



STATE ENVIRONMENTAL ADVISORY COUNCIL

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM,
OFFICE OF PLANNING & SUSTAINABLE DEVELOPMENT, STATE OF HAWAII
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December 2023 Meeting Minutes

Exemption Committee

State of Hawai'i Environmental Advisory Council

Meeting Held on Tuesday, December 5, 2023, 12:00 - 1:00 PM

Via ZOOM videoconference

Governor
Josh Green, M.D.

Lt. Governor
Sylvia Luke

OPSD Interim Director
Mary Alice Evans

Chairperson
Puananionaona Thoene

Vice Chair
Mary Begier

Members
Stephanie Dunbar-Co
Dawn Hegger-Nordblom
Makaala Kaaumoana
Ian Robin Kaye
Theresita Kinnaman
Michele Lefebvre
Gordon Scruton, Jr.
Rachel Sprague
Ron Terry
Michael Tulang
N. Mahina Tuteur

Members Present (4): Michele Lefebvre (Chair); Puananionaona Thoene; Ron Terry; Maka'ala Ka'auomoana

Members Absent (1): Michael Tulang

Staff Present: Tom Eisen, Planner

Public Present: Royce Shiroma (OHCD); Christina Pineda (OHCD); Anne Bailey (OHCD); Harry Yada (OHCD); Linda Bui (OHCD)

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

With a quorum of four members, Michele Lefebvre convened the meeting at ~ 12:01 PM. All present were introduced.

2. Review of April 4, 2023, Exemption Committee meeting notes

Michele asked and there were no comments on the meeting minutes. Onaona moved to approve, and Maka'ala seconded the motion. Since there were no comments, the committee voted to approve the notes unanimously.

3. Exemption list status

Agency	Status	Next Action
LISTS		
County of Hawai'i Office of Housing and Community Development	Received 9/25/2023	Review and discussion of list with OHCD
State of Hawaii Commission on Water Resource Management	Received 10/10/2023 Addition of one Class 3, Part 1 Exemption – domestic well addition	Committee review and discussion

County of Hawai'i Office of Housing and Community Development

Michele had sent the list of items to OHCD to review for their list, and OHCD had responded prior to the meeting that they were fine to make all the edits.

Regarding exemption Type 2, Part 2 regarding replace or reconstructing existing structures in shoreline areas – the committee discussed the addition “excluding seawalls.” The committee asked OHCD for clarification on this item. OHCD clarified that it does not maintain any seawalls.

Onaona asked if OHCD was okay with deleting "including seawalls." Ron explained that the committee has been asking agencies to explicitly scrub seawalls from exemption lists, so that if reconstruction or construction of seawalls is ever needed an EA would be prepared. Royce was fine from revising the text to say "excluding seawalls." Michele acknowledged that OHCD used the HHFDC list as a starting point, which included the same language, but since we know better now it's better to make this revision in this list.

Michele recommended a rewording the Type 3, Part 2 (5) item to clarify and to add the word "or" so that the revised item would read, "Rehabilitation of non-residential structures (including office and maintenance buildings, storage buildings, recreational, and community facilities, food or donation distribution facilities, and homeless resource centers, parking structures and garages, retaining walls and other slope stabilization structures [excludes the replacement or reconstruction of new seawalls], and walls and trash enclosures) that would not: 1) result in a change in size or capacity by more than 20 percent, or 2) involve changes in land use." OHCD was fine with this revision.

Committee discussed Type 6, Part 1 (1)(a) regarding reservoirs. OHCD clarified that it does not maintain any reservoirs, or does not intend to. OHCD is okay to remove. Onaona provided more context to the comment, and explained that the concern was to the potential size and location of any reservoirs, but since OHCD does not maintain any and does not have plans to, this can be deleted. Maka'ala explained that they are trying to preserve reservoirs for flood control on Kaua'i. Ron explained that just because something is on the list does not mean you cannot exempt it, the legal basis is Title 11 200.1 not the exemption list. The exemption list is meant as guidance to the agency and to make it easier for the agency to make exemptions, and for the public and other agencies to have some transparency about what you would normally plan to exempt. If the situation arises where OHCD does have a reservoir, it does not mean you can't exempt it. The discussion was meant to highlight any action with a reservoir is sensitive.

Committee discussed Type 6, Part 1 (2)(a) actions include demolition of retaining walls and slope stabilization structures. Onaona recommended that it be moved to a Part 2 exemption. Anne explained that they more often construct these features rather than demolish them due to the hilly environment. It would be more often a repair then demolish, and OHCD is fine to move it to Part 2.

Committee also discussed Type 6, Part 1 (2)(d) the demolition or removal of fuel storage, and moving that to Part 2 and OHCD is fine to move to Part 2.

Last item was Type 9, Part 1 (3) which an editorial comment to add a comma. Onaona asked that OHCD add the date on the cover sheet, so when it is concurred with on the Council. There were no other comments on the list. Committee thanked OHCD for their attention to these details, and for providing a list.

Next steps were discussed. It is okay for us to recommend the list go to the council for approval to publish for 15-day public comment period, without having the revised list in hand, but just with the understanding that the edits discussed in committee will be made. Onaona has agendaized that for the Council meeting today. Ron moved to approve the OHCD list as amended for publication, and Onaona seconded. Tom pointed out to make the December 23

publication date, the amended list would need to be submitted by December 18. OHCD said they could meet that timeline. The committee voted unanimously in favor, and the motion passed. OHCD will send the list to Tom and cc Michele, to ensure the edits discussed are made. OHCD will be on the next committee meeting following the comment period.

State of Hawaii Commission on Water Resource Management

The committee received an addition of one item to the CWRM list. Onaona identified other clean-up items and some Part 1 exemptions that maybe should be Part 2, but we were not sure if the list had been concurred with previously but we ran out of time. The CWRM list was concurred with in 2021. The addition is a Type 3, Part 1 addition of domestic well construction.

Ron pointed out that this was not considered a HRS Chapter 343 action, and now they are considering a well permit a discretionary permit. This is a change, since these were considered ministerial permits before (similar to how building permits are handled). Since wells are becoming more of a sensitive topic, it seems that CWRM is considering well permits in the HRS Chapter 343 ambit. This warrants further discussion. Ron would like to discuss this with CWRM, he said he agrees that exempting domestic water wells should be exempt. If it's a Part 1 exemption, then there's no requirement for publication. The committee is interested in the mechanics of how this would work. Maka'ala said on Kauai, community members are concerned about disclosure and how many straws are in the drink. Ron wondered about how this would apply to wells in Water Management Areas, and if Part 1 would apply there too.

Tom pointed out that this change could be setting precedence for bringing something into the realm of HRS Chapter 343, and it's not clear how State and County jurisdiction might play out. Committee discussed that CWRM could add anything they want to their list, and it doesn't need to be concurred with. If CWRM is looking for concurrence, then it will need to go out for public review and local jurisdictions, other agencies, and environmental groups should be alerted to the change. Need to better understand the permit process for these wells, because there is an implication if something that's not considered needing a discretionary permit will be now. Onaona clarified that having agency concurrence on a list with the council is an advantage to the agency, since it increases transparency even if it is not required by the rules. Review by the council is like a peer review of the list, and we can help the agency walk through the mechanics.

6. Next meeting date and agenda.

Next meeting will be January 9, 2024.

7. Adjournment.

Meeting was adjourned at 12:50 PM.