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BOARD OF LAND AND NATURAL RESOURCES
FOR THE 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, Hāmakua,
Hawai'i, TMK (3) 4-4-015:009

Case No. BLNR-CC-16-002

TMT INTERNATIONAL
OBSERVATORY, LLC'S MOTION TO
ADMIT EXHIBITS AND WRITTEN
DIRECT TESTIMONY INTO EVIDENCE;
MEMORANDUM IN SUPPORT OF
MOTION; CERTIFICATE OF SERVICE

**TMT INTERNATIONAL OBSERVATORY, LLC'S MOTION TO ADMIT
EXHIBITS AND WRITTEN DIRECT TESTIMONY INTO EVIDENCE**

TMT International Observatory, LLC ("TIO"), by and through its counsel Watanabe Ing, LLP, hereby submits its Motion to Admit Exhibits and Written Direct Testimony Into Evidence ("Motion"). This motion is made pursuant to Hawai'i Administrative Rules ("HAR") §§ 13-1-32, 34, and 35.

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DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

DATED: Honolulu, Hawai'i, January 23, 2017.

A handwritten signature in black ink, appearing to read "J. Douglas Ing", written over a horizontal line.

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MEMORANDUM IN SUPPORT OF
MOTION

MEMORANDUM IN SUPPORT OF MOTION

On January 5, 2017, TMT International Observatory, LLC (“TIO”) rested its case in the above entitled matter. TIO now moves to admit into evidence the written direct testimony (“WDT”) of its witnesses and the exhibits introduced therein during the contested case hearing. The proposed evidence is in accordance with Hawai'i Revised Statutes (“HRS”) § 91-10 governing the admissibility of evidence in agency proceedings:

Except as provided in section 91-8.5, *any oral or documentary evidence may be received*, but every agency shall as a matter of policy provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence and no sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative, and substantial evidence. The agencies shall give effect to the rules of privilege recognized by law[.]

HRS § 91-10(i) (emphasis added); *see also* TMT International Observatory, LLC's Hearing Memorandum Re: Standard for Admissibility of Evidence, filed on October 19, 2016 [Doc. 394], and TMT International Observatory, LLC's Supplemental Hearing Memorandum Re: Standard for Admissibility of Evidence, filed on October 27, 2016 [Doc. 405], which are hereby incorporated by reference. The evidence presented by TIO is relevant, material, and is not

privileged or unduly repetitious, and is therefore admissible under the liberal standard of the admissibility of evidence in administrative hearings. Therefore, pursuant to HRS § 91-10, TIO moves to admit into the record the following testimony and documentary evidence:

WRITTEN DIRECT TESTIMONY

Ex. No.	Description
C-1	Testimony of Ed Stone
C-2 (including errata)	Testimony of Gary Sanders
C-6	Testimony of David M. Callies
C-8	Testimony of Dr. Heather Kaluna
C-9	Testimony of Naea Stevens
C-11	Testimony of Robert B. Rechtman
C-17	Testimony of Paul Coleman

EXHIBITS

Ex. No.	Description
C-3	Graphic showing Mitigation Measures Reduce Size and Visibility of TMT
C-12	Thirty Meter Telescope Archaeological Report, prepared by Genevieve Glennon and Robert Rechtman (October 2013)
C-13	Letter to Robert Rechtman from DLNR Historic Preservation Division, approving TMT Archaeological Report (December 16, 2013)
C-14	Thirty Meter Telescope Monitoring Report re: Groundbreaking prepared by Samuel Plunket and Robert Rechtman (September 2014)
C-15	Field Reconnaissance of TMT Development Site
C-16	Updated Field Reconnaissance of TMT Development Site

Ex. No.	Description
C-18	Aerial Graphic showing distances from cultural practice areas to proposed TMT Observatory
C-19	Aerial Graphic showing that TMT does not block/impinge on view of Haleakala from Poli'ahu
C-23	Graphic of Size Comparison Chart of TMT with other Telescopes
C-35	Mauna Kea Summit aerial photograph
C-36	Mauna Kea Summit USGS Map
C-37	Map of Honokohau Harbor Area
C-38	8/22/2014 Letter to William Aila (DLNR) from Bob Rechtman
C-39	TMT International Observatory, LLC Initial Decommissioning Funding Plan (April 2014)
C-40	<u>Kilakila 'O Haleakala v. Board of Land and Natural Resources, et al.</u> , 138 Hawaii 383, 382 P.3d 195 (2016) (Opinion of Court by Recktenwald, C.J.).

Moreover, TIO reserves the right to supplement this motion based on additional evidence introduced during cross-examination and/or rebuttal.

Based on the foregoing, TIO respectfully requests that the Hearing Officer grant this Motion.

DATED: Honolulu, Hawai'i, January 23, 2017.



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BLNR Contested Case HA-16-002

CERTIFICATE OF SERVICE

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The undersigned hereby certifies that the attached document was served upon the following parties by the means indicated:

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