

HOLLY T. SHIKADA 4017

Attorney General of the State of Hawai‘i

ROBERT T. NAKATSUJI 6743

First Deputy Solicitor General

NICHOLAS M. MCLEAN 10676

Deputy Solicitors General

Department of the Attorney General

425 Queen Street

Honolulu, Hawai‘i 96813

Tel: (808) 586-1360

Email: nicholas.mclean@hawaii.gov

Attorneys for Defendants DEPARTMENT OF HEALTH,
STATE OF HAWAI‘I; ELIZABETH A. CHAR, in her official
capacity as Director of the State of Hawai‘i Department of Health;
MARIAN E. TSUJI, in her official capacity as Deputy Director
of the State of Hawai‘i Department of Health

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI‘I

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEPARTMENT OF HEALTH,
STATE OF HAWAI‘I; ELIZABETH
A. CHAR, in her official capacity as
Department of Health Director;
MARIAN E. TSUJI, in her official
capacity as Department of Health
Deputy Director,

Defendants,

and

No. 1:22-cv-00051 DKW-RT

**FOURTH JOINT STIPULATION
AND ORDER**

District Judge: Hon. Derrick K. Watson

Magistrate Judge: Hon. Rom Trader

[caption continued]

SIERRA CLUB; BOARD OF
WATER SUPPLY, CITY AND
COUNTY OF HONOLULU,

Intervenor-Defendants.

FOURTH JOINT STIPULATION AND ORDER

Plaintiff the UNITED STATES OF AMERICA and Defendants
DEPARTMENT OF HEALTH, STATE OF HAWAII; ELIZABETH A. CHAR, in
her official capacity as Department of Health Director; MARIAN E. TSUJI, in her
official capacity as Department of Health Deputy Director; Intervenor-Defendant
SIERRA CLUB; and Intervenor-Defendant BOARD OF WATER SUPPLY, CITY
AND COUNTY OF HONOLULU (collectively, “**Defendants**” and, together with
Plaintiff, “**the Parties**”) stipulate and agree as follows:

WHEREAS, on March 7, 2022, Secretary of Defense Lloyd J. Austin III
issued a memorandum directing “the Secretary of the Navy, in coordination with
the Commander of the United States Indo-Pacific Command, to take all steps
necessary to defuel and permanently close the Red Hill Bulk Fuel Storage Facility”
(ECF No. 16-1);

WHEREAS, the memorandum further states that, “[b]y no later than May
31, 2022, the Secretary of the Navy and Director, [Defense Logistics Agency] will
provide [the Secretary of Defense] with a plan of action with milestones to defuel
the facility. The plan of action shall require that defueling operations commence

as soon as practicable after the facility is deemed safe for defueling and target the completion of that defueling within 12 months” (*id.*);

NOW, THEREFORE, the Parties stipulate and agree as follows:

1. The United States will defuel and permanently close the twenty Underground Storage Tanks at the Red Hill Bulk Fuel Storage Facility (“**Red Hill Facility**”) and the pipelines that are ordinarily used to transport fuel between these tanks and the underground pumphouse.

2. This action shall be stayed until June 3, 2022.

3. During the pendency of the stay, the Parties shall work toward a settlement of this action (1:22-cv-00051-DKW-RT).

4. The deadline for Defendants to file answers or other responsive pleadings shall be extended from April 5, 2022, to June 17, 2022.

5. The Rule 16 Conference and associated deadlines shall be extended until June 29, 2022, or another convenient date for the Court.

DATED: April 4, 2022.

Respectfully submitted,

/s/ Lucy E. Brown

Counsel for Plaintiff

UNITED STATES OF AMERICA

/s/ Nicholas M. McLean

Counsel for Defendants DEPARTMENT OF HEALTH, STATE OF HAWAII; ELIZABETH A. CHAR, in her official capacity as Department of Health Director; MARIAN E. TSUJI, in her official capacity as Department of Health Deputy Director

/s/ Jeff A. Lau

Counsel for Intervenor-Defendant BOARD OF WATER SUPPLY, CITY AND COUNTY OF HONOLULU

/s/ David L. Henkin

Counsel for Intervenor-Defendant SIERRA CLUB

APPROVED AND SO ORDERED.

Dated this 4th day of April, 2022.



/s/ Derrick K. Watson

Derrick K. Watson
United States District Judge

UNITED STATES v. DEPARTMENT OF HEALTH, STATE OF HAWAII; ELIZABETH A. CHAR, in her official capacity as Department of Health Director; MARIAN E. TSUJI, in her official capacity as Department of Health Deputy Director; and SIERRA CLUB; and BOARD OF WATER SUPPLY, CITY AND COUNTY OF HONOLULU; No. 1:22-cv-00051-DKW-RT; FOURTH JOINT STIPULATION AND ORDER