



objective in deciding whether she should have recused herself more than seven months ago”; (c) Hearing Officer “misrepresents the Temple’s motion to obscure the primary basis that the Temple had for seeking recusal”; and (d) Hearing Officer mistakenly characterizes the Temple’s motion as “filed outside of any established process set out in rule, law, or order.” Doc. 610 at pp. 2-4.

UHH asserts that the: (a) “Temple’s complaint that the Hearing Officer issued the orders it asked for are hypocritical and improper”; (b) “Temple’s arguments regarding timing are irrelevant”; (c) “Temple’s argument regarding the Hearing Officer’s characterization of the motion is inappropriate”; and (d) Temple’s argument that the Hearing Officer mistakenly ruled that motion was untimely misconstrues Minute Order 46.” Doc. 638 at pp. 2-6.

In its opposition to this Motion, UHH laid out the legal standards for reconsiderations:

...motions for reconsideration are an improper vehicle to re-litigate issues already adjudicated. *See id; Briggs v. Hotel Corp. of Pacific, Inc.*, 73 Haw. 276, 287, 831 P.2d 1335, 1342 n.7 (1992) (“We again remind litigants that a motion for reconsideration is not the time to relitigate old matters.”). Moreover, reconsideration is an extraordinary remedy, not a matter of due course. *See Kona Enterprises, Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9<sup>th</sup> Cir. 2000) (“[Reconsideration is] an extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources. Indeed, a motion for reconsideration should not be granted, absent highly unusual circumstances[.]”).

Doc. 638 at page 5.

The Temple’s complaints regarding timing and the objectivity of the Hearing Officer are not germane to the substance of the Minute Order and irrelevant for purposes of reconsideration of Minute Order No. 46. The Temple of Lono’s challenge that the Hearing Officer misrepresented the Temple’s original motion in order to “obscure the primary basis that the Temple had for seeking recusal”, is curious since Minute Order No. 46 cites *verbatim* from the Temple’s original document, when describing the underlying motion’s purpose and the basis therefor. Minute Order No. 46 at pp. 2-3.

Concerning the Temple's accusation that the Hearing Officer "mistakenly characterizes the Temple's motion as 'filed outside of any established process set out in rule, law, or order'", the Temple has taken the citation out of context to support a claim that the Hearing Officer created limitations to the filing of motions that do not exist in the law.

The Hearing Officer mistakenly rules that a motion for recusal can only be filed within the time set by the hearing Officer for pre-hearing motions or during the hearing. If there is a gap in time between when the schedule for pre-hearing motions expires and when the hearing begins, the Hearing Officer claims no party can challenge the Hearing Officer's right to continue as Hearing Officer.

There is no legal support for a prohibition on motions to recuse during the period between the end of the pre-trial motions schedule and the beginning of the hearing.

Doc. 610 at page 4.)

The exact quote from Minute Order No. 46 is:

The Motion to Strike cites untimeliness as a basis to strike UHH's opposition to the Motion. Inasmuch as the Motion was filed outside of any established process set out in rule, law or order, opposition thereto is not limited to any specific time.

Minute Order No. 46 (Doc. 595) at page 4.

The Temple has failed to cite any plausible reasons to reconsider Minute Order No. 46.

Based upon the Motion, all related submissions from counsels and/or parties, all applicable law, the entire record having been considered by the Hearing Officer,

IT IS HEREBY ORDERED that the Motion is DENIED.

DATED: Honolulu, Hawai'i, June 13, 2017.



Judge Riki May Amano (Ret.)  
Hearing Officer

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

Contested Case Hearing Re Conservation  
District Use Application (CDUA) HA-3568  
for the Thirty Meter Telescope at the Mauna  
Kea Science Reserve, Ka'ohē Mauka,  
Hāmākua, Hawai'i, TMK (3) 4-4-015:009

BLNR Contested Case HA-16-02  
Document title: **Minute Orders 74-82**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced documents were served upon the following parties by email (when indicated) on June 13, 2017 and by regular mail on June 13, 2017:

Carlsmith Ball LLP  
Ian Sandison, John P. Manaut, Lindsay N. McAneeley  
1001 Bishop Street  
ASB Tower, Suite 2200  
Honolulu, HI 96813  
[isandison@carlsmith.com](mailto:isandison@carlsmith.com)  
[jpm@carlsmith.com](mailto:jpm@carlsmith.com)  
[lmcaneley@carlsmith.com](mailto:lmcaneley@carlsmith.com)  
*Counsel for the Applicant University of Hawai'i at Hilo*

Law Offices of Yuklin Alulu  
415-C Uluniu Street  
Kailua, HI 96734  
[yuklin@kailualaw.com](mailto:yuklin@kailualaw.com)  
*Co-Counsel for Kahea*

Dexter K. Kaiama  
111 Hekili Street, #A1607  
Kailua, HI 96734  
[cdex@hotmail.com](mailto:cdex@hotmail.com)  
*Co-Counsel for Kahea*

Kealoha Pisciotta and Mauna Kea Anaina Hou  
PO Box 5864  
Hilo, HI 96720  
[keomaivg@gmail.com](mailto:keomaivg@gmail.com)

Clarence Kukauakahi Ching  
64-823 Mamalahoa Hywy  
Kamuela HI 96743  
[kahiwaL@cs.com](mailto:kahiwaL@cs.com)

Flores-Case 'Ohana  
E. Kalani Flores, B. Pualani Case  
PO Box 6918  
Kamuela, HI 96743  
[ekflores@hawaiiantel.net](mailto:ekflores@hawaiiantel.net)

Deborah J. Ward  
PO Box 918  
Kurtistown, HI 96760  
[cordylinecolor@gmail.com](mailto:cordylinecolor@gmail.com)

Paul K. Neves  
380 Nahale-a Avenue  
Hilo, HI 96720  
[kealiikea@yahoo.com](mailto:kealiikea@yahoo.com)

Watanabe Ing LLP  
J. Douglas Ing, Ross T. Shinyama, Summer H. Kiawe  
First Hawaiian Center 999 Bishop Street, 23<sup>rd</sup> Floor  
Honolulu, HI 96813  
[rshinyama@wik.com](mailto:rshinyama@wik.com)  
[douging@wik.com](mailto:douging@wik.com)  
*Counsel for TMT International Observatory, LLC*

Harry Fergerstrom  
P.O. Box 951  
Kurtistown, HI 96760

Mehana Kihoi  
PO Box 393  
Honaunau, HI 96726  
[uhiwai@live.com](mailto:uhiwai@live.com)

C. M. Kaho'okahi Kanuha  
77-6504 Maile St  
Kailua Kona, HI 96740  
[kahookahi@gmail.com](mailto:kahookahi@gmail.com)

Joseph Kualii Lindsey Camara  
192 Kualua Pl.  
Hilo, 96720  
[kualiic@hotmail.com](mailto:kualiic@hotmail.com)

Torkildson, Katz, Moore, Hetherington & Harris  
Attn: Lincoln S. T. Ashida  
120 Pauahi Street, Suite 312  
Hilo, HI 96720-3084  
[lsa@torkildson.com](mailto:lsa@torkildson.com)  
[nic@torkildson.com](mailto:nic@torkildson.com)  
*Counsel for Perpetuating Unique Educational  
Opportunities (PUEO)*

J. Leina'ala Sleightholm  
P.O. Box 383035  
Waikoloa, HI 96738  
[leinaala.mauna@gmail.com](mailto:leinaala.mauna@gmail.com)

Lanny Alan Sinkin  
1429 North 17<sup>th</sup> Street  
Bismarck, North Dakota 58501-2858  
[lanny.sinkin@gmail.com](mailto:lanny.sinkin@gmail.com)  
*Representative for The Temple of Lono*

Kalikolehua Kanaele  
4 Spring Street  
Hilo, HI 96720  
[akulele@yahoo.com](mailto:akulele@yahoo.com)

Stephanie-Malia:Tabbada  
P O Box 194,  
Naalehu, HI 96772  
[s.tabbada@hawaiiantel.net](mailto:s.tabbada@hawaiiantel.net)

Tiffnie Kakalia  
549 E. Kahaopea St.  
Hilo, HI 96720  
[tiffniekakalia@gmail.com](mailto:tiffniekakalia@gmail.com)

Glen Kila  
89-530 Mokiawe Street  
Waianae, HI 96792  
[makakila@gmail.com](mailto:makakila@gmail.com)

Dwight J. Vicente  
2608 Ainaola Drive  
Hilo, Hawaiian Kingdom

Brannon Kamahana Kealoha  
89-564 Mokiawe Street  
Nanakuli, HI 96792  
[brannonk@hawaii.edu](mailto:brannonk@hawaii.edu)

Cindy Freitas  
PO Box 4650  
Kailua Kona, HI 96745  
[hanahanai@hawaii.rr.com](mailto:hanahanai@hawaii.rr.com)

William Freitas  
PO Box 4650  
Kailua Kona, HI 96745  
[pohaku7@yahoo.com](mailto:pohaku7@yahoo.com)

Wilma H. Holi  
P. O. Box 368  
Hanapepe, HI 96716  
[w\\_holi@hotmail.com](mailto:w_holi@hotmail.com)  
*Hearing Officer's witness*

Moses Kealamakia Jr.  
1059 Puku Street  
Hilo, HI 96720  
[mkealama@yahoo.com](mailto:mkealama@yahoo.com)  
*Hearing Officer's witness*

Signature:

Name: Michael Cain

Date:

  
*June 13 2017*