

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

DATE: THURSDAY, FEBRUARY 11, 2010
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 9:02 a.m. The following were in attendance:

MEMBERS

Laura Thielen
David Goode
Jerry Edlao

Ron Agor
John Morgan
Dr. Sam Gon

STAFF

Morris Atta/LAND
Paul Conry/DOFAW
Carty Chang/ENG

Sam Lemmo/OCCL
Dan Polhemus/DAR
Ed Underwood/DOBOR

OTHERS

Colin Lau, Deputy AG
Carl Tom, D-2
Royden Ishii, D-4
Lea Hong, C-4, D-16
Marti Townsend, F-1, 2
Mark Bill, L-4
Michelle Manshen, D-16
Ron Rickman, D-12
Ben Sadoski, K-2

Ray Iwamoto, D-7
Jeff Melrose, K-3
Richard Sato, D-4
Blake McElheney, C-4
Frank Triffcut, F-1
Eric Leong, M-1, 2
John Kalili, D-11
Stewart Yerton, K-2
Julius, D-13

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

Item A-1 November 19, 2009 Minutes

Approved as submitted (Gon, Morgan)

Item A-2 December 11, 2009 Minutes

Member Goode recused himself. Amendments were distributed to the Board.

Chair Thielen noted that amendments were made to page 23 and 26 to clarify the conversation that they had offering the fishing club a compromise with a conservation permit.

Approved as amended (Agor, Edlao)

Item A-3 January 8, 2010 Minutes (TO BE DISTRIBUTED.)

Deferred. Not ready.

Item D-7 Amendment of Grant of Perpetual, Non-Exclusive Easement to Kohanaiki Shores LLC, Grantee for Access and Utility Purposes, LOD No. S-28,762, Kohanaiki, North Kona, Island of Hawaii, Tax Map Key: 3rd/ 7-3-09: portion of Mamalahoa Trail.

Morris Atta, Land Division Administrator communicated this is a request to amend an easement that was previously issued by the Board from the prior owner to the current applicant. The applicant acquired the property from the prior owner and the Board has issued this easement over the Mamalahoa Trail which runs the entire length of the property that the only way to access the highway from the property is to cross the Trail. The current owner is the applicant and they plan to develop the property for residential community. What this request is doing is amending the existing easement to substitute the new applicant and to change the terms allowing the easement to run with the land.

Ray Iwamoto representing Kohaniki Shores LLC thanked the Attorney General's Office.

Unanimously approved as submitted (Agor, Gon)

Item D-2 After-the-Fact Consent to Mortgage, Grant of Easement No. S-4553, Hotels In Paradise, Inc., Grantee, Waiakea, South Hilo, Hawaii, Tax Map Key: 3rd/ 2-2-31: por. for landscape easement and Road Lots A and B adjacent to parcel 12

After-the-Fact Consent to Assignment of Grant of Easement No. S-4553 from Richard Emery, Commissioner, to Owens Mortgage Investment Fund, Waiakea, South Hilo, Hawaii, Tax Map Key: 3rd/ 2-2-31: por. for landscape easement and Road Lots A and B adjacent to parcel 12

Mr. Atta reported that the SME of an easement that was previously granted to a private landowner who subsequently defaulted on a mortgage loan in a foreclosure preceding the easement that was attached to private land was assigned to the subsequent recipient of the property. What this item does is update the previous transfers that had not been documented to go through the current owner of the property as well as amending it to run with the land.

Board member Goode asked in our easement language whether we have a foreclosure clause should something go to foreclosure that we work closely with bankruptcy court. Mr. Atta said there is language that requires that doesn't relieve the SNR from the terms of the easement. In this one staff requested language to remove the SNR from that obligation because this is pursuant to a foreclosure where the SNR is actually a trustee in the foreclosure preceding and ordinarily wouldn't be bound by these kinds of requirements. For this particular transaction there was a request that the easement be amended to take that obligation off of the SNR who is the commissioner for the foreclosure. Chair Thielen asked whether Member Goode's question is what happens when something goes into foreclosure and you don't know about it which Member Goode acknowledged. Mr. Atta said there isn't anything that precludes that from happening and that is why they have an item like this for housekeeping to update the various transfers and consents that should have been acquired previously and were now after-the-fact coming to the Board and staff request these consents be approved. The Chair clarified that the question is what is the standard terms in our other documents if something else goes into foreclosure where Mr. Atta said that the standard terms is the holder of the easement is suppose to get prior consent and that is why this is a housekeeping measure because if things had gone the way it should've – the previous mortgage and assignment would've have gotten consent at the time these things were done, but for whatever reason they were not. To clear the record and to give the current holder of the property clear rights to the easement staff brought this after-the-fact request to the Board to provide that consent. The standard terms under their document are prior consent is required.

It was questioned by Member Agor how was Land Division notified and Mr. Atta's reply was he would have to refer to Kevin Moore (a staff person).

Carl Tom representing Owens Mortgage Investment Fund testified that they filed two requests for consent – one was for a 2000 mortgage that was done and also a foreclosure commissioner's deed that was issued to Owens Mortgage in 2008 and they were not involved in either transaction. Their client wanted to clean-up the record so they can move forward with the transaction involving the Waiakea Village Property which will include the grant of easement. They have a transaction in the works, but they want to take care of the record so there would be no question about the validity of the grant of easement that Owens Mortgage has. Referring to Member Goode's question Mr. Tom reiterated whether there was an exception in the statute for foreclosures. The position they were concerned about is when they obtained the grant of easement because there was no DLNR consent to it there might be a position taken, you don't own it therefore you won't get the benefit of that statutory exemption for foreclosures and to address that

they wanted to make the application and ask for consent on an after-the-fact basis. They are aware from past transactions that after-the-fact consents have been granted in prior transactions involving this particular property back in 1983 which Mr. Tom asked for the Board's consent.

Unanimously approved as submitted (Morgan, Agor)

Item K-3 Conservation District Use Application HA-3520 for a Single Family Residence and Related Improvements by Edward and Mariko Bilinsky Located at Waawaa, Puna, Hawaii, TMK:(3) 1-4-028:009

Sam Lemmo representing Office of Conservation and Coastal Lands (OCCL) conveyed that this property is within the resource sub-zone. Staff had some concerns and based on the recommendation they are not in favor of the project which is reflected in the final pages of the report that stated the reasons why – one its precedent setting and this area was identified as having sensitive native coastal ecosystems surrounding it and staff didn't feel it met the criteria. The applicant might want to come up to testify.

Chairperson Thielen noted that this item was signed off by the Deputy and the conservation district use permits (CDUP) under State law if the Board doesn't make a decision within a 180 days it was deemed granted so this item had to go on this Board meeting agenda. She had spoken to Mr. Lemmo earlier pointing out that a conservation district use permits authorizing a single family dwelling on conservation lots is a discretionary permit and staff raised their concerns. Also, this Board in the past has denied all permits for building single family dwellings in the resource sub-division, but the Chair did share with Mr. Lemmo that she wasn't as comfortable with staff's recommendation in this case because of the adjacent dwellings on the agricultural district that it isn't an isolated site as was looked at in the past.

Member Morgan asked about the boundary drawn on Exhibit 7 whether it's presumed the ecosystem is the same on both sides of the line. Mr. Lemmo said that it is customary on the Big Island to have drawn the State land use boundary, the conservation boundary 300 feet landward of the shoreline and he didn't think it was intended to identify pockets of native ecosystems and was broad in nature. Member Morgan referred to the Chair's comment that the Board has denied some single family residential applications, but has also granted some. Mr. Lemmo said granted many and denied few.

It was questioned by Member Edlao that his analysis for recommending a denial was because of government rules, access, a lot of hazards, etc., but if the applicant was willing to risk it all and not have any liability with the State who are to tell them they can't do that, but Mr. Lemmo did say because of the sensitivity of the area and asked where is he at. Mr. Lemmo explained in planning you try to ensure to have development in an orderly manner to have access to public services that emergency crews can get to sites, have fire suppression, water, electricity and all those and that is how he looks at things in general as a planner. When you start putting things out in the boonies where there are no accesses to services, yes you are on your own, but staff has a responsibility to create an

orderly development around areas to create services for people and not create liabilities and threats that might come back and sting us which is Mr. Lemmo's opinion. For coastal areas it's the same thing, if people get wiped out by a tsunami or erosion that is their prerogative, but staff doesn't approach it that way and instead provide guidance to protect them on how to build. As a planner it is important for them to help guide people to build safely and in safe areas.

Member Edlao referred to the concern of setting precedence and asked it would take someone with a lot of funds to accomplish something like this and is there a lot of people who would come in to do this. Mr. Lemmo said probably, yes.

There was some discussion between Member Goode and Mr. Lemmo about the conservation and agricultural lots referring to the maps that if people buy a lot there is no guarantee. Also, they discussed reducing the size of the home and whether the home could be built partially on conservation and partially on ag lands that staff wouldn't have any objections and it is theoretically possible.

There was a discussion between Member Morgan and Mr. Lemmo that the subdivision was approved because of a different philosophy and the mind set and preservation has since changed, but looks like the intention was to have a house per lot. There were more discussions between the Board and Mr. Lemmo regarding when the sub-division was placed in the conservation district and they referred to page 8 of the submittal where it was dedicated in 1961 and would have been in effect during the 1964 zoning. Mr. Lemmo said since then they've found extensive native ecosystems and piled on the issues as time goes on and things become more challenging with following through with that development with constraints.

Member Gon further noted that Nanawale and Malama Ki are some of the last places remaining with forested native systems not displaced by agriculture or development. Referring to Exhibit 2, where there is development there is clearing of the native forest and if this continues it will nibble away to the very edge of the forest reserve comparing it to Oahu. Exhibit 5 is a letter from Fish and Wildlife thanking DLNR for bringing attention to Fish & Wildlife the low lying forest and indicated when a place is inadequately surveyed for rare plants and you will find rare plants.

There was some discussion between Member Morgan and Mr. Lemmo regarding the density of the area that 25% is developed as ag lots otherwise its sparsely developed.

Jeff Melrose representing Edward and Mariko Bilinsky, noted that Mari Bilinsky is in the audience and he conveyed the Bilinskys' background as educators wanting to retire at this property with a desire to be responsible with it. Mr. Melrose asked if the Board agrees with staff's recommendation what is his client's ability to have a contested case.

Chair Thielen explained because they have an agenda with whole bunch of items on it this Board is not designed during our regular Board meetings to deal with a full on contested case hearing laying out the exhibits to work this out. You have a written

recommendation before you. You can make a brief presentation on behalf of your client since you've already heard some questions by the Board members and may want to address those points. They will ask if anyone else in the audience would like to testify and the Board will take that public testimony and will make a decision. If your client wants to reserve the right for a contested case or definitely want to go into one you need to orally ask for that before the close of the meeting today and file a written request within 10 days and staff could help Mr. Melrose with that. We will not have a lengthy in-depth detail on this and the Chair recommended after hearing the Board members' questions what would Mr. Melrose like them to consider in their initial decision on behalf of the client.

Mr. Melrose testified that Wa'awa'a Sub-division is a 1950s sub-division confirming the density of the area and the conservation boundaries were an after thought. As the conservation district crosses this property it was a surprise to his client because the property next door got its determination of its conservation boundary which is within the makai portion. The difference between this property and the adjoining property is about a 100 feet and narrowed the capacity of his client's property to be utilized. There are a couple historic sites and they will move the house back where it isn't visible. He appreciates Member Gon's concern for the native forest, but there are Natural Area Reserves set aside for that forest and the Bilinskys are interested in managing the forest by keeping the invasive species out. Mr. Melrose referred to the reasons for denial is the impact to the forest where he realized the cumulative impacts, but said it was a small foot print and reiterated management. The perception with places without infrastructure shouldn't be built pointing out that there are two adjoining homes already in place next to the property; there is a 170 lot sub-division nearby, the houses next door are energy self-sufficient by living off the grid, the roads are rough, but meets the needs for the people who live there.

There was some discussion between Member Goode and Mr. Lemmo on who determines the conservation district line which is the State Land Use Commission. There is a process to contest discrimination by filing a deck ruling. Mr. Melrose said that his clients did not contest it because they didn't understand the whole nature of it. It wouldn't have left them with the best location either for the forest or the historic sites had that moved, but it was an interesting fact that shifted right at the boundary for some distance. Member Goode asked when the Bilinskys received the ruling which was in 2007 per Mr. Lemmo. Mr. Melrose said that the Bilinskys waited in escrow until the ruling, but they still bought the property with the notion that they would be responsible builders on that property.

Member Edlao asked whether the owners were opposed to relocating the structure back and Mr. Melrose said moving it back up produces more impact to the forest setting and it had scaled down a couple times.

Member Goode asked whether the owners would be amendable to a possible permit condition that would require them to remove the invasive species in the forest portion

subject to a permit requirement where Mr. Melrose said absolutely. Mrs. Bilinsky's passion is strong and can't wait to do it.

Chair Thielen pointed out on exhibit 9 that requiring moving the home back might create some problems with State Historic Preservation Division.

Member Agor opinioned that he has a hard time denying this and agreed the structure is too large for the area and if there is any compromise or solutions to re-submit something smaller.

Member Morgan agreed that there are with Member Agor because the sub-division has been there a long time with houses all over the place with some native plants and drawing a line somewhat arbitrarily where innocent people get caught in the cross fire.

Member Edlao reiterated the previous intent and changes to priorities, but he would like some assurance there is no liability if the owners should come back asking for some sort of language. Mr. Lemmo explained when people go into a flood area they have them sign a waiver. Member Edlao said he can't deny this and to come up with another concession to scale back or language.

Member Gon suggested that they could entertain adding a recommendation for landscaping with indigenous species appropriate for the area as well as for management for invasive species on this property.

Member Edlao also suggested creating a conservation plan for the hala and the cultural sites and how the owners will do it and submit it to the Board. Mr. Lemmo confirmed that they could ask for a conservation plan.

Chair Thielen summarized that in the resource sub-zone of the conservation district the single family home is permissible with a discretionary permit based upon the determination of this Board as to the impacts to the resources. The Board members are concerned with nibbling away at the forest certainly in areas where there is great concern this Board may deny a permit for a single family residence, but given the history here, the adjacent structures maybe a discomfort in applying that in this case and instead taking a look at requiring a conservation district use permit plan to be approved by staff that would address conditions requiring removal of invasive species and landscaping with indigenous and appropriate plants that would run with the land and a waiver of liability.

*Member Morgan moved to accept the house as planned that the size wasn't an issue and Member Edlao seconded it.

There was some discussion regarding the size of the house between Member Agor and Mr. Melrose where Mr. Melrose asked the Board to vote on the plan that was submitted.

Board Member Edlao asked whether this home will be used for commercial use and Mr. Lemmo said it is a standard condition.

Member Agor said he would ask for an amendment to downsize which Member Morgan said he would respect that, but cited the size of the rooms that it is a relatively small house.

Chair Thielen asked for an amendment in addition to the conditions discussed regarding the landscaping and indigenous species with removal of invasive species and waiver of liability to ask for the standard conditions of the conservation district use permit be applied as well. Mr. Lemmo said that they have standard conditions are in their rules which they apply to all permits. There are additional special conditions depending on the site and he read:

1. That the applicant obtains all applicable permits from the County of Hawaii prior to construction.
2. The applicant shall obtain a County of Hawaii building and grading permit.
3. The applicant shall plan and minimize amount of dust generating material and activities.
4. Condition of artificial light which is State Law.
5. Add a condition if they find any historic artifacts or burials to stop construction and contact the State Historic Preservation Division.
6. Utilize best management practices for construction.
7. The applicant acknowledges any Native Hawaiian gathering or practices.
8. Mitigation measures to minimize the impact to the aquatic environment off site roads, utilities, etc.

Chair Thielen noted that these conditions are in other State Laws, but when they do a permit under the conservation district these are State Laws that other agencies may have the ability to enforce like the run-off for the non-point source discharge pollution permit. Our agency unless we put it in as a condition we would not have the ability to enforce it. We need to manage these permits through the conservation district. These are relatively standard conditions about building in addition to the standard conditions from the conservation district. She asked whether the Board member who moved and second felt comfortable adding those conditions. Member Morgan and Member Edlao agreed.

The Chair took a vote where Members Agor, Gon and Goode voted opposed and the other three Board members voted in favor. The motion does not pass.

Chair Thielen noted that if this Board doesn't deny the permit it is automatically approved under State Law. Member Morgan asked if the permit is approved under State Law under what conditions. Mr. Lemmo said it has come up before whether or not you can apply standard conditions in a situation where you have an automatic approval where the courts upheld that.

Member Goode said he felt the structure is taking away from the resources and was concerned with the precedent, but he didn't want the permit go through no action.

*Member Gon moved to accept staff's recommendation. Member Morgan seconded it.

Member Gon said that there would be a re-submission with a small footprint and conditions that are acceptable to the full Board. Member Morgan asked whether to make another motion for a smaller footprint, to refloat it. Chair Thielen said if the mover and second wants to withdraw the motion then they can place another motion on the floor, but while we got a motion and a second we need to take action on it. Member Gon and Member Morgan withdrew their motion and second.

*Member Morgan made a motion not accept staff's recommendation, but with the same motion asking the applicant to submit a smaller footprint. Member Agor suggested a 1600 square foot living area. Member Gon seconded that.

There was some discussion regarding the current square footage and uses. Member Agor suggested amending the motion to say 2000 square foot under the roof. Member Morgan and Member Gon accepted that.

Chair Thielen summarized overturn staff's recommendation, approve the conservation district use permit with the requirement of submitting a conservation district plan for approval by staff, to landscape with indigenous or native species, remove invasive species, have that requirement run with the land, waive liability, have 2000 square feet under roof, the standard conditions and the eight special conditions submitted by staff.

The Board:

Approved the conservation district use permit with the requirement of submitting a conservation district plan for approval by staff, to landscape with indigenous or native species, remove invasive species having that requirement run with the land, waive the liability, have 2000 square feet under the roof, add the standard conditions and the eight special conditions submitted by staff.

Unanimously approved as amended (Morgan, Gon)

Chair Thielen reiterated her earlier announcement regarding a verbal request for a contested case hearing before the end of the meeting.

Item D-4 Set Aside to the Department of Hawaiian Home Lands; Issuance of Immediate Management and Construction Right-of-Entry for Proposed Reservoir Site, Lalamilo, Waimea, South Kohala, Hawaii, Tax Map Key: 3rd/ 6-6-01: portion of 11.

Item D-5 Cancellation of Revocable Permit No. S-7315; Re-issuance of new Revocable Permit to Gary L. Davis, for pasture purposes at Lalamilo, South Kohala, Hawaii, Tax Map Key: 3rd/ 6-6-001: 5, 9 & 11.

Mr. Atta explained that Items D-4 and D-5 are together because they are dependent on each other. It has to do with a subdivision development that DHHL has and as a

requirement the subdivision needs an agreement with the Board of Water Supply that a reservoir be developed to supply water to the subdivision and in order to do that they need additional lands which is the subject of this request that is the set aside. For Item D-5 the lands being requested is subject to an RP that they have that's outstanding through Gary Davis and he is in agreement with the withdrawal of the portion of lands RP'd to him for this purpose. The second part is the cancellation of the existing RP and the reissuance of the re-configuration of the new RP to accommodate the withdrawn lands.

Member Goode asked whether there was no provision to amend the revocable permit if Mr. Davis cooperates and then we raise his rent in response where Mr. Atta confirmed that is correct and explained with the original RP they didn't have a minimum rent policy in place and now they do which is \$40.00 per month. It is the new rent proposed under the new RP if half acre or less for pasture purposes which is policy to cover administrative costs to issue and manage on-going disposition.

Member Goode asked whether DHHL is reimbursing Mr. Davis the cost and Mr. Atta acknowledged that, but not the rent increase.

DHHL representative, Royden Ishii and Richard Sato representing CPE agreed to staff recommendations on both items.

Unanimously approved as submitted (Morgan, Agor)

Item C-4 Approval of the Subordination of Mineral Rights on Lands Owned by Pietsch Properties, LLC, in Pupukea, Oahu, TMK (1) 5-9-005:067, to the Natural Resources Conservation Service AND Approval for the Transfer of a Conservation Easement to be Acquired with Funds from the Legacy Land Conservation Program, from the Maui Coastal Land Trust to the North Shore Community Land Trust, on Lands Owned by Pietsch Properties, LLC, in Pupukea, Oahu; TMK (1) 5-9-005:067

Paul Conry, Division of Forestry and Wildlife (DOFAW) Administrator communicated that there are two requests which he described and noted there was an amendment that was distributed earlier to approve the City and County of Honolulu as an additional holder of the conservation easement and that was one of the requirements the County asked for in providing County funding for the acquisition. And, to give the Chairperson the authority to execute all the necessary documents for the City and County to ensure the State maintains their rights for monitoring the property to protect the State's rights if the County were to take over the easement.

Chair Thielen asked whether we have the standard conditions subject to the review and approval by the Attorney General's Office. Mr. Conry confirmed that. There was a public hearing held and based on that the Division recommends the Board grant the subordination of mineral rights. There was a report by Dr. Michael Garcia who assessed the minerals there and came to the conclusion that they were minimal where the Division

came to the conclusion that mineral rights be subordinated. Also, staff recommends the transfer of the conservation easement from Maui Coastal Land Trust to the North Shore Community Land Trust. And, staff doesn't have a problem with adding on the County as a holder of that conservation easement along with the agency.

Lea Hong, Hawaiian Islands Program Director for The Trust for Public Lands thanked everyone and the landowner that the mineral rights subordination will allow the dedication of land voluntarily by a land owner to agriculture and land purposes for perpetuity.

Blake McElheny representing the North Shore Community Land Trust testified that he was grateful to provide strong support for this proposal echoing what Ms. Hong had said about the progress made and thanked everyone to move this initiative forward and using this success as a model for other private landowners to protect resources on behalf of the public.

Chair Thielen said she was happy to hear Mr. McElheny say this was a model for the future because of the complicated issues involved that she appreciated the dedication and patience his trust had shown in building this capacity within that community on the North Shore is wonderful. Mr. McElheny said he was grateful with the various partners involved that helped them achieve this. The landowner stood and thanked the Board for their support.

Member Gon made a motion to approved staff's recommendations on the two items as amended and Member Morgan seconded it.

Unanimously approved as amended (Gon, Morgan)

Approved as amended by adding the City and County of Honolulu as an additional holder of the conservation easement.

**Item F-1 Request for Authorization and Approval to Issue a
Papahānaumokuākea Marine National Monument Conservation and
Management Permit to Commanding Officer John Caskey, National
Oceanic and Atmospheric Administration (NOAA) Ship
HI'IALAKAI, for Access to State Waters to Conduct Shipboard
Support Activities**

Dan Polhemus, Division of Aquatic Resources Administrator described the request that this is for ship board support activities from March to December 2010 in the Monument which is renewal of work previously permitted. The ship supports basic management and research activities in the Monument. The ships themselves are referenced in the Monument Management Plan and thus are covered under the environmental assessment with that plan. He noted that although the ship transports a variety of people during the course of the year the submittal researcher, educators, managers on board the ship would work under separate permits from the ship itself. The ship may transport people to conduct activities in the Monument, but this item does not cover those activities, only the

ship transporting. Scientific, cultural reviews accept this. There were no comments; staff opinioned to allow this and this meets the Monument Management Board's findings.

Marti Townsend representing KAHEA distributed here written testimony and said they have a long standing concern with the lack of cumulative impact assessment and this is their attempt to better illustrate their concerns. She asked to delay approval of the permit long enough to complete an environmental assessment and suggested that her document could be used as a model for completing an environmental assessment for the Hi'ialakai and the Oscar Elton Sette because they go to more sensitive waters and more frequently. She referred to French Frigate Shoals, page 3 of her written testimony showing the tracks of the above mentioned ships saying how sensitive these areas are and the number of tracks going through. On page 4 is Ms. Townsend's attempt to visually indicate the amount of human activity in the most sensitive part of the Northwest Hawaiian Islands (NWHI). Over a 3 year period, and some of it is speculation where she counted all the permits going to French Frigate Shoals and she made a dot. In 2006 there are 11 dots for each permit which is focused on the northwestern region of the atoll and she speculated based on talking to people where there were 4 voyages that year. Ms. Townsend reviewed each year's number of permits. There have been 70 permitted activities with at least 40 voyages to a highly sensitive area. We don't know what impact there is. In previous testimony she has shown the cumulative impacts for the Northwest Hawaiian Islands which is in Exhibit D and there is no mention of ship operations that it needs to be called out separately as something that needs to be assessed. There is not enough information and we need to continually think about this. The lack of information needs to be provided for in an environmental assessment. You can issue an exemption from this process only if you have a cumulative assessment and until that document is done you should do an EA to abide by the law and possibly foresee any harm from human activity and mitigate it. Ms. Townsend stressed that everyone acknowledges that this is important and the best first step is doing an environmental assessment.

Member Gon asked if she said an environmental assessment is underway now. Ms. Townsend explained she found on-line that the University of Hawaii completed an EA for Kimikai o Kanaloa in Federal deep waters which is a good example. Member Gon asked what triggered this where Ms. Townsend said she couldn't say.

Frank Triffcut, representing the COs of the Oscar Sette and Hi'ialakai was here to answer any questions regarding ship operations.

Member Gon asked to remind the Board what the process is for the procedures that are in place for cumulative access and activities. Mr. Polhemus communicated that after the completion of activities on any given permit within a certain period of time the applicant is required to submit a report to the Monument which details what was done and where within the area they were authorized to operate in. That information is taken and organized by the data integration group which is a group of consultants that operate in Hawaii Kai adjacent to the main NOAA office. That group has worked out a grid system of what of activities happened in a particular grid in the Monument. They can assess on various scales of who is where doing what. The Board has over the last several years a

received an annual summary of permitted activities documented and a Board briefing. For whatever reason, that did not happen for the 2009 season and staff could at the Board's convenience.

Member Gon said that Ms. Townsend's visual map is dramatic and the reports maybe similar or dissimilar to what activities took place. Mr. Polhemus noted that the ship permits will list all the atolls, but they may not get to all of them. On a management standpoint that box is checked, but that option might not be utilized. That analysis done by Ms. Townsend, if every option to visit French Frigate Shoals had been utilized in a given year then you would see that. But, he thinks the visitation level is much lower because not every opportunity is utilized. Chair Thielen asked we post the permits publicly because it comes before the Land Board, but the after-the-fact reports could show what activities actually occurred and are those published. Mr. Polhemus said the HAR governing the Monument has a clause that says the trip report is confidential and he does not know why that clause was put in and he wasn't on board at the time. He doesn't think it conforms with the State Sunshine Law. Chair Thielen said even the catch reports under fishing regulations are confidential, but the cumulative data can be published that there isn't anything prohibiting that. Mr. Polhemus agreed that staff gives a broad scale summary of permitted activities each year and if the Board wants finer grain detail that can be produced. He noted that French Frigate Shoals is one of two permanently staffed islands in the NWHI and out of necessity there are more ship visits to supply staff. Also, Ms. Townsend had answered her own question that because of the high priority of the monk seal and turtle populations there are management activities related to those and certain research activities will be concentrated there for those reasons.

Chair Thielen asked whether Mr. Polhemus has been in contact with the University of Hawaii regarding the 2009 NEPA analysis for the two research vessels in the Monument where Mr. Polhemus said he hadn't seen it that he didn't know what the trigger was and presumed to consult with NOAA as it is their waters. The Chair asked whether there was ever a submittal for a State Chapter 343 environmental assessment or impact statement for these vessels or any discussion. Not what is above and beyond what is covered in the EA for the Monument Management Plan said Mr. Polhemus noting that the vessels are named in the Management Plan.

The Chair asked whether anyone knew about the University submitting an NEPA analysis for their vessels or from NOAA. Mr. Polhemus noted that the Kaiwikai O Kanaloa is the platform from which submersibles and remotely operated vehicles are deployed and he speculated that there are ancillary operations linked with the Keoki and may have triggered NEPA. Chair Thielen suggested bringing this to the attention of NOAA and that the Board would like some discussion of that to get more information.

Member Morgan asked whether Mr. Triffcutt had done the trip (to NWHI) before. Mr. Triffcutt acknowledged he has conveying that he was assigned to the Oscar Sette for two and a half years as the Operations Officer that he was familiar with the trips for both ships and last sailed last summer. Member Morgan asked whether Mr. Triffcutt saw anything out at the NWHI that would cause a concern with the care of the environment

by human impacts. Mr. Triffcut said that they do all they can to protect the NWHI everything regarding SBA discharge requirements, haul cleaning, inspections for the ships and they try to mitigate everything that they can. Member Morgan clarified he wanted to know as a lay person the monk seals and shark attacks and weighing that against potential human impacts where he thinks those are nowhere near as great as the natural environment and asked whether he agreed with that. Mr. Triffcut agreed and said on the Sette one of the main reasons they were going to the NWHI was for monk seal management to French Frigate Shoals and other atolls and they don't spend extra time there and do what they need to do and move on. Referring to the Oscar Sette track map presented by Ms. Townsend the reason why they follow those specific track lines is so they don't make a mistake, it's well charted and there is a break in the reef with lots of good references to the shoaling areas. The Hi'ialakai has research and may have to go to different spots. There aren't very many ships there.

Member Morgan moved to approve staff's recommendation. Member Agor seconded it.

Unanimously approved as submitted (Morgan, Agor)

**Item F-2 Request for Authorization and Approval to Issue a
Papahānaumokuākea Marine National Monument Conservation and
Management Permit to Commanding Officer Anita Lopez, National
Oceanic and Atmospheric Administration (NOAA) Ship OSCAR
ELTON SETTE, for Access to State Waters to Conduct Shipboard
Support Activities**

Mr. Polhemus communicated that this item is similar to Item F-1, but covering the NOAA vessel Oscar Elton Sette and much of it was already covered.

Ms. Townsend stands on her testimony.

Unanimously approved as submitted (Morgan, Agor)

**Item F-3 Request for Authorization and Approval to Issue a
Papahānaumokuākea Marine National Monument Conservation and
Management Permit to Kelly Gleason, National Oceanic and
Atmospheric Administration, Papahānaumokuākea Marine National
Monument, for Access to State Waters to Conduct Maritime Heritage
Activities**

Mr. Polhemus reported that this is a request to conduct Maritime Heritage activities at the Monument between April and September 2010. The Maritime Heritage component is referenced in the Monument Management Plan and specifically referenced in the environmental assessment, NEPA, plus 343 that pertains to that. He also noted in this case resources are covered under the authority of the National Historic Preservation Act which is a Federal authority that takes precedence and the applicant has the proper

NHDA permits to do this. There is has also been a SHPD consultation under Chapter 104 which they usually do. The applicant is here if you wish to ask questions.

It was moved by Member Morgan then seconded by Member Agor.

Unanimously approved as submitted (Morgan, Agor)

**Item L-4 Permission to Enter Memorandum of Agreement Between the
Department of Land and Natural Resources and Honolulu Marine
L.L.C.**

Carty Chang, Acting Chief Engineer for Engineering Division communicated that earlier they distributed an updated final version that was agreed upon by our Deputy Attorney General and Honolulu Marine's attorney. Other than that they have no other changes and a representative from Honolulu Marine is here for questions.

Mark Bill representing Honolulu Marine L.L.C. was present.

Unanimously approved as submitted (Morgan, Gon)

**Item M-1 Issuance of a Revocable Permit to Darrell Siu, Adjacent to Pier 39,
Kapalama, Honolulu, Harbor, Oahu**

**Item M-2 Issuance of a Revocable Permit to the Shack Waikiki, LLC, Adjacent
to Pier 52, Honolulu Harbor, Oahu**

Eric Leong representing Department of Transportation, Harbors Division presented Items M-1 and M-2.

Unanimously approved as submitted (Gon, Edlao)

**Item D-16 Acquisition of Private Lands and Set Aside to Department of Land
and Natural Resources, Division of Forestry and Wildlife, for
inclusion into the Honouliuli Forest Reserve, at Honouliuli, Ewa,
Oahu, Tax Map Key No. (1) 9-2-005:025.**

Member Gon asked whether or not he should recuse because until recently The Nature Conservancy (TNC) had a connection managing the Honouliuli Forest Reserve. Deputy Attorney General, Colin Lau said that the submittal indicates that TNC does have an interest referring to top of page 2 and page 3's second paragraph under remarks which Mr. Lau read and it was clarified by Lea Hong from the Trust for Public Land that TNC still has a lease on the property and it was at the request of the TNC's attorneys that the lease remain until the closing with the State and just before that closing the TNC plans to cancel and terminate voluntarily then transfer the lease to the State. Technically the lease is still under TNC. Member Gon recused himself.

Member Morgan asked whether he should recuse because he is on the Advisory Board for the Trust for Public Land where Mr. Lau advised he should.

Chair Thielen asked whether there were anything to add and Mr. Atta said there were none.

Michelle Mansker representing the U.S. Army testified that they provided \$2.6 million to the Trust for Public Land to help buy this property and they were helping TNC manage the endangered species on that property and they are committed to continue managing should that become a forest reserve and was here in support.

Ms. Hong clarified on page 4 noting that the County grant of \$92,043.50 to the Trust for Public Land because of some issues with that County fund which is the Clean Water and Natural Lands Fund there has been a legal interpretation by the Corporation Council that the County needs to obtain an interest in the land or easement in the property that has raised some issues on the Land Division side that the Trust for Public Land will find alternative funding that will not implicate those kinds of restrictions. The \$92,000 will come from private sources or possibly the Army will cover that shortfall.

The Chair asked that they just had that other matter they voted on where the County does have an interest because they've also contributed and why would this be different. Wouldn't it be the same language in those two matters? It was noted by Ms. Hong that it was her understanding from Land Division that the State will own that property that giving away an interest in land the State owns is problematic and the Chair acknowledged that.

Mr. Conry said DOFAW was excited in the purchase and adding this to the forest reserve.

Ms. Hong thanked everyone at DLNR, Deputy Attorney General – Linda Chow, because it is a complex transaction and they've all worked hard to make this happen. Also TNC, the Gill Family Trust and the Edmond Selson Trust will be donating \$350,000 endowment to support DLNR's management activities in the preserve and that endowment will be administered by the Hawaii Community Foundation.

Member Morgan made a motion to move as submitted. Member Edlao seconded it.

Unanimously approved as submitted (Morgan, Edlao)

Item D-11 Cancellation of Revocable Permit No. 170 and Issuance of Revocable Permit to Auwaiolimu Congregational Church, Punchbowl, Honolulu, Oahu; Tax Map Key: (1) 2-2-014: 026 and 017.

Mr. Atta informed the Board that the Auwaiolimu Congregational Church has an existing RP on State land and they built a structure that overlaps an adjoining State land and they believed they were granted to do so. In light of the history of the relationship they have

with the church staff is requesting to cancel the existing RP and issue a new one that covers the entire two parcels and impose no fine.

John Kalili representing Auwaiolimu Church thanked staff and the Board.

Unanimously approved as submitted (Edlao, Agor)

Item D-12 Issuance of Right-of-Entry Permit to U.S. Geological Survey on Lands Encumbered by Governor's Executive Order No. 419, Makiki, Honolulu, Oahu, Tax Map Key: (1) 2-5-020:portion of 001 and 008.

Mr. Atta communicated that this was a request from the USGS for a right-of-entry to install a gauge at Makiki Stream.

Ron Rickman representing the USGS was here for any questions.

The Board asked what the data was for and where it was located. Mr. Rickman explained that the data will be available on their web page and will be in real time. In addition to data collection, for their purposes, it will be used for hazard warning which will be monitored by USGS, National Weather Service and State Civil Defense. It will be at Baker Park, Board of Water Supply. The Board asked whether this was an upgrade and will they see more of these and Mr. Rickman confirmed part of a program through the City and County. A suspended settlement coming into the Makiki Stream and out to the ocean and the Manoa Falls area that this was one of many gauges.

Unanimously approved as submitted (Morgan, Gon)

Item K-2 Proposed MEMORANDUM OF UNDERSTANDING between THE STATE OF HAWAII, Department of Land and Natural Resources, by its Board of Land and Natural Resources and KYO-YA HOTELS & RESORTS, LP, a Delaware Limited Partnership to help Fund the Waikiki Beach Maintenance Project

Written testimony was received and distributed.

Mr. Lemmo conveyed that this MOU is an agreement between DLNR and Kyo-ya Hotels to provide DLNR with \$500,000 to help them with the beach restoration and beach management project at Waikiki. There are a couple typos that he found. Staff is asking to enter into a MOU for the project, authorize the Chairperson to finalize the signing of the MOU subject to the approval of the form by the Attorney General's Office.

Member Edlao asked if HTA (Hawaii Tourism Authority) were to contribute would another MOU have to be generated. Mr. Lemmo said it would be via a voucher.

Member Morgan asked whether this is a standard replenishment and what happened to the groin idea or is that completely dead. Mr. Lemmo confirmed that it is a standard

replenishment and the groin idea is entirely being pursued by Kyo-ya, but is on the back burner and is in the same area.

Stewart Yerton, a student from the William S. Richardson School of Law testified that he was puzzled by paragraph 4 of the MOU and his question was doesn't Kyo-ya have the right to request a certification anyway and is the State giving Kyo-ya special deference or consideration when it comes to this certification by putting this provision in the MOU. Chair Thielen asked that was his main concern that the State is giving Kyo-ya additional rights and giving away something under State law related to shorelines which Mr. Yerton confirmed.

Mr. Lemmo explained when someone does beach fill the question could come up whether or not the shoreline should be certified. He doesn't think it necessarily stops the certification process and the certification rules simply state it has to be something that you can identify. The reason staff included this was there are situations in which they might have concerns about somebody doing a beach fill and coming in subsequently with a certification request. This is not one of those situations. The Chair asked because it's a joint project. Mr. Lemmo said because it is a completely manufactured shoreline – all manmade urban beach. Because we've gotten into the practice of putting conditions on small scale beach nourishing projects on Maui and different places the certification is the fill can't be used to push the shoreline out from its natural shoreline which could be disastrous. People have come to staff later saying they've done it in these cases and why aren't you going to do it in this case. Mr. Lemmo felt putting a condition in this case will clearly explain to allow Kyo-ya to perceive the shoreline certification that would make it very clear. Staff doesn't have a problem with Kyo-ya coming in for a shoreline certification after each project. There is no one who will be building anything further out.

Ben Sadoski representing Unite Here! Local 5 Hawaii had submitted written testimony and testified recommending against the State signing this MOU as written because it will disproportionately benefit Kyo-ya which he read from his written testimony where he suggested modifying the MOU citing what should be done.

Member Gon asked Mr. Lemmo to briefly summarize the benefits to the State. Mr. Lemmo said it is hard to quantify because Waikiki is probably the most famous beach in the world. It is the foundation of our tourism economy. Imagine advertising the beach and its not there and people wouldn't go there. Without the beach the tourists and local people suffer resulting in a multiplier to the economy and affect every aspect of our society. To Mr. Lemmo it is very important.

Member Morgan said he completely disagrees with Mr. Sadoski's comment of a disproportionate benefit to Kyo-ya because people go up and down this beach and have to cross a narrow walkway to get from one end to the other and replenishment of the beach is beneficial. Mr. Lemmo commented that there is a saying that lose the beach at Waikiki and shoot the goose that laid the golden egg. Chair Thielen agreed with Member Morgan that the beach doesn't disproportionately affect that one hotel, but the question that they

should be asking is in economics with the free rider, where are the other hotels? Kyo-ya is stepping forward to provide financial support for the replenishment of the beach to keep all of those hotels on Waikiki Beach and to keep the economy going that all the hotels should step forward. She congratulated Kyo-ya for stepping forward and there have been discussions with other hotels but haven't seen other offers of agreements. Mr. Lemmo noted that they are trying to set up a beach district on Waikiki where there is a contribution proportionate to where you are and who you are at Waikiki. The Chair said she understands the concern by other hotels who say if I donate nobody else will and I won't get a benefit for my money, but the point she is making to the Union representative is – this hotel did step forward and put money out.

Unanimously approved as submitted (Morgan, Gon)

**Item K-1 Request to Hold Public Hearings to Amend Title 13, Chapter 5,
Hawaii Administrative Rules (Conservation Districts)**

Mr. Lemmo summarized that this request is seeking the Board's approval to proceed with an amendment process to Chapter 13-5 HAR governing Conservation Districts our Administrative Rules. Staff is asking to hold public information meetings and public hearings ultimately which is the main purpose today. This rule amendment has been heavily vetted for the past 10 years. It ran through staff multiple times to fine tune it, through other divisions; it has been to the AG's Office on numerous occasions, also to the Legislative Reference Bureau and staff solicited outside stakeholders like folks who deal with conservation, lawyers, conservation groups where staff had these people come in took their comments and incorporated those comments into the present version of the rule which went back to them and are ok with what staff had done. They have a lot of experience with the current rules adopted in 1995. This is largely a streamlining effort to make the rules more efficient, more predictable which would work better for the consultants, the staff, for the Board and the activist community as well. Plus there is a lot of housekeeping things over the past 15 years that isn't really working, difficult to deal with or is redundant or doesn't make any sense in the real world and they've tried to fix those things. The major thing is adding, amending and repealing some definitions, there are miscellaneous amendments to the rules that they can look at and they are increasing fees slightly. If someone comes in with a multi-million dollar conservation district project they can pay the Department \$2500 for that which is the maximum allowed for a conservation district use permit and is based on a sliding scale of cost. Staff is looking at some identified land uses like renewable energy projects in the rules which makes it explicit that these will need to be applied for and they are designating sub-zones. There a bunch of conservation areas in the State that don't have a sub-zone because they were put in the conservation district as part of a past LUC boundary review process and are now getting around to giving sub-zones to these parcels. They are adding an exhibit on fire buffer zones to give people the ability to create fire buffers in areas prone to fire under a site plan approval. Adding an admin sanction schedule which is to prepare a penalty schedule to bring it before the Board and get their approval with that penalty schedule so they can have a sliding scale of penalties to address everyday things. They are adding

standard conditions, adding erosion rate set back and other things, but those are the main highlights of the rule amendment.

Chair Thielen said that Mr. Lemmo had this on her desk, but she didn't have time to look through it and suggested he invite different people to come in to review them and sit down and comment on it. It was interesting that the people brought in you would think they would erupt in a giant dog fight which included lawyer consultants who want to do conservation projects, Native Hawaiian Legal Corporation, The Nature Conservancy and others and all of them felt that the rules needed to be amended and updated. They felt at the most part they were good and went through areas that they had specific concerns with and as anticipated some opposed to what the solutions were that there were common areas of concern where Mr. Lemmo took those back and made amendments based on that. The request is to take it out to an informational hearing because it's more flexible and they can decide what to amend and then go to a formal public hearing then come back to the Board. This may not have to go before the Small Business Regulatory Review Board because there are no commercial activities in conservation districts. At the minimum it needs two sets of public hearings across the state. Mr. Lemmo said they could consult with the Small Business Regulatory Review Board.

It was questioned by the Board regarding whether the 180 day review period is under statute or rule and is there automatic standard conditions covered under these rule amendments. Mr. Lemmo said in answer to the first question it is statute. The Chair said with the AG's Office you should look into whether you could do an administrative rule in the event a permit is authorized per the statute because the Board didn't take action these following standard conditions apply. There was some discussion of zip lines, but it has to be an identified use, but no one heard about them in 1994 and the Chair mentioned no commercial activity where the Chair clarified it is allowed with a permit and have to consult with the Small Business Regulatory Review Board to make that determination. Mr. Lemmo agreed and said that they created a category of wilderness camps, camp sites, botanical gardens, private parks and nature centers all within the resource sub-zone that you could do commercially and apply for a permit. He couldn't say how a zip line would work. The Board likes the amendments.

The Chair said that there will be a round of informational meetings and then the public hearings. There was some discussion about having meetings on Molokai because of the number of conservation land.

Unanimously approved as submitted (Morgan, Gon)

Member Agor stepped out.

**Item D-13 Forfeiture of General Lease No. S-4007, God's Love Mission, Inc.,
Lessee, Waimanalo, Koolauloko, Oahu, Tax Map Key: (1) 4-1-027:23
and 24.**

Mr. Atta said that his recommendation was to withdraw this because the Lessee has paid the delinquent rent. There maybe other outstanding issues the Board may want to raise, but because this was based on the delinquent rent staff wants to withdraw this.

Julius who represents the God's Love Mission, Inc. related their financial issues and when they received the letter.

Chair Thielen summarized the item noting that staff is withdrawing the recommendation. Staff is saying they may continue to discuss matters with you they are not recommending that this Board do any action to remove you from the property. They are not bringing any complaints to the Board and if they do have complaints in the future staff will bring it back to the Board and give Julius written notice of them, but what they are saying they are willing to work with you directly to resolve anything right now.

Julius explained their financial situation to redo or substitute for another property. The Chair said under State law when they have a hearing they have to publish what they are going to be deciding on and they are not allowed to go off of what was published in the agenda notice into something different. But, it's a request he could submit to staff and if he is not in agreement he could ask to come back to the Board and Julius agreed.

Member Gon moved with withdraw and was seconded by Member Morgan.

Withdrawn (Gon, Morgan)

Item C-1 Request to Conduct a Public Hearing Regarding Designation of 1,517 Acres of Forest Reserve Land into the Natural Area Reserves System and Withdrawn from the Forest Reserves System at Nakula, Maui, TMK 2-1-8-1-6 and 2-1-8-9

Item C-2 Issuance of Special Use Permit No. FW-2010-H-02 to Palani Ranch Company, Inc., Kailua-Kona, North Kona, Hawaii, TMK (3)-7-4-002:007 and (3)-7-4-001: por.

Mr. Conry conveyed that there were no changes to Item C-1, but on Item C-2 at the advice of the Attorney General's Office because the title does not list the actual parcel which is an amendment to say portion 003 on the TMK and that the title was correct on the submittal.

Member Gon commented that he was pleased with the addition to the Natural Area Reserves System.

Unanimously approved as amended (Morgan, Gon)

Item C-3 Request for Approval of Expenditure of Funds and Authorization to Negotiate and Sign Contracts to Implement the Landowner Incentive Program Projects

Mr. Conry explained at the suggestion of the Attorney General's Office to have this request be withdrawn because the title was not specific enough and staff has been advised that they should have identified every contract in the title.

Withdrawn (Morgan, Agor)

Item D-9 Issuance of Revocable Permit to Envisions Entertainment & Productions, Inc. for Fireworks Display at Flemmings Beach, Maui, Tax Map Key: (2) 4-2-4:seaward of 15.

Mr. Atta noted that Fleming should be one "m" not two.

Member Gon pointed out how rapidly clean-up was the next day where the Chair asked whether it is part of the standard conditions. Mr. Atta said it is part of all of their documents. The tenant or lessee is required to return the land to its original condition and they have control only over the state area which is stated in the permit. This particular event and permit was imbedded previously that the hotel has a cultural advisor who supervises what is done and how it's performed. The concerns by the Burial Council, Charlie Maxwell, recalled the sensitivity of the area and there was a response from the cultural advisor that these have been issues raised before and has been addressed before. It is not a new thing.

Member Gon asked whether there were any concerns with birds nesting in the area and it may not have been an issue in the past because the reappearance of the shearwaters are a recent thing. Mr. Atta said he had not seen anything specific to that. Member Gon suggested having folks check on the birds the next day.

The Board:

APPROVED AS AMENDED. The Land Board amended the title of the submittal by correcting the name of the subject area as "Fleming Beach." Otherwise, the Land Board approved staff's recommendations as submitted.

Unanimously approved as amended (Goode, Morgan)

Item D-1 Cancellation of Revocable Permit No. S-6507 and Issuance of a Revocable Permit to Clarence E. Kaona, for Taro Cultivation, Waioli, Hanalei, Kauai; Tax Map Key:(4) 5-5-06:05.

Item D-3 Forfeiture of General Lease No. S-5334, Alfred A. Silva, Lessee, Kaauhuhu, North Kohala, Hawaii, Tax Map Key:3rd/5-5-01:45.

Item D-6 Amend Prior Board Action of September 25, 2009, Item D-8, Consent to Subdivision – Timothy McCullough, Karen McCullough, Corey McCullough, Jeff McCullough and Colleen McAluney, Land Patent Grant S-14,299 [sic], Land Office Deed S-22,518, Lot 25, Lalamilo

Farm Lots, Lalamilo, South Kohala, Hawaii, Tax Map Key: 3rd/ 6-6-5:10.

- Item D-8** **Cancellation of Revocable Permit Number S-6103 and Re-Issuance of a New Revocable Permit to William F. Jacintho (Father) and William G. Jacintho (Son), Portion of Hamoa & Haneoo, Hana, Maui Tax Map Key: (2) 1-4-007:009 & 017.**
- Item D-10** **Cancellation of Governor's Executive Order No. 2526 and Reset Aside, Together with a Portion of the Adjacent Submerged Land, to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, for Keehi Lagoon Small Boat Harbor Purposes, Kalihi-Kai, Honolulu, Oahu, Tax Map Key: (1) 1-2-25: 24 and Portion of the Submerged Land Adjacent to 24.**
- Item D-14** **Amend Prior Board Action of July 13, 2001, Item D-15, Grant of a Term, Non-Exclusive Easement for Seawall to Hal M. Stanley and Deborah L. Stanley, Co-trustees of the Stanley Family Trust under Trust Agreement dated November 25, 1993, Lanikai, Kailua, Oahu, TMK (1) 4-3-008:051 seaward.**
- Item D-15** **Grant of Perpetual, Non-Exclusive Easement to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc., for Access and Utility Purposes and Issuance of a Construction Right-of-Entry, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-18: Portion 3.**

Unanimously approved as submitted (Goode, Morgan)

Item J-1 Approval for the Award of Contract IFB 10-008-11

Ed Underwood, Division of Boating and Ocean Recreation Administrator asked the Board to approve the award of an electrical contract for the five small boat harbors and three ramps on Oahu. It's in two contracts because they may have to bring in a man lift to get to the light bulbs.

Chair Thielen said that she thought she had authority delegated to her to approve other operational contracts along these lines for other divisions and some of them don't come before the Land Board and that is because we are at one meeting per month which is getting lengthy. Is this an item that you would want to delegate authority for contracts under a certain amount or general management contracts. Member Morgan said he thought that would be a good idea.

Unanimously approved as submitted (Morgan, Gon)

- Item L-1** **Appointment of West Maui Soil and Water Conservation District Director**
- Item L-2** **Approval to Execute Supplemental Contract No. 2 to Contract No. 55333 for Job. No. B45DM73A, Maalaea Small Boat Harbor Sewage Pump-out Facilities and Electrical Improvements Maalaea, Maui, Hawaii**
- Item L-3** **Authorization to Enter Into a Use and Access Agreement with the City and County of Honolulu for the Construction of Dispersion Channels Structures, Round Top Drive, Oahu**
- Item L-5** **Certification of Election of Kau Soil and Water Conservation District Director**

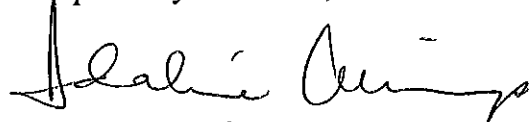
Mr. Chang had no changes.

Unanimously approved as submitted (Gon, Morgan)

Adjourned (Edlao, Gon)

There being no further business, Chairperson Thielen adjourned the meeting at 11:37 a.m. Recordings 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
Land Board Secretary

Approved for submittal:



Laura Thielen
Chairperson
Department of Land and Natural Resources