaivg@gmail.com>, Clarence Ching <kahiwaL@cs.com>, Uncle Kalani Flores <ekflores@hawaiiantel.net>, Pua Case <puacase@hawaiiantel.net>, Deborah J. Ward <cordylinecolor@gmail.com>, Paul K. Neves <kealiikea@yahoo.com>, Bianca Isaki <bianca@kahea.org>, Ian Sandison <isandison@carlsmith.com>, Tim Lui-Kwan <tluikwan@carlsmith.com>, John P. (Pete) Manaut <jpm@carlsmith.com>, Lindsay N. McAneeley <lmcaaneeley@carlsmith.com>, J. Douglas Ing <DougIng@wik.com>, Mehana Kihoi <uhiwai@live.com>, Kahookahi Kanuha <kahookahi@gmail.com>, Joseph Camara <kualiic@hotmail.com>, Isa@torkildson.com Ashida <isa@torkildson.com>, njc@torkildson.com Chu <njc@torkildson.com>, leina'ala s <leinaala.mauna@gmail.com>, Maelani Lee <maelanilee@yahoo.com>, akulele@yahoo.com Kanaele <akulele@yahoo.com>, s.tabbada@hawaiiantel.net, tiffniekakalia Kakalia <tiffniekakalia@gmail.com>, Glen Kila <makakila@gmail.com>, Brannon Kealoha <brannonk@hawaii.edu>, hanahanai@hawaii.rr.com Freitas <hanahanai@hawaii.rr.com>, pohaku7@yahoo.com Freitas <pohaku7@yahoo.com>, Ivy McIntosh <3popoki@gmail.com>, Kealamakia Jr. <mkealama@yahoo.com>, Patricia Ikeda <peheakeanila@gmail.com>, Yuklin Aluli <yuklin@kailualaw.com>, Dexter Kaiama <cdexk@hotmail.com>, Cc: Ellen A. Yamamoto EYamamoto@wik.com

Mr. Shinyama,

As my motion made clear, the only thing I received from TIO on October 11 was a blank email, a copy of which I attached to the motion to strike that I filed. As I also made clear in that filing, there was no response to my notifying the sender that the email was blank.

As I stated in the motion to strike, I confirmed from another party that she, too, received the blank email and did not receive service from TIO.

I have now confirmed with two other parties that they received a blank email from Frances Soares and nothing further from TIO.

I have not inquired of all the other parties whether they received the blank email and nothing further from TIO.

I am satisfied that I have been served with TIO's pleadings as of 5:35 p.m. on

EXHIBIT 3

October 13, that such service is outside of time, and I will continue to press for relief from the Hearing Officer.

Lanny Sinkin

Lanny Alan Sinkin
P. O. Box 944
Hilo, Hawai'i 96721
(808) 936-4428
lanny.sinkin@gmail.com

Lay representative for Temple of Lono

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IN THE MATTER OF) Case No. BLNR-CC-16-002
)
A Contested Case Hearing Re Conservation)
District Use Permit (CDUP) HA-3568 for) **CERTIFICATE OF SERVICE**
The Thirty Meter Telescope at the Mauna)
Kea Science Reserve, Kaohe Mauka,)
Hamakua District, Island of Hawai'i,)
TMK (3) 4-4-015:009)
_____)

CERTIFICATE OF SERVICE

I hereby certify that on this day a copy of the **TEMPLE OF LONO SECOND SUPPLEMENT TO MOTION TO STRIKE** was served on the following parties by eMail on October 13, 2016:

Michael Cain <michael.cain@hawaii.gov>, Kealoha Pisciotto-Keomailani Von Gogh <keomaivg@gmail.com>, Clarence Ching <kahiwaL@cs.com>, Uncle Kalani Flores <ekflores@hawaiiantel.net>, Pua Case <puacase@hawaiiantel.net>, cordylinicolor@gmail.com, kealiikea@yahoo.com, Bianca Isaki <bianca@kahea.org>, Ian Sandison <isandison@carlsmith.com>, tluikwan@carlsmith.com, John P. (Pete) Manaut <jpm@carlsmith.com>, Lindsay N. McAneeley <lmcaaneeley@carlsmith.com>, T. Shinyama' <RShinyama@wik.com>, douging@wik.com <douging@wik.com>, mehana kihoi <uhiwai@live.com>, Kahookahi Kanuha <kahookahi@gmail.com>, Joseph Camara <kualiic@hotmail.com>, lsa@torkildson.com <lsa@torkildson.com>, njc@torkildson.com <njc@torkildson.com>, leina'ala s <leinaala.mauna@gmail.com>, Maelani Lee <maelanilee@yahoo.com>, Lanny Sinkin <lanny.sinkin@gmail.com>, akulele@yahoo.com <akulele@yahoo.com>, s.tabbada@hawaiiantel.net <s.tabbada@hawaiiantel.net>, tiffniekakalia <tiffniekakalia@gmail.com>, Glen Kila <makakila@gmail.com>, Brannon Kealoha <brannonk@hawaii.edu>, hanahanai@hawaii.rr.com <hanahanai@hawaii.rr.com>, pohaku7@yahoo.com <pohaku7@yahoo.com>, Ivy McIntosh <3popoki@gmail.com>, Kealamakia Jr. <mkealama@yahoo.com>, Patricia Ikeda

peheakeanila@gmail.com, Yuklin Aluli yuklin@kailualaw.com, Dexter Kaiama
<cdexk@hotmail.com>

and will be served by first class mail on October 14, 2016 to:

1. Dwight J. Vicente
2608 Ainaola Drive
Hilo, Hawaiian Kingdom

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

3. Michael Cain, Custodian of Records
Conservation and Coastal Lands
1151 Punchbowl, Room 131
Honolulu, Hawai'i 96813

Dated: October 13, 2016

_____/s/_____
Lanny Alan Sinkin