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STATE OF HAWAII

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

RALPH PALIKAPU DEDMAN; TERRI L. NAPEAHI; ROBERT M. PETRICCI; RUTH-REBECCALYNNE TYANA LOKELANI ALOUA; ALICIA M. ILIKEA KAM; WINTER NANI HOOHULI; CLARE LOPRINZI; JOSEPH KASSELL ND, L.Ac.; AND MISHA KASSELL, MD,) CIVIL NO. 15-1-0274K
)
) (Kona) (Environmental Court)
)
) DEFENDANT STATE OF HAWAII'S
) ANSWER TO FIRST AMENDED
) COMPLAINT FOR DECLARATORY AND
) INJUNCTIVE RELIEF FILED OCTOBER 21,
) 2015
Plaintiffs,)
)
vs.) CERTIFICATE OF SERVICE
)
)
STATE OF HAWAII, DEPARTMENT OF LAND AND NATURAL RESOURCES; UNIVERSITY OF HAWAII, HAWAII INSTITUTE OF GEOPHYSICS AND PLANETOLOGY AND CENTER FOR THE STUDY OF ACTIVE VOLCANOES; AND JOHN DOES 1-10,)
)
)
Defendants.)
)

DEFENDANT STATE OF HAWAII'S ANSWER TO FIRST AMENDED COMPLAINT
FILED OCTOBER 8, 2015

FIRST DEFENSE

The first amended complaint fails to state a claim against the State upon which relief can be granted.

SECOND DEFENSE

1. The State is without knowledge or information sufficient to form a belief as to the truth and accuracy of the allegations in paragraphs 1 - 9 the first amended complaint.

2. For answer to paragraph 10 of the first amended complaint, the State admits that the Department of Land and Natural Resources is a department of the State of Hawai'i.

3. The State is without knowledge or information sufficient to form a belief as to the truth and accuracy of the allegations in paragraph 11 of the first amended complaint.

4. For answer to paragraph 12 of the first amended complaint the State admits that jurisdiction and venue are proper in the court pursuant to statute and denies all other allegations in the paragraph.

5. The State admits the allegations in paragraphs 13 – 15 of the first amended complaint.

6. For answer to paragraph 16 of the first amended complaint, the State states that the referenced statute speaks for itself.

7. The State admits the allegations in paragraphs 17 - 19 of the first amended complaint.

8. The State denies the allegations in paragraph 20 of the first amended complaint.

9. The State admits the allegations in paragraph 21 of the first amended complaint.

10. The State denies the allegations in paragraphs 22 and 23 of the first amended complaint.

11. For answer to paragraphs 24 - 27 of the first amended complaint, the State states that the referenced document speaks for themselves.

12. The State denies the allegations in paragraphs 28 - 30 of the first amended complaint.

13. The State denies any allegations not specifically addressed above.

THIRD DEFENSE

Plaintiffs lack standing.

FOURTH DEFENSE

Plaintiffs' claims are barred by the doctrines or defenses of illegality, impracticality, violation of public policy, and/or ultra vires.

FIFTH DEFENSE

Plaintiffs' claims are barred by waiver, estoppel, and/or laches.

SIXTH DEFENSE

Plaintiffs' claims are barred by the State's sovereign immunity.

SEVENTH DEFENSE

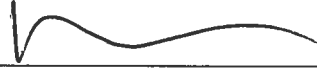
The matters alleged are not suitable for declaratory relief because there is no actual controversy, because there is a special form of remedy, or otherwise.

EIGHTH DEFENSE

Plaintiffs' claims are moot, not ripe, or otherwise not justiciable.

WHEREFORE, the State requests that the first amended complaint be dismissed with prejudice as to it and that it be awarded costs and such other relief as this court deems appropriate.

DATED: Honolulu, Hawai'i, November 12, 2015.



WILLIAM J. WYNHOFF
Deputy Attorney General
Attorney for State of Hawai'i

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAI'I

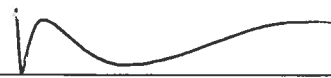
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)	

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served a true and correct copy of the foregoing document on the following persons by regular mail on November 12, 2015:

GARY C. ZAMBER
21 Waianuenue Avenue, #3
Hilo HI 96720

DATED: Honolulu, Hawai'i, November 12, 2015.


 WILLIAM J. WYNHOFF
 Deputy Attorney General
 Attorney for State of Hawai'i