



University of Hawai'i at Mānoa

Environmental Center

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May 25, 1995
RR:0098

Mr. Kenneth Fukunaga
Environmental Council
220 South King Street, Fourth Floor
Honolulu, Hawaii 96813

Dear Mr. Fukunaga:

Comprehensive Exemption List
Division of Agricultural Resource Management
Department of Agriculture
State of Hawaii

In accordance with provisions of HRS 343 and Section 11-200-8 of the administrative rules, agencies may request that certain types of agency actions, which fall within specific classes of actions, be exempt from the preparation of an environmental assessment. The Division of Agricultural Resource Management of the Department of Agriculture has submitted a list of actions to be exempt from assessment under HRS 343.

We have reviewed this Exemption List with the assistance of Paul Berkowitz of the Environmental Center.

For the most part, the items listed are reasonable and we would not expect any significant concerns with their exemption from assessment. However, some of the requested actions to be exempt from assessment do have potential for generating significant impacts. These exemption requests should be modified to limit or restrict their application. For example, requested exemption 1 under Exemption Class 4 is too broad. There is no indication of the size of area that would be exempt from assessment under the re-grading of agricultural park lots. Sediment run-off from land grading practices is one of the primary generators of non-point source pollution to streams and coastal waters. Furthermore, it would appear that the proposed exemption for cleaning of drainage swales, ditches, and facilities with disposal of the materials on agricultural parks has no limits as to the size of the ditches, volume or characteristics of materials, etc. that can be cleaned or the area that will be impacted by the spoils. Prevention of sediment run-off either during clearing or disposal operations is essential to avoid contamination of coastal waters and streams. The requested exemptions for regrading, cleaning and grubbing of drainage areas, clearing and grubbing, and dredging all should be expanded to clarify the specific types, limits and volumes of the areas that will be altered. Care must be given not only to the potential impacts of the clearing or dredging operation but also the long term effects of the disposal. Dredging

Mr. Kenneth Fukunaga
May 25, 1995
Page 2

operations are particularly worrisome as they frequently involve coastal marine areas. Some restrictions ought to be provided as to the size of the area to be dredged and the locations where the dredged material can be placed.

Exemption Class 5. The second action under Exemption Class 5 poses some potential problems. In the past, we have seen cases where test wells were placed in highly sensitive archaeological areas and significant damage was done to the sites by equipment handling and baseyard operations. The test well sites to be exempt should be limited to urban or developed areas which do not contain sensitive native species, archaeological sites, or cultural resources.

Exemption Class 6. The requested exempt actions listed under Exemption Class 6, should be more clearly defined. For example, an upper limit to the size of the temporary sheds, length of livestock fencing, and size of feed areas to be enclosed should be written into the exemption. Nothing in the exemption should be construed to exempt the construction of feed lots from environmental assessment. Feed lots pose significant risks to the environment and must be subject to assessment.

Exemption Class 7. The actions posed for exemption under Exemption Class 7 are generally consistent with the intent of the exemption provisions of the rules. Our only comment on this list of actions is that under item 6, the installation of minor driveways, can have significance depending on the length and location of the driveway and the definition of "minor". This type of action could conceivably have negative impacts on cultural or archaeological sites, hence some limitations as to size, length, and location or setting of the action within the area should be included in the exemption request. A driveway in an urban area may be fine. A mile long driveway into an undeveloped, forested or otherwise sensitive area may not.

Exemption Class 8. Finally, the narrative explanation provided in the OEQC Bulletin for Exemption Class 9 is incorrect and belongs to Exemption Class 8. Furthermore, the only action listed in this class seems as though it would be more appropriately placed in Class 1 or 4.

Thank you for the opportunity to review this Exemption List.

Sincerely,



Jacquelin N. Miller
Associate Environmental Coordinator

cc: OEQC
Roger Fujioka
Paul Berkowitz