



# STATE ENVIRONMENTAL ADVISORY COUNCIL

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM,  
OFFICE OF PLANNING & SUSTAINABLE DEVELOPMENT, STATE OF HAWAII  
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## MINUTES

State of Hawai'i, Environmental Council  
Tuesday, January 7, 2020, 1:00 PM– 3:30 PM  
No. 1 Capitol Building, Executive Office on Aging  
Room 410, 250 S. Hotel St., Honolulu, HI 96813

David Y. Ige  
Governor

Chairperson  
Puananionaona Thoene

Vice Chair  
Mary Begier

Members  
Roy Abe  
Stephanie Dunbar-Co  
Dawn Hegger-Nordblom  
Makaala Kaaumoana  
Ian Robin Kaye  
Theresita Kinnaman  
Ron Terry  
Michael Tulang  
N. Mahina Tuteur

### Members Present

Puananionaona Thoene (Chairperson), Roy Abe, Mary Begier, Stephanie Dunbar-Co, Makaala Kaaumoana, Robin Kaye, Theresita Kinnaman, Robert Parsons, Michael Tulang, N. Mahina Tuteur,

### Members Absent

Keith Kawaoka (Acting Director), Ron Terry

### Staff

Leslie Segundo, Environmental Health Specialist; William Cooper, Deputy Attorney General for the Environmental Council

### Public

Representative Nicole Lowen; Mr. Rock Riggs (Office of Senator Mike Gabbard); Maile Edwards; Emma Yuen (Department of Land and Natural Resources); Edward Bohlen, Deputy Attorney General.

Note: **Bolded** items below indicate text from the agenda.

#### 1. **Call to order, roll call and quorum, introductions**

With a quorum of nine members present, Chairperson Thoene called the meeting to order at 1:00 PM. All present at the beginning of the meeting introduced themselves.

#### 2. **Review and approval of prior meeting minutes**

No action was taken.

#### 3. **OEQC Director's Report**

Deferred

#### 4. **Legislative Committee Update**

- Update to Senator Gabbard and Representative Lowen regarding HRS Chapter 343 issues identified during rulemaking process

Committee Chair Kaye thanked Representative Lowen and Senator Gabbard's office for their participation in the meeting and for not making changes to Chapter 343, HRS for the last session while the Council was actively engaged in rulemaking. Under the new rules, the first Environmental Impact

Statement Preparation Notice (with a new mandatory scoping meeting) was recently published in the periodic bulletin. Chairperson Kaye then highlighted some of the statutory issues that arose in comments during the recent rulemaking process for the Representative and the Senator's office. He noted that he was not making any recommendations, but simply identifying the issues raised. These included the following:

- Lack of definitions pertaining to social welfare, culture, and cultural practices. Chairperson Thoene noted that the Council chose no specific definition of cultural practices because these practices change over time. Representative Lowen asked if the "cultural practices" was addressed in guidance and Chairperson Thoene, responding in the negative, noted that Member Tuteur is working with the UH Law School in convening a working group to address the guidance issue.
- Accepting authority and approving agency: Chairperson Thoene clarified that for applicant actions, the approving agency becomes the accepting authority.
- Project and program: in light of the Umberger case, the Council adopted definitions of project and program in the rules.
- Significant effect
- Triggers – HRS §343-5(a)(9) wastewater treatment units need clarification whether they apply to agricultural operations for animal waste).
- FONSI, finding of no significant impact: comment requested to having an automatic acceptance, similar to EIS for applicant actions.
- Extension of time to make 30-day decisions on EIS acceptance.
- Challenges – being used as a delay tactic.

Mr. Riggs, representing Senator Gabbard, noted that the statute and rules, Senator Gabbard had no proposals for Chapter 343, HRS. In response to Committee Chair Kaye's comments on the lack of resources for preparing the annual report of the Environmental Council, Mr. Riggs noted that Senator Gabbard was open to requests for funding from the energy tax (also known as the barrel tax). Mr. Riggs suggested that the Environmental Council send Senator Gabbard an email by Friday or Monday. The Environmental Council briefly discussed Mr. Riggs' proposal.

MOTION: Member Kaaumoana moved, and Member Begier seconded that the Environmental Council authorize Members Parsons and Kaye to draft a letter for the Chairperson's and Legislative Committee Chair's signatures to Senator Gabbard requesting funding for various activities of the Environmental Council from the Environmental Emergency Response Tax. A brief discussion ensued. Chairperson Thoene called for the question. The Environmental Council unanimously approved the motion (10-0-0).

## **5. Exemption Committee Update**

- Review of and action on the Department of Land and Natural Resources' updated exemption list.

Chairperson Thoene invited Ms. Yuen to the table. Chairperson Thoene reported that the Exemption Committee met briefly for seven minutes. She noted that the council discussed the list Ms. Yuen brought before the Environmental Council in December 2019. She worked closely with Committee Chair Terry in revising the list.

MOTION: Chairperson Thoene moved from committee (no second needed) that the Environmental Council approve the list for publication for the a thirty-day public comment period in the Environmental Notice. A brief discussion ensued. Chairperson Thoene called for the question. The Environmental Council unanimously approved the motion (10-0-0).

**6. Annual Report Committee Update**

None.

**7. Information & Outreach Committee Update**

None.

**8. Correspondence received:**

December 18, 2019, petition for declaratory order of Mr. Douglas Meller concerning the use of state or county lands for the initial phase of a proposed multi-phase action (as noted below on the agenda, the Council may go into an executive session on an agenda item for one of the permitted purposes listed in Section 92-5(a), Hawaii Revised Statutes (“HRS”), without noticing the executive session on the agenda where the executive session was not anticipated in advance.)

There was no discussion.

**9. Public Forum:**

None

**10. Next meeting:**

Tuesday, February 4, 2020 1:00 – 3:30 PM.

**11. Adjournment:**

The meeting adjourned at 3:30 PM.