

**BOARD OF LAND AND NATURAL RESOURCES**

**STATE OF HAWAII**

IN THE MATTER OF )  
)  
Contested Case Hearing Re Conservation District )  
Use Application (CDUA) HA-3568 for the )  
Thirty Meter Telescope at the Mauna Kea Science )  
Reserve, Ka`ohe Mauka, Hamakua, Hawai`i )  
TMK (3) 4-4-015:009 )  
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\_\_\_\_\_ )

CASE NO. BLNR-CC-16-002  
  
Minute Order No. 32  
(Order Denying Motion to Strike  
Motion for Protective Order for  
the Honorable David Y. Ige,  
Suzanne Case and Stanley Roehrig,  
Filed on August 8, 2016 (Doc. 187))  
  
**Certificate of Service**

**MINUTE ORDER NO. 32**

**(Order Denying Motion to Strike Motion for Protective Order  
for the Honorable David Y. Ige, Suzanne Case and Stanley  
Roehrig (Doc 187))**

On August 29, 2016, a hearing on Petitioners Mauna Kea Anaina Hou, et al.'s Motion to Strike Motion for Protective Order for the Honorable David Y. Ige, Suzanne Case and Stanley Roehrig (Doc. 187) ("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 Pisciotto, Pualani Case, Hawane Rios, Keomailani Von Gogh and E. Kalani Flores;  
Timothy Lui-Kwan, Esq., Ian Sandison, Esq. and John P. Manaut, 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  
Joseph Kualii Lindsey Camara

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

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, Chair Suzanne Case and Board  
 Member Stanley Roehrig  
 Cindy Freitas

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

<b>DOC.</b>	<b>TITLE</b>	<b>COUNSEL/PARTY</b>
203	TMT International Observatory, LLC’s Objections to the Untimely Motions and Joinders Filed by Anti-TMT Parties Including, but Not Limited to Doc. Nos. 178, 179, 187, 190, 191, 192, 193, and 195	TMT International Observatory, LLC
224	Governor David Y. Ige, Suzanne Case and Stanley Roehrig's Memorandum in Opposition to Petitioners' Motion to Strike Motion for Protective Order for the Honorable David Y. Ige, Suzanne Case, and Stanley Roehrig filed on August 8, 2016	Harvey Henderson, Esq.
241	The University of Hawai‘i at Hilo’s Joinder to TMT International Observatory, LLC’s Objections to the Untimely Motions and Joinders Filed by Anti-TMT Parties Including, But Not Limited to Doc. Nos. 178, 179, 187, 190, 191, 192, 193, and 195, filed August 11, 2016 (Doc. 203)	University of Hawaii at Hilo

On October 5, 2016, TMT International Observatory, LLC, filed a Proposed Minute Order No. \_\_ Denying the Motion (“Proposed Minute Order”; Doc. 314).<sup>1</sup> Cindy Freitas

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<sup>1</sup> At the 5<sup>th</sup> 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.

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)<sup>2</sup>.

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 that this Motion is moot based on a prior ruling denying the related Motion for Protective Order filed on behalf of the Honorable David Ige, Suzanne Case and Stanley Roehrig by the Attorney General’s Office on August 8, 2016.

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 “14<sup>th</sup> 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

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<sup>2</sup> 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”.

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.



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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:

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Date: October 11, 2016