



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

April 25, 2022

Sent via Electronic Mail
Read Receipt Requested

Rear Admiral Timothy J. Kott
Joint Base Pearl Harbor Hickam
Commander, Navy Region Hawaii
850 Ticonderoga St, Ste. 110
Pearl Harbor, HI 96860-5101
Email: timothy.j.kott@navy.mil

Re: Request for Information Pursuant to Section 9005(a) of the Resource Conservation and Recovery Act, Section 308 of the Clean Water Act and the Administrative Order on Consent (EPA DKT NO. RCRA 7003-R9-2015-01/ DOH DKT NO. 15-UST-EA-01)

Dear Rear Admiral Kott:

The U.S. Environmental Protection Agency (EPA) has submitted written requests on January 24, 2022, and February 4, 2022, and has made requests during several staff level meetings for records related to both the third-party assessment undertaken for U.S. Department of the Navy (Navy) concerning the Red Hill Bulk Fuel Storage Facility and the Navy Command's investigation into the Red Hill facility 2021 fuel releases and contamination of the Joint Base Pearl Harbor-Hickam drinking water system. We have not received these documents, which are needed to complete an Underground Storage Tank (UST) inspection (pursuant to Subtitle I of the Resource Conservation and Recovery Act (RCRA)) and a Spill Prevention, Control, and Countermeasure (SPCC) and Facility Response Plan (FRP) inspection (pursuant to the Clean Water Act (CWA) Section 311) at Joint Base Pearl Harbor-Hickam, including the Red Hill Bulk Fuel Storage Facility.

Accordingly, EPA requests the Navy to submit to EPA the information and documents requested in Attachment I of this letter using the instructions included in Attachment II. Also, the Navy must also complete and submit the certification included in Attachment III.

Your response to this Request for Information must be made by e-mail as a portable document file, or other agreed-upon file-sharing protocol, signed by a duly authorized official, and submitted to the EPA within ten (10) calendar days from the date of your receipt of this letter.

Please address the submittals to:

S. Bobby Ojha
Underground Storage Tanks Inspector
EPA Region 9
Hazardous Waste & Chemical Section
Enforcement and Compliance Assurance Division
e-mail: Ojha.Bobby@epa.gov

and to:

Gabriela Carvalho
Red Hill Project Coordinator
EPA Region 9
Underground Storage Program
e-mail: Carvalho.Gabriela@epa.gov

Please address copies of each of the submittals to:

Roxanne Kwan
Interim Red Hill Project Coordinator
HDOH Solid and Hazardous Waste Branch
e-mail: roxanne.kwan@doh.hawaii.gov

If you have any questions regarding this matter, please contact either Gabriela Carvalho or S. Bobby Ojha, at the e-mail addresses listed above. Your cooperation in this matter is appreciated.

Sincerely,

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

Enclosures

cc:

Captain Troy Gronberg, Contracting Officer Representative – 3rd Party Assessment of Red Hill
Naval Supply Systems Command (NAVSUP)
Karnig Ohannessian, U.S. Navy
Kathleen Ho, Deputy Director, Hawai'i Department of Health

ATTACHMENT I

Section 9005(a) of RCRA authorizes EPA to require persons subject to RCRA to furnish information necessary for EPA to administer the Act. Section 308 of the CWA, similarly, authorizes EPA to require persons subject to the CWA to provide information that EPA may reasonably require. In addition, Section 10d of the 2015 Administrative Order on Consent (EPA DKT NO. RCRA 7003-R9-2015-01/DOH DKT NO. 15-UST-EA-O1) between EPA, the Hawai'i Department of Health (DOH) Navy, and the U.S. Defense Logistics Agency (AOC) provides that "all records relating to Facility operations and maintenance, or to site conditions, shall be made available to the Regulators upon request unless Navy or DLA assert a claim that such documents are legally privileged from disclosure and meets the burden of demonstrating to the Regulatory Agencies that such a privilege exists." Thus, pursuant to these authorities, EPA requests the Navy to submit the following information, including the information described below that is or has been developed through the Navy's contract with Simpson Gumpertz and Herger (SGH). Some items below reference activity numbers outlined in the SGH February 1, 2022 "Implementation Schedule (Plan of Action and Milestones) – Red Hill Assessment" document:

1. A list of the documents and information that the Navy has provided to SGH. Include the document title, date, author, and a summary of the document.
2. A list of Hazard and Operability (HAZOP) evaluations conducted by SGH, including a summary of each evaluation and why it was chosen as a focus area of study. Provide the process hazard report that communicates findings resulting from SGH-conducted assessments associated with Activity 2.1 of the SGH implementation schedule and any other related workplan activity.
3. The completed SGH-conducted SPCC field inspection and plan review checklist and the final report containing findings. Provide a list of any observations and/or findings that were excluded from the final report.
4. A list of potential and actual operational and equipment deficiencies identified by SGH to date associated with Activity 2.5 of the SGH Implementation Schedule document.
5. A list of environmental and cultural impacts identified by SGH to date associated with Activity 2.6 of the SGH implementation schedule document.
6. A list of the structural integrity assessment activities conducted by SGH to date associated with Activity 3 of the SGH implementation schedule document including:
 - A list of any Navy-conducted structural integrity assessment activities that SGH reviewed over the course of the contract that helped inform SGH's recommendations;
 - A list of the structures and tanks chosen for modeling; and
 - SGH's findings and/or recommendations.

7. A list of the mechanical integrity assessment activities conducted by SGH to date associated with Activity 4 of the SGH implementation schedule document and, for each activity listed, provide:
 - a description of the piping and equipment evaluated;
 - the purpose of the assessment;
 - the scope of the evaluation; and
 - the findings.
8. A list of SGH-recommended facility upgrades, retrofits, or other improvements to be implemented prior to defueling and/or for continued facility operation. Provide a description of the methodology employed to rank the necessity of the recommended facility retrofits.
9. Briefing documents, including PowerPoint presentations or other briefing materials, developed or used by SGH and/or Navy to communicate project milestones. Include documents used to support the kick-off meetings, the HAZOP/PHA workshops, the 50% interim assessment, the 75% pre-final assessment report, and, when available, the 100% assessment report.
10. A copy of the report and any relevant updates generated as part of the command investigation directed in November 2021 by the Commander, U.S. Pacific Fleet into the May and November 2021 Red Hill facility releases and contamination of the water supply, which was reported as completed on January 14, 2022.

ATTACHMENT II INSTRUCTIONS

In responding to this Request for Information, apply the following instructions and definitions:

1. Answer Every Question Completely. A separate response must be made to each of the questions set forth in this Information Request. For each question contained in this letter, if information responsive to this Information Request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Number Each Answer. When answering the questions in Attachment I, please precede each answer with the corresponding number of the question and subpart to which it responds.
3. Number Each Document. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the question to which it corresponds.
4. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents, if necessary. If you are unable to answer a request in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any request, state that person's name and last known address and phone number and the reasons for your belief.

If anything is deleted from a document produced in response to this Request for Information, state the reason for and the subject matter of the deletion. If a document/information is requested but is not available, state the reason for its unavailability. In addition, identify any such document by author, date, subject matter, number of pages, and all recipients and their addresses.

5. Identify Sources of Answer. For each question, identify all the persons and documents that you relied on in producing your answer.
6. Continuing Obligation to Provide/Correct Information. If additional information or documents responsive to this Request become known or available to you after you respond to this Request, EPA hereby requests that you supplement your response to EPA.
7. Scope of Request. The scope of this request includes all information and documents independently developed or obtained by research on the part of the Navy, its attorneys, consultants or any of its agents, consultants or employees.
8. Have an Authorized Person Sign the Response and Certification (Attachment III). The signatory must be an officer or agent who is authorized to respond on behalf of the Navy.

9. **Confidential Information.** The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Section 9005(b) of RCRA, 42 U.S.C. § 9005(b), and 40 C.F.R. § 2.203(b). If the Navy determines that information requested is classified in accordance with E.O. No. 13526, EPA will work with the Navy to protect such information. EPA has a “need to know” the information it requests.

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

- i. clearly identify the portions of the information alleged to be entitled to confidential treatment;
- ii. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- iii. measures taken by you to guard against the undesired disclosure of the information to others;
- iv. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith; and
- v. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available.

To make a confidentiality claim, please stamp, or type, confidential on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate the date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all nonconfidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope that is clearly marked confidential.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

If the EPA determines that the information so designated meets the criteria set forth in 40 C.F.R. § 2.208, the information will be disclosed only to the extent, and by means of the procedures specified in 40 C.F.R. Part 2, Subpart B.

Failure to respond fully and truthfully to this request may result in the issuance of a compliance order by EPA pursuant to Section 9006(a) of RCRA (42 U.S.C. § 6991e(a)) and may subject Navy to the imposition of penalties of up to \$26,269 per day of noncompliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. The information you provide may be used by EPA in administrative, civil or criminal proceedings, where appropriate.

This request for information is not subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act because it is part of an investigation of a specific individual or entity. 44 U.S.C. § 3518(c)(1); 5 Code of Federal Regulations (C.F.R.) § 1320.4. *See also* 5 C.F.R. §§ 1320.3(c), 1320.5, and 1320.6(a).



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ATTACHMENT III

CERTIFICATION OF ANSWERS TO RESPONSES TO REQUEST FOR INFORMATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, that the submitted information is true, accurate and complete, and that all documents submitted herewith are complete and authentic, unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

NAME (print or type)

TITLE (print or type)

SIGNATURE

DATE