

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
EMD/CWB

12063PDCL.10

December 22, 2010



Mr. Allen G. Kam, Esq., AICP
Department of Business, Economic Development and Tourism
Renewable Energy Branch, State Energy Office
P.O. Box 2359
Honolulu, Hawaii 96804

Dear Mr. Kam:

SUBJECT: Comments on Environmental Assessment/Environmental Impact Statement Preparation Notice (EA/EISPN) for the Hawaii Interisland Renewable Energy Program: Wind Programmatic Environmental Impact Statement Islands of Maui, Lanai, Molokai, and Oahu, Hawaii

The Department of Health (DOH), Clean Water Branch (CWB), acknowledges receipt of your letter, dated December 9, 2010, requesting comments on the EA/EISPN for the subject program. We have reviewed your letter and offer these comments on your oversight program for the development and transmission of wind energy. Please note that our review is based solely on the information provided in your letter and its compliance with Hawaii Administrative Rules (HAR), Chapters 11-54 and 11-55. You may be responsible for fulfilling additional requirements related to our program. We recommend that you also read our standard comments on our website at <http://www.hawaii.gov/health/environmental/env-planning/landuse/CWB-standardcomment.pdf>.

1. Any project and its potential impacts to State waters must meet the following criteria:
 - a. Antidegradation policy (HAR, Section 11-54-1.1), which requires that the existing uses and the level of water quality necessary to protect the existing uses of the receiving State water be maintained and protected.
 - b. Designated uses (HAR, Section 11-54-3), as determined by the classification of the receiving State waters.
 - c. Water quality criteria (HAR, Sections 11-54-4 through 11-54-8).
2. You may be required to obtain a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of wastewater, including storm water runoff, into State surface waters (HAR, Chapter 11-55). For the following types of discharges into Class A or Class 2 State waters, you may apply for NPDES general permit coverage by submitting a Notice of Intent (NOI) form:

- a. Storm water associated with construction activities, including clearing, grading, excavation, demolition, stockpiling, and staging that result in the disturbance of equal to or greater than one (1) acre of total land area. The total land area includes a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under a larger common plan of development or sale. An NPDES permit is required before the start of the construction activities.
- b. Storm water associated with industrial activities, as categorized in Title 40 of the Code of Federal Regulations (CFR), Sections 122.26(b)(14)(i) through 122.26(b)(14)(ix) and 122.26(b)(14)(xi).
- c. Hydrotesting waters.
- d. Construction activity dewatering effluent.
- e. Treated process wastewater associated with well drilling activities.

You must submit a separate NOI form for each type of discharge at least 30 calendar days prior to the start of the discharge activity, except when applying for coverage for discharges of storm water associated with construction activity. For this type of discharge, the NOI must be submitted 30 calendar days before to the start of construction activities. The NOI forms may be picked up at our office or downloaded from our website at <http://www.hawaii.gov/health/environmental/water/cleanwater/forms/genl-index.html>.

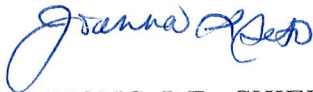
3. For types of wastewater not listed in Item 2 above or wastewater discharging into Class 1 or Class AA waters, you may need an NPDES individual permit. An application for an NPDES individual permit must be submitted at least 180 calendar days before the commencement of the discharge. The NPDES application forms may be picked up at our office or downloaded from our website at <http://www.hawaii.gov/health/environmental/water/cleanwater/forms/indiv-index.html>.
4. Pursuant to Federal Water Pollution Control Act [commonly known as the “Clean Water Act” (CWA)], Paragraph 401(a)(1), a Section 401 Water Quality Certification (WQC) is required for “[a]ny applicant for Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may **result** in any discharge into the navigable waters...” (emphasis added). The term “discharge” is defined in CWA, Subsections 502(16), 502(12), and 502(6); 40 CFR, Section 122.2; and Hawaii Administrative Rules (HAR), Chapter 11-54.
5. Please note that all discharges related to the project construction or operation activities, whether or not NPDES permit coverage and/or Section 401 WQC are required, must comply with the State’s Water Quality Standards. Noncompliance with water quality requirements contained in HAR, Chapter 11-54, and/or permitting requirements, specified in HAR, Chapter 11-55, may be subject to penalties of \$25,000 per day per violation.

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If you have any questions, please visit our website at
<http://www.hawaii.gov/health/environmental/water/cleanwater/index.html>, or contact the
Engineering Section, CWB, at (808) 586-4309.

Sincerely,



for ALEC WONG, P.E., CHIEF
Clean Water Branch

DCL:ml

c: DOH-EPO # I-3476 [via email only]
Ms. Michelle Mason, AECOM