

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96819

April 28, 2023

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Land Board Members:

SUBJECT: Authorize the Chairperson to Negotiate and Sign a Settlement Agreement Between the Department of Land and Natural Resources and Department of Health, Wastewater Branch for NOVO No. 21-WW-EO-01, Relating to the Wastewater Treatment System at Heeia Kea Small Boat Harbor, Kaneohe, Oahu, Hawaii; and Authorize the Chairperson to Execute Any Other Agreement or Contract that May Be Necessary for DLNR to Comply with the Settlement Agreement.

REQUEST:

The Division of Boating and Ocean Recreation (DOBOR) is requesting approval of a Draft Settlement Agreement between DOBOR and the Department of Health, Wastewater Branch (DOH-WWB) for the replacement of the wastewater treatment system at Heeia Kea Small Boat Harbor, Kaneohe, Oahu, Hawaii.

BACKGROUND:

The existing wastewater treatment system at Heeia Kea Small Boat Harbor was originally built in 1991 and has been failing to meet DOH-WWB's permitted effluent discharge limits of 60 milligrams per liter (mg/L) for biochemical oxygen demand (BOD₅) and 60 mg/L for total suspended solids (TSS).

On June 27, 2021, DOH-WWB issued a Notice of Violation and Order (NOVO No. 21-WW-EO-01) notifying DOBOR of its violations and failure to produce effluent from its wastewater treatment system at Heeia Kea Small Boat Harbor that meet their 60 mg/L limit for BOD₅ and 60 mg/L limit for TSS. A copy of NOVO No. 21-WW-EO-01 is attached as Exhibit A.

NOVO No. 21-WW-EO-01 further ordered DOBOR to:

1. Within twelve (12) months of receipt of NOVO No. 21-WW-EO-01, begin construction of a new wastewater treatment plant (WWTP) in accordance with DOH-WWB approved plans.
2. Within twenty-four (24) months of receipt of NOVO No. 21-WW-EO-01, complete the work to install the new WWTP and obtain DOH-WWB approval for use.
3. Within twenty one (21) days after receipt of NOVO No. 21-WW-EO-01, deliver or mail to the DOH-WWB a written report of the steps that DOBOR will have taken and will take to comply with NOVO No. 21-WW-EO-01. Include a time schedule for any future corrective actions and provide monthly status reports.
4. Within twenty one (21) days after receipt of NOVO No. 21-WW-EO-01, pay an administrative penalty of \$653,758.00 for the violations to date pursuant to 342D-31, HRS.
5. Pay an administrative penalty of \$50.00 for each day the new WWTP is not constructed and approved for use by DOH-WWB following twenty four (24) months after receipt of NOVO No. 21-WW-EO-01 pursuant to 342D-31, HRS.
6. Send monthly status reports and check(s) to State of Hawaii, Wastewater Branch, 2827 Waimano Home Road, Room 207, Pearl City, Hawaii 96782.

The provisions of NOVO No. 21-WW-EO-01 were to become final unless, within twenty one (21) days after receipt of NOVO No. 21-WW-EO-01, a written request for a hearing was submitted to the Hearings Officer, c/o Director of Health, 1250 Punchbowl St., Third Floor, Honolulu, Hawaii 96813.

A request for a hearing was timely submitted to the DOH, however a hearing was not scheduled as DLNR and DOH were discussing settlement of this matter.

Prior to issuance and receipt of NOVO No. 21-WW-EO-01, DOBOR had completed design and permitting for construction of a replacement WWTP at Heeia Kea Small Boat Harbor in 2018. DOBOR also requested and received \$1,000,000 in Capital Improvement Project (CIP) funds to construct a replacement WWTP at Heeia Kea Small Boat Harbor for which funds were released in August 2019 and bids were received in September 2019. However, bids received exceeded the \$1,000,000 CIP funds available.

In order to utilize the \$1,000,000 in CIP funds before they lapsed, DOBOR issued a separate bid solicitation for installation of the absorption bed disposal system needed for the new WWTP. Bids for the absorption bed disposal system were received in June 2020 and construction of the absorption bed disposal system was completed and accepted in December 2021.

DOBOR submitted multiple requests for CIP funding to complete construction of the WWTP for Heeia Kea Small Boat Harbor, after bids for the WWTP exceeded the initial \$1,000,000 CIP fund appropriation, and finally received \$3,000,000 in CIP funds to complete construction of the WWTP in November 2022.

Construction plans, specifications, and bidding documents for construction of the

replacement WWTP were repackaged by DOBOR's consultant and a solicitation for bids will be issued in April 2023. Construction of the new WWTP is anticipated to begin in August 2023 with completion by February 2024.

SETTLEMENT AGREEMENT AND ENVIRONMENTALLY BENEFICIAL PROJECT:

A Draft Settlement Agreement has been prepared and reviewed by Deputy Attorneys General representing DLNR and DOH. A copy of the Draft Settlement Agreement is attached as Exhibit B.

The Draft Settlement Agreement includes a timeline for completion of the construction of the replacement WWTP at Heeia Kea Small Boat Harbor as follows: (1) Begin construction of the replacement WWTP within twelve (12) months of the effective date of the Settlement Agreement and (2) Complete construction of the replacement WWTP and obtain DOH-WWB approval for use of the new WWTP within thirty six (36) months of the effective date of the Settlement Agreement. The effective date of the Settlement Agreement is the date of the last authorized signature on the Settlement Agreement.

The Draft Settlement Agreement also allows DLNR to complete a DOH approved Environmentally Beneficial Project (EBP). The Draft Settlement Agreement requires DLNR to provide DOH with an EBP Proposal within 30 days of the effective date of the Settlement Agreement.

DLNR has already prepared an EBP Proposal and provided a copy to DOH, who have tentatively agreed is an acceptable proposal. A copy of DLNR's EBP Proposal is attached as Exhibit C.

The Board already approved the replacement of the Heeia Kea Wastewater Treatment Facility at its August 12, 2016 meeting under Item L-6.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

The Heeia Kea Small Boat Harbor Wastewater Treatment System Improvements project has been determined to be exempt from requirements of HRS 343 and HAR 11-200.1 to prepare an Environmental Assessment (EA). A copy of DOBOR's EA Exemption, dated April 1, 2021, for the project is attached as Exhibit D.

RECOMMENDATION:

That the Board of Land and Natural Resources:

1. Authorize the Chairperson to negotiate and sign the settlement agreement.
2. Delegate authority to the Chairperson to sign any necessary supplemental or other agreements, including for the procurement and execution of any contracts for the

supplemental environmentally beneficial project that DOH may require for DLNR to fulfill its obligations under the Settlement Agreement.

Respectfully Submitted,



EDWARD R. UNDERWOOD, Administrator
Division of Boating and Ocean Recreation

APPROVED FOR SUBMITTAL:



DAWN N. S. CHANG, Chairperson
Board of Land and Natural Resources

Attachments:

- A Department of Health, Wastewater Branch Notice of Violation and Order NOVO No. 21-WW-EO-01.
- B Draft Settlement Agreement
- C DOBOR's Draft Environmentally Beneficial Project Proposal
- D EA Exemption dated April 1, 2021

EXHIBIT A

STATE OF HAWAII DEPARTMENT OF HEALTH

NOTICE AND FINDING OF VIOLATION AND ORDER

NOVO No. 21-WW-EO-01

TO: Owner: Department of Land and Natural Resources
The Honorable Suzanne Case, Chairperson

Address: Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawaii 96813

RE: Property/Facility: Heeia Kea Small Boat Harbor Wastewater Treatment Plants
Address: 46-499 Kamehameha Highway, Kaneohe, Hawaii 96744
TMK: (1) 4-6-006:064

The Department of Health (Department) issues this Notice and Finding of Violation and Order (NOVO) under Hawaii Revised Statutes (HRS) chapters 91, 321, 322, and 342D, and Chapter 11-62, Hawaii Administrative Rules (HAR). This case deals only with the violations alleged below, and the Department may bring other cases for other violations. This case does not limit cases by any other public agency or private party. The Department finds these violations based on (i) Operation and Maintenance inspections on August 26, 2015, November 28, 2016, February 14, 2019, and August 7, 2020; (ii) Department letters dated September 17, 2015, June 6, 2017, April 30, 2019, and September 25, 2020; and (iii) the laboratory reports for effluent samples taken from January 2015 through December 2020.

Statutes/Rules

Nature of the Violation(s)

§11-62-26(b)(1)(E), HAR and §11-62-26(b)(2)(E), HAR and §342D-50(d), HRS	Section 11-62-26(b)(1)(E), Hawaii Administrative Rules (HAR) require biochemical oxygen demand (BOD ₅) in the effluent from a treatment works not exceed 60 milligrams per liter (mg/l) limits for a grab sample. During the period of January 2015 through December 2020, a total of sixty-two (62) BOD ₅ violations exceeding the 60 mg/l limit were recorded between the Mauka plant (36 exceedances) and Makai plant (26 exceedances). Section 11-62-26(b)(2)(E), HAR require suspended solids (SS) in the effluent from a treatment works not exceed 60 mg/l limits for a grab sample. The Mauka plant incurred two (2) SS exceedances in February 2017 (200 mg/l) and March 2020 (63.3 mg/l).
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The facts of this case and the law justify the following order.

ORDER

You are ordered to:

1. Within twelve (12) months after your receipt of this issued NOVO, begin construction of the new wastewater treatment plant (WWTP) in accordance with Department approved plans;
2. Within twenty-four (24) months after your receipt of this issued NOVO, complete the work to install the new WWTP and obtain the Department approval for use;
3. Within twenty-one (21) days after your receipt of this NOVO, deliver or mail to the Department a written report of the steps that you have taken and will take to comply with this Order. Include a time schedule for any future corrective actions and provide monthly status reports;
4. Within twenty-one (21) days after your receipt of this NOVO, pay an administrative penalty of \$653,758.00 for the violations to date pursuant to §342D-31, HRS;
5. Pay an administrative penalty of \$50.00 for each day the new wastewater treatment system is not constructed and approved for use by the Department following twenty-four (24) months after receipt of this NOVO pursuant to §342D-31, HRS; and
6. Send monthly status reports and check(s) to the State of Hawaii, Wastewater Branch, 2827 Waimano Home Road, Room 207, Pearl City, Hawaii 96782. Checks shall be made payable to "State of Hawaii" and include a reference to NOVO No. 21-WW-EO-01.

The provisions of this NOVO shall become final unless, within twenty-one (21) days after receipt, you submit a **written** request for a hearing, along with a copy of the NOVO, to the Hearings Officer, c/o Director of Health, 1250 Punchbowl St., Third Floor, Honolulu, Hawaii 96813. Your written request for hearing, along with the NOVO, must be filed with the Hearings Office within the twenty-one (21) day period. You may file the hearing request in person at the Director's office, during regular business hours, or may mail the same to the Hearings Officer at the above address within the allotted time.

Failure to timely file the hearing request and related documents may result in a denial of your hearing request.

If a hearing is properly requested, a pre-hearing conference will be set by the Hearings Officer and you will be notified of the date, time and place of the pre-hearing conference.

The hearing will be conducted in accordance with Chapter 91 of the HRS and Title 11, Chapter 1 of the HAR. If you have special needs due to a disability and these needs will aid you in participating in the hearing or pre-hearing conference, please contact the Hearings Officer at (808) 586-4409 (voice) or through the Telecommunications Relay Service (711), at least ten (10) working days before the hearing or pre-hearing conference.

At the hearing, the parties may present relevant evidence and argument on the issues raised by this case. The parties may also examine and cross-examine witnesses and present exhibits.

Parties may be represented by legal counsel at their own expense. An individual may appear on his/her own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation, or trust, or association may represent the corporation, trust, or association.

At the hearing, you may seek to avoid any penalty, and the Department may seek the maximum penalty of \$25,000 per day, per violation. After the hearing, the Director of Health or the Hearings Officer will decide the actual administrative penalty, which may be more or less than this order, or none. The Order shall be affirmed, modified or rescinded by the Director or Hearings Officer.

The written request for a hearing, along with the related documents and pleadings in this case shall be directed to:

Hearings Officer
c/o Director of Health
Department of Health
1250 Punchbowl Street, Third Floor
Honolulu, Hawaii 96813

All other inquiries regarding this matter shall be directed to:

Sina Pruder, P.E., Chief, Wastewater Branch at 586-4294



KEITH E. KAWAOKA, D.Env
Deputy Director for Environmental Health

Date: JUN 27 2021

Approved as to form:



DALE K. SAKATA
Deputy Attorney General

Date: 6/17/21

CERTIFIED MAIL NO.: 7021 0350 0001 7984 0326
RETURN RECEIPT REQUESTED

EXHIBIT B

STATE OF HAWAI'I
DEPARTMENT OF HEALTH

STATE OF HAWAI'I DEPARTMENT OF HEALTH)	Docket No. 21-WW-EO-01
)	
Complainant,)	ADMINISTRATIVE ORDER ON
)	CONSENT
v.)	
)	
STATE OF HAWAI'I DEPARTMENT OF LAND AND NATURAL RESOURCES)	
)	
Respondent.)	
)	
)	
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)	

ADMINISTRATIVE ORDER ON CONSENT

This Administrative Order on Consent (**AOC**) is an administrative action taken by the State of Hawai'i Department of Health (**DOH**) pursuant to its authority to regulate water pollution under Hawaii Revised Statutes (**HRS**) Chapter 342D. This AOC is entered into voluntarily between DOH and the State of Hawai'i Department of Land and Natural Resources (**DLNR**) to settle their dispute without the risk of adverse findings of fact and conclusions of law, or a final order or judgment after litigation. This AOC addresses DLNR's He'eia Kea Small Boat Harbor Wastewater Treatment Plant at 46-499 Kamehameha Highway, TMK (1) 4-6-006:064 (**Facility**).

PRELIMINARY STATEMENT

1. During the period of January 2015 through December 2020, the Facility incurred a total of 62 biochemical oxygen demand (**BOD₅**) and 2 suspended solids (**SS**) violations. DOH issued letters to DLNR¹ for effluent BOD₅ and SS samples exceeding regulatory limits for the Facility.
2. The Facility consists of two modified cavitette systems. On September 25, 2018, DOH issued to DLNR an approval to construct letter for a new wastewater treatment plant (**WWTP**) to replace the modified cavitette systems. Through March 30, 2021, the date

¹ On September 17, 2015, June 6, 2017, April 30, 2019, and September 25, 2020.

of issuance of Notice of Violation and Order, Docket No. 21-WW-EO-01 (**NOVO**), DLNR did not make substantial progress toward constructing the new WWTP.

3. Pursuant to HRS §§342D-9 and -31 DOH ordered corrective actions and assessed a total penalty of \$653,758 against DLNR in the NOVO.

4. DOH and DLNR agree to conclude enforcement actions under the NOVO by entering into this AOC.

ADMISSIONS AND WAIVERS OF RIGHTS

5. DLNR neither admits nor denies any allegations of fact or law set forth in the NOVO. DLNR hereby agrees to waive any rights it may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in the NOVO.

6. DLNR admits and agrees that DOH has jurisdiction to enter into this AOC and to enforce its terms. Further, DLNR agrees that DOH has jurisdiction and authority to compel compliance with the terms and conditions of this AOC in an enforcement proceeding, either administrative or judicial, or to impose reasonable sanctions for violations of this AOC. DLNR hereby consents to the issuance of this AOC without adjudication.

PARTIES BOUND

7. This AOC shall apply to and be binding upon DOH and DLNR. DLNR agrees to carry out all actions required of it detailed within this AOC. The signatories to this AOC certify that they are authorized to execute and legally bind the parties they represent to this AOC. DLNR shall give notice of this AOC to any contractor performing activities contemplated by this AOC and shall submit a copy of each such notice to DOH. No change in ownership of the site where the Facility is located shall alter DLNR's responsibilities under this AOC without DOH's prior written consent.

MONETARY PENALTY

8. The parties agree that the total penalty assessed against DLNR for all violations alleged under this AOC shall be \$600,000 (**Monetary Penalty**), which DLNR agrees to pay to DOH; provided, however, that DLNR may, in lieu of paying part or all of the Monetary Penalty, propose one or more environmentally beneficial project(s) (**EBP**) it will undertake.

CORRECTIVE ACTIONS

9. DLNR agrees to the following corrective actions:

a. Within 12 months of the Effective Date (as defined below), begin construction of the new WWTP in accordance with DOH-approved plans;

b. Within 36 months of the Effective Date, complete the work to install the new WWTP and obtain DOH approval for use; and

c. Within 30 days of the Effective Date, deliver a written proposal to DOH for one or more EBPs DLNR proposes to undertake in lieu of paying the Monetary Penalty.

d. For purposes of this Section, the term “begin construction” shall mean when DLNR issues the notice to proceed for a contract for the installation of the new WWTP.

10. Any EBP proposed must have a nexus to water quality and Hawaii’s ecosystem. DLNR shall provide such details as necessary for DOH to confirm project adequacy, including: (i) a project description; (ii) the itemized monetary value of the EBP; (iii) the project beneficiaries; (iv) an analysis of the benefit to the environment and public health; (v) a timeline; (vi) a schedule for deliverables; and (vii) a commitment for a final report which certifies completion. Acceptance of an EBP is at DOH’s sole discretion and shall not be subject to dispute resolution as provided for in this AOC.

11. The maximum time allowed for implementation of an EBP will be as set forth in its approved proposal. Unless otherwise approved by DOH, the final report certifying completion of an EBP must be submitted to DOH within 12 months from the date DOH approves such proposal.

12. In the event DLNR does not propose an EBP or DOH does not accept a proposal, within 15 days of notice from DOH, DLNR shall pay the difference between the Monetary Penalty and the value of any approved EBP. Within 15 days of expiration of the time allowed for implementation of any EBP(s), DLNR shall pay the difference between the Monetary Penalty (including any amount paid upon notice by DOH) and the value of any EBP which was approved but not successfully implemented.

DELAYS OR IMPEDIMENTS TO COMPLIANCE

13. In the event of any delay or anticipated delay which does or may affect compliance with this AOC, DLNR shall notify DOH orally as soon as feasible and in writing within 10 calendar days. The notice shall describe in detail the anticipated length of the delay, the precise cause(s) of the delay, the measures taken and to be taken by DLNR to prevent or minimize the delay, the timetable by which those measures will be implemented, and the expected effect on the environment of the delay. DLNR shall take all reasonable measures to avoid or minimize any such delay.

STIPULATED PENALTIES

14. Demands for stipulated penalties, as described below, must be made by DOH in writing when DOH determines that a stipulated penalty is warranted. In DOH’s sole discretion, DOH may waive demand as appropriate after consideration of the facts leading to any delays as well as DLNR’s good faith efforts to comply with this AOC.

15. DLNR shall pay the following stipulated penalties upon DOH's written demand for each day a report, submission, deliverable, or payment required under this AOC is late: (i) \$250 for each day for delays between 1 and 7 days, inclusive; \$500 for each day for delays of 8 to 28 days, inclusive; and \$1,000 for delays in excess of 28 days.

16. If DOH collects a stipulated penalty in accordance with this AOC, DLNR shall not be subject to penalty for any act or omission for which DLNR paid the stipulated penalty in any collateral proceeding brought by DOH. Further, if DOH has collected a stipulated penalty under this AOC, DOH shall not seek civil or criminal penalties in any action or collateral proceeding for the act or omission for which DLNR paid the stipulated penalty.

DISPUTE RESOLUTION

17. The parties agree to ask the DOH Hearings Officer to take and retain jurisdiction of this matter for the limited purpose of adjudicating and resolving disputes between DOH and DLNR regarding corrective action, stipulated penalties or other provisions of this AOC. The dispute resolution procedure may be invoked, if informal negotiations have failed to yield agreement, by giving written notice to the other party and to the Hearings Officer advising them of a dispute and describing the nature of the dispute.

a. The party asserting a dispute (**Disputing Party**) shall provide the other party (**Responding Party**) and the Hearings Officer with a position statement regarding the dispute together with all such evidence it intends to rely on.

b. The Responding Party may file a petition with the Hearings Officer within 30 days of receipt of the Disputing Party's written summary, with service to the Disputing Party. The Responding Party shall have up to 30 days from filing its petition to provide to the Disputing Party and the Hearings Officer a position statement with all such evidence it intends to rely on.

c. The Disputing Party shall have up to 30 days after receipt of the Responding Party's position statement to file with the Hearings Officer any response to the petition and position statement, with service to the Responding Party.

d. In the event the Disputing Party's reply contains information different from or in addition to the material set forth in the Disputing Party's initial position statement, the Responding Party may file a reply with the Hearings Officer within 30 days of receiving the Disputing Party's response, above.

e. Service to a party or the Hearings Officer shall be by U.S. mail, return receipt requested, to the address set forth in Section 20, below.

18. In resolving the dispute between the parties, the Hearings Officer shall utilize the applicable standard provided for by law and/or administrative rule. Either party may appeal the Hearings Officer's decision as a final decision and order in a contested case.

PAYMENTS

19. Monetary Penalty and stipulated penalty amounts shall be paid by journal voucher to account number S-23-342-H-1559-000322-00-371, and include Docket No. "21-WW-EO-01," identifying the purpose of the payment.

20. DLNR's financial obligation and commitment to make payments of any kind under this AOC shall be contingent upon the availability and allotment by the Director of the Department of Budget and Finance of public funds to the Department of Land and Natural Resources to make such payment.

CONTACT INFORMATION

21. Any notice, report, or payment required to be given by one party to the other under this AOC shall be directed to the individuals at the addresses specified below.

Sina Pruder, P.E., Chief
Wastewater Branch
Hawai'i State Department of Health
2827 Waimano Home Road, Room 207
Pearl City, Hawai'i 96782

and

Finn McCall, Engineer
Division of Boating and Ocean Recreation
Hawai'i State Department of Land and Natural Resources
4 Sand Island Access Road
Honolulu, Hawai'i 96819

RIGHTS RESERVED BY DOH

22. Except as set forth herein, this AOC shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, claims and/or authorities, civil or criminal, that DOH has under statutory, regulatory, or common law authority.

23. DLNR's failure to fulfill the requirements of this AOC by the specified deadlines agreed upon shall constitute a violation of HRS §342D-9(c) and DOH may order additional corrective action or seek a court order requiring additional corrective action and assessing additional administrative and/or civil penalties.

24. DOH reserves the right to take actions consistent with any applicable law, against the responsible entities, and to exercise rights the Director of Health may have under any applicable law, including recovering costs and taking enforcement actions.

EFFECTIVE DATE

25. This Agreement shall become effective upon signature by an authorized representative of the last to sign of DOH and DLNR (**Effective Date**).

TERMINATION

26. DLNR must demonstrate to DOH's satisfaction that it has complied with all of the terms of this AOC. Within 30 days after such a showing, DOH shall issue a letter to DLNR certifying satisfactory compliance, which shall terminate this AOC.

MISCELLANEOUS PROVISIONS

27. This AOC shall not be modified except in writing, signed by both parties.

28. Each party shall bear its own costs and attorneys' fees.

29. This AOC resolves NOVO No. 21-WW-EO-01.

30. This AOC may be executed in counterparts, each of which shall be an original instrument and all of which together shall constitute one and the same document. The parties agree that facsimile or electronic signatures on this AOC shall be fully binding and effective for all purposes as original signatures.

The parties have duly executed this AOC as of the day and year set forth below.

**STATE OF HAWAI'I
DEPARTMENT OF HEALTH**

Kathleen Ho, Deputy Director
Environmental Health Administration

Date: _____

APPROVED AS TO FORM:

Deputy Attorney General

**STATE OF HAWAI'I DEPARTMENT OF
LAND AND NATURAL RESOURCES**

Name:
Chairperson

Date: _____

APPROVED AS TO FORM:

Deputy Attorney General

EXHIBIT C

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

EDWARD R. UNDERWOOD
ADMINISTRATOR
BOATING AND OCEAN RECREATION

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION

4 SAND ISLAND ACCESS ROAD
HONOLULU, HAWAII 96819

January 17, 2023

TO: Sina Pruder, P.E., Chief
Department of Health, Wastewater Branch
2827 Waimano Home Road, Room 207
Pearl City, HI 96782

FROM: Meghan L. Statts, Assistant Administrator
Division of Boating and Ocean Recreation (DOBOR)

SUBJECT: Environmentally Beneficial Project Proposal
Notice and Finding of Violation and Order No. NOVO 21-WW-EO-01
Heeia Kea Small Boat Harbor Wastewater Treatment System
Kaneohe, Oahu, Hawaii

This memorandum has been prepared to provide the scope of work and cost estimate for an environmentally beneficial project proposed by DOBOR to be completed in lieu of payment of the fine identified in the subject Notice and Finding of Violation and Order No. NOVO 21-WW-EO-01.

Project Name: Haleiwa Small Boat Harbor Makai Comfort Station/Harbor Office Wastewater System Improvements, Haleiwa, Oahu, Hawaii

Project Description & Beneficiaries:

This project involves replacement of the existing wastewater treatment system located next to and serving the existing makai comfort station/harbor office building at Haleiwa Small Boat Harbor, Haleiwa, Oahu, Hawaii.

The existing wastewater system is comprised of a pre-loader tank and aerobic treatment unit that discharges into seepage pit. The seepage pit discharges directly into tidally influenced ground water.

The proposed wastewater system improvements include the following scope of work:

- Demolition and backfilling of the existing wastewater system;
- Installation of sewage pump station next to makai comfort station/harbor office;
- Installation of new sewer force main (1,200 LF) from pump station to a new individual wastewater system located in the mauka portion of the harbor;
- Installation of a new wastewater system to include a pre-loader tank, NSF 245 aerobic treatment unit, and absorption bed (Note: Absorption bed will be installed at elevation such that there will be a minimum of 3 feet of separation between the bottom of the absorption bed and seasonal high groundwater level).

A conceptual site plan of the proposed improvements is attached.

EXHIBIT C

Beneficiaries include members of the public, DOBOR harbor staff, commercial and recreational harbor users and their clients.

Benefit to the Environment and Public Health:

As noted above, the existing wastewater system at the makai comfort station/harbor office currently discharged directly into tidally influenced groundwater. The proposed project will eliminate the direct discharge of wastewater effluent into the groundwater, which benefits the surrounding harbor and marine environment by reducing the discharge of pollutants (organics, nutrients, etc.) into those environments. Public health is also improved by the proposed project by reducing the public's exposure to wastewater effluent pollutants.

Project Budget:

Design and Permitting: \$100,000.00
Construction: \$750,000.00
TOTAL: \$850,000.00

Project Timeline and Deliverables:

June 2023: Consultant contract for design and permitting executed
December 2023: Basis of Design Report (BODR) and construction drawings completed
March 2024: DOH approval of BODR and construction drawings
April 2024: Issue solicitation for bids
July 2024: Execute construction contract
August 2024: Issue construction notice to proceed
December 2024: Construction complete

Deliverables will include new completed and operational sewage pump station, force main, and wastewater treatment system.

Should you have any questions or need more information, please contact Finn McCall in our Engineering Branch at (808) 587-3250 or finn.d.mccall@hawaii.gov.

Sincerely,



Meghan L. Statts
DOBOR Assistant Administrator

Attachments: Conceptual Site Plan

Haleiwa SBH Makai Comfort Station/Harbor Office Wastewater System Improvement

Legend

Conceptual Site Plan
January 17, 2023

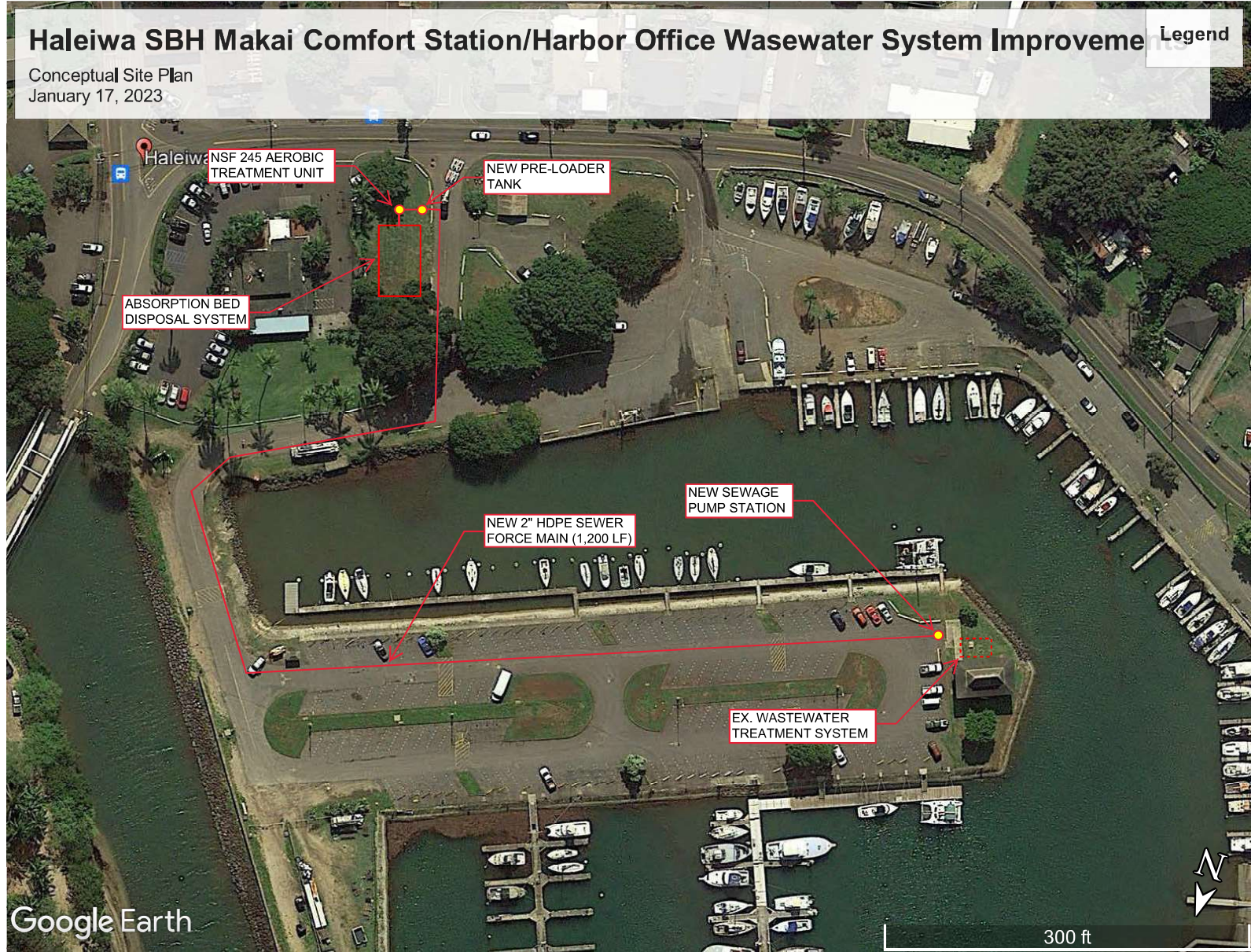
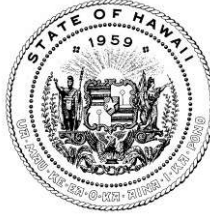


EXHIBIT D

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

April 1, 2021

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200.1, Hawaii Administrative Rules (HAR).

Project Title:	Heeia Kea Small Boat Harbor Wastewater System Improvements
Project Number:	Job No. B78CO74A
Project Description:	The proposed project involves replacement of the existing wastewater treatment and disposal systems with a new package wastewater treatment plant, absorption bed disposal system, and appurtenant work at the Heeia Kea Small Boat Harbor, Kaneohe, Oahu, Hawaii
Chapter 343 Trigger(s)	Use of State Funds and Lands
Exemption Class Number & Description:	Exemption Authority: Hawaii Administrative Rule, Chapter 11-200.1-8, Exemption List for the Department of Land and Natural Resources approved by Environmental Council on November 10, 2020. <i>General Exemption Type 2: Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced.</i>
Exemption Item Number & Description:	N/A
Analysis:	The proposed project is to replace the existing wastewater treatment and disposal systems with no expansion in capacity or geographical service area. Therefore, no significant environmental impacts are anticipated.
Previous Determinations and Exemption Notices:	Authority was delegated by the Board to the Chairperson to declare this project exempt from the requirement to prepare an Environmental Assessment at the August 12, 2016 Board meeting. See attached Board approval.
Cumulative Impact of Planned Successive Actions in Same Place Significant?	No. There are no planned successive actions in the same location.
Action May have Significant Impact on Particularly Sensitive Environment?	No. The proposed project will not impact any particularly sensitive environments.
Consultation:	The following agencies were consulted, see attached record of consultation: <ul style="list-style-type: none"> - DLNR, Land Division - DLNR, Engineering Division

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Analysis & Declaration:	<p>Based on its expertise and experience, DLNR believes the proposed action is a routine activity and ordinary function that merits exemption from the preparation of an environmental assessment.</p> <p>DLNR has determined, through its judgment and experience, that the proposed action will individually and cumulatively probably have minimal or no significant effects on the environment, and that the proposed action is consistent with exemption and therefore declared exempt from the preparation of an environmental assessment.</p>
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Suzanne D. Case

Suzanne D. Case, Chairperson

Apr 2, 2021

Date