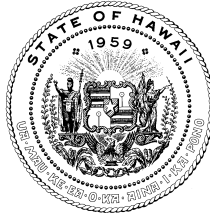


NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

April 25, 2012

**WILLIAM J. AILA, JR.**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**GUY H. KAULUKUKUI**  
FIRST DEPUTY

**WILLIAM M. TAM**  
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

Acting Chief  
Wastewater Branch  
Environmental Management Division  
Hawaii State Department of Health  
919 Ala Moana Boulevard, Room 309  
Honolulu, HI 96814

Dear Acting Branch Chief:

Subject: Property at Malaekahana State Recreation Area (Kahuku Section)  
TMKs: (1) 5-6-001: 45, 46, 47, 49, 51, 55, 56, 57, 59, 60, 61, 62, 64, and 65

This is to transmit the second revised Affirmative Action Plan ("Plan"), based upon discussions between staff of the Wastewater Branch, Department of Health ("WWB" or "DOH") and the Division of State Parks ("Parks"), Department of Land and Natural Resources ("DLNR" or "Department") during April 2012; refer to Attachment A.4-25-2012.

The Plan was submitted to address DOH's notice of violations for unapproved wastewater systems operating on the subject property ("Notice"), and provide compliant and long-term sanitation and sewer facilities in this park section. The attached letter dated April 10, 2012, transmitted the first revised Plan and provided DOH with a summary of details regarding this property and DLNR's requests, refer to Attachment B.4-25-2012.

Upon discussion of the April 18, 2012 letter and requests, WWB informed Parks of the following:

- The revised Plan should include date(s) for WWB review and approval of the three (3) composter facilities that DLNR proposes to use as alternate sanitary and individual wastewater systems for this park section; any submittals for approval will have to be certified by a professional engineer.
- DLNR shall ensure that the current park operator will comply with DOH regulations regarding composter systems proposed for the four container rental cabins.
- DLNR should provide a status of its efforts to bring any gray water system used on the property into compliance with DOH regulations.
- Upon request by DLNR, WWB can schedule an inspection to confirm that the violations identified in the Notice have been addressed through proposed improvements and/or closure of the unapproved systems.

### Revised Plan

DLNR is planning to replace the unapproved individual wastewater systems (“IWS”) identified in the Notice with a new comfort station, new IWS, and three (3) composting toilet units. Pursuant to WWB recommendations, we have included a review period by WWB for the Parks’ composters in the revised Plan, refer to Attachment A. 4-23-2012. As indicated in the “Wastewater Assessment Study for Malaekahana SRA Campgrounds”, Engineering Solutions, Inc., March 31, 2010, the operator is currently using one unapproved IWS, IWS #1, to service their four (4) eco-cabin rentals. They propose to discontinue the operation of this system through the use of residential composting units (this is explained in more detail below). The operator affirms that compliance designs will be completed for DOH review and approval. We will coordinate the submittal of these designs. We will require the operator to close this IWS by July 26, 2012.

### Rental Cabin Composters

The operator is proposing to use residential flushing toilet composter systems in four (4) eco-cabin rentals to replace the service of the unapproved system identified as IWS #1. WWB advised DLNR that these cabin compliance designs should include the flushing composter toilets, bathing showers, sinks and disposal systems for the gray water and toilet effluent discharges. DLNR has informed the operator of these requirements prior to any installation of improvements.

We did not include these cabin systems in our revised Plan as we see the cabins and composting systems as temporary and short-term as they may be discontinued at any time. Our preference is to discontinue the use of these cabins and sewer systems, but the operator contends that these cabin units are vital to its operations. They reiterated that they will comply with the submittal requirements and will not install and operate any composting toilets until these systems are reviewed and approved by DOH. Accordingly, we request that use of this unapproved IWS be allowed until the operator has obtained the approvals to construct and operate the composting units as well as the gray water and liquid effluent discharge systems. We will require closure of IWS #1 by July 26, 2012. We confirm that the installation and operation of composting toilets in these cabins will not start until DOH review and approval is obtained.

### Gray Water Systems

The operator informed Parks staff that its consultant is working on gray water systems to be used in the park. We are waiting for the status of this compliance and will keep WWB apprised.

### DOH Inspection(s)

DLNR will contact WWB on scheduling an inspection to confirm that the violations have been addressed. If all of the violations are addressed before the proposed improvements are completed, DLNR seeks DOH’s concurrence and confirmation that these violations are no longer in effect and the construction of the proposed improvements can proceed on a different timeframe. The conditions that will initiate this action will be a change of management in the park and/or closure of all unapproved systems prior to the replacement improvements.

Summary

In summary, we reiterate our requests as stated in our letter dated April 18, 2012 and the revised Plan and seek the following:

1. Review and approval of the second revised Plan as described in Attachment A.4-23-2012.
2. Continue the use of portable toilets during the design and construction of a new comfort station and IWS. We will discontinue the use of these facilities when the new system is completed and comes on line.
3. Allowance of the use of IWS #1, currently servicing the eco-cabin rentals, until the replacement residential composting toilets and gray water and liquid effluent disposal systems, upon DOH review and approval, are constructed and in operation. We will have a closure date of July 26, 2012.
4. Confirmation through inspection and other means, that all violations identified in the Notice have been addressed. If this occurs prior to the completion of the composting toilet installations and/or construction of the new comfort station and IWS, the completion of the new facilities can proceed on a separate timeframe.
5. If the above are approved, please forward an acknowledgement of DOH's approval of the items stated above.

Should you have any questions, please contact Russell Kumabe, AICP, at (808) 587-0305.

Sincerely yours,



Daniel S. Quinn  
Administrator  
State Parks

attachments

c: Kate Rao  
Chauncey Hew  
Chairperson  
Carty Chang  
Gordon Chong  
Craig Chapman

AFFIRMATIVE ACTION PLAN revised April 18, 2012

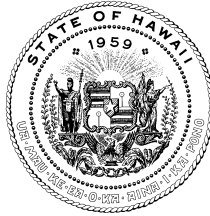
Facility: Maleakahana State Recreation Area – Kahuku Section  
TMKs: (1) 5-6-001:45, 46, 47, 49, 51, 55, 56, 57, 59, 60, 61, 62, 64, and 65

Reference: Wastewater Branch letter to Division of State Parks dated April 8, 2009 and staff consultation on February 1 and 15, 2012.

In accordance with order number 6 of the referenced letter and our subsequent consultations in 2012, we hereby submit a revised affirmative action plan. The below dates anticipates when the described actions will be completed.

1. **April 30, 2009:** select a licensed Engineer.
2. **June 30, 2009:** conduct a site visit with Engineer, detail the scope of work, negotiate fees, and execute an agreement to complete an assessment.
3. **September 30, 2009:** complete a topographic survey of existing structures, cesspools, above ground wastewater systems, and other pertinent items on site. Complete a thorough assessment of existing wastewater systems and provide recommendations for management measures and design, including large capacity cesspool closures. Submit the Engineering Assessment to the Wastewater Branch for review and approval.
4. **October 15, 2009:** address Wastewater Branch comments and re-submit for review and approval.
5. **October 2009 through May 2011:** seek design and construction funds from the 2010 and 2011 State Legislature, funding secured pursuant to Act 164, SLH 2011.
6. **October 14 – 20, 2011:** Governor’s approval for release of funds.
7. **December 27, 2011:** Design Consultant selected and contract processing initiated.
8. **April 12, 2012:** conduct a site visit with design Consultant, detail the scope of work, negotiate fees, and execute an agreement to complete design documents.
9. **September 2012 – April 2013:** EA/EIS preparation and approval and City and County SMA permitting approval.
10. **September 1, 2012:** submittal of composting toilet specifications and locations to DOH for review and approval to construct.
11. **October 1, 2012:** installation of four (4) double-toilet composting toilet facilities, and DOH approval to operate.
12. **April 30, 2013:** submit design documents to Wastewater Branch for review and approval.
13. **May 31, 2013:** address Wastewater Branch comments and resubmit for approval.
14. **September 30, 2013:** complete design documents.
15. **November 30, 2013:** go to printers, advertise, and open bids.
16. **January 31, 2014:** evaluate low bid and execute construction contract.
17. **April 30, 2014:** begin construction.
18. **Up to six (6) months to one (1) year for construction completion, depending upon construction costs and design scope.**

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

April 10, 2012

**WILLIAM J. AILA, JR.**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**GUY H. KAULUKUKUI**  
FIRST DEPUTY

**WILLIAM M. TAM**  
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AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
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CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Acting Chief  
Wastewater Branch  
Environmental Management Division  
Hawaii State Department of Health  
919 Ala Moana Boulevard, Room 309  
Honolulu, HI 96814

Dear Acting Branch Chief:

Subject: Property at Malaekahana State Recreation Area (Kahuku Section)  
TMKs: (1) 5-6-001: 45, 46, 47, 49, 51, 55, 56, 57, 59, 60, 61, 62, 64, and 65

This is to transmit the attached revised Affirmative Action Plan ("Plan"), refer to Attachment A, based upon discussions between the Wastewater Branch, Department of Health ("WWB" or "DOH") and the Division of State Parks ("Parks") and the Engineering Division ("Engineering"), Department of Land and Natural Resources ("DLNR" or "Department").

We request your review and approval of our proposed revisions to the Plan. Our proposals include a new comfort station, a new individual wastewater system ("IWS") and four (4) double-toilet composting facilities.

DLNR's Compliance Efforts

On April 8, 2009, DOH issued its notice of violations for ten (10) wastewater systems that the current operator has been operating without the required approvals. On the same date, the United States Environmental Protection Agency ("EPA") issued their notice of violations for five (5) large capacity cesspools ("LCC") in the property. Subsequent discussions between WWB and DLNR staff confirmed three (3) unapproved IWS and five (5) large capacity cesspools ("LCC") in the subject property. Upon further investigations, DLNR staff discovered two additional LCCs totaling the number of LCCs at seven (7).

On April 27, 2009, DLNR submitted the Plan to DOH that intended to address both EPA and DOH violations. In May 2009 and subsequent discussions between WWB and DLNR staff, DOH concurred with the Plan and its timeframes. EPA staff accommodated DLNR's timeframes as all proposed IWS compliance also addressed the LCC closures. EPA reiterated that they did not formally approve the timeframes but found the milestone dates reasonable in addressing the respective violations.

Acting Wastewater Branch Chief

Page 2 of 3

#### Addressing EPA Violations

DLNR has started on closure compliance of the seven (7) LCCs. DLNR submitted a closure compliance plan that included disconnections, formal closures and injection well conversion measures, refer to Attachment B – LCC closure compliance to EPA. They acknowledged our efforts and concurred with our plan for closure compliance by April 30, 2012, refer to Attachment C - EPA's attached letter dated March 29, 2012. Any LCCs not converted to injection wells will be back-filled pursuant to DOH and EPA requirements.

EPA advised DLNR, though not required by regulation, to eventually replace the cesspools serving the buildings in the area. As funding will allow, we will plan the eventual replacement of the cesspools serving the structures in this park section with an appropriate IWS. We concur with EPA that this is a proper measure to implement our stewardship for the area.

#### Addressing DOH Violations

Since DOH's approval of the Plan in May 2009, DLNR has completed several of the milestones in the Plan such as:

1. **April 30, 2009:** select a licensed Engineer.
2. **June 30, 2009:** conduct a site visit with Engineer, detail the scope of work, negotiate fees, and execute an agreement to complete an assessment.
3. **September 30, 2009:** complete a topographic survey of existing structures, cesspools, above ground wastewater systems, and other pertinent items on site. Complete a thorough assessment of existing wastewater systems and provide recommendations for management measures and design, including large capacity cesspool closures. Submit the Engineering Assessment to the Wastewater Branch for review and approval.
4. **October 15, 2009:** address Wastewater Branch comments and re-submit for review and approval.

Due to unforeseen delays in State funding, the other timeframes have lagged and DLNR will not be able to meet the completion deadline of April 30, 2013, as defined by the Plan. In 2009, we intended on improving the three (3) unapproved IWS's but after further assessment, we decided to abandon and replace these unapproved systems with new facilities that include a new comfort station/IWS and three (3) double-toilet composting facilities. We believe replacement of the existing unapproved and non-compliant facilities installed by the current operator is the only feasible option to ensure our responsibility for public health and safety as well as compliance with Federal and State environmental and accessibility regulations. Another impediment has been the uncertainty of management of the park and the tenure of the current operator.

Our revisions to the Plan include extending design completion and review by DOH to April 30, 2013 and construction start to April 30, 2014. An additional timeframe was added to complete the environmental assessment (EA) process and the City and County of Honolulu's SMA permit process and approval. We will expedite these activities and seek earlier completions.

In light of funding and management issues affecting our compliance with the Plan, DOH has accommodated us by allowing the use of portable toilets during compliance efforts. We request that DOH allow DLNR to continue the use of portable toilets as an option during our compliance activities in the revised Plan. Once the new comfort station/IWS comes on line, we will discontinue the use of the portable toilets. We would like to note the possibility of a new operator during the period DLNR completes the Plan, if that happens, we will coordinate the implementation of the Plan and its requirements.

Acting Wastewater Branch Chief  
Page 3 of 3

Summary

In summary, we request the following:

1. Review and approval of the revised Plan as described in Attachment A.
2. Continue the use of portable toilets during the design and construction of a new comfort station and IWS. We will discontinue the use of these facilities when the new system is completed and comes on line.
3. If the above are approved, please forward an acknowledgement of DOH's approval of the items stated above.

Should you have any questions, please contact Russell Kumabe, at (808) 587-0305.

Sincerely yours,



Daniel S. Quinn  
Administrator  
State Parks

attachments

- c: Kate Rao  
Chauncey Hew  
Chairperson  
Carty Chang  
Gordon Chong  
Craig Chapman

ATTACHMENT A

AFFIRMATIVE ACTION PLAN revised April 10, 2012

Facility: Maleakahana State Recreation Area – Kahuku Section  
TMKs: (1) 5-6-001:45, 46, 47, 49, 51, 55, 56, 57, 59, 60, 61, 62, 64, and 65

Reference: Wastewater Branch letter to Division of State Parks dated April 8, 2009 and staff consultation on February 1 and 15, 2012.

In accordance with order number 6 of the referenced letter and our subsequent consultations in 2012, we hereby submit a revised affirmative action plan. The below dates anticipates when the described actions will be completed.

1. **April 30, 2009:** select a licensed Engineer.
2. **June 30, 2009:** conduct a site visit with Engineer, detail the scope of work, negotiate fees, and execute an agreement to complete an assessment.
3. **September 30, 2009:** complete a topographic survey of existing structures, cesspools, above ground wastewater systems, and other pertinent items on site. Complete a thorough assessment of existing wastewater systems and provide recommendations for management measures and design, including large capacity cesspool closures. Submit the Engineering Assessment to the Wastewater Branch for review and approval.
4. **October 15, 2009:** address Wastewater Branch comments and re-submit for review and approval.
5. **October 2009 through May 2011:** seek design and construction funds from the 2010 and 2011 State Legislature, funding secured pursuant to Act 164, SLH 2011.
6. **October 14 – 20, 2011:** Governor’s approval for release of funds.
7. **December 27, 2011:** Design Consultant selected and contract processing initiated.
8. **April 12, 2012:** conduct a site visit with design Consultant, detail the scope of work, negotiate fees, and execute an agreement to complete design documents.
9. **September 2012 – April 2013:** EA/EIS preparation and approval and City and County SMA permitting approval.
10. **October 1, 2012:** installation of four (4) double-toilet composting toilet facilities.
11. **April 30, 2013:** submit design documents to Wastewater Branch for review and approval.
12. **May 31, 2013:** address Wastewater Branch comments and resubmit for approval.
13. **September 30, 2013:** complete design documents.
14. **November 30, 2013:** go to printers, advertise, and open bids.
15. **January 31, 2014:** evaluate low bid and execute construction contract.
16. **April 30, 2014:** begin construction.
17. **Up to six (6) months to one (1) year for construction completion, depending upon construction costs and design scope.**



ATTACHMENT B.4-25-2012  
 Attachment B: State Parks, DLNR: LCC Closure Schedule

Item	Cesspool/IWS	Facility Served	Action	Timeframe
1	CP4	Comfort Station 1	<ul style="list-style-type: none"> <li>• Ceased discharge into cesspool.</li> <li>• Removal of CS 1.</li> <li>• Closure of LCC – in-filling proposed.</li> </ul>	2/16/2012 - Confirmed 2/16/2012 - Confirmed By April 30, 2012
2	CP7	Stand-alone twin toilets and Cabin 5	<ul style="list-style-type: none"> <li>• Disconnected twin-toilet structure.</li> <li>• Removal of twin toilet structure.</li> <li>• LCC closure addressed through the elimination of the multiple structure connection violation – only Cabin 5 being serviced.</li> </ul>	2/16/2012 - Confirmed 2/16/2012 - Confirmed 2/16/2012 – Confirmed
3	CP9	Cabins 6 & 7	<ul style="list-style-type: none"> <li>• Consolidate duplex back into a single dwelling unit.</li> <li>• LCC closure addressed through the elimination of the multiple structure connection violation – removal of second food preparation area.</li> </ul>	2/29/2012- Confirmed 2/29/2012 – Confirmed
4	CP10	Comfort Station 4	<ul style="list-style-type: none"> <li>• Ceased discharge into cesspool.</li> <li>• CS 4 removed from area.</li> <li>• Interim/alternative measures – portable toilets</li> <li>• Closure of LCC – in-filling proposed.</li> </ul>	2/16/2012 - Confirmed 2/16/2012 - Confirmed 2/23/2012 - Confirmed By April 30, 2012
5	CP14	Employee residence compound	<ul style="list-style-type: none"> <li>• Disconnected all sewer connections except for one dwelling unit.</li> <li>• LCC closure addressed through the elimination of the multiple structure connection violation – removal of second food preparation area.</li> </ul>	2/29/2012 – Confirmed 2/29/2012 – Confirmed
6	Seepage Pit 1 (unapproved)	Comfort Station 3/IWS2	<ul style="list-style-type: none"> <li>• Ceased discharge into cesspool, IWS facility is not a registered injection well/seepage pit.</li> <li>• Stop usage of all restroom and shower amenities.</li> <li>• Interim/alternative measures – portable toilets</li> <li>• DLNR to determine closure measures –conversion proposed</li> </ul>	2/29/2012 - Confirmed  2/29/2012 - Confirmed 2/29/2012 - Confirmed Under review – decision by 12/2012
7	CP6	Tutu’s Hale (former Kawanakoa Cabin)	<ul style="list-style-type: none"> <li>• Ceased discharge into cesspool.</li> <li>• Stop usage of all restroom and shower amenities.</li> <li>• Interim/alternative measures – portable toilets</li> <li>• DLNR to determine closure measures –conversion proposed</li> </ul>	2/29/2012 – Confirmed 2/29/2012 – Confirmed 2/29/2012 - Confirmed Under review – decision by 12/2012



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

March 29, 2012

William J. Aila, Jr., Chairperson  
Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, HI 96809

Dear Chairperson Aila:

I am writing in response to your letter of March 5, 2012 which provides an updated large capacity cesspool (LCC) closure plan for Malaekahana Kahuku Section, Oahu and revised LCC closure schedule for Waiianapanapa State Park, Hana, Maui. Thank you for submitting this information.

Malaekahana Kahuku Section

Whereas EPA's initial inventory survey identified five LCCs at this location, your submittal documents a total of seven LCCs. We updated our inventory to reflect the additional two LCCs. Your submittal further contains documentation confirming actions to disconnect four LCCs such that they are no longer in use. DLNR will eliminate, properly plug and abandon, or convert these LCCs by April 30, 2012.

Regarding the three remaining LCCs, you provided documentation that these cesspools are no longer "large capacity" by EPA's criteria. Although these cesspools no longer meet the criteria that would require their closure, please be aware that future modifications to the buildings served by these cesspools could result in them returning to a non-compliant status, thereby subjecting DLNR to EPA enforcement. To the extent you anticipate these facilities will continue to be used in the long-term, it would be advantageous to replace these cesspools with state-approved septic systems. Such action would provide an added environmental benefit at this site, and also remove any future LCC compliance concerns.

Waiianapanapa State Park

You provided an updated schedule for closing the six LCCs at this site by August 2014. Although this schedule is expedited over the one submitted in November 2011, it will still result in an additional 2.5 years of non-compliance with the LCC regulations. While EPA understands that this extended timeframe for closing the LCCs is due in part to Maui County's Special Management Area (SMA) permitting process, we encourage DLNR to make every effort to expedite proper LCC closure. Moreover, should there be a reduction in timing for any particular step in the process (e.g., if an SMA permit waiver is granted), then EPA expects DLNR to meet an earlier final closure date at this site.

Required LCC Closure Documentation

For any LCCs that are closed/converted by DLNR, EPA requires specific documentation for our records. The documentation that we need to confirm the proper plugging/abandonment of the LCC and demonstrate state approval of alternative wastewater systems is described below.

*Plugging and Abandoning LCCs*

In order to demonstrate that an LCC has been properly plugged and abandoned, DLNR will need to submit the appropriate backfilling documentation.

If a cesspool's inflow was less than 1,000 gallons per day, the enclosed backfilling report should be filled out and submitted to Kate Rao, LCC Program Coordinator.

If a cesspool's inflow was 1,000 gallons per day or more, please contact the Hawaii Department of Health (DOH), UIC Program at (808) 586-4258 to obtain the "Application for Backfilling an Injection Well Cesspool" or you can download a copy of the application at [www.hawaii.gov/health/environmental/water/water/sdwb/uic/uicprogrm.html](http://www.hawaii.gov/health/environmental/water/water/sdwb/uic/uicprogrm.html).

*DOH IWS Approval to Use*

If you convert an LCC to a DOH approved individual wastewater system (IWS), including instances where the cesspool is utilized as a seepage pit, please submit the DOH approval-for-use letter.

As I noted during our meeting in December, EPA is not extending the formal deadline by which you were required to comply with federal regulations. All LCCs were required to be closed by April 2005 (see 40 C.F.R. §144.88). Operation of an LCC after that date is a federal violation which may subject you to enforcement and penalties. However, your efforts to properly close the LCC in accordance with your proposed plans and schedules are relevant to EPA's consideration of any potential enforcement action.

I would appreciate if your staff could continue to provide regular updates on the LCC closures to Ms. Kate Rao of our office. If you have any questions, please contact me at 415-972-3971, or your staff may contact Ms. Rao at 415-972-3533 or via email at [rao.kate@epa.gov](mailto:rao.kate@epa.gov).

Sincerely,



David Albright  
Manager, Ground Water Office

Enclosure

cc: Russell Kumabe, DLNR  
Sina Pruder DOH WWB (w/o enclosure)  
Chauncey Hew, DOH SDWB (w/o enclosure)