

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. 34
Use Application (CDUA) HA-3568 For the	)	(Order Denying Brannon Kamahana
Thirty Meter Telescope at the Mauna Kea Science	)	Kealoha's Motion Demanding
Reserve, Ka'ohe Mauka, Hamakua, Hawai'i	)	Inventory of the So-Called Ceded
TMK (3) 4-4-015:009	)	Lands Containing the Specific
	)	Land and Parcel the TIO Plans
	)	to be Sub-Leased by UH Who
	)	Leases Said Lands From the BLNR,
	)	A Survey of These Lands Also
	)	(Doc. 191))
)	
	)	Certificate of Service

MINUTE ORDER NO. 34

**(Order Denying Brannon Kamahana Kealoha's Motion
Demanding Inventory of the So-Called Ceded Lands
Containing the Specific Land and Parcel the TIO Plans to be
Sub-Leased by UH Who Leases Said Lands From the BLNR, A
Survey of These Lands Also (Doc. 191))**

On August 29, 2016, a hearing on Brannon Kamahana Kealoha's Motion Demanding Inventory of the So-Called Ceded Lands Containing the Specific Land and Parcel that TIO Plans to be Sub-Leased by UH Who Leases Said Lands from the BLNR, A Survey of these Lands Also (Doc. 191) ("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;

Received
Office of Conservation and Coastal Lands
2016 Oct 11 10:17 pm
Department of Land and Natural Resources
State of Hawaii

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
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, Suzanne Case and Board Member Stanley Roehrig
Cindy Freitas

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

DOC.	TITLE	COUNSEL/PARTY
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
237	TMT International Observatory, LLC's substantive joinder to applicant The University of Hawaii at Hilo's memorandum in opposition to Kamahana Kealoha's Kamahana Kealoha: Invoking American law; Motion demanding inventory of the so-called ceded lands containing the specific land and parcel the TIO plans to be sub-leased by UH who leases said lands from the BLNR, a survey of these lands also, filed August 10, 2106 [Doc. 191)	TMT International Observatory, LLC
243	The University of Hawai'i at Hilo's Memorandum in Opposition to Brannon Kamahana Kealoha's Kamahana Kealoha: Invoking American Law; Motion Demanding Inventory of the So-Called Ceded Lands Containing the Specific Land and Parcel the TIO Plans to be Sub-Leased by UH Who Leases Said Lands from the BLNR, A Survey of These Lands Also, Filed August 10, 2016 (Doc. 191)	University of Hawai'i at Hilo

On October 5, 2016, the University of Hawaii at Hilo filed a Proposed Minute Order No. ____ Denying the Motion (“Proposed Minute Order”; Doc. 317).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.

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.

As set forth in Minute Order No. 13, the deadline for all pre-hearing motions was July 18, 2016. Because the present Motion was not filed until August 10, 2016, the Hearing Officer finds that the Motion is untimely. Furthermore, the Motion reiterates the same arguments made by Movant in his prior Motion Invoking Quo Warranto, respectfully, a Demand of Jurisdiction; Declaratory Judgment on a Constitutional Issue/Violation [Doc. 180], filed on July 25, 2016. There is no basis to grant this Motion.

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”

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”.


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

BLNR Contested Case HA-16-02
Document title:
Minute Order 34

CERTIFICATE OF SERVICE

The undersigned hereby certifies that Minute Order 34 was served upon the following parties by the means indicated on October 12, 2016:

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