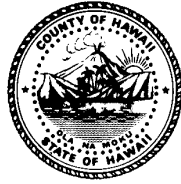


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County of Hawai'i

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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August 26, 2019

Mr. Jelani Shareem
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(Via email: shareem.jelani@epa.gov)

Ms. Kate Rao
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**SUBJECT: Request for Changes to Compliance Milestones for the
Pāhala Wastewater Treatment Plant and Collection System
Federal Administrative Order of Consent
EPA Docket No. SDWA-UIC-AOC-2017-0002
Pāhala Large Capacity Cesspools (LCCs)**

Dear Mr. Shareem and Ms. Rao:

The County of Hawai'i (County) finds it necessary to request changes to the compliance dates to complete the subject project(s).

SECTION 106 CONSULTATION STATUS

The Section 106 consultation process was initiated on March 13, 2019. The County sent a letter to the State Historic Preservation Division (SHPD) on May 3, 2019, requesting confirmation of the estimated timeline for their review of the archeological inventory survey (AIS). No formal response has been received from SHPD as of the date of this request. The statutory 90-day review period for SHPD expired on June 11, 2019. Our archeology consultant has indicated that SHPD review times are currently one year due to

Mr. Jelani Shareem
Ms. Kate Rao
August 26, 2019
Page 2

staff shortages. However, this is anecdotal information only, and until a formal response to the County's May 3, 2019, letter is received the duration of the Section 106 consultation process is unknown.

SHPD acceptance of the Pāhala AIS is required before the EPA can issue a Section 106 request for concurrence of effect determination letter to SHPD. However, per Kate Rao's e-mail of May 23, 2019, Sean Naleimaile at SHPD has indicated to her verbally that SHPD is reviewing the draft AIS for both Section 106 and HRS 6E-8 concurrence purposes, and he does not expect EPA to send any type of concurrence request letter once the AIS is approved by SHPD. Since a joint federal/county EA is being prepared, it would not be until the NEPA EA requirements are met that the Hawai'i Revised Statutes (HRS) Chapter 343 environmental assessment process can also be completed.

FINAL ENVIRONMENTAL ASSESSMENT IMPACT

Based on the above, the Section 106 concurrence/consultation process is a federal requirement that must be completed before the NEPA requirements for a final EA and finding of no significant impact (FONSI) determination can be published. In addition, the County intends to use State Revolving Fund (SRF) loans to fund the project, which requires completion of federal cross-cutter requirements including Section 106. Therefore, the extended SHPD review time will delay completion of the joint NEPA and HRS 343 environmental review processes. There is no AOC compliance date for completion of the EA; however, the unanticipated delay has significant consequences on the ability of the County to comply with other compliance dates, as discussed below.

PĀHALA SPECIAL PERMIT IMPACTS

We have learned through the EA process that the proposed Pāhala Wastewater Treatment Plant (WWTP) location is on a parcel that is designated Agriculture by the State of Hawai'i Land Use Commission (LUC). In addition, the proposed WWTP site includes soils classified "B-Good" and "C-Fair" by the Land Study Bureau and as "Prime Lands and "Other Lands" in the Agricultural Lands of Importance to the State of Hawai'i (ALISH) classification system. WWTPs are not an allowed use on lands that are designated Agriculture by the LUC, unless a special permit is approved. The County of Hawai'i Planning Commission is the approving authority for the special permit, as the proposed WWTP parcel is less than 15 acres. However, a final Chapter 343 EA/FONSI and, possibly, the accepted AIS and SHPD determination letter, would be required before the special permit process can be initiated. Therefore, the joint federal/county final EA delay directly impacts the County's ability to secure the required land use entitlement for the WWTP in a timely manner.

FIELDWORK LIMITATIONS

The Pāhala project will largely be funded using the SRF loan program. The State of Hawai'i Department of Health (DOH), which administers the SRF program, has told County staff that it may not fund the project if field investigations are undertaken prior to completion of the Section 106 consultation process or appropriate mitigation measures are in place.

PĀHALA DESIGN IMPACTS

Topographic survey fieldwork of the Pāhala WWTP parcel was completed prior to the County learning of the DOH fieldwork limitations described above. However, a survey of the collection system area has not been completed and cannot commence until the Section 106 process is complete. Furthermore, geotechnical investigations within the collection system area and WWTP parcel are still pending. The geotechnical investigations are a crucial element of the project for the following reasons:

- The Pāhala area is well known to contain significant lava tubes, some of which were used for past burial purposes.
- Lava tube identification is critical for design of the collection system. It is desirable to minimize the number of residential lots that will need to rely on grinder pumps to lift sewage to the sewer system. Grinder pumps require periodic maintenance and repairs that homeowners and residents are generally not qualified to complete themselves. Therefore, pumped lots represent locations that are at higher risk of sewage spills and corresponding public health risk due to mechanical and/or electrical system malfunctions. Pumped lot minimization will require installing the sewers deeper in certain locations. Identification of lava tubes is needed to confirm the feasibility and to design the sewer profiles to minimize the number of pumped lots.
- Similarly, the WWTP will include 20-foot deep lagoons for the treatment process. WWTP design has been initiated based on available information, but presence or absence of lava tubes must be confirmed before the design proceeds past the 50% level. If the geotechnical investigation reveals the presence of significant lava tubes in conflict with the treatment infrastructure, then the WWTP site layout will need to be adjusted, or the wastewater treatment process modified, each requiring a significant redesign effort. In addition, modification or an amendment to the EA may be required.

- Geotechnical recommendations are required for structural design of the WWTP structures. Specifically, soil bearing pressure and lateral earth pressure recommendations are required to design structure foundations and walls, respectively. In addition, the geotechnical engineer provides key seismic design parameters (e.g., site-specific dynamic earth pressures) for the structural engineer to ensure the structures can withstand earthquakes. Therefore, the structural design can only proceed to the 50% design level without a completed geotechnical study for the project.
- The geotechnical investigations include percolation testing of the WWTP site soils to provide confirmation that the intended land application effluent disposal system will have sufficient capacity to meet the community's needs. Design of the effluent disposal system beyond 50% will require the completed geotechnical study.
- The geotechnical study will take approximately eight months to complete after the federal Section 106 consultation process is complete.
- The fieldwork limitations and resulting geotechnical investigation delays described above have had a significant impact on the design schedule by interrupting the design process at the 50% completion level. The design process interruption has resulted in our consultant's design team members' reassignment to other projects. A new design team will need to be assembled from available resources once the needed information is available to complete the final design.
- Completing the WWTP design is expected to take seven months after the geotechnical study is complete.
- Completing the two collection system designs is expected to take 22 months after the Section 106 consultation process is complete. Further discussion of the two-phase collection system approach is provided below.

PĀHALA CONSTRUCTION IMPACTS

The schedule impacts presented above will significantly impact the schedule to bid and construct the project. Therefore, closure of the LCCs will be significantly delayed.

The Endangered Species Act Section 7 consultation process has made us aware of potential construction schedule impacts brought about by mitigation measures for the Hoary Bat and Hawaiian Hawk. The Hoary Bat pupping season lasts from June 1 to September 15 each

year. The Hawaiian Hawk nesting season lasts from March 1 to September 30 each year. The WWTP site is currently a macadamia nut orchard that can be used by the Hoary Bat for pupping. The Cook pine trees along Maile Street are potential Hawaiian Hawk nesting locations. The initial work at the WWTP site will consist of clearing and grubbing the macadamia nut trees. The current schedule does not show a conflict with the Hoary Bat and Hawaiian Hawk seasons, but a schedule acceleration or delay could cause one to occur.

The County intends to complete the project in two phases. Phase 1 will include constructing the new WWTP, connecting the existing collection system to the new WWTP, and closing the LCCs. Phase 2 will consist of constructing a new collection system that meets County standards, connecting the new system to the WWTP, connecting existing properties to the new collection system, and abandoning the old collection system. Designs for each phase will need to be complete before construction can begin. Furthermore, the Phase 1 project will need to be substantially complete before the Phase 2 project can begin, to avoid potential conflicts of having two contractors making modifications to the system at the same time.

The County cannot execute a construction contract until the Final EA is published and the designs are completed.

CONNECTION OF NEWLY ACCESSIBLE PROPERTIES

After the Phase 2 project is complete, the County will issue letters to newly accessible property owners requiring connection to the new collection system within 180 days per County Code. The costs to connect will be the responsibility of the property owners.

REQUEST

In view of these constraints upon the County's ability to complete the subject project(s), the County of Hawai'i Department of Environmental Management formally requests changes to the compliance milestones set forth in the subject AOC. The table below provides the proposed extensions. Column "C" provides the preceding event that limits completion of the AOC milestone (Column "A"). Column "D" provides a final compliance date. The earlier of Column "C" and Column "D" dates will be the compliance milestone.

| AOC Milestone | Current Due Date | New Proposed Milestone Due Date | |
|--|-------------------------|--|----------------|
| A | B | C | D |
| Phase 1 Environmental Site Assessment and Preliminary Engineering Report | Completed 08/27/17 | Not applicable | Not applicable |

| AOC Milestone | Current Due Date | New Proposed Milestone Due Date | |
|--|-----------------------|--|--|
| | | A | D |
| Initial public meeting | Completed 12/15/17 | Not applicable | Not applicable |
| Submit Environmental Information Document | Completed 09/11/18 | Not applicable | Not applicable |
| Design of new collection system (Phases 1 and 2) | 06/24/21 ¹ | Phase 1 within 15 months of completion of NHPA Section 106 consultation process Phase 2 within 22 months of completion of NHPA Section 106 consultation process | Phase 1 to be completed no later than 06/24/21 Phase 2 to be completed no later than 01/27/22 |
| Acquire land for WWTP | 09/10/19 ² | Within 8 months of publication of Final EA | To be completed no later than 01/24/21 |
| Design of WWTP | 09/18/19 | Within 15 months of completion of NHPA Section 106 consultation process | To be completed no later than 09/02/21 |
| Complete construction of WWTP | 05/20/21 | Within 20 months of WWTP design completion | To be completed no later than 03/09/23 |
| Connect existing collection system and close LCCs (Phase 1) | 06/30/21 | Within 650 calendar days of WWTP <u>and</u> Phase 1 collection system design completion (both designs are required to complete this AOC compliance milestone) | To be completed no later than 04/18/23 |
| Replace collection system serving LCCs and connect new collection system to WWTP (Phase 2) | 12/16/21 | Replace collection system, connect new system to WWTP, and connect existing properties within 19 months of connecting existing collection system and closing LCCs | To be completed no later than 09/15/24 |

1 Extended from original AOC compliance date by letter dated May 24, 2019. Based on assumed 90-day SHPD review of AIS.

2 Extended from original AOC compliance date by letter dated June 22, 2018.

Mr. Jelani Shareem
Ms. Kate Rao
August 26, 2019
Page 7

| AOC Milestone | Current Due Date | New Proposed Milestone Due Date | |
|---|-------------------------|---|---|
| A | B | C | D |
| Issue notices to newly accessible properties that require connection to new collection system within 180 days per County Code | 01/25/22 | Within 60 calendar days of completion of new collection system and connecting new collection system to WWTP | Notices to be issued no later than 03/22/24. (Newly accessible properties will be required to connect no later than 180 days after the date of the notice). |

Please contact Dora Beck at dora.beck@hawaiicounty.gov or me at william.kucharski@hawaiicounty.gov should you have any questions.

Sincerely,



William A. Kucharski
Director

WK:mef