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DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

BOARD OF LAND AND NATURAL RESOURCES

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

Case No. BLNR-CC-16-002

THE UNIVERSITY OF HAWAI'I AT
HILO'S STATEMENT OF POSITION RE:
HARRY FERGERSTROM'S DEPRAVED
INDIFFERENCE [DOC. 776] AND
COLLUSION TO SKIRT THE LAW
[DOC. 777] FILINGS; CERTIFICATE OF
SERVICE

**THE UNIVERSITY OF HAWAI'I AT HILO'S STATEMENT OF POSITION RE:
HARRY FERGERSTROM'S DEPRAVED INDIFFERENCE [DOC. 776] AND
COLLUSION TO SKIRT THE LAW [DOC. 777] FILINGS**

Applicant UNIVERSITY OF HAWAI'I AT HILO (“University”), through counsel,
submits this Statement of Position in response to Intervenor HARRY FERGERSTROM's recent
filings entitled *Depraved Indifference* [Doc 776] and *Collusion To Skirt The Law* [Doc. 777]
(collectively, “Filings”).

Mr. Fergerstrom's Filings do not appear to be motions or otherwise seek any specific
relief; nor are they directed to any filed motions. Therefore, pursuant to Minute Order No. 100

[Doc. 774], Mr. Fergerstrom's Filings do not warrant any response, formal ruling or decision.

Nevertheless, the University submits this Statement of Position to note for the record that the Filings are irrelevant, nonmaterial, and should not delay or hinder the process towards resolution of this matter. The Filings are completely baseless. There is no support whatsoever for the claims of depraved indifference or collusion. Also, Mr. Fergerstrom does not properly cite the elements for a claim of collusion, let alone identify what parties, actions, or agreements allegedly constitute collusion.

Moreover, Mr. Fergerstrom's "Depraved Indifference" filing omits key language from Hawai'i Revised Statute ("HRS") § 1-1, which in whole reads:

The common law of England, as ascertained by English and American decisions, is declared to be the common law of the State of Hawaii in all cases, *except as otherwise expressly provided by the Constitution or laws of the United States, or by the laws of the State*, or fixed by Hawaiian judicial precedent, or established by Hawaiian usage; provided that no person shall be subject to criminal proceedings except as provided by the written laws of the United States or of the State.

(emphasis added). The removed portion of HRS § 1-1 further demonstrates the inconsistency of the apparent position being stated in that filing.

Moreover, to the extent Mr. Fergerstrom's Filings raise issues relating to Hawai'i sovereignty, the legal status of the State of Hawai'i, or the State's ownership of and title to the lands related to this contested case hearing, Minute Order No. 19 [Doc. 281] expressly ruled that such issues are not germane to these proceedings and are outside the subject matter jurisdiction of the Hearing Officer.

Lastly, Mr. Fergerstrom's arguments pertaining to Minute Order No. 19 and the Hearing Officer's prior rulings excluding Professor Chang's testimony are improper and untimely because they essentially seek reconsideration of Minute Orders No. 19, 51 and 77. The deadlines to file motions for reconsideration of those rulings have long passed, and there is no good cause

or other legal justification to warrant reconsideration.

DATED: Honolulu, Hawai'i, July 21, 2017.

A handwritten signature in cursive script, appearing to read "John P. Manaut", written in black ink above a horizontal line.

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CERTIFICATE OF SERVICE

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The undersigned certifies that the above-referenced document was served upon the following parties by email unless indicated otherwise:

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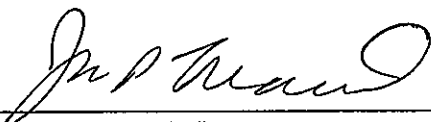
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