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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9**

IN THE MATTER OF)	
)	
	)	DOCKET NO. UIC-09-2022-0058
)	
NSHE HI Narcissus, LLC	)	COMPLAINANT’S MOTION FOR
	)	ACCELERATED DECISION
	)	ON LIABILITY
Respondent.)	
_____)	

EPA Region 9, the Complainant in this matter, requests an accelerated decision against Respondent NSHE HI Narcissus, LLC as to liability in this action. Please see the accompanying

Complainant's Memorandum in Support of its Motion for Accelerated Judgment as to Liability and declaration, for more details in support of this motion.

Respectfully submitted,

Daron
Ravenborg



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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9**

IN THE MATTER OF)	
)	
	)	DOCKET NO. UIC-09-2022-0058
)	
NSHE HI Narcissus, LLC,	)	MEMORANDUM IN
	)	SUPPORT OF COMPLAINANT'S
	)	MOTION FOR ACCELERATED
	)	DECISION ON LIABILITY
)	
Respondent.)	
_____)	

I. INTRODUCTION

This memorandum is in support of a motion for partial accelerated decision filed by Region 9 of the United States Environmental Protection Agency (EPA).

EPA filed a Penalty Complaint and Notice of Opportunity for Hearing in this matter on August 2, 2022. In the Complaint, EPA alleged that NSHE HI Narcissus, LLC, (“Respondent”) violated 40 C.F.R. § 144.88—a requirement of an applicable underground injection control program, actionable under Section 1423(a)(2) of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2(a)(2)—by owning or operating a large capacity cesspool after April 5, 2005. On August 29, 2022, Respondent filed an Answer in this matter and requested a hearing. For the reasons below, EPA respectfully requests the Presiding Officer issue an accelerated decision on liability only, while reserving the assessment of an appropriate penalty amount to future proceedings.

II. STANDARD FOR GRANTING AN ACCELERATED DECISION

The Presiding Officer may:

render an accelerated decision in favor of a party as to any or all parts of the proceeding, without further hearing or upon such limited additional evidence, such as affidavits, as he may require, if no genuine issue of material fact exists and a party is entitled to judgment as a matter of law.

40 C.F.R § 22.20

The EPA Environmental Appeals Board “has construed an accelerated decision to be in the nature of summary judgment, and has adopted the formulation of the Supreme Court in *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986), and *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986), construing Federal Rule of Civil Procedure 56.” *In Re: Amvac Chemical Corporation; Grower-shipper Association of Central California; J&D Produce; Ratto Bros., Inc.; and Huntington Farms*, 2022 WL 4968470, at *8 (EAB 2022); *see also* *BWX Techs., Inc.*, 9 E.A.D. 61, 74-75 (EAB 2000). In deciding such motions, the evidence must be viewed in a light most favorable to the non-moving party. *See Rogers Corp. v. E.P.A.*, 275 F.3d 1096, 1103 (D.C. Cir. 2002). To defeat summary judgment, the opposing party must not only “raise an issue of

material fact, but that party must demonstrate that this dispute is ‘genuine’ by referencing probative evidence in the record, or by producing such evidence.” *Green Thumb Nursery, Inc.*, 6 E.A.D. 782, 793 (EAB 1997). “The requirement that a dispute be genuine means simply that there must be more than some metaphysical doubt as to the material facts.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 261 (1986) (internal quotations omitted). Additionally, where the non-moving party’s assertion is clearly contradicted or discredited by the record, the Court should adopt the moving-party’s version of the facts. *Scott v. Harris*, 550 U.S. 372, 380 (2007).

The evidentiary standard of proof is a “preponderance of the evidence.” 40 C.F.R. § 22.24(b). The Agency bears the burdens of presentation and persuasion that a violation occurred as set forth in the Complaint, and Respondent bears the burdens of presentation and persuasion for any affirmative defenses. *Id.* § 22.24(a).

III. STATUTORY AND REGULATORY BACKGROUND

Congress enacted the Safe Drinking Water Act, commonly referenced as the SDWA, to protect underground sources of drinking water from contamination caused by, *inter alia*, the underground injection of fluids. *See* SDWA Part C, 42 U.S.C. §§ 300h to 300h-9. Pursuant to Part C of the SDWA, EPA promulgated regulations at 40 C.F.R. Part 144 to establish minimum requirements for the underground injection control (UIC) program.

As part of the UIC program, on December 7, 1999, EPA issued a final rule categorically banning new and existing large capacity cesspools, nationwide, after April 5, 2005. 64 Fed. Reg. 68546, 68553-54 (codified at 40 C.F.R. § 144.88(a)). Large capacity cesspools include

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. The UIC requirements do not apply to . . . non-residential cesspools which receive solely sanitary waste and have the capacity to serve fewer than 20 persons a day.

Id. at 68567 (codified at 40 C.F.R. § 144.81(2)).

EPA administers the UIC program directly in the State of Hawaii pursuant to Section 1422(c) of the SDWA, 42 U.S.C. § 300h-1(c), and 40 C.F.R. § 147.601, because the State has not been delegated primary enforcement responsibility. Sections 1423(a)(2) and 1423(c) of the SDWA, 42 U.S.C. §§ 300h-2(a)(2) and 300h-2(c), authorize EPA to issue an order for compliance and to seek a penalty where “any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement.”

IV. UNDISPUTED FACTS

Respondent is a Hawaiian domestic limited liability company. (Complaint filed on Aug 2, 2022 (“Complaint”) attached hereto as Exhibit A, ¶ 9; Answer filed on August 29, 2022 (“Answer”) attached hereto as Exhibit B, ¶ 3¹). Since at least October 4, 2017, Respondent has owned the real property located at 66-532 Kamehameha Highway, Haleiwa, HI 96712, Tax Map Key (TMK) 1-6-2-007-019 (hereafter, the “Property”). (Ex. A, ¶ 11; Ex. B, ¶ 1). The Property comprises a commercial building and a parking lot. (Ex. A, ¶ 12; Ex. B, ¶ 4; *see also* EPA Inspection Report from March 4, 2021 (“Inspection Report”) attached hereto as Exhibit C, Figure A). The Property had two restrooms, which were connected to a single cesspool from at least October 4, 2017, until April 28, 2021. (Ex. A, ¶ 14; Ex. B, ¶ 6²; Ex. C, Figure A, Section IV IMG_1436).

At various times between at least October 4, 2017, and April 28, 2021, the Property’s commercial building was rented. (Ex. A, ¶ 16; Ex. B, ¶ 7; *see also* Electronic-Mail from Duke

¹ Respondent’s Answer does not respond to each paragraph in the Complaint in consistent numerical order. For example, Answer Paragraph 1 admits Paragraphs 1, 2, 4, 5, 6, 7, 8, 10, 11, 15, 22, 29, 31, 32, 33, 34, 37, 38, 40, 41, and 44 of the Complaint. Accordingly, and to assist the Presiding Officer, EPA will identify the Complaint paragraph number and the corresponding Answer paragraph number for each fact referenced in this memorandum.

² Respondent notes that the restrooms were closed for repairs or inoperative for “portions” of the identified time period. However, it is not disputed that the restrooms were operable for large periods of time. Furthermore, Respondent’s assertion does not affect the “capacity” of the cesspool. If Respondent’s argument holds any relevancy as to the duration of the violation, such facts would be relevant only to the consideration of the appropriate penalty. Therefore, the claim does not raise a genuine dispute of material fact for purposes of determining liability.

Pontin, attached hereto as Exhibit E). Additionally, at various times between at least October 4, 2017, and April 28, 2021, the parking lot on the Property was rented to mobile food vendors, including Jenny’s Shrimp Truck since at least April 10, 2018, and Island Fresh Takeout since at least July 19, 2020. (Ex. A, ¶¶ 18, 22; Ex. B, ¶¶ 9, 13; Ex. C, pp. 3). Respondent admits that persons visiting the commercial building and customers and workers from Jenny’s Shrimp Truck had access to at least one of the restrooms connected to the cesspool on the Property. (Ex. A, ¶¶ 17, 21; Ex. B, ¶¶ 8, 12). As is apparent from photographs uploaded to Yelp.com, on multiple days between April 10, 2018, and April 28, 2021, Jenny’s Shrimp Truck alone served food to at least twenty customers in a day. (Declaration of Jelani Shareem attached hereto as Exhibit D, ¶ 14; Select Yelp.com Photographs of Jenny’s Shrimp Truck attached hereto as Exhibit D.2, pp. 1-10).

V. ARGUMENT

Under the SDWA, a person is liable for violating the ban on large capacity cesspools where (1) the “person” (2) owns or operates a cesspool after April 5, 2005, (3) that is non-residential and (4) that has the capacity to serve twenty or more persons in a day. 40 C.F.R. § 144.81(2).

A. Respondent is a “Person” for Purposes of the SDWA.

A “person” is defined in Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12) and at 40 C.F.R. §144.3, as an “individual, corporation, company, association, partnership, State, municipality, or Federal agency.” Respondent is a domestic limited liability company, and therefore a “person” under the SDWA. (Ex. A, ¶¶ 9, 10; Ex. B, ¶¶ 1, 3).

B. Respondent Owned or Operated the Cesspool After April 5, 2005.

Under the UIC regulations, “owner or operator” is defined as “the owner or operator of any ‘facility or activity’ subject to regulation under the UIC program.” 40 C.F.R. § 144.3. A “facility or activity” is defined as “any UIC ‘injection well,’ or an other facility or activity that is subject to regulation under the UIC program.” *Id.* A “cesspool” is one type of injection well. *Id.* Respondent has owned the Property, including the cesspool and the restrooms connected to the cesspool, since at least October 4, 2017, roughly twelve years after the ban on large capacity cesspools went into effect. (Ex. A, ¶ 11; Ex. B, ¶ 1). Therefore, Respondent owned or operated the cesspool for purposes of 40 C.F.R. § 144.3 after April 5, 2005.

C. Respondent’s Cesspool is Non-Residential.

Both common usage and the Merriam-Webster dictionary define “residential” as relating to one or more residences. *See* Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/residential> (last visited Dec. 9, 2022). A “residence” is a dwelling or a building used as a home. Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/residence> (last visited Dec. 9, 2022). The Property does not contain a dwelling or building used as a home; it has a commercial building which was open to the public, and a parking lot which was rented to two mobile food vendor businesses. (Ex. A, ¶¶ 16, 18, 22; Ex. B, ¶¶ 7, 9, 13). The cesspool on the Property does not serve a residence and is therefore a non-residential cesspool.

D. Respondent’s Cesspool Had the Capacity to Serve Twenty or More Persons in a Day.

i. Capacity is a measure of a device’s potential or ability

The ban on large capacity cesspools applies to non-residential cesspools with the “capacity” to serve twenty or more persons in a day. 40 C.F.R. § 144.81(2). EPA is unaware of

any caselaw interpreting “capacity” in the large capacity cesspool context, so looks to dictionary definitions, the common understanding of the word, and judicial opinions interpreting the term in other contexts. *See Carbon Injection Sys. LLC*, 17 E.A.D. 1, 23 (EAB 2016) (“[T]he Board frequently relies on dictionaries in interpreting regulatory language.”); *Odessa Union Warehouse Co-Op, Inc.*, 4 E.A.D. 550, 557 (EAB 1993) (“[I]n the absence of a statutory or regulatory definition, it is appropriate to use the common meaning of the terms at issue.”).

The Merriam-Webster Dictionary defines “capacity” to mean “the potential or suitability for holding, storing, or accommodating.” Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/capacity> (last visited Dec. 9, 2022). Black’s Law Dictionary provides a similar definition: “[t]he amount of something that a factory, company, machine, etc. can produce or deal with.” CAPACITY, Black’s Law Dictionary (11th ed. 2019). These definitions align with the common understanding of the term, which connotes potentiality and suitability, and is not limited by the actual use of the item. For example, a bucket with a five-gallon capacity would retain its five-gallon capacity even if it was filled only to the three-gallon mark. And while actual use does not define the capacity of an item, it can be informative. If the capacity of a bucket is unknown but three gallons of water are poured into the bucket without causing it to overflow, the common understanding would be that the bucket has the capacity to hold *at least* three gallons. In other words, the known actual use of an item provides a floor, not a ceiling, that informs our understanding of the item’s capacity.

Courts agree with this understanding of the term. For example, in a recent Telephone Consumer Protection Act case, the Second Circuit concluded that “capacity” is best understood to refer to the functions a device is currently able to perform, regardless of whether it has actually performed those functions. *King v. Time Warner Cable Inc.*, 894 F.3d 473, 477, 480 (2d

Cir. 2018); *accord Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 951 (9th Cir. 2009). In reaching this conclusion, the court noted that the D.C. Circuit had considered and rejected a narrow interpretation limiting “capacity” to actual use because such an interpretation is inconsistent with the plain meaning of the term. *King*, 894 F.3d at 478-79 (citing *ACA International v. FCC*, 885 F.3d 687, 696 (D.C. Cir. 2018)). The Second Circuit proceeded to hold that “capacity” refers to a device’s “current ability” or “current functions, absent any modifications.” *Id.* at 481.

In sum, then, an item’s capacity is a measure of its ability or functionality when the claims arose, whether or not that functionality was in use at the time. *See King*, 894 F.3d at 477, 479, 480. Applying that definition here, a cesspool has the capacity to serve twenty or more persons a day—making it a large capacity cesspool—when it has the present ability or potential to serve twenty or more persons in a day. *See also* 64 Fed. Reg. 68557 (“Under this criterion... cesspools are covered under the UIC program if they ... have the capacity to serve 20 or more persons a day.”).

ii. There is No Genuine Dispute that the Cesspool on the Property Had the Capacity to Serve Twenty or more Person in a Single Day Between April 10, 2018, and April 28, 2021.

In evaluating whether a cesspool could serve twenty or more persons in a day, EPA considers, among other things, the infrastructure it serves and location, as well as whether it is publicly accessible. Here, Respondent admits that every visitor to the commercial building and every customer and employee of Jenny’s Shrimp Truck had access to the restroom. (Ex. A, ¶¶ 17, 21; Ex. B, ¶¶ 8, 12). Respondent also admits that Jenny’s Shrimp Truck has been operating in the parking lot from at least April 10, 2018, until April 28, 2021. (Ex. A, ¶ 18; Ex. B, ¶ 9). As is apparent from a review of Yelp.com photographs, Jenny’s Shrimp Truck alone served at least

twenty customers on multiple days, including May 3, 7, 10, and 18 of 2018. (Ex. D, ¶ 14; Ex. D.2, pp. 1-10). On this basis alone, the evidence indisputably demonstrates that the cesspool on the Property had the potential to serve *at least* twenty persons in a day from at least April 10, 2018, until April 28, 2021.

Respondent asserts, however, that “the cesspool did not have the physical capacity to service 20 or more persons per day and the EPA must take into account the physical capacity of the cesspool in determining if a cesspool is a large capacity cesspool subject to EPA regulation.” (Ex. B, ¶ 24). The preamble for EPA’s large capacity cesspool rule considered and rejected any physical or technical test as the determinative factor. During its rulemaking, EPA received and considered numerous comments on whether technical or physical criteria such as “waste flow rate or septic tank size” should be considered. *See* 64 Fed. Reg. 68557. In light of the conclusion that such technical or physical criteria would “disrupt existing state programs” and that no alternatives were offered during comment period that were “necessary to ensure better protection of [underground sources of drinking water],” EPA affirmed the proper threshold to be the “capacity to serve 20 or more persons a day.” *Id.*

Hence, Respondent’s conclusory assertion that the cesspool did not have the capacity to serve twenty or more persons per day is directly contradicted by Respondent’s own admissions, referenced above, and photographs of the Property and Jenny’s Shrimp Truck. Where the non-moving party’s assertion is clearly contradicted or discredited by the record, the Court should adopt the moving-party’s version of the facts. *Scott*, 550 U.S. at 380; *see also Rivera v. Nat’l R.R. Passenger Corp.*, 331 F.3d 1074, 1078 (9th Cir. 2003) (“Conclusory allegations unsupported by factual data cannot defeat summary judgment.”). Respondent’s unsupported

assertion, without more, does not create a genuine dispute of material fact regarding the cesspool's capacity.

Indeed, the Property's cesspool is actually capable of serving well over twenty persons in a day, as evidenced by the expansive table and seating space available for Jenny's Shrimp Truck, in addition to any potential use by employees and patrons of the other businesses on the Property. As seen in the photographs of Jenny's Shrimp Truck from Yelp.com, there were approximately nineteen tables with seating for six persons each—enough seating for over one hundred people at a time. (Ex. D, ¶ 15; Ex. D.2, pp. 15-20).

Respondent asserts that the restrooms may have been closed at times. (Ex. B, ¶ 6). But this assertion is not material to the question of legal liability for the periods of time in which the restrooms were indisputably open and operable and, therefore, does not create a genuine issue of material fact for purposes of this motion. Moreover, closure of the restrooms for certain periods of time does not impact the cesspool's capacity. Like a five-gallon bucket that retains its capacity to hold five gallons of material even during periods of time when it is empty, a cesspool retains its capacity even when it is not used for certain periods of time.

Since twenty or more persons indisputably had access to the cesspool on multiple days between April 10, 2018, and April 28, 2021, the cesspool had the potential to serve twenty or more persons at that time and therefore was a large capacity cesspool as defined at 40 C.F.R. § 144.81(2). For these reasons, EPA is entitled to an accelerated decision on liability because Respondent was operating a large capacity cesspool in violation of 40 C.F.R. § 144.88(a).

E. “Legal Defenses” in Respondent’s Answer are Not Relevant to the Question of Legal Liability

Reading the Answer in the light most favorable to the non-moving party, Respondent arguably raises two additional legal defenses in an attempt to avoid liability.³ For the reasons set forth below, both defenses lack legal merit and therefore EPA is entitled to an accelerated decision on liability.

Respondent’s “Ninth Defense” asserts that “the property is located makai⁴ of the state of Hawaii UIC injection line and is not above a drinking water aquifer and therefore the cesspool was incapable of polluting the aquifer.” (Ex. B, ¶ 30; *see also* ¶ 2). Respondent seems to argue that there is a geographic exception to the large capacity cesspool ban where there is allegedly no actual risk posed to an underground source of drinking water. However, 40 C.F.R. § 144.88(a) clearly states that the large capacity cesspool ban applies to all new and existing large capacity cesspools “regardless of [their] location.” Further, EPA’s rulemaking rejected any geographic limitation to the large capacity cesspool ban. 64 Fed. Reg. 68553. In light of the “acute risk [large capacity cesspools] pose, the nature of the contaminants and the on-site disposal alternatives available to owners or operators,” EPA declined to limit the large capacity cesspool ban to certain ground water protection areas and instead issued a *nationwide* ban. *Id.*

Respondent’s argument that its cesspool is outside of the geographic scope of the ban is without merit because the cesspool is within the United States.

³ The two defenses are labeled in the Answer as Respondent’s Ninth and Fourteenth Defense. The remainder of the nineteen items labeled “Defenses” in the Answer do not address legal liability. For example, Respondent’s “Second Defense” states that “Respondent requests a hearing on this matter.” (Ex. B, ¶ 23). Respondent’s Fifth, Seventh, Eighth, Tenth, Eleventh, Twelfth, Fifteenth, Sixteenth, Seventeenth, Eighteenth, and Nineteenth Defenses address elements that may be relevant to the penalty calculation but are not relevant to liability. *See* Ex. B, ¶¶ 26, 28, 29, 31, 32, 33, 36, 37, 38, 39, 40.

⁴ Hawaiian for “toward the sea” or “seaward.” Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/makai> (last visited Dec. 9, 2022).

Similarly, Respondent's "Fourteenth Defense" asserts that "the alleged violation was not serious and there was no actual or threatened impact to the aquifer and environment." (Ex. B, ¶ 35). Here, as with its "Ninth Defense," Respondent seems to argue for an exception based on the alleged lack of endangerment or harm posed by a large capacity cesspool. Again, 40 C.F.R. § 144.88(a) contains no such limitation and such a limitation was categorically rejected in EPA's rulemaking. EPA found that

[l]arge capacity cesspools have a high potential to contaminate [underground sources of drinking water] because: they are not designed to treat sanitary waste; they frequently exceed drinking water [maximum contaminant levels] for nitrates, total suspended solids and coliform bacteria; and, they may contain other constituents of concern such as phosphates, chlorides, grease, viruses, and chemicals used to clean cesspools such as trichloroethane and methylene chloride.... To further limit the acute risk associated with large capacity cesspools, EPA expanded [the] large-capacity cesspool requirements nationwide.

64 Fed. Reg. 68551.

As is apparent from the rulemaking and plain language of the regulation itself, there is no exception based on geography or an arguable lack of harm; the ban's nationwide application is predicated on mitigating all risks posed by large capacity cesspools. Accordingly, Respondent's asserted defenses fail to raise issues material to its liability, and EPA is entitled to an accelerated decision on liability.

VI. CONCLUSION

Based on the foregoing, no genuine issue of material fact exists and each element of a violation of Section 1423(a)(2) of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2(a)(2), has been proven. Therefore, EPA requests that NSHE HI Narcissus be held liable as a matter of law for violating the SDWA.

Respectfully submitted,

Daron
Ravenborg

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Exhibit A



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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9**

IN THE MATTER OF:) DOCKET NO. UIC-09-2022-0058
)
NSHE HI Narcissus, LLC,)
)
Kahuku, Hawaii,)
) **ADMINISTRATIVE COMPLAINT**
) Respondent.)
)
) Proceedings under Section 1423(c) of the Safe)
) Drinking Water Act, 42 U.S.C. § 300h-2(c).)
)
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)

**In re: NSHE HI Narcissus, LLC
Administrative Complaint UIC-09-2022-0058**

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I. AUTHORITY

1. The United States Environmental Protection Agency (EPA or “Complainant”) issues this Administrative Complaint pursuant to the authority vested in the Administrator of EPA and properly delegated to the EPA Region 9 Director of the Enforcement and Compliance Assurance Division under Section 1423(c) of the Safe Drinking Water Act (Act), 42 U.S.C. § 300h-2(c). The rules for this proceeding are the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits” (Rules of Practice), 40 Code of Federal Regulation (C.F.R.) Part 22, a copy of which is enclosed. *See, specifically* 40 C.F.R. § 22.1(a)(9). Pursuant to the Rules of Practice, 40 C.F.R. § 22.13(a), this Administrative Complaint conforms to the prehearing procedures at 40 C.F.R. § 22.14 governing administrative complaints and is hereinafter referred to also as the “Complaint.” EPA alleges as follows:

II. JURISDICTION

15 2. The Regional Judicial Officer for EPA Region 9 is the Presiding Officer with jurisdiction
16 over this action pursuant to the Rules of Practice, 40 C.F.R. §§ 22.50(a)(2) and 22.51.

III. STATUORY AND REGULATORY BACKGROUND

18 3. To prevent underground injection which endangers drinking water sources, EPA has
19 promulgated regulations pursuant to Part C of the Act, 42 U.S.C. §§ 300h – 300h-8, which
20 establish minimum requirements for Underground Injection Control (UIC) programs. These UIC
21 regulations are set forth in 40 C.F.R. Part 144.

22 4. The UIC regulations define “underground injection” to mean the subsurface emplacement
23 of fluids by well injection. 42 U.S.C. § 300 h(d)(1), 40 C.F.R. § 144.3. “Well injection” is
24 defined by 40 C.F.R. § 144.3 to mean the subsurface emplacement of fluids through a well. A
25

In re: NSHE HI Narcissus, LLC

Administrative Complaint UIC-09-2022-0058

1 “drywell” is a type of well, other than an improved sinkhole or subsurface fluid distribution
2 system, completed above the water table so that its bottom and sides are typically dry except
3 when receiving fluids. 40 C.F.R. § 144.3. A “cesspool” is a type of drywell that receives
4 untreated sanitary waste containing human excreta, and which sometimes has an open bottom
5 and/or perforated sides. 40 C.F.R. § 144.3. “Sanitary waste” is defined at 40 C.F.R. § 144.3 to
6 include: “wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic
7 areas, sinks used for food preparation, clothes washing operations, and sinks or washing
8 machines where food and beverage serving dishes, glasses and utensils are cleaned.”

9 5. The UIC regulations define “large capacity cesspools” to mean cesspools that receive
10 sanitary waste from “multiple dwellings, community or regional cesspools, or other devices.” 40
11 C.F.R. § 144.81(2). Large capacity cesspools do not include single family residential cesspools
12 or non-residential cesspools which receive solely sanitary waste and have the capacity to serve
13 fewer than 20 persons per day. *Id.*

14 6. The UIC regulations at 40 C.F.R. § 144.88(a) required owners or operators of existing
15 large capacity cesspools to close them no later than April 5, 2005 in accordance with the closure
16 specifications contained in 40 C.F.R. § 144.89 and prohibits new LCCs.

17 7. EPA administers the UIC program in the State of Hawaii pursuant to Section 1422(c) of
18 the Act, 42 U.S.C. § 300h-1(c), and 40 C.F.R. § 147.601.

19 8. Pursuant to Section 1423(c)(1) of the Act, 42 U.S.C. § 300h-2(c)(1), and 40 C.F.R. §
20 19.4, EPA may issue an administrative order against any person who violates the Act or any
21 requirement of an applicable UIC program, and the administrative order may:

- 22 a. assess an administrative civil penalty of not more than \$25,076 for each day of
23 each violation occurring after November 2, 2015, up to a maximum penalty of
24 \$313,448, or
25

In re: NSHE HI Narcissus, LLC

Administrative Complaint UIC-09-2022-0058

1 18. Jenny’s Shrimp Truck operated in the parking lot of the Property from at least April 10,
2 2018 until April 28, 2021 as a mobile food vendor.

3 19. While operating on the Property, Jenny’s Shrimp Truck employed one or more
4 individuals and served customers food.

5 20. Between April 10, 2018 and April 28, 2021 Jenny’s Shrimp Truck served multiple
6 customers on a daily basis, including 20 or more persons in a day on one or more occasions.

7 21. From at least April 10, 2018 until April 28, 2021, employees and customers of Jenny’s
8 Shrimp Truck had access to at least one of the two restrooms identified in Paragraph 13.

9 22. Island Fresh Takeout operated in the parking lot of the Property from at least July 19,
10 2020 until April 28, 2021 as a mobile food vendor.

11 23. While operating on the Property, Island Fresh Takeout employed one or more individuals
12 and served customers food.

13 24. Between July 19, 2020 and April 28, 2021, Island Fresh Takeout served multiple
14 customers on a daily basis.

15 25. From July 19, 2020 until April 28, 2021, employees and customers of Island Fresh
16 Takeout had access to at least one of the two restrooms identified in Paragraph 13.

17 26. For the reasons described in Paragraphs 1211-25, from at least October 4, 2017 until
18 April 28, 2021, the cesspool serving the Property had the potential to serve 20 or more persons in
19 a day.

20 27. The cesspool serving the Property from at least October 4, 2017 until April 28, 2021 was
21 a “large capacity cesspool” as that term is defined at 40 C.F.R. § 144.81(2), because it received
22 sanitary waste, including human excreta, from a non-residential facility that has the capacity to
23 serve 20 or more persons per day.
24
25

In re: NSHE HI Narcissus, LLC

Administrative Complaint UIC-09-2022-0058

1 28. Respondent's failure to close the cesspool at the Property prior to December 2, 2021 is a
2 violation of the Act and of the UIC Program regulations set forth at 40 C.F.R. § 144.88.

3 **V. RELIEF SOUGHT: CIVIL PENALTY DEMAND**

4 29. Pursuant to Section 1423(c)(3) of the Act, 42 U.S.C. § 300h-2(c)(3), EPA requests that
5 the Presiding Officer issue an order in this matter assessing an administrative penalty.

6 A. **Proposed Administrative Civil Penalty**

7 30. Pursuant to Section 1423(c) of the Act, 42 U.S.C. § 300h-2(c), and 40 C.F.R. § 19.4,
8 Respondent shall pay an administrative penalty of *up to* \$25,076 for each day of violation of the
9 Act, up to a maximum penalty of \$313,448. In assessing any civil penalty, Section 1423(c)(4) of
10 the Act requires that EPA take into account the following factors: (1) the seriousness of the
11 violations; (2) the economic benefit resulting from the violations; (3) any history of such
12 violations; (4) any good faith efforts to comply with the applicable requirements; (5) the
13 economic impact of the penalty on Respondent; and (6) such other matters as justice may
14 require. Accordingly, EPA requests that after consideration of these statutory assessment factors,
15 the Presiding Officer assess Respondent a civil administrative penalty of up to \$313,448 pursuant
16 to 40 C.F.R. § 22.27.

17 31. EPA will notify the public of this Complaint in accordance with the requirements of 40
18 C.F.R. § 22.45(b).

19 **VII. ANSWERING THE COMPLAINT AND REQUESTING A HEARING ON**
20 **THE DEMAND FOR PENALTIES**

21 A. **Answer to the Complaint**

22 32. If Respondent intends to contest any material fact upon which the Complaint is based, or
23 wishes to contend that the proposed penalty is inappropriate, or that Respondent is entitled to
24 judgment as a matter of law, then the Rules of Practice at 40 C.F.R. § 22.15(a) require that
25

In re: NSHE HI Narcissus, LLC

Administrative Complaint UIC-09-2022-0058

1 Respondent file an original and one copy of a written Answer with EPA Region 9's Regional
2 Hearing Clerk within 30 days after service of this Complaint at the address below:

3 Ponly Tu
4 Regional Hearing Clerk
5 U.S. Environmental Protection Agency, Region 9
6 75 Hawthorne Street (mail code: ORC-1)
7 San Francisco, CA 94105
8 R9HearingClerk@epa.gov

9 33. The Rules of Practice at 40 C.F.R. § 22.15(a) also require that Respondent serve an
10 additional copy of the Answer on EPA to the following person who is authorized to receive
11 service related to this proceeding:

12 Kimberly Wells
13 Office of Regional Counsel
14 U.S. Environmental Protection Agency, Region 9
15 75 Hawthorne Street (mail code: ORC 2-3)
16 San Francisco, CA 94105
17 Phone: (415) 972-3056
18 wells.kimberly@epa.gov

19 34. In accordance with 40 C.F.R. § 22.15(b), the contents of the Answer must clearly and
20 directly admit, deny, or explain each of the factual allegations contained in the Complaint with
21 regard to which Respondent has any knowledge. Where Respondent has no knowledge of a
22 particular factual allegation and so state in its Answer, the allegation is deemed denied. Under 40
23 C.F.R. Section 22.15(d), Respondent's failure to admit, deny or explain any material factual
24 allegation contained in this Complaint constitutes an admission of the allegation. The Answer
25 must also, in accordance with 40 C.F.R. § 22.15(b), state: (1) The circumstances or arguments
that are alleged to constitute the grounds of any defense; (2) the facts that Respondent disputes;
(3) the basis for opposing the proposed relief; and (4) whether a hearing is requested.

26 B. Request for a Hearing

27 35. In accordance with Section 1423(c)(3)(A) of the Act, 42 U.S.C. § 300h-2(c)(3)(A), EPA
gives Respondent this written notice of its proposed Complaint for Civil Penalties and of the

In re: NSHE HI Narcissus, LLC

Administrative Complaint UIC-09-2022-0058

1 opportunity to request a hearing upon the issues raised by the Complaint and Answer, and on the
2 appropriateness of the proposed Complaint for Civil Penalties. As provided under 40 C.F.R.
3 Section 22.15(c), if Respondent wishes to request such a hearing, it must include the request in
4 its Answer. Such hearing shall not be subject to Section 554 or 556 of the Administrative
5 Procedures Act, 5 U.S.C. §§ 554 and 556, but shall provide a reasonable opportunity to be heard
6 and to present evidence. If a hearing is requested, Subpart I of the Rules of Practice, 40 C.F.R.
7 Part 22, governs and sets forth the procedures of such hearing.

8 36. Respondent's failure to affirmatively raise in the Answer facts that constitute or might
9 constitute grounds for its defense may preclude Respondent from raising such facts and/or from
10 having such facts admitted into evidence at a hearing.

11 **C. Default**

12 37. To avoid the Presiding Officer's entry of a default order pursuant to 40 C.F.R. § 22.17(a)
13 for a penalty up to \$313,448, Respondent must file a written Answer with the Regional Hearing
14 Clerk in the manner described above.

15 38. Any penalty assessed in a default order will become due and payable by Respondent
16 without further proceedings 30 days after the default order becomes final. 40 C.F.R. § 22.17(d).
17 Similarly, any compliance required under a default order shall be effective and enforceable
18 without further proceedings on the date the default order becomes final. *Id.* If necessary, EPA
19 may then seek to enforce such final default order against Respondent, and seek to collect the
20 assessed penalty amount, which may be up to \$313,448, in federal court.

21 **VIII. REQUESTING AN INFORMAL SETTLEMENT CONFERENCE**

22 39. In accordance with 40 C.F.R. § 22.18(b), whether or not Respondent requests a hearing,
23 Respondent may request an informal settlement conference to discuss the facts of this case, the
24

25
In re: NSHE HI Narcissus, LLC

Administrative Complaint UIC-09-2022-0058

1 proposed penalty and compliance order, and settlement. To request such a settlement conference,
2 please contact:

3 Kimberly Wells
4 Office of Regional Counsel
5 U.S. Environmental Protection Agency, Region 9
6 75 Hawthorne Street (mail code: ORC 2-3)
7 San Francisco, CA 94105
8 (415) 972-3056
9 wells.kimberly@epa.gov

10 40. A request for an informal settlement conference constitutes neither an admission nor a
11 denial of any of the matters alleged herein. EPA does not deem a request for an informal
12 settlement conference to be a request for a hearing as specified in 40 C.F.R. § 22.15(c), or as
13 provided for by Section 1423(c)(3)(A) of the Act, 42 U.S.C. § 300h-2(c)(3)(A).

14 41. Settlement discussions do not affect Respondent's obligation to file a timely Answer to
15 the Complaint. 40 C.F.R. §§ 22.15 and 22.18(b)(1). EPA will not modify its proposed penalty
16 and compliance order simply because an informal settlement conference is held.

17 42. The terms and conditions of any settlement that may be reached as a result of a settlement
18 conference will be recorded in a written Consent Agreement signed by all parties. 40 C.F.R. §
19 22.18(b)(2). To conclude the proceeding, EPA will execute a Final Order ratifying the parties'
20 Consent Agreement. 40 C.F.R. § 22.18(b)(3). In accepting the Consent Agreement, Respondent
21 would waive any right to contest the allegations herein and waive any right to appeal the Final
22 Order accompanying the Consent Agreement. 40 C.F.R. § 22.18(b)(2).

23 43. Respondent entering into a Consent Agreement would not extinguish, waive, satisfy, or
24 otherwise affect Respondent's obligation to comply with all applicable statutory and regulatory
25 requirements and legal orders.

IX. APPEARANCES

In re: NSHE HI Narcissus, LLC

Administrative Complaint UIC-09-2022-0058

1 44. In accordance with 40 C.F.R. § 22.10, any party may appear in person or by counsel or
2 other representative. A partner may appear on behalf of a partnership and an officer may appear
3 on behalf of a corporation. Persons who appear as counsel or other representatives must conform
4 to the standards of conduct and ethics required of practitioners before the courts of the United
5 States.

6
7 Dated this day of

8 **AMY MILLER-** Digitally signed by
9 **BOWEN** AMY MILLER-BOWEN
10 Date: 2022.08.01
10:39:08 -07'00'

11 Amy C. Miller-Bowen, Director
12 Enforcement and Compliance Assurance Division
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In re: NSHE HI Narcissus, LLC

Administrative Complaint UIC-09-2022-0058

1 **CERTIFICATE OF SERVICE**

2 In the Matter of NSHE HI Narcissus, LLC
3 EPA Docket No. UIC-09-2022-0058

4 I certify that the foregoing Complaint, Notice of Proposed Penalty, and Notice of Opportunity for
5 Hearing, was filed via email with the Regional Hearing Clerk, United States Environmental
6 Protection Agency, Region 9 at R9HearingClerk@epa.gov and that a true and correct copy of (1)
7 the Complaint, Notice of Proposed Penalty, and Notice of Opportunity for Hearing; (2) the
8 Consolidated Rules of Practice at 40 C.F.R. Part 22; (3) the EPA's 1993 UIC Program Judicial
9 and Administrative Order Settlement Penalty Policy; and (4) the Region 9 Regional Judicial
10 Officer's Standing Order dated May 14, 2020, was sent via United Parcel Service's Signature
11 Service, with written verification of delivery requested, to:

9 Duke Pontin, Officer
10 NSHE HI Narcissus, LLC
11 56-970 Kamehameha Hwy
12 Kahuku, Hawaii 96731

13 Tracking No. **1ZA46W47A299892543**

14 JELANI SHAREEM Digitally signed by JELANI
SHAREEM
Date: 2022.08.02 12:14:31 -07'00'

15 Jelani Shareem
16 Enforcement and Compliance Assurance Division, ECAD
17 U.S. EPA, Region 9
18 75 Hawthorne Street
19 San Francisco, CA 94105
20
21
22
23
24
25

In re: NSHE HI Narcissus, LLC

Administrative Complaint UIC-09-2022-0058

KOBAYASHI SUGITA & GODA, LLP

CHARLES W. GALL 4771
First Hawaiian Center
999 Bishop Street, Suite 2600
Honolulu, Hawaii 96813
Telephone: (808) 535-5700
Facsimile: (808) 535-5799
Email: cwg@ksglaw.com

Attorney for Respondent
NSHE HI Narcissus, LLC

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 9

IN THE MATTER OF:

NSHE HI Narcissus, LLC,

Kahuku, Hawaii,

Respondent.

Proceedings under Section 1423(c) of
the Safe Drinking Water Act, 42 U.S.C.
§300h-2(c).

DOCKET NO. UIC-09-2022-0058

ANSWER TO ADMINISTRATIVE
COMPLAINT DATED AUGUST 1, 2022

ANSWER TO ADMINISTRATIVE COMPLAINT DATED AUGUST 1, 2022

Respondent, NSHE HI NARCISSUS, LLC, by and through their attorneys Kobayashi Sugita & Goda, LLP, for it's answer to the Complaint filed by Complainant UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 9 on August 1, 2022 ("Complaint") in the above-entitled action allege and aver as follows:

FIRST DEFENSE

1. Respondent admits the allegations contained in the following paragraphs of the Complaint. 1, 2, 4, 5, 6, 7, 8, 10, 11, 15, 22, 29, 31, 32, 33, 34, 37, 38, 40, 41, and 44.
2. With respect to the allegations set forth in Paragraph 3 of the Complaint, Respondent admits that promulgated the specified regulations but states that his property is below the UIC line and is not situated where contamination of drinking water sources is possible.
3. With respect to the allegations of Paragraph 9 of the Complaint, Respondent admits NSHE Hi Narcissus is a Hawaii Domestic LLC, Respondent denies the remaining allegations of the Complaint on the basis that an LLC is not “incorporated”
4. With respect to the allegations of Paragraph 12 of the Complaint, Respondent admits that the property has a small commercial building and a parking lot, but denies the remaining allegations of the Paragraph.
5. With respect to the allegations of Paragraph 13 of the Complaint, Respondent denies the allegations and affirmatively states that when Respondent purchased the property, the restrooms were not usable.
6. With respect to the allegations of Paragraph 14 of the Complaint, Respondent admits that the restrooms were connected to a single cesspool, but affirmatively states that the restrooms were closed for repairs or inoperative for portions of the identified time period.

7. With respect to the allegations of Paragraph 16, Respondent denies the commercial building on the property is mid-size., Further, Respondent denies that the commercial building was in use or occupied during the entire identified time frame. Respondent further denies the allegations on the bases that that the allegation is speculative.
8. With respect to the allegations of Paragraph 17 of the Complaint, Respondent denies the allegations. Respondent admits that for some portions of the time frame identified, persons visiting the small commercial building on the property had access to only one of the restrooms. Respondent denies the remaining allegations of the Paragraph.
9. With respect to the allegations of Paragraph 18 of the Complaint, Respondent admits that Jenny's Shrimp Truck occupied the parking lot, but affirmatively states that it did not operate continuously. Respondent denies the remaining allegations of the Paragraph.
10. With Respect to the allegations of Paragraph 19 of the Complaint, Respondent is without knowledge as to who or in what capacity people operated the shrimp truck . Respondent admits that the shrimp truck served food.
11. With respect to the allegations of Paragraph 20 of the Complaint, Respondent is without knowledge as to the number of people served per day and further states that the shrimp truck was not in continuous operation during the identified time period. On that basis, Respondent denies the allegations of the Paragraph.
12. With respect to the allegations of Paragraph 21 the Complaint, Respondent admits that for some portions of the identified time period customers and workers at the

- shrimp truck had access to only one bathroom on the property. Respondent denies the remaining allegations of the Paragraph.
13. With respect to the allegations of Paragraph 22 of the Complaint, Respondent admits that Island Fresh Takeout operated on the premises for apportion of the identified time period. Respondent denies the remaining allegations of the Paragraph.
 14. With respect to the allegations of Paragraph 23 of the Complaint, Respondent has no knowledge as to the status of individual(s) operating the Island Fresh Takeout truck and on that basis denies the allegations of the Paragraph. Respondent admits that food was served during a portion of the identified time period.
 15. With respect to the allegations of Paragraph 24 of the Complaint, Respondent does not know the number of patrons served and denies the allegations on that basis. Respondent further alleges that Island Fresh Takeout did not operate continuously during the identified time period.
 16. With respect to the allegations of Paragraph 25 of the complaint, Respondent denies the allegations of the Complaint and alleges that no bathroom access was ever given to Fresh Island takeout.
 17. With respect to the allegations of Paragraph 26, Respondent denies the allegations of that Paragraph.
 18. With respect to the allegations of Paragraph 27, Respondent denies the allegations and further states that the Paragraph inaccurately states the law in that the capacity in question is that of the cesspool and not the facility which is served by the cesspool

19. With respect to the allegations of Paragraph 28 of the complaint, Respondent denies the allegations.
20. With respect to the allegations of Paragraph 30 of the Complaint, Respondent admits the allegation of the Paragraph but affirmatively states the EPA has failed to take into account the identified factors and has abused the process by threatening the maximum penalty with no analysis of the identified factors in an attempt to force Respondent to settle.
21. With respect to the allegations in Paragraph 35 of the Complaint, Respondent admits the allegations of the Paragraph and hereby requests a hearing on the matter.
22. With respect to the allegations of Paragraph 42 of the Complaint, Respondent admits the allegations but affirmatively states that entering into a Consent Agreement is not an admission of liability.

SECOND DEFENSE

23. Respondent requests a hearing on this matter.

THIRD DEFENSE

24. Respondent intends to rely on the defense that the cesspool did not have the physical capacity to service 20 or more persons per day and the EPA must take into account the physical capacity of the cesspool in determining if a cesspool is a LCC subject to EPA regulation.

FOURTH DEFENSE

25. Respondent intends to rely on the defense that the EPA did not take into account the physical capacity of the cesspool in issuing the complaint as required by law

and has no evidence to support its erroneous determination that the cesspool was a LLC subject to EPA regulation.

FIFTH DEFENSE

26. Respondent intends to rely on the defense that for a large portion of the identified time period the small commercial building on the property was vacant, unoccupied and/or not used.

SIXTH DEFENSE

27. Respondent intends to rely on the defense that allegations regarding use are speculative.

SEVENTH DEFENSE

28. Respondent intends to rely on the defense that both food trucks did not occupy the property and/or operate for the entire identified period.

EIGHTH DEFENSE

29. Respondent intends to rely on the defense that for a portion of the identified time period only one toilet was operating.

NINTH DEFENSE

30. Respondent intends to rely on the defense that the property is located makai of the state of Hawaii UIC injection line and is not above a drinking water aquifer and therefore the cesspool was incapable of polluting the aquifer.

TENTH DEFENSE

31. Respondent intends to rely on the defense that Respondent immediately closed the toilets upon notification by the EPA that the EPA believed the Cesspool was in violation and needed to be closed.

ELEVENTH DEFENSE

32. Respondent intends to rely on the defense that upon the EPA informing Respondent it believed the cesspool was in violation and needed to be closed, Respondent had the cesspool pumped out immediately that same day.

TWELFTH DEFENSE

33. Respondent intends to rely on the defense that that Respondent filled and closed the cesspool as quickly as possible and within a reasonable time following being advised that the EPA believed that the cesspool was required to be closed

THIRTEENTH DEFENSE

34. Respondent intends to rely of the defense that the cesspool is not a LCC and had the right to use the limited capacity of the cesspool, and the EPA violated Respondent's rights by erroneously forcing its closure.

FOURTEENTH DEFENSE

35. Respondent intends to rely on the defense that the alleged violation was not serious and there was no actual or threatened impact to the aquifer and environment.

FIFTEENTH DEFENSE

36. Respondent intends to rely on the defense that it received little to no economic benefit from the alleged violation.

SIXTEENTH DEFENSE

37. Respondent intends to rely on the defense that Respondent has no prior violations.

SEVENTEENTH DEFENSE

38. Respondent intends to rely on the defense that Respondent promptly and without delay prevented further discharge from the toilets and closed the cesspool upon notification by the EPA that the EPA believed the cesspool needed to be closed.

EIGHTEENTH DEFENSE

39. Respondent intends to rely of the defense that a penalty would have a significant negative impact on Respondent.

NINETEENTH DEFENSE

40. Respondent intends to rely on the defense that he is a steward of the environment and when he became manager of the Kahuku Water Association in 2013 he identified an approximate 5,000,000 gallons of water being wasted a month through leaks in the system and used his own resources to repair the aging water system and stopped the annual leakage of 60,000,000 gallons of water which has reduced the amount of water pumped from the aquafer by that same amount.

WHEREFORE, Respondent prays for relief as follows:

1. That a hearing be held on the matter;
2. That the Complaint be dismissed;
3. That no penalty be accessed;

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4. That should any penalty be assessed that it be of a reasonable amount under the circumstances and take into account the mitigating factors and facts as required by law.
5. Such other relief as Respondent may be entitled to.

DATED: Honolulu, Hawaii, August 29, 2022.

/s/ Charles W. Gall

CHARLES W. GALL

Attorney for Respondent
NSHE HI NARCISSUS, LLC

Exhibit C



Region 9 Enforcement and Compliance Assurance Division COMPLIANCE EVALUATION INSPECTION REPORT

Inspection Date(s):	March 4, 2021	Inspection Announced: No	
Time:	Entry: approximately 11:20 PM	Exit: approximately 11:41 PM	
Media:	Safe Drinking Water Act		
Regulatory Program(s)	Underground Injection Control		
Company Name: Jenny's Shrimp Truck			
Facility or Site Name: Commercial Property (Jenny's Shrimp Truck, Island Fresh Takeout, former service station)			
Facility Location(s): 66-532 Kamehameha Highway, Haleiwa, HI 96712			
Mailing address: Same as facility address			
(city, state, zip code)			
County: County of Honolulu			
Facility/Site Contact(s): QianYing Cao- Tenant (Jenny's Shrimp Truck) Duke Pontin- Property Manager (not present)			
Site Identifier: Tax Map Key(s): 1-6-2-007-019			
Inspector(s):			
Connor Adams (author)	Signature: CONNOR ADAMS Digitally signed by CONNOR ADAMS Date: 2021.04.16 13:04:05 -10'00'		
	ECAD-3-2	Inspector	808-541-2752
Brandon Boatman	Signature: BRANDON BOATMAN Digitally signed by BRANDON BOATMAN Date: 2021.04.16 14:01:41 -10'00'		
	ECAD-2-3	Inspector	808-539-0540
Supervisor Review:			
Roberto Rodriguez	Signature: ROBERTO RODRIGUEZ Digitally signed by ROBERTO RODRIGUEZ Date: 2021.04.19 09:12:59 -07'00'		
	ECAD-3-3	Supervisor	415-972-3302

SECTION I – INTRODUCTION

Facility/Site Description

The “Commercial Property”, located at 66-532 Kamehameha Highway in Haleiwa, HI is comprised of a central building (former service station) with the mobile Jennys Shrimp Truck to the north and mobile Island Fresh Takeout cart to the south. Two restrooms are located within the former service station. At the time of the inspection, I observed that the restrooms were open to employees and customers.



Figure A- Google Maps Street View of the Commerical Property. Red arrows indicate approximate location of the two restrooms and waste clean-out. Island Fresh Cart not depicted in this image, but it's approximate location has been identified by the blue star..

Purpose of the Inspection

On March 4, 2021, Brandon Boatman and I conducted a Class V well compliance evaluation inspection (“CEI”) of the Commerical Property. The primary purpose of the inspection was to investigate the type of wastewater system being operated on-site and to gather information on compliance with the Safe Drinking Water Act (“SDWA”), Underground Injection Control (“UIC”) program’s Class V Well regulations provided in the Code of Federal Regulations (“CFR”), Title 40, Parts 144-148. Specifically, we were investigating the subject property’s compliance with EPA’s ban on Large Capacity Cesspools (“LCCs”), pursuant to 40 CFR § 144.88(a)(1)(i).

On-Site Inspection Procedures

At approximately 11:20 pm, we approached the Commerical Property and identified ourselves to the Jenny’s Shrimp Truck Operator, QianYang Cao. We explained to Cao why we were there,

showed our EPA inspector credentials, and provided Cao with the Notice of Inspection (“NOI”) (Attachment 1). Cao explained that they are familiar with the restrooms on-site as well as the location of the wastewater collection system. Cao reviewed the NOI and agreed to sign it. The Island Fresh Take Out Cart was closed, however, the former service station appeared to be operating. The windows of the service station building were covered, security cameras encompassed the perimeter of the building and no one answered our attempts to identify ourselves. Cao explained that the service station occupants would be unlikely to speak with us.

SECTION II – INSPECTION OBSERVATIONS

During the CEI, we observed that the subject property is comprised of a central building (former service station) with two mobile foods vendors on either side. Cao showed us the location of the two restrooms, which are located on the western side of the service station building. Cao explained that Jenny’s Shrimp truck pays the property manager for access to the single restroom as well as space to park their food truck. When we arrived for the inspection, there were no other customers at the food truck. Cao estimated that up to ten individuals may use this restroom in a day. The adjacent restroom was unlocked by a patron of the former service station, who denied us any indentifiable information, but said we could take a photo of the second restroom. Cao said that they believe both restrooms discharge to a location immediately west of the restrooms which was covered by a steel plate. Cao was unsure of the construction of the waste collection system and suggested that the inspection team contact the Property Manager- Duke Pontin for more information. We briefly discussed EPA’s regulation for UIC Class V wells in Hawaii, including EPA’s ban of large capacity cesspools (“LCCs”).

SECTION III – REGULATORY CONCERNS

An LCC is a cesspool that serves multiple dwellings, or for non-residential facilities, is a cesspool that has the capacity to serve 20 or more persons per day (See 40 C.F.R. § 144.81(2)). Pursuant to the UIC program regulations, all existing LCCs should have been closed by **April 5, 2005** (See 40 C.F.R. § 144.88). The UIC requirements do not apply to single family residential cesspools, nor to non-residential cesspools which receive solely sanitary waste and have the capacity to serve fewer than 20 persons a day 40 CFR § 144.81(2). Any cesspool that does not fit within one of the two exceptions is considered a Large Capacity Cesspool and should have been closed.

At the time of the inspection it appeared that the wastewater generated on-site was potentially being discharged to a LCC. Additional follow-up will be necessary.

SECTION IV – INSPECTION PHOTO LOG



IMG_1436.jpg- Overview of the two restrooms located on the west side of the former service station building.



IMG_1437.jpg – Inside the restroom that Jenny’s Shrimp truck pays for access to. Door number 2 (see previous photo).



IMG_1438.jpg – Steel plate covering wastewater collection system for the two restrooms.



IMG_1439.jpg – Steel plate covering wastewater collection system for the two restrooms.



IMG_1440.jpg – Underneath the steel plate covering the restrooms wastewater collection system.



IMG_1441.jpg – Overview of the closed Island Fresh Take-Out cart.

Commerical Property
66-532 Kamehameha Highway
Haleiwa, HI 96712
Inspection Date: March 4, 2021



IMG_1442.jpg – Inside of the #1 restroom. (see first photo).

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

IN THE MATTER OF:	)	DECLARATION OF JELANI
	)	SHAREEM
NSHE HI Narcissus, LLC,)	
)	
	)	Docket No. UIC-09-2022-0058
Respondent.)	
<hr/>)	

1. Since 2013, I have been employed as a Large Capacity Cesspool (LCC) Inspector and Enforcement Officer in the Safe Drinking Water Act (SDWA) Section of the Enforcement and Compliance Assurance Division (ECAD) at the U.S. Environmental Protection Agency (EPA), Region 9, in San Francisco, California. I continue to work for EPA in this capacity.
2. As an LCC Inspector and Enforcement Officer, my duties include targeting facilities for inspections, conducting inspections, post inspection follow-up, and initiating enforcement if an LCC violation is identified.
3. In the fall of 2019, I became ECAD’s principal Enforcement Officer responsible for targeting facilities in the state of Hawaii for LCC inspections and potential SDWA enforcement actions.
4. Targeting a facility for an inspection typically includes researching geographic information systems and property databases in order to locate evidence indicating that a facility is served by an LCC. If my targeting shows that a facility may be served by an LCC, I recommend to ECAD management that a future inspection be scheduled to gather more information about the facility.
5. In February 2021, I began reviewing available information on properties in Haleiwa, Hawaii because the town of Haleiwa is known for having a high concentration of cesspools that are recognized by the State of Hawaii as being Priority Level 1 for replacement because they

have a high potential to impact human health and the environment. As part of my inspection targeting, I reviewed: 1) City and County of Honolulu (CCH) sewer maps; 2) County Assessor Tax Maps and Hawaii's Department of Commerce and Consumer Affairs business registration website; 3) the State of Hawaii, Department of Health (HDOH) individual wastewater system (IWS) extract from February 2021; 4) geographic imagery via Google Maps; and 5) EPA's R9iWells database for inventoried Class V Injection Wells, which includes large capacity septic systems.

6. My targeting research revealed that:

- 1) The CCH operated sewer system did not appear to extend service to a property located at 66-532 Kamehameha Highway in Haleiwa, HI (Tax Map Key: 1-6-2-007-019) (hereafter, "Property").
- 2) The County Assessor Tax Maps showed that the Property is owned by NSHE HI Narcissus, LLC and the Department of Commerce and Consumer Affairs business registration website showed that Duke Pontin was listed as the managing member of NSHE HI Narcissus, LLC.
- 3) The February 2021 HDOH IWS extract did not have any records on the type of wastewater system(s) that serve the Property.
- 4) Aerial imagery from Google Maps showed that a mid-size commercial building is located on the Property. Street view images available on Google Maps showed that the building appeared to contain an art gallery. A July 2019 street view image from Google Maps also showed two food trucks, Jenny's Shrimp Truck, and Island Fresh Takeout, operating in the Property's parking lot. The same street view image also showed restrooms located on the side of the building that is opposite Jenny's Shrimp Truck.

- 5) There was no record that NSHE HI Narcissus, LLC had submitted any inventory information to the R9iWells database regarding the operation of any Class V Injection Wells at the Property.
7. Based on the information I had gathered and my experience as an LCC Inspector, I concluded that the Property may be served by an LCC. I referred the Property to Inspector Connor Adams for inspection to confirm whether the Property had a cesspool with the capacity to serve 20 or more person in a day.
8. Inspector Adams conducted an inspection of the Property on March 2, 2021. (Exhibit 1, EPA Inspection Report from March 4, 2021, "Inspection Report"). Based on Inspector Adams observations, which are documented in his inspection report, Inspector Adams and I determined that the Property is served by an LCC.
9. In or about April 2021, Inspector Adams emailed a copy of EPA's signed inspection report to Respondent's managing member Duke Pontin. Duke Pontin provided photographs dated April 28, 2021 that showed "Employees Only" signs had been posted on the Property's restroom doors and a portable bathroom had been provided.
10. Inspector Adams departed from EPA Region 9 later in the summer of 2021. I was officially assigned to be the case officer on the NSHE HI Narcissus, LLC enforcement matter in the fall 2021.
11. On November 22, 2021, my manager sent managing member Duke Pontin a Show Cause letter to inform him that EPA had determined that NSHE HI Narcissus, LLC was liable under the SDWA for failing to close the LCC that serves the Property by the April 5, 2005 regulatory deadline or any time afterwards. The same day, Duke Pontin contacted me by telephone to discuss the Show Cause letter and EPA's regulations regarding LCCs. About an hour after our telephone conversation, Duke Pontin emailed me photographs that showed the

Property's restroom doors had been screwed shut and the Property's cesspool had been pumped.

12. Between August and November 2022, I reviewed the Yelp.com webpage for Jenny's Shrimp Truck to begin downloading and archiving additional photographs and evidence showing that the restrooms serviced by the cesspool on the Property were accessible by 20 or more persons in a day. As of this Declaration, the Yelp.com webpage is still active and is available for public viewing at the following address: <https://www.yelp.com/biz/jennys-shrimp-lunch-wagon-haleiwa-2>.
13. Between August and November 2022, I reviewed 745 photographs that have been uploaded by customers of Jenny's Shrimp Truck to the Yelp.com webpage. I identified, downloaded, and saved 20 webpage printouts and photographs that were uploaded to the Yelp.com webpage between May 2018 and June 2020. (*See Exhibit 2, Select Yelp.com Photographs of Jenny's Food Truck*).
14. As seen in the photographs, Jenny's Shrimp Truck served multiple customers on multiple days during that timeframe. I was able to count at least 20 persons from photographs taken on May 3, 7, 10, and 18 of 2018. (*See Ex. 2, pp. 1-10*). Jenny's Shrimp Truck also appears to be a destination for tourists, as there are photographs of tour buses parked on the Property near the food truck. (*See Ex. 2, pp. 11-14*).
15. As seen in the photographs, Jenny's Shrimp Truck has an expansive seating area. I was able to identify at least 19 picnic tables that can seat 6 customers each, meaning the business has sufficient space to seat over one hundred people at the same time. (*See Ex. 2, pp. 15-20*).
16. I also looked at the Yelp.com webpage customer review section for Jenny's Shrimp Truck to verify that customers of Jenny's Shrimp Truck were able to access at least one of the restrooms that serve the Property. Upon typing "restroom" in the Yelp.com reviews search box on October 5, 2022, I found a total of 10 reviews that contain the word "restroom." Of

the 10 total reviews, I identified 7 reviews that were submitted on October 26, 2018, December 25, 2018, January 1, 2019, January 9, 2019, June 28, 2019, July 8, 2019, and December 28, 2019 where customers of Jenny's Shrimp Truck discussed accessing at least one of the restrooms serving the Property. (See Exhibit 3, Select Yelp.com Reviews of Jenny's Food Truck pp. 4-7).

17. Based on the foregoing, I assert that the cesspool on the Property had the capacity to serve 20 or more persons between at least October 4, 2017 and April 28, 2021, and therefore the Property was operating an LCC in violation of the SDWA.

I declare under penalty of perjury that the foregoing is true and correct.

JELANI SHAREEM

Digitally signed by JELANI
SHAREEM
Date: 2023.01.09 11:38:57 -08'00'

Jelani Shareem

Exhibit 1, EPA Inspection Report from March 4, 2021

Exhibit D-1

Exhibit 1, EPA Inspection Report from March 4, 2021

**Region 9 Enforcement and Compliance Assurance Division
COMPLIANCE EVALUATION INSPECTION REPORT**

Inspection Date(s):	March 4, 2021	Inspection Announced: No	
Time:	Entry: approximately 11:20 PM	Exit: approximately 11:41 PM	
Media:	Safe Drinking Water Act		
Regulatory Program(s)	Underground Injection Control		
Company Name: Jenny's Shrimp Truck			
Facility or Site Name: Commercial Property (Jenny's Shrimp Truck, Island Fresh Takeout, former service station)			
Facility Location(s): 66-532 Kamehameha Highway, Haleiwa, HI 96712			
Mailing address: Same as facility address			
(city, state, zip code)			
County: County of Honolulu			
Facility/Site Contact(s): QianYing Cao- Tenant (Jenny's Shrimp Truck) Duke Pontin- Property Manager (not present)			
Site Identifier: Tax Map Key(s): 1-6-2-007-019			
Inspector(s):			
Connor Adams (author)	Signature: CONNOR ADAMS Digitally signed by CONNOR ADAMS Date: 2021.04.16 13:04:05 -10'00'		
	ECAD-3-2	Inspector	808-541-2752
Brandon Boatman	Signature: BRANDON BOATMAN Digitally signed by BRANDON BOATMAN Date: 2021.04.16 14:01:41 -10'00'		
	ECAD-2-3	Inspector	808-539-0540
Supervisor Review:			
Roberto Rodriguez	Signature: ROBERTO RODRIGUEZ Digitally signed by ROBERTO RODRIGUEZ Date: 2021.04.19 09:12:59 -07'00'		
	ECAD-3-3	Supervisor	415-972-3302

SECTION I – INTRODUCTION

Facility/Site Description

The “Commercial Property”, located at 66-532 Kamehameha Highway in Haleiwa, HI is comprised of a central building (former service station) with the mobile Jennys Shrimp Truck to the north and mobile Island Fresh Takeout cart to the south. Two restrooms are located within the former service station. At the time of the inspection, I observed that the restrooms were open to employees and customers.



Figure A- Google Maps Street View of the Commerical Property. Red arrows indicate approximate location of the two restrooms and waste clean-out. Island Fresh Cart not depicted in this image, but it's approximate location has been identified by the blue star..

Purpose of the Inspection

On March 4, 2021, Brandon Boatman and I conducted a Class V well compliance evaluation inspection (“CEI”) of the Commerical Property. The primary purpose of the inspection was to investigate the type of wastewater system being operated on-site and to gather information on compliance with the Safe Drinking Water Act (“SDWA”), Underground Injection Control (“UIC”) program’s Class V Well regulations provided in the Code of Federal Regulations (“CFR”), Title 40, Parts 144-148. Specifically, we were investigating the subject property’s compliance with EPA’s ban on Large Capacity Cesspools (“LCCs”), pursuant to 40 CFR § 144.88(a)(1)(i).

On-Site Inspection Procedures

At approximately 11:20 pm, we approached the Commerical Property and identified ourselves to the Jenny’s Shrimp Truck Operator, QianYang Cao. We explained to Cao why we were there,

showed our EPA inspector credentials, and provided Cao with the Notice of Inspection (“NOI”) (Attachment 1). Cao explained that they are familiar with the restrooms on-site as well as the location of the wastewater collection system. Cao reviewed the NOI and agreed to sign it. The Island Fresh Take Out Cart was closed, however, the former service station appeared to be operating. The windows of the service station building were covered, security cameras encompassed the perimeter of the building and no one answered our attempts to identify ourselves. Cao explained that the service station occupants would be unlikely to speak with us.

SECTION II – INSPECTION OBSERVATIONS

During the CEI, we observed that the subject property is comprised of a central building (former service station) with two mobile foods vendors on either side. Cao showed us the location of the two restrooms, which are located on the western side of the service station building. Cao explained that Jenny’s Shrimp truck pays the property manager for access to the single restroom as well as space to park their food truck. When we arrived for the inspection, there were no other customers at the food truck. Cao estimated that up to ten individuals may use this restroom in a day. The adjacent restroom was unlocked by a patron of the former service station, who denied us any indentifiable information, but said we could take a photo of the second restroom. Cao said that they believe both restrooms discharge to a location immediately west of the restrooms which was covered by a steel plate. Cao was unsure of the construction of the waste collection system and suggested that the inspection team contact the Property Manager- Duke Pontin for more information. We briefly discussed EPA’s regulation for UIC Class V wells in Hawaii, including EPA’s ban of large capacity cesspools (“LCCs”).

SECTION III – REGULATORY CONCERNS

An LCC is a cesspool that serves multiple dwellings, or for non-residential facilities, is a cesspool that has the capacity to serve 20 or more persons per day (See 40 C.F.R. § 144.81(2)). Pursuant to the UIC program regulations, all existing LCCs should have been closed by **April 5, 2005** (See 40 C.F.R. § 144.88). The UIC requirements do not apply to single family residential cesspools, nor to non-residential cesspools which receive solely sanitary waste and have the capacity to serve fewer than 20 persons a day 40 CFR § 144.81(2). Any cesspool that does not fit within one of the two exceptions is considered a Large Capacity Cesspool and should have been closed.

At the time of the inspection it appeared that the wastewater generated on-site was potentially being discharged to a LCC. Additional follow-up will be necessary.

SECTION IV – INSPECTION PHOTO LOG



IMG_1436.jpg- Overview of the two restrooms located on the west side of the former service station building.



IMG_1437.jpg – Inside the restroom that Jenny’s Shrimp truck pays for access to. Door number 2 (see previous photo).



IMG_1438.jpg – Steel plate covering wastewater collection system for the two restrooms.



IMG_1439.jpg – Steel plate covering wastewater collection system for the two restrooms.



IMG_1440.jpg – Underneath the steel plate covering the restrooms wastewater collection system.



IMG_1441.jpg – Overview of the closed Island Fresh Take-Out cart.

Commerical Property
66-532 Kamehameha Highway
Haleiwa, HI 96712
Inspection Date: March 4, 2021



IMG_1442.jpg – Inside of the #1 restroom. (see first photo).

Exhibit 3, Select Yelp.com Reviews of Jenny's Food Truck

tacos, cheap dinner, Max' Honolulu, HI

For Businesses

Write a Review

Log In

Sign Up

Restaurants

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More



Jenny's Shrimp Lunch Wagon



506 reviews

Claimed • \$\$ • Food Trucks, Seafood Edit

Closed 10:00 AM - 6:30 PM

See 739 photos

Write a review

Add photo

Share

Save

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Updates From This Business



JUST THE SHRIMP PLATES FAM

SHRIMP PLATES ONLY CASH,CARD ACCEPTED

Menu

Popular dishes



Spicy Garlic Shrimp
108 Photos • 131 Reviews



Butter Garlic Shrimp
55 Photos • 68 Reviews



Coconut Shrimp
33 Photos • 55 Reviews



Garlic Shrimp Plate
19 Photos • 28 Reviews

Highlights from the Business



Family-owned & operated



Locally owned & operated

Location & Hours



66-532 Kamehameha Hwy
Haleiwa, HI 96712
Serving Haleiwa, HI 96712 Area

Get directions

- Mon 10:00 AM - 6:30 PM
- Tue 10:00 AM - 6:30 PM
- Wed 10:00 AM - 6:30 PM **Closed now**
- Thu 10:00 AM - 6:30 PM
- Fri 10:00 AM - 6:30 PM
- Sat 10:00 AM - 6:30 PM
- Sun 10:00 AM - 6:30 PM

[Edit business info](#)

Amenities and More

- Takes Reservations
- Offers Takeout
- No Delivery
- All staff fully vaccinated

27 More Attributes

About the Business

Our business is doing the best shrimp plates :D , we welcome any customer or visitors to taste our shrimp plate, we accept phone calls for reservation and orders :)

Read more

Ask the Community

Ask a question +

Q: Are all plates peel and eat or are the shells taken off before cooking?

A: Peel it yourself, but it is sliced in the middle top for easier peeling

Apes M. 6 months ago

See 3 more answers

Q: How many pieces of shrimp do you get at Jenny's?

A: Approx. 9 juicy pieces.

Lentina V. 2 years ago

See 2 more answers

Recommended Reviews

Your trust is our top concern, so businesses can't pay to alter or remove their reviews. [Learn more.](#)

(808) 429-3522

[Get Directions](#) 3
66-532 Kamehameha Hwy Haleiwa,
HI 96712



Username
Location
📍 0 🌟 0



[Start your review of Jenny's Shrimp Lunch Wagon.](#)

Overall rating 5 stars

 4 stars

506 reviews 3 stars

2 stars

1 star

Yelp Sort ▾ English (504) ▾ Filter by rating ▾ Search reviews

11 reviews mentioning "restroom" [Clear results](#)



Lianna N.
South San Francisco, CA
📍 1114 🌟 123

⋮

 8/20/2022 · [Updated review](#)
📷 9 photos 📍 1 check-in

Jenny was so sweet and the food was so delicious! We love spicy food so the spicy garlic shrimp was a no brainer.

Unlike the other food truck parking that cost \$2 to get in, Jenny's had free parking and **restrooms**.

Definitely going back when I visit the North Shore at Shark's Cove!

[See all photos from Lianna N. for Jenny's Shrimp Lunch Wagon](#)

Useful Funny Cool

 8/18/2022 · [Previous review](#)
Jenny's was one of my fav places we went to on Oahu! We tried the classic garlic butter and spicy garlic shrimp. I love spicy food so that was a highlight for us. ...
[Read more](#)



Cheyne T.
Tustin, CA
📍 1311 🌟 1366

⋮

 5/12/2022

My new favorite shrimp truck!

Love that they have their own parking lot so no circling around and waiting for parking. They also have plenty of seating and a **restroom** in the back which was a plus. Really convenient location.

The spicy garlic shrimp was delicious and juicy! Will definitely be back the next time I'm in the area.

Useful 5 Funny 1 Cool 3



Andrea P.
South San Francisco, CA
📍 0 🌟 26



★★★★★ 8/10/2022

It's okay to try the OTHER truck nearby with the LONG lines. That's what we did the very first time coming to the island years ago. But, after a subsequent vacation to the island, we were hangry and yelp brought us here... to Jenny's... and we never looked back. The shrimp...just as garlicky, plump, juicy and delicious.

There's a designated seating area off to the side of the truck with plenty of tables (and umbrella shades) available. Tip, this place has a **restroom**. Just ask them for the key.

Thank you Jenny's for once again satisfying our garlic shrimp fix!

👍 Useful 1 😄 Funny 🥰 Cool 1



Ed M.
Huntington Beach, CA
📍 35 🌟 5



★★★★★ 8/19/2021

Great shrimp, lots of shaded tables, clean **restroom** and parking. So much nicer than many food trucks in Haleiwa. Shrimp plate includes rice and lettuce plus pineapple slice. Excellent, give Jenny's a try.

👍 Useful 1 😄 Funny 🥰 Cool 1



roderick s.
SOMA, San Francisco, CA
📍 3 🌟 169



★★★★★ 7/8/2019

📷 2 photos

No wait at Jennys! If you want to wait long, go to Giovannis and its not have a big difference in taste. We had the spicy garlic shrimp and it was excellent. Just be courteous not to park in their parking lot to go Big Waves. Jenny's also have **restroom** at the back of the building with running water and soap.

Spicy garlic shrimp

👍 Useful 😄 Funny 🥰 Cool



kim a.
Oxnard, CA
📍 142 🌟 10



★★★★★ 1/1/2019

Stumbled upon this place while out on vacation and ever since it's all I've craved. I've had other shrimp trucks before Jenny's and this is by far the best. Great customer service, no long lines, location with both parking and **restrooms**, the quality of food is exceptional and their serving portions is great. Both the shrimp and the garlic rice I had were so flavorful. I'll only go to Jenny's shrimp truck!

Useful Funny Cool



Christopher C.

Reno, NV

49 11

...

★★★★☆ 10/26/2018

This is an above average shrimp truck, with more of an Asian flair with the spicy garlic shrimp and the salt pepper shrimp (reminds me of a good Chinese restaurant).

4.5 stars overall, with points down for ambience (tin siding walls and roof), no noise protection from the street, but it has very clean **restrooms!**

Pro tip: This is on the right as you're headed north, so park here and send others in your party that want the Mexican (see my review on Surf and Salsa) or Korean food across the road.

Useful Funny Cool



Jojo H.

San Jose, CA

7 148

...

★★★★☆ 1/9/2019

When we got to Haleiwa, our goal was to try all shrimp trucks in the island then compare them. I must say, Jenny's is up there. We had 5 plates of shrimp with all flavors.

The winner is the salt and pepper!!

The lemon and pepper was too lemony.

The garlic shrimp was good

but we prefer not burned/browned garlic although still very good didn't tasted burnt it's just they cook the garlic until it's browned.

Plenty of table to sit on and a **restroom** to wash your hands. Very convenient however, only one bathroom is available.

Useful 1 Funny Cool



Holly V.

Arcadia, CA

873 139

...

★★★★★ 6/28/2019

Honestly, I feel like it's not that hard to make good garlic shrimp. I waited in the Giovanni's line for about 20 minutes and decided that there is no way there is that much of a difference between Giovanni's and another shrimp truck. Did some yelping and drove to Jenny's which is literally like a 10 minute walk (but we didn't want to leave our car).

I never got to try Giovanni's but Jenny's was really good. Drenched in garlic and butter, if there was one in my area, I'd def get high cholesterol.

I got the spicy garlic shrimp and my boyfriend got the regular garlic shrimp. Both are really good but the spicy one has more flavor to it. Not that spicy in my opinion, and I usually enjoy mild-medium spicy foods.

Free parking, **restrooms** available, lots of tables to sit on in the shade. WORTH.

Useful 3 Funny 2 Cool 3



Will H.

Honolulu, HI

227 32

...

★★★★★ 12/25/2018

📷 1 photo

Compared the garlic shrimp at Jenny's compared to across the street; Big Wave Shrimp. Big Wave definitely had a catchier name and the environment at Big Wave seemed better. But Jenny's garlic shrimp was definitely better. For one it had much more flavor and also Jenny's plate also had sauce in the rice. However Big Wave Shrimp only win over Jenny was that their plate had more fresh garlic.

Another positive was that Jenny's actually had a **restroom** and Big Wave had a portable that was absolutely disgusting...it literally had feces on the toilet seat.

All in all the food as at Jenny's was a 4.5; garlic shrimp and coconut shrimp.

The customer service was a 5..they even let me borrow a bottle opener.

Very tasty! Comparing this to Big Wave Stri...

- Useful
- Funny
- Cool



Jack H.

O'ahu, HI

📷 245 🍴 240

...

★ ★ ★ ☆ ☆ 12/28/2019

📷 3 photos

Everybody Was Kung Fu Fighting

These Shrimps were fast as Lighting! Before anyone wonders what the heck I'm doing here, I was taking out of state relatives out to "see" the North Shore! Because they were limited on time and I got ousted by majority rules (I voted East Shores btw), we ended up at this sticky tourist trap en route to other destinations. Peeps wanted shrimp but didn't want to go too far North so we naively chose the first Shrimp Truck in sight. I am still having difficulties rating this place as I write, so the best way I can break it down (more like swat it down) is going line item by line item, reflect the ups and downs in a seesaw like fashion, of the eventful Star Flying Experience here:

So we arrive in Haleiwa coming in from the south and this place is just to the right of the road. Not the best looking place, or view, or looking truck.

3 STARS.

We find out that only patrons of this food truck can park here. There's enough for probably 12 cars and a few shuttle vans to fit. Was not crowded or full at our time about 2pm.

4 STARS.

We see the prices and portions for the various flavored shrimp plates. Sticky Expensive.

3 STARS.

There are an ample amount of tables that can fit 6-8 people on it. For a TT, surprisingly not sticky!

4 STARS

There are flies starting to do patrol and holding patterns around us.

3 STARS

There is a **restroom** that needs a key and is NOT a Port O Potty!

4 STARS!

It Stinks!

2 STARS

Food comes out, Just in time

3 STARS kip

Flies Incoming

2 STARS

Smells good (The Shrimp)

3 STARS

Half of us had to wait longer to get ours (they must only got one burner or something)

2 STARS

Theres guy next to us swatting flies too in sweeping circular motions(not Kung Fu or Karate, Kenpo maybe, but somewhat Entertaining)

4 STARS

Flies attract more flies

3 STARS

Food was good enough I ate it all

4 STARS

Flies were still doing bombing like runs and desperate for landings

3 STARS

Garlic Butter and rice went well with salad and pineapple

4 STARS

Shrimp itself eh, didn't taste that fresh or have that soft pillowy bites or juices that fresh shrimp have, they were smaller than the trucks closer to Kahuku too. I think people are raving more about the flavors and seasonings that comes with the shrimp than the actual shrimp, which is good but the shrimp should be the star imo.

3 STARS

They did have a cleanup station for your hands with both sanitizer and paper towels! (I dislike when they only have sanitizer no towel, or towel no sanitizer)

5 STARS!

The shrimp came with shell on no head, here's my thing, I prefer either head so I can suck the juices, or no shell and no head, where I need not worry about peeling shell and just enjoy all the shrimp meat for days. This place had neither of my disturbing preferences lol

4 STARS

The other big deal about this place is obviously the flies. I don't get why the trash bins are uncovered and close to where the eating tables are.

3 STARS Final

I mean if you are in a hurry this could be your spot if you just want a quick crave, shorter or no line, or just want to check off North Shore shrimp off the list, but there are much better food, better experiences, and not much farther from there while saving you from having to bust out your Kung Fu to deal with them flies. MRC=13%

Useful 48

Funny 28

Cool 41

< 1 2 >

1 of 2

26 other reviews that are not currently recommended

Find reviews useful? Help others by sharing your experience.



Chings' Punaluu Store

Do you recommend this business?



Island Fresh

Do you recommend this business?



Kalalea Juice Hale

Do you recommend this business?



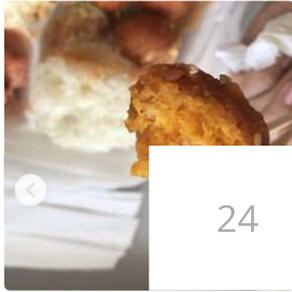
Rebel Kitchen

Do you recommend this business?



Show more suggestions

Collections Including Jenny's Shrimp Lunch Wagon



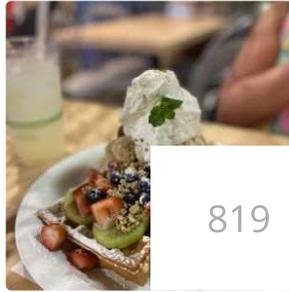
24

Our Favorites In Oahu
By Janel C.



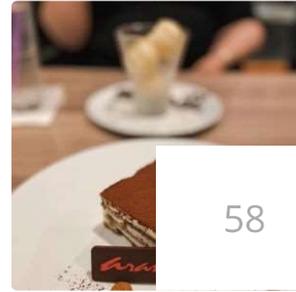
35

Oahu Food And Things To Do
By Hollie W.



819

Oahu spots to eat at...
By Rissa K.



58

Honolulu - Waikiki
By Ivana Y.



Places to tak
By Jenny F.

People Also Viewed



Haleiwa Joe's

★★★★☆ 1339

\$\$ • Seafood, Tapas/Small Plates

No7 Japanese Food Truck

★★★★☆ 307

\$\$ • Food Trucks, Japanese, Sushi Bars

Banzai Sushi Bar

★★★★☆ 990

\$\$\$ • Sushi Bars, Japanese, Seafood

Honos Shrimp Truck

★★★★☆ 456

\$\$ • Food Trucks, Seafood

Bi

★

\$\$

Best of Haleiwa

Things to do in Haleiwa

Near Me

Food Trucks Near Me

Seafood Near Me

Seafood Restaurants Near Me

Taco Trucks Near Me

Browse Nearby

🍴 Restaurants

🍷 Nightlife

🛒 Shopping

⋮ Show all

People found Jenny's Shrimp Lunch Wagon by searching for...

Hawaiian Food Haleiwa

Shrimp Trucks Haleiwa

Dining in Haleiwa

🔍 Search for Reservations

📅 Book a Table in Haleiwa

Other Places Nearby

Find more Food Trucks near Jenny's Shrimp Wagon

Find more Seafood Restaurants near Jenny's Lunch Wagon

Frequently Asked Questions about Jenny's Shrimp Lunch Wagon

Does Jenny's Shrimp Lunch Wagon take reservations?

Yes, you can make a reservation by picking a date, time, and party size.

Does Jenny's Shrimp Lunch Wagon have outdoor seating?

Yes, Jenny's Shrimp Lunch Wagon has outdoor seating.

Is Jenny's Shrimp Lunch Wagon currently offering delivery or takeout?

Yes, Jenny's Shrimp Lunch Wagon offers takeout.

What forms of payment are accepted?

Jenny's Shrimp Lunch Wagon accepts credit cards.

Jenny's Shrimp Lunch Wagon is a Yelp advertiser.

About

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Languages

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Countries

United States ▾

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Exhibit E

From: [Duke Pontin](#)
To: [Shareem, Jelani](#)
Subject: LCC
Date: Tuesday, November 23, 2021 9:40:11 AM
Attachments: [acquire_Prop_10417.png](#)

Jelani Shareem, 11/23/21

October 4, 2017 I acquired the property. One bathroom was unusable the other so bad nobody would want to use it.

My recollection it was probably March 2018 before they were usable.

April 2018 Jenny's shrimp truck moved on the property but did not become busy until later that fall.

2019 was a pretty good year for Jenny's shrimp truck, for the most part the building was empty

2020 Covid hit and Haleiwa became a ghost town.

August 2020 the SmoothieTruck started, one man show with no customer access to the restrooms. Did not want to deal with who cleans what.

November 2020 the building was rented.

From the time I bought the property until November 2020 the building was rented to an eccentric man for his private art gallery or was empty.

April 28, 2021 after speaking with Connor the restrooms were used by five or six people, a porta potty was installed a couple weeks later for the customers.

November 22, 2021 received an email from you and talk with you on the phone. Because of that conversation the bathrooms were screwed shut and the septic was pumped dry.

There are cesspits all over the state of Hawaii and until my conversation with Connor I had no idea about EPA regulations or the term LCC. After speaking with Connor and making the restrooms only available to five or six people I truly believe that was in compliance. After speaking with you and made aware of Reality I completely shut the restrooms down and pump the septic dry. As we discussed I reached out to the Hawaii Health Department and awaiting a return phone call. As soon as the department of health gets back to me I will be backfilling the septic area per their instructions.

Duke



TITLE GUARANTY
TITLE & ESCROW SERVICES

TITLE GUARANTY ESCROW SERVICES, INC.
MAIN OFFICE, 235 QUEEN STREET, HONOLULU, HI 96813
Tel: (808)521-0211 Fax: (808)521-0280 Email: MAIN@TGHAWAII.COM

FINAL BUYER SETTLEMENT STATEMENT

NSHE HI Narcissus, LLC

File Number: 21017099046

Escrow Officer: Jeremy Trueblood

Buyer: NSHE HI Narcissus, LLC
NSHE HI Sunflower, LLC

Seller: GILBERT K. KAWAMATA, TRUSTEE
CAROLYN M. KAWAMATA, TTEE
KATHERINE K. KAWAMATA, TTEE
CAROLYN M. KAWAMATA, TTEE

Tax Map: 1620070190000

Property Location: 66-532 Kamehameha Hwy
Haleiwa, HI 96712

Settlement Date: 10/04/2017

Certificate of Service

The undersigned certifies that on the date indicated below this Motion for Accelerated Decision on Liability along with the Memorandum in Support of Complainant's Motion for Accelerated Decision on Liability and all Declarations and Exhibits, were served upon the Respondent's attorney, who has consented in writing to electronic service pursuant to 40 C.F.R. § 22.5(b)(2).

One copy via electronic mail to:

Charles W. Gall
Kobayashi Sugita & Goda, LLP
First Hawaiian Center
999 Bishop Street, Suite 2600
Honolulu, Hawaii 96813
Telephone: (808) 535-5700
Facsimile: (808) 535-5799
Email: cwg@ksglaw.com

Dated: January 13, 2023

Daron
Ravenborg



Digitally signed by
Daron Ravenborg
Date: 2023.01.13
08:55:06 -08'00'

Daron Ravenborg
Assistant Regional Counsel
Office of Regional Counsel, EPA 9