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JESSICA WOOLEY, OEQC DIRECTOR

ENVIRONMENTAL COUNCIL MEETING MINUTES

May 15, 2014 (Thursday) from 2-4 PM
State Office Tower, Suite 702
235 South Beretania Street, Honolulu, Hawaii'i 96813

Members Present: Scott Glenn (Chair), Charles Prentiss (Vice-Chair), Mark Ambler, Paul Chang, Koalani Kaulukukui, John Richards, Joseph Shacat, Mary Steiner, Glenn Teves, Marjorie Ziegler, and Jessica Wooley

Members Absent: Malia Akutagawa, Azita Quon, and Iris Terashima

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

OEQC Staff Present: Leslie Segundo and Susan Faulk

Other Attendants: Janet Ashman (Hawaii'i Farm Bureau Federation), Barbara Brooks (Department of Health), Gary Gill (Department of Health), Alan Gottlieb (Hawaii'i Cattlemen's Council), Fenix Grange (Department of Health), Anita Hofschneider (Civil Beat), Thomas Matsuda (Hawaii'i Department of Agriculture), Sean O'Keefe (Alexander & Baldwin), Dan Purcell (Public).

1. Call to Order

Chair Glenn called the meeting to order at 2:03 PM with quorum of 11 members.

2. Introductions/Attendance

All present members and guests introduced themselves.

3. Approval of Minutes

A motion was made for approval of the March 4, 2014 meeting minutes by Mr. Richards, seconded by Mr. Prentiss, and the minutes were approved by 9 Environmental Council (EC) members present with 1 abstention and 1 member not yet in attendance at the time of vote.

4. Chair's Report

New director for OEQC and new EC member, so at this point, there is one opening on the council still. Malia's seat expires at the end of June 2014 and she has opted not to renew her position to be reconfirmed, so an opening on the council will be open in July. If you know anyone who would like to be involved, please feel free to recommend them. Please feel free to contact the governor's office and apply for the position.

DPurcell: Is it at-large or is there any kind of criteria for who can be?

SGlenn: It is at large.

DP: Are all of the positions at-large?

SG: Yes, the only criteria are if you can get past the governor's threshold which is his political interest.

DP: What is the current makeup of the council?

MZiegler: You have to get confirmed by the Senate.

DP: Do we have an island makeup? I'll get that from someone else...

SG: Jessica, thanks for joining us. Just real quickly...this is the first time where we've all had a chance...this is our first official meeting with you...we'll quickly go through introductions again one at a time.

JWooley: it is very much an honor to be here for my first council meeting as a director and I'm mainly interested in hearing from you about your priorities and from what I have seen, there is a lot of work to do, but part of this will be just identifying the priorities. Thank you all for your service and I hope that is one thing that I will be able to do is have people appreciate that because I know you are all volunteering and doing a public service not just for the environment, but also the developers who should appreciate it more.

SG: Thank you and just to reiterate, you are a member of the council...you're a voting member and so we very much do appreciate your input on these policy decisions that we consider and hold discussions for, so thank you.

5. OEQC Director's Report

JW: I am still very much in transition and starting to pick up on some of those documents that are still kind of drafted and not yet complete...I think that is one of the biggest challenges. There are a lot of things that are almost ready, but not quite and the database has key information that we could make available for everybody, make more transparent about what is happening, easier for people to understand, easier for project applicants as well as agencies and the public system involved, so those are really going to be my focus right now and getting a refrigerator. It's my fight...my first fight.

SG: Members of the council, do you have any questions for Jessica?

MZ: One of the things we started a discussion on last year was declaring a little more independence on the part of the council, at least a few of us want to, and starting with our budget and what we need, knowing full well that rarely does any agency get all the money that they ask for, but that we would like to at least put forth a budget on what we need to get our work done including help, staff, interns, whatever ...all costs money. We had talked about that last year because right now it's kind of like there is some money for travel for the council members, but not much left over. There is a little bit of money we squeeze out to copy our annual report or to pay someone to lay it out and we thought it would be really helpful to actually put forth a budget through you to the DOH so it's not just "oh yeah, whatever is left over we'll try to swing it for you." Because I don't think we'll ever get the funds that we need if we don't start at least saying this is what is needed to do the work.

JW: I absolutely agree...the more specificity we can have in front of us and then it also is critical to explain why...I can definitely help with that.

MZ: So the timing is what I was getting at...so you could tell us ahead of time when you need our numbers with enough lead time so we can have a meeting and put our numbers together.

JW: Maybe I'm going to impose on Gary Gill here because as far as the numbers right now, I think we have what we have, but I think the sooner we identify priorities and funding needs better, maybe we could set some goals on when we could have those kinds of proposals on the table so we can have that discussion. We have some time right now if we are thinking about asking the legislature, but the time goes quick and the more organized we are about it, the better we can present.

MZ: I'm not familiar fiscally with the budget process so my understanding is that the numbers are in place for this current fiscal year and for the next cause because it's biennium so the next year calendar year?

JW: Yes, it ends in June.

MZ: This fiscal year ends in June? So you have numbers for the next fiscal year in already...the budget's been approved for that. So we're working on fiscal year 2017...not 2016. FY 16-17

JW: 16-17, although in FY15 there is still some wiggle room, so it might be worth trying to get that.

GGill: I can address the schedule just internally so basically the legislature has closed and has finished their budget work for the second year of the biennium so the legislature budgets in 2-year cycles. We're at the end of this coming fiscal year...starting July 1st is the second half of the biennium. For the council's planning perspective, basically every fall all the departments are tasked to put their budget requests in and it has to be filtered through the governor's administrative process and B&F, and then it goes to the legislature. So it takes a long time but if the council is looking at recommending greater specificity or additional funds for whatever project or initiatives you have, you should plan on having those proposals together and fully justified I would suggest by the end of September. The DOH will put out a memo saying when all of that stuff is due to all the attached agencies and all the programs in the dept. It will first get filtered through the DOH administration where we have to put everything in priority, then it has to go through B&F who puts the entire state budget together and gets the governor's approval, and then it goes to the legislature where they throw it all out, turn it on its side, tip it upside down, and give you a fraction of whatever it is that you asked for if you're lucky, and then you actually get that money available to you the following July 1st, so it takes 9 months to go through this process of getting money in your budget from start to finish. I would recommend the EC to start looking now through the summer if you have specific initiatives that you would like to have included in the coming year budget.

JW: And maybe by August we could have some kind of proposal.

SG: Sounds like something we could look into doing at our retreat. Any other questions?

MSteiner: Last month when we didn't have a meeting we had a little bit of a discussion and I'm hoping a better chance to think more about this, but that is staff support to the council. If you have follow ups on whether this is going to work out for this coming year or how or who or...

JW: I'm talking to the staff...a lot of it comes down to resources to do the database work, but we have such a limited amount of resources so I'm certainly looking at it and I'm very hopeful. I think it would be great to have staff support for the EC, but there's no money and there's no salary...

MS: What I think it comes down to is that our Rules Committee has really been stuck and not being able to move the rules out without either staff support or intern support or somebody to be able to help push it the next step along.

JW: It may be just part of what I end up doing...you know those kinds of pukas, I'll be your support. At the moment, that's what I see.

MZ: You know the budget should include everything we need, although we're not going to get everything we ask for.

SG: Any questions from the public for Jessica as director?

DP: A couple of things...one is the meeting space we're in, we're packed to the wall...there are files and everything stored in here. You had mentioned looking at this space down at 250 South Hotel Street...I'm curious if anything has come from that. Secondly, I am continually concerned about the inability for people on other islands to participate in these meetings, to see the meetings, to participate either by teleconference or video conference, or even be able to watch a video of the meeting, or even have an audio recording available of the meeting. It's just that if you're not here on O'ahu, forget it, you cannot participate unless you're on the council and they fly you in and that's very expensive. Also, I think I sent an e-mail to you...I'm concerned of what I'm seeing with the Board of Land and Natural Resources coming up with _____ of the coast and those issues associated with an environmental impact statement and environmental assessment _____ very difficult to manage _____ more of them and I just wanted to throw that out there.

JW: Thank you. Yes, I do think that we do need a better meeting space. It's something we have talked about in our weekly staff meeting with Gary so I'm looking at that potentially for the next meeting. I think one of the concerns is keeping you accustomed to coming to one place, getting the notice out to everybody can be difficult and then you don't want to end up flipping around, but if we can nail down a consistent location, then I think we should change, so I am working on it. As far as the participation from neighbor islanders and just in general, part of it is the technology. We are trying to use some of the funds that we have right now to see if we can get some kind of video technology. Another option that I have seen work very effectively is just that internet where you can listen and people can write in. That might be a cheaper way for us to do it. So we're looking at options as a goal for us to be able to serve the public better and get the message out and open the door...have a better space, better meeting space. I will look into the DLNR issues and thanks for raising that. I have heard about it...

DP: I would follow up with communication with the outer islands. Sometimes you can't measure success on the first meeting or the second meeting or the third meeting, they have to know it's available and it takes time...it takes a year for these things to adapt where they know they can access the meeting in some way. Just because no one tunes in the first time doesn't mean that it's a failure.

JW: I think that potentially having the audio itself can be useful so people can at least listen.

MA: We had an I&O committee meeting where the agenda item was what next? What do we focus on? I think if you think about what you would like to see us focus on to help OEQC or whatever...if you point us in a direction, more likely than not we will go in that

direction, so if you can think about guidance on what you want plus what would help you in your office.

SG: So moving on to the next item on the agenda, #7. We have a presentation by Fenix Grange who has come here today to give us a sneak peek on some big news that she has.

FGrange: I work for Gary in the HEER office. My job there is actually managing the environmental cleanup program. I'm also an environmental toxicologist by training and worked in Oregon for a number of years for the Oregon Portland Environmental _____ on pesticide ____ and did my masters work on that...looking at how pesticides, offsite transported pesticides from necessary uses in ag situations to nearby streams, particularly looking at threatened salmon and pesticides moving offsite from applications and _____. One of the things that the HEER office does is take care of emergency responses, takes care of supervised cleanup sites, and the hazard evaluation part is Dr. Barbara Brooks who is the human health toxicologist and her job is to answer questions from the public about where chemicals might be _____ effects, as people are concerned about health effects. I end up standing in for the environmental toxicology part.

The reason that we're here today is for the DOH and the DOA as there is growing concern about offsite ____ and pesticides. The DOH and DOA...neither one has ongoing monitoring of surface waters for pesticides, so we can't say what's going on until we get some data. So the agencies got together and said how can we begin to bridge this gap and decided to develop a pilot study to gather data statewide about small outer bodies to understand how much _____ Hawai'i from the streams.

Because neither agency does this routinely, we had to find special plans to figure out how to do this. Thank Gary for money from the ERF. Once we did that, we talked to the DOA and thank Tom for this. He also ponied up matching funds for that. Because there is so much controversy about pesticides, we wanted to have an absolutely objective outside scientific resource to assist us with this, so we went to the USGS...this is their bread and butter...they are the experts on mapping, surveying and scientific research agency. So we worked with the local office, Steve Anthony, asking them to provide services for us...lab services, but also they have a tremendous amount of technical knowledge. We asked them for money too...they originally gave us \$30K to match and yesterday they called and said we'll give you another \$15K because we want to assist you in interpreting your data because the dataset is really _____.

The other great advantage of working with the USGS is they have done two important pesticide studies in Hawai'i before. The first one was on ground water and really trying to understand how human activities connect with impacts on the environment, so they looked at both ground water and its relation to land use and water quality. The water quality one really included both ground water and more importantly what we're talking about today, streams.

On O'ahu, they took two streams, Waikele Stream which has inputs from all kinds of things, small and large ag, a golf course, and urban areas. They did a bunch of sampling there and they also sampled in Mānoa Stream. They were looking at to see what kind of different chemicals showed up from the pesticides and what kind of conclusions they might be able to draw from that. The first thing that came back in this data, and we have also seen this nationwide, is that urban areas and agricultural areas both show clear fingerprints in the water and they are very different. Interestingly, the pesticides in the Waikele Stream in particular, residues of pesticides from sugar cane, pineapple, and _____ showed up

very very trace levels in the ground water, and then lots of household pesticides in the urban streams, so we used this information as a way to begin to design our study.

So with the money that we had, we decided to do 24 sites, a rather elaborate analysis for lots of different pesticides in water. We also wanted to get a little snapshot of what might be going on in sediments so we contracted with another USGS lab to do some sediment sampling, and then actually asked the EC to remark and we added glyphosate (Round Up), the analysis for Round Up. That is not routinely done by state agencies, the EPA, or USGS, but because the EC raised the concern, we went ahead and asked for that. That's actually quite an expensive analysis which is one of the reasons we didn't do those.

Overall, the study design was intended to look at a mixture of different land uses. This is a snapshot in time during winter months, we collected samples in December and January, so generally a wet period of time, but we didn't collect samples during rain events, so it was dry at least 24 hours beforehand. During that period of time, it really is just a snapshot so if people were applying pesticides then...who knows...or if they applied it the day before, we might see a larger detection, so it's just important to understand this. It just gives us an overall picture. We looked at a very broad spectrum of contaminants, 136 different compounds...that's a lot of data to go through. Also because we are just trying to understand what the connections are between land uses and how people are using pesticides and what might show through the water, we wanted to go with very low detection limits. What that means is that you're going to see a lot of pesticides here that aren't detected...tiny parts per trillion, so in some of these cases, thousands of times below any action level, any benchmark, etc., but it begins to let us see what those patterns are, how uses might be affecting water quality.

So the main land uses we selected were large crop single agriculture which we see a lot of on Kaua'i...we are very concerned about exposures that they might be having. And on Maui also we found large agricultural operations and, at the same time, we want to look at the seed crops like corn, the sugar cane operations, the one left on Maui, and thought we might look at possibly macadamia nuts. Then we wanted to look at all the areas where there are small farms and lots of different people growing lots of different crops, small acreages, but not necessarily coordinated management to see how they might compare.

PChang: What are small acreages?

FG: When you actually start looking at the site, you'll see that it is not as clear cut as we envisioned in the design to start with, but generally places where I'm calling mixed ag had 5 or more separate little farms upstream, as opposed to a site, for example, on the west side of Kaua'i where 3 of our sites had very little except for something like a coffee plantation or seed crops. There were still a few things upstream, but the largest influx was from that.

We also looked at golf courses and resorts, and again this came back to noticing from the earliest USGS data that some of those herbicides were showing up in ground water and so we just wanted to see whether they were having an effect. We wanted to follow up on the USGS information about herbicides and actually went back to the same sites they looked at and then looked at other environments.

So we selected sampling sites targeted to really what's going out there so we chose little streams...most of them the length of this table, one or two maybe the length of this room. We couldn't sample everywhere on the island...we needed to sample where there was fresh water close to Ag, so within 50-100 feet of the edge of a field. For example on Maui, we only had 2 sample sites and none of them were perennial streams because there aren't

any perennial streams near the kinds of things that we were looking at. There was also a lot of variation between sites where we still wanted to look. For example, we really wanted to look at golf courses, but there weren't a lot of golf courses that had running water right next to them, so on the Big Island, on the Kona Coast, we looked at the anchialine ponds because that water reflects ground water right under activities we are using for the site, so that seemed that an appropriate place. On Maui, we chose the Kealia Wildlife Refuge because those wetlands are water that is being fed directly by the ground water that is under crops being grown there. So when you look at the data, it is important to keep some of those differences in mind and I can't say that I know what those impacts are on the data. The other thing is that even if we can't say for sure what the source is, we don't have any site that has truly one use that has ever happened there and this is a one-time sampling. What kind of patterns do we see there rather than anything else.

As we are trying to take our sampling locations and put them into these 4 separate bins, they didn't always fit. For example, on the outer islands, there aren't any sites that are just residential...there is no Mānoa stream site on the outer islands or have enough density to make it worth sampling. On Maui, we were not able to find an urban site or a mixed use site.

On Kaua'i, we did a total of 8 locations...found a very small stream east of Kīlauea, then we came down into Hanamaulu and that had all kinds of seeds, corn, urban uses, other small ag and commercial uses. Marriott Lagoon is actually a golf course so we sampled the lagoon at the golf course there. Due to interest by the public on seed crops, we chose 4 locations, 3 of them in seed farm and 1 of them downstream from coffee. Sites were relatively close to the ocean, within a few hundred feet and generally near the roadway. We also came down to Waiawa which was downstream from coffee and there was also some leased acreage up above to seed crops as well.

On O'ahu, we kept the original USGS sites, the Waikele Stream site, the integrator site, all kinds of uses there, and the upper Mānoa site. We wanted to go downstream in Mānoa, right before it gets channelized into the Ala Wai Canal because there are a lot of urban inputs there from the freeway etc. and we took that site as well...right by the ball field and the golf course, Wai'alae Golf Course which also has input from Wai'alae Iki above. On the North Shore, we looked at a few different places...starting on the east side, right by BYU, we found a little mixed use ag site by Waialele Stream, and then Malaekahana Stream, again these were small with lots of little farms, all kinds of different crops. Swinging around to Hale'iwa, we chose the Anahulu river that has far upstream has some seed crops plus small Ag.

Jumping to the Big Island, we focused on the Hamakua Coast for a few reasons: Lots of small Ag in here, so 4 different locations there. Alia stream historically had an atrazine report and there is atrazine in the ground water there. Honolii Stream is on a little side channel and downstream from macadamia.

We worked with the USGS on getting analytical services lined up and had them review our QAQC in the field. We're really happy with this data. Before we actually got the data, we wanted to make sure we knew how we were going to interpret it, so our first job as regulators was to be companion to regulatory standards, so for surface water there are two things: Ambient water quality criteria and for certain pesticides. We also looked at MCLs (maximum contaminant levels) which are drinking water numbers...people aren't going to be drinking from these stream locations, but we thought it would be reassuring to be able to talk about whether the numbers that you see are above or below it. Because 99% of the detections that we found are much lower than any of these standards, we also reached out

to the EPA and used something called their aquatic life criteria. These are very conservative standards that are set to protect all kinds of aquatic life, algae, invertebrates, fish, and the way that they come up with the numbers are that they run lab tests and the level where there is no effect with most sensitive species, is the standard that they use. The purpose of those is to say that “oh this is higher than other numbers, and this is where risks are above this number and you want to pay more attention.” The EPA had a major program to evaluate.

MZ: Didn't the DOH also do something locally awhile back where they were looking at biology or effects on biology as a measure for some kind of water quality standard?

BBrooks: We have our own water quality standards...

MZ: Based on biology?

BB: Like the federal ones but they are a factor ...

MZ: They're lower?

BB: Well yes they are more protective than the federal numbers.

MZ: So why wouldn't you use those?

BB: We did.

FG: Those follow into the regulatory standards. So what did we find? The important finding is that no water quality standards were violated, so no regulatory standards were violated for any chemical except one, which is Dieldrin, a breakdown product of Aldrin which is used probably in most of our homes once upon a time if your home is older than 1980 as a termiticide under the foundation. The USGS study before had found this at the same levels in urban streams on O'ahu. What happens is as the soils erode around the foundations of _____ excavated, _____ begin to make their way into the environment. That's an interesting finding that we should think about what to do about, but it wasn't exactly the focus of our study. We are really looking at current uses and things that we can change today. In my other job with my other hat on, so to speak, we do help people manage termiticides...we help people get a demolition permit. At C&C, they'll give you a flyer that says “hey be careful with managing those soils under your foundation, so that you don't get them into place where they're dangerous.”

Other than the Dieldrin, no other violations of water quality standards. The other thing that was interesting was that all 24 sites had trace levels of at least one pesticide, so there were no sites that were entirely without detection. That tells a lot about the sampling method too.

Overall, we found 41 different pesticide compounds, 20 of those herbicides, another 4 were breakdown products of herbicides, so when these stay out in the environment for a while, they transform. Sometimes you see the parent product and sometimes the breakdown product. There were 11 insecticides and 4 additional breakdown products from those. There were also 6 fungicides and for whatever reason, no breakdown products from them.

The sites with the most pesticides detected were urban streams on O'ahu at 2 different locations. Two of the household pesticides used on O'ahu exceeded the aquatic life guidelines and there were insecticides and not too surprising that they exceeded for

invertebrates like little bugs, crabs, and things like that that are in the streams. Again, they exceeded this very low benchmark.

We also did sample for glyphosate. We looked at 7 locations around the state and crossed all different land uses, some urban, small Ag, big Ag. We didn't look at golf courses because they don't use it and we didn't want to waste a sample there. We collected both water and sediment. What we found is glyphosate in water at 3 out of 7 locations. The highest detection we found, just to give you some context, is about 60K times lower than the lowest benchmark number available, so it's out there, but at very very low levels. We also found it in all the sediment locations. Right now there is no benchmark for this, but we do know that in the EPA pesticide registration process, it's approved not only for use near water, but actually can be used in water, so that's probably going to be an area in question.

Next Steps: We are still working on the data and, together with the DOA, plan to release the information next week. We will have summary tables, broad data, maps, Google Earth file so you can load it up yourself, and other resources that we think will help you and other stakeholders interpret the data. It is very much our hope that we will get this data out to the public with a short report and get feedback to really begin a conversation with all sorts of different stakeholders like the farmers, different agencies, etc. to participate to understand what we're seeing out there and what might happen next.

GG: Thank you for that presentation. Thank you to the EC for their patience. We were targeting, as I reported before, to get this data to the legislature before the end of the session. We weren't able to do that, we got the data in, but it was more than we could quickly turn around and when it got to the last few weeks of the legislature, they wouldn't be paying attention to this anyway...it was all closing the budget and stuff, so we're taking an extra couple of weeks to make sure that we are presenting it in such a way that it will be understandable to the public and I guess with your final slides for Next Steps, I think the EC is an integral part of that next step. You folks have had input into the design and the purpose of this study. You have taken on and can consider how much more in the future you want to take on this subject in helping to interpret the data and highlight your concerns on these issues, so I would be encouraging the council as the DOA and the DOH go out and engage the community or even if we just stay in our office and the community engages us on the phone to be a part in that community discussion. Oh Tom, thanks for funding it.

TMatsuda: We did all of this together and I think that just the environmental health is a big concern when you talk about pesticide use, so we're open to comments from the general public.

FG: it has really been a pleasurable partnership to get this done. I can't tell you how many times I've been on the phone with the DOA as they have been very very helpful and have expert staff.

GT: Are you folks doing any testing on Moloka'i?

FG: Moloka'i is one of the places that we could not...I tried, but there isn't running water near...for example, I wanted to look at some of the drainage off the plateau where there is both big ag and small ag, and I could not find a place that we could sample that week. We considered originally doing stormwater sampling, but it's dangerous and it's hard to interpret the data, so areas like that really there could probably be a better way to do this down the road would be to collect irrigation like ground water samples.

GT: We have some areas like on both sides of the town, corn and seed production, probably 50 years, the longest areas of any place in the state. One of them has wetlands right next with endangered species and it's right on both sides of town. Another area is right up from another wetlands, both of them are adjacent to wetlands. We are concerned because atrazine was used for maybe 40 years or less in that area. On the uplands, it is really difficult because some of these areas have only been in corn production for less than 10 years.

FG: I didn't realize that about the corn next to Kaunakakai. As we were trying to find the sampling locations, we spent a lot of time on Google maps which is helpful, but not nearly like being on the ground. I did talk to folks to find some locations, but that's good info and I think depending on how we move forward, that would be important to help.

GT: We're willing to help. The other thing is was heptachlor detected in any of the samples?

FG: Actually this study designed, even notwithstanding the fact that we didn't look for Dieldrin, we didn't look for any other banned pesticides. We went ahead and did the Dieldrin simply because it was already in the sweep and we knew it had exceeded water quality standards before, but we really wanted this to be a proactive investigation where with the pesticides we're using now, it is really important information for everyone to be able to say, "oh we're using them and this is what we found." Something that we can do something.

GT: I think that one is a big one because it occurs in almost all the pineapple lands so Moloka'i has 18,000 acres just on Moloka'i alone.

FG: So switching hats again, back to my other job, we have a site discovery program in my shop and _____ is scheduled to go to Moloka'i within the next couple of months and we have money to go look at the soil from pineapple fields. We actually had a bill that didn't go very far, but it made us switch around our time for doing that, so you would be a great person to contact just to make sure we have our ducks in line there. One of the things that is difficult there is that we haven't been able to figure out where the pesticide storage area is and the Moloka'i Ranch, the new owners don't have to tell us or don't have any records.

GT: A lot of people know where that is.

FG: So yes, talking story with locals, _____, that's her job. She's our resident historian so she can help us with that.

GT: I think DOA did a study in 2003-2004 and they found high levels of heptachlor in the soil. What they did was they sampled off of farmers' tractor filters and so it was dusted and had very high levels, even 15 years after used. There's kind of a concern. They were going to actually shut down production of squashes because they were taking up the chemical, but they did another sample _____ farmers saw improvement so...it's on Hawaiian homelands and also on....

GG: If I can chime in a little bit. During the Cayetano administration, when I was head of janitorial services, one of the things that we did in the DOH is check for pesticide residue in raw agricultural products and we had a hit with heptachlor epoxide in cucumbers, so what you're saying is absolutely right, the heptachlor epoxide is a breakdown product of heptachlor and it's taken up by cucumbers and squashes. Here we're finding out about pesticide residue on a new crop from a pesticide that was banned 10-15 years before the

crop was grown. We worked with the farmer at that time and just don't grown cucumbers on old pineapple land basically, so it would be very instructive to take a look at where is that now, 15 years later basically from the last time we got that hit.

GT: If you look at the central plains, a lot of those areas were in pineapple, so Kunia, Waikele, and all of those housing developments are all on old pineapple. The breakdown product is actually more toxic than the original product.

SG: Any other questions?

MZ: I just wanted to thank you for your presentation. One of the take home messages for me and this isn't my area at all, is from a layperson's perspective, you know perhaps pesticides are a concern everywhere, but maybe we don't pay as much attention as we should to the urban areas. That's kind of the message to me because you think "oh urban," you think the pollution is the Ag lands, the big Ag. The second comment I wanted to make is I'm wondering if someone keeps track of the pesticides used cause it would also be interesting to see who's using what and how much? We sat on the roadside spraying taskforce years ago and we tried to get this information because we were just looking at roads, DOT, State and County level, and it was just a bad habit of ordering all these pesticides off the shelf and just spraying...it was just habit, so there was an interesting question that came up...Are we using more now? I mean has seed corn been using more pesticides over the years or less? Maybe that's not the focus of your study, but you hear all this with the GMOs and using more pesticides because the GMO crop is resistance, but I'm wondering if anybody keeps track?

FG: Well, Tom can talk to that, but let me just add in my part about it with respect to atrazine. So let's ask Barbara who is my helper. Barbara prepared a report on atrazine giving a history of atrazine use in the state.

BB: Basically, the atrazine use in Hawai'i has gone down as sugar cane cultivation has been gone, and the seed crop companies use about 4-6% of total use in the state. Tom, you can talk about tracking pesticide use.

TM: Our department just tracks the sales. We don't track use. A lot of people, when we give them information on sales, they'll spin it and say well this is a use record, so we always qualify that. The other thing is is that it is only restricted use pesticides. There is no requirement for us to receive general use numbers. Okay, you talked about the roadside guide for spraying, general use pesticides...we don't know; however, we always tell everyone the label is the law and that they can only apply what the label says and a lot of it will say so many pounds per acre per year, so a lot of guys say well can't they just spray any amount....not really. We hold the guys with the restricted use licenses to a higher standard so they know that piece and those chemicals are very expensive.

MZ: We have to start thinking about our individual uses because they're all contributing. That kind of information is very interesting because the myth in my head is that the GMO is like increasing all these pesticides when, in fact, some of the data shows that maybe that isn't the case, so I think that information is really important for people like me. Last thing that I want to say about heptachlor because this is really important. There is a lawsuit that my organization was plaintiff in about 20 years ago and the result of that lawsuit was a settlement. It was against ...you know I don't even know who the defendants were...it must have been the state or the pineapple growers. It was suing over heptachlor in the cattle we were eating and it was moving up into the milk. So there was several millions or I think it was more than a million to do studies of groups of kids that grew up on heptachlor milk

basically from breast milk....heptachlor in mother's breast milk, and they were supposed to study that cohort and they were also supposed to look at environmental effects of heptachlor, human effects of other than maybe babies drinking the milk. Long story short, that money is still...some studies were done...I don't know what happened until we lost track...that money is still in some fund making interest. The board of that heptachlor research and education foundation meets once a year, whatever the bare minimum is, they're not spending any money on studies and as a plaintiff in that lawsuit, I am compelled to make noise about it because this is what makes the settlements look bad. We get all this money and then we don't do anything with it right or we use it for a slush fund or something. I would encourage people to contact Sherry Broder, the attorney for the Hawai'i Heptachlor Research and Education Foundation. There is a board, Helene Takemoto, Rick Scudder who used to work with us at the Conservation Council, is their administrator under contract. Find out what's going on with that money because if you want to look at heptachlor, apply to them for some grant or at least they can give up that money or do something with it. It really makes me angry.

SG: Any other questions for Fenix?

JW: On the pesticide transparency, so part of what the DOA is talking about was from legislation from last session. So they are supposed to put on the website that information and I know the report is available, but it's not on the website, but that's new. The data from previous years may be with the DOA, but it has not been compiled for the public to look at and compare.

TM: Right, we're working through that with our AG's office for formatting it and what pieces of information, so we're getting close to it.

JW: Great and I think that transparency is critical and I think it is what a lot of people want right now. The general use pesticide issue is a much bigger challenge.

FG: In Seattle and Oregon, they got Home Depot to provide all their sales records and connected sales records to detections along the Seattle streams...they were remarkably closely connected. Even with some of those things used upstream. If you think about it, if you have a restricted use pesticide license, you'd get in trouble if you don't do it right, but you guys realize, for example, that with Round Up, there is a 4-hour _____.

TM: Usually when sprays have dried.

FG: So even if you could just buy it, your kid can carry it up to the car, you have to be attentive to what's on the label....and the same thing with roach traps and other things in your house...the label is still the law, but individuals using those things don't.

TM: The local PPE, that the locals wear, rubber slippers, shorts, and tank top. Now I say that, but everyone else has and who buys Round Up. You all have it at home and you go out and spray.

MZ: That's why we were concerned about the roadside spraying because there was no notification and on the neighbor islands, they were spraying Round Up and Rodeo like right on the roads and we didn't know if there were kids walking to school right after or how long...you know, there was just no notification whatsoever and there still isn't.

JW: The other challenge I think is with restricted use pesticides, as discussed, there is a lot of regulation and people follow the letter of the law for the most part, but they are also

switching to general use because it is too difficult to comply with the restricted use pesticide guidelines, so there's a real nontransparent area that is very difficult for us to get a handle on.

MZ: Then you have the drift issue. That is a whole other issue.

JW: You can't really get the information on the application so easily, but at least the sales might be one way to at least get a sense of how much is being applied.

MZ: But even the drift, there are limited things people can do when you know you live downwind of an orchid nursery and they are spraying, and good luck, you gotta leave.

TM: Call us.

JW: Did you say orchids?

MZ: Orchid growers use a lot of...I don't know what kind of pesticides, but I think they have a lot of fungus.

SG: Ted, you had a question.

EB: Do you have a bar graph with a lot of colors and different pesticides. As a layperson, I might read that and say that the ones with the longest lines are the ones with the biggest concern, is that the proper way to read that or not?

FG: The initial data that we are showing you was just the percentage of detection, so those are not. For example, that was atrazine and so that from _____ was again looking back to 2000 or earlier...there were a lot of very small detections, but they were in a large number of streams, so

EB: It doesn't tell us that atrazine is the biggest problem.

FG: I appreciate that. That's the kind of things that we've been working on, presenting the data in different ways because sometimes when I'm looking at it, I don't see those things and I appreciate that.

MA: You said there wasn't a soil quality done to compare it to. Would the report say that there was no concern or is there a potential concern because there is no comparison.

FG: The report says that there is no data...meaning we can't say. The way that I would look at it, so we're talking specifically about glyphosate? So glyphosate is, in _____ and water, we have a level of concern. And really the concern with any kind of chemical is how is it getting into the receptor's body and when it's dissolved in water, what's most _____. So if you find it in soil, it takes another step for it to get to cash that it affects something. So we have a number in water, but we don't have a number in sediment. In fact, people weren't looking for numbers in sediment, the EPA and others for a long time because the _____. In my professional judgment, I would be more concerned about what's in the water than in sediment _____ be in the report. The report simply says we detected it, there isn't an action level, and it actually says these are computer results for experts to understand what is happening.

MA: The report also addressed the EALs and _____ were not used here.

FG: Actually, the EALs for water are essentially reflected in PA numbers. We do not have sediment EALs, we have soil EALS. You brought that up before and you're right. Let me just go back and actually do that in here because it is important.

MZ: What's an EAL?

FG: It comes out of our office, an environmental action level. It's equivalent to the state and to the federal...these are numbers set for soil, surface water, and ground water that have to do with establishing what the safe level is. It's a screening level to determine for future clearance.

MA: so if a truck spilled on the side of the road, or something like that, this would be the cleanup level to go to.

FG: The water numbers copy the EPA numbers.

MA: I think that level is set. We had a comment from Monsanto that the numbers are really dated for glyphosate and came from the 1980s. They recommended new data that might be more applicable.

FG: There is an EPA pesticide number so that should be what we are working off of.

SG: Can I ask that we hold our questions a bit and give the public a chance ...

GT: Just one more...you know on Moloka'i, in our production area, the wind is very high and so there is a lot of dust so is there some way of measuring inhalation levels or...you know, once it gets in your body, it reacts with the water and you're just consuming it basically.

BB: You would do an air study for inhalation of chemicals to seebut we could tell from the soil levels if for inhalation if there is a model, and I agree that we are going to be testing the pineapple fields.

SG: Thank you. Dan do you have a question?

DP: Fenix thank you very much for your excellent presentation today. The state has an advisory committee on pesticides. It's under the DOA Pesticide Department. They haven't met since March 2009. Do you think an advisory group like that is needed or do you think a body like this can serve that public function. Also, can you just speak briefly to the colony collapse of the bees.

FG: First things first, I don't know very much. I know there is an advisory board and I know that Dr. Roger _____ who was just speaking out is actually on that board, but I really can't speak more than that. Gary might be able to speak to that.

TM: Yes I can...we have about 9 members. We've been trying to get fully staffed. We just had guys who just termed out and guys coming back on, and we got a letter from someone who said, "I just retired, I'm leaving," so the numbers...we've got to have at least 7 people to have a meeting, so if someone goes out of the state, your whole meeting can't do any business, so it's real tricky right now. But again, you're right, we do have some rule changes coming up and I have to get this group together, but it's just the bodies coming in we do not have.

DP: So you are getting it together?

TM: Yes.

DP: Can you comment just briefly on that bee colony collapse...I know it's not your thing.

FG: I actually just have not been looking at that for years. I read about it in the New York Times, but other than that, I really can't provide...

DP: And your associate? Can she?

BB: I don't know.

FG: Is that an issue in Hawai'i? Do we have problems with bee _____ in Hawai'i?

JA: We definitely have problems with varroa mite and _____...they are decimating the islands. There are apiary experts with the DOA and with the US _____, and maybe you could call in and speak to the group.

GT: There are some problems like in Wai'anae there are a lot of problems pollinating the squashes. They have to actually hand pollinate because the bees are just not around. Varroa mite is here. There is also the small hive beetle and we may have other things, but I don't think there's enough research going on in that area to really know.

TM: There are other factors. Sanitation of the hives is another problem. So called neonicotinoids that bring that up. It's a big issue. With the latest survey that came out, they said that the number of declines are not as bad as the previous year; however, that number is still, I think like 23%. At one time, it was only about 10% nationwide, so it's something we are all looking at. We want to encourage people, and this is for the general community, to take a look at pollinator habitats, planting crops or even ornamentals that provide habitats for bees and butterflies, and even moths. You have to remember too, certain insects, some of the caterpillars compete with the farmers for crops so you have to have this balance. We like to work with the school kids and educate them about putting in some nice plants that bees can come and forage.

SG: Any other comments for Fenix?

MA: What's your next step? If you had all the money in the world, would you do this every 5 years, every year?

FG: First of all, looks like we're looking at the data coming out next Wednesday and we'll be sure to send an e-mail to you guys, but that's the beginning of what the next step is...which is getting all kinds of people to look at this data. Everyone can look at it and begin to think about what it means. I think to better understand this, we need to get folks together and to talk. So we're just in the early planning stages. The DOA is really in need and we would like to provide a service to them.

TM: Well Scott's (Enright) not here, but he's committed to seeing where this thing goes. Input from the general public is great as a next step.

FG: One note on that...we've been talking about the troublesome issues about curbing pesticides...education goes a long way...educating kids and helping people understand,

the stores...just making people aware. Even though that is challenging to work on, I wouldn't dismiss it as impossible especially with people who are motivated.

MZ: More education on some issues goes a long way like you say. I think spraying poisons is one of them because a lot of people spray out of habit and there isn't that much difference if you don't spray...I mean people who aren't making money off their crops and things. I have a neighbor who just sprayed everything. We told her you have to stop and it was on my property. She stopped and nothing changed...everything's fine.

GT: We also need to look at models. If you look at Hawai'i compared to the rest of the US, we are spraying year round. If you look at places like Oregon, Washington, they have a 90-day window to get their crops out and after that they don't spray, so we need to look at this cumulative effect. We need to look at the environmental effect in the tropics versus being in colder areas, so it is really difficult to look at models from other areas to even look at that. I know there's some stuff coming out of the Mississippi Basin right now with pesticides showing up and their production is more seasoned than in the Mid-West. I was just wondering how that would play out on some of this data.

FG: I think there are certainly a variety of conditions here in the tropics and we don't know because we just have this one snapshot of Hawai'i and what it means. I came from having done this in Oregon and I can let you know that the first place we did there was with the apple orchards as there were issues there. I had a meeting with the harbors and the local stakeholders to tell them that a very toxic pesticide called Azinphos-methyl was 90X the water quality standard, 90X the violation level...it was a big deal, but through them working with _____ and Ag, and working with their grower groves, they were able to change their management practices and, within one year, meet water quality standards. They still had to use the pesticide...they just really got to work doing all sorts of things like what people were doing because they weren't thinking about it, they used to fill up these spray trucks because that's how you applied pesticides in that particular area, so you have some pesticide left at the end, pulled the plug out at the bottom and drained it...didn't think about it, just goes into the ground. You know, just not thinking about it. But they also got some real expert assistance from the universities to do things like adjust the droplet sizes on the sprayers so that the pesticide goes into the tree and not into the air. It all sounded scary to start with, but it also saved a lot of money because you don't want...so there's a lot of those kinds of things that can happen. When I looked at the State and saw that we didn't see exceedences of any currently used pesticides, again it's just a snapshot, but that's pretty important and I was really pleased to see that, although we don't know what it means overall.

AGottlieb: That's what I was impressed about and recently in the media/social media, farmers and ranchers were made out to be terrible polluters of the environment and part of it is because it's dirty work and part of it is they are never told of the great work they do feeding everyone else, so I'm especially pleased with what your results are and I hope that the communication that you can put out on this, the EC can help especially with an outreach committee to let people know that a lot of the factoids that you're hearing are just untrue and the important work the farmers are doing in this state for a lot of things, the ecosystem services and growing the food for everyone else, is working apparently very well. That was more of a comment than a question. It has been tough to be a farmer in this state in the last 3-4 years and instead of working in the fields, we are having to put in with the legislature or spend time on social media trying to get the real story out.

FG: We're hoping that this can become a place to come together and we can talk. Getting small groups together can make a huge difference. There are a lot of misconceptions on

both sides and the farther the people are apart and the less they are talking to each other directly, all that does is multiply problems.

GT: I think that if there is any follow up, you really have to connect with the community to know what activities are going on. I kind of see a little bit of this as more helter skelter...you know, what activities are going on in this area and where should we be sampling in relation to this....where is everything going to collect? If not, you could be just a half mile off or a quarter mile this way and that, but you're not really catching it. I think that's what's really important...different areas that we know what activities are going on and where to sample.

FG: My work in Oregon...we had watersheds and big community groups, stakeholders, and farmers worked together...those were the groups that got funded to get more _____ because you're right, the local folks are going to know...you need to look here and this is where or you want to look here this month or this is what the farmers might be saying and these are the issues we are dealing with here. The other thing that is really important and gets lost in this area about pesticides, is that pesticides properly used is how we get food. The problem is when they get in the wrong place and I think we can learn more from the DOA about the things they are doing already and I think there is more than can be done, so we want to be able to have both. We want to have good sustainable Ag and we want to make sure that we're not having _____.

GT: Just to follow up that...I think we talked about the potential to create some kind of advisory committee between the DOH and DOA to kind of look at this in a bigger picture and have regular communication about the rules in a more formal setting where you folks, DOA, and other parties are involved in this issue, and to have ongoing communication...just to be able to assure that these things are coordinated within the state agencies.

JW: I also just want to point out that the DOA has had an integrative management policy for quite some time and a lot of the pesticide industries have been trying to do that, so it's an ongoing thing and I think the public is also not aware that that really is a state and industry effort, and maybe we also need to help individuals that are using general use pesticides do something similar.

FG: That's a really great point. In fact, the gains that we saw in Oregon had a huge amount of _____ management, which means you go to look for bugs before you spray. You actually pay attention and instead of saying "oh it's the beginning of the growing season, I better _____ pesticides ____." It saves money for the farmers and makes sure again it's only doing the job that needs to get done.

MZ: As a wildlife advocate, my organization and me personally are not opposed to pesticides because pesticides are used judiciously in conservation areas to save species from going extinct and to protect our watersheds, so we hate to see people come down just automatically against pesticides because without them, our watersheds would be full of strawberry guava or you know rats are the next big issue, rodents, and mongooses, and you will see integrative pest management EIS coming up from the feds and the state on increased use of anticoagulants, and that's going to be a gnarly issue because people are going to come out and say, "Oh you poisoned our water," and this and that, but with integrative pest management, that can be a tool among other tools to protect seabirds, nesting seabirds, forest birds, snails, and plants that are affected by rats, so you know, I feel kind of torn because I see a lot of misuse in the urban areas I think and, yet, I don't want to see tools taken away that we use to protect native and rare and endangered species...pesticides are one of them.

MA: Just quick kudos to HEER and your team...thanks! Not just for the study and presentation, but for working with us and responding, working with DOA as well...we appreciate it.

MS: Thank you...good luck going forward.

SG: So we just have a couple more items on the agenda and it's 3:30 as a time check. For the standing committee reports, did any committees meet?

MS: Yes.

6. Standing Committee Reports

b. Information & Outreach (I&O) Committee:

MA: The I&O committee, we had a discussion on what's next? One thing discussed was education on 343 and outreach on that. Other things were sea level rise, invasives, and coral bleaching, and asking the OEQC director what she wants to focus on as well, and just trying to get ideas rolling. Tom already was asked the question about a pesticide committee, so it sounds like they just need enough members to keep moving and I think that was since the big touch points.

MS: I guess the only question I have is as an item for discussion: If we're going to have a retreat, then these items are really great to come up at the retreat and we can talk about what we're going to do and immerse ourselves then like we did with this year's issue, but if the retreat is a way's off, then maybe at next month's meeting, we may want to put it on the agenda for a more in-depth discussion of where we want to go next as a council.

SG: For the new people to the council, the retreat is a relatively new thing for the council. It has been going for 3 years now. I think Gary Hooser started it during his term and we've continued doing it. If there is interest in the council to keep doing it, I think we should, and that happens in July usually so that's once the new council has taken shape, once terms are finished and new people are officially on, and we have the present council for the next calendar year/fiscal year, basically July 1st around to the next June 30th. Also, we consider the committee assignments and we also reconsider leadership as well so if somebody else wants to chair, they are welcome to request to do that and committee chairs as well so that's kind of the time we do that. Next month is June, which would be the time that we would be preparing for the July retreat, deciding what we are doing. Other things to keep on our radar, the Annual Report. What are we going to do for the Annual Report. The Rules Committee, getting that back up and going. There are a lot of things that we could discuss next month and if you guys want to hold more discussion on what the I&O will do next month, you can be happy to do that or do you want to wait until the retreat? We can also wait to that because there are plenty of things we can discuss at either event.

MS: But we are going to have a retreat?

SG: As far as I have been planning...but we haven't had a chance to talk about it yet.

MS: OK.

JW: I just wanted to comment if I may...the legislature identified 2 issues this session. Alien species and climate change, and we're putting more money into both of those areas. I really focused on alien species the last two sessions because I think the rate of change has just gotten uncontrolled. We have a major federal preemption problem that I would be happy to talk to people about. We also have a major intrastate transportation problem that has not been addressed by the legislature, so I would love to work on those issues as they are very important. The environment and our economy, both of them are critical.

MZ: It is one of the most critical issues facing all of us in this state. It affects everybody...invasives...it really does.

JW: We could do more, but it's complex and we need to take action. I don't know exactly how we're going to do it with federal preemption, but...

MZ: The Annual Report committee could take the lead from your committee. If your committee decides to prioritize and take one of those issues on for the next year, then either this year or the next year, the annual report. I mean there's nothing wrong with an annual report from us that is a little more focused rather than...I'm glad we did the genuine progress indicator and I think we've done a lot with that. I don't want to go back to those old reports where we measured the amount of cars on the H1 freeway. We just don't need to do those kinds of reports, but maybe we could be more focused like what state laws could be changed to improve something like the invasive flow...something like that. That would interest me a lot on the annual report committee.

GT: Even the federal stuff could somehow impact on some of that stuff. There's new stuff coming out every week and they're just in the process of approving bananas coming into the US from the Philippines, and end up in Hawai'i. Taro coming to the mainland and then coming over here losing their identity, people grabbing it and planting it, and you have some lethal virus coming in to Hawai'i. There are a lot of issues from the federal side that they're not even listening to us.

MZ: There could be part 2 and we could start with state legislation that could be enacted and then we could look at the international community with the same problem like the orchids, some of the gravel and crush material that comes in with all kinds of stuff in it.

JW: Pro or con, we're not the only state...we're just the most vulnerable state that there is a concern.

MZ: And there's brown tree snake with the military buildup in Guam. It's just a matter of time before we get a live one. Every 2 years or every year, Inouye and others have to go begging for this money to the congress when it should be part of the military's transportation budget...it should be part of their operating expenses, but no it's _____ to keep Hawai'i safe from intrusives.

GT: A good example is the coconut boring that cut in right around the Hickam area. Can you imagine all the resources without coconut trees?

JW: An issue we had the mac nut _____. All our major Ag industries

MS: Back to what I had originally said...these are some really important discussions and would be better held during a retreat where we all feel a little more relaxed and less under the time frame pressure to be able to come up with these ideas. That's not going to solve the annual report problem because if we don't have the annual report going by July, or a

topic without a path. We have the same issues as last year about the annual report, but I think that all of this would be so great. It may be then my comment to the I&O committee as a member is that maybe we hold for a month and then have this discussion at the July retreat, and maybe we can work out helping to broaden that discussion somehow by bringing in some education pieces or maybe as you decide what the focus of the retreat is going to be, maybe we bring in some educators on invasive species on a couple of different places that gets the discussion going if that seems to be...or, in fairness, we bring in a climate change person and an invasive person, but we could look at it from that way and decide. But I didn't really mean for us to have a discussion now...I'm sorry cause I know time is up.

SG: So we have only 20 minutes left so we make sure we have time for...

MZ: I would like to see us choose the speakers for the retreat rather than someone else just choose some random panel.

MS: I think we should put together a retreat planning committee. Marjorie, why don't you chair the retreat planning committee?

MZ: I'll help with the menu.

MS: No no no no no. You have issues with speakers you should be a part of the planning committee.

MZ: I will help plan it if you guys tell us what the issues that you want focused on. Climate change and invasives.

SG: I think we already have a sense...

MS: Climate change, invasives, and education on 343/345.

MZ: So you have one panel speaker on each one.

MS: That's up to the committee to figure out, not the council.

MZ: We could spend more time on information and discussion, and less time on strategic planning. You know, we spent a lot of time on strategic planning. I think we know what we need to do. Well, I'll help. Is that an ad hoc committee or is it just...

SG: We have to create a committee to do all that stuff right now right? If we're going to make this a thing...so...

MS: It's an investigative committee.

MZ: Yeah, that's you guys.

MS: No no no no no. I was the chair of that for a very specific issue which had to do with the budget. That was the budget committee.

SG: Well, can we make it ad hoc? Can I just appoint ad hoc?

MS: Yes.

SG: So Marjorie?

MZ: I'm willing to help.

SG: So anyone else want to be on the ad hoc committee? Jessica? I will be too so the three of us.

MZ: You're going to be having a meeting in June that will determine the date for the retreat or set something....cause if you want to reserve something you know....

MS: The committee should do that.

SG: If the ad hoc committee meets, we have to sunshine in?

EB: If you're just gathering information as opposed to making decisions...I think we should have a vote to establish this committee.

SG: So even if we're like deciding we're going to invite these 3 people, that's a decision that should be sunshined to come talk.

GT: What if the committee says we want you to go do this and go do that, and you're already making the decisions...can you do it that way?

EB: You have an agenda and then you...If you have 3 topics and who are the experts on these 3 topics...you're gathering information, but you can represent the council and have a vote and say how about these guys?

MZ: We will gather information on date, location, and speakers, and then we'll bring it to the council and we won't make any decisions. Topics.

CP: Second.

SG: Who moved?

MS: I did and it's under new business on the agenda.

DP: Can I comment on it?

SG: Just a second. OK...Mary has moved. Chuck seconded. Any discussion from the members on this? Any other comments?

DP: I know it's going to be a retreat and I guess it will be sunshined. I would encourage you to make this available to the public and not just we know it is available, but I think it is a great opportunity for people to come and hear what people are talking about, so I would use this as an outreach opportunity as well, but that was just my 2 cents.

MS: The committee will take that under advisement.

SG: All right, let's have the vote. All those in favor of this ad hoc committee? Aye. Any opposed? None. Abstentions? None. Unanimous vote. All right, thank you guys. So we will put this on the agenda for next month to have recommendations to the council for the retreat.

Chuck you had some comments for the exemption committee?

CP: I am not aware of any direct activity with respect to exemptions. I did have a question on something that might be related. It relates to programmatic assessments. It came up because I noticed something on the land board agenda and it said request land board authorization to contract qualified professionals for development of programmatic environmental assessment for small-scale beach restoration projects statewide. My question is what is this programmatic assessment and if that's done, does that mean that these projects become exempt from further assessment. We have all the experts here at the moment and if I could get an answer for that.

MZ: My understanding is that programmatic does not exempt you from a site-specific.

CP: First of all, I haven't seen anything in our statute that authorizes programmatic...correct?

SG: Yes and no. So we don't have a specific thing called a programmatic EA that's called out, but our law applies to projects and programs, so if you're doing an EA for a program, it could be construed as a programmatic EA.

CP: How do they get from the generalized description of the whole series of projects to the impacts of the design or nature of the specific project.

SG: That's a good question. We don't really have a ...

MZ: But it would define other programmatic at the federal level, it doesn't...

CP: We're not talking about the federal level...

MZ: I'm just saying...

CP: We know they do that.

MZ: You know that they don't exempt site-specific EAs. A programmatic EA...I've never seen a programmatic EA, but a programmatic EIS does not exempt people or agencies from doing a site-specific, it's just a larger program that you can site in your site-specific, but it doesn't exempt you from doing a site-specific, so these guys are still going to have to...one could argue.

CP: This might be a good example...I didn't want to attack the example of small-scale beach projects...I discussed that example, small-scale beach projects, but that would be an example of a specific project. One small-scale beach restoration may be a lot different than another.

MZ: Right, so it's still site specific...if they did the programmatic and you wanted to go out and do the beach in front of your house and do some kind of armory or whatever...if you trigger 343, you'd still have to do an EA. A programmatic...it doesn't matter what you call it...it doesn't exempt you.

CP: Why do they want to spend money doing it then?

MZ: Because people can refer to it.

SG: I think the idea is that it's going to come up with mitigation measures which are going to be generic mitigation measures and if those mitigation measures are sufficient to address the potential impact of your restoration project, then you fall under the scope of that EA, but if it is something that you find that you'll have to do other mitigation measures for, now you're no longer falling under the programmatic EA.

CP: So how do we find out about that?

MZ: Ask DLNR.

SG: Yes.

CP: No, I mean how do we find out that one project would fall under it and another one wouldn't.

SG: That's where the Exemption Committee has been working to request to encourage agencies to put out their exemption determinations, but the only way you can find out is if you go and ask for it.

CP: It wouldn't be an exemption request right? Or a determination. It would just be an RFP?

MZ: No they're not asking for an exemption from 343 in doing a programmatic. They're just saying they want to do a programmatic correct?

CP: What he's saying is that some projects may fall under it and some may not, and we'd never find out about it.

SG: Somebody's going to have to decide. This falls under this, but this doesn't.

CP: Cause we don't get any notification of RFPs, so the office wouldn't make any assessment on an RFP or whether it would conform with the parameters of the programmatic assessment.

JR: Whatever body is issuing the permit would have review over that. They can accept it as part of it or not and that's where it's going to fall. We're not the reviewing body for that though...it would be whoever is issuing the permit.

SG: BOCCL right?

JR: Yup.

CP: So it's up to the agency.

SG: I'm hearing again the need to reach out to DLNR, especially their deputy AGs and teach them about 343.

CP: They've already done this.

MS: They've already approved the authorization to contract.

CP: That was in March.

MZ: The action that they approved was preparation of a programmatic. It's not saying "ok from now on, everything that's on the beach is going to be under this programmatic." They're just doing this programmatic and then it will be a question of do they start doing site-specifics when they get _____.

MS: But I think that the next step, I mean part of the programmatic is going to be statements that say this particular activity will be exempt under 343 because This one will be exempt... You don't think they're going to try to do _____ exemptions _____

JShacat: I've seen programmatic EISs in the past. When you see the preamble, or the introduction, it's usually, the ones that I have seen...I'm not an expert on this in any case, but the ones that I have seen are very clear. This is a programmatic...as this program occurs, we will do individual project-specific EAs or EISs. This is covering the whole program so that the specific project is part of an overall program, so it's important to have the context of what you're doing in the bigger picture, but you know, if you're doing small scale beach restoration, that might not be a big deal, but having you kind of look at the cumulative impacts of that, you have to look at the program. I think that's the reason for doing the programmatic EA...that's my guess.

MS: But then there's the issue of the statute. Does it have a programmatic EA in the State statute, so how can they...

SG: But we don't have a project EA either....we have an EA that can be done for projects or programs.

MZ: The statute doesn't forbid it, but it doesn't say once you do a program, you don't need to do a site specific. That's going to depend on who pays and who's watching and who challenges, and how far DLNR wants to push it. But they're not forbidden from preparing an EA for a program, but that's what they're doing.

GT: You know what it sounds like...they don't know what the project is. It's kind of like doing a scouting thing...they don't know what the project is and identify it. Maybe you just need clarification from these guys and what's going on.

SG: To come back to the law, they're doing an EA to determine whether they need to do an EIS or not right? It's not meant to be like "oh we did the EA, now we can go do whatever we want"...even though that's how they might be thinking about it. So the answer to that question of doing a programmatic EA is now we need to go do a programmatic EIS or now we don't need to do any further 343...

MZ: In which case they'll be challenged...

JW: Part of the reason they have to do a programmatic often is because if they only do the site specific and not the programmatic first, then there's a potential need for cumulative impacts seen beforehand.

EB: I think we're seeing a bunch of these coming with _____ last winter and the potential sea level rise and they're recognizing the cumulative impacts that you are referring to and the need to study this programmatically. If Marjorie is right and I hope this is how they are looking at it, that doesn't mean that they don't have to do a site specific, just prepping for the bigger problem.

MZ: That's right...you're getting overwhelmed with these requests now with the North Shore and...

JW: They see they can't do it piecemeal.

MZ: It actually does save money because site specifics can refer in part to some parts of the programmatic. The programmatic doesn't replace the site specific, but can refer to it. At least you can crib from it because it's already been written.

MS: Can we ask Chuck who is representing the Exemption Committee to contact DLNR and just talk through how they see it and what they think?

SG: Do you want to do that Chuck?

MS: OK doing that?

CP: Yeah.

MS: We've seen it on the agenda and we're not stopping it...we're just wondering what their thoughts are and how they're going about it...then report to the EC?

CP: Does anybody know who I would ask?

MZ: Bill Tam.

SG: I would say Bill Aila..William. Or probably Sam Lemmo. We have a few minutes so...

MZ: I have something on the Exemption Committee cause I'm not sure I want to stay on the committee unless we're going to...I mean I have something on the Exemption Committee.

DP: I was going to comment on just that whole thing that you guys just discussed.

MZ: So Chuck is done first with his exemption.

SG: Quickly cause I want to give the public a chance to comment.

MZ: Sure so one of the things that I joined the Exemption Committee to do was update the official repository or depository, whatever it's called, of exemption list and the legal repository for the exemption list from my understanding is what is on the OEQC website under Exemption Lists. I think that we should go through each one of those exemption lists and make sure that the final document is on there...not the drafts or not ones that have cross outs and adds, but just the finals just in case somebody takes legal action and they have to refer to that official exemption list. Some of them don't have when we concurred with that list or whether we even concurred, but the assumption is we did because it's on the website. So I mean it's not a high priority but it's something we can do a couple lists a month and then in 3 years we'll be done and it'll mean going through the paper record and trying to find...or going back to the agency and saying send us the final. And then we set up a process where, in the future, if we concur with the exemption list, the agency has to turn in a final copy, a pdf of the final with all the corrections and the date that we concurred cause we're stuck with all these drafts. If you go look, a lot of them say draft, doesn't say when we concurred, the dates don't jive, so it's illegal.

JW: Can we make a formal request to each agency right now and ask them by a certain date to make sure...I could do that.

SG: You could do that as the director.

JW: I'd ask them to give us their final to update the website.

MZ: Take the ones that are on the website cause half the agencies never even sent us a list. We've been trying to reach out to the agencies to get us an exemption list and come talk to us and they haven't. I'm just talking about the legal repository of exemption lists which is about 20-30 agencies. There must be 20-30 exemption lists on that website. Some of them are fine as is and others are drafts or don't have dates or don't have the information that makes them a little bit clearer and I think that we should have the finals there because there might be conflicts someday if someone goes to court on that list...so just a small thing that I wanted and I'm willing to work on it, but I need staff help because you guys said wait until the new database is up and we can't get into the database. We don't know where the paper records are...whatever...but I think we should start.

JW: At least the request and trying to set a deadline for them to get it to us is easy enough and then it's just a question of whether they respond.

MZ: I would recommend prioritizing and doing the ones on the website first rather than every agency under the sun because...maybe start with the ones that have an accepted exemption list on our website.

SG: Please feel free to follow up with Jessica to work out the details. So open up to the public...we only have a couple of minutes.

7. Public Testimony

DP: Just briefly, kind of what you're talking about...in California with the California Coastal Commission, what they're doing there is different...it's not _____ local coastal plans. As an example, the city of Newport Beach around the harbor _____ nearby local coastal planner project...it's kind of a small area they have _____ plan ___ a lot of these issues. It's not exactly what we have here ____ parts of islands or counties are not exactly there, but that's one way _____ local coastal plans.

MZ: The commission is awesome...very awesome in California.

DP: Yes, there are all different ones on the coast _____ every single project I think.

MZ: They're really good.

SG: Okay. Any final comments? It's 3:58. Anymore comments from the public?

JS: Assignment for a committee?

SG: Do you want me to put you on one? You will at the retreat in July so... Let's adjourn then. Thank you all. Jessica, glad you're aboard.

8. Correspondence Received

No new correspondence received.

9. New Business

- Ad Hoc Committee for retreat information.
- Next meeting date: **Thursday, June 19, 2014 at OEQC, 2-4 PM.**

10. Adjournment

The Chair thanked everybody for attending and adjourned the meeting at 3:59 PM.