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WATANABE ING LLP
A Limited Liability Law Partnership

J. DOUGLAS ING #1538-0
BRIAN A. KANG #6495-0
ROSS T. SHINYAMA #8830-0
SUMMER H. KAI AWE #9599-0

First Hawaiian Center
999 Bishop Street, 23rd Floor
Honolulu, Hawaii 96813
Telephone No.: (808) 544-8300
Facsimile No.: (808) 544-8399
E-mails: rshinyama@wik.com

Attorneys for
TMT INTERNATIONAL OBSERVATORY, LLC

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

Case No. BLNR-CC-16-002

**TMT INTERNATIONAL OBSERVATORY,
LLC'S MEMORANDUM IN OPPOSITION
TO MOTIONS TO ADMIT EXHIBITS AND
WRITTEN DIRECT TESTIMONIES;
CERTIFICATE OF SERVICE**

**TMT INTERNATIONAL OBSERVATORY, LLC'S MEMORANDUM IN OPPOSITION
TO MOTIONS TO ADMIT EXHIBITS AND WRITTEN DIRECT TESTIMONIES**

TMT International Observatory, LLC ("TIO"), by and through its undersigned counsel,
hereby submits its Memorandum in Opposition to Motions to Admit Exhibits and Written Direct
Testimonies ("Opposition"). TIO asserts general objections to the Motions¹ and also asserts

¹ The term "Motions" as used herein shall collectively refer to the following motions (as identified by their document numbers in the Documents Library) filed by the following respective parties: KAHEA (Doc. Nos. 472, 486, and 505); Clarence Ching (Doc. Nos. 488 and 497); Deborah Ward (Doc. Nos. 483 and 507); Flores/Case Ohana (Doc. Nos. 487 and 500);

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objections to specific exhibits, documents, and direct testimonies as identified infra. This Opposition is made pursuant to Hawai'i Administrative Rules ("HAR") §§ 13-1-32, 34, and 35.

I. Legal Standard

For the convenience of the Hearings Officer, TIO repeats the legal standard applicable to the Motions.² "The rules of evidence governing administrative hearings are considerably more relaxed than those governing judicial proceedings. This is due in part [because of] the absence of a jury." Price v. Zoning Bd. of Appeals, 77 Hawaii 168, 176 n.8, 883 P.2d 629, 637 n. 8 (1994) (emphasis added) (citing 4 J. Stein, G. Mitchell & B. Mezines, Administrative Law § 22.01 (1994)). Hawai'i Revised Statutes ("HRS") § 91-10 provides that administrative agencies conducting contested case hearings have substantial latitude to receive "any" evidence, subject only to statements made in conjunction with settlement discussions, agency rules for the exclusion of irrelevant and unduly repetitious evidence, and the recognized rules of privilege:

Except as provided in section 91-8.5 [relating to mediation statement and settlement offers], 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.

Mauna Kea Anaina Hou ("MKAH"), Kealoha Pisciotto, and Paul Neves (Doc. Nos. 482 and 509); Harry Fergerstrom (Doc. No. 494); Mehana Kihoi (Doc. No. 502); Joseph Kualii Lindsey Camara (Doc. No. 495); Jennifer Leina'ala Sleightholm (Doc. No. 504); Temple of Lono (Doc. Nos. 463 and 491); Kalikolehua Kanaele (Doc. No. 499); Tiffnie Kakalia (Doc. No. 503); Dwight Vicente (Doc. No. 498); Cindy Freitas (Doc. Nos. 481 and 492); and William Freitas (Doc. Nos. 493 and 501).

² See also TMT International Observatory, LL's Hearing Memorandum Re: Standard for Admissibility of Evidence, filed October 19, 2016 [Doc. No. 394]; TMT International Observatory, LLC's Supplemental Hearing Memorandum Re: Standard for Admissibility of Evidence, filed October 27, 2016 [Doc. No. 405].

Haw. Rev. Stat. § 91-10(1) (emphasis added).

The administrative rules governing procedure before the Board of Land and Natural Resources (“BLNR”) also broadly provide that the presiding officer in a contested case hearing “may exercise discretion in the admission or rejection of evidence and the exclusion of immaterial, irrelevant, or unduly repetitious evidence as provided by law with a view of doing substantial justice.” HAR § 13-1-35.

II. General Statement and Objections

It is under this “considerably relaxed” standard that TIO submits its Opposition. See supra. However, by not objecting to the admission of a particular exhibit or written direct testimony, TIO is not waiving and instead hereby expressly reserves its right to later argue in connection with the proposed Findings of Fact and Conclusions of Law (“FOFs and COLs”) that any such exhibit or written direct testimony is irrelevant, immaterial, not credible, or should otherwise not be considered by the Hearings Officer.

TIO also generally objects to the Motions to the extent they seek the admission of evidence that (1) does not meet the admissibility standard of HRS § 91-10(1); (2) is immaterial, irrelevant or unduly repetitious; (3) was not introduced or referred to by any witness during the testimony phase of the Contested Case Hearing (“CCH”) that closed on March 2, 2017; (4) was submitted by the parties after the close of the testimony phase of the CCH on March 2, 2017; (5) outside the scope of issues identified in Minute Order No. 19, dated September 26, 2016 [Doc. No. 281]; and (6) are the legal arguments of the parties or counsel and thus not evidence. TIO also objects to any exhibits that may have been filed with the BLNR as part of this CCH, but that the parties did not specifically move into evidence through any of the Motions. TIO reserves its

right to later assert these general objections to specific exhibits as transcripts become available and in connection with the FOFs and COLs.

III. Specific Objections

TIO hereby objects to the following exhibits, documents, and direct testimonies that the parties seek to admit into evidence in their respective Motions:

1. KAHEA [Doc. Nos. 472, 486, and 505]

Date	Exhibit No.	Description	Objection
N/A	B.03n	(VACANT – DELETE THIS LINE?)	No exhibit.
3/2/2017	B.80	Response of Marti Townsend on February 14, 2017 to the Environment Hawaii blog “In TMT Hearing, Sierra Club Director Makes Several Dubious Assertions” published February 3, 2017	Untimely. Ms. Townsend testified on January 10. KAHEA did not identify or produce Exhibit B.80 until March 2, 2017. TIO did not have the opportunity to cross-examine Ms. Townsend on Exhibit B.80. Impermissible rebuttal testimony.

2. Clarence Ching [Doc. Nos. 488 and 497]

Date	Exhibit No.	Description	Objection
3/8/17	B.19i	Flora of Mauna Kea	Untimely. Mr. Ching did not identify or produce Exhibit B.19i until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.19j	IUCN Indigenous Membership Category	Untimely. Mr. Ching did not identify or produce Exhibit B.19j until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.

3. Deborah Ward [Doc. Nos. 483 and 507]

Date	Exhibit No.	Description	Objection
3/9/17	B.17ap	Lake Waiau water volume December 2013 from OMKM orientation	Untimely. Ms. Ward did not identify Exhibit B.17ap until March 9, 2017, after the close of the testimony portion of the CCH on March 2, 2017. She also has not produced a copy of Exhibit B.17ap as of March 16, 2017.
3/9/17	B.17aq	Lake Waiau water volume Nov 2014 from OMKM orientation	Untimely. Ms. Ward did not identify Exhibit B.17aq until March 9, 2017, after the close of the testimony portion of the CCH on March 2, 2017. She also has not produced a copy of Exhibit B.17aq as of March 16, 2017.
3/9/17	B.17ar	Density of historic properties related to intensity of search from OMKM orientation	Untimely. Ms. Ward did not identify Exhibit B.17ar until March 9, 2017, after the close of the testimony portion of the CCH on March 2, 2017. She also has not produced a copy of Exhibit B.17ar as of March 16, 2017.

4. Flores/Case Ohana [Doc. Nos. 487 and 500]

Date	Exhibit No.	Description	Objection
3/8/17	B.14	Pualani Kanahele transcript	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.14 until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017. Exhibit B.14 is essentially direct testimony from Ms. Kanahele. TIO did not have the opportunity to cross-examine Ms. Kanahele.
3/8/17	B.26	Hawaii County General Plan 2005	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.26 until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.27	Webpage	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.27 until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.81a	OMKM Hawaiian Culture	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.81a until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.81b	OMKM Historic Properties	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.81b until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.

3/8/17	B.81c	OMKM CMP Policies	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.81c until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.81d	OMKM CMP	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.81d until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.81e	OMKM MKSR Master Plan	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.81e until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.82a	Hawaiian Protocol	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.82a until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.82b	Our Sacred Mountain	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.82b until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.83	Imiloa-Cultural Significance	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.83 until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.

3/8/17	B.84	Astronomy Workforce Report	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.84 until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.85a	HIEDB board	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.85a until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.85b	HIEDB 2008 990	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.85b until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.85c	HIEDB 2009 990	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.85c until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.85d	HIEDB 2010 990	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.85d until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.

3/8/17	B.85e	HIEDB 2012 990	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.85e until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.86a	TMT 2010 990	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.86a until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.86b	TMT 2011 990	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.86b until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.86c	TMT2012 990	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.86c until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	B.86d	TMT 2013 990	Untimely. Flores/Case Ohana did not identify or produce Exhibit B.86d until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.

5. MKAH, Kealoha Pisciotta, Paul Neves [Doc. Nos. 482 and 509]

MKAH, Kealoha Pisciotta, and Paul Neves filed their Motion to Admit First Supplemental Exhibit List and Written Direct Testimony into Evidence [Doc. No. 509] on March

9, 2017 (“MKAH Supplemental Motion”). In the MKAH Supplemental Motion, MKAH, Ms. Pisciotta, and Mr. Neves broadly seek to admit into evidence “[a]ll **MK Hui series B Collective Exhibits.**” Contrary to the instructions of the Hearings Officer, MKAH, Ms. Pisciotta, and Mr. Neves did not individually identify or list the specific “MK Hui series B Collective Exhibits” that they seek to admit into evidence. Consequently, the exact “MK Hui series B Collective Exhibits” that they seek to admit into evidence are unclear. On this basis alone, the MKAH Supplemental Motion should be denied insofar as it seeks to admit into evidence “[a]ll MK Hui series B Collective Exhibits.”

To the extent that this Hearings Officer is nevertheless not inclined to deny the Supplemental Motion as requested, TIO states that based on its own review of the Documents Library, it has been able to identify the following exhibits under “**MK Hui (Series B, Collective exhibits)**”: Exhibits B.15c, B.30 through B.43, and B.18C through B.18J. Subject to its general objections supra, TIO states no position as to the admissibility of the foregoing “series B Collective Exhibits.” TIO objects to any other “series B Collective Exhibits” that are not specifically identified herein by TIO and that MKAH, Ms. Pisciotta, and/or Mr. Neves may later claim were part of the “series B Collective Exhibits” that they attempted to move into evidence as part of the MKAH Supplemental Motion. TIO’s objection is based on MKAH, Ms. Pisciotta, and Mr. Neves’ failure to individually identify or list the specific “series B Collective Exhibits” that they seek to admit into evidence as part of the MKAH Supplemental Motion.

TIO also asserts the following objections to the specific exhibits and documents identified in the below table:

Date	Exhibit No.	Description	Objection
		Pre-hearing statement	Pre-hearing statement is argument, not evidence.

10/11/16	B.011	Intentionally left blank	No exhibit
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6. Harry Fergerstrom [Doc. No. 494]

Mr. Fergerstrom filed his “Motion to move all documents in evidentiary hearing submittals, identified by letter ‘D’ into evidence” [Doc. No. 494] on or about March 6, 2017 (“Fegerstrom Motion”). In the Fergerstrom Motion, Mr. Fergerstrom broadly seeks to admit into evidence all “D” exhibits. Contrary to the instructions of the Hearings Officer, Mr. Fergerstrom did not individually identify or list the specific “D” exhibits that he seeks to admit into evidence. Consequently, the exact “D” exhibits that Mr. Fergerstrom seeks to admit into evidence are unclear. On this basis alone, the Fergerstrom Motion should be denied.

To the extent that this Hearings Officer is nevertheless not inclined to deny the Fergerstrom Motion as requested, TIO states that based on its own review of the Documents Library it has been able to identify the following “D” exhibits: D-1, D-2, D-3, D-4, D-5, and D-6. Subject to its general objections supra, TIO states no position as to the admissibility of the foregoing “D” exhibits, except for Exhibit D-2. TIO’s objections to Exhibit D-2 are stated in the below table. TIO objects to any other “D” exhibits that are not specifically identified herein by TIO and that Mr. Fergerstrom may later claim were part of the “D” exhibits that he attempted to move into evidence as part of the Fergerstrom Motion. TIO’s objection is based on Mr. Fergerstrom’s failure to individually identify or list the specific “D” exhibits he seeks to admit into evidence as part of the Fergerstrom Motion.

TIO also asserts the following objections to the direct testimony identified in the below table:

Date	Exhibit No.	Description	Objection
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10/16/16	D-2	Testimony of Williamson B.C. Chang	Irrelevant and immaterial based on Minute Order No. 19. The Hearings Officer precluded Mr. Chang from testifying at the CCH because his testimony was irrelevant and immaterial as detailed in Minute Order No. 19.
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7. Mehana Kihoi [Doc. No. 502]

Date	Exhibit No.	Description	Objection
10/11/16	F-6	Written direct testimony of Jessie Kaleinohea Cleghorn	Ms. Cleghorn did not testify during the CCH. TIO did not have the opportunity to cross-examine Ms. Cleghorn.
	F-7c	Summary of Joseph Keaweaimoku Kaholokula	Ms. Kakalia and Ms. Kihoi attempted to introduce Exhibit F-7c minutes before Dr. Kaholokula's testimony on February 23, 2017. The Hearings Officer rejected the introduction of Exhibit F-7c because it was untimely as the other parties had not received it in a reasonable time prior to Dr. Kaholokula's testimony. TIO did not have the opportunity to cross-examine Dr. Kaholokula on Exhibit F-7c.
10/11/16	F-9	United States Public Law 103-150, 103d Congress Joint Resolution 19	Irrelevant and immaterial based on Minute Order No. 19.

8. C.M. Kahookahi Kanuha

Mr. Kanuha did not file a motion to admit any exhibits or direct testimony as evidence.

Consequently, none of his exhibits or direct testimony should be admitted into evidence.

9. Joseph Kualii Lindsey Camara [Doc. No. 495]

Date	Exhibit No.	Description	Objection
3/7/17	N/A	Camara amended written direct testimony	Mr. Camara did not produce his amended written direct testimony until March 7, 2017, after the close of the testimony portion of the CCH on March 2, 2017 and after he testified on March 1, 2017. TIO did not have the opportunity to cross-examine Mr. Camara on his amended written direct testimony.
10/10/2016	H-8	Leilani Lindsey Kaapuni Mookuauhau	Exhibit H-8 is essentially direct testimony from Mr. Camara's mother Leilani Lindsey-Ka'apuni. Ms. Lindsey-Ka'apuni did not testify at the CCH. TIO did not have the opportunity to cross-examine Ms. Lindsey Ka'apuni.
10/10/2016	H-9	Credentials of Luana Busby Neff and supporting documents	Ms. Neff did not testify at the CCH. TIO did not have the opportunity to cross-examine Ms. Neff.

10. Jennifer Leina'ala Sleightholm

Ms. Sleightholm filed her "Motion to Enter Pre-Hearing Statement, Witness Testimony, and Exhibits into Evidence" [Doc. No. 504] on or about March 9, 2017 ("Sleightholm Motion").

In the Sleightholm Motion, Ms. Sleightholm broadly seeks to admit into evidence her exhibits. Contrary to the instructions of the Hearings Officer, Ms. Sleightholm did not individually identify or list the specific exhibits that she seeks to admit into evidence. Consequently, the exact exhibits that Ms. Sleightholm seeks to admit into evidence are unclear. On this basis alone, the Sleightholm should be denied.

To the extent that this Hearings Officer is nevertheless not inclined to deny the Sleightholm Motion as requested, TIO states that based on its own review of the Documents Library it has been able to identify the following “J” exhibits for Ms. Sleightholm: J-1 through J-9. Subject to its general objections supra, TIO states no position as to the admissibility of the foregoing “J” exhibits. TIO objects to any other “J” exhibits that are not specifically identified herein by TIO and that Ms. Sleightholm may later claim were part of the “J” exhibits that she attempted to move in to evidence as part of the Sleightholm Motion. TIO’s objection is based on Ms. Sleightholm’s failure to individually identify or list the specific “J” exhibits she seeks to admit into evidence as part of the Sleightholm Motion.

11. Maelani Lee

Ms. Lee did not file a motion to admit any exhibits or direct testimony as evidence. Consequently, none of her exhibits or direct testimony should be admitted into evidence.

12. Temple of Lono [Doc. Nos. 163 and 491]

Date	Exhibit No.	Description	Objection
10/11/16	N/A	Pre-hearing statement	ToL’s Pre-hearing statement is argument, not evidence.

10/11/16	L1	Rubellite Kawena Johnson Declaration	Ms. Johnson did not testify at the CCH. TIO did not have the opportunity to cross-examine Ms. Johnson on her declaration.
10/11/16	L10	Imperial Plan for Hawaii: A fictional perspective	Irrelevant and immaterial. Exhibit L10 is authored by Mr. Lanny Sinkin. Though he represented ToL at the CCH, Mr. Sinkin did not testify. TIO did not have the opportunity to cross-examine Mr. Sinkin on Exhibit L10 or otherwise.
10/11/16	L12	Ke Ao Loko o Lono (The innermost knowledge of Lono)	Exhibit L12 is essentially direct testimony from Samuel Lono. TIO did not have the opportunity to cross-examine Mr. Lono. This is also not a dying declaration. Exhibit L12 is also cumulative of the testimony of Frank Nobriga.

13. Kalikolehua Kanaele [Doc. No. 499]

Subject to its general objections supra, TIO has no specific objections to the exhibits and direct testimony specifically and individually identified by Mr. Kanaele in Doc. No. 499.

14. Stephanie Malia-Tabbada

Ms. Tabbada did not file a motion to admit any exhibits or direct testimony as evidence. Consequently, none of her exhibits or direct testimony should be admitted into evidence.

15. Tiffnie Kakalia [Doc. No. 503]

Date	Exhibit No.	Description	Objection
3/9/17	O-17	Mauli Ola	Exhibit O-17 is an article purportedly authored by Dr. Kaholokula, one of Ms. Kakalia's witnesses. Exhibit O-17 was not identified or produced until March 9, 2017, after the close of the testimony portion of the CCH on March 2, 2017. Dr. Kaholokula testified on February 23, 2017. TIO did not have the opportunity to cross-examine Dr. Kaholokula on Exhibit O-17.

16. Glen Kila

Mr. Kila did not file a motion to admit any exhibits or direct testimony as evidence.

Consequently, none of his exhibits or direct testimony should be admitted into evidence.

17. Dwight Vicente [Doc. No. 498]

Date	Exhibit No.	Description	Objection
2/27/17	Q-1	Ordinance of 1987 The Northwest Territorial Government	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-2	Pre-constitutional national documents Northwest ordinance	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-3	US Constitution article IV, sec.3, clause 2	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-4	The Old Northwest in the American Revolution	Immaterial and irrelevant based on Minute Order No. 19.

2/27/17	Q-5	September 19, 1820 Appointment of Mr. John C. Jones	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-6	Treaty of Reciprocity 1875	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-7	Treaty of Annexation	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-8	Liliuokalani v. US	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-9	Constitutional Convention of Hawaii 1950	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-10	Sec. 171-2 Definition of Public Lands	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-12	Hawaii's Ceded Lands	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-14	Homestead act of 1884	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-15	Lottery law	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-16	Blount's Report May 31, 1893	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-17	Proclamation	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-18	The Hawaiian Republic (1894-98)	Immaterial and irrelevant based on Minute Order No. 19.
2/27/17	Q-19	Emperor plays defense on Japan's Constitution	Immaterial and irrelevant based on Minute Order No. 19.

18. Brannon Kamahana Kealoha

Mr. Kealoha did not file a motion to admit any exhibits or direct testimony into evidence.

Consequently, none of his exhibits or direct testimony should be admitted into evidence.

19. Cindy Freitas [Doc. Nos. 481 and 492]

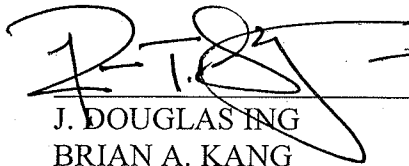
Date	Exhibit No.	Description	Objection
2/12/17	S-18o	Photograph (found in link for Seventh Exhibit List)	No objection to the photograph itself. However, TIO objects to the comment inserted in Exhibit S-18o as it lacks foundation and calls for speculation.
3/4/17	S-18L1	Hydrologic and Ecologic Inventories of the Coast Water of West Hawaii	Untimely. Mrs. Freitas did not identify or produce Exhibit S-18L1 until March 4, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
2/28/17	S-28d1	Janet M. Dellaria of Trout Creek, Michigan, Experience on Mauna Kea (found in link for Tenth Exhibit List)	Exhibit S-28d1 is essentially direct testimony from Ms. Dellaria. TIO did not have the opportunity to cross-examine Ms. Dellaria.
	S-18b1	Geology and Ground-water Resources of the Island of Hawaii	Cannot find exhibit in Documents Library and therefore unable to confirm if exhibit is what it is described to be.
	S-18b2	The Geology and Petrology of Mauna Kea Volcano, Hawaii	Cannot find exhibit in Documents Library and therefore unable to confirm if exhibit is what it is described to be.
	S-28e	CMP Fact Sheet	Cannot find exhibit in Documents Library and therefore unable to confirm if exhibit is what it is

			described to be.
	S-29	Site Visit Proposal	Cannot find exhibit in Documents Library and therefore unable to confirm if exhibit is what it is described to be.
	S-29a	Motion to amend Doc 274 Site to include request in Doc 220	Cannot find exhibit in Documents Library and therefore unable to confirm if exhibit is what it is described to be.
	S-29b	Objection to September 26, 2016 Site Visit on Mauna Kea	Cannot find exhibit in Documents Library and therefore unable to confirm if exhibit is what it is described to be.
	S-30	HRS 13-5-30(c)	Cannot find exhibit in Documents Library and therefore unable to confirm if exhibit is what it is described to be.
	S-30a	HRS 711-1107 Desecration	Cannot find exhibit in Documents Library and therefore unable to confirm if exhibit is what it is described to be.
	S-31	CMP page 7-56	Cannot find exhibit in Documents Library and therefore unable to confirm if exhibit is what it is described to be.
	S-31a	CMP page 2-3	Cannot find exhibit in Documents Library and therefore unable to confirm if exhibit is what it is described to be.
	S-31b	Appendix B. TMT Management Plan	Cannot find exhibit in Documents Library and therefore unable to confirm if exhibit is what it is described to be.
	S-31c	Master Plan Design Guidelines page (11) XI-4	Cannot find exhibit in Documents Library and therefore unable to confirm if exhibit is what it is described to be.

20. William Freitas [Doc. Nos. 493 and 501]

Date	Exhibit No.	Description	Objection
3/5/17	T-3.k	Request to access a government record	Untimely. Mr. Freitas did not identify or produce Exhibit T-3.k until March 5, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/5/17	T-3.ka	Video: ImG_5297 Copy	Untimely. Mr. Freitas did not identify or produce Exhibit T-3.ka until March 5, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	T-3.k2	Request to access a government record	Untimely. Mr. Freitas did not identify or produce Exhibit T-3.k2 until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.
3/8/17	T-3.k3	Pictures of desecration to Hale Ku Kia'i Mauna	Untimely. Mr. Freitas did not identify or produce Exhibit T-3.k3 until March 8, 2017, after the close of the testimony portion of the CCH on March 2, 2017.

DATED: Honolulu, Hawai'i, March 16, 2017.



J. DOUGLAS ING
 BRIAN A. KANG
 ROSS T. SHINYAMA
 SUMMER H. KAIWE
**Attorneys for TMT INTERNATIONAL
 OBSERVATORY LLC**

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

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-16-002

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

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

Michael Cain
Office of Conservation and Coastal
Lands
1151 Punchbowl, Room 131
Honolulu, HI 96813
Dlnr.maunakea@hawaii.gov
Custodian of the Records
(ORIGINAL + DIGITAL COPY)

Office of Conservation and
Coastal Lands
dlnr.maunakea@hawaii.gov

Mehana Kihoi
PO Box 393
Honaunau, HI 96726
uhiwai@live.com

Harry Fergerstrom
P.O. Box 951
Kurtistown, HI 96760
hankhawaiian@yahoo.com
(via email & U.S. mail)

C. M. Kaho'okahi Kanuha
77-6504 Maile St
Kailua Kona, HI 96740
Kahookahi.kukiaimauna@gmail.com

Carlsmith Ball LLP
Ian Sandison, Tim Lui-Kwan, John
P. Manaut, Lindsay N. McAneeley
1001 Bishop Street
ASB Tower, Suite 2200
Honolulu, HI 96813
isandison@carlsmith.com
tluikwan@carlsmith.com
jpm@carlsmith.com
lmcaneley@carlsmith.com
*Counsel for the Applicant University
of Hawai'i at Hilo*

Lanny Alan Sinkin
P. O. Box 944
Hilo, HI 96721
lanny.sinkin@gmail.com
*Representative for The Temple of
Lono*

Maelani Lee
PO Box 1054
Waianae, HI 96792
maelanilee@yahoo.com

J. Leina'ala Sleightholm
P.O. Box 383035
Waikoloa, HI 96738
leinaala.mauna@gmail.com

Kalikolehua Kanaele
4 Spring Street
Hilo, HI 96720
akulele@yahoo.com

Torkildson, Katz, Moore,
Hetherington & Harris
Attn: Lincoln S. T. Ashida
120 Pauahi Street, Suite 312
Hilo, HI 96720-3084
lsa@torkildson.com
njc@torkildson.com
*Counsel for Perpetuating Unique
Educational Opportunities (PUEO)*

Dwight J. Vicente
2608 Ainaola Drive
Hilo, Hawaiian Kingdom
[dwightjvicente@gmail.com](mailto:dwrightjvicente@gmail.com)
(via email & U.S. mail)

Stephanie-Malia:Tabbada
P O Box 194,
Naalehu, HI 96772
s.tabbada@hawaiiantel.net

Brannon Kamahana Kealoha
89-564 Mokiawe Street
Nanakuli, HI 96792
brannonk@hawaii.edu

Joseph Kualii Lindsey Camara
kualiic@hotmail.com

William Freitas
PO Box 4650
Kailua Kona, HI 96745
pohaku7@yahoo.com

Cindy Freitas
PO Box 4650
Kailua Kona, HI 96745
hanahanai@hawaii.rr.com

Wilma H. Holi
P.O. Box 368
Hanapepe, HI 96716
Witness for the Hearing Officer
w_holi@hotmail.com
lehina@hawaii.rr.com

Flores-Case 'Ohana
E. Kalani Flores
ekflores@hawaiiantel.net

Glen Kila
89-530 Mokiawe Street
Waianae, HI 96792
makakila@gmail.com

Ivy McIntosh
3popoki@gmail.com
Witness for the Hearing Officer

Tiffnie Kakalia
549 E. Kahaopea St.
Hilo, HI 96720
tiffniekakalia@gmail.com

B. Pualani Case
puacase@hawaiiantel.net

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

Paul K. Neves
kealiikea@yahoo.com

Clarence Kukauakahi Ching
kahiwaL@cs.com

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

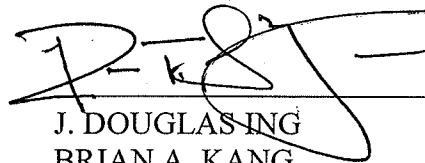
Kealoha Pisciotta and Mauna Kea
Anaina Hou
keomaivg@gmail.com

Yuklin Aluli, Esq.
415-C Uluniu Street
Kailua, Hawaii 96734
yuklin@kailualaw.com
Co-Counsel for Petitioner
KAHEA: The Hawaiian
Environmental Alliance, a domestic
non-profit Corporation

Dexter K. Kaiama, Esq.
111 Hekili Street, #A1607
Kailua, Hawaii 96734
cdexk@hotmail.com
Co-Counsel for Petitioner
KAHEA: The Hawaiian
Environmental Alliance, a domestic
non-profit Corporation

Deborah J. Ward
cordylinecolor@gmail.com

DATED: Honolulu, Hawaii, March 16, 2017.



J. DOUGLAS ING
BRIAN A. KANG
ROSS T. SHINYAMA
SUMMER H. KAIawe
**Attorneys for TMT INTERNATIONAL
OBSERVATORY LLC**