

Hawaiian Paradise Park's

Fugitive Dust Committee



Develop a List of Viable Options to Mitigate the Informal Violation Against HPP by the Department of Health/Clean Air Branch

How We Got Here - 2010

- **June 2010**, first complaint filed with Dept. of Health against HPPOA for causing fugitive dust from vehicles traveling on 30th Ave – in violation of HAR 11-60.1-33(a) & (b), penalties not to exceed \$25,000 for each day of violation observed.
- **September 2010**, DOH sends HPP informal notice of violation to correct fugitive dust.
- **September 2010**, Our attorney, Ivan Van Leer sends DOH letter seeking 90 days to remediate the fugitive dust issue.

How We Got Here - 2011

- **September 2011**, Deputy Attorney General sends two letters in response to June Conant (who wrote as a private lot owner)- stating that since HPPOA is primarily responsible for maintaining all of the roads for Increment I and II, thus HPPOA is primarily responsible for taking reasonable precautions, as part of its maintenance, to prevent emission of fugitive dust from all the roads. He does not suggest mitigation efforts, but adds, *"All that matters to the DOH Clean Air Branch is that there are no more fugitive dust violations at HPP."*

How We Got Here - 2012

- **May 2012**, in a letter to DOH/CAB, June Conant, now Board President, asks for details of the complaints from 6th and 29th Avenues. [We now have a total of 3 filed complaints with DOH].
- **July 2012**, June Conant goes to HNL to meet with our Oahu Engineer Dennis Poma, ACSI, DOH/CAB and Deputy Attorney General – “Bottom line: DOH feels they interpreted the law correctly – that HPPOA is in violation of fugitive dust. They want a more detailed plan which engineer, general manager, and president are working on now.”
- **August 2012**, Dennis Poma, PE of ACSI (our engineer) writes a letter to DOH with bulleted existing and proposed precautions to control fugitive dust, including: watering roads, slow speed limit to 15MPH and seek its enforcement, use of Soil Sement, speed humps, dust fence, vegetation, and road maintenance including asphalt paving (8 miles in Phase IV and 6 miles in Phase V).

HAR 11-60.1-33

Fugitive Dust Rule

- **§11-60.1-33 Fugitive dust. (a) No person shall cause or permit visible fugitive dust to become airborne without taking reasonable precautions.**
- Examples of reasonable precautions are:
- (1) Use of water or suitable chemicals for control of fugitive dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land; (2) Application of asphalt, water, or suitable chemicals on roads, material stockpiles, and other surfaces which may result in fugitive dust; (3) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials. Reasonable containment methods shall be employed during sandblasting or other similar operations; (4) Covering all moving, open-bodied trucks transporting materials which may result in fugitive dust; (5) Conducting agricultural operations, such as tilling of land and the application of fertilizers, in such manner as to reasonably minimize fugitive dust; (6) Maintenance of roadways in a clean manner; and (7) Prompt removal of earth or other materials from paved streets which have been transported there by trucking, earth-moving equipment, erosion, or other means. (b) **Except for persons engaged in agricultural operations or persons who can demonstrate to the director that the best practical operation or treatment is being implemented, no person shall cause or permit the discharge of visible fugitive dust beyond the property lot line on which the fugitive dust originates.**

Hawaii Revised Statutes Chapter 342B, Air Pollution Control

- §342B-47 Civil penalties
 - (c) Any person who violates this chapter, any rule adopted pursuant to this chapter, other than vehicular smoke emission control and open burning control rules, any condition of a permit issued or variance granted pursuant to this chapter, or any fee or filing requirement, shall be fined not more than \$25,000 for each separate offense. Each day of each violation constitutes a separate offense.



- Vehicle travelling on 13th Avenue in June 2012 – at less than 20MPH – at approximately 4:30 p.m.
- Road was graded, rolled, and water placed on it earlier in the day at approximately 10:00 am.



Same day, place, and time as previous photo – different vehicle



Where we live

Fugitive Dust Committee

- **October 2012**, At the suggestion of the Deputy Attorney General, the Board sends out two surveys, one which proposes raising \$23M to pave roads with a special assessment.
- **October 2012**, Objections arise in the community, and at the General Membership Meeting (10/28/10), motion is passed to create a committee to investigate viable options to fugitive dust – other than raise \$23M.
- **December 9, 2012, Jan 20, and Feb. 10, 2013**, members of the committee meet to list viable options to present at next Gen. Membership meeting on Feb. 24. Meeting minutes on www.hppoa.com

Fugitive Dust Committee – Participating Members

- **District 1:**
Francis Ganon, Harold Ching,
Bruce Derrick.
- **District 2:**
Skip McAlister, Dorie Liu, Bill
Cesaletti, Cindy Hisatake,
Linda Nako
- **District 3:**
Terry Michaels, Tony Rua
- **District 4:**
Tom Nickerson, Linnea Lindley
- **District 5:**
Judy Sumter, Joe Botticelli,
Frank Pustka
- **District 6:**
June Conant, Leilani Bronson,
Bertram Carvalho, Craig Crelly
- **District 7:**
Verne Presnall, Kaniu
Kinimaka-Stocksdale, Liz
Bonnell, Tap Titherington
- **District 8:**
Joan Galante, Gregg Hummer
- **District 9:**
Larry Brennan, Lawrence Bergner



Factoids

- 138 road miles in HPP
- 50 road miles paved as of winter 2012
- 88 road miles remain unpaved in HPP
- In a three-month period in 2012:
11,441,000 pounds of 1 ½” base course material was laid on our unpaved roads.



Viabile Options Submitted by Committee Members

- **BILL CESALETTI:**

- (1) Encourage owners to stop calling and lodging complaints to DOH – send them to HPP office;
- (2) Slow traffic speed;
- (3) Encourage lot owners to water the road fronting their home;
- (4) Place correct material on roads and grade correctly with a crown; and
- (5) Don't borrow more money or encumber lot owners with higher debt to pave roads – live within our means.

- **VERNE PRESNALL:**

- (1) Create a grassroots signage campaign - that is owner-generated to post speed limit signs on your own lot;
- (2) Slow speed on unpaved roads to 15MPH; and,
- (3) Send complimentary and encouraging letters and awards to businesses with high trip generation to lower their speed on the roadways.



Viabile Options Submitted by Committee Members

- **LINNEA LINDLEY:**

(1) Place large white-painted boulders in roadway (with appropriate signage) forcing cars to slow down. Cost for 500 boulders is less than \$4,000.

- **TAP TITHERINGTON:**

(1) Suggest that concerned lot owners place vinyl fencing; or
(2) Plant fast-growing vegetation fronting their property to act as dust filter.



Viabile Options Submitted by Committee Members

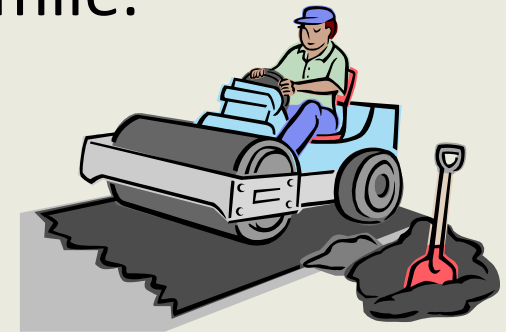
- **TONY RUA:**

Chip Seal (a 3-part process) the unpaved roadways. Yamada & Sons quoted \$105,600/per mile.

(This compares to the approximately \$300,000/per mile to asphalt it – also by Yamada)

- **TOM NICKERSON:**

Use Asphalt Emulsion (a 2-part process) as an aggregate binder on unpaved roads. Cost per mile is approximately \$3500/mile.



Viabile Options Submitted by Committee Members

- **State Rep.**

- **HANOHANO:**

- (1) Once the road fronting complainers' home is done, inform DOH in writing;
- (2) Inform DOH that Fugitive Dust Committee has been formed to seek reasonable options to the problem; and,
- (3) Place signage at the top of four main roads in the Park "Drive 15MPH On All Dirt Roads Throughout HPP."

- **KANIU KINIMAKA-STOCKSDALE:**

- (1) Seek legislative assistance to amend or exempt HPP from the fugitive dust law.
- (2) Suggested individuals should chip seal or harden the road fronting their own home – at their expense.

Viabile Options Submitted by Committee Members

- **LARRY BRENNAN**
(Option 1):

Create a road remediation plan/outline to submit to DOH that is in depth, well-researched, and backed with scientific data. Incorporate this plan into HPPOA Master Plan, make it a part of the HPP road maintenance practice, and submit to Puna Community Plan.

- **LARRY BRENNAN**
(Option 2):

Take legislative action to *amend* HAR 11 – Chapter 60, (7) (b), Air Pollution Control – to account for areas zoned agricultural (such as HPP, which is AG1), and who demonstrates “the best practical operation or treatment is being implemented,” – because we have a Dust Remediation Plan in place.

Viabile Options Submitted by Committee Members

- **LARRY BRENNAN**

- **(Option 3):**

Lower speeds on unpaved roads. Post a sign at top of main roads that reads: “DUST STATUS” – road crew would alter between “Red” or “Green” conditions as the weather varies.

- While in “Red” condition – speeds are 10MPH
- While in “Green” condition – speeds are 15MPH.
- Inform residents of new practice in “The Conch” and several community meetings, etc. Consider incentive measures to make it fun and increase participation.

- **LARRY BRENNAN**

- **(Option 4):**

Develop a Road Surface Test Plot Grid to demonstrate our efforts in mitigation of dust.

Major Test Plot variables are: road usage, climate condition, material type, depth of material and maintenance applications.

Collaborate with an Environmental Engineer to determine: Test Plot length, established and logged uniform inspection and tracking system.

Determine two locations (upper/lower HPP) – using same material, maintenance schedule, traffic pattern – after a pre-determined “wear period” plots would be examined for wear and dust comparison and tabulated for later conclusions.

Viabile Options Submitted by Committee Members

- **JOE BOTTICELLI:**

Use Gorilla Snot which is a soil stabilizer that is an eco-safe, biodegradable liquid copolymer used to stabilize and solidify any soil or aggregate and acts as a dust suppressant, which is sprayed onto the road. The cost per mile is: \$9,269 – or \$815,672 for the 88 remaining unpaved road miles.

- **GREGG HUMMER:**

- (1) Speed is the #1 reason for fugitive dust.
- (2) We need speed enforcement from police.
- (3) Determine traffic generated from businesses located in the Park – do they have special use permits? Should they be required to pay impact fee for roads?



Viabile Options Submitted by Committee Members

- **FRANK PUSTKA:**

- (1) Lower speed limits on unpaved roads;
- (2) Enforce speed limits by hiring off-duty police; plus create a program for owners to call into a hot line at the office;
- (3) Post speed limit signs on unpaved roads;
- (4) Have Road Crew only fill pot holes and limit grading over full length of roadways; and
- (5) HPP should consider using an environmental attorney – such as Ms. Lisa Woods Munger – rather than a general practice attorney to challenge this violation .

- **BERTRAM CARVALHO:**

- Wants to slow speeders driving in the Park, and supports speed bumps on paved roads.
- Increase the amount of speed limit signs throughout the Park.



Viabile Options Submitted by Committee Members

- **MERRILL “SKIP” McALISTER:**
- Emphasized the importance of changing the source and type of material used on roadways, “Stop using the base course from Puna Rock immediately!”
- Change the practice of putting base course on roads and start using better quality and more quantity with proper compaction to allow for drainage.
- Fill in pot holes correctly with 2” - 3” mound.
- **BRUCE DERRICK:**
- Suggested that HPPOA return to using $\frac{3}{4}$ ” base course with 2” minimum compaction.
- Use cinder on less travelled roadways.



Viabile Options Submitted by Committee Members

- **LAWRENCE BERGNER:**

- Suggests that when homes are bought/sold in HPP, that the realtor be required to provide a specific disclosure exhibit as part of the DROA – so that new owners are aware they are buying into a subdivision with unpaved roads, that might from time-to-time, cause dust to rise from its surface.
- He added that rental agreements should include same type of disclosure.

- **CINDY HISATAKE:**

- (1) Stop using the current material on the roads – it's contributing to the dust problem. (2) Switch to $\frac{3}{4}$ " aggregate. (3) Set up speed bumps to slow car speeds. (4) Seek exemption from this law with the help of our state legislators. (5) Eliminate the current general manager's position and use the money from his salary to improve our road conditions.



Potential Financial Impacts From DOH Violation

- \$25,000 per day
 - x 3 complaints
 - **\$75,000 per day**
 - x 30 days
 - **\$2,250,000 per month**
 - x 12 months
- **\$27,000,000 per year**

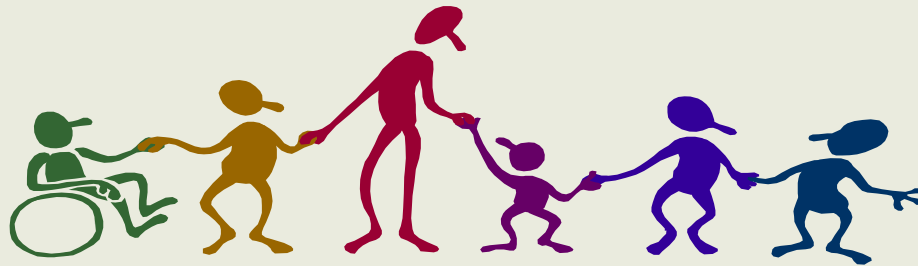
Recommendation

The majority of the members of the Fugitive Dust Committee agree:

- (1) Immediately change the quality of the base course being used and possibly its vendor source;
- (2) Lower the speed limit on unpaved roads to 10MPH – and increase the signage stating so;
- (3) Consider alternative to asphalt paving (currently at \$290K/mile to \$300K/mile) to a more reasonably priced material and methodology.

Mahalo a Nui Loa

- Thank you to the participating members of the Fugitive Dust Committee, as well as the general membership of HPPOA who trusted us to return with a list of viable options to the dust violation, and to the staff in the office who helped with logistics.



Conclusion

The next step is up to YOU.

What would you suggest we do to avoid being fined up to \$25,000 per day for this fugitive dust violation? Without a plan, or reasonable efforts in place to mitigate the dust from coming off our roadways, we stand to pay a lot of money for not changing our current practice.



Which solution do you think best meets our immediate and long-term needs?



Should a separate advisory committee
be empaneled to select the option
and direction we take?



Should the Board of Directors
be the sole decision makers to
turn this problem around?



Do YOU agree, to be a part
of the solution and not part
of the problem?



If so, take action now, to
help make this change a
reality.

Change Can Happen in HPP

