From: David Albright
To: Alexis Strauss
Cc: Nancy Woo
Subject: Lahaina (Paul A)
Date: 10/06/2010 08:01 AM

Alexis,

An update on pertinent Lahaina matters in advance of your discussion with Paul today, much of which can be shared informally (I'll print and leave in your box also).

401 cert - We directed County to apply and they did so in May 2010. Application is fairly deficient, but DOH has not made any formal response to the County. DOH cannot certify based on the data available in the application, and is not prepared to approve a conditional certification (EPA's preference) per Lau and opinion from their AG's Office. DOH wants to find the application administratively incomplete and request additional data from the County. Such data collection could take at least 6-9 months to yield results (potentially delaying our issuance of the UIC permit), so we are trying to identify the best path for DOH to obtain the data needed for consideration of 401 water quality certification while allowing EPA to proceed immediately with final UIC permit issuance.

308 request - required 3 elements: tracer study, seep sampling, enhanced injection monitoring. County has not made progress, but EPA is facilitating completion of a tracer study with Army COE and DOH funds. Expect that work to start around beginning of 2011. With the tracer study obligation removed, we are pressing the County to proceed with the other 308 elements and will enforce implementation if County does not proceed.

UIC permit - to finalize the permit we need to determine any final changes to the terms based on comments received and complete our response to comments. This effort has been started but there is still a good amount of work to complete the effort, given the hundreds of comments submitted on our two proposals. We are looking at a shorter term and possibly a re-opener to add 401 conditions, assuming DOH will eventually issue a cert with conditions. We are tentatively targeting December permit issuance. We anticipate an appeal to the permit on a number of issues.

Disinfection order - We have drafted an administrative order directing County to UV disinfect all of their wastewater at Lahaina. Still working through some issues with ORC. Expecting to engage with the County in the next month (Mayoral election could impact County response; Tavares v. former Mayor Arakawa). County notified us of a tentative agreement they have with a developer to install a second UV bed, so the impact of our Order would be to require installation of a third UV bed.

Let me know if you have any questions.

David