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DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

Attorneys for

**TMT INTERNATIONAL OBSERVATORY, LLC**

BOARD OF LAND AND NATURAL RESOURCES

FOR THE 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, Hāmākua,  
Hawai'i, TMK (3) 4-4-015:009

Case No. BLNR-CC-16-002

**TMT INTERNATIONAL OBSERVATORY,  
LLC'S OPPOSITION TO WILLIAM  
FREITAS MOTION TO  
RECONSIDERATION OF MINUTE  
ORDER NO. 43 [DOC. NO. 568];  
DECLARATION OF ROSS T. SHINYAMA,  
ESQ.; EXHIBITS "1" – "11";  
CERTIFICATE OF SERVICE**

**TMT INTERNATIONAL OBSERVATORY, LLC'S OPPOSITION  
TO WILLIAM FREITAS MOTION TO RECONSIDERATION OF  
MINUTE ORDER NO. 43 [DOC. NO. 568]**

TMT INTERNATIONAL OBSERVATORY, LLC ("TIO"), by and through its  
undersigned counsel, hereby submits its Opposition to William Freitas Motion to  
Reconsideration of Minute Order No. 43 ("Motion"). In the Motion, Mr. Freitas asks this

Hearing Officer to reconsider Minute Order No. 43 [Doc. No. 552] by extending the deadline to submit proposed Decisions and Orders, Findings of Fact, and Conclusions of Law (“D&Os, FOFs, and COLs”) for a period of ninety (90) days. The Motion should be denied. The Hearing Officer’s deadline of May 30, 2017 to submit proposed D&Os, FOFs, and COLs, which is 41 days after the transcripts were available, is more than reasonable under the circumstances of this contested case and given the more than ample notice that the Hearing Officer gave the parties of this upcoming deadline.

## **I. BACKGROUND**

The Hearing Officer initially notified the parties on October 31, 2016 that proposed D&Os, FOFs, and COLs would be due 2 weeks after the transcripts of the contested case were available. The Hearing Officer, after hearing objections from the anti-TMT Petitioners/Intervenors<sup>1</sup> and considering the record in this contested case, reconsidered the deadline and stated that she would extend the deadline to 30 days after the transcripts of the contested case were going to be available. Ultimately, the Hearing Officer, pursuant to Minute Order No. 43 [Doc. No. 552], set a deadline of May 30, 2017, or 41 days from the date the transcripts were made available<sup>2</sup>, to submit proposed D&Os, FOFs, and COLs.

Throughout the contested case hearing, the Hearing Officer recommended and reminded the parties that they should start drafting and working on their proposed D&Os, FOFs, and

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<sup>1</sup> The anti-TMT Petitioners/Intervenors refer to all parties except the applicant University of Hawaii at Hilo, TIO, and PUEO.

<sup>2</sup> Minute Order No. 43, which was served on the parties on April 19, 2017, states that the transcripts were prepared and available as of April 18, 2017. TIO used the latter of the two dates – i.e., April 19, 2017 - to arrive at its calculation of 41 days from the date the transcripts were made available.

COLs. To assist the parties in their drafting, the Hearing Officer even had sample D&Os, FOFs, and COLs uploaded to the Documents Library.

The following summarizes some of the Hearing Officer's discussions with the parties regarding the proposed D&Os, FOFs, and COLs and other relevant dates to this Opposition:

- |                    |  |
|--------------------|--|
| <b>10/31/2016</b>  | The Hearing Officer notifies the parties that proposed D&Os, FOFs, and COLs are going to be due two weeks after the transcripts are available. She also notifies the parties that sample D&Os, FOFs, and COLs have been uploaded to the Documents Library to assist the parties in their drafting. <u>See</u> Transcript of Contested Case Hearing, Vol. 6, dated October 31, 2016 at 249:19-251:24, attached as Exhibit "1" to the Declaration of Ross T. Shinyama ("Shinyama Dec.").                 |
| <b>11/16/2016</b>  | The Hearing Officer reminds the parties of her inclination that proposed D&Os, FOFs, and COLs will be due two weeks after the transcripts are available. She also reminds the parties that sample D&Os, FOFs, and COLs have been uploaded to the Documents Library. She recommends to the parties to begin drafting their proposed D&Os, FOFs, and COLs. <u>See</u> Transcript of Contested Case Hearing, Vol. 9, dated November 16, 2016, at 11:5-12:12, attached as Exhibit "2" to the Shinyama Dec. |
| <b>12/13/2016</b>  | The Hearing Officer repeats her recommendation to the parties to begin drafting their proposed D&Os, FOFs, and COLs. <u>See</u> Transcript of the Contested Case Hearing, Vol. 16, dated December 13, 2016, at 218:4-7, attached as Exhibit "3" to the Shinyama Dec.   |
| <b>12/16/ 2016</b> | The Hearing Officer again mentions her inclination of a two week deadline for proposed D&Os, FOFs, and COLs. <u>See</u> Transcript of the Contested Case Hearing, Vol. 17, dated December 16, 2016, at 233:20-234:8, attached as Exhibit "4" to the Shinyama Dec.  |
| <b>12/20/2016</b>  | The Hearing Officer reminds the parties to work on their proposed D&Os, FOFs, and COLs. <u>See</u> Transcript of the Contested Case Hearing, Vol. 19, dated December 20, 2016, at 241:10-22, attached as Exhibit "5" to the Shinyama Dec.  |
| <b>1/5/2017</b>    | The Hearing Officer reminds the parties of her inclination that proposed D&Os, FOFs, and COLs will be due two weeks after the transcripts are available. She notes that she may re-evaluate her deadline at the end of the contested case hearing. <u>See</u> Transcript of the Contested Case Hearing, Vol. 22, dated January 5, 2017, at 9:22-10:1, attached as Exhibit "6" to the Shinyama Dec.   |
| <b>1/12/ 2017</b>  | The Hearing Officer reminds the parties to work on their proposed D&Os, FOFs, and COLs. <u>See</u> Transcript of the Contested Case Hearing, Vol. 25,  |

dated January 12, 2017, at 231:16-24, attached as Exhibit “7” to the Shinyama Dec.

- 1/31/ 2017** The Hearing Officer reminds the parties of her inclination that proposed D&Os, FOFs, and COLs will be due two weeks after the transcripts are available. She notes that she may re-evaluate her deadline at the end of the contested case hearing. See Transcript of the Contested Case Hearing, Vol. 33, dated January 31, 2017, at 256:8-20, attached as Exhibit “8” to the Shinyama Dec.
- 3/1/2017** The Hearing Officer notifies the parties that she has reconsidered her deadline for proposed D&Os, FOFs, and COLs and is extending it to 30 days after the transcripts are available. She also notifies the parties that they will have two weeks to submit objections to the other parties’ proposed D&Os, FOFs, and COLs. See Transcript of the Contested Case Hearing, Vol. 43, dated March 1, 2017, at 255:16-257:2, attached as Exhibit “9” to the Shinyama Dec.
- 3/2/ 2017** The Hearing Officer repeats that proposed D&Os, FOFs, and COLs are going to be due 30 days after the transcripts are available. See Transcript of the Contested Case Hearing, Vol. 44, dated March 2, 2017, at 296:9-16, attached as Exhibit “10” to the Shinyama Dec.
- 3/2/2017** The testimony portion of the contested case hearing concludes.
- 4/18/2017** The transcripts of the contested were made available at no cost to the parties on or about April 18, 2017. See Minute Order No. 43 at 1.
- 4/20/2017** The Hearing Officer issues Minute Order No. 44, which ruled on the admission of exhibits and concluded the documentary portion of the contested case hearing. See Minute Order No. 44 [Doc. No. 553].
- 5/30/2017** Deadline to submit proposed D&Os, FOFs, and COLs. See *id.* at 2.

## **II. DISCUSSION**

### **1. The Hearing Officer’s deadline to submit proposed D&O, FOFs, and COLs, is more than reasonable under the circumstances.**

Hawai‘i Administrative Rules (“HAR”) § 13-1-38(a) provides that proposed D&Os, FOFs, and COLs “shall be filed with the board and mailed to each party to the proceeding not later than **ten days after the transcript is prepared and available**, unless the presiding officer shall otherwise prescribe.” *Id.* (emphasis added). Consequently, the Hearing Officer was only

required under the HAR to provide the parties 10 days after the transcripts were available to submit their proposed D&Os, FOFs, and COLs. Instead, the Hearing Officer, after hearing objections from the anti-TMT Petitioners/Intervenors and considering the record in this case, exercised her discretion and gave the parties a deadline of 41 days after the transcripts were made available to submit their proposed D&Os, FOFs, and COLs.

Mr. Freitas includes a long list of alleged reasons that he believes justifies his request to extend the deadline to submit proposed D&Os, FOFs, and COLs for a period of 90 days. For example, Mr. Freitas complains about the hours of operation for the Kona Library. However, what Mr. Freitas and many of his fellow anti-TMT Petitioners/Intervenors fail to appreciate and understand is that the Hearing Officer and the Department of Land and Natural Resources were not required to make the transcripts of the contested case hearing available to them at no cost and at locations throughout the State. See HAR § 13-1-32(d). The Hearing Officer's only obligation was to ensure that a verbatim record of the contested case hearing was taken. See id. Consequently, Mr. Freitas' argument that he is being deprived due process because of the purported limited hours of the Kona Library is a red herring because he was never entitled to such an accommodation in the first place. It also does not provide a basis to extend the deadline to submit proposed D&Os, FOFs, and COLs beyond May 30.

Mr. Freitas also notes that he has to work. TIO appreciates that Mr. Freitas has to work. However, the Hearing Officer made it explicitly clear at the start of this contested case hearing, specifically at the June 17, 2016 hearing concerning the admission of parties, that parties would be responsible for drafting and submitting significant documents, including proposed D&Os, FOFs, and COLs, and meeting deadlines set by the Hearing Officer. Mr. Freitas agreed to this

responsibility when he became a party to this contested case. He cannot now use his work schedule to claim that he is being denied due process in this case.<sup>3</sup>

Mr. Freitas also already raised his work schedule as an objection to the Hearing Officer's earlier deadline of two weeks. Consequently, the Hearing Officer already took into consideration Mr. Freitas' work schedule in setting her May 30, 2017 deadline. His repeated argument that his work schedule justifies an extension of the May 30, 2017 deadline is therefore not proper on a motion for reconsideration. See Cho v. State, 115 Hawai'i 373, 384, 168 P.3d 17, 28 (2007) ("[T]he purpose of a motion for reconsideration is to allow parties to present new evidence and/or arguments that could not have been presented during the earlier [proceeding].") (quotation omitted).

Though Mr. Freitas includes a long list of alleged reasons that he believes justifies his request for an extension, noticeably missing from his Motion is any discussion or explanation of his efforts to meet the May 30, 2017 deadline. The Hearing Officer repeatedly advised the parties from as far back as November 2016 to start drafting their proposed D&Os, FOFs, and COLs. Mr. Freitas apparently did not heed the advice of the Hearing Officer. The parties have also been off from the contested case hearing for two months since March 2, 2017. During this entire time, Mr. Freitas and the anti-TMT Petitioners/Intervenors have had access to video recordings of the entire contested case proceeding on Na Leo TV at <http://naleo.tv/vod/>. See Exhibit "11" to the Shinyama Dec. In fact, Mr. Freitas acknowledges in the Motion to using

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<sup>3</sup> To the extent Mr. Freitas complains about the denial of due process generally, TIO hereby incorporates by this reference its Opposition to (1) Cindy Freitas Memorandum in Support of Motion for Reconsideration of Minute Order 43, Filed 4/25/17 [Doc. No. 557] and (2) Errata Re Cindy Freitas Memorandum in Support of Motion for Reconsideration of Minute Order 43, Filed 4/26/17 [Doc. No. 562], filed on May 2, 2017 as Doc. No. 588. Indeed, as detailed in Section I.1. therein, the anti-TMT Petitioners/Intervenors have not been denied procedural due process in this contested case hearing.

these very video recordings to confirm an alleged error in one of the transcripts.<sup>4</sup> Simply stated, as the Hearing Officer repeatedly advised, Mr. Freitas should have been using these past two months to work on his proposed D&Os, FOFs, and COLs. He apparently did not. TIO should not be prejudiced by Mr. Freitas' own neglect or lack of diligence in drafting his proposed D&Os, FOFs, and COLs. The May 30, 2017 deadline to submit proposed D&Os, FOFs, and COLs is more than reasonable under the circumstances. The Motion should be denied.

**2. The filing of motions for reconsideration of Minute Order No. 43 did not prohibit the Hearing Officer from setting the deadlines to submit proposed D&Os, FOFs, and COLs under HAR § 13-1-38(a) .**

Mr. Freitas and the anti-TMT Petitioners/Intervenors argue that their filing of motions for reconsideration of Minute Order No. 44 prohibited or prohibits the Hearing Officer from setting the deadlines to submit proposed D&Os, FOFs, and COLs under HAR § 13-1-38(a). They argue that the Hearing Officer cannot set deadlines for the submission of proposed D&Os, FOFs, and COLs until “[a]fter all evidence has been taken.” *Id.* HAR § 13-1-38(a), however, and specifically the phrase “[a]fter all evidence has been taken[,]” refers to the time when parties may submit their proposed D&Os, FOFs, and COLs. *Id.* It does not refer to the timing of when a Hearing Officer can or cannot set the deadlines to submit proposed D&Os, FOFs, and COLs. Instead, HAR § 13-1-32(c) grants the Hearing Officer with broad power to “fix times for submitting documents, briefs, and dispose of other matters that normally and properly arise in the course of a hearing . . . .” *Id.* Consequently, HAR § 13-1-38(a) did not prohibit the Hearing

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<sup>4</sup> Mr. Freitas states that he found an alleged error in one of the transcripts, specifically that one of the transcripts identified him, not Mrs. Freitas, as the cross-examiner. Even if true, this is not a reason to extend the deadline to submit proposed D&Os, FOFs, and COLs. Mr. Freitas also fails to demonstrate how this alleged error prejudices him. Indeed, the alleged error, even if true, merely misidentifies the individual speaking with the Hearing Officer during a dialogue between the two. It is not an alleged error regarding a question asked or an answer given.

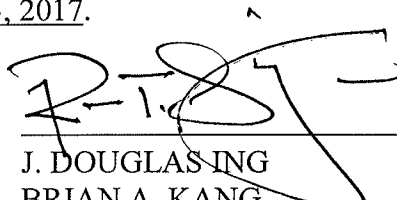
Officer from setting the deadlines to submit proposed D&Os, FOFs, and COLs in Minute Order No. 43.

Moreover, “[a]fter all evidence has been taken[,]” as applied here, refers to the date that Minute Order No. 44 was issued - i.e., the date that the documentary portion of this contested case hearing concluded. Indeed, if the filing of motions for reconsideration of Motion No. 44 extends this date as Mr. Freitas and the anti-TMT Petitioners/Intervenors argue, then they could continue to file motions for reconsideration of the Hearing Officer’s decisions on evidence and forever prohibit the Hearing Officer from setting a deadline for the submission of proposed D&Os, FOFs, and COLs. This obviously would lead to absurd results and potential abuse. The Motion should therefore be denied.

## **II. CONCLUSION**

Based on the foregoing, TIO respectfully requests that the Hearing Officer deny the Motion.

DATED: Honolulu, Hawaii, May 3, 2017.



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J. DOUGLAS ING  
BRIAN A. KANG  
ROSS T. SHINYAMA  
SUMMER H. KAIWE  
**Attorneys for TMT INTERNATIONAL  
OBSERVATORY LLC**



BOARD OF LAND AND NATURAL RESOURCES

FOR THE STATE OF HAWAI'I

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

Case No. BLNR-CC-16-002

**DECLARATION OF ROSS T. SHINYAMA,  
ESQ.; EXHIBITS "1" – "11"**

**DECLARATION OF ROSS T. SHINYAMA, ESQ.**

I, ROSS T. SHINYAMA, hereby declare and state as follows:

1. I am an attorney licensed to practice law in the State of Hawaii and am one of the attorneys representing TMT International Observatory LLC in the above-captioned proceeding.
2. I make this Declaration based upon my personal knowledge and upon reliance of the files and records maintained by my office and in the normal and regular course of business.
3. Attached hereto as Exhibit "1" are true and correct copies of pages 1, 249-251, and 258 of the Transcript of Contested Case Hearing, Vol. 6, dated October 31, 2016.
4. Attached hereto as Exhibit "2" are true and correct copies of pages 1, 11-12 and 237 of the Transcript of Contested Case Hearing, Vol. 9, dated November 16, 2016.
5. Attached hereto as Exhibit "3" are true and correct copies of pages 1, 218 and 222 of the Transcript of the Contested Case Hearing, Vol. 16, dated December 13, 2016.
6. Attached hereto as Exhibit "4" are true and correct copies of pages 1, 233-234 and 237 of the Transcript of the Contested Case Hearing, Vol. 17, dated December 16, 2016.
7. Attached hereto as Exhibit "5" are true and correct copies of pages 1, 241 and 242 of the Transcript of the Contested Case Hearing, Vol. 19, dated December 20, 2016.

8. Attached hereto as Exhibit “6” are true and correct copies of pages 1, 9-10 and 257 of the Transcript of the Contested Case Hearing, Vol. 22, dated January 5, 2017.

9. Attached hereto as Exhibit “7” are true and correct copies of pages 1, 231 and 246 of the Transcript of the Contested Case Hearing, Vol. 25, dated January 12, 2017.

10. Attached hereto as Exhibit “8” are true and correct copies of pages 1, 256 and 267 of the Transcript of the Contested Case Hearing, Vol. 33, dated January 31, 2017.

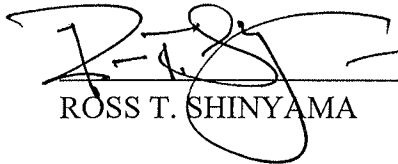
11. Attached hereto as Exhibit “9” are true and correct copies of pages 1, 255-257 and 263 of the Transcript of the Contested Case Hearing, Vol. 43, dated March 1, 2017.

12. Attached hereto as Exhibit “10” are true and correct copies of pages 1, 296 and 305 of the Transcript of the Contested Case Hearing, Vol. 44, dated March 2, 2017.

13. Attached hereto as Exhibit “11” is a screenshot of the archived video recordings of the contested case hearing that are available at <http://naleo.tv/vod/>. I took this screenshot on May 1, 2017.

I, ROSS T. SHINYAMA, declare under penalty of law that the foregoing is true and correct to the best of my knowledge and belief.

DATED: Honolulu, Hawaii, May 3, 2017.

  
\_\_\_\_\_  
ROSS T. SHINYAMA

## BOARD OF LAND AND NATURAL RESOURCES

## STATE OF HAWAI'I

IN THE MATTER OF ) CASE NO. BLNR-CC-002  
)  
Contested Case Hearing Re )  
Conservation District Use )  
Application (CDUA) HA-3568 )  
For The Thirty Meter ) VOLUME 6  
Telescope at the Mauna Kea )  
Science Reserve, Ka'ohe )  
Mauka, Hamakua, Hawai'i )  
TMK (3) 4-4-015:009 )  
\_\_\_\_\_ )

## CONTESTED CASE HEARING

Held on October 31, 2016, commencing at 9:00 a.m., at  
Grand Naniloa Hotel, Crown Room, 93 Banyan Drive,  
Hilo, Hawaii 96720.

BEFORE: Jean Marie McManus, CSR #156

1       hearings that we have to remain somewhat flexible but  
2       efficient. All right.

3               So, Mr. Ching, you got those dates? You  
4       like those dates?

5               MR. CHING: Clarence Ching, yes, I have.  
6       My most, the date of most concern was November 28th  
7       and then you heard about that, but since it's been  
8       scratched, I'm in good shape. I will --

9               HEARINGS OFFICER AMANO: Well, what  
10      happens -- it's been scratched.

11              MR. CHING: Yes, so that was the date I  
12      really wanted to have off.

13              HEARINGS OFFICER AMANO: Okay.

14              MR. CHING: Other than that, I had an out  
15      of state scheduled for the end of November, I have  
16      already cancelled for this hearing. So thank you.

17              HEARINGS OFFICER AMANO: I'm still working  
18      on mine, various things. All right. So great.

19              Now, just because I -- it's been my  
20      practice to kind of let everyone know what's coming  
21      down, give you as much notice as possible.

22              So once the testimony is over, then I will  
23      give you -- it's a little complicated. Two weeks  
24      from the filing of the transcripts, to submit  
25      Findings of Fact, Conclusions of Law, Decision and

1 Order. Okay.

2 That's going to be way down after the last  
3 witness. All right. Way down.

4 So what I'm saying is, there's some gaps  
5 now. And what we did was, I asked Mr. Cain. He  
6 actually asked me, it was his idea to put some sample  
7 findings and conclusions, the decisions and orders  
8 into the Document Library. It was uploaded today.  
9 So you'll see samples A, B and C. So take a look and  
10 see what you can do in advance to work it out. I  
11 have to do the same thing.

12 And so at the end of all the testimony, you  
13 still have time because, I don't know how long it's  
14 going to take to get all the transcripts in. It's  
15 usually not immediate. It's usually a couple weeks  
16 after that. So you can be working on your -- the way  
17 we do it is you work on your findings, and then when  
18 the transcripts come, and we're working on arranging  
19 for or trying to figure out how you can access the  
20 transcripts because the findings have to refer to  
21 line and page, page and line.

22 You're going to want to say this witness  
23 testified about this and in parenthesis you'll put,  
24 you know, November 2nd, page 11, line 22, to the next  
25 page line 15, whatever it is.

1           So we usually use those references so that  
2 we can all go right to the record. That's why I've  
3 been trying to be meticulous about making the record  
4 for you folks because once I'm out, I'm out. I don't  
5 need it. You will need it.

6           All right. So having said that, I'm going  
7 to repeat it again. Samples have been uploaded so  
8 you can take a look at what the findings and  
9 conclusions and decisions look like. Right. It's  
10 just a kind of samples, they're not related to Mauna  
11 Kea but other kinds. So you take a look and everyone  
12 will have an opportunity to submit it by a deadline.

13           So what will happen is I will state it's  
14 two weeks after the transcripts are done. As soon as  
15 I know the transcripts are done, I'll issue a minute  
16 order. And I'll say, minute order whatever number it  
17 is by then, transcripts have been submitted on this  
18 date. The deadline for submission of the findings  
19 and conclusions are here, and then you will have two  
20 weeks to read everybody's and then respond, if you  
21 wish.

22           So it's a process that we're following.  
23 You'll have a chance to respond to each other's,  
24 whatever you want to do.

25           Meanwhile, you know, I'm going to be

1 CERTIFICATE  
2 STATE OF HAWAII )  
3 ) SS.  
4 COUNTY OF HONOLULU )

5 I, JEAN MARIE McMANUS, do hereby certify:

6 That on October 31, 2016 at 9:00 a.m., the  
7 proceedings contained herein was taken down by me in  
8 machine shorthand and was thereafter reduced to  
9 typewriting under my supervision; that the foregoing  
10 represents, to the best of my ability, a true and  
11 correct copy of the proceedings had in the foregoing  
12 matter.

13 I further certify that I am not of counsel for  
14 any of the parties hereto, nor in any way interested  
15 in the outcome of the cause named in this caption.

16 Dated this 31st day of October, 2016, in  
17 Honolulu, Hawaii.

18  
19 /s/ Jean Marie McManus  
20 JEAN MARIE McMANUS, CSR #156  
21  
22  
23  
24  
25

13:04:02 1

## BOARD OF LAND AND NATURAL RESOURCES

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## STATE OF HAWAII

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IN THE MATTER OF ) CASE NO. BLNR-CC-16-002

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)

Contested Case Hearing Re )

13:04:02 5

Conservation District Use )

Application (CDUA) HA-3568 )

6

For the Thirty Meter )

Telescope at the Mauna Kea )

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Science Reserve, Ka'ohe )

Mauka, Hamakua, Hawaii )

8

TMK (3)4-4-015:009 )

VOLUME 9

9

13:04:02 10

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## TRANSCRIPT OF CONTESTED CASE HEARING

12

13

Taken at the Grand Naniloa Hotel, Crown Room,

14

93 Banyan Drive, Hilo, Hawaii, 96720 commencing at

13:04:02 15

9:00 a.m., on Wednesday, November 16, 2016.

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REPORTED BY: CAROL E.M. SUGIYAMA, RPR, CSR NO. 295

13:04:02 20

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23

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09:11:57 1 to start to change when we're in the Petitioners' side  
2 of the case, and, of course, the number of witnesses  
3 will probably change. But that is entirely up to you  
4 folks, and we'll deal with it as we go forward.

09:12:09 5 The other thing I wanted to remind you of,  
6 very, very important, you might remember that I told you  
7 we uploaded samples of the findings and conclusions. We  
8 gave you three different samples. They have nothing to  
9 do with this case. I don't think they have anything to  
09:12:22 10 do with telescopes. I don't know, I didn't look at them  
11 myself, but I certainly will.

12 I'm going to ask that you use the in-between  
13 breaks to please start your drafting, because these are  
14 pretty extensive documents. And it's my intention to  
09:12:38 15 give you, once we close the evidence, the court reporter  
16 will need some time to complete her transcript, and  
17 we're still working on the transcripts and trying to  
18 check on whether they can be made available or not.

19 But after the transcripts are completed by the  
09:12:57 20 court reporter, that is going to trigger, and I'll do it  
21 by Minute Order, that is going to trigger the time you  
22 have to submit your findings.

23 And my intention at this time is to just give  
24 you two weeks. We can talk about that as we go forward,  
09:13:11 25 because we have to evaluate it at the moment when we

09:13:14 1 look back and see how much testimony we have and all of  
2 those kinds of things.

3 All right. So, please get started on that, my  
4 intention is two weeks, we can talk about it later. But  
09:13:29 5 it's not an easy thing to write. It's difficult for us  
6 as well, me, as well. So I'm starting myself to get  
7 going on some kind of draft, not on a decision because I  
8 haven't heard all the evidence. I will not make a  
9 decision until I hear everything. But, certainly, the  
09:13:49 10 findings can be started, because we already completed  
11 various things that are going to be in the findings. So  
12 I'm just asking you to please consider that.

13 So, Mr. Flores, I give you the podium now.

14 MR. FLORES: I am E. Kalani Flores. I just  
09:14:20 15 wanted to address the schedule. I wanted to ask on  
16 January 2nd to be off, because January 1st is New Years  
17 Day and celebrations and people are traveling and so  
18 forth. So, I'm asking on January 2nd for a meeting for  
19 it not to be held.

09:14:28 20 HEARINGS OFFICER AMANO: Okay. Just give me a  
21 minute. If we could take a show of hands to see if  
22 anyone objects?

23 MR. FLORES: The request is to not schedule a  
24 hearing date on January 2nd, which is just following the  
09:14:34 25 holiday of January 1st of the New Year.

16:23:24 1

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## C E R T I F I C A T E

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STATE OF HAWAII

)

4

) SS.

COUNTY OF HONOLULU

)

16:23:24 5

6

I, CAROL E.M. SUGIYAMA, C.S.R., do hereby

7

certify:

8

That on November 16, 2016, at 9:00 a.m.,

9

the proceedings contained herein was taken down by me in

16:23:24 10

the machine shorthand and was thereafter reduced to

11

typewriting under my supervision; that the foregoing

12

represents, to the best of my ability, a true and

13

correct copy of the proceedings had in the foregoing

14

matter.

16:23:24 15

16

I further certify that I am not of counsel

17

for any of the parties hereto, nor in any way interested

18

in the outcome of the cause named in this caption.

19

DATED: December 21, 2016

16:23:24 20

21

S/S Carol E.M. Sugiyama

22

---

CAROL E.M. SUGIYAMA, C.S.R. #295

23

24

25

## BOARD OF LAND AND NATURAL RESOURCES

## STATE OF HAWAI'I

IN THE MATTER OF ) CASE NO. BLNR-CC-002  
)  
Contested Case Hearing Re )  
Conservation District Use )  
Application (CDUA) HA-3568 )  
For The Thirty Meter ) VOLUME 16  
Telescope at the Mauna Kea )  
Science Reserve, Ka'ohe )  
Mauka, Hamakua, Hawai'i )  
TMK (3)4-4-015:009 )  
\_\_\_\_\_ )

## CONTESTED CASE HEARING

Held on December 13, 2016, commencing at 9:00 a.m.,  
at Grand Naniloa Hotel, Crown Room, 93 Banyan Drive,  
Hilo, Hawaii 96720.

BEFORE: Jean Marie McManus, CSR #156

1 will, but I hope you are not planning to take any  
2 holidays.

3 MR. SHINYAMA: I'm not.

4 HEARINGS OFFICER AMANO: Don't forget,  
5 folks, we have the Findings that you need to work on.  
6 Please take a look at it and sketch out, try to get  
7 information. Do yourself a favor.

8 So I'm asking TIO if they can please try to  
9 let us know who the witnesses will be for Monday and  
10 Tuesday, and do it by email, and I think in Mr.  
11 Vicente's case, you may have to do it by telephone.  
12 Is that okay with you? And would you provide the  
13 telephone number to Mr. Shinyama?

14 MR. VICENTE: He has my number.

15 HEARINGS OFFICER AMANO: Your e-mail, your  
16 name, phone number, we are going to post it up on the  
17 mountain. Just kidding. All right.

18 So, Mr. Shinyama, thank you for your  
19 cooperation, and I really appreciate it if we can get  
20 done so folks can start to prepare.

21 So this is what's going to happen. TIO  
22 will then begin to put their witnesses on. The next  
23 in line will then be the University. And then after  
24 that, we go down the road for the others. They will  
25 be able to ask questions after TIO, because they're

## CERTIFICATE

STATE OF HAWAII                    )  
  ) SS.  
COUNTY OF HONOLULU                )

I, JEAN MARIE McMANUS, do hereby certify:

That on December 13, 2016, at 9:00 a.m., the proceedings contained herein was taken down by me in machine shorthand and was thereafter reduced to typewriting under my supervision; that the foregoing represents, to the best of my ability, a true and correct copy of the proceedings had in the foregoing matter.

I further certify that I am not of counsel for any of the parties hereto, nor in any way interested in the outcome of the cause named in this caption.

Dated this 13th day of December, 2016, in Honolulu, Hawaii.

/S/ Jean Marie McManus  
JEAN MARIE McMANUS, CSR #157

## BOARD OF LAND AND NATURAL RESOURCES

## STATE OF HAWAI'I

IN THE MATTER OF ) CASE NO. BLNR-CC-002  
)  
Contested Case Hearing Re )  
Conservation District Use )  
Application (CDUA)HA-3568 )  
For The Thirty Meter ) VOLUME 17  
Telescope at the Mauna Kea )  
Science Reserve, Ka'ohe )  
Mauka, Hamakua, Hawai'i )  
TMK (3)4-4-015:009 )  
\_\_\_\_\_)

## CONTESTED CASE HEARING

Held on December 16, 2016, commencing at 9:00 a.m.,  
at Grand Naniloa Hotel, Crown Room, 93 Banyan Drive,  
Hilo, Hawaii 96720.

BEFORE: Jean Marie McManus, CSR #156

1 example, we have to use the transcript.

2 So I object to the fact that DLNR has made  
3 a contract for a public process that is not making --  
4 that is not even available the same way that we have  
5 to submit everything via on on-line, there's no  
6 reason why they couldn't put on-line, as Lanny was  
7 saying. There are all of us and this is the way we  
8 have been doing it.

9 So it seems unreal to me that it wouldn't  
10 also be put on-line so that we can all access it.  
11 It's already, you know, it took us -- we were given a  
12 month in our other contested case hearing, that was  
13 only six of us, and I think it was maybe eight days  
14 of hearing. This is months and months of hearing and  
15 procedural issues to boot, so you know I think this  
16 time period is too short, and I think that BLNR, if  
17 they contract with anyone, they should pay them  
18 enough to make sure it can be put out properly in the  
19 public space.

20 HEARINGS OFFICER AMANO: Your record is  
21 made with regard to the transcripts. I've done the  
22 best I can. It's been researched. We've tried to  
23 consider different alternatives. I'm announcing that  
24 this is the policy that we have come up with. With  
25 regard to the amount of time, I said I would consider



1 that later as we see how far we go.

2 I understand two weeks is tight, but we  
3 have tried the best we can to let folks know what it  
4 has to look like, that's why the samples are up since  
5 October, and there's a big gap coming along, so we  
6 all start working on the structure of that finding,  
7 so that we can do it efficiently in the time given.  
8 I hear you.

9 MS. PISCIOтта: One last point. You know,  
10 we did this contested case hearing already. BLNR  
11 made a ruling in away that the Supreme Court objected  
12 to and sent us back. So I want to object  
13 specifically for that, because we've already paid for  
14 these transcripts from the last one. So this is  
15 another burden. And it is a burden for everyone.

16 I don't want to say that it isn't for  
17 everyone else, but we have already done this once  
18 before.

19 HEARINGS OFFICER AMANO: But these  
20 transcripts reflecting the things that have  
21 transpired during this contested case hearing, so  
22 they will be entirely different.

23 MS. PISCIOтта: I understand, but as  
24 citizens who are just standing up for protection of  
25 our rights, BLNR's failure to do things properly the

1 CERTIFICATE  
2 STATE OF HAWAII )  
3 ) SS.  
4 COUNTY OF HONOLULU )

5 I, JEAN MARIE McMANUS, do hereby certify:

6 That on December 16, 2016, at 9:00 a.m., the  
7 proceedings contained herein was taken down by me in  
8 machine shorthand and was thereafter reduced to  
9 typewriting under my supervision; that the foregoing  
10 represents, to the best of my ability, a true and  
11 correct copy of the proceedings had in the foregoing  
12 matter.

13 I further certify that I am not of counsel for  
14 any of the parties hereto, nor in any way interested  
15 in the outcome of the cause named in this caption.

16 Dated this 16th day of December, 2016, in  
17 Honolulu, Hawaii.

18  
19 /S/ Jean Marie McManus  
20 JEAN MARIE McMANUS, CSR #156  
21  
22  
23  
24  
25

## BOARD OF LAND AND NATURAL RESOURCES

## STATE OF HAWAI'I

IN THE MATTER OF ) CASE NO. BLNR-CC-002  
)  
Contested Case Hearing Re )  
Conservation District Use )  
Application (CDUA)HA-3568 )  
For The Thirty Meter ) VOLUME 19  
Telescope at the Mauna Kea )  
Science Reserve, Ka'ohe )  
Mauka, Hamakua, Hawai'i )  
TMK (3)4-4-015:009 )  
\_\_\_\_\_)

## CONTESTED CASE HEARING

Held on December 20, 2016, commencing at 9:00 a.m.,  
at Grand Naniloa Hotel, Crown Room, 93 Banyan Drive,  
Hilo, Hawaii 96720.

BEFORE: Jean Marie McManus, CSR #156

1 yet, and I don't want to have to do that while in  
2 Pennsylvania, so I'm not going to commit to be able  
3 give my witness testimony on Thursday.

4 HEARINGS OFFICER AMANO: Ms. Ward, with all  
5 due respect, I cannot commit to you that you won't  
6 be. So we know what the plan is, but I know that  
7 you'll need to consult with others, and I'll wait to  
8 hear.

9 MS. WARD: We will do our best.

10 HEARINGS OFFICER AMANO: Thank you very  
11 much. Okay, everybody, we'll see -- oh, please don't  
12 forget to work on your Findings of Fact, Conclusions  
13 of Law, Decision and Order. I know it's asking a  
14 lot, but it's a lot of work to do that, and you will  
15 be helping yourself a great deal if you take a look  
16 at the samples that were uploaded in October in the  
17 Documents Library, and you start to at least put an  
18 outline together for yourself, because if you wait  
19 until the end, you're going to be shortchanged a lot.  
20 It's a lot of work. So that's the only reminder I  
21 want to give other than my happy holidays to  
22 everybody, and see you on the 3rd at 9:00 o'clock.

23 (The proceedings adjourned at 5:00 o'clock  
24 p.m.)  
25

## CERTIFICATE

STATE OF HAWAII                    )  
  ) SS.  
COUNTY OF HONOLULU            )

I, JEAN MARIE McMANUS, do hereby certify:

That on December 20, 2016, at 9:00 a.m., the proceedings contained herein was taken down by me in machine shorthand and was thereafter reduced to typewriting under my supervision; that the foregoing represents, to the best of my ability, a true and correct copy of the proceedings had in the foregoing matter.

I further certify that I am not of counsel for any of the parties hereto, nor in any way interested in the outcome of the cause named in this caption.

Dated this 20th day of December, 2016, in Honolulu, Hawaii.

/S/ Jean Marie McManus  
JEAN MARIE McMANUS, CSR #156

## BOARD OF LAND AND NATURAL RESOURCES

## STATE OF HAWAI'I

IN THE MATTER OF ) CASE NO. BLNR-CC-002  
)  
Contested Case Hearing Re )  
Conservation District Use )  
Application (CDUA)HA-3568 )  
For The Thirty Meter ) VOLUME 22  
Telescope at the Mauna Kea )  
Science Reserve, Ka'ohe )  
Mauka, Hamakua, Hawai'i )  
TMK (3)4-4-015:009 )  
\_\_\_\_\_)

## CONTESTED CASE HEARING

Held on January 5, 2017, commencing at 9:00 a.m., at  
Grand Naniloa Hotel, Crown Room, 93 Banyan Drive,  
Hilo, Hawaii 96720.

BEFORE: Jean Marie McManus, CSR #156

1 So we're trying to work with the libraries, the  
2 public libraries who have facilities in Kona as well  
3 as Waimea and then of course on Oahu you have the  
4 Board of Land and Natural Resources. So if we can  
5 make the transcripts -- there's going to be many  
6 volumes and a place where you folks can go review it  
7 and then figure out what pages you might want and  
8 then work with Jean McManus, the court reporter, here  
9 to see if you want copies of those pages. You're not  
10 going to want everything, nobody wants everything

11 MR. FERGERSTROM: Yes. I wouldn't be able  
12 to afford that.

13 HEARINGS OFFICER AMANO: Right. And then  
14 Ms. McManus is aware of this, and we're still working  
15 on that. As I said before, we're going to do that.  
16 So the transcripts are not going to be available in  
17 full until after the completion of the hearing and  
18 when they are available, that's what's going to  
19 trigger the deadlines for submission of findings of  
20 fact, conclusions of law.

21 MR. FREITAS: Will it still be two weeks?

22 HEARINGS OFFICER AMANO: I said two weeks,  
23 and I told you and many others more than once that  
24 we're going to re-evaluate that at the close of the  
25 hearing because that will give us all a better

1 picture of what is really out there.

2 MR. FREITAS: Okay. Another question, too.  
3 Those transcripts also include a rebuttal witnesses.

4 HEARINGS OFFICER AMANO: The transcripts  
5 are a complete record of all the hearings, everything  
6 you said in the hearings that's going to include the  
7 motions, the hearings on the motions, all --  
8 everybody has everything.

9 MR. FREITAS: I was just trying to figure  
10 out how do I get started on putting together my facts  
11 and findings.

12 HEARINGS OFFICER AMANO: Well, that's why  
13 in October we set out a structure. So we need to  
14 start with kind of an outline or a structure and then  
15 when you have a chance to look at the transcripts,  
16 you can fill it in. It's not easy, and it will take  
17 time so we just wanted to give everybody the best  
18 heads up we could.

19 MR. FREITAS: That's why I feel threatened  
20 with myself under duress and coercion the way I'm not  
21 sure what's going to happen. I don't know what your  
22 decision's going to be when it comes at the end.  
23 Whether it's going to be a two weeks, one week or  
24 maybe a three weeks, I don't know. And to  
25 accommodate that and provide my responsibility to my



1 CERTIFICATE  
2 STATE OF HAWAII )  
3 ) SS.  
4 COUNTY OF HONOLULU )

5 I, JEAN MARIE McMANUS, do hereby certify:

6 That on January 5, 2017, at 9:00 a.m., the  
7 proceedings contained herein was taken down by me in  
8 machine shorthand and was thereafter reduced to  
9 typewriting under my supervision; that the foregoing  
10 represents, to the best of my ability, a true and  
11 correct copy of the proceedings had in the foregoing  
12 matter.

13 I further certify that I am not of counsel for  
14 any of the parties hereto, nor in any way interested  
15 in the outcome of the cause named in this caption.

16 Dated this 5th day of January, 2017, in  
17 Honolulu, Hawaii.

18  
19 /S/Jean Marie McManus  
20 JEAN MARIE McMANUS, CSR #156  
21  
22  
23  
24  
25

## 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 Use )  
Application (CDUA) HA-3568 )  
For the Thirty Meter )  
Telescope at the Mauna Kea )  
Science Reserve, Ka'ohe )  
Mauka, Hamakua, Hawaii ) VOLUME 25  
TMK (3)4-4-015:009 )  
)

## TRANSCRIPT OF CONTESTED CASE HEARING

Taken at the Grand Naniloa Hotel, Crown Room,  
93 Banyan Drive, Hilo, Hawaii, 96720 commencing at  
9:00 a.m., on Thursday, January 12, 2017.

REPORTED BY: CAROL E.M. SUGIYAMA, RPR, CSR NO. 295

1 MR. ASHIDA: I tried that, Judge, and...

2 HEARINGS OFFICER AMANO: They said in that  
3 case, just forget it and just come.

4 MR. ASHIDA: No, they ordered me to be here  
5 for every hearing if that was the case. And so Mr. Chu  
6 will be here in my stead.

7 HEARINGS OFFICER AMANO: Mr. Chu?

8 MR. ASHIDA: Mr. Chu.

9 HEARINGS OFFICER AMANO: Okay, very good.

10 All right. And I do apologize to you, Mr.  
11 Ing, and to others, everyone else, for the  
12 inconveniences, how we're going to try to get it more  
13 streamlined and I guess I won't make decisions about  
14 February until we get closer. And there is nothing  
15 that -- I can't count on anything yet.

16 I will remind you that we have a few days and  
17 so I know that you are all busy but you need to start  
18 working on your findings and conclusions because they  
19 are very difficult to do.

20 And even if you can help with a skeleton for  
21 yourself, I'll try to do my own as well and everything  
22 else. It is going to help us at the back end. So thank  
23 you, everybody, and be safe and we'll see you next  
24 Thursday.

25 Anything for the UH?

1 CERTIFICATE  
2 STATE OF HAWAII )  
3 ) SS.  
4 COUNTY OF HONOLULU )

5 I, JEAN MARIE McMANUS, do hereby certify:

6 That on January 11, 2017, at 9:00 a.m., the  
7 proceedings contained herein was taken down by me in  
8 machine shorthand and was thereafter reduced to  
9 typewriting under my supervision; that the foregoing  
10 represents, to the best of my ability, a true and  
11 correct copy of the proceedings had in the foregoing  
12 matter.

13 I further certify that I am not of counsel for  
14 any of the parties hereto, nor in any way interested  
15 in the outcome of the cause named in this caption.

16 Dated this 11th day of January, 2017, in  
17 Honolulu, Hawaii.

18  
19 S/S Jean Marie McManus  
20 JEAN MARIE McMANUS, CSR #156  
21  
22  
23  
24  
25

## 1 BOARD OF LAND AND NATURAL RESOURCES

2 STATE OF HAWAI'I

3 IN THE MATTER OF

CASE NO. BLNR-CC-002

4 Contested Case Hearing Re  
5 Conservation District Use  
6 Application (CDUA) HA-3568  
7 For The Thirty Meter  
8 Telescope at the Mauna Kea  
Science Reserve, Ka'ohe  
Mauka, Hamakua, Hawai'i  
TMK (3)4-4-015:009.

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VOLUME 33

## 10 CONTESTED CASE HEARING

11  
12 Held on Tuesday, January 31, 2017,  
13 at the Grand Naniloa Hotel, Crown Room;  
14 93 Banyan Drive; Hilo, Hawaii 96720,  
15 commencing at 9:03 a.m, before  
16 Hon. Riki May Amano (Ret)., Hearings Officer.

17  
18  
19  
20  
21  
22 Reported by: HEDY COLEMAN, CSR NO. 116  
23 Registered Merit Reporter  
24  
25

RALPH ROSENBERG COURT REPORTERS, INC.  
(808) 524-2090

EXHIBIT "8"

1     okay. We'll meet again for hearing on the 21st, 22nd,  
2     23rd. And we also have the 27th and 28th reserved, I  
3     suspect we're going use them.

4             MS. ALULI: Yes.

5             HEARINGS OFFICER AMANO: Okay. But, I've  
6     dedicated the 27th already now to Mr. Camara's  
7     witnesses and Mr. Lovell. So let's see how we go when  
8     we get back. And between now and the 13th, please,  
9     please, if you haven't started, at least start working  
10    on your outline for your findings. We have a few  
11    days. If you have a framework, it's going to help you  
12    a lot. Because as soon as the hearing is done, which  
13    is now foreseeable, the transcripts, the production of  
14    the transcripts, which could be two, three, four weeks  
15    later, I don't know, that is going to trigger your  
16    deadline to submit the findings.

17            I've indicated before that I expect two  
18    weeks, but I also indicated that I will reconsider  
19    once all the evidence is closed and we figure out  
20    exactly what we have in front of us.

21            MS. ALULI: And, Judge, as I understand it,  
22    all of the transcripts will be -- will be released at  
23    one time, so it's not going to come out in dribbles?

24            HEARINGS OFFICER AMANO: That's the plan.

25            MS. ALULI: Okay.

## C E R T I F I C A T E

I, HEDY COLEMAN, CSR No. 116, in and for the  
State of Hawaii, do hereby certify:

That I was acting as shorthand reporter in the  
foregoing matter on the 31st day of January 2017;

That the proceedings were taken down in machine  
shorthand by me and were thereafter reduced to print by  
me; that the foregoing pages one through 267 represents,  
to the best of my ability, a correct transcript of the  
proceedings had in the foregoing matter.

I further certify that I am not counsel for any  
of the parties hereto, nor in any way interested in the  
outcome of the cause named in the caption.

DATED: \_\_\_\_\_

\_\_\_\_\_  
HEDY COLEMAN, CSR #116

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 Use )  
 Application (CDUA) HA-3568 )  
 For the Thirty Meter )  
 Telescope at the Mauna Kea )  
 Science Reserve, Ka'ohe )  
 Mauka, Hamakua, Hawaii ) VOLUME 43  
 TMK (3)4-4-015:009 )  
 )

TRANSCRIPT OF CONTESTED CASE HEARING

Taken at the Grand Naniloa Hotel, Crown Room,  
 93 Banyan Drive, Hilo, Hawaii, 96720 commencing at  
 9:00 a.m., on Wednesday, March 1, 2017.

REPORTED BY: CAROL E.M. SUGIYAMA, RPR, CSR NO. 295



17:06:01 1 When you write your decision and order and  
2 proposed decision and order and findings of fact, that  
3 is what you have to rely on, those exhibits.

4 And, again, I'll close the documentary  
17:06:16 5 portion. So no more documents, no more testimony. And  
6 that's it, so no more testimony after tomorrow. And I  
7 know I'm repeating myself, but I want to really make  
8 sure it's understood and heard. No more testimony after  
9 tomorrow. No more documents after March 9th.

17:06:33 10 So you may have to submit some of the added  
11 exhibits that were identified in the course of the  
12 examination of witness. I get that that has to be  
13 uploaded, and you want to move that in. And so that is  
14 why I'm giving you the extra time to do that, gather  
17:06:49 15 everything and put it all in one document.

16 I'll try to find out tonight the estimated  
17 time for the completion of the transcripts. Pursuant to  
18 rule, the deadline for submission of the proposed  
19 decision and order including the findings of fact and  
17:07:11 20 conclusion of law is 10 days. All along, I've been  
21 saying to you all, well, two weeks sound more reasonable  
22 to me.

23 But I told you I would reconsider at the end.  
24 I know we have gone real long, and in case anybody is  
17:07:26 25 interested, today was the 43rd day of our hearing. And

17:07:30 1 Mr. Kanaele is Witness No. 68. And so, it's a lot.

2 So, therefore, my intention is to give you 30  
3 days after the transcripts are completed.

4 Now, obviously, you are going to be doing a  
17:07:48 5 lot of work before that. And then once the transcripts  
6 are completed, I'll have to issue a minute order laying  
7 out the next deadline. And the next deadline will be 30  
8 days from that to submit your proposed decision and  
9 order, findings of fact, and conclusions of law.

17:08:06 10 I don't have a clue right now when that is  
11 going to be because it's triggered by the transcript.  
12 And I don't know when that is going to be completed.  
13 Thereafter, after your 30 days, the proposals are in and  
14 you will have two weeks from there to send your  
17:08:24 15 objections, replies, joinders and whatever.

16 And then after that, I'll be issuing my own  
17 decision and order, proposed decision and order and  
18 recommendations to the Board. You might take a look at  
19 the Hawaii Administrative Rules that lay out the next  
17:08:44 20 process, which by then is out of my hands.

21 So, I can't give you any specific dates except  
22 ones that I just gave you for the exhibits. Really  
23 important, March 9th, documentary exhibits. You have a  
24 week to object. A week after that, you will get a  
17:09:03 25 minute order saying to you, these are the exhibits, this

17:09:06 1 is the evidence I'm going to consider. Okay. Any  
2 questions?

3 Professor.

4 MR. FLORES: Just some clarity regarding the  
17:09:21 5 30 days after the transcripts are completed. Is that 30  
6 days after the transcripts are available to view?

7 So it might be completed one day, but access  
8 to them, that's the question. So is it dependent upon  
9 access.

17:09:35 10 HEARINGS OFFICER AMANO: Well, I think our  
11 intention is to make it as close as possible to the same  
12 time but, in fairness, it will be once we get the  
13 transcripts and identify. I'll let you know that the  
14 copies have been made and distributed, it could be an  
17:09:52 15 extra week, I don't know.

16 MR. FLORES: Is it possible that if there are  
17 some transcripts that are already finished that they  
18 could be put out, because the last contested case, there  
19 were hundreds of pages of transcripts. I believe this  
17:10:06 20 is like thousands of pages of transcripts. And so just  
21 to take in that volume of transcripts, if there is a way  
22 or if there is something already available, could it be  
23 put out already. I mean, we're in the process, but if  
24 there is something that we can start with.

17:10:22 25 HEARINGS OFFICER AMANO: I asked myself and

STATE OF HAWAII )  
 ) SS.  
COUNTY OF HONOLULU )

I, CAROL E.M. SUGIYAMA, C.S.R., do hereby  
certify:

That on March 1, 2017, at 9:00 a.m., the proceedings contained herein was taken down by me in the machine shorthand and was thereafter reduced to typewriting under my supervision; that the foregoing represents, to the best of my ability, a true and correct copy of the proceedings had in the foregoing matter.

I further certify that I am not of counsel for any of the parties hereto, nor in any way interested in the outcome of the cause named in this caption.

DATED: March 29, 2017

S/S Carol E.M. Sugiyama

CAROL E.M. SUGIYAMA, C.S.R. #295  
Certified Shorthand Reporter

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 Use )  
 Application (CDUA) HA-3568 )  
 For the Thirty Meter )  
 Telescope at the Mauna Kea )  
 Science Reserve, Ka'ohe )  
 Mauka, Hamakua, Hawaii ) VOLUME 44  
 TMK (3)4-4-015:009 )  
 )

TRANSCRIPT OF CONTESTED CASE HEARING

Taken at the Grand Naniloa Hotel, Crown Room,  
 93 Banyan Drive, Hilo, Hawaii, 96720 commencing at  
 9:00 a.m., on Thursday, March 2, 2017.

REPORTED BY: CAROL E.M. SUGIYAMA, RPR, CSR NO. 295

18:27:17 1 HEARINGS OFFICER AMANO: That's right. And  
2 so...

3 MR. FERGERSTROM: And so do you think we can  
4 move it up to 45 days?

18:27:23 5 HEARINGS OFFICER AMANO: You know, I thought  
6 about that.

7 MR. FERGERSTROM: I think it's a little more  
8 realistic.

9 HEARINGS OFFICER AMANO: My original thought  
18:27:29 10 was two week. The rules say ten days. I think 30 days,  
11 yes, it's in the HAR. It's ten days or as the hearing  
12 officer determines. So, I've thought about it. But I  
13 think there is a lot of time in between, that will give  
14 everybody a chance -- you should have a good framework.  
18:27:50 15 The 30 days is really just to double-check things, to  
16 me.

17 MR. FERGERSTROM: Yeah, I know. But my  
18 problem is is that because we weren't able to do a  
19 recording ourselves, I mean, trying to remember five  
18:28:10 20 month's of information is very tough to put it in order.  
21 And so we very much relied on, like myself, I'm going to  
22 be very reliant on the prehearing stuff because that  
23 sets foundation for how the case was going to be done,  
24 which I find a lot of objection to.

18:28:19 25 HEARINGS OFFICER AMANO: Well, it's -- I'm not

18:37:27 1

2

## C E R T I F I C A T E

3

STATE OF HAWAII

)

4

) SS.

COUNTY OF HONOLULU

)

18:37:27 5

6

I, CAROL E.M. SUGIYAMA, C.S.R., do hereby

7

certify:

8

That on March 2, 2017, at 9:00 a.m., the

9

proceedings contained herein was taken down by me in the

18:37:27 10

machine shorthand and was thereafter reduced to

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typewriting under my supervision; that the foregoing

12

represents, to the best of my ability, a true and

13

correct copy of the proceedings had in the foregoing

14

matter.

18:37:27 15

16

I further certify that I am not of counsel

17

for any of the parties hereto, nor in any way interested

18

in the outcome of the cause named in this caption.

19

20

DATED: March 27, 2017

18:37:27 20

21

S/S Carol E.M. Sugiyama

22

CAROL E.M. SUGIYAMA, C.S.R. #295

23

Certified Shorthand Reporter

24

18:37:27 25







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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-16-002

**CERTIFICATE OF SERVICE**

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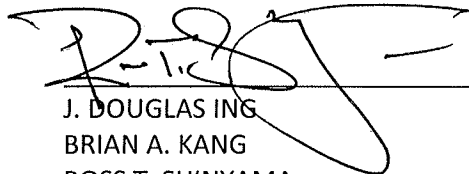
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