

**BOARD OF LAND AND NATURAL RESOURCES
STATE OF HAWAII**

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`ohe Mauka, Hamakua, Hawai`i) TMK (3) 4-4-015:009))) _____)	CASE NO. BLNR-CC-16-002 Minute Order No. <u>101</u> (Order Denying Cindy Freitas Motion to Admit Exhibits Out of Time (Doc. 760)) Certificate of Service
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MINUTE ORDER NO. 101
**(Order Denying Cindy Freitas Motion to Admit Exhibits Out
of Time (Doc. 760))**

Cindy Freitas filed her Cindy Freitas Motion to Admit Exhibits Out of Time (Doc. 760) on July 10, 2017 (“Motion”). In addition to the Motion, the following submissions were considered:

Doc. #	Filed	Party	Title
761	11-Jul-17	Ching	Clarence Kukaukahahi Ching's Joinder to Cindy Freitas Motion to Admit Exhibits Out of Time; Memorandum in Support of Motion and Exhibits "A," "B," and "C" Filed as Document 760 on July 10, 2017 (“Ching Joinder”)
770	14-Jul-17	TIO	TMT International Observatory’s opposition to Cindy Freitas’ motion to admit exhibits out of time dated July 10, 2017 (“TIO Opposition”)
771	14-Jul-17	UHH	The University of Hawaii at Hilo's joinder to TMT International Observatory’s opposition to Cindy Freitas’ motion to admit exhibits out of time dated July 10, 2017; [Doc. No. 760] (“UHH Joinder”)

The essence of Ms. Freitas’ Motion appears to be her desire to add evidence to the record by moving to “inter the record with relevant information regarding desecration of a cultural site

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 State of Hawaii
 2017 July 24 1:47 pm

(Ahu o Kauakoko) on Mauna Kea.” Motion at page 2. [Doc. 760] Specifically, she is moving to “address the record to reflect that I was able to cross examine Stephanie Nagata on December 13, 1026 on the ahu (Ahu o Kauakoko) located at 3.0 and 3.5 mile marker on Mauna Kea that was accidentally removed but she stand corrected that it was intentionally destroyed by a utility worker and that Office of Mauna Kea Management failed to prepare a written report on the ahu (Ahu o Kauakoko) being intentionally destroyed.” [sic] Motion at page 3.

In addition, she is also moving to “address the record that a second issue at Ahu o Kauakoko being desecrated on June 24, 2017 on Mauna Kea by placing a ho`okupu at the 3.0 and 3.5 mile marker at 11:15 a.m. were Ahu o Kauakoko once stood which Ranger Andrade coing down the submit and saw the ho`okupu and at 1:00 p.m. we were doming down the submit three was ‘n’ ho`okupu by Ahu o Kauakoko once stood.” [sic] Motion at page 3.

TIO opposes the motion on timeliness and relevancy grounds. “The filing of this Motion by Petitioner Cindy Freitas ("Freitas") comes more than 4 months after the closure of the 44-day contested case hearing, more than 4 months after the deadline for motions to move exhibits into evidence, and more than 6 weeks after the deadline for parties to submit proposed findings of fact and conclusions of law. This Motion is extremely untimely, and granting this Motion will be prejudicial and unfair to the parties who have already dedicated substantial time and resources in submitting their proposed findings of fact and conclusions of law based upon the record.

In addition to the Motion being untimely, the Motion seeks to admit evidence that is immaterial, irrelevant, and or unduly repetitious. Freitas admits in the Motion that she had the opportunity to cross examine two different witnesses during the course of the contested case hearing regarding the same issue. There is simply no good reason to re-open the evidentiary

portion of the hearing, which has been closed for more than 4 months, for an issue that was already addressed during the proceedings.” TIO Opposition at page 2.

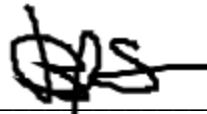
The Ching Joinder and UHH Joinder are simple joinders, not substantive.

The requests made by Ms. Freitas are untimely (re: Ms. Nagata) and irrelevant (re: an occurrence on or about June 24, 2017). Moreover, granting this Motion would be tantamount to reconsidering Minute Orders 43 and 44, which is also untimely. The Motion and requests for reconsideration do not constitute good cause for granting the same. A process for reconsideration of this denial is unwarranted inasmuch as it is akin to a reconsideration already.

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

BLNR Contested Case HA-16-02
Document title: **Minute Order 101**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced document was served upon the following parties by email (when indicated) on July 24, 2017 and by regular mail on July 25, 2017:

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