



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

75 Hawthorne Street  
San Francisco, CA 94105

SEP 26 2019

Sent via Electronic Mail and Certified Mail: 7018 0680 0000 3319 9137  
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William A. Kucharski, Director  
County of Hawai'i  
Department of Environmental Management  
345 Kekūanāo'a Street, Suite 41  
Hilo, HI 96720

**Subject: Federal Administrative Order on Consent  
EPA Docket No. SDWA-UIC-AOC-09-2017-0002  
Pāhala and Nā'ālehu Large Capacity Cesspools  
Approval to Modify the AOC Compliance Date  
to Complete the Environmental Assessment for the Nā'ālehu  
Wastewater Treatment Facility**

Dear Director Kucharski:

On September 13, 2019, the County of Hawai'i Department of Environmental Management (the "County") submitted to the Environmental Protection Agency Region 9 ("EPA") a request to modify the October 5, 2019, compliance provision deadline to complete the Environmental Assessment ("EA") for the Nā'ālehu Wastewater Treatment Plant ("WWTP"), which is set forth in Paragraph 31(e) of the Federal Administrative Order on Consent ("AOC") between EPA and the County in relation to the County's Pāhala and Nā'ālehu Large Capacity Cesspool ("LCC") closure projects.

Based on the information presented in the letter, the County explained that it is necessary to modify the Nā'ālehu EA compliance deadline because various circumstances have delayed the County's ability to initiate the EA process, including: (1) the need to investigate additional land parcels after the community voiced concerns over the initial siting locations (TMKs: 3-9-5-011-003 and a portion of 3-9-012-002) for the proposed Nā'ālehu Wastewater Treatment and Disposal System during community outreach sessions in April 2018; (2) the time taken to conduct drainage feasibility and geotechnical feasibility investigations to determine whether two newly identified sites within a privately owned ranch parcel (TMK: 3-9-5-007-016), which had not been previously considered by the County, could support the proposed WWTP; and (3) the County's interdepartmental process to get approval from the Department of Land and Natural Resources on an amendment that would allow approximately 30-acres from one of the two newly identified sites on TMK: 3-9-5-007-016 to be excluded from a conservation easement and reserved for siting of the proposed WWTP.

The County also acknowledged that, while it has recently started the contracting, preassessment, archeological, and biological consultation processes that are necessary for the EA, it cannot finalize the

EA until it completes additional projects that include, but are not limited to, an initiative to establish a new location for the sewer pump station and pipelines that will transport wastewater to the new preferred site for the proposed WWTP, an investigation to determine the feasibility of the proposed WWTP to produce R-1 water for agricultural use, development and publication of a draft EA document for public review, and completion of Hawai'i's State Historic Preservation Division ("SHPD") consultation process for historic properties.

Given the circumstances that have contributed to the delay in the County's ability to complete the EA and taking into account the time that is needed to complete the EA process, EPA agrees with the County that it is necessary to modify the October 5, 2019, compliance provision deadline to complete the Nā'ālehu EA.

In its request, the County proposes to change the Nā'ālehu EA compliance provision deadline to the following:

- *Four months after completion of SHPD's consultation process;*
- *To be completed no later than July 23, 2021.*

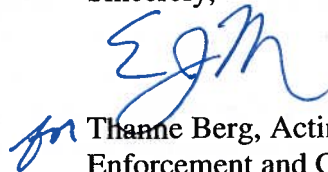
As noted in the County's request, the proposed modification assumes that the SHPD review time of the required archeological inventory survey ("AIS") is approximately six months from the County initiating the historic properties consultation process.<sup>1</sup>

Considering the County's request, EPA finds that the proposed modification allows for a reasonable timeframe for the County to complete the necessary measures needed to finalize the Nā'ālehu EA and is therefore granting the County's request. In accordance with the County's request, EPA will require that the County complete the Nā'ālehu EA on the earlier of the two dates listed above.

EPA understands from the County's request that the time needed to finalize the EA will likely impact its ability to meet other AOC compliance milestones that relate to the closure of the LCCs that serve the community of Nā'ālehu. Please note that while the granting of this extension does not extend or excuse compliance with any other compliance provisions in the AOC, nothing in this letter precludes the County for good reason from seeking modifications for other requirements of the AOC as the project proceeds.

If you have any questions about this letter, please feel free to contact Mr. Jelani Shareem at (415) 972-3095 or via email at [shareem.jelani@epa.gov](mailto:shareem.jelani@epa.gov). Legal questions should be addressed to Ms. Tessa Berman at (415) 972-3472 or [berman.tessa@epa.gov](mailto:berman.tessa@epa.gov).

Sincerely,



Thame Berg, Acting Assistant Director  
Enforcement and Compliance Assurance Division  
U.S. EPA Region IX

<sup>1</sup> Per the County, SHPD's anticipated review time is based on the current review time of the Pāhala AIS, which appears to be coming to its conclusion after approximately six months.