



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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In reply, please refer  
to:  
File: 11-700-FG

December 5, 2011

## FINAL KEKAHA EMERGENCY GENERATOR INSTALLATION SITE REMEDIAL DECISION AND RESPONSIVENESS SUMMARY

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*12/5/11*

### 1.0 INTRODUCTION

Public outreach was carried out by the Hawaii Department of Health Hazard Evaluation and Emergency Response Office (HEER) between September 21 and October 28, 2011 to gather public comment from the community on the proposed remediation and development plans for the Kekaha Emergency Diesel Generator site. The proposed remediation and development are to be performed by the State of Hawaii Agribusiness Development Corporation (ADC).

The HEER Office sought public comment on ADC's Draft Remedial Action Work Plan and Draft Environmental Hazard Management Plan (EHMP) for the site. Public participation consisted of a 30-day period for public comment (from September 21 to October 21), which was extended until October 28 based upon request of community members at a Public Meeting held in Kekaha by ADC and HEER on October 19.

Notice of the public comment period, and all site assessment reports, were posted on the HEER website (<http://hawaii.gov/health/environmental/hazard/index.html>). The documents under review during this public comment period include:

REMEDIAL ACTION WORK PLAN dated July, 2011  
Emergency Generator Installation Site  
Kekaha Road, Tax Map Key (TMK) Number: (4) 1-2-02, Parcel 001(Portion)  
Kekaha, Kauai, Hawaii

and

Draft ENVIRONMENTAL HAZARD MANAGEMENT PLAN dated September 19, 2011  
Installation of Emergency Generators  
Associated with a Portion of TMK No.: (4) 1-2-02:001  
Kekaha, Kauai, Hawaii

Notice of the Public Meeting was published in Kauai's newspaper ("The Garden Island") on October 6, 11, and 17.

The purpose of this Responsiveness Summary is to respond to formal comments received by the public and to issue notice of the Final Remedial Alternative selected by the HEER Office. Community members submitted comments orally during the October 19, 2011 Public Meeting in Kekaha, other public comments were received during the comment period via mail and e-mail.

This Responsiveness Summary includes the following sections:

- 1.0 Introduction
- 2.0 HEER General Introductory Responses (based upon all comments received)
- 3.0 Responses to Comments Received During the Public Meeting (October 19, 2011),  
Related to the Remedial Alternative Selection
- 4.0 Responses to Specific Comments Received After the Public Meeting (October 26-

28, 2011).

- 5.0 Final Remedial Alternative Selected by HEER.

## **2.0 HEER GENERAL INTRODUCTORY RESPONSES**

Based upon the comments received to date, the HEER offers the five following General Introductory Responses, which will be referenced in subsequent sections of this Responsiveness Summary. This responsiveness summary will address specific concerns regarding the proposed remedial alternatives for management and handling of contaminated soil at the proposed ADC Site on which the generators will be located.

### **1. General concerns regarding the installation of generators at the ADC site.**

There were numerous questions, concerns, and comments specifically related to the installation of the emergency diesel generators at the site. The purpose of the public meeting was to discuss the proposed remedial alternatives for the generator site. HEER has no regulatory authority related to the zoning, generator permitting, location, installation process, or related design (other than how the design impacts the selected remedial alternative for the ADC Site). Therefore, HEER will not offer comments related to the decision to locate the generator on the property, the generator design and installation, or potential concerns associated with noise emissions, air emissions, electromagnetic emissions, and frequency of generator operation.

The generator siting and permitting process is the responsibility of ADC and relevant regulating authorities, and the final decision of appropriate regulating authorities. HEER does not make zoning decisions.

This responsiveness summary will address specific concerns regarding the proposed remedial alternatives for management and handling of contaminated soil at the proposed ADC Site on which the generators will be located.

Concerns specifically regarding the generators are the responsibility of ADC.

### **2. Overall concerns of community requesting cleanup of the site to residential standards, and/or cleanup for a “better use”. [Note, HEER’s response also addresses comments referring simply to “cleanup”, assuming that residential standards are inferred]**

With regard to comments requesting cleanup to “residential standards”, or for “a better use”, the state statutes require that the site be remediated to action levels which are protective for the proposed land use. Please note that land use decisions themselves are outside of the jurisdiction of the HEER Office.

The Removal Action Work Plan proposes a commercial use, related to support of the regional agricultural activities. Under the Hawaii Administrative Rules 11-451, commercial/industrial action levels are appropriately applied to properties that reasonably restrict use of the property to commercial/industrial activities that have limited direct exposure to soils. Fencing and access restrictions are acceptable and appropriate remedial actions to limit public access to

soils that exceed residential standards, and are below commercial/industrial action levels. Comments received from the public have been taken into consideration.

HEER concurs with public comments that the public uses the adjoining roadways and the fueling station, and the location of a school within the ADC building, should reasonably affect the selection of cleanup standard in areas of the site that do not have access restrictions. As discussed in the "Final Remedial Alternative" section, presented below following all comments and responses, the DOH will require that the selected remedial alternative formally divide the site into two portions: the 3-acre portion of the project site where the generators will be located, which will not be accessible to the public; and, the perimeter area outside the generator area, where the public will have access for the fueling station and agricultural roads to the north. The final remedial alternative requires the area outside the 3-acre portion of the project site utilize unrestricted (i.e. residential) Environmental Action Levels (EALs), because this area will be accessible to the public. The selected remedial alternative for the 3-acre portion of the project site where the generators will be located, will not be accessible to the public, and will utilize commercial/industrial use EALs.

The final selected remedial alternative will result in a condition which is protective for human health and the environment for the entire ADC site, and the surrounding community.

**3. Concern related to dust emanating from the ADC Site.**

Concentrations of contaminants in surface soils at the site do not pose a health concern for the public or area residents, because it is highly unlikely that a great enough volume of soil could move off site to create an ingestion or inhalation hazard on nearby properties. However, the remedy addresses contaminated soil management in two ways that will significantly reduce airborne dust generation at the site. First, contaminated surface soils in roadway areas will be removed and the roadways paved. Other surface soils outside the commercial areas will similarly be removed to ensure the public does not have direct exposure to contaminated soils or indirect exposure to dust generated from those soils. Within the restricted areas of the site, the remedy requires hazard management practices, such as maintaining vegetative cover, or adding clean gravel or soil covers.

**4. Signage and Fencing indicating contamination is present at the ADC site**

The selected remedial alternative will include the appropriate signage and fencing to restrict access to the site.

**5. Health Effects of Dust Exposure, and exposure to contaminated soil**

Concentrations of contaminants in surface soils at the site do not pose a health concern for the public or area residents, because it is unlikely that a great enough volume of soil could move off site to create an ingestion or inhalation hazard on nearby properties. On site workers will be protected from inhalation of or contact with contaminated soils through the soil management requirements and restrictions described in the Environmental Hazard Management Plan.

Please see comments #23 below, concerning soil sampling at school property, which confirm that surface soils on an adjacent property have not been contaminated by dust from the ADC site.

### **3.0 RESPONSES TO COMMENTS RECEIVED DURING THE PUBLIC MEETING (OCTOBER 19, 2011) RELATED TO REMEDIAL ALTERNATIVE SELECTION**

Community comments, as documented by the transcript of the Public Meeting, are presented below, along with HEER responses. Only those comments relevant to selection of a remedial alternative are presented. As indicated in HEER General Response #1, comments specifically related to the generators are not included.

#### **COMMENT #1**

*VAN WARREN: Shouldn't you have to explain about the limits and what the dirt that the kids can eat and the dirt that the kids cannot eat? And since I'm talking to the Department of Health here, you do know that there is gardening going on behind the contaminated earth? Are you concerned about that? It's going to the market right now. Are you concerned about that, the Department of Health? You knew this areas was contaminated from 2005, and there's food product being produced in there and released to everybody in the community. Is that not the responsibility of the Department of Health?*

Follow-on Comment to Mr. Warren's comment above:

*AUDIENCE MEMBER: ADC, I think, should know about that also because they're managing the land. They took control of this land. And so where is the Department of Health? Where is ADC? And you expect us to believe these numbers that you're putting up in front of us for generators? Take care of the stuff that's being spread out to the community right now.*

**HEER Response #1:** Mr. Warren's comment, and the follow-on comment, are related to agricultural land north of the ADC Site. There is no gardening taking place on the ADC Site.

#### **COMMENT #2**

*JEAN WARREN: Since you brought it up, there is industrial standards and there's residential standards. This is a very rural community. And there are no signs posted that I'm aware of that says to kids, Stay out of this area because it might be dangerous to your health.*

**HEER Response #2:** Refer to HEER General Response #4. Appropriate signage is part of the selected remedial alternative.

#### **COMMENT #3**

JEAN WARREN (additional follow-on to above): Let me add that I do not want the Department of Health to do this. I would like an outside agency to come in because if you look at this, the Department of Health is run by the state. You guys [referring to ADC] are governed by the state. I think there's a conflict of interest.

**HEER Response #3:** It is the responsibility of the HEER to ensure environmental laws are adhered to, whether the contamination was the result of private, commercial, municipal, or state entities. The laws are applied equally, to any responsible party.

**COMMENT #4**

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AUDIENCE MEMBER: *Okay. The state regulates itself. The health document makes it okay for the state to do that. To me that's just a conflict of interest. Sorry, but I don't understand that. Because it sounds like a very strong conflict of interest here that's going on to me. I may be wrong, but that's what it seems like to me.*

**HEER Response #4:** It is the responsibility of the DOH to ensure environmental laws are adhered to, whether the contamination was the result of private, commercial, municipal, or state entities. The laws are applied equally, to any responsible party.

**COMMENT #5**

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PATRICK PEREIRA: *So somebody clean it up according to residential standards. Not put cement overlay and that kind of stuff. It seems like the board of health don't hear us. It seems like the agribusiness guys don't hear us.*

**HEER Response #5:** Refer to HEER General Response #2.

**COMMENT #6**

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JEAN WARREN (follow-on to above; [page 15, line 13 of record]): *I want it cleaned up to residential standards because I'm worried about our Kekaha kids.*

**HEER Response #6:** Refer to HEER General Response #2.

**COMMENT #7**

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KRISTA RUEHABER: *I would say ask the people here because these people here want to see it cleaned up to residential, bottom line. Bottom line. It qualifies for agri funding. This is a huge problem. It's not okay to kind of cover it up. That's what I hear being said.*

**HEER Response #7:** Refer to HEER General Response #2.

**COMMENT #8**

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AUDIENCE MEMBER: *I don't think there's any decision to make. It's so easy. You have to clean up the contamination before you can think about putting in a diesel-powered generator, and how can you even think about doing anything else before you clean up the mess? There's a school right there. There's houses right there.*

**HEER Response #8:** Refer to HEER General Response #2 and #1.

**COMMENT #9**

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AUDIENCE MEMBER: *And I apologize. Maybe I'll apologize for myself. But it's not even an issue with you. It's an issue with the state. They knew about this. They need to clean it up.*

**HEER Response #9:** Refer to HEER General Response #2.

**COMMENT #10**

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AUDIENCE MEMBER: *We want the site cleaned up. We don't need you to tell us that we can live in contaminated level of this junk.*

**HEER Response #10:** Refer to HEER General Response #2.

**COMMENT #11**

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AUDIENCE MEMBER: *Whoever made the mess, cleans it up. Bottom line. Whoever made that mess, cleans it up.*

Note: there was considerable back-and-forth among the audience regarding who was responsible for the cleanup, noting that Amfac was responsible, but the company no longer exists, and that the State is now responsible for the cleanup.

**HEER Response #11:** To the best of our knowledge, the responsible party entity no longer exists. The DOH HEER is the agency responsible to ensure that the appropriate remedial alternative is implemented to protect human health and the environment. ADC, as current land owner is responsible to manage the contamination to prevent exposures. Additionally, refer to HEER General Response #2.

**COMMENT #12**

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AUDIENCE MEMBER: *Well, you're overseeing it. Somebody needs to clean it up. It's not going to be addressed.*

**HEER Response #12:** Refer to HEER General Response #2.

**COMMENT #13**

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STEVEN SULLIVAN: *My question is, the toxins bind to the soil very well. And if we cover them up, than we can't use the land for anything else, and that's forever, I guess, or until*

*someone else -- future generations go in and pull that heavily contaminated soil out that is stuck to the soil, and it's going to stay stuck to the soil. So my question is, why would you -- does that just basically seal the fate of this land for now until we have some concerned children that raise up through the school who are willing to tackle the real problem? Is that the fate of this land? Is the fate of this land to be stuck dirty and unclean until the following people have to live through it and take action on it?*

**HEER Response #13:** Refer to HEER General Response #2. The selected remedial alternative will be protective of human health and the environment, and is based upon the current land use. As part of the selected remedial alternative, an Environmental Hazard Management Plan will be prepared, which provides guidance on how to manage the contamination and reduce risk to anticipated future stakeholders based upon the anticipated land use. In this instance, commercial land use is anticipated. The DOH can only direct the current remedial alternative based upon the current and known zoning considerations. The EHMP requires notification and remedy review should ADC or other future landowners decide to change the land use or propose activities for the site that will result in an increased potential exposure to contaminated soils.

#### **COMMENT #14**

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*AUDIENCE MEMBER: I'm a resident here. What this father is telling you is pretty much straight up. Amfac came here. They did all this. They should be the ones responsible for the clean-up, everything round over here. But the thing is, instead of like taking all that, why don't you dig up all the ground, take all the contaminated dirt, all the soil, whatever, dig all the dirt, send it to Amfac. They still stay here. I know that for a fact. I know that for a fact. They're still here. I don't know why you guys came to Kauai. Health department, what they here for? They're here for the safety of the people. And in 2005 you guys come and carry on and carry on and carry on. Now up to this point the community is not going to like you guys here.*

**HEER Response #14:** To our knowledge, Amfac is not a viable financial responsible party. There is no entity to pursue. The DOH can only perform oversight of the remedial alternative, to ensure it is protective of human health and the environment.

Refer to HEER General Response #2. Under state law, removing all of the contaminated soil is not required, so long as the remedy selected is safe. The selected remedial alternative will be protective of human health and the environment for the proposed land use.

#### **COMMENT #15**

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*AUDIENCE MEMBER: Since you said rules, according to federal government as represented, and I understand, I may be wrong, but the EPA is supposed to go after whoever created mess. Whatever they did. That's not happening here.*

**HEER Response #15:** To our knowledge, Amfac is not a viable financial responsible party. There is no entity to pursue. The DOH can only perform oversight of the remedial alternative, to ensure it is protective of human health and the environment.

**COMMENT #16**

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AUDIENCE MEMBER: *Are you going to take all that opala (ph) [contamination] from inside the fence and ship them to where the guys come from? Are you going to keep the opala over here for the rest of our generations coming up? ...When the wind come, it blow and we see the dust. ... Clean up or get Amfac to come in and help you guys out. .*

**HEER Response #16:** To our knowledge, Amfac is not a viable financial responsible party. There is no entity to pursue. The DH can only perform oversight of the remedial alternative, to ensure it is protective of human health and the environment. Refer to HEER General Responses #2 and #3.

**COMMENT #17**

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VAN WARREN: *And the reason why I say that every night when the wind blows up, and it blows all that dust right into the residential area.*

**HEER Response #17:** Refer to HEER General Response #3.

**COMMENT #18**

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JEAN WARREN: *You said that dust is a problem. Okay. If it's air, if it gets in the air, dust is a problem. What are the health side effects of inhaling these contaminants?*

**HEER Response #18:** Refer to HEER General Responses #3 and #5.

Concentrations of contaminants in surface soils at the site do not pose a health concern for the public or area residents.

**COMMENT #19**

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AUDIENCE MEMBER: *You mentioned about the facts that what happened, the kids eat dirt and get sick. But what we're really most concerned about -- or I am and I know that we've talked about this is the cumulative effects, that fact that we have school, we have dust blowing off of that area constantly going up and down that road. It's a very dusty environment. We have the trade winds blowing that goes directly into the Hawaiian school. So it's really the cumulative effect that I hope you'll address in your position.*

**HEER Response #19:** Refer to HEER General Responses #3 and #5.

## COMMENT #20

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VAN WARREN: *What is the state going to do tomorrow knowing that they are going to help on these roads and dust is being blown up and kids are eating the dirt right now? Right now. Without giving you -- if you don't get this project, what is the state going to do tomorrow?*

**HEER Response #20:** Refer to HEER General Comment #5. Also, in the event that the generators were to not be installed, HEER still has the responsibility to ensure the protection of human health and the environment, and would require ADC to take actions needed.

## COMMENT #21

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JEAN WARREN: *.... But my problem is you guys knew that there was contaminants, that this place is toxic in 2005, and you just said that you're concerned about the children's backyard. This is 2011, and the reason why you're doing it is because of this proposed project. The reason why you're coming to the public is because of this proposed project. Kekaha School we have approximately 378 kids. Fifteen percent of our school population ages five to ten have chronic asthma. So what the heck has been going on for the last six years? You know, yes, these guys are going to come in and they're going to do something. They're going to cover it up and make it all right. Do you know what? We've been exposed for over six years. Clean it up.*

**HEER Response #21:** Refer to HEER General Responses #2, #3, and #5.

Through the public participation process for this site, HEER learned that a school was operating in the Amfac building. Because of uncertainties about how soils may have been historically graded or otherwise managed, and concerns about dust movement from the site to the school grounds, HEER conducted sampling on the ADC property in areas where students play, eat and congregate. The reported concentration of arsenic, mercury, dioxins and other pesticides in soil samples collected from the charter school area of the Amfac building are well below HDOH soil action levels for unrestricted land use. The results demonstrate that exposure to the soil does not pose a health risk to children or workers. No further action is necessary in this area.

Asthma is not known to be associated with exposure to arsenic or dioxins in the medical literature. However, dust itself can be an aggravating factor to persons with asthma. The final remedial alternative is expected to significantly reduce dust concentrations from the roadway areas and the site.

Because reported concentrations from the 2005 sampling were at or below commercial/industrial action levels, and to our knowledge, the property was in an industrial/agricultural area, the state did not establish that there was a risk to the surrounding community that required action or notification. We acknowledge your concerns and are prepared to improve communication with the Kekaha community about HEER's ongoing and future oversight activities.

#### COMMENT #22

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AUDIENCE MEMBER: *If you leave [the contamination] it in place, and how deep does it have to be underground?*

**HEER Response #22:** Because the contaminants at the ADC Site are tightly bound to the soil and will not leach to groundwater, the depth of burial is important only to establish that the soils won't be re-exposed at the surface due to erosion or excavation activities. The driving factor for protectiveness is to ensure that the exposure pathway has been eliminated. If there is no direct contact with the contamination or ability for it to mobilize, it does not represent an exposure concern.

#### COMMENT #23

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DAVE OVELAR: *I'm 50 yards from you guys' proposed site. My classroom is outside, and we breathe the dust all week, every day. And so I'm very concerned about that. I come here representing the 50 kids that I'm in charge of at Garden High School. We were concerned about the noise that this thing might make. We're concerned about the sound of diesel. We're concerned more about the poison that's underneath there. I mean, our school is surrounded by the lei of poison. And we have taken upon ourselves to educate not only the teachers, but the kids, about what we're up against. And I'm here standing up for them right now. You see. I breathe that dirt every day. The kids breathe it every day. We dance on the dirt. We kick it up. We eat outside 50 yards from that site. So I'd like to make sure that when you guys make a decision, it's going to affect us either way. We're not going away until we die of the toxins, I guess. But just for the record, if anything happens to our children, it's in our hands. This is why all the people are here. Okay? We don't want all this business. We commend you. We really want this site to be moved away from our school. We're already surrounded with poison. We rather you clean this up. Whoever's in charge, and that's the bottom line. Clean them up because that's the way of our island, and that's what we teach our children, aloha aina, love for the land. And that is the greatest love that you can have. Clean up the mother, the Earth is our mother. So on behalf of our children and our school, we say no to this project. We say yes to cleaning up so that it can be used for better use.*

**HEER Response #23:** Through the public participation process for this site, HEER learned that a school was operating in the Amfac building. Because of uncertainties about how soils may have been historically graded or otherwise managed, and concerns about dust movement from the site to the school grounds, HEER conducted sampling on the ADC property in areas where students play, eat and congregate. The reported concentration of arsenic, mercury, dioxins and other pesticides in soil samples collected from the charter school area of the AMFAC building are well below HDOH soil action levels for unrestricted land use. The results demonstrate that exposure to the soil does not pose a health risk to children or workers. No further action is necessary in this area.

Refer to HEER General Responses #1, #2, #3, and #4, regarding the generators, cleanup levels, dust, and signage.

**COMMENT #24 (SERIES OF CONSECUTIVE COMMENTS)**

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*AUDIENCE MEMBER: The position that you didn't know, the health department, the school is right there. So let's take that. It surprises me because you can drive there, and you can see all the things.*

*AUDIENCE MEMBER: But so is it possible that if the health department didn't know that there were schools there, has the super fund missed all these aspects as well? I mean, that's pretty heavy. Is that possible?*

*AUDIENCE MEMBER: I would like to say we do have a school inside the Amfac office. We have services here.*

**HEER Response #24:**

Through the public participation process for this site, HEER learned that a school was operating in the AMFAC building. Though previous studies had located the other schools and sensitive land uses in Kekaha, we missed the school in the AMFAC Building. Once we were notified, however, we acted within two weeks, collecting soil samples in areas where children play and eat. The reported concentration of arsenic, mercury, dioxins and other pesticides in soil samples collected from the charter school area of the AMFAC building are well below HDOH soil action levels for unrestricted land use. The results demonstrate that exposure to the soil does not pose a health risk to children or workers. No further action is necessary in this area.

Further, the presence of the school in the Amfac Office has been considered in the amended proposed remedial design.

**Comment #25**

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*SUNNY LAZARO: Will the school have the results back by the 20th?*

**HEER Response #25:** The results have been received, and indicate that reported concentration of arsenic, mercury, dioxins and other pesticides in soil samples collected from the charter school area of the Amfac building are well below HDOH soil action levels for unrestricted land use. The results demonstrate that exposure to the soil does not pose a health risk to children or workers. No further action is necessary in this area.

**COMMENT #26**

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*SUNNY LAZARO: How will it [the school sample data] become public forum? How will it become public forum other than him knowing?*

**HEER Response #26:** The results have been received, and will be posted on the HEER website. The report is named, "Amfac Building SI Summary" and includes details of the sampling approach, the sampling results and a map to show where samples were taken.

**COMMENT #27**

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**MERDA CONICS:** *And my question to you is in 2005 it showed mercury on the site. And then your test in 2010 didn't show it, didn't even show mercury like you're saying. So technically does the EPA think that this area is toxic? Or do we believe the state? I'm talking about the final 2005 [report].*

**HEER Response #27:** There were no detections of mercury at the ADC Site. This question is a concern related to the samples taken in the ditch on former mill site.

**COMMENT #28**

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**MS. ENG:** *And I [have an environmental consultant]. He asked the question and wants it put in the record for all of us to consider. So when ADC says that this is the best -- putting a cattle fence and gravel around this site is the best remedy, he asked us to ask you what does a cattle fence look like in 10 years' time, in 50 years' time, in 99 years' time from now? KAA doing 24/7 on the monitoring of that, how much is that in 99 years? Current value, I guess. How much will it be over the long run to inspect emergency generators 200 years down the line, generations from here on? How do we stop doing this short term, short-term proposition?*

**HEER Response #28:** The selected remedial alternative will consider the long-term aspects of the action with regard to continued protection of human health and the environment.

**COMMENT #29**

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**AUDIENCE MEMBER:** *Will you put this on the Internet or will you put this online or something? Will you put this online?*

**HEER Response #29:** All responses will be posted online.

**COMMENT #30**

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**VAN WARREN:** *So basically the generator is not out there. What is ADC going to do about the land contaminated now that you do know?*

**HEER Response #30:** The ADC site would still require a remedial alternative that is in accordance with applicable and appropriate commercial/industrial standards, such that the conditions are protective of human health and the environment. Areas that are accessible to the public would need to meet unrestricted residential use standards, as described in the remedy selection.

### **COMMENT #31**

**GREG HOLZMAN:** *Greg Holzman, resident of Kekaha. As far as the remedial in Kekaha to put generator there, so it stays within the guidelines. I really suggest that another type of aggregate besides gravel goes in there. Which means, we watched Polihale Road, they put gravel on those roads, you know, umpteen hundreds of times, and it just goes. It's gone. You can put it on as thick as you want. And then the first rain, whatever, it sticks to tires and the mud and it's gone. And just pounds. It's gone. It gets spread around and it never really works. Coral is a better aggregate. It packs in better, and it seems to work better. But obviously cement or asphalt, I mean if you're going to seal this thing, let's do it. Because as [Phoebe] says, when we're looking down the line here 10, 15, 20, 30, 40 years, whatever, and if we're thinking that somebody is going out there every time there's a pot hole or the gravel is gone, we're going to haul in a truck and have it sealed up, it's probably not very realistic. And as far as a fence goes, I really think that something needs to be -- some sort of a barrier that's more of something which maybe has multiple layers that can go around that thing... cap it, cap it off permanently. Okay. That's about it. If you can extend the deadline, I really request that. Extend the deadline.*

**HEER Response #31:** Concerns about the effectiveness of gravel as a permanent remedy have been taken into consideration in the final remedial alternative selection. The deadline was extended through Friday, October 28.

### **COMMENT #32**

**GREG HOLZMAN:** *But in the future if you have these kind of projects that come up, if we know about them beforehand and you bring this PowerPoint presentation to the community and let Jose and our leaders know about where it is, the word will get out. We'll have the meeting to talk about it. We can get educated, and then we can have a real public hearing where people are giving real educated, informed suggestions on the project.*

**HEER Response #32:** HEER will make every effort during future public meeting and outreach about HEER activities to ensure good communication with the community.

## **4.0 RESPONSES TO SPECIFIC COMMENTS RECEIVED DURING THE PUBLIC MEETING (BETWEEN SEPTEMBER 21-OCTOBER 28, 2011)**

The following comments related to the Remedial Action Work Plan and EHMP were received during the public comment period following the Public Meeting. HEER has provided responses to each comment.

- A letter was received from Mr. Lenny Siegel of the Center for Public Environmental Oversight, dated October 21, 2011, and endorsed by Ms. Phoebe Eng for public comment. A copy of the October 21, 2011 letter is attached.

**HEER Response:** Refer to attached HEER letter to Mr. Lenny Siegel, dated November 11, 2011.

- Three Kekaha community members submitted their comments related to the proposed remedial alternatives via e-mail to HEER, between October 26 and October 28, 2011.

Ms. Phyllis Karratti, Myrna Bucasas, and J. Warren expressed their preference for the use of residential cleanup levels rather than industrial cleanup levels in remediating the site.

Ms. Bucasas prefers the soil to be excavated sent to the mainland, rather than fencing the site, installing a gravel cap, and posting the site with signs. Similarly, Mr. J. Warren was opposed to capping contaminated soil on site.

**HEER Response:** These comments are addressed in HEER General Introductory Response #2.

- On October 28, 2011, Ms. Phoebe Eng e-mailed to HEER a one-page petition letter entitled “*My Declaration for Kekaha Children*”, along with the names and signatures of 220 Kekaha community members. The petition states “*For the sake of their children and future generations, I want better environmental standards applied to Kekaha Sugar Mill and Proposed Generator Site. If those sites are developed in any way, it has to be done right and responsively. Our children are at risk. The site should not be evaluated as General Industrial*”. A copy of the petition letter is attached. As of this letter, neither the original signatures nor an accurate copy thereof have been received by the HEER Office. They will be added to the public record when received.

**HEER Response:** The issue is related to the use of residential cleanup levels, rather than the currently applicable commercial/industrial standards, for site remedial alternatives. This is addressed in HEER General Introductory Response #2.

- On October 28, 2011, Ms. Phoebe Eng submitted “*a preliminary tally of a ballot taken by Kekaha School children, showing their choices regarding possible clean up options*”. The submittal includes copies of children’s drawings regarding potential clean-up options, and maps showing some locations of children’s homes. These drawings and maps are attached. A total of 280 children reportedly participated. The preferred remedial option selected by the children was removal of contaminated soil from the site, with off-island disposal. A minor portion of the responses preferred capping with gravel.

**HEER Response:** The HEER Office appreciates the participation of the whole community, including the children in the public comments. Common issues presented in children’s drawings are generally related to cleanup by removal and disposal of contaminated soil outside of Kekaha. This is interpreted to be the use of residential standards. This is addressed in HEER General Introductory Response #2.

## **5.0 FINAL REMEDIAL ALTERNATIVE**

Based on the review of comments submitted during the public comment period including in particular new information regarding the presence of a school inside the former Amfac Office; the community use of the roadways, and, the community’s concerns regarding dust, the Hawaii Department of Health has amended the proposed remedial alternative. The HEER Office selects Alternative #1, described in the Removal Action Work Plan, with the following amendments, as follows:

Due to concerns about public access, HEER considers the site to be comprised of two general areas (refer to the attached figure):

- The 3-acre portion of the site where the generators are proposed to be located (inclusive of DU-1, DU-2, DU-3, and FMHA-03 [considered an inset of DU-1]); and,
- The perimeter area immediately surrounding the 3-acre portion of the project site, to the west and south, inclusive of the western access roadway [leading to the fueling station, and to the northern fields], portion of the drainage swale and , FMHA-05, and FMHA-06 (generally to Kekaha Road).

HEER confirms that the appropriate cleanup standard for the 3-acre portion of the project site proposed to be used for operating emergency generators is HEER's commercial environmental action levels (EALs). These EALs will apply to the related remedial actions.

Because the perimeter area (outside the proposed 3-acre portion of the project site), as described above, is accessible to the general public and there is a school nearby, HEER requires the more conservative, unrestricted EALs be applied to identify remedial action areas within this area.

#### **Perimeter Area Outside the 3-acre Portion of the Project Site**

The final remedial action will include removal of an approximately 1-foot thickness of soil across the perimeter area outside the 3-acre portion of the project site, generally bounded on the north by the eastern border of DU FMHA-04, and bounded on the south by Kekaha Road. Confirmation samples shall be collected after excavation. If sample concentrations still exceed unrestricted EALs, magnetic warning tape (indicating, "Do Not Dig, Pesticide- Contaminated Soil Below") shall be placed in the base of the excavation before backfilling. In the event that the contractor elects to backfill without sample analysis for the remaining soils (due to weather or safety [i.e. to prevent access] concerns, then a similar warning tape would be installed, to provide notice that soil is potentially contaminated. After excavation, the portion of the perimeter area which will be used for the public access roadway to the fueling station and northern agricultural properties, shall be completed with an appropriate road base and final asphalt or alternative surface completion acceptable to the HEER office appropriate for future road use.

The remaining surfaces of the perimeter area shall be backfilled with at least a 1-foot thickness of compactable clean fill material, or final surface grade, whichever is a greater thickness. Trees and existing structures (utility poles, etc) can remain in place if desirable, with surrounding surface soils removed to the extent practicable and approved by the HEER office. The remedy shall take into account best management practices to mitigate dust, such as vegetative covers, to minimize neighborhood impact from clean fill material. Excavated soil from the perimeter area shall be either managed on-site (consolidated within the 3-acre portion of the project site) or disposed in the nearby Kekaha landfill, pending laboratory characterization, approval by HDOH and acceptance by the landfill.

Alternately, ADC has the option to characterize the perimeter area of the site to more precisely determine the lateral and vertical extent of identified contamination. Then ADC's contractor shall perform appropriate sampling using HEER-approved methods, and unrestricted EALs for decision-making. Any impacted soil above unrestricted EALs within the perimeter area of the site shall be managed as indicated above.

### **3-Acre Portion of the Project Site**

The average concentration of TEQ dioxins and arsenic in exposed soil for the 3-acre site, considered the "Exposure Area" for future workers, is within the range considered acceptable for commercial and industrial properties. The average concentrations exceed levels appropriate for unrestricted, residential use of the property.

TEQ dioxin concentrations in DU FHMA-03, located within DU-1 abutting the irrigation ditch, exceed the commercial/industrial EAL of 1,500 nanograms per kilogram (ng/kg). Although the average concentration of TEQ dioxins in soil for the site as a whole does not pose a risk to future workers, HEER is concerned about the potential for contaminated runoff to impact the abutting ditch. There is also concern that the soil could be spread out over a larger area. In order to minimize potential for contaminated run-off, HEER requires that a 50-ft buffer of clean soil to the depth of the adjacent canal be established between the irrigation ditch and soil exceeding the commercial/industrial EALs. Soil with concentrations of contaminants above the commercial/industrial EAL shall be excavated, and post-excavation samples collected (unless characterization data provides sufficient data confirming that final concentrations remaining adjacent to the ditch are below commercial/industrial EALs). Excavated soil can be managed on-site or disposed of at an appropriate facility offsite, as approved by the HEER office. Placement of the contaminated soil beneath the proposed generator pad, or otherwise managed on-site, within the 3-acre portion of the project site is acceptable (in the event that the generators are not installed according to the current proposal).

The 3-acre portion of the project site will be fenced to restrict access to the site, including the northern boundary, which abuts the ditch. The final surface within the 3-acre portion of the project site will be managed to prevent fugitive dust from emanating from the site. Capping within the 3-acre portion of the site will be required for areas that are not currently vegetated and/or become management areas for contaminated soils moved from other areas of the site. Capping requirements include placement of a minimum of 6 inches of clean soil across the exposed surface, and ongoing maintenance of a stable vegetative cover.

Excess contaminated soil can be disposed of in the nearby Kekaha landfill, as indicated above, pending appropriate disposal characterization and landfill acceptance, as well as concurrence by the HDOH Office of Solid and Hazardous Waste. HEER notes that any access roads placed within the 3-acre portion of the site shall be constructed with a base, and sufficient gravel surface to withstand long-term use by heavy trucks and equipment which may use the area in the future. All actions shall result in minimizing dust generation from the site.

ADC shall submit a workplan for HEER approval describing proposed implementation of the revised remedy, and a revised EHMP that describes safe management practice and use restrictions for all potential future exposure pathways.

### **Other HEER Actions**

HEER and/or responsible parties will take additional actions related to sampling in the vicinity of the 3-acre project site, to assess potential off-site impacts which may be related to the historic use of the site. These actions will include collecting ditch sediment samples, along the northern boundary of the site, to evaluate if historic activities, including the significantly elevated dioxin concentrations in DU FMHA-03, may have impacted the irrigation ditch.

## ATTACHMENTS

- October 19, 2011 Public Meeting Transcript with HEER Notes
- Center for Public Environmental Oversight Letter to HEER, dated October 21, 2011
- HEER Response to Center for Public Environmental Oversight, dated November 22, 2011
- Kekaha Resident E-Mails (three, dated between October 26-28, 2011)
- “My Declaration for Kekaha Children” Petition (signatures not available at time of printing)
- Kekaha School Children Ballot E-Mail, with Attached Maps and Drawings
- Final Remedy Site Plan