



STATE ENVIRONMENTAL ADVISORY COUNCIL

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July 2022 Meeting Minutes
Exemption Committee Meeting
State of Hawai'i Environmental Council
Meeting Held on Tuesday, July 5, 2022, 12:00- 1:00 PM
Via ZOOM videoconference

Members Present (4): Ron Terry (Chair); Puananionaona Thoene, Michele Lefebvre; Michael Tulang joined at ~12:14 PM

Members Absent (1): Maka'ala Ka'auomoana.

Staff Present: Leslie Segundo, Planner

Public Present: Jason Kagimoto & Scott Suga, Kaua'i Department of Water

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

With a quorum of three members, Ron convened the meeting at ~ 12:09 PM. All present were introduced and each individually said that they were alone in the room that they were in.

2. Review and approval of prior meeting minutes

Taken out of order at end of meeting. Minutes of February were approved (Onaona/Mike) unanimously with two grammar/spelling edits.

3. Exemption list status

Agency	Status	Next Action
ACTION LISTS		
Kaua'i Department of Water (DoW)	<i>Chair received list in April and worked (along with member Onaona) to review and provide comments to DoW, who has revised list.</i>	<i>Review of list and consideration for recommendation to Council for publication in The Environmental Notice.</i>

Ron explained the several year long process that led to this version. He said he was satisfied after the extensive dialogue. He asked committee members if they had any additional comments. Onaona said she had nothing new from her prior review and thanked DoW. Michele said she had no comments. Ron explained that one of the main changes involved eliminating exemptions for upsized pipelines that serve new development that has not yet been approved. He said there was a lot of community interest in first go-round. Jason then discussed that current leadership has tried to move the process forward and make sure they are following all the rules. Onaona (Mike second) moved to approve recommendation to EAC to release in Environmental Notice for public comment. Unanimous vote in favor. Ron asked Kauai DOW to attend the EAC meeting in about a half hour if they could.

4. Next meeting date and agenda.

EAC meets first Tuesday of August, time TBD, but at this point, there is nothing else in the pipeline, so committee may not meet until September. We may do another round of reminders to agencies that haven't responded. We should try at least one more time. We have only carrots, not sticks, to encourage compliance. Without an approved list, they are not supposed to be able to take advantage of the de minimis list. But that does apply until seven years after the adoption of the rules in August 2019. We may want to clarify this if we revise the rules, and maybe even reduce the seven years. Onaona said we should consider language to make things clearer. Seven years will be up in 2026. Hopefully we can have this discussion with the Council and public. Onaona said we should ask our AG what our authority limits are; we do not have implied powers; we can only do what the statute says. Maybe we should ask the Legislature to address this, whether through the EAC or ERP or whomever. The public actually has the enforcement means to ensure that exemptions are conducted properly through the legal challenge provisions in HRS 343. Ron said maybe we should get a little Permitted Interaction Group to figure out the way to do this. We could do research, work with AG, and talk to administrative law experts. Onaona agreed to put a PIG formation on the August agenda.

5. Adjournment.

Ron adjourned the meeting at ~12:30 PM