

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

DATE: FRIDAY, AUGUST 10, 2012
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson William Aila called the meeting of the Board of Land and Natural Resources to order at 9:04 a.m. The following were in attendance:

MEMBERS

William Aila, Jr.
John Morgan

Jerry Edlao
Rob Pacheco

STAFF

Ed Underwood/DOBOR
Dan Quinn/SP
Steven Soares/SP
Curt Cottrell/SP
Maria Carnevale/DAR

Russell Tsuji/LAND
Allen Carpenter/SP
Russ Kumabe/SP
Sam Lemmo/OCCL
Carty Chang/ENG

OTHER

Pam Matsukawa, Deputy Attorney General (AG)	Chris Lankett, J-1
Dave Cooper, J-1	Mark Neumann, J-1
Linda Kaiser, D-6	Ipo Tano, E-1
Bill Wynhoff, Deputy Attorney General (AG), E-1	Brian Kalawe, D-2
Tracey Kalawe, D-2	Jason Okuhama, D-2
Ben Kudo, D-8	Keith Avery, D-10
Na'alehu Anthony, F-1	Solomon Enos, F-2
Dr. Carl Meyer, F-4	Robert Toonen, F-5
Shauna Springer, F-6	Eric, F-5

{NOTE: Language for deletion is [bracketed], new/added is underlined.}

Item A-1 July 27, 2012 Minutes

Board member Morgan recused from this item resulting in no quorum and deferring to the next meeting.

Deferred

Item J-1 Issuance of a Revocable Permit to Hawaiian Parasail, Inc. for Thirty Six Square Feet to Construct a Deck to Accompany a Ticket Booth, Located at the Ala Wai Small Boat Harbor (AWSBH), Honolulu, Oahu, TMK: (1) 2-3-037: (Por)

Written testimony from Dave Cooper was distributed to the Board members.

Ed Underwood, Administrator for Division of Boating and Ocean Recreation (DOBOR) said that the statute was amended last year to allow commercial activity to occur in the harbor Hawaiian Parasail requested to do that. Currently, they work out of the Kewalo Small Boat Harbor, but HCDA (Hawaii Community Development Authority) gave them notice to vacate. Staff discussed with the owner of Hawaiian Parasail and he chose a new site with a triangle parking lot which permits pick-up/drop-off. The rules already allow staff to issue a ticket booth and they want to put a door on the side of the ticket booth and staff would like to issue a revocable permit (RP) to the additional area.

Chris Lankett testified that he is a harbor resident opposed to parasail activity on the 500 to 600 rows, but not opposed to having it in the harbor. The wood on the 500 to 600 row piers are too rotten to allow cleats on them and people have to put anchors out to secure their boats. Mr. Lankett described how much damage there is to the docks and with commercial operations doing 18,000 trips yearly it's a question how many docks would remain standing. Replace the docks to withstand those trips than that's ok. DLNR prefers increasing fees rather than rent slips where 200 slips remain unrented. He described commercial operations at the 100 row near the Prince Hotel with no enforcement on the speed endangering the keiki learning to sail in the harbor and the paddlers practicing. The Department should maintain their revenue source with the number of boats going up and down and the number of docks falling in.

Member Edlao asked he is not opposed to commercial activity in that area. Is there another area that might work? Mr. Lankett said over by the new boatyard where there are some commercial boats. The DLNR designated the 100 row over by the Prince Hotel as the commercial area.

Dave Cooper testified that he submitted written testimony and distributed a chart of the harbor and described the layout. He pointed out the 600 row where the children are training. Also, he distributed some copies of photos of the harbor and related his concern with children, paddlers and commercial boats in one area. Mr. Cooper described the deteriorating piers and spoke of the lack of State funds to repair them. The 700 to 800 rows are fixed with the new fuel dock. He suggested putting the ticket booth along the row fronting the Hawaii Prince. He related a situation with a rushing commercial boat almost hitting a canoe paddler who had to get out of the way. The restrooms are always locked and that is a problem.

Mr. Underwood said that the new docks at the old haul out site were built with boating access grant money and they are not work docks, but transient docks. Staff is allowing temporary use of the docks for the 2 commercial vessels, but the docks themselves cannot moor permanent vessels nor have permanent commercial activity there. Staff is waiting for Honey Bee to come in to develop this location and then they can put these commercial boats there without these long traverses in and out of the harbor. The reason why staff wants the 500-600 rows is to stay away from where the kids are doing their sailing on the inside area. The other alternative discussed is at the end of the 800 row where they can either drop off/pick-up here at the end.

Member Morgan asked with that scenario the proposal is for 36 square feet and not necessarily where the boat will go and so the proposal would be the same regardless of where the pick-up would be. Mr. Underwood acknowledged that is correct. The parasail boats are about 32 feet. Another issue discussed was you can't create a lot of wake in the harbor because it bothers a lot of people with all the boats rocking around and you got to go slow with no wake. He spoke with his structural engineer on the 600 row and based on that staff is going with the 500 row first where they will be putting in all new floating docks which will allow another 30 boats to that pier.

Member Morgan asked about the Honey Bee area and is considered to be temporary. Mr. Underwood confirmed that the goal is to put the commercial boats as far toward the end of the harbor as possible to prevent the boats transient in and out. Also, staff doesn't want commercial boats operating all over the harbor and want to consolidate them in one particular area.

Member Edlao asked if staff wants them out further why not the 800 which seems more logical. Mr. Underwood said that they can and that was discussed. The original plan was to build the ticket booth cantilevered over this 800 dock, but the room and the way the dock was built wasn't going to work. They have a staging area here and a triangle parking lot area for pick-up/drop-off and people can wait at the Hilton Lagoon when it's their time and walk out to the end of the 800 row. The operator could give a buzzer to the people. Absolutely, they could pick-up at the end of the 800 row.

Member Morgan pointed out it would be better for the operator to have a ticket booth where people can see it. Most visitors wouldn't know where the end of the 800 row would be. Mr. Underwood agreed and said this is in a central location.

Mark Neumann, owner of Hawaiian Parasail testified that it's within the administrative rules to operate out of this area that they chose to operate out of. The only thing he wanted to do was to add a porch or a way to enter the ticket booth from the side. The ticket booth hangs over the water and the only portion on land is the front of the ticket booth. The Chair asked that is the scenario if he operates at the 600 pier and Mr. Neumann acknowledged that. Chair Aila also said another scenario is the ticket booth be on the parking lot. Mr. Underwood said it is the same situation over the water with a breakwater. The Chair asked it was suggested pick-up over the 800 row and will that change the configuration of the ticket booth. And, why does it have to be that way? Could it be on the island at the parking lot or on a parking stall or in between, unused space? Mr. Underwood said it could be put on one of the molds. It's possible to put in the parking area, but it would be in the middle of all the cars going back and forth. Why staff looked

at this area is that it is out of the turn lane and people can be dropped off to walk down the 800 row. Chair Aila asked is there a safe place in the parking lot where the ticket booth wouldn't have to hang over the water. That was the scenario at the 600 row, but if operations get pick-up at the end of the 800 row it doesn't matter if you are over the water or not. Member Pacheco asked that the cantilever doesn't have anything with loading people does it. Mr. Underwood said there is a dock already built there that is taken.

Mr. Neumann mentioned that they have operated for 34 years and will keep the wake down knowing that there are live aboards in the Ala Wai.

Member Edlao asked how often is his operation traversing the area. Mr. Neumann said every hour the boat goes in and out. Member Pacheco asked that they operate 7 days a week and what his hours were. Mr. Neumann confirmed every day and hours are 8:00am to 5:00pm.

Member Pacheco asked whether he had a preference over the 600 row versus the 800 for loading. Mr. Neumann said he was looking for an area that he can legally operate out of since his office is being taken away at Kewalo Basin and described his operation there. It's nice having the office right where the pick-up is that the 800 row would be alright. He described picking visitors at the hotel and taking to the ticket booth to check in.

Member Pacheco asked whether he was familiar with the traffic there and all the boaters. Mr. Neumann said that is why DLNR wants to operate out of here because it's the closest waterway to the channel rather than running all the way through the harbor. All of the sailboats are right in front of the yacht club before the fuel dock and that avoids most of it.

Member Edlao said if the office was there and the pick-up was at the 800 row it's not a far walk to the end of the row.

Member Morgan said he takes it that the submittal or agenda item is all about the office and it's not about whether it's the 600 or 800 row. If they did take the 800 row it would be a good place for a ticket office. If the answer is yes than it is a worthwhile place for it. Mr. Neumann said it seems like a short distance, but the business is run on a tight schedule which he described. Member Morgan said that it is the Department who assigns the actual location. Mr. Neumann agreed and reiterated his request to add stairs or porch.

There were more discussions about the 800 row. Mr. Underwood said that in the rule that is the transient dock, but in reality the whole harbor is used for transient boats. Staff could designate an area on the end and it is only for 36 square feet. There some discussions of the ticket booth patio and the set up.

Member Pacheco asked what kind of time frame he had. Mr. Neumann said he had until the end of September. There was some board discussion of what was recommended by staff that Member Pacheco said the only reason for this is because of the patio that it's to support the commercial operation and Mr. Underwood said correct. Member Pacheco said we are covering all bases here.

Unanimously approved as submitted (Pacheco, Edlao)

Item D-5 Issuance of Right-of-Entry Permit to Waikiki Beach Activities, Ltd. for Beach Activities Purposes for Two Hours Each Day on Fifteen (15) Days in August and September 2012, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:021 (Portion).

Written testimony from Bob Hampton was distributed to the Board members.

Chair Aila announced that item D-5 was withdrawn by the Department.

WITHDRAWN

Item D-6 Issuance of a Right-of-Entry Permit to Waikiki Roughwater Swim Committee, Inc. for a Swim Race Event to be held on September 3, 2012, at Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-37:por. 21

Russell Tsuji representing Land Division conveyed what item D-6 was for and that the applicant was here.

Linda Kaiser representing Waikiki Roughwater Swim said she was fine with staff's recommendation and that operated this event for 42 years after the Board members' questioning.

Unanimously approved as submitted (Morgan, Pacheco)

Item E-1 Status on Attempts to Negotiate a Revocable Permit with Lanihuli Community Development Corporation for a Six (6) Month Term in Accordance with Board Action Directed at its January 27, 2012 Meeting (Agenda Item E-2) and Request for Approval for the Issuance of a Revocable Permit to Lanihuli Community Development Corporation for a Period of Six (6) Months on the Condition that Within Ten 10 Days of the Date of This Submittal, All Outstanding Compliance Issues are Resolved Regarding Wastewater Compliance and Fire and Extended Coverage Insurance, and if the Compliance Measures are Not Corrected, Request for Approval for the Issuance of a Six (6) Month Revocable Permit for a to be Determined Entity for the Operation of Public Recreational Facilities at the Kahuku Section, Mālaekahana State Recreation Area, Lā'ie (Ko'olauloa), O'ahu, TMK: (1) 5-6-001: Parcels 45-47, 49, 51, 54-65, (the "Property").

Dan Quinn, representing State Parks reminded the Board of the January 27, 2012 Malaekahana agenda item and gave some background on it. There were multiple issues with compliance – wastewater, EPA and Department of Health (DOH) violations, arrears on water bills, etc. All of those items have been addressed except for fire extended coverage insurance and one of the wastewater systems which are a DOH violation that still exists. All the EPA violations for the large capacity cesspools have been addressed. As for the insurance, two of the cabins are considered unsafe and are closed down. Much time was spent on this and a fair amount of

compliance was achieved, but we still have some outstanding issues. We have not been able to execute the RP (revocable permit).

Deputy Attorney General (AG) Bill Wynhoff said he has been working with Parks on this. He doesn't have too much to add other than to echo what Dan said. As long as they (Lanihuli) are not in compliance and violating the law that is something we can't sign a permit for. People who violate the law - we can't do it. He doesn't know if that is the only reason, but he told Parks that we will not sign the permit.

Member Pacheco asked on the recommendation for the fire insurance is it possible for the Board to make a...Mr. Wynhoff said they asked that question whether it's the discretion for the Board or whether it's a legal issue. We don't see any legal issue that says you can't issue a permit that doesn't call for insurance, but that doesn't seem like a good idea since one building already has burned out which is a loss for the Department. It's a policy call. Chair Aila said it's not a policy call, but individual responsibility. Mr. Wynhoff said it's not a policy call until you issue an RP then it's a violation of the law.

Mr. Quinn said that the submittal does go through the compliance efforts and what staff has been able to resolve working with Lanihuli. The Division contacted insurance companies and found that they can get insurance for \$28,000/year which is not substantial, but is doable. But our recommendations, which he summarized, are for the Board to declare we are exempt from 343 with this particular action. Authorize the issuance of a revocable permit to Lanihuli Community Development Corporation (LCDC) provided that they become in compliance within 10 days. If not move to issue a revocable permit to a yet to be determined entity and in addition staff is asking that the permittee pay rent in an amount acceptable to the Chairperson. And, other standard terms and conditions reviewed by the Attorney General's office.

Member Morgan asked what he means by a yet to be determined entity. If things aren't resolved within 10 days you go right out with a 6 month RP. Mr. Quinn said that we have to find somebody to issue an RP with. In the bigger picture, staff is moving forward on an RFQ/RFP type process to get permanent tenure there. Also, we have secured a design consultant to get a design for a permanent restroom and sewage disposal system for a central one there. Also, come up with a design to help us rehab one of the cabins as an example of what we would like to see as far as restoration of existing old beach cabins there. Additionally move to provide several composting type luas to help alleviate the wastewater situation.

Member Edlao asked and you got 10 days to do all that. Mr. Quinn said no that they are asking 10 days for fire insurance and to deactivate the one remaining individual wastewater system. Member Edlao pointed out all it says is the condition and it doesn't say fire or wastewater and there are a whole bunch of conditions. Mr. Quinn said we're moving forward on that. The two outstanding big issues are the one remaining DOH violation for the individual wastewater system and the fire insurance. Member Edlao asked whether you are giving them 6 months and only giving them 10 days to do all that. They do that and at the end of 6 months what happens? Mr. Quinn explained they will be moving forward on the bigger RFQ/RFP process with anyone who qualifies. Everyone agrees that we need some longer term tenure here.

Ipo Tano testified those are the eco cabins and that is the wastewater treatment tanks in question. Where they are right now is they submitted their plans and DOH approved it on June 6th and are currently waiting on SHPD to approve those plans so they can implement them to do the conversion which takes 3 to 5 days. Their consultant Dennis Chang (who used to be with DOH) talked to DOH on providing a 30 day extension, but they cannot submit that request because it has to come from Parks. She e-mailed staff on August 6th when they got Dennis's input on that to provide that permission for the extension and once they get that they (DOH) don't have any problem and are more than willing to grant that and will be within the compliance process. The issue is getting SHPD's approval and implementing the plans as already approved by DOH.

Chair Aila asked whether they are planning to excavate by SHPD. Ms. Tano said yes that there is a 2 foot hole as part of the plan approved by DOH. A gentleman described that these tanks will be removed then all they will be doing here is putting in a 200 gallon holding tank for the actual gray water which will go out to the seepage pit and that's it. The Chair asked how much excavation is there. The gentleman said it's putting the tank in a 3 feet by 3 feet by 2 foot deep hole and the same for some gray water pits that will take the effluent from their composting toilets that are being installed below the eco-cabins.

Ms. Tano testified as for the fire insurance they did get a quote from State Park's carrier underwritten by Lloyds of London which was \$28,000 and they turned it over to their insurance agent. The cabin(s) ages go from 1939 to 44 to 67. The 6 carriers they went to wouldn't provide for fire insurance. When her insurance agent turned it over to their carrier and they provided it's due to inspection and pay the \$28,000 and upon inspection take corrected action that they recommend. She recommended they do the inspection ahead of time and pay for the inspection which they did and was completed. They provided all the feedback to the State all the inspection reports which shows the roofs need to be replaced, rewired and all of that activity. This is a quote and no assurance of insurability where Ms. Tano showed the letter from the head of First Insurance that says after reviewing the report they have to replace the roofs before they can provide insurance and is not insurable in its current state. Her thought to you is why would anybody want to pursue everything that is required if the intent is to actually tear down these cabins. These cabins are 50 to 72 years old and they (staff) has been saying for the past 18 years that they have to be replaced. As the new roofs and re-wiring, it's very expensive that they had people come out estimating \$8,000 to \$10,000 to complete framing and roof replacement and re-wiring is about \$3,000 per cabin. As Dan mentioned 2 of your cabins were already closed by your inspectors that came out. We just want to refurb., replace whatever you guys decide we have do, but these cabins are not worth having the roofs replaced that DLNR has better things to spend their money on than that. Our recommendation was since January was to pursue a policy exemption with this Board. We received the same exemption back in 1994 and they know it's possible that it was provided back then. If you do move forward with roof replacement, the insurance term that they keep hearing about is a 6 month RP and insurance is granted on an annual basis. Our insurance agent is saying if that is what they (staff) wants to do have the State take the insurance and prorate it as to the term of the RP. Nobody gives insurance for 6 months. The policy holder, that some of the property components are ours and they need to get some dialogue on who is the primary carrier on the insurance and she recommended we list the State as additional insured which is after-the-fact depending on what you want to do with those cabins.

Member Morgan pointed out that we are talking about the cabins, but that is not the only structure on the property and what about the other structures. Ms. Tano said right. The other structures are all owned by us, we created all of them and we have our own insurance coverage on some of these things we really aren't concerned about. Basically, you have cabins 4 and 5 closed and 2, 3 and 7. You have 3 cabins right now plus the office which was built in 1944 and falling apart. Plus the caretakers house built in 1944 and falling apart. The youngest cabin is the manager's property at the back gate. Member Morgan asked they are valued at. Ms. Tano said yes the insurance on that one is about \$2,000 a year and they replaced the roof 8 years ago at their expense and that one is covered.

The gentleman said that in reference to the 6 month RP are liability insurances now coming to you in September which is an annual policy.

Ms. Tano said that we talked about the cabins which are very old and we were told we either have to get insurance or start closing the cabins and we said we could start closing the cabins starting September 1st. We haven't taken any reservations for any of the cabins. The last reservation is September 1 and that is it. And, based on overflow and people who have been here before people will book their reservations a year in advance. They've booked for the yurts, but not for these cabins not knowing what is going with these cabins. She related designs of a hale from a couple contractors who wanted to put in these homes that are 16 x 16 with big spaces for family reunions. Ms. Tano asked the Board to look into these designs that they put in \$50,000 into from the last RFP process. Even if the Board doesn't want to go with them they have the designs and are willing to turn them over since they did put a lot of thought, time and money into this process. She mentioned the green components of the building – low flush toilets, LED lighting, solar water heating to keep costs down and less carbon footprint on the environment. These designers are waiting to hear from us.

Ms. Tano recommended submitting for the 30 day extension that they don't know how much longer SHPD would need to review these plans, but the conversion plan was approved by DOH in June. It's just this Department waiting for approval for the extension and they are more than willing to complete that activity. Fire insurance – she requested an exemption to the policy due to the age, condition and plans for these cabins she sees no need to provide any fire insurance to them. Issuing the RFP - you are talking about 6 years, 6 months; it's very difficult to do any planning when you have a 6 month lease on anything. We have over 300 reservations wait listed and we don't know what to do with these people and just wait since we don't know what is happening. If people call 2 weeks from now and we are still here, come on down, she doesn't know how you can do business like that. Ms. Tano asked for a minimal 1 year so that they are covered on the liability insurance or you (the State) can cover it and prorate it to them on a 6 month period. Its \$5500 and they are paying \$5500 every year for insurance, but the cost for outdated infrastructure is 3 times more than if it was upgraded in the first place. She recommended either you do that or provide the RFP to cover that RFP process so they aren't constantly on a seesaw on whether customers should come in or not to make reservations which doesn't work for them.

Member Pacheco pointed out to Ms. Tano that we are not capable of fulfilling new RFPs for 1 year. Ms. Tano said okay.

Chair Aila asked if Mr. Quinn could comment on the SHPD rules. Mr. Quinn said he remembers when that was sent off. Lanihuli did come up with plans where most of it was addressing gray water, but he thinks the idea was to put in some composters on eco-cabins and the effluent of those have to be addressed as well separate from the gray water system, but there are a number of gray water systems as part of the approval. But, the effluent is the outstanding one that they have right now. But, the eco-cabins belong to that system and they went over that the last time. The Division's preference is get insurance for the cabins that the Kawanakoa house was the most substantial structure there and burned down several years ago and was a complete loss to this State.

Member Morgan asked what do you see with the other cabins that are dilapidated and what is the value and how do you address the comments of fixing the roofs. Mr. Quinn said his staff believes that insurance can be cured. Those cabins are in dilapidated condition and we would like to restore those. As mentioned before part of what they are going to do is do a restoration for one and when they move into an RFP process they will use that as an example. If the cabin(s) are removed quite likely they will not be rebuilt in the same location. Member Morgan said part of the value is the location not with all the setbacks. Mr. Quinn said correct. An earlier idea was to remove all of these and move future cabins more mauka.

Member Pacheco asked whether these cabins had any historical value with the age under historic preservation. Allen Carpenter, staff archaeologist said that they possess character of a bygone era and the location is very valuable as part of assets. Do they possess great historical value? No they don't. But, they have the look and feel and that is what they intend to mimic to the location scale and style. We are not proposing to restore these per Secretary of Interior standards that they don't warrant that kind of protection. The place or location of the cabins has value which is a unique experience that people continue to have. The integrity of the cabins themselves is close to loss.

Member Morgan paraphrased the owner of the property likes the location of the structures and the owner of the property is asking for insurance to ensure continuation of that. Is that right? Mr. Carpenter said correct. Member Morgan said and that is why they need the insurance, but they would rather not pay for the insurance. Ms. Tano spoke up and said referring to their letter if they find anybody willing to do the insurance after fixing the roofs prorate it to us (Lanihuli). All we have is a 6 month RP and are not paying for the \$28,000 if they don't have a need for it. Member Morgan said his understanding is they are saying insurance is unavailable in the marketplace without the investment. You can't get insurance without the roof in 10 days. You are faced with an impossible situation and that is what he is hearing today. Ms. Tano said unless you provide an exemption to the policy. Mr. Quinn said the Division disputes that insurance can be secured without replacing the roof. That is from an insurance underwriter and it was \$28,000 a year. Steven Soares (Parks staff) said for all 8 structures.

Steve Soares said the quote that they received they don't recommend to their Lessees to use any particular insurance company. The reason why they solicited a quote for these properties was because acquiring insurance was not possible. To verify that they attempted to get their own coverage and they were quoted about \$300 per month per structure. The quote was based on the standards in the industry which is the properties are insured for their replacement value. You

cannot insure those structures for what they are worth today because there is no ability to rebuild it in that condition. We didn't have a choice of what type of coverage they would get. The quote they received this week had no condition with respect to update of wiring, replacing roofs, etc. Member Pacheco asked the quote staff got they came out and inspected the buildings. Mr. Soares said the quote they got and maybe why the premiums are a little higher is what you may pay for your own home is because given the age and condition of the building the underwriters don't look at it as...or look at it if they was a fire because of the condition of the building it would most likely be a total loss. The policy quote staff received was priced based on taking the property as is.

Member Morgan said you talked to someone who satisfied your requirements and they are saying that they talked to somebody that was not available. In order to get coverage is the State willing to give them the lead is there a way we can work together so that they pay for it and the insurance is met by going through your guy. Mr. Soares said that they considered that early on and we discussed that with our Deputy Attorney General who advised against this because if there were some dispute with the claim then there would be difficulties whether the State limited the permittee's ability to acquire insurance because of some particular condition of the policy. Rather than get into a dispute if there was a claim, our position was that we treat this the same way as we treat the other 150 or so lessees that we have where we do have a requirement. As you may recall, that issue came before the Board several years ago with respect to the cabins up in Koke'e. Those cabins are far more challenging than these properties because the nearest fire station to Koke'e is 13 miles away. When we had the option last year, every single lessee for those cabins did acquire fire insurance under the same standards that we asked this permittee to follow. The concern is if we waive that policy we will be back before the Board....Member Morgan said he doesn't know about waving, but you know somebody and they don't then you let them know who you know so they can buy it. Mr. Soares said that Ms. Tano testified that she contacted her agent who went through the same one. Ms. Tano said it was the same quote, but the only difference is the paperwork and that was condition exception which is why their insurance agent had the inspection done ahead of time with their underwriter. Mr. Soares said to be clear our quote does not have any conditions that any of the structures be modified or any assistance that we...Member Morgan said this is a difference in opinion. Ms. Tano said you can give it to her again and turn it back to their agent. The first quote says subject to inspection and if it doesn't say that now she would like to see it. Member Morgan said the State is saying it can be done and you are saying it can't. Mr. Soares said this issue has come up before because of the cabins in Koke'e. It's difficult to try and prove the negative. We don't want to get into the business of dictating what insurance carrier Lessees go through. We said that this is a requirement. We disclosed the requirement prior to the auction and the Lessees have the opportunity to investigate whether or not they can acquire that insurance. In his opinion, in far more challenging conditions than the North Shore and in every single case they were able to acquire. The carrier staff sought the quote from happened to provide a policy for one of their Lessees without any conditions.

Member Morgan said it sounded like you talked to someone and how you can work things out that I know my insurance guy and give me a list of insurance companies, but it doesn't sound like that kind of conversation occurred. If you found insurance as a policy you don't want to turn it over. You have to find your own. What I think you are asking this Board is to waive this

requirement and there is no point in waiving the requirement because there are assets there that we want to preserve and the market is there to provide the insurance. As a Board member, yes we do want to preserve these assets and insurance is available. Mr. Soares said we did discuss the possibility, if we say the condition of the cabins are so bad that they need to be replaced and demolished and is not curable than why are we using it. If they chose not to use the cabins then at that point the risk of loss to fire and life and limb and other reasons drops dramatically. In that case and with advice from our Deputy AG we agree to the extent that they didn't use the cabins and are secured than we wouldn't have a problem with not covering those particular structures. The issue was the 3 structures that are not rented - the office, the security residence and the care taker's residence did have to have coverage because they were an integral part of administration and operation.

Member Edlao said you are saying they can and they are saying they cannot. If this moves forward and they don't comply they are out. You go out and get another guy you are going to be in the same boat again with the same kind of problem. Not getting insurance because of the state of the building. Chair Aila said that we don't allow anybody to rent those cabins. Mr. Soares said if they chose to or got insurance that is fine. The other issue it was our understanding from Lanihuli that after the Labor Day weekend that they didn't intend to rent the rental cabins anyway. The plan was to shut them down. Depending which cabin they chose to be the model cabin for rebuilding during the Fall/Winter would not be used anyway.

Member Edlao asked whether staff plans to leave the cabins as is. Mr. Soares said if the cabins aren't being use they will go through the RFP/RFQ process and with the Lessee in place one of the requirements is to rehabilitate those cabins. Also, with respect to the premium, the quote staff received had a minimum 3 month requirement. If you cancelled on day 1, you are responsible for the insurance. If you cancelled after 4 months, they would prorate it.

Member Morgan asked whether that quote was provided because it was to the State organization that was smaller or solely on the properties involved. Mr. Soares said it's solely dependent upon the property. This particular insurance is what they call a surplus line because the traditional carrier that covers the home would not cover it which is why it's underwritten by Lloyds of London because they take on risks that most other carriers wouldn't. They cover a lot of the Koke'e cabins.

There was much more discussions about the 10 days. Member Morgan said it's reasonable to have insurance, but he wants to make sure the other recommendations are reasonable too. Mr. Quinn said the last 6 month period has expired July 26th and we have no permit now. As it sits now we are subject to \$5,000 a day fine by DOH for the operation of that IWS. Chair Aila said that DOH is willing to give an extension if the Department requests one. Mr. Quinn said they will give an extension, but they never waive their ability to fine us. The Chair said we are still liable for 10 days. Member Morgan said that is why you need them to be on the hook for the liability and why they need to sign the document on the IWS one. Mr. Soares said there is a question whether they can extend that. Chair Aila said we are already in violation. Member Pacheco said we can't give a permit while they are in violation. There were more discussions on that.

Russ Kumabe, Development Branch of State Parks said as for our recommendations the latest they got from DOH and what we need to comply with are formal transmittals from them staff either from the operator, DLNR – State Parks, talked about the fine and other issues. The Notice of Violation was submitted to us via a formal transmittal. The latest regarding the violations was May 5, 2012 and that was DOH’s response concurrence to the revisions of our compliance with the violations. In it they concurred with our time tables and our proposed actions – one was closing this July 26th and they note that if the dates are not met in accordance to the plan the Department or DOH may take the necessary actions to ensure that compliance is achieved in a timely manner by ordering the cease of operations and use of camp grounds facilities that generate the wastewater. From a regulatory standpoint this is what we got so far. Discussions with DOH that transpired, their staff’s opinions that they may be amiable that’s fine. What we need is to keep it documented in paper work what was mentioned was that it was recommended a formal request be submitted to State Parks. A formal request from Lanihuli to State Parks to request DOH to reconsider and allow additional time later than July 26th, we did not get an official formal request. We do get a lot of transmittals in different formats to make that clarification. The Board can instruct the Division to request DOH for additional time, but he wanted to clarify the latest transmittal that they got from DOH on the Notice of Violation is that. This is what we have on record and that is the latest with DOH and what staff has to work with. Can a request be done? Yes. He wanted to inform the Board that this was the basis of why State Parks had made the recommendations.

Member Edlao pointed out it says “may” and not “shall.” Mr. Kumabe answered in the affirmative.

Member Pacheco asked if they continued to fine would they note that in there and to shut it down. Would the shutdown include the fine? Mr. Kumabe said it was in the previous original Notice of Violation that did mention that and you are right. It’s “may”, but it is what they have to work with.

Member Edlao said they need to send a letter of request to DOH as well as the Board or is it to them or a Board request. Mr. Kumabe said that DOH issued violation to DLNR State Parks as land owners of the property we are liable for any violations and need to implement anyway to address or cure these violations.

Chair Aila asked if they were not to use individual wastewater #1 and brought in porta potties would that cure the violation. Mr. Kumabe confirmed that would cure the violation that’s correct. The Chair asked if they were to do that during the period that we requested a review of their alternate individual wastewater system #1 to be able to use it as a modified system would that cure the violation and allow for their application through us to DOH to cure. Mr. Kumabe said the DOH violation to #1 is no longer in use. The closing of #1 upon staff’s perspective does not preclude the operator from requesting or continuing their recreational venue. It requires them to provide approved or sanitary facilities.

Member Pacheco asked how many cabins are hooked up to that system. Mr. Kumabe said there are 2 structures – one is a stand-alone and one is a duplex. Member Pacheco asked that the porta potties would solve the gray water issue. Mr. Kumabe said the porta potties would solve the

black water/toilet issues. The gray water is the showers and sinks that come under the gray water systems which are still under subject of SHPD. Chair Aila asked whether the gray water is part of the violation. Mr. Kumabe said it is not part of the violation that they assessed for the IWS, but they (DOH) had noted they were concerned with the gray water system. Lanihuli had done it and staff appreciates their efforts that they had submitted plans to DOH that were renewed and approved for the gray water system. The State Historic Preservation concurrence is that they are waiting for has to do with installation of those gray water systems and in addition to the cabins because they will be using a low flush composting toilet the liquid portion of that system has to be disposed of in a separate area which is the disposal area designed and approved by DOH. Chair Aila asked whether they would be willing to put porta potties there as they go through this process for 10 days.

A gentleman (from Lanihuli) said if that is their only option and reiterated that their main problem is they've been approved by DOH on June 6th and are ready to make this conversion and they are more than able to put the gray water systems in and change everything. As far as porta potties at the present time, yes we would be able to do that. He related shutting down the cabins and putting everyone in the eco-camp which has compounded their problem. Chair Aila said that can be handled by additional porta potties. The gentleman said right. The Chair said you said DOH approved, but DOH's approval is contingent upon FHPD's approval.

Member Morgan said also the insurance requirement is a specific requirement.

Member Pacheco asked if they approve this as submitted and they don't resolve the issues, there is no RP then the whole camp is shut down. Is that correct? Mr. Quinn said at least for awhile until they get somebody else. Member Pacheco said it's going to take months to do that and Mr. Quinn acknowledged that. Member Pacheco asked where staff is with their RFP/RFQ. Mr. Quinn said extensive effort has been made in resolving this issue, but staff has assembled a review committee which is a critical component of the RFQ/RFP and that is where they are.

Member Pacheco asked SHPD needs 30 to 45 days is that what they are required to respond. The gentleman (from Lanihuli) said they could turn around fast but minimum 30 days. Member Pacheco said so in about another 2 weeks and asked when this was brought in January it was a 6 month RP was too short and he felt you were trying to run a business and another 6 months out before getting the RFQ out process and had to choose. Why are you doing 6 months again? Why not 12 months? Mr. Quinn said that 6 months period is not unreasonable to get through a portion of the RFQ/RFP process with their committees on it.

Curt Cottrell, Assistant Administrator for State Parks said he wants to seek a resolution and help us and these guys. It has taken them 6 months for the amount of compliance they've achieved thus far. What you have seen is indicative of why we haven't been able to get the RFP/RFQ off the floors because it's a continual need for staff – all of us to continue working with them (Lanihuli) to cure these violations. It is to their credit and our credit and we're inches away. We want to issue these guys a revocable permit. We need them to be there for 6 months. We followed your policy back in January. Initially we were going to scrap the whole relationship and start over. You guys issued a policy going out to give us the ability to go out for the RFP/RFQ. Working with that policy we did everything we could to make these guys compliant

because that was the directive to issue an RFP upon compliance. We are so close now. The solution of having porta potties installed at the eco-cabins until such time that SHPD authorizes the ability to use the ground work is a great solution because as the AG said we cannot put any kind of RP knowingly with a violation with DOH. Regarding the insurance – we have 2 things going on. We have the ability through our property manager research we feel is a reasonable request to protect the State’s resources. We already lost one. They are saying by September 1 the cabins will be shut down anyway. That is the only variable that has come up for you guys to make a decision on is if in fact we have a recommendation as of September 1 all the cabins except where they live, where their administration office is and where their caretaker is being insured because the AG said what they use is to be insured. If they don’t use they don’t insure then what would happen is we can take all of this effort and apply it to the RFQ/RFP. We can get it out the door in 6 months assuming we can stop fiddling with the compliance, but we are constantly having to deal with innovative solutions to certain problems to keep things in operation when in fact we want to start a whole new RFQ/RFP process. The cabins they presented on the Power Point are great. Completely appropriate for today and great for a RFQ/RFP process which he suggested they hold those so when they go through the RFQ/RFP process they can submit those to future plans. Mr. Cottrell suggested to help move this along is we need them there for 6 months because we need the security. We want to get the RFP/RFQ out the door. We want to protect the State’s property. The decision would be to mandate either by September 1 all those cabins shut down except those they live in and administration and those 3 get insurance or we do insurance for the 3 month period or whatever period time those cabins are still in place. If they shut down and the electricity goes off the threats of losing the State’s resource goes away. We lost the Kawanakoa cabin house alleged to electrical failure which is why they shut down 4 and 5. Once we do that they (Lanihuli) are there, they run the camp, we move forward on the RFQ/RFP process within 6 months we would love to have a decision made to either have them or a new tenant in place on a 25 year lease starting the work of renovating the cabins while we go forward with our CIP with all the permitting requirements for the comfort station. One of the big flaws these guys inherited is they got a camp ground without any comfort station and they were very innovative in coming up ways to deal with human waste which has gotten us in this situation we are in and we are almost done with those compliance issues. He suggested for the Board to discuss to come to a resolution is for the eco-cabins in the interim until such time that SHPD gives us the go ahead to do the trenching and he defers to the Board on the insurance. But, you may want to ask them to confirm that on September 1 all those cabins except the 3 residences and administration office are shut down. We have been uninsured all this time. According to the AG it’s a policy call, but we have been instructed that we will not sign the revocable permit unless we’ve cured the violations. Apparently the insurance is a policy decision.

Member Pacheco thanked him for that narrative and asked you are confident within in 6 months you will issue the RFQ/RFP and at the end of 6 months you will have somebody in place. Mr. Cottrell said correct. As long as they can cure this they can move forward, but we’ve just spent 6 months to achieve compliance and set us back. Typically you do RFPs in a 1 year cycle. We did not anticipate it will take 6 months to achieve compliance on the last go around.

Member Pacheco asked our revocable permits are month-to-month right and Mr. Cottrell confirmed that. Member Pacheco said if they did a year RP you could still give them 30 days

notice. Mr. Cottrell said it's a Board action. Member Pacheco asked whether that would create problems. Mr. Cottrell said that the occupant would then become a tenant and have to realize on a 1 year RP they got to hold still on the ground disturbance that we got to maintain spaces otherwise we're back to...Member Pacheco asked whether they can approve this and make it conditional on the insurance that if there is no insurance you have to shut down. There were some discussions about that reiterating previous discussion.

Member Morgan moved to approve staff's recommendation with the amendment to item 2 to say "If fire insurance coverage is not secured by August 31, 2012 the cabin(s) will be closed and have a fire extinguisher in each cabin room until September 1, 2012."

There was some discussion about the porta potties compliance. Mr. Quinn pointed out the gray water issue that it can't be completed until they get the SHPD. Mr. Kumabe said that once it's closed they will inform DOH where they will come out and inspect to see if all violations are addressed. The gray water is another set of fines per DOH. The gray water system has been approved to be constructed. The operator has an additional step after they are constructed that their system engineer certify that the system has been constructed as approved like an engineers report. There were more discussions about the gray water issue and holding tanks.

Member Pacheco seconded the motion. All voted in favor.

Unanimously approved as amended (Morgan, Pacheco)

Item D-2 Consent to Assign General Lease No. S-4308, Hilo Sheet Metal, Inc., Assignor, to Kalawe's Auto Repair, LLC, Assignee, Consent to Mortgage but Deny a Request for an Extension of Lease Term, Waiakea, South Hilo, Hawaii, Tax Map Key: 3rd/2-2-58:02.

Mr. Tsuji related that Hilo Sheet Metal has shut down their operation and entered a sales transaction for the assignment. The applicant is saying in order to acquire the lease they need a consent to assign the lease, a consent to mortgage and an extension of the term. Staff recommends consenting to the first 2 items, but denying the request for the extension of the lease which they are requesting an additional 10 years. The Board in 2010 extended an adjacent property for repairs and it looks in good shape which currently runs to 2025. Staff is recommending denial on a further extension. Statute only allows extension for improvements or for the operation of the business – advertising. Whatever sale price was agreed to by the current Lessee and buyer the loan is being used, all or in part to pay that. He noted there was a tsunami in Hilo and those businesses wiped out moved to this Kanoelehua area that there a bunch of them will be due around 2016-2025. The idea was when these leases comes back in 2025 possibly redevelopment of the area by consolidating some of the leases. Some are less than an acre and some are non-conforming structures. If they were to rebuild today they would have to conform to current set back requirements, parking, etc. If they got the land back consolidate them and reissue as brand new leases for another 55 or 65 year term. The Okuhamas would like us to do otherwise, but that is staff's recommendation. Referring to the last paragraph of staff's recommendation, if the Board decides to grant to 2026 they will be out of there by then. Staff

asked that the compensation to the State be the difference of the value on the longer term extension. The reason is it all comes back 2025-2026.

Brian Kalawe, Tracey Kalawe and Jason Okuhama introduced themselves and Ms. Kalawe testified asking for an extension for their loan and according to Bank of Hawaii they have to find a different lender going through Alaska Growth Capital who is allowing them a 20 year term loan if they are granted the extension. Chair Aila asked that they weren't able to obtain financing for a 12.5 year loan and Ms. Kalawe confirmed that. There was another property, but this one is what they could afford.

Mr. Okuhama asked what the Legislature's intent was in giving out these 65 year terms. To extend or put it back on the market at the end of the 65 years? He questioned what is in the statute.

Member Pacheco explained that the 65 year lease came about for people to invest in the property for a longer term. Mr. Tsuji said it was to fix a nuance in the statute because originally the maximum was 55 years, but at one point it was drafted where you can extend up to 65 years which was amended. But, they didn't go back to amend the section with the second extensions. It was a 55/65. Issue the lease at 65 years right off the bat instead of starting out at a 25 or 35 year lease. With 25 or 35 you can get extensions up to cumulative of 55 which make sense up to 65 for that purpose and still had the same requirements and didn't change. It is an on-going operation rather than an acquisition. They don't want to recommend denial. They cleaned up their record, fixed up their building. From a policy standpoint and Departmental standpoint that was standard.

Chair Aila asked what the effect would be if more people came in asking for the 10 year extension. Mr. Tsuji said that is what you would have. The Kanoelehua area is changing from industrial to more commercial. Our dream of moving everybody out and developing - maybe PLDC (Public Land Development Corporation) can do something about it.

Member Pacheco asked whether recommendation C-1 would be fair because it would be a significant jump in money making it difficult...Mr. Tsuji said it would impact the seller. Member Pacheco said maybe the seller would be better off self-financing that gap. Member Morgan pointed it out they would whether it's our problem or not. He is inclined to follow staff's recommendation in the long run and a better situation.

Chair Aila pointed out that only the current Lessee can request an extension. Mr. Tsuji said to try help consummate the sale. The Chair asked the extension is before the sale and Mr. Tsuji acknowledged that is all part of the parcel sale.

Mr. Tsuji said that there were other Kanoelehua lots available and staff kept it to the 55/65 relating other issues like non-conforming use giving a Honolulu example.

Member Edlao asked whether the current Lessee asks for the 10 year extension first before selling it. We are trying to help him out to qualify to close the sale. Member Pacheco asked the question is whether the extension has to be a separate item by the Lessee. Mr. Tsuji said he didn't think so. Deputy Attorney General Pam Matsukawa pointed out that the current Lessee is

the only person who can ask for the extension and the assignment may not be the Lessee. Mr. Tsuji said that the Lessee, the Okuhama family is asking for all three. Ms. Matsukawa said, but the extension has to meet the requirements of statute. He is not taking out a loan. Mr. Okuhama said that the Land agent said they have to file for the extension and not us. Mr. Tsuji said that is one way to look at it by closing 1 and 2 and come in later to try and get an extension. Member Pacheco pointed out that the Deputy AG is thinking the same as Mr. Tsuji – financing a buyout of a lease is not a pre-requirement for an extension of the lease and he agrees with that.

Member Morgan said he wasn't sure if financing was an issue, but was willing to go with staff's recommendation.

Mr. Okuhama made the Board aware that a neighbor is looking at the lot and doesn't realize that a lot of money is at stake. Mr. Tsuji said when these come in for assignment of sale the Hilo staff and sees there is only 5 or 10 year left they make sure everybody understands there is only 5 or 10 years left and no further extension at that time, but now there is extension for improvements.

Ms. Kalawe asked if they were to put another building up would we allow them a 10 year extension. Mr. Tsuji said under the statute, if you close the sale and become the Lessee come up with the money anyway and need money for operations technically you qualify. Legally you can still present to Board and staff's recommendation would still have that in there, but it's the Board's call. Ms. Kalawe asked at the time the lease expires in 2025 what are your intentions. Mr. Tsuji said it's under the PLDC, but what is decided it will come back to the BLNR. Ms. Kalawe asked whether they can take the building back at 2025. Mr. Tsuji said if it is bad the State will take it off. Member Pacheco said this is a discussion the Lessees need to have with staff. Mr. Tsuji pointed out the difference between the government and private and private can continue extending.

Mr. Okuhama asked whether it's 65 or 55 years. Mr. Tsuji said current legislation is up to 65 meeting those conditions. Chair Aila noted that current policy is 65 and 2025 pull all the land together and come up with another configuration. Mr. Tsuji said they are leaving that option available. The Chair said that the Legislature could do something to go another 10 years and the option of our policy is to it at the end of that 10 year period. Mr. Tsuji said he believes what the Legislature said was your hands are tied and give it to the Board for discretion under these conditions. Up to that point you cannot exceed the 55 year period. Chair Aila said he understands, but the Legislature said the Board can review the policy and put all the lands back in 2026. Mr. Tsuji said subject to staff's hearing. If they were to do a redevelopment they would come back. Chair Aila said he anticipates that many more Lessees will be coming in for the 10 year extension for those who want to go the full 65 years. Member Morgan said the issue is when do we want to re-do the Master Plan for the area because staff is saying 2025 or 2026. Member Pacheco pointed out that does not have bearing to what is before us here in the submittal.

What Member Pacheco understands is the request to do the extension does not meet the qualifications at the moment, but does not preclude them from securing the rest and coming forward later on. Mr. Okuhama said he could go either way.

Mr. Tsuji informed the Board that the thought was 65 years was more than enough for a business to operate and they should consider taking it back out for others to have an opportunity to it otherwise you just have one operation.

Member Pacheco made a motion to approve staff's recommendation. Member Edlao seconded it. All voted in favor.

Unanimously approved as submitted (Pacheco, Edlao)

Item D-8 Authorize Termination of Easement for Pedestrian Right of Way in favor of the State of Hawaii and Removal of Remaining Steel Girders at the Location, The Rehabilitation Hospital of the Pacific, Applicant; Honolulu, Oahu, Tax Map Key: (1) 1-7-014:portion of 042

Mr. Tsuji conveyed that this was an easement granted to the Department relating some background on item D-8 that staff looked at property and it's fenced off. The applicant asked to terminate the easement and will remove the steel girders that are on the easement area since they are doing reconstruction and asked the Board's approval.

Ben Kudo representing Rehabilitation Hospital testified relating the history of the easement when it was a children's hospital which they bought and was subject to the bridge easement. The State's obligation was to maintain, construct and remove the bridge and if nobody used the bridge for more than 3 years continuously the easement would terminate. It is a Land Court property and the bridge hasn't been used since it is only half a bridge and both sides are fenced off. Since they are installing a chiller on August 25th they offered to remove the bridge steel girders that still remain.

Unanimously approved as submitted (Morgan, Edlao)

Item D-9 Amend Prior Action of October 24, 2008, under Agenda Item D-13 (Approval in Principle of Land Exchange between the State of Hawaii and Hawaii Baptist Academy for State-Owned Land at Nuuanu, Honolulu, Oahu, Tax Map Keys: (1) 2-2-22:02 & 19, and Privately-Owned Property Yet to be Identified), by omitting State-Owned Land identified as Tax Map Key (1) 2-2-22:02 from the exchange; and identifying Privately-Owned Property located in the Waipahu Industrial Park, Hoaeae, Ewa, Oahu, Tax Map Key (1) 9-4-49:62 for the exchange.

Mr. Tsuji thanked counsel and her client that they are currently on a lease and staff did look at the property in Waipahu for the exchange which he described. He related that the statute is restrictive on the value and staff asked that one parcel be taken out of that exchange transaction and they exchange the larger parcel for the Waipahu industrial parcel. Staff requests the approval of the exchange.

Member Morgan asked why would Hawaii Baptist Academy (HBA) want the State parcel. The HBA representative said that they don't, but the State wanted to get rid of it and they asked if they were willing to take it over and they were fine with that. They have been working with the State since 1996 on this and related some background history. They were trying to find income producing property.

Unanimously approved as submitted (Morgan, Pacheco)

Item D-10 RESUBMITTAL/STATUS SEEKING EXTENSION OF SIXTY (60) DAY DEFERRAL ON:

(1) Status of Outstanding Delinquencies and Termination of the Development Agreement Between the State of Hawaii and West Wind Works, LLC, for the former Ewa Feedlot site at Campbell Industrial Park, Honouliuli, Ewa, Oahu, Hawaii, Tax Map Key: (1) 9-1-031:001

(2) Termination of the Development Agreement between the State of Hawaii and West Wind Works, LLC, for the former Ewa Feedlot site at Campbell Industrial Park, Honouliuli, Ewa, Oahu, Hawaii, Tax Map Key: (1) 9-1-031:001

Mr. Tsuji reported that item D-10 is a status report and reminding the Board that this item came before them a couple months back which he related some background on. He mentioned fair market value for use; they propose to pay half of current delinquent amount at execution of power execution agreement and other half at execution of the financing. All subject to further negotiations.

Keith Avery testified any deferred payments they plan to pay interest and will be paid in full and the bonus million dollars.

Unanimously approved as submitted (Morgan, Edlao)

Item F-3 Request for Authorization and Approval to Issue a Papahanaumokuakea Marine National Monument Special Ocean Use Permit to Yasuho Jimbo, Tokyo Broadcasting System (TBS), for Access to State Waters to Conduct Filming Activities

Maria Carnevale, Acting Co-Manager of Division of Aquatic Resources (DAR) Papahanaumokuakea program announced that item F-3 is withdrawn that the applicant will come back at a later date.

WITHDRAWN

Item F-1 Request for Authorization and Approval to Issue a Papahanaumokuakea Marine National Monument Special Ocean Use Permit to Na'alehu Anthony,

Paliku Documentary Films, for Access to State Waters to Conduct Photographic Activities

Ms. Carnevale conveyed some background on item F-1 which will include the applicant and 4 additional persons who will swim and snorkel in the area to collect footage. The scientific and cultural community accepts it. Staff accepts approval of it.

Naalehu Anthony testified that he filmed in 2002 and that this is an update of that footage. This will balance people wanting to see this place and the need to protect it. Also, they want to update the cultural video. The bulk of it will be filmed above water. The Chair recommended the caves on the south side of La Peruse be included in this film that he was fortunate enough to go ther

Unanimously approved as submitted (Pacheco, Morgan)

Item F-2 Request for Authorization and Approval to Issue a Papahanaumokuakea Marine National Monument Special Ocean Use Permit to Solomon Enos, Individual Artist, for Access to State Waters to Conduct Art and Photographic Activities

Ms. Carnevale gave some background on item F-2 that Solomon Enos proposed to photograph and sketch to create a body or fine arts to promote the Native Hawaiian cultural significance of this region. All his supplies will remain on the vessel and he will sketch from the vessel. He will be swimming and snorkeling. Staff is of the opinion that the applicant should be allowed to enter the Northwest Hawaiian Islands.

Solomon Enos testified the importance of translating the significance (of a place) to the larger community. He hopes to come back with a completed body of work and he is excited to share his experiences. Images can get to the point.

Chair Aila shared his recommendation he made with Mr. Anthony in seeing La Peruse.

After Member Pacheco's inquiry on how to view his works whether its public domain and Mr. Enos explained it would be free to use and shared by various media. Chair Aila said primarily used at the Discovery Center in Hilo.

Unanimously approved as submitted (Pacheco, Morgan)

Item F-4 Request for Authorization and Approval to Issue a Papahanaumokuakea Marine National Monument Research Permit to Dr. Carl Meyer, University of Hawaii, Hawaii Institute of Marine Biology, for Access to State Waters to Conduct Top Predator Feeding Habits and Movement Research Activities

Maria Carnevale presented background on item F-4 noting that Dr. Meyer currently has a permit and this is a renewal of work previously permitted. DAR staff opinioned that they should be allowed to enter the Monument and the activity will be performed with special conditions.

Dr. Meyer testified that the proposed work will continue research at Papahānaumokuākea Marine National Monument to learn both the movement patterns and feeding habits of top predators (sharks, ulua, etc.). Over the years they've gained an understanding of where these animals travel and now they are trying to better understand how these different animals fit together in the food chain.

Member Pacheco asked whether they catch anything with transmitters. Dr. Meyer said in the North West Hawaiian Islands that is somewhat unusual because of the small number of animals they are implementing rather the larger population. It has happened in the Main Hawaiian Islands, but most of the time they know by an external identification tag.

Chair Aila asked how he observes feeding habits with a tag. Dr. Meyer explained that they have instrumentation device that tracks movements and with a small video camera similar to a Go-pro to get the shark side view of the world where there is a satellite transformer that allows them to find that. Also, they are using stable isotopes on what and where these animals are feeding.

Member Edlao asked whether this is the first time they are putting this information out. Dr. Meyer said they've been putting transmitters in sharks since 2005 and have 5 years of movement information. Member Edlao asked whether it's consistent and Dr. Meyer said it depends on the species that some are predictable in their movements. Tiger sharks are harder to characterize and variable, but after 6 years of works they figured out that the female Tiger sharks of the Monument are traveling down to the Main Hawaiian Islands to pup.

Member Pacheco joked right off Waikiki. Dr. Meyer confirmed amongst other places they do pup off Waikiki. Member Pacheco asked what time of the year. Dr. Meyer said October/November primarily.

Member Pacheco asked about sharks going long distances. Dr. Meyer described a Galapagos shark going from Hawaii to Tahiti, but it surprised them how sharks are resident to their home island aside from Tiger sharks. They thought Galapagos sharks all around the Hawaiian Islands, but that is not the case.

Unanimously approved as submitted (Edlao, Morgan)

Item F-5 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Robert Toonen, University of Hawaii, Hawaii Institute of Marine Biology, and Dr. Christopher Bird, Texas A&M University - Corpus Christi, for Access to State Waters to Conduct Intertidal Biodiversity Survey Activities

Item F-6 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Native Hawaiian Practices Permit to Shauna Kehaunani Springer, Na Maka o Papahānaumokuākea and Conservation International, for Access to State Waters to use Traditional Ecological Knowledge to Examine Intertidal Ecosystems

Ms. Carnevale presented item F-5 and F-6 together giving some background on each. For item F-5, majority is work previously permitted, but new activities are collecting opihi eggs and will have collection baskets in the water column, some plankton samplings and opihi heat stress test on the ship. For item F-6, Dr. Springer will be conducting similar activities as last year, but new activity is the consumption of intertidal resources as allowed in Native Hawaiian practices. The objectives are to collect data, establish a baseline survey of intertidal ecosystems, pinpoint spawning period of opihi larvae and any adaptations to changes.

Kehau testified that this joint permit is to integrate methodologies and to establish connections to our kupuna islands by looking at all aspects to establish our cultural and spiritual connections to the place using all our 8 senses.

Eric testified that this is the 4th year and this year is the opihi as a resource in Hawaii since the regulation on size with the characterization of the intertidal resources of the Monument. In addition to previously permitted work and collective mana'o (thought) with opihi spawning to understanding whether the fishery can or cannot recover and how opihi respond to changing oceanic conditions. He described the collecting of eggs and spawning process.

Chair Aila asked on cultural stand point what reciprocal is being offered. Kehau said they will be offering water and pa'akai from where they are from. Also, they will bring opihi from the Main Hawaiian Islands to compare and contrast the taste from where they are from. It will stay on the boat and will be frozen and prepared.

Unanimously approved as submitted (Morgan, Pacheco)

Item B-1 Request Approval to Seek the Governor's Approval to Indemnify the City and County of Honolulu Department of Parks and Recreation for the Use of the Koko Head Shooting Complex on September 22 & 23, 2012 for National Hunting and Fishing Day Celebration

Chair Aila asked whether anyone was here to testify and there was no one.

Unanimously approved as submitted (Morgan, Edlao)

Item D-1 Amend Prior Board Action of October 28, 2011, Item D-8, Grant of Term, Non-Exclusive Easement to Harlan Cabot Amstutz and Patricia Price Amstutz, Co-Trustees of the Amstutz Family Trust Seawall and Stairway Purposes, Koloa, Kauai, Tax Map Key (4) 2-6-003:018 & 060, to Request a Deferral Regarding Tender of Consideration for the Easement.

Mr. Tsuji asked if there was any questions on item D-1 that it is compensation on a portion of the easement and by current law they have to get fair market value. He spoke to Dr. Amstutz that he is retired and doing pro-bono and that was his money for renovations. They will issue the easement for the whole area.

Unanimously approved as submitted (Pacheco, Edlao)

- Item D-3 Grant of Perpetual, Non-Exclusive Easement to Scott Cirimeli and Constance E. Cirimeli for Access and Utility Purposes, Kailiula and Ahulili, Kau, Hawaii, Tax Map Key: (3) 9-6-009: portion of 004.**
- Item D-4 Set Aside to County of Maui, Department of Water Supply for Maintenance Baseyard and Pedestrian Access Purposes, Lahaina, Maui, Tax Map Key: (2) 4-5-031:001.**
- Item D-7 Consent to Assign and Amend Grant of Non-Exclusive Easement S-5632, Douglass T. K. Pang, Assignor, to Stephen K.S. Loo and Catherine K. Loo, Assignees, Kahaluu, Koolaupoko, Oahu, Tax Map Key (1) 4-7-019: seaward of 071.**

Unanimously approved as submitted (Morgan, Edlao)

- Item E-2 Consent to Assign and Approval to Amend General Lease No. SP0159, Harwood Williamson and Nancy Williamson, Assignor, to Harwood Williamson, Nancy Williamson, and Thomas B. Williamson, Assignees, Waimea Canyon State Park, Waimea (Kona), Kaua'i, Hawai'i, TMK: (4) 1-4-003:013**

Mr. Quinn said there were no changes to item E-2 that the tenants wanted to add their son.

Unanimously approved as submitted (Morgan, Edlao)

- Item L-1 Certification of Election of George Mikami as Director of the Waiakea Soil and Water Conservation District**
- Item L-2 Certification of Elections of Chris Manfredi, John Cross and Brenda Iokepa-Moses as Directors of the Kau Soil and Water Conservation District**
- Item L-3 Certification of Election of Aileen Yeh as Director of the Puna Soil and Water Conservation District**

Carty Chang representing Engineering Division had no changes to items L-1, L-2 and L-3.

Unanimously approved as submitted (Edlao, Pacheco)

Adjourned

There being no further business, Chairperson Aila adjourned the meeting at 12:12 p.m. Recording(s) of the meeting and all written testimonies 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
Land Board Secretary

Approved for submittal:



William J. Aila, Jr.
Chairperson
Department of Land and Natural Resources