

**DEPARTMENT OF HEALTH
STATE OF HAWAII
LOU CHANG
INDEPENDENT HEARING OFFICER
PO Box 61188
Honolulu, Hawaii 96839
(808) 384-2468
louchang@hula.net**

HEARING OFFICER ORDER FOR INFORMATION

In re US Navy's Application for a UST Permit
for the Red Hill Bulk Storage Facility

Docket No. 19-UST-EA-01

I. By an order dated December 23, 2021, this contested case proceeding has been remanded to the Hearing Officer for the conduct of further proceedings and hearings to receive and consider additional information, evidence and argument. The Hearing Officer hereby orders that the Navy produce and provide to the Hearing Officer and to the Parties in this contested case proceeding by February 10, 2022, the following information:

1. a drawing or depiction showing the complete delineation of the components and elements of the Red Hill Underground Storage Tank Facility (RHUSTF) that is the subject of the Navy's application for an operating permit to be issued by the State of Hawaii Department of Health. Such drawing or depiction may exclude the specific location of components or elements of the RHUSTF that the Navy submits are protected from public disclosure for security or classified information reasons. To the extent that there are any components or elements of the RHUSTF, or portions thereof, which the Navy claims are exempt from disclosure, the Navy shall provide a *Vaughn* index or other justification describing the components or elements with specificity so that the Hearings Officer and the parties can evaluate the merits of the Navy's claim and seek further information, as appropriate;
2. an updated and complete list and chronology of all events and incidents of unscheduled fuel movements, including releases, suspected releases and "pressure" or "surge" events, at or from the RHUSTF tanks, storage facilities and associated pipeline and distribution system for the period following the January 2014 fuel release incident through the date of this order. Such list and chronology shall include events and incidents of unscheduled fuel movements from fuel storage and associated pipeline and distribution system and/or components of the Hotel pier and Kilo pier for the period following the January 2014 fuel release incident through the date of this order;
3. a current organization chart identifying those persons responsible for the maintenance, repair and operation of the RHUSTF and their corresponding positions;

4. identification of those person(s) associated with the Navy who have management responsibility and knowledge of the history and records relating to incidents of unscheduled fuel movements, including releases, suspected releases and/or “pressure” or “surge” events, at or from the RHUSTF tanks, storage facilities and associated pipeline and distribution system from and after the reported January 2014 fuel release incident;
5. all records and reports relating to the detection of petroleum constituents in the Navy’s drinking water supply wells (including but not limited to the Navy’s Red Hill Shaft and Aiea Halawa Shaft), monitoring wells in the vicinity of the RHUSTF, and the Navy’s water distribution system;
6. an updated tank inspection and repair status chart or report for all tanks within the RHUSTF to reflect:
 - a. the date(s) of tank inspection and repairs performed,
 - b. the applicable standards of repair applied or followed such as the API 653 (modified) standard or other,
 - c. details of the extent of repairs performed,
 - d. information reflecting whether the interiors of inspected tanks received applications of coating materials designed to prevent the release or leakage of fuel products and the location and extent of any such coating application,
 - e. the status and extent of certification of the anticipated service life of the tank before any further tank inspection and repair is recommended or needed, and
 - f. the date of the next scheduled or required inspection of such tank(s);
7. all documents and information relating to the Notice of Violation and Order (NOVO No. 21 – UST – EA – 01) issued to the Navy by the Department of Health on or about October 26, 2021 and/or relating to any reported or asserted violations issued by the State Department of Health relating to inspections of the RHUSTF conducted by the State Department of Health since July 15, 2018;
8. all records and reports relating to the inspection of the pipelines at the RHUSTF from January 2014 through the date of this order, including any data and analyses regarding pigging, ultrasonic testing, eddy current, or other non-destructive examination techniques;
9. all documents and information relating to the May 6, 2021 fuel release incident root cause analysis as set forth in the Navy reports entitled “Root Cause Analysis of the JP-5 Pipeline Damage” dated September 7, 2021, “Command Investigation into the Fuel Spill at the Red Hill Bulk Fuel Storage Facility on or About 6 May 2021” dated October 14, 2021, and “Red Hill Bulk Fuel Storage Facility JP-5 Piping Mitigations Report” dated October 2021, including all event and alarm logs, interview summaries, investigator notes, and any data, analyses, reports, or communications relating to the quantification of the amount of fuel released, contained and/or captured;

10. all documents referenced in the June 30, 2021 letter from then Deputy Director for Environmental Health Keith Kawaoka to Rear Admiral Timothy Knott regarding the Hotel Pier fuel release, including the Navy report entitled “One-time Leak Detection Testing Report of 11 Sections of Petroleum Pipelines, Joint Base Pearl Harbor-Hickam, Hawaii” dated February 16, 2021, the DOH’s Notice of Interest letter to the Navy dated December 21, 2020, the schematic diagrams and pressure relief valves specifications received by the DOH on May 25, 2021;
11. all Navy emails referenced in the Honolulu Civil Beat article published on October 8, 2021 entitled “Amid ‘Political Concerns,’ Navy Kept Quiet About Red Hill Pipeline Leaking Into Pearl Harbor” and the Honolulu Star Advertiser article published on November 10, 2021 entitled “Top Navy official raised concerns about multiple leaking valves at Red Hill, according to leaked email”; and
12. all documents and information relating to the November 20, 2021 fuel release incident root cause analysis that is currently scheduled to be finalized on or about January 14, 2022, including a drawing or depiction showing the complete delineation of the components and elements of the RHUSTF implicated by the November 20, 2021 fuel release incident such as the layout and construction of the aqueous film forming foam (AFFF) recovery system(s), sump(s), pipeline(s), and any drainage sump(s) and/or associated French drain(s), holding tank(s), or leach field(s).

II. This Order contemplates that the Navy will produce and provide the requested information ordered in section I. above to the Hearing Officer and to the Parties in this contested case proceeding by February 10, 2022. Following the Navy’s production and provision of the requested information, the Hearing Officer hereby orders that the EHA, BWS and Sierra Club parties produce and provide to the Hearing Officer and to the Parties in this contested case proceeding by February 24, 2022, a responsive statement as to whether such parties concur and are in agreement with the Navy’s drawing or depiction showing the complete delineation of the components and elements of the Red Hill Underground Storage Tank Facility (RHUSTF) that is the subject of the Navy’s application for an operating permit to be issued by the State of Hawaii Department of Health. To the extent that such parties do not concur and are not in agreement with the Navy’s drawing or depiction, such parties shall produce and provide information as to what such party contends is a complete delineation of the components and elements of the Red Hill Underground Storage Tank Facility (RHUSTF) that is the subject of the Navy’s application for an operating permit to be issued by the State of Hawaii Department of Health.

III. It is also Ordered that the EHA shall produce and provide to the Hearing Officer and to the Parties in this contested case proceeding, by February 24, 2022, all documents and information relating to the Notice of Violation and Order (NOVO No. 21 – UST – EA – 01) issued to the Navy by the Department of Health on or about October 26, 2021 and/or relating to

any reported or asserted violations issued by the State Department of Health relating to inspections of the RHUSTF conducted by the State Department of Health since July 15, 2018.

Dated and served: January 10, 2022.



Hearing Officer

Please note: The Rules of Practice and Procedure of the Department of Health, available on-line on the Department of Health's website, will govern the procedures utilized in this contested case.