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Office of the Director

May 30, 1978

RL:0291

Mr. Richard L. O'Connell
Director
Office of Environmental Quality Control
550 Halekauwila Street, Room 301
Honolulu, Hawaii 96813

Dear Mr. O'Connell:

HB 1998, CD 1 RELATING TO ENVIRONMENTAL IMPACT STATEMENTS

HB 1998, CD 1 proposes to extend the coverage of the State EIS Act (HRS 343). The Environmental Center reviewed early versions of the bill for this Act; HB 1998-78 and related bills for the environmental committees of both the House and the Senate. Neither our previous reviews of the bills nor this one indicate institutional positions of the University. Raymond Tabata, Sea Grant, and Jacquelin N. Miller and Peter J. Rappa of the Environmental Center have contributed to this review.

As originally introduced, HB 1998, and a companion bill SB 2209, provided that water developments could not be actions exemptable under HRS 343-5(6). The Environmental Center pointed out (RL:0263) that water developments by state and county agencies could not be exempted under present law unless their effects would be insignificant, and that the only significant water development projects not covered by the EIS system are private ones. The bill was amended by the House Committees on Environment and Ecology and on Water, Land Use Development, and Hawaiian Homes (Standing Committee Report 434) as HB 1998, HD 1 to extend the coverage of the EIS system to all water developments that would have significant effects.

SB 2209 was considered by the Senate Committee on Environment, Ecology, and Recreation together with SB 2409, a bill which would have in its original form extended the coverage of the EIS system to all water developments. The Center's comments on SB 2209 were similar to those on HB 1198. In connection with SB 2409, the Center called attention to additional rational EIS-system coverages and to the desirability of the significance criterion for coverage of actions by the EIS-system. The Committee (Standing Committee Report 301) reported out SB 2409, SD 1, amended to include certain additional types of action in the coverage of the EIS system.

To this same Senate Committee was subsequently referred HB 1998, HD 1 after its passage by the House. This bill was further amended by the Committee (Standing Committee Report 414), emerging as HB 1998, SD 1 which restricted the water

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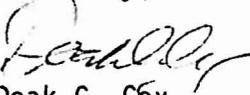
developments to which it applied to those of state and county agencies but deleted the significance criterion for their coverage by the EIS system.

The Conference Committee considering HB 1998, SD 1 (Conference Committee Report 48) deleted the additional action other than water developments, and restored the significance criterion from HB 1998, HD 1. The result, HB 1998, CD 1 was passed.

HB 1998, CD 1, if approved by the Governor, would add to the coverage of the EIS system "all actions by State or county agencies proposing water development or diversion projects that will probably have significant effects."

Water developments by State or county agencies will certainly use State or county lands or funds. Hence, they are already covered in the State EIS system under HRS 343-5(6) if they will probably have significant environmental impacts. The criterion of the significance of environmental impacts applied to water developments under HB 1998, CD 1. Hence, unless some legal quirk is discovered that escapes us, it seems that HB 1998, CD 1 does not actually alter the coverage of the EIS system at all. We see no advantage in the Act thus passed. However, the minor disadvantage of the additional complexity that it will create in the State EIS law may not warrant a veto.

Sincerely,


Doak C. Cox
Director

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cc: Jacquelin N. Miller
Peter J. Rappa
Raymond Tabata