

J. Leina'al Sleightholm

leinaala.mauna@gmail.com

P.O. Box 383035

Waikoloa, Hi. 96738

BOARD OF LAND AND NATURAL RESOURCES
STATE OF HAWAII

IN THE MATTER OF:

CASE NO. BLNR-CC-16-002

A Contested Case Hearing Re. Conservation District Use Permit (CDUP) HA-356 For the Thirty Meter Telescope at the Mauna Kea Science Reserve, Ka'ohē Mauka, Hamakua, Hawai'i TMK (3) 4-4-015:009

J. LEINA'ALA SLEIGHTHOLM'S MOTION TO CLARIFY MINUTE ORDER 36 (DOC. 376), ORDER VOIDING PERMIT (Permit no. 3568) AND CLARIFY POTENTIAL IMPACT OF TMT ON TRADITIONAL AND CUSTOMARY PRACTICES IN LIGHT OF THE OMKM PROPOSED NEW REGULATIONS AND SUSPEND PROCEEDINGS.

**J. LEINA'ALA SLEIGHTHOLM'S MOTION TO CLARIFY
MINUTE ORDER NO. 36 (DOC. 376), ORDER
VOIDING PERMIT AND CLARIFY POTENTIAL IMPACT
OF TMT ON TRADITIONAL AND CUSTOMARY PRACTICES
IN LIGHT OF THE OMKM PROPOSED NEW REGULATIONS
AND SUSPEND PROCEEDINGS.**

I, J. Leina'ala Sleightholm, respectfully request to have Minute Order 36 (Doc. 376) clarified. Since the beginning of this Contested Case process the question was raised over whether the voiding of permit no. 3568 by the Supreme Court on December 2, 2015 would require a new Environmental Impact Statement (EIS) be conducted. Also, in light of significant things that have happened since that time, whether the Cultural Resource Management Plan (CRMP), and Comprehensive Management Plan (CMP) be revised or supplemented prior to any decision being made regarding the issuing of the new permit.

ISSUES:

1. The FEIS is dated 2010, and it has been six years now. Knowing that nature and the environment, coupled with human contact on the summit is constantly changing this issue should be addressed now before moving forward with the Contested Case.

Received
Office of Conservation and Coastal Lands
2016 Oct 16 9:05 pm
Department of Land and Natural Resources
State of Hawaii

2. There are still unresolved issues regarding the “regulation of cultural practices” in the summit areas that should also be decided upon prior to considering whether or not a new permit be issued.

ARGUMENT:

The first issue is, Kualii Camara in some of the very first pre-hearing conferences had raised concerns and questions about the Final Environmental Impact Statement (FEIS) being outdated, and I don't believe it was fully addressed and enough attention given to it.

Local 5 v. City & County of Honolulu (“Turtle Bay”) it was determined that an EIS can expire, and it's validity or “shelf life” is dependent upon any additional impacts to that area. In Local 5 v. City and County of Honolulu it was ordered by the Supreme Court that a Supplemental EIS (SEIS) be conducted. Due to the multitudes of visitors going up to the summit all year long, and the constant changes in environment, and nature, and the fact that our cultural and religious practices are a living aspect to consider as well a Supplemental EIS should be done.

As to the second issue, OMKM held a board meeting on Tuesday, October 4th, 2016 at the Institute for Astronomy, Kukahau'ula Rm. 131, 640 N. A'ohoku Pl., Hilo, Hi. and on the agenda were action items:

CR-5: DEVELOP AND ADOPT GUIDELINES FOR THE CULTURALLY APPROPRIATE PLACEMENT AND REMOVAL OF OFFERINGS.

CR-8: DEVELOP AND ADOPT A MANAGEMENT POLICY FOR THE UH MANAGEMENT AREAS ON THE SCATTERING OF CREMATED HUMAN REMAINS.

CR-7: DETERMINATION OF THE APPROPRIATENESS OF CONSTRUCTING NEW HAWAIIAN CULTURAL FEATURES.

CR-9: MANAGEMENT POLICY FOR THE CULTURAL APPROPRIATENESS OF BUILDING AHU OR THE “STACKING OF ROCKS”

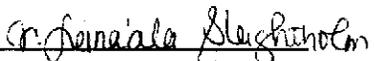
At this meeting, the above Action Items were deferred pending consultation, and further community meetings between Kahu Ku Mauna, and the Hawaiian community. Kahu Ku Mauna also mentioned a retreat they would be holding at Hale Pohaku where these issues would be discussed. If OMKM under the advisement of Kahu Ku Mauna are currently unable to come up with decisions regarding these issues, how can there be any decision made on a new permit when these issues deal with the summit area, which includes the area where the proposed TMT wants to build directly impacting religious and cultural practitioners. These policy and regulatory

issues shouldn't be an afterthought, where any decisions would be made after construction of such an immense structure is up.

CONCLUSION:

At this time I respectfully ask the Hearings Officer to clarify exactly what is meant by a permit being voided, and order a Supplemental EIS be completed prior to commencement of the Contested Case hearings. I also strongly recommend the Hearings Officer consider suspending the proceedings until such time as the unresolved issues of cultural and religious practice and the regulation and adoption of policies by the Office of Mauna Kea Management (OMKM) and Kahu Ku Mauna are resolved. To date these issues are still under discussion and advisement and any adoption of policies and regulations would directly impact our cultural and religious practices as the proposed TMT site would be included in these regulations.

DATED: October 16, 2016
Waikoloa, Hawai'i, Moku o Keawe

Signature: 
J. Leina'ala Sleightholm

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

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,
Hāmakua, Hawai'i, TMK (3) 4-4-015:009

BLNR Contested Case HA-16-02
Document title:
Minute Order 34

CERTIFICATE OF SERVICE

The undersigned hereby certifies that Minute Order 34 was served upon the following parties by the means indicated on October 12, 2016:

Carlsmith Ball LLP
isandison@carlsmith.com
tluikwan@carlsmith.com
jpm@carlsmith.com
lmcaneoley@carlsmith.com
*Counsels for the applicant University
of Hawai'i at Hilo*

Richard N. Wurdeman
RNWurdeman@RNWLaw.com

Law Offices of Yukli Alulu
yuklin@kailualaw.com
cdex@hotmail.com
Counsel for Kahea

Kealoha Pisciotta and Mauna Kea
Anaina Hou
keomaivg@gmail.com

Clarence Kukauakahi Ching
kahlwaL@cs.com

E. Kalani Flores
ekflores@hawaiiintel.net

B. Pualani Case
puacase@hawaiiintel.net

Deborah J. Ward
cordylinicolor@gmail.com

Paul K. Neves
kealiikea@yahoo.com

Kahea: The Environmental Alliance
bianca@kahea.org

Watanabe Ing LLP
rshinyama@wik.com
douging@wik.com
*Counsels for TMT International
Observatory, LLC*

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

Mehana Kihoi
uhiwai@live.com

C. M. Kaho'okahi Kanuha
kahookahi@gmail.com

Joseph Kualii Lindsey Camara
kualiiic@hotmail.com

Torkildson, Katz, Moore, Hetherington
& Harris
isa@torkildson.com
njc@torkildson.com
*Counsels for Perpetuating Unique
Educational Opportunities (PUEO)*

J. Leina'ala Sleightholm
leinaala.mauna@gmail.com

Maelani Lee
maelanilee@yahoo.com

Lanny Alan Sinkin
lanny.sinkin@gmail.com
Representative for The Temple of Lono

Kalikolehua Kanaele
akulele@yahoo.com

Stephanie-Malia:Tabbada
s.tabbada@hawaiiintel.net

Tiffnie Kakalia
tiffniekakalia@gmail.com

Glen Kila
makakila@gmail.com

Dwight J. Vicente
2608 Ainaola Drive
Hilo, Hawaiian Kingdom

Brannon Kamahana Kealoha
brannonk@hawaii.edu

Cindy Freitas
hanahanai@hawaii.rr.com

William Freitas
pohaku7@yahoo.com

Wilma H. Holii
P. O. Box 368
Hanapepe, HI 96716
Witness for the Hearing Officer

Moses Kealamakia Jr.
mkealama@yahoo.com
Witness for the Hearing Officer

Patricia P. Ikeda
peheakeanila@gmail.com
Witness for the Hearing Officer

10/14/16

J. Leina'ala Sleightholm