

NO. 30144

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

BLUEEARTH BIOFUELS, LLC, Plaintiff,

vs.

HAWAIIAN ELECTRIC COMPANY, INC.; MAUI ELECTRIC
COMPANY, LTD.; ALOHA PETROLEUM, LTD.; and
KARL E. STAHLKOPF, Individually, Defendants.

ORIGINAL PROCEEDING

ORDER ON CERTIFIED QUESTION

(By: Moon, C.J., Nakayama, Duffy, Acoba, and Recktenwald, JJ.)

Upon consideration of the order of the United States District Court for the District of Hawaii requesting the Supreme Court of the State of Hawai'i to answer certified questions, it appears that the questions are amenable to answer by this court pursuant to Hawai'i Rules of Appellate Procedure (HRAP) Rule 13. Therefore,

IT IS HEREBY ORDERED, without conclusively determining whether this court will answer the questions, that:

1. Pursuant to HRAP 28(e), defendants Hawaiian Electric Company, Inc., Maui Electric Company, Ltd., and Karl E. Stahlkopf (collectively HECO) and defendant Aloha Petroleum, Ltd. (Aloha) are designated the appellants for purposes of this proceeding and shall pay the required filing fee for an original proceeding in this court.

2. Plaintiff BlueEarth Biofuels, LLC is designated the appellee for this proceeding.

3. Pursuant to HRAP Rule 13(c), appellant HECO and appellant Aloha shall make all necessary arrangements with the

clerk of the United States District Court for the District of Hawaii to transmit the original or certified copies of the pending federal court case to this court. It shall be the responsibility of appellant HECO and appellant Aloha to ensure that the record is received in this court within thirty days from the date of this order.

4. After the record is filed in the supreme court, appellant HECO and appellant Aloha shall each file an opening brief within the time provided by HRAP Rule 28(b). The opening briefs shall conform to the format and content requirements of HRAP Rule 28, insofar as applicable. A statement of jurisdiction pursuant to HRAP Rule 12.1 is not necessary.

5. Thereafter, appellee BlueEarth Biofuels LLC shall file answering briefs within the time provided by HRAP Rule 28(c). The answering briefs shall conform to the format and content requirements of HRAP Rule 28, insofar as applicable.

6. Appellant HECO and appellant Aloha may file reply briefs in accordance with HRAP Rule 28(d).

DATED: Honolulu, Hawai'i, November 9, 2009.