From: David Albright
To: DavidW Smith
Subject: DOH call re: Lahaina
Date: 11/18/2009 07:48 AM

Hi Dave,

Just want to fill you in on a call we had yesterday with Tom Arizumi and others at DOH. Nancy Woo and I had set up the call to alert Tom to our continued concerns about the fate of effluent from the Lahaina injection wells, its impact on the near-shore waters and coral reefs at Kahekili, and our plans regarding UIC permit issuance and 401 certification. Tom brought his entire crew, so we had the three Branch Chiefs and their staff. In short, I told Tom that we believe the wastewater injection at Lahaina meets the standard under section 401, and that we are preparing to force the County to seek certification from DOH for their injection activity prior to issuance of a final (renewed) UIC permit. DOH had some questions and expressed concern about the unique nature of doing a 401 cert for release to GW that travels to surface water, and also about the precedent that would be set with this action. We acknowledged their concerns, but made clear that our authority under the SDWA alone is not sufficient to address the situation, and we will have to proceed to use CWA tools, including 401 certification and a likely 308 action ordering the County to conduct specific monitoring/studies.

In terms of timing for a letter to the County directing them to apply for 401 certification, we have a few legal issues to work through on the UIC permitting side. As we get closer to the point of issuing the letter, and prior to the meetings in early December, I anticipate additional discussion with DOH's CWB. Let me know if you have any questions or wish to discuss.

David