

FLORES-CASE 'OHANA
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Petitioners pro se

BOARD OF LAND AND NATURAL RESOURCES
STATE OF HAWAII

In the Matter of:)	Case No. BLNR-CC-16-002
A Contested Case Hearing Re)	
Conservation District Use Application)	FLORES-CASE 'OHANA'S MOTION TO
(CDUA) HA-3568 for the Thirty Meter)	RECONSIDER MINUTE ORDER NO. 43;
Telescope at the Mauna Kea Science)	MEMORANDUM IN SUPPORT OF
Reserve, Ka'ohē, Hamakua District,)	MOTION; CERTIFICATE OF SERVICE
Island of Hawai'i, TMK (3) 4-4-015:009)	
)	Hearing Officer: Hon. Riki May Amano (ret.)
)	

FLORES-CASE 'OHANA'S MOTION TO RECONSIDER MINUTE ORDER NO. 43

Petitioner, E. KALANI FLORES, pro se, representing the FLORES-CASE 'OHANA, respectfully submits this Motion to Reconsider Minute Order ("MO") No. 43 ("Motion"). This motion is made pursuant to Hawai'i Administrative Rules ("HAR") §§ 13-1-32 and 34.

DATED: Pu'ukapu, Hawai'i, April 24, 2017



E. Kalani Flores
Representing Flores-Case 'Ohana

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)	

MEMORANDUM IN SUPPORT OF MOTION

The FLORES-CASE 'OHANA responds to Minute Order No. 43 for reconsideration with reasons as to why the following deadlines should be extended.

- May 30, 2017** Proposed decision and order, findings of fact and conclusions of law.

- June 13, 2017** Responses to decision and order, findings of fact and conclusions of law. Each Response shall identify by Document Number the specific decision and order, findings of fact and conclusions of law to which it responds. E.g. "Response to [Party Name] decision and order, findings of fact and conclusions of law (Doc. No. xxx)"

These deadlines are **unreasonable** due to the enormous volume of exhibits and documents filed and the extensive amount of testimony delivered from 71 witnesses during the 44 days of hearings. **Due to the volume, extent and complexity of the exhibits, motions, minute orders, transcripts, and other filings, significantly more time to adequately prepare an adequate proposed decision and order, findings of fact and conclusions of law ("DO/FOF/COL") and to respond to other parties' DO/FOF/COL is essential.**

Case in point, it took the Hearing Officer significantly more time than anticipated to issue MO No. 44 regarding admitting exhibits into evidence. "The Hearing Officer announced her intention to issue a Minute Order with rulings on March 23, 2017. Notwithstanding such intentions, the volume, extent and complexity of the exhibits, motions and responses necessitated significantly more time than anticipated." (Doc 553 - MO No. 44) As noted, it took the Hearing Officer nearly a month and a half just to review the listing of exhibits. Why would it be expected

that it would take the same amount of time to examine these same exhibits in their entirety in addition to the transcripts and documents filed as part of this contested case hearing?

The sheer volume of documents associated with this contested case hearing amounts to the following:

- about **50 volumes of transcripts** that average nearly 240 pages each resulting in a total of nearly **12,000 pages**
- about **800 exhibits** filed (as of Mar. 9, 2017) in the online Evidentiary Hearing Submittals
- **555 documents** filed (as of Apr. 24, 2017) in the online Contested Case Documents Library

Access to the transcripts for pro se parties such as the FLORES-CASE 'OHANA are limited to hours that a library is open as well as limited to the times outside of one's regular employment. For example, Thelma Parker Library is open only five days a week from Tuesday to Saturday with times from 9:30 a.m. to 4:30 p.m. with the exception of Wednesday with times from 12:30 to 7:30 p.m.. As such, this would limit my time to only about 4 – 8 hours a week to examine about **50 volumes** and nearly **12,000 pages** of transcripts. Even if I could get to the library 8 hours a week for the next five weeks, I would have to examine **300 pages an hour** in order to get through these documents. That is impossible to do!!

The process for admitting about **800 exhibits** into evidence still hasn't been finalized and that would also impede our ability to meet the deadline of May 30th. Furthermore, the integrity of the exhibits filed for this contested case hearing have been further comprised with the act of **spoliation of evidence** in these proceedings. The specifics regarding this matter will be addressed in a motion of reconsideration of MO No. 44 to be filed by the FLORES-CASE 'OHANA. We contend that any deadlines should NOT be set until these matters are resolved.

In addition, there are presently **555 documents** totaling several thousands of pages that need further examination as part of this process.

The deadline of May 30th to file the proposed DO/FOF/COL is **TOTALLY UNREASONABLE!! This deadline should be extended to at least 75 days after the matters pertaining to admitting exhibits into evidence has been resolved.**

Likewise, with 23 parties in this case, the deadline of June 13th to respond to filed DO/FOF/COL allows only 9 business days is also **TOTALLY UNREASONABLE!! This deadline should be extended to at least 45 days after the deadline of the submittal of DO/FOF/COL.**

CONCLUSION

Due to the volume, extent and complexity of the exhibits, motions, minute orders, transcripts, and other filings, significantly more time to adequately prepare a DO/FOF/COL is required. Likewise, significantly more time to adequately prepare a response to DO/FOF/COL to be filed by other parties is also required. If these deadlines are not reconsidered, it is very clear that this would result in substantial harm and injury for pro se parties such the FLORES-CASE ‘OHANA and would indeed violate our constitutionally protected rights of due process.

DATED: Pu‘ukapu, Hawai‘i, April 24, 2017



E. Kalani Flores
Representing Flores-Case ‘Ohana

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Contested Case Hearing Re
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Application (CDUA) HA-3568
for the Thirty Meter Telescope
at the Mauna Kea Science
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BLNR Contested Case HA-16-002

Document title: FLORES-CASE 'OHANA'S MOTION
TO RECONSIDER MINUTE ORDER NO. 43;
MEMORANDUM IN SUPPORT OF MOTION;
CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced documents were served upon the following parties by the means indicated below:

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Date: April 24, 2017