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Regional Counsel  
United States Environmental Protection Agency, Region 9

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Assistant Regional Counsel  
United States Environmental Protection Agency, Region 9

Attorneys for Complainant

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 9**

75 Hawthorne Street  
San Francisco, California 94105

|  |   |                             |
|--|---|-----------------------------|
| IN THE MATTER OF:                            | ) | DOCKET NO. UIC-09-2024-0016 |
|  | ) |                             |
| Bank of Hawaii as Trustee of the Kukuioolono | ) |                             |
| Park Trust Estate,                           | ) |                             |
|  | ) | <b>CONSENT AGREEMENT</b>    |
|  | ) | <b>AND</b>                  |
| Respondent.                                  | ) | <b>FINAL ORDER</b>          |
|  | ) |                             |
| Proceedings under Sections 1423(c) of the    | ) |                             |
| Safe Drinking Water Act,                     | ) |                             |
| 42 U.S.C. §§ 300h-2(c).                      | ) |                             |
|  | ) |                             |

**CONSENT AGREEMENT**

**I. AUTHORITIES AND PARTIES**

1. The United States Environmental Protection Agency, Region 9 (“EPA”) and the Bank of Hawaii in its capacity as Trustee of the Kukuioolono Park Trust Estate (“Respondent”) (collectively the “Parties”) agree to settle this matter and consent to the entry of this Consent Agreement and Final Order (“CA/FO”). This CA/FO is an administrative action commenced and concluded under Section 1423(c)(1) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300h-2(c)(1), and Sections 22.13(b), 22.18(b)(2) and (3), and 22.45 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, as codified at 40 C.F.R. Part 22.

2. Complainant is, by lawful delegation, the Director of the Enforcement and Compliance Assurance Division of EPA, Region 9. The Administrator of EPA delegated the authority to bring and settle this action under the SDWA to the Regional Administrator of EPA Region 9. In turn, the Regional Administrator further delegated the authority to bring this action and sign a consent agreement settling this action under the SDWA to the Director of the Enforcement and Compliance Assurance Division.

3. Respondent is the Bank of Hawaii solely in its capacity as Trustee of the Kukuioolono Park Trust Estate, and not in its individual or corporate capacity. The Kukuioolono Park Trust Estate is a trust treated as a 501(c)(3) organization whose headquarters is located at 111 South King Street, Honolulu, Hawaii.

4. Where the Parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order. *See* 40 C.F.R. § 22.13(b).

5. The Parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the terms of this CA/FO, including the assessment of the civil penalty of \$58,000, and the performance of the compliance requirements specified below.

## II. JURISDICTION AND WAIVER OF RIGHT TO JUDICIAL REVIEW AND HEARING

7. Consistent with 40 C.F.R. § 22.18(b), for purposes of the proceeding, Respondent: admits the jurisdictional allegations of the CA/FO; neither admits nor denies specific factual allegations contained in the CA/FO; consents to the assessment of any stated civil penalty, and to any conditions specified in the Consent Agreement; and waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.

8. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CA/FO including, but not limited to, its right to request a hearing under 40 C.F.R. § 22.15(c) and Section 1423(c)(3) of the SDWA, 42 U.S.C. § 300h-2(c)(3); its right to seek federal judicial review of the CA/FO pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-06; any right to contest the allegations in this CA/FO; and its right to appeal this CA/FO under Section 1423(c)(6) of the SDWA, 42 U.S.C. § 300h-2(c)(6). Respondent also consents to the issuance of this CA/FO without further adjudication.

### III. STATUTORY AND REGULATORY AUTHORITY

9. Section 1421 of the SDWA, 42 U.S.C. § 300h, requires that the Administrator of EPA promulgate regulations, which shall include permitting requirements as well as inspection, monitoring, recordkeeping, and reporting requirements, for state underground injection control (“UIC”) programs to prevent underground injection from endangering drinking water sources.

10. Section 1421(d)(1) of the SDWA, 42 U.S.C. § 300h(d)(1), defines “underground injection” as the subsurface emplacement of fluids by well injection and excludes the underground injection of natural gas for purposes of storage and the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.

11. Pursuant to Sections 1421 and 1422 of the SDWA, 42 U.S.C. §§ 300h and 300h-1, respectively, EPA has promulgated UIC regulations at 40 C.F.R. Parts 124, 144, 146, 147 (Subpart M), and 148.

12. 40 C.F.R. § 144.1(g) provides that the UIC programs regulate underground injection by six classes of wells, and all owners or operators of these injection wells must be authorized either by permit or rule.

13. Section 1401(6) of the SDWA, 42 U.S.C. § 300f(6), and 40 C.F.R. § 144.3 define “contaminant” as any physical, chemical, biological, or radiological substance or matter in water.

14. 40 C.F.R. § 144.3 defines “fluid” as any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

15. 40 C.F.R. § 144.3 defines “well injection” to mean the subsurface emplacement of fluids through a well.

16. 40 C.F.R. § 144.3 defines “well” to mean, in relevant part, a dug hole whose depth is greater than the largest surface dimension.

17. 40 C.F.R. § 144.3 defines a “cesspool” as a “drywell,” which is a type of “well” that is completed above the water table.

18. 40 C.F.R. § 144.81(2) defines “large capacity cesspools” (LCCs) to include “multiple dwelling, community or regional cesspools, or other devices that receive sanitary wastes, containing human excreta, which have an open bottom and sometimes perforated sides.” LCCs do not include single-family residential cesspools or non-residential cesspools which receive solely sanitary waste and have the capacity to serve fewer than twenty (20) persons per day. *Id.*

19. 40 C.F.R. §§ 144.80(e) and 144.81(2) classify LCCs as Class V injection wells.

20. 40 C.F.R. § 144.3 defines Class V injection wells as a “facility or activity” subject to regulation under the UIC program.

21. Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), defines “person” as an individual, corporation, company, association, partnership, State, municipality, or Federal agency

(and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency). *See also* 40 C.F.R. § 144.3.

22. 40 C.F.R. § 144.3 defines “owner or operator” to mean the owner or operator of any “facility or activity” subject to regulation under the UIC program.

23. Pursuant to 40 C.F.R. § 144.82, the “owner or operator” of a Class V well “must comply with Federal UIC requirements in 40 C.F.R. Parts 144 through 147,” and must also “comply with any other measures required by States or an EPA Regional Office UIC Program to protect [underground sources of drinking water].”

24. 40 C.F.R. §§ 144.84(b)(2) and 144.88 required owners or operators of existing LCCs to have closed them by April 5, 2005. New LCCs were prohibited as of April 5, 2000. *Id.*

25. Pursuant to Section 1422(c) of the SDWA, 42 U.S.C. § 300h-1(c), and 40 C.F.R. § 147.601, EPA administers the UIC program in the state of Hawaii.

26. Section 1423(a)(2) of the SDWA, 42 U.S.C. § 300h-2(a)(2), provides that any person found to be in violation of any requirement of an applicable UIC program in a state that does not have primacy may be assessed a civil penalty and be subject to an order requiring compliance pursuant to Section 1423(c)(1) of the SDWA, 42 U.S.C. § 300h-2(c)(1).

27. Under Section 1423(c)(1) of the SDWA, 42 U.S.C. § 300h-2(c)(1), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$27,018 for each day of violation, up to a maximum administrative penalty of \$337,725, for violations occurring after November 2, 2015 where penalties are assessed on or after January 6, 2023, and issue an order requiring compliance.

IV. FACTUAL ALLEGATIONS AND ALLEGED VIOLATIONS

28. Respondent, a Hawaii corporation, is the trustee of the Kukuioolono Park Trust Estate, and as a corporation qualifies as a “person” within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 144.3.

29. Respondent has operated one parcel of real property located at 854 Puu Road (TMK 4-2-3-005-002) in Kalaheo on the Island of Kauai, comprised of the Kukuioolono Golf Course, Golf Course Comfort Station, Kukuioolono Park Pavilion, and Kukuioolono Japanese Garden, and another parcel of real property located at 4255 Papalina Road (TMK (4) 2-3-005: 024 ) in Kalaheo on the Island of Kauai, comprised of the Kukuioolono Camp residential dwellings, since at least August 20, 1918 and approximately 1943, respectively (hereinafter, the “Properties”).

30. During all times that Respondent has operated the Properties, the Properties contained at least three (3) cesspools that serve the following structures for the disposal of sanitary waste: Kukuioolono Golf Course Comfort Station, the Kukuioolono Park Pavilion, and the Kukuioolono Camp residential dwellings.

31. EPA alleges that the cesspools that serviced the Property containing the Kukuioolono Golf Course Comfort Station and Kukuioolono Park Pavilion (TMK 4-2-3-005-002) meet the regulatory criteria of LCCs, as that term is described at 40 C.F.R. § 144.81(2), in that the two cesspools have the capacity to serve twenty (20) or more persons per day. EPA also alleges that one of the three cesspools that serviced the Property containing the Kukuioolono Camp residential dwellings (TMK: (4) 2-3-005: 024) meets the regulatory criteria of an LCC, as that term is described at 40 C.F.R. § 144.81(2), in that the cesspool serves multiple dwellings.

32. EPA alleges that each day that Respondent failed to close the alleged LCCs at the Kukuioolono Golf Course Comfort Station, Kukuioolono Park Pavilion, and the Kukuioolono Camp

residential dwellings after April 5, 2005, constitutes a violation of 40 C.F.R. §§ 144.84(b)(2) and 144.88.

V. SETTLEMENT TERMS

A. Civil Penalty

33. Section 1423(c)(4)(B) of the SDWA, 42 U.S.C. 300h-2(c)(4)(B), requires the Administrator to take into account the seriousness of the violation, the economic benefit (if any) resulting from the violation, any history of such violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require, when assessing a civil penalty for violations of the SDWA.

34. Within thirty (30) days of the Effective Date of this CA/FO, Respondent must pay a civil penalty of fifty-eight thousand dollars (\$58,000) by sending a check (mail or overnight delivery), wire transfer, automated clearing house, or online payment. Payment instructions are available at: <http://www.epa.gov/financial/makepayment>.

Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979078  
St. Louis, Missouri 63197-9000

For electronic funds transfer: electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, NY 10045

The comment or description field of the electronic funds transfer must state Respondent's name and the docket number of this CA/FO.

For Automated Clearinghouse (ACH), also known as REX or remittance express: ACH electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

US Treasury REX/Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22-checking

The comment area of the electronic funds transfer must state Respondent's name and the docket number of this CA/FO.

For on-line payment, go to [www.pay.gov](http://www.pay.gov). Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

35. After payment, Respondent shall immediately provide proof of payment to the Regional Hearing Clerk at the following address:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, ORC-1  
75 Hawthorne Street  
San Francisco, CA 94105  
[r9HearingClerk@epa.gov](mailto:r9HearingClerk@epa.gov)

Respondent shall also send notice of payment and a transmittal letter via email to the EPA Region 9 Enforcement and Compliance Assurance Division's Enforcement Officer and the EPA Region 9 Office of Regional Counsel attorney identified in Paragraph 52.

36. This civil penalty represents an administrative civil penalty and shall not be deductible for purposes of federal taxes. 26 U.S.C. § 162(f).

37. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, in addition to any stipulated penalties due under Paragraphs 44-45, Respondent must pay the following on any penalty amount overdue under this CA/FO: interest accrued on any overdue amount from the date



payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings; a \$15 handling charge fee each month that any portion of the penalty is more than thirty (30) days past due; and 6% per year penalty on any principal amount ninety (90) days past due.

38. If Respondent does not pay timely the civil penalty due under Paragraph 34 and/or any stipulated penalties due under Paragraphs 44-45, EPA may request the United States Department of Justice bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expense for the collection action under Section 1423(c)(7) of the SDWA, 42 U.S.C. § 300h-2(c)(7). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

#### **B. Compliance Requirements**

39. As required by Section 1423(c)(1) of the Act, 42 U.S.C. § 300h-2(c)(1), and consistent with the timeframes set forth below, Respondent shall:

- a. By December 31, 2024, close the three (3) LCCs at the Properties in accordance with 40 C.F.R. §§ 144.84(b)(2), 144.88(a), and 144.89(a), and all other applicable requirements, including all Hawaii Department of Health ("HDOH") closure, conversion, and/or replacement requirements. If Respondent installs one or more replacement wastewater systems, such as Individual Wastewater Systems ("IWS"), then installation and operation of such systems shall comply with all HDOH requirements. If Respondent connects to a municipal sewer system, then that connection shall comply with all applicable sewer connection requirements; and

- b. Within thirty (30) days of the closure of the last LCC, submit to EPA a Final LCC

Closure Report which includes the following information for each LCC:

- i. A description of the process by which the LCC was closed, including the equipment used;
- ii. Photographic evidence of construction and completion;
- iii. Identification of the contractor(s) providing the service;
- iv. A copy of the cesspool backfill closure report; and
- v. A copy of all approvals related to the closure of the LCCs and any replacement wastewater systems, such as an IWS or sewer connection, issued by HDOH, the County, or any other agency.

Should the applicable agency issue its approval after the Final LCC Closure Report is due, Respondent shall note the pending status and submit the approval to EPA within fourteen (14) days of Respondent's receipt of the approval.

40. If Respondent fails to comply with the requirements set forth in Paragraph 39, above, EPA may request the United States Department of Justice bring an action to seek penalties for violating this CA/FO under Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b).

### **C. Reporting Requirements**

41. Respondent shall submit progress reports to the EPA Region 9 Compliance Officer on a quarterly basis, with the first report (covering the preceding three-month period) due three (3) months after the Effective Date of this CA/FO. Subsequent reports shall be due on the first business day following each three-month period, until the Final LCC Closure Report has been submitted. Each progress report shall detail Respondent's work during the three-month period towards meeting all applicable compliance deadlines.

42. Each progress report must be accompanied with a certification, as described in Paragraph 53, from Respondent's authorized representative.

**D. Stipulated Penalties**

43. Respondent shall pay stipulated penalties in accordance with this Section for any violations of this CA/FO.

44. If Respondent fails to make the payment specified in Section V.A. or fails to comply with the requirements regarding the closure of the alleged LCCs at the properties specified in Section V.B., Respondent agrees to pay in addition to the assessed penalty, a stipulated penalty of \$300 per day per violation for each day the Respondent is late meeting the applicable requirements.

45. If Respondent fails to timely submit any reports, such as those required under Sections V.B. or V.C., in accordance with the timelines set forth in this CA/FO, Respondent agrees to pay a stipulated penalty of \$100 for each day after the report was due until Respondent submits the report in its entirety.

46. Respondent agrees to pay any stipulated penalties within thirty (30) days of receipt of EPA's written demand for such penalties. All penalties shall begin to accrue on the first date of noncompliance and shall continue to accrue through the date of completion of the delinquent CA/FO requirement. Respondent will use the method of payment specified in Paragraph 34 and agrees to pay interest, handling charges and penalties that accrue for late payment of the stipulated penalty in the same manner as set forth in Paragraph 34.

47. Neither the demand for nor payment of a stipulated penalty relieves Respondent of its obligation to comply with any requirement of this CA/FO or modifies or waives any deadlines set forth in this CA/FO.

48. EPA may, in the unreviewable exercise of its discretion, elect to pursue any other administrative or judicial remedies for violations of this CA/FO in addition to or in lieu of assessing stipulated penalties and/or reduce or waive stipulated penalties due under this CA/FO.

**E. Force Majeure**

49. For purposes of this CA/FO, Force Majeure is defined as any event arising from causes that are beyond the control of Respondent, any entity controlled by Respondent, or Respondent's contractors, which delays or prevents the performance of any obligation under this CA/FO despite Respondent's reasonable best efforts to fulfill the obligation. The requirement that Respondent exercise "reasonable best efforts to fulfill the obligation" includes using reasonable best efforts to anticipate any potential Force Majeure event and reasonable best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. Examples of Force Majeure events include, but are not limited to, unforeseeable environmental, geological, or archaeological conditions; or pandemics, epidemics, or disease. Examples of events that are not Force Majeure include, but are not limited to, increased costs or expenses of any work to be performed under this CA/FO and normal inclement weather.

50. Respondent shall exercise its best efforts to avoid or minimize any delay and any effects of a delay. If any event occurs which causes or may cause delays meeting the deadlines set forth in this CA/FO, Respondent or its attorney shall, within seventy-two (72) hours of the delay or within seventy-two (72) hours of Respondent's knowledge of the anticipated delay, whichever is earlier, notify EPA points of contact in Paragraph 52 by email. Within fifteen (15) days thereafter, Respondent shall provide in writing the reasons for the delay, the anticipated duration of the delay, the measures taken or to be taken to prevent or minimize the delay, and a timetable by which those measures will be implemented. Failure to comply with the notice

requirement of this Paragraph shall preclude Respondent from asserting any claim of Force Majeure.

51. If EPA agrees in writing that the delay or anticipated delay in compliance with this CA/FO has been or will be caused by circumstances beyond the control of Respondent, the time for performance may be extended for the period of the delay resulting from the circumstances causing the delay. In such event, EPA will grant in writing an extension of time. An extension of the time for performing an obligation granted by EPA pursuant to this Paragraph shall not, of itself, extend the time for performing a subsequent obligation.

#### VI. SUBMISSIONS REQUIREMENTS

52. All reports, notifications, documentation, submissions, and other correspondence required to be submitted by this Order must be submitted to EPA electronically, to the extent possible. If electronic submittal is not possible, submissions may be made by certified mail (return receipt requested). The subject line of all email correspondence must include the facility name, docket number, and subject of the deliverable. All electronically submitted materials must be in final and searchable format, such as Portable Document Format (PDF) with Optical Character Recognition (OCR) applied. Electronic or mailed submissions shall be sent to the individuals identified below:

EPA Region 9 Enforcement and Compliance Assurance Division's Enforcement Officer:  
Jelani Shareem  
U.S. Environmental Protection Agency, ECAD-3-3  
75 Hawthorne Street  
San Francisco, CA 94105  
[shareem.jelani@epa.gov](mailto:shareem.jelani@epa.gov)

and

EPA Region 9 Office of Regional Counsel Attorney:  
Daron Ravenborg  
U.S. Environmental Protection Agency, ORC-2-4  
75 Hawthorne Street

San Francisco, CA 94105  
[ravenborg.daron@epa.gov](mailto:ravenborg.daron@epa.gov)

53. All reports, notifications, documentation, and submissions must be signed by a duly authorized representative of Respondent and shall include the following statement consistent with 40 C.F.R. § 144.32(d):

*“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that the qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”*

54. If Respondent finds at any time after submitting information that any portion of that information is false or incorrect, the signee must notify EPA immediately. Knowingly submitting false information to EPA in response to this CA/FO may subject Respondent to criminal prosecution under Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b), as well as 18 U.S.C. §§ 1001 and 1341.

55. Submissions required by this CA/FO shall be deemed submitted on the date they are sent electronically or on the date postmarked if sent by U.S. mail.

56. EPA may use any information submitted in accordance with this CA/FO in support of an administrative, civil, or criminal action against Respondent.

57. The information required to be submitted pursuant to this CA/FO is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

## VII. GENERAL PROVISIONS

58. Full payment of the penalty as described in Section V.A., above, and full compliance with this CA/FO as described in Section V.B. shall only resolve Respondent’s liability for federal civil penalties for the violations and facts alleged in Section IV of this

CA/FO. Violation of this CA/FO shall be deemed a violation of the SDWA for purposes of Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b).

59. The parties consent to service of this CA/FO by e-mail at the following valid e-mail addresses: [ravenborg.daron@epa.gov](mailto:ravenborg.daron@epa.gov) (for Complainant) and [dcodiga@schlackito.com](mailto:dcodiga@schlackito.com) (for Respondent).

60. This CA/FO, inclusive of all exhibits, appendices, and attachments, is the entire agreement between the Parties.

61. The provisions of this CA/FO shall apply to and be binding upon Respondent and its officers, directors, employees, and successors or assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CA/FO except for extensions of time to complete such obligations provided by EPA pursuant to Paragraph 51.

62. Full compliance with this CA/FO does not in any manner affect the right of EPA or the United States to pursue appropriate injunctive relief or other equitable relief or criminal sanctions for any violation of law, except with respect to the claims described in Section IV that have been specifically resolved by this CA/FO.

63. This CA/FO is not a permit or modification of a permit and does not affect Respondent's obligations to comply with all federal, state, local laws, ordinances, regulations, permits, and orders. Issuance of, or compliance with, this CA/FO does not waive, extinguish, satisfy, or otherwise affect Respondent's obligation to comply with all applicable requirements of the SDWA, regulations promulgated thereunder, or any order or permit issued thereunder, except as specifically set forth herein.

64. EPA reserves any and all legal and equitable remedies available to enforce this CA/FO, as well as the right to seek recovery of any costs and attorneys' fees incurred by EPA in any actions against Respondent for noncompliance with this CA/FO.

65. Unless otherwise specified, the Parties shall each bear their own costs and attorney fees in this action.

66. This CA/FO may be executed and transmitted by facsimile, email, or other electronic means, and in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute an instrument. If any portion of this CA/FO is determined to be unenforceable by a competent court or tribunal, the Parties agree that the remaining portions shall remain in full force and effect.

67. The undersigned representative of each party certifies that he or she is duly and fully authorized to enter into and ratify this CA/FO.

68. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), performance of Section V.B. is restitution or required to come into compliance with law.

#### VIII. EFFECTIVE DATE

69. Pursuant to 40 C.F.R. § 22.45, this CA/FO will be subject to public notice and comment at least forty (40) days prior to it becoming effective through the issuance of the final order by the Regional Judicial Officer.

70. The Parties acknowledge and agree that final approval by EPA of this CA/FO is subject to 40 C.F.R. § 22.45(c)(4), which sets forth requirements under which a person not a party to this proceeding may petition to set aside a consent agreement and final order on the basis that material evidence was not considered.



71. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the final order contained in this CA/FO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed with the Regional Hearing Clerk.

In re: Bank of Hawaii as Trustee of the Kukuilono Park Trust Estate  
UIC-09-2024-0016

**Consent Agreement and Final Order**  
**In the Matter of: Bank of Hawaii as Trustee of the Kukuilono Park Trust Estate**  
**Docket No. UIC-09-2024-0016**

BANK OF HAWAII AS TRUSTEE OF THE KUKUIOLONO PARK TRUST ESTATE:

Robin L. Nonaka “/s/”  
Robin L. Nonaka  
Vice President and Manager  
Bank of Hawaii – Trust Services Group

Date: October 24, 2023

Flora Arney “/s/”  
Flora Arney  
Vice President  
Bank of Hawaii – Trust Services Group

Date: October 24, 2023

In re: Bank of Hawaii as Trustee of the Kukuiohono Park Trust Estate  
UIC-09-2024-0016

**Consent Agreement and Final Order**  
**In the Matter of: Bank of Hawaii as Trustee of the Kukuiohono Park Trust Estate**  
**Docket No. UIC-09-2024-0016**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Amy C. Miller-Bowen “/s”/

Date: November 01, 2023

Amy C. Miller-Bowen  
Director, Enforcement and Compliance Assurance Division  
Region IX  
U.S. Environmental Protection Agency  
75 Hawthorne Street  
San Francisco, CA 94105



In re: Bank of Hawaii as Trustee of the Kukuioolono Park Trust Estate  
UIC-09-2024-0016

This Consent Agreement and Final Order, as agreed to by the Parties, shall become effective on the date that it is filed with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. § 22.18, 22.31, and 22.45. IT IS SO ORDERED.

\_\_\_\_\_  
Beatrice Wong  
Regional Judicial Officer, Region 9  
U.S. Environmental Protection Agency

Date: \_\_\_\_\_