



U.S. ENVIRONMENTAL PROTECTION AGENCY

Office of Regional Counsel

Region IX

75 Hawthorne Street

San Francisco, CA 94105

Phone Number (415) 947-8705

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PLEASE DELIVER TO:

NAME Ms. Surika Durr, Clerk of the Board
 FAX # 202-233-0121
 PHONE # 202-233-0122
 OFFICE Environmental Appeals Board

NAME Mr. David Salmon
 FAX # 202-373-6001
 PHONE # 202-373-6000
 OFFICE Benjamin McCutchan

NAME _____
 FAX # _____
 PHONE # _____
 OFFICE _____

FROM:

NAME Suzette Lich
 PHONE # 415 972 3884
 DATE 7-27-09

This transmission consists of 5 page(s) including this cover page.

ADDITIONAL MESSAGE NDES Appeal 09-01
Unopposed Motion to File Response to motion to
Supplement Record concurrently with Survey (Brief)

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901JUL 27 12:03
EPA
ENVIRONMENTAL APPEALS BOARD

July 27, 2009

VIA FAX AND OVERNIGHT EPA POUCHMs. Eurika Durr
Clerk of the Board
Environmental Appeals Board
U.S. Environmental Protection Agency
Colorado Building
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

Re: NPDES Appeal No. 09-01

Dear Ms. Durr:

Enclosed please find the original and five copies of EPA Region IX's Unopposed Motion to File Response to Motion to Supplement Record Concurrently with Surreply Brief in the above-referenced case. A copy of this Motion is also being sent to via FAX today.

Copies are also being provided to Mr. David Salmons, counsel for City and County of Honolulu, and to Mr. Victor D. Moreland.

My contact information is as follows:

direct telephone: (415) 972-3884
office FAX: (415) 947-3570
email: leith.suzette@epa.gov

Do not hesitate to contact me if there are questions.

Sincerely yours,

A handwritten signature in cursive script that reads "Suzette E. Leith".

Suzette E. Leith
Assistant Regional Counsel (ORC-2)

Enclosures:

Unopposed Motion to File Response to Supplement Record Concurrently with Surreply Brief
Certificate of Service

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

JUL 27 10 12 AM '09
ENVIRONMENTAL APPEALS BOARD

In re:)
)
City & County of Honolulu)
Sand Island Wastewater Treatment Plant)
Honouliuli Wastewater Treatment Plant)
)
NPDES Permit Nos. HI0020117 & HI0020877)
_____)

NPDES Appeal No. 09-01

**UNOPPOSED MOTION TO FILE RESPONSE TO MOTION TO SUPPLEMENT
RECORD CONCURRENTLY WITH SURREPLY BRIEF**

Respondent, the United States Environmental Protection Agency, Region IX (the Region), hereby files this Unopposed Motion to set August 17, 2009, as the deadline for the Region to file its Response to the Motion filed by Petitioner City and County of Honolulu (CCH) to Supplement Record on Appeal in the above-referenced case. This is the deadline for the Region to file its surreply brief. CCH does not oppose this motion.

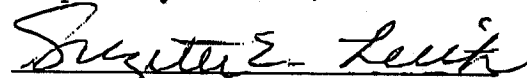
On June 12, 2009, the Board issued an Order Denying Stay and Establishing Further Briefing Schedule, in which the Board directed CCH, if it wished to file a reply to the Region's response to CCH's petition for review, to file its reply on or before July 15, 2009. The Board further directed the Region, if it wished to file a surreply to CCH's reply, to do so on or before August 17, 2009. In a footnote to the Order, the Board indicated that CCH was not precluded from filing a motion to supplement the administrative records, and that if CCH did so, Region 9 would be given an appropriate

opportunity to respond. The Board declined to establish specific dates for filings related to any such CCH motion or Region 9 response.

On July 15, 2009, CCH filed its Reply Brief in Support of Consolidated Petition for Review as well as a Motion to Supplement Record on Appeal. Pursuant to the Board's June 12 Order, the Region's surreply is due August 17. Because many of the issues raised by CCH in its Reply Brief relate to the Motion to Supplement Record on Appeal, the Region would consider it most efficient to file its Response to the Motion to Supplement concurrently with its surreply brief, on or before August 17, 2009.

Counsel for the Region has contacted counsel for CCH, who does not oppose Region 9 filing its response to the Motion to Supplement the Record on Appeal on or before August 17, 2009. To date, other than CCH and the Region, no other entity has been granted party (or amicus) status by the Board. As such, no other party would be prejudiced by the Board granting this Motion.

Respectfully submitted,



Suzette E. Leith
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Of Counsel:
Stephen J. Sweeney
Office of General Counsel (2355A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

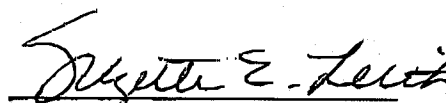
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Unopposed Motion to File Response to Motion to Supplement Record Concurrently with Surreply Brief was sent by FAX on this 27th day of July, 2009 to:

Mr. David Salmons
Bingham McCutchen LLP
2020 K Street NW
Washington, DC 20006

and by regular mail this same day to:

Mr. Victor D. Moreland
1378 Mahiole Street
Honolulu, HI 96819-1748


Suzette E. Leith