



STATE OF HAWAII  
ENVIRONMENTAL COUNCIL  
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HERMAN TUIOLOSEGA, ACTING DIRECTOR

## ENVIRONMENTAL COUNCIL MEETING MINUTES

**December 19, 2013 (Thursday) from 2-4 PM**

**State Office Tower, Room 702**

**235 South Beretania Street, Honolulu, Hawaii'i 96813**

**Members Present:** Scott Glenn (Chair), Charles Prentiss (Vice-Chair), Mark Ambler, Koalani Kaulukukui, Shannon Mears, Azita Quon, John Richards, Mary Steiner, Glenn Teves, Herman Tuiolosega (OEQC Acting Director)

**Members Absent:** Malia Akutagawa, Paul Chang, Iris Terashima, Marjorie Ziegler

**Counsel Present:** Edward Bohlen (Department of the Attorney General)

**OEQC Staff Present:** Susan Faulk

**Other Attendants:** Gary Gill (Deputy Director of Environmental Health Administration), Janet Ashman (Hawaii'i Farm Bureau Federation), Sean O'Keefe (Alexander & Baldwin), Barry Brennan (University of Hawaii'i [UH] College of Tropical Agriculture and Human Resources)

### 1. Call to Order

Chair Glenn called the meeting to order at 2:07 PM with quorum of 10 members.

### 2. Introductions/Attendance

All present members and guests introduced themselves.

### 3. Approval of Minutes

The October 17, 2013 meeting minutes were revised and a copy was provided to all Environmental Council (EC) members.

Motion made for approval of the November 21, 2013 meeting minutes by Ms. Kaulukukui, seconded by Mr. Prentiss, and the minutes were approved by all 10 EC members present.

### 4. Chair's Report

- Chair Glenn expressed condolences on behalf of the Environmental Council regarding Loretta Fuddy, Director of Health, who had been very supportive of the EC.
- Chair Glenn and Mr. Ambler met with Mr. James Aidala, a Senior Government Consultant with Bergeson & Campbell, P.C. (see the Information & Outreach section for more information from this meeting).
- Rules Committee will move forward and draft up exemption responses.

- Plan for succession of Chair by deciding ahead of time who the next Chair will be and include this person in all conversations/discussions/planning processes, etc., to create a smoother transition after the current Chair's two-year term ends. Chair Glenn suggested a possible vote in the next two months for a second Chair to come on after his term ends.
- Chair Glenn presented Ms. Steiner with her Certificate of Commission and thanked her for her service on the Environmental Council (EC).
- Questions:
  - a. *What is the process to deal with members who are chronically not attending meetings?* The Hawai'i Administrative Rules, Chapter 201, has provisions for removal of a council member who misses three meetings in a row.
  - b. *Can we have this on the agenda at the next month's meeting?* Yes.
  - c. *Has the Water Resources Research Center hired anyone or do we know where they stand? Do we have any representation from them?* The EC needs to request they attend and a letter was sent to Gordon Grau, Interim Director, requesting his attendance and/or his designee.
- Chair Glenn congratulated Mr. Tuiolosega for being selected as the Acting Director of OEQC (Office of Environmental Quality Control).

## 5. OEQC Director's Report

### Impact Analysis/Projects Review:

- Staff stepped up project reviews and sent out six comment letters to project proponents within the past month.
- Staff addressed two cases with respect to proposing and approving agency questions.
- Two EISPN projects published in the current issue (December 8, 2013) are supported by environmental assessments: (a) Pu'unani Subdivision on Maui with 450 multi-family units, 25,000 square feet of commercial retail/office space, and 15 acres of park and stormwater retention area on 208 acres of the project site; and (b) Hanalei Plantation Resort which proposes to develop a hotel and residential lots on approximately 65.5 acres adjacent to and north of the Hanalei River on Kaua'i.

**Education Outreach Training:** Two DPP training were sessions done in November, and staff encouraged to develop a uniform PowerPoint presentation with information on HEPA implementation and process.

**Legislature:** The Department of Budget and Finance approved \$150,000 (supplemental budget) for the OEQC data-base project.

**Database/Documents Management:** OEQC needs to increase scanning of documents, and extensive data entry will be required for historical information going back to the 1970s; therefore, hiring of a short-term data entry clerk was discussed to complete this project.

**Guidebook:** We are looking at the option of hiring someone to complete the guidebook. As it stands now, there are two versions, one by the Environmental Health Specialist III and one by the Planner III, so this issue will have to be decided.

**OEQC Conference Room set-up for meetings:** Phone conference capacity with phone and internet connections. OEQC is looking to procure a SMART Board and a device for phone conferencing.

**Website Update:** Les will work with the EC and Sue to insure minutes and other relevant information are updated on the SharePoint site.

### **Assistance to the Environmental Council:**

- Les will work on drafting language on searchable PDF documents. As old documents are opened up now, the new pdf version automatically formats it so it's searchable. This will eventually be done for all documents, re-saving them as searched.
- The EC was advised to ask for any assistance by OEQC staff as needed.

### **Questions:**

*When you did your outreach with DPP, DOT, and UH, what would you say were the main questions that they had? What did they really focus on?*

- Airports showed more interest in the interface with NEPA and HEPA, the whole idea with segmentation and phasing, and the issue of supplemental documents.
- Highways was interested in the lifetime of a document as they separate Chapter 343 and NEPA EA's because of different content requirements, but had questions as the NEPA lifetime is 3 or 5 years depending on the project, whereas HEPA has no shelf life.
- UH was a basic Chapter 343 environmental resources and management class.
- DPP was about process and were critical of the decision by the court to have Turtle Bay prepare a supplemental EIS. DPP felt they had entitlements from the Land Use Commission and Zoning, and should not prepare another document, but according to the Supreme Court, there was a time limit and the subdivision permit was discretionary. DPP's position was that it was a ministerial permit and rejected the Supreme Court's interpretation. The Land Use Commission also found that applicants were going to the counties to get their zoning approval before they came to the LUC to get the land use classification, which is another issue to address at outreach.

## **6. Standing Committee Reports**

### **a. Exemption Committee:**

- Per Chair Glenn, David Atkin formally resigned to the Governor. The Governor cannot appoint a new person until he has received a formal resignation letter from the council member. We now have a formal opening, and the Governor and Boards & Commissions Office are now accepting applications.
- Mr. Prentiss volunteered to chair the committee.

### **b. Legislative Committee:** Ms. Steiner had no report.

### **c. Rules Committee:** The committee worked on the drafts and would like to have more members, although with the current Annual Report and pesticide projects, it was decided to wait. Focus will be on writing up the work done and putting it together.

### **d. Annual Report Committee:**

- Ms. Steiner will hand over bio and committee information to Ms. Ziegler. No edits have been done yet and photo changes will need to be given directly to Ms. Ziegler.
- Per Chair Glenn, Professors Ostergaard-Klem and Oleson are working on the GPI which is almost finished and includes over 20 indicators. They are working on consistency with the same 4-5 sections, and each section has the same type of content and presentation. They are also standardizing the language, and currently working on the introduction and conclusion for their portion. The professors were asked to keep the sections to 2-4 pages for any given indicator.
- Chair Glenn is also working on an introduction with the EC's take and role of the GPI. A two-page draft will be sent out to members for review.

- Question to Counsel: *As the due date is January 31<sup>st</sup>, can we vote on a pre-final version with knowledge of subsequent changes like cleaning up spelling, grammar, design layout, etc.?* If you sunshine that you are going to vote on the version available at the meeting and delegate to the Chair or someone else the responsibility of doing some clean up, that is acceptable. You can't come back to the Council for substance changes, but just clean up.
- OEQC will assist with printing copies and delivering to offices.

**e. Information & Outreach (I&O) Committee:**

1. Meeting with Mr. Ambler, Chair Glenn, James Aidala (senior government consultant who used to work for the EPA), and Ms. Ashman who organized the meeting. Pesticide approval by the EPA for general public use costs \$20-30 million and is a 10-year process before it can be sold on the market. In the 1996 amendments through the Food Quality Protection Act, recommendations were made for 10x extra safety factor for evaluations. There were more levels of control on the limits by aggregating the risk across all foods, water, and other sources of impact to the receptors, meaning the people who were exposed to residue pesticides. This started an endocrine-disrupting chemical data review process by the EPA which is ongoing. The EPA has 700 staff and a \$170 million budget that focuses on federal review of pesticides. They regulate 1,100 active ingredients and 17,000 products.
2. A set of comments were received from Monsanto, but given the timing, the committee decided to table them to allow committee members more time for review to address comments adequately.
3. The EPA is looking into the effects of certain chemicals on endocrine disruption with a screening program that came out of the 1996 amendments. They plan to have the data vetted by 2016 to come out with some published information regarding the first round of chemicals that they looked at.
4. The USDA has a pesticide data program and, in 2011, tested for glyphosate in soy. They tested 300 samples, 271 of them had detections of glyphosate ranging from 0.26-18.5 ppm, with limit of 20 ppm for soy seeds. There is a list of tolerances for residues for the CFR for different commodities such as soybean seed, alfalfa, banana, etc., all the different types of commodities and their associated limits. The DOH is sampling surface water, sediment, and streams, having received \$75,000 from several agencies and third party money to do this. They started just posting on atrazine, but they're expanding to other pesticides and spending \$2,900 per sample.
5. Other comments and discussion at the meeting included:
  - Informational meetings to initiate/disseminate information to the public and Legislature, and host/attend these meetings.
  - Pesticide safety training best implemented by the UH. The Department of Agriculture (DOA) would be the regulatory agency and UH the training agency.

Discussion yielded four components:

- a. The EC would be asking the Legislature for an informational hearing to gather input from the general public on what the concerns are.
- b. What are the recommendations for addressing concerns from the EC and others who are also engaged in this discussion?
- c. What additional resources are needed by agencies to address the problems and implement the recommendations?
- d. How can the agencies work together to achieve the recommendations?

Motion made by Mr. Teves for the Legislative Committee to take on the task of recommending informational briefings. Ms. Steiner seconded the motion. All EC members present were in favor of this motion. There were none opposed or abstained.

**f. Pesticide Recommendations/Motions Discussion Continued**

**MOTION 6**

***The Environmental Council recommends HDOH implement an annual food pesticide residue sampling program which includes glyphosate and infant food product sampling. Recommend the HDOA fully fund the sampling program using pesticide use revolving fund.***

EC & PUBLIC QUESTIONS & COMMENTS:

*Do we have enough money? Is there a way to get more money into the pesticide revolving fund?*

Per Mr. Brennan, when the fee was first increased for licensing pesticide products, the fund was limited and the rest went into the general fund. The monies should go from the DOA to CTAHR, but very little educational money has come from the fund. It is up to the DOA and they would need to have the authority to increase the fees over what it is right now.

*Does the agency include plans to include glyphosate in its current food residue sampling program?*

Per Mr. Gill, DOH has no current plans. Glyphosate toxicity is considered to be considerably low and half-life in the environment is very short. The expectation is that since it is used to kill weeds, it is not applied directly onto vegetables and you wouldn't expect to find it; therefore, money is not spent to sample it.

*There is a problem with an annual food pesticide residual. Could we take out "annual" and have it say "ongoing" as it can't be just one time.*

Per Mr. Gill, the current practice in the DOH is regularly sampling residue on food once a month through the State Laboratory. Sampling is done typically in the store or at the distributor, any one of the number of vegetable distributors on the island of Oahu only due to logistics and lack of funding. It is through this method that exceedances were found in basil and green onions in the past. Heptachlor epoxide in cucumbers from Moloka'i was also found that wasn't from the application of heptachlor, but from historic application residual.

*As numerous crops are cleared for Roundup, it may show up. Wouldn't something like this help DOH at least to bring this issue forward and make sure that DOH has enough money to do this?*

Per Mr. Gill, there is no problem doing more testing if DOH had more resources to do it.

*How many samples are done in a year?*

Per Mr. Gill, 10 different vegetables are sampled monthly.

*Does DOH go to Chinatown?*

Per Mr. Gill, from time to time, often following up in the community. In searching for a hot item, it is often difficult to trace the commodity back to a particular farm. In the case of basil, for example, if one grower runs out, he borrows from another to make his order, so that basil order could have come from any number of small farmers which is difficult to trace back. A small collector might go to 3-4 different farms and collect 3-4 different kinds of produce, all on the same truck, comingling all in the same box, so again difficult to sort out where the evidence came from.

We then go and test on the farm directly and verify that. If we have a hit from a raw agricultural commodity, we work closely with the DOA to identify what field/what farm that came from. We also do follow-up inspections of the farm, verifying proper application of pesticides.

Per Mr. Teves, the community needs to be reassured that testing is done monthly and educated on the different functions of DOA, CTAHR, and DOH on the pesticide issue.

*As far as funding goes and this request specifically talks about DOA fully funding something that DOH is doing, does that currently occur where one department uses their funds to fund the activities of another department, or is this more likely a change that needs to occur at the legislative level to direct funds to DOH as opposed to asking DOA to give you money?*

Per Mr. Gill, the DOA and DOH work very closely together when there is a pesticide issue. The DOH is planning to take 35 locations across the state in a snapshot testing of pesticide residue in water/soil from big and small ag, and from urban and conservation land to get a broad spectrum snapshot of what's out there and at what levels, and that will inform us hopefully if there is any follow up that is necessary. The DOA, USGS, and DOH are contributing funds to do this study.

Motion made by Ms. Steiner to break up MOTION 6 into two recommendations, 6a and 6b. Mr. Teves seconded the motion. There were no comments received from the EC or the public. All EC members present were in favor of this motion. There were none opposed or abstained.

#### **MOTION 6a**

***The Environmental Council recommends HDOH expand its food pesticide residue sampling program to include glyphosate and infant food product sampling.***

#### **EC & PUBLIC QUESTIONS & COMMENTS:**

- 1. The end result of the recommendations we're making is that they simply go to DOH. Does it also go to the Legislature? Who is the recipient of our recommendations?*
- 2. There is a concern recommending this without identifying new revenues to cover it. Given the perceived belief that there wouldn't be much glyphosate on these types of foods, then would that detract from other testing?*

Per Mr. Gill, practically, yes. We could test a sample for glyphosate instead of everything else. The cost and whether the lab could do it are questionable, and it may or may not be out there. If this were to be done monthly in addition, then it would take more resources that the DOH does not have at the moment. The recommendations go to the Governor.

Per Mr. Richards, recommendations should have a qualifier that they are not fully vetted yet because the EC does not have the background necessary to actually make a lot of these recommendations. The best thing the EC can do is build a form for people that do have the background to answer one way or the other, and answer questions raised by the community. To that end, rather than direct recommendations, these are starting points.

Per Mr. O'Keefe, testing infant food products such as Gerber would be duplicating an effort already done on the federal or state levels. Processed foods have different tolerances than raw agricultural commodities so you need to know if there is even a tolerance for what you want to test. If you take a sample and get a number, you need to have something to compare it to. What are you going to do with the information you get? Never take samples unless you know what you're going to do with the results.

Per Mr. Ambler, one of the primary ingredients for infant foods is concentrated cornmeal that does not include the husk. The limit is 3.5 for corn that includes the husk. If there is 20 ppm of glyphosate in it, it should be tested and taken off the shelf.

Motion made by Ms. Steiner to adopt MOTION 6a. Mr. Teves seconded the motion. All EC members present were in favor of MOTION 6a as stated. There were none opposed or abstained.

**MOTION 6b**

***The Environmental Council recommends the Legislature increase the funding of an expanded sampling program.***

Motion made by Mr. Teves to adopt MOTION 6b. Mr. Prentiss seconded the motion. There were no comments received from the EC or the public. All EC members present were in favor of this motion. There were none opposed or abstained.

**7. Public Testimony**

**Janet Ashman, Hawai'i Farm Bureau Federation**

As far as recommendations to the Legislature, I think it's a great idea to have informational briefings or to have some kind of sessions with the Legislature to vet, not necessarily to hear public concerns because I think that the public concerns are known. I think that what's needed is addressing those concerns. Now we need people to come up and say this is what's being done now, this is why, and this is what we found. The public would have the information instead of being afraid because there's not enough knowledge out there. I think the recommendation is a great idea and if I can help or the Farm Bureau can help, please tell me.

**Sean O'Keefe, Alexander & Baldwin**

I appreciate the opportunity to comment as we went along.

**8. Correspondence Received**

Please refer to section 6e for the Information & Outreach Committee report.

**9. New Business**

Next meeting date: Thursday, January 16, 2014 at OEQC, 2-4 PM.

**10. Adjournment**

The Chair thanked everybody for attending and adjourned the meeting at 4 PM.