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Lay representative for Temple of Lono

BOARD OF LAND AND NATURAL RESOURCES

FOR THE STATE OF HAWAII

IN THE MATTER OF ) Case No. BLNR-CC-16-002  
)  
A Contested Case Hearing Re Conservation ) **TEMPLE OF LONO SUPPLEMENT A**  
Contested Case Hearing Re Conservation ) **TO PROPOSED DECISIONS AND**  
District Use Permit (CDUP) (HA-3568) for ) **ORDERS INCLUDING**  
The Thirty Meter Telescope at the Mauna ) **FINDINGS OF FACT AND;**  
Kea Science Reserve, Kaohe Mauka, ) **CONCLUSIONS OF LAW; COS**  
Hamakua District, Island of Hawai'i, )  
TMK (3) 4-4-015:009 )  
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**TEMPLE OF LONO SUPPLEMENT TO  
PROPOSED DECISIONS AND ORDERS INCLUDING  
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**I. INTRODUCTION**

On April 18, 2017, the Hearing Officer filed Minute Order 43 setting a deadline of May 30, 2017 for the filing of proposed decisions and orders, including findings of fact and conclusions of law. DOC-552.

On April 20, 2017, the Hearing Officer subsequently filed Minute Order 44 ruling on the admissibility of documentary evidence. DOC-553

On April 25, 2017, the Temple of Lono filed a motion to reconsider Minute Order 43 based on the fact that the applicable rule provided for scheduling the findings and conclusions after the record was complete and the record was not complete. DOC-559.

On April 26, 2017, the Temple also filed a motion to reconsider Minute Order 44 based on the entire process for admitting exhibits constituting a violation of the due process rights of the parties. DOC-569.

On May 23, 2017, the Temple of Lono filed its proposed decisions and orders, including findings of fact and conclusions of law. DOC-651. filed

On May 25, 2017, the Hearing Officer filed Minute Order No. 51 amending Minute Order 44 and granting in part and denying in part motions for reconsideration of Minute Order 44. DOC-647.

On May 26, 2017, the Hearing Officer filed Amended Minute Order 44. DOC-649.

Received  
Office of Conservation and Coastal Lands  
Department of Land and Natural Resources  
State of Hawaii  
2017 May 29 5:05 am

The Temple of Lono herein supplements its findings of fact and conclusions of law.

## **II. SUPPLEMENTAL FINDINGS OF FACT**

1. On April 18, 2017, the Hearing Officer filed Minute Order 43 setting a deadline of May 30, 2017 for the filing of proposed decisions and orders, including findings of fact and conclusions of law. DOC-552.
2. On April 20, 2017, the Hearing Officer subsequently filed Minute Order 44 ruling on the admissibility of documentary evidence. DOC-553.
3. Minute Order 44 is a 62 page document addressing objections to the admissibility of exhibits. Id.
4. On April 25, 2017, the Temple of Lono filed a motion to reconsider Minute Order 43 based on the fact that the applicable rule provided for scheduling the findings and conclusions after the record was complete and the record was not complete. DOC-559.
5. On April 26, 2017, the Temple also filed a motion to reconsider Minute Order 44 based on *inter alia* the entire process for admitting exhibits constituting a violation of the due process rights of the parties. DOC-569.
6. On May 23, 2017, the Temple of Lono filed its proposed decisions and orders, including findings of fact and conclusions of law. DOC-651.
7. On May 25, 2017, the Hearing Officer filed Minute Order No. 51 amending Minute Order 44 and granting in part and denying in part motions for reconsideration of Minute Order 44. DOC-647.
8. On May 26, 2017, the Hearing Officer filed Amended Minute Order 44. DOC-649.

## **III. SUPPLEMENTAL CONCLUSIONS OF LAW**

1. DOCs-553, 647, and 649 confirm that the record was incomplete at least as late as May 26, 2017 – four days before the deadline for the parties to file their proposed decisions and orders, including findings of fact and conclusions of law.
2. Minute Order 50 embraces and perpetuates the ludicrous argument by the telescope proponents that HAR §13-1-38(a) does not mean what it plainly states, i.e. that the scheduling of findings and conclusions is determined by when the record is complete, not by how much time the parties have had to prepare such a filing. DOC-646 at 12-13.
3. The assertion by the Hearing Officer that the record does not have to be complete before the parties are compelled to file their findings of fact and conclusions of law

prejudices the parties by forcing them to prepare their findings and conclusions without knowing what documents have been received into evidence.

4. The forced filing of findings and conclusions on an incomplete record violated the due process rights of the parties.

Dated: May 29, 2017

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Lay Representative for Temple of Lono

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FOR THE STATE OF HAWAII

IN THE MATTER OF ) Case No. BLNR-CC-16-002  
)  
A Contested Case Hearing Re Conservation)  
District Use Permit (CDUP) HA-3568 for ) **CERTIFICATE OF SERVICE**  
The Thirty Meter Telescope at the Mauna )  
Kea Science Reserve, Kaohe Mauka, )  
Hamakua District, Island of Hawai'i, )  
TMK (3) 4-4-015:009 )  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this day a copy of the **TEMPLE OF LONO SUPPLEMENTAL PROPOSED DECISIONS AND ORDERS INCLUDING FINDINGS OF FACT AND CONCLUSIONS OF LAW** was served on the following parties by email on May 29, 2017.

Michael Cain <[michael.cain@hawaii.gov](mailto:michael.cain@hawaii.gov)>, Office of Conservation & Coastal Lands <[dlnr.maunakea@hawaii.gov](mailto:dlnr.maunakea@hawaii.gov)>, Kealoha Pisciotta-Keomailani Von Gogh <[keomaivg@gmail.com](mailto:keomaivg@gmail.com)>, Clarence Ching <[kahiwaL@cs.com](mailto:kahiwaL@cs.com)>, Uncle Kalani Flores <[ekflores@hawaiiintel.net](mailto:ekflores@hawaiiintel.net)>, Pua Case <[puacase@hawaiiintel.net](mailto:puacase@hawaiiintel.net)>, cordylinecolor@gmail.com, kealiikea@yahoo.com, Bianca Isaki <[bianca@kahea.org](mailto:bianca@kahea.org)>, Ian Sandison <[isandison@carlsmith.com](mailto:isandison@carlsmith.com)>, tluikwan@carlsmith.com, John P. (Pete) Manaut <[jpm@carlsmith.com](mailto:jpm@carlsmith.com)>, Lindsay N. McAneeley <[lmcaneley@carlsmith.com](mailto:lmcaneley@carlsmith.com)>, T. Shinyama' <[RShinyama@wik.com](mailto:RShinyama@wik.com)>, douging@wik.com <[douging@wik.com](mailto:douging@wik.com)>, mehana kihoi <[uhiwai@live.com](mailto:uhiwai@live.com)>, Kahookahi Kanuha <[kahookahi@gmail.com](mailto:kahookahi@gmail.com)>, Joseph Camara <[kualiic@hotmail.com](mailto:kualiic@hotmail.com)>, lsa@torkildson.com <[lsa@torkildson.com](mailto:lsa@torkildson.com)>, njc@torkildson.com <[njc@torkildson.com](mailto:njc@torkildson.com)>, leina'ala s <[leinaala.mauna@gmail.com](mailto:leinaala.mauna@gmail.com)>, Maelani Lee <[maelanilee@yahoo.com](mailto:maelanilee@yahoo.com)>, Lanny Sinkin <[lanny.sinkin@gmail.com](mailto:lanny.sinkin@gmail.com)>, akulele@yahoo.com <[akulele@yahoo.com](mailto:akulele@yahoo.com)>, s.tabbada@hawaiiintel.net <[s.tabbada@hawaiiintel.net](mailto:s.tabbada@hawaiiintel.net)>, tiffniekakalia <[tiffniekakalia@gmail.com](mailto:tiffniekakalia@gmail.com)>, Glen Kila <[makakila@gmail.com](mailto:makakila@gmail.com)>, Brannon Kealoha <[brannonk@hawaii.edu](mailto:brannonk@hawaii.edu)>, hanahanai@hawaii.rr.com <[hanahanai@hawaii.rr.com](mailto:hanahanai@hawaii.rr.com)>, pohaku7@yahoo.com <[pohaku7@yahoo.com](mailto:pohaku7@yahoo.com)>, Ivy McIntosh

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and will be served by first class mail on May 30, 2017 to:

1. Dwight J. Vicente  
2608 Ainaola Drive  
Hilo, Hawaiian Kingdom

2. Harry Fergerstrom  
P.O. Box 951  
Kurtistown, HI 96760

3. Michael Cain, Custodian of Records  
Conservation and Coastal Lands  
1151 Punchbowl, Room 131  
Honolulu, Hawai'i 96813

Dated: May 29, 2017

\_\_\_\_\_/s/\_\_\_\_\_  
Lanny Alan Sinkin