



**{In Archive } Re: Fw: AG opinion**   
**Carty S Chang** to: Deborah L Ward  
Cc: Alyson K Yim, Edwin Y Matsuda

11/13/2012 06:35 PM

From: Carty S Chang/DLNR/StateHiUS  
To: Deborah L Ward/DLNR/StateHiUS@StateHiUS,  
Cc: Alyson K Yim/DLNR/StateHiUS@StateHiUS, Edwin Y Matsuda/DLNR/StateHiUS@StateHiUS

**Debbie,**

**Per your request, here are our responses for ttems nos. 2 & 4:**

**2. Please tell us how much money (including compensation of employees who participated in this advocacy) was expended by the department in this campaign.**

\$16,230.37 and \$648.35 was expended for the Star Advertiser and Facebook ads, respectively.

**4. What steps did DLNR take, if any, to determine the legality of this advocacy?**

DLNR reviewed applicable sections within Chapter 179D HRS (Dam and Reservoir Safety Act) to determine that expenditure of dam safety special funds were consistent with the purpose and intent of the law.

**Section 179D-6(b)(10)**

"Consider dams and reservoirs as important water resources for the State that provide significant benefits to the general public, including irrigation for agriculture and other important uses, and acknowledge the need for dams and reservoirs to be consistently maintained and operated in a safe and feasible manner that sustains their roles as important water resources; provided that public safety concerns are addressed"

**Section 179D-25(b)(3)**

"Preparing and disseminating information to the public concerning activities authorized under this chapter"

DLNR also reviewed Chapter 84 HRS regarding "Campaign Restrictions for State Officials and State Employees" (see link below)

[http://www.hawaii.edu/offices/eaur/govrel/otherdocs/campaign\\_restrictions.pdf](http://www.hawaii.edu/offices/eaur/govrel/otherdocs/campaign_restrictions.pdf)

This guidance prohibits the use of State resources for "campaign activities". Campaign activities are defined in part as "...*(c) distributing campaign literature or materials; (d) soliciting campaign assistance or support; or (e) producing campaign literature or materials...*"

DLNR believed that placement of these ads were to educate and inform the public about dam safety and the importance of dams and reservoirs. DLNR did not believe placement of these ads were considered "campaign activity" per HRS. Although the Department advocated for a position to vote "Yes" on a ballot

question, the intent was to support and advocate for an important "issue" that is consistent with our guiding authority and promotes a component of the Departments mission. It was clearly not the intention of the Department to conduct inappropriate action but purely a misunderstanding of the fine line between what is considered educating/informing the public vs. advocating a position on the ballot question for Con Amendment no. 1

Please have William review my response before responding to Jim

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Deborah L Ward	Carty can you help answer #2 and #4? Debora...	11/13/2012 10:51:12 AM
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From: Deborah L Ward/DLNR/StateHiUS  
To: Carty S Chang/DLNR/StateHiUS@StateHiUS,  
Date: 11/13/2012 10:51 AM  
Subject: Fw: AG opinion

Carty can you help answer #2 and #4?

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----- Forwarded by Deborah L Ward/DLNR/StateHiUS on 11/13/2012 10:49 AM -----

From: Jim Dooley <jim.hawaiireporter@gmail.com>  
To: deborah.l.ward@hawaii.gov,  
Date: 11/10/2012 09:55 AM  
Subject: AG opinion

Deborah: Attached is a letter from the Attorney General's office which holds that DLNR violated state law in its advocacy of constitutional amendment #1.

1. Please comment on the opinion.
2. Please tell us how much money (including compensation of employees who participated in this advocacy) was expended by the department in this campaign.

3. Given the fact that the state Supreme Court ruled just this year that a similar advocacy effort by Peter Carlisle (when he was prosecutor) was illegal, why did DLNR engage in this effort?
4. What steps did DLNR take, if any, to determine the legality of this advocacy?
5. What are the legal consequences for this illegal activity? Does it threaten the validity of the constitutional amendment?

We are writing a story on this issue today and would appreciate your earliest responses to these questions.

Thanks.

Jim Dooley

[hawaiireporter.com](http://hawaiireporter.com)



292-8197 AG Letter.pdf