

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

In re:	)	
	)	
City & County of Honolulu	)	
Sand Island Wastewater Treatment Plant	)	NPDES Appeal No. 09-01
Honouliuli Wastewater Treatment Plant	)	
	)	
NPDES Permit Nos. HI0020117 & HI0020877	)	
_____	)	

**JOINT MOTION FOR EXTENSION AND STAY OF CONSIDERATION**

Respondent, the United States Environmental Protection Agency, Region IX (Region IX or the Region) and Petitioner, City and County of Honolulu (CCH), hereby jointly file this Motion for an extension of the Region’s current April 30, 2009 deadline for filing its response to the above-referenced consolidated petition (Petition) for review by one month, until May 29, 2009, the opportunity for CCH to file a reply to the Region’s response on or before October 15, 2009, and for a stay of the Board’s consideration of the Petition until no earlier than October 15, 2009.

The Petition at issue in this matter challenges two decisions of the Region IX Regional Administrator denying CCH’s requests to renew and re-issue NPDES permits that were modified under Clean Water Act section 301(h) for CCH’s Sand Island wastewater treatment plant and Honouliuli wastewater treatment plant. The Region issued the challenged decisions on January 5, 2009. On January 23, 2009, CCH filed a motion seeking relief from the regulatory deadline

for filing administrative appeals, as well as to consolidate the two possibly complex appeals. On February 2, 2009, the Board granted CCH an extension whereby CCH would file summary petitions by February 9, 2009, and supplemental briefing by March 11, 2009. CCH timely filed such summary petitions and supplemental briefing. By order dated March 31, 2009, the Board granted the request to consolidate the challenges into a single permit appeal and directed the Region to file a response to the consolidated Petition by April 30, 2009.

In addition to the Petition, the Region and CCH are engaged in other administrative appeals and judicial litigation relating to Freedom of Information Act (FOIA) requests filed by CCH and dated: April 12, 2007; April 19, 2007; December 14, 2007; and February 3, 2009. Staff from the Region and CCH who are assigned to work on the Petition are the same staff assigned to work on the FOIA litigation. In addition, some of the CCH staff assigned to work on the Petition also are assigned to work on defensive matters relating to allegations of Clean Water Act non-compliance by CCH. Because both CCH and the Region are governmental agencies with limited resources, the parties jointly file this Motion in the interest of effective management of public resources.

The parties' joint motion is premised on the recognition by respective staff for the Region and CCH that CCH's FOIA challenges require significant staff attention and resources. In addition, CCH believes that the FOIA appeals and litigation may result in production of additional documents that are relevant to the Petition, although the Region disagrees. Region IX requests an additional month to prepare its Response to the Petition. CCH does not oppose the Region's extension request and joins the Region's motion. CCH requests that the Board stay consideration of the Petition (and the Region's to-be-filed Response to the Petition) until no earlier than October 15, 2009, in anticipation that the FOIA litigation would be resolved by that

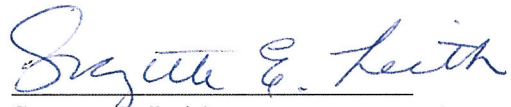
date, including the production of any additional documents that CCH would urge are relevant to the Petition. Although the Region disagrees that any of the documents withheld under FOIA would be relevant to the Petition, Region IX does not oppose CCH's administrative stay request and joins CCH's motion. Finally, CCH requests the opportunity to file with the Board on or before October 15, 2009 (1) any reply to the Region's to-be-filed Response and/or (2) any motion for leave to file supplemental briefing relating to additional documents. Region IX does not oppose CCH's request to file (on or before October 15, 2009) a reply to the Region's to-be-filed Response and joins CCH's motion, but the Region reserves its opportunity to oppose any motion for leave to file supplemental briefing that CCH might file.

The parties propose to file a status report with the Board by no later than September 15, 2009 regarding the status of the pending administrative appeals and litigation and any associated proposals relevant to the timing of the Board's consideration of the Petition.

To date, other than CCH and the Region, no other entity has sought or been granted party (or amicus) status by the Board. As such, no other party would be prejudiced by the Board granting the parties' Motion.

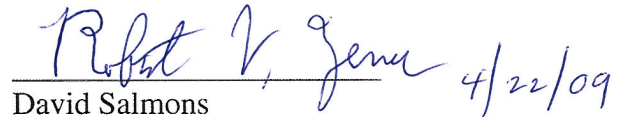
For the foregoing reasons, EPA and CCH hereby respectfully move the Board for an extension of time for EPA to file its Response to Appeal No. 09-01 until May 29, 2009, an opportunity for CCH to file a reply to the Region's to-be-filed Response on or before October 15, 2009, and a stay of the Board's consideration of the Petition until no earlier than October 15, 2009, with a status report filed by the parties with the Board on or before September 15, 2009.

Respectfully submitted,



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4-21-09



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4/22/09