From: David Albright
To: Seto, Joanna L
Cc: Wong, Alec Y; DavidW Smith; Chen, Edward; Edward.G.Bohlen@hawaii.gov; Nancy Rumrill; Brett Moffatt; Elizabeth Sablad
Subject: Re: WQC 0000787 - Lahaina WWRF Deputy AG Legal Advice
Date: 09/21/2010 01:41 PM

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.

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▼ "Seto, Joanna L" ---09/21/2010 12:28:04 PM---Hi Dave A.,

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>, "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

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