RR:0034

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Office of the Director

November 3, 1975

MEMORANDUM

TO: Allan Suematsu

FROM: Doak C. Cox

RE: Review of proposed exemption lists from:

1. Dept. of Transportation
2. Dept. of Public Works, Hawaii County
3. Dept. of Public Works, City and County, Honolulu
4. Dept. of Accounting and General Services
5. Dept. of Social Services and Housing, Hawaii Housing Authority

The Environmental Center has been assisted in the review of the proposed exemption lists submitted by the above cited agencies by Charles Lamoureux and Ruth Gay of the Botany Dept. and Doak Cox and Jacquelin Miller of the Environmental Center. A broader-based University review was not possible as we did not receive the exemption list until Thursday afternoon, Oct. 30.

1. Dept. of Transportation

The request for exemption from Environmental Impact Statement (EIS) or negative declaration preparation for subdivision and sale of surplus highway remnant parcels seems quite reasonable. We were particularly pleased at the presentation of the information for review. There are a few points which we would like to offer for your consideration:

a) It is our understanding of the EQC Rules and Regulations and Chapter 343 that an EIS or negative declaration would be required by an agency only if the proposed action may have significant environmental affect. It would seem that "small" highway remnant parcels would therefore already be legally excluded from the EIS or negative declaration requirements.

b) Distinction should be made between "Exempt Classes of Action" [EQC Regulations 1:33(a)] and "specific types of actions within the exempt classes" [EOCR 1:33(d)]. The request by DOTS as indicated by their Sept. 22, 1975 memo (STP 8.3313) is for exemption of specific types of *actions* not for the addition of new exempt *classes* as indicated in the memorandum of August 28, 1975. (HWY-RM 3.41523)

c) Assuming that the requested exemption is for exemption of "specific types of actions" then the particular "Exempt Classes of Action" within the existing Rules and Regulations under which these specific types of action exemptions would fall, must be indicated.

d) We have a question with the regard to item 1 under "Class Of Actions." Is this exemption limited to subdivision of lots and remnant parcels where the subject highway is already completed? It would appear from the use of the conjunction "and" that "Subdivision of lot(s) not previously subdivided into highway parcel(s)" could be accomplished regardless of existing highways. We would not recommend approval of this exemption if it would permit or encourage subdivision of property for highway use prior to EIS review of the highway plans.

2. Dept. of Public Works, Hawaii County

The presentation of the exemption requests by DPW of Hawaii County is most helpful and informative. Items 1, 2, and 3 seem clearly to be within appropriate limits to be considered for exemption. We would appreciate clarification of some points with regard to items 4 and 5:

Item 4. Would the exemption requested permit repeated "widening less than a single lane width" so that with time additional lanes could be acquired simply by re-striping without the need for an EIS? Would the exemption for "correcting substandard curves and intersections" permit the construction of a major intersection modification?

Item 5. The provision for "generally" on the same site is somewhat of concern. If a new right-of-way or portion thereof must be acquired, then an EIS or negative declaration should be required.

3. Dept. of Public Works, City and County, Honolulu

The description provided by DPW regarding their exemption requests is most helpful and informative. The requests for exemption for Sewer Service Installation and Sewer Lateral Extension within the suggested limits (150') indicated in their "description and Justification" seem entirely reasonable. Similarly, the addition of the limitation to "within existing City and County street Right-of-Way" to the request for minor street widening, improvements and bikepaths greatly clarifies these exemption requests. We assume that this widening would not include the destruction of street trees.

The requested exemption for Vegetation Clearing from Streams seems to have a considerable potential for environmental impact. What are the geographic limits under the jurisdiction of DPW to which this request applies? What are the affects of *Dowpon* on the bilogical stream communities? Is it detectable or can it have a direct or indirect affect on the receiving waters? The chemical control is of considerable concern. An EIS or negative declaration for each area to be cleared by chemical methods or for the entire chemical clearance program would seem mandatory. This EIS should include frequency and duration of treatment and types of chemicals to be used. Modifications in these procedures should be addressed in supplemental EIS's.

For areas requiring mechanical clearing a single brief EIS or negative declaration listing those areas to be cleared should be provided. This information can then be evaluated to assess the potential for impact on rare or endangered bird life which require stream bank vegetation for their nesting sites.

4. Dept. of Accounting and General Services

It is not possible for us to properly evaluate the lists submitted by DAGS. Without any background information (such as was supplied by DOTS and DPW) the exemptions requested could be interpreted as either applying to single insignificant actions or permiting essentially all operations of DAGS to proceed without environmental assessment.

We would strongly recommend that action on the currently proposed list be deferred until a staff member of EQC can meet with DAGS (Mr. Stanly Shin) to review their needs for exempt actions and to offer guidance in the preparation of their exemption requests. Many of the items on the currently proposed list seem clearly to be unnecessarily included (furniture, window modification, inventory, economic analysis, ceiling system, etc.). Others such as those listed under Class IV could have a definite environmental impact depending on the location and area involved. Adequate background documentation should be included so as to permit EQC to properly evaluate their requests.

5. Dept. of Social Services and Housing, Hawaii Housing Authority

The exemption request list submitted by DSSH does not indicate to which classes the requested exemptions would apply. There is no background information provided and no apparent limitations to the exemptions requested. Many of the exemption requests seem entirely unnecessary (items 8, 9, 11, 13, 14, and 15). As we have suggested in our review of the proposed exemption list for DAGS, we would strongly urge that a staff member of EQC meet with DSSH (Mr. James Ikehara) to review their exemption needs and to assist them in the preparation of an exempt action list within the appropriate exempt Classes of Action. Pertinent background information should be included so that EQC can make an informed decision on the exempt actions requested.

We very much appreciate the opportunity to review these exempt action requests and are hopeful the EQC and the Agencies will find our comments helpful in the evaluation of these lists.

Sincerely,

Doak C. Cox
Director