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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'ohe Mauka, Hāmakua, Hawai'i, TMK (3) 4-4-015:009	Case No. BLNR-CC-16-002 THE UNIVERSITY OF HAWAI'I AT HILO AND TMT INTERNATIONAL OBSERVATORY, LLC'S JOINT BRIEF IN RESPONSE TO OPPOSING INTERVENOR DWIGHT VICENTE'S EXCEPTION TO RECOMMENDATIONS

[DOC. 817]; APPENDIX A;
CERTIFICATE OF SERVICE

THE UNIVERSITY OF HAWAI'I AT HILO AND TMT INTERNATIONAL OBSERVATORY, LLC'S JOINT BRIEF IN RESPONSE TO OPPOSING INTERVENOR DWIGHT VICENTE'S EXCEPTION TO RECOMMENDATIONS [DOC. 817]

The University of Hawai'i at Hilo ("**UH Hilo**") and Intervenor TMT International Observatory, LLC ("**TIO**") jointly submit the following brief in response to Opposing Intervenor Dwight Vicente's ("**Vicente**") *Exceptions to Recommendations*, filed August 21, 2017 [Doc. 817] ("**Vicente's Exceptions**") pursuant to Hawai'i Administrative Rules ("**HAR**") § 13-1-43.

I. INTRODUCTION

On July 26, 2017, after presiding over forty-four days of testimony from October 2016 through early March 2017, and reviewing hundreds of exhibits, Judge (Ret.) Riki May Amano ("**Hearing Officer**") issued her detailed Proposed Findings of Fact, Conclusions of Law and Decision and Order [Doc. 783] ("**HO FOF/COL**"). The Hearing Officer recommended that the Conservation District Use Application HA-3568 ("**CDUA**") for the Thirty Meter Telescope ("**TMT**") Project and the attached TMT Management Plan be approved subject to a number of conditions stated therein. *See* HO FOF/COL at 260-263.

The Board of Land and Natural Resources ("**BLNR**") issued Minute Order No. 103 on July 28, 2017 [Doc. 784]. Pursuant to Minute Order No. 103, the parties to the Contested Case Hearing ("**CCH**") were given until no later than August 21, 2017 at 4:00 p.m. to file exceptions to the HO FOF/COL. Minute Order No. 103 expressly required the following for any exceptions:

> The exceptions shall: (1) set forth specifically the questions of procedure, fact, law, or policy, to which exceptions are taken (2) identify that part of the recommendations to which objections are made; and (3) state all grounds for exceptions to a ruling, finding, conclusion, or recommendation. The grounds not cited or specifically urged are waived.

Minute Order No. 103 at 1; *see also* HAR § 13-1-42(b).

Minute Order No. 103 also gave the parties to the CCH until September 11, 2017 at 4:00 p.m. to file any responsive briefs. Minute Order No. 103 expressly required the following for any responsive briefs:

> The responsive briefs shall: (1) answer specifically the points of procedure, fact, law, or policy to which exceptions were taken; and (2) state the facts and reasons why the recommendations should be affirmed.

Minute Order No. 103 at 2; *see also* HAR § 13-1-43(b).

The BLNR has scheduled oral arguments on the CDUA for September 20, 2017 at 9:00 a.m. *See* Minute Order No. 103 at 2.

II. STANDARD OF REVIEW

Vicente and the other Petitioners/Opposing Intervenors do not state a position on the applicable standard that BLNR must review the HO FOF/COL. Hawai'i Revised Statutes ("**HRS**") § 91-11 sets out the procedure that is to be followed by an agency where a hearing officer has been employed:

> **Examination of evidence by agency.** Whenever in a contested case the officials of the agency who are to render the final decision have not heard and examined all of the evidence, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision[[1]] containing a

[1] The Hawai'i Supreme Court has held that a hearing officer's recommendations can serve as the agency's "proposal for decision" under HRS § 91-11. *See White v. Board of Education*, 54 Haw. 10, 14, 501 P.2d 358, 362 (1972); *Cariaga v. Del Monte Corp.*, 65 Haw. 404, 408, 652 P.2d 1143, 1146 (1982); *see also County of Lake v. Pahl*, 28 N.E.3d 1092 (Ind. Ct. App. 2015) (holding that it is not uncommon or per se improper for a trial court to enter findings that are verbatim reproductions of submissions by the prevailing party); *Ivie v. Smith*, 439 S.W.3d 189 (Mo. 2014) (holding that while trial courts must act independently in making findings of fact and conclusions of law, it is not error for trial court to request or receive proposed findings and, in appropriate cases, to adopt those findings); *East Coast Paving & Sealcoating, Inc. v. North Allegheny School Dist.*, 111 A.3d 220 (Pa. Commw. Ct. 2015) (holding that there is nothing

> statement of reasons and including determination of each issue of fact or law necessary to the proposed decision has been served upon the parties, and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the officials who are to render the decision, ***who shall personally consider the whole record or such portions thereof as may be cited by the parties.***

HRS §91-11 (emphasis added).

The Hawai'i Supreme Court has stated that "[t]he general rule is that if an agency making a decision has not heard the evidence, it must at least consider the evidence produced at a hearing conducted by an examiner or a hearing officer." *White*, 54 Haw. at 13, 501 P.2d at 361. Quoting from the Revised Model State Administrative Procedure Act, Fourth Tentative Draft (1961) ("**RMSAPA**"), the Hawai'i Supreme Court explained that this requirement "is to make certain that those persons who are responsible for the decision shall have mastered the record, either by hearing the evidence, or reading the record or at the very least receiving briefs and hearing oral argument. It is intended to preclude signing on the dotted line." *Id.* at 14, 501 P.2d at 362 (citation and internal quotations omitted).

The Hawai'i Intermediate Court of Appeals ("**ICA**") described the "function and effect of the hearing officer's recommendations" in *Feliciano v. Board of Trustees of Employees' Retirement System*, 4 Haw. App. 26, 659 P.2d 77 (1983). The ICA explained that the recommendations are "to provide guidance" and an agency is "not bound by those findings or recommendations." *Id.* at 34, 659 P.2d at 82. Indeed, an agency, after review of the reliable, probative and substantial evidence in the proceeding, may reject a hearing officer's recommendations and "ma[ke] its own findings and conclusions based on the same evidence." *Id.*

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untoward about a trial court adopting a party's proposed findings of fact and conclusions of law as its own).

Therefore, BLNR must determine whether the reliable, probative, and substantial evidence in the record as a whole supports approval of the CDUA. However, and notwithstanding that it is not binding, BLNR should give due consideration to, and be guided by, the HO's FOF/COL, particularly her determinations on the credibility of the witnesses that appeared before her. The RMSAPA provides that "[i]n reviewing findings of fact in a recommended order, the agency head shall consider the presiding officer's opportunity to observe the witnesses and to determine the credibility of witnesses." RMSAPA § 415(b) (October 15, 2010). Section 415(b) of the RMSAPA is consistent with the well-settled legal principle that "the fact finder is uniquely qualified to evaluate the credibility of witnesses and to weigh the evidence." *Wilton v. State*, 116 Hawai'i 106, 119, 170 P.3d 357, 370 (2007) (citation omitted); *see also* Haw. R. Civ. P. 52(b) (providing that "due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses").

Other jurisdictions have gone even further and held that a hearing officer's credibility determinations are entitled to deference so long as the record supports the determination. In *Amanda J. ex rel. Annette J. v. Clark County School Dist.*, 267 F.3d 877 (9th Cir. 2001), the Ninth Circuit was confronted with the question of whether to affirm the State Review Officer's decision to deviate from the hearing officer's credibility determination of a witness. Joining its colleagues in the Second, Third, Fourth, and Tenth Circuits, the Ninth Circuit held that

> due weight should be accorded to the final State determination . . . unless [the] decision deviates from the credibility determination of a witness whom only the [hearing officer] observed testify. **Traditional notions of deference owed to the fact finder compel this conclusion. The State Review Officer is in no better position than the district court or an appellate court to weigh the competing credibility of witnesses observed only by the Hearing Officer.** This standard comports with general principles of administrative law which give deference to the unique knowledge and experience of state agencies while recognizing that

> **a [hearing officer] who receives live testimony is in the best position to determine issues of credibility.**

Id. at 889 (emphases added); *see Doyle v. Arlington Cty Sch. Bd.*, 953 F.2d 100, 105 (4th Cir. 1992) (holding that where two state administrative decisions differ only with respect to the credibility of a witnesses, the hearing officer is entitled to be considered prima facie correct); *Karl by Karl v. Board of Educ. of Geneseo Cent. School Dist.*, 736 F.2d 873, 877 (2d Cir. 1984) ("There is no principle of administrative law which, absent a disagreement between a hearing officer and reviewing agency over demeanor evidence, obviates the need for deference to an agency's final decision where such deference is otherwise appropriate."); *Carlisle Area Sch. Dist. v. Scott P.*, 62 F.3d 520-29 (3d Cir. 1995) ("[C]redibility-based findings [of the hearing officer] deserve deference unless non-testimonial, extrinsic evidence in the record would justify a contrary conclusion or unless the record read in its entirety would compel a contrary conclusion."); *O'Toole v. Olathe Dist. Schs. Unified Sch Dist. No. 233*, 144 F.3d 692, 699 (10th Cir. 1998) ("[W]e will give due weight to the reviewing officer's decision on the issues with which he disagreed with the hearing officer, unless the hearing officer's decisions involved credibility determination and assuming, of course, that the record supports the reviewing officer's decision."); *see also McEwen v. Tennessee Dept. of Safety*, 173 S.W.3d 815, 824 (Tenn. Ct. App. 2005) (holding that if credibility plays a pivotal role, then the hearings officers' or administrative judge's credibility determinations are entitled to substantial deference); *Stejskal v. Dep't. of Administrative Svcs.*, 665 N.W.2d 576, 581 (Neb. 2003) (holding that agencies may consider the fact that the hearing officer, sitting as the trier of fact, saw and heard the witnesses and observed their demeanor while testifying and may give weight to the hearing officer's judgment as to credibility).

Consequently, BLNR should consider and give due regard to the Hearing Officer's credibility determinations so long as those determinations are supported by the reliable, probative, and substantial evidence in the whole record. *See* HRS § 91-14 (providing that administrative findings, conclusions, decisions and orders must be supported by "the reliable, probative, and substantial evidence in the whole record").

III. GENERAL OBJECTIONS TO VICENTE'S EXCEPTIONS

UH Hilo and TIO generally object to Vicente's Exceptions to the extent that they do not comply with Minute Order No. 103 [Doc. 784] and HAR § 13-1-42(b).

UH Hilo and TIO object to each of the points in Vicente's Exceptions to the extent that they are irrelevant, inapplicable, immaterial, mischaracterize the evidence, misstate or misrepresent the record, rely on evidence that is not credible, biased, or incomplete, and/or not supported by the evidence in the record. UH Hilo and TIO also object to Vicente's Exceptions to the extent they assert alleged "findings" or "conclusions" that are beyond the scope of issues set forth in Minute Order No. 19 [Doc. 281] or beyond the scope of the authority delegated by BLNR to the Hearing Officer, or by the legislature to BLNR for these proceedings.

UH Hilo and TIO further object to Vicente's Exceptions to the extent that they raise procedural issues that were previously raised (in some cases, multiple times by multiple parties and through multiple motions for reconsideration) during the course of the CCH, and the arguments were previously fully briefed, considered and rejected by the Hearing Officer or BLNR.

UH Hilo and TIO further object to Vicente's Exceptions to the extent they seek to challenge the Final Environmental Impact Statement ("**FEIS**") for the TMT Project. This proceeding is not an EIS challenge; Vicente's ability to make such a challenge expired long ago, and he cannot use this proceeding to reopen the FEIS approval process. This proceeding pertains

only to the CDUA and is entirely governed by applicable constitutional law, HRS Chapter 183, and the Conservation District rules, HAR Title 13, Chapter 5 that are genuinely at issue here.

UH Hilo and TIO also object to Vicente's Exceptions to the extent they are not supported by the record and/or applicable legal authority. As set forth in the HO FOF/COL, substantial evidence has been adduced to show that the CDUA satisfies the eight criteria as set forth in HAR § 13-5-30(c). The record also shows that the TMT Project is consistent with UH Hilo's and BLNR's obligations under the public trust doctrine, to the extent applicable, as well as under *Ka Pa'akai*, and Article XI, section I and Article XII, section 7 of the Hawai'i Constitution.

Ultimately, it is evident that Vicente is categorically opposed to the construction of the TMT Project regardless of whether or not it satisfies the legal criteria applicable to the CDUA. No location on the mountain, and no combination of mitigation measures, will make the TMT Project acceptable to Vicente. That position is not supported by the law.

Appendix A contains general objections to Vicente's Exceptions, which UH Hilo and TIO hereby incorporate by reference into their response to each of Vicente's Exceptions, to the extent applicable.

In addition to the general objections in Appendix A, UH Hilo and TIO respond to Vicente's Exceptions below. Citations to the evidence in the record provided herein are not intended to be exhaustive or comprehensive, but demonstrate evidentiary support for UH Hilo and TIO's responses and objections. Pursuant to Minute Order No. 103 [Doc. 784] and HAR § 13-1-42(b), UH Hilo and TIO object to all unsupported assertions in Vicente's Exceptions, and BLNR should disregard all such unsupported assertions.

The FOF/COL and page numbers referenced herein follow those as provided in Vicente's Exceptions. References to the HO FOF/COL are denoted by the prefix "HO FOF" and "HO

COL" for the numbered FOF or COL, respectively, in the HO FOF/COL.

Acronyms and defined terms used herein are defined in the Index of Select Defined Terms in the HO FOF/COL.

IV. RESPONSE TO VICENTE'S EXCEPTIONS

A. Vicente's exceptions relating to the setting of the issues to be decided in this contested case (and the exclusion of sovereignty-related issues) should be denied

Vicente takes exception to HO FOF 71 to 76 relating to the Hearing Officer's determination of the issues to be addressed in this contested case hearing, which state as follows:

> 71. On July 18, 2016, PUEO filed a Motion to Set the Issues, requesting that the Hearing Officer identify the specific issues to be addressed during the contested case hearing. [Doc. 99]. As summarized in Appendix A, multiple pleadings were filed both opposing and supporting PUEO's motion.
>
> 72. During the August 29, 2016 motion hearing, PUEO's Motion to Set the Issues was heard. Minute Order No. 21 [Doc. 344]. The Hearing Officer requested that PUEO submit a Proposed Minute Order Granting PUEO's Motion to Set Issues setting forth the issues to be addressed and issues not to be addressed in the contested case hearing, as ruled upon at the hearing. Tr. 8/29/16 at 83:5-19.
>
> 73. PUEO was given a deadline of September 9, 2016 by which to submit its Proposed Minute Order Granting PUEO's Motion to Set Issues. All other parties could submit responses or objections by September 19, 2016. Minute Order No. 21 [Doc. 344]. A summary of those pleadings is contained in Appendix A.
>
> 74. On September 23, 2016, Minute Order No. 19 was issued granting PUEO's Motion to Set Issues. [Doc. 281]. A summary of pleadings filed in response is contained in Appendix B.
>
> 75. Minute Order No. 19 limited the issues to be addressed in the contested hearing to the following inquiries:
>
> a. Is the proposed land use, including the plans incorporated in the application, consistent with Chapter 183C of the Hawai'i Revised Statutes, the eight criteria in HAR § 13-5-30(c), and other applicable rules in HAR, Title 13, Chapter 5 Conservation District?

b. Is the proposed land use consistent with Article XII, Section 7 of the Hawai'i State Constitution and Ka Pa'akai O Ka'aina v. Land Use Comm'n. State of Hawai'i, 94 Hawai'i 31, 7 P.3d 1068 (2000)?

c. Is the proposed land use consistent with Article XI, Section 1 of the Hawai'i State Constitution and the public trust doctrine?

76. Minute Order No. 19 also specifically ruled that the following issues were not to be addressed in the contested case hearing because they were not germane to the CDUA and/or within the subject-matter jurisdiction of this contested case proceeding:

a. The sovereignty of the Kingdom of Hawai'i or any other issues relating to the purported existence of the Kingdom of Hawai'i;

b. Challenges to the legal status of the State of Hawai'i; and

c. Challenges to the State's ownership and title to the lands related to this contested case hearing.

HO FOF 71-76.

As an initial matter, the Hearing Officer unquestionably had the power, and in fact the duty, to set the issues to be decided in the contested case hearing. *See* HRS § 91-9(b)(4) (providing that notice of the hearing shall also include "[a]n explicit statement in plain language of the issues involved"); HAR § 13-1-35(a) (providing that hearing officers "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."). This is consistent with the power of the Hearing Officer to "formulat[e] and simplify[] the issues . . . [to] expedite the orderly conduct and disposition of the proceedings as permitted by law." HAR § 13-1-36(a). Accordingly, the Hearing Officer unquestionably had the authority to consider and decide the motion to set the issues in this matter.

To the extent that Vicente claims that the Hearing Officer improperly excluded his claims arising from the Northwest Ordinance of 1787 (and other sovereignty-related matters) from the

issues to be decided in the contested case hearing, his exception must be denied.

The issues arising from the CDUA for the TMT Project were properly delineated by the Hearing Officer as whether the proposed land use is consistent with: (1) the eight criteria in HAR § 13-5-30(c); (2) Article XII, Section 7 of the Hawai'i State Constitution and the *Ka Pa'akai* case; and (3) Article XI, Section 1 of the Hawai'i State Constitution and the public trust doctrine. Minute Order No. 19, filed September 23, 2016 [Doc. 281]. All of these issues are relevant to the consideration of the CDUA under BLNR's administrative rules and applicable law. *See* HAR § 13-5-30(c).

In contrast, sovereignty-related matters -- notwithstanding Vicente's beliefs regarding the Northwest Ordinance of 1787 and related sovereignty jurisprudence -- are neither relevant nor material to the consideration of the CDUA, even under the relaxed evidentiary standards of this contested case hearing. Such issues present non-justiciable political questions, and the Hearing Officer (and BLNR) lack subject matter jurisdiction to consider them. *See, e.g. Sai v. Clinton*, 778 F.Supp.2d 1, 6 (D.C.C. 2011), *aff'd sub nom. Sai v. Obama*, No. 11-5142, 2011 WL 4917030 (D.C. Cir. Sept. 26, 2011) (holding that it has "long [been] recognized that the determination of sovereignty over a territory is fundamentally a political question beyond the jurisdiction of the courts"); *see also* HAR § 13-1-29.1 (providing that BLNR "may deny a request or petition or both for a contested case when it is clear as a matter of law that the request concerns a subject that is not within the adjudicatory jurisdiction of the board").

Thus, the Hearing Officer had the authority to set the issues in this proceeding, and properly determined that the issues to be decided did not include sovereignty-related issues. Accordingly, BLNR should deny Vicente's exception (and affirm the Hearing Officer's findings) on this issue.

B. Vicente's exception to all of the Hearing Officer's substantive COLs based on sovereignty-related issues and the ethnic background of the Hearing Officer should be denied

Vicente takes exception to all of the Hearing Officer's substantive conclusions of law. *See* Vicente's Exceptions ("I take exception on Page 206 to 260 [HO COL 68-466], all of these sited [sic] on these pages reflect, the continued use of The Northwest Ordinance of 1787, this Kingdom."). Vicente's blanket exception to all of the Hearing Officer's substantive conclusions of law clearly fails to comply with Minute Order No. 103 [Doc. 784] and HAR § 13-1-42(b), and is obviously too vague and ambiguous to address in detail.[2] Vicente's exception should be deemed waived and denied on that basis alone.

Even assuming BLNR considers Vicente's exception to any extent, it must nevertheless be denied. Vicente asserts two bases for this exception: (1) the COLs apparently contravene his views on sovereignty related issues; and (2) the Hearing Officer has a conflict of interest because of her ethnic background. *See* Vicente's Exceptions ("[S]he is a Japanese National and she has a conflict of interest, because Japan is one of the countries that make up the TMT.").

As noted in Section IV.A., *supra*, sovereignty-related issues are not relevant and are outside of BLNR's jurisdiction (and thus not proper issues) in this proceeding, and thus do not constitute a proper basis for an exception to the conclusions of law. Moreover, there should be no question or dispute that the ethnic background of the Hearing Officer has absolutely no relevance whatsoever to this proceeding. Accordingly, Vicente's exception to the Hearing Officer's substantive conclusions of law must be denied.

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[2] Vicente's broad and unsupported assertion that "[t]he case law cited on page 210 to 215, is all based on land speculation, this include [sic] the Eight Criteria Article 4 Sec. 3 Clause 2 U.S. Constitution[,]" similarly fails to comply with Minute Order No. 103 [Doc. 784] and HAR § 13-1-42(b).

V. CONCLUSION

For the reasons set forth herein and in the UH Hilo Pre-Hearing Statement, TIO's Pre-Hearing Statement, the testimony of UH Hilo's and TIO's witnesses, UH Hilo's and TIO's evidence, the examination of the Petitioners' and Opposing Intervenors' witnesses, and in UH Hilo's and TIO's other filings, and the HO FOF/COL, UH Hilo and TIO respectfully jointly request that BLNR reject Vicente's Exceptions in its entirety, and adopt the HO FOF/COL as revised to reflect UH Hilo's and TIO's respective proposed exceptions filed on August 21, 2017.

DATED: Honolulu, Hawai'i, September 11, 2017.

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Appendix A

General Responses to Petitioners'/Opposing Intervenors' Exceptions	
Fails to comply with Minute Order No. 103 and HAR § 13-1-42(b)	The Exception should be disregarded because it fails to (1) set forth specifically the questions of procedure, fact, law, or policy, to which exceptions are taken; (2) identify that part of the hearing officer's report and recommended order to which objections are made; or (3) state all grounds for exceptions to a ruling, finding, conclusion, or recommendations. The grounds not cited or specifically urged are waived.
Citation does not support the proposition.	The citation offered by Petitioners/Opposing Intervenors does not support the Exception.
Estoppel/Improper Reconsideration	The Exception or a portion thereof is improper to the extent it is barred by estoppel or waiver, or improperly seeks reconsideration of the Hearing Officer's or the BLNR's prior ruling,
Inaccurate/False	The Exception or a portion thereof is inaccurate or false.
Incomplete.	The Exception is materially incomplete.
Irrelevant/Inapplicable.	The information in the Exception is irrelevant or inapplicable in this contested case proceeding. *See* Minute Order No. 19 [Doc. 281].
Lack of Jurisdiction	The Exception exceeds the scope of the Hearing Officer's jurisdiction and/or delegated authority
Mischaracterization.	The Exception mischaracterizes legal authority or the contents of the record.
Misleading. Partial quotation.	The Exception contains a partial quote from legal authority or a document in the record, and the incompleteness of the quotation is likely to mislead the reader.
Misleading. Presented out of context.	The Exception presents law or information in the record out of context and/or in a way that is likely to mislead the reader.
Misrepresentation	The Exception affirmatively misrepresents legal authority or the contents of the record.

Not credible.	The Exception is not credible based on the totality of the evidence contained in the record and/or the demonstrated biases of the witness whose testimony is cited in support of the Exception.
Not in dispute.	Either (1) the Exception is not at issue in this proceeding, or (2) standing alone, the Exception is not objectionable. The designation of any individual Exception as "not in dispute" does not and should not be construed as an admission of said Exception or a concession that said Exception should be incorporated into the final FOFs and COLs. It also does not and should not be construed as assent to any inferences suggested or that may be suggested by Petitioners/Opposing Intervenors from, e.g., their misleading grouping or ordering of otherwise unrelated facts.
Not in evidence.	The Exception asserts "facts" and/or cites documents that are not in evidence.
Unsupported/Unsubstantiated	The Exception is not supported by information in the record or was not substantiated by the Petitioners/Opposing Intervenors through the contested case process.

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'ohe Mauka, Hāmakua, 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:

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