

2. Complainant is, by lawful delegation, the Director of the Enforcement and Compliance Assurance Division of EPA, Region 9. The Administrator of EPA delegated the authority to bring and settle this action under the SDWA to the Regional Administrator of EPA Region 9. In turn, the Regional Administrator further delegated the authority to bring this action and sign a consent agreement settling this action under the SDWA to the Director of the Enforcement and Compliance Assurance Division.

3. Respondent is the Harry and Jeannette Weinberg Foundation, Inc., a philanthropic organization incorporated in Maryland.

4. Respondent is the “owner” or “operator” of three large capacity cesspools, with one cesspool at each of the following locations: 3145 Oihana Street, Lihue, HI 96766 (Tax Map Key (TMK): 4-3-6-012-015); 3156 Oihana Street, Lihue, HI 96766 (TMK: 4-3-6-012-004); and 4480 Ahukini Road, Lihue, HI 96766 (TMK: 4-3-6-007-033).

5. Where the Parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order. *See* 40 C.F.R. § 22.13(b).

6. The Parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the terms of this CA/FO, including the assessment of the civil penalty of \$158,000, and the performance of the compliance requirements specified below.

II. JURISDICTION AND WAIVER OF RIGHT TO JUDICIAL REVIEW AND HEARING

8. Consistent with 40 C.F.R. § 22.18(b), for purposes of the proceeding, Respondent admits the jurisdictional allegations of the CA/FO; neither admits nor denies specific factual allegations contained in the CA/FO; consents to the assessment of any stated civil penalty, and to any conditions specified in the Consent Agreement; and waives any right

to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.

9. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CA/FO including, but not limited to, its right to request a hearing under 40 C.F.R. § 22.15(c) and Section 1423(c)(3) of the SDWA, 42 U.S.C. § 300h-2(c)(3); its right to seek federal judicial review of the CA/FO pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-06; any right to contest the allegations in this CA/FO; and its right to appeal this CA/FO under Section 1423(c)(6) of the SDWA, 42 U.S.C. § 300h-2(c)(6). Respondent also consents to the issuance of this CA/FO without further adjudication.

III. STATUTORY AND REGULATORY AUTHORITY

10. Section 1421 of the SDWA, 42 U.S.C. § 300h, requires that the Administrator of EPA promulgate regulations, which shall include permitting requirements as well as inspection, monitoring, recordkeeping, and reporting requirements, for state underground injection control (“UIC”) programs to prevent underground injection from endangering drinking water sources.

11. Section 1421(d)(1) of the SDWA, 42 U.S.C. § 300h(d)(1), defines “underground injection” as the subsurface emplacement of fluids by well injection and excludes the underground injection of natural gas for purposes of storage and the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.

12. Pursuant to Sections 1421 and 1422 of the SDWA, 42 U.S.C. §§ 300h and 300h-

1, respectively, EPA has promulgated UIC regulations at 40 C.F.R. Parts 124, 144, 146, 147 (Subpart M), and 148.

13. 40 C.F.R. § 144.1(g) provides that the UIC programs regulate underground injection by six classes of wells, and all owners or operators of these injection wells must be authorized either by permit or rule.

14. Section 1401(6) of the SDWA, 42 U.S.C. § 300f(6), and 40 C.F.R. § 144.3 define “contaminant” as any physical, chemical, biological, or radiological substance or matter in water.

15. 40 C.F.R. § 144.3 defines “fluid” as any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

16. 40 C.F.R. § 144.3 defines “well injection” to mean the subsurface emplacement of fluids through a well.

17. 40 C.F.R. § 144.3 defines “well” to mean, in relevant part, a dug hole whose depth is greater than the largest surface dimension.

18. 40 C.F.R. § 144.3 defines a “cesspool” as a “drywell,” which is a type of “well” that is completed above the water table.

19. 40 C.F.R. § 144.81(2) defines “large capacity cesspools” (“LCCs”) to include “multiple dwelling, community or regional cesspools, or other devices that receive sanitary wastes, containing human excreta, which have an open bottom and sometimes perforated sides.” LCCs do not include single-family residential cesspools or non-residential cesspools which receive solely sanitary waste and have the capacity to serve fewer than twenty (20) persons per day. *Id.*

20. 40 C.F.R. §§ 144.80(e) and 144.81(2) classify LCCs as Class V injection wells.

21. 40 C.F.R. § 144.3 defines Class V injection wells as a “facility or activity” subject to regulation under the UIC program.

22. Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), defines “person” as an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency). *See also* 40 C.F.R. § 144.3.

23. 40 C.F.R. § 144.3 defines “owner or operator” to mean the owner or operator of any “facility or activity” subject to regulation under the UIC program.

24. Pursuant to 40 C.F.R. § 144.82, the “owner or operator” of a Class V well “must comply with Federal UIC requirements in 40 C.F.R. Parts 144 through 147,” and must also “comply with any other measures required by States or an EPA Regional Office UIC Program to protect [underground sources of drinking water].”

25. 40 C.F.R. §§ 144.84(b)(2) and 144.88 requires owners or operators of existing LCCs to have closed them by April 5, 2005. New LCCs were prohibited as of April 5, 2000. *Id.*

26. Pursuant to Section 1422(c) of the SDWA, 42 U.S.C. § 300h-1(c), and 40 C.F.R. § 147.601, EPA administers the UIC program in the State of Hawaii.

27. Section 1423(a)(2) of the SDWA, 42 U.S.C. § 300h-2(a)(2), provides that any person found to be in violation of any requirement of an applicable UIC program in a state that does not have primacy may be assessed a civil penalty and be subject to an order requiring compliance pursuant to Section 1423(c)(1) of the SDWA, 42 U.S.C. § 300h-2(c)(1).

28. Under Section 1423(c)(1) of the SDWA, 42 U.S.C. § 300h-2(c)(1), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$27,894 for each day of violation, up to

a maximum administrative penalty of \$348,671, for violations occurring after November 2, 2015 where penalties are assessed on or after December 27, 2023, and issue an order requiring compliance.

IV. FACTUAL ALLEGATIONS AND ALLEGED VIOLATIONS

29. Respondent is a corporation and therefore a “person” within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 144.3.

30. Respondent owns the “Sites,” identified as 3145 Oihana Street, Lihue, HI 96766 (TMK: 4-3-6-012-015); 3156 Oihana Street, Lihue, HI 96766 (TMK: 4-3-6-012-004); and 4480 Ahukini Road, Lihue, HI 96766 (TMK: 4-3-6-007-033).

3145 Oihana Street

31. The property located at 3145 Oihana Street has approximately 12,265 square feet of rentable commercial space. The property is used as a warehouse direct office supply business. The property has been in Respondent’s ownership since at least December 2017.

32. The property has one cesspool that collects sanitary wastewater from two restrooms.

33. EPA alleges that the cesspool that services the property at 3145 Oihana Street meets the regulatory criteria of a LCC, as that term is described at 40 C.F.R. § 144.81(2), in that the cesspool has the capacity to serve twenty (20) or more persons per day.

34. On May 21, 2024, Respondent submitted documentation that it had obtained a permit to abandon the cesspool that serviced this location and obtained a permit from DOH to connect to septic. On July 3, 2024, Respondent completed the work to clean, backfill

and close the LCC in accordance with 40 C.F.R. §§ 144.84(b)(2) and 144.88.

35. EPA alleges that each day that Respondent failed to close the alleged LCC at the property located at 3145 Oihana Street after April 5, 2005 constitutes a violation of 40 C.F.R. §§ 144.84(b)(2) and 144.88.

3156 Oihana Street

36. The property located at 3156 Oihana Street has approximately 7,023 square feet of rentable commercial space. This property is currently leased as a rental car business. This property has been in Respondent's ownership since at least October 1988.

37. The property has one cesspool that collects sanitary wastewater from three restrooms.

38. EPA alleges that the cesspool that services the property at 3156 Oihana Street meets the regulatory criteria of a LCC, as that term is described at 40 C.F.R. § 144.81(2), in that the cesspool has the capacity to serve twenty (20) or more persons per day.

39. On July 22, 2024, Respondent completed the work to clean, backfill and close the LCC in accordance with 40 C.F.R. §§ 144.84(b)(2) and 144.88.

40. EPA alleges that each day that Respondent failed to close the alleged LCC at the property located at 3156 Oihana Street after April 5, 2005 constitutes a violation of 40 C.F.R. §§ 144.84(b)(2) and 144.88.

4480 Ahukini Road

41. The property located at 4480 Ahukini Road has approximately 5,356 square feet of rentable commercial space. There are six commercial units available for rent, five of which are occupied. This property has been in Respondent's ownership since at least July

2021. The property has one cesspool that collects sanitary wastewater from two restrooms. EPA alleges that the cesspool that services the property at 4480 Ahukini Road meets the regulatory criteria of a LCC, as that term is described at 40 C.F.R. § 144.81(2), in that the cesspool has the capacity to serve twenty (20) or more persons per day.

42. To date, Respondent has not closed the LCC at the property.

43. EPA alleges that each day that Respondent failed to close the alleged LCC at the property located at 4480 Ahukini Road after April 5, 2005 constitutes a violation of 40 C.F.R. §§ 144.84(b)(2) and 144.88.

V. SETTLEMENT TERMS

A. Civil Penalty

44. Section 1423(c)(4)(B) of the SDWA, 42 U.S.C. 300h-2(c)(4)(B), requires the Administrator to take into account the seriousness of the violation, the economic benefit (if any) resulting from the violation, any history of such violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require, when assessing a civil penalty for violations of the SDWA.

45. Within thirty (30) days of the Effective Date of this CA/FO, Respondents must pay a civil penalty of ONE HUNDRED AND FIFTY-EIGHT THOUSAND DOLLARS (\$158,000) by sending a check (mail or overnight delivery), wire transfer, automated clearing house, or online payment. Payment instructions are available at:

<https://www.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency

Fines and Penalties
Cincinnati Finance Center
P.O. Box 979078
St. Louis, Missouri 63197-9000

46. After payment, Respondent shall immediately provide proof of payment to the Regional Hearing Clerk at the following address:

Regional Hearing Clerk
U.S. Environmental Protection Agency, ORC-1
75 Hawthorne Street
San Francisco, CA 94105
r9HearingClerk@epa.gov

Respondent shall also send notice of payment and a transmittal letter via email to the EPA Region 9 Enforcement and Compliance Assurance Division's Enforcement Officer and the EPA Region 9 Office of Regional Counsel attorney identified in Paragraph 65.

47. This civil penalty represents an administrative civil penalty and shall not be deductible for purposes of federal taxes. 26 U.S.C. § 162(f).

48. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, in addition to any stipulated penalties due under Paragraphs 56-57, Respondent must pay the following on any penalty amount overdue under this CA/FO: interest accrued on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings; a \$15 handling charge fee each month that any portion of the penalty is more than thirty (30) days past due; and 6% per year penalty on any principal amount ninety (90) days past due.

49. If Respondent does not pay timely the civil penalty due under Paragraph 45

and/or any stipulated penalties due under Paragraphs 56-57, EPA may request the United States Department of Justice bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expense for the collection action under Section 1423(c)(7) of the SDWA, 42 U.S.C. § 300h-2(c)(7). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

B. Compliance Requirements

50. As required by Section 1423(c)(1) of the Act, 42 U.S.C. § 300h-2(c)(1), and consistent with the timeframes set forth below, Respondent shall:

- a. By December 31, 2025, close the LCC at 4480 Ahukini Road (TMK: 4-3-6-007-033) in accordance with 40 C.F.R. §§ 144.84(b)(2), 144.88(a), and 144.89(a), and all other applicable requirements, including all Hawaii Department of Health ("HDOH") closure, conversion, and/or replacement requirements. If Respondent installs one or more replacement wastewater systems, such as Individual Wastewater Systems ("IWS"), then installation and operation of such systems shall comply with all HDOH requirements. If Respondent connects to a municipal sewer system, then that connection shall comply with all applicable sewer connection requirements; and
- b. Within forty-five (45) days of the closure of the LCC at 4480 Ahukini Road, submit to EPA a Final LCC Closure Report which includes the following information for the LCC:

- i. A copy of the cesspool backfill closure report that contains:
 - a. A description of the process by which the LCC was closed, including the equipment used;
 - b. Photographic evidence of construction and completion;
 - c. Identification of the contractor(s) providing the service; and
- ii. A copy of all approvals related to the closure of the LCC and any replacement wastewater systems, such as an IWS or sewer connection, issued by HDOH, the County, or any other agency. Should the applicable agency issue its approval after the Final LCC Closure Report is due, Respondent shall note the pending status and submit the approval to EPA within fourteen (14) days of Respondent's receipt of the approval.

51. Permits. Where any compliance obligation under this Section requires Respondent to obtain a federal, state, or local permit or approval, Respondent shall submit timely and complete applications to obtain all such permits or approvals. Respondent may seek relief under the provisions of Section F ("Force Majeure") of this CA/FO for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Respondent has submitted timely and complete applications to obtain all such permits or approvals.

52. If Respondent fails to comply with the requirements set forth in Paragraph 50 above, EPA may request the United States Department of Justice bring an action to seek

penalties for violating this CA/FO under Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b).

C. Reporting Requirements

53. Respondent shall submit progress reports to the EPA Region 9 Compliance Officer on a quarterly basis, with the first report (covering the preceding three-month period) due three (3) months after the Effective Date of this CA/FO. Subsequent reports shall be due on the first business day following each three-month period, until the Final LCC Closure Reports have been submitted. Each progress report shall detail Respondent's work during the three-month period towards meeting all applicable compliance deadlines.

54. Each progress report must be accompanied with a certification, as described in Paragraph 66, from Respondent's authorized representatives.

D. Stipulated Penalties

55. Respondent shall pay stipulated penalties in accordance with this Section for any violations of this CA/FO.

56. If Respondent fails to make the payment specified in Section V.A. or fails to comply with the requirements regarding the closure of the alleged LCCs at the Sites specified in Section V.B., Respondent agrees to pay in addition to the assessed penalty, a stipulated penalty of \$300 per day per violation for each day the Respondent is late meeting the applicable requirements.

57. If Respondent fails to timely submit any reports, such as those required under Sections V.B. or V.C., in accordance with the timelines set forth in this CA/FO, Respondent agrees to pay a stipulated penalty of \$100 for each day after the report was due until Respondent submits the report in its entirety.

58. Respondent agrees to pay any stipulated penalties within thirty (30) days of receipt of EPA's written demand for such penalties. All penalties shall begin to accrue on the first date of noncompliance and shall continue to accrue through the date of completion of the delinquent CA/FO requirement. Respondent will use the method of payment specified in Paragraph 45 and agree to pay interest, handling charges and penalties that accrue for late payment of the stipulated penalty in the same manner as set forth in Paragraph 48.

59. Neither the demand for nor payment of a stipulated penalty relieves Respondent of its obligation to comply with any requirement of this CA/FO or modifies or waives any deadlines set forth in this CA/FO.

60. EPA may, in the unreviewable exercise of its discretion, elect to pursue any other administrative or judicial remedies for violations of this CA/FO in addition to or in lieu of assessing stipulated penalties and/or reduce or waive stipulated penalties due under this CA/FO.

E. Tax Identification

61. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is

further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 include Respondent’s correct TINs or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center in Paragraph 45 within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and;
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. notify EPA’s Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date, as defined in Section VIII. below, and
 - ii. provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email,

within five (5) days of Respondent's issuance and receipt of the TIN.

F. Force Majeure

62. For purposes of this CA/FO, Force Majeure is defined as any event arising from causes that are beyond the control of Respondent, any entity controlled by Respondent, or Respondent's contractors, which delays or prevents the performance of any obligation under this CA/FO despite Respondent's reasonable best efforts to fulfill the obligation. The requirement that Respondent exercise "reasonable best efforts to fulfill the obligation" includes using reasonable best efforts to anticipate any potential Force Majeure event and reasonable best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. Examples of Force Majeure events include, but are not limited to, unforeseeable environmental, geological, or archaeological conditions; or pandemics, epidemics, or disease, or the failure to obtain, or delay in obtaining a permit, as provided in Paragraph 51 above. Examples of events that are not Force Majeure include, but are not limited to, increased costs or expenses of any work to be performed under this CA/FO and normal inclement weather.

63. Respondent shall exercise its best efforts to avoid or minimize any delay and any effects of a delay. If any event occurs which causes or may cause delays meeting the deadlines set forth in this CA/FO, Respondent or its attorney shall, within seventy-two (72) hours of the delay or within seventy-two (72) hours of Respondent's knowledge of the anticipated delay, whichever is earlier, notify EPA points of contact in Paragraph 65 by email. Within fifteen (15) days thereafter, Respondent shall provide in writing the reasons for the delay, the anticipated duration of the delay, the measures taken or to be taken to prevent or minimize the delay, and a timetable by which those measures will be implemented. Failure to comply with the notice

requirement of this Paragraph shall preclude Respondent from asserting any claim of Force Majeure.

64. If EPA agrees in writing that the delay or anticipated delay in compliance with this CA/FO has been or will be caused by circumstances beyond the control of Respondent, the time for performance may be extended for the period of the delay resulting from the circumstances causing the delay. In such event, EPA will grant in writing an extension of time. An extension of the time for performing an obligation granted by EPA pursuant to this Paragraph shall not, of itself, extend the time for performing a subsequent obligation.

VI. SUBMISSIONS REQUIREMENTS

65. All reports, notifications, documentation, submissions, and other correspondence required to be submitted by this Order must be submitted to EPA electronically, to the extent possible. If electronic submittal is not possible, submissions may be made by certified mail (return receipt requested). The subject line of all email correspondence must include the facility name, docket number, and subject of the deliverable. All electronically submitted materials must be in final and searchable format, such as Portable Document Format (PDF) with Optical Character Recognition (OCR) applied. Electronic or mailed submissions shall be sent to the individuals identified below:

EPA Region 9 Enforcement and Compliance Assurance Division
Alex Shih
U.S. Environmental Protection Agency, ECAD-3-3
75 Hawthorne Street
San Francisco, CA 94105
shih.alex@epa.gov

and

EPA Region 9 Office of Regional Counsel

Janet Magnuson
U.S. Environmental Protection Agency, ORC-2-3
75 Hawthorne Street
San Francisco, CA 94105
magnuson.janet@epa.gov

66. All reports, notifications, documentation, and submissions must be signed by a duly authorized representative of Respondent and shall include the following statement consistent with 40 C.F.R. § 144.32(d):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that the qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

67. If Respondent finds at any time after submitting information that any portion of that information is false or incorrect, the signee must notify EPA immediately. Knowingly submitting false information to EPA in response to this CA/FO may subject Respondent to criminal prosecution under Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b), as well as 18 U.S.C. §§ 1001 and 1341.

68. Submissions required by this CA/FO shall be deemed submitted on the date they are sent electronically or on the date postmarked if sent by U.S. mail.

69. EPA may use any information submitted in accordance with this CA/FO in support of an administrative, civil, or criminal action against Respondent.

70. The information required to be submitted pursuant to this CA/FO is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

VII. GENERAL PROVISIONS

71. Full payment of the penalty as described in Section V.A., above, and full compliance with this CA/FO as described in Section V.B. shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in Section IV of this CA/FO. Violation of this CA/FO shall be deemed a violation of the SDWA for purposes of Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b).

72. The Parties consent to service of this CA/FO by e-mail at the following valid e-mail addresses:

shih.alex@epa.gov and magnuson.janet@epa.gov (for Complainant) and

iansandison@wik.com and jtam@wik.com (for Respondent).

73. This CA/FO, inclusive of all exhibits, appendices, and attachments, is the entire agreement between the Parties.

74. The provisions of this CA/FO shall apply to and be binding upon Respondent and its officers, directors, employees, and successors or assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CA/FO except for extensions of time to complete such obligations provided by EPA pursuant to Paragraph 64.

75. Full compliance with this CA/FO does not in any manner affect the right of EPA or the United States to pursue appropriate injunctive relief or other equitable relief or criminal sanctions for any violation of law, except with respect to the claims described in Section IV that have been specifically resolved by this CA/FO.

76. This CA/FO is not a permit or modification of a permit and does not affect

Respondent's obligations to comply with all federal, state, local laws, ordinances, regulations, permits, and orders. Issuance of, or compliance with, this CA/FO does not waive, extinguish, satisfy, or otherwise affect Respondent's obligation to comply with all applicable requirements of the SDWA, regulations promulgated thereunder, or any order or permit issued thereunder, except as specifically set forth herein.

77. EPA reserves any and all legal and equitable remedies available to enforce this CA/FO, as well as the right to seek recovery of any costs and attorneys' fees incurred by EPA in any actions against Respondent for noncompliance with this CA/FO.

78. Unless otherwise specified, the Parties shall each bear their own costs and attorney fees in this action.

79. This CA/FO may be executed and transmitted by facsimile, email, or other electronic means, and in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute an instrument. If any portion of this CA/FO is determined to be unenforceable by a competent court or tribunal, the Parties agree that the remaining portions shall remain in full force and effect.

80. The undersigned representative of each party certifies that he or she is duly and fully authorized to enter into and ratify this CA/FO.

81. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), performance of Section V.B. is restitution or required to come into compliance with law.

VIII. EFFECTIVE DATE

82. Pursuant to 40 C.F.R. § 22.45, this CA/FO will be subject to public notice and

comment at least forty (40) days prior to it becoming effective through the issuance of the final order by the Regional Judicial Officer.

83. The Parties acknowledge and agree that final approval by EPA of this CA/FO is subject to 40 C.F.R. § 22.45(c)(4), which sets forth requirements under which a person not a party to this proceeding may petition to set aside a consent agreement and final order on the basis that material evidence was not considered.


84. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the final order contained in this CA/FO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed with the Regional Hearing Clerk.

In re: The Harry & Jeanette Weinberg Foundation, Inc. UIC-09-2024-0062

Consent Agreement and Final Order

In the Matter of: The Harry & Jeanette Weinberg Foundation, Inc. Docket No. UIC-09-2024-0062

For Respondent The Harry & Jeanette Weinberg Foundation, Inc.



Giorgio Caddavone - VP Hawaii Operations & Real Estate
The Harry & Jeanette Weinberg Foundation, Inc. Date: 7/23/24

For Complainant U.S. Environmental Protection Agency, Region 9

AMY MILLER- Digitally signed by AMY
MILLER-BOWEN
BOWEN Date: 2024.08.02 16:02:09

-07'00' Date: _____

Amy C. Miller-Bowen
Director, Enforcement and Compliance Assurance Division

This Consent Agreement and Final Order, as agreed to by the Parties, shall become effective on the date that it is filed with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. § 22.18, 22.31, and 22.45.

IT IS SO ORDERED.

**BEATRICE
WONG**  Digitally signed by
BEATRICE WONG
Date: 2024.09.18
12:10:23 -07'00'

Date: _____

Beatrice Wong
Regional Judicial Officer, Region 9
U.S. Environmental Protection Agency

CERTIFICATE OF SERVICE

I hereby certify the attached Consent Agreement and Final Order in the matter of The Harry & Jeanette Weinberg Foundation, Inc. (UIC-09-2024-0062), was filed with the Regional Hearing Clerk, and that a true and correct copy was served on the parties, via electronic mail, as indicated below:

RESPONDENT:

The Harry & Jeanette Weinberg Foundation, Inc.
C/O Ryan Gilbert
3660 Waialae Avenue, Suite 400
Honolulu, HI 96816
rgilbert@hjweinberg.org

Joyce W.Y. Tam-Sugiyama |
Watanabe Ing LLP
First Hawaiian Center
999 Bishop Street, Suite 1250
Honolulu, HI 96813
JTam@wik.com

COMPLAINANT:

Janet Magnuson, Attorney Advisor
United States Environmental Protection Agency
Region IX – Office of Regional Counsel
75 Hawthorne Street
San Francisco, CA 94105
Magnuson.Janet@epa.gov

Ponly Tu
Regional Hearing Clerk
U.S. EPA – Region IX