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**PETITIONERS' RESPONSE TO UNIVERSITY'S STATEMENT OF POSITION RE
SCHEDULING DOCUMENT 370**

Petitioners MAUNA KEA ANAINA HOU (“MKAH”), KEALOHA PISCIOTTA (“PISCIOTTA”), DEBORAH J. WARD (WARD), CLARENCE KUKAUKAHI CHIING (“CHING”) and PAUL K. NEVES (“NEVES”) (hereafter referred to as “Petitioners”) submit this Response to the University’s Statement of Position (Document 369)

INTRODUCTION

We find the University’s motion [Doc 370] perplexing. Given all the time and energy spent by University in blaming Mr. Wurdeman for trying to delay, disrupt, and taint the proceedings, now comes the University wanting a continuance and delay of proceedings and all, apparently, in the spirit of concern for the other parties.

BACKGROUND

On October 3, 2016, a Prehearing conference was held at the Naniloa Crown Room, the University came forward with a proposed schedule with the dates for the Contested Case Hearing to start – Pre Hearing Conference Oct 17, 2016 from 10am – 1pm, / CCH commencing on Oct 18 throughout the month of October 2016. Due dates for the WDT, exhibits, responses, witness lists, etc. were submitted by the University as well. No agreement was sought with the Pro Se parties, and the Hearing Officer (HO) orally adopted these dates for the Contested Case Hearing.

DISCUSSION

The University claims in their motion (Doc 370) “Due process affords the petitioners and intervenors to this case the right to notice and an opportunity to be heard; it does not guarantee them the right to be heard on the dates of their choice.”

University is wrong on the law, first because Mr. Wurdeman objected based on his upcoming schedule (submitted September 8, 2016). Most, if not all, of the Pro Se petitioners asked for more time also. Second, the Supreme Court in *Mauna Kea Anaina Hou et al...* held that due process included not only the right to be heard but the right to be heard in “a meaningful time and in a meaningful manner.” Sandy Beach Def. Fund v. City and County of Honolulu, 70 Haw. 361, 378, 773 P.2d 250, 261 (1989).

Neither TIO or P.U.E.O objected to the University's scheduling. Now after unjustly accusing Mr. Wurdeman for attempting to delay and taint this process, the University

now seems in just a single day to be changing its story, claiming to have concerns for the other parties and their due process rights. This seems disingenuous at best.

SUBSTANTIVE MOTIONS

The University has listed as suggestion in a curious footnote on page 2 ...”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.” We object to this suggestion. According to HRS 91-9 (c), Opportunities shall be afforded all parties to present evidence and argument on ALL (emphasis added) issues involved.

CONCLUSION

Taking into account the whole record, the fact our legal counsel was forced to withdraw due to scheduling conflicts, and considering all of the Parties have been forced to get their hearing information filed despite numerous requests for additional time, we believe the University's motion requesting a continuance and request to stop the submission of motions at this stage biases all of the Pro Se parties and should be denied.

DATED: October 16, 2016

/s/ Kealoha Pisciotta individually as President, Mauna Kea Anaina Hou

/s/ Clarence Kukauakhi Ching

/s/ Deborah J. Ward

/s/ Paul K. Neves

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

In the Matter of:) Case No. BLNR-CC-16-002
)
A Contested Case Hearing Re:) **CERTIFICATE OF SERVICE**
Conservation District Use Permit)
(COUP) HA-3568 for 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

We hereby certify that on October 16, 2016, a copy of the foregoing was served on the following via email unless otherwise specified below:

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