

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

In the Matter of a Contested Case Regarding) DLNR File No. CCH-LD-21-01
the Continuation of Revocable Permits (RPs))
for Tax Map Key Nos. (2) 1-1-001:044 & 050;) **MINUTE ORDER NO. 12,**
(2) 2-9-014:001, 005, 011, 012 & 017; (2) 1-1-)
002:002 (por.) and (2) 1-2-004:005 & 007 for) **ORDER DENYING SIERRA CLUB'S**
Water Use on the Island of Maui to Alexander) **REQUEST FOR SUBPOENAS FILED**
& Baldwin, Inc. (A&B) and East Maui) **NOVEMBER 22, 2021**
Irrigation Company, LLC (EMI) for the)
remainder of the 2021 RPs, if applicable, and) CERTIFICATE OF SERVICE
for their continuation through the end of 2022)
_____)

MINUTE ORDER NO. 12

**ORDER DENYING SIERRA CLUB'S REQUEST FOR SUBPOENAS
FILED NOVEMBER 22, 2021**

Sierra Club's "Request for Subpoenas" filed November 22, 2021 ("Request") is hereby DENIED. Hawai'i Administrative Rules ("HAR") § 13-1-33(a)(1) requires that "Requests for the issuance of subpoenas, requiring the attendance of a witness for the purpose of taking oral testimony before the board shall be in writing, and *shall* state the reasons *why* the testimony of the witness is believed to be *material and relevant to the issues involved.*" (emphases added). HAR § 13-1-33(b) states in part that "No subpoena shall be issued unless the party requesting the subpoena has complied with this section[.]" Sierra Club's Request asserts that Keola Cheng and Dalton Beauprez "will be questioned about the contents of the FEIS and the assumptions that underlie it" but does not explain *why* the anticipated testimony is material and relevant to the issues involved. Neither does Sierra Club's citation to its right to cross-examine adverse witnesses give insight as to the materiality or relevance of the anticipated testimony. This denial of the Request is without prejudice to Sierra Club's ability to submit another request that complies with HAR § 13-1-33.

SO ORDERED _____, Honolulu, Hawai'i. Nov 24, 2021

Suzanne D. Case

Suzanne D. Case
Hearing Officer

*In the Matter of a Contested Case Regarding the Continuation of Revocable Permits (RPs) for Tax Map Key Nos. (2) 1-1-001:044 & 050; (2) 2-9-014:001, 005, 011, 012 & 017; (2) 1-1-002:002 (por.) and (2) 1-2-004:005 & 007 for Water Use on the Island of Maui to Alexander & Baldwin, Inc. (A&B) and East Maui Irrigation Company, LLC (EMI) for the remainder of the 2021 RPs, if applicable, and for their continuation through the end of 2022, DLNR File No. CCH-LD-21-01; **Minute Order No. 12, ORDER DENYING SIERRA CLUB'S REQUEST FOR SUBPOENAS FILED NOVEMBER 22, 2021.***

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

In the Matter of a Contested Case) DLNR File No. CCH-LD-21-01
Regarding the Continuation of Revocable)
Permits (RPs) for Tax Map Key Nos.)
(2) 1-1-001:044 & 050; (2) 2-9-014:001,) CERTIFICATE OF SERVICE
005, 011, 012 & 017; (2) 1-1-002:002)
(por.) and (2) 1-2-004:005 & 007 for)
Water Use on the Island of Maui to)
Alexander & Baldwin, Inc. (A&B) and)
East Maui Irrigation Company, LLC)
(EMI) for the remainder of the 2021 RPs,)
if applicable, and for their continuation)
through the end of 2022)
_____)

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and accurate copy of the foregoing was duly served upon the following parties by electronic mail, on November 24, 2021.

SUZANNE D. CASE
Suzanne.Case@hawaii.gov
Hearings Officer

DAVID KIMO FRANKEL
davidkimofrankel@gmail.com
*Attorney for Petitioner
Sierra Club of Hawaii*

LAUREN K. CHUN
MELISSA D. GOLDMAN
Deputy Attorneys General
Lauren.K.Chun@hawaii.gov
Melissa.D.Goldman@hawaii.gov
Attorneys for the Tribunal

DAVID SCHULMEISTER
TRISHA AKAGI
MICHI MOMOSE
dschulmeister@cades.com
takagi@cades.com
Mmomose@cades.com
Attorneys for Applicant A&B/EMI

CALEB P. ROWE
KRISTIN K. TARNSTROM
Caleb.Rowe@co.maui.hi.us
Kristin.Tarnstrom@co.maui.hi.us
Attorneys for Intervenor County of Maui

DATED: November 24, 2021, Honolulu, Hawai'i.



Ian Hirokawa (ian.c.hirokawa@hawaii.gov)
Blue Kaanehe (blue.kaanehe@hawaii.gov)
Custodians of Record, Land Division
Department of Land and Natural Resources