

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

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

APPLICANT UNIVERSITY OF HAWAI'I
AT HILO'S **STATEMENT OF
POSITION RE SCHEDULING;**
CERTIFICATE OF SERVICE

CONTESTED CASE HEARING

DATE: OCTOBER 18, 2016

TIME: 10:00 A.M.

JUDGE: HON. RIKI MAY AMANO
(RET.) HEARING OFFICER

**APPLICANT UNIVERSITY OF HAWAI'I AT HILO'S
STATEMENT OF POSITION RE SCHEDULING**

The UNIVERSITY OF HAWAI'I AT HILO ("University"), through counsel, submits this statement regarding the current scheduling of the contested case hearing set to commence on Tuesday, October 18, 2016 in Hilo, Hawai'i to the Board of Land and Natural Resources and Hearing Officer for consideration.

The University is ready to proceed with the contested case hearing. As the applicant, the

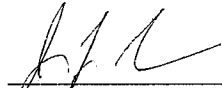
University has a right to a timely contested case hearing on the merits of its pending conservation district use application, and maintains that the parties to this case were given adequate notice of the Hearing Officer's intent to schedule the contested case hearing to commence in October. However, the University acknowledges that objections have been lodged by various parties to the current schedule based on the timing of the issuance of certain orders on substantive motions and related periods for reconsideration of those orders. The University believes that it would be in the interest of all parties to resolve those concerns, which have been further exacerbated by Mr. Wurdeman's last minute withdrawal as counsel from these proceedings, prior to the commencement of the contested case hearing. The University is therefore agreeable to a short and reasonable postponement to the start of the evidentiary hearings in this contested case proceeding to allow for the final disposition (including rulings on any motions for reconsideration) of all substantive motions that have been filed to date.¹

To facilitate the orderly scheduling of new dates for the evidentiary hearing within a reasonable amount of time, the University proposes that the Hearing Officer put forth an alternative schedule, and allow the parties five (5) business days upon which to respond to the proposed schedule. Should a party object to the newly proposed dates, such objections should be supported with specific details, attested to under oath; and, if a preexisting unavailability is claimed, with admissible evidence to support the claim of unavailability. Such parties should also provide alternative dates on which they would be available. Due process affords the petitioners and intervenors to this case the right to notice and *an opportunity* to be heard; it does

¹ The University notes that the deadline for substantive motions has long since passed, and should be enforced as the parties were given ample time to present their motions. The University, therefore, submits that no further substantive motions should be permitted; and, any efforts to file such motions absent an appropriate showing of cause and grant of leave from the Hearing Officer should be stricken.

not guarantee them the right to be heard on the dates of their choice. As noted above, the University also has due process rights to a timely hearing on its application. Accordingly, upon receipt of all comments to the proposed schedule, the Hearing Officer should set a final new schedule, with due consideration to these varied interests.

DATED: Honolulu, Hawai'i, October 13, 2016.



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

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

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned certifies that an unfiled courtesy copy of the above-referenced document was provided to parties by email on October 13, 2016; and that a filed copy will be served upon the following parties by email unless indicated otherwise on October 14, 2016:

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*

MAUNA KEA ANAINA HOU
c/o Kealoha Pisciotta
keomaivg@gmail.com

E. KALANI FLORES
ekflores@hawaiiantel.net

DEBORAH J. WARD
cordylinecolor@gmail.com

KAHEA: THE ENVIRONMENTAL
ALLIANCE
c/o Bianca Isaki, Esq.
bianca@kahea.org

IVY MCINTOSH
3popoki@gmail.com
Witness for the Hearing Officer

PATRICIA P. IKEDA
peheakeanila@gmail.com
Witness for the Hearing Officer

CLARENCE KUKAUAKAHI CHING
kahiwaL@cs.com

B. PUALANI CASE
puacase@hawaiiantel.net

PAUL K. NEVES
kealiikea@yahoo.com

WILMA H. HOLI
P. O. Box 368
Hanapepe, HI 96716
Witness for the Hearing Officer
(no email; mailing address only)

MOSES KEALAMAKIA JR.
mkealama@yahoo.com
Witness for the Hearing Officer

YUKLIN ALULI, ESQ.
Law Offices of Yuklin Aluli
yuklin@kailualaw.com
DEXTER KAIAMA, ESQ.
Law Offices of Dexter K. Kaiama
cdexk@hotmail.com
*Counsel for KAHEA: THE ENVIRONMENTAL
ALLIANCE*

DATED: Honolulu, Hawai'i, October 13, 2016.



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

Attorneys for Applicant
UNIVERSITY OF HAWAI'I AT HILO