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7

8 **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
9 **REGION IX**

10 IN THE MATTER OF:) DOCKET NO. UIC-09-2012-0004
11)
12 Tahiti Nui Enterprises, Inc. LLC and Christian)
Marston,)
13 Hanalei, Hawaii,) **PROPOSED ADMINISTRATIVE ORDER**
14) **FOR PENALTIES AND COMPLIANCE**
Respondents.) **(Administrative Complaint)**
15)
16 Proceedings under Section 1423(c) of the Safe)
Drinking Water Act, 42 U.S.C. § 300h-2(c).)
17)

18 **I. AUTHORITY**

19
20 1. The United States Environmental Protection Agency (EPA) issues this
21 Proposed Administrative Order for Penalties and Compliance ("Proposed Order") pursuant to
22 authority vested in the Administrator of EPA and properly delegated to the EPA Region IX
23 Director of the Water Division under Section 1423(c) of the Safe Drinking Water Act (Act), 42
24 U.S.C. § 300h-2(c). The rules for this proceeding are the "Consolidated Rules of Practice
25 Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or

In re: Tahiti Nui Enterprises Inc.
Notice of Proposed Administrative Order (Complaint)

1 Suspension of Permits” (Rules of Practice), 40 Code of Federal Regulation (C.F.R.) Part 22, a
2 copy of which is enclosed (Appendix B). *See, specifically* 40 C.F.R. § 22.1(a)(9). Pursuant to
3 the Rules of Practice, 40 C.F.R. § 22.13(a), this Proposed Order conforms to the prehearing
4 procedures at 40 C.F.R. § 22.14 governing administrative complaints. EPA alleges as follows:

5 **II. RESPONDENTS**

6 2. Respondent Tahiti Nui Enterprises, Inc. LLC is a domestic LLC, incorporated in the State
7 of Hawaii since December 3, 2003, and a “person” within the meaning of Section 1401(12) of
8 the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 144.3.

9 3. Respondent Christian Marston is an individual and a “person” within the meaning of
10 Section 1401(12) of the Act, 42 U.S.C. § 300f(12), and 40 C.F.R. § 144.3. Mr. Marston is also
11 Respondent Tahiti Nui Enterprises, Inc. LLC’s listed corporate officer and agent according to the
12 Business Registration Division of Hawaii’s Department of Commerce and Consumer Affairs
13 (DCCA).

14 **III. JURISDICTION**

15 4. The Regional Judicial Officer for EPA Region 9 is the Presiding Officer with jurisdiction
16 over this action pursuant to the Rules of Practice, 40 C.F.R. Part 22, Subpart I, §§ 22.4,
17 22.50(a)(2) and 22.51.

18 **IV. STATUORY AND REGULATORY BACKGROUND**

19 5. Pursuant to Part C of the Act, 42 U.S.C. §§ 300h - 300h-8, EPA has promulgated
20 regulations establishing minimum requirements for Underground Injection Control (UIC)
21 programs, to prevent underground injection which endangers drinking water sources. These
22 regulations are set forth in 40 C.F.R. Part 144.

23 6. “Underground injection” means the subsurface emplacement of fluids by well injection.
24 42 U.S.C. § 300 h(d)(1), 40 C.F.R. § 144.3. “Well injection” is defined by 40 C.F.R. § 144.3 to
25 mean the subsurface emplacement of fluids through a well. A “drywell” is a type of well, other

1 than an improved sinkhole or subsurface fluid distribution system, completed above the water
2 table so that its bottom and sides are typically dry except when receiving fluids. 40 C.F.R. §
3 144.3. A “cesspool” is a type of drywell that receives untreated sanitary waste containing human
4 excreta, and which sometimes has an open bottom and/or perforated sides. 40 C.F.R. § 144.3.
5 “Sanitary waste” is defined at 40 C.F.R. § 144.3 to include “wastes collected from toilets,
6 showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation,
7 clothes washing operations, and sinks or washing machines where food and beverage serving
8 dishes, glasses and utensils are cleaned.”

9 7. “Large capacity cesspools” (“LCCs”) are cesspools that receive sanitary waste from
10 “multiple dwelling, community or regional cesspools, or other devices.” 40 C.F.R. § 144.81(2).
11 LCCs do not include single family residential cesspools or non-residential cesspools which
12 receive solely sanitary waste and have the capacity to serve fewer than 20 persons per day. *Id.*

13 8. UIC program regulations at 40 C.F.R. § 144.88 requires owners or operators of existing
14 LCCs to close them no later than April 5, 2005 in accordance with the closure specifications
15 contained in 40 C.F.R. § 144.89.

16 10. EPA administers the UIC program in the State of Hawaii pursuant to Section 1422(c)
17 of the Act, 42 U.S.C. § 300h-1(c); 40 C.F.R. § 147, Subpart M, § 147.601.

18 **V. FINDINGS OF VIOLATION**

19 9. Since at least August 22, 2006, and at all times relevant to this action, Respondent
20 Christian Marston has owned the real property at 5-5134 Kuhio Highway, Hanalei, Hawaii
21 (TMK: 4-5-5-10-75) (the “Property”) and based on information and belief, Respondents Tahiti
22 Nui Enterprises, Inc. LLC and Christian Marston have operated food and beverage businesses on
23 the Property, including the Tahiti Nui (a restaurant and bar). These food and beverage
24 businesses have the capacity to serve 20 or more persons a day and are operated seven days a
25

1 week. All the food and beverage facilities on the Property, are sources of untreated "sanitary
2 waste "as defined at 40 C.F.R. § 144.3.

3 10. Respondents own and or operate at least three cesspools ("Cesspools") located on the
4 Property that receive, among other things, the untreated sanitary waste containing human excreta
5 from the food and beverage facilities on the Property.

6 11. The Cesspools are "large capacity cesspools" (LCCs) as defined at 40 C.F.R. §
7 144.81(2) because they are a multiple dwelling, community or regional cesspools, and because
8 they do not meet the exceptions to UIC requirements at 40 C.F.R. § 144.81(2) that apply to
9 single family residential cesspools and to non-residential cesspools which receive solely sanitary
10 waste and have the capacity to serve fewer than 20 persons a day.

11 12. EPA inspectors have conducted site visits to the Property on several separate occasions,
12 including; September 27, 2005, August 22, 2006 and June 25, 2010. Respondent Christian
13 Marston was present during the 2005 and 2006 inspections.

14 13. During the 2006 inspection, Respondent Christian Marston acknowledged to the
15 inspector that he operated the two main LCCs on the Property and further reported that he had
16 hired an independent contractor, Wagner Engineering, to convert the noncompliant LCCs to a
17 septic system. However, follow-up with the Hawaii Department of Health ("DOH") in January
18 2007 revealed that neither Mr. Marston nor his contractor had submitted conversion plans for the
19 LCCs to DOH for review and approval.

20 14. On October 3, 2007, EPA sent a letter via first class mail to Respondent Christian
21 Marston notifying him that EPA inspections revealed he was operating LCCs on the Property in
22 violation of Act's UIC regulations at 40 C.F.R. § 144.88. The letter included a request for
23 information and a cesspool closure schedule. EPA did not receive a response.

24 15. On October 14, 2010, EPA sent a Notice of Violation and Request for Information via
25 certified mail (return receipt requested) to Respondent Christian Marston notifying him that

1 operation of LCCs on the Property after April 5, 2005 was prohibited by the Act's UIC
2 regulations at 40 C.F.R. § 144.88. The letter included a request for information and a cesspool
3 closure schedule. The return receipt (USPS tracking 7008 1140 0004 5421 1538) indicated the
4 NOV was received on October 22, 2010 and return receipt was received by EPA November 4,
5 2010. EPA did not receive a response.

6 16. On March 14, 2012, EPA sent Respondents Christian Marston and Tahiti Nui
7 Enterprises, Inc., a letter via certified express mail (return receipt requested) notifying them
8 again of the ongoing violation of the UIC regulations and of the penalties authorized for such
9 violations pursuant to 42 U.S.C. §300h-2; see also 40 C.F.R. §19.4. EPA recommended that if
10 he and Respondent Tahiti Nui Enterprises, Inc. were interested in negotiating a settlement of the
11 penalties for the UIC violations, he or his agent should contact EPA by March 30, 2012. The
12 UPS tracking (1ZA46W472448011176) indicates the letter was delivered on March 19, 2012 and
13 return receipt was received by EPA on March 31, 2012. On March 29, 2012, Brian Hennessy of
14 Honua Engineering contacted EPA, representing himself as Respondent Christian Marston's
15 agent, and informed EPA program staff that there were a total of three LCCs on the Property.

16 17. On April 10, 2012 EPA sent Respondents Christian Marston and Tahiti Nui Enterprises,
17 Inc. a Request for Information ("RFI") via email and certified mail to obtain details on the
18 potential additional LCC in use on the Property with a response deadline of April 30, 2012. The
19 return receipt (UPS tracking 1ZA46W470147014968) indicated the RFI was received on April
20 12, 2012. On April 30, 2012, Mr. Hennessy sent EPA a copy of a letter he had sent on behalf of
21 Mr. Marston to the DOH, which included an application to license the existing three LCCs on the
22 Property as injection wells and site plans for septic conversion and injection wells at the current
23 LCC locations. On May 11, 2012 the DOH responded to Mr. Hennessy's letter (with CC to
24 EPA) with a rejection of his injection well license application. The DOH requested that
25

1 Respondents submit a proper wastewater treatment system improvement proposal for the
2 Property.

3 18. Based on information and belief, Respondents have not yet closed the three LCCs on the
4 Property.

5 19. Respondents' ongoing failure to close the three LCCs they have owned and/or operated at
6 the Property since at least August 22, 2006 is a continuing violation of the Act's UIC regulation
7 at 40 C.F.R. § 144.88 that required the closure of all LCCs by April 5, 2005.

8 **VI. RELIEF SOUGHT: PROPOSED ORDER FOR**
9 **PENALTIES AND COMPLIANCE**

10 20. Pursuant to Section 1423(c)(3) of the Act, 42 U.S.C. § 300h-2(c)(3), EPA requests that
11 the Presiding Officer issue the following Proposed Order assessing both an administrative
12 penalty and requiring compliance with the UIC LCC closure requirements.

13 **A. [PROPOSED] ORDER FOR PENALTY**

14 21. Pursuant to Section 1423(c) of the Act, 42 U.S.C. § 300h-2(c), and 40 C.F.R. § 19.4,
15 Respondents shall pay an administrative penalty in an amount not to exceed one hundred
16 seventy-seven thousand, five hundred dollars (\$177,500), for Respondents' failure to comply
17 with the UIC regulations at 40 C.F.R. Part 144.

18 22. The [proposed] penalty amount is based upon the foregoing facts and findings
19 and taking into consideration the factors set forth in Section 1423(c)(4) of the Act: (1) the
20 seriousness of the violations; (2) the economic benefit resulting from the violations; (3) any
21 history of such violations; (4) any good faith efforts to comply with the applicable requirements;
22 (5) the economic impact of the penalty on Respondents; and (6) such other matters as justice may
23 require.

24 23. As provided in 40 C.F.R. Section 22.14(a)(4)(ii), the following is a brief explanation of
25 the severity of Respondents' violation of the UIC regulations requiring the closure of LCCs.

1 The Act's UIC regulations at 40 C.F.R. § 144.88 required closure of all LCCs by April 5, 2005
2 to assure the safety of the country's drinking water sources by preventing direct contamination of
3 identified water supplies and minimizing the risk that any potential drinking water sources would
4 be contaminated. 64 Fed. Reg. 66546 (Dec. 7, 1999). In promulgating the LCC closure
5 requirement, EPA found LCCs to have a high potential to contaminate underground sources of
6 drinking water and to threaten human health because: (1) sanitary waste entering large capacity
7 cesspools can percolate out the bottom of the well to shallow groundwater sources of drinking
8 water; (2) LCCs are not designed to treat sanitary waste; (3) wastewater from LCCs frequently
9 exceeds drinking water health standards for nitrates, total suspended solids and coliform bacteria;
10 (4) wastewater from LCCs may contain other constituents of concern such as phosphates,
11 chlorides, grease, viruses, and chemicals used to clean cesspools such as trichloroethane and
12 methylene chloride; (5) areas that rely on cesspools are in general more likely to rely on
13 groundwater for their drinking water supplies; and (6) pathogens in untreated sanitary waste
14 released into LCCs could contaminate the water supply sources such as transient systems and
15 pose an "acute" risk if consumed (meaning there could be a serious health risk with a single
16 exposure given the nature of contamination). *Id.* at 68553.

17 24. Within 30 days of the effective date of a Final Order, Respondents shall make payment of
18 \$177,500, or such other amount as determined by the Presiding Officer, in accordance with any
19 acceptable method of payment listed in the attached "EPA Region 9 Collection Information,"
20 (Appendix B) which is incorporated by reference as part of this Proposed Order.

21 25. Concurrent with payment of any penalty, Respondents shall provide written notice of
22 payment, referencing the title and docket number of this case, via certified mail to each of the
23 following:

24 Aaron Setran
25 Groundwater Office US EPA, Region IX
75 Hawthorne Street (mail code: WTR-9)
San Francisco, Ca 94105

**In re: Tahiti Nui Enterprises Inc.
Notice of Proposed Administrative Order (Complaint)**

1 (415) 972-3457 – Phone
2 (415) 947-3545- Fax

3 Bryan K. Goodwin
4 Regional Hearing Clerk
5 U.S. Environmental Protection Agency, Region IX
6 75 Hawthorne Street (mail code: ORC-1)
7 San Francisco, CA 94105
8 (415) 972-3686 – Phone

9 **B. COMPLIANCE**

10 Pursuant to Section 1423(c)(1) of the Act, 42 U.S.C. § 300h-2(c)(1), Respondents shall:

11 26. Properly close the LCCs on the Property in accordance with 40 C.F.R. § 144.89(a) and all
12 other applicable requirements, including the DOH closure, conversion, and/or replacement
13 requirements for LCCs, no later than **60 days** after the Effective Date of the Final Order.

14 27. Notify DOH and EPA when closure of the LCCs on the Property is complete. EPA will
15 consider the LCCs to be closed when either: (a) DOH issues an Approval to Use after receipt of
16 an Individual Wastewater System (IWS) final inspection report, "Certification of Construction"
17 for the IWS, and As Built Plans for the IWS; or (b) Respondents submit to EPA a completed
18 "Large Capacity Cesspool Backfilling Final Completion Report."

19 28. Install and operate any new IWS in compliance with DOH's wastewater
20 requirements.

21 29. Submit to EPA all documentation relating to the proper closure of the LCCs on the
22 Property, including copies of all required applications, plans, drawings, approvals, permits, and
23 final inspections, within 10 days of receipt or preparation of the documentation.

24 30. Sign and certify all submittals to EPA in accordance with 40 C.F.R. § 144.32 (b) and (d),
25 and send all such submittals to:

Aaron Setran
Groundwater Office US EPA, Region IX
75 Hawthorne Street (mail code: WTR-9)

**In re: Tahiti Nui Enterprises Inc.
Notice of Proposed Administrative Order (Complaint)**

1 San Francisco, Ca 94105
2 (415) 972-3457 – Phone
3 (415) 947-3545 – Fax

4 Bryan K. Goodwin
5 Regional Hearing Clerk
6 U.S. Environmental Protection Agency, Region IX
7 75 Hawthorne Street (mail code: ORC-1)
8 San Francisco, CA 94105
9 (415) 972-3686 – Phone

10 **VII. ANSWERING THE COMPLAINT**
11 **AND REQUESTING A HEARING ON**
12 **THE PROPOSED ORDER FOR PENALITIES AND COMPLIANCE**

13 **A. ANSWER TO THE COMPLAINT**

14 31. If Respondents intend to contest any material fact upon which the Complaint and
15 Proposed Order is based, or contend that the Proposed Order is inappropriate, or that
16 Respondents are entitled to judgment as a matter of law, then as provided in the Rules of Practice
17 at 40 C.F.R. § 22.15(a), Respondents must file an original and one copy of a written Answer
18 with EPA Region IX's Regional Hearing Clerk within 30 days after service of this Complaint
19 and Proposed Order at the address below:

20 Bryan K. Goodwin
21 Regional Hearing Clerk
22 U.S. Environmental Protection Agency, Region IX
23 75 Hawthorne Street (mail code: ORC-1)
24 San Francisco, CA 94105
25 (415) 972-3686 – Phone

32. The Rules of Practice at 40 C.F.R. § 22.15(a) also require Respondents to serve an
additional copy of the Answer on EPA, to the following person who is authorized to receive
service related to this proceeding:

Alexa Engelman
Office of Regional Counsel
U.S. Environmental Protection Agency, Region IX

In re: Tahiti Nui Enterprises Inc.
Notice of Proposed Administrative Order (Complaint)

1 75 Hawthorne Street (mail code: ORC-2)
2 San Francisco, CA 94105
3 (415) 972-3884

4 33. In accordance with 40 C.F.R. § 22.15(b), the Answer must clearly and
5 directly admit, deny, or explain each of the factual allegations contained in the Complaint and
6 Proposed Order with regard to which Respondents have any knowledge. Where Respondents
7 have no knowledge of a particular factual allegation and so state in their Answer, the allegation
8 is deemed denied. Under 40 C.F.R. Section 22.25(d), Respondents failure to admit, deny or
9 explain any material factual allegation contained in this Complaint and Proposed Order
10 constitutes an admission of the allegation. The Answer must also, in accordance with 40 C.F.R. §
11 22.15(b), state: (1) The circumstances or arguments that are alleged to constitute the grounds of
12 any defense; (2) the facts that Respondents dispute; (3) the basis for opposing the proposed
13 relief; and (4) whether a hearing is requested.

13 B. REQUEST FOR A HEARING

14 34. In accordance with 40 C.F.R. § 22.15(c), and consistent with Section 1423(c)(3)(A) of
15 the Act, 42 U.S.C. § 300h-2(c)(3)(A), EPA gives Respondents this written notice of EPA's
16 Proposed Order and of the opportunity to request a hearing upon the issues raised by the
17 Complaint and Answer, and on the appropriateness of the Proposed Order. As provided under
18 40 C.F.R. Section 22.15(c), if Respondents wish to request such a hearing, they must include the
19 request in their Answer. Such hearing shall not be subject to Section 554 or 556 of the
20 Administrative Procedures Act, 5 U.S.C. §§ 554 and 556, but shall provide a reasonable
21 opportunity to be heard and to present evidence. If a hearing is requested, Subpart I of the Rules
22 of Practice, 40 C.F.R. Part 22, governs and sets forth the procedures of such hearing.

23 35. Respondents' failure to affirmatively raise in the Answer facts that constitute or might
24 constitute grounds for their defense may preclude Respondents from raising such facts and/or
25 from having such facts admitted into evidence at a hearing.

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C. FAILURE TO ANSWER - DEFAULT

36. To avoid the Presiding Officer's entry of a default order against you pursuant to 40 C.F.R. § 22.17(c) for compliance and a penalty of up to \$177,500, as requested in this Proposed Order, Respondents must file a written Answer with the Regional Hearing Clerk in the manner described above in paragraphs 31 through 33.

37. Any penalty assessed in a default order will become due and payable by Respondents without further proceedings 30 days after the default order becomes final. 40 C.F.R. § 22.17(d). Similarly, any compliance required under a default order shall be effective and enforceable without further proceedings on the date the default order becomes final. Id. If necessary, EPA may then seek to enforce such Final Order of Default against Respondents, and to seek compliance and collect the assessed penalty amount, which may be up to \$177,500, in Federal Court.

VIII. REQUESTING AN INFORMAL SETTLEMENT CONFERENCE

38. In accordance with 40 C.F.R. § 22.18(b), whether or not Respondents request a hearing, Respondents may request an informal settlement conference to discuss the facts of this case, the proposed penalty and compliance order, and settlement. To request such a settlement conference, please contact:

Alexa Engelman
Office of Regional Counsel
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street (mail code: ORC-2)
San Francisco, CA 94105
(415) 972-3884

39. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged herein. EPA does not deem a request for an informal

1 settlement conference to be a request for a hearing as specified in 40 C.F.R. § 22.15(c), or as
2 provided for by Section 1423(c)(3)(A) of the Act, 42 U.S.C. § 300h-2(c)(3)(A).

3 40. Settlement discussions do not affect Respondents' obligation to file a timely Answer to
4 the Complaint and Proposed Order pursuant to 40 C.F.R. § 22.15; *see also* 40 C.F.R. §
5 22.18(b)(1). EPA will not modify its proposed penalty and compliance order simply because an
6 informal settlement conference is held.

7 41. The terms and conditions of any settlement that may be reached as a result of a settlement
8 conference will be recorded in a written Consent Agreement signed by all parties. 40 C.F.R. §
9 22.18(b)(2). In order to conclude the proceeding, EPA will execute a Final Order ratifying the
10 parties' Consent Agreement. 40 C.F.R. § 22.18(b)(3). In accepting the Consent Agreement,
11 Respondents would be required to waive any right to contest the allegations herein and waive
12 any right to appeal the Final Order accompanying the Consent Agreement. 40 C.F.R. §
13 22.18(b)(2).

14 42. Respondents' entering into a settlement does not extinguish, waive, satisfy, or otherwise
15 affect Respondents' obligation to comply with all applicable statutory and regulatory
16 requirements and legal orders.

18 **IX. GENERAL PROVISIONS**

19 43. The provisions of this Proposed Order shall apply to and be binding upon Respondents,
20 their officers, directors, agents, successors, and assigns. Respondents shall give notice and a
21 copy of this Proposed Order to any successor-in-interest prior to transfer of ownership or
22 operation of Respondents' Facility or operations at Hanalei, Hawaii. Such transfer, however,
23 shall have no effect on Respondents' obligation to comply with this Proposed Order. Action or
24 inaction of any persons, firms, contractors, employees, agents, or corporations acting under,
25

1 through, or for Respondents shall not excuse any failure of Respondents to fully perform their
2 obligations under this Proposed Order.

3 44. This Proposed Order does not constitute a waiver, suspension, or modification of the
4 requirements of any federal, state, or local statute, regulation, or condition of any permit issued
5 thereunder, including the requirements of the SDWA and accompanying regulations. Issuance of
6 this Proposed Order is not an election by EPA to forgo any civil or any criminal action otherwise
7 authorized under the SDWA.


8 45. Notwithstanding compliance with the terms of this Proposed Order, EPA is not precluded
9 from taking any action authorized by law including, but not limited to, the issuance of additional
10 administrative orders, and/or the initiation of judicial actions, against Respondents. EPA
11 expressly reserves the right to enforce this Proposed Order through appropriate proceedings.
12

13 46. Violation of any term of this Proposed Order, or failure or refusal to comply with this
14 Proposed Order, may subject Respondents to additional enforcement action pursuant to Section
15 1423(b), 42 U.S.C. § 300h-2(b), and/or Section 1423(c)(7), 42 U.S.C. § 300h-2(c)(7) of the
16 SDWA.

17 **X. EFFECTIVE DATE**

18 47. Pursuant to Section 1423(c)(3)(D) of the Act, 42 U.S.C. § 300h-2(c)(3)(D), a Final Order
19 in this matter will become effective 30 days following its issuance unless an appeal to a United
20 States District Court is taken pursuant to Section 1423(c)(6) of the Act, 42 U.S.C. § 300h-
21 2(c)(6).
22

23
24 Dated this 22 day of August, 2012



Nancy Woo, Acting Director
Water Division

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**In re: Tahiti Nui Enterprises Inc.
Notice of Proposed Administrative Order (Complaint)**

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Enclosures

Appendix A: Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits, 40 Code of Federal Regulation (C.F.R.) Part 22

Appendix B: EPA Region 9 Collection Information

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that the forgoing COMPLAINT AND PROPOSED ADMINISTRATIVE
3 ORDER WITH ADMINISTRATIVE CIVIL PENALTY in the matter of Tahiti Nui Enterprises,
4 Inc., and Christian H. Marston, Docket No. UIC-09-2012-0004, was sent to the following
5 persons, in the manner specified, on the date specified:

6 Original and one copy
7 VIA HAND-DELIVERY:


8 Bryan K. Goodwin
9 Regional Hearing Clerk (ORC-1)
10 U.S. Environmental Protection Agency, Region 9
11 75 Hawthorne Street
12 San Francisco, CA 94105

13 Copy VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED:

14 Christian H. Marston
15 5-5134 Kuhio Highway
16 Hanalei, HI 96714

17 Christian H. Marston, Agent
18 Tahiti Nui Enterprises, Inc.
19 P.O. Box 15
20 Hanalei, HI 96714

21 Dated at San Francisco, California: 23 Aug 2012

22 
23 Aaron Setran
24 Aaron Setran
25 Water Division
U.S. EPA, Region IX