



REGION 9

SAN FRANCISCO, CA 94105

December 21, 2023

Kerrie Mattis
Property Manager
Lava Rock Realty
65-12988 Kawaihae Road
Kamuela, Hawaii 96743
kerrie@lavarockrealty.com

RE: Request for Information Pursuant to Section 1445 of the Safe Drinking Water Act (42 USC § 300j-4): Progress on Closure of the Large Capacity Cesspool serving Tax Map Key (TMK): 3-8-1-012-002.

Dear Kerrie Mattis:

The United States Environmental Protection Agency (EPA) requests documentation of Lava Rock Realty's progress towards closing the Large Capacity Cesspool (LCC) that serves both a private residence and businesses, located at 81-6641 Hawaii Belt Road, Kealahou, HI (Tax Map Key: 3-8-1-012-002), hereafter referred to as "the Subject Property."

As you know, 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. Cesspools allow raw sewage to be discharged into the ground and are a public health and environmental concern, particularly regarding the threat they pose to underground sources of drinking water. Additional information on the impact of LCCs and EPA's efforts to address these impacts can be found at EPA's website: <https://www.epa.gov/uic/cesspools-hawaii>.

Lava Rock Realty confirmed in its responses to EPA's initial request for information that eight business units and the owner's home contribute to the cesspool at the subject property. Since the cesspool serves both businesses and the owner's home, it does not meet the specific exclusions at 40 C.F.R. § 144.1(g)(2) and is therefore not solely a non-residential cesspool nor a residential cesspool.

Pursuant to EPA's authority under Section 1445 of the SDWA, 42 U.S.C. § 300j-4, and 40 C.F.R. § 144.17, and for purposes of determining compliance with the SDWA and the UIC regulations, EPA hereby requests Lava Rock Realty to provide the following information related to its progress on closing the LCC that serves the Subject Property:

- Identify when Lava Rock Realty began/intends to begin construction of the alternate wastewater disposal system(s) that will serve the Subject Property, and describe the system(s) to be installed;
- Identify when Lava Rock Realty intends to complete construction of the alternate wastewater disposal system(s) that will serve the Subject Property; and
- Identify the date that Lava Rock Realty intends to close the LCC.

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."

In lieu of submitting the requested responses as paper copies, EPA requests that Lava Rock Realty submit them as portable document files (pdf) via electronic mail to Dominic Giardina at giardina.dominic@epa.gov by **January 19, 2024**.

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 CFR §144.17, is a violation of SDWA and may subject Lava Rock Realty 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.

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. Lava Rock Realty may not withhold any information from EPA on the grounds 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 Dominic Giardina at (415) 972-3493 or giardina.dominic@epa.gov with any questions and/or concerns.

Sincerely,

**LAWRENCE
TORRES**

Digitally signed by LAWRENCE
TORRES
Date: 2023.12.21 14:36:41 -08'00'

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