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SECOND CIRCUIT
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Dkt. 640 ORD

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAI‘I

PUBLIC ACCESS TRAILS HAWAI‘I, a Hawai‘i
Nonprofit Corporation; DAVID HENDERSON
BROWN, individually and on behalf of the class
members;

Plaintiff,

v.

STATE OF HAWAI‘I; DEPARTMENT OF
LAND AND NATURAL RESOURCES; BOARD
OF LAND AND NATURAL RESOURCES;
SUZANNE D. CASE, in her personal capacity and
official capacity as the Director of the State of
Hawai‘i DEPARTMENT OF LAND AND
NATURAL RESOURCES and Chair of the State
of Hawai‘i BOARD OF LAND AND NATURAL
RESOURCES; SCOTT FRETZ, in his personal
capacity and in his official capacity as the Maui
Branch Manager of the DLNR Division of
Forestry and Wildlife; HALEAKALA RANCH
COMPANY, a Hawai‘i Corporation; DOE
DEFENDANTS 1-50,
Defendants.

2CCV-22-000144
(Declaratory/Injunctive Relief)
(Environmental Court)

ORDER FOR INJUNCTIVE RELIEF

JUDGE: Honorable Peter T. Cahill

ORDER FOR INJUNCTIVE RELIEF

Plaintiffs PUBLIC ACCESS TRAILS HAWAI‘I’s and DAVID HENDERSON BROWN’s
 (“Plaintiffs”) First Amended Complaint for Declaratory and Injunctive Relief, filed December 28,
 2022 [Dkt. No. 106] asserted claims for breach of contract, breach of the public trust, public



nuisance, and requested declaratory and permanent injunctive relief (the “Trial Claims”), in addition to four additional claims that were disposed of prior to trial (“Dismissed Claims”). Plaintiffs’ Trial Claims came on for a jury-waived trial that was conducted on October 8-11, 25, and 30, 2024 before the Honorable Peter T. Cahill. Plaintiffs were represented at trial by Michael C. Biechler, Esq. of North Shore Law Offices LLLC. Defendants STATE OF HAWAI‘I (“State”), DEPARTMENT OF LAND AND NATURAL RESOURCES (“DLNR”), and BOARD OF LAND AND NATURAL RESOURCES (“BLNR” collectively with DLNR and State, the “State Defendants”) were represented at trial by Deputy Attorneys General Miranda Steed, Esq. and Danica Swenson, Esq. All claims against Defendants HALEAKALA RANCH CO., SCOTT FRETZ, AND SUZANNE CASE were dismissed prior to trial.

The Court, having reviewed and considered the evidence and testimony admitted at trial and the briefs and arguments submitted by the parties herein, and for good cause shown, hereby finds and concludes as follows:

- (i) At trial, Plaintiffs proved by a preponderance of evidence that State Defendants committed constitutional violations of the public trust;
- (ii) At trial, Plaintiffs proved by a preponderance of evidence that State Defendants allowed or failed to abate a public nuisance upon relevant portions of the Haleakalā Trail (i.e. the portion identified by metes and bounds description in the Final Judgment entered in Civil No. 11-1-0031(3));
- (iii) At trial Plaintiffs prevailed upon the merits and established by clear and convincing evidence that there is no adequate remedy at law for the constitutional violation of the public trust, the harm arising from the public

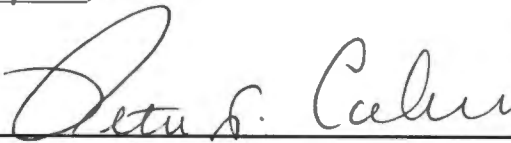
nuisance, and the interest of the public supports and warrants injunctive relief .

Therefore, IT IS HEREBY ORDERED as follows:

1. State defendants are enjoined from allowing or permitting any person or entity to use, access, or traverse any portion of the Haleakalā Trail as described in a metes and bounds description in the judgment entered in (i.e. the portion identified by metes and bounds description in the Final Judgment entered in Civil No. 11-1-0031(3)) except as follows:
 - a. Members of the public using, accessing, or traversing the trail as pedestrians to hike, walk, or run solely within the six-foot boundary of the trail.
 - b. Members of the public and Native Hawaiian cultural practitioners who access the trail for traditional and cultural rights or practices.
2. This injunction applies not only to people but also wheeled vehicles and domesticated, four-legged animals.
3. State defendants are enjoined from allowing or permitting any person or entity to install, affix, place, or keep any obstruction or impediment whether pre-existing or not, within or on the Haleakalā Trail.
4. State defendants are prohibited from failing to provide clearly visible public information at both the mauka and makai trailheads (i.e. at the foot of the trail at or near Olinda Road and at the intersection of the trail and Haleakalā Crater Highway) identifying the location of the Haleakalā Trail and how members of the public may access and use the Haleakalā Trail.

5. State defendants are enjoined from disseminating any information that suggests or implies that members of the public may use the trail only if part of an organized guided hike.
6. State defendants are enjoined from requiring any member of the public or Native Hawaiian cultural practitioners to sign any type of waiver of liability or acknowledgment of any assumption of risks document before using the trail.
7. This injunction shall take effect on April 1, 2025.
8. No later than Friday, January 31, 2025, the State defendants shall file a report detailing its efforts to comply with the ordered injunctive relief.
9. The Court retains jurisdiction to enforce the injunctive relief ordered and to modify its terms as circumstances dictate. This may include the appointment of a special master to report to the Court on compliance by State defendants.
10. Nothing in the order should be construed as preventing the Plaintiffs and non-party Haleakalā Ranch Company from discussing and negotiating reasonable and practical solutions that would respect their rights. Indeed, the Court would encourage such discussions so that plaintiffs and HRC might reach common “ground.”
11. Plaintiffs must file proposed Findings of Fact and Conclusions of Law by January 31, 2025.

DATED: Wailuku, Hawai‘i, Dec. 9, 2024.


HONORABLE PETER T. CAHILL
JUDGE OF THE ABOVE-ENTITLED COURT

