

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

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In re:	)	
	)	
City & County of Honolulu	)	
Sand Island Wastewater Treatment Plant	)	<i>NPDES Appeal</i>
Honouliuli Wastewater Treatment Plant	)	<i>Nos. 09-01 &amp; 09-07</i>
	)	
NPDES Permit Nos. HI0020117 & HI0020877	)	

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**MOTION TO SUPPLEMENT RECORD ON APPEAL**

Petitioner City and County of Honolulu (CCH) hereby moves to supplement the record on appeal by adding the following items:

- A. A letter and attachments, dated February 16, 2010, from the Hawaii Department of Health to EPA, requesting approval of the January 25, 2010 amendment of Hawaii’s water quality standards to conform the fish consumption standard for chlordane and dieldrin with EPA National Recommended Water Quality Criteria; and
- B. A letter, dated March 19, 2010, from EPA to the Hawaii Department of Health, approving 2009 amendments of Hawaii’s water quality standards correcting a typographical error in the chlordane standard and revising the Enterococcus criteria for recreational waters; plus copies of the amended standards.

Item A should be admitted because it is a public document subject to judicial notice, because it was issued after the record in this case closed, and because it is relevant to a central issue in these consolidated appeals — the importance of Hawaii’s now-replaced water quality standards in light of the EPA

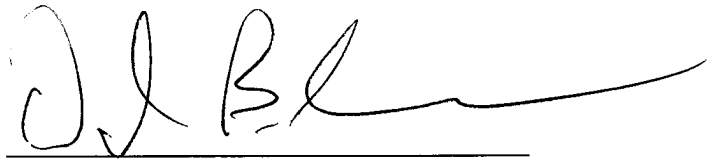
National Recommended Water Quality Criteria. Throughout these appeals, CCH has argued that water quality should be measured against the EPA National Recommended Water Quality Criteria when the state is actively working to conform its more stringent standards to the national criteria. *See* CCH Supp. Br. 42-47; CCH Reply Br. 44-51. Item A clearly articulates the basis for Hawaii's adoption of the national criteria as more appropriately protective of human health, and establishes that Hawaii has now done all it can do to update its standards to fit the national criteria.

Item B should be admitted because it is a public document subject to judicial notice, because it was issued after the record in this case closed, and because it updates the statement in CCH's Reply Brief that "On June 16, 2009, the Governor of Hawaii signed legislation that adopts State water quality standards for *Enterococcus* for all waters up to three miles from shore[.]" CCH Reply Br. 30.

CCH has already asked the Board to supplement the record with evidence of progress in Hawaii to change its water quality standards. *See, e.g.,* 07/15/2009 Motion To Supplement Record On Appeal (Item E). Items A and B, here, are essentially the same.

Petitioner has asked Region 9 to consent to this motion. Region 9 declined, but has no objection to the Board taking judicial notice of the items.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "D B Salmons", written over a horizontal line.

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