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ENVIRONMENTAL HEALTH DIVISION,  
DEPARTMENT OF HEALTH, STATE OF  
HAWAII,

Docket No. 21-UST-EA-02

Complainant-Appellee,

ORDER PARTIALLY LIFTING  
STAY; EXHIBIT 1

vs.

UNITED STATES DEPARTMENT OF THE  
NAVY,

Respondent-Appellant.

ORDER PARTIALLY LIFTING STAY

WHEREAS, the Emergency Order of December 6, 2021 (EO) included a voluntary stay<sup>1</sup> of the effectiveness of its requirements pending an evidentiary hearing before a Hearings Officer (if requested) and the rendering of a final decision following the hearing;

WHEREAS, the EO contemplated that the evidentiary hearing would begin on December 7, 2021;

WHEREAS, the evidentiary hearing has been rescheduled at Respondent's request to begin on December 13, 2021, and requires

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<sup>1</sup> HRS 342L-9 does not *require* that emergency orders issued thereunder be stayed pending the hearing within 24 hours required if requested thereunder, although stays may certainly be applied for.

that best efforts be made to have a decision entered not later than December 22, 2021;

WHEREAS, the facts set forth in the Emergency Order indicate a significant possibility of imminent peril to human health or safety, or the environment, of potentially disastrous scope;

WHEREAS, requirements 1 and 2 of the EO were to take effect immediately absent an appeal;

WHEREAS, the Secretary of the Navy, in a Memorandum for the Chief of Naval Operations (CNO) dated December 7, 2021 (Exhibit 1), has already directed that, under the CNO's leadership, the Respondent take a number of steps, numbered 1 through 3, which are consistent with requirements 1 and 2 of the EO; and

WHEREAS, it appears that, inter alia, it could be desirable that representatives of the DOH participate in or observe the taking of those steps or their results;

IT IS HEREBY ORDERED, sua sponte, that the stay of the effectiveness of requirements 1 and 2 of the EO is hereby lifted, without prejudice to the Respondent's ability to move for reinstitution of the stay as to those requirements if it believes a stay thereof to be appropriate, and to do so by a separate motion for a stay or a motion for reconsideration.

The stay of requirements 3, 4 and 5 of the EO will not be addressed at this time. Requirements 3 and 5 require the

Respondent to do things not later than January 5, 2022,  
requirement 4 requires that certain things be done after that,  
and the final decision herein is expected to be entered well  
before those dates.

Dated and Served: Honolulu, Hawaii, December 10, 2021.



Steven Jacobson  
Hearings Officer



THE SECRETARY OF THE NAVY  
WASHINGTON DC 20350-1000

December 7, 2021

MEMORANDUM FOR THE CHIEF OF NAVAL OPERATIONS

SUBJECT: Immediate Actions: Red Hill Underground Storage Tanks

The Department of the Navy is committed to providing reliable and safe drinking water to our Service Members, civilians, residents and their families at Joint Base Pearl Harbor-Hickam and everyone who lives and works within the community. The recent incident at Joint Base Pearl Harbor-Hickam, in which military housing units and other facilities received tap water containing petroleum products is not acceptable. The Department of the Navy will take every action to identify and remedy this incident.

I am confident that the actions taken to date by the Department of the Navy, in coordination with the Hawaii Department of Health, the Board of Water Supply, the U.S. Environmental Protection Agency (EPA), the Army, and the Defense Logistics Agency, to include intensive site investigations and sampling, will assist in the identification of the cause of this incident and will lead to the implementation of robust corrective measures to remedy this issue and restore safe drinking water for the community. Therefore, I am directing, under your leadership, the following actions:

1. The cessation of all operations at the Red Hill Underground Storage Tanks until the investigation into the cause of the incident is complete;
2. The continuing isolation of the Red Hill and Halawa wells which we operate, until the water distribution main and all affected homes and buildings have been flushed and can be supplied with potable water that meets EPA drinking water standards;
3. Evaluate acquisition of a drinking water treatment system or systems at the Red Hill Shaft to ensure the distribution of drinking water conforms to standards prescribed by the Safe Drinking Water Act and applicable regulations and to minimize the movement of any contaminant plume;
4. Within 30 calendar days, the Navy will consult with a qualified independent third party to assess operations and system integrity of the Red Hill Underground Storage Tank Facility to determine design and operational deficiencies that may impact the environment and to develop a work plan and implementation schedule to conduct necessary repairs and make necessary changes in operations to address any deficiencies identified in the assessment. Corrective actions shall be performed as expeditiously as possible; and
5. Following the independent third party assessment, the Navy will approve a final work plan and implementation schedule and will expeditiously perform work and make necessary changes in operations.

EXHIBIT 1

The health and well-being of our service members, civilians, their families, and our surrounding communities is of utmost importance to me, and I want to ensure we continue the coordinated response. Therefore, we will continue to build upon our collaboration and invite Federal, State, and Local government to exchange views and information on our response to the incident and the operations at Red Hill. At all times, our efforts will remain centered on restoring potable water to affected communities, improving safety measures to the Red Hill fuel distribution system, and implementing mitigation measures to ensure a continued source of potable drinking water from the aquifer underlying the facility.

  
Carlos Del Toro

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