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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'ohē 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. 44 [DOC. NO. 575];  
DECLARATION OF ROSS T. SHINYAMA,  
ESQ.; EXHIBITS "1"-"3"; CERTIFICATE  
OF SERVICE**

**TMT INTERNATIONAL OBSERVATORY, LLC'S OPPOSITION TO WILLIAM  
FREITAS MOTION TO RECONSIDERATION OF  
MINUTE ORDER NO. 44 [DOC. NO. 575]**

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. 44 [Doc. No. 575] ("Motion").

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AND COASTAL LANDS

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STATE OF HAWAII

**I. DISCUSSION**

**1. Mr. Freitas' unsupported due process arguments are completely meritless.**

In the Motion, Mr. Freitas raises the same unsupported due process arguments that he raised in his Motion to Reconsideration of Minute Order No. 43 [Doc. No. 568] (“Prior Motion”). Like the Prior Motion, the Motion is absolutely meritless and should be denied. TIO hereby incorporates by this reference its opposition to the Prior Motion as though fully set forth herein. See TMT International Observatory, LLC’s Opposition to William Freitas Motion to Reconsideration of Minute Order No. 43 [Doc. No. 568] [Doc. No. 604], attached as Exhibit “1” to the Declaration of Ross T. Shinyama, Esq. for the Hearing Officer’s convenience.<sup>1</sup>

**2. The Hearing Officer’s specific rulings regarding Mr. Freitas’ exhibits were proper.**

Though his specific arguments are sometimes unclear, Mr. Freitas also argues that the Hearing Officer’s rulings regarding specific exhibits were improper. Mr. Freitas’ arguments are unpersuasive, as discussed infra.

**a. Exhibits T-1.c, T-2.4, T-3.2, T-3.3, and T-3.6.**

The Hearing Officer properly excluded Exhibits T-1.c, T-2.4, T-3.2, T-3.3, and T-3.6 because the law speaks for itself and does not need to be received into evidence as an exhibit. The Hearing Officer also properly excluded T-1.c on the grounds that International Law is immaterial and irrelevant to this contested case. See HAR § 13-1-35(a) (providing for the “rejection of evidence and the exclusion of immaterial, irrelevant, or unduly repetitious evidence”).

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<sup>1</sup> TIO further incorporates by this reference as though fully set forth herein the applicant University of Hawaii at Hilo’s (“UHH”) (1) Opposition to the Flores-Case ‘Ohana’s Motion to Reconsider Minute Order No. 43 [Doc. No. 592] ; (2) Opposition to the Temple of Lono’s Motion for Reconsideration of Minute Order 43 [Doc. 559] [Doc. No. 594]; and (3) Opposition to the Temple of Lono’s Motion for Reconsideration of Minute Order 44 [Doc. No. 599].

Mr. Freitas agrees in his Motion that the law does not need to be received into evidence. He also does not dispute that International Law is immaterial and irrelevant to this contested case. The Hearing Officer's exclusion of these exhibits from evidence was therefore proper.

**b. Exhibit T-3.1.**

The Hearing Officer properly excluded Exhibit T-3.1 on the basis that it was unduly repetitious of Exhibit A-9, which was received into evidence as part of Minute Order No. 44. Mr. Freitas does not dispute that Exhibit T-3.1 is duplicative of Exhibit A-9. Instead, Mr. Freitas argues that Exhibit T-3.1 is the "original version for FOFCL." It is unclear what Mr. Freitas means by the "original version." In any event, there is no substantive difference, and Mr. Freitas has not pointed to one, between Exhibits T-3.1 and A-9. The Hearing Officer's exclusion of Exhibit T-3.1 on the grounds that it is unduly repetitious was therefore proper.

**c. Exhibits T-3.k, T-3.k1, T-3.k2, and T-3.k3.**

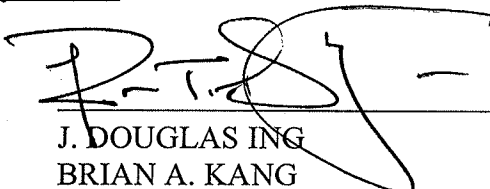
The Hearing Officer properly excluded Exhibits T-3.k, T-3.k1, T-3.k2, and T-3.k3 because they were not identified or produced until after the close of the testimony portion of the contested case hearing on March 2, 2017. Mr. Freitas does not dispute that these exhibits were not identified or produced until after March 2, 2017. Instead, Mr. Freitas incorrectly argues that the Hearing Officer permitted the parties to move exhibits into evidence that were identified or produced after March 2, 2017, so long as they were moved into evidence before March 9, 2017. To the contrary, the Hearing Officer made it clear on several occasions that the March 9, 2017 deadline was to move into evidence exhibits that had already been identified or produced during the contested case hearing and before the close of the testimony portion on March 2, 2017. The March 9, 2017 deadline was not to move exhibits into evidence that had never been identified or produced before the close of the testimony portion on March 2, 2017. See Transcript of

Contested Case Hearing, Volume 44, dated March 2, 2017 at 287:24-288:11 (Hearing Officer stating that “if [parties] have [exhibits] coming up today or yesterday or last week and didn’t have the time to move it into the document library so that it could be uploaded, do that before March 9”), attached as Exhibit “2” to Shinyama Dec.; Transcript of Contested Case Hearing, Volume 43, dated March 1, 2017 at 255:10-15 (Hearing Officer stating: “So you may have to submit some of the added exhibits that were identified in the course of the examination of witness[es]. I get that that has to be uploaded, and you want to move that in. And so that is why I’m given you the extra time to do that, gather everything and put it all in one document.”), attached hereto as Exhibit “3” to the Shinyama Dec

**II. CONCLUSION**

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

DATED: Honolulu, Hawaii, May 4, 2017.



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

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District Use Application (CDUA) HA-3568 for  
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Case No. BLNR-CC-16-002

**DECLARATION OF ROSS T. SHINYAMA,  
ESQ.; EXHIBITS "1"- "3"**

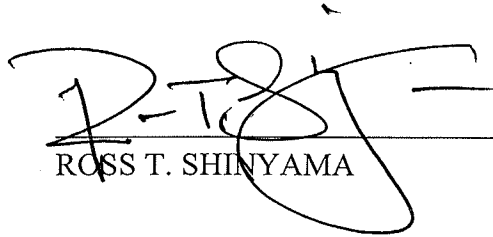
**DECLARATION OF ROSS T. SHINYAMA, ESQ.**

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. Exhibit "1" attached hereto is a true and correct copy of TMT International Observatory, LLC's Opposition to William Freitas Motion to Reconsideration of Minute Order No. 43 [Doc. No. 568] [Doc. No. 604].
4. Exhibit "2" attached hereto are true and correct copies of pages 1, 287-288, and 305 of the Transcript of Contested Case Hearing, Volume 44, dated March 2, 2017.
5. Exhibit "3" attached hereto are true and correct copies of pages 1, 255, and 263 of the Transcript of Contested Case Hearing, Volume 43, dated March 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 4, 2017.



ROSS T. SHINYAMA

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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

**EXHIBIT "1"**

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STATE OF HAWAII

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:

- 10/31/2016** 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. See 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.").
- 11/16/2016** 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. See Transcript of Contested Case Hearing, Vol. 9, dated November 16, 2016, at 11:5-12:12, attached as Exhibit "2" to the Shinyama Dec.
- 12/13/2016** The Hearing Officer repeats her recommendation to the parties to begin drafting their proposed D&Os, FOFs, and COLs. See Transcript of the Contested Case Hearing, Vol. 16, dated December 13, 2016, at 218:4-7, attached as Exhibit "3" to the Shinyama Dec.
- 12/16/ 2016** The Hearing Officer again mentions her inclination of a two week deadline for proposed D&Os, FOFs, and COLs. See 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.
- 12/20/2016** The Hearing Officer reminds the parties to work on their proposed D&Os, FOFs, and COLs. See Transcript of the Contested Case Hearing, Vol. 19, dated December 20, 2016, at 241:10-22, attached as Exhibit "5" to the Shinyama Dec.
- 1/5/2017** 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. 22, dated January 5, 2017, at 9:22-10:1, attached as Exhibit "6" to the Shinyama Dec.
- 1/12/ 2017** The Hearing Officer reminds the parties to work on their proposed D&Os, FOFs, and COLs. See 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.

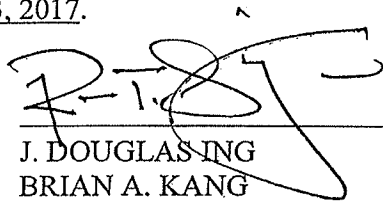
Officer from setting the deadlines to submit proposed D&Os, FOFs, and COLs in Minute Order No. 43.

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. KAIawe  
Attorneys for TMT INTERNATIONAL  
OBSERVATORY LLC

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BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

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

Taken at the Grand Nanihoa 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

EXHIBIT "2"

18:08:28 1 your sternness and I learned a lot. Mahalo. Thank you.

2 HEARINGS OFFICER AMANO: Let's give Mr.

3 Freitas a couple of minutes to return to his seat.

4 Mr. Fergerstrom, thank you for your patience.

18:08:35 5 We will repeat the dates first.

6 MR. ING: Before we adjourn --

7 HEARINGS OFFICER AMANO: We're not going to  
8 adjourn yet.

9 MR. ING: I know. But before we move on, I

18:09:35 10 have housekeeping matters.

11 HEARINGS OFFICER AMANO: Yes.

12 MR. ING: I understand that Mr. Freitas has  
13 rested.

14 HEARINGS OFFICER AMANO: Thank you.

18:09:41 15 MR. FREITAS: Oh, for the record. I rest. I  
16 rest my case.

17 HEARINGS OFFICER AMANO: That being the case,  
18 I'm going to declare that the testimonial evidence of  
19 this hearing is closed.

18:11:55 20 So we just have a few housekeeping matters  
21 that I want to clear up right now, and then we'll be  
22 done. I'm not sure where Mr. Fergerstrom went. I'll  
23 wait for him.

24 All right. So, let's deal with the exhibits

18:14:23 25 first. I want to repeat that the way I'm asking that



18:14:29 1 the exhibits be moved into evidence is by written  
2 motion. It should say, Deborah Ward Motion to Move Into  
3 Evidence, and lay out whatever exhibits you want. The  
4 deadline for that is March 9th. So if you have things  
18:14:50 5 coming up today or yesterday or last week and didn't  
6 have the time to move it into the document library so  
7 that it could be uploaded, do that before March 9th.  
8 Because then on March 9th, you're going to move  
9 everything that is in the document library for you into  
18:15:08 10 evidence. After that, we're not going to take any more  
11 uploading.

12 A week later, March 16th, you may file if you  
13 wish, objections, responses, replies, joinders to the  
14 motions that were made. So if you have an objection to  
18:15:27 15 B-12, you may file an objection saying that we object to  
16 whoever is offering B-12, and here's the reason why.

17 And then a week later, March 23rd, I will, by  
18 Minute Order, identify all the exhibits that I will be  
19 receiving in evidence. And those are the documents  
18:15:55 20 that -- the documents are in evidence. And that will be  
21 close of the hearing. No other evidence will be  
22 allowed.

23 I want to explain a little about the  
24 transcripts. The transcripts are a process. I've been  
18:16:16 25 a lawyer for a long time, like, 38 years, and dealt with

18:37:27 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

)

18:37:27 5

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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

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

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correct copy of the proceedings had in the foregoing

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matter.

18:37:27 15

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I further certify that I am not of counsel

17

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

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in the outcome of the cause named in this caption.

19

DATED: March 27, 2017

18:37:27 20

21

S/S Carol E.M. Sugiyama

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

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Certified Shorthand Reporter

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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	)	

13:04:02

13:04:02

TRANSCRIPT OF CONTESTED CASE HEARING

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

13:04:02

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13:04:02

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

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C E R T I F I C A T E

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 HAWAI'I

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

BLNR Contested Case HA-16-002

**CERTIFICATE OF SERVICE**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the attached document was served upon the following parties by the means indicated:

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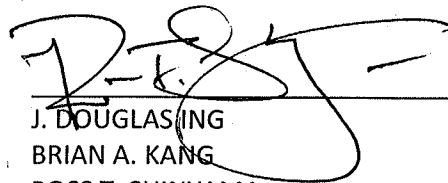
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