

IN THE DEPARTMENT OF HEALTH

17-099C&E CAB

STATE OF HAWAII

DEPARTMENT OF HEALTH,)	DOCKET NO. 16-CA-EO-09
STATE OF HAWAII,)	
)	
Complainant,)	
)	
vs.)	
)	CERTIFICATE OF SERVICE
HAWAIIAN PARADISE PARK OWNERS)	
ASSOCIATION,)	
)	
Respondent)	
)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the documents listed herein by mailing, via certified mail, return receipt requested (#7014 3490 0001 8105 4993), on this date, a copy of the following documents to the person named below at the address indicated.

DOCUMENTS:

1. Notice and Finding of Violation
2. Order

PERSON SERVED AND ADDRESS:

Mr. Donald Morris
President
Hawaiian Paradise Park Owners
Association
HC 3, Box 11000
Keaau, Hawaii 96749

DATED: Honolulu, Hawaii,

FEB 27 2017



MARIANNE ROSSIO, P.E.
Manager, Clean Air Branch

c: Deputy Attorney General, State of Hawaii

CERTIFICATION

I hereby certify that the attached copies are correct
copies of the following documents:

1. Notice and Finding of Violation and Order in
Docket No. 16-CA-EO-09, and
2. Certificate of Service,

and that with respect to the above-described documents, I am
authorized to make this certification.

DATED: Honolulu, Hawaii, FEB 27 2017

ATTEST:



MARIANNE ROSSIO, P.E.
Manager, Clean Air Branch

**STATE OF HAWAII
DEPARTMENT OF HEALTH
CLEAN AIR BRANCH
NOTICE AND FINDING OF VIOLATION**

TO: Hawaiian Paradise Park Owners Association HC 3, Box 11000 Keaau, Hawaii 96749 <p style="text-align: center;">RESPONDENT</p>	NOVO No. 16-CA-EO-09 <i>(Please write this NOVO number on all correspondence)</i> Re: Fugitive Dust Violations Property/Facility: Hawaiian Paradise Park Subdivision, Puna, Hawaii
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Under Hawaii Revised Statutes ("HRS"), §342B-11, Hawaii Administrative Rules ("HAR") §11-60.1-2, and HAR §11-60.1-33, the Department of Health, Clean Air Branch ("DOH"), issues this Notice and Finding of Violation and Order ("NOVO"). Based on complaint investigations conducted on January 20, 2016, March 1, 2016, March 8, 2016, and March 29, 2016, of the Hawaiian Paradise Park Subdivision located in Puna, Hawaii, the DOH finds the following violations alleged below. This case deals only with the violations alleged below, and the DOH may bring other cases for other violations. This case does not limit cases by any other public agency or private party.

Statutes/Rules	HRS, §342B-11, HAR, §11-60.1-2, and HAR §11-60.1-33
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Nature of the Violation	1) HAR §11-60.1-33(a): Visible fugitive dust being generated from vehicles traveling on the roadway was observed by the CAB inspector on January 20, 2016, March 1, 2016, March 8, 2016, and March 29, 2016. At the time of the investigations, no reasonable precautions were being taken. 2) HAR §11-60.1-33(b): Visible fugitive dust crossing beyond the property line from where the dust was being generated was observed by the CAB inspector on January 20, 2016, March 1, 2016, March 8, 2016, and March 29, 2016.
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The facts of this case and the law justify the following order.


ORDER

You are ordered to:

1. Take corrective action within twenty (20) days after the receipt of this Order, to prevent further violations, if RESPONDENT has not already done so.
2. Within twenty (20) days after the receipt of this Order, notify the DOH of the corrective actions taken.
3. Pay an administrative penalty of **SEVEN THOUSAND FOUR HUNDRED DOLLARS AND NO CENTS (\$7,400.00)** for the above violations. **Within 20 days after the receipt of the NOVO**, send a certified check to: Clean Air Branch, State Department of Health, P.O. Box 3378, Honolulu, Hawaii 96801. The check should be made payable to the "State of Hawaii" and include the NOVO reference number stated above.

This NOVO becomes final and enforceable, and the penalty becomes due and payable 20 days after your receipt of this NOVO unless before the 20 days expire, you submit a written request for a hearing to the Hearings Officer, Department of Health, 1250 Punchbowl Street, Third Floor, Honolulu, Hawaii 96813 and to the Clean Air Branch, State Department of Health, P.O. Box 3378, Honolulu, Hawaii 96801. In the request, include a copy of the NOVO. At a hearing, you may seek to avoid any penalty, and the DOH may seek the maximum penalty of Twenty-Five Thousand Dollars (\$25,000) per day, per violation. Parties may present evidence and witnesses on their behalf, and may examine and cross-examine all witnesses and evidence presented by the DOH. Parties may be represented by lawyers at their own expense, or they may represent themselves. Any hearing will follow HRS, Chapters 91 and 342B, and the DOH Rules of Practice and Procedure. After a hearing, the Director of Health or her appointee will decide the actual administrative penalty, which may be more or less than the penalty in this Order, or no penalty at all. If you have questions, please call Ms. Jill Stensrud, Supervisor of the Compliance and Enforcement Section, Clean Air Branch, at (808) 586-4200.

If you have special needs due to a disability that will aid you in participating in the hearing or pre-hearing conference, please contact the Hearings Officer at (808) 586-4409 (voice) or through the Telecommunications Relay Service (711), at least ten (10) working days before the hearing or pre-hearing conference date.



 KEITH E. KAWAOKA, D.Env.
 Deputy Director for Environmental Health

FFR 27 2017

 Date


 Approved as to form by:
 William F. Cooper
 Deputy Attorney General