

**MINUTES FOR THE  
MEETING OF THE  
BOARD OF LAND AND NATURAL RESOURCES**

DATE: FRIDAY, SEPTEMBER 14, 2007  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HI 96813

Chairperson Laura Thielen called the meeting of the Board of Land and Natural Resources to order at 9:08 a.m. The following were in attendance:

MEMBERS

Ms. Laura Thielen	Mr. Ron Agor
Mr. Tim Johns, arrived 10:38am	Ms. Taryn Schuman
Mr. Rob Pacheco	Dr. Sam Gon
Mr. Jerry Edlao	

STAFF

Mr. Russell Tsuji, LD	Dr. Robert Nishimoto, DAR
Ms. Athline Clark, DAR	

OTHERS

Mr. Randall Ishikawa, AG's Office	Ms. Pam Matsukawa, AG's Office
Mr. Michael Barton, Item D-6	Ms. Lisa Barton, Item D-6
Ms. Janna Mihara, DOE – Item D13	Ms. Marti Townsend, Item F-2
Mr. Colin Yost, Item F-3	Mr. Dana Yoshimura, Item M-1
Mr. Norman Keanaaina, Item D-4	Mr. Errol Kane II, Item D-9
Ms. Theodora Kane, Item D-9	Mr. Donald Du Pont, Item D-9
Ms. Zelei Abordo, Item D-9	Mr. Noa Napoleon, Item D-9
Mr. Hubert Chang, Item D-9	Mr. Gifford Chang, Item D-9
Mr. John Dooling, Item M-2	Mr. Ross Smith, Item M-3, M-4
Ms. Elizabeth Keene, Item F-2	

{Note: language for deletion is [bracketed], new/added is underlined}

**Item A-1 Briefing and Minutes of August 24, 2007**

Member Gon recused himself.

**Unanimously approved as submitted. (Agor, Schuman)**

**Item D-10 Grant of a Perpetual, Non-Exclusive Easement to Keehi Memorial Organization for Seawall, Drainage Channel, Landscaping and Gazebo Structure Purposes, Situated at Keehi Lagoon, Honolulu, Oahu, Tax Map Key: (1) 1-1-03:004 (seaward).**

Mr. Russell Tsuji, administrator for Land Division, reported no changes. Applicant is fine with recommendation.

**Unanimously approved as submitted. (Schuman, Agor)**

**Item D-12 Issuance of a Right-of-Entry Permit to the Commission on Water Resource Management for Gathering Data of Stream Diversion Sites, Statewide.**

Mr. Russell Tsuji of Land Division gave background and reported no changes.

Member Gon expressed his approval.

Member Edlao asked how long will this take to complete. CWRM representative replied 3 years.

**Unanimously approved as submitted. (Gon, Pacheco)**

**Item D-6 Rescind Prior Board Action of January 10, 2003 (D-16), Grant of 55-Year Term, Non-Exclusive Easement to William and Louise Pape for Access and Utility Purposes at Kuwaikahi Gulch, Manowaipae and Kihalani, North Hilo, Hawaii, Tax Map Key: (3) 3-5-4:35**

A letter of testimony was faxed by Mr. Paul Bryant. Written testimony was provided by Mr. Michael Barton and Ms. Lisa Barton.

Mr. Russell Tsuji of Land Division reported staff found easement to be inappropriate because the Papes' property already has legal access from another location (Hokumahoe Road). Member Pacheco inquired of the concrete pathway. Mr. Tsuji understood from staff they were told it was there previously.

Mr. Michael Barton is a friend and business partner to Pape family and gave background history of the property and its uses. He explained a complaint was received about an unlocked gate; spoke to police, and later to Gordon Heit of DLNR. Mr. Barton obtained power of attorney. Mr. Pape is locating some forms for the tax clearance. Mr. Barton

added he has the State listed as additional insured for the liability insurance. And he asked the Board not to rescind this grant of easement and requested an extension. He proceeded to explain the exhibits. Discussion about Hokumahoe Road and access.

Chairperson Thielen stated a grant of easement was granted in 2003 and requires insurance and other documents. We have a letter dated Dec. 12, 2006 to the grantee saying there have been attempts to gather liability insurance information. She asked was there any response to this letter with the information provided by the grantee? Mr. Tsuji replied that to his knowledge no. She emphasized that the grantee has to provide this information. To motivate the grantee is to provide documents by a certain date...or this goes back to the agenda to revoke the easement. It has been 4 years since the easement was awarded. Chairperson requested that this be presented to the Board in a couple months. Mr. Tsuji asked that Mr. Barton whether he has procured the required liability insurance and tax clearance. Mr. Barton affirmed. Chairperson Thielen stated in order for the grantee to fulfill his legal obligations from 2003 he will need tax clearance, liability insurance and executed easement documents. Mr. Barton replied they have no problem with it; they just need time to complete them.

Chairperson Thielen asked the Board for a set time to respond. Member Gon asked Mr. Barton what is a reasonable amount of time to gather these materials. Mr. Barton answered 90 days. Mr. Tsuji agreed to the time.

Ms. Lisa Barton, friend and landlord to Pape family and property, testified referring to Charlene Unoki's (Land Division) letter and complaints by adjacent landowner, Paul Bryant. She presented history and problems regarding the property and access.

**The Board:**

**Amendment to Staff Recommendation:**

**The Land Board approved staff's recommendation to rescind the prior Board action granting a term non-exclusive easement to the Papes, but delayed the effective date of the rescission for 90 days (to December 13, 2007). The rescission can be avoided and the easement can be granted if within this 90-day period: (1) the Papes submit to staff the required liability insurance naming the State as an additional insured for the easement area; (2) the Papes submit to staff the required tax clearances; and (3) staff confirms the accuracy of the representations made by Michael and Lisa Barton (the Papes' designated representatives) that the Papes cannot legally access their properties from Hokumahoe Road.**

**Unanimously approved as amended. (Pacheco, Edlao)**

**Item D-13 Report of Environmental Studies Pertaining to Acquisition of Private Lands for Set Aside to Department of Education for addition to Haaheo Elementary School, South Hilo, County and Island of Hawaii, Tax Map Key: (3) 2-6-32:01 por. and 27.**

Mr. Russell Tsuji representing Land Division gave background and reported high levels of arsenic on the road lot. Department of Education (DOE) is willing to pave all unpaved portions of the Road lot, and continue to inspect, repair and maintain the area. Staff recommends approving the acquisition subject to the Board of Education's review and approval of this action. The matter will be scheduled to be heard before the BOE in early October 2007.

Chairperson Thielen informed the Board the environmental report discussed the levels of arsenic which is a cumulative contaminant on people which are most susceptible to exposure at a young age. Because the children at the elementary school are there generally for 7 years it was decided to do something proactive to prevent exposing the children to exposure. Staff entered into discussions with DOE and the land owner. The idea was to present DOE's containment and maintenance plan to the Land Board for and the Board of Education for review and approval, DOE will oversee the implementation of the plan. Ms. Janna Mihara representing DOE Facilities agreed with staff's recommendation as noted in the submittal.

Member Edlao expressed concern whether asphalt is sufficient, and questioned there will be air monitoring and maintenance into perpetuity. Mr. Tsuji replied Department of Health (DOH) was not requiring testing the air quality or paving of the Road lot, but thought planting the unpaved portions with grass was sufficient. However, in an abundance of caution and in attempt to be more proactive, DLNR recommended paving all unpaved portions of the Road lot because children walking home on any unpaved portions could easily kick up the dirt, which contains arsenic. Ms. Mihara explained the children will not be playing in this area. Staff and DOH requested for monitoring and quarterly reports. There was discussion of exhibits and photos. Chairperson Thielen added the intention of the environmental report stated "contain the soil" with maintenance and repair.

**The Board:**

**Amendment to Staff Recommendation:**

**Staff was asked to report back and inform the Board of the action taken by the Board of Education.**

**Unanimously approved as amended. (Pacheco, Agor)**

**Item F-3 Request for Authorization to Select and Appoint a Hearing Officer to Conduct Contested Case Hearing Regarding the Board of Land Natural Resources' Finding that Dr. Greta Aeby Violated Northwestern Hawaiian Islands Research, Monitoring, and Education Permit # DLNR.NWHI06R008**

Supplemental written documents were handed out to the Board.

Dr. Bob Nishimoto representing Division of Aquatic Resources (DAR) explained the supplemental documents regarding the selection of a hearing officer.

Member Edlao asked Ms. Marti Townsend how KAHEA wants to be involved. Ms. Townsend replied they wish to be a party to the contested case and she supports staff's recommendation. Chairperson Thielen explained KAHEA's request will have to be taken separately which Ms. Townsend agreed.

**Unanimously approved as submitted. (Schuman, Gon)**

**Item M-1 Issuance of Revocable Permit for Inconsistent Use Frank Coluccio Construction Company, Honolulu Harbor, Oahu**

Mr. Dana Yoshimura representing DOT Harbors for Sandra Pfund, Executive Director of the Aloha Tower Development Corp., relayed background.

Chairperson Thielen inquired what the estimated time period to complete the project is. Mr. Yoshimura replied he doesn't have that, but termination of permit will run consistent with the project. Chairperson Thielen asked how close this is to the water and if there are conditions placed upon permittees for containing run off at construction staging areas. Mr. Yoshimura replied 50 yards from the ocean and yes, there are legal requirements.

**Unanimously approved as submitted. (Schuman, Edlao)**

**Item D-4 Forfeiture of General Lease No. S-4577, Mauna Ziona Congregational Church, Lessee, former Kalaoa School Lot at Kalaoa 4th, North Kona, Hawaii, Tax Map Key:3rd/7-3-04:05. (HDLO/Gordon)**

Mr. Russell Tsuji of Land Division reported he received the insurance policy and recommends withdrawing this item.

Member Pacheco asked for clarification regarding fire insurance. Mr. Tsuji replied it is included.

**Withdrawn. (Pacheco, Edlao)**

**Item D-9 Decision Making on all Request for a Contested Case made by: (1) Hawaii Hot Spots Tours, LLC; (2) Hawaiian Ocean's Waikiki; and (3) Noa Napoleon, regarding Land Board Item D-7 on June 22, 2007, entitled Enforcement of Violation of Unencumbered Public Lands, Unauthorized Surfboard Instruction by Pure Hawaiian, Hot Spots, Hilton Hawaiian Village, LLC, and Waikiki Beach Activities, Ltd., at Duke Kahanamoku Beach, Oahu, Tax Map Key (1) 2-3-037:021.**

**The Board may go into Executive Session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, to discuss the contents of confidential attorney-client memoranda, and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities.**

Mr. Russell Tsuji, administrator for Land Division, requested an executive session to consult with the deputy attorney general.

**10:06am Adjourned for Executive Session to discuss its legal rights, duties, privileges, and obligations relating to this matter with our deputy attorney. (Edlao, Pacheco)**

**10:32am Reconvened.**

Mr. Tsuji reported that Mr. Errol Kane, Jr. of Hawaii Hot Spots Tours, LLC withdrew his request for a contested case. Staff's recommendation for Hawaiian Ocean's Waikiki and Noa Napoleon is to deny their requests for a contested case hearing for lack of standing.

Chairperson Thielen confirmed with Mr. Tsuji that the request for a contested case hearing is based on the decision of this Board to fine certain operators of surf schools. That decision has nothing to do with the concession license in Waikiki. Mr. Tsuji answered that is correct. That is not the subject matter of the Board action. Ms. Thielen added because of this any contested case hearing will not be able to take up the issue of the concession license. Mr. Tsuji confirmed this.

Ms. Theodora Kane, mother of Mr. Errol Kane, Jr., informed the Board about the restraining order (TRO) on Noa Napoleon. Mr. Errol Kane, Jr. owner of Hawaii Hot Spots Tours summarized last board meeting regarding this issue. He withdrew the contested case hearing and paid the fine of \$150. He finds it troubling to learn Noa Napoleon had filed a contested case.

10:38am - Member Johns arrived.

Ms. Zelei Abordo representing Kaiser's for All Coalition asked the Board to accommodate Noa Napoleon to hear his testimony and reported on organization's background.

Mr. Tsuji informed the Board that Errol Kane, Jr. is the subject matter of a fine taken up by the Board and he is entitled to sit through decision making on all three requests of contested cases because it affects him. But Noa Napoleon would like to testify and inquired if Mr. Kane was willing to step out during that time. Mr. Kane objected.

**10:43am Adjourned for Executive Session to discuss the Board's legal rights, duties, privileges, and obligations relating to this matter with its attorney. (Johns, Gon)**

**10:53am Reconvened.**

Chairperson Thielen asked Mr. Kane if Noa Napoleon only addressed comments to the other parties who were fined and not to him or his business would he be willing to leave the room but have your representative remain in the room and allow Mr. Napoleon in to testify in person. She explained the TRO situation with Mr. Napoleon. The Board will ask if Mr. Napoleon is willing to do this or testify via speaker phone. Mr. Kane agreed to this provided nothing was said about him, his father or his business.

Ms. Abordo spoke to Mr. Napoleon by cell phone. He thought today was the contested case hearing. Chairperson Thielen clarified the question before the Board today is whether to grant any of the requested contested case hearings. Ms. Abordo stated that Mr. Napoleon wants to stand on his written testimony.

Mr. Hubert Chang representing Hawaiian Oceans Waikiki expressed that whatever the Board decides will effect all of Waikiki. He is concerned with people skirting the law by having unlicensed, illegal surf schools, and no enforcement. There is a problem with communication and laws of the city and state not being enforced or consolidated together. He feels the fine of \$150 is nominal. The signal these laws are sending is anyone can do what they want. Mr. Chang alerted the Board that tourists are experiencing thefts and people are getting hurt by unregulated surf schools.

Member Johns questioned whether Mr. Chang met requirements to participate in the contested case hearing because he hasn't addressed any property interest being affected by the Land Board action imposing the fines on Hot Spots, Hilton, WBA and Clyde Aikau. Member Johns thought Mr. Chang's interest seemed similar to any other member of the general public, and not necessarily unique such that to distinguish Mr Chang's interest from any other member of the general public. Mr. Chang agreed the Land Board's action did not directly affect him or his business.

Member Pacheco asked whether the issues brought up by Mr. Chang would be addressed during the contested case hearing or only the fine. Chairperson Thielen replied only the fine.

Mr. Tsuji relayed staff's recommendation is to deny a contested case hearing to Hawaii Oceans Waikiki and Noa Napoleon because of lack of standing.

Mr. Gifford Chang of Waikiki Surf inquired when the Board would address the concerns of Mr. Hubert Chang. Chairperson Thielen explained that the Sunshine Law requires that it be noticed in the agenda. Mr. Tsuji stated the issues at Waikiki Beach and specifically at Kuhio Beach are complicated due to the various jurisdictional lines. Mr. Tsuji also added he probably ought to consult with the Chang brothers and the County because they may have different rules from the State. Land Division staff have been in discussion with the City in regards to these issues. Resolution of the problems might take some time. Chairperson Thielen asked for a report at an appropriate time to apprise the Board on these issues at Waikiki Beach as mentioned by Mr. Chang.

**Unanimously approved as recommended by staff. (Johns, Edlao)**

**Item M-2 Issuance of a Lease (License) to the United States of America, Commandant of the United States Coast Guard, for Open Land at Pier 1, Honolulu Harbor, Kaakaukui, Honolulu, Oahu, TMK: 1<sup>st</sup>/2-1-15 (Portion)**

Mr. John Dooling representing Department of Transportation (DOT), Harbors Division – Property Management reported this is a high priority item for the U.S. Coast Guard. because vessel(s) entering Honolulu Harbor are not in contact with Aloha Tower. As a result Aloha Tower contacts the Coast Guard to apprehend the vessel(s). The public complained there is nothing that informs them on what to do and that is the purpose of the sign. He explained placement of the sign.

**Unanimously approved as submitted. (Johns, Gon)**

**Item M-3 Amendment No. 2 to Concession Agreement No. DOT-A-07-0001 - In-Bond (Duty Free) Concession, Honolulu International Airport**

**Item M-4 Amendment No. 2 to State Lease No. DOT-A-06-0011, Application for New Space, Mokulele Flight Service, Inc., Honolulu International Airport**

Mr. Ross Smith property and land acquisition manager for DOT – Airports explained each submittal. Chairperson Thielen asked whether these changes are to existing structures. Mr. Smith replied the first one is. The other two are not because they are moving into their own space. Chairperson Thielen inquired whether this Board has ever done a programmatic agreement and why do we have changes to internal spaces coming back to us. Mr. Smith replied per DOT it is encumbrance of property.

**Unanimously approved as submitted. (Johns, Schuman)**

**Item M-5 Amendment to Prior Board Action of July 13, 2007, Item M-2, Issuance of a Direct Lease Schuman Aviation Company, Ltd., Honolulu International Airport**

Member Schuman recused herself.

**Unanimously approved as submitted. (Johns, Gon)**

**Item D-1 Sale of Lease at Public Auction for Pasture Purposes and Issuance of Revocable Permit to Lincoln Ching; Kapaa Rice and Kula Lots, Kapaa, Kawaihau, Kauai, Hawaii, Tax Map Key: (4) 4-5-15:10 & 28.**

- Item D-2** Amend Prior Board Action of June 12, 1992, Item F-14, and February 9, 2007, Item D-4, Authorization to Withdraw Land from the Operation of General Lease No. S-4413 and Right-of-Entry to the Department of Transportation, Highways Division for Contra-Flow Road Purposes, Wailua, Kawaihau, Lihue (Puna), Kauai; Tax Map Key: (4) 3-9-006:001 (por) and 012
- Item D-3** Issuance of Right-of-Entry Permit to County of Kauai for Access Purposes on Lands Encumbered by Revocable Permit No. S-7279 to Elester Calipjo, Lihue, Wailua, Kauai, Tax Map Key: (4) 3-9-02: portion 20.
- Item D-5** Grant of Perpetual, Non-Exclusive Easement to Bruce Eby and Cole J. Cornelius and Nancy L. Cornelius, Trustees for the 1996 Cornelius Intervivos Trust Dated May 9, 1996, for Access Purposes, Hualua, North Kohala, Hawaii, Tax Map Key: 3rd/5-5-03:12.
- Item D-7** Rescind Prior Board Action for the Sale of Remnant State Land to Nicolas Myrianthis, Trustee of the Nicolas Myrianthis Revocable Living Trust, Waiakea, South Hilo, Hawaii, Tax Map Key: 3rd/2-4-07:58.
- Item D-8** Amend Prior Board Action of August 12, 2005 (Item D-8); Rename Grant of Perpetual, Non-Exclusive Easement for Access and Utility Purposes, Makawao, Maui, Tax Map Key: (2) 2-9-003:portion (s) of 016, 017, 020 and 039 (MDLO/Daniel)
- Item D-11** Sale of Remnant to Joyce Watanabe as Successor Trustee of the Tsugio Kurihara Trust and Kaoru Kurihara Trust, and Withdrawal from Governor's Executive Order No. 1598, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-024:between 37 and 38.

Mr. Russell Tsuji of Land Division reported no changes. No members of the public present to testify.

**Unanimously approved as submitted. (Pacheco, Edlao)**

- Item F-1** Request for Approval to Enter into a Two-Year Contract for Professional Services for \$133, 924 with Tetra Tech EM Inc. for "Development of a Recreational Capacity Assessment Tool" (estimated period: November 1, 2007 through October 31, 2009)

Ms. Athline Clark representing Division of Aquatic Resources (DAR) for Dan Polhemus requested a deferral.

**Deferred. (Johns, Gon)**

**Item F-2 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Randall Kosaki, National Oceanic and Atmospheric Administration, National Ocean Service, National Marine Sanctuary Program (NOAA/NOS/NMSP), for Access to State Waters to Conduct Coral Reef Assessment and Monitoring Activities.**

Additional request was passed out.

Ms. Athline Clark of DAR informed the Board that this is an on-going monitoring activity for the past seven years. 1) There is a mistake to permit condition #8 which uses incorrect language. Strike second sentence “including work involving a bioassay or bioprospecting” along with letters i.e. which will be corrected with the Board approved language. 2) Participant assumed collection of non-lethal samples of crown of thorns star fish was an approved activity as done previously, but was not. Staff requested to add additional activity.

Member Johns inquired if there is a Sunshine Law problem because the change request is not listed and is different from what is submitted. Ms. Pam Matsukawa of the Office of the Attorney General acknowledged that there is a problem. Ms. Clark responded that staff could withdraw it. Chairperson Thielen added we have a Sunshine Law limitation whether to include this to the permit. Ms. Clark clarified this is not a separate permit. The intention is to fold this into the existing application as an activity, but it was not posted. Applicants are here.

Discussion whether the notice in the agenda would allow this activity.

Member Johns elaborated the notice indicates to the public what the Board is going to act on which says “a permit to conduct coral reef assessment and monitoring activities” and if the public wants to further investigate they would look at it on-line. Question is if this request is different enough beyond the notice that people would be interested. Ms. Clark described the draft submittal and application was posted on-line for a month.

Member Gon inquired of the checked boxes referring to Permit Application page 4, 5b. It says check all applicable regulated activities. If you check it does it mean it is allowed? Ms. Clark replied yes. Member Gon added it does say removing, taking, harvesting, possessing living or non-living monument resources. Therefore taking of star fish arms is not a violation because 5b is checked.

Chairperson Thielen asked if the conditions written into the staff recommendations deal at all with this activity. Ms. Clark replied no, these were the general conditions approved previously by the Board in accordance with the permit application special conditions. In the permit itself staff would have special conditions that relate to the activity itself as requested in the application. Member Gon reported in regards to the details on page 6,

item 7, 5<sup>th</sup> paragraph of the application it says "Fishes, invertebrates and corals can be identified visually. No specimens will be collected."

Chairperson Thielen clarified the agenda items were posted with the Lieutenant Governor's office and DAR is posting the permit applications and information on the DAR website. Ms. Clark added additionally the DAR submittal and permit application is posted on the DLNR website.

Member Pacheco inquired if there is a problem with Sunshine Law whether to act on the permit without this additional request. Ms. Clark replied yes, the applicant would like that. Ms. Matsukawa clarified we must follow what was filed with the Office of the Lieutenant Governor. Member Johns disagreed and stated it wouldn't change the title. It is the permit application on-line.

Elizabeth Keene representing chief scientist, Dr. Randy Kosaki, clarified this activity has been approved on several permits in the past. Staff wants to add it because the crown of thorns star fish preys on coral and they want to monitor it.

KAHEA's written testimony was e-mailed to Board members.

Ms. Marti Townsend representing KAHEA testified they want reports to be published. She referred to the change to condition #8 to read as noted from June 8, 2007 meeting:

"...the authorized research activity must be for non-commercial purposes not involving the use or sale of any organisms, by products or materials collected within the Monument for obtaining patent or intellectual property rights."

KAHEA wants a Daily Impact Log implemented.

Chairperson Thielen asked Ms. Townsend if she has any comment on this request. Ms. Townsend confirmed the applicant is right that KAHEA has seen this request on previous permits and they haven't had an issue with it. But, she doesn't want to oppose it because this research is on a long term basis and we need to know what kind of impact it will have. She agreed with Member John's assessment regarding the agenda title.

Discussion between Member Pacheco and Ms. Townsend regarding joint permit form changes. Ms. Clark clarified the application form has been in use since February. The format for the permit was approved in April. In answer to Ms. Townsend's request for a report staff is drafting a State of the Reef report which will be out next June.

Member Pacheco reported finding the Hawaii Institute of Marine Biology (HIMB) booklet informative. Ms. Clark reported that HIMB's original requirement provides a cruise report within 30 days and staff has those which are not published because of intellectual property concerns. She added referring to condition #8 that the language is correct in all permits. Discussion to clarify what that language is. The Daily Impact Log issue has been brought up previously and the Board has been advised by the Attorney General's office.

Member Pacheco inquired about the 45 day deadline. Ms. Clark responded there was no Board action therefore staff is posting as soon as possible. Chairperson Thielen elaborated staff has been working with the management board in drafting an interim practice for the Department and a commitment by the Federal co-managers in working towards a uniform publication policy. When staff gets to the final changes in the draft they will be hosting an interim practice and a timetable for getting to a unified policy. Ms. Clark added the uniform policy will be put out for public review in the draft management plan when it comes out early next year.

Chairperson Thielen questioned the Board whether to amend the permit application to include the crown of thorns star fish surveys and opportunistic collections. Member Gon asked if the deputy attorney general could reiterate what the opinion was. There was discussion by Member Johns whether to change the notice in the Lieutenant Governor's office and KAHEA confirmed that the notice would probably be the same. Ms. Matsukawa replied that if the notice posted at the Lieutenant Governor's office would be broad enough to cover this additional activity there would be a problem. Chairperson Thielen confirmed that the posting at the Lieutenant Governor's office would be the same and will cover the Sunshine Law. She asked are these standard special conditions? Ms. Clark replied they are and was agreed to by the Board members. There are always conditions that apply to that specific item.

Member Gon concluded he is inclined to accept these, but it bothers him that there is insufficient time to think through the details and not to have to rush through these in the future. Member Johns reiterated Member Gon's sentiments and reminded staff on getting things together. Chairperson Thielen summed up the process.

#### **The Board:**

##### **Amendment to Staff Recommendation:**

**Staff submitted two amendments 1) change condition #8 "including work of bioassay and bioprospecting" to follow Board approved language "...the authorized research activity must be for non-commercial purposes not involving the use or sale of any organisms, by products or materials collected within the Monument for obtaining patent or intellectual property rights." and 2) request to add crown of thorns activity.**

**Unanimously approved as amended. (Pacheco, Johns)**

**Item L-1      Rescind Prior Board Action of October 13, 2006, (Item L-1), Award of Construction Contract – Job No. 500-B-K54-C, Stream Mouth Maintenance at Various Locations, Kauai, Hawaii, and Request Approval to Award Construction Contract – Job. No. 500-B-K54-C, Stream Mouth Maintenance at Various Locations, Kauai, Hawaii**

**Item L-2      Approval for Award of Construction Contract – Job No. B48XM72A,  
Mala Boat Ramp Improvements, Maui, Hawaii**

**Item L-3      Approval for Award of Construction Contract – Job No. F35B632C,  
Walkway & Railing Improvements, Phase 2, Akaka Falls State Park,  
Hilo, Hawaii**

No members of the public present to testify.

**Unanimously approved as submitted. (Johns, Gon)**

There being no further business, Chairperson Laura Thielen adjourned the meeting at 12 noon. Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Adaline Cummings  
Board of Land & Natural Resources  
Secretary

Approved for submittal:



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LAURA H. THIELEN  
Chairperson  
Department of Land and Natural Resources