



STATE ENVIRONMENTAL COUNCIL

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N. Mahina Tuteur

May 5, 2020, Meeting Minutes Draft
for Review on June 2, 2020
Exemption Committee Meeting
State of Hawai'i Environmental Council

Meeting Held on Tuesday, May 5, 2020, 12:00 PM - 1:00 PM
Via ZOOM videoconference

Members Present (3): Ron Terry (Chairperson); Puananionaona Thoene; Maka'ala Ka'umoana. Members Absent: Michael Tulang
Public Present: Bridget Hammerquist, Bianca Isaki, Bryan Wienand; Sommerset Wong; Mahealani Krafft
Staff Present: Bill Cooper, Deputy Attorney General; Leslie Segundo, OEQC Planner
Note: Text in bold indicates the original text of the agenda

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

With a quorum of three members, Chairperson Terry convened the meeting at approximately 12:10 PM. All present introduced themselves.

2. Review and approval of prior meeting minutes.

Minutes of March 3 were approved unanimously with no changes.

3. Exemption list status

| Agency | Status | Action |
|--|---|--|
| DLNR | Completed | No action required. Chair Terry asked that Mr. Segundo find out whether DLNR's exemption list is on the OEQC website as concurred list yet. |
| County of Kauai DOW | Review of list and comments and potential action of passing list to EC for EC review for possible concurrence. | Heard from committee members and public concerning. See notes below. |
| City & County of Honolulu Design and Construction | Updated list submitted for review by Committee and EC for release for public comments | Mr. Segundo noted that DDC had just informed OEQC and Chair Terry that it was unsure of whether EC would be considering the list and had decided to withdraw it for some amendments. The item was then deferred to the next meeting. |

Substance of discussion on Kauai DOW list:

The Kauai DOW exemption list was published in *The Environmental Notice* on March 23, 2020, for public comment. Bridget Hammerquist submitted a written comment identifying two concerns with the exemption list. Chair Terry outlined the comment, the concern, and the relevant documents. One of the two items in the comment related to: "Replacement of waterlines and appurtenances where no change in purpose is intended. Replacement may be size for size, or may involve an increase in pipe diameter if the existing waterline is inadequate to meet current Water System Standards and current zoning requirements." Ms. Thoene discussed the need for flexibility in an exemption item on the list. The section of the Rules dealing with exemptions explicitly states the limitations concerning their applicability if there are potentially significant impacts, which make them disqualifiable if there are going to be adverse impacts, including secondary and cumulative. Ms. Ka'auomoana discussed how the review process really worked well, it is designed to catch items like this that give the community pause and concern. She thanked both the commenter and the DOW for following the process. Chair Terry said that he did not have any issue with one of the items cited in the comment (i.e., "2. Installation or modification of: 15. Installation of pressure regulating equipment such as booster pumps, pressure reducers, pressure relief, etc.: where the intent is to route water from one pressure zone to the next"), which matches the exemption category and has no growth implications. However, it seemed that the plain language of the Rules at 11-200.1-15 – "Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have *substantially the same purpose, capacity, density, height, and dimensions* as the structure replaced" – seemed to conflict with the wording of the exemption. There may be many cases in which increasing the diameter of a pipeline may not be an environmentally meaningful change, as it brings only beneficial impacts to fire flow, pressure, reliability, etc. But is it possibly also the case that doubling or tripling in diameter may also change the function from serving existing users more efficiently to enabling growth that may somehow not have been examined for its impacts sufficiently in other processes (e.g., a Chapter 343 EA, a rezoning, etc.)? That seemed like the key issue. Bridget said that in addition (or even apart from) the issue of induced growth, if pipe diameter increased it could also increase the use of water, without examining the impacts of obtaining that water, whether it be from a well or a surface use, on biological and cultural resources. In the end, Ron suggested, with no objections from the Committee or other parties in the meeting, that DOW go back and see if they could find language to modify this exemption item to satisfy concerns. We all recognized that it might not be easy but was worth a try. Bryan agreed to try to do this, and the Committee provided him the dates and deadlines for the next meetings.

4. Draft letter to agencies reminding them of need to reorganize list and/or update their list, plus calling attention to duty to provide a monthly list of exemption notices to be published in the Environmental Notice

Due to time, this item was deferred to the next meeting.

5. Next meeting date and agenda.

The next meeting is preliminarily planned for June 2, 2020. If Kauai DOW so chooses, we expect to have a resubmitted Kauai DOW list on the agenda and/or a discussion of why the agency chooses not to amend the list. We should also have the Honolulu DDC version 3 list, and perhaps

other agency lists on the agenda. We will also discuss the draft letter to agencies about reorganizing and submitting their lists. There are currently no other items for the agenda.

6. Adjournment.

Chair Terry adjourned the meeting at 12:55 PM