From: David Albright
To: Brett Moffatt
Cc: DavidW Smith; Elizabeth Sablad; Nancy Rumrill
Subject: RE: WQC 0000787 - Lahaina WWRF Deputy AG Legal Advice
Date: 09/22/2010 03:37 PM

Brett,

Deliberative [redacted] David

Brett Moffatt---09/22/2010 03:14:35 PM-- Deliberative [redacted]

From: Brett Moffatt/R9/USEPA/US
To: David Albright/R9/USEPA/US@EPA
Cc: DavidW Smith/R9/USEPA/US@EPA, Elizabeth Sablad/R9/USEPA/US@EPA, Nancy Rumrill/R9/USEPA/US@EPA
Date: 09/22/2010 03:14 PM
Subject: RE: WQC 0000787 - Lahaina WWRF Deputy AG Legal Advice

---

Deliberative [redacted]

Brett

Brett Moffatt
U.S. Environmental Protection Agency (ORC-2)
75 Hawthorne Street, San Francisco, CA 94105
phone: (415) 972-3946
fax: (415) 947-3570

▼ David Albright---09/22/2010 12:51:43 PM---Deliberative [redacted] Ted Bohlen is out of the office until Oct 1st, so I will try

From: David Albright/R9/USEPA/US
To: Elizabeth Sablad/R9/USEPA/US@EPA
Cc: Brett Moffatt/R9/USEPA/US@EPA, DavidW Smith/R9/USEPA/US@EPA, Nancy Rumrill/R9/USEPA/US@EPA
Date: 09/22/2010 12:51 PM
Subject: RE: WQC 0000787 - Lahaina WWRF Deputy AG Legal Advice

---

Deliberative [redacted] Ted Bohlen is out of the office until Oct 1st, so I will try to get something set up for the week of Oct 4th.

▼ Elizabeth Sablad---09/21/2010 04:16:45 PM---Deliberative [redacted] Elizabeth Sablad US EP

From: Elizabeth Sablad/R9/USEPA/US
To: David Albright/R9/USEPA/US@EPA, Brett Moffatt/R9/USEPA/US@EPA, DavidW Smith/R9/USEPA/US@EPA, Nancy Rumrill/R9/USEPA/US@EPA
Date: 09/21/2010 04:16 PM
Subject: RE: WQC 0000787 - Lahaina WWRF Deputy AG Legal Advice

---

Deliberative [redacted]

Elizabeth Sablad
US EPA, Region IX (WTR-5)
75 Hawthorne St
San Francisco, CA 94105
Office (415) 972-3044
sablad.elizabeth@epa.gov

▼ "Seto, Joanna L" ---09/21/2010 04:03:02 PM---Hi Dave - Thanks for your message. The attached Draft letter to the County of Maui (787_4-D-js.doc)

From: "Seto, Joanna L" <joanna.seto@doh.hawaii.gov>
To: David Albright/R9/USEPA/US@EPA
Cc: "Wong, Alec Y" <alec.wong@doh.hawaii.gov>, DavidW Smith/R9/USEPA/US@EPA, "Chen, Edward" <edward.chen@doh.hawaii.gov>, <Edward.G.Bohlen@hawaii.gov>, Nancy Rumrill/R9/USEPA/US@EPA, Brett Moffatt/R9/USEPA/US@EPA, Elizabeth Sablad/R9/USEPA/US@EPA
Date: 09/21/2010 04:03 PM
Subject: RE: WQC 0000787 - Lahaina WWRF Deputy AG Legal Advice

---

Hi Dave – Thanks for your message. The attached Draft letter to the County of Maui (787_4-D-js.doc) lists the information that the CWB requires for the processing of the Section 401 WQC application. Thanks ~Joanna

Joanna L. Seto
Engineering Section Supervisor
Clean Water Branch
State of Hawaii Department of Health
Phone: (808) 586 - 4309
Fax: (808) 586-4352

Notice: This information and attachments are intended only for the use of the individual(s) or entity to which it is addressed, and may contain information that is privileged and/or confidential If the reader of this message is not the intended recipient, any dissemination, distribution, or copying of this communication is strictly prohibited and may be punishable under state and federal law If you have received this communication and/or attachments in error, please notify the sender via e-mail immediately and destroy all electronic and paper copies

From: Albright.David@epamail.epa.gov [mailto:Albright.David@epamail.epa.gov]
Sent: Tuesday, September 21, 2010 10:42 AM
To: Seto, Joanna L
Cc: Wong, Alec Y; Smith.DavidW@epamail.epa.gov; Chen, Edward; Edward.G.Bohlen@hawaii.gov; Rumrill.Nancy@epamail.epa.gov; Moffatt.Brett@epamail.epa.gov; Sablad.Elizabeth@epamail.epa.gov
Subject: Re: WQC 0000787 - Lahaina WWRF Deputy AG Legal Advice

Hi Joanna,

I think we would like an opportunity to talk about this with the CWB and AG's Office so that we fully understand the situation. As an initial matter, could you clarify specifically what "the required/requested data" is that you reference below? Thanks.

****

David Albright
Manager, Ground Water Office

USEPA, Region IX
75 Hawthorne Street
Mail Code: WTR-9
San Francisco, CA 94105

Phone: 415.972.3971
Fax: 415.947.3549
Email: albright.david@epa.gov

****

From: "Seto, Joanna L" <joanna.seto@doh.hawaii.gov>

To: David A bright/R9/USEPA/US@EPA

Cc: "Wong, Alec Y" <alec.wong@doh.hawaii.gov>, "Chen, Edward" <edward.chen@doh.hawaii.gov>, <Edward.G.Bohlen@hawaii.gov>, DavidW Smith/R9/USEPA/US@EPA

Date: 09/21/2010 12:28 PM

Subject: WQC 0000787 - Lahaina WWRF Deputy AG Legal Advice

Hi Dave A.,

As requested, the CWB contacted our Deputy AG for his legal advice regarding the issuance of the Section 401 WQC based on the application, dated May 7, 2010 (received on June 14, 2010). As part of the issuance of the Section 401 WQC, the Director would need to make the following statement:

"When all requirements and conditions contained in this Section 401 WQC are fully complied with, there is reasonable assurance that the discharges resulting from the proposed construction activities will be conducted in a manner which will not violate the applicable water quality standards (WQS) and will comply with the applicable provisions of CWA, Sections 301, 302, 303, 306, and 307."

His legal advice is that the CWB not make the statement of reasonable assurance until we receive and analyze the required/requested data.

Please let me know if you have any concerns with our decision to request the required additional information from the County prior to issuing the 401 WQC.

Thanks,
Joanna

Joanna L. Seto
Engineering Section Supervisor
Clean Water Branch
State of Hawaii Department of Health
Phone: (808) 586 - 4309
Fax: (808) 586-4352

Notice: This information and attachments are intended only for the use of the individual(s) or entity to which it is addressed, and may contain information that is privileged and/or confidential. If the reader of this message is not the intended recipient, any dissemination, distribution, or copying of this communication is strictly prohibited and may be punishable under state and federal law. If you have received this communication and/or attachments in error, please notify the sender via e-mail immediately and destroy all electronic and paper copies.

[attachment "787 4-D-js.doc" deleted by Elizabeth Sablad/R9/USEPA/US]