

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

IN THE MATTER OF	)	CASE NO. BLNR-CC-16-002
)	
Contested Case Hearing Re Conservation District)	
Use Application (CDUA) HA-3568 For the	)	Minute Order No. 22
Thirty Meter Telescope at the Mauna Kea Science	)	(Order Denying Harry Fergerstrom's
Reserve, Ka`ohe Mauka, Hamakua, Hawai`i	)	(1) Motion to Reconsider All
TMK (3) 4-4-015:009	)	Motions, Application, and/or
	)	Request for Admission or
	)	Intervention as a Party or Other
	)	Parties in This Matter; and (2)
	)	Motion to Strike All Motions,
	)	Applications, Decision, etc.:
	)	Essentially Making Moot the
	)	Entire Hearing (Doc. 96))
)	
	)	Certificate of Service

MINUTE ORDER NO. 22

(Order Denying Harry Fergerstrom's (1) Motion to Reconsider All Motions, Application, and/or Request for Admission or Intervention as a Party or Other Parties in This Matter; and (2) Motion to Strike All Motions, Applications, Decisions, etc.; Essentially Making Moot the Entire Hearing (Doc. 96))

On August 5, 2016, a hearing on Harry Fergerstrom's (1) Motion to Reconsider All Motions, Application, and/or Request for Admission or Intervention as a Party or Other Parties in this Matter; and (2) Motion to Strike All Motions, Applications, Decisions, etc.; Essentially Making Moot the Entire Hearing (collectively referred to herein as the "Motions") (Doc. 96), was held in Hilo, Hawai`i, 300 W. Lanikaula Street, YMCA.

The following persons were present:

Richard N. Wurdeman, Esq., Attorney for Mauna Kea Anaina Hou, et al. for and with Kealoha Pisciotta, Clarence K. Ching, Deborah Ward, Paul Neves, Pualani Case, E. Kalani Flores and Keomailani Van Gogh
Timothy Lui-Kwan, Esq.; John Manaut, Esq.; and Ian Sandison, Esq.; Attorneys for the University of Hawaii-Hilo (“UHH”)
J. Douglas Ing, Esq. and Ross Shinyama, Esq., Attorneys for TMT International
Lincoln Ashida, Esq. and Newton Chu, Esq., Attorneys for Perpetuating Unique Educational Opportunities Inc. (“PUEO”)
Lanny Sinkin for Temple of Lono
Harry Fergerstrom
Richard DeLeon
Mehana Kihoi
C.M. Kahookahi Kanuha
Joseph Camara
Jennifer Leina`ala Sleightholm
Maelani Lee
Kalikolehua Kanaele
Stephanie-Malia Tabbada
Tiffnie Kakalia
Glen Kila
Dwight Vicente
Brannon Kamahana Kealoha
Cindy Freitas
William Freitas

In addition to the Motions, the following documents were considered:

DOC	TITLE	COUNSEL/PARTY
122	Motion to Join	Kalikolehua Kanaele
123	Motion to Join	Richard DeLeon
144	TMT International Observatory, LLC’s opposition to the Three Motions filed by Harry Fergerstrom (Doc 96)	TMT International Observatory, LLC

TMT International Observatory, LLC Proposed Minute Order No. __ Denying the Motions (“Proposed Minute Order”), was filed on October 5, 2016 (Doc 309).¹ Cindy Freitas

¹ At the 5th pre-hearing conference, held on October 3, 2016, the Hearing Officer requested that prevailing parties submit proposed minute orders relative to motions for which oral rulings were rendered but written Minute

submitted Objection to All Minute Order No. ____ That Was Filed In The Document Library On October 5, 2016 Doc 322, 321, 320, 319, 318, 317, 316, 315, 314, 312, 311, 310, 309 and 308, on October 7, 2016 (“C. Freitas Objection”; Doc. 332 and Doc 333)².

Based upon the Motions, all related and oral submissions from counsels and/or parties, the Proposed Minute Order and all submissions related thereto, all applicable law, the entire record having been considered by the Hearing Officer,

IT IS HEREBY ORDERED that the Motions are DENIED. This Hearings Officer finds that there is no legal basis to grant the Motions. The process used by this Hearing Officer to admit new parties to this contested case was authorized and consistent with the applicable Rules of Practice and Procedure found in Title 13, Chapter 1 of the Hawai’i Administrative Rules. There is also no legal basis to require UHH to resubmit its CDUP application.

Ms. Freitas’ objections to the Proposed Minute Order are based on her premature filing of a motion for reconsideration (“Cindy Freitas Motion to Reconsideration”; Doc. 205), on August 11, 2015. She expresses her belief that “There for all **DOC 322, 321, 320, 319, 318, 318, 317, 316, 315, 314, 312, 311, 310, 309 AND 308** filed in the Document Library on October 5, 2016 is premature.” Citing the “14th Amendment” Ms. Freitas contends that her rights are somehow denied by the Proposed Minute Order. Her arguments are nonsensical. The appropriate time to ask for reconsideration of the Minute Order in question is after it is filed. A process for reconsideration is set out herein.

Orders were still outstanding. Deadline for submission of the proposed minute orders was set for Wednesday, October 5, 2016, 4:30 p.m. Deadline for the submission of responses to the proposed minute orders was set for Friday, October 7, 2016, 4:30 p.m.

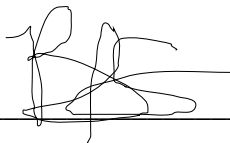
² It appears that C. Freitas filed two identical documents; Doc. No. 332 is file-stamped “2016 Oct 07 at 11:44 a.m.” and Doc. No. 333 is file-stamped “2016 Oct 07 at 3:39”.

Motion to Reconsider. A party, who believes it appropriate, may file a motion to reconsider using the procedure set out herein. Any Motion for Reconsideration shall not be used to reargue the motion or set out positions of a purely repetitious nature or to present factual or legal grounds that could or should have been presented at the original hearing. AMFAC, Inc. v. Waikiki Beachcomber Inv. Co., 74 Haw. 85, 114 (1992).

The deadline for submission of any **motion** to reconsider this minute order and/or the Order Setting Issues, is no later than **5 business days** after the date this Minute Order are filed in the Documents Library. Any **responses to motions to reconsider**, shall be submitted no later than **10 business days** after this motion and order are filed in the Documents Library; essentially 5 business days after the deadline for motions to reconsider.

Any Motion to Reconsider shall be considered a non-hearing motion unless otherwise designated by the Hearing Officer.

DATED: Honolulu, Hawai`i, October 10, 2016.



Judge Riki May Amano (Ret.)
Hearing Officer

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

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

BLNR Contested Case HA-16-02
Document title:
Minute Orders 21, 22, 23, 24, 25, 26, 27

(CORRECTED) CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced Minute Orders were served upon the following parties by the means indicated on October 10, 2016:

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