

**STATE OF HAWAII  
DEPARTMENT OF HEALTH**

**NOTICE AND FINDING OF VIOLATION AND ORDER**

NOVO No. 21-WW-EO-02

**TO: Owners:** James M. Reis Jr., and Desirae L. Reis  
**Address:** 816 Village Way  
 Palm Harbor, Florida 34683

**RE: Property/Facility:** Individual Wastewater System (IWS)  
**Address:** 4808 Ohu Road, Kapaa, Hawaii 96746  
**TMK:** (4) 4-6-017: 048

The Department of Health (Department) issues this Notice and Finding of Violation and Order (NOVO) under Hawaii Revised Statutes (HRS) Chapters 91, 321, 322, and 342D, and Hawaii Administrative Rules (HAR) Chapter 11-62. This case deals only with the violation alleged below, and the Department may bring other cases for other violations. This case does not limit cases by any other public agency or private party. The Department finds these violations based on investigations conducted at the subject property on January 11, 2021 and February 23, 2021 and subsequent document review that verified the existing IWS was not approved for use by the Department.

Statutes/Rules

Nature of the Violation(s)

<p>HAR §11-62-31.1(f)  and  HRS §342D-50(d)</p>	<p>Hawaii Administrative Rules prohibit the use of an IWS without written authorization by the Department Director.</p> <p>Respondents failed to hire a licensed engineer to submit design plans for a new IWS.</p> <p>Respondents have been using an unauthorized IWS to serve a dwelling and its tenants since purchasing the property in 2018.</p> <p>Violating a rule adopted pursuant to HRS Chapter 342D is a violation of that chapter.</p>
<p>HRS §§342D-9, 342D-30, and 342D-31.</p>	<p>The Department Director is authorized to serve written notice of a violation of HRS Chapter 342D and any rule adopted pursuant to that chapter.</p> <p>The Department Director is authorized to impose by order civil and administrative penalties.</p>

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

### ORDER

You are ordered to:

1. Permanently correct the violations at your own expense within one hundred eighty (180) days after your receipt of this issued NOVO. In particular:
  - a. Retain the services of a licensed engineer to submit to the Department, within sixty (60) days, new IWS plans for the dwelling structure to the Department;
  - b. Within ninety (90) days after the plans are approved by the Department, retain the services of a licensed contractor to construct the new IWS; and
  - c. Within thirty (30) days after the construction is complete, have your licensed engineer submit the final inspection report to the Department.
2. Within twenty-one (21) days after your receipt of this NOVO, submit to the Department a written report of the steps you have taken and will take to comply with this Order. Include a schedule or timeframe for each step.
3. Within twenty-one (21) days after your receipt of this NOVO, pay an administrative penalty of **\$1,977.00** for the violations to date pursuant to HRS §342D-31.
4. Pay an administrative penalty of **\$50.00** for each day the wastewater system continues to be in violation of §11-62-31.1(f), HAR, following one hundred eighty (180) days after receipt of this NOVO, pursuant to HRS §342D-31.
5. Send penalty payments and reports to the State of Hawaii, Wastewater Branch, 2827 Waimano Road, Room 207, Pearl City, Hawaii 96782. Checks shall be made payable to "State of Hawaii" and include a reference to NOVO No. 21-WW-EO-02.

The provisions of this NOVO shall become final unless, within twenty (20) days after receipt, you submit a **written** request for a hearing to the Hearings Officer at the address provided below. Your written request should include a copy of the NOVO. You may file the hearing request in person at the Director's office, during regular business hours, or may mail the same to the Hearings Officer at the below address within the allotted time. **Failure to timely file the hearing request and related documents may result in a denial of your hearing request.**

If a hearing is properly requested, a pre-hearing conference will be set by the Hearings Officer and you will be notified of the date, time, and place of the pre-hearing conference.

The hearing will be conducted in accordance with HRS Chapter 91 and HAR Chapter 11-1. If you have special needs due to a disability and these needs 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.

At the hearing, the parties may present relevant evidence and argument on the issues raised by this case. The parties may also examine and cross-examine witnesses and present exhibits.

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.

At the hearing, you may seek to avoid any penalty, and the Department may seek the maximum penalty of \$25,000.00 per day, per violation. After the hearing, the Director of Health or the Hearings Officer will decide the actual administrative penalty, which may be more or less than this order, or none. The Order shall be affirmed, modified, or rescinded by the Director or Hearings Officer.

The written request for a hearing, along with the related documents and pleadings in this case shall be directed to:

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

All other inquiries regarding this matter shall be directed to:

Sina Pruder, P.E., Chief, Wastewater Branch at 586-4294

Approved as to form:

  
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KATHLEEN HO  
Deputy Director for Environmental Health

  
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DALE K. SAKATA  
Deputy Attorney General

Date: 7/20/2021

Date: July 12, 2021

**CERTIFIED MAIL NO.: 7021 0350 0001 7984 0456**  
**RETURN RECEIPT REQUESTED**

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