



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

**Sent Via Electronic Mail**

Duke Pontin, Officer  
NSHE HI Narcissus LLC  
56211 Kamehameha Highway  
Kahuku, HI 96731  
[pontind@icloud.com](mailto:pontind@icloud.com)

**Re: Show Cause Letter: Failure to Close one (1) Large Capacity Cesspool in Violation of the Safe Drinking Water Act.**

Dear Duke Pontin:

The United States Environmental Protection Agency, Region IX (“EPA”) is issuing this show cause letter to NSHE HI Narcissus LLC for failure to close one (1) Large Capacity Cesspool (“LCC”) that serves the commercial property located at 66-532 Kamehameha Highway, Haleiwa, HI 96712 (Tax Map Key: 1-6-2-007-019). This LCC has not been closed in accordance with the Underground Injection Control (“UIC”) Program regulations at 40 C.F.R. Part 144, promulgated pursuant to the Safe Drinking Water Act (“the SDWA”), 42 U.S.C. § 300f et seq. The UIC regulations classify LCCs as multiple dwelling, community or regional cesspools, or other devices that receive sanitary wastes, containing human excreta, which have an open bottom and sometimes perforated sides, but does not include (1) single family residential cesspools or (2) non-residential cesspools which receive solely sanitary waste and have the capacity to serve fewer than 20 persons a day. 40 C.F.R. § 144.81(2). All LCCs were required to be closed by April 5, 2005. 40 C.F.R. §§ 144.81(2) and 144.88. EPA has determined that NSHE HI Narcissus LLC, as the current owner of the LCC, is liable under the SDWA for failing to close the LCC by the April 5, 2005 regulatory deadline or any time afterwards.

Pursuant to Section 1423(c)(1) of the Act, 42 U.S.C. § 300h-2(c)(1), and 40 C.F.R. § 19.4, EPA may issue an order requiring compliance and/or assessing a civil administrative penalty of up to \$23,607 for each day for each violation, up to a maximum penalty of \$295,088, against any person who violates the SDWA or any requirement of an applicable UIC program. The SDWA also provides that a violator may be subject to civil judicial penalties of up to \$59,017 for each day for each violation. 42 U.S.C. § 300h-2(b); 40 C.F.R. § 19.4. EPA Region IX's Enforcement and Compliance Assurance Division is preparing to issue an administrative order against NSHE HI Narcissus LLC, which would take the form of an administrative complaint issued under our Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties at 40 C.F.R. Part 22 (“the Consolidated Rules”), that will seek both compliance with the LCC closure requirements and an administrative penalty to address the ongoing violation of the SDWA.

Although EPA intends to file an administrative complaint in this matter, it does not preclude EPA from entering into negotiations to resolve the violations and, as such, we extend to NSHE HI Narcissus LLC the opportunity to engage in negotiations with EPA. If an agreement can be reached, the settlement would include both compliance and penalty conditions and would be in the form of a consent agreement

and final order filed under the Consolidated Rules. This letter also provides NSHE HI Narcissus LLC with an opportunity to provide additional information it believes that we should consider before we proceed with an enforcement action or as part of negotiations to resolve the violations.

In addition, EPA encourages regulated entities to voluntarily discover, promptly disclose, expeditiously correct, and take steps to prevent recurrence of environmental violations. Information on how to self-disclose potential environmental violations is available at: <https://www.epa.gov/compliance/epas-edisclosure>. While self-disclosure would not be available for the LCC identified in this letter because EPA independently identified the violation, self-disclosure of other violations independently identified by NSHE HI Narcissus LLC may be subject to penalty mitigation under EPA's audit policy.

We also wish to inform you that if NSHE HI Narcissus LLC is a small business, the Small Business Regulatory Enforcement and Fairness Act ("SBREFA") provides such businesses with the opportunity to submit comments on regulatory enforcement at the time of an EPA enforcement action. The enclosed Information Sheet provides information on this right, as well as information on compliance assistance that may be available to you. Be aware that the SBREFA does not eliminate your responsibilities to respond to this letter within the required time, nor does it create any new rights or defenses under the law.

If you would like to discuss settlement, have any questions about this letter, or have other information that you would like EPA to consider as it proceeds with this case, please contact Jelani Shareem of the Enforcement and Compliance and Assurance Division at (415) 972-3095 or by email at [shareem.jelani@epa.gov](mailto:shareem.jelani@epa.gov). You may also have your legal counsel contact Kimberly Wells in our Office of Regional Counsel at (415) 972-3056 or by email at [wells.kimberly@epa.gov](mailto:wells.kimberly@epa.gov).

Please contact Mr. Shareem, or have your legal counsel contact Ms. Wells, by **December 17, 2021** if NSHE HI Narcissus LLC is interested in pursuing settlement. Should NSHE HI Narcissus LLC fail to contact EPA by this date, or not agree to discuss settlement, EPA will proceed with filing an administrative complaint in this matter.

Sincerely,

Amy C. Miller-Bowen, Director  
Enforcement and Compliance Assurance Division

cc: Sina Pruder, State of Hawaii Department of Health