



KAHEA
THE HAWAIIAN-ENVIRONMENTAL ALLIANCE



The Outdoor Circle




**SIERRA CLUB
OF HAWAII**
MĀLAMA I KA HONUA
Cherish the Earth.



Hawaii's Thousand Friends

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 Friends of Lana'i



Protecting Maui's Future



Friday, October 25, 2013

Dear Senator,

Conservation Council for Hawai'i, Friends of Lana'i, Hawaii's Thousand Friends, KAHEA The Hawaiian-Environmental Alliance, Maui Tomorrow, The Outdoor Circle, Puna Pono Alliance, Save Kahului Harbor, and Sierra Club of Hawai'i jointly urge you to oppose the appointment of Genevieve Salmonson as the Director of the Office of Environmental Quality Control ("OEQC"). The following details our concerns with her past service.

The OEQC plays a critical role in ensuring that potentially harmful projects are thoroughly reviewed before state and county agencies make decisions with often profound effects on Hawai'i's environment and people. To carry out that important mission, OEQC needs a director who is committed to environmental protection and upholding the rule of law. As her track record as former OEQC director abundantly illustrates, Ms. Salmonson is clearly the wrong choice for the

job. Her actions and statements reveals that she does not adequately understand Chapters 341 or 343. Moreover, far from furthering OEQC's vital role as a bulwark of environmental protection, Ms. Salmonson has demonstrated her willingness to go along with whatever the governor tells her to do, however unlawful.

Ms. Salmonson's mishandling of the Department of Transportation's ("DOT") exemption of the Superferry project from Chapter 343 lays to rest any notion that she deserves to be reinstated at OEQC's helm. During the vetting process for this nomination, Ms. Salmonson reportedly explained she exempted the Superferry because "the Governor told her to do it." Such an answer is contrary to HRS section 341-4(b)(5), which requires Ms. Salmonson to "[s]ubmit direct to the governor . . . administrative policies, objectives, and actions, as are necessary to preserve and enhance the environmental quality of the State. . . ." Regardless of political pressure, Ms. Salmonson should have raised concerns and ensured that a more prudent course was chosen.

The question of whether DOT needed to conduct an EIS was *not* a close call. A unanimous Hawai'i Supreme Court concluded that an EIS was required. Even the Environmental Council, which Ms. Salmonson sat on as the Director of OEQC, voted 9-1 in support of requiring the Superferry to undergo an environmental review. Only Ms. Salmonson voted "nay."

More recently, Ms. Salmonson mistakenly relies upon an auditor's report to indicate she was "not fully informed regarding the scope of DOT's proposed actions." This misses the point. The material issue was not whether Ms. Salmonson knew of all of the details of the project, but rather that she failed to consider the potential of secondary impacts. Moreover, Ms. Salmonson did not take the time to appropriately investigate the project to determine whether there was an issue with secondary impacts -- she exempted it in a 2-3 day period. More importantly, the director of OEQC **does not have the authority to grant exemptions to chapter 343**. She should have expressly told DOT that while she can provide advice, it is DOT's obligation to determine whether an exemption is appropriate based on all of the information made available to it and noted the potential for secondary impacts.

We would also like to highlight our concern with Ms. Salmonson's reaction to criticism. Immediately following the initial round of public controversy, Ms. Salmonson appears to have tried to prevent the Environmental Council from investigating the Superferry issue (see the testimony of Denise Antolini). This is contrary to the directive of Haw. Rev. Stat. § 341-4, which requires her to "receive notice of any private or public complaints concerning ecology and environmental quality through the council." At the very least, Ms. Salmonson should have been forthcoming about her decision to exempt the Superferry and candid about her rationale, rather than attempting to obstruct the Council's efforts to perform its statutory duty.

Quite simply, Ms. Salmonson does not have the trust of the broader public. The Director is supposed to facilitate environmental concerns between the public and government. Both the business and environmental community have deep reservations about Ms. Salmonson's capacity to fulfill this role. She held the office previously. Her track record is known. She does not have the public's confidence now, and it is unlikely she will ever obtain it.