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STATE OF HAWAII  
**ENVIRONMENTAL COUNCIL**  
DEPARTMENT OF HEALTH  
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## Hawai'i State Environmental Council Strategic Planning Session Agenda

Thursday, September 17, 2015

State Office Tower, Leiopapa A Kamehameha Building, 235 S. Beretania St., 15<sup>th</sup> floor

**Members Present:** Joseph Shacat (Chair), Scott Glenn (Vice-Chair), Robert Parsons, Charles Prentiss, John Richards, Glenn Teves, Roy Abe, Koalani Kaulukukui, Jessica Wooley

**Members Absent:** All members present

**Counsel Present:** Edward Bohlen (Deputy Attorney General to the Council)

**Special Guests/Speakers:** Christy Martin (CGAP), Josh Atwood (DLNR), Matt Lynch (UH), Darcy Oishi (DOA), Rene Umberger (For the Fishes), Inge Gibson (The Humane Society of the United States), Gail Grabowsky (Chaminade University), Mike Nakachi (Olomau Foundation)

**OEQC Staff:** Meg DeLisle, Tom Eisen

**Members of the Public:** Liam deClive-Lowe, Shannon Alvado

### 1. Call to Order, Roll Call, Quorum

Chair Shacat called the meeting to order at 9:05 am with a quorum of nine members.

#### a. Introductions

All present introduced themselves.

### 2. Approval of prior Meeting Minutes

- The August 20, 2015 minutes were approved with 9 aye votes with a few corrections. No nays or abstentions.
- The minutes will be posted on the OEQC's website.

### 3. Environmental Council Budget

- Existing budget constraints** – the lack of an independent budget for the EC and possible solutions were discussed.
- Future needs and requests** – EC members want to ensure they have funding to function and put HAR 11-200 rules out for public comment. Mr. Parsons suggested that letters be written to various legislative chairs to educate them on the EC's budget issue. Members identified key legislators, including the chairs for Senate Ways and Means, House Finance, and for both legislative houses, the Health and the Energy and the Environment committee chairs and vice chairs and majority leaders, if possible. It was suggested that Ms. Wooley write letter to

Director Pressler to recommend the EC get its own budget line and budget; she agreed to write the letter and forward it to all members.

- c. **Public input-** there was no public input on this issue.
- d. **Decision making and/or action plans-** Mr. Teves moved the Legislative committee address the lack of budget and to send letters about this issue to DOH, the Governor's Office and the Legislature. Mr. Parsons seconded the motion. The motion was passed with 9 ayes; no nays or abstentions.

#### 4. Exemption Committee

a. **Committee Chair's presentation of goals for the coming year –**

Goals:

1. Encourage exemption lists for all applicable agencies.
2. Update all existing Exemption lists. All lists over 5 years old were updated and concurred in by the full Council.
3. Ensure that all concurred in exemptions lists are available online. Committee coordinated with the OEQC to make sure all existing lists were online with the appropriate concurrence dates.
4. Ensure that agencies keep a record of actions declared exempt. All agencies with lists were reminded.
5. Discuss issue of public notification of exemption actions. This will require a change in the rules.

b. **Council discussion, review and selection of committee members and/or chair-** members agreed that the goals were good and that the Exemption committee had been very successful and active this year. Ms. Wooley mentioned she had sent a letter to DOE and DOH about updating their lists, as per the council's request.

c. **Public input-** there was no public input on this issue.

d. **Decision making and/or action plans-** goals for next year include review of current exemption lists, over five years old, that agencies said were current and suggest possible updates. Also, the committee will check if any lists have become over five years old since the last review.

- ***At this point, Mr. Teves motioned to move the Rules Committee discussion from 15:30 on the agenda be moved to 10:00. Mr. Richards seconded the motion. Motion passed with 9 ayes; no nays or abstentions.***

#### 5. Rules Committee - discussion moved from the afternoon session to the morning session.

a. **Committee Chair's presentation of goals for the coming year-** The Committee had made substantial progress this last year, getting the rules about 70% complete, including public review on the update portions. The combined limits on time, lack of a budget, and working within the Sunshine Law has halted progress.

b. **Council discussion, review and selection of committee members and/or chair –** There was a discussion on this issue and it was generally agreed by members that under the current circumstance, it is impossible to finish the rules without support staff and a budget. However, it has been nearly 20 years since the rules were last changed and they are in need of updating. It is hoped that either assistance from UH in the form of law students and the Environmental Center and being approved for a real budget will allow the Environmental Council to complete the rules. Ms. Kaulukukui requested a Rules Committee meeting before the next EC meeting to generate recommendations on what needs to be done to move the rules forward. Tuesday, October 6<sup>th</sup>, 1-3pm was tentatively set as the next meeting for the Rules Committee.

c. **Public input-** there was no public input on this issue.

d. **Decision making and/or action plans-** the Rules Committee will meet to get a draft together and figure out their next steps. They should draft a letter to the Legislature to show them the EC's intent to change 343 rules to help educate them on the process.

## 6. UH Environmental Center - Status Update

- a. **Matt Lynch, UH Sustainability Coordinator**- Mr. Lynch spoke about the progress that is being made on the reinvigoration of the Environmental Center at UH. After Ms. Wooley sent the UH President a letter, the administration has been aware of the need to start the Environmental Center again and it will be discussed at their next meeting. It still has to be determined where at UH the Center will be a good fit, but the Sustainability Office will hopefully be a part of the solution.

## 7. Panel Discussion – Invasive Species and Biosecurity

### a. Presentations by panelists

**1. Christy Martin (UH Mānoa, Coordinating Group on Alien Species)** - spoke about the big issues Hawaii is facing with invasive species. The first line of defense that Hawaii has against invasive species are laws and agreements that govern imports and quarantines. There are gaps in these laws that allow for many things to slip through and enter Hawaii. The second line of defense is the port of entry inspectors, both Federal and State. They each have a different list of animals and plants they are looking for and these lists do not match and do not include many possible pests. Federal inspectors are using national lists that do not include Hawaii specific items. This creates another gap that many species can slip through. Adding a species to the Federal lists is an extremely lengthy process and many things can enter Hawaii during this process before the Federal inspectors start looking for them. When things inevitably get through, a rapid response program is the next line of defense. Hawaii has made great strides in this area and has well organized and dedicated staff. The Invasive Species Committees (ISCs) were formed as part of the rapid response effort. Even with all these efforts, invasive species still become established and spread across the islands, and there is continued need for control and management of the already established invasives. This is the current system and it has gaps in every area. Ten years of effort to fix these gaps has been limited in success. While the ISCs have been effective, they need more money and more resources. The best way to tackle these ongoing gaps and problems is to reframe the needs of invasive species control. The State of Hawaii needs a biosecurity plan to reengage the people and to put adequate funding towards this effort. This will include increased inspection facilities, legal changes, such as invasive species list updates, and greater partnership between the Hawaiian DOA and the USDA. The rapid response capacities need to be institutionalized so that they can happen every time and be more effective. There also needs to be greater efforts to control already established species, but this requires more money and infrastructure. The Environmental Council can help by participating in crafting the biosecurity plan and promoting the plan once it is written. They can assist in coordinating discussions on parts of the plan where EAs and EISs are/will be needed, and they can assist in grading progress on the plan in future years (or developing a dashboard for tracking progress). It would also benefit the State in general if the Environmental Council can help Support Aloha + Challenge goals, especially as the Challenge is gaining momentum this year.

**2. Darcy Oishi (Hawai'i Department of Agriculture)** - spoke about the DOA's invasive species efforts. The DOA interacts with the OEQC through the HRS 343 process when taking such actions as biocontrol. However, the pathology facility in which biocontrol methods are researched and tested has been nonfunctional since 2013. They are currently using UC Davis to test agents for biocontrol. This is a good example of why a centralized department that deals with the environment is needed. The Department of Sustainability is key and needs to be pushed. Besides massive budget restraints, DOA needs to deal with green waste as a vector for invasive species. Both the Little Fire Ant and the Coconut Rhinoceros Beetle have moved across the state in green waste. We need to find a way for green waste to be used in a meaningful way but still prevents invasive species from spreading. The most important thing for successful invasive species control is community involvement. This helps

lower the departmental costs of these programs while increasing their effectiveness. A rapid response can only be successful if the community understands and is involved. On an island like Molokai, it would be more than just effective, it would be completely successful. This is much harder to do on a bigger island, with many community members that don't care or refuse access to their property. Community involvement is key to making true progress on invasive species eradication.

**3. Joshua Atwood (Hawai'i Department of Land and Natural Resources)** - spoke about what the Hawaii Invasive Species Council is working on this year. HISC operates as 6 different state directors that are part of a cabinet level board, that vote on interagency invasive species policy. They also issue funding for projects that address the invasives that have fallen between the gaps and do not receive funding from elsewhere. In addition to HISC efforts, DLNR is currently working on rodent and mongoose control on Lehua island and is writing an EIS for these actions. This will involve increased stakeholder HRS 343 involvement in the next year. Coming up in the next legislative session, HISC is focusing on invasive species listing. Statute directs HISC to identify and record invasive species in the state. Not only has this yet to be done, but a formal definition of invasive species has yet to be determined and the administrative rules that provide that definition have yet to be written and accepted. HISC currently utilizes the Federal definition of invasive species to guide funding. They have an informal list of invasive species but still no formal state designation. DLNR has created a bill that will provide the authority for HISC to develop administrative rules that will describe the public input and implementation process for putting together a formal list of invasive species. This bill will help HISC update the list quickly as new invasives species are entering Hawaii regularly and the landscape of what is a priority changes. With the Aloha + Challenge passed last session, HISC now hopes to gain funding to help fulfil the natural resource management goals of the Challenge. Funding to HISC and other natural resource projects needs to be increased if we are to actually implement the Aloha + Challenge and have something to show at the World Conservation Conference. It is also hoped that a Biosecurity Plan will be in place by the conference, but that needs additional input from stakeholders at this point. Lastly, HISC is working on potential legislation that will turn HISC into an Invasive Species attached agency to the Department of Agriculture. Nothing has been drafted yet and they are still getting stakeholder input. It is hoped that HISC can maintain the parts that work really well, like cabinet level engagement and coordination and their small grants program. They want to increase their currently limited capacity to focus on federal issues, data management and GIS capacity. Better interagency planning and coordination will also be included. Hopefully HISC can become the agency that is responsible for enforcing and implementing the Biosecurity plan and have an Incident Command System capacity to respond to invasive species detection. The Environmental Council can help by lending their support to HISC's requests for funding. They can participate in stakeholder involvement for the Biosecurity plan and the Invasive Species Attached Agency legislation. HISC would also appreciate the EC's outreach and testimony on these issues during next year's legislative session. They hope that the EC can be involved through a supporting role.

**b. Council discussion-** presentations went over time and discussion was very limited before the break for lunch was called at 12:13.

**c. Public input-** there was no public input on this issue.

**d. Decision making and/or action plans-** no specific decisions or action plans were made on these topics at this time.

**8. Recess for Lunch** - recess for lunch called at 12:13 pm. Mr. Glenn left after lunch, so only 8 members were present for the afternoon session.

## 9. Panel Discussion – Commercial Aquarium Fisheries Program

### a. Presentation by panelists

1. Rene Umberger (For the Fishes) - introduced the issues around permitting for the tropical fish aquarium trade in Hawaii. US consumer demand is driving the level of 'take' of tropical reef fish, here in Hawaii and the Indo-Pacific. Hawaii is the 3rd largest source of marine life for aquariums. Hawaii has 2 times the amount of collects that the Great Barrier Reef has, but is 1/20 its size. So the intensity of collection is considerable on Hawaii's limited fish populations. 134,000 fish are taken off the Great Barrier Reef in one year, while 460,000 fish are taken off Hawaiian reefs. Permitting is unlimited and take is unlimited, which is driving the depletion of this resource. Aquarium collecting has been happening since the 1950s, and the community started protesting this unregulated take of reef fish in the 1970s. It was then that it was asked if this practice is subject to HRS 343 and if it was in compliance with state environmental law. At that time, DLNR said no, the permitting process for the aquarium fish collection was not subject to HRS 343. This was based on one small study that showed there were not significant impacts, but it was primarily done on Oahu where there were only a few collectors at that time. Big storms and hurricanes in the 80s and 90s destroyed nearshore reefs, which caused the fish to move offshore. Collectors followed them offshore where they were easy targets on patch reefs. This led to a collapse of reef fish populations on Leeward Oahu reefs and collectors shifted to taking invertebrates. Those ongoing trends are documented in current aquarium trade catch reports. By the late 1990s, Kona was also seeing depleted populations of reef fish. UH Hilo did a study and found that yellow tang populations were down by 45%, and Achilles tang populations were down by 63%. This was the first study to show that the aquarium trade was having a major impact on aquarium fish species. The West Hawaii Fisheries Council was formed as a result of community calls to ban the trade and subsequent legislation requiring the end of aquarium collecting in about 30% of the West Hawaii coast. This created so much pressure on the open areas that yellow tang decreased by 60-80%, when they were only down by 45% areas before the closed areas were created. The protected areas did show positive results, with an increase of yellow tang, and in 4 years the populations had rebounded within those closed areas. All of these results show that there about 1.8 million fish missing from West Hawaii reefs. HEPA needs to be applied to this process. DLNR only applies HEPA to Special Activity Permits, like the one Aulani Resort has for the capturing fish for their salt water swimming pool. DLNR exempts the activity stating it has no environmental impact and qualifies as pool maintenance. People applying for Special Activity Permits must provide details about the fish species they are going to take including sex, size and quantity. Commercial aquarium permits require no such details and are given to hundreds of people every year, so they can take an unlimited number of fish off Hawaiian reefs and ship them to the mainland. HEPA should be applied to commercial aquarium take, just as it is applied to the Special Activity Permits. Some of the fish taken by the aquarium trade are also important food fish, so they experience additional pressure. However, aquarium collectors take baby fish that have not yet reproduced. Fish taken for consumption are adults that have reproduced at least once. This makes the aquarium trade an especially devastating practice for reef fish populations. To make matters worse, Hawaiian coral reefs are undergoing an unprecedented bleaching event for a second year in a row. The Nature Conservancy published a paper demonstrating that corals need herbivores to maintain low algae levels in order to recover from bleaching events. The aquarium trade mainly takes herbivorous fish. A healthy herbivore population can lead to reef recovery, but that can take up to 10 years. With the current herbivorous

fish biomass down by nearly half on 99% of West Hawaii reefs and the majority of the state's reefs dominated by algae, the reefs that are undergoing bleaching stress may not be able to recover. This is why action needs to be taken now. Environmental Assessments take time, but there really isn't time with these coral bleaching events. A moratorium on aquarium collecting needs to be called so that there is time to figure out how to address the bleaching and to take pressure off fish populations while DLNR comes up with a plan. DLNR needs to be operating by their own polices when dealing with commercial activities and give the highest priority to natural and cultural resources used by the general public. The Environmental Council can help by urging DLNR to initiate this moratorium. They can also concur that HEPA absolutely applies to the aquarium trade. The impacts are already very evident and the permit process should go straight to an EIS.

**2. Inga Gibson (The Humane Society of the United States)** – spoke about the inhumane practices of the aquarium 'pet' trade. Almost 100% of the fish collected for aquariums leave Hawaii, providing no economic or public benefit. 40% of these fish die before they even reach a pet store and there is no consumer protection or education about where the fish are collected. The best a consumer gets is a 7-14 day guarantee that the fish will live. The shipping process itself subjects the fish to extremely inhumane practices, such as starvation, the puncturing of their organs and the cutting of their spines. For a pet trade, none of these factors would be tolerated for other animals. There are many things happening to the environment right now, like climate change that we can't immediately control. Calling a moratorium on the aquarium trade can be done today and have positive impacts now.

**3. Gail Grabowsky (Chaminade University, Environmental Studies Program)** - spoke about aquaculture being a sustainable and safer way to produce fish for the aquarium trade. 50 tropical fish are now available through aquaculture. Allowing unlimited and cheap collection from the reefs stalls out the growth of the aquaculture business. Aquaculture populations are better suited for aquarium life, they relieve collection pressure from wild animals, they lack infections and parasitic diseases, are less aggressive and are more likely to adapt to captive conditions. Most of the people that have tropical tanks are innocent, they do not realize their fish come off the reef and they don't know about the biology of corals and reef fish. That's something we can work towards- educations and promotion of aquaculture fish. The aquaculture business creates something new that still allows people to make money and allows consumers to continue to enjoy the beauty of the fish. It is also very important that reefs are protected, since they are valuable in so many ways. Reefs are stressed out in ways that encourage algal growth, such as the addition of nutrients from sewage spills and land run-off. Algae competes with coral for space on the reef and herbivores are really needed to maintain a healthy reef. Coral is valued at \$34 billion/yr by people in Hawaii. The aquarium trade does not promote stewardship of a common resource and only benefits a few collectors. Open access and partial protection areas have the same levels of fish abundance. Hanauma Bay has 8.4 times more fish biomass than the areas next to it. This shows the positive effects of closure since the Bay was closed in 1967. Waikiki has the lowest biomass of any protected area, because it is heavily impacted by other things. Even so, it still had 2.3 times more fish biomass than unprotected areas. Herbivore biomass is 3 times greater in protected areas. This shows that nature really gives us a shot and that there can be hope for reef fish. DLNR just needs to do what they say they are going to do and preserve and protect Hawaii's natural resources.

**4. Mike Nakachi (Olomau Foundation)** - testified the changes on the reef he has seen over the years as a diver. As a member of the West Hawaii Fisheries Council in the late 80s, he has been intimately part of this issue for 30 years. He talks pride in Hawaii's resources and has grown up diving on Big Island's reefs as a product of 3 generations of fishermen. In the 70s, the reefs were full of

of charismatic endemic fish. Once the number of collectors grew, he stopped seeing these fish on the reef. The endemic fish can fetch up to \$1,000 in the aquarium trade, which has led to heavy collection. Hawaii's resources are first and foremost for all of us. This issue has been dealt with so many years, and still there hasn't been any change. Mike was so excited when Suzanne Case issued a moratorium on collecting sea cucumbers, because they are dealing with the same treatment and collection issues with fish on the Big Island. They are extremely over collected and dead ones are just thrown in dumpsters. This is a step in the right direction, but year after year when Mike, Rene, Inga and Gail take this issue to the legislatures they get shut down. Right now his boats are being used by The Nature Conservancy to conduct surveys on the West coast of Hawaii. They are witnessing bleaching on corals that have been around since before Kamehameha, and this bleaching has happened in the last two weeks. Mike wonders that with the reefs already so stressed, what gives aquarium collectors the right to have unlimited take? Speaking from the heart, Mike wants the EA process to become a mechanism for managing our reef resources. DLNR has had a hard time with this issue. The last DAR Administrator quit over this and the current administrator is supportive of the trade. DLNR has only been focused on the success of the no take areas. This leaves the vast majority of the coast and its issues unaddressed. They have been very reluctant to talk about the impact of the aquarium fish trade. People like Mike who are in the water everyday disagree with the fish population numbers generated by transect data in studies by the Division of Aquatic Resources. What the divers are seeing is not jiving with the reported population numbers and this is not pono. In 1999, there was a public hearing on Big Island with over 2,000 people there to show their 95% support for a moratorium on aquarium fish collecting. When this didn't happen, people really felt betrayed and were upset that 20-30 people were making this decision for everyone. Anytime there is an issue about fishing, all fishermen stand behind one another. The aquarium collectors are riding the coattails of the fisheries lobbyists. Except now a lot of food fishermen want to come to the table and even some ex-collectors are seeing how impactful the trade is and want to start supporting a moratorium.

**b. Council discussion-** Council discussed this topic at length. As a public trust asset, litigation is possible. The HEPA process needs to be a tool to help issues like this incorporate environmental consideration and should not be used as a weapon. Any permitting program that hasn't gone through the environmental review process is problematic. The Council is in consensus on their concern for this issues.

**c. Public input-** there was no public input on this issue.

**d. Decision making and/or action plans-** Mr. Shacat moved to defer the chairperson to draft a letter addressing 343 applicability to this issue and to advise DLNR on their recommendation of a moratorium on aquarium trade collecting now that Hawaii is facing an unprecedented coral bleaching event. This issue will be referred to the Legislative, Information and Outreach, and the Annual Report Committees for further consideration. The entire council will be sent copies of the letter. Mr. Parsons seconded the motion. The motion was passed with 8 ayes; no nays or abstentions.

- ***At this time, Mr. Teves moved to change the agenda, and talk about the Legislative and Information/Outreach Committees before the Annual Report. Ms. Kaulukukui seconded the motion. The motion was passed with 9 ayes; no nays or abstentions.***

## 10. Legislative Committee

**a. Committee Chair's presentation of goals for the coming year-** getting a budget and support and

helping support the creation of a Department of Sustainability are the two high priority goals for next year. The committee is also interested in working on supporting the aquarium fish trade legislation and invasive species initiatives.

- b. Council discussion, review and selection of committee members and/or chair-** Mr. Teves moved that Mr. Abe be added to the Legislative Committee. Mr. Prentiss seconded the motion. The motion was passed with 9 ayes; no nays or abstentions.
- c. Public input-** Inga Gibson (United States Humane Society) commented on other bills that the Humane Society will be presenting to legislators next session, including an ivory ban bill, an Entertainment Acts bill that prohibits bringing animals to Hawaii for temporary exhibits and a bill for Hawaii to join the Interstate Commerce Compact. She hopes the EC will support these bills in any way they can.
- d. Decision making and/or action plans-** The budget will be the number one priority issues for the committee as all other Council activities depend upon receiving a budget and support staff.

#### 11. Information and Outreach Committee

- a. Committee Chair's presentation of goals for the coming year-** goals include bringing invasive species and aquarium trade issue to the forefront and being more active on social media
- b. Update on IUCN-** EC's members' involvement in the IUCN conference needs to be determined.
- c. Council discussion, review and selection of committee members and/or chair –** various ways for the EC to participate in the IUCN conference were discussed. Nothing determined.
- d. Public input-** there was no public input on this issue
- e. Decision making and/or action plans-** Mr. Shacat will post links on the Facebook page to some of the issues covered in this meeting.

#### 12. Annual Report Committee

- a. Committee Chair's presentation of goals for the coming year-** finish a draft of the report in the near future.
- b. Plans for content to be included-** the Genuine Progress Indicator will be included again. Mr. Abe is interested in writing a water issues section.
- c. Submission timeline including milestones with dates-** timelines not discussed. Meeting of Annual Report Committee planned for October 2, 2015.
- d. Outreach Plan - How to distribute once completed-** will be discussed at the October 2<sup>nd</sup> meeting.
- e. Review and selection of committee members and/or chair-** Mr. Teves moved to add Mr. Abe to the Annual Report Committee. Mr. Parsons seconded. The motion was passed with 8 ayes; no nays or abstentions.
- f. Public input-** Liam deClive-Lowe suggested taking a draft to the Hawaii Green Growth office to gain awareness and support for the annual report and hopefully increase circulation.
- g. Decision making and/or action plans-** Meeting planned for October 2<sup>nd</sup>.

**13. Next Meeting** - the next meeting was not able to be scheduled since Mr. Glenn had to leave early and a date could not be selected without him. A date will be determined over email.

**14. Adjournment** - meeting was adjourned at 3: 18 pm.