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## County of Hawai'i

### DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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May 22, 2019

Mr. Jelani Shareem  
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**SUBJECT: Request for Change to Compliance Milestone for Collection System Design  
Federal Administrative Order of Consent  
EPA Docket No. SDWA-UIC-AOC-2017-0002  
Pāhala Large Capacity Cesspool Replacement (LCC)**

Dear Mr. Shareem and Ms. Rao:

As stated in our letter of May 15, 2019, the County of Hawaii (COH) has requested a change to the compliance date for the design of the wastewater collection system for Pāhala. The delay in finalizing the Environmental Assessment (EA) for the Pāhala LCC closure project has resulted in multiple extensions to the project schedule, including the collection system design and the wastewater treatment facility (WWTF). The milestone completion date for the collection system was established as May 24, 2019. Upon review of the design status and in an attempt to satisfy the primary goal of this project, which is to close the existing LCCs in the community, COH determined that it will require an additional two (2) years to complete the designs for both the Phase 1 collection system (connect the flows at the LCCs directly to the WWTF) and Phase 2 collection system (sewer the area currently served by the LCCs and connect all of the homes directly to the WWTF). Having determined that this impact may be unacceptable, COH is proposing to modify the original concept of designing the collection systems in parallel by changing this process to one of designing the two

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phases one at a time; that is, in series. It is estimated that after the Section 106 consultation process is completed, the Phase 1 design can be completed in 15 calendar months. To accomplish this, our design consultant will assign all assets to Phase 1, which will consist of:

- a sewer collection system extending from just upstream of the existing LCCs directly to the WWTF,
- associated utilities (power, water), and
- structural components necessary for closure of the existing LCCs.

While this option will result in higher costs, we believe by doing this it will be possible to close the LCCs coincident with the completion and certification of the WWTF. The impact of a delayed Section 106 consultation process completion also moves forward the final WWTF design and construction. The Phase 1 collection system and the WWTF must both be completed prior to closure of the LCCs.

As stated in the letter of May 15, 2019, the State of Hawai'i Department of Health (DOH) will not fund fieldwork using the State Revolving Fund (SRF), other than archeological and flora and fauna investigations, prior to completion of the Section 106 process. This limitation has affected the County's ability to:

1. Conduct geotechnical investigations,
2. Inspect existing dry laterals located on private property, and
3. Perform a topographic survey of the collection system service area.

All three of these fieldwork tasks will occur within the area of potential effect (APE) of the project. These tasks are required to be completed before a final design of the collection system(s) can be accomplished.

Request:

In view of these constraints upon the County's ability to complete the design and construction of the Pāhala wastewater collection system, the County of Hawai'i Department of Environmental Management formally requests a change to the compliance milestone set forth in the subject Administrative Order of Consent (AOC). It is requested that the AOC compliance milestone for the Pāhala wastewater collection system be extended and the phases separated to reflect the dual-phase design process:

1. Phase 1 collection system design: set 15 months after the Section 106 consultation process is complete.

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2. Phase 2 collection system design: set 22 months after the Section 106 consultation process is complete. This design activity, not being directly related to the LCC closure, is requested to remain as a milestone, however, not as an enforceable part of the AOC.

The requested AOC compliance milestone change for Phase 1 of the Pāhala collection system design from May 24, 2019, to 15 calendar months after the Section 106 process is complete is necessary due to factors beyond the County's control. As such, we believe the delay qualifies as "*force majeure*" as defined in paragraph 50 of the AOC.

Please contact Dora Beck at [dora.beck@hawaiicounty.gov](mailto:dora.beck@hawaiicounty.gov) or me at [william.kucharski@hawaiicounty.gov](mailto:william.kucharski@hawaiicounty.gov) should you have any questions.

Sincerely,



William A. Kucharski  
Director

WK:mef