

RICHARD NAIWIEHA WURDEMAN
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July 12, 2016

VIA e-mail: 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 Case HA-16-02
Supplement to Request for Continuance on Submissions
and Next Hearing Date

Dear Judge Amano:

I am respectfully requesting that should all HRS Chapter 92F productions not be made and received by the end of this week by both the Department of the Attorney General and Chair Suzanne Case and the BLNR, that instead of the short two week continuance in the scheduling made that was requested in my letter to you of yesterday, that the proceedings be suspended indefinitely until such productions are made. As you can see from Deputy Attorney General Harvey Henderson's email that was sent as an attachment yesterday to my request, he is unaware of when the further productions by Chair Case will be made. And, as for the Attorney General's Office, Mr. Henderson states that DAG William Wynhoff, who spent the entire day at the hearing on June 17th in Hilo and also attended the initial scheduling conference before you in May, is "very busy," and, thus, believes that his "very busy" schedule is some sort of justification for a failure to produce records under HRS Chapter 92F, within generally, the twenty (20) day required period, for what has turned into nearly a (3 ½) three and one-half month period from the initial request, dated April 1, 2016. Given the large blocks of dates of missing e-mails as discussed in my further e-mail to Mr. Henderson, a copy of which is attached hereto, it appears that productions from other BLNR counsel may possibly not have been made, either.

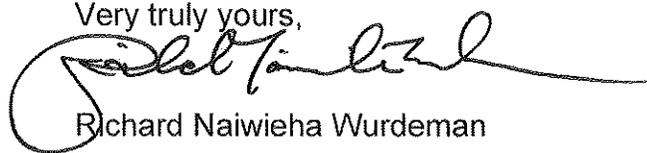
As this Hearing Officer is aware, these requests are not being made of some outside parties, but, rather, of the BLNR's/Hearing Officer's counsel, who have already been sitting and advising both the Board and this Honorable Hearing Officer in proceedings to date, and knowing that the requests are being

Judge Riki May Amano (Ret.)
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made for a motion to disqualify counsel. I specifically raised the issue, once again, during the May scheduling conference before this Honorable Hearing Officer. As far as BLNR Chair Suzanne Case, by whom the instant contested case process was delegated to this Honorable Hearing Officer, I also specifically referenced in a footnote in my motions before the Board that my clients were reserving the right to reassert motions/requests for her disqualification. These motions and objections were filed back in May. Yet, still no full productions and, undoubtedly, both Mr. Wynhoff and Ms. China were involved in the drafting of very extensive Minute Order decisions by the BLNR Board on both my clients' objections and their earlier motion, that were also signed off by Chair Case, when these requests were all pending. My clients also reserve the right to move to strike all decisions and orders to date by both the Board and this Honorable Hearing Officer as part of further motions for disqualification. Once again, my clients strenuously object to the unacceptable and inexcusable delays, in violation of HRS Chapter 92F, and also to the continuing violations of due process by the Department of the Attorney General and the BLNR Chair. Searching for emails, by name and/or subject, and any memos or correspondence should take no more than an hour or maybe two hours at most, and not 3 ½ months, as in the instant case. Please see my further e-mail to Mr. Henderson, a copy of which is also attached hereto.

Thank you very much for your consideration.

Respectfully submitted.

Very truly yours,

Richard Naiwieha Wurdeman

Attachments

cc: All parties in the attached service list VIA
e-mail (except those w/o an e-mail address, who
will be served via U.S. Mail).

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:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced document was served upon the following parties by the means indicated:

Michael Cain
Office of Conservation and Coastal
Lands
1151 Punchbowl, Room 131
Honolulu, HI 96813
michael.cain@hawaii.gov
*Custodian of the Records
(original + digital copy)*

Judge Riki May Amano (Ret.)
rma3cc@yahoo.com
Hearing Officer

Julie China, Deputy Attorney General
julie.h.china@hawaii.gov
*Counsel for the Board of Land and
Natural Resources*

Carlsmith Ball LLP
isandison@carlsmith.com
*Counsel for the applicant University of
Hawai'i at Hilo*

Richard N. Wurdeman
RNWurdeman@RNWLaw.com
*Counsel for the petitioners Mauna Kea
Anaina Hou, Clarence Kukauakahi
Ching, Flores-Case 'Ohana, Deborah J.
Ward, Paul K. Neves, and Kahea: The
Environmental Alliance*

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Cindy Freitas
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William Freitas
pohaku7@yahoo.com

Signature:

Name (Print):

Date:



Richard N. Wurdeman <rnwurdeman@rnwlaw.com>

Chapter 92F Requests

Richard N. Wurdeman <rnwurdeman@rnwlaw.com>

Tue, Jul 12, 2016 at
4:39 PM

To: "Henderson, Jr., Harvey E" <harvey.e.hendersonjr@hawaii.gov>

Dear Mr. Henderson:

In addition to my earlier reply of yesterday about the outstanding blocks of dates on emails, please know although I realize Mr. Wynhoff, Ms. China, and Ms. Chow, as well as Chair Suzanne Case are all probably very busy as you indicated, there is a significant contested case hearing that needs to proceed, and these individuals are simply going to have to take the time to comply with the legal requirements of Chapter 92F. Please also know that my clients have been extremely patient and their initial requests for records were dated April 1, 2016, almost 3 1/2 months ago. Further, in that a name and/or subject search on an email account would probably take no longer than an hour or so, as would a document search for docs stored on hard drives or disks (and these are the only type of documents that we've received to date in the partial disclosures), I am unsure as to what could be so time consuming for them. I am also requesting the Hearing Officer in the contested case suspend the proceedings until all records have been fully disclosed. We are also considering filing suit in the circuit court at this point.

Thank you for your attention to these matters.

Sincerely,
Richard Naiwieha Wurdeman
Attorney at Law, A Law Corporation
1003 Bishop Street
Pauahi Tower, Suite 720
Honolulu, HI 96813
Telephone: (808) 536-0633
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On Mon, Jul 11, 2016 at 1:18 PM, Henderson, Jr., Harvey

E <harvey.e.hendersonjr@hawaii.gov> wrote:

Mr. Wurdeman, One more production of documents will be coming your way to complete the request sent to the AGs. Bill Wynhoff has been very busy and we have not yet sent any thing from his personal files. That should be on its way to you by the end of the week. There will also be more documents responsive to the requests to Case/BLNR/DLNR, although I am not sure of the timing. we appreciate your patience and hope you understand that retrieving these especially emails, takes time, especially for people who are pretty busy to start with.

Harvey Henderson



Richard N. Wurdeman <rnwurdeman@rnwlaw.com>

Chapter 92F Requests

Richard N. Wurdeman <rnwurdeman@rnwlaw.com>

Mon, Jul 11, 2016 at
5:09 PM

To: "Henderson, Jr., Harvey E" <harvey.e.hendersonjr@hawaii.gov>

Cc: "Ikemoto, Derick Y" <Derick.Y.Ikemoto@hawaii.gov>

Thank you for your response. Actually, we don't seem to have copies of any emails between June 26, 2015 and early November of 2015 and then again, nothing in December of 2015. During that period, oral arguments were held before the Hawaii Supreme Court on August 27, 2015. The Hawaii Supreme Court issued its decision on December 2, 2015. Undoubtedly, there are also emails/communications before and around the time of oral arguments in late August of last year, further emails/communications involving the rules that were later struck down by Judge Ibarra, further emails/communications, I would think, regarding the emergency stay of the Hawaii Supreme Court in November, and further emails and/or other communications at or following the Supreme Court's decision on December 2, 2015.

Please let me know.

Thank you for your response and attention to these matters.

Sincerely,

Richard Naiwieha Wurdeman
Attorney at Law, A Law Corporation
1003 Bishop Street
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RICHARD NAIWIEHA WURDEMAN

Attorney at Law, A Law Corporation

2016 MAY 31 A 10:01

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e-mail: rnwurdeman@rnwlaw.com

May 27, 2016

VIA U.S. Mail and

e-mail: harvey.e.hendersonjr@hawaii.gov

Harvey E. Henderson, Jr., Esq.
Department of the Attorney General
State of Hawaii
425 Queen Street
Honolulu, HI 96813

RE: Mauna Kea Anaina Hou, et al. Request for Records and Disclosures

Dear Counsel:

I am writing to make a further request for copies of records and a full disclosure by Chair/Director Suzanne Case of any and all communications or attempted communications between the Governor, his Chief of Staff Michael McCartney, and/or any other representative of the Governor's Office with DLNR Director/BLNR Chair Suzanne Case, either directly or indirectly through her First Deputy Kekoa Kaluhiwa or anyone else at the DLNR or on the BLNR, commencing on May 2, 2016 (date of Chair Case's last disclosure) through the present and hereafter, involving TMT International Observatory, LLC, and any of its agents and/or representatives, the CDUP and the application for the CDUP for the proposed TMT project by the UH Hilo, and anything involving Case No. BLNR-CC-16-002. Please know that this request is ongoing and includes any future communications or attempted communications.

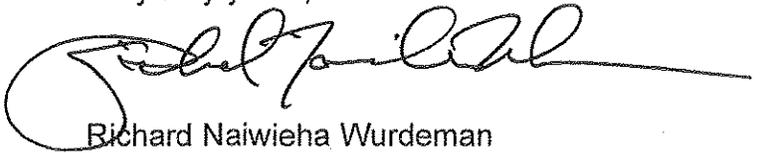
Please know that nothing is being alleged, but my clients' right to a fair and impartial process is paramount and we want to affirmatively request all records and have all necessary disclosures made. Please know that this request is being made pursuant to the Freedom of Information Act, HRS Chapter 92F, and the rights of my clients to due process in the instant proceedings.

These requests are being made separate from my earlier requests for which we are making one last request for production before judicial intervention is sought.

Harvey E. Henderson, Jr., Esq.
May 27, 2016
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Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard Wurdeman", with a long horizontal flourish extending to the right.

Richard Naiwieha Wurdeman

cc: Timothy Lui-Kwan, Esq./
Ian Sandison, Esq.