

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843
www.boardofwatersupply.com



October 18, 2019

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Dr. Bruce Anderson
Director of Health
State of Hawaii
Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

Dear Dr. Anderson:

Subject: Notice of Intervenor Status in Contested Case Hearing on Underground Storage Tank (UST) Permit Application for Red Hill Bulk Fuel Storage Facility (Red Hill), Joint Base Pearl Harbor Hickam (JBPHH), Oahu, Department of Health (DOH) Facility ID NO. 9-102271

The Board of Water Supply (BWS) is in receipt of the letter from Deputy Director for Environmental Health Keith Kawaoka to Captain Marc Delao of Navy Region Hawaii, dated July 16, 2019, stating that the Department of Health (DOH) "intends to allow the Navy to continue to operate the [Red Hill] UST system until its decision on the [Navy's] permit application is rendered" (DOH, 2019). By letter dated August 14, 2019 (BWS, 2019) and in at least two phone calls between BWS and Solid and Hazardous Waste Branch staff, the BWS requested to be informed of the status of the Navy's permit application and the Sierra Club's pending request for a contested case hearing on the Navy's UST permit application for the Red Hill tanks. We are extremely disappointed that these requests have gone unanswered, and that the BWS learned of what the Navy refers to as its "Authority to Operate" letter three months after it was issued at an October 15, 2019 Navy public information meeting.

As you know, the Sierra Club is contesting the Navy's Red Hill UST permit application and seeking to have the DOH deny the permit and order the Navy to relocate the Red Hill tanks (Sierra Club, 2019). The BWS agrees that the "right to a clean and healthful environment" is a substantive right guaranteed to each person by Article XI, Section 9 of the Hawaii Constitution and, consequently, the DOH should grant the Sierra Club's request for a contested case hearing. To our knowledge, the DOH has yet to respond to the Sierra Club's contested case hearing request. But the time to do so is running out because, as Deputy Attorney General Wade Hargrove explained at the October 17, 2019 Fuel Tank Advisory Committee meeting, the Navy's Red Hill permit application is automatically approved if no action is taken by DOH within 180 days of receipt of a

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complete permit application. It is our understanding that the Navy's Red Hill UST permit application was deemed complete by DOH on May 23, 2019, which would mean that a decision on the permit, and by extension the contested case, must be made by November 19, 2019.

Given the enormous amount of fuel stored at Red Hill, the location of this storage relative to our groundwater aquifer, the potential for impacts to Oahu's critical drinking water resources, and the BWS' unique interest as the utility charged with providing residents with safe and dependable water service, the BWS has a right to participate in a potential contested case hearing on the Navy's Red Hill UST permit application. Accordingly, pursuant to Hawaii Administrative Rules section 11-1-35, the BWS respectfully informs the Hawaii Department of Health that it is seeking intervenor status in the potential contested case hearing and would like to be treated as a party for purposes of this proceeding moving forward. We will submit additional supporting documentation once a Hearings Officer has been appointed.

Thank you for your attention to this matter. If you have any questions, please feel free to call me, at 808-748-5061.

Very truly yours,



ERNEST Y.W. LAU, P.E.
Manager and Chief Engineer

cc: Mr. Bryan Andaya, Chair, Board of Water Supply
Ms. Kapua Sproat, Vice-Chair, Board of Water Supply
Mr. Keith Kawaoka, Deputy Director for Environmental Health, DOH
Mr. Steve Linder, United States Environmental Protection Agency, Region IX