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## BOARD OF LAND AND NATURAL RESOURCES

### STATE OF HAWAII

IN THE MATTER OF ) Case No. BLNR-CC-16-002  
)  
) Motion to Reconsider(DOC 553,  
A Contested Case Hearing Re ) minute order 44);  
Conservation District Use Permit ) Recently found document not  
(CDUP) HA-3568 for the Thirty ) previously uploaded to Doc.  
Meter Telescope at the Mauna ) library, WDT(copy attached);  
Science Reserve, Kaohe, Mauka, ) Motion to upload WDT into  
Hamakua District, Island of Hawaii ) evidentiary submittals, and then  
) moved into evidence; good  
) cause showing; COS  
) Hearings Officer: Riki M. Amano

#### **MOTION TO RECONSIDER DOCUMENT (doc 553/minute order 44)**

Comes now, Harry Fergerstrom with a motion to reconsider items placed into evidence.

#### **RECENTLY FOUND DOC NOT PREVIOUSLY UPLOADED INTO THE DOCUMENT FILE BUT RECEIVED BY OCCL ON NOVEMBER 15, 2016**

While trying to find a missing link in documents filed, on Sunday April 23, 2017 while on the internet I came across a document that was filed with the OCCL (Received November 15, 2016) but apparently was never uploaded into the

Received  
Office of Conservation and Coastal Lands  
Department of Land and Natural Resources  
State of Hawaii  
2017 April 23 4:05 pm

documents library. This document is my Direct Written Testimony. I am including a copy of the document.

It is because of this error....the document was never transferred into the evidentiary submittals and therefore was not offered into evidence.

**Motion to upload the written direct testimony of Harry Fergerstrom into the evidentiary submittals then enter it into evidence.**

**GOOD CAUSE SHOWING:**

As a party to this contested case I have a responsibility to submit documents in a timely manner. I do not have any control over how these document are entered into the documents library. I have long suspected that there was a missing document but could not put my finger on to exactly what was missing. I have taken a lot of time scanning over the documents library to see where this document was.

As I have explained earlier, It was a search on the internet that somehow lead me to the discovery of this document (WDT)...it was received by the OCCL but somehow slipped between the cracks and was not put into the Document Library. Without placing any blame.....correcting the error is most important not only for the record, but for future appeals.

I also believe that because of this document not being placed in the Document Library and nor subsequently place into evidentiary submittals, had a lot to do with the frustration and confusion demonstrated during the Testimony and cross examination on January 23, 2017.

It is for the above stated reasons that I believe that the WDT of Harry Fergerstrom is an important contribution to this case and therefore the motions should be granted.

Dated this day April 23, 2017

Harry Fergerstrom



Web Images Video News More ▾ Anytime ▾

### Keck "Outriggers" Face Additional Roadblocks - Sky & Telescope

[www.skyandtelescope.com/astronomy-news/keck-outriggers...](http://www.skyandtelescope.com/astronomy-news/keck-outriggers...) ▾

Keck "Outriggers" Face Additional Roadblocks. By: David Tytell | July 25, 2003. The domes of the giant Keck I and Keck II telescopes are 85 meters (300 feet) apart.

### Draft environmental assessment/anticipated finding of no ...

[www.malamamaunakea.org/library/reference/index/refid/866...](http://www.malamamaunakea.org/library/reference/index/refid/866...) ▾

These new telescopes – called "Outriggers" ... combinations of the Outriggers and the Keck telescopes to create a ... of the Outrigger Telescopes Project CDUA ...

### 640 N. A'ohoku Place, Room 203, Hilo, Hawai'i 96720 Telephone ...

[www.malamamaunakea.org/uploads/management/mkmb/MKMB...](http://www.malamamaunakea.org/uploads/management/mkmb/MKMB...)

CDUA or included with outrigger telescopes CDUA, and; 2) which project would come first. Director Heen ... NASA/Keck Outriggers Telescope Project is convened.

### rq.ci F I JE ) Written Direct of Testimony of COS Harry ...

[dlnr.hawaii.gov/mk/files/2016/11/Written-direct...](http://dlnr.hawaii.gov/mk/files/2016/11/Written-direct...)

greatest infringement that happens on Mauna Kea is the Telescopes. ... this CDUA, that and therefore ... The prior NASA EIS done for the Keck Outriggers was very clear.

### Decision Issued for Outrigger Telescopes Project

[www.ifa.hawaii.edu/info/press-releases/OutriggerDecision...](http://www.ifa.hawaii.edu/info/press-releases/OutriggerDecision...) ▾

MAUNA KEA (August 5, 2005) NASA has released its Record of Decision concerning the Outrigger Telescopes Project, selecting the W.M. Keck Observatory on Mauna Kea as ...

### NASA/Keck Outrigger Telescopes Project | 'Ōiwi TV

[oiwi.tv/oiwiv/nasakeck-outrigger-telescopes-project](http://oiwi.tv/oiwiv/nasakeck-outrigger-telescopes-project) ▾

NASA/Keck Outrigger Telescopes Project. January 1, 2001. NASA/Keck Outrigger Telescopes Project. Holo Mai Pele; Posted by 'Ōiwi TV on January 1, 2001 in 'Ōiwi TV.

### Keck Interferometer: progress report

[www2.keck.hawaii.edu/1stLight/keck-spie-00-annot1.pdf](http://www2.keck.hawaii.edu/1stLight/keck-spie-00-annot1.pdf)

Keck Interferometer: progress report ... interferometer will combine the two 10-m Keck telescopes with four 1.8-m ... after installation of the outriggers, ...

### Statement By Robert McLaren, Associate Director of the ...

[www.hawaii.edu/news/article.php?ald=583](http://www.hawaii.edu/news/article.php?ald=583) ▾

Statement By Robert McLaren, Associate Director of the Institute for Astronomy on the Lawsuit Regarding the Keck Outrigger Telescopes Project

### Closure Looms for Keck Interferometer - Sky & Telescope

[www.skyandtelescope.com/astronomy-news/closure-looms-for...](http://www.skyandtelescope.com/astronomy-news/closure-looms-for...) ▾

24 thoughts on "Closure Looms for Keck Interferometer" Christopher February 17, 2012 at 11:59 am. ... Ever heard of any other telescopes called "outriggers?"

### NASA/Keck Outrigger Telescopes Project | Na Maka o ka `Aina

[www.hawaiianvoice.com/products-page/miscellaneous/nasa...](http://www.hawaiianvoice.com/products-page/miscellaneous/nasa...) ▾

NASA/Keck Outrigger Telescopes ... representatives from NASA and the W. M. Keck Observatory presented their plan to add six new telescopes to their array atop ...

1 2 3 4 5 Next

17,000 results

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2016 NOV 15 P 2: 38

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

## BOARD OF LAND AND NATURAL RESOURCES

### STATE OF HAWAII

IN THE MATTER OF ) Case No. BLNR-CC-16-002  
)  
) Written Direct of Testimony of  
A Contested Case Hearing Re ) Harry Fergerstrom; COS  
Conservation District Use Permit )  
(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

#### WRITTEN DIRECT TESTIMONY OF HARRY FERGERSTROM

Now comes Harry Fergerstrom with a Written Direct  
Testimony. It is my contention that the most striking problem and the  
greatest infringement that happens on Mauna Kea is the Telescopes.

It is clear that a great deal of contention results from lack of  
respect for Hawaiian Culture and it Religion. While Hawaiians have  
for years shared with you the very sacredness of WAO AKUA, the  
realm of the Gods. Regardless of this Historic Fact, the State Hawaii,

University of Hawaii, Office of Mauna Kea Management and now TMT along with their counsel insist that with all there studies and reports, that they somehow are above the Law and that there science is superior to the Sacredness of Mauna Kea, and that all other factors like Hawaiian Religious and Cultural practices are mere factors that can be simply mitigated.

You treat the Mauna Kea as if it were not a whole being. That you can simply segregate different sections of the Mountain, especially the summit and make small section from which you can make application in isolation as if it were not a part of the whole. You are mistaken.

Talking about the Thirty Meter Telescope in isolation is a slap in the face. It is an attempt to make in a separate part of Mauna Kea summit area that can and should be viewed in and of itself.

There are common factors that is claimed to not be a part of this CDUA, that and therefore outside the scope of direct testimony.

This has become extremely difficult to consider Mauna Kea as a whole being in such a way that each incremental step is taken without consideration to the effect to the whole.

The prior NASA EIS done for the Keck Outriggers was very clear. There are Severe, Adverse, and Cumulative Impacts/damages on Mauna Kea and adding to this problem with the addition of the Thirty Meter Telescope cannot have no significant impact.

I have come to the understanding that all this takes place, ONLY, because we have not found a way to stop you. That each little step you take gets larger and larger each time. You isolate yourselves from the whole so we can only talk about you in isolation. This must come to an END.

It is clear that the History of Mauna Kea shows that the Summit of Mauna Kea was considered the Realm of the Gods. That so sacred was the area that the presence of man was largely forbidden.

We could speak forever of our association with our Gods and the inseparableness of our people from our aina. How when we describe sacred places to you and explain their foundational connection to the very existence of the Hawaiian Culture... does that mean anything to you...? The answer is in your actions... that answer would be NO.

Having assessed the problem and going to the root Sources.... I've concluded that the only way to afford self-protection (Religious, Cultural, Tradition ) is to insist that TITLE to lands on Mauna Kea be produced.

***It has been claimed that the State of Hawaii has Ownership and Title to the summit of Mauna Kea. This is a clear fabrication.***

Even without having to dig very deep, Mauna Kea is at minimum part of the Ceded Lands Trust, those lands belonging to the Hawaiian Kingdom Government, Crown and Government, and held in Trust by the State of Hawaii. A trustee cannot claim ownership to those lands held in trust.

In insistence on making claims to OWNERSHIP and TITLE has caused me to go a step further. There seems to be great emphasis on this move to claim outright those lands of the Hawaiian Kingdom.

This challenge of Title is very real.....the State of Hawaii through the University of Hawaii has the burden of proof to provide a legal instrument showing that the lands of Mauna Kea, belong to the State of Hawaii.

Ke Akua guides me in this effort to finally reach clarity. We will start here.

Dated this Day Nov. 14<sup>th</sup>, 2016

  
Harry Fergerstrom



Board of Land and Natural Resources  
State of Hawaii

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,  
Hamakua, Hawaii, TMK (3) 4-4-013;009

) CASE NO. BLNR CC 16-092

) CERTIFICATE OF SERVICE

) *Walter D. ...*  
2:58  
*Harry Ferguson*

DEPT. OF LAND & NATURAL RESOURCES  
STATE OF HAWAII  
2016 NOV 5  
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AND COASTAL LANDS

**CERTIFICATE OF SERVICE**

The undersigned certifies that the above-referenced document was served upon the following parties by email or by US Mail on Nov 17, 2016

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