

STATE OF HAWAII

DEPARTMENT OF HEALTH
NOTICE OF VIOLATION AND ORDER

<p>TO: JH Hawaii Property, LLC 1311 Kapiolani Boulevard, Suite 205 Honolulu, Hawaii 96814</p> <p>Attention: Jung Hoan Cho</p> <p>and</p> <p>ABC Towing & Parts, LLC 91-1388 Kinoiki Street Kapolei, Hawaii 96707</p> <p>Attention: Kainoa Ahsing</p> <p>Respondents</p>	<p>NOVO No. 2024-CW-EO-32 <i>Please write this NOVO number on all correspondence</i></p> <p>Re: Unauthorized Discharge of Pollutants to State waters and Initiating activity without required NPDES permit coverage</p> <p>Facility/Property: ABC Towing & Parts, LLC located at 794 H Lehua Avenue, Pearl City, Hawaii 96782 TMK: (1) 9-7-016:011</p>
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The Department of Health (**DOH**) issues this Notice of Violation and Order (**NOVO**) under Hawaii Revised Statutes (**HRS**) Chapters 91 and 342D based on findings from the October 30, 2024 and January 31, 2025 inspections and subsequent file reviews performed by the DOH, Clean Water Branch (**CWB**) for ABC Towing & Parts, LLC located at 794 H Lehua Avenue, Pearl City, Hawaii 96782 TMK: (1) 9-7-016:011 (**Facility**).

Attached as exhibits are:

- DOH Inspection Report No. OA2887, conducted on October 30, 2024 (Exhibit A);
- DOH Inspection Report No. OA2892, conducted on January 31, 2025 (Exhibit B)
- Property Ownership Information and Business Ownership Information for the property (Exhibit C);
- Business Ownership Information for ABC Towing & Parts, LLC (Exhibit D);
- Administrative Order on Consent (**AOC**) Docket No. 2019-CW-EO-16 issued to ABC Towing and Parts, LLC issued on November 26, 2019 (Exhibit E);
- Corrective actions documentation dated November 14, 2024 (Exhibit F).

This case deals only with violations alleged below. The DOH may bring other cases for other violations. This case does not limit cases by any other public agency or private party.

<p>HRS §342D-9, HRS §342D-31, HRS §342D-50(a), HAR §11-55-04(a), 40 CFR §122.26(b)(14)(vi)</p>	<p>ABC Towing & Parts, LLC</p> <p><u>Background</u></p> <p>JH Hawaii Property, LLC owns the 2.59-acre industrial property located at 794 H Lehua Avenue, Pearl City, Hawaii 96782 TMK: (1) 9-7-016:011.</p> <p>Jung Hoan Cho is the member managing JH Hawaii Property, LLC according to Department of Commerce and Consumer Affairs Business Registration (Exhibit C).</p> <p>Kainoa Ahsing is the member managing ABC Towing & Parts, LLC (Exhibit D) and the operator onsite responsible for the industrial activities being conducted at the property.</p> <p>Previous inspections of the property, which substantially included the Facility, by the DOH identified violations that included operating without NPDES permit coverage and unauthorized discharges to Waiawa Stream. The issuance of the AOC, Docket No. 2019-CW-EO-16 (Exhibit E), between the DOH and the previous business owner, ordered corrective actions to comply with Hawaii Water Pollution laws. The AOC required, among other things, the implementation of Best Management Practices (BMPs), including constructing a berm and establishing an appropriate setback distance between the business premises and Waiawa Stream. On January 19, 2022, the DOH confirmed that all requirements of the AOC were complete, and the AOC was closed.</p> <p>On October 30, 2024, the DOH conducted an inspection of the Facility in response to a complaint of trash and debris discharged to Waiawa Stream from the Facility. During the inspection, the DOH was made aware that the Facility had changed ownership and did not have NPDES permit coverage. Further, the CWB inspectors determined that the Facility discharged metals, tires, sediment, and other materials into Waiawa Stream, a Class 2 Inland State water. Findings from the inspection are identified in Inspection Report No. OA2887 (Exhibit A).</p> <p>Following the October 30, 2024, inspection of the Facility, the DOH required Respondent to immediately remove all debris and waste that originated from the Facility from Waiawa Stream. On November 6, 2024, the DOH requested Kainoa Ahsing to provide photographic documentation confirming cleanup was completed. On November 14, 2024, the DOH received photographic</p>
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documentation of the cleanup from Kainoa Ahsing, confirming the debris and waste was properly removed from the stream (Exhibit F).

On January 31, 2025, the DOH conducted a second inspection of the Facility, following heavy rains that occurred on January 27, 2025 and again on January 30, 2025. Findings from the inspection are identified in Inspection Report No. OA2892 (Exhibit B). The DOH did not complete a walk-through of the entire Facility as part of the inspection. The areas inspected include Lehua Avenue leading to the Facility's front entrance, the southern perimeter of the Facility, and the southwest corner of the Facility. The DOH inspectors noted that the heavy rains carried substantial amounts of vegetated debris and other miscellaneous household items down Waiawa Stream. Inspectors documented industrial activities continuing without permit coverage, lack of adequate Best Management Practices (BMPs), and poor liquid waste management.

HRS §342D-9 authorizes the Director of Health to order measures to be taken to correct violations and impose penalties for violations of HRS Chapter 342D.

HRS §342D-31 states that "the [D]irector is authorized to impose by order the penalties specified in [HRS §]342D-30."

HRS §342D-30 states that violators shall be fined not more than \$60,000 per day for each separate offense and that each day of each violation constitutes a separate offense.

HRS §342D-50(a) states that "[n]o person, including any public body, shall discharge any water pollutant into state waters, or cause or allow any water pollutant to enter state waters except in compliance with this chapter, rules adopted pursuant to this chapter, or a permit, water quality certification, or variance issued by the [D]irector."

Hawaii Administrative Rules (**HAR**) §11-55-04(a) requires a discharger to submit an application for an NPDES permit, submit a notice of intent, or meet all requirements for a conditional "no exposure" exclusion before discharging from sources or activities identified and described in 40 Code of Federal Regulations (**CFR**) §122.23 through §122.27.

40 CFR §122.26(b)(14)(vi) identifies facilities classified as Standard Industrial Classification 5015 and 5093, involved in recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards as

applicable to State NPDES programs for discharges of storm water associated with industrial activity.

The activities at the Facility fall within those which require permit coverage pursuant to HAR §11-55-04(a)(5). The Facility is not covered by a notice of general permit coverage (in connection with a notice of intent). The Facility has not received certification that it meets the requirements for a "no exposure" exclusion. The Facility and its activities are not covered by an NPDES permit.

1. Unpermitted Discharge to State waters

During the October 30, 2024, inspection, the DOH inspectors observed sediment, tires, debris and scrap metals originating from the Facility, discharged to Waiawa Stream from a rain event that occurred on October 27, 2024. Respondents, collectively or individually as appropriate, authorized, oversaw and/or allowed the discharge of stated materials as part of its industrial activities at the Facility. Waiawa Stream is a Class 2, Inland State water (Exhibit A).

Based on the details above, the DOH finds that Respondents jointly and severally violated HRS §342D-50(a) on eighteen (18) counts by authorizing, overseeing, and/or allowing the discharge of sediment, tires, debris and scrap metals from the Facility to State waters from October 27, 2024, when discharges occurred until November 14, 2024, when cleanup was confirmed to be complete.

2. Initiating Industrial Activity without NPDES Permit Coverage

ABC Towing & Parts LLC has been operating without NPDES permit coverage at the Facility beginning on or around April 2024. The Facility's primary operations include dismantling automobiles to sell parts, as well as recycling and disposing of the remaining materials. ABC Towing & Parts LLC engages in industrial activities classified under SIC codes 5019 and 5093, specializing in the salvage and sale of automotive vehicles and used parts. Under 40 CFR §122.26(b)(14)(vi), the Facility requires regulation under the NPDES program.

Based on the details above, the DOH finds that Respondents jointly and severally violated HAR §11-55-04(a) beginning April 2024 on one (1) count by initiating industrial activities regulated by the NPDES program, without the required permit coverage.

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

ORDER

Respondent is ordered to:

- 1) Immediately cease the discharge of pollutants into State waters until all required Federal, State and Local permits have been obtained.
- 2) Immediately implement pollution control strategies, BMPs and the requirements set forth in the Hawaii NPDES General Permit authorizing the discharge of storm water associated with industrial activities, HAR Chapter 11-55 at the Facility. Failure to comply with the requirements of HAR Chapter 11-55, Appendices A and B, shall constitute a violation of this Order.
- 3) Within 30 calendar days from the date this NOVO becomes final (**Effective Date**), submit an NOI to the DOH through the e-Permitting Portal requesting NPDES permit coverage for the discharge of storm water associated with industrial activities. It is Respondents responsibility to submit a complete application that includes all required information to avoid delays in processing the application. Failure to provide the requested information timely, may result in denial of the permit application.
- 4) Comply with all conditions of the NPDES permit upon issuance.
- 5) Upon issuance of the NPDES permit, submit a request to the DOH to terminate this NOVO.
- 6) Pay an administrative penalty of \$55,000.00 within 20 calendar days of the Effective Date. Send a certified check for \$55,000.00 to: Clean Water Branch, Department of Health, 2827 Waimano Home Road #225, Pearl City, Hawaii 96782. The payment should be made payable to "State of Hawaii" and include the NOVO reference number, 2024-CW-EO-32.

All submittals made pursuant to any Order in this NOVO shall be certified and signed by a person legally authorized to sign on behalf of Respondent. All documents submitted pursuant to any Order in this NOVO must include the following Certification Statement:

"I certify under penalty of law that this document and its attachments were prepared either by me personally or under my direction or supervision in a manner designed to ensure that qualified and knowledgeable personnel properly gathered and presented the information contained therein. I further certify, based on my personal knowledge or on my inquiry of those individuals immediately responsible for obtaining the information, that to the best of my knowledge and belief the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fines and imprisonment for knowing and willful submission of a materially false statement."

The provisions of this NOVO shall become final unless, within 20 calendar days after receipt, Respondent files a **written** request for a hearing, along with a copy of the NOVO, without exhibit(s), to:

Hearings Officer
c/o Director of Health
1250 Punchbowl Street, Third Floor
Honolulu, Hawaii 96813

Respondent may file the hearing request in person at the Director's office listed above during regular business hours or mail the same to the above address within the prescribed time. As indicated in HAR §11-1-4(d), the filing date of the written request for hearing is the date when the document is received by the Director's office. **Failure to timely file the hearing request and related documents may result in a denial of the hearing request.**

The hearing will be conducted in accordance with HRS Chapter 91 and HAR Chapter 11-1. At the hearing, the DOH may seek the maximum penalty of \$60,000 per day, per violation.

Parties may be represented by legal counsel at their own expense. An individual may appear on his/her own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation, or trust, or association may represent the corporation, trust or association.

All inquiries regarding this matter, other than the request for hearing, shall be directed to the Supervisor of the Enforcement Section, CWB, at (808) 586-4309.

If due to a disability you have special needs 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 10 working days before the hearing or pre-hearing conference date.

Approved as to Form:

Kathleen Ho

Dale K. Sakata

KATHLEEN S. HO
Deputy Director for Environmental Health

Dale Sakata
Deputy Attorney General

Date: Feb 18, 2025