

BOARD OF LAND AND NATURAL RESOURCES

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OFFICE OF CONSERVATION
AND COASTAL LANDS

STATE OF HAWAI'I

2016 OCT 14 P 3:30

Case No. BLNR-CC-16-002

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'ohē Mauka, Hamakua, Hawai'i)
TMK (3) 4-4-015:009)
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)
)

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAI'I
**MINUTE ORDER NO. 36
(ORDER VOIDING
PERMIT); CERTIFICATE
OF SERVICE**

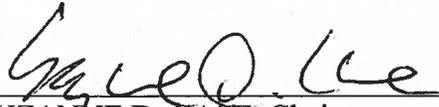
MINUTE ORDER NO. 36 (ORDER VOIDING PERMIT)

The Hawai'i Supreme Court recently issued its decision in *Kilakila 'O Haleakala v. Bd. of Land & Nat. Res.*, SCWC-13-0003065, 2016 WL 584921 (Haw. October 6, 2016). *Kilakila* concerned a conservation district use permit for construction of the Advanced Technology Solar Telescope on the island of Maui, at the summit of Haleakala. *Kilakila* makes it clear that voiding the permit that was approved by the Board of Land and Natural Resources (Board) prior to holding a contested case hearing is an important factor in meeting procedural due process requirements.

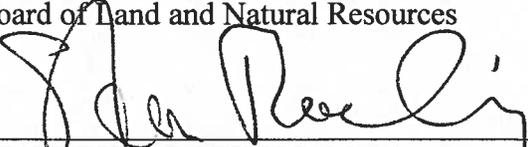
Following the Hawai'i Supreme Court's decision in *Mauna Kea Anaina Hou v. Bd. of Land & Nat. Res.*, 136 Hawai'i 376, 399, 363 P.3d 224, 247 (2015), the Board initiated a new contested case hearing with the understanding that conservation district use permit HA-3568, approved by the Board in February 2011, before the contested case hearing, and in April 2013, after the contested case hearing, was voided by the Supreme Court in its decision. No party has ever claimed that the permit is not void. However, in an over abundance of caution and to make sure the record is clear, the Board now declares and affirms that conservation district use permit HA-3568 is void.

This order may be executed in counterparts.

DATED: Honolulu, Hawai'i, October __, 2016.



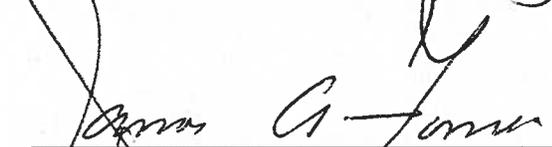
SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources



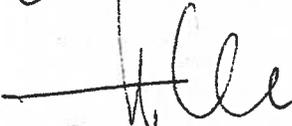
STANLEY H. ROHRIG, Member



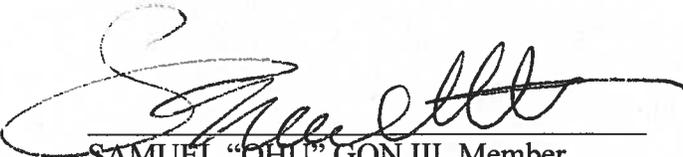
KEITH "KEONE" DOWNING, Member



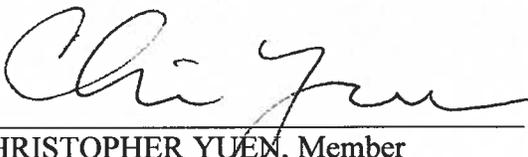
JAMES A. GOMES, Member



THOMAS OI, Member



SAMUEL "OLU" GON III, Member



CHRISTOPHER YUEN, 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,
Hāmākua, Hawai'i, TMK (3) 4-4-015:009

BLNR Contested Case HA-16-02
Document title:
Minute Order 36

CERTIFICATE OF SERVICE

The undersigned hereby certifies that Minute Order 36 was served upon the following parties by the means indicated on October 14, 2016:

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Date: October 14, 2016