From: David Albright
To: Nancy Woo
Subject: Re: Lahaina
Date: 10/28/2009 10:13 AM

DOH can require monitoring, not sure about additional treatment. Deliberative [redacted] Paul is saying that the federal permitting activity requires the County to seek certification (because the activity may result in some discharge), but he is not pre-supposing what the outcome should or will be.

▼ Nancy Woo---10/28/2009 09:56:52 AM---David, Thanks for your email. Can DOH require others levels of treatment and/or additional monitori

From: Nancy Woo/R9/USEPA/US
To: David Albright/R9/USEPA/US@EPA
Date: 10/28/2009 09:56 AM
Subject: Re: Lahaina

David,

Thanks for your email. Can DOH require others levels of treatment and/or additional monitoring as part of the 401 cert? My experience on 401 certs mainly with Corps issued 404 permits, CA can require additional monitoring, reporting and other requirements, will DOH do the same? Is Paul A saying that HDOH must issue a 401 cert or that we have to offer them the opportunity?

nw

▼ David Albright---10/28/2009 09:49:02 AM---[FOIA EXEMPT: INTERNAL AGENCY DELIBERATIVE MATERIAL] Hi Nancy,

From: David Albright/R9/USEPA/US
To: Nancy Woo/R9/USEPA/US@EPA
Date: 10/28/2009 09:49 AM
Subject: Lahaina

[FOIA EXEMPT: INTERNAL AGENCY DELIBERATIVE MATERIAL]

Hi Nancy,

I know you are out of the office this week, but in the event you are keeping up with email, I wanted to give you some information to think about regarding the Lahaina facility.

Paul Achitoff, Earthjustice in Honolulu, contacted Alexis with some questions about the facility, specifically relating to potential use of CWA authorities and compliance with CZMA. His most interesting line of inquiry dealt with 401 certification. Paul pointed out that 401 certification is required for any federal permitting activity "that **may** result in **any discharge** to navigable waters." This is a lower standard than exists under section 402 for NPDES applicability. I have ORC researching this issue, Deliberative [redacted]

Wendy scheduled a briefing for key DOH folks yesterday (Tom A could not make it, but there was representation from all 3 water branches) on the latest scientific evidence pointing to effluent "release" in the near coastal waters and potential impacts from that "release" (I won't call it discharge at this point). Chip Hunt with USGS, Celia Smith with UH, and Russell Sparks with DLNR. Deliberative [redacted] She also noted that she got feedback after the meeting from Alec Wong (in charge of NPDES permitting) and Ed Chen (responsible for 401 certification review/approval). Alec stated that NPDES permitting is not the answer, but that decentralized systems and reuse is the solution. Ed shared his view that the reefs are in decline because of climate change, not because of the wastewater (he apparently heard this on an EPA webinar).

Deliberative [redacted]

Let's talk when you are back next week.

David