

1. A.G., resident, Community of Naalehu
2. J.C.O., resident, Community of Naalehu
3. L.E., resident, Community of Naalehu
4. W.K.F., resident, Community of Naalehu
5. E.L., resident, Community of Naalehu
6. Anonymous commenter

EPA's response to comments on the Proposed Order received by the EPA Region IX Enforcement Division pursuant to the April 27, 2017 public notice are set forth in the next section.

II. EPA'S RESPONSE TO PUBLIC COMMENTS RECEIVED IN RESPONSE TO APRIL 27, 2017 PUBLIC NOTICE

1. A.G.

A.G. is a resident of Naalehu and provided her comments to EPA via e-mail dated Tuesday, May 30, 2017.

Comment 1

Commenter states that the new proposed Naalehu Wastewater Treatment Plant will impact the community by dispersing odors, aerosols, and contaminants directly into town and the school as a result of the treatment process.

Response 1

Federal law required the closure of all LCCs by April 5, 2005. In order to close the three LCCs currently serving the Naalehu Community, the Proposed Order requires Respondent to design and construct a new treatment plant in accordance with applicable requirements and engineering standards that are approved by the Hawaii Department of Health ("HDOH"). The Proposed Order does not specify any particular treatment process or system design, so generalized comments about concerns from unknown and speculative contaminants do not demonstrate that any particular requirement of the Proposed Order is inappropriate. The Proposed Order will also require the Respondent to conduct an Environmental Assessment that meets the requirements of Hawaii Revised Statutes Chapter 343 for the property that Respondent proposes to utilize for a new wastewater treatment plant. The purpose of the Environmental Assessment is to assess the environmental consequences of the project prior to the decision to move forward with the project in the proposed location, including any impacts on the surrounding community.

The Proposed Order also requires Respondent to engage in multiple community outreach efforts to allow the public to provide input. At that time, the public will have an opportunity to raise issues regarding the impact of aerosols and contaminants from the new treatment plant. Outreach efforts will include consultation with appropriate public officials, public meetings, and a site visit to the Honokaa Wastewater Treatment Plant. Therefore, the commenter may raise these concerns during the public outreach periods set forth in the Proposed Order and during the Environmental Assessment process.

Comment 2

Commenter suggests that the visibility of the new Naalehu treatment plant from the highway will affect the aesthetics of the community.

Response 2

As discussed above, the Proposed Order does not commit Respondent to a particular location or design for the new wastewater treatment plant, but does require that the Respondent conduct an Environmental Assessment meeting the requirements of Hawaii Revised Statutes Chapter 343 for the property that Respondent proposes to utilize for a new wastewater treatment plant. This Assessment should also identify and analyze any significant effects the project will have on the surrounding community. Additionally, the Proposed Order requires Respondent to conduct public outreach efforts that will provide community members with multiple opportunities to provide input on the proposed site and design for the proposed wastewater treatment system.

Comment 3

Commenter claims the new Naalehu Wastewater Treatment Plant would damage property values in the community.

Response 3

As discussed above, the Proposed Order requires the County to come into compliance with the SDWA by closing the LCCs currently serving the Naalehu Community, and constructing an appropriate alternative wastewater treatment system. It is anticipated that construction of a new wastewater treatment system will provide a net benefit to the community as it will replace three illegal LCCs that currently collect and discharge untreated raw sewage into the ground under the community.

2. J.C.O.

J.C.O. is a resident of Naalehu and he provided his comments to EPA via e-mail dated Tuesday, May 30, 2017.

Comment 1

Commenter is concerned about the proposed location of the new Naalehu Treatment Plant because it is next to the community and he states that it is downwind from the elementary school. The commenter also states that the proposed location of the new plant would be on a parcel of land that has a cemetery.

Response 1

As discussed in EPA's response to comments submitted by A.G., above, while Respondent has identified a potential site for the new Naalehu Wastewater Treatment Plant in its Naalehu Work Plan, the Proposed Order does not in fact commit Respondent to any particular location or design for the plant. The Proposed Order requires Respondent to conduct an Environmental Assessment meeting the requirements of Hawaii Revised Statutes Chapter 343 for the property that Respondent proposes to utilize for a new wastewater treatment plant, which will include assessment of any significant effects the project will have on the surrounding community. The purpose of the Environmental Assessment is to assess the environmental consequences of the project prior to the decision to move forward with the project in the proposed location.

In selecting a site and proposing a wastewater treatment plant design, Respondent is responsible for complying with state and local requirements, including requirements related to cultural resources such as cemeteries. Respondent notes in the Naalehu Work Plan that a preliminary archaeological study was conducted on the proposed site in March 2017 that “resulted in the determination that the entire property has been previously disturbed and that there [are] no traditional Hawaiian cultural resources, sites, or features observed on the property.” The Naalehu Work Plan also notes that “it is probable that the State Historic Preservation Division (SHPD) will require a formal Archaeological Inventory Survey with time devoted to investigating probable sugar industry resources and undertaking surface backhoe testing within the property.”

The Proposed Order also requires Respondent to conduct public outreach efforts that will provide community members with multiple opportunities to raise concerns related to the proposed site and design for the new Naalehu Wastewater Treatment Plant.

3. W.K.F.

W.K.F. is a resident of Naalehu and he provided his comments to EPA via e-mail that contained a letter attachment dated May 30, 2017.

Comment

In review of the proposed location for the new Naalehu Wastewater Treatment Plant, commenter requests that the following potential impacts be considered:

1. Direct physical impacts to cultural sites (the commenter specifically requests that Respondent conduct “a full archaeological inventory survey . . . to confirm that no cultural or historic sites exist”);
2. Indirect impacts to cultural sites and natural resources; and
3. Treatment and Disposal.

Response

The Proposed Order does not supplant state or local requirements concerning environmental review or historic preservation, and affirmatively requires Respondent to “follow any applicable Hawaii state or local requirements for design, construction, operation, and permitting,” and to “diligently pursue all necessary federal and state permits and approvals.” The Proposed Order does not commit Respondent to any particular location or design with respect to the new Naalehu Wastewater Treatment Plant, but it requires the County to close the LCCs currently serving the Naalehu Community, and construct an appropriate alternative wastewater treatment system.

The commenter specifically requests that Respondent conduct “a full archaeological inventory survey . . . to confirm that no cultural or historic sites exist.” EPA notes that Respondent is responsible for determining whether it is appropriate or necessary to conduct a full scale archaeological inventory study regarding the existence of cultural or historic sites. Respondent has indicated in the Naalehu Work Plan that “it is probable that the State Historic Preservation Division (SHPD) will require a formal Archaeological Inventory Survey with time devoted to investigating probable sugar industry resources and undertaking surface backhoe testing within the property.” Because it is Respondent’s obligation to comply with state and local requirements, commenter’s request that he be

consulted during the preparation and submittal of the archaeological inventory survey to the SHPD should be directed to Respondent.

As to the second request-- commenter asks that several factors be taken into account in designing the new Naalehu Wastewater Treatment Plant, including the potential for flooding in the area, the potential impact to view planes from the surrounding area, and the potential for noise and odor. While this comment is outside the scope of the Proposed Order, the Proposed Order does require Respondent to conduct an Environmental Assessment meeting the requirements of Hawaii Revised Statutes Chapter 343 for the property that Respondent proposes to utilize for a new wastewater treatment plant. The Proposed Order also requires Respondent to prepare a Preliminary Engineering Report that will contain information on the proposed design for the new Naalehu Wastewater Treatment Plant. The schedule proposed pursuant to the Naalehu Work Plan provides for multiple public meetings and community outreach efforts while the Environmental Assessment is being performed and the Preliminary Engineering Report is being prepared. Therefore, the commenter may raise these concerns during the public outreach periods set forth in the Proposed Order and during the Environmental Assessment process.

As to the third request – commenter indicates that he is concerned that partially treated sewage will be disposed of into the ground surrounding the proposed Naalehu Wastewater Treatment Plant, and requests that Respondent consider using “advanced, sustainable treatment systems and technologies which would treat wastewater to R1 quality.” As noted above, the Proposed Order does not specify the design or method of treatment for the new Naalehu Wastewater Treatment plant, so the comment is outside of the scope of the Proposed Order. However, Respondent has committed to conduct community outreach that includes public meetings related to the design of the treatment system. Respondent also proposes providing the community with the opportunity to participate in a site visit to Honoka’a Wastewater Treatment Plant to see a treatment process similar to what Respondent proposes to use at the new Naalehu Wastewater Treatment Plant.

4. L.E.

L.E. is a resident of Naalehu and provided her comments to EPA via e-mail dated May 30, 2017.

Comment

Commenter is concerned that children will be able to access the site of the new Naalehu Wastewater Treatment Plant, and will put themselves at risk trying to access it.

Response

As noted above, the Proposed Order does not specify the siting or design for the new Naalehu Wastewater Treatment plant. Although the comment is outside the scope of this Proposed Order, the enforcement action mandates that Respondent conduct public outreach that will provide community members with multiple opportunities to provide input regarding the siting and design of the new Naalehu Wastewater Treatment Plant, prior to finalization of design plans for the wastewater treatment plant.

5.

E.L.

E.L. is a resident of Naalehu and he provided his comments to EPA via e-mail dated June 1, 2017.

Comment

Commenter states that he is concerned that the proposed location of the new Naalehu Wastewater Treatment Plant will be detrimental to the Naalehu community because of the potential odors that might be emitted from the plant.

Response

As discussed in EPA's response to the prior comments, above, the Proposed Order does not commit Respondent to any particular location or design with respect to the new Naalehu Wastewater Treatment Plant. The Proposed Order requires Respondent to conduct an Environmental Assessment meeting the requirements of Hawaii Revised Statutes Chapter 343 for the property that Respondent proposes to utilize for a new wastewater treatment plant. The purpose of the Environmental Assessment is to assess the environmental consequences of the project prior to the decision to move forward with the project in the proposed location, including any impacts on the surrounding community. Therefore, the commenter may raise these concerns during the public outreach periods set forth in the Proposed Order and during the Environmental Assessment process.

The Proposed Order also does not specify any particular treatment process or system design for the new Naalehu Wastewater Treatment Plant, although Respondent is ultimately responsible for designing a facility that complies with state and local requirements. While the comment is outside the scope of the Proposed Order, Respondent has committed to conduct community outreach that includes providing the community with the opportunity to participate in public meetings, and a site visit to Honoka'a Wastewater Treatment to see a similar treatment process to what Respondent proposes to use at the new Naalehu Wastewater Treatment Plant.

6. **Anonymous Comment**

"Concerned citizen of the County of Hawaii" provided comments to EPA via e-mail dated May 30, 2017.

Comment

Commenter states that he or she purchased property near the site that Respondent has proposed for the new Naalehu Wastewater Treatment Plant and states that the proposed Naalehu Wastewater Treatment Plant will impact the health of his or her family, and the value of his or her property. Commenter states specifically that the smell and airborne pathogens and noise pollution from the plant would be hazardous to nearby residents.

Response

The Proposed Order does not specify any particular treatment process or system siting or design for the new Naalehu Wastewater Treatment Plant, although Respondent is ultimately responsible for designing a facility that complies with state and local requirements. The Proposed Order requires Respondent to conduct an Environmental Assessment meeting the requirements of Hawaii Revised Statutes Chapter 343 for the property that Respondent proposes to utilize for a new wastewater treatment plant. The

purpose of the Environmental Assessment is to assess the environmental consequences of the project prior to the decision to move forward with the project in the proposed location, including any impacts on the surrounding community.

Although the comment is outside the scope of the Proposed Order, Respondent has also committed to conduct community outreach that includes holding public meetings on issues relating to the environmental impacts of the new Naalehu Wastewater Treatment Plant, which would include impacts on the surrounding community. These meetings are intended to provide the community with an opportunity to provide input prior to decisions being made on the siting, design, and treatment process for the new Naalehu Wastewater Treatment Plant. Therefore, the commenter should raise these concerns during the public outreach periods set forth in the Proposed Order and during the Environmental Assessment process.

In regard to the commenter's concern about the impact of the new wastewater treatment plant on property values, it is anticipated that construction of a new wastewater treatment system will provide a net benefit to the community as it will replace three illegal LCCs that currently collect and discharge untreated raw sewage into the ground under the community.

III. Revisions to Proposed Order

EPA has considered the comments submitted and has determined for the reasons set forth herein that none of the comments support revisions to the Proposed Order, largely because they are outside the scope of the Proposed Order and/or can be raised during later public outreach proceedings. Since the comments received do not raise issues that require revisions to the Proposed Order, EPA will be issuing the administrative order on consent as proposed.