

# Residents File Lawsuit Over UXO Issues at Active Range

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**Big Island, Hawaii** A group of local residents are suing the State Department of Land and Natural Resources (DLNR) over UXO issues associated with the Pohakuloa Training Area (PTA). The lawsuit alleges that the DLNR breached its duty to protect lands used for training by not forcing the military to clear UXO and other debris from the land. The group also wants to prevent DLNR from negotiating an extension to its current lease or entering a new lease until the trust conditions are met.

The current lease agreement, signed in 1694, between the State and the U.S. government provides for the use of over 22,800 acres at PTA until 2029 at a lease price of \$1. Last year, DLNR began working on a mutual cancellation of the lease with the goal of establishing a new lease between the parties for the use of the land for military training including for live fire munitions training.

The plaintiffs contend that UXO, expended casings, cartridge links, and other discarded debris are scattered throughout the PTA. The state Attorney General's Office counters that the plaintiffs have no standing to sue because they aren't parties to the lease. "Plaintiffs are simply members of the public who object to the lease because it allows military use of weaponry on state land at Pohakuloa," said Deputy Attorney General Daniel Morris in petitions to the court. "Plaintiffs describe themselves as native Hawaiian cultural practitioners, but they did not claim any special standing beyond what any member of the public would have as a beneficiary of the public lands trust."

The State also contends that any lawsuit naming a lease agreement between the State and the federal government must by necessity include the federal government. That wasn't done, according to the State, because of the federal government's sovereign immunity.

The case, at the request of the State, was sent to federal court, but a federal judge remanded it back to the State.