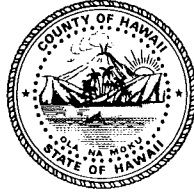


Harry Kim
Mayor



Barbara Bell
Director

Nelson Ho
Deputy Director

County of Hawaii

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

25 Aupuni Street, Room 210 • Hilo, Hawai'i 96720-4252
(808) 961-8083 • Fax (808) 961-8086
cohdem@co.hawaii.hi.us

June 20, 2007

Mr. Harold Yee, P.E.
Chief, Wastewater Branch
Environmental Management Division
Hawai'i State Department of Health
919 Ala Moana Blvd., Room 309
Honolulu, HI 96814-4920

ATTN: Ms. Sina Pruder, P.E.

Subject: **CLEAN WATER STATE REVOLVING FUND LOAN APPLICATION
PAHALA LARGE CAPACITY CESSPOOL REPLACEMENT
(Project No. NPS 0090-05) Pahala, County of Hawai'i**

The County of Hawai'i, Department of Environmental Management is submitting a State Revolving Fund (SRF) loan application for the above-referenced project.

This project proposes the conversion of an existing Large Capacity Cesspool (LCC) currently serving a portion of the community of Pahala in Hawai'i County, Hawai'i by installation of a new wastewater collection system and large capacity septic system (LCSS). Specifically, the proposed improvements currently include approximately 11,000 LF of 8-inch sewer main and four (4) 36,000 gallon septic tanks.

Currently, design and construction of this project will be based on Collection, Treatment, and Disposal Alternatives 1 of the Preliminary Engineering Report (PER). A copy of the PER, dated January 2007 is provided for your reference. Further, the remaining information required in the Part VII of the Loan Application will be forwarded to your office at a later date. It is our understanding that the submittal of this Loan Application and PER will initiate the interim loan agreement.

Should you have any comments or questions regarding the attached or should you require additional information for processing the SRF loan application, please contact Dora Beck, P.E., Technical Services Section Chief at (808) 961-8028 (email dbeck@co.hawaii.hi.us) or you may contact Julie Oropallo at (808) 961-8615 (email joropallo@co.hawaii.hi.us).

Sincerely,

Bobby Jean Leithead-Todd
DIRECTOR

Enclosures (2)

cc: Nelson Ho, DEM Deputy Director
Dora Beck, P.E., Technical Services Section Chief

**APPLICATION FOR STATE REVOLVING FUND LOAN
for the Construction of Wastewater Treatment Facilities**

A completed application must be submitted for each proposed project. If any information requested in this application was previously submitted for a prior loan or grant project, please indicate the project number in the space provided. Provide supporting documentation or additional pages as appropriate.

I. ORGANIZATIONAL DATA

Applicant Name: County of Hawai'i
Address: 25 Aupuni Street, Room 210
Hilo, Hawai'i 96720

Contact person: Dora Beck, P.E., Technical Services Section Chief
Telephone number: (808) 961-8028

II. PROJECT NAME AND DESCRIPTION

Project Name: Pahala Village Large Capacity Cesspool Conversion Project

Description:

This project involves the installation of a wastewater collection, treatment, and disposal improvements to serve a portion of the existing community of Pahala Village. These improvements would allow for the conversion of the existing large capacity cesspool (LCC) currently serving a portion of this community. This project proposes to install about 11,000 LF of new gravity sewer main and four (4) 36,000 gallon septic tanks. Service laterals will also be extended from the sewer mains up to private property lines for connections to be made by property owners.

III. PROJECT NEED AND ENVIRONMENTAL BENEFITS

A. Need for Project:

On December 7, 1999, the US Environmental Protection Agency (EPA) enacted new Underground Injection Control (UIC) regulations which required all existing LCCs to be eliminated by April 5, 2005. Although the existing LCC in Pahala is currently privately owned by C.Brewer, C.Brewer is, as a result of these federal regulations, in the process of dissolving and turning ownership of the sewer system over to the County. Thus, the County is proposing to replace the existing LCC serving a portion of this community with an approved wastewater collection, treatment, and disposal system. In addition to achieving compliance with federal laws, this project will also minimize risk to public health and welfare, and help protect the quality of ground and surface waters.

III. PROJECT NEED AND ENVIRONMENTAL BENEFITS (Cont.)

B. Project Environmental Benefits:

1. This project will contribute to water quality by:
 Improving it Maintaining it N/A
2. This project will allow the facility/system to:
 Achieve compliance Maintain compliance N/A
3. This project involves a facility/system that discharges to a waterbody that is:
 Meeting standards Impaired Threatened
 Not Assessed N/A
4. This project will allow the facility/system to:
 Protect public health Restore public health
 N/A
5. This project will allow the facility/system to prevent wastewater spills to the:
 Ground Surface Waters N/A
6. This project involves other environmental benefits noted below:

The proposed system assists the State of Hawai'i and owners of private LCCs with closure of their LCCs in the areas served by the collection systems.

IV. PROJECT COSTS

Attach the engineer's estimate of total project costs, if it differs from the estimate submitted with the planning and design documents.

<u>\$9,315,175.00</u>	Estimated Total Project Costs Proposed
<u>\$8,219,100.00</u>	method of financing: SRF Loan Requested

Amount and source of all other revenue:

<u>\$ 921,075.00</u>	<u>Federal Grant ID # XP-98942401-1</u>
<u>\$ 175,000.00</u>	<u>County General Obligation Bonds</u>
<u>\$</u>	<u></u>
<u>\$</u>	<u></u>

V. PROJECT SCHEDULE DATES

<u>July-2008</u>	Advertise for construction bids
<u>August-2008</u>	Open construction bids
<u>October-2008</u>	Negotiate A/E agreement(s)
<u>November-2008</u>	Award construction and/or A/E contracts
<u>November-2008</u>	Issue Notice to Proceed
<u>November-2010</u>	Complete construction

VI. RELATED PROJECTS

List all related sewer projects which must be constructed in order to fully utilize the subject project. Also, list the anticipated dates these projects will be constructed.

VII. REQUIRED DOCUMENTS AND FORMS Note: Documents and forms **MUST** be completed and submitted to DOH before the execution of the final agreement.

1. If completed, attach the documents listed below.
 - a. A resolution or ordinance passed by the County Council which authorizes the SRF loan application and identifies the dedicated source(s) of revenue (i.e., general obligation bonds) which will fund the project and repayment of the loan with interest.
 - b. An opinion signed by a competent title counsel describing the interest the applicant has in the site, including information about any easements and right-of-ways, and certifying that interest is legal and valid. The opinion should also include information as to whether or not:
 - 1) The applicant (or the present owner if fee simple title has not been, or is not to be, acquired) has good and valid title to the entire site (excluding easements and right-of-ways) free and clear of any pre-existing mortgages, deeds of trust, liens, or other encumbrances which would affect the value or site usefulness for the purpose intended;
 - 2) Any deeds or documents required to be recorded have been duly recorded or filed for record, whenever necessary, in order to protect the title of the owner and the interest of the applicant; and,
 - 3) The applicant has complied with the 1970 Uniform Relocation Assistance and Real Property Acquisition Policies Act, if necessary.
 - d. Any inter-governmental or County-private agreements relative to this project.
- *2. For federally-funded projects, complete the attached forms:
 - *a. Compliance Report, (EPA form 4700-4); and
 - *b. Applicant's Certification Regarding Debarment, Suspension, and Other Responsibility Matter (EPA form 5700-49).

VIII. ASSURANCES

The applicant certifies that County of Hawai'i
(name of legal entity)

1. Has the legal, institutional, managerial and financial capability to ensure adequate construction, and operation and maintenance (including replacement) of the wastewater treatment works, and has analyzed the local share of the costs of the proposed wastewater treatment facilities, including the financial impact on each community and the residents of the service areas; and,
2. Will operate and maintain the publicly-owned treatment works in accordance with the minimum standards as required by the cognizant Federal, State and local agencies for the operation and maintenance of such facilities; and/or in accordance with any applicable National Pollutant Discharge Elimination System (NPDES) permit; and,
3. Will initiate procurement action for A/E and/or construction services for building all significant elements of the project in accordance with the project schedule indicated in this application and approved by DOH upon issuance of the loan agreement; and,
4. Will diligently pursue project completion in accordance with the project schedule submitted herewith; and,
5. Will give the State of Hawaii or its assignees, through any authorized representative, access and the right to examine all records, books, papers, or documents related to the loan; and will retain all construction records for three years following the project initiation of operation; and,
6. Will maintain a financial accounting system in accordance with the generally accepted accounting principles set forth by the Governmental Accounting Standards Board; and,
7. Will not dispose of, or modify the use of or change the real property title terms or other interest in the site and facilities without permission and instructions from DOH; and,
8. Will establish safeguards to prohibit employees from using their positions for purposes that constitute or give the appearance of personal or organizational conflict of interest; and,
9. Has not and will not violate any Federal, State, or local law pertaining to fraud, bribery, graft or collusion; and,

10. Will provide and maintain competent and adequate engineering supervision and inspection at the construction sites to ensure that the completed work conforms with the approved plans and specifications and will furnish progress reports and such other information as DOH may require; and,
11. Will comply with all applicable federal and state requirements, including all other laws, regulations, policies, applicable requirements and conditions relating to assistance for this project.
12. The applicant must certify that it will comply with the following federal "cross-cutting" authorities, as applicable, including the Single Audit of 1984 (PL 98-502).

*a. Environmental Authorities

- *1) Archeological and Historic Preservation Act (PL 93-291, as amended)
- *2) Clean Air Act (PL 84-159, as amended)
- *3) Coastal Barrier Resources Act (PL 97-348)
- *4) Coastal Zone Management Act (PL 95-95, as amended)
- *5) Endangered Species Act (PL 93-205, as amended)
- *6) Environmental Justice (EO 12898)
- *7) Essential Fish Habitat Consultant Process under Magnuson-Stevens Fishery Conservation and Management Act (PL 94-265)
- *8) Farmland Protection Policy Act (PL 97-98)
- *9) Fish and Wildlife Coordination Act (PL 85-624, as amended)
- *10) Floodplain Management (EO 11988, as amended by EO 12148)
- *11) National Historic Preservation Act (PL 89-665, as amended)
- *12) Protection of Wetlands (EO 11990, as amended by EO 12608)
- *13) Safe Drinking Water Act (PL 89-523, as amended)
- *14) Wild and Scenic Rivers Act (PL 90-542)

*b. Social Policy Authorities

- *1) Age Discrimination Act of 1975 (PL 94-135)
- *2) Civil Rights Act of 1964, Title VI (PL 88-352)
- *3) Equal Employment Opportunity (EO 11246, as amended)
- *4) Promoting the Use of Minority and Women-owned Businesses (EO 11625, 12138 and 12432)
- *5) Federal Water Pollution Control Act Amendments of 1972, Section 13 (PL 92-500, the Clean Water Act)
- *6) Rehabilitation Act 1973, Section 504 (PL 93-112)
- *7) Small Business Administration Reauthorization and Amendment Act of 1988 (PL 100-590), Section 129
- *8) Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (PL 102-389)

*c. Economic Policy Authorities

- *1) Procurement Prohibitions (EO 11738, Section 306 of the Clean Air Act and Section 508 of the Clean Water Act)
- *2) Demonstration Cities and Metropolitan Development Act (PL 89-754, as amended)

*d. Miscellaneous Authorities

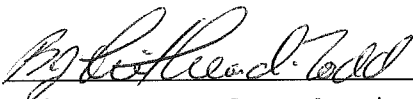
- *1) Debarment and Suspension (EO 12549)
- *2) Preservation of Open Competition and Government Neutrality Towards Contractor's Labor Relations on Federal and Federally Funded Construction Projects (EO 13202, as amended by EO 13208)
- *3) Uniform Relocation Assistance and Real Property Acquisition Act (PL 91-646, as amended)

CERTIFICATION

NOTE: This certification includes item 12 and all its subparts.

To the best of my knowledge: the data in this application is true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the assurances, if the assistance is approved.

County of Hawai'i Bobby Jean Leithead-Todd, Director, Department of Environmental Management
Legal Entity Name and Title of Authorized Representative



Signature of Authorized Representative



Date



**United States Environmental Protection Agency
Washington, DC 20460**

**Preadward Compliance Review Report For
All Applicants Requesting Federal Financial Assistance**

**FORM Approved
OMB No. 2090-0014**

Note: Read instructions on reverse side before completing form.

I. A. Applicant (Name, City, State) County of Hawai'i Hilo, HI	B. Recipient (Name, City, State) County of Hawai'i Hilo, HI	C. EPA Project No.
--	---	--------------------

II. Brief description of proposed project, program or activity.
This project proposes to install about 11,000 LF of new gravity sewer main and four (4) 36,000 gallon septic tanks in Pahala, County of Hawai'i, Hawai'i. These improvements would allow for the conversion of the existing large capacity cesspool (LCC) currently serving a portion of this community.

III. Are any civil rights lawsuits or complaints pending against applicant and/or recipient?
If "Yes," list those complaints and the disposition of each complaint. Yes No
Yes, see attached Memo dated March 29, 2006.

IV. Have any civil rights compliance reviews of the applicant and/or recipient been conducted by any Federal agency during the two years prior to this application for activities which would receive EPA assistance?
If "Yes," list those compliance reviews and status of each review. Yes No

V. Is any other Federal financial assistance being applied for or is any other Federal financial assistance being applied to any portion of this project, program or activity?
If "Yes," list the other Federal Agency(s), describe the associated work and the dollar amount of assistance. Yes No

VI. If entire community under the applicant's jurisdiction is not served under the existing facilities/services, or will not be served under the proposed plan, give reasons why.
About 57% of Hawai'i County's population lives in areas that are rural or agricultural in nature so that domestic wastewater collection and treatment facilities are not a requirement.

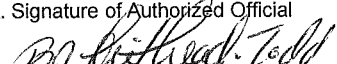
VII. Population Characteristics	Number of People
1.A. Population of Entire Service Area	1378
B. Minority Population of Entire Service Area	N/A
2.A. Population Currently Being Served	0
B. Minority Population Currently Being Served	N/A
3.A. Population to be Served by Project, Program or Activity	508
B. Minority Population to be Served by Project, Program or Activity	N/A
4.A. Population to Remain Without Service	870
B. Minority Population to Remain Without Service	N/A

VIII. Will all new facilities or alterations to existing facilities financed by these funds be designed and constructed to be readily accessible to and usable by handicapped persons?
If "No," explain how a regulatory exception (40 CFR 7.70) applies. Yes No

This is not a public use structure or facility.

IX. Give the schedule for future projects, programs or activities (or of future plans), by which service will be provided to all beneficiaries within applicant's jurisdiction. If there is no schedule, explain why.
The cost of providing sanitary sewers for unsewered populated areas are at the present time uneconomical due to the relatively low percentage of urbanized population. Most of Hawai'i County's expenditures are currently directed toward improving or expanding existing wastewater service areas.

X. I certify that the statements I have made on this form and all attachments thereto are true, accurate and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law.

A. Signature of Authorized Official 	B. Title of Authorized Official Director, Department of Environmental Management	C. Date 6/21/07
--	---	--------------------

For the U.S. Environmental Protection Agency

<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	Authorized EPA Official	Date
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Instructions
General

Recipients of Federal financial assistance from the U.S. Environmental Protection Agency must comply with the following statutes.

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The Act goes on to explain that the title shall not be construed to authorize action with respect to any employment practice of any employer, employment agency, or labor organization (except where the primary objective of the Federal financial assistance is to provide employment).

Section 13 of the 1972 Amendments to the Federal Water Pollution Control Act provides that no person in the United States shall on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the Federal Water Pollution Control Act, as amended. Employment discrimination on the basis of sex is prohibited in all such programs or activities.

Section 504 of the Rehabilitation Act of 1973 provides that no otherwise qualified handicapped individual shall solely by reason of handicap be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Employment discrimination on the basis of handicap is prohibited in all such programs or activities.

The Age Discrimination Act of 1975 provides that no person on the basis of age shall be excluded from participation under any program or activity receiving Federal financial assistance. Employment discrimination is not covered. Age discrimination in employment is prohibited by the Age Discrimination in Employment Act administered by the Equal Employment Opportunity Commission.

Title IX of the Education Amendments of 1972 provides that no person on the basis of sex shall be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Employment discrimination on the basis of sex is prohibited in all such education programs or activities. Note: an education program or activity is not limited to only those conducted by a formal institution.

The information on this form is required to enable the U.S. Environmental Protection Agency to determine whether applicants and prospective recipients are developing projects, programs and activities on a nondiscriminatory basis as required by the above statutes.

Submit this form with the original and required copies of applications, requests for extensions, requests for increase of funds, etc. Updates of information are all that are required after the initial application submission.

If any item is not relevant to the project for which assistance is requested, write "NA" for "Not Applicable."

In the event applicant is uncertain about how to answer certain questions, EPA program officials should be contact for clarification.

EPA Form 4700-4 (Rev. 1/90) Reverse

ITEMS

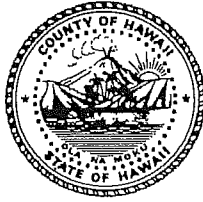
- IA. "Applicant" means any entity that files an application or unsolicited proposal or otherwise requests EPA assistance.
- IB. "Recipient" means any entity, other than applicant, which will actually receive EPA assistance.
- IC. Self-explanatory.
- II. Self-explanatory.
- III. "Civil rights lawsuits" means any lawsuit or complaint alleging discrimination on the basis of race, color, national origin, sex, age or handicap pending against the applicant and/or entity which actually benefits from the grant. For example, if a city is the named applicant but the grant will actually benefit the Department of Sewage, civil rights lawsuits involving both the city and the Department of Sewage should be listed.
- IV. "Civil rights compliance review" means any review assessing the applicant's and/or recipient's compliance with laws prohibiting discrimination on the basis of race, color, national origin, sex, age or handicap. If any part of the review covered the entity which will actually benefit from the grant, it should be listed.
- V. Self-explanatory.
- VI. The word "community" refers to the area under the applicant's and/or recipient's jurisdiction. The "community" might be a university or laboratory campus, or a community within a large city. If there is a significant disparity between minority and nonminority populations to receive service, not otherwise satisfactorily explained, the Regional office may require a map which indicates the minority and nonminority population served by this project, program or activity.
- VII. This information is required so that reviewers may determine if a disparity in the proposed provision of services will exist in the event the application is approved for funding. Give population of recipient's jurisdiction, broken out by categories as specified.

In the event the applicant cannot provide the requested information because the funds will be distributed over a wide demographic area which is yet to be determined, an explanation may be provided on a separate sheet. For example, a State applying for a capitalization grant under the State Revolving Fund program may not know which cities and counties will apply for, and receive, SRF loans.
- VIII. Self-explanatory.
- IX. "Jurisdiction" means the geographical area over which applicant has the authority to provide service.
- X. Self-explanatory.

"Burden Disclosure Statement"

EPA estimates public reporting burden for the preparation of this form to average 30 minutes per response. This estimate includes the time for viewing instructions, gathering and maintaining the data needed and completing and reviewing the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; and to the office of information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Harry Kim
Mayor



Lincoln S.T. Ashida
Corporation Counsel

Gerald Takase
Assistant Corporation
Counsel

COUNTY OF HAWAII
OFFICE OF THE CORPORATION COUNSEL

101 Aupuni Street, Suite 325 • Hilo, Hawaii 96720-4262 • (808) 961-8251 • Fax (808) 961-8622

PRIVILEGED AND CONFIDENTIAL COMMUNICATION
ATTORNEY-CLIENT COMMUNICATION
NOT A PUBLIC RECORD

MEMORANDUM

TO: Bobby-Jean Leithead-Todd
Deputy Corporation Counsel

FROM: Joseph K. Kamelamela
Deputy Corporation Counsel
Litigation Supervisor

DATE: March 29, 2006

RE: Request for Information re civil rights complaints

The County of Hawai'i has the following matters in which civil rights complaints have been made:

- *Russell vs. County of Hawai'i (curb ramps)* - pending implementation of transition plan
- *Cowser vs. County of Hawai'i* - investigation continuing by Hawaii Civil Rights Commission
- *Russell vs. County of Hawai'i (programs/facilities accessisbility)* - pending implementation of transitional plan
- *Adams vs .County of Hawai'i* - 9th Circuit affirmed decision in favor of County of Hawai'i; pending action by 9th Circuit on claimant's last Motion to Reconsider

- *Tangaro vs. Botelho* - pending trial in Federal Court
- *Springer vs. County of Hawai'i* - pending completion of settlement protocol
- *Cole vs. County of Hawai'i* - motion to dismiss granted; awaiting appeal period to run.
- *Schmidt vs. County of Hawai'i* - motion for summary judgment granted in favor of the County of Hawaii and Police Officers; collection process to recover fees and costs from plaintiff Schmidt
- *Deparini vs. County of Hawai'i (in State Court, but raised federal issue)* - motion to dismiss granted in favor of County of Hawai'i; appeal by plaintiff dismissed on procedural grounds by Hawai'i Supreme Court
- *Parrish vs. Honorable Judge Ronald Ibarra, County of Hawai'i* – first amended complaint filed; a motion to dismiss to be filed
- *Young vs. County of Hawai'i (in State Court, but raised federal issue)*- case in arbitration process
- *Kai vs. County of Hawai'i* – answer to complaint filed; investigation/discovery pending
- *Meredith Carter vs. County of Hawai'i* – pending investigation with the EEOC

The Department of Federal Highways investigated a complaint from John Hartman alleging that the new Mamalahoa Improvements, that used federal funds, in Waimea did not comply with the American with Disabilities Act (“ADA”). The County of Hawai'i has agreed to remedy defects in the sidewalks and curb ramps to comply with the ADA.

EPA

EPA Project Control Number

United States Environmental Protection Agency
Washington, DC 20460

Certification Regarding Debarment, Suspension, and Other Responsibility Matters

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal and one or more public transactions (Federal, State, or local) terminated for cause or default.

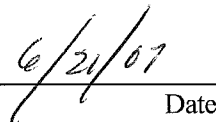
I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Bobby Jean Leithead-Todd, Director, Department of Environmental Management

Typed Name & Title of Authorized Representative



Signature of Authorized Representative



Date

I am unable to certify to the above statements. My explanation is attached.