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Attorneys for

**TMT INTERNATIONAL OBSERVATORY LLC**

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

The Petition of Mauna Kea Hui for a  
Declaratory Order Filed May 24, 2021.

Case No. HA-22-02

TMT INTERNATIONAL OBSERVATORY  
LLC'S REQUEST TO SUPPLEMENT  
RECORD; DECLARATION OF  
COUNSEL; EXHIBIT "A"; CERTIFICATE  
OF SERVICE

**TMT INTERNATIONAL OBSERVATORY LLC'S  
REQUEST TO SUPPLEMENT RECORD**

TMT International Observatory LLC ("TIO") requests to supplement the record in this proceeding in light of the new issue raised by E. Kalani Flores and the Flores-Case 'Ohana ("Flores") in their Memorandum in Support of Mauna Kea Hui's Motion to Reopen Hearing to Hear Motion to Confirm Non-Compliance With Condition No. 4, or, Alternatively, Petition for Declaratory Orders Concerning the Same filed on December 3, 2021 (the "Flores Memorandum").

In Minute Order No. 2 filed on November 19, 2021, the Board of Land and Natural Resources (the "Board") granted Flores leave to file a responsive brief to the Petitioners' Motion.

Office of Conservation and Coastal Lands  
Department of Land and Natural Resources  
State of Hawaii  
Dec 10, 2021 09:03

The Board further ordered that the Flores’ “responsive brief should be limited to issues raised in the Petitioners’ Motion and should not respond to the arguments raised in any of the other responsive briefings filed by the other parties.” *See* Minute Order No. 2 (November 19, 2021) at 1.

The Flores Memorandum raised an issue regarding the continuing validity of TIO’s National Pollutant Discharge Elimination System (“NPDES”) permit, which originally expired on June 11, 2019. *See* Flores Memorandum at 4-5. As this new issue was not previously raised or addressed in the Petition, TIO respectfully requests leave to supplement the record with the attached letter from the State of Hawaii Department of Health (“DOH”) dated May 28, 2019, which administratively extends the NPDES permit until DOH makes a final determination on TIO’s application for renewal of the permit.

Supplementation of the record with the attached letter will best serve the purposes of the proceedings, and will assist in securing the just, speedy and cost-effective determination of this matter.

DATED: Honolulu, Hawai‘i, December 10, 2021.

/s/ Ross T. Shinyama  
J. DOUGLAS ING  
ROSS T. SHINYAMA  
SUMMER H. KAIawe  
Attorneys for  
**TMT INTERNATIONAL OBSERVATORY LLC**

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

Case No. HA-22-02

The Petition of Mauna Kea Hui for a  
Declaratory Order Filed May 24, 2021.

DECLARATION OF COUNSEL

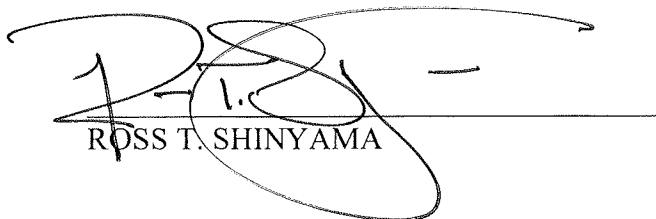
**DECLARATION OF COUNSEL**

I, ROSS T. SHINYAMA, hereby declare as follows:

1. I am an attorney with the law firm of Watanabe Ing LLP, and one of the attorneys for TMT International Observatory LLC ("TIO").
2. I make this declaration in lieu of an affidavit and based on personal knowledge and the records and files of this matter.
3. Attached hereto as Exhibit "A" is a true and correct copy of a letter from the State of Hawaii Department of Health ("DOH") dated May 28, 2019 to TIO, which administratively extends the National Pollutant Discharge Elimination System ("NPDES") permit for the Thirty Meter Telescope until DOH makes a final determination on the application for a renewal of the NPDES permit.

I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Honolulu, Hawaii, December 10, 2021.

  
ROSS T. SHINYAMA

DAVID Y. IGE  
GOVERNOR OF HAWAII



BRUCE S. ANDERSON, Ph.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378  
HONOLULU, HI 96801-3378

In reply, please refer to:  
EMD/CWB

HI S000431.EXT.19

May 28, 2019

Mr. Gary Sanders  
Project Manager  
TMT International Observatory  
100 West Walnut Street, Suite 300  
Pasadena, California 91124

Attention: Mr. Paul Gillett  
Facilities Department Head

Dear Mr. Sanders:

**Subject: Administrative Extension of the National Pollutant Discharge Elimination System (NPDES) Individual Construction Storm Water Permit for the Thirty Meter Telescope (TMT) International Observatory Project  
Mauna Kea, Island of Hawaii, Hawaii  
Permit No. HI S000431**

The Department of Health (DOH), Clean Water Branch (CWB), acknowledges receipt of your NPDES renewal application and filing fee. However, the DOH will not be able to complete the processing of the subject application prior to the current expiration date.

Therefore, in accordance with the Hawaii Revised Statutes (HRS), Chapter 342D-6(h), the DOH hereby administratively extends the subject NPDES permit until a final determination on your application is made. TMT International Observatory shall not be held in violation of HRS, Chapter 342D, and Hawaii Administrative Rules, Chapters 11-54 and 11-55, during the pendency of its application, as long as it acts consistently with the permit presently granted. **This administrative extension shall expire on the effective date of the subsequent permit.**

Any non-compliance with the conditions of the administratively extended permit may be subject to penalties of up to \$25,000 per violation per day. It is the Permittee's responsibility to ensure that anyone working under this administrative extension understands and complies with the terms and conditions therein.

EXHIBIT "A"

Mr. Gary Sanders  
May 28, 2019  
Page 2

HI S000431.EXT.19

Should you have any questions, please contact Mr. Colin Maruoka of the Engineering Section, CWB, at (808) 586-4309.

Sincerely,



MARIANNE ROSSIO, P.E., ACTING CHIEF  
Environmental Management Division

CTM:na

- c: Water Division (WTR-5), CWA Standards and Permits Office, EPA, Region 9  
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- Mr. Paul Gillett, TMT International Observatory  
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BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

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CERTIFICATE OF SERVICE

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the following document:

1. TMT International Observatory LLC's Request To Supplement Record; Declaration of Counsel; Exhibit "A"; Certificate of Service

was duly served upon the following parties, by email, on December 10, 2021:

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*Custodian of the Records*

E. Kalani Flores

Flores-Case 'Ohana

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The undersigned hereby further certifies that a copy of the following document:

1. TMT International Observatory LLC's Request To Supplement Record; Declaration of Counsel; Exhibit "A"; Certificate of Service

was duly served upon the following parties, via U.S. Mail, postage paid, on December 10, 2021:

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P.O. Box 383035  
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Stephanie-Malia Tabbada  
P.O. Box 194  
Naalehu, HI 96772

DATED: Honolulu, Hawai'i, December 10, 2021.

/s/ Ross T. Shinyama  
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ROSS T. SHINYAMA  
SUMMER H. KAIawe  
Attorneys for  
**TMT INTERNATIONAL OBSERVATORY LLC**