James R. Smith
99 Kapuai Road
Haiku, Maui, Hawaii 96708

August 20, 2014

To: Chairperson, William Marston, and
Members of the State of Hawaii Elections Commission

From: James R. Smith

Subject: Public Testimony specific to Agenda Item V. **Chief Election Officer's Review**, discussion and action if appropriate and Item IX, **Open Forum**.

Aloha,

My name is Jim Smith and this problem regarding the continuation of our primary election held on August 9, 2014 won't go away. It affects me. (See Amended Complaint attached with this email. In this context see HAR 3_175_14 that states regarding election by mail - "in no case shall election results be know before 6:oo pm election day.) Our election day...what, when, does it matter?

But, in a big way, it is not a "problem" but a dysfunction. From my perspective, all I have, it is something that needs to be understood in detail; we need to question an application of political power to see whether it needs to be guided by the authority of a citizen commission's authority as a matter of law.

In this instance, I believe the Election's Officer, Mr Nago, acted based upon good judgment, abandoned by reliance upon good policy, existing as "a rule" because an "engineered" complexity negated its reliance. Either, he cannot be trusted because of the obvious insufficiency of decision or he must be respected for limiting the havoc resulting from an act of...god. I think he should be respected.

At the end of the day, I lost value. My vote did not matter and all that mattered were the votes or non-votes of members of a community affected in a large way by a natural disaster. I am affected in a small but not less meaningful way by this part of us, puna voters, as "public", knowing results before voting. I voted before 6:00 pm on August 9, 2014. These voters knew after I voted, and the election's results made public how or whether to vote..

Now, from a political, common view, people in Puna have the committed attention of a Senator to bring funds to that location. But, the person and others, campaigned for votes after my vote was cast. I do not impune character. But, implore that you affirm that my vote matters. This calls for judicial involvment in our political system. The principle and value of separation of powers must be implicated.

I ask that you seek for the Hawaii Supreme Court, in its original jurisdiction, determine the facts at issue, and issue a judgement as to whether the elections officer's opinion and our primary election results should stand or be redone. That simple.

In our hawaiian culture trust is sacred because nothing else is left. Thios Commission affirms trust.

Mahalo

James R. Smith
08_20_14

email: Clerk of the County of Maui: Director of the Office of Elections

August 13, 2014

From: James R. Smith
99 Kapuai Rd
Haiku, Maui, Hawaii, 96708

To: Clerk of the County of Maui as Chief Election's Officer for the State of Hawaii, Hon. Dennis A. Mateo.

SUBJECT: Amended Complaint - specific to integrity of my vote in the race for U.S. Senate, Hawaii affecting citizens residing in Haiku Maui. This amended complaint supercedes my Complaint filed on 8_11_14

Dear Mr. Clerk,

My name is James R. Smith and I reside at 99 Kapuai Road, Haiku, Maui. I am a Democrat and I served as a precinct official for the Primary and Special Election held on August 9, 2014 at the Haiku Community Center (13 - 2). The matter of integrity is paramont, to my consent, by vote, to be governed. In this election I voted for a candidate for the U.S. Senate and waited to read or hear its consequence. I am now aware that approximately eight thousand voters on the Big Island, will decide the question. Further that another opportunity to vote will be provided on Friday for "special voters" on the Island of Hawaii. (See Attachmenr A - an exerpt from internet information source - Honolulu Civil Beat)

My experience tells me rhat It has been the practice and legal requirrement that tabulation of votes must not occur until the polls are closed. In this circumstance votes were tabulated and vote totals released, while it was known or suspected that the election would not be completed. The subsequent decision to priovide an opportunity to cast a ballot, by an "informed voter" generates for that citizen's vote more impact and greater value by virtue of its consequence. My vote is degraded.

The Hawaii State Constitution protects me from loss of franchise. I believe the fact that voters on the Big Island can know the score and then vote deprives me of that opportunity. This kind of inequality must not occur. I seek your interevention to postpone the holding of this special opportuntity and that I be given equal opportunity to participare.

This is a complaint and I seek for the question of who will represent my interest in the U.S. Senate include equal participation of each voter, and citizen. I do not want approximately 8, 000 voters on the Island of Hawaii to decide who represents me under these circumstances. Our Hawaii State Constitution at Article 1, Section 8 protects this inherent right.

I trust this inherent right cannot be subverted by Statute, Administrative Rule or whim. I request that a Special Election be called, so that the value of my vote has real and equal value for the contests affected at a national, state, and local level. Every vote has that assurance on election day.

James R. Smith
August 13, 2014

BRENDA J. FORD
Council Member
District 6 - Portion of North Kona, South Kona, Ka'u, & Greater Volcano Area

Phone: **(808) 323-4277**
Fax: **(808) 329- 4786**
E-Mail:
Brenda. Ford@hawaiicounty.gov

HAWAI'I COUNTY COUNCIL

County of Hawai'i
West Hawai'i Civic Center
74-5044 Ane Keohokalole Hwy.
Kailua-Kona, Hawai'i 96740

August 19, 2014

State of Hawai'i
Elections Commission
802 Lehua Avenue
Pearl City 96782

Re: Performance of Scott Nago, Chief Elections Officer

Aloha Commissioners,

I am one of four Council Members representing a portion of the geographical district of Puna, and I represent all of Ka'ū. Both geographical districts were negatively impacted by Hurricane/Tropical Storm Iselle on August 7-8, 2014. However, Puna was hardest hit.

The extensive damaged caused by the Hurricane/Tropical Storm Iselle was so great that thousands of people in Puna and some in Ka'ū were not able to even consider going to the polls to vote. Those people were in survival mode for many days - trapped in their damaged homes, unable to leave their subdivisions, without water, electricity, radio, TV, or internet coverage, no ice for refrigeration, and watching their food supplies spoil. Widespread rumors of looting and "break and enters" were rife throughout the communities. Even today, 1500 people are still without electrical service in Puna, and it may be several more weeks before HELCO will be able to reestablishment service.

A "fly-over" of the Puna district (when and by whom is unknown) to assess damage on August 9th reportedly determined that all but two precincts in Puna were "accessible", but apparently neglected to mention that most roads were blocked and thousands of people were trapped in their subdivisions due to downed trees, utility poles, and electrical lines.

The appropriate action by the Chief elections Officer should have been to close **all** precincts in Puna and those in Ka'ū that sustained damage, then order a special "make-up" election on

Saturday, August 23, 2014 for all voters who had not already voted, and hold that election by mail-in ballots as I requested in writing. (See attachment)

However, Mr. Nago not only refused to mail ballots even though the closed precincts had a notice posted on the precinct doors that ballots would be mailed, he created a special election on Friday, August 15th as a walk-in election for only the two closed precincts and refused to consider letting the thousands of voters in other precincts vote even though they could not leave their subdivisions on August 9th or 15th. Some voters in other Puna precincts even went to the polls on August 15th and were refused ballots since they were assigned to other "open" precincts on August 9th. Mr. Nago's appalling decisions resulted in disenfranchisement of thousands of voters in Puna.

I have heard rumors from multiple sources that Mr. Nago was "unavailable" or "missing" on August 9th and another rumor that he was seen at the campaign headquarters of Senator Schatz in the evening. If either of these rumors is true, Mr. Nago abandoned his job and violated any neutrality that the State Office of Elections shall maintain at all times.

Additionally, the news media reported that 600 to 800 Maui ballots were "misplaced" on August 9th and not counted until August 15th.

The 2014 Primary election in Puna was the most egregious violation of voters' rights in the history of Hawai'i. I have filed a formal complaint with the U.S. Elections Assistance Commission. Furthermore, all Primary and General Elections in the State of Hawai'i will always occur during Hurricane Season. Why wasn't a reasonable emergency plan of action for such an event already prepared and the public notified before the Hurricane/Tropical Storm Iselle hit?

Our most basic American right is the right to vote. The Help America Vote Act of 2002 creates mandatory minimum standards for states to follow in several key areas of election administration. Mr. Nago's lack of empathy, understanding of his job, violation of neutrality, job abandonment, and voter disenfranchisement are such serious breaches of conduct that any one of these breaches should be cause for immediate dismissal.

It is my understanding that the State Elections Commission hires and fires the Chief Elections Officer. The problem of Mr. Nago's inept decision-making and poor performance is now your responsibility again.

Help American Vote!

Brenda J. Ford

Attachments: Letter to Nago
Nago's response

BRENDA J. FORD
Council Member
District 6 - Portion of North Kona, South Kona, Ka'u, & Greater Volcano Area

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HAWAI'I COUNTY COUNCIL
County of Hawai'i
West Hawai'i Civic Center
74-5044 Ane Keohokalole Hwy.
Kailua-Kona, Hawai'i 96740

August 11, 2014

State of Hawai'i, Office of Elections
Attn: Scott Nago, Elections Officer
Honolulu, HI

Aloha Mr. Nago,

As you know, Hurricane Iselle caused extensive damage to the geographical district of Puna on the Island of Hawai'i. Additionally, due to the storm damage, most voters in Puna could not go to the polling precincts last Saturday, August 9, 2014 as they attempted to recover from the storm. I attached a summary of my investigation showing that between 79-92% of our voters in Puna were unable to vote. Therefore, I respectfully request that every registered voter in Puna who did not vote be sent an absentee ballot immediately. In my summary, I've included a list of the Puna precincts that would need ballots. In this Federal election, we need to be very observant of the rights of the voters and assist them in voting over the next few days as they recover from the severe storm damage.

Mahalo nui loa,

Brenda J. Ford

cc: Governor Neil Abercrombie
David Louie, Attorney General
Senator Russell Ruderman
Representative Faye Hanohano

	Registered Voters in 2014	Actual Voters in Primary 2014	Missing Voters	Percentage of Missing Voters	Actual Voters in Primary 2012	Actual Voters in Primary 2010 *
Council District 4	11,358	903	10,455	92.05	4499	NA
Council District 5	10,654	2815	7,839	73.58	4012	4639
Council District 6 (Volcano Only)	1821	379	1,442	79.19	916	598
Totals	23,833	4,097	19,736		8,511	5,237

* The election of 2010 was before redistricting & council districts 4 & 5 were combined into district 5.

Council District 4	03/03	Pocket Precinct		
	04/01	Hawaiian Paradise Community Center		
	04/02	Keonepoko Elementary School		
	04/04	Pahoa High/Inter School		
Council District 5	03/04	Kea'au High School		
	03/05	Mt. View Elementary School		
	04/03	Pahoa Community Center		
Council District 6 (Volcano)	03/06	Cooper Center		

STATE OF HAWAII
OFFICE OF ELECTIONS
802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
www.hawaii.gov/elections

SCOTT T. NAGO
CHIEF ELECTION OFFICER

August 11, 2014

The Honorable Brenda J. Ford
Hawai'i County Council, District 6
74-5044 Ane Keohokalole Hwy.
Kailua-Kona, Hawai'i 96740

Dear Councilmember Ford:

This responds to your letter requesting that every registered voter in Puna, who did not vote, be sent an absentee ballot.

I have carefully reviewed your letter, along with the attached summary of your investigation, and have also consulted with the Attorney General in preparing this response.

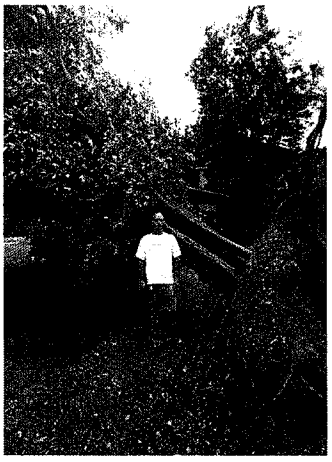
I am sorry to inform you that your recommended remedy is not available under the election laws for the following reasons. First, the voting process, with the exception of District 04/Precinct 01 and District 04/Precinct 02, has been concluded. The voting period is prescribed by law as between 7:00 a.m. and 6:00 p.m. on the primary election day. Second, the assessments made prior to the primary election concluded that only precincts 04-01 and 04-02 were inaccessible because of a natural disaster and that the ability of voters in those precincts to exercise their right to vote had been substantially impaired. Thus, the Proclamation issued on August 8, 2014 postponed the election for only precincts 04-01 and 04-02. Consequently, the ballots cast in the other precincts in Puna have been counted and the results announced. My authority to make changes to election procedures are derived from Hawaii Revised Statutes section 11-92.3 and my authority is limited to pre-election changes.

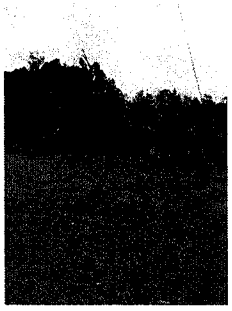
Very truly yours,

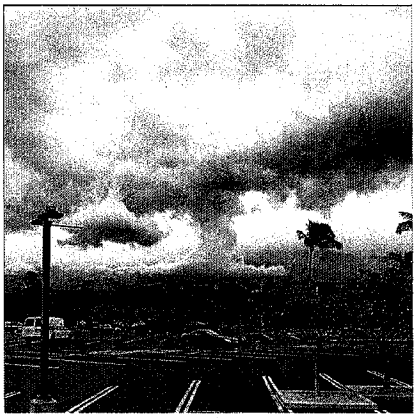
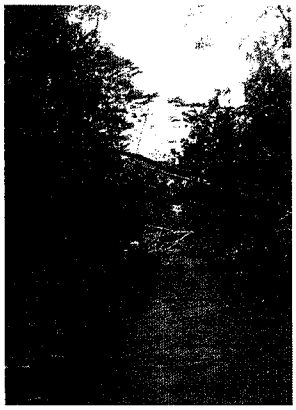
SCOTT T. NAGO
Chief Election Officer

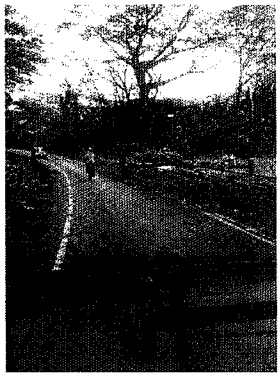
STN:AHS:cr
OE-14-203

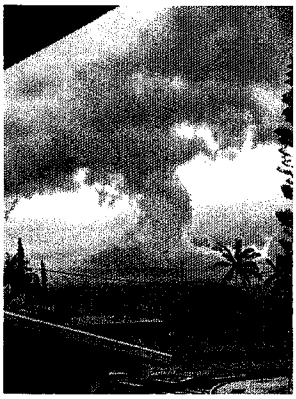
Iselle becomes remnant low as tracks south of islands
Posted: Jul 31, 2014 2:09 PM Thursday, July 31, 2014 8:09 PM EDTUpdated: Aug 09, 2014 6:32 AM Saturday, August 9, 2014 12:32 PM EDT
By Rich Meiers - email
NBC News producer Olivia Santini, Hawaiian Paradise Park (Big Island)
PHOTOS: Iselle Moves Across Hawaii

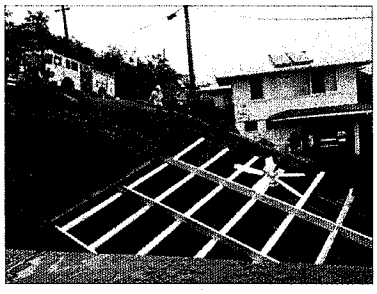
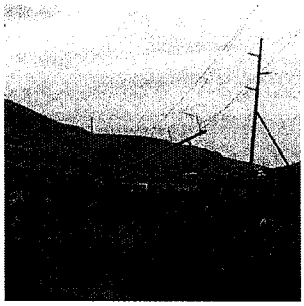


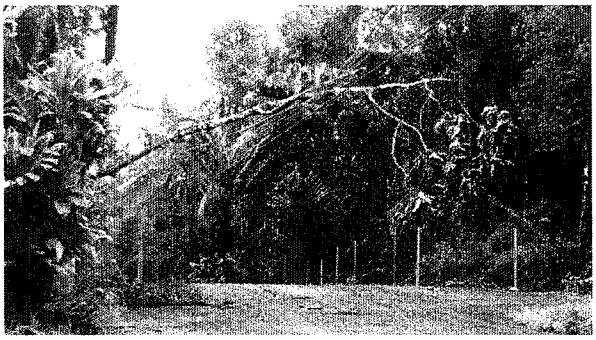


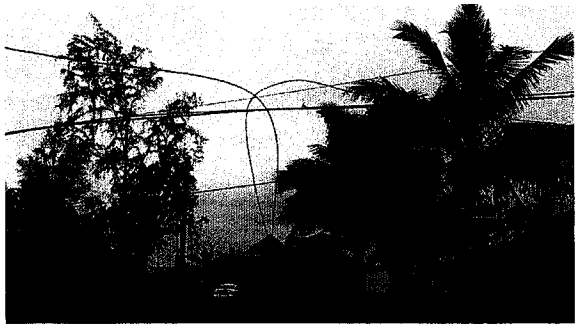



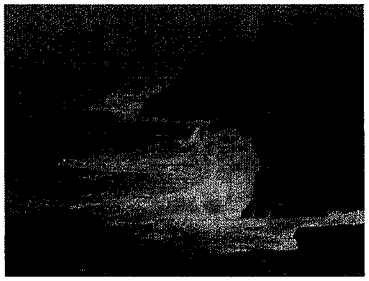


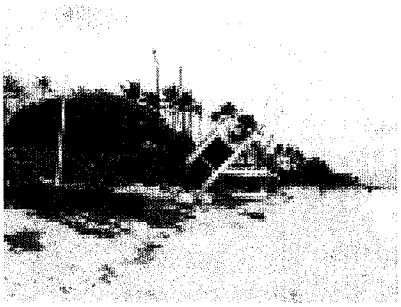


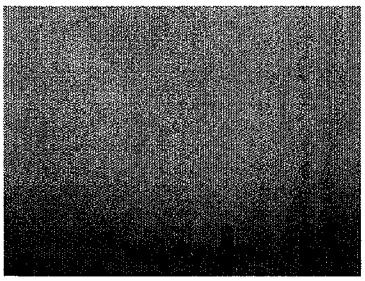
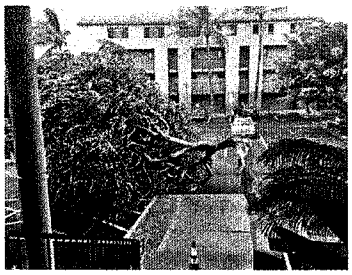



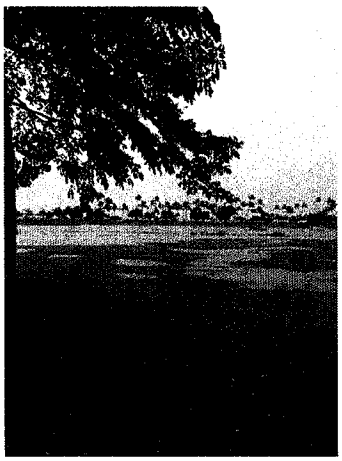


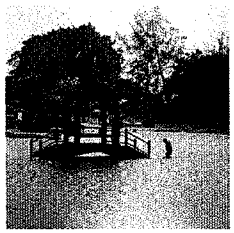
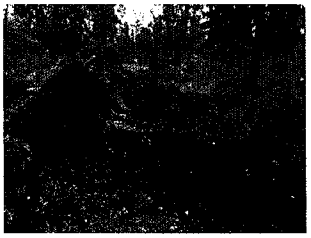


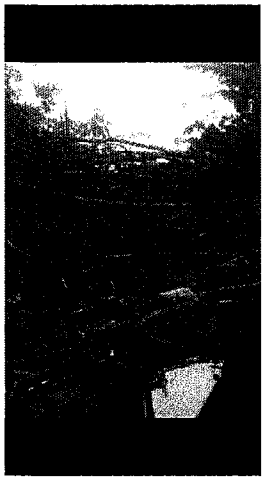
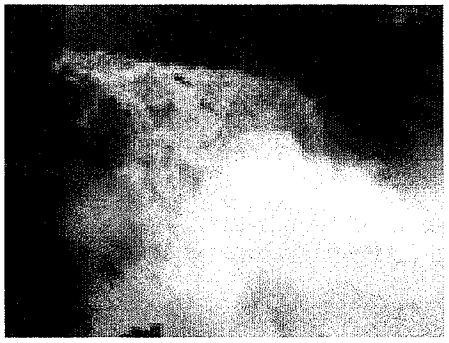


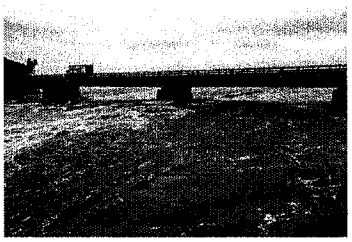


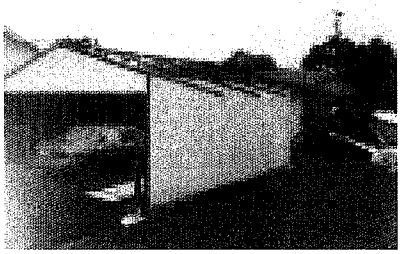



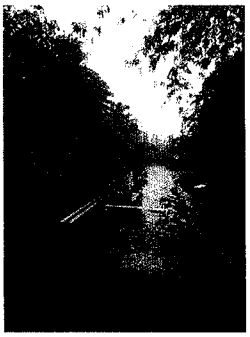


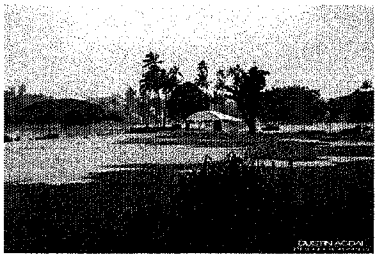







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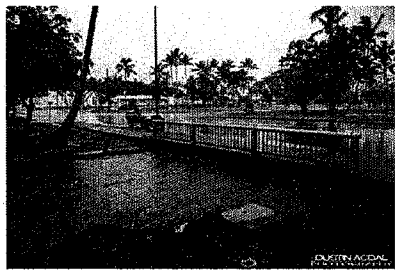
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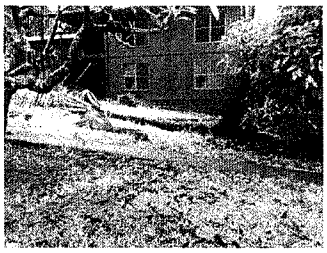

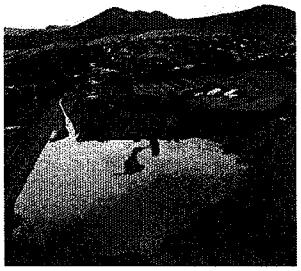

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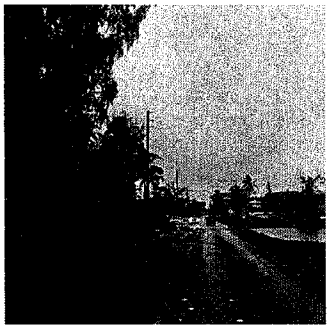
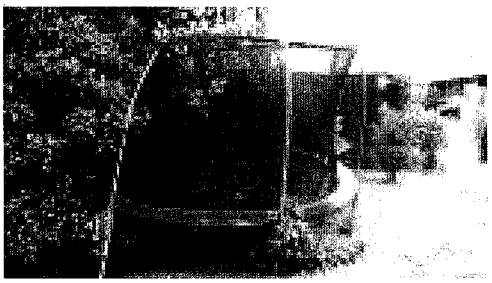

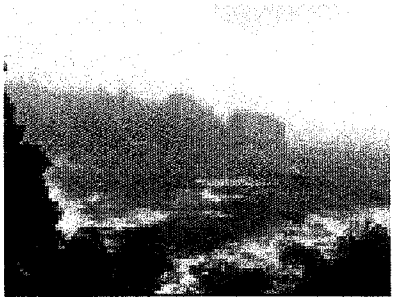
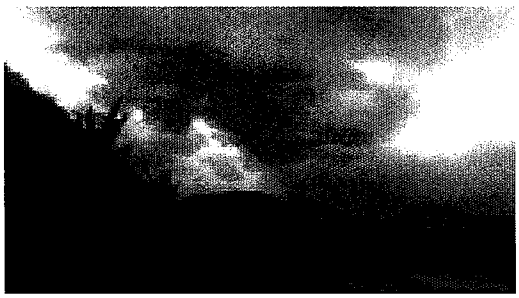

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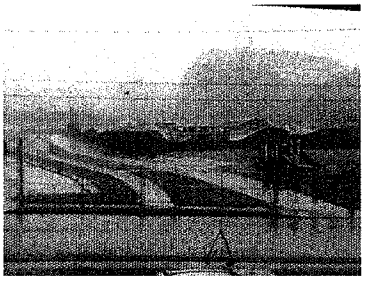
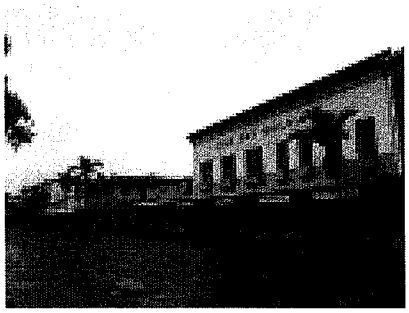
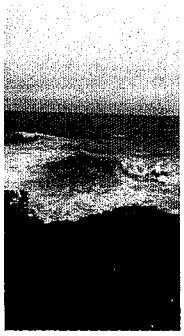
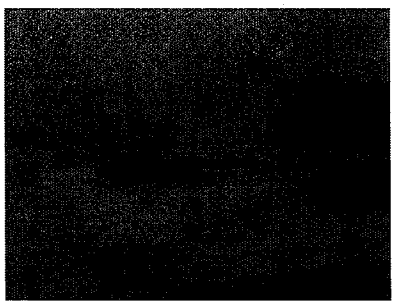
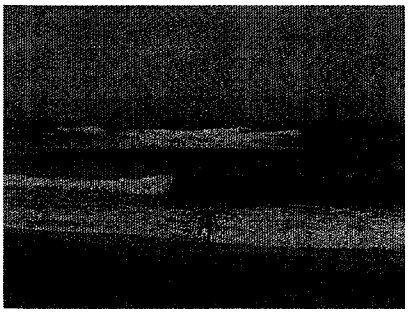
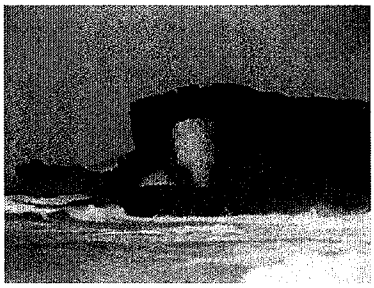
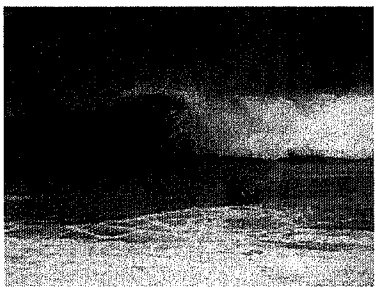
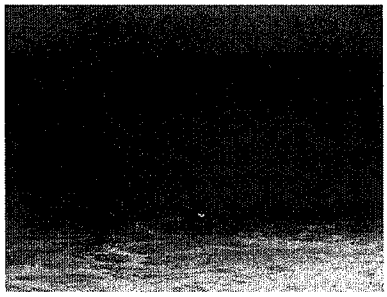
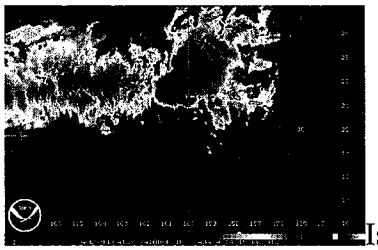














Iselle at 5:30 a.m. Saturday

Updated: Monday, August 11 2014 11:48 AM EDT2014-08-11 15:48:44 GMTover 3 hours agoAug 11, 2014 5:48 AM

At 11 pm the center of post-tropical cyclone Iselle was located about 150 miles southwest of Lihue. The post-tropical cyclone is moving toward the west near 14 mph and this motion is expected to continue for the next 48 hours.More >>

Aerial assessment reveals extensive damage in Puna

Aerial assessment reveals extensive damage in Puna

Updated: Monday, August 11 2014 12:23 PM EDT2014-08-11 16:23:43 GMTover 2 hours agoAug 11, 2014 6:23 AM

A Hilo Army National Guard crew took Hawaii County officials on a damage assessment flight Saturday. The aerial view revealed extensive damage in the lower Puna area following Tropical Storm Iselle.
More >>
A Hilo Army National Guard crew took Hawaii County officials on a damage assessment flight Saturday. The aerial view revealed extensive damage in the lower Puna area following Tropical Storm Iselle.
More >>
LIVE
BLOG: Iselle-related road closures, outages, other updates
BLOG: Iselle-related road closures, outages, other updates
Updated: Monday, August 11 2014 11:38 AM EDT2014-08-11 15:38:45 GMTover 3 hours agoAug 11, 2014 5:38 AM

We will update this live blog with details about Iselle related breaking news across the state as soon as we receive it.More >>
We will update this live blog with details about Iselle related breaking news across the state as soon as we receive it.More >>
8,000 still without power after Iselle, major roads have reopened in Puna
8,000 still without power after Iselle, major roads have reopened in Puna
Updated: Monday, August 11 2014 5:10 AM EDT2014-08-11 09:10:04 GMTAug 10, 2014 11:10 PM Aug 10, 2014 11:10 PM

Two days after Hurricane Iselle made landfall on Hawai'i Island as a tropical storm, county officials say they've cleared and reopened all major roadways in the lower Puna area that were blocked by topples trees and downed power lines but HELCO confirms 8,100 customers are still without power.More >>

Two days after Hurricane Iselle made landfall on Hawai'i Island as a tropical storm, county officials say they've cleared and reopened all major roadways in the lower Puna area that were blocked by topples trees and downed power lines but HELCO confirms 8,100 customers are still without power.More >>

HONOLULU (HawaiiNewsNow) - At 11 pm the center of post-tropical cyclone Iselle was located about 150 miles southwest of Lihue. The post-tropical cyclone is moving toward the west near 14 mph and this motion is expected to continue for the next 48 hours.

Maximum sustained winds are near 35 mph with higher gusts. Some weakening is forecast during the next 48 hours. The post-tropical remnant low is expected to weaken to a trough by Monday night.

The Tropical Storm Warning has been discontinued for all islands.
Forecasters say, "The shear is expected to increase along the west-northwesterly track of the cyclone in response to a digging upper trough over the northwest hawaiian islands this weekend. This should inhibit redevelopment of persistent deep convection and allow the system to continue to spin down."

Periods of heavy rainfall are possible. Soils are saturated, and any additional rainfall will lead to flash flooding. A Flash Flood Watch continues for Oahu and Kauai County until noon Saturday.

Roldan, Carolyn L

From: Roldan, Carolyn L
Sent: Wednesday, August 20, 2014 12:08 PM
Subject: FW: Voter Disenfranchisement

Written Testimony for Friday's meeting ....

From: Elections@hawaii.gov [mailto:Elections@hawaii.gov]
Sent: Wednesday, August 20, 2014 11:57 AM
To: OE.Section.Heads@hawaii.gov; Schulaner, Aaron H
Subject: Fw: Voter Disenfranchisement

-----Forwarded by Elections/DAGS/StateHiUS on 08/20/2014 11:57AM -----
To: "elections@hawaii.gov" <elections@hawaii.gov>
From: "Eric M. Matsumoto" <domem14@outlook.com>
Date: 08/20/2014 10:34AM
Subject: Voter Disenfranchisement

With regard to some calling for the firing of the Chief Elections Officer, although the publicized agenda for Friday's meeting will only focus on this year's judgment and actins taken, there needs to be discussion and deliberation on the totality of the judgment and actions including the 2012 elections.

In this regard, would hope that during the Commission's investigation of the ballot shortage of the 2012 general election included the effects of the failure to provide adequate ballots at the polling stations. One effect involved a loss of a candidate by 41 votes, and by extrapolation, were it not for the shortage of 300 ballots, and the voters leaving and not returning, the results would have been in favor of the party that lost. The shortage of ballots, regardless of the rationale presented for justification is effectively disenfranchisement, when a voter leaves, not being able to wait for ballots to be delivered. There is no justification for ballot shortages.

Then you have also this latest failure in judgment, knowing full well the stress, chaos the voters in Puna were going through, to hold the election last Friday, when a mail-in ballot with the 21 days lead time would have been a distinctly more reasonable approach. Or if the time constraint for mailing the ballots/voting/return was inadequate, then the voting booths could have been set up 21 days down the road. From this individual's perspective, the decision to quickly complete the election was the priority irrespective of the voter participation, given the conditions on the ground in Puna. Was this action not an effective disenfranchisement?

And what of the uncounted 800 Maui ballots? While the response indicated the audit process was to discover these kinds of errors, it begs the question, why did it occur in the first place? As an important function as elections conduct and management are, Is there not a process, used by the Office to verify on election night, like a check sheet, that all ballot "boxes" are received and counted? Or is the process to use the audit to find errors? If the later, there is effectively no oversight in the process, as the audit should be the second check vice the first, and from a QA/QC perspective, the process needs to upgraded to met basic standards.

While the Commission is charged to investigate the issues, one cannot overlook the loss of confidence in the Chief Elections Officer to make the decisions that best reflect the choices of voters vice "just doing the job" which totally ignores the purposes and priorities of the elections.

Aloha,

Eric M.Matsumoto

Roldan, Carolyn L

From: Elections@hawaii.gov
Sent: Wednesday, August 20, 2014 2:01 PM
To: OE.Section.Heads@hawaii.gov; Schulaner, Aaron H
Subject: Fw: please re-do Aug 15 election

-----Forwarded by Elections/DAGS/StateHiUS on 08/20/2014 02:01PM -----
To: elections@hawaii.gov
From: Cory Harden <333cory@gmail.com>
Date: 08/20/2014 01:39PM
Subject: please re-do Aug 15 election

Hello Elections Commission,
Please re-do the August 15 election. Many people could not get to the polls because they were struggling with downed power lines, blocked roads, no water, no power, lack of food, and damaged homes. Holding the election on such short notice, so soon after a ferocious storm, denied citizens their right to vote.
Mahalo,

--
Cory Harden
Box 10265
Hilo, Hawai'i 96721
959-7747

The Senate

STATE CAPITOL
HONOLULU, HAWAII 96813

August 20, 2014

To: Elections Commission

From: Russell Ruderman, State Senator District 2, Puna & Ka'u

Aloha,

Thank you for accepting my testimony, which I am submitting as the State Senator representing Senate District 2 (Puna – Ka'u). My constituents and I are disappointed and frustrated about the handling of the primary elections in the aftermath of Tropical Storm Iselle, which struck the Big Island on August 8, 2014. More importantly, the way the election was conducted disenfranchised many in my district from their constitutional right to vote.

As you are likely aware, there were at least 4 polling places in my district that were adversely affected by the damage done by the storm. On Election Day, two polling places, Hawaii Paradise Park Community Center and Keoneopoko Elementary School, were officially closed due to inaccessibility. There are separate concerns for the two delayed voting stations, and the two that were open on Election Day. For the stations closed on 8/9, signs were posted at the polling centers to inform those who showed up that ballots would be mailed to them. The election workers at these locations also verbally gave out this info, which was officially announced that morning. These instructions were also reported by the media. A photo of one such sign is provided.

On Monday, 8/11, for reasons never explained, this announced decision was changed, and it was decided that the Election would take place just four days later on Friday, August 15 at Keoneopoko and would require walk-in voting, for both Keonopoko voters and Hawaiian Paradise Park (HPP) voters. The multiple conflicting declarations only served to confuse constituents. Voters, many of who were still without electricity, transportation, TV, or internet, were under the impression that ballots would be mailed to them and thus may not have made arrangements to travel to Keoneopoko. Furthermore, the location of the consolidated polling place was still difficult to access, and several incorrect announcements occurred in the press saying both polling places were open. By Friday, 8/15, when the delayed election occurred for the two stations closed on 8/9, many residents were still struggling not only for basic survival

needs and were without electric, internet, TV and phone, but were also still stranded by storm debris. The original announced plan to mail ballots to these voters was reasonable, as most would have accessed and received mail in the following two weeks. The change to a 3-day notice walk-in vote, to voters without basic communications available, was unreasonable in the situation, and remains unexplained to my constituents.

These decisions and lack of consideration of what my constituents were experiencing aggravated what was already a chaotic situation on the ground, effectively disenfranchising many would-be voters.

Perhaps the most egregious denial of voting rights occurred in the locations where polling was held on Sat., 8/9, one day after the hurricane caused massive damage to Puna. Many residents in my district who were assigned to polling places that were open, but who were trapped in their homes by hazardous conditions presented by downed power lines and fallen trees blocking the roads, have also been disenfranchised by the confusing actions of the Office of Elections. For these voters, voting was physically impossible on the election day, and no accomodation was offered to allow a continuation of the voting period or otherwise accommodate those most severely impacted by the storm. The election could have been extended to allow this to be corrected, but wasn't, to the detriment of the voters.

The information of conditions on the ground was available to State Election Officer, Scott Nago on Election Day, 8/9. I know this because on Election Day, I called Mr. Nago several times and talked to his staff, who assured me that they relayed the information to him. I also talked to Hawaii County Clerk Stewart Maeda, who also spoke with Mr. Nago. It was not until Monday afternoon that Mr. Nago returned my call after three more calls from me. I find it unacceptable that I, as an elected representative of the impacted area and not a candidate in this election, was on the ground offering critical information to correct the misinformation that the office was relying upon, yet Mr. Nago did not take my calls nor call me back. The elections office apparently had information that the highways were clear on Election Day. The information I was urgently trying to convey was that residents were blocked in by obstructions on their streets, regardless of the condition of the highway.

I continue to hear daily from the many residents in my district who were assigned to the polling places that were open, but who could not get out to vote. The low turnout is obvious; about 12% voted that day in these 2 places versus about 20% statewide. Voting in these two precincts in the past have consistently been in line with the statewide turnout.

The lack of accommodation to my constituents' situation is more than distressing. To many, it is perceived as a continuation of a pattern of decision-making from Oahu with little or no consideration of what happens on the Neighbor Islands. Even today, many constituents, who are vocal and active, would have shown up in person to testify. However, airfare is prohibitively expensive for most, and video testimony for this hearing was not offered. The disenfranchisement of Puna voters is unfair, unconstitutional, and needs to be corrected.

While I do not believe that any date or method change in the voting process could have changed the outcome of the U.S. Senate race, the County Council race outcome in this area would have resulted in a runoff between two candidates had voters from these areas been able, and allowed to vote. The incumbent's neighborhood, HPP, was given a delayed voting opportunity on 8/15. The neighbors of the 2nd place finisher were never allowed to vote.

I repeat: The incumbent's neighborhood, HPP, was given a delayed voting opportunity on 8/15. The neighborhood of the 2nd place finisher was never allowed to vote.

In Hawaii County's non-partisan special election for Council, the top two candidates proceed to a run off if neither gets 50% of the vote. The difference between 50% runoff trigger and the incumbents total is about 80 votes. Hundreds, if not thousands, of people could not vote due to the storm, and this includes the challenger's neighbors.

Areas affected by this situation include Pohoiki, Kapoho, Red Road, Leilani Estates, and Nanawale Estates. In these areas, fallen trees and power poles prevented residents from travelling to vote on Election Day. This is verifiable by Civil Defense, photographic evidence, and the experience of voters. More than 30 declarations from such voters are available to review. Many hundreds of others are in this category.

It is not my place to say what actions should be taken. It is my role to explain the real-life conditions that existed and continue to exist in my district, and the disenfranchisement of constitutional rights that occurred because this information was not taken into account. Such information was available to anyone desiring this information on Election Day, as I informed Civil Defense, the Elections Office and the County Clerk on that day. Something must be done to restore the public trust in the election process. I trust your wisdom in deciding what should be done to correct the injustice and prevent its reoccurrence.

I urge you to understand that Puna voters, whose rights are protected by the Constitution, were denied a chance to vote due to no fault of their own. While the devastation caused by the storm was not avoidable, this further harm to my constituents was caused by administrative decisions. This harm was avoidable, and remains correctable by action by you, the Election Commission. I strongly urge you to take the necessary steps to correct this denial of voting rights.

Thank you for this opportunity to testify.

Russell E Ruderman

Russell Ruderman
Senator, District 2 (Puna – Ka'u)
415 South Beretania Street, Room 217
Honolulu, HI 96816
Tel: (808) 586-6890

Roldan, Carolyn L

From: Elections@hawaii.gov
Sent: Wednesday, August 20, 2014 2:01 PM
To: OE.Section.Heads@hawaii.gov; Schulaner, Aaron H
Subject: Fw: For Elections commission: Puna and Kohala irregularities TESTIMONY

-----Forwarded by Elections/DAGS/StateHiUS on 08/20/2014 02:01PM -----
To: "elections@hawaii.gov" <elections@hawaii.gov>
From: "A. G. " <anika.nui@gmail.com>
Date: 08/20/2014 01:05PM
Subject: For Elections commission: Puna and Kohala irregularities TESTIMONY

Please forgive typos. I am dictating into an iPhone and this comes out funny sometimes.

1. The Puna Precincts
State office of elections, without stepping foot in devastated Puna made confusing and ever changing instructions on how to vote when it closed two precincts. It probably should have closed even more presents because many people could not make it to the precinct to vote. Many people spent days trying to get out of their house, trying to sleep in shelters, clearing their own roads, running around to get ice and water and food and trying to stay calm for their keike . Thousands lived and some are still living without power. This means that also had or have no water. A key cell phone tower was down and is now running on generator. Some people don't even have cell reception. Their emergency radio batteries ran out and now they need batteries. Medicines that needed to be kept chill could not be, and spoiled.

But they want to vote.

Despite their eagerness to vote, many people on this island wonder what was the rush.

Clearly there were no contingency plans. Given the size of the disaster, even Hillco, Civil Defense, the National Guard, the fire department, the emergency personnel, the road workers, local volunteers, responded with alacrity. The office of elections at least 18 days to come up with a coherent plan and execute it.

Leadership in that department is clearly lacking. please make note of this and do what you can to improve leadership as soon as possible.

2. Kohala.

Much more rigorous screening and approval of candidates qualifications for office is needed. There need to be clear procedures on exactly how the candidate is qualified to run. This does not appear to be the case. If there are procedures that are thorough they are not being followed.

A candidate in my district of Kohala was qualified for the Ballot despite the fact that he does not live in Kohala. He has not lived in Kohala for a few years. He desires to live in Kohala but does not. He once lived in South go home. Kohala is on the Leeward side of the Big Island. The candidate lives on the Windward side of the island. His only record of community service was on the Windward planning commission. He resigned that commission and changed his voter registration to somewhere in the district.

I knew he did not live in my district. Immediately upon hearing his name I looked online and discovered he lived not in my district. In fact he has no record of anything in our district except he once owned a house here. It might not have been his residence, but he

says it was and that it is a personal matter. He also wanted to send his children to a different high school. The one he went to. In the other district. Unfortunately while it was easy to figure this out, it took me longer to figure out how to protest his candidacy. By the time I had, the June 15 deadline had passed.

I do not believe it is plausible to sometimes sleep over in his friends' spare bedroom makes it your residence. It is a sensible solution to the problem of working in a job where you get off late and have to drive home a long distance Home on hilly, unlit roads. The other candidates thought that the County would check out all their applications and determine that everything was in order. It does not appear that this happened. The I office is silent about it's procedures.

Super PACs made this candidate a household word. He got enough votes to force and run off. a lot of people don't understand that Super PACs can put unlimited amounts of money into an election campaign. Tens of thousands of dollars was put in to the candidates campaign by unknown supporters not from our area. It is impossible for a candidate in a County Council election on the Big Island to raise enough money to combat the amount of money that can be spent on advertising by a super PAC.

It would appear no clear policies and procedures, were set nor followed by our elections office in qualifying candidates. This indicates a lack of Management analysis and the ability to communicate it. If such is in place I will place responsibility with our County. IT SHOULD TAKE MORE THAN A SELF AFFIRMATION TO MAKE ONE QUALIFIED FOR THE BALANCE.

ANIKA GLASS
68-1863 Ua Noe ST
WAIKOLOA, HI 96738

Sent from my iPhone

From: Anita Glass <anika.nui@gmail.com>
To: elections@hawaii.gov

Date: Wednesday, August 20, 2014 07:11PM
Subject: Fwd: REVISED TESTIMONY: Elections Department Leadership in Recent Primary

History: This message has been forwarded.

REVISED TESTIMONY: Elections Department Leadership in Recent Primary

Elections Commissioners:

I have edited this letter for clarity as the original was dictated in an iPhone and editing is difficult.

I have grave concerns about the way the recent primary election was conducted on the Island Of Hawaii. They are two fold, on opposite ends of the Island, Puna and Kohala. Decisive leadership and management of formal procedures seem lacking.

1. The Puna Precincts

State Office of Elections, in Honolulu, with telephone consultations, and without seeing the coordination underway to help devastated areas As far north as Honokaa and most of the East and South parts of our Island were devastated or without power and water. I have friends still in one of the most damaged area and we finally sent someone to find them and be sure they were okay, just a few days ago.
It was possible to fly in, direct to Hilo! In hindsight, possibly more precincts should have been closed, given that many people had severe trouble getting out of their homes and driveways that first day, as was documented in initial assessments. Many roads were piled high and packed solid with trees and tree limbs and electrical wires. That should factor in future the open/close decisions.

Because the polling place is fine does not mean registered voters can get to it.

Put those slippahs on the ground here before making decisions, if possible. People on Oahu have taken photos of "the hurricane" and put them on the internet. Pretty much any stormy day. Here, the pictures tell a far different story.

Not everyone can hear you! Changing announcements make it difficult for them to know where,when and how to vote. Please understand, as of now, August 20, 2014, we are *still* getting at least hourly updates via radio from Civil Defense on the status of road and electrical repairs, where to take showers, get water, and so forth. Many residents spent their first several days in **exhausting** rounds of clearing their roads, finding ice and water, sleeping on the floors of shelters, keeping babies, kids and adults borderline hygienic. Tonight **1,100 HelCo customers are still without pow**er as the crews slog their way tangles of power lines and trees. Be aware that undamaged catchment systems, cannot work without water any more than a pump on a well can. A key cell phone tower was down and is now running on generator. Some people don't even have cell reception. People with emergency radios, went through all their batteries and now need more. Medicines that needed to be kept chilled could not be, and spoiled. Food that might have been cooked on a grill our outdoor stove spoiled in freezers and refrigerators.

Yet people want to vote, despite the hardships. As things became better, many wanted it "over with." After first hearing they would vote absentee , they then heard about the combined polling places new location. Mainly by seeing a sign on the building if they happened to drive by. Given so many were still without any means of communicating on a regular basis, except by the coconut

grapevine, or a car radio on their rugged trip to get ice, even with the eagerness to vote, **many people on this island wonder what was the rush? An announced date, location, and method of voting could have been communicated consistently over a longer period of time.**

If there is an emergency contingency plan, the Commission should ask to see it and if it has been tested. You can't anaticipate everything, but a variety of scenarios can be documented and exercises planned.

Leadership in State Elections Office may have affected local elections. Please do what you can to improve this lack of leadership and teamwork.

2. Kohala.

Much more rigorous screening and approval of candidate qualifications for office is needed. Are there clear written procedures on how this is done.? Are they followed at the County Level? There are several models for procedure writing that include the players, actions and resources to be used for accomplishing any task.

A candidate was qualified for the County Council ballot in my district of Kohala, He does not live here. He once owned a home here. He desires to move here but not now, because he doesn't want to send his children to our area's High School. He professes loves Kohala which I believe, but only one address in known for his former Kohala Residence. I do not know if he lived in the home he owned here, but he probably did. No one seemed to know him.

Kohala is on the **Leeward** side of the Big Island. The candidate lives on the **Windward** side of the island. His only record of community service was on the **Windward** planning commission. He resigned that commission and changed his voter registration to somewhere in the district.

Upon hearing his name, and being keenly interested in this race, looked him up in public records. These pointed to his living in Honokaa, which is not in Kohala. Unfortunately while it was easy to figure this out, it took me longer to figure out how to protest his candidacy. By the time I had, the June 15 deadline had passed.

He says he sometimes sleeps over in his friends' spare bedroom. He says this makes it his residence. This to me, **is not a plausible scenario to qualif**y as a resident, for a length of time, before running for office in the district. It is a sensible solution to the problem of working in a demanding job, where you get off late, and have to drive home a long distance on dark, often foggy/rainy roads.

The other candidates have stated they believe the County verifies their own and other candidate stated qualifications to be certified to be placed on the ballot. This must not have happened. Apparently candidates self-affirm their eligibility, This candidate shows, on the list of certified candidates, an address in Honokaa for mailing, but it does not show residence. I cannot locate public access to the forms filed by the candidates, so I don't know what he put down, was asked to provide, and then affirmed with his signature. I do not know who signed his nomination papers and if they gave addresses in Kohala or elsewhere or if each one was checked. It seems like people willing to assign his nomination papers would most likely have a general idea of where the candidate resided.

This seeming **lack of rigorousness, may indicate an administrator who does not manage his office in a professional manner, between elections.** As people move to new jobs, there can be a lack of institutional memory of how things "were done before".

I'm placing my trust in you, Elections Commission, to explain how this candidate got on my ballot, since no one seems to know or be willing to give details. .

ANIKA GLASS
68-1863 Ua Noe ST
WAIKOLOA, HI 96738
808 037 2309

Roldan, Carolyn L

From: Elections@hawaii.gov
Sent: Thursday, August 21, 2014 7:56 AM
To: Nago, Scott T; Schulaner, Aaron H
Cc: Roldan, Carolyn L
Subject: Fw: testimony to the Elections Commission

-----Forwarded by Elections/DAGS/StateHiUS on 08/21/2014 07:55AM -----
To: "elections@hawaii.gov" <elections@hawaii.gov>
From: Valerie Sink <vjsink@hotmail.com>
Date: 08/21/2014 04:33AM
Subject: testimony to the Elections Commission

I would like to add my email to Senator Ruderman as testimony to the Elections Commission:

Mr. Ruderman:
I appreciate that you will be speaking at the meeting regarding the Office of Elections and the recent primary election.
I feel strongly that as a resident of the Puna district in precinct 04-01, my right to vote was violated and not properly guarded or taken seriously.
I'd like to specifically point out that on Friday, August 8, the Office of Elections along with their decision to close the two polling places they announced that "voters in those two precincts don't make a difference in statewide elections." I interpreted that to mean "don't bother to vote, it won't count." Turned out that decision was 100% wrong not to mention an abuse of my right to vote and have it counted.
It's hard to hold any respect for the Office of Elections and it's representation. I hope that some good comes out of this matter and that we can again feel good about voting.

Thank you for your time and consideration.

Valerie J. Sink-Abelaye
Resident of Hawaiian Paradise Park

page 1 of 2 pages

OFFICE OF ELECTIONS

8/19/2014

14 AUG 21 A10:42

REFER (1) Constitutional Right To Vote Violations
(2) All Precinct results were not in office of Election before 0403 and 0404 results make public night of 8/9/2014.
(3) All voters in Precincts 3 & 4 were not given opportunity to Vote due to Hurracaine Eselle

Joyce Alberta Folena
Gregory Todd Smith
Post Office Box 2046
Pahoa, Hawai'i 96778*2046
To
William Marston, Chair
Hawaii State Election Commission
802 Lehua Avenue
Pearl City, HI 96782 96782

Dear Chair Marston,
The following irrgularities and illegal action have occured in the 8/9/2014 Primary Elction in Puna District, Precincts 04 01, 04 02, 04 03, and 04 04.

When the Precincts 1 an2 were not opened and Precincts 3 and 4 were open the Election results were prohibited by law to be released until ALL OF THE PRECINCTS WERE Done and results reported to Office Of Eelctions.

Instead Precincts 3 and 4 results were released the night of 8/9/2014, without Precincts 1 and 2 reporting — they did not open 8/9/2014.

For that matter ALL of the Precincts 1,2,3 and 4 should have been post poned due to the Hurracaine Eselle's storm damage resulting in so many of qualified voters being unable to travel to their Precincts 3 and 4.

Hurracaine debri is not an excuse for the State Office of Elections to disenfranchise thousands of qualified voters from voting in the Primary Election 2014 in Hawaii Puna District.

Although Precincts 1 and 2 had voting 8/15/2014 Precincts 3 and 4 were not given continual voting after 8/9/2014 in order to accomodate these victims of Hurraciane Eselle's damage to their homes the highways and the need for thousands of people without electric to recieve emergency asssistance of food water ice and tarps from Civil Defence and various private groups.

These facts were ignored by Scott Nago when he did not in clude contuing voting for Prfcincts 3 and 4 in Pahoa, thusly committing prejudice actions to the many qualified voters of Precincts 3 and 4 who, to this day, many do not have electrict.

It against Federal Law to prohibit qualified voters from exercising their Rights To Vote. We are telling you now, because of these actions on the part of Office of Elections, State of Hawaii, Scott Nago must go.

Violation of our Federal Constitutional Law is past mere incompetence, it is criminal. You must continue voting in Precincts 3 and 4 in order for all of these qualified voters to have their Right To Vote.

Remove all obstacles from the Right To Vote and remove Scott Nago from the State of Hawaii Office of Elections NOW.

[signature] and Joyce Alberta Folena

Page 2 of 2 Pages

8/19/2014

Joyce Alberta Folena
Gregory Todd Smith
Post Office Box 2046
Pahoa, Hawai'i 96778*2046
To
William Marston, Chair
Hawai'i State Elections Commission
802 Lehua Avenue
Pearl City, HI 96782

We need to be assured that our General Election is free of Scott Nago and his incompetence. Incompetence at the least and criminal, in our opinion, actions of putting unessary avoidances and obstacles in the paths of qualified voters of especially Precinct 4, in the Hawaii State Primary Election of 8/9/2014 and contuance of Primary Election of 8/15/2014.

All four of these Precincts of 04 01, 04 02, 04 03 and 04 04 should have been postponed to well after the residents were given a chance to be able to travel and secure their homes and properties.

At the present time 1900 homes are withour electricity in our Puna District; many of these homes in Precinct 4.

Kapoho HAS NO ELECTRICT TODAY. and was hit with three feet of standing water severely damaging many homes there. Kalapana Seaview Estates is without Electricity, Kapoho isPrecinct 4 and Seaview is Precinct 3.

People of Precinct 4 from Nanavale Subdivision down to the Puna Coast and to Opihikau could not get to Pahoa to vote, Precinct4. Opihikau to Kalapana, Precinct3 could not get to vote in many cases.

Not only storm debri road blockages, but also because of nessicity of gathering emergency water, ice, food and tarps provided by Hawaii County and various private sector groups. Survival comes first and is not an excuse for igonring the three week, 21 days window for acting with uneexoected ocurrances during Primary Voting Time. Certainly Hurracaine Eselle was just that, an unexoected Act of Nature resulting in emergency Actions.

Scott Nago Must Go Out of State Office of Elections, and Primary Election must continue Voting in especially Precinct 4, please. Thank you.
ALSO PRECINCT 3, CONTINUAL VOTING MUST OCCUR.

Joyce Alberta Folena
Joyce Alberta Folena

Gregory Todd Smith

Page 1 of 2

8/18/2014

Joyce Alberta Folena
Gregory Todd Smith
Post Office Box 2046
Pahoa, Hawai'i 96778*2046
To Karen Lynn Dyson
Director of Research and Policy
US Elections Assistance Commission
1335 West East Highway
Suite 4300
Silver Spring,MD 20910

Addendum to letter of 8/16/2014

Put Sate of Elections back to
Lt Governor's Rresphsibility

Dear Director Karen Lynn Dyson,

After careful thought concerning the lack of Proper and legal attention and action to the many qualified voters of 8/9/2014 Primary Election, here in Puna District Precincts 04 03 and 04 04 in Pahoa, Hawaii,we are now saying to youmany of these qualified voters of Precincts 3 and 4 were unable to arrive at their polling places of Precincts 3 and 4 due to the after math of Hurracaine Eselle. Eselle crossed over Puna District only tow days before the Primary Election. 8/7/2014 night brought severe winds resulting in so much damage to trees down in highways and roads and private dreiveways and homes that so many voter could not travel to Precincts 3 and 4.

The plight of these disenfranchised voters was ignored by the State Office of Elections. So we want the Lt Governor to handle the Elctions from now on. The lt Governor is anelected official of the State of Hawaii compared to the person who we believe incompetent , Scott Nago, who did not honor many requests to continue the voting in Precincts 3 an4 past Primary Day 8/9/2014. Precincts 1 and 2 were not open at all and these two precincts were then allowed to vote 8/15/2014 but Precincts 3 and 4 were not.

This sistuation proves to us serious violstion of The Constitutional Rights To Vote of the People of Precincts 3 and 4 that were not allwed to continue voting from 8/9/2014 to 8/15/2014.

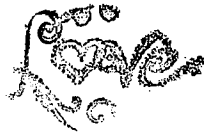
For that matter we beleive ALL Precincts of 1,2,3 and 4 shoull have been delayed to after People had a chance to get out to the roads and secure thire properties not to mention the also had to get emergency water, ice and food which is still being distributed in many Puna subdivisions.

No electricity for many many days after the storm, so no refrigeration for thousands of people here.

Joyce Alberta Folena
owl

cc STATE ELECTIONS
COMMISSION
WILLIAM MARSTON, CHAIR
802 LEHUA AVENUE
PEARL CITY HI
96782

page 2 of 2



8/18/2014

Joyce Alberta Folena
Gregory Todd Smith
Post Office Box 2046
Pahoa, Hawai'i 96778
To
Karen Lynn Dyson
Director of Research and Policy
US Elections Assistance Commission
1335 East West Highway
Suite 4300
Silver Spring, MD 20910

All ofothese people in ditressfound their Rights To Vote ignored and were unable to get over the obstacles put in place by the State Office of Elections' refusal to continue their voting to at least8/15/2014.

This situaltion ,in our minds, proves serious prejudice placed by the State Office of Elections.

We want the Responsibility of Elections placed back to the Lt Governor a nd taken away from the Officer Scott Nago. To have such an unfeeling and in our thoughts, criminal lack of proper action here is absolutely unacceptable, on the part of Scott Nago.

Persons in Kapoho Subdovision for instance had to deal with three feet of standing water due to Eselle. We witnessed the damage to many homes there. These people were not able to get to Pahoa to vote 8/9/2014 and to say to these people as well as many people in many other subdivisions in lower Puna area, so what, is more than insulting. It is against Federal Law to use an Act of Nature as an excuse to close voting in Precincts 3 an4at the end of Primary Day, when State Elections allowed Precincts 1 and 2 to open. Because of the Eselle Hurracaine there was a decided small turnout of voters especially in Precinct 4.

This situation must be corrected by reopening Precincts 3 and 4 to alllow the voter s affected by Eselle TO VOTE in the State of Hawaii Primary Election.

Please accept our addendum of our letter of 8/16/ 2014 to you. Thank you for your attention to these matters.

Scott Nagor must go.

Gre ory Todd Smith and Joyce Alberta Folena

Joyce Alberta Folena

Page 2 of 3 pages

Love

8/16/2014
Sent
Copy
Faye Nanahano
FAX 808 586 6531

Joyce Alberta Folena
Gregory Todd Smith
Post Office Box 2046
Pahoa, Hawai'i 96778*2046
Phone 808 965 1460
To
Director of Research and Policy
Karen Lynn Dyson
US Elections Asssitance Commission
1335 East West Highway
Suite 4300
Silver Spring, MD20910

Dear Director Karen Lynn Dyson,

We are residents of the Puna District of the Big Island of Hawaii and have s erious concerns due to the effects of Hurracaine Eselle to the Primay Election of August 9, 2014 in voting Precincts 04 01, 04 02, 04 03 and 04 04.
Precincts 1 and 2 were not open due to the Eselle aftermath, no electricity. Precincts 3 and 4 were open and should have been closed due to the severe storm damage in these two prcincts ; which damage prohibited so many qualified voters from arriving at these Precincts 3 and 4 to vote 8/9/2014. 8/9/2014.

Precincts 1 and 2 were opened for voting 8/15/2014, yesterday, and the remaining qualified voters of Precinct3 and Precinct 4 were not allowed to vote 8/15/2014, although by that time many of the highways and roads were then passable, Many of these roads were blocked the original Primary voting day of 8/9/2014.

The storm damage was and is servere and widespread with many people today without electricity.

8/9/2014 Precincts 3 and 4 had electricity and experienced very light voting turnout due to the emergency conditions only two days after Hurracaine Eselle crossed over Hawaii Island doing most of the damage 8/7/2014 night, certainly not enough time to run a fair election of Precincts 1,2,3 and 4.

Please accept these Delcarations of Qualified Voters of Precinct 4 that could not get to Precinct 4, 8/9/2014, and some of whom thought they could vote 8/15/2014 but were told only P1 and P2 could vote,

8/15/2014.

Joyce Alberta Folena 8/16/2014

Gregory T. Smith

cc HAWAII STATE CAMPAIGN ELECTION COMMISSION
WILLIAM MARSTON, CHAIR
802 LEHUA AVENUE
PEARL CITY, HI
96782

Page 1 of 2 Pages

8/16/2014
Sent Copy

Joyce Alberta Folena
Gregory Todd Smith
Post Office Box 2046
Pahoa Ha wai'i 96778*2046

To
Director of Reasearch and Policy
US Elections Assistance Commission
1335 East West Highway
Suite 4300
Silver Spring, MD 20910

We both were able to vote Primary Day 8/9/2014 and feel very strongly that many of our r esidents of Precincts 3 and 4 were disenfranchised from their Constitutional Rights To Vote by the decisions made by the Hawaii Stat e Office of Elections.

Qualified Voters of Precincts #3 and #4 must be given the opportunity to vote in these two Precincts. We are again speaking of the qualified voters that could not get to Precincts 3 and 4 due to the aftermath of Hurraciane Eselle.

The Hawaii State Office of Elections have violated these voters of their Constitutional Rights To Vote, in our opinions.

Please consider our requests of you today and thank you for your attention to these matters.

Many of the residents of Kapoho area near and on the Puna Coast, of Precinct 4 w ere severely hit by Hurracaine Eselle with three feet of Storm Surge and standing water damaging their homes. So many of these people were unable to get to the Precinct 4 polling place and were not given any opportunity to vote at all in that Precinct 4. This is not fair and certainly violates these people's Rights To Vote.

Thank you again and please excuse the typos in our very old manual typwriter.

Joyce Alberta Folena 8/16/2014

Joyce Alberta Folena

Gregory Todd Smith

Love

Love

8/11/2014

Joyce Alberta Folena and
Gregory Todd Smith
Post Office Box 2046 and
Post Office Box 2005
Pahoa, Hawai'i 96778
Telephone 808 965 1460 VOICE MAIL
to
Cheif Elections Officer
Scott Nago
802 Lehua Avenue 808
Pearl City, HI 96782

copy Sept 8/11/2012

cc Senator Russell Ruderman
Representative Faye Hanohano
US Senator Brian Schatz
US Representative
Tulsi Gabbard

copies done

8/19/2014 Memo! Jef
Received 8/13/2014
by Return Receipt Postmark
well within the 21 DAY PRIMARY
ELECTION 8/9/2014 + 21 DAYS

Dear Mr. Nago,

Please address our very serious concerns here regarding Primary Election of 8/9/2014 in Puna area, Pah oa. Althe you are sending Absentee Ballots to all qualified voters of Precincts 1&2, which were not open 8/9/2014, you also need to address the qualified voters of the open Precincts 3&4 of 8/9/2014, that could not get to the Precincts 3&4 due to Tropical Storm Iselle. The insueing damage was , and is, great. Large trees down blocking roads and highways 8/9/2014 preventing many voters from getting to open Precincts 3&4. You must give these remaining Precincts 3&4 the opportunity to Vote Now. Either by Absentee Ballots sending by Mail or re open Precincts 3&4 for continual Primary Voting. All qualified voters of Precincts 3&4 MUST HAVE THE RIGHT TO VOTE IN THE PRIMARY ELECTION.

We consider any and all obstacles and avoidances of these remaining voters' Rights To Vote, th ose obstacles and avoidances , to be criminal on the part of the State Office of Elections.

Thank you for your attention to these matters.
Many people are still without electricity.
We are

Joyce Alberta Folena

Joyce Alberta Folena
and

Gregory Todd Smith

cc 8/19/2014
Hawaii Elections Commission
Jef

Hawaiian Shores Community Association
15-2793 S. HONU STREET PAHOA, HAWAII 96778
PHONE (808) 965-8140 FAX (808) 965-0802
EMAIL: hsca@hawaii.rr.com
Website: www.hawaiianshores.org

August 20, 2014

To: State Elections Commission
Attn: Ms. Caroline Bolden, Elections Commission Secretary

RE: **Testimony for State Elections Commission Meeting August 22, 2014**

Inappropriate actions by the State and County Election officials preceding and following Tropical Super Storm Iselle and the impacts of their ineptness on the August 9th Primary and August 15th Special Elections

Aloha Commissioners:

The people of lower Puna, who were left devastated and suffering in the aftermath of Iselle, were further traumatized when the Office of Elections switched their plan four times in less than a week thereby preventing thousands of voters from voting. The areas most affected include many of the large subdivisions of lower Puna: Nanawale, Leilani, Vacation Land, Kapoho Beach Lots, and other smaller subdivisions in Pohoiki. These areas were slated to vote at the Pahoa polling place. On Aug. 9th, the day of the Primary Election, the local utility HELCO estimated 15,000 households were without power. That situation did not begin to improve until after Sat. Aug. 9th. As of today, Thursday, Aug. 21st, there are still an estimated 1,600 without power according to news reports in the Hawaii Tribune Herald. Those still without power are nearly all in the areas that would have voted at the Pahoa precinct which opened on Sat. Aug. 9th. In the affected area, 260 homes were severely damaged, the utility grid demolished, and recovery is still continuing two weeks after the storm hit.

The rationale for opening the Pahoa precinct on Sat. Aug. 9th was based on the fact that electricity was restored to the small footprint known as the town of Pahoa late on Friday, Aug. 8th. As I worked closely with HELCO to restore power to our water yard (Public Water System 156) which services some of the 6,000 house lots in the subdivisions of Hawaiian Beaches and Hawaiian Shores, I can tell you that electricity was restored to the Keonepoko Elementary School/Polling Precinct by 8:00 PM Friday Aug. 8th, yet that precinct did not open. Further, Ms. Patricia Nakamoto, head of the County of Hawaii Elections Office, was quoted in the Hawaii Tribune Herald <u>before</u> the storm hit indicating that County Elections had retained 21 generators to power the island's polling places in the event that power was disrupted and that the Aug. 9th Primary Election would take place regardless of the hurricane alert. We were under a hurricane alert for Christ's sake and we took the hit – what kind of rational person makes these statements?

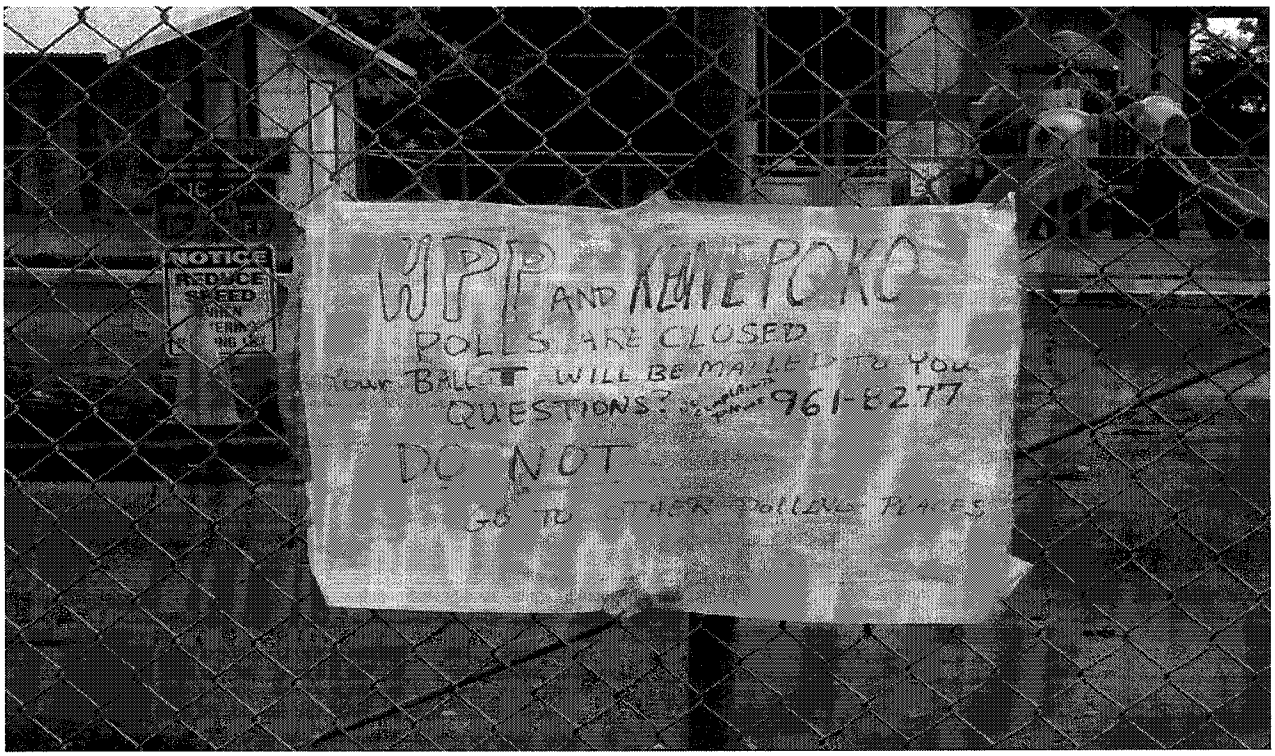
Why elections officials could not comprehend the impact of the damage caused by Iselle is largely due to the fact that they did not visit the affected area – no one could until more than 2-3 days after the storm because the roads were blocked! I tried to access Nanawale Friday Aug. 8th at 8:00 PM and you couldn't get within 1 mile of the entrance to the subdivision due to fallen Albizias and utility poles blocking the road. To think that a fair election could take place in the hardest hit areas on Aug. 9th is sheer idiocy and these decisions we must attribute to the directors of the State and County Elections Offices – Mr. Scott Nagao and Ms. Patricia Nakamoto. If these two individuals retain their

position after the suffering they inflicted on Puna voters, there is no hope for Hawaii to recover any semblance of a fair election process.

The Elections Office changed their plans 4 times in less than a week and during that time the affected voters were left completely unaware of their decisions as there was no electric power, no land lines, only one operative cell carrier (VerizonWireless), no Internet, no USPS deliver, and no newspaper delivery in the affected areas. There was no way for voters in the affected areas to learn they had been deprived of their right to vote and quite frankly, when you have hundreds of dollars of food wasting in your refrigerator, no water, no lights and no access to the outside world, trying to find out about voting was not a top priority for many of our citizens who suffered from Iselle's hit.

As already expressed, before Iselle's arrival Thursday night, Aug. 7th, Ms. Patricia Nakamoto of Hawaii County Elections published in the local newspaper that the Primary Election would proceed regardless of the hurricane alert and they had back up generation to provide electricity. On Friday, after the storm hit, I was in my community arranging emergency response to get our Public Water System 156 back on line and had to walk nearly every street in the subdivision delivering water outage information as required by permit. I hoofed nearly 50 miles that weekend which was blistering hot and saw first-hand the devastation in my community. I also heard from Civil Defense employees that the Office of Elections was considering having everyone in lower Puna, which is served by three separate polling places (Hawaiian Paradise Park, Keonepoko, and Pahoa) go to the polling place in Pahoa to vote on Sat. Aug. 9th.

Then on Saturday morning, knowing electricity had been restored to Keonepoko polling place the night before as HELCO worked late getting electric to our water yard which is further down the road from Keonepoko, I pulled up to the gate at 8:00 AM to find the sign below.



Really?? I hope you can make out the "No complaints please". How inconsiderate and inept! The sign appears to have been written by a seven year old. I drove away hoping the USPS would soon be able to deliver mail again and that I would receive my ballot in the mail as explained on the sign.

Then over the weekend, word of mouth began circulating a new and fourth plan by Office of Elections to hold a Special Election on Friday, Aug. 15th which is a State holiday. Only State and County workers have off as private businesses seldom provide a holiday to employees on Admissions Day. This Special Election was not open to the affected areas I listed in my first paragraph even though the vast majority of those registered voters could not access the Pahoa polling place on Sat. Aug. 9th. Instead it was open only to the polling places which never opened (Hawaiian Paradise Park and Keonepoko Elementary School) because Elections decided not to open them due to lack of power which I've already noted was not the fact. What happened to the back-up generators? What happened to the mailing of ballots? With the power, Internet, landlines, USPS and newspaper delivery still out in most of my subdivision, there was no way to provide information to the voters!

In short, Scott Nagao made several errors that defy State and Constitutional law:

1) He released the results of the Aug. 9th Primary Election vote for the local contests for House of Representatives District #4 and County Council District #4 despite the fact that the polls had not closed. Since Hawaiian Paradise Park and Keonepoko never opened, they were not closed. The ruling about releasing results of an election before all precincts close was challenged and upheld after the 1980 presidential election wherein Reagan was announced the winner before the California polls closed thus negatively impacting local elections and other ballot measures (Proposition 13). Releasing the number of votes for candidates when some voters had yet to vote biases the rest of the voting.
2) He changed the game plan 4 times in five days leaving voters confused and frustrated as information was only available word of mouth to most of the affected precincts (HPP, Keonepoko, Pahoa). People had no way to charge cell phones, the only communication open to some who had VerizonWireless, and couldn't power radios. Many people were literally blocked into their streets and couldn't drive their vehicles anywhere or they might have had access to radio announcements.
3) He made no arrangements for remote testimony from the Big Island for this commission hearing, as is often done for State Commission and Committee hearing, further depriving voters of their right to contest an unfair election.

There are a couple remedies that the Commission can consider. All voters in House District #4 and County Council District #4 should be provided a Special Election to allow all persons the right to vote. Those who voted early by walk-in or mail-in ballots would not need to vote again.

The second remedy is to require the resignation of Mr. Scott Nagao and Ms. Patricia Nakamoto. These two individuals have been at the center of too many unfair election practices and retaining these individuals will further disenfranchise voters of this State which already has a pathetically low voter participation thanks to the wide spread belief held by voters that these individuals do not allow for fair elections.

In 2012 I served as an officer on a campaign committee and was consistently provided misinformation by the Office of Elections on pocket districts and other questions I posed. These people do not behave professionally and we cannot continue to trust them with our election process or we risk further disenfranchising the voters of this great State!

Sincerely,
M. Eileen O'Hara

M. Eileen O'Hara, Ph.D.
President, Board of Directors
Hawaiian Shores Community Assn

From: Kr Hunt <krhunthawaii@yahoo.com>
To: "Elections@hawaii.gov" <Elections@hawaii.gov>

Date: Thursday, August 21, 2014 02:07PM
Subject: Public Comment for the Election Commission Meeting of August 22, 2014

August 21, 2014

To: Election Commission
Re: The Handling of the Puna Primary and Special Primary Election

I thank you for the opportunity to provide public input about the fiasco of the primary and special primary elections in District 4 on the Big Island

Simply put the primary and special primary elections that affected Puna District 4 should be held over or at the very least all that wish to still vote should be allowed to with clear concise information which has not been the case since the Primary was canceled for district 4-1 and 4-2.

For what it matter I did vote before the storm and the results of those that did earlier or by absentee should not be overlooked. At that time the 4th District County seat was much closer with Greggory the incumbent having less than 40% of the vote and Lozano next with about 27% in the 4 person race. As often is the case there would have been a runoff which I am confident Lozano the candidate I supported would win. I believe that still would be the case should a new election take place or even if those who were unable to get to the polls was given adequate to time to recover from the storm so as not to be further disenfranchised.

It should be noted this year registered voters in District 4 was approx. 8,255 and of the number of register voters approx. 45.4% voted. This was some 598 less than did in the the 2012 Primary as nearly 54% of the approx 8090 voters or 4348 voted in the 2012 Primary. The number of registered voters increased about 2% and since I could not find the actual number of registered voters in District 4 in 2012 I extrapolated it by taking 98% of the 8255 -2014 number of registered voters. . As District 4 is one of the fastest growing area on the Island of Hawaii the increase from 2012 to 2014 may be even greater. I believe those extra votes would have resulted in a runoff election as the area most affected by the voting mishap was the areas of Puna that Lozano would have his greatest support in.

I support Senator Ruderman and Slom who reportedly have call for the resignation of Scott Nago. Nago has made far too many blunders and someone needs to be held accountable. I find his purported comment to Associate Press in the Hawaii Tribune on August 20th a sad commentary and a slap in the face of the thousands in the Puna area that are still trying to recover from Tropical Storm Iselle. As of Thursday, August 21 1200 households were still without power and almost all reside in District 4. To say he would not do anything different shows a total disregard of the facts that have surfaced since that he received false information, did not verify and now that he knows the facts still takes the position that he did the right thing. It is time to restore the citizens faith in the election process and letting go of Nago would be a step in the right direction.

A Committed Citizen & Voter,

Kenneth R. Hunt
15-1719 25th Avenue, Hawaiian Paradise Park
Keaau, Hi 96749
808-982-8392

P.S. I will attest by affidavit that I know the conditions of the main roads in Hawaiian Paradise Park, Nanawalle, Leilani, Hawaiian Beaches and Kapoho the day before the primary election and the day of the election. I will also attest that the Thursday before the special Primary election that Civil Defense was telling people to not drive over down power lines and that there was still hundreds of down power lines on the side streets in the areas that were expected to go to the polls!

The Senate

STATE CAPITOL
HONOLULU, HAWAII 96813

Friday, August 22, 2014

Testimony to the State Elections Commission

Chairman and Members:

For the record, I reiterate my previous objections that the meeting agenda be revised to allow public testimony *AFTER* the report of the Chief Elections Officer (CEO).
My testimony today also repeats my previous position that this Commission should act to **replace the Chief Elections Officer** and review the election procedures.

I believe that the integrity of Hawaii's election process is in jeopardy, and like my colleagues, have had many constituents contact me with outrage over the past few weeks. They and I continue to be upset that there has been no accountability for past and present errors in the election process by this CEO. I stand by the Commission and the many volunteers who have provided the public positive service. The CEO's failure to respond to the public and media have hurt you all. This is not personal, and it is not partisan, but **the CEO needs to be removed now**. In the private sector, this occurs immediately to protect the integrity of the business and to retain public trust. In government, and our most basic right of voting, there should be an even higher bar to maintain. The public needs reassurance that you will act now.

There was no disciplinary action for the outrageous acts of 2012, when hundreds of voters were disenfranchised because of the lack of distributed ballots, especially in my East Honolulu district, and the wrong ballots delivered to other precincts as well as other documented errors that took place. Incredibly, the Commission actually considered giving the CEO a substantial raise this year after a brief and incomplete *internal* investigation of election mistakes.

In this year's August 9 Primary, several issues arose. While we are all very fortunate to have escaped the potential disaster of two Hurricanes, the CEO originally announced there was no Plan B in case devastation had occurred. He insisted the voting would go on. However, as we saw, two precincts in Puna on the Island of Hawaii were unable to vote because of the extent of damage there. I believe other arrangements could have and should have been made.

In clear violation of the State Constitution, vote totals were prematurely released prior to completion of voting in all precincts statewide, as required by law.

A challenge to the rescheduled vote in Puna was decided in the CEO's favor but Judge Greg Nakamura in his ruling, raised questions of constitutionality, possible future legal action, and reasonableness to the people so devastated by the storm.

The hurried Puna election last Friday was held even though thousands in the area had no electricity, no transportation, no food and some even had a lack of knowledge of the pending election. The extremely low voter turnout confirms these concerns.

Then there were the missing 800 mail-in ballots from Maui. "Discovered" on Wednesday August 13, they were not disclosed until Friday the15th by the CEO, and then added to the Puna totals. Procedures were NOT followed. Error upon error.

Further, voter names were no longer posted at polling places this year. The book of voters was not always readily available in all precincts as it should be.

Several poll watchers, and others, requested an updated voter file showing who voted in the Primary Election. The CEO responded that the voter credit process - the process where individual records are marked in the voter database whether the person voted or not in the 2014 Primary *AND G*eneral elections - will not be complete and available until February 2015. *After the election*. Unacceptable.

Voter turnout continues to decline, cementing Hawaii's position as worst in the Nation. One reason given is lack of trust in the voting process. I tried unsuccessfully recently to fill a vacancy from Maui on this Commission. Good people did not want to serve with this leadership.

The Legislature passed new legislation making it easier to register and vote allowing for same day voting in two years. Where is the oversight? Where is a paper trail? Where is the confidence that this Administration can handle additional duties?

Mr. Chairman, and members, I implore you to take decisive action today and exert leadership. There are other qualified individuals who can more responsibly address these problems in time before the November 4 General Election.

Mahalo for your time and thoughtful consideration.

Sam Slom, State Senator, 9th District (O'ahu)
Senate Minority Leader

Roldan, Carolyn L

From: Elections@hawaii.gov
Sent: Thursday, August 21, 2014 3:30 PM
To: Roldan, Carolyn L
Subject: Fw: Testimony for Hawaii State Elections Commission Meeting 8/22/2014 10am Honolulu

-----Forwarded by Elections/DAGS/StateHiUS on 08/21/2014 03:29PM -----
To: elections@hawaii.gov
From: Joyce Folena <planetpeaceis37@gmail.com>
Date: 08/21/2014 02:55PM
Cc: senruderman@capitol.hawaii.gov
Subject: Testimony for Hawaii State Elections Commission Meeting 8/22/2014 10am Honolulu

To Chair Marston and All Committee Members,

Some if the residents of Precinct 04 04 in Puna District were impacted with a double set of negative occurrences the night of 8/7/2014.
1 Hurricane Eselle around 6:pm began to cross over the Big Island of Hawaii, primarily in
Puna District.
2 The uncontrolled release of Hydrogen Sulfide Gas was released in the lower Puna area.

These residents living near Puna Geothermal Venture, PGV, suffering from the damaging high winds and rain were also poisoned by the severe amount of H2O uncontrolled release around 7:30 pm. Some of these residents experienced severe reactions to the H2 release.

Michael Hale was rendered unconscious for 12 hours and then it took a half an hour for Mr Hale to fully regain himself in an awake state.

Please refer to the video of the 8/14/2014 Puna Pono Alliance Meeting of many residents seriously affected by the H2O gas giving their testimony to PPA ,including Bob Preticci, President of PPA, Tom Travis, Vice President of PPA and Harry Kim, attending that Meeting. This video is in UTube. These residents of the PGV area were immobilized by Eselle and the H2O gas release and certainly could not attend the Primary Election of 8/9/2014 at Precinct 04 04 in Pahoa High School Cafeteria because of an Act of Nature, Eselle and an act of man, PGV uncontrolled H2O release.

Further at approximately 8am, 8/8/2014 there was a Civil Defense Message via radio asking people to stay off of the roads unless absolutely necessary, in order to allow debris clean up and electric company crew to put things back in order. There was severe debris from very large trees all over the highways.

While the highways were virtually clear by 8/9/2014, the many connector roads of the subdivisions were impassable that Primary Day due to albizia trees down everywhere, including in residents properties making travel to the polls impossible to all of the Precincts in Puna District of Precincts 04 01, 04 02, 04 03 and 04 04. All of these precincts should have been closed to let all of the qualified voter have a chance to recover and secure their homes and

fetch emergence water, ice food and tarps provided by Hawaii County and private sources.

Precincts 1 and 2 were not open 8/9/2014 because they did have any electric . Precincts 3 and 4 did have electric and were open 8/9/2014. Precincts 3 and 4 should have then been reopened in Pahoa, 8/15/2014 in order to accommodate the qualified voters of these two Precincts that could not arrive there 8/9/2014 because of Eselle Storm and H2O gas release of PGV, and included in the Continuance of Primary Voting of 8/15/2014 when Precincts 1 and 2 were open, both Precincts 1 and 2 consolidated in Precinct 2 Keonepoko School, Hawaiian Beaches.

State of Office of Elections refused to let all of these Qualified Voters of Precincts 3 and 4 vote in the 8/15/2014 Primary Continuance of 8/15/2014. These disenfranchised qualified Voters must be given the opportunity to vote in the 2014 Primary Election in Puna Hawaii.

This avoidance of allowing people to vote is absolutely unacceptable to all of us here in the Puna area that defend our US Constitutional Rights To Vote.

We consider the actions of Scott Nago here to be criminal and tell you remove Scott Nago from the employment of the Hawaii Office of Elections before the forthcoming General Election in November 2014.

An Act of Nature is not any reason to deny qualified Voters their US Constitutional Rights To Vote

We are aware of the 21 day window to continue the Primary Election and this window was ignored in the Precincts 04 03 and especially 04 04, the hardest hit by Eselle.

In addition no Precincts results should have been made public before ALL PRECINCT RESULTS REACHED Office of Elections. Precincts 3 and 4 were released 8/9/2014 while Precincts 1 and 2 had not even voted yet because they were not open 8/9/2014.

Please include our testimony of today in you r 8/22/2014 Elections Commission Meeting.

We thank you for your attention and positive actions in regards to our needs and request of you here. Please protect our US Constitutional Rights To Vote.

Thank you again.

Gregory Todd Smith and Joyce Alberta Folena

On Mon, Aug 18, 2014 at 5:52 PM, Lyla Marquez <designsbylyla@gmail.com> wrote:

I, Lyla S. Marquez, declare the following:
I am a resident of Pahoa, HI 96778, District 4.
My address is PO Box 1137, Pahoa HI 96778.
I am a registered voter in the State of Hawaii, House District 4. I do not know if my polling precinct was opened or closed. I intended to vote on Saturday August 9, 2014 in the primary election.
I was unable to vote in the primary because: Polling location was closed and I was stuck behind hundreds of trees for three days and was unable to get to Pahoa town due to Hurricane Iselle.

I, Lyla S. Marquez do declare under penalty of law that the above is true and correct to the best of my knowledge and belief.
Date: August 18, 2014
Signature: Lyla Sofia Marquez (I authorized this as my electronic signature)
Name: Lyla Sofia Marquez

I, Gary C. Zamber, declare the following:
I am a resident of Pahoa, HI 96778, District 4.
My address is PO Box 1172, Pahoa HI 96778.
I am a registered voter in the State of Hawaii, House District 4. I do not know if my polling precinct was opened or closed.
I intended to vote on Saturday August 9, 2014 in the primary election.
I was unable to vote in the primary because: Polling location was closed and I was stuck behind hundreds of trees for three days and was unable to get to Pahoa town due to Hurricane Iselle.

I, Gary C. Zamber do declare under penalty of law that the above is true and correct to the best of my knowledge and belief.
Date: August 18, 2014
Signature: Gary C. Zamber (I authorized this as my electronic signature)
Name: Gary C. Zamber

On Mon, Aug 18, 2014 at 8:13 PM, mirah love <mirahlove@hotmail.com> wrote:
I, Tisha Montoya, declare the following:
I am a resident of Pahoa, HI 96777
My address is 13-1010 Malama st.
I am a registered voter in the State of Hawaii, House District 4.
I intended to vote on Saturday August 9, 2014 in the primary election.
I was unable to vote in the primary because there was 90 fallen albezias blocking our road post Hurricane Iselle.

I, Tisha Montoya, do declare under penalty of law that the above is true and correct to the best of my knowledge and belief.
Date: aug 19, 2014
Signature: Trish Montoya (I authorized this as my electronic signature)
Name: Tisha Montoya

On Tue, Aug 19, 2014 at 2:22 AM, Wade Bauer <wadebauer@gmail.com> wrote:
I, Wade Bauer, declare the following:

I went to the Pahoa community center and was told by a man outside that I would receive a mail in ballot, I asked him if he was sure, then another person said that I may be able to vote at Pahoa school. I went there and did vote. I did find it confusing that the people at the polling place seemed to not know what was going on.

My normal voting place is kenopoko el., I did not receive any prior notice that my polling place changed.
I did not receive any notice through the mail about the election at all.
I feel the whole election should have been postponed and that it was insensitive and undemocratic to hold it in a time of crisis when so many people could not get to the polls.

Thanks,
Wade Bauer (I authorized this as my electronic signature)
248-245-9483
OnoScapes
Edible Landscaping &
Permaculture Design
Hawaii-Edible-Landscaping.weebly.com

On Tue, Aug 19, 2014 at 9:35 AM, Mark DeVita <info@lavatours.com> wrote:
I, Mark DeVita, declare the following:
I am a resident of, Keaau Hawaii, 96749
My address is 15-2074 29th Ave. (Poni Moi).
I am a registered voter in the State of Hawaii, House District 4 (or your district number).
My polling precinct was open on Aug 9, 2014.
I intended to vote on Saturday August 9, 2014 in the primary election.
I was unable to vote in the primary because: Denied the right to vote TWICE in a week ! Once at my neighborhood polling place on Makuu Drive on regular election day, the second time at Keonepoko Polling place. I was denied PAPER BALLOT after i had signed in ! Was told to call the registrar's office. They informed me that we do not have the choice. In protest I DID NOT VOTE .

Mark DeVita (I authorized this as my electronic signature)
Hawaii Volcano Tours
info@lavatours.com
808-966-6620
808-989-1352

On Tue, Aug 19, 2014 at 11:37 AM, aina campbell <sacredtrustx3@yahoo.com>
I, Ina Campbell, declare the following:
I am a resident of (Kapoho), HI (96778).
My address is (14-4465 Kapoho Honolulu Landing Rd).
I am a registered voter in the State of Hawaii, House District 4 (or your district number). My polling precinct was one of the precincts that were closed on Aug 9, 2014.
I intended to vote on Saturday August 9, 2014 or August 15, 2014 in the primary election.
I was unable to vote in the primary because: I was unable to get to the polls because of the hurricane road closures and I was turned away from Keonepoko School when I went to vote on the 15th.

I, (Ina Campbell) do declare under penalty of law that the above is true and correct to the best of my knowledge and belief.

Date:August 19,2014
Signature: Ina Campbell (I authorized this as my electronic signature)
Name:Ina Campbell