

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

DATE: FRIDAY, OCTOBER 9, 2009
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 9:03 a.m. The following were in attendance:

MEMBERS

Laura Thielen
Ron Agor
Dr. Sam Gon

David Goode
John Morgan

STAFF

Paul Conry/DOFAW
Morris Atta/LAND
Kevin Kong/DOCARE
Melissa Sprecher/DOFAW

Dan Polhemus/DAR
Dickie Lee/ENG
Patty Edwards/DOCARE
Dan Quinn/PARKS

OTHERS

Colin Lau, Deputy AG
Bob Saul, C-3
Scott Enright, C-3
Aulani Wilhelm, F-1
Cary Kondo, D-4
Christina Villa, D-9
Richard Bettini, D-11

Don Bryan, C-3
Scott Harlan, C-3
Dr. Pua Kanahahele, F-1
Robert Garcia, D-3
Jeffrey Morrell, L-3
Alika Neves, D-10

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

Item A-1 August 28, 2009 Minutes

Approved as amended (Gon, Agor)

Item A-2 September 11, 2009 Minutes (TO BE DISTRIBUTED.)

Item A-3 September 25, 2009 Minutes (TO BE DISTRIBUTED.)

Not ready.

Deferred.

**Item C-3 Amendment No. 6 of Timber Land License No. H-101 held by
Tradewinds Forest Products, LLC**

Written testimony was received from Scott Enright.

Paul Conry, Division of Forestry and Wildlife (DOFAW) Administrator spoke saying that what this amendment is doing is to set the stage for Tradewinds to effectively bring in their new partners and secure the financing for their operations. There are a number of items requested in that related to Tradewinds ability to obtain their financing. Tradewinds specifically asked in Exhibit B and Exhibit A was their previous license amendment that was approved. Also, attached is information about the new partner Tradewinds is bringing in. Referring to page 2 of the submittal - Tradewinds is requesting that their license be transferred in its entirety to Tradewinds Forest Products which is a new company including Don Bryan of Tradewinds, Scott Harlan of Rockland Capital and Bob Saul representing GMO Renewable Resources (GMORR). Staff supports going ahead to make that transfer and Tradewinds will close on their financing to transfer to the new Tradewinds which compose of the 3 partners. In essence, this approves bringing on GMORR into the endeavor. Don Bryan will continue with his interest and operational expertise and the partners are here to answer any questions.

Mr. Conry read Item b) where staff supports Tradewinds request to extend the license an additional 10 years that the intent was for a 20 year license. It's important that the Board approve the term to attract the financing for both investments and loans. Also, staff recommends approval on the condition option that the licensee provides assurances that all of the construction financing has been secured, and that extending the license term for 10 years be conditionally dependent on Tradewinds providing the Department documentation in support. To clarify the condition on timber stumpage pricing - staff proposes that License terms not be amended further whereby after the mill is up and operating for five years staff would then go back and renegotiate stumpage prices with Tradewinds based on the market value at that point.

Item c), read by Mr. Conry, where staff is in favor of amending permitting milestones to have Tradewinds come back to obtain County Plan Approval and extending that deadline to February. The County Plan Approval would be a more appropriate permitting milestone and the others will be obtained by Tradewinds as construction proceeds and there is an attachment to Tradewinds' letter outlining the permitting process. Staff recognizes the primary milestone is securing the financing and once that is secured Tradewinds should have adequate self-motivation to proceed with all their permitting

requirements and as quickly as possible. Staff is comfortable with adjusting the permitting milestone to the County Plan Approval.

Mr. Conry read Item d) summarizing that this extends the completion of the mill deadline by a couple months recognizing the time needed to close the financing which staff supports.

Item e), read and described by Mr. Conry regarding "replacement stands" that Tradewinds proposed to let go and have staff repackage those "replacement stands" into another request for proposals to be issued next year or the year after and could be put back out to bid. If Tradewinds is interested they could re-bid on that or any other interested parties could bid on those stands as well.

Also, staff requested approval for consolidating the original license with the various amendments into one document to simplify the document. For the recommendations, specifically the approvals to extend the licensing would be contingent upon the Chairperson being provided adequate assurances that all of the construction financing has been secured. If the financing is not secured by November 30, 2009 then those actions will not proceed.

The Board questioned whether Tradewinds is the only viable purchaser. Mr. Conry's response was that Tradewinds is at the starting line. While there is interest in bio-energy programs on the Big Island, Tradewinds is the one entity that has come this far along. There is Hawaii Island Hardwoods who is going through growing pains to secure financing to expand their mill. Under our current economic conditions, these two entities are the most advanced in their development.

Don Bryan of Tradewinds Forest Products, LLC introduced their new partner's representative Bob Saul with GMO Renewable Resources and said that Mr. Conry explained what they are requesting reiterating the need for financing.

Bob Saul clarified that GMO does not stand for genetic modified organisms which is an unfortunate acronym in the forestry business, but stands for Grantham, Mayo, Van Otterloo, a big asset management firm out of Boston and most of their investors are college endowments and pension funds. Those folks are in a big fund called Long Horizons Fund which is a 25 year partnership that owns the Hamakua Plantation's lease on the KS (Kamehameha Schools) lands and fast growing eucalyptus trees. Mr. Saul said he has been coming to Hawaii for 10 years and heard about Tradewinds over those years. He admired the Department's patience because Mr. Bryan has been operating on fumes. Owning Hamakua Plantations with Scott Harlan from Rockland Capital, we have the pieces in place. This partnership is putting in additional equity into the Tradewinds endeavor and they have commitments from most of their financing on the table right now and are still negotiating details which should be tied up in the next two weeks. The prospects for having a forestry industry on the Hamakua Coast seem to be coming together. They have the wood - Waiakea is no small part of that and with the Hamakua Plantation that fills out the requirement and is in very good shape. Please keep in mind

that what draws his company to the Hamakua Coast is that it is the second best place on earth to grow eucalyptus trees although there are mixed feelings about growing that there. But based on tree growth potential along that coast this could become a very productive industry in Hawaii and GMORR is attracted here as forestry investors for that reason GMORR participation should drive the whole Tradewinds business plan in a very effective way based on forest and mill investments you need to have that growth engine growth underneath an investment to make it work. It turns Tradewinds into a low cost producer instead of a high cost producer because you are getting a much faster turnover on those trees. A lot of folks who know about the macro economy are saying it's crazy, why are you doing a development project in the middle of the worst housing downturn in the history of mankind? In GMORR's business what they see is building when things are really lousy which is generally the best way to have a successful endeavor because when things do recover in 2 years, 4 years you'll be positioned well for that outcome and you're also at a low cost producer position so you have a sustainable, durable business plan. GMORR is thrilled with the partners and is happy to be here.

Mr. Bryan noted that Scott Harlan from Rockland was here to answer questions, too.

It was questioned by Chairperson Thielen that Tradewinds is looking to lock in the financing by November 30, 2009 and in the staff's recommendation it does say as a condition that there is no extension until Tradewinds has secured financing. Is there a date for this? We have a date for the County planned approval which is on or before February 2010. Mr. Bryan said the existing license financing deadline is December 31, 2009. The Chair asked whether or not Tradewinds is fine with specifying in that recommendation condition item b) the delegation to the Chair to extend the license for an additional 10 years will be conditioned upon the Chairperson being provided adequate assurances that all the anticipated construction financing has been secured by December 31, 2009. Mr. Bryan agreed.

Member Goode asked how much experience GMORR has in veneer mills. Mr. Saul briefly described their experience with operating the Collins Pine mill in Oregon for the last 2-1/2 years, which is a similar facility to the proposed Tradewinds mill in Hamakua, and that they have learned a lot. The real veneer experts are Mr. Bryan's team who knows the milling process. GMORR brings the forestry experience including the processes of harvesting, trucking and delivering the trees and this integrated financing structure works very well because they do have that expertise. Member Goode asked whether Mr. Saul has the long term confidence in the veneer market noting Hawaii's isolation. Mr. Saul replied saying that is the question that they are all due evaluating and researching and because GMORR is here the answer is satisfactory. The AB high level veneer market, the partners feel very confident because there will be continued shortage of that type of material. The CD veneer market, he doesn't see a recovery in that until they get some balance.

Mr. Bryan noted that their markets are mainly the mainland, Asia and Hawaii – and that while the Hawaii market is not in front of us today that is the ultimate goal. There is a counter cycle between the Asia and American markets which is one of the strengths of

the project being in the mid-Pacific - to be able to deliver to any one of those markets. They've developed a letter of intent with Sumotomo Corp. who will represent Tradewinds in Japan to be their distributor who also has the China market and Tradewinds will decide later whether to pursue that market.

Scott Harland communicated that the reason why Rockland wanted to partner with GMORR was because of the financial crisis and by putting together this joint venture it enables the financing. Both companies are bringing equity capital to the table and provide greater security for the lenders funding the construction of the mill.

Scott Enright testified that to be consistent with his written testimony he asked the Board to do a feasibility study reminding the Board that the original purpose and concept 10 years ago was to develop a value added forestry industry that would sell locally, not internationally. He cited that the entity the Board is dealing with will no longer exist and will be totally different and the Board needs to substantiate a number of things that had been said. Mr. Enright expressed his concern with hauling logs on muddy trucks through Hilo town. With all respect to staff, Mr. Enright doesn't think the due diligence has been done. GMORR doesn't have a long term lease on the Kamehameha School's land and the whole Hamakua Coast is in flux which is why we need a feasibility study to understand who the players are and how things are going to turn out. Mr. Enright asked the Board to consider not moving forward, but to do a feasibility study to see if this can happen and if there is a market, then verify it. He spoke to the County Planner about the permit schedule which was not realistic and he knows that is not the Board's concern, but it should be looked at before tying up an asset for another 10 years.

Member Morgan asked what Mr. Enright thinks is the appropriate use of this State resource where Mr. Enright deferred saying he is not qualified referring back to the history of this timber lease, its disappointing performance and this lease is problematic.

Member Agor moved to approve staff's recommendation with an amendment to recommendation item 1.b) whereby the Chairperson be provided adequate assurance by December 31, 2009. Member Goode seconded. All approved.

Chair Thielen summarized for the applicants the December 31, 2009 deadline for Tradewinds to complete and document financing to the Department as well as the subsequent deadlines.

The Board:

Approved by amending 1.b. Delegate the authority to the Chairperson to extend the license term for an additional ten (10) years to August 28, 2021, and to clarify License Section 4.1 relating to timber stumpage pricing through technical edits as detailed above. The delegation is conditioned upon the Chairperson being provided adequate assurances by December 31, 2009, that all of the anticipated construction financing has been secured and will be available upon transfer of ownership to GMORR. It shall be in the Chairperson's sole discretion to determine whether adequate assurances have been provided.

Unanimously approved as amended (Agor, Goode)

Item F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Native Hawaiian Practices Permit to Dr. Pualani Kanaka'ole Kanāhele, University of Hawaii at Manoa, Kamakakuokalani Center for Hawaiian Studies, for Access to State Waters to Conduct Winter Solstice Cultural Research Activities

Dan Polhemus reported that this is a request for a Native Hawaiian practice permit to go to Moku Manamana (Necker Island) to conduct cultural activities related to the winter solstice noting that Moku Manamana lies directly on Tropic of Cancer known as the dark shiny pathway of Kanaloa and it is an important place for Hawaiians. Mr. Polhemus pointed out a typo under Intended Activities, second line that reads [summer] solstice which should be changed to winter solstice.

Member Morgan asked that a similar trip was done in 2007 and what were the results. Dr. Pualani Kanāhele described prior to 2007 her staff was looking at the heiaus on each of the main Hawaiian Islands and the prominent times for the sun. They found that the sun comes up at a particular corner of the heiaus. She described Hale 'O Pi'ilani heiau, Hana and Kahulu'u heiau on the Island of Hawaii that they are in alignment with the winter, summer solstice and the equinox. The 2007 trip went to Moku Manamana to see the relationship of the uprights that are there and their alignments with the sun during particular times of the year. There are many ahus and most of these ahus run north/south facing east and backs to the west. The uprights' shadow will fall at an angle hitting stones which indicates certain things treating it like a compass and the alignments to the equinox. All of these alignments tell you what the ancients were looking at in making their calendars and assigning important times of the year for certain ceremonies and those ceremonies enable these people to pull down their whole universe into this one space which can be shown at the Kahulu'u heiau. The winter solstice is a little different from the summer solstice in that the sun is farther down. Her staff would like to see which uprights are being impacted by the winter solstice and later make further studies in the south pacific to find how these parallel each other. It is a regaining of the knowledge of the impacts between earth and sky which can apply to today's environment.

Unanimously approved as submitted (Gon, Morgan)

Item D-3 Consent to Third Amendment to Sublease General Lease No. S-3601, William T. White, III Trust, Lessee, to BCI Coca Cola Bottling Co. of Los Angeles, Inc., Sublessee, Waiākea, South Hilo, Hawaii, Tax Map Key:3rd/2-2-49:07.

Morris Atta, Administrator for Land Division requested an extension for 2 years and Robert Garcia was here for questions.

Unanimously approved as submitted (Agor, Goode)

Item D-4 Grant of Perpetual, Non-Exclusive Easement to the County of Hawaii for Road and Utility Purposes, Issuance of Immediate Construction Right-of-Entry; Honokohau 1st, North Kona, Hawaii, Tax Map Key: 3rd/7-4-08:05 por.

Mr. Atta reported on the easement background and read the remarks. A mauka-makai trail was identified as being owned by the State of Hawaii where an easement was required to go over this particular trail and for the construction to proceed. OHA commented asking that the two trails' ownership be determined. The area is 1,226 square feet and only covers this one trail. If it's determined that the State does own the other two trails then staff will come back to the Board with additional requests.

Member Gon asked whether the disposition of those trails is essentially to have the highway go over them which Mr. Atta confirmed and said allowing the project to proceed and be situated over these trails and remains under the Na Ala Hele trail system. Member Gon asked whether Na Ala Hele commented and they did comment about the ownership per Mr. Atta.

Chair Thielen referred to page 4, 1st paragraph and she read from the 2nd sentence then asked is this only a paper trail at this point and not an active trail. Mr. Conry confirmed that the comments she read were provided by Na Ala Hele to the County and part of this is you are maintaining the actual trail itself that it's an easement to cross over. Staff's comments were the design of the road needs to incorporate these features like lighting so that it is safe to cross. Where the Board questioned whether this is a trail or paper trail, any archaeological features that no one uses and is the trail paved with water worn stones. Mr. Conry said that some segments have stones. What was recommended was this was the best process and layout for the road and the project.

Cary Kondo representing Belt Collins Hawaii who is the consultant for the County of Hawaii explained what their project is and is being funded by stimulus funds going through the EA and processes needed for the construction of this road. Per Na Ala Hele the trail is subject to the Highways Act of 1892 reiterating that they are attempting to get this easement over the trail. As brought up earlier, there are 3 trails that cross and this item is for only one trail confirming that the one trail will be covered under the Highways Act of 1892. It was indicated that if the other two trails need to be covered by this act then the County would be required to obtain those sections also. Member Gon asked what is the requirement of the Highways Act of 1892 – does it require it remains in active use and it may not be blocked, what is it? Mr. Atta explained the act merely establishes ownership.

Chair Thielen asked Na Ala Hele has a number of active trails and there are a number of historic trails that are not currently in use that the State owns and maybe improve for trails. Is this easement crossing an active trail or one that is historic and not active? Mr. Kondo replied saying the trail is currently not used as an active trail. The archaeologist couldn't locate certain sections of the trail, but he confirmed it is a trail. Chair Thielen referred to page 4 regarding the County placing commemorative signs at the trail crossing

which means if Na Ala Hele moves forward and makes this trail into an active trail then at that time the County will provide a 10-foot wide pedestrian crossing. Mr. Kondo confirmed this plan. He referred to Section 106 MOA that specifies for signs.

Chair Thielen suggested we say in the recommendation "subject to the applicant fulfilling all the applicant requirements above." To her, the County advises that it will, is not real clear whether that is an applicant requirement and she would feel more comfortable if staff took that paragraph and made it as part of the recommendation that the County shall install commemorative signs at the trail crossing. If we get to that point of the management plan for the trail then they will have to do the 10-foot wide pedestrian crossing. Mr. Atta stated it was his understanding that this was all subject to AG determination when staff came up with the management plan that this isn't the appropriate course of action. The way it is drafted it almost seems like a requirement "the County shall..." he was wondering whether or not they should make it clear "subject to whatever the management plan determines is the appropriate course of action." He believes the management plan is not completed. Chair Thielen noted it says when a management plan for the trail can be implemented with the adjacent landowners. She would like to make it clear if they do the easement that it is subject to that condition of the trail because it is not clear with the way its worded here that that is a requirement. Mr. Atta asked whether to add that in as an item c. Member Goode suggested when in accordance with the master plan because the master plan might want something else where the rest of the Board agreed.

Member Goode asked whether this is a state owned parcel or is it the State's due to the highways act of 1892. Mr. Atta said that it is a private parcel to which the trail runs. It is by operation of law that the ownership of the trail is owned by the State itself, but it runs through private parcels. Member Goode said the State needs land control of the entire corridor in order to secure the Federal funds. Mr. Atta corrected the County. Chair Thielen noted that the highways is one thing and the trails is another where they do a similar process with the trails and have to go through and prove that this is a historic trail therefore the State has a right to do a trail there and to do trail improvements. That is why a lot of trails are paper trails until we've gone through that process.

Member Goode was concerned with the other two trails and whether there was a timeline that staff needs to know action from the Board to obtain Federal funds. Mr. Kondo said that in reality the timeline is not critical because the land will be turned over from the private owner to the County. Sometime in the future if the Board requires that the County get an easement from the State then it can be done because the land will be under ownership of the County after the subdivisions are processed. The County will place commemorative signs on all 3 trail crossings.

The Board:

Amended the staff recommendations by adding the following condition to Item 1: "The County shall install commemorative signs at the trail crossing to acknowledge the historic and cultural significance of the trail and a 10-foot wide pedestrian crossing will be provided, pursuant to a management plan

for the trail that is implemented with the adjacent landowners. The preferred location for this trail crossing is at a roadway intersection." Otherwise, the Land Board approved staff's recommendations as submitted.

Unanimously approved as amended (Gon, Goode)

Item L-3 Application for a DLNR Dam Safety Construction/Alteration Permit Permit No. 21-Puu Ka Ele Reservoir (HI00028) Kilauea, Kauai

Dickie Lee representing Engineering Division reported no changes that staff recommends approval and that Jeffrey Morrell was present.

Unanimously approved as submitted (Agor, Gon)

Item D-9 Grant of Term, Non-Exclusive Easement to Three W Corp for Rock Groin, Seawall, Steps, and Filled Area Purposes, Lanikai, Kailua, Hawaii, Tax Map Key: (1) 4-3-001:011 seaward.

Mr. Atta described the encroachments that were discovered while seeking a shoreline certification. Office of Conservation and Coastal Lands (OCCL) commented that it was ok for an easement be granted. This request is to facilitate the shoreline certification to proceed and staff recommended that an easement be granted.

Board member Morgan asked what the significance of 1949 was in terms of the existing structure. Mr. Atta explained usually the process involves seeking any kind of information or evidence in the legitimacy of the shoreline structure. One of the things staff looks for is whether the structure is non-conforming, whether it preceded 1964 and whether there are aerial photographs but Mr. Atta believes the photo is dated 1949.

Member Gon asked if the encroachment existed prior to 1949 and why the current applicant is being fined where Mr. Atta said its standard practice for the Department and the Board. There have been a lot of shoreline encroachment issues with structures going back hundreds of years, but any kind of artificial or manmade structures on the shoreline that falls under the State ownership area is technically an encroachment and due to the concerns the Department has with a multitude of unauthorized, illegal structures that have some impact on the natural shoreline processes the overall policy directive was we need to enforce and part of enforcement was the penalty issues. The penalties aren't significantly high like the \$10,000 the Board could impose; it's more to make a point that these are problems that there should be some kind of penalty associated with unauthorized, illegal structures on the shoreline affecting our natural resources. That is the reason why the \$1,000 is an automatic imposition of the fine. Chair Thielen stated that was a policy adopted by the Board in 2002 on shoreline encroachments where Mr. Atta and the Board acknowledged in agreement.

Member Morgan noted that if you go back far enough there is no connection with the present owner or anything. Mr. Atta agreed saying that the rationale is a lot of these

structures do not have any connection with current shoreline owners for the most part most of these precede current ownership. If you were to tie the penalties with the current ownership or current building status it would be impossible to enforce. And, with successive ownership you transfer whatever liabilities with the land and the people are aware of what they are buying that when these people purchase the property they know what they are buying on the property. Member Gon noted nowadays it's more and more a liability to purchase shoreline properties and Mr. Atta said that staff do tell people that shoreline properties are very complex matters besides encroachment issues there is loss, erosion, accretion issues that are difficult to manage which pulls you into litigation from time to time.

Christina Villa from Ace Land Surveying had nothing to add to this.

Unanimously approved as submitted (Agor, Morgan)

Item D-10 Grant of Term, Non-Exclusive Easement to Kamehameha Schools for Seawall Purposes, Haleiwa, Waialua, Oahu, Tax Map Key: (1) 6-1-008:seaward 023.

Mr. Atta reported that this is a similar shoreline encroachment issue of a wall that abuts the State's portion of land on the North Shore. The Kamehameha Schools portion of a seawall extends into the State owned area of the beach and as a result Kamehameha Schools is coming in for an easement after discovery during a shoreline certification application and in order to proceed the encroachment needs to be resolved.

Alika Neves, Asset Manager with Kamehameha Schools was here for questions.

Member Agor asked when an application for a shoreline certification is submitted and a problem like this occurs what was the average time for these to come before the Land Board. Mr. Atta replied almost immediately because the property owners wants this to move forward quickly.

Unanimously approved as submitted (Agor, Gon)

Item D-11 Mutual Cancellation of General Lease No. 5382; Issuance of Direct Lease to Waianae District Comprehensive Health and Hospital Board, Incorporated for Health Care and Medical Facilities Purposes, Lualualei, Waianae, Oahu, Tax Map Key: (1) 8-6-001:003.

Mr. Atta informed the Board that this is to rebuild facilities at the Waianae Health Center using Federal stimulus funds, but the current remaining term is not sufficient for participation in the use of those funds and given that they are a non-profit staff doesn't have a problem. Also, the Attorney General's Office commented wondering why there was no elaboration in terms of what exactly was going to be done by the hospital and their concern was any implications regarding 343 approvals.

Richard Bettini, CEO of the Waianae Health Center explained that in late July or early August the Federal Government announced grant opportunities specific to Federal qualified health centers. There are several hundred millions of grant monies available where the Center submitted an application for \$7.8 million dollars. The requirement in the stimulus package is you must have, if you are on lease property, at least 30 years remaining on an existing lease. The Center has 28 years remaining on their lease. Mr. Bettini commended staff for getting this out for public comment. A decision will be made at the end of the month. The Center has a 3 phase capital improvement plan for many years and completed a \$15 million improvement project last year. This \$7.8 million will be part of a similar phasing to replace the older buildings with new ones. It would be the same function – family medicine expansion, pharmacy services and behavioral health. There is \$1 million dollars of match money appropriated by the legislature and they have gone back to the Governor's Office who requested a copy of this application and has been sent to them.

Chair Thielen asked saying that the health center serves a wonderful purpose and hope they are successful in the grants for stimulus funds, but as far as Chapter 343 goes you have to meet it as far as making a determination that it doesn't apply rather than going into great detail. Is there any reason why they need to be making a determination that 343 doesn't apply and not use our normal stand language which says if 343 applies you are responsible for meeting it? Mr. Bettini agreed, but said he wasn't completely familiar with 343. Mr. Atta explained that 343 is our environmental assessment EIS requirements when you use State land or State funds. Mr. Bettini said that the Center is going through a shoreline management process for this and it's been determined that this fits in the current scope of remodeling existing buildings. The Chair clarified is there any reason why the Board has to make this determination. Normally, if 343 applies the applicant is responsible for meeting it. Mr. Atta said he understands and agreed that staff could do that here. The Center already has a pre-existing lease on an on-going use and staff thought it was a continuation of the lease and that was the reason why. Chair Thielen suggested in order to make a determination the Board would need a closer look at the project itself rather than getting into the details of your project. One of the things to take a look at is this is State land, does the project trigger a requirement for an environmental assessment? Mr. Bettini said that has been looked at where the Chair agreed in all the normal language if it does then the applicant is responsible and Mr. Bettini accepted that.

Member Morgan questioned why 65 years when the Center is asking for 30 where Mr. Atta said given the history of the Waianae Health Center there was no rationale explained other than the need for a long term lease where the Board could do up to 65 years. And, there is no discussion about any particular length of time. Mr. Bettini said as long it's at least 30 years and he clarified that every discussion the Center has had with other agencies that this falls under an existing SMA which doesn't require any additional square footage beyond what has already been approved which entails tearing down buildings that has been there since 1972 and replacing them with modern efficient medical facilities.

The Board:

Amended the staff recommendations by replacing the existing language in Item 1 with the following: "Inasmuch as the Chapter 343 environmental requirements may apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended." Otherwise, the Land Board approved staff's recommendations as submitted.

Unanimously approved as amended (Morgan, Gon)

Item B-1 Request Board Approval to Enter Into Contracts for Furnishing Helicopter Transportation Services for the State of Hawaii between the Department of Land and Natural Resources, Division of Conservation and Resources, K&S Helicopters, Windward Aviation, Inc. and Manuiwa Airways, Inc.

Kevin Kong for Division of Conservation Enforcement had no changes and introduced Patty Edwards who is the Deputy Enforcement Chief's position.

Unanimously approved as submitted (Gon, Morgan)

Item C-1 Request for Revision to the State of Hawaii CREP Agreement Template

Mr. Conry briefed the Board on the request background noting that insurance is required per consultation with the Deputy Attorney General and staff requested the Board's approval to enter into these agreements subject to the Department of the Attorney General's approval.

The Board questioned if there was a claim and who or what kind of claim hypothetically might occur. Melissa Sprecher, DOFAW's CREP Program Manager explained that the reason why it was originally included in the template for CREP agreements is Land Division requires that there licensee carry an insurance requirement and that got put in the template. Normally, DOFAW does not require it for other cost share programs. She supposed if someone got hurt while on this property there could be a claim against the landowner because of that, not holding the Department harmless they wouldn't be responsible. Chair Thielen said that traditionally it came in because for the Land Division it's a standard requirement which doesn't necessarily mesh with the Forestry programs as a precautionary.

Staff and the Board discussed the CREP program and annual report.

Unanimously approved as submitted (Gon, Morgan)

Item C-2 Request to Approve the Location and Installation of Five New Hazardous Warning Signs on Improved Public Lands as Outlined in Actions Delineated in Act 82, SLH 03 (HB 1214-Relating to Public Land Liability).

Mr. Conry reported that Act 82 was passed in 2003 to set up a mechanism where the State can obtain limited liability protection for recreational use of trails. There is a comparable one for beaches and for recreation areas where they have trails and developed infrastructure that staff is inviting the public to. Staff recognizes there are hazards in those areas and staff has a mechanism to identify what those hazards are and erect the signs that had gone through the rule making process to adequately meet the international standards for relaying information and then that provides staff limited liability protection in those instances. Part of that process is to move forward and approve the installation of these signs.

Member Goode wondered why the Board is approving this. It seems to him that it's the Maui Na Ala Hele's advisory council who has knowledge of the program and that is where it should be unless it's required by statute. He asked whether it was due to the Sacred Falls fallout which Mr. Conry acknowledged.

Chair Thielen suggested asking the Attorney General's Office whether under that statute the Board could delegate to the Chairperson - like bringing something to the Board if it's not in concert with the recommendation or something like that. Mr. Conry said one of the things referred to prior Board actions like this was the attorney from the personal injury showed up and that was one of the reasons it got Board requirement to provide an opportunity for people to testify and provide input for the Board to consider. There were public hearings prior to this and this is the last opportunity to testify. There was a rule making process that set this up identifying what the signs were and staff will go to the legislature to testify on this. Mr. Conry suggested not delegating this right now because this might go away in 2012 per Member Morgan's question.

Chair Thielen asked as part of the Recreational Renaissance is the Department making a concerted effort to focus on the cost of managing these places on the long term. In that asset management program we're looking at taking a trail, a harbor and a park as a pilot project. One of the things staff talked about monitoring is the vandalism that occurs to our signage and other areas that creates an on-going cost and it's important for us to be taking a look at when we do install these signs to be able to monitor that over the long term because if there are areas where there is immediate active vandalism defacement or removal that causes a problem too. Some of the longer term solution(s) could go back to the Legislature and say we need additional penalties for vandalizing signs particularly when they are for public safety - we could give awards to people for turning somebody in. Even if some people ignore the signs, it's very frustrating, but the signs are important. Mr. Conry agreed describing a Maunawili Falls sign becomes a nice souvenir and reiterating keeping it up.

Unanimously approved as submitted (Morgan, Goode)

Item D-1 Amend Prior Board Action of October 28, 2005, Item D-2, Conveyance of State Land, Parcel 03 abutting Eastside of Poipu Road for Road Improvement Purposes to the County of Kauai, Koloa, Kauai, TMK: (4)2-6-04: 03

- Item D-2** Issuance of Direct Lease to United State of America, Department of Transportation, Federal Aviation Administration for Air Surveillance Radar Facility Purposes, Waiakea, South Hilo, Hawaii, Tax Map Key: 3rd/2-1-13: portion of 02.
- Item D-5** Grant of Perpetual, Non-Exclusive Easement to Sam K. Ahia and Rosemarie G. Ahia, Trustees of the Sam K. Ahia Living Trust dated October 9, 2002, and Alfred A. D. Ahia, Trustee of the Alfred A. D. Ahia Living Trust dated December 12, 2008 for Access and Utility Purposes, Kakaia, Ka'u, Hawaii, Tax Map Key:3rd/9-4-04:portion of 06.
- Item D-6** Request to Write-Off Uncollectible Account on the Island of Oahu. Joseph and Iris Abreu owing \$15,334.84
- Item D-7** Account on Request to Write-Off Uncollectible the Island of Oahu. Frank Oberle owing \$1,420.53
- Item D-8** Cancellation of Revocable Permit No. S-6201 and Issuance of a Revocable Permit to JSR Equipment, Inc., for Baseyard, Office and Storage Purposes, Kalihi Kai, Honolulu, Oahu; Tax Map Key: (1) 1-2-021: 036.
- Item D-12** Withdrawal from Governor's Executive Order No. 2274 and Reset Aside to the City and County of Honolulu for Road Purposes; Rescind Prior Action of October 27, 1989, Item F-17; Aiea, Ewa, Oahu; Tax Map Key (1) 9-8-018:adjacent to 051, 9-9-012:045 portion, and 9-9-040:001 portion.

Mr. Atta reported that these are routine items.

Unanimously approved as submitted (Morgan, Agor)

- Item E-1** Establishment of a Volunteer Curatorship Agreement for Russian Fort Elizabeth State Historical Park, Waimea, Kaua'i

Dan Quinn, Administrator for State Parks spoke saying there was no changes and this is one of staff's efforts to partner with the community to care for the Russian Fort. They will be cleaning the area and along the highway.

The Board discussed the conditions of the area. Member Gon asked why here and Mr. Quinn said it is the gateway to Waimea Town and there will be interpretive panels.

Unanimously approved as submitted (Agor, Gon)

Item L-1 **Approval to Execute Supplemental Contract No. 1 to Contract No. 51522 for Job No. H09C602A, Kokee State Park Driveway & Parking Improvements Job No. F00BF46B, Kokee State Park Resurface Roadway Job No. H09C602B, Kokee/Waimea Canyon State Park Roadway Kauai, Hawaii**

Item L-2 **Approval to Execute Supplemental Contract No. 1 to Contract No. 50017 for Job No. H45C804A, Sacred Falls State Park Master Plan and Risk Assessment, Oahu, Hawaii**

Dickie Lee reported no changes.

Unanimously approved as submitted (Agor, Gon)

Item M-1 **Amend Prior Board Action of April 24, 2009 (Item M-1), Issuance of Master Lease to U.S. Federal Aviation Administration (FAA) at Hilo International Airport**

Item M-2 **Issuance of Lease U.S. Federal Aviation Administration Airport Traffic Control Tower Kona International Airport at Keahole**

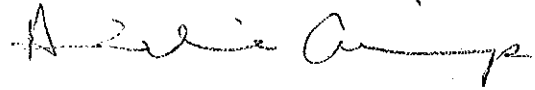
Item M-3 **Amendment No. 1 to State Lease No. DOT-A-95-0011 Application for Addition of Space Continental Micronesia, Inc. Honolulu International Airport**

Unanimously approved as submitted (Gon, Morgan)

Adjourned (Gon, Morgan)

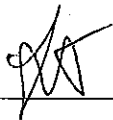
There being no further business, Chairperson Thielen adjourned the meeting at 10:33 a.m. Recordings of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Adaline Cummings
Land Board Secretary

Approved for submittal:



Laura Thielen
Chairperson
Department of Land and Natural Resources