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BOARD OF LAND AND NATURAL RESOURCES
FOR THE STATE OF HAWAII

IN THE MATTER OF) Case No. BLNR-CC-16-002
)
A Contested Case Hearing Re Conservation;) CINDY FREITAS MOTION
Use Application (CDUA) HA-3568 For the) TO ADMIT EXHIBITS AND
Thirty Meter Telescope at the Mauna Kea) WRITTEN DIRECT TESTIMONY
Science Reserve, Ka'ohe Mauka, Hamakua,) INTO EVIDENCE; MEMORANDUM
Hawai'i TMK(3)4-4-015:009) IN SUPPORT OF MOTION;
) CERTIFICATION OF SERVICE
)

**CINDY FREITAS MOTION TO ADMIT EXHIBITS AND WRITTEN
AND WRITTEN DIRECT TESTIMONY INTO EVIDENCE**

Cindy Freitas, "Petitioner", hereby submits its Motion to Admit Exhibits and Written Direct Testimony Into Evidence ("Motion"). This motion is made pursuant to Hawai'i Administrative Rules 13-1-32, 34 and 35 ("HAR").

Kailua Kona, HI 2/26/17


Cindy Freitas Petitioner

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Hawai'i TMK(3)4-4-015:009) CERTIFICATION OF SERVICE
_____)

MEMORANDUM IN SUPPORT OF MOTION

On February 21, 2017, Cindy Freitas, ("Petitioner") rested its case in the above entitled matter. Petitioner now moves to admit into evidence the written direct testimony ("WDT") of its witnesses and the exhibits introduced therein during the contested case hearing. The proposed evidence is in accordance with Hawai'i Revised Statutes ("HRS") 91-10 governing the admissibility of evidence in agency proceedings:

Except as provided in section 91-8.5, **any oral or documentary evidence may be received**, but every agency shall as a matter of policy provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence and no sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions in accordance with reliable, probative, and substantial evidence. The agencies shall give effect to the rules of privilege recognized by law[.]

HRS 91-10(i) (emphases added). The evidence presented by Petitioner is relevant, Material, and is not privileged or unduly repetitious, and is therefore admissible under the liberal standard of the admissibility of evidence in administrative hearings. Therefore, pursuant to HRS 91-10, Petitioner moves to admit into the record the following testimony and documentary evidence:

WRITTEN DIRECT TESTIMONY

Ex No.	Description
S-2a	Cindy Freitas Amended Testimony
S-14a	Nanci Munroe Amended Testimony
S-17a	Susan Roiser Amended Testimony

EXHIBITS

Ex No.	<u>Description</u>
S-3	Report of Spills Of Hazardous materials
S-4	Image: From Kona Coastal Line
S-5	CDUP Section 7 Visual Impact Page 7-8
S-6	Image: Proposed support Building Site
S-7	Image: Concrete in the ground with a PVC pipe: August 13, 2016
S-8	Image: Concrete in the ground with a PVC pipe: August 13, 2016
S-10	Image: Oil Spill by Machines; 2015

S-11	Image: Oil Spill on Machine; 2015
S-12	Image: Oil Spill on Machine; 2015
S-14b	Formal Complaint to DLNR
S-14e	Image of oil spill
S-14f	Image of oil spill
S-14g	Image of oil spill
S-15	Letter of Complaint to DLNR on June 23, 2015
S-16	Letter of Complaint to Khon 2. Com on June 22, 2015
S-18	Image
S-18a	Hydraulics 201
S-18b	An Inventory of Basic Water Resources (DLNR)
S-18b 1	Geology and Ground-Water Resources of the Island of Hawaii
S-18b 2	The Geology and Petrology of Mauna Kea Volcano, Hawaii
S-18b 3	Image of 1975 map
S-18b 4	University of Hawai'i New "Large fresh water supply discovered by UH researcher on Hawai'i Island
S-18c	Caterpillar D91 Bulldozer
S-18d	OCCL Letter October 13, 2009
S-18e	Hellman & Associates Safety Meeting Topic
S-18f	Blasting Technology, Inc. "Notice of Blasting"
S-18g	CDUA/TMT Management Plan Appendix D page D-8

S-18h	Hooked on Hydraulics
S-18L	USGS Ground Water in Hawaii
S-18m	Hydraulics Key
S-18n	Image
S-18n	Image
S-18o	Oil Drum left at Groundbreaking Site
S-18p	Paving Equipment Image
S-19	Doc 391 Motion To Dismiss Contested Case Hearing Re Conservation Use Application HA-3568
S-20	DOC: 256 PUEO Proposed Minute Order Granting PUEO Motion to Set Issues
S-21	DOC: 297 Respond to Proposed DOC 256 All Issues Should Also Be considered
S-22	DOC: 220 Site Visit Proposal
S-23	DOC: 274 Minute Order No. 18
S-24	DOC: 278 Motion to Amend 274 Site Visit to Include Request In Doc 220
S-25	DOC: 290 Objection to September 26, 2016 Site Visit on Mauna Kea
S-26	Via Email September 30, 2016 Letter to OMKM
S-27	Manitowoc Product Guide
S-27a	Crawler & Mobile Crane Accident Video
S-27b	Tower Cranes Warrant a Closer Look
S-27c	Waiting for a Transformation
S-27d	Tower Cranes Warrant a Closer Look

S-27e	Recent Activities
S-27f	Crane Accident Investigation and Accident Reconstruction
S-28	Mauna Kea Shows Signs of Ancient Glacial Scouring 1916
S-28a	New Professor for College of Hawaii 1909
S-28b	European Travelers Account of a Trip over Hawaii 1870
S-28c	Crest Lake is Shallow-Not bottomless 1913
S-28d	Above the Clouds 1899
S-28d 1	Janet M. Dellaria of Trout Creek, Michigan Experience on Mauna Kea
S-28d 2	Image: Janet M. Dellaria on Mauna Kea background Haleakala
S-28e	CMP-Fact Sheet
S-28f	The Ascent of Mauna Kea, Hawaii 1892 News Article
S-29	Site Visit Proposal
S-29a	Motion to Amend Doc 274 Site to include request in Doc 220
S-29b	Objection to September 26, 2016 Site Visit on Mauna Kea
S-30	HRS 13-5-30(c)
S-30a	HRS 711-1107 Desecration
S-31	CMP page 7-56
S-31a	CMP page 2-3
S-31b	Appendix B. TMT Management Plan
S-31c	Master Plan Design Guidelines page (11)X1-4

S-31d	2000 Master Plan page XI-14 (Amendment Procedures)
S-31e	CDUA page 1-8 (TMT Observatory Design)
S-31f	CDUA page 7-8 (Table 7.5)
S-31g	CDUA page 1-11 (TMT Access Way)
S-31h	Indices of Awards 1992

Cindy Freitas, (“Petitioner”) reserves the right to supplement this motion based on additional evidence introduced during cross-examination and/or rebuttal.

Petitioner respectfully requests that the Hearing Officer grant this Motion.

Kailua Kona, HI. 2/26/17


Cindy Freitas Petitioner