

J. Leina'ala Sleightholm

Pro Se

leinaala.mauna@gmail.com

**BOARD OF LAND AND NATURAL RESOURCES
STATE OF HAWAI'I**

In the Matter of:

Case No. BLNR-CC-16-002

A Contested Case Hearing Re.

J. LEINA'ALA SLEIGHTHOLM'S

Conservation District Use Application
(CDUA) HA-3568 for the Thirty Meter
Telescope at the Mauna Kea Science
Reserve, Ka'ohe, Hamakua District,
Island of Hawai'i, TMK (3) 4-4-015:009

RESPONSE TO U.H.H. AND T.I.O.'S
JOINT FINDING'S OF FACT,
CONCLUSIONS OF LAW, AND PRO-
POSED DECISION AND ORDER.
(Addendum to Collective Pro-Se Response)

**J. LEINA'ALA SLEIGHTHOLM'S RESPONSES TO U.H.H. AND T.I.O.'S JOINT
FINDING OF FACTS, CONCLUSIONS OF LAW, AND PROPOSED DECISION AND
ORDER.**

I. Responses to U.H.H. and T.I.O.'s Findings of Facts (Doc. 671 dated 05/30/17)

1.FOF #188, pg. 29 is misleading because the significant, substantial and adverse environmental and cultural impacts still exists today. To say that *some* of the concerns stated in the 1998 Auditor's Report were addressed is deceiving and not at all a complete rectification. Nothing that the T.M.T. has proposed thus far mitigates and is inadequate in mitigating the 3 impacts stated above. U.H.H. and T.I.O. citing this fact and minimizing the still existing impacts is a perfect example of the continued and blatant land use mismanagement, and disregard for the first people of this place, their beliefs and practices.

2.FOF #725, pg. 115 is mischaracterization of facts. Placing the blame on the public is detracting from the perpetrators of the continued industrial sized harm to the environment and culture at the hands of U.H.H. Ultimately, with this mentality, it is the "cultural practitioners" whose rights would be affected.

3.FOF #741, pg. So what? This is misleading because although O.M.K.M. had the opportunity to review and comment no management practices have changed. Comments and recommendations are one thing, but actual change is another, and that is what's needed or there will be continued and growing controversy and outcry. Those of us who support the mauna will continue to do our research, follow the money, and shut it down. Canada is having second thoughts, and without their millions, the proposed T.M.T. will not even come to fruition in the Canary Islands. They will end up invest their monies into other efforts.

4.FOF #819, pg. 132 Mischaracterizes his statement and deflects the facts that substantial, significant and adverse impacts still exist. It is within the law that the D.L.N.R. demand the significant, substantial, and adverse environmental and cultural impacts be better mitigated than what the T.M.T. proposes. D.L.N.R. should impose a condition that addresses cumulative impact from the T.M.T., and have the U.H. be required to dig up all unused cesspool sites and examine exactly what contamination was done, and how far the wastewater plume spread underground. Of course, T.I.O. and T.M.T. would claim this request is vague and ambiguous, but ultimately, the D.L.N.R. could impose this is it wanted to. Because the three impacts still exist, cumulative impact mitigation should include actions beyond the boundaries of the T.M.T. proposal.

5.FOF #120, 121, 122, pg. 16 Is misleading because referring to the previous telescopes, and the substantial, significant and adverse impacts is an attempt to take the attention away from the impacts the T.M.T. will have, which will add to the already adverse impacts from previous telescope activities. They are trying to say that the astronomy business on Mauna Kea already adversely impacted the summit region so one more won't make a difference, but both past and future endeavors should be included when looking at the impacts and how the incremental impacts affect the whole. When is enough, enough. The point of no return is something we shouldn't be willing to accept.

6.FOF #125, 126, 131, 133, pg. 17 and 18 Is misleading and inaccurate when it refers to O.M.K.M. The language they use as their primary mission may be the protection, preservation and enhancement of cultural and natural resources, but in fact they are merely an advisory board with no real authoritative powers. They are advised by M.K.M.B. and Kahu Ku Mauna and in turn O.M.K.M. advises the U.H. chancellors who then advise the U.H. Manoa president. The public is invited to attend the M.K.M.B. meetings and comment, but nothing is done with their comments. At a recent M.K.M.B. meeting that I attended, several cultural practitioners, and environmentalists commented on action items relating to guidelines that were being planned and implemented, but instead of dealing with them, Kahu Ku Mauna, and M.K.M.B. decided to address them at a later time.

7.FOF #183, pg. 28 is misleading because management efforts may have evolved, and developed significantly over the last 15 years under O.M.K.M., but what real change has occurred. There have been many recommendations and plans, and measures but no actual change. This further

highlights the “50 years of mismanagement on Mauna Kea.” stated by Nelson Ho in his WDT.

7.FOF #291, 292 pg. 46 Is inaccurate and misleading because our culture doesn't consider only those who hold degrees in certain fields of study in high regard, or consider their knowledge in their respective fields more valuable than those with no degree. Our kupuna were exceptionally skilled, and mastered many fields of study. We consider them extremely valuable and hold their teachings in the highest regard. It is the western, colonized mentality and way of thinking that would make someone an expert because they hold a piece of paper saying so. We have many Hawaiian astronomers, young and old who learned in the traditional way, and practice today. Those same astronomers were amongst those who sailed around the world on the Hokule'a. Who is to say that what makes us come full circle is the use of modern technology. Only our kupuna, and kumu in each respective field can do so...not a corporation.

8.FOF #642, pg. 101 Is misleading because even though it references two Hawaiians who it states have lineal and or significant ties to Mauna Kea, it failed to mention that Ishibashi is the same witness who kicked down an upright stone and didn't report it, and also testified that he would allow the T.M.T. to be built in Miloli'i, which is the last remaining fishing village here. Ishibashi was also present during the arrests on Sept. 9, 2015 and stood there smiling as they tore our arms apart while we were in the middle of pule. Then you have Baybayan who testified that the best place to learn sailing and traditional navigation is from the shoreline. So I do agree that for them, the desecration brought by the T.M.T. would have no significant or adverse impacts on their cultural practices.

9. FOF #729, 741, pg. 115 and 117 Is misleading because it brings attention only to “Area E” but when we look at our traditional thought process, practices, and beliefs, you cannot dissect portions but rather look at it as a whole. Mauna Kea and its significance is from the top to bottom of the ocean, from east to west, north to south an entire living element, and a family member. You cannot only highlight one small portion and say that desecrating that one area will not affect the rest. It's all the same and all connected.

10.FOF #746, pg. 118 Is a mischaracterization, misleading, and devaluing because although my practice on top of Mauna Kea didn't begin until Oct. 7, 2014, my ancestors from time immemorial passed their knowledge and ancestral memories to me, from the day of my conception, to my birth and up till the present day, I have been “practicing” whether I knew in my conscious mind and reality or not. When I danced hula from the age of 3, I danced of the mauna, and for the mauna, when we prayed it included the mauna, when I participated in a 24 hour vigil at Halema'uma'u in 1992 it was laying foundation for the mauna, when I stood in the darkness and frigid rain at Pu'uhuluhulu in E ala e 'Apapalani ceremony it was absolutely for the mauna, when I conceived my children and birthed them it involved the mauna because the mauna is part of our mo'okuauhau, our creation, our elder, we are born of the same stars and so

an outsider who has no connection or understanding of what “practice” involves, includes, or consists of, they can only try to fit us into their square understanding of being. So I may not have had my physical body standing on the mauna until Oct. 7, 2014, but I have always been there.

Furthermore, to state I followed the principles of Case to somehow imply that I stand on the opposite side of T.M.T. because she does, diminishes my value as a sovereign human being that can think and make educated decisions for myself. I hold auntie Pua Case in the utmost regard, but she has not been my only kumu, and if this statement tries to imply that I was influenced in the opinion I have today because of her, that is ridiculous and inaccurate. The desecration, mismanagement, inability to meet the eight criteria, and treatment of the first people of this place is what ultimately influenced where I stand.

11.FOF #849, pg. 136 Is inaccurate. Please refer to line number 9.

12. FOF #941, 962, 963, 964, 965, pg. 147, 150-151 Is misleading because it tries to place the burden of evidence on the opposing pro-se parties when the burden of evidence lies with the applicant. They must prove that the project meets all requirements, not the opposite way around.

II. Responses to Conclusion of Law

13. COL #2, pg. 158 Is misleading because the eight criteria must be followed and not just considered and it's not discretionary, all the criteria must be met. The burden of proof is on the applicant and not those who intervene.

I hereby incorporate the Findings of Facts, Conclusions of Law, Decisions and Order, and Responses by the Pro-Se Parties to the U.H. and T.I.O.'s Joint Findings of Facts, Conclusions of Law, and Decisions and Order by reference.

(Please see original signature on collective responses being hand delivered today)

J. Leina'ala Sleightholm

Dated June 13, 2017

Waikoloa, Hi.

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

BLNR Contested Case HA-16-02
Document title:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced document was served upon the following parties by the means indicated on October 10, 2016:

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*

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

Clarence Kukauakahi Ching
kahiwaL@cs.com

E. Kalani Flores
ekflores@hawaiiintel.net

B. Pualani Case
puacase@hawaiiintel.net

Deborah J. Ward
cordylinicolor@gmail.com

Paul K. Neves
kealiikea@yahoo.com

Kahea: The Environmental Alliance
c.o. Bianca Isaki
bianca@kahea.org

Watanabe Ing LLP
rshinyama@wik.com
dougling@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@gmail.com

Joseph Kualii Lindsey Camara
kualiic@hotmail.com

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

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

Maelani Lee
maelanilee@yahoo.com

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

Kalikolehua Kanaele
akulele@yahoo.com

Stephanie-Malia:Tabbada
s.tabbada@hawaiiintel.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. Holii
P. O. Box 368
Hanapepe, HI 96716
Witness for the Hearing Officer

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

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

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

Signature: *J. Leina'ala Sleightholm*
Name: J. Leina'ala Sleightholm
Date: 06/13/17