

Cain, Michael

From: Kealoha <keomaivg@gmail.com>
Sent: Friday, May 12, 2017 7:48 PM
To: Bebe H. Saunders; Cain, Michael; Kealoha Pisciotta; Paul
Cc: B. Pualani Case; Brannon Kamahana Kealoha; C. M. Kaho'okahi Kanuha; Cindy Freitas; Clarence Ching; Clifford K. Higa; Crystal West; Dave M. Louie; Deborah J. Ward; Dexter Kaiama; DLNR.CO.Maunakea; Kalama, Donna H; Dwight Vicente; E. Kalani Flores; Glen Kila; Harry Fergerstrom; Ivy McIntosh; J. Douglas Ing; Jennifer Leina'ala Sleightholm; Joseph Kualii Lindsey Camara; Kalikolehua Kanaele; Lanny Alan Sinkin; lehina@hawaii.rr.com; Lincoln S. T. Ashida; Mehana Kihoi; Cain, Michael; Moses Kealamakia, Jr.; Newton J. Chu; Nicholas R. Monlux; Patricia P. Ikeda; Paul K. Neves; Richard L. DeLeon; Ross T. Shinyama; Stephanie-Malia:Tabbada; Summer H. Kaiawe; Tiffnie Kakalia; William Freitas; Wynhoff, Bill J; Wilma Holi; Yuklin Aluli; Ian L. Sandison; John P. (Pete) Manaut; Lindsay N. McAneeley
Subject: Re: UH-CDUA-BLNR-CC-16-002 - UH's Joinder to TMT's Opp to Parties' Petition to Board for Online Access to Transcripts, et al.

Aloha all,

Kealoha Pisciotta, Mauna Kea Anaina Hou and Paul Neves (MKAH et al) file this Memorandum in Opposition.

In response to the Memorandum in Opposition (Memo in Opp) filed by TIO and joined by the UH in response to the Pro Se Petitioners, Petition to the BLNR to provide online access to the Transcripts.

This Memo in Opp is being filed by Kealoha Pisciotta, Mauna Kea Anaina Hou, and Paul Neves re: the Petition to the Board to compel the BLNR to provide electronic online access to the full and complete set of transcripts and access for all Parties to the Contested Case re the TMT Conservation District Use Application and the to the public. We file this Memo because the relief sought, is has not been satisfied. Chapter 91 defines what constitutes a complete record as follows;

§91-9 Contested cases; notice; hearing; records.

(e) For the purpose of agency decisions, the record shall include:

- (1) All pleadings, motions, intermediate rulings;
- (2) Evidence received or considered, including oral testimony, exhibits, and a statement of matters officially noticed;
- (3) Offers of proof and rulings thereon;
- (4) Proposed findings and exceptions;
- (5) Report of the officer who presided at the hearing;
- (6) Staff memoranda submitted to members of the agency in connection with their consideration of the case.

While OHA did negotiate with one of the Court Reporter and purchased a partial set of copies of the transcripts, for access including providing access to the Transcripts to the Pro Se Petitioners. The record is still not complete because there are still 5 volumes of the transcript that have not been obtained. Further there are still outstanding Motions to be addressed as outlined in the Pro Se Parties Petition for Declaratory Judgment and Motion to Vacate Minute Order 43 that set the schedule for filing findings and conclusions etc.

Lastly, as we outlined in our original motion, the transcripts once purchased by BLNR becomes a government document produced from a normal regulatory government function (Contested Case are an normal regulatory proceedings) and because the HO and Parties had agreed to using the electronic filing system to expedite the proceeding for all involved there should be no reason for BLNR not to upload the complete set of transcripts into a useable (meaning making the transcripts editable at least for the Parties) form for the Parties and the Public to review. There is no injury to any of the Parties if this occurs.

In conclusion, we submit the records is not in fact not complete and we respectfully request the record including the transcripts be completed as soon as possible pursuant to chapter 91.

Dated: May 12, 2017 /s/ Kealoha Pisciotta

On May 11, 2017, at 3:14 PM, Bebe H. Saunders <bsaunders@Carlsmith.com> wrote:

Please see attached document filed today, May 11, 20017:

1. The University of Hawaii at Hilo's Joinder to TMT International Observatory, LLC's Opposition to Parties Petition to the Board for Online Access to the Transcripts [Doc. No. 622], Filed May 10, 2017 [Doc. No. 627]; Declaration of Counsel; Exhibit "1"; Certificate of Service.

BEBE H. SAUNDERS
Legal Secretary | Carlsmith Ball LLP

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<2017-05-11 (UH-CDUA) UH Joinder to TMT's Opp to Parties' Petition to Board for Online Access to Transcripts, et al.pdf>