

# LIFE OF THE LAND

*Ua Mau Ke Ea o Ka `Aina i Ka Pono*  
*The Life of the Land is Perpetuated in Righteousness*  
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September 6, 2007

Ted Liu, Director  
Hawai`i Department of Business, Economic Development, and Tourism  
No. 1 Capitol District Building  
250 S. Hotel Street, 5th Floor  
Honolulu, HI 96813

re: Response to DBEDT letter dated August 29, 2007

Aloha Director Liu,

Thank you for your response.

We are not asserting that that a DBEDT discretionary decision on authorizing the Department of Budget and Finance (B&F) to authorize the issuance of Special Purpose Revenue Bonds (SPRBs) triggers the need for an Environmental Assessment (EA) or Environmental Impact Statement (EIS). It may, but that wasn't our point.

The law is clear: (1) an EA or EIS must be done since an oil refinery is being proposed; and (2) DBEDT must evaluate whether the HECO/NRDC proposal is sustainable.

It seems reasonable that the environmental review be done before the DBEDT ruling since: (a) the EA / EIS document must be prepared at the earliest reasonable time; and (b) DBEDT should use the document to answer the question before them.

It would be a mistake to seek the opinion of the Office of Environmental Quality Control (OEQC). Although, at one point in history, OEQC issued declaratory rulings, that power was stripped away by a ruling of the State Attorney General.

But more on point, the Hawaii Supreme Court noted in its Superferry ruling (No. 27407, dated August 31, 2007): "OEQC may have discretion in various areas of its expertise, it has no statutory role in reviewing exemption determinations to which this court must defer." (page 36)

Henry Curtis  
Executive Director