

From: [Gannon, Ella Foley](#)
To: [Day, David D](#); [Hargrove, Wade H](#); [David Henkin](#); craig.d.jensen.civ@us.navy.mil
Cc: [Brown, David K](#)
Subject: [EXTERNAL] BWS Motion to Intervene in Emergency Order Contested Case Proceeding
Date: Tuesday, December 14, 2021 9:01:54 AM
Attachments: [Notice of Intervenor Status in Contested Case Hearing on In the Matter of the Emergency Order to the US Navy for Emergency Change-In-Service and Defueling of 20 Underground Storage Tanks, Red Hill Bulk Fuel Storage Facility.pdf](#)

Hearing Officer Day and Counsel: Attached please find a letter from the BWS regarding our motion to intervene in the above referenced proceeding.

Best regards,

Ella Foley Gannon

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COVID-19 Resources and Updates



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Filed
12/14, 9:02 a.m.

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843
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December 14, 2021

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Manager and Chief Engineer

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Deputy Manager and Chief Engineer

Dr. Elizabeth A. Char, MD
Director
State of Hawaii
Department of Health
Kinau Hale
1250 Punchbowl Street
Honolulu, HI 96813

Dear Dr. Char:

Subject: Notice of Intervenor Status in Contested Case Hearing on In the Matter of the
Emergency Order to the United States Navy for Emergency Change-In-Service and
Defueling of 20 Underground Storage Tanks, Red Hill Bulk Fuel Storage Facility
(Docket No. 21-UST-EA-02)

The Board of Water Supply (BWS) is in receipt of the emergency order issued by the Hawaii Department of Health (DOH) on December 6, 2021 requiring the Navy to immediately suspend fuel storage operations at the Red Hill facility, expeditiously install a drinking water treatment system at the Navy's Red Hill Shaft drinking water well, and promptly take action to defuel the underground storage tanks (USTs) at the Red Hill Bulk Fuel Storage Facility (Red Hill) (the "Emergency Order"). We also understand that the Navy intends to contest the Emergency Order. Given the enormous amount of fuel stored at the Red Hill facility, the location of this storage relative to our sole-source groundwater aquifer, the impacts that have already occurred and the potential for further impacts to Oahu's critical drinking water resources, and the BWS' position as the utility responsible for providing residents with safe and dependable water service, the BWS has a unique and undeniable interest in as well as a right to participate in a potential contested case hearing on the Emergency Order. Accordingly, pursuant to Hawaii Administrative Rules section 11-1-35, the BWS respectfully informs the Director and the DOH that it is seeking intervenor status in the potential contested case hearing and would like to be treated as a party for purposes of this proceeding moving forward, including participation in any prehearing conferences. We will submit additional supporting documentation later today.

We understand that last evening an order was issued appointing David D. Day, Esq. as the Hearings Officer in this matter and that a status conference was scheduled for 9:00 a.m. today. We respectfully request the right for our counsel, Ella Foley Gannon and David K. Brown of Morgan, Lewis & Bockius LLP to participate in this hearing on our behalf.

Thank you for your attention to this matter. If you have any questions, please feel free to call me, at 808-748-5061.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'E. Y. W. Lau', with a stylized flourish at the end.

ERNEST Y.W. LAU, P.E.
Manager and Chief Engineer

cc: Kathleen Ho
Environmental Health Administration
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