

February 19, 2015
Environmental Council
Exemptions Committee

Present: Chuck Prentiss (Chair), John Richards, Mark Ambler (Council Chair), Joseph Shacat

DLNR: Dan Quinn (Acting Deputy), Lenore Ohye (CWRM), Russell Kumabe (Parks), Ian Hirokawa (Land), Pua Aiu (Chair's office), Valerie Suzuki (Engineering), Tanya Rubenstein (DOFAW), Eric Yuasa (DOBOR)

Christen Mitchell (consultant, Anden Consulting)

Public: Dan Purcell, Jason Sumiye (TNC)

Call to order, introductions.

DLNR Exemption List

Chuck Prentiss – read from OEQC Guidebook, then reported that they have DLNR's submitted list. He has a number of questions and would like to go through them first:

CLASS 1:

Item 25: Repair and maintenance of dam... says “spillway **expansion** or improvements,” questions how “expansion” fits into repair and maintenance of existing

Dan Quinn: Had a reservoir on Kauai where spillway was quite narrow, which was contributing to a potential flooding situation. So spillway cleared a bit more to spread out drainage. So intent is to mitigate situation before it becomes a problem.

Prentiss: ok. Take a look at language to ensure and clarify that not any old expansion.

Item 37:

Referring to county grading permits?

Quinn – yes.

Prentiss: Ok.

Item 41:

Temporary storage of construction equipment and materials. Temporary bothers me – temporary could last quite a long time. Still have WWII buildings that were “temporary”

Quinn – typically for during construction only.

Prentiss: just would like clarification.

Item 42:

“Actions that are intended to maintain or improve the sustainability of those natural resources...”

Concerned that this might be too general – in the way that it is stated “other administrative and management measures” - becomes unclear if this falls under Class 1. This class usually refers to maintenance and repair of existing facilities – use of word “improve” goes a little beyond 'maintenance and repair'. Believe the window is too large.

Russell Kumabe – an example would be clean up that Parks had to do – homeless encampments at Diamond Head with feces, etc. This would assist us in that regard. Same for Na Pali coast – have to do periodic cleanups and often involves clean up and hauling debris that unpermitted individuals have left.

Prentiss – do not have any problem with that type of action, but wouldn't that be covered under

“maintain”?

Kumabe— kind of, but also managing.

Prentiss: in future someone could interpret “improve” as permitting a new project.

Item 52:

Use of state lands and waters for traditional and customary practices

What is minor consumptive – does non-commercial modify it? **Rephrase as “minor non-commercial non-consumptive purposes”**

Item 53:

Granting privilege to conduct operations....

Concern is “existing building” - class refers to existing structures/buildings – but a new building in the future, maybe it required an EA or not. In future it will be considered an existing building.

John Richards – but a new structure would require an EA.

Quinn – Applies for when we change concessionaires, using the existing facility – not new facility.

Continuing similar use.

Richards – Do have a history of this. Transfer of Ag lands – theoretically required an EA even if just between 2 government agencies. And do have a different way to evaluate new commercial activities.

Quinn – Well, some are ongoing activities. But if introducing a brand new activity, would assess. But no evaluation if simply a new vendor...

Prentiss – so scratch that comment.

CLASS 3

item 4: new small facilities to support or enhance public recreational use...

“thinks goes above and beyond the class 3”

Richards – what's your question?

Prentiss – “or structure necessary ...” this is a pretty broad statement – could construct almost anything under this phrase.

Joseph Shacat – I liked this one – because exemption class is somewhat broad in the sense that it says “single new small facilities or structures...” and this actually narrows that to structures or facilities necessary to public recreational use – so I feel like it narrows a broader exemption class.

Richards – and the wording actually follows the exemption class language: “facilities or structures”

Prentiss – ok you're right re 'structures', and some of these are small, but pavilions, campgrounds, ... these exceed what the class discusses

Shacat – I disagree. I think this narrows a fairly broad definition. These are smaller than single family residence, multi-unit structure,... a cabin is similar to single family residence. I like that this adds a specific purpose – not just any new small facility or structure.

Richards – I agree with Joseph. I have no problem with this. They need flexibility. Anything major will go through EA. A lot of this has to do with ADA stuff.

Mark Ambler – I agree with that interpretation.

Prentiss – ok, so will leave that in.

Item 6:

“Off street parking” - considers 50 stalls to be a large facility.

Quinn – That is a current Parks exemption – and intent is to generalize applicability to entire Department.

Prentiss – what would a 50 stall parking lot serve? Would service a pretty large facility. If 50 stalls, likely require an EA on itself.

Richards – but there are huge amounts of existing parking needs/demand. (location) at Kawaihae.

Annual gathering. Hundreds of cars – no change of facilities. Parking is always inadequate at all facilities. Frankly I would encourage more parking – to get cars off roads. Any facility will trigger an EA. Point is a lot of times, nothing new is being built – but existing parking is inadequate for current use.

Prentiss – but again, talking about a large parking lot. Might require certain mitigation – prevent runoff, etc. Why need a 50-stall parking lot.

Quinn – 50 stalls is about a half-acre. Don't recall building anything that big without assessing the area – but this might be expanding existing facility where don't have sufficient parking capacity. Internally do assess impacts.

Richards – and already allow cars to park in various areas. Is there a bigger impact parking on the field (current condition) vs. paved surface?

Shacat – has existing exemption for 50 stalls per park. Only change is to apply to state lands – so really decision is whether to extend to state lands.

Richards – don't build a parking lot for sake of building. Do it to accommodate parking which are going to be there anyway.

Prentiss – ok so will leave that one then.

Item 8:

Richards: what does “non-destructive” mean - all – above ground.

Item 7:

trails and boardwalks.

Prentiss – state has proposed 1000 ft of boardwalks in Kailua. Some are going to be in water – in wetland or otherwise wouldn't need a boardwalk. So – how to judge there will be no negative impact without any public comment through EA purpose. And what effect of boardwalk on surrounding area? Mention education? 50% of time this is interpreted as tourism. So boardwalks not going to evaluate impacts of for hordes of tourists. This one particularly in

Christen Mitchell – clarified about Forestry request – to be able to upgrade existing use trails to reduce erosion, accommodate use, etc. (e.g., hunting trail); not applicable to brand new trail cutting through forest...

Prentiss – ok, but maybe need to fix language – because exemption does not show no effect on environment.

Richards – are there standards used to decide when to upgrade/evaluate a trail– is there a process you are already using?

Tanya Rubenstein – working on a management plan for an area on the Big Island– where there are existing trails. Improving trails may be the sole trigger for an EA. Working with public to identify which ones are actively used and need work.

Richards – so have a management plan.

Prentiss – don't have any problem with the improving of trails – but way this is worded could apply to a lot more than situation of fixing up existing trails of use.

Shacat – would be comfortable with some sort of language – that identifies existing use trail and not cutting brand new trail...

Prentiss – ok, so new language that not some brand new trail, but existing use trails...

CLASS 4

item 17: management of surface water runoff ...

Prentiss – “bioretention areas” - living machines?

Quinn – Bioretention is more retaining percolation on-site instead of running out to sea. Have been

moving in direction of permeable pavers instead of pavement.

Prentiss – so not biotreating sanitation?

Quinn – no. Haena does actually have a wetland treatment system for the waste. Did go through extensive process to approve.

Kumabe – this allows for updated technologies – that retain stormwater on site, or distribute it slowly into the ground, rather than just paving a drainage ditch and moving the water elsewhere.

Prentiss – with respect to wastewater, DOH and counties say living machine is not appropriate for sewage treatment, so want to ensure this is not that.

Quinn – no sewage. Just surface water/rain.

Prentiss – ok so leave that one.

CLASS 6

item 5: construction or placement of utilities

this does not really relate to existing facilities – should relate to existing facilities.

Richards – many times when change light poles – change voltage so need new support structures. Won't just put in utility line for no reason. These are all support elements which would never stand alone – necessarily are related to existing facilities. If doing something new – new structure would trigger EA. Don't want to have to do an EA to move a pole 100'. won't run power to something not there.

Prentiss – but way it is worded, stuff would be exempt.

Richards – right, and that's a good thing.

Prentiss – just really wants reference to “existing facilities” in the sentence

Item 13 – want to see reference to “existing facilities” for this one too.

Prentiss – That's it; I'm finished. Board members - have other comments??

Mark Ambler: Could you speak a little to the process?

Prentiss – look at guidebook – this is iterative process. Work to be done by standing committee on exemptions, then committee recommends to full council. Council then asks OEQC to publish the proposed list in the Notice for 30 day comment period. When comments are received – share comments with agency and council. Council either sends back to standing committee or will take action to concur with list. So – asking DLNR to come back to the committee with a revised list.

Dan Purcell has comments today -would like a copy of the list.

Prentiss – do not have to publish list until Council concurs that it should go out for 30 day comment period.

Quinn – business of meeting today is to review list. Can comment on any agenda item – under sunshine law.

Shacat – wanted to say he appreciated the companion document.

New business – none.

Scheduling next meeting -

Plan to have just prior to next Council meeting. If DLNR ready, this will be subject of meeting; if not, will be the status of everyone else's list.

Next council meeting is scheduled for Mar 19? 3rd Thursday...

Dan Purcell – requested copy of draft exemption list: lavaland@outlook.com