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GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKO A KALUHIWA
FIRST DEPUTY

W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

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BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

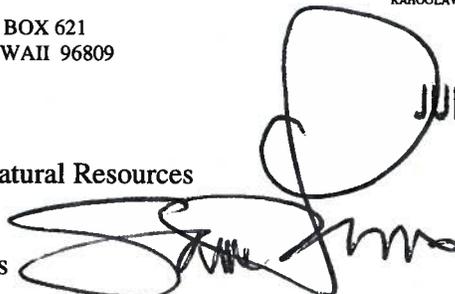
MEMORANDUM

To: All members of the Board of Land and Natural Resources

FROM: Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

SUBJECT: Notice of Ex Parte Communication, Contested Case OA-07-06 Regarding Conservation District Enforcement Case OA-07-31 Regarding the Unauthorized Repair/Reconstruction of a Boulder Revetment within the Conservation District at Mokulē`ia, Waialua, O`ahu, TMK: (1) 6-8-003:018

JUL 24 2015



This to inform you that on March 23, 2015 the Circuit Court of the First Circuit, State of Hawai`i remanded back to DLNR Contested Case OA-07-06 contesting in part, Staff's recommendation to levy \$10,000 in fines against Mr. and Mrs. Michael K. and Elizabeth A. Dailey for the unauthorized repair and reconstruction of a boulder revetment within the Conservation District at Mokulē`ia, Waialua, O`ahu, TMK (1) 6-8-003:018.

Reopening the case allowed the Hearing Officer to submit a Revised Proposed Findings of Fact, Conclusions of Law, and Decision and Order; it did not open the case for additional evidentiary hearings. The process will allow one side or the other to file exceptions.

The Hearing Officer's revised proposal, as well as all other submittals, will be provided to the Board prior to decision making.

As you may recall, pursuant to Hawai`i Administrative Rules (HAR) § §13-1-37 Ex parte (single party) communications, (a) *No party or person petitioning to be a party in a contested case, nor the party's or such person's to a proceeding before the board nor their employees, representatives or agents shall make an unauthorized ex parte communication either oral or written concerning the contested case to the presiding officer or any member of the board who will be a participant in the decision-making process.* Therefore, individual Board members must not discuss any matters related to the case with the petitioners, intervenors, applicants, or landowners.

The Daileys are represented by Gregory Kugle of Damon Key Leong Kupchak Hastert; Russell Suzuki and Robyn Chun are the Deputy Attorneys General acting as counsel for the Office of Conservation and Coastal Lands; Colin Lau is the Deputy Attorney General acting as counsel for the tribunal; and Dr. Lawrence Miike is the Hearing Officer.

If you have questions regarding procedures or ex parte communication under a contested case proceeding, please contact Michael Cain at 587-0048.

attachment: Order Remanding Proceedings to Amend Findings of Fact, Conclusions of Law and Decision and Order