

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. 31
Use Application (CDUA) HA-3568 For the)	(Order Denying Motion for
Thirty Meter Telescope at the Mauna Kea Science)	Protective Order for the
Reserve, Ka`ohe Mauka, Hamakua, Hawai`i)	Honorable David Y. Ige,
TMK (3) 4-4-015:009)	Suzanne Case and Stanley
)	Roehrig (Doc. 182))
)	
)	Certificate of Service

MINUTE ORDER NO. 31

**(Order Denying Motion for Protective Order for the
Honorable David Y. Ige, Suzanne Case and Stanley Roehrig
(Doc 182))**

On August 29, 2016, a hearing on Governor David Y. Ige, Board of Land and Natural Resources (“BLNR”) Chairperson Suzanne Case and BLNR Member Stanley Roehrig’s Motion for Protective Order for the Honorable David Y. Ige, Suzanne Case and Stanley Roehrig (Doc. 182) (“Motion”) was held in Hilo, Hawai`i at the Hawaii Community College, Cafeteria, 1175 Manono Street.

The following persons were present:

Richard N. Wurdeman, Esq. for Mauna Kea Anaina Hou, for and with Clarence K. Ching, Kealoha Pisciotta, Pualani Case, Hawane Rios, Keomailani Von Gogh and E. Kalani Flores;
Timothy Lui-Kwan, Esq. and Ian Sandison, Esq. for the University of Hawai`i-Hilo (“UH-Hilo”).
J. Douglas Ing, Esq. and Ross Shinyama, Esq. for TMT International Observatory, LLC. (“TIO”)
Harry Fergerstrom
Mehana Kihoi
C.M. Kaho`okahi Kanuha

Received
Office of Conservation and Coastal Lands
2016 Oct 10 10:41 pm
Department of Land and Natural Resources
State of Hawaii

Joseph Kualii Lindsey Camara
 Lincoln Ashida, Esq. for Perpetuating Unique Educational Opportunities, Inc.
 (“PUEO”) with Keahi Warfield, Bill Brown and Richard Ha
 Jennifer Leina`ala Sleightholm
 Lanny Sinkin, Temple of Lono with Kahuna Nobriga
 Kalikolehua Kanaele
 Tiffnie Kakalia
 Dwight J. Vicente
 William Freitas
 Harvey Henderson, Esq. for Governor Ige, Chairperson Suzanne Case and Board
 Member Stanley Roehrig
 Cindy Freitas

In addition to the Motion, the following submissions were considered:

DOC.	TITLE	COUNSEL/PARTY
201	The University of Hawaii at Hilo’s Joinder to David Y. Ige, Suzanne Case and Stanley Roehrig’s Motion for Protective Order, filed August 8, 2016	University of Hawaii-Hilo
208	Dwight Vicente Objection of Protective Order	Dwight Vicente
233	Petitioners Mauna Kea Anaina Hou, et al’s Memorandum in Opposition to Motion for Protective Order for the Honorable David Y. Ige, Suzanne Case and Stanley Roehrig, filed on August 8, 2016	Petitioners MKAH
239	(A) Response to University of Hawaii Oppositions Doc 139, 194, 196, 197, 198, 199, 200, <u>201</u> , ...(D) Response to Motion for Protective Order, et al.	Stephanie Tabbada

On October 5, 2016, TMT International Observatory, LLC, filed a Proposed Minute Order No. __ Denying the Motion (“Proposed Minute Order”; Doc. 312).¹ Cindy Freitas submitted Objection to All Minute Order No. ____ That Was Filed in The Document Library On

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.

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 Motion is DENIED. This Hearings Officer finds no procedure or authority in the applicable rules to grant the requested protective order.

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

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”.

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,
Hāmakua, Hawai'i, TMK (3) 4-4-015:009

BLNR Contested Case HA-16-02
Document title:
Minute Orders 28, 29, 30, 31, 32, 33

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 11, 2016:

Carlsmith Ball LLP
isandison@carlsmith.com
tluikwan@carlsmith.com
jpm@carlsmith.com
Imcaneey@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
isa@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