Message

From: Garnett, Desean [Garnett.Desean@epa.gov]
Sent: 5/28/2019 5:47:54 PM
To: Grisier, Mary [Grisier.Mary@epa.gov]; TenBrook, Patti [TenBrook.Patti@epa.gov]
Subject: FW: EPA/HDOA Resolution Agreement
Attachments: 2019.05.23 (REVISED - CLEAN) EPA HDOA Informal Resolution Agreement 44RNO-16-R9.docx; ATT00001.htm; 2019.05.23 (REVISED REDLINE) EPA HDOA Informal Resolution Agreement 44RNO-16-R9.docx; ATT00002.htm

Attorney-Client Communication

Ex. 5 AC/DP

Desean Garnett
U.S. EPA Region 9
Attorney-Advisor
(415) 972-3046

From: Dorka, Lilian
Sent: Friday, May 24, 2019 5:49 PM
To: Garnett, Desean <Garnett.Desean@epa.gov>
Subject: Fwd: EPA/HDOA Resolution Agreement

FYI sorry Desaen- meant to copy you as well.

Sent from my iPhone

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
US EPA
202-564-9649 - Office
202-695-9888 - Cell

Begin forwarded message:

> **From:** "Dorka, Lilian" <Dorka.Lilian@epa.gov>
> **Date:** May 23, 2019 at 6:46:08 PM EDT
> **To:** "Rhines, Dale" <rhines.dale@epa.gov>, "Temple, Kurt" <Temple.Kurt@epa.gov>, "Covington, Jeryl" <Covington.Jeryl@epa.gov>, "Wilson, Adam" <wilson.adam@epa.gov>
> **Subject: FW: EPA/HDOA Resolution Agreement**
>
> FYI
>
> Lilian Sotolongo Dorka, Director
> External Civil Rights Compliance Office
> Office of General Counsel

U.S. Environmental Protection Agency
202-564-9649 - Office
202-695-9888 - Cell

From: Dorka, Lilian
Sent: Thursday, May 23, 2019 6:46 PM
To: 'Yee, Bryan C' <bryan.c.yee@hawaii.gov>
Subject: RE: EPA/HDOA Resolution Agreement

Hello Bryan – here is the revised agreement as I stated earlier (clean and redlined). I am authorized to finalize and sign this agreement with these edits. Please let me know if you have any questions and whether you would like to discuss. I am off tomorrow, Friday but can certainly give you a call from home. Thanks in advance for your assistance on this!

Lilian

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
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From: Dorka, Lilian
Sent: Thursday, May 23, 2019 9:11 AM
To: 'Yee, Bryan C' <bryan.c.yee@hawaii.gov>
Subject: RE: EPA/HDOA Resolution Agreement
Importance: High

Hello Bryan, hope you're doing well. I wanted to let you know that I have not sent you a final of the Agreement because my principal has a couple more edits he would like for us to make. The edits are primarily to the General Section (Section IV) and a general statement at the beginning of Section III, to make clear that EPA does not intend to monitor HDOA's compliance with your own state legislation or with FIFRA moving forward, as you have already committed to carrying out those obligations, and to make clear the steps we do intend to monitor. I am working on this now and hope to have a revised draft for you to review today.

Thanks and so sorry for the additional revisions. Lilian

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
U.S. Environmental Protection Agency
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From: Dorka, Lilian
Sent: Tuesday, May 21, 2019 9:49 AM
To: Yee, Bryan C <bryan.c.yee@hawaii.gov>
Subject: RE: EPA/HDOA Resolution Agreement

Hi Bryan – the attached should reflect all the changes. Can you confirm please? I am waiting to hear back from my principal this morning to confirm the new E4 paragraph is good but I expect it will be. After that I hope to send the doc t you in final and signed by me by tomorrow. Thanks again for your help! Lilian

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
U.S. Environmental Protection Agency
202-564-9649 - Office
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From: Yee, Bryan C <bryan.c.yee@hawaii.gov>
Sent: Friday, May 17, 2019 8:23 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Subject: RE: EPA/HDOA Resolution Agreement

Lilian,

Ex. 5 Deliberative Process (DP)

Thanks,

Bryan.

From: Dorka, Lilian <Dorka.Lilian@epa.gov>
Sent: Friday, May 17, 2019 6:24 AM
To: Yee, Bryan C <bryan.c.yee@hawaii.gov>
Subject: RE: EPA/HDOA Resolution Agreement
Importance: High

Hello Bryan, I am trying to stick as close to the language bellow that you sent me yesterday while trying to fix the language of the last two sentences a bit. How about the following:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Also, I have one other issue to discuss with you – a request regarding E4. May I call you at 9:30 your time (3:30 mine)?

Thanks! Lilian

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
U.S. Environmental Protection Agency
202-564-9649 - Office
202-695-9888 - Cell

From: Dorka, Lilian
Sent: Thursday, May 16, 2019 9:45 PM
To: Yee, Bryan C <bryan.c.yee@hawaii.gov>
Cc: Waihee-Polk, Jennifer D <jennifer.d.waihee-polk@hawaii.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Wilson, Adam <wilson.adam@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Shimabukuro-Geiser, Phyllis <Phyllis.Shimabukuro-Geiser@hawaii.gov>; McHugh, John <john.mchugh@hawaii.gov>; Rhodes, Julia <Rhodes.Julia@epa.gov>
Subject: Re: EPA/HDOA Resolution Agreement

Thanks Bryan. The reason I changed the next to last sentence is that it didn't quite fit to just change completed to initiated. So as you have it now it says that any resulting report will be initiated within one year but that did not quite make sense to me. That is, there can't be a resulting report until you initiate the study/ review itself? That sentence used to say that any resulting report would be posted on your website. I thought the understanding we came to is that you would initiate the study ie the request for the review/analysis by this or other group within a year and since we had to define when the clock starts it would be within a year of the agreement? Can you please take another look at the wording of that next to last sentence and whether there is a way to clarify? I will take another look as well. I am not wed to the language I used as long as it's clear what's being initiated when. Thanks so much!

Sent from my iPhone

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
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On May 16, 2019, at 8:07 PM, Yee, Bryan C <bryan.c.yee@hawaii.gov> wrote:

Hi Lilian,

Thank you very much for sending this to us so quickly. I noticed, however, that the wording you just gave us differs from the wording we agreed to on the phone. We agreed to the original wording, plus two specific changes:

Ex. 5 Deliberative Process (DP)

Thanks again,

Bryan.

From: Dorka, Lilian <Dorka.Lilian@epa.gov>
Sent: Thursday, May 16, 2019 12:26 PM
To: Yee, Bryan C <bryan.c.yee@hawaii.gov>
Cc: Waihee-Polk, Jennifer D <jennifer.d.waihee-polk@hawaii.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Wilson, Adam <wilson.adam@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Shimabukuro-Geiser, Phyllis <Phyllis.Shimabukuro-

Geiser@hawaii.gov>; McHugh, John <john.mchugh@hawaii.gov>; Rhodes, Julia <Rhodes.Julia@epa.gov>
Subject: RE: EPA/HDOA Resolution Agreement

Hello Phyllis and Bryan,

Thank you again for the conversation today and your efforts to work with us on this draft Informal Resolution Agreement. Attached, please find a redlined version reflecting all of the agreed upon edits per our call today. Also, I have provided a clean version for ease of reading. Please let me know if this version comports with your understanding of the edits. Thanks again!

Lilian

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
U.S. Environmental Protection Agency
202-564-9649 - Office
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From: Dorka, Lilian
Sent: Wednesday, May 15, 2019 1:10 PM
To: 'Yee, Bryan C' <bryan.c.yee@hawaii.gov>
Cc: Waihee-Polk, Jennifer D <jennifer.d.waihee-polk@hawaii.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Wilson, Adam <wilson.adam@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Shimabukuro-Geiser, Phyllis <Phyllis.Shimabukuro-Geiser@hawaii.gov>; McHugh, John <john.mchugh@hawaii.gov>; Rhodes, Julia <Rhodes.Julia@epa.gov>
Subject: RE: EPA/HDOA Resolution Agreement

Thanks again Bryan. We have sent you a meeting invite for Thursday 5/16 at 11:15 HST (5:15 EST). We look forward to speaking with you and Chairperson Shimabukuro-Geiser. Lilian

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
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202-564-9649 - Office
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From: Yee, Bryan C <bryan.c.yee@hawaii.gov>
Sent: Wednesday, May 15, 2019 1:20 AM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Waihee-Polk, Jennifer D <jennifer.d.waihee-polk@hawaii.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Wilson, Adam <wilson.adam@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Shimabukuro-Geiser, Phyllis <Phyllis.Shimabukuro-

Geiser@hawaii.gov>; McHugh, John <john.mchugh@hawaii.gov>
Subject: RE: EPA/HDOA Resolution Agreement

Thank you very much. Attached are our edits to paragraphs D.6 and D.7. It should reflect just the changes to your latest proposal. HDOA has approved these changes.

Unfortunately, HDOA is not available at 10:00 a.m. HST on Thursday. HDOA is available to discuss on either Thursday at 11:15 a.m. HST (5:15 p.m. your time) or on Friday at 10:00 a.m. HST (4:00 p.m. your time). The HDOA Chair will be present.

From: Dorka, Lilian <Dorka.Lilian@epa.gov>
Sent: Tuesday, May 14, 2019 12:15 PM
To: Yee, Bryan C <bryan.c.yee@hawaii.gov>
Cc: Waihee-Polk, Jennifer D <jennifer.d.waihee-polk@hawaii.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Wilson, Adam <wilson.adam@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>
Subject: RE: EPA/HDOA Resolution Agreement

Hi Bryan,

Great speaking with you on Monday. As agreed, here are some proposed edits per our conversation for you to consider. Would you be available to discuss on Thursday, 5/16 at 10:00 your time (4:00 your time?) Thanks!

Lilian

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
U.S. Environmental Protection Agency
202-564-9649 - Office
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From: Dorka, Lilian
Sent: Monday, May 13, 2019 6:34 AM
To: Yee, Bryan C <bryan.c.yee@hawaii.gov>
Cc: Waihee-Polk, Jennifer D <jennifer.d.waihee-polk@hawaii.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Wilson, Adam <wilson.adam@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>
Subject: Re: EPA/HDOA Resolution Agreement

Thanks Bryan. We are taking a look so we can discuss at 4:00 my time today (10 yours). Lilian

Sent from my iPhone

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
US EPA

202-564-9649 - Office
Ex. 6 Personal Privacy (PP) - Cell

On May 12, 2019, at 7:13 PM, Yee, Bryan C <bryan.c.yee@hawaii.gov> wrote:

Thank you for all your work and patience on this matter. We met with the new chair for the Hawaii Department of Agriculture (HDOA) and believe we are very close to full agreement. We are asking that the following changes be made to the Informal Resolution Agreement:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

in a

Ex. 5 Deliberative Process (DP)

A copy of the document with HDOA's requested handwritten revisions is attached. I will talk with you on Monday.

From: Dorka, Lilian <Dorka.Lilian@epa.gov>
Sent: Friday, May 10, 2019 3:13 AM
To: Yee, Bryan C <bryan.c.yee@hawaii.gov>
Cc: Waihee-Polk, Jennifer D <jennifer.d.waihee-polk@hawaii.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Wilson, Adam <wilson.adam@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>
Subject: Re: EPA/HDOA Resolution Agreement

Thank you Bryan. Perhaps we can have an initial conversation on Monday and then schedule one with the Director later in the week. I look forward to receiving your markup of the agreement so that we can discuss specifics on Monday. Thanks, Lilian

Sent from my iPhone

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
US EPA
202-564-9649 - Office
202-695-9888 - Cell

On May 9, 2019, at 9:54 PM, Yee, Bryan C <bryan.c.yee@hawaii.gov> wrote:

> DOA has some concerns with the informal resolution agreement, and I hope to send the suggested changes with a brief explanation to you this week. I can talk with you on Monday at 10:00 a.m. (HST) which is 4:00 p.m. your time to talk about those changes. I think it would be helpful to have the DOA chair on the line, but don't think she is available on Monday.

From: Dorka, Lilian <Dorka.Lilian@epa.gov>
Sent: Thursday, May 9, 2019 3:47 PM
To: Prescott-Tate, Delanie D <delanie.d.prescott-tate@hawaii.gov>
Cc: Covington, Jeryl <Covington.Jeryl@epa.gov>; Shimabukuro-Geiser, Phyllis <Phyllis.Shimabukuro-Geiser@hawaii.gov>; Nakamura, Gayle M <Gayle.M.Nakamura@hawaii.gov>; McHugh, John <john.mchugh@hawaii.gov>; Yee, Bryan C <bryan.c.yee@hawaii.gov>; Waihee-Polk, Jennifer D <jennifer.d.waihee-polk@hawaii.gov>; Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Wilson, Adam <wilson.adam@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>
Subject: Re: EPA/HDOA Resolution Agreement

Thanks Delanie. Hello Bryan, I would appreciate a conversation with you as soon as possible. On behalf of EPA, I need to understand better this situation and the status of this resolution so that I can brief my principles.

I will be back in the office on Monday. Would you be available then? I can be available after 3:00 pm EST (9:00 your time). Please feel free to include whom ever at HDOA you think would be appropriate. Thanks very much. Lilian

Sent from my iPhone

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
US EPA
202-564-9649 - Office
Ex. 6 Personal Privacy (PP)

On May 9, 2019, at 8:17 PM, Prescott-Tate, Delanie D <delanie.d.prescott-tate@hawaii.gov> wrote:

<image001.gif>
Good afternoon all,

As you may recall a final version of the Earthjustice EPA/HDOA

resolution agreement was circulated for review on April 16, 2019. This agreement was the result of negotiations between HDOA and EPA that has taken place over the last several years. The draft resolution agreements leading up to this final version were provided to HDOA and each commitment received approval from the prior administration. I have attempted to facilitate the closing of negotiations with EPA through this final resolution agreement.

HDOA has not responded to my inquiries regarding the status of this negotiated agreement. Accordingly, I have turned this matter over to Supervising Deputy Attorney General Bryan Yee available at (808) 586-1501 [byran.c.yee@hawaii.gov], and Deputy Attorney General Jennifer Waihee-Polk available at (808) 586-1192 [Jennifer.d.waihee-polk@hawaii.gov].

The email from EPA attempting to schedule a conference call with HDOA will be forwarded to HDOA for further action.

Thank you for your cooperation!!!

Delanie

Deputy Attorney General Delanie D. Prescott-Tate
Department of the Attorney General
Criminal Justice Division
Tobacco Enforcement Unit
425 Queen Street
Honolulu, HI 96813
PH: (808) 586-1203
FAX: (808) 586-0932

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<EPA Informal Resolution Agreement. rev.pdf>