

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	)	Minute Order No. 24
Use Application (CDUA) HA-3568 For the	)	(Order Denying Kalikolehua
Thirty Meter Telescope at the Mauna Kea Science	)	Kanaele’s Motion to Exclude/
TMK (3) 4-4-015:009	)	Remove Pueo, TMT, UH Manoa/
	)	Hilo, and All Petitioners Seeking for
	)	Permit for TMT by Circumvention
	)	of Religious Protections of the
	)	Hawaii Constitution Article
	)	XII and HRS 7-11-1107 Committing
	)	Desecration (Doc. 173))
)	
_____	)	Certificate of Service

MINUTE ORDER NO. 24

(Order Denying Kalikolehua Kanaele’s Motion to Exclude/Remove Pueo, TMT, UH Manoa/Hilo, and All Petitioners Seeking for Permit for TMT by Circumvention of Religious Protections of the Hawaii Constitution Article XII And HRS 7-11-1107 Committing Desecration (Doc. 173))

On August 5, 2016, a hearing on Kalikolehua Kanaele’s Motion to Exclude/Remove PUEO, TMT, UH Manoa/Hilo, and all Petitioners Seeking for Permit for TMT by Circumvention of Religious Protections of the Hawaii Constitution Article XII and HRS 7-11-1107 Committing Desecration (“Motion”; Doc. 173), was held in Hilo, Hawai`i at the YMCA, 300 W. Lanikaula Street.

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

Received
Office of Conservation and Coastal Lands
2016 Oct 10 5:09 pm
Departement of Land and Natural Resources
State of Hawaii

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

There was no other documents submitted for the Hearing Officer’s consideration in
relation to the Motion.

On October 5, 2016, the University of Hawai’i at Hilo filed a Proposed Minute Order No.
___ Denying the Motion (“Proposed Minute Order”; Doc. 321).¹ Cindy Freitas 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.

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 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”.

Based upon the Motion, 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 Motion is DENIED. There is no factual basis offered by movant to dismiss PUEO, TMT, UH MANOA/HILO and other petitioners seeking a permit for TMT. Movant Kanaele alleges that issuing a permit would violate religious protections of the Hawai`i Constitution Article XII and HRS 7-11-1107 but offers no evidence to support such accusations.

Ms. Freitas' objections to the Proposed Minute Order are based on her belief that "There for [sic] 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 illogical. The appropriate time to ask for reconsideration of the Minute Order in question is after it is filed. It has not been filed yet. The filing of this Minute Order will trigger the process for reconsideration as set out herein.

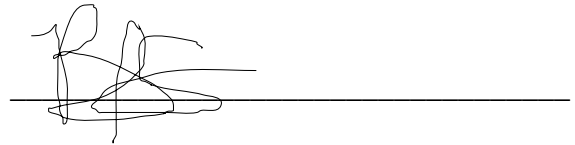
Motion to Reconsider. A party, who believes it appropriate, may file a motion to reconsider using the procedure set out herein. Any Motion for Reconsideration shall not be used to reargue the motion or set out positions of a purely repetitious nature or to present factual or legal grounds that could 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.

A handwritten signature in black ink, appearing to read 'Riki May Amano', is written over a horizontal line.

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:

Carlsmith Ball LLP
isandison@carlsmith.com
tluikwan@carlsmith.com
jpm@carlsmith.com
lmcaneley@carlsmith.com
*Counsels for the applicant University
of Hawai'i at Hilo*

Kealoha Pisciotta and Mauna Kea
Anaina Hou
keomaivg@gmail.com

Clarence Kukauakahi Ching
kahiwaL@cs.com

E. Kalani Flores
ekflores@hawaiiintel.net

B. Pualani Case
puacase@hawaiiintel.net

Deborah J. Ward
cordylinecolor@gmail.com

Paul K. Neves
kealiikea@yahoo.com

Kahea: The Environmental Alliance
c.o. Bianca Isaki
bianca@kahea.org

Watanabe Ing LLP
rshinyama@wik.com
douging@wik.com
*Counsels for TMT International
Observatory, LLC*

Harry Fergerstrom
P.O. Box 951
Kurtistown, HI 96760

Mehana Kihoi
uhiwai@live.com

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

Joseph Kualii Lindsey Camara
kualiic@hotmail.com

Torkildson, Katz, Moore, Hetherington
& Harris
lsa@torkildson.com
njc@torkildson.com
*Counsels for Perpetuating Unique
Educational Opportunities (PUEO)*

J. Leina'ala Sleightholm
leinaala.mauna@gmail.com

Maelani Lee
maelanilee@yahoo.com

Lanny Alan Sinkin
lanny.sinkin@gmail.com
Representative for The Temple of Lono

Kalikolehua Kanaele
akulele@yahoo.com

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

Tiffnie Kakalia
tiffniekakalia@gmail.com

Glen Kila
makakila@gmail.com

Dwight J. Vicente
2608 Ainaola Drive
Hilo, Hawaiian Kingdom

Brannon Kamahana Kealoha
brannonk@hawaii.edu

Cindy Freitas
hanahanai@hawaii.rr.com

William Freitas
pohaku7@yahoo.com

Wilma H. Holi
P. O. Box 368
Hanapepe, HI 96716
Witness for the Hearing Officer

Moses Kealamakia Jr.
mkealama@yahoo.com
Witness for the Hearing Officer

Patricia P. Ikeda
peheakeanila@gmail.com
Witness for the Hearing Officer

Signature:

Name: Michael Cain

Date: October 11, 2016

