

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	)	Minute Order No. <u>98</u>
Use Application (CDUA) HA-3568 For the	)	(Order Denying Flores-Case
Thirty Meter Telescope at the Mauna Kea Science	)	`Ohana's Motion for Clarification
Reserve, Ka`ohe Mauka, Hamakua, Hawai`i	)	or, in the Alternative
TMK (3) 4-4-015:009	)	Reconsideration Re: Minute
	)	Orders No. 43 and 44, filed
	)	4/25/17 & 4/27/17 [Doc. Nos.
	)	558 & 577]
	)	(Doc. 634))
)	
<hr style="width:50%; margin-left:0;"/>		Certificate of Service

MINUTE ORDER NO. 98

**(Order Denying Flores-Case Ohana's Motion for Clarification
or, in the Alternative, Reconsideration Re: Minute Orders No.
43 and 44, Filed 4/25/17 & 4/27/17 [Doc. Nos. 558 & 577] Doc.
634))**

Flores-Case Ohana filed its Flores-Case Ohana's Motion for Clarification or, in the Alternative, Reconsideration Re: Minute Orders No. 43 and 44, Filed 4/25/17 & 4/27/17 [Doc. Nos. 558 & 577] (Doc. 634), on May 15, 2017 (“Motion”). In addition to the Motion, the following submission was considered:

Doc. #	Filed	Party	Title
640	17-May-17	Fergerstrom	Motion to Join the Flores-Case Ohana's Motion for Clarification Reconsideration of Minute Orders 43 and 44 and Also Join Memorandum of Support
749	20-Jun-17	UHH	The University of Hawaii at Hilo's Statement of Position on Flores-Case Ohana's Motion for Clarification or, in the Alternative, Reconsideration re: Minute Orders No. 43 and 44, Filed 4/25/17 & 4/27/17 (Doc. Nos. 58 & 57)

Received
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
State of Hawaii
2017 July 15 4:14 am

Although this Motion ostensibly seeks “clarification or, in the alternative, reconsideration re: Minute Orders No. 43 and 44 (Docs. 558 and 577), filed 4/25/17 and 4/27/17, respectively, the Flores-Case `Ohana actually complains that:

- (1) its ability to complete its FOF/COL might be impacted adversely because the issues and matters pertaining to the exhibits have not been finalized;
- (2) the issue of spoliation has not been resolved;
- (3) a complete set of transcripts has not yet been received at the Thelma Parker Memorial Public & School Library in Waimea; specifically, Volume No. 24 appeared to be missing; and
- (4) they have not received any electronic copies of transcripts that, per the media, OHA was going to make available to the parties.

The UHH Statement of Position addresses a singular issue: completeness of the set of transcripts at the Thelma Parker Public and School Library. UHH followed up on the issue of the missing volume 24. Here is what the UHH reports:

“While Ms. Juanette Cordeiro’s May 9, 2017 letter did indicate that the Library did not receive Volume 24, set of transcripts, the University has since confirmed that Volume 24, albeit mislabeled Volume 23, was, in fact, received by and available at the Library.”

UHH Statement of Position, at page 2; referencing Counsel Declaration at paragraphs 4-6, attached to the Statement of Position.

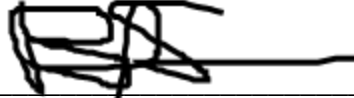
The Fegerstrom Joinder to the Motion is a simple joinder and not substantive.

Insofar as this Motion seeks to have Minute Order Nos. 43 and 44 reconsidered, there is no legal or factual basis to do so. Regarding the transcripts and issue of spoliation, those matters appear unrelated to Minute Orders 43 and 44. There is no good cause shown nor any legal basis to grant this Motion.

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, July 14, 2017.

A handwritten signature in black ink, appearing to be 'Riki May Amano', written over a horizontal line.

Judge Riki May Amano (Ret.)
Hearing Officer

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-16-02
Document title: **Minute Orders 98-100**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced documents were served upon the following parties by email (when indicated) on July 17, 2017 and by regular mail on July 17, 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
jpm@carlsmith.com
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
Co-Counsel for Kahea

Dexter K. Kaiama
111 Hekili Street, #A1607
Kailua, HI 96734
cdex@hotmail.com
Co-Counsel for Kahea

Kealoha Pisciotta and Mauna Kea Anaina Hou
PO Box 5864
Hilo, HI 96720
keomaivg@gmail.com

Clarence Kukauakahi Ching
64-823 Mamalahoa Hwy
Kamuela HI 96743
kahiwaL@cs.com

Flores-Case 'Ohana
E. Kalani Flores, B. Pualani Case
PO Box 6918
Kamuela, HI 96743
ekflores@hawaiiantel.net

Deborah J. Ward
PO Box 918
Kurtistown, HI 96760
cordylinicolor@gmail.com

Paul K. Neves
380 Nahale-a Avenue
Hilo, HI 96720
kealiikea@yahoo.com

Watanabe Ing LLP
J. Douglas Ing, Ross T. Shinyama, Summer H. Kiawe
First Hawaiian Center 999 Bishop Street, 23rd Floor
Honolulu, HI 96813
rshinyama@wik.com
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

C. M. Kaho'okahi Kanuha
77-6504 Maile St
Kailua Kona, HI 96740
kahookahi@gmail.com

Joseph Kualii Lindsey Camara
kualiic@hotmail.com
(email only)

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

J. Leina'ala Sleightholm
P.O. Box 383035
Waikoloa, HI 96738
leinaala.mauna@gmail.com

Lanny Alan Sinkin
PO Box 833
Bismarck, North Dakota 58502-0833
lanny.sinkin@gmail.com
Representative for The Temple of Lono

Kalikolehua Kanaele
4 Spring Street
Hilo, HI 96720
akulele@yahoo.com

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

Tiffnie Kakalia
549 E. Kahaopea St.
Hilo, HI 96720
tiffniekakalia@gmail.com

Glen Kila
89-530 Mokiawe Street
Waianae, HI 96792
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

Cindy Freitas
PO Box 4650
Kailua Kona, HI 96745
hanahanai@hawaii.rr.com

William Freitas
PO Box 4650
Kailua Kona, HI 96745
pohaku7@yahoo.com

Wilma H. Holi
P. O. Box 368
Hanapepe, HI 96716
w_holi@hotmail.com
Hearing Officer's witness

Moses Kealamakia Jr.
1059 Puku Street
Hilo, HI 96720
mkealama@yahoo.com
Hearing Officer's witness

Signature: 
Name: Michael Cain
Date: July 17, 2017