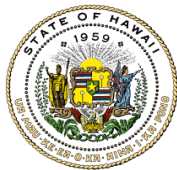


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STATE OF HAWAII
ENVIRONMENTAL COUNCIL
235 SOUTH BERETANIA STREET, SUITE 702
HONOLULU, HAWAII 96813

MARY STEINER
Chairperson

SCOTT GLENN
Vice-Chairperson

MARK AMBLER
MALIA AKUTAGAWA
DAVID ATKIN
PAUL CHANG
KOA KAULUKUKUI
SHANNON MEARS
CHARLES PRENTISS
JOHN RICHARDS
AZITA QUON
IRIS TERASHIMA
GLENN TEVES
MARJORIE ZIEGLER
GENEVIEVE SALMONSON, INTERIM DIRECTOR (EX-OFFICIO)

ENVIRONMENTAL COUNCIL MEETING MINUTES
State Office Tower Building, Room 1500
235 South Beretania Street, Honolulu, Hawaii 96813
May 16, 2013
2:00-4:00 P.M.

Members Present: Mary Steiner (Chair), Charles Prentiss, John Richards, David Atkin, Glen Teves, Mark Ambler, Azita Quon, Marjorie Ziegler, Scott Glenn, Shannon Mears, Genevieve Salmonson (OEQC Interim Director)
Members Absent: Malia Akutagawa, Iris Terashima, Paul Chang, Koa Kaulukukui
Counsel Present: Edward Bohlen, Department of the Attorney General
OEQC Staff Present: Herman Tuiolosega and Genevieve Hilliard
Environmental Center: Dave Penn and Sara Bolduc
Other Attendants: See attached sign-in sheet

1. Call to Order

Chair Mary Steiner called the meeting to order at 2:06 p.m. with a quorum of 11 members. She apologized for missing the March meeting and noted that the April meeting was cancelled.

2. Introductions/Attendance

All present introduced themselves, starting with the Chair.

3. Approval of Meeting Minutes

The Minutes of the March 21, 2013 Environmental Council meeting were distributed and The Chair asked for comments or motions to adopt the minutes.

Dave Penn of the Water Resources Research Center (WRRRC), University of Hawai'i at Mānoa, asked for a correction to amend the Environmental Center Report on page 4, item 7, to read; "Mr. David Penn reported that the University of Hawai'i has been engaged in a lot of activity on GMO;" instead of the environmental center.

Ms. Steiner approved the minutes as corrected by acclamation.

4. Chair's Report

Mary Steiner acknowledged and thanked the hard work of Councilmembers Azita Quan, Marjorie Ziegler, and Malia Akutagawa for completing the Annual Report. The university professors from the University of Hawai'i and Hawai'i Pacific University were also acknowledged as well as the Office of Environmental Quality Control (OEQC) and the Department of Health (DOH) staff. Hard copies of the Report were made available to Councilmembers.

The Chair welcomed and introduced the new Interim Director of the OEQC, Ms. Genevieve Salmonson, and thanked the OEQC Staff for their hard work and support to the Council.

The Chair described the strategic planning "Retreat" that the Council and OEQC conducted the past two years, around June. The Chair asked for discussion about the next retreat as funding is available and needs to be encumbered by June. The Council agreed to work towards a retreat in July and send all retreat suggestions to Ms. Steiner.

5. Meet the new OEQC Interim Director

Ms. Genevieve Salmonson provided a brief autobiography of herself and her work experience. She outlined the following objectives for OEQC:

- Increase publication and public outreach efforts of the Annual Report to further distribute this document to the wider community.
- Update and recreate the cultural consultants list as this is a useful tool for both agencies and the public. This work could also be used to update the cultural impact guidelines and/or feed into the proposed draft rules.
- Continue to support the Council. The office is in the final stages of filling the Secretary II position.
- Continue OEQC staff member site visits for proposed projects.
- Play an active role in the discussion of environmental issues. Ms. Salmonson noted her experience on both the electronic waste and tire task force and her participation in the rulemaking process for pesticides and underground sewage tanks.
- Conduct Chapter 343, HRS public outreach education.
- Publish more environmental related topics and various notifications in the OEQC Environmental Notice.
- Pay attention to the exemption process and potentially fund an audit on agencies and exemption laws.
- Press on with legislative initiatives such as the OEQC Fees Bill and support important environmental measures such as The Electronic Waste Recycling Bill and The Water Pollution Control Bill.

Questions from Environmental Councilmembers

Councilmember Marjorie Ziegler expressed appreciation to Ms. Salmonson for her fine objectives. Ms. Ziegler asked about the level of input Ms. Salmonson received from existing OEQC staff and the Council when formulating her priorities. Ms. Salmonson stated that she had discussions with both Gary Gill and staff. Ms. Zeigler asked about

consultation with the Council. Ms. Salmonson had not yet approached the Council because she was not official until today. Ms. Salmonson plans to discuss OEQC's work priorities with staff and Councilmembers.

Councilmember Scott Glenn asked Ms. Salmonson about the OEQC database project. Ms. Salmonson explained that the database project is underway and her work with OEQC staff and the consultant in the development of the database system. Ms. Salmonson discussed the need for more funding to fully implement the project and how the Environmental Health Warehouse provides an example for the OEQC system.

Councilmember David Atkin asked if OEQC has sufficient funds to continue to fly in neighbor island members for Council meetings. Ms. Salmonson answered yes.

Marjorie Ziegler further discussed/offered comments on the website, various agencies' exemptions lists including Chapter 343, HRS contacts and the current work of the Council's Exemption Committee regarding the exemption process.

Genevieve Salmonson stated that she had a meeting with Honolulu Mayor, Kirk Caldwell to discuss exemptions and the need to update this exemption list. Ms. Zeigler pointed out it is all counties and the state not just Honolulu. Ms. Salmonson understands this.

Ms. Steiner asked for Ms. Salmonson to meet with each committee to get an update on the current projects/ work of each committee. Ms. Zeigler voiced concerns about work duplication if everyone does not work together. Discussion ensued regarding the best approach to set up meetings and the sunshine requirements. Ms. Steiner and Councilmember, John Richards recommended that Ms. Salmonson meet with each committee chair individually before the next meeting. Ms. Salmonson stated that she would approach committee chairs before the next meeting.

Mr. David Atkin discussed the process of updating the rules and how it is more than a volunteer effort. Ms. Salmonson asked Mr. Scott Glenn about the status of the rules revision process. Mr. Glenn explained that they are working with a preliminary draft and mentioned that past minutes reflect decisions made about the rules, goals and timelines to achieve their goals.

Marjorie Ziegler asked Ms. Salmonson how many times she has been a director at OEQC. Ms. Salmonson responded that she was appointed by Governor Ben Cayetano as Director from 1999 to 2003, and then appointed by Governor Linda Lingle as Director from 2003 to 2007. With 2 consecutive 4 year appointments, she termed out.

Questions from the Public

Hawai'i County Council Attorney, Margaret Wilke asked about listening in on the Environmental Council meetings from the neighbor islands via teleconference.

This prompted a discussion about the rules around teleconferencing and whether it was informational opposed to participatory. Mr. John Richards mentioned streaming on the web and Mary Steiner responded that in the past teleconferencing has been problematic and the need to set it up in a meaningful way. Sunshine requirements, technological advances in teleconferencing and web streaming connectivity that may encourage people to watch Council Meetings were also discussed.

Denise Antolini, University of Hawai'i law professor, former Environmental Council Chair and former Rules Committee Chair, introduced herself and offered the following comments regarding Genevieve Salmonson's appointment:

- Commended Ms. Salmonson's work and professionalism approaching this important position, but she does not support the appointment.
- The position is important and the timing of the appointment did not allow for senate legislative confirmation. To have an interim director that is not up for public review and comment for quite some time is concerning.
- Fresh leadership is important as it brings innovative ideas and different styles of communication. The Council and The Office have been under a lot of stress with staff turnover, declining budgets, moral issues, etc. It's important that both the Council and OEQC are functioning well.
- Many candidates were interviewed for the position and there is a reason for term limits.
- Concerns about Ms. Salmonson's transparency, consultation and collaboration with the Council and the community.
- Ms. Salmonson did not discuss the Superferry exemption with the Environmental Council. As Council Chair, Ms. Antolini, remembers being not being allowed to put this topic on the agenda and was unaware the decision released by the OEQC director. In retrospect this was a grave mistake and Ms. Antolini thinks that the OEQC director should have a finer sense of judgment and collaboration.
- Ms. Antolini has many concerns. She does not have any particular questions; she liked how Ms. Salmonson discussed her work priorities for OEQC. Her comments are not about how nice Ms. Salmonson is, but she thinks it is a missed opportunity and wanted to share that publicly.

Ms. Salmonson responded that OEQC's opinion on the Superferry was based on the information provided by the Hawai'i State Department of Transportation (DOT). DOT failed to disclose all the project specifics and requested an exemption opinion based on minor improvements. Furthermore, DOT was advised by OEQC to determine potential significant impacts based on Hawai'i Administrative Rules 11-200-8. DOT failed to inform OEQC of the changes to the project and presented the original exemption letter that coincided with the original plans considered exempt by OEQC opinion. Looking back lessons were learned as this experience stresses the importance of working with the Rules and Exemption Committees to tighten the process and avoid loopholes.

Dave Penn introduced himself explaining that the University of Hawaii (UH) environmental center is the third entity established under Chapter 341, HRS and works closely with both OEQC and the Council.

Mr. Penn was informed that hotels are not participating in the recycling programs because of cost constraints. He discussed his interest in exploring this issue further and working together to encourage more participation in the beverage container deposit.

Ms. Salmonson discussed how she had worked closely with Dr. Harrison (a previous UH environmental center worker) and how he provided valuable input at OEQCs' planning meetings. As to hotels and recycling, Ms. Salmonson talked about her previous

experience waiving charges and encouraging hotels to recycle in order to reduce their disposal fees.

Councilmember Glenn Teves added to hotel waste discussion noting that in the past food waste/slob was frozen and shipped to swine farmers on the neighbor islands but this process is no longer in place.

Ms. Steiner stressed the importance of Ms. Salmonson meeting with committee heads and encouraged Councilmembers to stop by OEQC to get to know Ms. Salmonson and staff.

Ms. Zeigler said she would like to meet with Ms. Salmonson individually and make an appointment. Ms. Salmonson stated she was open.

Council Chair Mary Steiner discussed the former OEQC Acting Director, Gary Gill's report which was inadvertently omitted from her chair report. Ms. Steiner summarized Mr. Gill's report by stating that he offers his support and assistance to Ms. Salmonson as the Council and Ms. Salmonson continue to improve and expand our work in the future. Ms. Steiner briefly mentioned other items in Mr. Gill's report including the office work on revising the guidebook, hosting multi agency planning, the database system and the hiring of a full-time permanent secretary.

Ms. Salmonson pointed out to Marjorie Zeigler that one of the requirements for the new secretary is website experience.

Walter Ritte of Moloka'i commented on the community involvement at the legislature this year (specifically around environmental related bills) and was interested in whether this wave of what he considers to be an increase in public participation would influence Ms. Salmonson's decision making and future plans at OEQC.

Ms. Salmonson responded that each item would need to be looked at individually to see if OEQC and the Council could find a middle ground to work these things out.

Mr. Ritte discussed the public outcry against GMO farming. Ms. Salmonson replied that she will work within the bounds of the Office and the Council.

Mary Steiner added that the Council does not always take same position as OEQC.

6. Standing Committee Reports

Exemption Committee – no meeting to report

Rules Committee

Committee Chair Scott Glenn reported that the Rules Committee has met three times since the Council's last meeting. The Committee is sorting through each of the 300+ comments received to determine: the relevance, whether they are within the power of the Council and if they are aligned with the overall direction of the rules revision process. They are very cognizant of the statute above (Chapter 343, HRS) that lays out the broader philosophy and are more focused on implementation and the practicality of

executing an environmental review. The Committee anticipates ending the sorting process by end of July, 2013 and then intend on preparing a new draft.

Visual Impacts

A letter from an O'ahu North Shore resident that raised concerns about the visual impacts of First Wind's EIS for a wind farm project was discussed.

The letter requested more specifications around visual impact assessment requirements. Examples were provided from North shore projects in which the environmental document provided photos or descriptions that were considered to be misrepresentations or under representations of the actual development.

Mr. Glenn explained that the rules are not specific on a general method of assessment; i.e. the methodology to conduct an archeological survey or water quality assessment. The reasoning is that practices change over time and therefore it is beneficial to provide professionals the flexibility to use the best sources available. Because the rules do not update as fast as methods, the Rules Committee is hesitant to prescribe methods in the rules.

Next, Mr. Glenn discussed the subjectivity element of visual impact assessments.

Mr. Glenn pointed out the court challenge option for all assessments and analysis associated with environmental review documents (i.e. historical, water quality, cultural) that are considered to be insufficient. He acknowledged the potential of cutting some community members out of the process due to the costs associated with this option. However, this issue should be addressed at the legislature as it is more related to the statute. The Rules Committee is constrained by the statute and cannot introduce new methods of conflict resolution in the proposed draft rules.

Mary Steiner introduced Mr. Bill Quinlan, a North Shore community member who sent the letter highlighting the visual impact misrepresentation in a number of North Shore environmental impact studies.

Mr. Quinlan presented visual depictions of the impacts in the First Wind turbines and the Turtle Bay Resort EIS studies. Mr. Quinlan summarized that the visual impacts illustrated in the EIS documents for both projects are misleading and do not represent the real adverse impact of the turbines and proposed hotel.

Marjorie Zeigler suggested that Mr. Quinlan send his comments to the Rules Committee and voice his concerns with the environmental impact studies during the public comment period. Environmental Council legal counsel, Deputy Attorney General, Ted Bohlen also recommended that Bill Quinlan submit comments on the proposed draft rules.

Mr. Glenn Tevis pointed out the "not-to-scale" label on visual misrepresentation examples Mr. Quinlan provided.

Mr. Scott Glenn added that there are provisions about EA/ EIS documents intended as informational disclosure documents and are not to be used as marketing tools. Therefore, concerns regarding an EA/EIS document resembling a marketing document should be raised to the approving entity.

Ms. Genevieve Salmonson asked what major trends were identified in the comments received on the draft rules.

Mr. Glenn replied that all sections of the rules were commented on, however many were focused on definitions, the two tracks of agency and applicant actions, cultural impacts, joint HEPA/NEPA documents and exemptions.

Annual Report Committee

Councilmember Azita Quan thanked the annual report team for their collaborative approach and hard work. Ms. Quan discussed the technical support, graphic expertise and robust editing required to put the Annual Report together and the need to start early for next year's report.

Council Chair Mary Steiner added that the Annual Report went out in a Department of Health press release and that a number of comments from the public were received.

Councilmember Marjorie Zeigler discussed the lengthiness of annual report process and suggested that the Council decide on the topic of the 2013 Annual Report in June 2012 to ensure a timely release next year.

Ms. Steiner stated that this recommendation should come through the Annual Report Committee at the next Council meeting.

Mr. Glenn Tevis commented that certain statistics provided in the report lacked dates and that some information may be inaccurate due to the lack of available data on neighbor islands.

Information/Outreach Committee

Committee Chair Mark Ambler explained that the attention to Genetic Modified Organisms (GMOs) was prompted OEQC Acting Director Gary Gill's request that the Information and Outreach Committee research the GMO issue and make recommendations to the full Council to issue a statement or guidance related to GMOs. Mr. Ambler researched the topic and put together a bipartisan presentation that examines GMOs. The presentation is designed as a starting point to solicit public comments on the topic and more specifically GMO labeling as this was a topical issue at the legislature this year.

Marjorie Zeigler noted that one of Ms. Salmonson's objectives as the new OEQC Interim Director is to increase distribution efforts of the Annual Report and suggested that Ms. Salmonson work with Information and Outreach Committee to do this.

7. Water Resources Research Center - WRRC (formerly called the University of Hawai'i Environmental Center UH-ENVCTR)

David Penn updated the Council on the Endangered Species Recovery Committee (no activity since the last report) and the Hawai'i State Emergency Response Commission, which WRRC has not been participating in but is available to help facilitate UH participation on request.

WRRC completed reviews and comments on the Nu‘uanu Reservoir repairs Draft Environmental Assessment, the DOT Highways Nawiliwili Stream Channel Alteration Permit.

WRRC’s graduate assistant, Sara Bolduc organized “What Makes a Great General Plan” seminar that was well attended by over 30 people from various agencies, community members and students on April 12, 2013. The seminar looked at the O‘ahu General Plan Update and was held in partnership with the UH Department of Urban and Regional Planning.

Mr. Penn discussed legislative measures WRRC tracked that passed during the 2013 legislative session including:

- SB1171- Allows for phased archaeological inventory surveys;
- SB1207- Statutorily exempts DOT from acquiring a Conservation District Use Permit (CDUP) and site plan approvals for work involving submerged lands; and
- SB1214 - Eliminates the Commission on Transportation that usually provides a layer of public participation in DOT business operations.

WRRC is currently reviewing a number of projects including the Department of Land and Natural Resources (DLNR) Draft Environmental Assessment for the Statewide Programmatic General Permit for Fishpond Restoration.

Mr. Penn noted the Fish and Wildlife Service extended the Endangered Species and Critical Habitat comment period on the Big Island till May 30th 2013 and suggested that interested persons contact WRRC for further information about various agency meetings, boundary amendment petitions and permitting decisions occurring.

Mr. Penn discussed EPA’s release of its reports on managing Roundup® weed killer and the management of insecticide, fungicide, and rodenticide.

The fall 2013 WRRC Seminar series is scheduled for Thursday afternoons. The theme is “Do we really understand Hawaii’s hydrology, and all related issues, including groundwater, surface water, watersheds, climate, microbiology, economy, etc?”

8. Nominations to Elect a New Chair (for a vote at the June meeting)

Mary Steiner announced her resignation as the Environmental Council Chair and asked for nominations to elect a new chair. Ms. Steiner nominated Scott Glenn, who accepted. No other nominations were received at this time for the Chair or Vice Chair position. The vote will occur at the next Environmental Council meeting.

9. Public Testimony

Ms. Me Fuimaono expressed support for GMO labeling and hopes for favorable legislation to support this next session. Ms. Fuimaono was instructed to give her comments to the Information and Outreach Committee Chair, Mr. Ambler.

Hawai‘i County Council Attorney, Margaret Wilke expressed concern about the exemptions granted under SB1207 as it cuts out county input. Ms. Wilke liked the GMO

presentation by the Information and Outreach Committee, and appreciated the questions being asked. Ms. Wilke is concerned about counties being left out of the GMO discussions and GMO windborne drift. She discussed SB727, which pertain to statutory general powers and limitation of the counties.

Mr. Bill Quinlan stated that the quickest fix to the GMO issue is for the government to require businesses to label GMO products.

Mr. Walter Ritte described the adverse effects of thousands of GMO crop acreage on Moloka'i's environment. According to Mr. Ritte, the GMO companies do not follow best management practices. The soil is plowed four to five times a year resulting in a red dust that covers the island for most of the year. To compound the problem the five major GMO companies are mixing their permitted 70 different pesticide/ herbicide chemicals. The effects of these chemical mixtures are unknown. Mr. Ritte strongly believes that these companies need to be regulated and the Council should work to protect the community from these adverse environmental impacts.

10. Correspondence Received

Chair Mary Steiner mentioned an email to the Environmental Council from Mr. John Bond of 'Ewa, O'ahu, dated Tuesday, May 7, 2013, 3:31 p.m.; Mr. Bond's email subject is: Navy Using Ancient Hawaiian Sinkhole Pond as Dump.

An email from a high school student in China was also printed and placed in the binder; the student wanted to interview the Environmental Council Chair.

The emails and relevant attachments were printed and inserted in the Council binder as part of the record. They were not discussed due to time constraints.

11. New Business

Mr. Glenn Tevis discussed soil, water, DLNR conservation districts and how in Hawaii (unlike most other states) land use decisions about erosion control, grubbing permits and open lands are made by a small group of land owners. Mr. Tevis believes that these soil, water, conservation districts and open land issues should be examined by the Council.

Ms. Marjorie Ziegler recommended specific organization of correspondence in the Council binder and to schedule public testimony earlier on the agenda. She suggested that these items could be discussed at the Environmental Council Retreat.

12. Adjournment

Ms. Steiner thanked everybody and adjourned the meeting at 03:58 p.m.

MAY 16, 2013 ENV. CNCL. MTG. 2-4 PM

Name

Agency

Email/Phone

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