

**STATE OF HAWAII
DEPARTMENT OF HEALTH
CLEAN AIR BRANCH
NOTICE AND FINDING OF VIOLATION**

<p>TO:</p> <p>Hawaii BioEnergy AlgaeCo, LLC fka Hawaii BioEnergy, LLC Alakea Corporate Tower 1100 Alakea Street, 30th Floor Honolulu, Hawaii 96813</p> <p style="text-align: center;">RESPONDENT</p>	<p>NOVO No. 14-CA-EO-15 <i>(Please write this NOVO number on all correspondence)</i></p> <p>Re: Noncovered Source Permit (NSP) No. 0741-01-N Property/Facility: Hawaii BioEnergy Kauai Algae Farm</p>
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Under Hawaii Revised Statutes ("HRS"), §342B-11, Hawaii Administrative Rules ("HAR") §11-60.1-2, and NSP No. 0741-01-N, the Department of Health, Clean Air Branch ("DOH"), issues this Notice and Finding of Violation and Order ("NOVO"). Based on an annual inspection and a records review of the facility, the DOH finds the following violation(s) alleged below. This case deals only with the violations alleged below, and the DOH may bring other cases for other violations. This case does not limit cases by any other public agency or private party.

Statutes/Rules	HRS, §342B-11, HAR, §11-60.1-2, and NSP No. 0741-01-N, Attachment II, Section E, Special Condition 2.
Nature of the Violation	Failed to submit the semi-annual monitoring report for July to December 2013 within sixty (60) days after the end of the semi-annual calendar period. The report was submitted late on April 2, 2014, twenty-eight (28) days after the due date of March 3, 2014.

The facts of this case and the law justify the following order.

ORDER

You are ordered to:

1. Take corrective action within twenty (20) days after the receipt of this Order, to prevent further violations, if RESPONDENT has not already done so.
2. Within twenty (20) days after the receipt of this Order, notify the DOH of the corrective actions taken.
3. Pay an administrative penalty of **ONE THOUSAND SEVEN HUNDRED DOLLARS AND NO CENTS (\$1,700.00)** for the above violations. **Within 20 days after the receipt of the NOVO**, send a certified check to: Clean Air Branch, State Department of Health, P.O. Box 3378, Honolulu, Hawaii 96801. **The check should be made payable to the "State of Hawaii" and include the NOVO reference number stated above.**

This NOVO becomes final and enforceable, and the penalty becomes due and payable 20 days after your receipt of this NOVO unless before the 20 days expire, you submit a **written** request for a hearing to the Hearings Officer, Department of Health, 1250 Punchbowl Street, Third Floor, Honolulu, Hawaii 96813 and to the Clean Air Branch, State Department of Health, P.O. Box 3378, Honolulu, Hawaii 96801. In the request, include a copy of the NOVO. At a hearing, you may seek to avoid any penalty, and the DOH may seek the maximum penalty of Twenty-Five Thousand Dollars (\$25,000) per day, per violation. Parties may present evidence and witnesses on their behalf, and may examine and cross-examine all witnesses and evidence presented by the DOH. Parties may be represented by lawyers at their own expense, or they may represent themselves. Any hearing will follow HRS, Chapters 91 and 342B, and the DOH Rules of Practice and Procedure. After a hearing, the Director of Health or her appointee will decide the actual administrative penalty, which may be more or less than the penalty in this Order, or no penalty at all. If you have questions, please call Ms. Jill Stensrud, Supervisor of the Compliance and Enforcement Section, Clean Air Branch, at (808) 586-4200.

If you have special needs due to a disability that will aid you in participating in the hearing or pre-hearing conference, please contact the Hearings Officer at (808) 586-4409 (voice) or through the Telecommunications Relay Service (711), at least ten (10) working days before the hearing or pre-hearing conference date.



KEITH E. KAWOAKA, D. Env
Deputy Director for Environmental Health

OCT - 7 2015

Date



Approved as to form by:
William F. Cooper
Deputy Attorney General