



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Sent Via Electronic Mail

Mayor Mitch D. Roth
Office of the Mayor
County of Hawai'i
25 Aupuni Street
Hilo, HI 96720
MitchD.Roth@hawaiicounty.gov

**Subject: Federal Administrative Order on Consent
EPA Docket No. SDWA-UIC-AOC-09-2017-0002
Pāhala Community Large Capacity Cesspools Closure Project
Demand for Stipulated Penalties Pursuant to Administrative Order on Consent**

Dear Mayor Roth:

The United States Environmental Protection Agency, Region 9 (“EPA”) hereby demands payment from the County of Hawai'i (“County”) of stipulated penalties in the amount of **\$28,500** for the County’s failure to comply with the above-referenced Administrative Order on Consent (“AOC”). As detailed in EPA’s August 17, 2021 notice of noncompliance, EPA determined that the County failed to fully comply with the requirements of Paragraph 29(f) of the AOC because the County’s July 23, 2021 design package for the proposed Pāhala Wastewater Treatment Facility (“WWTF”) had not been approved for construction by the Hawai'i Department of Health by the July 24, 2021 compliance deadline.¹

Pursuant to Paragraph 43 of the AOC, EPA is authorized to assess stipulated penalties for the County’s failure to meet any requirement set forth in the AOC, including the requirement to complete design of the proposed Pāhala WWTF by July 24, 2021. Stipulated penalties accrue from the date performance is due and accrue at a rate of \$150 per day for the 1st to the 30th day of noncompliance, \$300 per day for the 31st to the 60th day of noncompliance, and \$500 per day for the 61st day and beyond. For this violation, EPA’s stipulated penalty demand covers a 90-day period of noncompliance extending from July 24, 2021 through October 21, 2021. The stipulated penalties for each day of noncompliance during this 90-day period totals **\$28,500**. As provided by Paragraph 44 of the AOC, the stipulated penalty shall be paid within 30 days of receiving this letter. The County shall make the payment of the stipulated penalty in accordance with Paragraph 48 of the AOC.

EPA’s demand for stipulated penalties and the County’s payment of the stipulated penalties do not modify the AOC’s terms or conditions and the AOC remains in effect. This penalty demand and payment of stipulated penalties also do not reflect an election by EPA to forgo any judicial remedies to

¹ The July 24, 2021 compliance milestone deadline was extended from the original AOC compliance milestone deadline of September 18, 2019 by EPA’s September 9, 2019 letter approving the County’s August 26, 2019 request to modify all remaining Pāhala Community Large Capacity Cesspools Closure Project AOC compliance milestones.

enforce the AOC and only cover ongoing violations of the AOC for the period specified in this demand letter.

If you have any questions regarding this demand for stipulated penalties, please have counsel contact Kimby Wells in EPA's Office of Regional Counsel, at wells.kimberly@epa.gov or (415) 972-3056.

Sincerely,

Amy C. Miller-Bowen, Director
Enforcement and Compliance Assurance Division

cc: Ramzi Mansour, County of Hawai'i, Department of Environmental Management
Brenda Iokepa-Moses, County of Hawai'i Department of Environmental Management
Sina Pruder, Hawai'i Department of Health