

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawai'i

June 10, 2021

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Kaua'i

Request Amendment to Extend and Authorize the Department of Land and Natural Resources, Division of State Parks to Directly Negotiate a Ten (10) Year Lease Extension with Camp Hale Koa Association, an Eleemosynary Organization, for Recreational Campground purposes at Lots 55, 56, 57, and 58 situated at Pu'u ka Pele, Waimea, (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-002:055.

The purpose of the amendment is to: extend the current lease set to expire on November 30, 2025, for an additional ten (10) years with an updated rental rate to be determined by an independent appraiser.

APPLICANT:

Camp Hale Koa Association, a registered 501 (c)(3) non-profit organization.

DCCA VERIFICATION:

Place of business registration confirmed: Yes
Registered business name confirmed: Yes
Applicant in good standing confirmed: Yes

REQUEST:

Camp Hale Koa Association, an eleemosynary organization, is requesting to directly negotiate with the Division of State Parks to extend the Pu'u Ka Pele recreational campground lease for an additional ten (10) years.

LEGAL REFERENCE:

Hawai'i Revised Statutes (HRS) § 171-13, and 171-43.1, as amended.

LOCATION:

Lots 55, 56, 57, and 58, Pu'u Ka Pele, Waimea (Kona) Kaua'i, Hawai'i, Tax Map Key:
(4) 1-4-002:055 as shown on the attached map, **Exhibit A.**

AREA:

Approximately 4.06 acres, more or less

ZONING:

State Land Use District: Conservation
County of Kaua'i: OP

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES _____ NO X

ANNUAL RENTAL:

At the fair market value rental rate for public campground and lodging use determined by an independent appraisal.

CHAPTER 343 ENVIRONMENTAL ASSESSMENT:

In accordance with Hawai'i Administrative Rule §11-200.1-16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, which states, "Operations, repairs or maintenance or existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing, Part I, 10. Operation, repair and maintenance of existing recreational facilities, such as campsites, cabins, shelters, and other similar structures, and the appurtenant support facilities and structures." See attached exemption declaration **Exhibit B.**

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 2209 to be under the control and management of the Department of Land and Natural Resources, Division of State Parks as an addition to Kōke'e and Waimea State Parks for park purposes.

CHARACTER OF USE:

Camp Hale Koa will operate a campground operation including tent and cabin rentals. The property may not be used as a single-family residence, except that a campground caretaker may reside full-time on the property.

BACKGROUND:

The camp was initially a composite of WWII barracks and structures built in the 1940's. It is comprised of eight (8) cabins, two (2) outdoor shower/restroom facilities, a meeting hall, recreational room with table games and a large kitchen. In addition, a single-family cabin was available for a live-in caretaker (**Exhibit C**). For many years, The Hawaii Association of Seventh Day Adventists (HASDA) held a general lease but transitioned to a revocable permit to operate the camp facility. At the request of HASDA, the revocable permit was terminated in August 2010. The unoccupied facility garnered interest from numerous non-profit groups including the Kokee Resource Conservation Program, Storybook Theatre and Kauai Christian Fellowship. The then assistant administrator and staff selected the Camp Hale Koa Association (CHKA) due to its commitment to refurbish, renovate, operate a similar group camping facility to HASDA. The Board approved the issuance of a Revocable Permit to CHKA at its meeting on December 9, 2010. Its Revocable Permit was executed on April 1, 2011 and continued annually until a lease was granted on December 1, 2015. General Lease SP-0402 was executed and is currently set to expire on November 30, 2025.

CHKA has with and without approval renovated the various structures and updated utilities to operate the camp until the Environmental Protection Agency (EPA) sent the Department of Land and Natural Resources, Division of State Parks (DSP) a formal Request for Information. Per General Lease SP-0402, staff notified CHKA to suspend use of the facilities via phone and formal letter. However, additional phone calls and a second letter were needed before CHKA fully complied with the initial cease and desist order. As required by EPA's demand to immediately suspend use and abandon the three (3) large capacity cesspools (LLC), DSP took it upon itself to manage the decommissioning.

The camp suspended operations for the last year or so as CHKA determined it was not economically feasible or practical to operate the facilities with temporary measures and due to the restrictions and impacts associated with the pandemic. CHKA has persistently requested a long-term extension to help amortize the cost of the three (3) individual wastewater systems (IWS) as required to replace the three (3) LLC.

DSP has been waiting to proceed to the Board with a request for a lease extension only after a final settlement was reached with EPA. A fine was assessed and paid with the fiscal support of Land Division. Despite the Indemnity language in paragraph 15 of the lease, DSP determined the public would be best served by waiving the obligation for the commitment of CHKA to install the three (3) IWS (**Exhibit D**). The three (3) IWS are

estimated to cost more than one hundred thousand dollars (\$100,000). Moreover, CHKA has stated that despite its obligation to fully investigate the adequacy of the site for its use, it should have been informed at the time of assuming possession that LCC were in use and not permitted per a ban on LLC via a May 2004 EPA policy update (**Exhibit E**).

CHKA will only reoccupy the premise once it has completed the three (3) IWS or implemented any interim measures as approved by the Department of Health.

To ensure the camp is available for the greater community and the general public CHKA will be permitted to forego its obligation to reimburse the State with its commitment to fund and complete the three (3) IWS for the whole site. CHKA will renew its commitment to provide monthly income and expense reports. CHKA has assured DSP that while it has made improvements to the property without prior written authorization, that any potential future improvements will be made only after prior written approval has been granted.

DSP recommends the extension of the General Lease for an additional ten (10) year period with a rental rate determined by an independent appraiser procured by the State. The rent is currently the nominal rate of \$460 per annum. In addition, CHKA will install at its sole expense the required wastewater system to accommodate the existing buildings and comply with all applicable County, State and Federal laws.

RECOMMENDATION:

That the Board, subject

1. Determine that in accordance with Hawai'i Administrative Rule §11-200.1-16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, which states, "Operations, repairs or maintenance or existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing, Part I, 10. Operation, repair and maintenance of existing recreational facilities, such as campsites, cabins, shelters, and other similar structures, and the appurtenant support facilities and structures."
2. Approve the extension of the General Lease to Camp Hale Koa Association at rent to be determined by an appraisal of the property for an additional term of ten (10) years.
3. Camp Hale Koa Association at its expense will install individual wastewater systems for the three (3) existing buildings to County and State codes with all proper permits, etc. prior to occupancy of the site.

June 10, 2021

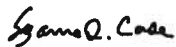
4. The standard terms and conditions of the most current general lease, as may be amended from time to time;
5. Review and approval by the Department of the Attorney General; and
6. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the state.

Respectfully submitted,



CURT A. COTTRELL
Administrator
Division of State Parks

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE
Chairperson
Board of Land and Natural Resources

ATTACHMENTS:

- Exhibit A – State of Hawaii Survey of Pu’u Ka Pele Park Lots
- Exhibit B – DLNR Exemption List – November 10, 2020
- Exhibit C – Site Map with Live-in Caretaker Cabin
- Exhibit D – Paragraph 15 of General Lease, Indemnity
- Exhibit E – EPA May 2004 EPA policy update

EXHIBIT A



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. KAUAI FILE
FOLDER 2

July 1, 1985

PUU KA PELE PARK LOTS

LOTS 55, 56, 57 AND 58 (COMBINED)

Waimea (Kona), Kauai, Hawaii

Being a portion of Waimea Canyon Park,
Governor's Executive Order 2209.

Beginning at the east corner of Lot 56 and at the southwest corner of Lot 53 of Puu Ka Pele Lots, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALE 2" being 4479.92 feet South and 3951.94 feet West, thence running by azimuths measured clockwise from True South:-

1. 3° 40' 155.77 feet along the remainder of Waimea Canyon Park, Governor's Executive Order 2209;
2. 101° 23' 30.00 feet along the remainder of Waimea Canyon Park, Governor's Executive Order 2209;
3. 4° 22' 208.00 feet along the remainder of Waimea Canyon Park, Governor's Executive Order 2209;
4. 101° 23' 416.00 feet along the remainder of Waimea Canyon Park, Governor's Executive Order 2209;
5. 184° 22' 416.00 feet along the remainder of Waimea Canyon Park, Governor's Executive Order 2209;
6. 281° 23' 416.00 feet along the remainder of Waimea Canyon Park, Governor's Executive Order 2209;

C.S.F. No. KAUAI FILE
FOLDER 2

July 1, 1985

7. 337° 52'

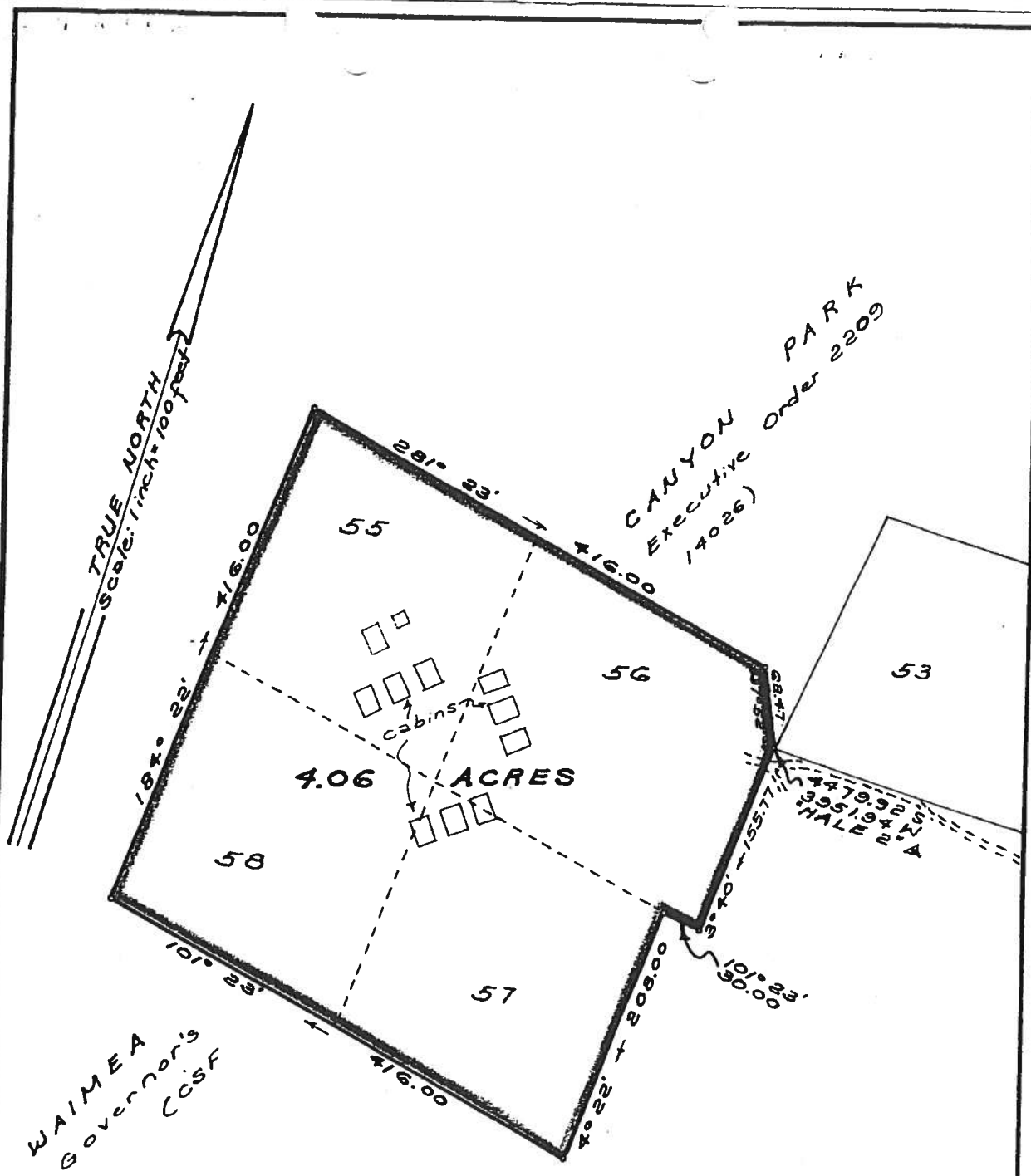
62.47 feet along the remainder of Waimea
Canyon Park, Governor's Executive
Order 2209 to the point of
beginning and containing an AREA
OF 4.06 ACRES.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Stanley T. Nakamura
Stanley T. Nakamura
Land Surveyor

pt

Compiled from survey by
J. Chrystal, Jr., A. Ishida
and Govt. Survey Records.



PUU KA PELE PARK LOTS
LOTS 55, 56, 57 AND 58 (COMBINED)
 Waimea (Kona), Kauai, Hawaii

Scale: 1 inch = 100 feet

JOB K-250 (85)
 C. BK 11, Pg. 146

TAX MAP 1-4-02

KAUAI FILE FOLDER 2

SURVEY DIVISION
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
 STATE OF HAWAII

STN July 1, 1985

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKO A KALUHIWA
FIRST DEPUTY

W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR.

Project Title: Amend and Extend and Authorize the Department of Land and Natural Resources, Division of State Parks to Directly Negotiate a 10-Year Lease with Camp Hale Koa Association for Recreational Campground purposes.

Project / Reference No.: SP0402

Project Location: Waimea Canyon State Park, Lots 55, 56, 57, and 58 situated at Pu'u ka Pele, Waimea, (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-002:055.

Project Description: Amend and Extend lease to Camp Hale Koa Association

Chap. 343 Trigger(s): Use of State Land

In accordance with Hawai'i Administrative Rule §11-200.1-16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, which states, "Operations, repairs or maintenance or existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing, Part I, 10. Operation, repair and maintenance of existing recreational facilities, such as campsites, cabins, shelters, and other similar structures, and the appurtenant support facilities and structures."

**Cumulative Impact of
Planned Successive actions
in Same Place Significant?**

No, the requested location has been used for the same use since the 2011.

Analysis:

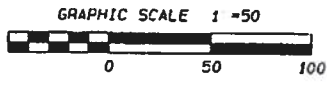
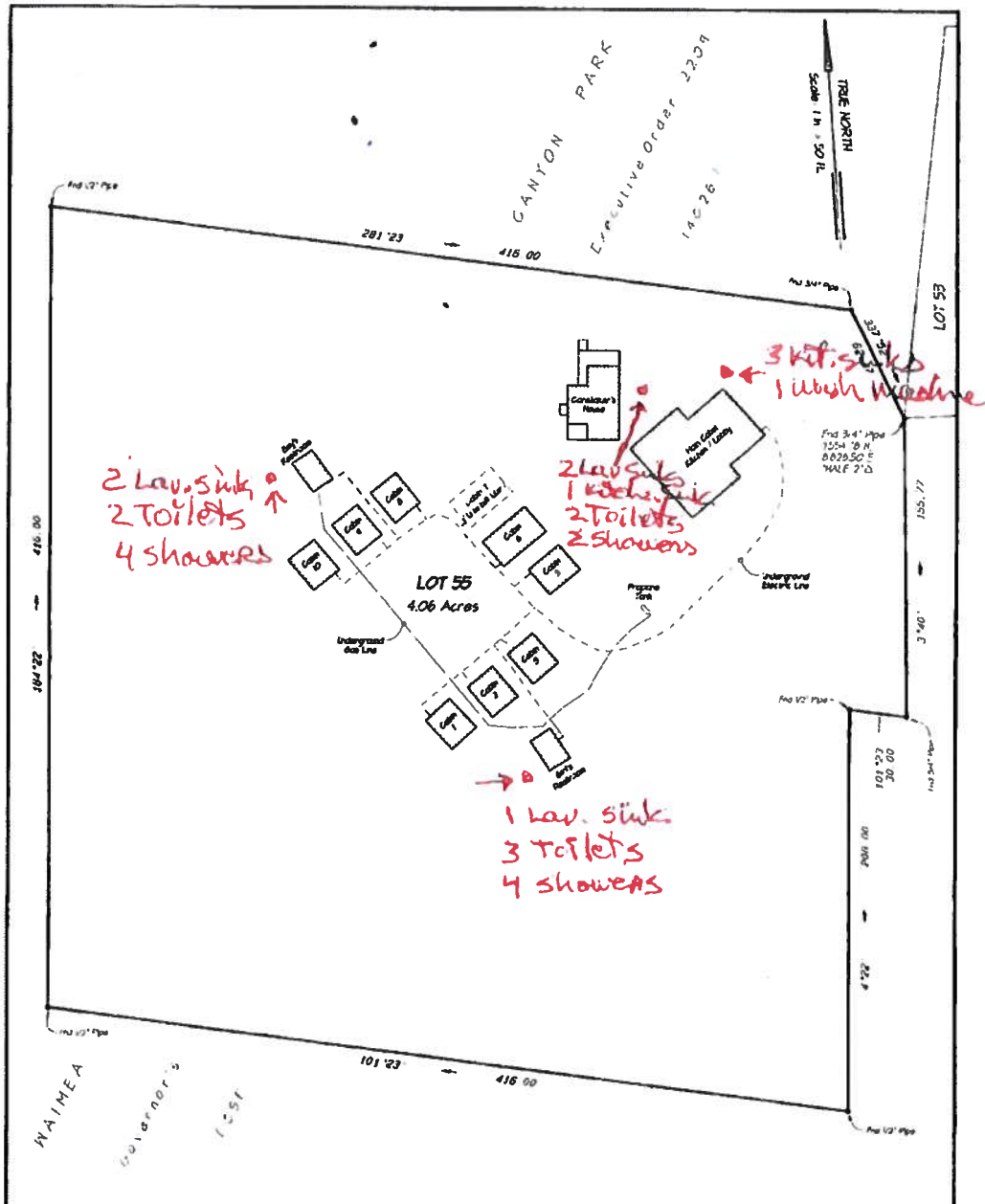
Staff believes the request would involve negligible or no expansion or change in use of the subject location beyond existing.

Consulted Parties:

DLNR – Division of Forestry and Wildlife and Office of Conservation and Coastal Lands

Recommendation:

It is recommended that the Board find that this action will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



PLOT PLAN
LOT 55 (Camp Hale Koa)

Portions of
 PU KA PELE PARK LOTS
 At Waimea (Kona), Kaula, Hawaii

Tax Map Key (4) 1-4-02:55

Prepared for: Camp Hale Koa Association



THIS WORK WAS PREPARED
 BY ME OR UNDER MY SUPERVISION

[Signature]

Licensed Professional Land Surveyor
 Certificate Number - 12973-LS

Tax Map Key (4)-1-02:55
 Job Number PB-17-083

Portugal Surveying, LLC
 1840 Lolaina Street
 Lihou, Kaula, Hawaii

Sheet 3 of 7
 August 11, 2017

13. Assignments, etc. The Lessee shall not transfer, assign, or permit any other person to occupy or use the premises or any portion or transfer or assign this lease or any interest, either voluntarily or by operation of law, and any transfer or assignment made shall be null and void; provided that with the prior written approval of the Board the assignment and transfer of this lease or any portion may be made only if it is to a non-profit corporate successor of the Lessee.

14. Subletting. The Lessee shall not rent or sublet the whole or any portion of the premises.

15. Indemnity. The Lessee shall indemnify, defend, and hold the Lessor harmless from and against any claim or demand for loss, liability, or damage, including claims for bodily injury, wrongful death, or property damage, arising out of or resulting from: 1) any act or omission on the part of Lessee relating to Lessee's use, occupancy, maintenance, or enjoyment of the premises; 2) any failure on the part of the Lessee to maintain the premises and sidewalks, roadways and parking areas adjacent thereto in Lessee's use and control, and including any accident, fire or nuisance, growing out of or caused by any failure on the part of the Lessee to maintain the premises in a safe condition; and 3) from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of the Lessee's non-observance or non-performance of any of the terms, covenants, and conditions of this lease or the rules, regulations, ordinances, and laws of the federal, state, municipal or county governments.

16. Costs of litigation. In case the Lessor shall, without any fault on Lessor's part, be made a party to any litigation commenced by or against the Lessee (other than condemnation proceedings), the Lessee shall pay all costs, including reasonable attorney's fees, and expenses incurred by or imposed on the Lessor; furthermore, the Lessee shall pay all costs, including reasonable attorney's fees, and expenses which may be incurred by or paid by the Lessor in enforcing the covenants and agreements of this lease, in recovering possession of the premises, or in the collection of delinquent rental, taxes, and any and all other charges.

17. Liability insurance. The Lessee shall procure and maintain, at its cost and expense and acceptable to the Lessor, in full force and effect throughout the term of this lease, comprehensive general liability insurance, or its equivalent, with an insurance company or companies licensed or authorized to do business in the State of Hawaii with an AM Best rating of not





Ban on Large-Capacity Cesspools to Protect Public Health in Hawaii

New cesspool construction prohibited as of April 5, 2000

Existing cesspools must be closed by April 5, 2005

Nationwide Restrictions for Large-Capacity Cesspools: The U.S. Environmental Protection Agency (EPA) promulgated Underground Injection Control (UIC) regulations on December 7, 1999 which prohibit the construction of new large-capacity cesspools, effective April 5, 2000.

Existing large capacity cesspools must be upgraded or closed by April 5, 2005. Cesspool owners are required to find a waste disposal alternative, such as connection to a municipal sewer, or installation of an onsite wastewater treatment unit (such as a septic system).

Large capacity cesspool owners must notify EPA and the Hawaii Department of Health (DOH) Underground Injection Control (UIC) programs of the existence of these cesspools and their intent to close them. To obtain an inventory form, EPA Form 7520-16, contact the Ground Water Office at (415) 972-3540 or download it from www.epa.gov/safewater. If you have questions about the ban, contact Laura Tom Bose or Shannon FitzGerald, toll-free at 1-866-EPA-WEST (1-866-372-9378) or by email at bose.laura@epa.gov, or fitzgerald.shannon@epa.gov. To register a cesspool with DOH, contact the UIC program at (808) 586-4258.

Why is EPA banning large Cesspools? Cesspools allow untreated sewage to percolate directly to soil and ground water. They are a public health and environmental concern. They are banned because of their likelihood of releasing disease-causing pathogens and other contaminants, such as nitrate, to ground water. The sewage moves through the ground and can contaminate ground water, streams (sources of drinking water) and the ocean.

What is large-capacity? Single-family homes are not subject to the Underground Injection Control (UIC) regulations.

- Non-residential cesspools, septic systems or similar waste disposal systems are covered under the UIC program if they are used for the disposal of sanitary waste and have the capacity to serve 20 or more persons per day, such as a cesspool at a visitor center, business or school.

- Residential large-capacity cesspools are covered by this regulation if they serve a multiple dwelling, community or regional system. For example, multiple homes plumbed into a single cesspool or a series of cesspools (gang cesspool(s)).

If cesspools are banned, how will we get rid of sewage? If municipal sewer lines are accessible, sewage should be disposed to the municipal sewer for treatment before its release to the environment. If a sewer line is not accessible, replacing or upgrading cesspools so that they are part of a conventional septic system (or enhanced onsite wastewater treatment system) is acceptable, and can reduce the risk of contamination.

Cesspool owners should consult with the DOH Waste Water Branch and the County Wastewater Program to learn what alternatives are allowable and what regulations or codes apply to their situation. The type of waste treatment required may vary based on an area's vulnerability to contamination, population density, soils, hydrogeology, and climate.

Failure to close or upgrade a large-capacity cesspool by April 5, 2005 could result in enforcement by the EPA, including a fine of \$32,500 per day per large capacity cesspool.

The federal regulations can be found at 40 CFR part 144, Subpart G, which was published on December 7, 1999. For a copy, see the EPA Underground Injection Control (UIC) website at www.epa.gov/safewater, see Class V.

Technical information regarding treatment technologies can be found at www.epa.gov/owm/mtb/decent, see Toolbox.

DISCLAIMER:
The statements in this document are intended solely as technical assistance. This document is not intended, nor can it be relied upon, to create any rights enforceable by any party in litigation with the United States.

Regulatory Terms

The following definitions are provided to assist you with understanding the regulatory requirements and are taken from the federal regulations at 40 CFR part 144.3 and Hawaii Administrative Rules (HAR), Title 11, Chapters 23 and 62.

Cesspool means a “drywell” that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides. [CFR] Further, it is an individual wastewater system which is designed to receive no more than 1000 gallons per day of domestic wastewater. [HAR]

Drywell means a well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids. [CFR]

Individual Wastewater System means a facility which is designed to receive and dispose of no more than 1000 gallons per day of domestic wastewater. [HAR]

Sanitary waste (domestic waste) means liquid or solid wastes originating from human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, food preparation, clothes or dish washing operations. [CFR]

Seepage pit means an excavation in the ground which receives the discharge from treatment units and permits the effluent to seep through its bottom or sides to gain access to the underground formation. [HAR]

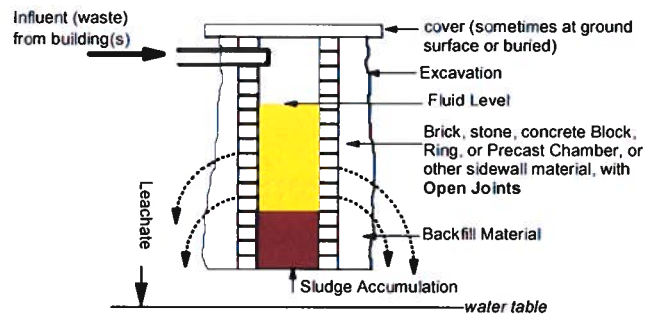
Septic system means a “well” that is used to emplace sanitary waste below the surface and is typically comprised of a septic tank and subsurface fluid distribution system or disposal system, e.g. seepage pit. [CFR]

Subsurface fluid distribution system means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground. [CFR]

Well means a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or, a subsurface fluid distribution system. [CFR]

Other questions about Cesspools:

What does it mean “have the capacity to serve more than 20 persons per day?” Any cesspool that is being used or has been used by 20 persons in a single day meet the federal definition of a large capacity cesspool.



Typical Cesspool Design

What if my cesspool disposes of more than just sanitary waste or domestic wastewater? A cesspool receiving a combination of sanitary waste and/or a commercial waste, such as a cesspool serving a hospital, laundromat or supermarket is an industrial well. It is subject to federal and DOH UIC regulations as well as DOH Wastewater regulations. If the cesspool serves or has served 20 or more persons, it must be closed by April 2005. In addition, under state law, cesspools and other individual wastewater systems receiving less than 1000 gallons per day (gpd) cannot be used for industrial wastewater disposal, are in violation of state law, and must upgrade. Cesspools receiving flows of greater than 1000 gpd and all injection wells must apply for a permit from the DOH UIC program.

What if my cesspool is not a drywell by the federal definition? The term “drywell” is used in the regulation to cover the most common type of construction. Some areas may use other designs. Some areas may also experience changes in water table levels, so that a cesspool is in the saturated zone. Cesspools that intersect the water table are banned by DOH and must be upgraded. Discharge of untreated sewage directly into the water table may be an even greater risk than discharge to soil above the water table, particularly in the transport of viruses.

How do I close my cesspool? The DOH UIC program has specific backfilling requirements that are issued to the facility after an abandonment application is submitted by the facility. Backfilling should not occur unless backfilling instructions are issued. For information, contact the UIC program at (808) 586-4258.

How do I replace my system? Plans must be prepared by a professional engineer for all new or replacement wastewater systems and must be submitted to the DOH Wastewater Branch for review and approval prior to construction. For information, contact the Wastewater Branch at (808) 586-4294.