

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX**

75 Hawthorne Street
San Francisco, California 94105

IN THE MATTER OF:)
)
State of Hawai‘i, Department of Human)
Services)
Respondent.)
Proceedings under Sections 1423(c) of the)
Safe Drinking Water Act,)
42 U.S.C. §§ 300h-2(c).)

DOCKET NO. UIC-09-2020-0032

**CONSENT AGREEMENT
AND
FINAL ORDER**

CONSENT AGREEMENT

I. AUTHORITIES AND PARTIES

1. The United States Environmental Protection Agency (“EPA”), Region IX and the State of Hawai‘i, Department of Human Services (“Respondent”) (collectively the “Parties”) agree to settle this matter and consent to the filing of this Consent Agreement and Final Order (“CA/FO”). The CA/FO commences and concludes this proceeding in accordance with 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and 22.45(b).
2. This is a civil administrative action brought by EPA Region IX against Respondent pursuant to Section 1423(c) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300h-2(c), for violations of the SDWA and the Underground Injection Control (“UIC”) requirements set forth at 40 C.F.R. Part 144.
3. Complainant is the Director of the Enforcement and Compliance Assurance Division, EPA Region IX. The Administrator of EPA delegated to the Regional Administrator of EPA Region IX the authority to bring and settle this action under the SDWA. In turn, the Regional Administrator further delegated the authority to bring this action and sign a consent

1 agreement settling this action under the SDWA to the Director of the Enforcement and
2 Compliance Assurance Division.

3 4. Respondent is a department of the Hawai'i state government.

4 II. APPLICABLE STATUTES AND REGULATIONS

5 5. Pursuant to SDWA Sections 1421 to 1429, 42 U.S.C. §§ 300h to 300h-8, EPA has
6 promulgated regulations at 40 C.F.R. Part 144 establishing minimum requirements for UIC
7 programs to prevent underground injection that endangers drinking water sources.

8 6. "Underground injection" means the subsurface emplacement of fluids by well
9 injection. 42 U.S.C. § 300h(d)(1); 40 C.F.R. § 144.3.

10 7. "Well injection" means the subsurface emplacement of fluids through a well. 40
11 C.F.R. § 144.3.

12 8. "Well" means, in relevant part, a dug hole whose depth is greater than the largest
13 surface dimension. 40 C.F.R. § 144.3.

14 9. A "cesspool" is a "drywell," which in turn is a "well," as those terms are defined
15 in 40 C.F.R. § 144.3.

16 10. "Large capacity cesspools" ("LCCs") include "multiple dwelling, community or
17 regional cesspools, or other devices that receive sanitary wastes, containing human excreta,
18 which have an open bottom and sometimes perforated sides." 40 C.F.R. § 144.81(2). LCCs do
19 not include single-family residential cesspools or non-residential cesspools which receive solely
20 sanitary waste and have the capacity to serve fewer than 20 persons per day. *Id.*

21 11. UIC program regulations classify LCCs as Class V UIC injection wells. 40 C.F.R.
22 § 144.80(e).

23 12. Class V UIC injection wells are considered a "facility or activity" subject to
24 regulation under the UIC program. 40 C.F.R. § 144.3.

1 13. "Owner or operator" means the owner or operator of any "facility or activity"
2 subject to regulation under the UIC program. 40 C.F.R. § 144.3.

3 14. The "owner or operator" of a Class V UIC well must comply with Federal UIC
4 requirements in 40 C.F.R. Parts 144 through 147 and must also comply with any other measures
5 required by the owner's and operator's State or EPA Regional Office UIC Program to protect
6 underground sources of drinking water. 40 C.F.R. § 144.82.

7 15. Owners or operators of existing LCCs were required to have closed those LCCs
8 no later than April 5, 2005. 40 C.F.R. §§ 144.84(b)(2) and 144.88.

9 16. Pursuant to Section 1422(c) of the SDWA, 42 U.S.C. § 300h-1(c), and 40 C.F.R.
10 § 147.601, EPA administers the UIC program in the State of Hawai'i. This UIC program consists
11 of the program requirements of 40 C.F.R. Parts 124, 144, 146, 147 (Subpart M), and 148.

12 17. Pursuant to Section 1423(c)(1) of the SDWA, 42 U.S.C. § 300h-2(c)(1), and 40
13 C.F.R. § 19.4, EPA may issue an administrative order either assessing a civil penalty of not more
14 than \$23,331 per day per violation up to a maximum of \$291,641 or requiring compliance, or
15 both, against any person who violates the SDWA or any requirement of an applicable UIC
16 program.

17 III. ALLEGATIONS

18 18. Respondent is a department of the State of Hawai'i and thus qualifies as a
19 "person" within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40
20 C.F.R. § 144.3.

21 19. Respondent owns or is the lessee of at least seven (7) properties in the state of
22 Hawai'i, at least one of which contain LCCs.

23 20. Between at least April 1, 2018 and April 1, 2023, Respondent owned and/or
24 operated at least two LCCs as that term is defined at 40 C.F.R. § 144.81(2).
25

1 27. Issuance of this CA/FO does not in any manner affect the right of EPA to pursue
2 appropriate injunctive or other equitable relief or criminal sanctions for any violations of law,
3 except with respect to those claims against Respondent described in Paragraph 24 that have been
4 specifically resolved by this CA/FO.

5 28. This CA/FO is not a permit or modification of a permit and does not affect
6 Respondent's obligation to comply with all federal, state, local laws, ordinances, regulations,
7 permits, and orders. Issuance of, or compliance with, this CA/FO does not waive, extinguish,
8 satisfy, or otherwise affect Respondent's obligation to comply with all applicable requirements
9 of the SDWA, regulations promulgated thereunder, and any order or permit issued thereunder,
10 except as specifically set forth herein.

11 29. EPA reserves any and all legal and equitable remedies available to enforce this
12 CA/FO, as well as the right to seek recovery of any costs and attorneys' fees incurred by EPA in
13 any actions against Respondent for noncompliance with this CA/FO.

14 30. Unless otherwise specified, the Parties shall each bear their own costs and
15 attorneys' fees incurred in this proceeding.

16 31. This CA/FO may be executed and transmitted by facsimile, email or other
17 electronic means, and in multiple counterparts, each of which shall be deemed an original, but all
18 of which shall constitute an instrument. If any portion of this CA/FO is determined to be
19 unenforceable by a competent court or tribunal, the Parties agree that the remaining portions
20 shall remain in full force and effect.

21 32. The undersigned representative of each party certifies that he or she is duly and
22 fully authorized to enter into and ratify this CA/FO.

23 B. PENALTY

24 33. Respondent agrees to the assessment of a civil penalty in the amount of one
25 hundred twenty-eight thousand dollars (\$128,000) for the violation of the SDWA at the HYCF.

1 Facility property alleged in Section III of this CA/FO.

2 34. Respondent shall pay the assessed penalty no later than thirty (30) days from the
3 Effective Date of this CA/FO.

4 35. Respondent may pay the penalty by check (mail or overnight delivery), wire
5 transfer, automated clearing house, or online payment. Payment instructions are available at:
6 <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified
7 check must be payable to the order of "Treasurer, United States of America" and delivered to the
8 following address:

9 U.S. Environmental Protection Agency
10 Fines and Penalties
11 Cincinnati Finance Center
12 P.O. Box 979077
13 St. Louis, Missouri 63197-9000

14 36. Concurrent with making the payment pursuant to Paragraphs 33 through 35,
15 Respondent must provide a letter with evidence of the payment and the title and docket number
16 of this action, to the EPA Region IX Regional Hearing Clerk, via United States mail, at:

17 Regional Hearing Clerk
18 U.S. Environmental Protection Agency
19 Region IX - Office of Regional Counsel
20 75 Hawthorne Street (ORC-1)
21 San Francisco, CA 94105

22 Respondent shall also send copies of the letter to the EPA Region IX Enforcement and
23 Compliance Assurance Division Enforcement Officer and the EPA Region IX Office of Regional
24 Counsel attorney in accordance with Paragraph 66.

25 37. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13,
interest, penalty charges, and administrative costs will be assessed against the outstanding
amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative
penalty by the deadline specified in Paragraph 34.

1 38. Interest on delinquent penalties will be assessed at an annual rate that is equal to
2 the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan
3 account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register
4 and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1).

5 39. A penalty charge will be assessed on all debts more than 90 days delinquent. The
6 penalty charge will be at a rate of 6% per annum and will be assessed monthly. 40 C.F.R. §
7 13.11(c).

8 40. In addition, administrative costs for handling and collecting Respondent's
9 overdue debt will be assessed based on either actual or average cost incurred and will include
10 both direct and indirect costs. 40 C.F.R. § 13.11(b).

11 41. Failure to pay any civil administrative penalty by the deadline may also lead to
12 any or all of the following actions:

- 13 a. The debt being referred to a collection agency, a credit reporting agency, or to
14 the Department of Justice for filing of a collection action in the appropriate
15 United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any
16 such collection action, the validity, amount, and appropriateness of the
17 assessed penalty and of this CA/FO shall not be subject to review.
- 18 b. The department or agency to which this matter is referred (e.g., the
19 Department of Justice, the Internal Revenue Service) may assess
20 administrative costs for handling and collecting Respondent's overdue debt in
21 addition to EPA's administrative costs.
- 22 c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or
23 (ii) suspend or disqualify Respondent from doing business with EPA or
24 engaging in programs EPA sponsors or funds. 40 C.F.R. § 13.17.
- 25

1 42. Respondent shall tender any interest, handling charges, late penalty payments, and
2 stipulated penalties in the same manner as described in Paragraphs 35 and 36.

3 C. COMPLIANCE

4 43. Pursuant to Section 1423(c)(1) of the Act, 42 U.S.C. § 300h-2(c)(1), and
5 consistent with the timeframes set forth below, Respondent shall:

- 6 a. no later than April 1, 2023 close the LCCs located at the HYCF Facility as
7 required by and in accordance with 40 C.F.R. §§ 144.84(b)(2), 144.88(a), and
8 144.89(a), and all other applicable requirements, including all Hawai'i
9 Department of Health ("HDOH") closure, conversion, and/or replacement
10 requirements. If Respondent installs one or more replacement wastewater
11 systems, such as Individual Wastewater Systems ("IWSs"), then installation and
12 operation of such systems shall comply with all HDOH requirements. If
13 Respondent connects to a municipal sewer system, then that connection shall
14 comply with all City and County of Honolulu sewer connection requirements; and
15 b. within thirty (30) days of closure of the LCCs, submit to EPA a description of
16 how the LCCs were closed and identify the contractor(s) providing the service as
17 well as copies of the cesspool Backfill Closure Report(s) for the closure of the
18 cesspool. Respondent shall also submit all related approvals, including for any
19 replacement systems, issued by HDOH within thirty (30) days of closure of the
20 LCCs, provided that, should HDOH not issue any approval within thirty (30) days
21 of closure, Respondent shall submit HDOH's approval to EPA within fourteen
22 (14) days of receipt of any approval.

23 44. Respondent shall also perform a compliance audit ("Audit") in accordance with
24 Paragraphs 46-51 of its properties in the state of Hawai'i to identify and close all identified
25 LCCs.

1 45. EPA and Respondent agree that violations reported or otherwise disclosed to
2 EPA and corrected under, and in accordance with, this CA/FO and the applicable provisions of
3 EPA’s Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of
4 Violations (“Audit Policy”), 65 Fed. Reg. 19,618 (Apr. 11, 2000), shall be eligible for 100%
5 mitigation of gravity-based penalties. The parties further agree that this CA/FO is intended to
6 serve the objectives of, and be interpreted in harmony with, the Audit Policy. In the event of an
7 actual or perceived conflict between the terms of this CA/FO and of the Audit Policy, the parties
8 agree that the terms of this CA/FO shall prevail in regard to whether or not the criteria set forth
9 in the Audit Policy have been met.

10 46. The Audit shall comply with the following requirements:

- 11 a. Scope: All Target Properties must be inspected pursuant to Subparagraph d of
12 this Paragraph and an inspection report that addresses each Target Property
13 must be prepared pursuant to Paragraph 47. All LCCs identified shall be
14 closed in accordance with Paragraph 48. The following definitions apply:
- 15 i. Target Properties: This includes all properties in Hawai‘i owned by
16 Respondent or where Respondent is a lessee that contain or potentially
17 contain an LCC and are not otherwise excluded as Non-Target Properties.
18 All Properties owned and/or operated by Respondent in the state of Hawai‘i
19 shall be treated as Target Properties for purposes of this Audit unless
20 Respondent finds sufficient documentation that the property is properly
21 classified as a Non-Target Property pursuant to Subparagraph a.ii of this
22 Paragraph.
- 23 ii. Non-Target Properties: Non-Target Properties include those that (A) are
24 connected to a sewer system; (B) contain an on-site wastewater treatment
25

1 facility permitted by HDOH; or (C) contain an HDOH-permitted Individual
2 Wastewater System (“IWS”) that is not a cesspool.

3 iii. Sufficient Documentation: Respondent shall rely on Sufficient
4 Documentation that a particular property is a Non-Target Property and does
5 not otherwise contain a LCC. For the purposes of this CA/FO, Sufficient
6 Documentation means:

7 A. For Properties connected to a sewer, written confirmation of the
8 connection from the county or private sewer operator; building plans
9 documenting the connection to a county or private sewer system; or
10 a sewer bill from the past year.

11 B. For properties that contain an on-site wastewater treatment system,
12 an HDOH permit or written documentation from HDOH of approval
13 to operate the wastewater treatment system.

14 C. For properties that contain a non-cesspool IWS, an IWS permit from
15 HDOH or written documentation from HDOH showing that the IWS
16 is permitted and is not a cesspool.

17 iv. Respondent shall submit for EPA’s approval a list of Target and Non-Target
18 Properties by the deadline set forth in Paragraph 46.c. Each list must be
19 certified pursuant to Paragraph 68. Target Properties shall be identified by
20 address, Tax Map Key, and land use classification. Non-Target Properties
21 shall be separated into the three categories listed in Subparagraph a.ii of this
22 Paragraph. EPA will respond within fourteen (14) days to notify Respondent
23 if it disapproves of the non-target determination for any property. If EPA
24 disapproves a non-target determination, the property is a Target Property
25 and must be inspected pursuant to Subparagraph d of this Paragraph.

1 v. Respondent shall, at EPA's request, make available the documentation
2 relied upon for any purpose set forth in this Audit. Respondent shall
3 maintain the documentation relied upon until the Audit is complete and at
4 least 3 years after any violations identified have been resolved by formal
5 settlement in accordance with the Audit Policy, 65 Fed. Reg. 19,624 and
6 19,626.

7 b. Independent Third-Party Auditor

8 i. Inspection of all Target Properties performed pursuant to Subparagraph d
9 of this Paragraph shall be conducted by an independent third-party
10 auditor (the "Auditor") who has experience with LCCs. Respondent shall
11 ensure that the Auditor supervise the preparation of and sign the
12 Inspection Completion Reports as required by Paragraph 47 of this
13 CA/FO; and prepare and sign the Final LCC Closure Reports as required
14 under Paragraph 49 of this CA/FO.

15 ii. Recordkeeping: Respondent shall include in its written agreement with
16 the Auditor a provision requiring the Auditor to prepare and maintain
17 contemporaneous records when supervising or assisting in the conduct of
18 the Audit. The Auditor's records of the Audit shall be made available to
19 EPA upon request.

20 iii. Approval of Auditor: No later than thirty (30) calendar days following the
21 Effective Date of this CA/FO, Respondent shall notify EPA in writing of
22 Respondent's choice of the Auditor and provide a curriculum vitae and
23 list of past cesspool projects performed by the proposed Auditor. At its
24 sole discretion, EPA may approve or disapprove Respondent's choice of
25 the Auditor. Within fifteen (15) calendar days of EPA's receipt of

1 Respondent's notice of its choice of an Auditor, EPA will respond in
2 writing to Respondent's nomination. If EPA notifies Respondent that
3 Respondent's choice of an Auditor is unacceptable, Respondent shall
4 have additional thirty (30) calendar days in which to nominate a different
5 Auditor, and to provide the information required by this Paragraph to
6 EPA for approval of the secondary Auditor choice.

7 c. Inspection Schedule:

- 8 i. All Target Properties will be subject to the Audit in accordance with the
9 following schedule:
10 ii. Within thirty (30) calendar days of the Effective Date for this CA/FO,
11 Respondent shall submit to EPA a list of Target and Non-Target Properties.
12 iii. Inspections of the Target and Non-Target Properties shall be completed by
13 April 1, 2021.

14 d. Inspection Procedures:

- 15 i. The Auditor shall inspect each of the Target Properties for the presence of
16 an LCC. Each inspection shall include an on-site visual inspection of the
17 Target Property. Additionally, inspections may include, but are not limited
18 to, a review of property records, permits, water use records, and/or other
19 documentation, and interviews with employees of Respondent, occupants,
20 tenants and/or lessees, as needed to confirm the presence (or absence) and
21 location of an LCC.
22 ii. All work will be in accordance with accepted standards of professional
23 engineering procedures as practiced by members of the local engineering
24 profession currently practicing in Hawai'i under similar conditions.

25 47. Inspection Completion Report:

1 a. The Auditor shall prepare an Inspection Completion Report documenting the
2 findings of the inspections of the Target Properties. The Inspection
3 Completion Report shall include:

4 i. A description of how the Audit Procedures were followed in completing the
5 Audit.

6 ii. The number of LCCs located on Target Properties, a description of each
7 LCC, and a description of how the LCC was identified and/or confirmed.

8 iii. For those Target Properties that were determined not to contain an LCC, a
9 description of how it was determined that the property did not contain an
10 LCC and what, if any, other wastewater treatment system is being used.

11 b. The Inspection Completion Report shall be submitted within sixty (60) days of
12 the Inspection completion date.

13 48. LCC Closures and Schedule:

14 a. With the Inspection Completion Report, Respondent shall also submit for EPA's
15 approval a plan and schedule for closure of any LCCs identified.

16 b. LCCs shall be closed as soon as possible, but no later than April 1, 2023, subject
17 to Section G of this CA/FO. Construction plans for an IWS shall be prepared and
18 submitted to HDOH for approval or Respondent must apply for a sewer
19 connection within thirty (30) days of submission of the Inspection Completion
20 Report.

21 c. LCCs shall be closed in accordance with 40 C.F.R. §§ 144.84(b)(2), 144.88(a)
22 and 144.89(a), and all applicable federal, state, and local closure requirements.

23 49. Final LCC Closure Reports: Within ten (10) days of obtaining HDOH approval of
24 the Backfill Closure Report for each identified LCC, the Auditor shall submit a Final LCC
25

1 Closure Report for that particular LCC briefly describing and documenting completion of the
2 LCC closure steps to EPA that includes, at a minimum, the following:

- 3 a. HDOH permit to operate an IWS or approval to connect to sewer;
- 4 b. A copy of the approved LCC backfill closure report; and

5 50. The Audit shall not affect EPA's right to bring a claim or cause of action other
6 than those specified in Section III of this CA/FO, including a claim or cause of action for an
7 LCC violation that could have been, but was not, reported and closed as part of the Audit.

8 51. Respondent shall bear all costs associated with the Audit.

9 D. THIRD-PARTY LIABILITY

10 52. This CA/FO does not alter the rights, obligations, or liabilities of any party other
11 than EPA or Respondent.

12 E. STIPULATED PENALTIES

13 57. If Respondent fails to pay the assessed civil administrative penalty specified in
14 Paragraph 33 by the deadline specified in Paragraph 34, or fails to meet the compliance deadline
15 for closure of the two (2) cesspools at the HYCF Facility by the deadline specified at Paragraph
16 43, Respondent agrees to pay in addition to the assessed penalty, a stipulated penalty of \$250
17 per day for each day Respondent is late in making the penalty payment or meeting the closure
18 deadline for the HYCF Facility LCCs. If Respondent fails to timely submit any reports in
19 accordance with the timelines set forth in this CA/FO, Respondent agrees to pay a stipulated
20 penalty of \$75 for each day after the report was due until it submits the report in its entirety.

21 58. Respondent agrees to pay any stipulated penalties within thirty (30) days of
22 receipt of EPA's written demand for such penalties. All penalties shall begin to accrue on the
23 first date of noncompliance and shall continue to accrue through the date of completion of the
24 delinquent CA/FO requirement. Respondent will use the method of payment specified in Section
25 IV.B of this CA/FO, and agrees to pay interest, handling charges and penalties that accrue for

1 late payment of the stipulated penalty in the same manner set forth in Section IV.B of this
2 CA/FO.

3 59. Neither the demand for, nor payment of, a stipulated penalty relieves Respondent
4 of its obligation to comply with any requirement of this CA/FO or modifies or waives any
5 deadlines set forth in this CA/FO.

6 60. EPA may, in the unreviewable exercise of its discretion, elect to pursue any other
7 administrative or judicial remedies in addition to or in lieu of assessing stipulated penalties
8 and/or reduce or waive stipulated penalties due under this CA/FO.

9 G. FORCE MAJEURE

10 61. For purposes of this CA/FO, *force majeure* is defined as any event arising from
11 causes that are beyond the control of Respondent, any entity controlled by Respondent, or
12 Respondent's contractors, which delays or prevents the performance of any obligation under this
13 CA/FO despite Respondent's reasonable best efforts to fulfill the obligation. The requirement
14 that Respondent exercise "reasonable best efforts to fulfill the obligation" includes using
15 reasonable best efforts to anticipate any potential *force majeure* event and reasonable best efforts
16 to address the effects of any such event (a) as it is occurring and (b) after it has occurred to
17 prevent or minimize any resulting delay to the greatest extent possible. Examples of *force*
18 *majeure* events include, but are not limited to, unforeseen environmental, geological, or
19 archaeological conditions; labor or equipment shortage, and delays caused by third-party tenants
20 or landowners. Examples of events that are not *force majeure* include, but are not limited to,
21 increased costs or expenses of any work to be performed under this CA/FO and normal
22 inclement weather.

23 62. If any event occurs that causes or is likely to cause delay in the achievement of
24 any requirement or time frame specified in this CA/FO, Respondent shall notify EPA in writing,
25 within ten (10) business days after learning of such event, of the anticipated length and cause of

1 the delay, whether Respondent believes the delay or anticipated delay constitutes a *force majeure*
2 event, as defined in Paragraph 61, the measures Respondent has taken and/or will take to prevent
3 or minimize the delay, and the timetable by which Respondent intends to implement these
4 measures and achieve the requirement or meet the time frame. Respondent shall adopt all
5 reasonable measures to avoid or minimize delay. Submittal of the notice to EPA required by this
6 paragraph does not by itself extend the deadline or timeframe for any requirement specified in
7 this CA/FO.

8 63. If, upon receiving the notice required under Paragraph 62, EPA agrees that the
9 delay or anticipated delay in compliance with this CA/FO has been or will be caused by
10 circumstances that constitute a *force majeure* event as defined in Paragraph 61, EPA may grant
11 an extension of time for compliance for a period of time no longer than any delay resulting from
12 the circumstances causing the delay or anticipated delay. EPA also retains discretion to grant
13 extensions for reasons other than those established as *force majeure* events.

14 64. Respondent has the burden of demonstrating that the actual or anticipated delay
15 has been or will be caused by a *force majeure* event, that the duration of the delay was or will be
16 warranted under the circumstances, that Respondent exercised or is using its best efforts to avoid
17 and mitigate the effects of the delay or anticipated delay, and that Respondent complied with the
18 requirements of this CA/FO.

19 65. In the event that EPA does not agree that a delay or anticipated delay in achieving
20 compliance with the requirements of this CA/FO have been or will be caused by a *force majeure*
21 event, EPA will notify Respondent in writing of EPA's decision and the delay or anticipated
22 delay will not be excused.

23 H. NOTICES

24 66. Unless otherwise specified elsewhere in this CA/FO, all written communications
25 required by this CA/FO shall be addressed as follows:

1 For EPA:

2 Jelani Shareem, Enforcement Officer
3 U.S. Environmental Protection Agency
4 Region IX - Enforcement and Compliance Assurance Division
5 75 Hawthorne Street (ENF-3-3)
6 San Francisco, CA 94105

7 Jennifer A. Pierce, Attorney Advisor
8 U.S. Environmental Protection Agency
9 Region IX – Office of Regional Counsel
10 75 Hawthorne Street (ORC-2-3)
11 San Francisco, CA 94105

12 For Respondent:

13 Pankaj Bhanot, Director of Human Services
14 Department of Human Services
15 P.O. Box 339
16 Honolulu, HI 96809-0339

17 For each written communication and/or submittal, Respondent shall identify the case name, the
18 case Docket Number, and the paragraph and/or requirement of this CA/FO under which the
19 submission is being made.

20 67. Respondent shall submit to EPA such additional documents and information as
21 EPA may reasonably request to determine Respondent's compliance with this CA/FO.

22 68. Respondent shall include the following signed certification made in accordance
23 with 40 C.F.R. § 144.32(b) and (d) with all written communications required by this CA/FO:

24 *I certify under penalty of law that this document and all attachments
25 were prepared under my direction or supervision in accordance with
a system designed to assure that qualified personnel properly gather
and evaluate the information submitted. Based on my inquiry of the
person or persons who manage the system, or those persons directly
responsible for gathering the information, the information submitted
is, to the best of my knowledge and belief, true, accurate, and
complete. I am aware that there are significant penalties for
submitting false information, including the possibility of fine and
imprisonment for knowing violations.*

1 V. EFFECTIVE DATE

2 69. Pursuant to 40 C.F.R. § 22.45, this CA/FO will be subject to public notice and
3 comment at least forty (40) days prior to it becoming effective through the issuance of the final
4 order by the Regional Judicial Officer.

5 70. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be
6 effective on the date that the final order contained in this CA/FO, having been approved and
7 issued by either the Regional Judicial Officer or Regional Administrator, is filed with the
8 Regional Hearing Clerk.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FOR THE CONSENTING PARTIES:
FOR RESPONDENT STATE OF HAWAII,
DEPARTMENT OF HUMAN SERVICES:

Pankaj Bhanot

Date: 05/04/2020

Pankaj Bhanot
Director of Human Services
Department of Human Services

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

**AMY MILLER-
BOWEN** Digitally signed by AMY
MILLER-BOWEN
Date: 2020.07.01 09:10:58
-07'00'

Date: _____

Amy C. Miller -Bowen
Director, Enforcement and Compliance Assurance Division, Region IX
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

Of counsel:

Jennifer A. Pierce
Attorney-Advisor
Office of Regional Counsel
U.S. Environmental Protection Agency, Region IX

1 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
2 REGION IX

75 Hawthorne Street
San Francisco, California 94105

3 IN THE MATTER OF:)
4)
5 State of Hawai'i, Department of Human)
Services)
6 Respondent.)
7)
8 Proceedings under Sections 1423(c) of the Safe)
Drinking Water Act, 42 U.S.C. §§ 300h-2(c).)

DOCKET NO. UIC-09-2020-0032

CONSENT AGREEMENT
AND
FINAL ORDER

9
10 FINAL ORDER

11 The United States Environmental Protection Agency Region IX ("EPA"), and the State of
12 Hawai'i, Department of Human Services ("Respondent") (collectively the "Parties"), having
13 entered into the foregoing Consent Agreement, and EPA having duly publicly noticed the
14 Stipulations and Findings and Final Order regarding the matters alleged therein,

15 IT IS HEREBY ORDERED THAT:

- 16 1. The foregoing Consent Agreement and this Final Order (Docket No. UIC-09-2020-
17 0032) be entered;
- 18 2. Respondent pay an administrative civil penalty of \$128,000 dollars to the Treasurer of the
19 United States of America in accordance with the terms set forth in the Consent Agreement;
- 20 3. Respondent comply with all other requirements of the Consent Agreement.
- 21

22 ///

23 ///

24 ///

25 *In re Department of Human Services*

1 This Final Order is effective on the date that it is filed. This Final Order constitutes full
2 adjudication of the allegations in the Consent Agreement entered into by the Parties in this
3 proceeding.

4 **STEVEN JAWGIEL** Digitally signed by STEVEN
JAWGIEL
Date: 2020.08.07 10:32:05 -07'00' Date: _____

5 Steven L. Jawgiel
6 Regional Judicial Officer, Region IX
U.S. Environmental Protection Agency

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 **CERTIFICATE OF SERVICE**

2 This is to certify that the forgoing CONSENT AGREEMENT incorporating a FINAL ORDER
3 in the matter of the State of Hawaii, Department of Human Services (UIC-09-2020-0032), has
4 been filed with the Regional Hearing Clerk and sent to the parties as follows.

5 ELECTRONIC MAIL

6 Respondent:

Pankaj Bhanot, Director
Hawaii Department of Human
7 Services - Director's Office
8 pbhanot@dhs.hawaii.gov

9
10 ELECTRONIC MAIL

11 Complainant:

Jennifer Pierce, Attorney Advisor
United States Environmental Protection Agency
12 Region IX – Office of Regional Counsel
13 Pierce.jennifer@epa.gov

14
15
16
17 Dated _____

18 **Steven**
Armsey
19 Digitally signed by
Steven Armsey
Date: 2020.08.07
16:40:19 -07'00'
20
21
22
23
24
25

Steven Armsey
Regional Hearing Clerk
U.S. EPA, Region 9