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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;	)
Use Application (CDUA) HA-3568 For the	) ERRATA RE; CINDY FREITAS
Thirty Meter Telescope at the Mauna Kea	) MEMORANDUM SUPPORT OF
Science Reserve, Ka'ohe Mauka, Hamakua,	) MOTION FOR RECONSIDERATION
Hawaii TMK(3)4-4-015:009	) OF MINUTE ORDER 43; COS
	)

**ERRATA RE CINDY FREITAS**  
**MEMORANDUM IN SUPPORT OF MOTION FOR**  
**RECONSIDERATION OF MINUTE ORDER 43**

**I. INTRODUCTION**

I Cindy Freitas, ("Petitioner") hereby file Memorandum in Support of Motion for Reconsideration of Minute Order 43, DOC 553 that was upload to the Document Library on April 18, 2017 and signed by Hearing Officer Riki Amano (Ret.) on April 19, 2017.

The Order 43 post-remand proceedings of Transcripts at the following locations on or about April 18, 2017.

The Order 43 based upon deadlines for filing Finding of Facts and Conclusions of Law due on May 30, 2017 and any responses to decision and order due June 13, 2017. Also the Motion to Reconsideration is due 5 business days after the date of Order.

**II. ARGUMENT**

Received  
Office of Conservation and Coastal Lands  
Department of Land and Natural Resources  
State of Hawaii  
2017 April 26 8:02 am

### **A. Transcripts**

In due respect to the Court Reporter, I have found an era in the transcripts that raises some concerns to the whole Volume of transcripts.

At any time Petitioner did not have the opportunity to inspect the transcripts or have any consultation on the processes of the transcripts if there should be any eras? There for the era is sited in 10-27-16 Tr. Vol. 5 page 386 Line 4-6 states "Mr. and not Ms. Freitas. This will cause a substantial injustice if further eras are detected pursuant to HAR 13-1-39 (a) (2). I am the living original person who did the cross-examination pursuant to Hawaii Revised Statue ("HRS") 91-10; HRS 91-2 and Hawaii Administration Rules ("HAR") 13-197-19. See *Routier v. State*, 112 S.W.3d 554 (Tex. Crim. App. 2003)

I reserved the right to make corrections as needed to the transcript and reserve time to make those corrections to all 44 Volumes and Volumes i-vii as deem.

### **B. Motions Pending and Request**

Petitioner has filed numerous Motion and Request that has not been addressed as properly as followed: .

1. Request for Continuance for time DOC 89 filed on July 18, 2016.
2. Site Visit Proposal DOC 220 filed on August 17, 2016
3. Motion to file Motion out of Time DOC 227 filed on August 22, 2016 (Have been considered in relation to the motion Minute Order 33 DOC 356
4. Motion to withdrawal Ku'uipo Freitas as witness DOC 250 filed September 1, 2016
5. Memorandum In Support of Petitioners Mauna Kea Anaina Hou, Et Al's Request for Further Status Conference and or Consideration of Proposed Scheduling DOC 259 filed September 12, 2016
6. Motion to Amend DOC 274 Site Visit to include request in DOC 220. DOC 278 filed September 21, 2016
7. Motion to Amend DOC 281 Minute Order No 19. DOC 284 filed September 26, 2016
8. Motion to Object to phone call by Michael Cain on 9/23/16 that was instructed by Hearing Officer Riki Amano (Ret.) DOC 290 filed September 26, 2016

9. Objection to September 26, 2016 Site Visit On Mauna Kea DOC 290 filed September 27, 2016
10. Respond to Proposed DOC 256 all issues should also be considered. DOC 297 filed October 3, 2016
11. Motion for Extension of Time for Filing of Motions, witness and Exhibit Lists and Direct Testimonies and Pre-Hearing Statement DOC 305 filed October 4, 2016
12. 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, 313, 312, 311, 309 and 308. DOC 333 filed October 7, 2016. (Minute Order No. 22 states premature filing of a motion for reconsideration)
13. Motion to Dismiss Contested Case Hearing RE Conservation Use Application HA-3568. DOC 391 filed October 18, 2016.
14. Cindy Freitas Joinder to Temple of Lono's Motion to Board of Land and Natural Resources to Dismiss HA-3568 DOC 529 filed March 22, 2017
15. Cindy Freitas Joinder to Mauna Kea Anaina Hou Motion Requesting to Respond to Exhibit Objection DOC 530 filed March 22, 2017
16. Cindy Freitas, William Freitas and Clarence Kukaiakahi Ching's Motion for Joinder of Temple of Lono's Motion for Protective Order DOC 548 filed March 25, 2017

All the above records as well as other parties in this Contested Case have not been determined by the Hearing Officer pursuant to HAR 13-1-38 (a). See Mauna Kea Anaina Hou v. Board of Land and natural Resources 363 P.3d 224 (2015) 136 Haw. 376.

### **C. FILING/SUBMISSION PROCEDURE HISTROY**

**Order 13 DOC 115** filed July 21, 2016 @ 1:10pm on page 7 as written:

All parties shall abide by the following procedures for filing and/or submission of documents, including but not limited to motions, objections, and other required papers.

1. Both the original hard copy plus one digital copy in pdf or doc format of the filing/submission must be received by the DLNR Office of Conservation and Coastal ("OCCL"), 1151 Punchbowl Street, Room 131m Honolulu, Hawai'i 96813; no later than 4:00p.m. on the deadline set forth. To the extent possible, digital copies of any submission must be contained in one single file. In addition, copies of the filing/submission shall be sent to all other parties; and Deputy Attorney General Julie China, attorney for the Board of Land and Natural Resources (465 South King Street,



Room 300, Honolulu, Hawai'i 96813). This service may be completed by e-mail.

**Order 16 DOC 238** filed August 23, 2016 @ 3:25 p.m. on page 2 and 3 as written:

Previously, Minute Order No. 13 (Document 115), filed on July 21, 2016, set out document filing and submission procedures. Since the filing of Minute Order No. 13 on July 21, 2016 through August 12, 2016, a period of just over three weeks, and additional 90+ documents were uploaded to the Documents Library.

In an effort to maintain an accurate and orderly documents filing system for everyone to use effectively, all parties shall abide by the following procedures for filing and/or submission of documents, including but not limited to motions, objections, oppositions, replies, responses, joinders and other papers (not emails and correspondence) submitted for filing.

1. Both the original hard copy plus one digital copy in pdf or doc format of the filing/submission must be sent to the **DLNR Office of Conservation and Coastal Lands ("OCCL")**, 1151 Punchbowl Street, Room 131, Honolulu, Hawai'i 96813 or sent via email to [dlnr.maunakea@hawaii.gov](mailto:dlnr.maunakea@hawaii.gov). To the extent possible, digital copies of any submission must be contained in one single file.
2. All documents received by the OCCL by 4:30p.m. will be uploaded to the Documents Library on the DLNR website, by the close of business on the next business day.

**Order 19 DOC 281** filed September 23, 2016 @ 3:18 p.m. on page 5 and 6 as written:

**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 **3 business days** after the date this motion and order are filed in the Document Library. Any **responses to motions to reconsider**, shall be submitted no later than **6 business days** after the motion and order are filed in the Document Library.

**Order No. 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 37 and 38** filed on different dates and time and all pages in Minute Orders states as written:

**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 use 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 that **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.

Though out this process the **FILING/SUBMISSION; MOTION TO RECONSIDERATION AND RESPONSES** was done though 15 Minute Order and now **Minute Order 43** states as written:

**FILING/SUBMISSION PROCEDURE.** An original of the filing/submission must be received by the DLNR Office of Conservation and Coastal Lands, 1151 Punchbowl Street, Room 131, Honolulu, Hawai'i; no later than **4:00 p.m.** on the deadline set forth (emphasis added). A digital copy in pdf form should be sent to [dlnr.maunakea@hawaii.gov](mailto:dlnr.maunakea@hawaii.gov). or delivered to the above office, on the same deadline.

**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 use 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 is no later than **5 business** days after the date this Minute Order is filed in the Documents Library. Any **responses to motions to reconsider**, shall be submitted no later that **5 business days** after any motion to reconsider this Minute Order is filed in the Documents Library.

Any Motion to Reconsider shall be considered a non-hearing motion unless otherwise designated by the Hearing Officer.

In the begin of this Contested Case the process for filing submission, motion to

reconsider and responses to motions to reconsider although the Hearing Officer though objections from numerous parties on the process of filing submission has created a pattern that will make the process more sufficient for all parties who is also located on other islands. This shows me that there is a bias on the part of the Hearing Officer to change the process in Minute Order 43 and 44 under filings and this also takes my due process right away.

#### **D. CLARIFICATION ON TIME**

On April 18, 2017 Minute Order 43, DOC 553 was upload to the Document Library and the Hearing Officer Riki Amano (Ret) signed the Order on April 19, 2017.

The Order was sign on April 19, 2017, by applicable statute, the day of the act, which the designated period of time begins to run on the next business day therefore the action will calculated the time of due date which will be April 26, 2017 through email and mail.

#### **III. CONCLUSION**

Base on the facts above this Motion for Reconsideration should be Granted with good cause.

Kailua Kona HI. April 26, 2017

A handwritten signature in black ink, appearing to read 'Cindy Freitas', is written over a horizontal line.

Cindy Freitas Petitioner



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:

ERRATA RE MOTION TO RECONSIDERATION  
MINUTE ORDER 43

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced document was served upon the following parties by email (when indicated):

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Date: 4/26/17