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OUR REFERENCE NO.:  
053538-21

July 14, 2016

**VIA EMAIL: RMA3CC@YAHOO.COM**

Judge Riki May Amano (Ret.)  
c/o DPR Hawaii, Inc.  
1003 Bishop Street, Suite 1155  
Honolulu, HI 96813

Re: BLNR Contested Case Hearing No. HA-16-02; UH-Hilo's Opposition to  
Petitioners' Request for Continuance on Submissions and Next Hearing Date

Dear Judge Amano:

The University of Hawaii, at Hilo (“UH”) opposes Richard Naiwieha Wurdeman’s request to continue the submissions and next hearing date, as set forth in his letters of July 11 and 12, 2016. His requests are yet another instance of attempts designed solely to delay this proceeding. There is no legitimate basis to extend the deadlines previously set or grant any continuances for two weeks, or otherwise indefinitely, as he proposes.

The issue of timing was fully and fairly addressed at the June 17, 2016 hearing. **July 18, 2016** by 4:00 p.m., was set as the date for *all* parties to submit both motions and witness lists; and the next hearing motion was set for August 5, 2016 at 10 a.m. See 6/17/16 Hearing Tr. at 34-36. These dates were entirely reasonable and practical for purposes of this contested case. Mr. Wurdeman offers no cogent reason to change that schedule. He could have raised the arguments that he is making now at the June 17, 2016 hearing. Having failed to do so, he has waived those arguments.

While it is apparent that Mr. Wurdeman wants an open ended extension of all dates, with respect to the particular request that UH’s witness list be due on July 18, 2016, but that Mr. Wurdeman’s list be due on August 1, 2016, this is inconsistent with the positions and directives made at the last pre-hearing conference. While the applicant for the permit has a burden under the eight criteria, it is Mr. Wurdeman's clients who have challenged those criteria for reasons that they clearly had to have formulated by now or they had no basis to assert their challenge. Mr. Wurdeman has had ample time to determine his witness list for both purposes. Any additional time to do what he should already have done reflects a continuing attempt to delay this proceeding.

The presiding hearing officer has full discretion and authority to set deadlines for the contested case hearing process. Hawaii Revised Statutes § 13-1-36 provides:

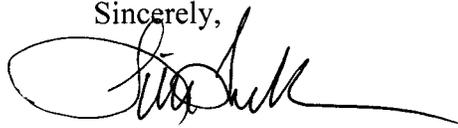
Prehearing conference; exchange of exhibits; briefs.

(a) The presiding officer may hold or cause to be held pre-hearing conferences with the parties ***for the purpose of*** formulating or simplifying the issues, written testimony, ***setting of schedules, exchanging names of witnesses,*** limitation of number of witnesses, and such other matters as may expedite orderly conduct and disposition of the proceeding as permitted by law.

(b) The presiding officer may request briefs setting forth the issues, facts and legal arguments upon which the parties intend to rely and ***the presiding officer may fix the conditions and time for the filing of briefs*** and the number of pages. Exhibits may be reproduced in an appendix to a brief. A brief of more than twenty pages shall contain a subject index and table of authorities.  
(Emphases added.)

The existing deadlines and settings for the July 18, 2016 motions and witness lists is well within your authority as the hearings officer in this proceeding. There is no good faith or reasonable basis to change those dates or to allow the challenging parties to delay this process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Lui-Kwan', with a long horizontal flourish extending to the right.

Tim Lui-Kwan

cc: All parties in the attached service list via email (except for those without an email address who will be served via U.S.mail)

**CERTIFICATE OF SERVICE**

The undersigned certifies that this document was served upon the parties by the means indicated:

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DATED: Honolulu, Hawai'i, July 14, 2016,

  
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TIM LUI-KWAN