

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)) _____)	CASE NO. BLNR-CC-16-002 Minute Order No. <u>77</u> (Re: No Decisions for Non-Motion Submissions (Doc. Nos. 330, 366, 403, 411, 419, 421, 422, 437, 454, 460, 496 and 550)) Certificate of Service
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MINUTE ORDER NO. 77

(Re: No Decisions for Non-Motion Submissions (Doc. Nos. 330, 366, 403, 411, 419, 421, 422, 437, 454, 460, 496 and 550))

Upon inspection of the Documents Library, there are documents that do not seem to warrant decisions; in some cases, notwithstanding the titles of the submissions. The following table reflects documents that appear as such:

Doc. #	Filed	Party	Title
330	7-Oct-16 *	Sleightholm	J. Lenia`ala Sleightholm's Motion to Update Contact Information * Received on 10/6/2016
366	13-Oct-16	C Freitas	Request for Electrical Hook Up, Technical Support to Hook Up Internet, for Each Parties [sic] in This Pre-Hearing Conference and Evidentiary Hearing
403	24-Oct-16	Kanuha	He Noi E Ho`ololi I Ka`u `Ikepili Ho`oka`a`ike
411	14-Nov-16	Kanaele	Motion for No Can Come; Working Until the 18th or 20th of November

Received
 Office of Conservation and Coastal Lands
 Department of Land and Natural Resources
 State of Hawaii
 2017 June 11 2:01 pm

419	27-Nov-16	Kanaele	Motion for No Can Come; Working November 26-Dec. 7, 2016
421	16-Nov-16	Lee	Maelani Lee Notice of Withdrawal From Case
422	7-Dec-16	Kanuha	He Koi I Ka Luna Ho`okolokolo E Imi I Palapala `Olelo Ho`okolokolo `Oleleo Hawai`i
437	3-Jan-17	Kanaele	Motion for No Can Come Working January 3rd to 16 or 17th
454	31-Jan-17	Fergerstrom	Demand for a Written Explanation [sic] for the Denial of Testimony of Professor Williamson Chang from Richardson School of Law, University of Hawaii, Manoa
460	13-Feb-17	Kanaele	Motion for No Can Come: Working February 12-24 2017
496	7-Mar-17	Fergerstrom	Second Demand for an Answer to Document 454 (Demand); Memorandum in Support
550	6-Apr-17	Fergerstrom	Reservation of All Rights for All of the Interveners [sic], Suspended by Lack (sic) Action by Hearings Officer; Memorandum of Support

Notices. The following submissions appear to be informational rather than requiring any decision:

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330	7-Oct-16 *	<i>Sleightholm</i>	<i>J. Lenia`ala Sleightholm's Motion to Update Contact Information * Received on 10/6/2016</i>
411	14-Nov-16	<i>Kanaele</i>	<i>Motion for No Can Come; Working Until the 18th or 20th of November</i>
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437	3-Jan-17	<i>Kanaele</i>	<i>Motion for No Can Come Working January 3rd to 16 or 17th</i>
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550	6-Apr-17	<i>Fergerstrom</i>	<i>Reservation of All Rights for All of the Interveners [sic], Suspended by Lack (sic) Action by Hearings Officer; Memorandum of Support</i>

Request. The following submission is a request. By the start of the contested case hearing on October 20, 2017, the items requested were fulfilled by the Grand Naniloa Crown Room:

Doc. #	Filed	Party	Title
366	13-Oct-16	C Freitas	<i>Request for Electrical Hook Up, Technical Support to Hook Up Internet, for Each Parties [sic] in This Pre-Hearing Conference and Evidentiary Hearing</i>

Incomprehensible Submissions. The following documents filed by C.M. Kanuha, were submitted entirely in the Hawaiian Language. They are effectively incomprehensible without an accompanying translation to English. The Hawai`i State Constitution, Article XV, §4 states: “English and Hawaiian shall be the official languages of Hawai`i, **except that Hawaiian shall be required for public acts and transactions only as provided by law.**” (emphasis added) There is no legal requirement for the tribunal to provide for Hawaiian translation in this contested case hearing. Parties were told several times throughout the hearing that translations would be necessary if documents and testimony were offered in the Hawaiian language; this included a dialog about the issue with C.M. Kanuha on December 1, 2016 (Tr. Vol. 10, 12-1-2016, 35:4-36:19,) in the course of the hearing on that day.

Doc. #	Filed	Party	Title
403	24-Oct-16	Kanuha	<i>He Noi E Ho`ololi I Ka`u `Ikepili Ho`oka`a`ike</i>
422	7-Dec-16	Kanuha	<i>He Koi I Ka Luna Ho`okolokolo E Imi I Palapala `Olelo Ho`okolokolo `Oleleo Hawai`i</i>

Demands. The following documents filed by Harry Fergerstrom purport to “demand” a written explanation for the rejection of Williamson Chang as Fergerstrom’s witness. There is no legal basis or authority offered for the “demand.” The rejection of Professor Chang as a witness was fully discussed and decided in open hearing on January 23, 2017. (Tr. Vol. 28, 1-23-2017, 156:18-168:8) The record speaks for itself insofar as this issue is concerned.

Doc. #	Filed	Party	Title
454	31-Jan-17	Fergerstrom	<i>Demand for a Written Explanation [sic] for the Denial of Testimony of Professor Williamson Chang from Richardson School of Law, University of Hawaii, Manoa</i>
496	7-Mar-17	Fergerstrom	<i>Second Demand for an Answer to Document 454 (Demand); Memorandum in Support</i>

Based upon review of the aforementioned documents, all applicable law, the entire record having been considered by the Hearing Officer,

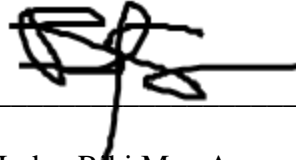
IT IS HEREBY ORDERED that the non-motion submissions specified herein do not warrant decisions and none shall be issued.

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, June 13, 2017.

A handwritten signature in black ink, appearing to be 'Riki May Amano', written over a horizontal line.

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 Orders 74-82**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced documents were served upon the following parties by email (when indicated) on June 13, 2017 and by regular mail on June 13, 2017:

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Date:


June 13 2017