

Cindy Freitas
P.O. 4650
Kailua Kona HI 96745
hanahanai@hawaii.rr.com

BOARD OF LAND AND NATURAL RESOURCES
FOR THE STATE OF HAWAII

IN THE MATTER OF) Case No. BLNR-CC-16-002
)
A Contested Case Hearing Re Conservation;) **PRE-HEARING**
Use Application (CDUA) HA-3568 For the) **STATEMENT**
Thirty Meter Telescope at the Mauna Kea)
Science Reserve, Ka'ohe Mauka, Hamakua,)
Hawai'i TMK(3)4-4-015:009)
)
)
_____)

PRE-HEARING STATEMENT

I Cindy Freitas, "Petitioner" in this Pre-Hearing Statement will state issues that is a concern in the distinct interest in this matter.

I. INTRODUCTION

This case is based on the Conservation District Use Application ("CDUA") for the Thirty Meter Telescope Project ("TMT") to be located in the 4-4-15:9 Mauna Kea Science Reserve, ("MKSRR") District of Hamakua, Island and County of Hawai'i. The total area of parcel is 11, 288 acres and the area of proposed use is 8.7 acres. The University of Hawai'i at Hilo, ("UH") is the applicant and Dr. Donald Straney, Chancellor who is authorized to sign the application on September 2, 2010.

II. BACKGROUND

Received
Office of Conservation and Coastal Lands
2016 Oct 10 4:59 pm
Department of Land and Natural Resources
State of Hawaii

Board of Land and Natural Resources (“BLNR”) has leased the land (General Lease S-4191) to UH on January 1, 1968 and the lease terminates on December 31, 2033.

Mauna kea lands leased to and managed by the UH encompass three areas are Mauna Kea Science Reserve at the summit, the mid-level facilities at Hale Pohaku, and the Summit Access Road that runs from Hale Pohaku to the summit.

Thirteen astronomical facilities are operational in Mid- 2010. Nine of these are optical and/or infrared observatories, (these use mirrors to collect and focus visible and infrared light).

III. ISSUES

I. Burden of Proof

The UH has the burden of proof of demonstrating that a proposed land use is consistent with the criteria set forth in Hawaii Administrative Rule 13-5-30(c)(“HAR”)

The UH has not meet the criteria that is set forth in HRS 13-5-30(c) to uphold the purpose of the conservation district. Also the UH has to demonstrate that the proposed use will not affect Native Hawaiian rights. See Kuku, 116 Hawai’i at 509, 174 P. 3d at 348.

2. Desecration of Natural Resources

The natural resources with the surrounding area and as well as the cultural has be desecrated for many of years since UH has obtain the lease.

The EIS report DOC 5 page 278 states that 3 Mercury spills reported at the William M. Keck Telescope, August 10, 1995, September 15, 1995 and November 6, 1995. There have been 7 recorded spills from other facilities over the years. The hazardous materials

are very detrimental to the surrounding area and it gets into our ground where it can destroy the water resources. See *Hui O Na Wai Eha and Maui Foundation Tomorrow Inc. v Commission on Water Resources in a Contested Case* (Case No. CCH M906-01) (August 15, 2012)

The construction of the TMT will case a substantial impact to the existing natural resources that the destruction of the landscape is threaten and a cultural concern on Mauna Kea. Hawai'i Revised Statue 183C-1 ("HRS"); See *Mauna Kea Anaina Hou v. BLNR*, Civ. No. 4-1-397, 7 (3rd Cir. Haw. Jan, 19, 2007)

3. Burial Grounds

Mauna Kea is a landmark. The land is comprised of traditional and cultural practices with burial ground containing the "iwi" of our ancestors. The altering of construction will involve in digging many stories underground and many above ground.

The raw material that will be coming out of the ground is approximant 1,729,000.00 cubic feet material and that can disturb a lot of cultural and natural resource of as well as the "iwi". HRS 6E 43

4. Protecting Culture Traditional Customary Practices

The proposal sight for the Thirty Meter Telescope ("TMT") and all telescope will not protect our Culture Traditional Customary Practices. There are a lot of Native Hawaiian cultural practitioners that go to Mauna Kea and still practice the traditional way. The Constitution and Articles and all rules applied to the Culture Traditional Customary Practices are to hold the highest standard when it comes to protecting the rights of Native Hawaiian Cultural Practices. See *Kalipi v. Hawaiian Trust Co., Ltd.*, 66 Haw. 1, 656 Pd.

2d 745 (1982); Article XII 7 of the Hawai'i Constitution.

5. Protecting Religious Rights

Mauna Kea is a religious temple and sacred site. The Laws governs to protect the practice of religious beliefs from infringement. The proposal TMT will be a significant interference with religious practices on Mauna Kea. As we pray to the spiritual guidance of our ancestors and making the connection between human and spiritual world it will disturbed our prays as we concentrate and call upon our ancestors. See State v. Hanapi 89 Hawaii 177, 184, 970 P.2d 485, 493 (1998)

6. Emotional and Psychological

The construction of the proposal sight for TMT will cause a substantial health, safety, and welfare for the individual person.

Just an image of a construction site has an emotional and psychological image that is very strong in my mind. It's been very disturbing to me just thinking of it and yet the natural beauty and resource will never be the same EVER. This type of construction will also hinder my cultural, traditional customary religion practices to pray to my ancestors for spiritual guidance.

IV. CONCLUSION

Therefore the University will be unable to meet its burden of proof, the conservation district use application must be denied.

Kailua Kona HI., October 7, 2016


Cindy Freitas Petitioner

Received
Office of Conservation and Coastal Lands
2016 Oct 10 4:59 pm
Department of Land and Natural Resources
State of Hawaii

BOARD OF LAND AND NATURAL RESOURCES
FOR THE STATE OF HAWAII

IN THE MATTER OF) Case No. BLNR-CC-16-002
)
A Contested Case Hearing Re Conservation;)
Use Application (CDUA) HA-3568 For the)
Thirty Meter Telescope at the Mauna Kea)
Science Reserve, Ka'ohē Mauka, Hamakua,)
Hawai'i TMK(3)4-4-015:009) Certificate of Service
)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced document was served upon the following parties by the means indicated:

Michael Cain
OCCL
1151 Punchbowl, Rm131
Hon. HI 96813
michael.cain@hawaii.gov
Custodian of Records
(original digital copy).

Carlsmith Ball LLP
Ian Sandison, Tim Lui-Kwan
John P. Manaut, Lindsay N.
McAneeley
isandison@carlsmith.com
jpm@carlsmith.com
lmcaaneeley@carlsmith.com
Counsel for the Applicant
UHH

Richard N. Wurdeman
RNWurdeman@RNWlaw.com
Counsel for the Petitioners
Mauna Kea Anaina Hou,
Clarence Kukauakahi Ching
Flores-Case, 'Ohana, Deborah

Richard L Deleon
kekaukiki@msn.com

Mehana Kihoi
uhiwai@live.com

C.M. Kaho'okahi
Kanuha
Kahookahi@gmail.com

Joseph Kaulii Lindsey
Camara
kualiic@hotmail.com

Torkildson, Katz,
Moore, Hetherington
Harris Attn: Lincoln
S.T. Ashida
lisa@torkildson.com

J. Leina'ala Sleightholm
leina.ala.s808@gmail.com

Lanny Alan Sinkin

Glen Kila
makakila@gmail.com

Dwight J. Vicente
2608 Ainaola Dr.
Hilo, Hawaiian
Kingdom/mail

Brannon Kamahana
Kealoha
brannonk@hawaii.edu

Cindy Freitas
hanahanai@hawaii.rr.com

William Freitas
Pohaku 7@yahoo.com

Tiffnie Kakalia
tiffniekakalia@gmail.com

Maelani Lee
maelanilee@yahoo.com

Kalikolehua Kanaele

J. Ward, Paul K. Naves, and
Kahea: The Environmental
Alliance

Watanabe Ing LLP
J. Douglas Ing, Ross T.
Summer H. Kiawe
rshinyama@wik.com
douging@wik.com
TIO

David M Louie, ESQ
dml@ksqlaw.com
Clifford K. Higa, EXQ
ckh@ksqlaw.com
Nicholas R. Monlux, ESQ
nrm@ksqlaw.com

Kobayashi Sugita & Goda LLP
Special Deputy Attorneys General for Attorney
General Douglas S. Chin The Department of
The Attorney General, and Deputy Attorneys
General in their Capacity as Counsel for
The Board of Land & Natural Resources and
Hearing Officer

lanny.sinkin@gmail.com
Rep. for The Temple of Lono

Stephanie-Malia: Tabbada
s.tabbada@hawaiiantel.net

Wilma H. Holi
P.O. Box 368
Hanapepe, HI 96716
Witness List

Moses Kealamakia Jr.
mkealama@yahoo.com
Witness List

Patricia P. Ikeda
peheakeanila@gmail.com

akulele@yahoo.com

Harry Fergerstrom
P.O. 951
Kurtistown, HI 96760

Ivy McIntosh
3popoki@gmail.com
Witness List

Crystal F. West
crystalinx@gmail.com
Witness List

Signature:



Name (Print): Cindy Freitas

Date: 10/7/16