Message

From: Rhines, Dale [rhines.dale@epa.gov]
Sent: 5/7/2019 7:01:07 PM
To: Garnett, Desean [Garnett.Desean@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Wilson, Adam [wilson.adam@epa.gov]
Subject: RE: Question - Congressman Ed Case - Letter to EPA Regarding EPA's Jurisdiction Over Hawaii's Agribusiness Development Corporation - #AL-19-000-4680

The letter is down below. He requests an answer to three questions in the letter.

From: Garnett, Desean
Sent: Wednesday, April 24, 2019 10:07 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
Cc: Wilson, Adam <wilson.adam@epa.gov>
Subject: FW: Question - Congressman Ed Case - Letter to EPA Regarding EPA's Jurisdiction Over Hawaii's Agribusiness Development Corporation - #AL-19-000-4680

Lillian and Dale,

In case you haven't received this already, I am forwarding a Congressional inquiry concerning the Title VI administrative complaint against ADC. I'm available in the next couple of weeks to coordinate a response if needed.

Desean

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

From: Miller, Amy
Sent: Wednesday, April 24, 2019 2:23 PM
To: Ebbert, Laura <Ebbert.Laura@epa.gov>
Cc: Torres, Tomas <Torres.Tomas@epa.gov>; Maier, Brent <Maier.Brent@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Glenn, William <Glenn.William@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>
Subject: Re: Question - Congressman Ed Case - Letter to EPA Regarding EPA's Jurisdiction Over Hawaii's Agribusiness Development Corporation - #AL-19-000-4680

All- this should go to HQ as this involves title vi. Desean can help.

Amy C. Miller
Acting Director, Enforcement Division
U.S. Environmental Protection Agency, Region 9

On Apr 24, 2019, at 2:10 PM, Ebbert, Laura <Ebbert.Laura@epa.gov> wrote:

> I believe the ADC issue on Kauai concerns Water Division, relating to permitting of a lift station ultimately. Looping Tomas in case it's helpful.
>
> LE
>
> Laura Ebbert

Office of the Regional Administrator
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105
(415) 947-3561

From: Maier, Brent
Sent: Wednesday, April 24, 2019 1:20 PM
To: Miller, Amy <Miller.Amy@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>
Cc: Glenn, William <Glenn.William@epa.gov>; Ebbert, Laura <Ebbert.Laura@epa.gov>
Subject: Question - Congressman Ed Case - Letter to EPA Regarding EPA's Jurisdiction Over Hawaii's Agribusiness Development Corporation - #AL-19-000-4680
Importance: High

Amy/Sylvia –

The letter attached and included below was controlled to Region 9 earlier today for development of a response. Sending to each of you as it mentions "agriculture" and also "jurisdictional rulings". Was not sure who would be in the best position to draft a response back to the Congressman. When you get a chance to review, can you let me know who I should control this new incoming letter to in Region 9. Our response would go out under RA Mike Stoker's signature since the letter was controlled to Region 9.

Brent Maier
Congressional Liaison
U.S. Environmental Protection Agency, Region IX
75 Hawthorne St. (OPA-3)
San Francisco, CA 94105
Ph: 415.947.4256

From: Rep. Ed Case <ed.case@mail.house.gov>
Sent: Tuesday, April 23, 2019 6:27 PM
To: OCIRmail <OCIRmail@epa.gov>
Subject: Congressman Ed Case's Response to Your Letter

ED CASE
1ST DISTRICT, HAWAI'I

2443 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
TELEPHONE: 202-225-2726
FAX: 202-225-0688

1132 BISHOP STREET, SUITE 1910
HONOLULU, HI 96813
TELEPHONE: 808-650-6688
FAX: 808-533-0133

WEBSITE: CASE.HOUSE.GOV

Congress of the United States
House of Representatives
Washington, DC 20515

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NATIONAL PARKS, FORESTS AND PUBLIC LANDS

WATER, OCEANS AND WILDLIFE

INDIGENOUS PEOPLES OF THE UNITED STATES

April 23, 2019

Mr. Troy Lyons
Associate Administrator for Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Ave N Rm 3426
Washington, DC 20460-0001

Dear Mr. Lyons:

I am writing for clarification of the Environmental Protection Agency's (EPA) jurisdiction over the State of Hawaii's Agribusiness Development Corporation (ADC).

The State of Hawai'i created the ADC in 1994 to help transition Hawaii's agriculture industry away from one dominated by sugar and pineapple to one based on a wide variety of crops. The ADC is a state agency overseen by an independent eleven member board of directors. Though it is administratively attached to the State of Hawai'i Department of Agriculture (HDOA), HDOA does not administer or fund the ADC. The ADC receives its own funding directly from the state, and it does not receive any federal funding.

The ADC recently received contradictory rulings regarding its status as an agency for purposes of laws and regulations administered by the EPA.

· The EPA believes it has jurisdiction over the ADC because of the ADC's administrative connection to the HDOA. In this event, the EPA maintains that the ADC needs a Title VI program.
· The HDOA does not believe the administrative connection makes the ADC part of the HDOA. The HDOA believes the ADC's independent oversight board makes it a separate entity that cannot access the HDOA's Title VI program funds.

These different rulings have left the ADC in limbo especially as to Title VI. To help resolve these contradictory rulings, can your agency please provide a written response to the following questions:

· Can the EPA have jurisdiction over the ADC if the organization does not receive any federal funds?
· Did the EPA consider the ADC's independent eleven member board of directors when maintaining its jurisdiction over the ADC?
· If the ADC is under the EPA's jurisdiction because of its administrative connection to the HDOA, should the ADC then have access to the HDOA's Title VI program funds?

Thank you in advance for your assistance in clarifying the EPA's jurisdiction over the ADC. Should you need any additional information about this matter, please contact Mitch Heidenreich at (202) 225-2726 or Mitch.Heidenreich@mail.house.gov.

With aloha,

Ed Case

Congressman Ed Case
(Hawai'i-First District)

EC/MH

<Rep. Ed Case - Incoming Letter Regarding EPA's Jurisdiction Over Hawaii's Agribusiness Development Corporation - AL-19-000-4680.pdf>

<Control Information for AL-19-000-4680.pdf>