



REGION 9

SAN FRANCISCO, CA 94105

Via Electronic Mail

Scott Esser
1284 Kilauea K&M LLC
P.O. BOX 936
Hilo, HI 96721

RE: Request for Information Pursuant to Section 1445 of the Safe Drinking Water Act (42 USC § 300j-4) for the Wastewater Disposal System(s) that serves the 1284 Kilauea Avenue Commercial Complex at Tax Map Key (TMK): 3-2-2-023-021.

Dear Scott Esser,

On December 23, 2022, the United States Environmental Protection Agency (EPA) sent 1284 Kilauea K&M LLC a request for information (RFI) concerning the method of sanitary wastewater disposal at the 1284 Kilauea Avenue Commercial Complex in Hilo, Hawaii 96720 (TMK: 3-2-2-023-021). You responded on January 19, 2023, but your response did not fully address certain aspects of the RFI.

The purpose of this second RFI is therefore to obtain information on the treatment and disposal of the property's wastewater, the type of businesses located at the property, the maximum daily number of employees and visitors that use or visit the property, and the ownership and/or operation of the cesspool that serves the property. This RFI also seeks information regarding the disposal of motor vehicle waste at Pro-MachanX Auto Repair. Because your response to the first RFI failed to fully address many of these issues, EPA considers it insufficient. Accordingly, EPA requests that 1284 Kilauea K&M LLC provide a complete and adequate response to the December 23, 2022, RFI and this second RFI by **January 22, 2024.**

As explained in EPA's first RFI, the underground injection control (UIC) regulations promulgated by EPA pursuant to the Safe Drinking Water Act (SDWA) required that all existing LCCs be closed by April 5, 2005. 40 C.F.R. §§ 144.81(2), 144.88. The UIC regulations classify LCCs as residential cesspools that serve multiple dwellings or non-residential cesspools that have the capacity to serve 20 or more persons per day. *Id.* § 144.81(2).

In addition to requiring the closure of all existing LCCs, EPA's UIC regulations also prohibits the disposal of fluids from vehicular repair or maintenance activities to motor vehicle waste disposal wells (MVWDWs). 40 C.F.R. §§ 144.81(16), 144.88(b). An informational brochure about MVWDWs is enclosed (Enclosure 1).

The SDWA provides EPA with the authority to request information for the purpose of determining compliance with the SDWA and its UIC regulations. 42 U.S.C. § 300j-4(a); 40 C.F.R. § 144.17. Pursuant to this authority, EPA hereby requires 1284 Kilauea K&M LLC to provide the following information about the subsurface wastewater disposal unit(s)/system(s) that serves the 1284 Kilauea Avenue Commercial Complex:

1. A description of the treatment and disposal of wastewater for the cesspool identified in the January 19, 2023, RFI response that serves the 1284 Kilauea Avenue Commercial Complex.
2. Any records related to the operation and/or maintenance of the cesspool that serves the 1284 Kilauea Avenue Commercial Complex, including but not limited to manuals, standard operation procedures, receipts, invoices, pumping records, leases, etc.
3. An identification and/or description of each dwelling, building, and facility that contributes sewage or wastewater to the cesspool that serves the 1284 Kilauea Avenue Commercial Complex. Identify with specificity the nature and use of each dwelling, building, and facility identified in response to this Request, including whether it is used as a residential unit, commercial unit, or both. Include a description of the type of businesses and/or activities operated in each unit, the number of employees of each unit, and the approximate daily number of visitors to each unit.
4. A description of the ownership and operational control of the cesspool that serves the 1284 Kilauea Avenue Commercial Complex, as well as contact information for each owner and operator.

The following questions are specific to Pro-MachanX Auto Repair located at 1284 Kilauea Avenue, Hilo, Hawaii 96720.

5. Are there any floor drains in the vehicle maintenance area of the facility? If the answer is yes, please provide the following information:
 - a. The number of closed floor drains in the maintenance area. If there are any closed floor drains in the facility, please describe when they were closed (e.g., before you moved into the building or since 1284 Kilauea K&M LLC has owned the building, with the date of closure, if known) and how they were closed (e.g., cemented shut, a plug in the drain, welded cap, or other closure mechanism);
 - b. The number of open floor drains in the maintenance area;
 - c. A description of any spilled fluids that may have entered the floor drains since 1284 Kilauea K&M LLC has owned the building;
 - d. A list of the types of vehicle fluids that are handled in the vicinity of any open floor drains (e.g., motor oil, antifreeze, washer fluid, etc.);

- e. A description of any floor-washing activities that occur in the shop area. Please include a description of any soap, solvents, or other cleaning agents used when washing the floor;
 - f. A description of any vehicle washing activities that take place in the shop area. Please address whether undercarriages or engines are cleaned in the facility.
6. Are there any open floor drains elsewhere in the facility? If the answer is yes, please describe the drains, including where they are located and the types of fluids that enter the drains, are used in the vicinity of the drains, or have spilled into the drains.
 7. Where do fluids go after they have entered the open floor drains in the facility (community sewer, bathroom waste septic system, a separate septic system, drywell, log crib, holding tank, other disposal point)? Please explain how you know the answer to this question (e.g., it is shown on the plan drawing, you've done a dye test, this is your best guess, etc.). Please provide a copy of any document(s) that substantiate your response.
 8. For any floor drains closed since 1284 Kilauea K&M LLC has owned the building, where did the fluids go after they entered the floor drains (community sewer, bathroom waste septic system, a separate septic system, drywell, log crib, holding tank, other disposal point)? Please explain how you know the answer to this question (e.g., it is shown on the plan drawing, you've done a dye test, this is your best guess, etc.). Please provide a copy of any document(s) that substantiate your response.
 9. Are there any shop sinks in the vehicle maintenance area? If the answer is yes, please provide the following information:
 - g. The number of shop sinks;
 - h. A description of any parts washing that is done in the sink(s), including a list of the cleaning agents used for the parts washing;
 - i. A description of where fluids go after they enter the sink drain(s) (e.g., do they discharge to the community sewer, the bathroom waste septic system, a separate septic system, a drywell, a log crib, a holding tank, etc.). Please provide a copy of any document(s) that substantiate your response.
 10. Are any injection wells, including drywells for rain runoff or a vehicle wash rack, in use outside the Pro-Machanx Auto Repair building? If the answer is yes, please provide a description of the injection well and the fluids that enter, have entered, or have been directed or placed in the well. Your response must include descriptive statements, such as "fluids generated during undercarriage vehicle washing activities," and a description of how often these fluids enter the well (e.g., daily or once a year). Responses such as "dirty water" will not be considered an adequate response to this request.
 11. Please provide copies of results for any environmental testing done including soil testing, water testing, or waste within or associated with the maintenance shop building and drywell.

All submittals made in response to this letter must be accompanied by the following certification, which is to be signed by a duly authorized representative in accordance with 40 C.F.R. § 144.32(b) and (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 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."

Your response to this information request must be submitted by **January 22, 2024**, to Claire Ong at ong.claire@epa.gov. In lieu of submitting the information by email, you may submit your response to the following address if post-marked by **January 22, 2024**:

Claire Ong
USEPA, Region 9
Enforcement and Compliance Assurance Division
Drinking Water Section (ECAD-3-3)
75 Hawthorne St
San Francisco, CA 94105

Please be advised that failure to submit the information requested pursuant to Section 1445(a) of the SDWA, 42 U.S.C. § 300j-4(a), and 40 C.F.R. § 144.17, is a violation of SDWA and may subject 1284 Kilauea K&M LLC to an enforcement action by EPA, including an action for monetary penalties. Pursuant to Section 1445(c) of the SDWA, 42 U.S.C. § 300j-4(c), EPA may seek penalties of up to \$67,544 in any such action.

The EPA has promulgated regulations to protect the confidentiality of business information it receives. These regulations are set forth in 40 C.F.R. Part 2, Subpart B. A claim of business confidentiality may be asserted in the manner specified in 40 C.F.R. § 2.203(b) for part or all of the information submitted in response to this letter. EPA will disclose business information covered by such a claim only to the extent authorized by 40 C.F.R. Part 2, Subpart B. If no business confidentiality claim accompanies the information when EPA receives it, EPA may make it available to the public without further notice. 1284 Kilauea K&M LLC may not withhold any information from EPA on the ground that it is confidential business information.

This request for information is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act because it is not a "collection of information" under 44 U.S.C. § 3502(3). It is directed to fewer than ten persons and is an exempt investigation under 44 U.S.C. § 3518(c)(1).

Thank you for your attention to this matter. Please feel free to contact Claire Ong at (415) 972-3351 or ong.claire@epa.gov with any questions and/or concerns.

Sincerely,

**LAWRENCE
TORRES**

Digitally signed by LAWRENCE
TORRES

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Lawrence Torres, Manager
Drinking Water Section
Enforcement and Compliance Assurance Division

ENCLOSURES

1. UIC Class V MVWDW Fact Sheet Oct 2023.pdf