

From: [Shareem, Jelani](#)
To: pontind@icloud.com
Cc: [Wells, Kimberly](#)
Subject: RE: Follow-up Settlement Call Email re: NSHE HI Narcissus LLC Large Capacity Cesspool
Date: Monday, January 10, 2022 9:30:00 AM

Hi Duke,

As follow-up to our call on 12/15/21, I wanted to check in to see whether you intend to submit a response/counter offer to EPA's proposed penalty of **\$49,391** to resolve the matter of the Large Capacity Cesspool that served Tax Map Key: 1-6-2-007-019? Please let me know your decision as soon as possible.

Regards,

Jelani
415-972-3095

From: Shareem, Jelani
Sent: Wednesday, December 15, 2021 3:18 PM
To: Duke Pontin <pontind@icloud.com>
Cc: Wells, Kimberly <wells.kimberly@epa.gov>
Subject: RE: Follow-up Settlement Call Email re: NSHE HI Narcissus LLC Large Capacity Cesspool

Duke,

Below is the link to other cases that we have settled.

<https://www.epa.gov/uic/hawaii-cesspool-administrative-orders>

From: Shareem, Jelani
Sent: Wednesday, December 15, 2021 2:40 PM
To: Duke Pontin <pontind@icloud.com>
Cc: Wells, Kimberly <wells.kimberly@epa.gov>
Subject: Follow-up Settlement Call Email re: NSHE HI Narcissus LLC Large Capacity Cesspool

Settlement Confidential

Dear Duke,

Thank you again for your time this afternoon. As mentioned, I am sending along a breakdown of EPA's proposed penalty for the matter of the Large Capacity Cesspool at Tax Map Key: 1-6-2-007-019:

Economic Benefit of Noncompliance - \$141 (based on one-time nondepreciable costs)

Unadjusted Gravity Component (A x B) (C + D) :

- A) Seriousness of the Violation – Level 1 -\$1,350
- B) Economic Impact on the Violator – Factor 0.3
- C) Duration of Violation – 50 months
- D) Number of Wells – 1

$$(1,350) (0.3) \times (50 + 1) = \$20,655$$

Inflation Adjustment

All 50 months of violation had an inflation multiplier of 1.76628 applied to the unadjusted gravity figure. Specifically, EPA’s 2020 Civil Monetary Penalty Inflation Adjustment Rule, 85 Fed. Reg. 83818 (Dec. 23, 2020) (“2020 Rule”), adjusted penalty amounts in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (“2015 Act”). The 2020 Rule took effect on December 23, 2020 and is codified at 40 C.F.R. § 19.4., provides that the inflation-adjusted administrative penalty cap will apply to all civil penalties assessed on or after November 2, 2015.

The gravity component becomes \$36,482 after application of the inflation adjustments.

Gravity Component Adjustment Factor

The proposed penalty was increased to account for the complete and ongoing control over the violation and the violation being highly foreseeable. This figure was then decreased due to your prompt closure of the LCC. Ultimately, the penalty was increased by 35%. This brought the adjusted gravity component to \$49,250.

Total Penalty

Adding the economic benefit (\$141) to the adjusted gravity component (\$49,250), the total proposed penalty is **\$49,391**.

Ability to Pay

More information on EPA’s ability to pay procedures can be found here.

Please submit your response/counter to EPA’s proposed penalty by C.O.B. Friday, January 7, 2022.

Best,

Jelani Shareem

Enforcement and Compliance Assurance Division

Drinking Water Section (ECAD-3-3)

U.S. EPA Region 9

75 Hawthorne Street

San Francisco, CA 94105

Phone: (415) 972 – 3095

<https://www.epa.gov/uic/basic-information-about-class-v-injection-wells>

<https://www.epa.gov/uic/large-capacity-cesspools>

<https://www.epa.gov/uic/cesspools-hawaii>

