

GET Committee

From: Mike J. Molina
Sent: Thursday, September 05, 2019 12:41 PM
To: GET Committee
Cc: Shelly K. Espeleta; Pauline Martins; Gary Saldana; Stacy N. Takahashi
Subject: FW: Questions for Maui County Injection well decision

Please transmit attached response from Dr. Anderson, DOH to GET – 26.
Mike

From: Anderson, Bruce S., PhD <Bruce.S.Anderson@doh.hawaii.gov>
Sent: Thursday, September 05, 2019 10:56 AM
To: Mike J. Molina <Mike.Molina@mauicounty.us>
Cc: Gary Saldana <g.saldana@mauicounty.us>
Subject: RE: Questions for Maui County Injection well decision

Hi Mike,

The AG's office has strongly recommended that I not respond to your specific questions, particularly those that would require me to speculate on the impact of the 9th Circuit Court ruling, what the Supreme Court may decide and implications for regulatory programs in Hawaii, which is reasonable.

The only question that I am very comfortable speaking to is Question 4. We certainly can issue a more restrictive UIC permit for the Lahaina Reclamation Facility. My understanding that the UIC permit for this facility has simply been extended while these court battles go on.

I am planning to take a call from some of the Council members on Friday. Again, I will not be able to speculate on the impact of the court decisions but I may be able to add clarity on what the DOH can do under existing authorities.

Aloha,

Bruce

Bruce S. Anderson, Ph.D.
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From: Mike J. Molina <Mike.Molina@mauicounty.us>
Sent: Monday, September 2, 2019 10:46 AM
To: Anderson, Bruce S., PhD <Bruce.S.Anderson@doh.hawaii.gov>
Cc: Gary Saldana <g.saldana@mauicounty.us>
Subject: Questions for Maui County Injection well decision

Dr. Anderson,

Thank you for your time to discuss this matter with me and GET Committee staff. We look forward to hearing from you on Friday, September 6, 2019.

I have a few questions I was hoping you can review and try to provide some clarity. Please see below:

1. DOH: EPA states that "expansion to the CWA could require NPDES permits for commonplace activities such as releases from backyard septic systems that find their way to surface waters through ground water."
 - a. If DOH has stated they have no plans to enforce NPDES permits for septic systems and cesspools, how would you address this apparent conflict as noted by the EPA?
 - b. Do you currently require any permit for residential cesspools or septic systems?
 - c. Regardless of the decision today will you require permits for residential cesspools or septic systems?
2. DOH: In the EPA's email they note if the 9th Circuit decision stands "all releases of pollutants from a point source to groundwater that reach the surface water could be subject to NPDES permits."
 - a. Do you find this statement contrary to your statement that you will not regulate injection wells via NPDES permit?
3. DOH: You note that you will not regulate injection wells via NPDES permit, but help me understand that if the 9th District Circuit Court stands, can't the EPA force you to regulate injection wells via NPDES permits?
4. DOH: If you have no intention of regulating injection wells via NPDES permit can you issue an updated or more restrictive UIC permit that will copy requirements of an NPDES permit?
5. DOH: The letter of June 18, 2019 from the DOH Deputy Director for Environmental Health states: "DOH has no plans to enforce NPDES permits requirements against existing septic systems and cesspools."
 - a. Can this position change if the governor and who is head of DOH?
6. If the 9th Circuit Court decision stands or if the Council chooses to settle the case experts have said that septic tanks, cesspools, storm water storage reservoirs, rain gardens, unlined canals, UIC wells and water bank wells may contribute to ground water containment.
 - a. Will NPDES permits be required for these uses?

Thank you for your consideration of my request.

Mike