

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

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`ohe Mauka, Hamakua, Hawai`i)
TMK (3) 4-4-015:009)
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Certificate of Service

MINUTE ORDER NO. 56
**(Order Denying Motions for Extension of Time for Filing of
Motions, Witness and Exhibit Lists and Direct Testimonies and
Pre-Hearing Statement (Doc. Nos. 304, 305, 306, 323, 326, 328,
329, 337, 338))**

Motions for Extension of Time for Filing of Motions, Witness and Exhibit Lists and Direct Testimonies and Pre-Hearing Statement (“Motions”) were filed by various parties. The following table reflects all motions submitted, reviewed and considered on rendering the decisions on requests for extension of time for filing of Motions, Witness and Exhibit Lists, Direct Testimonies and Pre-Hearing Statements.

Doc. #	Filed	Party	Title
304	4-Oct-16	W Freitas	Motion for Extension of Time for Filing of Motions, Witness and Exhibit Lists and Direct Testimonies and Pre-Hearing Statement; Memorandum in Support

305	4-Oct-16	C Freitas	Motion for Extension of Time for Filling (sic) of Motions, Witness and Exhibit Lists and Direct Testimonies and Pre-Hearing Statement; Memorandum in Support
306	4-Oct-16	Kihoi	Motion for Extension of Time for Filing of Motions, Witness and Exhibit Lists and Direct Testimonies and Pre-Hearing Statement; Memorandum in Support
323	5-Oct-16	Kakalia*	Motion for Extension of Filing Motions, Witness and Exhibit Lists Direct Testimonies and Pre-Hearing Statements *Misidentified as Kihoi in Documents Library Index
326	6-Oct-16	Sleightholm	Motion for Extension of Time for Filing Motions, Witness and Exhibit Lists Direct Testimonies and Pre-Hearing Statements; Memorandum in Support of Motion for Motion (sic) for Extension of Time for Filing of Motions, Witness and Exhibit Lists, Direct Testimonies, and Pre-Hearing Statements
328	6-Oct-16	Kealoha	Kamahana Kealoha - Essential Extension of Time for Filing of Motions Witness and Exhibit Lists and Direct Testimonies and Pre-Hearing Statement and Request/Demand for Reconciliation on Following Items
329	7-Oct-16	Lono*	Temple of Lono Motion for Extension of Time for Filing of Final Witness List and Prefiled Testimony, Exhibit List and Exhibits, Prehearing Statement, and Motions *Received on 10/6/16 by Office of Conservation and Coastal Land
337	7-Oct-16	Lono	Temple of Lono Supplement to Motion for Extension of Time
338	8-Oct-16	Kanaele	Petitioner Ali`i Sir Kalikolehua Kanaele KCK, Motion for More Time of 1 Month, for Due Process in This Instant Case. and Final Order for Motion to Exclude Pro Desecration PUEO/TMT/UH From Promoting Desecration of a Conservation District

Pursuant to Minute Order No. 20 (Setting Fifth Pre-Hearing Conference), filed on September 26, 2016, a pre-hearing conference was held on October 3, 2016. (Doc. 289). Minute Order No. 20 gave notice to all parties that the pre-hearing conference would include discussions about:

- Deadline for submission of pre-hearing statements;

- Scheduling of Witnesses; and
- All other matters related to an orderly hearing process.

Doc. 289 at page 1.

The Motions herein were filed after the Fifth Pre-Hearing Conference. The Motions are essentially a continuation of Movant's complaints about starting the contested case hearing in October 2016, despite repeat announcements that such would be the case. Then counsel for Mauna Kea Ainaina Hou, Kealoha Pisciotta, Deborah Ward, Clarence Ching, the Flores-Case `Ohana and KAHEA, Richard Wurdeman, and some *pro se* parties, argued on October 3, 2016, that they would not have adequate time to prepare for the hearing and meet the deadlines set in conjunction therewith; e.g. witness lists, pre-hearing statements, etc. Parties and Wurdeman further contended that outstanding motions interfered with preparation for the hearing.

After considering all concerns, the Hearing Officer announced that October 17, 2015 would be the start of the hearing. Tr. vii, 22:8-9. A plan for submission of proposed orders for the outstanding motions that were heard in August, was adopted; prevailing parties (announced at the time of the hearings in August) were asked to prepare the proposed orders and deadlines for oppositions/objections was established. Tr. vii, 51:18 – 56:14. On October 10, 2016, Richard Wurdeman filed a Notice of Withdrawal of Counsel. Doc. 341. The start of the hearing was postponed to October 20, 2016. Tr. viii, 61:24 – 62:6.

From the commencement of the contested case hearing in October 2016, it was the general practice to take up "housekeeping" matters at the end of each hearing day. "Housekeeping" matters included identification of upcoming witnesses (ideally, one to three days in advance), day and time of witness testimony, issues related to witness testimony (e.g. availability of filed Witness Direct Testimony, scope and relevance of testimony, etc.), addition to and/or deletion of witnesses from pre-filed witness lists, exhibits related to witness testimony,

scheduling of off island witnesses, and anything else the parties and counsels thought should be discussed and/or decided by the Hearing Officer to ensure the orderly and just conduct of the hearing. HAR §13-1-32(c).

The relief sought by Movants are moot and/or lack good cause to be granted.

Based upon the Motions, all related submissions from counsels and/or parties, all applicable law, the entire record having been considered by the Hearing Officer,

IT IS HEREBY ORDERED that the Motions are DENIED.

Motion to Reconsider. A party, who believes it appropriate, may file a motion to reconsider using the procedure set out herein. Any Motion for Reconsideration shall not be used to reargue the motion or set out positions of a purely repetitious nature or to present factual or legal grounds that could or should have been presented at the original hearing. AMFAC, Inc. v. Waikiki Beachcomber Inv. Co., 74 Haw. 85, 114 (1992).

The deadline for submission of any **motion** to reconsider this minute order is no later than **5 business days** after the date this Minute Order is filed in the Documents Library. Any **responses to motions to reconsider**, shall be submitted no later than **10 business days** after the order is filed in the Documents Library; essentially 5 business days after the deadline for motions to reconsider.

Any Motion to Reconsider shall be considered a non-hearing motion unless otherwise designated by the Hearing Officer.

DATED: Honolulu, Hawai`i, May 29, 2017.



Judge Riki May Amano (Ret.)
Hearing Officer

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 No. 56**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced documents were served upon the following parties by email (when indicated) on May 30, 2017 and by regular mail on May 31, 2017:

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