

Ress, Ronald G CIV NAVFAC PAC, 09C

From: Edward E. Case [ecase@legalhawaii.com]
Sent: Friday, October 29, 2010 11:52 AM
To: Kitaoka, Don S
Cc: Ress, Ronald G CIV NAVFAC PAC, 09C; Bart W. Howk
Subject: RE: city regulation of private lessee of navy lands
Attachments: Waikolee Gulch draft letter to DPP.PDF

Don:

I was preparing to send this email to you as I received your own. Under the circumstances especially with respect to time, I'm going ahead with my email rather than review and respond to the details of yours first.

I attach our draft letter to Director Tanoue. As earlier discussed, the relevant facts here, including particularly the specific congressional authorization for a specific federal purpose, are laid out there.

I also understand from Ron that this same basic issue was reviewed by then-Corp. Counsel Arakawa earlier, in '04, and the intended City action there withdrawn.

I am not copying your clients on this email as well as I'd like to see if we can reach an agreement among the lawyers as to the black-and-white of this, especially given the clear congressional preemption and federal purpose. I will take a look at your authority and respond with my view, and ask that you do the same as to ours.

On timing, I believe I must hand-deliver the letter Monday afternoon if we can't get a resolution by then. I can talk today up to 3PM or so and Monday if and as you wish.

Ed Case