

Administrator, Office Of Conservation and Coastal Lands, DLNR, State of Hawaii (“Motion to Quash”) (Doc. No. 444), were heard in Hilo, Hawai’i, at the Grand Naniloa Hotel, Crown Room, 93 Banyan Drive.

The following persons were present at the hearing on January 26, 2017:

John Manaut, Esq. and Ian Sandison, Esq.; Attorneys for the University of Hawaii-Hilo (“UHH”)
Ross Shinyama, Esq. and Brian Kang, Esq., Attorneys for TMT International Observatory, LLC (“TIO”)
Kealoha Pisciotta for herself, Mauna Kea Ainaina Hou and Paul K. Neves
Deborah J. Ward
Clarence Kukauakahi Ching
Pualani Case for the Flores-Case `Ohana
Dexter Kaiama, Esq. for KAHEA: The Hawaiian Environmental Alliance, a Domestic Non-Profit Corporation
Harry Fergerstrom
Mehana Kihoi
Lincoln Ashida, Esq.; Attorney for Perpetuating Unique Educational Opportunities, Inc. (“P.U.E.O.”)
Lanny Sinkin for Temple of Lono
Kalikolehua Kanaele
Tiffnie Kakalia
Dwight Vicente
Cindy Freitas
William Freitas

The following persons were present at the hearing on January 30, 2017:

Tim Lui-Kwan, Esq. and Ian Sandison, Esq.; Attorneys for the University of Hawaii-Hilo (“UHH”)
Ross Shinyama, Esq., Attorney for TMT International Observatory, LLC (“TIO”)
Kealoha Pisciotta for herself, Mauna Kea Ainaina Hou and Paul K. Neves
Deborah J. Ward
Clarence Kukauakahi Ching
E. Kalani Flores and Pualani Case for the Flores-Case `Ohana
Yuklin Aluli, Esq. for KAHEA: The Hawaiian Environmental Alliance, a Domestic Non-Profit Corporation
Harry Fergerstrom
Mehana Kihoi
Newton Chu, Esq.; Attorney for Perpetuating Unique Educational Opportunities, Inc. (“P.U.E.O.”)
Lanny Sinkin for Temple of Lono
Kalikolehua Kanaele

Dwight Vicente
Cindy Freitas
William Freitas

Based upon the Request, all related submissions and oral arguments from counsels and/or parties, all applicable law, and the entire record, the Hearing Officer finds that Samuel Lemmo's appearance as a witness is material and relevant to this contested case hearing. Mr. Lemmo is the Administrator for the Office of Conservation and Coastal Lands ("OCCL"). Specifically, Mr. Lemmo's attendance as a witness is required for the purpose of taking oral testimony relating to Exhibit R-7, the OCCL Staff Report dated February 25, 2011, regarding Conservation District Use Application HA: 3568 for the Thirty Meter Telescope; and any other matters deemed material and relevant by the Hearing Officer.

HAR §13-1-31 (1) is the legal support for the issuance of the subpoena:

Requests for the issuance of subpoenas, requiring the attendance of a witness for the purpose of taking oral testimony before board shall be in writing, and shall state the reasons why the testimony of the witness is believed to be material and relevant to the issues involved.

The Hearing Officer will issue the subpoena for Mr. Lemmo's appearance upon presentation of the subpoena by the Flores-Case `Ohana. The subpoena shall comply with HAR §13-1-31 (2):

Subpoenas may be issued by the presiding officer. No subpoena shall be issued unless the party requesting the subpoena has complied with this section giving the name and address of the desired witness and tendering the proper witness and mileage fees. Signed and sealed blank subpoenas shall not be issued to anyone. The name of the address of the witness shall be inserted in the original subpoena, a copy of which shall be filed in the proceeding. Subpoenas shall state at whose request the subpoena is issued. Requests for subpoenas shall be filed not later than three business days before the scheduled hearing.

Prepayment of the requisite fees shall include the cost of airfare and ground transportation.

IT IS HEREBY ORDERED that the Request is GRANTED and the UH Motion is DENIED.

DATED: Hilo, Hawai`i, February 17, 2017.



Judge Riki May Amano (Ret.)
Hearing Officer

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

BLNR Contested Case HA-16-02
Document title: **Minute Order 42**: Order
granting Flores-Case Ohana's request for
subpoena for Samuel Lemmo, and denying the
University of Hawaii at Hilo's motion to quash
Flores-Case Ohana's request for Samuel Lemmo

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced document was served upon the following parties by the means indicated on February 17, 2017:

Michael Cain
dlnr.maunakea@hawaii.gov
Custodian of the Records

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

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

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

Clarence Kukauakahi Ching
kahiwal@cs.com

E. Kalani Flores
ekflores@hawaiiantel.net

B. Pualani Case
puacase@hawaiiantel.net

Deborah J. Ward
cordylinecolor@gmail.com

Paul K. Neves
kealiikea@yahoo.com

Watanabe Ing LLP
First Hawaiian Center, Suite 1250
999 Bishop Street
Honolulu, HI 96813
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.kukiaimauna@gmail.com

Joseph Kualii Lindsey Camara
kualiiic@hotmail.com

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

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

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

Kalikolehua Kanaele
akulele@yahoo.com

Stephanie-Malia:Tabbada
s.tabbada@hawaiiantel.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. Holi
w_holi@hotmail.com
copy: lehina@hawaii.rr.com
Witness for the Hearing Officer

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

Signature: 
Name: Michael Cain, Custodian of the Records
Date: Feb 17 2017