



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

Sent Via Electronic Mail

(b) (6)

Kailua-Kona, HI 96740

(b) (6)

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 serve (b) (6)
(b) (6) (Tax Map Key: (b) (6))

Dear (b) (6)

Pursuant to section 1445 of the Safe Drinking Water Act (SDWA), 42 U.S.C 300j-4, the United States Environmental Protection Agency, Region IX (EPA) conducted a compliance evaluation inspection on January 30, 2023, of the (b) (6), located at (b) (6), Kealahou, HI 96750 (Tax Map Key: (b) (6)). The purpose of the inspection was to determine the (b) (6) compliance with the SDWA's, Underground Injection Control (UIC) regulations provided in the Code of Federal Regulations (CFR) Title 40, Parts 144 - 148. Specifically, EPA was investigating the potential usage of large capacity cesspools (LCCs) at the (b) (6).

The UIC regulations promulgated by EPA pursuant to the SDWA required that all existing LCCs be closed by April 5, 2005. The UIC regulations categorize LCCs as residential cesspools that serve multiple dwellings or non-residential cesspools that have the capacity to serve 20 or more persons per day. 40 CFR § 144.81(2). Cesspools allow raw sewage to be discharged into the ground and are a public health and environmental concern, particularly with regard to the threat they pose to underground sources of drinking water (USDWs). Additional information on the impact of large capacity cesspools and EPA's efforts to address these impacts can be found at EPA's website: <https://www.epa.gov/uic/cesspools-hawaii>.

Since EPA was unable to accurately determine the type of subsurface wastewater disposal unit(s) that service (b) (6) during its January 30, 2023 compliance evaluation inspection, EPA requires a written response to this correspondence which formally seeks information related to the subsurface wastewater infrastructure that serve (b) (6). The SDWA provides EPA with the authority to request information for the purpose of determining compliance with the SDWA and its UIC regulations. Section 1445 of the SDWA, 42 U.S.C. § 300j-4, and 40 C.F.R. § 144.17.

As follow-up to the January 30, 2023 compliance evaluation inspection, EPA hereby requires **(b) (6)** to provide the following information about the wastewater disposal unit(s) that it owns and/or operates at **(b) (6)**

1. A narrative description of the nature and physical characteristics of each subsurface wastewater disposal unit/system (e.g., cesspool, septic tank, seepage pit) located at the **(b) (6)** or associated with activities at the **(b) (6)**. The description must include the depth, width, and volume of the unit/system (including any associated tanks); and the material, nature and porosity of the lining, floor, and roof/cap/ceiling of the unit (including any associated tanks).
2. For each wastewater disposal unit identified in response to Request #1, a description of how the unit operates to treat and/or dispose of wastewater and whether or not it is currently in use.
3. A map or drawing, made at a minimum 1:10 scale (or some other easily readable scale) of the **(b) (6)** (and surrounding areas if necessary) that clearly identifies the location of each wastewater disposal unit identified in response to Request #1 and the dwellings, buildings or facilities that are contributing wastewater to those unit(s).
4. Copies of the following existing documents pertaining to the wastewater disposal units identified in response to Request #1:
 - a. any blueprints or drawings for the unit(s);
 - b. all permits issued by any local, state, or federal agency for the construction or use of the unit(s); and
 - c. any reports and data from any tests that have been performed on or at the unit(s), including, but not limited to, inspection reports, percolation tests, camera, and video records.
5. A description of each dwelling, building and/or facility that contributes sewage or wastewater to each wastewater disposal unit(s) identified in response to Request #1, and any copies of site plans or as-built drawings for each one.
6. A description of the ownership and operational control of the **(b) (6)**, including, but not limited to, the percentage ownership of each owner, the nature of operational control for each operator, and the contact information for all owners and operators or managers of the **(b) (6)**. Provide copies of any/all documents which support the ownership and/or operational control of the **(b) (6)**, including, but not limited to, leases, sales agreement, management agreements, operator agreements, etc.
7. For each subsurface wastewater disposal unit/system identified in response to Request #1, an identification and/or description of the following:
 - a. the type of business or activity operated at the **(b) (6)** that contributes wastewater to that unit(s), along with a description of the nature of the wastewater (e.g., sewage, rinse water, etc.); and

- b. anytime during the past three years, the maximum daily number of persons that cumulatively use or visit the **(b) (6)** along with an identification of the source of the data.

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."

(b) (6) response to this information request must be submitted by September 8, 2023 to the following address:

Jelani Shareem
USEPA, Region IX
Enforcement and Compliance Assurance Division
Drinking Water Section (ECAD-3-3)
75 Hawthorne Street
San Francisco, CA 94105

In lieu of submitting the requested responses as paper copies, **(b) (6)** may submit them as portable document files ("pdf") by electronic mail to Jelani Shareem at shareem.jelani@epa.gov, or by U.S. mail on a USB flash drive (with email notification that the response has been sent by U.S. mail).

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 the SDWA and may subject **(b) (6)** 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 \$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. **(b) (6)** 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 Jelani Shareem at (415) 972-3095 or shareem.jelani@epa.gov any questions and/or concerns.

Sincerely,

LAWRENCE TORRES

Digitally signed by LAWRENCE
TORRES
Date: 2023.08.03 17:18:59 -07'00'

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

cc: **(b) (6)**