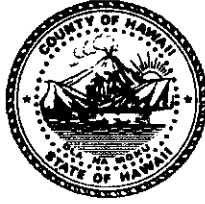


William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

## County of Hawai'i

### PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

October 29, 2010

Mr. Ivan M. Torigoe  
Deputy Director  
Department of Environmental Management  
County of Hawai'i  
25 Aupuni Street  
Hilo, Hawaii 96720

Dear Mr. Torigoe:

**SUBJECT: Request for Advice on Proposed Exemption from HRS Chapter 343  
Environmental Assessment**  
**Landowner: County of Hawai'i**  
**Project: Hawaiian Ocean View Estates Subdivision Temporary  
Limited Residential Trash Bin Operation**  
**TMK: (3) 9-2-094:036; Kahuku, Ka'u, Hawai'i**

Thank you for your letter received October 21, 2010, requesting concurrence from this office regarding the proposed exemption from Hawai'i Revised Statutes (HRS) Chapter 343.

The Department of Environmental Management (DEM) proposes to install a gravel driveway and a concrete or asphalt 20' x 30' pad where a roll-off bin would be parked for operation of a temporary, limited-use, public residential trash bin on the subject parcel. The bin would be supervised and in the afternoon, the County would cover and haul the roll-off bin to a State Department of Health permitted County solid waste facility for disposal.

The subject parcel consists of 4.001 acres and is zoned A-1 (Agricultural- 1 acre minimum lot size). The parcel is situated within the State Land Use Agricultural District. The subject parcel is not located within the Special Management Area.

Mr. Ivan M. Torigoe  
Deputy Director  
Department of Environmental Management  
Page 2  
October 29, 2010

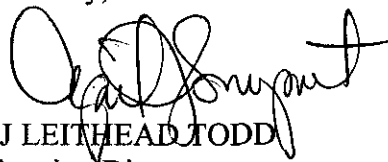
According to HRS Chapter 343-5, an environmental assessment shall be required for actions that propose the use of state or county lands or the use of state or county funds. However, Hawai'i Administrative Rules (HAR), Chapter 200, Environmental Impact Statement Rules provides a list of classes of action that may be exempt from the preparation of an environmental assessment.

The construction and location of single, new, small facilities or structures and the alteration and modification of the same and installation of new, small, equipment and facilities and the alteration and modification of same is included on the list of classes that may be declared exempt from the preparation of an environmental assessment as provided by HAR §11-200-8 (A) (3).

We concur that the proposed use would have minimal or no significant impact on the environment. It seems appropriate that the proposed use be considered *construction of small facilities* and that this exemption should be added to DEM's Exemption List, as approved by Office of Environmental Quality Control Environmental Council.

If you have any further questions or if you need further assistance, please feel free to contact Bethany Morrison of this office at 961-8138.

Sincerely,



for

BJ LEITHEAD TODD  
Planning Director

BJM:cs

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cc: Mr. Steven Chang  
Solid and Hazardous Waste Branch  
Department of Health  
919 Ala Moana Boulevard #212  
Honolulu, Hawai'i 96814

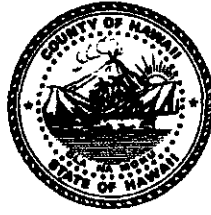
Mr. Frank DeMarco, P.E., Director, DEM  
Mr. Michael Dworsky, SWD Chief, DEM

William P. Kenoi  
Mayor

William T. Takaba  
Managing Director

PLANNING DEPARTMENT  
COUNTY OF HAWAII

2010 OCT 25 AM 7: 45



Frank J. DeMarco, P.E.  
Director

Ivan M. Torigoe  
Deputy Director

## County of Hawai'i

### DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

25 Aupuni Street • Hilo, Hawai'i 96720  
(808) 961-8083 • Fax (808) 961-8086  
[http://co.hawaii.hi.us/directory/dir\\_envmng.htm](http://co.hawaii.hi.us/directory/dir_envmng.htm)

October 21, 2010

Ms. April Surprenant  
Planning Program Manager  
County of Hawai'i Planning Department  
101 Aupuni Street, Suite #3  
Hilo, Hawai'i 96720

RE: Hawaiian Ocean View Estates Subdivision, Request for Advice on Proposed Exemption from HRS Chapter 343 Environmental Assessment for Temporary Limited Residential Trash Bin Operation, TMK (3) (3) 9-2-094:036.

Dear Ms. Surprenant,

We are writing to ask your advice regarding the Department of Environmental Management's ("DEM") contemplated declaration of exemption from HRS Chapter 343 environmental assessment requirements for proposed DEM operation of a temporary, limited-use, public residential trash bin in Hawaiian Ocean View Estates ("HOVE"). We also understand that this use is allowed under the agricultural zoning of the subject parcel; please advise if this is mistaken.

This involves approximately a 100' x 200' area of a 4.001 acre County-owned land in HOVE on the parcel identified as TMK No. (3) 9-2-094:036. The site is a graded but unoccupied portion of the County Kahuku Park. The County would install a gravel driveway and a concrete or asphalt 20' x 30' pad where a roll-off bin would be parked for operations. The County would provide a roll-off bin in the morning one day a week, for public drop-off of bagged household trash only. The bin would be supervised throughout the day by volunteers or a DEM attendant, to ensure that only bagged household trash is properly deposited and that the area is kept clean, and for traffic control. Procedures and materials for spill clean-up will be in place. In the afternoon, the County would cover and haul the roll-off bin to a state Department of Health ("DOH") permitted County solid waste facility for disposal, probably either Pāhala or Wai'ōhinu Transfer Stations. If demand requires, the County may change out the bin when full during that day.

Our Solid Waste Division (SWD) has discussed this proposal with State of Hawai'i Department of Health, Solid and Hazardous Waste Branch staff. They have informed us that such an operation would likely qualify for an exemption from solid waste facility permitting requirements, as a "minor source as determined by the Director" of DOH, under H.A.R. § 11-58.1-04(b)(5), under the following assumed circumstances:

County of Hawai'i is an Equal Opportunity Provider and Employer.

**SCANNED**

OCT 25 2010  
By: 067284

1. Identification of the proposed collection location:  
Address: 92-8607 Paradise Circle Mauka, Kahuku, HI 96737;  
TMK No. (3) 9-2-094:036;  
Property owner contact: County of Hawai'i, Department of Parks and Recreation,  
101 Pauahi Street, Suite #6, Hilo, Hawai'i 96720;
2. The operations will be for a limited duration on a trial/temporary basis for six (6) to eighteen (18) months. A permit application to be submitted for longer duration if the trial turns out to be successful;
3. Operations will be limited in scope: Limited to household waste, roll-offs collection once per week for set hours, approximately 9 a.m. to 3 p.m., estimated waste quantity per collection, 30 cubic yards or 3-6 tons;
4. Waste will be fully bagged and placed directly into and stored in roll-offs;
5. All waste and equipment (roll-offs) are removed from the site at the end of the collection day to Pāhala or Wai'ōhinu or other permitted County Transfer Station or landfill for disposal; and
6. The site will be fully supervised at all collection times (including providing necessary traffic control during collection hours)

We have requested said exemption from solid waste permitting.

This limited site improvement, and limited operations, seem to be within the EA exemption category of HAR § 11-200-8(a)(3) for “[c]onstruction and location of single, new, small facilities or structures and the alteration and modification of the same, and installation of new, small, equipment and facilities and the alteration and modification of the same, including, but not limited to: (A) Single family residences less than 3,500 square feet not in conjunction with the building of two or more such units; (B) Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures; (C) Stores, offices, and restaurants designed for total occupant load of twenty persons or less per structure, if not in conjunction with the building of two or more such structures; and (D) Water, sewage, electrical, gas, telephone and other essential utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools and fences; and acquisition of utility easements.”

This limited site improvement and operations also fits within the exemption category of HAR § 11-200-8(a)(4) for “minor alterations in the conditions of land, water, or vegetation.”

The County DEM's Exemption List (February 10, 2005) currently approved by the State Office of Environmental Quality Control (OEQC) is very short and does not list the proposed use in particular. It does mention the foregoing general categories. (It does list “Install solid waste facilities including transfer stations and disposal facility components” under Exemption Class 6, “Construction or placement of minor structures accessory to existing facilities.” However this proposed bin will stand alone, although it could be said to be accessory to the existing solid waste transfer stations in the area.)

For guidance, other Counties' approved exemption lists do include specific exemptions that would fit our proposal. The City & County of Honolulu's Department of Environmental

Ms. April Surprenant  
Planning Program Manager  
October 21, 2010  
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Services' December 12, 2007 exemption list for HAR § 11-200-8(a)(3) includes "7. Clearing, grading and grubbing; 9. Community recycling bin program expansion, limited to not more than a total bin footprint of 1,000 square feet within the same site; 10. Construction and location of a single, new, small public facility structure, including but not limited to those intended for . . . operations, and safety and protection . . . less than 3,500 square feet in floor area not in conjunction with the building of two or mores such units; 32. Loading areas; 38. Pavements . . . including but not limited to roadways, driveways, parking lots . . .; 53. Trash compactors; 54. Trash enclosures and litter containers."

The City & County's OEQC-approved list contains multiple exemptions which would cover the proposed actions, indicating that these actions fit within the exemption category. Thus, a declaration of exemption appears appropriate.

Under HRS Chapter 343 rules, when an agency is considering declaring a Chapter 343 exemption, we must "obtain the advice of other outside agencies or individuals having jurisdiction or expertise as to the propriety of the exemption." HAR 11-200-8(a). Because the Hawai'i County Planning Department is designated a "permissible accepting authority for applicant EISs under HRS § 343-5(c)," we thought it appropriate to obtain your advice as to the propriety of the exemption.

As we discussed, as long as the site preparation and operations remain within the foregoing limits, such activities wouldn't appear to present any probable substantial adverse environmental impacts. In fact, the proposed trash collection operation should reduce the illegal residential dumping that is already occurring in the HOVE area. Under these circumstances, it would appear that the exemption from Chapter 343 requirements proposed above is appropriate, since the proposed actions would have minimal or no significant impact on the environment, and should actually help protect the environment from illegal dumping.

If this is consistent with your understanding, we would greatly appreciate your concurrence with the foregoing. Please contact the undersigned if you need further information. Thank you.

Sincerely,



Ivan M. Torigoe  
DEPUTY DIRECTOR

cc: Steven Chang, DOH SHWB  
Frank DeMarco, P.E., Director  
Michael Dworsky, SWD Chief