

## **Ka Loko settlement is reached**

By: Honolulu Star-Bulletin by Craig Gima  
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LIHUE » The families of seven people who died in the Ka Loko Dam breach on March 14, 2006, and property owners who suffered damage reached a settlement with the state, dam owner James Pflueger and the Mary Lucas Trust, and others.

Kauai Circuit Judge Kathleen Watanabe approved the settlement yesterday. But the amount of money paid by the defendants is being kept secret.

The judge said yesterday she hoped the attorneys and the public will respect the confidentiality of the settlement.

"There's hope by this court that there will be closure, finally, for the families," Watanabe said.

There were 16 attorneys in the courtroom yesterday, but no family members or other plaintiffs were present.

The settlement avoids a long, complicated and emotional trial, which had been scheduled to begin in February and last for nearly a year, before the attorneys went into mediation to reach the out-of-court agreement.

"The settlement was very important. It's been a very emotional case," said Teresa Tico, a Kauai-based attorney who represented the plaintiffs. "This day is great day for justice. It brings closure to our clients."

Seven people died when the Ka Loko Dam breached after weeks of heavy rain, sending 1.6 million tons of water downstream through the property of Bruce Fehring. Fehring's daughter Aurora; her husband, Alan Dingwall; their son, Rowan Fehring Dingwall; and Daniel Arroyo, Christina McNees, Wayne Rotstein and property caretaker Timothy Noonan were swept away. McNees was eight months pregnant and set to marry Arroyo. Rotstein was to be their best man.

Downstream property owners, including entertainer Bette Midler, also filed lawsuits.

William McCorrison, attorney for former auto dealer Pflueger, said his client wanted to settle the case out of a sense of social and community responsibility.

"This wasn't a matter of legal obligation or legal responsibility," McCorrison said. "This could have been fought on several grounds. ... Fingers could have been pointed in many directions."

The attorney representing the state, Kenneth Robbins, said the state's part of the settlement will likely become public when it goes to the Legislature in January for approval.

"We thought it best for closure of this case to do what we have to do. It's a very complex case. Clearly, the plaintiffs have a very sympathetic case," Robbins said.

Robbins, a private attorney, was appointed to defend the state because state Attorney General Mark Bennett is personally handling a criminal case against Pflueger.

A special grand jury on Kauai indicted Pflueger last year on seven counts of manslaughter and one count of first-degree reckless endangerment in connection with the dam breach.

The state alleges that Pflueger covered the dam's spillway, an emergency feature used to keep water from flowing over the top of the dam.

Pflueger has denied covering the spillway.

McCorriston said Pflueger will be fighting the charges "vigorously."

Pflueger's attorney noted that the settlement of the wrongful-death and property damage lawsuits was a shared responsibility with the state and other parties.

But in its criminal case against Pflueger, McCorriston said the state has "the view that it's only the fault of one person."

#### TIME LINE

A retired Honolulu car dealer's family land on Kauai becomes the hot-button focus of land-use allegations.

» Between 1895 and 1915: Mary Lucas, James Pflueger's grandmother, acquires most of the land near Ka Loko Reservoir, more than 2,000 acres near Kilauea.

» 1987: Pflueger buys his half of the Ka Loko Reservoir from C. Brewer & Co.

» March 14, 2006: A dam breach at Ka Loko Reservoir washes away two homes and seven people. Three bodies have been found, while the four other victims remain missing and are presumed dead.