



Puna Pono Alliance
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January 21, 2015

Mayor Billy Kenoi
Hawai`i County Building
25 Aupuni Street
Hilo, HI 96720

Re: Puna Geothermal Venture

Aloha Mayor Kenoi:

We ask you to support requiring Puna Geothermal Venture (PGV) to comply with County law. In 2012 the County Council passed and you signed Bill 202 that became Ordinance 12-151, effective December 5, 2012, subsequently codified as Hawai`i County Code § 14-113. The law prohibits geothermal well drilling at night within a mile of a residence. PGV has announced it will begin drilling a new well, identified as KS-16, and further says that it will disregard the requirements of Hawai`i County Code § 14-113.

When PGV drilled well KS-15 in 2012, the drilling work caused continual disturbances of nearby residents and complaints about noise, light, dust, fear of toxic exposure, etc. As a result of community concerns, the County Council passed the ordinance that resulted in the law providing “Geothermal resources exploration drilling and geothermal production drilling operations being conducted one mile or less from a residence, shall be restricted to the operating hours of 7:00 a.m. – 7:00 p.m.”

Although PGV has said the drilling of KS-16 is not affected by the night drilling ban, nothing in the law supports such an opinion – Code § 14-114 is a simple and unambiguous prohibition with no exceptions.

Hawai`i Administrative Rules (HAR) Chapter 13-183, entitled *Rules on Leasing and Drilling of Geothermal Resources*, regulates geothermal activity in Hawai`i, such as well drilling, for purposes that include “[m]inimizing or preventing degradation of the environment” and “[p]reventing injury to life and property.” HAR § 13-183-1(c)(3) and (4).

PGV operates its facility in Pohoiki pursuant to Geothermal Resources Mining Lease No. R-2 dated February 20, 1981. Paragraph 11 of the Lease requires that PGV obey local “laws and regulations pertaining to the leased lands and Lessee’s operations hereunder, *now in force or which may hereafter be in force*” (Emphasis supplied.) HAR § 13-183-26 provides that a mining lease may be revoked if a lessee fails to comply with any terms of the lease, law, or rules.

HAR §13-183-65 requires PGV to obtain a DLNR permit prior to drilling any well. PGV obtained a DLNR drilling permit, issued on December 16, 2014, for well KS-16 that includes, in paragraph 3, a requirement that PGV must comply with County law.

We have requested that the Board of Land and Natural Resources require PGV to show cause why its drilling permit should not be revoked. HAR § 13-183-65(d) provides that after notifying PGV to appear to show cause why the permit should not be suspended or revoked, the Board may order revocation or suspension of the KS-16 drilling permit if drilling “is not being done in accordance with conditions of the permit or these rules...” (See attached letter.)

PGV’s drilling at night in violation of Code § 14-114 accords with neither the permit requirement that PGV must comply with County law nor the HAR § 13-183-54(b) requirement that PGV must comply with all county “requirements, laws, rules and regulations ... pertaining to the use of the premises or the conduct of the operation.”

Because PGV has announced its intent to violate the drilling permit and applicable rules, we ask that you please endorse our request pursuant to § 13-183-65(d) that BLNR order PGV to show cause why the permit should not be revoked for that reason. Because our membership includes community residents that would be affected by PGV’s violation of the law, we will continue to pursue an appropriate resolution of PGV’s disregard of County law.

We will be happy to provide any further information you may wish and would appreciate an opportunity at your first convenience to meet with you in person about these matters.

Sincerely



Robert Petricci
President

Copy: Chair Carty Chang
Gov. David Y. Ige