



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Via Electronic Mail

William A. Kucharski, Director
County of Hawai'i
Department of Environmental Management
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**Subject: Federal Administrative Order on Consent
EPA Docket No. SDWA-UIC-AOC-09-2017-0002
Pāhala Community Large Capacity Cesspools Closure Project
Approval to Extend the Pāhala Community AOC Milestone to Acquire Land**

Dear Director Kucharski:

On October 12, 2020, the County of Hawai'i Department of Environmental Management (the "County") submitted to the Environmental Protection Agency, Region 9 ("EPA") a request for extension of a deadline in the June 2017 Federal Administrative Order on Consent ("AOC") between EPA and the County regarding the County's Pāhala and Nā'ālehu Large Capacity Cesspool ("LCC") closure projects. The AOC was previously modified by EPA's September 9, 2019 letter approving the County's August 26, 2019 request to extend deadlines for the compliance milestone provisions that are listed in Paragraph 29 (c), and (e) through (i) of the AOC. Paragraph 29 (c) of the revised AOC requires the County to acquire land for the proposed Pāhala Wastewater Treatment Facility ("WWTP") by November 8, 2020.¹ The County is now requesting an extension of the revised compliance milestone deadline to acquire land.

The County explained that it is necessary to extend the revised compliance provision deadline because Governor Ige's Emergency Proclamations implementing Hawai'i's Emergency Rules for reducing the spread of COVID-19 across the state has significantly delayed the eminent domain proceedings that are required for the County to procure a portion of Tax Map Key (3) 9-6-002:018 from the Bernice Pauahi Bishop Estate Trust ("Kamehameha Schools") for the proposed Pāhala WWTP. Considering that the travel and social distancing restrictions imposed by Governor Ige's Emergency Proclamations on the COVID-19 pandemic has impacted the County's and Kamehameha Schools' ability to organize and participate in critical meetings to discuss terms for condemnation of the property, EPA agrees that the Pāhala land acquisition milestone listed in Paragraph 29 (c) warrants an extension in accordance with Paragraph 52 of the AOC.

¹ Paragraph 29 (c) of the revised AOC requires the County to acquire land for the proposed Pāhala WWTP within 8 months of publication of the Final Environmental Assessment (EA), but no later than January 24, 2021. The Final EA was published March 8, 2020, making the land acquisition milestone due date November 8, 2020.

In its request, the County proposes to extend the compliance provision deadline to June 28, 2021. Based on the County's updated description of remaining steps required for acquisition of the property that was submitted as part of the extension request letter, EPA finds that the proposed date allows a reasonable timeframe for the County to complete the necessary measures for compliance, and is therefore granting an extension of the requirement in Paragraphs 29 (c) of the AOC. In accordance with the date proposed in the County's request for an extension, EPA expects that acquisition of land for the proposed Pāhala WWTP to be completed by **June 28, 2021**.

Please note that this approval does not extend or excuse compliance with any other deadlines in the AOC, and nothing in this letter precludes the County for good reason from seeking extensions for other requirements of the AOC as the Pāhala LCC closure project continues to proceed.

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. Legal questions should be addressed to Ms. Kimberly Wells at (415) 972-3056 or wells.kimberly@epa.gov.

Sincerely,

Thanne Berg
Assistant Director
Water Enforcement Branch
Enforcement and Compliance Assurance Division