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BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

IN THE MATTER OF) Case No. BLNR-CC-16-002
)
) Opening brief Re: Contested
A Contested Case Hearing Re) case hearing/evidentiary hearing
Conservation District Use Permit) set for Oct.18,2016
(CDUP) HA-3568 for the Thirty)
Meter Telescope at the Mauna)
Science Reserve, Kaohe, Mauka,)
Hamakua District, Island of Hawaii) Hearings Officer: Riki M. Amano

OPENING BRIEF RE: CONTESTED CASE HEARING/EVIDENTIARY HEARING SET FOR OCT.18, 2016

Now comes Harry Fergerstrom with his opening brief for the
evidentiary hearing starting on Oct.18, 2016.

I do not believe that such a hearing can take place at this time
due to unforeseen unintended consequences base on the mailing
schedule of myself. I have not been given the proper considerations
in the planning of this ridiculous schedule proposed by PUEO/UH/and
this hearings officer. I maintain that I have the same rights as other

parties to be heard and considered before any further Minute Orders may be granted.

I fully intend to express in detail the conflicts and unintended consequences that having had to rely on mailed copies and reserving all rights to fully participate in this prehearing and subsequent evidentiary hearing with all rights reserved to exercise DUE PROCESS RIGHTS.

I would also like to take the time to express my strongest opposition to this atmosphere of complete intimidation created by this Hearing Officer employing not less than 5 and up to 7 fully armed DLNR enforcement officers that have been present since the very first day at the YMCA in Hilo, which by the way, refused to allow us the room to further these proceedings due to the fact that it was inappropriate to have DLNR officers present with guns apparent at YMCA building where there were school children present. This intimidation continues to this day with extra intimidation expressed with the gathering to protect the hearings officer when ever she calls for a break or end the hearing for the day. There certainly had never been an incident that calls for such drama, nevertheless...this intimidation continues.

I have never experienced such a level of incompetency projected by this hearing office. I have never encountered such arrogance and rudeness that is the MO of this hearing officer continues to display. Case in point is her last jack ass move, but literally adjourning the hearing in the middle of my sentence and walking out of the hearing. Not funny....quite embarrassing for both myself and for the integrity of these hearing. Even the manner in which Mehana Kehoi was treated when she sought clarity on when she was allowed to resubmit her motion to reconsider her opposition to PUEO. The HO was quite rude stating repeatedly to ms Kehoi that she has to simply follow directs of the minute order that the HO nor her Staff were able to point out which of the 36 minute orders she was referring too.

Then there was this very unprofessional attack on Mr Werderman, counsel for the existing parties, and the same counsel that WON in the SUPREME COURT the REMAND back to the DLNR. What kinda crap is that. This of course left the existing parties he was representing without HIS counsel just days before the evidentiary hearing about to began. I have never seen such a vicious attack on a professional by professionals on such simple

understanding of other people's prior commitments, and this HO refusal to consider and adjust the schedule to accomidate counsel as is done all the time in a professional atmosphere.

Now on to the subject matter at hand. I am Harry Fergerstrom, I am the spokesperson for Na Kupuna Moku O Keawe, an organization of Kupuna from all six major districts of the island of Hawaii, I am also a pre-contact religious leader of the Temple o Lono directly trained intensively by Kahuna Sam Lono, I am also a Hiapo Na Koa O Puu Kohola Heiau, translated: First born Warriior from the Temple on the Mound of the Whale, I an also part of Na Kali Waa Moku OKeawe, order of canoe builders) with direct training from Mau Pialug.

During my teen years I spent a large amount of time on Mauna Kea with my father who worked fro DLNR making all the hunter roads/building of cabins/wateranks/planting of fruit tress around the mid section of Mauna Kea also known as hunting area A. During this time I had no knowledge of a pre-contact Hawaiian Religion, nor about the Kingdom of my ancestors.

My interest in Mauna Kea is greatest when we are comes to the realm of Ke Akua and what that means historically, Traditionally,

Culturally and most importantly what it means to our Religion. Of course the area I describe is approx.. from Hale Pohaku through the entire summit with emphasis on the area called the astronomy precinct. History is very clear Mauna Kea is a traditional property of essential spiritual and religious importance. That history speaks of Mauna Kea's summit to be Kapu, with very deep restrictions on who is allowed to go there. This also may help people understand why the summit is not in the Ahupuaa of Hamakua and certainly not in the imaginary Ahupuaa of Kaohe Mauka.

There are certain responsibilities that are inherent with pre-contact Religious understanding. The area known as the Northwest plateau is the last place in the summit not yet developed where we as practitioners may find that sacred ambience where we are able to communicate with our ancestors. For myself, my Kuleana is this area. There are many sacred features on this plateau that does not necessarily appear to the untrained eye, that have ESSENTIAL FOUNDATIONAL application to the Hawaiian Culture that cannot be touched to threaten by the presence of man.

There is great diversion of information that my witnesses will attest to. One side is Michael Lee, a Kahuna Papa Kilo Hoku, star priest..... purely Spiritual / Religious practices complete with deep referenced authorities. You'll be able to see how one cannot separate the Hawaiian Culture from Religion and the versa...you cannot separate the religion from the culture. My other witness is professor Willianson Chang from the Richardson Scholl of Law, University of Hawaii will present

a very technical and funtamental law presentation clarifying why the State of Hawaii Does not own or have title to the summit of Mauna Kea. This information is a vital component of Title serarch, who has it, and by what authority.

I reserve all rights to resource I find necessary to present as this contested case evolves.

Dated this day: 10-16-2016

Harry Fergerstrom