## Hijirida, Linda M.

**From:** HI Office of Environmental Quality Control
**Sent:** Thursday, April 09, 2015 10:19 AM
**To:** Wooley, Jessica E.; cmitchell17@hotmail.com; prentissc001@hawaii.rr.com
**Subject:** FW: Comment on DLNR Exemption List
**Attachments:** Comment on Proposed DLNR Exemption List.pdf

Aloha All,

Forwarding comments OEQC received regarding DLNR's Exemption List.

Mahalo,

Linda Hijirida
OEQC Secretary
Phone: (808) 586-4185
Email: linda.hijirida@doh.hawaii.gov

-----Original Message-----
From: Syd Singer [mailto:sydsinger@gmail.com]
Sent: Wed 4/8/2015 2:07 PM
To: HI Office of Environmental Quality Control; oeqc@doh.hawaii.gov
Subject: Comment on DLNR Exemption List

Aloha,

Please see attached comment. Mahalo.

--
Sydney Ross Singer
Medical Anthropologist
Director, Good Shepherd Foundation
P.O. Box 1880
Pahoa, Hawaii 96778
808-935-5563
*www.*KillerCulture.com

**Good Shepherd Foundation**
**P.O. Box 1880**
**Pahoa, Hawaii 96778**
**808-935-5563**

April 8, 2015

**Comment on Proposed DLNR Exemption List**
**(DRAFT version OEQC2 February 2015)**

To: Chairperson, Environmental Council
Office of Environmental Quality Control

Dear Chairperson,

I would like to offer the following comments regarding the proposed exemption list for the DLNR.

Environmental Assessments are important documents which give planners and the public a chance to review and comment on whatever is being proposed. When an action is exempted, the public has no way to comment on a process or action. Since public involvement in the environmental review process is protected by law and the Hawaii constitution, the Environmental Council should make certain that these exemptions will not deprive citizens of their right to comment on actions which may be controversial or have potentially significant impacts.

After reviewing the proposed exemption list, I am concerned that numerous proposed exemptions are for activities which could pose a significant impact, and which should involve public input. I encourage the EC to not concur with the proposed exemptions below.

**Exemption Class 1**

5. Rescue of threatened or endangered species.

The term rescue needs to be defined to keep this exemption from being over broad. Does this refer to saving an individual animal from a threat, or does this refer to rescuing a species, which has broader implications? This exemption should clearly be limited to rescuing individuals.

**Exemption Class 2**

22. Replacement or renovation of existing landscaping or vegetation.

There is no statement as to the limit to the area in which this vegetation or landscaping will be replaced or renovated. There needs to be an area limit.

**Exemption Class 3**

1. Fences around or to manage rare, threatened or endangered plants, covered or open areas for endangered species, game birds and mammals, auxiliary buildings for food or equipment storage, incubators and brooders, open-top breeding and release pens, field aviaries, and hacking boxes, and for watershed and native forest management and restoration. Fences shall contain step-overs or other features that permit pedestrian access for cultural and recreational use.

This exemption is too broad. It covers small fenced areas, such as buildings, field aviaries, and other small spaces, but also includes large watershed and native forest areas. Clearly, there is a difference between fencing a house and fencing the forest.

Fencing can have significant impacts on wildlife movement and can alter fenced in vegetation and the animals depending on that vegetation. For example, fencing in a large area and removing ungulates could result in increased vine growth and smothering of trees on which native or endangered species may depend. Fenced in animals also can die of thirst, making this a humane issue, as well.

Fencing the forest and eliminating ungulates and pigs has also been a contentious issue with the hunting community, making this a relatively controversial issue deserving of public comment.

Therefore, I suggest that this exemption be limited to small spaces of specified area.

**Exemption Class 4**

8. Removal of invasive vegetation utilizing cutting, mowing, application of federal and state approved herbicides in conformance with label instructions, distribution of biocontrol agents approved by the State of Hawaii, and other approved methods.

Biocontrol agents are usually organisms which are not limited to their area of release. Insects and fungi, for example, are commonly used biocontrol agents which can also travel to other areas after release. This may not be desirable and may have significant impacts depending on the target species and the biocontrol agent used, and where it ends up.

Biocontrol agents also have the potential for attacking non-target species. Some of these non-target impacts may be unknown at the time of release, especially with biocontrol agents never before used.

In fact, the use of biocontrol agents is controversial, of uncertain impact, and often contentious. Use of biocontrol introduces new species into the environment and is irreversible. This should definitely require public comment and not be exempted from an environmental review.

The term “and other approved methods” should also be deleted, since this is overly broad and could include anything.

12. Establish temporary or permanent vegetative cover including trees, shrubs, grasses, and sod for landscaping, reforestation, soil stabilization, watershed protection, wildlife habitat, native ecosystem restoration, and rare plant preservation; provided, however, that this exemption shall not apply to tree plantings for which harvesting is planned or is reasonably foreseeable.

Again, this exemption could cover activities as small as landscaping around a building, or as large as ecosystem restoration on a grand scale. The language needs to include a limit on the area for which this exemption could apply.

15. Minor alterations in state waters, including restoration of native species and control of invasive weeds, algae, invertebrates, fishes or other invasive aquatic organisms.

The ends of achieving invasive species control does not justify any means to achieve that ends. Some methods of invasive species control, for example, include the use of hazardous pesticides and herbicides, or the release of potentially harmful biocontrol agents. Entire waterways can be poisoned to kill non-native species. These actions could create significant impacts, and should not be exempted, which this exemption would allow as currently worded.

The wording should include a limit to the area being restored or controlled, and there should be a limit on the types of control activities which would be allowed, for example, allowing mechanical removal of weeds, fishes, etc, but prohibiting the use of pesticides, herbicides, or biocontrol agents.

16. Control of pests utilizing federal and state approved pesticides, herbicides, fungicides, and toxicants in conformance with label instructions; traps, snares, lures, and repellents; distribution of biocontrol agents approved by the state of Hawaii; and other approved methods.

Snares and traps, such as steel-jawed traps, are extremely cruel and can harm non-target animals such as pets, and should not be allowed under any circumstances. While prohibiting the use of these barbaric devices is beyond the EC's jurisdiction, their use should be considered controversial and open to public comment.

I suggest only cruelty-free, humane traps be allowed, and no snares.

22. Natural resource management actions that the Department declares are designed specifically to monitor, conserve, or enhance the status of native species or native species' habitats, such as removal of introduced vegetation, reintroduction of native species into their historic range, or construction of fencing. This exemption would not apply to biocontrol of invasive species or commercial logging.

Again, this is too broad an exemption without any reference to area. Fencing and vegetation removal could have significant impacts, especially on a large scale. This exemption needs limits.

**Exemption Class 5**

13. Research or experimental management actions that the Department declares are designed specifically to monitor, conserve, or enhance native species or native species' habitat.

Research and experimental management should not be given carte blanche simply because they are of a scientific nature. The use of new pesticides or herbicides or the release of a new species as a biocontrol could be considered experimental/research, and these clearly could have significant impacts.

Calling something experimental does not mean we should exempt it. Anything can be done in the name of science. It should get greater scrutiny, since outcomes are unknown.

Again, it is important to conserve natural resources. However, the ends do not justify the means. Experimentation and research involve unknowns, which is why these are experiments. Any such experimentation with the environment should require informed consent of the public, which owns these natural resources.

This exemption should be completely deleted, or should be limited to a small area. As currently worded, it could include anything done to any species on any size of land without any public comment or environmental review. This is wrong, particularly for experimental processes.

16. Captive propagation of birds, mammals, invertebrates, or aquatic organisms; cultivation of plants. Housing, care, feeding, veterinarian examination, breeding (pairing, hatching, brooding, fledgling, rearing), cross fostering, double clutching nests, and experimental studies of native species (including those which are rare, threatened or endangered), game birds and game mammals; may involve hybridization of game birds or mammals.

There are state and federal limits, particularly under the ESA, which requires any taking of endangered species to be reviewed. This exemption allows threatened and endangered species to be experimented on. This is a taking, and should not be blindly exempted from review.

18. Research or experimental wildlife and plant management actions, including controlled grazing or burning as a management tool and outplanting.

Again, research and experimentation are causes for MORE oversight, not less. We should try new management tools, but this must be with a transparent, publicly vetted environmental

review.

19. Research or experimental management actions to identify, monitor, control, or eradicate introduced species.

The same objection applies here. Research and experimentation require MORE oversight. Their outcomes are unknown.

Conclusion:

I realize that the primary impetus for the exemption of certain activities is that it costs money to prepare an EA. While this is outside the scope of these comments, it may behoove the DLNR to prepare EA's in-house to reduce costs. Public oversight and involvement in the DLNR's activities with our environment should not be limited by exemptions simply because of the cost of doing EA's.

The EC should read these proposed exemptions with an eye for potential problems, putting the burden of proof on the DLNR to guarantee that an activity is indeed insignificant. I believe my comments above address serious potential problems which could be caused by these exemptions. I hope my comments are helpful to the EC in suggesting changes to keep the public involved without burdening the DLNR with unnecessary EAs.

Sincerely,

Sydney Ross Singer
Medical Anthropologist
Director, Good Shepherd Foundation
P.O. Box 1880
Pahoa, Hawaii 96778