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**BOARD OF LAND AND NATURAL RESOURCES**

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**STATE OF HAWAI'I**

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

IN THE MATTER OF	)	CASE NO. BLNR-CC-16-002
	)	
Contested Case Hearing Re Conservation District	)	MINUTE ORDER NO. 88
Use Application (CDUA) HA-3568 for the	)	(ORDER DENYING TEMPLE OF
Thirty Meter Telescope at the Mauna Kea Science	)	LONO'S MOTION TO VACATE
Reserve, Ka'ohē Mauka, Hamakua, Hawai'i	)	MINUTE ORDER NO. 39, OR
TMK (3) 4-4-015:009	)	ALTERNATIVELY TO
	)	PARTIALLY RECONSIDER
	)	MINUTE ORDER NO. 39, FILED
	)	NOVEMBER 6, 2016 [DOC. 409],
	)	AND RELATED DOCUMENT
	)	[DOC. 417]; CERTIFICATE OF
	)	SERVICE

**MINUTE ORDER NO. 88**

**(ORDER DENYING TEMPLE OF LONO'S MOTION TO VACATE MINUTE ORDER NO. 39, OR ALTERNATIVELY TO PARTIALLY RECONSIDER MINUTE ORDER NO. 39, FILED NOVEMBER 6, 2016 [DOC. 409])**

Temple of Lono ("Temple") filed Temple of Lono's Motion to Vacate Minute Order No. 39, or Alternatively to Partially Reconsider Minute Order No. 39, on November 6, 2016 [Doc. 409]. Applicant University of Hawai'i at Hilo ("University") filed an opposition to the motion [Doc. 417].

The Board of Land and Natural Resources ("Board") elects to decide the Temple's motion without oral argument.

Minute Order No. 39 [Doc. 406] denied Mauna Kea Anaina Hou, Kealoha Pisciotta, Clarence Kukauakahi Ching, Flores-Case Ohana, Deborah J. Ward, Paul K. Neves, and Kahea: The Hawaiian Environmental Alliance's (collectively, the "MKAH parties") renewed motion to disqualify the Hearing Officer [Doc. 340]. The Temple had filed a joinder to the MKAH parties'

motion, together with a second supplement, third supplement, and response to the University's statement of position [Doc. 343, 360, 361, 386]. Minute Order No. 39 was the third order filed by the Board addressing the many duplicative motions to disqualify the Hearing Officer [Doc. 124, 245, 409].

A motion for reconsideration should not be "a device to relitigate old matters or to raise arguments or evidence that could and should have been brought during the earlier proceeding." *Sousaris v. Miller*, 92 Hawai'i 505, 513, 993 P.2d 539, 547 (2000). The Temple does not present any new evidence or arguments that were not previously raised or that could not have been raised in the various motions or orders seeking the Hearing Officer's disqualification.

The motion is HEREBY DENIED.

DATED: Honolulu, Hawai'i, July 10, 2017.

*Suzanne D. Case*

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SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

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STANLEY H. ROEHRIG, Member

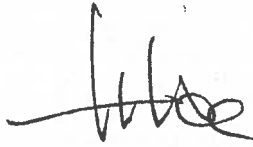
*Keone Downing*

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KEITH "KEONE" DOWNING, Member

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JAMES A. GOMES, Member



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THOMAS OI, Member



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SAMUEL "OHU" GON III, Member

*Christopher Yuen*

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CHRISTOPHER YUEN, Member

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The motion is HEREBY DENIED.

DATED: Honolulu, Hawai'i, \_\_\_\_\_, 2017.

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SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

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STANLEY H. ROEHRIG, Member

\_\_\_\_\_  
KEITH "KEONE" DOWNING, Member

  
\_\_\_\_\_  
JAMES A. GOMES, Member

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

BLNR Contested Case HA-16-02  
Document title: **Minute Orders 88 & 89**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced documents were served upon the following parties by email (when indicated) on July 10, 2017 and by regular mail on July 10, 2017:

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July 10, 2017