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TMT INTERNATIONAL OBSERVATORY LLC

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

IN THE MATTER OF

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

Case No. HA-22-02

**RESPONDENT TMT INTERNATIONAL
OBSERVATORY LLC'S RESPONSE TO
PETITIONERS MAUNA KEA HUI'S
MOTION TO MODIFY MINUTE ORDER
NO. 6; CERTIFICATE OF SERVICE**

**RESPONDENT TMT INTERNATIONAL OBSERVATORY LLC'S RESPONSE TO
PETITIONERS MAUNA KEA HUI'S MOTION TO MODIFY MINUTE ORDER NO. 6**

Respondent TMT International Observatory LLC ("TIO") hereby submits its response to Petitioners Mauna Kea Hui's Motion to Modify Minute Order No. 6 ("Motion"). TIO has no objection to rescheduling the October 6, 2023 hearing on the Petition given counsel's scheduling conflict. If the Board's preference is to reschedule the hearing on the Petition to another date in October, TIO's counsel, Ross T. Shinyama, Esq., is available on October 5, 16, 17, 18, 19, 20, 23, 24 and 31. Unfortunately, Mr. Shinyama will be traveling on the mainland for business

Received
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
State of Hawaii
August 21, 2023

during the Board's regularly scheduled meetings in October. Upon request, Mr. Shinyama can provide the Board with his availability for November and December 2023.

In the Motion, Petitioners request they be permitted 20 minutes for argument, instead of 15 minutes. Petitioners state they have no objection to the University of Hawai'i at Hilo having 20 minutes, but that all other parties, including TIO, should be limited to 15 minutes. Though TIO believes that 15 minutes should be sufficient for all parties to present their arguments, TIO does not object to the Board extending the time for oral argument from 15 minutes to 20 minutes for each party if it believes the extra time is appropriate. However, contrary to the inequitable position advocated by Petitioners, the allotted time should be the same for all parties. Either all parties have 15 minutes or all parties have 20 minutes. Moreover, Petitioners' attempt to limit the argument time for TIO and its counsel should be rejected. Indeed, this Board recognized the importance of TIO to this Petition when it stated in Minute Order No. 6 that TIO would argue first for Respondents.

Petitioners also request that the hearing on the Petition be held in-person as opposed to via Zoom. Initially, the Board has the discretion to hold this hearing via Zoom. Petitioners do not cite to a single authority that would require an in-person hearing. Given this, TIO leaves it to the Board's discretion as to whether this hearing should be held in-person or via Zoom.

Finally, Petitioners request Minute Order No. 6 be amended or supplemented to reflect that the originally scheduled July 28, 2023 hearing was rescheduled at Mr. Shinyama's request. TIO believes this is unnecessary as the record is clear as to the circumstances that ultimately resulted in the rescheduling of the July 28, 2023 hearing.

DATED: Honolulu, Hawaii, August 21, 2023.

/s/ Ross T. Shinyama _____

J. DOUGLAS ING

ROSS T. SHINYAMA

SUMMER H. KAIWE

Attorneys for Respondent

TMT INTERNATIONAL OBSERVATORY LLC

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:

Respondent TMT International Observatory LLC's Response to Petitioners Mauna Kea
Hui's Motion to Modify Minute Order No. 6; Certificate of Service

was duly served upon the following parties, by email, on August 21, 2023:

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DATED: Honolulu, Hawai'i, August 21, 2023.

/s/ Ross T. Shinyama _____
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